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JUVENILE JUSTICE

Juveniles Processed in Criminal Court and Case Dispositions



General Government Division

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August 15, 1995

The Honorable Orrin G. Hatch
Chairman
The Honorable Joseph R. Biden, Jr.
Ranking Minority Member
Committee on the Judiciary
United States Senate

The Honorable William F. Goodling
Chairman
The Honorable William L. Clay
Ranking Minority Member
Committee on Economic and Educational Opportunity
House of Representatives

The 1992 reauthorization (P.L. 102-586) of the Juvenile Justice and Delinquency Prevention Act of 1974 (P.L. 93-415) mandated that we study issues related to juveniles sent to criminal court versus juvenile court. We agreed with your Committees to obtain data on (1) the frequency with which juveniles have been sent to criminal court, (2) the juvenile conviction rates and sentences in criminal court, (3) the dispositions of juvenile cases in juvenile court, and (4) the conditions of confinement for juveniles incarcerated in adult correctional facilities. In addition, we agreed to provide a summary of state laws that specify the circumstances under which juveniles can be sent to criminal court.

According to the Justice Department's Office of Juvenile Justice and Delinquency Prevention (OJJDP), juveniles are committing increasing numbers of serious crimes such as murder and aggravated assaults. The number of juvenile court cases involving these offenses increased by 68 percent from 1988 to 1992. Each state has at least one of three methods—judicial waiver, prosecutor direct filing, statutory exclusion (state laws requiring the transfer of juveniles for certain crimes)—available for transferring juveniles to criminal court. In recent years, many states have changed their laws to expand the criteria under which juveniles may be sent to criminal court.

Due to the increasing numbers of juveniles sent to criminal court and legislative changes, juvenile justice advocates, experts, and officials have raised concerns about the number of juveniles being tried in criminal court.

Results in Brief

Data limitations precluded us from determining the number of juveniles sent to criminal court nationwide. However, we were able to obtain some nationwide data on the number of judicial waivers. In addition, we obtained some state data on the number of prosecutor direct filing cases. Data on the number of statutory exclusion cases were not available.

Our analysis of nationwide estimates from the National Center for Juvenile Justice (NCJJ)¹ showed that juvenile court judges transferred to criminal court less than 2 percent of juvenile delinquency cases that were filed in juvenile court from 1988 through 1992. Over that period, cases transferred by judges increased from 1.2 to 1.6 percent of formal delinquency cases.² Additionally, the state data we obtained from five states and the District of Columbia and the county data we obtained for a few counties in five other states showed that the number of juvenile cases filed directly in criminal court in the states that permitted prosecutor direct filing ranged from less than 1 percent to 13 percent. For example, based on data obtained, prosecutor direct filing cases represented about 13 percent of juvenile cases in Arkansas and less than 1 percent in Utah.

Because data were not available on the number of cases excluded by statute from juvenile court, we reviewed state statutes to identify the possible impact of the statutes on the juveniles. Our review of state laws that exclude certain juveniles from juvenile court jurisdiction showed that the laws primarily focused on serious violent offenses and/or juveniles with prior court records.

Since 1978, 44 states and the District of Columbia have passed new laws that affect which juveniles may be sent to criminal court and the process for their transfer to criminal court. While some of the new state laws are expected to have an impact on the frequency with which juveniles are sent to criminal court, the extent of the impact may vary.

In 24 states and the District of Columbia, the new laws have generally increased the population of juveniles potentially subject to being sent to criminal court. This was done by either decreasing the age or increasing the types of offenses for which juveniles may be sent to criminal court. For example, in California the population of juveniles that juvenile court judges can waive to criminal court changed from age 16 for any offense to age 14 for specified offenses and age 16 for other offenses. Also, in New

¹NCJJ, located in Pittsburgh, Pennsylvania, is the research division of the National Council of Juvenile and Family Court Judges.

²See page 7 for a discussion of formal and informal delinquency cases.

Jersey, offenses such as first degree robbery and some weapons offenses have been added to the list of offenses that may be judicially waived.

Three states passed laws that tended to decrease the population of juveniles potentially subject to being sent to criminal court. The other 17 states that passed new laws did not increase the population of juveniles potentially subject to being sent to criminal court. In these states, the new laws changed the method in which certain juveniles may be sent to criminal court. For example, in Minnesota in 1978, a child age 14 or older charged with any offense could be judicially waived to criminal court. Currently, however, a child age 16 or older charged with first degree murder is statutorily excluded from juvenile court rather than eligible for judicial waiver. Appendix IV summarizes the laws of each state and the District of Columbia.

According to the Bureau of Justice Statistics' 1989 and 1990 Offender Based Transaction Statistics (OBTS) data from seven states,³ conviction rates of juveniles prosecuted in criminal court for serious violent, serious property, and drug offenses varied within and among states. However, juveniles in six of those states tended to be convicted. Of those juveniles convicted, property offenses made up the largest proportion of juvenile convictions in five of the seven states. Further, in four of seven states incarceration rates ranged from 62 to 100 percent for all three offenses. Of those 703 juveniles incarcerated in the seven states, serious violent offenders and serious property offenders accounted for the same proportion of juveniles incarcerated, 39 percent. In contrast, some juveniles convicted of serious violent offenses received probation in five of the seven states. The percentages varied from 3 percent in California to 50 percent in Vermont.

We were requested to provide data on the disposition of juveniles in juvenile court. According to OJJDP data, many juveniles were placed on probation in juvenile court. In 1992, juveniles were placed on probation in about 43 percent of approximately 744,000 formal delinquency cases. Of the remaining 57 percent of juvenile cases, 27 percent were dismissed, 17 percent of the juveniles were placed in a residential treatment program, and 12 percent of them received some other disposition such as restitution, fines, or community service. About 1 percent were transferred to criminal court.

³Appendix I contains an explanation for our selection of the seven states.

In the four states we visited, juveniles sentenced to adult prisons generally were to be subject to the same policies and procedures as adults; however, in three of the four states we visited, younger inmates (typically those under age 26) were housed in separate prisons. At all the facilities, juveniles generally were to be provided with the same health services; afforded the same educational, vocational, and work opportunities; and provided access to the same recreational facilities as older inmates.

Background

A juvenile is an individual at or below the maximum age of juvenile court jurisdiction. Established by state statute, the maximum age of juvenile court jurisdiction is the oldest age at which an individual can be processed in juvenile court.⁴ Individuals who are above the maximum age of juvenile court jurisdiction are considered adults and therefore are under criminal court jurisdiction. In 39 states and the District of Columbia the maximum age is 17. In 11 states,⁵ the maximum age is either 15 or 16. Except for Wyoming (where the maximum age dropped from age 18 to 17), the maximum age had not changed in any state, when comparing the state laws in 1978 with the laws in 1994.

Although the organization of state juvenile justice systems varies, two options are generally provided for processing juvenile delinquency cases—formal and informal. An authorized court official (e.g., juvenile prosecutor or juvenile probation officer) decides whether to process the case formally through the court system or informally by diverting the case from the juvenile court.

For handling formal cases, a petition must be drafted and filed to provide notice of the offenses that will be pursued and to request the court to adjudicate—judicially determine (judge) whether or not the youth is a delinquent offender.⁶ For informal cases there is no formal court petition or legal instrument requesting the court to adjudicate the youth as a delinquent. Whether the case is handled formally or informally, juveniles

⁴Most states have given the juvenile court authority over juveniles who are above the maximum age of juvenile court jurisdiction. This is called the extended age of juvenile court jurisdiction. It is the age at which the juvenile court can retain jurisdiction of a juvenile adjudicated as a delinquent. For example, in Michigan where the maximum age of juvenile court jurisdiction is age 16, a juvenile who is adjudicated in juvenile court as a delinquent and has a disposition that extends beyond the upper age of juvenile court jurisdiction would still be under the jurisdiction of the juvenile court until age 21.

⁵In Connecticut, New York, and North Carolina the maximum age of juvenile court jurisdiction is 15. In Georgia, Illinois, Louisiana, Massachusetts, Michigan, Missouri, South Carolina, and Texas the maximum age of juvenile court jurisdiction is 16.

⁶In the remainder of this report, cases where the intake decision is to proceed formally will be referred to as formal cases.

receive dispositions. Disposition options may include dismissal of the case, probation, fines or restitution, community service, and placement.

A juvenile who is at or below the maximum age of juvenile court jurisdiction may be sent to criminal court by one of the following three methods:

- judicial waiver, which allows juvenile court judges to transfer juveniles to criminal court. Generally, prosecutors initiate judicial waiver by filing a waiver petition asking the judge to consider the case for waiver;
- prosecutor direct filing, which allows prosecutors to decide whether to file certain cases in juvenile or criminal court;
- application of statutory exclusion laws, which specify crimes or juveniles with certain prior records that are excluded from juvenile court jurisdiction.

For each method, the prosecutor plays an important role in determining whether a juvenile will be sent to criminal court. For example, the offense with which the prosecutor charges the accused can determine whether the juvenile falls under a state's criteria for criminal court prosecution.

Juveniles prosecuted in state criminal court are subject to the same state court procedures and sentencing guidelines as other defendants in criminal court.

Scope and Methodology

To determine the frequency with which juveniles were sent to criminal court, we developed estimates of the number of juvenile cases transferred to criminal court by juvenile court judges (judicial waiver) using the NCJJ national data—National Juvenile Court Data Archive (NJCDA)—for calendar years 1988 through 1992. As part of our analysis of judicial waivers, we developed estimates of the age, sex, race, and offense profiles of juveniles transferred to criminal court by judges in Arizona, California, Florida, Missouri, Pennsylvania, South Carolina, and Utah.

Data limitations precluded us from developing estimates of the total number of juvenile cases filed directly in criminal court by prosecutors (prosecutor direct filing) and those juveniles excluded from juvenile court because of the offense committed and/or prior court records (statutory exclusion) in those states permitting these methods. We did, however, contact state court officials in the District of Columbia and 10 states that we identified as having direct filing laws and analyzed data they provided.

We analyzed the statutory exclusion laws in the District of Columbia and 37 states that we identified as having these laws to determine the types of offenses and/or prior court records that exclude juveniles from juvenile court.⁷

To analyze the sentences of juveniles tried in criminal court,⁸ we used criminal court data from the Bureau of Justice Statistics.⁹ We identified offenses, conviction rates, and incarceration rates in California, Minnesota, Missouri, Nebraska, New York, Pennsylvania, and Vermont.

To gather prosecutors opinions on data related to the processing of juveniles in criminal courts, we sent a survey to a nationally representative sample of district prosecutor offices that dealt with juveniles in juvenile court.

To determine the conditions of confinement for juveniles in correctional facilities, we visited seven prisons in Florida, Michigan, North Carolina, and Ohio.

To provide a summary of state laws governing which juveniles may be sent to criminal court, we reviewed the statutes for all 50 states and the District of Columbia.

Appendix I presents more details about our objectives, scope, and methodology, including a discussion of how we selected the states and prisons we visited. Our results apply to states and prisons for which we collected data and cannot be projected to other locations. We did not verify data provided by the states. We did our work from May 1993 through April 1995 in accordance with generally accepted government auditing standards. Since no federal agency has responsibility for the issues addressed in this report, we did not obtain comments on a draft of this report. However, we did discuss our results with NCJJ and OJJDP officials and, where appropriate, incorporated their comments.

⁷An analysis of state laws under which juveniles may be sent to criminal court focused on the laws in effect during calendar year 1978 (*Youth in Adult Courts: Between Two Worlds*, Hamparian, 1982). We used this study as the baseline for our analysis of the changes that were made in the state laws regarding the basis on which juveniles may be sent to criminal court. Our analysis focused on the laws passed through 1994, some of which were not in effect until 1995.

⁸We classified cases as juveniles on the basis of the defendants' age at the time of arrest because data were not available for the defendants' age at the time of offense.

⁹The Bureau's dataset did not contain all dispositions occurring in a given year, only those reported to the state and for which the state had a previous arrest reported.

Limited Data Available Indicated Relatively Few Juveniles Sent to Criminal Court

Limited nationwide and state data existed on the total number of juvenile cases sent to criminal court. However, we obtained information on the number of juvenile cases sent to criminal court by judicial waiver and some information on the number sent by prosecutor direct filing. Since data on statutory exclusions were not available, we analyzed state statutes to identify the possible impact of the statutes on juveniles.

According to our analysis of NCIJ data, the rate at which juvenile court judges sent formal delinquency cases to criminal court has remained less than 2 percent from 1988 to 1992. Additionally, data available from 5 states, the District of Columbia, and a few counties in 5 other states on the number of prosecutor direct filing cases filed in criminal court annually showed that it ranged from 4 cases in one state to about 7,200 cases in another state. Our analysis of statutory exclusion laws indicated that the laws generally established specific criteria that focused on juveniles (1) charged with serious violent offenses and/or (2) with previous court records. In addition, our analysis showed that legislation passed in the last 16 years included two primary types of changes: (1) in 24 states and the District of Columbia legislative changes tended to increase the population of juveniles who may be sent to criminal court and (2) in 17 other states, recent legislation changed the method in which certain juveniles may be sent to criminal court (e.g., from the judicial waiver to the prosecutor direct filing).

The results of our national survey of state prosecutors suggested that in most prosecutorial offices, judicial waivers accounted for a higher percentage of juveniles arriving in criminal court than direct filings or statutory exclusions.

Transfer and Sentencing of Juveniles

We identified (1) judicial waiver laws in 47 states and the District of Columbia, (2) prosecutor direct filing laws in 10 states and the District of Columbia, and (3) one or more statutory exclusion laws in 37 states and the District of Columbia.

We also identified 21 states with provisions that allow criminal court judges to transfer cases from criminal court to juvenile court under circumstances specified in the law (reverse waiver). For example, in Arkansas, when a prosecutor directly files a case in criminal court, the criminal court judge may remand the case to juvenile court. In addition, we identified 19 states that allow juveniles prosecuted and convicted in criminal court to receive dispositions as a juvenile under specified

circumstances. For example, in California a juvenile convicted in criminal court may receive a disposition as a juvenile if the California Youth Authority determines that the juvenile is amenable to treatment.

See table 1 for a summary of the state statutes and appendix IV for a detailed summary of statutes in all 50 states and the District of Columbia that govern which juveniles may be sent to criminal court.

Table 1: Summary of Juvenile Transfer and Sentencing Provisions

State	Judicial waiver	Prosecutor direct filing	Statutory exclusion laws	Reverse waiver	Juveniles convicted in criminal court could receive a disposition as a juvenile
Alabama	x		x		
Alaska	x		x		x
Arizona	x				
Arkansas	x	x		x	
California	x				x
Colorado	x	x			x
Connecticut	x		x		
Delaware	x		x	x	
District of Columbia	x	x	x		
Florida	x	x	x		x
Georgia	x	x	x	x	x
Hawaii	x		x		x
Idaho	x		x		
Illinois	x		x		x
Indiana	x		x		
Iowa	x		x		x
Kansas	x		x		
Kentucky	x		x	x	x
Louisiana	x	x	x		
Maine	x		x		
Maryland	x		x	x	
Massachusetts	x				x
Michigan	x	x			x
Minnesota	x		x		
Mississippi	x		x	x	

(continued)

State	Judicial waiver	Prosecutor direct filing	Statutory exclusion laws	Reverse waiver	Juveniles convicted in criminal court could receive a disposition as a juvenile
Missouri	x		x		
Montana	x		x		
Nebraska		x		x	
Nevada	x		x	x	
New Hampshire	x		x	x	
New Jersey	x				
New Mexico	^a		x		
New York			x	x	x
North Carolina	x		x		
North Dakota	x				
Ohio	x		x		
Oklahoma	x		x	x	
Oregon	x		x		x
Pennsylvania	x		x	x	x
Rhode Island	x		x		
South Carolina	x		x	x	
South Dakota	x				x
Tennessee	x		x	x	
Texas	x			x	
Utah	x	x	x	x	x
Vermont	x	x	x	x	x
Virginia	x		x	x	x
Washington	x		x		
West Virginia	x			x	x
Wisconsin	x		x	x	
Wyoming	x	x		x	

Legend: x indicates the transfer and sentencing provisions allowed by each state.

^aNew Mexico does not have a judicial waiver process. However, certain juveniles, who are called "youthful offenders," can be subject to adult or juvenile sanctions in juvenile court.

Source: GAO review of state statutes.

Judicial Waiver Rate Has Increased From 1988 Through 1992

The percent of formal delinquency cases judicially waived to criminal court (judicial waiver rate) increased by 33 percent from 1.2 percent in 1988 to 1.6 percent in 1992, which represented a growth from about 7,000 to almost 12,000 cases a year, as shown in table 2. This increase occurred while the total number of formal delinquency cases increased by about 31 percent; the number of waived cases increased about 68 percent.

Table 2: Number of Formal Delinquency Cases Nationwide and the Number and Percentage of Cases Judicially Waived to Criminal Court

Year	Number of formal delinquency cases	Number of formal delinquency cases judicially waived to criminal court	Judicial waiver rate ^a
1988	569,596	7,005	1.2%
1989	608,593	8,350	1.4
1990	654,742	8,708	1.3
1991	689,328	10,933	1.6
1992	743,673	11,748	1.6

Note: The broad offense categories used in our analysis included person, property, drugs, and public order as defined by OJJDP. The person category includes criminal homicide, forcible rape, robbery, aggravated assault, simple assault, and other person offenses—such as kidnapping and harassment. The property category includes burglary, larceny, motor vehicle theft, arson, vandalism, stolen property offenses, trespassing, and other property offenses—such as fraud, counterfeiting, and embezzlement. The drug category includes unlawful sale, purchase, distribution, manufacture, cultivation, transport, possession or use of a controlled or prohibited substance or drug. The public order category includes weapons offenses, nonviolent sex offenses, and liquor law violations.

^aThe waiver rate is the ratio of the number of waived cases to the number of formal delinquency cases. The percentage of all delinquency cases which were handled formally varied across states.

Source: Developed by GAO from NJCDA data.

