

DISABILITY AND TYPE/LEVEL OF OFFENSE COMMITTED BY JUVENILES
TRANSFERRED VERSUS NOT TRANSFERRED TO THE ADULT COURT SYSTEM

by

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TABLE OF CONTENTS

LIST OF TABLES	8
ABSTRACT.....	9
CHAPTER 1. INTRODUCTION	11
Definitions and Jurisdiction of the Juvenile Court	13
Purpose of the Study	18
Hypotheses	19
CHAPTER 2. REVIEW OF RELEVANT RESEARCH	21
Juvenile Court Criticisms and Due Process Reforms	22
Differences across States on the Transfer of Juveniles to Adult Court	32
Theories of Juvenile Delinquency	33
Social Learning Theory.....	35
Social Control Theory	39
Risk and Protective Factors Theory	40
Juvenile Delinquency and Disability	42
Transfer of Juvenile Delinquents to Adult Criminal Court	51
CHAPTER 3. METHOD	66
Participants	66
Independent and Dependent Measures	68
Procedure	68

Statistical Analyses	68
CHAPTER 4. RESULTS	69
Demographics	69
Ethnicity	70
Transfer Status	73
Hypothesis 1: Disability Status	73
Hypothesis 2: Level of Offense	73
Hypothesis 3: Ethnicity.....	75
CHAPTER 5. DISCUSSION	77
Limitations of the Study	81
Conclusions and Areas of Future Research	82
APPENDIX A – HUMAN SUBJECTS APPROVAL LETTER.....	84
APPENDIX B – ARIZONA DEPARTMENT OF JUVENILE CORRECTIONS APPROVAL LETTER	85
APPENDIX C – DISSERTATION DATA	86
REFERENCES	91

LIST OF TABLES

TABLE 1. Frequency and Percentage of Ethnicity for Transferred and Non-Transferred Groups	70
TABLE 2. Frequency and Percentage of Youths' Special Education Placement	71
TABLE 3. Frequency and Percentage of Level of Most Serious Offense	72
TABLE 4. Chi-Square Analyses of Level of Offense Committed by Disability Diagnosis	73
TABLE 5. Chi-Square Analysis of Youths' Special Education Placement	74
TABLE 6. Chi-Square Analyses of Ethnicity and Disability Status	76

ABSTRACT

The purpose of this study was to compare two groups of males in Arizona Department of Corrections (ADJC) custody with regard to three factors. The first group consisted of youth sentenced to ADJC who later received criminal charges for which they were transferred to the adult court system, (“Transferred” group), and the second group involved youth sentenced to ADJC who did not receive any additional criminal charges for which they were transferred, (“Non-Transferred” group). The variables examined were: youth with versus without a special education disability diagnosis, most serious level of offense for which the youth was imprisoned, and ethnicity. Due to the lack of prior research in this area, only null hypotheses were formulated. The first hypothesis was there would be no significant differences between the two groups on the observed versus expected frequencies of each of the variables studied. The second hypothesis was that there would be no significant association between the two groups with regard to their disability status on each of the variables.

The results showed that regarding disability status, the null hypothesis was not rejected. The frequency of disabilities represented in both groups and the proportion of youth eligible to receive special education services was not different. Regarding the seriousness of offense level, the null hypothesis that both groups were identical was not rejected; indicating that the Transferred group was not significantly different from the Non-Transferred group in frequency of most serious offense level. In terms of disability status, and level of offense committed, the null hypothesis was also not rejected. Finally, regarding ethnic representation, no significant associations were found for the groups.

The groups studied showed a larger percentage of youth receiving special education services, in comparison to the percentage of youth receiving special education services within the whole educational system. The groups also had a larger percentage of minorities compared to the latest Arizona census information on ethnic backgrounds of children under age 18. The results highlight the similarities between the Transferred and Non-Transferred groups and discuss the implications of the findings, future research directions, and the study's limitations.

CHAPTER 1

INTRODUCTION

Until the late 19th century, American courts followed the English tradition of discerning rules from past court decisions in deciding new cases involving juveniles. Children were tried in the same courts as adults with no separate system of juvenile justice. The only children deemed “too young” for the adult court were those under seven years of age, who were considered incapable of forming criminal intent (Flowers, 2002). As America changed from a largely agrarian society to an industrial one, many social problems began to arise, such as the use of children in factories and mines and the unhealthy and unsanitary conditions for children in lower-class slums (Flowers, 2002). These problems, as well as conditions in reform schools and “houses of refuge” that held juveniles convicted of crimes, concerned social reformers in the late 1800s.

Historical accounts of the formation of the juvenile courts suggest that the primary motivation of the social reformers was driven by a progressive ideology that stressed both humanitarianism and positivistic beliefs. “Positivism” was a 20th century philosophical movement that theorized all meaningful statements were either able to be analyzed or confirmable by direct observation and experiment. Both the positivistic and humanitarian theories stressed that behavior was amenable to rehabilitation (Fagan & Deschenes, 1990; Feld, 2003; Watkins, 2001). Positivist criminology attempted to identify the factors that caused crime and regarded criminal deviance as determined and not freely-chosen (Watkins, 2001). Thus, juveniles could be “reformed” rather than punished. Social reformers such as Judge Julian Mack and Jane Hull of Chicago, as well

as social reform groups like the Society for the Prevention of Juvenile Delinquency that advocated for the separation of adult and juvenile criminals, believed juveniles were being judged inappropriately in the adult criminal court for four reasons. First, court actors such as judges and attorneys did not understand the legal disabilities of children; second, judges were not prepared to act in the parents' stead (*in parens patriae*); third, courts lacked probation departments; and fourth, courts did not give juveniles chances to reform, and thus failed to follow the positivist system of criminology (Watkins, 1998). The reformers expected juvenile court professionals to use informal proceedings and to replace the punitive approach with a preventative one that included open-ended, informal and flexible policies for charging children with crimes. They therefore expected juvenile justice professionals to emphasize treatment, supervision and control, rather than punishment (Fagan & Deschenes, 1990; Feld, 2003; Vanella, 2006). The recognition that the state, rather than the parent, had rights of parenthood over all children within its jurisdiction was based on the concept of *parens patriae*. This gave the state a legal right to intervene in parental prerogatives in appropriate circumstances, and becoming the "higher" parent of the child (Watkins, 1998). The formation of the juvenile court was thus shaped by the values of social reformers, and it sought to invoke states' *parens patriae* authority to protect, rescue and reform children (Kisthardt, 2006).

The social reformers sought to embody these principles in the formation of a new juvenile justice system that would modify courtroom procedures to eliminate any implication of a criminal proceeding, adopt a euphemistic vocabulary, and endorse a physically separate court building to avoid the stigma of adult prosecutions. Judges

would conduct confidential hearings, limit public access to court records, and find children to be “delinquent” rather than “guilty” of a crime. Proceedings would then focus on the child’s background and welfare, instead of the specifics of the crime (Feld, 2003).

The Illinois legislature was the first to respond to the pressure of the social reformers, and it created the *Illinois Juvenile Court Act* of 1899. This legislation created the first juvenile court in the United States with a separate court system for children under 16 years of age that maintained as its goal rehabilitation and individualized treatment (Fagan & Deschenes, 1990; Vanella, 2006). Punishment and custody were secondary goals to the pursuit of remaking the juvenile’s character and lifestyle (Fagan & Deschenes, 1990).

