



THE CONSEQUENCES AREN'T MINOR

INTRODUCTION

In the early 1990's, as a result of the Central Park jogger case, prominent and influential individuals, such as former Princeton professor and Bush Administration appointee John Dilulio, made doom and gloom predictions about the emergence of a "generational wolfpack" of "fatherless, Godless and jobless" youth. This superpredator phrase stuck and almost every state passed new laws to make it easier to try and sentence youth in the adult criminal justice system. Now researchers estimate that approximately 200,000 youth are prosecuted in adult courts every year. This places youth at risk of assault, suicide and death in adult jails and prisons. The consequences of an adult conviction are long-term, serious and life-threatening. This book is designed to help policymakers understand the full impact of these policies and highlights seven states: California, Connecticut, Florida, Illinois, North Carolina, Wisconsin and Virginia.

KEY FINDINGS

National and state research, and the experience of young people, their parents, and their families, give us a concrete picture of how the laws governing the trying, sentencing, and incarceration of youth do not promote public safety. The following are more than a dozen key findings from this research.

#1 The overwhelming majority of youth who enter the adult court are not there for serious, violent crimes.

Estimates range on the number of youth prosecuted in adult court nationally. Some researchers believe that as many as 200,000 youth are prosecuted every year. Despite the fact that many of the state laws were intended to prosecute the most serious offenders, most youth who are tried in adult courts are *there no matter how minor their offense*. Most of the youth who enter the adult court are charged with non-violent offenses. For example, more than 10,000 young people in Connecticut enter the adult court system each year the vast majority for non-violent offenses. In 2002, in Wisconsin, there were almost 14,000 admissions of 17-year-olds to adult jails—only 15 percent of these youth were arrested for violent crimes such as murder, rape, aggravated assault, and robbery.

#2 Increasing numbers of young people have been placed in adult jails where they are at risk of assault, abuse, and death.

Currently, 40 states permit or require that youth charged as adults be placed pre-trial in an adult jail, and in some states they may be required to serve their entire sentence in an adult jail. According to the National Council on Crime and Delinquency, since 1990 the incarceration of youth in adult jails has increased 208%. On any given day, more than 7,000 young people are held in adult jails. This policy places thousands of young people at risk as it is extremely difficult to keep youth safe in adult jails.

#3 State laws may contradict core federal protections designed to prohibit confinement of juveniles with adults.

Federal protections approved by the Congress in 1974 to protect youth by prohibiting the placement of youth in adult jails (except in rare and limited circumstances) do not apply to youth who are prosecuted as adults.

#4 In contrast to growing numbers of youth incarcerated in adult jails, adult prisons' admissions of youth are declining.

On any given day, more than 2,000 youth are in adult prisons. With the exception of Connecticut, which led the nation in the number of youth in adult prison and experienced

a nearly 20% increase in the number of youth in adult prison in 2005, this number has declined significantly over the past decade. One analysis of the discrepancies in the numbers is that even while more and more youth are being prosecuted as adults, few are found to commit crimes serious enough to warrant time in adult jails. Many youth could be safely kept in the juvenile justice system. Youth in adult prisons are at risk of abuse, sexual assault, suicide, and death, which has led experts to conclude that “clearly, juveniles are a vulnerable population within adult correctional facilities.”

#5 The decision to send youth to adult court is most often not made by the one person best considered to judge the merits of the youth’s case—the juvenile court judge.

In most instances, juvenile court judges do not make the decision about whether a youth should be prosecuted in adult court, despite the fact that a juvenile court judge is a neutral player who is in the best position to investigate the facts and make the decision.

#6 Access to effective legal counsel is a deciding factor on whether a youth is prosecuted as an adult.

The effectiveness of a youth’s lawyer can be the difference between whether a youth is prosecuted as an adult or as a juvenile by the justice system.

7 Youth of color are disproportionately affected by these policies.

In every state profiled in this report for which data are available, youth of color are disproportionately affected by these statutes. For example, of the 6,629 youth who entered the custody of the California Department of Corrections for an offense committed prior to their 18th birthday, seventy percent were African-American and Latino, and less than 10 percent were white. In Illinois, youth of color are about a third of the youth population, but research has shown that they have represented 9 out of 10 young people in the adult system.

8 Female youth are affected too, but little is known about them.

Very limited data are available on girls in the adult criminal justice system. No recent, comprehensive national research studies have been undertaken that document the impact of the placement of girls in the adult criminal justice system. There are model approaches to serve girls in the juvenile justice system that could be more viable alternatives to placing girls in the adult justice system.

#9 The consequences for prosecuting youth in adult court “aren’t minor.”

