



EXECUTIVE SUMMARY

THE CONSEQUENCES AREN'T MINOR

The Impact of Trying Youth as Adults and Strategies for Reform

A CAMPAIGN FOR YOUTH JUSTICE REPORT :: MARCH 2007

CAMPAIGN FOR
YOUTH  JUSTICE

BECAUSE THE CONSEQUENCES AREN'T MINOR



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THE PROBLEM OF TRYING YOUTH AS ADULTS

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

KEY FINDINGS

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

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

Estimates range on the number of youth prosecuted in adult court nationally. Some researchers believe that as many as 200,000 youth are prosecuted every year. Despite the fact that many of the state laws were intended to prosecute the most serious offenders, most youth who are tried in adult courts are there no matter how minor their offense. Most of the youth who enter the adult court are charged with non-violent offenses. For example, more than 7,000 young people in Connecticut enter the adult court system each year the vast majority for non-violent offenses. In 2002, in Wisconsin, there were almost 14,000 admissions of 17-year-olds to adult jails—only 15 percent of these youth were arrested for violent crimes such as murder, rape, aggravated assault, and robbery.

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

Currently, 40 states permit or require that youth charged as adults be placed pre-trial in an adult jail, and in some states they may be required to serve their entire sentence in an adult jail. According to the National Council on Crime and Delinquency, since 1990 the incarceration of youth in adult jails has increased 208%. On any given

day, more than 7,000 young people are held in adult jails. This policy places thousands of young people at risk as it is extremely difficult to keep youth safe in adult jails.

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

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

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

On any given day, more than 2,000 youth are in adult prisons. With the exception of Connecticut, which led the nation in the number of youth in adult prison and experienced a nearly 20% increase in the number of youth in adult prison in 2005, this number has declined significantly over the past decade. One analysis of the discrepancies in the numbers is that even while more and more youth are being prosecuted as adults, few are found to commit crimes serious enough to warrant time in adult jails. Many youth could be safely kept in the juvenile justice system. Youth in adult prisons are at risk of abuse, sexual assault, suicide, and death, which has led experts to conclude that "clearly, juveniles are a vulnerable population within adult correctional facilities."

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

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

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

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

7 Youth of color are disproportionately affected by these policies.

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

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

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

#9 The consequences for prosecuting youth in adult court "aren't minor."

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

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

Although research on the full impact of these laws is ongoing, the most current results reveal an ever-increasing negative impact on youth adjudicated in the adult criminal justice system. In addition, studies by researchers throughout the country show that sending youth to the adult criminal justice system doesn't work to reduce crime.

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

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

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

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

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

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

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

THE OPPORTUNITY FOR CHANGE

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

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

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

State legislators, juvenile and adult court judges, juvenile and adult detention, jail, and correctional administrators, and probation officials throughout the country are pushing for reforms nationally and in individual states. These public officials are supported by scores of prominent national, state, and local organizations who are calling for major changes in national and state policy. A number of states have already begun to re-examine their state statutes and in some cases have implemented policy changes. In addition, youth, their parents, and their families, who have been most affected by these policies, are speaking out, organizing, and educating national and state policymakers.

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

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

MAJOR STATE FINDINGS

CALIFORNIA

What is the Law in California?

- Proposition 21 provided substantial new powers to prosecutors to try youth as adults. There are now several categories of cases in which the prosecutor can choose whether to file the case either as a juvenile delinquency petition or as an adult felony complaint.
- Youth being prosecuted in the adult criminal system may be detained in a jail or a secure setting for the confinement of adults under certain circumstances. After a suicide and a subsequent investigation that found inadequate conditions for youth, a policy decision was made and the California Department of Corrections entered into an agreement with the California Youth Authority to house all youth under the age of 18.

Who is Affected by the Laws in California?

