

Changing Course: A Review of the First Two Years of Drug Transfer Reform in Illinois

By Illinois Juvenile Justice Initiative

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June 2008



ModelsforChange
Systems Reform in Juvenile Justice

Models for Change

Models for Change is an effort to create successful and replicable models of juvenile justice reform through targeted investments in key states, with core support from the John D. and Catherine T. MacArthur Foundation. Models for Change seeks to accelerate progress toward a more effective, fair, and developmentally sound juvenile justice system that holds young people accountable for their actions, provides for their rehabilitation, protects them from harm, increases their life chances, and manages the risk they pose to themselves and to the public. The initiative is underway in Illinois, Pennsylvania, Louisiana and Washington.

Table of Contents

EXECUTIVE SUMMARY	4
INTRODUCTION	6
HISTORY OF TRANSFER POLICIES ACROSS THE UNITED STATES	7
HISTORY OF TRANSFER IN ILLINOIS	7
Illinois Task Force on Trial of Juveniles in Adult Court: Reform Through Collaboration	8
Results of Reform	11
KEY FINDINGS AND RECOMMENDATIONS	16

Changing Course: A Review of the First Two Years of Drug Transfer Reform in Illinois

EXECUTIVE SUMMARY

In 1985, Illinois embarked on an experiment to reduce juvenile crime by automatically transferring to adult court youth charged with certain drug crimes. During this 20-year experiment, thousands of youth, mostly youth of color, were tried and sentenced as adults for low-level drug crimes, which led to the characterization of Illinois' drug transfer law as the "most racially biased in the nation." In 2005, the Illinois General Assembly reversed course and legislated that the drug cases should begin in juvenile rather than in adult court.

Changing Course: A Review of the First Two Years of Drug Transfer Reform in Illinois details the reform efforts that led to passage of PA 94-0574 and the impact the law has had in the two years after it went into effect. The most significant finding is that automatic transfers in Cook County went down by more than two-thirds without any corresponding increase in juvenile caseloads.

Illinois' drug transfer law, adopted in the 1980s, required 15- and 16-year-olds to be automatically tried as adults for drug offenses within 1,000 feet of a school or public housing. Beginning in 2004, a legislative task force reviewed this transfer law and recommended that original jurisdiction over all drug laws be returned to juvenile court. The Illinois General

Assembly agreed and on August 12, 2005, the governor signed PA 94-0574 into law.

The first year after PA 94-0574, the number of youth automatically transferred in Cook County went down by approximately two-thirds, from 361 in 2003 to 127 in 2005-2006. There was no corresponding increase in juvenile court petitions or judicial waivers to adult court. This same rate of reduction held steady in the second year, with the number of youth automatically transferred in Cook County declining from 361 in 2003 to 103 in 2006-2007. Again there was no corresponding increase in juvenile court petitions or judicial waivers to adult court. The absence of any increase in juvenile court caseloads after the law went into effect strongly suggests that the rollback of Illinois's drug transfer law had no detrimental effect on public safety.

Counties outside of Cook rarely used the automatic transfer law; in 2001, all 101 other counties had a total of 14 youth automatically transferred to adult court with only two charged with drug crimes. Other counties also did not see an increase in petitions to juvenile court or an increase in waivers to adult court after the change, again suggesting that public safety was not compromised by this change in statute.

All across the U.S. youth are tried as adults for various crimes. In the 1980s and 1990s, most state legislatures enacted laws to dramatically increase the number of youth tried as adults. Today, as many as 200,000 youth per year are tried in adult courts nationwide. Despite the widespread practice and the large number of youth being tried and sentenced as adults, a review of the research suggests that automatic transfer fails to promote public safety. On the contrary, the evidence indicates that “transferred children” commit more violent crimes as a result of their experience in the adult justice system: youth transferred to the adult court system are almost twice as likely to re-offend as are their counterparts sent to the juvenile court system for the same type of offense and with similar prior records;¹ and they also are more likely to commit more serious new offenses than their counterparts, and at a faster rate.²

Illinois led the nation in the creation of “automatic” transfers to adult court, and now it is leading the nation again in reversing course and demonstrating success from the reversal. *Changing Course* documents the positive impact of the reform and calls for further review and reform of the transfer statutes.

Models for Change in Illinois

The research described in this report was made possible by the Models for Change: Systems Reform in Juvenile Justice initiative of the John D. and Catherine T. MacArthur Foundation. Models for Change is a long-term effort to accelerate progress toward a more rational, fair, effective, and developmentally appropriate juvenile justice system. Models for Change works by partnering with selected states to support successful models of system change, which can then be studied, disseminated, and emulated elsewhere. In Illinois, Models for Change is supporting efforts to address disproportionate minority involvement with the juvenile justice system, expand community-based alternatives to formal processing and incarceration of juveniles, and restore appropriate jurisdictional boundaries to the juvenile court.

In repealing its automatic transfer law for drug offenses—which required that young people accused of certain drug crimes be tried as adults in criminal court, without regard to their individual needs and circumstances or the risks they pose to the community—Illinois has taken a significant step towards restoring and “right-sizing” the jurisdiction of its juvenile justice system and reducing the number of youth of color who are automatically transferred to adult court for trial and sentencing. Both for Illinois and the rest of the nation, it is important that the factors that led to this reform be documented, and that its consequences be carefully studied.

INTRODUCTION

Illinois is justly proud of being the home of the world's first juvenile court. Established in Chicago in 1899, it was the first to offer individualized and developmentally appropriate justice to young people accused of crime. But the juvenile court idea was quickly adopted elsewhere because it reflected a basic and universal truth: that there are crucial distinctions between youth and adults, which must be acknowledged and accommodated in the justice system's responses to young offenders.

Beginning in the early 1980s, however, Illinois joined with other states in partially retreating from this foundational principle, passing a series of laws mandating the criminal handling of juveniles for a broad range of offenses. These "automatic transfer" laws effectively blurred the boundaries between the juvenile and criminal justice systems, shifting large numbers of youth to the criminal side without inquiring into their individual needs and circumstances, and regardless of the juvenile system's capacity to treat and rehabilitate them.

Although transfer laws were generally enacted in an atmosphere of panic generated by fear of serious and violent juvenile crime, they often swept up low-level, nonviolent offenders as well, and their impact tended to be felt primarily by minority youth and in minority communities. That was certainly the case with Illinois' automatic transfer for 15- and 16-year-olds charged with certain drug offenses, which was originally enacted in 1985 and remained in effect for 20 years.

That period came to a close on August 12, 2005, when the governor concurred with the General Assembly and signed into law Public Act 94-0574, repealing Illinois' automatic transfer for drug offenses.³ On that day, Illinois registered another significant "first" in juvenile justice: becoming the first state to take a serious step to reverse the expansionary transfer policies of the 1980s and 1990s, and to begin to restore and "right-size" the original jurisdiction of its juvenile court.

Changing Course: A Review of the First Two Years of Drug Transfer Reform in Illinois details the history of this reform and examines the impact of these changes on youth and on public safety.

