



Juvenile Offenders and Victims: 2006 National Report

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Chapter 4

Juvenile justice system structure and process



The first juvenile court in the United States was established in Chicago in 1899, more than 100 years ago. In the long history of law and justice, juvenile justice is a relatively new development. The juvenile justice system has weathered significant modifications since the late 1960s, resulting from Supreme Court decisions, federal legislation, and changes in state legislation.

Perceptions of a juvenile crime epidemic in the early 1990s fueled public scrutiny of the system's ability to effectively control violent juvenile offenders. As a result, states adopted numerous legislative changes in an effort to crack down on juvenile crime. Although some differences between the criminal and juvenile justice systems have diminished in recent years, the juvenile justice system remains unique, guided by its own philosophy and legislation and implemented by its own set of agencies.

This chapter describes the juvenile justice system, focusing on structure and process features that relate to delinquency and status offense matters. (The chapter on victims discusses the handling of child maltreatment matters.) Sections in this chapter provide an overview of the history of juvenile justice in this country, present the significant Supreme Court decisions that have shaped the modern juvenile justice system, and describe case processing in the juvenile justice system. This chapter also summarizes changes made by states with regard to the system's jurisdictional authority, sentencing, corrections programming, confidentiality of records and court hearings, and victim involvement in court hearings. Much of the information was drawn from National Center for Juvenile Justice analyses of juvenile codes in each state. (Note: For ease of discussion, the District of Columbia is often referred to as a state.)

The juvenile justice system was founded on the concept of rehabilitation through individualized justice

Early in U.S. history, children who broke the law were treated the same as adult criminals

Throughout the late 18th century, “infants” below the age of reason (traditionally age 7) were presumed to be incapable of criminal intent and were, therefore, exempt from prosecution and punishment. Children as young as 7, though, could stand trial in criminal court for offenses committed and, if found guilty, could be sentenced to prison or even given a death sentence.

The 19th-century movement that led to the establishment of the juvenile court in the U.S. had its roots in 16th-century European educational reform movements. These earlier reform movements changed the perception of children from one of

John Augustus—planting the seeds of juvenile probation (1847)

“I bailed nineteen boys, from 7 to 15 years of age, and in bailing them it was understood, and agreed by the court, that their cases should be continued from term to term for several months, as a season of probation; thus each month at the calling of the docket, I would appear in court, make my report, and thus the cases would pass on for 5 or 6 months. At the expiration of this term, twelve of the boys were brought into court at one time, and the scene formed a striking and highly pleasing contrast with their appearance when first arraigned. The judge expressed much pleasure as well as surprise at their appearance, and remarked that the object of law had been accomplished and expressed his cordial approval of my plan to save and reform.”

miniature adults to one of persons with less than fully developed moral and cognitive capacities.

As early as 1825, the Society for the Prevention of Juvenile Delinquency was advocating the separation of juvenile and adult offenders. Soon, facilities exclusively for juveniles were established in most major cities. By mid-century, these privately operated youth “prisons” were under criticism for various abuses. Many states then took on the responsibility of operating juvenile facilities.

The first juvenile court in this country was established in Cook County, Illinois, in 1899

Illinois passed the Juvenile Court Act of 1899, which established the nation’s first juvenile court. The British doctrine of *parens patriae* (the state as parent) was the rationale for the right of the state to intervene in the lives of children in a manner different from the way it intervenes in the lives of adults. The doctrine was interpreted to mean that, because children were not of full legal capacity, the state had the inherent power and responsibility to provide protection for children whose natural parents were not providing appropriate care or supervision. A key element was the focus on the welfare of the child. Thus, the delinquent child was also seen as in need of the court’s benevolent intervention.

Juvenile courts flourished for the first half of the 20th century

By 1910, 32 states had established juvenile courts and/or probation services. By 1925, all the rest but two had followed suit. Rather than merely punishing delinquents for their crimes, juvenile courts sought to turn delinquents into productive citizens—through treatment.

Louise deKoven Bowen—fighting to make Chicago safe for children (1920)

“Probably no one thing has so tended to decrease delinquency as this public movement to furnish constructive recreational and social opportunities to boys and girls who would otherwise be denied these privileges.”

The mission to help children in trouble was stated clearly in the laws that established juvenile courts. This benevolent mission led to procedural and substantive differences between the juvenile and criminal justice systems.

During the next 50 years, most juvenile courts had exclusive original jurisdiction over all youth under age 18 who were charged with violating criminal laws. Only if the juvenile court waived its jurisdiction in a case could a child be transferred to criminal court and tried as an adult. Transfer decisions were made on a case-by-case basis using a “best interests of the child and public” standard, and were thus within the realm of individualized justice.

The focus on offenders and not offenses, on rehabilitation and not punishment, had substantial procedural impact

Unlike the criminal justice system, where district attorneys selected cases for trial, the juvenile court controlled its own intake. And unlike criminal prosecutors, juvenile court intake considered extra-legal as well as legal factors in deciding how to handle cases. Juvenile court intake also had discretion to handle cases informally, bypassing judicial action.

The first cases in juvenile court

After years of development and months of compromise, the Illinois legislature passed on April 14, 1899, a law permitting counties in the state to designate one or more of their circuit court judges to hear all cases involving dependent, neglected, and delinquent children younger than age 16. The legislation stated that these cases were to be heard in a special courtroom that would be designated as “the juvenile court room” and referred to as the “Juvenile Court.” Thus, the first juvenile court opened in Cook County on July 3, 1899, was not a new court, but a division of the circuit court with original jurisdiction over juvenile cases.

The judge assigned to this new division was Richard Tuthill, a Civil War veteran who had been a circuit court judge for more than 10 years. The first case heard by Judge Tuthill in juvenile court was that of Henry Campbell, an 11-year-old who had been arrested for larceny. The hearing was a public event. While some tried to make the juvenile proceeding secret, the politics of the day would not permit it. The local papers carried stories about what had come to be known as “child saving” by some and “child slavery” by others.*

At the hearing, Henry Campbell's parents told Judge Tuthill that their son was a good boy who had been led into trouble by others, an argument consistent with the underlying philosophy of the court—that individuals (especially juveniles) were not

solely responsible for the crimes they commit. The parents did not want young Henry sent to an institution, which was one of the few options available to the judge. Although the enacting legislation granted the new juvenile court the right to appoint probation officers to handle juvenile cases, the officers were not to receive publicly funded compensation. Thus, the judge had no probation staff to provide services to Henry. The parents suggested that Henry be sent to live with his grandmother in Rome, New York. After questioning the parents, the judge agreed to send Henry to his grandmother's in the hope that he would “escape the surroundings which have caused the mischief.” This first case was handled informally, without a formal adjudication of delinquency on the youth's record.

Judge Tuthill's first formal case is not known for certain, but the case of Thomas Majcheski (handled about two weeks after the Campbell case) might serve as an example. Majcheski, a 14-year-old, was arrested for stealing grain from a freight car in a railroad yard, a common offense at the time. The arresting officer told the judge that the boy's father was dead and his mother (a washerwoman with nine children) could not leave work to come to court. The officer also said that the boy had committed similar offenses previously but had never been arrested. The boy admitted the crime. The judge then asked the nearly 300 people in the courtroom if they had anything to say. No one responded.

Still without a probation staff in place, the judge's options were limited: dismiss the matter, order incarceration at the state reformatory, or transfer the case to adult court. The judge decided the best alternative was incarceration in the state reformatory, where the youth would “have the benefit of schooling.”

A young man in the audience then stood up and told the judge that the sentence was inappropriate. Newspaper accounts indicate that the objector made the case that the boy was just trying to obtain food for his family. Judge Tuthill then asked if the objector would be willing to take charge of the boy and help him become a better citizen. The young man accepted. On the way out of the courtroom, a reporter asked the young man of his plans for Thomas. The young man said “Clean him up, and get him some clothes and then take him to my mother. She'll know what to do with him.”

In disposing of the case in this manner, Judge Tuthill ignored many possible concerns (e.g., the rights and desires of Thomas's mother and the qualifications of the young man—or more directly, the young man's mother). Nevertheless, the judge's actions demonstrated that the new court was not a place of punishment. The judge also made it clear that the community had to assume much of the responsibility if it wished to have a successful juvenile justice system.

* Beginning in the 1850s, private societies in New York City rounded up street children from the urban ghettos and sent them to farms in the Midwest. Child advocates were concerned that these home-finding agencies did not properly screen or monitor the foster homes, pointing out that the societies were paid by the county to assume responsibility for the children and also by the families who received the children. Applying this concern to the proposed juvenile court, the Illinois legislature stated that juvenile court hearings should be open to the public so the public could monitor the activities of the court to ensure that private organizations would not be able to gain custody of children and then “sell” them for a handsome profit and would not be able to impose their standards of morality or religious beliefs on working-class children.

Source: Authors' adaptation of Tanenhaus' *Juvenile justice in the making*.

In the courtroom, juvenile court hearings were much less formal than criminal court proceedings. In this benevolent court—with the express purpose of protecting children—due process protections afforded criminal defendants were deemed unnecessary. In the early juvenile courts, and even in some to this day, attorneys for the state and the youth are not considered essential to the operation of the system, especially in less serious cases.

A range of dispositional options was available to a judge wanting to help rehabilitate a child. Regardless of offense, outcomes ranging from warnings to probation supervision to training school confinement could be part of the treatment plan. Dispositions were tailored to “the best interests of the child.” Treatment lasted until the child was “cured” or became an adult (age 21), whichever came first.

As public confidence in the treatment model waned, due process protections were introduced

In the 1950s and 1960s, many came to question the ability of the juvenile court to succeed in rehabilitating delinquent youth. The treatment techniques available to juvenile justice professionals often failed to reach the desired levels of effectiveness. Although the goal of rehabilitation through individualized justice—the basic philosophy of the juvenile justice system—was not in question, professionals were concerned about the growing number of juveniles institutionalized indefinitely in the name of treatment.

In a series of decisions beginning in the 1960s, the U.S. Supreme Court required that juvenile courts become more formal—more like criminal

courts. Formal hearings were now required in waiver situations, and delinquents facing possible confinement were given protection against self-incrimination and rights to receive notice of the charges against them, to present witnesses, to question witnesses, and to have an attorney. Proof “beyond a reasonable doubt” rather than merely “a preponderance of evidence” was now required for an adjudication. The Supreme Court, however, still held that there were enough “differences of substance between the criminal and juvenile courts . . . to hold that a jury is not required in the latter.” (See Supreme Court decisions later in this chapter.)

Meanwhile, Congress, in the Juvenile Delinquency Prevention and Control Act of 1968, recommended that children charged with noncriminal (status) offenses be handled outside the court system. A few years later, Congress passed the Juvenile Justice and Delinquency Prevention Act of 1974, which as a condition for state participation in the Formula Grants Program required deinstitutionalization of status offenders and nonoffenders as well as the separation of juvenile delinquents from adult offenders. (In the 1980 amendments to the 1974 Act, Congress added a requirement that juveniles be removed from adult jail and lock-up facilities.) Community-based programs, diversion, and deinstitutionalization became the banners of juvenile justice policy in the 1970s.

In the 1980s, the pendulum began to swing toward law and order

During the 1980s, the public perceived that serious juvenile crime was increasing and that the system was too lenient with offenders. Although there was substantial misperception regarding increases in

juvenile crime, many states responded by passing more punitive laws. Some laws removed certain classes of offenders from the juvenile justice system and handled them as adult criminals in criminal court. Others required the juvenile justice system to be more like the criminal justice system and to treat certain classes of juvenile offenders as criminals but in juvenile court.

