



514 10TH STREET NW, SUITE 100
WASHINGTON, DC 2000
TEL: 202.628.0871 • FAX: 202.628.109
STAFF@SENTENCINGPROJECT.ORG
WWW.SENTENCINGPROJECT.ORG

COMMENTARY

PROSECUTING JUVENILES IN ADULT COURT: PERSPECTIVES FOR POLICYMAKERS AND PRACTITIONERS

PATRICIA ALLARD AND MALCOLM YOUNG

2002

This commentary, "Prosecuting Juveniles in Adult Court: Perspectives for Policymakers and Practitioners," has been reprinted from the *Journal of Forensic Psychology Practice* and published by The Sentencing Project in an effort to aid lawyers and advocates who labor on behalf of children transferred into (adult) criminal court and to inform the public of the implications of policies which permit these prosecutions.

The Sentencing Project is a national non-profit organization which promotes sentencing reform and the use of alternatives to incarceration through program development and research on criminal justice issues.

This publication was supported by Grant Number 2001-DD-BX-0012 awarded by the Bureau of Justice Assistance. The Bureau of Justice Assistance is a component of the Office of Justice Programs, which also includes the Bureau of Justice Statistics, the National Institute of Justice, the Office of Juvenile Justice and Delinquency Prevention, and the Office for Victims of Crime. Points of view or opinions in this document are those of the authors and do not represent the official position or policies of the United States Department of Justice.

For additional copies or information contact:

THE SENTENCING PROJECT
514 Tenth Street NW, Suite 1000
Washington, DC 20004
(202) 628-0871
www.sentencingproject.org

Abstract

Fear of juvenile crime has reversed the long-accepted practice of treating young offenders in special juvenile courts. Thousands of children annually are now being transferred "automatically," without judicial review, from juvenile court jurisdiction to adult criminal court and into adult corrections. These transfers place children into a court setting in which they are at a disadvantage at every stage of the process. Children who are incarcerated in adult facilities are at great risk. Those who are convicted but not imprisoned may still suffer long lasting negative consequences.

The imposition of adult punishments, far from deterring crime, actually seems to produce an increase in criminal activity in comparison to the results obtained for children retained in the juvenile system. Reliance upon the criminal courts and punishment ignores evidence that more effective responses to the problems of crime and violence exist outside the criminal justice system in therapeutic programs. Because there is considerable racial disparity in the assignment of children to adult prosecution, the harshness, ineffectiveness, and punishing aspects of transfer from juvenile to adult court is doubly visited on children of color.

Fear of out-of-control juvenile crime fueled by the image of a “super-predator” generation has reversed a century-old practice of treating young offenders as different from adult criminals – less culpable and more amenable to rehabilitation because of their age. As a result, public policy in recent years has turned to punishment and, most significantly, to the transfer of increasing numbers of youthful offenders from juvenile court to adult criminal court. However, experience is quickly showing that such transfers are doing more harm than good, both for children and public safety. This paper explains the problems that transfer poses for criminal justice practitioners concerned with the well being of children and the community at large.

An Historical Perspective

Development of the Juvenile Court System

In July 1899, Jane Addams and her Hull House colleagues in Chicago, Illinois, established the first court designed specifically to deal with children. The court derived its powers to regulate and provide for minors whose parents were "unworthy" of the task of "education" of their children from the concept of *parens patriae*, or the "common guardian of the community."¹ Contemporaneously, Judge Ben Lindsey of Denver, Colorado, popularized a personal, individualized, treatment-focused approach that distinguished the new juvenile courts from criminal court.² A separate juvenile system soon developed nationwide. Ideally, juvenile courts were to focus less on the question of punishment than on helping the child to change and so minimize the likelihood of future criminal behavior.

But the ideal proved difficult to achieve. Juvenile courts and agencies were often underfunded and understaffed. Juvenile judges sometimes exercised their considerable discretion to incarcerate children for petty offenses for the rest of their minority without requiring the same standards of proof and other protections afforded adult defendants in criminal court. In 1967 in the case of *In re Gault*,³ the United States Supreme Court reversed one such conviction and sentence in the case of a boy who allegedly made an obscene telephone call. The Court held that children charged with offenses in juvenile court were entitled to basic due process: notice of the charge, a right to counsel, and elements of the right to trial including confronting witnesses as opposed to trial by hearsay. A child's liberty could not be restricted without the child being given many of the due process rights to which adults were entitled. Key among these was the right to counsel.