Youth tried as adults face the same punishments as adults. They can be placed in adult jails pre- and post-trial, sentenced to serve time in adult prisons, or be placed on adult probation with few to no rehabilitative services. Youth also are subject to the same sentencing guidelines as adults and may receive mandatory minimum sentences or life without parole. The only consequence that youth cannot receive is the death penalty. When youth leave jail or prison, are on probation, or have completed their adult sentences, they carry the stigma of an adult criminal conviction. They may have difficulty finding a job or getting a college degree to help them turn their lives around. The consequences of an adult conviction aren’t minor; they are serious, long-term, life-threatening, and in some cases, deadly.

10 The research shows that these laws do not promote public safety.

Although research on the full impact of these laws is ongoing, the most current results reveal an ever-increasing negative impact on youth adjudicated in the adult criminal justice system. In addition, studies by researchers throughout the country show that sending youth to the adult criminal justice system doesn’t work to reduce crime. In one study comparing the recidivism of youth waived to criminal court with those retained in juvenile court, the research found that those in the “adultified” group were

more likely to be re-arrested and to commit more serious new offenses; they also re-offended more quickly. Another study that compared the recidivism rates of youth in two states (New York and New Jersey), that differed only by the age at which they prosecuted youthful offenders in the adult system: This study found that, youth tried in adult court were much more likely to re-offend more quickly and with more serious offenses.

11 These laws ignore the latest scientific evidence on the adolescent brain—the same evidence that informed the Supreme Court’s decision on barring the juvenile death penalty.

The Supreme Court’s decision relied heavily on new scientific research showing that certain areas of the brain, particularly those that affect judgment and decision-making, do not fully develop until the early 20’s. State laws passed prior to these research studies do not take into account these findings. The laws need to be reexamined to reflect this latest scientific evidence on the adolescent brain.

12 Assessing the impact of youth incarceration is difficult because of a lack of available data.

As already mentioned, every year thousands of young people are tried, sentenced, or incarcerated as adults. Some researchers say that this could be as many as 200,000 youth every year. However, no one really knows how many young people this affects. There is no one single, credible, national data source that tracks all the youth prosecuted in adult courts. If researchers are not able to assess the magnitude of the impact of these state laws on youth, policymakers lack the information to make informed decisions. There is a need to collect more data so that we can understand just how many youth are affected.

13 The public should invest its dollars by strengthening the juvenile justice system.

The current juvenile justice system in states is a much more viable alternative than the adult criminal justice system in treating young people in conflict with the law. The long-term benefits to society nationwide of returning youth to the jurisdiction of the juvenile court far outweigh any short-term costs that may be incurred. New research shows that rehabilitative programs, including ones that treat serious, chronic, and violent offenders in the juvenile justice system, reduce juvenile crime. And, the cost of simply keeping the system as it is affects society in ways that cannot be calculated in dollars and cents.

THE OPPORTUNITY FOR CHANGE

#1 All the new research supports a change in policy direction.

State and local policymakers did not have the benefit of this new compelling research on recidivism, competency, adolescent brain development, and effective juvenile justice programs when they were considering changes to their state’s laws on trying youth as adults. Just as this research influenced the Supreme Court to eliminate the juvenile death penalty, this new research also provides a strong basis for re-examination of and substantial changes to state statutes and policies.

2 The nation recognizes the need for change, and some states are implementing reforms.

State legislators, juvenile and adult court judges, juvenile and adult detention, jail, and correctional administrators, and probation officials throughout the country are pushing for reforms nationally and in individual states. These public officials are supported by scores

of prominent national, state, and local organizations who are calling for major changes in national and state policy. A number of states have already begun to re-examine their state statutes and in some cases have implemented policy changes. In addition, youth, their parents, and their families, who have been most affected by these policies, are speaking out, organizing, and educating national and state policymakers.

3 When we invest in young people, they can succeed.

Researchers have not yet been able to quantify the benefits of helping individual youth, who may go on to make significant contributions to society, who directly benefited from the rehabilitative nature of the juvenile court include Olympic Gold Medalist Bob Beamon, U.S. Senator, Alan Simpson and entertainer Ella Fitzgerald, all who may not have made the contributions they went on to make if they had been treated like adults.

RECOMMENDATIONS

While experts from each state have developed their own state-specific recommendations on how the laws and policies in those states should be updated, the report findings support several recommendations that are national in scope. Federal, state, and local policymakers should consider these policies.

