



Juvenile Justice System & State Approaches

Key Themes

I. Historical Approach

II. Purpose of Juvenile Justice System

III. Present Juvenile System

IV. State Approaches to Community-Based Alternatives

Historical Perspective of Juvenile Justice

Juvenile History: England

- In English common law, children under age 7 were exempt from criminal responsibility
 - Age range to be considered a child was 7-14
- Parens patriae (“*state as parent*”) was adopted as a doctrine of the chancery courts
- English parliament established bridewells (workhouses) in 1576.

Juvenile History: United States

- Many of the views on children were initially adopted from England.
- The Bridewell model was brought to the US
 - NY House of Refuge (1825)
- Ex parte Crouse (1838)

Juvenile Courts in the United States

- In 1899, the first separate court system for juveniles was established in Cook County, **Illinois**.
 - **New York** (1874) & **Massachusetts** (1892) had separate trials
- All states and DC now have a juvenile justice system.

Juvenile Justice Terminology

- The following are examples of differences between the adult system and juvenile system:
 - Place under arrest = taken into custody
 - Jail= detention
 - Defendant = respondent
 - Prison = juvenile correction facility

Purpose of a Juvenile Justice System

Purpose of the Juvenile Justice System

Three prongs:

1. Protect the community;
2. Hold youth accountable; and
3. Provide treatment and positive role models for youths.

Juvenile Justice System

- Delinquent v. Status Offenders
- CHINS and PINS

Present Juvenile Justice System

Landmark Juvenile Justice Cases

- Kent v. United States (1966)
- In re Gault (1967)
- Sanford v. Kentucky (1989)
- Roper v. Simmons (2005)
- Graham v. Florida (2010)
 - *Amicus* brief by American Psychological Association and American Psychiatric Association
 - *Amicus* brief by American Medical Association and American Academy of Child and Adolescent Psychiatry
- Miller v. Alabama (2012)

Raising the Age

- Age of jurisdiction below 18¹
 - Only 4 states under 18
- Some states are considering raising the age between 19 and 21¹
- The role of the maturity gap/dual-systems model ^{2, 3}
- Risk determinations and amenability to intervention for waiver considerations ³

Dynamic mapping of human cortical development



Source: "Dynamic mapping of human cortical development during childhood through early adulthood," Nitin Gogtay et al., Proceedings of the National Academy of Sciences, May 25, 2004; California Institute of Technology.

