

A CAPITAL OFFENSE: Youth In DC's Adult Criminal Justice System and Strategies for Reform

INTRODUCTION

In the early 1990s, as a result of the Central Park Jogger case, prominent and influential individuals, such as former Princeton professor and Bush Administration appointee, John Di Lulio, made doom and gloom predictions about the emergence of a “generational wolfpack” of “fatherless, Godless and jobless” youth. This super-predator phrase stuck and almost every state passed new laws to make it easier to try and sentence youth in the adult criminal justice system. Some researchers estimate that as many as 200,000 youth are prosecuted as adults every year. As recognized even by the United States Department of Justice, 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 report is designed to help policymakers understand the full impact of these policies in the District of Columbia.

ABOUT THE ORGANIZATIONS

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.

The Justice 4 DC Youth! Coalition

The Justice 4 DC Youth! (JDCY) is a coalition of youth, youth organizers, advocates, parents, artists, and concerned citizens working for a more effective youth justice system in Washington, DC. Established in 2001, JDCY’s mission is to advocate for a more fair and effective youth justice system that provides a continuum of community-based programs and reduces the city’s reliance on incarceration as a response to juvenile delinquency.

DEDICATION

This report is dedicated to the youth and their families in the District of Columbia who have been affected negatively by DC’s practice and policy in the name of public safety.

ACKNOWLEDGMENTS

The Campaign for Youth Justice and the Justice 4 DC Youth! Coalition 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, the Hill-Snowdon Foundation, the Butler Family Fund, the Moriah Fund, the DC Children and Youth Investment Trust, and individual anonymous donors.

The Campaign for Youth Justice and the Justice 4 DC Youth! Coalition also would like to acknowledge the work of many individuals and organizations who contributed to this report.

Organizations:

DC Department of Corrections
DC Department of Youth Rehabilitation Services
DC Public Defender Service
DC Sentencing Commission
Free Minds Book Club & Writing Workshop
Justice Policy Institute
National Council on Crime and Delinquency
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NATIONAL CONTEXT

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

#1 Large numbers of youth enter the adult court system annually.

Although estimates range on the number of youth prosecuted in adult court nationally, some researchers believe that as many as 200,000 youth are prosecuted as adults each year.¹

#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.² The District of Columbia is no exception. Additionally, according to the National Council on Crime and Delinquency, since 1990 the incarceration of youth in adult jails has increased 208%.³ On any given day, more than 7,000 young people are held in adult jails.⁴ This policy places thousands of young people at risk as it is extremely difficult to keep youth safe in adult jails. Furthermore, in one study, researchers found that in nearly one-third of the jurisdictions examined, fewer than half of the juveniles held in adult jail were eventually convicted.⁵

#3 The number of youth in adult prison is also increasing.

On any given day, more than 2,000 youth are in adult prisons and between 2005 – 2006, the number of youth increased by 7%.⁶ 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.”⁷

#4 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.⁸

#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 a poll conducted by the National Council on Crime and Delinquency (NCCD), 72% of those surveyed believed that the decision to try a person under age 18 in the criminal justice system is best made by a juvenile court judge as part of a formal hearing,⁹ but in most instances juvenile court judges do not make this decision.¹⁰ This is despite the fact that a juvenile court judge is a neutral player who is in the best position to investigate the facts and make such a critical choice.

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

Access to a lawyer can be the difference between whether a youth is prosecuted as an adult or as a juvenile by the justice system. Forty years ago, *In re Gault* declared that children in the juvenile justice system have the right to an attorney – a promise that remains unfulfilled for many youth.¹¹

#7 Youth of color are disproportionately affected by these policies.

A recent report by the National Council on Crime and Delinquency, *And Justice for Some*, finds that, “[i]n 2002, an estimated 4100 new admissions to adult prisons involved children under the age of 18. Three out of four of these admissions were youth of color.”¹² At every step of the process, youth of color are disproportionately affected and this inequity is most adverse at the “transfer” stage.

#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.¹³

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#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 or recidivism rates.

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.¹⁴ Another study 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.¹⁵

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

The Supreme Court’s 2005 decision in *Roper v. Simmons*¹⁶ 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 20s. 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 full 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.¹⁷ 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, and in the District of Columbia there is no single city agency that collects and tracks this information locally. 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 in 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.¹⁸ 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 U.S. 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. In the District of Columbia, the DC City Council is re-examining the city’s policies by directing a study to examine the feasibility of placing 16- and 17-year-olds now charged as adults in the juvenile system and through hearings on services that could be provided to youth in the juvenile justice system as an alternative to the adult criminal justice system.

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#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, including Arizona, Virginia, Connecticut, and Illinois, have already begun to re-examine their state statutes and in some cases have implemented policy changes. In Connecticut the governor just approved legislation to end the practise of automatically prosecuting 16 & 17 year olds as adults. In addition, those who have been most affected by these policies—youth, their parents, and their families—are speaking out, organizing, and educating national and state policymakers.

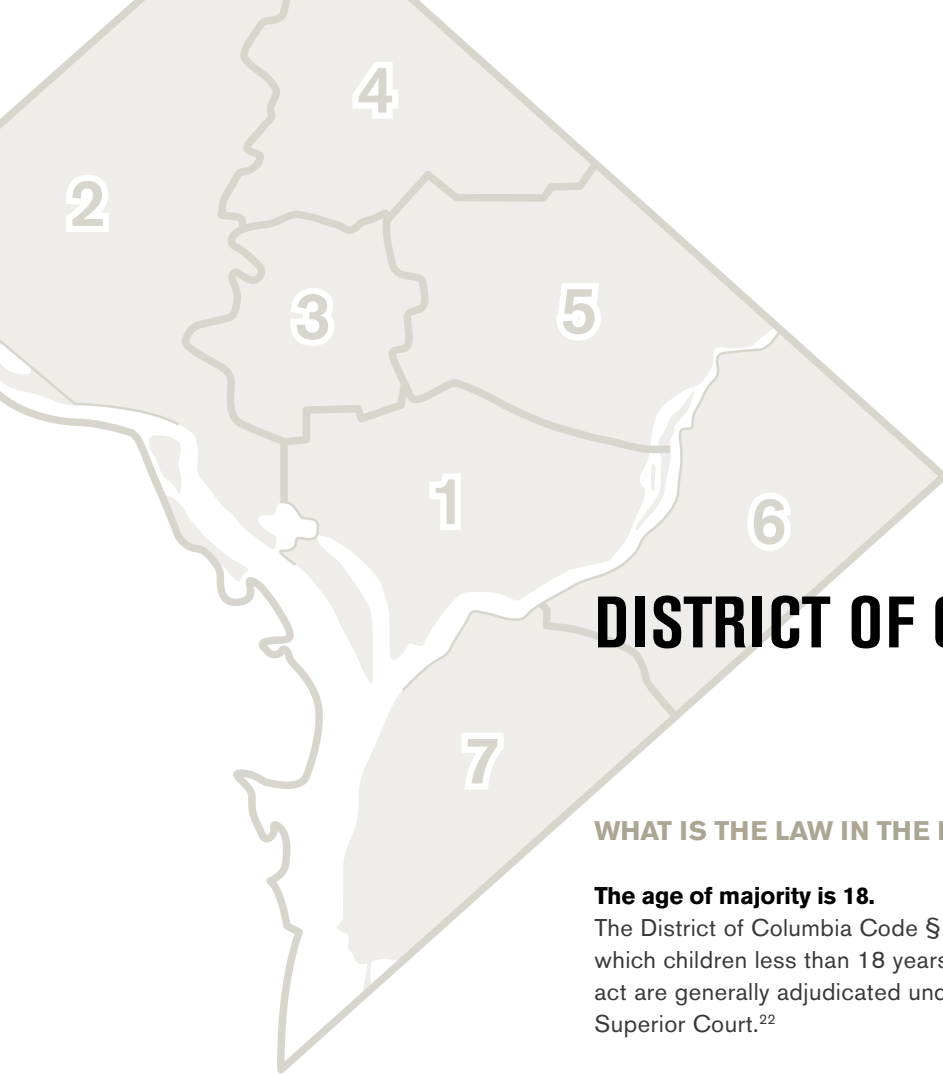
#3 When we invest in young people, they can succeed.

