

No. 127815

IN THE

SUPREME COURT OF ILLINOIS

PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the Appellate Court of Illinois, No. 1-19-1086.
)	
Plaintiff-Appellant,	)	There on appeal from the Circuit Court of Cook County, Illinois , No. 16 CR 10202.
-vs-)	
)	
DEMETRIUS GRAY,)	Honorable Mary Margaret Brosnahan, Judge Presiding.
Defendant-Appellee.)	

BRIEF AND ARGUMENT FOR DEFENDANT-APPELLEE

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ISSUES PRESENTED FOR REVIEW

- I. Whether an offense committed when Mr. Gray was 17 years old is a predicate conviction under the armed habitual criminal statute, where a 17-year-old would not be tried in adult court for that offense at the time of Mr. Gray's armed habitual criminal arrest.

- II. Whether the State's remaining claims are forfeited, because they were not raised below, and meritless, because Mr. Gray's claim is neither barred nor irrelevant.

STATUTES AND RULES INVOLVED**705 ILCS 405/5-120 (2016) – Exclusive Jurisdiction**

Proceedings may be instituted under the provisions of this Article concerning any minor who prior to his or her 18th birthday has violated or attempted to violate, regardless of where the act occurred, any federal, State, county or municipal law or ordinance. Except as provided in Sections 5-125, 5-130, 5-805, and 5-810 of this Article, no minor who was under 18 years of age at the time of the alleged offense may be prosecuted under the criminal laws of this State.

The changes made to this Section by this amendatory Act of the 98th General Assembly apply to violations or attempted violations on or after the effective date of this amendatory Act.

720 ILCS 5/24-1.7(a) (2016) – Armed Habitual Criminal

(a) A person commits the offense of being an armed habitual criminal if he or she receives, sells, possesses, or transfers any firearm after having been convicted a total of 2 or more times of any combination of the following offenses:

(1) a forcible felony as defined in Section 2-8 of this Code;

(2) unlawful use of a weapon by a felon; aggravated unlawful use of a weapon; aggravated discharge of a firearm; vehicular hijacking; aggravated vehicular hijacking; aggravated battery of a child as described in Section 12-4.3 or subdivision (b)(1) of Section 12-3.05; intimidation; aggravated intimidation; gunrunning; home invasion; or aggravated battery with a firearm as described in Section 12-4.2 or subdivision (e)(1), (e)(2), (e)(3), or (3)(4) of Section 12-3.05; or

(3) any violation of the Illinois Controlled Substances Act or the Cannabis Control Act that is punishable as a Class 3 felony or higher.

STATEMENT OF FACTS

In 2002, when Demetrius Gray was 17 years old, he was charged with and convicted of Class 1 manufacture or delivery of a controlled substance. (Sec C. 33, 246). Fourteen years later, in 2016, the State used Mr. Gray's 2002 case to elevate his original Class 3 unlawful use of a weapon by a felon charge (Sec C. 54) to a Class X armed habitual criminal charge:

“Demetrius Gray committed the offense of armed habitual criminal in that he, knowingly or intentionally possessed a firearm, to wit: Cobra 380 caliber semi-automatic, after having been convicted of unlawful use of a weapon by a felon, under case number 07CR2070201, and manufacture/delivery of a controlled substance, under case number 02CR0277401, in violation of Chapter 720 Act 5 Section 24-1.7(a) of the Illinois Compiled Statutes 1992 as amended[.]” (Sec C. 33).

He was convicted by a jury and sentenced to nine years in prison, to be followed by a three-year term of mandatory supervised release (MSR). (C. 228; Sec C. 195; R. 569; Sup R. 44).

On direct appeal, the appellate court reversed Mr. Gray's conviction, finding that the State failed to prove that his 2002 offense, committed when he was 17 years old, “[was] punishable’ as a felony as of the date of [his] firearm possession in 2016.” *People v. Gray*, 2021 IL App (1st) 191086, ¶ 16.

The State filed a petition for leave to appeal (PLA) with this Court. In its PLA, the State argued that the appellate court's decision resulted in a retroactive application of the Juvenile Court Act amendment defining exclusive juvenile court jurisdiction and that Mr. Gray's 2002 offense was a valid qualifying prior conviction under the plain language of the armed habitual criminal statute.

Pretrial Proceedings

Although Mr. Gray had initially rejected the State's six-year offer in exchange for a guilty plea, he informed the trial court on the day his trial was set to begin that he wanted to accept the offer. (C. 147-48; R. 192-93, 207-08). After admonishing Mr. Gray, during which he told the court that he understood the rights he gave up by pleading guilty and that he entered into the plea willingly, the court found his plea knowing and voluntary. (R. 217-26). After the State provided a factual basis for the plea (R. 227-28), Mr. Gray asked for it to be repeated. (R. 229). After Mr. Gray and his attorney spoke off the record, his attorney explained that Mr. Gray had been confused about an allegation in the factual basis; the State offered to retract the statement, as it was not necessary for the factual basis or the plea. (R. 229-30).

Mr. Gray again asked the State to reread the factual basis, and again spoke to his attorney off the record. (R. 231). When they returned, the court said, "Mr. Gray, you know, it seems to me—and I'm going to be very honest with you. It seems to me that you don't really want to plead guilty. So we are going to go to trial." (R. 231). When Mr. Gray tried to address the court, the court said, "I am done now. I am done"; that it would not accept a plea; and that the parties were going to proceed to a jury trial. (R. 231-32). It said its decision was "not any kind of vindictive choice on the [c]ourt's part." (R. 243).

Jury selection began and concluded that same day, and Mr. Gray's case was continued for his trial to start the next morning. (C. 150; R. 244-398). Before the jury was brought out the next day, Mr. Gray asked the court

to reopen his plea; the court refused, and reiterated that its decision was not vindictive. (R. 408-410). The jury was then brought out and sworn. (R. 412).

Jury Trial

The State called four witnesses: Chicago police officers Fernando Moctezuma and Matthew Moore, Detective Kenneth Kamien, and evidence technician Robert Franks. Moctezuma and Moore testified that around 9 p.m. on June 20, 2016, they were driving near 73rd Street and Paulina when they saw a group of people yelling and waving to get their attention. (R. 427-29, 469-71). They stopped and spoke to a man and a woman from the group, who both pointed toward a car that was parked on the street and told the officers that someone in the car had a gun. (R. 430, 471).

The officers parked and walked toward the car. (R. 431, 472-73). Moctezuma testified that the front passenger door was open and that he saw a man in that seat moving toward the glove box. (R. 431-33). The officers identified Demetrius Gray as that man. (R. 432-33, 473). After Mr. Gray got out of the car, he was handcuffed and patted down. (R. 433-34, 474). When Moctezuma went back to the car, he saw a woman in the driver's seat and children in the backseat, and he found a small gun in the glove box. (R. 434-35, 475). Mr. Gray was arrested and brought to the police station. (R. 435-46, 476).

Both officers testified that Mr. Gray waived his *Miranda* rights and made a statement. (R. 436, 477-78). They said that Mr. Gray told them that

he had found the gun a couple of days prior and that he was planning to turn it in to St. Sabina in exchange for money. (R. 437, 478).

Detective Kamien testified that Mr. Gray told him that he saw some men put a gun in an alley near 70th and Bishop Streets, and that he took it to turn in to Father Pflieger for \$100. (R. 484). Kamien also said that Mr. Gray told him that he and some family members had gone to the beach for the day, and so he left the gun at his father's house. (R. 484-85). After the beach, Mr. Gray's girlfriend drove him back to his father's house to get the gun. (R. 485). Once he got the gun, he put it in his waistband and walked back to his girlfriend's car. (R. 485). Before he got to the car, however, he got into a verbal and physical altercation with someone in front of the house, during which his shirt lifted and exposed the gun in his waistband. (R. 485-86). Kamien testified that Mr. Gray told him he then went to the car and put the gun in the glove box. (R. 486-87).

Neither interview was video or audio recorded, Mr. Gray did not write out any statements, and he was not given an opportunity to review or sign any statements prepared on his behalf. (R. 457-60, 479, 488-89).

Evidence technician Franks, declared an expert in the field of forensic latent print recovery and preservation, testified that no fingerprints had been found on the gun. (R. 500-01, 510-11).

The State then presented a stipulation that read:

“It is hereby stipulated by and between the parties that the defendant, Demetrius Gray, has two prior qualifying felony convictions for the purposes of sustaining the charge of armed habitual criminal.” (R. 512).

During Mr. Gray's case-in-chief, his attorney introduced a stipulation that the car in which the arresting officers first saw Mr. Gray was registered to Sharita Williams. (R. 529). Mr. Gray chose not to testify on his behalf, and the defense rested. (R. 519, 529).

The jury found Mr. Gray guilty of armed habitual criminal. (Sec C. 195; R. 569).

Post-Trial Proceedings

Trial counsel filed a motion for new trial, and new post-trial counsel filed a supplemental motion for new trial; the court denied both motions. (C. 209-15; Sec C. 237-39; R. 587, 825).

At Mr. Gray's sentencing hearing, post-trial counsel presented a 26-page mitigation packet to the court, which included six letters of support from Mr. Gray's family and friends, one letter of support from a doctor at the Cook County Jail, and one letter of support from a Cook County Jail mental health specialist. (Sup R. 16-17). Counsel also made arguments in mitigation, informing the court that as a child, Mr. Gray had been physically abused by his mother until the Department of Children and Family Services removed him from her care. (Sup R. 24-25). After Mr. Gray was placed with his grandmother, he grew up in a "gang war zone[,]” was bullied by his classmates, and struggled in school. (Sup R. 25-26).

Counsel told the court that, while incarcerated pending his trial, Mr. Gray had received prolonged mental health counseling and treatment, participated in anger management classes, and attended biweekly group

therapy sessions. (R. 28-29). Counsel argued that these developments showed Mr. Gray's rehabilitation, and requested the minimum sentence of six years in prison. (Sup R. 31-32).

The court sentenced Mr. Gray to nine years in prison, followed by three years of MSR. (C. 228; Sup R. 44).

Direct Appeal

Mr. Gray contended on direct appeal that, among other things, the State failed to prove him guilty beyond a reasonable doubt because his 2002 offense for the manufacture or delivery of a controlled substance, committed when he was 17 years old, would have resulted in an adjudication in juvenile court at the time of his 2016 arrest, and therefore was not a qualifying predicate conviction under the armed habitual criminal statute. *Gray*, 2021 IL App (1st) 191086, ¶¶ 8-9. The appellate court agreed:

“Here, the prosecution showed that Gray had two prior felony convictions on his record, but for the conviction for delivery of narcotics, the prosecution did not show that the conviction was for conduct that ‘is punishable’ as a felony as of the date of the firearm possession in 2016. Because the prosecution failed to prove the two prior convictions of the kind required to show a violation of the armed habitual criminal provision of the Criminal Code, we reverse the conviction for violation of the armed habitual criminal provision of the Criminal Code.” *Id.* ¶ 16.

The State filed a petition for leave to appeal on October 27, 2021, requesting in the alternative that this Court hold the case in abeyance pending its decision in *People v. Stewart*, No. 126116. (St. PLA 11). This Court allowed the State's PLA on November 20, 2022.

ARGUMENT

- I. **Mr. Gray's 2002 drug offense was not a qualifying predicate conviction under the armed habitual criminal statute because he was 17 years old at the time that offense was committed, and a 17-year-old would not be tried in adult court for that offense at the time of Mr. Gray's arrest for this case in 2016. The State therefore failed to prove him guilty of being an armed habitual criminal beyond a reasonable doubt.**

In order to obtain a conviction for armed habitual criminal (AHC) in this case, the State had to prove that Mr. Gray had previously been convicted of unlawful use of a weapon by a felon and the manufacture or delivery of a controlled substance. (Sec C. 33); 720 ILCS 5/24-1.7(a) (2016). Mr. Gray's offense for the manufacture or delivery of a controlled substance occurred in 2002, when he was 17 years old. (Sec C. 243, 246; R. 512). Because he was 17 years old at the time of that offense, he would have been tried and adjudicated as a juvenile under current law, and his drug offense is therefore not a qualifying conviction under the AHC statute.

As the State concedes, the plain language of the AHC statute uses the present tense (St. Br. 23-24), requiring prior offenses to be qualifying predicate convictions under the *current* law. 720 ILCS 5/24-1.7(a). Accordingly, consistent with the decision below, this Court should affirm the appellate court's holding and reverse Mr. Gray's conviction. *People v. Gray*, 2021 IL App (1st) 191086, ¶¶ 15-16.

Whether Mr. Gray's 2002 offense constitutes a qualifying predicate conviction under the AHC statute involves a question of statutory

construction. As such, it is a question of law subject to *de novo* review. *People v. Stewart*, 2022 IL 126116, ¶ 13; *People v. Baskerville*, 2012 IL 111056, ¶ 18.

A. The State concedes not only that the armed habitual criminal statute requires prior offenses to qualify as predicates under the current law, but also concedes that the purpose behind this requirement is to take into account society’s evolving attitudes and approaches to the criminal justice system.

The State concedes that: (1) the AHC statute uses the present tense; (2) the use of the present tense indicates that the analysis must focus on current law; and (3) the purpose of the present tense was to take into account society’s evolving attitudes toward crime and punishment:

“To be sure, as the appellate court noted, subparagraph 3 uses *the present tense* in the phrase ‘is punishable as a Class 3 or higher felony’ violation of the drug statutes. *Gray*, 2021 IL App (1st) 191086, ¶ 11.

* * *

[T]he use of the present tense ‘is’ means that *the analysis focuses on the current version* of the Controlled Substances Act and Cannabis Control Act. By focusing on the current version of those statutes, *the legislature allowed for the fact that society’s attitudes towards drugs can change over time*. See, generally, *People v. Stribling*, 2022 IL App (3d) 210098, ¶ 17 (discussing changes to Illinois drug laws over the last decade, and noting some offenses are no longer crimes and the felony classifications of some drug offenses have been downgraded). Therefore, for example, the legislature intended to allow for the possibility that *if a defendant was once convicted of a Class 3 drug offense, but that same offense is later statutorily re-classified as a Class 4 felony, the prior conviction would not be considered a qualifying prior conviction.*” (St. Br. 23-24) (emphases added).

Like society’s attitudes toward certain drugs, society’s attitudes toward juvenile brain development and culpability have also changed over time.

Courts now more routinely recognize that “a child’s character is not as ‘well

formed’ as an adult’s; his traits are ‘less fixed’ and his actions less likely to be ‘evidence of irretrievabl[e] deprav[ity]’; and that juveniles thus have “greater prospects for reform.” *Miller v. Alabama*, 567 U.S. 460, 470-71 (2012) (alterations in original) (quoting *Graham v. Florida*, 560 U.S. 48, 68 (2010)).

For this reason, as the appellate court has noted,

“there are powerful reasons to discount or disregard some or most juvenile convictions once the individual becomes an adult. First, on risk-related grounds the juvenile prior is likely to be less probative of re-offending, simply through the passage of time. Second, from a retributive perspective, juveniles are universally deemed to be less culpable than adult offenders convicted of crimes of comparable seriousness. Indeed, the Supreme Court has found that [t]hird, the transition to adulthood should offer individuals an opportunity to shed their juvenile criminal transgressions, unless these are clearly predictive of further offending.” *People v. Johnson*, 2022 IL App (1st) 201034-U, ¶ 22¹ (quoting Robina Institute of Criminal Law and Criminal Justice, *Should Juvenile Prior Crimes Count Against Adult Offenders? What does the Public Think?* (Apr 14, 2017), available at <https://robinainstitute.umn.edu/articles/should-juvenile-prior-crimes-count-against-adult-offenders-what-does-public-think>).

And the public agrees: “For certain offenses at least, the public support disregarding prior crimes when they were committed when the offender, now an adult, was a juvenile.” Robina Institute,² *supra*.

Notably, the legislature voiced similar rationales when amending the Juvenile Court Act: “we need to ensure that we have systems in place that

¹ This unpublished decision has been attached to the appendix of this brief, as required by Illinois Supreme Court Rule 23(e)(1).

² The Robina Institute of Criminal Law and Criminal Justice is a nonpartisan research institute at the University of Minnesota Law School that is committed to a fair, effective, and accountable criminal justice system.

protect those who are young and do things out of...out of maybe naiveté or stupidity versus them who do things out of malice or violence. * * * [T]here are times when Illinois has to join the chorus of what states are doing in terms of criminal justice and ensure that we are creating accurate safeguards.” 98th Ill. Gen. Assem., House Proceedings, Apr. 16, 2013, at 55³ (statements of Representative Zalewski). The amendment was also meant to provide “a chance to change these kid[s]’ lives. They make mistakes. [The legislature would] rather not have them going to the criminal court house in Cook County or DuPage County, Lake County on that first felony which is a burglary where they’ve made a terrible mistake.” 98th Ill. Gen. Assem., House Proceedings, April 16, 2013, at 54-55 (statements of Representative Durkin).

Contrary to the State’s insinuation, it is not just subsection 3 of the AHC statute that contemplates the law as it currently stands. (St. Br. 21-24). The use of the phrases “as defined” and “as described,” without the additional qualification of “at the time of the offense,” indicates that those offenses should be evaluated as they are defined and described in the Illinois Criminal Code as it *is* written, not as it *was* written. See *People v. Dawson*, 2022 IL App (1st) 190422, ¶ 47 (“[A]s defined’ means as presently defined.”) The AHC statute references various parts of the Code. 720 ILCS 5/24-1.7(a). Because this Court “presumes that the legislature did not intend to create absurd,

³ Mr. Gray uses the pagination reflected in the copy of this debate’s transcript available at <http://www.ilga.gov>.

inconvenient, or unjust results” (*People v. Jackson*, 2011 IL 110615, ¶ 12), it would be illogical to interpret the statute as applying the Criminal Code as it existed at various points in its history. In other words, it would be absurd, inconvenient, and unjust for a court to use the current statutory language from the AHC statute, the forcible felony statute, the unlawful use of a weapon by a felon statute, and, as the State points out, the Controlled Substances Act, but use the outdated and abrogated juvenile court statute. The plain language of the present tense language indicates that the relevant moment in time is now—that is, the time when the current offense of AHC was committed.

B. Under the plain language of the armed habitual criminal statute, Demetrius Gray’s 2002 offense did not qualify as a predicate Class 1 felony conviction because in 2016, the manufacture or delivery of one to 15 grams of cocaine by a 17-year-old was under the exclusive jurisdiction of the Juvenile Court.

When the State charged Demetrius Gray under the AHC statute in 2016, it had to prove that Mr. Gray had previously been convicted of the two predicate felonies specified by the indictment: unlawful use of a weapon by a felon and manufacture or delivery of a controlled substance. (Sec C. 33); 720 ILCS 5/24-1.7(a) (2016). However, because Mr. Gray was arrested for the manufacture or delivery of a controlled substance in 2002, when he was 17 years old, that offense cannot be a “conviction,” as he would have been tried and adjudicated as a juvenile under current law. (Sec C. 246). Mr. Gray’s 2002 offense is thus not a qualifying conviction under the AHC statute. Accordingly, the State failed to prove Mr. Gray had the prior qualifying

convictions necessary to convict him of armed habitual criminal, and this Court should affirm the lower court's opinion. *Gray*, 2021 IL App (1st) 191086.

This Court has held that when interpreting a statute, the court's "primary objective is to ascertain and give effect to the intent of the legislature." *People v. Molnar*, 222 Ill. 2d 495, 518 (2006); *Baskerville*, 2012 IL 111056, ¶ 18. The language of the statute is the best indicator of intent. *People v. Taylor*, 221 Ill. 2d 157, 162 (2006). A clear and unambiguous statute will be applied without the use of aids of statutory construction. *Molnar*, 222 Ill. 2d at 518-19. Courts should not, "under the guise of statutory interpretation, remedy an apparent legislative oversight by rewriting a statute in a way that is inconsistent with its clear and unambiguous language." *Taylor*, 221 Ill. 2d at 162-63. Furthermore, criminal and penal statutes should "be strictly construed in favor of the accused, and nothing should be taken by intendment or implication beyond the obvious or literal meaning of the statute." *Id.* at 162 (quoting *People v. Laubscher*, 183 Ill. 2d 330, 337 (1998)).

The AHC statute requires someone to have been twice previously convicted of "(1) a forcible felony *as defined* in Section 2-8 of *this* Code; (2) [any of several named offenses] *as described* in [various Sections of this Code]; or (3) any violation of the Illinois Controlled Substances Act or the Cannabis Control Act that *is punishable* as a Class 3 felony or higher." 720 ILCS 5/24-1.7(a) (emphases added). Because the predicate conviction element

in all three subsections is written in the present tense, the qualifying conviction is defined by its statutory classification at the time of the *current* offense, under the *current* Criminal Code, not at the time of the predicate offense enumerated in a prior version of the Code. See, e.g., *Goodman v. Ward*, 241 Ill. 2d 398, 408 (2011) (finding that “[t]he word ‘is’ indicates present tense, indicative mood[,]” and so the legislature’s use of the phrase “is qualified for the office specified” means candidates must be qualified at the time they submit their statements of candidacy); *Dawson*, 2022 IL App (1st) 190422, ¶ 47 (“‘[A]s defined’ means as presently defined.”)

When Demetrius Gray was just 17 years old, he pled guilty to a Class 1 felony drug offense, the manufacture or delivery of one to 15 grams of cocaine.⁴ (Sec C. 246); 720 ILCS 570/401(c)(2) (2002). At that time, a 17-year-old charged with a felony was tried and convicted in adult court. 705 ILCS 405/5-120 (2002); 705 ILCS 405/5-130(8) (2002). Effective in 2014, however, the legislature changed the definition of “juvenile” for purposes of criminal prosecution: “Except as provided in Sections 5-125, 5-130, 5-805, and 5-810 of this Article, no minor who was under 18 years of age at the time of the alleged offense may be prosecuted under the criminal laws of this State.” 705 ILCS 405/5-120 (2014); Pub. Act 98-61 (eff. Jan. 1, 2014). In 2016, the

⁴ The Cook County Clerk of the Circuit Court’s computer system shows the specific offense to which Mr. Gray pled guilty under case number 02CR0277401. A case summary showing this is attached to this brief’s Appendix, and Mr. Gray asks this Court to take judicial notice of these public court documents. See, e.g., *May Dep’t Stores Co. V. Teamsters Union Local No. 743*, 64 Ill. 2d 153, 159 (1976) (court may take judicial notice of court documents).

manufacture or delivery of a controlled substance was not one of the enumerated offenses that automatically transferred to adult court. 705 ILCS 405/5-130(1)(a) (2016). Thus, under the law in effect at the time of Mr. Gray's arrest in this case on June 10, 2016, a 17-year-old charged with a drug offense was tried as a juvenile. 705 ILCS 405/5-130 (2016); 705 ILCS 405/5-130(8) (2016). Such an offense, then, cannot result in a predicate "conviction" under the armed habitual criminal statute. See *Taylor*, 221 Ill. 2d at 176-78 (a juvenile adjudication is not a "conviction").

The plain language of the statute requiring offenses to qualify under the *current* law comports with the legislature's purpose in enacting the armed habitual criminal statute. See *Baskerville*, 2012 IL 111056, ¶ 18. Courts have repeatedly held that the legislature's intent in creating this offense was to punish an offender, not for his *past* crimes, but for his *current* offense, and according to his *current* level of dangerousness. See, e.g., *People v. Davis*, 408 Ill. App. 3d 747, 751-52 (1st Dist. 2011) (collecting cases finding "that the armed habitual criminal statute does not punish a defendant for his prior convictions, but rather for a new and separate subsequent crime"). The prior-conviction element was the tool the legislature used to define the class of persons whose possession of a firearm *now* is a Class X offense. *Id.* Because the statute punishes offenders based on their current level of dangerousness, as established by their prior offenses, it follows that the dangerousness of the offender is determined by the *current* classification of those prior offenses.

Because a juvenile’s brain is still developing at 17 years old, a prior offense committed at that age should not be a factor in determining his *current* level of dangerousness. In 2002, Mr. Gray, like all 17 year olds, likely relied “on [his] amygdala, an area of the brain associated with strong negative emotions, impulsive and aggressive behaviors, ‘fight or flight’ responses, and the production of rapid protective responses without conscious participation.” See Brief of *Amici Curiae* Juvenile Law Center and Child and Family Justice Center in Support of Defendant-Appellee at 6, *People v. Stewart*, 2022 IL 126116. Indeed, it is these characteristics that make juveniles “more capable of change than are adults, and their actions [] less likely to be evidence of ‘irretrievably depraved character’ than are the actions of adults.” *Graham*, 560 U.S. at 68 (quoting *Roper v. Simmons*, 543 U.S. 551, 570 (2005)). Prior offenses committed as a juvenile are therefore not indicative of an adult’s current level of dangerousness.

The State’s comparisons to the federal Armed Career Criminal Act are unavailing. It claims that “the legislative history of the AHC [statute] demonstrates that the General Assembly did not intend to impose an age limit on qualifying offenses[,]” and that “the legislature expressly looked to federal law, including the Armed Criminal Career Act (ACCA).” (St. Br. 33). It then immediately contradicts its own argument by citing to federal cases holding that certain juvenile adjudications qualify as predicate convictions under the ACCA. (St. Br. 33-34). But unlike federal law, “Illinois cases have specifically held that *juvenile adjudications do not constitute convictions*.”

Taylor, 221 Ill. 2d at 164 (emphasis added) (citing *In re W.W.*, 97 Ill. 2d 53, 57 (1983) and *People v. Rankin*, 297 Ill. App. 3d 818, 824 (4th Dist. 1998)). Illinois therefore requires statutes to explicitly include adjudications in order for such offenses to qualify as predicates. *Taylor*, 221 Ill. 2d at 176. The legislature knows how to make adjudications qualify as predicate offenses. See, e.g., 720 ILCS 5/24-1.6(a)(3)(D) (“the person possessing the weapon was previously adjudicated a delinquent minor under the Juvenile Court Act of 1987 for an act that if committed by an adult would be a felony”). It did not do so here. 720 ILCS 5/24-1.7(a). To conclude otherwise would be to read the word “adjudication” into the statute, which this Court has prohibited. See *Baskerville*, 2012 IL 111056, ¶ 18.

The State further contends that an offense “punishable” as a Class 3 felony or higher under the Controlled Substances Act “does ‘not mean [a crime] which must be’ so punished, but instead ‘one which *might* be’ so punished.” (St. Br. 22-23) (alteration and emphasis in original) (quoting *People v. Munday*, 293 Ill. 191, 204-05 (1920)). However, taking the State’s definition of “punishable” to its logical conclusion, any person aged 13 or older charged with manufacturing or delivering one to 15 grams of cocaine *might* be convicted of a Class 1 felony in adult court, even if in reality all proceedings occurred in juvenile court. See 705 ILCS 405/5-805(3) (2016) (any minor aged 13 or older may be discretionarily transferred to criminal court, regardless of the charge, if the juvenile court finds probable cause to believe that the allegations are true and that it is not in the public’s best interest to

proceed in juvenile court). But as discussed above, the AHC statute does not allow juvenile adjudications to qualify as prior offenses, so any offense that *might* be punished as a Class 1 felony under the Controlled Substances Act cannot be used as a predicate, even under the State’s broad definition of “punishable.”

The State’s other arguments—many of which are a rehash of arguments the State made in its briefs in *Stewart*—are similarly unavailing.

It claims that Mr. Gray advocates for retroactive application of the Juvenile Court Act amendment. (St. Br. 27-28). This is not true. Mr. Gray acknowledges that the amendment did not apply retroactively to matters no longer pending in the trial court, and never argued otherwise. See 705 ILCS 405/5-120 (2014); *People v. Richardson*, 2015 IL 118255, ¶ 10. But because the AHC statute looks to the state of the law *at the time of the current offense*, it does not matter that the 2014 amendment was not retroactive. The statute looks to whether someone has been convicted of an offense that is *currently* punishable as a Class 3 felony or higher under the Controlled Substances Act, not whether he was convicted of an offense that, at the time of that offense, was classified as a Class 3 felony or higher under the Act. 720 ILCS 5/24-1.7(a)(3) (2016).

For these reasons, Mr. Gray’s argument does not rest on “a sleight of hand[,]” and the State’s reliance on *Richardson* is misplaced. (St. Br. 27). Just as it would not be deceptive to challenge, as the State conceded, a prior Class 3 drug offense that has been “statutorily re-classified as a Class 4

felony”—because we look to the *current* law—it is not deceptive to challenge a prior Class 1 drug offense that would now be adjudicated in juvenile court. (St. Br. 24). Thus, contrary to the State’s claim, whether the Juvenile Court Act amendment only applies prospectively has no impact on the armed habitual criminal statute. (St. Br. 27-28).

The State made this same retroactivity argument in its reply brief in *Stewart*.⁵ Compare (St. Br. 27-28) with (*Stewart*, Rep. Br. 10-11). But this Court affirmed the appellate court’s judgment, holding that Stewart’s felony burglary offense, committed when he was 17 years old, was not a qualifying predicate conviction under the Class X recidivism sentencing provision. *Stewart*, 2022 IL 126116, ¶ 22. Although the dissent addressed the State’s argument (*Stewart*, 2022 IL 126116, ¶¶ 33-34 (Overstreet, J., dissenting)), the majority did not; this Court was therefore not persuaded by the State’s argument in *Stewart*, and the State provides no reason for this Court to find it persuasive here.

Furthermore, the State’s claim that the appellate court added a “complicated, multifaceted jurisdictional element” requiring the State to prove the age of the defendant fails. (St. Br. 23-24). Jurisdiction and age are not at issue here—rather, the question is whether a finding of guilt on a prior offense would constitute an adjudication or a conviction. Age and jurisdiction

⁵ Although not published, this Court can take judicial notice of the parties’ briefs in *Stewart*, as they are court documents. See, e.g., *People v. Glasper*, 234 Ill. 2d 173, 190 (2009) (taking judicial notice of the briefs and the issues presented therein in *People v. Zehr*, 103 Ill. 2d 472 (1984)).

may be components of this consideration, but they are not elements that the State must prove beyond a reasonable doubt.

Jurisdiction is not an element of the offense because “[w]hether a person is to be tried in juvenile or criminal court is *procedural rather than jurisdictional*. [citations omitted]. The juvenile court is merely a division of the circuit court system, and it is the circuit court which is vested with jurisdiction over all criminal defendants.” *People v. Arnold*, 323 Ill. App. 3d 102, 108 (1st Dist. 2001) (emphasis added). Transferring a case between juvenile and criminal court is therefore a procedural matter. *Id.* Additionally, the excluded jurisdiction statute gives criminal courts the power to adjudicate juveniles charged in adult court: “If after trial or plea the court finds that the minor committed an offense not covered by paragraph (a) of this subsection (1), that finding shall not invalidate the verdict or the prosecution of the minor under the criminal laws of the State; however, unless the State requests a hearing for the purpose of sentencing the minor under Chapter V of the Unified Code of Corrections, *the Court must proceed under Sections 5-705 and 5-710 of this Article.*” 705 ILCS 405/5-130(1)(c)(ii) (2016) (emphasis added).

Jurisdiction is therefore only relevant insofar as it determines where a case *originates*. Because cases against 17-year-olds charged with drug offenses would originate in juvenile court by default, the default disposition would be an adjudication, not a conviction. 705 ILCS 405/5-120 (2016).

To determine whether an offense charged today would result in an adjudication, a court will neither have to “pretend that [Mr. Gray] is a juvenile now” nor “deem his 2002 felony drug conviction in adult court a juvenile delinquency adjudication[.]” (St. Br. 27-28). This is a red herring. Like the issue of jurisdiction, the issue of age is not an element. See *In re Greene*, 76 Ill. 2d 204, 212 (1979) (age “is merely the factor which authorizes the application of the juvenile system.”) It is only relevant insofar as it informs the mechanism for charging a defendant—*e.g.*, a 17-year-old should be charged with a juvenile offense.

Mr. Gray has never argued that age is an element of the offense of armed habitual criminal, or even that someone’s *current* age is relevant when determining what constitutes a prior conviction. Neither has he argued that the Juvenile Court Act has introduced age as an element “for most offenses[.]” See *Gray*, 2021 IL App (1st) 191086, ¶ 15. While the *Gray* Court may have phrased its holding inartfully, Mr. Gray contends that age is a fact that must be considered when determining whether a *prior* offense qualifies as a conviction under the statute. It is not the age at the time of the current offense—as the State posits in its argument that it would have to prove a defendant was 18 or older at the time he committed an assault and battery (St. Br. 27)—but the age at the time of the prior offense that is relevant.

Furthermore, Mr. Gray has never argued that his 2002 conviction should be vacated and an adjudication instated. Mr. Gray’s 2002 offense remains a Class 1 conviction, and he is subject to all of the collateral

consequences that come with such a conviction. See, *e.g.*, 225 ILCS 46/25(a) (2019) (a health care employer may only hire someone convicted of an offense under the Controlled Substances Act if that person obtains a waiver of the prohibition against employment from the Illinois Department of Public Health). Similarly, his Class 1 conviction would not permit him to petition for the expungement of his record under the Juvenile Court Act. See 705 ILCS 405/5-915 (2019) (adjudications for almost all offenses are eligible for expungement).

