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THE EFFECTS OF ADJUDICATING AND SENTENCING JUVENILES AS ADULTS

Research and Policy Implications

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Across the nation, serious and chronic juvenile offenders are increasingly being tried as adults in criminal court and incarcerated in adult correctional facilities. This trend raises important questions for policy makers. To what extent do trials in criminal courts and incarceration in adult prisons promote or inhibit community protection and the accountability and rehabilitation of juvenile offenders? This article discusses the legal consequences of adjudication in criminal court and offers a comprehensive review of research findings on the deterrent effects of transfer laws, conviction and sentencing patterns and recidivism rates in juvenile versus criminal courts, and conditions and programming in juvenile versus adult correctional facilities. The implications of these research findings for juvenile justice policies on adjudicating and sentencing juveniles as adults and directions for future research are discussed.

Keywords: *juvenile offenders; transfer; criminal court; sentencing; incarceration*

In response to public concern about juvenile crime (see Snyder & Sickmund, 1999; Zimring, 1998), the federal government and state legislatures have revised state laws to make it easier to transfer, waive, refer, remand, or certify (hereinafter *transfer*) juvenile offenders from the juvenile court to the criminal court for trial and sentencing.¹ Transfer laws are designed to enhance community protection by deterring juveniles from committing serious crimes and by providing greater certainty of an incarceration period of adequate length through trial and sentencing in the criminal court. Transfer laws also reflect the view that some juveniles who commit serious crimes are fully culpable and deserving of adult punishment (Redding, 1997). Most transferred juveniles are 17-year-old African American males who have committed offenses against persons (Snyder & Sickmund, 1999), with an average prison sentence length of about 8 years for violent offenses (Strom, 2000).

Legislative changes in transfer laws have included lowering the minimum age for transfer, expanding the list of crimes for which transfer is an option, vesting greater discretion in prosecutors, and eliminating some of the factors judges must consider before transferring youth (Sickmund, 1994; Torbet et al., 1996; Torbet & Syzmanski, 1998). For example, many states no longer require that juveniles first be found “unamenable to treatment” (i.e., not rehabilitatable) in the juvenile system before they can be transferred to

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criminal court. Virtually all states have set the minimum age for transfer at 14 or younger. Many states now require transfer for juveniles who commit violent felonies such as murder, rape, or armed robbery, and several states now allow children of any age to be transferred for most crimes. In addition, some states have lowered the juvenile court's upper age of jurisdiction, which is now 15 in Connecticut, New York, and North Carolina and 16 in at least 10 other states (Bishop, 2000).

Taken together, these legislative reforms have produced substantial increases in the number of youth convicted of felonies in criminal courts (Bishop, 2000) and incarcerated in adult facilities (Snyder & Sickmund, 1999). Nationwide, the number of juveniles being transferred has increased substantially over the past two decades (from 7,300 in 1986 to 12,300 in 1994) (Bishop, 2000; Sickmund, Snyder, & Poe-Yamagata, 1997), in part due to changes in state laws (Sickmund et al., 1997), although it remains the case that only 1% to 2% of all cases formally processed in the juvenile court are transferred (Bishop & Frazier, 2000). The increase is partly attributable to greater willingness of juvenile court judges to transfer cases and a decline in treatment options available in the juvenile system (Howell, 1996).

There has been a 60% increase (from 24,000 in 1994 to 38,000 in 1996) in the number of juveniles younger than age 18 convicted of felonies in criminal courts (Bishop, 2000). The number of juveniles incarcerated in adult facilities pending trial and after trial is also increasing (Snyder & Sickmund, 1999). The number of juveniles held in adult jails (about 2% of the jail population) pending trial rose 366% between 1983 and 1998, from 1,700 to 8,000 (Bureau of Justice Statistics, 1999; Gilliard, 1999). (For instance, in Idaho, a recently enacted statute requires that unless a judge orders otherwise, juveniles must be detained in adult facilities if they are to be tried as adults [Merlo, Benekos, & Cook, 1997]). In 1997, 7,400 juveniles younger than age 18 were admitted to state prisons, representing about 2% of new admissions (Strom, 2000).

Transfer can have "tremendous consequences for the juvenile" (*Kent v. United States*, 1966, p. 554), including lengthy incarceration, abuse in adult prison, and (although extremely rare) execution for capital offenses. "Waiver to the adult court is the single most serious act the juvenile court can perform . . . because once waiver of jurisdiction occurs, the child loses all protective and rehabilitative possibilities available" (*State v. R.G.D.*, 1987, p. 835). (In some states, however, the criminal court trying a juvenile can impose either an adult or a juvenile sentence.) A felony conviction of a juvenile in criminal court generally results in the loss of a number of rights and privileges and the possibility of adult sanctions, as shown in Table 1. Unfortunately, these consequences may increase recidivism because they limit the extent to which the offender can be successfully reintegrated into community life and obtain employment and other opportunities.

This article reviews research findings on the effects of transfer laws on juvenile crime, sentencing patterns, recidivism rates in juvenile versus criminal courts and conditions in juvenile versus adult correctional facilities. The extant research indicates that although it is unclear whether transfer laws deter juvenile crime in the long run, criminal court adjudication of juveniles and incarceration of juveniles in adult prisons appear to offer few advantages and pose many potential disadvantages. Criminal adjudication and incarceration appear to retard rather than enhance community protection over time and diminish rather than enhance juvenile offenders' accountability and development of competencies.

TABLE 1
Typical Collateral Legal Consequences of a Criminal Court Felony Conviction

Because of variation across states, not all of the collateral consequences listed will apply in all cases, but they are representative of the typical adverse consequences resulting from a criminal felony conviction.

1. The offender loses the right to vote, the right to serve in the military (if convicted of two felonies or a felony and two misdemeanors), and the right to own a firearm.
2. The conviction is a matter of public record and must be reported on employment applications.
3. The offender is generally subject to criminal court jurisdiction for all subsequent offenses committed as a juvenile, and the conviction is generally considered in sentencing for future criminal convictions and in sentencing under "three strikes" laws.
4. The offender may receive an adult sentence and may be incarcerated in adult prison.
5. Offenders age 16 or older at the time of the offense may be subject to the death penalty for capital offenses.
6. Offenders convicted of a sex offense are listed in state sex offender registries.

Juveniles tried as adults typically lose the civil rights listed here except in states providing that, if the criminal court imposes a juvenile disposition, the finding of guilt is not a criminal conviction but is considered an adjudication of delinquency and that none of the "civil disabilities ordinarily resulting from a conviction" operate. In these states, the criminal court effectively functions as the juvenile court when it exercises its discretion to impose a juvenile sentence.

Do Transfer Laws Deter Serious Juvenile Crime?

Research on whether transfer laws as implemented serve their intended goal of deterring juvenile crime has produced conflicting findings. On the one hand, two well-designed studies found that automatic transfer laws have no deterrent effect on juvenile crime in the relative short term (up to 6 years after such laws were enacted). Jensen and Metsger (1994) conducted a time-series analysis for 5 years before and after the 1981 Idaho automatic transfer statute was passed. They found a 13% increase in arrest rates for violent juvenile crime following the implementation of the automatic transfer law, whereas arrest rates for violent juvenile crime decreased in the neighboring states of Montana and Wyoming, which are demographically similar to Idaho but do not have automatic transfer laws. An analysis in New York (Singer, 1996; Singer & McDowall, 1988) conducted for a period of 4 years before and 6 years after the law was implemented found no deterrent effect of a state law that lowered the age for criminal court jurisdiction (thereby automatically sending violent juvenile offenders to criminal court), even though the law was widely used and the state had made significant efforts through the news media to inform juveniles of the new law. Deterrence was measured through time-series analyses of monthly arrest rates for juveniles between the ages of 13 and 15 for homicide, rape, arson, robbery, and assault using statistical techniques that account for seasonal variations and other variables.

