Youth and the Juvenile Justice System: 2022 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, nearly 125 years ago. But in the long history of law and justice, juvenile justice is a relatively new development. The juvenile justice system has experienced several distinct periods of change. After the establishment of juvenile courts around the country there was a period where the emphasis was on rehabilitation rather than punishment, on the child rather than the crime. But over time the notion of rehabilitation lost its allure. By the late 1960s, juvenile court had become more punitive and critics argued that its informality and secrecy should not deny youth the due process protections afforded adults. This led to several landmark Supreme Court decisions, federal legislation, and changes in state statutes that made juvenile courts more like criminal courts.

In the early 1990s, perceptions of a juvenile crime epidemic focused the public's attention on the juvenile justice system's ability to effectively control youth who commit violent offenses. As a reaction, states adopted numerous legislative changes in an effort to crack down on juvenile crime. In fact, through the mid-1990s, nearly every state made it easier to expose more youth to criminal court prosecution. Although the juvenile and criminal justice systems had grown similar, the juvenile justice system has remained unique, guided by its own philosophy—with an emphasis on individualized justice and serving the best interests of the child—and legislation, and is implemented by its own set of agencies.

During the 2000s there has been a distinct shift away from the harshness of the 1990s. Several states have changed their jurisdictional boundaries to keep youth in the juvenile system. There is less reliance on correctional placements and an emphasis on system responses being developmentally appropriate and evidence-based.

This chapter describes the structure and process of the juvenile justice system, focusing on delinquency and status offense matters. (Chapter 2 discusses the handling of child maltreatment matters.) Parts of this chapter provide an overview of the history of juvenile justice in the United States, including significant Supreme Court decisions that have shaped the juvenile justice system, and generally describe case processing in the juvenile justice system. Also summarized in this chapter are state variations in key aspects of the juvenile justice system. Much of this information was drawn from National Center for Juvenile Justice analyses of juvenile codes in each state. (Note: the District of Columbia is often referred to as a state.)

This chapter also includes information on juveniles processed in the federal justice system.

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 adults

Throughout the late 18th century, "infants" below the age of reason (traditionally age 7) were presumed to be incapable of criminal intent and were exempt from prosecution and punishment. Children as young as 7, though, could stand trial in criminal court, 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 reforms that changed the perception of children from one of 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 established a facility specifically for the housing, education, and rehabilitation of children who commit offenses. Soon, facilities exclusively for children were established in most major cities. By mid-century, these privately operated child "prisons" were under criticism for various abuses. Many states then took on the responsibility of operating such facilities.

The first juvenile court in the United States was established in Cook County, Illinois, in 1899

Illinois passed the Juvenile Court Act in 1899, which established the nation's first separate 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 dealt with 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 child accused of law violations 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 but two states had followed suit. Rather than merely punishing youth for their crimes, juvenile courts sought to turn these wayward youth into productive citizens—through rehabilitation and treatment. The mission to help children in trouble was stated clearly in the laws that established juvenile courts. This mission led to procedural and substantive differences between the juvenile and criminal justice systems.

In the first 50 years of the juvenile court's existence, most juvenile courts had exclusive original jurisdiction over all youth younger than age 18 who were charged with violating criminal laws. However, in some states the upper age of juvenile jurisdiction was lower in certain cities or counties or was different for boys than for girls. 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.

The focus on individuals and not offense, on rehabilitation and not punishment, changed procedures

Unlike the criminal justice system, where prosecutors 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 altogether.

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 to criminal defendants were deemed unnecessary. In the early juvenile courts, attorneys for the state and the youth were 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, society came to question the ability of the juvenile court to succeed in rehabilitating youth who violated the law. The treatment techniques available to juvenile justice professionals often failed to demonstrate 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 youth institutionalized indefinitely in the name of treatment.

In a series of decisions beginning in the 1960s, the U.S. Supreme Court changed the juvenile court process. Formal hearings were now required if the juvenile court was going to waive its jurisdiction, and youth facing possible confinement were given Fifth Amendment protection against self-incrimination and rights to receive notice of the charges against them, to present

The first case 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 children younger than age 16 for neglect, dependency, or delinquency. The legislation stated that these cases were to be heard in a special courtroom that would be designated as "the juvenile courtroom" 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 Henry's record.

Judge Tuthill's first formal case is not known for certain, but the case of Thomas Majcheski (handled about 2 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.

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* Beginning in the 1850s, private societies in New York City rounded up so called "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 legislation 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*.

witnesses, to question witnesses, and to have an attorney. The burden of proof was raised from "a preponderance of evidence" to a "beyond a reasonable doubt" standard 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 youth charged with noncriminal offenses (behavior that is a law violation only because of the youth's status as a juvenile) 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 and the separation of youth charged with delinquency offenses from adults charged with or convicted of a crime. Much of the Act's compliance focus has been related to youth in justice system confinement facilities (see box). Community-based programs, diversion, and deinstitutionalization became the banners of juvenile justice policy.

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 on youth charged with breaking the law. Although there was a substantial misperception regarding increases in juvenile crime, many states responded by passing more stringent laws. Some laws removed certain age youth charged with certain offenses from the juvenile justice system in favor of the criminal justice system. Others required the juvenile justice system to be more like the criminal justice system in the handling of certain juvenile court cases.

As a result, youth charged with certain offenses were excluded from juvenile court jurisdiction or faced mandatory, automatic waiver to criminal court. In several states, concurrent jurisdiction provisions gave prosecutors the discretion to file certain juvenile cases directly in criminal court.

State legislatures continued to crack down on juvenile crime in the 1990s

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 youth from the juvenile justice system to the criminal justice system including lowering the upper age of juvenile court jurisdiction (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 pendulum swings again in the 2000s with a focus on brain science and doing what works

The 1980s and 1990s saw significant change in terms of processing more youth younger than 18 through the criminal justice system. However, the juvenile violent crime arrest rate had already peaked (in 1994) before much of the punitive legislation was enacted, and the rate continued to decline through the 1990s. By 2001, the entire spike in juvenile violent crime arrest rates had been erased and experts had begun to evaluate the consequences of the new "tough on crime" policies.

Research in adolescent development and brain science confirmed what everyone knew all along, that children and adolescents are different from adults. Adolescents are more impulsive and take more risks than adults. They are less able to think about consequences and more influenced by peer pressure. This is not to imply that adolescent brains are somehow defective, but that they are still developing. New brain imaging showed that development of the frontal lobe (the decision center of the brain) continues into the mid-20s. As Laurence Steinberg commented, "There is a time lag between the activation of brain systems that excite our emotions and impulses and the maturation of brain systems that allow us to check these feelings and urgings —it's like driving a car with a sensitive gas pedal and bad brakes." Adolescence is also a time of what scientists call neuroplasticity—when the brain has tremendous potential to change through experience. This means that adolescents have capacity to change, to be rehabilitated when matched to the most appropriate, effective interventions. In fact, most youth grow out of their delinquent behavior.

In 2005 the U.S. Supreme Court referenced the science of adolescent brain development in its *Roper* v. *Simmons* decision that barred the death penalty for youth younger than 18 (see section on U.S. Supreme Court decisions).

This information has had an impact on many aspects of juvenile justice. Since 2000, 12 states have passed laws to raise the upper age of juvenile court jurisdiction for delinquency offenses.

Several states have passed sweeping juvenile justice reforms or have had task forces or commissions make recommendations for reform legislative packages. Most resulting legislation has included roll-backs of at least some transfer provisions to keep more youth out of criminal court. For example, California eliminated its concurrent jurisdiction provision in 2016 that had since the early 2000s allowed prosecutors to file certain offenses directly in criminal court. New Jersey raised the minimum age for transfer to criminal court across its provisions from age 14 to age 15.

The National Academies of Sciences' National Research Council's 2013 *Reforming Juvenile Justice: A Developmental Approach* outlined a framework for juvenile justice reform that was grounded in adolescent development research and called for evidence-based and developmentally informed policies, programs, and practices. State juvenile justice reforms in the 2000s have generally been founded on adolescent development and doing what works to reduce youth offending behavior based on research evidence.

Some states' juvenile justice reforms emphasized the use of diversion and community-based programs—staples of juvenile justice for decades. A growing body of research is showing these approaches to be more effective in reducing youths' subsequent offending than more punitive responses.

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

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

The "deinstitutionalization of status offenders and nonoffenders" requirement (1974) specifies that youth 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 youth 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 … shall not be detained or confined in any institution in which they have contact with adult inmates." This requires that incarcerated juveniles and adults cannot see each other and no conversation between them is possible.

