

DISPOSABLE CHILDREN

**The Prevalence of Child Abuse and
Trauma Among Children Prosecuted
and Incarcerated As Adults in
Maryland**

Acknowledgments

We would like to thank our major philanthropic partners whose support made this publication possible.



We also want to thank all of the advocates and policymakers who work alongside us – in a bipartisan fashion – to end human rights violations against children in Maryland’s juvenile and criminal justice systems. We especially want to thank our partners at the Maryland Youth Justice Coalition, the Maryland Office of Public Defender, and the incredible clinical faculty at the University of Baltimore and University of Maryland Schools of Law who are with us in the trenches.

Finally, we want to acknowledge the contributions of our partner, Richard Ross, and his team at Juvenile-In-Justice, who provided the powerful imagery profiled throughout this report; as well as the contributions of Margot Mental, Anika Mansukani, Fiona Burke, and Mika Veytsman, whose work was vital to the administration of the ACEs surveys and the analysis of the findings.

“My real dad wasn’t in my life when I was born . . . he was sent to prison for the last time and got over 60 years”

“By the age of 7 years old me and my siblings were taken away from my mother . . . at the time I didn’t know my mother was a heroin user.”

“I walked in on my father hanging from a rope”

“Growing up my father was sent to prison”

“I grew up with my sibling’s father who was mentally and physically abusive to my mother and me”

“My parents were drug addicts who failed to provide for me and my younger brother”

“My house was known as a trap house – where you go to buy and sell drugs”

“At 13 my father used to have me inject heroin into his neck”

“I got into trouble after being sexually abused by someone who was supposed to be my guardian”

This report is dedicated to the thousands of justice system-impacted children who have suffered human rights abuses by the state of Maryland, including:

children sexually and physically abused by staff in correctional facilities across the state;

children sentenced as adults in violation of international human rights law;

children whose early abuse, neglect, and trauma was a significant contributing factor to their incarceration; and

the one hundred and twenty-four people incarcerated since childhood who bravely shared their experiences with us, without whom, this report would not have been possible.

MARYLAND'S
TREATMENT OF THESE
CHILDREN IS A
HUMAN RIGHTS
ABUSE

"Whom shall I send as a messenger to this people? Here I am, send me."

- Isaiah 6:8

Executive Summary

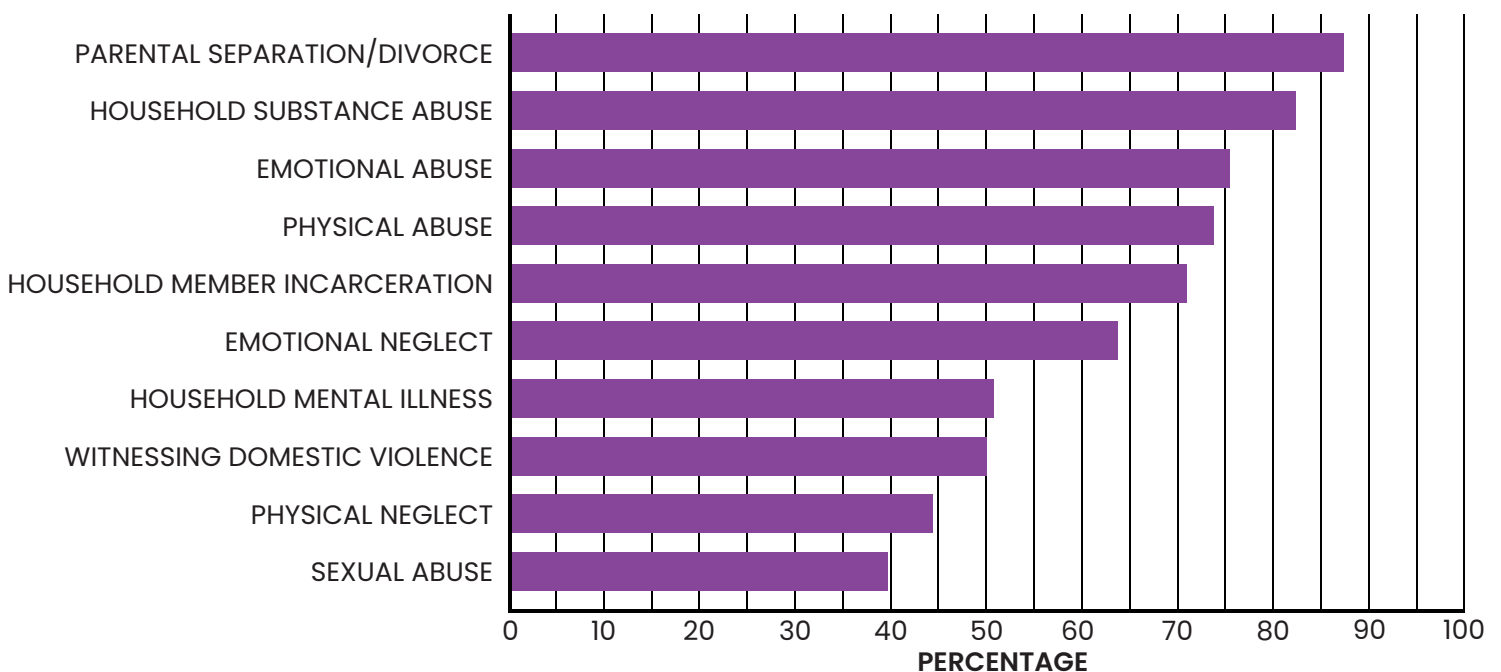
RATES OF TRAUMA AMONG CHILDREN PROSECUTED AND INCARCERATED AS ADULTS IN MARYLAND

While the number of children detained in the juvenile justice system has sharply declined over the past two decades,¹ this promising trend leaves out a troubling fact: children are still prosecuted in the adult criminal justice system in every state in the country. Maryland ranks in the top five states for the percentage of its prison population that has been incarcerated since childhood. Prosecuting and incarcerating children as if they were adults is a human rights violation and was the impetus for our 2023 report “Crimes Against Humanity: The Mass Incarceration of Children in the United States.”

The data we gathered for the Crimes Against Humanity report formed the basis for the research conducted in Maryland for this report. We mailed Adverse Childhood Experiences (ACEs) surveys to 882 people who have been incarcerated in adult prisons in Maryland since childhood, and we received responses with completed surveys from 124 individuals. The trauma measured from ACEs surveys includes physical, sexual, and emotional abuse; physical and emotional neglect; separation from parents; mental illness or substance abuse in the home; parent or sibling incarceration; and domestic violence in the home. Trauma of this kind has been shown to disrupt normal brain development in children and is inextricably linked to negative life outcomes. The demographics of our respondents reflect the extreme racial disparities we observed in the overall population with more than 92% identifying as racial minorities.

The survey responses we received indicated an average ACE score of 6.38 out of 10. Nearly 70% of respondents reported experiencing six or more ACEs prior to their incarceration, with parental separation, household substance abuse, emotional and physical abuse, and household incarceration being the most common.

PREVALENCE OF ACEs IN MARYLANDERS INCARCERATED AS CHILDREN



TRAUMATIC EXPERIENCES WHILE INCARCERATED

Along with Adverse Childhood Experiences, we asked respondents about a number of experiences during their interactions with the justice system. Almost 98% of respondents had been placed in solitary confinement at some point during their incarceration, with nearly 80% experiencing solitary confinement as children. Over 80% of respondents reported experiencing abuse at the hands of staff or other incarcerated people. Only 28.23% of

people incarcerated as children have received treatment to address any of the various traumas they experienced prior to their incarceration.

RECOMMENDATIONS

In light of the findings of this report, Maryland should embrace a trauma-informed response rooted in a human rights framework for children in both the juvenile and adult systems, including the following reforms:

1. Amend Maryland’s waiver and transfer statutes to:
 - a. Start all cases involving children in juvenile court;
 - b. Require courts to consider a child’s Adverse Childhood Experiences (ACEs) and trauma history at waiver hearings under §3–8A–06, and at transfer hearings under §4–202, if the reforms in (a) are not adopted in full;
 - c. Create a presumption against waiver to adult court for children with severe trauma histories; and
 - d. Prohibit waiver of child trafficking victims whose crimes are directly related to their status as a victim, including crimes they commit against their trafficker, as well as child sex crime victims who commit crimes against their abusers.
2. Require courts to consider a child’s ACEs and trauma history at sentencing in adult court;
3. Eliminate the felony murder doctrine for child offenders;
4. Prohibit the use of solitary confinement on children in all facilities;
5. Prohibit the housing of children in adult jails and prisons; and
6. Allow formerly incarcerated children to be discharged from parole no more than five years after their release.

Finally, the report recommends the following changes to agency policies and procedures:

1. Require law enforcement, judges, prosecutors, defense attorneys, probation officers, service providers, and facility staff to receive training on Adverse Childhood Experiences, the effects of exposure to violence on a child’s development and behavior, and best practices on engaging with youth who have extensive trauma histories;
2. Implement Adverse Childhood Experience screenings for all youth referred to the Department of Juvenile Services (DJS) and tailor treatment and service plans to each child’s trauma history; and
3. Implement high-fidelity wraparound services at DJS in coordination with the Department of Human Services to ensure that the holistic needs of a child’s family and caregivers are met in order to support the child’s home environment.