Data showed that judicial waiver rates varied by offense type, as shown in table 3. The judicial waiver rate for person offenses in 1992 was 2.4 percent in contrast to the waiver rate for property offenses, which was 1.3 percent. Therefore, judges were more likely to waive cases to criminal court involving juveniles charged with person offenses than juveniles charged with property offenses in 1992. While the waiver rates for all the offenses increased from 1988 through 1992, the waiver rates for drug offenses increased the most; however, the rate decreased between 1991 and 1992.¹⁰

¹⁰We used juvenile court data collected annually by NCJJ to determine the number of juvenile cases processed in criminal court due to judicial waiver. Each year, NCJJ collects juvenile court processing data from various states and jurisdictions and assigns weights to the data, which permits projecting the data to produce national estimates of cases disposed by all state juvenile justice systems.

Table 3: Judicial Waiver Rate by Offense

Offense	1988	1989	1990	1991	1992
Person	1.9%	2.0%	2.1%	2.4%	2.4%
Property	1.2	1.2	1.1	1.2	1.3
Drugs	1.5	2.8	2.7	4.4	3.1
Public order	0.5	0.5	0.6	0.7	0.8

Source: Developed by GAO using NJCDA data.

While the chances of juvenile cases being waived to criminal court were highest for juveniles charged with person and drug offenses, property offenders made up the largest proportion of waived cases, as shown in table 4. This was due to the prevalence of property offenses versus person or drug offenses. For example, NCJJ data showed that in 1992, referrals to juvenile court were about 401,000 or 54 percent for property offenses, about 165,000 or 22 percent for person offenses, and 46,000 or 6 percent for drug offenses.

Table 4: Percent of Judicially Waived Cases by Offense Type, From 1988 Through 1992

Offense	1988	1989	1990	1991	1992
Person	29%	28%	32%	32%	34%
Property	53	49	46	44	45
Drugs	11	16	15	17	12
Public order	8	7	8	7	9

Note: Figures may not add to 100 percent due to rounding.

Source: Developed by GAO from NCJJ data.

Also shown in table 4, the offense profile of judicially waived cases changed from 1988 to 1992. For example, person offenses increased from 29 percent of the cases waived in 1988 to 34 percent in 1992. In addition, property offense cases decreased from 53 percent of the cases waived in 1988 to 45 percent in 1992.

Similar to the offense profile, the demographic profile of juvenile cases waived to criminal court had changed slightly from 1988 to 1992 (see table 5). For example, the percentage of waived cases for juveniles age 16 or older decreased from 93 percent in 1988 to 88 percent in 1992. Also, the racial makeup of juveniles whose cases were waived changed since 1988 when about 54 percent were white, 43 percent were black, and 2 percent were of other races. In 1992, about 47 percent of juveniles whose cases

were waived were white, 50 percent were black, and 3 percent were of other races.

Table 5: Percent of Waived Juvenile Cases, by Sex, Age, and Race, 1988 Through 1992

Year	Sex		Age	Race		
	Male	Female	16 or older	White	Black	Other
1988	96%	4%	93%	54%	43%	2%
1989	95	5	89	49	49	2
1990	96	4	90	45	52	3
1991	96	4	91	47	52	2
1992	96	4	88	47	50	3

Note: Percentages may not add up to 100 percent due to rounding. Source: Developed by GAO from NCJJ's data archive.

Analysis of Waiver Rates

To provide perspective on patterns of waiver rates across the six states, we examined data on the number of juveniles charged with violent, property, and drug offenses. We used these three offenses because the number of cases for each offense allowed comparisons. Our analysis focused on the potential effects on waiver rates for five variables—age (for six states), sex (for six states), race (for six states), nature of locality (metropolitan or nonmetropolitan, for four states), and number of prior referrals (for five states).¹¹ We examined each of the variables separately because we could not control for variables for which data were not available and because of the small number of cases waived in each offense type within the state. (Tables II.3, II.6, II.9, II.12, II.15, and II.18 contain the data used in our analysis.)

Variables

Age - In the six states we examined, juveniles 16 years or older were more likely to have their cases waived for all three offense types.

Gender - Males were more likely than females to have their cases waived within each offense type in the six states we analyzed. The extent of the difference again varied by state.

Race - Blacks were more likely than whites to have their cases waived for all three offenses in four of the six states we examined.

¹¹The states differed because of the availability of data. Utah did not have a sufficient number of cases to be included in this analysis. For the other six NCJJ states, all were included for age, sex, and race; Florida, Missouri, Pennsylvania, and South Carolina had data for metropolitan/nonmetropolitan locality; and Arizona, Florida, Missouri, Pennsylvania, and South Carolina had information on prior referrals.

Locality - In the four NCJJ states with data on type of court location, some small differences existed but were not consistent across offense types within the same state.

Prior Referrals - In the five states we examined, waiver rates generally increased with the number of prior referrals for all five states and most offense types.

Appendix II contains data on the percent of cases waived, the demographic characteristics for juveniles in the seven states, and a detailed discussion of our analysis of waiver rates.

Judicial Waiver Criteria

Whether a juvenile case is eligible for judicial waiver depends on the state. Forty-seven states and the District of Columbia have judicial waiver laws, and each state establishes different criteria for which cases may be waived. The criteria often include specific age and offense restrictions as well as factors that the judge must consider related to the juvenile's case. For example, juvenile judges in Florida can waive a case to criminal court involving a juvenile age 14 or older for any offense if there is a finding that the juvenile should be transferred after considering certain factors; whereas judges in Maryland can waive a case involving a juvenile age 15 or older for any offense and a juvenile of any age charged with a crime punishable by death or life imprisonment if there is a finding that the juvenile is unfit for juvenile rehabilitative measures. In addition, the U.S. Supreme Court in an appendix to *Kent v. United States*, 383 U.S. 541 (1966),¹² outlined certain factors that the juvenile court judge would consider when making waiver decisions under the specific statute. The factors from the 1966 court case included

- seriousness of the alleged offense to the community and whether the protection of the community requires waiver;
- whether the offense was committed in an aggressive, violent, premeditated, or willful manner;
- whether the offense was committed against persons or against property, with greater weight being given to offenses against persons, especially if personal injury resulted;
- prosecutive merit of the complaint;
- whether the juveniles' associates in the offenses were adults;

¹²The U.S. Supreme Court in *Kent* also set forth a number of procedural safeguards to protect the interests of the child—the right to a hearing that meets the essentials of due process and fair treatment, representation by counsel, access by the juvenile's attorney to the juvenile's social record, and a statement of reasons in support of the waiver order if the juvenile case is waived.

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- sophistication and maturity of the juvenile;
 - juveniles' record and previous history;
 - protection of the public; and
 - likelihood of reasonable rehabilitation of the juvenile by the use of procedures, services, and facilities that are available to the juvenile court.

Many states have incorporated these factors into their juvenile codes either verbatim or with minor modifications. In interviews with judges in seven states and in our nationwide survey of prosecutors, we asked which factors from a list (based on factors previously listed) they were most likely to consider when making waiver decisions. The factors chosen most often by judges and prosecutors were the seriousness of the offense, the juveniles' previous record and history, and whether the juvenile was amenable to rehabilitation.

While we were unable to get an estimate of the total number of waiver petitions filed by prosecutors, information collected in our survey of prosecutors suggested that more than half of the requests for judicial waivers filed in calendar year 1993 were granted.¹³ We are not certain of the reliability of these figures because their responses may have been on the basis of impressions rather than data. See appendix II for additional data on judicial waivers in the seven states.

Limited Data Indicated the Use of Prosecutor Direct Filing Varies

State data and data for only some counties were available in the District of Columbia and 10 states that allow prosecutor direct filing. Table 6 shows the available data that we obtained on prosecutor direct filings, including statewide data from five states and the District of Columbia. Data on direct filing in the other five states were available only from certain counties.

¹³See appendix I for survey responses and confidence intervals.

Table 6: Frequency of Prosecutor Direct Filing

Jurisdiction	Principal city	Time period	Number of cases directly filed in criminal court	Total number of cases handled in juvenile court
Arkansas	N/A	1993	1,327	10,044
Colorado	N/A	1993	152 ^a	11,980
District of Columbia ^b	N/A	1993	15	3,029
Florida	N/A	1991	7,232	75,976
Georgia ^c				
Chatham County	Savannah	1993	15	3,800 ^d
De Kalb County	Suburb of Atlanta	1993	16	10,234
Louisiana				
Caddo Parish	Shreveport	1993	8	415
Orleans Parish	New Orleans	1993	63	1,444
Jefferson Parish ^e	Suburb of New Orleans	1993	7	2,000 ^d
Michigan				
Wayne County	Detroit	1993	82	8,402
Nebraska				
Douglas County	Omaha	1993	10 ^d	1,800 ^d
Utah	N/A	1993	4	12,122
Vermont	N/A	1993	103	1,369
Wyoming				
Laramie County	Cheyenne	1993	6 ^d	198

^aData represent September 1993 through July 1994 time period.

^bThe District of Columbia provided data on only the number of juveniles convicted in criminal court.

^cCounty data represent cases filed in criminal court by judicial waiver, prosecutor direct filing, and statutory exclusion.

^dThis is an annual estimate.

^eData represent prosecutor direct filing and statutory exclusion.

Source: Developed by GAO using data provided by state and local court officials in jurisdiction listed.

While the data provided by state and local court officials were inconsistent and incomplete, (e.g., lack of statewide data and time periods were different) they indicated that the frequency of using direct filing varied throughout the states that have direct filing laws. Data provided by juvenile court officials on the number of delinquency cases filed in these jurisdictions compared with data provided by criminal court officials on the number of cases directly filed by prosecutors showed that direct filing cases represented a larger percentage of juvenile cases in some states than in others. For example, in Florida and Arkansas prosecutor direct filing cases represented about 10 percent of juveniles cases, and in Colorado and Wayne County, Michigan they represented about 1 percent.

Direct filing laws in 10 states and the District of Columbia generally focused on felony offenses for juveniles over an age specified in each state's laws. However, juveniles age 16 in Nebraska and Vermont and age 17 in Wyoming can be direct filed in criminal court for any offense. In jurisdictions with direct filing laws, prosecutors had discretion to decide whether to file the case in juvenile or criminal court. The extent to which prosecutors exercise their discretion was exemplified by data provided by criminal court officials in Arkansas and Wayne County, Michigan. These data showed that many of the cases eligible for direct filing remained in juvenile court. For example, in Arkansas 2,756 cases were eligible to be filed in criminal court in 1992. However, during that period, prosecutors directly filed about 45 percent of the cases in criminal court. In addition, in Wayne County 146 juvenile cases were eligible to be filed in criminal court in 1992. However, during that period less than half the cases, 61 (or 42 percent), were filed in criminal court.

Frequency of Juvenile Cases Statutorily Excluded From Juvenile Court Unknown

Data were not available on the number of cases excluded by law from juvenile court jurisdiction.¹⁴ Without state data, we were unable to determine the frequency of statutory exclusion cases sent to criminal court. We were, however, able to analyze the laws to determine the conditions under which juveniles were excluded from juvenile court (see table 7 for our analysis). According to our analysis, statutory exclusion laws focused primarily on juveniles charged with serious violent offenses and/or juveniles with previous juvenile or criminal court records. In

¹⁴Using 1990 data, NCJJ estimates that in 11 states where the maximum age of juvenile court jurisdiction is age 15 or 16, approximately 176,000 cases involving persons age 16 and 17 are automatically charged in criminal court each year because they are defined as adults by the state. However, there is no estimate on the number of juveniles at or below the maximum age of juvenile court jurisdiction that are charged in criminal court due to their offense and/or prior record.

addition, 15 states also excluded one or more other serious offense (e.g., a child age 16 or older carrying a handgun without a license in Indiana).

In 17 of the 37 states with statutory exclusion laws, the laws excluded juveniles charged with serious violent offenses and juveniles with prior court records (repeat offenders) from juvenile court. For example, in Pennsylvania, any juvenile charged with murder is excluded from juvenile court as well as any juvenile who has been previously found guilty in a criminal proceeding. In 13 of the 37 states, the focus of the statutory exclusion laws are to exclude juveniles charged with serious violent offenses from juvenile court. For example, in New York, any juvenile age 13 or older charged with murder in the second degree is to be prosecuted in criminal court. In addition, New York excludes juveniles age 14 or older from juvenile court for a list of serious violent crimes that include assault, rape, and manslaughter, each in the first degree. New York does not have any exclusion provisions on the basis of the juvenile's prior record. In 7 of the 37 states and in the District of Columbia, the focus of the statutory exclusion laws is to exclude juveniles with prior criminal court records from juvenile court jurisdiction. These laws apply to all juveniles with specified prior records (i.e., adult court convictions) regardless of their offenses. For example, in Virginia, any juvenile previously convicted as an adult is excluded from juvenile court jurisdiction regardless of the offense.¹⁵

While statutory exclusion laws in most states focus on serious violent offenses and prior records, in 15 states one or more other serious offenses such as burglary, weapons, and drug offenses are excluded. For example, in Maryland using, wearing, carrying, or transporting a firearm during a drug trafficking offense would exclude a juvenile age 16 or older from juvenile court jurisdiction.

¹⁵For those juveniles who were previously convicted and served their sentences in facilities, the likelihood would be small that they would still be under the maximum age of jurisdiction if they were subsequently charged with another crime.

Table 7: Conditions Under Which Juvenile Cases Were Excluded From Juvenile Court

State	Laws focus on exclusion for serious violent offenses	Laws focus on exclusion due to prior record
Alabama	x	x
Alaska	x	
Connecticut	x	x
Delaware	x	
District of Columbia		x
Florida	x	x
Georgia	x	x
Hawaii	x	x
Idaho	x	x
Illinois	x	x
Indiana	x	x
Iowa		x
Kansas		x
Kentucky	x	
Louisiana	x	
Maine		x
Maryland	x	
Minnesota	x	x
Mississippi	x	x
Missouri		x
Montana	x	
Nevada	x	x
New Hampshire		x
New Mexico	x	
New York	x	
North Carolina	x	
Ohio	x	x
Oklahoma	x	x
Oregon	x	
Pennsylvania	x	x
Rhode Island	x	x
South Carolina	x	
Tennessee		x
Utah	x	x
Vermont	x	
Virginia		x

(continued)

State	Laws focus on exclusion for serious violent offenses	Laws focus on exclusion due to prior record
Washington	x	x
Wisconsin	x	

Note: While statutory exclusion laws generally focus on juveniles with serious violent offenses and/or prior court records, 15 states also exclude juveniles with one or more serious offenses from juvenile court jurisdiction. These states are Alabama, Alaska, Connecticut, Georgia, Hawaii, Idaho, Illinois, Indiana, Kansas, Maryland, Mississippi, New York, Oklahoma, South Carolina, and Vermont.

Legend: x indicates the conditions for which each state excluded juveniles from juvenile court.

Source: GAO review of state statutes.

Changes in State Laws May Affect the Number of Juveniles Sent to Criminal Court and the Method for Sending Certain Juveniles

Since 1978, 44 states and the District of Columbia have passed laws that have an effect on which juveniles may be sent to criminal court. These laws could affect the number of juveniles sent to criminal court; however, the impact may vary. In 24 of these states and the District of Columbia, the laws have tended to increase the population of juveniles potentially subject to being sent to criminal court. In three states, the population of juveniles subject to being sent to criminal court decreased. In 17 states, the laws changed the method in which certain juveniles are sent to criminal court.

In 24 states¹⁶ and the District of Columbia the laws that identify juveniles who may be sent to criminal court increased the population of juveniles potentially subject to being sent to criminal court. For example, in 1978, California law allowed juvenile court judges to waive the case of any juvenile age 16 or older. Since then, a law was passed that allows juvenile court judges to also waive cases involving juveniles 14 or older for a list of specific offenses. This change increased the number of juveniles that are subject to being sent to criminal court. Also, in 1978, North Dakota law allowed judges to waive the case of a juvenile age 16 years or older charged with a “crime or public offense.” Since then, a new law was passed that allows juvenile court judges to also waive cases involving juveniles 14 years or older charged with committing an act that involves the infliction or threat of serious bodily harm. New Mexico, South Dakota, and Wyoming changed their laws, which had the effect of decreasing the

¹⁶The states that have passed laws that increased the population of juveniles who may be sent to criminal court are Alabama, Arkansas, California, Connecticut, Delaware, Florida, Georgia, Idaho, Indiana, Kansas, Kentucky, Louisiana, Mississippi, Montana, New Jersey, North Carolina, North Dakota, Oregon, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, and Wisconsin.

population of juveniles potentially subject to being sent to criminal court. For example, in 1978, Wyoming law allowed judges to waive the case of a child of any age for any offense to criminal court. Currently, only cases involving children age 13 or older can be waived to criminal court.

In the remaining 17 states,¹⁷ the new laws changed the method in which certain juvenile cases may be sent to criminal court but did not increase the size of the potential population of juveniles that may be sent to criminal court. In general, these laws have changed the process for sending juveniles to criminal court. For example, in 1988, Michigan passed a law that gives prosecutors the discretion to directly file cases in criminal court involving juveniles who are age 15 or older and are charged with a list of specific crimes. Prior to this law, these cases would be filed initially in juvenile court, and the prosecutors would have to request a waiver hearing for those cases they believed should be sent to criminal court. During the waiver hearing, the juvenile court judge would decide whether to waive the case to criminal court.

Maryland also changed the process by excluding from juvenile court juveniles age 16 or older charged with certain specified violent crimes and other serious crimes. Previously, the juvenile court judge decided whether these cases should be sent to criminal court; however, state law now establishes the criteria by which certain juvenile cases are sent to criminal court.

**Prosecutor Survey
Indicated Judicial Waiver
Used Most**

We surveyed a sample of prosecutors' offices to obtain information on the estimated percent of all indictments filed against juveniles in criminal court that were the result of judicial waiver, direct filings, and statutory exclusions. The survey results suggested that in most prosecutorial offices, judicial waivers accounted for a higher percentage of juveniles arriving in criminal court than direct filings or statutory exclusions.¹⁸ Further, we estimated that in about 60 percent of the offices only judicial waivers were used. However, the results are difficult to interpret because of missing data and potentially inconsistent completion by the respondents.

¹⁷The states that have passed laws that changed the method in which certain juveniles may be sent to criminal court are Alaska, Colorado, Hawaii, Illinois, Iowa, Maine, Maryland, Michigan, Minnesota, Missouri, Nevada, New Hampshire, Ohio, Oklahoma, Pennsylvania, Utah, and Washington.

¹⁸See appendix I for survey responses and confidence intervals.