Definitions and Jurisdiction of the Juvenile Court

The *Illinois Juvenile Court Act* (1899), or the “Illinois Act,” sought to treat children in juvenile courts differently from their adult counterparts in a number of ways. First, proceedings were classified as “civil” rather than “criminal,” and were therefore seen as less stigmatizing. New legal categories were established, children were judged as “delinquent” rather than “guilty,” and “neglected,” rather than “wards of the state.” The original Illinois Act defined “delinquent child” as any minor under 16 years of age “who violates any law of this State or any city or village ordinance” (*Illinois Juvenile Court Act*, 1899). The proceedings in the new juvenile court limited public access and excluded lawyers, juries, rules of evidence and formal procedures. The limited public access and exclusions of formal procedural protections were viewed as immaterial because the newly created courts were to be less concerned with factual determinations of

delinquency and more concerned with the sensitive diagnosis and treatment of the child's individual pathology (Ainsworth, 1991; Feld, 1999).

Between 1899 and 1929, another 45 states created some type of juvenile justice act to implement their own systems of juvenile justice for children in their jurisdiction. "Jurisdiction" refers to the parameters of a court's authority to take legal actions concerning individuals within its boundaries. However, states defined juvenile court jurisdiction in different ways. For example, 14 states (Alabama, Colorado, Georgia, Indiana, Iowa, Kansas, New Jersey, New Mexico, New York, Oklahoma, Pennsylvania, Rhode Island, Tennessee, and Vermont) followed the Illinois model of establishing age 16 as the cut-off age to remain within juvenile court jurisdiction. Thirteen other states (Arkansas, Delaware, Florida, Illinois, Kentucky, Louisiana, Massachusetts, Michigan, Missouri, Montana, New Hampshire, Texas, and Wisconsin) and the District of Columbia established age 17 as the cut-off age. The remaining 17 states (Arizona, Connecticut, Idaho, Minnesota, Mississippi, Nebraska, Nevada, North Carolina, North Dakota, Ohio, Oregon, South Carolina, South Dakota, Utah, Virginia, Washington and West Virginia) used age 18 as the cut-off age, while Maryland used gender in combination with age by using age 18 as the cut-off age for girls and age 20 for boys. California used age 21 for both girls and boys (Watkins, 1998).

Currently, the juvenile court's jurisdiction over delinquency cases in most states reaches all children within its boundaries between 12 and 17 years of age. However, there are some notable exceptions, such as North Carolina, which uses 6 years of age as its lower cut-off age, and Massachusetts, Maryland, New York and Arizona, which use 7 or

8 years as the lower cut-off age. Therefore, an 8 year-old in Arizona is deemed capable of forming the necessary intent to commit an act of juvenile delinquency.

Juvenile courts typically preside over status offenses, neglect cases and delinquency matters. “Status” offenses are ones which, if committed by an adult, would not be crimes, such as truancy, vagrancy, disobedience to parents and teachers, growing up in idleness, or using profane language, immorality, and incorrigibility (Klein, 1998; Reader, 1996). Usually, a juvenile adjudicated for a status offense has not committed an illegal action *per se*; instead the juvenile is in some “condition” or vicinity to peers or parents which, according to the authorities, may result in a future criminal act. Truancy, immorality or incorrigibility could also lead to future acts of criminality (Watkins, 1998).

A “delinquent” act is commonly described as any criminal act committed by a juvenile which, if committed by an adult, would be a misdemeanor or a felony (Champion & Mays, 1991). Juvenile courts do not “convict” or “find guilt;” instead they “adjudicate delinquents.” Similarly, juveniles are not “sentenced,” they have “dispositions” and they are committed to “correctional facilities” rather than jails or prisons (Klein, 1998; Reader, 1996). While some writers have described the states differing definitions of “delinquent” as creating a “jurisdictional crazy quilt of statutes” (Watkins, 1998, p. 77.), the differences across state definitions reflect state sovereignty to enact legislation reflecting state mores. Since individual state statutes reflected the ideals and values of the legislators and their constituents in the states, there are different definitions within different state statutes of behavior considered immoral or incorrigible (Klein, 1998; Watkins, 1998). However, despite the differences in legal definitions in the

state statutes, all were based on the social reformers' ideas of *parens patriae*, and all created new, separate courts for juveniles (Feld, 2003, Watkins, 1998).

The initial creation of juvenile courts was based on the social reformers' ideals of positivism and humanitarian philosophies. These philosophies challenged the idea that crime was freely chosen, and instead viewed crime as produced by several specific causal factors. The juvenile court's charge was to identify the underlying causes of youth misbehavior and then provide treatment for the causes. The philosophical underpinnings of the juvenile courts did not necessarily justify the inclusion in the juvenile court system of "serious offenders" incapable of reformation (Myers, 2001). The idea was not accepted that children who committed serious crimes were amenable to reformation. Thus, the original Illinois Act (1899) included a provision that allowed juvenile court judges the discretion to "waive" jurisdiction -- that is, to decline to exert its jurisdiction -- over cases of serious offenders and send them to adult court instead (Feld, 1987). Judicial waiver provisions were common within the juvenile justice acts in many states to address the problem of "what to do" with the more serious offenders. The legislation typically allowed judicial waiver in serious cases where older boys were charged with "deeds of violence, daring hold-ups, carrying guns, thefts of considerable amounts and rape" (Feld, 1987, p. 478).

The juvenile court's original founding principles of rehabilitation, rather than punishment, began to come under attack in the 1960s and 1970s (Podkopacz & Feld, 1996; Redding, 1997). Juvenile crime rates rose dramatically from the mid-1960s through the mid-1970s (Gordon, 1999). At that time, programs that were supposed to

provide rehabilitation to juveniles began to be viewed as ineffective (Clarke, 2007; Feld, 1998). By the end of the mid-1970s the view began to emerge that the juvenile court was too lenient, particularly with serious and violent offenders (Myers, 2001). The increase in crime and the fear of a too lenient juvenile system encouraged a complete re-examination of the juvenile court and its purpose (Steiner, Hemmens & Bell, 2006). The rehabilitative ideal promulgated by the reformers in Illinois gave way to the more punitive system whose emphasis was accountability and deterrence, not rehabilitation (Angell, 2004; Flowers, 2002; Kupchik, 2006; Kupchik, 2004). One of the ways the perceived leniency of the juvenile court was changed during the 1980s and early 1990s was to make it easier to transfer the jurisdiction over some juvenile cases away from the juvenile court to the adult criminal court.

Faced with information concerning the increasing number of younger juveniles transferred into adult court and being sentenced to adult prisons, researchers from a number of different fields began writing extensively about the transfer phenomenon in the early 1990's and early 2000's. Similar to the intersection of the many different fields that united to bring about the formation of the first juvenile court in 1899, these modern researchers undertook the task of examining in detail the effects of easing transfer laws specifically on minority youth, whether the transfer of juveniles actually served as a deterrent to future criminal actions, and whether juveniles should ever be transferred to adult court given that their fundamental developmental capacity is less than adults.

Concurrently with the researchers studying the transfer of juveniles into adult court, another group of researchers sought to study the causes of juvenile delinquency. The philosophical underpinning of that research was the social reformers core belief that juvenile delinquents were fundamentally different from adult criminals because of many factors beyond their control. These factors beyond their control included socio-economic status, hereditary traits, and individual psychological factors, which included family disruption or dysfunction, and educational experiences (Skilling, Martin & Quinsey, 2003). One specific area of research in the juvenile delinquency area is the study of disability status within the juvenile delinquent population. It is generally well-accepted that children with disabilities are widely over-represented within the juvenile justice system (National Council on Disability, 2003). Despite the high numbers of youth transferred into the adult system and the observations of many researchers that the population of transferred juveniles should be studied due to the serious issues presented by the transfer of extremely young juveniles into the adult system (Quinn et al., 2001; Morris & Morris, 2006), there is a dearth of research regarding the characteristics of this population, especially with regard to disability status. There is no national reporting on this particular group of youth, nor are there any large-scale studies of this special group of inmates (Beyer, 2006; personal communication with Melissa Sickmund, 9-23-08)

Purpose of the Study

The primary purpose of the present study was to compare two groups of youths within the Arizona Department of Juvenile Corrections (“AJDC”) custody, those transferred to the adult criminal court (“Transferred” group) versus those not transferred

to adult court (“Non-Transferred” group). Specifically, the Transferred group versus the Non-Transferred group was compared with regard to the following factors: disability status, level of the most serious offense committed by the juveniles underlying their most recent incarceration (“level of offense,” or “offense level”), and ethnicity.

