



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

## KEY FACTS: YOUTH IN THE JUSTICE SYSTEM

### Youth Crime

- Youth commit only a small portion of the nation's crime. In 2014, 10.4% of violent crime clearances and 14.7% of the property crime clearances nationwide involved only youth.<sup>1</sup> According to the FBI, youth under age 18 accounted for 9.1% of all arrests.<sup>2</sup>
- Youth crime has also been going down for many years. The number of adults arrested in 2005 compared with 2014 has decreased 14.1%, whereas the number of youth arrested dropped a staggering 51.2% during that same time frame.<sup>3</sup> Between 1997 and 2013, the number of youth placed in residential corrections facilities dropped 48%.<sup>4</sup>
- In 2011, the serious violent crime offending rate among youth ages 12-17 was only 9 crimes per 1,000 youth, with 232,000 of such offenses involving youth victims—substantially lower than a peak rate of 52 crimes per 1,000 youth ages 12-17 in 1993.<sup>5</sup>
- This decline is due to different state policies rather than any federal policies.<sup>67</sup> In Texas, where state juvenile justice reform occurred in 2007, the number of commitments dropped by 72% to 1,242 from 2006 to 2013, after stagnating at above 4,000 commitments for a decade before the reform. Nationally, commitments fell 51% in that same time frame. In Ohio, 2010 reforms saw a 53% drop in commitments from 2010 to 2013; nationally, commitments fell a slighter 32%.<sup>8</sup>
- Despite this drop, the United States has the highest rate of youth confinement of any developed country.<sup>9</sup> In 2010, there were 173 youth for every 100,000 in confinement.<sup>10</sup>
- However, 39% of those who are in confinement are there due to a technical violation of probation, drug offenses, public order offenses, status offenses, and low level property offenses.<sup>11</sup>

### Youth in the Juvenile Justice System

#### Juvenile Court Process:

- In 2013, just more than 1 million cases in U.S. juvenile courts involved charges of a delinquency offense<sup>12</sup>—approximately 2,900 delinquency cases per day.<sup>13</sup>
- Since peaking in 1997, the number of delinquency cases has declined by 44%.<sup>14</sup>
- The trends in juvenile court cases paralleled a decline in arrests of persons younger than 18. While the number of youth arrested dropped 45.7% between 2004 and 2013,<sup>15</sup> the number of delinquency cases fell 37% in that time frame.<sup>16</sup>

**Referral:**

- Cases referred to juvenile court are first screened by an intake department (either within or outside the court). The intake department may decide to dismiss the case for lack of legal sufficiency or to resolve the matter formally (petitioned) or informally (non-petitioned).<sup>17</sup>
- In 2013, 55% of delinquency cases were petitioned while 45% were handled informally.<sup>18</sup>
- 56% of petitioned cases in 2013 resulted in an adjudication of delinquency; 64% of these resulted in probation, and 24% resulted in placement in a residential facility.<sup>19</sup>
- Among the non-petitioned cases, 40% were dismissed by the court. 23% of the cases informally handled resulted in voluntary probation and 37% resulted in other dispositions.<sup>20</sup>

**Adjudication:**

- If the intake department decides that a case should be handled formally within the juvenile court, a petition is filed and the case is placed on the court calendar (or docket) for an adjudicatory hearing. However, in some cases a petition is filed in juvenile court requesting a waiver/transfer hearing, during which the juvenile court judge is asked to waive jurisdiction over the case.
- In 2013, 55% of all formally-processed delinquency cases resulted in the youth being adjudicated delinquent, the juvenile-system equivalent of a guilty conviction.
- In 24% of adjudicated delinquency cases, the youth was placed in a residential facility.
- Youth placed on formal probation represent 64% of juveniles who were adjudicated delinquent.
- The other 12% of youth were given other sanctions; which means they were ordered to pay restitution or a fine, to do community service, or enter a counseling program for treatment.
- Less than one percent of formally-processed cases were judicially waived to criminal court, though this does not represent the portion of cases involving youth under age 18 that are tried in the adult system.<sup>21</sup>

**Juvenile Detention & Corrections**

- On any given day, approximately 54,000 juvenile offenders are not living in their homes but are held in residential placement (e.g., juvenile detention facilities, corrections facilities, group homes or shelters).<sup>22</sup>
- After arrest, many youth are detained in a detention or other residential facility to await a hearing in juvenile or adult court, depending on how they are charged. While in out-of-home placement, youth are separated from their community and their normal day-to-day life, forced out of school, jobs, and family life. In 2013, there were around 17,800 youth who were detained while awaiting their turn in court.<sup>23</sup>
- 1 in 5 youth (21%) who are brought before the court with a delinquency case is detained.<sup>24</sup>
- Detention facilities are meant to temporarily house youth who are deemed likely to commit another crime before their trial or who are likely to skip their court date. Unfortunately, many of the youth

held in the 696 detention centers across the country do not meet these criteria and should not be there.<sup>25</sup>

