



OJJDP Update on Statistics

John J. Wilson, Acting Administrator

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How Juveniles Get to Criminal Court

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All States allow juveniles to be tried as adults in criminal court under certain circumstances. A juvenile's case can be transferred to criminal court for trial in one of three ways—judicial waiver, prosecutorial discretion, or statutory exclusion from juvenile court jurisdiction. In any State, one, two, or all three transfer mechanisms may be in place.

Judicial waiver. As of year end 1992, in all States except Nebraska and New York, juvenile court judges may waive jurisdiction over a case and transfer it to criminal court (figure 1). Such action is usually in response to a request by the prosecutor. However, in several States, juveniles or their parents may request a transfer. In many States, statutes limit judicial waiver by age, offense, or offense history. Frequently, statutory criteria such as the juvenile's amenability to treatment must also be considered.

An estimated 11,700 juvenile delinquency cases were transferred to criminal court by judicial waiver in 1992 (table 1). Waivers increased 68% from 1988 to 1992. Over this 5-year period, the number of waivers doubled or nearly doubled for all offense categories except property offenses.

Judicially waived cases accounted for fewer than 2% of the cases formally processed in juvenile courts in 1992 (table 2). Drug and person offense cases were more likely to be judicially waived than cases involving property or public order offenses.

The offense profile of waived cases changed somewhat from 1988 to 1992 (table 3). Person offense cases accounted for a greater proportion and property cases for a smaller proportion of waived cases in 1992 than in 1988.

Prosecutorial discretion. In some States, prosecutors are given the authority to file certain juvenile cases in either juvenile or criminal court under concurrent jurisdiction statutes. Thus, original jurisdiction is shared by both criminal and juvenile courts.

Prosecutorial discretion is typically limited by age and offense criteria (figure 2). Often concurrent jurisdiction is limited to charges of serious, violent, or repeat crimes. Juvenile and criminal courts frequently share jurisdiction over minor offenses such as traffic, watercraft, or local ordinance violations, as well.

There are no national data at the present time on the number of juvenile cases tried in criminal court under concurrent jurisdiction provisions. There is, however, some indication that they may outnumber judicial waivers in States

From the Administrator

Every State provides a means for juveniles to be tried in adult criminal courts under certain criteria. A particular State may employ one, two, or three of the standard methods for such transfers: judicial waiver, prosecutorial discretion, and statutory exclusion.

Drawing on data from the National Juvenile Court Data Archive's forthcoming *Juvenile Court Statistics 1992* report, this *Update on Statistics* provides significant State and aggregate information on the diverse mechanisms by which juveniles arrive in criminal court.

The information in this *Update* was developed for OJJDP's forthcoming *National Report on Juvenile Offending and Victimization*.

John J. Wilson
Acting Administrator

Figure 1

Statutorily Defined Age and Offense Provisions for Judicial Waiver of Juveniles to Criminal Court, 1992

Key: Provision is specifically mentioned in State's Juvenile Code.
 Provision applies only if the other condition similarly shaded is also met.
See example below for information on how to read the chart.

State	Minimum Age	Certain Offenses								Previous	
		Any Criminal Offense	Murder	Person Offenses	Property Offenses	Drug Offenses	Weapons Offenses	Felony Offenses	Capital Crimes	Delinquent Adjudication(s)	Criminal Conviction
AL	14	14									
AK											
AZ											
AR	14		14	14				16	14		
CA	16	16									
CO	14							14			
CT	14							14			
DE	14	16						14			
DC		16 ^a						15			
FL		14									
GA	13	15			15				13		
HI	16							16			
ID	14	14									
IL	13	13									
IN		14	10					16			
IA	14	14									
KS	16	16						14			
KY	14							14	14		
LA	15			15	15						
ME											
MD		15									
MA	14			14				14 ^b			
MI	15							15			
MN	14	14									
MS	13	13									
MO	14							14			
MT	12		12	12	16	16	16				
NV	16							16			
NH											
NJ	14	14	14	14	14	14	14				
NM	15		15	16	16		16	16			
NC	14							14			
ND	14	16		14							
OH	15							15			
OK											
OR	15		15	15	15			15			
PA	14							14			
RI											
SC		16			14						
SD											
TN	14	16	14	14							
TX	15							15			
UT	14							14			
VT	10		10	10	10						
VA	15							15			
WA	15			17				15			
WV								16			
WI	14	16	14								
WY											

Example: Alabama permits judicial waiver for any delinquency case involving a juvenile age 14 or older. Connecticut permits waiver of juveniles age 14 or older charged with certain felonies if they have been previously adjudicated delinquent.

