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Atreyu Spears, 19, lives between his mother's and sister's apartments, not sure how his gun conviction from 2009 will impact his future attempts to get an apartment, job or money for college. Photo by J.Geil.

## Without a smoking gun

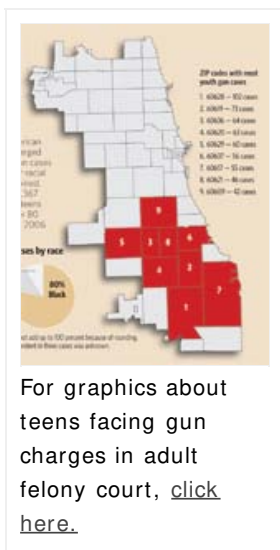
By: Angela Caputo

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Atreyu Spears fidgeted anxiously as he sat in the bullpen, a corner of the Cook County courthouse where detainees wait for the bailiff to walk them to the judge's bench.

The past 69 days had been a blur. After leaving basketball practice on April 9, 2009, the 17-year-old headed to his friend Michael's house. The two had struck up a friendship back in the third grade when Michael was the new kid in school. He was just one of nearly a dozen boys who lived within shouting distance of each other on a Chatham block packed tight with apartment buildings. Over the years, the group grew inseparable. "We'd hang out, spend the night at each other's house playing video games, riding bikes, chasing girls," Spears said.

Nothing seemed out of the ordinary when Spears arrived at the



For graphics about teens facing gun charges in adult felony court, [click here.](#)

### CURRENT ISSUE



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#### Trigger trauma

Center helps to fill void for youth who experience hardship. [» Read More](#)

#### This won't end well

It's hard to root for the bad guys. And I'm an optimist, so I'm always the person at the movies hoping for a happy ending. But the work that we do at *The Chicago Reporter* isn't always so clear-cut. This month's cover investigation is a prime example. Reporter Angela Caputo has unearthed some startling statistics that poke holes into commonly held

revenue up to \$75,000.

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#### RECORDED EVENTS

aging brick walkup that cool spring evening. He headed upstairs to Michael's bedroom to shoot hoops on Xbox. Five other teens were already in the second-floor apartment playing video games and watching television. Shortly after, Michael walked one of the boys downstairs.

At the same time, police were responding to a call for gunshots fired in the area. Patrolmen arrived at the building on the 8100 block of South Maryland Street and said they saw two males run inside clutching hand guns.

The officers hung back, and one peered into the rear window of the second-story unit. According to police, the officer watched a pair of teens scurrying around hiding weapons in a bedroom that looked out onto the front yard. Members of the Area 2 gun team tore through the front and back doors simultaneously.

"I froze," Spears said, as he sat motionless on the bed. His younger brother, Marlon, and another two teens were watching television in the living room. Michael, who had come back inside, ran upstairs to a vacant third-floor apartment to hide. The other teen slipped away.

The officers began flipping over mattresses, throwing dressers and dredging through the toilets, refrigerator and stove. They headed into the bedroom of Michael's brother, Jasper, and rooted under the bed until finding a gun, a .38 special, tucked under the mattress. Jasper wasn't home. Three other hand guns were found scattered throughout the apartment.

There were four teens left in the house. Police charged each of the boys with gun possession.

Marlon, who was 15 at the time, was the youngest one charged. He and the two 16-year-olds were sent to juvenile court. Michael, who got a bird's eye view of the arrests from upstairs, and the teen who got away, avoided arrest altogether. But not Spears. At 17, he was the only teen to face an adult felony charge for a weapon he says he never possessed.

Illinois is one of only 11 states that automatically prosecutes 17-year-olds as adults when it comes to felony charges. Under a maze of gun-related laws, some 15- and 16-year-olds are also automatically sent up for prosecution in the adult system each year. But in the state's effort to reduce violent street crime, a proposed new law has re-emerged that would automatically transfer more 15- and 16-year-olds to adult court if they're charged with weapons possession as early as May if approved in the Illinois General Assembly.

