

Juvenile Justice Fact Sheet Series: Adult System

March 2015

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What Is Adult System Involvement?

Historically, the juvenile court system was designed to hold youth accountable for their behavior while maintaining public safety and to encourage youth to become positive members of society. Therefore, juvenile courts typically handle cases in which youth are accused of delinquent acts—acts that would be crimes if committed by adults.

However, all states have “bindover” or “transfer” laws that allow for the criminal prosecution of youth in adult court. Since the 1990s, many states, including Ohio, have changed their laws to make it easier for youth to be prosecuted in adult courts and held in adult jails and prisons, even requiring mandatory transfer of a youth to adult court under some circumstances.

Research on Adult System Involvement:

National research shows that on average, youth who are prosecuted as adults are 34% more likely to commit additional felonies than youth who commit similar offenses, but remain in the juvenile system. This increase in recidivism is present even if a youth has minimal involvement with the adult court, including youth who receive only community control or probation. While the reasons for higher recidivism rates are unknown, the Office of Juvenile Justice and Delinquency Prevention summarized some reasons why this might be the case, which have significant implications for corrections and public safety systems:

- Adult corrections systems lack age appropriate services and supports: Youth have less access to rehabilitation and family support in the adult system.
- Stigma: Youth may be impacted by the stigmatization or negative labeling effects of being labeled a convicted felon.
- Resentment: Youth may have a sense of resentment and injustice about being tried as an adult.
- Peer deviance training: Consistent with the literature that youth learn criminal mores and behavior from other juveniles if they are in custody inappropriately, the experience of “peer deviance” training may be more significant than if youth are incarcerated with adults.

Placing youth in adult jails and prisons also creates negative short- and long-term impacts on youth. Research shows that youth housed in adult prisons are more likely to be sexually abused, physically assaulted by staff, are unable to access education resources, are more likely to be subjected to isolated conditions, and commit suicide at alarming rates, compared to youth held in juvenile detention centers. In response to this research and the recent implementation of the Prison Rape Elimination Act, many jails and state correction departments separate youth from the adult population. When youth are separated from the adult general population, they often are placed in isolation, which can cause physical and psychological harm as well as staffing challenges and cost differentials in serving these youth. Adult jails and department of corrections face similar issues in keeping youth safe, providing age appropriate services, and managing the costs of these youth in their systems.

Adult System Involvement in Ohio:

Ohio youth under the age of 18 can become involved in adult court through one of three procedures: 1) bindover, 2) Serious Youthful Offender (SYO) laws, which allow youth to receive a “blended” juvenile court disposition and a stayed adult court sentence that can be invoked under certain circumstances, and 3) laws that allow youth

ages 18-21 who are still under the jurisdiction of the juvenile court to be placed in adult jails. On average, over 260 youth per year are bound over in Ohio, but over the past five years, bindovers have dropped 55% from 362 youth in Fiscal Year 2009 (FY09) to 163 youth in FY13. An average of 26 youth per year are prosecuted as SYOs, which has remained consistent since FY03. Data is not available on the number of youth in adult jails.

Although data on youth in the adult system in Ohio is piecemeal, data on bound over youth shows that:

- **Mandatory bindover is used most frequently:** In Ohio, youth 14 and older can be mandatory or discretionary bindovers. Mandatory bindover allows youth to be transferred to the adult system without an individualized review by a juvenile court judge, while discretionary bindover requires juvenile court judges to determine whether a youth can be rehabilitated in the juvenile system by examining several factors, including the youth's age, the nature of the offense, maturity and mental health, and any prior record. In FY13, 61% of bound over youth were mandatory bindovers. Under certain circumstances, mandatory bindover youth can be sent back to the juvenile court for an individualized review.
- **Bindover youth serve relatively short sentences:** In FY13, 59% of youth bound over to adult court were sentenced to five years or less in the adult prison system, including 12% of youth sentenced only to community control.
- **Bindover disproportionately affects Black male youth:** Although Black youth make up only 17% of Ohio's population, they represented 81.6% of the bindover population in FY13.
- **A very small percentage of boundover youth are convicted of murder offenses:** In FY13, only seventeen of 163 bound over youth were convicted of Aggravated Murder, Murder, or Attempts of these offenses.

The Ohio Department of Rehabilitation and Corrections (ODRC) houses male bindover youth in the Youth in Adult Prison (YAP) unit, where they can be held until age 21. This unit is currently located at the Corrections Reception Center in Orient, Ohio and youthful offenders are separated from the adult general population in accordance with state and federal law and regulations. The goal of this unit is to show that – given the right youth-centered programming, such as education, substance abuse and mental health treatment, and job training delivered by individuals trained to work with youth – youth thought to be beyond rehabilitation in juvenile court can indeed be rehabilitated. Female bindover youth are held in the state's only adult women's prison.

Costs: The average cost to house a youth in an ODRC facility is \$ 67.90/day, less than placing a youth in a DYS facility. However, the long-term costs of increased recidivism indicate that it may be more expensive to transfer youth to adult court, both for the youth and for the public.

Outcomes and Recidivism: ODRC does not track recidivism rates of bindover youth, making it impossible to compare recidivism rates between youth in the adult and juvenile justice system.

Conclusion:

Across the country, courts and state legislatures are recognizing the harm and the ineffectiveness of transferring youth to adult court, and are shifting away from prosecuting youth as adults. In light of research and national trends, placing youth in adult courts and facilities in Ohio does not make economic sense, it is not in the best interest of public safety, and it does not serve our taxpayers, state, communities, or youth.

Resources:

Children's Law Center, *Falling Through the Cracks: A New Look at Ohio Youth in the Adult Criminal Justice System* (2012), available at <http://www.childrenslawky.org/resources/>.

Ohio Department of Youth Services, *Profile of Youth Transferred to Adult Court: Fiscal Year 2013*, March 2014, available at <http://www.dys.ohio.gov/DNN/LinkClick.aspx?fileticket=c9b1f85JCs%3d&tabid=117&mid=890>.

U.S. Department of Justice Bureau of Justice Statistics, *Prisoners in 2010*, Table 24, p. 35 (December 2011), available at www.bjs.gov/content/pub/pdf/p10.pdf.

OJJDP, *Trying Juveniles as Adults: An Analysis of State Transfer Laws and Reporting*, Patrick Griffin, Sean Addie, Benjamin Adams, and Kathy Firestone (September 2011), available at http://www.ncj.org/pdf/Transfer_232434.pdf.

National Institute of Corrections, *You're an Adult Now: Youth in Adult Criminal Justice Systems*, Jason Zeidenberg (December 2011), available at <http://static.nicic.gov/Library/025555.pdf>.

Richard E. Redding, *Juvenile Transfer laws: An effective deterrent to delinquency?* (Washington, D.C.: U.S. Department of Justice, Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention) (Aug. 2008), available at <https://www.ncjrs.gov/pdffiles1/ojjdp/220595.pdf>.

Ohio Department of Rehabilitation and Corrections, 2014 Annual Report, <http://www.drc.ohio.gov/web/Reports/Annual/Annual%20Report%202014.pdf>.

This fact sheet is one of a fact sheet series about Ohio's juvenile justice system by the Ohio Juvenile Justice Association.

If you have any questions, please visit OJJA's website or contact Erin Davies with the Juvenile Justice Coalition at edavies@jjohio.org or 614-400-5548.