



# Racial Disparities – An Analysis of Three Decision Points in Iowa’s Juvenile Justice System

## The Three Decision Points:

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- Juvenile Offenders in Detention for Probation Violations Page 6
- Juvenile Offenders Being Prosecuted as Adults Page 9

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## November, 2020

Multiple CJJP staff, each with unique expertise in research, data, and juvenile justice policy, joined forces to compile the necessary elements for this comprehensive report.



# Racial Disparities – An Analysis of Three Decision Points in Iowa’s Juvenile Justice System

## Introduction / Background

The Department of Human Rights, Division of Criminal and Juvenile Justice Planning (CJJP) has compiled data and research to identify areas of racial and ethnic disparities in Iowa’s juvenile justice system and to recommend systemic changes that are necessary to eliminate these disparities. Systemic changes require multiple agencies to have active roles in making the change.

These recommendations are based on national research, data analysis of youth in Iowa’s juvenile justice system, and findings from Iowa’s Juvenile Justice System Improvement Plan<sup>1</sup>, developed in 2017. In addition, the Juvenile Justice Advisory Council (JJAC), and Disproportionate Minority Contact Subcommittee have grappled with these issues for many years.

CJJP is adopting the following statement from the Council of State Governments Justice Center, issued following George Floyd’s death:

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*“We have not done enough to advance racial equality through our work, and we will do more.”*

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*Our hope is that every person in Iowa will embrace this statement and work together to do more.*

## Identifying the Problem

Iowa’s data illustrates racial disparities throughout multiple decision points in the juvenile justice system. Three major decision points have been examined and summarized:

- Initial referral to Juvenile Court Services
- Juvenile Offenders in Detention for Probation Violations
- Juvenile offenders being prosecuted as adults

Each of these decision points were examined and researched, and based on the data and information, recommendations are made with specific action steps to enact the required changes.

## In Brief

- In 2019, African-American youth, aged 10-17, were 6.5 times more likely to enter the juvenile justice system for simple misdemeanor offenses compared to White youth.
- Between 2015 and 2019, African-American youth placed in juvenile detention for probation violations increased 31.0% while White youth decreased by 28.4%.

The following statements utilized Iowa’s 10-17 youth population for analysis and include 2015-2019 data:

- African-American youth were 9.8 times more likely to have their case waived to adult court compared to White youth.
- African-American youth were 14.3 times more likely to be direct filed compared to White youth.

**The systemic changes recommended will require coordinated efforts from all three branches of government to achieve reductions of these disparities and improve the juvenile justice system. CJJP will partner with policy makers and assist in implementing the recommendations by seeking technical assistance from national experts, and provide any additional data and information, as needed.**

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<sup>1</sup> <https://humanrights.iowa.gov/cjip/juvenile-justice-system-improvement-smart-project>

## Initial Referral to Juvenile Court Services

Current practice in Iowa is for all juvenile offenders to be referred to Juvenile Court Services (JCS) to complete an intake assessment and determine the youth's risk to the community, review evidence of the case, and if the youth is found to have committed a delinquent act, JCS develops necessary action steps to hold the youth accountable.

In SFY2018, all youth who were no risk or low risk, had a recidivism rate of 29.5%, White youth at 25.9% and African-American youth at 38.6%.

A few Iowa communities have created collaborative efforts to divert youth prior to being referred to JCS.

Pre-Charge Diversion (PCD) programs provide a standardized structure to keep low-risk youth out of the juvenile justice system and to ensure that all youth have equal access to the benefits of diversion for non-serious offenses (e.g. disorderly conduct, shoplifting, simple assault, interference with official acts). PCD programs forgo a referral to JCS and utilize immediate/direct referral of youth to diversion programs that hold youth accountable for the specific offense with no Juvenile Court Services involvement.

