



Juvenile Offenders and Victims

National Report Series

Fact Sheet

Melodee Hanes, Acting Administrator

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Delinquency Cases Waived to Criminal Court, 2009

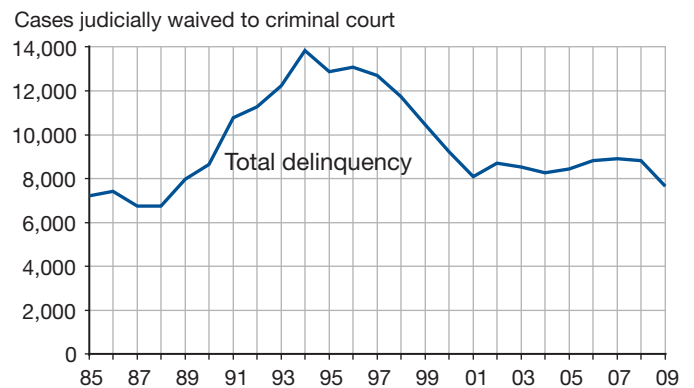
Benjamin Adams and Sean Addie

All states have mechanisms to handle juveniles in criminal court

All states have established an upper age of original jurisdiction for juvenile courts (age 15, 16, or 17, depending on the state). However, states also have various laws that allow juveniles younger than the upper age of juvenile court jurisdiction to be tried as adults. There are three basic types of transfer laws. Concurrent jurisdiction laws allow prosecutors discretion on whether they file a case in juvenile or criminal court. Statutory exclusion laws grant criminal courts original jurisdiction over certain classes of cases involving juveniles. Judicial waiver laws authorize or require juvenile court judges to remove certain youth from juvenile court jurisdiction to be tried as adults in criminal court.

There are three broad categories for judicial waiver: discretionary, presumptive, and mandatory. Nearly all states (45) have discretionary judicial waiver provisions, in which juvenile court judges have discretion to waive jurisdiction over individual juveniles to clear the way for criminal court prosecutions. These laws authorize, but do not require, transfer in cases meeting threshold requirements for waiver. Some states (15) have presumptive waiver laws, which designate a category of cases in which waiver to criminal court is presumed to be appropriate. In such cases, if a juvenile who meets the age, offense, or other statutory criteria that trigger the presumption fails to make an adequate argument against transfer, the juvenile court must send the

The number of cases judicially waived to criminal court in 2009 was 45% less than in 1994, the peak year



case to criminal court. Other states (15) provide for mandatory waiver in cases that meet certain age, offense, or prior record criteria. Proceedings against juveniles subject to mandatory waiver are initiated in juvenile court, but the court's only role is to confirm that the statutory requirements for mandatory waiver are met. Once it has done so, it must send the case to criminal court.

The National Juvenile Court Data Archive—maintained by the National Center for Juvenile Justice—generates national estimates of the number of cases judicially waived to criminal court. This fact sheet presents estimates for 1985 through 2009.



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For every 1,000 petitioned delinquency cases, 9 were waived to criminal court

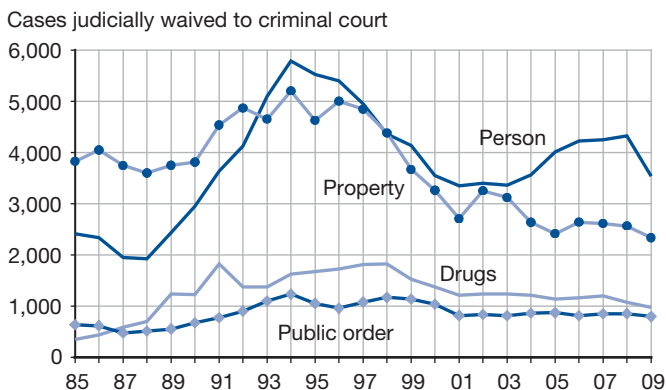
In 2009, U.S. courts with juvenile jurisdiction handled more than 1.5 million delinquency cases. More than half (55%) of these cases were handled formally (i.e., a petition was filed requesting an adjudication or waiver hearing). Of the petitioned delinquency caseload, about 1% resulted in judicial waiver. The number of delinquency cases judicially waived peaked in 1994 at 13,800 cases. This represented a 91% increase over the number of cases waived in 1985 (7,200). In 2009, juvenile courts waived an estimated 7,600 delinquency cases, 45% fewer cases than in 1994.

Much of the decline throughout the 1990s was driven by the decline in violent crime by juveniles. However, part of the decline in judicial waivers can be attributed to the simultaneous and widespread expansion of nonjudicial transfer laws. As a result of these new and expanded laws, many cases that might have been subject to waiver proceedings in previous years were undoubtedly filed directly in criminal court, bypassing the juvenile court altogether.