CONCLUSION

The tragic truth is that youth crime in Maryland is largely driven by unaddressed and ongoing childhood trauma which is exacerbated within communities contending with high rates of violence. The results of the ACEs survey we conducted yielded one of the highest rates of childhood trauma within an isolated population over the last twenty-five years. This is significant due to the impact that trauma has on child brain development and its strong correlation to juvenile delinquency and crime. Maryland is faced with a simple choice. On the one hand the state can look the other way, continuing to incarcerate children who act out behaviorally due to abuse, neglect, and community violence, or it can seek to address the root of the problem by showing these children something many of them have never had before – love.

“Love is at the root of everything, all learning, all relationships. Love or the lack of it”

- Fred Rogers

Introduction

Since the first juvenile justice system was established in Illinois in 1899, the creation of separate justice apparatuses for minors and adults followed the simple tenet that children and adults were fundamentally different, and thus required a different approach – one more focused on treatment and rehabilitation as opposed to punishment. However, this philosophy came under attack in the 1990s, with the publishing of a prediction of the rise of a new generation of “Super Predator” child criminals. Labeled as “fatherless, jobless and Godless,” these children were predicted to be more violent and less remorseful than previous generations. This theory was propped up on racist tropes and other descriptions pointing to Black “inner city” youth. While the theory was swiftly proven false (juvenile crime dropped by more than half, and the political scientist that authored the theory later renounced it), the damage had already been done.

Lawmakers across the country began adopting draconian policies further criminalizing children and violating their human rights. “These reforms lowered the minimum age for transfer, increased the number of transfer-eligible offenses, or expanded prosecutorial discretion and reduced judicial discretion in transfer decision-making.”² As a result, over a six year period beginning in 1993, the number of children housed in adult jails more than doubled.³ By 2009, approximately 200,000 children were being charged as adults annually,⁴ with every state in the country permitting children to be tried, convicted, and sentenced as adults. In our 2023 Crimes Against Humanity report, we identified over 32,000 people currently incarcerated for crimes they committed as children.

In Maryland, the Super Predator Era led to a particularly draconian statute allowing children to be automatically tried as adults for 33 different crimes. The automatic charging of children as adults began in 1986 with legislation allowing children charged with handgun crimes to be excluded from the original jurisdiction of the juvenile court.⁵ In 1994, the legislature added 17 more crimes to the list.⁶ This lengthy list of crimes made Maryland a national outlier and likely explains the state’s ranking as fourth highest in the nation for people currently incarcerated for crimes they committed as children.

Today, six out of every one hundred people incarcerated in Maryland has been in prison since childhood. It is estimated that every year Maryland charges more children as adults per capita than any other state, with the notable exception of Alabama. Racial disparities are extreme with minority youth making up more than 90% of children incarcerated as adults.

Who are these children? What might have happened to them to lead them to engage in criminal behavior? And where were their families and communities when they needed them most?

These are difficult questions that for so long the state of Maryland has been unable, or perhaps unwilling to answer because of the responsibility it bears for the human rights crisis it now faces. The U.S. Supreme Court explained this responsibility in *Thompson v. Oklahoma*:

. . . [Y]outh crime . . . is not exclusively the offender's fault; offenses by the young also represent a failure of family, school, and the social system, which share responsibility for the development of America's youth.⁷

Over the past 40 years U.S. courts have slowly chipped away at the notion that the treatment of children as adults is consistent with Constitutional standards. So much of American jurisprudence, however, has focused on child brain and behavioral development science demonstrating critical differences between adolescent and adult brains. While this emerging scientific consensus has rightly influenced case law and juvenile sentencing reforms by state legislatures around the country, limited efforts have been made to fully understand the life circumstances that are inextricably linked to children who commit serious crimes.

This report details the results of the first-ever state-wide Adverse Childhood Experiences (ACEs) survey administered to people currently incarcerated for crimes they committed as children (under eighteen). The trauma measured from ACEs surveys include physical, sexual, and emotional abuse; physical and emotional neglect; separation from parents; mental illness or substance abuse in the home; parent or sibling incarceration; and domestic violence in the home. Our findings, as shocking and as tragic as they are, help to bridge our knowledge gap in understanding what happens to children in Maryland that leads them into the justice system.

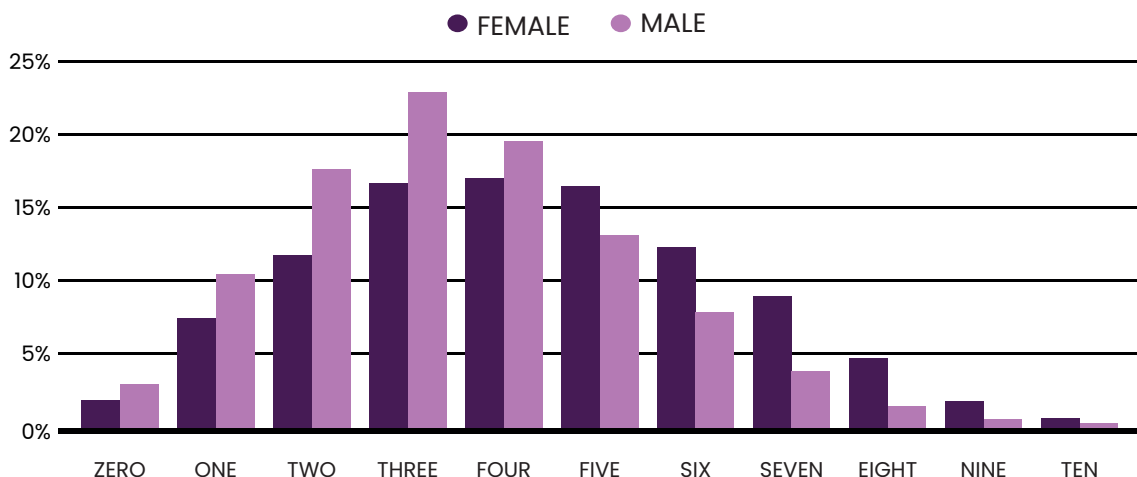
Our outreach and survey findings reveal three general classifications for children tried as adults: (1) Child victims of abuse who commit offenses against their abusers, like Andrew Zaragoza, whose case is discussed below; (2) Child victims of forced criminality – a form of human trafficking – where children are forced to commit crimes at the behest of older adults (often gang leaders); and (3) Child victims of abuse, neglect, and trauma who subsequently develop behavioral issues because of that trauma, leading to their incarceration.



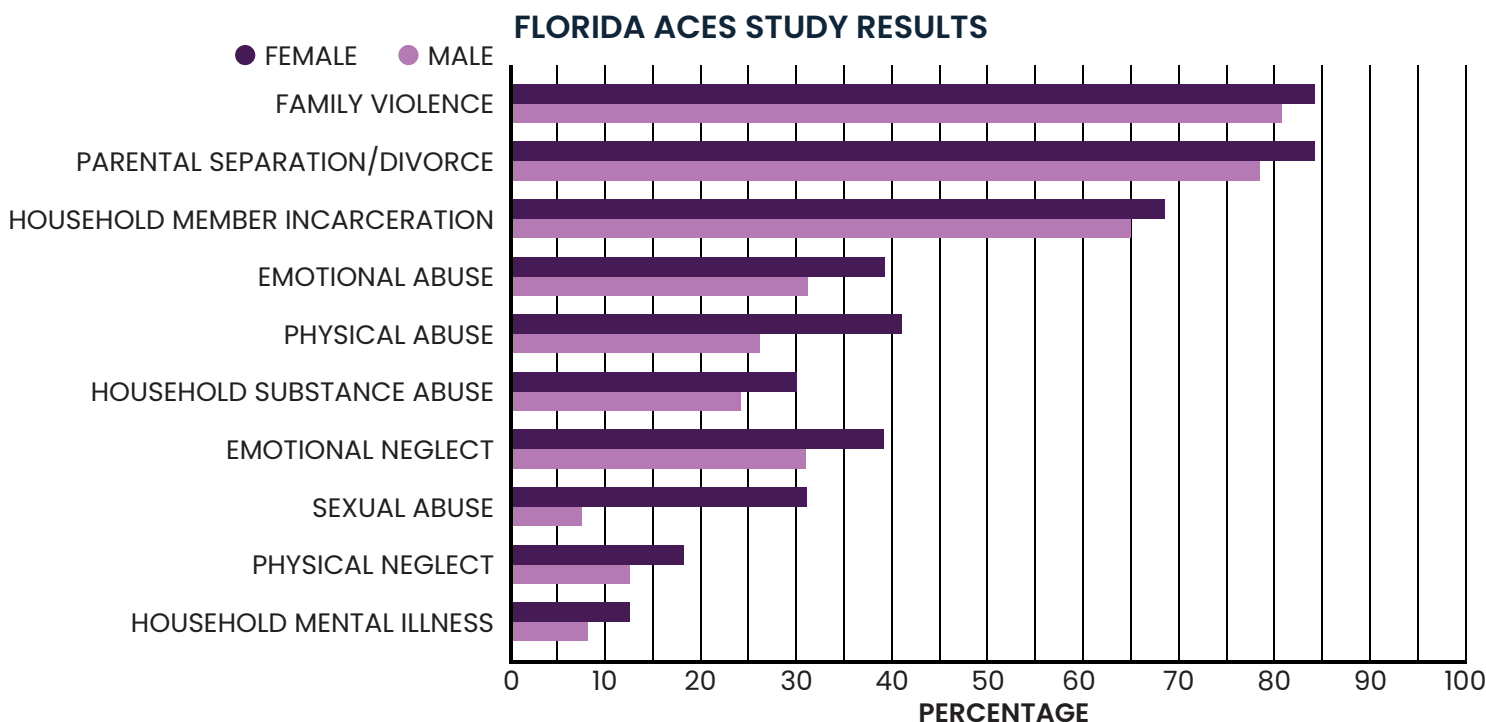
We estimate that these classifications represent the circumstances of nearly all children tried as adults in Maryland based on the data we and others have collected. Earlier this year we released the results of a similar ACEs survey conducted nationally among women incarcerated since childhood. In that study we found that emotional, physical, and sexual abuse was ubiquitous among girls tried as adults with more than 80% of women reporting having experienced all three prior to their incarceration.⁸ Moreover, 70% of female respondents reported eight or more ACEs with an average score of 7.7 out of 10. These findings were consistent with prior reporting by Rights4Girls and the Center on Poverty and Inequality at Georgetown Law School in their seminal publication, *The Sexual Abuse to Prison Pipeline: The Girl’s Story*. In that report, the authors found that between 80 and 93% of girls in the juvenile justice system across multiple states reported sexual abuse prior to their system involvement.⁹