1. State and local policymakers should consider immediately adopting the reforms recommended in their state's section such as:
 - increasing the age of juvenile court jurisdiction to 18;
 - banning the placement of youth in adult jails and prisons;
 - providing waiver/transfer to adult court by judicial waiver only;
 - redirecting resources to expand developmentally appropriate treatment and services for youth in the juvenile justice system as an alternative to the adult criminal justice system; and
 - investing in quality and effective legal counsel for youth.
2. Federal policymakers should consider amending the Juvenile Justice & Delinquency Prevention Act (JJDP A) in 2007 by:
 - imposing a federal ban on placement of young people in adult jails and prisons; and
 - strengthening the federal "Disproportionate Minority Contact" provision by requiring states to invest federal and state resources in effective approaches to reducing racial disparities in the justice system.
3. Starting this year, federal, state, and local policymakers should make significant improvements in the juvenile justice system by investing in programs that are developmentally appropriate and evidence-based, through the JJDP A and other federal programs as well as through state appropriations.
4. This year federal, state, and local policymakers should invest in and undertake significant data collection efforts on the impact of prosecuting youth as adults.
5. Federal, state and local policymakers should commit to regularly visit youth in adult jails and prisons and hold public hearings on an ongoing basis to ensure that the youth and families most affected by these policies are involved in policy deliberations.

ABOUT THE ORGANIZATION--THE CAMPAIGN FOR YOUTH JUSTICE

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

- to raise awareness about the negative impact of prosecuting youth in the adult criminal justice system and of incarcerating young people in adult jails and prisons;
- to reduce the number of youth who are tried, sentenced, and incarcerated in the adult system;
- to decrease the harmful impact of trying youthful offenders in adult court; and
- to promote research-based, developmentally appropriate rehabilitative programs and services for youth.

DEDICATION

This report is dedicated to the thousands of young people and their families across the country who have been affected negatively by state laws in the name of public safety.

ACKNOWLEDGMENTS

The Campaign for Youth Justice would like to gratefully acknowledge our funders who support our work: the Chasdrew Fund, the Eckerd Family Foundation, the John D. and Catherine T. MacArthur Foundation, the Meyer Foundation, the Public Welfare Foundation, and individual anonymous donors.

For a full list of contributors to *The Consequences Aren't Minor: The Impact of Trying Youth as Adults and Strategies for Reform*, please see the acknowledgment section of the full report.



WHAT IS THE LAW IN ILLINOIS?

In Illinois, most youth enter the criminal justice system without the benefit of an individualized hearing by a judge. Instead, they are automatically transferred to the adult criminal system based on age and charging offense. Some do enter the system after a judge has decided to transfer the youth to the adult criminal courts, but the number of youth charged as adults this way is much smaller. The following include the key features of Illinois' adultification laws.

The upper age of juvenile court jurisdiction in Illinois is 16.

Seventeen-year-olds are automatically under the jurisdiction of the adult criminal court.¹ In other words, every 17-year-old arrested for any infraction, be it violent or nonviolent, is treated as an adult in the eyes of the law. Nine other states have the same "age of juvenile court jurisdiction," including Georgia, Louisiana, Massachusetts, Michigan, Missouri, New Hampshire, South Carolina, Texas, and Wisconsin.²

Youth 13 and older face automatic transfer to adult court for certain felonies.

In 1982, the Illinois Legislature passed legislation requiring certain youth to be automatically tried in the adult court based solely on age and the charging offense. These youth do not get the benefit of an individualized hearing. The initial cases that triggered automatic transfer were murders, armed robberies with guns, and aggravated sexual assaults for youth 15 years of age or older. Since 1982, other offenses have been added including drug crimes, possession of guns on school grounds, aggravated battery with a firearm, and aggravated vehicular hijacking. Most automatic transfers are for youth 15 and older, however Illinois also automatically charges youth 13 or older in the adult criminal court for murder and sexual assault charges. Youth who have been transferred and convicted in the criminal court once are automatically transferred to the criminal court no matter their subsequent offense.³ As will be detailed later in the chapter, since 2003, the Illinois Legislature and the executive branch are allowing for more individualized discretion in the adult transfer decision.

Judges have discretion to transfer any youth age 13 or older to the adult court for any crime.

For any crime, a state's attorney may ask that the case be transferred to adult court in a discretionary transfer hearing. In making the transfer decision, the juvenile court judge must consider certain factors including the youth's age or participation in the offense and his amenability for treatment. But any youth age 13 or older committing any infraction can end up in the adult court system after an individualized hearing by a juvenile court judge.

Every 17-year-old arrested for any infraction, be it violent or nonviolent, is treated as an adult in the eyes of the law.

Youth also may end up in the adult criminal court from a mandatory transfer or a presumptive transfer. Under the mandatory transfer provision, prosecutors can ask to have certain cases transferred. Upon a finding of probable cause, the juvenile court judge must transfer the case to adult court. Youth age 15 or older can be presumptively waived to the adult court for certain offenses (e.g., aggravated discharge of a firearm). The prosecutor can ask to have the youth transferred to the adult court, and the youth is presumed to be transferred unless he proves that he should remain in juvenile court.

Illinois is a blended sentencing state.