On the other hand, a recent large-scale, multistate economic analysis (Levitt, 1998) found substantial declines in juvenile crime rates when states lowered the age at which criminal courts assume jurisdiction from 18 to 17. The study examined juvenile crime rates for 1978 to 1993, and found a jurisdictional age-associated decrease of about 25% for violent crime and 10% to 15% for property crime. The decrease was greatest in states where the difference in severity between criminal and juvenile court punishments was greatest (violent crime rates decreased about 10% for each standard deviation increase in the relative

severity of punishment). This study, then, suggests that transfer laws have a moderate deterrent effect. Anecdotal reports and data collected in some communities suggest a similar effect. The juvenile arrest rate in Jacksonville, Florida, decreased 30% and the juvenile violent crime rate decreased 44% within 1 year (between 1993 and 1994) after the local prosecutor (Harry Shorstein) instituted aggressive policies to prosecute and incarcerate serious juvenile offenders as adults (Bennett, DiIulio, & Walters, 1996; H. Shorstein, personal communication, 2001).² “Jacksonville’s would-be street predators got the message” (Bennett et al., 1996, p. 123). Transfer laws may have deterrent effects if juveniles hear about substantial numbers of juvenile offenders being tried and sentenced as adults. An earlier study by Glassner, Ksander, Berg, and Johnson (1983) found that many of the juvenile offenders interviewed said they decided to stop or reduce their offending once they reached age 16 because they knew they could be tried as adults upon reaching that age.

It is difficult to reconcile previous studies showing no deterrent effect of transfer laws with the recent, more comprehensive Levitt (1998) study and with anecdotal reports that transfer laws deter crime (see Bortner, 1986). All of these studies differ substantially in scope, methodology, and methodological limitations.

Two recent analyses of the deterrence research literature (Nagin, 1998; Von Hirsch, Bottoms, Burney, & Wikström, 1999) have concluded that criminal sanctions do work as a deterrent, at least for adult offenders. Von Hirsch et al. (1999) noted: “The studies plainly suggest that when potential offenders are made aware of substantial risks of being punished, many of them are induced to desist. . . . There are consistent and significant negative correlations between the likelihood of conviction and crime rates” (p. 47). For a variety of reasons, however, the research on adult deterrence may not be fully applicable to juveniles. Adolescents may not weigh the severity or swiftness of punishment in the same way as adults. The psychosocial immaturity of juveniles, including their impulsiveness, limited perspective, and propensity for risk taking to achieve short-term gains while discounting long-term consequences (see Fried & Reppucci, 2001; Scott, Reppucci, & Woolard, 1995; Steinberg & Cauffman, 1996), may make rational choice models of deterrence (which assume that perceived consequences influence calculations about committing crime) less applicable to juveniles (see Kahan, 1997; Schneider & Ervin, 1990). Certainty and swiftness of legal sanctions, if important in general for deterrence, may be particularly important in deterring juvenile offenders who, similar to persistent adult offenders, tend to be impulsive and present oriented (see Kleiman, 1999; J. Q. Wilson & Herrnstein, 1985). However, past research has also shown little deterrent value of legal sanctions on juvenile offenders in general (e.g., Pasternoster, 1989a, 1989b; Schneider & Ervin, 1990; Thomas & Bishop, 1984). For instance, Schneider and Ervin (1990) found no relation between certainty or severity of punishment and crimes committed in a sample of 876 adjudicated delinquents.

Some researchers argue that the recent decline in the crime rate is attributable to “get-tough” policies (see Bennett et al., 1996; Scheidegger & Rushford, 1999) and that zero-tolerance policies have worked in some juvenile justice contexts (see Kennedy, 1997). Indeed, according to interviews with juvenile offenders being processed through the criminal justice system, many feel that being tried as an adult serves as a “wake-up call”—they realize that offending has serious consequences (see Redding, 2003). As one juvenile offender explained, “[Being tried as an adult] showed me it’s not a game anymore. Before, I thought that since I’m a juvenile I could do just about anything and just get six months if I got caught” (Redding, 2003, p. 10). However, given the empirical research indicating that criminal court processing produces higher recidivism rates (see discussion to follow), it

cannot be concluded from juveniles' self-reports that the experience of transfer does in fact teach a lesson and thereby deter reoffending. Some form of a wake-up call, however, may be useful.

Clearly, further research is needed to examine the long-term deterrent effects of transfer laws and the question of whether such laws produce small long-term changes in offending rates that would not have been detectable in the aforementioned studies. Juvenile offenders may believe that transfer laws will not actually be applied to them. Because punishment may need to reach some threshold of certainty before it acts as a deterrent (see Klepper & Nagin, 1989; Tittle, 1985; Von Hirsch et al., 1999), research should examine whether inadequate implementation of transfer laws or an insufficient threat of serious punishment explains the apparent failure of these laws to deter crime (see Bebachuk & Kaplow, 1992; Singer & McDowall, 1988). Research should also determine whether juveniles are aware of transfer laws and whether this awareness deters delinquent behavior.³ However, even if transfer laws do have short-term deterrent effects when properly implemented (i.e., the laws carry sufficient threat and certainty of punishment and juveniles are made aware of the law), policy makers need to balance those benefits against the long-term negative effects (discussed in the following) of adjudicating and sentencing juveniles as adults.

Sentencing Outcomes for Youth Tried in Criminal Court

Many criminal court cases involving juveniles remain on pending or unresolved status for long periods of time (see Kinder, Veneziano, Fichter, & Azuma, 1995). In recent years, juvenile court processing times have increased, particularly in juvenile courts with adjudicatory practices that are more formal and more like criminal court practices (see Butts, 1997; Butts & Halemba, 1996). Nonetheless, criminal court processing still typically takes longer than juvenile court adjudication (Fagan, 1996; Myers, 2001; Rudman, Harstone, Fagan, & Moore, 1986).

"Justice by geography" is endemic (Bishop, 2000; Feld, 1991). Transfer, conviction, and incarceration rates and sentence lengths vary widely between and within states and local jurisdictions (Howell, 1996), and research on adjudication outcomes is mixed. Some studies show that the criminal court conviction rate for transferred juveniles is higher than the juvenile court delinquency adjudication rate for nontransferred juveniles; other studies show that the criminal court conviction rate is comparable to or lower than the juvenile court adjudication rate (see Bishop, Frazier, & Henretta, 1989; Fagan, 1990; Howell, 1996; Podkopacz & Feld, 1996; Rudman et al., 1986). When comparing conviction rates based on the type of transfer, serious violent juvenile offenders transferred via judicial discretionary transfer have higher conviction rates than juveniles transferred by prosecutorial discretionary transfer or automatic transfer (Howell, 1996).

Research findings on sentencing outcomes for juveniles in criminal court lack consensus. Some studies have found that more than half of the juveniles tried in criminal court are incarcerated (Bishop et al., 1989; Dawson, 1992; Houghtalin & Mays, 1991; Podkopacz & Feld, 1996; Strom, Smith, & Snyder, 1998), but other studies have found that few of these juveniles face jail or prison (Champion, 1989; Clarke, 1996; Kinder et al., 1995). According to a study of juvenile transfers in four states between 1980 and 1988 (Champion, 1989), only 11% of transferred juveniles were incarcerated, whereas 55% were placed on probation, 8% received community-based dispositions, and charges were

dismissed or offenders were acquitted in 26% of cases. A small-scale study of transferred cases in St. Louis, Missouri (Kinder et al., 1995), found that only 6% of juveniles transferred to criminal court were sentenced to prison and 17% were placed on probation; the remaining cases were pending or dismissed. On the other hand, a study of transferred juveniles in several Texas counties found that 58% were sentenced to prison (Dawson, 1992).

Data on incarceration rates in seven states show wide variations in the percentage of youth incarcerated (General Accounting Office, 1995). For example, incarceration rates for serious violent offenses transferred to adult court varied from 4% in Vermont to 88% in California; rates for property offenses varied from 7% in New York to 77% in Minnesota, and rates for drug offenses varied from 2% in Minnesota to 94% in California. Some earlier studies have found that criminal courts are more lenient than juvenile courts and are less likely to incarcerate juvenile offenders (e.g., Bortner, 1986; Champion, 1989), particularly property offenders (Bortner, 1986). Researchers speculated that this leniency may exist because the criminal court judges may tend to view juveniles as youthful first-time offenders (Dawson, 1992; Jensen, 1994; Kinder et al., 1995). However, studies that carefully control for prior offenses have not found criminal courts to be more lenient than juvenile courts (Butts & Connors-Beatty, 1992). Ostensible contradictions in juvenile and criminal court sentencing studies appear to be resolved by controlling for defendants' prior offense records (Bonnie, 1989).