It's a step in the right direction, some politicians say, to reduce gun violence. But a Chicago Reporter review of felony convictions also raises questions about whether the teens already going into the adult system are the hardened criminals who lawmakers intend to get off the streets. The Reporter's analysis shows that many youth charged in gun cases are never identified as having had a gun. And in many cases, no gun is

perceptions about a group of people many of us would consider antagonists. They're Chicago's youth convicted as adults on gun charges.

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#### Without a smoking gun (En Español)

Illinois está buscando tomar medidas severas en contra de crímenes con armas de fuego enviando a más jóvenes de 15 y 16 años a la corte como adultos. Pero una investigación de Chicago Reporter plantea preguntas acerca de si los jóvenes en camino a la cárcel son los criminales habituales que los políticos tienen la intención de encerrar.

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ever recovered.

The Reporter analyzed 1,376 cases of young people who faced gun charges in adult courts between 2006 and 2010. Most of the defendants are African Americans from Chicago neighborhoods with some of the highest chronic unemployment rates in the nation. The Reporter randomly selected the court files for 90 cases—which represents 57 percent of convictions in 2009—and found:

- \* One in four teens was never clearly identified as having had a gun.

- \* A gun was recovered in only 46 percent of the cases.

- \* One of the gun cases resulted in death. In all, 11 victims had been shot and a combined \$1,891 in cash and other items were stolen.

Of the gun cases brought against teens in the adult felony courts in the past five years, an overwhelming number—87 percent—of those who entered a plea pleaded guilty to the crimes they were charged with. All told, they were sentenced to more than 4,606 years behind bars, most of which will likely be served in adult prisons. Of the defendants, 80 percent were black, and nearly half lived in nine contiguous ZIP codes that span predominantly black communities on the city's Far South Side, including Chatham, Englewood, Roseland and Washington Heights.

Some lawyers, lawmakers and juvenile justice advocates question whether these teens are being overcharged for their crimes and heading unnecessarily in the adult penal system under harsher state laws. The governor's recent decision to repeal the death penalty over possible wrongful convictions has only amplified concerns that the state's judicial system is flawed. Still, while a majority of states across the nation have seen their prison populations begin to decline, Illinois added another 3,000 inmates to its facilities just this year, bringing the state's prison population to nearly 49,000 as of March. The Reporter analysis found that the number of 15-, 16- and 17-year-olds tried in Cook County's adult court system on gun charges has steadily increased since 2006, on average by 24 percent each year, except 2009.

"For a lot of these kids, they're getting into the system earlier and earlier," said Rita Fry, a former Chicago prosecutor who went on to oversee the public defender's office and now serves on the Chicago Police Board. "If they keep going into the system, chances are they're going to hit a case that's going to keep them there."

But spates of street crime in recent years have lawmakers and politicians taking a hard stance on gun crime—particularly people like outgoing Mayor Richard M. Daley, Cook County State's Attorney Anita Alvarez, state Rep. Michael Zalewski and

officials at the Chicago Police Department.

“Chicago has a gun violence problem, and cops and kids are dying,” said Zalewski, a former Cook County prosecutor whose district spans Chicago’s Southwest Side and neighboring suburbs. Zalewski is the chief sponsor of HB2067, the piece of legislation that, if approved this spring, would automatically transfer 15- and 16-year-olds charged with gun possession within 1,000 feet of a school or park into the adult courts. Proponents of the measure say that without additional tough-on-crime laws, Chicago police won’t be able to get a handle on street violence. “I don’t deny that that’s harsh, but it’s also a deterrent,” he added.

When Spears puts his two forearms together, he has a tattoo inked in a deep black that reads “82nd” and “Maryland.” At 19, he now chalks up the tattoos to a youthful mistake.

He has spent most of his life living between his mom’s place at 82nd and Maryland streets and his eldest sister’s apartment a few blocks away on South Eberhart Street. The family has grown since Spears had his son. He and the curly-headed 8-month-old “Trey-Trey,” his 24-year-old girlfriend and her 1-year-old daughter crash between the two apartments.