Hypotheses

Due to the paucity of research and theoretical literature regarding the population of youth transferred to adult court, directional hypotheses could not be stated. Therefore, the following null hypotheses were examined:

Hypothesis 1: Disability Status

Transfer Status

- H_0 : No significant association ($p > .05$) exists between Transferred and Non-Transferred youth with respect to their disability status.

IDEA Diagnoses

- H_0 : No significant association ($p > .05$) exists for Transferred youth with respect to the frequency of offense level by disability status.
- H_0 : No significant association ($p > .05$) exists for Non-Transferred youth with respect to the frequency of offense level by disability status.
- H_0 : No significant association ($p > .05$) exists for Transferred versus Non-Transferred youth with regard to the frequency of IDEA diagnoses of Serious Emotional Disturbance “SED”, Specific Learning Disability “SLD” and Speech and Language Impairment “SLI”.

Hypothesis 2: Level of Offense

- H_0 : No significant association ($p > .05$) exists between Transferred and Non-Transferred youth with respect to their offense level.

Hypothesis 3: Ethnicity

- H_0 : No significant association ($p > .05$) exists between Transferred and Non-Transferred youth with respect to their ethnicity.
- H_0 : No significant association ($p > .05$) exists for Transferred youth with regard to the frequency of IDEA diagnoses across ethnicity categories.
- H_0 : No significant association ($p > .05$) exists for Non-Transferred youth with regard to the frequency of IDEA diagnoses across ethnicity categories.

CHAPTER 2.

REVIEW OF RELEVANT RESEARCH

Until the late 19th century, American courts followed the English tradition of discerning rules from past court decisions in deciding new cases involving juveniles. Children were tried in the same courts as adults with no separate system of juvenile justice. The only children deemed “too young” for the adult court were those under seven years of age, who were considered incapable of forming criminal intent (Flowers, 2002). As America changed from a largely agrarian society to an industrial one, many social problems began to arise, such as the use of children in factories and mines and the unhealthy and unsanitary conditions for children in lower-class slums (Flowers, 2002). These problems, as well as conditions in reform schools and “houses of refuge” that held juveniles convicted of crimes, concerned social reformers in the late 1800s. The initial creation of juvenile courts was based on the social reformers’ ideals of positivism and humanitarian philosophies. These philosophies challenged the idea that crime was freely chosen, and instead viewed crime as produced by several specific causal factors.

The juvenile court’s charge was to identify the underlying causes of youth misbehavior and then provide treatment for the causes. The philosophical underpinnings of the juvenile courts did not necessarily justify the inclusion in the juvenile court system of “serious offenders” incapable of reformation (Myers, 2001). The idea was not accepted that children who committed serious crimes were amenable to reformation. Thus, the original Illinois Act included a provision that allowed juvenile court judges the discretion to “waive” jurisdiction -- that is, to decline to exert its jurisdiction -- over cases of serious

offenders and send them to adult court instead (Feld, 1987). Judicial waiver provisions were common within the juvenile justice acts in many states to address the problem of “what to do” with the more serious offenders. The legislation typically allowed judicial waiver in serious cases where older boys were charged with “deeds of violence, daring hold-ups, carrying guns, thefts of considerable amounts and rape” (Feld, 1987, p. 478).

Juvenile Court Criticisms and Due Process Reforms

One legal consequence of creating a separate system of juvenile justice was that children accused of crimes had no due process protections in the juvenile courts. Rules of evidence, trial by jury, determinate sentences for certain crimes and the right to counsel were not protected rights within the juvenile system, as they were within the adult system (Feld, 2007). Since the social reformers originally wanted juvenile delinquents to receive treatment, these basic rights held by criminal defendants were not seen as essential or even material. Since judges were viewed as needing the utmost flexibility in fashioning solutions for children who needed reform, judges were given almost limitless discretion on how to handle all matters before the court and then given complete discretion to create dispositions for all delinquent acts and status offenses (Myers, 2001).

Over the 30 years following the creation of juvenile courts, parents began to flood the courts with requests for the courts to manage their incorrigible children, and schools and social agencies began to use the courts as a “dumping ground,” expecting courts to impose solutions (Feld, 1991). Judges had wide latitude to prevent unruliness from escalating into crime, and their dispositions often not only reflected their values and prejudices, but often resulted in disproportionate sentences on poor, minority and female

juveniles (Feld, 1991). The lack of due process protections defeated the original goals of the social reformers. Instead of individualized treatments for each child, the judges were treating all children similarly regardless of their offense (Jensen, 1994; Klein, 1998). Juveniles who were simply status offenders were being held in the same facility as juveniles adjudicated responsible for various violent criminal acts (Feld, 1991; Reader, 1996; Watkins, 1998). Further, once they were in those facilities, children in widely different circumstances were held the same amount of time, unless they misbehaved, and then they were often held indefinitely (Ainsworth, 1991; Klein, 1998).

Appeals courts during this time also gave enormous latitude to the juvenile court. In fact, from the early formation of juvenile courts up through about 1935, the juvenile courts enjoyed a policy of non-interference by the appellate courts (Watkins, 1998). Appellate courts consistently adopted a hands-off approach to the review of juvenile court decisions, rarely reversing a juvenile court ruling (Watkins, 1998). In 1947, this began to change with the U.S. Supreme Court decision in *Haley v. Ohio*, (1947). Haley and two other boys were charged in juvenile court with the homicide of a store owner during a robbery. Haley was alleged to be the lookout. He was adjudicated responsible and then committed to life imprisonment for the homicide. Although the Ohio courts upheld the decision, the U.S. Supreme Court re-examined the case and then reversed it because of its concerns that Haley's confession had been coerced by the police. The U.S. Supreme Court opinion in *Haley v. Ohio* (1947) stated:

Age 15 is a tender and difficult age for a boy of any race. . . . This is the period of great instability which the crisis of adolescence produces. A 15-year-old lad,

questioned through the dead of night by relays of police, is a ready victim of the inquisition. . . . He needs counsel and support if he is not to become the victim first of fear, then of panic. [These events] show such a callous attitude of the police towards the safeguards which respect for ordinary standards of human relationships compels that we take with a grain of salt their present apologia that the five-hour grilling of this boy was conducted in a fair and dispassionate manner. When the police are so unmindful of these basic standards of conduct in their public dealings, their secret treatment of a 15-year-old boy behind closed doors in the dead of night becomes darkly suspicious (p. 600).

The Supreme Court concluded that juveniles had constitutional protections from the use of coerced confessions against them.