Determining whether an offense qualifies as an adjudication under current law does not require such gymnastics. Rather, in this case, it requires a court to determine whether Mr. Gray's 2002 offense "is punishable" under current law by considering whether he would have been adjudicated or convicted under current law. And in this case, Mr. Gray's 2002 drug offense would have resulted in an adjudication under the law in effect in 2016.

The State again made similar arguments in its *Stewart* briefing, contending that the amendment to the Juvenile Court Act did not change or add elements or the classification of any criminal offense, and that the Class X recidivism statute was not concerned with jurisdictional matters or personal characteristics like age. Compare (St. Br. 20-24, 26) with (*Stewart*, Op. Br. 8; *Stewart*, Rep. Br. 7). In noting that the State's focus was on the elements of the offense and that age is not an element of residential burglary, this Court found that "[t]he State's argument does not answer the precise question raised in this appeal—whether the legislature intended a prior

felony conviction to be a qualifying offense for Class X sentencing if the same offense would have resulted in a juvenile adjudication had it been committed on the date of the present offense.” *Stewart*, 2022 IL 126116, ¶¶ 15-16. The State has made the same oversight here, as its focus on non-existent jurisdictional and age elements new to every offense does not answer the question raised in this appeal: whether the legislature intended for the AHC statute to take into account changing laws and societal norms, such that a prior felony offense does not qualify as a predicate conviction under the statute if that same offense would now result in a juvenile adjudication under the current state of the law. As the State partially concedes (St. Br. 23-24), the answer to that question is yes.

Critically, in this case, Mr. Gray’s case would originate in juvenile court and would remain in juvenile court, as he would not be transferred under the automatic, presumptive, or discretionary transfer provisions. See 705 ILCS 405/5-120 (2016). His 2002 drug offense, under the Juvenile Court Act in effect in 2016, would not qualify as one that would subject Mr. Gray to automatic transfer to adult court. See 705 ILCS 405/5-130 (2016). Nor would Mr. Gray be subject to presumptive transfer to criminal court. See 705 ILCS 405/5-805(2) (2016). Finally, nothing in the record suggests that Mr. Gray would be subject to discretionary transfer under the laws in effect in 2016. 705 ILCS 405/5-805(3) (2016).

The discretionary transfer provision in effect at the time of Mr. Gray’s 2016 arrest explicitly requires the court to consider a wide variety of factors

about the minor's social history, rehabilitative potential, and the circumstances of the offense. 705 ILCS 405/5-805(3)(b) (2016). Although Mr. Gray had two adjudications for misdemeanor offenses and one prior adult drug conviction at the time of his 2002 offense, the State did not provide any facts regarding the circumstances of those offenses. (Sec C. 246; Sup R. 21-22).

Moreover, Mr. Gray was the type of adolescent that the 2014 amendment meant to protect from adult criminal court. As laid out in his pre-sentence investigation report and during his sentencing hearing, Mr. Gray's childhood was extremely unstable. His mother physically abused him, sometimes by burning him, because he looked like his father. His father, in turn, abused drugs and alcohol. Violence was very common in his home, and the Department of Children and Family Services eventually intervened and removed Mr. Gray from his parents' care.

Mr. Gray was then placed with his grandmother, along with some of his siblings. While his grandmother was the "shining light in [Mr. Gray's] life[,]" her home could also be unstable—at times, there were 20 to 30 people living in her apartment at the same time. Additionally, many of Mr. Gray's nine siblings have been diagnosed with fetal alcohol syndrome. While Mr. Gray himself has not been formally diagnosed, he displayed all of the symptoms of the syndrome. (Sec C. 247-48; Sup R. 24-25). Regardless of any diagnosis, Mr. Gray's abusive, unstable, and traumatic childhood stunted his development. (Sup R. 28-29).

Mr. Gray also had a difficult childhood outside of his home. He grew up in a “gang war zone[,]” which forced him to stay inside. He witnessed shootings and stabbings, and had to learn to protect himself. In addition to his mother physically harming him because he looked like his father, his classmates also bullied him for his looks, as well as for “being slow[.]” He was sometimes chased home from school while being bullied and attacked. Mr. Gray also struggled in school, as he had both learning and emotional disabilities. By the fifth grade, he could only read at a first grade level. By the seventh grade, he was being treated for his mental health issues through Lithium and other antipsychotic medication. Finally, Mr. Gray was forced to repeat several grades. (Sec C. 248-49; Sup R. 24-26). Under these circumstances, discretionary transfer of Mr. Gray’s 2002 offense would be inappropriate.

This conclusion is further supported by statistical data gathered by the Illinois Juvenile Justice Commission, which shows that statewide, only two out of 59 minors were discretionarily transferred to criminal court for any drug offenses in 2017—one in Sangamon County and one in DeKalb County. Ill. Juvenile Justice Comm’n, *Trial and Sentencing of Youth as Adults in the Illinois Justice System: Transfer Data Report* at 10, 16, 25, 38 (March 2020) (IJJC Report 2020). And in Cook County, the only charges that were discretionarily transferred in 2017 were for armed robbery and first degree murder. IJJC Report 2021 at 23.

Statistical data gathered in 2018 shows that this trend continued, where only *one* minor, in Champaign County, was discretionarily transferred to criminal court for any drug offense. Ill. Juvenile Justice Comm'n, *Trial and Sentencing of Youth as Adults in the Illinois Justice System: Transfer Data Report* at 20, 24 (July 2021) (IJJC Report 2021). Unlawful use of a weapon and vehicular hijacking were the only charges discretionarily transferred in Cook County in 2018. IJJC Report 2021 at 25.⁶

The State bears the burden of proving that Mr. Gray would have been transferred to criminal court in 2016 on a charge of manufacturing or delivering one to 15 grams of a controlled substance, and here it has not even attempted to do so. (St. Br. 28-29); see *In re Zachary G.*, 2021 IL App (5th) 190450, ¶ 30 (“The State maintains the burden of proof in a discretionary transfer motion”); compare 705 ILCS 405/5-805(2)(a) (2016) (juvenile’s burden to rebut presumption that his case should be transferred to adult court) with 705 ILCS 405/5-805(3) (2016) (State must establish probable cause for the juvenile’s discretionary transfer to adult court). The statistical data suggests that he would not have been transferred to criminal court in 2016, and a consideration of Mr. Gray’s background makes it even less likely he would have been transferred.

⁶ Both Illinois Juvenile Justice Commission reports are available at <https://ijjc.illinois.gov/resources/publications/reports/>. Both reports are also included in this brief’s Appendix. This Court can take judicial notice of these reports on a government website. See *Leach v. Dep’t of Emp’t Sec.*, 2020 IL App (1st) 190299, ¶ 44 (information on public websites is sufficiently reliable to allow courts to take judicial notice).

Notably, these simple considerations defeat the State’s assertion that determining whether an offense would result in an adjudication under current law is “unworkable.” (St. Br. 28-31). First, Illinois case law already contemplates looking to the details of a prior offense to determine whether it qualifies as a predicate. See *People v. Carter*, 2021 IL 125954, ¶¶ 37, 43 (reversing AHC conviction predicated on a prior aggravated battery conviction, where the State did not “introduce into evidence any other details” to establish that the offense resulted in great bodily harm or permanent disability or disfiguration); *People v. McGhee*, 2020 IL App (3d) 180349, ¶¶ 54-55 (reversing AHC conviction because the evidence was insufficient to show that the defendant’s Iowa burglary amounted to a forcible felony as required under the statute); *People v. Ephraim*, 2018 IL App (1st) 161009, ¶ 14 (reversing defendant’s conviction where the court found that his prior “conviction for aggravated battery to a peace officer without proof that the underlying battery resulted in great bodily harm or permanent disability or disfigurement [did] not qualify as a forcible felony[,]” as required by the AHC statute).

Second, Illinois law already requires a kind of retrospective transfer hearing in situations where a minor is automatically transferred to adult court, but is ultimately convicted of an offense not covered by automatic transfer. In such situations, the trial court is required to sentence the minor as a juvenile unless the State files a petition requesting a hearing for adult sentencing. 705 ILCS 405/5-130(1)(ii) (2016); see *People v. Fort*, 2017 IL

118966 (where the defendant should have been sentenced in juvenile court, the case was remanded to the trial court with instructions to vacate his sentence and allow the State to file a petition requesting a hearing for adult sentencing). If such a petition is filed, the court is required to consider many of the same factors a court addresses when ruling on a motion for discretionary transfer. See *People v. Price*, 2018 IL App (1st) 161202, ¶ 28; compare 705 ILCS 405/5-130(c)(ii) (2016) with 705 ILCS 405/5-805(3)(b) (2016).

The State raised these same concerns of discretionary transfers and mini-trials in *Stewart*. Compare (St. Br. 28-31) with (*Stewart*, Rep. Br. 8, 12-16). But this Court did not respond to the State's invitation to explore these issues in *Stewart*. Neither did this Court seem to find a similar approach unworkable in its 2017 *Fort* decision, where it held it was appropriate for the case to be remanded to the trial court for a potential adult sentencing hearing *eight years* after the juvenile defendant's arrest. See *Fort*, 2017 IL 118966, ¶¶ 3, 41.

Finally, the State's argument that the lack of an amendment to the armed habitual criminal statute in the omnibus SAFE-T Act of 2021 "suggests that the legislature did *not* intend to exclude prior convictions of juvenile offenders in adult court for the offense of AHC" is without merit. (St. Br. 33) (emphasis in original). Critically, at the time it amended the Class X recidivism sentencing statute on February 22, 2021, the legislature was unaware of the split between *Gray* and *People v. Irrelevant*, 2021 IL App (4th)

200626, because it did not yet exist—*Gray* was issued on October 12, 2021, and *Irrelevant* was issued on December 8, 2021.

Furthermore, as this Court noted in *Stewart*, 2022 IL 126116, ¶ 22, the legislature’s amendment of a statute in the face of a “split in the appellate court” on the interpretation of an ambiguous statute can show “intent[] to resolve the conflict in the appellate court and clarify the meaning of the original statute.” This Court has also inversely noted that the legislature’s *silence* in the face of *unanimous* case law is a tacit “acquiescence” in the court’s interpretation of the statute. *People v. Johnson*, 2019 IL 123318, ¶ 14.

But the legislature’s silence in the face of a *split* in the appellate court is inherently ambiguous—even if the legislature somehow privately intended its silence to support one of the two sides of the split, observers could not determine which. For example, the lack of an amendment to the AHC statute *might* indicate that the legislature did intend for the statute to encompass convictions of juveniles in adult court. Or it *might* indicate that the legislature agreed with the appellate decisions in *People v. Miles*, 2020 IL App (1st) 180736, *Stewart*, 2020 IL App (1st) 180014-U, and *Gray*, 2021 IL App (1st) 191086, and did not believe an additional amendment was necessary. Or it *might* indicate that the legislature merely did not want to go further than the *Gray* decision to exclude any convictions obtained under the age of 21, as it did with the Class X recidivism statute. See Pub. Act 101-625 § 10-280 (eff. July 1, 2021). In the face of an appellate split, the legislature’s lack of an amendment offers this Court no signal.

C. Mr. Gray received ineffective assistance of counsel when his attorney stipulated to the sufficiency of his 2002 offense as a predicate felony under the armed habitual criminal statute.

Where Mr. Gray’s counsel not only failed to challenge whether his 2002 offense was a qualifying predicate conviction—despite Mr. Gray’s objection otherwise—but also stipulated that Mr. Gray had “two qualifying convictions for the purposes of sustaining the charge of armed habitual criminal[.]” this Court should find that he was ineffective. (R. 512). A criminal defendant has the right to the effective assistance of counsel. U.S. Const. amends. VI, XIV; Ill. Const. 1970, art. I, § 8; *Strickland v. Washington*, 466 U.S. 668, 684-86 (1984). Defense counsel provides ineffective assistance when his presentation falls below an objective standard of reasonableness, and when the deficiencies in his presentation undermine confidence in the outcome of the proceedings or deprive the defendant of a fair trial. *Strickland*, 466 U.S. at 687-89; *People v. Albanese*, 104 Ill. 2d 504, 524-27 (1984).

Mr. Gray himself informed the trial court that he did not “believe that [he was] eligible for armed habitual criminal because [his] manufacture and delivery was caught in 2001[.]” when he was a minor.⁷ (R. 165). But his trial attorney did not pursue this argument either before or during trial, instead stipulating to the sufficiency of Mr. Gray’s prior convictions to satisfy that

⁷ Mr. Gray told the trial court that he was 16 years old when he was arrested for his 2002 offense, but he was actually 17 years old. Although he was mistaken about his exact age at the time of his arrest, his objection remained valid.

element of the armed habitual criminal statute. (R. 512). This constituted ineffective assistance, as no reasonable trial strategy would justify failing to raise this issue. See, e.g., *People v. Sanchez*, 404 Ill. App. 3d 15, 18 (1st Dist 2010) (finding defense counsel ineffective for stipulating to the defendant's inadmissible prior conviction); *People v. Coleman*, 2015 IL App (4th) 131045, ¶ 71 (finding defense counsel ineffective for stipulating to the existence of over 900 grams of cocaine). To the extent that counsel's failure to raise the issue was due to a misapprehension of the present-tense nature of the AHC statute, his failure to object was not strategic. See *People v. Wright*, 111 Ill. 2d 18, 31 (1986) (failing to make an argument because of a mistake about the controlling law is objectively deficient performance).

Mr. Gray was prejudiced by counsel's ineffectiveness, because a defendant's qualifying prior convictions are an element of the offense of armed habitual criminal. *People v. Barefield*, 2019 IL App (3d) 160516, ¶ 12; *People v. Adams*, 404 Ill. App. 3d 405, 412 (1st Dist. 2010) (prior convictions are an element of the offense of armed habitual criminal that must be proven beyond a reasonable doubt). The indictment alleged that Mr. Gray committed the offense of armed habitual criminal when he knowingly or intentionally possessed a firearm after having previously been convicted of unlawful use of a weapon in case number 07CR2070201 and the manufacture or delivery of a controlled substance in case number 02CR0277401. (Sec C. 33). Because his 2002 offense was not a qualifying conviction under the AHC statute, the State failed to prove Mr. Gray's guilt beyond a reasonable doubt.

D. Conclusion

In 2016, a case involving a 17-year-old charged with a drug offense would not be heard in adult court but in juvenile court, and the minor therefore would not be convicted of a felony, but adjudicated delinquent. The AHC statute requires two prior convictions that qualify as predicates under the current law. Mr. Gray's 2002 drug offense is not an offense punishable as a Class 3 or higher felony because it would have resulted in a juvenile adjudication at the time of his arrest for the current offense. As such, the State failed to prove beyond a reasonable doubt that Mr. Gray was guilty of being an armed habitual criminal. Accordingly, this Court should affirm the appellate court's vacatur of Mr. Gray's conviction.

II. The State's other claims, raised in Arguments I, II, and IV, are forfeited and meritless.

In its brief, the State raises several arguments brand new to this appeal. First, it argues that Mr. Gray's reasonable doubt argument is barred, because trial counsel stipulated to Mr. Gray's predicates and because his argument relies on evidence not presented at trial. (St. Br. 9-14). Next, the State argues that Mr. Gray's reasonable doubt argument is "irrelevant," because he has other convictions that qualify as predicate convictions under the armed habitual criminal (AHC) statute. (St. Br. 15-16). Finally, the State belatedly argues that the proper remedy is to reduce Mr. Gray's conviction to unlawful use of a weapon by a felon. (St. Br. 34-35). All three arguments fail on procedural grounds, and the first two also fail on substantive grounds.

The procedural failure of the State's arguments is straightforward. The State made just one argument in both its appellee's brief in the appellate court and its petition for leave to appeal to this Court: that the plain language of the AHC statute requires a defendant to have been previously convicted of one of the enumerated offenses, and that the age of the defendant at the time of that offense is irrelevant. (St. App. Br. 10-20; St. PLA 5-11). It did not make any alternative arguments. Its new arguments are therefore forfeited. See *People v. Dorsey*, 2021 IL 123010, ¶ 70 (defendant forfeited his proportionate penalties claim where he did not raise it during post-conviction proceedings, in his briefs before the appellate court, or in his petition for leave to appeal to the Supreme Court); *People v. Sophanavong*, 2020 IL 124337, ¶ 21 (State claim forfeited where it was not raised in the

appellate court); *People v. McCarty*, 223 Ill. 2d 109, 122 (2006) (“the failure to raise an issue in a petition for leave to appeal results in the forfeiture of that issue before this court”).

Notably, the State failed to raise its fourth argument, that the proper remedy is to reduce Mr. Gray’s conviction to unlawful use of a weapon by a felon, in a petition for rehearing. Nor did it raise this argument in its PLA, *despite the fact that the appellate court flagged this issue in its opinion*. See *People v. Gray*, 2021 IL App (1st) 191086, ¶ 16 (“The State has not asked this court to remand for trial on the offense of unlawful use of a weapon by a felon, and therefore we do not consider the possibility of proceedings on that charge.”)

The substantive failures of the State’s first two arguments are addressed individually.

A. Because a sufficiency of the evidence argument can be raised for the first time on appeal, Mr. Gray’s claim is not barred.

The State contends that Mr. Gray’s argument is barred because he stipulated to the sufficiency of his 2002 offense and because it relies on evidence that was not presented at trial. (St. Br. 9-14). This Court should reject the State’s argument. Mr. Gray challenged the sufficiency of the evidence, an issue he can raise “for the first time on appeal.” *People v. Carter*, 2021 IL 125954, ¶ 41.

The State cites to *People v. Cline*, 2022 IL 126383, to support its claim that Mr. Gray’s argument is barred because it asks “this Court to take

judicial notice of information not admitted at trial[.]” (St. Br. 11-12). *Cline*, however, is easily distinguishable.

In *Cline*, the defendant challenged the sufficiency of the evidence in his residential burglary conviction, arguing that the only evidence tying him to the offense was a partial fingerprint and that the State did not offer evidence that the fingerprint examiner followed the accepted methodology of verifying his results with another examiner. *Id.* ¶ 19. Because the defendant had not challenged the examiner’s methodology in the trial court, the appellate court took judicial notice of the accepted methodology for identifying latent fingerprints and reversed his conviction, holding that the defendant’s conviction was premised on a “flawed examination of a single, incomplete fingerprint.” *Id.* ¶ 20.

Noting that “[i]t is not the function of a court of review to retry a defendant” in determining the sufficiency of the evidence, this Court reversed, finding that the appellate court should not have taken judicial notice of “material that was not considered by the trier of fact *in weighing the credibility of an expert witness’s testimony.*” *Id.* ¶ 33 (emphasis added). Because the challenge to the expert’s methodology was only a component of the defendant’s challenge to the sufficiency of the evidence, this Court then proceeded to consider the remainder of his arguments. *Id.* ¶¶ 34-42.

But the specific issue of the expert’s failure to follow the accepted methodology in *Cline* did not go directly to an element of the offense; instead, as this Court observed, it went to the expert’s *credibility.* *Id.* ¶ 33. In this

case, Mr. Gray's challenge to his 2002 offense goes directly to an element of his conviction for armed habitual criminal. See *People v. Barefield*, 2019 IL App (3d) 160516, ¶ 12 ("A defendant's qualifying prior convictions are an element of the offense of being an armed habitual criminal.") In *Cline*, even if the accepted methodology for fingerprint identification were introduced during trial, the defendant could have still been found guilty, because it would have only affected the expert's credibility. But in this case, if the State had introduced a certified disposition of Mr. Gray's 2002 offense, *it still would not have met its burden of proof beyond a reasonable doubt*. And critically, because this case involves a question of statutory construction, this Court's review is *de novo*. See *People v. Stewart*, 2022 IL 126116, ¶ 13.

Furthermore, Mr. Gray's argument does *not* rest on information that was not provided at trial. Mr. Gray's indictment, read to the jury, indicated that one of his two prior felony convictions was his 2002 offense. The State alleged that

"on or about June 10 of 2016 at and within the county of Cook Demetrius Gray committed the offense of armed habitual criminal in that he knowingly or intentionally possessed a firearm; to wit, a Cobra .380 caliber semiautomatic, after having been convicted of prior qualifying felonies under Case No. 07 CR 20702 and 02 CR 2774-01 in violation of Chapter 720 Act 5 Section 24-1.7(a) of the Illinois Compiled Statutes 1992[.]" (R. 245-46) (emphasis added).

Mr. Gray's offenses under case numbers 07CR2070201 and 02CR0277401 were therefore the "two prior qualifying felony" offenses referenced in the stipulation. (R. 512).

Because Mr. Gray was born in 1984, it is indisputable that he was 17 years old for at least a portion of 2002. (Sec C. 243). While Mr. Gray did point to the criminal history portion of his presentence investigation (PSI) report, he did so only as confirmation that he was indeed 17 years old when he was arrested for his 2002 offense, as the report shows that May 1, 2002, was the judgment date for that case—over two months before he turned 18 years old. (Sec C. 243, 246; Op. Br. 14-15). And this Court does not have to take judicial notice of Mr. Gray’s PSI report, as the State claims (St. Br. 10), because the trial court had the report at sentencing and it is part of the record on appeal. (Sec C. 243-53; Sup R. 13-15, 34).

A similar situation occurred in *People v. Schultz*, 2019 IL (1st) 163182. In that case, the parties stipulated that the defendant had two “prior felony convictions for the offenses of assault with a dangerous weapon and carrying a firearm while committing or attempting to commit a felony in Wayne County, Michigan[.]” *Schultz*, 2019 IL App (1st) 163182, ¶ 5. On appeal, the defendant argued that the State failed to prove either of his prior Michigan convictions constituted a forcible felony under that statute’s residual clause. *Id.* ¶ 13-14. The State responded that the stipulation, *along with the PSI report and other documents in the record*, proved that the defendant was convicted under Michigan’s felonious assault statute. *Id.* ¶ 28. The court affirmed the defendant’s conviction, taking judicial notice of the Michigan statutes defining the stipulated offenses. *Id.* ¶ 30.

This Court should likewise allow the PSI report to support the fact—which the State does not, and cannot, deny—that Mr. Gray was 17 years old at the time of his arrest in 2002. Furthermore, it is proper for this Court to take judicial notice of Mr. Gray’s date of birth, included on the Illinois Department of Corrections website,⁸ as well as judicial notice of the docket entries from Mr. Gray’s 2002 case, included on the clerk’s website,⁹ especially as the State does not dispute the accuracy of his date of birth or the timing of the indictment for his 2002 charge.

Even if these undisputed factual matters were “not admitted at trial” (St. Br. 11), Mr. Gray would still be entitled to relief through post-conviction proceedings. However, judicial economy is better served by considering this appeal on its substantive merits, rather than requiring Mr. Gray to pursue this claim through the post-conviction process merely to introduce the simple evidence of his age and date of arrest. See, e.g., *People v. Smith*, 2022 IL 126940, ¶ 33 (requiring parties to start over in post-conviction process for independent compliance with Illinois Supreme Court Rule 651(c) would be a waste of judicial resources).

⁸ Available at <https://idoc.illinois.gov/offender/inmatesearch.html>. See *Cordrey v. Prisoner Review Bd.*, 2014 IL 117155, ¶ 17, n.3 (court may take judicial notice of Department of Corrections records).

⁹ Available at <https://cccportal.cookcountyclerkofcourt.org/CCCPortal/>. See *May Dep’t Stores Co. V. Teamsters Union Local No. 743*, 64 Ill. 2d 153, 159 (1976) (court may take judicial notice of other court documents).

Finally, the State’s position here shifts the burden of proof. It was the State’s burden to prove that its stipulation satisfied the two-prior-convictions element of the AHC statute. Mr. Gray does not have to prove that his 2002 offense was not qualifying—the State has to prove that it is. See *Carter*, 2021 IL 125954, ¶ 40 (“It was the State’s burden to prove defendant’s guilt [of being an armed habitual criminal], not defendant’s burden to prove his innocence.”); see also *People v. Brown*, 2013 IL 114196, ¶ 52 (“the State bears the burden of proving beyond a reasonable doubt each element of a charged offense and the defendant’s guilt.”) The record on appeal shows that the State failed to do so.

The State also claims that the stipulation was entered into at Mr. Gray’s “request” and through his own “conduct.” (St. Br. 13). Mr. Gray, however, challenged the sufficiency of his 2002 offense before his trial even began: “I don’t even believe that I am eligible for armed habitual because my manufacture and delivery was caught in 2001 and I got convicted in 2002. I was 16¹⁰ when I had caught that case and I lied about my age and told them I was 17 because I thought I was going to go home, but I didn’t.” (R. 165). The trial court then asked defense counsel if he “investigated or looked into the allegation or the issue as to whether or not [Mr. Gray] [was] subject to the armed habitual criminal statute[.]” (R. 166). Counsel, however, never responded. (R. 166).

¹⁰ Mr. Gray was mistaken about his age at the time of his 2002 arrest; he was actually 17 years old. See footnote 7, *supra*.

This Court has held that defense counsel can waive his client's right to confrontation when (1) the decision to stipulate was a matter of trial strategy or tactics, and (2) the defendant does not object. *People v. Campbell*, 208 Ill. 2d 217, 221 (2003). In this case, neither of these elements were present. First, as argued above and in his opening brief, no reasonable trial strategy would have included stipulating that his 2002 offense was a qualifying predicate when it was not. (Op. Br. 20; Arg. I(C), *supra*).

Second, the fact that he challenged the sufficiency of his 2002 case to sustain a conviction for armed habitual criminal indicates that he objected to the stipulation. (R. 165). Although Mr. Gray did not object to the stipulation during his trial—and may not have been aware that he had the ability to do so—any objection he made likely would not have gone well.

The day before his trial, the trial court refused to accept Mr. Gray's guilty plea. In doing so, the judge said, "I am done now. I am done." (R. 231). Shortly afterwards, she ordered Mr. Gray to "stop talking." (R. 232). When Mr. Gray asked if he could speak, she said, "You're done. There's nothing more to say." (R. 232). When Mr. Gray again asked to speak, the judge said, "No, no. We're done." (R. 233). That same day and right before trial the next day, the judge said that her choice not to accept Mr. Gray's plea was not vindictive (R. 243, 410), but her perceived need to make such reassurances at all, let alone twice, calls into question her sincerity on that point. See William Shakespeare, *Hamlet* Act III, Scene II ("the [judge] doth protest too much"). Any objection by Mr. Gray likely would have fallen on deaf ears. See,

e.g., *People v. Davis*, 378 Ill. App. 3d 1, 10 (1st Dist. 2007) (waiver rule can be relaxed if objection “would have fallen on deaf ears.”) Regardless, his pretrial complaints put all parties on notice of Mr. Gray’s objection.

Furthermore, this is precisely why Mr. Gray alleged his counsel’s ineffectiveness in his opening brief in the appellate court and here. (Op. Br. 19-21; Arg. I(C), *supra*); see, *e.g.*, *People v. Henderson*, 2017 IL App (1st) 142259, ¶ 210 (“The doctrine of invited error blocks defendant from raising this issue on appeal, *absent ineffective assistance of counsel.*”) (emphasis added); see also *People v. Villarreal*, 198 Ill. 2d 209, 227-28 (2001) (addressing a claim of ineffective assistance of counsel, where defense counsel invited the error by submitting verdict forms that the defendant argued on appeal were invalid). In fact, Mr. Gray’s comments about his 2002 offense in the trial court were immediately preceded by complaints about his attorney, including a claim that his attorney found anything Mr. Gray brought to his attention meritless. (R. 164).

The State insinuates that the remedy for an ineffective assistance of counsel claim is a new trial (St. Br. 14), but this is not necessarily true. This Court has previously held that “[t]he remedy for a valid claim of ineffective assistance of counsel should be *tailored to the injury from the constitutional violation and should not unnecessarily infringe on competing interests.*” *People v. Patrick*, 2011 IL 111666, ¶ 35 (emphasis added). For example, a claim of ineffective assistance during sentencing would not warrant a new trial, but rather a new sentencing hearing. See *Id.* ¶ 37. On the other hand, a claim of

ineffectiveness premised on counsel's failure to raise a speedy trial violation warrants outright reversal of a defendant's convictions. *Id.* ¶ 36.

Here, there are two underlying constitutional violations. The first was counsel's failure to investigate and raise this issue in a motion to dismiss the indictment. Contrary to the State's insinuations otherwise (St. Br. 29-31), whether Mr. Gray's 2002 offense qualified as a predicate conviction involved the application or interpretation of a statute, and was therefore a question of law that would not have gone to the jury, but would have instead been resolved by the court before any trial began.

The second constitutional violation was the State's failure to prove Mr. Gray's guilt beyond a reasonable doubt. See U.S. Const. amend. XIV; Ill. Const. 1970, art. I, sec. 2 (due process protects an accused against conviction upon proof beyond a reasonable doubt of every fact necessary to constitute the crime with which he is charged). A properly tailored remedy in this case is therefore the reversal of Mr. Gray's conviction. See, e.g., *People v. Prince*, 2023 IL 127828, ¶ 27 (where the State failed to prove an essential element beyond a reasonable doubt, and "[t]here was no trial error, or anything akin to one, that prevented the State—which bore the burden of proof—from introducing evidence" on the necessary element, this Court reversed the defendant's conviction, noting that "the evidence presented by the State was legally insufficient to convict.")

B. Where the State failed to prove that Mr. Gray's 2002 offense was not a qualifying prior conviction, as alleged in the indictment charging him with armed habitual criminal, Mr. Gray's argument is not irrelevant.

The State claims that the sufficiency of Mr. Gray's 2002 offense is irrelevant, because he has another conviction that qualifies as a prior conviction under the armed habitual criminal statute. (St. Br. 15-16).

Because the State alleged in the indictment, throughout pretrial proceedings, and at trial that Mr. Gray's AHC charge was predicated on his 2002 offense, it had to prove specifically that the 2002 offense was a qualifying predicate.

In this case, the indictment alleged that Mr. Gray committed the offense of armed habitual criminal when he knowingly or intentionally possessed a firearm after having previously been convicted of unlawful use of a weapon in case number 07CR2070201 and *the manufacture or delivery of a controlled substance in case number 02CR0277401*. (Sec C. 33). During Mr. Gray's plea hearing, the State proffered that "[t]he parties would have stipulated he had the prior qualifying felony convictions, for the record under the indictment No. Case 07 CR 20702-01 and *02 CR 02774-01*, for the purpose of establishing his background for the charge of armed habitual." (R. 227-28) (emphasis added). And during *voir dire*, the venire was informed that Mr. Gray was charged with "the offense of armed habitual criminal in that he knowingly or intentionally possessed a firearm . . . after having been convicted of prior qualifying felonies under Case No. 07 CR 20702 and *02 CR 2774-01*[" (R. 246) (emphasis added). While Mr. Gray does have a 2008

Class 3 felony conviction under the Cannabis Control Act, the State never offered this case to establish the prior-convictions element of the AHC statute in the indictment, during pretrial proceedings, or at trial.

Citing to *People v. Collins*, 214 Ill. 2d 206 (2005), the State asserts that because the variance could not have affected Mr. Gray's defense at trial, the fact that his 2008 conviction was not named in the indictment is irrelevant. (St. Br. 15, fn. 4). First, this doctrine only applies when there is "a variance between allegations in a complaint and *proof at trial*["] *Id.* at 219 (emphasis added). In this case, the State presented *no evidence at trial* regarding Mr. Gray's 2008 offense. Second, the *Collins* Court held that "[w]here an indictment charges all essential elements of an offense, other matters unnecessarily added may be regarded as surplusage." *Id.* In this case, the identification of a proper qualifying prior conviction *is* an essential element of the offense of armed habitual criminal, and therefore cannot be considered mere "surplusage." Rather, it was an element that the State had to prove beyond a reasonable doubt. See *Barefield*, 2019 IL App (3d) 160516, ¶ 12.

The State also claims that Mr. Gray "knew the prosecution intended to introduce evidence about the cannabis conviction" during trial, so "he agreed to a stipulation to prevent prosecutors from doing so." (St. Br. 15, fn. 4). This is not true. Mr. Gray's 2008 cannabis offense was only discussed pretrial because the State asked the trial court to allow it "to introduce evidence of [Mr. Gray's] criminal history for impeachment purposes["] pursuant to *People v. Montgomery*, 47 Ill. 2d 510. (C. 145; R. 179). After a hearing, the

trial court found that “it would be relevant and probative for the jury to be apprised of [Mr. Gray’s] two prior [2008] felony convictions *should he choose to take the stand in his own defense.*” (R. 187) (emphasis added). Mr. Gray did not testify on his own behalf, and so the State never introduced evidence of his 2008 *cannabis* conviction at trial. (R. 519).

The State “must live with the consequences of having proceeded on a theory that it could not establish with the certitude required in criminal cases.” *People v. Cowart*, 2017 IL App (1st) 113085-B, ¶ 42 (quoting *Fagan v. Washington*, 942 F. 2d 1155, 1160 (7th Cir. 1991)). Critically, “the State has complete discretion to determine the charge or charges that will be levied against a defendant. It is also the State’s responsibility to ensure that the facts and the proof required to meet the burden beyond a reasonable doubt *are consistent with the crime charged.*” *Cowart*, 2017 IL App (1st) 113085-B, ¶ 38 (emphasis added).