HISTORY OF TRANSFER POLICIES ACROSS THE UNITED STATES

In the late 18th century, children as young as seven who were accused of committing crimes were prosecuted as adults throughout this country, receiving prison sentences and even the death penalty if convicted.⁴ During the 19th century, a movement emerged to reform the system dealing with juvenile offenders. In 1899, the first juvenile court was established in Chicago, Illinois; by 1925, all but two states had followed suit.⁵ The purpose of the juvenile court was to provide necessary treatment and guidance—not punishment—to enable juvenile offenders to become fully rehabilitated members of society.⁶ Rarely, juvenile court judges would waive jurisdiction in cases in which they decided youth were not amenable to treatment. In such cases, the youth were "transferred" to adult criminal court for prosecution. These transfer decisions were made on an individualized basis using a "best interests of the child and public" standard.⁷

By the 1980s and 1990s, public fears about violent juvenile crime, as well as a widespread belief that juvenile offenders were being treated too leniently, led many states to enact laws—in the name of public safety—that dramatically increased the number of youth prosecuted as adults.⁸ Although juvenile crime rates have since fallen to historic lows, most of the laws passed in the wake of the predictions of a persistent increase in violent juvenile crime remain in effect today.⁹

All states allow youth to be tried as adults. The mechanisms, however, vary by state and in most states there is more than one process to try and sentence a youth in adult court. Many statutes require automatic prosecution in adult court based on the presence of certain circumstances, such as the age of the juvenile offender, the type of offense, or the offender's prior criminal record. Other statutes allow judges to exercise their discretion in determining whether to waive juvenile jurisdiction and may also provide certain criteria upon which to base these decisions. Some statutes grant prosecutors discretion in determining whether to file a case in juvenile or adult court.

The state laws providing for the adult prosecution of minors across the U.S. share a single common purpose: the reduction of violent crime.¹⁰ However, a new extensive review of the literature on transfer by the Centers for Disease Control and Prevention (CDC) finds that the practice of trying and sentencing

ing youth as adults fails to achieve this purpose or to promote public safety. On the contrary, studies have found that youth transferred to the adult court system are almost twice as likely to re-offend as are their counterparts sent to the juvenile court system for the same type of offense and with similar prior records.¹¹ Not only are youth in adult criminal court more likely than youth retained in juvenile court to be re-arrested, but they also are more likely than their counterparts to commit more serious new offenses, and at a faster rate.¹² Moreover, the majority of youth entering the adult system are charged with minor or nonviolent offenses—a result inconsistent with the intent of transferring youth to adult court.¹³

Although no accurate national data are collected on youth in the adult system, it is possible that as many as 200,000 youth are tried in adult criminal courts across the country every year.¹⁴ On any given day, more than 7,000 youth are held in adult jails and more than 2,000 youth are incarcerated in adult prisons.¹⁵

Research also shows that laws providing for the prosecution of juveniles as adults disproportionately affect youth of color. A recent study by the Campaign for Youth Justice found that African-American, Latino, and other non-white youth represent as many as seven out of 10 youth tried as adults in the states studied, despite the fact that youth of color represent a minority of the youth population in these states.¹⁶

The consequences of these policies can be significant for young people. Juveniles convicted of crimes in adult court face both short-term and long-term collateral consequences. Depending upon the underlying offense and the state in which it occurred, convicted youth may lose the right to vote, may be denied jobs, may have their driver's license automatically suspended or revoked, may be ineligible for federal student financial aid, may be banned from receiving federal welfare benefits, may be denied public housing, and may be restricted from becoming foster or adoptive parents.¹⁷ Additionally, many states require youth convicted in adult court to be prosecuted in adult court for all subsequent offenses, thereby permanently denying them access to the juvenile justice system.¹⁸ Last, although juvenile records routinely are expunged or sealed, criminal convictions of youth transferred to adult court may become a matter of public record.¹⁹

The consequences of transfer on the communities of these youth can also be significant. Youth with diminished education, housing, and employment opportunities may find it more difficult to be productive members of our communities. In the short and long term, it may be more costly in both human and fiscal terms than handling cases appropriately through the

juvenile court processes designed to rehabilitate and reduce recidivism.

According to new scientific research, critical areas of the human brain, particularly those affecting decision-making and judgment, are not developed fully until a person has reached his or her early 20s.²⁰ This evidence informed the U.S. Supreme Court's decision in *Roper v. Simmons*, holding unconstitutional the execution of offenders who committed their crimes when they were under the age of 18.²¹ Youth lack the cognitive ability and maturity of adults, yet in most states they face the same harsh penalties as adults for committing the same offenses.

With Illinois in the lead, states across the U.S. are rethinking their tough stance on juvenile transfer policies. Illinois was the first state to scale back transfer; it is now the first state to review the impact of the transfer reform.

HISTORY OF TRANSFER IN ILLINOIS

Four years after the establishment of the first juvenile court in 1899, Illinois began transferring youth to the adult court. Prior to 1973, all transfers to adult court were initiated by and at the full discretion of the prosecutor. In 1973, the legislature amended this scheme to comply with the U.S. Supreme Court's due process requirements in *Kent v. US*, by providing discretion to the juvenile court judge following the filing of a petition by the prosecutor to transfer the youth to adult court. Pursuant to these transfer provisions, any minor age 13 and older could be tried in the adult court on any charge, subject to the discretion of the juvenile court judge following a full due process hearing. These transfer provisions remain in effect today and are occasionally used throughout the state.

Beginning in 1982, the Illinois General Assembly adopted legislation providing for the automatic transfer to adult court of youth ages 15 and 16 charged with violent offenses, including murder, armed robbery with firearm, rape, and deviant sexual assault. During the mid-1980s, the automatic transfer legislation was expanded to include 15- and 16-year-olds charged with drug offenses within 1,000 feet of a school and later within 1,000 feet of public housing. Over the next several years, the Illinois General Assembly further expanded the "automatic" transfer statute and added presumptive transfer for most Class

X offenses, resulting in one of the most extensive transfer statutes in the nation.²²

Over the course of two decades, numerous studies were conducted on the impact of automatic transfer policies in Illinois. The first report came from the Chicago Law Enforcement Study Group in 1988. It concluded that automatic transfer failed to improve efforts to control serious juvenile offending and recommended a modified version of judicial transfer.²³ In the 1990s, a series of studies revealed that an increasing proportion of automatic transfers involved nonviolent drug offenses, and affected only minority youth.²⁴ *The Chicago Sun Times* ran an investigative report in 1992 that documented that drug transfer laws were used disproportionately to sanction minority youth. A 2000 update by the *Chicago Reporter* also found a disproportionate impact on youth of color. In 1993, the Illinois Supreme Court Special Commission on the Administration of Justice (The Solovy Commission) reported that increasing numbers of juveniles had been transferred to criminal court over the previous decade without a corresponding deterrent effect and with unintended negative consequences, including an overwhelmingly disproportionate impact upon African Americans and other minorities. The Commission recommended that the Illinois General Assembly consider legislative alternatives such as “waiver back” provisions and the elimination of mandatory sentences for juveniles convicted and sentenced in adult court.