Note: Ages in the minimum age column may not apply to all the restrictions indicated, but represent the youngest possible age at which a juvenile may be judicially waived to criminal court. For States with a blank minimum age cell, at least one of the offense restrictions indicated is not limited by age. When a provision is conditional on previous adjudications, those adjudications are often required to have been for the same offense type (e.g., class A felony) or a more serious offense.

^a Waiver conditional on the juvenile being under commitment for delinquency.

^b Waiver conditional on a previous commitment to the Department of Youth Services.

Source: Szymanski, L. (1993) *Waiver/transfer/certification of juveniles to criminal court: Age restrictions-crime restrictions (1992 update)*. Pittsburgh, PA: National Center for Juvenile Justice.

Table 1

Percent Change in Delinquency Cases Judicially Waived to Criminal Court

Offense	Number of Cases		Percent Change
	1988	1992	
Delinquency	7,000	11,700	68%
Person	2,000	4,000	101
Property	3,700	5,200	42
Drugs	700	1,400	91
Public Order	500	1,000	90

Note: Detail may not add to totals because of rounding.

Table 3

Offense Profile of Judicially Waived Cases

Offense	1988	1992
Person	29%	34%
Property	53	45
Drugs	11	12
Public Order	8	9

Note: Detail may not total 100% because of rounding.

Table 2

Percent of Petitioned Delinquency Cases Judicially Waived to Criminal Court

Offense	1988	1989	1990	1991	1992
Delinquency	1.2%	1.4%	1.3%	1.6%	1.6%
Person	1.9	2.0	2.1	2.4	2.4
Property	1.2	1.2	1.1	1.2	1.3
Drugs	1.5	2.8	2.7	4.4	3.1
Public Order	0.5	0.5	0.6	0.7	0.8

allowing such transfers. In one State with both judicial waiver and concurrent jurisdiction provisions, there were two cases filed directly in criminal court for every one judicially waived in 1981. By 1992 there were more than six direct filings for every case judicially waived.

Statutory exclusion. Legislatures transfer large numbers of young offenders to criminal court by statutorily excluding them from juvenile court jurisdiction (table 4). Although not typically thought of as transfers, large numbers of youth under age 18 are tried as adults in the 11 States where the upper age of juvenile court jurisdiction

is lower than 18. Nationwide, an estimated 176,000 cases involving youth under age 18 were tried in criminal court in 1991 because they were considered adults under State law.

Many States exclude certain serious offenses from juvenile court jurisdiction—some also exclude juveniles who have been previously waived or convicted in criminal court (figure 3). State laws typically also set age limits for excluded offenses. The serious offenses most often excluded are murder (and other capital crimes) and other offenses against persons. Several States exclude juveniles charged with

felonies if they have prior felony adjudications or convictions. Minor offenses such as traffic, watercraft, or fish or game violations are often excluded from juvenile court jurisdiction as well. There are no national data on the number of juvenile cases tried in criminal court as a result of these types of statutory exclusions.

In many States, juveniles tried in criminal court may receive dispositions involving either criminal or juvenile court sanctions. Several States also have provisions for transferring “excluded” or “direct-filed” cases from criminal court to juvenile court under certain circumstances. This is sometimes referred to as “reverse” waiver or transfer.

Delinquency case data are from the National Juvenile Court Data Archive’s *Juvenile Court Statistics 1992* report. The report will be available in 1995 from the Juvenile Justice Clearinghouse (800-638-8736). Analyses reflect statutory provisions in place at the end of 1992. Several States amended their statutes regarding waiver, concurrent jurisdiction, or exclusion since then.

Table 4

The Upper Age of Juvenile Court Jurisdiction in Delinquency Matters Defined by State Statute

Oldest age for original juvenile court jurisdiction in delinquency matters

Fifteen	Sixteen	Seventeen	Seventeen	Seventeen
Connecticut	Georgia	Alabama	Kansas	Ohio
New York	Illinois	Alaska	Kentucky	Oklahoma
North Carolina	Louisiana	Arizona	Maine	Oregon
	Massachusetts	Arkansas	Maryland	Pennsylvania
	Michigan	California	Minnesota	Rhode Island
	Missouri	Colorado	Mississippi	South Dakota
	South Carolina	Delaware	Montana	Tennessee
	Texas	District of Columbia	Nebraska	Utah
		Florida	Nevada	Vermont*
		Hawaii	New Hampshire	Virginia
		Idaho	New Jersey	Washington
		Indiana	New Mexico	West Virginia
		Iowa	North Dakota	Wisconsin
				Wyoming

* In Vermont, the juvenile and criminal courts have concurrent jurisdiction over all 16- and 17-year-olds.