- 43% of juvenile facilities report at least occasionally locking youth in their sleeping quarters.<sup>26</sup>
- Three-fourths of youth in detention are held for nonviolent charges. These youth are charged with property offenses, drug offenses, public order offenses, technical probation violations, or status offenses (crimes that wouldn't be crimes if they were adults, like running away or breaking curfew).<sup>27</sup>
- In 2012, just 19% of juvenile facilities were at capacity and 2% were over their capacity.<sup>28</sup> The juvenile offender population has dropped 47% between 2000 and 2012.<sup>29</sup>
- A one-day snapshot of juvenile offenders in detention found that roughly 3% were status offenders.<sup>30</sup>
- After adjudication, many youth are sentenced to juvenile correctional facilities or state training schools. On any given day, approximately 36,000 youth are held in an out-of-home placement.<sup>31</sup> Roughly forty percent of these youth (14,000) are committed to an incarceration facility such as a state training school.<sup>32</sup>
- Confined youth are at great risk of sexual assault. About 1 in 10 youth (9.5%) in state juvenile facilities and large non-state facilities reported experiencing one or more incidents of sexual victimization by another youth or facility staff in the past 12 months.<sup>33</sup>
- There are less severe alternatives to incarcerating youth, and they work. Community-based programs, including diversion programs, drug treatment, evening reporting centers, treatment clinics and family programs, have been shown to be less costly than detention or incarceration and to help youth stay out of trouble and to not re-offend.<sup>34</sup>

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

- An estimated 200,000 youth are tried, sentenced, or incarcerated as adults every year across the United States.<sup>35</sup>
- Most of the youth prosecuted in adult court are charged with non-violent offenses.<sup>36</sup>
- According to decades of research, youth who are transferred from the juvenile court system to the adult criminal system are 34% to 77% more likely than youth retained in the juvenile court system to be re-arrested for a crime; this recidivism-increasing effect of transfer is strongest in causing violent crime.<sup>37</sup>
- Youth sentenced as adults receive an adult criminal record, are often denied employment and educational opportunities, and can be barred from receiving student financial aid.<sup>38</sup>

#### **Transfer:**

- Youth can be transferred to the adult justice system because of state laws that automatically transfer all youth over a certain age, or that automatically transfer cases involving certain offenses. Additionally, states may allow the juvenile court judge or the prosecutor to make a decision to waive or transfer a case to the adult court.

- In 2014, 29 states had *statutory exclusion* laws that automatically placed youth into the adult system based on the offense that was charged against the youth.
- At the same time, nine states – North Carolina, New York, Missouri, Texas, South Carolina, Georgia, Michigan, Louisiana, and Wisconsin – set an age limit for the juvenile system of 16 or 17 years, meaning *all* youth charged with even minor, nonviolent offenses in these states who were age 16 or 17 but below 18 years of age would be placed in the adult system.
- Essentially all states allow for judges to waive youth to the adult system, though states vary in how much discretion judges have to make *judicial waiver* decisions
- 15 states (includes DC) allowed prosecutors to decide to charge youth in the adult system in 2014, in what is known as a *direct file* transfer mechanism.
- On another note, 26 states allowed *blended sentencing*, where youth charged in adult court can be sentenced in the adult court with either juvenile or adult sanctions.
- In 34 states, youth who were previously tried and/or convicted in the adult court were to be prosecuted automatically in the adult system in future and unrelated cases. These provisions are called *once an adult always an adult* laws.
- 25 states allowed for *reverse waiver*, whereby adult court judges could make the decision to send a youth's case back down to the juvenile court, in 2014.<sup>39</sup>
- 4 states (including DC) that allow *direct file*, have no *reverse waiver* provision, meaning there is no way after judicial review to challenge the prosecutor's decision to file in the criminal court.

### **Adolescent Brain Development:**

- Research shows that the brain does not fully develop to look like an adult brain until the individuals reaches their early 20s.<sup>40</sup> While their brains are still developing youth are prone to participate in risky behavior which they grow out of with maturity.<sup>41</sup>
- It has been shown that adolescents struggle to make the correct decisions in emotionally charged situations.<sup>42</sup>
- Youth between 13 and 17 are more sensitive to rewards and thus more likely to make the wrong decisions believing they will benefit from their action; after 17, however, this declines.<sup>43</sup>
- Recent studies believe that the main different between adults and youth is the imbalance in the development of the brain.<sup>44</sup> Another study has shown that the connection strength between and prefrontal cortex and subcortical brain regions affects and individuals ability to use self-control.<sup>45</sup>

