

Capital City **Correction**

Reforming **DC's** Use of
Adult Incarceration **Against Youth**



CAMPAIGN FOR
YOUTH JUSTICE
BECAUSE THE CONSEQUENCES AREN'T MINOR

May
2014



DC Lawyers for Youth (DCLY) is a non-profit action tank that seeks to improve the DC juvenile justice system by advocating for reforms that promote positive youth development, effective legal representation, and supportive relationships between the community and DC's youth.

CAMPAIGN FOR
YOUTH JUSTICE

BECAUSE THE CONSEQUENCES AREN'T MINOR

The Campaign for Youth Justice (CFYJ) is a national organization dedicated to ending the practice of prosecuting, sentencing, and incarcerating youth under the age of 18 in the adult criminal justice system.

Students United for Youth Justice is a student organization at American University Washington College of Law which mentors youth in the DC juvenile justice system. Students United makes weekly visits to New Beginnings, DC's juvenile justice facility, where we build relationships with youth and assist them in returning to their communities.

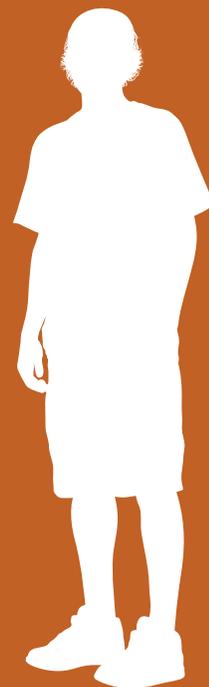
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541 youth

were tried as adults in the District of Columbia and held at the Correctional Treatment Facility (CTF) between 2007 and 2012.²



Executive Summary

Think about what you were like at age 16. Now imagine that a federal prosecutor suspects you of a crime and decides to charge you as an adult. Even before you have a trial, you are sent to a Department of Corrections complex that holds about 2,200 adult inmates and 20 youth who have also been charged as adults. In the adult facility, you do not have access to rehabilitative programs – such as education, counseling, and job training – that are as good as those in juvenile facilities. You can only see your family through a video screen in the common area that you share with other inmates. If the facility administrators decide that you should be separated from other youth, you may be placed in solitary confinement for weeks or months. And this is all before you have even gone to trial or been found guilty of anything.

Once you are in this position, there is nothing that you or your attorney can do to get your case into juvenile court. The judge is not even able to hear arguments about why you should be in the juvenile system. You will be tried as an adult, and there is nothing you can do to stop it. You are no longer a child in the eyes of the law.¹ You have quite literally had your childhood taken away from you.

This scenario gives you a small taste of the experience of the 541 youth tried as adults in the District of Columbia and held at the Correctional Treatment Facility (CTF) between 2007 and 2012.² This report makes the case for policy changes that would decrease the use of this practice in such a way that promotes both public safety and the rehabilitation of incarcerated youth.

The report includes:



This Executive Summary



An explanation of how DC youth enter the adult system



A summary of data on the demographic characteristics of youth who experience adult prosecution



A review of the scientific literature on adolescent brain development and the effects of incarcerating youth in adult facilities



A summary of the results of a recent evaluation of the Juvenile Unit at one of DC's adult jails



Information on trends in state legislation that decrease the use of adult prosecution and punishment against youth



Policy recommendations that would modernize DC's approach to prosecution of youth by promoting rehabilitation of young offenders and thereby improving public safety

The Scope of Adult Prosecution of DC Youth

There are two ways that a DC youth can enter the adult system: direct file or judicial transfer. In direct file cases, federal prosecutors from the US Attorney's Office charge the case in the adult system, and there is no opportunity for judicial review of that decision. Federal prosecutors can direct file cases against youth aged 16 or 17 who are suspected of specific offenses.³ In judicial transfer cases, the proceeding instead begins in the juvenile system and prosecutors must convince a judge to move the case to the adult system.⁴ Since 2007, every youth tried as an adult has been direct filed.⁵ In addition, while transfer cases are handled initially by District prosecutors from the Office of the Attorney General, direct file cases are handled by federal prosecutors from the US Attorney's Office.⁶

In the past six years, hundreds of DC children have been tried in adult court and held in adult facilities. During fiscal years 2007-2012, the Metropolitan Police Department made 663 arrests of youth that, based on the top charge at arrest, were potentially eligible for direct file in adult court.⁷ From 2007 to 2012, 541 individual youth were held in adult facilities with one unit designated for juveniles. Demographically, nearly 97% of these youth were African American and 3% were Latino. Males made up 98% of those held and the remaining 2% were female. Geographically, nearly all youth held in DOC facilities lived in zip codes in the economically disadvantaged eastern half of the District, or they were listed as being homeless. During 2012

alone, DC youth spent 10,016 days imprisoned in adult facilities. Of these days, 59% were spent by youth who were awaiting trial.⁸

Adult Prosecution Is Harmful to Youth and Does Not Promote Public Safety

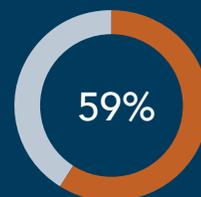
DC continues this practice of prosecuting, detaining, and incarcerating youth in the adult system despite the fact that research consistently finds that adult prosecution of youth does not effectively deter crime. In 2007, the Centers for Disease Control and Prevention published a systematic review of scientific research that examined the effects of placing youth under age 18 in the adult criminal justice system. The review found that there was insufficient evidence to conclude that transfer to adult court decreased youth crime overall and found consistent evidence that transfer to adult court actually increased recidivism.⁹ In December 2013, the Washington State Institute for Public Policy (WSIPP) conducted an evaluation of the state's statute requiring that certain youth offenses be prosecuted in adult court and found that, even when controlling for observed differences, the youth who were automatically processed through the adult system were more likely to recidivate than youth who were treated in the juvenile system.¹⁰

The ongoing development of the adolescent brain means that youth have a far greater capacity for change than adults.¹¹ Furthermore, neurological research demonstrates that brain development is not

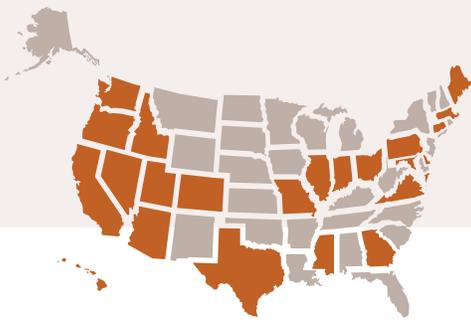
During 2012 alone, DC youth spent

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Over the past nine years, **23 states** have enacted legislation to limit youth contact with the adult criminal justice system.²⁰

complete until youth reach their 20s,¹² and that the particular state of teenagers' brains makes them less able to engage in higher-reasoning processes and fully evaluate the consequences of a situation.¹³ As the Supreme Court has recognized, this fact makes youth both less culpable and less likely to be deterred by increases in criminal sanctions.¹⁴

Adult facilities are generally ill-equipped to provide the services that youth need for positive development, such as education, exercise, and pro-social interactions with positive role models.¹⁵ From their physical plant to their staff training, adult facilities are not designed for children.¹⁶ Compared to their peers in juvenile facilities, youth confined in adult institutions are 36 times more likely to commit suicide.¹⁷

Prosecuting and sentencing a youth as an adult imposes negative consequences that can last a lifetime. District residents with adult felony convictions may be denied professional licenses in many fields, may be denied entrance to the District's housing assistance voucher program,¹⁸ and may also be ineligible for certain forms of federally-funded education financial aid.¹⁹

The District of Columbia is Ripe for Reform

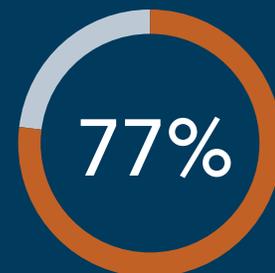
Over the past nine years, 23 states have enacted legislation to limit youth contact with the adult criminal justice system.²⁰ Key trends include expanding juvenile court jurisdiction so that fewer youth are tried as adults, limiting the youth who can be housed in adult jails and prisons, and changing transfer statutes so that fewer youth are prosecuted as adults.²¹ The District's neighboring states are included in these trends. Virginia has eliminated its "once an adult always an adult" rule for youth who were acquitted in adult court²² and passed legislation that requires all youth awaiting trial be held in juvenile facilities unless a judge finds them to be a safety risk.²³ The Maryland State Legislature recently passed legislation that would permit more youth to request transfer of their cases from adult court to juvenile court.²⁴

Even independently of national trends, the time is particularly appropriate for reform in the District of Columbia. Youth arrest rates are at the lowest they have been in many years.²⁵ Additionally, a poll of registered DC voters found that 77% believe youth awaiting trial should be held in a juvenile facility rather than an adult jail²⁶ and 71% believe placing youth in adult facilities is minimally or not at all effective at rehabilitating youth.²⁷



Neurological research demonstrates that brain development is not complete until youth reach their 20s.¹²

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believe youth awaiting trial should be held in a juvenile facility rather than an adult jail.²⁶

Proposed Policy Changes to Promote Youth Accountability and Rehabilitation

DC lawmakers and policymakers should pursue three key changes to the District's justice system to promote public safety and the effective rehabilitation of youthful offenders: 1) allow judges to review a youth's case to consider whether it should be moved to juvenile court, 2) end "once an adult always an adult," and 3) prohibit the pretrial detention of youth in adult facilities.

1. Allow for "reverse transfer" motions

After youth are direct filed into the adult system, there is no mechanism for their case to be transferred to the juvenile system, no matter what additional facts become available.²⁸ In many cases, further investigation or questioning of witnesses at trial reveals important information. Indeed, at trial, a youth may not even be found guilty of any offense that would have made him or her eligible for direct file.

