



EFFECTIVE STRATEGIES FOR COURT-INVOLVED YOUTH:

TRENDS IN MAXIMUM JUVENILE CUSTODY AGE LIMITATIONS

June 2012

EXECUTIVE SUMMARY

The age at which youth must exit the juvenile justice system, or the maximum juvenile custody age, varies from state to state. In the District of Columbia, the maximum juvenile custody age is 21, meaning that youth who are committed to the Department of Youth Rehabilitation Services (DYRS) can remain under DYRS custody until his or her twenty-first birthday.¹ If a DYRS ward commits a new crime after turning age 18, he or she must be processed through the adult justice system for the new offense.² In these cases, it is possible for DYRS and the adult system to share joint custody over the young person.³

At present, 73% of U.S. states (37 of 51), like the District of Columbia, allow youth to remain in juvenile correctional custody until at least age 21. Fourteen states automatically sever juvenile services prior to age 21, and four of these states set the maximum juvenile custody age at 18. Although the interaction between the adult and juvenile justice systems varies by state, the bulk of laws establishing the maximum juvenile custody age reflect the belief that older adolescents benefit from the type of supports and services provided by the juvenile system.

There are several reasons why remaining in juvenile custody might be appropriate for 18-20 year olds. One, research has revealed that most individuals do not achieve full brain development or the skills necessary to successfully transition into adulthood until around age 25.⁴ Court-involved youth, many of whom have experienced traumas that impede proper development, often mature at an even slower rate.⁵ The juvenile justice system, with its emphasis on rehabilitation and promoting positive development, is often better equipped to provide youth with the skills and supports necessary to become productive adults.⁶ Two, being placed in adult custody can interrupt the natural process of “aging out” of crime, and studies have found that juveniles who are transferred to the adult system are more likely to recidivate than comparable youth who remain in the juvenile system.⁷ Finally, the adult system, with its full range of penalties, remains available for 18-20 year olds who reoffend while in juvenile custody.⁸

At the beginning of FY2012, 18-20 year olds comprised roughly 52% of the committed population at DYRS. Data indicate that these older youth are less likely to be re-convicted or re-arrested than their younger counterparts and that they consume fewer DYRS resources than committed youth under age 18.

This report summarizes the data and research regarding maximum juvenile custody age, both in the District and nationwide. The available research suggests the following conclusions:

- I. ***National trends in the maximum juvenile custody age:*** The majority of U.S. states, including the District of Columbia, allow youth to remain in juvenile correctional custody until at least age 21.
- II. ***The appropriateness of the juvenile justice system for older youth:*** Many 18-20 year olds benefit by remaining in the juvenile system, which provides a more rehabilitative focus and the opportunity to “age out” of crime. Young people remain accountable to the adult system for offenses committed after turning 18.

III. Older youth at DYRS: DYRS youth aged 18-20 are less likely to recidivate and proportionately use a smaller amount of agency resources as compared to their younger counterparts.

I. NATIONAL TRENDS IN THE MAXIMUM JUVENILE CUSTODY AGE

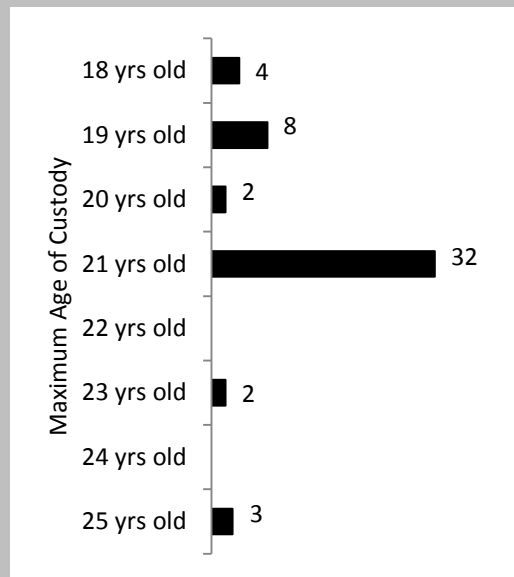
The majority of U.S. states, including the District of Columbia, allow youth to remain in juvenile correctional custody until at least age 21.

