



**The Juvenile Justice and Delinquency Prevention Act:  
A Fact Book**

**Prepared by  
The Act 4 Juvenile Justice  
Working Group  
2007**



April 2007

Dear Congressional Staffer,

On behalf of the Act 4 Juvenile Justice Working group, we are providing you with a briefing book on the Juvenile Justice and Delinquency Prevention Act (JJDPa) which is scheduled for reauthorization in 2007. The JJDPa provides crucial funding for state delinquency prevention and juvenile justice programs. The JJDPa was most recently reauthorized in 2002 with bi-partisan support.

This fact book contains the following items:

- a statement of principles highlighting our goals in the JJDPa reauthorization;
- fact sheets providing information about the JJDPa and the juvenile justice system;
- a list of sources for additional information on the JJDPa and related topics; and,
- a complete list of Act 4 Juvenile Justice Working Group members with contact information;

We hope that this information will be useful for you as Congress considers the reauthorization and reform of the JJDPa. We hope you will join us in this effort! Thank you for your time and consideration.

Sincerely,

Act 4 Juvenile Justice Working Group

# Table of Contents

## BASIC OVERVIEW

Statement of Principles	1
JJDPA Overview	10
Four Key Protections	
Deinstitutionalization of Status Offenders (DSO)	12
Removal of Youth from Adult Jails and Lock-ups	15
“Sight and Sound” Separation of Youth and Adults in Jails and Lock-ups	17
Reduction of Disproportionate Minority Contact	19

## FACT SHEETS

Youth and Crime	
Youth in the Justice System – by the Campaign for Youth Justice	22
Juvenile Crime and Detention – by the Children’s Defense Fund	27
Rising Crime in Perspective – by the Justice Policy Institute	29
Principle #1: Keep children and youth out of the justice system.	
Prevention – by Fight Crime, Invest in Kids	31
Juvenile Detention Reform – by the Coalition for Juvenile Justice	32
Juvenile Status Offenses – by the American Bar Association, Center for Children and the Law	34
Principle #2: Ensure equity and competence.	
What do Language and Culture Have to do with Juvenile Justice – by the National Council of La Raza	37

Ten Core Principles for Providing Quality Delinquency Representation Through Indigent Defense Delivery Systems – by the American Council of Chief Defenders and the National Juvenile Defender Center	40
Facts About LGBTQQ Youth – by the LGBT Community Center	43

Principle #3: Ensure responses appropriate to a young person’s age and stage of development.	
Adolescent Brain Development and Juvenile Justice – by the Coalition for Juvenile Justice	45
Gang Crisis in Context – by the Justice Policy Institute	50
Trying Youth as Adults – by the Campaign for Youth Justice	53
Youth in Adult Jails – by the Campaign for Youth Justice	56
Youth in Adult Prisons – by the Campaign for Youth Justice	59
Collateral Consequences – by the Campaign for Youth Justice	61
Medical Review Finds Laws Allowing Youth Tried s Adults Ineffective at Improving Public Safety, and Associated with Increased Violence – by the Center for Disease Control and Prevention	66
Youth Under Age 18 in the Adult Criminal Justice System – by Christopher Hartney, National Council on Crime and Delinquency	68

Principle #4: Strengthen the federal partnership with the states.	
Appropriations: Office of Juvenile Justice and Delinquency Prevention – by the National Juvenile Justice and Delinquency Prevention Coalition	74
Appropriations: Title II Formula Grants Program – by the National Juvenile Justice and Delinquency Prevention Coalition	75

Appropriations: Delinquency Prevention Block Grant – by the National Juvenile Justice and Delinquency Prevention Coalition	76
Appropriations: Juvenile Accountability Block Grant - by the National Juvenile Justice and Delinquency Prevention Coalition	78
Appropriations: Title V: Community Prevention Grants Program - by the National Juvenile Justice and Delinquency Prevention Coalition	80

**J U V E N I L E   J U S T I C E**  
**R E S O U R C E S**

Additional Information on the JJDPA and Juvenile Justice	82
Contact Information for the ACT 4 Juvenile Justice Working Group Members	84



**A CAMPAIGN OF THE JUVENILE JUSTICE &  
DELINQUENCY PREVENTION COALITION**

—the collective voice of more than 80 national organizations—

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**JJDPA Statement of Principles**

We, the undersigned, urge the Congress to adhere to the following four principles in approaching the Reauthorization of the Juvenile Justice and Delinquency Prevention Act (JJDP A). These principles are grounded in research and their efficacy underscored by the fact that the JJDP A has for more than 30 years provided direction and support for juvenile justice system improvement and, thereby, significantly contributed to the diminution of juvenile crime and delinquency.

**I. Keep children and youth out of the justice system:** Whenever possible, keep children and youth out of the juvenile and criminal justice systems by addressing their needs and those of their families early and effectively.

**II. Ensure equity and competence:** Do everything possible to ensure equity and competence with regard to race, ethnicity, culture, language, gender and sexual orientation, in legal representation before the courts and throughout all system practices and policies.

**III. Ensure responses appropriate to a young person's age and stage of development:** Do everything possible to ensure that children and youth in the justice system are treated in an age-appropriate manner and provided with developmentally appropriate, evidenced-based services and supports. Ensure, when needed, that sanctions are appropriate to a youth's age and offense.

**IV. Strengthen the federal partnership with the states:** Strengthen the federal role in supporting state and local needs by providing sufficient resources and appropriations for jurisdictions to effectively implement the JJDPa, to fully comply with its core requirements/protections and to ensure state and local adherence to high standards of performance.

### ***What is the JJDPa?***

#### ***Why care?***

Each year, juvenile courts handle an estimated 1.6 million delinquency cases and adjudicate youth delinquent in nearly 7 of every 10 petitioned cases. The daily census of youth under age 18 who are incarcerated is 97,000—yet, it is estimated that 25 percent of them are detained while awaiting placement or court proceedings. Many youth who are confined are nonviolent and highly amenable to the benefits of rehabilitative services and supports provided in non-institutional home and community based settings. Juveniles in the courts have been shown to suffer from higher than average incidence of mental/behavioral health problems, learning disabilities and school failure, as well as under-addressed family intervention and support needs. Moreover, for more than two decades, state-level data have shown that youth of color have been overrepresented at every stage of the juvenile justice system.

Additionally, some researchers estimate as many as 200,000 youth have their cases processed in adult criminal court each year as a result of prosecutorial or judicial waiver, statutory exclusion for certain offense categories, or because they reside in states with a lower age of criminal jurisdiction (age 16 or 17). On any given day, an estimated 7,000 youth under the age of 18 are inmates in adult jails, of these 90% are being held “as adults.” Youth who are not under the jurisdiction of the juvenile court are not covered by the JJDPa’s core requirements/protections.

Right now, juvenile arrest rates are at historically low rates—lower than any levels recorded since the 1980s. Nationwide, law enforcement agencies arrest approximately 2.2 million persons under the age of 18 each year, yet in nearly half of all cases the most serious charges are larceny-theft, simple assault, a drug abuse/liquor law violation or disorderly conduct. Furthermore, research indicates that youth of color are detained more often and for longer periods of time than their white counterparts for the same low level offenses.

The continuing success of effective juvenile crime prevention and deterrence depends on Congress strengthening both the provisions of the JJDPa, as well as the funding resources needed to fulfill such provisions to the greatest possible extent.

### ***How could adherence to these principles guide JJDPa reauthorization?***

**I. Keep children and youth out of the justice system:** Whenever possible, keep children and youth out of the juvenile and criminal justice systems by addressing their needs and those of their families early and effectively.

- **Continuum of Care:** Support an array of prevention and intervention strategies for children and families in collaboration with providers of educational, medical, mental/behavioral health, after school, workforce development services, and others, utilizing theory- and evidenced-based practices.
- **Detention Alternatives:** Develop and sustain community- and family-based alternatives to locked detention, both pre- and post-adjudication.
- **Effective Re-entry and Re-connection:** Help young people leave the system, return home and stay home. Provide for effective reconnection to schools, families, community-based family support and/or counseling, jobs, and housing, upon release from confinement.

**II. Ensure equity and competence: Do everything possible to ensure equity and competence with regard to race, ethnicity, culture, language, gender and sexual orientation, in legal representation before the courts and throughout all system practices and policies.**

- **Reduce Racial and Ethnic Disparities:** Given disproportionately high representation of youth of color in the justice system, it is imperative to direct major federal resources to states/localities to implement system-change strategies designed to reduce racial and ethnic disparities. In turn, states/localities should report their progress in reducing racial/ethnic disparities, as well any forms of differential treatment of youth of color as compared with their white counterparts, at all stages from surveillance/arrest to re-entry.
- **Cultural and Linguistic Competence:** At all system contact points, services and supports given to children, youth and families, as well as institutional conditions, must be linguistically and culturally competent.
- **Due Process Rights:** The promise of due process rights for juveniles remains largely unfulfilled. Jurisdictions should ensure that youth have timely access to competent and qualified defense counsel and are required to consult with counsel prior to waiving their constitutional right to such counsel.
- **Ensure Safety:** All populations of youth, especially those who have proven susceptible to harm such as girls, lesbian, gay, bisexual and transgender youth, and children with serious mental/behavioral health concerns, must be safe when in the care or custody of the justice system.

**III. Ensure responses appropriate to a young person's age and stage of development: Do everything possible to ensure that children and youth in the justice system are treated in an age-appropriate manner and provided with developmentally appropriate, evidenced-based services and supports. Ensure, when needed, that sanctions are appropriate to a youth's age and offense.**

- **Incentives:** Provide incentives to state and local jurisdictions to develop and implement developmentally-appropriate services and supports for children and families that emphasize limited system contact and research-driven approaches to youth development.

- Normal Adolescent Behavior vs. Delinquency: Guard against juvenile and criminal justice system responses that are unduly punitive, criminalize normal adolescent behavior or assume that youth competence and culpability equals that of adults.
- Restorative Justice: In response to offending, implement policies, programs and practices that seek to restore the victim and the community and hold the youth offender accountable.
- Take Steps to Extend Federal Protections to All Youth Until Age 18 or Older: Provide incentives for states to take necessary steps to ensure that the four JJDPA Core Requirements/Protections are applied as faithfully as possible to all youth until the age of 18, or to youth older than age 18 who are under extended juvenile jurisdiction, whether they have been tried in the juvenile or criminal court.

**IV. Strengthen the federal partnership with the states:** Strengthen the federal role in supporting state and local needs by providing sufficient resources and appropriations for jurisdictions to effectively implement the JJDPA, to fully comply with its core requirements/protections and to ensure state and local adherence to high standards of performance.

- Optimal Funding: Ensure that funding authorizations in the JJDPA are provided at optimally effective levels to fulfill the all of the mandates of the JJDPA, as well as those contained in related juvenile justice programs, such as the Juvenile Accountability Block Grant (JABG) program.
- Grants for State-Identified Needs: Ensure that the federal role under the JJDPA is responsive to state-identified needs and the State Plan process, including field-based and field-strengthening research and evaluation to refine and expand the array of best and evidenced-based practices.
- Performance Measures: Establish and support states and local jurisdictions to set, implement and monitor performance measures for achieving the highest possible standards for safe, effective and competence-building systems, programs, policies and practices. Provide resources to support training, technical assistance and information dissemination in line with state needs.

**We, the undersigned organizations and leaders, seek the support of Congress to see the aforementioned principles are assured in the Reauthorization of the federal Juvenile Justice and Delinquency Prevention Act (JJDPA):**

**NATIONAL ORGANIZATIONS**

American Probation and Parole Association  
American Psychiatric Association  
Asian Law Caucus  
Asian Pacific American Legal Center (APALC)  
ATTIC Correctional Services  
Bazelon Center for Mental Health Law  
Campaign for Youth Justice  
Center for Children's Law and Policy  
Child Welfare League of America  
Correctional Education Association  
Council of Juvenile Correctional Administrators  
Federation of Families for Children's Mental Health



International CURE  
Justice Policy Institute  
Legal Action Center  
Mental Health America  
Muslim Public Affairs Council  
National Alliance for Faith and Justice  
National Alliance to End Homelessness  
National Association of Home Builders  
National Center for Youth Law  
National Collaboration for Youth  
National Council of La Raza  
National H.I.R.E. Network  
National Juvenile Defender Center  
National Juvenile Justice Network  
National Network for Youth  
National Parent-Teacher Association  
National Partnership for Juvenile Services  
National Recreation and Park Association  
National Youth Advocate Program  
Penal Reform International  
Physicians for Human Rights  
Residential Care Consortium  
Southern Poverty Law Center  
The National Center for Lesbian Rights  
The Sentencing Project  
Unitarian Universalist Association of Congregations  
W. Haywood Burns Institute  
Youth Law Center

**STATE AND LOCAL ORGANIZATIONS***Alabama:*

Alabama Disabilities Advocacy Program  
Alabama Youth Justice Coalition  
Children First Foundation  
Legal Aid Society of Birmingham  
Prodigal Child Project  
Southern Juvenile Defender Center  
The Ordinary People Society

*Alaska:*

Gastineau Human Services Corporation

*Arizona:*

Children's Action Alliance

*California:*

Asian and Pacific Islander Youth Advocacy Network (AYAN)  
California State Juvenile Officers' Association  
Center for Juvenile Law and Policy, Loyola Law School  
Los Angeles Leadership Academy  
Mothers for Peace  
Pacific Juvenile Defender Center  
Para Los Niños  
Watts/Century Latino Organization  
Youth Justice Coalition/Free L.A.

*Colorado:*

Pendulum Foundation

*Connecticut:*

Center for Children's Advocacy, University of Connecticut School of Law  
Office of the Child Advocate, State of Connecticut

*Delaware:*

Delaware Center for Justice

*District of Columbia:*

Justice 4 DC Youth! Coalition

*Florida:*

Florida Keys Children's Shelter, Inc.  
Latino Leadership Inc.  
Law Offices of Public Defender Bennett H. Brummer, 11th Judicial Circuit  
Redlands Christian Migrant Association

*Illinois:*

Child Care Association of Illinois  
Illinois Collaboration on Youth  
Illinois Parent Teacher Association  
John Howard Association of Illinois  
Juvenile Justice Initiative  
Law Office of the Cook County Public Defender  
Youth Network Council

*Indiana:*

Indiana Juvenile Justice Task Force, Inc.  
Leadership & Renewal Outfitters

*Maryland:*

Maryland Juvenile Justice Coalition

*Massachusetts:*

Citizens for Juvenile Justice  
Criminal Justice Institute, Harvard Law School

*Michigan:*

Michigan Council on Crime and Delinquency

*Missouri:*

Youth In Need

*Nebraska:*

Voices for Children in Nebraska

*Nevada:*

East Las Vegas Community Development Corporation

*New Hampshire:*

Child and Family Services of New Hampshire

*New Jersey:*

Northeast Juvenile Defender Center

*New Mexico:*

Hands Across Cultures

*New York:*

New York Juvenile Justice Coalition  
Goodhope Youth Home, Inc.  
Center for Community Alternatives

Action for Children North Carolina

*North Dakota:*

Lutheran Social Services of North Dakota

*Ohio:*

Alliance of Child Caring Service Providers  
Children's Defense Fund of Ohio  
Juvenile Justice Coalition (Ohio)  
Law Office of the Montgomery County, Ohio Public Defender  
North East Ohio Health Services  
Voices for Ohio's Children Juvenile Justice Initiative

*Oregon:*

Salem/Keizer Coalition for Equality

*Pennsylvania:*

Community Commitment Inc.  
Congreso de Latinos Unidos  
*Tennessee:*

Latino Memphis, Inc.

*Vermont:*

South Royalton Legal Clinic at Vermont Law School

*Virginia:*

Citizens United for Rehabilitation of Errants-Virginia, Inc.  
JustChildren Program of the Legal Aid Justice Center  
Virginia Coalition for Juvenile Justice

*Washington:*

TeamChild  
Washington Defender Association

*Wisconsin:*

Counseling Center of Milwaukee, Inc.  
La Casa de Esperanza, Inc.  
La Causa  
Wisconsin Council on Children and Families

Data sources: 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. [www.ncjj.org](http://www.ncjj.org); Coalition for Juvenile Justice, 2005. *Childhood on Trial: The Failure of Trying and Sentencing Youth in Adult Criminal Court*, Washington, DC. [www.juvjustice.org](http://www.juvjustice.org)

## **THE JUVENILE JUSTICE AND DELINQUENCY PREVENTION ACT OVERVIEW**

The Juvenile Justice and Delinquency Prevention Act (JJDP), established in 1974 and most recently reauthorized in 2002 with bipartisan support, provides for:

- a juvenile justice planning and advisory system spanning all states, territories and the District of Columbia;
- federal funding for delinquency prevention and improvements in state and local juvenile justice programs; and
- operation of a federal agency (OJJDP) dedicated to training, technical assistance, model programs, and research and evaluation, to support state and local efforts.

The JJDP is based on a broad consensus that children, youth and families involved with the juvenile and criminal courts should be guarded by federal standards for care and custody, while also upholding the interests of community safety and the prevention of victimization.

Under the JJDP, all states, territories and the District of Columbia must comply with the following core protections:

### **Deinstitutionalization of Status Offenders (DSO)**

Status offenses are offenses that only apply to children under the age of 18, such as skipping school, running away, breaking curfew and possession or use of alcohol. Status offenders may not be held in secure detention or confinement. There are, however, several exceptions to this rule, including allowing some status offenders to be detained for up to 24 hours. The DSO provision seeks to ensure that status offenders who have not committed criminal offense are not held in secure juvenile facilities for extended periods of time or in secure adult facilities for any length of time. These children, instead, should receive community-based services, such as day treatment or residential home treatment, counseling, mentoring, alternative education and job development support.

### **Adult Jail and Lock-up Removal**

Youth may not be detained in adult jails and lock-ups except for limited times before or after a court hearing (6 hours), in rural areas (24 hours plus weekends and holidays), or in unsafe travel conditions. This provision does not apply to children who are tried or convicted in adult criminal court of a felony level offense. This provision is designed to protect children from psychological abuse, physical assault and isolation. Children housed in adult jails and lock-ups have been found to be eight times more likely to commit suicide, two times more likely to be assaulted by staff, and 50 percent more likely to be attacked with a weapon than children in juvenile facilities according to U.S. Department of Justice studies.

**"Sight and Sound" Separation**

When children are placed in an adult jail or lock-up, as in exceptions listed above, "sight and sound" contact with adults is prohibited. This provision seeks to prevent children from psychological abuse and physical assault. Under "sight and sound," children cannot be housed next to adult cells, share dining halls, recreation areas or any other common spaces with adults, or be placed in any circumstances that could expose them to threats or abuse from adult offenders.

**Disproportionate Minority Contact (DMC)**

States are required to assess and address the disproportionate contact of youth of color at all points in the justice system – from arrest to detention to confinement. Studies indicate that youth of color receive tougher sentences and are more likely to be incarcerated than white youth for the same offenses. With youth of color making up one-third of the youth population but two-thirds of youth in contact, this provision requires states to gather information and assess the reason for disproportionate minority contact.

## **JJDPA CORE PROTECTIONS: DEINSTITUTIONALIZATION OF STATUS OFFENDERS (DSO)**

**The JJDPA mandates that status offenders and non-offenders may not be locked up.**

The JJDPA states that youths who commit “status offenses,” shall not be placed in secure detention or correctional facilities.<sup>i</sup> Status offenses are acts that would not be offenses if committed by an adult. Status offenses include: running away, truancy, curfew violations, and general offenses of “incorrigibility” or “disobedience”.<sup>ii</sup> Youths who have committed no offense and are aliens or alleged to be neglected or abused may not be placed in secure facilities under the JJDPA.<sup>iii</sup> State failure to comply with this requirement could result in a 20% reduction in its formula grant under the JJDPA.<sup>iv</sup>

**The DSO requirement was designed to help youth in trouble.** The Senate committee report accompanying the original 1974 version of this act describes the DSO requirement as allowing children to receive the services that they need through the appropriate human services agency, while freeing the juvenile justice system to focus on children engaging in criminal behavior.<sup>v</sup>

**Girls are disproportionately affected by status offense statutes.** Status offenses disproportionately affect girls, who are 170% more likely to be arrested for status offenses than boys and receive more severe punishment than boys.<sup>i</sup> Criminalization of status offenses through the “violation of court order” exception may contribute to the increasing numbers of girls in the criminal justice system. For example, female admissions to secure detention in Pennsylvania increased by 32% between 1997 and 2003.<sup>vi</sup>

**The intent of the DSO requirement relies on the presence of adequate alternatives to detention.** Children who commit status offenses may have unmet mental health or educational needs or may have dysfunctional families and need support. If the alternatives to incarceration used by the state (which may include placement in a non-secure facility, probation or referral to community-based support programs) do not meet these needs, youth are more likely to re-offend. If the repeat offense violates a court order, the child is no longer protected by the DSO requirement and may be incarcerated.

**Detention is expensive and less cost – effective than detention alternatives.**

Detention costs between \$32,000 and \$65,000 per year per bed, many times more than the cost of detention alternatives.<sup>vii</sup> Higher benefits per dollar spent are realized by detention alternatives like mentoring problems, aggression replacement training and therapy.<sup>viii</sup>

**Detention contributes to recidivism.**

Children in detention are exposed to negative influences in detention.<sup>ix</sup> Children may respond to the stigma of detention and the resulting negative expectations of others by acting in an unacceptable manner.<sup>x</sup> In Wisconsin, 70% of youth held in secure detention were arrested or returned to secure detention within a year.<sup>xi</sup> Community based alternatives are often a better option. For example, young people involved in Texas community-based placements were found to be 14% less likely to commit future crimes than youth that have been incarcerated.<sup>xii</sup>



**Detention interrupts education and negatively affects future employment.** Youth have limited access to educational and job training programs while incarcerated.<sup>xiii</sup> Detained youth often fail to return to school after release.<sup>xiv</sup> Incarceration impairs a child's ability to achieve stable employment, increasing the likelihood of recidivism.<sup>xv</sup>

**Detention aggravates mental health problems.** Approximately two-thirds of children in detention have a mental disorder. The conditions of detention, including crowding and violence, contributes to high rates of depression and suicidal thoughts.<sup>xvi</sup>

**Statutory exceptions to the DSO requirement limit its effectiveness. The JJDPa allows youths who possess a handgun, violate a valid court order, or who are held in accordance with an Interstate Compact on Juveniles to be jailed<sup>xvii</sup> The valid court order exception was added to the JJDPa in the 1980's to allow judges to incarcerate repeat status offenders.**

**Status offenders may not have access to due process protections provided to other offenders, including the right to counsel written notice of charges, cross examination, privilege against self-incrimination and appellate review.<sup>xviii</sup>**

Status offenders are rarely represented by counsel.<sup>xix</sup> Status offenders often do not have parents advocating on their behalf (some status offenders are turned over to the juvenile justice system by their parents).<sup>xx</sup> Without an advocate, children may not get access to services they deserve

**Massachusetts's Child In Need of Services (CHINS) Program.** The CHINS program provides status offenders with a right to counsel and appoints counsel for children who cannot obtain a lawyer themselves. The attorney serves as an advocate to ensure the child receives appropriate services.<sup>xxi</sup>

**Lack of public information and data makes state compliance difficult to monitor.** States must submit plans and reports under the JJDPa about their compliance with the core requirements. Few states make these plans and reports public. Public availability of this information would improve public oversight of state juvenile justice system.

