

NATIONAL POLICY STATEMENT UPDATE 2018

An estimated 75,900 youth are prosecuted in the adult criminal justice system every year, and nearly 4,656 youth are locked in adult jails or prisons on any given day. The adult criminal justice system is not set-up to serve youth. Developmental studies have shown that youth are ill-prepared to actively participate in adult court proceedings, and are unable to adequately recognize the long-term consequences of their legal decisions. Judges and attorneys in adult criminal court often have little to no experience with young offenders, and once convicted, system stakeholders may not be familiar with age appropriate programs and resources to help children.



The consequences of an adult criminal conviction for youth are serious, negative, life-long, and severely impair youth chances at future success. Youth tried in adult criminal courts can lose access to student financial aid and their right to vote; making it even more difficult for youth to achieve positive outcomes by obtaining an education, gainful employment, and participating in the democratic process. Most states allow employers to deny jobs to individuals with adult criminal records, regardless of the age at conviction or how minor the offense.

Studies across the nation have consistently concluded that juvenile transfer laws are ineffective at deterring crime and reducing recidivism. The Office of Juvenile Justice and Delinquency Prevention (OJJDP) released a report highlighting the ineffectiveness of juvenile transfer laws at providing a deterrent for juvenile delinquency and decreasing recidivism and the federal Centers for Disease Control and Prevention released a report with similar findings. In July 2016, the National Institute of Corrections released a report and survey on the treatment and needs of girls in the adult justice system. The survey of the Association of State Correctional Administrators members found that less than half of those individuals surveyed (40.9%) believed that the physical plant of their adult facilities were prepared to serve youth.



CAMPAIGN FOR

YOUTH JUSTICE

BECAUSE THE CONSEQUENCES AREN'T MINOR

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Jeree Thomas, Policy Director, Campaign for Youth Justice
202-558-3580 ext. 1603 | jthomas@cfyj.org

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TAKING ACTION:

States have started to take action to remove youth from the adult criminal justice system and from adult jails and prisons. The National Conference of State Legislatures (NCSL) released a report in September 2015 entitled Trends in Juvenile Justice State Legislation 2011-2015 that showed trends in juvenile justice state legislation reducing the prosecution of youth in adult criminal court with legislators using a growing body of research on adolescent development and responding to this by changing state policies such as expanding the jurisdiction of juvenile courts by increasing the upper age of jurisdiction. Since the report's release, South Carolina (S. 916, 2016), Louisiana (S. 324, 2016), New York (A 3009 C, 2017), North Carolina (SB 257, 2017), and Missouri (SB 793, 2018) have passed legislation to raise the age of juvenile court jurisdiction. Leaving only four states that automatically treat youth under 18 as adults without legislation passed to address the issue in the near future. In 2018, Vermont (S 234, 2018) became the first state in the country to pass legislation that would raise the age of juvenile court jurisdiction beyond 18-years-old.

THE OVERWHELMING CONSENSUS OF DIVERSE ORGANIZATIONS RANGING FROM THE NATIONAL SHERIFFS' ASSOCIATION TO THE NATIONAL ASSOCIATION OF COUNTIES IS THAT:

1. Youth should not be automatically prosecuted in the adult criminal court.
2. Youth charged with non-violent offenses and first-time offenders should never be prosecuted in adult criminal court.
3. There should be a presumption that youth tried as adults are held in juvenile placements and youth should be removed from adult jails and prisons.
4. Youth should be treated in a developmentally appropriate manner throughout the justice system.
5. Harsh sentences for youth, such as mandatory minimums sentences should be eliminated.

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Youth Prosecuted in Adult Court | Key Policy Statements

“Transfer to adult court should not be automatic or a presumption in the handling of juvenile cases...Any transfer to criminal court should consider the individual case and the community, and not be based solely on the type of offense. Consideration of the case should include the mental health of the youth and its bearing on the charges.”

– *American Academy of Child and Adolescent Psychiatry*

“Standard 1.1 C. provides that the juvenile court, rather than a criminal court, should be the setting for the waiver decision. The criminal court may assert jurisdiction only after the juvenile court waives. The juvenile court should waive jurisdiction only over extraordinary juveniles in extraordinary factual circumstances.