Individual state law dictates the maximum juvenile custody age. Seventy-three percent of U.S. states (37 of 51) allow individuals to remain in juvenile custody until at least age 21. The vast majority of states, including Maryland, Virginia, and Pennsylvania, join the District in setting the maximum age for juvenile custody at 21,⁹ and some states can retain juvenile custody up to age 25.¹⁰

Currently, four states automatically transfer youth out of juvenile custody at age 18, and most of these jurisdictions provide opportunities for the youth to continue to receive services into their early twenties.¹¹ Over the past five years, two states—Texas and Rhode Island—have lowered their maximum juvenile custody ages.¹² Conversely, after concluding that adult prison is not the appropriate place for 18-22 year olds, officials in North Dakota have begun drafting a bill to raise the maximum age from 20 to 21, 22, or 23.¹³

While there is general agreement on the maximum age of juvenile custody, the interactions between the adult and juvenile systems vary from state to state. For example, Kansas sets the maximum age higher for community-based placements than for secure facilities, the effect being that older youth can continue to receive treatment without being housed with the younger population.¹⁴ Some states, like Missouri and Kentucky, extend custody to older youth upon a court finding that additional treatment is necessary and that the

Maximum Age of Juvenile Correctional Custody
(Count of States)



Source: DYRS Office of Research & Evaluation review of state laws and procedures.

extension will not negatively affect public safety.¹⁵ Several states set different maximum ages depending on the seriousness of the offense, with more serious offenses typically having a higher maximum age.¹⁶ In Texas, some officials have suggested restoring the maximum age of custody to 21, but establishing separate facilities for older adolescent offenders.¹⁷ Some experts recommend providing mandatory transitional services for older youth, even if they have aged out of residential placements.¹⁸ Finally, some states have a system known as ‘blended sentencing,’ which means that, once a youth ages out of juvenile custody, he or she may be transferred to adult supervision.¹⁹ Many states with blended systems, however, maintain the maximum juvenile custody age at 21 or older.²⁰

As these diverse arrangements illustrate, most states share the belief that no bright line exists between childhood and adulthood and that many 18-20 year olds can benefit from the supports and services offered by the juvenile justice system.

Consequences of Lowering the Maximum Age of Juvenile Custody: *Lessons from Texas*

In 2007, following allegations of abuse against youths incarcerated with the Texas Youth Commission (“TYC”), Texas lowered its maximum juvenile custodial age from 21 to 19 as part of a broader system reform. The legislature believed that lowering the age would protect and benefit the younger offenders and reduce the overall TYC population. In the year following the law’s enactment, the number of new TYC commitments dropped by over 30%. The cost per youth per day, though, increased by more than 40%.

In the wake of the reform, the number of younger juveniles tried in adult court rose 31%. Though there is some disagreement regarding the causes of this increase, TYC attributes the change to a new hesitance of practitioners to send 16 and 17 year olds to TYC, for fear they would not have adequate time to receive meaningful treatment.

Texas Youth Commission (“TYC”). (2009). Office of the Independent Ombudsman, SB 103 and Rising Adult Certification Rates in Texas Juvenile Courts . Retrieved from http://www.tyc.state.tx.us/ombudsman/SB103_AdultCert_SpecialReport.pdf.

II. THE APPROPRIATENESS OF THE JUVENILE JUSTICE SYSTEM FOR OLDER YOUTH

Many 18-20 year olds benefit by remaining in the juvenile system, which provides a more rehabilitative focus and the opportunity to “age out” of crime. Young people remain accountable to the adult system for offenses committed after turning 18.