### **Housing Youth in Adult Jails and Prisons**

- On any given night in America, 5,500 children are held in adult jails and prisons.<sup>46</sup> In 2011 it was estimated that more than 95,000 youth were admitted into prisons and jails.<sup>47</sup>
- State laws vary widely as to whether youth can be housed in adult facilities. Although the federal Juvenile Justice and Delinquency Prevention Act (JJDP) requires that youth in the juvenile justice

system be removed from adult jails or be sight-and-sound separated from other adults, these protections do not apply to youth prosecuted in the adult criminal justice system.<sup>48</sup>

- Most youth are denied educational and rehabilitative services that are necessary for their stage in development when in adult facilities. A survey of adult facilities found that 40% of jails provided no educational services at all, only 11% provided special education services.<sup>49</sup> This lack of education increases the difficulty that youth will have once they return to their communities.

### **Adult Jails:**

- On any given day, nearly 4,200 youth under 18 are locked up in adult jails.<sup>50</sup> Currently, 46 states permit or require that youth charged as adults be held before they are tried in an adult jail, though 12 of those states have acted in recent years to strictly limit the use of adult jail for pre-trial detention.<sup>51</sup>
- In some states, if youth are convicted in adult court, they may be required to serve their entire sentence in an adult jail.<sup>52</sup>
- Many youth who are held in adult jails have not yet been convicted, and research shows that many never will. Half of these youth will be sent back to the juvenile justice system or will not be convicted. Yet, most of these youth will have spent *at least one month* in an adult jail, and one in five will have spent *over six months* in an adult jail—all to detain innocent or juvenile-system child.<sup>53</sup>

### **Adult Prisons:**

- On any given day, approximately 1,300 youth under 18 are locked up in adult prisons.<sup>54</sup>
- In 2013, about 1,188 of these youth were held in *state* prisons – 1,140 males and 48 females. This represents an approximately 70% decrease from the more than 5,000 youth held in state prisons on a given day in 1995.<sup>55</sup>
- The majority of youth held in adult prisons are not the most serious offenders and are likely to be released in early adulthood. Approximately 80 percent of youth convicted as adults will be released from prison before their 21st birthday, and 95 percent will be released before their 25th birthday.<sup>56</sup>
- At the other extreme, we know that some young people incarcerated in adult prisons will expect to spend the majority of their lifetimes behind bars. Human Rights Watch reported in 2009 that an estimated 2,600 people were serving life without parole for crimes they committed while under age 18—with no youth serving such a sentence anywhere else in the world.<sup>57</sup>

### **Safety Issues:**

- Youth are in extreme danger when held in adult facilities. Correctional officials face a “no win” situation when youth are placed in adult facilities: they simply can't keep youth safe without segregating them in isolation/solitary confinement, which creates a different, but equally harmful, result.
- Many children are often placed in isolation or “solitary confinement,” which can produce harmful consequences from depression to suicide. Youth are frequently locked down 23 hours a day in small cells with no natural light.

- These conditions can cause anxiety and paranoia, and can exacerbate existing mental health issues, putting youth at risk of suicide. In fact, youth housed in adult jails are five times more likely to commit suicide than are youth housed in juvenile detention facilities.<sup>58</sup>

### **Sexual Assault:**

- Youth who are held in adult facilities are at the greatest risk of sexual victimization. According to research by the Bureau of Justice Statistics, youth under the age of 18 represented 21% of all substantiated victims of inmate-on-inmate sexual violence in jails in 2005, and 13% in 2006 – two surprisingly high rates given that only 1% of jail inmates are juveniles.<sup>59</sup>
- The National Prison Rape Elimination Commission found that “more than any other group of incarcerated persons, youth incarcerated with adults are probably at the highest risk for sexual abuse.”<sup>60</sup>
- Among juveniles ages 16 and 17 who reported being sexually victimized by other inmates 65.5% reported that they were victimized more than once.<sup>61</sup> Additionally 78.6% of those victimized by inmates reported the threat of force or physical force associated with their victimization. 38.9% of victims of inmate sexual victimization were pressured to participate in sexual activities by their perpetrator.<sup>62</sup>
- During victimization 27.7% of victims were injured during at least one of the encounters.<sup>63</sup> Youth do not tend to report their victimization with on 15.4% reporting the incident to a friend, family member, or someone at the facility.<sup>64</sup>
- Juveniles also experience sexual misconduct from staff members at facilities. Of those reporting victimization 75.8% report experiencing it more than once.<sup>65</sup> It is estimated that 43.7% were forced into their actions or threatened with force by staff members.<sup>66</sup>
- The rate of injury during at least one incident of sexual misconduct is estimated to be 19.8%.<sup>67</sup> Only 9% of victims reported the sexual misconduct to friends, family, or someone at the facility.<sup>68</sup>

