



CSPV FACT SHEET

FS-008

1999

Judicial Waivers: Youth in Adult Courts

- During the 1960s, the President's Commission on Law Enforcement and Administration of Justice declared the juvenile justice system ineffective at rehabilitating youth. The juvenile court system was also declared a threat to public safety, as juvenile sanctions included shorter terms of incarceration.
- The increasing data that rehabilitative juvenile programs were not effective coupled with the perception of a rising rate of serious juvenile violence in the 1980s and 1990s prompted a push for using the waiver process to transfer youthful offenders to adult criminal court. There has been a decided shift from rehabilitative to punitive treatment of young offenders during the last 20 years.
- Juvenile offenders who are considered for transfer to adult criminal court must be of a certain age, have committed a serious offense, and have a prior serious offense record. All states contain legislation allowing the transfer.
- The use of a weapon in the commission of an offense has a significant effect on the decision to judicially refer a juvenile to criminal court.
- A disproportionate percentage of minority youth are transferred to adult court for serious, violent offenses. They are also more likely to be convicted and incarcerated.
- Despite the ability to recommend transfer of youth at younger ages in many states, the majority of transfers are for juvenile offenders aged 16 and older.
- Up until most recently, the majority of juveniles transferred to adult court were charged with property crimes. Currently, most waivers are for youth charged with personal or violent crimes.
- The probability of waiver increases with the severity of the alleged offense.
- Forty-one states have made it easier to transfer juveniles to the adult court system. Fifteen states have statutes defining the categories by which a prosecutor can directly file for processing in adult court. Thirty-nine states allow the release of the names of juvenile offenders, and 22 states allow open juvenile court trials.
- The death penalty is an option for juveniles of a certain age. The United States is one of four countries which currently execute children.
- In a judicial waiver, the state files a motion for transfer, and the juvenile court judge decides whether to approve the transfer of the youth. In 1989, approximately 8,300 juvenile cases were judicially waived to criminal court.
- In a direct file transfer, the prosecutor determines whether or not to pursue action against a juvenile offender in juvenile or criminal court. Most prosecutors feel that the seriousness of the offense is one of the most important factors in considering a recommendation for transfer.

- Legislative waiver, or statutory exclusion, automatically excludes from prosecution in juvenile court certain offenses. In some states, the court has discretion to transfer such a case back to juvenile court in a process known as reverse waiver.
- It is estimated that in 1991, 176,000 juvenile cases were processed originally in adult court because state legislation set the age of responsibility for crime at age 16 or 17.
- Courts with limited jurisdiction over youth according to age are more likely to waive youth to criminal court than those with more extended jurisdiction. The rationale behind this is that youth who are contained within the juvenile system for a longer period of time would be more amenable to treatment.
- Youth waived to criminal court are more likely to be convicted on both the target charge and on reduced charges than youth processed in juvenile court.
- The processing of a juvenile who has been transferred to criminal court from time of transfer to the sentencing phase takes more than twice as long as the adjudication process in juvenile court.
- There are fewer treatment opportunities for juveniles who are incarcerated in the adult facilities than for those youths who are held in juvenile correctional facilities.
- Juveniles processed under the adult court system experience a higher probability of conviction and incarceration than youths treated under the juvenile system. Case processing is also longer for transferred youth, and those who are incarcerated experience longer periods of confinement.
- Youth waived to adult court for violent criminal offenses are more likely to receive more severe sanctions than youth retained in juvenile court. Of these youth, the majority are incarcerated in adult facilities. Sentence length for waived violent offenders is two to four times longer than for retained youth.
- The legislative waiver process has been found to have no deterrent effect on the juvenile crime rate.
- Juveniles waived to criminal court are more likely to recidivate, with more serious offenses, and with a shorter survival rate than youth who are prosecuted through the juvenile court system.
- Youth who are incarcerated in adult prisons following conviction in criminal courts face high rates of victimization, particularly violence and sexual assault, than youths who are sent to juvenile training facilities.
- With the existence of viable rehabilitative programs for violent youthful offenders, the waiver process should be restricted to more specifically defined categories of offenses and offenders.

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