In this case, the State must live with the consequences of charging Mr. Gray with being an armed habitual criminal predicated on his 2002 Class 1 offense. It could have easily charged him with AHC predicated on his 2008 Class 3 offense, but chose not to.

Because the State did not offer any other prior convictions, it failed to prove Mr. Gray guilty beyond a reasonable doubt. See *Gregory v. City of Chicago*, 394 U.S. 111, 112 (1969) (it “is as much a denial of due process to send an accused to prison following conviction for a charge that was never made as it is to convict him upon a charge for which there is no evidence to

support that conviction[.]” (quoting *Garner v. Louisiana*, 368 U.S. 157, 164 (1961)). As such, Mr. Gray’s sufficiency argument stands.

CONCLUSION

For the foregoing reasons, Demetrius Gray, defendant-appellee, respectfully requests that this Court affirm the order of the appellate court reversing Demetrius Gray’s armed habitual criminal conviction.

Respectfully submitted,

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CERTIFICATE OF COMPLIANCE

I certify that this brief conforms to the requirements of Rules 341(a) and (b). The length of this brief, excluding the pages or words contained in the Rule 341(d) cover, the Rule 341(h)(1) table of contents and statement of points and authorities, the Rule 341(c) certificate of compliance, the certificate of service, and those matters to be appended to the brief under Rule 342, is 47 pages.

/s/Anna C. Carlozzi
ANNA C. CARLOZZI
Assistant Appellate Defender

APPENDIX TO THE BRIEF

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2022 IL App (1st) 201034-U
 No. 1-20-1034
 August 29, 2022

FIRST DIVISION

NOTICE: This order was filed under Supreme Court Rule 23 and is not precedent except in the limited circumstances allowed under Rule 23(e)(1).

IN THE

APPELLATE COURT OF ILLINOIS

FIRST DISTRICT

PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the Circuit Court
	)	of Cook County, Illinois
)	
Plaintiff-Appellee,	)	No. 19 CR 01647
)	
v.	)	The Honorable
DEANDRE JOHNSON	)	Dennis J. Porter,
Defendant-Appellant.	)	Judge Presiding.
)	

JUSTICE WALKER delivered the judgment of the court.
 Presiding Justice Hyman and Justice Pucinski concurred in the judgment.

ORDER

¶ 1 **Held:** A conviction of a juvenile for home invasion does not qualify as a predicate offense for a charge of being an armed habitual criminal. A court errs by giving written jury instructions that differ significantly from the oral instructions, unless the court explains the difference to the jury. This court must reverse a conviction obtained after the trial court committed an error in instructions concerning credibility in a case where the prosecution relied on the credibility of a single well-impeached witness.

¶ 2 Following a jury trial, defendant Deandre Johnson was found guilty of violating the armed habitual criminal provision of the Criminal Code. 720 ILCS 5/24-1.7(a) (West 2018). He was

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sentenced to 7 years in the Illinois Department of Corrections. On appeal, Johnson argues: (1) his prior conviction as a juvenile for home invasion should not count as a predicate offense for the armed habitual criminal conviction; (2) the jury should not have believed the State's key witness; (3) the trial court gave erroneous and confusing instructions; and (4) his counsel provided ineffective assistance. We find the evidence sufficient to support the conviction, but the trial court erred by sending the jury written instructions that differed significantly from the oral instructions without explaining the difference. Because the error concerned the jury's assessment of the key witness's credibility, in a case where the conviction rested entirely on the credibility of a single witness, we find the error prejudiced Johnson. We reverse and remand for a new trial.

¶ 3

BACKGROUND

¶ 4

At approximately 1 a.m. on January 3, 2019, Johnson called Melinda Perry and asked her to pick him up from an address on the south side of Chicago. After Johnson entered the vehicle, police pulled her over and arrested Johnson. Prosecutors charged Johnson with violating the armed habitual criminal provision of the Criminal Code.

¶ 5

At the jury trial, Officer Jonathan Dibiase of the Chicago Police Department testified that as he patrolled in his car with his partner, he saw Perry's car speeding. Officers in a separate police car helped him force Perry to stop. He went to the driver's side, and there he saw the handle of a gun and a cup with an amber-colored liquid in the car's center console. He pulled Perry out of the car, cuffed her, and took her behind her car. The other officers went to the passenger side of the car to get Johnson out of the car. Dibiase returned to the driver's side,

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and he saw Johnson shoving the gun toward the car's floorboard, wedging it between the passenger seat and the center console. Dibiase slapped Johnson to stun him. The other officers extracted Johnson from the car and cuffed him. No officer tested Perry for alcohol impairment.

¶ 6 Dibiase testified that he read Johnson his rights at the police station, but he did not record the interview. According to Dibiase, Johnson said "he was not trying to hurt anybody, what did we expect him to do when he had a gun in the car and he didn't want to be locked up."

¶ 7 The trial court permitted defense counsel to use Dibiase's grand jury testimony for impeachment. Dibiase admitted that to the grand jury, he testified as follows:

"Question: While removing him from the vehicle did officers observe a black handle of a pistol wedged between the passenger's seat and the center console?"

'Answer: Yes.'

¶ 8 Dibiase did not tell the grand jury that he first saw the gun before he removed Perry from the car, well before he helped remove Johnson from the car. The other officers partially corroborated Dibiase's account of the arrest, but none of them saw a gun, and none of them heard Johnson confess.

¶ 9 Perry admitted she had four prior felony convictions, including convictions for credit card fraud and identity theft. Perry testified that Johnson was drunk when she picked him up on January 3, 2019. Johnson immediately fell asleep in the car. A police car stopped at an angle in front of her, forcing her to stop, while a second police car drove up behind her car. When Dibiase walked up to the driver's side of the car, she handed him her license and proof of insurance. He slapped them out of her hand. When Dibiase ordered her out of the car, she said,

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“I ain’t got to do shit.” But she got out of the car. Perry testified that there was no gun in the car.

¶ 10 Dibiase testified Perry did not offer her license and proof of insurance, and he did not slap anything out of her hand. Dibiase admitted that when he ordered Perry out of the car, she said, “I don't have to do shit.”

¶ 11 Defense counsel stipulated Johnson had two prior qualifying convictions for purposes of the armed habitual criminal statute. Defense counsel asked the judge to instruct the jury on the use of prior inconsistent statements as substantive evidence. The judge instructed the jury instead only on the use of prior inconsistent statements for impeachment, as he told the jury: “The believability of a witness may be challenged by evidence on some form or occasion he made a statement that was not consistent with his testimony in this case.” After the jury retired to the jury room, the judge said he found no inconsistency between Dibiase’s grand jury testimony and his testimony at trial. The judge decided not to send the written instructions on prior inconsistent statements to the jury, and the judge did not mention or explain to the jury the difference between the oral instructions and the written instructions.

¶ 12 The jury found Johnson guilty of violating the armed habitual criminal statute. The trial court sentenced Johnson to seven years in prison. Johnson now appeals.

¶ 13 ANALYSIS

¶ 14 On appeal, Johnson argues: (1) the evidence did not prove him guilty because (a) one of the predicate convictions penalized Johnson for conduct committed when Johnson was a minor, and (b) no reasonable trier of fact could find Dibiase credible; (2) the trial court

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committed reversible error when it (a) gave the jury written instructions that confusingly differed from the oral instructions and (b) failed to instruct the jury on the use of prior inconsistent statements as substantive evidence; and (3) Johnson's attorney provided ineffective assistance (a) by stipulating that he had two qualifying convictions and (b) by failing to object to evidence of Perry's prior convictions.

¶ 15 Prior Conviction

¶ 16 The armed habitual criminal provision of the Criminal Code provides:

"(a) A person commits the offense of being an armed habitual criminal if he or she receives, sells, possesses, or transfers any firearm after having been convicted a total of 2 or more times of any combination of the following offenses:

(1) a forcible felony as defined in Section 2-8 of this Code;

(2) unlawful use of a weapon by a felon; aggravated unlawful use of a weapon; aggravated discharge of a firearm; vehicular hijacking; aggravated vehicular hijacking; aggravated battery of a child; intimidation; aggravated intimidation; gunrunning; home invasion; or aggravated battery with a firearm; or

(3) any violation of the Illinois Controlled Substances Act * * * that is punishable as a Class 3 felony or higher." 720 ILCS 5/24-1.7(a) (West 2018).

¶ 17 Johnson admits he has been convicted of a violation of the Illinois Controlled Substances Act that is punishable as a Class 3 felony or higher. He argues that the second conviction on which the State relied, a home invasion committed in 2002, does not qualify as a predicate offense for an armed habitual criminal charge because he was only 15 years old in 2002.

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¶ 18 In *People v. Gray*, 2021 IL App (1st) 191086, this court held that a conviction of a 17-year-old for possession of narcotics did not qualify as a predicate offense for an armed habitual criminal charge because the conduct did not meet the requirement of (a)(3), which requires proof of conduct that “is punishable as a Class 3 felony or higher.” If a 17-year-old committed the same conduct in 2016, at the time of the gun possession, the juvenile court would retain jurisdiction over the case, leading to a juvenile adjudication, not a conviction. *Id.* at ¶¶ 11-16.

¶ 19 The language of subsection (a)(2) differs significantly from the language of subsection (a)(3). Subsection (a)(2) requires only proof that the defendant possessed a firearm “after having been convicted *** [of] home invasion” and a second qualifying offense. The statute, on its face, does not require proof that the conduct would violate the home invasion statute in force at the time of the gun possession. Johnson stipulated that he had been convicted of home invasion committed when he was 15. Even though a 15-year-old charged with the same conduct would now remain in the jurisdiction of the juvenile court, Johnson’s conviction qualifies as a predicate conviction under the literal terms of the armed habitual criminal statute.

¶ 20 Nonetheless, we agree with Johnson that this result creates an anomaly. If the current treatment of juveniles for conduct that violates narcotics statutes makes a prior conviction unavailable as grounds for an armed habitual criminal charge, why should the current treatment of juveniles for conduct that constitutes home invasion, vehicular hijacking, or unlawful use of a weapon by a felon make no difference for such a charge? This case is similar to *People v. Miles*, 2020 IL App (1st) 180736, and *People v. Williams*, 2020 IL App (1st) 190414. In *Miles*, this court interpreted section 5-4.5-95(b) of the Unified Code of Corrections (730 ILCS 5/5-

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4.5-95(b) (West 2016)), which authorizes Class X sentencing for offenders found guilty of a Class 1 or Class 2 felony “after having twice been convicted *** of an offense that contains the same elements as an offense now (the date the Class 1 or Class 2 felony was committed) classified in Illinois as a Class 2 or greater Class felony.” Miles had a felony conviction for aggravated vehicular hijacking that was committed when he was 15 years old. The *Miles* court found that the juvenile court acquired exclusive jurisdiction over minors charged with armed robbery and aggravated vehicular hijacking based on the 2016 amendment to section 5-130 of the Juvenile Court Act of 1987. Both armed robbery and aggravated vehicular hijacking previously disqualified minors from juvenile court jurisdiction. Hence, the legislature intended that minors who commit armed robbery and aggravated vehicular hijacking are to be treated differently from adults. The *Miles* court also found that had Miles committed his 2005 offense under the laws in effect on June 9, 2016, the juvenile court would have had exclusive jurisdiction, and Miles would not have received a Class 2 conviction. Instead, he would have received a juvenile court adjudication. Based on these findings, the *Miles* court held that the 2005 conviction should not have been considered a qualifying offense for Miles to be sentenced as a Class X offender. *Miles*, 2020 IL App (1st) 180736, ¶¶ 21-22.

¶ 21 The *Williams* court followed *Miles*, holding:

“Defendant here was properly convicted of burglary in criminal court when he was 17 years old, but a[n] *** amendment to the Juvenile Court Act has since given the juvenile court exclusive jurisdiction over 17-year-old defendants charged with burglary. As *Miles* instructs, we look at the elements of his prior conviction as of

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the date defendant committed his current offense. [Citation.] On the date he committed the present offense, June 7, 2018, defendant’s 2013 burglary conviction would have been resolved in delinquency proceedings rather than criminal court proceedings, and his predicate offense would have been a juvenile adjudication instead of a Class 2 or greater Class felony conviction. *** Following *Miles*, we find that defendant’s prior burglary conviction is not an offense now *** classified in Illinois as a Class 2 or greater Class felony and, therefore, is not a qualifying offense for Class X sentencing.” (Internal quotation marks omitted.) *Williams*, 2020 IL App (1st) 190414, ¶ 21.

¶ 22 We note that “there are powerful reasons to discount or disregard some or most juvenile convictions once the individual becomes an adult. First, on risk-related grounds the juvenile prior is likely to be less probative of re-offending, simply through the passage of time. Second, from a retributive perspective, juveniles are universally deemed to be less culpable than adult offenders convicted of crimes of comparable seriousness. Indeed, the Supreme Court has found that Third, the transition to adulthood should offer individuals an opportunity to shed their juvenile criminal transgressions, unless these are clearly predictive of further offending.” See *Should Juvenile Prior Crimes Count Against Adult Offenders? What Does the Public Think?* Robina Institute of Criminal Law and Criminal Justice.¹

¶ 23 We further note that panels of the appellate court have disagreed with *Miles*, *Williams*, and *Gray*. See *People v. Williams*, 2021 IL App (4th) 191615 and *People v. Reed*, 2020 IL App

¹ The Robina Institute of Criminal Law and Criminal Justice is a nonpartisan research institute at the University of Minnesota Law School.

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(4th) 180533. However, we find *Miles*, *Williams*, and Gray persuasive. To obtain a conviction for aggravated vehicular hijacking (*Miles*), burglary (*Williams*), delivery of narcotics (Gray), or home invasion (here), the prosecution would need to prove that the defendant was at least 18 years old at the time of the offense, or that the defendant merited transfer to the criminal courts under the restrictive provisions for such transfer. See 705 ILCS 405/5-120 (West 2016). In view of the changes to the Juvenile Court Act of 1987, for most offenses age of the defendant operates as an element of the offense.

¶ 24 Here, the prosecution showed that Johnson had two prior felony convictions on his record. As to the conviction for home invasion committed when Johnson was 15, the prosecution did not show that the conviction was for conduct that “is punishable” as a felony on the date of the firearm possession in 2019. Because the prosecution failed to prove the two prior convictions of the kind required to show a violation of the armed habitual criminal provision of the Criminal Code, we reverse the conviction for violation of the armed habitual criminal provision of the Criminal Code.

¶ 25 Credibility

¶ 26 Johnson next points out that the conviction rests entirely on the testimony of one witness, Dibiase. Johnson argues that no reasonable trier of fact could have found Dibiase’s testimony credible. We will not reverse a conviction for insufficient evidence if any reasonable trier of fact could have found all the elements of the charged offense proven beyond a reasonable doubt. *People v. Wright*, 2017 IL 119561, ¶ 70.

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¶ 27 We agree with Johnson that Dibiase’s testimony raises significant credibility issues. According to Dibiase’s testimony, he first saw the gun before he took Perry out of the car. He then cuffed Perry and escorted her to the back of the car – leaving Johnson with immediate access to the gun as Dibiase walked away. Dibiase’s conduct, as Dibiase described it, appears at least grossly negligent, as it needlessly exposed Dibiase, Perry, and three other officers to mortal danger.

¶ 28 Only Dibiase testified to hearing Johnson confess to gun possession. Dibiase did not obtain from Johnson any signed statement, not even a signed waiver of his constitutional rights. Dibiase also did not ask police labs to check the gun for fingerprints. Hence, Dibiase’s conduct appears inconsistent with reasonable police procedures.

¶ 29 However, we defer to the jury’s credibility determinations. *People v. Coulson*, 13 Ill. 2d 290, 295-96 (1958). A reviewing court will not normally substitute its own judgment for that of the jury, especially with respect to credibility determinations. *People v. Locascio*, 106 Ill. 2d 529, 537, 478 N.E.2d 1358 (1985). We find the improbabilities in Dibiase’s testimony insufficient to compel rejection of the jury’s finding. Dibiase’s testimony that he saw Johnson pushing a gun between the seat cushions supports the conclusion Johnson possessed a gun. See *People v. Balark*, 2019 IL App (1st) 171626, ¶ 94.

¶ 30 Instructions

¶ 31 Johnson contends the court made two errors in instructing the jury. First, the court’s written instructions did not include the oral instruction concerning prior inconsistent statements, and the court did not explain to the jury the difference between the oral and the written instructions.

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Second, the court did not instruct the jurors that they could consider Dibiase's grand jury testimony as substantive evidence.

¶ 32 The trial court has discretion to decide whether to give proffered instructions. *Dillon v. Evanston Hospital*, 199 Ill. 2d 483, 505, 771 N.E.2d 357 (2002). The court abuses its discretion if it gives unclear or misleading instructions or if the instructions do not fairly and correctly state the law. *Id.* at 507. We will not reverse the judgment based on erroneous instructions unless the error prejudiced the appellant. *Knight v. Chicago Tribune Co.*, 385 Ill. App. 3d 347, 358, 895 N.E.2d 1007 (2008).

¶ 33 The judge permitted Johnson to present evidence of Dibiase's grand jury testimony as a prior statement inconsistent with Dibiase's testimony at trial. The decision accorded with *People v. Billups*, 318 Ill. App. 3d 948, 957, 742 N.E.2d 1261, 1269 (2001), where the court explained that it is left to the sound discretion of trial court to determine whether a witness' prior statement is inconsistent with his present testimony. A direct contradiction of the testimony is not required for a prior statement of a witness to be considered inconsistent with his trial testimony. A "prior statement is deemed inconsistent when it omits a significant matter that would reasonably be expected to be mentioned if true." *Billups*, 318 Ill. App. 3d at 957.

¶ 34 Dibiase testified to the grand jury that he saw the gun when he removed Johnson from the car. A reasonable trier of fact could find that if he had seen the gun earlier, before he removed Perry from her car, Dibiase would have told the grand jury. The judge did not abuse his discretion when he allowed the grand jury testimony into evidence and read the jury the first part of IPI 3.11, instructing the jury on the use of the prior testimony for impeachment. The

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judge decided he had erred in the oral instructions. Hence, the judge gave the jury written instructions that made no reference to prior inconsistent statements.

¶ 35 To withdraw an erroneous instruction after reading it to the jury, the court must inform the jury that the court is withdrawing the instruction. *Osmon v. Bellon Construction Co.*, 53 Ill. App. 2d 67, 202 N.E.2d 341 (1964). This court has held that recalling or withdrawing the instruction is the only way to correctly remove the error. See *Bochat v. Knisely*, 144 Ill. App. 551 (1908), where the court had read the instructions and, as the jury was about to retire, the court called them back and informed them that one instruction he had given was incorrect. The judge then read it to them, stated that he was withdrawing it, and they should give it no consideration by treating it as if it had not been given. The Appellate Court held that this was the correct procedure. Both a withdrawal of the erroneous instruction and the giving of a correct instruction have been held necessary to correct an error. “The withdrawal must be express and unqualified and in language so explicit as to preclude the inference that the jury might have been influenced by the erroneous instruction.” *Osmon v. Bellon Construction Co.*, 53 Ill. App. 2d 67, 71, 202 N.E.2d 341 (1964).

¶ 36 “[J]ury instructions should not be misleading or confusing (citation); and the giving of conflicting instructions *** is not harmless error.” *People v. Bush*, 157 Ill. 2d 248, 253-54, 623 N.E.2d 1361, 1364 (1993). We find the trial judge erred by sending the jury written instructions that differed from the oral instructions, without explaining the difference to the jury.

¶ 37 The conviction here rested entirely on the credibility of uncorroborated portions of a well-impeached witness’s testimony. We find the error in instructing the jury about the use of prior

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inconsistent statements for impeachment prejudiced Johnson. We reverse and remand for a new trial. Because of our finding on this issue, we need not address the other alleged instruction error or Johnson's claim that his counsel provided ineffective assistance.

¶ 38

CONCLUSION

¶ 39

The trial court erred by giving the jury written instructions that differed significantly from the oral instructions without explaining the difference. In view of the weak evidence against Johnson, we find the error prejudicial. We find the evidence sufficient to permit retrial without violating double jeopardy principles.

¶ 40

We reversed Johnson's conviction for armed habitual criminal because he committed one of the predicate offenses when he was 15 years old. As relief on this issue, Johnson has requested that we reduce his conviction to unlawful use of a weapon by a felon and remand for resentencing. However, because we also reverse Johnson's conviction based on the trial court's error in instructing the jury, we remand for a new trial.

¶ 41

Reversed and remanded.

Case Summary

Case No. 02CR0277401

Offense	Statute	Degree	Offense Date	Filed Date
006. OTHER AMT NARCOTIC SCHED I&II	720-570/401(D)	F2	01/01/1900	02/04/2002

Arrest
Date: 01/05/2002
Agency:
ILoCPD000 - Chicago Police Department
DCN: 014997183 Sequence: 006

Related Cases

02110162201 (Indictment)
02CR0277402 (Co-Defendants)

Statistical Closures

05/01/2002 Guilty Plea

Assignment Information

Current Case Assignment

Case Number 02CR0277401
Court Criminal Division
Date Assigned 02/04/2002
Judicial Officer Watkins, Steven G

Party Information

Lead Attorneys

Defendant GRAY, DEMETRIUS

7258 S PEORIA
CHICAGO, IL 60621
Black
Male
Height: 5'10" Weight: 160
DOB: 07/24/1984
Other Agency Number: 042980560 SID/IBI,
1296934 IR Number

PUBLIC DEFENDER
Public Defender

Plaintiff OF ILLINOIS, PEOPLE OF THE STATE

Other

Events and Orders of the Court

05/01/2002 **By Agreement** (9:00 AM)
05/01/2002 **Plea** (Judicial Officer: Garcia, Rodolfo)
GRAY, DEMETRIUS
005. MFG/DEL 01-15 GR COCAINE/ANLG
Plea of Guilty
DCN: 014997183 Sequence: 005
05/01/2002 **Disposition** (Judicial Officer: Garcia, Rodolfo)
005. MFG/DEL 01-15 GR COCAINE/ANLG
Plea of Guilty
DCN: 014997183
Sequence: 005

Case Summary

Case No. 02CR0277401

05/01/2002 **Amended Disposition** (Judicial Officer: Garcia, Rodolfo) Reason: Conversion
 005. MFG/DEL 01-15 GR COCAINE/ANLG
 Finding of Guilty
 DCN: 014997183
 Sequence: 005

05/01/2002 **Disposition** (Judicial Officer: Garcia, Rodolfo)
 001. MFG/DEL COCAINE/SCH/PUB HS/PK
 Nolle Prosequi
 DCN: 014997183
 Sequence: 001

05/01/2002 **Disposition** (Judicial Officer: Garcia, Rodolfo)
 002. MFG/DEL COCAINE/SCH/PUB HS/PK
 Nolle Prosequi
 DCN: 014997183
 Sequence: 002

05/01/2002 **Disposition** (Judicial Officer: Garcia, Rodolfo)
 003. AMT NARC SCHED I/II/SCH/HS/PK
 Nolle Prosequi
 DCN: 014997183
 Sequence: 003

05/01/2002 **Disposition** (Judicial Officer: Garcia, Rodolfo)
 004. AMT NARC SCHED I/II/SCH/HS/PK
 Nolle Prosequi
 DCN: 014997183
 Sequence: 004

05/01/2002 **Disposition** (Judicial Officer: Garcia, Rodolfo)
 006. OTHER AMT NARCOTIC SCHED I&II
 Nolle Prosequi
 DCN: 014997183
 Sequence: 006

05/01/2002 **Sentence** (Judicial Officer: Garcia, Rodolfo)
 005. MFG/DEL 01-15 GR COCAINE/ANLG
 IDOC
 IL Criminal
 Confinement/Juvenile Detention
 Status: Conversion Sentence Status
 Agency: Illinois Department of Corrections
 Report Date: 05/01/2002
 Term: 4 Years
 Comment: DEF SENTENCED ILLINOIS DOC

05/01/2002 Recall/Execute Sent To Police Agency
ROOM: CLERK'S OFFICE

05/01/2002 Defendant In Custody (Judicial Officer: Garcia, Rodolfo)
ROOM: 304 JDGE: 1727

05/01/2002 Plea Of Guilty (Judicial Officer: Garcia, Rodolfo)
ROOM: 304 JDGE: 1727 REF: C005

05/01/2002 Jury Waived (Judicial Officer: Garcia, Rodolfo)
ROOM: 304 JDGE: 1727

05/01/2002 Finding Of Guilty (Judicial Officer: Garcia, Rodolfo)
ROOM: 304 JDGE: 1727 REF: C005

05/01/2002 Presentence Investigation Waived (Judicial Officer: Garcia, Rodolfo)
ROOM: 304 JDGE: 1727

05/01/2002 Nolle Prosequi (Judicial Officer: Garcia, Rodolfo)
ROOM: 304 JDGE: 1727 REF: C001

Criminal Division

Case Summary

Case No. 02CR0277401

05/01/2002 Nolle Prosequi (Judicial Officer: Garcia, Rodolfo)
ROOM: 304 JDGE: 1727 REF: C002

05/01/2002 Nolle Prosequi (Judicial Officer: Garcia, Rodolfo)
ROOM: 304 JDGE: 1727 REF: C003

05/01/2002 Nolle Prosequi (Judicial Officer: Garcia, Rodolfo)
ROOM: 304 JDGE: 1727 REF: C004

05/01/2002 Nolle Prosequi (Judicial Officer: Garcia, Rodolfo)
ROOM: 304 JDGE: 1727 REF: C006

05/01/2002 Defendant Sentenced Illinois Department Of Corrections (Judicial Officer: Garcia, Rodolfo)
ROOM: 304 JDGE: 1727 REF: C005 MIN TERM: 4Y

05/01/2002 Credit Defendant For Time Served (Judicial Officer: Garcia, Rodolfo)
ROOM: 304 JDGE: 1727 DESC: CREDIT DEFT ALL TIME IN CUSTODY.

05/01/2002 Eligible Impact Program-Boot Camp (Judicial Officer: Garcia, Rodolfo)
ROOM: 304 JDGE: 1727

05/01/2002 Defendant Advised Of Right To Appeal (Judicial Officer: Garcia, Rodolfo)
ROOM: 304 JDGE: 1727

05/01/2002 Warrant Quashed (Judicial Officer: Garcia, Rodolfo)
ROOM: 304 JDGE: 1727

05/01/2002 Change Priority Status (Judicial Officer: Garcia, Rodolfo)
ROOM: 304 JDGE: 1727 REF: M

05/01/2002 Mittimus To Issue (Judicial Officer: Garcia, Rodolfo)
ROOM: 304 JDGE: 1727

04/19/2002 **By Agreement** (9:00 AM)

04/19/2002 Prisoner Data Sheet To Issue (Judicial Officer: Garcia, Rodolfo)
ROOM: 304 JDGE: 1727

04/19/2002 Administrative Mandatory Furlough (CCDOC) (Judicial Officer: Garcia, Rodolfo)
ROOM: 304 JDGE: 1727

04/19/2002 Continuance By Agreement (Judicial Officer: Garcia, Rodolfo)
ROOM: 304 JDGE: 1727 CDATE: 05/01/2002 C: 09:30 AM - 2

03/27/2002 **By Agreement** (9:00 AM)

03/27/2002 Prisoner Data Sheet To Issue (Judicial Officer: Garcia, Rodolfo)
ROOM: 304 JDGE: 1727

03/27/2002 Administrative Mandatory Furlough (CCDOC) (Judicial Officer: Garcia, Rodolfo)
ROOM: 304 JDGE: 1727

03/27/2002 Continuance By Agreement (Judicial Officer: Garcia, Rodolfo)
ROOM: 304 JDGE: 1727 CDATE: 04/19/2002 C: 09:30 AM - 2

03/14/2002 **By Agreement** (9:00 AM)

03/14/2002 Prisoner Data Sheet To Issue (Judicial Officer: Garcia, Rodolfo)
ROOM: 304 JDGE: 1727

03/14/2002 Administrative Mandatory Furlough (CCDOC) (Judicial Officer: Garcia, Rodolfo)
ROOM: 304 JDGE: 1727

03/14/2002 Continuance By Agreement (Judicial Officer: Garcia, Rodolfo)
ROOM: 304 JDGE: 1727 CDATE: 03/27/2002 C: 09:30 AM - 2

02/14/2002 **Continued to** (9:00 AM)
Resource: Location CR1701 Criminal Division, Courtroom 101

02/14/2002 **Continued to** (9:00 AM)
Resource: Location CR1735 Criminal Division, Courtroom 304

02/14/2002 Case Assigned (Judicial Officer: Biebel, Paul)

127815

Criminal Division

Case Summary

Case No. 02CR0277401

ROOM: 101 JDGE: 1688 CDATE: 02/14/2002 C: 09:00 AM - 1 ROOM: 304

02/14/2002 Public Defender Appointed (Judicial Officer: Garcia, Rodolfo)
ROOM: 304 JDGE: 1727

02/14/2002 Plea Of Not Guilty (Judicial Officer: Garcia, Rodolfo)
ROOM: 304 JDGE: 1727

02/14/2002 Motion For Discovery (Judicial Officer: Garcia, Rodolfo)
ROOM: 304 JDGE: 1727 F MODB: 1
Party: Defendant GRAY, DEMETRIUS

02/14/2002 Discovery Answer Filed (Judicial Officer: Garcia, Rodolfo)
ROOM: 304 JDGE: 1727 MODB: 1
Party: Defendant GRAY, DEMETRIUS

02/14/2002 Continuance By Agreement (Judicial Officer: Garcia, Rodolfo)
ROOM: 304 JDGE: 1727 CDATE: 03/14/2002 C: 09:30 AM - 2

02/04/2002

Indictment/Information-Clerks Office-Presiding Judge

ROOM: CLERK'S OFFICE CDATE: 02/14/2002 C: 09:00 AM - 1 ROOM: 101 DESC: 02CR0277401 ID# CR100090474



Trial and Sentencing of Youth as Adults in the Illinois Justice System: Transfer Data Report

MARCH 2020

Illinois Juvenile Justice Commission
<http://ijjc.illinois.gov/>



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Introduction and Methodology

This is the second report prepared by the Illinois Juvenile Justice Commission¹, as required by the Illinois Juvenile Court Act, to provide statewide data on the transfer of youth to adult courts and related court actions to impose adult sentencing provisions on certain youth. It contains data reported for Calendar Year 2017.²

Effective January 2016, the Illinois General Assembly significantly scaled back trial of youth as adults in adult criminal courts in Public Act 99-0258.³ In enacting these provisions, the General Assembly relied on a strong and growing body of research and data indicating that processing and punishing youth like adults harms young people and undermines public safety and community well-being.

As discussed in the Illinois Juvenile Justice Commission's report *Raising the Age of Juvenile Court Jurisdiction*⁴ (2013), the indiscriminate trial of youth as adults fails to take into account developmental factors like impulsivity, vulnerability to peer pressure, attraction to risk-taking and underdeveloped decision-making skills. These well-established developmental traits render adolescents less culpable for their behavior. At the same time, developmental immaturity makes young people highly responsive to positive, rehabilitative supports and interventions. National research also indicates that trial of youth as adults does not effectively deter juvenile crime and may in fact produce higher rates of offending and recidivism. In enacting Public Act 99-0258, the General Assembly has taken steps to more closely align Illinois law with this research and data.

In addition to modifying criteria and processes for transferring youth to adult criminal court, the Act also recognizes the need for current and complete statewide data regarding transfers and related court actions. Prior to the legislation, there was no state-wide repository for information regarding the transfer and trial of youth as adults⁵, the imposition of adult sentences pursuant to "extended juvenile jurisdiction" provisions (EJJ)⁶ or designation of youth as "habitual"⁷ or

¹ The Illinois Juvenile Justice Commission serves as the federally mandated State Advisory Group to the Governor, General Assembly and the Illinois Department of Human Services. See 20 ILCS 505/17a-5.

² The first annual data report, published in 2018, is available at

http://ijjc.illinois.gov/sites/ijjc.illinois.gov/files/assets/Juvenile%20Transfers%20CY2016%20Report_FINAL.pdf

³ The Act repeals provisions for the transfer of youth ages 15 and under to adult court, limits other "automatic transfers" and expands judicial discretion in transfer decisions for 16 and 17 year olds, except for those charged with first degree murder, aggravated criminal sexual assault or aggravated battery with a firearm. The statute also establishes factors a judge may take into consideration when sentencing a person under 18, including maturity, presence of a developmental disability, home environment, trauma, prior criminal activity (if any) and potential for rehabilitation. (Public Act 99-0258; effective January 2016.)

