

**JUVENILES CONVICTED AS ADULTS:
AN ANNOTATED BIBLIOGRAPHY OF CURRENT RESEARCH**

By:

Jaime M. Yarussi and Brenda V. Smith

with contributions from:

Colten W. Hall

Smith Consulting

in collaboration with

The Project on Addressing Prison Rape
American University, Washington College of Law

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Brenda V. Smith

Professor of Law

Director

The Project on Addressing Prison Rape

The Washington College of Law

4801 Massachusetts Ave NW

Washington DC, 20016

Phone: 202-274-4261 Fax: 202-274-4182

bvsmith@wcl.american.edu

Jaime M. Yarussi, M.S.

Assistant Director

The Project on Addressing Prison Rape

The Washington College of Law

4801 Massachusetts Ave NW

Washington DC, 20016

Phone: 202-274-4385 Fax: 202-274-4373

jyarussi@wcl.american.edu

Contributor:

Colten W. Hall

Dean's Fellow

The Project on Addressing Prison Rape

The Washington College of Law

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The Project on Addressing Prison Rape
American University
Washington College of Law
4801 Massachusetts Ave, NW
Washington, DC 20016
or emailed to:
endsilence@wcl.american.edu

The National Institute of Corrections

320 First Street, N.W.
Washington, D.C. 20534
1-800-995-6423 or 202-307-3995
Fax: 202-307-3106
www.nicic.org

Morris L. Thigpen
Director

Thomas Beauclair
Deputy Director

Chris Innes
Division Chief- Research and Evaluation

Dee Halley
Correctional Program Specialist

Prof. Brenda V. Smith
Project Director, The Project on Addressing Prison Rape

Jaime M. Yarussi, M.S.
Assistant Director, The Project on Addressing Prison Rape

Introduction:

This publication compiles recent case law, new stories, reports and helpful sites on the issue of juveniles convicted as adults. This is an emerging area of law where there is tremendous movement, both in our understanding of the development issues of youth and how development affects issues such as vulnerability, culpability, punishment, treatment and reentry for youth convicted and sentenced as adults.

In the past five years, the Supreme Court has struck down the imposition of both the death penalty and life without parole sentences for youth.¹ Both the Casey Foundation and the MacArthur Foundation have devoted significant resources to assisting juvenile agencies integrate knowledge about adolescent development into their practices.² The National Prison Rape Commission found that youth housed with adults were at the greatest risk of victimization of any group.³ We encourage you to review the materials, we have provided but also to follow this issue in the news and at the websites we have provided.

¹ *See generally*, Jackson v. Hobbs Docket No. 10-9647; Miller v. Alabama 132 S. Ct. 548 (2012).

² *See generally*, The Casey Foundation at: www.aecf.org; The MacArthur Foundation at: www.macfound.org

³ United States. The Department of Justice/ National Prison Rape Elimination Commission. “When Children are Involved” REPORT. Washington, DC. June 23, 2009: 140-158.

CASE LAW:

1. Miller v. Alabama, 132 S. Ct. 548 (2012).

- Issue in this case was whether a sentence of life without parole for someone who was convicted of murder when he as a juvenile (fourteen) violates the Constitution's prohibition on cruel and unusual punishment
- Case was heard in front of SCOTUS on March 20, 2012 and an opinion has yet to be reached

2. Graham v. Florida, 130 S.Ct. 2011 (2010).

- Supreme Court of the United States prohibited the imposition of a life sentence without the possibility of parole for non-homicide crimes committed while the defendant was a juvenile
- Used the logic in *Roper v. Simmons*, which forbid the death penalty for youth offenders, to extend as analogous to life in prison without possibility of parole
- Did not prohibit sentencing juveniles to life in prison without parole for committing the crime of homicide

3. Jackson v. Hobbs, Docket No. 10-9647

- This case was linked to Miller v. Alabama and heard by SCOTUS on the same day
- The issue in this case was whether a sentence of life without parole for someone who was convicted of murder when he was a juvenile (fourteen) violates the Constitution's prohibition on cruel and unusual punishment

4. Expert Testimony of Ruben Gur, Neuropsychologist. (on file with authors).

- In his testimony Dr. Gur explains the development of an adolescent brain and functioning. It is the belief of Dr. Gur that there is no scientific proof that a child can be culpable for choices until the age of 22. As well, after the age of 50 the same functioning—decision making and understanding consequences- also seems to deteriorate.

IN THE NEWS:

- 1. Laurence Steinberg, CNN OPINION. "Don't Put Juveniles in Jail for Life." March 19, 2012.** Available at <http://www.cnn.com/2012/03/19/opinion/steinberg-juvenile-crime/index.html>

- There are more than 2,500 people serving life sentences without the possibility of parole for crimes they committed when they were juveniles
- Court heard appeals of two cases that ask whether life without parole is an appropriate sentence for juveniles convicted of homicide. Both cases involve people who were 14 at the time of their offense, but their crimes were very different. Kuntrell Jackson was part of a group of boys who shot a store clerk during a robbery of a video store in Arkansas; although Jackson did not do the shooting, he was found guilty of "felony murder," because he was part of the group that committed a felony during which someone was killed
- The other plaintiff, Evan Miller, carried out a brutal murder of a neighbor in Alabama whom he and another teenager robbed, beating the victim to death and later returning to the crime scene and setting the victim's trailer on fire to cover up the crime
- The contrast between the crimes, as well as the youthfulness of the juveniles in question, creates many possible alternatives for the justices to contemplate
- There is no scientific evidence that sentencing juveniles to long prison sentences deters other adolescents from committing crimes, because the same immaturity that leads teenagers to do impulsive and reckless things makes them unlikely to think far enough ahead to be deterred by the prospect of a serious punishment
- Argues that ending life without parole for all juvenile offenders is the sensible thing to do.

2. **Marian Wright Edelman, THE WASHINGTON POST. "Giving Jailed Juveniles a Second Chance at Life." March 16, 2012.** Available at http://www.washingtonpost.com/opinions/is-life-without-parole-for-teenagers-cruel-and-unusual/2012/03/05/gIQAfZF1ES_story.html

- Details the story of Edwin Desamour, a man who was sentenced to an adult prison for homicide when he was 16 years old but was given the chance to gain parole
- Discusses his change in prison, and how he established a non-profit organization in his hometown of Philadelphia upon his release from prison
- Discusses the need for SCOTUS to rule that life without parole for juvenile offenders in homicide cases amounts to cruel and unusual punishment

3. **David Fassler, SCIENTIFIC AMERICAN. "Your Teen's Brain: Driving without the Breaks." March 15, 2012.** Available at <http://blogs.scientificamerican.com/guest-blog/2012/03/15/your-teens-brain-driving-without-the-brakes/>

- The American Medical Association, the American Academy of Child and Adolescent Psychiatry, the American Psychological Association and the American Psychiatric Association, among others, have filed amicus briefs emphasizing just how different teen brains are from those of adults in the Miller and Jackson v. Hobbs cases

- The brain continues to mature and develop throughout adolescence and even into early adulthood
- The teenage years, in particular, are a very active and important time for brain development
- During adolescence, there is a rapid increase in the interconnections between the brain cells. Gray matter grows, followed by a refinement, or “pruning,” of the connections and pathways. We also see an increase in the white matter, or myelin. The myelin acts as an insulator and enhances communication at the cellular level. It is essential for coordinated thought, action and behavior
- The instinctual parts of the brain develop first followed by the regions that control reasoning and help us think before we act
- They tend to rely more on these instinctual structures, like the amygdala, and less on the more advanced areas, like the frontal lobes, which are associated with more goal-oriented and rational thinking
- Research has also identified at least two other areas of the brain that undergo significant growth and development during adolescence
- The corpus callosum, which creates a pathway from one side of the brain to the other, facilitates problem solving
- The cerebellum primarily controls physical coordination and movement, but also helps organize our thought processes
- Based on the stage of their brain development, teenagers are more likely to act on impulse, misread social cues and others’ emotions, get into fights and accidents, or engage in more serious risk-taking behavior, like driving recklessly or while intoxicated

4. MICHIGAN RADIO NEWSROOM. “Supreme Court Cases Could Determine the Fate of Michigan’s Youngest Criminals.” March 15, 2012. Available at <http://michiganradio.org/post/supreme-court-cases-could-determine-fate-michigans-youngest-criminals>

- Michigan has one of the country's highest numbers of "juvenile lifers"--- prisoners sentenced to life without the possibility of parole for crimes committed as minors---359 total
- That includes six who were only 14 when they committed their crimes
- Possibility for the court would be to target states like Michigan that have mandatory sentencing laws.
- These rules prohibit the consideration of age when sentencing juvenile offenders to life sentences.
- Only 11 states have mandatory life without parole, without any consideration of the effects of youth
- Within the past decade the Supreme Court has banned the death penalty for juvenile criminals and stopped the sentencing of juveniles to life without parole for crimes not involving a killing
- Assuming the court does rule to ban sentences of life without parole for young offenders, release would be far from certain

- In Michigan, only about eight prisoners per year serving parolable life are released, according to the Department of Corrections. The parole board interviews between 400 to 500 parolable lifers a year.

