

Transfers to criminal court

Youth 13 years or older charged with more serious crimes can be transferred to adult criminal court. Four types of transfers may result in a youth being tried in criminal court. They include automatic transfer/excluded jurisdiction, mandatory transfer, presumptive transfer, and discretionary transfer (705 *ILCS* 405/5-805). The state's attorney's office files the transfer motion, and a juvenile court judge decides whether the motion should be granted.

Youth are excluded from the jurisdiction of the juvenile court and **automatically transferred** to adult criminal court if they are 15 years of age or older and are alleged to have committed:

- First degree murder or another **forcible felony**.
- Aggravated discharge of a firearm in a school, on school property, within 1,000 feet of a school, at a school activity, or in a school vehicle.
- Any forcible felony when the youth had been previously adjudicated delinquent for another felony and the current alleged felony was related to gang activity.
- Any offense that would qualify for a presumptive transfer and the youth had been previously adjudicated delinquent for a forcible felony [705 *ILCS* 405/5-130(6)].

Excluded jurisdiction and automatic transfers mean that the criminal (adult) court is established as the original court of jurisdiction rather than the juvenile court (juvenile court is the original court of jurisdiction in presumptive and discretionary transfers). That is, cases in which the youth is automatically transferred or excluded from the juvenile court's jurisdiction are not originally heard in juvenile court, and the youth will from that point on be treated as an adult by the courts [705 *ILCS* 405/5-130(6)].

Mandatory transfer occurs when a motion is filed by a state's attorney to allow for the prosecution of a youth age 15 years or older for a forcible felony if the youth had been previously adjudicated delinquent and the offense was committed in furtherance of criminal activity of a gang, and a juvenile judge determines there is probable cause to believe that the allegations against the youth are true.

A **presumptive transfer** occurs when a youth age 15 years or older has allegedly committed a Class X felony other than armed violence; or if they allegedly committed aggravated discharge of a firearm, or other specified offenses, and a petition is filed by the state's attorney to permit the prosecution of the youth under criminal laws. Presumptive transfer will occur for these juveniles unless a juvenile court judge is able to make a finding based on **clear and convincing evidence** that the youth is amenable to the care, treatment, and training programs available through the facilities of the juvenile court.

A motion for **discretionary transfer** is made by the state's attorney to allow for prosecution of a youth 13 years of age or older under criminal laws. While there are no specific offenses associated with a discretionary transfer, the court will consider many factors before granting such a transfer, including the seriousness of the offense and the minor's prior record of delinquency.

Administrative Office of Illinois Courts (AOIC) is the primary source of data on youth transferred to adult court in Illinois. Until 1999, AOIC collected aggregate-level information on the number of youth transferred to criminal court. Due to the manner in which these data were collected, however, it was not possible to determine the offenses for which the transfers took place, case sentencing following the transfer, or the demographic characteristics of the youth transferred. AOIC discontinued the reporting of these data in 1999.

The Juvenile Monitoring Information System (JMIS) contains juvenile transfer data. However, JMIS can only provide the numbers of detained youth who were transferred to criminal court, but it is likely that the data can provide a reasonable approximation of the number of transfer cases outside of Cook County. As previously stated, the Cook County Juvenile Temporary Detention Center did not report to JMIS in 2005, therefore transfer data for Cook County were unavailable. Transfers reported to JMIS are shown in the data tables section in Appendix H.

Data summary

In 2005, 81 detained youth were transferred to the adult criminal court. In 2005, the counties with the most youth transfers were Jefferson, Peoria, and Richland with 16, seven, and seven transfers, respectively. Based on available data, the use of transfers to adult court is generally found in counties with large, urban populations. *Map 5* depicts the number of transfers of detained youth to adult court by county in 2005.

Appendix H: Data tables section

The following data tables include county-level detail for several dozen juvenile justice data elements. When available, some data elements were also broken down by demographics, such as age, race, and gender. Data is provided by calendar year, academic year, or Fiscal Year, depending upon the reporting agency. Whenever possible, both 2000 and 2005 data were included.

Many caveats have been mentioned throughout this report regarding the interpretation of the following data. The bullet points below describe additional issues that should be considered when reviewing the data tables.

- If there is a blank space where data should be, then data were not available.
- When zero (0) is listed for a particular data element, there are two interpretations
 - There were zero instances of that particular event occurring.
 - Zero instances of that particular event were reported.

For instance: A zero appears for Greene County in the youth arrests table. This could be interpreted as Greene County not having any youth arrests for 2005, or that Greene County did not report any youth arrests to the Illinois State Police, but actually did arrest juveniles.

Whenever possible, rates were calculated by using the population most appropriate to the data element. For example, youth incarceration rates were calculated using the youth population 13-16 since a youth under the age of 13 cannot be incarcerated in an Illinois Youth Center, and youth 17 or older are considered adults in Illinois.