- PCD diversion programs in Davenport, Fort Dodge, and Iowa City are experiencing lower rates of recidivism (9.6%) than similar youth that have been referred to JCS (29.5%) for a first-time simple misdemeanor.<sup>2</sup>
- PCD programs are consistent with the 2017 National Council of Juvenile and Family Court Judges resolution that seeks approaches to incorporate knowledge on adolescent development and behavioral decision making.<sup>3</sup>

Analysis of Iowa data show (Figure 1 and Table 1, Source: Iowa Justice Data Warehouse):

- Allegations for Simple Misdemeanors for White youth were 43%, compared to 50% for African-American youth.
- All misdemeanors (simple, serious, and aggravated) comprised 77% of the allegations for White youth, compared to 81% for African-American youth.
- Pre-Charge recidivism rates for African-American are 15.8% compared to 5.7% for White youth.
- Recidivism for all youth who completed a Pre-Charge Diversion program in 2018 was 9.6%.
- Pre-charge recidivism rates for females was 8.5% and for males it was 11.1%.

<b>Recommendation</b>
<ul style="list-style-type: none"><li>• Establish pre-charge diversion programs for all juveniles with first-time simple misdemeanor offenses.</li></ul>
<b>What will it take to make it happen?</b>
<b>Below are the necessary steps that must be taken to implement and sustain the recommendation.</b>
<ul style="list-style-type: none"><li>• Replicate the existing PCD models in Iowa in additional communities.</li><li>• Utilize a uniform process to ensure all low-risk first-time offenders are referred to PCD.</li><li>• Collect PCD data for analysis by the Iowa Department of Human Rights, Division of Criminal and Juvenile Justice Planning, and reporting to State Court Administration, the Governor, and the Iowa Legislature.</li><li>• Fund new PCDs.</li><li>• Enact legislation to require all youth be referred to a community-based PCD program for first-time simple misdemeanor offenses.</li></ul>





