

JUSTICE BY GEOGRAPHY: DO POLITICS INFLUENCE THE PROSECUTION OF YOUTH AS ADULTS?



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Research Report

Introduction

There are two ways youth in California can be transferred to adult, criminal court: through a juvenile fitness hearing or through “direct file.” In a juvenile fitness hearing, a judge reviews certain criteria, such as a young person’s previous offenses or experiences with trauma, to decide whether or not that youth is “fit” for juvenile court. In a direct file case, the prosecutor has sole discretion, and sometimes the legal requirement, to directly file charges against youth as young as 14 years old in criminal court. This power was afforded to district attorneys (DAs) in 2000 through Proposition 21, which allowed the prosecutor, the adversary to a youth in the courtroom, to determine where young people accused of qualifying offenses should be tried.

The decision to try a juvenile case in adult court should require objective decision-making to ensure that young people who are arrested can expect reasonably equal justice, regardless of jurisdiction. However, in California, the decision by DAs to direct file varies depending upon the county in which a youth is tried. Of the 58 counties, in 2014, 27 had Republican DAs, 19 had Democratic DAs, and 12 had DAs of other political parties or, due to various circumstances, could not be characterized as either Democrat or Republican.¹ Does the political affiliation of a county’s DA bear any relation to the odds that a youth will be direct filed in adult court?

Direct Files by DA Party Affiliation

While Republicans held the DA office in counties comprising 56 percent of California’s youth population eligible for direct file (ages 14-17), and 53 percent of its juvenile violent felony arrests in 2014 (the most recent year for which statistics are available as of this publication), these counties accounted for 72 percent of all direct files that year (Table 1).

Table 1. Direct files and rates per violent felony arrest by district attorney party affiliation, 2014

District attorney (DA) party affiliation	Direct files 2014	Violent felony arrests* 2014	Population age 14-17	Direct files as percent of violent felony arrests*
Republican DAs (27)	339	5,288	1,146,174	6.4%
Democratic DAs (19)	114	4,329	848,155	2.6%
All DAs* (58)	474	9,945	2,058,038	4.8%
Percent of total				
Republican DAs	72%	53%	56%	--
Democratic DAs	24%	44%	41%	--

Sources: CJCJ (2016); (2016a). *Violent felony arrests* consist of the estimated juvenile offenses that would qualify a youth for direct file, and are comprised of violent felonies for ages 10-17 plus the proportion of “other” felonies estimated to contain violent felonies (see Appendix table note). “All DAs” includes 12 counties that had DAs, or multiple DAs, of parties that could not be qualified as Republican or Democrat in 2014. These 12 counties are not analyzed separately in this report because they do not represent a distinct political entity.

¹ The party affiliations of California district attorneys (DAs) were determined through requests to county elections offices, publicized self-affiliations by DAs, statements by DAs in news articles, endorsements of DAs by political parties, donations to DA electoral campaigns by political parties, and contributions given by DAs to political campaigns.

In counties with Republican DAs, 6.4 percent of violent juvenile felonies were direct filed, compared to 2.6 percent in counties with a Democratic DA. A youth arrested for a violent felony in 2014 was 2.4 times more likely to have his or her case direct filed in a county with a Republican DA compared to a Democratic DA. Statistics for counties with DAs of other parties in 2014 are not calculated separately since they do not form a distinct political entity.

Gender and Racial Disparities in Direct Files by DA Party Affiliation

Overall, while Republican DAs were more inclined to direct file female youth and youth of color than Democratic DAs, Republican DAs' rates of direct file were particularly disproportionate to Democratic rates if the defendant was African American or Asian. In 2014, Republican jurisdictions accounted for about 80 percent of direct file cases with an African American defendant — a rate per violent felony arrest five times higher than for Democratic DAs (Table 2). Republican direct file rates for cases involving Asian youth were 9.4 times higher than Democratic rates. Rates for Latino and white youth were twice as high in Republican jurisdictions. However, discrepancies in the rates of direct file for Asian and white youth compared to African American and Latino youth were evident for DAs of both parties: Within counties with a Republican DA, per juvenile violent felony arrest, an African American or Latino youth was substantially more likely to be direct filed than a white or Asian youth. Within counties with a Democratic DA, rates of direct file for Latino youth were disproportionately higher than the rates for other race and ethnicities.