As a result, offenders charged with certain offenses now are excluded from juvenile court jurisdiction or face mandatory or automatic waiver to criminal court. In several states, concurrent jurisdiction provisions give prosecutors the discretion to file certain juvenile cases directly in criminal court rather than juvenile court. In some states, certain adjudicated juvenile offenders face mandatory sentences.

The 1990s saw unprecedented change as state legislatures cracked down on juvenile crime

Five areas of change emerged as states passed laws designed to combat juvenile crime. These laws generally involved expanded eligibility for criminal court processing and adult correctional sanctioning and reduced confidentiality protections for a subset of juvenile offenders. Between 1992 and 1997, all but three states changed laws in one or more of the following areas:

- **Transfer provisions**—Laws made it easier to transfer juvenile offenders from the juvenile justice system to the criminal justice system (45 states).
- **Sentencing authority**—Laws gave criminal and juvenile courts expanded sentencing options (31 states).

- **Confidentiality**—Laws modified or removed traditional juvenile court confidentiality provisions by making records and proceedings more open (47 states).

In addition to these areas, there was change relating to:

- **Victims rights**—Laws increased the role of victims of juvenile crime in the juvenile justice process (22 states).
- **Correctional programming**—As a result of new transfer and sentencing laws, adult and juvenile correctional administrators developed new programs.

The 1980s and 1990s saw significant change in terms of treating more juvenile offenders as criminals. Recently, states have been attempting to strike a balance in their juvenile justice systems among system and offender accountability, offender competency development, and community protection. Juvenile code purpose clauses also incorporate restorative justice language (offenders repair the harm done to victims and communities and accept responsibility for their actions).

Some juvenile codes emphasize prevention and treatment goals, some stress punishment, but most seek a balanced approach

States vary in how they express the purposes of their juvenile courts—not just in the underlying assumptions and philosophies, but also in the approaches they take to the task. Some declare their goals and objectives in great detail; others mention only the broadest of aims. Many juvenile court purpose clauses have been amended over the years, reflecting philosophical or rhetorical shifts and changes in emphasis in the states' overall

Several core requirements of the Juvenile Justice and Delinquency Prevention Act address custody issues

The Juvenile Justice and Delinquency Prevention Act of 2002 (the Act) establishes four custody-related requirements.

The “**deinstitutionalization of status offenders and nonoffenders**” requirement (1974) specifies that juveniles not charged with acts that would be crimes for adults “shall not be placed in secure detention facilities or secure correctional facilities.” This requirement does not apply to juveniles charged with violating a valid court order or possessing a handgun, or those held under interstate compacts.

The “**sight and sound separation**” requirement (1974) specifies that, “juveniles alleged to be or found to be delinquent and [status offenders and nonoffenders] shall not be detained or confined in any institution in which they have contact with adult inmates” in custody because they are awaiting trial on criminal charges or have been convicted of a crime. This requires that juvenile and adult inmates cannot see each other and no conversation between them is possible.

The “**jail and lockup removal**” requirement (1980) states that juveniles shall not be detained or confined in adult jails or lockups. There are, however, several exceptions. There is a 6-hour grace period that allows adult jails and lockups to hold delinquents temporarily while awaiting transfer to a juvenile facility or making court appearances. (This exception applies only if the facility can maintain sight and sound separation.) Under certain conditions, jails and lockups in rural areas may hold delinquents awaiting initial court appearance up to 48 hours. Some jurisdictions have obtained approval for separate juvenile detention centers that are collocated

with an adult facility; in addition, staff who work with both juveniles and adult inmates must be trained and certified to work with juveniles.

Regulations implementing the Act exempt juveniles held in secure adult facilities if the juvenile is being tried as a criminal for a felony or has been convicted as a criminal felon. Regulations also allow adjudicated delinquents to be transferred to adult institutions once they have reached the state’s age of full criminal responsibility, where such transfer is expressly authorized by state law.

In the past, the “**disproportionate minority confinement**” (DMC) requirement (1988) focused on the extent to which minority youth were confined in proportions greater than their representation in the population. The 2002 Act broadened the DMC concept to encompass all stages of the juvenile justice process; thus, DMC has come to mean **disproportionate minority contact**.

States must agree to comply with each requirement to receive Formula Grants funds under the Act’s provisions. States must submit plans outlining their strategy for meeting these and other statutory requirements. Noncompliance with core requirements results in the loss of at least 20% of the state’s annual Formula Grants Program allocation per requirement.

As of 2005, 56 of 57 eligible states and territories were participating in the Formula Grants Program. Annual state monitoring reports show that the vast majority were in compliance with the requirements, either reporting no violations or meeting *de minimis* or other compliance criteria.

approaches to juvenile delinquency. Others have been left relatively untouched for decades. Given the changes in juvenile justice in recent decades, it is remarkable how many states still declare their purposes in language first developed by standards-setting agencies in the 1950s and 1960s.

Most common in state purpose clauses are components of Balanced and Restorative Justice (BARJ). BARJ advocates that juvenile courts give balanced attention to three primary interests: public safety, individual accountability to victims and the community, and development of skills to help offenders live law-abiding and productive lives. Some states are quite explicit in their adoption of the BARJ model. Others depart somewhat from the model in the language they use, often relying on more traditional terms (treatment, rehabilitation, care, guidance, assistance, etc.).

Several states have purpose clauses that are modeled on the one in the Standard Juvenile Court Act. The Act was originally issued in 1925 and has been revised numerous times. The 1959 version appears to have been the most influential. According to its opening provision, the purpose of the Standard Act was that “each child coming within the jurisdiction of the court shall receive . . . the care, guidance, and control that will conduce to his welfare and the best interest of the state, and that when he is removed from the control of his parents the court shall secure for him care as nearly as possible equivalent to that which they should have given him.”

Another group of states use all or most of a more elaborate, multipart purpose clause contained in the *Legislative Guide for Drafting Family and Juvenile Court Acts*, a late 1960s

States' juvenile code purpose clauses vary in their emphasis

State	BARJ features	Juvenile Court Act language	Legislative Guide language	Accountability/ protection emphasis	Child welfare emphasis
Alabama	■				
Alaska	■				
Arkansas		■	■		
California	■	■			
Connecticut				■	
Dist. of Columbia					■
Florida	■	■			
Georgia		■			
Hawaii				■	
Idaho	■				
Illinois	■	■			
Indiana	■				
Iowa		■			
Kansas	■				
Kentucky					■
Louisiana		■			
Maine		■	■		
Maryland	■				
Massachusetts		■			■
Michigan		■			
Minnesota	■	■			
Mississippi		■			
Missouri		■			
Montana	■		■		
Nevada		■			
New Hampshire			■		
New Jersey	■	■	■		
New Mexico			■		
North Carolina				■	
North Dakota			■		
Ohio			■		
Oregon	■				
Pennsylvania	■				
Rhode Island		■			
South Carolina		■			
Tennessee			■		
Texas			■	■	
Utah				■	
Vermont			■		
Washington	■				
West Virginia					■
Wisconsin	■				
Wyoming			■	■	

Note: States not listed do not have purpose clauses that fit into these categories.

Source: Authors' adaptation of Griffin and Bozynski's National overviews. *State juvenile justice profiles*.

publication. The *Guide's* opening section lists four purposes:

- To provide for the care, protection, and wholesome mental and physical development of children involved with the juvenile court.
- To remove from children committing delinquent acts the consequences of criminal behavior, and to substitute therefore a program of supervision, care and rehabilitation.
- To remove a child from the home only when necessary for his

welfare or in the interests of public safety.

- To assure all parties their constitutional and other legal rights.

Purpose clauses in some states can be loosely characterized as “tough,” in that they stress community protection, offender accountability, crime reduction through deterrence, or outright punishment. Texas and Wyoming, for instance, having largely adopted the multi-purpose language of the *Legislative Guide*, pointedly insert two extra

items—“protection of the public and public safety” and promotion of “the concept of punishment for criminal acts”—at the head of the list.

A few jurisdictions have statutory language that emphasizes promotion of the welfare and best interests of the juvenile as the sole or primary purpose of the juvenile court system. For example, Massachusetts has language stating that accused juveniles should be “treated, not as criminals, but as children in need of aid, encouragement and guidance.”

U.S. Supreme Court cases have had an impact on the character and procedures of the juvenile justice system

The Supreme Court has made its mark on juvenile justice

Issues arising from juvenile delinquency proceedings rarely come before the U.S. Supreme Court. Beginning in the late 1960s, however, the Court decided a series of landmark cases that dramatically changed the character and procedures of the juvenile justice system.

Kent v. United States **383 U.S. 541, 86 S.Ct. 1045 (1966)**

In 1961, while on probation from an earlier case, Morris Kent, age 16, was charged with rape and robbery. Kent confessed to the offense as well as to several similar incidents. Assuming that the District of Columbia juvenile court would consider waiving jurisdiction to the adult system, Kent's attorney filed a motion requesting a hearing on the issue of jurisdiction.

The juvenile court judge did not rule on this motion filed by Kent's attorney. Instead, he entered a motion stating that the court was waiving jurisdiction after making a "full investigation." The judge did not describe the investigation or the grounds for the waiver. Kent was subsequently found guilty in criminal court on six counts of housebreaking and robbery and sentenced to 30 to 90 years in prison.

Kent's lawyer sought to have the criminal indictment dismissed, arguing that the waiver had been invalid. He also appealed the waiver and filed a writ of habeas corpus asking the state to justify Kent's detention. Appellate courts rejected both the appeal and the writ, refused to scrutinize the judge's "investigation," and accepted the waiver as valid. In appealing to the U.S. Supreme Court, Kent's attorney argued that the judge had not made a complete

investigation and that Kent was denied constitutional rights simply because he was a minor.

The Court ruled the waiver invalid, stating that Kent was entitled to a hearing that measured up to "the essentials of due process and fair treatment," that Kent's counsel should have had access to all records involved in the waiver, and that the judge should have provided a *written* statement of the reasons for waiver.

Technically, the *Kent* decision applied only to D.C. courts, but its impact was more widespread. The Court raised a potential constitutional challenge to *parens patriae* as the foundation of the juvenile court. In its past decisions, the Court had interpreted the equal protection clause of the 14th amendment to mean that certain classes of people could receive less due process if a "compensating benefit" came with this lesser protection. In theory, the juvenile court provided less due process but a greater concern for the interests of the juvenile. The Court referred to evidence that this compensating benefit may not exist in reality and that juveniles may receive the "worst of both worlds"—"neither the protection accorded to adults nor the solicitous care and regenerative treatment postulated for children."

In re Gault **387 U.S. 1, 87 S.Ct. 1428 (1967)**

Gerald Gault, age 15, was on probation in Arizona for a minor property offense when, in 1964, he and a friend made a crank telephone call to an adult neighbor, asking her, "Are your cherries ripe today?" and "Do you have big bombers?" Identified by the neighbor, the youth were arrested and detained.

The victim did not appear at the adjudication hearing, and the court never resolved the issue of whether Gault made the "obscene" remarks. Gault was committed to a training school for the period of his minority. The maximum sentence for an adult would have been a \$50 fine or 2 months in jail.