- Not the most violent youth: An analysis of those who are getting tried as an adult in California suggests that many of the youth who are directly filed into adult court would also be deemed fit for juvenile court if they were able to benefit from a fitness hearing: one interpretation of the data is that, judges disagree with prosecutors' decisions to try youth in adult court at least 30% of the time. In 2003, over half of youth in the adult system in California were prosecuted for misdemeanors (54.2%) and less than 30% of youth received a prison sentence. While a much smaller proportion of young people were prosecuted as adults for misdemeanors in later years, in 2005 a third of the young people deemed serious enough to be tried in adult court received sentences involving probation or probation and jail.
- Justice by geography: The likelihood of being tried in the adult system varies substantially by the county in which the youth is prosecuted. In most counties across the state, district attorneys use their discretion to directly file a youth in adult court in fewer than 2% of juvenile delinquency cases, but in several counties more than 10% of juveniles are directly filed into adult court. The data also show a disparate impact in terms of where young people might experience jail incarceration when they are tried as adults. Pre-trial youth are housed sporadically and infrequently within jails across the state, and in the past 5 years, this has occurred in Butte, El Dorado, Los Angeles, Madera, Monterey, San Mateo, and Santa Clara counties.
- Racially disparate impact: According to the California Department of Justice, African-American youth are 4.7 times as likely to be transferred to the adult system as white youth; Latino youth are 3.44 times as likely to be transferred to the adult system as white youth; and Asian youth are 1.84 times and Pacific Islander youth are 2.36 times as likely to be transferred to the adult system as white youth. Of the 6,629 youth entering the custody of the California Department of Corrections for an offense committed prior to their 18th birthday, seventy percent were African-American and Latino, and less than 10 percent were white.

What are the Policy Options in California?

- Removing youth from adult institutions: Young people have been removed from the Men's Central Jail in Los Angeles County, and moved to back to the juvenile justice system. A policy decision was made and the California Department of Corrections entered into an agreement with the California Youth Authority to house all youth under the age of 18.

- Legislative opportunities available after Proposition 21: Under Senate Bill 1223, the courts could review the sentence of a person convicted as a minor in adult criminal court and sentenced to prison. This bill has not yet been enacted.

California Recommendations

- Improve the quality of legal advocacy.
- Investigate possibilities of sentence reduction/commutation.
- Highlight and address post-conviction employment barriers.

CONNECTICUT

What is the Law in Connecticut?

- The upper age of juvenile court jurisdiction is 15. Since 1971, when § 46b-120 of the Connecticut Juvenile Matters Code was amended, every 16- or 17 year-old in Connecticut arrested for any infraction, violent or nonviolent, is treated as an adult and is automatically under the jurisdiction of the adult criminal court. Only three states in the country have such a young age of juvenile court jurisdiction: Connecticut, New York, and North Carolina.
- Young people detained while awaiting trial in the adult court end up in the adult corrections system. Connecticut is one of a few states in the country in which the jail system (pre-trial) and prison system (post-conviction) are combined into one Department of Correction (DOC).
- Young people can be sentenced to the Department of Corrections. If convicted of a crime, youth can be ordered to complete a period of probation with conditions of behavior and rehabilitative programming requirements, or they could be sentenced to the DOC to complete a court-ordered period of incarceration. There are no age-appropriate services available for youth under adult supervision. Further, there is no adolescent development training provided to prosecutors, court staff, judicial marshals, and adult court judges, let alone adult probation officers. As a result, those under age 18 are provided only adult probation services.

Who is Affected by the Laws in Connecticut?

- Non-violent offenders: There are nearly 8,000 young people who end up in Connecticut's adult court system each year, 96% are arrested for non-violent offenses.
- Youth of color: In Connecticut, youth of color comprise fewer than 30% of the youth population, but they make up 80% of the young men in the adult corrections system.

What are the Policy Options in Connecticut?

