



# JUVENILE JUSTICE STATISTICS

## NATIONAL REPORT SERIES FACT SHEET

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## Delinquency Cases Waived to Criminal Court, 2020

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### All states have laws to handle juveniles in criminal court

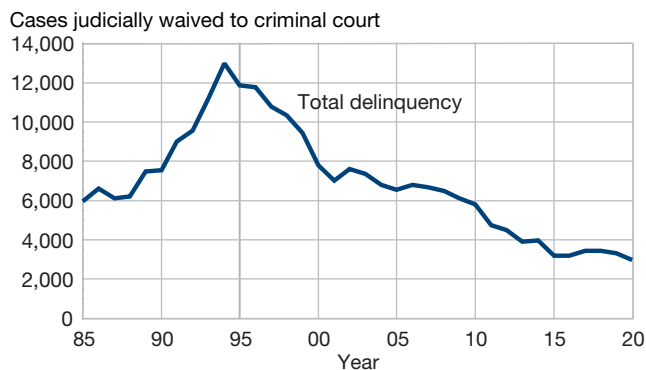
All states have established an upper age of original jurisdiction for juvenile courts (age 16 or 17, depending on the state). However, states also have various laws that allow youth younger than the upper age of juvenile court jurisdiction (“juveniles”) to be tried as adults. There are three basic types of transfer laws. Concurrent jurisdiction laws allow prosecutors discretion on whether to 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 (46) have discretionary judicial waiver provisions in which juvenile court judges have discretion to waive jurisdiction over individual youth and refer their cases to criminal court. These laws authorize, but do not require, transfer in cases that meet threshold requirements for waiver. As a result of *Kent v. United States*, the Supreme Court established eight factors that juvenile courts should consider when determining which venue is most appropriate for a youth’s case to be processed. Although each state may decide to adhere to the eight factors or add to or replace with their own, juvenile courts are advised to not only consider the severity of the offense committed but additional factors such as the youth’s prior involvement in the justice

system and their prospects of rehabilitation. Some states (12) 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 youth 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 case to criminal court. Other states (12) provide for mandatory waiver in cases that meet certain age, offense, or prior record criteria. Proceedings against youth 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 2020.

### In 2020, 77% fewer cases were judicially waived to criminal court than were waived in 1994, the peak year



## For every 1,000 delinquency cases, 6 were waived to criminal court

In 2020, U.S. courts with juvenile jurisdiction handled 508,400 delinquency cases. More than half (54%) 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 13,000 cases, more than double the number of cases waived in 1985. Judicially waived delinquency cases decreased 77% to its lowest level in 2020, when juvenile courts waived an estimated 3,000 delinquency cases.

The decline in violent crime committed by youth drove much of the decrease in judicial waivers throughout the 1990s. 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.

It is important to note that 2020 was the onset of the COVID-19 pandemic, which may have impacted policies, procedures, and data collection activities regarding referrals to and processing of youth by juvenile courts. Additionally, stay-at-home orders and school closures likely impacted the volume and type of law-violating behavior by youth referred to juvenile court in 2020.

### Transfer laws have changed over time

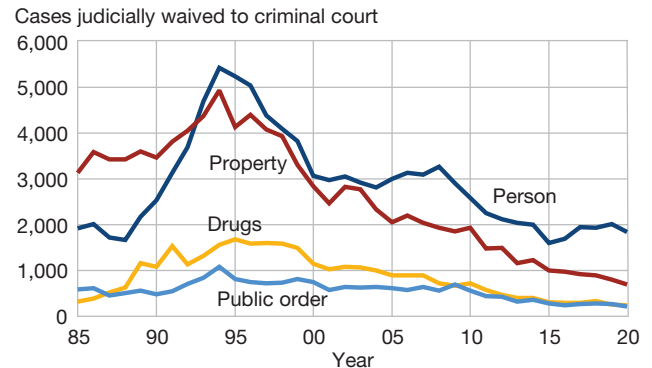
Transfer laws in general—including both judicial waiver laws and other kinds of transfer laws that allow or require cases involving juveniles to be filed directly in criminal court, bypassing juvenile court—proliferated and expanded dramatically during the 1980s and 1990s. Nearly every state revised or rewrote its laws to broaden the scope of transfer. Between 1992 and 1999, 27 states extended the reach of judicial waiver laws, lowered age requirements, or otherwise broadened eligibility. By 1999, presumptive waiver laws were in 16 states, and at least 15 states had mandatory waiver laws. Nonwaiver transfer laws, which had been relatively rare before this period, became more common and also more far-reaching. By 1999, 29 states had statutory exclusion laws requiring that cases against some categories of youth be excluded from juvenile court and filed in criminal court, and 15 states had concurrent jurisdiction laws allowing prosecutors to make that choice themselves in certain cases.

