Baltimore City
Juvenile Court Review

Transferred Youth from Adult System and Their Outcomes

September 2013

Juvenile justice report and data analysis prepared by
Advocates for Children and Youth
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Advocates for Children and Youth recently studied the use of reverse transfer for youth automatically charged as adults in Baltimore City. This policy paper will provide the background to this issue, what our study found, and our policy recommendations for a stronger and more just Maryland.

Background
Born out of the tough on crime movement of the late 1980s and 1990s, Maryland expanded an “adult time for adult crime” system that charges youth as adults for certain crimes.

If a youth is charged with one of 33 specified “exclusionary offenses”, they are automatically excluded from juvenile proceedings and charged, held, and processed through the adult criminal justice system. Once in the adult system, the youth has little-to-no access to the dispositional and rehabilitative options—i.e. vocational training and psychological supports—offered by the juvenile system. Furthermore, these youth are often held in adult facilities pending trial, putting them at risk of abuse.

One legal tool that allows youth to have their case heard by the juvenile justice system is a reverse transfer. If the youth can show that juvenile court jurisdiction is in the best interest of both the youth and society, a transfer can be granted to put the case in the juvenile justice system. This creates access to a list of services aimed at restoring and treating the juvenile as opposed to the punitive approach of the adult system.

In Baltimore City, we know that only 10% of youth charged as adults actually received sentences to an adult prison and that approximately two-thirds of youth charged as adults either had their cases dismissed or transferred into the juvenile system. What we did not know was what happened to those youth once they found themselves in the juvenile system. This study aimed to fill that gap.

The Study
Between January 1, 2009 and December 31, 2011, 907 youths were arrested and charged as adults in Baltimore City, of which 255 were granted transfer. This study examined a sample of 100 cases out of those 255 that received transfer (n=100).

Demographically, this study found that older, African-American, male teens made up the majority of those granted transfer. Two striking trends were identified regarding transfer in Baltimore City. First, the vast majority of youth that were granted transfer didn’t receive out-of-home commitments, which are ideally reserved for the tougher juvenile cases. Second, there was a stark difference between the initial, or “lead”, charges and the final adjudications.

Looking at all 100 of these cases, less than a third received out-of-home commitment for these charged excluded offenses, and 71% had their charges dismissed or received a community-based sanction. This study’s information is illustrative that the system’s needs are in community-based options and not out-of-home placement.

Further, comparing the initial charges at arrest to the final adjudication of these cases shows that there was a significant difference between the alleged crime at arrest and what was proven. This study found the top three charges were robbery with a weapon, 1. Of these 33 excluded offenses, 27 are felonies and 6 are misdemeanors.
attempted murder in the first degree, and first degree assault. These are compared to the top three final adjudications which were facts not sustained-charges dismissed, facts sustained-first degree assault, and facts sustained robbery. Of these outcomes, only first degree assault requires the automatic charging of a youth as an adult in Maryland.

The 33 exclusionary offenses are the difference between adult and juvenile proceedings, detention, and possible sanctions. It is the difference between a 60 day juvenile adjudication period and the average of 126 days spent in the adult justice system before receiving reverse transfer.

**Most Common Lead Charge at Arrest**

<table>
<thead>
<tr>
<th>Charge</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Attempted Murder 1st Degree</td>
<td>32%</td>
</tr>
<tr>
<td>Robbery with a weapon</td>
<td>16%</td>
</tr>
<tr>
<td>Assault 1st Degree</td>
<td>14%</td>
</tr>
</tbody>
</table>

**Most Common Adjudication Results**

<table>
<thead>
<tr>
<th>Status</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Facts Not Sustained: Dismissed</td>
<td>20%</td>
</tr>
<tr>
<td>Facts Sustained: Assault 1st Degree</td>
<td>14%</td>
</tr>
<tr>
<td>Facts Sustained: Robbery</td>
<td>11%</td>
</tr>
</tbody>
</table>

For the vast majority of youth in this study, this meant a longer time in detention and an increased likelihood of sexual and physical abuse as well as suicide. These are the implications of a criminal justice system that has automatic transfer laws.