An attorney obtained for Gault after the trial filed a writ of habeas corpus that was eventually heard by the U.S. Supreme Court. The issue presented in the case was that Gault's constitutional rights (to notice of charges, counsel, questioning of witnesses, protection against self-incrimination, a transcript of the proceedings, and appellate review) were denied.

The Court ruled that in hearings that could result in commitment to an institution, juveniles have the right to notice and counsel, to question witnesses, and to protection against self-incrimination. The Court did not rule on a juvenile's right to appellate review or transcripts, but encouraged the states to provide those rights.

The Court based its ruling on the fact that Gault was being punished rather than helped by the juvenile court. The Court explicitly rejected the doctrine of *parens patriae* as the founding principle of juvenile justice, describing the concept as murky and of dubious historical relevance. The Court concluded that the handling of Gault's case violated the due process clause of the 14th amendment: "Juvenile court history has again demonstrated that unbridled discretion, however benevolently motivated, is frequently a poor substitute for principle and procedure."

In re Winship
397 U.S. 358, 90 S.Ct. 1068 (1970)

Samuel Winship, age 12, was charged with stealing \$112 from a woman's purse in a store. A store employee claimed to have seen Winship running from the scene just before the woman noticed the money was missing; others in the store stated that the employee was not in a position to see the money being taken.

Winship was adjudicated delinquent and committed to a training school. New York juvenile courts operated

under the civil court standard of a "preponderance of evidence." The court agreed with Winship's attorney that there was "reasonable doubt" of Winship's guilt, but based its ruling on the "preponderance" of evidence.

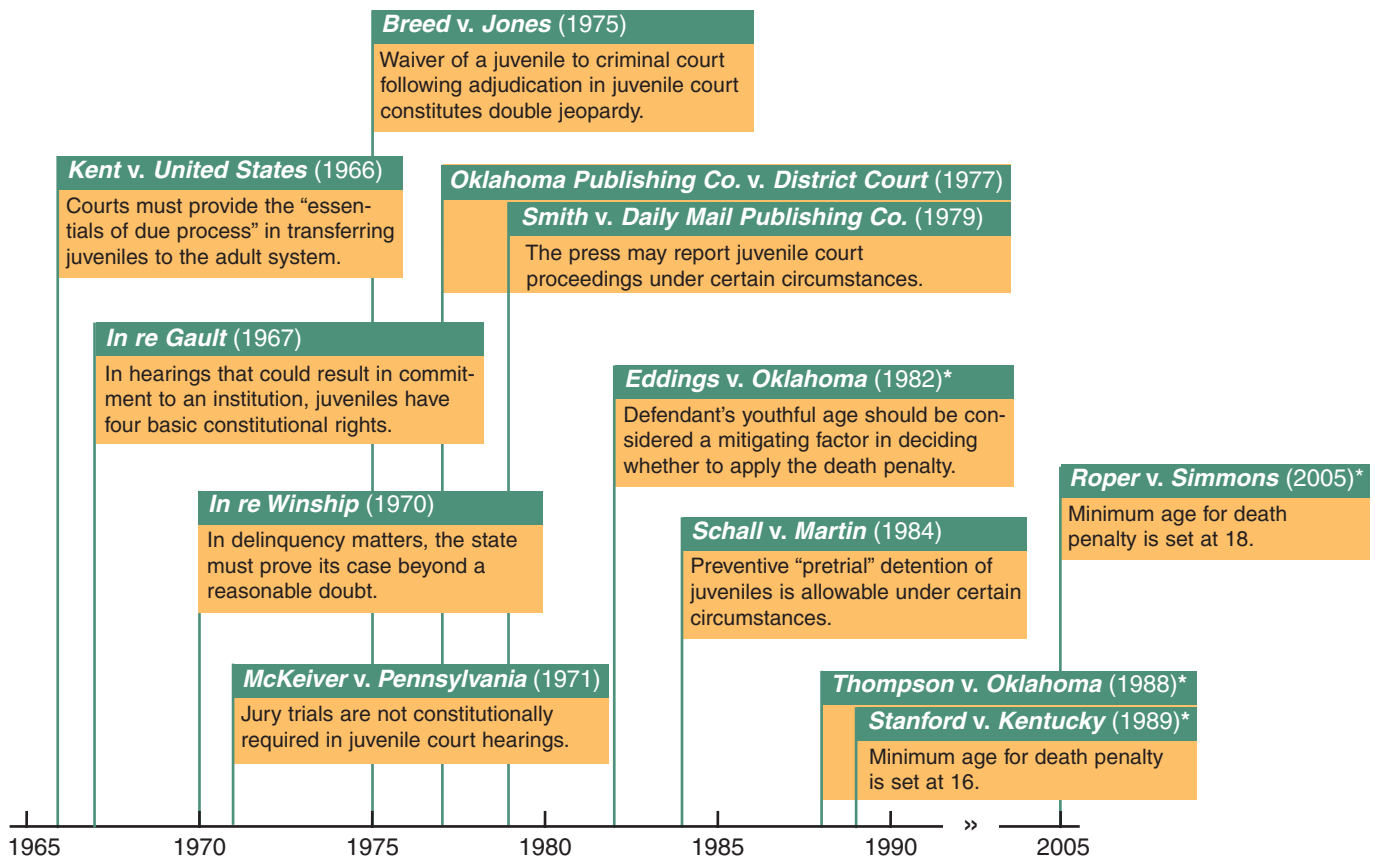
Upon appeal to the Supreme Court, the central issue in the case was whether "proof beyond a reasonable doubt" should be considered among the "essentials of due process and fair treatment" required during the adjudicatory stage of the juvenile court process. The Court rejected lower court arguments that juvenile

courts were not required to operate on the same standards as adult courts because juvenile courts were designed to "save" rather than to "punish" children. The Court ruled that the "reasonable doubt" standard should be required in all delinquency adjudications.

McKeiver v. Pennsylvania
403 U.S. 528, 91 S.Ct. 1976 (1971)

Joseph McKeiver, age 16, was charged with robbery, larceny, and receiving stolen goods. He and 20 to 30 other youth allegedly chased 3 youth and took 25 cents from them.

A series of U.S. Supreme Court decisions made juvenile courts more like criminal courts but maintained some important differences



*Death penalty case decisions are discussed in chapter 7.

McKeiver met with his attorney for only a few minutes before his adjudicatory hearing. At the hearing, his attorney's request for a jury trial was denied by the court. He was subsequently adjudicated and placed on probation.

The state supreme court cited recent decisions of the U.S. Supreme Court that had attempted to include more due process in juvenile court proceedings without eroding the essential benefits of the juvenile court. The state supreme court affirmed the lower court, arguing that of all due process rights, trial by jury is most likely to "destroy the traditional character of juvenile proceedings."

The U.S. Supreme Court found that the due process clause of the 14th amendment did not require jury trials in juvenile court. The impact of the Court's *Gault* and *Winship* decisions was to enhance the accuracy of the juvenile court process in the fact-finding stage. In *McKeiver*, the Court argued that juries are not known to be more accurate than judges in the adjudication stage and could be disruptive to the informal atmosphere of the juvenile court, tending to make it more adversarial.

Breed v. Jones
421 U.S. 519, 95 S.Ct. 1779 (1975)

In 1970, Gary Jones, age 17, was charged with armed robbery. Jones appeared in Los Angeles juvenile court and was adjudicated delinquent on the original charge and two other robberies.

At the dispositional hearing, the judge waived jurisdiction over the case to criminal court. Counsel for Jones filed a writ of habeas corpus, arguing that the waiver to criminal court violated the double jeopardy

clause of the fifth amendment. The court denied this petition, saying that Jones had not been tried twice because juvenile adjudication is not a "trial" and does not place a youth in jeopardy.

Upon appeal, the U.S. Supreme Court ruled that an adjudication in juvenile court, in which a juvenile is found to have violated a criminal statute, is equivalent to a trial in criminal court. Thus, Jones had been placed in double jeopardy. The Court also specified that jeopardy applies at the adjudication hearing when evidence is first presented. Waiver cannot occur after jeopardy attaches.

Oklahoma Publishing Company v. District Court in and for Oklahoma City
480 U.S. 308, 97 S.Ct. 1045 (1977)

The Oklahoma Publishing Company case involved a court order prohibiting the press from publishing the name and photograph of a youth involved in a juvenile court proceeding. The material in question was obtained legally from a source outside the court. The U.S. Supreme Court found the court order to be an unconstitutional infringement on freedom of the press.

Smith v. Daily Mail Publishing Company
443 U.S. 97, 99 S.Ct. 2667 (1979)

The *Daily Mail* case held that state law cannot stop the press from publishing a juvenile's name that it obtained independently of the court. Although the decision did not hold that the press should have access to juvenile court files, it held that if information regarding a juvenile case is lawfully obtained by the media,

the first amendment interest in a free press takes precedence over the interests in preserving the anonymity of juvenile defendants.

Schall v. Martin
467 U.S. 253, 104 S.Ct. 2403 (1984)

Gregory Martin, age 14, was arrested in 1977 and charged with robbery, assault, and possession of a weapon. He and two other youth allegedly hit a boy on the head with a loaded gun and stole his jacket and sneakers.

Martin was held pending adjudication because the court found there was a "serious risk" that he would commit another crime if released. Martin's attorney filed a habeas corpus action challenging the fundamental fairness of preventive detention. The lower appellate courts reversed the juvenile court's detention order, arguing in part that pretrial detention is essentially punishment because many juveniles detained before trial are released before, or immediately after, adjudication.

The U.S. Supreme Court upheld the constitutionality of the preventive detention statute. The Court stated that preventive detention serves a legitimate state objective in protecting both the juvenile and society from pretrial crime and is not intended to punish the juvenile. The Court found that enough procedures were in place to protect juveniles from wrongful deprivation of liberty. The protections were provided by notice, a statement of the facts and reasons for detention, and a probable cause hearing within a short time. The Court also reasserted the *parens patriae* interests of the state in promoting the welfare of children.

State statutes define who is under the jurisdiction of juvenile court

Statutes set age limits for original jurisdiction of the juvenile court

In most states, the juvenile court has original jurisdiction over all youth charged with a law violation who were younger than age 18 at the time of the offense, arrest, or referral to court. Since 1975, four states have changed their age criteria: Alabama raised its upper age from 15 to 16 in 1976 and to 17 in 1977; Wyoming lowered its upper age from 18 to 17 in 1993; and in 1996, New Hampshire and Wisconsin lowered their upper age from 17 to 16.

Oldest age for original juvenile court jurisdiction in delinquency matters, 2004:

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

Many states have higher upper ages of juvenile court jurisdiction in status offense, abuse, neglect, or dependency matters—typically through age 20. In many states, the juvenile court has original jurisdiction over young adults who committed offenses while juveniles.

States often have statutory exceptions to basic age criteria. For

example, many states exclude married or otherwise emancipated juveniles from juvenile court jurisdiction. Other exceptions, related to the youth's age, alleged offense, and/or prior court history, place certain youth under the original jurisdiction of the criminal court. In some states, a combination of the youth's age, offense, and prior record places the youth under the original jurisdiction of both the juvenile and criminal courts. In these states, the prosecutor has the authority to decide which court will initially handle the case.

As of the end of the 2004 legislative session, 16 states have statutes that set the lowest age of juvenile court delinquency jurisdiction. Other states rely on case law or common law. Children younger than a certain age are presumed to be incapable of criminal intent and, therefore, are exempt from prosecution and punishment.