Rudman et al. (1986) found that violent juvenile offenders convicted in criminal court were more likely to be incarcerated and received sentences about five times longer than those of violent juvenile offenders adjudicated in juvenile court. Myers (2001) also found that violent juvenile offenders who were transferred were more likely to be convicted and incarcerated and received longer sentences. Fagan, Forst, and Vivona (1987) found that juveniles charged with person offenses received considerably longer sentences in criminal court than in juvenile court. Similarly, Podkopacz and Feld (1996) found that juveniles convicted of violent offenses in criminal court received longer sentences (966 days on average) than juveniles convicted for similar offenses in juvenile court (266 days on average), whereas juveniles convicted of property offenses received shorter sentences in criminal court (134 days on average) than in juvenile court (182 days on average). Podkopacz and Feld's findings replicate the findings of earlier studies (e.g., Bortner, 1986; Houghtalin & Mays, 1991; Rudman et al., 1986). Finally, Brown and Langan (1998) found that across most offense types (particularly serious person offenses), the average prison sentence for transferred juveniles was longer than that for convicted adults. Research findings of long sentences for juveniles are perhaps especially troublesome when viewed in the context of the possible criminogenic effects of prison life and the fact that time seems to move more slowly for juveniles than it does for adults (see Piaget, 1927/1969).

A study of transferred juveniles in the 75 largest counties in the nation found that 68% were incarcerated (Strom et al., 1998). Another study (Office of Juvenile Justice and Delinquency Prevention, 1996) found that criminal courts incarcerated 32% of violent juvenile offenders, whereas juvenile courts incarcerated only 24%. Based on 1994 felony data from the Bureau of Justice Statistics (Brown & Langan, 1998), Bishop (2000) calculated that of all transferred juveniles, 63% were sentenced to prison, 16% were sentenced to jail, and 21% were sentenced to probation. The average maximum prison sentence was 9.25 years. Of those juveniles tried in criminal court in states where the criminal court's jurisdiction begins at age 15 or 16, 54% were sentenced to prison (with an average maximum sentence of 7.25 years), 11% were sentenced to jail, and 34% were

sentenced to probation. In contrast, probation is the most common disposition in juvenile court (General Accounting Office, 1995; Puzzanchera et al., 2000).

Thus, it seems clear that many juvenile offenders, particularly violent or other serious offenders, receive longer and more severe sentences when convicted in criminal court than when adjudicated in juvenile court.⁴ However, only two studies have examined the length of prison time actually served by juveniles sentenced in criminal court. Fritsch, Caeti, and Hemmens (1996) studied 946 cases of juveniles transferred to criminal court in Texas between 1981 and 1993. Of these cases, 76% involved violent offenses (about half of which were homicide cases). About 75% of the juveniles were 16 or older. At least 87% of the juveniles received longer sentences than they could have received in juvenile court; 35% received sentences of 20 years or more. However, for all offenses except rape, the average prison time actually served was only 3.5 years (about 27% of the sentence imposed), shorter than the maximum possible sentence length in a juvenile facility. Myers (2001) found that 57% of violent juveniles sentenced to prison by criminal courts in Pennsylvania were released within 4 years. These findings highlight the possible discrepancy between sentences imposed by criminal courts and actual time served. More studies are needed to simultaneously examine sentence type, sentence length, and actual time served (Fritsch et al., 1996).

Moreover, Myers's (2001) study found a "custody gap," meaning that transferred juveniles were about 20% more likely than those retained in juvenile court to be released pending adjudication. Although charged with violent crimes, these juveniles often were released with little or no supervision, and they were often rearrested for another violent crime while awaiting trial in criminal court. Thus, transfer may have the initial unintended effect of sending offenders back into the community (Myers, 2001), thus reducing community protection.

Although it is unclear whether property offenders receive longer sentences in criminal court, research shows that violent and other serious offenders convicted in criminal court are often more likely to be incarcerated and receive longer sentences than juveniles retained in the juvenile system. However, these offenders may be released pending trial and may serve only a portion of their sentence. Moreover, incarceration rates and sentence lengths in both juvenile and criminal courts vary considerably across jurisdictions. Clearly, more research is needed to compare outcomes for juvenile offenders in the juvenile and criminal justice systems, including detention custody rates, conviction rates, sentences imposed, and actual time served in the juvenile and criminal justice systems. Such research will illuminate the extent to which transfer laws serve their intended purpose of enhancing community protection (at least in the short term) by ensuring that violent and other serious juvenile offenders are incarcerated and receive sufficient sentences.

Recidivism Rates for Youth Tried in Juvenile Versus Criminal Courts

A key purpose of transfer laws is to enhance community protection against serious and violent juvenile offenders, but community protection may actually be reduced over the long term by transferring juveniles to criminal court. Recent large-scale studies indicate that juveniles tried in criminal court have higher recidivism rates after release than juveniles tried in juvenile court.

In Minnesota, Podkopacz and Feld (1996) found higher recidivism rates (as measured by adjudications or convictions for new offenses) for transferred juveniles (58%) than for

nontransferred juveniles (42%) during a 2-year follow-up period following their release. An earlier study (White, as cited in Howell, 1996) found that serious juvenile offenders handled in the criminal justice system recidivated 150% more than comparable offenders handled in the juvenile justice system.

Fagan (1996) examined recidivism rates among 800 randomly selected 15- and 16-year-old juvenile offenders charged with robbery or burglary. Controlling for prior offenses, current offense severity, race, gender, age at first and at current offense, detention status, and the type and length of disposition, Fagan compared offenders charged in juvenile court in New Jersey with offenders in neighboring New York counties (with similar demographic, socioeconomic, sociolegal, and crime indicator characteristics) charged in criminal court under New York's automatic transfer law.⁵ Robbery offenders sentenced in criminal court had higher postrelease recidivism rates (followed for 4 to 8 years) than those tried in juvenile court (91% vs. 73% rearrest rate for incarcerated youth and 81% vs. 64% for those who received probation); however, there was no difference in recidivism for burglary offenders. Those offenders sentenced by criminal court to a term of incarceration also reoffended much sooner (392 days on average) than those incarcerated by juvenile court (691 days on average). Fagan's findings on robbery offenders suggest that criminal court processing per se produces higher recidivism rates—juveniles who were only sentenced to probation in criminal court nevertheless had substantially higher recidivism rates. It is notable that juveniles receiving probation in criminal court actually had higher recidivism rates than those receiving a term of incarceration in the juvenile justice system.⁶

Controlling for seven variables (race, gender, age, most serious prior offense, number of referrals to juvenile court, number of charges, and most serious charge), Bishop, Frazier, Lanza-Kaduce, and Winner (1996) compared the 1-year recidivism rates among 2,738 juvenile offenders transferred to criminal court in Florida with a matched sample of nontransferred juveniles. Rearrest rates were higher (30% for transferred juveniles and 19% for those retained in juvenile court), and time to reoffending was shorter (an average of 135 days for transferred juveniles and 227 days for those retained in juvenile court) for the transferred juveniles across seven offense types (ranging from violent felonies to minor misdemeanors). Following the same Florida offenders 6 years after the initial study, Winner, Lanza-Kaduce, Bishop, and Frazier (1997) again found higher recidivism rates among those transferred to criminal court. (There was one exception, however: Property offenders transferred to criminal court were actually less likely to reoffend than those tried in juvenile court, although those transferred who did reoffend did so sooner and more often than those tried in juvenile court.) Florida relies almost exclusively on prosecutorial transfer, and prosecutors typically make their transfer decisions very soon after arrest, without access to much information about a juvenile's background (Bishop, 2000). Therefore, it is unlikely that the recidivism rates of nontransferred youth in Florida were generally lower because prosecutors selected for juvenile court processing only those youth they perceived as amenable to treatment.

