

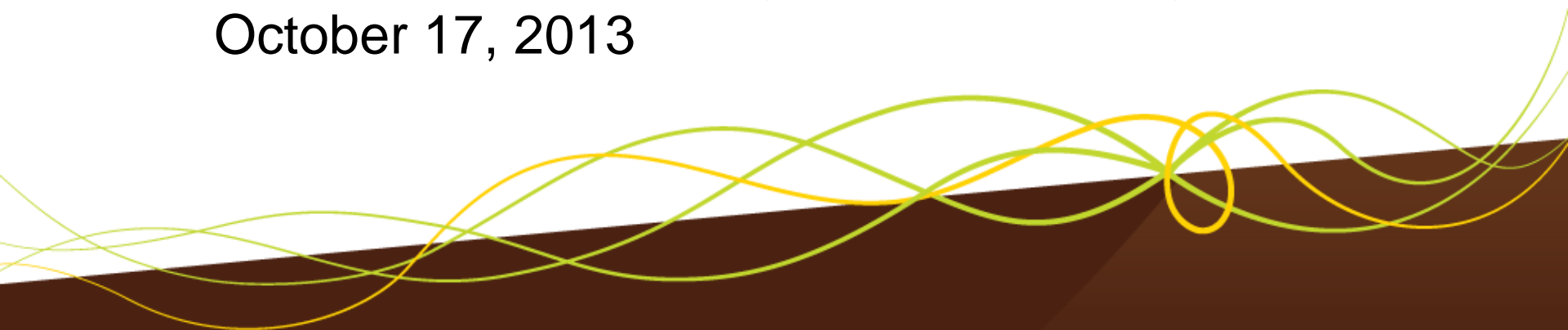
Transferring Juvenile Offenders to the Adult Criminal Justice System: Assessing Effectiveness

Dawn Jeglum Bartusch

Valparaiso University

Department of Sociology and Criminology

October 17, 2013



Issues to Consider

- Changes in the use of juvenile transfers to the adult system
- Transfer mechanisms
- Public opinion
- Impact of transfers on deterrence and recidivism
- Public policy implications

Changes in the use of juvenile transfers

- All states have enacted laws that allow juveniles to be tried in adult criminal courts
- State legislatures have broadened eligibility criteria for transferring juveniles
 - 1992-1997: 44 states revised their laws to expand their abilities to transfer youth to adult criminal courts

Trends toward more expedient juvenile transfers

- Legislatively expanding the number of offenses for which transfer is possible
- Lowering the age at which juveniles accused of certain offenses can be excluded from juvenile court jurisdiction

Trends toward more expedient juvenile transfers

- Reducing the maximum age of juvenile court jurisdiction
- Shifting responsibility for transfer from juvenile court judges to the legislature and prosecutors

Transfer mechanisms

- Judicial waiver or judicial transfer
- Direct file or concurrent jurisdiction
- Statutory exclusion or legislative transfer

Judicial waiver or judicial transfer

- Decision to waive a case is made by a juvenile court judge
- Exists in 45 states and the District of Columbia
- Has existed since the inception of the juvenile court in 1899
- In the past, judicial waiver has been the most common transfer mechanism

Indiana Code 31-30-3-2

Sec. 2. Upon motion of the prosecuting attorney and after full investigation and hearing, the juvenile court may waive jurisdiction if it finds that:

(1) the child is charged with an act that is a felony:

(A) that is heinous or aggravated, with greater weight given to acts against the person than to acts against property; or

(B) that is a part of a repetitive pattern of delinquent acts, even though less serious;

(2) the child was at least fourteen (14) years of age when the act charged was allegedly committed;

(3) there is probable cause to believe that the child committed the act;

(4) the child is beyond rehabilitation under the juvenile justice system; and

(5) it is in the best interests of the safety and welfare of the community that the child stand trial as an adult.

As added by P.L. 1-1997, SEC. 13. Amended by P.L. 67-2008, SEC. 3.

Direct file or concurrent jurisdiction

- Allows the prosecutor to file a juvenile case in either juvenile or adult court when the offense and the age of the accused meet defined criteria
- Exists in 14 states and DC
- Direct file policies have grown at a fast pace in recent years

Statutory exclusion or legislative transfer

- State penal code specifies age and offense categories that result in cases automatically being prosecuted in adult criminal court
- Exists in 31 states and DC
- Has become a more popular method of transfer

Indiana Code 31-30-1-4

Sec. 4. (a) The juvenile court does not have jurisdiction over an individual for an alleged violation of:

- (1) IC 35-41-5-1(a) (attempted murder);
- (2) IC 35-42-1-1 (murder);
- (3) IC 35-42-3-2 (kidnapping);
- (4) IC 35-42-4-1 (rape);
- (5) IC 35-42-4-2 (criminal deviate conduct);

.....
(13) any offense that may be joined under IC 35-34-1-9(a)(2) with any crime listed in subdivisions (1) through (12);

if the individual was at least sixteen (16) years of age at the time of the alleged violation.