Standard 2.2 C. defines those circumstances....Subsection 1 requires that the juvenile be charged with a ‘serious’ class one or class two juvenile offense [which] are defined by the maximum sanctions that may be imposed. Most offenses likely to fall within the categories, such as murder, rape, and armed robbery, will be ‘serious’...Only juveniles who pose genuine threats to community safety should be waived and exposed to the greater sanctions of the criminal court.”

– *American Bar Association Institute of Judicial Administration*

“ABA opposes, in principle, the trend toward processing more and younger youth as adults in the criminal justice system.”

– *American Bar Association*

“Therefore Be It Resolved that [insert state here] should join more than four-fifths of all states in presumptively treating 17-year olds as juveniles by passing legislation to raise the age of juvenile jurisdiction.”

– *American Legislative Exchange Council*

“Our AMA: [e]ncourages states to increase the upper age of original juvenile court jurisdiction to at least 17 years of age...[and] [s]upports reforming laws and policies to reduce the number of youth transferred to adult criminal court.”

– *American Medical Association*

“It is the position of the American Psychiatric Association that juvenile courts should have exclusive original jurisdiction in all cases in which individuals less than age 18 have been charged with a criminal offense.”

– *American Psychiatric Association*

“Reform should specifically include [an] elimination of transfers for non-violent offenders [and] first-time offenders. Reform should specifically include [a] moratorium on the expansion of eligibility criteria for transfer.”

– *American Psychiatric Association*

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Youth Prosecuted in Adult Court | Key Policy Statements

"Youth are psychologically not equivalent to adults. They use their brains in fundamentally different ways from adults, and thus more psychosocially immature. Youth differ in their thinking, reasoning, decision-making, and problem solving capacities."

– *Association of Black Psychologist, Inc.*

"When waiver to the adult criminal justice system does occur, CJCA believes that it should be accomplished through a process that maintains judicial decision-making to determine the appropriateness of transferring young offenders into the adult correctional system. CJCA opposes all policies that result in the automatic transfer of young people to the adult system without judicial review, as well as policies that grant the prosecutor full discretion."

– *Council of Juvenile Correctional Administrators*

"NACo opposes trying and sentencing youth in adult criminal court, except in the case of a chronic and violent offender, and then only at the discretion of a juvenile court judge...NACo supports that the decision to transfer a juvenile to adult court should be made by a juvenile court judge or jury...NACo supports the reform of state laws that inappropriately send far too many youth under the age of 18, including first-time and non-violent offenders into the adult criminal justice system."

– *National Association of Counties*

"CJJ opposes trying and sentencing youth in adult criminal court, except in the rare case of a chronic and violent offender, and then only at the discretion of, and following an assessment by, a juvenile court judge...CJJ also opposes giving prosecutors the authority to transfer youth to adult court."

– *Coalition for Juvenile Justice*

"This church supports an end to current practices of trying, sentencing, and incarcerating youth in the adult criminal justice system as well as ending youth sentences of life in prison without the possibility of parole...At the most fundamental level, this church calls for a juvenile justice system that more closely matches its original rehabilitative intent and is equipped to meet the needs and manage the risks of all youth offenders."

– *Evangelical Lutheran Church of America*

"Youth in the adult criminal justice system are at an elevated risk of sexual violence and as a result their outcomes are worse than their peers in the juvenile justice system... The National Alliance to End Sexual Violence opposes the automatic treatment of youth as adults in the criminal justice system as well as the placement of youth in adult jails and adult prisons."

– *National Alliance to End Sexual Violence*

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Youth Prosecuted in Adult Court | Key Policy Statements

“The Legal Needs of Children Committee of The Florida Bar opposes the direct filing of children to adult court in Florida and believes that the decision to prosecute children as adults should be made solely by the judiciary.”

– *Legal Needs of Children Committee, The Florida Bar*

“[W]aiver and transfer decisions should only be made on an individual, case-by-case basis, and not on the basis of the statute allegedly violated; and affirms that the decision should be made by the juvenile delinquency court judge...[and] waiver and transfer of juveniles to adult court should be rare and only after a very thoroughly considered process.”

– *National Council of Juvenile and Family Court Judges*

“Based on the fact that public safety and youth rehabilitation are best served through the juvenile justice system, the cases of all youth who are under age 18 at the time of the alleged offense should be processed in juvenile court, regardless of the type of offense.”