Researchers have not yet been able to quantify the benefits of helping individual youth in conflict with the law who may go on to make significant contributions to society. Some individuals who benefited directly from the rehabilitative nature of the juvenile court include Olympic Gold Medalist Bob Beamon, U.S. Senator Alan Simpson, and entertainer Ella Fitzgerald, all of whom may not have made the contributions they went on to make if they had been treated like adults.¹⁹

#4 The public strongly believes in rehabilitation and treatment, and opposes placing children in adult jails and prisons.

The National Council on Crime and Delinquency issued a report analyzing the attitudes of Americans on juvenile justice. 72% of those polled feel that incarcerating youth in adult correctional facilities leads to subsequent crime after release, and 89% either agree or strongly agree that rehabilitative services and treatment will help reduce crime.²⁰ Further, 67% feel that youth under age 18 should not be incarcerated in adult facilities.²¹

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DISTRICT OF COLUMBIA

WHAT IS THE LAW IN THE DISTRICT OF COLUMBIA?

The age of majority is 18.

The District of Columbia Code § 16-2301.02 created “a juvenile justice system” in which children less than 18 years old who are charged with committing a delinquent act are generally adjudicated under the jurisdiction of the Family Division of DC Superior Court.²²

The purpose of Section § 16-2301.02 is to create a juvenile justice system capable of dealing with the problem of juvenile delinquency, *a system that will treat children as children in all phases of their involvement* while protecting the needs of communities and victims alike. In furtherance of this purpose, the following goals have been established for delinquency cases in the Family Court:

- (1) To provide due process through which juveniles and all other interested parties are assured fair hearings, during which applicable constitutional and other legal rights are recognized and enforced;
- (2) To promote youth development and prevent delinquency through early intervention, diversion, and community-based alternatives;
- (3) To preserve and strengthen families whenever possible and to remove a child from the custody of the child's parents, guardian, or other custodian only when it is determined by the appropriate authority to be in the child's best interest or when necessary for the safety and protection of the public;
- (4) To hold a child found to be delinquent accountable for his or her actions, taking into consideration the child's age, education, mental and physical condition, background, and all other relevant factors;
- (5) To place a premium on the rehabilitation of children with the goal of creating productive citizens and to recognize that rehabilitation of children is inextricably connected to the well-being and strength of their families;

- (6) To serve children in their own neighborhood and communities whenever possible;
- (7) To hold the government accountable for the provision of reasonable rehabilitative services;
- (8) To provide for the safety of the public; and
- (9) To achieve the foregoing goals in the least restrictive settings necessary, with a preference at all times for the preservation of the family and the integration of parental, guardian, or custodial accountability and participation in treatment and counseling programs.²³

Children age 15 and older face criminal prosecution through judicial waiver if repeat offenders or if charged with a felony.

Within a specified amount of time, the Family Division's Corporation Counsel may request the "transfer of the child for criminal prosecution, if

- (1) the child was 15 or more years of age at the time of the conduct charged, and is alleged to have committed an act which would constitute a felony if committed by an adult;
- (2) the child is 16 or more years of age and is already under commitment to an agency or institution as a delinquent child;
- (3) a minor 18 years of age or older is alleged to have committed a delinquent act prior to having become 18 years of age; or
- (4) a child under 18 years of age is charged with the illegal possession or control of a firearm within 1000 feet of a public or private day care center, elementary school, vocational school, secondary school, college, junior college, or university, or any public swimming pool, playground, video arcade, or youth center, or an event sponsored by any of the above entities machines for amusement, and which contains a minimum of 10 pinball or video machines."²⁴

In addition, there is a "rebuttable presumption" that *children* aged 15 to 18 "should be transferred" to the Criminal Division "in the interests of public welfare and the protection of the public security" if charged with the following offenses:

- "(1) Murder, first-degree sexual abuse, burglary in the first degree, robbery while armed, or assault with intent to commit any such offense;
- (2) Any offense listed in paragraph (1) of this subsection and any other offense properly joinable with such an offense;
- (3) Any crime committed with a firearm; or
- (4) Any offense that if the child were charged as an adult would constitute a violent felony and the child has three or more prior delinquency adjudications."²⁵

Children age 16 and older face criminal prosecution through prosecutorial waiver if charged with a serious crime.

In addition, DC's juvenile justice system allows for unreviewable prosecutorial waiver by the U.S. Attorney of youth 16 and older if charged with "(i) murder, first-degree sexual abuse, burglary in the first degree, robbery while armed, or assault with intent to commit any such offense or (ii) an offense listed in clause (i) and any other offense properly joinable with such

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an offense.²⁶ In other words, because youth who are accused of these certain offenses are excepted from the definition of a “child” under the juvenile justice provisions, criminal prosecutors, at their own discretion and without any judicial review, can bypass the juvenile justice system completely.²⁷ Significantly, there is no “reverse waiver” provision in place that would allow for a juvenile’s case to be transferred back to juvenile court.

Once an adult, always an adult.

Once a child is transferred for criminal prosecution as an adult, the Family Division no longer has jurisdiction over the child for any *subsequent* delinquent act unless “(1) the criminal prosecution is terminated other than by a plea of guilty, a verdict of guilty, or a verdict of not guilty by reason of insanity, and (2) at the time of the termination of the criminal prosecution no indictment or information has been filed for criminal prosecution for an offense alleged to have been committed by the child subsequent to transfer.”²⁸

Young people who are tried as adults are held in the adult jail.

When a child enters the criminal justice system, either through a judicial waiver or as the result of a direct filing by the U.S. Attorney, the child is held under the jurisdiction of the DC Department of Corrections (DOC), which is the agency responsible for pretrial detention of adults. Accordingly, these youth await trial at the DC Detention Center also known as the “DC Jail”—the same facility that houses accused adults.

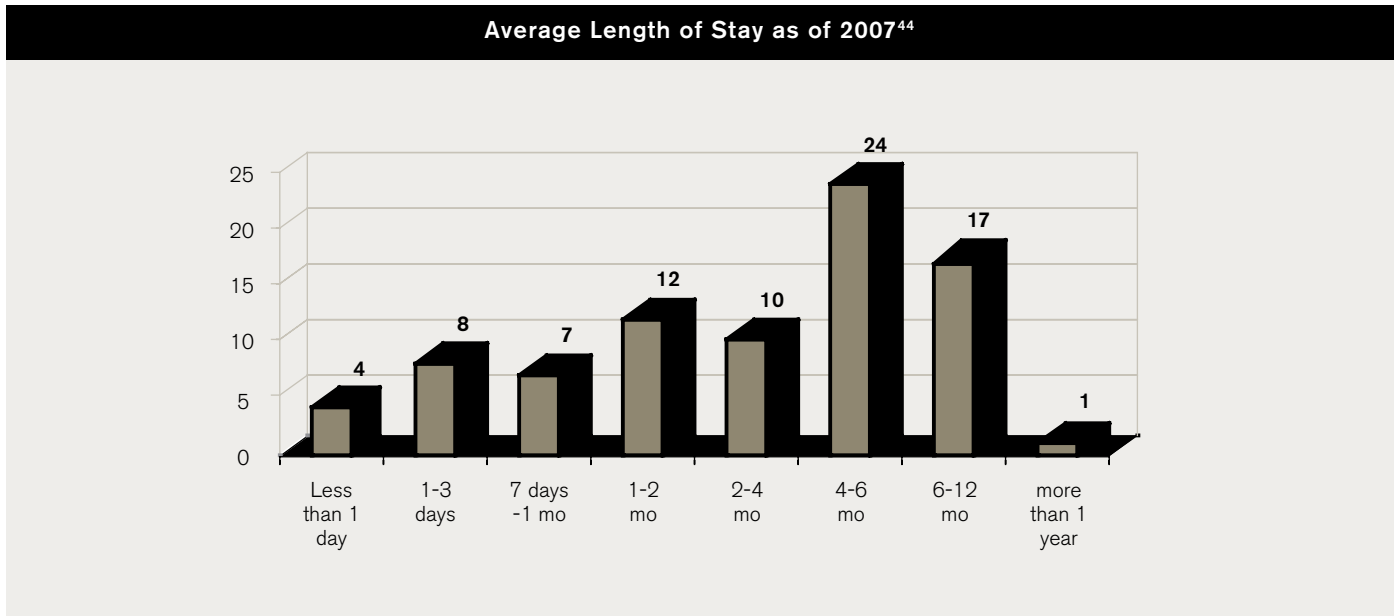
The DC Jail houses male youth in a separate wing from the adult male inmates. Girls are not separated from adult female inmates. One young woman has been held in DC Jail since August 2006, and since there is no separate wing for juvenile female offenders, she was spending 23 hours a day locked in her cell.²⁹ Furthermore, in a recent visit to the DC Jail, facility staff indicated that 14 of the 42 youth currently held in the jail are on administrative segregation, which means that they can spend as much as 23.5 hours a day, for 30 days at a time, in a segregated cell.³⁰ Youth on protective custody are also segregated from the rest of the juvenile population and may face the same constraints as those on administrative segregation.

