Youth Under Age 18 in the Adult Criminal Justice System

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Negative Impacts on Youth Processed in the Adult System

- Youth tried as adults are subject to harsher adult penalties than youth processed in the juvenile system. In most states this includes life without parole.
- Youth convicted in the adult system receive little or no rehabilitative programming, which is mandated in the juvenile system.
- Youth convicted as adults cannot as easily expunge their criminal record, which affects their future opportunities in education and employment.
- Youth are at greater risk of victimization and death in adult jails and prisons than in juvenile facilities.
- The practice of sentencing youth as adults most seriously impacts African American, Latino, and Native American youth.¹
- Youth convicted in the adult system may be disenfranchised and denied military service.
- Youth held in adult facilities are more likely to recidivate than similar offenders remaining in the juvenile system.²

This fact sheet presents statistics and issues related to persons under the age of 18 involved in the adult criminal justice system in the US, regardless of whether their state considers them adults or juveniles. In all cases, the latest available data is represented.
Minimum Age and Transfer Provisions Vary By State

At the threshold age of 18, youth are automatically under the jurisdiction of the adult criminal justice system in most states.

- Persons aged 16 are considered adults in three states—Connecticut, New York, and North Carolina.
- Persons aged 17 are considered adults in ten states—Georgia, Illinois, Louisiana, Massachusetts, Michigan, Missouri, New Hampshire, South Carolina, Texas, and Wisconsin.

Regardless of the threshold age, all states have provisions for processing youth under age 18 in the adult system, usually depending on the severity of the offense and the youth’s offense history.

- Twenty-three states have no minimum age for transferring youth to adult court.
- For all other states, the minimum age is from 10 to 15.

States use various combinations of statutes to transfer youth under age 18 to adult court.

- In 38 states there are certain cases, usually violent felonies, that must be transferred (Mandatory Judicial Waivers and Statutory Exclusions).
- Almost all states (45) allow Discretionary Judicial Waiver transfers (discretion of the judge).
- There are 15 states that allow Direct Filing (discretion of the prosecutor).
- In 15 states, certain cases are designated as Presumptive Waivers, in which a youth has to show cause in order to avoid transfer.
- More than half of states (26) allow some form of Blended Sentencing (a joint juvenile/adult disposition usually with the adult sentence suspended).
Life Without Parole

There were an estimated 2,225 youth under age 18 serving sentences of life without parole in 2002. In each year from 1990 to 2003, an average of 98 youth under age 18 were admitted to prison with a sentence of life without parole. Most of these youth serve their time in adult facilities.7

Incarceration in State Jails

There was a 208% increase in the number of youth under age 18 serving time in adult jails on any given day between 1990 and 2004. The number of youth under age 18 in adult jails rose sharply through the 1990s to a high of almost 9,500 in 1999 and then leveled off to an average of just over 7,200 since 2000.

Federal prisons held 39 inmates under age 18 in 1990, but none in 2004. Federal law requires that all persons under age 18 convicted of a federal offense be placed in suitable juvenile facilities, NOT in adult facilities.

The proportion of youth under age 18 among total jail populations is dropping. Youth under age 18 accounted for 1.4% of the total population of state jails in 1994, 1.2% in 2000, and 1% in 2004.8
Incarceration in State Prisons

New admissions of youth under age 18 to state prisons have been dropping since the mid-1990s.9

![Graph of New Admissions to State Prisons of Youth Under Age 18]

The number of youth under age 18 incarcerated in state prisons has been dropping since the mid-1990s. Girls account for approximately 4% of youth under 18 in adult prisons.

![Graph of Youth Under Age 18 in State Prisons (One Day Count)]

The proportion of youth under age 18 among total prison populations is also dropping. Youth under age 18 accounted for 2.3% of the total population of state prisons in 1996, which is more than double the proportion (1.1%) in 2002.

Since 1995, the total prison population has risen 16%, while the number of persons under age 18 in prison has dropped 45%. The large increases in the overall prison populations probably account for the drop in proportion of youth under age 18 in state prisons.10
Most youth committed to adult state prisons were convicted of a violent offense, but all types of offenses are represented.

The most serious offense for youth under age 18 committed to state prisons is more likely to be a violent offense and less likely to be a drug or public order offense than for older offenders (2002).

Just 24 youth under age 18 released from prison were returned for parole violations in 2002, but most are older than 18 upon release.¹²

**Felony Defendants in the 75 Largest US Counties**

Felony defendants under age 18 have less serious criminal histories than older defendants.

Sixty-six percent of felony defendants under age 18 had no prior arrests compared to 39% of defendants aged 18 to 20 and less than 25% for older defendants.

Six percent of felony defendants under age 18 had a prior felony conviction, compared to 20% for 18 to 20-year-olds and 36% or more for older defendants.

African Americans accounted for 55% of felony defendants under age 18.

African American males (50%) accounted for more than 3 times the percentage of white males (15%), and twice the percentage of Hispanic males (25%) under age 18.¹³
The Juvenile Justice and Delinquency Prevention Act

The Juvenile Justice and Delinquency Prevention Act, originally passed in 1974, prevents youth under age 18 from being held in adult facilities unless the state defines “adult” as younger than 18, or if the youth was convicted of a felony or is awaiting trial for a felony offense. In certain circumstances for which the Act makes exceptions, such as for short periods in rural areas or while awaiting a court appearance, juvenile inmates are to be kept completely separate from adults.

Notes


3 US Supreme Court, Roper v. Simmons, 2005.


9 Ibid.

10 Ibid.