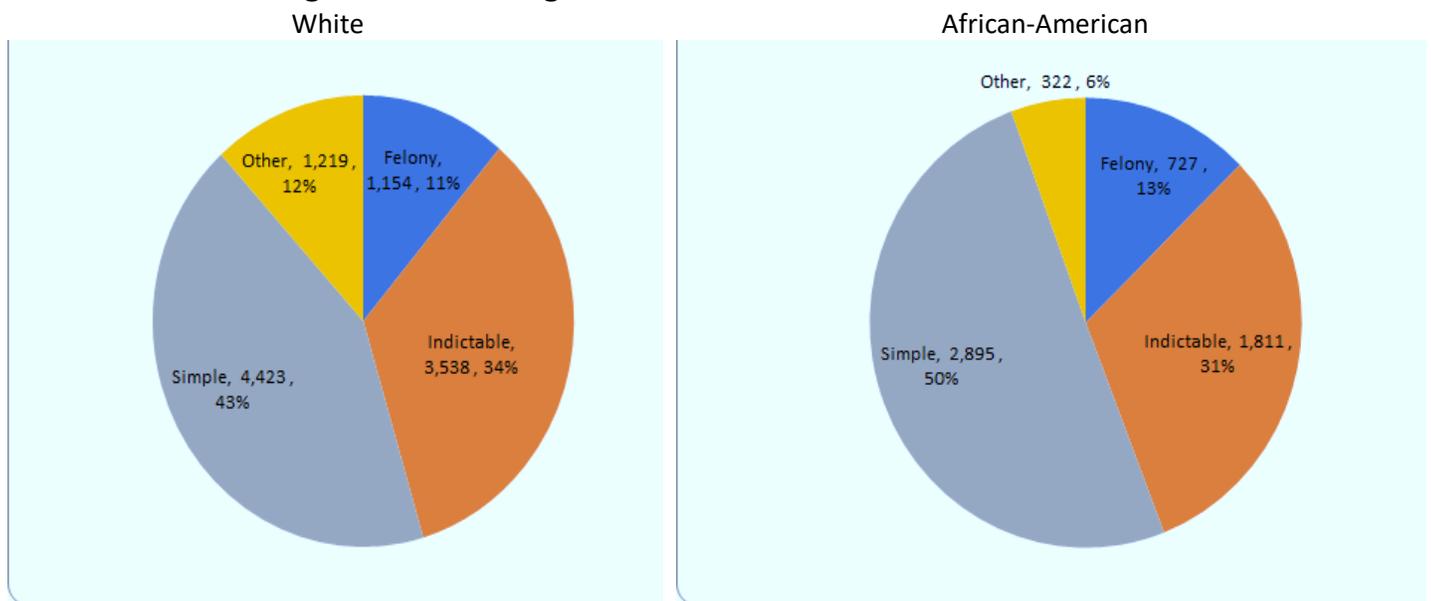

<sup>2</sup> Source, Iowa Justice Data Warehouse - In an effort to look at similarly situated youth in JCS, CJJP looked at youth with no short form risk assessment or a low risk assessment in SFY2018, and then ran one-year recidivism. The data for this group shows a recidivism rate of 29.5%, with White youth at 25.9% and African-Americans at 38.6%.

<sup>3</sup> Ibid iii

## Research

- The long-term consequences of youthful misbehavior for youth of color are numerous and oftentimes, extreme. Most young people are allowed to grow out of these behaviors without getting entangled in the justice system. However, youth of color are more likely to be arrested, prosecuted, sentenced, and incarcerated for these behaviors than are their White peers.<sup>4</sup>
- Pre-Charge Diversion is an effective strategy for low-risk youth to be held accountable and to reduce the overrepresentation of youth of color at the earliest stage of the juvenile justice system. This is particularly true, given that racial and ethnic disparities are often more pronounced for less serious offenses, which often entail a greater degree of officer discretion. For example, in a federally funded review of disparities in youth arrests, researchers found that “racial disparities were more pronounced for less serious offenses, (e.g., Bishop and Frazier, 1996), but after controlling for extralegal and case characteristics, were absent for more severe charges.”<sup>5</sup>
- There are fewer services available to meet the unique needs of female offenders that would reduce their juvenile justice system involvement.<sup>6</sup>
- National Council of Juvenile and Family Court Judges (NCJFCJ) research notes that surveillance-based juvenile probation approach of the past three decades has contributed to mass incarceration of youth, increases in recidivism rates, and high costs to taxpayers.<sup>7</sup>

**Figure 1. 2019 Allegations to JCS – Calendar Year 2019**



<sup>4</sup> [Stemming the Rising Tide: Racial & Ethnic Disparities in Youth Incarceration & Strategies for Change, The W. Haywood Burns Institute for Justice, Fairness, and Equity, 2016](#)

<sup>5</sup> [Racial and Ethnic Disparities in the Police Handling of Juvenile Arrests, National Criminal Justice Reference Service, Ronald E. Claus, Sarah Vidal, and Michele Harmon, Document No. 250804, June 2017](#)

<sup>6</sup> [Iowa's Juvenile Justice System Improvement Planning Grant: Key Findings from System Analysis, 2017](#)

<sup>7</sup> [Applying the National Council of Juvenile and Family Court Judges' Resolution to Juvenile Probation Reform, 2017](#)

**Table 1. Pre-Charge Diversion One Year Recidivism Rates By Race / Ethnicity - SFY 2018**

	Recidivism					
	No New Complaint within 1 year		New Complaint within 1 year		Total	
	N	%	N	%	N	%
White	33	94.3%	2	5.7%	35	100.0%
African-American	32	84.2%	6	15.8%	38	100.0%
Hispanic	7	100.0%	0	0.0%	7	100.0%
Other	2	100.0%	0	0.0%	2	100.0%
Missing	1	100.0%	0	0.0%	1	100.0%
<b>Total</b>	<b>75</b>	<b>90.4%</b>	<b>8</b>	<b>9.6%</b>	<b>83</b>	<b>100.0%</b>