5. **Gail Garinger, NEW YORK TIMES. “Juveniles Don’t Deserve Life Sentences.” March 14, 2012.** Available at http://www.nytimes.com/2012/03/15/opinion/juveniles-dont-deserve-life-sentences.html?_r=1

- Nationwide, 79 young adolescents have been sentenced to die in prison
- “Tough on crime” rhetoric led some states to enact laws making it easier to impose life without parole sentences on adults
- Concerns about the perceived inadequacies of state juvenile justice systems resulted in many legislatures lowering the age at which children could be transferred to adult courts
- The consequence of that was that juveniles could then be sentenced to life without parole easier
- Beginning in the mid-1990s, violent juvenile crime declined, and it has continued to decline through the present day
- The laws that were passed to deal with them, however, continue to exist
- The court has already struck down the death penalty for juveniles and life without parole for young offenders convicted in non-homicide cases
- The Supreme Court recognized that even in the most serious murder cases, “juvenile offenders cannot with reliability be classified among the worst offenders”: they are less mature, more vulnerable to peer pressure, cannot escape from dangerous environments, and their characters are still in formation
- Author urges “the justices to apply the logic and the wisdom of their earlier decisions and affirm that the best time to decide whether someone should spend his entire life in prison is when he has grown to be an adult, not when he is still a child.”

6. **FRONTLINE PBS “Does Treating Kids Like Adults Make a Difference?”(No date listed).** Available at:

<http://www.pbs.org/wgbh/pages/frontline/shows/juvenile/stats/kidslikeadults.html>

- There are two assumptions are behind recent legislation passed in many U.S. states which make it easier to try juvenile offenders as adults.
- Young offenders will receive sentences in the adult criminal system which are harsher and more proportional to their crimes.
- The threat of this harsher punishment will result in lowered juvenile crime rates.
- Although there has not been extensive research into the deterrent effects of the stricter laws, the evidence that does exist indicates that deterrent effects are minimal or nonexistent, and that, in fact, trying juveniles in criminal court may actually result in higher rates of reoffending.

- To date, there's no extensive research comparing the lengths of prison sentences received by juveniles convicted in criminal court with those who remained in the juvenile system. What research exists indicates that juveniles convicted in criminal court, particularly serious and violent offenders, are more likely to be incarcerated and receive longer sentences than juveniles retained in the juvenile system. Only two studies have examined whether stricter transfer laws result in lowered juvenile crime rates. Both found that there was no evidence to support that the laws had the intended effect. Two recent large-scale studies indicate that juveniles who receive harsher penalties when tried as adults are not "scared straight." In fact, after their release, they tend to reoffend sooner and more often than those treated in the juvenile system.

LAW REVIEWS AND SOCIAL SCIENCE JOURNAL ARTICLES:

1. Kupchik, Aaron. "The Correctional Experiences of Youth in Adult and Juvenile Prisons." Justice Quarterly 24:2, 247-270 (June 2007).

- This article approaches the idea of juveniles incarcerated with adults from a correction point of view. It illustrates the issues correctional agencies may face when dealing with youth. It points out the cost of increased staffing levels and training for staff which place an economic burden on agencies. It also highlights and discusses the issues of educations, diet and mental health care and housing for juveniles housed with adults. In addition the article discusses the instability that housing juveniles with adults could cause, mainly because of the need to act out to prove themselves creating issues of safety and security for the staff.
- From the youth point of view, the author illustrates that more therapeutic interventions as found in the juvenile detention centers are much more valuable to rehabilitation of youth. The relationships between youth and staff are very important but very lacking in adult facilities where staffing ratios are much smaller. This publication does an in depth analysis of the services available to youth in adult facilities verses the services needed by youth and the ability of the adult facilities to provide services.
- Future research should include: comparing experiences of white and non-white youth; control for prior family histories in research studies; and consider the experiences of larger samples.

2. Task Force on Community Preventative Services. "Recommendation Against Policies Facilitating the Transfer of Juveniles from Juvenile to Adult Justice Systems for the Purpose of Reducing Violence." American Journal of Preventative Medicine. 32(4S) (2007).

- Over the last 25 years, juveniles aged 10 to 17 years old, have been involved in twenty-five percent of serious violent victimization. The expansion of transfer laws was in response to this violence. The task force found evidence of harm associated with strengthened juvenile transfer policies and on average found that

they commit more subsequent offenses. The task force recommends against transfer policies for the purpose of reducing crime.

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3. **McGowan, Angela et. al. “Effects on Violence of Laws and Policies Facilitating the Transfer of Juveniles from the Juvenile Justice System to the Adult Justice System: A Systemic Review.” American Journal of Preventative Medicine 32:4S (2007).**

- The purpose of this article is to determine if transfer laws and policies reduce interpersonal violence and if the transfer may deter juveniles from committing crime. The publication reviewed studies done regarding recidivism of youth housed with adults in Florida, New York and New Jersey, Washington, Minnesota and Pennsylvania. The results were that there was more subsequent violence found with youth housed with adults. Additionally in no study was a deterrent effect found. The study concludes that there are many issues concerning strengthened transfer laws including victimization during incarceration.

4. **Holtzman, Anthony. “Juvenile Justice? The Increased Propensity for Juvenile Transfer to the Criminal Court System in Pennsylvania and the Need for a Revised Approach to Juvenile Offenders.” Penn State Law Review 109:657 (2004).**

- This article discusses the legal ramifications of the move away from rehabilitation and toward punishment by incarcerating youth as adults. The specific focus is on the transfer law in Pennsylvania, Act 33, and an evaluation of its effectiveness. The finding is that the Pennsylvania juvenile transfer law did not help as a general deterrent to crime and in fact increased the recidivism rates of youth convicted as adults.

5. **Bishop, Donna. “Juvenile Offenders in the Adult Criminal Justice System.” Crime and Justice: A Review of Research 27: 81 (2000).**

- Most state legislatures have instituted punitive reforms in response to rising rates of youth crime, including provisions that transfer an increasing number and range of adolescents to criminal courts for adult prosecution. Proponents assert that juvenile court sanctions and services constitute neither just nor effective responses to savvy juvenile offenders and propose that criminal prosecution will insure more proportionate punishments, provide more effective deterrence, and achieve greater incapacitation.
- The empirical evidence is too limited to be definitive, but it suggests that most of those assertions are wrong. Expansive transfer policies send many minor and nonthreatening offenders to the adult system, exacerbate racial disparities, and move adolescents with special needs into correctional systems ill prepared to handle them. Transfer results in more severe penalties for some offenders, but there is no evidence that it achieves either general or specific deterrent effects.
- There is credible evidence that prosecution and punishment in the adult system increase the likelihood of recidivism, offsetting incapacitative gains. Transfer also

exposes young people to heightened vulnerability to a host of unfortunate experiences and outcomes. Transfer of juvenile defendants to criminal

6. **Redding, R. "Examining Legal Issues: Juvenile offenders in criminal court and adult prison." Corrections Today. (1999) Available at <http://www.corrections.com/aca/cortoday/index.html>.**
 - This paper reports of key research findings that criminal prosecution and/or imprisonment does not deter juvenile crime; that criminal court adjudication takes longer; that criminal court adjudication generally produces higher recidivism rates for most offenders. In addition, recommendations for needed research, legislative and policy reform are discussed.