More than 25 years after *Gault*, children were still being denied its promise. A national survey conducted by the American Bar Association Juvenile Justice Center in 1993 found: frequent incidents of questionable "waiver" of counsel; crushingly high defender caseloads; missed opportunities to interview, investigate and intervene when services might have helped a child; and, a sense among attorneys that their own efforts to help arrange dispositions, or sentences, for their

¹ A. M. Platt, *The Child Savers: The Invention of Delinquency* University of Chicago Press, 2nd Edition 1977; cited with discussion in Laurence Steinberg and Robert G. Schwartz "Developmental Psychology Goes to Court" in Thomas Grisso and Robert G. Schwartz, eds., *Youth on Trial: A Development Perspective on Juvenile Justice* University of Chicago Press 2000, pp. 11-12.

² S. J. Fox "A Contribution to the History of the American Juvenile Court to 1980," paper presented at the National Council of Juvenile and Family Court Judges 1977, cited in Steinberg and Schwartz op. cit., at p. 12.

³ *In re Gault* 387 U. S. 1, 87 S. Ct. 1428 (1967).

clients was deficient.⁴ The survey describes a system which raises "serious concerns that the interest of many young people in juvenile court are significantly compromised, and that many children may literally be left defenseless."⁵ Other studies and reports describe the insufficiency of programs for rehabilitation and over use of detention, and abuse of children in juvenile facilities.⁶

Despite its failings, few questioned that juvenile court was the appropriate venue for most children in trouble. For the relatively small number of children for whom age, or the severity or repetitiveness of their crimes, made juvenile court jurisdiction inappropriate, in almost all states a juvenile court judge could waive juvenile court jurisdiction. Even then, there had to be safeguards. In *Kent v. United States* the U. S. Supreme Court held that judicial waiver of juvenile court jurisdiction required a hearing with the essentials of due process. These included notice, right to counsel, confrontation of witnesses, written findings, and most importantly, satisfaction of minimum criteria including the maturity to face trial as an adult.⁷ Only after careful judicial review were children to be removed from the protective setting of juvenile court.

Recent Trends in Juvenile Crime

Advocates for transfer postulate increased juvenile crime and violence to justify prosecution of children as adults. Yet with only one fast-fading exception, there is no evidence that young people have become disproportionately more crime prone or dangerous in recent years. The juvenile proportion of all arrests for serious violent crime in 1998 was about average for the preceding twenty-five years, while the percentage of property-crime arrests involving juveniles has actually declined throughout most of this period. Victimization studies show that juvenile violence in and out of schools generally declined as well.⁸ The one exception to the downward trend is found in murder rates.

Murder by juveniles remained at a relatively constant level for the decade before 1985, but then underwent a large and disturbing annual increase. Juvenile murder rates peaked in 1994. Then, in only four years, by 1998, juvenile arrests for murder fell 52%.

⁴ Patricia Puritz, *A Call for Justice: An Assessment of Access to Counsel and Quality of Representation in Delinquency Proceedings*, American Bar Association Juvenile Justice Center (1995) pp. 44-49, 55.