Youngest age for original juvenile court jurisdiction in delinquency matters, 2004:

Age	State
6	North Carolina
7	Maryland, Massachusetts, New York
8	Arizona
10	Arkansas, Colorado, Kansas, Louisiana, Minnesota, Mississippi, Pennsylvania, South Dakota, Texas, Vermont, Wisconsin

Juvenile court authority over youth may extend beyond the upper age of original jurisdiction

Through extended jurisdiction mechanisms, legislatures enable the court to provide sanctions and services for a duration of time that is in the best interests of the juvenile and the public, even for older juveniles who have reached the age at which original juvenile court jurisdiction ends.

As of the end of the 2004 legislative session, statutes in 34 states extend juvenile court jurisdiction in delinquency cases until the 21st birthday.

Oldest age over which the juvenile court may retain jurisdiction for disposition purposes in delinquency matters, 2004:

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

Note: Extended jurisdiction may be restricted to certain offenses or juveniles.

*Arizona statute extends jurisdiction through age 20, but a 1979 state supreme court decision held that juvenile court jurisdiction terminates at age 18.

**Until the full term of the disposition order for sex offenders.

***Until the full term of the disposition order.

In some states, the juvenile court may impose adult correctional sanctions on certain adjudicated delinquents that extend the term of confinement well beyond the upper age of juvenile jurisdiction. Such sentencing options are included in the set of dispositional options known as blended sentencing.

Most young law violators enter the juvenile justice system through law enforcement agencies

Local processing of juvenile offenders varies

From state to state, case processing of juvenile law violators varies. Even within states, case processing may vary from community to community, reflecting local practice and tradition. Any description of juvenile justice processing in the U.S. must, therefore, be general, outlining a common series of decision points.

Law enforcement agencies divert many juvenile offenders out of the justice system

At arrest, a decision is made either to send the matter further into the justice system or to divert the case out of the system, often into alternative programs. Generally, law enforcement makes this decision after talking to the victim, the juvenile, and the parents and after reviewing the juvenile's prior contacts with the juvenile justice system. In 2003, 20% of all juvenile arrests were handled within the police department and resulted in release of the youth; in 7 of 10 arrests, the cases were referred to juvenile court. The remaining arrests were referred for criminal prosecution or to other agencies.

Federal regulations discourage holding juveniles in adult jails and lock-ups. If law enforcement must detain a juvenile in secure custody for a brief period to contact a parent or guardian or to arrange transportation to a juvenile detention facility, federal regulations require that the juvenile be securely detained for no longer than 6 hours and in an area that is not within sight or sound of adult inmates.

Most delinquency cases are referred by law enforcement agencies

Law enforcement accounted for 84% of all delinquency cases referred to juvenile court in 2000. The remaining referrals were made by others such as parents, victims, school personnel, and probation officers.

Intake departments screen cases referred to juvenile court for formal processing

The court intake function is generally the responsibility of the juvenile probation department and/or the prosecutor's office. Intake decides whether to dismiss the case, to handle the matter informally, or to request formal intervention by the juvenile court.

To make this decision, an intake officer or prosecutor first reviews the facts of the case to determine whether there is sufficient evidence to prove the allegation. If not, the case is dismissed. If there is sufficient evidence, intake then determines whether formal intervention is necessary.

Nearly half of all cases referred to juvenile court intake are handled informally. Many informally processed cases are dismissed. In the other informally processed cases, the juvenile voluntarily agrees to specific conditions for a specific time period. These conditions often are outlined in a written agreement, generally called a "consent decree." Conditions may include such things as victim restitution, school attendance, drug counseling, or a curfew.

In most jurisdictions, a juvenile may be offered an informal disposition only if he or she admits to committing the act. The juvenile's compliance with the informal agreement often is monitored by a probation officer. Thus, this process is sometimes labeled "informal probation."

If the juvenile successfully complies with the informal disposition, the case is dismissed. If, however, the juvenile fails to meet the conditions, the case is referred for formal processing and proceeds as it would have if the initial decision had been to refer the case for an adjudicatory hearing.

If the case is to be handled formally in juvenile court, intake files one of two types of petitions: a delinquency petition requesting an adjudicatory hearing or a petition requesting a waiver hearing to transfer the case to criminal court.

A delinquency petition states the allegations and requests that the juvenile court adjudicate (or judge) the youth a delinquent, making the juvenile a ward of the court. This language differs from that used in the criminal court system, where an offender is convicted and sentenced.

In response to the delinquency petition, an adjudicatory hearing is scheduled. At the adjudicatory hearing (trial), witnesses are called and the facts of the case are presented. In nearly all adjudicatory hearings, the determination that the juvenile was responsible for the offense(s) is made by a judge; however, in some states, the juvenile has the right to a jury trial.

During the processing of a case, a juvenile may be held in a secure detention facility

Juvenile courts may hold delinquents in a secure juvenile detention facility if this is determined to be in the best interest of the community and/or the child.

After arrest, law enforcement may bring the youth to the local juvenile detention facility. A juvenile probation officer or detention worker reviews the case to decide whether the youth should be detained pending a hearing before a judge. In all states, a detention hearing must be held within a time period defined by statute, generally within 24 hours.

At the detention hearing, a judge reviews the case and determines whether continued detention is warranted. In 2000, juveniles were detained in 20% of delinquency cases processed by juvenile courts.

Detention may extend beyond the adjudicatory and dispositional hearings. If residential placement is ordered, but no placement beds are available, detention may continue until a bed becomes available.

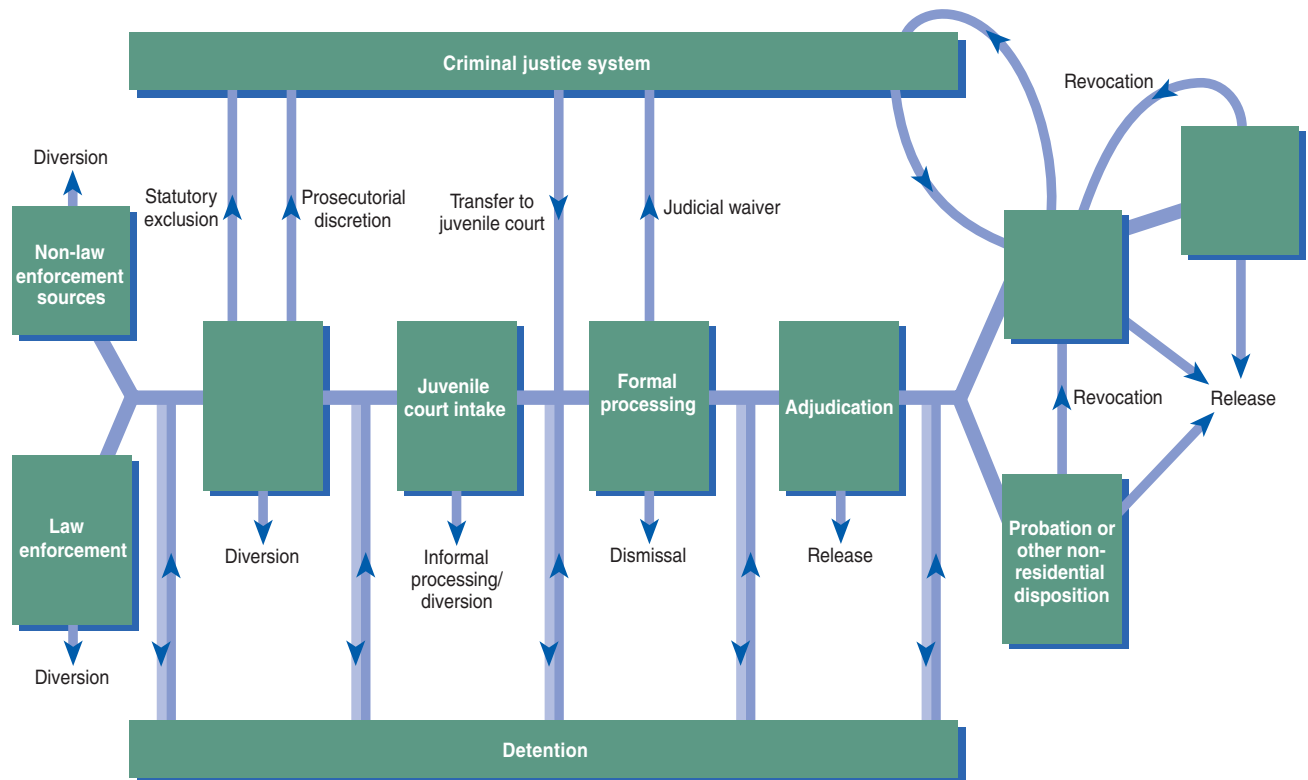
The juvenile court may transfer the case to criminal court

A waiver petition is filed when the prosecutor or intake officer believes that a case under jurisdiction of the

juvenile court would be handled more appropriately in criminal court. The court decision in these matters follows a review of the facts of the case and a determination that there is probable cause to believe that the juvenile committed the act. With this established, the court then decides whether juvenile court jurisdiction over the matter should be waived and the case transferred to criminal court.

The judge's decision in such cases generally centers on the issue of the juvenile's amenability to treatment in the juvenile justice system. The prosecution may argue that the juvenile has been adjudicated several times previously and that interventions ordered by the juvenile court

What are the stages of delinquency case processing in the juvenile justice system?



Note: This chart gives a simplified view of caseflow through the juvenile justice system. Procedures vary among jurisdictions.

have not kept the juvenile from committing subsequent criminal acts. The prosecutor may also argue that the crime is so serious that the juvenile court is unlikely to be able to intervene for the time period necessary to rehabilitate the youth.

If the judge decides that the case should be transferred to criminal court, juvenile court jurisdiction is waived and the case is filed in criminal court. In 2000, juvenile courts waived fewer than 1% of all formally processed delinquency cases. If the judge does not approve the waiver request, generally an adjudicatory hearing is scheduled in juvenile court.

Prosecutors may file certain cases directly in criminal court

In more than half of the states, legislatures have decided that in certain cases (generally those involving serious offenses), juveniles should be tried as criminal offenders. The law excludes such cases from juvenile court; prosecutors must file them in criminal court. In a smaller number of states, legislatures have given both the juvenile and adult courts original jurisdiction in certain cases. Thus, prosecutors have discretion to file such cases in either criminal court or juvenile court.

After adjudication, probation staff prepare a disposition plan

Once the juvenile is adjudicated delinquent in juvenile court, probation staff develop a disposition plan. To prepare this plan, probation staff assess the youth, available support systems, and programs. The court may also order psychological evaluations, diagnostic tests, or a period of confinement in a diagnostic facility.

At the disposition hearing, probation staff present dispositional

recommendations to the judge. The prosecutor and the youth may also present dispositional recommendations. After considering the recommendations, the judge orders a disposition in the case.

Most youth placed on probation also receive other dispositions

Most juvenile dispositions are multifaceted and involve some sort of supervised probation. A probation order often includes additional requirements such as drug counseling, weekend confinement in the local detention center, or restitution to the community or victim. The term of probation may be for a specified period of time or it may be open ended. Review hearings are held to monitor the juvenile's progress. After conditions of probation have been successfully met, the judge terminates the case. In 2000, formal probation was the most severe disposition ordered in 63% of the cases in which the youth was adjudicated delinquent.