7. **Winner, L., Lanza-Kaduce, L., Bishop, D., and Frazier, C.. "The transfer of juveniles to criminal court: Reexamining recidivism over the long term." Crime and Delinquency 43(4): 548-563 (1997).**
 - This Florida study in 1987 on matched pairs of juveniles found that transferred youths reoffended more quickly than did their nontransferred counterparts. However, the impact of transfer on cases involving property felonies reduced recidivism. Transfer diminished the rearrest chances for property felons in comparison to rearrest among transfers for other offense categories. Although property felons who were transferred may have been less likely to reoffend, when they did reoffend they reoffended more often and more quickly. Once the effect of offense type was controlled, the analysis confirmed that over the long run transfer led to more recidivism.
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8. **Bishop, D., Frazier, C., Lanza-Kaduce, L., and White, H. "The transfer of juveniles to criminal court: Does it make a difference?" Crime & Delinquency 42:171-191 (1996). Available at <http://www.nccd-crc.org>.**
 - This study found that transfer to criminal court increased the likelihood of recidivism. Recidivism of youths who were transferred to criminal court in Florida in 1987 was compared with that of those retained in the juvenile system. The results indicated that transferred youths quickly reoffended at a higher rate than matched non-transferred youths. The seriousness of reoffending was also greater for the transfer group than for the non-transfer group, with transfers more likely to commit a subsequent felony offense. The findings suggest that transfer made little difference in deterring youths from reoffending. Adult processing of youths in criminal court actually increases recidivism and it appears to have little if any incapacitative effects on crime control and community protection.

9. **Fagan, J. "Separating the men from the boys: The comparative advantage of juvenile versus criminal court sanctions on recidivism among adolescent felony offenders." (1995). In A Sourcebook: Serious, Violent, and Chronic Juvenile Offenders, edited by J. Howell, B. Krisberg, J.D. Hawkins, and J. Wilson. Thousand**

Oaks, CA: Sage Publications, Inc. Available at
<https://www.ncjrs.gov/App/Publications/abstract.aspx?ID=165071>

- This research showed that criminalization of adolescent crimes failed to provide more effective punishment and lower recidivism rates. The deterrent effects of juvenile versus adult court sanctions on recidivism and reincarceration were compared for 15- and 16-year-old adolescents charged with robbery and burglary in juvenile court in New Jersey with identical offenders in matched communities in New York State whose cases were adjudicated in criminal court. The results indicated that recidivism rates were higher for adolescents in criminal court, their rearrests occurred more quickly, and their return to jail was more likely. Sentence lengths were comparable for both the juvenile and criminal court offender groups. The expected outcomes of greater accountability and lengthier sentences were not gained from criminal court punishment. Nor was community protection increased with the likelihood of recidivism with the severity of criminal court sanctions. The policy implications from this study suggest continued special jurisprudence for adolescent crimes and a separate jurisdiction for juvenile offenders.

10. Steinberg, Laurence. “Policy Brief: Should Juveniles be Tried as Adults?” Joint Center for Poverty Research 2:3 (no date listed).

- People younger than 12 fail to meet decision making competence criteria but do by age of 16
- Individuals between 12 and 16 should get case by case consideration
- Culpability should be determined by responsibility, accountability, blameworthiness and punishability
- History, family, psychological wellbeing and responses to previous rehabilitative efforts should all be considered

GOVERNMENT REPORTS:

1. U.S. Dep’t of Justice. Office of Justice Programs/ Office of Juvenile Justice and Delinquency Prevention. Juvenile Arrests, 2009. Washington, DC. (December 2011). Available at <http://www.ojjdp.gov/pubs/236477.pdf>.

- Juvenile arrests for violence declined in 2009 for the third consecutive year.
- Juvenile property crime arrests declined in 2009.
- Female and minority proportions of juvenile arrests increased for many offenses between 2000 and 2009.
- Juvenile arrests disproportionately involved minorities.
- The juvenile arrest rate for murder has remained relatively constant during the 2000s.
- The juvenile arrest rate for forcible rape in 2009 was half its 1991 peak.
- In 2009, about one-fourth of the states had a juvenile violent crime arrest rate above the national average.

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2. **U.S. Dep't of Justice. Office of Justice Programs/ Office of Juvenile Justice and Delinquency Prevention. Delinquency Cases Waived to Criminal Court, 2007.** Washington, DC. (June 2010). Available at <https://www.ncjrs.gov/pdffiles1/ojjdp/230167.pdf>.

- For every 1,000 petitioned delinquency cases, 9 were judicially waived to criminal court.
- All states have mechanisms to handle juveniles in criminal court.
- Since 1993, waived person offense cases have outnumbered waived cases for other offense categories.
- Fewer than half of waived cases involved person offenses.

3. **National Prison Rape Elimination Commission. National Prison Rape Elimination Commission Report.** Washington, DC. (June 2009). Available at <https://www.ncjrs.gov/pdffiles1/226680.pdf>.

- Juveniles in confinement are much more likely than incarcerated adults to be sexually abused, and they are particularly at risk when confined with adults. To be effective, sexual abuse prevention, investigation, and treatment must be tailored to the developmental capacities and needs of youth.
- Historically, the juvenile justice system was designed to provide a therapeutic and rehabilitative environment for youth who violate the law. Therefore, most juvenile facilities differ from adult prisons and jails in their theoretical emphasis on rehabilitation. Notwithstanding recent punitive approaches to juvenile delinquency, new scientific evidence confirms that youth are especially amenable to treatment.
- Juvenile justice agencies thus have an opportunity and a challenge: prevent sexual abuse now, or risk long-term consequences for victims.
- Youth in juvenile detention span a wide range of ages and developmental stages. In some States, youth as young as 6 and as old as 20 fall within juvenile court jurisdiction and can be housed, at least in theory, in the same facility. This mix is fraught with danger.
- Youth who enter the juvenile justice system often come to [the facility] from abusive and neglect[ful] families. In Michigan alone, twenty percent of the juvenile justice youth have been victims of child abuse and neglect.
- Juvenile facilities are often homophobic places that are emotionally, physically, and sexually unsafe for these youth.
- Facilities also may be ill-equipped to protect gay, lesbian, bisexual, and gender-nonconforming youth.
- During the past two decades, the number of girls in the juvenile justice system as a whole—and in secure detention facilities in particular—increased substantially, due in part to an increase in arrests and detention for technical violations of probation
- In 2005, the Department of Justice found that numerous female staff in an Oklahoma juvenile facility had sexual relations with male youth and

concluded that the State failed to provide adequate supervision and monitoring to protect youth

- Youth who are sexually abused in confinement and other justice settings are likely to experience serious and long-standing emotional and psychological consequences throughout adolescence and into adulthood.
- Civil rights attorney Deborah LaBelle told the Commission that 80 percent of the 420 boys sentenced to life without parole in three States—Michigan, Illinois, and Missouri—reported that, within the first year of their sentence, they had been sexually assaulted by at least one adult male prisoner.

4. United States. U.S. Department of Justice/ Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention. Juvenile Transfer Laws: An Effective Deterrent to Delinquency? Comp. by Richard Redding. Washington, DC. (August 2008).

- This publication was a literature review and evaluation of studies done previously regarding juvenile transfer laws and their deterrent effects. Findings of the study include:
 - Transferred juveniles are more likely to offend
 - There is a greater likelihood of re-arrest
 - Transfer is found to increase recidivism
 - These were attributed (according to juveniles) to spending most of their time with adult criminals and learning from them.

5. United States. Center 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.” Morbidity and Mortality Weekly Report 56:RR9 (November 2007).

- This report mirrors the report on the effects of transfer on interpersonal violence (source 4 and 10). The major finding illustrated by the CDC in this report was that use of transfer laws is counterproductive to reducing juvenile violence and enhancing public safety.

6. United States. U.S. Department of Justice/ Office of Justice Programs, Bureau of Justice Assistance. Juveniles in Adult Prisons and Jails: A National Assessment. Comp. by Austin, Johnson and Gregoriou. Washington, DC. (October 2000).

- This study includes a 50 state survey of transfer laws but has not been updated since 1999. It begins with a discussion of the legal issues regarding conditions of confinement for youth in adult facilities including, but not limited to, federal laws, state transfer laws and civil liabilities for agencies housing youth. Civil liabilities include health care, programming, access to education, environment, restraints and safety. It also discusses characteristics of youth housed with adults as well as alternative strategies—such as classification, programming, staff training, housing and behavior management strategies.

7. United States. Office of Justice Programs/ Bureau of Justice Assistance. Providing Effective Representation for Youth Prosecuted as Adults. Comp. by Malcolm Young. Washington, DC. (August 2000).

- This report is about successes and needs in representing youth in adult court. The ideal representation model included:
 - Multidisciplinary team approach
 - Vertical representation
 - Early Representation
 - Early and sustained efforts to obtain pretrial release
 - Case load limits
 - Communication between juvenile and criminal court
 - Ensure child focused advocacy

8. United States. Office of Justice Programs/ Bureau of Justice Statistics. Profile of State Prisoners under Age 18, 1985-97. Comp. by Kevin Strom. Washington, DC. (February 2000).

