

Chapter 12

Research Addressing Transfer to CC

ABSTRACT

Chapter 12 addresses the research that has purportedly examined transfer to criminal court (CC). Just about all research has been limited to gauging deterrence. The research results have been mixed; some studies have found greater deterrence served by transfer, others have found less. Other studies have found sentences in CC that were longer than what juvenile court (JC) could have imposed, and still others have found sentence shorter than the maximum JC disposition. The anti-transfer crowd (ATC) uses the latter situation to “prove” that transfer is unnecessary. This Chapter discloses the shortsightedness of the research, plus the serious methodological problems that compromise the findings, especially in matched-pair studies. Also identified are the very relevant factors that are typically ignored in the research. The Chapter explains the promise of better constructed propensity-score research, which controls more factors and has found greater deterrence through transfer. The Chapter finishes on a cautionary note to pro-transfer types not to expect stellar results from transfer.

THE NUMBERS AND THE AGES

It is difficult to get an accurate count on the number of prosecutorial transfers (PTs); judicial transfers (JTs) have been the only figures that have been regularly available. Not surprising, the increase in the number of JTs from the mid-1980s to the mid-1990s was daunting. Between 1985 and 1994, the numbers steadily climbed from 7,200 in 1985 to 12,300 in 1994 (DeFrances & Strom, 1997, pp. 4-5), the height of the surge in juvenile violence. The yearly average of transfers for that 10-year period was 8,520. These numbers would also be high due, in part, to the absence of widespread availability of PT those years. PT became much more prevalent after (and, in part, as a response to) that period's severe increase in juvenile violence.

During these years JTs ranged from 1.2% to 1.4% of all juveniles petitioned in JC. That figure ignores the youths who were informally processed, meaning there was an even lower percentage of transferred juveniles among *all* offenders' having contact with JC. The percentage of transfers involving those sixteen

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years of age and older ranged from a high of 94% in 1985 to a low of 88% in 1994. During these years, compared to larger JCs, smaller JCs had a higher percentage of juveniles prosecuted in CC (see Id). This would make sense since previous research among urban, suburban, and rural JCs has revealed that the smaller locations operate with fewer rungs of the disposition ladder within the JC sentencing structure (see Sanborn, 1985; Sanborn & Salerno, 2005). That means juvenile offenders in these areas have fewer opportunities (i.e., rungs of the ladder) to avoid climbing to the top of the ladder (i.e., transfer). Whereas an urban JC could use multiple stages of probation before reaching an officially designated *intensive* level (involving increasing levels of community controls over youths), suburban and rural JCs might use only one level before probation becomes *intensive*.¹ Also, first-degree felonies could be viewed as less acceptable in smaller JCs (see Sanborn & Salerno, 2005).

More recently, JT numbers have ranged from a low of 3,200 in 2015 to a high of 4,200 in 2014. Between 2013 and 2017, the percentage of juveniles transferred to CC following a petition to JC remained at a consistent 1% (Furdella & Puzzanchera, 2015; Hockenberry, 2018, 2019a, 2019b; Hyland, 2018). Data from 2005 to 2017 show a general reduction in JTs (in part explained by the more cases of PT) and a consistent dominance of older offenders (i.e., 15 years of age and older) among the transfer population (see Sickmund, Sladky & Kang, 2019; Table 43; see, also Synder et al., 2000). Not surprising, research has found older age to be associated with the likelihood of transfer (Bishop, 2000; Bishop & Frazier, 2000; Myers, 2001, 2005, 2016; Sickmund & Puzzanchera, 2014), while younger age has been linked with a greater likelihood of decertification (or reverse transfer) to JC (Snyder et al., 2000; Jordan, 2006; Jordan and Myers, 2007). Nearly all transfers involved youths older than 12 years of age (99.73%).²

THE FACTORS

Besides age, the two factors that have been most consistently played the most prominent role in the transfer decision are the seriousness of the current offense and the extent of the JC history (see Synder et al., 2000; Griffin et al, 2011). The serious offense can involve both person and property crimes, but the former is more prominent. Weapons, guns, and firearms, together with severe injury, have been especially influential in the transfer decision (Burrow, 2008b; Jordan & Myers, 2007; Myers, 2001, 2003, 2005). The number of offenders in the criminal incident has also been important, particularly if a gang was involved. Drug offenses have historically been found to increase the likelihood of transfer as well (see Snyder et al., 2000).

The critical impact of offense seriousness should not be surprising since a serious and/or violent offense could be seen as warranting a disposition beyond what is available to JC, especially if the offender is near the maximum retention age of the juvenile justice (JJ) system. This offender would fit squarely within the *greater-punishment* group that consistently has been a transfer target. To the extent that an extensive JC history is consistent with repeated failures at rehabilitation attempts, these offenders would also be transfer targets, hailing from the *beyond-treatment* group. The more adjudications offenders have, the more likely they are to experience transfer. Fewer adjudications appear to be needed in person-related offenses than in property ones for transfer to occur. Snyder and colleagues (2000) found five adjudications to be particularly significant in explaining decisions to transfer to CC; negative forecasts of amenability to treatment were related to the same outcomes as well (see Mulvey & Schubert, 2012).

While race has typically not been found to be related to transfer outcomes (Bortner, Zatz, & Hawkins, 2000; Burrow, 2008a, 2008b; Fagan & Deschenes, 1990; Fagan, Forst, & Vivona, 1987; Jordan & My-

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