Fourteen years later, the U.S. Supreme Court again addressed the issue of the admissibility of coerced confessions in juvenile courts in *Gallegos v. Colorado* (1962). Gallegos was 14 years of age when he was convicted of assaulting and robbing an elderly man of \$13. The man later died from his injuries. Gallegos was initially adjudicated responsible for the robbery in juvenile court. When the man died, he was charged and adjudicated responsible for the homicide and sent to the reformatory for an indeterminate time. The crucial facts for the U.S. Supreme Court were a formal confession Gallegos had signed before being seen by a judge and before his victim died, but after he had been held for five days without seeing a lawyer, parent, or other friendly adult. The Supreme Court opinion in *Gallegos v. Colorado* (1962) reversed the juvenile court's imposition of an indeterminate sentence and stated:

The fact that petitioner was only 14 years old puts this case on the same footing as *Haley v. Ohio* . . . There was here no evidence of prolonged questioning. But the five-day detention -- during which time the boy's mother unsuccessfully tried to see him and he was cut off from contact with any lawyer or adult advisor -- gives the case an ominous cast. The prosecution says that the boy was advised of his right to counsel, but that he did not ask either for a lawyer or for his parents. But a 14-year-old boy, no matter how sophisticated, is unlikely to have any conception of what will confront him when he is made accessible only to the police. That is to say, we deal with a person who is not equal to the police in knowledge and understanding of the consequences of the questions and answers being recorded and who is unable to know how to protect his own interests or how to get the benefits of his constitutional rights (pp. 53-54).

In both the *Haley* and *Gallegos* decisions, the Supreme Court sought to provide due process protections to juvenile suspects. In both, the Supreme Court remarked on the immaturity and vulnerability of the suspects in a way reminiscent of the early social reformers' idea that juveniles were fundamentally different from adults.

Three years later, in the landmark case of *Kent v. U.S.* (1966), the Supreme Court addressed the standards a judge must use to waive juvenile court jurisdiction and prosecute a juvenile in adult court. Morris Kent was 14 years of age when he was placed on juvenile court probation for housebreaking and attempting to steal a purse. After Kent had been on probation for two years, an intruder broke into a woman's apartment, took her wallet, and raped her. Police lifted fingerprints from the apartment

that matched Kent's. Police took Kent into custody and interrogated him for 14 hours over the next day-and-a-half. He confessed his involvement not only in that offense, but in other similar offenses which had already taken place. Shortly thereafter, his mother retained an attorney who filed motions asking that Kent not be waived into the adult system and that he be given access to Kent's juvenile file, which the judge was going to use to decide whether waiver was appropriate. The attorney also had Kent evaluated by two psychiatrists and a psychologist during the interrogation and detention. All the evaluators concluded Kent was suffering from "severe schizophrenia" at the time of the offense. The juvenile court judge made no rulings on the motions, gave no notice to Kent's parents, precluded Kent's attorney's participation, and held no hearing. Kent was waived into adult court and then subjected to additional charges for the housebreaking and rape that he had admitted in his confession. Kent was tried and convicted in adult court despite evidence that he was suffering from severe schizophrenia at the time of the offense, and was sentenced to 30 to 90 years in prison.

The U.S. Supreme Court overruled the juvenile court's waiver of jurisdiction and sent the case back to the juvenile court for proper consideration of whether Kent should be waived into adult court only after employing specific the procedural protections it prescribed in its opinion. The Supreme Court explained that for a waiver statute to be valid, it needed minimally to require judicial consideration of eight factors: (1) the seriousness of the alleged offense to the community and whether the protection of the community requires waiver; (2) whether the alleged offense was

committed in an aggressive, violent, premeditated or willful manner; (3) whether the alleged offense was against persons or against property, greater weight being given to offenses against persons, especially if personal injury resulted; (4) the prosecutive merit of the complaint, *i.e.*, whether there is sufficient evidence upon which a Grand Jury may be expected to return an indictment; (5) the desirability of trial and disposition of the entire offense in one court; (6) the sophistication and maturity of the juvenile as determined by consideration of his home, environmental situation, emotional attitude and pattern of living; (7) the record and previous history of the juvenile, including previous contacts with law enforcement agencies, juvenile courts and other jurisdictions; and (8) the prospects for adequate protection of the public and the likelihood of reasonable rehabilitation of the juvenile (if he is found to have committed the alleged offense) by the use of procedures, services and facilities currently available to the juvenile court.

In 1967, the Supreme Court decided the case of *In re Gault*, which changed juvenile court proceedings considerably. Gerald Gault was 15 years of age when he was arrested and charged in Arizona with making a lewd phone call. He and his friend had called a neighbor and asked these three questions: “Do you give any?”, “Are your cherries ripe today?” and “Do you have big bombers?” (Myers, 2001). The police found Gault home alone and took him into custody. The police did not leave any type of notice at the Gault home that he was being held. The police held Gault for five days before he was brought before a judge. The juvenile court judge then adjudicated Gault responsible for being “habitually involved in immoral matters” (due to a previous

unrecorded referral to the court about a stolen baseball glove that the judge believed Gault had lied about). After the hearing in juvenile court without witnesses (including no testimony from the neighbor as to which of the boys had made the phone call), without notice to his parents, and without any representation by counsel, the judge ordered him to be committed to reformatory school until age 21, a six-year term. Under Arizona law at that time, no appeal could be taken from a juvenile court proceeding.

In reviewing the juvenile court decision, the U.S. Supreme Court observed that the juvenile court failed to uphold basic human rights guaranteed in adult courts, including the right to not have coerced confessions introduced in evidence, the right to be notified of the charges being filed against you, and the right to not be held indefinitely in police custody without being charged with an offense, the right to have bail set for your offense, and the right to have a public trial. The Supreme Court noted that every state in the United States and Puerto Rico had juvenile justice acts of some type, but lamented the poor quality of the juvenile court system and judges at that time. The Supreme Court opinion in *In re Gault* (1967) concluded by stating that although the “motives were the highest and the impulses enlightened,” that the ideal had led to a peculiar system for juveniles. “The constitutional and theoretical basis for this peculiar system is -- to say the least -- debatable. And in practice . . . the results have not been entirely satisfactory. Juvenile Court history has again demonstrated that unbridled discretion, however benevolently motivated, is frequently a poor substitute for principle and procedure” (pp. 17-18).

The *In re Gault* (1967) opinion also addresses its particular concerns of the procedural irregularities in Gault's juvenile court hearing. The Court concludes:

Under our Constitution, the condition of being a boy does not justify a kangaroo court. The traditional ideas of Juvenile Court procedure, indeed, contemplated that time would be available and care would be used to establish precisely what the juvenile did and why he did it -- was it a prank of adolescence or a brutal act threatening serious consequences to himself or society unless corrected? (p. 27).

Gault's adjudication was reversed and the case was sent back to juvenile court for further proceedings. Although there is no report within legal databases of the disposition of Gault's case after the remand to juvenile court, Gault later spoke at a dinner honoring his attorney and talked to the crowd about his experiences. In that address he stated that without a lawyer, he had no idea what was happening to him in court until the judge said he was committed "until he was twenty-one" and he realized that was more years than he could count on the fingers of one hand (American Bar Association, 2009).

The U.S. Supreme Court opinions outlined above reflected societal concerns about due process for all citizens. The Court used social science evidence regarding the number of juvenile court judges without strong educational backgrounds to bolster the Court's assertions about the lack of qualified juvenile judges at that time. It recognized that juveniles may lack sophistication and maturity as determined by consideration of their homes, environmental situations, emotional attitudes and patterns of living. It also recognized that juveniles should not be waived into adult court without certain basic

constitutional guarantees. Juvenile court judges would typically receive the background information about the juvenile from a probation officer, and evidence against waiver presented to the judge could also consist of a showing that the juvenile had a particular type of disability, like Kent's "severe schizophrenia" (Myers, 2001; Podkopacz & Feld, 1996). The Supreme Court also required judges to consider the likelihood of rehabilitation as one of the factors to consider when making a decision about whether to waive the juvenile into adult court.