Research indicates that, by remaining in the juvenile system through age 21, older youth receive the benefit of treatments and services that help them transition into adulthood.²¹ These benefits also extend to the community: studies have repeatedly shown that youth who are transferred to the adult system are *more* likely to recidivate than those who remain in the juvenile system.²²

Why is the juvenile system appropriate for many older youth?

The juvenile system provides a more rehabilitative focus.

A young person’s brain continues to develop long after reaching the age of 18, and most youth development experts use age 25 as the benchmark for when young adults should have attained the full brain development and skills that facilitate full transition into adulthood.²³ Juvenile offenders often mature at an even slower rate.²⁴ Factors such as abuse, family dysfunction, educational deficiencies, and exposure to antisocial influences can hinder development,²⁵ and studies have found that youth who display antisocial behavior often exhibit deficits in key elements of psychosocial maturity.²⁶ Because older adolescents’ brains are still developing, 18-20 year olds are still highly open to rehabilitative efforts, such as mentoring, counseling, and educational services, which are more often found in the juvenile system.²⁷ The adult system, on the other hand, is typically less likely to provide the type of programming that 18-20 year olds need to successfully transition into adulthood.²⁸

The juvenile system provides an opportunity to age out of crime.

Housing young people in adult facilities can interrupt the natural process of aging-out of crime.²⁹ Research shows that criminal activity peaks at around age 17, then declines as youths enter adulthood, at which point most people stop committing crimes.³⁰ Placing youth in adult facilities can disrupt this process by exposing youths to antisocial influences, severing connections with family and job contacts, and creating a stigma that reduces the youth's ability to follow a pro-social path.³¹

The adult system remains available for older youth who commit new crimes while in juvenile custody.

District of Columbia law states that individuals aged 18 or older who commit a criminal offense must be processed in the adult system.³² Thus, a DYRS ward aged 18-20 who commits a new crime will always be adjudicated for that offense in the adult system and is subject to the full range of adult penalties.

The Effects of Adult Transfers on Recidivism

In 2007, the independent Task Force on Community Preventative Services released its findings from a review of state laws facilitating the transfer of juvenile offenders to the adult criminal justice system. In a report to the Center for Disease Control, the Task Force found that, overall, young people who were transferred to the adult system were 33.7% more likely to be re-arrested for a violent or other crime than comparable youth who were processed in the juvenile system.

Tonry, M. (2007). Treating Juveniles as Adult Criminals: An Iatrogenic Violence Prevention Strategy if Ever There Was One. *American Journal of Preventative Medicine*, 32, S3-4.

Requirements for Successful Transition to Adulthood

"For those who reach age 25 and are disconnected, as when they are without connections to school or job, the future is indeed bleak . . . Researchers have concluded that the number of youth who are disconnected at 25 would be significantly reduced if child-serving systems . . . were able to help these youth finish high school, obtain additional credentials for employment, connect to the labor force, and create and maintain connections to their families and communities."

Center for Juvenile Justice Reform. (2009). *Supporting Youth in Transition to Adulthood: Lessons Learned from Child Welfare and Juvenile Justice*. Retrieved from <http://cjjr.georgetown.edu/pdfs/TransitionPaperFinal.pdf>.