The judge may order residential placement

In 2000, juvenile courts ordered residential placement in 24% of the cases in which the youth was adjudicated delinquent. Residential commitment may be for a specific or indeterminate time period. The facility may be publicly or privately operated and may have a secure, prison-like environment or a more open (even home-like) setting. In many states, when the judge commits a juvenile to the state department of juvenile corrections, the department determines where the juvenile will be placed and when the juvenile will be released. In other states, the judge controls the type and length of stay; in these situations, review hearings are held to assess the progress of the juvenile.

Juvenile aftercare is similar to adult parole

Upon release from an institution, the juvenile is often ordered to a period of aftercare or parole. During this period, the juvenile is under supervision of the court or the juvenile corrections department. If the juvenile does not follow the conditions of aftercare, he or she may be recommitted to the same facility or may be committed to another facility.

Status offense and delinquency case processing differ

A delinquent offense is an act committed by a juvenile for which an adult could be prosecuted in criminal court. There are, however, behaviors that are law violations only for juveniles and/or young adults because of their status. These "status offenses" may include behaviors such as running away from home, truancy, alcohol possession or use, ungovernability, and curfew violations.

A juvenile court by any other name is still a juvenile court

Every state has at least one court with juvenile jurisdiction, but in most states it is not actually called "juvenile court." The names of the courts with juvenile jurisdiction vary by state—district, superior, circuit, county, family, or probate court, to name a few. Often the court of juvenile jurisdiction has a separate division for juvenile matters. Courts with juvenile jurisdiction generally have jurisdiction over delinquency, status offense, and abuse/neglect matters and may also have jurisdiction in other matters such as adoption, termination of parental rights, and emancipation. Whatever their name, courts with juvenile jurisdiction are generically referred to as juvenile courts.

In many ways, the processing of status offense cases parallels that of delinquency cases. Not all states, however, consider all of these behaviors to be law violations. Many states view such behaviors as indicators that the child is in need of supervision. These states handle status offense matters more like dependency cases than delinquency cases, responding to the behaviors by providing social services.

Although many status offenders enter the juvenile justice system through law enforcement, in many states the initial, official contact is a child welfare agency. About half of all status offense cases referred to juvenile court come from law enforcement.

The federal Juvenile Justice and Delinquency Prevention Act states that jurisdictions shall not hold

status offenders in secure juvenile facilities for detention or placement. This policy has been labeled deinstitutionalization of status offenders. There is an exception to the general policy: a status offender may be confined in a secure juvenile facility if he or she has violated a valid court order, such as a probation order requiring the youth to attend school and observe a curfew.

Once a mainstay of juvenile court, confidentiality has given way to substantial openness in many states

The first juvenile court was open to the public, but confidentiality became the norm over time

The legislation that created the first juvenile court in Illinois stated that the hearings should be open to the public. Thus, the public could monitor the activities of the court to ensure that the court handled cases in line with community standards.

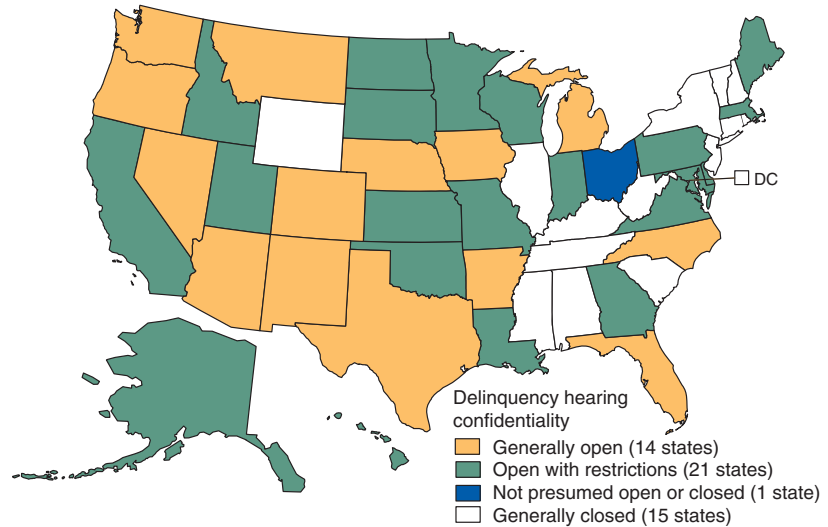
In 1920, all but 7 of the 45 states that established separate juvenile courts permitted publication of information about juvenile court proceedings. The Standard Juvenile Court Act (1925) did not ban the publication of juveniles' names. By 1952, however, many states that adopted the Act had statutes that excluded the general public from juvenile court proceedings. The commentary to the 1959 version of the Act referred to the hearings as "private, not secret." It added that reporters should be permitted to attend hearings, with the understanding that they not disclose the identity of the juvenile. The rationale for this confidentiality was "to prevent the humiliation and demoralizing effect of publicity." It was also thought that publicity might propel youth into further delinquent acts to gain more recognition.

As juvenile courts became more formalized and concerns about rising juvenile crime increased, the pendulum began to swing back toward more openness. By 1988, statutes in 15 states permitted the public to attend certain delinquency hearings.

Delinquency hearings are open to the public in 14 states

As of the end of the 2004 legislative session, statutes or court rules in 14 states open delinquency hearings to the general public. Such statutes typically state that all hearings must

Delinquency proceedings are open in some states, closed in others, and in some states, it depends on the type of case



Source: Authors' adaptation of Szymanski's Confidentiality of juvenile delinquency hearings (2005 update).

be open to the public except on special order of the court. The court may close hearings to the public when it is in the best interests of the child and the public. In 7 of the 14 states, the state constitution has broad open court provisions. Ohio has a similar open court provision; however, in 2000, the Ohio supreme court ruled that juvenile proceedings are not presumed to be open or closed to the public. The Ohio court held that the traditional interests of confidentiality and rehabilitation prevent the public from having a constitutional right of access to juvenile delinquency proceedings.

In 21 states, limits are set on access to delinquency hearings

In addition to the 14 states with open delinquency hearings, 21 states have statutes that open delinquency hearings for some types of cases. The openness restrictions typically involve age and/or offense

criteria. For example, a statute might allow open hearings if the youth is charged with a felony and was at least 16 years old at the time of the crime. Some statutes also limit open hearings to those involving youth with a particular criminal history. For example, hearings might be open only if the youth met age and offense criteria and had at least one prior felony conviction (criminal court) or felony adjudication (juvenile court).

Most states specify exceptions to juvenile court record confidentiality

Although legal and social records maintained by law enforcement agencies and juvenile courts have traditionally been confidential, legislatures have made significant changes over the past decade in how the justice system treats information about juvenile offenders. In most states, the juvenile code specifies which individuals or agencies are allowed access to such records.

Formerly confidential records are now being made available to a wide variety of individuals. Many states open records to schools and youth-serving agencies as well as individuals and agencies within the justice system. However, access is not necessarily unlimited or automatic. It may be restricted to certain parts of the record and may require a court order.

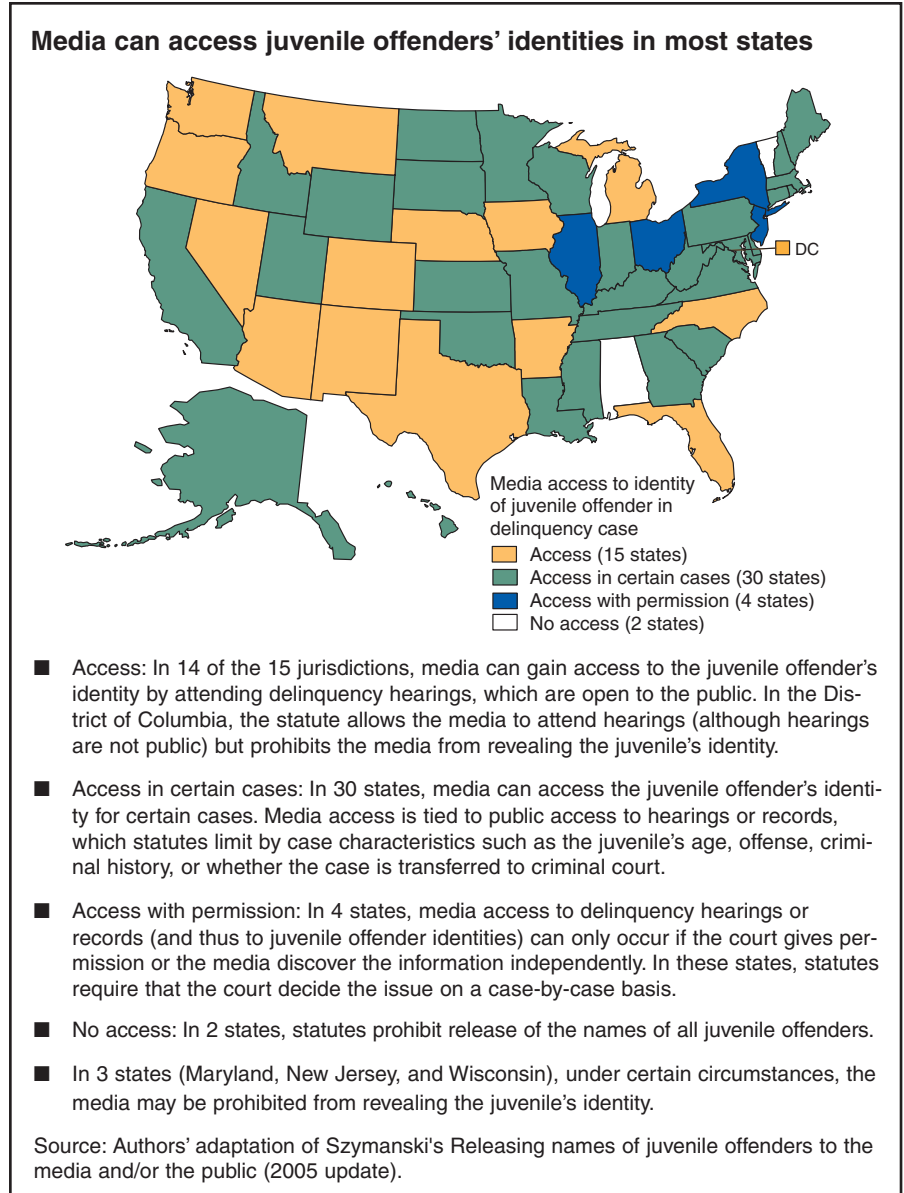
As of the end of the 2004 legislative session, juvenile codes in all states allow information contained in juvenile court records to be specifically released to one or more of the following parties: the prosecutor, law enforcement, social services agencies, schools, the victim, or the public.

In all states, laws allow those with a “legitimate interest” to have at least partial access to juvenile court or law enforcement records. Interested parties generally must obtain the court’s permission to gain access. Many states allow access by the juvenile who is the subject of the proceedings (35 states), the juvenile’s parents or guardian (40 states), or the juvenile’s attorney (40 states).

All states allow certain juvenile offenders to be fingerprinted and photographed; most store information in repositories

As of the end of 2004, all states allow law enforcement agencies to fingerprint juveniles who have been arrested for felonies or who have reached a certain age. All states allow juveniles to be photographed for their criminal history records under certain circumstances.

In 44 states, information (typically fingerprints and other identifying information) about certain juvenile offenders can be reported to a statewide repository. Some states



include such information in the criminal history repository for adult offenders; others maintain a separate repository for information on juvenile offenders.