Juveniles Prosecuted in Criminal Court for Certain Offenses Tended to Be Convicted and Incarcerated

Our analysis of 1989 and 1990 criminal court data for seven states indicated that most juveniles prosecuted in criminal court in each state were convicted. Further, most juveniles were convicted of property offenses. When juveniles were sentenced in criminal court for serious offenses, most were incarcerated.

Most Juveniles Prosecuted for Serious Offenses in Criminal Court Were Convicted in Six of Seven States

Our analysis of conviction rates in seven states—California, Minnesota, Missouri, Nebraska, New York, Pennsylvania, and Vermont—showed that states conviction rates for juveniles prosecuted in criminal court, during 1989 and 1990 combined, varied for serious violent, serious property, and drug offenses.¹⁹ For example, as shown in table 8, the conviction rate for serious violent offenses in Missouri was 50 percent. Conviction rates for serious property offenses in Pennsylvania and Vermont were 63 percent and 97 percent, respectively.

Table 8: Conviction Rates and the Number of Juveniles Prosecuted in Criminal Court in Seven States for Selected Offenses in 1989 and 1990

State	Serious violent offenses		Serious property offenses		Drug offenses	
	Number prosecuted	Percent convicted	Number prosecuted	Percent convicted	Number prosecuted	Percent convicted
California	126	87%	71	78%	141	75%
Minnesota	51	100	99	97	2	100
Missouri	24	50	24	67	13	54
Nebraska	78	77	124	81	59	81
New York	75	32	76	26	85	27
Pennsylvania	118	83	414	63	18	83
Vermont	25	96	177	97	9	100

Note: This table includes the most prevalent offense types for which juveniles are prosecuted, on the basis of criminal court data.

Source: Developed by GAO from OBTS data.

To provide some perspective on how juveniles were treated as compared with others prosecuted in criminal court, we compared juvenile conviction

¹⁹Using OBTS data, we categorized offense types into serious violent, serious property, and drugs. Serious violent offenses include murder, nonnegligent manslaughter, rape, robbery, aggravated assault, and other violent offenses (e.g., sexual assault and kidnapping). Serious property offenses include burglary, fraud, forgery, embezzlement, larceny, motor vehicle theft, and arson. Drug offenses include drug possession and trafficking.

rates with the conviction rates of “other youth”²⁰ age 16 or 17 and young adults ages 18 to 24 (see tables III.1 and III.2 in app. III for conviction rates for other youth and young adults). The data for other youth and young adults includes a broader range of crimes within crime types (than juveniles’ crimes) because all youth and young adults crimes are prosecuted in criminal court. Some juvenile crimes are tried in criminal court because of the severity of juveniles’ offenses or prior records. Our analysis of the two states, Missouri and New York, which included the other youth population,²¹ showed that in Missouri, juvenile conviction rates were higher than the rates of other youth (persons of age 17). For example, the conviction rate for juveniles prosecuted for serious property offenses in Missouri was 67 percent compared with 38 percent for other youth. In New York, conviction rates were lower for juveniles than they were for other youth (persons age 16 and 17). For example, the conviction rate for juveniles prosecuted in New York for serious property offenses was 26 percent compared with 64 percent for other youth.

A comparison of conviction rates in the states we analyzed for juveniles and young adults (persons age 18 through 24) showed that generally, juveniles were, for some offenses, as likely as young adults to be convicted in criminal court. Finally, juvenile conviction rates for serious violent, serious property, and drug offenses were generally similar to the rates for young adults in the states we analyzed, except for New York. For example, the conviction rate for serious property offenses in Minnesota was 97 percent for juveniles compared with 89 percent for young adults. Also, the conviction rate for drug offenses in Pennsylvania was 83 percent for juveniles compared with 81 percent for young adults.

Our analysis of juvenile conviction offenses showed, in five²² of seven states, that property offenses made up the largest proportion of juvenile convictions in criminal court, representing between 36 and 66 percent of convictions, as shown in table 9. In California and New York, violent offenses accounted for the largest proportion of juvenile convictions.

²⁰“Other youth” are individuals beyond the maximum age of juvenile court jurisdiction in their state and are below the age 18.

²¹Unlike the other five states where the maximum age of juvenile court jurisdiction is 17, in Missouri, the maximum age is 16, and in New York it is 15. Therefore, in Missouri other youth are individuals of age 17, and in New York, other youth are individuals of age 16 and 17. In both states, these other youths are legally considered as adults and are under the original jurisdiction of the criminal court.

²²The five states where property offenses made up the largest proportion of juvenile convictions in criminal court were Minnesota, Missouri, Nebraska, Pennsylvania, and Vermont.

Table 9: Percent of Juveniles Convicted in Criminal Court by Offense for 1989 and 1990

State	Number of juveniles convicted	Percent convicted of serious violent offenses	Percent convicted of serious property offenses	Percent convicted of drug offenses
California	280	39%	20%	38%
Minnesota	165	31	58	1
Missouri	44	27	36	16
Nebraska	277	23	38	18
New York	78	31	26	29
Pennsylvania	409	24	64	4
Vermont	260	9	66	3

Note: Percents may not equal 100 percent due to rounding and the exclusion of such offense types as weapons, indeterminate property, public order, and traffic.

Source: Developed by GAO using OBTS data.

Similar to juveniles, the largest percentage of other youth and young adults convicted in criminal court were property offenders. (See tables III.3 and III.4 in app. III for conviction offenses of other youth and young adults.) In California and New York, the largest proportion of young adults convicted were drug offenders. For example, 37 percent of young adults in California and 33 percent in New York were convicted of drug offenses.

Most Juveniles Sentenced in Criminal Court for Serious Offenses Were Incarcerated

In four²³ of seven states we analyzed, over half of the juveniles sentenced in criminal court for serious violent, serious property, or drug offenses were incarcerated in each state. Incarceration rates²⁴ for these offenses varied among states, as shown in table 10. In Vermont, incarceration rates for these offenses were 33 percent or less. In addition, in Missouri the incarceration rate for drug offenders was 43 percent. Also, in Pennsylvania the incarceration rate for serious property offenders was 10 percent.

Among the 7 states, a total of 703 juveniles was sentenced to incarceration in the 3 offense types during 1989 and 1990.

²³These states are California, Minnesota, Nebraska, and New York.

²⁴Incarceration rates equals the percentages of those juveniles convicted who were sentenced to jail or prison as compared with all juveniles convicted who received any sentence, including probation or jail.

Table 10: Percent of Juveniles Incarcerated and the Total Number of Juveniles Sentenced for Serious Violent, Serious Property, and Drug Offenses in 1989 and 1990

State	Serious violent offenses		Serious property offenses		Drug offenses	
	Number sentenced	Percent incarcerated	Number sentenced	Percent incarcerated	Number sentenced	Percent incarcerated
California	98	90%	57	95%	101	93%
Minnesota	45	98	84	92	2	100
Missouri	10	80	16	63	7	43
Nebraska	46	93	103	66	47	66
New York	18	67	10	70	13	62
Pennsylvania	81	89	257	10	15	100
Vermont	14	29	149	23	9	33

Source: Developed by GAO from OBTS data.

To determine whether juveniles were incarcerated at rates similar to others in criminal court, we compared juvenile sentences with those of other youth and young adults. (See tables III.5 and III.6 in app. III for incarceration rates for other youth and young adults.) In the two states with an “other youth population,” Missouri and New York, juvenile incarceration rates for serious violent and serious property offenses were higher than incarceration rates for these offenses for other youth. For example, in Missouri, 80 percent of juveniles sentenced were incarcerated for serious violent offenses compared with 60 percent of other youth. The juvenile incarceration rates for drug offenses were lower than the rates for other youth in Missouri and about equal to the rates for other youth in New York.

Finally, we found no consistent pattern when comparing juvenile and young adult incarceration rates (see table III.6 in app. III). For some offenses juvenile incarceration rates were higher than young adult incarceration rates, while for other offenses juvenile rates were lower. For example, in New York, the incarceration rate for drug offenses was lower for juveniles, 62 percent, compared with 80 percent for young adults. In contrast, in Nebraska, the incarceration rates for serious violent offenses were higher for juveniles, 93 percent, compared with 78 percent for young adults.

In the seven states, the proportion of juveniles incarcerated for serious property offenses was the same as the proportion incarcerated for serious violent offenses but varied among the states. Drug offenders made up a

smaller proportion of the total number of juveniles incarcerated (see table 11). In contrast, drug offenders made up the largest proportion of other youth and young adults incarcerated. (See tables III.7 and III.8 in app. III for the total number of other youth and young adults incarcerated.)

Table 11: Total Number of Juveniles Incarcerated for Serious Violent Offenses, Serious Property Offenses, and Drug Offenses in 1989 and 1990

State	Number of juveniles incarcerated for serious violent offenses	Number of juveniles incarcerated for serious property offenses	Number of juveniles incarcerated for drug offenses
California	88	54	94
Minnesota	44	77	2
Missouri	8	10	3
Nebraska	43	68	31
New York	12	7	8
Pennsylvania	72	26	15
Vermont	4	34	3
Total	271	276	156

Source: Developed by GAO using OBTS data.

Probation and Sentences Other Than Incarceration Received by Juveniles Tried in Criminal Court for Serious Violent, Serious Property, and Drug Offenses

While most juveniles sentenced in criminal court were incarcerated, some juveniles also received probation and other sentences in the seven states we analyzed. In fact, in five of the states, some juveniles convicted of serious violent offenses received probation sentences. As shown in table 12, the percentages varied from 3 percent in California to 50 percent in Vermont.

Table 12: Percent of Juveniles Convicted in Criminal Court Receiving Sentences of Probation or Sentences Other Than Incarceration in Seven States for Selected Offenses in 1989 and 1990

State	Serious violent		Serious property		Drugs	
	Probation	Other sentences	Probation	Other sentences	Probation	Other sentences
California	3%	7%	5%	0%	6%	0%
Minnesota	0	2	8	0	0	0
Missouri	20	0	38	0	43	14
Nebraska	4	0	23	8	15	0
New York	33	0	20	10	31	8
Pennsylvania	6	1	2	3	0	0
Vermont	50	21	25	46	11	22

Note: Other sentences included (1) no court disposition or (2) disposition or sentencing was deferred or suspended. Percentages do not add to 100 percent because incarceration rates were not included.

Source: Developed by GAO using OBTS data.

Additionally, juveniles convicted of serious property or drug offenses in four states received probation at higher rates than juveniles convicted of serious violent offenses. Overall, while juveniles convicted of serious violent, serious property, and drug offenses generally did not receive fines as their sentences, in two states, a significant percentage of these juveniles were sentenced to pay fines. In Pennsylvania, 84 percent of juveniles convicted of serious property offenses were fined, and in Vermont, 33 percent of juveniles convicted of drug offenses were fined.

According to the literature, criminal court judges consider the severity of the offenses and the prior offense history of the juvenile in making their sentencing decisions. However, data limitations precluded us from considering the prior offense history in our analysis.

Probation Was the Most Common Disposition by Juvenile Court

Our analysis of NCJJ data showed that probation was the most widely used disposition in the juvenile court. In 1992, in about 43 percent of approximately 744,000 formal delinquency cases,²⁵ juveniles were placed on probation. In addition, probation was the most common disposition for all offense types. A probation disposition involves the court monitoring the juvenile's behavior, helping the juvenile find a job, arranging in-home or out-of-home care, or promoting wholesome leisure time activities. Of the

²⁵Of the nearly 1.5 million delinquency cases filed in 1992, about half (743,673) were handled through a formal process.

57 percent of juveniles not placed on probation in 1992, about 27 percent of their cases were dismissed, 12 percent received some other disposition, and 17 percent received placement (e.g., were placed in a residential treatment program), as shown in table 13. Finally, the distribution of formal dispositions was similar during the 5-year period, 1988 through 1992.

Table 13: Disposition of Formal Delinquency Cases, by Percentage, 1988 Through 1992

Disposition	1988	1989	1990	1991	1992
Transfer	1.2%	1.4%	1.3%	1.6%	1.6%
Placement	18.4	19.5	19.2	17.3	17.0
Probation	43.9	44.4	43.5	43.6	42.5
Dismissed	26.6	24.0	25.8	26.5	27.1
Other ^a	9.9	10.6	10.2	11.0	11.8

^aDisposition of other may include fines, restitution, community service, and referrals outside the court for services with minimal or no further court involvement anticipated.

Source: Developed by GAO from NCJJ data.

As shown in table 14, in 1992, formal cases received various dispositions at similar rates for each offense type. For example, regardless of the offense, about 40 percent of juveniles were placed on probation.

Table 14: Dispositions of Formal Cases, by Percentage and Offense Type in 1992

Disposition	Person	Property	Drugs	Public order
Transfer	2.4%	1.3%	3.1%	0.8%
Placement	17.6	15.0	19.3	21.8
Probation	39.2	46.1	39.2	37.2
Dismissed	31.2	24.8	29.8	27.9
Other ^a	9.6	12.9	8.6	12.4

Note: Percentages may not add to 100 percent due to rounding.

^aA disposition of "other" may include fines, restitution, community service, and referrals outside the court for services with minimal or no further court involvement anticipated.

Source: Developed by GAO from NCJJ data.

While probation was the most common disposition for formal cases, 47 percent of informal juvenile cases were dismissed in 1992,²⁶ as shown in table 15. Of the remaining 53 percent of the cases, about 30 percent of the

²⁶Possible reasons for dismissal included lack of evidence, offense was petty or seen as low risk, or the juvenile and his or her family had reimbursed the victim for damages.

juveniles were placed on probation, 23 percent received some other disposition, and 0.4 percent were placed in a residential treatment program. Finally, as with formal cases, the distribution of informal dispositions was similar during the 5-year period, 1988 through 1992, as shown in table 15. Of the approximately 730,000 informal delinquency cases disposed of in 1992, about 47 percent were dismissed.

Table 15: Percent of Informal Cases by Type of Disposition for 1988 Through 1992

Disposition	1988	1989	1990	1991	1992
Placement	0.3%	0.4%	0.4%	0.3%	0.4%
Probation	30.5	26.2	28.3	28.2	29.9
Dismissed	48.6	54.1	51.3	48.2	47.1
Other ^a	20.6	19.2	20.1	23.2	22.7

^aA disposition of "other" may include fines, restitution, community service, and referrals outside the court for services with minimal or no further court involvement anticipated.

Source: Developed by GAO from NCJJ data.

For each offense type the distribution of informal dispositions was similar. For example, regardless of the offense, in about 30 percent of informal cases, juveniles were placed on probation in 1992.

The Few Juveniles in Adult Prisons We Visited Were Subject to the Same Policies and Procedures as Adults

A 1991 survey²⁷ of inmates in state correctional facilities reported that less than 1 percent of state inmates were age 17 or younger. Few juveniles were incarcerated in the seven adult facilities we visited. Further, those juveniles were generally to be treated the same as the adult prisoners.

Juveniles in Adult Prisons

We could not find national estimates for the number of inmates at or below the maximum age of juvenile court jurisdiction in each state.

However, results of the 1991 Survey of Inmates in State Correctional Facilities indicated that less than 1 percent of the 712,000 state prison inmates were age 17 or younger.²⁸ In addition, during visits to seven

²⁷This survey was conducted by the U.S. Bureau of the Census for the U.S. Department of Justice, Bureau of Justice Statistics.

²⁸This figure may include juveniles age 16 and 17 who are above the maximum age of juvenile court jurisdiction of their state.

prisons in four states, we found that juveniles represented a small number of the inmate population, at the time of our visit. For example, as shown in table 16, 31 of the 857 inmates at the Western Youth Institution were age 17 or younger. While these data indicate that few juveniles were in the adult prison system at one time, it does not include the number of inmates who committed their offenses as juveniles and were sentenced to incarceration but are now beyond the maximum age of juvenile court jurisdiction, as defined by the state.

Table 16: Data on Seven Facilities Visited

State	Maximum age of juvenile court jurisdiction	Correctional facility	Age of inmates	Facility population	Number of individuals at or below the maximum age of juvenile court jurisdiction	Percent of juvenile inmates
Florida	17	Brevard Correctional Institution	under 25	966	143	15%
		Florida Correctional Institution	all ages	750	6	^a
		Lancaster Correctional Institution	under 25	635	90	14
Michigan	16	Handlon Michigan Training Unit	under 26	1,315	11	^a
		Michigan Reformatory	under 26	1,183	3	^a
North Carolina	15	Western Youth Institution	under 19	857	31	4
Ohio	17	Southeastern Correctional Institution	all ages	1,945	10	^a

^aPercent is less than 1.

Source: Developed by GAO from information provided by facility officials at the time of our visit.

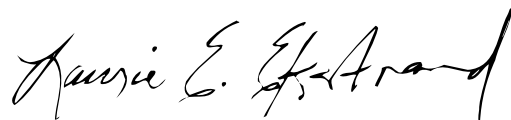
Juveniles Are to Be Treated Same as Adults

According to prison officials at all of the locations we visited, juveniles convicted in criminal court and sentenced to prison are considered adults. Generally, they are subject to the same policies and procedures as other inmates regarding housing, health care services, education, vocation and

work programs, and recreational activities. In addition, they are to be afforded the same mail, visitation, and telephone privileges. However, some prison officials pointed out that juveniles and youthful offenders received different treatment at some facilities (e.g., they were provided with a menu designed for their nutritional needs and they received more educational opportunities). See appendix V for a summary of the confinement conditions for juveniles in seven adult correctional facilities.

We are sending copies of this report to the Attorney General; the Administrator, Office of Juvenile Justice and Delinquency Prevention; the Director, Office of Management and Budget; and other interested parties. Copies will also be made available to others upon request.

Major contributors to this report are listed in appendix VI. If you have any questions about this report, please contact me on (202) 512-8777.



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Abbreviations

BJS	Bureau of Justice Statistics
CY	calendar year
CYA	California Youth Authority
GED	Graduate Equivalency Diploma
HIV	Human Immunodeficiency Virus
OBTS	Offender Based Transaction Statistics
NCJJ	National Center for Juvenile Justice
NJRP	National Judicial Reporting Program
NJCDA	National Juvenile Court Data Archive
OJJDP	Department of Justice's Office of Juvenile Justice and Delinquency Prevention

Objectives, Scope, and Methodology

The 1992 reauthorization (P.L. 102-586) of the Juvenile Justice and Delinquency Prevention Act of 1974 (P.L. 93-415) mandated that we study the processing of juveniles in criminal court. Specifically, we agreed with your Committees to

- provide the frequency to which juveniles have been sent to criminal court by judicial waiver, prosecutor direct filing, and statutory exclusion;
- analyze juvenile conviction rates and sentences of juveniles prosecuted in criminal court using the most current data;
- analyze the dispositions of juveniles in juvenile court; and
- analyze the conditions of confinement in adult correctional facilities for juveniles convicted in criminal court.