These studies reported consistent results, but they failed to generate support in the legislature to change the law. In the early 1990s, a legal challenge to the automatic transfer provision involving minors charged with drug offenses within 1,000 feet of public housing also failed. The Illinois Supreme Court reversed a lower court’s decision that the law was unconstitutional based on equal protection grounds.²⁵

Ultimately, a study of youth automatically transferred to adult court in Cook County from 1999 to 2001 helped focus attention on the need to reform the state’s transfer laws. The data revealed that virtually all (99.6 percent) of the youth subject to automatic transfer in Cook County were minorities—only one Caucasian was automatically charged as an adult with a drug offense during the two-year period. Two-thirds of the automatic transfers were in the adult court for nonviolent drug offenses. Moreover, close to two-thirds had not been afforded any juvenile court rehabilitative services prior to the automatic transfer. The study demonstrated that the youth “automatically” tried in adult court on drug offenses were receiving minor sentences (not prison) if sentenced at all; more than 90 percent of youth convicted for drug offenses received either a sentence

of probation or boot camp. All, however, suffered the consequences of a criminal conviction.²⁶

Research also showed that these laws were used primarily in Cook County. Automatic transfers outside of Cook County were far fewer than in Cook despite higher arrest rates outside Cook. In 2001, only 14 youth were automatically transferred outside of Cook County. Most (86 percent) were transferred for violent offenses including sexual assaults, armed robberies, and murders. Only two youth outside of Cook County were charged with a drug offense. These statistics forcefully demonstrated that the automatic transfer statutes were applied unequally and disproportionately in cases involving youth of color in Cook County.

Over the next few years, several attempts were made by the legislature to reform Illinois transfer laws.²⁷ These efforts culminated in 2005 when the Illinois General Assembly enacted Public Act 94-0574.

Illinois Task Force on Trial of Juveniles in Adult Court: Reform Through Collaboration

In 2004, the Illinois General Assembly created the Task Force on Trial of Juveniles in Adult Court to study and make recommendations for improvements in laws transferring juveniles from juvenile court to adult court for criminal prosecution.²⁸ Members of the task force included legislators, a prosecutor, a juvenile justice professional, a state bar leader, and a corrections official.²⁹ Over the next year, the task force met several times and received testimony from national experts on adolescent development and transfer policies; from stakeholders, including court personnel; and from community members, including victims of violent crime.

Ultimately, the task force agreed on legislation that included the following provisions:

Allowed youth charged with drug offenses to begin cases in juvenile court; in cases where youth were on school grounds and sold drugs to someone under age 17, the cases would be presumptive transfers.

Standardized lists of factors for judicial discretion for transfer on discretionary transfer, presumptive transfer, and extended jurisdiction juvenile prosecutions.

Expanded automatic transfer for those charged with aggravated battery with a firearm, by deleting the “zone” provision limiting transfer to offenses within 1,000 feet of a school, while prohibiting transfer of those charged under the theory of accountability.

The compromise legislation was passed unanimously in both chambers and was signed by Governor Blagojevich on August 12, 2005, becoming Public Act 94-0574. Illinois was one of the first states to allow automatic transfer of youth; it was one of the first to rethink its policies; and it is now the first to research the impact of transfer reform.

Cook County 2003 Data Prior to PA 94-0574 Change

Aggravated Criminal Sexual Assault	7	2%
Armed robbery	43	12%
Aggravated battery with firearm	8	2%
Aggravated vehicular hijacking	17	5%
Murder	20	5.5%
Unlawful Use of a Weapon	16	4%
Possession (with intent) Controlled Substance	133	37%
Delivery of a Controlled Substance	92	25%
Cannabis	2	.5%
Other	14	4%
Unknown	9	2%
TOTAL	361	

Male	347	96%
Female	14	4%

AFRICAN AMERICAN	333	92%
LATINO	24	7%
CAUCASIAN	4	1%

Cook County 1st Year Post PA 94-0574 Data

Aggravated Criminal Sexual Assault	12	9%
Armed robbery	55	43%
Aggravated battery with firearm	17	13%
Aggravated vehicular hijacking	9	7%
Murder	24	19%
Unlawful Use of a Weapon	4	3%
Possession (with intent) Controlled Substance	2	1.5%
Delivery of a Controlled Substance	2	1.5%
Cannabis	1	1%
Other	1	1%
TOTAL	127	

Male	123	97%
Female	4	3%

AFRICAN AMERICAN	97	76%
LATINO	23	18%
CAUCASIAN	7	6%

Cook County 2nd Year Post PA-94-0574 Data

Aggravated Criminal Sexual Assault	12	12%
Armed robbery	53	51%
Aggravated battery with firearm	17	17%
Aggravated vehicular hijacking	4	4%
Murder	9	9%
Unlawful Use of a Weapon	3	3%
Drugs	2	2%
Unknown	2	2%
Other	1	1%
TOTAL	103	

Male	97	94%
Female	6	6%

AFRICAN AMERICAN	90	87%
LATINO	11	11%
CAUCASIAN	2	2%

JUVENILES IN ADULT COURT IN ILLINOIS: TRANSFERS AND SENTENCING AS ADULTS

	<i>Ages</i>	<i>Crimes</i>	<i>Date Enacted</i>
EXCLUDED 705 ILCS 405/5-120	ALL 17-year-olds	All Crimes	1906 Boys 1973 Girls
AUTOMATIC TRANSFER 705 ILCS 405/5-130 (1) (a)	15- and 16-year-olds	Murder	1982
705 ILCS 405/5-130 (1) (a)	15- and 16-year-olds	Aggravated criminal sexual assault	1982
705 ILCS 405/5-130 (1) (a)	15- and 16-year-olds	Armed robbery with a firearm	1982
705 ILCS 405/5-130 (1) (a)	15- and 16-year-olds	Aggravated vehicular hijacking	1995
705 ILCS 405/5-130 (3) (a)	15- and 16-year-olds	Unlawful use of a weapon on school grounds	1985
705 ILCS 405/5-130 (2) (a) 705 ILCS 405/5-130 (10)	15- and 16-year-olds	Delivery of a controlled substance within 1,000 feet of a school or public housing (includes possession with intent to deliver) - Non-Class X offenses can be reverse waived to juvenile court (prior to August 12, 2005)	1985/1990 – REPEALED AUGUST 12, 2005 2003
705 ILCS 405/5-130 (1) (a)	15- and 16-year-olds	Aggravated battery with a firearm	2000/ 2005
705 ILCS 405/5-130 (4) (a)	13- and 14-year-olds	Murder in the course of aggravated criminal sexual assault	1995
705 ILCS 405/5-130 (5) (a)	Any Minor	Violation of bail bond or escape	1991
705 ILCS 405/5-130 (6)	Any Minor	Once transferred and convicted, always transferred	1999
MANDATORY TRANSFER 705 ILCS 405/5-805 (1) (a)	15- and 16-year-olds	Forcible felony with prior felony conviction and gang activity	1990
705 ILCS 405/5-805 (1) (b)	15- and 16-year-olds	Felony with prior forcible felony conviction and gang activity	1990
705 ILCS 405/5-805 (1) (c)	15- and 16-year-olds	Presumptive transfer crime and prior forcible felony	1990
705 ILCS 405/5-805 (1) (d)	15- and 16-year-olds	Aggravated discharge of a firearm within 1,000 feet of a school	1995
PRESUMPTIVE TRANSFER 705 ILCS 405/5-805 (2) (a) (i)	15- and 16-year-olds	Class X felonies other than armed violence	1995
705 ILCS 405/5-805 (2) (a) (ii)	15- and 16-year-olds	Aggravated discharge of a firearm	1995
705 ILCS 405/5-805 (2) (a) (iii)	15- and 16-year-olds	Armed violence with a firearm when predicated offense is a Class 1 or 2 felony and gang activity	1995
705 ILCS 405/5-805 (2) (a) (iv)	15- and 16-year-olds	Armed violence with a firearm when predicated on a drug offense	1996
705 ILCS 405/5-805 (2) (a) (vi)	15- and 16-year-olds	Armed violence with a machine gun or other weapon in (a)(7) of Section 24-1 of the Criminal Code of 1961	1996
7 5 ILCS 405/5-805 (2) (a) (vii)	15- and 16-year-olds	Delivery of a Class X amount of controlled substance on school grounds, on public housing property or any amount within 1,000 feet of a school or public housing (includes possession with intent to deliver) when delivery is to a person under age 17	2005
DISCRETIONARY TRANSFER 705 ILCS 405/5-805 (3) (a)	13-, 14-, 15-, and 16-year-olds	Any crime	1973 (1903 first transfers)
EXTENDED JURISDICTION JUVENILE 705 ILCS 405/5-810	13, 14, 15, 16-year-olds	Any felony	1999