A similar study (Myers, 2001) that also controlled for offense-related and demographic variables (e.g., age of onset of offending, prior offenses, and use of a firearm) examined recidivism rates among 557 violent juvenile offenders in Pennsylvania. The 138 juveniles who were judicially transferred to criminal court were rearrested more quickly upon their return to the community than juveniles retained in the juvenile system during the period studied. Transferred juveniles incarcerated for longer time periods had a lower recidivism rate upon release than those incarcerated for shorter periods. Myers (2001) argued that although the reasons for this finding are unclear, it suggests that longer-term

treatment in a juvenile facility may be the most effective way to reduce recidivism when considering research showing higher recidivism rates among transferred juveniles.

The most recent study (Mason & Chang, 2001) compared the recidivism rates (as measured by the number of technical violations of the court sanction and rearrests) of 162 12- to 18-year-old juveniles (mean age of 17) who had been transferred to criminal court in Dade County, Florida. Controlling for race, age, prior offenses, and offense seriousness, the rearrest rate for juveniles who received an adult sentence (of boot camp or probation) was 2.26 times higher than those receiving juvenile sanctions, residential programs, or probation; when including technical violations, the recidivism rate was 4.9 times higher. Although the results are consistent with previous studies, this study had a relatively small sample size for this type of study and apparently did not control for a number of relevant factors (including specific type and length of incarceration or probation) that might affect the type of sanction imposed by the court and the recidivism rates.

Thus, seven studies (from varying jurisdictions and time periods) examining the effects of all three types of transfer laws (judicial, prosecutorial, and legislative exclusion) suggest that transferring juveniles to criminal court results in higher recidivism rates, at least for juveniles convicted of offenses against persons. However, these studies did not match transferred and nontransferred groups on every potentially important variable (e.g., family background, drug abuse history, mental health status, and personality characteristics), and it is possible that recidivism rates for transferred youth are higher because of such factors. Future research should examine the role of these and other factors potentially related to transfer decisions and recidivism. Such research can inform transfer policy and practice regarding the types of offenders for whom transfer to criminal court is most likely to reduce recidivism.

Several factors may contribute to the generally higher recidivism rates for juveniles tried in criminal court. The rehabilitation efforts of the juvenile justice system may be more effective than those of the criminal justice system because of the juvenile system's emphasis on individualized and nonpunitive treatment regimes. For example, the "messages of caring" communicated by juvenile justice personnel may promote the development of social bonds and prosocial attitudes in juvenile offenders (Bishop, 2000; Braithwaite, 1989). As Bazemore and Umbreit (1995) observed: "Ironically, punishment may encourage lawbreakers to focus on themselves rather than on their victims and the community as they learn to 'take the punishment' without taking responsibility for their misbehavior" (p. 300).

The greater degree of retributive punishment inherent in criminal court adjudication and adult incarceration may produce a variety of counterrehabilitative effects in juveniles. These effects, which are likely greater in the criminal as compared to the juvenile justice system, may include modeling and learning of criminal behaviors and attitudes from adult inmates; stigmatization; humiliation; loss of self-respect; attenuation of guilt or shame; hardening of the delinquent self-concept; weakening of ties to families, prosocial peers, and community; and diminishment of job and educational prospects (see Bazemore & Umbreit, 1995; Braithwaite, 1989; Fagan & Freeman, 1999; Hirschi, 1969; Sampson & Laub, 1993).

Formal justice system processing also may give juveniles a delinquent self-concept and weaken their sense of connection to the community, thus producing higher recidivism rates, particularly if offenders feel they have been treated unjustly (see Lanza-Kaduce & Radosevich, 1987; Matza, 1964; Schneider & Ervin, 1990; Sherman, 1993). Winner et al. (1997) suggested that transferred juveniles may have higher recidivism rates because they attribute greater injustice to criminal court processing, which causes them to react defiantly

through reoffending. This possibility relates to the finding (Tyler, 1990) that adult offenders who believed they had been treated unfairly by courts or police were less compliant with the law than those who felt they had been treated fairly. Juveniles who perceive their adjudication in criminal court as unfair and/or are incarcerated in adult prisons may be more likely to adopt a "criminal" self-concept (see Thomas & Bishop, 1984; Wells & Rankin, 1983)—an important variable in determining outcomes.

Bishop and Frazier's (2000) interviews with juvenile offenders revealed the sense of injustice and resentment felt by juveniles who are processed in criminal court:

Among our interviewees, we found very negative reactions to criminal court processing. Many experience the court process not so much as a condemnation of their behavior as a condemnation of them. Unlike the juvenile court, the criminal court failed to communicate that young offenders retain some fundamental worth. What the youths generally heard was that they were being punished not only because their behavior was bad but also because they were personifications of their behavior. Far from viewing the criminal court and its officers as legitimate, the juvenile offenders we interviewed saw them more often as duplicitous and manipulative, malevolent in intent, and indifferent to their needs. It was common for them to experience a sense of injustice and, then, to condemn the condemners. (p. 263)

In considering directions for future research, it should be kept in mind that for property offenders, criminal court adjudication appears to have no effect on recidivism or to reduce it slightly. Criminological research shows that adult property offenders have higher recidivism rates than adults who commit offenses against persons (Gottfredson & Gottfredson, 1986; Petersilia, Turner, Kahan, & Peterson, 1985). Person offenders may act impulsively during interpersonal conflict and may not necessarily plan to commit a violent crime (Heilbrun, 1979). Perhaps criminal court adjudication teaches property offenders that there are consequences to their criminal conduct, whereas criminal court adjudication does not deter violent offenders because their criminal conduct is often unplanned or unintentional; therefore, criminal court adjudication only serves to label and stigmatize violent offenders. Given these considerations, along with the fact that 60% of judicially transferred cases involve property offenses (Snyder, Sickmund, & Poe-Yamagata, 1996), future research should evaluate the possible differential effects of transfer on personal and property offending patterns (Winner et al., 1997).

Conditions and Programming in Juvenile Versus Adult Facilities

Although many juveniles sentenced in criminal court serve their sentences in adult correctional facilities, a substantial minority serves at least a portion of their sentences in juvenile facilities. For example, at least 20 states now have "blended sentencing" schemes under which the juvenile or criminal court can impose both juvenile and adult sanctions (Redding & Howell, 2000). In some states, the criminal court has the discretion to impose either an adult or a juvenile sentence. The conditions of confinement in both juvenile and adult facilities are reviewed next.

In 1997, about 106,000 juveniles were held in juvenile correctional facilities on any given day (Office of Juvenile Justice and Delinquency Prevention, 2000). Most of these juveniles were minorities (56% African American, 21% Hispanic), the average age at

admission was 16, and the relative numbers of minorities and females in the system were increasing (Howell, 1997). More than half of the juveniles were convicted of drug or property crimes and had not been previously incarcerated. Twenty-one percent had committed serious or violent offenses (40% aggravated assault, 35% robbery, 12% sex crimes, and 11% homicide or manslaughter); of these offenders, 27% had been incarcerated previously (Snyder & Sickmund, 1999). In 1997, females accounted for only 14% of juveniles in residential placement, and the demographic and offense profiles of females were rather different from those of males: They were younger (15 or 16), far fewer were minorities (about 50%), and many had only committed status offenses (23%) or violations of court orders (11%) (Snyder & Sickmund, 1999).