We also agreed to summarize state laws governing the circumstances under which juveniles can be sent to criminal court. Further, we noted the number of states that allowed criminal court judges to transfer juvenile cases back to criminal court and the number of states that allowed criminal court judges to impose juvenile court sanctions.

To address all objectives, we reviewed relevant literature. To determine the frequency to which juveniles are processed in criminal court, we obtained national, state, and local court data. Because data were not available on the frequency of statutory exclusion, we analyzed the statutory exclusion laws of 37 states and the District of Columbia to determine the types of cases being excluded from juvenile court. To determine sentences of juveniles convicted in criminal court, we analyzed conviction rates, conviction offenses, and incarceration rates and sentences for juveniles prosecuted in criminal court. To determine the dispositions of juveniles in juvenile court, we analyzed the offenses and dispositions of juveniles in juvenile court. To analyze conditions of confinement for juveniles in adult correctional facilities, we conducted site visits at seven adult prisons in four states. We classified cases as juveniles on the basis of the defendants' age at the time of arrest because data were not available for the defendants' age at the time of the offense. As a result, we underestimated the number of juveniles in criminal court. To provide a summary of the state laws, we reviewed the statutes for 50 states and the District of Columbia. Finally, we obtained additional perspectives on juvenile justice issues by mailing a survey to a national sample of prosecutors' offices and interviewing 15 juvenile court judges in 7 states.

The act required us to compare the sentences of juveniles tried in criminal court with those processed in juvenile court for similar offenses. On the basis of discussions with juvenile justice officials, this type of comparison should recognize the selection process by which juveniles are sent to criminal court or remain in juvenile court. The officials said that juveniles sent to criminal court are a select subset of all juveniles. The fact that they are selected for criminal court indicates they are different from juveniles processed in juvenile court. When sending juveniles to criminal court, decisionmakers (e.g., judges) generally consider that these juveniles have (1) relatively more serious criminal behaviors, (2) more extensive criminal histories, (3) less amenability to treatment, or (4) a greater likelihood of being a threat to the community than juveniles who are processed in juvenile court. Also, juveniles processed in criminal court are subject to a different sentencing process than those in juvenile court. Both factors mean that comparisons between the two groups of juveniles would be of nonequivalent groups. As a result, differences or similarities in their sentences would be difficult to interpret. However, subject to these caveats, we provided data on the sentencing outcomes for juveniles processed in these two courts. We could not determine the extent to which sentencing outcomes were due to differences in individual characteristics of juveniles in the respective courts or sentencing processes of the courts.

Review of Relevant Literature

To develop an understanding of the issues associated with processing juveniles in criminal court, we reviewed relevant literature identified in bibliographies provided by the National Center for Juvenile Justice (NCJJ) and the Department of Justice's Office of Juvenile Justice and Delinquency Prevention (OJJDP). From our review of the literature, we determined the three principal methods for sending juveniles to criminal court and identified the states' policies on housing juveniles in adult prisons.

National Data on the Frequency of Judicial Waiver

We used juvenile court data collected annually by NCJJ to determine the number of juvenile cases processed in criminal court due to judicial waiver. Each year, NCJJ collects juvenile court processing data and assigns weights to the data, which permits projecting the data to produce national estimates of cases disposed by all state juvenile justice systems.¹ OJJDP publishes the weighted data in its annual Juvenile Court Statistics.

Using the National Juvenile Court Data Archive (NJCDA), we developed statistics for a 5-year period from calendar year 1988 to 1992. Specifically, we developed national estimates of the number of juvenile cases waived to criminal court by juvenile court judges (judicial waiver). In addition, we developed statistics on the offense profiles and demographics of juveniles, whose cases were waived to criminal court.

Analyses of the Frequency of Judicial Waiver in Selected States

NCJJ's NJCDA national data files did not contain sufficient information for analyzing judicial waivers directly. However, some of the Center's state-specific files² have a wider range of data elements (including prior offense histories) that facilitate such analyses. For example, in addition to data showing the types of offenses and whether cases were waived, some variables that we analyzed were the number of previous referrals and/or adjudications and the metropolitan status of the court. Thus, in order to conduct more detailed analyses of judicial waiver, we judgmentally selected the following 7 states from a total of 25 states that provided court

¹In 1991, for example, the following 23 states provided juvenile court case-level data to NCJJ: Alabama, Arizona (Maricopa county only), Arkansas, California, Connecticut, Florida, Maryland, Minnesota, Mississippi, Missouri, Montana, Nebraska, New Jersey, New York, North Dakota, Ohio, Pennsylvania, South Carolina, South Dakota, Texas, Utah, West Virginia, and Wisconsin. In 1990 and 1991, California reported data from several of its larger counties, representing 40 percent of the state's population that is age 17 or younger. In addition, some jurisdictions in seven other states reported court case-level data that were used in generating the national estimates. In all, data from 1,504 jurisdictions covering 57 percent of the nation's youth at risk were used to produce the 1991 national estimates. NCJJ's estimates of the number and characteristics of delinquency cases and cases that were waived by juvenile courts were on the bases of the assumption that the characteristics of cases in counties that did not report juvenile court statistics were similar to those counties of similar size that did report statistics to NCJJ. The details of the estimation procedures can be found in Juvenile Court Statistics. The national estimates were not generated by a probability sample. NCJJ has conducted, however, tests of the validity of the national estimates by comparing them with counts of referrals (as reported by the Federal Bureau of Investigation's Uniform Crime Reports) made by law enforcement agencies to juvenile courts.

²We used data that were housed in and made available by the NJCDA, which is maintained by NCJJ and supported by a grant from OJJDP. These data were originally collected by the Maricopa County, AZ, Juvenile Court Center; the Alameda County, CA, Probation Department; the Los Angeles County, CA, Probation Department; the San Francisco County, CA, Juvenile Probation Department; the San Joaquin County, CA, Probation Department; the County of Ventura, CA, Corrections Services Agency; the Florida Department of Health and Rehabilitative Services; the Missouri State Division of Children and Youth Services; the Pennsylvania Center for Juvenile Justice Training and Research; the South Carolina Department of Juvenile Justice; and the Utah Juvenile Court. Neither the original data collectors nor NCJJ bear any responsibility for our analyses or interpretations of the data.

data to NCJJ: Arizona, California, Florida, Missouri, Pennsylvania, South Carolina, and Utah. In addition to geographical coverage, other factors we considered in selecting these seven states were that (1) collectively, these states' juvenile justice systems reflected a diverse range of processes for handling youthful offenders and (2) the states' data files contained a sufficient number of variables relevant to our analyses of judicial waiver.

For each of the seven states selected, we obtained a copy of NCJJ's computerized data files for calendar years 1990 and 1991, the most recent years for which consistent data were available.³ Then, using the 1990 and 1991 data files, we completed analyses that compared the waiver rates in different states; the waiver rates for defendants of different genders, races, and ages; and the waiver rates of cases processed in juvenile courts with different metropolitan status.

State and Local Data Available on the Frequency of Prosecutor Direct Filing Cases

To obtain data on the frequency of juvenile cases directly filed in criminal court at the discretion of prosecutors, we contacted State Court Administrator Offices in the 10 states with direct filing laws. Statewide data on prosecutor direct filing cases were available in 5 of the 10 states that have direct filing laws. To obtain data for the other states, we contacted some of the largest counties/parishes in those states to get some measure of the frequency of prosecutor direct filing. We also contacted court officials in the District of Columbia to determine the frequency of direct filing in the District.

Analysis of Statutory Exclusion Statutes in 37 States and the District of Columbia

To gain some perspective on the type of juvenile cases processed in criminal court due to state statutes that exclude them from juvenile court, we analyzed the statutes in 37 states and the District of Columbia. We categorized the states according to whether their statutory exclusion laws focused on (1) juveniles charged with serious violent offenses or other serious offenses or (2) juveniles with prior court records.

³For trend purposes, additional data files (i.e., for years before 1990) would have been desirable; however, the 1990-1991 data files were the only years that had a sufficient range of variables common to all seven states to facilitate our planned analyses.

National Data on the Number of Juvenile Cases Sent to Criminal Court for All Methods

In an attempt to collect data on the number of juveniles sent to criminal court by all possible methods, we developed a survey to be completed by juvenile justice specialists in all 50 states and the District of Columbia. We received responses from 19 states and the District of Columbia. Nine of the responses indicated that the data we requested were not available. Due to the low response rate and unavailability of data, we were only able to use this survey as an indicator of the relative frequency in which juveniles are sent to criminal court by the three methods. In following up with nonrespondents by telephone calls, they said that the data we requested were not available.

State Specific Analysis of Sentences of Juveniles Prosecuted in Criminal Court

To identify the types of sentences juveniles receive when processed in criminal court, we used the Bureau of Justice Statistics's (BJS) Offender Based Transaction Statistics (OBTS) data sets.⁴ OBTS focuses on arrested, alleged offenders and contains information on offender characteristics, patterns of arrest, prior criminal activities, prosecution activities, court action, and sentences. At the time of our review, OBTS contained data for the years 1975 through 1990 for approximately 15 states. We analyzed data from California, Minnesota, Missouri, Nebraska, New York, Pennsylvania, and Vermont for 1989 and 1990 combined. We chose these states because they represented different maximum ages of juvenile court jurisdictions, different laws governing which juveniles may be sent to criminal court, and different geographic regions. We used these data to analyze conviction rates, offenses, and incarceration rates of juveniles prosecuted in criminal court. In addition, we compared these rates with those of "other youth" and young adults (persons age 18 through 24) to gain a perspective on how juveniles are treated relative to others prosecuted in criminal court.

Prosecutor Survey

To gather prosecutors opinions on data related to the processing of juveniles in criminal court, we obtained 226 completed questionnaires from a nationally representative, probability sample of district prosecutor offices that deal with juveniles in juvenile courts. Our final sample was identified by first contacting a stratified probability sample of county prosecutors in 290 of the 3,110 counties in the United States. To gather information about both large and small counties, the sample was stratified on the basis of the number of felony convictions in 1985. The 1985 felony

⁴We attempted to use the BJS National Judicial Reporting Program (NJRP) data set. NJRP is a data set that contains information on the sentences of convicted felons received in state courts in 1988 and 1990. The data set contains a probability sample of convicted felons sentenced in state courts. Because of missing data that identified the age of the convicted felons, we could not identify juveniles and therefore could not use this data to analyze juvenile sentences in criminal court.

convictions were used first to draw this sample of 290 counties in 1986 for the National Judicial Reporting Program.

We developed and pretested the questionnaire items with advice from experts at NCJJ and BJS as well as selected prosecutor offices. The survey was mailed in March 1994. Two sets of follow-up telephone calls and two additional mailings were conducted between May and July.

We contacted all 290 selected counties to determine whether they had juvenile prosecutors and, if so, the counties over which they had jurisdiction. We determined that 270 of the 290 counties were eligible members of our study population of prosecutor offices that dealt with juvenile offenders in juvenile court. After weighing on the basis of the probabilities of selection, we estimated that the study population consisted of approximately 2,118 such juvenile prosecutors in the United States. The number of juvenile prosecutors (2,118) is less than the number of counties (3,110) partly because some counties are consolidated under a single juvenile prosecutor and partly because some jurisdictions do not have prosecutors that appear in juvenile court. Of the 270 sampled prosecutors from the study population, 226 responded, for a response rate of 84 percent.

All figures presented in this report were estimated from the returned questionnaires to the population of the estimated 2,118 juvenile prosecutor offices. All sample surveys are subject to sampling error, which refers to the extent to which the results may differ from what would have been obtained if the entire population had been surveyed. The size of sampling errors in any survey depends largely on the number of respondents and the amount of variability in the data from the returned surveys. In this report, all estimates are made at the 95-percent confidence level with a sampling error of less than 10 percent. This means that, if we had drawn repeated samples from the entire study population of prosecutor offices, 19 out of 20 samples would have produced estimates within 10 percent of the true proportion in the total population.

In addition to the reported sampling errors, any survey may be subject to nonsampling errors as well. For example, differences in how a particular question is interpreted, in the sources of information that are available to respondents, or in the types of people who do not respond, can introduce unwanted variability into survey results.

We included steps in the data collection and data analysis stages to minimize such nonsampling errors. We selected the sample from a complete list of all counties, and we pretested our questionnaire with experts and members of the target population. Our extensive follow-up efforts were designed to maximize the response rate, and we achieved a final response rate of 84 percent. All data were keyed twice and verified during data entry, and all computer analyses were reviewed by a second independent analyst.

National Data on the Dispositions of Juvenile Court Cases

To develop national statistics on the types of dispositions used in juvenile court, we used the NCJJ's NJCDA data files. We developed national estimates to compare (1) the number of juvenile cases processed informally versus formally, (2) the dispositions of cases handled formally versus informally, and (3) the types of dispositions for various crime types.

Site Visits to Review Conditions of Confinement for Juveniles in Adult Prisons

To obtain descriptive information on the conditions of confinement for juveniles in adult prisons, we visited seven prisons in Florida, Michigan, North Carolina, and Ohio. In judgmentally selecting states to visit, we considered (1) the state's maximum age of juvenile court jurisdiction in each state, (2) whether juveniles were housed with younger inmates (e.g., inmates under 25) or inmates of all ages, and (3) the number of inmates under the age of 18.

In each state, we visited the prisons that housed the majority of inmates under age 18. We visited a total of seven prisons—six that housed males and one that housed females. During our visits, we interviewed prison officials, using a structured interview format. While we did not verify the information provided, we toured the facilities to observe the housing units, health services facilities, education and vocation classrooms, and recreation facilities.

Judges Survey Addressing Judicial Waiver Issues

We conducted structured interviews with 15 juvenile court judges in 7 states to obtain information on methods for sending juveniles to criminal court. Judges were chosen randomly and interviewed on the basis of their availability. We attempted to contact two or three judges in the juvenile court jurisdictions that we visited during our site visits.

**Prosecutor Survey
and Their Responses**

The three questions we asked prosecutors and their responses to them are as follows:

Appendix I
Objectives, Scope, and Methodology

1. (a) In your jurisdiction in calendar year (CY) 1993, how many requests for judicial waiver to criminal (adult) court were filed? (Enter numbers. If none, enter zero. Estimates are acceptable.)

N = 212
Mean = 8
Median = 1 request filed for judicial waiver to criminal (adult) court in CY 1993.

(b) Of these requests, how many were granted?

N = 162
Mean = 9
Median = 2 requests granted for judicial waiver to criminal (adult) court in CY 1993.

2. (a) Of all the criminal indictments filed in criminal (adult) court in your jurisdiction in CY 1993, approximately what percent were filed against juveniles in criminal (adult) court? (Enter percent. If none, enter zero. Estimates are acceptable.)

N = 189
Mean = 2
Median = 0 percent of indictments filed against juveniles in criminal (adult) court.

(b) In your jurisdiction in CY 1993, of all indictments filed against juveniles in criminal (adult) court, approximately what percent were the result of the following processes? (Enter percents. If none, enter zero. Total should add to 100%. If an item listed below cannot occur in your state, enter N/A.)

Judicial waivers
N = 166
Mean = 70%
Median = 100%

Direct filings
N = 166
Mean = 20%
Median = 0%

Appendix I
Objectives, Scope, and Methodology

Statutory exclusions

N = 166
Mean = 3%
Median = 0%

Other - Please specify: _____

N = 166
Mean = 7%
Median = 0%

Total = 100%

3. When considering whether to send or recommend sending a juvenile to criminal (adult) court rather than to juvenile court, what are the three most important factors that you are likely to consider? (Check three factors you consider most important.)

N = 226

Note: Percentages represent the proportion of the 226 respondents indicating that a particular item is one of the three most important factors.

- | | | | |
|----|--------------------------|--|-----|
| a. | <input type="checkbox"/> | Family background of the offender | -- |
| b. | <input type="checkbox"/> | The offender's age | 21% |
| c. | <input type="checkbox"/> | The offender's age in relation to the <u>upper</u> age of juvenile court jurisdiction | 17% |
| d. | <input type="checkbox"/> | The offender's age in relation to the <u>extended</u> age of juvenile court jurisdiction | 3% |
| e. | <input type="checkbox"/> | Sophistication and maturity of the offender | 7% |
| f. | <input type="checkbox"/> | Seriousness of the alleged offense (e.g., involved drugs, guns, destruction of property) | 85% |
| g. | <input type="checkbox"/> | Whether the offense was against other persons (e.g., involved victim injury) | 17% |
| h. | <input type="checkbox"/> | Whether adult offenders were involved in the offense | 1% |
| i. | <input type="checkbox"/> | Whether the offender is a repeat offender | 57% |
| j. | <input type="checkbox"/> | The availability of more serious punishments in criminal (adult) court | 5% |
| k. | <input type="checkbox"/> | The availability of a youthful offender facility | 1% |
| l. | <input type="checkbox"/> | The need to protect the community | 19% |
| m. | <input type="checkbox"/> | Whether the offender has been determined to be unamenable to rehabilitation | 44% |
| n. | <input type="checkbox"/> | Prosecutive merits of complaint | 5% |
| o. | <input type="checkbox"/> | Other factor? - Please specify: | 3% |

Judicial Waiver Data and Analysis for Seven States

Arizona

Data - 1990 and 1991 combined.

Number of formal delinquency cases - 17,320.

Number of formal delinquency cases judicially waived to criminal court - 397.

Percent of formal delinquency cases judicially waived to criminal court - 2.3.

Table II.1: Rate and Percent of Juvenile Cases Waived by Offense Type in Arizona, 1990 and 1991

Offense type at disposition	Waiver rate	Percent of waived cases
Violent	7.0%	46.4%
Property	1.6	42.3
Drugs	3.8	5.8
Weapons	1.1	0.8
Public order or other	0.6	4.8

Source: NCJJ.

Table II.2: Percent of Juvenile Cases Waived by Sex, Age, and Race in Arizona, 1990 and 1991

Sex		Age at referral	Race		
Male	Female	16 or older	White	Black	Other
99.0%	1.0%	91.9%	35.5%	23.7%	40.8%

Note: Percentages may not equal 100 due to rounding.

