



Bureau of Justice Statistics Selected Findings

March 1997, NCJ-164265

National Survey of Prosecutors, 1994

Juveniles Prosecuted in State Criminal Courts

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State statutes, usually based on age criteria, define a juvenile under the original jurisdiction of the juvenile court system. In 37 States and the District of Columbia, those persons under age 18 charged with a law violation are considered juveniles. In 10 States the upper limit for original juvenile court jurisdiction is age 16, and in 3 States, the upper limit is 15 (figure 1). However, numerous exceptions to the age criterion permit a prosecutor to proceed against a juvenile as an adult in criminal court.

This report presents information from the Bureau of Justice Statistics (BJS) 1994 National Survey of Prosecutors and other BJS statistical series, as well as data collected by the National Center for Juvenile Justice about juveniles who are proceeded against as adults in criminal court. This report defines juveniles based on various State definitions of the term.

Highlights

- Nationwide, 94% of State court prosecutors' offices had responsibility for handling juvenile cases.
- Among prosecutors' offices handling juvenile cases, almost two-thirds transferred at least one juvenile case to criminal court in 1994. Of these offices, 37% transferred at least one aggravated assault case, 35% at least one burglary case, 34% at least one robbery case, and 32% at least one murder case.
- 19% of prosecutors' offices handling juvenile cases had a specialized unit that dealt with juvenile cases transferred to criminal court.
- 16% of prosecutors' offices handling juvenile cases had written guidelines about the transfer of juveniles to criminal court.
- States have developed several mechanisms to permit proceeding against alleged juvenile offenders as adults in criminal court. These mechanisms include judicial waiver, concurrent jurisdiction statutes, and statutorily excluding certain offenses from juvenile court jurisdiction.
- The percentage of petitioned cases judicially waived to criminal court has remained relatively constant at about 1.4% since 1985. In 1994, 12,300 juvenile cases were judicially waived.
- From 1985-91 property offenses comprised the largest number of cases judicially waived. Since 1991 violent offenses have outnumbered property offenses as the most serious charge.
- Currently no national data describe the number of juvenile cases processed in criminal court under concurrent jurisdiction or statutory exclusion provisions.

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The definitions and limits make a complex national pattern. Even adjoining States like New York and Pennsylvania, for instance, respond differently to a 16-year-old defendant. The New Yorker is considered an adult, will be prosecuted in the adult criminal justice system, and is outside the purview of this report. The Pennsylvanian is considered a juvenile, will be handled by the juvenile court system, and falls within the scope of this report only if the decision were made to process the matter in criminal court.

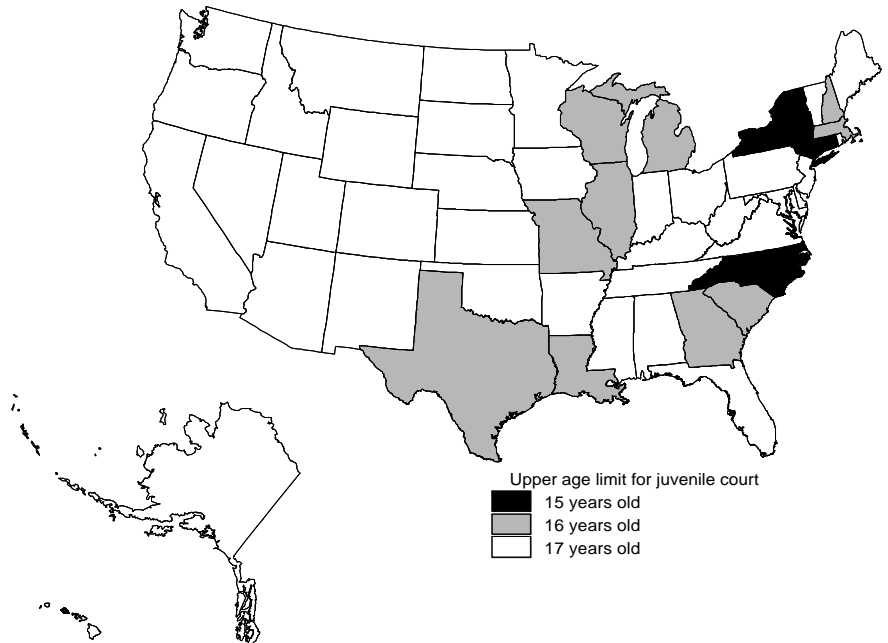
Juvenile transfers to criminal court by State court prosecutors