The midpoint between their places is the intersection of 79th Street and Cottage Grove Avenue, known as a rough block even by the toughest of standards. Last year, the Chicago Sun-Times described the neighborhood as the epicenter of violent crime in Chicago. Police brass agreed. They called it Chicago’s “worst” and outlined plans to root out violence in the gritty, yet bustling stretch of liquor stores and fast-food joints that hugs the western edge of Chatham. Police vowed to crack down on the exact crimes that have landed the largest growing number of minors in the adult system: gun possession, armed robberies, carjacking and aggravated batteries.

Few have worked with as many of those young offenders as Karlin Guest, a guy known affectionately as “Coach Karl.” He’s a plain-spoken, basketball coach and security guard at Vivian Summers, an alternative school in Roseland that accepts troubled teens diverted from neighborhood schools. The school draws most of its students from the Far South Side, an area carrying a troubling distinction: It has the most minors convicted of gun felonies, according to the Reporter’s analysis.

Guest and Spears first crossed paths in 2008—roughly one year before Spears’ felony arrest. The lanky teen had a growing collection of trophies from the sport even before trying out for Vivian Summer’s basketball team. He made the team with ease and played first-string point guard. He held the spot by keeping up his grades and staying out of trouble with his teachers.

“You have a lot of kids who come to our school who aren’t hard. They just get caught in the wrong place at the wrong time,” Guest said. Spears may or may not have been one of them. But Guest says run-ins with the police aren’t always the

most accurate way to decide. "It's normal that the police are picking [young people] up all the time," he said. "But with all the crime on the streets how can you blame them?"

Spears had already been on the beat cops' radar. He was charged in four misdemeanor cases in less than three months leading up to his gun arrest. In one case, he was charged with stealing candy from a corner store. Weeks later, he was arrested for gang loitering. After that, simple assault. And finally, mob action. Spears pleaded guilty to the latter case and was sentenced to six months of court supervision. The other three cases were tossed out.

In each case, Spears says that he was out clowning around with friends. "My momma would tell me to come in," he says today, juggling three babies at a dimly lit kitchen table at his eldest sister's apartment. "I wouldn't listen to her back then," he says with a shallow exhale, "I was without a care in the world."

That was before he was charged in a gun case. His family couldn't scrounge up the \$10,000 to bail him out of jail. And neither Spears nor his mother liked the idea of the 5-foot, 8-inch teen who weighed about 130 lbs. waiting out a trial in the cell he shared with a 43-year-old.

Spears' mom, Demetrius Coleman, told him to plead guilty. At 53, she'd seen enough to know her son's case was weak. Two months earlier, Marlon beat his gun charge. The case fell apart because of conflicting police testimony in court. Coleman told Atreyu to take whatever deal that would get him out of the lockup the quickest. "It takes too long to fight a case," said Coleman, who raises her voice in agitation as she thinks back on the advice. "He was 17. He's not used to fighting for his life. That's crazy. He's a kid."

If Spears challenged the case, the discovery phase alone would have pushed his next court hearing back another 45 days, she said. And the case would likely drag out for months after that.

Coleman visited him during his time in lockup but was barred from his pre-hearing meetings with his attorney—while 17-year-olds are minors in most instances of the law, according to his crime, he was an adult. Under adult jurisdiction, minors are responsible for sealing their own fate, even when it comes to waiving their Miranda rights and making statements during interrogations.

As Spears prepared to make the most important decision of his life, he replayed the last conversation with his mother in his head.

Spears held his nose and pleaded guilty.

Illinois has some of the strictest accountability laws in the nation, and defendants are often culpable just for being connected with a crime.

Elizabeth Clarke, director of Illinois' Juvenile Justice Initiatives, questions whether too many teens are facing charges that don't match their crimes, particularly when they're swept up in the adult courts. "We are one of the only states with transfers without some sort of safety valve, some protection against overcharging," Clarke said.

The Reporter review of Cook County court records found that even after a teen was charged, additional charges were routinely added once the teen got bumped up to adult court. That happened in 67 percent of gun cases, the analysis found.