In the case of young people 13 and older who are charged with any felony in juvenile court, the prosecutor may file a petition for an “extended jurisdiction juvenile” (EJJ) hearing. If a prosecutor files the EJJ petition, the youth will have a hearing to determine if, in the event of conviction, he or she will be given both a juvenile sentence and an adult criminal sentence. If the youth loses the EJJ hearing, and is subsequently convicted, the court will impose both a juvenile and an adult criminal sentence. The adult sentence will be stayed or suspended as long as the juvenile refrains from violating the conditions of the juvenile sentence or committing any subsequent crimes. If the youth does not successfully complete the juvenile sentence, the youth must then serve the adult sentence. The EJJ statute allows for youth to serve adult time without being transferred to the adult court.

Young people convicted in Illinois’ adult court end up in the adult pre-trial detention and corrections system.

All 17-year-olds charged in adult court await trial in the adult jail system unless they pay their bonds or get one of the limited alternatives to incarceration. These limited alternatives are only available in certain counties. Any youth automatically charged as an adult but who is not yet 17 will remain in the juvenile detention system until he or she turns 17. Then the youth will be transferred to the county jail. In counties under 3,000,000, there is an option for youth of any age tried as adults to be detained pre-trial in the county jails, provided they are separated by sight and sound from adults until they turn 17. Once a 17-year-old is sentenced to prison, the youth will enter the adult corrections system, the Illinois Department of Corrections. If a youth under age 17 is tried and convicted in adult court, the youth will be sentenced to the Department of Juvenile Justice until the youth turns 17. At that time, the Department of Juvenile Justice has the option to ask the adult court judge to transfer the youth to the Illinois Department of Corrections. At age 18, the Illinois Department of Juvenile Justice has the discretion to transfer the youth, and at age 21 the transfer is mandatory. If a 15-year-old is charged with an offense, but convicted and sentenced after turning 17, the youth is automatically in the adult corrections system.

There is no sight and sound separation between adults and 17-year-old youth in Illinois prisons, because the age of juvenile court jurisdiction in Illinois is 17.

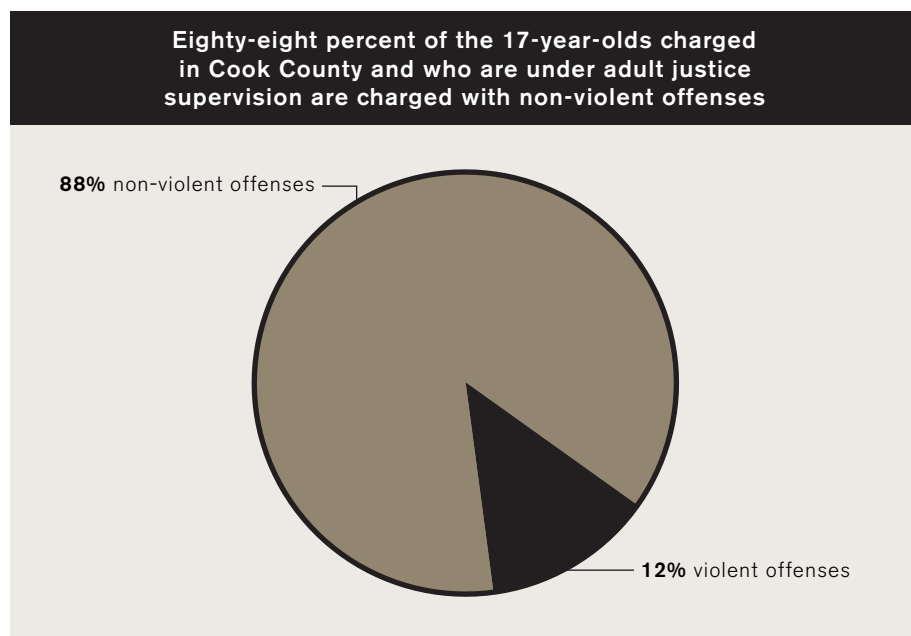
For those individuals under the age of 18 who are committed to the custody of the Illinois Department of Corrections, all males go to the reception and classification center at Joliet and then can be transferred to any one of the 20 facilities in the state. Youth age 17 can be assigned to the maximum-security facilities as well as to the Supermax facility. There is one facility designated for women.

WHO IS AFFECTED BY THE LAWS IN ILLINOIS?

An estimated 16,000 17-year-olds enter the adult system in Illinois annually. The total petitions filed for all ages of youth in Cook County in 2003 was 9,168, and in the entire state it was 21,151. Although accurate data are not available on the actual number of 17-year-olds arrested each year, the authors estimate that approximately 16,000 youth age 17 are arrested and could be charged as adults in Illinois each year.⁴ Seventy-one percent of all arrests of young people of all ages are for non-violent crimes, and in Cook County, fewer than 12% of 17-year-olds charged are charged with felonies, including non-violent

All 17-year-olds charged in adult court await trial in the adult jail system unless they pay their bonds or get one of the limited alternatives to incarceration.

felonies such as drug crimes.⁵ The authors estimate that the majority of 17-year-olds in the adult system are arrested and charged with non-violent crimes.