Since 1993, waived person offense cases have outnumbered waived cases for other offense categories

The number of judicially waived person offense cases increased 140% between 1985 and 1994 and then fell substantially through 2001, down 42% from its 1994 peak. Between 2001 and 2008, the number of cases waived increased 29% and then declined 18% between 2008 and 2009. By comparison, waived drug offense cases peaked in 1991, 416% greater than the 1985 number. Between the peak year and 2009, waived drug offense cases declined 46%. There have also been substantial declines since 1994 in the number of waived property and public order offense cases (55% and 36%, respectively). From 1993 to 2009, with one exception (1998), person offenses outnumbered property offenses among waived cases. Before 1993, property offense

Although the number of waived cases declined greatly since the mid-1990s, the number was greater in 2009 than in 1985 for person, drug, and public order offense cases

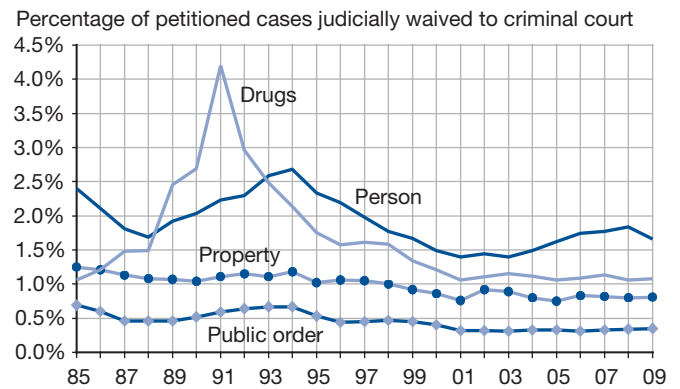


cases outnumbered person offense cases among waivers—at times by a ratio of nearly 2:1.

Trends in the use of waiver vary by the most serious offense charged

From 1989 through 1992, petitioned drug offense cases were more likely to be waived to criminal court than any other offense category. The proportion of drug offense cases that were judicially waived peaked in 1991 at 4.2% (1,800 cases) and declined to 1.1% (1,000 cases) in 2009. Between 1993 and 2009, petitioned person offense cases were more likely to be judicially waived than cases involving other offenses. In 2009, 1.7% of formally handled (or petitioned) person offense cases were waived compared with 1.1% of drug offense cases, 0.8% of property offense cases, and 0.3% of public order offense cases.

The likelihood of judicial waiver declined after the early 1990s for all four general offense categories

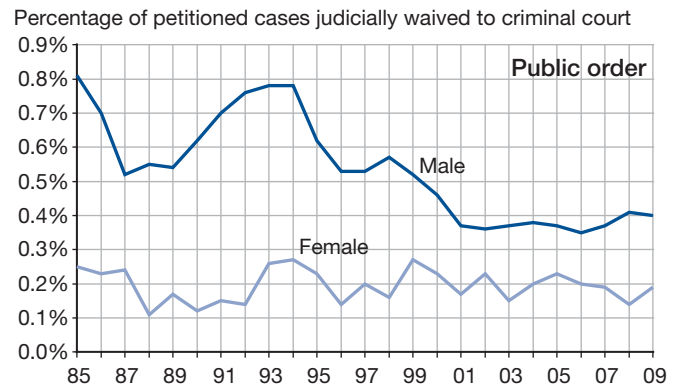
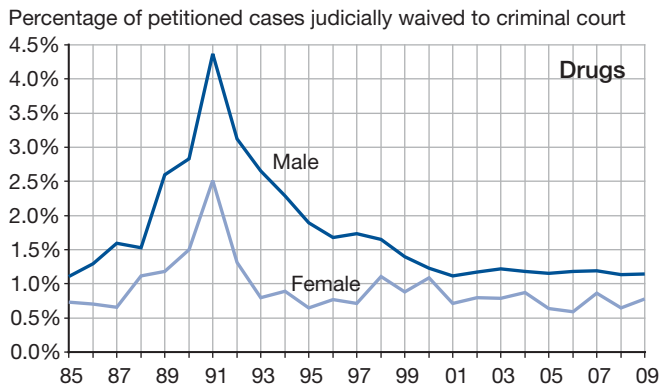
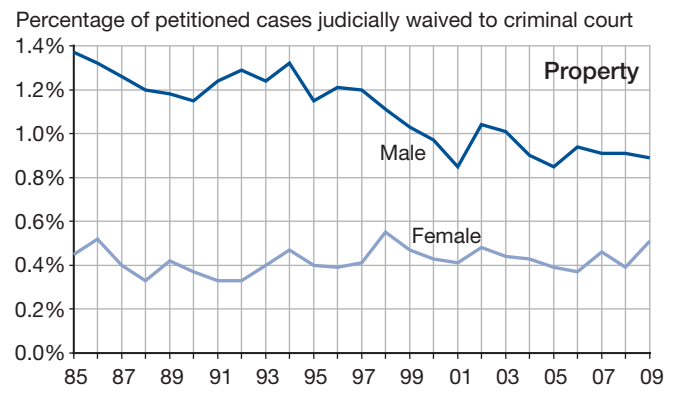
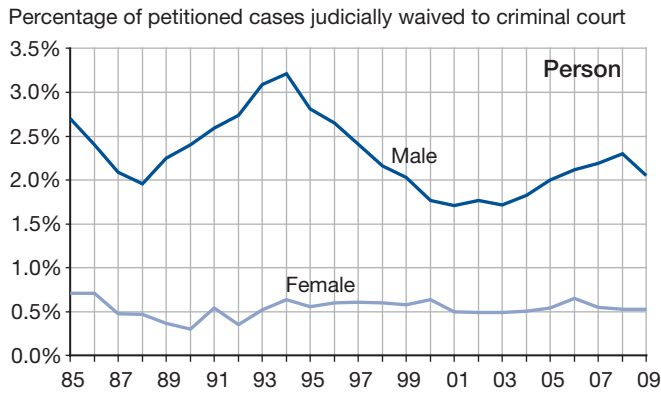