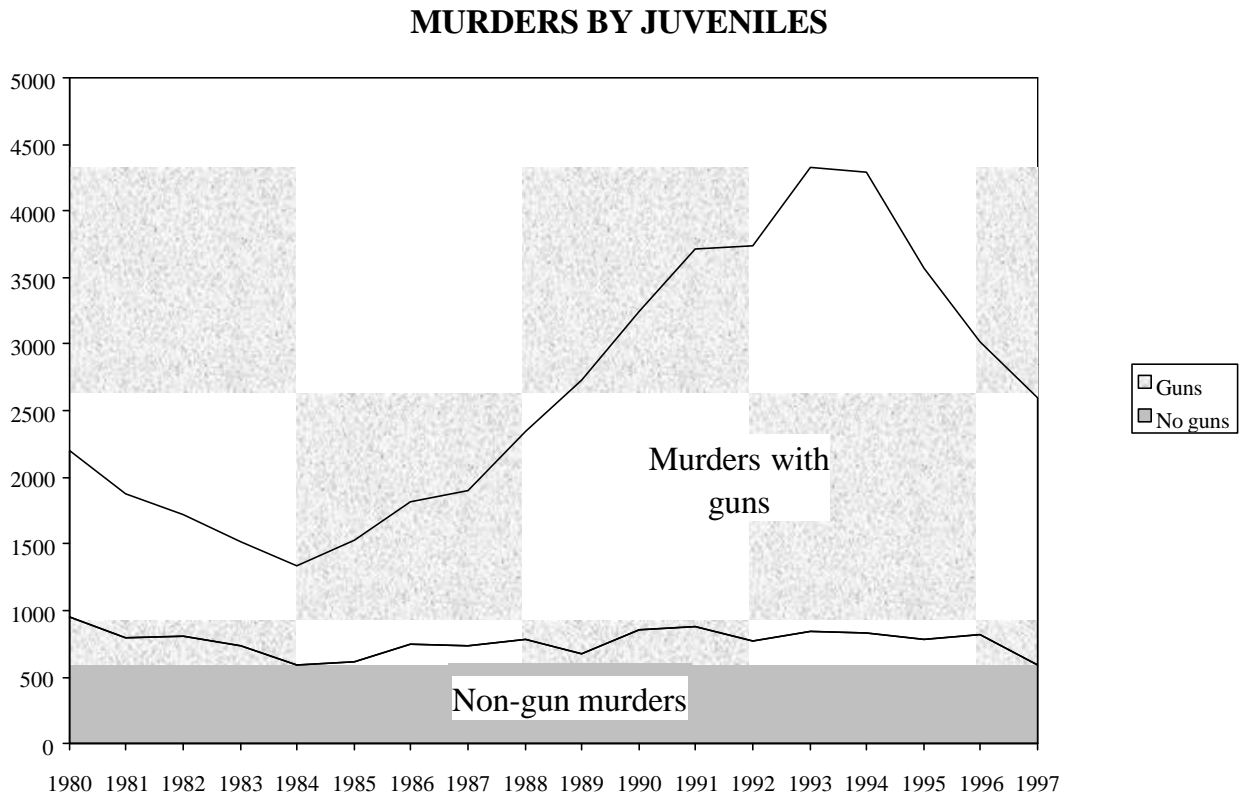
⁵ *Id.*, pp. 41-42.

⁶ *E.g., High County Lockup: Children in Confinement in Colorado*, Human Rights Watch Children's Rights Project (1997) (one in a series of reports from Human Rights Watch on children in state correctional facilities); Youth Law Center, *Juvenile Detention and Training School Crowding: A Clearinghouse of Court Cases* (August 1998); Soler, M., *The Treatment of Juveniles in the United States*, Youth Law Center, (December 6, 1996) (unpublished paper).

⁷ *Kent v. United States* 383 U. S. 541, 86 S. Ct. 1045 (1966).

⁸ Total non-fatal victimization rates for young people generally declined between 1992 and 1999 in and out of school. *Indicators of School Crime and Safety 2001* Bureau of Justice Statistics, U. S. Department of Justice and National Center for Education Statistics, U. S. Department of Education (October 2001) , Executive Summary.

Some details are important. Between 1985 and 1994, juvenile gun homicides more than tripled. Juvenile homicides committed with other weapons remained flat. This trend is shown in Figure 1, below. After 1994, gun homicides declined sharply towards 1980 levels.⁹ Thus, the in-



⁹ *Easy Access to the FBI's Supplementary Homicide Reports: 1980-1998*, Online, H. Snyder, T. Finnegan, W. Kang, R. Poole, A. Stahl, and Y. Wan (2001). Available: <http://ojjdp.ncjrs.org/ojstatbb/ezashr/>.

crease in homicides is completely attributable to murder committed with a gun. Criminologist Alfred Blumstein explains this phenomenon as the result of the chaotic development of crack markets in the inner cities in the late 1980's. Drug dealers were waging fierce turf wars and recruiting and arming juveniles for battle. In the early 1990's, stabilization in the illegal drug market and a concerted effort by police in some cities to keep guns out of the hands of juveniles led to a decline in these homicides.¹⁰

Legislative Responses to Juvenile Crime

The dramatic rise in juvenile homicide rates helped fuel media attention to juvenile and school violence in the early and mid 1990's. The actual declines in juvenile violent crime did not register. When Professor John DiIulio, a charismatic Princeton professor and Brookings scholar testified before the United States Senate Judiciary Committee in February 1996 about juvenile crime committed by "superpredators" being "bad and getting worse,"¹¹ he found an uncritically receptive audience in both politicians and the media.