*Prepared by the Campaign for Youth Justice  
[www.campaignforyouthjustice.org](http://www.campaignforyouthjustice.org)*

<sup>i</sup> 42 U.S.C. § 5633 (a)(11) 2006.

<sup>ii</sup> Alecia Humphrey, *The Criminalization of Survival Attempts: Locking up Female Runaways and Other Status Offenders*, 15 *Hastings Women's L. J.* 165, 166-167 (2004).

<sup>iii</sup> 28 C.F.R. §31.303(c) 2006.

<sup>iv</sup> 42 U.S.C. § 5633 (c) 2006.

<sup>v</sup> S. Rep. No. 93-1011, at 5287-88 (1974).

<sup>vi</sup> Susanna Zawacki, "Girls Involvement in Pennsylvania's Juvenile Justice System," *Pennsylvania Juvenile Justice Statistical Bulletin*, Oct. 2005 at 1.

<sup>vii</sup> Barry Holman and Jason Zeidenberg, *The Dangers of Detention*, Justice Policy Institute, 2006 at 11.

<sup>viii</sup> Holman, *supra* note vii at 11.

<sup>ix</sup> Jennie Rabinowitz, Note: Leaving Homeroom on Handcuffs: Why and Over-Reliance on Law Enforcement to Ensure School Safety is Detrimental to Children, 4 *Cardozo Pub. L. Pol'y & Ethics J.* 153, 170 (2006); Holman, *supra* note vii at 5.

<sup>x</sup> Rabinowitz, *supra* note ix at 169.

<sup>xi</sup> Holman, *supra* note vii at 4.

<sup>xii</sup> Holman, *supra* note vii at 6.

<sup>xiii</sup> Rabinowitz, *supra* note ix at 169.

<sup>xiv</sup> Holman, *supra* note vii at 9

<sup>xv</sup> Rabinowitz, *supra* note ix at 170.

<sup>xvi</sup> Holman, *supra* note vii at 11.

<sup>xvii</sup> 42 U.S.C. § 5633 (a)(11)(A) 2006.

<sup>xviii</sup> Humphrey, *supra* note ii at 168.

<sup>xix</sup> Humphrey, *supra* note ii at 171-172.

<sup>xx</sup> Humphrey, *supra* note ii at 172.

<sup>xxi</sup> Michael Kilkelly, Child Welfare Practice in Massachusetts: Children in Need of Services Proceedings, Massachusetts Continuing Legal Education §§18.1, 18.5 (2006).

## **JJDPA CORE PROTECTIONS: REMOVAL OF YOUTH FROM ADULT JAILS AND LOCK-UPS**

**Youth should not be placed in adult jails or lock-ups.** The JJDPA prohibits placement of youth in adult jails.<sup>i ii</sup> With limited exceptions, youths accused of non-status offenses also may not be detained or confined with adults.<sup>iii</sup> State failure to comply with this requirement results in a 20% reduction in its formula grant under Title II of the JJDPA.<sup>iv</sup>

**There are limited exceptions allowing youth to be placed in adult jails.** The JJDPA generally prohibits states from placing detained or confined youths in adult facilities, regardless of the child's offense.<sup>v</sup> State failure to comply with this requirement could result in a 20% reduction in its formula grant under Title II of the JJDPA.<sup>vi</sup> However, youths who are accused of non-status offenses may be detained in an adult facility for a short period (less than 6 hours) for processing, release, while awaiting transfer to a juvenile facility, or for a court appearance.<sup>vii</sup> Youths awaiting an initial court appearance and are located in a rural area where no alternative placement exists, is located in an area where distances create a delay in initial court appearance, or is located where travel conditions are temporarily unsafe for travel allowing the court appearance or transfer to a juvenile facility, may be placed in an adult facility for 48 hours.<sup>viii</sup>

**The number of youth in adult jails is increasing.** Between 1990 and 2004, the number of youth placed in adult jails has increased by 208%.<sup>ix</sup> One in ten youths incarcerated on a given day is in adult jail.<sup>x</sup>

**Administrative regulations, in concert with state laws, have added exceptions that seem to undermine the intent of the JJDPA.** The Department of Justice does not

apply this requirement to children who are accused or convicted of a criminal felony and are under the jurisdiction of the criminal court system.<sup>xi</sup> This exception allows youths, regardless of age, to be placed on adult jails under state waiver and transfer laws. 40 states have laws that allow children prosecuted in adult courts to be placed in adult jails.<sup>xii</sup>

**Youth of color are disproportionately placed in adult jails.** In 2002, 75% of children admitted to adult jails were youth of color.<sup>xiii</sup> For example, youth of color represent 15% of Wisconsin's youth population, but close to 70% of the youth in adult jails in the state.<sup>xiv</sup>

**Keeping youth away from adults protects youth.** Youth in adult jails face a heightened risk of assault, both by jail staff and adult prisoners.<sup>xv</sup> The suicide rate for teens in adult prisons is 8 times higher than that for youth in juvenile facilities.

**Evidence does not support the use of harsh, adult punishment to deter crime.**<sup>xvi</sup> Anti-social behavior in many youth is "adolescent-limited" and ends as the youth age.<sup>xvii</sup> Incarceration may interrupt this process by separating the child from schools, community, and work environments that encourage mature behavior.<sup>xviii</sup> Harsh punishment contributes to recidivism and decreased job stability.<sup>xix</sup>

**Some children held in adult jails before trial are not convicted as adults.** Some children held in adult jails are ultimately transferred back to juvenile court or have their cases dismissed.<sup>xx</sup>

**Adult jails do not offer age appropriate services for youth which are available in juvenile facilities.** For example, despite high rates of mental illness, children in adult facilities are less likely to receive counseling or therapy.<sup>xxi</sup> Children also have reduced access to educational services and job training in adult facilities.<sup>xxii</sup> Access to education, including special education services, is crucial, since most incarcerated youth will be released and need to earn a living.<sup>xxiii</sup>

**Youths tried as adults do not need to be placed in adult facilities.** California's strict laws result in many youthful offenders being tried as adults. California policy, however, bans the placement of sentenced youthful offenders in adult facilities, so these youth are placed in juvenile facilities until they reach the age of majority.

*Prepared by the Campaign for Youth Justice*  
[www.campaignforyouthjustice.org](http://www.campaignforyouthjustice.org)

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- <sup>i</sup> Status offenses are acts committed by juveniles that would not be offenses if committed by an adult. Status offenses vary by state, but may include: running away, school truancy, curfew violations, alcohol possession by a minor, and general offenses of "incurability" or "disobedience". Alecia Humphrey, *The Criminalization of Survival Attempts: Locking Up Female Runaways and Other Status Offenders*, 15 *Hastings Women's L. J.* 165, 166-167 (2004).
- <sup>ii</sup> 42 U.S.C. § 5633 (a)(12) 2006.
- <sup>iii</sup> 42 U.S.C. § 5633 (a)(13) 2006.
- <sup>iv</sup> 42 U.S.C. § 5633 (c) 2006.
- <sup>v</sup> 42 U.S.C. § 5633(a)(13) (2006).
- <sup>vi</sup> 42 U.S.C. § 5633 (c) 2006.
- <sup>vii</sup> 42 U.S.C. § 5633(a)(13)(A) (2006).
- <sup>viii</sup> 42 U.S.C. § 5633(a)(13)(B) (2006).
- <sup>ix</sup> Christopher Hartney, Fact Sheet, Youth Under 18 in the Adult Criminal Justice System, National Council on Crime and Delinquency, June 2006, available at [http://www.nccd-crc.org/nccd/pubs/2006may\\_factsheet\\_youthadult.pdf](http://www.nccd-crc.org/nccd/pubs/2006may_factsheet_youthadult.pdf)
- <sup>x</sup> Hartney, Fact Sheet, *supra* note ix.
- <sup>xi</sup> 28 C.F.R. §§31.303(d)(10(v)), 31.303(e)(2) 2006.
- <sup>xii</sup> National Center for Juvenile Justice. October 2005. Vol. 8, No. 10, pp.3.

- <sup>xiii</sup> National Council on Crime and Delinquency, And Justice for Some: Differential Treatment of Youth of Color in the Criminal Justice System, January 2007.
- <sup>xiv</sup> WI- Robert Nikolay, Budget Director, Wisconsin Department of Corrections.
- <sup>xv</sup> Robert E. Shepherd, Recapturing the Child in Adult Court, 16 *Criminal Justice* 58,60, Winter 2002; See also Christopher Hartney, Fact Sheet, Youth Under 18 in the Adult Criminal Justice System, National Council on Crime and Delinquency, June 2006, available at [http://www.nccd-crc.org/nccd/pubs/2006may\\_factsheet\\_youthadult.pdf](http://www.nccd-crc.org/nccd/pubs/2006may_factsheet_youthadult.pdf)
- <sup>xvi</sup> MacArthur Issue Brief #5 "The Changing Borders of Juvenile Justice: Transfer of Adolescents to the Adult Criminal Court." September, 2006.
- <sup>xvii</sup> Hillary Massey, Note, Disposing of Children: The Eighth Amendment and Juvenile Life without Parole After Roper, 47 *B.C. L. Rev.* 1083, 1093(2006).
- <sup>xviii</sup> Barry Holman and Jason Zeidenberg, *The Dangers of Detention*, Justice Policy Institute, 2006 at 6.
- <sup>xix</sup> See Jennie Rabinowitx, Note, Leaving Homeroom in Handcuffs: Why an Over-reliance on Law Enforcement to ensure School Safety is Detrimental to Children, 4 *Cardozo Pub. L. Pol'y & Ethics J.* 153, 170 (2006).
- <sup>xx</sup> Juszkwicz, Jolanta. Building Blocks for Youth. "Youth Crime Adult Time: Is Justice Served?" October 2000.
- <sup>xxi</sup> *Id.* at 18.
- <sup>xxii</sup> Hartney, Fact Sheet, *supra* note ix.
- <sup>xxiii</sup> See Harriet R. Morrison and Beverly D. Epps, *Warehousing or Rehabilitation? Public Schooling in the Juvenile Justice System*, 71 *J. Negro Edu.* 218, 224-25 (2002).

## **JJDPA CORE PROTECTIONS: “SIGHT AND SOUND” SEPARATION OF YOUTH AND ADULTS IN JAILS AND LOCK-UPS**

**The JJDPA allows some youths to be placed in adult jails.** The JJDPA generally prohibits states from placing detained or confined youths in adult facilities.<sup>i</sup> However, youths who are accused of non-status offenses may be detained in an adult facility for a short period (less than 6 hours) for processing, release, while awaiting transfer to a juvenile facility, or for a court appearance.<sup>ii</sup> Youths awaiting an initial court appearance and are located in a rural area where no alternative placement exists, is located in an area where distances create a delay in initial court appearance, or is located where travel conditions are temporarily unsafe for travel allowing the court appearance or transfer to a juvenile facility, may be placed in an adult facility for 48 hours.<sup>iii</sup>

**Youths in adult jails and lock-ups should not be able to hear or see adult inmates.** The JJDPA forbids contact between adult and youth offenders.<sup>iv</sup> Regulations under the JJDPA prohibit clear visual contact between adult and youth inmates (sight separation) and prohibit direct oral communication between incarcerated adults and youth offenders (sound separations).<sup>v</sup>

**Sight and sound separation protects children from mistreatment by adult offenders and exposure to adult offender behavior.** Youth in adult jails face a heightened risk of assault.<sup>vi</sup> Youth can be harmed even when physical contact is prevented. For example, a 15 year old in Virginia was housed in an adult jail for 9 months between 2005 and 2006. While in adult jail, he witnessed a suicide attempt and was placed in a cell unit with a sex offender.<sup>vii</sup>

**The sight and sound separation requirement is an imperfect solution.** Youths in adult jails who are separated from adult populations are often isolated, exacerbating mental health problems and increasing likelihood that the youth will attempt suicide. However, contact with adult offenders puts children at risk. The suicide rate for teens in adult prisons is 8 times higher than that for youth in juvenile facilities.

**Department of Justice regulations allow collocation of adult and juvenile facilities.**<sup>viii</sup> Total separation between youths and adults is required in collocated facilities.<sup>ix</sup> Correctional employees who work in both adult and juvenile facilities must be trained and certified to work with youth.<sup>x</sup>

**Regulatory exceptions increase youth contact with incarcerated adults.** The Department of Justice does not apply the “sight and sound” requirement to children accused or convicted of a criminal felony if they are under the jurisdiction of the adult criminal court system.<sup>xi</sup> This regulation allows youths, regardless of age, to be placed on adult jails.

**The sight and sound requirement is not applied to children under the jurisdiction of adult courts.**<sup>xii</sup> Thus children transferred to adult court systems through state statutory waiver or transfer provision can be mixed into the general jail population, endangering their physical and mental health and safety.

The “sight and sound” requirement reflects U.S. responsibilities under its international obligations. The U.S. is a party to the International Covenant on Civil and Political Rights, which gives states the responsibility to ensure the separation of youth and adults in the criminal justice system.<sup>xiii</sup>

*Prepared by the Campaign for Youth Justice*  
[www.campaignforyouthjustice.org](http://www.campaignforyouthjustice.org)

<sup>i</sup> 42 U.S.C. § 5633(a)(13) (2006).

<sup>ii</sup> 42 U.S.C. § 5633(a)(13)(A) (2006).

<sup>iii</sup> 42 U.S.C. § 5633(a)(13)(B) (2006).

<sup>iv</sup> 42 U.S.C. § 5633 (a)(13) 2006.

<sup>v</sup> 28 C.F.R. §31.303(d) (2006).

<sup>vi</sup> Robert E. Shepherd, Recapturing the Child in Adult Court, 16 Criminal Justice 58,60, Winter 2002; *See*

*also* Christopher Hartney, Fact Sheet, Youth Under 18 in the Adult Criminal Justice System, National Council on Crime and Delinquency, June 2006, available at [http://www.nccd-crc.org/nccd/pubs/2006may\\_factsheet\\_youthadult.pdf](http://www.nccd-crc.org/nccd/pubs/2006may_factsheet_youthadult.pdf)

<sup>vii</sup> Michael Owens, *OK given for teen to leave adult jail*, The News Virginian, July 20, 2006.

<sup>viii</sup> 28 C.F.R. §31.303(e)(3) 2006.

<sup>ix</sup> 28 C.F.R. §31.303(e)(3) 2006.

<sup>x</sup> 42 U.S.C. § 5633 (a)(12) 2006.

<sup>xi</sup> 28 C.F.R. §§31.303(d)(10(v), 31.303(e)(2) 2006.

<sup>xii</sup> National Council on Crime and Delinquency, And Justice for Some: Differential Treatment of Youth of Color in the Criminal Justice System, January 2007 at 34.

<sup>xiii</sup> Hillary J. Massey, Note: Disposing of Children: The Eighth Amendment and Juvenile Life without Parole after Roper, 47 B.C. L. Rev. 1083, 1115 (2006). The U.S. did make add a reservation to the Covenant when it became a party, allowing it treat youth as adults in the justice system.



## **JJDPA CORE PROTECTIONS**

### **REDUCTION OF DISPROPORTIONATE MINORITY CONTACT (DMC)**

**States are required to design efforts to reduce the disproportionate contact of youth of color with the juvenile justice system.**<sup>i</sup> Since 1988, the JJDPA has required states to make an effort to reduce the number of youth of color detained and confined if the proportion of youth of color in secure facilities exceeds the proportion of youth of color in the state population at large.<sup>ii</sup> States failure to formulate effective policies can jeopardize 20% of their formula grant funding under Title II of the JJDPA.<sup>iii</sup>

**Youth of color are disproportionately represented in all stages of the juvenile justice system.** The rates of overrepresentation increase as children go through the system.<sup>iv</sup> Youth of color are overrepresented in arrest data for most offenses.<sup>v</sup> African-American and Native American are more likely to be referred to court after arrest.<sup>vi</sup> African-Americans are less likely than their white counterparts to receive probation, rather than placement in a secure facility.<sup>vii</sup> African-American youth are five times more likely to be incarcerated than white youth.<sup>viii</sup> Latino youth are also more likely to be incarcerated compared to white youth.<sup>ix</sup> African-American youth are overrepresented in juvenile detention facilities in most states.<sup>x</sup>

**DMC affects communities of color as well as individual youth.** Youth of color are more likely to receive out of home placements.<sup>xi</sup> Disproportionate convictions and incarceration lead to decreased wage earnings and lower job security, affecting the economy of disproportionately affected communities.

**Evidence of disproportionate minority contact appears in all states.**<sup>xii</sup> In Utah, African-American youth are 2.5 times more likely to be arrested than white youth.<sup>xiii</sup> In Massachusetts, 58% of new detention cases were youth of color in 2003, even though youth of color represent only 24% of the state youth population.<sup>xiv</sup> In Wisconsin, African-American youth are 19 times more likely to be admitted to an adult jail, compared to white youth.<sup>xv</sup> A study of several counties in rural Texas found DMC at arrest, pre-adjudication detention, and disposition.<sup>xvi</sup> Vermont, which formerly did not have evidence of DMC, has found evidence of DMC at arrest and detention since 2000.<sup>xvii</sup>

**Between 1997 and 2003, the percentage of youth of color incarcerated in juvenile detention facilities dropped more rapidly than that of white youth.**<sup>xviii</sup> This suggests that the DMC requirement is creating some changes in juvenile justice systems, although there is still much room for improvement.

**Youth of color are also more likely to be placed in adult jails.** In 2002, 3 out of 4 youths under age 18 admitted to adult jails were youth of color.<sup>xix</sup> African-American, Latino and Native American youth are admitted to jails at higher rates than whites.<sup>xx</sup>

**Data is needed to understand DMC and create effective policy solutions.**

Pennsylvania is improving its DMC data collection and analysis to identify decision points in the juvenile justice system where race may be a factor and to use this information to implement data-driven policy changes that can serve as models for other states.<sup>xxi</sup>

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<sup>i</sup> 42 U.S.C. § 5633(a)(22) (2006).

<sup>ii</sup> 28 C.F.R. § 31.303(j) (2006).

<sup>iii</sup> 42 U.S.C. § 5633 (c) (2006)

<sup>iv</sup> While African-Americans are slightly more likely to be arrested than whites, they are much more likely to be sent to adult prisons. Jennie Rabinowitx, Note, Leaving Homeroom in Handcuffs: Why an Over-reliance on Law Enforcement to ensure School Safety is Detrimental to Children, 4 Cardozo Pub. L. Pol'y & Ethics J. 153, 172 (2006).s

<sup>v</sup> National Council on Crime and Delinquency, And Justice for Some: Differential Treatment of Youth of Color in the Criminal Justice System, January 2007 at 6.

<sup>vi</sup> *Id.* at 8 (rather than having their cases dismissed or otherwise disposed of.).

<sup>vii</sup> *Id.*.

<sup>viii</sup> Marian Wright Ederlman, James M Jones, Separate and Unequal: American's Children, Race and Poverty, 14 The Future of Children, 134, 135 (2004).

<sup>ix</sup> National Council on Crime and Delinquency, *supra* note v at 23

<sup>x</sup> National Council on Crime and Delinquency, *supra* note v at 2; Office of Juvenile Justice and Delinquency Prevention, *Authorizing Legislation*, <http://ojjdp.ncjrs.org/about/legislation.html>

<sup>xi</sup> National Council on Crime and Delinquency, *supra* note v at 20.

<sup>xii</sup> Barry Holman and Jason Zeidenberg, The Dangers of Detention, Justice Policy Institute, 2006 at 12.

<sup>xiii</sup> Utah Board of Juvenile Justice, Annual Report, 2005, available at <http://www.juvenile.utah.gov/Reports/AnnualReport/UBJJ2005.pdf>.

<sup>xiv</sup> Massachusetts Executive Office of Public Safety, Massachusetts Juvenile Justice Data and Information, Commonwealth of Massachusetts, Dec. 2004 at 22.

<sup>xv</sup> National Council on Crime and Delinquency, *supra* note v.

<sup>xv</sup> National Council on Crime and Delinquency, *supra* note v at 36.

<sup>xvi</sup> H. Elaine Rodney, et. al. *Over-Representation of Minorities in the Juvenile Justice System; Three Counties in Rural Texas*, 68 Fed. Probation 44, 46-47 (Dec. 2004).

<sup>xvii</sup> Department of Children and Families, Summary OJJDP Fiscal Years 2006-2008 Comprehensive 3-Year Plan, March 30, 2006 at 5.

<sup>xviii</sup> Howard N. Snyder and Melissa Sickmund, *Juvenile Offenders and Victims: 2006 National Report*, Office of Juvenile Justice and Delinquency Prevention, Department of Justice, 2006 at 211.

<sup>xix</sup> National Council on Crime and Delinquency, *supra* note v.

<sup>xx</sup> National Council on Crime and Delinquency, *supra* note v at 34.

<sup>xxi</sup> Juvenile Justice and Delinquency Prevention Committee, Pennsylvania Juvenile Justice and Delinquency Prevention Plan Update, March 2006 at 18.



**The Juvenile Justice and Delinquency Prevention Act (JJDP)  
ACT 4 Juvenile Justice Fact Sheets**

## **YOUTH IN THE JUSTICE SYSTEM**

### **FACT SHEET**

#### **Words to Know**

**Adjudicated:** Found delinquent of an offense.

**Adjudicated Delinquent:** An adjudicated delinquent is a youth who has been found guilty by a judge of committing a delinquent act. In general, an adjudicated juvenile can be required to be placed in a juvenile correctional facility, community-based alternative to incarceration or other program.

**Adult Sanction/Juvenile Sanction:** A sanction is a penalty for committing a crime. Adult sanctions are usually harsher than juvenile sanctions. For example, an adult may be sentenced to probation or prison. A teen may be ordered to get counseling.

**Alternative to Detention/Alternative to Incarceration:** Programs that are based in local communities that serve young people in conflict with the law. For more information about alternatives to detention and incarceration, contact the Annie E. Casey Foundation's Juvenile Detention Alternatives Initiative at [www.aecf.org](http://www.aecf.org) or the Justice Policy Institute at [www.justicepolicy.org](http://www.justicepolicy.org).

**Delinquency Offense:** A delinquency offense is an offense that would also be a crime if committed by an adult, such as shoplifting.

**Delinquent:** In the youth context, this is a young person who breaks the law.

**Jail:** A lock-up usually reserved for people who are awaiting trial. In some states, after receiving an adult conviction, some people can be sentenced to serve time in an adult jail. This is usually the case for lower level offenses and for two years or less.

**Juvenile Detention Facility:** A secure facility where youth are placed awaiting hearings or placements.

**Juvenile Justice System:** In every state and the District of Columbia, special laws, programs and services have been designed to address what happens when a youth, under 18, violates the law. The laws, programs and services vary from state to state. For more information on your state's laws, contact the National Center for Juvenile Justice at [www.ncjj.org](http://www.ncjj.org).

**Juvenile Correctional Facility:** State training school or other residential facility where youth are placed post adjudication. For more information on model approaches to juvenile corrections, contact the Council of Juvenile Correctional Administrators at [www.cjca.net](http://www.cjca.net).

**Prison:** A long-term lock-up facility usually reserved for people who have been convicted of a crime. Youth and adults can be sentenced to serve time in prison.