- This report uses statistics from the 1997 report (source 20) but expands on general results using more recent information. This reports uses comparison data from 1985 through 1997 to make key findings. Key findings are as follows:
 - Number of youth offenders admitted to prison more than doubled and consistently represents about 2% of new prison admissions
 - There was a 9% increase in youth convicted of violent offenses
 - Relative to arrest rates, the likelihood of adult incarceration has increased
 - Average sentence for violent offenses was 8 years with an expected time served of 5 years.
 - $\frac{3}{4}$ of youth were of color
 - Prison admissions for youth rose 7% which was more than all ages entering the prison system(5%)
 - Youth admitted for violent offenses tripled with the largest increases for robbery and a decline in property offenses
 - Of the 9,160 youth convicted of violent offenses- 4200 were sent to prison
 - Prison admissions for males more than doubled
 - In 1997 an estimated 9300 inmates released from prison had been admitted in their current sentence before the age of 18- this represented a 66% increase from 1985
 - Sentences for violent offenses accounted for 48% of people released in 1997
 - The percentage of drug offenders grew from 1 to 17%
 - Most states allow straight adult incarceration but 6 require separate housing

- Two states state that no children under 16 can be housed in an adult facility
- 12 states use graduated or blended sentences
- Eight states have segregated incarceration assignments

9. **Snyder, H., Sickmund, M., and Poe-Yamagata, E. Juvenile Transfers to Criminal Court in the 1990's: Lessons Learned from Four States. Washington, DC: U.S. Department of Justice, Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention. (2000) Available at <http://www.ncjrs.org/pdffiles1/ojjdp/181301.pdf>**

- This report presents the findings of four studies of juvenile transfers to adult criminal court conducted by the National Center for Juvenile Justice. The studies, conducted in Pennsylvania, South Carolina, and Utah, addressed three basic research issues: the criteria used in transfer decisions, changes in transfer decision-making criteria during the 1980's and 1990's over and above changes in legislation, and the impact of new legislation that excludes additional offenders from juvenile court jurisdiction. The key findings were: 1) common criteria were used in waiver decisions in South Carolina and Utah, particularly on a juvenile's court history and the seriousness of his or her offense; 2) the increased in judicial waiver in Pennsylvania between 1986 and 1994 were related to change in waiver criteria that were more severe and punitive; 3) Pennsylvania's 1996 exclusion law did not have a significant impact on the number of youth sentenced to adult correctional facility.

10. **Torbet, P., Griffin, P., Hunter, H., and Ryan MacKenzie, L. Juveniles Facing Criminal Sanctions: Three States That Changed the Rules. Washington, DC: U.S. Department of Justice, Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention. (2000) Available at <http://ojjdp.ncjrs.org/pubs/court.html#181203>**

- This report examines recent state laws that target serious juvenile crime by expanding eligibility for criminal court processing and sanctioning and reducing confidentiality protections for a subset of juvenile offenders. In particular, the report examines the actual implementation of distinctive approaches to juvenile justice reform in three States: Wisconsin, New Mexico, and Minnesota. Wisconsin categorically excluded 17-year-olds from juvenile court jurisdiction, and New Mexico and Minnesota expanded juvenile court judges' sentencing authority. The report summarizes the lessons learned from these case studies on reforms and the legislative, programming, and policy impact that the changes have had on the juvenile and criminal justice systems at the State and local levels.

11. **Bishop, D., Frazier, C., Lanza-Kaduce, L., and White, H. 1999. Fact Sheet #113: A Study of Juvenile Transfers to Criminal Court in Florida. Washington, DC: U.S. Department of Justice, Office of Justice Programs, Office of Juvenile Justice and**

Delinquency Prevention. (1999) Available at:
<http://www.ojjdp.ncjrs.org/about/99juvjust/990812b.html>

- This fact sheet provides a brief overview of the four research components of the Florida transfer study assessing the impact of transfer laws and practices, including the effectiveness of using transfer as a crime control strategy. Florida leads the Nation in juvenile transfers to criminal court.

12. Griffin, P., Torbet, P., and Szymanski, L. Trying Juveniles as Adults in Criminal Court: An Analysis of State Transfer Provisions. Washington, DC: U.S. Department of Justice, Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention. (1998) Available at <http://www.ncjrs.org/pdffiles/172836.pdf>

- This report examines state transfer laws and various mechanisms used to transfer juvenile offenders to adult criminal courts. Other topics include "once an adult/always an adult" provisions, transfer for nonviolent offenses, transfer treatment based on prior record, devices to limit prosecutorial discretion, and minimum age provisions.

13. United States. Office of Justice Programs/ Bureau of Justice Statistics. Juveniles Prosecuted in State Criminal Courts. Comp. by Carol DeFrances and Kevin Strom. Washington, DC. (March 1997).

14. This report provides statistics regarding juvenile transfer to adult courts including judicial, prosecutorial and legislative waiver U.S. Department of Justice, Office of Justice Programs, National Institute of Justice. **Key Legislative Issues in Criminal Justice: Transferring Serious Juvenile Offenders to Adult Courts.** Comp. by Parent, D., Dunworth, T., McDonald, D., and Rhodes, W. Washington, DC (1997).

- This research report describes transfer practices and their results, with a particular focus on placing juveniles in adult facilities.

15. Sickmund, M. How Juveniles Get to Criminal Court. Washington, DC: U.S. Department of Justice, Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention. (1997) Available at <http://www.ncjrs.org/pdffiles1/juvcr.pdf>

- This brief report provides information on the diverse mechanisms (e.g. judicial waiver, prosecutorial discretion, or statutory exclusion) by which juveniles arrive in criminal court.

REPORTS BY ADVOCACY GROUPS:

1. Ashley Nellis. The Lives of Juvenile Lifers: Findings from a National Survey. Washington, DC. (March 2012). Available at http://sentencingproject.org/doc/publications/publications/jj_The_Lives_of_Juvenile_Lifers.pdf.

- The United States stands alone worldwide in imposing sentences of life without parole on juvenile.
- Juvenile lifers experienced high levels of exposure to violence in their homes and communities. 79% of individuals reported witnessing violence in their homes; More than half (54.1%) witnessed weekly violence in their neighborhoods.
- Juvenile lifers, particularly girls, suffered high rates of abuse. Nearly half (46.9%) experienced physical abuse, including 79.5% of girls; 77.3% of girls reported histories of sexual abuse; overall, 20.5% of juvenile lifers report being victims of sexual abuse.
- Juvenile lifers generally experienced significant social and economic disadvantage in their homes and communities. A third (31.5%) of juvenile lifers were raised in public housing; Eighteen percent (17.9%) of the respondents were not living with a close adult relative just before their incarceration; some reported being homeless, living with friends, or being housed in a detention facility, treatment center, or group home.
- Juvenile lifers faced significant educational challenges. Two in five respondents had been enrolled in special education classes; Fewer than half (46.6%) of these individuals had been attending school at the time of their offense; The vast majority (84.4%) of juvenile lifers had been suspended or expelled from school at some point in their academic career.
- The racial dynamics of victims and offenders may play a key role in determining which offenders are sentenced to juvenile life without parole. The proportion of African Americans serving JLWOP sentences for the killing of a white person (43.4%) is nearly twice the rate at which African American juveniles are arrested for taking a white person's life (23.2%); Conversely, white juvenile offenders with black victims are only about half as likely (3.6%) to receive a JLWOP sentence as their proportion of arrests for killing blacks (6.4%).
- The majority of JLWOP sentences are imposed in states in which judges are obligated to sentence individuals without consideration of any factors relating to a juvenile's age or life circumstances.
- Most (61.9%) juvenile lifers are not engaged in programming in prison, but this is generally not due to lack of interest, but because of state or prison policies.
- Many juvenile lifers are engaged in constructive change during their incarceration when they are permitted the opportunity to do so.

2. The Sentencing Project. Model Legislation for State Sentencing Reform.

Washington, DC. (2012). Available at

http://sentencingproject.org/doc/s_Model_Legislation_for_State_Sentencing_Reform.pdf

- A collection of suggestions and actual legislation reform from various U.S. jurisdictions.

3. National Juvenile Justice and Delinquency Prevention Coalition. Recommendations for Juvenile Justice Reform: Opportunities for Action in the 112th Congress.

Washington, DC. (February 2011). Available at http://www.juvjustice.org/media/resources/public/resource_548.pdf.