⁴ <http://ijjc.illinois.gov/rta>

⁵ 750 ILCS 405/5-130 and 750 ILCS 405/5-805

⁶ 750 ILCS 405/5-810

⁷ 750 ILCS 405/5-815

“violent”⁸ juvenile offenders (HJO or VJO status). Each of these mechanisms can trigger adult approaches to the trial and sentencing of youth. To address this information gap, the Act created a data reporting provision which requires Circuit Court Clerks to track and report information twice annually on the filing and disposition of these proceedings.⁹ The Act required the Illinois Juvenile Justice Commission to develop “the standards, confidentiality protocols, format, and data depository” for these reports.¹⁰ An explanatory text of the types of motions and proceedings this report covers can be found in Appendix A.

To fulfill this mandate, the Commission and its research partners at the University of Illinois Center for Prevention Research and Development and Loyola University’s Center for Criminal Justice Research, Policy and Practice developed standardized data collection forms designed for use by Circuit Court Clerks in collecting and reporting this data. In the initial reporting period, the Commission also sought and benefitted greatly from dialogue and collaboration with the Illinois Association of Court Clerks and the Administrative Office of the Illinois Courts to develop and test data collection forms and mechanisms.

In developing these forms and reporting protocols, practitioners recognized that the statute requires collection of information that no single criminal justice stakeholder – prosecutor, defender, probation department or Circuit Court Clerk, for example – has readily available in all cases. Thus, meeting the statutory mandates has required collaboration among justice system stakeholders and development of new methods for gathering case-level data.

This report reflects the data reported for Calendar Year 2017 and presents that information in three ways:

- The first section provides aggregated, statewide data on all proceedings to try youth as adults or apply Extended Juvenile Jurisdiction, Violent Juvenile Offender and / or Habitual Juvenile Offender provisions.
- The second section provides more detailed information on each of these categories (Excluded Jurisdiction proceedings, motions to transfer, motions for Extended Juvenile Jurisdiction proceedings and motions for Violent Juvenile Offender or Habitual Juvenile Offender designations).
- The third section provides county-level information for those counties reporting proceedings in one or more of these categories.

⁸ 750 ILCS 405/5-820

⁹ See 705 ILCS 405/5-822

¹⁰ Statewide transfer data will also facilitate Illinois’ compliance with the federal Juvenile Justice and Delinquency Prevention Act requirement for states to gather and report juvenile justice / criminal justice data at nine key decision points, including trial of youth as adults.

In reviewing this report, stakeholders should note that, while the statute requires reporting of victim and case disposition information, data reporting has not been complete or consistent enough to include in the reports. Information reported on race and ethnicity was also not detailed or consistent, with large numbers of youth categorized as “other race” or “unknown.” Finally, it should be noted that youth may be subject to multiple proceedings and / or charges. Therefore, the number of proceedings or charges listed may exceed the number of youth in some data tables. Where relevant, case information and individual youth information is presented.

Gathering and reporting the required information was complex and challenging for all involved – the research team, Commission staff, Circuit Court Clerks and other state and local partners. However, the diligence and collaboration exhibited by these stakeholders has yielded unprecedented statewide information about youth subject to transfer and trial as adults in Illinois. This information can provide valuable information to policy makers and practitioners who seek to protect community safety, use resources wisely and improve outcomes for the youth and families of our state.

This report is submitted by the Illinois Juvenile Justice Commission in partnership with the Center for Prevention Research and Development at the University of Illinois and the Loyola University Chicago Center for Criminal Justice Research, Policy and Practice in fulfillment of the Commission’s mandate in Public Act 99-0258.

Acknowledgements

A special appreciation is extended to the various Circuit Clerks, State’s Attorneys and Public Defenders across Illinois for providing data on filed motions to transfer youth to adult court. Collecting this type of case level data poses varying degrees of complexity depending upon the size and resources of the reporting agencies. There is no one system or database which contains this data. Often times collecting and verifying this data requires multiple contacts to Circuit Clerks and State’s Attorneys. Only through the collaboration of these agencies, their hard work and due diligence in collecting this data is this report possible.

2016 Juvenile Transfer Motion Updates

During the reporting cycle for calendar year 2017 a total of seven Illinois counties reported juvenile transfer cases that had been filed in previous reporting year. These six counties reported 34 youth with a grand total of 40 motions to transfer a juvenile to adult court. For the calendar year 2016, a total of 100 youth and 124 juvenile transfer motions were reported. These newly reported cases bring the amended total to 134 youth and 164 juvenile transfer motions.

Youth by Age

5-130 Excluded Jurisdiction	Cook	16 Year-Olds	12
		17 Year-Olds	13
5-805 Motion for Transfer	Lake	17 Year-Olds	2
	Peoria	17 Year-Olds	1
	Saline	17 Year-Olds	3
	Sangamon	14 Year-Olds	1
	Vermilion	17 Year-Olds	1
	Woodford	16 Year-Olds	1
Youth Total			34

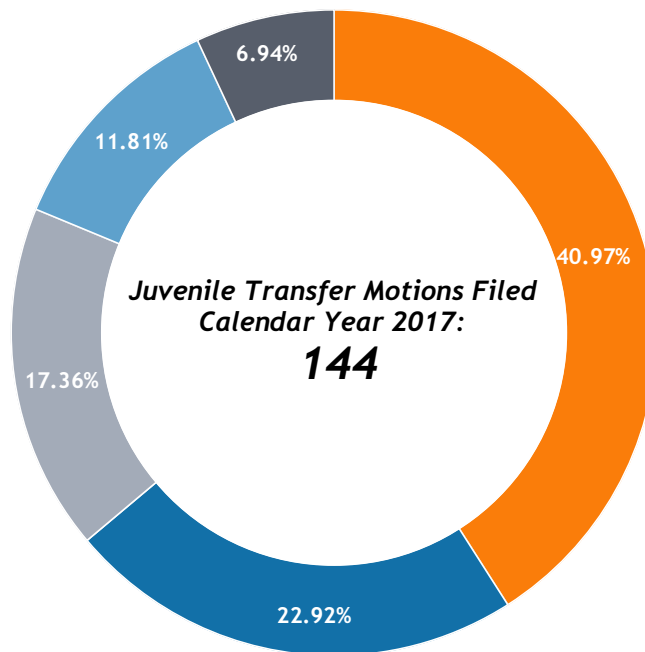
Charges by Age

5-130 Excluded Jurisdiction	Cook	16 Year-Olds	Agg. Battery	1
			Agg. Criminal Sexual Assault	7
			First Degree Murder	4
			Home Invasion	1
5-805 Motion for Transfer	Lake	17 Year-Olds	First Degree Murder	14
			Agg. Vehicular Hijacking	1
			Burglary	1
			Unlawful Poss. Weap. by Street Gang ..	1
	Peoria	17 Year-Olds	Agg. Battery	4
			Home Invasion	1
	Saline	17 Year-Olds	Agg. Battery	1
			Agg. Battery	1
	Sangamon	14 Year-Olds	Agg. Battery	2
			Agg. Battery	1
	Vermilion	17 Year-Olds	Burglary	1
			Burglary	2
	Woodford	16 Year-Olds	Crim. Tres. to Resid.	1
			Thft. of Mtr. Veh. Parts/Accessor.	1
			Charges Total	40

2017 Juvenile Transfer Motion Type Comparison

Motions

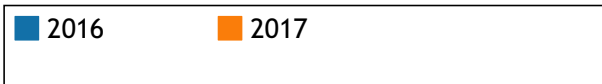
- 5-805 Motion for Transfer
- 5-130 Excluded Jurisdiction
- 5-810 Extended Jurisdiction
- 5-820 Violent Offender
- 5-815 Habitual Offender



NOTE: Individual youth may be subject to multiple proceedings and/or charges. Therefore, the number of proceedings and/or charges may exceed the number of youth in some data tables.

2016-2017 Comparison Data

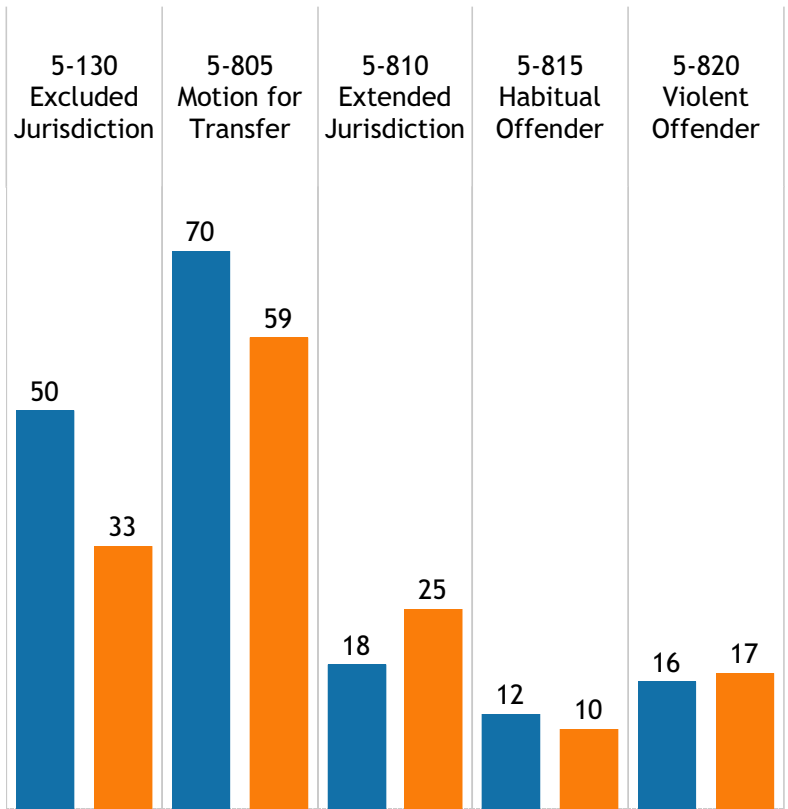
These graphs depict a year by year comparison of motion types, youth age and youth gender for 2016-2017. The figure to the right provides breakdown of the five difference motion types by year. The figure at the bottom left provides a breakdown of the age of the youth and the figure at the bottom right provides a breakdown of gender.



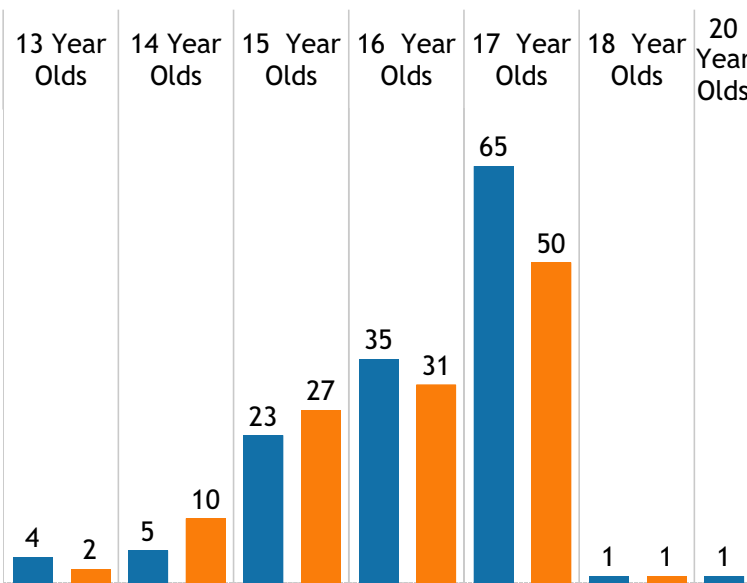
Motion Type by Year

Motion Type	2016	2017
5-130 Excluded Jurisdiction	50	33
5-805 Motion for Transfer	70	59
5-810 Extended Jurisdiction	18	25
5-815 Habitual Offender	12	10
5-820 Violent Offender	16	17
Grand Total	164	129

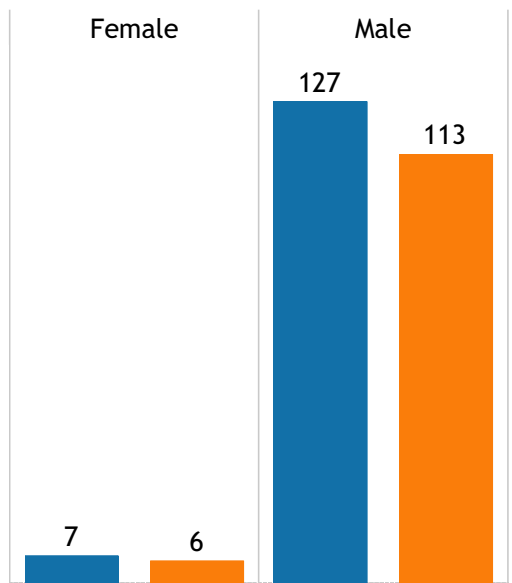
Motion Type by Year



Youth by Age by Year



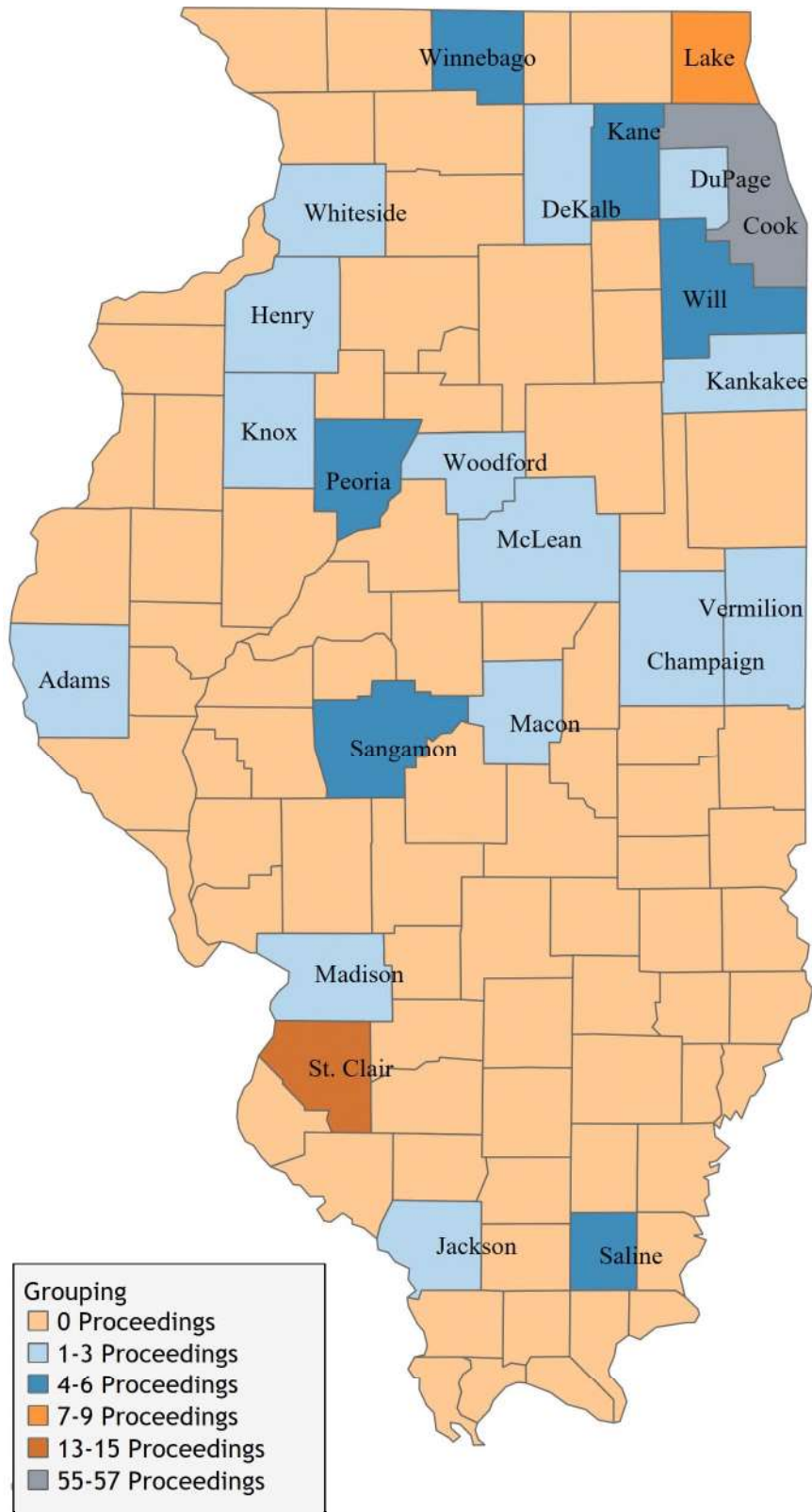
Youth by Gender by Year



Illinois Juvenile Transfers at a Glance

For the reporting period of January 1, 2017 through December 31, 2017 a total of 102 Illinois counties reported data on motions to transfer youth to adult courts. A total of 23 Illinois counties reported at least one motion while 79 counties reported zero motions. The geographic representation of those motions are depicted in an interactive Illinois county boundary map located to the right. Each county has a detailed report, which can be viewed by selecting the appropriate county from the map. The table below shows the counties which reported motions, that county's total number of cases and total number of youth.

	# Cases	# Youth
Adams	1	1
Champaign	3	2
Cook	57	53
DeKalb	3	2
DuPage	1	1
Henry	1	1
Jackson	1	1
Kane	5	4
Kankakee	2	2
Knox	1	1
Lake	7	7
Macon	1	1
Madison	1	1
McLean	2	1
Peoria	6	6
Saline	4	4
Sangamon	6	6
St. Clair	13	11
Vermilion	2	2
Whiteside	2	2
Will	4	4
Winnebago	5	5
Woodford	1	1
State Total	129	119



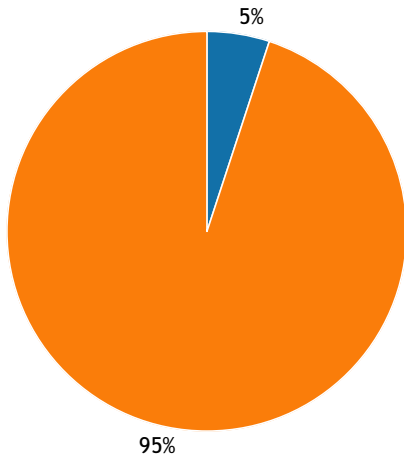
Demographics for all Proceedings Calendar Year 2017

Youth by Age

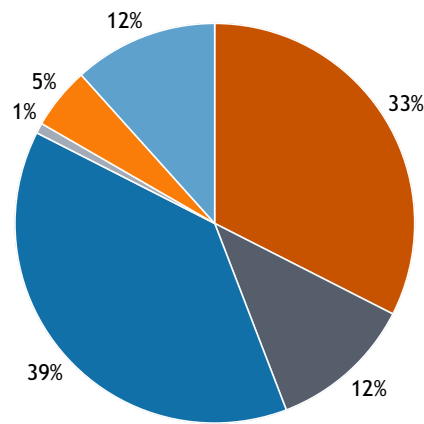


Total Distinct Youth: 119

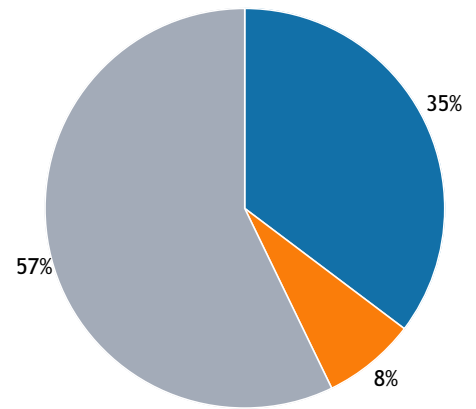
Gender



Race



Ethnicity



Female
Male

Unknown White
Black
Black/ Afr ..
Multi-Racial
Other

Unknown
Hispanic
Non-Hispanic

Female	6
Male	113
Grand Total	119

Black/ Afr Amer.	46
Unknown	39
Black	14
White	14
Other	6
Multi-Racial	1
Grand Total	119

Non-Hispanic	68
Unknown	42
Hispanic	9
Grand Total	119

NOTE: Individual youth may be subject to multiple proceedings and/or charges. Therefore, the number of proceedings and/or charges may exceed the number of youth in some data tables.

Charges by Gender Calendar Year 2017

Male Youth by Charges

First Degree Murder	34
Armed Robbery	22
Agg. Vehicular Hijacking	11
Agg. Battery	9
Agg. Crim. Sex. Assault	6
Agg. Robbery	4
Agg. Unlwl. Use of Weap.	4
Robbery	3
Agg. Crim. Sex. Abuse	2
Agg. Discharge of a Fir.	2
Agg. Kidnapping	2
Agg. Poss. of Stolen Fir.	2
Home Invasion	2
Manuf. of Con. Sub.	2
Residential Burglary	2
Theft of MV Parts or Accessor.	2
Unlwl. Poss. Weap. St. Gang ..	2
Animal Torture	1
Armed Violence	1
Attmpt. Murder	1
Burglary	1
Crim. Sexual Aslt.	1
Disarming Off. or Corr. Emp.	1
Domestic Battery	1
Escape - Failure to Report	1
Involuntary Manslaughter	1
Poss. of Stolen Fir.	1
Pred. Crim. Sex. Aslt of a Child	1
Unlwl. Poss. of Firearms & Fir..	1
Unlwl. Use of Weap.	1
Total Male Youth	123

Female Youth by Charges

First Degree Murder	3
Involuntary Manslaughter	2
Agg. Domestic Battery	1
Total Female Youth	6

Charges by Gender

Female	6
Male	123
Total Youth	129

NOTE: Individual youth may be subject to multiple proceedings and/or charges. Therefore, the number of proceedings and/or charges may exceed the number of youth in some data tables.

Charges by Age Calendar Year 2017

13 Year Olds

Agg. Crim. Sex. Abuse	| 1
Armed Robbery	| 1
Age Group Total	| 2

14 Year Olds

Armed Robbery	| 3
Agg. Crim. Sex. Assault	| 2
First Degree Murder	| 2
Agg. Unlwl. Use of Weap.	| 1
Agg. Vehicular Hijacking	| 1
Poss. of Stolen Fir.	| 1
Unlwl. Poss. Weap. St. Gang Mbr.	| 1
Age Group Total	| 10

15 Year Olds

First Degree Murder	| 14
Agg. Vehicular Hijacking	| 3
Agg. Crim. Sex. Assault	| 2
Armed Robbery	| 2
Residential Burglary	| 2
Agg. Robbery	| 1
Agg. Unlwl. Use of Weap.	| 1
Burglary	| 1
Crim. Sexual Aslt.	| 1
Robbery	| 1
Age Group Total	| 28

16 Year Olds

First Degree Murder	| 12
Agg. Battery	| 4
Armed Robbery	| 2
Agg. Unlwl. Use of Weap.	| 2
Agg. Poss. of Stolen Fir.	| 2
Unlwl. Use of Weap.	| 1
Unlwl. Poss. Weap. St. Gang Mbr.	| 1
Robbery	| 1
Involuntary Manslaughter	| 1
Attmpt. Murder	| 1
Armed Violence	| 1
Agg. Vehicular Hijacking	| 1
Agg. Robbery	| 1
Agg. Kidnapping	| 1
Agg. Discharge of a Fir.	| 1
Agg. Crim. Sex. Assault	| 1
Age Group Total	| 33

17 Year Olds

Armed Robbery	| 14
First Degree Murder	| 9
Agg. Vehicular Hijacking	| 6
Agg. Battery	| 5
Agg. Robbery	| 2
Home Invasion	| 2
Involuntary Manslaughter	| 2
Manuf. of Con. Sub.	| 2
Theft of MV Parts or Accessor.	| 2
Agg. Crim. Sex. Assault	| 1
Agg. Discharge of a Fir.	| 1
Agg. Domestic Battery	| 1
Agg. Kidnapping	| 1
Animal Torture	| 1
Disarming Off. or Corr. Emp.	| 1
Domestic Battery	| 1
Escape - Failure to Report	| 1
Pred. Crim. Sex. Aslt of a Child	| 1
Robbery	| 1
Unlwl. Poss. of Firearms & Fir. Ammo.	| 1
Age Group Total	| 55

18 Year Olds

Agg. Crim. Sex. Abuse	| 1
Age Group Total	| 1

Charges by Age

13 Year-Olds	| 2
14 Year-Olds	| 10
15 Year-Olds	| 28
16 Year-Olds	| 33
17 Year-Olds	| 55
18 Year-Olds	| 1
Grand Total	| 129

NOTE: Individual youth may be subject to multiple proceedings and/or charges. Therefore, the number of proceedings and/or charges may exceed the number of youth in some data tables.

Charges by Race Calendar Year 2017

Black/African American

Armed Robbery	11
Agg. Battery	6
First Degree Murder	6
Agg. Crim. Sex. Assault	4
Agg. Vehicular Hijacking	3
Agg. Discharge of a Fir.	2
Agg. Poss. of Stolen Fir.	2
Agg. Robbery	2
Theft of MV Parts or Accessor.	2
Unlawf. Poss. Weap. St. Gang Mbr.	2
Agg. Domestic Battery	1
Agg. Unlawf. Use of Weap.	1
Attmp. Murder	1
Burglary	1
Crim. Sexual Aslt.	1
Disarming Off. or Corr. Emp.	1
Domestic Battery	1
Home Invasion	1
Manuf. of Con. Sub.	1
Poss. of Stolen Fir.	1
Residential Burglary	1
Robbery	1
Unlawf. Poss. of Firearms & Fir. Ammo.	1
Racial Group Total	52

Multi-Racial

Escape - Failure to Report	1
Racial Group Total	1

Other Race

First Degree Murder	3
Agg. Battery	1
Agg. Crim. Sex. Assault	1
Agg. Vehicular Hijacking	1
Racial Group Total	6

White

First Degree Murder	6
Agg. Crim. Sex. Abuse	2
Involuntary Manslaughter	2
Agg. Kidnapping	1
Animal Torture	1
Armed Violence	1
Pred. Crim. Sex. Aslt of a Child	1
Racial Group Total	14

Unknown Race

First Degree Murder	14
Armed Robbery	11
Agg. Vehicular Hijacking	7
Agg. Unlawf. Use of Weap.	3
Agg. Robbery	2
Robbery	2
Home Invasion	1
Manuf. of Con. Sub.	1
Residential Burglary	1
Racial Group Total	42

Charges by Race

Black/ Afr Amer.	52
Unknown	42
Black	16
White	14
Other	6
Multi-Racial	1
Grand Total	129

NOTE: Individual youth may be subject to multiple proceedings and/or charges. Therefore, the number of proceedings and/or charges may exceed the number of youth in some data tables.

Charges by County Calendar Year 2017

Adams	Pred. Crim. Sex. Aslt of a Child	1	Macon	Agg. Vehicular Hijacking	1
	County Total	1		County Total	1
Champaign	Agg. Battery	1	Madison	First Degree Murder	1
	Agg. Unlawful Use of Weap.	1		County Total	1
	Residential Burglary	1	McLean	Agg. Discharge of a Fir.	2
	County Total	3		County Total	2
Cook	First Degree Murder	24	Peoria	Armed Robbery	5
	Armed Robbery	11		Unlawful Poss. Weap. St. Gang Mbr.	1
	Agg. Battery	2		County Total	6
	Agg. Vehicular Hijacking	7	Saline	First Degree Murder	3
	Agg. Crim. Sex. Assault	1		Home Invasion	1
	Agg. Unlawful Use of Weap.	3		County Total	4
	Involuntary Manslaughter	1	Sangamon	First Degree Murder	1
	Robbery	2		Unlawful Poss. Weap. St. Gang Mbr.	1
	Agg. Kidnapping	2		Agg. Battery	1
	Agg. Robbery	2		Agg. Domestic Battery	1
	Residential Burglary	1		Armed Violence	1
	Unlawful Use of Weap.	1		Manuf. of Con. Sub.	1
	County Total	57		Poss. of Stolen Fir.	1
DeKalb	Disarming Off. or Corr. Emp.	1		County Total	6
	Domestic Battery	1	St. Clair	First Degree Murder	3
	Manuf. of Con. Sub.	1		Armed Robbery	1
	County Total	3		Agg. Vehicular Hijacking	3
DuPage	Attempt. Murder	1		Agg. Poss. of Stolen Fir.	2
	County Total	1		Agg. Robbery	2
Henry	Animal Torture	1		Theft of MV Parts or Accessor.	2
	County Total	1		County Total	13
Jackson	Escape - Failure to Report	1	Vermilion	First Degree Murder	1
	County Total	1		Home Invasion	1
Kane	Armed Robbery	1		County Total	2
	Agg. Battery	3	Whiteside	First Degree Murder	2
	Robbery	1		County Total	2
	County Total	5	Will	Armed Robbery	4
Kankakee	Agg. Battery	1		County Total	4
	Unlawful Poss. of Firearms & Fir. Am..	1	Winnebago	First Degree Murder	1
	County Total	2		Agg. Crim. Sex. Assault	2
Knox	Agg. Crim. Sex. Assault	1		Agg. Crim. Sex. Abuse	1
	County Total	1		Crim. Sexual Aslt.	1
Lake	First Degree Murder	1		County Total	5
	Agg. Battery	1	Woodford	Burglary	1
	Agg. Crim. Sex. Assault	2		County Total	1
	Involuntary Manslaughter	2			
	Agg. Crim. Sex. Abuse	1			
	County Total	7			

State Total Charges: 129

NOTE: Individual youth may be subject to multiple proceedings and/or charges. Therefore, the number of proceedings and/or charges may exceed the number of youth in some data tables.

Charges by Ethnicity Calendar Year 2017

Hispanic

First Degree Murder	5
Agg. Battery	1
Agg. Crim. Sex. Assault	1
Agg. Vehicular Hijacking	1
Manuf. of Con. Sub.	1
Ethnicity Group Total	9

Non-Hispanic

First Degree Murder	19
Armed Robbery	11
Agg. Battery	8
Agg. Crim. Sex. Assault	5
Involuntary Manslaughter	3
Agg. Crim. Sex. Abuse	2
Agg. Discharge of a Fir.	2
Agg. Kidnapping	2
Agg. Poss. of Stolen Fir.	2
Agg. Robbery	2
Agg. Vehicular Hijacking	2
Theft of MV Parts or Accessor.	2
Unlwl. Poss. Weap. St. Gang Mbr.	2
Agg. Domestic Battery	1
Agg. Unlwl. Use of Weap.	1
Armed Violence	1
Crim. Sexual Aslt.	1
Escape - Failure to Report	1
Home Invasion	1
Manuf. of Con. Sub.	1
Poss. of Stolen Fir.	1
Pred. Crim. Sex. Aslt of a Child	1
Residential Burglary	1
Robbery	1
Unlwl. Poss. of Firearms & Fir. Ammo.	1
Unlwl. Use of Weap.	1
Ethnicity Group Total	74

Unknown Ethnicity

First Degree Murder	13
Armed Robbery	11
Agg. Vehicular Hijacking	8
Agg. Unlwl. Use of Weap.	3
Agg. Robbery	2
Robbery	2
Animal Torture	1
Attmpt. Murder	1
Burglary	1
Disarming Off. or Corr. E..	1
Domestic Battery	1
Home Invasion	1
Residential Burglary	1
Ethnicity Group Total	46

Charges by Ethnicity

Hispanic	9
Non-Hispanic	74
Unknown	46
Grand Total	129

NOTE: Individual youth may be subject to multiple proceedings and/or charges. Therefore, the number of proceedings and/or charges may exceed the number of youth in some data tables.

5-130 Excluded Jurisdiction Calendar Year 2017

Charges

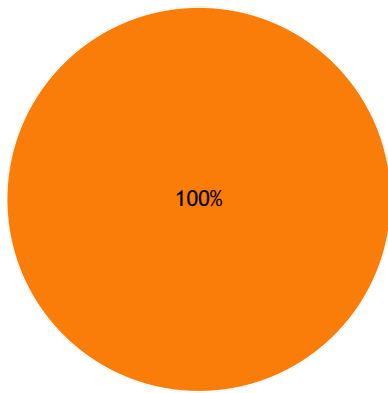
First Degree Murder	17
Agg. Battery	5
Agg. Crim. Sex. Assault	4
Agg. Crim. Sex. Abuse	2
Agg. Kidnapping	2
Involuntary Manslaughter	1
Pred. Crim. Sex. Aslt of a Child	1
Unlwl. Use of Weap.	1

Youth by Age

13 Year-Olds	1
14 Year-Olds	1
15 Year-Olds	1
16 Year-Olds	14
17 Year-Olds	14
18 Year-Olds	1

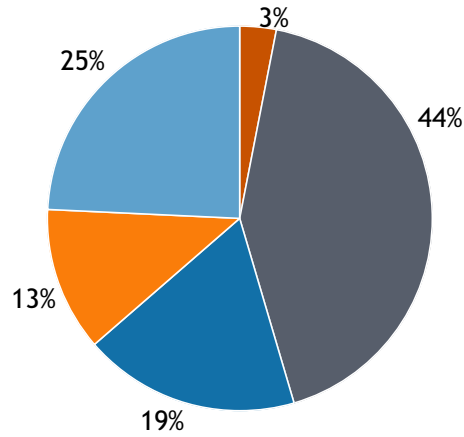
Total 5-130 Excluded Jurisdiction: 33

Gender



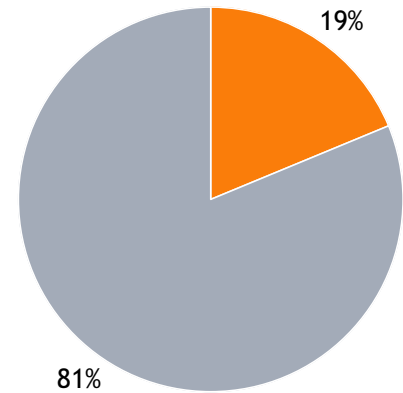
Male

Race



Unknown
Black
Black/ Afr Amer.
Other
White

Ethnicity



Hispanic
Non-Hispanic

Male	32
Grand Total	32

Black	14
White	8
Black/ Afr Amer.	6
Other	4
Unknown	1
Grand Total	32

Non-Hispanic	26
Hispanic	6
Grand Total	32

NOTE: Individual youth may be subject to multiple proceedings and/or charges. Therefore, the number of proceedings and/or charges may exceed the number of youth in some data tables.

