Raise the Age of Criminal Responsibility in New York State
Teen Brains Are Not Fully Developed

As any parent knows, teenagers are works in progress. They do not have the same abilities as adults to make sound judgments in complex situations, to control their impulses, or to plan effectively for the long term. Recent brain science has been able to demonstrate why it is that adolescents act the way they do.

What science tells us is that the brain architecture is constructed through a process that starts before birth and continues into adulthood. During adolescence, the brain undergoes dramatic changes to the structure and function of the brain impacting the way youth process and react to information. The region of the brain that is the last to develop is the one that controls many of the abilities that govern goal-oriented, "rational" decision-making, such as long-term planning, impulse control, insight, and judgment.

The downside to these brain changes is that this means that youth are particularly vulnerable to making the kinds of poor decisions that get them involved in the justice system. By examining age-specific arrest rates we can see that youth is a time characterized by delinquency that then sharply drops off. In fact, engaging in delinquent activities is a normal part of the adolescent experience. Almost all of the readers of this report will likely be able to recall participating in an activity during their adolescence that violates at least one criminal law today. It is also true that for the vast majority of readers, these activities were temporary and did not indicate that they would become lifelong offenders.

The upside of this brain research is that the rapid growth and development happening in adolescent brains make them highly elastic and malleable to change. The relationships made and behaviors learned during this crucial developmental stage are hard-wired into the brain architecture and help determine long-term life outcomes. When young people hit a rough patch, guidance from responsible adults and developmentally appropriate programs, services, and punishment can get them back on track.

The juvenile justice system is based on this science and provides troubled adolescents with mentors, education, and the guidance to help most of them mature into responsible adults. In contrast, warehousing minors in the adult system ensures that they will not have guidance from responsible adults or have access to age-appropriate programs, services and punishment to help build positive change into their brains during this crucial developmental period. Instead, they will face the reality of having a permanent criminal record and the increased likelihood of becoming career criminals. This is not the outcome we want for America's children.
Juvenile Transfer Laws: An Effective Deterrent to Delinquency?

Richard E. Redding

Beginning in the 1980s, many States passed legal reforms designed to get tough on juvenile crime. One important reform was the revision of transfer (also called waiver or certification) laws (Griffin, 2003) to expand the types of offenses and offenders eligible for transfer from the juvenile court for trial and sentencing in the adult criminal court. These reforms lowered the minimum age for transfer, increased the number of transfer-eligible offenses, or expanded prosecutorial discretion and reduced judicial discretion in transfer decisionmaking (Fagan and Zimring, 2000; Redding, 2003, 2005). In 1979, for example, 14 States had automatic transfer statutes requiring that certain juvenile offenders be tried as adults; by 1995, 21 States had such laws, and by 2003, 31 States (Steiner and Hemmens, 2003). In addition, the age at which juvenile court jurisdiction ends was lowered to 15 or 16 years in 13 States (see Snyder and Sickmund, 2006), although very recently, some States have reduced the scope of transfer laws (Bishop, 2004), and one State has raised the age at which juvenile court jurisdiction ends from 16 to 18.

In the wake of these legislative changes, the number of youth convicted of felonies in criminal courts and incarcerated in adult correctional facilities has increased (Redding, 2003), reaching a peak in the mid-1990s and then declining somewhat (Snyder and Sickmund, 2006) due, in part, to the decrease in juvenile crime. An estimated 4,100 youth were committed to State adult prisons in 1999, representing 1 percent of new prison commitments (Snyder and Sickmund, 2006). Sixty-one percent of these youth were incarcerated for person offenses, 23 percent for property offenses, 9 percent for drug offenses, and 5 percent for public order offenses (e.g., weapons possession) (Snyder and Sickmund, 2006). Transferred juveniles, particularly those convicted of violent offenses, typically receive longer sentences than those sentenced in the juvenile court for similar crimes (Bishop, 2000; Kupchik, Fagan, and Liberman, 2003; Myers, 2005; Virginia Department of Criminal Justice Services, 1996). But, they may be released on bail for a considerable period of time while they await trial in the criminal court (Myers, 2005), and many youth incarcerated in adult facilities serve no longer than the maximum time they would have served in a juvenile facility (Bishop, 2000; Fritsch, Caeti, and Hemmens, 1996; Myers, 2001). Seventy-eight percent were released from prison before their 21st birthday, and 95 percent were released before their

A Message From OJJDP

In an effort to strengthen the sanctions for serious juvenile crimes, a number of States have enacted laws increasing the types of offenses eligible for transfer from the juvenile court to the adult criminal court for trial and potential sentencing. These laws have lowered the minimum transfer age, increased the number of offenses eligible for transfer, and limited judicial discretion, while expanding prosecutorial discretion for transfers.

Among the principal goals of such transfer laws are the deterrence of juvenile crime and a reduction in the rate of recidivism, but what does the research indicate about their effectiveness in addressing these ends?

Several studies have found higher recidivism rates for juveniles convicted in criminal court than for similar offenders adjudicated in juvenile courts. The research is less clear, however, in regard to whether transfer laws deter potential juvenile offenders.

This Bulletin provides an overview of research on the deterrent effects of transferring youth from juvenile to criminal courts, focusing on large-scale comprehensive OJJDP-funded studies on the effect of transfer laws on recidivism.

It is our hope that the information provided in this Bulletin will help inform public discussion and policy decisions on the transfer of juvenile offenders to adult criminal courts.
Types of Transfer Laws

While the age at which juveniles can be transferred to the adult system varies across States, most States will transfer youth ages 14 and older who have committed a serious violent offense. Typically, there are four categories of offenses for which juveniles of a certain age may be transferred: (a) any crime, (b) capital crimes and murder, (c) certain violent felonies, and (d) certain crimes committed by juveniles with prior records (Snyder and Sickmund, 2006). (See Griffin, 2003, and Snyder and Sickmund, 2006, for recent comprehensive lists of States, recent transfer statutes, and statutory requirements.)

There are three types of transfer laws, all of which are referred to in this Bulletin: legislative (automatic transfer), judicial-discretionary (judicial transfer), and prosecutorial-discretionary (prosecutorial direct-file). Each type defines the kind of juvenile offender eligible for transfer under the statute, typically specifying certain offenses and minimum age criteria. Most States have two or three coexisting types of transfer laws (Redding and Mrozowski, 2005). For example, 40 States and the District of Columbia have judicial and prosecutorial transfer statutes, with the prosecutorial statutes often applicable only to older and more serious offenders (Sanborn, 2003).

Automatic transfer laws, currently in effect in 29 States (Snyder and Sickmund, 2006), require transfer of a juvenile if statutory criteria are met (for example, alleged commission of a violent felony by juveniles 14 years of age and older). Under these laws, the case either originates in criminal court, or originates in juvenile court and is then transferred to criminal court. Judicial transfer laws, currently in 45 States and the District of Columbia (Snyder and Sickmund, 2006), vest discretion with the juvenile court judge to decide whether a juvenile should be transferred after the prosecution files a transfer motion. Prosecutorial direct-file laws, currently in 14 States and the District of Columbia (Snyder and Sickmund, 2006), vest discretion with prosecutors, allowing them to decide whether to file charges in the juvenile or criminal court. Twenty-five States also have reverse waiver laws (Snyder and Sickmund, 2006). In a reverse waiver jurisdiction, the criminal court judge has the discretion to transfer the defendant back to the juvenile court (or to treat the defendant as a juvenile for sentencing purposes).

25th birthday, with an average of 2 years, 8 months of time served on their sentences (Snyder and Sickmund, 2006).

General and Specific Deterrence

The nationwide policy shift toward transferring juvenile offenders to the criminal court is based largely on the assumption that more punitive, adult criminal sanctions will act as a deterrent to juvenile crime. In terms of specific deterrence—in other words, whether trying and sentencing juvenile offenders as adults decreases the likelihood that they will reoffend—six large-scale studies have found higher recidivism rates among juveniles convicted for violent offenses in criminal court when compared with similar offenders tried in juvenile court. With respect to general deterrence—whether transfer laws deter any would-be juvenile offenders—the picture is less clear. The studies on this issue have produced somewhat conflicting findings; however, the bulk of the empirical evidence suggests that transfer laws have little or no general deterrent effect.

This Bulletin reviews all of the extant research on the general and specific deterrent effects of transferring juveniles to adult criminal court (Redding, 2005), focusing in particular on recent large-scale studies on specific deterrence funded by the Office of Juvenile Justice and Delinquency Prevention (Fagan, Kumpchik, and Liberman, 2003; Lane et al., 2002; Lanza-Kaduce et al., 2005). It also identifies gaps in the field's knowledge base, notes challenges for further research, and discusses whether effective deterrence may be achieved through transfer.

General Deterrence: Do Transfer Laws Prevent Juvenile Crime?

