



National Institute of Justice

R e s e a r c h i n A c t i o n

Jeremy Travis, Director

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Highlights

Recent changes in some State laws have enabled more juveniles charged with serious, violent offenses to be transferred to adult courts. As a result, a larger number of youths are being sentenced as adults and incarcerated in adult prisons. These changes are affecting both juvenile detention facilities, where many youthful offenders await transfer to adult prisons, and the adult prisons as well, where administrators must find ways to incorporate this different population.

Effects on juvenile and adult facilities

The number of juvenile court cases transferred has increased sharply, up from 7,000 to 11,000 between 1988 and 1992. Although the total number of juveniles subsequently confined in adult prisons has also increased, youths compose a very small proportion of the entire prison population. The known effects on juvenile and adult facilities include the following:

- Juvenile detention facilities are experiencing a backlog of juveniles awaiting transfers to adult prisons (some for 6 months or longer), causing some problems in managing this temporary population.

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Key Legislative Issues in Criminal Justice: Transferring Serious Juvenile Offenders to Adult Courts

by Dale Parent, Terence Dunworth, Douglas McDonald, and William Rhodes

In response to increased violent crime among juveniles, many legislatures have enacted laws to allow a larger number of serious juvenile offenders to be tried and sentenced in adult courts. The purpose of transfer laws has not been to rehabilitate youthful violent offenders but rather to protect the public from them. However, some people hold that transferring youthful offenders may deter other youths from violent crime.

The changes mandated by these laws have included 1) lowering the age at which juveniles can be transferred to adult court, 2) expanding the list of crimes for which juveniles can be transferred, and 3) changing the process for conducting transfer hearings.

Transfer practices and their results are described in this Research in Action, with a particular focus on issues for future consideration. It should be noted that most of the published studies on transfers were conducted in the late 1980s or early 1990s, before the most recent changes in practices.

Transfer practices

Under most State laws, juvenile judges and prosecuting attorneys are determining

influences in juvenile transfers to adult courts. In 49 States, juvenile judges have the authority to hear and decide transfer petitions for at least some crimes. In 26 States, certain crimes (usually serious offenses against persons) charged against juveniles of a specified age are excluded by law from the jurisdiction of the juvenile courts, and 13 States grant prosecutors the authority to decide to try specified juvenile crimes in juvenile or criminal courts. Although a smaller number of States use the latter approach, it is the most common way juveniles are tried in criminal courts, due to high levels of prosecutorial activity in a few large States.

Usually, States have hybrid systems. For example, only 16 States give juvenile judges sole discretion to make decisions about transfers of juveniles to criminal court. In 20 States, judges make some decisions, but State laws also exclude certain offenders from juvenile court jurisdiction. Finally, four States have all three mechanisms—judges' designated authority, State law provisions, and prosecutors' designated authority—for various categories of offenders.

Ages at which transfers are permitted vary from State to State. Generally, for serious offenses against persons, minimum ages

Highlights

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- Ten States account for the vast majority of juveniles age 17 or younger admitted to adult prisons, with North Carolina alone accounting for over one-fifth.
- A total of 36 States disperse young inmates in housing with adult inmates, 9 house them only with inmates 18 to 21 years old, and 6 either transfer the juveniles to their State juvenile training schools until they reach the age of majority or house them in segregated units within adult prisons.

Issues for the future

Placing juveniles in adult facilities raises issues such as:

- Their risk of being raped or assaulted by the older inmates. If kept in isolation for protection, they are then at increased risk for suicide.
- Their different needs with respect to diet and physical exercise as well as requirements for a different form of discipline.

Accordingly, some States, such as Georgia and Colorado, are building special units to house juveniles within adult facilities as well as providing specially trained staff and an enhanced range of programming.

for transfer range from 13 to 16, although a majority of States permit the transfer of youths whose juvenile offenses fall into a category for which no minimum age is provided.¹

Increases in transferred cases

The number of juveniles being transferred for trial in adult courts has risen substantially in recent years, as the following statistics demonstrate:²

- The number of juveniles transferred to adult courts increased 68 percent (from about 7,000 to about 11,000) between 1988 and 1992.
- In 1988, 1.2 percent of all delinquency cases were transferred; by 1992, the percentage had increased to 1.6.
- Transfers of juveniles accused of crimes against persons have increased the most, doubling over their previous levels (from 2,000 to 4,000 in the period 1988 to 1992). Transfers for drug offenses and public order offenses also increased sharply, each doubling (from 1,200 to about 2,400).