5- 805 Motion for Transfer Calendar Year 2017

Charges

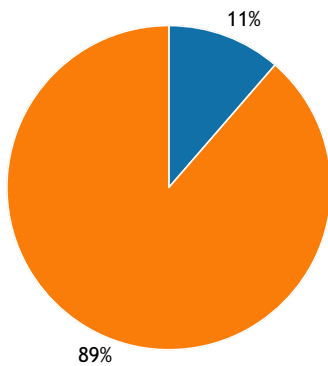
First Degree Murder	18
Armed Robbery	14
Agg. Discharge of a Fir.	2
Agg. Vehicular Hijacking	2
Home Invasion	2
Involuntary Manslaughter	2
Manuf. of Con. Sub.	2
Theft of MV Parts or Accessor.	2
Unlwl. Poss. Weap. St. Gang Mbr.	2
Agg. Battery	1
Agg. Crim. Sex. Assault	1
Agg. Domestic Battery	1
Agg. Robbery	1
Agg. Unlwl. Use of Weap.	1
Armed Violence	1
Attmpt. Murder	1
Burglary	1
Disarming Off. or Corr. Emp.	1
Domestic Battery	1
Escape - Failure to Report	1
Poss. of Stolen Fir.	1
Residential Burglary	1
Unlwl. Poss. of Firearms & Fir. Ammo.	1

Youth by Age

13 Year-Olds	1
14 Year-Olds	5
15 Year-Olds	17
16 Year-Olds	9
17 Year-Olds	23

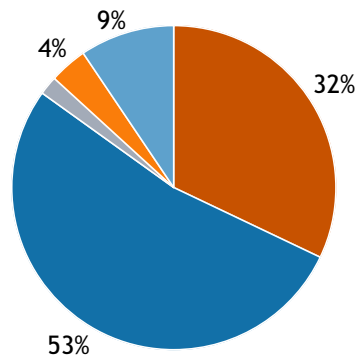
Total 5-805 Motion for Transfer : 59

Gender



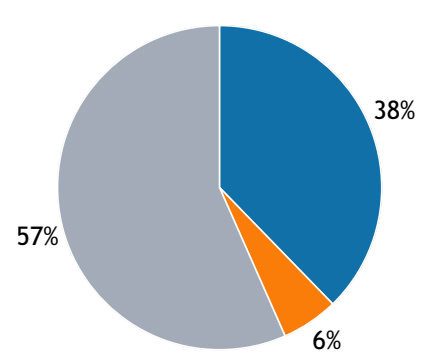
Female
Male

Race



Unknown
Black/ Afr Amer.
Multi-Racial
Other
White

Ethnicity



Unknown
Hispanic
Non-Hispanic

Male	47
Female	6
Grand Total	53

Black/ Afr Amer.	28
Unknown	17
White	5
Other	2
Multi-Racial	1
Grand Total	53

Non-Hispanic	30
Unknown	20
Hispanic	3
Grand Total	53

NOTE: Individual youth may be subject to multiple proceedings and/or charges. Therefore, the number of proceedings and/or charges may exceed the number of youth in some data tables.

5-810 Extended Jurisdiction Calendar Year 2017

Charges

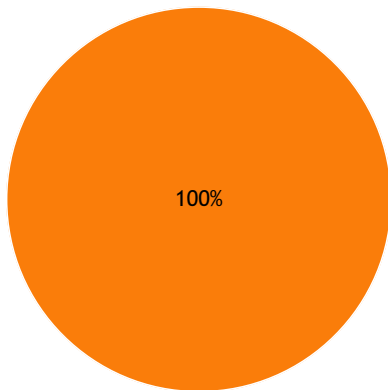
First Degree Murder	7
Armed Robbery	6
Agg. Battery	3
Agg. Poss. of Stolen Fir.	2
Agg. Vehicular Hijacking	2
Agg. Crim. Sex. Assault	1
Agg. Robbery	1
Animal Torture	1
Crim. Sexual Aslt.	1
Robbery	1

Youth by Age

14 Year-Olds	2
15 Year-Olds	9
16 Year-Olds	5
17 Year-Olds	6

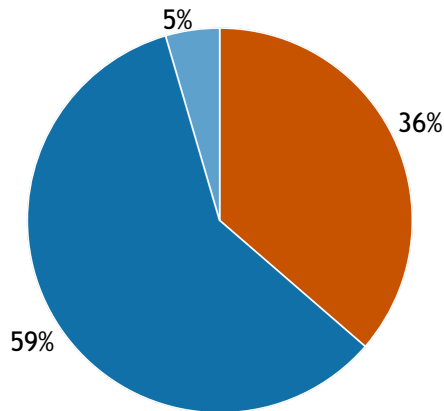
Total 5-810 Extended Jurisdiction: 25

Gender



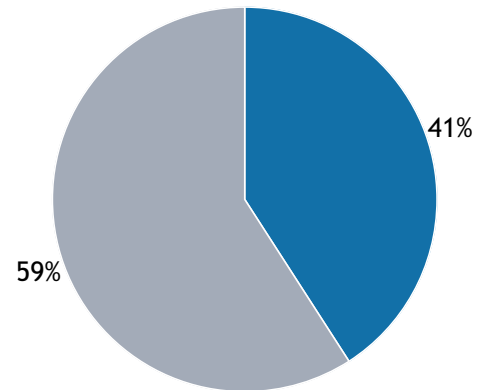
Male

Race



Unknown
Black/ Afr Amer.
White

Ethnicity



Unknown
Non-Hispanic

Male	22
Grand Total	22

Black/ Afr Amer.	13
Unknown	8
White	1
Grand Total	22

Non-Hispanic	13
Unknown	9
Grand Total	22

NOTE: Individual youth may be subject to multiple proceedings and/or charges. Therefore, the number of proceedings and/or charges may exceed the number of youth in some data tables.

5-815 Habitual Offender Calendar Year 2017

Charges

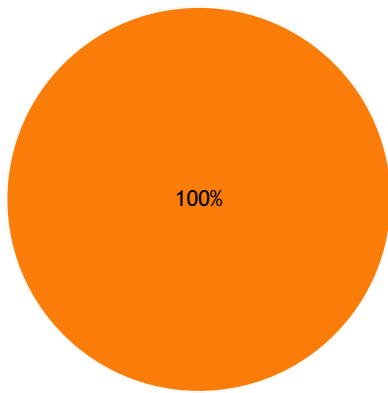
Armed Robbery	4
Agg. Vehicular Hijacking	2
Agg. Robbery	1
First Degree Murder	1
Residential Burglary	1
Robbery	1

Youth by Age

14 Year-Olds	1
15 Year-Olds	4
16 Year-Olds	1
17 Year-Olds	3

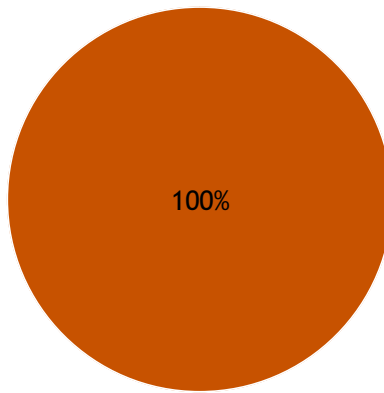
Total 5-815 Habitual Offender: 10

Gender



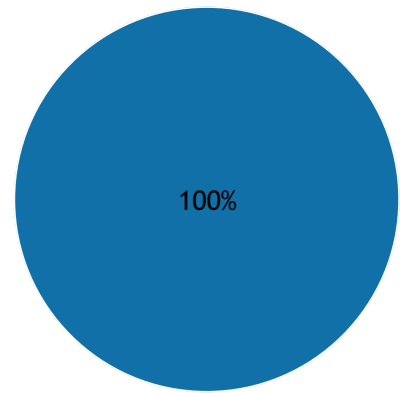
Male

Race



Unknown

Ethnicity



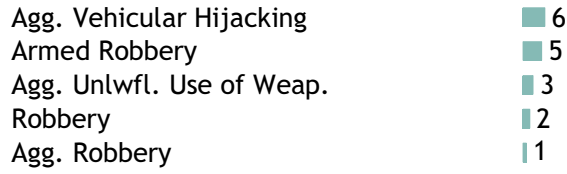
Unknown

Male	9	Unknown	9	Unknown	9
Grand Total	9	Grand Total	9	Grand Total	9

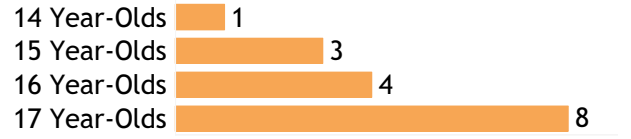
NOTE: Individual youth may be subject to multiple proceedings and/or charges. Therefore, the number of proceedings and/or charges may exceed the number of youth in some data tables.

5-820 Violent Offender Calendar Year 2017

Charges

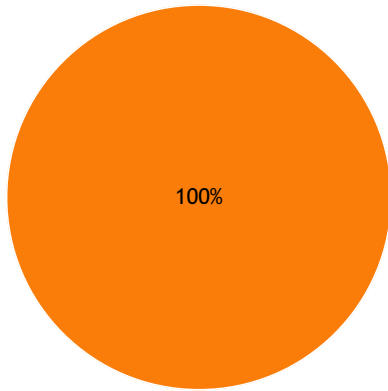


Youth by Age



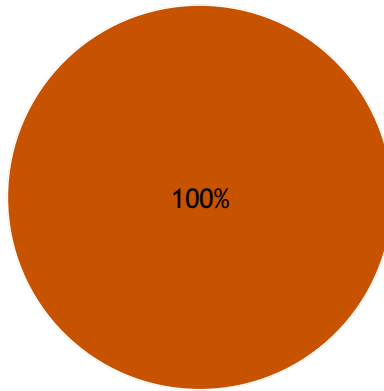
Total 5-820 Violent Offender: 17

Gender



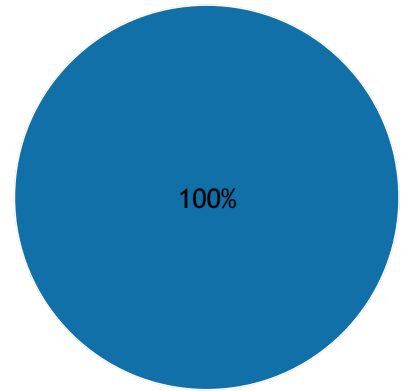
Male

Race



Unknown

Ethnicity



Unknown

Male	16	Unknown	16	Unknown	16
Grand Total	16	Grand Total	16	Grand Total	16

NOTE: Individual youth may be subject to multiple proceedings and/or charges. Therefore, the number of proceedings and/or charges may exceed the number of youth in some data tables.

Adams County

**Proceedings to try youth as adults or apply Extended Juvenile Jurisdiction, Violent Juvenile Offender and/or Habitual Offender Provisions
Calendar Year 2017**

Adams County All Motions Year Comparison



Calendar Year 2017 All Motions

<u># Youth by Age</u>	<u>Age at Offense</u>	
17 Year-Olds	1	17 Year-Olds Pred. Crim. Sex. Aslt of a Child
Youth Total	1	1

<u># Charges by Age</u>	
17 Year-Olds	1
Charges Total	1

Proceedings Summary

5-130 Excluded Jurisdiction Comparison

Calendar Year: **2017** Motion Type: **5-130 Excluded Jurisdiction**

Pred. Crim. Sex. Aslt of a Child	1
----------------------------------	---

2016 2017
2 Motions 1 Motions

<u>Age</u>	<u>Gender</u>	<u>Race</u>	<u>Ethnicity</u>
17 Year-Olds	1	Male	1
		White	1
		Non-Hispanic	1
Grand Total	1	Grand Total	1
		Grand Total	1

NOTE: Individual youth may be subject to multiple proceedings/charges. Therefore, the number of proceedings/charges may exceed the number of youth in some data tables.

Champaign County

Proceedings to try youth as adults or apply Extended Juvenile Jurisdiction, Violent Juvenile Offender and/or Habitual Offender Provisions Calendar Year 2017

Champaign County All Motions Year Comparison



Calendar Year 2017 All Motions

<u># Youth by Age</u>		<u>Age at Offense</u>		
15 Year-Olds	1	15 Year-Olds	Residential Burglary	1
16 Year-Olds	1	16 Year-Olds	Agg. Unlawf. Use of Weap.	1
17 Year-Olds	1	17 Year-Olds	Agg. Battery	1
Youth Total	2			

Charges by Age

15 Year-Olds	1
16 Year-Olds	1
17 Year-Olds	1
Charges Total	3

Proceedings Summary

5-805 Motion for transfer Comparison

2016 2017
4 Motions 2 Motions

Calendar Year: 2017 Motion Type: 5-805 Motion for transfer

Agg. Battery	1
Agg. Unlawf. Use of Weap.	1
Residential Burglary	1

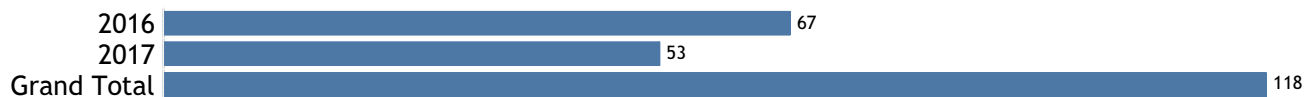
<u>Age</u>	<u>Gender</u>	<u>Race</u>	<u>Ethnicity</u>
15 Year-Olds	1	Male	2
16 Year-Olds	1	Black/ Afr Amer.	2
17 Year-Olds	1	Grand Total	2
		Grand Total	2
		Grand Total	2

NOTE: Individual youth may be subject to multiple proceedings/charges. Therefore, the number of proceedings/charges may exceed the number of youth in some data tables.

Cook County

Proceedings to try youth as adults or apply Extended Juvenile Jurisdiction, Violent Juvenile Offender and/or Habitual Offender Provisions Calendar Year 2017

Cook County All Motions Year Comparison



Calendar Year 2017 All Motions

<u># Youth by Age</u>		<u>Age at Offense</u>		
14 Year-Olds	2	14 Year-Olds	Agg. Unlwl. Use of Weap.	1
15 Year-Olds	14		Agg. Vehicular Hijacking	1
16 Year-Olds	15	15 Year-Olds	Agg. Robbery	1
17 Year-Olds	22		Agg. Unlwl. Use of Weap.	1
Youth Total	53		Armed Robbery	2
			First Degree Murder	9
			Residential Burglary	1
			Robbery	1
		16 Year-Olds	Agg. Battery	2
			Agg. Kidnapping	1
			Agg. Unlwl. Use of Weap.	1
			Agg. Vehicular Hijacking	1
			Armed Robbery	2
			First Degree Murder	6
			Involuntary Manslaughter	1
			Robbery	1
			Unlwl. Use of Weap.	1
		17 Year-Olds	Agg. Crim. Sex. Assault	1
			Agg. Kidnapping	1
			Agg. Robbery	1
			Agg. Vehicular Hijacking	5
			Armed Robbery	7
			First Degree Murder	9

Proceedings Summary

<u>5-130 Excluded Jurisdiction Comparison</u>		<u>Calendar Year: 2017 Motion Type: 5-130 Excluded Jurisdiction</u>	
2016	2017		
25 Motions	20 Motions	Agg. Battery	2
		Agg. Crim. Sex. Assault	1
		Agg. Kidnapping	2
		First Degree Murder	14
		Involuntary Manslaughter	1
		Unlwl. Use of Weap.	1

<u>Age</u>	<u>Gender</u>	<u>Race</u>	<u>Ethnicity</u>
16 Year-Olds	10	Male	20
17 Year-Olds	10	Grand Total	20
		Unknown	1
		Black	14
		Other	1
		White	5
		Grand Total	20
		Hispanic	3
		Non-Hispanic	17
		Grand Total	20

NOTE: Individual youth may be subject to multiple proceedings/charges. Therefore, the number of proceedings/charges may exceed the number of youth in some data tables.

Cook County
 Proceedings to try youth as adults or apply Extended Juvenile Jurisdiction, Violent
 Juvenile Offender and/or Habitual Offender Provisions
 Calendar Year 2017

Proceedings Continued

5-805 Motion for transfer Comparison		Calendar Year: 2017 Motion Type: 5-805 Motion for transfer	
2016	2017		
11 Motions	12 Motions	Armed Robbery	5
		First Degree Murder	9

<u>Age</u>		<u>Gender</u>		<u>Race</u>		<u>Ethnicity</u>	
15 Year-Olds	9	Male	12	Unknown	12	Unknown	12
16 Year-Olds	1	Grand Total	12	Grand Total	12	Grand Total	12
17 Year-Olds	2						

5-810 Extended Jurisdiction Comparison		Calendar Year: 2017 Motion Type: 5-810 Extended Jurisdiction	
2016	2017		
9 Motions	8 Motions	Armed Robbery	4
		First Degree Murder	6

<u>Age</u>		<u>Gender</u>		<u>Race</u>		<u>Ethnicity</u>	
15 Year-Olds	5	Male	8	Unknown	8	Unknown	8
17 Year-Olds	3	Grand Total	8	Grand Total	8	Grand Total	8

5-815 Habitual Offender Comparison		Calendar Year: 2017 Motion Type: 5-815 Habitual Offender	
2016	2017		
7 Motions	9 Motions	Agg. Robbery	1
		Agg. Vehicular Hijacking	2
		Armed Robbery	4
		First Degree Murder	1
		Residential Burglary	1
		Robbery	1

<u>Age</u>		<u>Gender</u>		<u>Race</u>		<u>Ethnicity</u>	
14 Year-Olds	1	Male	9	Unknown	9	Unknown	9
15 Year-Olds	4	Grand Total	9	Grand Total	9	Grand Total	9
16 Year-Olds	1						
17 Year-Olds	3						

NOTE: Individual youth may be subject to multiple proceedings/charges. Therefore, the number of proceedings/charges may exceed the number of youth in some data tables.

NOTE: Cook County did not report data on 5-130 Excluded Jurisdiction (Automatic Transfers) motions.

Cook County
 Proceedings to try youth as adults or apply Extended Juvenile Jurisdiction, Violent
 Juvenile Offender and/or Habitual Offender Provisions
 Calendar Year 2017

Proceedings Continued

<u>5-820 Violent Offender Comparison</u>		<u>Calendar Year: 2017 Motion Type: 5-820 Violent Offender</u>	
2016	2017		
15 Motions	16 Motions	Agg. Robbery	1
		Agg. Unlawf. Use of Weap.	3
		Agg. Vehicular Hijacking	6
		Armed Robbery	5
		Robbery	2

<u>Age</u>		<u>Gender</u>		<u>Race</u>		<u>Ethnicity</u>	
14 Year-Olds	1	Male	16	Unknown	16	Unknown	16
15 Year-Olds	3	Grand Total	16	Grand Total	16	Grand Total	16
16 Year-Olds	4						
17 Year-Olds	8						

NOTE: Individual youth may be subject to multiple proceedings/charges. Therefore, the number of proceedings/charges may exceed the number of youth in some data tables.

NOTE: Cook County did not report data on 5-130 Excluded Jurisdiction (Automatic Transfers) motions.

DeKalb County

Proceedings to try youth as adults or apply Extended Juvenile Jurisdiction, Violent Juvenile Offender and/or Habitual Offender Provisions Calendar Year 2017

DeKalb County All Motions Year Comparison



Calendar Year 2017 All Motions

<u># Youth by Age</u>		<u>Age at Offense</u>		
17 Year-Olds	2	17 Year-Olds	Disarming Off. or Corr. Emp.	1
Youth Total	2		Domestic Battery	1
			Manuf. of Con. Sub.	1
<u># Charges by Age</u>				
17 Year-Olds	3			
Charges Total	3			

Proceedings Summary

5-805 Motion for transfer Comparison

2016	2017
2 Motions	2 Motions

Calendar Year: 2017 Motion Type: 5-805 Motion for transfer

Disarming Off. or Corr. Emp.	1
Domestic Battery	1
Manuf. of Con. Sub.	1

<u>Age</u>	<u>Gender</u>	<u>Race</u>	<u>Ethnicity</u>
17 Year-Olds	Male	Unknown	Unknown
2	2	1	1
	Grand Total	Black/ Afr Amer.	Hispanic
	2	1	1
		Grand Total	Grand Total
		2	2

NOTE: Individual youth may be subject to multiple proceedings/charges. Therefore, the number of proceedings/charges may exceed the number of youth in some data tables.

DuPage County

Proceedings to try youth as adults or apply Extended Juvenile Jurisdiction, Violent Juvenile Offender and/or Habitual Offender Provisions Calendar Year 2017

DuPage County All Motions Year Comparison

2017		1
Grand Total		1

Calendar Year 2017 All Motions

<u># Youth by Age</u>		<u>Age at Offense</u>	
16 Year-Olds	1	16 Year-Olds Attmpt. Murder	1
Youth Total	1		

Charges by Age

16 Year-Olds	1
Charges Total	1

Proceedings Summary

<u>5-805 Motion for transfer Comparison</u>	<u>Calendar Year: 2017</u>	<u>Motion Type: 5-805 Motion for transfer</u>	
		Attmpt. Murder	1
2017			
	1 Motions		

<u>Age</u>		<u>Gender</u>		<u>Race</u>		<u>Ethnicity</u>	
16 Year-Olds	1	Male	1	Black/ Afr Amer.	1	Unknown	1
		Grand Total	1	Grand Total	1	Grand Total	1

NOTE: Individual youth may be subject to multiple proceedings/charges. Therefore, the number of proceedings/charges may exceed the number of youth in some data tables.

Henry County
 Proceedings to try youth as adults or apply Extended Juvenile Jurisdiction, Violent Juvenile
 Offender and/or Habitual Offender Provisions
 Calendar Year 2017

Henry County All Motions Year Comparison

2017	1
Grand Total	1

Calendar Year 2017 All Motions

<u># Youth by Age</u>	<u>Age at Offense</u>	
17 Year-Olds	1	17 Year-Olds Animal Torture
Youth Total	1	1

Charges by Age

17 Year-Olds	1
Charges Total	1

Proceedings Summary

<u>5-810 Extended Jurisdiction Comparison</u>	<u>Calendar Year: 2017 Motion Type: 5-810 Extended Jurisdiction</u>
2017	Animal Torture
1 Motions	1

<u>Age</u>	<u>Gender</u>	<u>Race</u>	<u>Ethnicity</u>
17 Year-Olds	Male	White	Unknown
1	1	1	1
	Grand Total	Grand Total	Grand Total
	1	1	1

NOTE: Individual youth may be subject to multiple proceedings/charges. Therefore, the number of proceedings/charges may exceed the number of youth in some data tables.

Jackson County

**Proceedings to try youth as adults or apply Extended Juvenile Jurisdiction, Violent Juvenile Offender and/or Habitual Offender Provisions
Calendar Year 2017**

Jackson County All Motions Year Comparison



Calendar Year 2017 All Motions

<u># Youth by Age</u>	<u>Age at Offense</u>	
17 Year-Olds	1	17 Year-Olds Escape - Failure to Report
Youth Total	1	

<u># Charges by Age</u>	
17 Year-Olds	1
Charges Total	1

Proceedings Summary

<u>5-805 Motion for transfer Comparison</u>	<u>Calendar Year: 2017</u>	<u>Motion Type: 5-805 Motion for transfer</u>
		Escape - Failure to Report
2016 1 Motions	2017 1 Motions	1

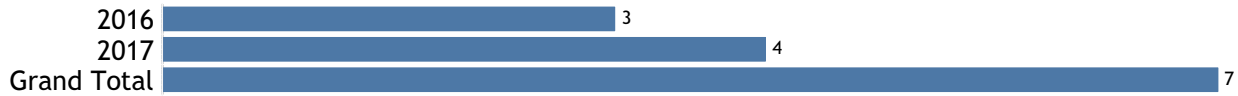
<u>Age</u>	<u>Gender</u>	<u>Race</u>	<u>Ethnicity</u>
17 Year-Olds	1	Male	1
		Multi-Racial	1
		Grand Total	1
		Grand Total	1
		Grand Total	1

NOTE: Individual youth may be subject to multiple proceedings/charges. Therefore, the number of proceedings/charges may exceed the number of youth in some data tables.

Kane County

Proceedings to try youth as adults or apply Extended Juvenile Jurisdiction, Violent Juvenile Offender and/or Habitual Offender Provisions Calendar Year 2017

Kane County All Motions Year Comparison



Calendar Year 2017 All Motions

<u># Youth by Age</u>		<u>Age at Offense</u>		
16 Year-Olds	2	16 Year-Olds	Agg. Battery	2
17 Year-Olds	2	17 Year-Olds	Agg. Battery	1
Youth Total	4		Armed Robbery	1
			Robbery	1

<u># Charges by Age</u>	
16 Year-Olds	2
17 Year-Olds	3
Charges Total	5

Proceedings Summary

<u>5-810 Extended Jurisdiction Comparison</u>		<u>Calendar Year: 2017 Motion Type: 5-810 Extended Jurisdiction</u>		
			Agg. Battery	3
2016	2017		Armed Robbery	1
2 Motions	4 Motions		Robbery	1

<u>Age</u>		<u>Gender</u>		<u>Race</u>		<u>Ethnicity</u>	
16 Year-Olds	2	Male	4	Black/ Afr Amer.	4	Non-Hispanic	4
17 Year-Olds	2	Grand Total	4	Grand Total	4	Grand Total	4

NOTE: Individual youth may be subject to multiple proceedings/charges. Therefore, the number of proceedings/charges may exceed the number of youth in some data tables.

Kankakee County
 Proceedings to try youth as adults or apply Extended Juvenile Jurisdiction, Violent Juvenile
 Offender and/or Habitual Offender Provisions
 Calendar Year 2017

Kankakee County All Motions Year Comparison

<u># Youth by Age</u>	<u>Age at Offense</u>		
17 Year-Olds	2	17 Year-Olds	Agg. Battery
Youth Total	2		Unlawfl. Poss. of Firearms & Fir. Ammo.
			1
			1

Charges by Age

17 Year-Olds	2
Charges Total	2

Proceedings Summary**5-130 Excluded
Jurisdiction
Comparison**Calendar Year: **2017** Motion Type: **5-130 Excluded Jurisdiction**

Agg. Battery	1
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2016	2017
1 Motions	1 Motions

<u>Age</u>	<u>Gender</u>	<u>Race</u>	<u>Ethnicity</u>
17 Year-Olds	1	Male	1
		Black/ Afr Amer.	1
		Non-Hispanic	1
		Grand Total	1
		Grand Total	1
		Grand Total	1

**5-805 Motion for
transfer Comparison**Calendar Year: **2017** Motion Type: **5-805 Motion for transfer**

Unlawfl. Poss. of Firearms & F..	1
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2016	2017
1 Motions	1 Motions

<u>Age</u>	<u>Gender</u>	<u>Race</u>	<u>Ethnicity</u>
17 Year-Olds	1	Male	1
		Black/ Afr Amer.	1
		Non-Hispanic	1
		Grand Total	1
		Grand Total	1
		Grand Total	1

Total 5-805 Motion for Transfer: 1

NOTE: Individual youth may be subject to multiple proceedings/charges. Therefore, the number of proceedings/charges may exceed the number of youth in some data tables.

Knox County

**Proceedings to try youth as adults or apply Extended Juvenile Jurisdiction, Violent Juvenile Offender and/or Habitual Offender Provisions
Calendar Year 2017**

Knox County All Motions Year Comparison



Calendar Year 2017 All Motions

<u># Youth by Age</u>	<u>Age at Offense</u>	
15 Year-Olds	1	15 Year-Olds Agg. Crim. Sex. Assault
Youth Total	1	

<u># Charges by Age</u>	
15 Year-Olds	1
Charges Total	1

Proceedings Summary

<u>5-810 Extended Jurisdiction Comparison</u>	<u>Calendar Year: 2017 Motion Type: 5-810 Extended Jurisdiction</u>
2017	Agg. Crim. Sex. Assault
1 Motions	1

<u>Age</u>	<u>Gender</u>	<u>Race</u>	<u>Ethnicity</u>
15 Year-Olds	Male	Black/ Afr Amer.	Non-Hispanic
1	1	1	1
Grand Total	Grand Total	Grand Total	Grand Total
1	1	1	1

NOTE: Individual youth may be subject to multiple proceedings/charges. Therefore, the number of proceedings/charges may exceed the number of youth in some data tables.

Lake County

Proceedings to try youth as adults or apply Extended Juvenile Jurisdiction, Violent Juvenile Offender and/or Habitual Offender Provisions Calendar Year 2017

Lake County All Motions Year Comparison



Youth by Age

13 Year-Olds	1
14 Year-Olds	1
16 Year-Olds	2
17 Year-Olds	3
Youth Total	7

Age at Offense

13 Year-Olds	Agg. Crim. Sex. Abuse	1
14 Year-Olds	Agg. Crim. Sex. Assault	1
16 Year-Olds	Agg. Crim. Sex. Assault	1
17 Year-Olds	First Degree Murder	1
17 Year-Olds	Agg. Battery	1
	Involuntary Manslaughter	2

Charges by Age

13 Year-Olds	1
14 Year-Olds	1
16 Year-Olds	2
17 Year-Olds	3
Charges Total	7

Proceedings Summary

5-130 Excluded Jurisdiction Comparison

2016 2017
1 Motions 5 Motions

Calendar Year: 2017 Motion Type: 5-130 Excluded Jurisdiction

Agg. Battery	1
Agg. Crim. Sex. Abuse	1
Agg. Crim. Sex. Assault	2
First Degree Murder	1

Age

13 Year-Olds	1
14 Year-Olds	1
16 Year-Olds	2
17 Year-Olds	1

Gender

Male	5
Grand Total	5

Race

Black/ Afr Amer.	1
Other	3
White	1
Grand Total	5

Ethnicity

Hispanic	3
Non-Hispanic	2
Grand Total	5

5-805 Motion for transfer Comparison

2016 2017
6 Motions 2 Motions

Calendar Year: 2017 Motion Type: 5-805 Motion for transfer

Involuntary Manslaughter	2
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Age

17 Year-Olds	2
Total 5-805 Motion for Transfer:	2

Gender

Female	2
Grand Total	2

Race

White	2
Grand Total	2

Ethnicity

Non-Hispanic	2
Grand Total	2

NOTE: Individual youth may be subject to multiple proceedings/charges. Therefore, the number of proceedings/charges may exceed the number of youth in some data tables.

Macon County
 Proceedings to try youth as adults or apply Extended Juvenile Jurisdiction, Violent Juvenile
 Offender and/or Habitual Offender Provisions
 Calendar Year 2017

Macon County All Motions Year Comparison

2017	1
Grand Total	1

Calendar Year 2017 All Motions

<u># Youth by Age</u>	<u>Age at Offense</u>	
15 Year-Olds	1	15 Year-Olds Agg. Vehicular Hijacking
Youth Total	1	1

Charges by Age

15 Year-Olds	1
Charges Total	1

Proceedings Summary

<u>5-805 Motion for transfer</u>	Calendar Year: 2017 Motion Type: 5-805 Motion for transfer
Comparison	Agg. Vehicular Hijacking
2017	1
1 Motions	

<u>Age</u>	<u>Gender</u>	<u>Race</u>	<u>Ethnicity</u>
15 Year-Olds	Male	Black/ Afr Amer.	Unknown
1	1	1	1
Grand Total	Grand Total	Grand Total	Grand Total
1	1	1	1

NOTE: Individual youth may be subject to multiple proceedings/charges. Therefore, the number of proceedings/charges may exceed the number of youth in some data tables.

Madison County

**Proceedings to try youth as adults or apply Extended Juvenile Jurisdiction, Violent Juvenile Offender and/or Habitual Offender Provisions
Calendar Year 2017**

Madison County All Motions Year Comparison



Calendar Year 2017 All Motions

<u># Youth by Age</u>	<u>Age at Offense</u>
16 Year-Olds	16 Year-Olds First Degree Murder
1	1
Youth Total	1

<u># Charges by Age</u>
16 Year-Olds
1
Charges Total
1

Proceedings Summary

<u>5-805 Motion for transfer Comparison</u>	<u>Calendar Year: 2017</u>	<u>Motion Type: 5-805 Motion for transfer</u>
		First Degree Murder
2016	2017	1
1 Motions	1 Motions	

<u>Age</u>	<u>Gender</u>	<u>Race</u>	<u>Ethnicity</u>
16 Year-Olds	Male	Other	Hispanic
1	1	1	1
Grand Total	1	1	1

NOTE: Individual youth may be subject to multiple proceedings/charges. Therefore, the number of proceedings/charges may exceed the number of youth in some data tables.