The "jail and lockup removal" requirement (1980) states that youth of juvenile age 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 facilities to hold youth temporarily while awaiting transfer to a juvenile facility or making court appearances. Under certain conditions, jails and lockups in rural areas may hold youth awaiting initial court appearance up to 24 hours plus weekends and holidays. Some jurisdictions have obtained approval for juvenile detention centers that are collocated with an adult facility; in addition, staff who work with both youth and adults must be trained and certified to work with youth. Until recently, youth being tried as adults in criminal court were exempt from this requirement.

Revisions passed in 2018 require that, as of December 21, 2021, even youth charged as adults must be removed from adult jails to juvenile facilities. The definition of "adult" in the new statute is tied to each state's age of criminal responsibility and extended age of jurisdiction. There is an exception if a court holds a hearing and finds that holding the youth in an adult facility is "in the interest of justice." The court must consider the youth's age; physical and mental maturity; present mental state, including risk of self-harm; and offending history as well as the nature and circumstances of the charges; the relative ability of the available adult and juvenile facilities to meet the needs of the youth and protect other youth in their custody and the public; and "any other relevant factor." If the court allows the youth held in jail, a review hearing must be held every 30 days with a 180-day maximum.

The "racial and ethnic disparities" (R/ED) requirement (2018) means that states must assess and address racial and ethnic disparities at key points in the juvenile justice system—from arrest to detention to confinement and work to reduce them. This requirement was previously known as the "disproportionate minority confinement" (DMC) (1988) and later (2002) as the disproportionate minority contact (DMC) requirement.

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. For fiscal year 2020, 4 states/territories were not participating in the Formula Grants Program and an additional 3 were ineligible to receive an award that year because they did not meet the state plan requirements.

Some juvenile codes emphasize prevention and treatment goals, some stress punishment, but most still 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 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 approaches to juvenile delinquency. Some have been 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 in the 1950s and 1960s.

Developmental Approach. These states retain elements of other categories, but have purpose clauses that mention the use of adolescent development or other research and/or require evidence based practices or data to assist the juvenile justice system.

Balanced and Restorative Justice. Most common in state purpose clauses are components of Balanced and Restorative Justice (BARJ). BARJ advocates that juvenile justice systems give balanced attention to three primary interests: public safety, development of skills to help youth live law-abiding and productive lives, and individual accountability to victims and the community for harm caused.

Due process era. Refers to the period of reform of the 1960's and 1970's where federal laws, model acts, and Supreme Court cases influenced the addition of due process protections.

Parens patriae. This Latin phrase meaning "father of the nation" applies to state clauses that reflect the juvenile court judge's earliest role as the state's designated protector of children.

States juvenile code purpose clauses vary in their emphasis

State	Developmental approach	Balanced and restorative justice	Due process	Parens patriae	None
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		■			

Source: Authors' adaptation of OJJDP's *Statistical Briefing Book*.

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 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 charges 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 dismissal of the criminal indictment, 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 widespread. The Court raised a potential constitutional challenge to parens patriae as the foundation of the juvenile court. Previously, the Court had interpreted the equal protection clause of the Fourteenth 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 youth. The Court referred to evidence that this compensating benefit may not exist in reality and that youth 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 prank telephone call to an adult neighbor. 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 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 core 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 Fourteenth 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.

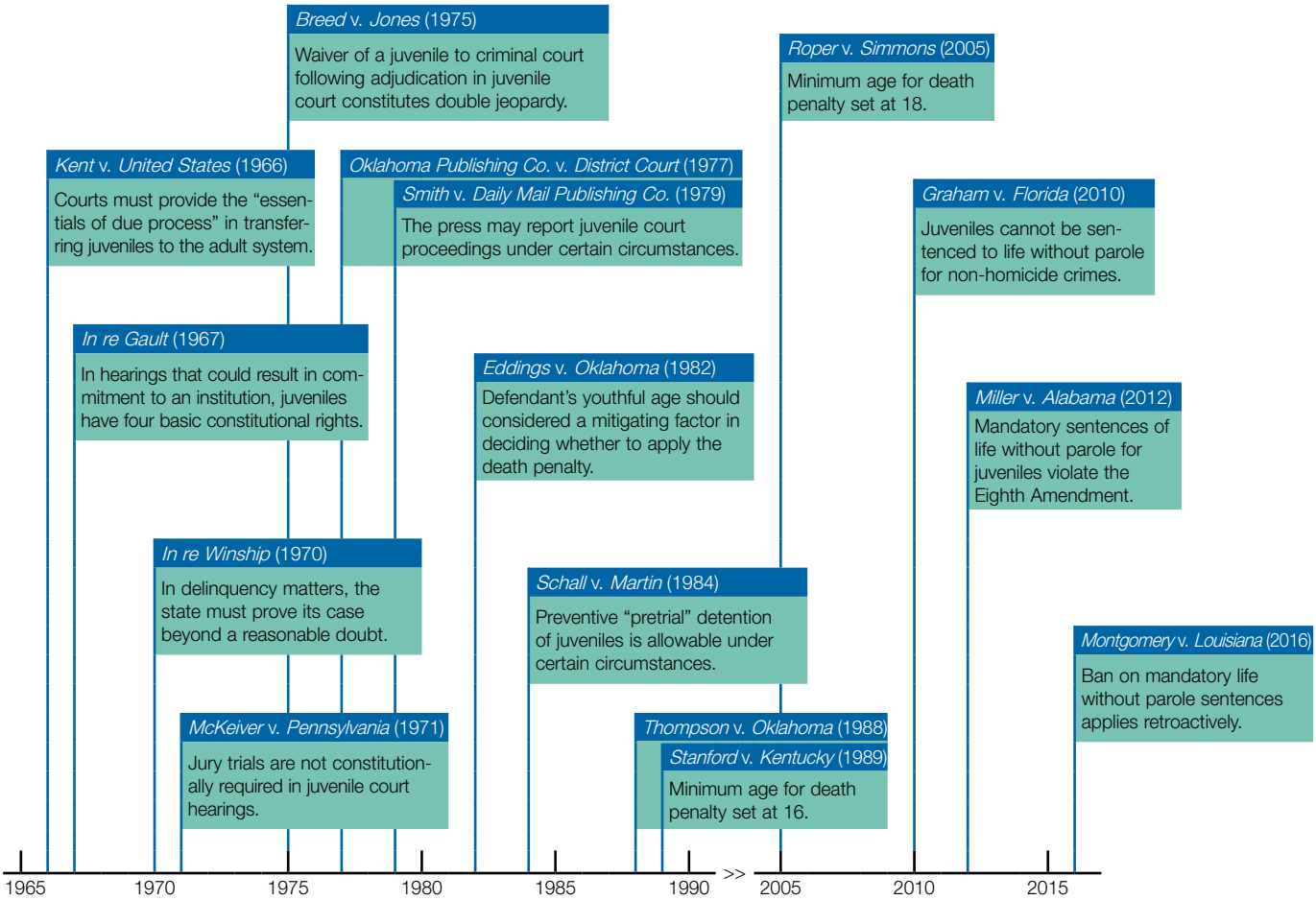
McKeiver v. *Pennsylvania* 403 U.S. 528, 91 S. Ct. 1976 (1971)

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. 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 Four-

A series of U.S. Supreme Court decisions have shaped juvenile justice over the decades



teenth 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, making 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 and two other robberies.

At the dispositional hearing, the judge waived 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 said 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 youth'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.

Eddings v. *Oklahoma*
455 U.S. 104 (1982)

The Supreme Court reversed the death sentence of a 16-year-old tried as an adult in criminal court. The Court held that a defendant's young age, as well as mental and emotional development, should be considered a mitigating factor of great weight in deciding whether to apply the death penalty. The Court noted that adolescents are less mature, responsible, and self-disciplined than adults and are less able to consider the long-range implications of their actions. The Court did not address whether the Eighth and Fourteenth Amendments prohibit the imposition of the death sentence on an offender because he was only 16 years old at the time the offense was committed.

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 court 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 youth and society from pretrial crime and is not intended to punish the youth. The Court found that enough procedures were in place to protect youth 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.

Thompson v. *Oklahoma*
487 U.S. 815 (1988)

The issue before the U.S. Supreme Court was whether imposing the death penalty on a youth who was 15 at the time of the murder violated constitutional protections against cruel and unusual punishment. The Court conclud-

ed that the Eighth Amendment prohibited application of the death penalty to a person who was younger than 16 at the time of the crime.

Stanford v. *Kentucky* 492 U.S. 361 (1989)

In *Stanford* the U.S. Supreme Court decided that the Eighth Amendment does not prohibit the death penalty for crimes committed at age 16 or 17.