- Raising the "age" of juvenile court jurisdiction: Spurred by reports of poor conditions at MYI, including suicides and assaults on youth, a growing number of voices in the state are calling on legislators to raise the age of juvenile court jurisdiction in Connecticut to 18.
- Investments in effective juvenile justice programming: Governor Rell identified \$550,000 for juvenile services in the proposed budget for Fiscal Year 2007 to create a more functional juvenile justice system. If 16- and 17-year-olds are returned to the juvenile court's jurisdiction, they will benefit greatly from the added services this money creates.

Connecticut Recommendations

- Raise the age of juvenile court jurisdiction to 18.
- Invest in prevention and diversion.
- Decriminalize young people with mental health disorders.
- Commit to providing rehabilitative services to 16- and 17-year-olds within the juvenile justice system and inter-agency collaboration.
- Eliminate disproportionate minority representation.

FLORIDA

What is the Law in Florida?

- Florida's transfer statutes, and their use, are controversial. After the national news media broke the story of several 13- and 14-year-olds being sent to adult prisons in the late 1990's, Florida's adultification statutes gained national and international notoriety. Florida prosecutors have a great deal of power over transfer decisions, and during the 1990's, Florida prosecutors sent nearly as many youth to adult court (7,000) as judges in the entire U.S. did. In Florida, youth enter the adult system in four ways: prosecutorial waiver (commonly known in Florida as direct file), judicial waiver, mandatory waiver, indictment, or because the youth had a prior adult sentence.
- Young people who await trial may be detained in juvenile facilities or adult jails. Within 24 hours of arrest, youth must appear before a juvenile judge, who determines whether the youth pose a public safety risk. Youth who are considered risks to public safety must remain in physically secure detention centers while awaiting trial. Generally, there is a 21-day limit to secure detention; however, young people who have been charged with serious offenses may be detained for up to 30 days. When youth are transferred to adult court, they must appear before an adult court judge within 48 hours of their transfer from juvenile court. Most young people whose cases have been transferred to adult court are detained in adult jails or freed on bond.

Who is Affected by the Laws in Florida?

- Non-violent offenders: juvenile cases transferred are for non-violent offenses. According to Uniform Crime Reporting (UCR) data found on Florida's Department of Law Enforcement website, in 2005, 35% of crimes committed by youth were "index" crimes (which include violent crimes, and burglary, larceny, theft of a motor vehicle, and arson) and the other 65% of youth crime were non-index crimes. The Florida Department of Juvenile Justice profiles database show that of the 2,794 juvenile cases transferred to adult court, 58% were transferred for non-violent (non-index) offenses and 42% were transferred for violent offenses.
- Youth of color: Non-white young people accounted for about 7 out of 10 young people transferred to the adult system in Florida. Statistics compiled by the Florida Department of Juvenile Justice in 1996 found that in Florida, African-American young people were 2.3 times more likely than white young people to be transferred to adult court.

What are the Policy Options in Florida?

- Legislators press for reforms to Florida's adultification statutes: For example, Florida State Senator Steven Geller introduced Bill 530 to provide parole eligibility for first-time offenders who were younger than 15 years old and convicted of offenses that carried a death or life sentence or a sentence of greater than 10 years. The bill has not been approved by the legislature yet.

- Legal representation: According to a report released in the fall of 2006 by the National Juvenile Defender Center, “Florida: An assessment of access to counsel and quality of representation in delinquency proceedings”, young people “were observed routinely waiving their Constitutional right to counsel. This often occurs with a wink or a nod—or even encouragement—from judges.” In October 2005, Senator Stephen Wise proposed legislation (S. 526) that sought to ensure legal representation for youth and to protect youth from waiving their right to counsel before consulting with counsel. After passing the Senate on April 26, 2006, the bill stalled in the House Committee on the Judiciary.

Florida Recommendations

- Prohibit prosecutorial transfers of youth to adult court.
- Require judges to consider imposing juvenile dispositions for youth tried and convicted in adult court.
- Implement protections for youth who indicate a willingness to waive their right to counsel.
- Young people who are found to be incompetent should not be transferred to adult court.
- Create a centralized database to track prosecutorial transfer decision-making by circuit.
- Promote the public and social benefits of the “sentence back” option to judges and defenders.
- Expand eligibility and provide resources to allow more youth who have been transferred to be “sentenced back.”
- Eliminate the prosecutorial and statutory transfer to adult court.

