



# JUVENILE JUSTICE STATISTICS

## NATIONAL REPORT SERIES FACT SHEET

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## Delinquency Cases Waived to Criminal Court, 2018

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### All states have mechanisms to handle juveniles in criminal court

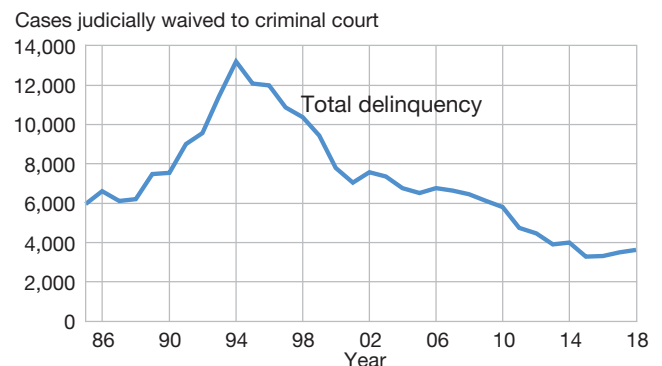
All states have established an upper age of original jurisdiction for juvenile courts (age 15, 16, or 17 in 2018, depending on the state). However, states also have various laws that allow juveniles younger than the upper age of juvenile court jurisdiction to be tried as adults. There are three basic types of transfer laws. Concurrent jurisdiction laws allow prosecutors discretion on whether to file a case in juvenile or criminal court. Statutory exclusion laws grant criminal courts original jurisdiction over certain classes of cases involving juveniles. Judicial waiver laws authorize or require juvenile court judges to remove certain youth from juvenile court jurisdiction to be tried in criminal court.

There are three broad categories for judicial waiver: discretionary, presumptive, and mandatory. Nearly all states (46) have discretionary judicial waiver provisions in which juvenile court judges have discretion to waive jurisdiction over individual juveniles and refer their cases to criminal court. These laws authorize, but do not require, transfer in cases that meet threshold requirements for waiver. As a result of *Kent v. United States*, the Supreme Court established eight factors that juvenile courts should consider when determining which venue is most appropriate for a youth's case to be processed. Although each state may decide to adhere to the eight factors or add to or replace with their own, juvenile courts are advised to not only consider the severity of the offense committed but

additional factors such as the youth's prior involvement in the justice system and his or her prospects of rehabilitation. Some states (12) have presumptive waiver laws, which designate a category of cases in which waiver to criminal court is presumed to be appropriate. In such cases, if a juvenile who meets the age, offense, or other statutory criteria that trigger the presumption fails to make an adequate argument against transfer, the juvenile court must send the case to criminal court. Other states (12) provide for mandatory waiver in cases that meet certain age, offense, or prior record criteria. Proceedings against juveniles subject to mandatory waiver are initiated in juvenile court, but the court's only role is to confirm that the statutory requirements for mandatory waiver are met. Once it has done so, it must send the case to criminal court.

The National Juvenile Court Data Archive—maintained by the National Center for Juvenile Justice—generates national estimates of the number of cases judicially waived to criminal court. This fact sheet presents estimates for 1985 through 2018.

### In 2018, 73% fewer cases were judicially waived to criminal court than were waived in 1994, the peak year



## For every 1,000 delinquency cases, 5 were waived to criminal court

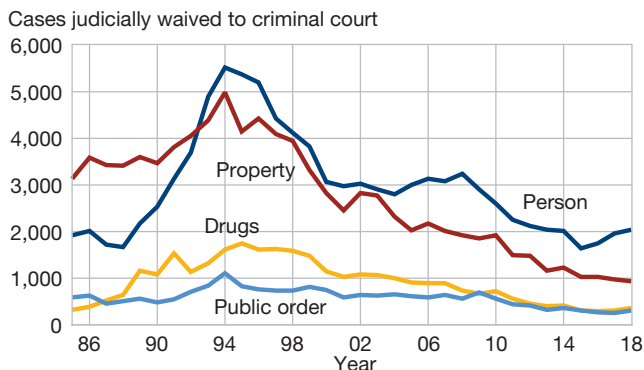
In 2018, U.S. courts with juvenile jurisdiction handled 744,500 delinquency cases. More than half (57%) of these cases were handled formally (i.e., a petition was filed requesting an adjudication or waiver hearing). Of the petitioned delinquency caseload, about 1% resulted in judicial waiver. The number of delinquency cases judicially waived peaked in 1994 at 13,200 cases, more than double the number of cases waived in 1985. Judicially waived delinquency cases decreased 75% through the lowest level in 2015 and increased slightly (11%) through 2018. In 2018, juvenile courts waived an estimated 3,600 delinquency cases to criminal court.