In 2014, the results of an ACEs study of children in Florida’s juvenile justice system was released. Researchers there found that 90% of youth experienced at least two ACEs, 73% experienced at least three, 52% experienced at least four, and 32% experienced five or more prior to their system involvement.¹⁰

FLORIDA ACEs STUDY RESULTS



The average composite ACE score for girls in the study was 4.29, while the average for boys was 3.48.¹¹ Household dysfunction, including domestic violence, incarceration, and parental separation were by far the most common traumatic experiences for youth in the study.¹²



Prior to these studies, the U.S. Department of Justice released its groundbreaking report on Children Exposed to Violence which found that:

“The relationship between exposure to violence and involvement in the justice system is not a coincidence. Exposure to violence often leads to distrust, hypervigilance, impulsive behavior, isolation, addiction, lack of empathy or concern for others, and self-protective aggression. When young people experience prolonged or repeated violence, their bodies and brains adapt by becoming focused on survival. This dramatically reduces their ability to delay impulses and gratification, to a degree even beyond that of normal adolescents. Youth who are trying to protect themselves from more violence, or who do not know how to deal with violence they have already experienced, may engage in delinquent or criminal behavior as a way to gain a sense of control in their chaotic lives and to cope with the emotional turmoil and barriers to security and success that violence creates . . .

Law enforcement, judges, prosecutors, defense attorneys, probation officers, providers, and policymakers must all understand the data about children’s exposure to violence that is contained in the ACE (Adverse Childhood Experiences) and NatSCEV (National Survey of Children’s Exposure to Violence) studies as well as the latest research about what works for kids. It also requires people outside the system to accept that children in the justice system are not “bad kids” but, instead, are traumatized survivors who have made bad decisions but can still turn things around if they have help.”¹³

As this report and its predecessors makes clear, the children tried as adults in Maryland’s justice system were victims long before they were offenders. They were victims of physical, emotional, and sexual abuse. They were victims of exploitation and human trafficking. They were neglected by their parents and caregivers which is no doubt a consequence of their chaotic home lives where incarceration, substance abuse, domestic violence, and mental illness significantly contributed to their broken homes. This in turn made these children more vulnerable to abuse and exploitation, including by gangs, resulting in a vicious cycle of violence.

Who are the disposable people Maryland has been incarcerating since childhood? They are the source of its greatest shame, but not exclusively because of what they’ve done, but rather because of what the state has failed to do: protect its children from violence and abuse.

The Severe Trauma of Children Prosecuted and Incarcerated as Adults in Maryland

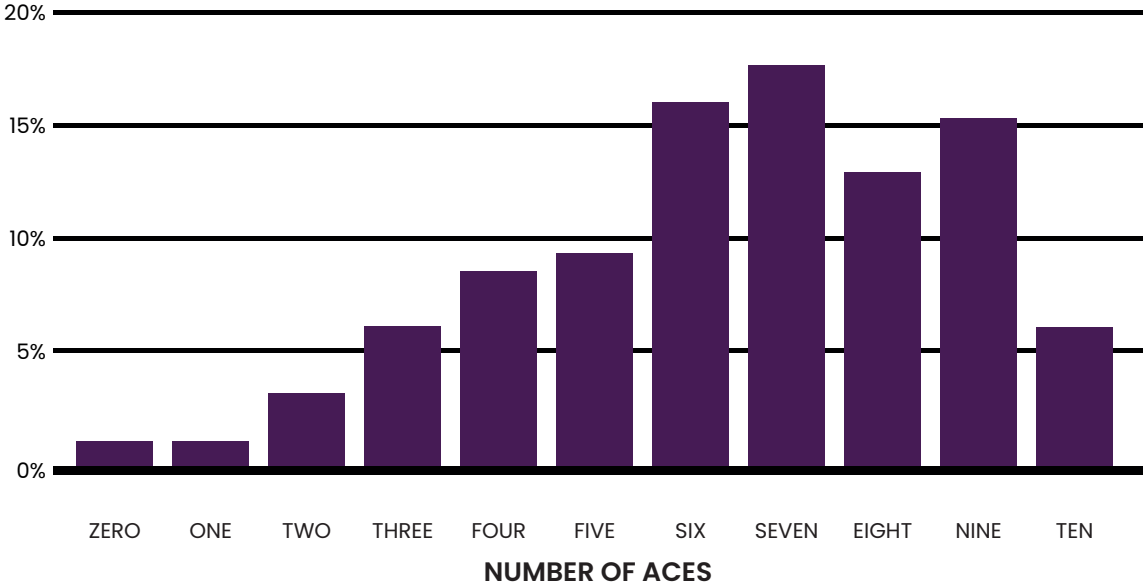
Using the data we received in March of 2022 for the Crimes Against Humanity report, we subsequently administered Adverse Childhood Experiences (ACEs) surveys to the population of people currently incarcerated for childhood offenses. The ACEs surveys were mailed in February of 2024.

Before mailing the surveys, we conducted a review of the initial data to confirm its accuracy. In this review, we verified that each person was still incarcerated and the facility in which they were being held. The final mailing list totaled 882 people, and at the time of this report’s publishing, we received responses with completed surveys from 124 individuals. This amounts to a 14.06% response rate. Of the respondents, 62.1% identified as Black, 15.32% identified as Biracial or Other, 12.1% identified as Hispanic, 7.26% identified as White, 2.42% identified as Native American, and 0.81% identified as Asian American/Pacific Islander.

RACE/ETHNICITY	COUNT	PERCENTAGE
AAPI ¹⁴	1	0.81%
BLACK ¹⁵	8	62.90%
BIRACIAL/OTHER ¹⁶	19	15.32%
HISPANIC ¹⁷	14	11.29%
NATIVE AMERICAN ¹⁸	3	2.42%
WHITE ¹⁹	9	7.26%

The survey responses indicated an average ACE score of 6.38 out of 10, along with numerous stories of the failure of Maryland’s justice system to appropriately address childhood trauma. Nearly 70% of respondents reported experiencing six or more ACEs prior to their incarceration.

ACE SCORES AMONG CHILDREN TRIED AS ADULTS IN MARYLAND



When children come before the justice system, they are often seen only in the context of the worst thing they have ever done, disregarding the circumstances that led them there. This singular focus on a child’s offense ignores that the vast majority of the people who responded to our survey detailed backgrounds containing immense hardship and trauma.

Experiences of abuse, including physical, sexual, and emotional, have profound and lasting impacts on individuals. These traumatic events, when occurring as early as childhood, can set the stage for a lifetime of psychological, emotional, and physical challenges. The repercussions of such abuse can be far-reaching, affecting every aspect of a person's life, from their mental health and self-esteem to their relationships and ability to function in society. As people who have survived trauma grow, the harm they experienced persists into adulthood, influencing behaviors and decisions, and often contributing to a cycle of victimization and, in some cases, perpetration.