### **Mental Health:**

- Many facilities are not adequately prepared to meet the needs of youth who have mental health issues, learning disabilities, or substance abuse issues.<sup>69</sup>
- A 2010 survey by the U.S. Office of Juvenile Justice and Delinquency Prevention determined that 2 in 10 youth in a residential facility have attempted suicide.<sup>70</sup>
- Two-thirds of Youth in facilities have one or more mental health conditions. However, only two of every five youth in confinement have received any type of mental health counseling.<sup>71</sup>

## **Racial and Ethnic Disparities**

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

### **African-American Youth:**

- African-American youth overwhelmingly receive harsher treatment than white youth in the juvenile justice system at most stages of case processing. African-American youth make up 32% of those arrested,<sup>72</sup> while they only represent 16% of the overall youth population.<sup>73</sup>
- At the other extreme end of the system, African-American youth are 8.6 times as likely than white youth to receive an adult prison sentence.<sup>74</sup>
- Even with the dropping rates of confinement, African Americans have experienced the least decline of any race.<sup>75</sup>

### **Latino Youth:**

- Compared to white youth, Latino youth in the juvenile system are 4% more likely to be petitioned, 16% more likely to be adjudicated delinquent, 28% more likely to be detained, and 41% more likely to receive an out-of-home placement.<sup>76</sup>
- The most severe disparities occur for Latino youth tried in the adult system. Latino children are 43% more likely than white youth to be waived judicially to the adult system and 40% more likely to be admitted to adult prison.<sup>77</sup>

### **Native Youth:**

- Compared to white youth, Native youth are 1.1 times as likely to receive out-of-home placement (i.e., incarceration in a state correctional facility) and are 1.3 times as likely to be judicially waived to the adult criminal system.<sup>78</sup>
- Nationwide, the average rate of new commitments to adult state prison for Native youth is 1.84 times that of white youth.<sup>79</sup>

## **Family Involvement**

- The ability of family members to meaningfully participate in their children's lives makes a dramatic difference on youth outcomes. The overwhelming majority (92%) of youth have had some form of contact with their family since they arrived at the facility which they are housed in.<sup>80</sup>
- The frequency of family contact varies significantly by type of program that youth are involved in. Many youth who are incarcerated are unable to have regular contact with family. Thirty-nine percent of corrections and camp youth have family contact less than once a week.<sup>81</sup>
- One third of youth who have no in-person visits indicate that this is due to time constraints or distance. In fact, the majority of all youth in custody (59%) say that it would take their families 1 hour or longer to travel to visit them. For more than one-fourth of youth (28%), their families would have to travel 3 hours or longer to see them.<sup>82</sup>

## Cost-Effective Alternatives

- It is estimated that it costs an average of \$407 a day or about \$150,000 to keep a youth in juvenile detention facilities for 9 months to a year.<sup>83</sup>
- In contrast, youth could receive community-based programming with wraparound services and resources for an estimated \$75 a day, a fifth of the cost of incarceration.<sup>84</sup>
- States report spending an average of \$7.1 million per day in order to lock up youth in adult facilities.<sup>85</sup> Both Maryland and Florida spend twice as much on facilities as they do on probation and treatment services. This occurs even though the majority of youth in the juvenile justice system are not placed in youth facilities.<sup>86</sup>
- Alternatives to incarcerating youth not only reduce crime, but save money. Research has shown that every dollar spent on evidence-based programs (e.g., Multidimensional Treatment Foster Care, MTFC; Multisystemic Therapy, MST; and Functional Family Therapy, FFT) can yield up to \$13 in cost savings.<sup>87</sup>
- Early interventions that prevent high-risk youth from engaging in repeat criminal offenses can save the public nearly \$5.7 million in costs over a lifetime.<sup>88</sup> Each year the U.S. incurs an estimated \$8-\$21 billion in long-term costs for the confinement of youth.<sup>89</sup>
- Between 1997 and 2007 the courts used a reduced reliance on incarceration of youth. At the same time juvenile crime rates fell in all categories. This suggests that reduced incarceration does not increase the amount of crime.<sup>90</sup>
- In many states, the state funds the facilities whereas communities fund the supervision and treatment programs, making judges financially motivated to commit youth to facilities rather than treatment programs. Ohio implemented the RECLAIM Ohio program which establishes a set budget for corrections which each county receives. For every youth committed to a facility the county must reimburse the state. This helps to encourage judges to sentence youth to community based programs rather than residential facilities. Between 2004 and 2007 the number of youth committed to facilities dropped from 212 to 96.<sup>91</sup> For every youth who participated in RECLAIM the state saved as much as \$45 for every \$1 invested in alternatives, and the outcomes were better than those placed in facilities.<sup>92</sup>



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