The 1994 National Survey of Prosecutors conducted by BJS sampled 308 chief prosecutors nationwide from the 2,343 who try felony cases in State courts. Among prosecutors' offices nationwide, 94% reported handling one or more types of juvenile cases. Over 80% of all offices handled juvenile delinquency cases and requests to transfer juveniles to adult criminal court (table 1).

Among offices handling juvenile cases, 63% reported they had transferred at least one juvenile case to criminal court in 1994. Ninety-six percent of

large full-time offices reported handling transfers to criminal court, compared to 67% of small, full-time offices and 48% of part-time offices.

Upper age limit for defendants in juvenile court, 1995



Sources: Howard Snyder and Melissa Sickmund, *Juvenile Offenders and Victims: A National Report*, Office of Juvenile Justice and Delinquency Prevention, NCJ-153569, 1995, p. 73, and Patricia Torbert, et al., *State Responses to Serious and Violent Juvenile Crime*, Office of Juvenile Justice and Delinquency Prevention, NCJ-161565, 1996, p. 3.

Figure 1

Table 1. Types of cases prosecutors' offices handle, 1994

Type of juvenile case	All offices	Percent of offices Full-time office (population served)		Part-time office
		500,000 or more	Fewer than 500,000	
Delinquency	86%	83%	83%	94%
Request to transfer juveniles to criminal court	84	93	87	78
Abuse and neglect	70	55	66	83
Noncriminal misdemeanors*	64	36	62	73
Dependency review	45	26	44	53
Number of offices	2,292	119	1,490	683

Note: Full-time office in large jurisdiction refers to an office with a full-time chief prosecutor in a jurisdiction of 500,000 or more persons. Full-time office in small jurisdiction refers to an office with a full-time chief prosecutor in a jurisdiction of fewer than 500,000 persons. Part-time office has a part-time chief prosecutor. *Includes status offenses such as running away, incorrigibility, truancy, and others. Survey question: Does your office handle the following types of juvenile cases? Source: *Prosecutors in State Courts, 1994*, BJS Bulletin, NCJ-151656, 1996, p. 8.

Table 2. Prosecutors' offices that handled juvenile cases transferred to criminal court, by offense, 1994

At least one case of:	Percent of offices transferring juvenile cases			
	All offices	Full-time office (population served) 500,000 or more	Less than 500,000	Part-time office
Murder ^a	32%	80%	32%	15%
Forcible rape	29	53	28	24
Aggravated assault ^b	37	58	45	6
Robbery ^c	34	72	36	15
Burglary	35	34	27	60
Larceny	9	13	12	0
Auto theft ^d	19	21	14	36
Arson	5	10	6	0
Drug offense	19	30	23	0
Weapon offense	25	23	25	24
Number of offices	1,305	108	908	289

Note: Excludes 778 offices that did not have any juvenile cases transferred to criminal court in 1994, 145 offices that did not handle juvenile cases, and 115 that did not answer the question. Zero indicates no cases in the sample. See the note on table 1. ^aIncludes nonnegligent manslaughter. ^bIncludes assault with intent to murder. ^cIncludes armed robbery and robbery with a deadly weapon. ^dIncludes carjacking. Survey question: What type(s) of cases were transferred to criminal court? Source: *Prosecutors in State Courts, 1994*, BJS Bulletin, NCJ-151656, 1996, p. 8.

Among offices handling juvenile cases, about 19% had a specialized unit that dealt with juvenile cases transferred to criminal court. These specialized units were most often found in large, full-time offices (61%).