- NJJDPC's recommendations are based on the consensus of more than 50 national organizations, including youth and family serving, social justice, law enforcement, corrections, and faith based organizations, that work to ensure healthy families, build strong communities and improve public safety by promoting fair and effective policies, practices and programs for youth involved or at risk of becoming involved in the juvenile and criminal justice systems. NJJDPC achieves its mission by engaging this broad spectrum of opinion leaders and stakeholders, including the voices of those most affected by the juvenile justice system, to: advocate for sensible and safe solutions to crime and delinquency; build and leverage policy leadership in the field; and serve as a clearinghouse for research and best practices within our nation's juvenile and criminal justice systems.

4. Amnesty International. This is Where I'm Going to be When I Die. London, UK. (2011). Available at <http://www.cclp.org/documents/JLWOP/AmnestyReport-12-11.pdf>.

- Three case studies from three different U.S. state jurisdictions
- Case of Jacqueline Montanez of Illinois
- Case of David Martin Beasley Young of North Carolina
- Case of Christi Lynn Cheramie of Louisiana

5. Campaign for Youth Justice. State Trends: Legislative Victories from 2005 to 2010 Removing Youth from the Adult Criminal Justice System. Washington, DC. (2011). Available at http://www.campaignforyouthjustice.org/documents/CFYJ_State_Trends_Report.pdf

- In the rush to crack down on youth crime in the 1980s and 1990s, many states enacted harsh laws making it easier for youth to be prosecuted in adult criminal courts.
- Every state allows youth to be prosecuted as adults by one of several mechanisms such that an estimated 250,000 children are prosecuted, sentenced, or incarcerated as adults each year in the United States.
- When youth are tried in adult courts, they often face the same sentencing guidelines as adult offenders. In the majority of cases a juvenile court judge has not had an opportunity to evaluate the circumstances of the case before a youth is prosecuted as an adult, and adult criminal court judges often have very little discretion in the type of sentence they can impose on a youth convicted in the adult system.
- Four states (Colorado, Maine, Virginia and Pennsylvania) have passed laws limiting the ability to house youth in adult jails and prisons.
- Three states (Connecticut, Illinois, and Mississippi) have expanded their juvenile court jurisdiction so that older youth who previously would be automatically tried as adults are not prosecuted in adult criminal court.

- Ten states (Arizona, Colorado, Connecticut, Delaware, Illinois, Indiana, Nevada, Utah, Virginia and Washington) have changed their transfer laws making it more likely that youth will stay in the juvenile justice system.
- Four states (Colorado, Georgia, Texas, and Washington) have all changed their mandatory minimum sentencing laws to take into account the developmental differences between youth and adults.
- Some states see the juvenile and adult systems as interchangeable and seek to consolidate the two systems in an effort to save money. This is a very costly mistake for states as each high-risk youth diverted from a life of crime saves society nearly \$5.7 million in costs over a lifetime.
- The adult system is typically thought to be more punishment-oriented than the juvenile system, but the minor crimes that youth commit mean that the majority of youth are only given an adult probation sentence as well as a lifelong adult criminal record that makes it hard for them to get jobs in the future. In contrast, the juvenile justice system holds youth accountable for their crimes by placing more requirements on youth and their families.
- Only 5% of youth are arrested for the crimes of homicide, rape, robbery, or aggravated assault.
- The number of adults arrested between 1999 and 2008 increased 3.4%, whereas the number of juveniles arrested dropped a staggering 15.7% during that same time frame.
- If detained pre-trial, two-thirds of youth prosecuted as adults are held in adult jails.
- On any given night in America, 10,000 children are held in adult jails and prisons.
- Early interventions that prevent high-risk youth from engaging in repeat criminal offenses can save the public nearly \$5.7 million in costs over a lifetime.

6. **Stop Prisoner Rape. Incarcerated Youth at Extreme Risk of Sexual Abuse. Los Angeles, California. (October 2010).** Available at <http://www.spr.org/en/factsheets/FactSheetYouth2010.pdf>

- Youth typically lack the prison savvy to protect themselves
- Most sexual abuse is perpetrated by staff
- More than 80 percent of young male victims identified female staff as the perpetrators
- Few youth are willing to report sexual violence
- Juvenile detainees have less access to legal help than inmates in prisons and jails
- Youth who have been previously victimized are at a higher risk for future assault
- LGBTQ youth are, like at adult facilities, at a higher risk
- The Juvenile Justice and Delinquency Prevention Act does not apply to juveniles tried as adults, thus, its purpose in protecting youth from the dangers faced in adult facilities can be disregarded by the state prosecutors
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7. **Neelum Arya, Using Graham v. Florida to Challenge Juvenile Transfer Laws, 71 Louisiana Law Review 100 (2010).** Available at

http://www.campaignforyouthjustice.org/Downloads/NationalReportsArticles/ARYA_Graham_Article.pdf.

- This Article suggests that lawyers consider using Graham to ensure that every child under the age of eighteen, regardless of whether the child has been given a JLWOP sentence, is entitled to a chance to —atone for his crimes and learn from his mistakes so that he may —demonstrate that the bad acts he committed as a teenager are not representative of his true character.

8. Children’s Law Center of Massachusetts. Until They Die a Natural Death: Youth Sentenced to Life Without Parole in Massachusetts. Lynn, MA. (September 2009).

Available at http://www.clcm.org/UntilTheyDieaNaturalDeath9_09.pdf.

- Youth sentenced to serve life without the possibility of parole in Massachusetts will grow up, become adults, and remain in prison until they die a natural death. It is the harshest punishment available for a person of any age in Massachusetts, imposed on youth in an exceptionally severe manner: children ages 14, 15 and 16 charged with first degree murder are automatically tried as adults and, if convicted, receive a mandatory life without parole sentence—no exceptions.
- The different treatment accorded youths in the juvenile justice system is justified in large part by the belief that children have far greater capacity to reform than adults. Adults have additional years of experience and accumulated habits that make changes more difficult and unlikely, whereas juveniles are more likely to be influenced and molded by proper environment and education.
- To a degree never before understood, scientists can now demonstrate that adolescents are immature not only to the observer’s naked eye, but in the very fibers of their brains.
- Many youth sentenced to life without parole in Massachusetts are first-time offenders.
- Juveniles sentenced to life without parole frequently acted with others. In 80% percent of such co-defendant cases, they acted with adults.
- Many youth were sentenced to life without parole in the midst of childhoods marked by the violence of others and the profound neglect of their parents.
- As compared to youth in juvenile detention facilities, youth in adult facilities are eight times more likely to commit suicide, five times more likely to be sexually assaulted, and nearly twice as likely to be attacked by other prisoners or by staff.

9. MacArthur Foundation. Models for Change: Systems Reform in Juvenile Justice. Washington, DC. (December 2008). Available at

<http://www.macfound.org/atf/cf/%7bb0386ce3-8b29-4162-8098-e466fb856794%7d/info-modelsforchange.pdf>.

- Foundation has developed a working framework for a model juvenile justice system. The framework is grounded in eight principles that reflect widely shared and firmly held values related to juvenile justice:

- Fundamental fairness: All system participants—including youthful offenders, their victims, and their families—deserve bias-free treatment.
- Recognition of juvenile-adult differences: The system must take into account that juveniles are fundamentally and developmentally different from adults.
- Recognition of individual differences: Juvenile justice decision makers must acknowledge and respond to individual differences in terms of young people’s development, culture, gender, needs, and strengths.
- Recognition of potential: Young offenders have strengths and are capable of positive growth. Giving up on them is costly for society. Investing in them makes sense.
- Safety: Communities and individuals deserve to be and to feel safe.
- Personal responsibility: Young people must be encouraged to accept responsibility for their actions and the consequences of those actions.
- Community responsibility: Communities have an obligation to safeguard the welfare of children and young people, to support them when in need, and to help them to grow into adults.
- System responsibility: The juvenile justice system is a vital part of society’s collective exercise of its responsibility toward young people. It must do its job effectively

10. MacArthur Foundation. Potential for Change: Public Attitudes and Policy Preferences for Juvenile Justice Systems Reform. Washington, DC. (December 2008). Available at <http://www.macfound.org/atf/cf/%7bb0386ce3-8b29-4162-8098-e466fb856794%7d/cclppollingfinal.pdf>.