**Recommendations**

1. **End Automatic Transfer of Youth**

   Ending the automatic transfer of youth in Maryland would expedite the justice process for these youth, reduce their risk of abuse in an adult facility, and—most importantly—increase their ability to access the rehabilitative treatment that they need. Further, ending automatic transfer would not limit a judge’s discretion from moving a truly difficult youth into the adult system. It would merely shift the burden to the State to prove why a youth should be treated like an adult.

   The implications of ending automatic transfer go further than the immediate needs of these youth. These implications include decreasing the likelihood of youth reoffending and saving the community money. One estimate found that for every dollar spent treating older teens in the juvenile justice system saved the criminal justice system three dollars. It makes no sense to continue the practice of automatic transfer when it is not working for the youth it effects or the society in which we live.

2. **Increase Access to Community-Based Programs**

   Most youth charged as adults are put back in their communities, as more youth receiving transfer are dismissed or sentenced to community-based programs rather than being placed in a committed facility. Instead of out-of-home placement options, the state can better serve many of these youth by continuing to support and expand evidence-based and trauma-informed community programs. We need to support a system in Maryland that works to rehabilitate these youth in their communities.

**Conclusion**

This study offers a new view to the ongoing failure of automatic transfer of youth in Baltimore City. We see that automatic transfer laws leave youth in Baltimore City in legal purgatory. This practice continues to delay youth from returning to their communities to serve their sentences and receiving much needed support services that are part of the rehabilitative process. The automatic transfer of youth creates unnecessary gridlock and juvenile trauma. Simply put, it needs to end.

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4 It is important to note that not all juveniles are in physical detention as some may have made bail pending their reverse transfer application being granted.

5 NEELUM ARYA, CAMPAIGN FOR YOUTH JUSTICE, JAILING JUVENILES: THE DANGERS OF INCARCERATING YOUTHS IN ADULT JAILS IN AMERICA (2007).

6 Gordon Bazemore & Mark Umbreit, Rethinking the Sanctioning Function in Juvenile Court: Retributive or Restorative Responses

7 Johnathan Roman, URBAN INSTITUTE, Assessing the Economic Consequences of Juvenile versus Adult Justice (July 2005).
Transferred Youth from Adult System and Their Outcomes

PROBLEM
Youth are being automatically transferred to the adult criminal system to be waived back to juvenile court after waiting nearly an entire school year.

WHO ARE THESE YOUTH?
- 90% were Male
- 10% were Female
- 89% were between the ages of 16-17
- 93% African American
- 4% Hispanic / Latino
- 3% White
- 1/5 reported a learning disability or were classified as a special education student

* Study conducted on 100 of 255 cases in which a reverse waiver was granted in the Baltimore City courts between January 1, 2009 and December 31, 2011.
**CHARGING A YOUTH AS AN ADULT MAKES A BIG DIFFERENCE IN THE LIFE OF A YOUTH**

Youth can spend the equivalent of almost an entire school year in the adult system before receiving a waiver back to the juvenile system.

Once there, they receive community placement or dismissal 7 out of 10 times.

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**AS YOUTH WAIT...**

- Higher risk of abuse
- Few support services
- Isolation from family

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**THE MAJORITY OF YOUTH GRANTED REVERSE TRANSFERS WERE NOT SENTENCED TO DETENTION CENTERS**

29% Out-of-home placement
51% Community Supervision
71% Dismissed

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**SOLUTION**

**END AUTOMATIC TRANSFER OF YOUTH**

- Expedites the justice process
- Reduces the risk of abuse
- Increases access to rehabilitative treatment
- Lowers the likelihood of some youth re-offending

**INCREASE ACCESS TO COMMUNITY-BASED AND TRAUMA-INFORMED PROGRAMS**

- Maintains family connections
- Provides access to educational and vocational programs
- Treats the root cause for delinquency and not just the symptoms
- Improves behavioral and emotional health
- Lowers the likelihood of some youth re-offending

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* Evidenced-based practice — “The breadth of research and knowledge around processes and tools which can improve correctional outcomes, such as reduced recidivism. Tools and best practices are provided with a focus on both decision making and implementation”. (National Institute of Corrections definition)

Trauma-informed programs — “A trauma-informed child- and family-service system is one in which all parties involved recognize and respond to the impact of traumatic stress on those who have contact with the system including children, caregivers, and service providers. Programs and agencies within such a system infuse and sustain trauma awareness, knowledge, and skills into their organizational cultures, practices, and policies.” (National Child Traumatic Stress Network definition)
EXECUTIVE SUMMARY

TRANSFERRED YOUTH FROM ADULT SYSTEM AND THEIR OUTCOMES

Born out of the tough on crime movement of the late 1980s and 1990s, Maryland expanded an “adult time for adult crime” system that charges youth as adults for certain crimes.