Roper v. *Simmons* 543 U.S. 551, 125 S. Ct. 1183 (2005)

In *Roper*, the U.S. Supreme Court noted that several states had abolished their juvenile death penalty since *Stanford* and none had established or reinstated it. The objective evidence of "consensus in this case—the rejection of the juvenile death penalty in the majority of states; the infrequency of its use even where it remains on the books; and the consistency in the trend toward abolition of the practice—provide sufficient evidence that today our society views juveniles, in the words Atkins used respecting the mentally retarded, as 'categorically less culpable than the average criminal'." Thus, the Court affirmed the Missouri Supreme Court judgment that set aside the death sentence imposed on Christopher Simmons, concluding that the "Eighth and Fourteenth Amendments forbid imposition of the death penalty on offenders who were under the age of 18 when their crimes were committed."

Graham v. *Florida* 560 U.S. 48, 130 S. Ct. 2011 (2010)

Terrance Graham, age 16, was arrested and charged with the crimes of burglary and robbery. Graham accepted a plea deal, requiring 12 months in county jail followed by a 3-year probationary period. Graham was released from jail after 6 months.

Not 6 months later, Graham was arrested for armed robbery. The state of Florida charged him with violations of the terms and conditions of his probation. The trial court held a hearing on these violations and passed down a sentence of life imprisonment. Florida had abolished their system of parole; Graham could only be released by executive pardon.

Graham filed an appeal claiming that his Eighth Amendment rights against cruel and unusual punishment were being violated by the length of the sentence. The Supreme Court agreed, ruling that the sentencing of a youth of juvenile age to life without parole for a nonhomicidal case was a violation of the cruel and unusual punishment clause of the Eighth Amendment. The Court found that there was no national consensus for life without parole sentences, youth of juvenile age had limited culpability, and life sentences were extremely punitive for youth in nonhomicide cases.

Miller v. *Alabama* 567 U.S. 460, 132 S. Ct. 2455 (2012)

Evan Miller was 14 when he and a friend beat his neighbor with a baseball bat and set fire to his trailer, killing him in the process. Miller was tried as a juvenile at first, but was then transferred to criminal court, pursuant to Alabama law. He was charged by the district attorney with murder in the course of arson, a crime with a mandatory minimum sentence of life without parole. The jury found Miller guilty, and he was sentenced to a life without parole term.

Miller filed an appeal claiming that his sentence was in violation of the Eighth Amendment clause against cruel and unusual punishment. The Supreme Court held that the Eighth Amendment forbids a mandatory sentence of life in prison without parole for a juvenile convicted of homicide. The Court based their reasoning on prior rulings in *Roper*, which had prohibited capital punishment for children, and *Graham*, which prohibited life without parole sentences for nonhomicide offenses. Combining the rationales, the Court ruled that juveniles could not be sentenced to serve mandatory life without parole.

Montgomery v. *Louisiana* 136 S. Ct. 718 (2016)

Henry Montgomery was a 17-year-old 11th-grade student in 1963, when he was arrested for the murder of a sheriff's deputy. Montgomery, a Black youth, was tried and convicted for the murder of the White law enforcement officer. He originally received an automatic death sentence. In 1966, his original conviction was overturned by the Louisiana Supreme Court but he was re-tried and again convicted of murder. The sentence in his second trail was mandatory life without parole.

Following the U.S. Supreme Court's decision in *Miller*, Montgomery filed a post-conviction motion to "correct" his sentence but the Louisiana Supreme Court ruled that *Miller* did not apply retroactively.

The Supreme Court held that *Miller* did indeed apply retroactively. The Court based the decision on the principle that "children are different"—they are less culpable than adults and more likely to be reformed. Any individuals whose sentences were made before *Miller* was decided were entitled to resentencing or parole eligibility consideration.

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. Between 1975 and 2000, four states changed their upper age: Alabama raised its upper age to 16 in 1976 and to 17 in 1977; Wyoming lowered its upper age to 17 in 1993; and New Hampshire and Wisconsin lowered their upper age to 16 in 1996.

Since 2000, 10 states have passed laws raising their upper age of original juvenile court jurisdiction: Connecticut raised its upper age from 15 to 17 by July 2012; Massachusetts raised its age to 17 in 2013; Illinois made the age 17 for all but the most violent felonies by 2014; New Hampshire's age became 17 in 2015; South Carolina's change to 17 passed in 2016 but it did not take effect until 2019; New York raised its age from 15 to 16 in 2018 and to 17 in 2019; North Carolina also raised its age from 15 to 17 at the end of 2019; Louisiana raised its age to 17 for all but the most violent felonies by 2019 (and for all crimes by 2020); Michigan's law passed in 2019 raising the age to 17, but did not take effect until 2020; and Missouri's law passed in 2018 raising the age to 17, but the effective date was not until 2021.

Oldest age for original juvenile court jurisdiction in delinquency matters, 2019:

Age	State
16	Georgia, Michigan, Missouri, Texas, Wisconsin
17	All other states and the District of Columbia

Vermont has gone further raising its upper age to 18 in 2020, and through age 19, effective in 2022. Though the implementation is pending, the definition of a juvenile proceeding in Vermont under another law will allow juvenile jurisdiction to be sought through youthful offender provisions (blended sentencing) for youth through age 21.

Many states have higher upper ages of juvenile court jurisdiction in status offense, abuse, neglect, or dependency matters—typically through age 20. The juvenile court may have original jurisdiction over young adults who committed offenses before they became adults.

As of the end of the 2019 legislative session, 30 states and the District of Columbia set no minimum age for delinquency matters in statute and 20 states had statutes that set the lowest age of juvenile court delinquency jurisdiction. Four of these are states that previously had no lower age set and one state, Massachusetts, raised its lower age from 7 to 12. States without a set minimum age rely on case law or common law. Children younger than a certain age are presumed to be incapable of criminal intent and are exempt from prosecution and punishment.

Youngest age for original juvenile court jurisdiction in delinquency matters, 2019:

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

States often have statutory exceptions to basic age criteria, such as excluding married or otherwise emancipated youth 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.

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

Through extended jurisdiction provisions, legislatures enable the court to provide services and sanctions for a period of time that is in the best interests of the youth and the public, even for youth who have reached the age at which original juvenile court jurisdiction ends. As of the end of the 2019 legislative session, statutes in 34 states extend juvenile court jurisdiction in delinquency cases to the 21st birthday.

Oldest age over which the juvenile court may retain jurisdiction for disposition purposes in delinquency matters, 2019:

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

Notes: Extended jurisdiction may be restricted to certain offenses or youth.
*Arizona statute extends jurisdiction through age 20, but the state Supreme Court held in 1979 that juvenile court jurisdiction ends at 18.
**Until the full term of the disposition order for sex offenders.
***Until the full term of the disposition order.

In some states, juvenile courts may impose adult correctional sanctions on certain youth adjudicated delinquent that extend the term of confinement well beyond the upper age of juvenile jurisdiction—this is known as blended sentencing.

Law enforcement agencies refer most of the youth entering the juvenile justice system for law violations

Local processing of youth charged with delinquency or status offenses varies

From state to state, case processing of youth who have violated the law 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 common decision points.

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

A youth's entry into the juvenile justice system often begins with a victim, school, or citizen contacting law enforcement about an incident or troublesome behavior. Once contacted, police decide either to send the matter further into the justice system or to divert the youth away from the system, often into alternative programs. Law enforcement generally makes this decision after talking with the victim, the youth, and the parents, and after reviewing the youth's prior contacts with the juvenile justice system. Police may decide on pre-arrest diversion (also known as deflection) or may arrest the youth, but decide not to refer the youth to court intake. In 2019, just over one-quarter of juvenile arrests were handled within the police department and resulted in release of the youth. The remaining arrests were referred to juvenile court (6 in 10) or for criminal prosecution (<1 in 10) or to other agencies (<1 in 10).

Most delinquency cases are referred to juvenile court by law enforcement agencies

Law enforcement accounted for 82% of all delinquency cases referred to juvenile court in 2019. The proportion referred by law enforcement was as high as 88% in the early 1990s. The remaining referrals were made by others, such as parents, victims, school personnel, and probation officers. In contrast, police referred just 18% of status offense cases; schools referred 62%.

Intake departments screen cases referred to juvenile court for diversion or 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 file a petition requesting 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 to divert the youth or if formal intervention is necessary. Historically, the goal has been to identify the "least restrictive" response, i.e., to intervene only as much as necessary.

Nearly half of all delinquency cases referred to juvenile court intake are handled without a petition. Four in 10 delinquency cases that are not petitioned are dismissed. Even in cases that are diverted from formal handling, intake can issue a warning, refer the youth to community-based programs or services, or offer the youth an agreement—to specific conditions for a specific time period—in exchange for dismissal. 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.

Diversion can be offered with or without "strings attached"

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

If the youth successfully complies with the informal disposition, the case is dismissed. If, however, the youth 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 petition the case for an adjudicatory hearing.