Source: Analysis of Juvenile Justice Initiative of Illinois review of Judicial Advisory Council memorandum, April 2006. Exhibits A, B, and C of the Circuit Clerk of Cook County charges, March 29, 2005 to March 28, 2006.

Hundreds of young people are transferred to adult court in Illinois, but due to reforms, the number of youth transferred is declining.

Data on transfers to adult court are more accurate and more readily available than information on 17-year-olds who automatically end up in court. Starting in 1999, data on the automatic transfers to adult court became available through the Law Office of the Cook County Public Defender. The data showed that 66% of all automatic transfers were for non-violent drug crimes; all but one youth was a youth of color, and all but one was from the city of Chicago. The research showed that more than 60% of the youth had had no prior services in juvenile court, such as supervision or probation, before being automatically transferred to adult court. Whether they were youth charged with non-violent drug crimes or serious violent crimes, almost two-thirds had no prior services before the automatic transfer. Research over the next several years by the Juvenile Justice Initiative confirmed these findings. Virtually all youth automatically tried were youth of color. Sixty-six percent were tried for non-violent drug crimes, and two-thirds or more of the youth had had no prior services in juvenile court before being automatically transferred to the adult court.

In 1999, the data showed that 66% of all automatic transfers were for non-violent drug crimes; all but one youth were youth of color, and all but one were from the city of Chicago.

Based on this research, several rounds of changes were made to the automatic transfer laws. This has substantially reduced the number of youth entering the adult system via automatic transfer. Approximately 150 youth under age 17 are automatically transferred to adult court each year, down from well over 400 per year as late as 2004. Currently, the majority of these youth are tried in adult court for violent offenses, but there are some cases of non-violent offenses being automatically charged in adult court. Throughout the state, fewer than 100 youth are transferred each year via a juvenile court judge and a discretionary hearing.⁶ Outside of Cook County, very few automatic transfers occur. In fact, in 2001, fewer than 25 transfers were reported to the Administrative Office of the Illinois Courts from all other counties other than Cook. When each case was analyzed further, only 14 of these cases were actual automatic transfers.

Judicial waivers in the form of discretionary, presumptive, or mandatory transfers also occur in Illinois, but they account for a much smaller number of youth in the adult court system. Cook County reported 52 discretionary transfers in 1998, while the other counties in Illinois reported 41. In 2003, all counties outside of Cook reported 10

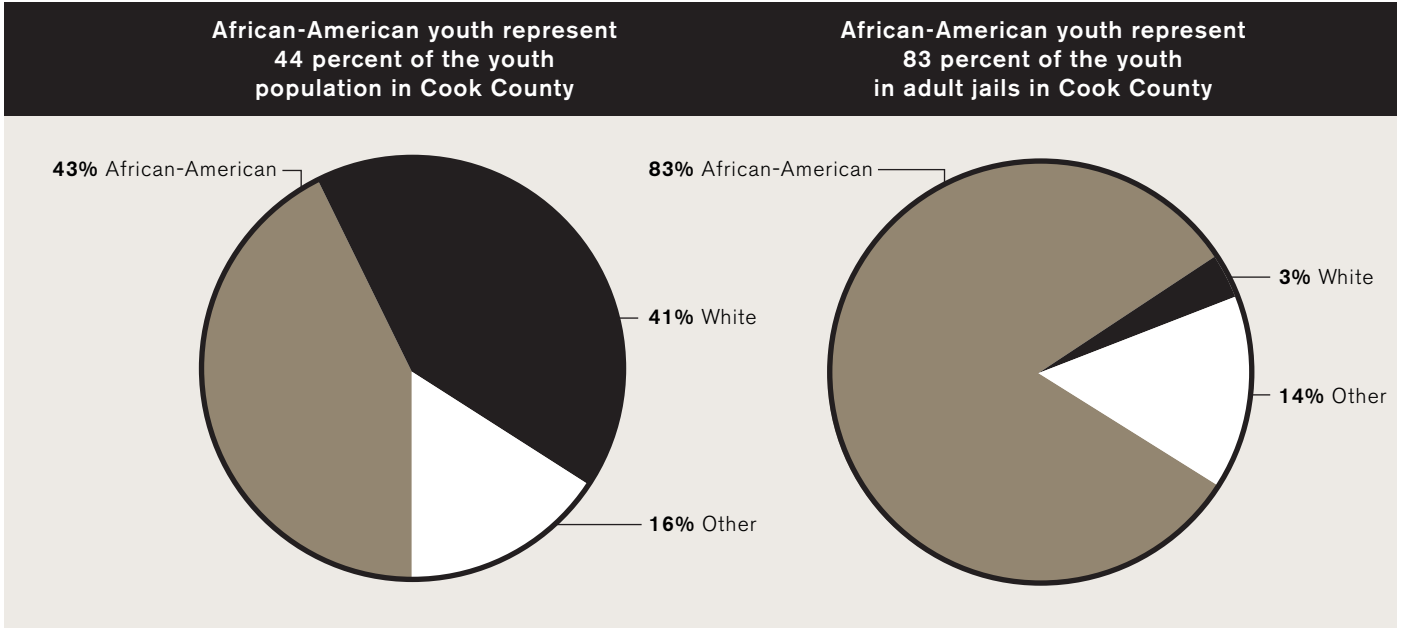
discretionary transfers and 25 automatic transfers.⁷ However, it is unclear if these data are accurate. Since the laws on transfer are so complicated and easily misunderstood, it is unclear if officials reporting the transfers know how to classify each transfer.