As added by P.L. 1-1997, SEC. 13. Amended by P.L. 17-2001, SEC. 7; P.L. 151-2006, SEC. 12; P.L. 216-2007, SEC. 35; P.L. 67-2008, SEC. 2.

Juvenile transfers in Indiana in recent years

Year	Males	Females
2008	104	1
2009	95	0
2010	73	3
2011	66	4
2012	54	1

Data provided by Indiana Department of Corrections

Public opinion regarding transfers

- Shaped by people's inaccurate perception that serious juvenile crime is increasing
- Extent of public support for juvenile transfers depends on how survey questions are constructed
 - “Global” measures – e.g., “Juveniles who commit violent crimes should be tried as adults.”
 - vs. more specific and nuanced questions

Studies using global measures of support for transfer

- Show fairly widespread support for transfers
- Triplett (1996) study
 - 62% favored trying as adults youth charged with serious property crime
 - 69% favored trying as adults youth charged with serious drug crime
 - 87% favored trying as adults youth charged with serious violent crime

Studies using more specific and nuanced questions

- Show weaker support for transfers
- Applegate et al. (2008) study:

“D.W., a 14-year-old White female youth, is charged with murder. She is accused of stabbing a convenience store clerk during a robbery. The clerk died from the injury. The victim was a 29-year-old Black woman. The police believe D.W. committed this crime with two other youths who are older than her and have been in trouble with the law before. Adults who know her think that she seems younger than most youths her age. Her record shows that she has been in trouble with the juvenile court three times before for minor crimes.”

Conclusions of public opinion studies

- Most people express at least some support for transferring serious, repeat juvenile offenders
- But they don't advocate transferring large numbers of juvenile offenders
- "The public appears to want transfer to be available as an option that is used sparingly and selectively." (Applegate et al., p. 70)
- Support for transferring juveniles varies with youth's age
 - Age 16

Public opinion and goals of sentencing

- Goals of sentencing
 - Incapacitation, retribution, deterrence (general and specific), rehabilitation
- Those who favor deterrence or incapacitation are more likely to support transfers of serious, violent juveniles (Triplett, 1996)
 - 90% who favor deterrence
 - 93% who favor incapacitation

Does transferring serious juvenile offenders deter crime?

- “Juvenile Transfer Laws: An Effective Deterrent to Delinquency?”
 - 2010 OJJDP Juvenile Justice Bulletin by Richard Redding
 - Reviews results of large-scale studies that examine specific and general deterrent effects of transfer

Specific deterrence (Redding review of research)

- All 6 studies reviewed show that juveniles tried in adult criminal court for violent offenses generally have higher recidivism rates after release than those who remained in juvenile court

“Juvenile offenders and adult felony recidivism: The impact of transfer” (2005)

- Study of 950 young offenders in FL
 - Half were prosecutorially transferred
 - Half remained in the juvenile system
- Cases matched on age, gender, race, # of previous juvenile referrals, most serious prior offense, current offense, # of charges
- Recidivism measured by the # of offenses committed after the youth turned 18

“Juvenile offenders and adult felony recidivism: The impact of transfer” (2005)

- Overall, 49% of transferred offenders reoffended, compared with 35% of offenders retained in the juvenile system
- Difference in recidivism rates was especially large for violent offenders

General deterrence

(Redding review of research)

- Somewhat conflicting research results, though the bulk of empirical evidence suggests that transfer laws have little or no general deterrent effect
- Some earlier research (1990s) suggested a general deterrent effect of transfers
- 3 recent (2005-2006) multi-state studies found no general deterrent effect

General deterrence: Steiner's research (2006)

- Examined juvenile violent crime rates in 14 states before and after they enacted prosecutorial transfer laws
 - In 13 states, juvenile crime either remained constant or increased after enactment of the laws

General deterrence: Steiner's research (2006)

- Examined juvenile arrest rates for violent crime in 22 states before and after they enacted statutory exclusions
 - In 21 states, juvenile arrest rates did not fall after enactment of these laws

Policy Implications

- Public concern about juvenile crime (based on misperceptions about the extent of crime) has fueled reforms since the 1990s
- But research shows that transferring violent juvenile offenders “is counterproductive for the purpose of reducing juvenile violence and enhancing public safety” (McGowan et al., 2007)

Policy Implications

- Blended sentencing strategies?
 - Allow juvenile and adult sentences to be imposed simultaneously
 - Adult sentence is typically suspended
 - Juvenile offenders are retained in the juvenile justice system, with the benefit of rehabilitative efforts
 - Adult incarceration is used only after completion of placement in the juvenile system, and when the youth continues to pose a risk to public safety (determined through objective risk assessment)

Policy Implications

- Other mechanisms for accomplishing offender accountability?
 - Restorative justice approaches vs. accountability through punishment

Questions?

Comments?