**Current PCD Efforts in Iowa that will contribute to implementing the recommendation**

- State-Level CJP/JCS PCD web-application/recidivism tracking (two select Iowa Judicial Districts).
- A PCD structure is being implemented in Davenport and Iowa City. Those local models engage minority leaders, JCS, law enforcement, prosecutors, defense, and private youth serving agencies to work with youth in their schools and in their communities rather than arrest and refer them to JCS.
- A PCD Toolkit developed by the Center for Children’s Law and Policy.<sup>8</sup>

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<sup>8</sup> [Iowa Pre-Charge Diversion Toolkit, Center for Children’s Law and Policy, Jason Szanyi, 2018](#)

## Juvenile Offenders in Detention for Probation Violations

Analysis of Iowa data show (2015 – 2019 - Figure 1, Tables 1 and 2; Source: Iowa Justice Data Warehouse)

- Probation violations for African-American youth increased 31.0% while White youth decreased by 28.4%.
- Probation violations account for 22.0% of juvenile detention holds.
- While African-American youth are approximately 6.3% of Iowa’s juvenile 10-17 year old population, they represent on average 35.8% of the youth detained for a probation violation.
- For youth held for a probation violation, 50.2% were released to ‘Home’. This was consistent for both males and females, while females were 1.5 times more likely to be released to shelter care than their male counterparts.

### Recommendation

- Eliminate the use of detention placement for juvenile offenders who violate probation.

### What will it take to make it happen?

**Below are the necessary steps that must be taken to implement and sustain the recommendation.**

- The Judicial Branch should incorporate practice change and eliminate placing youth in detention for violating probation.
- Allocate funding to implement effective community-based detention alternatives.
- Juvenile Court Services study national models of probation and develop tailored probation requirements based on individual risk factors and criminogenic needs, and include incentives.
- Annually collect and analyze juvenile detention data on technical violations and report to State Court Administration, the Governor, and the Iowa Legislature.
- Change Iowa Code to eliminate the use of detention and incarceration for violations of probation and eliminate the use of detention as a disposition.

### Research

In 2017, the National Council of Juvenile and Family Court Judges (NCJFCJ) issued a resolution<sup>9</sup> on the need to align probation practice with the principles of adolescent development. In that resolution, NCJFCJ recommended that jurisdictions:

- Develop alternatives to formal probation revocations for technical violations, to ensure that detention or incarceration is never used as a sanction for youth who fail to meet their expectations or goals;
- Cease imposing “conditions of probation” and instead support probation departments’ developing, with families and youth, individualized case plans that set expectations and goals; and
- Emphasi[ze] . . . the use of incentives – rather than sanctions – to modify youth behavior.

One goal of racial and ethnic reform efforts is to reduce unnecessary incarceration of youth of color. Youth in the juvenile justice system have a wide variety of needs. This includes needs for varying levels of supervision that keep the youth under watchful eyes while allowing them to remain in the community. Jurisdictions with effective reform efforts have a continuum of programs and services to meet the different levels of supervision required by different youth. The goal is to provide the least restrictive level of supervision that will ensure that the youth is no longer a danger to the community.<sup>10</sup>