Since then, however, some states have rolled back the provisions that made it easier for more youth to be tried in criminal court. By 2019 (the latest information available), the state transfer landscape had changed: 27 states had statutory exclusion laws, 14 had concurrent jurisdiction provisions, 12 had mandatory waiver laws, and 12 had presumptive waiver laws. In addition, between 1999 and 2019, 4 states added reverse waiver provisions to send cases initiated in criminal court to juvenile court (increasing from 24 states to 28), and 7 states opted to add blended sentencing provisions that allow criminal courts to impose juvenile dispositions (increasing from 16 states to 23).

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

The number of judicially waived person offense cases increased 183% between 1985 and 1994 and then fell substantially through 2015, down 80% from its 1994 peak. Despite an increase in recent years, the number of waived person offense cases in 2020 was 4% below the level in 1985. Waived drug offense cases peaked in 1995, 425% greater than the 1985 number. Between 1995 and 2020, waived drug offense cases declined 86%. The number of drug offense cases waived in 2020 was 26% below the number reported in 1985. There have also been substantial declines in the number of waived property and public order offense cases since 1994 (86% and 80%, respectively).

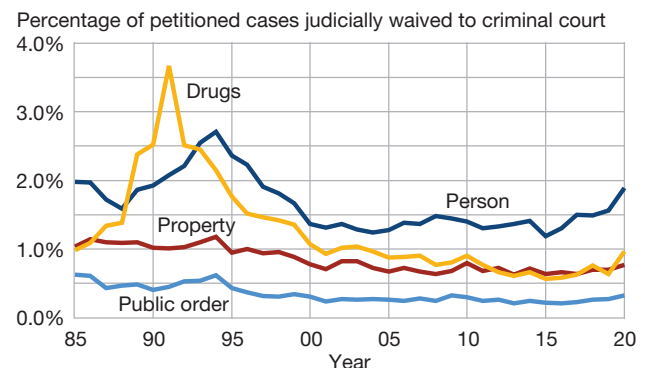
### Since the 1994 peak, the number of waived cases decreased by at least 80% for property, drugs, and public order offenses and 66% for person offenses



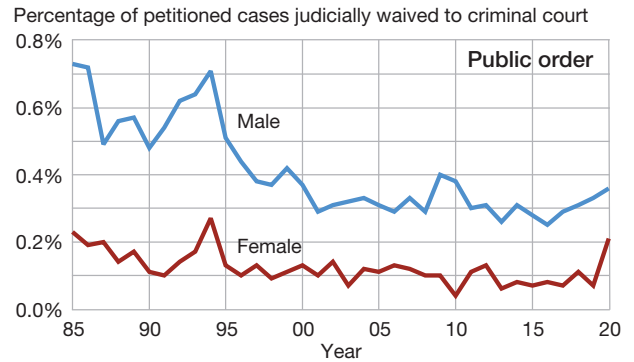
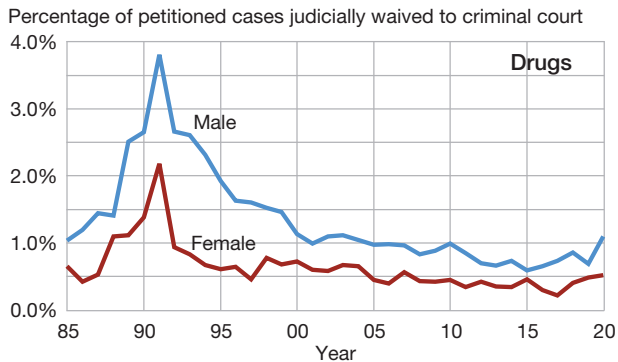
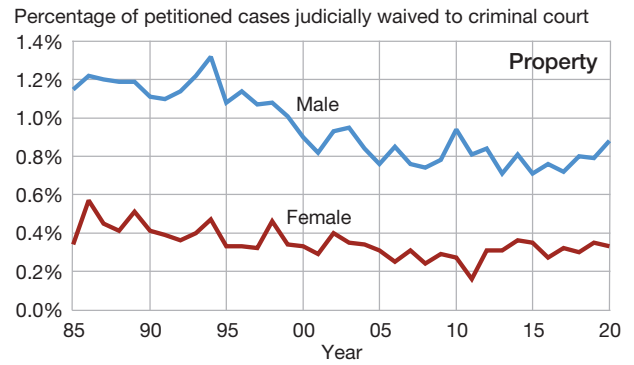
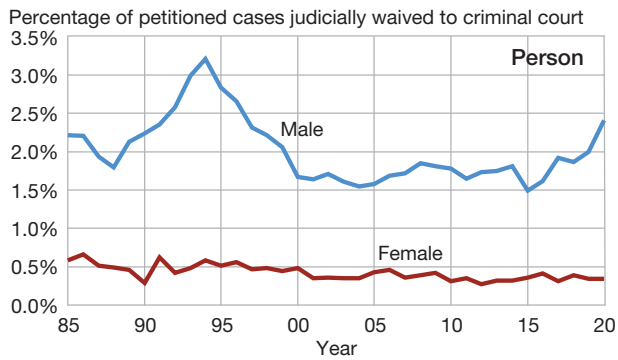
## Trends in the use of waiver vary by the most serious offense charged