Two studies conducted in the 1980s found that transfer laws did not lower juvenile crime rates. Jensen and Metsger's (1994) time-series analysis for the years 1976 to 1986 found a 13-percent increase in arrest rates for violent crime committed by 14- to 19-year-olds in Idaho after the State implemented its transfer law in 1981. In comparison, between 1982 and 1986, the arrest rates for similarly aged juveniles decreased in the neighboring States of Montana and Wyoming (which retained transfer procedures similar to those Idaho had before 1981). In a similar time-series analysis comparing juvenile arrest rates between 1974 and 1984 in New York and Philadelphia, Singer and McDowall (1988) found that a 1978 New York State law that automatically sent violent juvenile offenders to criminal court (by lowering the ages for criminal court jurisdiction to 13 for murder and 14 for assault, arson, burglary, kidnapping, and rape) had no deterrent effect on violent juvenile crime. The law was applied widely and publicized extensively in the media. Although limited, evidence available at the time suggested that juvenile offenders in New York were aware of the law (Singer and McDowall, 1988).

On the other hand, the results of a multistate analysis for the years 1978 to 1993 suggest that adult sanctions, under certain conditions, may have moderate deterrent effects on juvenile crime (Levitt, 1998). Controlling for demographic and economic variables, the researchers compared the juvenile arrest rates for violent crime across States as a function of each State's minimum age for criminal court jurisdiction to the relative punitiveness of its juvenile and criminal justice systems. Punitiveness is defined as the ratio of the number of incarcerated offenders to the number of total offenders in each State system for different age groups. Researchers found relative decreases in youth crime as youth reached the age of criminal responsibility, but only in those States in which juvenile and criminal justice systems differed significantly in severity of punishment. This suggests that significantly more punitive punishments meted out by criminal courts may deter youth from offending once they reach the age of criminal responsibility.

Two multistate studies reached a different conclusion. Examining data on all felony arrests in the State of Florida between 1989 and 2002, including each offender's age and arrest history, Lee and McCrory (2005) evaluated the effect of turning age 18 on criminal offending. This study found that young people did not lower their offending rates upon turning age 18, suggesting that the prospect of adult sanctions was not a deterrent.
Steiner and Wright (2006) examined the effects of prosecutorial transfer laws in the 14 States that had such laws as of 2003.3 These States enacted their laws at different times (between 1975 and 2000), thereby providing data over different historical time periods. Using time-series analyses, researchers compared monthly juvenile arrest rates for violent index crime (homicide, rape, robbery, and aggravated assault) for each month in the 5 years before and the 5 years after each State enacted its prosecutorial transfer law. In addition, 2 States were selected as controls for each of the 14 target States. The control States resembled the target States in size, location, and juvenile arrest rates, but implemented no transfer law during or near the relevant time period. The study found that transfer laws had no general deterrent effect. Only in Michigan did juvenile crime decrease after the State enacted its prosecutorial transfer law; in the other 13 States, juvenile crime either remained constant or increased after the enactment of the law (see also Risler, Sweatman, and Nackerud, 1998).

A few researchers have interviewed juvenile offenders about the effects of transfer. Before the widespread expansion of transfer laws, Glassner and colleagues (1983) reported the results of interviews with a small number of juvenile offenders in New York, who said they had decided to stop offending once they reached the age at which they knew they could be tried as adults.

Researchers in another small-scale study (Redding and Fuller, 2004) interviewed 37 juvenile offenders who had been charged with murder or armed robbery and automatically tried as adults in Georgia. The study examined their knowledge and perceptions of transfer laws and criminal sanctions. Georgia had undertaken a public awareness campaign to inform juveniles about the State's new automatic transfer law. Nevertheless, juvenile offenders reported being unaware of the law; only 8 of the 37 youth knew that juveniles who committed serious crimes could be tried as adults. Even among those who knew about the law, none expected that it would be enforced against them for the serious crime they had committed. Many thought they would only get light sentences (e.g., a sanction of probation, boot camp, or a several-month stay in a juvenile detention facility) from the juvenile court. These results are consistent with those from a Canadian study (Peterson-Badali, Ruck, and Koegl, 2001) finding that only 22 of the 53 juvenile offenders interviewed thought that they would receive a serious punishment if caught.

Seventy-five percent of the transferred juveniles interviewed by Redding and Fuller (2004) felt that their experiences in the adult criminal justice system had taught them the serious consequences of committing crimes. As one juvenile explained, "[B]eing 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 6 months if I got caught" (Redding and Fuller, 2004:39). Seventy-five percent of the juvenile offenders said that if they had known they could be tried and sentenced as adults, they may have not committed the crime (Redding and Fuller, 2004).

In sum, the limited empirical research on the general deterrent effect of juvenile transfer is somewhat inconsistent and does not permit strong conclusions. The bulk of the evidence suggests that transfer laws, at least as currently implemented and publicized, have little or no general deterrent effect in preventing serious juvenile crime. Substantial further research is needed to examine whether transfer laws have—or, under the appropriate conditions, could have—a general deterrent effect. In particular, it is important to examine the following questions:

- Are juveniles aware of transfer laws?
- Do they believe the laws will be enforced against them?
- Does this awareness and belief deter criminal behavior?

In conjunction with such research, there is a need to implement and evaluate well-targeted public awareness campaigns on the State and local levels designed to apprise juveniles of the legal consequences of committing serious crimes (Redding and Fuller, 2004). Public awareness campaigns have proved effective in reducing adult crime in some contexts (e.g., Elder et al., 2004; Johnson and Bowers, 2003).

**Potential Deterrence**

It is possible that transfer laws resulting in significant adult sentences might have general deterrent effects if would-be juvenile offenders were made aware of such laws and if the laws were widely implemented. With respect to adult offenders, studies "plainly suggest that when potential offenders are made aware of substantial risks of being punished, many of them are indeed dissuaded" (Von Hirsch et al., 1999:47). However, research with adults suggests that the severity of punishment appears to have little or no effect on crime rates (Pratt and Cullen, 2005; Robinson and Darley, 2004), perhaps because potential offenders typically have much more information about the likelihood of being arrested than they do about likely sentences (Von Hirsch et al., 1999).

Studies show that the general public knows little about potential sentences and tends to underestimate their severity (Robinson and Darley, 2004; Von Hirsch et al., 1999). In addition, offenders tend to discount punishment as an uncertain future event, whereas the short-term rewards of crime are more powerful pull factors (Wilson and Herrnstein, 1985).

"[F]uture contingent costs may be discounted less, if their magnitude is sufficiently great and their likelihood of being incurred increases. Severe sentencing policies thus might possibly have an impact if coupled with much higher probabilities of conviction" (Von Hirsch et al., 1999:48).

Although studies of juvenile offenders are few in number, they suggest that arrests and sanctions have deterrent effects. For example, Mocan and Rees (2005) examined self-reported delinquency data (for drug selling, assault, robbery, burglary, and theft) for 14,942 adolescents from the 1995 National Longitudinal Study of Adolescent Health. They compared county-level arrests (of adults and juveniles) for violent crime reported in 1993 with county-level juvenile crime rates in 1995, thus providing a measure of the deterrent effects of arrest rates on subsequent juvenile crime rates. They found that the arrest rate had a general deterrent effect on the crimes of drug dealing and assault; for each additional arrest, there was a 3.6-percent decrease in the likelihood that juveniles would sell drugs and a 6.6-percent decrease in the likelihood that they would commit an assault. According to Mocan and Rees (2005:344), "this pattern of results runs counter to claims that at-risk young Americans are so present-oriented that they do not respond to incentives and sanctions."

Similarly, Smith and Gartin (1989) found that being arrested reduced recidivism among youthful male offenders, particularly first-time offenders. A 2003 study of serious juvenile offenders incarcerated in a maximum security facility found a negative
relationship between their sentence severity and self-reported intent to reoffend and a positive correlation between their self-reported intent and the number of offenses they actually committed after their release. Researchers found evidence that these offenders made "some explicit calculations about the advantages and disadvantages of committing future crimes" (Corrado et al., 2003:197).

Criminal sanctions will only have deterrent effects if potential offenders: (1) believe there is a significant likelihood of getting caught, (2) believe there is a significant likelihood of receiving a substantial sentence, and (3) consider the risk of the penalty when deciding whether to offend (see Von Hirsch et al., 1999). It is useful to consider, however, each of the necessary preconditions for successful deterrence in the context of juvenile offending. A law can act as a deterrent only if the targeted population is aware that the law exists and believes that it will be enforced.

Redding and Fuller (2004) found that few violent juvenile offenders knew that they could be tried as adults, none thought it would happen to them, and few thought they would face serious punishment. Moreover, few reported thinking about the possibility of getting caught when they committed the offense. Indeed, it seems that offenders generally underestimate the risk of arrest (Robinson and Darley, 2004). Juveniles’ psychosocial immaturity, including their tendency to focus on the short-term benefits of their choices (Beckman, 2004; Scott, Reppucci, and Woolard, 1995; Steinberg and Cauffman, 1996), may reduce the likelihood that they will perceive the substantial risk of being arrested or punished as an adult (Schneider and Ervin, 1990).

Specific Deterrence
To date, six published studies have been conducted to examine the specific deterrence effects of transfer. These large-scale studies indicate that youth tried in adult criminal court generally have greater recidivism rates after release than those tried in juvenile court. It is unclear, however, whether transfer affects recidivism for nonviolent property or drug offenders.