- The public recognizes the potential of young people to change.
- The public supports redirecting government funds from incarceration to counseling, education and job training programs for youth offenders.
- The public views the provision of treatment and services as more effective ways of rehabilitating youth than incarceration.
- The public favors keeping nonviolent juveniles in small, residential facilities in their own communities rather than in large distant institution.
- The public believes the juvenile justice system treats low-income youth, African American youth and Hispanic youth unfairly. Almost two-thirds of respondents said that poor youth receive worse treatment than middle-class youth who get arrested for the same offense.

11. Elizabeth Kooy. Illinois Juvenile Justice Initiative, MacArthur Foundation. Changing Course: A Review of the First Two Years of Drug Transfer Reform in Illinois. Washington, DC. (June 2008). Available at <http://www.macfound.org/atf/cf/%7BB0386CE3-8B29-4162-8098-E466FB856794%7D/JJI-REPORT.PDF>.

- By the 1980s and 1990s, public fears about violent juvenile crime, as well as a widespread belief that juvenile offenders were being treated too leniently, led

many states to enact laws—in the name of public safety—that dramatically increased the number of youth prosecuted as adults.

- All states allow youth to be tried as adults
- Juveniles convicted of crimes in adult court face both short-term and long-term collateral consequences.
- With Illinois in the lead, states across the U.S. are rethinking their tough stance on juvenile transfer policies. Illinois was the first state to scale back transfer; it is now the first state to review the impact of the transfer reform.
- The repeal of automatic transfer for drug charges significantly reduced the number of youth who were automatically transferred to adult court. Overall, the number of youth tried automatically as adults was reduced by more than two-thirds in the two years following the reform.

12. Alex Piquero and Laurence Steinberg. Rehabilitation Versus Incarceration of Juvenile Offenders: Public Preferences in Four Models for Change States, Executive Summary. Washington, DC. (2008) Available at: <http://www.macfound.org/atf/cf/%7bb0386ce3-8b29-4162-8098-e466fb856794%7d/willingnesstopayfinal.pdf>

- The public clearly favors rehabilitation over punishment as a response to serious juvenile offending.
- More respondents are willing to pay for additional rehabilitation than for additional punishment, and the average amount in additional annual taxes that respondents are willing to pay for rehabilitation is almost 20% greater than it is for incarceration (\$98.49 versus \$84.52).
- Conversely, significantly more respondents are unwilling to pay for additional incarceration (39 percent) than are unwilling to pay for added rehabilitation (29 percent).
- Cost-conscious legislatures may become disenchanted with punitive juvenile justice policies on economic grounds and pursue policies that place greater emphasis on rehabilitation and early childhood prevention.

13. Campaign for Youth Justice. A Capital Offense: Youth in DC's Adult Criminal Justice System and Strategies for Reform. Washington, DC. (2008).

- This publication is a replication of the study done by the Campaign for Youth Justice. Many of the findings and recommendations as well as methodology remained the same, this report focused on what they specifically found with youths housed in the DC Jail or transferred to the BOP.
- In DC the age of majority is 18 but children as young as 15 can be transferred to the criminal court of DC through judicial waiver. There is also a rebuttable presumption for the following offenses: murder, first-degree sexual abuse, robbery while armed or assault. Additionally any crime committed with a firearm may also be transferable. DC does practice “once and adult, always an adult” and once a youth is found guilty of a crime all subsequent crimes must go through criminal court.

- While men and boys are separated in DC, girls and women are not. There is also a lack of educational programming for youth in the DC Jail. Youth offenders who are convicted of felonies are turned over to the BOP. BOP has contracts with facilities that house their youth with other youth until the age of 18; however, by the nature of those contracts and locations youth may be far from home.
- In 2000 DC Mayor Williams established the Blue Ribbon Commission to look into youth safety and reform. The commission recommended against making transfer easier and that if transfer were going to happen that youth get a hearing in front of an impartial judge. However in 2002, after a number of high profile incidents involving youth, two bills were introduced to make transfer easier, despite what the commission had found.
- There were a number of recommendations for DC including: collection of data on youth tried as adults; end pre-trial detention of youth in DC Jail; make all transfers based on judicial waiver; allow reverse waivers; encourage BOP to contract with local juvenile facilities; consider the Youth Rehabilitation Act; consider training for staff on adolescent development—both advocated and courts; and establish adequate after care programs for youth.

14. Center for Law and Global Justice. Sentencing Our Children to Die in Prison: Global Law and Practice. Comp. by Michelle Leighton and Connie de la Vega. San Francisco, CA. (November 2007).

- This publication is an international look at sentencing youth in adult prisons—specifically the international view of sentencing youth to life without parole and international legal standards.

15. Equal Justice Initiative. Cruel and Unusual Punishment: Sentencing 13 and 14-Year-Old Children to Die in Prison. Montgomery, AL. (November 2007).

- This report focuses on youth sentenced to life without parole, but discusses the developmental and legal distinctions of youth. They illustrate the concern that youth are more susceptible to adult manipulation—from forced confessions to pleasing staff and other adults they are incarcerated with. It discusses juveniles' diminished understanding of not only consequences but their rights in general and their ability to assist in their own defense. It also illustrates stories of youth sentenced to life without parole.

16. Neelum Arya. Campaign for Youth Justice. Jailing Juveniles: The Dangers of Incarcerating Youth in Adult Jails in America. Washington, DC. (November 2007). Available at: <http://www.campaignforyouthjustice.org/key-research/national-reports.html>

- This publication looks at the problem of incarcerating juveniles in adult jails. It covers adolescent development and the dangers that juveniles face when incarcerated with adults—suicide, sexual abuse and isolation. It also outlines the statistics and demographics for youth held in adult jails, looks at the legal

implications of jailing juveniles with adults and makes recommendations for change.

- Most pointedly, the publication points out that youth are protected from a number of things before the age of 18—voting, military service and marriage—all because as a society we feel they do not have the ability to make sound judgments and have a propensity to be impulsive. Yet, criminal laws do not do the same; 15 states find youth as young as ten to be competent and responsible enough to be put on trial. There are developmental differences between youth and adults—namely the development of the brain that allows for mature decision making ability.
- The publication also points out the radically different needs of children as outlined by educational requirements, dietary needs and physical activity. It called into question both staffing levels and training for dealing with this specialized population and found that generally staff in youth facilities were not only better equipped to deal with juveniles but were also larger in number. Youth surveyed said the same, staff in youth facilities were more emotionally available for them across the board and they felt it enhanced their ability to stay out of trouble.
- While this publication only has a few paragraphs dedicated to physical and sexual assault, it is more than most of the other publications do. While prevalence is not discussed here, the psychological trauma that youth may face when housed with adults is. According to the publication many youth are in constant fear of rape or physical harm and so many youth become discipline problems as either a coping or protection mechanism thereby destabilizing the safety and security of the institution. Youth are trying to fit into the inmate subculture which forces them to hide their age and forces them to adopt violence as a means of survival.
- Also of interest, under the JJDP Act (prior to any changes made by the 2007 reauthorization) a juvenile who has been transferred does not have to have sight and sound separation from the criminal offenders.

17. Stop Prisoner Rape. Fact Sheet: Incarcerated Youth at Extreme Risk of Sexual Assault. Los Angeles, California. (October 2007). Available at <http://spr.org/en/factsheets/Youth.pdf>

- Data about prisoner rape in general are sparse, and the prevalence rate among juveniles is particularly under-researched.
- In juvenile detention settings, boys are most likely to be abused by another detainee, while girls are at greatest risk for abuse by male staff.
- Juveniles who identify as lesbian, gay, bisexual, transgender or queer (LGBTQ) are disproportionately victimized.
- In girls' facilities, youth known to have a history of prostitution are chief targets for abuse at the hands of staff perpetrators.

18. Campaign for Youth Justice. The Consequences Aren't Minor: The Impact of Trying Youth as Adults and Strategies for Reform. Washington, DC. (March 2007). Available at: http://www.campaignforyouthjustice.org/documents/CFYJNR_ConsequencesMinor.pdf

- This report looked at a number of juvenile transfer laws and programs to assess the consequences faced by youth convicted of crimes and housed as adults. The key findings included:
 - Majority of youth are not there for violent crimes
 - There is an increased risk of assault, abuse and death
 - State transfer laws contradict federally allowed protections
 - Youth admissions to prisons are declining
 - Decision to transfer should be made by more than one person
 - Access to legal counsel is a deciding factor for transfer
 - Minority youth are disproportionately effected
 - Female youth are effected but not much is know about girls in adult facilities
 - Transfer laws do not promote public safety
 - Transfer laws do not take brain development into consideration
 - There is a lack of available data for a good assessment

19. Stop Prisoner Rape. In Their Own Words: Recent Examples of Sexual Abuse of Youth Behind Bars. Los Angeles, California. (June 2006). Available at http://spr.org/pdf/prea_update_june_06.pdf

- This publication included a sample of excerpts from letters received at SPR's offices, as well as other publicly available cases. These passages recount in sometimes searing detail cases of sexual abuse against youth in U.S. detention facilities by corrections authorities and other inmates or wards.