In Illinois, youth of color are about a third of the youth population, but have represented nine out of 10 young people in the adult system.

Although prior to the reforms to the state's transfer laws data were not available to show the disproportionate impact statewide, there are data on Cook County. Over a three-year period (2000-2002), 99% of the youth automatically transferred to adult court in Cook County were African-American or Latino.

According to the Justice Department's analysis of Census data, in 2004 approximately 19% of Illinois youth aged 17 were African-American and 16% were Latino.⁸ Although racial and ethnic information on 17-year-olds in the adult court system statewide is not available, a picture of 17-year-olds in the Cook County Jail reveals disproportionate representation of youth of color. White youth (defined as "Caucasian") represent 48% of the youth population⁹ in Cook County, but 3% of the youth jailed in Cook County on a given day are white. African-Americans represent 44% of the youth population in Cook County, but they constitute 83% of the youth jailed.¹⁰ Youth defined as Latino represent 14% of the young people jailed in Cook County. This means that 97% of the youth in the jail are non-white.

Source: Juvenile Justice Initiative analysis of data from the U.S. Census and the Cook County Jail conducted for July 3, 2006.



YOUNG PEOPLE AND FAMILIES AFFECTED BY ILLINOIS' LAWS

“Armed robbery” of gym clothes lands Keith Pearl in jail and puts an adult conviction on his record.

Keith Pearl was 17 years old when he was arrested for two counts of armed robbery and one count of attempted armed robbery. The incident involved three young people who were charged with taking two pairs of gym shoes, two white tee-shirts, two silver-colored chains, and six pairs of socks.

Pearl was charged under a theory of accountability; he never had possession or use of a weapon, nor was he an active participant in the robbery. According to Pearl, he was in the

wrong place at the wrong time. Pearl was the only “offender” apprehended, and he had no weapon and none of the stolen objects in his possession when he was arrested minutes after the robbery. He pled to one count of robbery, was placed on probation, and now has a felony conviction permanently on his record. Had Pearl gone to trial and been convicted for the original charge, he would have faced a mandatory minimum of six years in the penitentiary. Pearl had no previous arrests in either the juvenile or the adult criminal justice system. As a result of the charge, he was detained at the Cook County Jail for several weeks.

Pearl is the oldest of two children who were raised by their maternal grandmother. He has strong support from his immediate and extended family who attended all scheduled court dates. He has now graduated from high school and has every intention of attending college. Pearl was a junior deacon in his church and an active member of the youth group and youth choir. He is an avid basketball player who spends much of his spare time playing in organized sports in the community and at the youth center near his home.

As part of the legal representation, Pearl’s lawyers solicited input from school and church officials who interacted with him on a regular basis. His pastor said that he had always known Pearl to be “an honest and good young man.” His teachers all saw him as motivated, with great potential. In order to make up the several weeks he missed while he was in jail on this charge, he went to night school in addition to his day classes. He made up the credits and graduated on time.

The judge in this case was very impressed by the motivation and potential of this young man, but the sentencing options of the charges and the position of the state’s attorney’s office prevented him from modifying the sentence. The impact of the felony conviction on the rest of his life continues to unfold. As a result of this conviction, Pearl’s ability to get student loans will be extremely compromised, as will his job opportunities upon graduation.

WHAT ARE THE POLICY OPTIONS IN ILLINOIS?

Over the past few years, the tide has shifted dramatically in Illinois’ juvenile justice policy. Legislation has been enacted to reform the transfer laws and to create a new Department of Juvenile Justice. The Legislature also has passed a bill to raise the age of majority to 18.

Reforming the automatic transfer laws.