Results of Reform

COOK COUNTY DATA BY CHARGE

In 2003, prior to the transfer law change, Cook County automatically transferred 361 youths to the adult court system for trial.³⁰ In that year, 62.5 percent were charged with drug offenses and 26 percent were charged with violent offenses, including sexual assault, armed robbery, carjacking, murder, and aggravated battery with a firearm. Four percent (4 percent) were charged with gun offenses; 4 percent were charged with other offenses including ‘once transferred always transferred’; and 2 percent had unknown transfer charges. These data are consistent with data from 1999 through 2001 which showed that approximately two-thirds of automatic transfers involved drug offenses and one-quarter were for violent offenses.³¹

In the first year after adoption of PA-94-0574, the number of automatic transfers in Cook County decreased by almost two-thirds, from 361 to 127.³² With drug offenses mostly back in juvenile court (4 percent remaining automatic transfers that year), the composition changed to ninety one percent (91 percent) charged with violent offenses. As compared with previous years, most of the youth were automatically transferred for violent offenses, including sexual assault, armed robbery, carjacking, murder, and aggravated battery with a firearm as opposed to drug offenses.

In the second year post- PA 94-0574 there were 103 transfers, -- a two-thirds decrease over 2003 data. Only 2 percent (2 youth)

involved drug offenses, while 92 percent (95 youth) of automatically transferred youth with charged with violent offenses.

Cook County experienced no increase in discretionary, presumptive, mandatory, or extended jurisdictional juvenile prosecutions in either the first or second year. No youth was petitioned to be transferred to adult court for a drug offense.³³ The caseload in Cook County also showed no increase in petitions despite the change in law. From a 10-year period on delinquency petitions in Cook, the first full year of change in the law (2006) shows a decrease in delinquency petitions filed in Cook County – see Figure 1.³⁴ Many of these youth were likely station adjusted, diverted out of the court system, or not prosecuted since past research showed that many of these youth were first-time offenders.

2003 Data

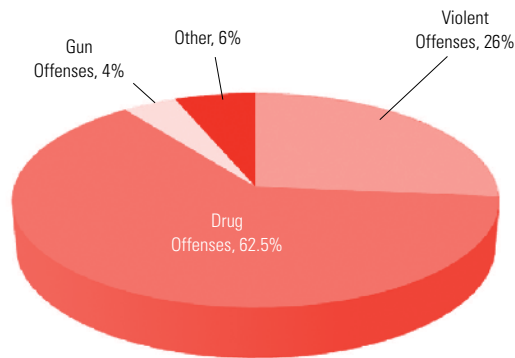


FIGURE 1. Number of Delinquency Petitions Filed from 1996 to 2006

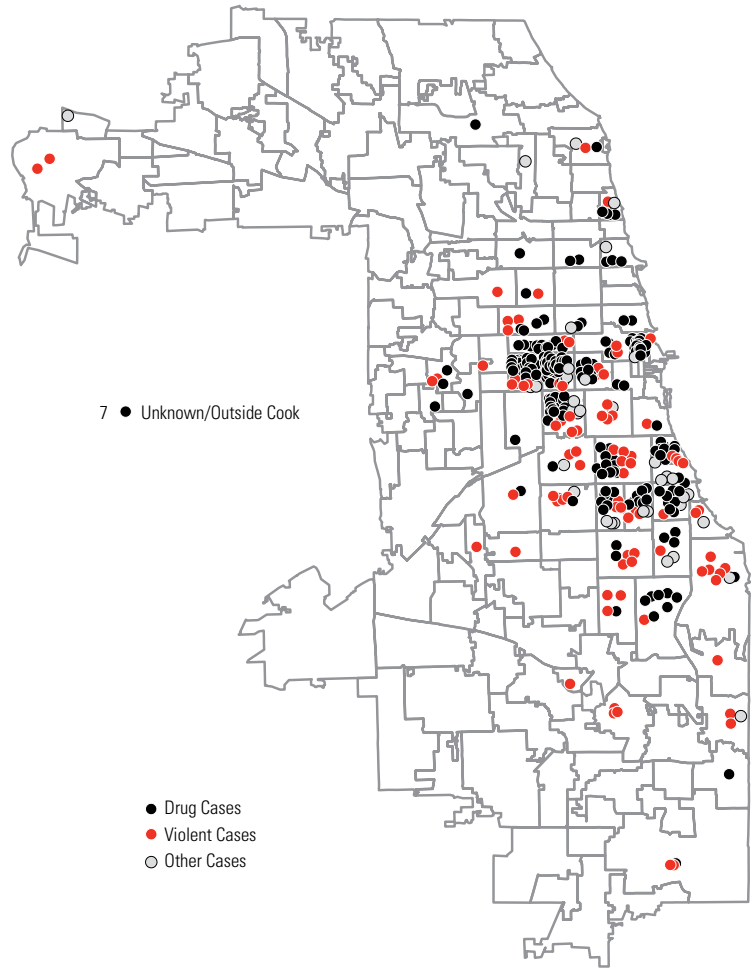
Source: Administrative Office of the Illinois Courts

*Note: Delinquency petition data for Cook County in CY97 were only available for January through June. Activity for July through December is not available.