In some communities the intake approach is to only use services and case management for those youth that need it and only refer them to services that are necessary for positive behavior change. The diversion is "without strings" attached—noncompliance with diversion does not result in court-imposed consequences except in serious cases. Failure in diversion does not result in placement or detention.

The petition requests a court hearing

If the case is to be handled formally in juvenile court, intake files one of two

9-8-8 hotline intended to divert mental health crises away from 9-1-1 law enforcement responders

The National Suicide Hotline Designation Act of 2020 jumpstarted implementation of a nationwide non-police mental health crisis response system so people in crisis are diverted from involvement in the justice system and connected to appropriate services and supports. The Federal Communications Commission formally designated 9-8-8 as a nationwide 3-digit number for mental health crisis and suicide prevention services with a two-year timeline to make 9-8-8 operational nationwide by mid-year 2022.

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 individual is convicted and sentenced.

In response to the delinquency petition, an adjudicatory hearing is scheduled. Even after a delinquency petition has been filed, court officials can order the case closed before it reaches adjudication and divert the youth out of the system. If the case reaches an adjudicatory hearing (trial), witnesses are called and the facts of the case are presented. In nearly all adjudicatory hearings, a judge or judicial officer makes the determination that the youth was responsible for the offense(s); however, in some states, the youth has the right to a jury trial.

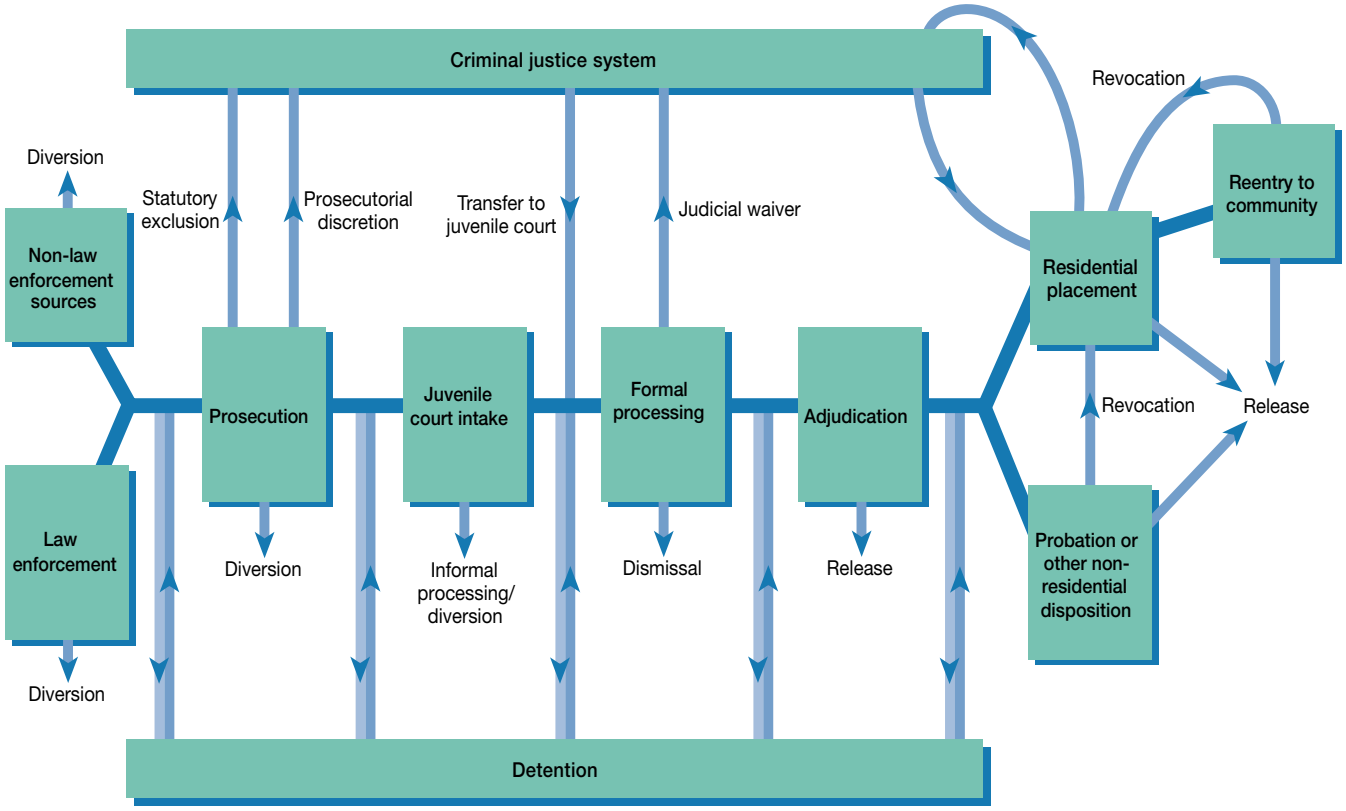
Youth may be held in a secure detention facility during their case

Juvenile courts may hold youth involved in delinquency cases in a secure juvenile detention facility while awaiting their hearing to protect the community, to protect the child, or both.

After arrest, law enforcement may request to bring the youth to the local juvenile detention facility. A juvenile probation officer or detention worker reviews the case to decide whether the youth poses a risk to the community and should be detained pending a hearing before a judge. In many jurisdictions a detention risk assessment tool is used to inform and give structure to the decision.

Because the experience of secure detention may cause harm to the youth, the detention decision should be a thoughtful process that balances public safety and the best interests of the child. Ideally, secure detention is a last resort that is part of a continuum of care with several detention alternatives available for youth facing delinquency charges in the juvenile justice system.

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 may vary among jurisdictions.

In all states, if a youth is held in detention, a detention hearing must be held within a period defined by statute, generally within 24 hours. At the detention hearing, a judge reviews the case and determines if continued detention is warranted. In 2019, youth were detained, at least at some point, between referral to court and case disposition in 26% of juvenile court delinquency cases.

As part of efforts to reduce the use of detention, jurisdictions may take steps to reduce the length of stay in detention. The fact that a youth was detained initially doesn't mean they need to remain confined until their case is disposed. Efforts to find suitable alternatives to detention can enable the court to safely release the youth. Detention may extend beyond the adjudicatory and dispositional hearings. If residential placement is ordered but no placement beds are available, the youth may remain in detention until a bed elsewhere becomes available.

The juvenile court may transfer the case to criminal court

The prosecutor or intake officer files a waiver petition if they believe that a case under jurisdiction of the juvenile court would be more appropriately handled in criminal court. The juvenile 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 youth committed the act. With this established, the court 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 youth's amenability to treatment in the juvenile justice system. The prosecution may argue that the youth has been adjudicated several times previously and that interventions ordered by the juvenile court have not kept the youth 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 2019, juvenile courts waived just under 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.

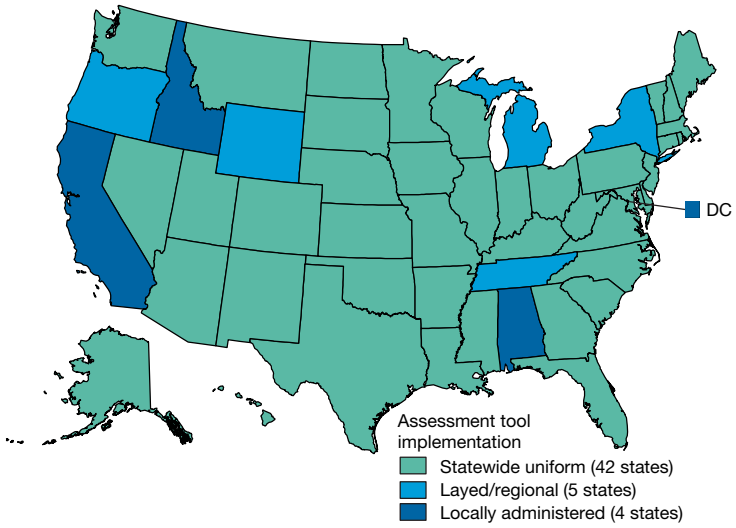
Some states let prosecutors file certain cases directly in criminal court

In more than half of the states, legislatures have decided that in certain cases (generally those involving serious offenses), youth should be tried in criminal court. 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/criminal courts concurrent jurisdiction in certain cases. Thus, prosecutors have discretion to file such cases in either criminal or juvenile court.

After adjudication, probation staff prepare a disposition plan

Once the youth is adjudicated delinquent in juvenile court, probation staff develop a case disposition plan. To pre-

Most states have adopted a single risk/needs assessment tool statewide to measure the youth's risk of reoffending and their criminogenic needs



- **Statewide uniform assessment:** States adopt a single risk assessment tool statewide that is required or encouraged by the state or in progress toward this goal with a specific instrument.
- **Layered/regional assessment:** States do not achieve statewide implementation with a single tool due to layered probation (state and local) or due to regional differences.
- **Locally administered assessment:** States lack requirement to implement risk assessment tool allowing local policy to govern the use of risk assessment tools.