School notification laws are common

As of the end of the 2004 legislative session, 44 states have school

notification laws. Under these laws, schools are notified when students are involved with law enforcement or courts for committing delinquent acts. Some statutes limit notification to youth charged with or convicted of serious or violent crimes.

All states allow certain juveniles to be tried in criminal court or otherwise face adult sanctions

Transferring juveniles to criminal court is not a new phenomenon

Juvenile courts have always had mechanisms for removing the most serious offenders from the juvenile justice system. Traditional transfer laws establish provisions and criteria for trying certain youth of juvenile age in criminal court. Blended sentencing laws are also used to impose a combination of juvenile and adult criminal sanctions on some offenders of juvenile age.

Transfer laws address which court (juvenile or criminal) has jurisdiction over certain cases involving offenders of juvenile age. State transfer provisions are typically limited by age and offense criteria. Transfer mechanisms vary regarding where the responsibility for transfer decisionmaking lies. Transfer provisions fall into three general categories:

Judicial waiver: The juvenile court judge has the authority to waive juvenile court jurisdiction and transfer the case to criminal court. States may use terms other than judicial waiver. Some call the process *certification*, *remand*, or *bind over* for criminal prosecution. Others transfer or decline rather than waive jurisdiction.

Concurrent jurisdiction: Original jurisdiction for certain cases is shared by both criminal and juvenile courts, and the prosecutor has discretion to file such cases in either court. Transfer under concurrent jurisdiction provisions is also known as *prosecutorial waiver*, *prosecutor discretion*, or *direct file*.

Statutory exclusion: State statute excludes certain juvenile offenders from juvenile court jurisdiction. Under statutory exclusion provisions, cases originate in criminal rather than juvenile court. Statutory exclusion is also known as *legislative exclusion*.

In many states, criminal courts may send transferred cases to juvenile court

Several states have provisions for sending transferred cases from criminal to juvenile court for adjudication under certain circumstances. This procedure, sometimes referred to as “reverse waiver,” generally applies to cases initiated in criminal court under statutory exclusion or concurrent jurisdiction provisions. Of the 36 states with such provisions at the end of the 2004 legislative session, 22 also have provisions that allow certain transferred juveniles to petition for a “reverse.” Reverse decision criteria often parallel a state’s discretionary waiver criteria. In some states, transfer cases resulting in conviction in criminal court may be reversed to juvenile court for disposition.

Most states have “once an adult, always an adult” provisions

In 34 states, juveniles who have been tried as adults must be prosecuted in criminal court for any subsequent offenses. Nearly all of these “once an adult, always an adult” provisions require that the youth must have been convicted of the offenses that triggered the initial criminal prosecution.

Blended sentencing laws give courts flexibility in sanctioning

Blended sentencing laws address the correctional system (juvenile or adult) in which certain offenders of juvenile age will be sanctioned. Blended sentencing statutes can be placed into two general categories:

Juvenile court blended sentencing: The juvenile court has the authority to impose adult criminal sanctions on certain juvenile offenders. The majority of these blended sentencing laws authorize the juvenile court to combine a juvenile disposition with a criminal sentence that is suspended. If the youth successfully completes the juvenile disposition and does not commit a new offense, the criminal sanction is not imposed. If, however, the youth does not cooperate or fails in the juvenile sanctioning system, the adult criminal sanction is imposed. Juvenile court blended sentencing gives the juvenile court the power to send uncooperative youth to adult prison—giving “teeth” to the typical array of juvenile court dispositional options.

Criminal court blended sentencing: Statutes allow criminal courts sentencing certain transferred juveniles to impose sanctions otherwise available only to offenders handled in juvenile court. As with juvenile court blended sentencing, the juvenile disposition may be conditional—the suspended criminal sentence is intended to ensure good behavior. Criminal court blended sentencing gives juveniles prosecuted in criminal court one last chance at a juvenile disposition, thus mitigating the effects of transfer laws (at least in individual cases).

Most states have multiple ways to impose adult sanctions on offenders of juvenile age

State	Judicial waiver			Concurrent jurisdiction	Statutory exclusion	Reverse waiver	Once an adult/ always an adult	Blended sentencing	
	Discretionary	Presumptive	Mandatory					Juvenile	Criminal
Number of states	45	15	15	15	29	25	34	15	17
Alabama	■				■		■		
Alaska	■	■			■			■	
Arizona	■			■	■	■	■		
Arkansas	■			■		■		■	■
California	■	■		■	■	■	■		■
Colorado	■	■		■		■		■	■
Connecticut			■			■		■	
Delaware	■		■		■	■	■		
Dist. of Columbia	■	■		■			■		
Florida	■			■	■		■		■
Georgia	■		■	■	■	■			
Hawaii	■						■		
Idaho	■				■		■		■
Illinois	■	■	■		■	■	■	■	■
Indiana	■		■		■		■		
Iowa	■				■	■	■		■
Kansas	■	■					■	■	
Kentucky	■		■			■			■
Louisiana	■		■	■	■				
Maine	■	■					■		
Maryland	■				■	■	■		
Massachusetts					■			■	■
Michigan	■			■			■	■	■
Minnesota	■	■			■		■	■	
Mississippi	■				■	■	■		
Missouri	■						■		■
Montana				■	■	■		■	
Nebraska				■		■			■
Nevada	■	■			■	■	■		
New Hampshire	■	■					■		
New Jersey	■	■	■						
New Mexico					■			■	■
New York					■	■			
North Carolina	■		■				■		
North Dakota	■	■	■				■		
Ohio	■		■				■	■	
Oklahoma	■			■	■	■	■		■
Oregon	■				■	■	■		
Pennsylvania	■	■			■	■	■		
Rhode Island	■	■	■				■	■	
South Carolina	■		■		■				
South Dakota	■				■	■	■		
Tennessee	■					■	■		
Texas	■						■	■	
Utah	■	■			■		■		
Vermont	■			■	■	■		■	
Virginia	■		■	■		■	■		■
Washington	■				■		■		
West Virginia	■		■						■
Wisconsin	■				■		■		■
Wyoming	■			■		■			

■ In states with a combination of provisions for transferring juveniles to criminal court, the exclusion, mandatory waiver, or concurrent jurisdiction provisions generally target the oldest juveniles and/or those charged with the most serious offenses, whereas younger juveniles and/or those charged with relatively less serious offenses may be eligible for discretionary waiver.

Note: Table information is as of the end of the 2004 legislative session.

Source: Authors' adaptation of Griffin's National overviews. *State juvenile justice profiles*.

In most states, age and offense criteria limit transfer provisions

Judicial waiver remains the most common transfer provision

As of the end of the 2004 legislative session, in 45 states and the District of Columbia, juvenile court judges may waive jurisdiction over certain cases and transfer them to criminal court. Such action is usually in response to a request by the prosecutor; in several states, however, juveniles or their parents may request judicial waiver. In most states, laws limit waiver by age and offense.

Waiver provisions vary in terms of the degree of decisionmaking flexibility allowed. The decision may be entirely discretionary, there may be a rebuttable presumption in favor of waiver, or waiver may be mandatory. Some provisions mandate that waiver is required once the juvenile court judge determines that certain statutory criteria have been met. Mandatory waiver provisions differ from statutory exclusion provisions in that the case originates in juvenile rather than criminal court.

Some statutes establish waiver criteria other than age and offense

In some states, waiver provisions target youth charged with offenses involving firearms or other weapons. Most state statutes also limit judicial waiver to juveniles who are “no longer amenable to treatment.” The specific factors that determine lack of amenability vary, but they typically include the juvenile’s offense history and previous dispositional outcomes. Such amenability criteria are generally not included in statutory exclusion or concurrent jurisdiction provisions.

Many statutes instruct juvenile courts to consider other factors when making waiver decisions, such as the availability of dispositional

In most states, juvenile court judges may waive jurisdiction over certain cases and transfer them to criminal court

State	Minimum age for judicial waiver	Judicial waiver offense and minimum age criteria, 2004							
		Any criminal offense	Certain felonies	Capital crimes	Murder	Certain person offenses	Certain property offenses	Certain drug offenses	Certain weapon offenses
Alabama	14	14							
Alaska	NS	NS					NS		
Arizona	NS		NS						
Arkansas	14		14	14	14	14			14
California	14	16			14	14	14	14	
Colorado	12		12		12	12			
Connecticut	14		14	14	14				
Delaware	NS	NS	15		NS	NS	16	16	
Dist. of Columbia	NS	16	15		15	15	15		NS
Florida	14	14							
Georgia	13	15		13	14	13	15		
Hawaii	NS		14		NS				
Idaho	NS	14	NS		NS	NS	NS	NS	
Illinois	13	13	15						
Indiana	NS	14	NS		10			16	
Iowa	14	14							
Kansas	10	10	14			14		14	
Kentucky	14		14	14					
Louisiana	14				14	14			
Maine	NS		NS		NS	NS			
Maryland	NS	15		NS					
Michigan	14		14						
Minnesota	14		14						
Mississippi	13	13							
Missouri	12		12						
Nevada	14	14	14			14			
New Hampshire	13		15		13	13		15	
New Jersey	14	14	14		14	14	14	14	14
North Carolina	13		13	13					
North Dakota	14	16	14		14	14		14	
Ohio	14		14		14	16	16		
Oklahoma	NS		NS						
Oregon	NS		15		NS	NS	15		
Pennsylvania	14		14			14	14		
Rhode Island	NS	NS	16	NS	17	17			
South Carolina	NS	16	14		NS	NS		14	14
South Dakota	NS		NS						
Tennessee	NS	16			NS	NS			
Texas	14		14	14				14	
Utah	14		14		16	16	16		16
Vermont	10				10	10	10		
Virginia	14		14		14	14			
Washington	NS	NS							
West Virginia	NS		NS		NS	NS	NS	NS	
Wisconsin	14	15	14		14	14	14	14	
Wyoming	13	13							

Note: Ages in the minimum age column may not apply to all offense restrictions, but represent the youngest possible age at which a juvenile may be judicially waived to criminal court. “NS” indicates that in at least one of the offense restrictions indicated, no minimum age is specified.

Source: Authors’ adaptation of Griffin’s National overviews. *State juvenile justice profiles*.

alternatives for treating the juvenile, the time available for sanctions, public safety, and the best interest of the child. The waiver process must also adhere to certain constitutional principles of due process.

States have slowed their expansion of transfer laws

Traditionally, discretionary judicial waiver was the most common transfer mechanism. Beginning in the 1970s, however, state legislatures have changed laws to move juvenile offenders into criminal court based on age and/or offense seriousness without the case-specific consideration offered by the discretionary juvenile court judicial waiver process. State transfer provisions changed extensively in the 1990s. Since 1992, all states but Nebraska have changed their transfer statutes to

make it easier for juveniles to be tried in criminal court. But the pace of such changes has slowed considerably. From 1992 through 1995, 40 states and the District of Columbia enacted or expanded transfer provisions. From 1998 through 2002, legislatures in 18 states enacted or expanded their transfer provisions. From 2003 through 2004, only 4 states made substantive changes in transfer provisions, and only 2 of those states expanded them.