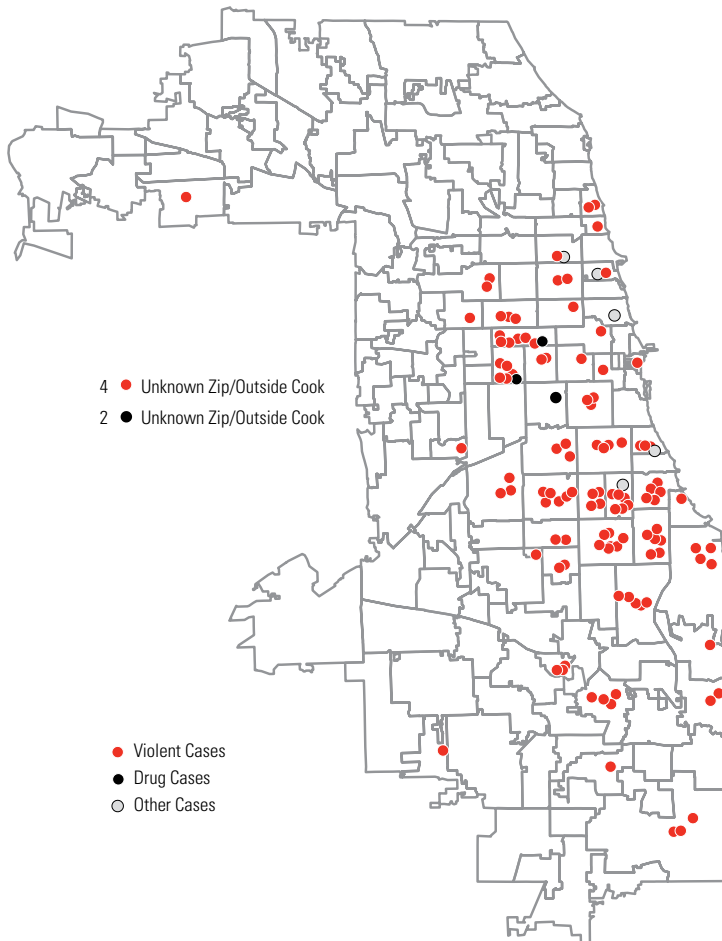
*Note: Delinquency petitions filed after 1998 used data reported by the county clerk’s office instead of data reported by probation departments as in the past

	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006
Cook	18,863	16,109	14,740	12,724	10,085	9,878	8,718	9,168	9,535	9,529	8,100
Outside Cook	12,755	13,574	13,471	13,464	12,560	12,644	12,358	11,983	12,324	12,829	12,703
Total	31,618	29,683	28,211	26,188	22,645	22,522	21,076	21,151	21,859	22,358	20,803

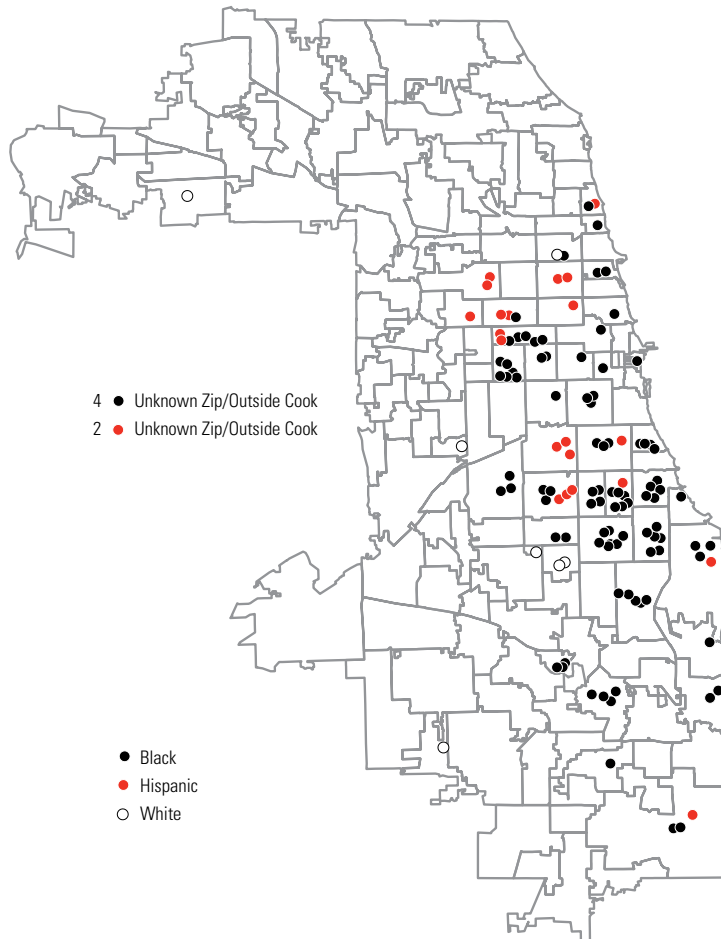
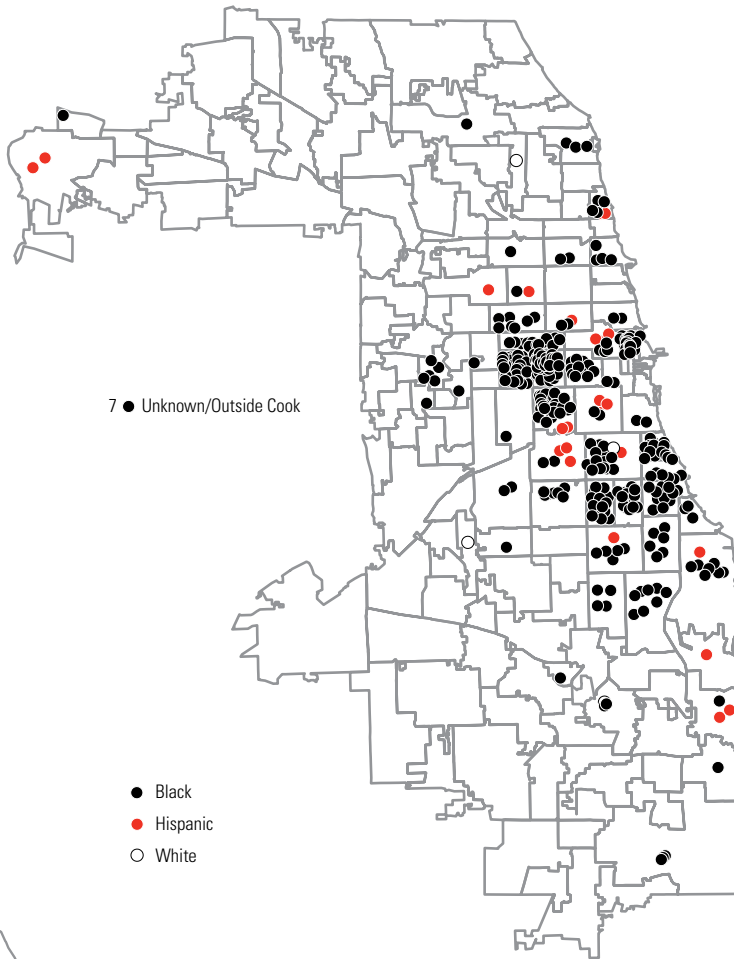
AUTOMATIC TRANSFERS BY ZIP AND CHARGE
2003 DATA PRIOR TO TRANSFER TASK FORCE