The legislative response to violent juvenile crime drew upon the "get tough" rubric that politicians had been applying to crime generally since the mid 1970's. At the federal level, a major juvenile justice bill advanced in the 106th Congress would have allowed criminal prosecution of children as young as 13, expanded the range of crimes for which children could be prosecuted, and required mandatory prison sentences for those convicted. The legislation died because of disagreements between anti-and pro-gun control factions in Congress.

From 1992 through 1995, 40 states and the District of Columbia passed laws making it easier to try juveniles as adults.¹² A number of states broadened their judicial waiver laws. Some allowed juvenile court judges to transfer younger juveniles and those charged with less serious offenses. Some states created a presumption in favor of waiver for children of a certain age or for certain offenses. But in addition, many states adopted one or more procedures for transferring children to adult court without judicial review:

- **Prosecutorial Discretion**, which gives prosecutors authority to file certain juvenile cases in either juvenile or criminal court as they choose. These transfers are subjected to judicial review in only a few states, such as Pennsylvania, where a defendant can request a "reverse waiver" hearing in adult court.

¹⁰ Alfred Blumstein and Richard Rosenfeld, *Assessing Recent Ups and Downs in U.S. Homicide Rates*, The National Consortium on Violence Research, 1998; Andrew Lang Golub and Bruce D. Johnson, *Crack's Decline: Some Surprises Across U.S. Cities*, National Institute of Justice, 1997.

¹¹ John J. DiIulio, Jr. "Fill Churches, not Jails: Youth Crime and 'Superpredators,'" Prepared statement submitted to the Senate Judiciary Committee February 28, 1996. "...America's juvenile crime problem is bad and getting worse. No one relishes the thought of locking up more juveniles. But it must be done....OJJDP and the rest of the federal juvenile justice establishment needs to get out of its anti-incarceration time warp..."

¹² Patrick Griffin, Patricia Torbet, Linda Szymanski *Trying Juveniles as Adults in Criminal Court: An Analysis of State Transfer Provisions* (Office of Juvenile Justice and Delinquency Prevention (1998) pp. iii, 1-11. A detailed state-by-state analysis of waiver and transfer provisions, except for the "lowered age limits" law changes which Amnesty International credits with placing a large proportion of the total number of juveniles into adult court.

- **Statutory Exclusion** excludes certain categories of offenders from juvenile court jurisdiction based either on age or offense charged. Categories may be for serious or violent offenses, as in Georgia, or for non-violent offenses like small drug possession within 1000 feet of a school, as in Illinois. These provisions are sometimes called "automatic" transfers..
- **Lowered age limits.** Simply by lowering the age at which a child becomes an adult, or is no longer protected by juvenile court jurisdiction, a state subjects large numbers of children to criminal court jurisdiction. In states such as New York, however, special "youthful offender" sentencing provisions apply to younger offenders in criminal court.
- **"Once an adult, always an adult"** requires that once a juvenile is prosecuted in criminal court, all subsequent cases involving that juvenile will be under criminal court jurisdiction.

These various new transfer laws are now sending thousands of children to adult courts and adult corrections. The predicted onslaught of juvenile violence for which they were to be a solution never materialized.

Problems with Transfer: A Practitioner's Perspective

Fundamental Unfairness of Prosecuting Children as Adults

New transfer laws and prosecution policies have resulted in many more children being prosecuted as adults. Except for judicial waivers, for which data is recorded and reported, the actual number of children transferred to adult court can only be approximated. An accepted estimate is that more than 200,000 children a year are now prosecuted as adults in criminal court.¹³ Judicial waivers are a declining and small portion of these --down to 8,147 in 1998 from an historic high of 12,136 in 1994.¹⁴ Consequently, the number of juveniles transferred into adult court without judicial review -- and therefore, without the protections provided under *Kent*-- is dramatically increasing. And this means that the large majority of transferred children have not, at the time of the transfer, been evaluated by psychologists or other experts for mental or emotional maturity.

Yet these children enter a hostile environment. The adult criminal court process is adversarial, the structure is rigid and hierarchical. Little allowance is made for the limited experience and understanding of an immature mind. Recent studies on child development and competency question the extent to which young children are able to assist counsel or understand the meaning of their legal rights given their developmental immaturity and incapacity to understand the trial process.¹⁵

The problem is not only that children transferred to adult criminal court are disadvantaged in comparison to children in juvenile court, but that children prosecuted in criminal court are at a

¹³ *Betraying the Young*, Amnesty International USA (November 1998). This number includes children prosecuted under statutes which lowered the age at which a person is legally defined as an adult.