Table 2. Direct files and rates of direct file per violent felony arrest by gender and race by district attorney party affiliation, 2014

DA party affiliation	All	Female	Asian	Black	Latino	White
Number of direct files						
Republican DAs	339	9	14	102	187	33
Democratic DAs	114	2	1	22	81	9
All DAs	474	12	19	128	274	49
Direct files per 1,000 violent felony arrests*						
Republican DAs	64.1	10.3	18.7	79.1	79.4	36.9
Democrat DAs	26.3	2.7	2.0	15.8	40.6	20.3
All DAs	47.7	7.2	14.6	46.3	61.8	33.9
Republican vs. Democratic DA	2.4	3.8	9.4	5.0	2.0	1.8

Sources: CJS (2016); (2016a). *As in Table 1, "violent felony arrests" consist of the estimated juvenile offenses that would qualify a youth for direct file, and are comprised of violent felonies for ages 10-17 plus the proportion of "other" felonies estimated to contain violent felonies (see Appendix table note). "All DAs" includes 12 counties that had DAs, or multiple DAs, of parties that could not be qualified as Republican or Democrat in 2014. These 12 counties are not analyzed separately in this report because they do not represent a distinct political entity.

County Disparities in Direct Files by DA Party Affiliation

County disparities in the use of direct file were even larger than disparities by political party (Appendix table). The 10 counties with the highest rates had 171 aggregate direct files for 1,204 violent felonies — a rate of 14.2 percent. These counties had five Republican, two Democratic, and three other-affiliated district attorneys. Their level of direct file was 20 times higher than in Los Angeles County, which had more than twice as many violent felonies (2,538) and just 18 direct files — or 0.7 percent. Further, 26 counties of varying sizes and DA political affiliations, with 685 total violent felonies, had no direct files.

The county with the highest rate of direct files, Yuba — which has a Democratic DA — presents a particularly extreme example. In 2014, the county reported more than one direct file for every two qualifying juvenile felony arrests, a rate 77 times higher than Los Angeles County (which also has a Democratic DA and reported one direct file for every 141 violent felony arrests). In fact, Yuba County, with just 24 juvenile violent felony arrests (including

unspecified “other felonies” which may have been violent), reported nearly as many direct files (13) as did Los Angeles County (18), which had 2,538 juvenile violent felony arrests. Meanwhile, two populous counties, San Mateo and San Francisco, had no direct files. These results indicate that direct file is being used disproportionately by relatively few DAs, mostly Republican, at a level that is not congruent with average direct file rates by other DAs, regardless of party affiliation.

Conclusion

While young people were more likely to be direct filed in counties with a Republican district attorney in 2014, disparities in the use of direct file are a problem for all parties. Counties such as Yuba, Kings, Sutter, and Napa that use direct file the at the highest rates cannot justify this practice by claiming higher levels of juvenile violent crime, gangs, or other problems than counties, such as Los Angeles and San Francisco, that use direct file the least or not at all. There is a large race/ethnicity and gender divergence in use of direct file regardless of the party affiliation of the DA. Granting prosecutors the sole discretion to determine whether a youth is tried in adult court contributes to a system of extreme disparities. These disparities grow more pronounced when considering the party affiliation of the DA.

References

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Appendix. Counties with DA party affiliation, ranked by percent of violent felonies direct filed, 2014

County	DA party affiliation	Direct files as pct of felony arrests*	Direct files						Violent felony arrests*	Population age 14-17	
			Total	Female	Age <16	Asian	Black	Latino			White
Yuba	Democrat	54.9%	13	0	2	0	0	8	4	24	4,417
Kings	Republican	27.9%	23	0	1	0	2	18	3	82	8,427
Sutter	Other	24.2%	6	1	0	3	1	1	1	25	5,661
Napa	Democrat	16.3%	7	0	0	0	0	4	3	43	7,373
Nevada	No Party	15.6%	3	0	0	0	0	0	3	19	4,560
Sacramento	Republican	12.6%	49	2	1	7	27	9	6	390	79,275
Madera	Republican	11.8%	7	1	1	0	1	6	0	59	9,187
Tulare	Republican	11.3%	21	0	0	0	2	16	3	186	30,675
San Joaquin	Republican	11.2%	37	0	2	2	11	19	4	329	45,084
Butte	Other	10.6%	5	0	0	1	2	0	2	47	10,244
Santa Clara	Democrat	9.5%	35	2	2	1	4	29	1	368	92,599