Source: Authors' adaptation of NCJJ's Juvenile Justice GPS, State Implementation of Risk/Needs Assessment Tools.

pare this plan, probation staff assess the youth, typically using a structured risk/needs assessment tool. Such tools are a key component of the Risk-Needs-Responsivity (RNR) framework. The tools predict the likelihood that youth will reoffend and provide information on the youth's dynamic risk factors that need to change to reduce their law violating behavior (known as criminogenic needs) and how to tailor the intervention to the youth's learning style, motivation, abilities, and strengths.

In addition to assessing the youth, probation staff must identify available support systems, programs, and services in the community for the youth. The court may also order psychological evaluations, and diagnostic tests that may include 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 or the youth's defense counsel may also present dispositional recommendations. Some jurisdictions use a structured decisionmaking grid, known as a disposition matrix, which identifies the most effective responses to youth in various risk categories. After considering the recommendations, the judge orders a disposition in the case. Each disposition should be narrowly tailored to meet the specific interests and needs of each young person.

The majority of youth adjudicated delinquent are ordered to probation

Most juvenile dispositions are multifaceted and involve some sort of supervised probation. In fact, probation is the most frequent disposition ordered in juvenile court, however, it is only one of many options. In 2019, formal probation was the most severe disposition ordered in 65% of the cases in which the youth was adjudicated delinquent.

A probation order may include additional requirements such as drug counseling, 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.

Research on adolescent development has ushered in substantial changes in how probation operates. There is a growing understanding that probation orders should not be uniform, and must address if probation will be supervised or unsupervised, for a limited time or open-ended, and include a limited number of "conditions" (rules the youth must follow while under probation supervision), if any, in the order. Some jurisdictions are using probation orders that do not include a long list of conditions, but rather direct the youth to work with probation on achieving the goals outlined in their case disposition or supervision plan.

Although it is not recommended practice, many jurisdictions confine youth in detention or longer term facilities for technical violations of their probation order. In 2019, technical violations of probation, parole, or valid court order accounted for 18% of youth in detention centers on any given day.

Review hearings may be held to monitor the youth's progress, either by the court or the probation department. After the judge is satisfied that the terms of the probation order have been met, the judge terminates the case.

The judge may order residential placement

In 2019, juvenile courts ordered residential placement in 27% 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 youth to the state department of juvenile corrections, the department determines where the youth will be placed and when the youth 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 youth's progress.

What does good community supervision practice look like?

Community supervision has evolved and become less about short-term rule compliance—with probation officers as referees to catch youth doing something wrong (surveillance) and more like coaching youth to promote long-term success and behavior change.

Best practices for juvenile probation and reentry community supervision include tailored, youth- and family-centered supervision plans, achievable goals that support youth's ability to complete any conditions included in the supervision order, connection with prosocial activities and adults in the community, and referral to more intensive treatment only as needed for substance use, mental health, and other health needs.

Juvenile reentry or aftercare is similar to adult parole

Upon release from residential placement, the youth is often ordered to a period of community supervision (reentry, aftercare, or parole). During this period, the youth is under supervision of the court, a probation or parole agency, or the juvenile corrections agency. Like probation supervision, reentry community supervision is changing. Youth will eventually return to their communities and research has shown that youth and their families need support to successfully make the transition. Many jurisdictions are pro-

viding help to strengthen families and provide youth with educational and vocational opportunities, employment and housing assistance, mental and physical healthcare, family programming, and substance use treatment to help youth overcome barriers to successful reentry.

If the youth does not follow the conditions of supervision, their release may be revoked and they may be recommitted to the same facility or committed to another facility. In 2019, technical violations of probation, parole, or valid court order accounted for 11% of youth in long-term secure facilities on a typical day.

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 youth because of their juvenile status. These "status offenses" may include behaviors such as running away from home, truancy, alcohol possession or use, incorrigibility, and curfew violations.

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. This approach is in line with the recommendations of the 1968 federal Juvenile Delinquency Prevention and Control Act.

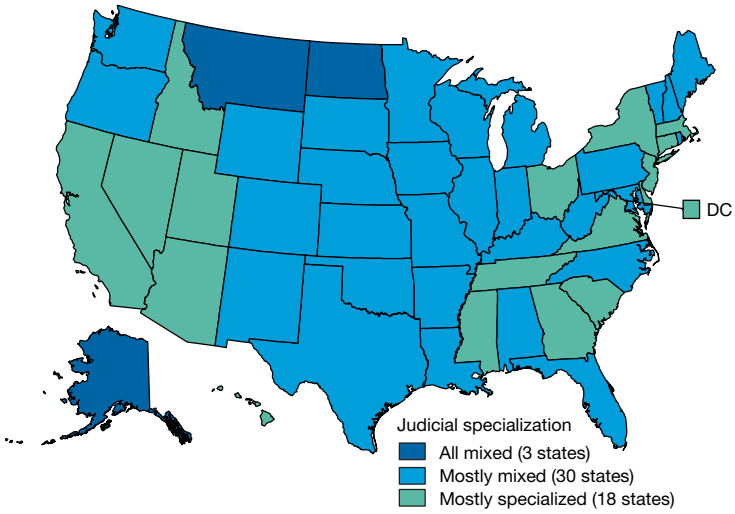
Although many youth charged with status offenses enter the juvenile justice system through law enforcement, the initial, official contact may be a school or child welfare agency. Fewer than 1 in 5 petitioned status offense cases were referred to juvenile court by law enforcement in 2019.

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 known as the valid court order exception: a status offender may be confined in a secure juvenile facility if they have violated a valid court order, such as a probation order requiring the youth to attend school or observe a curfew.

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.

Most judges who hear juvenile justice cases do not specialize; most carry a mixed caseload



- **All mixed case types:** All, or nearly all, judges are not specialized and carry a mixed caseload of juvenile and adult cases, including often both criminal and civil cases.
- **Mostly mixed:** Most judges in the state are not specialized and carry a mixed caseload.
- **Mostly specialized:** Most judges in the state who handle delinquency and family cases are specialized in this area of practice.

Source: Authors' adaptation of NCJJ's Juvenile Justice GPS, Judicial Specialization.

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

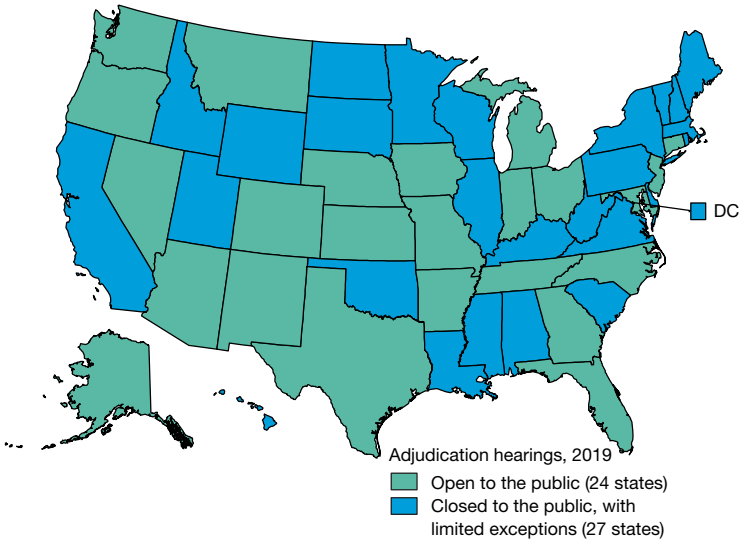
The legislation that created the first juvenile court in Illinois stated that the hearings should be open to the public. Thus, the public could monitor the activities of the court to ensure that the court handled cases in line with community standards.

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, first published in 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 2010, statutes in 38 states permitted the public to attend certain hearings in delinquency matters.

In 2019, there were 24 states with statutes allowing delinquency adjudication hearings to be generally open to the public. In the remaining 26 states and the District of Columbia the public is restricted from attending delinquency adjudication hearings, although there may be limited exceptions.

Delinquency adjudication hearings are closed to the public in more than half of states



Source: Authors' adaptation of the Juvenile Law Center's *Failed Policies, Forfeited Futures*.

Most states specify exceptions to confidentiality of juvenile court records

Although legal and social records maintained by juvenile courts have traditionally been confidential, legislatures have made significant changes over the past decades in how the justice system treats information about youth in delinquency proceedings. Juvenile court records are generally available to law enforcement (including prosecutors) and court personnel (including probation) for planning purposes to ensure youth are provided treatment and rehabilitative services. Records are also available to the youth, their attorney, and their parents/guardian. In almost every state, the juvenile code specifies other agencies or individuals allowed access to such records.