However, despite policymakers' focus on violent juvenile crime, only 34 percent of the transferred cases in 1992 involved crimes against persons. Property crimes accounted for 45 percent, drug crimes 12 percent, and public order offenses 9 percent.

Effects on sentencing

No recent studies of the sentences given to transferred youths are available. Studies conducted in the late 1970s and early 1980s found that offenders were often handled more leniently by the criminal courts to which they had been transferred than by juvenile courts, probably because they were appearing in criminal court for the first time. For

example, a 1978 study found that a majority of transferred juveniles sentenced in criminal courts received probation, fines, or other nonconfinement sentences.³ A similar study in 1982 found that almost two-thirds of transferred juveniles were sentenced to probation.⁴

An exception was noted in a 1982 study of four neighboring counties in New York and New Jersey, where researchers found that 46 percent of the 15- and 16-year-old felony offenders in New York (who were excluded from the juvenile court) were incarcerated, compared to 18 percent of similar offenders sanctioned by juvenile courts in New Jersey.⁵ However, a followup study of the same counties in 1987 found the opposite pattern—57 percent of 15- to 16-year-old robbers were incarcerated by the juvenile courts versus 27 percent by the adult courts.⁶

With regard to length of sentences, earlier studies found that when transferred juveniles were incarcerated, they generally were not confined for longer terms than were similar offenders confined in juvenile training schools. (Recent studies of this topic are not available.) One study found no differences in the minimum and maximum sentences for burglary and robbery offenders sentenced in juvenile and adult courts.⁷ (Data were not available on differences in actual time served.) Anecdotal evidence suggests that transferred juveniles are often released early, particularly in States under court orders to reduce adult prison crowding. Although from the perspective of juvenile justice officials, transferred youths may have relatively serious records compared to the population of confined adult offenders, their records usually are shorter and less serious, thus making them candidates for early release.

Effects on facilities and programs

Although little is known about the effects of transfers on the future behavior of affected juveniles (in terms of overall delinquency rates or later adult recidivism rates), some findings of their effects on juvenile detention centers and training schools, as well as on adult prisons, are available.

Detention centers and training schools. The data are spotty and anecdotal. During site visits to detention centers and training schools made as part of a study on conditions of confinement, researchers found that a growing percentage of the detainees were juveniles awaiting transfers. These juveniles were often detained for many months, straining the capacity of the centers, which were designed for short-term confinement, to provide effective programming. For example, on one day in a large Midwestern detention center, 25 percent of the population were awaiting completion of transfers. These juveniles had been confined, on average, for almost 6 months; one had been detained nearly 2 years.⁸

In several States transferred juveniles who have been sentenced to imprisonment are held in juvenile training schools until they reach the age of majority and are then sent to adult prisons. These training schools experience a buildup of juveniles who face extended prison terms on their departure. Many such juveniles pose serious management problems for training school staff, perhaps because they believe they have nothing to lose by misconduct in the juvenile facility.

Adult prisons. Data are not available on the effects of very recent changes in transfer laws. For example, Georgia's

About the Key Legislative Issues Series

In 1995 the National Institute of Justice (NIJ) contracted with Abt Associates Inc. to interview legislators and policymakers throughout the country to identify important criminal justice topics being considered by State legislatures and to determine the information they need to help them make more informed decisions. Altogether, 89 legislators, legislative staff members, and other criminal justice policymakers (e.g., sentencing commission members) were interviewed in 23 States. The interviews were conducted during the opening weeks of the 1995 State legislative sessions.