All of these Supreme Court decisions created constitutional mandates for juvenile courts to afford juveniles due process guarantees similar to those enjoyed in adult court. As the Supreme Court noted in its opinion in *Kent v. U.S.* (1966), before these rulings there was "evidence, in fact, that there may be grounds for concern that the child receives the worst of both worlds: that he gets neither the protections accorded to adults nor the solicitous care and regenerative treatment postulated for children" (p. 556). Although it can certainly be argued that affording juveniles due process rights was a positive step, it also obscured further the line between adult criminal court and juvenile court.

After the decisions in *Kent* and *Gault*, the Supreme Court continued to extend more due process protections to juveniles. The standard of proof in juvenile court proceedings was increased from "by a preponderance of the evidence" to "beyond a reasonable doubt" in the case of *In re Winship* (1970). Further, in *Breed v. Jones* (1975), the Supreme Court ruled that before making any findings on guilt, the juvenile court had to decide whether to transfer the juvenile into adult court. These extensions

of due process continued to be positive for juveniles. But again, they further blurred the line between the juvenile and adult court proceedings.

While the Supreme Court was aligning the juvenile court procedures with those in adult court, the juvenile court's original founding principles of rehabilitation, rather than punishment, began to come under attack in the 1960s and 1970s (Podkopacz & Feld, 1996; Redding, 1997). Juvenile crime rates rose dramatically from the mid-1960s through the mid-1970s (Gordon, 1999). At that time, programs that were supposed to provide rehabilitation to juveniles began to be viewed as ineffective (Clarke, 2007; Feld, 1998). By the end of the mid-1970s the view began to emerge that the juvenile court was too lenient, particularly with serious and violent offenders (Myers, 2001). Some theorists argued that these changes were a direct result of high profile homicides committed by young people that made the public feel unsafe from juvenile crime (Finley, 2007), while others like Feld (1999) speculated that the blurred lines between adult and juvenile courts began to lead the media and politicians to focus more on violent juvenile crime and to move the emphasis from rehabilitation to punishment and incapacitation. Sound phrases like "old enough to do the crime, old enough to do the time," and "adult crime, adult time," reflect that push for change within the juvenile system (Feld, 2007). Regardless of the origin of this push, the increase in crime and the fear of a too lenient juvenile system encouraged a complete re-examination of the juvenile court and its purpose (Steiner, Hemmens & Bell, 2006). The rehabilitative ideal promulgated by the reformers in Illinois gave way to the more punitive system

whose emphasis was accountability and deterrence, not rehabilitation (Angell, 2004; Flowers, 2002; Kupchik, 2006; Kupchik, 2004).

Differences Across States on the Transfer of Juveniles to Adult Court

Between 1985 and 1994, the juvenile violent crime arrest rate increased by 75% (Snyder, Poe-Yamagata, & Sickmund, 1996). This increase followed a decade of fairly stable rates, during which time the juvenile justice system had become more punitive (Angell, 2004; Myers, 2001). Juvenile arrest rates on robbery and aggravated assault charges increased. Finally, there was a large surge in the youth homicide rate. This surge corresponded with the accumulation of guns by youth (Blumstein, 1995), and the number of homicides committed using guns also increased dramatically (Podkopacz & Feld, 2001).

Demographic influences also added to the perceived need to do something about the perception of a “too lenient” juvenile crime system. Because the typical juvenile’s involvement in serious crime tends to peak during late adolescence and then fall in early adulthood (Snyder et al., 1996), there was a concern that as the population numbers of children reaching adolescence increased, the arrests for violent juvenile offenses would also rise. In 1995, some writers projected that if the youth violence rates continued to rise as they did from 1985 through 1995, total juvenile arrests would more than double by the year 2002 (Fagan, 1995). Predictions like these fueled the fear about youth violence, even in the face of decreasing juvenile crime rates from 1998 to 2002 (Drizin & Keegan, 2004; Rozalski, Deigman & Engel, 2008). These fears of a “super predator” juvenile that was

about to attack the nation also served to fuel the increase in legislative efforts to make the transfer process easier (Davis, 2000; Myers, 2001; Shook, 2005).

Theories of Juvenile Delinquency

The social reformers who were instrumental in creating the original Illinois Act in 1899 came from many backgrounds, including law, sociology and social work. Their core belief mandating this separate system of justice was that juvenile delinquents were fundamentally different from adult criminals in that the former came into lives of crime because of many factors beyond their control. These factors beyond their control included socio-economic status, hereditary traits, and individual psychological factors, which included family disruption or dysfunction, and educational experiences (Skilling, Martin & Quinsey, 2003).

One of the fundamental factors affecting children in the world beyond their control is family influence. Juveniles within unstable families and social environments are seen as being more vulnerable to detrimental influences. Depending on the type and degree, these unstable environments can induce later criminal behavior (Skilling et al., 2003). Norms, values, models of behavior, and attitudes combine to create a child's personality, beliefs and attitudes (Skilling et al., 2003). Since much learning by children occurs within the family structure, families that are healthy and nurturing instruct children how to act using positive norms of behavior, whereas unhealthy family environments show members how to interact using dysfunctional norms (Skilling et al., 2003). Since dysfunctional families transfer dysfunctional norms to their children, criminal behaviors tend to run in some families (Watkins, 1998).

Socio-economic status is another factor beyond the child's control. Many of the early theorists believed that children from poor and working-class backgrounds were from the "dangerous classes" and thus more likely to engage in delinquent behavior (Feld, 2007). Many early social reformers, such as Jane Hull and Chicago Judge Julian Mack, focused their efforts on the urban poor and minority children, particularly children of immigrants (Watkins, 1998).

Educational experiences also influence juvenile development and behavior (Christle, Jolivette & Nelson, 2005). School environments can shape youths' sense of opportunity and self-worth. Academic achievement is seen as a critical step towards success in American society, and when a child does not have equal opportunity to education because of socio-economic or demographic factors, academic achievement may be difficult to attain (Skilling et al., 2003).

The early reformers believed that the "unfortunate" children who grew up in these unhealthy environments were subject to harsh, non-individualized treatment in the adult courts. In one early article, Judge Mack questioned why the duty of the state, in addition to inquiring whether a boy or girl had committed a specific offense, did not have an equal duty to

find out what he is physically, mentally, morally, and then if it learns that he is treading a path that is leading to criminality, to take him in charge, not so much to punish as to reform, not to degrade but to uplift, not to crush but to develop, not to make him a criminal, but a worthy citizen [as cited in Watkins, 1998, p. 54].

The social condition of being in poverty or in some other “unfortunate” circumstance did not in itself lead to criminal actions. Instead, Watkins states, “it was the social condition ‘plus’ that invoked criminal jurisdiction during the pre-juvenile court era. . . . The ‘plus,’ of course, was the seminal ideas that unless society moves to first identify and then ameliorate the vice of waywardness, criminal behavior would follow as a matter of course” (Watkins, 1998, p. 54).

Modern practitioners and researchers posited a number of theories to explain juvenile criminal conduct, and many legal policies addressing juvenile criminal behavior have emerged from these theories (Skilling et al., 2003). The three most prevalent psychological theories represented in the criminology literature are social learning theory, social control theory, and risk and protective factor theory.