Relatively few states allow prosecutorial discretion

As of the end of the 2004 legislative session, 15 states have concurrent jurisdiction provisions, which give both juvenile court and criminal court original jurisdiction in certain cases. Under such provisions, prosecutors have discretion to file

eligible cases in either court. Concurrent jurisdiction is typically limited by age and offense criteria. Often, concurrent jurisdiction is limited to cases involving violent or repeat crimes or offenses involving firearms or other weapons. (Juvenile and criminal courts often also share jurisdiction over minor offenses such as traffic, watercraft, or local ordinance violations.) No national data exist on the number of juvenile cases tried in criminal court under concurrent jurisdiction provisions. In Florida, which has a fairly broad concurrent jurisdiction provision, prosecutors sent more than 2,000 youth to criminal court in fiscal year 2001. In comparison, juvenile court judges nationwide waived fewer than 6,000 cases to criminal court in 2000.

State appellate courts have taken the view that prosecutorial discretion is equivalent to the routine charging decisions prosecutors make in criminal cases. Thus, prosecutorial transfer is considered an executive function, which is not subject to judicial review and is not required to meet the due process standards established by the U.S. Supreme Court. Some states, however, do have written guidelines for prosecutorial transfer.

Statutory exclusion accounts for the largest number of transfers

Legislatures “transfer” large numbers of young offenders to criminal court by enacting statutes that exclude certain cases from juvenile court jurisdiction. As of the end of the 2004 legislative session, 29 states have statutory exclusion provisions. State laws typically set age and offense limits for excluded offenses. The offenses most often excluded are murder, capital crimes in general (offenses punishable by

In states with concurrent jurisdiction, the prosecutor has discretion to file certain cases in either criminal court or juvenile court

State	Minimum age for concurrent jurisdiction	Concurrent jurisdiction offense and minimum age criteria, 2004							
		Any criminal offense	Certain felonies	Capital crimes	Murder	Certain person offenses	Certain property offenses	Certain drug offenses	Certain weapon offenses
Arizona	14		14						
Arkansas	14		16	14	14	14			
California	14		14	14	14	14	14		
Colorado	14		14		14	14			
Dist. of Columbia	16				16	16	16		
Florida	NS	16	16	NS	14	14	14		14
Georgia	NS			NS					
Louisiana	15				15	15	15		
Michigan	14		14		14	14	14		
Montana	12				12	12	16	16	16
Nebraska	NS	16	NS						
Oklahoma	15		16		15	15	15	16	15
Vermont	16	16							
Virginia	14				14	14			
Wyoming	13		14		14	14	14		

Note: Ages in the minimum age column may not apply to all offense restrictions, but represent the youngest possible age at which a juvenile's case may be directly filed in criminal court. “NS” indicates that in at least one of the offense restrictions indicated, no minimum age is specified

Source: Authors' adaptation of Griffin's National overviews. *State juvenile justice profiles*.

death or life imprisonment), and other serious offenses against persons. (Minor offenses such as traffic, watercraft, and wildlife violations are often excluded from juvenile court jurisdiction in states where they are not covered by concurrent jurisdiction provisions.)

Although not typically thought of as transfers, large numbers of youth

younger than age 18 are tried in criminal court in the 13 states where the upper age of juvenile court jurisdiction is set at 15 or 16. Nearly 2 million 16- and 17-year-olds live in these 13 states. If these youth are referred to criminal court at the same rate that 16- and 17-year-olds elsewhere are referred to juvenile court, then a large number of youth younger than 18 face trial

in criminal court because they are defined as adults under state laws. In fact, it is possible that more youth younger than 18 are tried in criminal court in this way than by all other transfer mechanisms combined.

Many states allow transfer of certain very young offenders

In 23 states, no minimum age is specified in at least one judicial waiver, concurrent jurisdiction, or statutory exclusion provision for transferring juveniles to criminal court. For example, Pennsylvania's murder exclusion has no minimum age specified. Other transfer provisions in Pennsylvania have age minimums set at 14 or 15. Among states where statutes specify age limits for all transfer provisions, age 14 is the most common minimum age specified across provisions.

Minimum transfer age specified in statute, 2004:

Age	State
None	Alaska, Arizona, Delaware, District of Columbia, Florida, Georgia, Hawaii, Idaho, Indiana, Maine, Maryland, Nebraska, Nevada, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Washington, West Virginia, Wisconsin
10	Kansas, Vermont
12	Colorado, Missouri
13	Illinois, Mississippi, New Hampshire, New York, North Carolina, Wyoming
14	Alabama, Arkansas, California, Connecticut, Iowa, Kentucky, Louisiana, Massachusetts, Michigan, Minnesota, New Jersey, North Dakota, Ohio, Texas, Utah, Virginia
15	New Mexico

In states with statutory exclusion provisions, certain cases involving juveniles originate in criminal court rather than in juvenile court

State	Minimum age for statutory exclusion	Statutory exclusion offense and minimum age criteria, 2004							
		Any criminal offense	Certain felonies	Capital crimes	Murder	Certain person offenses	Certain property offenses	Certain drug offenses	Certain weapon offenses
Alabama	16		16	16				16	
Alaska	16					16	16		
Arizona	15		15		15	15			
California	14				14	14			
Delaware	15		15						
Florida	NS				16	NS	16	16	
Georgia	13				13	13			
Idaho	14				14	14	14	14	
Illinois	13		15		13	15		15	15
Indiana	16		16		16	16		16	16
Iowa	16		16					16	16
Louisiana	15				15	15			
Maryland	14			14	16	16			16
Massachusetts	14				14				
Minnesota	16				16				
Mississippi	13		13	13					
Montana	17				17	17	17	17	17
Nevada	NS	16*	NS		NS	16			
New Mexico	15				15				
New York	13				13	14	14		14
Oklahoma	13				13				
Oregon	NS				15	15			
Pennsylvania	NS				NS	15			
South Carolina	16		16						
South Dakota	16		16						
Utah	16		16		16				
Vermont	14				14	14	14		
Washington	16				16	16	16		
Wisconsin	NS				10	NS			

Note: Ages in the minimum age column may not apply to all offense restrictions, but represent the youngest possible age at which a juvenile may be excluded from juvenile court. "NS" indicates that in at least one of the offense restrictions indicated, no minimum age is specified.

* In Nevada, the exclusion applies to any juvenile with a previous felony adjudication, regardless of the current offense charged, if the current offense involves the use or threatened use of a firearm.

Source: Authors' adaptation of Griffin's National overviews. *State juvenile justice profiles*.

Like transfer laws, juvenile court blended sentencing allows imposition of adult sanctions on juveniles

Transfer laws and juvenile court blended sentencing laws have similar impact

As of the end of the 2004 legislative session, 15 states have blended sentencing laws that enable juvenile courts to impose criminal sanctions on certain juvenile offenders. Although the impact of juvenile blended sentencing laws depends on the specific provisions (which vary from state to state), in general, juvenile court blended sentencing expands the sanctioning powers of the juvenile court such that juvenile offenders may face the same penalties faced by adult offenders. Thus, like transfer laws, juvenile court blended sentencing provisions define certain juvenile offenders as eligible to be handled in the same manner as adult offenders and expose those juvenile offenders to harsher penalties.

The most common type of juvenile court blended sentencing provision allows juvenile court judges to order both a juvenile disposition and a criminal (adult) sentence. The adult sentence is suspended on the condition that the juvenile offender successfully completes the terms of the juvenile disposition and refrains

from committing any new offenses. The criminal sanction is intended to encourage cooperation and serve as a deterrent to future offending. This type of arrangement is known as an inclusive blend.

Most states with juvenile court blended sentencing have inclusive blends (11 of 15). Generally, statutes require courts to impose a combination of juvenile and adult sanctions in targeted cases. In Massachusetts and Michigan, though, the court is not required to order a combined sanction. The court has the option to order a juvenile disposition, a criminal sentence, or a combined sanction.

Among the four states that do not have inclusive juvenile court blended sentencing, three (Colorado, Rhode Island, and Texas) have some type of contiguous blended sentencing

arrangement. Under the contiguous model, juvenile court judges can order a sentence that would extend beyond the state's age of extended jurisdiction. The initial commitment is to a juvenile facility, but later the offender may be transferred to an adult facility. The fourth state without an inclusive juvenile blend, New Mexico, simply gives the juvenile court the option of ordering an adult sentence instead of a juvenile disposition. This is referred to as an exclusive blend.

Reverse waiver laws and criminal court blended sentencing laws have similar impact

Under criminal court blended sentencing, offenders of juvenile age who have been convicted in criminal court can receive juvenile

In blended sentencing, juveniles have the same due process protections afforded criminal defendants

All states with juvenile court blended sentencing give juveniles facing possible criminal sanctions the same basic procedural rights afforded to criminal defendants, notably the right to be tried by a jury. In Texas, youth in juvenile court blended sentencing cases are also entitled to have a jury make sentencing determinations.

As with transfer laws, states' juvenile court blended sentencing provisions are limited by age and offense criteria

State	Minimum age for juvenile court blended sentence	Juvenile court blended sentencing offense and minimum age criteria, 2004							
		Any criminal offense	Certain felonies	Capital crimes	Murder	Certain person offenses	Certain property offenses	Certain drug offenses	Certain weapon offenses
Alaska	16					16			
Arkansas	NS		14		NS	14			14
Colorado	NS		NS			NS			
Connecticut	NS		14			NS			
Illinois	13		13						
Kansas	10	10							
Massachusetts	14		14			14			14
Michigan	NS		NS		NS	NS	NS	NS	
Minnesota	14		14						
Montana	NS		12		NS	NS	NS	NS	NS
New Mexico	14		14		14	14	14		
Ohio	10		10		10				
Rhode Island	NS		NS						
Texas	NS		NS		NS	NS		NS	
Vermont	10	10							

Note: Ages in the minimum age column may not apply to all offense restrictions, but represent the youngest possible age at which a juvenile court blended sentence may be imposed. "NS" indicates that in at least one of the offense restrictions indicated, no minimum age is specified.

Source: Authors' adaptation of Griffin's National overviews. *State juvenile justice profiles*.

dispositions. Like reverse waiver laws, criminal court blended sentencing provisions give defendants of juvenile age an opportunity to show that they belong in the juvenile justice system. Criminal court blended sentencing laws have been described as a “safety valve” or an “emergency exit” because they allow the court to review the circumstances of a case and make an individualized decision regarding the youth’s suitability for juvenile or criminal treatment. In this way, youth are given one last chance to receive a juvenile disposition.

Seventeen states allow criminal court blended sentencing. Of these states, 10 have exclusive blended sentencing arrangements: the criminal court has an either/or choice between criminal and juvenile sanctions. Inclusive blend models, in which juvenile offenders convicted in criminal court may receive a combination sentence, exist in the remaining seven states with criminal court blended sentencing. As with the juvenile court inclusive blend model, the criminal court inclusive blend model allows the criminal court to suspend the adult sanction on condition of the youth’s good behavior.

Criminal court blended sentencing provisions, 2004:

Provision	State
Exclusive	California, Colorado, Illinois, Kentucky, Massachusetts, Nebraska, New Mexico, Oklahoma, West Virginia, Wisconsin
Inclusive	Arkansas, Florida, Idaho, Iowa, Michigan, Missouri, Virginia

As with transfer and juvenile court blended sentencing laws, the scope of criminal court blended sentencing laws varies from state to state

States’ “fail-safe” mechanisms—reverse waiver and criminal court blended sentencing—vary in scope

Many states that transfer youth to criminal court either automatically or at the prosecutor’s discretion also provide a “fail-safe” mechanism that gives the criminal court a chance to review the case and make an individualized decision as to whether the case should be returned to the juvenile system for trial or sanctioning. The two basic types of fail-safes are reverse waiver and criminal court blended sentencing. With such combinations of provisions, a state can define cases to be handled in criminal court and at the same time ensure that the court can decide whether such handling is appropriate in individual cases. Of the 44 states with mandatory waiver, statutory exclusion, or concurrent jurisdiction provisions, 29 also have reverse waiver and/or criminal court blended sentencing as a fail-safe.