**Status offense:** A status offense is an offense that applies only to youth, such as running away or breaking curfew.

### **Youth Crime**

Youth commit only a small portion of the nation's crime. For example, in 2004, 12.1 percent of violent crime clearances and 18.9 percent of the property crime clearances nationwide involved only youth.<sup>i</sup> According to the FBI, youth under age 18 accounted for only 16% of all arrests.<sup>ii</sup>

Youth crime has also been going down for many years. In 2003, the violent crime arrest rate for youth under 18 was below the levels of the 1980s.<sup>iii</sup>

### **Juvenile Justice System**

#### **Juvenile Court**

Every year, juvenile courts in the U.S. handle an estimated 1.6 million cases in which the youth was charged with a delinquency offense.<sup>iv</sup>

#### **Juvenile Detention & Corrections**

Youth who are “detained” are ordered to go to a residential facility to await a hearing in juvenile or adult court, depending on how they are charged. Youth are separated from their community and their normal day-to-day life (school, jobs, etc.).

1 out of every 5 youth who are brought before the court with a delinquency case is placed in a juvenile detention facility.<sup>v</sup>

According to the Justice Policy Institute, detention is overused. Detention facilities are meant to temporarily house youth who are likely to commit another offense before their trial or who are likely to skip their court date. Many of the youth in this country's 591 detention centers do not meet these criteria and should not be there.<sup>vi</sup>

Seventy percent of youth in detention are held for nonviolent charges. More than two-thirds are charged with property offenses, public order offenses, technical probation violations, or “status offenses” (crimes that wouldn't be crimes if they were adults, like running away or breaking curfew).<sup>vii</sup>

The overuse of detention is particularly harsh on youth of color. In 2003, African-American youth were detained at a rate 4.5 times higher than whites. Latino youth were detained at twice the rate of whites.<sup>viii</sup>

Nearly 70% of children in public detention centers are in overcrowded facilities holding more youth than they were designed for.<sup>ix</sup>

A one-day snapshot of juvenile offenders in detention found that roughly 5% were status offenders.<sup>x</sup>

On any given day, over 90,000 youth found to be delinquent are in juvenile correctional facilities.<sup>xi</sup>

Adjudicated youth sent to residential placements such as juvenile correctional facilities increased by 44% from 1985 to 2002.<sup>xii</sup>

There are less severe alternatives to detaining or committing youth, and they work. Community-based programs, including diversion programs, drug treatment, evening reporting centers, treatment clinics and family programs, have been shown to be less costly than detention or incarceration and to help youth stay out of trouble and to not re-offend.

### **Youth in the Adult Criminal Justice System**

An estimated 200,000 youth are tried, sentenced, or incarcerated as adults every year across the United States.<sup>xiii</sup>

Most of the youth prosecuted in adult court are charged with non-violent offenses.<sup>xiv</sup>

Research shows that young people who are kept in the juvenile justice system are less likely to re-offend than young people who are transferred into the adult system.<sup>xv</sup>

Currently, 40 states permit or require that youth charged as adults be held before they are tried in an adult jail. In some states, if they are convicted, they may be required to serve their entire sentence in an adult jail.<sup>xvi</sup>

On any given day, nearly 7,000 young people are locked up in adult jails.<sup>xvii</sup>

A significant portion of youth detained in adult jails before their trial are not convicted as adults.<sup>xviii</sup>

According to the National Council on Crime and Delinquency, the incarceration of youth in adult jails has increased 208% since 1990, even though youth crime has declined.<sup>xix</sup>

On any given day, more than 2,000 young people are locked up in adult prisons.<sup>xx</sup>

Youth in adult facilities are at a higher risk of violence and suicide than those in the juvenile justice system. Youth housed with adults are 50% more likely to be assaulted with a weapon than are youth housed with other youth.<sup>xxi</sup> Youth housed in adult institutions are 7.7 times more likely to commit suicide than are youth housed in facilities for youth under 18.<sup>xxii</sup>

Youth sentenced as adults receive an adult criminal record, are often denied employment and educational opportunities, and can be barred from receiving student financial aid.<sup>xxiii</sup>

Human Rights Watch reported in 2005 that an estimated 2,225 people were serving life without parole for crimes they committed while under age 18.<sup>xxiv</sup>

Youth of color are over-represented at all stages in the juvenile justice system, according to the National Council on Crime and Delinquency in their January 2007 report, “And Justice for Some.”

### **Public Views on Youth Crime and the Justice System**

According to a 2007 nationwide Zogby poll, commissioned by the National Council on Crime and Delinquency, 91% of Americans believe that increasing counseling and substance abuse treatment through the juvenile justice system will help reduce crime.<sup>xxv</sup>

According to a 2007 nationwide Zogby poll, commissioned by the National Council on Crime and Delinquency, 89% of Americans believe that rehabilitative services and treatment for incarcerated youth can help prevent future crimes.<sup>xxvi</sup>

*Prepared by the Campaign for Youth Justice*  
[www.campaignforyouthjustice.org](http://www.campaignforyouthjustice.org)

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<sup>i</sup> Federal Bureau of Investigation. Crime in the United States 2004 (Updated Feb. 17, 2006). Washington, D.C. Retrieved April 3, 2007 from [http://www.fbi.gov/ucr/cius\\_04/offenses\\_reported/index.html](http://www.fbi.gov/ucr/cius_04/offenses_reported/index.html).

<sup>ii</sup> Office of Juvenile Justice and Delinquency Prevention. U.S. Department of Justice. (2006). National Report. Washington, DC. P. 125.

<sup>iii</sup> Office of Juvenile Justice and Delinquency Prevention. U.S. Department of Justice. (2006). National Report. Washington, DC. P. 132.

<sup>iv</sup> Office of Juvenile Justice and Delinquency Prevention. U.S. Department of Justice. (2006). National Report. Washington, DC. P. 157.

<sup>v</sup> Office of Juvenile Justice and Delinquency Prevention. U.S. Department of Justice. (2006). National Report. Washington, DC. P. 168.

<sup>vi</sup> Holman, B. and Ziedenberg, J. (November 2006). The Dangers of Detention: The Impact of Incarcerating Youth in Detention and Other Secure Facilities. Washington, DC. Justice Policy Institute. P. 4

<sup>vii</sup> Holman, B. and Ziedenberg, J. (November 2006). The Dangers of Detention: The Impact of Incarcerating Youth in Detention and Other Secure Facilities. Washington, DC. Justice Policy Institute. P. 4.

<sup>viii</sup> Holman, B. and Ziedenberg, J. (November 2006). The Dangers of Detention: The Impact of Incarcerating Youth in Detention and Other Secure Facilities. Washington, DC. Justice Policy Institute. P. 12.

- <sup>ix</sup> B. Rust, "Documenting Programs that Work for Kids and Families," AdvoCasey. Baltimore, MD: Annie E. Casey Foundation, Fall/Winter, 1999.
- <sup>x</sup> Office of Juvenile Justice and Delinquency Prevention. U.S. Department of Justice, *Juvenile Offenders and Victims: 2006 National Report*, Washington, DC, 2006.
- <sup>xi</sup> Office of Juvenile Justice and Delinquency Prevention. U.S. Department of Justice. (2006). National Report. Washington, DC. P. 198.
- <sup>xii</sup> Office of Juvenile Justice and Delinquency Prevention. U.S. Department of Justice, *Juvenile Offenders and Victims: 2006 National Report*, Washington, DC, 2006.
- <sup>xiii</sup> Woolard, J. (2005) Juveniles within adult correctional settings: legal pathways and developmental considerations. *International Journal of Forensic Mental Health*. 4(1), 18; Coalition for Juvenile Justice. (2005) *Childhood on trial: The failure of trying and sentencing youth in adult criminal court*. Washington, DC: Author.
- <sup>xiv</sup> The consequences aren't minor: the impact of trying youth as adults and strategies for reform (207, March). Washington, DC: Campaign for Youth Justice.
- <sup>xv</sup> Craig A. Mason and Shau Chang, *Re-Arrest Rates Among Youth Sentenced in Adult Court*, Evaluation report for Juvenile Sentencing Advocacy Project, Miami Dade County Public Defender's Office, ( October, 2001) p. 8.
- <sup>xvi</sup> Goemann, M. (2007). Children being tried as adults: State-based variations on pre-trial detention. Washington, DC: Campaign for Youth Justice.
- <sup>xvii</sup> Hartney, C. (2006, June). Fact sheet: Youth under age 18 in the adult criminal justice system. Oakland, CA: National Council on Crime and Delinquency.
- <sup>xviii</sup> Juskiewicz, J. (2000, October). *Youth crime adult time: Is justice served?* Washington, DC: Building Blocks for Youth.
- <sup>xix</sup> Hartney, C. (2006, June). Fact sheet: Youth under age 18 in the adult criminal justice system. Oakland, CA: National Council on Crime and Delinquency.
- <sup>xx</sup> Beck, A.J., & Harrison, P.M. (2006, May). Prison and jail inmates at midyear 2005. Washington, DC: U.S. Department of Justice, Bureau of Justice Statistics.
- <sup>xxi</sup> Fagan, J., Forst, M., & Viona, T.S. (1989). Youth in prison and training schools: Perception and the consequences of the treatment dichotomy. *Juvenile and Family Court*, 40, 9.
- <sup>xxii</sup> Flaherty, M.G. (1980). An assessment of the national incidences of juvenile suicides in adult jails, lockups and juvenile detention centers. Urbana-Champaign: University of Illinois.
- <sup>xxiii</sup> The consequences aren't minor: the impact of trying youth as adults and strategies for reform (207, March). Washington, DC: Campaign for Youth Justice.
- <sup>xxiv</sup> Human Rights Watch. *The Rest of Their Lives: Life without Parole for Child Offenders in the United States*. (October 2005). New York, NY. Retrieved on April 3, 2007 from <http://hrw.org/reports/2005/us1005/>.
- <sup>xxv</sup> *Attitudes of US Voters Toward Crime and the US Justice System* (February, 2007). Oakland, CA: National Council on Crime and Delinquency.
- <sup>xxvi</sup> *Attitudes of US Voters Toward Crime and the US Justice System* (February, 2007). Oakland, CA: National Council on Crime and Delinquency.

## **JUVENILE CRIME AND DETENTION FACT SHEET**

In 2003, there were an estimated 2.2 million arrests of youth in the United States. Youth ages 16-17 comprised 68% of all juvenile arrests.<sup>i</sup>

Youth of color comprised 30% of the 2,200,000 youth arrested in 2003:

- 71% were White;
- 27% were Black;
- 2% were Asian; and,
- 1% were American Indian.<sup>ii</sup>

From 1985 to 2002, the number of delinquency cases in which adjudicated youth were ordered to some form of residential placement rose 44%.<sup>iii</sup> On an average day in 2003, 96,555 juveniles were held in residential placement.

Of these:

- 2% (1,671) were 12 years old and younger;
- 4% (4,088) were age 13;
- 10% (9,890) were age 14;
- 19% (18,363) were age 15;
- 26% (24,809) were age 16;
- 25% (23,933) were age 17; and,
- 14% (13,841) were age 18 and older.<sup>iv</sup>

From 1991 to 2003, the detained delinquency population increased 38% while committed population rose only 28%. Of the 96,655 juveniles held in residential placement:

- 71% (69,007) of these youths were committed;
- 27% (26,269) were detained; and
- 1% (1,318) were diverted.<sup>v</sup>

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<sup>i</sup> U.S. Department of Justice, Office of Juvenile Justice and Delinquency Prevention, *Juvenile Offenders and Victims: 2006 National Report* (Washington D.C., U.S. Department of Justice, 2006) Calculations by the Children's Defense Fund.

<sup>ii</sup> *Ibid.*

<sup>iii</sup> *Ibid.*

<sup>iv</sup> U.S. Department of Justice, Office of Juvenile Justice and Delinquency Prevention, *Census of Juvenile Residential Placement Databook* (Washington D.C., U.S. Department of Justice, 2003) Calculations by the Children's Defense Fund.

<sup>v</sup> U.S. Department of Justice, Office of Juvenile Justice and Delinquency Prevention, *Juvenile Offenders and Victims: 2006 National Report* (Washington D.C., U.S. Department of Justice, 2006) Calculations by the Children's Defense Fund.

Once adjudicated, white youth were less likely than black youth or youth of other races to be ordered into residential placement. Of the 26,269 juveniles detained in residential placement facilities in 2003:

- 40% (10,408) were Black;
- 35% (9,218) were White;
- 21% (5,613) were Hispanic;
- 2% (473) were Asian; and
- 2% (443) were American Indian.<sup>vi</sup>

*In 2003, 96,655 youth were held in residential placement. 23% (22,356) of these were detained for violent offenses and 77% (74,600) for nonviolent offenses. Of those crimes for which youth were detained:*

- 37% were property offenses;
- 28% were public order offenses;
- 26% were person offenses; and
- 10% were drug offenses.<sup>vii</sup>

*Prepared by the Children's Defense Fund*  
[www.childrensdefense.org](http://www.childrensdefense.org)

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<sup>vi</sup> U.S. Department of Justice, Office of Juvenile Justice and Delinquency Prevention, *Juvenile Offenders and Victims: 2006 National Report* (Washington D.C., U.S. Department of Justice, 2006) Calculations by the Children's Defense Fund.

<sup>vii</sup> *Ibid.*





## **RIISING CRIME IN PERSPECTIVE: YOUTH STILL ACCOUNT FOR SMALL PORTION OF ARRESTEES; HIGHER UNEMPLOYMENT ASSOCIATED WITH “DANGEROUS”CITIES FACT SHEET**

The 2005 FBI Uniform Crime Reports released on September 18, 2006 generated concerns over a 19 percent increase in juvenile murder arrests. The Justice Policy Institute (JPI), a Washington, D.C. based policy group that promotes fair and rational justice policies, cautions that a one-year change in arrests cannot be interpreted as a “trend,” and that no single factor can explain changes in arrests across the nation, or within a jurisdiction. The UCR represents crime reported to law enforcement only, and does not account for changes in law enforcement practices that may lead to more reports of crime (i.e. changes in policing practices, or enforcement), versus true victimization and crime. Criminologists and law enforcement officials use both the UCR and the National Crime Victimization Survey (NCVS) to get a more accurate and detailed sense of public safety by region, specific population subsets, and type of offense.<sup>viii</sup> JPI further warns that young people should not be targeted for punitive or enhanced responses, as the vast majority of the nation’s violent crime is still committed by adults.

To put the new UCR figures in their appropriate context, JPI draws key findings from this new arrest survey.

**Adults, not youth, represent 84 percent of all violent crime arrests—the increase in juvenile crime is only a fraction of the nation’s public safety challenges.**

Adults are responsible for 91 percent of all murder arrests, 84 percent of rape arrests, 75 percent of robbery arrests and 86 percent of aggravated assault arrests. The proportion of violent crime involving juvenile arrestees has not changed substantially since the previous year.

While the increase in juvenile arrests for homicide (an increase of +145, nationwide), robbery (3,268), and aggravated assaults (1,876) are a cause for concern, these figures need to be kept in their proper context: The FBI reports that there were 1,390,695 violent crimes nationwide in 2005.

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<sup>viii</sup> For more information see “the Nation’s two crime measures,” <http://www.ojp.usdoj.gov/bjs/pub/html/ntcm.htm>

**Juvenile vs. Adult Arrests**  
**Percentage of Total Arrests for Violent Crimes**

	2004		2005	
	Juveniles	Adults	Juveniles	Adults
Murder	8.2%	91.8%	9.0%	91.0%
Rape	16.2%	83.8%	15.4%	84.6%
Robbery	23.2%	76.8%	25.2%	74.8%
Aggravated Assault	13.8%	86.2%	13.6%	86.4%
<b>Total Arrests</b>	<b>15.5%</b>	<b>84.5%</b>	<b>15.8%</b>	<b>84.2%</b>

The recent study from the Bureau of Justice Statistics, *Violent Felons in Large Urban Counties*, is an analysis of violent felony cases from jurisdictions that together accounted for half of the reported violent crime in the nation. According to this report only 10 percent of homicide convictions, 12 percent of robbery convictions, and 4 percent of rape and assault convictions were under the age of 18.

## **PREVENTION**

### **FACT SHEET**

The Title V Incentive Grants for Local Delinquency Prevention Programs, commonly known as the Community Prevention Grants program, is the only federal funding source dedicated solely to the prevention of youth crime and violence. Created in 1992 and reauthorized in 2002 as part of the Juvenile Justice and Delinquency Prevention Act, Title V is a grant program to fund collaborative, comprehensive, community-based delinquency prevention efforts to reach young people before they make a choice that puts them on the wrong path in life. The grants can be used to fund a wide range of programs, including after-school activities, mentoring, and tutoring, as well as drop-out, gang, and substance abuse prevention.

Programs that connect children to caring adults and provide constructive activities, especially during the after-school hours of 3:00pm to 6:00pm—the “prime time for juvenile crime” on school days—are among our most powerful tools for preventing crime. For example, a study compared five housing projects without Boys & Girls Clubs to five receiving new clubs. At the beginning, drug activity and vandalism were the same. But by the time the study ended, the projects without the programs had 50 percent more vandalism and scored 37 percent worse on drug activity. Similarly, a study of another quality youth development program, Big Brothers Big Sisters, found that young people who were randomly assigned to a Big Brother or Big Sister mentor were about half as likely to begin illegal drug use and nearly one third less likely to hit someone compared to those who were assigned to a waiting list.

Prevention activities, such as those supported by Title V, remain so woefully under-funded that they can reach only a fraction of the kids who would benefit from them. For example, because of lack of funding for after-school programs, more than 14 million children and teens go home from school to an empty house each week. Research shows that these children are much more likely to drink, smoke, use drugs, commit a crime, and become a victim of a crime.

In Fiscal Year 2002 and prior years, Title V received \$95 million. In FY07, Title V received \$64 million. For FY08, the Administration’s budget proposes to eliminate Title V funding and create a new “Child Safety and Juvenile Justice Block Grant”, with 25% less funding than the set of programs it replaces.

*Prepared by Fight Crime: Invest in Kids*  
*[www.fightcrime.org](http://www.fightcrime.org)*

## **JUVENILE DETENTION REFORM**

### **FACT SHEET**

#### **Who Ends Up in Detention?**

Despite a decline in juvenile offending over the past decade, the population of youth confined in pre-trial secure detention has steadily grown. An alarmingly high number of youth who pose no risk to community safety are behind locked doors awaiting court hearings.

On an average day, more than 27,000 youth are estimated to reside in locked detention centers—a number that has grown 72 percent since the early 1990s. Most are young, nonviolent, relatively minor offenders—some of whom will be acquitted of all charges—most of whom do not need to be there at all.

#### **There are Only Two Legal Reasons for Pretrial Detention:**

- The child is deemed a risk to the safety of others unless detained.
- The child is deemed a risk not to show up in court for his hearing.

#### **Facts Show that Over-Reliance on Detention Exacts High Human and Financial Costs:**

- A one-day snapshot of juvenile offenders in detention found that roughly 5% were status offenders—youth whose actions are considered delinquent because of their minor (usually under age 18) status.<sup>ix</sup>
- Only 22% of detained youth are being detained for violent offenses.<sup>x</sup>
- Overcrowding in juvenile detention centers leads to increased levels of violence and suicides.<sup>xi</sup>
- Nearly 70% of children in public detention centers are in facilities operating above their design capacity.<sup>xii</sup>
- The cost to taxpayers of operating one detention bed over a twenty year period is \$1.25 - \$1.5 million dollars.<sup>xiii</sup>
- African-American youth are 1.4 times more likely to be detained than their white peers; among all racial groups, whites are the least likely to be detained.<sup>xiv</sup>

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<sup>ix</sup> Office of Juvenile Justice and Delinquency Prevention, *Juvenile Offenders and Victims: 2006 National Report*, Washington, DC, 2006.

<sup>x</sup> Ibid.

<sup>xi</sup> S. Burrell, P. DeMuro, E. Dunlap, C. Sanniti and L. Warboys, *Crowding in Juvenile Detention Facilities: A Problem Solving Manual*. Richmond, KY: National Juvenile Detention Association and Youth Law Center, 1998.

<sup>xii</sup> B. Rust, "Documenting Programs that Work for Kids and Families," *AdvoCasey*. Baltimore, MD: Annie E. Casey Foundation, Fall/Winter, 1999.

<sup>xiii</sup> Annie E. Casey Foundation, *Juvenile Detention Alternatives Initiative: About JDAI*. <http://www.aecf.org/initiatives/jdai/about.htm>, Baltimore, MD.

<sup>xiv</sup> Office of Juvenile Justice and Delinquency Prevention, *Juvenile Offenders and Victims: 2006 National Report*, Washington, DC, 2006.

- African-Americans comprise 15.4% of the general population under age 18, yet make up 29% of juvenile cases formally processed through the juvenile court system and 38% of youth detained prior to trial.<sup>xv</sup>
- In every state in the country (except Vermont) the rate of arrest and custody arrests for minority youth exceeds the rates for white youth.<sup>xvi</sup>

**Benefits of Reducing Pre-Adjudication Detention:**

Detention reform efforts create positive changes in state and local juvenile justice systems—including greater and stronger connections with family, school and community supports, decreased re-offense rates and a reduction of harsher, more punitive treatment of youth of color as compared with their white counterparts. Detention reform also saves scarce public dollars and redirects resources toward more cost-effective home- and community-based alternatives to confinement.

**For more than a decade, the Annie E. Casey Foundation has led the detention reform movement with a data-driven approach to reducing over-reliance on detention known as the Juvenile Detention Alternatives Initiative (JDAI). JDAI has four basic objectives:**

- To eliminate the inappropriate or unnecessary use of secure detention;
- To minimize rearrest and failure-to-appear rates pending adjudication;
- To ensure appropriate conditions of confinement in secure facilities; and
- To redirect public finances to sustain successful reforms.

**More than 70 JDAI sites throughout the United States pursue eight interrelated strategies to accomplish these objectives:**

1. Collaboration
2. Use of accurate and comprehensive data
3. Objective admissions criteria and instruments
4. New or enhanced non-secure alternatives to detention
5. Case processing reforms
6. Special detention cases
7. Reducing racial disparities
8. Improving conditions of confinement

**For more information:**

Coalition for Juvenile Justice: 202-467-0864 and [www.juvjustice.org](http://www.juvjustice.org)  
Annie E. Casey Foundation's Juvenile Detention Alternatives Initiative (JDAI):  
[www.jdaihelpdesk.org](http://www.jdaihelpdesk.org)

*Prepared by the Coalition for Juvenile Justice*  
*[www.juvjustice.org](http://www.juvjustice.org)*

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<sup>xv</sup> Ibid.

<sup>xvi</sup> Office of Juvenile Justice and Delinquency Prevention, *Juvenile Offenders and Victims: 2006 National Report*, Washington, DC, 2006.

## **JUVENILE STATUS OFFENSES**

### **FACT SHEET**

#### **What is a juvenile status offense?**

A status offender is a juvenile charged with or adjudicated for conduct that would not, under the law of the jurisdiction in which the offense was committed, be a crime if committed by an adult.<sup>xvii</sup>

#### **What types of activities constitute juvenile status offenses?**

The most common examples of status offenses are chronic or persistent truancy, running away, being ungovernable or incorrigible, violating curfew laws, or possessing alcohol or tobacco.