Half of waived cases involved person offenses

The offense profile and characteristics of cases judicially waived to criminal court have changed considerably. From 1985 to 1992, property offense cases made up the largest share of the waived caseload. Beginning in 1993, person offense cases accounted for a greater proportion of the waived caseload than property offense cases. Compared with 1985, the waived caseload in 2009 included a greater proportion of person offense cases (46% versus 33%) and drug offense cases (13% versus 5%) and a smaller proportion of property offense cases (31% versus 53%).

Although the proportions of waived cases involving females and younger juveniles increased between 1985 and 2009, the vast majority of waived cases involved males age 16 or older. Between 1985 and 2009, the proportion of waived cases involving males decreased (from 95% to 89%) as did the proportion of waived cases involving juveniles age 16 or older (from 94% to 89%). Judicially waived cases included a greater proportion of black youth in 1994 (the peak year) than in 2009.

Cases involving males were much more likely to be judicially waived to criminal court than those involving females



- In 2009, for males, person offense cases were far more likely to be judicially waived to criminal court than cases in any other offense category. For females, drug offense cases were most likely to be waived.
- In 2009, person offense cases involving males were 4 times as likely to be judicially waived as those involving females.
- For both males and females, the proportion of person offense cases judicially waived was lower in 2009 than in 1985.
- Patterns in the likelihood of judicial waiver for males were similar to that of females across general offense categories. For example, the likelihood of judicial waiver for drug offense cases involving males increased substantially between 1985 and 1991 (from 1.1% to 4.4%) and then declined considerably through 2009 to 1.1%. Judicially waived drug offense cases involving females followed the same pattern, increasing from 0.7% in 1985 to 2.5% in 1991 and then declining to 0.8% in 2009.