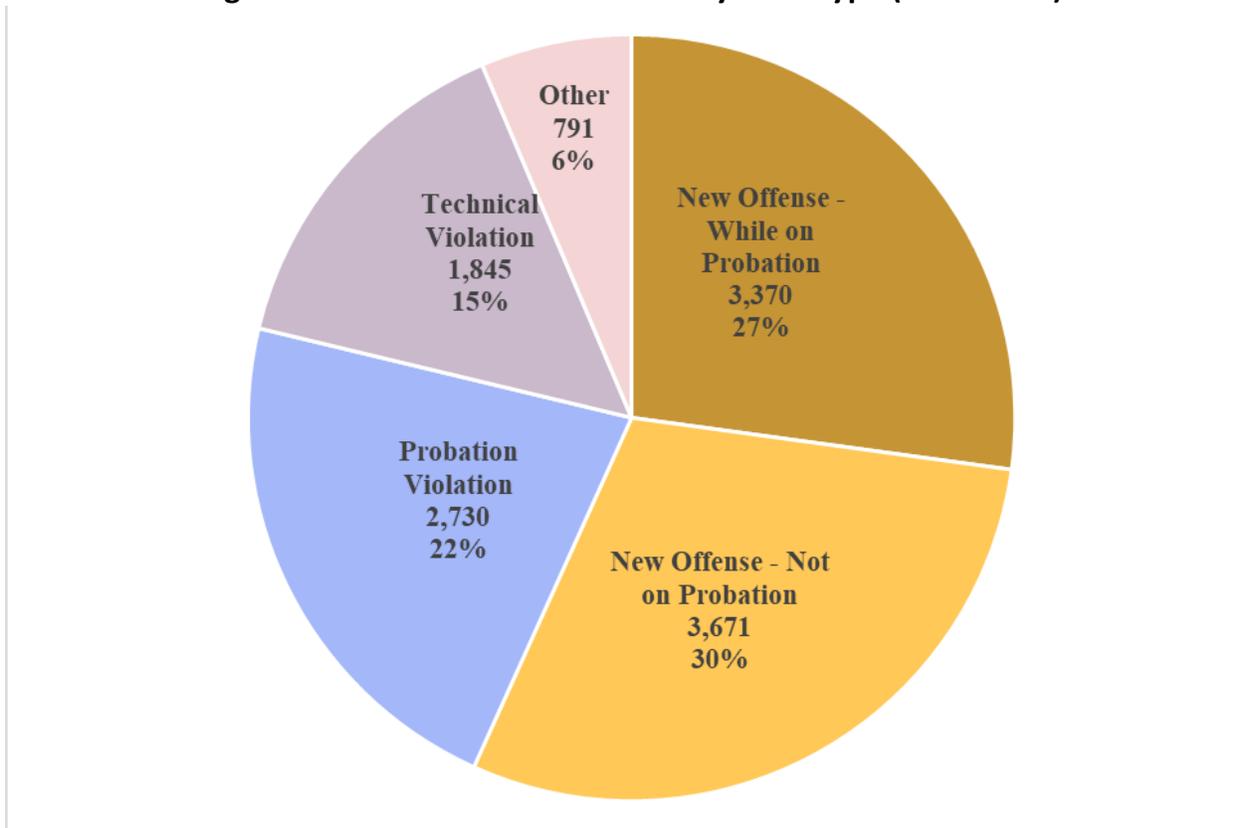
Many jurisdictions have demonstrated that a robust system of incentives, coupled with alternative responses to violations, yield better results for youth, and for public safety. For example, Pierce County, Washington’s Opportunity-Based Probation model has significantly reduced the likelihood of new technical violations and new referrals using an incentives-driven model while serving a majority of youth of color. Youth participating in the Opportunity-Based

<sup>9</sup>[National Council of Juvenile and Family Court Judges, Resolution Regarding Juvenile Probation and Adolescent Development, 2017](https://www.ncjfcj.org/wp-content/uploads/2019/08/regarding-juvenile-probation-and-adolescent-development.pdf)  
<https://www.ncjfcj.org/wp-content/uploads/2019/08/regarding-juvenile-probation-and-adolescent-development.pdf>

<sup>10</sup> RED Practice Manual, Introduction and Chapter 1: Beginning or Restarting Work to Reduce Racial Disparities, Center for Children’s Law and Policy, 2015  
website: <http://www.cclp.org/wp-content/uploads/2016/06/RED-Practice-Manual-Chapters-1-7.pdf>

