

**SB 200: Balancing Sentencing
Delaware Juvenile Amenability Laws
Using Research to Address Tough Policy Issues**

By
Chief Family Court Judge
Chandlee Johnson Kuhn



August 2006
National Association of Sentencing Commissions
Philadelphia, Pennsylvania

Sentencing Context:

Like other states, Delaware has its own sentencing procedures for juveniles not amenable to Family Court processes and programs (transfer mechanisms).

Delaware's Age of Majority is Eighteen ...

Original Jurisdiction: By Statute Homicide, Rape 1st Rape 2nd Kidnapping 1st are by law originally filed in Superior instead of Family Court.

Repeat: By Statute 16 year olds with a prior felony adjudication charged with Conspiracy 1st, Rape 3rd, Assault 1st, Arsons 1st, Burglary 1st, Robbery 1st, Drug Trafficking are by law originally filed in Superior instead of Family Court

Discretionary: Prosecutors may request that juveniles not amenable to the juvenile rehabilitative process be referred to Superior Court.

Reverse Amenability: Many cases can be reversed remanded back from Superior to Family Court.

Youthful Offender Program: DOC operates the YCOP for juveniles sentenced in Superior Court.

Social Context:

As with all sentencing policy, juvenile transfers to the adult judicial system is subject to strong and, sometimes adversarial differences of opinion.

A few of the issues involved include:

Public Safety: Violent and repetitive behavior on the part of older juveniles.

Quality of Programs: The availability and success of juvenile rehabilitation programs and our ability to place and monitor juveniles makes a difference in the legal path selected.

Emotional **maturity** and culpability of juveniles.

Fidelity to the philosophy of *parens patriae*.

Research Context:

Research in this intense policy area is difficult

A few of the issues involved include:

The **topic is hot:**

Where do you find a neutral research partner?

The **data is a mess:**

“Transfer Juveniles” touch police, prosecution, Family Court, Superior Court, Mental Health services, and sometimes both the juvenile and adult facilities. The information in these systems is recorded differently, if at all, and much of it is not linked.

Opposing advocates **aren't always comfortable with research results.** How do we manage the debate?

The Issue

In reaction to a spike in urban juvenile armed robberies, a “last minute -- get tough” section was added to a complex sentencing bill (HB210).

HB 210 became law in July 2003.

Robbery 1st Degree and Assault 1st Degree became “Original Jurisdiction” cases in Superior Court instead of “repeat” transfer cases.

There was no lower age limit on HB210 juvenile cases.

As adults the minimum term for Robbery 1st cases is 3 years; for Assault 1st 2 years.

For reverse amenability cases the minimum is 1 year juvenile incarceration if case includes a deadly weapon.

The Process

Juvenile amenability issues are very intensely contested from different points of view.

At least **three committees** undertook review of the new HB 210 juvenile provisions.

The **House Judiciary Committee** gradually became the committee of focus.

Expected **advocacy** took place.

Material and experiences from **other State's** were presented. Each state's juvenile transfer laws and experiences are so unique that little was gained.

Preliminary, **unsubstantiated, statistics** provided by advocates held little credibility.

The Process ... What We Learned

The Delaware Statistical Analysis Center was charged by HB 210 to monitor implementation of the law.

60% of the HB210 cases did not stay in Superior Court

For 26% of the cases prosecutors agreed to lesser charges at a preliminary hearing and these cases were processed only in Family Court.

34 % were reverse amenability cases that came back to Family Court for disposition.

40% of the cases remained in Superior Court.