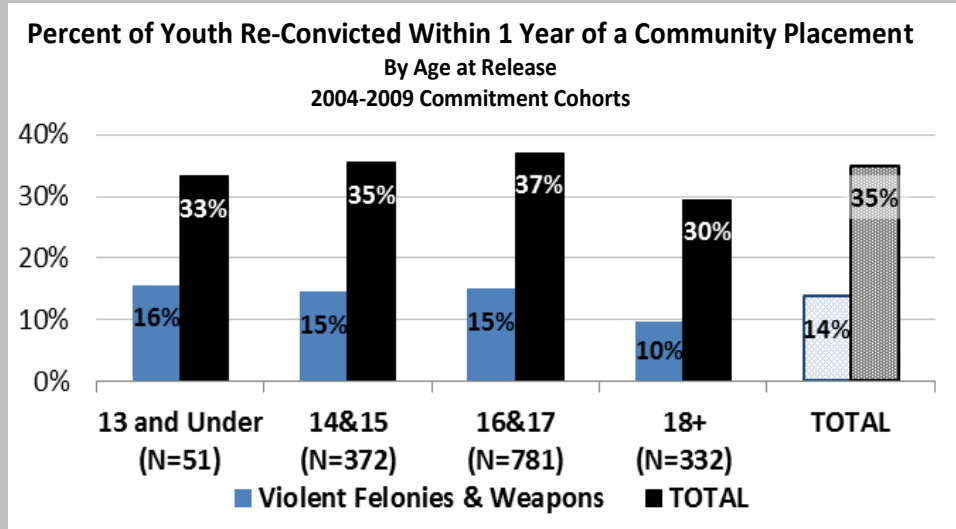
III. OLDER YOUTH AT DYRS

DYRS youth aged 18-20 are less likely to recidivate and proportionately use a smaller amount of agency resources as compared to their younger counterparts.

In recent years, DYRS' committed population has, on average, gotten older and smaller. At the beginning of FY2009, of 43% youth committed to DYRS were aged 18 or older. By the start of FY2012, that number had increased to 52%. The rising age of DYRS' committed population is largely attributable to the growing number of new commitments that occurred at DYRS between FY2003 and FY2009; as the swell of youth who entered the system during those years aged, so too has the overall DYRS population. The fact that these youth will soon age out of the system, combined with a declining number of new commitments in recent years, suggests that the aging of DYRS' population may not be a permanent trend.

How do older youth at DYRS fare compared to committed youth under 18?

Re-conviction Rates for **DYRS Youth**



18-20 year olds are the least likely of DYRS' population to reoffend.

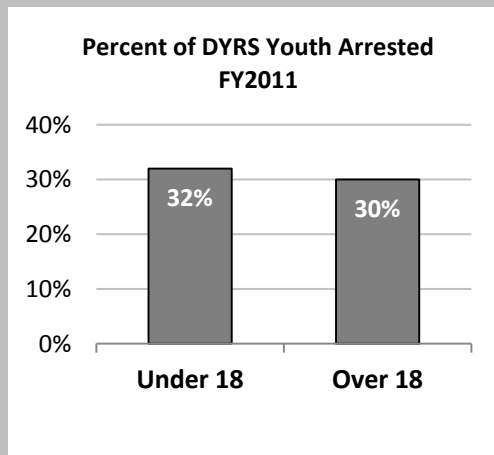
DYRS youth who return to the community at age 18 or older have the lowest recidivism rate of any age group under the agency's supervision, both in terms of total recidivism and recidivism for violent felony and/or weapons offenses. Between 2004 and 2009, 30% of DYRS committed youth aged 18-20 were re-convicted within one year of a community placement. This is the lowest re-conviction rate of any age group under DYRS custody.³³

In FY2011, 30% of DYRS' 18-20 years old were re-arrested, compared to 32% of DYRS youth under age 18.

18-20 year olds consume fewer DYRS resources than younger committed youth.

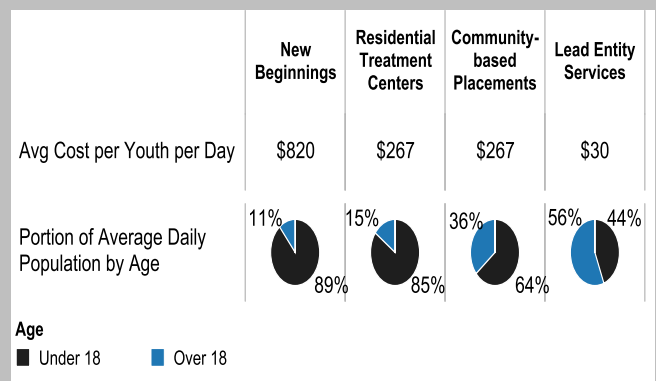
DYRS youth aged 18-20 cost the agency less on the dollar than the younger population. These older youth, who have generally transitioned into the community from intensive secure placements, account for 12% of the residential treatment center (RTC) dollars used by DYRS and 35% of the agency's community-based residential spending. By contrast, this older population consumes 56% of the DC Youth Link services, which are among the lowest-cost interventions. These figures suggest that the bulk of treatment received by 18-20 year olds consists of low-cost services aimed at their successful transition out of DYRS custody.

