



OJJDP FACT SHEET

Jeff Slowikowski, Acting Administrator

June 2009

Delinquency Cases Waived to Criminal Court, 2005

by Benjamin Adams and Sean Addie

For every 1,000 petitioned delinquency cases, 8 were judicially waived to criminal court

In 2005, U.S. courts with juvenile jurisdiction handled 1.7 million delinquency cases. More than half (56%) of these cases were handled formally (that is, a petition was filed requesting an adjudication or waiver hearing). Of the petitioned delinquency case-load, less than 1% resulted in judicial waiver. The number of delinquency cases judicially waived peaked in 1994 at 13,000 cases. This represented an 80% increase over the number of cases waived in 1985 (7,200). Since 1994, however, the number of cases judicially waived declined 47% (6,900 cases in 2005).

The decrease in violent crime by juveniles has driven much of this decline. However, part of the decline in judicial waivers is due 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.

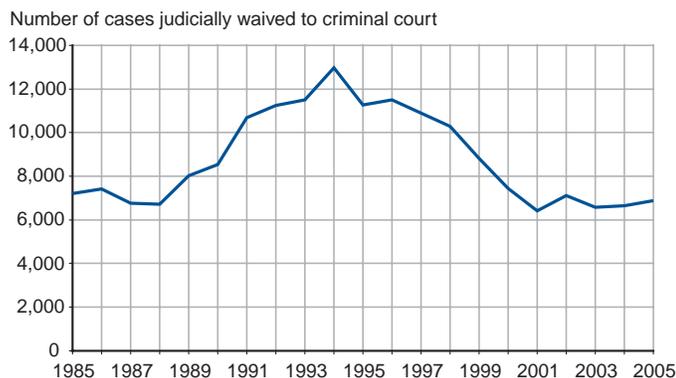
All States have mechanisms to handle juveniles in criminal court

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 to use their discretion and decide 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 (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 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 2005.

The number of cases judicially waived to criminal court peaked in 1994 and then fell back to the levels of the mid-1980s



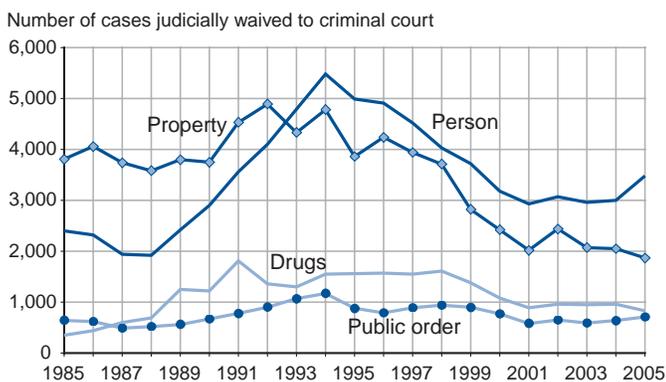
Transfer mechanisms have changed and expanded over time

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 courts 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—lowering age/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. New presumptive waiver laws were enacted in 13 States 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.

Since 1993, most waivers have involved a person offense as the most serious charge

The number of waived person offense cases increased 129% between 1985 and 1994 and then dropped 36% through 2005. The result was an overall increase of 45% between 1985 and 2005. By comparison, waived drug offense cases peaked in 1991, 413% greater than the 1985 number. Between the peak year and 2005, waived drug offense cases declined 54%. There have also been substantial declines since 1994 in the number of waived property and public order offense cases (61% and 40%, respectively). From 1993 to 2005, person offenses outnumbered property offenses among waived cases. Before 1993, property offense cases outnumbered person offense cases among waivers—at times by a ratio of nearly 2 to 1.

