



# Keeping Youth Out of Adult Jails & Prisons

*New Opportunities Through State Policy Changes and New Federal Regulations*

## Overview

On any given day, 10,000 youth are held in adult jails and prisons and according to the latest estimates, nearly 100,000 youth are cycled through adult jails and prisons on an annual basis in the United States.

The latest research, including a report, "You're An Adult Now" issued in January, 2012 by the U.S. Department of Justice's National Institute of Corrections (NIC), shows how harmful this is to young people and how it undermines public safety. According to "You're An Adult Now," youth are most at risk in adult jails and prisons. Youth in adult facilities are at the greatest risk of prison rape of all inmates. According to research by the Bureau of Justice Statistics, 21% and 13% of all substantiated victims of inmate-on-inmate sexual violence in jails in 2005 and 2006 respectively were youth under the age of 18. Research also shows that youth are 36 times more likely to commit suicide in an adult jail than in a juvenile detention facility.

Public opinion polling has consistently shown that the public strongly rejects the placement of youth in adult jails and prisons. An October, 2011 poll released by GBA Strategies shows that:

- By a margin of 78 – 15 percent, the public overwhelmingly wants the focus of the juvenile justice system to be on prevention and rehabilitation, rather than incarceration and punishment;
- A majority of U.S. adults (56 percent) think that youth facilities are more appropriate to hold juveniles convicted of crimes than adult prisons;
- People overwhelmingly trust judges (81 percent), not prosecutors (12 percent), to determine if and when a juvenile should be tried as an adult;

## You're An Adult Now

With an estimated 250,000 youth under the age of 18 being handled by the adult criminal justice system each year, the National Institute of Corrections (NIC) pulled together three dozen juvenile justice and adult criminal justice experts to review what is known and what is not known about the consequences.



The recently released report, "You're An Adult Now: Youth in Adult Criminal Justice Systems," examines their conclusions, including higher rates of recidivism among youth transferred to the adult correctional system compared to youth kept in the juvenile system, challenges for the adult system in providing appropriate and effective services for young people, and recommendations for federal, state and local policymakers.

Available online at:  
<http://static.nicic.gov/Library/025555.pdf>

CAMPAIGN FOR  
**YOUTH JUSTICE**

BECAUSE THE CONSEQUENCES AREN'T MINOR

- Nearly two-thirds of the public favors setting a minimum age at which a young person can be prosecuted in adult court; and
- Americans strongly support a multitude of reforms to the juvenile justice system. These include removing young people from adult jails and prisons, ensuring youth remain connected with their families, having independent oversight to ensure youth are protected from abuse while in custody, increasing funds to provide more public defenders to represent youth in court, and reducing racial and ethnic disparities in the juvenile justice system.

The poll is available online at: [http://www.gbastrategies.com/public\\_files/cfyj101111m1.pdf](http://www.gbastrategies.com/public_files/cfyj101111m1.pdf)

Professional associations that represent major juvenile and adult criminal justice system stakeholders such as the American Correctional Association, the American Jail Association, the Council of Juvenile Correctional Administrators, the National Partnership for Juvenile Services, and the National Association of Counties all have policies that demonstrate the harm youth are subjected to in the adult justice system.

The overwhelming consensus of these organizations is that:

1. Youth should never be automatically prosecuted in the adult criminal court.
2. Youth charged with non-violent offenses and first-time offenders should not be prosecuted in adult criminal court.

3. Youth should be removed from adult jails and prisons.
4. Youth should be treated in a developmentally appropriate manner throughout the justice system.
5. Harsh sentences for youth, such as mandatory minimums, should be eliminated.

Copies of the policy statements and guidelines in their entirety can be found online at: <http://www.campaignforyouthjustice.org/national-resolution.html>.

## Opportunities for Change

Given the research, public opinion polling and positions of professional associations, state, local and federal juvenile and justice and criminal justice system stakeholders have initiated reforms to remove youth from adult jails and prisons.

### Local

Local jurisdictions are undertaking reforms to remove youth from adult jails in particular. For example, Multnomah County, Oregon approved a new county resolution in 2008 to remove youth from the adult jail and to instead detain youth in the juvenile detention center.

A description of these local and state policy reforms and legislative language can be found on CFYJ's website at: <http://www.campaignforyouthjustice.org/state-legislation.html>

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“The American Correctional Association supports separate housing and special programming for youths under the age of majority who are transferred or sentenced to adult criminal jurisdiction...In those jurisdictions that continue to house youths under the age of majority in adult correctional/detention systems, hous[e] them in specialized facilities or units [that] have no sight or sound contact with adult offenders in living, program, dining or other common areas of the facility.”

– American Correctional Association

“[T]he American Jail Association [is] opposed in concept to housing juveniles in any jail unless that facility is specifically designed for juvenile detention and staffed with specially trained personnel.”

– American Jail Association

“Counties are urged to remove juveniles from correctional facilities which detain accused or adjudicated adults.”