In 1994, 37% of the offices handling juvenile cases transferred to criminal court reported transferring at least one aggravated assault case, 35% at least one burglary case, 34%, at least one robbery case and 32%, at least one murder case (table 2). The types of cases transferred varied by type of office. In full-time offices in large jurisdictions, 80% of the offices reported that at least one murder case was transferred and 72% reported at least one robbery case. Sixty percent of part-time offices handling juvenile cases transferred to criminal court reported that at least one burglary case was transferred.

Among prosecutors' offices handling juvenile cases transferred to criminal court in 1994, about 87% indicated using juvenile delinquency history information at some phase during prosecution.* Of the offices that handled juvenile cases transferred to criminal court and that used juvenile records, nearly 90% reported using those records while deciding to transfer a juvenile case, during sentencing and during pretrial negotiations.

Stage when used	Percent of prosecutors' offices that both handled juvenile transfers to criminal court and used juvenile records
Transfer juvenile to criminal court	89%
Sentencing	86
Pretrial negotiation	85
Filing charges	55
Trial	53
At bail hearing	48
At preliminary hearing	30

Overall, 16% of the offices that handled juvenile cases had written guidelines about the transfer of juveniles to criminal court. Forty-one percent of full-time offices in large jurisdictions had written guidelines, 16% of full-time

*For more information on the use of juvenile records see Robert R. Belair, *Privacy and Juvenile Justice Records: A Mid-Decade Status Report*, April 1997, NCJ-161255.

Table 3. Summary of provisions to process juveniles in criminal court, 1995

State	Judicial waiver	Concurrent jurisdiction	Statutory exclusion	Presumptive waiver	Reverse waiver	Once an adult/always an adult
Alabama	■		■			■
Alaska	■		■			
Arizona	■			■		
Arkansas	■	■			■	
California	■			■		
Colorado	■	■		■	■	
Connecticut ^a	■		■		■	
Delaware	■		■		■	
District of Columbia	■	■		■		■
Florida	■	■	■			■
Georgia	■	■	■		■	
Hawaii	■		■			■
Idaho	■		■			■
Illinois	■		■	■		
Indiana	■		■			
Iowa	■		■			
Kansas	■		■			■
Kentucky	■		■		■	
Louisiana	■	■	■			
Maine	■					■
Maryland	■		■		■	
Massachusetts	■			■		
Michigan	■	■				
Minnesota	■		■	■		
Mississippi	■		■		■	■
Missouri	■					■
Montana	■		■			
Nebraska	■	■			■	
Nevada	■		■		■	■
New Hampshire	■	■		■	■	■
New Jersey	■					
New Mexico			■			
New York			■		■	
North Carolina	■		■			
North Dakota	■		■	■		
Ohio	■		■			■
Oklahoma	■		■		■	
Oregon	■		■			■
Pennsylvania	■		■		■	■
Rhode Island	■		■	■		
South Carolina	■		■		■	■
South Dakota	■			■		
Tennessee	■		■		■	
Texas	■		■		■	■
Utah ^b	■		■		■	
Vermont	■	■	■		■	■
Virginia	■				■	■
Washington	■		■			
West Virginia	■		■		■	
Wisconsin	■		■	■		
Wyoming	■	■			■	

Note: The table indicates the provision(s) allowed by each State at the end of the 1995 legislative session. See text on page 4.

^aConnecticut removed its judicial waiver provision in 1995.

^bUtah's direct-file statute was repealed in 1995.

Source: Linda Szymanski, "Special Analysis of the Automated Juvenile Law Archive," reprinted from Patricia Torbert, et al., *State Responses to Serious and Violent Juvenile Crime*, Office of Juvenile Justice and Delinquency Prevention, NCJ-161565, 1996, p. 5.

offices in smaller jurisdictions and 13% of part-time offices.

Mechanisms by which juveniles can reach criminal court

All States allow juveniles to be proceeded against as adults in criminal court under certain circumstances (table 3). The following description of mechanisms that States use is summarized from *State Responses to Serious and Violent Juvenile Crime* by Patricia Torbert and others.