There is very little programming for the youth at the facility and the facility’s physical makeup itself does not provide for recreational or programmatic space. Although one program, Free Minds Book Club & Writing Workshop, was recently featured on CNN³¹ and in the *Washington Post* as a national model, space limitations prevent Free Minds from hosting more than 12 to 14 youth for their book club each week.³² In addition, on a recent visit to the facility in May 2007, facility staff indicated that only 9 of the 42 youth currently residing at the facility were receiving educational programming in a classroom setting on a regular basis.³³ Spanish-speaking youth face additional challenges and have difficulty accessing the limited programming that is available for the other youth because of a dearth of English as a Second Language (ESL) programmatic availability.

While youth in DC are frequently held in the DC Jail while awaiting trial, other major metropolitan areas have resisted confining youth in adult facilities. For example, in Boston and Los Angeles, where youth may be held in adult facilities pre-trial under very limited circumstances, the practice is never to hold youth in adult facilities pre-trial. Even though under Massachusetts law, youth who are 14 to 17 years old and who have been charged with first or second degree murder may be held in adult facilities,³⁴ in practice no youth are held in adult jail.³⁵

Similarly, local law in Los Angeles provides for youth under 18 to be held in an adult facility if a judge finds that the youth would be a danger to the public or to other youth.³⁶ In practice, however, if such a designated youth is to be held prior to trial, the detention takes place at a juvenile facility, which means that regardless of the crime or the juvenile, no youth under the age of 18 are held in an adult facility pre-trial.³⁷

Youth charged as adults in DC await trial and sentencing in the DC Jail, where they may languish, without age-appropriate services, for lengthy periods of time. As of May 2007, 80 juveniles accounted for 99 different bookings and the average length of stay for juveniles in DC Jail was 100.5 days per booking.³⁸



Young people who are convicted as adults may be sentenced to an adult prison.

The DC Youth Rehabilitation Act governs the placement of youth offenders (as defined under the Act) who are committed as adults for manslaughter.³⁹ The Act provides that DC establish facilities for the “treatment and rehabilitation of youth offenders convicted of *misdemeanor* offenses.”⁴⁰ This provision is discretionary, however, which means that a judge can choose not to impose a Youth Rehabilitation Act sentence. Youth offenders convicted of felony offenses, including murder, are transferred to the jurisdiction of the Federal Bureau of Prisons.⁴¹

According to federal law, youth committed to the custody of the Attorney General, i.e., those youth convicted of felonies and sentenced either as adults or sentenced under the DC Youth Rehabilitation Act, are not permitted to have regular contact with adults convicted of criminal offenses or adults awaiting trial on criminal charges.⁴² However, the District of Columbia does not have a separate facility to permit youth to be kept separate from adults. Accordingly, for minors who have been convicted and sentenced as adults, the Federal Bureau of Prisons contracts with correctional facilities throughout the country that do have the ability to separate juveniles from adults.⁴³

WHO IS AFFECTED BY THE LAWS IN THE DISTRICT OF COLUMBIA?

Arrests

Youth represent a small portion of overall arrests and an even smaller portion of arrests for serious crime. In 2005, of the 51,574 total arrests in DC, 3,084 people younger than 18 years old were arrested, representing 5.9% of all arrests in FY 2005.⁴⁵ Of the 3,811 arrests for index crimes, arrests of juveniles under the age of 18 (566 juvenile arrests) represented 14.85% of all arrests for index crimes.⁴⁶ Of the 47,763 arrests in 2005 for non-index crimes, arrests of people younger than 18 years old (2,518 juvenile arrests) represented 5.7% of all arrests for non-indexed crimes.

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IN 2005, NON-VIOLENT CRIMES REPRESENTED SEVEN OF THE TOP 10 CRIMES FOR WHICH YOUTH WERE MOST OFTEN ARRESTED.

CRIME	Total Juvenile Arrests
Unauthorized use of a vehicle	509
Other misdemeanors	417
Other simple assaults	367
Drug abuse violations	326
Other felonies	290
Robbery/carjacking	226
Aggravated assault	199
Traffic violations	168
Weapons	161
Larceny/theft	93

Youth who are charged as adults await trial in the DC Jail, an adult facility. In 2007, the daily average number of youth held in the jail has consistently been two to three times the number of youth held in 2006. In May alone, there were 42 youth awaiting trial, sentencing, or placement in the DC Jail.

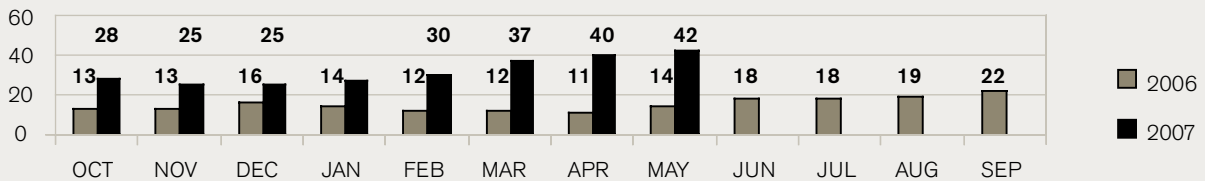
Youth in adult court

There are two ways in which youth in DC can be tried and sentenced in the adult system. The first is through a transfer hearing in which a *judicial officer* determines whether a child warrants prosecution as an adult. The second is through “direct filing” of a complaint against the youth by the Office of the United States Attorney (USAO). These direct filings can occur when a youth aged 16 or older is charged with murder, first-degree sexual assault, burglary in the first degree, armed robbery, assault with the intent to commit only the foregoing offenses, or any of the foregoing offenses and any other offense properly joinable with those offenses.⁴⁷ Unlike in a transfer hearing, there are no enumerated factors statutorily deemed relevant to the decision, and this decision is not judicially reviewable. It appears that in DC over the past eight years, the USAO charges as adults every 16- to 18-year-old who is alleged to have committed one of the offenses enumerated.⁴⁸ While these data are preliminary, they suggest that the USAO may not be exercising discretion in charging youth aged 16 to 18 in the adult system, but applies a blanket policy that does not take into consideration the individual needs and circumstances of youthful offenders.

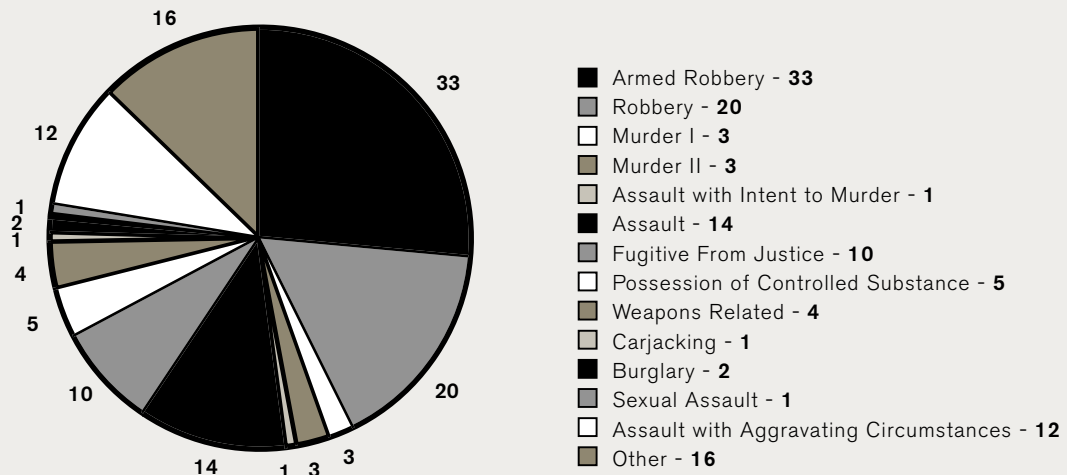
Youth awaiting trial in DC Jail

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Average Daily Juveniles in Custody