AUTOMATIC TRANSFERS BY ZIP AND CHARGE
1ST YEAR POST TRANSFER TASK FORCE CHANGE

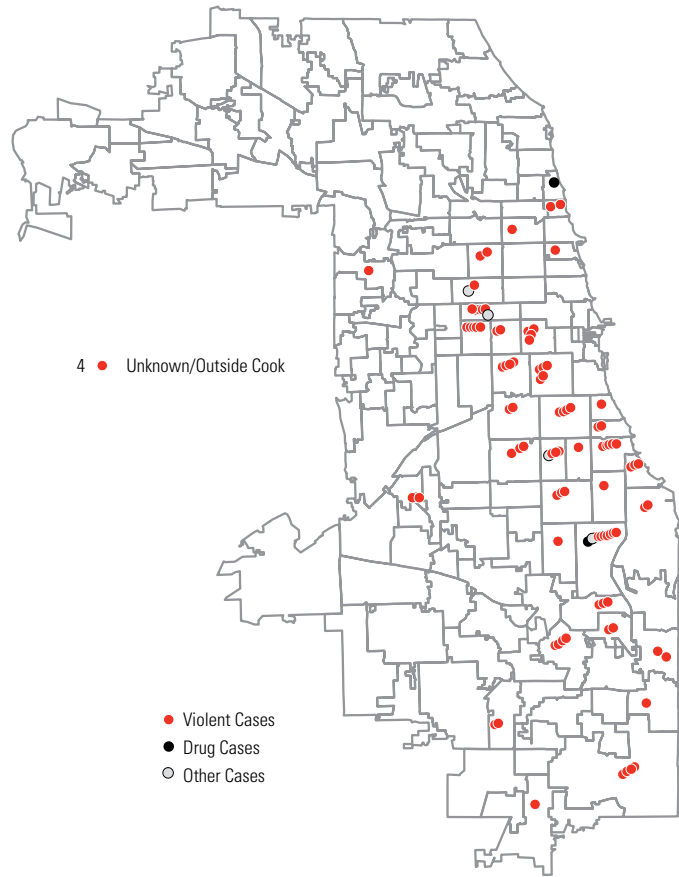


AUTOMATIC TRANSFERS BY RACE AND ZIP
2003 DATA PRIOR TO TRANSFER TASK FORCE

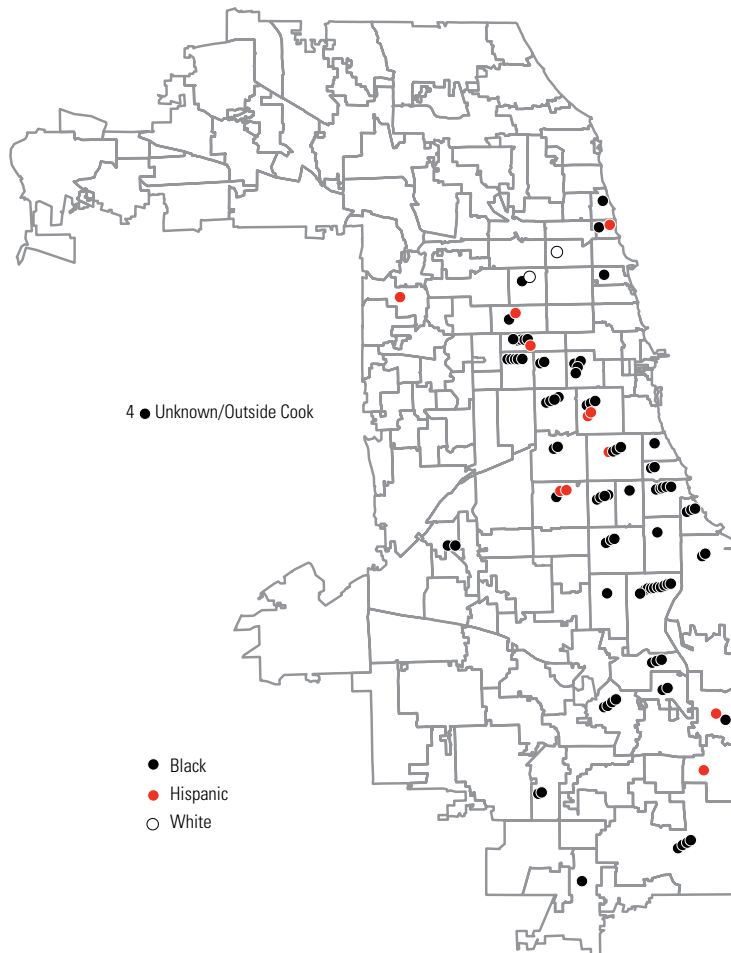


AUTOMATIC TRANSFERS BY RACE AND ZIP
1ST YEAR POST TRANSFER TASK FORCE CHANGES

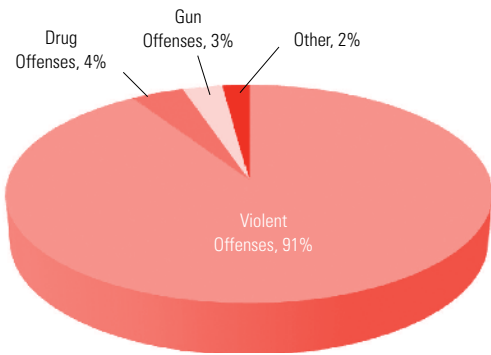
AUTOMATIC TRANSFERS BY ZIP AND CHARGE
SECOND YEAR POST TASK FORCE CHANGE



AUTOMATIC TRANSFERS BY ZIP AND RACE
SECOND YEAR POST TASK FORCE CHANGE



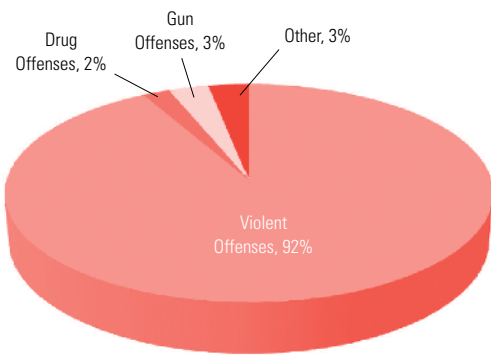
1st Year Post PA 94-0574



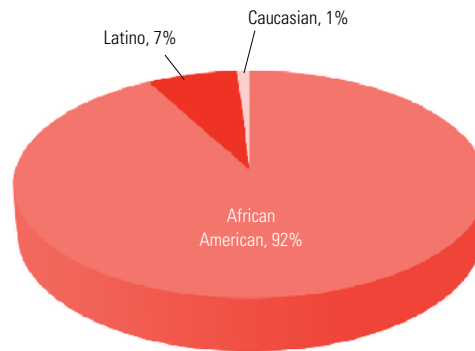
TRANSFERS BY RACE IN COOK COUNTY

Prior to the transfer law change, virtually all youth being automatically transferred to adult court were youth of color. In 2003, 99 percent were African American or Latino and 1 percent (4 youth) were Caucasian. None of the Caucasian youth were charged with a drug crime. The first year post- PA 94-0574, 94 percent were minority youth and 6 percent (7 youth) were Caucasian—all were charged with violent offenses or gun charges. The second year post-PA 94-0574, 98 percent were minority youth and 2 percent (2 youth) were Caucasian; neither of the two Caucasian youth was charged with a drug crime.