The District should make policy changes that allow the youth to ask the judge to transfer the case to juvenile court. Such a motion is often referred to as a "reverse waiver" or "reverse transfer" motion, mirroring the transfer motions that can be filed in juvenile court to move a case into the adult system. Such motions would allow for the decision about

which system is most appropriate for an individual youth to be made by an impartial judge and when full information on the case is available.

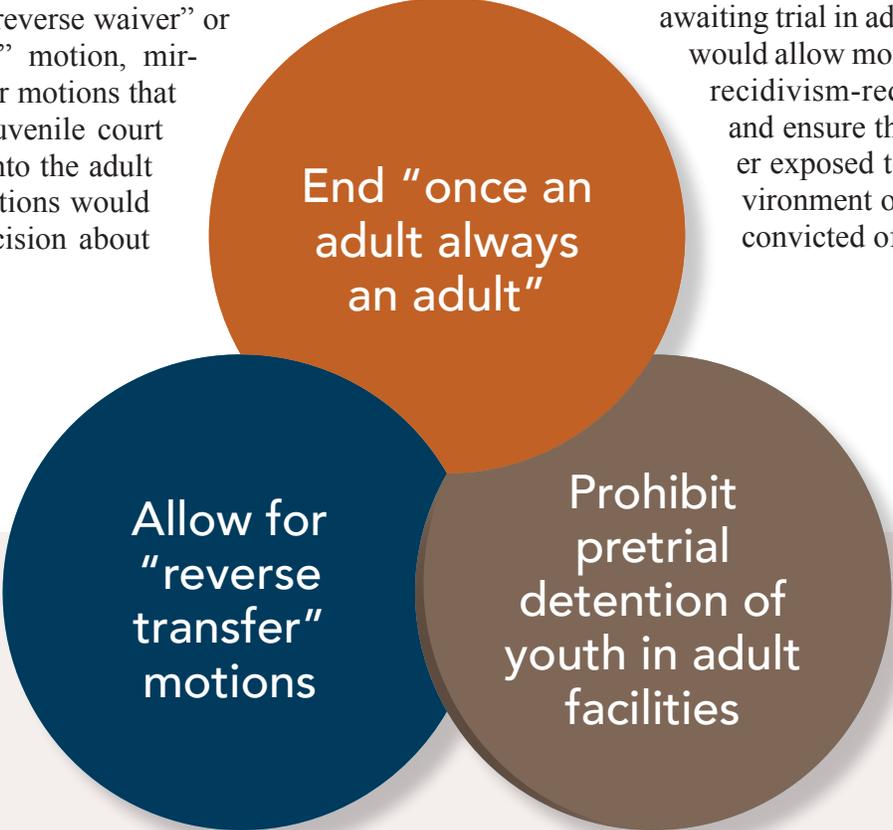
2. End "once an adult always an adult"

Once a child is transferred for criminal prosecution as an adult, the juvenile court no longer has jurisdiction over the child for any subsequent delinquent act unless the youth is acquitted.²⁹ This procedure improperly presumes that any youth who was once charged as an adult does not belong in the juvenile system. If a youth has been released from the custody of the adult system, a minor charge may be handled more appropriately by the juvenile system. The District should eliminate "once an adult always an adult," setting the default rule that individuals under age 21 be charged in juvenile court for any offense alleged to have been committed prior to age 18.

3. Prohibit pretrial detention of youth in adult facilities

DC youth charged as adults are currently held at the Correctional Treatment Facility (CTF) while they await trial. In fact, 59% of all days that youth spent at CTF during 2012 were pretrial days.³⁰

DC law should prohibit holding youth awaiting trial in adult facilities. This would allow more youth access to recidivism-reducing programs and ensure that youth are never exposed to the harmful environment of adult jail unless convicted of a crime.



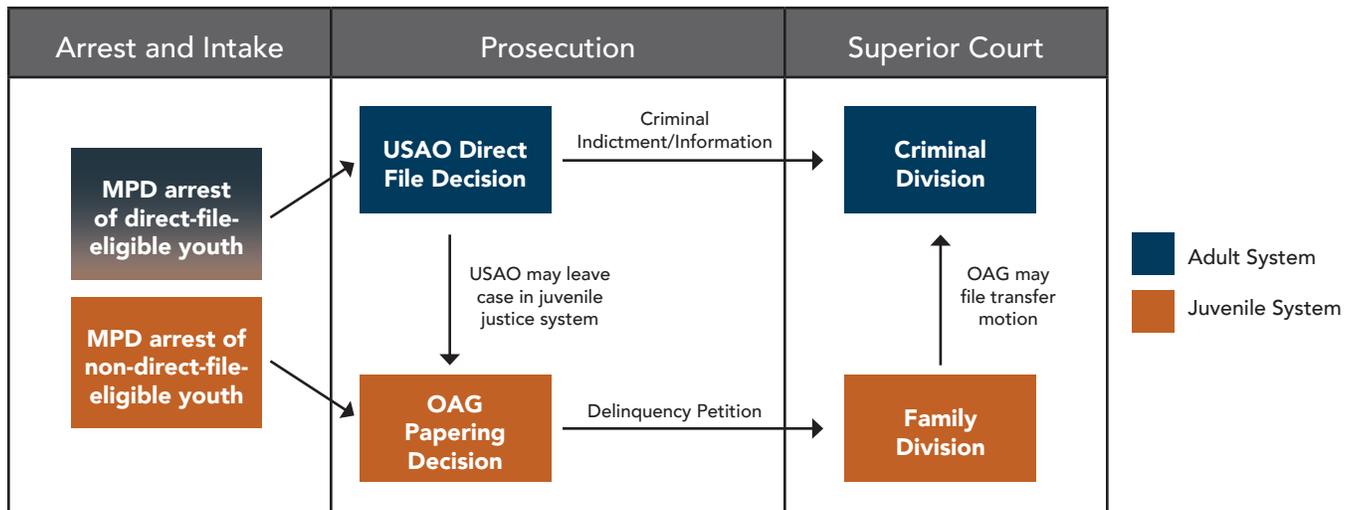
End "once an adult always an adult"

Allow for "reverse transfer" motions

Prohibit pretrial detention of youth in adult facilities

How Youth Enter the Adult System in the District of Columbia

Figure 1: Once Youth Are Direct Filed, There Is No Path Back to the Juvenile System



Youth enter the adult system in the District of Columbia through one of two mechanisms. The more common of these mechanisms is known as “direct file.” In cases concerning a youth aged 16 or 17 suspected of specific offenses, the US Attorney’s Office (USAO) may directly charge the youth in the DC Superior Court Criminal Division (adult court).³¹ Far more rarely, the DC Office of the Attorney General (OAG) may initially petition a youth aged 15 or older in the DC Superior Court Family Division (juvenile court), but then file a motion for the judge to transfer the case to the Criminal Division.³² These two types of cases are sometimes referred to as “direct file” cases³³ and “transfer” cases.³⁴ The above process map and following paragraphs more fully explain the mechanisms that place youth in the adult system.

The path to adult court begins with an arrest by the Metropolitan Police Department (MPD). During booking, MPD may identify a youth as eligible for direct file into the adult system, if the youth is age 16 or 17 and arrested for a direct-file-eligible offense. When MPD identifies an arrested youth as eligible for direct file, it refers the case to USAO for determination of whether the youth will be tried as an adult. If the youth is not eligible for direct file, MPD refers the case to the DC Family Court Social

Services Division (CSS) for intake and OAG for a decision about whether to try the youth for delinquency in Family Court.³⁵

USAO has sole discretion to determine whether direct-file-eligible cases will be tried in the adult system, and, as the Department of Justice has recognized, “prosecutorial discretion laws are usually silent regarding standards, protocols, or appropriate considerations for decision-making.”³⁶ If USAO decides to try the youth as an adult, the case proceeds in the Criminal Division of DC Superior Court. This decision is often made within the first 24 to 48 hours after a youth’s arrest. If USAO decides not to try the youth as an adult, it sends the case to OAG, which can petition the case in the Family Division of DC Superior Court.³⁷

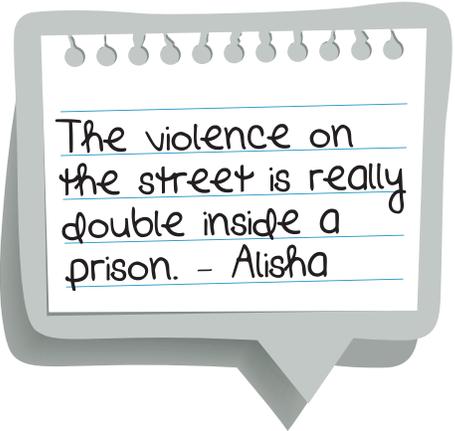
When cases reach the Family Division, OAG has the power to file a motion to request that the Family Court judge transfer the youth up to the adult system.³⁸ For cases that are direct-filed to the Criminal Division, however, there is no similar process for judicial oversight. Counsel cannot request for the Criminal Court judge to transfer the youth to the juvenile system. After a youth has been direct filed, there is no opportunity to reconsider whether the case should instead be in the juvenile system.

Youth Voices

The Experience of Being Tried As an Adult

Throughout this report, you will see quotes from Alisha, Deante, Eddie, LaTrae, and Maurice. Each of them was tried as an adult in DC Superior Court for offenses they allegedly committed before their 18th birthdays. During interviews with our research team,

they provided first-hand observations about their experiences as young people in adult court and jail. Below, you can read an overview of each of their stories.



The violence on the street is really double inside a prison. - Alisha

Alisha

Alisha grew up dreaming of going to college and be-

coming a veterinarian. However, with drug-addicted parents and six siblings, she faced significant challenges. Alisha got pregnant her freshman year of high school. She had been pushed out of DC Public Schools, and was in the process of trying to get re-enrolled. Before she could do so, Alisha was arrested.

