

## Juveniles Tried in Adult Court in California

### **Can Juveniles be Tried in Adult Court?**

Children as young as 14 may be tried in California in adult criminal court through any one of the following mechanisms:

- After the prosecutor files a “fitness” petition in juvenile court and a hearing is held at which the juvenile court judge finds the minor unfit for rehabilitation in the juvenile system based on five “fitness” criteria.
- Direct file in adult criminal court at the discretion of the prosecutor.
- Automatic trial as an adult for a small number of aggravated offenses at age 14 or older with a prior offense.

### **What are the Demographics of Juveniles Tried as Adults?**

Of the 661 youth involved in felony cases disposed of in adult court in 2008:

- 629 were males and 35 were females
- 369 were Hispanic, 191 were black, 55 were white, and 46 were “other races”
- 22 were 14 years of age; 79 were 15 years of age; 151 were 16 years of age; and 357 were 17 years of age<sup>1</sup>

### **What Happens to Juveniles Convicted in Adult Criminal Court?**

If convicted in adult court, juveniles may be punished in the same way as adults, and may be sentenced to the same amount of time an adult could receive for the same offense. Juveniles tried as adults may not receive the death penalty,<sup>2</sup> but may be subjected to Life without the Possibility of Parole (LWOP). Youth serving an LWOP sentence must serve the rest of their life in prison for crimes committed when they were 14 to 17 years of age.<sup>3</sup> In mid-2009 there were 237 youth serving LWOP sentences in California. No country other than the United States permits LWOP sentences for juveniles. The Center for Law and Global Justice<sup>4</sup> and Human Rights Watch<sup>5</sup> have done extensive research on juvenile LWOP and have been involved in legislative efforts to overturn existing laws.

Under state law, juveniles convicted in adult court may be held in adult prison at age 16. However, due to the suicide of a juvenile at Tehachapi State Prison, California currently houses youth convicted as adults in the Division of Juvenile Justice (DJJ) until age 18.

---

<sup>1</sup> California Department of Justice, Criminal Justice Statistics Center, “Adult Court Dispositions for Felony Offenses, 2008”

<sup>2</sup> The U.S. Supreme Court struck down the death penalty for persons convicted of crimes committed when they were juveniles in *Roper v. Simmons*, 543 U.S. 551 (2005).

<sup>3</sup> In May 2009, the U.S. Supreme Court accepted two juvenile LWOP cases from Florida for review in the 2009-10 term (*Sullivan v. Florida*, 08-7621, and *Graham v. Florida*, 08-7412), and the California Court of Appeals, after the state Supreme Court granted a youth’s habeas corpus petition, overturned the conviction of a youth who received LWOP for a crime other than murder, holding that it violates the California and the United States Constitution. *In re Nunez*, 173 Cal.App.4th 709 (Cal.Ct.App. 2009).

<sup>4</sup> See, <http://www.law.usfca.edu/home/CenterforLawandGlobalJustice/Juvenile%20LWOP.html>.

<sup>5</sup> See, <http://www.hrw.org/en/news/2009/05/07/us-end-life-sentences-youth-offenders>.

Once in the adult system, juveniles tried as adults have minimal opportunities to receive educational, vocational or other rehabilitative services. The Legislative Analyst's Office reported in 2008 that the state's prisons enroll only 54,000 of the 173,000 inmates in education programs, and only one-half of those – 27,000 inmates – are in core traditional academic and vocational training programs most likely to improve educational attainment and employability upon their release on parole to the community.”<sup>6</sup> The health and mental health systems in California's prison system have been in systemic litigation over deficiencies for the past decade, with no end in sight.

### **How Many Children are Tried as Adults in California?**

In 2008, there were 525 fitness hearings, out of which 193 youth (36.8%) were found fit and 332 youth (63.2%) were found unfit for juvenile court treatment.<sup>7</sup>

In 2008, there were 866 cases involving juveniles direct filed in adult criminal court.<sup>8</sup>

Of the 661 juvenile felony cases disposed of in adult court in 2008:

- 538 resulted in a conviction;
- 109 resulted in a dismissal;
- Nine cases were certified to juvenile court; and
- Five cases resulted in acquittal.<sup>9</sup>

Of those youth convicted as adults in felony cases in 2008:

- 335 youth were sent to state prison;
- 170 youth received a jail sentence;
- Nine youth were committed to the Division of Juvenile Justice (formerly California Youth Authority); and
- Nine youth were placed on probation.<sup>10</sup>

There were also 85 cases involving juveniles tried as adults that were disposed of as misdemeanors in adult court in 2008, of which 53 received a jail sentence (some with probation), eight received probation, and six were dismissed.<sup>11</sup>

Prepared by the Youth Law Center, August 2009

---

<sup>6</sup> California Office of the Legislative Analyst, “From Cellblocks to Classrooms: Reforming Inmate Education to Improve Public Safety (February 2008).

<sup>7</sup> California Department of Justice, Criminal Justice Statistics Center, “Fitness Hearings, 2008.”

<sup>8</sup> California Department of Justice, Criminal Justice Statistics Center, “Juvenile Detentions and Probation Department Dispositions, 2008.”

<sup>9</sup> California Department of Justice, Criminal Justice Statistics Center, “Adult Court Dispositions for Felony Offenses, 2008”

<sup>10</sup> *Id.*

<sup>11</sup> California Department of Justice, Criminal Justice Statistics Center, “Adult Court Dispositions for Misdemeanor Offenses, 2008”