In all States except New Mexico, Nebraska, New York, and Connecticut, juvenile court judges may waive jurisdiction over the case and transfer it to criminal court. The waiver and transfer may be based on their own judgment, in response to the State prosecutor's

Prosecutorial discretion

In States with concurrent jurisdiction statutes, a prosecutor's decision to try a juvenile in criminal court is not subject to judicial review, like a judicial waiver decision, and is not generally required to be based upon detailed criteria. State appellate courts have ruled that prosecutorial discretion is equivalent to routine charging decisions made in criminal cases. However, in some States with concurrent jurisdiction statutes, the State legislature has mandated that prosecutors develop detailed guidelines and policies for filing a juvenile case in criminal court.

Florida is an example of a State with a concurrent jurisdiction statute that requires each State Attorney to develop written policies and guidelines to govern determinations for filing information on a juvenile in criminal court. Additionally, the statute requires each State Attorney to submit the policies annually.

Source: Patricia Torbert, et al., *State Responses to Serious and Violent Juvenile Crime*, Office of Juvenile Justice and Delinquency Prevention, NCJ-161565, 1996, pp. 7-8.

request, or in some States at the request of juveniles or their parents.

In a related provision — called a *presumptive waiver* — some juvenile offenders must be waived to criminal court unless they can prove that they are amenable to juvenile rehabilitation. This type of provision shifts the burden of proof from the prosecutor to the juvenile. As of 1995, 12 States and the District of Columbia had enacted presumptive provisions.

Concurrent jurisdiction statutes, also called *prosecutorial discretion* or *direct-file*, give prosecutors the authority to file certain juvenile cases in either juvenile or criminal court. (See *Prosecutorial discretion* on this page). Ten States and the District of Columbia have concurrent jurisdiction statutes as of 1995.

Statutory exclusion of certain serious offenses from juvenile court jurisdiction is another mechanism in many States. Thirty-six States and the District of Columbia exclude selected offenses from juvenile court jurisdiction. The most common offenses excluded are capital murder, murders of other types, and serious crimes against persons. Several States exclude juveniles charged with felonies if they have prior adjudications or convictions.

Reverse waiver provisions have been enacted in 22 States that allow the criminal court, usually on a motion from the prosecutor, to transfer excluded or direct-file cases back to the juvenile court for adjudication and/or disposition.

"Once an adult, always an adult" provisions, enacted in 17 States and the District of Columbia, require that once the juvenile court jurisdiction is waived or the juvenile is sentenced in criminal court as a result of direct filing or exclusion, all subsequent cases involving the juvenile offender will be under criminal court jurisdiction. (For information about specific provisions of the various mechanisms listed above, see *Juvenile Offenders and Victims: A National Report*, 1995, pp. 85-89.)

Juveniles transferred to criminal court by judicial waiver

Currently, there are no national data on the number of juvenile cases tried in criminal court under concurrent jurisdiction or statutory exclusion provisions. However, the National Center for Juvenile Justice maintains the National Juvenile Court Data Archive which includes information on juvenile cases that reach criminal court by judicial waiver.

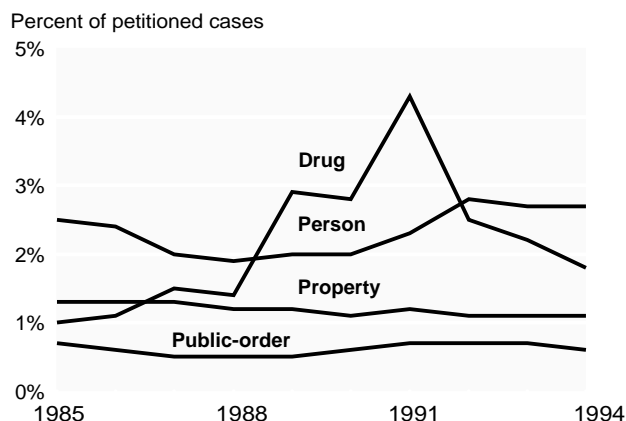
In 1994, courts with juvenile jurisdiction processed an estimated 1.5 million juvenile delinquency cases. Of these cases, 55%, or 855,200, were formally handled (petitioned) in some way through either adjudication in juvenile court or transfer to adult criminal court. However, it is estimated that the transfer of juveniles to criminal court via judicial waiver is relatively infrequent. For example, in 1994, about 1.4% of petitioned delinquency cases were transferred to criminal court by judicial waiver. Over 1985-94 the percentage of cases judicially waived to criminal court has remained fairly constant, an average of 1.4% per year (table 4).