The sites and the respondents were chosen to reflect the diversity of the States. Some of the factors taken into consideration were geographic size and region, urban/rural mix, and existence (or nonexistence) of a sentencing commission in the State government. The respondents selected included the chairpersons of relevant legislative committees (such as the criminal justice, judiciary, and corrections committees), a representative from the governor's staff, and an official with the executive branch (such as the commissioner of corrections or the sentencing commission chairperson). Other people whom they suggested were also interviewed, and, as might be expected, legislators frequently referred the interviewers to their staff.

These policymakers identified four topics as important items on their legislative agendas:

- Sentencing commissions.
- Intermediate sanctions.
- Mandatory sentencing, including three-strikes laws.
- Transferring serious juvenile offenders to adult courts.

State policymakers expressed a strong desire for more timely and useful information about research findings on important criminal justice policy issues they were addressing. However, they voiced reservations about gleaning useful information from technical research reports.

Reviews and summaries of the research literature on the four key topics identified present the information in a way that is more accessible to policymakers. Of the four reports, this one summarizes what is known about the practice and effects of transferring serious juvenile offenders to adult courts.

Titles in the series

The Impact of Sentencing Guidelines (NCJ 161837)

Intermediate Sanctions (NCJ 161838)

Mandatory Sentencing (NCJ 161839)

Transferring Serious Juvenile Offenders to Adult Courts (NCJ 161840)

These summary reports have been published in NIJ's Research in Action series. Copies can be obtained from the National Criminal Justice Reference Service (NCJRS), Box 6000, Rockville, MD 20849-6000; telephone 800-851-3420; or e-mail askncjrs@ncjrs.org. The reports can also be viewed and downloaded from the NCJRS World Wide Web site, the Justice Information Center (<http://www.ncjrs.org>), or through the NCJRS Bulletin Board System (direct dial through computer modem: 301-738-8895; telnet to ncjrsbbs.ncjrs.org or gopher to ncjrs.org:71).

1994 law requires mandatory transfer of juveniles 13 and older charged with specified serious crimes. If convicted, juveniles face a minimum 10-year term in Georgia’s (adult) Department of Corrections. Implementation of this law is expected to result in the incarceration of about 1,300 young inmates in adult prisons.

This document reflects the effects of changes in earlier State laws, which indicate that an increasing number of young inmates have been confined in adult prisons.⁹ In 1982 about 2,600 people ages 17 and younger were admitted to prisons in 30 States, constituting 2.6 percent of all admissions.¹⁰ By 1991, 35 States reported 4,350 prison admissions for people ages 17 or younger.¹¹ About 5,150 people admitted in 1992 to State prisons were younger than 18 on the date of their admission.¹² A substantial but undetermined number were nominally “adults”; that is, they were committed in States in which the age of majority was 17. The rest were juveniles transferred to adult courts, which convicted and sentenced them.

Young inmates are a small percentage of inmates in adult prison. In 1991 young offenders constituted just 1.8 percent of all prison admissions.¹³ Indeed, the number of young offenders appears to have actually declined as a percentage of total admissions to adult prisons, widening the gap between young and old. Between 1982 and 1991, the median age of all people admitted to prison rose from 25 to 26 years. In 1993 in a total prison population of more than one million, slightly more than 5,200 people age 17 or younger were confined in adult prisons, compared to over 65,500 people age 18 to 21.¹⁴ Given the substantial long-term and deferred effects of in-

Exhibit 1—Juvenile* Admissions to State Correctional Agencies, 1993

State	Number	Percent
Total U.S.**	5,207	100.0
North Carolina	1,226	23.5
New York	834	16.0
Illinois	405	7.8
Florida	380	7.3
Texas	348	6.7
Alabama	191	3.7
Georgia	189	3.6
Puerto Rico	187	3.6
Michigan (tie)	170	3.3
Missouri (tie)	170	3.3

Source: National Institute of Corrections, *Offenders under Age 18 in State Adult Corrections Systems: A National Picture*, Special Issues in Corrections, Number 1, National Institute of Corrections, Washington, D.C., 1995.

*Age 17 and younger.

**Excludes New Jersey.

Exhibit 2—People Ages 13–15 in State Adult Correctional Populations, June 30, 1994

State	Number	Percent
Total U.S.*	102	100.0
Florida	39	38.2
North Carolina	18	17.6
Arkansas	11	10.8
Georgia	8	7.8

Source: National Institute of Corrections, *Offenders under Age 18 in State Adult Corrections Systems: A National Picture*, Special Issues in Corrections, Number 1, National Institute of Corrections, Washington, D.C., 1995.