Beginning in 2001, the Illinois Legislature began reviewing the automatic transfer laws. With evidence that the policies had a much greater impact on youth of color from inner-city Chicago and that these policies resulted in mostly non-violent drug offenders being automatically transferred to the adult court without a hearing in front of a judge, the Legislature began considering a number of bills to change the automatic transfer statutes.

At first, there was some resistance to change within the prosecution community. But by 2003, the Illinois Legislature began a series of steps to create a positive change in the transfer laws. The first change allowed a reverse waiver for drug offenders automatically tried in the adult court. Youth charged with certain drug crimes were allowed to petition the adult court judges to transfer them back to juvenile court. The bill was sponsored by Senator Ed Petka, a Republican, pro-prosecution legislator, who was referred to as “Electric Ed”¹¹ for his pro-death penalty stance.

But legislators and advocates claimed the 2003 reverse waiver reforms did not significantly affect the number of youth ending up in the adult system. To find consensus for deeper reforms, the Legislature created a Task Force on Transfer in 2004. This task force was co-chaired by Senator John Cullerton and Representative Annazette Collins. Public hearings were held over the summer and fall of 2004 and discussions about

Over the past few years, the tide has shifted dramatically in Illinois’ juvenile justice policy. Legislation has been enacted to reform the transfer laws and to create a new Department of Juvenile Justice. The Legislature also has passed a bill to raise the age of juvenile court jurisdiction to 18.

possible changes were held in the spring of 2005. During these hearings, legislators learned about new research on the brain and adolescent development.

The outcome of the bi-partisan Task Force was more change to the transfer statute, including a return of drug offenders to juvenile court. It also clarified and corrected some inconsistencies in discretionary and presumptive transfer statutes and extended jurisdiction juvenile statutes. Although the reforms allowed more youth to have individualized hearings in front of a juvenile court judge, it did not allow youth eligible for transfer an individualized review. The Task Force also did not address raising the age of juvenile court jurisdiction to 18. In August 2005, Public Act 94-0574, allowing the changes to the transfer statute, was signed into law. By all accounts, this has lessened the number of youth automatically transferred by almost two-thirds.

Raising the age of juvenile court jurisdiction to 18.

While the changes to the transfer statutes were happening, there was also legislation proposed to raise the age of juvenile court jurisdiction to 18. In 2004, a bill passed the House of Representatives with a sizable margin of victory and bi-partisan support. Interestingly, Representative Bill Black, a conservative out of downstate Illinois, was quoted on the House floor as saying, "I don't understand why anyone would oppose this bill. I think it is a common-sense measure."¹² This particular bill was not called in the Senate that year.

In 2005, a "raise the age" bill was introduced in the Senate, S. 458. It passed the Senate with bi-partisan support. The main opposition came from the Department of Corrections and Cook County. They claimed that the fiscal impact of this reform would be too great, particularly in Cook County. Indeed, symbolic of the new policy consensus around having developmentally appropriate, individually tailored juvenile justice policies, the only major concern has been that there will not be enough resources to service all youth. Legislators and local government were mainly concerned about costs. Despite these concerns, the Senate still passed the bill, with Senator Cullerton noting, "because it is the right thing to do."¹³

Will "raising the age" have a large fiscal impact on Illinois counties?

Throughout 2006, researchers, legislators, and advocates have been working to get a clear sense of the true fiscal impact of raising the age, so that appropriate resources can be allocated to local and state government to help with the changes. Some legislators have said, "The problem now is inconsistency with the law. We should change it now and deal with the dollars later. We won't give new allocations before we actually change the law."¹⁵ Local legislators have raised the biggest concerns. The Cook County Board of Commissioners' Legislative Committee held a hearing in April 2005 regarding S. 458 where it was clear that the commissioners wanted to see the change but had concerns about the fiscal impact. Because of these concerns, by November 2006 the County Board had changed its position on the bill to neutral.

The concern over the potential costs of raising the age of majority in Illinois does not fully account for the savings that would come from the lower recidivism rates, lower crime rates, and the increased economic productivity of young people who successfully leave a life of crime behind them. Although there is research from other states demonstrating that young people tried as adult recidivate at higher rates, Illinois does not collect the kind of data needed to make projections of the fiscal impact of these rates. Still, stakeholders know that raising the age will help reduce crime, and hence reduce the costs associated with higher crime rates. Judge George Timberlake, Chief Judge of the 2nd Judicial Circuit in Illinois, has said that, "If you want to reduce crime in our society, then it makes much more sense to include 17-year-olds in the classification of juvenile court."¹⁶

S. 458 failed to pass in the House in 2006. Like the reform to the transfer statutes, Illinois policy debate around the age of jurisdiction may take more time to come to conclusion. Legislators who have spoken out against the bill say they are only concerned about costs.

