

WORKING PAPER NO.: 19
JURISDICTION AND PLACEMENT OF JUVENILES
SENTENCED AS ADULTS: A NATIONAL OVERVIEW
Executive Summary

- ▶ The rising tide of youth violence in the United States has led to public calls for harsher punishment. Increasingly, this has resulted in legislation permitting juvenile offenders to be tried and sentenced as adults. In all fifty states, as well as in D.C. and Puerto Rico, juvenile offenders may be bound over to adult courts under certain circumstances. In recent years, legislatures in more than half the states have expanded the number of eligible offenses, lowered the ages at which juveniles may be tried in adult court, or implemented statutory provisions requiring automatic transfer to adult court for certain juvenile offenders. In all but a handful of states, juvenile offenders who are adjudicated in adult courts may be sentenced directly to the state's adult correctional system.
- ▶ An alleged juvenile offender may be transferred to criminal court for trial as an adult through one of three mechanisms: judicial waiver, prosecutorial discretion, and statutory (mandated) transfer. Any given state may use one, two, or all three of these transfer provisions, and the majority of states have more than one provision for the transfer of juvenile delinquency cases to adult court.
- ▶ In the District of Columbia and in all states except Nebraska and New York, judges are empowered to waive jurisdiction over a juvenile delinquency case and transfer it to adult court. The waiver to adult court usually comes in response to a motion filed by the prosecutor. Fifteen states use the judicial waiver provision exclusively.
- ▶ The number of cases judicially waived from juvenile court to criminal court rose from 7,000 in 1988 to 11,800 in 1993. However, since, 1989, transferred cases have consistently accounted for only about 1.5% of all formally processed delinquency cases.
- ▶ Thirteen states provide prosecutors with the authority to file certain juvenile cases in juvenile court or in criminal court under concurrent jurisdiction statutes. Only Nebraska uses prosecutorial discretion exclusively; eight states have both prosecutorial discretion and judicial waiver provisions; and four states employ prosecutorial discretion in conjunction with both judicial waiver and statutory transfer provisions.
- ▶ Recent evidence suggests that in states with prosecutorial discretion, direct filings by prosecutors in adult court are likely to outnumber judicial waivers to adult court.
- ▶ In twenty-seven states, legislatures have enacted statutes requiring that certain juvenile delinquency cases automatically be remanded to adult court. Most often, these are restricted to serious offenses such as capital and other murders and the most violent person offenses, and most of these laws also set limits as to the minimum age at which juveniles are transferred to adult court. In addition, these statutory transfer provisions may require prior felony adjudications or convictions. Only one state (New York) uses statutory transfer exclusively; 22 states have both statutory transfer and judicial waiver provisions; four states use all three transfer mechanisms.

- ▶ Currently there are no national data on the number of cases transferred to criminal court as a result of statutory transfer. However, limited evidence suggests that laws mandating automatic transfer to adult courts greatly increase the number of cases bound over.
- ▶ Regardless of the transfer mechanisms employed, most states impose restrictions on the conditions under which juvenile delinquency cases can be bound over to criminal (adult) court. Nearly all states limit transfers to adult court by offense and/or age. In addition, many states restrict transfers (especially transfers by judicial waiver) according to the juvenile's "amenability to treatment," including prior adjudications and/or convictions, the availability and likely effectiveness of available dispositional alternatives, public safety, the results of diagnostic evaluations, and the best interests of the child.
- ▶ For juveniles who have been tried and convicted as adults, states employ one of three models to assign jurisdiction over the offender: an exclusive model, a discretionary model, or a consecutive model.
- ▶ In the exclusive model, juveniles who are sentenced as adults are remanded to the custody of the adult department of corrections (or adult probation departments). This is the jurisdictional model employed in the vast majority of states, as well as in the District of Columbia and Puerto Rico.
- ▶ Under the discretionary model, when a juvenile is tried and convicted as an adult, the sentencing judge has the option to impose a juvenile disposition or to remand the juvenile to the jurisdiction of the adult corrections department. Fewer than five states employ a discretionary model.
- ▶ In the consecutive model, juveniles who are convicted as adults are placed in the custody of the juvenile justice authority until they reach a certain age, at which time they are transferred to the custody of the adult department of corrections to complete the remainder of their sentence. Seven states currently employ a consecutive model of jurisdiction.
- ▶ In states that employ the consecutive model of jurisdiction, the placement of juvenile offenders sentenced as adults is straightforward: these offenders are housed in juvenile facilities until they reach a specified age, then transferred to an adult corrections facility to complete the remainder of their sentence.
- ▶ In states with an exclusive or discretionary jurisdictional model, on the other hand, juveniles who are tried and convicted in criminal court are remanded to the custody of the adult department of corrections. DOCs in these states employ a variety of options for the placement of juvenile offenders: housing in the general prison population; housing in facilities or units for young offenders (both under and over age 18); housing in facilities or units specifically for juvenile offenders; housing in juvenile facilities outside the adult department of corrections; or some combination of these options.
- ▶ The vast majority of state corrections departments (34) house juvenile offenders in the general prison population. In some cases, these juveniles are given special housing or room assignments or are placed in protective custody.
- ▶ Ten DOCs (including Puerto Rico and the District of Columbia) house juveniles in facilities or units for young offenders both under and over the age of 18 years. The upper age limit for these facilities ranges from 19 years to 26 years. These facilities often provide special programming that is targeted to the needs of young offenders.

- ▶ Four state corrections departments house juvenile inmates in facilities or units that are reserved for this population, and three additional states have taken steps toward adopting this option. At the current time, special programming for this population is provided only in the two states (Colorado and Georgia) that house these juvenile offenders in stand-alone facilities (rather than in segregated units).
- ▶ In eight states, juvenile offenders are housed in juvenile facilities outside the department of corrections, through a contractual agreement with the state's juvenile justice agency.
- ▶ DOCs in 16 states and Puerto Rico employ a combination of housing options. For example, violent offenders may be housed in the general population, while non-violent offenders are housed in a facility for young offenders. Similarly, juveniles above a certain age may be housed in the general population, while younger juveniles are housed in a juvenile facility through an agreement with the youth authority.