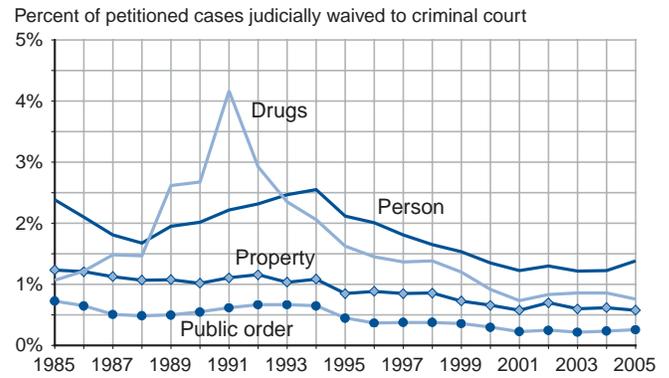
Although the number of waived cases declined greatly since the mid-1990s, the number was higher in 2005 than in 1985 for person, drug, and public order offense cases



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 0.8% (830 cases) in 2005. Between 1993 and 2005, petitioned person offense cases were more likely to be judicially waived

The likelihood of judicial waiver declined after the early 1990s



than cases involving other offenses. In 2005, 1.4% of formally handled (or petitioned) person offense cases were waived compared with 0.8% of drug offense cases, 0.6% of property offense cases, and 0.3% of public order offense cases.

In 2005, 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 2005 included a greater proportion of person offense cases (51% vs. 33%) and drug offense cases (12% vs. 5%) and a smaller proportion of property offense cases (27% vs. 53%).

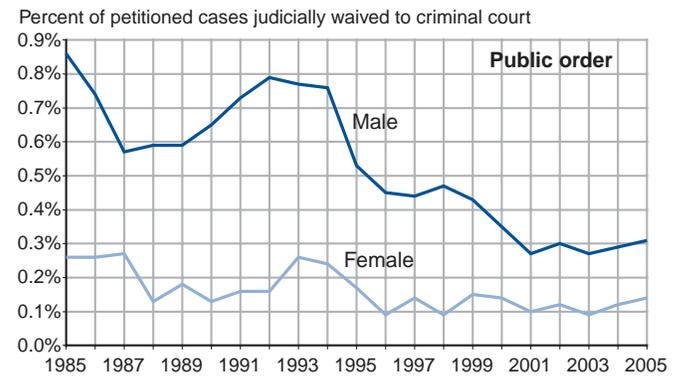
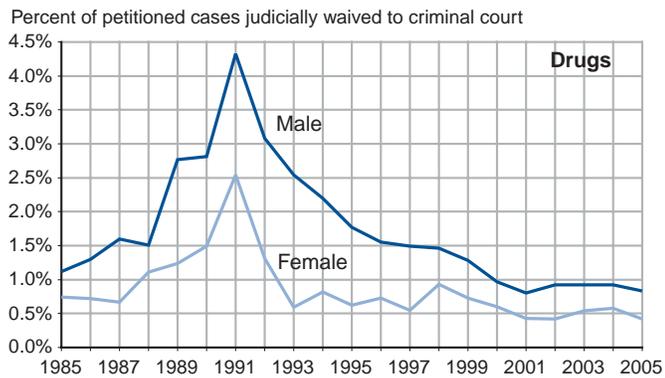
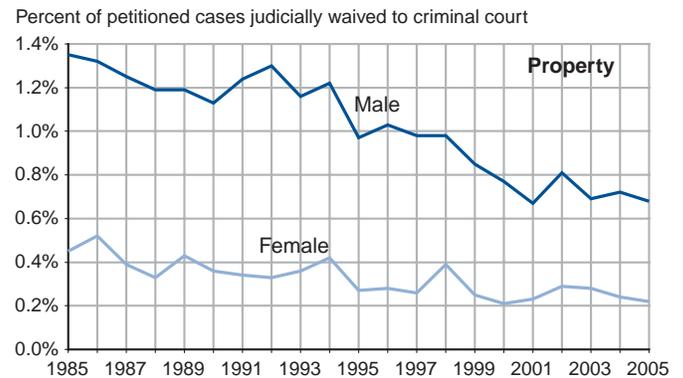
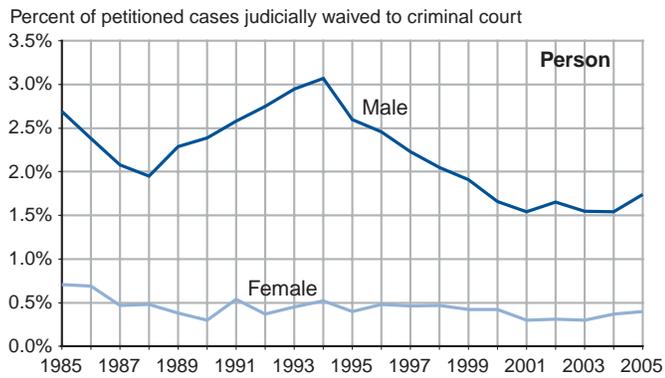
Although the proportions of waived cases involving females and younger juveniles increased between 1985 and 2005, the vast majority of waived cases involved males age 16 or older. The proportion of waived cases involving males age 16 or older decreased from 93% in 1985 to 85% in 2005. Judicially waived cases included a greater proportion of black youth in 1994 (the peak year) than in 2005.