The decline in juvenile violent crime drove much of the decrease in judicial waivers throughout the 1990s. However, part of the decline in judicial waivers can be attributed to the simultaneous and widespread expansion of nonjudicial transfer laws. As a result of these new and expanded laws, many cases that might have been subject to waiver proceedings in previous years may have been filed directly in criminal court, bypassing the juvenile court altogether.

## Since 1993, waived person offense cases have outnumbered waived cases for other offense categories

The number of judicially waived person offense cases increased 188% between 1985 and 1994 and then fell substantially through 2001, down 46% from its 1994 peak. Between 2001 and 2008, the number of person offense cases waived increased slightly and then declined 49% to the lowest level in 2015. Despite an increase in recent years, the number of waived person offense cases in 2018 was just 6% above the level in 1985. Waived drug offense cases peaked in 1995, 402% greater than the 1985 number. Between 1995 and 2016, waived drug offense cases declined 83%, before increasing 23% through 2018. There have also been substantial declines in the number of waived property and public order offense cases since 1994 (81% and 72%, respectively).

## Although the overall number of waived cases declined greatly since the mid-1990s, the number of person and drug offense cases was greater in 2018 than in 1985

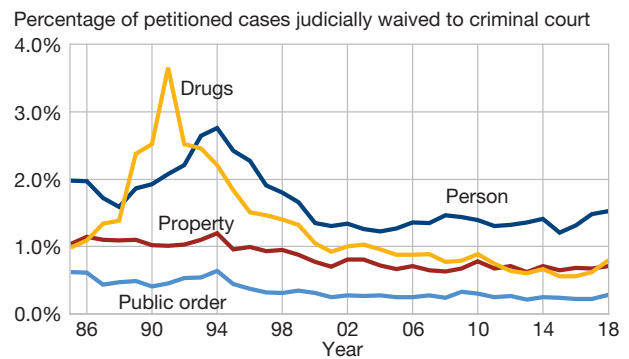


Before 1993, property offense cases outnumbered person offense cases among waivers—at times by a ratio of 2:1. In 2018, the number of waived person offense cases was more than 2 times the number of property offense cases, nearly 6 times the number of drug offense cases, and nearly 7 times the number of public order offense cases.

## Trends in the use of waiver vary by the most serious offense charged

From 1989 through 1992, petitioned drug offense cases were more likely to be waived to criminal court than any other offense category. The proportion of petitioned drug offense cases that were judicially waived peaked in 1991 at 3.7% (1,500 cases) and declined to 0.8% (400 cases) in 2018. Between 1993 and 2018, petitioned person offense cases were more likely to be judicially waived than petitioned cases involving other offenses. In 2018, 1.5% of petitioned person offense cases were waived compared with 0.8% of drug offense cases, 0.7% of property offense cases, and 0.3% of public order offense cases.