Offenses of Youth Held At DC Jail in 2007⁵⁰



Sentencing outcomes

The DC Public Defender Service reviewed 27 homicide⁵¹ cases from the past eight years in which the Office of the United States Attorney prosecuted 16- and 17-year-olds as adults. It found that three of the 27 cases ended in acquittals and three ended in dismissals. In 11 additional cases where the youth was charged with first- or second-degree murder, the client was convicted, whether after trial or plea, of offense(s) other than first- or second-degree murder. Furthermore, in at least five of the 21 cases that resulted in some sort of conviction, sentences were imposed under the Youth Rehabilitation Act, which is significant because implicit in such a sentence is a judicial finding that the accused shows prospects of rehabilitation.⁵²

Youth sent to adult prison

Youth under age 18 who are charged as adults are generally held in the DC Jail until they are tried and sentenced. If sentenced to incarceration, these youth come under the custody of the Federal Bureau of Prisons (BOP).⁵³ The BOP has a policy of contracting with states to place sentenced youth in juvenile facilities until they turn 18, at which time they are moved to adult prison.⁵⁴ The data suggest that many youth who are sentenced short of their 18th birthday are held at the DC Jail until they turn 18 so that they can be placed directly in an adult prison rather than first going to a juvenile facility. Although the BOP tries to place youth in facilities close to their homes, the availability of space in a given facility often determines that youth are placed at great distances from their families and homes.⁵⁵

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YOUNG PEOPLE AND FAMILIES AFFECTED BY DC'S LAWS

Free Minds Book Club & Writing Workshop At The DC Jail

The idea for Free Minds began with an unsolicited letter from a stranger. In 1996, founder and executive director, Kelli Taylor, was working as a journalist when she received a letter from Glen McGinnis, a young inmate on Texas' death row. At that time, Glen had been incarcerated for more than five years for a crime committed when he was 17 years old. In response to this contact, Kelli produced a television documentary about Glen and other juveniles on death row in America. After the program aired, she continued to correspond with Glen over the next four years and ultimately participated in his remarkable journey of personal and educational growth. Books sent to him in prison provided the perfect common ground where two individuals from very different backgrounds could meet and their lives could be transformed. While Glen's formal education ended at the age of 11, reading and writing opened up a whole new world of knowledge and possibility to him during his incarceration. Glen's execution in 2000 was a catalyst for action. In 2002, Kelli and her colleague Tara Libert founded the Free Minds Book Club & Writing Workshop and committed themselves to introducing at-risk teens at the DC Jail to the life-changing power of reading and writing.

Free Minds began as a biweekly program for young inmates held in the DC Jail. As members were released or transferred to federal prison after turning 18, Kelli and Tara recognized that maintaining contact throughout incarceration and beyond was vital to helping these youth redirect their lives positively. Over the past four years, Free Minds has expanded its services to include a weekly Book Club Program, a Continuing Support Program that provides new books and written correspondence to members after transfer to federal prison, and a Reentry Support Program that connects released members to the people, programs, and services in the community that will help them achieve their new educational and career goals.

Each year for the past four years, Free Minds has served an average of 60 male juveniles who are charged and incarcerated as adults at the DC Jail each year. Ninety-two percent are African American and eight percent are Latino. The majority come from the city's most crime-stricken neighborhoods, where nearly half of the children live below the poverty rate. At 16 and 17 years old, they read on average at a fifth-grade level and most have already dropped out of or disengaged from school. More than half of the youth served by Free Minds also have parents or other close family members who have been incarcerated, and a majority already has children themselves. Juveniles who are incarcerated as adults are at extremely high risk for future violent criminal activity. At the same time, access to educational programs while incarcerated has proven to reduce recidivism. By reaching these youth at this critical juncture and exciting them about learning, Free Minds motivates these young men to pursue positive new directions for their futures. Since its inception, Free Minds has reached nearly 200 youth through its Book Club, Continuing Support, and Reentry Programs.

Free Minds is run by Kelli Taylor and Tara Libert. Kelli Taylor is the executive director and program coordinator. Before starting Free Minds Book Club & Writing Workshop, Kelli worked for 12 years as a television news and documentary producer. From 1998 – 2002, she served as a trained volunteer for Offender Aid and Restoration, mentoring and sharing literature with young inmates at the Arlington County Jail. She is an experienced book club facilitator for the Great Book Foundation's Junior Great Books program in Arlington County schools, which uses a proven curriculum to help students develop essential literacy skills. Kelli is a member of the DC Department of Corrections LINCS (Linking Institutions, Neighborhoods, and Community Services Together) Reentry Program for ex-offenders. As executive director of Free Minds, Kelli is co-coordinator of the Book Club and Reentry Programs and director of the Continuing Support Program.

Tara Libert is the deputy director and program coordinator. Tara is an award-winning radio and television news and documentary producer. Since 1990, she has produced numerous features on U.S. criminal justice issues for foreign broadcasters, including a special series on incarcerated juveniles in Baton Rouge, Louisiana. In 2000, Tara began volunteering with Georgetown University's Family Literacy program, tutoring incarcerated parents at DC's Central Treatment Facility in literacy skills and teaching them how to share a love of reading with their young children. She is trained as a tutor with the Literacy Volunteers of America and currently serves as a mediator/facilitator in alternative dispute resolution for juveniles at the Community Conferencing Center in Montgomery County, Maryland. In her role as deputy director of Free Minds, Tara is co-coordinator of the Book Club and Reentry Programs and leads Free Minds' outreach and education efforts.

Additional information on Free Minds can be found at www.freemindsbookclub.org

Wilbert

By the time Wilbert was 13 years old, his parents were often fighting so much that he avoided being home. He also had a five-year history of being a known troublemaker in school. He was skipping school and was often suspended for misbehaving, fighting, or using drugs. "I was one of the students that couldn't be trusted," he says. "I didn't see the point of school. My family didn't go to school, so why did I have to?" At 15 years old, disinterested in school and avoiding his home, Wilbert dropped out of school and with the help of his older brother, found his place to belong in Washington, DC's inner-city streets.

Wilbert says he no longer had hopes for his future by the time he turned 16 years old. He was soon arrested and charged as an adult. He was detained in the DC Jail's juvenile block. "I did not realize that you could be charged as an adult before you turned 18," he says. In jail, he was put on a work detail, which he considers a privilege, and participated in the jail's group counseling sessions. He also used the jail's weekly education program to study for his GED. "We still sat around a lot," he says. "I used to live just day to day with no goals or expectations. Jail was mentally hard, but it made me think about who I was and what I wanted for myself."

Wilbert also joined the Free Minds Book Club & Writing Workshop at the DC Jail. The experience changed his perspective. "Writing poetry helped me to relieve the stress and anger I felt about my family and my childhood." Writing poetry also helped him reconsider his self image. He describes the first time he read one of his poems to the group: "I was surprised because everybody started clapping. That made me feel good about myself." Free Minds also showed him that adults cared about him. He grew to value and trust the guidance provided by the program. "They're good people who took the time to help me out." Wilbert's favorite book is *My Bloody Life*, the autobiography of former gang member, Reymundo Sanchez. "Even though I used to read before, because of Free Minds I read more now and it stays in my head," he says.

In August 2005, just before his 18th birthday and after spending one year detained in the DC Jail, Wilbert appeared before a judge for sentencing. Wilbert remembers the night before his sentencing trying to accept the likelihood that he would spend much more time in prison. During his sentencing, the judge read one of Wilbert's poems out loud before sentencing him as a juvenile to five years probation. Rather than returning to jail to be transferred to the adult block on his 18th birthday, Wilbert was surprised and relieved to be released. "I knew that life would be harder on the adult block," he says. "You don't want to turn 18 in there."

Wilbert discusses a positive lesson he learned from the year he spent in the DC Jail. "Out of 32 guys on the juvenile block, I was one of only two Hispanics. For a while I was the only one. So I got to know the other [Hispanic] guy. We started out rivals, but we got to be friends and supported each other. I got a friend out of an enemy."

After being released, "I didn't know where to start," Wilbert says. Free Minds immediately met with him to discuss his goals of returning to school and staying out of trouble. After visiting three alternative education options with people from Free Minds, Wilbert was accepted into the Latin American Youth Center's YouthBuild program. After six months, Wilbert had his GED and an apprenticeship working construction for Miller and Long. Perhaps more important, he says the program helped build up his self-esteem.