"The state's attorneys always say they don't overcharge," Fry said. "But they do ... so there's some room to bargain."

Once in the adult courts, the odds are that they'll plead guilty to at least one felony charge, the Reporter found. With nearly nine out of 10 youth pleading guilty to gun crimes in the past five years, witnesses were never brought to the stand. There were no police testimonies. The teens signed off on agreements hammered out by attorneys.

"Sometimes you're thinking, 'God, I wish they would go to trial,'" Fry added. If defendants were guaranteed a bench trial within 150 days, she predicts that Cook County courts would see far more cases challenged. "But the kid who's spent months in the lockup is thinking, 'OK, I'll plead and I can go home.'"

States across the nation are rethinking policies that automatically transfer minors into adult courts, in large part because of new scientific research on adolescent brain development that suggests they might be less likely to reoffend if they were punished in the better-resourced juvenile system. A gubernatorial task force in Illinois is weighing that research as it decides whether to recommend pushing 17-year-olds back into the state's juvenile justice system.

Lawmakers, however, remain divided. Zalewski's bill has the potential to send the largest number of teens into the adult courts since Illinois legislators struck down a law in 2005 that automatically transferred 15- and 16-year-olds into the adult system for selling drugs within 1,000 feet of a school or public housing.

Daley's office has been driving Zalewski's proposed legislation forward. The Cook County State's Attorney's Office and the Chicago Police Department have also voiced support for the bill. In March, the measure passed the House Judiciary II-Criminal Law Committee, which is composed largely of lawmakers who are former prosecutors. Among the seven committee members, state Rep. Connie Howard of Chicago was the only lawmaker who opposed the bill. State Rep. Esther Golar, who holds a second public job through Chicago's community policing program, stepped out of the room during the roll call.

It's unclear how many of the 268 Cook County teens charged with gun possession in 2009 were arrested within 1,000 feet of



a school or park because juvenile court records are sealed. But based on the Reporter's analysis of 2009 convictions, nearly half—or 13 out of 27—of 17-year-olds who had gun possession cases opened against them fell within the 1,000-foot range.

Enhancing penalties has made it easier to keep young offenders off the streets. But state Sen. Annazette Collins, who was sworn into her Senate seat in mid-March and who sat on the House Judiciary II Committee last year, said that dragging more young men unnecessarily into the adult courts will only further destabilize her district, which includes a rough stretch of Chicago's West Side that's already home to some of the highest ex-offender rates in Illinois.

"Yes, we have a problem with gun violence," Collins said. "But if you get an [adult] criminal record at 15, you don't have a right to get a job, to get financial aid, to rent an apartment," she says. "There are so many consequences for the rest of your life."

After sitting in jail for 69 days, on June 16, 2009, Spears was sentenced to probation for unlawful gun possession. He has yet to test what the ensuing felony record will mean for his future. His mom and sister are both keeping rooms for him, so he has had no need to try and test the waters by renting an apartment. But his mom's patience is wearing thin. "I've got to push him out," Coleman said. "And he's going to do one of two things: sink or swim."

Spears talks tepidly about enrolling in business classes at Kennedy King College. His first career choice is still to be a professional basketball player. But his backup plan is to open a barbershop. For that, he figures he'll need some education. Trying to figure out how to pay for classes may be his first obstacle.

In the meantime, Spears has had a lot of time on his hands, and he continues to butt heads with local police. Since his release, he has been booked on two misdemeanor offenses. The most recent case was opened this spring. His mom peeled \$400 off her income tax return and gave it to the Spears because she was too light on cash last year to give him a birthday or Christmas gift. The first thing he bought was a teddy bear, a balloon and a card for his mom. He left the gifts at her front door and later that day was questioned by police. They didn't buy the story that his mom gave him the \$300 he had stuffed in his pocket; he was charged with unlawful solicitation of business.

Despite the charges, Spears is scheduled to get off probation May 3. "Keep your nose clean," a judge warned him during a recent probation hearing. "You're in the home stretch."


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