Source: Szymanski, Linda. (1994) *Upper age of juvenile court jurisdiction statutes analyses*. Pittsburgh, PA: National Center for Juvenile Justice.

Figure 2

Serious Offenses for Which State Statutes Give Prosecutors Discretion To File in Criminal or Juvenile Court and Related Age Restrictions, 1992

Key: Provision is specifically mentioned in State's Juvenile Code.
 Provision applies only if the other condition similarly shaded is also met.
 See example below for information on how to read the chart.

State	Minimum Age	Certain Offenses								Previous Felony Adjudication(s)
		Any Criminal Offense	Murder	Person Offenses	Property Offenses	Drug Offenses	Weapons Offenses	Felony Offenses	Capital Crimes	
AR	14		14	14				16	14	
CO	14							14		
DC	16		16 ^a	16 ^a	16 ^a					
FL		16 ^b						16	c	
GA										
LA	15			15	16					
MI										
NE		16								
NH										
SD										
UT	16		16					16	16	
VT	16	16								
WY		13								

Example: In Florida prosecutors have discretion to file in criminal court those cases involving juveniles age 16 or older charged with felony offenses or misdemeanors if they have prior felony adjudications. Juveniles of any age charged with capital crimes are tried in criminal court following grand jury indictment. In New Hampshire prosecutors may file in criminal court any juvenile case involving a felony charge.

Note: Ages in the minimum age column may not apply to all the restrictions indicated, but represent the youngest possible age at which a juvenile's case may be filed directly in criminal court. For States with a blank minimum age cell, at least one of the offense restrictions indicated is not limited by age. When a provision is conditional on previous adjudications, those adjudications are often required to have been for the same offense type (e.g., class A felony) or a more serious offense.

^a Statutory exclusion language interpreted as concurrent jurisdiction provision.

^b Provision applies to misdemeanors only.

^c Provision is conditional on grand jury indictment.

Source: Szymanski, L. (1994) *Concurrent jurisdiction (1992 update)*. Pittsburgh, PA: National Center for Juvenile Justice.

Figure 3
Serious Offenses Excluded From Juvenile Court by State Statute and Related Age Restrictions, 1992

Key: Exclusion is specifically mentioned in State's Juvenile Code.
 } Exclusion applies only if the other condition similarly shaded is also met.
See example below for information on how to read the chart.

State	Minimum Age	Certain Offenses							Previous	
		Murder	Person Offenses	Property Offenses	Drug Offenses	Weapons Offenses	Felony Offenses	Capital Crimes	Felony Adjudication(s)	Criminal Conviction
CT	14	14					14			
DE										
GA	14	14 ^a	14 ^a	15						
HI	16	14					16			
ID	14	14	14		14					
IL	15	15	15		15	15	15 ^b	b		
IN		16	16			16				
KS	16		16 ^a	16 ^a			16			
LA	15	15	15							
MD	14		16			16		14		
MN	14						14			
MS										
NV										
NY	7	13	13	13			7			
NC	14							14		
OH										
OK	16	16	16	16	16	16				
PA										
RI	16				16					
VT	14	14	14	14						

Example: In North Carolina, juveniles age 14 or older charged with capital crimes are excluded from juvenile court jurisdiction. In Ohio, juveniles of any age charged with murder are excluded if they have prior criminal convictions, as are those charged with certain felonies who have prior felony adjudications.

Note: The ages given in the minimum age column may not apply to all the exclusions indicated, but represent the youngest possible age at which a juvenile may be excluded from juvenile court. For States with a blank minimum age cell, at least one of the exclusions indicated is not restricted by age. When an exclusion is conditional on previous adjudications, those adjudications are often required to have been for the same offense type (e.g., class A felony) or a more serious offense.

^a Exclusion applies only to juveniles charged with offenses while in custody in juvenile institutions.

^b Exclusion of felonies is also conditional on the offense being "committed in furtherance of criminal activity by an organized gang."

Source: Szymanski, L. (1993) *Statutory exclusion of crimes from juvenile court jurisdiction (1992 update)*. Pittsburgh, PA: National Center for Juvenile Justice.

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