

## **Juveniles languish in adult jails**

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*Many youths spend months in prison awaiting legal decisions*

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**By Gabrielle Banks, Pittsburgh Post-Gazette**

At 17, Antowian Kelly was jailed on charges of robbery with an unloaded gun. The Hill District sophomore had no prior record but spent 17 months in Allegheny County Jail before a judge decided his case should be heard in juvenile court.

Laws passed in the mid-1990s to toughen sanctions on youthful offenders like Antowian have created a backlog of teenagers awaiting trial or serving sentences in adult facilities. At any given time, the nation's jails house 7,500 teenagers, including many who have not been convicted, according to a study released last week. About 45 minors, including 10 15-year-olds, currently are lodged in the Allegheny County Jail.

Warden Ramon Rustin admitted that holding teens in adult lockdown may counteract the goal of diminishing crime.

"I think we're creating a generation of criminals," he said. "An authority has told these kids -- regardless of your maturity level and your ability to tell right from wrong -- you're an adult. You're going to emulate adults who don't have good decision-making skills. What you learn on the pods is how to commit better crimes, how to get away with more, how to beat the system and how to sell drugs."

Liz Ryan, of the Campaign for Youth Justice in Washington, D.C., said, "At a minimum, we shouldn't do any harm to kids that haven't been convicted of anything."

Her nonprofit advocacy group looked at government data on incarcerated youths and found that teenagers were 36 times more likely to commit suicide in adult jails than in juvenile facilities, and they were 34 times more likely to re-offend if they had been tried as adults. Youths made up 1 percent of the incarcerated population, but they made up 21 percent of "substantiated victims" of inmate-on-inmate sexual violence in 2005, the study found.

Inmates younger than 17 must be segregated from the county jail's general population. But the mother of a North Side boy whose car theft case was sent to juvenile court last week said her 15-year-old spent two days with a 66-year-old cellmate before the guards caught on and moved him.

"My preference is to evaluate every juvenile and see if that person would function well in a regular population as an adult. If he or she doesn't, due to maturity levels or behaviors, we'll separate them," Warden Rustin said.

Children charged with homicide have always qualified for adult court. Warden Rustin got approval, however, to transfer Rachel Booth, a 13-year-old who killed her father with a shotgun

after he had repeatedly raped her. He also transferred a 13-year-old male suspect in a different homicide to juvenile detention.

In the meantime, some children 15 and older arrested for nonfatal offenses have languished a year or more on adult cell blocks waiting for a judge to determine whether they should be tried as adults.

Act 33, passed in 1995, made it legal to incarcerate and try teens as adults for assault with a deadly weapon, robbery, car theft, kidnapping or sexual assault. The built-in safeguard was that these youths could still petition to be "adjudicated delinquent" and tried in juvenile court. The county handles about 150 Act 33 cases each year.

In 2005, Common Pleas President Judge Joseph M. James ordered that Act 33 transfers occur within 20 days of the preliminary hearing. But in some cases when parents couldn't afford bond, juvenile suspects waited months before their lawyers got discovery material necessary to assess whether to start the process over as juveniles.

Antowian Kelly waited 17 months to get bumped down to juvenile court. Timothy Fullum, 16, was held on charges of fatally stabbing a friend in a 2003 fight that began as horseplay. A Common Pleas judge denied a motion to transfer him to juvenile detention. He spent nearly two years awaiting appeals and another year awaiting trial.

"The jail is a difficult place to spend more than a few months," said his defense lawyer, Chris Rand Eyster. "The jail toughened him up, he seemed to have lost his spark. It totally drained him of life. He was just in survival mode there."

Randolph A. Matuscak, a social worker who has testified as a juvenile justice expert for the county public defender's office, said about eight teenagers sat in jail from 12 to 18 months awaiting hearings on their adult status between 2005 and 2006.

Mr. Matuscak also studied criminal records of 150 youths transferred from adult to juvenile court between 1997 and 2003. He said 80 of them were never again charged with criminal offenses. Eleven were convicted of violent felonies and two were convicted of homicide.

"In most cases, Act 33 scoops up people that never had to be scooped up in the first place," he said. "It's a different mentality. Inmates at the jail are treated like thugs. Juveniles at Shuman [Juvenile] Detention Center are kids who need treatment, help, guidance, understanding."

Defense attorney Patrick Nightingale, who represents Rachel Booth and other children charged with violent felonies said, "The jail is meant to house people. It's not outfitted to take a shattered child and put that child back together again."

Judge Kim Berkeley Clark, administrator of Family Division, said the safeguards in Act 33 work, but the courts rely on the jail to provide services and enforce protective segregation.

James Reiland, who heads the county's juvenile probation program, agreed that adult hearings prevent Act 33 defendants from "slipping through the cracks."

"Our job is salvage kids and help produce solid citizens," he said. Most cases get decertified.

"Unfortunately, there are some kids whose behavior is so outrageous they may need the criminal system to contain them."