– *The National Juvenile Justice Network*

“Current research confirms that the portion of the brain that controls and suppresses impulses, and is critical to good judgment and decision-making, is not fully developed in youth under age 18. Youth have difficulty thinking of consequences under stress and managing powerful impulses without adult help. Therefore, they should not be viewed as acting with the level of moral culpability that characterizes adult criminal conduct....”

– *National Association of Counties*

“Research has clearly shown us that the adult system and adult methods of discipline used within that system, such as isolation, do not effectively rehabilitate youth with disabilities, nor are they effective for youth in general. Yet we persist on using them. One reason for this is the failure to provide effective and readily available community based services for youth with disabilities, which results in their referrals into the juvenile justice system, which then acts as a feeder for the adult system. Or worse in some cases, feeds youth directly into the adult system.”

– *National Disability Rights Network*

“Juveniles should not be sentenced as adults. Black, Hispanic, and Native American individuals should not be subject to more severe sentences than white individuals who committed a similar crime”

– *Opportunity Youth United*

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“The Physicians for Criminal Justice Reform support the end of the prosecution, sentencing, and incarceration of youth under the age of 18 in the adult criminal justice system. Each year, approximately 200,000 youth are prosecuted in the adult criminal justice system. According to decades of medical literature, adolescent brains are developmentally different from those of adults, often leading to impulsive decision-making, increased risk-taking and decreased appreciation for long-term consequences of behaviors. As a result, youth, by law, are prohibited from taking on major adult responsibilities such as voting, jury duty, and military service. It follows, then, that youth should not be held to an adult standard of accountability when involved with the criminal justice system.”

– *Physicians for Criminal Justice Reform*



“Young people under the age of eighteen who commit a criminal offense should not be adjudicated within the adult criminal-justice system. A special diversion program and/or court system centered on family solutions to addressing youth behavior is most appropriate....We call upon the General Board of Church and Society to mobilize United Methodist churches to advocate for legislation that will eliminate racism and classism in the criminal-justice system, ensure equality, transparency and fairness and protect the human rights of all adults and children by.”

– *United Methodist Church*

“African-American youth are disproportionately represented in cases transferred to adult court, representing 16% of the youth population but 35% of youth judicially transferred, and 58% of youth committed to state prison; and African-American youth are five times more likely than white youth to be charged in adult court for a drug offense. The NAACP strongly opposes any policies, statutes, or laws that increase the number of youth transferred to the adult criminal justice system and the number of youth held in adult jails and prisons. The NAACP will work to end the practice of youth being tried in the adult criminal justice system and to ensure that young people are appropriately adjudicated in ways that enhance community rehabilitation, safety and stability.”

– *National Association for the Advancement of Colored People*

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“The nation currently incarcerates a million children, half of whom are in for-profit penal institutions. This high number of children in prison exposes the inhumanity of our system’s approach to human and community development. The damage done by imprisoning children at this stage of life, particularly for petty crimes and misdemeanors, is irreparable, and continues the direction toward intergenerational poverty and dysfunction. Sentences of life without parole should be abolished for juveniles and minors.”

– *Formerly Incarcerated and Convicted Peoples Movement*

“Decades of research and the U.S. Supreme Court have confirmed that youth are neurologically, socially, and developmentally different from adults, and therefore are more likely to be rehabilitated by developmentally appropriate treatment and intervention. The juvenile justice system was developed to address the specific behavioral, developmental, and mental health needs of youth are therefore better equipped to hold and treat them after an offense has been committed. We support efforts that grant juvenile courts original and exclusive jurisdiction over cases involving youth under the age of 18, unless there is evidence, reviewed by a judge, that rebuts the presumption that a youth can be safely rehabilitated in the juvenile system.”

– *National Sheriffs’ Association*

“Juvenile courts should have original jurisdiction over youth under the age 18 for matters involving delinquent behavior. Youth under the age of 18 should not be automatically transferred to the jurisdiction of the adult court based solely on their age. Instead, juvenile court judges who are trained and equipped to assess the individual needs of youth should decide whether the youth can be rehabilitated in the juvenile justice system or whether public safety requires the youth to be transferred to the adult criminal justice system. There should be a strong presumption that juvenile courts have original and exclusive jurisdiction over youth under the age of 18 unless evidence to the contrary is presented to the court by the prosecuting attorney.”