ILLINOIS

What is the Law in Illinois?

- In Illinois, most youth enter the criminal justice system without the benefit of an individualized hearing by a judge. Instead, they are automatically transferred to the adult criminal system based on age and charging offense. Some do enter the system after a judge has decided to transfer the youth to the adult criminal courts, but the number of youth charged as adults this way is much smaller.
- The upper age of juvenile court jurisdiction in Illinois is 16. Seventeen-year-olds are automatically under the jurisdiction of the adult criminal court. In other words, every 17-year-old boy arrested for any infraction is treated as an adult.
- Youth 13 and older face automatic transfer to adult court for certain felonies. Judges have discretion to transfer any youth age 13 or older to the adult court for any crime.
- Young people convicted in Illinois’ adult court end up in the adult pre-trial detention and corrections system. All 17-year-olds charged in adult court await trial in the adult jail system unless they pay their bonds or get one of the limited alternatives to incarceration. Once a 17-year-old is sentenced to prison, the youth will enter the adult corrections system, the Illinois Department of Corrections. There is no sight and sound separation between adults and 17-year-old youth in Illinois prisons, because the age of majority in Illinois is 17.

Who is Affected by the Laws in Illinois?

- Non-violent offenders: An estimated 16,000 17-year-olds enter the adult system in Illinois annually.
- Youth of color: In Illinois, youth of color are about a third of the youth population, but in some jurisdictions have represented nine out of 10 young people in the adult system. Although prior to the reforms to the state’s transfer laws data were not available to show the disproportionate impact statewide, there are data on Cook County. Over a three-year period (2000-2002), 99 % of the youth automatically transferred to adult court in Cook County were African-American or Latino.

What are the Policy Options in Illinois?

- Reforming the automatic transfer laws. In August of 2005, Public Act 94-0574, allowing the changes to the transfer statute, was signed into law. By all accounts, this has lessened the number of youth automatically transferred by almost two-thirds.
- Raising the age of juvenile court jurisdiction to 18. While the changes to the transfer statutes were happening, there was also legislation proposed to raise the age of juvenile court jurisdiction to 18. In 2005, a “raise the age” bill was introduced in the Senate, S. 458. It passed the Senate with bi-partisan support. S. 458 failed to pass in the House in 2006. There are plans to reintroduce another bill to raise the age of juvenile court jurisdiction in the Spring of 2007.

Illinois Recommendations

- Raise the age for 17-year-olds.
- Allow all youth individualized discretion in terms of transfer.
- Review sentences in adult court for youth.
- Provide appropriate rehabilitative services in juvenile court.

NORTH CAROLINA

What is the Law in North Carolina?

- In North Carolina, 16 and 17 year olds are under the jurisdiction of the adult criminal justice system. Along with a lower age of jurisdiction than most states, laws have been enacted that allow cases for youth ages 13 to 15 to be transferred—automatically in the case of alleged first-degree murder—to the adult criminal justice system. Once transferred, the law provides limited access to appeal the transfer decision.
- Once young people are tried and convicted in adult court, they must serve their sentences in adult correctional facilities. North Carolina does not allow judges to sentence transferred youth, regardless of their age, to serve any part of their sentences in juvenile facilities. Upon conviction, they must immediately be transferred to the Department of Correction (DOC). The DOC has six primary facilities in which “youthful offenders,” young people age 13 to 20, are housed.

Who is Affected by the Laws in North Carolina?

- Youth of color: In 2005, there were 407 young people under the age of 18 in adult prison facilities in North Carolina. Seventy-eight percent of these young people were 17, 20% were 16, and 2 percent were 15. Nearly 70 percent of the young people in the North Carolina DOC were African-American, Latino, or Native American.
- Non-violent offenders: Half the young people in adult custody are there for non-violent crimes. Among the number of young people in the North Carolina prisons in 2005, the majority of young people under the jurisdiction of the adult DOC were there for offenses the FBI would classify as non-violent crimes (55 %).