2nd Year Post PA 94-0574 Changes



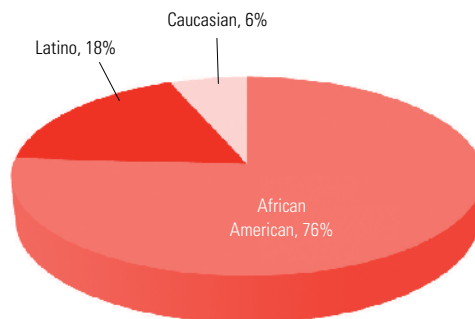
2003 Automatically Charged Youth by Race



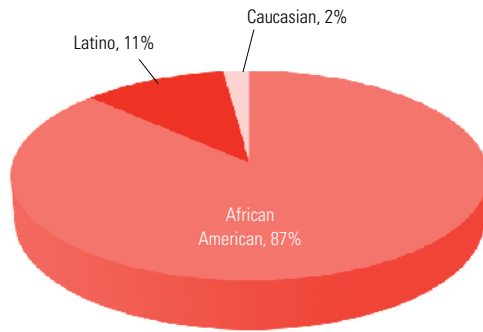
AGGRAVATED BATTERY WITH A FIREARM REVISION

After expanding transfer provisions in PA 94-0574 for youth charged with aggravated battery with a firearm, the data show a slight increase in the number of youth charged with this offense. Previous data showed that during a one-year period between 2000 and 2001, 11 youth were automatically charged with this offense when the 1,000 feet provision remained. In 2003, there were eight youth charged with aggravated battery with a firearm within 1,000 feet of a school. In both the first year and the second year after the change, 17 youth were charged with this offense each year. (It should be noted, however, that the murder rate went down by more than half during the second year of the transfer change.)

1st Year Post PA 94-0574 by Race



2nd Year Post PA 94-0574 by Race



TRANSFERS BY ZIP CODE IN COOK COUNTY

Many of the youth automatically transferred prior to the enactment of PA 94-0574 were from the west side of Chicago, specifically concentrated in ZIP codes 60624, 60644, and 60651. The change had a large impact in these ZIP codes: once the change in the law occurred, the number of youth from these particular areas dropped significantly. Prior to changes in the law, 85 percent of transferred youth were from these three ZIP codes; in the two years after the law went into effect, only 15 and 13 youth, respectively, were automatically transferred from these ZIP codes, which represents a fivefold decrease.³⁵

STATEWIDE DATA

Counties outside of Cook never transferred large numbers of youth to adult court; in fact, the rest of the state rarely used this option. In 2001, only 14 youth in the rest of the state were automatically transferred and only two of these youth were charged with a drug offense.³⁶ For that reason, PA 94-0574 did not have a significant impact on counties outside of Cook. Although there was an increase in all types of transfers in 2006, the number has remained relatively constant over a 10-year period, with less than one case per county per year³⁷ (see Figure 2).

IMPACT ON PUBLIC SAFETY

PA 94-0574 did not have an adverse effect on public safety. As stated previously, the first full year of data on petitions in juvenile court in Cook County showed a decrease in petitions (2006 data, Figure 1). Outside of Cook, there was a slight increase over 2003, although the numbers have remained basically stable for more than a decade (Figure 1 page 9).

KEY FINDINGS AND RECOMMENDATIONS

Two years of data on the consequences of PA 94-0574 have made several important points clear:

- The repeal of the automatic transfer for drug offenses significantly reduced the number of youth who were automatically transferred to adult court. Overall, the number of youth tried automatically as adults was reduced by more than two-thirds in the two years following the reform.
- Nearly all of those affected by this change were youth of color residing in Cook County.
- Although individual drug cases involving youth could have been judicially waived to criminal court even after the change, that does not seem to have been considered necessary. There was no increase in judicial transfers to adult court following the reform, in Cook County or elsewhere in the state.

These results strongly indicate that PA 94-0574 has had a significant beneficial impact on the lives of many young people in trouble with the law, without any corresponding sacrifice of public safety. On the basis of these results, it is also reasonable to assume that further reforms of Illinois transfer laws could introduce more flexibility, individualization, and developmentally appropriate handling without negative impacts on public safety. Specifically, the Illinois General Assembly should

FIGURE 2. Number of Transfers to Adult Court from 1996 to 2006

Source: Administrative Office of the Illinois Courts and Juvenile Monitoring Information System

	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006
Outside Cook	105	152	83	27	77	37	43	26	42	81	94

consider the following steps:

- Expand individualized review by a juvenile court judge of all cases of youth to be tried in adult court, beginning with cases in which youth are charged as accomplices or with low-level gun offenses.
- Review and improve sentencing policies for those youth tried in adult court to ensure that their age is taken into account during sentencing.
- Enhance rehabilitative programs for youth in the juvenile justice system and for youth tried and sentenced as adults.

There is good reason to believe that the public would support such reforms. Recent surveys supported by the John D. and Catherine T. MacArthur Foundation show strong public backing for the rehabilitation of youthful offenders and a greater willingness on the part of taxpayers to pay for rehabilitative programs than for the incarceration of offenders in jail. In a national poll that included oversampling in Illinois, 8 out of 10 respondents favored reallocating state government funds from incarceration to programs that provide help and skills to enable youth to become productive citizens.³⁸ More than 80 percent said that providing community-based programs and services—including education, job skills, mentoring, mental health treatment, counseling, and community service—is an effective way to rehabilitate youth.³⁹ Those surveyed were more willing to pay additional taxes for rehabilitation than for incarceration.⁴⁰ The average amount in additional annual taxes that respondents are willing to pay for rehabilitation is almost 20 percent greater than it is for incarceration.⁴¹

Illinois lawmakers have recognized the failed policies of transferring drug offenders to adult court and have taken steps to ensure a more fair and appropriate way to treat Illinois youth. Without a negative impact on public safety, Illinois lawmakers have succeeded in making rehabilitation of Illinois youth a high priority. Polling results suggest that the public supports these changes.

Endnotes

- 1 Fact Sheet: Trying Youth as Adults, 2, *available at* www.campaignforyouthjustice.org/fact_sheets.html.
- 2 See The Consequences Aren't Minor, 14, *available at* www.campaignforyouthjustice.org/Downloads/NEWS/National_Report_consequences.pdf.
- 3 Public Act 94-0574 *available at* www.ilga.gov/legislation/publicacts/fulltext.asp?Name=094-0574&GA=094
- 4 Juvenile Offenders and Victims: 2006 National Report, 94, *available at* www.ojjdp.ncjrs.gov/ojstatbb/nr2006/downloads/chapter4.pdf
- 5 *Id.*
- 6 *Id.*
- 7 *Id.*; Fact Sheet: Trying Youth as Adults, 1, *available at* www.campaignforyouthjustice.org/fact_sheets.html.