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 petitioned drug offense cases that were judicially waived peaked in 1991 at 3.7% (1,500 cases) and declined to 0.6% (300 cases) in 2015. The likelihood of waiver for drug offense cases increased

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



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



■ In 2020, for males, person offense cases were the most likely to be judicially waived and public order offenses were the least likely to be waived. For females, the likelihood of waiver was similar for person, property, and public order offenses; drug offenses were more likely to be waived.

■ In 2020, person offense cases involving males were 8 times more likely to be judicially waived than those involving females.

■ The likelihood of waiver in 2020 for females was at or below the 1985 level for all offenses.

since 2015 and in 2020, nearly 1% of cases were waived to criminal court. Between 1993 and 2020, petitioned person offense cases were more likely to be judicially waived than petitioned cases involving other offenses. In 2020, 1.9% of petitioned person offense cases were waived compared with 1.0% of drug offense cases, 0.8% of property offense cases, and 0.3% of public order offense cases.

## More than 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 2020 included greater proportions of person and drug offense cases and smaller proportions of property and public order offense cases.

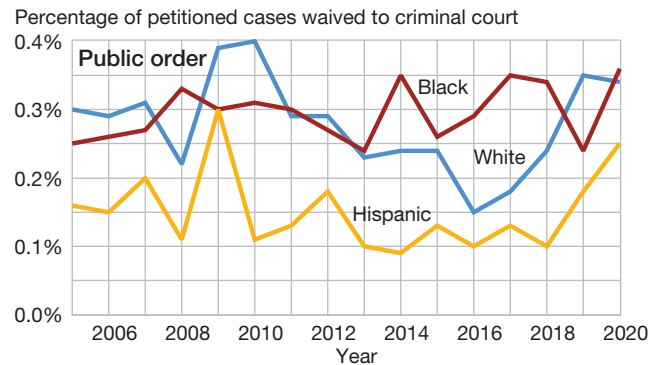
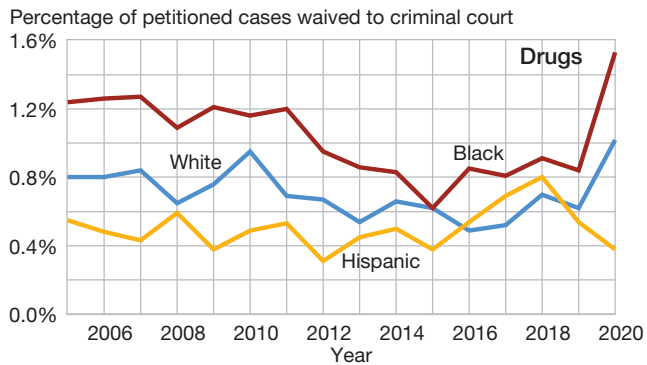
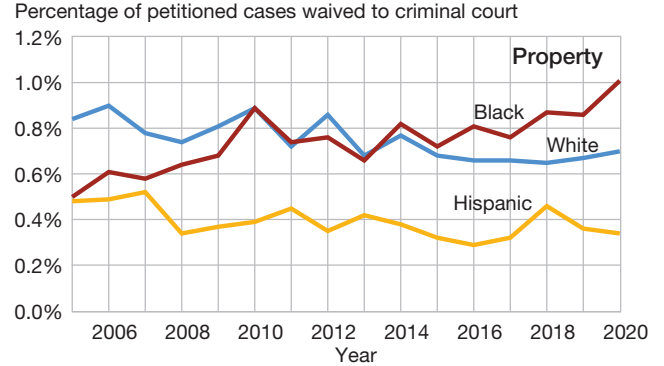
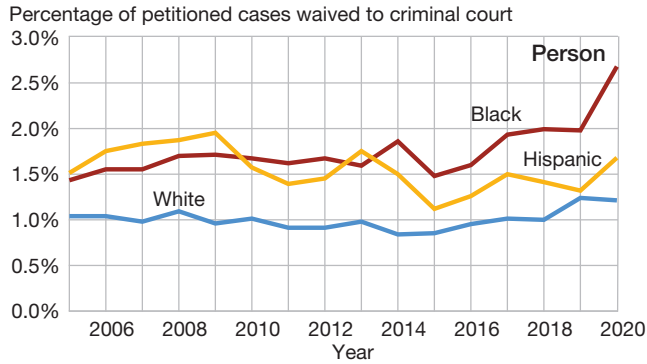
In 2020, males accounted for 93% of all waived cases but 73% of all delinquency cases. Among person offense cases, males accounted for 95% of waived cases but 70% of cases disposed. Youth 16 and older also accounted for a greater share of waived cases (89%) than delinquency cases overall (47%). Non-Hispanic white youth, in contrast, accounted for 43% of all cases disposed but 31% of waived cases.