Social Learning Theory

In 1963, Bandura and Walters published *Social Learning and Personality Development*. In their book they argued that prior applications of learning theory relied too heavily on limited ranges of principles established from animal and human learning studies involving a single organism. For these authors, the most important omission of prior learning theories was their inadequate treatment of the acquisition of novel responses. For example, while B. F. Skinner’s work (e.g., Skinner, 1953, 1971) suggested that successive approximation could result in a novel response from a single organism, the experimental work of Bandura and Walters drew attention to a more powerful and effective process, which they called imitation, or “observational learning.” Bandura and Walters’s experiments, particularly in the area of aggression, demonstrated that

observational learning occurs even when the model's responses are not reproduced during acquisition and therefore could not receive immediate reinforcement. They further noted that a response consequence experienced by a model can influence the subsequent behavior of the observing subject by inhibiting or disinhibiting the subject's behavior (Bandura & Walters, 1963). Applying this view to the juvenile delinquency arena, if one child sees another commit an illegal act, the first can be influenced not only by seeing that behavior, but also by observing the consequences (or lack thereof) of the behavior visited on the other. When a child perceives that the observed illegal act resulted in positive social outcomes, then the child receives "vicarious reinforcement" of the actions and becomes more likely to perform the behavior (Bandura, 1977b). Four processes must be present for this type of observational learning to occur. First, the observer must pay attention to the events that are modeled. Attention variables include the viewing medium and the power and attractiveness of the model. If a child sees an attractive figure on television perform a certain action, the child will pay attention to the action and form a cognitive representation of that action. Second, the child must retain the action through memory. Third, the child must convert that cognitive representation into imitative actions similar to the original action observed. Fourth, the motivational factors must be sufficient to increase the likelihood of action imitation (Bandura, 1969, 1977b, 1986).

Bandura's theory of self-regulation addresses how control over behavior shifts from external sources to the individual (Bandura, 1977a). Bandura posits that this source of self regulation for children lies in observing how adults judge their own behavior as either positively or negatively measuring up to their internal standards and then imitating

that “judging” behavior themselves. Children also receive reinforcement through agents of socialization around them. Adults respond differently to children’s behaviors, and children then take that information into account when judging their own behavior. If the adults around the child react positively when a juvenile is arrested, the child is positively reinforced for their action and is more likely to judge and self-regulate the behavior as positive. Children do not just absorb all behaviors that they observe. Instead, they choose from a number of different actions they have observed and imitate those actions which they judge and self-regulate as positive (Grusec, 1992).

Self-efficacy is another integral aspect of self-regulation (Bandura, 1977a). “Self-efficacy” theory proposes that people develop domain-specific beliefs about their abilities and characteristics that guide their behavior (Bandura, 1977a). Those beliefs then lead a person to decide whether to engage in a particular behavior and how much effort is made to perform that behavior. “Efficacy expectations” refer to the individual’s belief that a behavior can effectively be performed. “Outcome expectations” refer to the idea that an individual makes predictions about the outcome of a certain event. Efficacy expectations and outcome expectations combine together to determine whether an individual will put into action the knowledge that they have attained through observational learning.

Bandura believes that there is an interrelationship between the individual, the environment and the behavior he or she describes as “reciprocal determinism” (Bandura 1977b, 1986). He proposes that within the interrelationship all three factors influence each other both positively and negatively. The individual’s expectations and beliefs direct behavior and the results of that behavior then have an impact on the cognitions. Modeling

and instruction in the environment also affect the individual and the person then gets different reactions from the environment. The behavior determines the environment to which the individual is exposed and then the behavior is modified by the environment. Thus, an individual's cognitions are based upon experiences the individual has had, but those cognitions also determine the experience in such a way that they are maintained. In sum, Bandura's theory primarily focuses on how children and adults operate cognitively on their social experiences and how those cognitive operations influence their behavior and development (Bandura, 1969, 1977b, 1986).

Bandura has also applied his theory of social learning to factors that may contribute to causes of juvenile delinquency (Bandura, Barbaranelli, Caprara, & Patorelli, 1996). Bandura et al. (1996) studied aggression and delinquency within a group of junior high students in Italy, attempting to replicate a study performed in the U.S. by Elliott and Rhinehart (as cited in Bandura et al., 1996) addressing moral disengagement. "Moral disengagement" is defined as various social cognitions, such as displacement of the blame on the victim, adopting euphemistic vocabulary words to distance actions, dehumanizing the victim, which acting together create a sense of moral disengagement in the actor (Bandura et al., 1996). Elliot and Rhinehart (1995) studied serious assaults and transgressions with American youths. The researchers found that there was a high level of moral disengagement in the delinquent youths studied and the finding was constant regardless of education and socio-economic status. They also found that high levels of moral disengagement predicted both felony and misdemeanor assaults and thefts. Bandura et al. (1996) found this same pattern of high levels of moral disengagement that

led to delinquent behavior in the Italian youth, leading the researchers to conclude that the self-regulatory role is pervasive in detrimental conduct.

Social Control Theory

While Bandura focuses on the process of modeling and imitation as the source of a young person's tendency to engage in or avoid criminal behaviors, Hirschi (1969) proposes that "conformity" through bonds or ties to what he identifies as four societal "elements" decreases the likelihood that an individual will engage in an illegal action. Conformity is the result of the following four elements: attachment to others, commitment to conventional lines of action, involvement, and belief in legitimate order. Hirschi argued that as the bonds to society weaken the probability of nonconforming behavior increases.

Attachment to others refers to the ties that juveniles have to significant others. These attachments could be to parents, to peers, or even schools (Hirschi, 1969). Hirschi (1969) argues that the fear of a negative reaction by significant others to an illegal action inhibits the juvenile from engaging in criminal behavior. The stronger the attachment to these significant others, the less likely the person is to commit a crime. Commitment to conventional lines of action reflects an investment of time and energy in obtaining an education or keeping a good reputation. The greater the investment in the conventional behavior, the less likely the person will jeopardize it by engaging in illegal activities. Involvement refers to engagement in conventional activities that lead to socially valued success. Finally, belief is the acceptance of the moral validity of the social value system (Wiatrowski, Griswold & Roberts, 1981).

Many researchers have studied the Hirschi factors in order to determine whether there is empirical support for his four factors. The results have been mixed with some research supporting his position, while other studies did not support his position (Leonard & Decker, 1994). In addition, other writers have questioned whether Hirschi's constructs adequately explain the complex interactions of factors that must work together to explain certain delinquency outcomes (Matsueda & Heimer, 1987; Wiatrowski et al., 1981). This type of criticism of the social control theory has led researchers to examine more individual factors, such as family socio-economic status, race, and extent of a significant other's ability to demand a particular action and have it followed (Kazdin, Kraemer, Kessler, Kupfer & Offord, 1997). Consideration of these latter individual factors has led to the formation of the risk and protective factors theory.

Risk and Protective Factors Theory

Recent research in juvenile delinquency has followed the example of public health research in an attempt to understand the causes of delinquency and work towards its prevention (Shader, 2003). A risk factor within the juvenile delinquency arena is broadly defined as any factor that increases the probability that the juvenile will later commit a criminal offense (Kazdin et al., 1997). To determine the risk factors that are at issue, criminologists compile statistics on the prevalence of crimes through use of the Federal Bureau of Investigation (FBI) crime statistics and Bureau of Justice (BOJ) National Crime Victimization Survey information and then apply risk group identification techniques to crime to determine those at the greatest risk of offending. For example, Coie et al., (1993) noted the following conclusions regarding risk factors. First,

risk factors have complex relations to clinical disorders. Specific forms of dysfunction are typically associated with many different risk factors, rather than with a single risk factor. Often, a person's overall risk may result from the interaction of personal dispositions and environmental risk factors. Second, the salience of risk factors may fluctuate developmentally. Some risk factors predict dysfunction only at specific periods of development, whereas others are stable predictors of disorder across major periods of the life span. Third, exposure to many risk factors has cumulative effects. Risk factors appear to have additive effects on vulnerability to offending. The probability of later offending may increase as a function of the number, duration, and "toxicity" of the risk factors encountered (Coie et al., 1993). Although researchers use risk factors to detect likelihood of further offending, according to the risk and protective factors theory some juveniles with multiple risk factors never commit delinquent acts because of protective factors that create a buffer between the juvenile and the presence of risk factors.