If a youth is charged with one of 33 specified “exclusionary offenses,” they are automatically excluded from juvenile proceedings and charged, held, and processed through the adult criminal justice system. Once in the adult system, the youth has no access to the treatment options—i.e. vocational training and psychological supports—offered by the juvenile system. Furthermore, these youth are held in adult facilities pending trial, putting them at risk of abuse.1

One legal tool that allows youth to have their case heard in the juvenile justice system is a transfer or reverse waiver. If the youth can show that juvenile court jurisdiction is in the best interest of both the youth and society, a transfer is granted to hear the case in the juvenile justice system.

In Baltimore City, we know that only 10 percent of youth charged as adults actually received sentences to an adult facility and that approximately two-thirds of youth charged as adults either had their cases dismissed or transferred to the juvenile system.2

What we did not know was what happened to those youth transferred to the juvenile system. Advocates for Children and Youth requested and was granted a court order to examine Baltimore City’s juvenile court files to help answer this question.

Advocates for Children and Youth examined a sample of 100 out of 255 cases transferred from adult to juvenile court dating from January 1, 2009 to December 31, 2011. Our findings show that the automatically charging youth as adults in Baltimore City is not working. When youth are transferred to the juvenile system, the following was observed:

- The majority of youth—71 percent—had their charges dismissed or received a community-based sanction like probation.
- The average wait for a youth’s case to be transferred to the juvenile court is 126 days—almost an entire school year. This compares to an entire juvenile court case, which takes no more than 60 days.
- The most common adult charges at initial arrest are significantly different from the most common results at disposition.

The data collected by ACY shows that the “tough on crime” approach championed by automatically charging youth as adults leaves these youth in legal purgatory. This practice delays youth from returning to their communities to serve their sentences and receiving support that is part of the rehabilitative process. The automatic charging of youth as adults, in many cases, creates unnecessary gridlock and trauma for the youth. Therefore, Advocates for Children and Youth recommends the following:

**End Automatic Prosecution of Youth as Adults**

Ending the automatic prosecution of youth in Maryland would expedite the justice process for these youth, reduce the risk of abuse in an adult facility, and—most importantly—increase their ability to access the rehabilitative treatment they need. Further, ending automatic prosecution would not limit a judge’s discretion from moving a truly difficult youth into the adult system, because state law would still allow a judge to transfer a youth from juvenile court to adult court. It would merely be the burden of the State to prove why a youth should be treated like an adult.

The implications of ending automatic prosecution go further than the immediate needs of these youth; it also lowers the likelihood of youth re-offending3 and saves the community money. One estimate found that for every dollar spent treating older teens in the juvenile justice system (older teens are disproportionality

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1 Marty Beyer et al., AMERICAN BAR ASSOCIATION JUVENILE JUSTICE CENTER, MORE THAN MEETS THE EYE: RETHINKING ASSESSMENT, COMPETENCY AND SENTENCING FOR A HARSHER ERA OF JUVENILE JUSTICE 1-22 (This study notes that youth in adult facilities are at greater risk for suicide, physical and sexual abuse than their counterparts in juvenile facilities); NEELUM ARYA, CAMPAIGN FOR YOUTH JUSTICE, JAILING JUVENILES: THE DANGERS OF INCARCERATING YOUTHS IN ADULT JAILS IN AMERICA 4 (2007).


3 Gordon Bazemore & Mark Umbreit, Rethinking the Sanctioning Function in Juvenile Court: Retributive or Restorative Responses to Youth Crime, 41CRIME & DELINQUENCY 29.
affected by automatic prosecution laws) saved the criminal justice system three dollars.\(^4\) It makes no sense to continue the practice of automatic prosecution when it is not working for the youth it affects or the society in which we live.