Re-arrest Rates for **DYRS Youth**



DYRS Maximum Juvenile Custody Age

Distribution of **DYRS Resources**



SUMMING UP

Although the maximum juvenile custody age varies across jurisdiction, most states, including the District of Columbia, currently allow court-involved youth to remain in the juvenile system through at least age 21. This practice reflects research demonstrating that the juvenile justice system, with its rehabilitative focus and emphasis on promoting positive development, can help older adolescents receive the support they need to follow a pro-social path as they transition into adulthood. While the juvenile system is designed to provide opportunities for these older youth, District law holds them accountable to the adult system for any new crimes committed after they turn 18, even if they are still under juvenile custody. At DYRS, committed youth who are 18-20 years old are among the least likely to recidivate and consume disproportionately fewer agency resources than their younger counterparts. To help promote the safety of the community, DYRS strives to provide these older youth with the supports and services necessary to become productive, crime-free adults.

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¹ D.C. Code § 16-2303.

² D.C. Code §§ 16-2301, 11-1101.

³ For example, if a youth is committed to DYRS for a criminal offense at age 16, then commits a new crime at age 19 while still under DYRS custody, he or she will be processed as an adult for the purpose of the new offense. If the individual is found guilty of the adult offense, he or she can remain under DYRS custody, be removed to adult custody, or the juvenile and adult systems can share joint custody.

⁴ Center for Juvenile Justice Reform (CJJR). (2009). *Supporting Youth in Transition to Adulthood: Lessons Learned from Child Welfare and Juvenile Justice*. Retrieved from <http://cjjr.georgetown.edu/pdfs/TransitionPaperFinal.pdf>.

⁵ CJJR (2009); Steinberg, L., Chung, H.L., & Little, M. (2004). Reentry of Young Offenders from the Justice System: A Developmental Perspective. *Youth Violence and Juvenile Justice*, 2(1), 21-38.

⁶ Neelum, A. (2011). *State Trends: Legislative Victories from 2005 to 2010 Removing Youth from the Adult Criminal Justice System*. Washington, DC: Campaign for Youth Justice. Retrieved from

www.campaignforyouthjustice.org/.../CFYJ_State_Trends_Report.pdf; CJJR (2009); MacArthur Foundation. *The Changing Borders of Juvenile Justice: Transfer of Adolescents to the Adult Criminal Court*. Issue Brief 5. Retrieved from http://www.adjj.org/content/page.php?cat_id=2&content_id=28.

⁷ Redding, R.E. (2010). *Juvenile Transfer Laws: An Effective Deterrent to Delinquency?* Office of Juvenile Justice and Delinquency Prevention, Juvenile Justice Bulletin. Retrieved from www.ncjrs.gov/pdffiles1/ojjdp/220595.pdf; CJJR (2009); Tonry, M. (2007). Treating Juveniles as Adult Criminals: An Iatrogenic Violence Prevention Strategy if Ever There Was One. *American Journal of Preventative Medicine*, 32, S3-4; Center for Disease Control (CDC), Task Force on Community Preventative Services. (2007). *Effects on Violence of Laws and Policies Facilitating the Transfer of Youth from the Juvenile to the Adult Justice System*. Retrieved from www.cdc.gov/mmwr/pdf/rr/rr5609.pdf; Woolard, J.L., Odgers, C., Lanza-Kaduce, L., & Daglis, H. (2005). Juveniles within Adult Correctional Settings: Legal Pathways and Developmental Considerations. *International Journal of Forensic Mental Health*, 4, 1-18.