Fagan (1996) examined the recidivism rates of 80 randomly selected 15- and 16-year-old juvenile offenders charged with robbery or burglary during 1981-82. Controlling for eight variables (race, gender, age at first offense, prior offenses, offense severity, case length, sentence length, and court), as well as for time residing in the community, researchers compared offenders charged in New Jersey's juvenile courts with offenders charged in New York's criminal court under that State's automatic transfer law (under which 16 is the age of full criminal responsibility). Both areas shared similar demographic, socioeconomic, and crime-indicator characteristics. Thus, the study provides a comparison of recidivism rates as a function of whether cases were processed in the juvenile or criminal court, without the sample selection problems inherent in studies comparing cases within a single jurisdiction where prosecutors or judges decide which cases to transfer.

A higher percentage of youth who were tried for robbery in criminal court were rearrested (91 percent) than those tried for robbery in juvenile court (73 percent). Of youth who were rearrested, those tried in the criminal court also were rearrested sooner and more often. However, there were no differences in recidivism rates (in terms of the percent rearrested, rearrest rate, and time to rearrest) for burglary offenders tried in the criminal court versus those tried in juvenile court. The findings on robbery offenders suggest that criminal court processing alone, irrespective of whether youth are incarcerated in juvenile or adult facilities, produces a higher recidivism rate. This finding is emphasized by the parallel finding that even those youth sentenced to probation in criminal court had a substantially higher recidivism rate than those incarcerated in the juvenile justice system (see also Mason and Chang, 2001).

Juveniles with the highest recidivism rates were those who were incarcerated after being tried in the criminal court. The study indicated that, overall, youth adjudicated in juvenile court had a 29-percent lower risk of rearrest than those tried in criminal court. Drug offenses were the one exception. Criminal court adjudication substantially reduced the risk of rearrest in those cases.

Bishop and colleagues (1996) compared the 1-year recidivism rate of 2,738 juvenile offenders transferred to criminal court in Florida in 1987 with a matched sample of 2,738 juvenile offenders who had not been transferred. Florida relies almost exclusively on prosecutorial transfer. These transfer decisions are largely offense-driven and made soon after arrest, before the prosecutor has much information about the youth's background. Therefore, it is less likely that the youth retained in the juvenile justice system had lower recidivism rates due to variables other than those controlled for in the analysis, such as the youth's mental health status or amenability to treatment (Bishop and Frazier, 2000). The study controlled for seven variables (race, gender, age, number of referrals to juvenile court, most serious prior offense, number of charges, and most serious charge). Researchers found that the rearrest rates were higher (0.54 versus 0.32 offenses per person, per year of time living in the community) among transferred youth. Also, the average time to reoffending was shorter (135 versus 227 days) for the transferred youth across seven offense types (including violent felonies, property offenses, and minor misdemeanors).

Following the same Florida offenders 7 years after the initial study by Bishop et al. (1996), Winner et al. (1997) compared transferred versus nontransferred offenders matched for gender, age, race, and offending history. They found that the rearrest rates were higher and the time to reoffending shorter (adjusting for time residing in the community following release from incarceration) among those who had been transferred to criminal court. The exception was transferred property felons who had lower recidivism rates than similar offenders who remained under juvenile court jurisdiction.

Myers (2001, 2003) examined the 18-month recidivism rates of 494 juvenile offenders charged with robbery or aggravated assault in Pennsylvania in 1994, using a statistical model to control for the possibility that the transferred juveniles were more serious offenders in the first place (and therefore more likely to recidivate) or those less amenable to treatment in the juvenile system. The study controlled for age at referral, race, geographical location, school and family status, various indices of prior offending history, use of a weapon, and various case-processing variables. Youth who were judicially transferred to criminal court were twice as likely to be rearrested, and were rearrested more quickly (and often for more serious offenses) upon their return to the community, than youth who were retained in the juvenile justice system during the same period.

Finally, two recent large-scale studies funded by OJJDP are particularly informative:
Recent OJJDP-Funded Studies

Lanza-Kaduce and colleagues (2005) conducted a second Florida study that included 950 young adult offenders.1 Half of the offenders had been prosecutorially transferred to the criminal court in 1995 or 1996 for offenses they had committed as juveniles; the other half had remained in the juvenile system. This resulted in a sample of 475 matched pairs of transferred and retained cases.

The cases were drawn from six urban and rural judicial circuits in Florida that differed considerably in their rates of transfer. The cases were matched within each judicial circuit (thus controlling for geographical effects in case processing and decisionmaking) along seven relevant demographic, criminal history, and offense variables: age, gender, race, number of previous juvenile referrals, most serious prior offense, offense, and number of charges. In addition, a subset of this group, consisting of 315 best matched pairs, were further matched according to an offense seriousness index created by examining local records to obtain data about 12 other case characteristics: prior juvenile referrals, multiple charges at arrest, multiple incidents involved in the case, charge consolidation, legal problems during case processing, gang involvement, codefendants or accomplices, property loss or damage, victim injury, use of weapons, felony charges, and the presence of mitigating and aggravating factors. The measure of recidivism was the number of offenses committed after youth turned age 18, and data analyses were conducted on the 475 matched pairs, as well as on the subset of 315 best matched pairs.

Transferred Juveniles More Likely To Offend

The Lanza-Kaduce study expands on the earlier Florida studies (i.e., Bishop et al., 1996; Winner et al., 1997). It includes reoffense types and a detailed matching on relevant case and offense characteristics (see Frazier et al., 1999). Its recidivism data draws on information from two different State databases. To reduce a potential lack of comparability in recidivism measures between transfers and juvenile court retainees due to differences in decision-making and recordkeeping between the two systems, it examines offending after age 18. "The focus on adult recidivism . . . captures the persistence of a criminal career into adulthood—a pivotal policy concern" (Lanza-Kaduce et al., 2005:64). Moreover, the data "include cases transferred in 1995 and 1996, after the 'get tough' idea was fully entrenched in the American culture and after prosecutorial transfer had been used in Florida for a long time" (Lanza-Kaduce et al., 2005:65).

Like the earlier Florida studies, this study found that transferred offenders, particularly violent offenders, were significantly more likely to reoffend.

Overall, 49 percent of the transferred offenders reoffended, compared with 35 percent of the retained offenders.

For violent offenses, 24 percent of the transferred offenders reoffended, compared with 16 percent of the retained offenders.

For drug offenses, 11 percent of the transferred offenders reoffended, compared with 9 percent of the retained offenders.

For property offenses, 14 percent of the transferred offenders reoffended, compared with 10 percent of the retained offenders.

The results were virtually identical for the subset of 315 best matched pairs. In addition, researchers conducted paired-comparison analyses in which each matched pair was the unit of analysis. This analysis classified each pair according to whether both offenders reoffended (21 percent of cases), only the transferred offender reoffended (29 percent of cases), only the retained offender reoffended (15 percent of cases), or neither reoffended (36 percent of cases).2 Again, the results were virtually identical for the subgroup of best-matched pairs. However, the study failed to replicate the 1997 Florida study finding of lower recidivism rates among transferred property offenders (Winner et al., 1997).

In addition to the recidivism study, the Florida research group conducted detailed interviews with 144 serious male offenders between the ages of 17 and 20, half of whom had been transferred and the other half of whom were retained in the juvenile system (Bishop and Frazier, 2000; Lane et al., 2002). Eighty-three percent had more than one prior arrest. 60 percent began offending before the age of 14, and 47 percent had committed a violent offense as their most serious current offense. Interviews were conducted in four "deep-end" juvenile correctional institutions (i.e., 9–36 month placements in highly secure juvenile correctional facilities designed for high- and medium-risk offenders) and eight adult prisons in Florida (mostly youthful offender facilities designed to house young adults up to age 24), with youth at different stages in serving their sentence. Of the 71 youth who had been transferred to the adult system, 63 also had prior experience in the juvenile system. Fifty-eight percent of the youth rated the deep-end juvenile placements as beneficial, 33 percent rated the adult prison as beneficial, 20 percent rated the less restrictive juvenile dispositions (for example, probation, placement in low-risk residential programs) as beneficial, and 12 percent rated adult probation as beneficial.