Probation model had a 60% reduction in new referrals to court compared to youth assigned to traditional probation supervision.<sup>11</sup>

**Figure 1. Juvenile Detention Holds by Hold Type (2015-2019)**



**Table 1. Probation Violation Juvenile Detention Holds by Race (2015 - 2019)**

Race/Ethnicity	2015	2016	2017	2018	2019
White	310	250	225	216	222
African-American	171	189	196	196	224
Hispanic	74	61	56	70	67
Other Youth of Color	37	46	44	38	38
<b>TOTAL HOLDS</b>	<b>592</b>	<b>546</b>	<b>521</b>	<b>520</b>	<b>551</b>

<sup>11</sup> Incentives Inspire Positive Behavior for Youth on Probation, The Annie E. Casey Foundation, March 2020 <https://www.aecf.org/blog/incentives-inspire-positive-behavior-change-in-youth-on-probation/>

**Table 2. Probation Violations by Disposition (2015 - 2019)**

<b>Disposition</b>	<b>2015</b>	<b>2016</b>	<b>2017</b>	<b>2018</b>	<b>2019</b>
<b>Home</b>	285	284	265	267	269
<b>Foster Care</b>	120	95	102	85	103
<b>Shelter Care</b>	81	72	70	65	69
<b>Other/Unknown</b>	44	48	35	39	38
<b>State Training School</b>	33	30	27	12	32
<b>Different Detention Center</b>	15	11	15	42	29
<b>Mental Health Institute</b>	5	2	3	3	4
<b>Adult Jail/State Prison</b>	5	3	4	2	2
<b>Out-of-State</b>	4	1	0	5	5
<b>TOTAL HOLDS</b>	<b>592</b>	<b>546</b>	<b>521</b>	<b>520</b>	<b>551</b>

**Current Iowa Efforts that will contribute to implementing the recommendation:**

- Iowa is implementing a Detention Screening Tool (DST) to assess youths' risk prior to placement in detention.
- Many Iowa jurisdictions presently provide detention alternatives.

Iowa has received technical assistance from national experts and is able to access additional assistance from a noteworthy network of national consultants related to juvenile detention including: [Annie E. Casey Foundation - Juvenile Detention Alternatives Initiative](#), [Center for Children's Law and Policy](#), [Center for Juvenile Justice Reform](#), [Council of State Governments](#), [Crime and Justice Institute](#), and [National Youth Screening and Assessment Project](#).

## Juvenile Offenders Prosecuted as Adults

In Iowa, youth under 18 are able to be prosecuted and sentenced as an adult. Two of the established processes (in Iowa Code) have been examined:

- Adult Court Waiver: The juvenile court can “waive” exclusive jurisdiction if the court determines the juvenile is 14 years old or older; there is probable cause that the juvenile has committed a delinquent act; there are not reasonable prospects for rehabilitating the juvenile in juvenile court and it is in the best interest of the juvenile and community.
- Direct File: Youth age 16 or older who are alleged to have committed serious offenses (forcible felonies, certain gang and weapon offenses) are statutorily excluded from juvenile court jurisdiction and are considered adults for the prosecution of the offense in district court, unless the district court determines for good cause to transfer jurisdiction to juvenile court (reverse waiver).

### Analysis of Iowa data years 2015-2019 (Tables 1-12; Source: Iowa Justice Data Warehouse):

- Recidivism rate for adult waiver youth was 70%.
- 52% of adult waiver youth who received a prison sentence were African-American.
- Of waiver youth who recidivated, 37% were African-American and 44% were White; 13% were female, 77% were male and 10% were unknown.
- 30% were waived for simple misdemeanor offenses.
- 43% of adult waiver youth were found to be guilty but were not sentenced to probation or prison (or a deferred sentence).
- White adult waiver youth were dismissed or deferred (19% and 18%, respectively) more often compared to African-American or Hispanic youth (14%, 11% and 13%, 16%, respectively).
- Female adult waiver youth were more likely to receive a dismissal or a deferral than males.
- Recidivism rate for direct file youth was 45%.
- Of direct file youth who recidivated, 52% were African-American and 32% were White; 8% were female, 87% were male and 5% were unknown.
- African-American and Hispanic direct file youth were more likely to receive a prison sentence (14% and 13% respectively) compared to White youth (5%).
- Of all direct file youth, 24% were reverse waived to juvenile court.
- No female youth, direct file or waived, received a prison sentence.
- Females, direct file and waived, were less likely to be found guilty of violent crimes compared to males.