Of our survey respondents, 73.39% reported having experienced physical abuse, 39.52% reported sexual abuse, and 75.81% reported emotional abuse before their incarceration. We asked the respondents how old they were when they first experienced abuse, and the average response was **six years old**. This early exposure to abuse is crucial in understanding its long-term psychological and behavioral effects. Individuals who experience abuse or neglect as children are 59% more likely to be arrested as children, 28% more likely to be arrested as adults, and 30% more likely to commit violent crime.²⁰

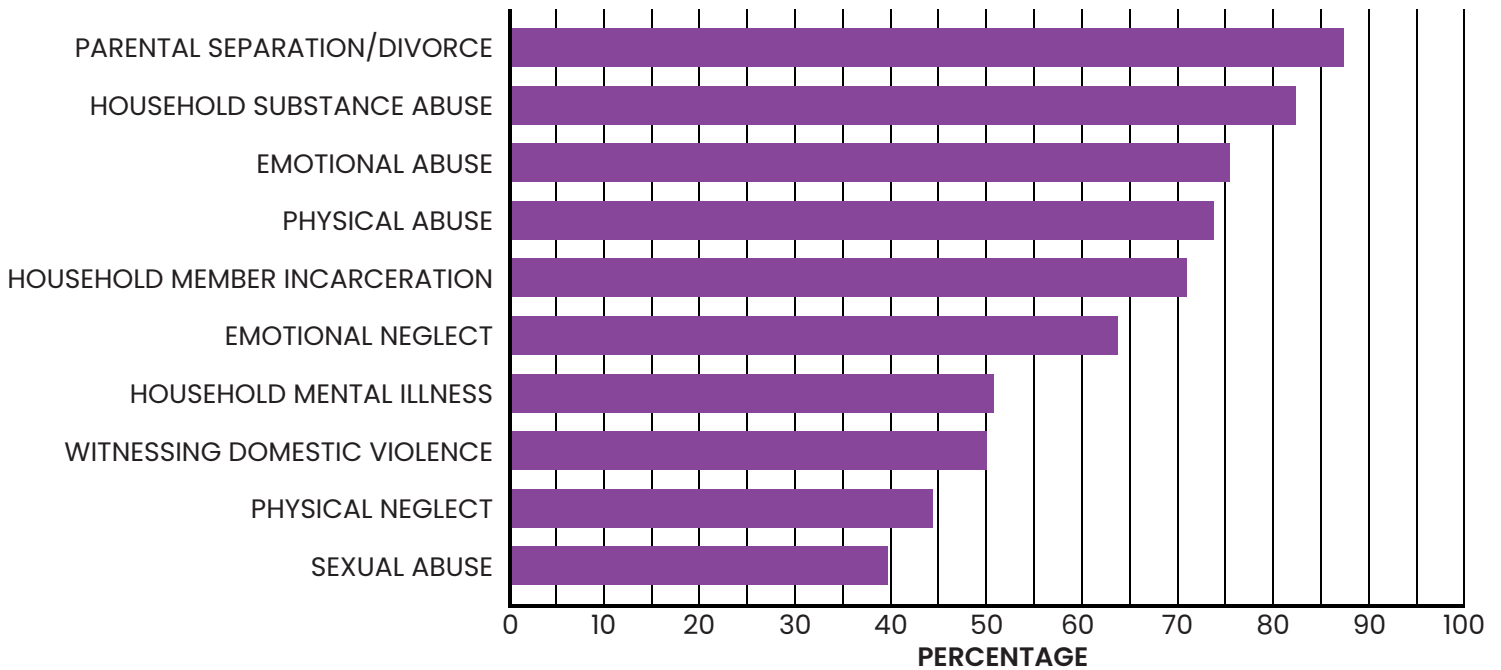
GRADE LEVEL AT TIME OF EARLIEST ABUSE	COUNT	PERCENTAGE OF RESPONDENTS
PRE-KINDERGARTEN (UNDER 4 YEARS OLD)	21	16.94%
ELEMENTARY (5-11 YEARS OLD)	65	52.42%
POST-ELEMENTARY (12+ YEARS OLD)	5	4.03%
UNSURE	1	0.81%

The survey data reveals that many respondents experienced significant neglect during their childhood, often due to parental absence or incapacity. In the ACEs survey, to determine emotional neglect, respondents are asked whether they felt that anyone in their family loved them or thought they were special, as well as whether their family looked out for each other, felt close to each other, or supported each other. 63.71% of respondents reported experiencing emotional neglect. Physical neglect includes not having enough to eat, not having clean clothes, and parents or guardians who are unable to properly provide care. 44.35% indicated that they experienced physical neglect.

Our respondents reported high rates of general household instability, with 82.26% having lived with someone who was an alcoholic or abused illegal drugs. This exposure can normalize drug and alcohol use, leading to early experimentation and addiction. Children in such environments often face neglect and abuse, further exacerbating their risk of engaging in criminal activities.²¹ 50% witnessed their mother or stepmother be a victim of domestic violence, and 50.81% reported a household member being depressed, mentally ill, or attempting suicide. 87.1% of respondents’ parents had been separated or divorced, and 70.97% had a household member go to prison. 25% also indicated that they had spent time in foster care or Child Protective Services custody.

Household dysfunction including parental separation, substance abuse, and incarceration, alongside emotional and physical abuse, were the most common traumatic experiences among people incarcerated since childhood in Maryland.

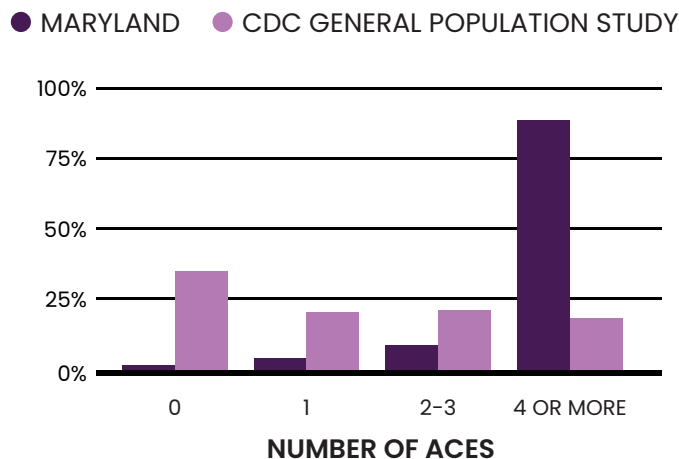
PREVALENCE OF EACH ACE IN CHILDREN TRIED AS ADULTS



The absence of a stable family environment often leads to feelings of abandonment, insecurity, and mistrust, which contribute to delinquent and criminal behavior as children seek alternative forms of support and belonging. The lack of familial support and guidance also leaves these children vulnerable to negative influences and peer pressure. Perhaps most tragic is the fact that unstable home environments increase the likelihood of abuse and exploitation by predatory adults. As abuse becomes normalized, children lose the ability to meaningfully discern harmful situations they may find themselves in which perpetuates their traumatic experiences.

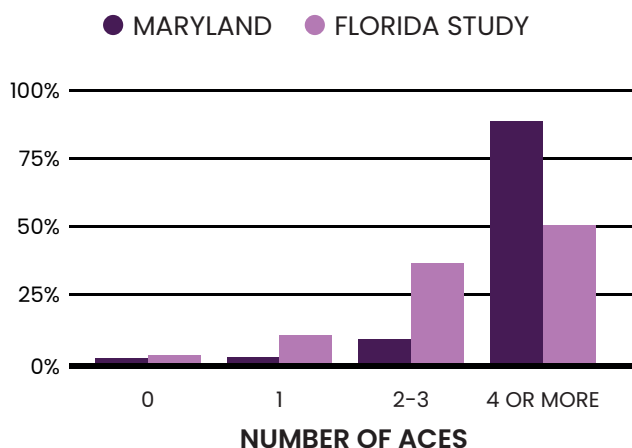
In the original ACEs survey from 1999, which was focused on identifying social determinants for negative health outcomes, more than 80% of the general population had experienced 3 or fewer traumatic events in childhood. More than one-third of those respondents reported no childhood trauma. By way of contrast, nearly 90% of children prosecuted and incarcerated as adults in Maryland experienced 4 or more ACEs prior to their system involvement.

PREVALENCE OF ACES IN CHILDREN INCARCERATED AS ADULTS IN MARYLAND VS. GENERAL POPULATION



Similarly, the prevalence of trauma among children prosecuted and incarcerated as adults in Maryland is significantly higher than the trauma reported by youth in Florida’s juvenile justice system. Approximately 50% of the child respondents in Florida reported four or more ACEs, as compared to 87% of respondents in Maryland who have been incarcerated since childhood.

PREVALENCE OF ACEs IN CHILDREN INCARCERATED AS ADULTS IN MARYLAND VS. OJJDP FLORIDA STUDY



It is important to note that the Florida ACEs survey was administered to children who were given an official referral to the juvenile justice system and were under eighteen years of age when the survey was administered. This differs from the survey methodology in this report which was focused on children who were tried as adults where surveys were completed by individuals who are currently incarcerated and well into adulthood. These factors provide two possible explanations as to why the prevalence of ACEs in our survey was much higher: (1) The prevalence of childhood trauma increases in relation to the seriousness of the offense, and (2) Adult respondents are more likely to feel comfortable reporting childhood trauma and/or more likely to recognize traumatic events than child respondents.

Additionally, 41.94% of respondents in the current survey reported at least one hospitalization for mental health care prior to their incarceration, which is unsurprising given the high rates of trauma most of them experienced in childhood. When a child with a mental health disorder is incarcerated, these issues are only exacerbated when they are charged in the adult system and housed in adult facilities where they are highly susceptible to further victimization.²²

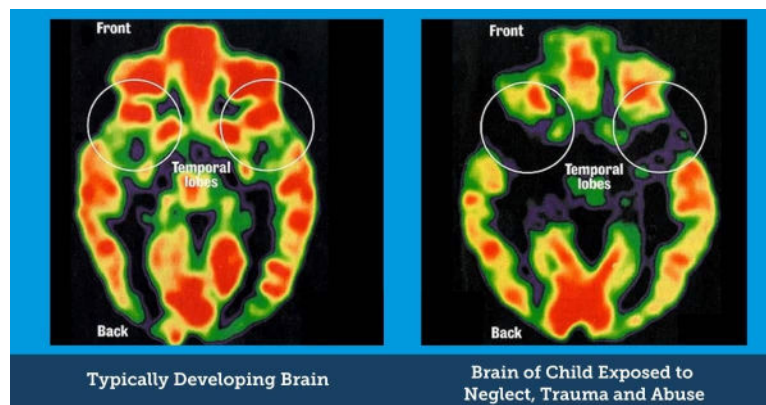
Most of our respondents had already experienced the juvenile justice system prior to being placed in the adult system, with 66.13% of them reporting being under the age of 15 when they first came before the justice system.