¹⁴ *Easy Access to Juvenile Court Statistics: 1989 - 1998* Online, H. Snyder, T. Finnegan, W. Kang, R. Poole, A. Stahl, and Y. Wan (2001). Available: <http://ojjdp.ncjrs.org/ojstatbb/ezajcs98>.

¹⁵ See, e.g., Thomas Grisso, *The Competence of Adolescents as Trial Defendants*, *Psychology, Public Policy, and Law*, Vol. 3, No.1, March 1997; *Recognizing the Child in the Delinquent*, *Kentucky Children's Rights Journal*, Vol. VII, No. 1, Summer 1999.

disadvantage compared to adults in the same courts. Actual trial experience shows how this is so at every stage in the process.¹⁶

- At arrest, children readily "confess" to police and to over-implicate themselves. Children appear to contradict themselves in the statements they give and as a result are easily "impeached" or confused when questioned before a judge or a jury.
- At bail or bond hearings children, who are rarely employed, seldom own property, and frequently lack "ties to the community," are often held on low bail amounts which most adults could more easily pay.
- In crowded probable cause and preliminary hearing courts, public defenders or assigned counsel seldom spend sufficient time with their young clients, who have difficulty remembering names and addresses and sorting out facts that are important to the adults defending their case.
- In trial preparation, interviewing children takes many more hours than for adults. Many attorneys do not have the time required. Children frequently filter out information they think is damaging and embellish whatever they think helps,. They try to protect parents or elders; they idealize roles and tell stories designed to picture the world the way they want it to be.
- At trial, children make terrible witnesses. They seldom show emotion, they are easily led, and they are prey to cross examination that takes advantage of "prior inconsistent statements," The very rules of evidence that work to get at the truth for adults may obscure the truth when children speak in their own defense.
- Children suffer most in being asked to accept or reject plea offers. They cannot grasp or act on the significance of long term consequences, such as for failure to comply with terms of probation. They barely grasp the significance of a sentence of months or years incarceration, and are at a complete loss to weigh the strength of a case against them against their desire to be free of prison "right away!"
- At sentencing, children in adult court are penalized because probation officers and others who recommend sentencing options are most familiar with the needs and programs that work for adults and are generally not knowledgeable about resources for children.

To ameliorate these problems, some public defender offices have initiated new programs. The Bureau of Justice Assistance has published recommendations for the design of such programs. Key among these is that children be served by a multidisciplinary team of which the attorney is but one member, and that the same legal team represent the child from start to finish.¹⁷ Few defender offices have these programs, or their staffing, in place. Nor can the best defense compensate for all the disabilities a child faces in criminal court.

Juveniles in adult correctional facilities suffer unjust treatment

¹⁶ Malcolm C. Young, "Representing a Child in Adult Criminal Court," 15 Criminal Justice Magazine No. 1 (Spring 2000).

¹⁷ Malcolm C. Young Providing Effective Representation for Youth Prosecuted as Adults Bureau of Justice Assistance Bulletin, U. S. Department of Justice (August 2000).

In 1997, 7,400 offenders under age of 18 were admitted to state prison, more than double the 3,400 admitted in 1985.¹⁸ In 1999, more than 8,500 juveniles were held in adult jails, either tried or awaiting trial as adults.¹⁹ They are at risk. Children incarcerated in adult facilities are 7.7 times more likely to commit suicide, 5 times more likely to be sexually assaulted, twice as likely to be beaten by staff, and 50% more likely to be attacked with a weapon than children incarcerated in juvenile institutions.²⁰

Children in adult facilities, particularly in jails, frequently do not receive educational or other services appropriate to their needs. In many states juveniles are treated the same as adults and are provided the same health, educational and recreational services. Few adult correctional agencies provide special programming developed for this age group and most states do not provide special staff training on handling juvenile offenders.²¹ The situation for girls is particularly troublesome as there are so few of them nationally that there will often be only one female under 18 in a particular prison and, therefore little likelihood of special services being provided.