**Increase Access to Community-Based Programs**

Most youth charged as adults are returned to their communities. Youth who receive transfers have their cases dismissed or are sentenced to community-based programs instead of a committed facility. The State can better serve these youth by continuing to support and expand evidence-based and trauma-informed community programs. Specifically, these programs should focus on the 21215, 21213, and 21223 zip codes in Baltimore to properly serve the communities in which the youths reside. Additionally, those programs should prioritize providing mental health services, as our research shows that nearly half of all of the youth studied suffered from at least one diagnosed ailment. We need a support system in Maryland that works to rehabilitate these youth in their communities.

What follows are the figures regarding our research. This document is intended to give interested readers a greater insight into who is affected by transfer and the outcome of their experience in the juvenile system.

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\(^4\) Johnathan Roman, URBAN INSTITUTE, Assessing the Economic Consequences of Juvenile versus Adult Justice (July 2005).
THE RESEARCH UNIVERSE:

WHO THEY ARE

The sample of 100 cases had the following demographic composition:

- 93 percent were African-American, 4 percent Hispanic/Latino, and 3 percent White.
- 90 percent were male and 10 percent female.
- 89 percent were between the ages of 16-17 years old.

GENDER

n=100

90% MALE 10% FEMALE

AGE AT ARREST

n=100

PERCENTAGE OF YOUTH RECEIVING REVERSE WAIVER

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5 AMERICAN COMMUNITY SURVEY, 2009-2011 3-year Population Estimate.
WHERE THEY LIVE

More than one-third of the youth, or 36 percent, lived in the following three zip codes:

- **21216**: Mondawmin, Coppin Heights, Garwyn Oaks, Rosemont, and portions of the Sandtown-Winchester neighborhoods.
- **21223**: Franklin Square, Mt. Claire, Carrolton Ridge, Shipley Hill, Harlem Park, and portions of the Sandtown-Winchester and Pigtown neighborhoods.
- **21213**: Belair-Edison, Oliver, Broadway East, Clifton Park, and 4x4 neighborhoods.

EDUCATION LEVELS

Fifty percent of youth were in grades 9-11 when arrested on adult charges. In 35 percent of cases, the educational information was unavailable to researchers.
DAYS IN ADULT SYSTEM

Before being transferred to the juvenile system, a youth would spend a median average of 126 days in the adult system. Eighty-seven percent of the cases spent between 1-199 days in the adult system before being transferred to the juvenile court.

Analyzed another way, a youth can spend, on average, two-thirds of a school year in the adult system, be transferred to the juvenile system, and then receive a community placement or dismissal 7 out of 10 times.

In the 100 cases, 84 percent spent 100-299 days from time of arrest to placement or dismissal of charges with a mean average of 217 days and a median of 189.5 days.

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6 A mean average is the sum of numbers in a data set divided by the total data set. Median average is the “middle” value in the list of numbers in the data set. The median average representation is more accurate in both figures due to extreme outliers in our sample.
The most common lead charges at arrest were robbery with a weapon, attempted murder in the 1st degree, and assault in the 1st degree.

The most common results at disposition were facts not sustained-charges dismissed, facts sustained-assault in the 1st degree, and facts sustained-robbery.
This study found that only 29 percent of youth received an out-of-home placement; 51 percent received community supervision (examples include probation, community detention, community detention-electronic monitoring, house arrest, and GPS monitoring); and 20 percent had their cases dismissed.

Of the 51 youth receiving community supervision, 53 percent were placed on probation, 41 percent were placed on community detention, and 6 percent were placed on GPS monitoring.

- Of the youth receiving community supervision, 42 percent received community detention, 10 percent received community detention with GPS monitoring, 10 percent received community detention-electronic monitoring, 19 percent received community detention-electronic monitoring with GPS, and 19 percent received community detention-electronic monitoring total house arrest at disposition.

- Of the youth receiving community supervision, 14 percent violated the terms of the supervision and were subsequently placed out-of-home. Twelve percent of the youth receiving community supervision had their cases transferred to another county’s jurisdiction. The youth moved from community supervision to out-of-home placement after their initial disposition are not reflected in the out-of-home placement figures in the disposition results chart above.
PLACEMENT BY LOCATION

Of those youth receiving out-of-home placements, **55 percent** were placed in facilities outside of the state of Maryland. Future research should explore why youth are being sent out of state.