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

Offense/demographic	1985	1994	2005
Total cases waived	7,200	13,000	6,900
Most serious offense			
Person	33%	42%	51%
Property	53	37	27
Drugs	5	12	12
Public order	9	9	10
Gender			
Male	95%	95%	91%
Female	5	5	9
Age at referral			
15 or younger	7%	13%	15%
16 or older	93	87	85
Race			
White	59%	54%	58%
Black	40	43	39
Other	1	3	4

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.

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



- For each year between 1985 and 2005, petitioned delinquency cases involving males were more likely to be judicially waived than cases involving females. This was true for each of the four general offense categories.
- In 2005, 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, person and drug offense cases were most likely to be waived.
- In 2005, person offense cases involving males were four times as likely to be judicially waived as those involving females.

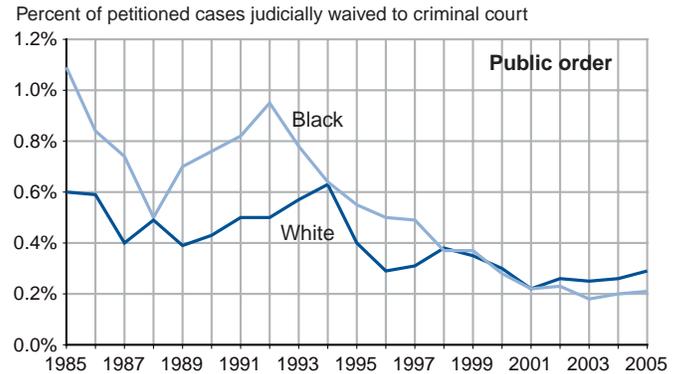
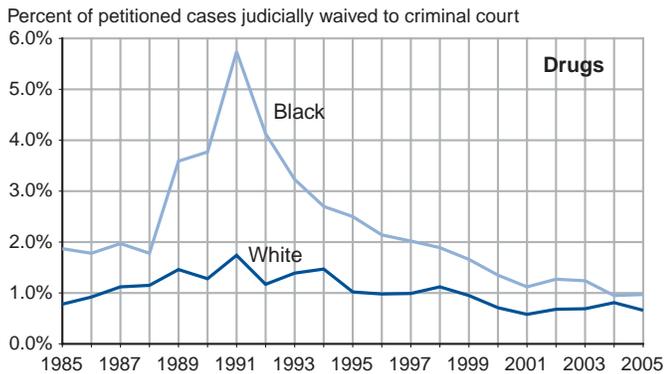
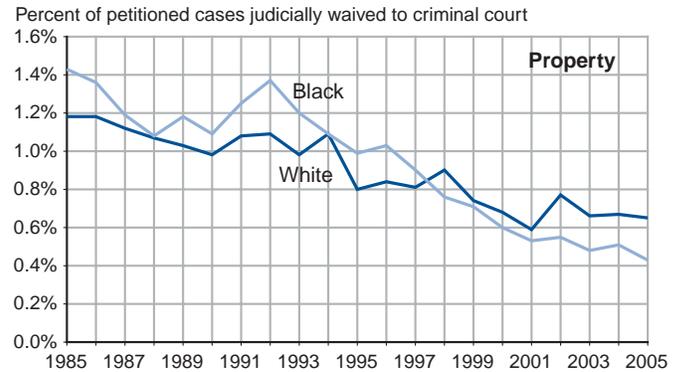
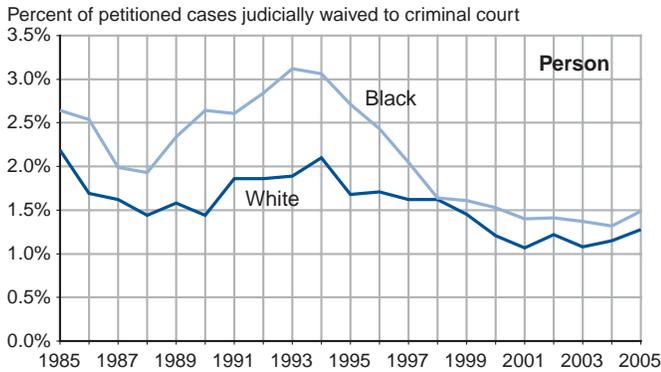
- For both males and females in all general offense categories, the proportion of cases judicially waived was lower in 2005 than in 1985.
- Patterns in the likelihood of judicial waiver for males were similar to that of females across general offense categories. For example, the likelihood of judicial waiver for drug offense cases involving males increased substantially between 1985 and 1991 (from 1.1% to 4.3%) and then declined considerably through 2005 to 0.8%. 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 0.4% through 2005.