Many states have school notification laws. Under these statutes, schools are notified when students are involved in the justice system. Some states limit notification to adjudication or serious charges.

After the case is closed, juvenile record access can lead to severe collateral consequences

Juvenile records often follow youth well into adulthood and create barriers to employment and education. Public knowledge of a youth's justice system involvement works against the juvenile justice objective of rehabilitation by limiting the youth's ability to pursue personal and professional goals. Public access to juvenile record information can have substantial collateral consequences for youth, leading to the denial of secondary education, housing, employment, military service, and certain government benefits.

Juvenile record expungement or sealing can reduce the collateral consequences of a past case

Protecting youth's confidentiality including their records is at the heart of the juvenile justice system's rehabilitative aim. All states allow at least some juvenile records to be sealed—removed from public view or removed from view for some or all system actors—or

expunged—permanently deleted or destroyed. The majority of those provisions allow records to be unsealed to inform future investigation or prosecution. Some statutes use the term expungement but describe sealing. Some states rely on confidentiality laws and have no sealing or expungement provisions. Some states only expunge or seal records of nonjudicial cases, others only expunge or seal arrest records not court records.

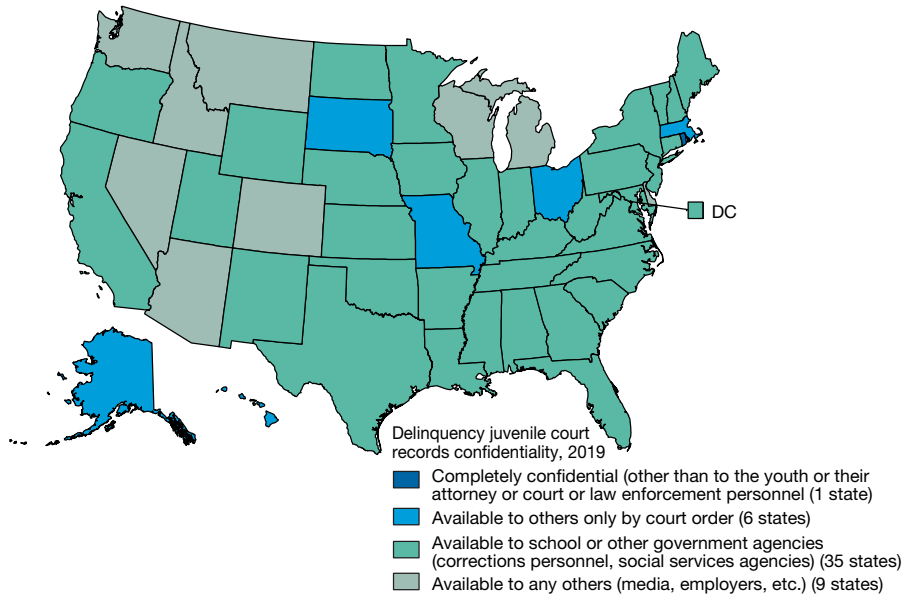
In some states, sealing happens automatically after a specified amount of time crimefree, but in most jurisdictions the youth must petition the court to request their records be sealed or expunged even if the charges were dropped or they were found not guilty. The process is often complicated, expensive, and may require an attorney.

Research often relies on the use of confidential juvenile records

In many states, records that are expunged or sealed are not available for research or descriptive caseload statistics. In some states, the records are available for caseload statistics, but are deidentified and cannot be connected to any future case activity by researchers conducting research requiring detail on recidivism/subsequent offending.

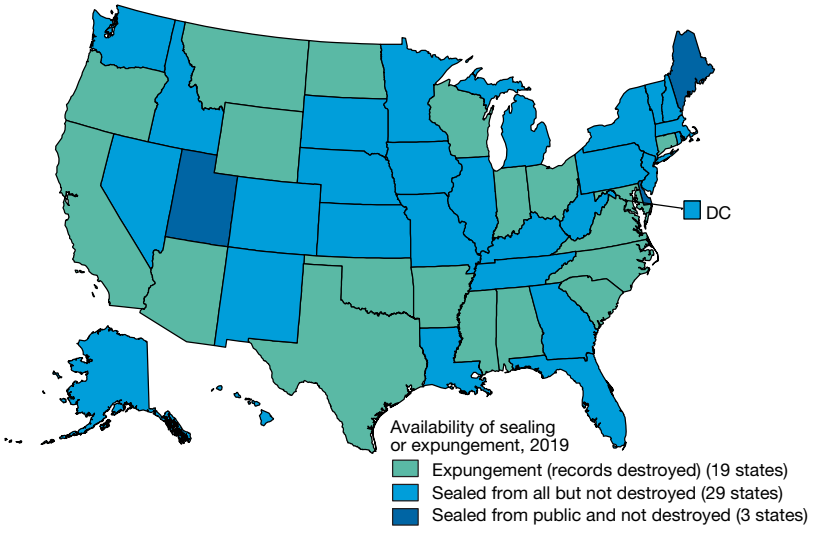
As part of juvenile justice reform efforts, several states have expanded provisions for expungement or sealing of juvenile court records. States are also increasing the use of risk/needs assessments and evidence-based programs and practices. States must calculate rates of reoffending to validate risk/needs assessment instruments and evaluate programs and practices to determine what is effective. Deleting, destroying, or de-identifying records can confuse those calculations. If recidivism is calculated without crimefree youth included because their records are no longer available, the resulting reoffending rates could be substantially higher than if crimefree youth are included.

Most states allow juvenile court records to be made available to certain other government agencies



Source: Authors' adaptation of the Juvenile Law Center's *Failed Policies, Forfeited Futures*.

Most states allow at least some juvenile records to be sealed (at least from public view), but those records may later be unsealed



Source: Authors' adaptation of the Juvenile Law Center's *Failed Policies, Forfeited Futures*.

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 youth charged with the most serious offenses 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 youth of juvenile age.

Transfer laws address which court (juvenile or criminal) has jurisdiction over certain cases involving youth charged with law violations. State transfer provisions are typically limited by age and offense criteria. Transfer mechanisms vary regarding where the case initiates and where responsibility for transfer decisionmaking lies. Transfer provisions fall into the following three general categories.

Judicial waiver: In 47 states in 2019, the juvenile court judge had the authority to waive juvenile court jurisdiction and transfer the case to criminal court for at least some cases. 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.

Statutory exclusion: In 2019, 27 states had statutes that exclude certain youth from juvenile court jurisdiction. Under statutory exclusion provisions, cases originate in criminal rather than juvenile court. Statutory exclusion is also known as legislative exclusion.

Prosecutorial discretion: In 14 states in 2019, original jurisdiction for certain cases was shared by both criminal and juvenile courts, and the prosecutor has the discretion to file such cases in either court. When the prosecutor decides to "transfer" a case it originates in criminal court. Transfer under prosecutorial discretion provisions is also known as prosecutorial waiver, concurrent jurisdiction, or direct file.

Most states have "once an adult, always an adult" provisions

In 35 states, 2019 statutes require that 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.

Reverse waiver and blended sentencing serve as mitigating provisions

Even juveniles subject to the more automatic transfer mechanisms may be afforded a chance, at some point in the process, to make an individualized showing that they belong in the juvenile system. Reverse waiver and blended sentencing are two kinds of mitigating provisions that serve to inject individualized consideration into what would otherwise be automatic or inflexible transfer processes.

Reverse waiver. Laws permit criminal courts to restore transferred youth to juvenile court for trial or disposition. In 2019, of the 42 states with mandatory judicial waiver, statutory exclusion, or prosecutor discretion provisions, 26 also had provisions that allow certain transferred youth to petition for a "reverse." Two additional states had reverse provisions that apply to "once an adult, always an adult" provisions. Reverse decision criteria often parallel a state's discretionary waiver criteria.

Blended sentencing laws address the correctional system (juvenile or adult) in which certain youth found guilty of certain crimes will be sanctioned. Blended sentencing statutes can be placed into the following two general categories.

Juvenile blended sentencing: In 2019, statutes in 15 states gave juvenile court the authority to impose adult criminal sanctions on youth charged with certain crimes. 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, broadening the typical array of juvenile court dispositional options.

Criminal blended sentencing. In 2019, statutes in 23 states allowed criminal courts sentencing certain transferred youth to impose sanctions otherwise available only to youth handled in juvenile court. The juvenile disposition may be conditional—the suspended criminal sentence is intended to ensure good behavior. Criminal court blended sentencing gives youth prosecuted in criminal court one last chance at a juvenile disposition, thus mitigating the effects of transfer laws on an individual basis.