List of tables

Table 35: Number of youth transfers to adult criminal court, CY00 – CY05187

Table 35: Number of youth transfers to adult criminal court, CY00 – CY05

Sources: Juvenile Monitoring Information System

Age 10-16

County	2000 Discretionary	2000 Automatic	2000 Total	2005 Discretionary	2005 Automatic	2005 Total
Adams	0	0	0	0	0	0
Alexander	0	0	0	0	0	0
Bond	0	0	0	0	0	0
Boone	0	0	0	0	0	0
Brown	0	0	0	0	0	0
Bureau	0	1	1	0	0	0
Calhoun	0	0	0	0	0	0
Carroll	0	0	0	0	0	0
Cass	0	0	0	0	0	0
Champaign	0	1	1	0	3	3
Christian	0	0	0	0	0	0
Clark	0	0	0	0	0	0
Clay	0	0	0	0	0	0
Clinton	0	0	0	0	0	0
Coles	0	0	0	0	0	0
Cook	0	301	301	Data unavailable		
Crawford	0	0	0	4	0	4
Cumberland	0	0	0	0	0	0
DeKalb	0	0	0	0	0	0
DeWitt	0	0	0	0	0	0
Douglas	0	0	0	0	4	4
DuPage	13	0	13	0	0	0
Edgar	0	1	1	0	0	0
Edwards	0	0	0	1	0	1
Effingham	0	0	0	0	0	0
Fayette	0	0	0	0	0	0
Ford	0	0	0	0	0	0
Franklin	0	0	0	5	0	5
Fulton	0	0	0	0	0	0
Gallatin	0	0	0	0	0	0
Greene	0	0	0	0	0	0
Grundy	1	0	1	0	0	0
Hamilton	0	0	0	1	0	1
Hancock	0	0	0	0	0	0
Hardin	0	0	0	2	0	2
Henderson	0	0	0	0	0	0
Henry	0	0	0	0	0	0
Iroquois	0	0	0	0	0	0
Jackson	0	0	0	1	0	1
Jasper	0	0	0	0	0	0
Jefferson	0	0	0	16	0	16
Jersey	0	0	0	0	0	0
JoDaviess	0	0	0	0	0	0
Johnson	0	0	0	0	0	0
Kane	2	3	5	0	0	0
Kankakee	0	1	1	0	0	0
Kendall	0	0	0	0	0	0
Knox	0	0	0	0	0	0
Lake	0	0	0	1	3	4
LaSalle	2	0	2	0	0	0
Lawrence	0	0	0	1	0	1

Table 35: Number of youth transfers to adult criminal court, CY00 – CY05

County	2000 Discretionary	2000 Automatic	2000 Total	2005 Discretionary	2005 Automatic	2005 Total
Lee	0	0	0	0	0	0
Livingston	0	0	0	0	0	0
Logan	1	0	1	0	0	0
McDonough	0	0	0	0	0	0
McHenry	0	0	0	0	0	0
McLean	0	1	1	0	3	3
Macon	1	23	24	0	0	0
Macoupin	0	0	0	0	0	0
Madison	0	3	3	0	3	3
Marion	2	0	2	0	1	1
Marshall	0	0	0	0	0	0
Mason	0	0	0	0	0	0
Massac	0	0	0	0	0	0
Menard	0	0	0	0	0	0
Mercer	0	0	0	0	0	0
Monroe	0	0	0	0	0	0
Montgomery	0	0	0	0	0	0
Morgan	0	0	0	0	0	0
Moultrie	0	0	0	0	0	0
Ogle	0	0	0	0	1	1
Peoria	1	0	1	2	5	7
Perry	0	0	0	0	0	0
Piatt	0	0	0	0	0	0
Pike	0	0	0	0	0	0
Pope	0	0	0	0	0	0
Pulaski	0	0	0	0	0	0
Putnam	0	0	0	0	0	0
Randolph	0	0	0	0	0	0
Richland	0	0	0	7	0	7
Rock Island	0	0	0	0	1	1
St. Clair	3	0	3	0	1	1
Saline	0	0	0	0	0	0
Sangamon	1	5	6	0	0	0
Schuyler	0	0	0	0	0	0
Scott	0	0	0	0	0	0
Shelby	0	0	0	0	0	0
Stark	0	0	0	0	0	0
Stephenson	0	0	0	0	0	0
Tazewell	0	1	1	0	0	0
Union	0	0	0	0	0	0
Vermilion	0	1	1	1	1	2
Wabash	0	0	0	5	0	5
Warren	0	0	0	0	0	0
Washington	1	0	1	0	0	0
Wayne	0	0	0	1	0	1
White	0	0	0	1	0	1
Whiteside	0	0	0	0	0	0
Will	1	5	6	0	1	1
Williamson	0	0	0	0	0	0
Winnebago	1	1	2	3	2	5
Woodford	0	0	0	0	0	0
Total	30	348	378	52	29	81