1. Justice Policy Institute, 2017

2. Moffit, 1993

3. Steinberg, 2009

Juvenile Waiver

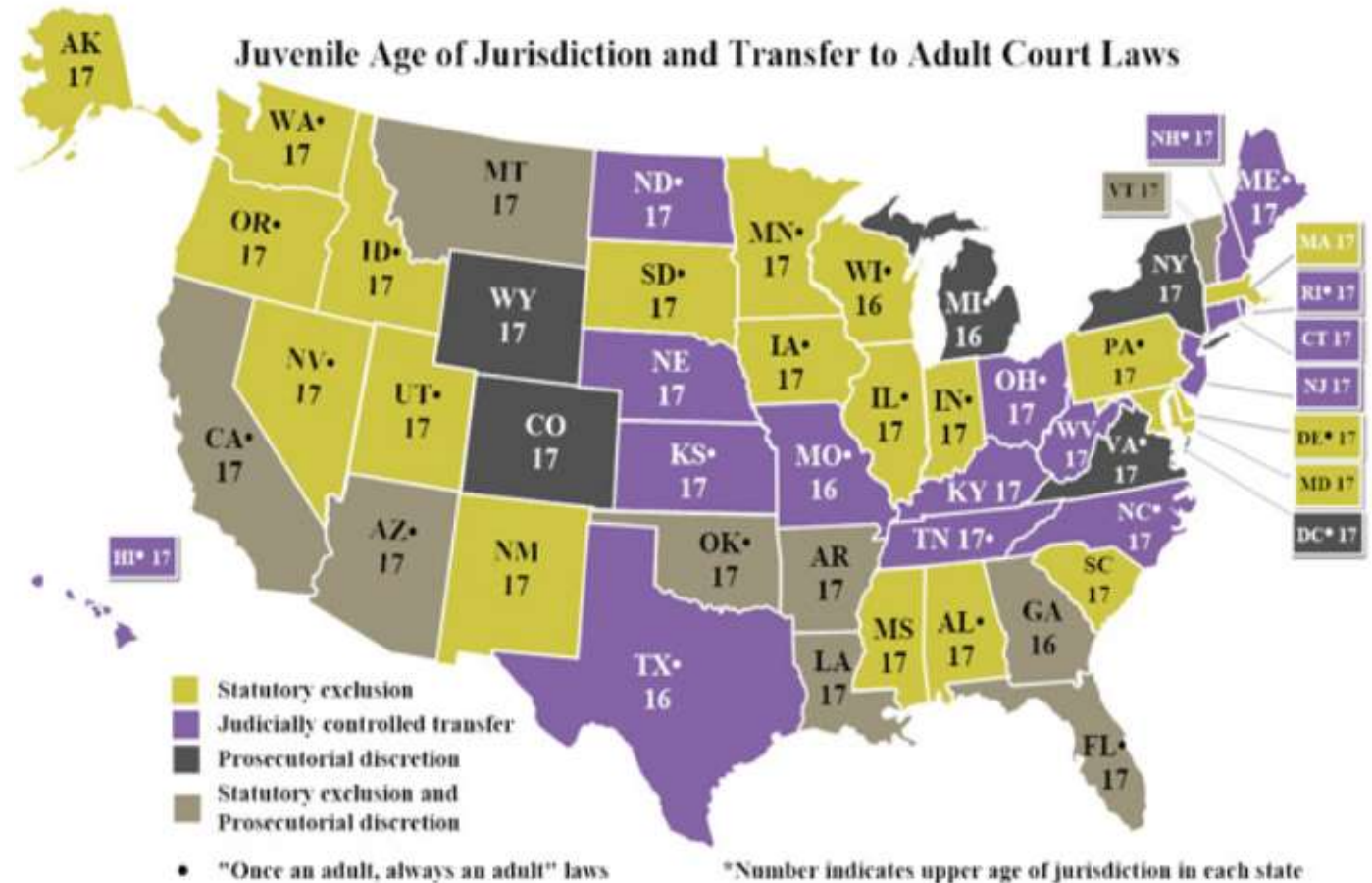
- Transferring juvenile to adult court
- Approximately, 1% of cases are waived to adult criminal court
 - Reserved for serious offenses
- Also can be used after all juvenile justice system resources have been exhausted

Cases involving juveniles age 16 or older were much more likely to be judicially waived to criminal court than those involving younger juveniles

Most serious offense	Percentage of petitioned cases judicially waived			
	Age 15 and younger	Age 16 and older	Male	Female
2013				
Delinquency	0.1%	1.2%	0.8%	0.2%
Person	0.3	2.6	1.6	0.3
Property	0.1	1.3	0.7	0.3
Drugs	0.1	1.0	0.7	0.5
Public order	0.0	0.3	0.2	0.1
2004				
Delinquency	0.2%	1.4%	0.8%	0.3%
Person	0.3	2.4	1.4	0.3
Property	0.1	1.5	0.8	0.3
Drugs	0.1	1.5	1.0	0.6
Public order	0.1	0.4	0.3	0.1
1985				
Delinquency	0.1%	2.4%	1.2%	0.4%
Person	0.3	4.2	2.2	0.5
Property	0.1	2.3	1.1	0.3
Drugs	0.1	1.4	0.9	0.6
Public order	0.1	1.2	0.7	0.2

Three Ways Juveniles Can Be Waived

- Judicial Waiver
- Prosecutorial Discretion
- Statutory exclusion



NCSL, 2017

State Approaches to Community-Based Alternatives to Incarceration

Correctional Placement

- Limiting Correctional Placement
 - **Georgia** – Risk tool to cut the number of youth in confinement
 - **Virginia**- Large institution closure to focus on local programs
 - **Alabama**- Prohibited placement for status offenses

- Positive Youth Development
 - **Oregon's** Youth Authority adopted a culture of positive human development for youth and facility staff

Post Adjudication & Reentering Communities

- Less than a quarter of adjudicated youth are sent to residential facilities. *Where do the rest go?*
 - Deferred adjudication
 - Formal probation
 - Intensive supervision probation
 - Community service
 - Community based programming

Community-Based Alternatives

- Evidence-Based Interventions ¹
 - Use of the Blueprints for Health Youth Development
 - Partnering in Universities to evaluate juvenile justice interventions-
Washington
- **Utah** passed legislation to expand and strengthen early intervention and diversion programs.²

1. Locke, 2018

2. <https://justice.utah.gov/Juvenile/hb239.html>