Source: NCJJ.

Appendix II
Judicial Waiver Data and Analysis for Seven
States

Table II.3: Selected Juvenile Waiver Rates in Arizona, 1990 and 1991

Factors	Waiver rates at disposition				
	Violent	Property	Drugs	Weapons	Public order or other
Age					
16 or older	13.4%	3.9%	5.6%	2.0%	1.2%
Under 16 years	1.5	0.1	0.8	0.0	0.0
Location					
Metropolitan	7.0	1.6	3.8	1.1	0.6
Prior referrals					
None	1.9	0.2	0.5	0.0	0.8
1 or 2	5.4	0.7	2.5	0.0	0.2
3 or more	14.5	4.4	10.3	3.7	0.8
Gender					
Male	8.3	1.8	4.4	1.1	0.7
Female	0.2	0.2	0.0	0.0	0.0
Race					
Black	9.1	2.6	10.9	1.5	0.9
White	5.1	1.3	0.8	1.1	0.5
Other	8.1	1.8	3.6	0.9	0.5

Source: NCJJ.

California

Data - 1990 and 1991 combined (data from 5 counties).

Number of formal delinquency cases - 64,275.

Number of formal delinquency cases judicially waived to criminal court - 310.

Percent of formal delinquency cases judicially waived to criminal court - 0.5.

**Appendix II
Judicial Waiver Data and Analysis for Seven
States**

Table II.4: Rate and Percent of Juvenile Cases Waived by Offense Type in California, 1990 and 1991

Offense type at referral	Waiver rate	Percent of waived cases
Violent	1.5%	85.1%
Property	0.1	6.4
Drugs	0.2	4.5
Weapons	0.1	1.3
Public order or other	0.1	1.3
Indeterminate	0.4	1.3

Source: NCJJ.

Table II.5: Percent of Juvenile Cases Waived by Sex, Age, and Race in California, 1990 and 1991

Sex		Age at disposition	Race		
Male	Female	16 or older	White	Black	Other
98.4%	1.6%	98.4%	5.5%	34.3%	60.2%

Source: NCJJ.

Table II.6: Selected Juvenile Waiver Rates in California, 1990 and 1991

Factors	Waiver rates at disposition				
	Violent	Property	Drugs	Weapons	Public order or other
Age					
16 or older	2.4%	0.1%	0.2%	0.2%	0.1%
Under 16 years	^a	0.0	0.1	0.0	^a
Location					
Metropolitan	1.5	0.1	0.2	0.1	0.1
Gender					
Male	1.7	0.1	0.2	0.1	0.1
Female	0.1	0.1	0.0	0.0	0.0
Race					
Black	1.3	0.1	0.2	0.1	0.1
White	0.5	0.1	0.4	0.0	0.1
Other	1.9	0.1	0.1	0.1	0.0

^aLess than 0.1 percent.

Source: NCJJ.

**Appendix II
Judicial Waiver Data and Analysis for Seven
States**

Florida

Data - 1990 and 1991 combined.

Number of formal delinquency cases - 148,976.

Number of formal delinquency cases judicially waived to criminal court - 1,389.

Percent of formal delinquency cases judicially waived to criminal court - 0.9.

Table II.7: Rate and Percent of Juvenile Cases Waived by Offense Type in Florida, 1990 and 1991

Offense type at disposition	Waiver rate	Percent of waived cases
Violent	1.8%	35.7%
Property	0.8	39.2
Drugs	2.4	13.7
Weapons	0.7	1.1
Public order or other	0.5	5.4

Source: NCJJ.

Table II.8: Percent of Juvenile Cases Waived by Sex, Age, and Race in Florida, 1990 and 1991

Sex		Age at referral	Race		
Male	Female	16 or older	White	Black	Other
95.5%	4.5%	76.2%	39.4%	60.1%	0.4%

Note: Percentages may not equal 100 due to rounding.

Source: NCJJ.

**Appendix II
Judicial Waiver Data and Analysis for Seven
States**

Table II.9: Selected Juvenile Waiver Rates in Florida, 1990 and 1991

Factors	Waiver rates at disposition				
	Violent	Property	Drugs	Weapons	Public order or other
Age					
16 or older	2.6%	1.4%	3.0%	1.1%	0.7%
Under 16 years	1.1	0.3	1.2	0.3	0.2
Location					
Metropolitan	1.8	0.8	.5	0.8	0.5
Nonmetropolitan	1.1	0.6	1.4	0.0	0.9
Prior referrals					
None	0.9	0.2	1.1	0.3	0.5
1 or 2	1.2	0.4	1.7	0.9	0.2
3 or more	2.9	1.5	3.8	1.1	0.6
Gender					
Male	2.0	0.9	2.5	0.8	0.5
Female	0.6	0.2	1.8	0.0	0.2
Race					
Black	2.3	0.7	3.0	0.9	0.5
White	1.0	0.8	1.2	0.5	0.5
Other	0.0	1.6	0.0	0.0	0.0

Source: NCJJ.

Missouri

Data - 1990 and 1991 (combined).

Number of formal delinquency cases - 15,787.

Number of formal delinquency cases judicially waived to criminal court - 464.

Percent of formal delinquency cases judicially waived to criminal court - 2.9.

**Appendix II
Judicial Waiver Data and Analysis for Seven
States**

Table II.10: Rate and Percent of Juvenile Cases Waived by Offense Type in Missouri, 1990 and 1991

Offense type at disposition	Waiver rate	Percent of waived cases
Violent	5.3%	41.6%
Property	1.7	26.9
Drugs	6.6	12.5
Weapons	2.4	19.0

Source: NCJJ.

Table II.11: Percent of Juvenile Cases Waived by Sex, Age, and Race in Missouri, 1990 and 1991

Sex		Age at referral	Race		
Male	Female	16 or older	White	Black	Other
98.7%	1.3%	77.0%	29.5%	70.5%	0%

Source: NCJJ.

Table II.12: Selected Juvenile Waiver Rates in Missouri, 1990 and 1991

Factors	Waiver rates at disposition			
	Violent	Property	Drugs	Weapons
Age				
16 or older	11.7%	4.4%	11.1%	5.6%
Under 16 years	2.3	0.4	2.6	0.7
Location				
Metropolitan	5.5	1.4	6.8	2.5
Nonmetropolitan	3.7	2.4	4.0	1.6
Prior referrals				
None	2.3	0.8	0.0	0.8
1 or 2	2.6	0.5	3.1	0.3
3 or more	9.4	3.2	12.0	4.2
Gender				
Male	6.0	1.8	7.0	2.7
Female	0.4	0.3	0.0	0.4
Race				
Black	7.4	1.8	7.5	3.2
White	2.4	1.6	3.3	1.3
Other	0.0	0.0	0.0	0.0

Source: NCJJ.

Appendix II
Judicial Waiver Data and Analysis for Seven
States

Pennsylvania

Data - 1990 and 1991 (combined).

Number of formal delinquency cases - 41,920.

Number of formal delinquency cases judicially waived to criminal court - 857.

Percent of formal delinquency cases judicially waived to criminal court - 2.0.

Table II.13: Rate and Percent of Juvenile Cases Waived by Offense Type in Pennsylvania, 1990 and 1991

Offense type at referral	Waiver rate	Percent of waived cases
Violent	2.4%	40.5%
Property	1.6	37.6
Drugs	3.8	19.3
Weapons	0.5	0.5
Public order or other	1.0	1.6
Indeterminate	0.7	0.7

Source: NCJJ.

Table II.14: Percent of Juvenile Cases Waived by Sex, Age, and Race in Pennsylvania, 1990 and 1991

Sex		Age at referral	Race		
Male	Female	16 or older	White	Black	Other
98.2%	1.8%	96.3%	31.8%	55.6%	12.5%

Note: Percentages may not equal 100 due to rounding.

Source: NCJJ.

**Appendix II
Judicial Waiver Data and Analysis for Seven
States**

Table II.15: Selected Juvenile Waiver Rates in Pennsylvania, 1990 and 1991

Factors	Waiver rates at disposition				
	Violent	Property	Drugs	Weapons	Public order or other
Age					
16 or older	4.8%	3.2%	5.3%	0.7%	1.8%
Under 16 years	0.2	0.1	0.5	0.3	0.0
Location					
Metropolitan	2.4	1.5	3.8	0.4	1.1
Nonmetropolitan	2.0	2.8	6.0	4.2	0.6
Prior referrals					
None	0.8	0.5	3.0	0.0	1.1
1 or 2	2.5	2.1	4.4	0.0	0.8
3 or more	5.8	5.7	4.9	0.0	3.2
Gender					
Male	2.8	1.8	3.9	0.6	1.2
Female	0.2	0.2	2.4	0.0	0.0
Race					
Black	3.0	1.6	3.9	0.8	0.9
White	1.4	1.6	1.6	0.0	1.0
Other	2.6	2.1	5.3	0.0	2.4

Source: NCJJ.

South Carolina

Data - 1990 and 1991 (combined).

Number of formal delinquency cases - 11,146.

Number of formal delinquency cases judicially waived to criminal court - 91.

Percent of formal delinquency cases judicially waived to criminal court - 0.8.

Appendix II
Judicial Waiver Data and Analysis for Seven
States

Table II.16: Rate and Percent of Juvenile Cases Waived by Offense Type in South Carolina, 1990 and 1991

Offense type at disposition	Waiver rate	Percent of waived cases
Violent	3.6%	64.8%
Property	0.3	17.6
Drugs	3.1	13.2
Weapons	0.6	2.2
Public order or other	0.1	2.2

Source: NCJJ.

Table II.17: Percent of Juvenile Cases Waived by Sex, Age, and Race in South Carolina, 1990 and 1991

Male	Sex		Age at referral		Race	
	Female	16 or older	White	Black	Other	
97.8%	2.2%	83.5%	14.3%	85.7%	0%	

Source: NCJJ.

**Appendix II
Judicial Waiver Data and Analysis for Seven
States**

Table II.18: Selected Juvenile Waiver Rates in South Carolina, 1990 and 1991

Factors	Waiver rates at disposition				
	Violent	Property	Drugs	Weapons	Public order or other
Age					
16 or older	9.8%	1.0%	5.2%	0.9%	0.2%
Under 16 years	0.9	0.1	1.0	0.5	0.0
Location					
Metropolitan	4.5	0.4	2.7	0.5	0.1
Nonmetropolitan	2.4	0.3	3.9	0.8	0.0
Prior referrals					
None	1.6	0.1	2.3	0.0	0.0
1 or 2	5.9	0.5	3.5	1.6	0.1
3 or more	5.7	0.6	4.7	0.0	0.0
Gender					
Male	4.0	0.4	3.2	0.7	0.1
Female	0.9	0.0	0.0	0.0	0.0
Race					
Black	4.4	0.4	3.8	0.8	0.1
White	1.6	0.2	0.0	0.0	0.1
Other	0.0	0.0	0.0	0.0	0.0

Source: NCJJ.

Utah

Data - 1990 and 1991 (combined).

Number of formal delinquency cases - 54,990.

Number of formal delinquency cases judicially waived to criminal court - 19.

Percent of formal delinquency cases judicially waived to criminal court - Less than 0.1 percent.

**Appendix II
Judicial Waiver Data and Analysis for Seven
States**

Table II.19: Rate and Percent of Juvenile Cases Waived by Offense Type in Utah, 1990 and 1991

Offense type at disposition	Waiver rate ^a	Percent of waived cases
Violent		21.0%
Property		79.0%

^aOffense specific waiver rates were not computed due to the small universe of waived cases.

Source: NCJJ.

Table II.20: Percent of Juvenile Cases Waived by Sex, Age, and Race in Utah, 1990 and 1991

Sex		Age at referral	Race		
Male	Female	16 or older	White	Black	Other
100%	0.0%	89.6%	52.6%	10.5%	36.8%

Note: Percentages may not equal 100 due to rounding.

Source: NCJJ.

Details of Analysis of Waiver Rates

We did the following analysis using the data from tables II.3, II.6, II.9, II.12, II.15, and II.18. However, our analysis was limited to the variables for which data were available in the six states.¹

Age - In the six states we examined, juveniles age 16 or older were more likely to have their cases waived than juveniles under age 16 years for all three offense types. However, the likelihood that older juveniles would have their cases waived than younger juveniles was much larger in some states than in others. For example, in Arizona older juveniles charged with property offenses were 39 times more likely to have their cases waived than were younger juveniles charged with such offenses; while in Florida, older juveniles charged with property offenses were only 5 times more likely to have their cases waived than younger juveniles. While waiver rates were somewhat higher in four of the six states for violent offenses than for property or drug offenses, the rates varied among the states within each age category. For example, older juveniles charged with property offenses were 44 times more likely to have their cases waived in Missouri than in California, while younger juveniles charged with violent offenses were 58 times more likely to have their cases waived in Missouri than in California.

Gender - Males were more likely than females to have their cases waived within each offense type in the six states we analyzed. The extent of the

¹Data were not available for Utah.

likelihood again varied by state. For example, in Arizona males charged with violent offenses were 42 times more likely to have their cases waived than females in Arizona, while such males were 17 times more likely to have their cases waived than females in California. In some states, the likelihood was more apparent for those charged with violent offenses than for those charged with either property or drug offenses. For males, juveniles charged with violent offenses had higher waiver rates than for males charged with drugs or property offenses in three of the six states. In the remaining three states, males charged with drug offenses had higher waiver rates. Waiver rates for each offense type also differed across states for males. For example, males charged with property offenses in Arizona or Missouri were 18 times more likely to have their cases waived than males in California.

Race - In four states, blacks were more likely than whites to have their cases waived for violent, property, and drug offenses. For violent offenses, the differential rates are fairly consistent across states, with black juveniles having waiver rates from 1.8 times to 3.1 times higher than whites. The differences varied more widely for drug offenses. In California, black juveniles were half as likely as white juveniles to have their cases waived, while in Pennsylvania black juveniles were more than twice as likely to have their cases waived than whites. There were some large differences, however; for example, for juveniles charged with drug offenses, Arizona's waiver rates for whites were twice those of California; while for blacks, Arizona's rates were 55 times those of California.

Locality - In the four NCJ states with data on metropolitan and nonmetropolitan courts, some small differences did exist but were not consistent across offense types within the same state. For example, in Missouri, waiver rates in metropolitan areas were higher for violent and drug offenses but lower for property offenses than in nonmetropolitan areas. The waiver rate was highest for drug offenses in all four states in nonmetropolitan areas and in three of the four states in metropolitan areas. In nonmetropolitan areas in Pennsylvania, juveniles charged with violent offenses were less likely to have their cases waived than those charged with drugs or property offenses. The likelihood of cases being waived in each type of locality varied somewhat for the offense types among the four states, particularly for property offenses. For example, juveniles charged with property offenses in metropolitan areas in Pennsylvania were almost 4 times more likely to have their cases waived than were juveniles in South Carolina, while those charged with property

offenses in nonmetropolitan areas of Pennsylvania were 9 times more likely to have their cases waived than those in South Carolina.

Prior Referrals - In the five states with data, waiver rates generally increased with the number of prior referrals for all five states and most offense types. We categorized referrals into three groups: (1) none, (2) one or two, and (3) three or more. The larger increases usually occurred between the second and third categories. For example, in Arizona, juveniles charged with violent offenses and who had one or two prior referrals were 3 times more likely to have their cases waived than those with no referrals, while juveniles charged with violent offenses with three or more referrals were 8 times more likely to be referred than those with no referrals. The states differed in the rates at which they waived cases for these offense types in each prior referral group. The differences were strongest for juveniles charged with property offenses. For example, considering only those with three or more prior referrals, the greatest difference for juveniles charged with violent offenses was found between Arizona and Florida, where Arizona's waiver rate for these juveniles was 5 times greater than Florida's. However, for juveniles charged with property offenses, the greatest difference was found between Pennsylvania and South Carolina, where Pennsylvania's waiver rate was almost 10 times greater than in South Carolina.

Conviction Rates for Other Youth and Young Adults

Table III.1: Conviction Rates and the Number of Other Youth Prosecuted in Criminal Court in Two States for Selected Offenses, 1989 and 1990

State	Serious violent		Serious property		Drugs	
	Number prosecuted	Percent convicted	Number prosecuted	Percent convicted	Number prosecuted	Percent convicted
Missouri	223	43%	1,015	38%	261	36%
New York	12,047	50	11,674	64	7,049	74

Note: This table includes the most prevalent offense types for which juveniles were prosecuted.

Source: Developed by GAO using OBTS data.

Table III.2: Conviction Rates and the Number of Young Adults (Ages 18-24) Prosecuted in Criminal Court in Seven States for Selected Offenses, 1989 and 1990

State	Serious violent		Serious property		Drugs	
	Number prosecuted	Percent convicted	Number prosecuted	Percent convicted	Number prosecuted	Percent convicted
California	12,629	82%	18,434	89%	23,662	81%
Minnesota	1,825	90	5,417	89	1,517	77
Missouri	1,222	53	4,359	48	1,794	48
Nebraska	925	79	2,113	82	892	79
New York	38,592	52	34,781	67	36,345	72
Pennsylvania	9,431	74	15,203	74	2,491	81
Vermont	212	91	812	98	135	90

Note: This table includes the most prevalent offense types for which juveniles were prosecuted.

Source: Developed by GAO using OBTS data.

Table III.3: Percent of Other Youth Convicted in Criminal Court by Offense, 1989 and 1990

State	Total number of other youth convicted	Percent convicted of serious violent offenses	Percent convicted of serious property offenses	Percent convicted of drug offenses
Missouri	705	14%	54%	13%
New York	21,665	28	34	24

Note: Percents may not equal 100 percent due to rounding and the exclusion of such offense types as weapons, indeterminate property, public order, and traffic offenses.

Source: Developed by GAO using OBTS data.

**Appendix III
Conviction Rates for Other Youth and Young
Adults**

Table III.4: Percent of Young Adults (Ages 18-24) Convicted in Criminal Court by Offense, 1989 and 1990

State	Total number of young adults convicted	Percent convicted of serious violent offenses	Percent convicted of serious property offenses	Percent convicted of drug offenses
California	51,570	20%	32%	37%
Minnesota	8,427	19	57	14
Missouri	4,259	15	49	20
Nebraska	3,972	18	44	18
New York	78,978	25	29	33
Pennsylvania	30,565	23	37	7
Vermont	1,510	13	53	8

Note: Percents may not equal 100 percent due to rounding and the exclusion of such offense types as weapons, indeterminate property, and public order.