## The offense profile and characteristics of cases judicially waived to criminal court have changed considerably

Offense/demographic	Proportion of judicially waived cases		
	1985	1994	2020
<b>Total cases waived</b>	5,951	13,000	2,980
<b>Most serious offense</b>			
Person	32%	42%	62%
Property	53	38	23
Drugs	5	12	8
Public order	10	8	7
<b>Gender</b>			
Male	95%	95%	93%
Female	5	5	7
<b>Age at referral</b>			
15 or younger	7%	13%	11%
16 or older	93	87	89
<b>Demographic</b>	<b>2005</b>	<b>2011</b>	<b>2020</b>
<b>Total cases waived</b>	6,542	4,743	2,980
<b>Race/ethnicity</b>			
White	45%	37%	31%
Black	39	47	53
Hispanic	13	14	13
Other	3	2	3

**Notes:** Data for 1994 are presented because it is the peak year for the number of cases judicially waived to criminal court. National estimates of cases involving Hispanic youth are not available prior to 2005 data; therefore, race/ethnicity data are presented for the first year available (2005), the prior 10-year data period (2011), and the current data year (2020). Detail may not add to 100% because of rounding.

## Across offense categories, cases involving Black youth were more likely than cases involving other race groups to be waived in 2020



- For Black and Hispanic youth, the likelihood of waiver for person offense cases has been substantially higher than the likelihood of waiver for other offense categories.
- In 2020, the likelihood of waiver in person offense cases for Black youth was more than double the likelihood for white youth, and the likelihood for Hispanic youth was 1.4 times the likelihood for white youth.

- For all race/ethnicity groups, the likelihood of waiver for person offense cases increased somewhat between 2015 and 2020. The increase was greatest for Black youth (from 1.5% to 2.7%).
- Public order offense cases were the least likely to be waived for all race/ethnicity groups.

**Notes:** National estimates of cases involving Hispanic youth are not available prior to 2005 data; therefore, presentations for all race/ethnicity data in this fact sheet are based on 2005 and forward. For more information, visit the Methods section of *Easy Access to Juvenile Court Statistics* at <https://www.ojjdp.gov/ojstatbb/ezajcs/asp/methods.asp>.

## For more information

This fact sheet is based on the report *Juvenile Court Statistics 2020*, which is available at [ojjdp.gov/ojstatbb](http://ojjdp.gov/ojstatbb). To learn more about juvenile court cases, visit OJJDP's online Statistical Briefing Book ([ojjdp.gov/ojstatbb](http://ojjdp.gov/ojstatbb)) and click on "Juveniles in Court." OJJDP also supports *Easy Access to Juvenile Court Statistics*, a web-based application that lets users analyze the data from the *Juvenile Court Statistics* report. This application is available at [ojjdp.gov/ojstatbb/ezajcs](http://ojjdp.gov/ojstatbb/ezajcs).

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