Note: These comparisons do not control for gender differences in the seriousness of offenses within general offense categories nor in the juveniles' offense history.

Delinquency data estimates

The 1985–2005 estimates are based on data from more than 2,100 courts with jurisdiction over 80% of the Nation's juvenile population (youth age 10 through the upper age of original juvenile court jurisdiction in each State). Each case represents the most serious offense of one youth processed by a court with juvenile jurisdiction on a new referral, regardless of the number of offenses contained in that referral. A youth may be involved in more than one case during the calendar year.

Racial differences in case waivers stem primarily from differences in person and drug offense cases



- For much of the period from 1985 through 2005, the likelihood of judicial waiver for petitioned delinquency cases was greater for black youth than white youth regardless of the offense category.
- Although the likelihood of judicial waiver declined for white youth and black youth between the early 1990s and 2005, the relative decline was greater for black youth. As a result, in 2005, delinquency cases involving black youth had about the same likelihood as cases involving white youth to be judicially waived (0.8% and 0.7%, respectively).
- Among black youth, the likelihood of judicial waiver for person offense cases peaked in 1993 at 3.1%, or nearly twice 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 three times the likelihood for white youth.

- Among white juveniles, person offense cases were most likely to be judicially waived from 1985 through 2005. Among black juveniles, drug offense cases were most likely to be judicially waived from 1989 through 1993, and person offense cases were most likely in the other years between 1985 and 2005.
- In 2005, 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.

Note: These comparisons do not control for racial differences in the seriousness of offenses within general offense categories nor in the juveniles' offense history.

For further information

This Fact Sheet is based on the report *Juvenile Court Statistics 2005*, which is available through OJJDP's Web site (www.ojp.usdoj.gov/ojjdp). To learn more about juvenile court cases, visit OJJDP's online Statistical Briefing Book (www.ojjdp.ncjrs.gov/ojstatbb/index.html) 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.

Benjamin Adams and Sean Addie, Research Assistants with the National Center for Juvenile Justice, prepared this document as a product of the National Juvenile Court Data Archive, which is supported by OJJDP grants 2007-JL-FX-0007 and 2007-JL-FX-0022.

The Office of Juvenile Justice and Delinquency Prevention is a component of the Office of Justice Programs, which also includes the Bureau of Justice Assistance; the Bureau of Justice Statistics; the Community Capacity Development Office; the National Institute of Justice; the Office for Victims of Crime; and the Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking (SMART).