### Recommendations

- Juvenile court shall have exclusive jurisdiction of all juvenile offenders, except when the juvenile court waives jurisdiction. Eliminate Direct File.
- Juveniles may only be waived to be prosecuted as an adult for felony offenses.
- Juvenile court jurisdiction of a juvenile is able to be extended by the Juvenile Court until the youth is 21 years of age.

### What will it take to make it happen?

**Below are the necessary steps that must be taken to implement and sustain the recommendations.**

- Study effective community-based and residential rehabilitative models to provide the appropriate level of care for moderate and high-risk juvenile offenders, up to the age of 21 years of age.
- Estimate the need and cost for additional community-based and residential facilities for youth up to the age of 21 years of age.
- Legislation to eliminate statutory exclusion of youth under 18 years of age from juvenile court jurisdiction. (Iowa Code Section 232.8, striking sub-paragraph 1.c.)
- Legislation to only allow waivers from juvenile court jurisdiction for alleged felony offenses.
- Legislation to allow juvenile court to maintain jurisdiction of a juvenile offender until the age of 21

We must identify and control the small group of serious, violent, and chronic juvenile offenders who have committed felony offenses or have failed to respond to intervention and nonsecure community-based treatment and rehabilitation services offered by the juvenile justice system. Measures to address delinquent offenders who are a threat to community safety may include placement in secure community-based facilities, training schools, and other secure juvenile facilities. Even the most violent or intractable juveniles should not be moved into the criminal justice system before they graduate from the jurisdiction of the juvenile justice system.

[A Practical Approach to Evidence-Based Juvenile Justice Systems, Journal of Applied Juvenile Justice Services, James C. \(Buddy\) Howell, Ph.D., Mark W. Lipsey, Ph.D., John J. Wilson, Esq, Megan Q. Howell, MCJ, 2014](#)

## Research

- A report by the National Academy of Sciences confirmed the growing consensus that brain development continues into a youth's early-to-mid 20s.<sup>12</sup> In response to these research findings, many states have moved to increase judicial involvement in decisions about which cases are removed from juvenile court jurisdiction, and focus the offenses that make a youth eligible for prosecution in adult court on only the most serious offenses committed by older youth.
- According to the Office of Juvenile Justice Delinquency and Prevention, "six large-scale studies have found higher recidivism rates among juveniles convicted for violent offenses in criminal court when compared with similar offenders tried in juvenile court... the bulk of the empirical evidence suggests that transfer laws have little or no general deterrent effect."<sup>13</sup>
- The U.S. Centers for Disease Control and Prevention found that youth transferred to the adult justice system were approximately 34% more likely than youth retained in the juvenile court system to be re-arrested for a violent crime.<sup>14</sup>

**Table 1. Adult Waiver Youth Recidivism - 2015 to 2019**

	N	%
No New Complaint within 1 year	323	30%
New Complaint within 1 year	755	70%
Total	1,078	100%

**Table 2. Adult Waiver Youth Recidivism by Race - 2015 to 2019**

	N	%
White	332	44%
African-American	277	37%
Hispanic	31	4%
All Other	115	15%
Total	755	100%

**Table 3. Adult Waiver Youth Recidivism by Gender - 2015 to 2019**

	N	%
Female	101	13%
Male	580	77%
Unknown	74	10%
Total	755	100%

<sup>12</sup> National Academy of Sciences (2013), Reforming Juvenile Justice: A Developmental Approach.