⁸ D.C. Code §§ 16-2301, 11-1101.

⁹ Maryland: Md. Code § 3-8A-07; Virginia: Va. Code § 16.1-285; Pennsylvania: 42 Pa. C.S. § 6302.

¹⁰ California Department of Corrections and Rehabilitation, agency website. Retrieved from http://www.cdcr.ca.gov/Juvenile_Justice/index.html; Oregon Youth Authority, agency website. Retrieved from http://www.oregon.gov/OYA/docs/OYA_at_a_glance_Web.pdf; Wisconsin Department of Corrections, agency website. Retrieved from http://www.wi-doc.com/index_juvenile.htm.

¹¹ Arizona: Ariz. Rev. Stat. 8-341; New Hampshire: N.H. Rev. Stat. 169-B:4; Vermont: V.S.A. §§ 5104, 5286, 5801.

¹² 2007 Texas House Bill 2807; Rhode Island House Bill 2007 H-5300.

¹³ T. Kozojed, personal communication, December 1, 2011.

¹⁴ Kansas Juvenile Justice Authority, agency website. Retrieved from <http://www.jja.ks.gov/>.

¹⁵ Kentucky Department of Juvenile Justice, Policy Manual § 353. Retrieved from <http://djj.ky.gov/NR/rdonlyres/ABEB3008-9BE3-499C-8918-8EAD0B92234D/0/300Series.pdf>; Missouri Division of Youth Services, agency website. Retrieved from <http://dss.mo.gov/dys/faq/genopt.htm>.

¹⁶ Michigan: 1979 MCL 712A.2a; North Carolina: N.C. Gen. Stat. § 7B-2513.

¹⁷ Texas Youth Commission (TYC), Office of the Independent Ombudsman. (2009). *SB 103 and Rising Adult Certification Rates in Texas Juvenile Courts*. Retrieved from http://www.tyc.state.tx.us/ombudsman/SB103_AdultCert_SpecialReport.pdf.

¹⁸ Tonry (2007).

¹⁹ Cheesman, F. (2011). *A Decade of NCSC Research on Blended Sentencing of Juvenile Offenders*. National Center for State Courts. Retrieved from <http://www.ncsc.org/sitecore/content/microsites/future-trends/home/Special-Programs/4-4-Blended-Sentencing-of-Juvenile-Offenders.aspx>.

²⁰ Cheesman (2011); National Center for Juvenile Justice (NCJJ). (2004). Minimum and Maximum Age of Juvenile Correctional Custody. Retrieved from http://www.ncjj.org/PDF/Snapshots/2004/vol9_no5_minmaxage.pdf.

²¹ CJJR (2009).

²² Redding (2010); Tonry (2007); CDC (2007).

²³ CJJR (2009); MacArthur Foundation. *Less Guilty by Reason of Adolescence*. Issue Brief 3. Retrieved from http://www.adjj.org/content/page.php?cat_id=2&content_id=28.

²⁴ CJJR (2009); Steinberg, et al. (2004).

²⁵ CJJR (2009); Woolard, et al. (2005); Steinberg, et al. (2004).

²⁶ Monahan, K.C., Steinberg, L., Cauffman, E., & Mulvey, E.P. (2009). Trajectories of Antisocial Behavior and Psychosocial Maturity from Adolescence to Young Adulthood. *Developmental Psychology*, 45(6), 1654-1668.

²⁷ Arya (2011); CJJR (2009); MacArthur Foundation, Issue Brief 5.

²⁸ Steinberg, et al. (2004).

²⁹ CJJR (2009); Woolard, et al. (2005).

³⁰ Woolard, et al. (2005).

³¹ Tonry (2007); Woolard, et al. (2005).

³² D.C. Code §§ 16-2301, 11-1101.

³³ Data based on the youth committed to the department in FY2004 through 2009. DYRS defines recidivism as a new arrest and conviction within one year of the youth's community release.