The youth rated the deep-end juvenile programs the most beneficial largely because these programs provided intensive, long-term job skills training and treatment. In addition, the lengthier period of incarceration gave them more time to consider their futures and the consequences of reoffending, suggesting that the longer sanctions had an impact (Lane et al., 2002). But "[o]ften when adult sanctions were perceived as being beneficial, the benefit was not attributed to anything gained from the disposition. Rather, many youth indicated that they expected to remain crime-free because their experiences in the adult system had been so horrible. Youth who believed the adult sanctions would keep them from committing crimes primarily pointed to three reasons: pain and denigration, time spent in prison, and fear of future consequences, especially tougher sentences. Paradoxically, most of those who said the adult experience was negative also mentioned pain, denigration, and/or anger, but they gave these as reasons why the adult dispositions had made matters worse. Others attributed a negative impact to adult sanctions because they 'learned more crime while there'" (Lane et al., 2002:444). While a substantial minority of the youth said that prison had taught them a lesson—declaring that they would not reoffend because they did not want to endure the pain of imprisonment again—61 percent said that prison had either no impact or a negative impact on their behaviors (Lane et al., 2002:448). Overall, the "findings call into question the practice of [incarcerating juveniles in adult prison and] 'skipping' the deep-end juvenile programs when sentencing youth for serious crimes" (p. 452).
In another OJDP-sponsored study, Fagan and colleagues (2003) extended and largely replicated previous research (Fagan, 1996). This time, they examined the time-at-risk (i.e., residing in the community) recidivism rates for 2,382 15- and 16-year-old juveniles charged in 1992 or 1993 with robbery, burglary, or assault. The 2003 study used a larger sample drawn from more counties in each State as well as more detailed measures of important variables, such as offenders’ prior juvenile record. The study compared those charged in selected counties in northern New Jersey, where such cases originate in the juvenile court, with those charged in matched counties in New York, where such cases originate in the criminal court. The New York and New Jersey counties are contiguous, and part of a large metropolitan area that shares common demographic, economic, and social characteristics as well as similar criminogenic influences and crime rate characteristics. Thus, the study design allows for comparison of recidivism rates as a function of whether cases are processed in juvenile court or criminal court, without the sample selection problems inherent in designs that compare cases retained in the juvenile court with those transferred in a single jurisdiction wherein decisionmakers decide which cases to transfer. All cases were followed for a 7-year period until 2000, by which time almost all of the offenders had served their sentences and had spent at least 2 years living in the community. The study statistically controlled for a variety of relevant demographics (age, gender, ethnicity), case and offense characteristics (for example, most serious charge, weapon use, whether detained, case length), criminal history variables (age at first arrest, number of prior arrests, previous incarcerations), and sentence length. It used statistical techniques that analyzed recidivism in different ways (first rearrest, severity of rearrest charges, time until rearrest, likelihood of subsequent incarceration).

Greater Likelihood of Rearrest

The study found a 100-percent greater likelihood of rearrest for a violent offense and a 47-percent greater likelihood of rearrest for a property offense, among the New York juveniles whose cases were processed in the criminal court than for the New Jersey juveniles. They also had a greater number of rearrests for such offenses and a 26-percent greater chance of being reincarcerated. The pattern of findings was even stronger for first-time offenders. For drug offense rearrests, however, the results were reversed, with the juveniles tried in juvenile court having a 31-percent greater likelihood of rearrest for drug offenses. Finally, the study found that the differences in recidivism were unrelated to periods of incarceration in adult versus juvenile facilities. Thus, incarceration in adult prisons “does not seem to be responsible for the criminogenic effect of adult court processing” (Fagan et al., 2003:66).

These findings fully replicate those of the earlier Fagan (1996) study, except with respect to property offenses. The 1996 study found no difference in recidivism rates for burglary, whereas the 2003 study found that criminal court processing increased the recidivism rates for property offenses.

Transfer Found To Increase Recidivism

In sum, to date, six large-scale studies have been conducted on the specific deterrent effects of transfer. These studies used large sample sizes (between 494 and 5,476 participants), different methodologies (natural experiment across two jurisdictions, matched groups within the same jurisdictions, or statistical controls), multiple measures of recidivism, and were conducted in five jurisdictions (Florida, New Jersey, New York, Minnesota, Pennsylvania) having different types of transfer laws (automatic, prosecutorial, or judicial). The strong consistency in results across the studies is all the more compelling given that they used different samples and methodologies, thereby providing a degree of convergent validity for the findings. All of the studies found higher recidivism rates among offenders who had been transferred to criminal court, compared with those who were retained in the juvenile system. This held true even for offenders who only received a sentence of probation from the criminal court. Thus, the extant research provides sound evidence that transferring juvenile offenders to the criminal court does not engender community protection by reducing recidivism. On the contrary, transfer substantially increases recidivism. A recent review of the extant research on transfer conducted by the Centers for Disease Central arrived at the same conclusion (McGowan et al., 2007). Only two apparent exceptions challenge this pattern of findings. For nonviolent property offenders, the effects of transfer remain unclear, with one study finding that transfer had no effect on recidivism (Fagan, 1996) and another finding that transfer decreased recidivism (Winner et al., 1997), but with two studies (conducted in the same jurisdiction as the first two studies) finding that it increased recidivism (Fagan et al., 2003; Lanza-Kaduce et al., 2005). In addition, with respect to drug offenders, two studies (Fagan, 1996; Fagan et al., 2003) found decreased recidivism rates among those tried in the criminal court.

**Challenges for Future Research**

Important challenges for future research are to determine: (1) whether transfer differentially impacts recidivism as a function of offense type (violent offenses, property offenses, drug offenses), and (2) what features of the criminal justice system increase recidivism, an important question for policymaking. These challenges raise such questions as the following:

- Can changes be made in the criminal court processing and adult system sanctions of juveniles to make them less detrimental? What are they?
- In what ways should the juvenile justice system guard against those features of the criminal justice system that serve to increase recidivism?
- How can States’ blended sentencing systems, which allow the juvenile courts to impose adult sentences in certain cases (see Redding and Howell, 2000), incorporate the best features of the juvenile and criminal justice systems, while avoiding the negative effects of criminal justice system 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 (Bishop and Frazier, 2000:263).

These findings are consistent with those of Redding and Fuller (2004), who found that juveniles tried as adults clearly felt that transfer laws were unfair. Many felt that their juvenile status and immaturity dictated that they should be tried as juveniles, despite the serious crimes they had committed. They also did not understand why the legal system was trying them as adults, and they saw themselves as being treated differently from other similarly situated juveniles. Both perceptions contributed to their sense of unfairness, perhaps leading to greater cynicism about the legal system as a result of being incarcerated (see Piquero et al., 2005).

Some studies indicate that prison incarceration “does not seem to be responsible for the criminogenic effect of adult court processing” (Fagan, Kupchik, and Liberman, 2003:66). One reason for the increased recidivism of these offenders, however, might be the reduced opportunities for meaningful rehabilitation in adult prison. Forst, Fagan, and Vivona’s 1989 study, for example, found that youth in juvenile facilities gave higher marks than youth in adult facilities to the available treatment and case management services. Youth in juvenile detention described these services as helpful in providing counseling, enabling them to obtain needed services, encouraging participation in programs, teaching the consequences of rule breaking, and deepening their understanding of their problems. Similarly, in a recent study comparing the experiences of youths in adult versus juvenile correctional facilities in a large Northeastern State, all of whom had been tried in adult criminal court, Kupchik (2007) found that youths in juvenile facilities reported far more positive, mentoring-style staff-inmate interactions than did the youths in adult facilities. However, youths in adult facilities reported having greater access to counseling and educational services, perhaps because of the larger size of the adult facilities.

Bishop and Frazier’s recent Florida study (2000) vividly portrays the differences between juvenile and adult correctional facilities. They found that the juvenile correctional institutions were treatment-oriented and adhered to therapeutic models of rehabilitation (Bishop and Frazier, 2000:255). “Compared to the criminal justice system, the juvenile system seems to be more integrative in practice and effect” (Bishop and Frazier, 2000:255). Youths in juvenile facilities had positive feelings about the staff, who they felt cared about them and taught them appropriate behaviors. Most of the juveniles incarcerated in juvenile facilities felt confident that they would not reoffend, often crediting the staff with helping them make this positive change. Conversely, only a third of the juveniles in adult prisons said that they would not reoffend.

Juveniles in adult prison reported that much of their time was spent learning criminal behavior from the inmates and proving how tough they were. They also were much more fearful of being victimized than they had been when incarcerated in juvenile facilities, and more than 30 percent had been assaulted or had witnessed assaults by prison staff. Indeed, Beyer (1997) paints a bleak picture of life in adult prison for juveniles, who are at greater risk for suicide, as well as for physical and sexual abuse from older inmates. As compared with those in juvenile facilities, juveniles incarcerated 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 or beaten by staff (Beyer, 1997). Because juveniles in adult prisons are exposed to a criminal culture in which inmates commit crimes against each other, these institutions may socialize delinquent juveniles into true career criminals. In an older study about life in prison (Eisikovits and Baizerman, 1983), violent juvenile offenders 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, thus, becoming even more violent. Finally, Redding and Fuller (2004) found that juveniles whose jail or prison experiences were worse than they had expected, and those who reported witnessing or experiencing violence while incarcerated, were less likely to say that their incarceration would deter them from committing crimes in the future. This finding raises the possibility that incarceration in adult facilities may have brutalizing effects on juveniles, which may partly account for their increased recidivism. (The term “brualization effect” describes the finding that homicide rates in a State often increase after an execution (Bowers, 1998), perhaps because executions model and communicate that violence is an acceptable and psychologically cathartic alternative.) Likewise, juveniles’ brutal experiences in adult prison may teach the wrong lessons about the acceptability and psychological benefits of criminal conduct, particularly violent crime, while also contributing to their sense of being treated unfairly, both of which may increase recidivism. Further research is needed on this issue.