## The likelihood of judicial waiver declined after the early 1990s for all four general offense categories

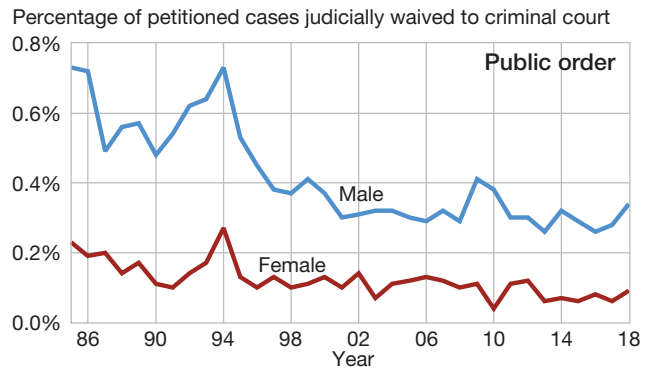
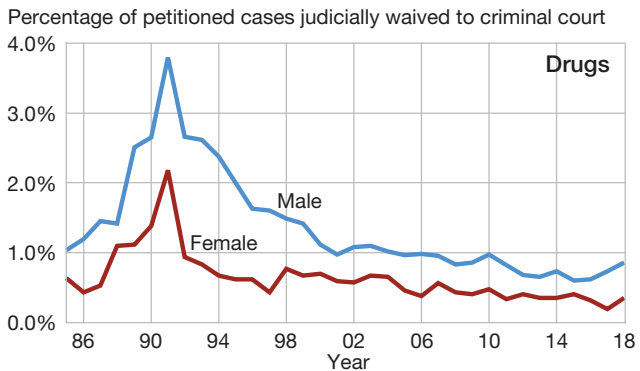
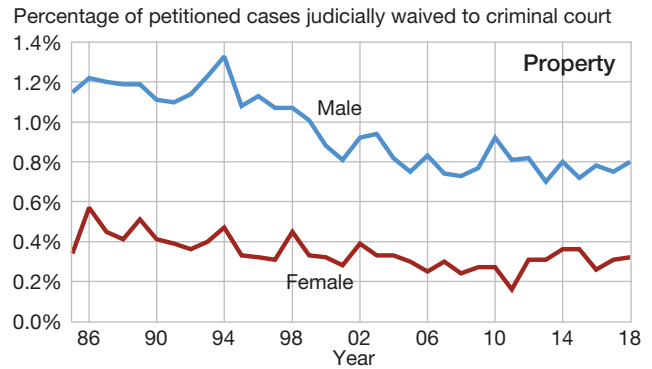
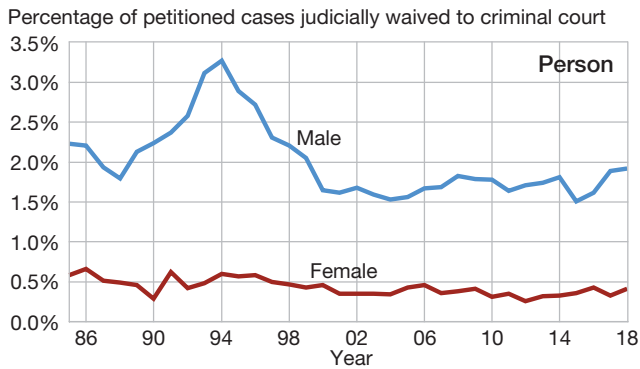


## More than half of waived cases involved person offenses

The offense profile and characteristics of cases judicially waived to criminal court have changed considerably. From 1985 to 1992, property offense cases made up the largest share of the waived caseload. Beginning in 1993, person offense cases accounted for a greater proportion of the waived caseload than did property offense cases. Compared with 1985, the waived caseload in 2018 included greater proportions of person and drug offense cases and smaller proportions of property and public order offense cases.

In 2018, males accounted for 92% of all waived cases but 73% of all delinquency cases. Among person offense cases, males accounted for 93% of waived cases but 70% of cases disposed. Youth 16 and older also accounted for a greater share of waived cases (89%) than delinquency cases overall (49%). Non-Hispanic white youth, in contrast, accounted for 44% of all cases disposed but 32% of waived cases.

## Cases involving males were more likely to be judicially waived to criminal court than those involving females



■ In 2018, for males, person offense cases were the most likely to be judicially waived and public order offenses were the least likely to be waived. For females, the likelihood of waiver was similar for person, property, and drug offenses; public order offenses were less likely to be waived.

■ In 2018, person offense cases involving males were nearly 5 times more likely to be judicially waived than those involving females.

■ The likelihood of waiver in 2018 for both males and females was at or below the 1985 level for all offenses.