Source: Developed by GAO using OBTS data.

Table III.5: Percent of Other Youth Incarcerated and the Total Number of Other Youth Sentenced for Serious Violent, Serious Property, and Drug Offenses, 1989 and 1990

State	Serious violent offenses		Serious property offenses		Drug offenses	
	Number sentenced	Percent incarcerated	Number sentenced	Percent incarcerated	Number sentenced	Percent incarcerated
Missouri	85	60%	355	49%	96	66%
New York	4,144	54	4,533	41	4,513	63

Source: Developed by GAO from OBTS data.

Table III.6: Percent of Young Adults (Ages 18-24) Incarcerated and the Total Number of Young Adults Sentenced for Serious Violent, Serious Property, and Drug Offenses, 1989 and 1990

State	Serious violent offenses		Serious property offenses		Drug offenses	
	Number sentenced	Percent incarcerated	Number sentenced	Percent incarcerated	Number sentenced	Percent incarcerated
California	6,747	93%	15,132	86%	18,438	90%
Minnesota	1,327	91	4,217	82	1,002	84
Missouri	566	67	2,007	53	868	57
Nebraska	560	78	1,587	61	668	62
New York	13,367	72	15,354	63	22,918	80
Pennsylvania	5,646	59	7,636	55	2,181	74
Vermont	136	67	719	53	121	47

Source: Developed by GAO from OBTS data.

Appendix III
Conviction Rates for Other Youth and Young
Adults

Table III.7: Total Number of Other Youth Incarcerated for Serious Violent Offenses, Serious Property Offenses, and Drug Offenses, 1989 and 1990

State	Total number of other youth incarcerated for serious violent offenses	Total number of other youth incarcerated for serious property offenses	Total number of other youth incarcerated for drug offenses
Missouri	51	173	63
New York	2,215	1,850	2,817
Total	2,266	2,023	2,880

Source: Developed by GAO using OBTS data.

Table III.8: Total Number of Young Adults (Ages 18-24) Incarcerated for Serious Violent Offenses, Serious Property Offenses, and Drug Offenses, 1989 and 1990

State	Total number of young adults incarcerated for serious violent offenses	Total number of young adults incarcerated for serious property offenses	Total number of young adults incarcerated for drug offenses
California	6,239	13,078	16,546
Minnesota	1,212	3,462	841
Missouri	379	1,072	497
Nebraska	439	968	413
New York	9,577	9,670	18,442
Pennsylvania	3,321	4,193	1,616
Vermont	91	380	57
Total	21,258	32,823	38,412

Source: Developed by GAO using OBTS data.

Summary of Transfer Laws

State	Statute	Maximum age of original juvenile court jurisdiction	Conditions under which a juvenile is or may be tried in criminal court
Alabama	Section 12-15-34, 1994 Al. Pub. Act 481	17	<p data-bbox="753 554 971 575"><u>Statutory Exclusions</u></p> <p data-bbox="753 606 1539 814">—any child who has been convicted as an adult. —child 16 or older charged with a capital offense; a class A felony; drug trafficking; or a felony that has as an element, the use of a deadly weapon, the causing of death or serious bodily injury, or the use of a dangerous instrument against any law enforcement officer, corrections officer, parole or probation officer, prosecutor, judge, court officer, grand juror, juror, witness, or a teacher, principal or employee of a public school.</p> <p data-bbox="753 846 915 867"><u>Judicial Waiver</u></p> <p data-bbox="753 898 1003 919">—any child 14 or older.</p>
Alaska	Sections 47.10.010, 47.10.060	17	<p data-bbox="753 936 971 957"><u>Statutory Exclusions</u></p> <p data-bbox="753 989 1539 1041">—child 16 or older charged with an unclassified or class A felony against a person, or first degree arson.</p> <p data-bbox="753 1073 915 1094"><u>Judicial Waiver</u></p> <p data-bbox="753 1125 1458 1178">—any child (there is a rebuttable presumption for waiver if child is charged with an unclassified or class A felony against a person).</p> <p data-bbox="753 1209 873 1230"><u>Sentencing</u></p> <p data-bbox="753 1262 1539 1356">—child tried as an adult under statutory exclusion but convicted of a lesser-included offense may have his or her case disposed of as though he or she had been adjudicated as a juvenile if the court finds that he or she is amenable to treatment.</p>
Arizona	R. Juv. P. 12, 14	17	<p data-bbox="753 1373 915 1394"><u>Judicial Waiver</u></p> <p data-bbox="753 1425 1539 1629">—any child (there is a rebuttable presumption for waiver if the child is 16 or older and charged with first or second degree murder; aggravated assault involving a deadly weapon and causing serious physical injury; sexual assault involving the use of a dangerous instrument or involving the intentional infliction of physical injury; or an offense constituting a class 1, 2, 3, or 4 felony where the child has been adjudicated as a delinquent on four prior, separate occasions, at least one of which was for a serious offense).</p>

(continued)

**Appendix IV
Summary of Transfer Laws**

State	Statute	Maximum age of original juvenile court jurisdiction	Conditions under which a juvenile is or may be tried in criminal court
Arkansas	Section 9-27-318	17	<p><u>Prosecutorial Discretion</u></p> <p>—child 16 or older charged with a felony. —child 14 or older charged with capital, first, or second degree murder; kidnapping; aggravated robbery; rape; first or second degree battery; possession of a handgun on school property; aggravated assault; terroristic act; unlawful discharge of a firearm from a vehicle; any felony committed while armed with a firearm; soliciting a minor to join a criminal street gang; criminal use of prohibited weapons; felony possession of a firearm; or felony attempt, solicitation, or conspiracy to commit capital, first, or second degree murder, kidnapping, aggravated robbery, rape, or first degree battery.</p> <p><u>Judicial Waiver</u></p> <p>—above conditions when prosecutor did not charge child as adult.</p> <p><u>Reverse Waiver</u></p> <p>—when prosecutor files in criminal (circuit) court, the court may remand to juvenile court.</p>
California	W & I sections 707, 707.2	17	<p><u>Judicial Waiver</u></p> <p>—any child 16 or older (there is a presumption for waiver if offense charged is arson, lewd act, attempted murder, certain types of assault, any felony with certain weapons [12020a], offense against an aged or handicapped person, felony or drug offense with use of firearm, influencing testimony, preventing or dissuading victim or witness from testifying, or any offense for which a 14 year old may have his or her case waived). —child 14 or older charged with murder; robbery in which the juvenile used a firearm; rape, sodomy, or oral copulation by force, etc.; penetration by a foreign object; kidnapping; discharging a firearm from a vehicle or into an occupied or inhabited building; manufacturing or selling certain controlled substances; escape from juvenile custody where bodily harm is inflicted on employee; torture; aggravated mayhem; assault with a firearm; attempted murder; rape with a firearm; burglary with a firearm; exploding a destructive device with intent to commit murder; carjacking with a firearm (there is a presumption for waiver if offense charged is first or second degree murder).</p> <p><u>Sentencing</u></p> <p>—child may be sentenced by criminal court as an adult or committed to California Youth Authority (CYA) (child under 16 must first go to CYA for amenability determination, but court can still sentence as an adult notwithstanding CYA's amenability determination).</p>

(continued)

**Appendix IV
Summary of Transfer Laws**

State	Statute	Maximum age of original juvenile court jurisdiction	Conditions under which a juvenile is or may be tried in criminal court
Colorado	Sections 19-2-805, 806	17	<p>Prosecutorial Discretion (the criminal court judge can no longer send cases directly filed back to juvenile court)</p> <ul style="list-style-type: none"> —child 14 or older charged with a class 1 or 2 felony; a crime of violence; a felony weapons offense (except possession of a handgun); or the use, possession, or threatened use of a deadly weapon during a felony against a person. —child 16 or older charged with a class 3 felony (except a certain classification of statutory rape) and who has been adjudicated within the past 2 years for a felony. —child 14 or older charged with a felony and who has been convicted as an adult in a prior case. —child 14 or older charged with a felony and determined to be a habitual juvenile offender (juvenile who has two prior adjudications for acts that constitute felonies). <p><u>Judicial Waiver</u></p> <p>—child 14 or older charged with a felony (the prosecutor must then file an information^a within 5 days or the waiver is invalid, and the case is remanded to the juvenile court permanently).</p> <p><u>Sentencing</u></p> <ul style="list-style-type: none"> —when a child has been tried as an adult by prosecutorial direct filing, the judge may sentence the child as an adult; as a youthful offender (with some restrictions); or as a juvenile in very limited circumstances. —if the child's case was judicially waived, the child may receive a sentence as a juvenile (or the criminal court may remand the case to juvenile court for disposition), unless the child was convicted of a class 1 felony or a crime of violence; has been previously adjudicated as a mandatory sentence offender, a violent juvenile offender, or an aggravated juvenile offender; or has been convicted as an adult or youthful offender.

(continued)

**Appendix IV
Summary of Transfer Laws**

State	Statute	Maximum age of original juvenile court jurisdiction	Conditions under which a juvenile is or may be tried in criminal court
Connecticut	Sections 46b-126, 46b-127	15	<p><u>Statutory Exclusions</u> (mandatory transfer provisions)</p> <p>—child 14 or older charged with murder.</p> <p>—child 14 or older charged with a class A felony (other than those listed below), who has a previous adjudication, at any age, for a class A felony.</p> <p>—child 14 or older charged with a class B felony (other than those listed below) who has been adjudicated as a delinquent twice before on class A or B felonies.</p> <p>—child 14 or older charged with any of the following crimes committed with a firearm: first or second degree manslaughter; first or second degree assault; third degree sexual assault; first or second degree kidnapping; second or third degree burglary; second degree robbery while displaying or threatening to use a deadly weapon; first degree sexual assault with a deadly weapon; first degree burglary; or first degree robbery.</p> <p>—child 14 or older charged with any felony classified as a serious juvenile offense under 46b-120 while carrying a revolver or pistol without a permit.</p> <p><u>Judicial Waiver</u> (where mandatory transfer provisions—section 46b-127—do not apply)</p> <p>—child 14 or older charged with a class A felony.</p> <p>—child 14 or older charged with a class B or C felony who previously has been adjudicated as a “serious juvenile offender” (found to have committed one or more offenses listed in section 46b-120).</p>
Delaware	10 sections 921, 1010, 1011	17	<p><u>Statutory Exclusions</u></p> <p>—any child charged with murder in the first or second degree, unlawful sexual intercourse in the first degree, or kidnapping in the first degree.</p> <p><u>Judicial Waiver</u></p> <p>—any child 16 or older.</p> <p>—any child 14 or older charged with a felony.</p> <p><u>Reverse Waiver</u></p> <p>—Attorney General may transfer any case from criminal court to juvenile court (whether child was transferred by juvenile court or criminal court had original jurisdiction).</p> <p>—where criminal court has original jurisdiction over child (i.e., statutorily excluded offenses) criminal court may transfer to juvenile court.</p>

(continued)

**Appendix IV
Summary of Transfer Laws**

State	Statute	Maximum age of original juvenile court jurisdiction	Conditions under which a juvenile is or may be tried in criminal court
District of Columbia	Sections 16-2301, 16-2307	17	<p><u>Statutory Exclusions</u></p> <p>—any child previously convicted as an adult. —any child awaiting trial in criminal court when an indictment or an information is filed against him for a subsequent offense.</p> <p><u>Prosecutorial Discretion</u></p> <p>—child 16 or older charged with murder, forcible rape, first degree burglary, armed robbery, or assault with intent to commit any of those crimes.</p> <p><u>Judicial Waiver</u></p> <p>—child 15 or older charged with a felony. (There is a rebuttable presumption for waiver if child is 15 or older and charged with murder, forcible rape, first degree burglary, robbery while armed, or assault with intent to commit any of the above; any crime with a firearm; or any violent felony if the child has three or more prior delinquency adjudications.) —child 16 or older under commitment as a delinquent child. —any child charged with illegal possession or control of a firearm within 500 feet of public school property, or school-sponsored event.</p>

(continued)

**Appendix IV
Summary of Transfer Laws**

State	Statute	Maximum age of original juvenile court jurisdiction	Conditions under which a juvenile is or may be tried in criminal court
Florida	Sections 39.022, 39.047, 39.052, 39.0587	17	<p><u>Statutory Exclusions</u></p> <p>—any child who has been convicted and sentenced as an adult. —child 16 or older charged with a violent crime against a person and who previously has been adjudicated for murder, sexual battery, carjacking, armed or strong-armed robbery, home-invasion robbery, aggravated battery, or aggravated assault (prosecutor must file information). —any child who has previously been adjudicated on three separate occasions for felonies that resulted in residential placements.</p> <p><u>Prosecutorial Discretion</u></p> <p>—child 14 or older charged with arson; sexual battery; robbery; kidnapping; aggravated child abuse; aggravated assault; aggravated stalking; murder; manslaughter; unlawful throwing, placing, or discharging a destructive device or bomb; armed burglary; aggravated battery; lewd or lascivious assault or act in the presence of a child; or use or possession of a weapon during a felony. —any child 16 or older charged with a felony, or charged with a misdemeanor where he or she has two prior delinquency adjudications of which at least one was a felony. —any child charged with a crime that is punishable by death or by life imprisonment.</p> <p><u>Judicial Waiver</u></p> <p>—child 14 or older. (In the case of a child 14 or older charged with a fourth felony where one of prior three felonies involved using firearm or violence against a person: the prosecutor must request a waiver or explain in writing why he or she is not requesting a waiver; then the court must waive or explain in writing why it is not granting a waiver.)</p> <p><u>Sentencing</u></p> <p>—criminal court may sentence child as an adult, select from juvenile dispositions, or invoke Florida Youthful Offender statute (except that a child found to have committed an offense punishable by death or life imprisonment must be sentenced as an adult).</p>

(continued)

**Appendix IV
Summary of Transfer Laws**

State	Statute	Maximum age of original juvenile court jurisdiction	Conditions under which a juvenile is or may be tried in criminal court
Georgia	Sections 15-11-5, 15-11-39, 15-11-39.1	16	<p><u>Statutory Exclusions</u></p> <p>—child 13 or older charged with murder, voluntary manslaughter, rape, aggravated sodomy, aggravated child molestation, aggravated sexual battery, or armed robbery committed with a firearm (superior court has exclusive original jurisdiction, but after an investigation, the prosecutor may refuse to indict or the judge may send child to juvenile court “for extraordinary cause”).</p> <p>—child 14 or older who is confined to a youth development center and is charged with aggravated assault or aggravated battery (mandatory transfer).</p> <p>—child 15 or older charged with burglary after having been adjudicated as a delinquent on burglary charges at least three times previously (mandatory transfer).</p> <p><u>Prosecutorial Discretion</u> (concurrent jurisdiction)</p> <p>—child charged with a crime punishable by death or by life imprisonment (other than those offenses that are in the exclusive jurisdiction of the Superior Court).</p> <p><u>Judicial Waiver</u></p> <p>—child 15 or older.</p> <p>—child 13 or older charged with a felony punishable by life imprisonment or death (other than those offenses that are in the exclusive jurisdiction of the Superior Court).</p> <p><u>Reverse Waiver</u></p> <p>—child charged with statutorily excluded offense may be transferred to juvenile court “for extraordinary cause” unless the offense is punishable by death or life imprisonment.</p> <p><u>Sentencing</u></p> <p>—child charged with statutorily excluded offense but convicted of a lesser-included offense may be transferred to juvenile court for sentencing.</p>

(continued)

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Summary of Transfer Laws**

State	Statute	Maximum age of original juvenile court jurisdiction	Conditions under which a juvenile is or may be tried in criminal court
Hawaii	Section 571-22	17	<p><u>Statutory Exclusions</u></p> <p>—child who has been transferred to adult court. —child 16 or older who is charged with murder or attempted murder in the first or second degree, or a class A felony (felony punishable by 20 years imprisonment, includes sexual assault, robbery, kidnapping, some drug offenses) and who has been adjudicated for two other felonies in the prior 2 years or previously has been adjudicated as a delinquent for murder or attempted murder in the first or second degree or for another violent class A felony.</p> <p><u>Judicial Waiver</u></p> <p>—child 16 or older charged with a felony.</p> <p><u>Sentencing</u></p> <p>—any child under 22 may be sentenced as a young adult (they receive shorter sentences).</p>
Idaho	Sections 16-1806, 16-1806A	17	<p><u>Statutory Exclusions</u></p> <p>—child 14 or older charged with murder or attempted murder, robbery, forcible rape, forcible sexual penetration with a foreign object, infamous crimes against nature committed by force or violence, mayhem, assault and battery with the intent to commit a previously listed crime, or drug offenses within 1,000 feet of a school or school activity. —any child who has been convicted as an adult.</p> <p><u>Judicial Waiver</u></p> <p>—child 14 or older.</p>

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Summary of Transfer Laws**

State	Statute	Maximum age of original juvenile court jurisdiction	Conditions under which a juvenile is or may be tried in criminal court
Illinois	705 ILCS 405/5-4	16	<p><u>Statutory Exclusions</u></p> <p>—child 15 or older charged with first degree murder; aggravated criminal sexual assault; armed robbery with a firearm; a drug offense on or within 1,000 feet of school or public housing grounds, or on a school conveyance; or unlawful use of a weapon on school grounds.</p> <p>—any child charged with escape or bail jumping while the child is being tried in criminal court.</p> <p>—child 15 or older charged with a felony and who has previously been adjudicated as a delinquent for a felony, provided that either the current or prior act was a forcible felony, and the current act stemmed from gang activity (mandatory transfer).</p> <p><u>Judicial Waiver</u></p> <p>—child 13 or older. (There is a rebuttable presumption for waiver for child 15 or older charged with a class X felony other than armed violence, aggravated discharge of a firearm, or certain “armed violence with a firearm” offenses).</p> <p><u>Sentencing</u></p> <p>—If child being tried in criminal court for a statutorily excluded offense is found guilty of a lesser offense, the court may sentence the child as a juvenile or adult.</p>
Indiana	Sections 31-6-2-1, 31-6-2-4	17	<p><u>Statutory Exclusions</u></p> <p>—child 16 or older charged with murder; kidnapping; rape; or robbery, while armed with a deadly weapon or which results in bodily injury or serious bodily injury; carjacking; criminal gang activity; criminal gang intimidation; carrying handgun without a license; being a child in possession of a handgun or transferring a handgun to another child; or dealing in a sawed-off shotgun.</p> <p>—any child 16 or older whose case is waived to adult court (by judicial waiver or prosecutorial discretion) in the year preceding the current offense and who is convicted of the previous offense or a lesser included one.</p> <p>—child who has been convicted as an adult and is currently charged with a felony (mandatory transfer).</p> <p><u>Judicial Waiver</u></p> <p>—child 10 or older charged with murder.</p> <p>—child 14 or older charged with a heinous or aggravated act, or a pattern of criminal acts.</p> <p>—child 16 or older charged with certain felony drug charges, a class A or B felony that is not a statutory exclusion, involuntary manslaughter as a class C felony, or reckless homicide as a class C felony.</p>