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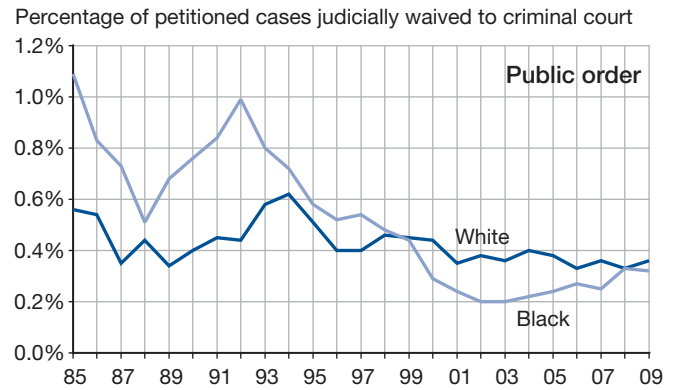
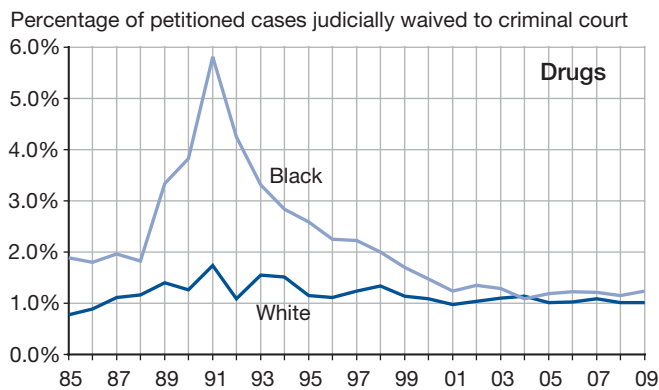
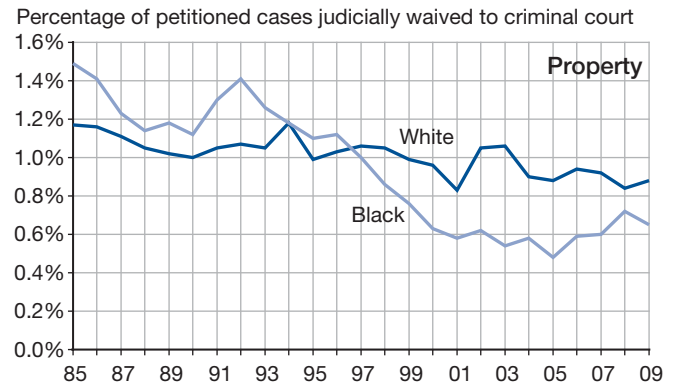
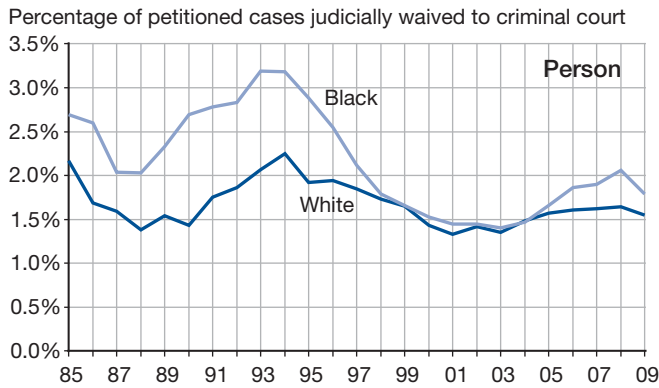
Offense/demographic	1985	1994	2009
Total cases waived	7,200	13,800	7,600
Most serious offense			
Person	33%	42%	46%
Property	53	38	31
Drugs	5	12	13
Public order	9	9	10
Gender			
Male	95%	94%	89%
Female	5	6	11
Age at referral			
15 or younger	6%	15%	11%
16 or older	94	85	89
Race/ethnicity			
White	59%	54%	58%
Black	40	42	38
Other	2	3	3

Notes: Data for 1994 are presented because it is the peak year for the number of cases judicially waived to criminal court. Detail may not add to 100% because of rounding.

Transfer mechanisms have changed and expanded over time

Transfer laws in general—including both judicial waiver laws and other kinds of transfer laws that allow or require cases against juveniles to be filed directly in criminal court, bypassing juvenile court altogether—proliferated and expanded dramatically during the 1980s and 1990s. Legislatures in nearly every state revised or rewrote their laws to broaden the scope of transfer—lower age and/or offense thresholds, moving away from individual and toward categorical handling, and shifting authority from judges to prosecutors. Between 1992 and 1999, 27 states extended the reach of judicial waiver laws, lowered age requirements, or otherwise broadened eligibility. Thirteen states enacted new presumptive waiver laws during the same period, and at least 9 states expanded or enacted new mandatory waiver laws. Nonwaiver transfer mechanisms, which had been relatively rare before this period, became more common and also more far-reaching: at least 22 states created or expanded statutory exclusion laws requiring that cases against some categories of juveniles be excluded from juvenile court and filed in criminal court, and 11 states enacted or expanded concurrent jurisdiction laws allowing prosecutors to make that choice themselves in certain cases.

Racial differences in judicial waiver cases stem primarily from differences in person and drug offense cases



- For much of the period from 1985 through 2009, the likelihood of judicial waiver for petitioned delinquency cases was greater for black youth than white youth for person and drug offense cases.
- Although the likelihood of judicial waiver declined for white youth and black youth between the early 1990s and 2009, the relative decline was greater for black youth. As a result, in 2009, delinquency cases involving black youth had about the same likelihood as cases involving white youth to be judicially waived (1.0% and 0.9%, respectively).

- Among black youth, the likelihood of judicial waiver for person offense cases peaked in 1993 at 3.2%, or nearly 1.5 times the likelihood for white youth. Similarly, at its peak in 1991, the likelihood of judicial waiver for drug offense cases involving black youth (nearly 6%) was more than 3 times the likelihood for white youth.
- In 2009, person and drug offense cases involving black youth remained slightly more likely to be judicially waived than those involving white youth. However, the opposite was true for property and public order offense cases.

For more information

This fact sheet is based on the report, *Juvenile Court Statistics 2009*, which is available through OJJDP's Web site (ojjdp.gov). To learn more about juvenile court cases, visit OJJDP's online Statistical Briefing Book (ojjdp.gov/ojstatbb) and click on "Juveniles in Court." OJJDP also supports *Easy Access to Juvenile Court Statistics*, a Web-based application that analyzes the data files used for the *Juvenile Court Statistics* report. This application is available from the "Data Analysis Tools" section of the Statistical Briefing Book.

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