Overcrowding is an increasing problem in many juvenile detention and correctional facilities (Parent, Leiter, Livens, Wentworth, & Stephen, 1994; Snyder & Sickmund, 1999). Seventy percent of juveniles are held in locked rather than staff-secure settings; this environment runs counter to the goal of national accreditation standards, which is to house juveniles in the least restrictive placement alternative (Snyder & Sickmund, 1999). In 1993, an estimated 31,206 incidents of injuries to juveniles resulted from staff or inmate violence in juvenile facilities (Parent et al., 1994). According to Feld (1993), "the daily reality of juveniles confined in many 'treatment' facilities is one of violence, predatory behavior, and punitive incarceration" (p. 251). Feld also noted that many juvenile correctional facilities provide little rehabilitative treatment. Howell (1996) observed: "The majority of these youngsters received no diagnostic study or evaluation by the state juvenile corrections authority" (p. 46). In 1997, the U.S. Department of Justice was monitoring 34 juvenile facilities under consent decrees and had 22 investigations ongoing for alleged violations of juveniles' constitutional and statutory rights, including inadequate mental health care (Puritz & Scali, 1998).

In 1997, 8% of juvenile offenders were incarcerated in adult jails, and 5% were incarcerated in adult prisons (Bureau of Justice Statistics, 1999). Analysis of data from 36 states for 1992 to 1996 shows that juveniles accounted for less than 2% of all new commitments to adult prisons (see Snyder & Sickmund, 1999). However, the number of juveniles admitted to prison doubled, from 3,400 in 1985 to 7,400 in 1997 (Strom, 2000), and even though the number of juveniles in prisons has remained constant in more recent years (Austin, Johnson, & Gregoriou, 2000), many states project further increases in the number of juveniles committed to their adult correctional systems (LIS, Inc., 1995). Approximately half of the adolescents incarcerated in adult facilities are convicted in states that limit the jurisdiction of the juvenile court to youth younger than the age of 17 (Bureau of Justice Statistics, 2000; Snyder & Sickmund, 1999). Data from 1997 on juveniles admitted to state prisons show that 97% were male, 58% were African American, 74% were 17 years old at admission, and 61% were convicted of a violent offense. (Their offense conviction percentages for other crimes were 22% for property offenses, 11% for drug offenses, and 5% for public order offenses.) The average maximum sentence received was 82 months; the average minimum sentence was 44 months.

Conditions in Adult Prisons

Relatively little is known about the conditions of confinement for juveniles incarcerated in adult facilities, although some studies suggest what juveniles may experience in these facilities. Beyer (1997) painted a bleak picture of juvenile life in adult prison, noting that juveniles are at greater risk for suicide (because of a lack of supervision)

and physical and sexual abuse from older inmates. Compared with offenders confined in juvenile facilities, juveniles in adult prison are eight times more likely to commit suicide, five times more likely to be sexually assaulted, and almost twice as likely to be attacked with a weapon by inmates and beaten by staff (Beyer, 1997; Forst, Fagen, & Vivona, 1989). So common is rape among inmates that it may be difficult for juveniles in adult prisons to avoid being raped eventually (Beyer, 1997). One study found that 10% of youth held in adult prisons reported being raped or sexually assaulted, 10 times higher than the rate in juvenile facilities (Ziedenisberg & Schiraldi, 1997). Because juveniles in adult prisons are exposed to a criminal culture in which inmates commit crimes against each other, these institutions may socialize wayward juveniles into true career criminals.

Violent juvenile offenders who were interviewed about their life in prison (Eisikovits & Baizerman, 1983) reported that their daily survival required finding ways to fit into the inmate culture, dealing with difficult and authoritarian relationships with adult inmates, and adjusting to the institution by accepting violence as a part of daily life and becoming even more violent. The need to fit in

was associated often with the need to play roles which are beyond the youths [sic] physical and/or intellectual ability. "Being a kid" is to be suspected of incompetence. Being suspected of incompetence means that one has to prove constantly how competent one is, even if this is beyond his physical ability. (p. 13)

Programming for Juveniles in Adult Prisons

Very little information is available about programming for juveniles in adult prisons, but it appears that in many states, juveniles are treated the same as adult inmates. Juveniles typically receive the same health, educational, and recreational services as adults, although sometimes juveniles are provided with specialized nutritional or educational services (General Accounting Office, 1995). However, given the growing number of juveniles sentenced to adult facilities, states are increasingly implementing special correctional programs for juvenile offenders who are sentenced as adults. These include (Torbet et al., 1996):

- graduated incarceration (juveniles are incarcerated in juvenile or separate adult facilities until they reach a certain age),
- segregated incarceration (juveniles are housed in separate facilities for younger adults and sometimes are provided with specialized programming),
- designation of certain juveniles as "youthful offenders," which often gives them certain legal protections (e.g., sealing of records) and special programming;

Segregated units for young offenders may help protect juveniles from predatory adult inmates (although prison staff report that sometimes serious juvenile offenders who have been transferred to the adult system are more predatory than the adult prisoners). Segregated units may also ameliorate some of the stresses and criminogenic effects of prison life.

Austin et al. (2000), who surveyed 181 adult correctional facilities across the nation and the adult correctional systems of all 50 states and the District of Columbia, provided a national assessment of the programming available for juveniles incarcerated in adult facilities. Currently, 44 states house juveniles in adult facilities—typically in medium- or

maximum-security facilities. Only 13% of the facilities surveyed maintain separate housing units for youthful offenders. Despite the unique educational, health, and mental health needs of juvenile offenders, the researchers found “little evidence of efforts to customize programs for youthful offenders” (p. xi).

Housing juvenile offenders poses a number of challenges for adult correctional facilities, particularly in managing the behavior of juvenile inmates. These juveniles often exhibit significant behavioral problems that require enhanced security measures and specialized programming, behavioral interventions, and staff training (Austin et al., 2000; McShane & Williams, 1989). Compared with young adult inmates, juvenile inmates are more assaultive, have higher rates of disciplinary reports (twice as many on average), and are less likely to earn good behavior time and to be held in nonsegregated or less restrictive custody (LIS, Inc., 1995; McShane & Williams, 1989; Owens, 1999). The Austin et al. (2000) nationwide survey confirmed that “[staff] in adult correctional facilities tend to find youthful offenders more volatile and more difficult to deal with” (p. 63).

To meet the needs and ensure the safety of the growing number of juveniles incarcerated in adult prisons, these facilities must take a number of steps, including development of classification systems, special housing units, and programming tailored to the needs of juveniles (especially services in the areas of general and special education, mental health, and substance abuse). It is particularly important for prisons to address the developmental, emotional, and mental health needs of juveniles and to implement effective behavioral management techniques for handling disruptive youth (Austin et al., 2000; Glick & Sturgeon, 2001).

Unfortunately, many state adult correctional systems are ill equipped to handle juveniles. Adult systems lack the funding to build separate juvenile facilities or provide specialized programming, and turf battles often ensue between the juvenile and adult correctional systems (Torbet et al., 1996). Many states (except those with youthful offender systems) do not provide special staff training on handling juvenile offenders or provide special programming for juveniles (Austin et al., 2000; LIS, Inc., 1995). As adult correctional systems respond to the increasing number of juvenile inmates, however, new facilities and programs for youthful offenders must be implemented.

Austin et al. (2000) described the specialized programming and behavioral management regimes that have been developed in several state correctional systems. One example is Virginia’s youthful offender program. Criminal court judges may impose indeterminate sentences to the youthful offender program for offenders between the ages of 16 and 21 who have committed less serious offenses and satisfy other statutory criteria. Juveniles in the program are housed separately from adult offenders. An assessment committee screens candidates for admission to the program and develops an individualized treatment plan for each juvenile. The program provides a strongly therapeutic environment that includes counseling and support groups, anger management training, life skills training, substance abuse education, and mental health services; “time served” is tied to successful program participation. Another example is Arizona’s program for juvenile prisoners who present disciplinary problems. Arizona has developed the only maximum-security self-contained unit designed to house juvenile prisoners with serious disciplinary problems away from adult inmates. Programming and service delivery are structured to provide incentives for participation and target the unique needs of this prison population and the needs of individual juveniles. Services include anger management training, substance abuse treatment, recreational programs, and an array of well-developed and

engaging educational programs. A limitation of the program, however, is that it does not accept juveniles who have serious mental health problems.