Implications for Policymakers and Practitioners

The research findings on juvenile transfer have the potential to impact both policy and practice. In a recent study, Hensl and Redding (2005) found that juvenile court judges who were knowledgeable about the ineffectiveness of transfer in reducing recidivism were somewhat less likely to transfer juvenile offenders to the criminal court. This finding suggests that educating judges, prosecutors, court personnel, and legislators about the research on transfer may reduce the number of cases transferred to criminal court or the number of transferred cases that result in criminal sanctions. The Miami-Dade County Public Defender’s Office developed the Juvenile Sentencing Advocacy Project, which produced a 350-percent increase in the number of transferred cases receiving a juvenile rather than an adult sanction from criminal court judges (Mason, 2000). In Florida, which has had some of the most aggressive transfer policies in the Nation, the number of juveniles prosecuted in the criminal court decreased by two-thirds between 1996 and 2003 (whereas the total number of juvenile court cases decreased by only 9 percent), apparently due, in part, to research disseminated showing the counter-deterrent effects of transfer (Bishop, 2004). Moreover, in the last several years, some States have reduced the scope of transfer laws to make fewer juvenile offenders eligible for prosecutorial or judicial transfer (Bishop, 2004; Griffin, 2003).

Yet in Florida, for example, the data show that the transferred cases were generally no more serious, and sometimes were less serious, than the cases retained in the juvenile justice system (Lanza-Kaduce, Frazier, and Bishop, 1999). Forty-three percent of the 1,100 juveniles incarcerated in adult prisons for offenses committed when they were 15 years old or younger had not previously been committed to a juvenile justice program (Anmino, 2000). Thus, the juvenile justice system never had an opportunity to rehabilitate these youth before they were transferred to the adult system, despite the fact that serious juvenile offenders in Florida report that intensive juvenile placements are relatively more beneficial than either adult prison or mild juvenile sanctions (Lane et al., 2002).

But Florida is not unique in transferring first-time offenders to the criminal court. Transfer laws, particularly automatic transfer laws, often target first-time offenders, even though they do not pose the greatest recidivism risk or threat to community safety. The frequency of offending, instead of the seriousness of the first offense, best predicts overall recidivism and the risk for committing a subsequent violent offense (see Bishop, 2004; Piquero, 2000; Redding, 1997). To best achieve reductions in recidivism, the overall number of juvenile offenders transferred to the criminal justice system should be minimized. Moreover, those who are transferred should be the chronic repeat offenders—rather than first-time offenders—particularly in cases where the first-time offense is a violent offense.

Conclusion

Most practitioners would agree, consistent with the extant research, that it is important that the juvenile courts’ response to juvenile offenders be calibrated to have sufficient effectiveness as a deterrent while not being overly punitive. The practice of transferring juveniles for trial and sentencing in adult criminal court has, however, produced the unintended effect of increasing recidivism, particularly in violent offenders, and thereby of promoting life-course criminality (Scott, 2000). But, if it was indeed true that transfer laws had a deterrent effect on juvenile crime, then some of these offenders would not have offended in the first place. Although the limited extant research falls far short of providing definitive conclusions, the bulk of the empirical evidence suggests that transfer laws, as currently implemented, probably have little general deterrent effect on would-be juvenile offenders.

Notes

1. Seventeen States currently have “blended sentencing” laws (see Redding and Howell, 2000) that permit the criminal court, after its adjudication of the youthful offender, to impose juvenile sentences in certain cases. Fifteen States permit the juvenile court to impose limited juvenile sanctions (Snyder and Sickmund, 2006).
2. In addition, brochures were sent to public schools announcing the law and the legal risks juvenile offenders faced, and juvenile court judges warned youth about the risks of committing violent offenses (S. Singer, 2004, personal communication).
3. These States included Arizona, Arkansas, California, Colorado, Florida, Georgia, Louisiana, Michigan, Montana, Nebraska, Oklahoma, Vermont, Virginia, and Wyoming.
4. This is the most recent in a series of studies conducted by the Florida research group. These studies, which have been funded by the Florida Department of Justice and OJJDP, are part of an ongoing research program, beginning in the mid-1980s, studying the effects of transfer in Florida. For an overview of the Florida research program, see Frazier et al., 1999.
5. The total does not equal 100 because of rounding.

References


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Effects on Violence of Laws and Policies Facilitating the Transfer of Youth from the Juvenile to the Adult Justice System

A Report on Recommendations of the Task Force on Community Preventive Services
Effects on Violence of Laws and Policies Facilitating the Transfer of Youth from the Juvenile to the Adult Justice System

A Report on Recommendations of the Task Force on Community Preventive Services*

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Summary

The independent, nonfederal Task Force on Community Preventive Services (Task Force), which directs the development of the Guide to Community Preventive Services (Community Guide), conducted a systematic review of published scientific evidence concerning the effectiveness of laws and policies that facilitate the transfer of juveniles to the adult criminal justice system to determine whether these transfers prevent or reduce violence among youth who have been transferred and among the juvenile population as a whole. For this review, transfer is defined as placing juveniles aged <18 years under the jurisdiction of the adult criminal justice system. The review followed Community Guide methods for conducting a systematic review of literature and for providing recommendations to public health decision makers. Available evidence indicates that transfer to the adult criminal justice system typically increases rather than decreases rates of violence among transferred youth. Available evidence was insufficient to determine the effect of transfer laws and policies on levels of violent crime in the overall juvenile population. On the basis of these findings, the Task Force recommends against laws or policies facilitating the transfer of juveniles to the adult criminal justice system for the purpose of reducing violence.

Background

The purpose of this review was to determine whether laws or policies that facilitate the transfer of juveniles from the juvenile to the adult criminal justice system reduce interpersonal violence, either specifically among juveniles who have experienced the adult justice system or in the general juvenile population. One rationale for the transfer of juveniles to the adult justice system is to deter future criminal activity, on the premise that the adult system is more severe and punitive than the juvenile system. For this review, transfer (also referred to as “waiver”) to denote the...
relinquishing of authority by the juvenile courts) refers to placing juveniles under the jurisdiction of the adult criminal justice system. Although the legal term "juvenile" is defined differently among states, for purposes of this review, a juvenile is considered a person aged <18 years. Juveniles who are not transferred to the adult court system are said to be retained in the juvenile system.

The reduction of violence through transfer policies is hypothesized to occur by two mechanisms—specific deterrence and general deterrence—both of which rely on the perceived severity of the adult criminal justice system compared with the juvenile system. "Specific deterrence" refers to juveniles who have been subjected to the adult justice system and "general deterrence" refers to all youth in the population who might be subject to transfer provisions if charged with a crime. "Deterrence" applies to the behavioral outcome of reduced offending or re-offending and not to decision processes made by the affected youth. Incapacitation is the inability of incarcerated convicts to commit crimes in society during incarceration; incapacitation is thought to be increased for juveniles in adult settings compared with those in juvenile settings.

In a representative national survey in 2002, rates of the perpetration of violent crime, including simple and aggravated assault, robbery, and rape, were highest among persons aged 15–20 years (1,2). U.S. adults reported approximately 1.9 million incidents of victimization by perpetrators estimated to be aged 12–20 years, a rate of 5.1 incidents per year of victimization per 100 juveniles in this age group (3,4). Although arrest and victimization data indicate declines among juveniles for violent acts in general following a peak during 1993–1994, self-report of offenses continues to indicate high rates of violence (3).

Juvenile and criminal law in the United States are principally state matters. Juvenile courts were first established in 1899 in Illinois. By 1925, all states except Maine and Wyoming had separate juvenile courts (5). Separate judicial process for juveniles has been justified on several grounds related to the psychosocial development of this population (6). Certain developmental differences are cited in justification of the Supreme Court decision to ban capital punishment for crimes committed by offenders aged <18 years at the time of the crime (7). In general, juveniles differ from adults in their biologic development and mental processes and capacities. Juveniles are less aware of consequences, less able to regulate impulses or inhibit behavior, and thus less culpable for their actions than adults. In addition, juveniles have less ability to understand and thus participate in the standard adult judicial process (8). Finally, juveniles are more malleable and amenable to reform of their behavior. Therefore, an emphasis of the judicial response to their deviant behavior should be on reform rather than, or in addition to, punishment—in contrast to the punitive focus of the adult criminal justice system (6). The policy implications of these developmental issues with respect to court jurisdiction remain controversial, especially because of the variations in adolescent cognitive and social development for which chronologic age is not a precise marker.

In contrast to the adult criminal court, which is oriented toward punishment, the traditional juvenile court has acted "in the interests of the child" and focused on rehabilitation rather than punishment because juveniles are assumed to be more amenable than adults to treatment (9). Juvenile courts in the United States have always followed the principle of "pares patriae"—the state acts as a guardian for those who cannot take care of themselves, such as children and the mentally ill (10,11). Traditionally, transfer from juvenile to adult court jurisdiction has required a determination that the juvenile was not amenable to treatment (5,10). Recent changes to the juvenile court's mission weighs protection of the community and the interests of the child (11).