<sup>13</sup> Redding RE. Juvenile transfer laws: An effective deterrent to delinquency? Office of Justice Programs, U.S. Department of Justice; 2008

<sup>14</sup> [Effects on Violence of Laws and Policies Facilitating the Transfer of Youth from the Juvenile to the Adult Justice System](#)

**Table 4. Direct File Youth Recidivism - 2015 to 2019**

	N	%
No New Complaint within 1 year	338	55%
New Complaint within 1 year	273	45%
Total	611	100%

**Table 5. Direct File Youth Recidivism by Race - 2015 to 2019**

	N	%
White	86	36%
African-American	142	53%
Hispanic	11	34%
All Other	34	49%
Total	273	45%

**Table 6. Direct File Youth Recidivism by Gender - 2015 to 2019**

	N	%
Female	21	8%
Male	238	87%
Unknown	14	5%
Total	273	100%

**Table 7. Adult Waiver Youth Initial Sentence Type by Disposition – 2015-2019**

	Guilty		Dismissed		Deferred		Other	
	N	%	N	%	N	%	N	%
None	440	66%	160	100%	110	60%	8	100%
Probation	198	30%	0	0%	72	40%	0	0%
Prison	33	5%	0	0%	0	0%	0	0%
Total	671	100%	160	100%	182	100%	8	100%

**Table 8. Direct File Youth Initial Sentence Type by Disposition– 2015-2019**

	Guilty		Dismissed		Deferred		Waiver		Other	
	N	%	N	%	N	%	N	%	N	%
None	80	39%	91	100%	22	32%	133	99%	59	100%
Probation	67	32%	0	0%	46	68%	1	1%	0	0%
Prison	60	29%	0	0%	0	0%	0	0%	0	0%
Total	207	100%	91	100%	68	100%	134	100%	59	100%

**Table 9. Adult Waiver Youth Disposition by Race – 2015-2019**

	Guilty		Dismissed		Deferred	
	N	%	N	%	N	%
White	281	42%	84	53%	81	45%
African-American	241	36%	47	29%	37	20%
Hispanic	32	5%	6	4%	7	4%
All Other	117	17%	23	14%	57	31%
Total	671	100%	160	100%	182	100%

**Table 10. Direct File Youth Disposition by Race – 2015-2019**

	Guilty		Dismissed		Deferred		Reverse Waiver	
	N	%	N	%	N	%	N	%
White	66	32%	39	43%	32	47%	56	42%
African-American	110	53%	39	43%	23	34%	55	41%
Hispanic	12	6%	7	8%	6	9%	3	2%
All Other	19	9%	6	7%	7	10%	20	15%
Total	207	100%	91	100%	68	100%	134	100%

**Table 11. Adult Waiver Youth Convicting Charge Class by Race – 2015-2019**

	Felony		AGMS		SRMS		SMMS	
	N	%	N	%	N	%	N	%
White	82	39%	106	41%	118	48%	142	46%
African-American	77	37%	97	37%	54	22%	101	33%
Hispanic	10	5%	9	3%	15	6%	11	4%
All Other	39	19%	48	18%	57	23%	53	17%
Total	208	100%	260	100%	244	100%	307	100%

**Table 12. Direct File Youth Convicting Charge Class by Race – 2015-2019**

	Felony		AGMS		SRMS		SMMS	
	N	%	N	%	N	%	N	%
White	198	40%	14	35%	6	67%	1	13%
African-American	226	45%	16	40%	1	11%	6	75%
Hispanic	26	5%	3	8%	1	11%	0	0%
All Other	51	10%	7	18%	1	11%	1	13%
Total	501	100%	40	100%	9	100%	8	100%

AGMS – aggravated misdemeanor; SRMS – serious misdemeanor; SMMS – simple misdemeanor