Comparisons of Juvenile and Adult Facilities

To compare juveniles' experiences in juvenile and adult facilities, Forst et al. (1989) interviewed 59 chronic juvenile offenders in juvenile facilities and 81 matched (for offense type and history) juvenile offenders housed in adult facilities. The researchers found a relative lack of programming and services for juveniles in adult facilities. Compared with juveniles in prisons, juveniles in juvenile facilities were more likely to report that staff helped them achieve goals, feel good about themselves, learn skills, and improve their interpersonal relations. In juvenile facilities, counseling was provided by line staff as part of their regular duty; in adult prisons, counseling was provided separately and only for limited time periods. Staff members in juvenile facilities were also more likely to be trained in, and rewarded for, helping and counseling residents. Compared with juveniles in adult prisons, juveniles in juvenile facilities gave higher marks to case management services, which they regarded as helpful in obtaining needed services, providing counseling, encouraging participation in programs, teaching the consequences of breaking rules, and orienting offenders to facility rules and procedures. Juveniles in juvenile facilities were more likely to regard treatment services as helpful in improving their relationships with family members and deepening their understanding of themselves and their problems, and effective in meeting their medical needs. Juveniles in juvenile facilities also rated the social climate of their facilities significantly higher than juveniles in prisons. Juveniles in adult facilities were much more likely to report having been sexually assaulted, attacked with a weapon, and beaten by staff.

Forst et al. (1989) interpreted their findings within the context of the differing roles and climates of juvenile and adult correctional facilities. Compared with adult prisons, juvenile facilities are more oriented toward rehabilitation and skills development; are more likely to encourage staff to develop relationships with residents; provide more treatment and counseling services, incorporating such services into daily line staff duties; provide closer supervision; and have more staff trained to provide these services. Regarding juveniles in prison, the researchers concluded:

During the years when the transition from adolescence to adulthood occurs, when social skills and cues are learned, these youth will know little else other than the institutional world. The social rules and norms learned are those in the institution, including the reciprocal cycle of victimization and retaliation. . . . Administrators and policymakers should weigh the risks of future crime and violence from increased exposure to violence in prison, deprivation from the normalizing influences of meaningful contacts with natural social networks, and unmet treatment or remedial needs. (p. 11)

It is hard to imagine how the conditions and criminal culture of adult prisons could be rehabilitative for juvenile offenders. A prisoner's experience is "from the outset, an experience of being violently dominated, and it is colored from the beginning by the fear of being violently treated" (Cover, 1986, p. 1608). Force, intimidation, and threat from prison gangs are the norm, as are overcrowded and starkly inadequate living conditions and the significant physical and psychological stresses of prison life. As one federal court

explained, modern prison life “may press the outer bounds of what most humans can psychologically tolerate” (*Madrid v. Gomez*, 1995, p. 1267). Prison experiences may produce criminogenic effects and make it difficult for offenders to reintegrate into community life. The extent to which prison life conflicts with community life is illustrated by the finding that inmates who adjust most successfully to prison life often have the greatest difficulty adjusting to freedom (Goodstein, 1979).

A recent study by Bishop and Frazier (2000) vividly portrayed the differences between juvenile and criminal court processing and juvenile and adult correctional institutions. Bishop and Frazier conducted extensive interviews with 95 serious and chronic juvenile offenders in Florida. About half of the juveniles were transferred to the criminal justice and correctional system, and many of the transferred juveniles had prior experience in the juvenile justice system. Virtually all of the juveniles perceived the juvenile court positively; they felt the outcomes were fair and that the court was trying to help them. In contrast, transferred juveniles perceived the criminal court in negative terms: too formal, adversarial, hurried, and gamesmanlike, with lawyers and judges having little interest in the juveniles’ problems. These juveniles felt that the criminal court’s only goal was to punish them, and they were angry and resentful at what they perceived to be unfair sentences.

“Despite the punitive rhetoric” of juvenile justice in Florida, the juvenile correctional institutions “were clearly treatment oriented” and adhered to therapeutic models of rehabilitation (Bishop & Frazier, 2000, p. 255). Juveniles in these facilities perceived staff positively and felt that staff members cared about them and taught them appropriate behaviors. In contrast, Florida prisons were clearly custodial in nature (see Annino, 2000). Juveniles in adult prisons reported that much of their time was spent learning criminal behavior from the adult inmates and that there was pressure to prove their toughness through aggression. The prison environment and the resentment that juveniles felt from being punished in the criminal justice system caused many juveniles to become confrontational and defiant in prison. They also were much more fearful of being victimized than they had been in juvenile facilities; more than 30% had been assaulted or had witnessed assaults by prison staff. Particularly noteworthy is the fact that most of the juveniles incarcerated in juvenile facilities said they were confident that they would not reoffend after release and often credited the staff with helping them make this positive change. In contrast, only a third of the juveniles in adult prisons said that they would not reoffend. Bishop and Frazier (2000) concluded that “compared to the criminal justice system, the juvenile system seems to be more reintegrative in practice and effect” (p. 265).

Thus, although conditions and programming for juveniles often are gravely inadequate in both adult and juvenile correctional facilities, the picture is especially bleak for juveniles incarcerated in adult facilities, where juveniles are subjected to sexual and physical abuse from inmates and guards and where fewer treatment and educational services are available. Most prison staff are not trained to counsel, educate, or manage juvenile cases, and the medical care may not be as good as that in juvenile facilities. More information is needed on the programming and services provided for juveniles in adult correctional facilities. Research should evaluate how the differences between adult and juvenile correctional facilities affect juveniles’ psychological and behavioral adjustment during incarceration and after release. New programs for handling juvenile offenders in the adult correctional system require evaluation and refinement. New research is critical for developing policies and practices concerning whether juveniles should be incarcerated in adult facilities and if so, how those facilities can best serve the juveniles under their care.

TABLE 2
Summary of Key Research Findings

Transfer and court records

- The research is conflicting on whether transfer laws deter juvenile crime.
- Transfer rates vary widely within and between states.
- Juvenile court records are often poor, and criminal court and corrections officials often do not have access to needed legal and social history information maintained by other agencies and service providers.

Criminal court outcomes

- Criminal court adjudication usually takes longer than juvenile court adjudication.
- Conviction rates, incarceration rates, and sentence lengths vary widely across states.
- Juvenile offenders convicted in criminal court, particularly those convicted of person offenses, are more likely to be incarcerated and to receive longer sentences than those who are adjudicated in juvenile court.
- Many juveniles may serve only a portion of the prison sentence imposed by the criminal court.
- Juvenile offenders who have committed person offenses have higher recidivism rates (and shorter time to rearrest) when transferred to criminal court than those who are adjudicated in juvenile court.
- Juvenile offenders who have committed property offenses have the same or slightly lower recidivism rates when transferred to criminal court than those who are adjudicated in juvenile court.

Juveniles in adult prisons

- Conditions and programming for juveniles in adult and juvenile correctional facilities are inadequate.
 - The picture is especially bleak for juveniles incarcerated in adult facilities, where juveniles often are subjected to sexual and physical abuse from inmates and guards and where far fewer treatment and educational services are available.
 - Most staff in adult facilities are not trained to counsel, educate, or manage juvenile cases.
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Summary of Research Findings

Although it is unclear whether transfer laws deter juvenile crime in the long run, criminal court adjudication of juveniles and incarceration of juveniles in adult prisons appear to offer few advantages and pose many potential disadvantages. As summarized in Table 2, extant research suggests that criminal adjudication and incarceration retard rather than enhance community protection over time and diminish rather than enhance juvenile offenders' accountability and development of competencies (see Bazemore, 1992). Clearly, more research is required to make strong policy statements. To the extent that juveniles may simply outgrow their lawbreaking behavior, incapacitation until adulthood may indeed be the best way to ensure community protection. However, existing research indicates that criminal court adjudication takes longer than juvenile court disposition and that juveniles awaiting trial in criminal courts are often released with little supervision and rearrested for additional offenses. Research also shows that although juveniles often are more likely to receive longer and more serious sentences in criminal court, they may actually end up serving only a portion of those sentences. In addition, research comparing recidivism rates for juveniles tried in criminal and juvenile courts indicates that rates generally are higher for those tried in criminal court. The short-term benefits gained from transfer and imprisonment may be outweighed by the long-term costs of criminal justice system processing.⁷ As Snyder and Sickmund (1999) concluded:

[Transfer] does not appreciably increase the certainty or severity of sanctions. While transfer increases the length of confinement for a minority of the most serious offenders,

the majority of transferred juveniles receive sentences that are comparable to sanctions already available in the juvenile justice system. More importantly, there is no evidence that young offenders handled in criminal court are less likely to recidivate than those remaining in juvenile court. (p. 29)

Once juveniles are incarcerated in adult prison, they typically receive fewer age-appropriate rehabilitative, medical, mental health, and educational services than they would in a juvenile facility and are at far greater risk for physical abuse, sexual abuse, and suicide.