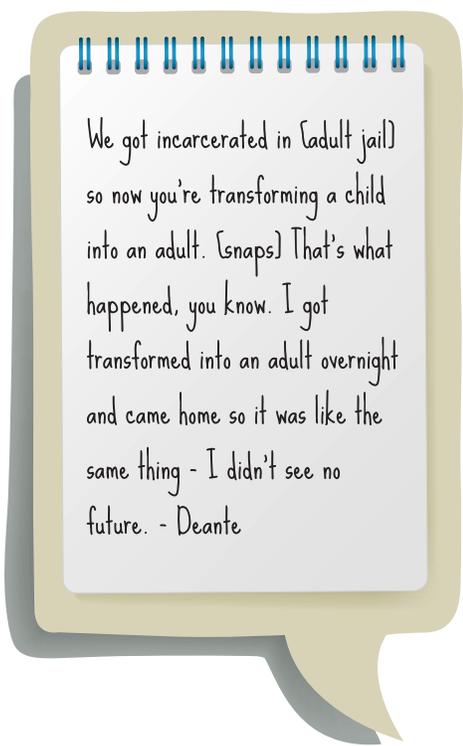
At age 16, Alisha was charged with murder. Alisha was direct filed into adult court and held at DC jail. Because there are so few girls charged as adults, the facility does not have a special unit for female youth. Instead, Alisha was placed in solitary confinement. Alisha was housed in solitary confinement for weeks at a time while her attorney fought to have her placed in a more appropriate setting to address mental health concerns. During this period, she spent 23 hours a day locked down in her cell and didn't have the opportunity to attend school or participate in any programming. Alisha says that it was very depressing and lonely. While held in solitary confinement, Alisha attempted to commit suicide. She stayed at the DC jail for a year and a

half during the pendency of her case before being sent to three Bureau of Prisons facilities across the country to serve out her sentence.

Alisha is now a sociology student at a local community college, and also works with youth subjected to the same adult incarceration that she was. She volunteers for a prisoner reentry network and acts as the lead outreach facilitator for a violence prevention program in DC public schools. Through the outreach programs, Alisha shares her poetry with at-risk youth and talks candidly with them about the effects of youth incarceration and the importance of staying on a positive path. She keeps in constant contact with the female youth who are currently housed at CTF, writing them letters and supporting them in whatever way she can.

Deante

At the age of 15, Deante was consistently getting into trouble. He attributes his actions to a variety of factors including poverty, negative influences in his neighborhood, and a lack of opportunities. He, like many young men incarcerated as adults, came from an environment where he believed his only options for the future were jail time or death. Deante describes his mindset as a teenager as extremely limited: "[t]here was no such thing as the future. The future consists of more guns, more women, more cars,



We got incarcerated in [adult jail] so now you're transforming a child into an adult. [snaps] That's what happened, you know. I got transformed into an adult overnight and came home so it was like the same thing - I didn't see no future. - Deante

and that's what my future consists on. I ain't seen nothing positive though."

When Deante was 16, he was charged with armed robbery and placed in adult jail. He describes his experience in adult jail as dehumanizing – he says the violence, isolation, and hopelessness he experienced and witnessed in the facility lead him to depression and suicidal thoughts.

Now that Deante is home from jail, he is working hard to get his life back on track and to create a positive change in his community. It's an uphill battle – Deante's felony record bars him from many job and educational opportunities. But Deante is proud of his outreach in the community as a motivational speaker to DC youth. He wants to do his part to make sure no other kid like him gets caught up in the adult justice system.

Eddie

At age 17, Eddie was arrested and charged with murder, assault with intent to kill, and possession of a firearm during a crime of violence. Because Eddie's charges were direct filed in adult court, he was held in DC jail while awaiting trial, rather than in a juvenile facility.

It was over two years before the case came to trial, during which time Eddie remained in adult jail. At his first trial, the jury found him not guilty of some charges, but could not reach a verdict on others. His second trial began nine months after the first, and the new jury found Eddie not guilty of all charges. Altogether, Eddie spent three and a half years in adult jail for crimes of which he was ultimately acquitted.

Now 22 years old, Eddie calls himself a walking miracle. Eddie's new focus is on living for his son and doing what's right to help the community. His dream is to get a college degree in graphic design, but his first step is getting his GED.

[I] was charged as an adult . . .
and I was no longer a juvenile when
I came home. – LaTrae

LaTrae

LaTrae did not care about much prior to incarceration. His grandfather and father died in 2005 and 2006, and as a young teenager, he sometimes felt that he also wanted to die in order to be with them. He was living the "reckless life" after losing his two male role models.

At age 17, the US Attorney's Office charged LaTrae as an adult with armed robbery and a series of related charges. He was locked up at CTF while awaiting trial. Though he was ultimately acquitted of the armed robbery charge that made him eligible to be direct filed as an adult, LaTrae pled guilty to carrying a pistol without a license, possession of an unregistered firearm, and unlawful possession of ammunition and was sentenced to serve a year



in adult prison for these charges. Even though LaTrae was acquitted of the direct-file-eligible charge, prosecutors used the other charges to justify LaTrae serving his sentence in an adult prison rather than juvenile facility.

LaTrae is now 20 years old and hopes to one day have a successful career as a math teacher. Since being released from prison, LaTrae has obtained his high school diploma and worked as an outreach facilitator for violence prevention programs with DC youth.

Maurice

Maurice was charged as an adult for armed robbery at age 17. When the police told Maurice that he was going to be incarcerated in an adult jail, he thought that it was a lie. He did not understand why he was being sent to an adult facility. He was released while awaiting trial, during which time he stayed in a Department of Youth Rehabilitation

Services group home and found a job. Maurice and his attorney decided that he should plead guilty to robbery and carrying a pistol without a license. Youth cannot be direct filed as adults for either of these offenses.

Merely charging Maurice with armed robbery, irrespective of the strength of evidence supporting such a charge, triggered direct file for the ancillary offenses that would not - standing alone - permit the prosecution of Maurice in adult court. As a result, even though he was not convicted of any direct-file-eligible offense, Maurice served time in an adult prison.

Maurice is now 23 years old and employed full-time at a mental health services organization. He believes that before a youth gets sent to the DC jail they should be given more opportunities for employment, job training, and other positive activities. Maurice wants to be a parole officer someday so that he can guide young returning citizens to success.



The Scope of Adult Prosecution of DC Youth

In the past six years, **hundreds of DC children** have been tried in adult court and held in **adult facilities**.



During fiscal years 2007-12, MPD made **663 arrests**



of youth that, based on the top charge at arrest, were eligible for direct file in **adult court**.

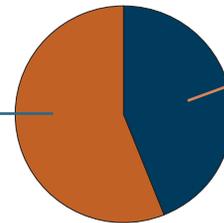
Of those arrested,



88% were male

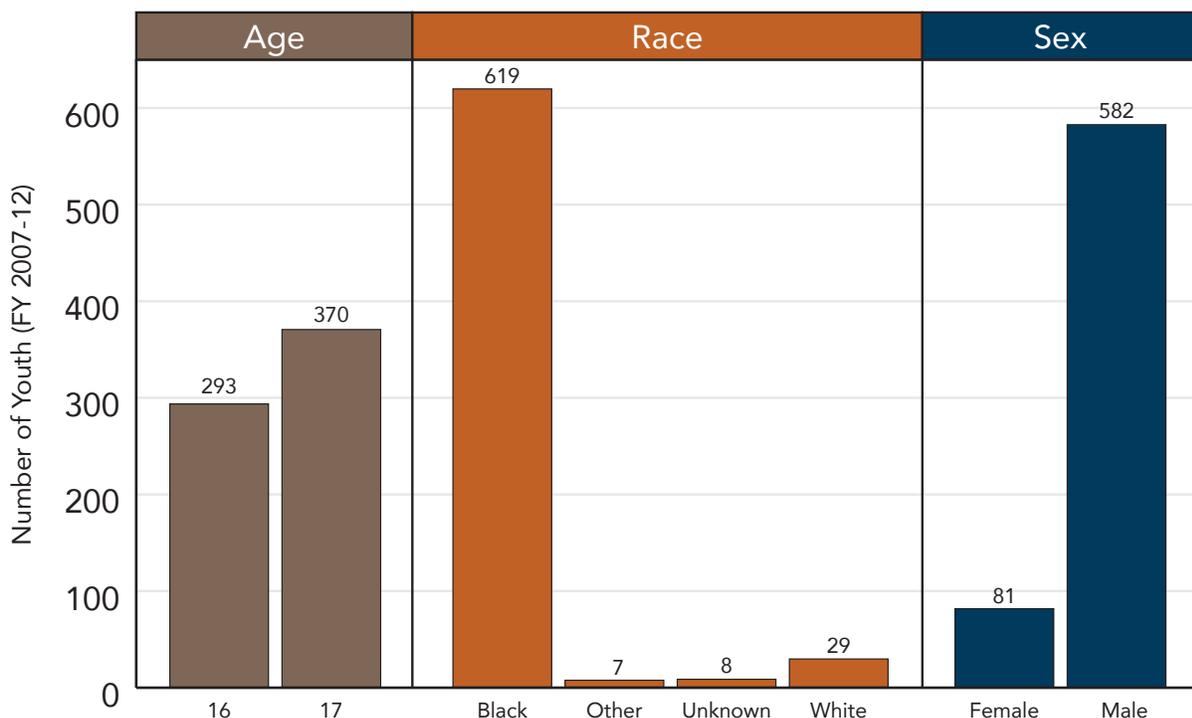
93% were African American

56% were 17 years old³⁹



44% were 16 years old

Figure 2: Direct-File-Eligible Arrested Youth Are Overwhelmingly Black and Male⁴⁰



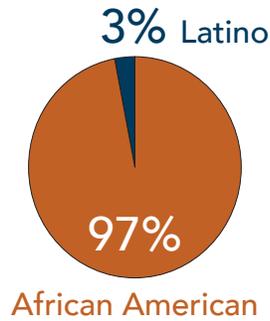
Trying youth as adults has negative consequences for all youth, but low-income communities of color in DC are particularly harmed by these policies.