What are the Policy Options in North Carolina?

- Raising the age of juvenile court jurisdiction: On December 1, 2006, the North Carolina Sentencing Commission’s Youthful Offender Subcommittee issued its final report, including a recommendation to raise the age of juvenile court jurisdiction to 18.

- Records expungement: The State House of Representatives passed a bill (H.B. 1084) in 2005 that would allow first-offender youth who have been convicted of non-violent crimes before they turned 18 to petition the court to expunge their records. Petitions could be submitted two years after the youths' convictions or after the completion of sentences (including post-release supervision), and after serving 100 hours of community service. The State Senate did not consider the bill.

North Carolina Recommendations

- Increase the age of juvenile jurisdiction to persons who, at the time they commit a crime or infraction, are under the age of 18.
- Develop a “transfer back” mechanism.
- Adopt a youthful offender status for sentencing in adult court.
- Increase dispositional options for judges for young people.
- Support the ability of young people to expunge their records.
- Develop community-based alternatives to incarceration for young people.
- Abolish “once an adult, always an adult.”
- Increase the age that youth can be tried as adults from 13 to 15.

VIRGINIA

What is the Law in Virginia?

- Virginia allows for young people to be sent to the adult criminal justice system, including incarceration in jails and prisons, through a variety of legal mechanisms. Although Virginia’s statutory scheme does not specifically reference discretionary waiver, mandatory waiver, and direct file, it does allow for these practices through processes it terms “juvenile transfer” and “certification.”
- Virginia prosecutors can elect to try youth as adults for certain crimes. In Virginia, the “certification procedure,” which is similar to the direct file procedure in other states, places the choice of prosecution in an adult or juvenile forum solely in the hands of the prosecutor, who in Virginia is referred to as the “Commonwealth Attorney.”
- Young people charged or convicted in the adult court can end up in adult jails and prison. Virginia permits, but does not require, that youth awaiting trial as adults can be housed with the general population in adult jails without the sight and sound separation benefits allotted to youth being tried as juveniles detained in adult jails. After a youth was brutally beaten in the Virginia Beach Jail, the law, which previously mandated that youth be placed in adult jails, was changed in 1997 to make this placement discretionary.

Who is Affected by the Laws in Virginia?

- Difficult to assess due to lack of data: Available data are not kept in one centralized or uniform depository, so as a result, it is difficult to determine the number of juveniles who are affected each year by Virginia’s transfer and certification laws.
- Youth of color: Of the data that is available, African-American youth constitute fewer than half of all youth arrested in Virginia, but represent nearly three-quarters of youth entering the adult corrections system.

What are the Policy Options in Virginia?

- Raising attorney's fees: For several years, attorneys have advocated for an increase in payment for court-appointed attorneys and “issue-specific training” for attorneys who handle serious cases. The unwaivable statutory fee caps for court-appointed counsel in Virginia are the lowest in the country.

- Conducting legislative studies on disproportionate minority contact and access to legal representation. Representative Brian Moran (D-Alexandria) introduced legislation that has led to House Joint Resolution No. 136 which asked the Virginia State Crime Commission to examine the juvenile justice system, paying particular attention to the following issues: disproportionate minority contact, and quality access to legal representation in accordance with American Bar Association recommendations. This study, due to the legislature in November of 2007, will report on the Crime Commission's findings.
- Once an adult, always an adult. As this report goes to press, a bill passed both houses of the Virginia General Assembly to change Virginia's law to provide that only youth "convicted" of crimes in circuit court had to be tried again for subsequent offenses in circuit court. This amendment to the statute passed both houses unanimously and is an example of how advocates and legislators can work together to make common sense improvements to the administration of juvenile justice.

