

Waiver and Transfers

Council of Juvenile Correctional Administrators

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Mission

To connect, develop and strengthen youth corrections leaders to maximize their capacities to implement and sustain reforms in their systems that will improve outcomes for youth, families and communities.

Vision

“We believe every youth should leave a correctional program in a better place than when he or she came in.”

Core Values

- Continuous Learning
- Collaboration
- Rehabilitation
- Parental Engagement
- Supportive Communities
- Diversity

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Background

An estimated 250,000 youth are tried, sentenced, or incarcerated as adults every year across the United States because of automatic transfer laws, a lowered age of juvenile jurisdiction or policies that grant prosecutorial discretion that were enacted in the early 1990s in reaction to the high-crime years and labeling of delinquents as super predators.

Since 1992, every state except Nebraska changed their transfer statutes to make trying youths in adult court easier. i

Every single state has some automatic mechanism that moves a juvenile to adult court. With most states having multiple ways to impose adult sanctions on offenders of juvenile age. viii

Nearly 5,200 youths are locked up in adult jails and prisons on any given day. 4200 in adult jails and 1000 in adult prisons. ii

Today many research studies make clear that youths who are transferred into the adult system commit more serious offenses, commit these offenses with greater frequency than their counterparts who remain in the juvenile justice system and are put at greater risks for abuse and suicide.

A review of scientific evidence revealed that youths who are transferred to the adult criminal justice system are 34% more likely than youths retained in the juvenile court system to be re-arrested for violent or other crime. iii

The results of six large-scale studies show that youths tried in adult criminal court generally have higher recidivism rates after release than those tried in juvenile court. iv

Most of the youth prosecuted in adult court are charged with non-violent offenses. ii

Increasing research demonstrating effective approaches to delinquency is being used by juvenile justice systems nationwide to improve programs and services to better enhance public safety, hold youths accountable and provide individualized rehabilitation and education programming that increase youths' competencies and skills so they become successful adults.

Advances in brain imagery research confirm that the human brain matures gradually throughout adolescence and that a youth's brain is developmentally different from an adult's brain. v

Forty-seven state juvenile agencies address delinquent behavior using a case management approach that begins with the development of an individual service plan based on appropriate evaluations of youths and families' strengths and needs and is continued throughout the youth's time in agency custody and usually during re-entry to the community. vi

A study on youths housed in adult jails and prisons revealed inadequate specialized programming for youthful offenders. The survey indicated that programming is designed to respond to adult offenders and lacked a developmentally responsive adaptation for youths. vii

There is no national data source that track cases that bypass juvenile courts. viii

Youth housed in adult jails are 36 times more likely to commit suicide than are youth housed in juvenile detention facilities. x

A survey of adult jails and prisons found that 40% of jails provided no educational services at all, only 11% provided special education services, and 7% provided vocational training. ix

Alternatives to incarcerating youth not only reduce crime, but save money. Research has shown that every dollar spent on evidence-based programs can yield up to \$13 in cost savings. xi

Position Statement

The Council of Juvenile Correctional Administrators (CJCA) strongly supports the position that the juvenile justice system is the most appropriate system to hold youths accountable and receive age-appropriate and effective treatment and rehabilitation opportunities.

CJCA opposes any automatic transfers of youth into the adult system based solely on the type of offense. This practice has resulted in the placement of thousands of youth into adult jails and prisons without adequate treatment and educational services. It has also exacerbated the problem of disproportionate numbers of minorities being held in secure adult confinement.

When waiver to the adult criminal justice system does occur, CJCA believes that it should be accomplished through a process that maintains judicial decision-making to determine the appropriateness of transferring young offenders into the adult correctional system. CJCA supports a process to give judges the ability to keep youth in the juvenile justice system until they reach the age of majority. CJCA opposes all policies that result in the automatic transfer of young people to the adult system without judicial review, as well as policies that grant the prosecutor full discretion. CJCA believes that the gravity of an offense is not determinate of a youth's capability for rehabilitation, and supports the position that the most efficient and effective way to rehabilitate youth is within the juvenile justice system, regardless of the nature of the offense.

For the purposes of consistency throughout this paper, adult jails and prisons will be used to define adult facilities, adult penal facilities, and adult jails and prisons.

- i Snyder, Howard N., and Sickmund, Melissa. 2006. *Juvenile Offenders and Victims: 2006 National Report*. Washington, DC: U.S. Department of Justice, Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention.
- ii Arya, N. (2011). *State Trends: Legislative Victories from 2005 to 2010 Removing Youth from the Adult Criminal Justice System*. Washington, DC: Campaign for Youth Justice .
- iii Centers for Disease Control and Prevention, *Effects on Violence of Laws and Policies Facilitating the Transfer of Youth from the Juvenile to the Adult Justice System: A Report on Recommendations of the Task Force on Community Preventive Services*. MMWR 2007; 56 (No. RR-9).
- iv Richard E. Redding, *Juvenile Transfer Laws: An Effective Deterrent to Delinquency?*, Washington, DC: U.S. Department of Justice, Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention, OJJDP Juvenile Justice Bulletin, August 2008.
- v See Physicians for Human Rights. *Adolescent Brain Development* [Electronic version.] Online at <http://physiciansforhumanrights.org/juvenile-justice/factsheets/braindev.pdf>
- vi Council of Juvenile Correctional Administrators (2009). *2008 Yearbook preliminary data analysis*.
- vii U.S. Department of Justice, Bureau of Justice Assistance, *Juveniles in Adult Prisons and Jails*, Washington, DC, October 2000.
- viii Griffin, Patrick, Addie, Sean, Adams, Benjamin, and Firestine, Kathy. 2011. *Trying Juveniles as Adults: An Analysis of State Transfer Laws and Reporting*. OJJDP National Report Series Bulletin.
- ix Harlow, C.W. (2003, January). *Education and Correctional Populations*. Washington D.C.: U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Statistics.
- x *Jailing Juveniles* (2007, November). Washington D.C.: Campaign for Youth Justice.
- xi Juvenile Detention Alternatives Initiative, (2007). *Detention Reform Brief 1: Detention Reform: A Cost-Saving Approach*, Annie E. Casey Foundation, available at http://www.aecf.org/upload/PublicationFiles/jdai_facts1.pdf