From 2007 to 2012,

541
individual youth
were held at CTF.

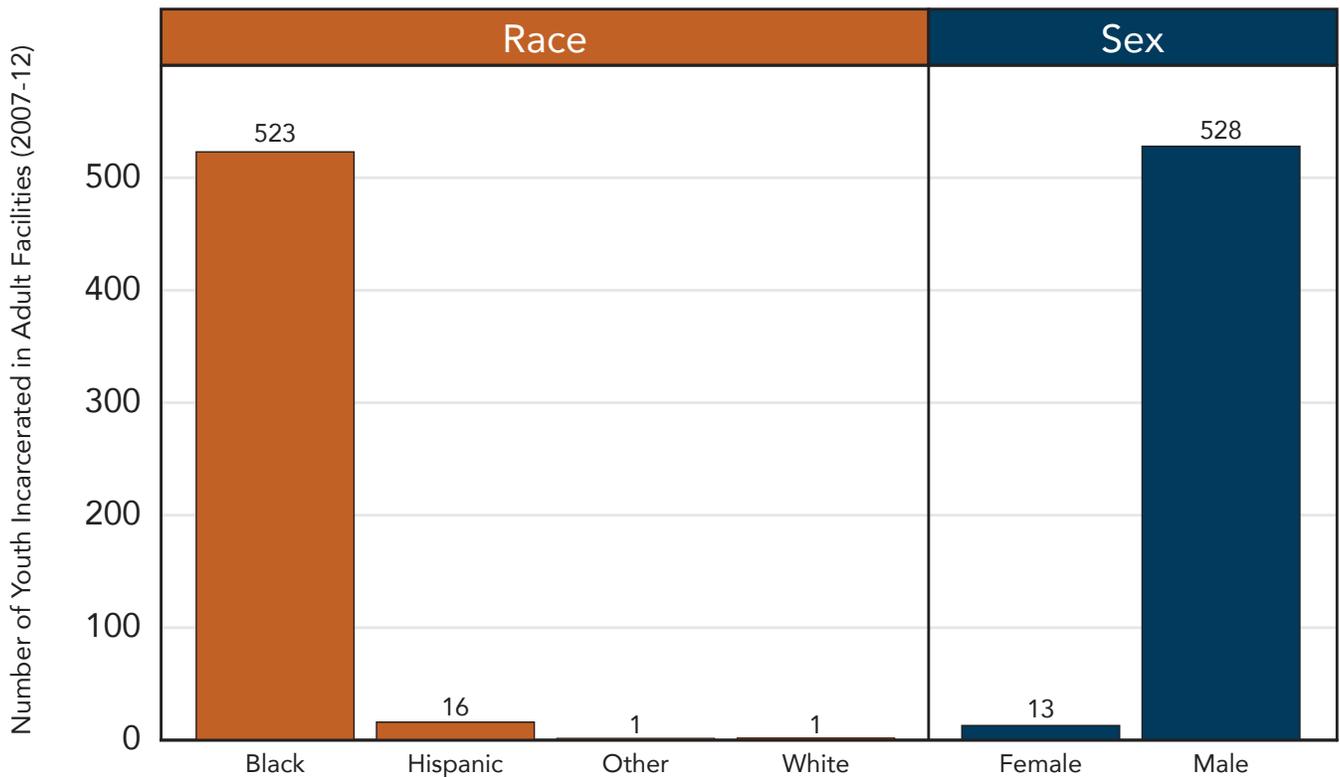


Demographics



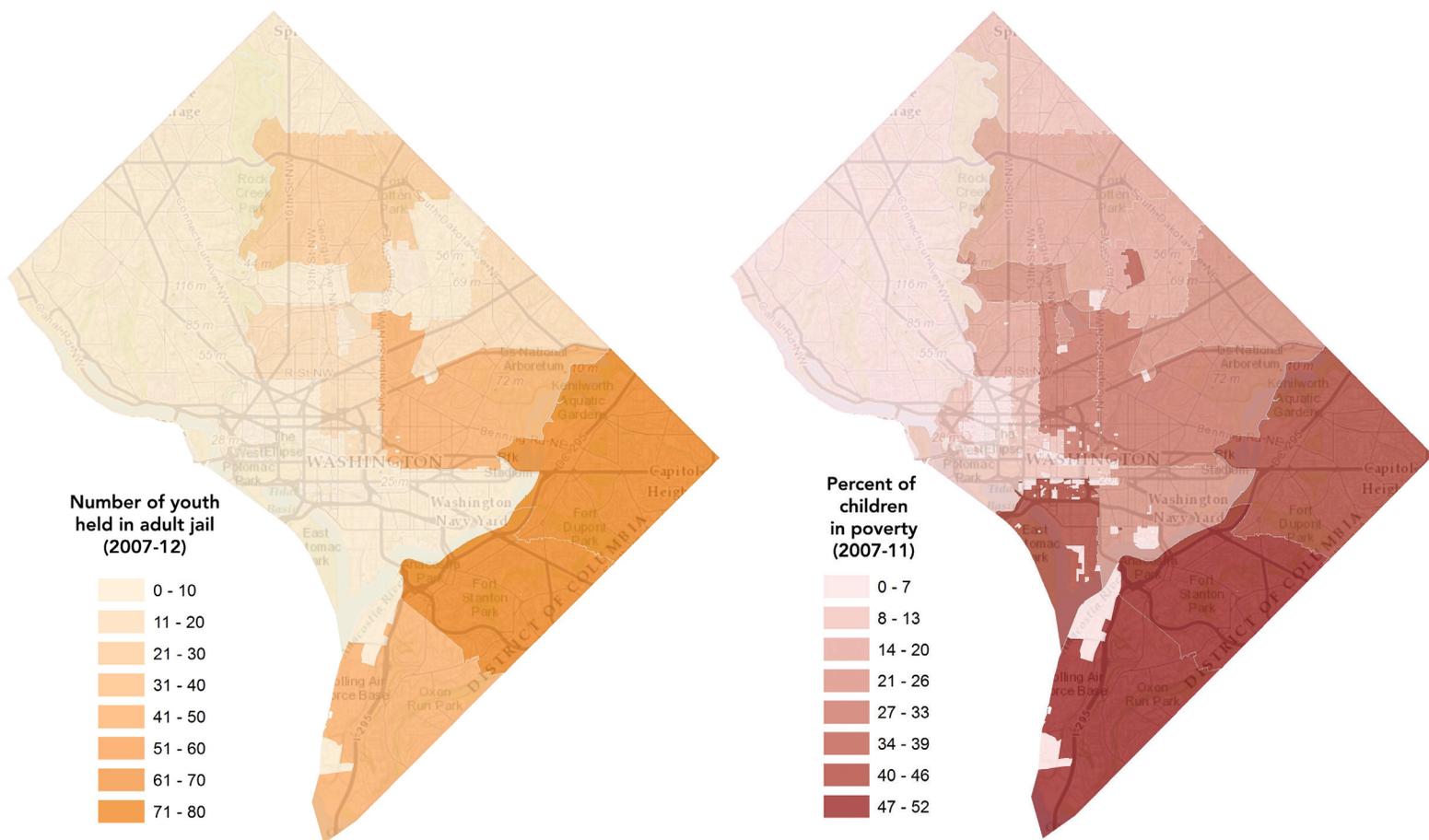
Of the youth who spent time in DOC custody during 2012, 2% were 15 years old, 24% were 16 years old, and the remaining 74% were 17 years old.⁴¹

Figure 3: Race and Sex Disparities Are Even More Dramatic At the Time of Incarceration⁴²



Prior to incarceration, nearly all youth held in DOC facilities had been living in the economically disadvantaged eastern half of the District, or were listed as homeless.⁴³ During 2012 alone, DC youth spent 10,016 days imprisoned in adult facilities. Of these days, 59% were while the youth was awaiting trial.⁴⁴

Figure 4: Youth Tried as Adults Are Disproportionately from the District's Most Under-Resourced Neighborhoods⁴⁵



A review of data concerning 94 youth who were held at CTF between April 2012 and March 2013 found that at the end of the study period, 31% had been released into the community, 31% were still in DOC custody, 19% had been transferred to the custody of another jurisdiction (e.g. Prince George's County Police), 12% had been transferred to a third party (e.g. other treatment facilities), and 7% had been transferred to the federal Bureau of Prisons.⁴⁶

Incarcerating Youth in the Adult System is Developmentally Inappropriate, Unsafe, and Does Not Decrease Recidivism

Research conducted by criminologists and federal agencies has documented the harms of incarcerating youth in adult facilities. Statutes allowing youth to be charged as adults were passed during the 1980s and 1990s in response to public fears about high crime rates and now-debunked theories about increasing juvenile crime.⁴⁷ Research has since demonstrated that adult facilities fail to provide developmentally appropriate environments for young offenders, that youth in adult facilities are at increased risk for violent and sexual victimization, and that trying youth as adults in fact increases rather than decreases the likelihood that they will commit future crimes. In April 2014, the National Research Council concluded that “Youth transferred to the adult criminal justice system fare worse than those that remain in the juvenile justice system.”⁴⁸

Youth have lesser capacity to recognize the consequences of risk-taking actions than adults and greater capacity for change

Treating youth like adults is not a developmentally appropriate response to delinquent behavior. Psy-

I was kinda living the reckless life...not caring about too much. Not looking forward to anything further than being on the block... - LaTrae

chologists and legal practitioners agree that youth are more likely than adults to engage in risk-taking behavior, largely because adolescents’ decision-making processes systematically overemphasize rewards and underemphasize consequences.⁵⁶ Multiple psychological factors contribute to this diminished decision-making capability.⁵⁷ Compared to pre-adolescent children, adolescents show heightened sensitivity to rewards and greater attention to peer influences.⁵⁸ Simultaneously, compared to adults in their mid-20s and older, adolescents are less capable of engaging in long-term planning, inhibiting impulsive behavior, and modulating emotional inclinations with deliberative reasoning.⁵⁹ The timing of these neurological developments causes the average adolescent brain to have a socio-emotional system that is relatively more developed than its cognitive control system, and adolescents are especially likely to engage in irrational risk taking as a result.⁶⁰