McLean County

Proceedings to try youth as adults or apply Extended Juvenile Jurisdiction, Violent Juvenile Offender and/or Habitual Offender Provisions Calendar Year 2017

McLean County All Motions Year Comparison



Calendar Year 2017 All Motions

<u># Youth by Age</u>		<u>Age at Offense</u>		
16 Year-Olds	1	16 Year-Olds	Agg. Discharge of a Fir.	1
17 Year-Olds	1	17 Year-Olds	Agg. Discharge of a Fir.	1
Youth Total	1			

Charges by Age

16 Year-Olds	1
17 Year-Olds	1
Charges Total	2

Proceedings Summary

<u>5-805 Motion for transfer Comparison</u>		<u>Calendar Year: 2017 Motion Type: 5-805 Motion for transfer</u>	
		Agg. Discharge of a Fir.	2
2016	2017		
1 Motions	1 Motions		

<u>Age</u>	<u>Gender</u>	<u>Race</u>	<u>Ethnicity</u>
16 Year-Olds	1	Male	1
17 Year-Olds	1	Black/ Afr Amer.	1
		Grand Total	1
		Grand Total	1
		Grand Total	1

NOTE: Individual youth may be subject to multiple proceedings/charges. Therefore, the number of proceedings/charges may exceed the number of youth in some data tables.

Peoria County

Proceedings to try youth as adults or apply Extended Juvenile Jurisdiction, Violent Juvenile Offender and/or Habitual Offender Provisions Calendar Year 2017

Peoria County All Motions Year Comparison



Calendar Year 2017 All Motions

<u># Youth by Age</u>		<u>Age at Offense</u>		
13 Year-Olds	1	13 Year-Olds	Armed Robbery	1
14 Year-Olds	2	14 Year-Olds	Armed Robbery	2
16 Year-Olds	1	16 Year-Olds	Unlwl. Poss. Weap. St. Gang Mbr.	1
17 Year-Olds	2	17 Year-Olds	Armed Robbery	2
Youth Total	6			

Charges by Age

13 Year-Olds	1
14 Year-Olds	2
16 Year-Olds	1
17 Year-Olds	2
Charges Total	6

Proceedings Summary

<u>5-805 Motion for transfer Comparison</u>		<u>Calendar Year: 2017 Motion Type: 5-805 Motion for transfer</u>	
		Armed Robbery	5
2016	2017	Unlwl. Poss. Weap. St. Gang Mbr.	1
1 Motions	6 Motions		

<u>Age</u>	<u>Gender</u>	<u>Race</u>	<u>Ethnicity</u>
13 Year-Olds	1	Male	6
14 Year-Olds	2	Black/ Afr Amer.	6
16 Year-Olds	1	Grand Total	6
17 Year-Olds	2	Grand Total	6

NOTE: Individual youth may be subject to multiple proceedings/charges. Therefore, the number of proceedings/charges may exceed the number of youth in some data tables.

Saline County

Proceedings to try youth as adults or apply Extended Juvenile Jurisdiction, Violent Juvenile Offender and/or Habitual Offender Provisions Calendar Year 2017

Saline County All Motions Year Comparison



Calendar Year 2017 All Motions

<u># Youth by Age</u>		<u>Age at Offense</u>		
15 Year-Olds	1	15 Year-Olds	First Degree Murder	1
16 Year-Olds	2	16 Year-Olds	First Degree Murder	2
17 Year-Olds	1	17 Year-Olds	Home Invasion	1
Youth Total	4			

Charges by Age

15 Year-Olds	1
16 Year-Olds	2
17 Year-Olds	1
Charges Total	4

Proceedings Summary

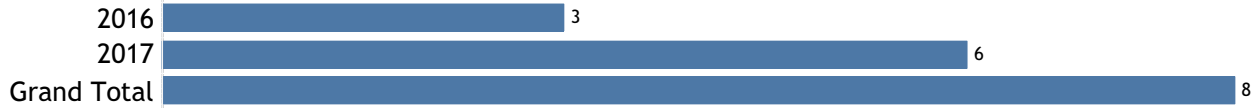
5-805 Motion for transfer Comparison Calendar Year: **2017** Motion Type: **5-805 Motion for transfer**

2016	2017		
4 Motions	4 Motions	First Degree Murder	3
		Home Invasion	1

<u>Age</u>	<u>Gender</u>	<u>Race</u>	<u>Ethnicity</u>
15 Year-Olds	1 Male	4 Unknown	4 Unknown
16 Year-Olds	2 Grand Total	4 Grand Total	4 Grand Total
17 Year-Olds	1		

NOTE: Individual youth may be subject to multiple proceedings/charges. Therefore, the number of proceedings/charges may exceed the number of youth in some data tables.

Sangamon County
 Proceedings to try youth as adults or apply Extended Juvenile Jurisdiction, Violent Juvenile
 Offender and/or Habitual Offender Provisions
 Calendar Year 2017

Sangamon County All Motions Year Comparison

# Youth by Age		Age at Offense		
14 Year-Olds	1	14 Year-Olds	Poss. of Stolen Fir.	1
16 Year-Olds	2		Unlawl. Poss. Weap. St. Gang Mbr.	1
17 Year-Olds	3	16 Year-Olds	Armed Violence	1
Youth Total	6		First Degree Murder	1
		17 Year-Olds	Agg. Battery	1
			Agg. Domestic Battery	1
			Manuf. of Con. Sub.	1

# Charges by Age	
14 Year-Olds	1
16 Year-Olds	2
17 Year-Olds	3
Charges Total	6

Proceedings Summary**5-130 Excluded
Jurisdiction
Comparison**

2016 2017
2 Motions 2 Motions

Calendar Year: 2017 Motion Type: 5-130 Excluded Jurisdiction

Agg. Battery	1
First Degree Murder	1

Age	Gender	Race	Ethnicity
16 Year-Olds	1 Male	2 Black/ Afr Amer.	2 Non-Hispanic
17 Year-Olds	1 Grand Total	2 Grand Total	2 Grand Total

**5-805 Motion for
transfer Comparison**

2016 2017
1 Motions 4 Motions

Calendar Year: 2017 Motion Type: 5-805 Motion for transfer

Agg. Domestic Battery	1
Armed Violence	1
Manuf. of Con. Sub.	1
Poss. of Stolen Fir.	1
Unlawl. Poss. Weap. St. Gang..	1

Age	Gender	Race	Ethnicity
14 Year-Olds	1 Female	3 Black/ Afr Amer.	4 Non-Hispanic
16 Year-Olds	1 Male	3 White	1 Grand Total
17 Year-Olds	2 Grand Total	4 Grand Total	4 Grand Total

Total 5-805 Motion for Transfer: 4

NOTE: Individual youth may be subject to multiple proceedings/charges. Therefore, the number of proceedings/charges may exceed the number of youth in some data tables.

St. Clair County
 Proceedings to try youth as adults or apply Extended Juvenile Jurisdiction, Violent
 Juvenile Offender and/or Habitual Offender Provisions
 Calendar Year 2017

Proceedings Continued

5-810 Extended Jurisdiction Comparison		Calendar Year: 2017 Motion Type: 5-810 Extended Jurisdiction	
2016	2017		
5 Motions	7 Motions	Agg. Poss. of Stolen Fir.	2
		Agg. Robbery	1
		Agg. Vehicular Hijacking	2
		Armed Robbery	1
		First Degree Murder	1

<u>Age</u>		<u>Gender</u>		<u>Race</u>		<u>Ethnicity</u>	
14 Year-Olds	2	Male	7	Black/ Afr Amer.	7	Non-Hispanic	7
15 Year-Olds	2	Grand Total	7	Grand Total	7	Grand Total	7
16 Year-Olds	3						

NOTE: Individual youth may be subject to multiple proceedings/charges. Therefore, the number of proceedings/charges may exceed the number of youth in some data tables.

NOTE: Cook County did not report data on 5-130 Excluded Jurisdiction (Automatic Transfers) motions.

Vermilion County

Proceedings to try youth as adults or apply Extended Juvenile Jurisdiction, Violent Juvenile Offender and/or Habitual Offender Provisions Calendar Year 2017

Vermilion County All Motions Year Comparison

2016	<div style="background-color: #4f81bd; height: 15px; width: 80%;"></div>	2
2017	<div style="background-color: #4f81bd; height: 15px; width: 80%;"></div>	2
Grand Total	<div style="background-color: #4f81bd; height: 15px; width: 95%;"></div>	4

Calendar Year 2017 All Motions

<u># Youth by Age</u>	<u>Age at Offense</u>		
15 Year-Olds	1	15 Year-Olds	First Degree Murder
17 Year-Olds	1	17 Year-Olds	Home Invasion
Youth Total	2		

Charges by Age

15 Year-Olds	1
17 Year-Olds	1
Charges Total	2

Proceedings Summary

5-805 Motion for transfer Comparison Calendar Year: **2017** Motion Type: **5-805 Motion for transfer**

				First Degree Murder	1
2016	2017	2 Motions	2 Motions	Home Invasion	1

<u>Age</u>	<u>Gender</u>	<u>Race</u>	<u>Ethnicity</u>
15 Year-Olds	1	Female	1
17 Year-Olds	1	Male	1
		Grand Total	2

Black/ Afr Amer.	2	Non-Hispanic	2
Grand Total	2	Grand Total	2

NOTE: Individual youth may be subject to multiple proceedings/charges. Therefore, the number of proceedings/charges may exceed the number of youth in some data tables.

Whiteside County

Proceedings to try youth as adults or apply Extended Juvenile Jurisdiction, Violent Juvenile Offender and/or Habitual Offender Provisions
Calendar Year 2017

Whiteside County All Motions Year Comparison

2017	2
Grand Total	2

Calendar Year 2017 All Motions

<u># Youth by Age</u>	<u>Age at Offense</u>
15 Year-Olds	2
Youth Total	2

Charges by Age

15 Year-Olds	2
Charges Total	2

15 Year-Olds	First Degree Murder	2
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Proceedings Summary

<u>5-805 Motion for transfer Comparison</u>	<u>Calendar Year: 2017</u>	<u>Motion Type: 5-805 Motion for transfer</u>
		2
	2017	
	2 Motions	

<u>Age</u>	<u>Gender</u>	<u>Race</u>	<u>Ethnicity</u>
15 Year-Olds	2	Female	2
		White	2
		Non-Hispanic	2
		Grand Total	2
		Grand Total	2

NOTE: Individual youth may be subject to multiple proceedings/charges. Therefore, the number of proceedings/charges may exceed the number of youth in some data tables.

Will County

**Proceedings to try youth as adults or apply Extended Juvenile Jurisdiction, Violent Juvenile Offender and/or Habitual Offender Provisions
Calendar Year 2017**

Will County All Motions Year Comparison



Calendar Year 2017 All Motions

<u># Youth by Age</u>	<u>Age at Offense</u>	
17 Year-Olds	4	17 Year-Olds Armed Robbery
Youth Total	4	4

<u># Charges by Age</u>	
17 Year-Olds	4
Charges Total	4

Proceedings Summary

<u>5-805 Motion for transfer Comparison</u>	<u>Calendar Year: 2017</u>	<u>Motion Type: 5-805 Motion for transfer</u>
2016 1 Motions	2017 4 Motions	Armed Robbery 4

<u>Age</u>	<u>Gender</u>	<u>Race</u>	<u>Ethnicity</u>
17 Year-Olds	Male	Black/ Afr Amer.	Non-Hispanic
4	4	4	4
Grand Total	4	4	4

NOTE: Individual youth may be subject to multiple proceedings/charges. Therefore, the number of proceedings/charges may exceed the number of youth in some data tables.

Winnebago County

Proceedings to try youth as adults or apply Extended Juvenile Jurisdiction, Violent Juvenile Offender and/or Habitual Offender Provisions Calendar Year 2017

Winnebago County All Motions Year Comparison



<u># Youth by Age</u>		<u>Age at Offense</u>		
14 Year-Olds	1	14 Year-Olds	Agg. Crim. Sex. Assault	1
15 Year-Olds	3	15 Year-Olds	Agg. Crim. Sex. Assault	1
18 Year-Olds	1		Crim. Sexual Aslt.	1
Youth Total	5		First Degree Murder	1
		18 Year-Olds	Agg. Crim. Sex. Abuse	1

<u># Charges by Age</u>	
14 Year-Olds	1
15 Year-Olds	3
18 Year-Olds	1
Charges Total	5

Proceedings Summary

5-130 Excluded Jurisdiction Comparison

2016 2017
6 Motions 2 Motions

Calendar Year: 2017 Motion Type: 5-130 Excluded Jurisdiction

Agg. Crim. Sex. Abuse	1
Agg. Crim. Sex. Assault	1

<u>Age</u>	<u>Gender</u>	<u>Race</u>	<u>Ethnicity</u>
15 Year-Olds	1	Male	2
18 Year-Olds	1	Black/ Afr Amer.	1
		White	1
		Grand Total	2
		Grand Total	2

5-805 Motion for transfer Comparison

2016 2017
3 Motions 2 Motions

Calendar Year: 2017 Motion Type: 5-805 Motion for transfer

Agg. Crim. Sex. Assault	1
First Degree Murder	1

<u>Age</u>	<u>Gender</u>	<u>Race</u>	<u>Ethnicity</u>
14 Year-Olds	1	Male	2
15 Year-Olds	1	Black/ Afr Amer.	2
		Grand Total	2
		Grand Total	2

Total 5-805 Motion for Transfer: 2

NOTE: Individual youth may be subject to multiple proceedings/charges. Therefore, the number of proceedings/charges may exceed the number of youth in some data tables.

Winnebago County
 Proceedings to try youth as adults or apply Extended Juvenile Jurisdiction, Violent
 Juvenile Offender and/or Habitual Offender Provisions
 Calendar Year 2017

Proceedings Continued

**5-810 Extended
 Jurisdiction
 Comparison**

Calendar Year: 2017 Motion Type: 5-810 Extended Jurisdiction

Crim. Sexual Asst. 1

2016 2017
 1 Motions 1 Motions

<u>Age</u>		<u>Gender</u>		<u>Race</u>		<u>Ethnicity</u>	
15 Year-Olds	1	Male	1	Black/ Afr Amer.	1	Non-Hispanic	1
		Grand Total	1	Grand Total	1	Grand Total	1

NOTE: Individual youth may be subject to multiple proceedings/charges. Therefore, the number of proceedings/charges may exceed the number of youth in some data tables.

NOTE: Cook County did not report data on 5-130 Excluded Jurisdiction (Automatic Transfers) motions.

Woodford County

**Proceedings to try youth as adults or apply Extended Juvenile Jurisdiction, Violent Juvenile Offender and/or Habitual Offender Provisions
Calendar Year 2017**

Woodford County All Motions Year Comparison



Calendar Year 2017 All Motions

<u># Youth by Age</u>	<u>Age at Offense</u>	
15 Year-Olds	1	15 Year-Olds Burglary 1
Youth Total	1	

<u># Charges by Age</u>	
15 Year-Olds	1
Charges Total	1

Proceedings Summary

<u>5-805 Motion for transfer Comparison</u>	<u>Calendar Year: 2017</u>	<u>Motion Type: 5-805 Motion for transfer</u>
2016 1 Motions	2017 1 Motions	Burglary 1

<u>Age</u>	<u>Gender</u>	<u>Race</u>	<u>Ethnicity</u>
15 Year-Olds	1	Male 1	Black/ Afr Amer. 1
		Unknown 1	
Grand Total	1	Grand Total 1	Grand Total 1

NOTE: Individual youth may be subject to multiple proceedings/charges. Therefore, the number of proceedings/charges may exceed the number of youth in some data tables.

Appendix A

This report summarizes five types of actions a State’s Attorney may take to “transfer” a person under 18 years old to criminal (adult) court or to designate the youth as a “Violent Juvenile Offender” or “Habitual Juvenile Offender.” This glossary provides a brief explanation of each of these action. These definitions should not be considered exhaustive. More information is available in the Illinois Juvenile Court Act of 1987 (705 ILCS 405/5 et seq.). As described in the introductory text, the Juvenile Court Act was updated in January 2016 with the enactment of Public Act 99-0258.

Glossary of Motion Types:

Excluded Jurisdiction (705 ILCS 405/5-130): This section of the Juvenile Court Act provides that, if a youth more than 16 years old is charged with one of three specified offenses, their case is automatically “excluded” from juvenile court and shall be prosecuted under the criminal code. This is often referred to as “automatic transfer.” The specified offenses are first degree murder, aggravated criminal sexual assault or aggravated battery with a firearm when the youth is accused of personally discharging a firearm. If convicted or a plea of guilty is filed, the Court shall impose a criminal sentence in accordance with Section 5-4.5-105 of the Unified Code of Corrections.

Motion for Transfer (705 ILCS 405/5-805): There are two types of motions for transfer: Presumptive Transfer and Discretionary Transfer.

1. A presumptive transfer motion alleges a youth 15 years of age or older committed an act that constitutes a forcible felony and (i) the youth has previously been adjudicated delinquent or found guilty for commission of an act that constitutes a forcible felony and (ii) the act that constitutes the offense was committed in furtherance of criminal activity by an organized gang. If a juvenile judge finds probable cause to believe that these allegations are true, there is a rebuttable presumption that the youth should transferred to the adult criminal court.
2. A discretionary transfer motion alleges a youth 13 years of age or older committed an act that constitutes a crime under the criminal laws of Illinois. If a juvenile judge finds probable cause to believe that these allegations are true and that it is “not in the best interests of the public” to proceed in juvenile court, the court may transfer the case to adult criminal court.

Extended Jurisdiction (705 ILCS 405/5-810): This petition alleges the commission by a youth 13 years of age or older of any offense which would be a felony if committed by an adult. Upon a disposition of guilt or guilty plea the court shall impose a juvenile sentence and an adult criminal sentence in accordance with Section 5-4.5-105 of the Unified Code of Corrections. The execution of the adult criminal sentence shall be stayed on the condition that the youth not violate the provisions of the juvenile sentence. These motions are often referred to as “EJJs.” If a motion for EJJ is granted, the youth has a right to a jury trial and, if convicted, the sentencing proceedings are open to the public.

Violent Offender (705 ILCS 405/5-820): A youth having been previously adjudicated a delinquent minor for an offense, which had the youth been prosecuted as an adult, would have been a Class 2 or greater felony involving the use or threat of physical force or violent against an individual or Class 2 or greater felony for which an element of the offense is possession of use of a firearm, and who is thereafter adjudicated a delinquent minor for the second time for any of those offenses shall be adjudicated a

Violent Juvenile Offender (VJO). Upon a VJO adjudication, a court “shall” commit the youth to the Department of Juvenile Justice until the youth’s 21st birthday.

Habitual Offender (705 ILCS 405/5-850): Any youth having been twice adjudicated a delinquent minor for offenses, which had the youth been prosecuted as an adult, would have been felonies under the laws of Illinois, and who is thereafter adjudicated a delinquent minor for a third time shall be adjudged an Habitual Juvenile Offender (HJO). Upon an HJO adjudication, the court “shall” commit the youth to the Department of Juvenile Justice until the youth’s 21st birthday.



Trial and Sentencing of Youth as Adults in the Illinois Justice System: Transfer Data Report

JULY 2021

Illinois Juvenile Justice Commission

<http://ijjc.illinois.gov/>



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Introduction and Methodology

This is the third report prepared by the Illinois Juvenile Justice Commission¹, as required by the Illinois Juvenile Court Act, to provide statewide data on the transfer of youth to adult courts and related court actions to impose adult sentencing provisions on certain youth. It contains data reported for Calendar Year 2018.²

Effective January 2016, the Illinois General Assembly significantly scaled back trial of youth as adults in adult criminal courts in Public Act 99-0258.³ In enacting these provisions, the General Assembly relied on a strong and growing body of research and data indicating that processing and punishing youth like adults harms young people and undermines public safety and community well-being.

As discussed in the Illinois Juvenile Justice Commission's report *Raising the Age of Juvenile Court Jurisdiction*⁴ (2013), the indiscriminate trial of youth as adults fails to take into account developmental factors including impulsivity, vulnerability to peer pressure, attraction to risk-taking and underdeveloped decision-making skills. These well-established developmental traits render adolescents less culpable for their behavior. At the same time, developmental immaturity makes young people highly responsive to positive, rehabilitative supports and interventions. National research also indicates that trial of youth as adults does not effectively deter juvenile crime and may in fact produce higher rates of offending and recidivism. In enacting Public Act 99-0258, the General Assembly has taken steps to more closely align Illinois law with this research and data.

In addition to modifying criteria and processes for transferring youth to adult criminal court, the Act also recognizes the need for current and complete statewide data regarding transfers and related court actions. Prior to the legislation, there was no state-wide repository for information regarding the transfer and trial of youth as adults⁵, the imposition of adult sentences pursuant to "extended juvenile jurisdiction" provisions (EJJ)⁶ or designation of youth as "habitual"⁷ or "violent"⁸ juvenile offenders (HJO or VJO status). Each of these mechanisms can trigger adult approaches to the trial and sentencing of youth. To address this information gap, the Act created

¹ The Illinois Juvenile Justice Commission serves as the federally mandated State Advisory Group to the Governor, General Assembly and the Illinois Department of Human Services. See 20 ILCS 505/17a-5.

² The first annual data report, published in 2018, is available at

http://ijjc.illinois.gov/sites/ijjc.illinois.gov/files/assets/Juvenile%20Transfers%20CY2016%20Report_FINAL.pdf

³ The Act repeals provisions for the transfer of youth ages 15 and under to adult court, limits other "automatic transfers" and expands judicial discretion in transfer decisions for 16 and 17 year olds, except for those charged with first degree murder, aggravated criminal sexual assault or aggravated battery with a firearm. The statute also establishes factors a judge may take into consideration when sentencing a person under 18, including maturity, presence of a developmental disability, home environment, trauma, prior criminal activity (if any) and potential for rehabilitation. (Public Act 99-0258; effective January 2016.)

⁴ <http://ijjc.illinois.gov/rta>

⁵ 750 ILCS 405/5-130 and 750 ILCS 405/5-805

⁶ 750 ILCS 405/5-810

⁷ 750 ILCS 405/5-815

⁸ 750 ILCS 405/5-820

a data reporting provision which requires Circuit Court Clerks to track and report information twice annually on the filing and disposition of these proceedings.⁹ The Act required the Illinois Juvenile Justice Commission to develop “the standards, confidentiality protocols, format, and data depository” for these reports.¹⁰ An explanatory text of the types of motions and proceedings this report covers can be found in Appendix A.

To fulfill this mandate, the Commission and its research partners at the University of Illinois Center for Prevention Research and Development and Loyola University’s Center for Criminal Justice Research, Policy and Practice developed standardized data collection forms designed for use by Circuit Court Clerks in collecting and reporting this data. In the initial reporting period, the Commission also sought and benefitted greatly from dialogue and collaboration with the Illinois Association of Court Clerks and the Administrative Office of the Illinois Courts to develop and test data collection forms and mechanisms.

In developing these forms and reporting protocols, practitioners recognized that the statute requires collection of information that no single criminal justice stakeholder – prosecutor, defender, probation department or Circuit Court Clerk, for example – has readily available in all cases. Thus, meeting the statutory mandates has required collaboration among justice system stakeholders and development of new methods for gathering case-level data.

This report reflects the data reported for Calendar Year 2018 as well as a comparison of the data reported in the first three years. The three-year trend analysis is located at the beginning of the report and provides a three-year comparison of data for each case type as well as offense and demographic data by year. The rest of the report provides all of the data reported for 2018:

- The first section provides aggregated, statewide data on all proceedings to try youth as adults or apply Extended Juvenile Jurisdiction, Violent Juvenile Offender and / or Habitual Juvenile Offender provisions.
- The second section provides more detailed information on each of these categories (Excluded Jurisdiction proceedings, motions to transfer, motions for Extended Juvenile Jurisdiction proceedings and motions for Violent Juvenile Offender or Habitual Juvenile Offender designations).
- The third section provides county-level information for those counties reporting proceedings in one or more of these categories.

Gathering and reporting the required information was complex and challenging for all involved – the research team, Commission staff, Circuit Court Clerks and other state and local partners. However, the diligence and collaboration exhibited by these stakeholders has yielded unprecedented statewide information about youth subject to transfer and trial as adults in Illinois. This information can provide valuable information to policy makers and practitioners who seek

⁹ See 705 ILCS 405/5-822

¹⁰ Statewide transfer data will also facilitate Illinois’ compliance with the federal Juvenile Justice and Delinquency Prevention Act requirement for states to gather and report juvenile justice / criminal justice data at nine key decision points, including trial of youth as adults.

to protect community safety, use resources wisely and improve outcomes for the youth and families of our state.

In reviewing this report, stakeholders should note that, while the statute requires reporting of victim and case disposition information, data reporting has not been complete or consistent enough to include in the reports. Race and ethnicity was also not complete, with large numbers of youth categorized as “other race” or “unknown.” Finally, it should be noted that youth may be subject to multiple proceedings and / or charges. Therefore, the number of proceedings or charges listed may exceed the number of youth in some data tables. Where relevant, case information and individual youth information is presented.

While there are some gaps in reported data, the available data indicates stark and troubling racial disparities in these cases. Of the 106 cases filed in 2018, only 5 were identified as white while 55 were identified as Black/African American. Race and ethnicity data are missing in the 56 cases originating in Cook County. but secondary data on juvenile justice involved youth in Cook County suggest that the great majority of these cases affect Black or Hispanic youth. Taken together, this data indicates profound racial inequities in the transfer of youth to adult courts and the application of enhanced sentencing provisions under Illinois law.

Illinois is the home of the nation’s first juvenile court. First established more than a century ago, juvenile courts are premised on the idea – since confirmed by neuroscience and developmental research – that youth are fundamentally different than adults, and require different interventions and supports. As the Commission has noted in other reports, however, research demonstrates that Black children and youth are often not seen as deserving of protection and care as other children. Analysis of the treatment of children and youth in multiple contexts reveals that Black boys are often perceived as less “innocent”, more blameworthy for their behaviors and less in need of protection and nurturing. One study found that, by the age of 10, Black boys were more likely to be perceived as older than their white peers, more likely to be seen as guilty of a crime and more likely to be deemed deserving of punishment. Not surprisingly, this widespread “adultification” of Black boys is, in turn, associated with lower rates of supportive care and services and higher rates of arrest and referral to justice systems. ¹¹

The data in this report, which shows profound racial disparities in transfers to criminal court and enhanced sentencing, requires the immediate and critical attention of juvenile justice system stakeholders and policy makers.

This report is submitted by the Illinois Juvenile Justice Commission in partnership with the Center for Prevention Research and Development at the University of Illinois and the Loyola University Chicago Center for Criminal Justice Research, Policy and Practice in fulfillment of the Commission’s mandate in Public Act 99-0258.

¹¹ See Phillip Atiba Goff et al., The Essence of Innocence: Consequences of Dehumanizing Black Children, 106 j. of persoNality & soC. psyChol. 526 (2014)1 and Rebecca Epstein, Jamilia J. Blake and Thalia Gonzalez, Girlhood Interrupted: The Erasure of Black Girls’ Childhood, Georgetown Law Center on Poverty and Inequality (2017)

Acknowledgements

A special appreciation is extended to Circuit Clerks, State's Attorneys and Public Defenders across Illinois for providing data on filed motions to transfer youth to adult court. Collecting this type of case level data poses varying degrees of complexity depending upon the size and resources of the reporting agencies. There is no one system or database which contains this data. Often times collecting and verifying this data requires multiple contacts to Circuit Clerks and State's Attorneys. Only through the collaboration of these agencies, their hard work and due diligence in collecting this data is this report possible.

Three Year Trend Analysis

The following sections provided a trend analysis for calendar year 2016, 2017 and 2018. This analysis includes a review of motion and designation types filed by year, age, youth, gender and offenses. At this time, analysis by race and ethnicity is not possible due to reporting gaps in these demographic areas.

It is important to note that individual youth may be subject to multiple proceedings and/or charges. Therefore, the number of proceedings or charges may exceed the number of youth in some data tables. Additionally, some categories analyzed have low n. These small n numbers may make percentages less meaningful.

Motion and Designation Type by Year Trend

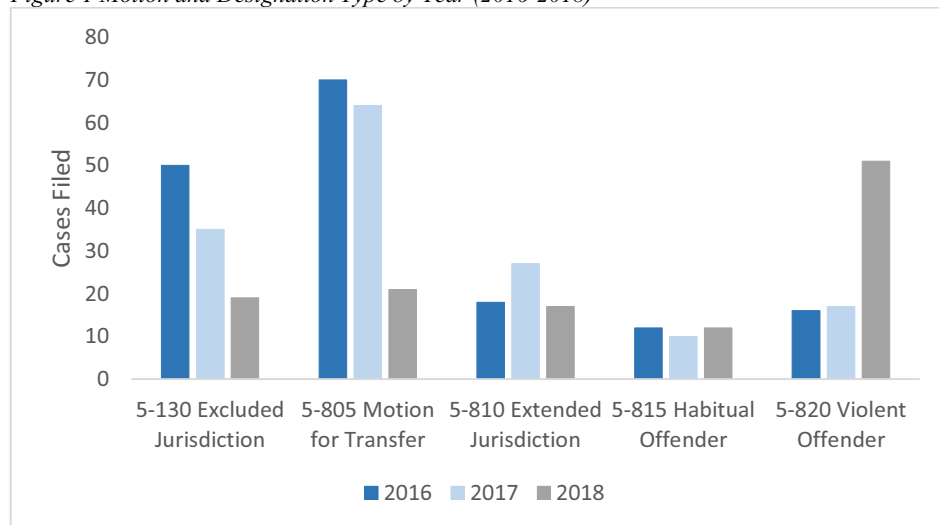
For the reported cases between calendar year 2016 and 2018, Excluded Jurisdiction, Motion for Transfer and Extended Jurisdictions have all decreased. The largest decreases include Excluded Jurisdiction (62%) and Motion for Transfer (70%). The designation of Habitual Offender remained constant. The Violent Offender designation has increased by 219% (Table 1, Figure 1). Overall, the number of cases filed has decreased 36% from 2016 (Table 1).

Table 1 Motion and Designation Type by Cases Filed by Year (#, % Change)

Motion/Designation Type	2016	2017	2018	3 Year % Change
5-130 Excluded Jurisdiction	50	35	19	-62%
5-805 Motion for Transfer	70	64	21	-70%
5-810 Extended Jurisdiction	18	27	17	-6%
5-815 Habitual Offender	12	10	12	0%
5-820 Violent Offender	16	17	51	219%
Total Cases*	165	138	106	-36%

Note: Individual cases may have multiple proceedings and therefore the number of motions may exceed the total number of cases in some data tables.

Figure 1 Motion and Designation Type by Year (2016-2018)



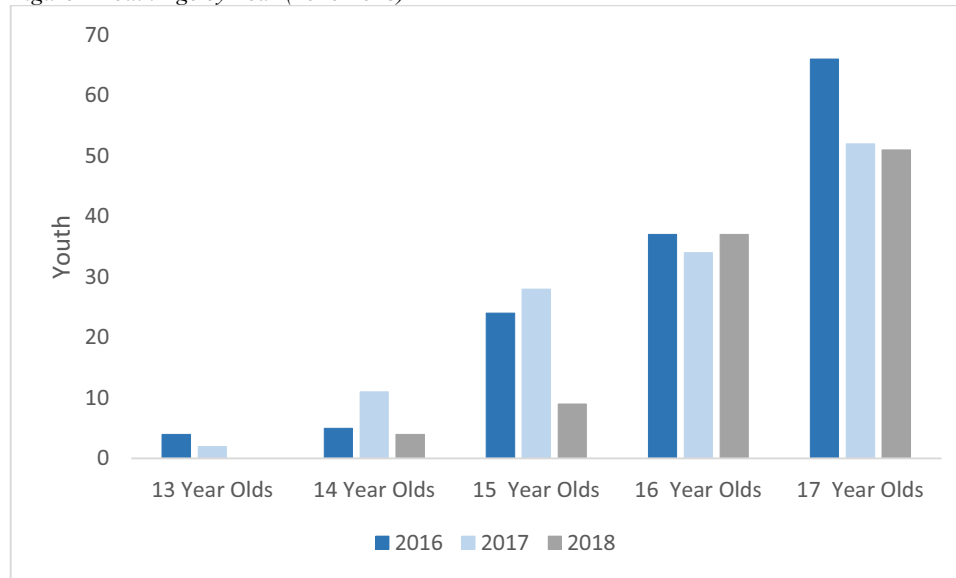
Cases Filed by Age Trend

For the reporting period, youth aged 15 experienced a decrease of 63% cases filed. Youth aged 17 had a decreased of 23% cases filed (Table 2, Figure 2).