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Summary of Transfer Laws**

State	Statute	Maximum age of original juvenile court jurisdiction	Conditions under which a juvenile is or may be tried in criminal court
Iowa	Sections 232.8, 232.45, 232.45A	17	<p><u>Statutory Exclusions</u></p> <p>—child 16 or older charged with a felony and who has been convicted as an adult for a felony.</p> <p><u>Judicial Waiver</u></p> <p>—child 14 or older.</p> <p><u>Sentencing</u></p> <p>—a child convicted as an adult on a nonmarijuana related drug offense is not subject to normal minimum sentencing laws, but the child would have to serve at least 30 days.</p>
Kansas	Sections 21-3611, 38-1602, 38-1636	17	<p><u>Statutory Exclusions</u></p> <p>—child 16 or older charged with a felony who has been previously adjudicated as a delinquent for a felony.</p> <p>—any child previously convicted as an adult, if he or she had come to criminal court through statutory exclusion provision, as explained above.</p> <p>—child 16 or older who has been adjudicated as a delinquent and confined to a juvenile facility and who is charged with committing a felony while confined in the facility or while running away or escaping from the facility; or charged with a second or subsequent escape.</p> <p><u>Judicial Waiver</u></p> <p>—child 16 or older.</p> <p>—child 14 or older who is charged with a level 1, 2, or 3 nondrug felony or a level 1 or 2 drug felony (classifications as of 7/1/93) or a class A or B felony (pre- 7/1/93 classifications) (if the child is convicted of a lesser-included offense then he or she is treated as a juvenile).</p>

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Summary of Transfer Laws**

State	Statute	Maximum age of original juvenile court jurisdiction	Conditions under which a juvenile is or may be tried in criminal court
Kentucky	Sections 635.020, 640.010	17	<p><u>Statutory Exclusions</u></p> <p>—child 14 or older charged with a felony in which a firearm was used.</p> <p><u>Judicial Waiver</u></p> <p>—child 14 or older charged with a capital offense or a class A (punishable by 20 years to life) or B (punishable by 10-20 years) felony. —child 16 or older charged with a class C or D felony (punishable by 5-10 and 1-5 years, respectively) and who has twice before been adjudicated on felony charges. —any child charged with a felony and who has previously been convicted as an adult.</p> <p><u>Reverse Waiver</u></p> <p>—any child transferred to adult court and indicted for an offense other than those listed above will be transferred back to juvenile court.</p> <p><u>Sentencing</u></p> <p>—any child sentenced before becoming 18 and not released before becoming 18 must be returned to the sentencing court for a redetermination of sentence, which may result in probation or conditional discharge, 6 more months of treatment program, or incarceration in adult prison.</p>
Louisiana	Ch.C. Art. 305, Art. 857	16	<p><u>Statutory Exclusions</u></p> <p>—child 15 or older charged with first or second degree murder, aggravated rape, or aggravated kidnapping.</p> <p><u>Prosecutorial Discretion</u></p> <p>—child 15 or older charged with attempted first or second degree murder; manslaughter; armed robbery; forcible rape; simple rape; second degree kidnapping; a second or subsequent aggravated battery, aggravated burglary, burglary of an inhabited dwelling, or felony grade violation of statute involving the manufacture, distribution, or possession with intent to distribute controlled dangerous substances.</p> <p><u>Judicial Waiver</u></p> <p>—child 14 or older charged with first or second degree murder, aggravated kidnapping, aggravated rape, aggravated battery committed by discharging a firearm, armed robbery with a firearm, or aggravated oral sexual battery (a 14 year old whose case is waived to criminal court and who is convicted cannot be confined beyond his or her 31st birthday.)</p>

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State	Statute	Maximum age of original juvenile court jurisdiction	Conditions under which a juvenile is or may be tried in criminal court
Maine	15 section 3101	17	<p><u>Statutory Exclusions</u></p> <p>—child convicted as an adult.</p> <p><u>Judicial Waiver</u></p> <p>—child charged with murder or a class A, B, or C crime.</p>
Maryland	Cts. sections 3-804, 3-817	17	<p><u>Statutory Exclusions</u></p> <p>—child 14 or older charged with a crime punishable by death or by life imprisonment.</p> <p>—child 16 or older charged with abduction; kidnapping; second degree murder; manslaughter (except involuntary); mayhem or maiming; robbery with a dangerous or deadly weapon; a second or third degree sexual offense; certain firearms offenses; using, wearing, carrying, or transporting a firearm during a drug trafficking offense; carjacking or armed carjacking; assault with intent to murder, rape, rob, or commit a first or second degree sexual offense.</p> <p><u>Judicial Waiver</u></p> <p>—child 15 or older.</p> <p>—any child charged with a crime punishable by death or by life imprisonment.</p> <p><u>Reverse Waiver</u></p> <p>—criminal court may transfer juveniles charged with statutorily excluded offenses to juvenile court (the court cannot transfer child back to juvenile court if the child has been previously reverse waived to juvenile court and was adjudicated as a delinquent, the child has been convicted in another unrelated case of a statutorily excluded offense, or the child is 16 or older and charged with 1st degree murder).</p> <p>—when criminal court does a reverse waiver of an excluded juvenile, juvenile court cannot judicially waive the case back to criminal court.</p>
Massachusetts	119 section 61	16	<p><u>Judicial Waiver</u></p> <p>—child 14 or older when the crime could result in imprisonment in the state prison and (1) the child has been previously committed to the department of youth services or (2) when the act involves the infliction or threat of serious bodily harm (prosecutor may appeal judge’s decision denying waiver); court must hold transfer hearing if child charged with murder in the first or second degree, manslaughter, assault with intent to rob while armed, rape, rape of child under 16, kidnapping, or burglary (being armed or making an assault).</p> <p><u>Sentencing</u></p> <p>—child tried as an adult for any offense except murder and found guilty before turning 18 may be adjudicated as a delinquent and given a juvenile disposition.</p>

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State	Statute	Maximum age of original juvenile court jurisdiction	Conditions under which a juvenile is or may be tried in criminal court
Michigan	Sections 600.606, 712A.4, 712A.2, 769.1	16	<p><u>Prosecutorial Discretion</u></p> <p>—child 15 or older charged with murder in the first or second degree; attempted murder; assault with the intent to murder; assault with intent to rob while armed; criminal sexual conduct in the first degree; armed robbery; carjacking; manufacture, distribution, or possession of controlled substances (650 grams or more of narcotics or cocaine).</p> <p><u>Judicial Waiver</u></p> <p>—child 15 or older charged with a felony.</p> <p><u>Sentencing</u></p> <p>—child tried as an adult by prosecutorial discretion may be sentenced as an adult or given a juvenile disposition.</p>
Minnesota	Sections 260.015, 260.125	17	<p><u>Statutory Exclusions</u></p> <p>—any child charged with a felony and who has been previously certified for trial as an adult and convicted of the offense for which he or she was certified or of a lesser-included felony offense.</p> <p>—child 16 or older charged with first degree murder (but not attempted first degree murder).</p> <p><u>Judicial Waiver</u></p> <p>—child 14 or older charged with a felony (there is a rebuttable presumption for waiver if the child is 16 or older and charged with felony involving the use of a firearm or an offense that would result in a prison sentence under the sentencing guidelines).</p> <p>—if the presumption applies and the court retains jurisdiction, it must designate the proceeding an extended jurisdiction juvenile prosecution (if the presumption does not apply the court may still designate as an extended jurisdiction prosecution).</p>

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State	Statute	Maximum age of original juvenile court jurisdiction	Conditions under which a juvenile is or may be tried in criminal court
Mississippi	Sections 43-21-105, 43-21-151, 43-21-157, 43-23-29, 43-23-31	17	<p><u>Statutory Exclusions</u></p> <ul style="list-style-type: none"> —child 13 or older charged with a crime punishable by life imprisonment or the death penalty or charged with felony use of a deadly weapon. —child convicted as an adult. —child 17 charged with a felony. <p><u>Judicial Waiver</u> (youth court, which was created as a division of family or county court in all jurisdictions)</p> <ul style="list-style-type: none"> —child 13 or older. <p><u>Judicial Waiver</u> (family court) (Harrison county is the only jurisdiction with a family court)</p> <ul style="list-style-type: none"> —child 13 or older charged with a felony. —child 13 or older charged with a misdemeanor and who was first brought before municipal or justice of the peace court (family court retains jurisdiction to set aside the sentence). <p><u>Reverse Waiver</u></p> <ul style="list-style-type: none"> —in case of statutory exclusions, the circuit court may transfer to youth court unless the child was previously convicted as an adult. —in case of judicial waiver, circuit court may upon motion of the child, review the transfer proceedings and remand the case to youth court if there is no substantial evidence supporting the transfer. —the Family Court Act makes no provision for reverse waiver.
Missouri	Section 211.071	16	<p><u>Statutory Exclusions</u></p> <ul style="list-style-type: none"> —child previously convicted as an adult. <p><u>Judicial Waiver</u></p> <ul style="list-style-type: none"> —child 14 or older charged with a felony.
Montana	Section 41-5-206	17	<p><u>Statutory Exclusions</u></p> <ul style="list-style-type: none"> —child 16 or older charged with deliberate or mitigated deliberate homicide or the attempt to commit either (mandatory transfer). <p><u>Judicial Waiver</u></p> <ul style="list-style-type: none"> —child 12 or older charged with sexual intercourse without consent, mitigated deliberate homicide, deliberate homicide, or attempted deliberate or mitigated deliberate homicide. —child 16 or older charged with negligent homicide, arson, aggravated or felony assault, robbery, burglary or aggravated burglary, aggravated kidnapping, possession of explosives, criminal sale of dangerous drugs, or attempting to commit any of those acts.

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State	Statute	Maximum age of original juvenile court jurisdiction	Conditions under which a juvenile is or may be tried in criminal court
Nebraska	Sections 43-247, 43-261	17	<p><u>Prosecutorial Discretion</u></p> <p>—child 16 or older charged with misdemeanor. —any child charged with a felony.</p> <p><u>Reverse Waiver</u></p> <p>—any child charged in criminal court may move the court to waive jurisdiction to juvenile court.</p>
Nevada	Sections 62.040, 62.060, 62.080	17	<p><u>Statutory Exclusions</u></p> <p>—child charged with murder or attempted murder. —child who has been convicted as an adult.</p> <p><u>Judicial Waiver</u></p> <p>—child 16 or older charged with a felony.</p> <p><u>Extended Jurisdiction</u></p> <p>—a person 18-20 who is charged with a gross misdemeanor or felony other than murder or attempted murder may request that the district court waive jurisdiction, so that the person can be tried as a juvenile.</p> <p><u>Reverse Waiver</u></p> <p>—child who is statutorily excluded because he or she has previously been convicted as an adult may request waiver to juvenile court.</p>
New Hampshire	Sections 169-B:24, 169-B:27, 628:1	17	<p><u>Statutory Exclusions</u></p> <p>—any child who has been convicted as an adult.</p> <p><u>Judicial Waiver</u></p> <p>—child 15 or older charged with a felony. —child 13 or older charged with first or second degree murder, manslaughter, kidnapping, or aggravated sexual assault.</p> <p><u>Reverse Waiver</u></p> <p>—in the case of a child charged with a felony and who is not within the jurisdiction of the state, the juvenile court may, upon motion of the prosecutor, authorize use of regular criminal proceedings against the child; the criminal court then determines whether to retain jurisdiction or remand the case to juvenile court.</p>

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State	Statute	Maximum age of original juvenile court jurisdiction	Conditions under which a juvenile is or may be tried in criminal court
New Jersey	Section 2A:4A-26	17	<p><u>Judicial Waiver</u></p> <p>—child 14 or older charged with criminal homicide (other than death by auto) or strict-liability for drug-induced death; first degree robbery; aggravated sexual assault; sexual assault; second degree aggravated assault, kidnapping, aggravated arson or conspiracy to commit any of these crimes; any other crime committed after the juvenile was adjudicated as a delinquent or convicted for one of the above crimes or after the child had been sentenced as an adult to confinement; any other violent offense against a person; the unlawful possession of a firearm, destructive device, or other prohibited weapon, arson, or conspiracy to commit any of these crimes; death by auto if the child was under the influence of drugs or alcohol; various offenses related to being part of an organized drug ring or conspiracy; auto theft; racketeering; or distributing for pecuniary gain, any controlled substance within 1,000 feet of a public school.</p>
New Mexico	Sections 31-18-13 et seq., 32A-1-8, 32A-2-3	17	<p><u>Statutory Exclusions</u></p> <p>—child 16 or older charged with first degree murder (called a “serious youthful offender”).</p> <p>Juvenile Court Disposition (subject to adult or juvenile sanctions in juvenile court, called “youthful offenders”)</p> <p>—child 15 or older found to have committed second degree murder; assault with intent to commit a violent felony; kidnapping; aggravated battery; shooting at a dwelling, occupied building, or at or from a car, resulting in great bodily harm to another; dangerous use of explosives; criminal sexual penetration; robbery; aggravated burglary or aggravated arson; or any felony if he or she has been adjudicated on felonies twice before in the prior 2 years.</p> <p>—15 year old found to have committed first degree murder.</p>

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State	Statute	Maximum age of original juvenile court jurisdiction	Conditions under which a juvenile is or may be tried in criminal court
New York	Penal Law 30.00, 70.05 Criminal Procedure Law 1.20(42), 180.75, 190.71, 210.43	15	<p>Statutory Exclusions (all juveniles tried in criminal court are considered "juvenile offenders")</p> <p>—child 13 or older charged with murder in the second degree. —child 14 or older charged with kidnapping or attempted kidnapping in the first degree; arson in the first or second degree; assault in the first degree; manslaughter in the first degree; rape in the first degree; sodomy in the first degree; aggravated sexual abuse; first degree burglary; some second degree burglary; first degree robbery; some second degree robbery; attempted second degree murder.</p> <p><u>Reverse Waiver^b</u></p> <p>—the criminal court or superior court may send the child to juvenile court.</p> <p><u>Sentencing</u></p> <p>—all juveniles in criminal court are sentenced as juvenile offenders (an adult-like sentence but with lower required minimum period of imprisonment).</p>
North Carolina	Section 7A-608	15	<p><u>Statutory Exclusions</u></p> <p>—child 13 or older charged with a class A felony (an offense punishable by death or life imprisonment) (mandatory transfer).</p> <p><u>Judicial Waiver</u></p> <p>—child 13 or older charged with a lesser felony.</p>
North Dakota	Section 27-20-34	17	<p><u>Judicial Waiver</u></p> <p>—child 14 or older charged with committing an act that involves the infliction or threat of serious bodily harm. —child 16 or older.</p>
Ohio	Sections 2151.011, 2151.26	17	<p><u>Statutory Exclusions</u></p> <p>—child charged with murder; aggravated murder; or a felony or aggravated felony of the first or second degree, if the child has been previously transferred to and convicted in criminal court. —child charged with murder or aggravated murder and who previously has been adjudicated as a delinquent for murder or aggravated murder (mandatory transfer).</p> <p><u>Judicial Waiver</u></p> <p>—child 15 or older charged with a felony.</p>

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State	Statute	Maximum age of original juvenile court jurisdiction	Conditions under which a juvenile is or may be tried in criminal court
Oklahoma	10 sections 1101, 1104.02, 1112	17	<p><u>Statutory Exclusions</u></p> <p>—child 16 or older charged with murder; kidnapping for the purposes of extortion; robbery with a dangerous weapon; rape in the first degree; rape by instrument; use of a firearm or other offensive weapon, while committing a felony; arson in the first degree; burglary with explosives, first or second degree burglary after three or more adjudications for first or second degree burglary; shooting with intent to kill; discharging a firearm, crossbow, or other weapon from a vehicle; intimidating a witness; manufacturing, distributing, dispensing, or possessing with intent to manufacture, distribute, or dispense controlled dangerous substances; assault and battery with a deadly weapon; manslaughter in the first degree; or sodomy.</p> <p>—any child convicted as an adult of the offense originally charged.</p> <p><u>Judicial Waiver</u></p> <p>—any child charged with a felony.</p> <p><u>Reverse Waiver</u></p> <p>—criminal court may waive its jurisdiction over statutorily excluded offenses (it may not waive jurisdiction over a child previously convicted as an adult).</p>
Oregon	Sections 419C.340, 419C.349, 419C.352, 419C.361, 419C.364	17	<p><u>Statutory Exclusions</u></p> <p>—child 15 or older charged with murder, first or second degree manslaughter, first or second degree assault, first or second degree kidnapping, first or second degree rape, first or second degree sodomy, unlawful sexual penetration, first degree sexual abuse, first or second degree robbery.</p> <p><u>Judicial Waiver</u></p> <p>—child 15 or older charged with attempt to commit murder or attempt to commit an aggravated form of murder.</p> <p>—child 16 or older charged with a class A or B felony (except for those offenses that are statutorily excluded), escape in the second degree, assault in the third degree, coercion, arson in the second degree, or robbery in the third degree.</p> <p><u>Sentencing</u></p> <p>—child found guilty of lesser “nonwaivable” offense must be returned to juvenile court for disposition.</p>