Virginia Recommendations

- Organize the collection of data on youth tried and sentenced as adults.
- Ensure judicial discretion prior to certification to adult court.
- Provide judges with discretion to sentence juveniles as juveniles, even if the charge carries mandatory minimum adult time for adults.
- Keep youth out of adult jails.
- Increase the quality of the defense afforded indigent juveniles facing transfer and certification.
- Require Virginia's Juvenile and Domestic Relations Court to consider each of the statutory transfer factors before a transfer decision is made.
- Change the minimum age for prosecution of a youth as an adult.

WISCONSIN

What is the Law in Wisconsin?

- In Wisconsin, juvenile jurisdiction runs until the age of 17. Since 1996, 17-year-olds have been excluded from juvenile court jurisdiction by law.
- Young people 10 and up can be tried in adult court. Under Wisconsin's statutory exclusion provision, youth as young as 10 years old must have their cases filed in criminal court for the following violent offenses: first- or second-degree intentional homicide, attempted first-degree intentional homicide, or first-degree reckless homicide.
- Young people convicted in the adult court end up in the adult jails and prisons. In Wisconsin, youth age 15 or older under adult court jurisdiction can be detained pre-trial in the general adult population in local jails without the sight and sound separation allotted under federal law to youth held as juveniles. After sentencing, the Department of Corrections (DOC) has the final authority in matters concerning placement of waived youth. Any youth who has not reached the age of 15 can be placed in a juvenile correctional facility even if that youth has been sentenced to the DOC. However, the DOC can sentence youth as young as age 10 to adult prisons.

Who is Affected by the Laws in Wisconsin?

- Non-violent offenders: In 2002, there were almost 14,000 admissions of 17-year-olds to adult jails; the vast majority was arrested for non-violent offenses. Only 15 percent of these youth were arrested for violent crimes such as murder, rape, aggravated assault, and robbery. Seventy percent of these youth were held in adult jails prior to trial and 28 percent (more than 3,000 youth) were sentenced to serve time in jail. Almost half of all 17-year-olds in adult jails were housed in jails in a different county than where the crime was committed. This means that when in jail, youth are away from their homes, families, and community.

- Youth of color: African-American youth make up just 10 percent of Wisconsin's youth population, but they represent 38 percent of all youth in Wisconsin adult prisons and 43 percent of non-violent juvenile offenders in adult prisons in 2006.

What are the Policy Options in Wisconsin?

- Re-examination of the current statutes: Today, the impact of these decade-old practices have caused some court officials to rethink this approach. Initially, Assistant District Attorney Don Garber, from Dane County, supported the legislation in 1995. However, he now believes it was a mistake. He sees this legislation as harmful to youth because it reduces their access to education and because adult court proceedings strip them of their confidentiality rights. He believes judges should retain the power to decide whether a juvenile should be prosecuted in juvenile or adult court.
- Change the upper age of juvenile court jurisdiction. Assembly Bill 82 was introduced to the Wisconsin State Legislature to change the upper age of the juvenile court jurisdiction from 16 to 17 years old, removing 17-year-olds from adult court jurisdiction. Because AB 82 failed to pass before the end of the legislative session in May 2006, it will have to be reintroduced in future sessions to remain on the legislative agenda.

Wisconsin Recommendations

- Return 17-year-olds to juvenile court jurisdiction.
- Revise the Juvenile Justice Code so that only a juvenile court judge can waive jurisdiction and determine appropriate placement of youth.
- Expand services available to youth and ensure they are developmentally appropriate.

RECOMMENDATIONS

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

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

4. This year federal, state, and local policymakers should invest in and undertake significant data collection efforts on the impact of prosecuting youth as adults.
5. Federal, state and local policymakers should commit to regularly visit youth in adult jails and prisons and hold public hearings on an ongoing basis to ensure that the youth and families most affected by these policies are involved in policy deliberations.

ABOUT THE ORGANIZATION--THE CAMPAIGN FOR YOUTH JUSTICE

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

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

DEDICATION

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

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