### The offense profile and characteristics of cases judicially waived to criminal court have changed considerably

Offense/demographic	Proportion of judicially waived cases		
	1985	1994	2018
<b>Total cases waived</b>	5,948	13,210	3,624
<b>Most serious offense</b>			
Person	32%	42%	56%
Property	53	38	26
Drugs	5	12	10
Public order	10	8	8
<b>Gender</b>			
Male	95%	95%	92%
Female	5	5	8
<b>Age at referral</b>			
15 or younger	7%	13%	11%
16 or older	93	87	89
<b>Demographic</b>	<b>2005</b>	<b>2009</b>	<b>2018</b>
<b>Total cases waived</b>	6,530	6,123	3,624
<b>Race/ethnicity</b>			
White	45%	38%	32%
Black	39	45	52
Hispanic	13	15	14
Other	3	2	2

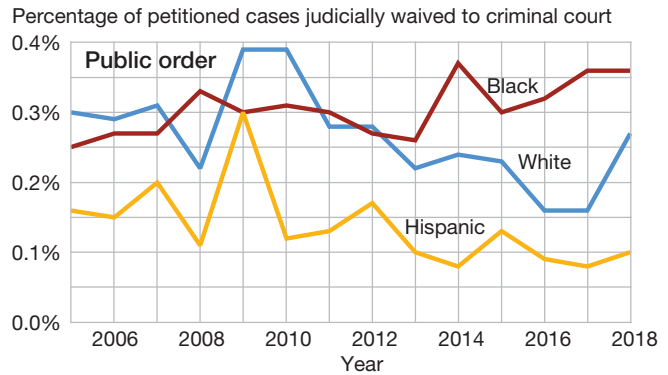
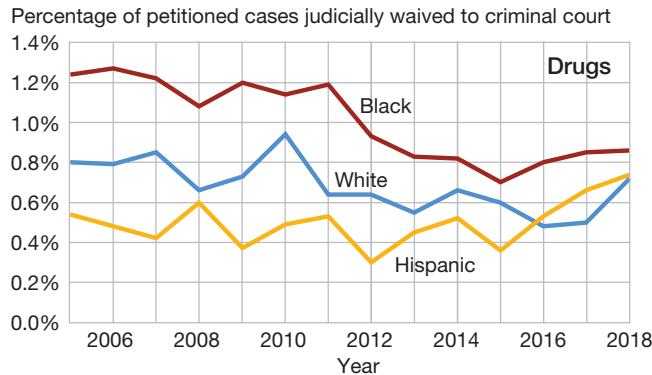
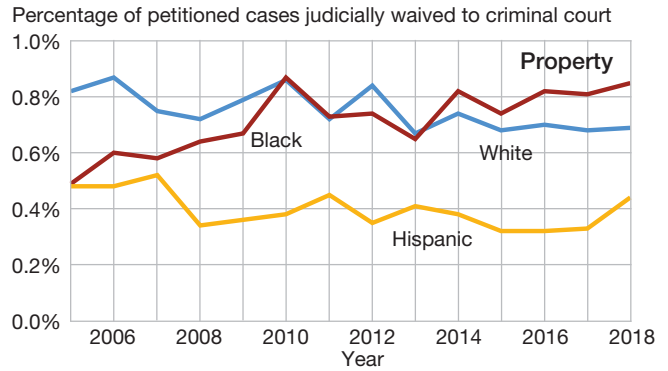
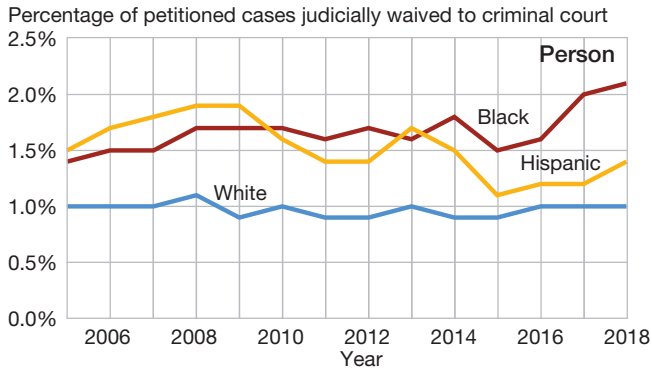
**Notes:** Data for 1994 are presented because it was the peak year for cases judicially waived to criminal court. National estimates of cases involving Hispanic youth are not available prior to 2005; therefore, race/ethnicity data are presented for the first year available (2005), 10 years prior to the current data year (2009), and the current data year (2018). Detail may not add to 100% because of rounding.