#### **What are the causes of juvenile status offense behaviors?**

There are numerous possible causes of status offense behaviors. These noncriminal behaviors are often caused by poor family functioning or dynamics, school problems, youth characteristics or community problems. For example, research indicates that risk factors for potential truancy include domestic violence, academic problems, substance abuse, lack of parental involvement in education, and chronic health problems.<sup>xviii</sup> Research also indicates that many youth who run away were physically or sexually abused at home in the year prior to their runaway episode. Family dysfunction and drug use in the company of the child are also endangerment factors for youth who run away.<sup>xix</sup>

#### **How many youth are arrested because of juvenile status offenses?**

In 2004, over 400,000 youth were arrested or held in limited custody by police because of a status offense. This number represented approximately 18 percent of all juvenile arrests that year.<sup>xx</sup>

#### **How many youth are petitioned to court because of status offenses?**

The most recent national estimates regarding all status offense court petitions were collected in the mid-1990s. In 1996, approximately 162,000 status offense cases were formally judicially processed. From 1985 to 2004, the total number of court petitioned juvenile status offense cases doubled.<sup>xxi</sup>

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<sup>xvii</sup> 28 C.F.R. § 31.304(h) (West 2006).

<sup>xviii</sup> *What is Truancy?* Denver, CO: National Center for School Engagement.  
<<http://ojjdp.ncjrs.org/truancy/pdf/FactsonTruancy.pdf>>.

<sup>xix</sup> Hammer, Heather, David Finkelhor, and Andrea J. Sedlak. *NISMART: National Incidence Studies of Missing, Abducted, Runaway and Thrownaway Children, Runaway/Thrownaway Children: National Estimates and Characteristics*. Washington, DC: U.S. Department of Justice, Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention, 2002.  
<<http://www.ncjrs.gov/pdffiles1/ojjdp/196469.pdf>>.

<sup>xx</sup> *OJJDP Statistical Briefing Book*. Washington, DC: U.S. Department of Justice, Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention, 2006.  
<<http://ojjdp.ncjrs.gov/ojstatbb/crime/qa05101.asp?qaDate=2004>>.

<sup>xxi</sup> Puzzanchera, Charles. *Trends in Justice System's Responses to Status Offending: OJJDP Briefing Paper*. Pittsburgh, PA: National Center on Juvenile Justice, 2007. (prepared for the U.S. Department of Justice, Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention).

**How many youth are placed in a juvenile justice facility because of a status offense?**

The latest Census of Juveniles in Residential Placement indicates that on any given day in 2003, approximately 4,800 status offenders were in the custody of a juvenile justice facility, accounting for five percent of juveniles in residential placement. When including juvenile offenders in residential placement due to a technical violation (typically a violation of a valid court order), the number increases to nearly 19,000 (or 20 percent of youth in custody).<sup>xxii</sup>

**Is there a link between status offense behavior and later delinquency or criminal behavior?**

Many state and county status offense systems lack programs, services, or resources to help youth and their families in critical need of assistance. Judges sometimes have few options but to take a child out of the home even when he or she poses no threat to public safety and may be in need of treatment or services. This often leads to more negative outcomes including victimization, increased family tension, reduced involvement in school, and an increased likelihood of becoming more deeply involved in the juvenile justice and criminal justice system.

In fact, research has clearly linked status offense behavior to later delinquency. For example, truancy accounts for the majority of status offense cases that come to the attention of juvenile courts and continues to be a major problem that negatively influences the future of our youth. Truancy has been clearly identified as one of the strongest early warning signs that youth are headed for potential delinquency or educational failure. A 20 year longitudinal study found that truant youth were eight times as likely to become delinquent as non-truant youth.<sup>xxiii</sup>

**Do all states classify these activities as offenses?**

The majority of states do have a legislative category for status offenders, often referred to as children or juveniles in need of supervision, services, or care. However, a minority of state laws designate some or all status offenders as dependent or neglected children. For example, several states define a runaway youth as one who has been neglected.

There are also significant variations in how states approach status offense cases, despite a commonly expressed state goal – to preserve families, ensure the safety of the public, and prevent youth from entering the delinquency or criminal system. Some state legislatures have increased the upper age by which youth may be brought into the status offense system, others have increased the use of residential placements for alleged status offenders, while several states have restricted access to a more formal court process by emphasizing the provision of community-based and in-home services for families and youth prior to any court involvement.

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<sup>xxii</sup> National Center for Juvenile Justice. *Census of Juveniles in Residential Placement Databook*. Washington, DC: U.S. Department of Justice, Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention, 2005.

<sup>xxiii</sup> Henry, K. and Huizinga, D. "Effect of Truancy on Onset of Drug Use and Delinquency." Presented at Annual Meeting of American Society of Criminology, November, 2005.

**What is the range of penalties that states apply to youth who are adjudicated as status offenders?**

Each state is different in the penalties a court may impose on a juvenile who has been found to be a status offender. Many states allow courts to impose sanctions on the youth such as suspending his or her driver's license or requiring he or she pay a monetary restitution. Most states allow courts to place youth out of their home in relative or substitute care (which may include foster or group home settings) and most allow for the provision of services to youth. A majority of states also allow courts to place youth in a secure or locked facility, if he or she violates a valid court order. Finally, some states allow courts to order parents to comply with certain services, such as counseling or parenting, which may help alleviate the causes of the youth's behaviors.

**Are there particular strategies that states and communities can take to implement effective alternatives to detention for status offenders?**

Many states and communities have identified effective alternatives to detention for status offenders. Existing resources, such as the Annie E. Casey Foundation's Juvenile Detention Alternatives Initiative (JDAI) have provided states and communities with tools to reduce reliance on secure confinement and provide appropriate detention alternatives for status offenders. JDAI promotes changes to policies, practices, and programs that reduce reliance on secure confinement, improve public safety, save taxpayers dollars, and stimulate overall juvenile justice reforms. Since its inception in 1992, JDAI has demonstrated that jurisdictions can safely reduce reliance on secure detention. There are now approximately 75 JDAI sites in 19 states and the District of Columbia.

Through research, data analysis, facilitated strategic planning, and demonstration projects, the Vera Institute of Justice's Center on Youth Justice strives to enhance rational decision-making in status offense processes and support system reforms that deinstitutionalize court-involved youth. In 2002, New York State contracted with Vera to help the State and its counties improve systems and services for status offenders and their families. Vera provided technical assistance and strategic planning support to 23 New York counties. As a result several counties took steps to refine their intake processes to incorporate more immediate crisis intervention, develop programmatic alternatives to non-secure detention and foster care placement, and provide more supportive services to status offenders and their families in lieu of court intervention. Momentum generated from these local reforms prompted the state to pass amendments to New York's Family Court Act in 2005 that enhance diversion requirements for status offenders and narrow the circumstances under which status offenders may lawfully be detained.

*Prepared by the American Bar Association, Center for Children and the Law*  
*[www.abanet.org/child](http://www.abanet.org/child)*





## What Do Language and Culture Have to Do with Juvenile Justice? Everything.

The juvenile justice system is complicated for many people, even for those whose first language is English. Understanding the system becomes even more difficult when the child involved in the juvenile justice system and his/her parents do not speak English well or are limited English proficient (LEP). In addition to language barriers, there are cultural barriers that make the system even more complex for people from different ethnic and racial backgrounds. What can be considered a routine process by some people may be perceived as an intimidating experience for others.

### Jorge's Story

*Jorge is Latino and his parents recently emigrated to the U.S. from Colombia. Although Jorge can speak some English, his parents have not yet learned the language. Jorge gets into a fight at school, pulls out a box cutter, and cuts a classmate on the arm. He is then caught by a school safety officer and taken to a police station.*

*Given Jorge's and his families' language barriers it will be very difficult for them to navigate the juvenile justice system. Consider some of the challenges they will face at every stage of the system:*

- 1) Arrest: He won't be able to fully understand the implications of the arrest.
- 2) Family notification: His parents won't be able to know where he is or what happened.
- 3) Detention: Jorge's parents won't be able to understand what is going on with his case.
- 4) Adjudication: His parents won't be able to communicate with the judge, social workers, and others who are investigating Jorge's family ties.
- 5) Placement/supervision: Jorge's language barriers will prevent him from being able to understand and follow orders given by detention center staff.
- 6) Access to programs: Jorge will have limited options for community-based programs because there are very few programs that can serve him adequately.

### *What Is Cultural and Linguistic Competency?*

Linguistic competency is achieved through effective communication that conveys information in a manner that is easily understood by diverse audiences including persons of limited English proficiency, those who have low literacy skills or are not literate, and individuals with disabilities.

The concept of “cultural competence” is based on the adaptation of values and principles embracing the development and implementation of systems, policies, administrative practices, and service deliveries that effectively communicate with the youth and their families – taking into account cross-cultural factors and institutionalizing such cultural knowledge. The pursuit of competency must involve a system that values diversity, has the capacity for cultural self-assessment, is conscious of the dynamics present when cultures interact, acquires and institutionalizes cultural knowledge, and adapts to diversity and the cultural contexts of the communities they serve.<sup>xxiv</sup>

### *Why is System-Integrated Competency Important?*

Implementing standards of linguistic and cultural competency is detrimental, given that in 2003, youth of color comprised 61% of all youth committed or detained in juvenile justice facilities<sup>xxv</sup>. However, despite this growing number, many jurisdictions are still not receiving or seeking adequate technical assistance to implement integrated system changes that have the ability to holistically address the needs of youth of color and LEP youth. Some of these changes may involve the requirement of hiring bilingual staff or translating all written and verbal information in languages other than English. Ultimately, the goal of integrated system changes creates an environment and process that is fair and more responsive to the needs of children, while providing safety nets that reduce the likelihood of recidivism. Good communication and cultural understanding are prerequisites to a fair, efficient, and effective justice system.

### *How Can Reauthorization of the Juvenile Justice and Delinquency Prevention Act of 1974 (JJDP A) Address this Issue?*

While ensuring that juvenile justice system procedures are culturally and linguistically competent may be a challenge faced by many jurisdictions across the nation, it is critical that jurisdictions with high concentrations of LEP people make it a priority to provide adequate services for those system-involved youth and their parents. The reauthorization of the JJDP A offers a unique opportunity to address this growing need. Specifically, under the JJDP A, states are mandated to address the issue of Disproportionate Minority Contact (DMC). Addressing and reducing overrepresentation of youth of color in the justice system requires collecting data by race and ethnicity. Understanding at

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<sup>xxiv</sup> Cross, T., B. Bazron, K. Dennis, and M. Isaacs, *Towards a Culturally Competent System of Care, Volume I*. Washington, DC: Georgetown University Child Development Center, CASSP Technical Assistance Center, 1989.

<sup>xxv</sup> Sickmund, M., T. Sladky, and W. Kang. *Census of Juvenile in Residential Placement Databook*. 2005. Online. Available: <http://www.ojjdp.ncjrs.org/ojstatbb/cjrp>

which point in the system youth of color are overrepresented helps identify the necessary interventions and mechanisms needed to reduce DMC. Some of which may include:

- ✓ Implementing programs, policies, and practices that are culturally and linguistically competent in an effort to create a system more responsive to the needs of all system-involved children.
- ✓ Establishing guidelines that ensure that justice system staff have the skills and abilities to provide services to a diverse population.
- ✓ Providing ongoing training in cultural sensitivity, cultural competence, and the dynamics of disproportionate representation and disparate treatment of youth of color including Latino youth in the system.
- ✓ Providing written materials and verbal information in languages other than English. The written materials should be at the level of reading proficiency of the local population.
- ✓ Conducting surveys of youth involved in the system and their families to determine what barriers to service and family involvement exist. Encourage family conferencing and parental involvement at all levels.

The Reauthorization of the JJDPA supports funding for community-based programs that serve as alternatives to detention and confinement. Many community-based organizations have demonstrated significant effectiveness in serving system-involved and at-risk youth because they are able to provide services that are culturally and linguistically appropriate, addressing the needs of youth and their families.

Effective communication and cultural understanding are prerequisites to a fair, efficient, and effective justice system.

*For more information, contact NCLR Latino Juvenile Justice Network Coordinator Cassandra Villanueva at (202) 776-1810 or [cvillanueva@nclr.org](mailto:cvillanueva@nclr.org).*

*Prepared by the National Council of La Raza  
[www.nclr.org](http://www.nclr.org)*







## FACTS ABOUT LGBTQQ YOUNG PEOPLE

### Fact Sheet

#### **There are lots!**

- A recent survey of the NYC foster care system revealed 8% self-identified as LGBTQQ.
- General youth population surveys estimate anywhere between 6 – 10% of young people as being LGBTQQ.

#### **LGBTQQ may be at higher risk for entering the child welfare system**

- 30% of LGBT youth faced neglect or abuse from families of origin<sup>xxvi</sup>
- 26% of LGBT youth were forced to leave their families of origin, suggesting that there is perhaps a greater incidence of LGBTQ young people in the child welfare system as a result of discrimination against their sexual orientation or gender identity by their families of origin.<sup>1</sup>
- In some instances LGBT young people are removed from a household instead of offered family support services to help the family move past the conflicts precipitated by a young person's disclosure of their sexual orientation or gender identity.<sup>xxvii</sup>
- 'There exists an attitude that LGBT young people are to be removed from the home in order "to "protect" other family members who "can not or will not accept such a sexual orientation."<sup>xxviii</sup>

#### **LGBTQQ youth experience isolation, violence and harassment**

- 100% of LGBTQ youth in NYC group homes reported being verbally harassed based on their sexual orientation or gender identity.<sup>1</sup>
- 70% reported physical violence based on their sexual orientation or gender identity.<sup>1</sup>
- 78% were removed or ran away from their foster placements.<sup>1</sup>
- 56% said they spent time living on the streets because they felt safer there than in their group or foster home.<sup>1</sup>
- Self-identified gay, lesbian and bisexual students are twice as likely to report feeling unsafe at school; twice as likely to report being in physical fights; and 2 – 4 times as likely to report being threatened or injured with a weapon at school.<sup>xxix</sup>

#### **As a result of isolation, violence and harassment, LGBTQQ youth:**

- Approximately two to five times more likely than their [straight] peers to report skipping school because of feeling unsafe during the past month.
- Twice as likely to report bingeing on alcohol (5-plus drinks at one time) at least once in the past month.
- Twice as likely to report smoking cigarettes in the past month.

<sup>xxvi</sup> Urban Justice Center. (2001) Justice for All? A report on LGBT youth in the NY Juvenile Justice System. New York. [www.urbanjustice.org](http://www.urbanjustice.org)

<sup>xxvii</sup> Sullivan, R.T. (1994). "Obstacles to Effective Child Welfare Services with Gay and Lesbian Youths." *Child Welfare*, Vol.73(4) p291.

<sup>xxviii</sup> Mallon, G. P. (1998) We Don't Exactly Get the Welcome Wagon: The Experiences of Gay and Lesbian Adolescents in Child Welfare Systems. New York: Columbia University Press.

<sup>xxix</sup> Massachusetts Department of Education. Youth Risk Behavior Survey, 2003.

- Twice as likely to report using marijuana in the past month.
- Three to ten times as likely to report having ever tried cocaine.
- Two to three times as likely to report having ever tried inhalants.
- Two to three times as likely to report having ever tried hallucinogens, depressants or stimulants.
- Three to five times as likely to report having made themselves vomit or taken laxatives to control their weight in the past month.
- Nearly twice as likely to be a teen parent.
- Twice as likely to report having seriously considered suicide in the past year.
- Twice as likely to say they made a suicide plan in the past year.
- Three to four times as likely to report having attempted suicide in the past year.
- More than four times as likely to say they made a serious enough suicide attempt in the past year to have been treated by a health care professional.

**LGBTQQ youth are resilient, powerful, skillful community builders and are becoming advocates for themselves.**

*Prepared by the LGBT Community Center*  
*[www.gaycenter.org](http://www.gaycenter.org)*

**ADOLESCENT BRAIN DEVELOPMENT  
& JUVENILE JUSTICE**



## **FACT SHEET**

### **Why is brain development important for juvenile justice?**

Brain imagery now allows us all to see the developmental milestones achieved by the human brain as it grows and matures throughout the early stages of life—confirming in pictures what parents and those who work closely with youth have long found to be true: adolescence is a period of gradual maturation. Hard science demonstrates that teenagers and young adults are not fully mature in their judgment, problem-solving and decision-making capacities.

Adolescence, roughly defined as the period between the onset of puberty and maturity, may last from age 10 to age 25. During this period of rapid growth, American adolescents live in a precarious middle ground between the innocence and immaturity of childhood and the responsibility and accountability of adulthood. On the one hand, the law shields adolescents from their inability to make sound judgments and their natural propensity to be impulsive and reckless. Such societal understanding is expressed in the laws of 29 states where the legal alcohol consumption age is expressly 21 years of age.<sup>xxx</sup> In 48 states, the marriageable age is set at age 18, unless a minor obtains parental or judicial consent.<sup>xxxi</sup> Nationwide, no one can cast a ballot or join the military until age 18. The intent of such laws is clear—to protect the young from their own immaturity, while providing opportunities for learning and maturation.

On the other hand, some laws—specifically those in some criminal statutes—do not reflect such societal understanding of the nature of child and adolescent development. In fact, there are 15 states that regard children as young as 10 years of age as competent and responsible enough to be put on trial in the juvenile court.<sup>xxxii</sup> Forty-four states and the District of Columbia regard children as young as 14 years of age as mature enough to be held as responsible as adults for wrongdoing and to be sanctioned as adults in the criminal court, without full regard what is known about child and adolescent development or full consideration of the age-appropriate services and supports needed.<sup>xxxiii</sup> In addition, treatment approaches used for court-involved youth with substance abuse and mental health problems are often modeled after those used for adults—again, without appropriate regard to what is known about more effective approaches based on the research of adolescent development.

### **KEY FACTS**

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<sup>xxx</sup> National Institute on Alcohol Abuse and Alcoholism, Alcohol Policy Information System, “Exceptions to Minimum Age of 21 for Consumption of Alcohol as of January 1, 2005.”

<sup>xxxi</sup> Cornell Law School, Legal Information Institute, “Marriage Laws of the Fifty States, District of Columbia and Puerto Rico,” Copyright 2006.

<sup>xxxii</sup> Office of Juvenile Justice and Delinquency Prevention, Office of Justice Programs, U.S. Department of Justice, “Trying Juveniles as Adults in Criminal Court: An Analysis of State Transfer Provisions,” Dec. 1998.

<sup>xxxiii</sup> Griffin, Patrick, National Center for Juvenile Justice, “Trying and Sentencing Juveniles as Adults: An Analysis of State Transfer and Blended Sentencing Laws,” Oct. 2003.

- During adolescence, the brain begins its final stages of maturation and continues to rapidly develop well into a person's early 20s, concluding around the age of 25.<sup>xxxiv</sup>
- The prefrontal cortex, which governs the "executive functions" of reasoning, advanced thought and impulse control, is the final area of the human brain to mature.<sup>xxxv</sup>
- Adolescents generally seek greater risks for various social, emotional and physical reasons, including changes in the brain's neurotransmitters, such as dopamine, which influence memory, concentration, problem-solving and other mental functions. Dopamine is not yet at its most effective level in adolescence.<sup>xxxvi</sup>
- Adolescents commonly experience "reward-deficiency syndrome," which means they are no longer stimulated by activities that thrilled them as younger children. Thus, they often engage in activities of greater risk and higher stimulation in efforts to achieve similar levels of excitement.<sup>xxxvii</sup>
- Adolescents must rely heavily on the parts of the brain that house the emotional centers when making decisions, because the frontal regions of their brains are not fully developed.

### **KEY RESEARCH & QUESTIONS**

Brain and developmental research conducted over the past 10 to 15 years have opened new pathways to understanding the true developmental differences between adolescents and fully mature adults. The findings highlight the need to conduct more basic and applied research regarding such developmental differences—how they influence motivation, judgment, thinking, feeling and social relationships—and to explore the ways in which intervention and treatment strategies may be changed to incorporate such research, with an ultimate goal of balancing positive outcomes for youth with public safety and individual accountability.

The research also brings difficult questions to the forefront. How does one guide an adolescent to cope in a healthy manner with this tumultuous stage of life? How do we hold young offenders accountable and take advantage of every opportunity to positively influence their development? How can and should common delinquency prevention and juvenile justice practices and laws change to incorporate a more sensible approach to addressing the needs of adolescents, while balancing them with community safety needs?

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<sup>xxxiv</sup> Beatrice Luna, Ph.D., "Brain and Cognitive Processes Underlying Cognitive Control of Behavior in Adolescence," University of Pittsburgh, Oct. 2005.

<sup>xxxv</sup> Paul Thompson, Ph.D., "Time-Lapse Imaging Tracks Brain Maturation From Ages 5 to 20," National Institutes of Mental Health, and the University of California Los Angeles, May 2004; also, author interview with Robin Jenkins, Ph.D., June 2006.

<sup>xxxvi</sup> Linda Patia Spear, Ph.D., "Neurodevelopment During Adolescence," *Neurodevelopmental Mechanisms in Psychopathology*, Cambridge University Press, Nov. 2003.

<sup>xxxvii</sup> Ibid.

At the highest levels of jurisprudence, changes have already begun. In 2005, the U.S. Supreme Court's ruling in *Roper v. Simmons* outlawed the juvenile death penalty. In authoring the majority opinion that the death penalty is not appropriate for youth under age 18, Justice Anthony Kennedy noted that "juveniles are more vulnerable or susceptible [than adults] to negative influences and outside pressures, including peer pressure... This is explained in part by the prevailing circumstance that juveniles have less control, or less experience with control, over their own environment." Justice Kennedy further cited scientific and sociological studies on the "underdeveloped sense of responsibility found in youth." Following the logic of the high court's ruling and its roots in a clearer understanding of the adolescent mind, it becomes important for juvenile court professionals and practitioners engaged in delinquency prevention and rehabilitation to re-examine each point of contact or interaction with adolescents—to ensure that developmentally appropriate responses are in place.

### **RESOURCES**

The following list of Web sites, reports and books provides key resources on the science of adolescent brain development.

*Adolescent Brain Development: Vulnerabilities and Opportunities*, by Ronald Dahl and Linda Patia Spear, Annals of the New York Academy of Sciences, 2004. A collection of more than 60 research papers and essays, this book examines the finer points of adolescent brain maturation.

*Brain Facts: A Primer on the Brain and Nervous System*, Society for Neuroscience, 2005. This extensive, well-illustrated overview of brain functioning and development may be found in a pdf format at <http://www.sfn.org/skins/main/pdf/brainfacts/brainfacts.pdf>.

**Centers for Disease Control (CDC)** ([www.cdc.gov](http://www.cdc.gov)). The CDC's extensive Web site has a user-friendly search engine. Key words such as "youth," "juvenile," and "youth assets" will lead to reports and surveys on youth risk behavior and adolescent health.

**Chapin Hall Center for Children at the University of Chicago** ([www.chapinhall.org](http://www.chapinhall.org)). Chapin Hall dedicates a large section of its Web site to community, child and youth development. Among the many resources is an issue brief entitled, "Focusing Juvenile Justice on Positive Youth Development."

**Cornell Law School** ([www.law.cornell.edu](http://www.law.cornell.edu)). The U.S. Supreme Court's opinions—majority, concurrent and dissenting—on *Roper v. Simmons* can be found using this Web site's database.