Table 4. Petitioned delinquency cases transferred to criminal court by judicial waiver, 1985-1994

Year	Total number of petitioned cases	Cases transferred to criminal court	
		Number	Percent of total
1985	505,400	7,200	1.4%
1986	545,500	7,500	1.4
1987	547,400	7,000	1.3
1988	569,800	7,000	1.2
1989	610,600	8,300	1.4
1990	656,400	8,700	1.3
1991	718,100	11,100	1.5
1992	764,000	11,500	1.4
1993	796,600	11,600	1.5
1994	855,200	12,300	1.4

Sources: Jeffrey Butts, et al., *Easy Access to Juvenile Court Statistics 1985-89* and *Easy Access to Juvenile Court Statistics, 1990-94*, machine readable data files, Office of Juvenile Justice and Delinquency Prevention, 1996.

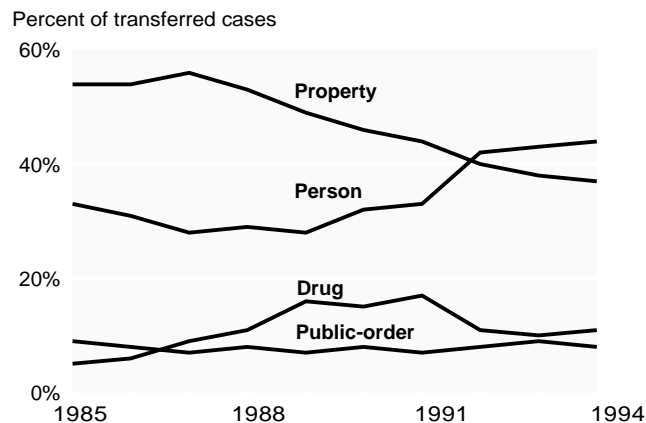
Offenses of juvenile cases transferred to criminal court by judicial waiver, as a percent of all petitioned cases, 1985-94



Note: For definitions of the offense categories see *Glossary* on page 7.
 Source: Jeffrey Butts, et al., *Easy Access to Juvenile Court Statistics, 1985-1989* and *Easy Access to Juvenile Court Statistics, 1990-1994*.

Figure 2

Offenses of juvenile cases transferred to criminal court by judicial waiver, as a percent of those transferred, 1985-94



Note: For definitions of the offense categories see *Glossary* on page 7 and for the source of the data, see figure 2.

Figure 3

In 1994 person offenses were more likely than any other offense type to be judicially waived to criminal court. This has held for much of the 10-year span except for the period 1989-91 when drug offenses were more likely to be waived (figure 2).

In 1985, 7,200 formal delinquency cases were judicially waived to criminal court. By 1994 the number had grown to 12,300, an increase of 71% from 1985. Between 1985 and 1994, the profile of cases waived has changed considerably. Until 1991 property offenses comprised the largest number of cases judicially waived. Since 1991, however, offenses against persons have outnumbered property offenses as the most serious charge (figure 3).

Between 1985 and 1994 over 90% of cases waived to criminal court involved males (table 5). In 1994, 12% of cases waived involved a juvenile offender under age 16, double the percentage from 1985. During the 10-year period, in a majority of cases waived, the juvenile offender was detained prior to disposition. In 1990, 1991, and 1993, black juvenile offenders were involved in over 50% of cases waived.