AVERAGE GRADE LEVEL OF FIRST JUSTICE SYSTEM INVOLVEMENT	COUNT	PERCENTAGE OF RESPONDENTS
ELEMENTARY (5 – 11 YEARS OLD)	32	25.81%
MIDDLE SCHOOL (12 – 14 YEARS OLD)	50	40.32%
HIGH SCHOOL (15 – 17 YEARS OLD)	42	33.87%

To better understand the causes of a child’s interaction with the justice system, we asked respondents about their most acute unaddressed needs prior to their incarceration. Responses varied but many of the same themes were repeated: a lack of safety and security in their living environments, not having a support system, insufficient communication about legal rights, and a lack of educational and mental health resources. Only 7.26% of respondents indicated that they were given adequate resources to understand the legal process, and just 4.03% of the respondents reported feeling safe when they first entered the justice system. Put another way, nearly all youth prosecuted and incarcerated as adults did not understand the legal process and did not feel safe entering the system.

The Impact of Trauma on Child Brain Development

As the findings of this and other studies makes clear, the overwhelming majority of youth who engage in delinquent or criminal behavior have histories of ACEs and early childhood trauma.²³ Pediatric imaging studies demonstrate that both cerebral and cerebellar volumes are smaller in abused and neglected youth compared to non-maltreated youth.²⁴ Smaller cerebral volumes are significantly associated with earlier onset of PTSD trauma which has been linked to adverse brain development in areas responsible for executive functioning.²⁵ Thus, childhood trauma can have detrimental effects on the brain networks that establish an individual's ability to think, and regulate their sense of self, motivations, and behaviors.



The timing of a traumatic experience is also important given that youth who experience trauma early in life are more likely to experience other types of trauma and the experience of multiple trauma types is associated with increased post-traumatic stress reactions, difficulties in emotion regulation, and internalizing problems.²⁷ The confluence of multiple experiences of emotional, physical, or sexual abuse, and emotional or physical neglect at an early age is known as complex trauma, which is exacerbated within pathogenic environments such as poverty, community violence, and household dysfunctions.²⁸ Exposure to community violence during childhood and adolescence has been linked to internalizing and externalizing problems, PTSD, low school engagement, problematic peer relationships, substance abuse, and sexual risk behaviors.²⁹ Studies suggest that the combination of complex trauma and community violence on externalizing symptoms like rule-breaking and aggressive behaviors creates a “cycle of violence, where the harsh environment constantly interacts with these children, leading to the possibility of their engagement in gangs, criminal activities, and violent behaviors.”³⁰ Other forms of trauma exposure, beyond child maltreatment, have also been linked to delinquency and justice-system involvement, such as community violence, domestic violence, and traumatic loss.³¹

The science surrounding the impact of trauma on brain development, and children’s subsequent behavioral issues, is incontrovertible. The high prevalence of abuse, neglect, and other trauma among children tried as adults in Maryland is not a coincidence. The unmitigated trauma these children experienced, compounded by poor family and community environments, likely impacted their brain development in childhood which subsequently influenced their behavior, eventually leading to their incarceration.

Continued Trauma Through Incarceration

While it is crucial to understand the factors in a child’s life that preceded their interaction with the justice system, we also wanted to understand the experiences of children after they began their terms of incarceration.

When asked about solitary confinement, nearly all of our respondents, 97.58%, reported experiencing this inhumane and cruel practice. 79.84% were placed in isolation while under the age of eighteen, with 30.65% reporting that they were placed in solitary confinement solely due to their age. They had an average longest stay in confinement of 20.5 months, or almost two years.

QUESTION	PERCENTAGE/AVERAGE
HAVE YOU EVER BEEN PLACED IN SOLITARY CONFINEMENT?	97.58%
WERE YOU EVER PLACED IN SOLITARY WHEN UNDER 18?	79.84%
WERE YOU EVER PLACED IN SOLITARY DUE TO YOUR AGE?	30.65%
AVERAGE LONGEST TIME SPENT IN SOLITARY (MONTHS)	20.5 MONTHS

While alarming, the high rates of solitary confinement are not surprising, given that adult facilities are not equipped to house children. Children in adult facilities both legally and ethically require specialized attention and cannot be treated in the same manner as adults. Statutory protections such as the Prison Rape Elimination Act (PREA), require children to be held separately from adult offenders. This required separation often means that children are held in solitary confinement.

Upon entering detention centers, our respondents reported being exposed to a variety of dangers that, despite being illegal, are widespread. Over a third of respondents continue to experience abuse while incarcerated, and a staggering 81.45% reported being harmed at least once by staff or other incarcerated people while serving their sentences. 45.16% indicated experiencing harm due to their race, ethnicity, or sexual orientation.

Children are often victimized in adult facilities solely because of their age, further highlighting that children should never be held in adult facilities. Of the respondents who reported they were victimized because of their age, 88.04% faced physical violence, 57.61% reported experiencing emotional violence, and 15.22% reported experiencing sexual violence. These numbers hold true nationwide as well, where studies have shown that children are 5 times more likely to be sexually assaulted in adult detention centers as opposed to juvenile facilities.³²

TYPE OF VIOLENCE	AFFIRMATIVE RESPONSES	PERCENTAGE
PHYSICAL	81	88.04%
SEXUAL	14	15.22%
EMOTIONAL	53	57.61%
MENTAL	65	70.65%

When children are held in adult facilities, their educational opportunities are limited as compared to the programming available in juvenile facilities. 62.9% of respondents were able to complete their high school education or acquire a GED while incarcerated, meaning about a third of children did not complete their education due to incarceration, and only 39.52% of respondents had access to higher educational resources while incarcerated.

Proper health and mental healthcare services were also lacking: 60.48% of respondents reported that they lost access to medical care due to their incarceration, and only 28.23% received treatment to address any of the various traumas they experienced prior to their incarceration.

PROGRAMMING WHILE INCARCERATED	
SERVICES	PERCENTAGE WHO RECEIVED
SECONDARY EDUCATION	62.90%
HIGHER EDUCATION	39.52%
CONSISTENT HEALTH CARE	39.52%
TRAUMA-INFORMED SERVICES	28.23%

One thing is abundantly clear from our research: children in Maryland who were prosecuted and incarcerated as adults faced profound, multifaceted trauma prior to their system-involvement, which was exacerbated by the trauma they experienced upon entering the system.

By the Numbers: People Incarcerated Since Childhood in Maryland

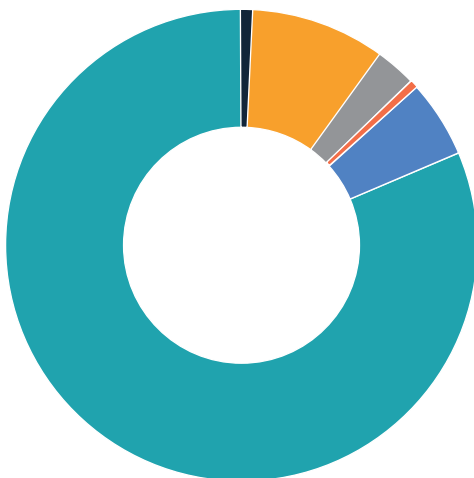
In January of 2022, Human Rights for Kids submitted data requests to the Departments of Corrections in each of the 50 states and the District of Columbia to determine the population of people incarcerated in adult prisons for offenses committed as children. According to Maryland’s Department of Public Safety and Correctional Services, there are 1,132 people who are currently incarcerated in Maryland prisons for crimes they committed as children. This represents 6.09% of the total Maryland prison population, which is the 4th highest percentage in the country and more than double the national average of 3%.³³ More than 80% of these children are Black and nearly 40% received either a life sentence or a de facto life sentence.³⁴

Maryland’s population of children incarcerated as adults also received longer sentences when compared to other states and has one of the largest populations of children serving de facto life sentences in the nation. If we had included sentences over 40 years when we were averaging sentence length, Maryland’s average sentence would have been more than 25 years.³⁵



RACE/ETHNICITY BREAKDOWN

90.46% of people incarcerated since childhood in Maryland are people of color, the fourth highest percentage in the country. Black children are vastly overrepresented in the adult system, with an incarceration rate of 2.54 times their prevalence in the state.



RACIAL/ETHNIC BREAKDOWN

KEY	RACE/ETHNICITY	COUNT	PERCENTAGE
	AAPI	8	0.7%
	BLACK	920	81.3%
	HISPANIC	60	5.3%
	NATIVE AMERICAN	5	0.4%
	OTHER/UNKNOWN	31	2.7%
	WHITE	108	9.5%

Note: Of AAPI people, 5 were Native Hawaiian or Pacific Islanders.

SENTENCING BREAKDOWN

Maryland has the 13th highest average sentence length when excluding de facto life sentences in the country.