Implications for Policy

An important policy goal suggested by the research findings is to minimize the number of juvenile cases transferred to criminal court, particularly those cases involving first-time offenders charged with crimes against persons (Redding, 1997). Perhaps one way to achieve this goal is to give juvenile courts the authority to impose limited adult sentences and to supervise rehabilitation or probation continuing into adulthood. Expanding the sentencing authority of juvenile courts may reduce the number of transfers made solely to ensure continued incarceration. (Of course, full due process protections, including the right to trial by jury, are necessary when an adult sentence might be imposed [Redding, 1997]). Prosecutors often file transfer petitions for older adolescents to ensure confinement for a period longer than the maximum sentence available in juvenile court (see Redding, 1997). However, through new “blended jurisdiction” statutes, states increasingly are allowing juvenile courts to impose adult sentences or extend their sentencing jurisdiction over certain juveniles past the age of majority (Redding & Howell, 2000). Particularly promising are blended sentencing approaches that allow the adult sentence to be suspended provided the juvenile does not violate the terms of the juvenile sentence. This approach gives the juvenile offender a last chance at rehabilitation and an incentive (avoiding a criminal sentence) to respond to treatment and provides a stronger accountability sanction. Extending juvenile court jurisdiction also gives the court more time to determine whether an offender is likely to continue offending into adulthood and if so, whether criminal justice system processing would be more appropriate.

Some may argue that issues regarding juvenile court jurisdiction and transfer are irrelevant if the juvenile court can impose the same sentences as the criminal court (see Ainsworth, 1991), and that extended jurisdiction may effectively destroy the juvenile court’s rehabilitative mission (Zimring, 1998). However, juvenile court judges are far more experienced than criminal court judges in juvenile justice. They have a greater understanding of juveniles’ unique developmental and mental health needs and deficits, are more familiar with the various community-based treatment options available for juveniles, and given the juvenile court’s historically rehabilitative mission, are more likely to espouse a rehabilitative (or rehabilitative and punitive) philosophy of juvenile justice. As noted in *State v. R.G.D.* (1987), the juvenile court’s authority to impose incarceration “may help effectuate the goal of assuring public confidence by imposing a proportional sanction while also invoking the rehabilitative services available to the juvenile court” (p. 840).

More important, at least one study (Fagan, 1996) suggests that something inherent in criminal court processing per se may produce increased recidivism rates for juvenile offenders. If so, criminal court adjudication is detrimental to the rehabilitative goals of juvenile justice not only when the available penalties in criminal court are too severe.

Rather, the justification for retaining juvenile court jurisdiction, even if an adult sentence is to be imposed, is the mounting evidence that something about criminal court processing may indeed put juveniles at greater risk for reoffending. However, it is not known whether that something is the criminal system's relative lack of rehabilitative emphasis, a social labeling or stigmatizing effect of being tried in criminal court, and/or the possibility that being tried and incarcerated in the adult system makes juvenile offenders feel that they have been treated unjustly. The answers to these and related questions await substantial future research.

If transfer laws deter juvenile crime or serve as a wake-up call for serious or habitual offenders, the challenge for policy makers would then be determining how to achieve effective deterrence without subjecting juveniles to the counterrehabilitative and "permanently disfiguring" criminal justice system (see Redding & Howell, 2000; Zimring, 2000). Research suggests that "scared straight" or "shock incarceration" programs do not deter criminal behavior effects and may even exacerbate the problem (Finckenaue & Gavin, 1999). New blended sentencing laws, especially those that allow flexibility in crafting or suspending adult sentences for juvenile offenders (based on the juvenile's responsiveness to rehabilitation), may provide part of the solution (Redding & Howell, 2000). Zimring (1998) argued that blended sentencing schemes that allow juvenile courts to impose adult sentences will create a "punitive contagion" effect that will significantly increase the number of juveniles subjected to adult sanctions: "Even those systems that are successful in rescuing some serious offenders from worse fates can achieve results only by putting other accused delinquents at greater risk [of adult sanctions]" (p. 173). Although some data indicate that Zimring's concerns have merit, the empirical evidence is mixed (see Redding & Howell, 2000). Substantial research is needed to determine the effects of blended sentencing schemes.

The second and perhaps more compelling policy goal suggested by the research findings is that prison incarceration should be reserved for only the most serious and chronic offenders—perhaps the approximately 4% of juvenile offenders who are serious, violent, and chronic offenders, or the 15% who are chronic offenders (Snyder, 1998) and the most likely to become life-course persistent offenders (see Moffitt, 1993)—with juvenile and community-based dispositions used for all other offenders. The graduated sanctions approach in the Office of Juvenile Justice and Delinquency Prevention's *Comprehensive Strategy for Serious, Violent, and Chronic Juvenile Offenders* (J. J. Wilson & Howell, 1993; see also Howell, 1995) involves a continuum of sanctions and treatment alternatives (each including intensive supervision) that are determined by offending history and offense seriousness, with long-term incarceration used only as a last resort. Graduated sanctions have proven benefits: reduced cost, increased accountability for juveniles and communities, and enhanced responsiveness to juveniles' treatment needs (Krisberg & Howell, 1998). Graduated sanctions reflect a recognition that punishment alone does nothing to reintegrate the offender into the community and is not very effective in reducing recidivism (and may even increase it).

A graduated community-based sanctions approach can foster "restorative justice" by providing for "active involvement of victims, the community, and offenders in a process focused on denunciation of the offense, offender acceptance of responsibility (accountability), and reparation, followed by resolution of conflict resulting from the criminal act and offender reintegration" (Bazemore & Umbreit, 1995, p. 302). Community-based programs can protect the community by closely supervising and monitoring offenders (Altschuler & Armstrong, 1994) and are more effective than incarceration in

reducing recidivism (Lipsey, 1992), even for violent and other serious juvenile offenders (Lipsey & Wilson, 1998). Some community-based options include group homes, house arrest, detention, restitution and restorative justice programs, day treatment or training programs, intensive supervision, and some combinations of these options. Juveniles can be held accountable, taught the consequences of their actions, and learn the coping, life, and job skills they need to function appropriately in the community (Altschuler & Armstrong, 1994).

Some community-based programs—particularly those that are comprehensive and long term—have proved effective even for violent offenders (Altschuler & Armstrong, 1994; Barton & Butts, 1990; Krisberg & Howell, 1998; Tate, Reppucci, & Mulvey, 1995). Specifically, multisystemic treatment (MST)—an intensive ecological treatment approach focusing on the juvenile’s family, peer, and school networks—is one of the few relatively successful treatments for serious and chronic juvenile offenders (Borduin et al., 1995; Henggeler, Schoenwald, Bourdin, Rowland, & Cunningham, 1998). MST can be costly and resource intensive, but it costs far less than incarceration (see Washington State Institute for Public Policy, 1998), which costs an average of \$35,000 to \$40,000 per year per juvenile.