The Theories That Motivated Adult Prosecution of Youth Have Been Discredited

The laws that permit the processing of youth into the adult criminal justice system are relatively recent developments in the history of juvenile justice. Rising crime rates in the 1980s and early 1990s, in conjunction with a few high-profile cases, prompted state legislators to enact statutes that expanded the use of adult courts and punishments for youth.⁴⁹ Many supporters of these new measures argued that youth crime was on the rise and only harsh adult punishment could adequately deter youth from crime, or that lengthy sentences were necessary to incapacitate dangerous youth.⁵⁰

This line of argument is typified by an influential 1995 op-ed written by political scientist John Dilulio, which predicted based on demographic trends that by the year 2000, the country would contain “at least 30,000 more murderers, rapists, and muggers on the streets than we have today.” Consequently, he forecasted a major increase in juvenile arrests.⁵¹

The data collected since then show that there was no such increase in juvenile arrests. Instead, they dropped by about half, and Dilulio has recanted his theory.⁵² As of 2013, juvenile violent crime arrests

Further, since behavior during adolescence is a poor predictor of future behavior,⁶¹ lengthy sentences imposed on youth provide lower expected incapacitative value than sentences imposed on adults for similar offenses. The personality and character of youth are not as settled as those of adults. According to the American Psychological Association, “the defining quality of adolescence is that character is not yet fully formed. Adolescents are in the process of forging an identity, a process that will not be complete until at least early adulthood.”⁶² This ongoing development underscores the importance of providing positive youth development services to incarcerated youth.

The courts have recognized the legal importance of youths’ relative psychological immaturity. In 2005, the Supreme Court ruled in *Roper v. Simmons* that youth cannot be given the death penalty for crimes committed under the age of 18.⁶³ The *Roper* decision identified three differences between youth and adults that suggest youth should be sentenced less harshly. First, the court recognized that youth have lesser maturity and mental capacity to think through the consequences of actions and decisions.⁶⁴ Second, the court noted that youth are “more vulnerable or susceptible to negative influences and outside pressures, including peer pressure.”⁶⁵ The court opined that both of these features of youth decision-making mean that young people are less responsive to the deterrent effects of harsh punishment.⁶⁶ Third, the court observed that the character and personality of youth is still in transition, and not as fixed as that of adults, meaning that

they are more able to be rehabilitated and desist from future crime.⁶⁷

In short, both psychologists and the courts have found that youth, even those charged with serious crimes, are less mentally developed than adults. This finding suggests that placing youth in the adult system, where they are treated the same as adults, is unlikely to most effectively address youths’ behaviors. The following subsections address specific ways in which holding youth in a developmentally inappropriate facility places youth at greater risk of victimization and threatens public safety.

Youth in adult facilities are victimized at higher rates

The National Prison Rape Elimination Commission, created through the federal Prison Rape Elimination Act (PREA), found that youth in confinement are much more likely than incarcerated adults to be sexually abused, and are at a particular risk of abuse when housed with adults.⁶⁸ Department of Justice (DOJ) studies from 2005 and 2006 found that youth were the victims in 21%⁶⁹ and 13%,⁷⁰ respectively, of the substantiated sexual assaults in adult jails.

Even when you know you're good...deep in your mind you still know you're living in a constant threat, just because of your environment. - LaTrae

were at the lowest point on record since 1980.⁵³ This decline in youth arrests began before much of the punitive legislation was passed,⁵⁴ suggesting that expanded transfer statutes were not the cause of the decrease in juvenile crime. In fact, adult prosecution makes youth more likely to commit future crimes.⁵⁵ The statutes that allowed increased adult prosecution of youth were passed without research to demonstrate they would have the intended effect. Decades later, we know that the predictions that motivated increased use of adult punishment were deeply flawed.



A 2013 DOJ study provided further information about the circumstances of youth sexual victimization in adult facilities. Of sexually victimized youth, 66% were victimized more than once, 79% were physically forced or threatened with force into sexual contact, and 28% had injuries after the incident.⁷¹ In recognition of this serious problem, Congress passed PREA in an effort to prevent sexual victimization by requiring increased protections in prisons and jails.⁷²

The harmful effects of adult incarceration are not limited to physical violence. Youth in adult facilities also have higher rates of anxiety, depression, and suicide.⁷³ The best available estimates indicate that youth held in adult facilities are 36 times more likely to commit suicide than youth held in juvenile facilities.⁷⁴ Some attribute these heightened suicide rates to the conditions that youth face in adult prisons, such as fear of victimization and persistent lack of activity.⁷⁵

For me, it was really hard, and I had a suicide attempt when I was 17 being on solitary confinement. Again, I was lonely, it was depressing; I was stuck in a room all day . . . I went to medical. They cleaned me up, bandaged me up. I talked to a psychiatrist for about an hour. They put me in a room for about an hour . . . then I went back to my cell. They said I did the suicide for attention and that it wasn't serious enough to die. - Alisha

Adult facilities are ill-equipped to help youth develop positive habits and values

Incarcerating youth in adult facilities limits their positive psychological development in a number of ways. Psychological studies indicate that two key processes occur as youth transition to adulthood.⁷⁶ The first is “individuation,” in which a youth establishes autonomy from his or her parents.⁷⁷ The second is “identity development,” a longer process through which individuals create a “coherent and

integrated sense of self.”⁷⁸ Both of these processes are likely to be negatively influenced by incarceration in the adult system. Adult inmates may encourage young people to define their new identity in anti-social ways, and staff members in adult facilities are less likely to be trained to provide the support youth need to develop positively.

Some of them fighting the same type of charges as you, some of them are fighting worse charges. Some of them, they gonna show it to you, too. They gonna show it in their actions and their emotions. A person like that don't care. Then you got about fifty of them walking around you, including you. - Deante

Youth transferred to the adult criminal justice system often experience harmful disruptions to their development due to their isolation from social supports such as caring adults and their exposure to potential victimization.⁷⁹ Also, youth in adult facilities are less likely to receive the institutional support needed to assist them in their development than their peers in juvenile facilities. Adult facilities have fewer counseling services, educational opportunities, professional development opportunities, and treatment options than juvenile facilities.⁸⁰ Such support services are particularly important for incarcerated youth, given that nearly all of them will eventually return to society. Further, the adult prison environment may expose youth to criminal mores and anti-social habits that increase the likelihood of future offending.⁸¹

Trying youth in the adult system increases recidivism

The usual justifications for charging youth in the adult system are 1) that adult punishment is required to deter youth from serious crimes and 2) that adult punishment is required to make youth desist from serious crime and not recidivate in the future.⁸² However, research has consistently found that both of these claims lack empirical support.

In 2007, the Centers for Disease Control and Prevention published a systematic review of scientific research that examined the effects of placing youth under age 18 under the jurisdiction of the adult criminal justice system. The review found that there was insufficient evidence to conclude that transfer to adult court decreased youth crime overall and found consistent evidence that transfer to adult court actually increased recidivism.⁸³

In December 2013, the Washington State Institute for Public Policy (WSIPP) conducted an evaluation of Washington's statute requiring that certain youth offenses be prosecuted in adult court and found that, even when controlling for observed differences, the youth who were automatically processed through the adult system were more likely to recidivate than youth who were treated in the juvenile system.⁸⁴ WSIPP also conducted an updated systematic review of available research and confirmed that sending youth to adult court is associated with an increase in recidivism.⁸⁵

In short, there is no evidence that adult court deters youth crime in general and compelling evidence that it actually increases recidivism among those who are processed through it. Instead, youth are less likely to re-offend and more likely to succeed in school and the workplace if they receive comprehensive services that support positive youth development.⁸⁶

Youth in the adult system face a lifetime of collateral consequences

The direct consequences of a conviction in criminal court are incarceration in an adult facility or probation under the Court Services and Offender Supervision Agency. However, there are also numerous "collateral consequences" of conviction, which can follow former inmates for the rest of their lives, limiting their access to education, employment, housing, and democratic participation. The American Bar Association and National Institute of Justice found over 39,000 statutes imposing such restrictions on individuals with a criminal conviction.⁸⁷

Of these, at least 150 are DC statutes that impose collateral consequences for convictions of the sort youth could experience after being direct filed as adults.⁸⁸ District residents with adult felony con-

victions may be denied professional licenses in many fields, including veterinary medicine,⁸⁹ car services,⁹⁰ fire alarm installation,⁹¹ check cashing,⁹² and dozens of others.⁹³ Also, families whose members have felony convictions may be denied entrance to the District's housing assistance voucher program.⁹⁴ Individuals with felony drug convictions may also be ineligible for certain forms of federally-funded education financial aid.⁹⁵

Though the records of youth in DC's juvenile justice system are confidential,⁹⁶ those of youth tried as adults are not. Direct filed or transferred youth carry arrest and court records that follow them for the rest of their lives. Such records often serve as barriers to reenrollment in secondary education⁹⁷ or admittance to college.⁹⁸ They can prevent acceptance to public housing programs.⁹⁹ Many states bar individuals with criminal convictions from voting.¹⁰⁰ Most importantly, employers almost universally require job applicants to disclose past convictions, raising a substantial barrier to gainful employment and successful reintegration.¹⁰¹ These burdens are especially heavy for young offenders, who naturally tend to have more years of life ahead of them when they are ultimately released.¹⁰²

While some of these consequences can also result from a delinquency adjudication, many of the statutory restrictions apply to criminal convictions only. The public nature of an adult criminal record greatly intensifies the collateral consequences imposed on youth tried as adults.