– National Association of Counties

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## Nicole Miera's Story

*"In August of 2009, just a few days before my brother was supposed to start his junior year of high school, he made a horrible mistake that would have major consequences. James was involved in a high-speed, head-on collision with another car while driving under the influence of alcohol....Prosecutors decided to charge James as an adult, and within hours, he was processed into the county jail even though he had just turned 17. He told us that all of the youth there were in lock down for 23 hours a day, with just an hour outside of their cells, sometimes less time than that. James looked forward to his sentencing because he wanted to get out of what he called a "hell-hole." On the day of his sentencing, we arrived at the courthouse and were told that he had committed suicide more than 24 hours before his court date, but we were not notified because of a breakdown in communication with the jail.....Instead of making arrangements for my brother's future, I was making arrangements for his funeral."*

- Nicole Miera, sister of Jimmy Stewart (excerpt from "Nicole Miera's Story" on CFYJ blog on September 17, 2012)

## Jabriera Handy's Story

*"At the age of 16, I was charged as an adult in the adult criminal justice system. It is because of my exposure to the adult system that I'm here to urge this task force not to expose any more young people to violence in the justice system, particularly in adult jails and prisons... For example, to get to school we had to walk through a tunnel that went through the adult men's jail. One day the facility went on lock down. We were told to turn our backs and close our eyes. But, in jail you learn to never turn your back or close your eyes. That day, we saw a man get stabbed to death."*

- Jabriera Handy in testimony before the U.S. Attorney General's Defending Childhood Task Force on November 29, 2011.

## State

According to "Trends in Juvenile Justice State Legislation 2001 - 2011" a new report released by the National Conference of State Legislatures (NCSL) in August, 2012, a number of states have undertaken policy reforms in the last decade, including the removal of youth from the adult criminal justice system and from adult jails and prisons. The full report is available online at NCSL's website at: <http://www.ncsl.org/documents/cj/TrendsInJuvenileJustice.pdf>

Under these new policies, youth are retained in the juvenile justice system and therefore are not subject to placement in adult jails and prisons. States include Arizona, Colorado, Connecticut, Delaware, Illinois, Indiana, Mississippi, Nevada, Utah, Virginia and Washington. In addition, several states have implemented specific policy reforms to remove youth from adult

jails and/or prisons. These states include Virginia, Colorado, Ohio, Oregon and Texas.

## Federal

The Prison Rape Elimination Act (PREA) also offers an opportunity for change. Passed unanimously by Congress in 2003, the PREA regulations were issued by the U.S. Department of Justice in May, 2012 and restrict the placement of youth in adult facilities. The regulations state that "as a matter of policy, the Department support strong limitations on the confinement of adults with juveniles" and limit contact between youth and adults in adult facilities through three specific requirements:

1. Banning the housing of youth in the general adult population;

2. Prohibiting contact between youth and adults in common areas, and ensuring youth are constantly supervised by staff; and
3. Limiting the use of isolation which causes or exacerbates mental health problems for youth.

The regulations also require that states must make every effort not to place youth in isolation as a result.

With new national policy being set under the PREA regulations, states and localities should take advantage of this opportunity to implement best practices by removing youth from adult jails and prisons and access federal support to undertake new reforms.

## **Next steps**

To get started in implementing reforms to remove youth from adult jails and prisons, here are some suggested next steps:

### **1. Hear from youth and families**

Host listening sessions with current and formerly incarcerated youth and their families to hear first-hand the dangers youth face in adult jails and prisons.

### **2. Research current policies**

Research your state's law, policy and practice to find out if the state permits or requires youth to be placed in adult jails and prisons.

### **3. Convene stakeholders**

Convene juvenile and criminal justice system stakeholders, elected officials, directly affected youth and their families, and advocates to strategize on potential options for removing youth from the adult criminal justice system.

## **4. Request federal assistance**

Access federal technical assistance, experts and funding to remove youth from adult facilities from these leading federal agencies:

The National Center for Youth in Custody  
[www.nc4yc.org](http://www.nc4yc.org)

The Prison Rape Elimination Act (PREA) Resource Center  
[www.prearesourcecenter.org](http://www.prearesourcecenter.org)

The Bureau of Justice Assistance (BJA)  
[www.bja.gov](http://www.bja.gov)

The Office of Juvenile Justice & Delinquency Prevention (OJJDP)  
[www.ojjdp.gov](http://www.ojjdp.gov)

## **5. Update policy**

Implement policy reforms to remove youth from adult facilities such as:

Creating an Interagency Memorandum of Understanding (MOU), agreement or contract between state agencies or local agencies to house youth in juvenile detention and/or correctional facilities.

Modifying state and local policies through executive orders or new regulations to remove youth from adult facilities.

Updating state and local statutes, resolutions and ordinances to remove youth from adult facilities.

For additional information, questions and updates, visit the Campaign for Youth Justice's website at:  
[www.campaignforyouthjustice.org](http://www.campaignforyouthjustice.org).