Compelling evidence for the effectiveness of community-based treatment comes from a well-controlled study that examined recidivism among more than 2,000 juvenile offenders (Wooldredge, 1988). The study found that court-supervised community treatment was the most effective disposition for preventing recidivism. Longer terms of community treatment were more effective than shorter terms, whereas longer terms of detention only resulted in higher recidivism rates. The researcher concluded:

The findings of this study argue against the abolition of the juvenile court. Community treatment is a strong foundation of the juvenile court, and this study supports the idea that it should not be abandoned for an emphasis on proportionality and punishment. (p. 293)

Another well-controlled study also found that community-based program placements led to lower recidivism rates (mainly in terms of time to rearrest) than placement in state juvenile correctional facilities (Fendrich & Archer, 1998). The researchers concluded: “Increasing time until an offender is rearrested has important policy ramifications. Community-based programs may help sustain an offender’s positive social bonds and—by extending the time until recidivism—provide a window of opportunity for further rehabilitative interventions” (p. 385).

Although some states allow the criminal court to impose juvenile sanctions on juveniles tried as adults (Redding & Howell, 2000), available data suggest that judges rarely do so, imposing adult sentences instead (Mason, 2000; Virginia Commission on Youth, 1996). To address this problem, the Miami-Dade County Public Defender’s Office developed the Juvenile Sentencing Advocacy Project (JSAP), an innovative and highly effective program aimed at increasing the number of transferred cases that received juvenile sanctions. During its first 15 months of operation, JSAP produced a 350% increase in the number of transferred youth receiving a juvenile sanction. Florida is one of the leading states in the numbers of youth transferred to the adult system, and many are transferred for nonviolent offenses before graduated sanctions available in the juvenile justice system are exhausted and “without adequate attention to their developmental status, the contextual basis for their behavior or their potential for rehabilitation” (Mason, 2000, p. 2). Under JSAP, the Public Defender’s Office assigned a JSAP attorney and social worker to each

juvenile case filed by the prosecutor in criminal court. The social worker prepares a kind of social history on the juvenile, designed to identify the youth's strengths and the developmental processes and contextual factors relating to the offending that may be amenable to intervention, in order to develop a sentencing plan to advocate before the court. Another critical component was the development of training programs for judges and attorneys on adolescent development, effective treatment and rehabilitation programs for juvenile offenders, and sentencing options, along with the development of greater linkages to community resources. (A survey of criminal court judges in Virginia, for example, found 55% reporting that they had inadequate training in child development and community services to handle juvenile cases [Virginia Commission on Youth, 1996]).

Needed Research

Much of the research conducted in the 1980s and early 1990s focused on documenting the rapid state legislative changes, determining basic processing statistics (e.g., how many juveniles are transferred and convicted), and identifying predictors of the transfer decision (e.g., demographics and case characteristics). This first wave of research on juvenile justice reform has provided valuable information on the nature of legislative and programmatic change. However, the legislative reform preceded any systematic inquiry into the likely psychological and behavioral effects of trying juvenile offenders in criminal court and incarcerating them in adult facilities. As noted by a former director of the Research and Program Development Division at the Office of Juvenile Justice and Delinquency Prevention (Howell, 1996):

It is surprising how little information is available on criminal justice system handling of juvenile offenders. . . . Transferred juveniles create new problems for the adult corrections system, including development of treatment and reintegrative services, and protection from predatory inmates. (pp. 50-52)

This review of current research demonstrates that the following topics require much more investigation:

- the deterrent effects of transfer laws, the extent to which juveniles are aware of these laws, and the deterrent effects of such awareness (and the extent to which such laws offer a sufficient threat of punishment);
- the comparability of pretrial detention rates, conviction rates, sentences imposed, and time served for juveniles adjudicated in juvenile court versus criminal court;
- the possible differential effects of transfer on recidivism rates for juveniles convicted of person offenses versus those convicted of property offenses;
- programming and services available for juveniles in adult correctional facilities;
- the effect of differences between adult and juvenile correctional facilities on juveniles' psychological and behavioral adjustment during incarceration and after release.

The last point is particularly significant for policy makers. Very little is known about what actually happens to juveniles in the criminal justice system. There is mounting research on the negative effects of transfer on recidivism, although the existing research has methodological limitations. However, virtually no research has been conducted to study the short- and long-term psychological and behavioral effects of criminal court prosecution and

incarceration in adult correctional facilities. Such research is critical for developing policies and practices concerning whether juveniles should be incarcerated in adult facilities and if so, how those facilities can best serve the juveniles under their care and respond to the unique management challenges they pose.

NOTES

1. States use three types of transfer laws: legislative exclusion (also called automatic), judicial discretionary, and prosecutorial discretionary (see Redding, 1997). Legislative exclusion laws make transfer automatic for specified offenses if certain statutory requirements are met. Under judicial discretionary laws, juvenile court judges decide whether to transfer a juvenile when the prosecutor files a transfer motion in a statutorily eligible case. Under prosecutorial discretionary laws, prosecutors decide whether to file a transfer-eligible case in juvenile or criminal court. Most states have more than one type of transfer law. Comprehensive reviews of state transfer statutes are available. Heilbrun, Leheny, Thomas, and Huneycutt (1997) provided a state-by-state description and classification of state transfer laws, including the type of transfer law (automatic, judicial discretionary, or prosecutorial discretionary), the minimum age for transfer, the types of offenses eligible for transfer, the burden and allocation of proof in transfer hearings, risk assessment criteria in transfer decisions, assessment of amenability to treatment in transfer decisions, and the use or nonuse of mental illness or mental retardation as a factor in transfer decisions. Snyder and Sickmund (1999) provided a somewhat more detailed description of the age and offense requirements in state transfer laws as of 1997, and Feld (2000) provided a listing of the offense types enumerated in state statutory exclusion and prosecutorial direct-file laws as of 2000. Redding (1997) reviewed the characteristics and operation of state transfer laws and presented a detailed critique of those laws based on current social science research on adolescent competence and maturity, adolescent offending and recidivism patterns, and actuarial approaches for assessing the risk of future offending. Dawson (2000) and Feld (2000) provided a detailed discussion of the characteristics and jurisprudence of state judicial and statutory exclusion transfer laws, respectively.

2. The prosecutor, however, also instituted comprehensive counseling, substance abuse, education, leadership, and mentoring programs for juveniles incarcerated in local jails (H. Shorstein, personal communication, 2001; see City of Jacksonville, 2001).

3. For example, Georgia has made extensive efforts to alert juveniles to its new automatic transfer law by producing a video about the new law and the experiences of juveniles in state prisons. The video has been distributed to schools, juvenile courts, and prevention programs and is aired periodically on Georgia television. The Arizona Bar Foundation's "law for kids" Web site (www.lawforkids.org), which receives about 38,000 hits a month from around the country, prominently features information on Arizona's transfer law. In Florida, local prosecutor Harry Shorstein's office has produced a video that reenacts a violent crime committed by local juveniles who were then sentenced as adults. The video, which tells the story of the victims and defendants, is shown throughout the area and is often supplemented by testimonials from the perpetrators (H. Shorstein, personal communication, 2001). Research is needed to determine whether such public awareness campaigns have deterrent effects on juvenile crime.

4. See Bishop and Frazier, 1991; Bishop, Frazier, and Henretta, 1989; Bishop, Frazier, Lanza-Kaduce, and Winner, 1996; Bortner, 1986; Dawson, 1992; Fagan, 1990; Fagan, Forst, and Vivona, 1987; Fisher and Teichman, 1986; Fritsch, Caeti, and Hemmens, 1996; Gragg, 1986; Houghtalin and Mays, 1991; Podkopacz and Feld, 1996; Rudman, Harstone, Fagan, and Moore, 1986; Virginia Commission on Youth, 1994.

5. Most of the juvenile arrests in New York were for robbery or burglary, and these offenses were largely responsible for the enactment of the New York Juvenile Offender law.

6. Preliminary results from a New Jersey/New York replication study recently completed by Fagan show strong negative effects (at least initially) of being processed in criminal court on recidivism for violent offenses, although the effects on other offenses were not statistically significant (J. Fagan, personal communication, 2001).

7. Although some recent studies (see DiIulio & Piehl, 1995; Langan, 1991; Levitt, 1996) suggest that the short-term crime reduction benefits of sufficient lengths of incapacitation may be substantial, other studies find no effects of incarceration or tougher sentencing policies on recidivism (see Bureau of Justice Statistics, 2001).

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