Table 5. Selected characteristics of juvenile cases waived to criminal court, 1985-94

	1985	1986	1987	1988	1989	1990	1991	1992	1993	1994
Total cases transferred	7,200	7,500	7,000	7,000	8,300	8,700	11,100	11,500	11,600	12,300
Sex										
Male	95%	94%	95%	96%	95%	96%	96%	96%	96%	96%
Female	5	6	5	4	5	4	4	4	4	4
Age at time of referral										
Under 16 years	6%	8%	8%	8%	11%	10%	10%	12%	12%	12%
16 or older	94	92	93	93	89	90	91	88	88	88
Race/ethnicity										
White	57%	57%	56%	54%	49%	45%	47%	49%	45%	49%
Black	42	42	41	43	49	52	51	48	52	48
Other	2	1	2	2	2	3	2	3	3	4
Pre-disposition detention										
Not detained	43%	45%	41%	44%	41%	43%	46%	45%	40%	44%
Detained	57	55	59	56	59	57	54	55	60	57

Source: Jeffrey Butts, et al., *Easy Access to Juvenile Court Statistics 1985-89* and *Easy Access to Juvenile Court Statistics, 1990-94*, machine readable data files, Office of Juvenile Justice and Delinquency Prevention, 1996. Detail may not add to 100% because of rounding.

Type of sentences for juveniles convicted in criminal court

For juvenile offenders convicted in criminal court, several sentencing options exist. In most States the criminal court imposes adult correctional sanctions. However, in some States the criminal court can impose a blended sentence, juvenile and/or adult correctional sanctions (table 6). In seven States the criminal court has the authority to impose juvenile or adult sanctions. In two States the criminal court can impose both juvenile and adult correctional sanctions. In several other States the criminal court can transfer the case back to juvenile court for sentencing.

Results of the 1994 BJS National Survey of Prosecutors indicate that 46% of prosecutors' offices reported that only adult sanctions were available for juveniles convicted in criminal court. Thirty-three percent reported that the criminal court could impose a blend of adult and juvenile sanctions.

Table 6. Types of sentences that can be imposed on juveniles transferred to criminal court, by State

Blended sentences ^a		
Criminal court can impose juvenile or adult sanction	Criminal court can impose juvenile and adult sanction	Criminal court can transfer case back to juvenile court for sentencing ^b
California	Arkansas	Alabama
Colorado	Missouri	Georgia
Florida		Illinois
Idaho		Oregon
Michigan		Pennsylvania
Virginia		Vermont
West Virginia		

^aPatricia Torbert, et al., *State Responses to Serious and Violent Juvenile Crime*, Office of Juvenile Justice and Delinquency Prevention, 1996, NCJ-161565, chapter 3.

^bInformation about criminal court transferring cases back to juvenile court for sentencing received from the National Center for Juvenile Justice.

Juvenile felony defendants in criminal court

The BJS State Court Processing Statistics project provides demographic, criminal history, pretrial processing, adjudication, and sentencing information on felony defendants in State courts of the Nation's 75 most populous counties. Limited information on juvenile felony defendants processed in criminal court is also collected.

Data aggregated from 1988, 1990, and 1992 show that for the 75 most populous counties:

- An estimated one-fifth of the 6,700 felony defendants under age 18 facing charges in criminal court were considered juveniles by State law.
- Of these juvenile defendants, over 90% were male and nearly 50% were age 17.
- Nearly a quarter had some type of prior adult criminal record.
- A majority of the juvenile defendants were charged with a violent offense.

- Over half were released prior to case disposition.
- About two-thirds of the juvenile defendants convicted of a violent offense were sentenced to prison.

Data were not available on the mechanisms by which these juvenile cases reached criminal court.

For further information about this data series, see the following BJS reports: *Felony Defendants in Large Urban Counties 1992*, NCJ-148826; *Felony Defendants in Large Urban Counties 1990*, NCJ-141872; and *Felony Defendants in Large Urban Counties 1988*, NCJ-122385.