"I got stuck after finishing the YouthBuild program," Wilbert says. "I didn't know what to do next." Again, Free Minds was there to help Wilbert consider his options. He decided he wanted to go to college. Free Minds helped him apply to colleges and for scholarships, which resulted in a scholarship to attend the University of the District of Columbia. Now

"I did not realize that you could be charged as an adult before you turned 18"

"I knew that life would be harder on the adult block. You don't want to turn 18 in there."

studying to become a mechanical engineer, Wilbert maintains a 3.0 grade point average while also working a part-time job. Wilbert continues to participate in Free Minds. In April 2006, his father attended the Free Minds Third Annual Poetry Reading. "One of the poems was about my dad," he explains. "It was the first time I was able to express my feelings about him to him."

Enough Said

by Will

*maybe words are not enough anymore
the steps fail to succeed on the dance floor
asking myself, what did i say?
askin did my heart i trade?
anger of my mental being
siempre sufiredo por la gente que no me conocia
left to right
that's how my blood boils up inside
always waiting for that moment
that it will lock like a pitbull's bite
keep 'em coming because you always win some
the ones that you lose, those are your demons
my life may never change
or maybe this is one of the suicidal phases
maybe my father
took out too much depression on me
too much my thoughts could see and feed
my birthdays meant nothing
make your own money and give yourself something
yes, it's hard sometimes to accept your failure
but its harder to talk to a 007 silencer*

"I want to get a good job and be able to say that tomorrow is going to be a good day."

When asked about his future, Wilbert says he wants to finish college. "I want to get a good job and be able to say that tomorrow is going to be a good day."

LJ

Before his incarceration, LJ Sharp had already attended six different high schools by the 11th grade. He often found himself bored at school and stopped attending, which led to his expulsion. LJ's mother died when he was five years old. His father, a native of Trinidad, raised LJ, his older sister, and his younger brother.

LJ was arrested and charged as an adult in March 2005. He served nearly two years at the DC Jail and the Montgomery County Detention Facility. At the jail, he began attending Free Minds Book Club and became very excited and motivated to pursue his education. He requested a GED study book which he worked on daily. In Montgomery County, he continued reading and studying, and he received his GED. A talented artist, LJ decided he would pursue a career in architecture.

LJ was released in February 2007. He began looking for a job and interviewed for a paid internship with the National Juvenile Defender Center. He was offered the position the very same day. For three months he has worked extensively on the Center's youth outreach campaign, visiting schools and developing materials that inform youth of their legal rights. The internship concludes at the end of this month. LJ will again be looking for a job and hopes to attend college next fall.

Five

by LJ Sharp

*I am five
My father calls me L.J.
I hear yelling and screaming
I'm laying on the bed
Trying to figure out what's going on
In my blue, red and white p.j.'s
My father holding me, telling me don't worry
Everything's going to be O.K.
My mother meant the world to me
I feel lost
I am just five*

Trapped

by LJ Sharp (November 9, 2005)

*Everything is moving so fast and I can't keep up
If I can get through this it will be just my luck
Sometimes I think about my situation and what can I do?
I contemplate a lot and still I have no clue
I had a future full of plans, dreams and goals
Now it's like they are trying to conceal my soul
Sometimes I feel like I'm all alone
And at times I try not to get too comfortable, like this is home
Sometimes I wish I can roll over and this just be a dream
But when the truth set in everything is not what it seem
These are my consequences from the way I acted
Now I do what I'm told and can't help the feeling of being trapped*

Demetrius

Demetrius grew up in a DC neighborhood where drug dealers work the blocks and violence is a part of daily life. He smoked marijuana and stayed out late with his friends because he was avoiding his home where his parents often fought. As a result, he fell behind in school, so far behind that he felt he'd never catch up. In the ninth grade, he dropped out. Demetrius explains: "I had no positive goals for my life then."

In 2003, unaware that under-18 youth could be tried as adults, 17-year-old Demetrius was arrested, charged as an adult for burglary and robbery, and detained in the DC Jail. He was detained in the DC Jail's juvenile block until he turned 18 years old, at which time he was transferred to the jail's adult block. "Being incarcerated gave me time to think about what I hadn't done yet and what I wanted to do," he says. "Being in jail can make or break you, and I was determined that it was going to make me." While detained in the DC Jail, he decided he wanted to become a chef.

At the DC Jail, Demetrius participated in Free Minds. "I was amazed that strangers wanted to help me," he says. "I enjoyed being able to express myself and exchange ideas." Demetrius had never read an entire book before he arrived at the DC Jail, but after reading Nathan McCall's *Makes Me Wanna Holler* in the Free Minds Book Club, he was hooked. Free Minds also helped Demetrius strengthen his writing skills. One fateful writing exercise—to write a story about a magazine picture—touched off a positive chain of events. Demetrius' picture showed a Brown University graduate throwing his cap in the air at a commencement ceremony. He wrote about how happy the student must have felt and how proud his family must be. Most important, he expressed his own desire to go back to school.

"Being incarcerated gave me time to think about what I hadn't done yet and what I wanted to do. Being in jail can make or break you, and I was determined that it was going to make me."

Demetrius' essay was published by the Brown Alumni Magazine (September 2003). Reading the essay motivated Julie Zwillich to contact Free Minds to inquire about how she could help Demetrius. Their friendship and penpal relationship continues to this day. As a cooking aficionado, Zwillich embraced and supported Demetrius' goal of becoming a chef, regularly sending him recipes and articles about famous restaurants and chefs.

After sentencing, Demetrius was transferred to the federal penitentiary in Butner, NC. "It had a huge population and I felt intimidated sometimes, but I accepted that this was where I would be for three to five years." Demetrius got a job washing dishes in the prison's kitchen and participated in Butner's GED program. Meanwhile, Free Minds, Demetrius' lawyer, and his victim petitioned for Demetrius to be transferred to a new youth academy for troubled youth in Utah.

After spending one year in Butner, Demetrius was transferred to NorthStar Youth Academy. When asked about his experience, Demetrius recalls how eager the staff seemed to be to work with him. Encouraged by the staff, Free Minds, and Zwillich, Demetrius continued studying for and passed his GED exam. He also worked in the academy's kitchen.

Once books opened a new world to Demetrius, he decided he wanted to see it firsthand. "Reading and writing have taught me to respect life," he says. "Now I love learning and just can't wait to learn more about all different kinds of people, cultures and attitudes."

Demetrius applied for and was accepted to the California Culinary Academy, but he was unable to raise the extensive funds for tuition. So Demetrius returned to Washington, DC, after his release in May 2006 and starting looking for employment in a restaurant. Free Minds brought his story to Jeffrey Henderson's attention. "Chef Jeff," an ex-felon turned celebrity chef in Las Vegas, met with Demetrius and arranged a job interview for him with Jose Andres, a DC chef and restaurant owner.

Demetrius continues to work as a prep cook at Zaytinya, Andres' downtown restaurant. Demetrius is extremely proud to have turned his life around. He loves his job at Zaytinya and still plans to attend culinary school or college. Furthermore, he explains that he feels fortunate that DC's law allows his record to be expunged once he successfully completes his probation.

I think it is kind of cool the way everybody in this picture is graduating outside in the rain with umbrellas. The guy you can see the clearest looks real excited. He looks like he's singing a song. I wish I would have stayed in school and got to that position, but I am not going to beat myself up over it. I learn from my mistakes. I think it is odd to go all the way to the ninth grade and stop school. I mean, you go from elementary to junior high and stop, not wanting to see what high school is all about? Well, that is a problem, and you must be the person you are to fix it.

This guy in the picture looked forward to this day. You can tell because he has a button up shirt with a tie. He's even smiling while he is singing...What a day he had!

—from "Graduation Day," by Demetrius Beatty, age 17, DC Jail

"It had a huge population and I felt intimidated sometimes, but I accepted that this was where I would be for three to five years."

"Reading and writing have taught me to respect life. Now I love learning and just can't wait to learn more about all different kinds of people, cultures and attitudes."

I Bang the Poems

by Demetrius (age 18)

*I bang the poems for all problems in all shapes, sizes and forms
I bang the poems for all weather—cold, hot and most of the time warm
I bang the poems for the people who are looking for a sunny day
But can only find a storm
I bang the poems for the Federal Bureau of Prisons population
That's steadily growing
I bang the poems for the parents whose children
Are getting snatched off the streets without even knowing
I bang the poems for all instruments—
Tubas, drums and even French horns
I bang the poems for areas in poverty where every day guns are drawn
I bang the poems for my friend Dawann
Who died of a gunshot hole in the same spot where his hat was worn
I bang the poems to death from the day I was born*

“I was only concerned about myself and having fun. I didn't know that 16-year-olds could be tried as adults.”