Most states have multiple ways to impose adult sanctions on juveniles charged with a crime

State	Judicial waiver			Statutory exclusion	Prosecutorial discretion	Once an adult/ always an adult	Reverse waiver	Blended sentencing	
	Discretionary	Presumptive	Mandatory					Juvenile	Criminal
Number of states	46	12	12	27	14	35	28	15	23
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 prosecutorial discretion provisions generally target the oldest youth and/or those charged with the most serious offenses, whereas younger youth 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 2019 legislative session.

Source: Authors' adaptation of OJJDP's *Statistical Briefing Book*.

In most states, age and offense criteria limit transfer provisions

Judicial waiver remains the most common transfer provision

As of the end of the 2019 legislative session, a total of 47 states have laws designating some category of cases in which waiver of jurisdiction by juvenile court judges transfers certain cases 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, waiver is limited by age and offense boundaries.

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 it may be a mandatory decision. Mandatory decisions arise when a law or provision requires a judge to waive the child after certain statutory criteria have been met. Most states set a minimum threshold for eligibility, but these are often quite low. In a few states, prosecutors may ask the court to waive virtually any juvenile delinquency case. Nationally, the proportion of juvenile cases in which waiver was granted was less than 1% of petitioned delinquency cases in 2019. The number of cases waived in 2019 (3,300) was 75% less than the number waived in 1994 (13,000), which was the peak year.

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 youth who are no longer "amenable to treatment." The specific factors that determine lack of amenability vary, but they typically include the youth's willingness to participate in treatment 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 youth's offense history, the availability of dispositional treatment alternatives, the time available for sanctions, public safety, and the best interest of the child. The waiver process must also

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

	Judicial waiver offense and minimum age criteria, 2019							
State	Any criminal offense	Certain felonies	Capital crimes	Murder	Certain person offenses	Certain property offenses	Certain drug offenses	Certain weapon offenses
Alabama	14							
Alaska	NS				NS			
Arizona		NS						
Arkansas		14	14	14	14			14
California		16						
Colorado		12		12	12	12		
Connecticut		15		15	15	15		
Delaware	NS	14						
Dist. of Columbia	15	15		15	15	15		NS
Florida	14							
Georgia		15	13		13			
Hawaii		14		NS				
Idaho	14			NS	NS	NS	NS	
Illinois	13	15						
Indiana		NS		12			16	
Iowa	12	10						
Kansas	14							
Kentucky		14	14					
Louisiana				14	14			
Maine		NS		NS	NS	NS		
Maryland	15		NS					
Michigan		14						
Minnesota		14						
Mississippi	13							
Missouri		12						
Nebraska	16	14						
Nevada	16	14		13	16			
New Hampshire		15		13	13		15	
New Jersey	15	15		15	15	15	15	15
North Carolina		13	13					
North Dakota	14	14		14	14	14		
Ohio		14		14	16	16		
Oklahoma		NS						
Oregon	15	15		NS	NS	15		
Pennsylvania		14		14	14	14		
Rhode Island		16	NS					
South Carolina	17	14		NS	NS		14	14
South Dakota		NS						
Tennessee		14						
Texas		14	14				14	
Utah		14		16	16	16		16
Vermont		16		12	12	12		
Virginia		14		14	14			
Washington	NS							
West Virginia		NS		NS	NS	NS	NS	
Wisconsin	15	14		14	14	14	14	
Wyoming	NS							

Notes: An entry in the column below an offense category means that there is at least one offense in that category for which a juvenile may be waived from juvenile court to criminal court. The number indicates the youngest possible age at which a juvenile accused of an offense in that category may be waived. "NS" means no age restriction is specified for an offense in that category. Table information is as of the end of the 2019 legislative session.

Source: Authors' adaptation of OJJDP's *Statistical Briefing Book*.

adhere to constitutional principles of due process of *Kent v. United States* (1966).

The surge in violence that peaked in 1994 helped shape current transfer laws

State transfer laws in their current form are largely the product of a period of intense legislative activity that began in the latter half of the 1980s and continued through the end of the 1990s. Prompted in part by public concern and media focus on the rise in violent youth crime that began in 1987 and peaked in 1994, legislatures in nearly every state revised or rewrote their laws to lower thresholds and expand eligibility for transfer, shift transfer decisionmaking authority from judges to prosecutors, and replace individualized attention with broad automatic and categorical mechanisms.

Between 1986 and the end of the century, the number of states with automatic transfer laws jumped from 20 to 38, and the number with prosecutorial discretion laws rose from 7 to 15.

Moreover, many states that had automatic or prosecutor controlled transfer statutes expanded their coverage drastically. In Pennsylvania, for example, an automatic transfer law had been in place since 1933 but had applied only to murder charges. Amendments that took place in 1996 added a long list of violent offenses to this formerly narrow statutory exclusion.

Transfer laws giving prosecutors discretion to file in juvenile or criminal court are least common

As of the end of the 2019 legislative session, 14 states had prosecutorial discretion provisions, which gave both juvenile and criminal courts original jurisdiction in certain cases. Under such provisions, prosecutors have discretion to file eligible cases in either court. Prosecutorial discretion is typically limited by age and offense criteria focusing on cases involving violent or repeat crimes or weapons offenses. These statutes are usually silent regarding standards, protocols, or considerations for decisionmaking, and no national data exists on the number of youth tried in criminal court under prosecutorial discretion provisions.

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

Statutory exclusion accounts for the largest number of transfers

Legislatures transfer large numbers of youth to criminal court by enacting statutes that exclude certain cases from original juvenile court jurisdiction. As of the end of the 2019 legislative session, 27 states had statutory exclusion provisions. State laws typically set age and offense limits for excluded offenses. The offenses most often excluded are murder, capital crimes, and other serious person offenses. (Minor offenses such as wildlife, traffic, and watercraft violations are often excluded from juvenile court jurisdiction in states where they are not covered by concurrent jurisdiction provisions.)

Exclusion laws and prosecutors transfer more cases than do juvenile court judges

Based on data from 11 states with transfer laws other than judicial waiver provisions, 4,900 youth were prosecuted in criminal court under those laws. Applying that case rate to the youth population in the 24 other states with such laws that do not make data public, results in a rough estimate of 4,000 youth. Thus, approximately 8,900 youth younger than 18 were prosecuted in criminal court under statutory exclusion and prosecutor discretion laws. In comparison, 3,300 cases were transferred to criminal court by juvenile court judges.

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

	Prosecutorial discretion offense and minimum age criteria, 2019							
State	Any criminal offense	Certain felonies	Capital crimes	Murder	Certain person offenses	Certain property offenses	Certain drug offenses	Certain weapon offenses
Arizona		14						
Arkansas		16	14	14	14			
Colorado	16	16			16			
Delaware		16						
Dist. of Columbia	16	16		16	16	16		
Florida	16	16		14	14	14		14
Georgia			NS	13	13			
Louisiana				15	15	15	15	
Michigan		14		14	14	14	14	
Montana				12	12	16	16	16
Nebraska	17	14						
Oklahoma		16		15	15	15	16	15
Virginia				14	14		14	
Wyoming	13	14		14	14	14		

Notes: An entry in the column below an offense category means that there is at least one offense in that category that is subject to criminal prosecution at the option of the prosecutor. The number indicates the youngest possible age at which a juvenile accused of an offense in that category is subject to criminal prosecution. "NS" means no age restriction is specified for an offense in that category. Table information is as of the end of the 2019 legislative session.

Source: Authors' adaptation of OJJDP's *Statistical Briefing Book*.

Jurisdictional age laws may transfer as many as 40,800 additional youth to criminal court

Although not typically thought of as transfers, large numbers of youth younger than age 18 are tried in criminal court. States have always been free to define the respective jurisdictions of their juvenile and criminal courts. Nothing compels a state to draw the line between juvenile and adult at age 18. In 8 states, the upper age of juvenile court jurisdiction during 2019 was set at 15 or 16 and youth could be held criminally responsible at age 16 or 17, respectively. The number of youth younger than 18 prosecuted as adults in these states can only be estimated.

To estimate the number of youth younger than 18 prosecuted in criminal court in these states, a study by Puzzanchera et al. used 2019 delinquency petition rates—that is, the rates at which youth are formally processed in juvenile court. Specifically, national age/sex/race petition rates were developed for delinquency cases based on estimates developed by the National Juvenile Court Data Archive. These rates were applied to corresponding age/sex/race population estimates for each of these 8 states. The resulting counts for each state were summed to produce an estimate of the number of cases involving 16- and 17-year-olds subject to criminal court processing in these 8 states. Using population and delinquency case estimates, an estimated 40,800 cases involving youth younger than 18 were subject to criminal court processing in 2019 in states with an upper age threshold younger than the 18th birthday.

This estimate is based on an assumption that juvenile and criminal courts would respond in the same way to similar offending behavior. It is possible that some conduct that would be considered serious enough to merit formal processing in juvenile court—such as vandalism, minor thefts, and low-level public order offenses—would not receive similar handling in criminal court.