Although states establish their own juvenile and adult criminal law, common trends are discernible across states. Following the increases in violent juvenile crime in the late 1980s and early 1990s, during 1992–1999, all states except Nebraska expanded their transfer provisions to facilitate prosecuting juveniles in the adult justice system (12–16). An estimated 210,000–260,000 juveniles, or 20%–25% of all juvenile offenders, were prosecuted as adults in 1996 (14).

Persons aged <18 years can be tried in the adult criminal justice system by one of six main mechanisms. In "judicial waiver," the traditional mechanism, a juvenile court judge can waive a youth to the adult system, generally based on perceived lack of amenability to treatment, which is often based on considerations such as age, seriousness of the current offense, and previous delinquency (13). In "prosecutorial waiver," the prosecutor has the discretion to file a case in the juvenile or the adult criminal court system. In "statutory exclusion," youth of particular ages charged with particular crimes (e.g., homicide) are excluded by statute from juvenile justice system jurisdiction. When particular charges are excluded from juvenile court by statutory means, discretion resides with prosecutors, who decide which charges are filed; choice of charge might determine whether the juvenile is transferred (15).

The increases in transfer resulting from the preceding three mechanisms are amplified by a policy that "once an adult, always an adult," whereby youth once transferred to
adult court also are automatically transferred for any future offending (13). With lowered age of adult court jurisdiction, states set the age at which a person is considered responsible for criminal actions, and no longer eligible for juvenile court, to an age younger than the traditional age of 18 years. Finally, in certain states, juveniles who are married or otherwise "emancipated" (i.e., released from parental authority) are excluded from juvenile court. In a mechanism typically referred to as "reverse waiver," youth who have not reached the age of majority can be transferred from the adult court back to the juvenile court when cases are deemed inappropriate for the adult criminal court system.

States also are experimenting with "blended sentencing," which allows a juvenile to be sentenced to both juvenile and adult sanctions by one court. Blended sentencing by the juvenile court allows the court to monitor youth beyond the traditional end of juvenile jurisdiction (16). This frequently involves juvenile incarceration until the age of majority, followed by adult incarceration. Greater sentencing flexibility might reduce the pressure to transfer court jurisdiction, but little research has been conducted on how blended sentencing is used in practice (17).

**Introduction**

The independent, nonfederal Task Force on Community Preventive Services (Task Force) develops the *Guide to Community Preventive Services (Community Guide)*, with the support of the U.S. Department of Health and Human Services (DHHS), in collaboration with public and private partners (18,19). Although CDC provides staff support to the Task Force for development of the Community Guide, the recommendations presented in this report were developed by the Task Force and do not necessarily reflect the viewpoints of CDC or DHHS.

This report is one in a series included in the *Community Guide*, a resource that includes multiple systematic reviews addressing preventive public health topics (e.g., violence prevention, preventing tobacco use, and reducing the incidence of cancer) (19). This section provides an overview of the process used by the Task Force to select and review evidence and summarize its recommendations regarding interventions to prevent or reduce violence. A full report on the recommendations, supporting evidence, and remaining research questions regarding the effects of strengthened transfer laws and policies on violence is published elsewhere (20).

Using effective interventions to reduce violence might help to achieve certain objectives specified in *Healthy People 2010* (21), the disease prevention and health promotion agenda for the United States. *Healthy People 2010* objectives identify some of the substantial preventable threats to health and can help focus the efforts of public health systems, legislators, and law enforcement officials for addressing those threats by establishing measurable targets. Many of the *Healthy People 2010* objectives regarding injury and violence prevention (e.g., the reduction of rates of assault, homicide, rape, and robbery) might be positively affected by the intervention reviewed in this report.

**Methods**

In this review, *Community Guide* procedures were used to assess systematically whether policies that facilitate the transfer of juveniles from the juvenile to adult criminal justice system have been effective in reducing violence among juveniles. *Community Guide* methods for systematic reviews have been discussed elsewhere (22). In the *Community Guide*, evidence is summarized about the effectiveness of interventions in changing one or more health-related outcomes and about other positive or negative effects of the intervention. If an intervention is effective, evidence also is summarized regarding the applicability of the findings (i.e., the extent to which available effectiveness data might apply to diverse populations and settings), other harms or benefits of the intervention, economic efficiency, and barriers to the implementation of the intervention.

As with other *Community Guide* reviews, the process used to review evidence systematically and then translate that evidence into conclusions involves forming a systematic review development team; developing a conceptual approach to organizing, grouping, and selecting interventions; selecting interventions to evaluate; searching for and retrieving evidence; assessing the quality of and abstracting information from each study; assessing the quality of and drawing conclusions about the body of evidence (i.e., all available evidence combined) of effectiveness; and translating the evidence of effectiveness into recommendations.

Three groups comprised the systematic review development team: the coordination team, the consultation team, and the abstraction team.* The coordination team ("the team") consisted of a Task Force member, specialists in systematic reviews and economics from the Community Guide

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Branch (National Center for Health Marketing, CDC), and authorities on violence from the National Center for Injury Prevention and Control (CDC), the National Institutes of Health (NIH), and the National Institute of Justice (NIJ). This team developed the conceptual framework for the review; coordinated the data collection and review process; and drafted evidence tables, summaries of the evidence, and the reports. The abstraction team—three members of the coordination team—determined which studies met Community Guide standards for inclusion in the systematic review and collected and recorded data from these studies. The consultation team members—national authorities on violence-related topics—nominated interventions to be reviewed, participated in the selection of priority interventions for review, provided advice, and reviewed the final products.

Searches for published research were conducted in eight computerized databases: the National Criminal Justice Reference Service (NCJRS), Education Resources Information Center (ERIC), PsycINFO, Wilson Social Sciences Abstracts, SocialSciSearch, National Technical Information Service (NTIS), Medline, and Lexis/Nexis.7 Search terms included "juvenile transfer" and its synonyms (e.g., "waiver"), and "efficacy" and "recidivism." Relevant references listed in retrieved articles were evaluated and obtained, and subject-matter specialists were consulted to find additional published reports. The coordination team conducted Internet searches to ensure that no additional studies could be found by these means. Journal articles, government reports, books, and book chapters were eligible for inclusion in the review.

Articles published in any year before February 20035 were considered for inclusion if they evaluated a new or strengthened transfer policy or law; assessed at least one of the specified transfer-related violent outcomes as measured by arrest rates for crimes designated as “violent” (e.g., robbery or assault); were conducted in a country with a high-income economy5 (as defined by the World Bank); reported on a primary study rather than a guideline or review; and compared a group of persons exposed to the intervention (i.e., law or policy) with a comparison group that had not been exposed or who had been less exposed. While searching for evidence, the team also sought information about effects on other outcomes (i.e., not violence-related), such as reductions in property crime and disproportionate minority representation among transferred juveniles.

Design suitability was assessed for each candidate study (those meeting the inclusion criteria). The review team's assessment might result in classification of study design that differs from the nomenclature used by study authors. According to Community Guide nomenclature, greatest design suitability refers to studies with a concurrent comparison group and prospective data collection; moderate design suitability refers to retrospective studies and studies with one pre-intervention and multiple post-intervention measurements but no concurrent comparison group; and least suitable design refers to cross-sectional studies or studies with only single pre- and post-intervention measurements and no concurrent comparison groups.

Research on specific deterrence uses different study designs and effect measures than research on general deterrence. In specific deterrence research, studies aim to compare the recidivism (subsequent criminal activity) of youth transferred to the adult justice system with the recidivism of youth retained in the juvenile system. Transferring juveniles to the adult criminal justice system might involve a court with more formal and adversarial procedures, fewer possibilities of pretrial diversion from court, different detention alternatives, and different sanctions. In this review, outcomes of transferred versus retained juveniles were compared, whether or not the juveniles had been found guilty (or the juvenile court equivalent, adjudicated “delinquent”), or sanctioned.

5 High-income economies as defined by the World Bank are Andorra, Antigua & Barbuda, Aruba, Australia, Austria, Bahamas, Bahrain, Barbados, Belgium, Bermuda, Brunei Darussalam, Canada, Cayman Islands, Channel Islands, Cyprus, Czech Republic, Denmark, Estonia, Faeroe Islands, Finland, France, French Polynesia, Germany, Greece, Greenland, Guam, Hong Kong (China), Iceland, Ireland, Isle of Man, Israel, Italy, Japan, Republic of Korea, Kuwait, Liechtenstein, Luxembourg, Macao (China), Malta, Monaco, Netherlands, Netherlands Antilles, New Caledonia, New Zealand, Norway, Portugal, Puerto Rico, Qatar, San Marino, Singapore, Slovenia, Spain, Sweden, Switzerland, Taiwan (China), United Arab Emirates, United Kingdom, United States, and U.S. Virgin Islands.
A major methodologic concern in studies of specific deterrence is selection bias: transfer to adult criminal court is typically intended for those youth who are considered to be more serious offenders. Consequently, transferred youth would be expected to have greater risk for subsequent violence, independent of any effect of their experience with the adult criminal justice system. All of the included studies attempted to control for possible selection bias by restricting the cases under consideration to serious ones that would be eligible for transfer and by comparing the outcomes of cases transferred with those of cases retained in the juvenile system. In addition, they attempted to reduce selection bias by one of three methods: 1) by using statistical methods to control for factors that might affect transfer decisions (23–25); 2) by matching transferred and retained juveniles on background characteristics (26,27); or 3) by comparing the outcomes of juveniles matched on background demographics, economics, and crime characteristics, but in jurisdictions with difference transfer laws (28). Because juveniles charged with minor offenses are unlikely to be transferred, and juveniles charged with extremely serious offenses are unlikely to be retained, studies that match or otherwise control for severity of criminal background will probably exclude juveniles at both extremes.