20. National Council on Crime and Delinquency. Fact Sheet: Youth under Age 18 in the Adult Criminal Justice System. Comp. by Christopher Hartney. Oakland, CA. (June 2006).

- Youth tried as adults are subject to harsher penalties than youth in the juvenile system
- There is little or no rehabilitative programming
- Greater risk of victimization and death
- More likely to recidivate
- 23 states have no minimum transfer age
- In most states you must transfer if the crime is a violent offense
- More than ½ of the states allow for blended sentences
- Most youth committed to state prisons were convicted of a violent offense

21. Mason, C. and Chang, S. Re-arrest Rates Among Youth Sentenced in Adult Court: An Evaluation of the Juvenile Sentencing Advocacy Project. Juvenile Sentencing Advocacy Project, Miami-Dade County Public Defender's Office. (2001) Available at http://www.pdmiami.com/JSAP_2001_Impact_Evaluation.pdf

- This study shows that youth tried as adults who are given adult sentences are twice as likely to re-offend as youth who are sentenced to juvenile justice programs. The findings reveal that over a one-year period, almost 90% of the youth sentenced to adult probation or boot camp re-offended or violated the terms of their sentences. In contrast, 40% of youth who received juvenile justice sanctions (mostly year-long juvenile residential programs or probation) re-offended or violated their sentences. When compared with youth given adult sanctions, the youth given juvenile justice sanctions had lower re-offense rates, even when they had similar delinquency histories and charges.

22. The Sentencing Project. Prosecuting Juveniles in Adult Court: An Assessment of Trends and Consequences. Comp. by Malcolm Young and Jenni Gainsborough. Washington, DC. (January 2000).

- This publication attempts to draw conclusions about transfer laws being tied to gun crime and the crack markets in the early and mid- 1980s. As more juveniles carried guns for protection or because of gang/ judge involvement crime, violent crime, by youth increased. Findings include:
 - i. In 1996 more than ½ of all waivers were for non-violent offenses.
 - ii. Juveniles usually serve their sentences in adult prisons and jails
 - iii. Disproportionate minority contact is an issue
 - iv. Do not receive services adequate to meet their needs
 - v. Long term consequences include loss of voting, employment, conviction is a matter of public record etc.
 - vi. Youth face disadvantages at each stage of the process—arrest, bail, preliminary hearings, trial, plea deals and sentencing
 - vii. Undermines public safety

23. Juskiewitz, J. *Youth Crime/Adult Time: Is Justice Served?* Washington, DC: Prepared by Pretrial Services Resource Center for the Building Blocks for Youth Initiative. (2000) Available at <http://www.buildingblocksforyouth.org>.

- This study looking at the prosecution of minority youth in criminal court found that minority youth, particularly African American youth, were over-represented and received disparate treatment at several points in the process. In the 18 jurisdictions in the study, 82% of the cases that were filed in adult courts involved a minority.

24. Males, M., and Macallair, D. *The Color of Justice: An Analysis of Juvenile Adult Court Transfers in California*. Washington, DC: Prepared by Justice Policy Institute for the Building Blocks for Youth Initiative. (2000) Available at <http://www.buildingblocksforyouth.org>.

- This study found that minority juvenile offenders in California are much more likely to be transferred to adult courts and sentenced to prison than are whites who commit similar crimes. Compared with white youths, minorities in California

were 2.8 times more likely to be arrested for violent crimes, 6.2 times more likely to be tried in adult court and 7 times more likely to be sentenced to prison once they get there.

25. Poe-Yamagata, E., and Jones, M. *And Justice for Some*. Washington, DC: Prepared by The National Council on Crime and Delinquency for the Building Blocks for Youth Initiative. (2000) Available at <http://www.buildingblocksforyouth.org>.

- This national study showed that minority youths are more likely than white youths who commit comparable crimes to be referred to juvenile court, be detained, face trial as adults, and be jailed with adults.

26. Grisso, et al. Juveniles' Competence to Stand Trial: A Comparison of Adolescents' and Adults' Capacities as Trial Defendants. John D. and Catherine T. MacArthur Foundation's Research Network on Adolescent Development and Juvenile Justice. (2000).

- This study shows that a significant portion of children 15 or younger are not competent to stand trial in a criminal proceeding. The findings reveal that approximately a third of children aged 11 to 13 and approximately a fifth of those aged 14 to 15 to be impaired in abilities consistent with that of mentally ill adults who have been found incompetent to stand trial. Also, youth of below-average intelligence are more likely than youth of average intelligence to be impaired in capacities relevant for competence to stand trial. Older adolescents did not perform significantly different from young adults.

27. Stop Prisoner Rape. Juveniles in Adult Facilities are Vulnerable to Sexual Assault. Los Angeles, California. (No date listed). Available at <http://www.spr.org/en/factsheets/juveniles.asp>

- Sexual violence in detention is a crime that preys on the vulnerable.
- In some states, children as young as 14 have been sentenced to life imprisonment without parole in adult facilities and in many cases, these individuals fit a profile of likely sexual assault victims because they are small in stature and inexperienced in the criminal justice system.
- Many are also serving time for nonviolent offenses, and are at risk of being victimized by more serious offenders.
- It's a myth that the only youth sent to adult facilities are violent offenders. Of 7,400 juveniles admitted to adult state prisons in 1997, 61% were convicted of a violent offense as their most serious crime; 22% for a property offense; 11% for a drug offense; and 5% for a public-order offense.
- Youths placed in adult correctional settings reported significantly weaker correctional climates along four critical dimensions: fairness, counseling and therapeutic services, educational and job training services, and program structure, compared with matched groups of youths placed in juvenile facilities. At the same

time, the juvenile facilities were more chaotic. Adolescents in the juvenile programs reported higher rates of witnessing violence and violent victimization. They also reported higher rates of involvement in several types of crimes while incarcerated as well as more drug use. Despite these unruly settings, they reported greater feelings of safety compared with youths placed in adult settings. This paradox may reflect the social networks that were dominant in the two different types of placements: older criminal offenders in more organized prison gangs were the dominant social group in the adult facilities, compared to the loosely organized groups of peers that populated the juvenile facilities. This greater sense of danger, then, perhaps explains the higher rates of mental health problems reported by youths in the adult facilities.

- Not only do they receive fewer and weaker services, but they are confined with adult offenders during the critical developmental period of the transition from adolescence to adulthood. This environment obviously has its effects on mental health. But also, teens in adult corrections have limited exposure during this critical developmental stage to a broader set of social norms and a more diverse behavioral toolkit from the wider social networks of family, school or work, and community.
- It is the recommendation that authority for making transfer decisions be returned to court judges who can consider criteria other than age and offense in determining how to prosecute an adolescent. Policies that result in a wholesale transfer of adolescents from juvenile to adult courts often fail to deter repeated instances of serious and violent crime. Although some of the most extreme cases may still need to be prosecuted in adult court, these should be the exception and not the rule.

28. MacArthur Foundation. Issue Brief 5: The Changing Borders of Juvenile Justice: Transfer of Adolescents to the Adult Criminal Court. Philadelphia, PA. (No date listed). Available at http://www.adjj.org/downloads/3582issue_brief_5.pdf

- In response to recurring epidemics of youth violence over the past three decades, 46 states made significant changes in laws that lowered the age and broadened the circumstances under which young defendants could be prosecuted in the criminal courts. Prosecution in the criminal court was designed to punish young offenders more harshly and for longer periods of time, thereby deterring them and other youths from further crimes.
- A study examined more than 2,000 adolescents who committed one of three types of serious crimes (aggravated assault, armed robbery, burglary) during 1992 and 1993. The youth were tracked through 1999 to determine re-arrest rates for several types of crimes. By using the two groups from the same metropolitan area, with similar economic opportunity, access to weapons, drug use, gang influences, and other influences on crime, any differences in re-arrest between the two groups can be assumed to be due to the different court systems.
- The odds of re-arrest were greatest for those youths with no prior arrest record who were prosecuted and sentenced as adults. Only for one type of crime, drug offenses, were youths in the adult courts less likely to be re-arrested. The chances

of being re-incarcerated were 26% greater for youths prosecuted as adults. When the researchers compared the number of each type of offense during the follow-up period, the results were nearly identical. Youths who received lighter sanctions – those whose cases were either dismissed or who received lighter sentences – also were less likely to be re-arrested; this was true in both states. The research also showed that longer sentences did not reduce the likelihood of re-arrest either in the juvenile or the adult court. But, the research did show that a history of prior arrests and re-arrests is a reliable predictor of future re-arrests.