**Diana H. Fishbein, Ph.D.** (<http://www.rti.org/index.cfm>). By searching from the RTI home page on her name, you can locate Fishbein's work. She has applied neuroscience to the evaluation of crime prevention programs and consults regularly with federal, state and local agencies for purposes of expert witnessing in criminal court, training, technical assistance, scientific peer reviews and development of research protocols.

**Jeffrey A. Butts, Ph.D.** ([www.jeffreybutts.net](http://www.jeffreybutts.net)). Butts' presentation at the CJJ-OJJDP conference on the implications of adolescent brain development, "Using Developmental Evidence and Youth Assets to Design Juvenile Justice Systems," is available on this Web site.

**Juvenile Law Center (JLC)** ([www.jlc.org](http://www.jlc.org)). The JLC Web site has a section devoted to research, publications and fact sheets. In addition, it contains the work of Marsha Levick, the JLC legal director, and Laurence Steinberg, Ph.D., Director of the MacArthur Research Network on Adolescent Development and Juvenile Justice.

**The MacArthur Research Network on Adolescent Development and Juvenile Justice** ([www.mac-adoldev-juvjustice.org](http://www.mac-adoldev-juvjustice.org)). The John D. and Catherine T. MacArthur Foundation has supported the work of the MacArthur Research Network on Adolescent Development and Juvenile Justice, directed by Laurence Steinberg, Ph.D., for many years. The Research Network's Web site is filled with information about ongoing and completed studies that illuminate issues of competence and culpability in the relationships that adolescent offenders have with the juvenile justice system.

**National Academies Press** ([www.nap.edu](http://www.nap.edu)). More than 3,000 books and reports can be found through the National Academies Web site, including *From Neurons to Neighborhoods: The Science of Early Childhood Development*. *Neurons to Neighborhoods* dedicates a significant section to the stages of brain maturation and considers the impact of other factors on child development.

**National Academies' Board on Children, Youth, and Families** ([www7.nationalacademies.org/bocyf/](http://www7.nationalacademies.org/bocyf/)). The National Academies' Board of Children, Youth and Families provides summaries of adolescent brain development research and a report on emerging issues in the study of adolescence at the above listed Web site.

**Office of Juvenile Justice and Delinquency Prevention (OJJDP)** ([www.ojjdp.ncjrs.org](http://www.ojjdp.ncjrs.org)). OJJDP, at the Office of Justice Programs, U.S. Department of Justice, provides a national overview of the latest findings and programs in youth development and the juvenile court system.

**Oklahoma Institute for Child Advocacy (OICA)** ([www.oica.org](http://www.oica.org)). With a primary focus on early child development and prevention, OICA conducts the "Youth Asset Study," which involves teens and their parents as participants. The study is funded in part by the CDC and delves into how assets counter risky behavior.

*Primal Teen: What the New Discoveries about the Teenage Brain Tell Us about Our Kids*, by Barbara Strauch, Bantam Doubleday, 2004. Peppered with anecdotes, Strauch provides a layman's guide to the hard science underlying adolescent brain development.

**Search Institute** ([www.search-institute.org](http://www.search-institute.org)). The Search Institute's Web site presents a definitive description of the 40 developmental assets for youth. It also offers strategies and research on positive youth development.

**Thomas Grisso, Ph.D., at University of Massachusetts Medical Center, Department of Psychiatry** ([www.umassmed.edu/cmhsr/faculty](http://www.umassmed.edu/cmhsr/faculty)). By following the link for Grisso, you will locate several resources of note, including: *Double Jeopardy: Adolescent Offenders With Mental Disorders* by Grisso, 2004; *Evaluating Juveniles Adjudicative Competence: Agenda for Clinical Practice*, by Grisso, 2005; and *Youth on Trial: A Developmental Perspective on Juvenile Justice*, Grisso and Robert Schwartz, editors, 2000.

**Wisconsin Council on Children and Families (WCCF)** ([www.wccf.org](http://www.wccf.org)). Under projects and topics, WCCF's Web site has a section on juvenile justice where the report "Rethinking the Juvenile in Juvenile

Justice" is available. The report discusses adolescent brain development and makes recommendations to improve the juvenile court system.

*Why Do They Act That Way?: A Survival Guide to the Adolescent Brain for You and Your Teen*, by Dr. David Walsh with Nat Bennett, Simon & Schuster, 2005. Geared toward parents, Walsh's book explains how adolescent brain development affects mood, judgment and communication.

*Your Adolescent: Emotional, Behavioral, and Cognitive Development from Early Adolescence Through the Teen Years*, by the American Academy of Child and Adolescent Psychiatry, HarperCollins Publisher, 2000. While covering brain development, the book also looks at the physical and social changes of adolescence.

For additional information on adolescent brain development, please also visit the Web site of the Coalition for Juvenile Justice (CJJ) ([www.juvjustice.org](http://www.juvjustice.org)).

*Prepared by the Coalition for Juvenile Justice*  
[www.juvjustice.org](http://www.juvjustice.org)



## **GANG CRISIS IN CONTEXT: WHAT'S THE REAL CRISIS, AND WHAT ARE REAL SOLUTIONS? FACT SHEET**

*"First, we must address the personal, family, and community factors that cause young people to choose gangs over more productive alternatives. The more success we have in prevention, the fewer people we'll have to prosecute for violent activity down the road."*

Attorney General Alberto R. Gonzales, April 21, 2006<sup>[1]</sup>

*"It is the same prescription every time they have a major event. Gangs are defined as a crime problem and not a community problem. This is old-fashioned suppression in a new guise, and where is the proof that it has worked?"* Malcolm Klein, veteran gang sociologist and USC professor emeritus.<sup>[2]</sup>

**Background—Rising Youth and Gang Crime?** After a nearly continuous 13-year crime drop, crime rates in the U.S. are on the rise. Nationwide, violent crime rose 2.3 percent between 2004 and 2005.<sup>[3]</sup> Based on data in the FBI's Preliminary Semiannual Uniform Crime Report, released in December 2006, the upward trend appears to be continuing in 2006, as violent crime rose 3.7 percent between the first six months of 2005 and the same time period in 2006. While definitely an area of concern, rising crime rates need to be put in their proper context: After experiencing a steady drop in violent crimes since a 1992 peak, crime rates remain near a 30-year low. From the perspective of potential victims, the streets are still much safer today than they were a decade or so ago. According to surveys conducted by the U.S. Department of Justice, the odds of being a victim of violent crime are approximately 60 percent lower today than they were in 1994.<sup>[4]</sup>

### **The relationship between the crime change and reported gang activity is complicated.**

While some have attributed the rise in crime to increased gang activity, and the image of juvenile crime and gang crime have been merged and melded by the media, the true picture of crime trends and their relation to gangs is more complicated. More than 80 percent of the agencies with gang problems in both smaller and rural counties reported *zero* gang homicides in 2004. While cities known to have high levels of gang activity—like Los Angeles—experienced a drop in violent crime in 2006, several Los Angeles neighborhoods continue to face serious gang crime challenges. Just as most young people "age out", or desist from delinquency and crime when they reach adulthood, research on gangs published by the Justice Department found that, *"gang-membership tends to be short-lived, even among high-risk youth...with very few youth remaining gang members throughout their adolescent years."*<sup>[5]</sup>

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<sup>[1]</sup> Attorney General Alberto R. Gonzales, April 21, 2006, [http://www.usdoj.gov/ag/speeches/2006/ag\\_speech\\_060421.html](http://www.usdoj.gov/ag/speeches/2006/ag_speech_060421.html).

<sup>[2]</sup> Richard Winton and Patrick McGreevy, "Will L.A.'s strategy to battle gangs work?" L.A. Times, February 11, 2007.

<sup>[3]</sup> FBI Uniform Crime Reports, Crime in the United States, 2005.

<sup>[4]</sup> Butts, Jeffrey A. and Snyder, Howard N. Too Soon Too Tell: Deciphering Recent Trends in Youth Violence. (2006). Chicago, Illinois: Chapin Hall Center for Children, University of Chicago.

<sup>[5]</sup> Snyder, Howard N., and Sickmund, Melissa. (2006). P.83



Law enforcement estimates of nationwide juvenile gang membership suggest that no more than 1 percent of youth aged 10-17 are gang members.<sup>[6]</sup>

**Incarcerating gang members does not necessarily curb reoffending.** There is a growing body of research that suggests that increased imprisonment could negatively impact youth who may otherwise “age out” of delinquent behavior, and aggravate public safety goals.<sup>[7]</sup> A 2004 Illinois report on recidivism rates of gang members tracked 2,500 adults prisoners released in 2000, one quarter of whom were gang members.<sup>[8]</sup> They found that more than half (55 percent) of the gang members were re-admitted to prisons within a two-year follow-up. A study of youth in the Arkansas juvenile justice system found that prior incarceration was a greater predictor of recidivism than carrying a weapon, gang membership, or poor parental relationship.<sup>[9]</sup>

*“Primary responsibility for developing and operating delinquency-prevention programs should be assigned to an appropriate agency in HHS unless immediate public protection is an overriding concern....Criminal justice agencies rarely evaluate the effectiveness of their programs or activities, while HHS programs are more often evidence-based and subject to evaluation. Delays in adopting proven programs will only cause additional victimization of citizens and unnecessarily compromise the future of additional youth.”* Dr. Peter Greenwood, the founder of RAND's Criminal Justice Program, author of *Changing Lives: Delinquency Prevention as Crime-Control Policy*.<sup>[10]</sup>

**Education is a protective factor against juvenile delinquency and recidivism.** Providing education and employment services have been shown to correlate with lower crime rates. According to the Office of Juvenile Justice and Delinquency Prevention, the U.S. Justice Department’s juvenile justice branch, “If, as research has found, educational failure leads to unemployment (or underemployment), and if educational failure and unemployment are related to law-violating behavior, then patterns of educational failure over time and within specific groups may help to explain patterns of delinquent behavior.”<sup>[11]</sup> Providing education and employment services for at-risk youth to increase graduation rates, as well as wages and employment rates, could greatly reduce crime, benefiting both young people and society as a whole.<sup>[12]</sup> According to research published in the *Journal of Labor Economics* a 10 percent increase in wages would render a 1.8 percent decrease in

<sup>[6]</sup> 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.

<sup>[7]</sup> Benda, B.B. and Tollet, C.L. (1999) “A Study of Recidivism of Serious and Persistent Offenders Among Adolescents.” *Journal of Criminal Justice*, Vol. 27, No. 2 111-126.

<sup>[8]</sup> Olson, D. E., Dooley, B., and Kane, C. M. (2004). “The Relationship Between Gang Membership and Inmate Recidivism.” *Research Bulletin*, 2(12). Chicago, IL: Illinois Criminal Justice Research Authority. <http://www.icjia.state.il.us/public/pdf/Bulletins/gangrecidivism.pdf>

<sup>[9]</sup> Benda, Brent B. and Connie L. Tollett. “A Study of Recidivism of Serious and Persistent Offenders Among Adolescents.” *Journal of Criminal Justice* 27 (2) (March/April 1999): 111-126.

<sup>[10]</sup> Greenwood, P. (2006). *Changing Lives: Delinquency Prevention as Crime-Control Policy*. Chicago, IL: University of Chicago Press. P182

<sup>[11]</sup> *Juvenile Offenders and Victims: 2006 National Report*. Washington, D.C.: Office of Juvenile Justice and Delinquency Prevention. <http://ojjdp.ncjrs.org/ojstatbb/nr2006/downloads/NR2006.pdf> p.14

<sup>[12]</sup> Raphael, S. and Winter-Ebmer, R. (2001). “Identifying the Effects of Unemployment and Crime.” *Journal of Law and Economics*. Vol. XLIV; Grogger, J. (1998). Market Wages and Youth Crime. *Journal of Labor Economics*, 16(4); Lochner, L. and Moretti, E. (2004). “The Effect of Education on Crime: Evidence from Prison Inmates, Arrests, and Self-Reports.” *The American Economic Review*.

the crime participation rate.<sup>[13]</sup> Furthermore, the authors found that an increase in wages would have a great effect on young men, who are often the most impacted by wage rates and who commit the majority of crimes.

**There are proven programs that work with seriously violent and at risk youth.** While the science on preventing gang crime is limited, there are evidence-based practices that work with at-risk and delinquent youth, the same youth who often join gangs. Whether these programs work with gang members depends more on the youth individually than whether he or she belongs to a gang. In addition, studies have shown that evidence-based practices that work with violent and seriously delinquent youth are more cost effective and produce more benefits than traditional punitive measures.<sup>[14]</sup>

**The loss of federal funding for juvenile justice programming will make it difficult to continue providing services for youth violence perspective.** The President's budget proposal would end the commitment of the federal government to a dedicated effort focused on juvenile justice. The proposal would cut juvenile justice funding by 25 percent, and permanently close the Office of Juvenile Justice and Delinquency Prevention (OJJDP), which has led national efforts to reduce youth crime and make communities safer for over 25 years. The budget does not make any commitment to continue with the OJJDP's critical functions, and the loss of the federal role in technical assistance, training, research and support for innovative and proven practices will hamper local efforts to curb juvenile crime and delinquency.

**The public supports bigger investments in youth interventions that work.** A new poll from the National Council on Crime and Delinquency, conducted by Zogby International shows that the public overwhelmingly supports rehabilitation and treatment for young people in trouble, *not* prosecution in the adult court or incarceration in adult jails or prisons. 9 out of 10 people polled believe that rehabilitation and treatment for incarcerated youth can help prevent future crime, and 8 out of 10 thought spending money on rehabilitative services and treatment for youth will save money in the long run.<sup>[15]</sup>

**Prepared by the Justice Policy Institute**  
**[www.justicepolicy.org](http://www.justicepolicy.org)**

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<sup>[13]</sup> Grogger, J. (1998). Market Wages and Youth Crime. *Journal of Labor Economics*, 16(4).

<sup>[14]</sup> Steve Aos, Marna Miller, and Elizabeth Drake. (2006). *Evidence-Based Public Policy Options to Reduce Future Prison Construction, Criminal Justice Costs, and Crime Rates*. Olympia: Washington State Institute for Public Policy.

<sup>[15]</sup> Krisberg, Barry and Marchionna, Susan. *Attitudes of US Voters toward Youth Crime and the Justice System* (2007). Oakland, CA: National Center on Crime and Delinquency.



## **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?<sup>xxxviii</sup>**

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 state automatically prosecute 17 year olds as adults – Georgia, Illinois,

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<sup>xxxviii</sup> 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

Louisiana, Massachusetts, Michigan, Missouri, New Hampshire, South Carolina, Texas, and Wisconsin.<sup>xxxix</sup>

### **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?*<sup>xl</sup> 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

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<sup>xxxix</sup> "Upper Age of Jurisdiction." Office of Juvenile Justice and Delinquency Prevention. 21 Nov. 2006  
<<http://ojjdp.ncjrs.org/ojstatbb/ezaco/html/upage.html>>.

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

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.

*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).<sup>xli</sup>

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.”<sup>xlii</sup>

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.<sup>xliii</sup>

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.

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<sup>xli</sup> 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](http://www.pdmiami.com/JSAP_2001_Impact_Evaluation.pdf)>.

<sup>xlii</sup> 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.

<sup>xliii</sup> 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>>.

*Prepared by the Campaign for Youth Justice*  
[www.campaignforyouthjustice.org](http://www.campaignforyouthjustice.org)

## **YOUTH IN ADULT JAILS**

### **FACT SHEET**

In the majority of states, youth who are prosecuted as adults may spend time in adult jail with adults pre-trial and in some states, may be sentenced to serve their sentence in adult jail. This policy places thousands of children at risk as it is extremely difficult to keep children safe in adult jails. Jail officials are in a “Catch 22.” On the one hand, if jail officials don’t separate children from adults in adult jails, children will have regular contact with adults that could result in serious physical and emotional harm to children. On the other hand, when officials do separate children from adults, they are often placed in isolation for long periods of time which can lead to depression, exacerbate already existing mental health issues, and put children at risk of suicide.

#### **Over the past two decades, the number of youth in adult jails has increased**

On June 30, 2005, adult jails held a total of 6,759 persons under the age 18.<sup>xliv</sup> Since 1990 (when jails held 2,301 youth on June 30<sup>xlv</sup>), there has been a 208% increase in the number of youth placed in adult jails.<sup>xlvi</sup>

#### **Youth are not safe in adult jails**

Because of their size and age, youth are especially vulnerable and are more likely to commit suicide and be victims of assault. Juvenile housed in adult jails are eight times more likely to commit suicide than those in juvenile detention centers.<sup>xlvii</sup>

#### **Adult jails do not have the resources to effectively deal with youth in their facilities**

"We're not trained to be babysitters," commented Barry Stanton, the director of the Prince George's County Correctional Center, in an interview with Human Rights Watch in July 1998. "Don't ask me to be a mental health expert, a teacher, a disciplinarian for juveniles. It's not my job."<sup>xlviii</sup>

Children are required to have access to education, but they are less likely to receive the services they are supposed to have in adult jails. In youth facilities, education is the foundation for rehabilitation. However, this foundation does not exist in adult jails. Studies of different jails consistently find that youth in adult jails do not have the access to education that they are entitled to. A 2001 report by the Orange County Grand Jury in California found that “the opportunity for rehabilitation and

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<sup>xliv</sup> Beck, Allen J., Ph. D. and Harrison, Paige M. *Prison and Jail Inmates at Midyear 2005*. (May 2006) Washington DC: US Department of Justice, Bureau of Justice Statistics. <http://www.ojp.usdoj.gov/bjs/abstract/pjim05.htm>.

<sup>xlv</sup> Bureau of Justice Statistics. Key Facts at a Glance: Jail Populations by Age and Gender, 1990-2005. <http://www.ojp.usdoj.gov/bjs/glance/tables/jailagtab.htm>

<sup>xlvi</sup> Hartney, C. (2006 June). *Fact sheet: Youth under age 18 in the adult criminal justice system*. Oakland, CA: National Council on Crime and Delinquency.

<sup>xlvii</sup> Michael G. Flaherty, An Assessment Of The National Incidence Of Juvenile Suicide In Adult Jails, Lockups And Juvenile Detention Centers, The Community Research Forum of the University of Illinois 10 (1980).

<sup>xlviii</sup> Human Rights Watch interview with Barry L. Stanton, director, Prince George's County Correctional Center, Upper Marlboro, Maryland, July 23, 1998.

education of juveniles is extremely difficult because there is neither adequate classroom space nor opportunity for minimum classroom time at the Central Men's Jail.”<sup>xlix</sup>

### **The American Jail Association opposes these policies**

The American Jail Association’s policy statement recommends that, “The American Jail Association be opposed in concept to housing juveniles in any jail unless that facility is specially designed for juvenile detention and staffed with specially trained personnel.”

### **Federal protections do not apply to youth tried as adults**

The Juvenile Justice and Delinquency Prevention Act (JJDP), passed in 1974 and amended in 1980, has four core protections that the states must follow to receive federal funding to improve their juvenile justice system. One of these requirements is that youth within juvenile court jurisdiction can not be held in adult jails. However, youth under adult court jurisdiction are not protected by the JJDP. States with an age of juvenile court jurisdiction below 18 automatically transfer youth of a certain age to adult courts. In 3 states, youth ages 16 and 17 are automatically tried as adults. In 10 states, 17-year olds are automatically tried as adults. Youth can come under adult court jurisdiction through various transfer laws as well. These youth tried as adults can be housed in adult jails pre-trial in the general population with adults or separated according to state law.

### **States laws regarding youth in adult jails are inadequate**

For youth tried as adults:<sup>l</sup>

- 10 states mandate pre-trial placement in adult facilities (although 3 only mandate placement in adult facilities for particular groups of transferred youth);
- 38 states permit detention in adult jails and of these 38 states, 20 require some type of protections for the youth (i.e. sight and sound protections) and 18 do not require protections;<sup>li</sup>
- 2 states bar the detainment of youth transferred to the adult court in adult jails (West Virginia and Kentucky).

### **Case examples**

Recent case examples of why youth should not be placed in adult jails:

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<sup>xlix</sup> Kids in Adult Lockup: Bad Boys in a Bad Place. (2001). Orange County Grand Jury.  
<http://www.ocgrandjury.org/pdfs/GJKidsLockup.pdf>

<sup>l</sup> Goemann, Melissa Cortez. Children Being Tried as Adults: State-Based Variations in Pre-Trial Detention. To be published Feb. 2007. Campaign 4 Youth Justice.

<sup>li</sup> Ibid.

- In September of 2006, a 16-year-old girl in Washington, DC was held in the women's wing of a D.C. jail. D.C. Superior Court Judge Wendell P. Gardner Jr. said "I think it's barbaric to keep someone in that kind of condition, given her age." The young girl was held for 23

hours in her cell to minimize contact with adults as required by the federal Juvenile Justice and Delinquency Prevention Act.<sup>lii</sup>

- According to press reports, in June of 2006, a 15 year old boy from Waynesboro, Virginia was placed in a jail in Augusta County. He was 5'9" and weighted 138 pounds. He was sitting on the lower level and saw another inmate commit suicide when he dove from the second floor and landed 25 feet away from the boy. The same boy shared a cell with a convicted child molester. Although he was supposed to have access to an education while in the adult jail, he did not have classes on a weekly basis. When he did, he worked by himself out of a GED workbook.<sup>liii</sup>

Youth placed in adult jails for minor and status offenses face the unnecessary dangers of adult jails. For example, the Youth Law Center has handled many cases such as:

- A 15-year-old girl from Ironton, Ohio was placed in an adult jail for running away from home overnight. On her fourth night there, she was sexually assaulted by a deputy jailer;
- A 15-year-old boy in LaGrange, Kentucky was confined in an adult jail for refusing to obey his mother. Soon after he entered the jail, he committed suicide;
- A 15-year-old girl in Glenn County, California committed suicide while in an adult jail for staying out past curfew;
- In Knox County, Indiana, a 17 year-old girl was placed in an adult jail for shoplifting a \$6 bottle of suntan lotion. She was placed in an isolation cell (despite a history of emotional problems). A few hours later, she committed suicide;
- In Boise, Idaho, a 17-year-old boy held in jail for not paying \$73 in traffic fines, was tortured and murdered by other prisoners in an adult jail.<sup>liv</sup>

### **Youth would be better served in the juvenile justice system**

Instead of adult jail, states and counties could place children, if they pose a risk to public safety, into juvenile detention facilities where they are more likely to receive developmentally appropriate services, educational programming and supports by trained staff. Juvenile detention centers and the juvenile justice system often aren't the ideal placement for children either. Many of the juvenile justice systems in this country are also in need of reform. But youth sent to the juvenile justice system are more likely to receive age appropriate and rehabilitative services and more likely to be referred to an appropriate level of supervision including diversion.

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<sup>lii</sup> Cauvin, Henri E. "Girl's Jailing Likely Breaks Federal Law, Judge Says." Washington Post 16 Sept. 2006, sec. B04.

<sup>liii</sup> Nowak, Liesel. "Boy Jailed with Molester: Lawyers Want Teen Returned to Juvenile Facility." Daily Progress 27 June 2006.

<sup>liv</sup> Children in Adult Jails. Building Blocks for Youth.

<http://www.buildingblocksforyouth.org/issues/adultjails/factsheet.html>

*Prepared by the Campaign for Youth Justice*  
[www.campaignforyouthjustice.org](http://www.campaignforyouthjustice.org)

## **YOUTH IN ADULT PRISONS**

### **FACT SHEET**

In the majority of states, youth who are prosecuted as adults may be sentenced to serve time in adult prisons where they may be at risk of assault, abuse and death and will receive little to no rehabilitative treatment or educational services.