[If you're tried as a juvenile] you don't have nothing on your records when you hit 18. But when you're an adult it's like held against you. It personally affected me because you're broke when you come back into society. Say for instance you're trying to do positive stuff; they hold the negative stuff that you did when you was a juvenile against you... You can't have housing and certain things like that, so people resort to what they know best so they'll go back to the streets because they don't have nothing positive in their life... - Maurice

The Current Juvenile Unit at CTF Does Not Meet the Needs of Youth

In summer 2013, the Ridley Group and Associates (TRGA), a criminal justice consulting firm, conducted an assessment of the Juvenile Unit at CTF. In the summary of its assessment, TRGA noted that “[w]hen juveniles are housed in adult prisons and jails, the ability to provide for their safety, welfare and rehabilitation is much more difficult.”¹⁰³ This inherent challenge is apparent in a number of specific findings about the Juvenile Unit: 1) the facility space is too limited to provide adequate programming or sufficient physical activity, 2) most youth are not able to have in-person visitation with their family members, 3) some staff working the unit are inadequately trained to address the needs of youth, and 4) the amount of structured programming offered to youth is inadequate.

The facility space is too limited to meet the needs of youth

During a site visit, TRGA staff concluded that the Juvenile Unit, “space is inadequate for the population served.”¹⁰⁴ This limits the facility’s ability to provide educational and rehabilitative services. The assessment continues, “The school is cramped and the unit does not have dedicated programming or recreation space.”¹⁰⁵ An interview with the Program Manager also revealed that the lack of space creates issues with the use of isolation, because there is no other way to separate youth from one another.¹⁰⁶ Though CTF has a gym and outdoor recreation space, youth are required to be separated from adults and therefore can only use these facilities when adults are not using them.¹⁰⁷ This greatly limits the youths’ access to physical activity, a particular concern given the importance of exercise in healthy adolescent development.

Limits on visitation prevent family members from assisting in youths’ rehabilitation

Relationships with parents and family members are also of great importance in rehabilitating de-

tained youth and supporting safe reentry into the community upon their release.¹⁰⁸ Adult inmates at CTF are permitted to have in-person visits,¹⁰⁹ as are female youth, but most male youth are limited to video visitation only.¹¹⁰ If a youth achieves “gold tier” in the Unit’s good behavior ranking system, he is permitted one contact visit per month.¹¹¹ Video visitation monitors are located in a common space, so youth have no privacy while speaking with their family members. TRGA interviews with youth at CTF found that they believe “video visitation makes it hard for juveniles to communicate with their family members.”¹¹²

You're already confined and locked away from your family. And this is your moment to see your family and interact with your family, but now you can't even touch your family. You can't have them at a close range where you can actually see their tears. You're looking at them through a screen and everything is kind of edited and blurred out. It's really impersonal, and it takes away that contact that you need with your family. - Alisha

Staff who primarily work with adults lack adequate training in working with youth

Some staff members working the Juvenile Unit are inadequately trained to meet the needs of youth. CTF is a 1500-bed facility¹¹³ with only about 25 youth inmates at any given time.¹¹⁴ Given that youth are such a small fraction of CTF’s population, it is perhaps unsurprising that CTF does not have a separate position description for hiring corrections officers to the Juvenile Unit¹¹⁵ and that the Unit sometimes utilizes relief staff who normally work with adults.¹¹⁶ TRGA noted that these substitute staff do not exhibit the “positive and nurturing” relationship needed to work with youth

in confinement.¹¹⁷ Unit staff themselves noted in interviews that “permanent and relief staff would benefit from additional training specific to juvenile behavior.”¹¹⁸ TRGA ultimately recommended that Unit staff should receive additional youth-focused training.¹¹⁹

*It was crazy because they was treating me like anything, treating me like I was nonhuman. It was kinda crazy because I felt like just a number. That's how I felt – just a number – because that's how they treated us.
– LaTrae*

For the most part, the thing that affected me wasn't the dirt and wasn't how filthy it was – it was how they treated me. It was crazy because they identified me as a juvenile, and that's the reason they put me on solitary confinement, but they treated me like I was an adult. They threw the charges in my face. They said "You did the crime, you do the time." Don't sit there and cry. Big up, man up, be a woman. – Alisha

Positive youth development programming offered is inadequate

Since the vast majority of incarcerated youth will one day return to the community, it is imperative that their time in detention be used to prepare them to succeed as productive citizens. However, the assessment of the Juvenile Unit found that, “programming offered . . . is insufficient and needs to be expanded. The Juvenile Unit was without structured activity for the majority of the weekend; more routine activities are needed.”¹²⁰ Programming could include educational programs, vocational programs, and programs that teach skills like conflict resolution and decision-making. Such pro-

grams are particularly important for youth on the unit, given that 38% have identified special education needs.¹²¹

TRGA further recommended that DOC adopt the Positive Youth Development model in designing programs, which aims to build skills and attachment in the domains of work, education, relationships, community, health, and creativity.¹²² By comparison, the Department of Youth Rehabilitation Services, which serves adjudicated youth in the District, has employed this approach since at least 2009.¹²³

The relatively small youth population at CTF is inadequately served by the adult facility

These four key limitations brought to light by the Juvenile Unit assessment underscore the challenges of providing developmentally-appropriate services for youth in an adult facility. Though advocates have brought the need for improved programming and staff training to DOC's attention for multiple years,¹²⁴ the agency has only recently attempted to implement necessary changes. DOC's responses to TRGA's assessment express an intention to expand programming and implement some youth-specific training, but given the small number of youth at the facility, effectively providing for their needs will continue to be a challenge.

I believe if I was over at [the Youth Services Center], it could've been a little better. Over at the jail, they don't really care about you. You really ain't got no support, you really ain't got no help. You just a number like everybody else. You really don't have no help, for real for real. You around people that don't care about life, that ain't got no future. You're liable to get into anything. – Eddie

Legislative Trends

States across the country have realized the harms of prosecuting children in the adult system and are rolling back the statutes that have shifted youth into adult courts and prisons. The District of Columbia’s policy, however, still mostly aligns with the punitive approach of the 1990s. A recent report by the Campaign for Youth Justice identified key trends in state legislation concerning youth tried as adults.¹²⁵ Each trend indicates that states are moving to remove youth from the adult system.

1

Expanding juvenile court jurisdiction so that fewer youth are tried as adults

States’ juvenile courts generally have a maximum age of jurisdiction, and individuals older than that age must be tried in adult court. Raising the age of juvenile court jurisdiction thus increases the number of youth who may be brought before the juvenile court rather than the adult court. Between 2005 and 2010, Connecticut, Illinois, and Mississippi raised the age of juvenile court jurisdiction.¹²⁶ In 2013, both Illinois and Massachusetts raised the age of juvenile court jurisdiction to 18.¹²⁷ In Illinois, the change was made after the state’s Juvenile Justice Commission published a report finding that previous raise-the-age legislation had not increased crime and that there was a net fiscal benefit in sending youth to juvenile instead of adult court.¹²⁸

2

Limiting the youth who can be housed in adult jails and prisons

Since 2005, eleven states have enacted laws either permitting or mandating that youth charged as adults be placed in juvenile facilities.¹²⁹ For example, in 2010 Virginia legislators created a presumption that youth awaiting trial are to be held in juvenile facilities.¹³⁰ In 2012, Colorado passed legislation prohibiting the pretrial detention of youth in adult facilities unless a judge explicitly finds that it is appropriate.¹³¹ Jurisdictions have enacted these changes in response to mounting evidence that

adult facilities are inappropriate for youth. For example, the Colorado Juvenile Defender Coalition found that Colorado’s jails were neither built nor equipped to hold youth and lacked developmentally appropriate programs and structure.¹³² Moreover, staff at the adult facilities had limited training to prepare them to work directly with incarcerated youth.¹³³