In general deterrence research, outcomes are measured in terms of offending rates in the general population of juveniles (e.g., the number of juveniles per 100,000 arrested for violent crimes). Comparison groups must necessarily be in another place or of a different age. Researchers strive for comparison groups unaffected by the transfer law being studied but who are otherwise as similar as possible and similarly affected by many of the other social forces that influence offending.

The team’s assessment of general deterrence included only studies that compared rates of violence before and after implementation of a strengthened transfer policy and used a separate comparison group. Juvenile offending rates change over time for many reasons, as evidenced by the dramatic increase and then decrease in crime in general and in juvenile violence in particular during the late 1980s and early 1990s (29,30). Without comparison groups, any law enacted during a period of decline in crime would seem to have a deterrent effect, as indicated by simple before-and-after differences in offending within the same population. As a result, the team considered comparison groups unaffected by the law to be a critical design feature in evaluating the deterrent effect on crime of this particular law.

The team assessed limitations in the execution of all candidate studies. Limitations included failure to describe study population, use of proxy rather than direct measures of violent outcomes (e.g., general offending outcomes [such as re-arrest] rather than violent offending), and not controlling for background characteristics of transferred and retained juveniles. This assessment might differ from an assessment of limitations for the study’s original purposes. Using Community Guide methods (22), each study could be coded for as many as nine specific limitations; good execution refers to studies with one or fewer limitations, fair execution to studies with 2–4 limitations, and limited execution to studies with five or more limitations. Studies with limited execution did not qualify for the review.

Unless otherwise noted, results of each study are presented as the relative change in violent crime rates attributable to the interventions. Relative change was calculated as relative percent change using the following formulas:

\[
\text{Effect size} = \frac{\text{I}_{\text{post}}/\text{I}_{\text{pre}}}{\text{C}_{\text{post}}/\text{C}_{\text{pre}}} - 1
\]

where

- \(\text{I}_{\text{post}}\) is the last reported outcome rate in the intervention group after the intervention;
- \(\text{I}_{\text{pre}}\) is the reported outcome rate in the intervention group immediately before the intervention;
- \(\text{C}_{\text{post}}\) is the last reported outcome rate in the comparison group after the intervention;
- \(\text{C}_{\text{pre}}\) is the reported outcome rate in the comparison group immediately before the intervention.

In specific deterrence studies, intervention groups were composed of transferred juveniles, and control groups were composed of juveniles retained in the juvenile system. In general deterrence studies, intervention groups were populations of juveniles (e.g., in states or cities) exposed to a changed transfer policy, and control groups were populations not exposed to such a change.

If results were reported from logistic regression models, odds ratios were transformed into relative rate changes (31,32) so that these effect measures could be more appropriately compared with other studies in the body of evidence.** If effect measures could not be converted into relative percent changes (e.g., results presented only in graphs), the reported findings are described in the text. In the reporting of study findings, the standard two-tailed p-value of \(\leq 0.05\) was used as a measure of statistical significance.

** \(\text{RR} = \frac{\text{OR} \cdot (1 - \text{P}_{\text{o}})}{\text{P}_{\text{o}} \cdot (\text{P}_{\text{o}} \cdot \text{OR})}\), where \(\text{RR}\) is the relative risk, \(\text{OR}\) the odds ratio to be converted, and \(\text{P}_{\text{o}}\) is the incidence of the outcome of interest in the unexposed population (i.e., juveniles retained in the juvenile justice system).
When available, measures adjusted for potential confounders through multivariate analysis were preferred over crude effect measures. Follow-up periods of ≤1 year were considered a limitation. When studies included several follow-up periods, the longest period available was used.

Using standard Community Guide methods (22), the findings of individual studies were aggregated, and the strength of the body of evidence was summarized on the basis of the number of available studies, the strength of their design and execution, and the magnitude and consistency of effects. For an effect to be considered sufficient evidence of effectiveness, its magnitude must be deemed of public health importance; statistical significance is generally considered only when just one study of greatest design suitability and good execution has qualified for review. Three studies of moderate design suitability and fair execution can provide sufficient evidence if findings are consistent in direction and magnitude. Results deemed sufficient to draw a conclusion are summarized both graphically and statistically.

Results

Specific Deterrence Effects

Six studies were identified that examined the effects of juvenile transfer on subsequent violent offending (23–28). All were of greatest design suitability and good execution. Studies followed juveniles for periods ranging from 18 months (23) to 6 years (27) to assess recidivism. More detailed descriptions and evaluations of these studies are available from the Community Guide’s Violence Prevention website (http://www.thecommunityguide.org/violence) and have been published elsewhere (20).

In a prospective cohort study, the re-arrest of 400 youth aged 15–16 years initially arrested in the New York City metropolitan area during 1981–1982 (where the age of adult court jurisdiction is age 16 years and where youth aged 15 years are legislatively excluded from juvenile court when accused of any of 15 felonies) was compared with re-arrest of 400 demographically similar youth in counties in New Jersey (where age 18 years is the age of criminal responsibility and no legislative exclusion exists) (33). To enhance the comparability of the two regions, counties were matched by key crime and socioeconomic indicators (i.e., crime and criminal justice, demographic, socioeconomic, labor force, and housing characteristics). To estimate recidivism, competing hazard models were used that control for time at risk; age, case length, and sentence length were included as covariates. The study indicate that, among those not incarcerated, transferred juveniles were 39% more likely to be re-arrested on a violent offense than were retained juveniles. Among those incarcerated, exposure to longer sentences was associated with a further increase in violent recidivism among those transferred compared with those who were retained in the juvenile system (28).

Florida’s juvenile transfer laws were evaluated by a team of researchers in two separate studies of different cohorts (26,34). The first study compared the overall re-arrest rates of juveniles who were initially arrested in 1987 and then either transferred or retained (34). Each youth transferred to adult court was matched to a youth retained in the juvenile court by six factors (i.e., most serious offense, number of counts; number of previous referrals to the juvenile system; and most serious previous offense, age, and sex), and, when possible, by race. The findings indicated that transfer increased recidivism over the short term but over the longer term reduced recidivism for some transferred juveniles and increased it for others (27). Among youth initially arrested for misdemeanors and for most types of felonies, the effects of transfer were consistent with findings in the other studies that were reviewed. But among those initially arrested for felony property crimes, re-arrest rates were lower for transferred than for retained youth.

The second study essentially replicated the first for youth arrested following implementation of “stronger” juvenile laws enacted in Florida in 1990 and 1994 that increased prosecutorial waiver (26). The outcome compared was felony re-arrest, including nonviolent and violent felonies. In this study, the recidivism examined was restricted to felonies committed after age 18 years, on the grounds that this would ensure equivalent records of offending. The findings indicated that transferred youth had 34% more felony re-arrests than retained youth.

A study on the effects of transfer in Hennepin County, Minnesota, examined all cases in which the prosecutor filed a motion to transfer a juvenile during 1986–1992 (25,35). Sixty percent of juveniles for whom the prosecutor filed a motion to transfer were actually transferred. Recidivism rates for youth who were transferred were compared with rates for those who were retained in the juvenile justice system. The study presented the results of logistic regression analyses of the effects of transfer on recidivism for violent and nonviolent crimes combined, controlling for potential confounders, including sex, criminal history, and whether the case resulted in incarceration. Transfer was associated with a 26.5% increased likelihood of further criminal conviction over that of retained juveniles (29).

A study in Pennsylvania attempted to anticipate the effects of new transfer provisions before their implementation in 1996 (24). The study included 557 males aged
15–18 years arrested in Pennsylvania in 1994 for robbery, aggravated assault, or both, involving use of a deadly weapon. Multivariate analyses controlling for demographics and criminal background indicated that, compared with 419 retained juveniles, transfer of 138 juveniles was associated with a 77% greater likelihood of violent felony arrest following completion of the sentence.

A study in Washington attempted to determine the expected effect of the state's 1994 Violence Reduction Act as modified by the state legislature in 1997 by examining the effects of discretionary transfers before implementation of the new law that excluded from original jurisdiction in juvenile court youth aged 16–17 years with specified offending histories or charged with any of nine "serious violent felonies" (23). Controlling for offenses charged in the case, previous record of offenses, sex, and ethnicity, no difference in recidivism was found between transferred and retained juveniles.