**Since 1995, the number of youth in prisons has dropped 45%<sup>lv</sup>**

On June 30, 2005, there were 2,266 youth in prisons in the United States.<sup>lvi</sup> As of October 2005, at least 2,225 prisoners were serving life sentences without the possibility of parole for crimes committed as children.<sup>lvii</sup> With the exception of Connecticut, which led the nation in the number of youth in adult prison and experienced nearly 20% increase in the number of youth in adult prison<sup>lviii</sup>, this decrease is explained due to a growing recognition by national, state and local policymakers that children don't belong in adult prisons based on the latest research.

### **Youth are not safe in adult prisons**

A report by the Commission on Safety and Abuse in America's Prisons found that "violence remains a serious problem in America's prisons."<sup>lix</sup> A survey done in April of 2006 by the Princeton Survey Research Associates International for the National Center for State Courts and the Commission on Safety and Abuse in America's Prisons found that Americans realize that prisons are violent. "When Americans think about someone they know being incarcerated, 84% say they would be concerned about the person's physical safety."<sup>lx</sup> Even for adults, prisons are not safe places. However, youth are especially vulnerable to victimization in prisons because of their age and size.

Compared to children in juvenile facilities:

- Children in adult prisons were twice as likely to report being "beaten up" by staff.<sup>lxi</sup>
- Children in adult prisons were 50% more likely to report being attacked with a weapon.<sup>lxii</sup>

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<sup>lv</sup>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.

<sup>lvi</sup> Beck, Allen J., Ph. D. and Harrison, Paige M. *Prison and Jail Inmates at Midyear 2005*. (May 2006) Washington DC: US Department of Justice, Bureau of Justice Statistics. <http://www.ojp.usdoj.gov/bjs/abstract/pjim05.htm>.

<sup>lvii</sup> Human Rights Watch Report

<sup>lviii</sup> BJS

<sup>lix</sup> Gibbons, John J., and Katzenbach, Nicholas de B. *Confronting Confinement*. (June 2006). The Commission on Safety and Abuse in America's Prisons.

<sup>lx</sup> Ibid.

<sup>lxi</sup> Forst, Martin, Jeffrey Fagan, and T. Scott Vivona. (1989) "Youth in Prisons and Training Schools: Perceptions and Consequences of the Treatment-Custody Dichotomy." *Juvenile and Family Court Journal* 39:1.

<sup>lxii</sup> Ibid.



### **Youth in prisons do not have access to educational or rehabilitative programs**

Youth require additional and specialized services that prisons do not have the resources for. For example, a Human Rights Watch report found that youth in Colorado prisons face many difficulties getting education, particularly beyond a GED. In addition, they found that youth serving life without parole are denied access to a variety of classes.<sup>lxiii</sup>

### **There are no federal protections for youth held in adult prisons**

Youth sentenced as adults can be held in adult prisons, regardless of age. The core requirements of the Federal Juvenile Justice and Delinquency Prevention Act do not apply to youth incarcerated in prisons.

### **Correctional administrators oppose these policies**

In a recent policy statement issued by the Council of Juvenile Correctional Administrators (CJCA), they stated that, “The Council of Juvenile and Correctional Administrators strongly opposes the expansion of eligibility criteria for the waiver and transfer of youths into the adult criminal justice system. These policies have resulted in the placement of hundreds of youths into adult penal facilities without adequate treatment services.”<sup>lxiv</sup>

### **Sentencing youth to adult prisons does not reduce crime**

Youth leaving prisons not only come out without the education and skills necessary to succeed and retain jobs, but they have also spent time with career criminals. Studies show that youth receiving adult sanctions are more likely to re-offend than youth receiving juvenile sanctions. A study done in Florida compared 315 “best-matched” pairs of youth. These youth were matched based on age, race, gender, previous offenses, and such. The study found that while 37% of youth who were given juvenile sanctions re-offended, 49% of the youth receiving adult sanctions re-offended.<sup>lxv</sup>

Over the past decade, the MacArthur Foundation Research Network on Adolescent Development has conducted extensive research that shows that children in adult corrections face harsher settings and experience more developmental problems than children in juvenile correctional settings, facts which lead these renowned researchers to conclude that, “trying and punishing youths as adults in an option that should be used sparingly.”<sup>lxvi</sup>

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<sup>lxiii</sup> Human Rights Watch. (February 2005). *Thrown Away*.

<sup>lxiv</sup> Council of Juvenile Correctional Administrators policy statement

<sup>lxv</sup> Bishop, Donna M., Frazier, Charles E., Lane, Jodi, and Lanza-Kaduce, Lon. (January 2002). *Juvenile Transfer to Criminal Court Study: Final Report*. pg. 15.

<sup>lxvi</sup> MacArthur Issue Brief #5 “The Changing Borders of Juvenile Justice: Transfer of Adolescents to the Adult Criminal Court.” September, 2006.

*Prepared by the Campaign for Youth Justice*  
[www.campaignforyouthjustice.org](http://www.campaignforyouthjustice.org)

## **COLLATERAL CONSEQUENCES OF AN ADULT CONVICTION FACT SHEET**

On June 30, 2005, a total of 2,266 youth under age 18 were serving adult sentences in prisons and 6,759 youth under age 18 were in adult jails.<sup>lxvii</sup> As of October 2005, at least 2,225 prison inmates were serving life sentences without the possibility of parole for crimes committed while under age 18.<sup>lxviii</sup> Once tried in the adult court system, youth are subject to a lifetime of disadvantage and long term consequences.<sup>lxix</sup>

### **“Once an adult, always an adult”**

34 States and the District of Columbia preclude youths previously convicted in adult criminal court from any further access to state juvenile justice systems.<sup>lxx</sup> Youth tried in adult court once must be tried in adult court for each subsequent arrest and charge.<sup>lxxi</sup>

### **Voting Rights**

Youth under the age of 18 risk losing their right to vote if convicted in adult court due to state disenfranchisement laws.<sup>lxxii</sup> All but two states currently restrict the right to vote in some way for people incarcerated or with criminal convictions. States decide whether someone with a criminal record can vote. As of November 2006.<sup>lxxiii</sup>

- 11 states have lifetime bans on voting for some or all people convicted of crimes;
- 3 states deny the right to vote to all ex-offenders who have completed their sentences. 9 others disenfranchise certain categories of ex-offenders and/or permit application for restoration of rights for specified offenses after a waiting period;
- 5 states prohibit voting for life by those convicted of certain classes of crimes;

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<sup>lxvii</sup> Prison and Jail Inmates at Midyear 2005. Washington DC: US Department of Justice, Bureau of Justice Statistics. <http://www.ojp.usdoj.gov/bjs/abstract/pjim05.htm>.

<sup>lxviii</sup> The Rest of their Lives: Life Without Parole for Children Offenders in the United States. Amnesty International and Human Rights Watch. 2005.

<sup>lxix</sup> Youth in Prisons and Training Schools: Perceptions and Consequences of the Treatment-Custody Dichotomy. J. Fagan, M. Frost, JS Vivona. Juvenile and Family Court Journal. No. 2, 1989.

<sup>lxx</sup> 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

<sup>lxxi</sup> P. Allard, M. Young. (2002). Prosecuting Juveniles in Adult Court: Perspectives for Policymakers and Practitioners. Journal of Forensic Psychiatry.

<sup>lxxii</sup> After Prison: Roadblocks to Reentry. A State-By-State Report Card. Legal Action Center. 2004. <http://www.lac.org/lac/index.php>.

<sup>lxxiii</sup> *Ibid.*

- 7 states have a lifetime bar that may be lifted only if the state grants a formal “restoration of civil rights”; and
- 35 states ban felons on parole from voting. 30 of the 35 also exclude those on probation.

As of November 2006, an estimated 5.3 million voting age adults are permanently or currently disenfranchised due to their correctional status, 13% of whom are African American.<sup>lxxiv</sup>

### **Student Financial Aid**

The Higher Education Act of 1998 (P.L. 105-244) makes students convicted of drug-related offenses ineligible for any grant, loan or work assistance and states are powerless to alter this federal legal barrier to student aid. No other class of offense, including violent offenses, sex offenses, repeat offenses, or alcohol-related offenses, results in the automatic denial of federal financial aid.<sup>lxxv</sup> In January of 2006, the law “was modified to restrict its applicability to applicants who were in school and receiving federal Title IV aid when they committed their drug offenses.”<sup>lxxvi</sup> In April of 2006, the American Civil Liberties Union filed a suit in federal court challenging the constitutionality of the law.<sup>lxxvii</sup>

### **Driver’s Licenses**

Federal law requires states to enact and enforce laws revoking or suspending the driver’s license of an individual who is convicted of any drug offense for at least six months or forfeit 10 percent of that state’s allocated federal highway funds.<sup>lxxviii</sup> States can either opt out of the law by limiting the revocation or suspension to those whose drug convictions were related to driving, or impose a longer period than the federal law’s minimum six-month policy. As of 2004:<sup>lxxix</sup>

- 27 states automatically suspend or revoke licenses for some or all drug offenses and 21 of these 27 limit the revocation or suspension of licenses to six months for a first offense;
- 23 states either suspend or revoke licenses only for driving-related offenses or have opted out of the federal law;
- 4 states revoke or suspend drivers’ licenses for longer than six months for drug convictions unrelated to driving; and
- 32 states offer restrictive licenses allowing individuals to go to work, attend drug treatment, or obtain an education.

### **Public Records**

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<sup>lxxiv</sup> Felony Disenfranchisement Laws in the US. (2005). Washington, DC: The Sentencing Project.

<sup>lxxv</sup> After Prison: Roadblocks to Reentry. A State-By-State Report Card. Legal Action Center. 2004. <http://www.lac.org/lac/index.php>.

<sup>lxxvi</sup> "HEA Drug Provision." 2005. Raise Your Voice. 21 Nov. 2006 <<http://www.raiseyourvoice.com/484f.shtml>>.

<sup>lxxvii</sup> Leinwand, Donna. "Drug Convictions Cost Students Their Financial Aid." USA Today 17 Apr. 2006. 21 Nov. 2006 <<http://www.mapinc.org/newscsd/v06/n476/a02.html>>.

<sup>lxxviii</sup> Department of Transportation and Related Agencies Appropriation Act (P.L. 102-388).

<sup>lxxix</sup> After Prison: Roadblocks to Reentry. A State-By-State Report Card. Legal Action Center. 2004. <http://www.lac.org/lac/index.php>.

In most cases, records in juvenile court are kept confidential and sealed within the juvenile justice system. However, once transferred to adult court, a youth's arrest record becomes a matter of public

record and the youth is granted less privacy than if in a juvenile court. As of 2004, in cases of an adult conviction:<sup>lxxx</sup>

- 33 states do not permit the expungement or sealing of any conviction records;
- 17 states allow some conviction records to be expunged or sealed, such as first-time offenses;
- 40 states allow people to seal or expunge records of some or all arrests that did not lead to conviction; and
- 30 states allow you to deny the existence of a sealed or expunged arrest record when it did not lead to a conviction, if asked on employment applications or similar forms.

Several states provided free, unrestricted internet access to criminal record databases, including information on those currently incarcerated, formerly incarcerated, on parole and/or on probation, and may also include information on arrests not leading to conviction. As of 2004:<sup>lxxxi</sup>

- 28 states allow Internet access to criminal records or post records on the Internet;
- 14 states make all conviction records available on the Internet;
- 6 state make available on the Internet records of people who are incarcerated and those on probation or parole; and
- 8 states post on the Internet only records of people currently incarcerated.

## Employment

While Title VII of the Civil Rights Act<sup>lxxxii</sup> protects individuals from the denial of employment by certain employers because of arrests that do not lead to conviction unless there is a "business justification" or because of a criminal conviction unless there is a "business necessity," the state set most policies and legal standards governing the employment of individuals with criminal records. Where no standards provide otherwise, employers are permitted to deny jobs "to anyone who has been convicted of a crime or a certain category of crime, without considering the circumstances of the offense, its relevance to the job, the amount of time that has elapsed, the job being sought, evidence of rehabilitation, or the "business necessity" for barring the applicant, in potential violation of EEOC guidelines."<sup>lxxxiii</sup> As of 2004:<sup>lxxxiv</sup>

Where an arrest has not led to conviction:

- 37 states permit all employers and occupational licensing agencies to consider such arrests in making employment decisions;

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<sup>lxxx</sup> *Ibid.*

<sup>lxxxi</sup> After Prison: Roadblocks to Reentry. A State-By-State Report Card. Legal Action Center. 2004.  
<http://www.lac.org/lac/index.php>.

<sup>lxxxii</sup> See Equal Employment Opportunity Commission (EEOC) guidelines

<sup>lxxxiii</sup> After Prison: Roadblocks to Reentry. A State-By-State Report Card. Legal Action Center. 2004.  
<http://www.lac.org/lac/index.php>.

<sup>lxxxiv</sup> *Ibid.*

- 3 states prohibit certain employers and agencies from considering such arrest; and
- 10 states prohibit all employers and agencies from considering non-conviction.

Where there is a criminal conviction:

- 36 states have no standards governing public employers' consideration of applicants' criminal records;
- 45 states have no standards governing private employers;
- 29 states have no standards for occupational licenses applicants;
- 21 states require a "direct," "rational," or "reasonable" relationship between the license sought and the applicant's criminal history to justify the agency's denial of license; and
- 6 states provide individuals the opportunity to obtain certificates of rehabilitation, or a similar mechanism, as a precondition of employed in certain occupations.

### **Public Housing**

In determining eligibility for public housing, including Section 8 housing and other forms of federally assisted housing, federal laws gives local public housing agencies liberal discretion to deny housing to individuals with criminal backgrounds.<sup>lxxxv</sup> As of 2004<sup>lxxxvi</sup>, in 3 states, housing authorities ban any applicant for a range of criminal offenses, in 47 states, public housing policies provide for individualized determinations that include consideration of an applicant's criminal record along with evidence of rehabilitation. However, 27 housing authorities also make eligibility based on arrests that have not led to conviction.

### **Public Assistance and Food Stamps**

The 1996 federal welfare law imposes a lifetime ban on anyone convicted of a drug-related felony from receiving federally funded food stamps and cash assistance.<sup>lxxxvii</sup> States may limit the prohibition or eliminate it through statute. As of 2004:<sup>lxxxviii</sup>

- 17 states have adopted the federal drug felon ban without modification;
- 21 states have limited the ban by allowing conditional access to public assistance through participating in alcohol or drug treatment, by meeting a waiting period, by having a "possession only" conviction, or satisfying other required conditions; and
- 12 states have eliminated the ban.

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<sup>lxxxv</sup> See Housing Opportunity Program Extension Act (P.L. 104-120).

<sup>lxxxvi</sup> After Prison: Roadblocks to Reentry. A State-By-State Report Card. Legal Action Center. 2004.  
<http://www.lac.org/lac/index.php>.

<sup>lxxxvii</sup> Also known as TANF - Temporary Assistance for Needy Families. See Personal Responsibility and Work Opportunity Reconciliation Act (P.L. 104-193)

<sup>lxxxviii</sup> After Prison: Roadblocks to Reentry. A State-By-State Report Card. Legal Action Center. 2004.  
<http://www.lac.org/lac/index.php>.

## Parenting

The federal Adoption and Safe Families Act of 1997 (ASFA) (P.L. 105-89) mandates that states perform criminal record checks on prospective parents in order to receive federal social security payments for foster care and adoption. It recommends that states bar for life individuals convicted of certain violent crimes including rape, sexual assault, or homicide (but not other types of physical assault or battery and that states bar individuals convicted of physical assault, battery or drug-related felonies for five years. Some states apply the same standards for both adoptive and foster parenting; other states have separate and inconsistent standards for each. Most states make individualized determinations about an applicant's suitability to be an adoptive or foster parent that considers both the person's criminal record and evidence of rehabilitation.<sup>lxxxix</sup> As of 2004:<sup>xc</sup>

- 35 states consider the relevance of an applicant's criminal record in making a determination about an applicant's suitability to be an adoptive or foster parent; and
- 15 states have flat bars against people with criminal records becoming adoptive or foster parents.

*Prepared by the Campaign for Youth Justice*  
[www.campaignforyouthjustice.org](http://www.campaignforyouthjustice.org)

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<sup>lxxxix</sup> *Ibid.*

<sup>xc</sup> After Prison: Roadblocks to Reentry. A State-By-State Report Card. Legal Action Center. 2004.  
<http://www.lac.org/lac/index.php>.

## **MEDICAL REVIEW FINDS LAWS ALLOWING YOUTH TRIED AS ADULTS INEFFECTIVE AT IMPROVING PUBLIC SAFETY, AND ASSOCIATED WITH INCREASED VIOLENCE**

### **FACT SHEET**

#### **Overview:**

In response to the public health concerns associated with violence committed by youth in the United States, the Task Force on Community Preventive Services recently reviewed studies on the transfer of youth to the adult criminal justice system. The Task Force conducted a systematic review to determine the validity of the theory that transferring youth to the adult criminal justice system deters youth from committing subsequent crimes (individual deterrence), and the theory that fear of the perceived severity of the adult criminal justice prevents youth from committing crimes in the first place (general deterrence). The review, *Effects on Violence of Laws and Policy Facilitating the Transfer of Juveniles from the Juvenile Justice System to the Adult Justice System*, was published in the *American Journal of Preventive Medicine* (April 2007).

#### **Task Force Recommendation:**

Overall, the Task Force recommends against laws or policies facilitating the transfer of juveniles from the juvenile justice to the adult judicial system for the purpose of reducing violence.

#### **Findings:**

**Transferring juveniles to the adult justice system is counterproductive as a strategy for deterring subsequent violence:** The Task Force found strong evidence that youth who have been previously tried as adults are more likely to commit additional violent crimes. The weight of evidence shows that youth who are transferred from the juvenile court system to the adult criminal system are approximately 34% more likely than youth retained in the juvenile court system to be re-arrested for violent or other crime.

**Insufficient evidence that transferring youth to the adult criminal system prevents youth crime:** The Task Force found insufficient evidence to justify assertions that trying youth as adults prevents youth from committing crimes in the first place.

**Strengthened transfer policies may be harmful for those juveniles who experience transfer:** The review notes that other violent outcomes may result from the transfer of youth to the adult system. These violent outcomes include an increase in pretrial violence, victimization of juveniles in adult facilities, and elevated suicide rates for juveniles incarcerated in adult facilities.

**Costs/benefits unknown:** The review notes a rarity of studies that compare the costs of transferring youth to the adult system against the costs of retaining youth in the juvenile justice system. While the review questions the motive for evaluating harmful interventions (transfer laws and policies), it suggests that a cost-benefit comparison of the adult and juvenile justice systems may foster a constructive debate over the economic consequences of reform.

**Task Force:**

The Task Force on Community Preventive Services is a 15-member non-Federal task force supported by the Centers for Disease Control and Prevention (CDC). CDC scientists review the effectiveness of health care interventions for the Task Force that then makes recommendations to the public health community and health care delivery organizations. The recommendations generated by the Task Force are combined to form the *Guide to Community Preventive Services*, which includes a section on violence.

**For more information:**

For more information, contact Robert A. Hahn, Ph.D., M.P.H., Coordinating Scientist, Violence Prevention Review and Excess Alcohol Consumption Review at the Centers for Disease Control and Prevention at: Phone: 404-498-0958 or by email at: [rah1@cdc.gov](mailto:rah1@cdc.gov).



NCCD Fact Sheet



JUVENILE JUSTICE

NCCD Fact Sheet

**JJDPA Fact Book**



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**National Juvenile Justice and Delinquency Prevention Coalition**

**OFFICE OF JUVENILE JUSTICE AND DELINQUENCY  
PREVENTION  
FACT SHEET**

The Office of Juvenile Justice and Delinquency Prevention (OJJDP) provides national leadership, coordination, and resources to prevent and respond to juvenile delinquency and victimization. OJJDP supports states and communities in their efforts to develop and implement effective and coordinated prevention and intervention programs and to improve the juvenile justice system so that it protects public safety, holds offenders accountable, and provides treatment and rehabilitative services tailored to the needs of juveniles and their families.

OJJDP serves children, families, and communities by working with others to, prevent delinquency and strengthen the juvenile justice system, and protect children and enhance public safety.

OJJDP, a component of the **Office of Justice Programs, U.S. Department of Justice**, accomplishes its **mission** by supporting states, local communities, and tribal jurisdictions in their efforts to develop and implement effective programs for juveniles. The Office strives to strengthen the juvenile justice system's efforts to protect public safety, hold offenders accountable, and provide services that address the needs of youth and their families.

OJJDP sponsors numerous research, program, and training initiatives; develops priorities and goals and sets policies to guide federal juvenile justice issues; disseminates information about juvenile justice issues; and awards funds to states to support local programming nationwide through its **five components**: the Office of the Administrator (under which fall two Offices of the Deputy Administrator), the State Relations and Assistance Division, the Child Protection Division, the Demonstration Programs Division, and the Office of Policy Development.

**Authorization Level:** Such Sums as Necessary.

**Funding:**

FY 2003	\$6.8 million per year.
FY 2004 appropriation	\$3.6 million
FY 2005 appropriation	\$3.0 million
FY2006 appropriation	\$700 thousand
FY 2007 appropriation	\$700 thousand
FY 2008 President's budget request	\$0 million

**National Juvenile Justice and Delinquency Prevention Coalition Request:** \$6.8 million

*For more information, please contact Sandi Boyd, Center for Children's Law and Policy, 202-637-0377 or Tim Briceland-Betts, Child Welfare League of America, 202-942-0256.*

*Prepared by the National Juvenile Justice and Delinquency Prevention Coalition*

**National Juvenile Justice and Delinquency Prevention Coalition****TITLE II FORMULA GRANTS PROGRAM**  
**FACT SHEET**

The Formula Grants Program supports state and local delinquency prevention and intervention efforts and juvenile justice system improvements. Through this program, OJJDP provides funds directly to states, territories, and the District of Columbia to help them implement comprehensive state juvenile justice plans based on detailed studies of needs in their jurisdictions, as well as to achieve compliance with the core requirements of the Juvenile Justice and Delinquency Prevention Act. The Formula Grants Program is authorized under the JJDP Act of 2002 (42 U.S.C. 5601 *et seq.*).

The goal of this program is to improve juvenile justice systems by increasing the availability and types of prevention and intervention programs and juvenile justice system improvements.

Funding is available to states and territories. Juvenile Justice Specialists in each state administer the funding through subgrants to units of local government, local private agencies, and Indian tribes for programs in accordance with legislative requirements. Only state agencies, designated by the Governor, are eligible to apply. State Advisory Groups, comprised of members appointed by the governor, set priorities for funded activities.