Reverse waiver. In 25 states, provisions allow juveniles whose cases are handled in criminal court to petition to have the case heard in juvenile court.

Criminal court blended sentencing. In 17 states, juveniles convicted in criminal court are allowed the opportunity to be sanctioned in the juvenile system.

Some states have comprehensive fail-safes; others do not.

Comprehensive fail-safes. In 15 states, no juvenile can be subject to criminal court trial and sentencing either automatically or at the prosecutor’s discretion without a chance to prove his or her individual suitability for juvenile handling: Arkansas, Colorado, Delaware, Idaho, Iowa, Mississippi, Montana, Nebraska, Oklahoma, Pennsylvania, South Dakota, Tennessee, Vermont, West Virginia, and Wyoming.

Partial fail-safes. In 15 states, fail-safe mechanisms do not cover every transferred case: Arizona, California, Connecticut, Florida, Georgia, Illinois, Kentucky, Maryland, Massachusetts, Michigan, Nevada, New York, Oregon, Virginia, and Wisconsin.

No fail-safe. In 15 states, juveniles have no chance to petition for juvenile handling or sanctioning: Alabama, Alaska, District of Columbia, Indiana, Louisiana, Minnesota, New Jersey, New Mexico, North Carolina, North Dakota, Ohio, Rhode Island, South Carolina, Utah, and Washington.

Need no fail-safe. Six states need no fail-safe because cases only reach criminal court through judicial waiver: Hawaii, Kansas, Maine, Missouri, New Hampshire, and Texas.

depending on the specifics of the statutory provisions. Limitations typically stem from the transfer provisions. The broadest criminal court blend statutes allow for juvenile sanctions in any case involving a juvenile prosecuted in criminal court (i.e., any transferred juvenile). Others exclude from blended sentencing only those convicted of offenses that carry a mandatory life or death sentence. The narrowest of the criminal court blend provisions

limit the juvenile disposition option to juvenile offenders who have been convicted of a lesser offense that is not itself eligible for transfer and criminal prosecution. In still other states, statutes require a “fitness hearing” to determine whether the disposition for a lesser offense should be a juvenile sanction. At the hearing, the court must base its decision on criteria similar to those used in juvenile court discretionary waiver decisions.

Some juvenile offenders are handled by federal rather than state or local authorities

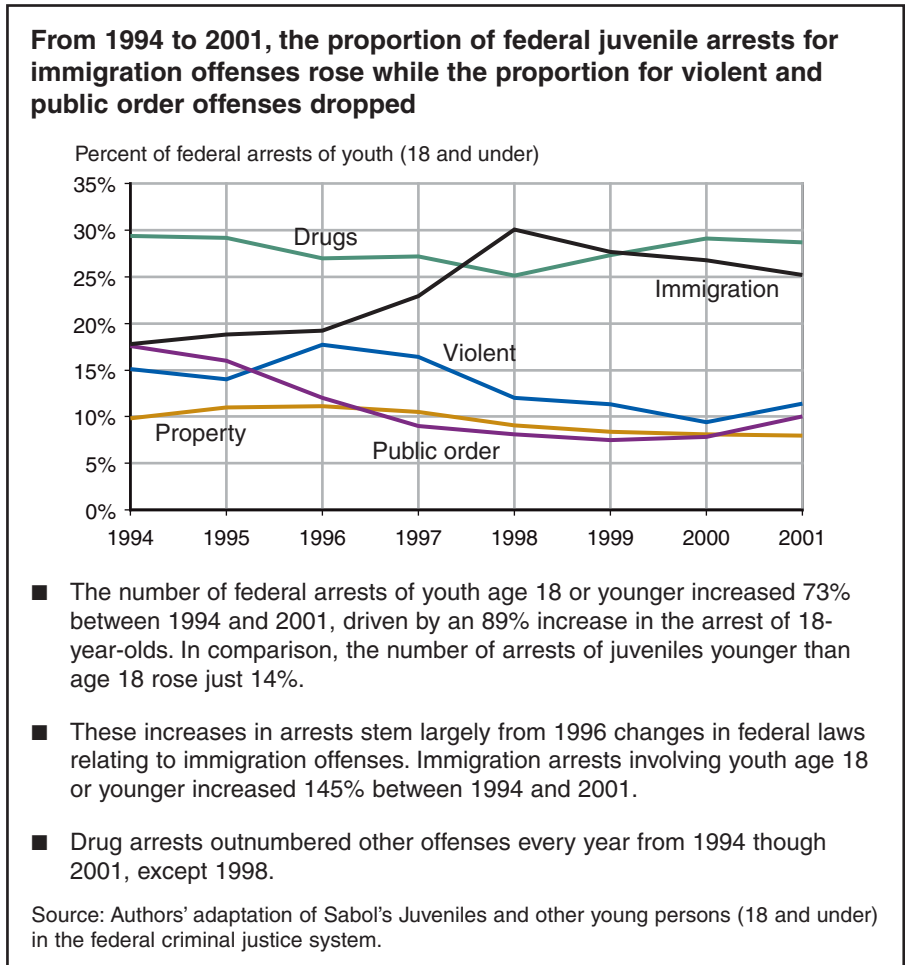
Juvenile prosecutions in the federal system are rare

There is no separate federal juvenile justice system. Juveniles who are arrested by federal law enforcement agencies may be prosecuted and sentenced in United States District Courts and even committed to the Federal Bureau of Prisons. Federal law (Title 18 U.S.C. § 5032) lays out procedures for the handling of juveniles accused of crimes against the U.S. Although it generally requires that they be turned over to state or local authorities, it does provide exceptions.

Juveniles initially come into federal law enforcement custody in a variety of ways. The federal agencies that arrest the most young people are the Border Patrol and the Immigration and Naturalization Service,* the U.S. Marshals Service, the Federal Bureau of Investigation (which has federal law enforcement responsibility on over 200 Indian reservations), and the Drug Enforcement Agency.

Arrest data from fiscal years 1994 through 2001 indicate that these and other federal agencies arrested an average of about 400 persons younger than age 18 per year, and an additional 1,600 18-year-olds, some of whom were undoubtedly juveniles younger than 18 at the time they committed their offenses. Overall, arrests of youth age 18 or younger made up less than 2% of federal arrests. Arrestees 18 or younger were 85% male and 67%

* In the recently established U.S. Department of Homeland Security (DHS), the Immigration and Naturalization Service has become U.S. Citizenship and Immigration Services and its enforcement functions reside in DHS's Border and Transportation Security Directorate, as does the Office of Border Patrol.



white, 19% black, and 10% American Indian. About 43% were non-U.S. citizens. The most common offenses for which federal authorities arrested persons age 18 or younger during the period 1994–2001 were drug offenses (27%) and immigration violations (24%). Marijuana accounted for half of the drug arrests and illegal entry accounted for more than three-quarters of the immigration arrests. Other offenses accounted for smaller proportions of under-18 arrests: violent (13%), property (9%), and public order (10%). Weapons offenses accounted for 4 in 10 arrests for public order offenses.

Federal prosecutors may retain certain serious cases involving a “substantial federal interest”

Following a federal arrest of a person under 21, federal law requires an investigation to determine whether the offense was a delinquent offense under state law. If so, and if the state is willing and able to deal with the juvenile, the federal prosecutor may forego prosecution and surrender the juvenile to state authorities. However, a case may instead be “certified” by the Attorney General for federal delinquency prosecution, if one of the following

exceptional conditions exists: (1) the state does not have or refuses to take jurisdiction over the case; (2) the state does not have programs or services available that are adequate to the needs of the juvenile; or (3) the juvenile is charged with a violent felony, drug trafficking, importation, or firearms offense, and the case involves a “substantial federal interest.”

A case certified for federal delinquency prosecution is heard in U.S. District Court by a judge sitting in closed session without a jury. Following a finding of delinquency, the court has disposition powers similar to those of state juvenile courts. For instance, it may order the juvenile to pay restitution, serve a period of probation, or undergo “official detention” in a correctional facility. Generally, neither probation nor official detention may extend beyond the juvenile’s 21st birthday or the maximum term that could be imposed on an adult convicted of an equivalent offense, whichever is shorter. But for juveniles who are between ages 18 and 21 at the time of sentencing, official detention for certain serious felonies may last up to 5 years.

A juvenile in the federal system may also be “transferred” for criminal prosecution

When proceedings in a federal case involving a juvenile offender are transferred for criminal prosecution, they actually remain in district court but are governed by federal criminal laws rather than state laws or the Juvenile Justice and Delinquency Prevention Act. Federal law authorizes transfer at the written request of a juvenile of at least age 15 who is alleged to have committed an offense after attaining the age of 15 or upon the motion of the Attorney General in a qualifying

case where the court finds that “the interest of justice” requires it. Qualifying cases include those in which a juvenile is charged with (1) a violent felony or drug trafficking or importation offense committed after reaching age 15; (2) murder or aggravated assault committed after reaching age 13; or (3) possession of a firearm during the commission of any offense after reaching age 13. However, transfer is mandatory in any case involving a juvenile age 16 or older who was previously found guilty of a violent felony or drug trafficking offense and who is now accused of committing a drug trafficking or importation offense or any felony involving the use, attempted use, threat, or substantial risk of force.

Most federal juvenile arrests result in a guilty plea or a conviction at trial

The U.S. Marshals Service reports data on the disposition of federal arrests. The disposition data reflect both state and federal court results.

In 2001, 73% of arrests of youth age 18 or younger resulted in a guilty plea or a conviction at trial. Another 13% resulted in the charges being dismissed, prosecution being deferred, or a verdict of not guilty.

Federal arrests of youth age 18 or younger:

Disposition	1994	2001
Total	100%	100%
Guilty plea	38	68
Convicted at trial	13	5
Dismissed/not guilty	13	13
Other or unknown	36	14

Arrests of youth age 18 or younger for immigration offenses were more likely to result in convictions and less likely to have charges dropped than arrests for other offenses.

Juveniles may be committed to the Federal Bureau of Prisons as delinquents or adults

From fiscal years 1994 through 2001, almost 3,000 youth were committed to the custody of the Federal Bureau of Prisons (BOP) for offenses committed while younger than 18. Of these, 1,639 were committed to BOP as delinquents and 1,346 as adults. Among those committed as delinquents, the vast majority (about 70%) were American Indians, but American Indians made up a much smaller proportion (about 31%) of those committed as adults.

Youth age 18 or younger at offense committed to Federal Bureau of Prisons custody, 2001:

	Committed as		
	Total	Delinquent	Adult
Gender	100%	100%	100%
Male	92	89	96
Female	8	11	4
Race	100%	100%	100%
White	17	13	24
Black	25	4	61
Amer. Indian	57	82	15
Asian	0	1	0
Ethnicity	100%	100%	100%
Hispanic	11	8	14
Non-Hispanic	89	92	86
Citizenship	100%	100%	100%
U.S. citizen	95	96	93
Noncitizen	5	4	7

Detail may not total 100% because of rounding.

BOP is required by federal law to place persons younger than 18 in suitable juvenile facilities, which may be operated by private agencies or units of state or local government, rather than in adult facilities.

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