### Transfer mechanisms have changed over time

Transfer laws in general—including both judicial waiver laws and other kinds of transfer laws that allow or require cases involving juveniles to be filed directly in criminal court, bypassing juvenile court—proliferated and expanded dramatically during the 1980s and 1990s. Nearly every state revised or rewrote its laws to broaden the scope of transfer. Between 1992 and 1999, 27 states extended the reach of judicial waiver laws, lowered age requirements, or otherwise broadened eligibility. By 1999, presumptive waiver laws were in 16 states, and at least 15 states had mandatory waiver laws. Nonwaiver transfer mechanisms, which had been relatively rare before this period, became more common and also more far-reaching: by 1999, 29 states had statutory exclusion laws requiring that cases against some categories of juveniles be excluded from juvenile court and filed in criminal court, and 15 states had concurrent jurisdiction laws allowing prosecutors to make that choice themselves in certain cases.

Since then, however, some states have rolled back the provisions that made it easier for more youth to be tried in criminal court. By 2018, 28 states had statutory exclusion laws, 14 had concurrent jurisdiction provisions, 12 had mandatory waiver laws, and 12 had presumptive waiver laws. In addition, between 1999 and 2018, 4 states added reverse waiver provisions to send cases initiated in criminal court to juvenile court (increasing from 24 states to 28), and 7 states opted to add blended sentencing provisions that allow criminal courts to impose juvenile dispositions (increasing from 21 states to 28).

## Across offense categories, cases involving black youth were more likely than cases involving other race groups to be waived in 2018



- For black and Hispanic youth, the likelihood of waiver for person offense cases has been substantially higher than the likelihood of waiver for other offense categories.
- In 2018, the likelihood of waiver in person offense cases for black youth was more than double the likelihood for white youth and the likelihood for Hispanic youth was 1.4 times the likelihood for white youth.
- For all race/ethnicity groups, the likelihood of waiver for person offense cases increased somewhat between 2015 and 2018. The increase was greatest for black youth (from 1.5% to 2.1%).
- For white youth, trends in the likelihood of waiver across all offense categories were generally below 1%. For Hispanic youth, trends in the likelihood of waiver for offenses were below 1% except for person offense cases. For black youth, trends in the likelihood of waiver for property and public order offense cases were below 1%, dropped below 1% for drug offense cases beginning in 2012, and were consistently above 1% for person offense cases.
- Public order offense cases were the least likely to be waived for all race/ethnicity groups.

**Notes:** National estimates of cases involving Hispanic youth are not available prior to 2005 data; therefore, presentations for all race/ethnicity data in this fact sheet are based on 2005 and forward. For more information, visit the Methods section of *Easy Access to Juvenile Court Statistics* at [ojdp.gov/ojstatbb/ezajcs/methods.asp](http://ojdp.gov/ojstatbb/ezajcs/methods.asp).

## For more information

This fact sheet is based on the report *Juvenile Court Statistics 2018*, which is available at [ojdp.gov/ojstatbb/njcda/pdf/jcs2018.pdf](http://ojdp.gov/ojstatbb/njcda/pdf/jcs2018.pdf). To learn more about juvenile court cases, visit OJJDP's online Statistical Briefing Book ([ojdp.gov/ojstatbb](http://ojdp.gov/ojstatbb)) and click on "Juveniles in Court." OJJDP also supports *Easy Access to Juvenile Court Statistics*, a web-based application that lets users analyze the data from the *Juvenile Court Statistics* report. This application is available at [ojdp.gov/ojstatbb/ezajcs](http://ojdp.gov/ojstatbb/ezajcs).

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