**Authorization Level:** Such Sums as Necessary.

**Funding:**

FY 2002	\$88.8 million
FY 2003	\$83.3 million
FY 2004 appropriation	\$83.2 million
FY 2005 appropriation	\$83.3 million
FY2006 appropriation	\$79.2 million
FY 2007 appropriation	\$79.2 million
FY 2008 President's budget request	\$0 million

**National Juvenile Justice and Delinquency Prevention Coalition Request:** \$88.8 million

*For more information, please contact Sandi Boyd, Center for Children's Law and Policy, 202-637-0377 or Tim Briceland-Betts, Child Welfare League of America, 202-942-0256.*

*Prepared by the National Juvenile Justice and Delinquency Prevention Coalition*



**National Juvenile Justice and Delinquency Prevention Coalition****DELINQUENCY PREVENTION BLOCK GRANT  
FACT SHEET****Background:**

The Delinquency Prevention Block Grant (DPBG) was created in 2002 in the newly reauthorized Juvenile Justice and Delinquency Prevention Act, P.L. 107-273, by consolidating program authorities that had provided a specific focus on mentoring, state challenge activities, gang-free schools and communities, and other related activities.

The DPBG funds activities designed to prevent and reduce juvenile crime including projects that provide treatment to juvenile offenders and juveniles who are at risk of becoming juvenile offenders. Eligible recipients include community-based organizations, law enforcement agencies, local education authorities, local governments, social service providers and other entities with a demonstrated history of involvement in juvenile delinquency prevention.

- Most juvenile crime involves property offenses: arson, burglary, car theft, and larceny. Less than 10 percent of young people who come in contact with the juvenile justice system are serious, habitual, violent offenders.
- Intensive probation reduces youthful offending while exacting only one-third the cost of incarceration.
- More than 100,000 young people are in juvenile institutions nationwide. Overall, 78 percent of incarcerated juveniles are boys and 22 percent are girls.

**Program:**

This grant program is designed to prevent juvenile delinquency by providing treatment, educational projects, counseling, training, mentoring programs, and a variety of other prevention/intervention strategies.

Activities may include: mentoring; family strengthening programs; drug and alcohol abuse treatment programs; gang prevention programs; job training and employment programs; youth development programs; and probation programs.

**Authorization Level:** Such Sums as Necessary

**Funding**

In FY 2003 the levels of funding for the previously separate authorities that have been consolidated to create the DPBG were \$126.4 million per year.

FY 2004 appropriation	\$0
FY 2005 appropriation	\$0
FY 2006 appropriation	\$0
FY 2007 appropriation:	\$0
FY 2008 President's budget request:	\$0

**National Juvenile Justice and Delinquency Prevention Coalition Request:** \$126 million

*For more information, please contact Sandi Boyd, Center for Children's Law and Policy, 202-637-0377 or Tim Briceland-Betts, Child Welfare League of America, 202-942-0256.*

*Prepared by the National Juvenile Justice and Delinquency Prevention Coalition*

**National Juvenile Justice and Delinquency Prevention Coalition****JUVENILE ACCOUNTABILITY BLOCK GRANT  
FACT SHEET****Background:**

The purpose of the Juvenile Accountability Block Grant (JABG) Program is to provide states and units of local government with funds to develop programs to promote greater accountability in the juvenile justice system. Funds are available for many program purpose areas including building, expanding, and operating temporary or permanent juvenile correction or detention facilities, training of correctional personnel, developing and administering accountability-based sanctions for juvenile offenders, hiring additional juvenile judges, prosecutors, probation officers, and court-appointed defenders, and funding pre-trial services for juveniles.

**Purposes Significantly Expanded by new JJDPA**

The program purpose areas of JABG are expanded significantly under the reauthorized JJDPA, the Juvenile Justice and Delinquency Prevention Act (P.L. 107-273), signed into law by President Bush on November 2, 2002. Additional program areas allow states to:

- implement graduated sanctions programs that include counseling, restitution, community service, and supervised probation;
- establish or expanding substance abuse programs;
- promote mental health screening and treatment; and
- establish and maintaining restorative justice programs.

JABG was reauthorized in 2005 and program areas have now been expanded to include: (1) gang prevention; (2) anti-bullying initiatives; and (3) re-entry. The JABG reauthorization specifically recognized a priority of evidence-based approaches to juvenile justice prevention and intervention programs.

**JABG Funding Eliminated in President's budget**

The President's proposed budget for FY2007 eliminates funding for JABG. Elimination of funding for this critical resource will seriously hamper efforts to deal effectively with juvenile delinquency. JABG will no longer be available to communities for the ongoing implementation of important accountability programming and service alternatives to youth and families involved in the juvenile justice system, including community-based alternatives to detention and intervention activities, and school-based violence prevention programming. Appropriation levels for JABG were at or near \$250 million for four years from its creation in 1998 until 2002, making it the largest source of juvenile justice funding.



## JUVENILE JUSTICE

## JJDPA Fact Book

**Authorization Level:** \$350 million

### **Funding:**

For four years prior to FY 2003 funding for the JABG was approximately \$250 million per year.

FY 2003 appropriation \$190 million

FY 2004 appropriation \$59.6

FY 2005 appropriation \$54.6

FY 2006 appropriation \$49.5

FY 2007 appropriation \$49.5

FY 2008 President's budget request: \$0

**National Juvenile Justice and Delinquency Prevention Coalition Request:** \$250 million

*For more information, please contact Sandi Boyd, Center for Children's Law and Policy, 202-637-0377 or Tim Briceland-Betts, Child Welfare League of America, 202-942-0256.*

*Prepared by the National Juvenile Justice and Delinquency Prevention Coalition*

**National Juvenile Justice and Delinquency Prevention Coalition****TITLE V: COMMUNITY PREVENTION GRANTS PROGRAM**  
**FACT SHEET****Background:**

The Title V Incentive Grants for Local Delinquency Prevention Program, commonly known as the Community Prevention Grants Program, was authorized as part of the 1992 reauthorization of the Juvenile Justice and Delinquency Prevention Act of 1974. Title V created a federal grant program to fund collaborative, community-based delinquency prevention efforts to reach youth in high-risk situations before they make poor choices. The program provides local jurisdictions with the resources needed to implement a comprehensive delinquency prevention strategy that is best suited to that community.

Research shows that there are identifiable risk factors linked to problem behavior as well as protective factors that enhance positive behaviors. Prevention efforts that reduce risk factors or enhance protective factors maximize the chances of reducing juvenile delinquency and related problems and enable young people to transition successfully into adulthood.

- Taxpayers save \$2 million for each child who is prevented from beginning a life of crime.
- Youth who are involved with a mentor are 52 percent less likely to skip a day of school and 46 percent less likely to begin using drugs.
- Every \$1 invested in quality early childhood care and education saves \$7 by increasing the likelihood that children will be literate, employed, and enrolled in postsecondary education, and less likely to be school dropouts, dependent on welfare, or arrested for criminal activity or delinquency.

**Title V: Focused Solely on Prevention**

Title V funds have been used for a broad array of prevention programs and activities ranging from pre/postnatal strategies like home visitation by nurses and preschool/parent training programs to youth development initiatives involving the use of mentoring, after-school activities, tutoring, truancy and drop out reduction. Through these programs, communities are creating environments that strengthen families and help children develop into productive adults. Since 1994 nearly 1,100 communities in 49 states, the District of Columbia, and five territories have received Title V local grants to mobilize resources and implement delinquency prevention plans. Model programs include:

- Early education programs—like the Perry Preschool Program in Michigan—increases educational achievement while sparing the public nearly \$150,000 in juvenile crime costs per child, and
- Family-based therapy for young offenders—like that done by Youth Villages in Tennessee—reduces youth crime at a cost that is less than 10 percent of the typical cost of confinement.

**Authorization Level:** Such Sums as Necessary.

**Funding:**

For four years prior to FY 2003 funding for Title V was approximately \$95 million per year.

FY 2003 appropriation	\$46.1 million (\$44 million is earmarked)
FY 2004 appropriation	\$79.5 million (\$61 million is earmarked)
FY 2005 appropriation	\$79.4 million (\$60 million is earmarked)
FY2006 appropriation	\$64.4 million (\$60 million is earmarked)
FY 2007 appropriation	\$64.4 million (\$60 million is earmarked)
FY 2008 President's budget request	\$0 million

**National Juvenile Justice and Delinquency Prevention Coalition Request:** \$95 million with little or no earmarks

*For more information, please contact Sandi Boyd, Center for Children's Law and Policy, 202-637-0377 or Tim Briceland-Betts, Child Welfare League of America, 202-942-0256.*

*Prepared by the National Juvenile Justice and Delinquency Prevention Coalition*

## **Sources of State Specific JJDPA Information**

Each state government has several contact people who can provide information on the state's performance in regards to the JJDPA mandate. A list of these state contacts is available from the Federal Office of Juvenile Justice at <http://ojjdp.ncjrs.org/statecontacts/resourcelist.asp>. Each state is required to submit a three year plan and an annual report concerning the state's performance related to the JJDPA to the Office of Juvenile Justice. These plans and reports are generally not accessible on the web.

Additional state specific information may be found on the state's department of youth service's or equivalent agency's website.

Non-governmental organizations can also provide information on state juvenile justice systems. The National Juvenile Defender Center provides data on state policies at [http://www.njdc.info/state\\_data.php](http://www.njdc.info/state_data.php). Some organizations only provide information on one state. For example, the Center on Juvenile and Criminal Justice, <http://www.cjcj.org>, predominantly has information about the California system.

### **Other Local Resources:**

- Most states have an entity that is responsible for monitoring how the state spends federal juvenile justice funds, and can provide this kind of information
- County entities responsible for juvenile justice in their communities should be able to provide information on the number of youth arrested, detained, the reasons for their detention, and the costs of detention per day.
- Some youth are detained simply because they are waiting for room to open up in an appropriate program. Local detention centers and local service providers can tell you how long detained youth wait for services.
- Many local police departments (or sheriffs departments) are now posting their arrests statistics online. This information may be helpful in reporting on juvenile justice in your community.

## **Resources on Juvenile Justice Statistics**

**OJJDP Statistical Briefing Book, <http://ojjdp.ncjrs.org/ojstatbb/>**

- A comprehensive resource for national juvenile justice statistics

**Easy Access to Juvenile Populations: 1990-2005, <http://ojjdp.ncjrs.org/ojstatbb/ezapop/>**

- Provides national, state, and county level population data detailed by age, sex, race, and ethnicity.

**Easy Access to FBI Arrest Statistics: 1994-2004, <http://ojjdp.ncjrs.org/ojstatbb/ezaucr/>**

- Provides access to juvenile arrest statistics at the national, state, and county levels, with offense type

**Census of Juveniles in Residential Placement Databook, <http://ojjdp.ncjrs.org/ojstatbb/cjrp/>**

- Contains tables detailing the characteristics (age, sex, race/ethnicity, offense, type of facility, and placement status) of youth in **detention centers** (“juvenile jails”), and **committed facilities** (sometimes the equivalent of “juvenile prisons,” sometimes, residential programs) down to the state level.

**FBI Uniform Crime Reports**

**<http://www.fbi.gov/ucr/addpubs.htm>**

- Age-Specific Crime Info: 1993-2001. Breaks down arrest rates into under-18 and 18-and-over.

**<http://www.fbi.gov/ucr/ucr.htm>**

- *Crime in the United States* offers information on the number of people arrested by age and crime on a national level in Table 38 of all years (1995-2005). Table 69 offers the number of under 18 and over 18 arrests by state, by crime.

**Substance Abuse and Mental Health Services Agency (SAMHSA),**

**<http://www.oas.samhsa.gov/2k3State/EstimatesTables.htm#tab21>**

- Estimates of youth (aged 12-17) who need, but are not receiving, treatment for an illicit drug (2003). Indicates youth treatment needs, which can be contrasted with local or state drug treatment resources for youth.

**National Center on Juvenile Justice (NCJJ) – State Profiles, <http://www.ncjj.org/stateprofiles/>**

- A very clear explanation on the structure of each state’s juvenile justice system. When applicable, this site provides links to states’ juvenile justice advisory groups (called “SAGs”).

**Building Blocks for Youth State Info, <http://www.buildingblocksforyouth.org/statebystate/>**

- Gives state-specific information on disproportionate minority representation, and links to juvenile justice policy reform groups.

**The Burns Institute State Info on Disproportionate Minority Confinement,**

**<http://www.burnsinstitute.org/dmc/>**

**National Juvenile Justice Network, <http://www.njjn.org>**

- Provides a comprehensive range of resources and articles relevant to juvenile justice reform.

**National Council on Crime and Delinquency (NCCD), <http://www.nccd-crc.org/>**

**National Criminal Justice Reference Service, <http://www.ncjrs.gov/viewall.html>**



## **Other Sources for Juvenile Justice Information**

- Advancement Project** (focuses on zero tolerance school discipline policies)  
<http://www.advancementproject.org/publications.html#opsusp>
- American Bar Association: Juvenile Justice Committee**  
<http://www.abanet.org/crimjust/juvjus/pubs.html>
- American Youth Policy Forum**  
<http://www.aypf.org/programs/development/juvenilejustice.htm>
- Annie E. Casey Foundation**  
Juvenile Detention Alternatives Initiative - <http://www.aecf.org/initiatives/jdai/index.htm>;  
“Reducing Racial Disparities in Juvenile Detention,” *Pathways to Detention Reform*  
[www.aecf.org/publications/pdfs/pathways8.pdf](http://www.aecf.org/publications/pdfs/pathways8.pdf).
- Children’s Defense Fund**  
<http://www.childrensdefense.org>
- Coalition for Juvenile Justice**  
[http://www.juvjustice.org/about/index\\_about.html](http://www.juvjustice.org/about/index_about.html)
- Community Justice Network for Youth**  
<http://www.cjny.org/locator.html>
- Congressional Research Service Reports**  
<http://www.opencrs.com>
- Council of Juvenile Correctional Administrators**  
[www.cjca.net](http://www.cjca.net); [www.pbstandards.org](http://www.pbstandards.org)
- Frontline, Public Broadcasting Service, Program on Juvenile Justice**  
<http://www.pbs.org/wgbh/pages/frontline/shows/juvenile/>
- Haywood Burns Institute**  
[www.burnsinstitute.org](http://www.burnsinstitute.org).
- Justice Policy Institute**  
<http://www.justicepolicy.org/reports/juvenile-justice.html>
- Juvenile Info Network**  
<http://www.juvenilenet.org/>
- Juvenile Law Center**  
<http://www.jlc.org/index.php/juvenilejustice>
- MacArthur Foundation, Network on Adolescent Development and Juvenile Justice**  
[www.mac-adolesc-juvjustice.org](http://www.mac-adolesc-juvjustice.org)
- National Juvenile Defender Center**  
<http://www.njdc.info/publications.php>
- National Juvenile Justice Network**  
<http://www.njjn.org/>
- Sentencing Project**  
<http://www.sentencingproject.org/>
- Urban Institute**  
<http://www.urban.org/justice/juvjustice.cfm>
- Youth for Justice**  
<http://www.crfc.org/dmc.html>.
- Youth Law Center**  
<http://www.ylc.org/>

## **Important Recent National Studies on Juvenile Justice and Crime**

**Juvenile Offenders and Victims: 2006 National Report** (OJJDP, 2006)

<http://ojjdp.ncjrs.org/ojstatbb/nr2006/index.html>

- Offers comprehensive data and resources on juvenile crime and corrections.

**Juvenile Victimization and Offending, 1993-2003** (Bureau of Justice Statistics, August, 2005)

<http://www.ojp.gov/bjs/abstract/jvo03.htm>

- Youth 12-17 years old experienced a decline in crime victimization from 1993 through 2003, as did all other age groups during that period. Younger teens, 12-14 years old, experiencing the largest decreases.

**Violence by Gang Members, 1993-2003** (Bureau of Justice Statistics, June, 2005)

<http://www.ojp.gov/bjs/abstract/vgm03.htm>

- Reported gang crime fell by 73%, and gang homicides represent less than 10% of all reported homicides.

**Preliminary Crime in the United States Report, 2006** (Federal Bureau of Investigation, June, 2006)

<http://www.fbi.gov/ucr/prelim06/index.html>

- The number of property crimes reported to law enforcement agencies in the United States decreased 2.6% percent in 2006 when compared to 2005 data, while violent crimes increased 3.7% during the same period.

**Off Balance: Youth, Race & Crime in the News** (April, 2001)

<http://www.buildingblocksforyouth.org/media/>

- A useful report for understanding the dominant media frame in which youth, and juvenile justice youth (and race) are portrayed by the media.

## **Contact Information**

The ACT 4 Juvenile Justice Working Group is composed of staff representatives from juvenile justice, child welfare and youth development organizations exploring opportunities related to the reauthorization of the Juvenile Justice Delinquency Prevention Act (JJDP) scheduled for 2007

**Campaign for Youth Justice**

1012 14th Street, NW, Suite 610  
Washington, DC, 20005  
Phone: 202/558-3580  
Fax: 202/386-9807  
Website: [www.campaign4youthjustice.org](http://www.campaign4youthjustice.org)  
Contact: Liz Ryan  
Phone: 202/558-3580, ext. 11  
E-mail: [lryan@campaign4youthjustice.org](mailto:lryan@campaign4youthjustice.org)

**Center for Children's Law and Policy**

1701 K St. NW Suite 600  
Washington, DC 20006  
Phone: 202/637-0377  
Fax: 202/379-1600  
Website: <http://www.cclp.org/>  
Contact: Sandi Boyd  
Phone: 202/637-0377, ext. 102  
E-mail: [spboyd@cclp.org](mailto:spboyd@cclp.org)

**Child Welfare League of America**

440 First Street, NW, Third Floor  
Washington, DC 20001-2085  
Phone: 202/638-2952  
Fax: 202/638-4004  
Website: <http://www.cwla.org/>  
Contact: Tim Briceland-Betts  
Phone: 202/942-0256  
E-mail: [bricebet@cwla.org](mailto:bricebet@cwla.org)

**Children's Defense Fund**

25 E Street N.W.  
Washington, DC 20001  
Phone: 202/628-8787; 800/CDF-1200  
E-mail: [cdinfo@childrensdefense.org](mailto:cdinfo@childrensdefense.org)  
Website: <http://www.childrensdefense.org>  
Contact: Jadine Johnson  
Phone: 202/662-3645  
E-mail: [jjohnson@childrensdefense.org](mailto:jjohnson@childrensdefense.org)

**Coalition for Juvenile Justice**

1710 Rhode Island Ave, N.W., 10<sup>th</sup> Floor  
Washington, D.C. 20036  
Phone: 202/467-0864  
Fax: 202/887-0738  
Website: <http://www.juvjustice.org>  
Contact: Nancy Gannon Hornberger  
Phone: 202/467-0864 ext. 111  
E-mail: [gannon@juvjustice.org](mailto:gannon@juvjustice.org)

**Council of Juvenile Correctional****Administrators**

170 Forbes Rd., Suite 106  
Boston, MA 022184  
Phone: 781/843-2663  
Website: <http://cjca.net/>  
Contact: Ned Loughuan; Kim Godfrey  
Phone: 781/843-2663  
E-mail: [Lassoc@aol.com](mailto:Lassoc@aol.com); [Kim.Godfrey@cjca.net](mailto:Kim.Godfrey@cjca.net)

**Girls Incorporated**

120 Wall Street  
New York, NY 10005-3902  
Phone: 202/463-1881; 800/374-4475  
Website: <http://www.girlsinc.org/>  
Contact: April Osajima  
Phone: 202/463-1881  
E-mail: [Aosajima@girls\\_inc.org](mailto:Aosajima@girls_inc.org)

**Justice Policy Institute**

1003 K Street, NW, Suite 500  
Washington, DC 20001  
Phone: 202/558-7974  
Fax: 202/558-7978  
Email: [info@justicepolicy.org](mailto:info@justicepolicy.org)  
Website: <http://www.justicepolicy.org/>  
Contact: Jason Ziedenberg; Nastassia Walsh  
Phone: 202/558-7974 ext. 312; ext. 303  
E-mail: [jziedenberg@justicepolicy.org](mailto:jziedenberg@justicepolicy.org);  
[nwalsh@justicepolicy.org](mailto:nwalsh@justicepolicy.org)

**Mental Health America**

2000 N. Beauregard Street, 6<sup>th</sup> Floor  
Alexandria, Virginia 22311  
Phone: 703/684-7722; 800/969-6MHA  
Website: <http://www.nmha.org>  
Contact: Julio Abreau  
Phone: 703/684-7722  
E-mail: [jabreu@mentalhealthamerica.net](mailto:jabreu@mentalhealthamerica.net)

**National Alliance to End Homelessness**

1518 K Street N.W. Suite 410  
Washington, D.C. 20005  
Phone: 202/638-1526  
Fax: 202/636-4664  
Website: <http://www.endhomelessness.org>  
Contact: LaKesha Pope  
Phone: 202/942-8254  
E-mail: [lpope@naeh.org](mailto:lpope@naeh.org)

**National Council of La Raza**

Raul Yzaguirre Building  
1126 16<sup>th</sup> Street, N.W.  
Washington, DC 20036  
Phone: 202/785-1670  
Website: <http://www.nclr.org>  
Contact: Angela Arboleda. Cassandra Villanueva  
Phone: 202/776-1789; 202/776-1810  
E-mail: [aarboleda@nclr.org](mailto:aarboleda@nclr.org); [cvillanueva@nclr.org](mailto:cvillanueva@nclr.org)

**National Juvenile Defender Center**

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Washington, DC 20036  
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Website: <http://www.njdc.info/>



#### **JUVENILE JUSTICE**

Contact: Elizabeth Kehoe  
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#### **National Juvenile Justice Network**

C/O Coalition for Juvenile Justice  
1710 Rhode Island Avenue, NW, 10<sup>th</sup> Floor  
Washington, DC 20036  
Phone: 202/467-0864 x105  
Fax: 202/887-0738  
Email: info@njjn.org  
Website: <http://www.njjn.org>

#### **JJDP Fact Book**

Contact: Sarah Bryer; Jenni Gainsborough  
Phone: 202/467-0864 ext. 105; ext. 124  
E-mail: bryer@juvjustice.org;  
gainsborough@juvjustice.org

#### **National Network for Youth**

1319 F Street, NW, Suite 401  
Washington, DC 20004  
Phone: 202/783-7949  
E-mail: info@NN4Youth.org  
Website: <http://www.nn4youth.org>  
Contact: Bob Reeg  
Phone: 202/265-7271 ext. 3109  
E-mail bob.reeg@verizon.net

# American Council of Chief Defenders National Juvenile Defender Center

## TEN CORE PRINCIPLES FOR PROVIDING QUALITY DELINQUENCY REPRESENTATION THROUGH INDIGENT DEFENSE DELIVERY SYSTEMS

January 2005

### Preamble<sup>1</sup>

#### A. Goal of These Principles

The Ten Core Principles for Providing Quality Delinquency Representation through Indigent Defense Delivery Systems are developed to provide criteria by which an indigent defense system may fully implement the holding of *In Re: Gault*.<sup>2</sup> Counsel's paramount responsibilities to children charged with delinquency offenses are to zealously defend them from the charges leveled against them and to protect their due process rights. The Principles also serve to offer greater guidance to the leadership of indigent defense providers as to the role of public defenders, contract attorneys or assigned counsel in delivering zealous, comprehensive and quality legal representation on behalf of children in delinquency proceedings as well as those prosecuted in adult court.<sup>3</sup>

While the goal of the juvenile court has shifted in the past decade toward a more punitive model of client accountability and public safety, juvenile defender organizations should reaffirm the fundamental purposes of juvenile court: (1) to provide a fair and reliable forum for adjudication; and (2) to provide appropriate support, resources, opportunities and treatment to assure the rehabilitation and development of competencies of children found delinquent. Delinquency cases are complex, and their consequences have significant implications for children and their families. Therefore, it is of paramount importance that children have ready access to highly qualified, well-resourced defense counsel.