Adult convictions carry long term consequences for juveniles

Whether incarcerated or not, children convicted in criminal court may suffer other long-term legal, political and socioeconomic consequences. They may be subject to criminal court jurisdiction for any subsequent offense committed as a juvenile. Their convictions become a matter of public record, and they may be compelled to report their conviction on job applications once they are old enough to seek employment. In addition, certain states bar ex-offenders with felony convictions from particular types of jobs, therefore possibly limiting future employment opportunities for youth. Adult convictions may also result in the loss of voting rights, even before a child is old enough to vote, and of government entitlements such as federal financial aid for post-secondary education.

Adult punishment for juvenile offenders adversely impacts public safety

A rationale often given for transferring juveniles to the criminal justice system is that more severe punishment and less concern with rehabilitation will result in reduced crime and greater public safety. However, studies comparing groups of similar juvenile offenders in the adult and juvenile systems have consistently shown that transfer has the opposite effect. Although youths transferred to the adult criminal justice system are more likely to be convicted and incarcerated,²² they are more likely to re-offend, re-offend earlier, and to commit more serious subsequent offenses than those who remain in the juvenile system.²³ A recent Florida study found that Dade

¹⁸ Kevin J. Strom, *Profile of State Prisoners under Age 18, 1985-97*, Bureau of Justice Statistics, February 2000.

¹⁹ James J. Stephan, *Census of Jails, 1999*, Bureau of Justice Statistics, September 2001.

²⁰ Youth in Prisons and Training Schools: Perceptions and Consequences of the Treatment-Custody Dichotomy, J. Fagan, M. Frost and T.S. Vivona, *Juvenile and Family Court Journal*, No. 2, 1989.

²¹ Juveniles Offenders in Criminal Court and Adult Prison, Legal: Psychological, and Behavioral Outcomes, Richard E. Redding, Jr., *Juvenile and Family Court Journal*, Winter 1999.

²² *Excluding Violent Youths from Juvenile Court: The Effectiveness of Legislative Waiver*, David Myers, University of Maryland, 1999.

²³ The Transfer of Juveniles to Criminal Court: Does It Make a Difference? D. Bishop, C. Frazier, L. Lanza-Kaduce, and L. Winner, *Crime & Delinquency*, Vol. 42 No. 2, April 1996. *Excluding Violent Youths from*

County youth receiving adult sanctions – including those in jail and in prison - were 81% more likely to have a technical violation or a new case against them than were youth receiving a juvenile sanction.²⁴ The higher recidivism rates for juveniles transferred to the adult system are in large part attributable to the lack of rehabilitative services tailored for children in adult correctional systems.

Criminal prosecution of children supplants programs and services that could have a positive impact on crime reduction.

The transfer of children to adult court for the purpose of enhancing punishment is an ineffective and expensive substitute for use of prevention strategies that reduce juvenile violence and problems such as drug abuse, property crimes, and disruptive behavior. Psychologist Dewey Cornell and his colleagues at the Virginia Youth Violence Project have carefully catalogued effective prevention strategies:

- Community-wide mentoring programs and after-school programs have proven highly effective in reducing drug use, truancy and juvenile crime generally.
- Family-focused programs that emphasize parent education and family strengthening offer critical prevention strategies. For example, multi-systemic therapy is recognized as one of the most cost-effective and successful treatment program for high-risk or delinquent children and their families.
- School-based programs that focus on conflict resolution, peer mediation, violence prevention counseling, bullying reduction, social competence development, and drug education can lead to less disruptive learning environments and improve the children's social and coping skills. For example, a bullying reduction program implemented in Norway and then in the United States led to a "50% reduction in bully/victim problems, as well as marked reductions in vandalism, truancy, and fighting."

In addition to prevention programs, Cornell notes that treatment of juvenile offenders is one of the most cost-effective forms of prevention. Studies show that the most effective treatment programs make extensive use of individual counseling, interpersonal skills training, and mental health rather than juvenile justice personnel. Cornell specifically contrasts these programs to less effective but politically popular program models such as boot camps.²⁵

Psychologist James Garbarino, who has studied violence in young males in Palestine, Kuwait, and Chicago counsels that even violent youth can be treated and "lost boys" reclaimed. Interventions designed to stimulate empathy, protect boys from abuse and humiliation, and provide

Juvenile Court: The Effectiveness of Legislative Waiver, David Myers, University of Maryland, 1999. The Comparative Advantage of Juvenile vs. Criminal Court Sanctions on Recidivism Among Adolescent Felony Offenders, Jeffrey Fagan, *Law and Policy*, Vol. 18 # 1 and 2, Jan/Apr. 1996.