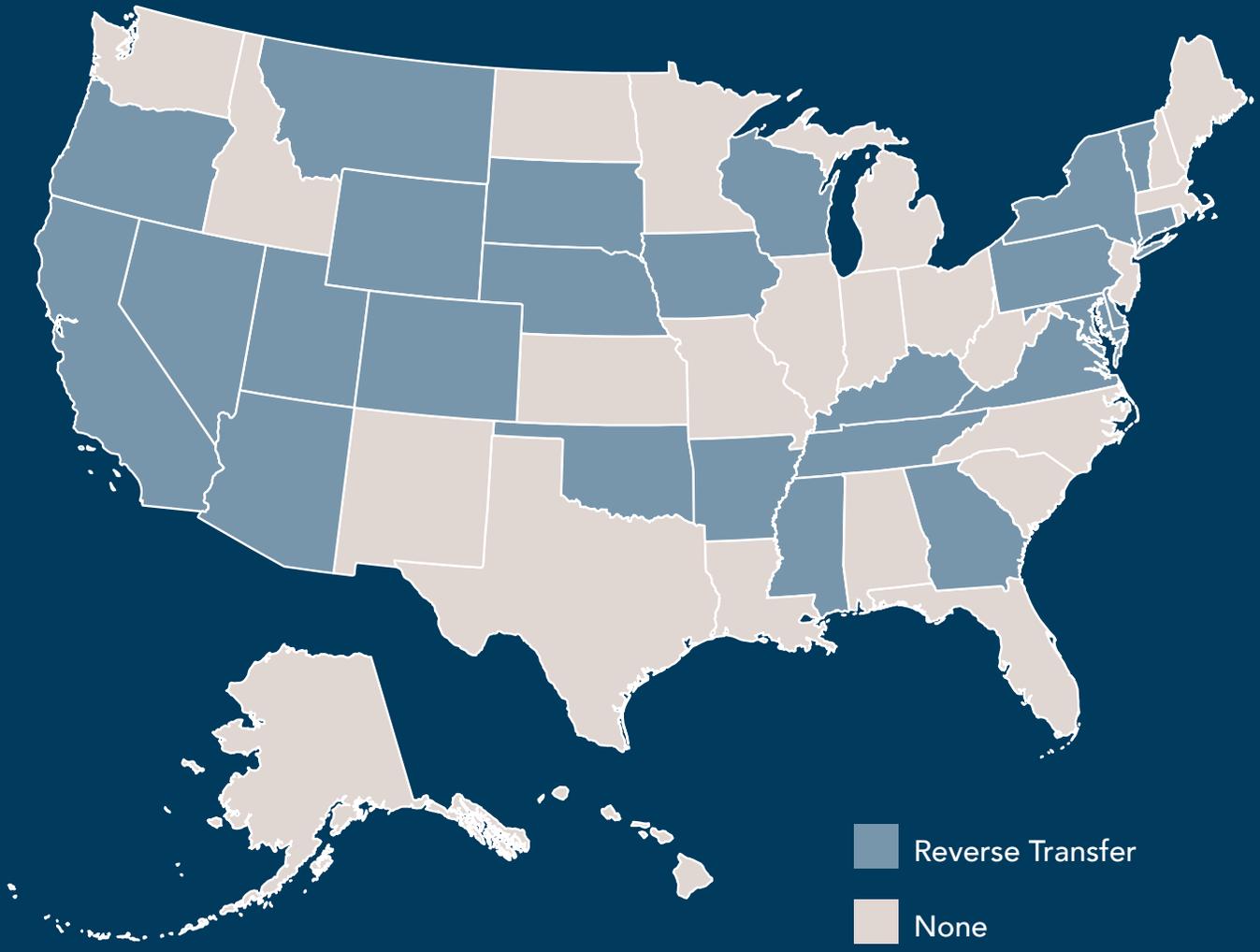
3

Changing transfer statutes so that fewer youth are prosecuted as adults

Since 2005, 15 states have altered their statutes in order to limit or reduce the prosecution of youth in the adult system. For example, Arizona expanded a judge’s ability to hold “reverse remand” hearings (also known as “reverse waiver” or “reverse transfer” hearings) for youth under the age of 18 in the adult system. Under the new statute, a youth who was initially placed in the adult system through prosecutorial direct file can request that a judge hold a reverse transfer hearing in order to consider whether the youth should be transferred back to the juvenile system.¹³⁴ In June 2013, Missouri enacted “Jonathan’s Law,” which exempts youth from the “once an adult always an adult” rule if they are acquitted of the charges for which they were transferred into the adult system.¹³⁵ Colorado also narrowed its direct file provision to apply only to older youth and allowed for all direct-filed youth to request a reverse transfer hearing.¹³⁶

With the implementation of these changes, 24 states now have some form of reverse transfer from the adult system to the juvenile system.¹³⁷

Figure 5: About Half of US States Have Reverse Transfer Mechanisms¹³⁸



States With Reverse Transfer Statutes

-
- | | | | |
|-------------|-------------|--------------|-----------|
| Arizona | Iowa | New York | Vermont |
| Arkansas | Kentucky | Oklahoma | Virginia |
| California | Maryland | Oregon | Wisconsin |
| Colorado | Mississippi | Pennsylvania | Wyoming |
| Connecticut | Montana | South Dakota | |
| Delaware | Nebraska | Tennessee | |
| Georgia | Nevada | Utah | |

Highlight: **Virginia**

In April of 2010, a unanimous Virginia legislature passed Senate Bill 259, which created a presumption that youth tried as adults are to be held in juvenile detention facilities pretrial.¹³⁹ This law went into effect on July 1, 2010, and ensures that “[y]outh will only be placed in an adult jail if they are found by a judge to be a security or safety threat.”¹⁴⁰

Virginia also made significant changes to its “once an adult always an adult” rule.¹⁴¹ Formerly, a youth prosecuted in the adult system on any charge would

be treated as an adult in all future proceedings, even if the youth was ultimately acquitted or the charges were dismissed.¹⁴² In March of 2007, a unanimous Virginia legislature passed a bill requiring that youth only be tried in adult court for subsequent offenses if previously convicted in adult court.¹⁴³



Highlight: **Maryland**

Currently, Maryland youth 14 to 17 years of age must be charged as adults if they are accused of committing any of 33 enumerated offenses.¹⁴⁴ This decision is made upon arrest, solely based on age and charge, and before a judge has had the opportunity to review individual circumstances of the alleged crime or the background of the involved youth.¹⁴⁵ However, Maryland has started to rethink these policies, and recently passed legislation that removes restrictions on which youth are eligible to request transfer from adult court to juvenile court.

Enacted in May 2013, House Bill 786 created a governor-appointed Task Force on Juvenile Court Jurisdiction to study practices that result in charging youth as adults by default.¹⁴⁶ In addition, the Task Force was instructed to consider whether to return discretion to the juvenile courts.¹⁴⁷ It was approved by the House in a 128-8 vote, and by the Senate in a 45-2 vote.¹⁴⁸ The Task Force was provided with an overview of a wide range of research from other jurisdictions on the issue of charging youth as adults.¹⁴⁹ Most of this research concluded that charging youth as an adult does not reduce recidivism, that most cases involving a juvenile should start in the juvenile court, and that youth should not be detained in adult jails.¹⁵⁰ Two recommendations

were supported by a majority of the Task Force’s members.¹⁵¹

The first of these recommendations was a thorough analysis by a third party contractor of the capital, programmatic, and staffing needs in order to evaluate proposed policy changes that would expand juvenile court jurisdiction.¹⁵² This study is expected to be complete by July 31, 2014.¹⁵³

The second recommendation was the expansion of juvenile court jurisdiction by removing restrictions on which youth can apply for transfer from adult court to juvenile court.¹⁵⁴ In particular, the recommended changes would allow for youth who were previously transferred and adjudicated delinquent, previously convicted in adult court, or currently charged with murder to ask a judge to consider their request to juvenile court.¹⁵⁵ In April 2014, Maryland state legislators took steps towards enacting this recommendation, with the passage of HB 1295. The bill removes some of the restrictions on reverse transfer hearings from the Maryland code.¹⁵⁶



District of Columbia

Ripe for Reform

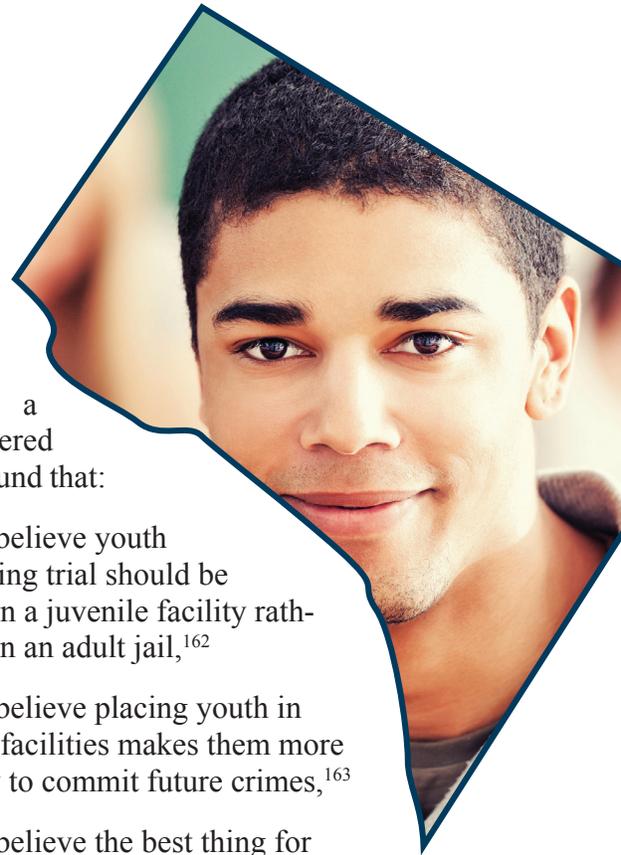
The District is falling behind the current legislative trend of moving youth out of the adult system. Other jurisdictions have made a variety of statutory changes to decrease adult prosecution and incarceration of youth. The recently implemented PREA regulations, particularly the “youthful inmate standard,” further support this direction of reform. The youthful inmate standard requires that youth in adult facilities be housed separately from adult inmates, and outside of housing units youth must either be sight and sound separated from adults or constantly supervised by staff.¹⁵⁷ The stringent requirements for youth held in adult facilities make simply moving them out of such facilities an increasingly attractive solution for legislators and corrections agencies,¹⁵⁸ as is reflected in a number of jurisdictions’ post-PREA legislation and practice.¹⁵⁹

Even independently of national trends, the time is particularly appropriate for reform in the District of Columbia. Youth arrest and petition rates are at the lowest they have been in many years.¹⁶⁰ The current population of youth housed as adults is manageably small – under 25 youth – and the District’s juvenile detention facilities have unused beds.¹⁶¹

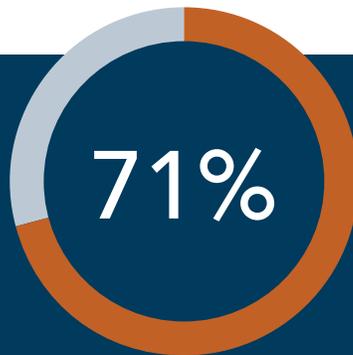
Additionally, a poll of registered DC voters found that:

- 77% believe youth awaiting trial should be held in a juvenile facility rather than an adult jail,¹⁶²
- 62% believe placing youth in adult facilities makes them more likely to commit future crimes,¹⁶³
- 82% believe the best thing for society to do with youth who have committed crimes is to rehabilitate them so that they can become productive members of society,¹⁶⁴ and
- 71% believe placing youth in adult facilities is minimally or not at all effective at rehabilitating youth.¹⁶⁵

National trends, federal regulatory requirements, and public opinion here in the District all point in the same direction: policymakers should move youth out of the adult criminal justice system.