- 8 Juvenile Offenders and Victims: 2006 National Report, 94, *available at* www.ojjdp.ncjrs.gov/ojstatbb/nr2006/downloads/chapter4.pdf; The Consequences Aren't Minor, 3-4, *available at* www.campaignforyouthjustice.org/Downloads/NEWS/National_Report_consequences.pdf.
- 9 See The Consequences Aren't Minor, 3-4, *available at* www.campaignforyouthjustice.org/Downloads/NEWS/National_Report_consequences.pdf
- 10 The Consequences Aren't Minor, 6, *available at* www.campaignforyouthjustice.org/Downloads/NEWS/National_Report_consequences.pdf.
- 11 Fact Sheet: Trying Youth as Adults, 2, *available at* www.campaignforyouthjustice.org/fact_sheets.html.
- 12 See The Consequences Aren't Minor, 14, *available at* www.campaignforyouthjustice.org/Downloads/NEWS/National_Report_consequences.pdf.
- 13 The Consequences Aren't Minor, 6, *available at* www.campaignforyouthjustice.org/Downloads/NEWS/National_Report_consequences.pdf.
- 14 Campaign for Youth Justice, *The Consequences Aren't Minor*, 4, *available at* www.campaignforyouthjustice.org/Downloads/NEWS/National_Report_consequences.pdf;
- Childhood on trial: The failure of trying and sentencing youth in adult criminal court, *available at* www.appa-net.org/resources/pubs/docs/CJJ-Report.pdf.
- 15 Youth under age 18 in the adult criminal justice system, 4, *available at* www.campaignforyouthjustice.org/Downloads/FedLaw/nccd_fact_sheet_youth.pdf; U.S. Department of Justice, Bureau of Justice Statistics, Prison and jail inmates at midyear 2005, (May 2006).
- 16 The Consequences Aren't Minor, 12, *available at* www.campaignforyouthjustice.org/Downloads/NEWS/National_Report_consequences.pdf
- 17 Campaign for Youth Justice, Fact Sheet: Collateral Consequences, 1-4, *available at* www.campaignforyouthjustice.org/fact_sheets.html. Legal Action Center, After prison: Roadblocks to reentry. A state-by-state report card, 6 (2004), *available at* www.lac.org/lac/index.php.
- 18 Campaign for Youth Justice, Fact Sheet: Collateral Consequences, 1, *available at* www.campaignforyouthjustice.org/fact_sheets.html.
- 19 *Id.* at 2.
- 20 The Consequences Aren't Minor, 15, *available at* www.campaignforyouthjustice.org/Downloads/NEWS/National_Report_consequences.pdf.
- 21 ROPER V. SIMMONS (03-633) 543 U.S. 551 (2005)
- 22 705 ILCS 405/5-120, 705 ILCS 405/5-130, 705 ILCS 405/5-805, 705 ILCS 405/5-810.
- 23 State School to Stateville: A report on mandatory transfer and criminal prosecution of juveniles in Cook County, January 1980 to June 1985. Regulus, Thomas A.; O'Brien Stevens, Anne; Faggiani, Donald; The Chicago Law Enforcement Study Group; June 10, 1998.
- 24 A series of research projects and newspaper reports showed increasing numbers of minorities in adult court and more drug offenders - *Juvenile Injustice and Automatic Adult Offense Hurts Kids, Not the Gangs*, Deborah Nelson, Chicago Sun Times series, Spring 1992; *Jailing Juveniles*, Steve Bogira, 16 APF Reporter No. 1; *A Case for Reinventing Juvenile Transfer*, Elizabeth Clarke, *Juvenile and Family Court Journal*, Vol. 47, No. 4, Fall 1996; and *The Numbers: Minorities Hit Hardest*, Sarah Karp, *The Chicago Reporter*, May, 2000.
- 25 The Public Housing Transfer provision was upheld by the Illinois Supreme Court in *People v. R.L.*, 158 Ill.2d 432 (1994)
- 26 Kooy, Elizabeth, *The Status of Automatic Transfers to Adult Court in Cook County, Illinois*, Law Office of the Cook County Public Defender, Chicago, Illinois, August 2001.
- 27 In 2001, House Bill 1028 was the first legislative attempt at challenging the automatic drug transfer law. With a 6 to 3 vote, it passed out of the House Judiciary Committee but was never called in the full House. That same year, House Bill 2087 allowed for juveniles charged with possession with intent to deliver to be charged originally in juvenile court and not as automatic transfers and it allowed for 3 other gun offenses to become automatic transfers. The bill passed the Judiciary Committee and passed the House with a vote of 77-16-17. Advocates lobbied against the bill and it eventually died in the Senate. In 2002, HB 4129 originally allowed for Reverse Waiver for all automatic transfer offenses. The bill was modified to allow for non-Class X drug offenders to petition the adult court judge for a reverse waiver hearing to go back to juvenile court for trial and sentencing. HB 4129 passed through the full house with a vote of 65-46-1 and passed the full Senate with a vote of 43-11-1. Governor Ryan approved the Bill in July 2002 and Public Act 92-0665 took effect January 1, 2003. Research on this particular

- transfer law change by the Juvenile Justice Initiative showed that virtually all who asked to be reverse waived back to juvenile court were reverse waived. In the spring of 2003, with HB416, advocates tried to expand the number of youth who would get an individualized review by a judge on the decision of transfer. This bill passed the House 64-50-03. The bill also passed the Senate Judiciary Committee 6-3-0. Intense lobbying efforts by those opposed to this bill caused it not to be called in the full Senate prior to adjournment.
- 28 93rd Illinois General Assembly, SJR53 , available at www.ilga.gov/legislation/BillStatus.asp?DocNum=53&GAID=3&DocTypeID=53&LegID=12272&SessionID=3&GA=93
- 29 Senator John Cullerton and Representative Annazette Collins were the Co-chairs of the task force. Other members included Senator Dale Righter, Representative Patricia Bellock, Cook County State's Attorney Richard Devine, Elizabeth Clarke, president of the Juvenile Justice Initiative, Daniel Houlihan of the Illinois State Bar Association, and Roger Walker, director of the Department of Corrections.
- 30 Data were obtained by searching through all Cook County Juvenile Temporary Detention Center intake sheets and reviewing all of the possible automatic transfers in the Circuit Court Clerk System. Approximately 30 more individuals came into the detention center as automatic transfers that year, however upon subsequent review of their cases, they were not new cases (warrants) or they were not in fact automatic transfers. Data dates were January 1, 2003 through December 31, 2003.
- 31 Kooy, Elizabeth, *The Status of Automatic Transfers to Adult Court in Cook County, Illinois*, Law Office of the Cook County Public Defender, Chicago, Illinois, August 2001
- 32 The first year of statistics includes the following dates – August 12, 2005 through August 11, 2006. The second year of statistics includes the following dates – August 12, 2006 through August 11, 2007.
- 33 The Law Office of the Cook County Public Defender and the Clerk of the Circuit Court of Cook County records.
- 34 Administrative Office of the Illinois Court data as reported in Figure #
- 35 The change in statute made automatically transferring youth to adult court for drug offenses within 1,000 feet of public housing defunct. The author looked into the effect of public housing movement on the drug offenses and whether some of the decrease could be seen from simply a shift in public housing. Less than 15 percent of drug offenses prior to the change were charged as within 1,000 feet of public housing (most were charged within 1,000 feet of a school). So the effect of public housing shift would be minimal at best.
- 36 AOIC data - Juvenile Justice Initiative Fact Sheets on HB 416
- 37 When reviewing this AOIC data, it appears that there may be some errors in reporting. Based on past research where counties were unclear about what to report as a transfer to adult court, it is possible that these numbers are incorrectly reported.
- 38 Center for Children's Law and Policy (CCLP) polling data released December 11, 2007, John D. and Catherine T. MacArthur Foundation Press Release.
- 39 *Id.*
- 40 MacArthur Foundation Research on Adolescent Development and Juvenile Justice (ADJJ) Polling data released December 11, 2007, John D. and Catherine T. MacArthur Foundation Press Release.
- 41 *Id.*

Acknowledgements

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