Protective factors have been described as either the absence of risk (e.g., if poor grades increase risk of offending, then good grades can be seen as a protective factor) or as something conceptually different. The latter view of a protective factor is that it is a set of characteristics that interact with a risk factor in a dynamic way to reduce the risk of offending. For example, if low socio-economic status is a risk factor, then an involved parent is a protective factor that may mediate or lessen the negative impact of poverty to lessen a juvenile's chance to offend (Shader, 2003). Researchers within these areas note that it is important to study both risk factors and protective factors since it leads to the enhancement of social policies and prevention programs.

Juvenile Delinquency and Disability

Disabilities within the juvenile population of adjudicated delinquents are common. The types and prevalence of these disabilities are difficult to determine for a number of reasons (Rutherford, Bullis, Anderson, & Griller-Clark, 2002). The first is definitional since the definition of “juvenile” within the juvenile justice arena differs from state to state. Some states define juveniles as children less than 16 years of age, others as fewer than 18 years of age (National Report Series: A Century of Juvenile Justice, 1999). The minimum age for juvenile court jurisdiction also varies from state to state. As stated earlier, in North Carolina, it is 6 years of age; in Maryland, Massachusetts and New York, 7 years of age; in Arizona, 8 years of age; and other states do not specify the minimum age of juvenile court jurisdiction (National Report Series: A Century of Juvenile Justice, 1999), but the National Council on Disability website suggests that the general definition of juvenile would typically include youth 10 to 17 years of age.

A further definitional issue is related to the definition of “disability.” Before 1975 there were no federal laws specifically designed to protect the civil and constitutional rights of children with disabilities (Morris & Thompson, 2008; National Council on Disability, 2003; O’Neill, 2006). In 1975, Congress passed the *Education for All Handicapped Children Act* to meet the needs of children who were either receiving inappropriate education or being excluded completely from schools (*Education for All Handicapped Children Act*, 1975). This bill was renamed “*Individuals with Disabilities Education Act*” (IDEA) in 1990. IDEA defines “child with a disability” as a child (i) with mental retardation, hearing impairments (including deafness), speech or language

impairments, visual impairments (including blindness), serious emotional disturbance (referred to in this title as “emotional disturbance”, orthopedic impairments, autism, traumatic brain injury, other health impairments, or specific learning disabilities; and (ii) who, by reason thereof, needs special education and related services (IDEA, 2004).

Definitions of these individual types of disability are also different. For example, “mental retardation” is defined in IDEA as “significantly sub-average general intellectual functioning existing concurrently with deficits in adaptive behavior and is manifested during the developmental period that adversely affects a child's educational performance” (IDEA, 2004). The American Psychiatric Association’s *Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition, Text Revision* (DSM IV-TR, 2004) defines mental retardation as “significantly sub-average general intellectual functioning . . . that is accompanied by significant limitations in adaptive functioning in at least two of the following skill areas: communication, self-care, home living, social/interpersonal skills, use of community resources, self-direction, functional academic skills, work, leisure, health, and safety. The onset must occur before age 18 years.” (APA, 2000, p. 41). Thus, definitions are different even within the same field (Duvall & Morris, 2006). Further, when not supplanted by federal law, some state statutes define the terms differently from the federal laws. This allows a person to have different special education designations in different states (Morris & Morris, 2006).

Since there is no universal definition of the terms “juvenile” and “disability,” some commentators suggest that the IDEA definition should be the universal definition used by all researchers (Rutherford & Nelson, 2005), while others suggest that the

definition used does not matter as long as the basis of the definition is clear (Morris & Morris, 2006). The lack of clarity in definitions across different states and settings make it difficult to determine how many juveniles within the juvenile justice system have disabilities.

Rutherford et al. (2002) reviewed computerized special education and corrections word searches of many different academic databases from 1968 to 1998. They described the nature and prevalence of disabilities among detained youth and found three major categories of special education children with disabilities: specific learning disability, emotional disturbance, and mental retardation (Rutherford et al., 2002). The research in this area suggests that the prevalence of special education disabilities within the juvenile justice arena is four to five times higher than the rate in the general population (Bullock & McArthur, 1994). Other studies estimate between 20% and 60% of the youth in juvenile detention facilities are disabled (Morris & Morris, 2006; Rutherford et al., 2002; Rutherford & Nelson, 2005; Rutherford, Nelson & Wolford, 1985). Some of these same authors later provided a survey to all state correctional education directors asking for the actual count of students with disabilities in their facilities on December 1, 2000 (Quinn, Rutherford, Wolford, Leone & Nelson, 2005). The surveys revealed that 33.4% were disabled (Quinn et al., 2005). Forty-eight percent of youth in long-term correctional facilities were receiving education services, while only 29% of juveniles in the adult corrections facilities were receiving educational services (Quinn, Rutherford & Leone, 2001).

Bullis & Yovanoff (2005) studied the transition for youth who were formerly convicted to examine the experiences of incarcerated youth when they left juvenile facilities. They interviewed youth re-committed to the Oregon Youth Authority ($N = 531$) between 1995 and 2000 and reviewed their institutional records. They found that 57.7% of the juveniles in their re-committed sample had some type of disability: emotionally disturbed (ED, 29.9% of the total sample, $N = 159$) or learning disabled (LD, 22.4% of the total sample, $N = 119$). These two disabilities comprised 91% of the special education portion (278 LD or ED/305 participants with a special education disability) and 53% (278/531) of the total sample. The only other disability that exhibited an incidence greater than 1% of the total sample was hearing impairment/deafness (2.8%, $N = 15$). Mental retardation, speech language impaired, and other special education disabilities each represented less than 1% of the sample (Bullis & Yovanoff, 2005). The prevalence of these disabilities within the entire Oregon Youth Authority jurisdiction was not statistically different from the re-committed population studied. The researchers found that 60% of those youth who were initially detained by the Oregon Youth Authority were later charged with an adult offense through transfer to the adult court. The researchers do not explore the specific population characteristics of those youth later transferred, however.

In the general education population outside of the juvenile justice system, however, children with disabilities comprise approximately 11.48% of the population (US Department of Education, 1999; US Department of Education, 2002). Despite the enormous variance in reported studies' prevalence rates, it seems clear that youth with

disabilities are over-represented within the juvenile justice systems, and a significant proportion of those have education-related disabilities and are eligible for special education and related services under IDEA (National Council on Disability, 2003).

Many researchers have hypothesized different explanations for the extreme variance in prevalence estimates within this specialized population. For example, Rutherford and colleagues (2001) suggest that the children with disabilities may not have been identified by the school as children with disabilities because of frequent absences and inadequate funding for special education programs. Other researchers cite the failure or difficulty in obtaining prior school records (Leone, 1994; Leone, Rutherford & Nelson, 1991) to explain prevalence estimate differences. Others suggest the lack of inter-agency collaboration between the school system and the local jails and juvenile facilities (Blatz & Smith, 1998) or the lack of accurate identification processes (Cropsey, Weaver, & Dupre, 2008). Correctional institutions themselves present unique challenges, such as difficulty in obtaining access to the population, and problems working with the facility administrators and workers (Mulcahy, Krezmien, Leone, Houchins, & Baltodano, 2008). Often those workers do not receive specific training on how best to work with the population of youth with disabilities (Drakeford, Leone, Hamlett & Vickery, 2005; Kvarfordt, Purcell & Shannon, 2005). Finally, other researchers cite the difficulties in obtaining accurate estimates on the nature of the population itself. For example, Abrantes, Hoffman & Anton (2005) found that the majority of youth within the juvenile justice system had multiple co-occurring disorders that made identification difficult. Still others cite difficulties the youth have due to their mental health status in utilizing the

special education services available at the facilities (Pumariega et al., 1999) or the lack of consent to the special education services by parents or guardians that are not able to be located (Teplin, Abram, McClelland, Washburn & Pikus, 2005).