Jose

After Jose became a teenager, he lost interest in school because he felt that the material was not relevant to his life experiences. Despite his parents' efforts and objections, rather than spending time doing his school work, Jose was staying out late, drinking, partying with his friends, and associating with gang members. “I was only concerned about myself and having fun,” says Jose. “I didn't know that 16-year-olds could be tried as adults.”

After he turned 16 years old, Jose was struggling to read and was being detained in the DC Jail's juvenile block facing adult charges. His arrest resulted in his spending a total of three years in the DC jail, DC's Central Treatment Facility (CTF), South Mountain Correctional Facility (a juvenile facility), and the federal penitentiary in Petersburg, VA. He was released in May 2007 after an appeals court vacated his sentence.

While detained in the DC Jail's juvenile block, Jose became involved in the Free Minds Book Club & Writing Workshop. By providing him with books that interested him, Free Minds got Jose interested in reading and helped him learn to read. The writing component of the program also allowed him to start expressing feelings on paper that he did not feel comfortable expressing otherwise. While his interest in reading and writing started with Free Minds, his interest continued throughout his journey through various correctional facilities. Although the literary elements of the program helped open Jose's mind, he says that the program's human element made the biggest difference for him. “Here were these two women that I didn't know who really cared about me and were making an effort to help me,” says Jose. “Knowing this softened me up and made me start reconsidering my attitude.”

“Here were these two women that I didn't know who really cared about me and were making an effort to help me. Knowing this softened me up and made me start reconsidering my attitude.”

Jose was given a 10-year adult sentence, and authority for him was transferred to the federal Bureau of Prisons. Because he was still under 18, Jose was sent to South Mountain Correctional Facility in South Mountain, PA, a juvenile facility. Jose speaks positively about his experience at South Mountain. “I was treated like a person and it had real programs there,” he says. Jose took advantage of South Mountain's group and individual counseling, and he earned his high school diploma in its daily education program. Furthermore, he was paid at least minimum wage for the work he did while there, which he was able to apply toward his restitution.

After turning 19, Jose was transferred to the federal penitentiary in Petersburg, VA. There it was about doing time and surviving. Jose avoided the wrong crowd and tried to associate with positive people. He worked in the infirmary and continued reading anything he could get his hands on.

In the summer of 2002, a number of high-profile incidents involving youth led to the introduction of two bills, one by Mayor Anthony Williams and another by Councilmember Kevin Chavous, that would have made it much easier to transfer youth to adult courts.

The Blue Ribbon Act of 2002, which, once passed, ultimately codified the major recommendations of the commission's report, including the closure of the juvenile detention and commitment facility, Oak Hill Youth Center; its replacement by a smaller, homelike facility; and a redirection of resources to more community-based alternatives to incarceration.

Reflecting on his experience as a young person in the criminal justice system, Jose feels that trying, sentencing, and incarcerating youth under-18 in adult jails and prisons is counterproductive. He feels that the counseling and education opportunities provided by South Mountain and Free Minds were critical elements that led to his transformation. He explains how he felt after being transferred from South Mountain Correctional Facility for juveniles to the federal penitentiary in St. Petersburg, VA: facing several more years of incarceration and having greatly reduced access to education, counseling, and job training programs, he felt discouraged and frustrated and wonders if he even started to backslide. Jose was thrilled when an appeals court vacated his sentence and ordered his release. Although he is avoiding his old neighborhood, one of the first things Jose did after his release was to contact Free Minds. He hopes that Free Minds will help him take advantage of his second chance by providing advice that will help him find a job and an outlet for self-expression.

WHAT ARE THE POLICY OPTIONS IN THE DISTRICT OF COLUMBIA?

Experts call for juvenile justice reform.

In August 2000, Mayor Anthony Williams established the District of Columbia Blue Ribbon Commission on Youth Safety and Juvenile Justice Reform (Blue Ribbon Commission) to investigate the state of youth crime in the district and the effectiveness of the rehabilitative services and programs that were in place.⁵⁶ In particular, the Blue Ribbon Commission paid close attention to the conditions at the Oak Hill Youth Center, DC's youth correctional facility, the subject of a 20-year lawsuit. The Mayor placed special emphasis on "[treating] children as children."⁵⁷ In November 2001, the Blue Ribbon Commission issued recommendations for reform of the juvenile justice system. The Commission's report not only recommended against making it easier to prosecute youth as adults but also recommended that all youth prosecuted as adults first be entitled to a hearing before a neutral judicial officer.

Legislation calls for a reformed juvenile justice system—one that can bring back youth tried as adults.

In the summer of 2002, a number of high-profile incidents involving youth led to the introduction of two bills, one by Mayor Anthony Williams and another by Councilmember Kevin Chavous, that would have made it much easier to transfer youth to adult courts. In addition, these bills included fines on parents of youth in contact with the juvenile justice system, as well as the allowance of juvenile delinquency records as a factor in public housing eligibility.⁵⁸ Both bills ignored the recommendations from the Mayor's own Blue Ribbon Commission Report. In the fall of 2002, youth all over the city mobilized to form the "Stop the War on DC Youth" campaign, led by the Justice 4 DC Youth! Coalition (JDCY).

Concerned about the effect that this legislation would have on youth rehabilitation, Councilmember Adrian Fenty contacted local advocates and asked for more information on transfer. Local advocates presented him with the Blue Ribbon Commission Report of 2000. Based on these findings, he introduced the Blue Ribbon Act of 2002, which, once passed, ultimately codified the major recommendations of the commission's report, including the closure of the juvenile detention and commitment facility, Oak Hill Youth Center; its replacement by a smaller, homelike facility; and a redirection of resources to more community-based alternatives to incarceration.

Hearings on both Mayor Williams' and Councilmember Chavous' bills, chaired by Councilmember Kathy Patterson, continued throughout January 2003. DC youth led a movement of community members and advocates who spoke out vehemently against proposals to make it easier to try youth as adults. Fenty attended these hearings and met frequently with youth and community activists.

The legislation that ultimately was approved unanimously by the DC Council, the Omnibus Juvenile Justice Act of 2004, did not include provisions to make it easier to try youth as adults or any of the housing or parental fine provisions. Instead, the legislation required that the Oak Hill Youth Center be closed by 2009. This legislation was a milestone in the District's movement towards a rehabilitation-focused juvenile justice system. The legislation also elevated the Youth Rehabilitation Services (YRS) agency to a cabinet-level agency, with the director reporting directly to the mayor.

New director-approved reform underway.

In January 2005, the mayor appointed the first "director" of the new Department of Youth Rehabilitation Services Department, Vincent N. Schiraldi. A founder of the Justice 4 DC Youth! Coalition and an advocate for progressive reform of the juvenile justice system nationally, Schiraldi has implemented many of the provisions in the reform legislation and launched an effort to make DC a model juvenile justice program nationally.

The Justice 4 DC Youth! Coalition has worked collaboratively with Schiraldi on the reform effort, including hosting the first-ever mayoral candidate forum at the Oak Hill facility and establishing JDCY advocacy programs at the facility.

Now that reform of the District's juvenile justice system is well underway with the upcoming closure of Oak Hill and its replacement with a newer, rehabilitation-focused facility, efforts to examine how to serve youth who are charged, tried, and sentenced as adults can be reexamined.

DC Committee on Human Services launches study on youth services.

Since becoming the chair of the Committee on Human Services, Councilman Tommy Wells has taken a proactive leadership role in addressing the practice of holding youth in the DC Jail. Wells spearheaded the development of budget language approved by the DC Council that calls for DYRS and DOC to work jointly to obtain the following information: data on the gender, race, ethnicity, offense, length of stay, sentencing outcome, conviction rate, average daily population, prior involvement with the juvenile justice system, and provision of educational and other services for youth awaiting trial at the DC jail for the past three years; the detention service needs of the current youth population at the DC Jail; and a report on the short- and long-term benefits, costs, and feasibility of serving youth at DYRS instead of DOC. The study would include phasing in serving these youth over a two- to three-year period.