AVERAGE SENTENCE	YEARS
INCLUDING DE FACTO LIFE SENTENCES	25.69
EXCLUDING DE FACTO LIFE SENTENCES	17.01

Maryland has the 5th highest overall number of de facto life sentences in the country.

SENTENCE TYPE	CHILDREN	PERCENTAGE
DE FACTO LIFE	214	18.90%
NUMBERED	694	61.31%
LIFE	224	19.79%

SENTENCE BREAKDOWN BY RACE/ETHNICITY

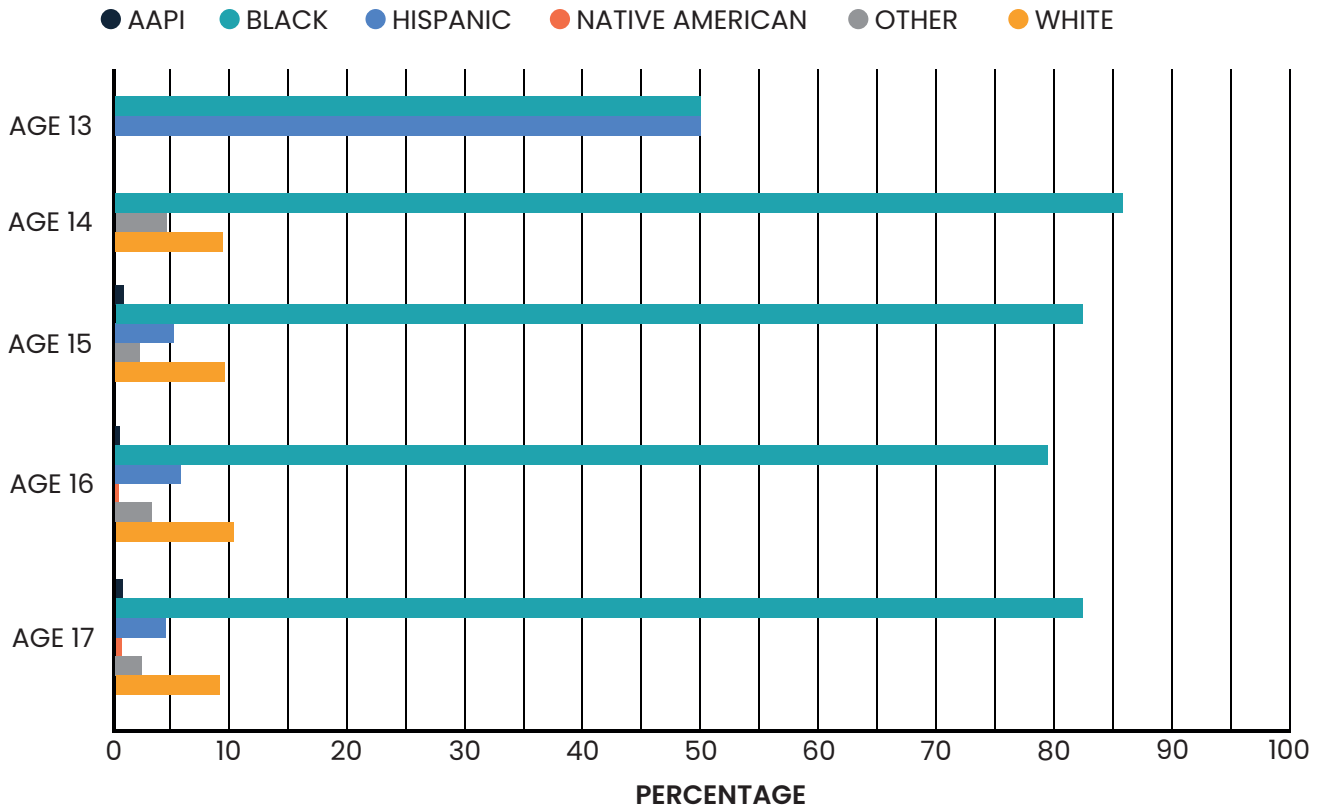
Average sentence length is largely similar across the board (with the exception of Native American children due to a statistical outlier). A significant aspect of these average sentences are the shortest sentences, which are under ten years nearly across the board. Low average sentences indicate a lower barrier of entry to the criminal justice system, meaning that many children are sentenced as adults for less serious offenses.

RACE/ETHNICITY	AVG SENTENCE	SHORTEST SENTENCE	LONGEST SENTENCE	% OF NUMBERED SENTENCES	% OF LIFE SENTENCES
ALL	25.69	2.36	236.00		
AAPI	22.63	7.00	40.00	0.7%	0.9%
BLACK	25.44	2.36	124.54	81.6%	79.9%
HISPANIC	24.81	3.00	55.00	5.7%	3.6%
NATIVE AMERICAN	75.99	10.00	236.00	0.4%	0.4%
OTHER/UNKNOWN	28.91	13.00	50.00	3.1%	1.3%
WHITE	25.20	3.00	90.01	8.5%	13.8%

AGE BREAKDOWN

Sixteen and seventeen-year-olds make up the large majority of children sentenced as adults. There are 120 people incarcerated for crimes committed when they were fifteen or younger. Black children make up at least 50% of the population no matter the age.

AGE BREAKDOWN BY RACE/ETHNICITY

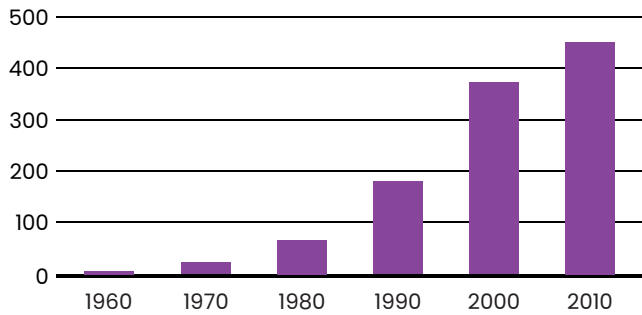


AGE AT OFFENSE	13	14	15	16	17
COUNT	2	22	96	369	643

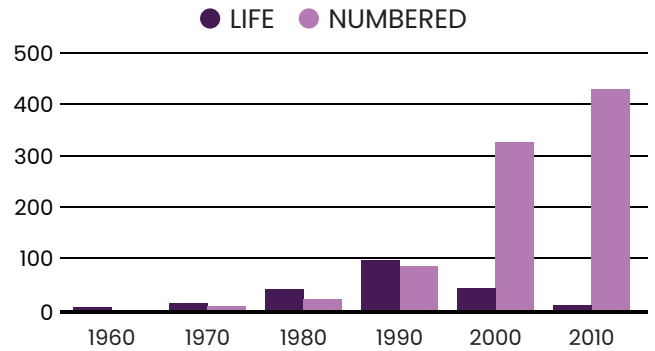
DECADE BREAKDOWN

As Maryland added more crimes to the list of offenses eligible for the automatic charging of children as adults, children increasingly received numbered or term-of-years sentences. The end result is that more children enter the adult justice system every year for offenses that do not carry a life sentence.