**OUT-OF-HOME PLACEMENT BY LOCATION**

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<table>
<thead>
<tr>
<th>Location</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Out-of-State</td>
<td>55%</td>
</tr>
<tr>
<td>In-State</td>
<td>45%</td>
</tr>
</tbody>
</table>
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REASONS FOR DISMISSAL OF CHARGES

The most common reasons for dismissal of charges were insufficient evidence and failure to meet the burden of proof.

**REASONS FOR DISMISSAL OF CHARGES**

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<table>
<thead>
<tr>
<th>Reason</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Insufficient Evidence</td>
<td>25%</td>
</tr>
<tr>
<td>State Fails to meet Burden of Proof</td>
<td>10%</td>
</tr>
<tr>
<td>Victim declined to prosecute</td>
<td>10%</td>
</tr>
<tr>
<td>Dismissal as part of another Adjudication</td>
<td>10%</td>
</tr>
<tr>
<td>State Dismissal Conditions completed as set</td>
<td>5%</td>
</tr>
<tr>
<td>Multiple Postponements</td>
<td>5%</td>
</tr>
</tbody>
</table>
```

**n=20**
Thirty-one offending youth faced an adult charge as their first arrest and charge.

- The mean average age of youth whose first charge was an adult charge was 16.48 years of age.
- 6 out of 10 females faced an adult charge as their first arrest and charge.
- 26 of the 93 Black youth, 3 of the 3 White youth, and 2 of the 4 Hispanic youth faced an adult charge as their first arrest and charge.
- The most common charges for youth in this category were robbery with a weapon, firearms possession, and attempted murder or assault.

The most common disposition results were probation, dismissal, and out-of-home placement.
More than half, or **57 percent**, of youth were detained pending adjudication. The numbers shift drastically after adjudication with slightly more than a quarter or **27 percent** being detained pending disposition. Our records did not clarify which facility held the youth.

Youth self-reported victimization in adult facilities while awaiting decisions on juvenile transfer in **five percent** of cases. **Sixty-one percent** of youth did not report abuse and information was unavailable for **34 percent**. Given the culture of retribution when reporting abuse, these figures suggest that the victimization may be underreported.\(^5\)

SPECIAL NEEDS AND PHYSICAL AND MENTAL HEALTH CHALLENGES

Roughly one in five youth was listed as a special education student or with a learning disability. Complete information was not available for all cases, therefore, these figures may be underreported.

Of the youth who received out-of-home placements, 41 percent were special education students and 31 percent had documented learning disabilities. One-quarter of the youth did not have special education information available and slightly less than one-third did not have learning disability information available.
SPECIAL NEEDS AND PHYSICAL AND MENTAL HEALTH CHALLENGES

Forty-six youth were diagnosed with a physical or mental health ailment of which 35 percent were diagnosed with three or more ailments.

PHYSICAL AND MENTAL HEALTH DIAGNOSES

n=46

- 35% One Diagnosis
- 22% Two Diagnoses
- 43% Three or more Diagnoses

PHYSICAL AND MENTAL HEALTH AILMENTS RECORDED

- Adjustment Disorder
- Adolescent Anti-Social Behavior
- Anger Management Disorder
- Anxiety
- Asthma
- Bi-Polar Manic Depression
- Conduct Disorder
- Disruptive Behavior Disorder
- Dysthymic Disorder
- Gestational Exposure to Narcotics
- Lead Toxicity
- Mental Retardation
- Oppositional Defiant Disorder
- Parental Abandonment
- PTSD
- Psychotic Disorder
- Sexual Abuse
- Substance Abuse
- Traumatic Brain Injury
CHILD WELFARE HISTORY

Slightly less than one-third of the youth had child welfare system history. Information was unavailable in 10 percent of the cases, so this number could potentially be higher. While our research did not delve extensively into dual involvement issues, it would be a prime place for a deeper look by another study.

PRIOR ARREST RECORDS AND RECIDIVISM RATES

Sixty-nine percent of youth in this study had a prior arrest record. Thirty-one percent received adult charges as their first arrest. Of those with a prior arrest, 55 percent had an arrest for a violent offense, and 54 percent for a non-violent offense. Of this study’s sample, 84 percent did not have a prior out-of-home placement.

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8 The offending youth may have more than one prior arrest.