DISTRICT OF COLUMBIA RECOMMENDATIONS

The following recommendations are reforms that should be implemented in the next two to four years:

- **Collect and analyze, on an ongoing basis, the data on youth tried and sentenced as adults.** As mentioned, data relevant to studying the practice of trying and sentencing youth as adults are difficult to access in the District of Columbia. Several agencies collect different information, and youth-specific information is often not kept. For example, the U.S. Attorney's Office does not publicly report data on how many youth it elects to prosecute as adults. The Bureau of Prisons (BOP) does not have readily accessible information about how many inmates are serving sentences through BOP contracts for offenses committed before the inmates were 18 years old. Given the discretion accorded prosecutors regarding whether to prosecute a youth as an adult, it would be useful to learn more about how this discretion is exercised and how youth convicted as adults are treated in BOP contract facilities. Data should be collected at all points in the

A founder of the Justice 4 DC Youth! Coalition and an advocate for progressive reform of the juvenile justice system nationally, Schiraldi has implemented many of the provisions in the reform legislation and launched an effort to make DC a model juvenile justice program nationally.

justice system, reported annually, and made available to the public on a website and through public information forums.

- **End the pre-trial placement of youth in DC Jail.** As locking youth in adult facilities can increase the youth's likelihood of re-offending, we recommend that there be a ban on placing any youth in the DC Jail while awaiting trial. The DC Council could accomplish this goal by amending the DC Code in several places. First, § 16-2313(d), referencing the place of "detention or shelter" could be amended to read (emphasis added to indicate change):⁵⁹

(d) Except as provided in subsection (e), no *individual* under 18 years of age may be detained in a jail or other facility for the detention of adults, *unless convicted of a felony*. The appropriate official of a jail or other facility for the detention of adults shall inform the Superior Court immediately when an *individual* under the age of 18 years is received there (other than by *transfer provided in subsection (e)*) and shall (1) deliver him to the Director of Social Services upon request, or (2) transfer him to a detention facility described in subsection (b)(3).

Subsection (e) refers to an exception for menacing behavior and could be amended to read:⁶⁰

(e) *An individual 16 or 17 years of age who is alleged to be delinquent or who is the defendant in a criminal proceeding, and who is in detention, whose conduct constitutes a menace to other children, and who cannot be controlled, may on order of the Family or Criminal Division be transferred to a place of detention for adults, but shall be kept separate from adults.*

Section § 23-1322 of the DC Code, referencing "detention prior to trial," is another potential locus for substantive change. This section could be amended to include an additional subpart reading:⁶¹

(5) *Except that the judicial officer shall direct that any person under the age of 18 be committed to the custody of the Department of Youth Rehabilitation Services for confinement in a juvenile facility as provided in section 16-2313(b)(3).*

- **Make all transfer cases based on judicial waiver.** A National Council on Crime and Delinquency commissioned poll discussing attitudes toward the juvenile justice system found that 92% of Americans believe that a blanket policy for trying youth in adult courts is inappropriate and that these situations should be decided on a case-by-case basis—a task best left to a juvenile court judge.⁶²
- **Allow for "reverse" waiver for youth in adult court.** Reverse waiver provisions allow a youth who is being prosecuted as an adult in criminal court to file a motion and have a hearing at which a judicial officer decides whether to transfer the case back to juvenile court to obtain a more appropriate sentence and course of treatment. Reverse waiver ensures that only those youth whose history and characteristics warrant their prosecution as adults are prosecuted in the criminal division. An opportunity for a reverse waiver hearing would improve public safety, as research shows that recidivism rates are lower for youth who are treated in the juvenile justice system than they are for youth treated in the adult criminal justice system. Reverse waiver also helps ensure that youth do not languish unnecessarily in adult facilities by creating a role for individualized and neutral judicial decision-making in the case.⁶³ DC is currently in the minority of states in not having a reverse waiver policy, and this should be rectified immediately.

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- **Encourage BOP to contract with DYRS.** Currently, youth tried as adults in the District fall within the jurisdiction of the Bureau of Prisons and can be sent to any facility in the country with which the BOP contracts. The Bureau has not contracted with local facilities, so currently youth in DC are sent to facilities with juvenile programs with which the BOP contracts, which means that youth can be placed hundreds of miles away from their homes and families. BOP should develop a contract with DYRS so that youth will not have to be sent out of the jurisdiction to serve their sentences. While the Department of Corrections is currently working hard to facilitate a relationship between DYRS and BOP, the Council also should help foster that connection.
- **Consider the Youth Rehabilitation Act.** The Council also should consider examining the Youth Rehabilitation Act to ensure that youth do not lose out on educational and job opportunities due to their prosecution in the adult system.
- **Adolescent development training for juvenile justice advocates and for the courts.** Lawyers and advocates agree that judges and prosecutors may transfer youth for prosecution as adults in the Criminal Division without the benefit of the latest research sharing the detrimental effects of trying youth as adults. Additionally, judges and prosecutors may not have access to the latest research that shows that sending youth to adult courts increases the likelihood of recidivism and reduces the possibility of meaningful rehabilitation. We recommend that access be provided to research, experts, and training for all those concerned with juvenile justice about the new scientific discoveries regarding adolescent brain development and its relationship to criminal behavior by adolescents.
- **Establish adequate after-care policies.** Youth who are held in adult facilities and then released should have access to reentry programs that will ensure that they are able to make a smooth transition back into society. These policies should include, but not be limited to, assistance in returning to school and job training.

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RESOURCES

DISTRICT OF COLUMBIA

Local Organizations

ALLIANCE OF CONCERNED MEN

2905 11th Street, NW
Washington, DC 20001
Phone: (202) 986-6200

CONSORTIUM FOR YOUTH SERVICES

651 Pennsylvania Ave., SE
Washington, DC 20003
Phone: (202) 548-0553

COVENANT HOUSE WASHINGTON

2001 Mississippi Ave., SE
Washington, DC 20020
Phone: (202) 610-9632

DC ALLIANCE OF YOUTH ADVOCATES (DCAYA)

1012 14th Street, NW, Suite 610
Washington DC, 20005
Phone: (202) 558-3580 ext. 15 or 26
www.dc-aya.org

DC PUBLIC DEFENDER SERVICE FOR THE DISTRICT OF COLUMBIA

633 Indiana Ave., NW
Washington, DC 20004
Phone: (202) 628-1200

FACILITATING LEADERSHIP IN YOUTH (FLY)

1400 Good Hope Road, SE
Washington, DC 20002
Phone: (202) 423-2124
www.flyyouth.org

FREE MINDS BOOK CLUB & WRITING WORKSHOP

Washington, DC
Phone: (202) 468-4809
www.freemindsbookclub.org

GEORGETOWN JUVENILE JUSTICE CLINIC

600 New Jersey Ave., NW
Washington, DC 20001
Phone: (202) 662-9590

LATIN AMERICAN YOUTH CENTER

1419 Columbia Road, NW
Washington, DC 20009
Phone: (202) 238-9680

JUSTICE FOR DC YOUTH COALITION

1012 14th Street, NW, Suite 610
Phone: (202) 386-9809
Fax: (202) 386-9807
www.jdcy.org

PARENTWATCH WASHINGTON DC

601 Pennsylvania Ave., SE
Washington, DC 20004
Phone: (202) 434-8279

PEACEOHOLICS

606 Raleigh Place, SE
Washington, DC 20032
Phone: (202) 562-1971

UDC SCHOOL OF LAW

4200 Connecticut Ave., NW
Washington, D C 20008
Phone: (202) 274-7341

YOUTH ACTION RESEARCH GROUP (YARG)

1419 V Street, NW, Suite 401
Washington DC 20009
Phone: (202) 462-5767
www.yargdc.org

YOUTH EDUCATION ALLIANCE (YEA)

2307 Martin Luther King Jr. Blvd
Washington, DC 20020
Phone: (202) 889-4YEA
www.youtheducationalliance.org

Government Agencies & Advisory Groups

DC DEPARTMENT OF YOUTH REHABILITATION SERVICES

1000 Mt. Olivet Road, NE
Washington, DC 20002
Phone: (202) 576-8175

DC DEPARTMENT OF CORRECTIONS
1923 Vermont Ave., NW, Room 203
Washington, DC 20001
Phone: (202) 671-2135

DC JUVENILE JUSTICE ADVISORY
GROUP (JJAG)
1350 Pennsylvania Ave., NW
Washington, DC 20004
Phone: (202) 727-9541