"Using 17-years-old as the cutoff in Illinois was an arbitrary number. With all of the research that we now have regarding juveniles, the juvenile court should be given jurisdiction for 17-year-olds." Judge Curtis Heaston, presiding judge of the Juvenile Justice Division, Cook County.¹⁴

Most stakeholders claim that they would like to see 17-year-olds in the juvenile court, but they do not want a bill to pass without appropriate funding. But legislators prefer to pass the bill first and then, once there is an actual fiscal impact, provide funding at that time. There are plans to reintroduce another bill to raise the age of juvenile court jurisdiction in the spring of 2007.

ILLINOIS RECOMMENDATIONS

Although Illinois is a leader in reforming adultification of youth statutes, it can do more. With further reform, Illinois can reform the juvenile court so more youth will benefit from juvenile court services and avoid the consequences of adult convictions.

- **Raise the age for 17-year-olds.**

If passed, 17-year-olds will benefit from juvenile court services and communities will be safer, because youth with more treatment have lower recidivism rates.

- **Allow all youth individualized discretion in terms of transfer.**

All youth who are transferred to adult court should have a neutral party or judge make the decision on transfer. This would ideally be done by a judge familiar with adolescent development.

- **Review sentences in adult court for youth.**

Although the adult court is about punishment and adult consequences, the system needs to review the length of sentences for youth in adult court to make sure that they are age-appropriate.

- **Provide appropriate rehabilitative services in juvenile court.**

As the juvenile court changes with a new Department of Juvenile Justice and as the changes to the automatic transfer laws return more youth to the juvenile court, it is imperative that the juvenile court provide rehabilitative services to these youth so that they have opportunities to improve their lives.

NOTES

¹ Since 1906, boys age 17 have been tried automatically as adults, and in 1973, after a legal challenge based on 'equal protection' issues, girls 17 years of age were treated automatically as adults.

² National Center for Juvenile Justice. (2006). *State juvenile justice profiles*. Pittsburgh, PA: Author. Retrieved January 28, 2007, from <http://www.ncjj.org/stateprofiles/>

³ 705 ILCS 405/5-130.

⁴ The number of 17-year-olds charged in adult court statewide is not available. Data do show that 10,183 youth age 16 were arrested in Cook County in 2003, and 5,135 youth age 16 were arrested in the other 101 counties in the state. According to the National Center for Juvenile Justice, 17-year-olds are arrested at approximately 112% of the number of 16-year-olds, and 102% over the number of cases for 16-year-olds. Although there would be some variation in arrest patterns between ages, the volume of juvenile arrests would increase much more for some offenses than for others, and the differences would cancel each other out. For example, because 17-year-olds have more access to cars and alcohol than younger juveniles, the largest percentage increase would be in juvenile arrests for driving under the influence—226%. See Snyder, H., Sickmund, M., Puzanchera, C., & Griffin, P. (2005, April 27). *Background briefing paper: The impact of raising the upper age of juvenile court jurisdiction from 16 to 17*. Pittsburgh, PA: National Center for Juvenile Justice.

⁵ Analysis of Juvenile Justice Initiative of Illinois review of Judicial Advisory Council memorandum, April 2006. Exhibits A, B, and

C of the Circuit Clerk of Cook County charges, March 29, 2005 to March 28, 2006.

⁶ Lan, Y. A., Hughes, E., & Stevenson, P. (March 2006). *Juvenile justice system and risk factor data for Illinois: 2003 annual report*. Chicago, IL: Illinois Juvenile Justice Commission, Illinois Criminal Justice Information Authority.

⁷ Ibid.

⁸ Puzanchera, C., Finnegan, T., & Kang, W. (2006). *Easy access to juvenile populations*. Retrieved January 28, 2007, from <http://www.ojdp.ncjrs.org/ojstatbb/ezapop/>

⁹ Ages 10 to 19 in Cook County in 2003.

¹⁰ Juvenile Justice Initiative analysis of data from the U.S. Census and the Cook County Jail conducted for July 3, 2006.

¹¹ Collar County endorsements [Editorial]. (2006, November 2). *The Chicago Tribune*.

¹² House Bill 4610, House Floor Debate, Final Action, March 25, 2004.

¹³ Senate Bill 458, Senate Floor Debate, Final Action, April 14, 2005.

¹⁴ Juvenile Justice Initiative of Illinois. (2006, October 19).

Dialogue highlights imperative to recognize developmental differences with kids. Senate Bill 458 reflects current science, brings Illinois in line with majority of states (Press Release). Chicago, IL: Author.

¹⁵ Discussion on raising the age of juvenile court jurisdiction, Northwestern University School of Law, October 13, 2006.

¹⁶ See Juvenile Justice Initiative of Illinois, 14.