Defender organizations should further reject attempts by courts or by state legislatures to criminalize juvenile behavior in order to obtain necessary services for children. Indigent defense counsel should play a strong role in determining this and other juvenile justice related policies.

In 1995, the American Bar Association's Juvenile Justice Center published *A Call for Justice: An Assessment of Access to Counsel and Quality of Representation in Delinquency Proceedings*, a national study that revealed major failings in juvenile defense across the nation. The report spurred the creation of the National Juvenile Defender Center and nine regional defender centers around the country. The National Juvenile Defender Center conducts state and county assessments of juvenile indigent defense systems that focus on access to counsel and measure the quality of representation.<sup>4</sup>

#### B. The Representation of Children and Adolescents is a Specialty

The Indigent Defense Delivery System must recognize that children and adolescents are at a crucial stage of development and that skilled juvenile delinquency defense advocacy will positively impact the course of clients' lives through holistic and zealous representation.

The Indigent Defense Delivery System must provide training regarding the stages of child and adolescent development and the advances in brain research that confirm that children and young adults do not possess the same cognitive, emotional, decision-making or behavioral capacities as adults. Expectations, at any stage of the court process, of children accused of crimes must be individually defined according to scientific, evidence-based practice.

The Indigent Defense Delivery System must emphasize that it is the obligation of juvenile defense counsel to maximize each client's participation in his or her own case in order to ensure that the client understands the court process and to facilitate the most informed decision making by the client. The client's minority status does not negate counsel's obligation to appropriately litigate factual and legal issues that require judicial determination and to obtain the necessary trial skills to present these issues in the courtroom.

#### C. Indigent Defense Delivery Systems Must Pay Particular Attention to the Most Vulnerable and Over-Represented Groups of Children in the Delinquency System

Nationally, children of color are severely over-represented at every stage of the juvenile justice process. Research has demonstrated that involvement in the juvenile court system increases the likelihood that a child will subsequently be convicted and incarcerated as an adult. Defenders must work to increase awareness of issues such as disparities in race and class, and they must zealously advocate for the elimination of the disproportionate representation of minority youth in juvenile courts and detention facilities.

Children with mental health and developmental disabilities are also over-represented in the juvenile justice system. Defenders must recognize mental illness and developmental impairments, legally address these needs and secure appropriate assistance for these clients as an essential component of quality legal representation.

Drug- and alcohol-dependent juveniles and those dually diagnosed with addiction and mental health disorders are more likely to become involved with the juvenile justice system. Defenders must recognize, understand and advocate for appropriate treatment services for these clients.

Research shows that the population of girls in the delinquency system is increasing, and juvenile justice system personnel are now beginning to acknowledge that girls' issues are distinct from boys'. Gender-based interventions and the programmatic needs of girls, who have frequently suffered from abuse and neglect, must be assessed and appropriate gender-based services developed and funded.

In addition, awareness and unique advocacy are needed for the special issues presented by lesbian, gay, bisexual and transgender youth.

The American Council of Chief Defenders (ACCD), a section of the National Legal Aid & Defender Association, is dedicated to promoting fair justice systems by advocating sound public policies and ensuring quality legal representation to people who are facing a loss of liberty or accused of a crime who cannot afford an attorney. For more information, see [www.nlada.org](http://www.nlada.org) or call (202) 452-0620.

The National Juvenile Defender Center (NJDC) is committed to ensuring excellence in juvenile defense and promoting justice for all children. For more information, see [www.njdc.info](http://www.njdc.info) or call (202) 452-0010.

# Ten Principles

## 1 The Indigent Defense Delivery System Upholds Juveniles' Right to Counsel Throughout the Delinquency Process and Recognizes The Need For Zealous Representation to Protect Children

A. The indigent defense delivery system should ensure that children do not waive appointment of counsel. The indigent defense delivery system should ensure that defense counsel are assigned at the earliest possible stage of the delinquency proceedings.<sup>5</sup>

B. The indigent defense delivery system recognizes that the delinquency process is adversarial and should provide children with continuous legal representation throughout the delinquency process including, but not limited to, detention, pre-trial motions or hearings, adjudication, disposition, post-disposition, probation, appeal, expungement and sealing of records.

C. The indigent defense delivery system should include the active participation of the private bar or conflict office whenever a conflict of interest arises for the primary defender service provider.<sup>6</sup>

## 2 The Indigent Defense Delivery System Recognizes that Legal Representation of Children is a Specialized Area of the Law

A. The indigent defense delivery system recognizes that representing children in delinquency proceedings is a complex specialty in the law and that it is different from, but equally as important as, the legal representation of adults. The indigent defense delivery system further acknowledges the specialized nature of representing juveniles processed as adults in transfer/waiver proceedings.<sup>7</sup>

B. The indigent defense delivery system leadership demonstrates that it respects its juvenile defense team members and that it values the provision of quality, zealous and comprehensive delinquency representation services.

C. The indigent defense delivery system leadership recognizes that delinquency representation is not a training assignment for new attorneys or future adult court advocates, and it encourages experienced attorneys to provide delinquency representation.

## 3 The Indigent Defense Delivery System Supports Quality Juvenile Delinquency Representation Through Personnel and Resource Parity<sup>8</sup>

A. The indigent defense delivery system encourages juvenile representation specialization without limiting attorney and support staff's access to promotional progression, financial advancement or personnel benefits.

B. The indigent defense delivery system provides a professional work environment and adequate operational resources such as office space, furnishings, technology, confidential client interview areas<sup>9</sup> and current legal research tools. The system includes juvenile representation resources in budgetary planning to ensure parity in the allocation of equipment and resources.

## 4 The Indigent Defense Delivery System Utilizes Expert and Ancillary Services to Provide Quality Juvenile Defense Services

A. The indigent defense delivery system supports requests for essential expert services throughout the delinquency process and whenever individual juvenile case representation requires these services for effective and quality representation. These services include, but are not limited to, evaluation by and testimony of mental health professionals, education specialists, forensic evidence examiners, DNA experts, ballistics analysis and accident reconstruction experts.

B. The indigent defense delivery system ensures the provision of all litigation support services necessary for the delivery of quality services, including, but not limited to, interpreters, court reporters, social workers, investigators, paralegals and other support staff.

## 5 The Indigent Defense Delivery System Supervises Attorneys and Staff and Monitors Work and Caseloads

A. The leadership of the indigent defense delivery system monitors defense counsel's caseload to permit the rendering of quality representation. The workload of indigent defenders, including appointed and other work, should never be so large as to interfere with the rendering of zealous advocacy or continuing client contact nor should it lead to the breach of ethical obligations.<sup>10</sup> The concept of workload may be adjusted by factors such as case complexity and available support services.

B. Whenever it is deemed appropriate, the leadership of the indigent defense delivery system, in consultation with staff, may adjust attorney case assignments and resources to guarantee the continued delivery of quality juvenile defense services.

## 6 The Indigent Defense Delivery System Supervises and Systematically Reviews Juvenile Defense Team Staff for Quality According to National, State and/or Local Performance Guidelines or Standards

A. The indigent defense delivery system provides supervision and management direction for attorneys and all team members who provide defense representation services to children.<sup>11</sup>

B. The leadership of the indigent defense delivery system adopts guidelines and clearly defines the organization's vision as well as expectations for the delivery of quality legal representation. These guidelines should be consistent with national, state and/or local performance standards, measures or rules.<sup>12</sup>

C. The indigent defense delivery system provides administrative monitoring, coaching and systematic reviews for all attorneys and staff representing juveniles, whether contract defenders, assigned counsel or employees of defender offices.

## 7 The Indigent Defense System Provides and Supports Comprehensive, Ongoing Training and Education for All Attorneys and Support Staff Involved in the Representation of Children

A. The indigent defense delivery system supports and encourages juvenile defense team members through internal and external comprehensive training<sup>13</sup> on topics including, but not limited to, detention advocacy, litigation and trial skills, dispositional planning, post-dispositional practice, educational rights, appellate advocacy and administrative hearing representation.

B. The indigent defense delivery system recognizes juvenile delinquency defense as a specialty that requires continuous training in unique areas of the law.<sup>14</sup> In addition to understanding the juvenile court process and systems, juvenile team members should be competent in juvenile law, the collateral consequences of adjudication and conviction, and other disciplines that uniquely impact juvenile cases, such as, but not limited to:

1. Administrative appeals
2. Child welfare and entitlements
3. Child and adolescent development
4. Communicating and building attorney-client relationships with children and adolescents
5. Community-based treatment resources and programs
6. Competency and capacity
7. Counsel's role in treatment and problem solving courts<sup>15</sup>
8. Dependency court/abuse and neglect court process
9. Diversionary programs
10. Drug addiction and substance abuse
11. Ethical issues and considerations
12. Gender-specific programming
13. Immigration
14. Mental health, physical health and treatment



15. Racial, ethnic and cultural understanding
16. Role of parents/guardians
17. Sexual orientation and gender identity awareness
18. Special education
19. Transfer to adult court and waiver hearings
20. Zero tolerance, school suspension and expulsion policies

## 8 The Indigent Defense Delivery System Has an Obligation to Present Independent Treatment and Disposition Alternatives to the Court

A. Indigent defense delivery system counsel have an obligation to consult with clients and, independent from court or probation staff, to actively seek out and advocate for treatment and placement alternatives that best serve the unique needs and dispositional requests of each child.

B. The leadership and staff of the indigent defense delivery system work in partnership with other juvenile justice agencies and community leaders to minimize custodial detention and the incarceration of children and to support the creation of a continuum of community-based, culturally sensitive and gender-specific treatment alternatives.

C. The indigent defense delivery system provides independent post-conviction monitoring of each child's treatment, placement or program to ensure that rehabilitative needs are met. If clients' expressed needs are not effectively addressed, attorneys are responsible for intervention and advocacy before the appropriate authority.

## 9 The Indigent Defense Delivery System Advocates for the Educational Needs of Clients

A. The indigent defense delivery system recognizes that access to education and to an appropriate educational curriculum is of paramount importance to juveniles facing delinquency adjudication and disposition.

B. The indigent defense delivery system advocates, either through direct representation or through collaborations with community-based partners, for the appropriate provision of the individualized educational needs of clients.

C. The leadership and staff of the indigent defense delivery system work with community leaders and relevant agencies to advocate for and support an educational system that recognizes the behavioral manifestations and unique needs of special education students.

D. The leadership and staff of the indigent defense delivery system work with juvenile court personnel, school officials and others to find alternatives to prosecutions based on zero tolerance or school-related incidents.

## 10 The Indigent Defense Delivery System Must Promote Fairness and Equity For Children

A. The indigent defense delivery system should demonstrate strong support for the right to counsel and due process in delinquency courts to safeguard a juvenile justice system that is fair, non-discriminatory and rehabilitative.

B. The leadership of the indigent defense delivery system should advocate for positive change through legal advocacy, legislative improvements and systems reform on behalf of the children whom they serve.

C. The leadership and staff of the indigent defense delivery system are active participants in the community to improve school, mental health and other treatment services and opportunities available to children and families involved in the juvenile justice system.

## Notes

<sup>1</sup> These principles were developed over a one-year period through a joint collaboration between the National Juvenile Defender Center and the American Council of Chief Defenders, a section of the National Legal Aid and Defender Association (NLADA), which officially adopted them on December 4, 2004.

<sup>2</sup> 387 U.S. 1 (1967). According to the IJA/ABA Juvenile Justice Standard Relating to Counsel for Private Parties 3.1 (1996), "the lawyer's principal duty is the representation of the client's legitimate interests" as distinct and different from the best interest standard applied in neglect and abuse cases. The Commentary goes on to state that "counsel's principal responsibility lies in full and conscientious representation" and that "no lesser obligation exists when youthful clients or juvenile court proceedings are involved."

<sup>3</sup> For purposes of these Principles, the term "delinquency proceeding" denotes all proceedings in juvenile court as well as any proceeding lodged against an alleged status offender, such as for truancy, running away, incorrigibility, etc.

<sup>4</sup> Common findings among these assessments include, among other barriers to adequate representation, a lack of access to competent counsel, inadequate time and resources for defenders to prepare for hearings or trials, a juvenile court culture that encourages pleas to move cases quickly, a lack of pretrial and dispositional advocacy and an over-reliance on probation. For more information, see *Selling Justice Short: Juvenile Indigent Defense in Texas* (2000); *The Children Left Behind: An Assessment of Access to Counsel and Quality of Representation in Delinquency Proceedings in Louisiana* (2001); *Georgia: An Assessment of Access to Counsel and Quality of Representation in Delinquency Proceedings* (2001); *Virginia: An Assessment of Access to Counsel and Quality of Representation in Delinquency Proceedings* (2002); *An Assessment of Counsel and Quality of Representation in Delinquency Proceedings in Ohio* (2003); *Maine: An Assessment of Access to Counsel and Quality of Representation in Delinquency Proceedings* (2003); *Maryland: An Assessment of Access to Counsel and Quality of Representation in Delinquency Proceedings* (2003); *Montana: An Assessment of Access to Counsel and Quality of Representation in Delinquency Proceedings* (2003); *North Carolina: An Assessment of Access to Counsel and Quality of Representation in Delinquency Proceedings* (2003); *Pennsylvania: An Assessment of Access to Counsel and Quality of Representation in Delinquency Proceedings* (2003); *Washington: An Assessment of Access to Counsel and Quality of Representation in Juvenile Offender Matters* (2003).

<sup>5</sup> American Bar Association *Ten Principles of a Public Defense Delivery System* (2002), Principle 3.

<sup>6</sup> A conflict of interest includes both codefendants and intra-family conflicts, among other potential conflicts that may arise. See also American Bar Association *Ten Principles of a Public Defense Delivery System* (2002), Principle 2.

<sup>7</sup> For purposes of this Principle, the term "transfer/waiver proceedings" refers to any proceedings related to prosecuting youth in adult court, including those known in some jurisdictions as certification, bind-over, decline, remand, direct file, or youthful offenders.

<sup>8</sup> American Bar Association *Ten Principles of a Public Defense Delivery System* (2002), Principle 8.

<sup>9</sup> American Bar Association *Ten Principles of a Public Defense Delivery System* (2002), Principle 4.

<sup>10</sup> See National Study Commission on Defense Services, *Guidelines for Legal Defense Systems in the United States* (1976), 5.1, 5.3; American Bar Association, *Standards for Criminal Justice, Providing Defense Services* (3rd ed., 1992), 5-5.3; American Bar Association, *Standards for Criminal Justice: Prosecution Function and Defense Function* (3rd ed., 1993), 4-1.3(e); National Advisory Commission on Criminal Justice Standards and Goals, *Report of the Task Force on Courts, Chapter 13, "The Defense"* (1973), 13.12; National Legal Aid and Defender Association and American Bar Association, *Guidelines for Negotiating and Awarding Contracts for Criminal Defense Services* (NLADA, 1984; ABA, 1985), III-6, III-12; National Legal Aid and Defender Association, *Standards for the Administration of Assigned Counsel Systems* (1989), 4.1.4.1.2; ABA Model Code of Professional Responsibility DR 6-101; American Bar Association *Ten Principles of a Public Defense Delivery System* (2002), Principle 5.

<sup>11</sup> American Bar Association *Ten Principles of a Public Defense Delivery System* (2002), Principles 6 and 10.

<sup>12</sup> For example, Institute of Judicial Administration-American Bar Association, *Juvenile Justice Standards* (1979); National Advisory Commission on Criminal Justice Standards and Goals, *Report of the Task Force on Courts, Chapter 13, "The Defense"* (1973); National Study Commission on Defense Services, *Guidelines for Legal Defense Systems in the United States* (1976); American Bar Association, *Standards for Criminal Justice, Providing Defense Services* (3rd ed., 1992); American Bar Association, *Standards for Criminal Justice: Prosecution Function and Defense Function* (3rd ed., 1993); *Standards and Evaluation Design for Appellate Defender Offices* (NLADA, 1980); *Performance Guidelines for Criminal Defense Representation* (NLADA, 1995).

<sup>13</sup> American Bar Association *Ten Principles of a Public Defense Delivery System* (2002), Principle 9; National Legal Aid and Defender Association, *Training and Development Standards* (1997), Standards 1 to 9.

<sup>14</sup> National Legal Aid and Defender Association, *Training and Development Standards* (1997), Standard 7.2, footnote 2.

<sup>15</sup> American Council of Chief Defenders, *Ten Tenets of Fair and Effective Problem Solving Courts* (2002).

# FACT SHEET

Views from the National Council on Crime and Delinquency

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

Christopher Hartney

### *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>*

- Youth tried as adults are subject to harsher adult penalties than youth processed in the juvenile system. In most states this includes life without parole.
- 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 persons 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. In all cases, the latest available data is represented.*



## 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.

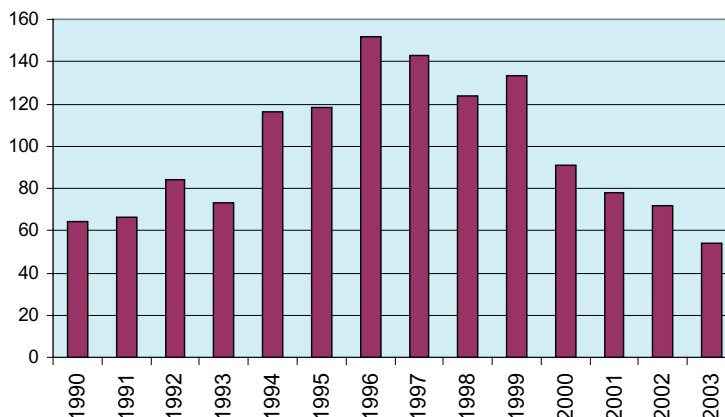
States use various combinations of statutes to transfer youth under age 18 to adult court.

- 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, in which 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. In each year from 1990 to 2003, an average of 98 youth under age 18 were admitted to prison with a sentence of life without parole. 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*

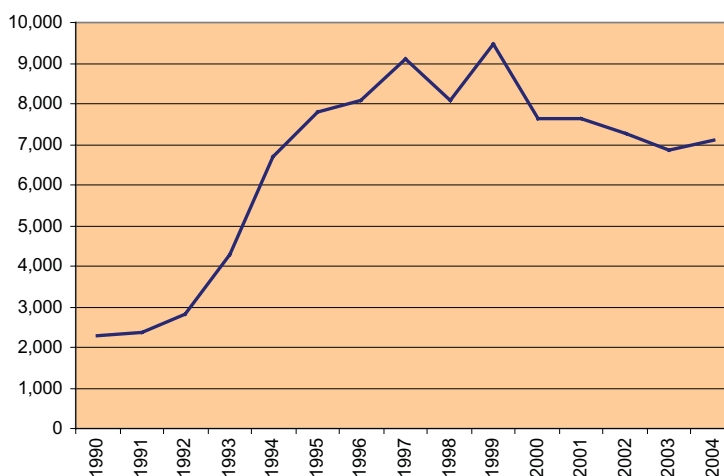


Source: Adapted from Amnesty International, Human Rights Watch (2005).

## Incarceration in State Jails

There was a 208% increase in the number of youth under age 18 serving time in adult jails on any given day between 1990 and 2004. The number of youth under age 18 in adult jails rose sharply through the 1990s to a high of almost 9,500 in 1999 and then leveled off to an average of just over 7,200 since 2000.

*State Jail Inmates Under Age 18*



Source: Snyder, H.N. & Sickmund, M. (2006).

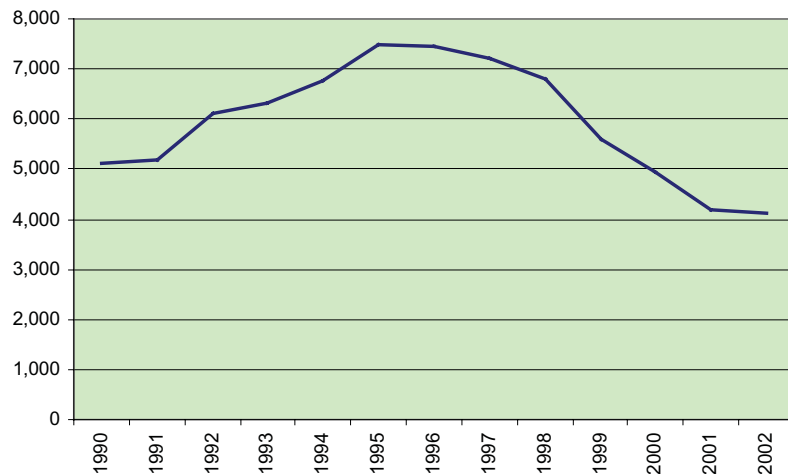
*Federal prisons held 39 inmates under age 18 in 1990, but none in 2004. Federal law requires that all persons under age 18 convicted of a federal offense be placed in suitable juvenile facilities, NOT in adult facilities.*

The proportion of youth under age 18 among total jail populations is 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>

## Incarceration in State Prisons

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

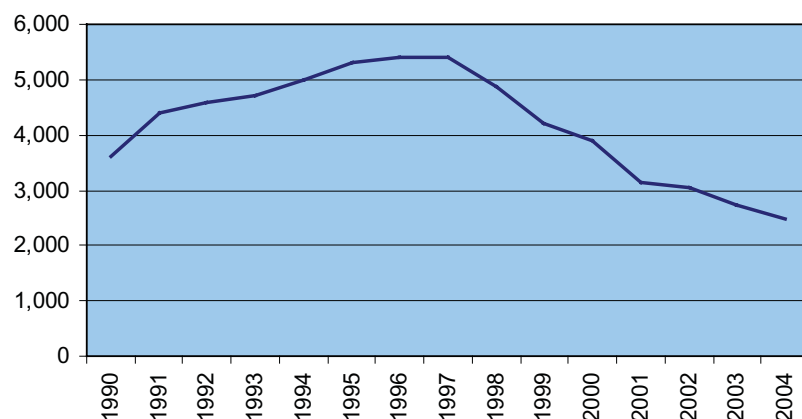
*New Admissions to State Prisons of Youth Under Age 18*



*"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.

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



Source: Snyder, H.N. & Sickmund, 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.

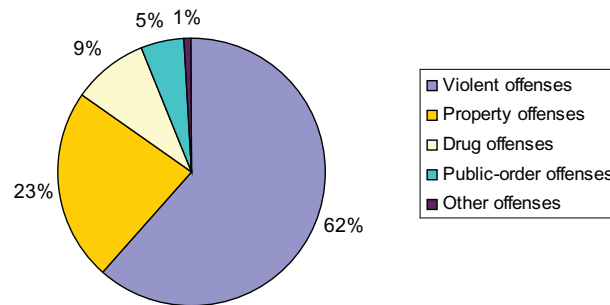
Since 1995, the total prison population has risen 16%, while the number of persons under age 18 in prison has dropped 45%. The large increases in the overall prison populations probably account for the drop in proportion of youth under age 18 in state prisons.<sup>10</sup>

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

#### 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.<sup>12</sup>

## 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> Juskiewicz, 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.N. & Sickmund, M. (2006). Juvenile Offenders and Victims: 2006 National Report. Washington, DC: US DOJ, Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention. Accessed 04/06/2006 at <http://www.ojjdp.ncjrs.gov/ojstatbb/nr2006>.

<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>.