*Excludes New Jersey.

creases in sentence length on time actually served, it is likely that the number of aging adults will increase faster than the number of younger adults and juveniles in the prison population. Thus, juveniles who are now serving time with offenders who are 7 to 8 years older than they will be serving time with even older offenders in the future.

Differences by State

Prison admissions for young and very young offenders vary greatly among the States. Of the 5,207 people age 17 or younger who were admitted to State

adult prisons in 1993, the vast majority (78.8 percent) came from 10 States, with North Carolina alone accounting for 23.5 percent of all juvenile admissions (exhibit 1).¹⁵

Only 102 very young inmates (ages 13 to 15) were in the custody of State adult correctional agencies on June 30, 1994. Of these, almost three-fourths were in four States (exhibit 2). Of inmates ages 16 to 17, there were 4,730 in non-Federal adult correctional populations on this date. Of these, almost three-fourths were held in nine jurisdictions (exhibit 3). In the age group 18 to 21, 65,575 were in

Exhibit 3—People Ages 16–17 in State Adult Correctional Populations, June 30, 1994

State	Number	Percent
Total U.S.*	4,730	100.0
South Carolina	870	18.4
Florida	740	15.6
New York	487	10.3
North Carolina	451	9.5
Connecticut	334	7.1
Illinois	168	3.6
Georgia	163	3.4
Arkansas	140	3.0
Puerto Rico	138	2.9

Source: National Institute of Corrections, *Offenders under Age 18 in State Adult Corrections Systems: A National Picture*, Special Issues in Corrections, Number 1, National Institute of Corrections, Washington, D.C., 1995.
*Excludes New Jersey.

Exhibit 4—People Ages 18–21 in State Adult Correctional Populations, June 30, 1994

State	Number	Percent
Total U.S.*	65,575	100.0
California	8,514	13.0
Florida	6,007	9.2
New York	5,953	9.1
Illinois	4,966	7.6
Ohio	3,805	5.8
Michigan	3,401	5.2
North Carolina	2,982	4.5
Georgia	2,890	4.4
Virginia	1,961	3.0

Source: National Institute of Corrections, *Offenders under Age 18 in State Adult Corrections Systems: A National Picture*, Special Issues in Corrections, Number 1, National Institute of Corrections, Washington, D.C., 1995.

State adult correctional populations, with 62 percent of them held in nine States (exhibit 4).¹⁶

Managing young offenders in adult prisons: future issues

It is likely that the number of young inmates sentenced to confinement in adult prisons will increase. As the number grows, State correctional officials face decisions about some important management issues.

Housing. The first issue, and in some ways the most fundamental, is housing. In 1994, 36 States dispersed young inmates in housing with adult inmates (half as a general practice and half only in certain circumstances). Nine States housed young inmates with those ages 18 to 21 but not with older inmates. Only six States never housed young inmates with people 18 and older; they either have transferred young inmates to their State juvenile training schools until they reached the

age of majority or have housed them in segregated living units within an adult prison.¹⁷

Some believe that housing young inmates with these older populations ensures they will be victimized, assaulted, and abused, both physically and sexually. Young inmates who cannot survive in such a situation have little choice but to enter protective custody, which is usually a separate, secure housing unit in which they spend a great deal of time in isolation—a setting that is especially conducive to suicidal behavior.¹⁸

Programming. The second issue is programming. Young inmates may be subject to State mandatory education laws as well as Federal mandates for special education, where applicable. In addition, young inmates have dietary needs different from those of adult inmates, yet their food allowance (in caloric value and type of food) is likely to be the same as that of adult inmates. They require more large-muscle exercise yet are likely to have the same access to exercise as adult inmates. Misconduct by young inmates is, to some extent, linked to their development as adolescents. Staff responses based on adult patterns of misconduct are likely to be less effective in managing juveniles.