Many states allow transfer of certain very young youth

In 21 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 specified minimum age. Other transfer provisions in Pennsylvania have age minimums set at 14 and 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, 2019:

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

In states with statutory exclusion provisions, certain serious offenses are excluded from juvenile court jurisdiction

	Statutory exclusion offense and minimum age criteria, 2011							
State	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	16	16
Arizona		15		15	15	15		15
Delaware		NS		NS	NS	NS	16	
Georgia				13	13			
Idaho				14	14	14	14	
Illinois				16	16			
Indiana		16		16	16			16
Iowa	17	16					16	16
Louisiana				15	15			
Maryland			14	16	16			16
Massachusetts				14				
Minnesota				16				
Mississippi		13	13					
Montana			NS	17	17	17	17	17
Nevada	16	NS		NS	NS			16
New Mexico				15				
New York	16	16		13	13	14		14
Oklahoma		15		13	15	15	16	
Oregon				15	15	15		
Pennsylvania				NS	15	15		
South Carolina		16						
South Dakota		16						
Utah		16		16	16	16		16
Vermont				14	14	14		
Wisconsin				10	10			

Notes: An entry in the column below an offense category means that there is at least one offense in that category that is excluded from juvenile court jurisdiction. The number indicates the youngest possible age at which a juvenile accused of an offense in that category is subject to exclusion. "NS" means no age restriction is specified for an offense in that category. Table information is as of the end of the 2019 legislative session.

Source: Authors' adaptation of OJJDP's *Statistical Briefing Book*.

From 2004 to 2019, most states made changes to their transfer laws—many narrowing the path to criminal court

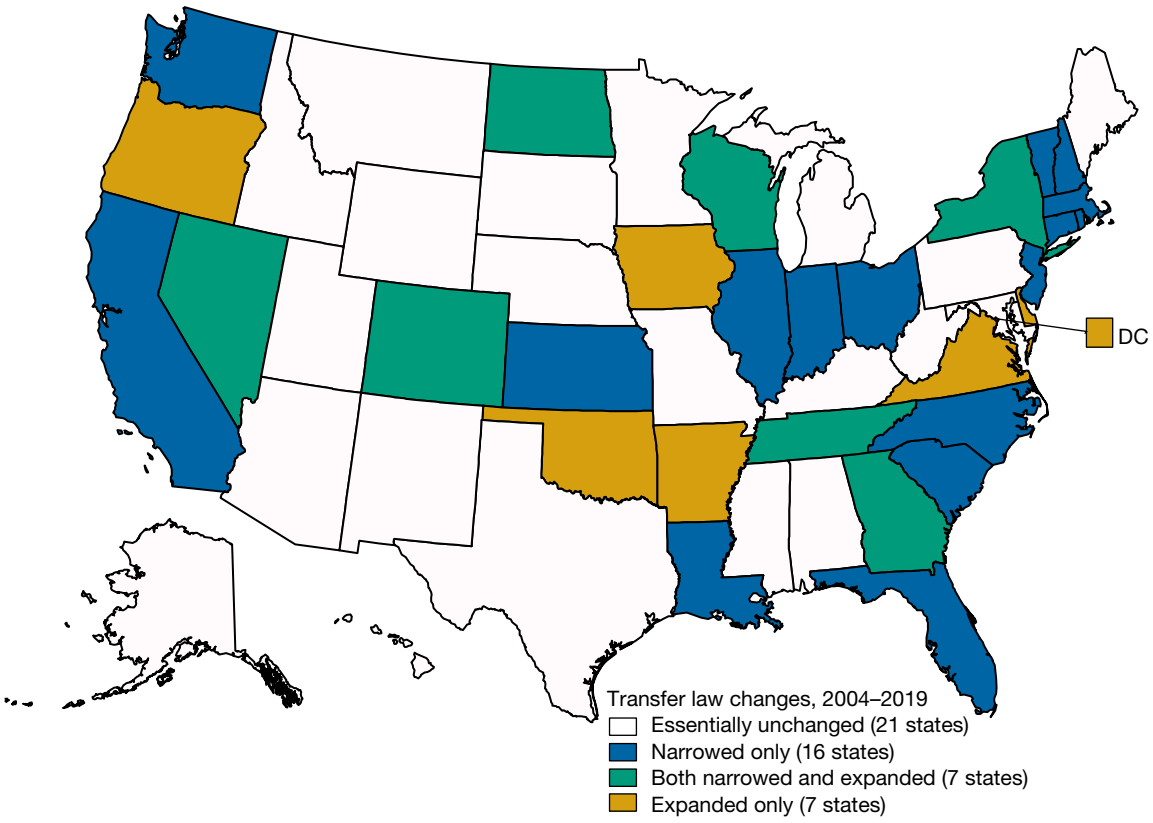
30 states changed their transfer laws between 2004 and 2019

Despite the steady decline in youth crime and violence rates since the mid-1990s, in 21 states transfer provisions remained essentially unchanged between 2004 and 2019. Among the 30 states making changes to the laws controlling youth transfer to criminal court, most made changes that narrowed the pool of youth eligible for transfer. There were 16 states that only enacted changes that narrowed the eligibility criteria for transfer to criminal court. These included changes like "raise the age" reforms which impact all youth in a given age group, increases in upper or lower age limits, reductions in the offenses in transfer laws, removing transfer provisions, or adding reverse transfer provisions.

Among states that made changes, seven only made changes that expanded transfer criteria, such as adding provisions, lowering age limits, or adding offense categories. There were seven additional states that made changes in both directions. For example, New York raised the upper age of original juvenile court jurisdiction and expanded their exclusion provisions by adding offenses and lowering the minimum age for some.

The net effect is that more states rolled back provisions—narrowing the criteria enabling youth to end up in criminal court. In 2019, there were an estimated 53,000 youth younger than 18 tried in criminal court. That figure was down 64% from the 2005 estimate.

Since 2004, more states have narrowed their transfer provisions than expanded them, contributing to a reduction in the number of youth eligible to be tried as adults in criminal court



Source: Authors analysis of state statutes and OJJDP's *Statistical Briefing Book*.

Few juveniles enter the federal justice system

There is no separate federal juvenile justice system

Youth younger than 18 who are arrested by federal law enforcement agencies may be prosecuted and sentenced in U.S. District Courts and even committed to the Federal Bureau of Prisons. The Federal Juvenile Delinquency Act, Title 18 U.S.C. 5031, lays out the definitions of a juvenile and juvenile delinquency as well as the procedures for the handling of juveniles accused of crimes against the U.S. Although it generally requires that youth be turned over to state or local authorities, there are limited 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, Drug Enforcement Agency, U.S. Marshals Service, and FBI. In 2019, there were a total of 218 youth younger than 18 arrested by federal agencies. That figure was slightly fewer than the average for the 2010–2019 period (219.5). The peak during that period was 384 in 2011, which was driven by a spike in drug arrests.

Federal prosecutors may retain certain serious cases

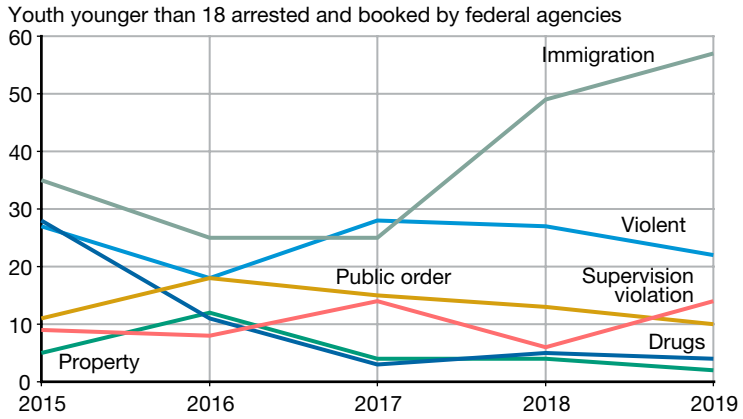
Following a federal arrest of a person younger than 21, federal law requires an investigation to determine whether the offense was a delinquency offense under state law. If so, and if the state is willing and able to deal with the youth, the federal prosecutor may forego prosecution and surrender the youth to state authorities. However, a case may instead be "certified" by the Attorney General for federal delinquency prosecution, if one of the following conditions exists: (1) the state does not have or refuses to take jurisdiction over the case; (2) the state does not have adequate programs or services for the needs of the youth; or (3) the youth is charged with a violent felony, drug trafficking, 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 youth 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 youth'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 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 youth 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 youth 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 youth 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.

In 2019, immigration arrests remained a large share of federal arrests of youth younger than 18



Source: Authors' analysis of BJS' *Federal Criminal Case Processing Statistics* data tool for 2015 through 2019.

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