A poll of registered DC voters found that



believe placing youth in adult facilities is minimally or not at all effective at **rehabilitating youth**.¹⁶⁵



Recommendations

DC lawmakers and policymakers should pursue three key changes to the District’s justice system to promote public safety and the effective rehabilitation of youthful offenders: 1) allow judges to review a youth’s case to consider whether it should be moved to juvenile court, 2) end “once an adult always an adult,” and 3) prohibit the pretrial detention of youth in adult facilities.

Allow for “reverse transfer” motions

Most DC youth who enter the adult system do so through direct file, a process in which a federal prosecutor reviews the case and decides to charge the youth in adult court. After this decision is made, there is no mechanism for the youth to be transferred to the juvenile system, no matter what additional facts become available. In many cases, further investigation or questioning of witnesses at trial reveals important information. A youth may even not be found guilty of any offense that would have made him or her eligible for direct file. For example, a youth direct filed for armed robbery might be acquitted of the robbery, but found guilty of unlawful possession of a firearm. The youth could not have initially been charged as an adult for the weapons offense, but nonetheless would be stuck in the adult system despite the acquittal on the top count. In other cases, a youth may indeed be convicted of a direct-file-eligible offense, but have mitigating circumstances that diminish the youth’s culpability and indicate that he or she is amenable to rehabilitation. However, under current law, after a youth is placed in the adult system, there is no opportunity to reconsider.

The District should enact policy changes that allow the youth – in cases in which he or she is under age 21, was under age 18 at the time of the alleged offense, and is being tried in adult criminal court – to file a motion asking the judge to transfer the case to Family Court. Such a motion is often referred to as a “reverse waiver” or “reverse transfer” motion, mirroring the transfer motions that can be filed in juvenile court to move a case into the adult system. Such motions would allow for the decision about which system is most appropriate for an individual

youth to be made by an impartial judge, when the full information of the case is available. In addition, the criminal court records of youth who are reverse transferred to the juvenile system should be sealed so that the youth are not burdened by a public record of their adult charges.

End “once an adult always an adult”

Under current DC law, once a child is transferred for criminal prosecution as an adult, the juvenile court no longer has jurisdiction over the child for any subsequent delinquent act unless, “(1) the criminal prosecution is terminated other than by a plea of guilty, a verdict of guilty, or a verdict of not guilty by reason of insanity, and (2) at the time of the termination of the criminal prosecution no indictment or information has been filed for criminal prosecution for an offense alleged to have been committed by the child subsequent to transfer.”¹⁶⁶

That is, if a youth is convicted in adult court, any subsequent offenses must be charged in adult court, no matter their severity. For example, suppose that a 15 year-old was petitioned in juvenile court for burglary, then transferred to adult court, convicted, and released on parole at age 17. If the 17-year-old was then arrested for a fight at school, current law requires that if the youth is to be prosecuted for the offense, it must be in adult court, even if the Office of the Attorney General would prefer to petition the case in juvenile court.

This procedure improperly presumes that any youth who was once charged as an adult does not belong in the juvenile system. If a youth has been released from the custody of the adult system, a minor charge may be handled more appropriately

by the juvenile system. The law should not require that such cases automatically be handled by the adult system, preventing the youth from receiving the rehabilitative services that any other DC youth would receive in that circumstance. The District should eliminate “once an adult always an adult,” setting the default rule that individuals under age 21 be charged in juvenile court for any offense alleged to have been committed prior to age 18.

✓ Prohibit pretrial detention of youth in adult facilities

DC youth charged as adults are currently held in adult facilities while they await trial. In fact, 59% of all days that youth spent in DOC facilities during 2012 were pretrial days. DC law should prohibit holding youth awaiting trial in adult facilities and allow more youth access to programs that have consistently shown an impact in reducing recidivism.

Conclusion

The District of Columbia has a unique opportunity to provide rehabilitative services to more youth, reduce recidivism, and increase positive opportunities for youth through the enactment of the above recommendations. Backed by sound research, federal regulations, and public support, states across the country, including Virginia and Maryland, are moving away from prosecuting and confining youth in the adult system. The District of Columbia should continue to be a leader in juvenile justice and youth development by enacting the policy improvements recommended in this report.



Endnotes

- 1 See D.C. Code § 16-2301(3), 2014.
- 2 *FOIA Response Juv 2007 - 2012* (DC Department of Corrections, December 23, 2013). Provided in response to a Freedom of Information Act request. On file with DC Lawyers for Youth.
- 3 D.C. Code § 16-2301(3).
- 4 D.C. Code § 16-2307, 2014.
- 5 “FOIA Request,” email message to Alex Peerman. December 11, 2013. Provided in response to a Freedom of Information Act request. On file with DC Lawyers for Youth.
- 6 D.C. Code § 16-2301(3); D.C. Code § 16-2307.
- 7 *Juvenile Arrest Data, FY 2007-2012* (Metropolitan Police Department, Office of Research and Analytical Services, November 22, 2013) Provided in response to Freedom of Information Act request on file with DC Lawyers for Youth.
- 8 *FOIA Response Juv 2007 - 2012*.
- 9 Robert Hahn et al., “Effects on Violence of Laws and Policies Facilitating the Transfer of Youth from the Juvenile to the Adult Justice System,” *Centers for Disease Control and Prevention Morbidity and Mortality Weekly Report* 56 (November 30, 2007): 1-11.
- 10 Elizabeth Drake, *The Effectiveness of Declining Juvenile Court Jurisdiction of Youth* (Washington State Institute for Public Policy, December 2013), 6, http://www.wsipp.wa.gov/ReportFile/1544/Wsipp_The-Effectiveness-of-Declining-Juvenile-Court-Jurisdiction-of-Youth_Final-Report.pdf.
- 11 Nathalie F.P. Gilfoyle and Danielle Spinelli, *Amicus Curiae Brief, Graham v. Florida and Sullivan v. Florida* (American Psychological Association, American Psychiatric Association, National Association of Social Workers, and Mental Health America, July 2009), 19–22, <http://www.apa.org/about/offices/ogc/amicus/graham-v-florida-sullivan.pdf>.
- 12 Laurence Steinberg, “A Social Neuroscience Perspective on Adolescent Risk-Taking,” *Developmental Review* 28 (2008): 83, <http://www.ncbi.nlm.nih.gov/pmc/articles/PMC2396566/pdf/nihms33852.pdf>.
- 13 Nathalie F.P. Gilfoyle and Danielle Spinelli, *Amicus Curiae Brief, Graham v. Florida and Sullivan v. Florida*, 10–13.
- 14 *Roper v. Simmons*, 543 U.S. 551, 571–72 (2005).
- 15 *Jailing Juveniles: The Dangers of Incarcerating Youth in Adult Jails in America* (Campaign for Youth Justice, November 2007), 6–9, http://www.campaignforyouthjustice.org/documents/CFYJNR_JailingJuveniles.pdf.
- 16 *Ibid.*, 6.
- 17 *Ibid.*, 10.
- 18 D.C.M.R. 14-6109, 2003.
- 19 26 C.F.R. 1.25A-3, 2014; 20 U.S.C.S. § 1091(r)(1), 2014.
- 20 Carmen E. Daugherty, *State Trends: Legislative Victories from 2011-2013 Removing Youth from the Adult Criminal Justice System* (Washington, DC: Campaign for Youth Justice, 2013), 1, <http://www.campaignforyouthjustice.org/documents/ST2013.pdf>.
- 21 Arya Neelum, *State Trends: Legislative Changes from 2005 to 2010 Removing Youth from the Adult Criminal Justice System* (Washington, DC: Campaign for Youth Justice, 2011), http://www.campaignforyouthjustice.org/documents/CFYJ_State_Trends_Report.pdf; Carmen E. Daugherty, *State Trends: Legislative Victories from 2011-2013 Removing Youth from the Adult Criminal Justice System*.
- 22 Arya Neelum, *State Trends: Legislative Changes from 2005 to 2010 Removing Youth from the Adult Criminal Justice System*, 37.
- 23 *Ibid.*, 26.
- 24 HB 1295, 434th Gen. Assemb., Reg. Sess. (Md. 2014). Allows youth who are transferred to the adult court and have previously been adjudicated delinquent to be eligible to request a “reverse waiver” to juvenile court.
- 25 “MPDC Annual Reports,” accessed July 26, 2013, <http://mpdc.dc.gov/page/mpdc-annual-reports>; “Annual Reports and Documents,” accessed September 20, 2013, <http://www.dccourts.gov/internet/about/orgperf/annualreports.jsf>.
- 26 *Campaign for Youth Justice Frequency Questionnaire* (Greenberg Quinlan Rosner Research, August 17, 2008), 2, http://gqrr.com/articles/2228/4555_dccw080608fq1.pdf
- 27 *Ibid.*, 4.
- 28 *A Capital Offense: Youth in DC’s Adult Criminal Justice System and Strategies for Reform* (Campaign for Youth Justice, 2008), 8, http://www.campaignforyouthjustice.org/documents/FR_DC_CapOffense.pdf.
- 29 D.C. Code § 16-2307(h), 2014. In *Marrow v. United States*, the DC Court of Appeals held that when a child 16 or older is charged by the US Attorney with a serious offense, this child is then “transferred” into the criminal division. The courts have “equated the point at which ‘transfer’ occurs (for juveniles age 16 or over) with the point at which the individual is properly ‘charged’ with one of the enumerated serious offenses.” *Marrow v. United States*, 592 A.2d 1042 (1991).
- 30 *FOIA Response Juv 2007 - 2012*.
- 31 D.C. Code § 16-2301(3). The eligible offenses are murder, first degree sexual abuse, burglary in the first degree, robbery while armed, and assault with intent to commit any such offense. If a youth is charged with one of these offenses, lesser offenses that are properly joineable with the eligible offense may also be charged in adult court.
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