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State	Statute	Maximum age of original juvenile court jurisdiction	Conditions under which a juvenile is or may be tried in criminal court
Pennsylvania	42 PA. C.S.A. sections 6302, 6322, 6355	17	<p><u>Statutory Exclusions</u></p> <p>—any child charged with murder. —any child who has been found guilty in a criminal proceeding.</p> <p><u>Judicial Waiver</u></p> <p>—child 14 or older charged with a felony.</p> <p><u>Reverse Waiver</u></p> <p>—child charged with murder in criminal court may be transferred to juvenile court.</p> <p><u>Sentencing</u></p> <p>—child charged with murder in criminal proceeding but convicted of crime less than murder may be transferred to juvenile court for sentencing. —child transferred to criminal court under judicial waiver and convicted of a misdemeanor may be transferred back to juvenile court for sentencing.</p>
Rhode Island	Sections 14-1-3, 14-1-7, 14-1-7.1, 14-1-7.2, 14-1-7.3, 14-1-7.4	17	<p><u>Statutory Exclusions</u></p> <p>—any child who has been convicted as an adult. —child 17 or older charged with murder, first degree sexual assault, or assault with intent to commit murder (mandatory transfer).</p> <p><u>Judicial Waiver</u></p> <p>—any child charged with a crime punishable by life imprisonment. —child 16 or older charged with a felony.</p> <p><u>Juvenile Court Disposition</u></p> <p>—any child charged with a felony may be “certified” in juvenile court (a child that is certified may be sentenced to the state training school or to a term of years to be served at the training school until the child turns 21, with the excess time being served in prison, unless the court finds before then that the child has been rehabilitated). —child 16 or older charged with a felony drug offense and has been previously adjudicated as a delinquent for a felony drug offense after the age of 16 must be waived or certified. —child 16 or older charged with a felony and who has been found as a delinquent for having committed two offenses after the age of 16 for which an adult could be indicted must be certified.</p>

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State	Statute	Maximum age of original juvenile court jurisdiction	Conditions under which a juvenile is or may be tried in criminal court
South Carolina	Sections 20-7-390, 20-7-430	16	<p><u>Statutory Exclusions</u></p> <p>—child 16 charged with murder; a Class A, B, C, or D felony; a felony that has a maximum term of imprisonment of 15 years or more; criminal sexual conduct; or distribution of drugs within proximity of a school.</p> <p><u>Judicial Waiver</u></p> <p>—child younger than 16 charged with murder or criminal sexual conduct. —child 14 or 15 charged with a Class A, B, C, or D felony; a felony that provides for a maximum term of imprisonment of 15 years or more; or distribution of drugs within proximity of a school. —child 14 or older charged with assault and battery of a high and aggravated nature; carrying weapons on school property; or unlawful carrying of a pistol. —child 16 charged with a Class E or F felony; or a Class A, B, or C misdemeanor.</p> <p><u>Reserve Waiver</u></p> <p>—child statutorily excluded may be remanded to the family court for disposition of the charge at the discretion of the prosecutor.</p>
South Dakota	Sections 26-11-4, 26-11-10	17	<p><u>Judicial Waiver</u></p> <p>—child age 10 or older charged with a felony. (There is a rebuttable presumption for waiver for a child 16 or older charged with a class A, B, 1, or 2 felony.)</p> <p><u>Sentencing</u></p> <p>—When a child under 18 is found guilty of any crime except murder, the circuit court may, instead of entering judgment, order that the child be sent to the state training school.</p>
Tennessee	Sections 37-1-134, 37-1-159	17	<p><u>Statutory Exclusions</u></p> <p>—any child who has been convicted as an adult.</p> <p><u>Judicial Waiver</u></p> <p>—child 16 or older. —any child charged with first or second degree murder, rape, aggravated rape, aggravated robbery, especially-aggravated robbery, kidnapping, aggravated kidnapping, or especially-aggravated kidnapping.</p> <p><u>Reverse Waiver</u></p> <p>—when a nonlawyer judge presides over transfer hearing, the criminal court upon motion of juvenile must hold a de novo transfer hearing and either remand the case to juvenile court or accept jurisdiction.</p>

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State	Statute	Maximum age of original juvenile court jurisdiction	Conditions under which a juvenile is or may be tried in criminal court
Texas	Family Code sections 51.03, 51.08, 54.02	16	<p><u>Judicial Waiver</u></p> <p>—child age 15 or older charged with a felony.</p> <p><u>Reverse Waiver</u></p> <p>—criminal court shall conduct examining trial if there is good cause to do so and may remand to juvenile court (if there is no good cause for an examining trial, the court refers the matter to a grand jury). —the juvenile court may reclaim jurisdiction if a grand jury refuses to indict the juvenile.</p>
Utah	Sections 78-3a-17(1), 78-3a-25	17	<p><u>Statutory Exclusions</u></p> <p>—child 16 or older charged with aggravated murder. —any child who has been previously convicted as an adult.</p> <p><u>Prosecutorial Discretion</u></p> <p>—child 16 or older charged with murder, a capital crime, first degree felony, criminal homicide or attempted criminal homicide involving the use of a dangerous weapon; or any felony involving the use of a dangerous weapon where the juvenile has a prior adjudication for a felony offense involving a dangerous weapon.</p> <p><u>Judicial Waiver (called certification)</u></p> <p>—child 14 or older charged with a felony.</p> <p><u>Reverse Waiver</u></p> <p>—child whose case has been judicially waived may request hearing in juvenile court to recall jurisdiction. (If juvenile court recalls jurisdiction, juvenile is returned to juvenile court for further proceedings, which may include certification to adult court.)</p> <p><u>Sentencing</u></p> <p>—a criminal court may sentence a child as an adult or as a juvenile in a case that has been waived.</p>

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State	Statute	Maximum age of original juvenile court jurisdiction	Conditions under which a juvenile is or may be tried in criminal court
Vermont	33 sections 5502, 5505, 5506	17 ("child" is defined as under 16 for delinquency purposes, but 16 and 17 year olds may still be treated as juveniles)	<p><u>Statutory Exclusions</u></p> <p>—child 14 or older charged with arson, causing death; assault and robbery with a dangerous weapon; assault and robbery, causing bodily injury; aggravated assault; murder; manslaughter; kidnapping; maiming; sexual assault; or aggravated sexual assault.</p> <p><u>Prosecutorial Discretion</u></p> <p>—child 16 or 17 charged with a nonexcluded crime.</p> <p><u>Judicial Waiver</u></p> <p>—any child age 10 to 13 charged with arson, causing death; assault and robbery with a dangerous weapon; assault and robbery, causing bodily injury; aggravated assault; murder; manslaughter; kidnapping; maiming; sexual assault; or aggravated sexual assault.</p> <p><u>Reverse Waiver</u></p> <p>—criminal court may transfer juvenile back to juvenile court in cases of statutory exclusions and prosecutorial discretion.</p> <p><u>Sentencing</u></p> <p>—child 15 or younger tried as an adult and found guilty of a lesser offense (not one listed above) shall be transferred to juvenile court for disposition (this will be considered an adjudication for delinquency not a criminal conviction).</p>

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State	Statute	Maximum age of original juvenile court jurisdiction	Conditions under which a juvenile is or may be tried in criminal court
Virginia	Sections 16.1-269.1, 16.1-269.3, 16.1-269.4, 16.1-269.6, 16.1-271	17	<p><u>Statutory Exclusions</u></p> <p>—any child previously convicted as an adult.</p> <p><u>Judicial Waiver</u></p> <p>—child 14 or older charged with a felony (if the child is 14 or older and charged with class 1 or 2 felony or 16 or older and charged with class 3 felony for murder, mob related felony, kidnapping or assault or any unclassified felony that carries a maximum penalty of 40 years, the court may transfer without finding that the juvenile is not a proper person to remain in juvenile court). (When the case of a child 14 or older charged with an offense punishable by death or 20 years or more imprisonment is not waived, the prosecutor may appeal to circuit court. The circuit court then holds a hearing to determine whether juvenile court substantially complied with the judicial waiver statute and either remands the case to juvenile court or accepts jurisdiction.)</p> <p><u>Reverse Waiver</u></p> <p>—child whose case has been judicially waived may appeal the waiver to circuit court. The circuit court then holds a hearing as above and either remands the case to juvenile court or accepts jurisdiction.</p> <p><u>Sentencing</u></p> <p>—child convicted as an adult for the first time may be sentenced as an adult or may be subject to juvenile disposition.</p>
Washington	Sections 13.04.030, 13.40.020, 13.40.110	17	<p><u>Statutory Exclusions</u></p> <p>—child 16 or older charged with a serious violent offense or charged with a violent offense if the child has a criminal history consisting of (i) 1 or more prior serious violent offenses; (ii) 2 or more prior violent offenses; or (iii) 3 or more of any combination of any class A or B felony, vehicular assault, or manslaughter in the second degree, provided that each offense was committed after the child reached 13 and was prosecuted separately; (criminal history includes all criminal complaints where the allegations were found correct by a court or where criminal complaint was diverted on agreement of respondent after advisement that the complaint would be part of criminal history).</p> <p>—child who has been tried as an adult.</p> <p><u>Judicial Waiver</u></p> <p>—any child (a transfer hearing must be held where juvenile is 15 or older charged with a class A felony or an attempt, solicitation, or conspiracy to commit a class A felony; or 17 and charged with second degree assault, first degree extortion, indecent liberties, second degree child molestation, second degree kidnapping, or second degree robbery).</p>

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**Appendix IV
Summary of Transfer Laws**

State	Statute	Maximum age of original juvenile court jurisdiction	Conditions under which a juvenile is or may be tried in criminal court
West Virginia	Sections 49-5-10, 49-5-13	17	<p><u>Judicial Waiver</u></p> <p>—any child charged with treason, murder, robbery using firearms or other deadly weapons, kidnapping, first degree arson, or sexual assault in the first degree; or a violent felony if the child has been previously adjudicated as a delinquent for a violent felony, or any felony if the child has been twice previously adjudicated as a delinquent for a felony.</p> <p>—any child 16 or older charged with a violent felony or any felony if the child has a previous adjudication for a felony.</p> <p><u>Reverse Waiver</u></p> <p>—any child whose case is waived has the right to directly appeal an order of transfer to the Supreme Court of Appeals of West Virginia.</p> <p><u>Sentencing</u></p> <p>—any child convicted as an adult may be sentenced as an adult or given a juvenile disposition.</p>
Wisconsin	Sections 48.18, 48.183, 970.032	17	<p><u>Statutory Exclusions</u></p> <p>—any child charged with assault or battery against an employee, officer, visitor, or inmate while confined in a secured correctional facility.</p> <p><u>Judicial Waiver</u></p> <p>—any child 16 or older (there is a presumption for waiver if the child has previously been waived).</p> <p>—any child 14 or older charged with attempted first degree murder, first or second degree murder, manufacture or delivery of controlled substances, manslaughter, homicide by reckless conduct, first degree sexual assault, taking hostages, kidnapping, burglary while armed with a dangerous weapon, burglary using an explosive to open a depository, committing battery on a person who is lawfully in a burglarized enclosure during a burglary, or committing a felony at the request of or for the benefit of a criminal gang.</p> <p><u>Reverse Waiver</u></p> <p>—any child statutorily excluded may have his or her case waived back to juvenile court.</p>

(continued)

**Appendix IV
Summary of Transfer Laws**

State	Statute	Maximum age of original juvenile court jurisdiction	Conditions under which a juvenile is or may be tried in criminal court
Wyoming	Sections 14-6-203, 14-6-237	17	<p><u>Prosecutorial Discretion</u></p> <p>—child 14 or older charged with violent felony or with any felony if child has been previously adjudicated as a delinquent under two separate petitions for acts that would constitute felonies. —child 17 or older.</p> <p><u>Judicial Waiver</u></p> <p>—child 13 or older.</p> <p><u>Reverse Waiver</u></p> <p>—criminal court may transfer to juvenile court any proceeding commenced in criminal court over which juvenile court has concurrent jurisdiction—juvenile court has concurrent jurisdiction by statute over all minors (except those 12 or younger charged with an offense punishable by more than 6 months incarceration over which it has exclusive jurisdiction).</p>

(Table notes on next page)

Appendix IV
Summary of Transfer Laws

Note: This analysis focused on the state laws that were passed through 1994, some of which became effective in 1995. Certain violations committed by juveniles are treated as if they were done by adults in many states; namely, fish and game violations, traffic violations committed by juveniles old enough to obtain drivers licenses, and contempt of court. In addition, some states have provisions that allow the juvenile to request that his or her case be waived to criminal court or that provide for waiver or prosecutorial discretion when the charges are violations of alcohol and tobacco possession laws. These types of provisions are not included in the table.

When a case is waived to criminal court because of the nature of the charge, charges arising out of the same incident or which are otherwise joinable are usually also transferred. When waiver is in the juvenile court's discretion, common prerequisites are that there must be a waiver hearing where it is found that there is probable cause that the child committed the act and that it is in the best interests of the child and community that there be waiver of jurisdiction.

The category of statutory exclusion in the table includes state statutory provisions that require that the juvenile be transferred to criminal court from juvenile court (identified as "mandatory transfer" provisions).

^aAn information is a written accusation made by a public prosecutor. It is used in place of a grand jury indictment to bring a person to trial.

^bReverse waiver in New York—Juvenile Offenders (juveniles who commit statutorily excluded offenses) originally appear before local criminal court. The criminal court may, at the request of the prosecutor or the juvenile, remove the action to family court. However, if the juvenile is charged with second degree murder, first degree rape, sodomy, or an armed felony, the criminal court may not remove the case to family court, unless the criminal court finds one of the following three factors: (1) mitigating circumstances, (2) that the juvenile's participation in the offense was minor, or (3) possible deficiencies in proof.

In addition, the grand jury may request removal to family court if it finds that the juvenile committed a crime, the crime is one for which the grand jury may not indict a juvenile (i.e., offenses other than those listed in the statutory exclusions), the grand jury does not indict, and there is legally sufficient evidence that the child committed a crime. The court must approve the request unless it is improper or insufficient on its face.

After the juvenile is arraigned upon an indictment in Superior Court, the Superior Court may, upon motion of any party or its own motion, order removal to family court. However, if the juvenile is charged with one of the above enumerated offenses the Superior Court must obtain the prosecutor's consent and find one of the above listed factors in order to remove to family court.

Source: GAO review of state statutes.

Summary of Confinement Conditions for Juveniles in Adult Correctional Facilities

The following data regarding the conditions of confinement of juveniles in seven adult correctional facilities that we visited was provided by facility officials without our verification.

Housing

In Ohio, juveniles were housed within the general prison population irrespective of their age.¹ However, in Florida, Michigan, and North Carolina, younger inmates (typically those under age 26) were usually housed in prisons designated for that age group. At six of the prisons we visited, age was not considered when making housing assignments within the prison.² Housing units in the prisons we visited varied in layout from single- or double-bunk cells to dormitory style structures. Housing units typically had common-use bathroom facilities. In addition, most housing units' common-use areas typically were equipped with televisions.

Health Services

At all seven prisons, health care was available on site. Generally, the health staff was composed of a physician, nurses, and a dentist. Upon entering the prison system, all inmates were to be subjected to a physical examination. Inmates were to be allowed daily visits to the health unit. When an inmate requested to see a nurse, generally the request was to be granted within 24 hours. If an emergency occurred, the inmates' care was to be handled at the prison or at an off-site hospital. Additionally, the facilities usually were to provide mental health counseling and offer some form of drug rehabilitation. For example, in Florida, new inmates were to be screened to determine if they needed substance abuse services. Substance abuse services available in Florida prisons included treatment ranging from a 40-hour educational program to a 6- to 12-month intensive program.

Education, Vocation, and Work Programs

Education, vocation, and work programs were available at all prisons we visited. During classification, inmates were generally to be given an opportunity to indicate their preferences for participation in these programs. Factors to be considered by prison officials when assigning inmates to these programs included inmates' length of sentence, educational level, and security classification.

¹According to a deputy warden at Southeastern Correctional Institution in Ohio, the prison formerly accepted many of Ohio's young offenders (age 21 and below). However, due to problems associated with violence among young offenders, they will now be sent to other prisons, and older inmates are being integrated into the Institution.

²The Florida Correctional Institution is a women's prison that housed inmates of all ages.

In six of the seven prisons, generally all inmates were to participate in an education, vocation, or work program.³ Education programs available at the prisons included classes dealing with the Graduate Equivalency Diploma (GED) test and adult basic education. Class sizes generally ranged from about 15 to 30 inmates. However, at the Handlon Michigan Training Unit, an adult basic education program had much smaller class sizes, which sometimes had a teacher to inmate ratio of 1 to 1 for inmates testing below the eight grade reading and math level.

All of the prisons offered a variety of vocational programs. These programs included auto mechanics, masonry, electronics, horticulture, and drafting. The Florida Correctional Institution for women offered vocational programs in data entry, sewing, and cosmetology. Some factors considered when assigning inmates to vocational and education programs included their custody classification and educational level. Also, because some programs took as long as 16 months to complete, inmates with sentences shorter than the length of the program were not eligible to participate.

Inmates not participating in education or vocational programs were to be required to work. Job assignments included cooks, dishwashers, or food servers in the prison kitchen, lawn maintenance on the prison grounds, or work at the prison store. In Ohio, Michigan, and North Carolina inmates were paid a nominal salary to work or attend school. For example, in Ohio, inmates could earn up to \$20 per month. In addition, inmates at the Florida Correctional Institution, Southeastern Correctional Institution, and the Michigan Reformatory could participate in prison industry programs that produced products, some of which were marketed outside of the prisons. For example, at the Michigan Reformatory, the Michigan State Industries employed about 90 inmates in an on site furniture factory.

Recreational Activities

All prisons provided a variety of recreational activities and equipment. During leisure time inmates generally had access to a library, television, weight-lifting equipment, table tennis, and pool tables. One prison provided cable programming on a large screen television, and another prison provided a built-in swimming pool (which inmates paid for) and a tennis court. Several of the prisons had intermural sports, including flag football, basketball, and softball.

³At the Michigan Reformatory, a maximum security prison, inmates were not required but had the option to work or attend school.

Daily Schedule

Inmates at the prisons we visited had similar daily schedules. Generally, they began the day between 6:00 a.m. and 8:00 a.m. Typically the inmates were counted about four times daily. Following the morning count, breakfast was served. After breakfast, inmates reported to their school or work assignments for about 3 hours. Lunch was usually served around 12:00 p.m. After lunch, inmates returned to their school or work assignments for another 3 hours. Dinner was served around 5:00 p.m. After dinner, inmates had time to participate in various recreational and religious programs or other activities from about 6:00 p.m. until about 9:00 p.m. Inmates were locked in their housing units with lights out at about 11:00 p.m.

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