The Process ... What We Learned

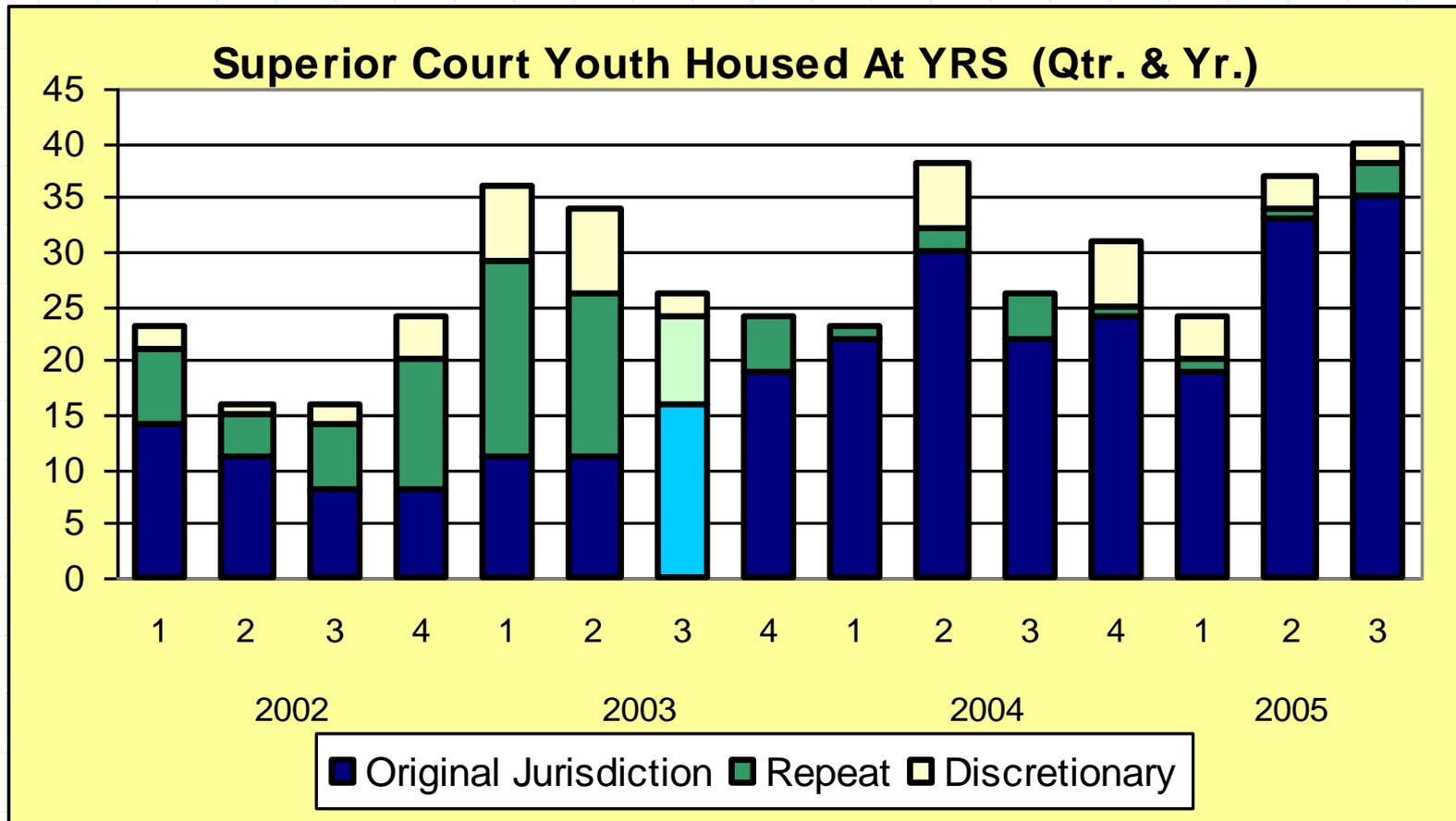
HB210 cases processed strictly in Family Court were detained for ***less than a month*** before case disposition.

Cases that were reverse amenability cases were detained for an average of **5.6 months** prior to disposition.

Cases remaining in Superior Court were detained **7.2 months** prior to disposition.

The Process ... What We Learned

After July 2003: The Superior Court population increased in the Juvenile institutions, especially “original jurisdiction” cases.