DISTRICT OF COLUMBIA SENTENCING
COMMISSION
441 4th St., NW, Suite 830 South
Washington, DC 20001
Phone: (202) 727-8821

National Organizations

CAMPAIGN FOR YOUTH JUSTICE
1012 14th Street, NW, Suite 610
Washington, DC 20005
Phone: (202) 558-3580
www.campaign4youthjustice.org

CENTER FOR CHILDREN'S
LAW AND POLICY
1701 K Street, NW, Suite 600
Washington, DC 20006
Phone: (202) 637-0377
www.cclp.org

CHILD WELFARE LEAGUE OF
AMERICA
440 First Street, NW, Third Floor
Washington, DC 20001-2085
Phone: (202) 638-2952
www.cwla.org

COALITION FOR JUVENILE JUSTICE
1710 Rhode Island Ave, NW, 10th Floor
Washington, DC 20036
Phone: (202) 467-0864
www.juvjustice.org

THE JUSTICE POLICY INSTITUTE
1003 K Street, NW, Suite 500
Washington, DC 20005
Phone: (202) 558-7974
www.justicepolicy.org

NATIONAL COUNCIL ON CRIME AND
DELINQUENCY (NCCD)
1970 Broadway, Suite 500
Oakland, CA 94612
Phone: (510) 208-0500
www.nccd-crc.org

NATIONAL COUNCIL OF LA RAZA
Raul Yzaguirre Building
1126 16th Street, NW
Washington, DC 20036
Phone: (202) 776-1789
www.nclr.org

NATIONAL JUVENILE DEFENDER
CENTER
1350 Connecticut Ave., NW, Suite 304
Washington DC 20036
Phone: (202) 452-0010
www.njdc.info

NATIONAL JUVENILE JUSTICE
NETWORK
c/o Coalition for Juvenile Justice
1710 Rhode Island Ave., NW, 10th Floor
Washington, DC 20036
Phone: (202) 467-0864 ext.105
www.njjn.org

NOTES

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- ¹⁵ Fagan, J. (1996). The comparative advantage of juvenile vs. criminal court sanctions on recidivism among adolescent felony offenders. *Law and Policy*, 18(1-2). Online request for the article can be made at <http://www.blackwellpublishing.com/cservlets/single.asp?site=1>.
- ¹⁶ *Roper v. Simmons*, 543 U.S. 551 (2005).
- ¹⁷ See 1, p. 4.
- ¹⁸ Rubin, T. (2006). *Return them to juvenile court*. Washington, DC: Campaign for Youth Justice.
- ¹⁹ The Children's Court Centennial Communications Project. (1999). *Second chances*. Washington DC: Author, p. 142.
- ²⁰ See 9.
- ²¹ See 9.
- ²² DC Code § 16-2301.02.
- ²³ Ibid.
- ²⁴ DC Code § 16-2307(a). See also DC R JUV Rule 108.
- ²⁵ Ibid.
- ²⁶ See DC Code § 16-2301(3)(A).
- ²⁷ Ibid. See also *Marrow v. United States*, 592 A.2d 1042, 1046 (DC 1991) (citation omitted).
- ²⁸ DC Code §16-2307(h) (emphasis added). In *Marrow v. United States*, the DC Court of Appeals held that when a child 16 and older is charged by the U.S. Attorney with a serious offense, this child is then "transferred" into the criminal division. The courts have "equated the point at which "transfer" occurs (for juveniles age 16 or over) with the point at which the individual is properly "charged" with one of the enumerated serious offenses." *Marrow v. United States*, 592 A.2d 1042, 1044 (DC 1991).
- ²⁹ Cauvin, H. Jail options few for young female suspects. (2006, September 14). *Washington Post*.
- ³⁰ Facility visit on May 31, 2007, sponsored by The Campaign for Youth Justice to the DC Jail.
- ³¹ DC Department of Corrections featured in CNN Special. For more information, see <http://newsroom.dc.gov/show.asp?agency/doc/section/2/release/10620>.
- ³² The Free Minds Book Club. For more information, see <http://www.freemindsbookclub.org>
- ³³ Facility visit on May 31, 2007, sponsored by the Campaign for Youth Justice to the DC Jail.
- ³⁴ Mass. Gen. Laws ch. 199, § 68 (West 2006).
- ³⁵ Telephone Interview by William Martin Jarrard with Joshua Dohan, Director, Youth Advocacy Project (April 12, 2007).
- ³⁶ Cal. Welf. & Inst. Code §§2071 (West 2006).
- ³⁷ Telephone Interview by William Martin Jarrard with Bella Dilworth, Assistant Public Defender, Los Angeles County, Kenyon Juvenile Justice Center (April 17, 2007).
- ³⁸ Data request filled by Reena Chakraborty, DC Department of Corrections.
- ³⁹ DC Code § 24-902.
- ⁴⁰ DC Code § 24-902(a).
- ⁴¹ DC Code § 24-902(c).
- ⁴² 18 U.S. Code § 5039
- ⁴³ Program Statement PS 5216.05 http://www.bop.gov/policy/progstat/5216_005.pdf.
- ⁴⁴ Ibid.
- ⁴⁵ Annual Report Statistics: CY 2001-2005. Metropolitan Police Department.
- ⁴⁶ Annual Report Statistics: CY 2001-2005. Metropolitan Police Department.
- ⁴⁷ DC Code § 16-2301(3).
- ⁴⁸ Motion to dismiss complaint and transfer case to the family division or in the alternative for transfer hearing pursuant to D.C. Code §16-2307. Submitted by DC Public Defender Service to Superior Court of the District of Columbia in 2007.
- ⁴⁹ Data request filled by Reena Chakraborty, DC Department of Corrections.
- ⁵⁰ Data request filled by Reena Chakraborty, DC Department of Corrections.
- ⁵¹ Murder I or Murder II.
- ⁵² See 48.
- ⁵³ Data request filled by Steward Rowles, Federal Bureau of Prisons.
- ⁵⁴ Ibid.
- ⁵⁵ Ibid.
- ⁵⁶ Members of the Commission included youth advocates, government representatives, and lawyers, among whom were Timothy C. Coughlin, President, Riggs National Corporation; Terri Lee Freeman, President, Community Foundation for the National Capital Region; The Honorable Eugene N. Hamilton (Chair of Commission), Senior Judge, Superior Court of the District of Columbia; and Charles A. Miller, Partner, Covington & Burling.
- ⁵⁷ Blue Ribbon Commission Report, p. 7
- ⁵⁸ Juvenile Justice and Parental Accountability Act of 2003 (#B15-0460) and Omnibus Juvenile Justice, Victim's Rights and Parental Participation Act of 2003 (#B15-053)
- ⁵⁹ The section currently reads (strike through added for clarity): (d) Except as provided in subsection (e), no child under 18 years of age may be detained in a jail or other facility for the detention of adults, unless transferred as provided in section 16-2307. The appropriate official of a jail or other facility for the detention of adults shall inform the Superior Court immediately when a child under the age of 18 years is received there (other than by transfer) and shall (1) deliver him to the Director of Social Services upon request, or (2) transfer him to a detention facility described in subsection (b)(3).
- ⁶⁰ The current subsection reads (strike through provided for clarity): A child 16 years of age or older who is alleged to be delinquent and who is in detention, whose conduct constitutes a menace to other children, and who cannot be controlled, may on order of the Division be transferred to a place of detention for adults, but shall be kept separate from adults.
- ⁶¹ The remainder of the section reads: (g) In a detention order issued under subsection (b) of this section, the judicial officer shall: (1) Include written findings of fact and a written statement of the reasons for the detention; (2) Direct that the person be committed to the custody of the Attorney General of the United States for confinement in a corrections facility separate, to the extent practicable, from persons awaiting or serving sentences or being held in custody pending appeal; (3) direct that the person be afforded reasonable opportunity for private consultation with counsel; and (4) direct that, on order of a judicial officer or on request of an attorney for the government, the person in charge of the corrections facility in which the person is confined deliver the person to the United States Marshall or other appropriate person for the purpose of an appearance in connection with a court proceeding.
- ⁶² See 9.
- ⁶³ Campaign for Youth Justice. *Fact sheet: Reverse waiver*. For more information, see <http://www.campaignforyouthjustice.org/Downloads/KeyResearch/FactSheetReverseWaiver.doc>

CAMPAIGN FOR
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BECAUSE THE CONSEQUENCES AREN'T MINOR