Recidivism was monitored from January 1, 2009 through December 31, 2012. Slightly more than one-fifth, or 22 percent, of youth had a new juvenile arrest after their adult charge. Of those arrests, 12 percent resulted in a new adjudication and 11 percent in a new disposition in juvenile court.

Examining adult recidivism, includes both youth charged as adults and individuals 18 years and older. As with youth recidivism, roughly half of the arrests resulted in a new convictions and a new sentence. Future analysis should compare recidivism rates of those youth transferred from the adult system and those that stayed in the adult justice system through adjudication.

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9 This is one year longer than the study itself; for this study, only recidivism data was acquired after December 31, 2011.
NOTES ON THE STUDY

- There were a total of 255 cases of youth automatically charged as an adult that received transfer to the juvenile court system between January 1, 2009 and December 31, 2011, of which we sampled 100 cases. In other words, we sampled 39.2 percent of all possible cases using non-probabilistic sampling. Sampling consisted of an even distribution across the calendar year for all three years of available data. While 255 cases is a small population, the sample population was large enough that the ratios allow for reasonable conclusions across the entire population.

- Educational attainment data was either self-reported by the youth or obtained through Counseling, Medication, and Education and Treatment (CMET) evaluations that were conducted.

- Only one jurisdiction was examined for this study. Therefore, it is difficult to draw general conclusions about transfer of youth from the adult to juvenile system across Maryland. Subsequent research should attempt to compare multiple jurisdictions.

- Conducting research in only one jurisdiction limited accessibility to certain records which include:
  - Disposition data for youth who had their cases transferred to another jurisdiction.
  - Previous arrest records for infractions occurring in other jurisdictions.
  - Recidivism figures for youth arrested outside of Baltimore City.
REFERENCE TERMS

**Adjudication:** “Proceeding before a juvenile judge or master to determine the truth of allegations made against a youth”\(^9\). The term “adjudicated” is analogous to “convicted” in the adult system in Maryland and indicates that the court concluded the youth committed the alleged criminal act.

**Community Supervision:** For the purpose of this study, the following fall under “community supervision”: probation, community detention, community detention with electronic monitoring, community detention with electronic monitoring and global position system, total house arrest, and total house arrest with global position system.

**Disposition:** “The action taken by the juvenile court that outlines whether the youth requires guidance, treatment, or rehabilitation”\(^11\). This phase of a delinquency proceeding is similar to the sentencing phase of an adult trial in Maryland.

**Facts Sustained:** The court finds the youth guilty of their criminal charges.

**Youth:** Persons 14, 15, 16, and 17 years of age.

**Non-Violent Offense:** Trespassing, burglary, theft (including motor vehicle), malicious destruction and property crimes, or any other crimes involving drugs or property.

**Out-of-Home Placement:** Any committed sanction requiring the youth’s removal from her/his home.

**Recidivism:** For this study, recidivism refers to the act of being rearrested for a crime within one year of disposition either in the adult or juvenile criminal justice system.

**Violent Offense:** Murder, attempted murder, rape, attempted rape, sexual assault, assault, carjacking, armed robbery, robbery or any other crimes against persons\(^12\).

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9. **LYNETTE HOLMES ET AL., MARYLAND DEPARTMENT OF JUVENILE SERVICES, DATA RESOURCE GUIDE FISCAL Year 2012 vi (2012).**

10. Id.

11. Classification mirrors the FBI’s Uniform Crime Report definition of violent crime.
ADVOCATES FOR CHILDREN AND YOUTH

is a statewide non-profit focused on improving the lives and experiences of Maryland’s children through policy change and program improvement. We champion solutions to child welfare, education, health, and juvenile justice issues, positioning us to influence the full spectrum of youth experiences. This multi-issue platform helps us to improve the entirety of children’s worlds—the systems they touch, the people they interact with, and the environment where they live. You can learn more at www.acy.org.

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