CHILDREN INCARCERATED AS ADULTS, BY DECADE

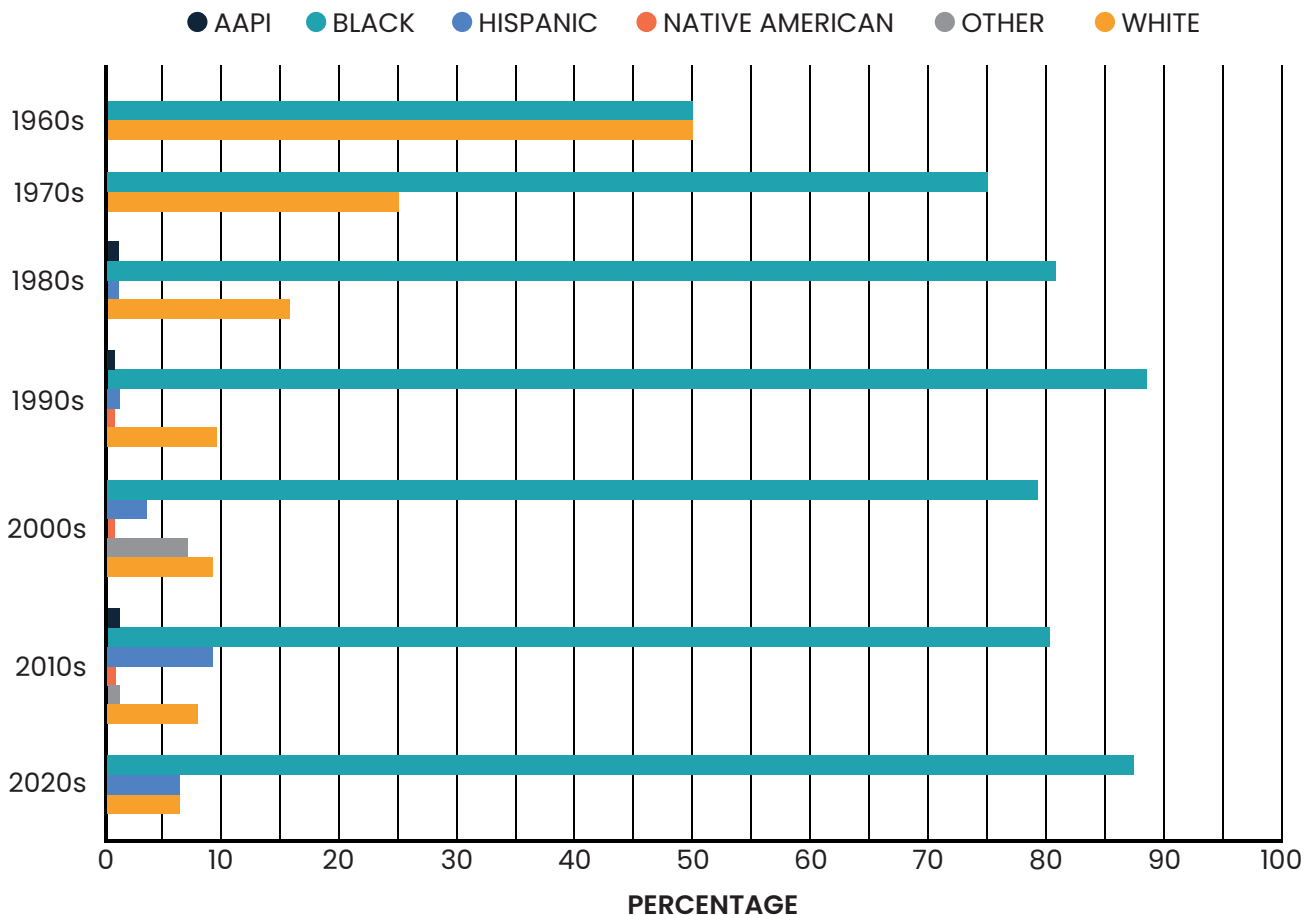


SENTENCE TYPE, BY DECADE OF INCARCERATION



Black children are overrepresented in the population of children incarcerated as adults. Black youth have represented at least 75% of all people incarcerated as children since the 1970s, and the first years of the 2020s indicate this trend will continue without legislative or judicial action.

SENTENCING BREAKDOWN PER DECADE BY RACE/ETHNICITY



Maryland Advocates & Lawmakers Provide Hope Through Legislative Progress

America's integration of children into the adult justice system constitutes one of the largest state-sanctioned human rights abuses in the world. The United States is the only United Nations member state to fail to ratify the UN Convention of the Rights of the Child, which has allowed Maryland to become a national leader in abusing the human rights of justice system-involved youth. This status was reflected in the first edition of Human Rights for Kids' State Ratings Report in 2020, which evaluated states based on twelve categories of law that provide a basic framework for protecting the human rights of children in the justice system. Maryland ranked among the worst Human Rights offenders in the country. HRFK's report concluded that Maryland made little to no effort in protecting the human rights of children and was in violation of international human rights standards.

HRFK's 2020 Report, along with its surrounding media coverage, served as a call to action for policymakers in Maryland. Senator Will Smith, Jr., who Chairs the Maryland Judicial Proceedings Committee, even referenced the state's poor rating in his end of session report to underscore the importance of why Maryland had to act. Senator Jill P. Carter, author of several of the legislative reforms, said "the shocking 2020 report lit the fire behind our campaign to protect child dignity and was the motivator behind the Maryland General Assembly finally acknowledging the horrendous abuses within the juvenile justice system."³⁶

Even before HRFK's 2020 report, however, work was underway in Maryland to reform the state's treatment of children in the justice system. In 2019, the General Assembly passed legislation creating the Juvenile Justice Reform Council (JJRC).³⁷ The JJRC was directed by law to:

1. use a data-driven approach to develop a statewide framework of policies to invest in strategies to increase public safety and reduce recidivism of youth offenders;
2. research best practices for the treatment of juveniles who are subject to the criminal and juvenile justice systems; and
3. identify and make recommendations to limit or otherwise mitigate risk factors that contribute to juvenile contact with the criminal and juvenile justice systems.³⁸

The JJRC ultimately issued several recommendations to the legislature for changes to Maryland law. Among those recommendations was setting a minimum age of juvenile court jurisdiction³⁹ and ending the automatic charging of children as adults for specific crimes.⁴⁰ The JJRC held meetings from 2019 until 2021, providing a thorough background and education to the members of the Council on juvenile justice issues. The JJRC was also composed of several key members of the legislature including Senators Chris West (R), Will Smith Jr. (D), Jill P. Carter (D), and Delegates Luke Clippinger (D), Charlotte Crutchfield (D), and Jesse Pippy (R).

In 2021 and 2022, Maryland's General Assembly adopted omnibus legislation to strengthen children's rights in the criminal justice system. Among these reforms was the Juvenile Restoration Act (JRA), passed in the 2021 legislative session. The JRA aimed to correct Maryland's past treatment of children in the criminal justice system by allowing incarcerated individuals who were convicted of crimes they committed when they were under 18 to apply for a reduction in their sentence. The JRA also included provisions that ended mandatory minimums and life without parole sentences for youth. According to the Maryland Office of the Public Defender, as of October 1, 2022, 26 individuals have been released from prison because of the JRA.⁴¹ Many more individuals





have filed motions for sentence reductions, meaning the full effect of the JRA remains to be seen. Brian Saccenti, Director of OPD's Decarceration Initiative, said about the JRA that "(t)he first year of its implementation confirms that individuals who had served long sentences imposed when they were children can often be safely released from prison and become valuable community members."

Another major reform in the 2022 legislative session was the Child Interrogation Protection Act, which requires that children have access to their parent or guardian and speak with an attorney before they can be interrogated by police.⁴² Two high-profile cases in Maryland exemplified the need for these new protections for children during police interrogations.

In 1984, Andrew Stewart, Alfred Chestnut, and Ransom Watkins were teenagers. The three boys were wrongfully convicted of a murder at Harlem Park Junior High School and incarcerated for 36 years. The Harlem Park Three were eventually released in 2019 after a Baltimore Conviction Integrity Unit concluded they were innocent. Prosecutors have acknowledged that deceptive interrogation tactics used on the child defendants and child witnesses to the crime contributed to the wrongful convictions.⁴³ Additionally, prosecutors noted that none of the children interrogated by police had their parents present at the time.⁴⁴

Adnan Syed was 17 when Hae Min Lee was murdered in Baltimore in 1999. Adnan was prosecuted and convicted of murder, robbery, kidnapping, and false imprisonment.⁴⁵ He was sentenced to life in prison.⁴⁶ Adnan's case eventually received international attention, and in 2022, prosecutors again acknowledged several errors in the case that led to the wrongful conviction.⁴⁷

In the cases of both the Harlem Park Three and Adnan Syed, the convictions were based at least in part on evidence gained through police interrogation of child defendants and child witnesses. If the Child Interrogation Protection Act had been in place during the pendency of the Harlem Park Three or Adnan Syed cases, the child defendants would have received stronger legal protections, and the injustices that occurred could have been prevented altogether.

The last major reform in the 2022 session was legislation that established a minimum age of 10 before a child can be subject to criminal liability. According to the Annie E. Casey Foundation, "prior to these changes, Maryland had no set minimum age for prosecuting young people. In 2020, for example, the state prosecuted 376 children under the age of 13 and more than 70% of these children were Black."⁴⁸

The reforms outlined above resulted in Maryland being recognized as the "most improved state" in Human Rights for Kids' 2022 National State Ratings Report.⁴⁹ The progress made in Maryland is due to the work of many individuals, organizations, and coalitions, including legislative champions Chairman Will Smith, Senator Jill Carter, Senator Chris West, Chairman Luke Clippinger, Delegate Sandy Bartlett, Delegate Charlotte Crutchfield, Delegate Jazz Lewis, the Maryland Office of the Public Defender, members of the Maryland Youth Justice Coalition, and directly impacted people across the state.

Unfortunately, these reforms have been under attack since their adoption, and in 2024, Maryland lawmakers made changes to their recently enacted minimum age law. While the minimum age of criminal culpability remains at 10, HB 814 added to the list of offenses for when a child under the age of 13 may be charged in the juvenile system.⁵⁰ Importantly, lawmakers resisted efforts to amend or repeal CIPA despite voluminous media coverage framing the law inaccurately.

Developments in Maryland Case Law

Efforts at obtaining relief for children through Maryland’s state courts have been met with mixed results. In 2018, the Maryland Supreme Court issued a favorable ruling for children serving extreme sentences. In *Carter v. State*,⁵¹ the court ruled that a juvenile defendant given a 100-year sentence who would be eligible for parole after 50 years was effectively serving a life without parole sentence and therefore entitled to resentencing consistent with Supreme Court rulings in *Graham v. Florida*,⁵² *Miller v. Alabama*,⁵³ and *Montgomery v. Louisiana*.⁵⁴

Maryland’s transfer statutes require the consideration of certain factors to determine whether a child charged in adult court should be transferred to the jurisdiction of the juvenile court.⁵⁵ Among those factors is the child’s amenability to treatment. In *Davis v. State*, the Maryland Supreme Court ruled that a child’s amenability to treatment is the “ultimate determinative factor” in the analysis of whether a child should be transferred to juvenile court.⁵⁶ This decision was issued after the judge in *Davis*’ transfer hearing gave only a cursory analysis of the defendant’s amenability and instead focused almost solely on the nature of the offense, which led the judge to retain the child in adult court.