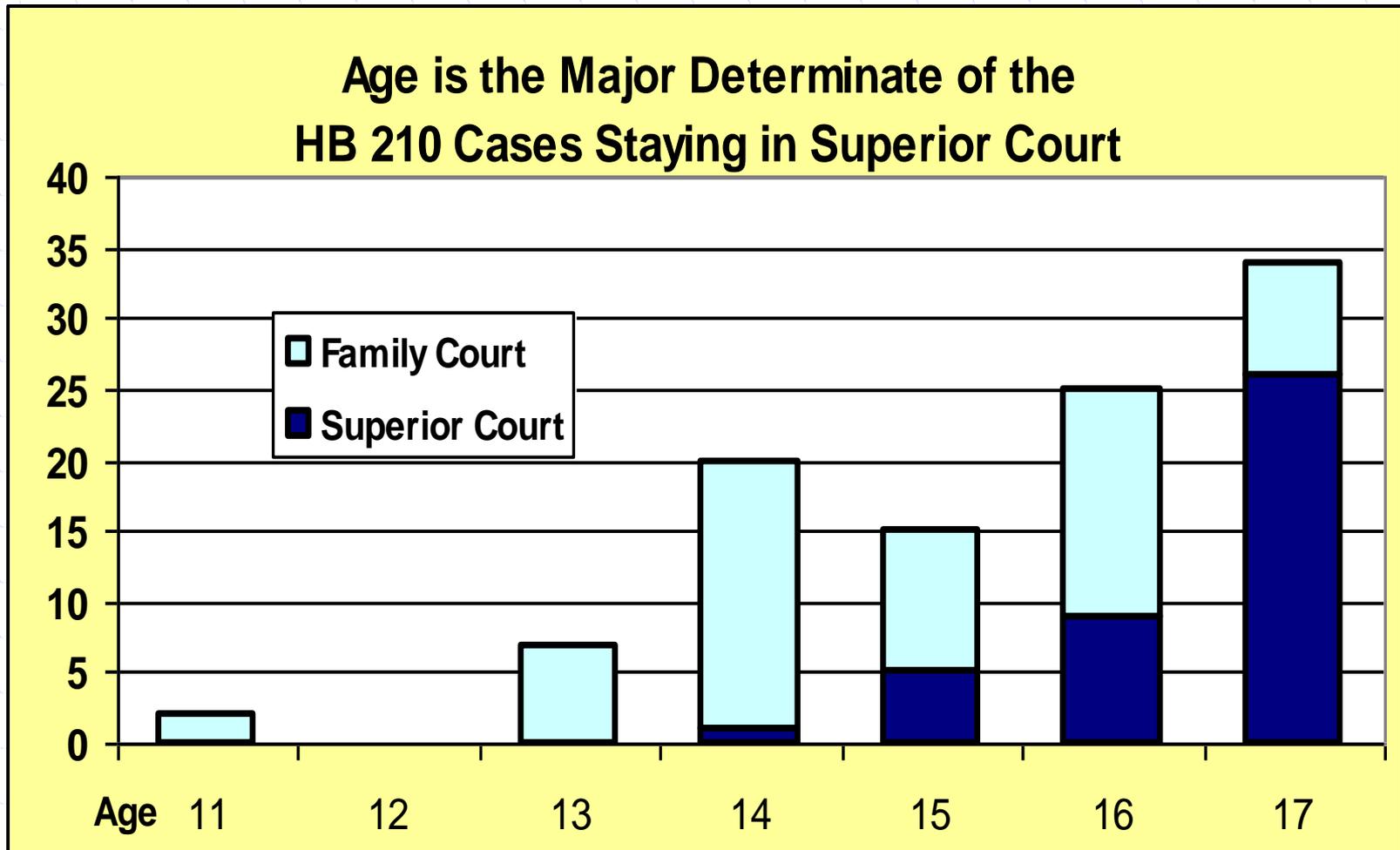


Institutional Capacity equals 117:

Up to 34% of capacity was used for Superior Court juveniles.

The Process ... What We Learned

The closer to 17 years old, greater the chance of “going adult” for Robbery 1st and Assaults 1st. Younger offenders rarely go....



The Outcome ... What We Changed to...

Senate Bill 200 passed in June, 2005

Original Jurisdiction for HB 210 cases is now limited to ...

Robbery 1st juvenile defendants that ...

- a) Have a prior felony adjudication and
- b) Commit a Robbery where the deadly weapon is displayed or serious injury is inflicted as part of the crime.

The Outcome ... What we are changing too...

A better balance for Justice and reduced cost