Among the six studies reviewed, only one indicated that transfer of juveniles to the adult justice system deterred commission of subsequent violent or general crimes among a subset of those transferred (27); one study found no effect (23). The remaining four studies all found an undesirable effect in which transferred juveniles committed more subsequent violent or general crime than retained juveniles (24–26,28). Effect sizes from the individual studies ranged from 0–77%, and the overall median effect size was a 34% relative increase in subsequent violent or general crime for transferred juveniles compared with retained juveniles (Figure). According to the Community Guide's rules of evidence (22), the review

FIGURE. Relative change in the percentage of juveniles rearrested after release from the adult as compared with the juvenile justice system, by selected studies — United States, 1996–2007*
provides sufficient evidence that the transfer of youth to the adult criminal justice system typically results in greater subsequent crime, including violent crime, among transferred youth; therefore, transferring juveniles to the adult system is counterproductive as a strategy for preventing or reducing violence.

**General Deterrence Effects**

Three studies evaluated the general deterrence effect of transfer laws or policies (11,23,36). All three evaluated the effects of changes to state transfer laws on rates of juvenile offending, as measured by arrest rates in the general juvenile populations of those states. All were of greatest study design suitability and fair execution. Effect sizes could not be computed because the studies provided insufficient data. More detailed descriptions of the studies included in this review and how they were evaluated are available at the Community Guide’s Violence Prevention website (http://www.thecommunityguide.com/violence) and elsewhere (20).

The first study evaluated Washington’s 1994 Violence Reduction Act, which legislatively excluded from initial jurisdiction in juvenile court youth aged 16–17 years with specified offending histories or charged with any of nine “serious violent felonies.” Violent offending among youth aged 10–17 years in Washington peaked in 1994 and then declined, parallel to the national trend in arrests for violent crime (9,23). The study concluded that “we cannot attribute the decrease in juvenile arrests for violent crimes in Washington state solely to the automatic transfer statutes” (23).

A second study compared changes in offending rates in Idaho with those in Wyoming and Montana to determine the deterrent effect of a 1981 Idaho law mandating automatic transfer to the adult criminal justice system of youth aged 14–18 years charged with any of five violent crimes (36). Compared with violence in Wyoming and Montana, the new transfer law was associated with relative increases in violence in Idaho.

A third study examined monthly arrest rates for youth aged 13–15 years in New York during 1974–1984 (spanning the change, assault, robbery, and rape) using several comparison populations. New York City (NYC) was analyzed separately from the rest of the state (11). For NYC, two comparison populations were examined, neither of which was subject to the changed transfer legislation. The first comparison was with offenders in NYC aged 16–19 years who were unaffected by the Juvenile Offender Law because 16 is the age of adult court jurisdiction in New York; these youth were too old for the juvenile justice system. The second comparison was with youth aged 13–15 years in Philadelphia. No consistent pattern of results was found across offenses. Only rape had a statistically significant decrease for the intervention group, but the NYC comparison group had a larger decrease that also was statistically significant. The decline was considerably smaller in Philadelphia, suggesting a local effect in NYC that is not attributable to the change in transfer. No consistent pattern of evidence suggested a general deterrence effect.

According to the Community Guide rules (22), the evidence from these studies is insufficient to determine whether or not laws or policies facilitating the transfer of juveniles to the adult criminal justice system are effective in preventing or reducing violence in the general juvenile population. One study of general deterrence reported no apparent effect (23), one reported heterogeneous effects (11), and one reported a countertrend effect (36). Although by Community Guide standards the number of studies is sufficient for determining effectiveness (i.e., three studies of greatest design suitability and at least fair execution), study findings are inconsistent and typically centered on no effect and thus do not permit a conclusion.5

**Discussion**

The studies reviewed for this report assessed the effects of strengthened transfer laws in Washington, Pennsylvania, and regions of New York, Minnesota, and Florida. These states are geographically and demographically diverse, which suggests that the findings might apply in other states.

The effects of transfer policies on violence and other crime across levels of severity of crime for which the juvenile was initially charged (e.g., misdemeanors or felonies) require further study. To assure comparability, the reviewed studies control for the severity of the crime for which the juvenile is at risk for being transferred and, where possible, for the juvenile’s criminal history. These studies did not generally assess whether transfer had different effects for juveniles with more or less serious offenses and offense histories. Transfer might be more effective or less harmful if restricted to the most serious offenders. The Florida studies indicated that a large number of juveniles committing misdemeanors were transferred to adult court and found greater harm (i.e., recidivism) for these offenders than for juveniles transferred for more serious offenses. In any case, the possibility of transferring the most serious juvenile offenders was available in all court systems before the strengthening and formalizing of the transfer policies. The changes assessed in this review have resulted in lowering the thresholds for the seriousness of crimes for which juveniles are transferred.
thereby facilitating transfer. Because of methodologic controls for juvenile criminal background in studies of specific deterrence, juveniles at the most and least severe ends of the criminal severity spectrum are probably not included in these studies. Therefore, inferences from these studies should exclude these extremes.

The findings in this report indicate that transfer policies have generally resulted in increased arrest for subsequent crimes, including violent crime, among juveniles who were transferred compared with those retained in the juvenile justice system. To the extent that transfer policies are implemented to reduce violent or other criminal behavior, available evidence indicates that they do more harm than good.

### Research Needs

Although the Task Force has recommended against transfer of juveniles to the adult criminal justice system to prevent or reduce violence, transfer policies are still in effect, and the following important research issues remain:

- The experiences of youth in both juvenile and adult systems should be explored by comparing the experiences of youth sentenced to juvenile and adult sanctions (37,38) and assessing factors that might reduce (e.g., exposure to rehabilitation or interaction with caring mentors) or increase (e.g., exposure to adult offenders) further violence (38–40).
  - Do youth receive more rehabilitative programming in juvenile institutions than in adult institutions?
  - Has the programming in adult corrections changed in response to the influx of youthful offenders?
  - Do youth in adult correctional institutions have extensive contact with adult offenders and, if so, does that have negative effects on them or promote more subsequent offenses?

- The effects of variations among state laws have not been assessed systematically, limiting the ability to generalize review findings. Systematic comparison of state provisions to determine whether the transfer policies of the states included in the review are representative of all state transfer provisions could support the generalizability of the review’s findings.

Little research has been conducted on the economic costs of transferring youth to the adult criminal justice system versus retaining them in the juvenile system (41). In some sense, evaluating costs of interventions (e.g., transfer) that cause net harm seems counterintuitive; ideally, spending that results in increased violence and additional societal costs should be discouraged. However, documenting the variability and relative costs of the two judicial and correctional systems, the distribution of responsibility for these costs across different levels of government and society, and the net balance of program costs, the costs of subsequent crime, and the costs of opportunities lost to the juveniles themselves might allow a constructive discussion of the economic consequences of change.

### Use of the Recommendations

The findings of this review might encourage discussion among legislators and others interested in juvenile justice about the societal and economic costs and benefits of juvenile transfer laws and policies. This review, along with the Task Force on Community Preventive Services’ recommendation against juvenile transfer laws, provides guidance for public health and juvenile justice policy makers, program planners and implementers, and researchers.

The findings in this report are subject to at least four limitations. First, transfer laws and policies vary substantially from state to state. The studies reviewed for this report were the only ones that met Community Guide standards and might not be representative of transfer laws in all states. Second, the outcome measures in all these studies result from official records of offending (either arrest or conviction) rather than direct measures of offending (e.g., robbery or aggravated assault). The majority of crimes do not result in an arrest (1,42), and certain wrongful arrests are made. Nevertheless, although arrest rates might reflect law enforcement activity as much or more than juvenile criminal behavior, they are among the best available and most commonly used indicators of crime (43) and thus the best available outcome for assessment in this review.

Third, the heterogeneity of laws across jurisdictions and populations studied and the impossibility of conducting experimental trials to evaluate such policies as transfer laws makes controlling for potential confounding difficult. The six specific deterrence studies reviewed have used several approaches to control for confounding, including matched pairs within jurisdictions; cross-jurisdictional comparisons with control of social, demographic, and criminological variables; and simple graphical comparison across jurisdictions. The convergence of results across these studies suggests that increased violent recidivism following transfer is a robust finding.

Finally, the relevance of the findings might be questioned because of the age of the studies reviewed (study cohorts were arrested during 1981–1996). However, the consistency of findings over a substantial period, during which patterns of violent crime varied greatly, suggests the persistence of the phenomenon reported.
Review of the effects of transfer laws on subsequent violence indicates that the experience of transfer to the adult criminal justice system is associated with subsequent violence among juvenile participants when compared with violence among juveniles retained in the juvenile justice system. In addition, little evidence supports the idea that transfer laws deter juveniles in the general population from violent crime. These policies might be favored by policymakers or the public for other reasons (e.g., societal retribution in response to serious crime or incapacitation of serious offenders). However, the review indicates that use of transfer laws and strengthened transfer policies is counterproductive to reducing juvenile violence and enhancing public safety.

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