²⁴ Craig A. Mason and Shau Chang, *Re-Arrest Rates Among Youth Sentenced in Adult Court*, Evaluation report for Juvenile Sentencing Advocacy Project, Miami Dade County Public Defender's Office, (October, 2001) at p. 8.

²⁵ Dewey G. Cornell, Prevention of Youth Violence. Chapter 24 in Elissa Benedek & Diane Schetky (eds.) *Principles and practice of child and adolescent forensic psychiatry* (pp. 247-256). Washington DC: American Psychiatric Press. (2001). Also available in similar form on line and from other publications.

spirituality and mentoring can change even the worst-appearing child. The tools Garbarino recommends are multi-systemic therapy and skills building, not long-term imprisonment with adults.²⁶

Juvenile Transfers Increase Racial Disparity

Research shows that minority youth are arrested at disproportionately higher rates than white youth, and that minority over representation increases as the juvenile moves through the juvenile justice system. Minority over representation is further exacerbated under the transfer process, so that a disproportionate number of minority children are prosecuted as adults and sent to adult prison. Department of Justice data show that 67% of juvenile defendants in adult court are black whereas white children account for 31%. After sentencing, 77% of juveniles sent to adult prison are minorities.²⁷ And while 17% of blacks and 20% of whites aged 12-17 used drugs in the last year²⁸, fully 75% of juvenile defendants charged with drug offenses in adult court are black. About 95% of juveniles sentenced to adult prison for drug offenses are minorities. Research conducted in California shows that “minority youths are transferred to adult court and imprisoned more often than their proportions of violent crime arrestees would predict.”²⁹ And a recent study in Illinois found that while African American youth account for 15% of the state’s youth population, they constituted almost 86% of the youth automatically transferred to adult court and 88% of the youth imprisoned for drug crimes statewide. Most significant to any claim that over representation reflects rates of involvement in crime, studies of children “automatically transferred” to adult court in Cook County under the state’s law mandating transfer for youth committing certain drug offenses within a thousand feet of a school or public housing project revealed that 99% of youth automatically transferred to adult court for drug crimes between 1995 and 2000, and 99% of all youth transferred to adult court for all crimes in 1999-2000, were youth of color.³⁰ Statistics like these move us past the time when reasonable people can believe that policing and prosecution practices leading to transfer are even close to the same for children of color as they are for white kids.

²⁶ James Garbarino, Ph. D., Lost Boys: Why our Sons Turn Violent and How We Can Save Them (New Press 1999).

²⁷ *Juvenile Felony Defendants in Criminal Courts*, Bureau of Justice Statistics, September 1998.

²⁸ Substance Abuse and Mental Health Services Administration, Office of Applied Studies, *National Household Survey on Drug Abuse*, 1999 and 2000.

²⁹ Hispanic children are 2.3 times and African American children are 6.7 times as likely as white children to be arrested for violent offenses but after their transfer to and prosecution in adult criminal court Hispanic children are 7.3 times and African American children are 18.4 times more likely to be incarcerated than white children. *The Color of Justice*.

³⁰ Jason Ziedenberg, “Drugs and Disparity: The Racial Impact of Illinois’ Practice of Transferring Young Drug Offenders to Adult Court” Justice Policy Institute and the Building Blocks for Youth Initiative (April 2001).

Conclusion

The move to transfer more children into the adult criminal justice system is a radical rethinking of the traditional view that delinquent children need help to turn their lives around. This nation-wide transformation is taking place despite a decline in much juvenile crime that began before most of the new transfer laws were enacted. As the number of juvenile cases heard in criminal court increases, more people involved in the system are recognizing that adult courts are inappropriate and unjust settings for children whose developmental immaturity puts them at a disadvantage at every stage. There is mounting evidence of the damaging consequences to children who are incarcerated in adult prisons and jails. Those who are not imprisoned suffer consequences that children can hardly begin to grasp. Furthermore, the imposition of adult punishments, far from deterring crime, actually seems to produce an increase in criminal activity in comparison to the results obtained for children retained in the juvenile system. More effective responses to the problems of crime and violence exist outside the criminal justice system.

The harshness, ineffectiveness, and punishing aspects of transfer from juvenile to adult court is doubly visited on children of color.

For all these reasons, professionals called upon to review either the policy or practice of transferring children to adult court would be well served to do so with skepticism at every turn.