– *Major Cities Chiefs Association*



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Youth in Adult Facilities| Key Policy Statements

“Children and adolescents should be detained or incarcerated only in facilities with developmentally appropriate programs (or structure) and staff trained to deal with their unique needs. If children and adolescents must be housed in adult correctional care facilities, they should be separated from the adult population by sight and sound and provided with a developmentally appropriate environment.”

– *American Academy of Pediatrics*

“The American Correctional Association supports separate housing and special programming for youths under the age of majority who are transferred or sentenced to adult criminal jurisdiction...In those jurisdictions that continue to house youths under the age of majority in adult correctional/detention systems, hous[e] them in specialized facilities or units [that] have no sight or sound contact with adult offenders in living, program, dining or other common areas of the facility.”

– *American Correctional Association*

“Youth are a particularly vulnerable population within adult jails and prisons where their physical safety and mental health are at great risk. These youth have higher rates of suicide than youth in juvenile facilities and in the general population and are significantly more at risk for sexual assault than adult inmates.”

– *Association of Black Psychologist, Inc.*

“If detained or incarcerated, youth in the adult criminal justice system should be housed in institutions or facilities separate from adult facilities until at least their eighteenth birthday. Youth detained or incarcerated in the adult criminal justice system should be provided programs which address their educational, treatment, health, mental health, and vocational needs.”

– *American Bar Association*

“[T]he American Jail Association [is] opposed in concept to housing juveniles in any jail unless that facility is specifically designed for juvenile detention and staffed with specially trained personnel.”

– *American Jail Association*

“Specialized facilities for transferred youth [should address] the developmental, educational, health, mental health, religious, and other special needs of these youth; and [be] adequately staffed with qualified workers to ensure safety and specialized programming.”

– *American Psychiatric Association*

“To the extent possible under the law, youth should be held in juvenile justice facilities instead of adult facilities. There should be strong presumption that youth can be held in juvenile facilities unless evidence to the contrary is presented to the court by the prosecuting attorney.”

– *Major Cities Police Chiefs*

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“The National Commission on Correctional Health Care believes the incarceration of adolescents in adult correctional facilities is detrimental to the health and developmental well-being of youth...Adolescents should be separated and provided opportunities for appropriate peer interaction.”

– *National Commission on Correctional Health Care*

“Nevertheless, it remains our belief that all juvenile offenders have the right to access rehabilitation and treatment services, which are fundamental principles of the juvenile justice system and of juvenile detention...It is the position of NPJS that waived or transferred juveniles accused of committing a crime and requiring temporary holding in a secure setting be held in a juvenile detention pending judicial determination to the contrary. NPJS opposes any action that places juveniles at risk of being victimized by adult offenders.”

– *National Partnership for Juvenile Services*

“National PTA urges its members at all levels to monitor, support, and advocates for laws and programs in the following areas: ...prohibit the incarceration of youth in adult facilities.”

– *National Parent Teacher Association*

To the extent possible under the law, keep youth under age 18 in juvenile justice facilities instead of adult facilities, unless evidence to the contrary is presented to the court that the youth is a serious and imminent threat to others in the juvenile facility.”

– *National Sheriffs' Association*

“The National Alliance to End Sexual Violence opposes the automatic treatment of youth as adults in the criminal justice system as well as the placement of youth in adult jails and adult prisons. To end the high risk of sexual violence against youth under 18, youth should be served by developmentally appropriate and evidence-informed programs that can keep them and their communities safe while also providing education, treatment, and rehabilitation.”

– *National Alliance to End Sexual Violence*

“Furthermore, youth in adult jails and prisons are more likely to be sexually assaulted, physically assaulted and, upon release, are more likely to re-offend than youth housed in juvenile facilities. Each of those experiences, as well as early developmental experiences that put adolescents at risk for involvement with the criminal justice system, result in long-lasting, negative physical and mental health consequences that could be avoided by juvenile justice reform that identifies and diverts at-risk youth.”

– *Physicians for Criminal Justice Reform*

“Rather than automatically sending older youth in the adult system, states should allow youth who enter the system prior to turning 18 to remain in the juvenile justice system into their early twenties.”

– *National Juvenile Justice Network*

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