Note: There were 1,355 weighted cases involving juvenile defendants. Data on the age of juvenile defendants were available for 100% of the cases; on defendant sex, for 99%; on prior adult criminal record, for 91%; on arrest charges, for 100%; on pretrial release, for 95%; and on sentencing of convicted defendants, for 95% of the eligible cases.

Juveniles adjudicated as adults in the Federal system

Juveniles may be adjudicated as adults in the Federal system if the offense charged was a violent felony or drug trafficking or importation and if the offense was committed after the juvenile's 15th birthday. Or, if the juvenile possessed a firearm during a violent offense, the juvenile may be adjudicated as an adult if the offense was committed after the juvenile's 13th birthday.

Before proceeding against a juvenile in Federal court, the U.S. attorney must certify to the court a substantial Federal interest in the case and at least one of the following:

- The State does not have jurisdiction.

- The State refuses to assume jurisdiction.
- The State with jurisdiction does not have adequate programs or services for juvenile offenders.
- The offense charged is a violent felony, a drug trafficking or importation offense, or a firearm offense (18 U.S.C. § 5032).

While the U.S. Department of Justice does not systematically collect information on juvenile transfers in Federal courts, it is estimated that during the 12 months ending September 30, 1994, 65 juveniles were referred to the Attorney General for transfer to adult status.

Source: *Juvenile Delinquents in the Federal Criminal Justice System, 1995*, BJS Bulletin, NCJ-163066, 1997, pp. 1-2.

The Bureau of Justice Statistics is the statistical agency of the U.S. Department of Justice. Jan M. Chaiken, Ph.D., is director.

BJS Selected Findings summarize statistics about a topic of current concern from both BJS and non-BJS data sets.

Carol J. DeFrances and Kevin J. Strom of BJS prepared this report. Jeffrey Butts, Melissa Sickmund, Howard Snyder, and Patricia Torbert of the National Center for Juvenile Justice provided assistance and helpful comments. Rhonda Keith and Tom Hester produced the report. Marilyn Marbrook, assisted by Jayne Robinson and Yvonne Boston, administered final production.

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Police referral of juvenile offenders to criminal court

The Federal Bureau of Investigation's Uniform Crime Reporting (UCR) Program tracks police dispositions of juvenile offenders taken into custody. This is the only component of the UCR Program that is sensitive to State variations in the definition of juvenile. However, a limitation of these data is that not all police departments report this information to the FBI.

In 1994, over 1.2 million juveniles were taken into custody by police departments in cities that represented 50% of the U.S. population. These reporting agencies indicated that approximately 5% of juvenile offenders taken into custody were referred to criminal court.

Source: FBI, *Crime in the U.S., 1994*, Washington, D.C.: U.S. Government Printing Office, 1995, table 69.

Data for cases judicially waived were taken from: *Easy Access to Juvenile Court Statistics, 1985-1989* and *Easy Access to Juvenile Court Statistics, 1990-1994*, which are available from the National Center for Juvenile Justice (412) 227-6950 and also on the Internet:

<http://www.ncjrs.org/ojjdp/html/>
(Click on *Publications*.)

Copies of *Juvenile Offenders and Victims: A National Report*, NCJ-153569, and *State Responses to Serious and Violent Juvenile Crime*, NCJ-161565, are available from the OJJDP Juvenile Justice Clearinghouse, 1-800-638-8736.

Data from the National Survey of Prosecutors 1994 (ICPSR 6785) may be obtained from the National Archive of Criminal Justice Data at the University of Michigan, 1-800-999-0960. The report, data and supporting documentation are also available on the Internet:

<http://www.ojp.usdoj.gov/bjs/>

Glossary

Person offenses include criminal homicide, forcible rape, robbery, aggravated assault, simple assault, other violent sex offenses, and other person offenses.

Property offenses include burglary, larceny-theft, motor vehicle theft,

arson, vandalism, trespassing, stolen property offenses, and other property offenses.

Public-order offenses include obstruction of justice, disorderly conduct, weapons offenses, liquor law violations, nonviolent sex offenses, and other public-order offenses.