When young offenders are housed with adults or placed in protective custody, it is impractical (and probably impossible) to develop specialized programming that addresses their particular needs and problems. In some jurisdictions, such as Georgia and Colorado, adult correctional officials are building special units within their adult prisons to house only young offenders. These units will be run by specially selected and trained staff and will provide a

wide range of programs dealing with young offenders' needs and problems.

Notes

1. Snyder, H., and M. Sickmund, *Juvenile Offenders and Victims: A National Report, 1996*, Washington, D.C.: U.S. Department of Justice, Office of Juvenile Justice and Delinquency Prevention, 1996.

2. The figures cited in this section are from the National Juvenile Court Data Archive (NCDJA), which is maintained by the National Center for Juvenile Justice (with funding from the Office of Juvenile Justice and Delinquency Prevention). NCDJA contains the best available data for estimating trends in transfer practices. There are limitations to these data, however. Participation in the archive is voluntary, and data are submitted by a nonprobability sample of juvenile courts. Estimation procedures assume that the incidence and characteristics of juvenile cases are the same in reporting and nonreporting counties.

3. Hamparian, D., L. Estep, S. Muntean, R. Pristino, R. Swisher, P. Wallace, and J. White, *Youth in Adult Courts: Between Two Worlds*, Washington, D.C.: U.S. Department of Justice, Office of Juvenile Justice and Delinquency Prevention, 1982.

4. Bortmer, M., "Traditional Rhetoric, Organizational Realities: Remand of Juveniles to Adult Court," *Crime and Delinquency*, 32 (1986):53-73.

5. Rudman, C., E. Hartstone, J. Fagan, and M. Moore, "Violent Youth in Adult Court: Process and Punishment," *Crime and Delinquency*, 32 (1986):75-96.

6. Fagan, J., *Comparative Impacts of Juvenile and Criminal Court Sanctions for Adolescent Felony Offenders*, Washington, D.C.: U.S. Department of Justice, National Institute of Justice, 1991.

7. Ibid.

8. Parent, D., V. Leiter, S. Kennedy, L. Livens, D. Wentworth, and S. Wilcox, *Conditions of Confinement: Juvenile Detention and Corrections Facilities*, Washington D.C.: U.S. Department of Justice, Office of Juvenile Justice and Delinquency Prevention, 1994.

9. The term "young inmate" refers to inmates who are 17 or younger. Ages of majority vary among States, as do ages at which juveniles can be waived to adult courts and sentenced to adult prisons. Nonetheless, whether 16-year-old offenders are officially labeled as juveniles, transferred juveniles, or young adults, they present prison administrators with the same management problems.

10. *Sourcebook of Criminal Justice Statistics-1985*, Eds. T. J. Flanagan and E. F. McGarrell, Washington, D.C.: U.S. Department of Justice, Bureau of Justice Statistics, 1986.

11. *Sourcebook of Criminal Justice Statistics-1993*, Eds. K. Maguire and A. L. Pastore, Washington, D.C.: U.S. Department of Justice, Bureau of Justice Statistics, 1994.

12. Bureau of Justice Statistics, *Survey of State Prison Inmates*, Washington, D.C.: U.S. Department of Justice, Bureau of Justice Statistics, 1992.

13. *Sourcebook of Criminal Justice Statistics-1993*.

14. National Institute of Corrections, *Offenders under Age 18 in State Adult Corrections Systems: A National Picture*, Special Issues in Corrections, Number 1, National Institute of Corrections, Washington, D.C., 1995. Because the data on juvenile admissions and confinements cited in this Research in Action come from different sources (and hence, are not strictly comparable), it is not possible to measure the percentage of transferred juveniles who are sentenced to adult prisons. However, practitioners note that less

than half the transferred juveniles are imprisoned. Generally, these are juveniles convicted of very serious violent crimes.

15. Ibid.

16. Ibid.

17. Ibid.

18. Parent, et al., *Conditions of Confinement*.

Dale Parent, associate; Terence Dunworth, Ph.D., senior associate; Douglas McDonald, Ph.D., senior associate; and William Rhodes, Ph.D., senior scientist, are with Abt Associates Inc. This study, sponsored by the National Institute of Justice, was prepared under contract 94-IJ-CX-C007.

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