In another favorable ruling for children, the state Supreme Court ordered a resentencing hearing for Lee Boyd Malvo in *Malvo v. State* based on the U.S. Supreme Court rulings in *Graham*, *Miller*, and *Montgomery*. Mr. Malvo’s original sentencing took place prior to the U.S. Supreme Court rulings, leading the Maryland court to rule that because the trial court may have found the defendant was not “permanently incorrigible,” he was entitled to resentencing. Further, the Maryland court held that Maryland’s Juvenile Restoration Act was not a sufficient mechanism to satisfy the U.S. Supreme Court’s requirements in *Graham*, *Miller*, and *Montgomery*, ensuring that juvenile defendants can petition for resentencing under *Miller* and the Juvenile Restoration Act.

In 2022, the Maryland Supreme Court in *Harris v. State*⁵⁷ declined to apply heightened sentencing standards to juveniles who are sentenced to life with the possibility of parole. Defense counsel argued that the protections afforded to juveniles under Supreme Court precedent should apply in *Harris*, and that the Maryland Constitution afforded additional protections. HRFK submitted an Amicus Brief in *Harris*, arguing that Mr. Harris’s mandatory life sentence violated both state and federal law. The Court rejected these arguments, meaning that children given lengthy sentences with the possibility of parole are not entitled to individualized sentencing proceedings.

In a setback for children, the Maryland Supreme Court ruled in *Jedlicka v. State*⁵⁸ that the defendant’s sentence of 60 years for felony murder was not grossly disproportionate for a juvenile offender, nor did it trigger the individualized sentencing hearing required in *Miller*. This decision was rendered even though the defendant would not be parole eligible for the first 25 years of his sentence.

Harris and *Jedlicka*, both decided in 2022, likely signal an end to the Maryland Supreme Court’s willingness to extend protections under state and federal law to child defendants, making legislative reforms crucial for any future progress.

Policy & Practice Recommendations



While Maryland has improved its standing when it comes to the protection of children’s rights, there remains progress to be made. In HRFK’s 2024 State Ratings Report, Maryland still does not receive credit in the following areas: ending the felony murder rule for children, removing youth from adult correctional facilities, ending solitary confinement for children, conducting child status hearings prior to transfer to adult court, and discharging lengthy parole sentences.

During the 2023 legislative session, Maryland failed to advance Senate Bill 93/House Bill 96, or “the YES Act” which would have reformed the state’s transfer laws. The most recent data from the Governor’s Office of Crime Prevention, Youth, and Victim Services clearly shows that the number of children prosecuted as adults has surpassed pre-pandemic levels,⁵⁹ and Maryland’s current statute which forces the majority of children to begin in adult court is a major factor. The current transfer law also contributes to Maryland’s status as one of the top four states with the highest rate of incarceration of people who committed crimes as children. Only Louisiana, Wisconsin, and South Carolina rank higher.

The YES Act would have ensured that all children charged with crimes start in the juvenile system and could only be waived up to adult court after a hearing in front of a juvenile court judge. By beginning in the juvenile system, children would have the opportunity to receive trauma-informed and age-appropriate services much sooner. Approximately 80% of children charged in adult court have their cases transferred back to the jurisdiction of the juvenile court. Prior to these court-ordered transfers many children remain in DJS custody simply waiting for their cases to be adjudicated, which in turn inhibits DJS’s ability to provide services efficiently. By passing the YES Act, or substantially similar legislation, lawmakers would remove this logjam allowing more efficient juvenile adjudications, while also ensuring children are not placed in adult jails.

Because Maryland allows children to be placed in adult facilities, they are often subject to conditions unsuitable for children, including solitary confinement. In documenting the abuses children face in adult facilities, the Maryland Office of the Public Defender noted “rodent-infested cells, barriers to healthcare, nonexistent or inadequate schooling for various detainees, exposure to adult offenders, unhygienic conditions and isolation with little attention from correctional officers.”⁶⁰ In a positive development for children, Baltimore County agreed to transfer children held in their adult jail to the Youth Detention Center in Baltimore City “when space permits,” but this practice has not been codified into statute and is not in place statewide.⁶¹ The horrifying conditions in facilities across the state, especially in Baltimore County, have been well-documented and should serve as a call to action to the legislature to ensure children are never held in adult facilities.⁶²

While incarcerated in adult facilities, children are five times more likely to be assaulted,⁶³ and are nine times more likely to die of suicide than children in juvenile facilities.⁶⁴ Victimization of children in adult jails and prisons is so pervasive that children sometimes commit infractions intentionally, in order to be moved to solitary confinement so as to escape their abusers.⁶⁵ Some facilities simply preemptively move children into permanent solitary as a “protective” policy.⁶⁶ The end result is that solitary confinement has become a fact of life for many children in Maryland’s criminal justice system.

Delegate Sandy Bartlett, in the 2024 legislative session, introduced HB 855 which would ensure that children are protected from solitary confinement in both juvenile and adult facilities. While Delegate Bartlett's legislation was not ultimately successful in 2024, there was a consensus among the members of the House Judiciary Committee that not only should children never be subjected to solitary confinement, but that they should also not be housed in adult facilities.⁶⁷

The 2012 DOJ report on Children Exposed to Violence made an important recommendation that should guide Maryland lawmakers and government officials within the Department of Juvenile Services and Department of Human Services:

“All children who enter the juvenile justice system should be screened for exposure to violence... An important next step in the improvement of the overall justice system is to incorporate what is known about children who have been exposed to violence into every facet of the system — juvenile and adult — and to incorporate trauma-informed care into decision-making responses for children throughout the system.

Trauma-informed screening and treatment are just as vital, if not more so, for children who have committed serious violent offenses . . . Providing opportunities for assessment and trauma-informed care in both the juvenile and adult justice systems will help to repair the damage done by exposure to violence, improve the safety of everyone within the system, and increase the safety of communities to which incarcerated and detained children are released.”⁶⁸

In light of the findings detailed in this report and the prior recommendations from the Attorneys General's National Task Force, the legislature should enact reforms that take into account the trauma histories of children in the justice system. One bipartisan measure from 2024 is HB 445/SB 601, sponsored by Democratic Delegate Karen Simpson and Republican Senator William Folden, which would have put in place protections for child victims of sex crimes and trafficking who commit crimes against their abusers. The General Assembly should also look to enact policies that require courts to consider ACEs and trauma history when sentencing a child in adult court. Neighboring states, including Virginia and West Virginia, have similar laws in place.

Maryland's waiver statute, specifically §3–8A–06, should also be amended to require the consideration of ACEs, trauma history, and involvement in the child welfare system, prior to waiver under subsection (e). Further, there should be a strong presumption against waiver for children with trauma histories that contributed to their criminal conduct. Similarly, lawmakers should revise Maryland's transfer statute (§4–202) to require the same trauma-related factors to be considered by criminal court judges when determining whether to transfer a child back to the jurisdiction of the juvenile court.

One tragic example of the need for reform of Maryland's transfer statute is the case of Andrew Zaragoza, who was a victim of sexual and physical abuse at the hands of both his mother and father. In 2017, when Andrew was 16 years old, he took the life of his mother and was charged with second degree murder.⁶⁹ Because of Maryland's automatic charging statute, Andrew's case began in adult court. The statute also prevented Andrew's case from ever being transferred to juvenile court, where he could have received treatment and more appropriate sentencing. Andrew expressed remorse for his actions, and his defense attorneys repeatedly presented evidence of his childhood trauma and abuse. However, because judges are not required to consider evidence of childhood trauma as mitigating factors at sentencing, Andrew was sentenced to 15 years in an adult prison.

Law enforcement, judges, prosecutors, defense attorneys, probation officers, providers, and facility staff should receive training to better understand the data about children's exposure to violence that is contained in the ACEs study as well as the latest research about what works when engaging with youth with severe trauma histories. The Department of Juvenile Services (DJS), in particular, should implement ACEs screenings for all youth who receive referrals. Treatment and service plans should focus on addressing the traumas that lead youth into the justice system to begin with. It is critical that DJS implement a high-fidelity wraparound services model in coordination with the Department of Human Services to ensure that the needs of children's families and caregivers are also met. Based on our data analysis, it is highly likely that many families of justice system-involved youth are struggling with parental separation, substance abuse, mental illness, incarceration, poverty, and community violence. We do not pretend to have all of the answers, but a multi-faceted problem of this magnitude where the stakes could not be higher requires a coordinated, multi-agency strategy and a service delivery model for children and families contending with a myriad of complex trauma.

Conclusion



With one of the highest rates of people incarcerated since childhood in the country, and a correspondingly high rate of children charged as adults with severe trauma histories, the Maryland General Assembly must build upon their recent progress by implementing further reforms. However, it is not only lawmakers who are called upon to act. Officials within DJS and DHS must also work to implement system-wide reforms that center identifying and effectively treating ACEs and childhood trauma among youth in the justice system, as well as their families.


Children in Maryland are so much more than the worst thing they have ever done, and they deserve a chance at redemption in a trauma-informed, age-appropriate system that was built with their well-being and rehabilitation in mind. Maryland has undoubtedly made major strides in respecting the rights and dignity of its youngest and most vulnerable residents, but there is still much work to be done to protect them.

Endnotes

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- ¹⁷ Those under Hispanic reported as Brown American, Hispanic, Hispanic/Latino, Latino, Latino American, Mexican American, Puerto Rican, Salvadorian/Latino, Spanish, or Spanish/Latino
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“You can choose to look the other way, but you can never again say that you did not know.”

- William Wilberforce

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