- In a related study, network researchers compared the correctional experiences of 425 adolescents placed in juvenile versus adult correctional facilities in 2000-2001. This research sought clues that might explain why adolescents adjudicated and sentenced in the criminal courts often have higher re-arrest rates and are more often returned to jail or prison. The results suggest clear differences in the therapeutic and service contexts of each of these settings.

29. Building Blocks for Youth. Fact Sheet: Florida's Experience with Trying Juveniles As Adults. (No date listed). Available at:

http://www.buildingblocksforyouth.org/issues/transfer/facts_florida.html

- Justice Policy Institute has prepared the following facts of interest on Florida's experience with sending children into the adult criminal justice system.
- Florida is leading the nation in sending youth to prison.
- Last year, Florida held more youth (under 18) in adult state prison than any other state in the nation. In 2000, there were 466 youth incarcerated in Florida state prisons, and a quarter of the youth tried as adults in Florida are mixed into the adult prison population.
- Florida is one of 15 states that allows prosecutors-not a judge-to decide whether a child should be tried as an adult for a wide variety of crimes. In 1995 alone, Florida prosecutors sent almost as many juvenile cases to adult court (7,000) as judges nationwide (9,700).
- About 1 in 13 of Florida 70,000 state prisoners entered the system for crimes they committed when they were 17 or younger.
- Children are beaten, raped, and commit suicide in adult prisons and jails.
- Youth in Florida prisons are nearly 21 times as likely to report being assaulted or injured as teens in the juvenile justice system.
- Nationally, children in adult jails and prisons are 5 times more likely to be raped, twice as likely to be beaten by staff, and 50% more likely to be attacked with a weapon than youths sent to juvenile justice system. A Justice Department study showed that the suicide rate of children in adult jails is 7.7 times higher than that of youth in juvenile detention centers.

30. Building Blocks for Youth. Incarcerating Youth with Adult Inmates Results in Tragedies. (No date listed). Available at

<http://www.buildingblocksforyouth.org/issues/adultjails/factsheet.html>

- Research demonstrates that children in adult institutions are five times as likely to be sexually assaulted, twice as likely to be beaten by staff, fifty percent more likely to be attacked with a weapon, and eight times as likely to commit suicide as children confined in juvenile facilities.
- Case examples:
 - In Ohio, six adult prisoners murdered a 17-year-old boy while he was incarcerated in the juvenile cellblock of an adult jail.
 - In Florida, a 17-year-old mildly retarded boy who had pleaded guilty to sexual battery was strangled to death by his 20-year-old cellmate. Both the youth's attorney and the sentencing judge had tried unsuccessfully to get the boy into treatment rather than prison.
 - In Ironton, Ohio, a 15-year-old girl ran away from home overnight, then returned to her parents, but was put in the adult county jail by the juvenile court judge to teach her a lesson. On the fourth night of her confinement she was sexually assaulted by a deputy jailer. More than 500 children had been incarcerated in the jail over a three-year period, many for truancy and other status offenses (which would not be crimes if committed by adults) (See *Doe v. Burwell*).
 - In Boise, Idaho, a 17-year-old boy was held in the adult jail for failing to pay \$73 in traffic fines. Over a 14-hour period, he was tortured and finally murdered by other prisoners in the cell. Another teenager had been beaten unconscious by the same inmates several days earlier. More than 650 children had been held in the jail over a three-year period, 42% for traffic offenses and 17% for status offenses (See *Yellen v. Ada County*).
 - In LaGrange, Kentucky, a 15-year-old boy was confined in the adult jail for refusing to obey his mother. Soon after he got in the jail, he took off his shirt, wrapped one sleeve around his neck and the other around the bars of his cell, and hanged himself. Jail records showed that 1,390 children were held over a four-year period, most for minor and status offenses (See *Horn v. Oldham County*).
 - In rural Glenn County, California, a 15-year-old girl was taken to the local jail for staying out past curfew. After several days, she had a detention hearing, but was not released. When she went back to her cell, she hanged herself (See *Robbins v. Glenn County*).
 - In Knox County, Indiana, a 17-year-old girl was held in the county jail for shoplifting a \$6 bottle of suntan lotion. Despite a history of emotional problems, she was put in an isolation cell. Several hours later, she committed suicide by hanging herself (See *Wilhite v. Kirkham*).
- Recent research demonstrates that transferring children from juvenile court to adult court does not decrease recidivism, and in fact actually increases crime. Two Florida studies found that youth transferred to adult prisons had approximately 30% higher recidivism rate than youth who stayed in the juvenile justice system. Not only were those transferred more likely to re-offend, but they did so almost twice as quickly, and were arrested for more serious offenses, than youth who

were retained in the juvenile court system and provided some form of treatment services. In addition, The Miami Herald reports that youth in Florida's prisons are nearly 21 times as likely to report being assaulted or injured as teens in Department of Juvenile Justice custody.

31. **Campaign for Youth Justice. Key Facts: Children in Adult Jails and Prisons.** (No date listed). Available at <http://www.campaignforyouthjustice.org/documents/KeyFactsonYouthinAdultJailsandPrisons.pdf>.

- Many youth who are held in adult jails have not even been convicted.
- Most youth are denied educational and rehabilitative services that are necessary for their stage in development when in adult facilities.
- Youth are in extreme danger when held in adult facilities.
- Many children are often placed in isolation, which can produce harmful consequences, including death.
- Youth who are held in adult facilities are at the greatest risk of sexual victimization.
- The majority of youth held in adult prisons is not the most serious offenders and are likely to be released in early adulthood.
- States have started to take action to remove youth from adult facilities.
- For over 30 years, the JJDP A has protected youth involved in the juvenile justice system by ensuring that States receiving federal juvenile justice money are meeting certain federal protections, called the core requirements. The JJDP A should be reauthorized by Congress and strengthened to remove youth from adult facilities.

HELPFUL WEBSITES:

1. American Civil Liberties Union
www.aclu.org
2. American Correctional Health Services Association
<http://www.achsa.org>
3. Amnesty International
<http://www.amnesty.org>
4. Bureau of Justice Statistics
www.bjs.ojp.usdoj.gov
5. Casey Foundation
www.aecf.org
6. Campaign for Youth Justice
www.campaignforyouthjustice.org

7. Center for Children's Law and Policy
www.cclp.org
8. Center for Disease Control
<http://www.cdc.gov>
9. Center for Mental Health Services: GAINS Center
<http://gainscenter.samhsa.gov/html>
10. The Center for Youth Justice
www.ccyj.org
11. Human Rights Watch
<http://www.hrw.org>
12. Justice Policy Institute
<http://www.justicepolicy.org>
13. Justice Research and Statistics Association
<http://www.jrsa.org>
14. MacArthur Foundation
www.macfound.org
15. National Association of Youth Courts
<http://www.youthcourt.net>
16. National Council on Crime and Delinquency
<http://www.nccd-crc.org>
17. National Council on Crime and Delinquency- Center for Girls and Young Women
<http://www.justiceforallgirls.org>
18. National Criminal Justice Reference Service
<http://www.ncjrs.gov>
19. National Institute of Corrections
<http://www.nicic.gov>
20. National Juvenile Defender Center
<http://njdc.info>
21. National Prison Project
www.aclu.org/prisoners-rights
22. Office of Juvenile Justice and Delinquency Prevention
<http://ojjdp.gov>

23. The PREA Resource Center
<http://nccd-crc.org/nccd/initiatives/prea.html>
24. The Project on Addressing Prison Rape
www.wcl.american.edu/endsilence
25. RAINN (Rape Abuse and Incest National Network)
www.rainn.org
26. Sentencing Project
<http://www.sentencingproject.org>
27. United States Department of Health & Human Services
<http://www.hhs.gov>
28. United States Department of Justice
<http://www.usdoj.gov>
29. Urban Institute
<http://www.urban.org>
30. Vera Institute of Justice
<http://www.vera.org>
31. Washington College of Law
<http://wcl.american.edu>