Table 2 Youth Age by Cases Filed by Year (2016-2018)

Age at Offense	2016	2017	2018	3 Year % Change
13 Year Olds	4	2	0	-100%
14 Year Olds	5	11	4	-20%
15 Year Olds	24	28	9	-63%
16 Year Olds	37	34	37	0%
17 Year Olds	66	52	51	-23%

Figure 2 Youth Age by Year (2016-2018)



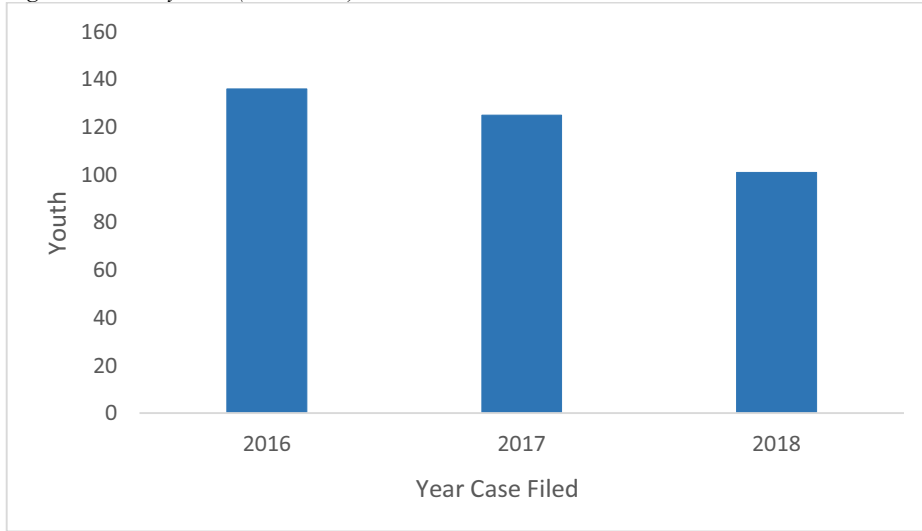
Cases Filed by Youth Trend

For the reporting period of 2016 through 2018, there has been a total of 362 youth with a case filed. For 2016 there was 137 youth, 2017 there was 124 and 2018 there was 100. There has been an overall decrease of 27% from 2016 to 2018 (Table 3, Figure 3)

Table 3 Youth by Year (2016-2018) by % Change

Year	2016	2017	2018	% Change
Youth	137	124	100	-27%

Figure 3 Youth by Year (2016-2018)



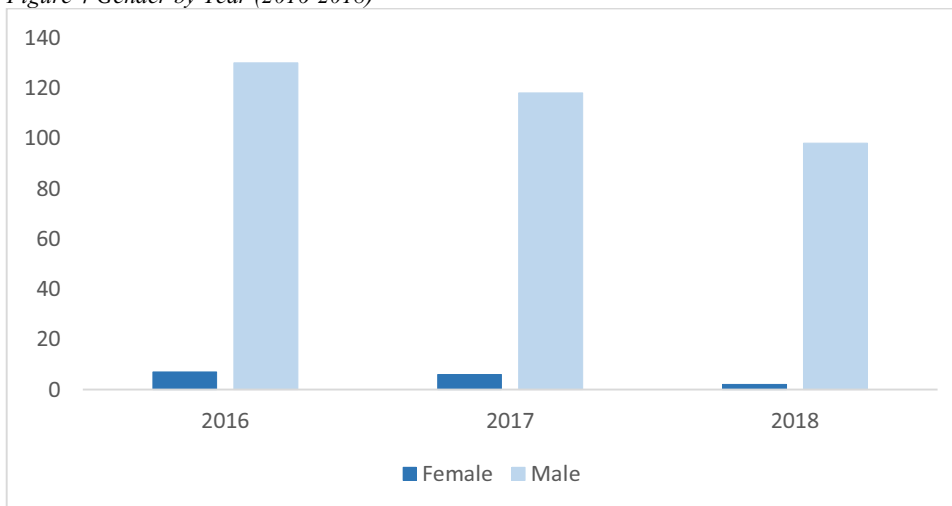
Cased Filed by Gender Trend

For the reporting period of 2016 through 2018, the distribution between male and female youth has remained consistent between years. Male youth over the reporting period have seen a decrease of 25% (Table 4).

Table 4 Gender by Year (% Total) by 2016-2018 % Change

Gender	2016	% Total	2017	% Total	2018	% Total	% Change
Male	130	95%	118	95%	98	98%	-25%
Female	7	5%	6	5%	2	2%	-71%
Total	137	100%	124	100%	100	100%	-27%

Figure 4 Gender by Year (2016-2018)



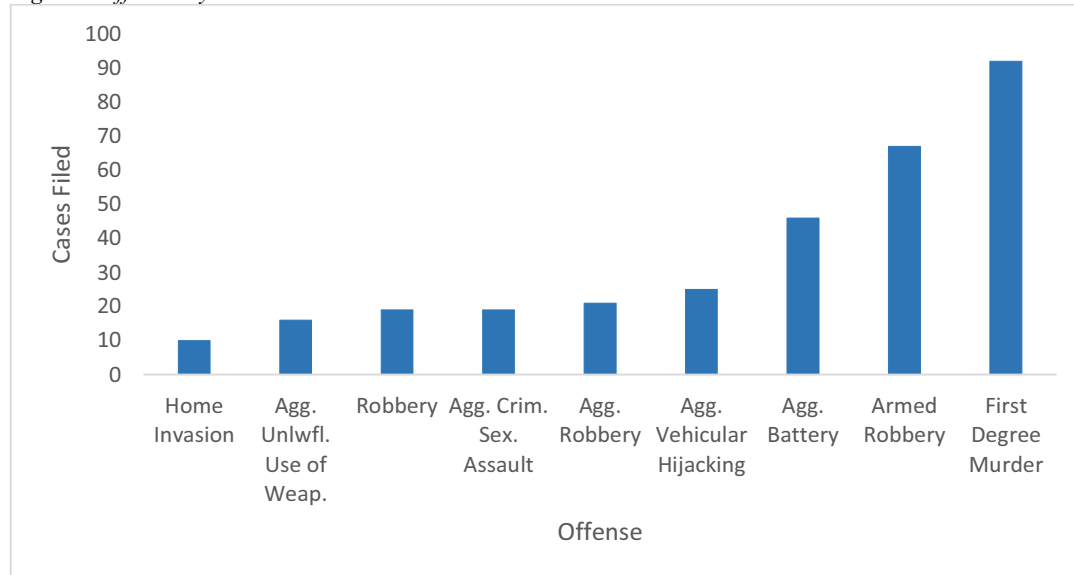
Offenses by Year

For the reporting period, ten offenses represented 75% of all cases filed from 2016 through 2018 (Table 5). The offense of First Degree Murder charged in 22% of all cases filed. Armed Robbery (16%) and Aggravated Battery (11%) represent the next two highest charged offenses (Table 5).

Table 5 Offense by Cases Filed (2016-2018) by % Total

Offense	2016-2018	
	Cases	% Total
First Degree Murder	92	22%
Armed Robbery	67	16%
Agg. Battery	46	11%
Agg. Vehicular Hijacking	25	6%
Agg. Robbery	21	5%
Robbery	19	5%
Agg. Crim. Sex. Assault	19	5%
Agg. Unlawf. Use of Weap.	16	4%
Home Invasion	10	2%

Figure 5 Offenses by Cases Filed



For the reporting period, 2016 through 2018, cases filed in which First Degree Murder was the underlying offense decreased by 60%, cases filed with Aggravated Criminal Sexual Assault decreased 82%, cases filed with Home Invasion decreased 80%, cases filed with Aggravated Battery decreased 45% and Aggravated Robbery decreased 67% (Table 6). Cases filed with the underlying offense of Aggravated Vehicular Hijacking has seen an increase of 150% (Table 6).

Table 6 Offenses by Cases by % Total by % Change (2016-2018)

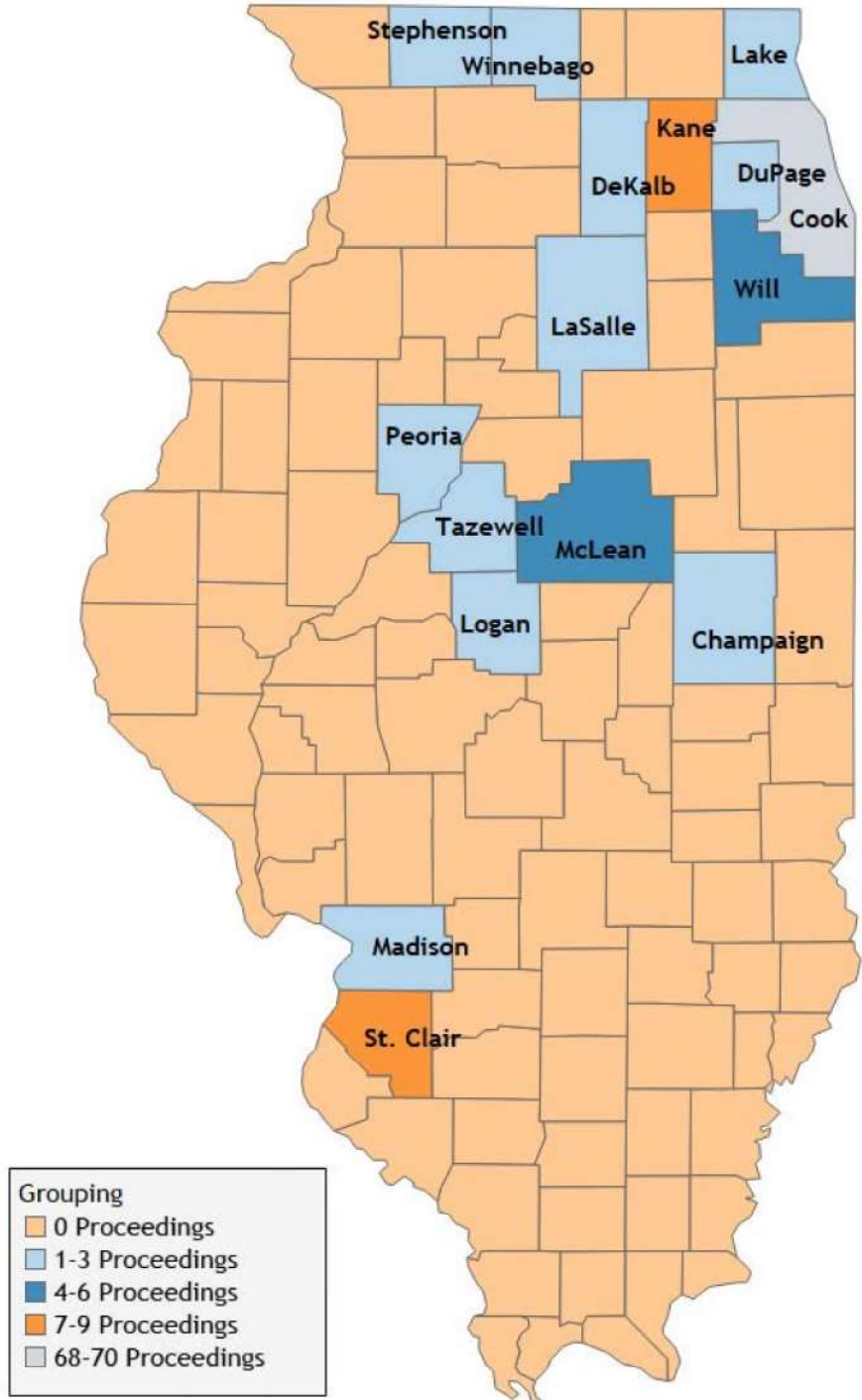
Offense ¹	2016	%	2017	%	2018	%	2016-2018
	Cases	Total	Cases	Total	Cases	Total	% Change
First Degree Murder	40	24%	37	26%	16	14%	-60%
Armed Robbery	23	14%	22	16%	22	20%	-4%
Agg. Battery	22	13%	12	9%	12	11%	-45%
Agg. Vehicular Hijacking	4	2%	11	8%	10	9%	150%
Agg. Robbery	12	7%	5	4%	4	4%	-67%
Robbery	7	4%	4	3%	8	7%	14%
Agg. Crim. Sex. Assault	11	7%	6	4%	2	2%	-82%
Agg. Unlawful Use of Weap.	2	1%	4	3%	10	9%	400%
Home Invasion	5	3%	4	3%	1	1%	-80%

¹ Certain offenses have a low n of cases filed. These small n numbers may make percentages less meaningful.

Illinois Juvenile Transfers at a Glance

For the reporting period of January 1, 2018 through December 31, 2018, 16 Illinois counties reported data on motions to transfer youth to adult courts, designation of violent offenders and habitual offenders. Whereas, 86 counties reported zero motions/designations for the reporting period. An interactive Illinois county map located to the right provides a link to the county report. The table below shows the counties, which reported motions/designations, that county's total number of cases and total number of youth.

	# Cases	# Youth
Champaign	2	2
Cook	68	65
DeKalb	2	2
DuPage	2	2
Kane	7	7
Lake	1	1
LaSalle	1	1
Logan	1	1
Madison	1	1
McLean	4	4
Peoria	1	1
St. Clair	8	5
Stephenson	1	1
Tazewell	1	1
Will	4	4
Winnebago	2	2
State Total	106	100



NOTE: Individual youth may be subject to multiple proceedings/charges. Therefore, the number of proceedings may exceed the number of youth in some data table.

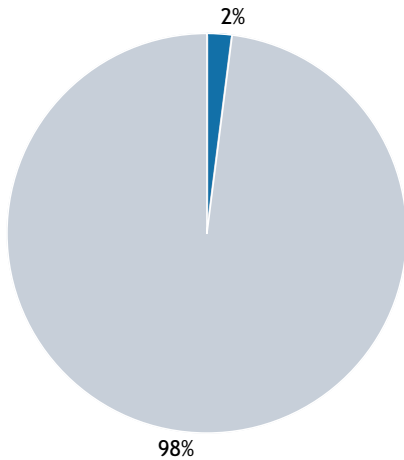
Demographics for all Proceedings Calendar Year 2018

Youth by Age

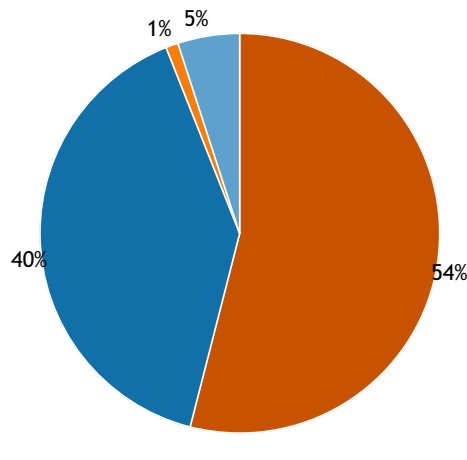


Total Distinct Youth: 100

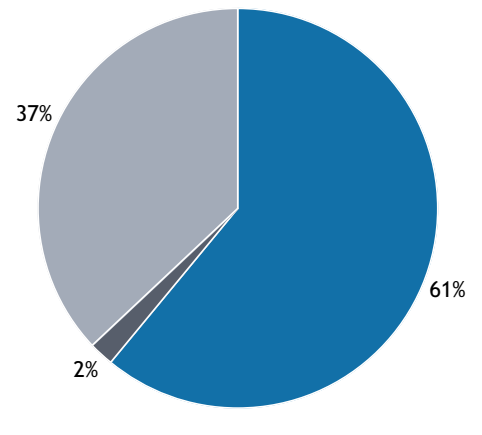
Gender



Race



Ethnicity



Female
Male

Unknown
Black/ Afr Amer.
Other
White

Unknown
Hispanic
Non-Hispanic

Female	2
Male	98
Grand Total	100

Unknown	54
Black/ Afr Amer.	40
White	5
Other	1
Grand Total	100

Unknown	61
Non-Hispanic	37
Hispanic	2
Grand Total	100

NOTE: Individual youth may be subject to multiple proceedings/charges. Therefore, the number of proceedings/charges may exceed the number of youth in some data tables.

Charges by Age Calendar Year 2018

14 Year Olds

Agg. Battery	1
Agg. Crim. Sex. Assault	1
Armed Robbery	1
Unlwl. Use of Weap.	1
Age Group Total	4

15 Year Olds

Armed Robbery	2
First Degree Murder	2
Agg. Discharge of a Fir.	1
Agg. Vehicular Hijacking	1
Escape	1
Robbery	1
Vehicular Hijacking	1
Age Group Total	9

16 Year Olds

First Degree Murder	8
Armed Robbery	8
Agg. Battery	6
Agg. Unlwl. Use of Weap.	5
Robbery	4
Agg. Vehicular Hijacking	4
Unlawful Possession of Stolen Mot.	2
Agg. Robbery	2
Vehicular Hijacking	1
Concealment of Homicidal Death	1
Burglary	1
Aggravated Flee/Attempt to Elud.	1
Agg. Poss. of Stolen Fir.	1
Age Group Total	41

17 Year Olds

Armed Robbery	12
First Degree Murder	6
Agg. Battery	5
Agg. Unlwl. Use of Weap.	5
Agg. Vehicular Hijacking	5
Armed Violence	3
Robbery	3
Agg. Discharge of a Fir.	2
Agg. Robbery	2
Crim. Sexual Aslt.	2
Defacing Identification Mark of Firearm	2
Possession of Stolen Property	2
Agg. Crim. Sex. Assault	1
Home Invasion	1
Meth Delivery	1
Reckless Homicide	1
Vehicular Hijacking	1
Age Group Total	53

Charges by Age

14 Year-Olds	4
15 Year-Olds	9
16 Year-Olds	41
17 Year-Olds	53
Grand Total	106

NOTE: Individual youth may be subject to multiple proceedings/charges. Therefore, the number of proceedings/charges may exceed the number of youth in some data tables.

Charges by County Calendar Year 2018

Champaign	Agg. Battery	1
	Robbery	1
	Meth Delivery	1
	County Total	2
Cook	Armed Robbery	18
	First Degree Murder	11
	Agg. Unlwl. Use of Weap.	10
	Agg. Vehicular Hijacking	10
	Agg. Battery	2
	Robbery	6
	Agg. Robbery	4
	Vehicular Hijacking	3
	Agg. Crim. Sex. Assault	1
	Armed Violence	1
	Defacing Identification Mark of Fi..	1
Unlwl. Use of Weap.	1	
County Total	68	
DeKalb	Agg. Crim. Sex. Assault	1
	Armed Violence	1
	County Total	2
DuPage	Armed Robbery	1
	First Degree Murder	2
	Agg. Discharge of a Fir.	1
	Concealment of Homicidal Death	1
County Total	2	
Kane	Armed Robbery	1
	Agg. Battery	4
	Aggravated Flee/Attempt to Elud..	1
	Burglary	1
County Total	7	
Lake	First Degree Murder	1
	County Total	1
LaSalle	Armed Robbery	1
	County Total	1

Logan	Armed Violence	1
	County Total	1
Madison	Armed Robbery	1
	County Total	1
McLean	Agg. Battery	1
	Possession of Stolen Property	2
	Defacing Identification Mark of F..	1
	County Total	4
Peoria	Agg. Discharge of a Fir.	1
	County Total	1
St. Clair	Crim. Sexual Aslt.	2
	Unlawful Possession of Stolen Mo..	2
	Agg. Poss. of Stolen Fir.	1
	Escape	1
	Reckless Homicide	1
	Robbery	1
County Total	8	
Stephenson	Agg. Discharge of a Fir.	1
	County Total	1
Tazewell	Home Invasion	1
	County Total	1
Will	Agg. Battery	2
	First Degree Murder	2
	County Total	4
Winnebago	Agg. Battery	2
	County Total	2

State Total Charges: 106

NOTE: Individual youth may be subject to multiple proceedings/charges. Therefore, the number of proceedings/charges may exceed the number of youth in some data tables.

Charges by Ethnicity Calendar Year 2018

Hispanic

First Degree Murder	2
Agg. Discharge of a Fir.	1
Armed Robbery	1
Concealment of Homicidal Death	1
Ethnicity Group Total	2

Non-Hispanic

First Degree Murder	12
Agg. Battery	11
Agg. Discharge of a Fir.	2
Armed Robbery	2
Crim. Sexual Aslt.	2
Robbery	2
Unlawful Possession of Stolen Motor V..	2
Agg. Crim. Sex. Assault	1
Aggravated Flee/Attempt to Elude Pea..	1
Agg. Poss. of Stolen Fir.	1
Armed Violence	1
Burglary	1
Escape	1
Home Invasion	1
Meth Delivery	1
Reckless Homicide	1
Ethnicity Group Total	41

Unknown Ethnicity

Armed Robbery	19
Agg. Unlwl. Use of Weap.	10
Agg. Vehicular Hijacking	10
Robbery	6
Agg. Robbery	4
Vehicular Hijacking	3
Armed Violence	2
Defacing Identification M..	2
First Degree Murder	2
Possession of Stolen Prop..	2
Agg. Battery	1
Agg. Crim. Sex. Assault	1
Unlwl. Use of Weap.	1
Ethnicity Group Total	63

Charges by Ethnicity

Hispanic	2
Non-Hispanic	41
Unknown	63
Grand Total	106

NOTE: Individual youth may be subject to multiple proceedings/charges. Therefore, the number of proceedings/charges may exceed the number of youth in some data tables.

Charges by Gender Calendar Year 2018

Male Youth by Charges

Armed Robbery	21
First Degree Murder	15
Agg. Battery	12
Agg. Unlawful Use of Weap.	10
Agg. Vehicular Hijacking	10
Robbery	8
Agg. Robbery	4
Agg. Discharge of a Fir.	3
Armed Violence	3
Vehicular Hijacking	3
Agg. Crim. Sex. Assault	2
Crim. Sexual Aslt.	2
Defacing Identification Mark o..	2
Unlawful Possession of Stolen ..	2
Aggravated Flee/Attempt to ..	1
Agg. Poss. of Stolen Fir.	1
Burglary	1
Escape	1
Home Invasion	1
Meth Delivery	1
Possession of Stolen Property	1
Reckless Homicide	1
Unlawful Use of Weap.	1
Total Male Youth	104

Female Youth by Charges

Armed Robbery	1
Concealment of Homicidal Death	1
First Degree Murder	1
Possession of Stolen Property	1
Total Female Youth	2

Charges by Gender

Female	2
Male	104
Total Youth	106

NOTE: Individual youth may be subject to multiple proceedings/charges. Therefore, the number of proceedings/charges may exceed the number of youth in some data tables.

Charges by Race Calendar Year 2018

Black/African American

First Degree Murder	12
Agg. Battery	11
Armed Robbery	3
Agg. Discharge of a Fir.	2
Crim. Sexual Aslt.	2
Possession of Stolen Property	2
Robbery	2
Unlawful Possession of Stolen Motor Veh..	2
Agg. Crim. Sex. Assault	1
Aggravated Flee/Attempt to Elude Peac..	1
Agg. Poss. of Stolen Fir.	1
Armed Violence	1
Burglary	1
Defacing Identification Mark of Firearm	1
Escape	1
Home Invasion	1
Meth Delivery	1
Racial Group Total	44

White

Agg. Battery	1
Agg. Crim. Sex. Assault	1
Armed Robbery	1
Armed Violence	1
Concealment of Homicidal Death	1
First Degree Murder	1
Reckless Homicide	1
Racial Group Total	5

Other Race

Agg. Discharge of a Fir.	1
First Degree Murder	1
Racial Group Total	1

Unknown Race

Armed Robbery	18
Agg. Unlwl. Use of Weap.	10
Agg. Vehicular Hijacking	10
Robbery	6
Agg. Robbery	4
Vehicular Hijacking	3
First Degree Murder	2
Armed Violence	1
Defacing Identification Mark of F..	1
Unlwl. Use of Weap.	1
Racial Group Total	56

Charges by Race

Unknown	56
Black/ Afr Amer.	44
White	5
Other	1
Grand Total	106

NOTE: Individual youth may be subject to multiple proceedings/charges. Therefore, the number of proceedings/charges may exceed the number of youth in some data tables.

5-130 Excluded Jurisdiction Calendar Year 2018

Charges

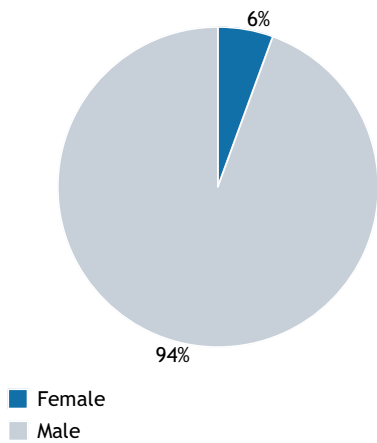
First Degree Murder	12
Agg. Battery	4
Agg. Crim. Sex. Assault	1
Agg. Discharge of a Fir.	1
Armed Robbery	1
Concealment of Homicidal Death	1
Crim. Sexual Aslt.	1
Reckless Homicide	1

Youth by Age

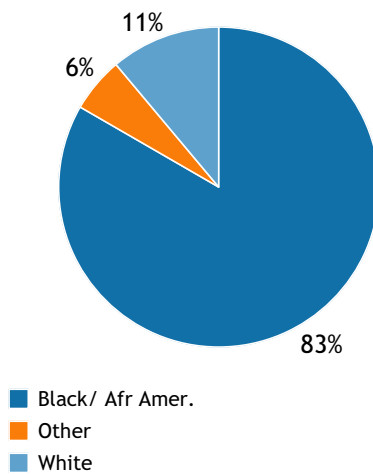
16 Year-Olds	7
17 Year-Olds	11

Total 5-130 Excluded Jurisdiction Cases: 19

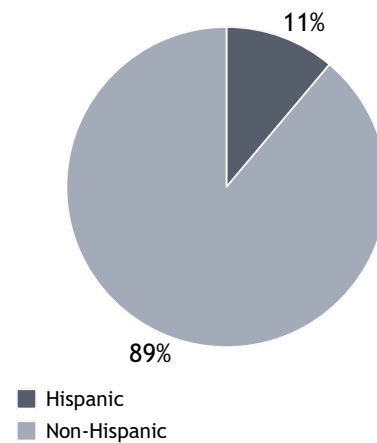
Gender



Race



Ethnicity



Male	17	Black/ Afr Amer.	15	Non-Hispanic	16
Female	1	White	2	Hispanic	2
Grand Total	18	Other	1	Grand Total	18
		Grand Total	18		

NOTE: Individual youth may be subject to multiple proceedings/charges. Therefore, the number of proceedings/charges may exceed the number of youth in some data tables.

5-805 Motion for Transfer Calendar Year 2018

Charges

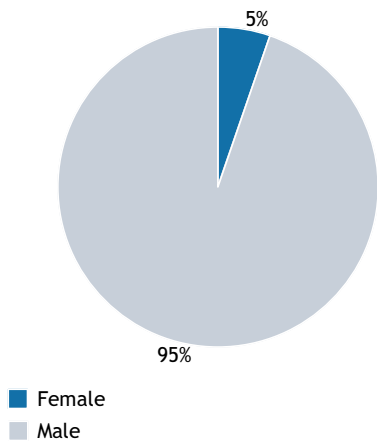
Agg. Battery	4
Agg. Discharge of a Fir.	2
Agg. Vehicular Hijacking	2
Armed Robbery	2
Armed Violence	2
First Degree Murder	2
Unlawful Possession of Stolen Motor Vehicle	2
Agg. Crim. Sex. Assault	1
Agg. Unlawfl. Use of Weap.	1
Home Invasion	1
Meth Delivery	1
Possession of Stolen Property	1
Robbery	1

Youth by Age

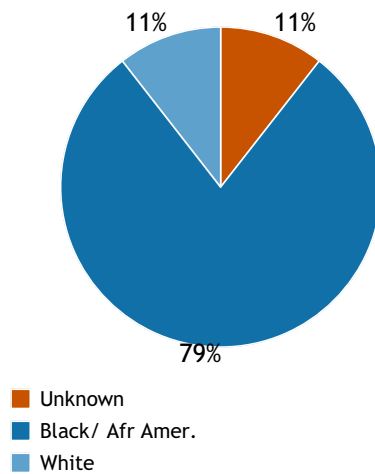
14 Year-Olds	2
15 Year-Olds	3
16 Year-Olds	5
17 Year-Olds	9

Total 5-805 Motion for Transfer Cases: 21

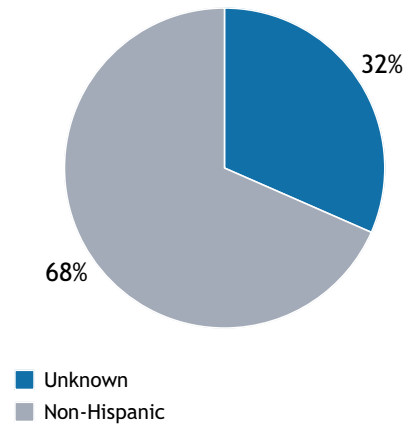
Gender



Race



Ethnicity



Male	18	Black/ Afr Amer.	15	Non-Hispanic	13
Female	1	Unknown	2	Unknown	6
Grand Total	19	White	2	Grand Total	19
		Grand Total	19		

NOTE: Individual youth may be subject to multiple proceedings/charges. Therefore, the number of proceedings/charges may exceed the number of youth in some data tables.

5-810 Extended Jurisdiction Calendar Year 2018

Charges

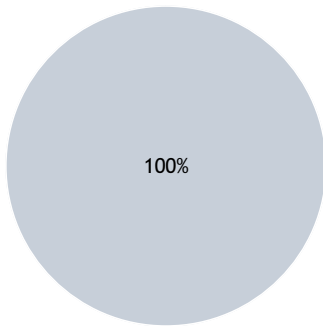
Agg. Battery	| 3
Agg. Vehicular Hijacking	| 3
Unlawful Possession of Stolen Motor Vehicle	| 2
Aggravated Flee/Attempt to Elude Peace Officer	| 1
Agg. Poss. of Stolen Fir.	| 1
Agg. Unlawfl. Use of Weap.	| 1
Armed Robbery	| 1
Burglary	| 1
Crim. Sexual Aslt.	| 1
Escape	| 1
Meth Delivery	| 1
Robbery	| 1

Youth by Age

15 Year-Olds	| 1
16 Year-Olds	| 7
17 Year-Olds	| 7

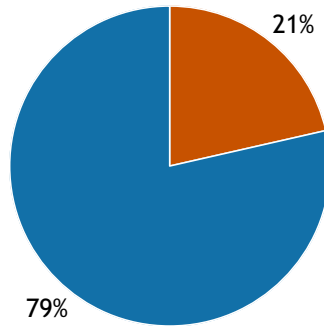
Total 5-810 Extended Jurisdiction Cases: 17

Gender



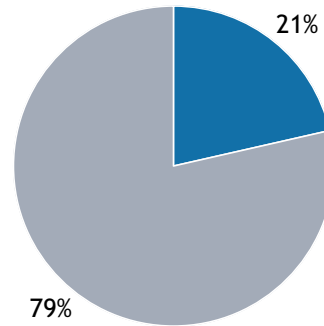
Male

Race



Unknown
Black/ Afr Amer.

Ethnicity



Unknown
Non-Hispanic

Male	14	Black/ Afr Amer.	11	Non-Hispanic	11
Grand Total	14	Unknown	3	Unknown	3
		Grand Total	14	Grand Total	14

NOTE: Individual youth may be subject to multiple proceedings/charges. Therefore, the number of proceedings/charges may exceed the number of youth in some data tables.

5-815 Habitual Offender Calendar Year 2018

Charges

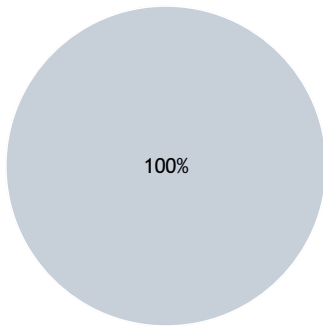
Armed Robbery	5
Agg. Vehicular Hijacking	2
Agg. Battery	1
Agg. Robbery	1
Agg. Unlawf. Use of Weap.	1
Possession of Stolen Property	1
Robbery	1

Youth by Age

15 Year-Olds	1
16 Year-Olds	2
17 Year-Olds	9

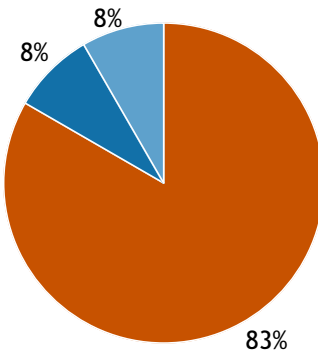
Total 5-815 Habitual Offender Cases: 12

Gender



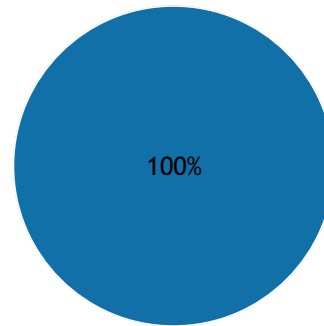
Male

Race



Unknown
Black/ Afr Amer.
White

Ethnicity



Unknown

Male	12
Grand Total	12

Unknown	10
Black/ Afr Amer.	1
White	1
Grand Total	12

Unknown	12
Grand Total	12

NOTE: Individual youth may be subject to multiple proceedings/charges. Therefore, the number of proceedings/charges may exceed the number of youth in some data tables.