County	DA party affiliation	Direct files as pct of felony arrests*	Direct files							Violent felony arrests*	Population age 14-17
			Total	Female	Age <16	Asian	Black	Latino	White		
San Bernardino	Republican	7.2%	63	3	1	2	29	28	4	873	131,343
Kern	Republican	6.1%	13	0	0	0	2	8	2	214	54,078
Sonoma	Democrat	6.0%	7	0	0	0	1	6	0	116	24,137
Orange	Republican	5.8%	27	0	2	0	0	25	2	466	168,851
Shasta	Democrat	5.7%	2	0	0	0	1	0	1	35	9,044
Riverside	Republican	5.6%	23	1	0	2	4	15	2	412	143,118
Fresno	Republican	5.6%	19	0	0	0	8	11	0	341	59,653
Merced	Democrat	4.9%	6	0	0	0	0	6	0	121	17,710
Solano	Other	4.7%	7	0	0	0	1	5	1	150	23,181
Marin	Democrat	4.5%	2	0	0	0	0	2	0	45	11,650
Contra Costa	Republican	4.1%	11	0	0	1	7	1	2	269	60,936
Mendocino	Republican	4.1%	1	0	0	0	0	1	0	25	4,289
Monterey	Republican	4.0%	6	0	0	0	1	5	0	149	22,671
Alameda	Democrat	3.0%	14	0	0	0	12	2	0	460	73,338
Stanislaus	Republican	2.7%	5	0	0	0	1	4	0	185	32,581
Santa Cruz	Democrat	2.3%	2	0	0	0	0	2	0	87	12,185
Placer	Republican	2.1%	1	0	0	0	1	0	0	47	21,290
San Diego	Republican	1.7%	14	2	0	0	6	4	3	844	157,823
Los Angeles	Democrat	0.7%	18	0	0	0	3	15	0	2,538	530,255
Mariposa	Democrat	na	0	0	0	0	0	0	0	0	744
Plumas	Republican	na	0	0	0	0	0	0	0	0	763
Sierra	Democrat	na	0	0	0	0	0	0	0	0	114
Alpine	Other	0.0%	0	0	0	0	0	0	0	1	57
Mono	Republican	0.0%	0	0	0	0	0	0	0	1	593
Trinity	Democrat	0.0%	0	0	0	0	0	0	0	1	555
Del Norte	Other	0.0%	0	0	0	0	0	0	0	3	1,323
Tuolumne	Republican	0.0%	0	0	0	0	0	0	0	3	2,258
Inyo	Democrat	0.0%	0	0	0	0	0	0	0	3	893
Modoc	Republican	0.0%	0	0	0	0	0	0	0	3	453
Siskiyou	Other	0.0%	0	0	0	0	0	0	0	4	2,213
Amador	Other	0.0%	0	0	0	0	0	0	0	4	1,466
Glenn	Republican	0.0%	0	0	0	0	0	0	0	5	1,750
Colusa	No Party	0.0%	0	0	0	0	0	0	0	7	1,329
Lassen	Other	0.0%	0	0	0	0	0	0	0	8	1,400
Calaveras	No Party	0.0%	0	0	0	0	0	0	0	8	2,185
Tehama	Republican	0.0%	0	0	0	0	0	0	0	12	3,541
Lake	Democrat	0.0%	0	0	0	0	0	0	0	16	3,067
El Dorado	Republican	0.0%	0	0	0	0	0	0	0	27	10,128
Humboldt	Democrat	0.0%	0	0	0	0	0	0	0	33	5,850
Imperial	Democrat	0.0%	0	0	0	0	0	0	0	36	11,461

County	DA party affiliation	Direct files as pct of felony arrests*	Direct files						Violent felony arrests*	Population age 14-17	
			Total	Female	Age <16	Asian	Black	Latino			White
San Francisco**	Democrat	0.0%	0	0	0	0	0	0	0	296	21,657
Statewide		4.8%	474	12	12	19	128	274	49	9,945	2,058,038

Sources: CJSC (2016); (2016a). Note: The "other" category includes district attorneys that were affiliated with political parties other than Democrat or Republican or, due to various circumstances such as a county having multiple DAs of different parties within 2014, could not be characterized as either Democrat or Republican. *Juvenile felony arrests are all violent felony arrests plus the proportion of the "other felonies" subcategory of the larger "Other Felonies" category estimated to be violent felonies that have not yet been specifically classified. The proportion of "other felonies" estimated to be violent felonies is assumed to be the same as the proportion violent felonies comprise of total felonies minus "other felonies." Where VF=Violent Felonies, OF=Other Felonies, and TF=Total Felonies, the estimated number of violent felonies are equal to Specified VF + (OF x (VF/(TF - OF))). This estimating technique is necessary because the particular violent felonies qualifying for direct file, while comprising a large majority of all violent felonies, are not individually specified in CJSC arrest tabulations. Additionally, because the "other felonies" subcategory contains unclassified felonies, some of which are violent, this subcategory varies widely from county to county. On average, the "other felony" category contributes an additional 23 percent to the juvenile violent felony arrest total. **San Francisco does not report arrests by Latino ethnicity, and so its reported totals are adjusted by race using the racial proportions in its Juvenile Probation Department report for 2014.

Please note: Jurisdictions submit their data to the official statewide or national databases maintained by appointed governmental bodies. While every effort is made to review data for accuracy and to correct information upon revision, CJCJ cannot be responsible for data reporting errors made at the county, state, or national level.

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