5-820 Violent Offender Calendar Year 2018

Charges

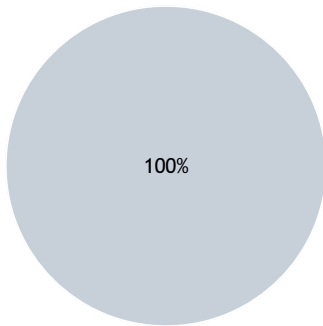
Armed Robbery	16
Agg. Unlawf. Use of Weap.	8
Agg. Vehicular Hijacking	8
Robbery	6
Agg. Robbery	4
Vehicular Hijacking	3
Defacing Identification Mark of Firearm	2
First Degree Murder	2
Armed Violence	1
Unlawf. Use of Weap.	1

Youth by Age

14 Year-Olds	2
15 Year-Olds	4
16 Year-Olds	18
17 Year-Olds	24

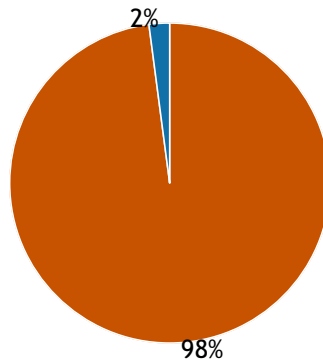
Total 5-820 Violent Offender Cases: 51

Gender



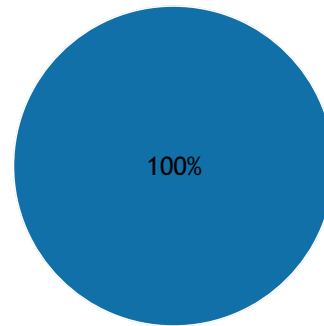
Male

Race



Unknown
Black/ Afr Amer.

Ethnicity



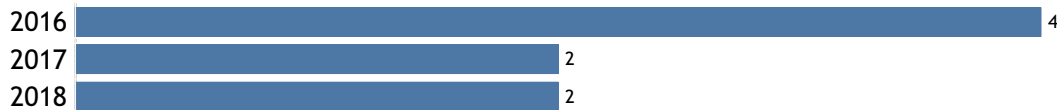
Unknown

Male	48	Unknown	47	Unknown	48
Grand Total	48	Black/ Afr Amer.	1	Grand Total	48
		Grand Total	48		

NOTE: Individual youth may be subject to multiple proceedings/charges. Therefore, the number of proceedings/charges may exceed the number of youth in some data tables.

Champaign County
 Proceedings to try youth as adults or apply Extended Juvenile Jurisdiction, Violent Juvenile
 Offender and/or Habitual Offender Provisions
 Calendar Year 2018

Champaign County All Motions Year Comparison



<u># Youth by Age</u>		<u>Age at Offense</u>		
16 Year-Olds	1	16 Year-Olds	Agg. Battery	1
17 Year-Olds	1		Robbery	1
Youth Total	2	17 Year-Olds	Meth Delivery	1

<u># Charges by Age</u>	
16 Year-Olds	1
17 Year-Olds	1
Charges Total	2

Proceedings Summary

Calendar Year: 2018 Motion Type: 5-805 Motion for Transfer

Agg. Battery	1
Meth Delivery	1
Robbery	1

<u>Age</u>		<u>Gender</u>		<u>Race</u>		<u>Ethnicity</u>	
16 Year-Olds	1	Male	2	Black/ Afr Amer.	2	Non-Hispanic	2
17 Year-Olds	1	Grand Total	2	Grand Total	2	Grand Total	2

Calendar Year: 2018 Motion Type: 5-810 Extended Jurisdiction

Meth Delivery	1
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<u>Age</u>		<u>Gender</u>		<u>Race</u>		<u>Ethnicity</u>	
17 Year-Olds	1	Male	1	Black/ Afr Amer.	1	Non-Hispanic	1
		Grand Total	1	Grand Total	1	Grand Total	1

NOTE: Individual youth may be subject to multiple proceedings/charges. Therefore, the number of proceedings/charges may exceed the number of youth in some data tables.

Cook County

Proceedings to try youth as adults or apply Extended Juvenile Jurisdiction, Violent Juvenile Offender and/or Habitual Offender Provisions Calendar Year 2018

Cook County All Motions Year Comparison



Calendar Year 2018 All Motions

<u># Youth by Age</u>		<u>Age at Offense</u>	
14 Year-Olds	2	14 Year-Olds	Armed Robbery 1
15 Year-Olds	5		Unlawful Use of Weap. 1
16 Year-Olds	24	15 Year-Olds	Agg. Vehicular Hijacking 1
17 Year-Olds	34		Armed Robbery 2
Youth Total	65		Robbery 1
			Vehicular Hijacking 1
		16 Year-Olds	Agg. Robbery 2
			Agg. Unlawful Use of Weap. 5
			Agg. Vehicular Hijacking 4
			Armed Robbery 5
			First Degree Murder 7
			Robbery 3
			Vehicular Hijacking 1
		17 Year-Olds	Agg. Battery 2
			Agg. Crim. Sex. Assault 1
			Agg. Robbery 2
			Agg. Unlawful Use of Weap. 5
			Agg. Vehicular Hijacking 5
			Armed Robbery 11
			Armed Violence 1
			Defacing Identification Mark of Firearm 1
			First Degree Murder 4
			Robbery 2
			Vehicular Hijacking 1

Proceedings Summary

Calendar Year: **2018** Motion Type: **5-805 Motion for Transfer**

Agg. Unlawful Use of Weap.	1
Agg. Vehicular Hijacking	2

<u>Age</u>	<u>Gender</u>	<u>Race</u>	<u>Ethnicity</u>
17 Year-Olds	Male	Unknown	Unknown
2	2	2	2
	Grand Total	Grand Total	Grand Total
	2	2	2

NOTE: Individual youth may be subject to multiple proceedings/charges. Therefore, the number of proceedings/charges may exceed the number of youth in some data tables.

Cook County
 Proceedings to try youth as adults or apply Extended Juvenile Jurisdiction, Violent
 Juvenile Offender and/or Habitual Offender Provisions
 Calendar Year 2018

Proceedings Continued

Calendar Year: 2018 Motion Type: 5-130 Excluded Jurisdiction

Agg. Battery	2
Agg. Crim. Sex. Assault	1
First Degree Murder	9

Age		Gender		Race		Ethnicity	
16 Year-Olds	5	Male	11	Black/ Afr Amer.	11	Non-Hispanic	11
17 Year-Olds	6	Grand Total	11	Grand Total	11	Grand Total	11

Calendar Year: 2018 Motion Type: 5-810 Extended Jurisdiction

Agg. Unlawf. Use of Weap.	1
Agg. Vehicular Hijacking	3

Age		Gender		Race		Ethnicity	
16 Year-Olds	1	Male	3	Unknown	3	Unknown	3
17 Year-Olds	2	Grand Total	3	Grand Total	3	Grand Total	3

Calendar Year: 2018 Motion Type: 5-815 Habitual Offender

Agg. Robbery	1
Agg. Unlawf. Use of Weap.	1
Agg. Vehicular Hijacking	2
Armed Robbery	5
Robbery	1

Age		Gender		Race		Ethnicity	
15 Year-Olds	1	Male	10	Unknown	10	Unknown	10
16 Year-Olds	1	Grand Total	10	Grand Total	10	Grand Total	10
17 Year-Olds	8						

NOTE: Individual youth may be subject to multiple proceedings/charges. Therefore, the number of proceedings/charges may exceed the number of youth in some data tables

Cook County
 Proceedings to try youth as adults or apply Extended Juvenile Jurisdiction, Violent
 Juvenile Offender and/or Habitual Offender Provisions
 Calendar Year 2018

Proceedings Continued

Calendar Year: 2018 Motion Type: 5-820 Violent Offender

Agg. Robbery	4
Agg. Unlawful Use of Weap.	8
Agg. Vehicular Hijacking	8
Armed Robbery	16
Armed Violence	1
Defacing Identification Mark of Firearm	1
First Degree Murder	2
Robbery	6
Unlawful Use of Weap.	1
Vehicular Hijacking	3

<u>Age</u>		<u>Gender</u>		<u>Race</u>		<u>Ethnicity</u>	
14 Year-Olds	2	Male	47	Unknown	47	Unknown	47
15 Year-Olds	4	Grand Total	47	Grand Total	47	Grand Total	47
16 Year-Olds	18						
17 Year-Olds	23						

NOTE: Individual youth may be subject to multiple proceedings/charges. Therefore, the number of proceedings/charges may exceed the number of youth in some data tables.

DeKalb County

Proceedings to try youth as adults or apply Extended Juvenile Jurisdiction, Violent Juvenile Offender and/or Habitual Offender Provisions Calendar Year 2018

DeKalb County All Motions Year Comparison

2016		2
2017		2
2018		2

Calendar Year 2018 All Motions

<u># Youth by Age</u>		<u>Age at Offense</u>		
14 Year-Olds	1	14 Year-Olds	Agg. Crim. Sex. Assault	1
17 Year-Olds	1	17 Year-Olds	Armed Violence	1
Youth Total	2			

Charges by Age

14 Year-Olds	1
17 Year-Olds	1
Charges Total	2

Proceedings Summary

Calendar Year: 2018 Motion Type: 5-805 Motion for Transfer

Agg. Crim. Sex. Assault	1
Armed Violence	1

<u>Age</u>		<u>Gender</u>		<u>Race</u>		<u>Ethnicity</u>	
14 Year-Olds	1	Male	2	Black/ Afr Amer.	1	Unknown	2
17 Year-Olds	1	Grand Total	2	White	1	Grand Total	2
				Grand Total	2		

NOTE: Individual youth may be subject to multiple proceedings/charges. Therefore, the number of proceedings/charges may exceed the number of youth in so many data table

DuPage County

Proceedings to try youth as adults or apply Extended Juvenile Jurisdiction, Violent Juvenile Offender and/or Habitual Offender Provisions Calendar Year 2018

DuPage County All Motions Year Comparison



Calendar Year 2018 All Motions

<u># Youth by Age</u>		<u>Age at Offense</u>		
16 Year-Olds	1	16 Year-Olds	Armed Robbery	1
17 Year-Olds	1		Concealment of Homicidal Death	1
Youth Total	2		First Degree Murder	1
		17 Year-Olds	Agg. Discharge of a Fir.	1
			First Degree Murder	1
<u># Charges by Age</u>				
16 Year-Olds	1			
17 Year-Olds	1			
Charges Total	2			

Proceedings Summary

Calendar Year: 2018 Motion Type: 5-130 Excluded Jurisdiction

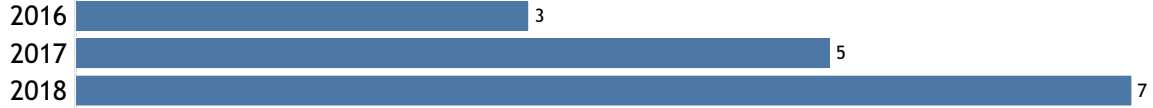
Agg. Discharge of a Fir.	1				
Armed Robbery	1				
Concealment of Homicidal Death	1				
First Degree Murder	2				
<u>Age</u>		<u>Gender</u>	<u>Race</u>	<u>Ethnicity</u>	
16 Year-Olds	1	Female	1	Other	1
17 Year-Olds	1	Male	1	White	1
		Grand Total	2	Grand Total	2
				Hispanic	2
				Grand Total	2

NOTE: Individual youth may be subject to multiple proceedings/charges. Therefore, the number of proceedings/charges may exceed the number of youth in some data tables.

Kane County

Proceedings to try youth as adults or apply Extended Juvenile Jurisdiction, Violent Juvenile Offender and/or Habitual Offender Provisions
 Calendar Year 2018

Kane County All Motions Year Comparison



<u># Youth by Age</u>		<u>Age at Offense</u>		
16 Year-Olds	5	16 Year-Olds	Agg. Battery	2
17 Year-Olds	1		Aggravated Flee/Attempt to Elude Peace Officer	1
18 Year-Olds	1		Armed Robbery	1
Youth Total	7		Burglary	1
<u># Charges by Age</u>		17 Year-Olds	Agg. Battery	1
16 Year-Olds	5	18 Year-Olds	Agg. Battery	1
17 Year-Olds	1			
18 Year-Olds	1			
Charges Total	7			

Proceedings Summary

Calendar Year: 2018 Motion Type: 5-805 Motion for Transfer

Agg. Battery	1
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<u>Age</u>	<u>Gender</u>	<u>Race</u>	<u>Ethnicity</u>				
16 Year-Olds	1	Male	1	Black/ Afr Amer.	1	Non-Hispanic	1
		Grand Total	1	Grand Total	1	Grand Total	1

Calendar Year: 2018 Motion Type: 5-810 Extended Jurisdiction

Agg. Battery	3
Aggravated Flee/Attempt to Elude Peace Officer	1
Armed Robbery	1
Burglary	1

<u>Age</u>	<u>Gender</u>	<u>Race</u>	<u>Ethnicity</u>				
16 Year-Olds	4	Male	6	Black/ Afr Amer.	6	Non-Hispanic	6
17 Year-Olds	1	Grand Total	6	Grand Total	6	Grand Total	6
18 Year-Olds	1						

NOTE: Individual youth may be subject to multiple proceedings/charges. Therefore, the number of proceedings/charges may exceed the number of youth in some data tables.

Lake County

**Proceedings to try youth as adults or apply Extended Juvenile Jurisdiction, Violent Juvenile Offender and/or Habitual Offender Provisions
Calendar Year 2018**

Lake County All Motions Year Comparison



Calendar Year 2018 All Motions

<u># Youth by Age</u>	<u>Age at Offense</u>
15 Year-Olds 1	15 Year-Olds First Degree Murder 1
Youth Total 1	

<u># Charges by Age</u>
15 Year-Olds 1
Charges Total 1

Proceedings Summary

Calendar Year: 2018 Motion Type: 5-805 Motion for Transfer

First Degree Murder	1
---------------------	---

<u>Age</u>	<u>Gender</u>	<u>Race</u>	<u>Ethnicity</u>
15 Year-Olds 1	Male 1	Black/ Afr Amer. 1	Non-Hispanic 1
	Grand Total 1	Grand Total 1	Grand Total 1

NOTE: Individual youth may be subject to multiple proceedings/charges. Therefore, the number of proceedings/charges may exceed the number of youth in some data tables.

LaSalle County

**Proceedings to try youth as adults or apply Extended Juvenile Jurisdiction, Violent Juvenile Offender and/or Habitual Offender Provisions
Calendar Year 2018**

LaSalle County All Motions Year Comparison

2018  1

Calendar Year 2018 All Motions

<u># Youth by Age</u>	<u>Age at Offense</u>
16 Year-Olds 1	16 Year-Olds Armed Robbery 1
Youth Total 1	

<u># Charges by Age</u>
16 Year-Olds 1
Charges Total 1

Proceedings Summary

Calendar Year: 2018 Motion Type: 5-805 Motion for Transfer

Armed Robbery	1
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<u>Age</u>	<u>Gender</u>	<u>Race</u>	<u>Ethnicity</u>
16 Year-Olds 1	Male 1	Black/ Afr Amer. 1	Unknown 1
	Grand Total 1	Grand Total 1	Grand Total 1

NOTE: Individual youth may be subject to multiple proceedings/charges. Therefore, the number of proceedings/charges may exceed the number of youth in so much as a table

Logan County
 Proceedings to try youth as adults or apply Extended Juvenile Jurisdiction, Violent Juvenile
 Offender and/or Habitual Offender Provisions
 Calendar Year 2018

Logan County All Motions Year Comparison

2018  1

Calendar Year 2018 All Motions

<u># Youth by Age</u>		<u>Age at Offense</u>	
17 Year-Olds	1	17 Year-Olds	Armed Violence 1
Youth Total	1		

<u># Charges by Age</u>	
17 Year-Olds	1
Charges Total	1

Proceedings Summary

Calendar Year: 2018 Motion Type: 5-805 Motion for Transfer

Armed Violence	1
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<u>Age</u>		<u>Gender</u>		<u>Race</u>		<u>Ethnicity</u>	
17 Year-Olds	1	Male	1	White	1	Non-Hispanic	1
		Grand Total	1	Grand Total	1	Grand Total	1

NOTE: Individual youth may be subject to multiple proceedings/charges. Therefore, the number of proceedings/charges may exceed the number of youth in some data tables.

Madison County

Proceedings to try youth as adults or apply Extended Juvenile Jurisdiction, Violent Juvenile Offender and/or Habitual Offender Provisions
Calendar Year 2018

Madison County All Motions Year Comparison



Calendar Year 2018 All Motions

<u># Youth by Age</u>	<u>Age at Offense</u>
17 Year-Olds	17 Year-Olds Armed Robbery
1	1
Youth Total	1

<u># Charges by Age</u>
17 Year-Olds
1
Charges Total
1

Proceedings Summary

Calendar Year: 2018 Motion Type: 5-805 Motion for Transfer

Armed Robbery	1
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<u>Age</u>	<u>Gender</u>	<u>Race</u>	<u>Ethnicity</u>
17 Year-Olds	Male	Black/ Afr Amer.	Non-Hispanic
1	1	1	1
Grand Total	1	1	1

NOTE: Individual youth may be subject to multiple proceedings/charges. Therefore, the number of proceedings/charges may exceed the number of youth in so much as a table

McLean County

Proceedings to try youth as adults or apply Extended Juvenile Jurisdiction, Violent Juvenile Offender and/or Habitual Offender Provisions Calendar Year 2018

McLean County All Motions Year Comparison



Youth by Age

16 Year-Olds	1
17 Year-Olds	3
Youth Total	4

Age at Offense

16 Year-Olds	Agg. Battery	1
17 Year-Olds	Defacing Identification Mark of Firearm	1
	Possession of Stolen Property	2

Charges by Age

16 Year-Olds	1
17 Year-Olds	3
Charges Total	4

Proceedings Summary

Calendar Year: 2018 Motion Type: 5-805 Motion for Transfer

Possession of Stolen Property	1
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<u>Age</u>		<u>Gender</u>		<u>Race</u>		<u>Ethnicity</u>	
17 Year-Olds	1	Female	1	Black/ Afr Amer.	1	Unknown	1
		Grand Total	1	Grand Total	1	Grand Total	1

Calendar Year: 2018 Motion Type: 5-815 Habitual Offender

Agg. Battery	1
Possession of Stolen Property	1

<u>Age</u>		<u>Gender</u>		<u>Race</u>		<u>Ethnicity</u>	
16 Year-Olds	1	Male	2	Black/ Afr Amer.	1	Unknown	2
17 Year-Olds	1	Grand Total	2	White	1	Grand Total	2
				Grand Total	2		

NOTE: Individual youth may be subject to multiple proceedings/charges. Therefore, the number of proceedings/charges may exceed the number of youth in some data tables.

McLean County
 Proceedings to try youth as adults or apply Extended Juvenile Jurisdiction, Violent
 Juvenile Offender and/or Habitual Offender Provisions
 Calendar Year 2018

Proceedings Continued

Calendar Year: 2018 Motion Type: 5-820 Violent Offender

Defacing Identification Mark of Firearm	1
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<u>Age</u>	<u>Gender</u>	<u>Race</u>	<u>Ethnicity</u>
17 Year-Olds	1	Male	1
	Grand Total	Grand Total	Grand Total
	1	1	1

NOTE: Individual youth may be subject to multiple proceedings/charges. Therefore, the number of proceedings/charges may exceed the number of youth in some data tables

Peoria County
 Proceedings to try youth as adults or apply Extended Juvenile Jurisdiction, Violent Juvenile
 Offender and/or Habitual Offender Provisions
 Calendar Year 2018

Peoria County All Motions Year Comparison



Calendar Year 2018 All Motions

# Youth by Age	Age at Offense
17 Year-Olds 1	17 Year-Olds Agg. Discharge of a Fir. 1
Youth Total 1	

Charges by Age
17 Year-Olds 1
Charges Total 1

Proceedings Summary

Calendar Year: **2018** Motion Type: **5-805 Motion for Transfer**

Agg. Discharge of a Fir.	1
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Age	Gender	Race	Ethnicity
17 Year-Olds 1	Male 1	Black/ Afr Amer. 1	Non-Hispanic 1
	Grand Total 1	Grand Total 1	Grand Total 1

NOTE: Individual youth may be subject to multiple proceedings/charges. Therefore, the number of proceedings/charges may exceed the number of youth in some data tables.

St. Clair County

Proceedings to try youth as adults or apply Extended Juvenile Jurisdiction, Violent Juvenile Offender and/or Habitual Offender Provisions Calendar Year 2018

St. Clair County All Motions Year Comparison



<u># Youth by Age</u>		<u>Age at Offense</u>		
15 Year-Olds	1	15 Year-Olds	Escape	1
16 Year-Olds	2	16 Year-Olds	Agg. Poss. of Stolen Fir.	1
17 Year-Olds	3		Unlawful Possession of Stolen Motor Vehi..	2
Youth Total	5	17 Year-Olds	Crim. Sexual Aslt.	2
			Reckless Homicide	1
			Robbery	1
<u># Charges by Age</u>				
15 Year-Olds	1			
16 Year-Olds	3			
17 Year-Olds	4			
Charges Total	8			

Proceedings Summary

Calendar Year: 2018 Motion Type: 5-130 Excluded Jurisdiction

Crim. Sexual Aslt.	1
Reckless Homicide	1

<u>Age</u>	<u>Gender</u>	<u>Race</u>	<u>Ethnicity</u>
17 Year-Olds	2	Male	2
		Black/ Afr Amer.	1
		White	1
		Grand Total	2
		Non-Hispanic	2
		Grand Total	2

Calendar Year: 2018 Motion Type: 5-805 Motion for Transfer

Unlawful Possession of Stolen Motor Vehicle	2
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<u>Age</u>	<u>Gender</u>	<u>Race</u>	<u>Ethnicity</u>
16 Year-Olds	1	Male	1
		Black/ Afr Amer.	1
		Grand Total	1
		Non-Hispanic	1
		Grand Total	1

NOTE: Individual youth may be subject to multiple proceedings/charges. Therefore, the number of proceedings/charges may exceed the number of youth in some data tables.

St. Clair County
 Proceedings to try youth as adults or apply Extended Juvenile Jurisdiction, Violent
 Juvenile Offender and/or Habitual Offender Provisions
 Calendar Year 2018

Proceedings Continued

Calendar Year: 2018 Motion Type: 5-810 Extended Jurisdiction

Agg. Poss. of Stolen Fir.	1
Crim. Sexual Aslt.	1
Escape	1
Robbery	1
Unlawful Possession of Stolen Motor Vehicle	2

<u>Age</u>		<u>Gender</u>		<u>Race</u>		<u>Ethnicity</u>	
15 Year-Olds	1	Male	4	Black/ Afr Amer.	4	Non-Hispanic	4
16 Year-Olds	2	Grand Total	4	Grand Total	4	Grand Total	4
17 Year-Olds	2						

NOTE: Individual youth may be subject to multiple proceedings/charges. Therefore, the number of proceedings/charges may exceed the number of youth in some data tables.

Stephenson County
 Proceedings to try youth as adults or apply Extended Juvenile Jurisdiction, Violent Juvenile
 Offender and/or Habitual Offender Provisions
 Calendar Year 2018

Stephenson County All Motions Year Comparison

2018  1

Calendar Year 2018 All Motions

<u># Youth by Age</u>	<u>Age at Offense</u>
15 Year-Olds 1	15 Year-Olds Agg. Discharge of a Fir. 1
Youth Total 1	

Charges by Age

15 Year-Olds 1
Charges Total 1

Proceedings Summary

Calendar Year: 2018 Motion Type: 5-805 Motion for Transfer

Agg. Discharge of a Fir.	1
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<u>Age</u>	<u>Gender</u>	<u>Race</u>	<u>Ethnicity</u>
15 Year-Olds 1	Male 1	Black/ Afr Amer. 1	Non-Hispanic 1
	Grand Total 1	Grand Total 1	Grand Total 1

NOTE: Individual youth may be subject to multiple proceedings/charges. Therefore, the number of proceedings/charges may exceed the number of youth in so much as a table

Tazewell County

Proceedings to try youth as adults or apply Extended Juvenile Jurisdiction, Violent Juvenile Offender and/or Habitual Offender Provisions Calendar Year 2018

Tazewell County All Motions Year Comparison

2018 1

Calendar Year 2018 All Motions

<u># Youth by Age</u>	<u>Age at Offense</u>
17 Year-Olds 1	17 Year-Olds Home Invasion 1
Youth Total 1	

<u># Charges by Age</u>
17 Year-Olds 1
Charges Total 1

Proceedings Summary

Calendar Year: 2018 Motion Type: 5-805 Motion for Transfer

Home Invasion	1
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<u>Age</u>	<u>Gender</u>	<u>Race</u>	<u>Ethnicity</u>
17 Year-Olds 1	Male 1	Black/ Afr Amer. 1	Non-Hispanic 1
	Grand Total 1	Grand Total 1	Grand Total 1

NOTE: Individual youth may be subject to multiple proceedings/charges. Therefore, the number of proceedings/charges may exceed the number of youth in some data tables.

Will County

Proceedings to try youth as adults or apply Extended Juvenile Jurisdiction, Violent Juvenile Offender and/or Habitual Offender Provisions Calendar Year 2018

Will County All Motions Year Comparison



<u># Youth by Age</u>		<u>Age at Offense</u>		
14 Year-Olds	1	14 Year-Olds	Agg. Battery	1
15 Year-Olds	1	15 Year-Olds	First Degree Murder	1
17 Year-Olds	2	17 Year-Olds	Agg. Battery	1
Youth Total	4		First Degree Murder	1

Charges by Age

14 Year-Olds	1
15 Year-Olds	1
17 Year-Olds	2
Charges Total	4

Proceedings Summary

Calendar Year: 2018 Motion Type: 5-130 Excluded Jurisdiction

Agg. Battery	1
First Degree Murder	1

<u>Age</u>		<u>Gender</u>		<u>Race</u>		<u>Ethnicity</u>	
17 Year-Olds	2	Male	2	Black/ Afr Amer.	2	Non-Hispanic	2
		Grand Total	2	Grand Total	2	Grand Total	2

Calendar Year: 2018 Motion Type: 5-805 Motion for Transfer

Agg. Battery	1
First Degree Murder	1

<u>Age</u>		<u>Gender</u>		<u>Race</u>		<u>Ethnicity</u>	
14 Year-Olds	1	Male	2	Black/ Afr Amer.	2	Non-Hispanic	2
15 Year-Olds	1	Grand Total	2	Grand Total	2	Grand Total	2

NOTE: Individual youth may be subject to multiple proceedings/charges. Therefore, the number of proceedings/charges may exceed the number of youth in some data tables.

Winnebago County
 Proceedings to try youth as adults or apply Extended Juvenile Jurisdiction, Violent Juvenile
 Offender and/or Habitual Offender Provisions
 Calendar Year 2018

Winnebago County All Motions Year Comparison



<u># Youth by Age</u>	<u>Age at Offense</u>	
16 Year-Olds	2	16 Year-Olds Agg. Battery 2
Youth Total	2	

<u># Charges by Age</u>	
16 Year-Olds	2
Charges Total	2

Proceedings Summary

Calendar Year: 2018 Motion Type: 5-130 Excluded Jurisdiction

Agg. Battery	1
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<u>Age</u>	<u>Gender</u>	<u>Race</u>	<u>Ethnicity</u>
16 Year-Olds	1	Male 1	Black/ Afr Amer. 1
		Non-Hispanic 1	
		Grand Total 1	Grand Total 1

Calendar Year: 2018 Motion Type: 5-805 Motion for Transfer

Agg. Battery	1
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<u>Age</u>	<u>Gender</u>	<u>Race</u>	<u>Ethnicity</u>
16 Year-Olds	1	Male 1	Black/ Afr Amer. 1
		Non-Hispanic 1	
		Grand Total 1	Grand Total 1

NOTE: Individual youth may be subject to multiple proceedings/charges. Therefore, the number of proceedings/charges may exceed the number of youth in some data tables.

Appendix A

This report summarizes five types of actions a State’s Attorney may take to “transfer” a person under 18 years old to criminal (adult) court or to designate the youth as a “Violent Juvenile Offender” or “Habitual Juvenile Offender.” This glossary provides a brief explanation of each of these action. These definitions should not be considered exhaustive. More information is available in the Illinois Juvenile Court Act of 1987 (705 ILCS 405/5 et seq.). As described in the introductory text, the Juvenile Court Act was updated in January 2016 with the enactment of Public Act 99-0258.

Glossary of Motion Types:

Excluded Jurisdiction (705 ILCS 405/5-130): This section of the Juvenile Court Act provides that, if a youth more than 16 years old is charged with one of three specified offenses, their case is automatically “excluded” from juvenile court and shall be prosecuted under the criminal code. This is often referred to as “automatic transfer.” The specified offenses are first degree murder, aggravated criminal sexual assault or aggravated battery with a firearm when the youth is accused of personally discharging a firearm. If convicted or a plea of guilty is filed, the Court shall impose a criminal sentence in accordance with Section 5-4.5-105 of the Unified Code of Corrections.

Motion for Transfer (705 ILCS 405/5-805): There are two types of motions for transfer: Presumptive Transfer and Discretionary Transfer.

1. A presumptive transfer motion alleges a youth 15 years of age or older committed an act that constitutes a forcible felony and (i) the youth has previously been adjudicated delinquent or found guilty for commission of an act that constitutes a forcible felony and (ii) the act that constitutes the offense was committed in furtherance of criminal activity by an organized gang. If a juvenile judge finds probable cause to believe that these allegations are true, there is a rebuttable presumption that the youth should transferred to the adult criminal court.
2. A discretionary transfer motion alleges a youth 13 years of age or older committed an act that constitutes a crime under the criminal laws of Illinois. If a juvenile judge finds probable cause to believe that these allegations are true and that it is “not in the best interests of the public” to proceed in juvenile court, the court may transfer the case to adult criminal court.

Extended Jurisdiction (705 ILCS 405/5-810): This petition alleges the commission by a youth 13 years of age or older of any offense which would be a felony if committed by an adult. Upon a disposition of guilt or guilty plea the court shall impose a juvenile sentence and an adult criminal sentence in accordance with Section 5-4.5-105 of the Unified Code of Corrections. The execution of the adult criminal sentence shall be stayed on the condition that the youth not violate the provisions of the juvenile sentence. These motions are often referred to as “EJJs.” If a motion for EJJ is granted, the youth has a right to a jury trial and, if convicted, the sentencing proceedings are open to the public.

Violent Offender (705 ILCS 405/5-820): A youth having been previously adjudicated a delinquent minor for an offense, which had the youth been prosecuted as an adult, would have been a Class 2 or greater felony involving the use or threat of physical force or violent against an individual or Class 2 or greater felony for which an element of the offense is possession of use of a firearm, and who is thereafter adjudicated a delinquent minor for the second time for any of those offenses shall be adjudicated a

Violent Juvenile Offender (VJO). Upon a VJO adjudication, a court “shall” commit the youth to the Department of Juvenile Justice until the youth’s 21st birthday.

Habitual Offender (705 ILCS 405/5-850): Any youth having been twice adjudicated a delinquent minor for offenses, which had the youth been prosecuted as an adult, would have been felonies under the laws of Illinois, and who is thereafter adjudicated a delinquent minor for a third time shall be adjudged an Habitual Juvenile Offender (HJO). Upon an HJO adjudication, the court “shall” commit the youth to the Department of Juvenile Justice until the youth’s 21st birthday.

No. 127815

IN THE

SUPREME COURT OF ILLINOIS

PEOPLE OF THE STATE OF	)	Appeal from the Appellate Court of
ILLINOIS,	)	Illinois, No. 1-19-1086.
)	
Plaintiff-Appellant,	)	There on appeal from the Circuit
	)	Court of Cook County, Illinois , No.
-vs-	)	16 CR 10202.
)	
	)	Honorable
DEMETRIUS GRAY,	)	Mary Margaret Brosnahan,
	)	Judge Presiding.
Defendant-Appellee.)	

NOTICE AND PROOF OF SERVICE

Mr. Kwame Raoul, Attorney General, 100 W. Randolph St., 12th Floor, Chicago, IL 60601, eserve.criminalappeals@ilag.gov;

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Mr. Demetrius Gray, Register No. K96542, Pontiac Correctional Center, P.O. Box 99, Pontiac, IL 61764

Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct. On October 4, 2023, the Brief and Argument was filed with the Clerk of the Supreme Court of Illinois using the court's electronic filing system in the above-entitled cause. Upon acceptance of the filing from this Court, persons named above with identified email addresses will be served using the court's electronic filing system and one copy is being mailed to the defendant-appellee in an envelope deposited in a U.S. mail box in Chicago, Illinois, with proper postage prepaid. Additionally, upon its acceptance by the court's electronic filing system, the undersigned will send 13 copies of the Brief and Argument to the Clerk of the above Court.

/s/ Erika Roman

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