Despite the differences within the literature and notwithstanding the variance in prevalence estimates in the research, it is generally well-accepted that children with disabilities are widely over-represented within the juvenile justice system (National Council on Disability, 2003). After noting such an over-representation throughout the last century, considerable research has examined the possible relationship between the two. While the latest research in this area typically focuses on specific risk factors, such as comparing “early starters” with “late starters” within the justice system (Alltucker, Bullis, Close, & Yovanoff, 2006) or predicting characteristics of juvenile justice involvement (Cropsey, Weaver, & Dupre, 2008), the earlier research focused more on specific relationships between the two variables.

One line of research concerned the relationship between the variables of categorical offenses and academic achievement. For example, Beebe & Mueller (1993) examined case files for residents ($N = 583$) of a secure correctional institute in Michigan for gender, category of offense and reading and math performance as measured by standardized achievement tests. They found that 95% of the sample was performing below grade level in reading and 98% below grade level in math. The results do not specify how far below grade level the sample was performing. They found that the offenders committed for the more dangerous “person offenses” (e.g., robbery, rape, and aggravated assault) had more statistically significant severe reading deficits than those

youth committed for property offenses (Beebe & Mueller, 1993).

As researchers and policymakers became more sophisticated in their understanding of both disability and delinquency, additional areas of inquiry have emerged, such as specific studies on emotional disabilities. For example, Jonson-Reid, Williams, & Webster (2001) analyzed three different administrative databases covering persons in California Youth Authority custody between 1991 and 1996. The authors were interested in determining the prevalence of severe emotional disturbance (SED) in the committed youth, and the relationship between SED and violent versus non-violent offenders. They found that youth identified as SED (as defined in IDEA) represented 2% of the California Youth Authority wards. This was approximately seven times the rate of SED among the corresponding population of California youth (Jonson-Reid et al., 2001). They did not find any statistical difference between the violent and non-violent offenders and rate of SED.

According to the National Council on Disability (2003), few studies systematically address the disability-delinquency link using data that could, for example, provide a definitive assessment of whether disabilities cause delinquency because the existing bulk of research focuses on learning disabilities. There are three commonly-cited theories that provide possible links of specific learning disabilities to juvenile delinquency: the school failure hypothesis, the susceptibility hypothesis, and the differential treatment hypothesis (Morris & Morris, 2006; Quinn et al., 2001). The *school failure hypothesis* is that having a learning disability (LD) leads to school failure, which leads to a negative self-image, which in turn results in school dropout and delinquency.

The school failure hypothesis implies that school suspension and dropout increase an LD youth's opportunity for delinquent behavior (Larson, 1988). The *susceptibility hypothesis* contends that learning disabilities are frequently accompanied by “a variety of socially troublesome personality characteristics” (Larson, 1988, quoting Murray, 1976, p. 26). Youth with learning disabilities are seen as at increased risk for delinquency because they are either “low” in social skillfulness or “high” in negative personality traits (Larson, 1988). According to the *differential treatment hypothesis*, youth with learning disabilities and non-handicapped peers engage in the same rate and kind of delinquent behaviors, but police, social workers, and other officials treat LD youth differently so as to increase incidence of arrest and/or adjudication (Larson, 1988). Although all the theories have been investigated, different researchers have come to different conclusions about them, suggesting that empirical evidence is scarce (Morris & Morris, 2006; Quinn et al., 2001).

A related area of research that attempts to explain the over-representation is the relationship between academic achievement and delinquency. While poor reading skills and poor academic skills are not direct causes of delinquency, adolescents with these difficulties are over-represented in the correctional facilities (Drakeford, 2002). Given the over-representation of youth with specific learning disabilities (SLD) within the correctional institutions, a large number of studies attempt to explore the relationship between how negative school and/or academic failure experiences for a student having SLD relates to involvement in juvenile delinquency.

Drakeford (2002) reviewed the literature and found that increasing literacy decreased a juvenile's likelihood to recidivate. He then tried to replicate the studies to

further test the relationship between those two variables. He designed an intensive reading program for juveniles confined to a correctional facility and found that the juveniles could improve their reading skills and that such improvement led to a lower rate of recidivism. The strongest limitation in this study was the low number of participants ($N = 6$). Other larger studies have replicated this finding (Christle & Yell, 2008; Katsiyannis & Murry, 2000; Katsiyannis, Ryan, Zhang & Spann, 2008).

Further research attempts have been published to identify specific school factors that make delinquency by category of disability more or less likely. For example, Christle, Jolivet, & Nelson (2005) found that school level characteristics such as supportive leadership, school-wide behavior management and effective academic instruction minimize the risks for delinquency. Moreover, O'Brien, Langhinrichsen-Rohling, & Shelley-Tremblay (2007) found that reading problems exist co-morbidly with attentional difficulties and hypothesized that early interventions and improvement in the screening process may decrease this overrepresentation and decrease recidivism.

One of the largest studies to date was completed by Baltodano, Harris, & Rutherford (2005), who studied the relationship between academic achievement, age, ethnicity, and disability in an Arizona correctional facility. These researchers examined juvenile files of youth within the facility ($N = 186$). They reviewed all files of the juveniles to obtain archival data, interviewed the diagnostician to retrieve scores on standardized achievement tests, and then administered an oral reading fluency test to all of the juveniles. The results indicated that 31% of the youth committed at that time were eligible to receive special education services. Of that group, 31% had an ED diagnosis in

their records and 28% had notations in their records identifying them as having a SLD. The researchers found that the academic achievement of all students within the correctional facility was below the mean. However, the scores were mostly within one standard deviation below the mean on the standardized achievement test. With regard to race, there was a statistically significant difference in scores on academic achievement when correlated with race. Native Americans had the lowest reading scores among all races represented at the correctional facility, although there were only two Native American in custody (Baltodano et al., 2005).

Transfer of Juvenile Delinquents to Adult Criminal Court

One of the ways the perceived leniency of the juvenile court was changed during the 1980s and early 1990s was to make it easier to transfer the jurisdiction over some juvenile cases away from the juvenile court to the adult criminal court. There are typically three ways of mandating that a juvenile's criminal prosecution take place in adult court: judicial waiver, legislative exclusion of offenses, and prosecutorial waiver. Judicial waiver is a decision made by a juvenile court judge to transfer the juvenile to adult court pursuant to the eight factors set forth in the *Kent* opinion. "Legislative exclusion of offenses" refers to statutes providing that juveniles charged with certain serious offenses -- robbery or homicide, for example -- must automatically be transferred for prosecution in adult court without regard to any other factor. "Prosecutorial waiver" or "direct file" is the product of a statute that permits the prosecutor to elect to file a particular charge in adult court.

Currently, every state has some mechanism for prosecuting juveniles as adults (Redding, 2008). According to the latest information from the National Council on Juvenile Justice, which includes legislative changes to individual state statutes through the end of the 2007 legislative session, 46 states have judicial waiver laws. All but 1 of those 46 states leaves the decision largely within the juvenile court judge's discretion while following the *Kent* factors. Some 15 states have presumptions in favor of waiver in cases where certain crimes are involved, and another 15 states specify circumstances whose presence makes waiver mandatory. Fifteen states allow prosecutors, and not juvenile court judges, to decide to charge a juvenile in adult court through "direct file" of criminal charges in adult court. Twenty-nine states have "statutory exclusion" provisions by which certain crimes are processed in adult court no matter the age of the juvenile. (Redding, 2008).

Some states have more than one way to transfer juveniles into the adult system. For example, Georgia has judicial waiver, direct file and statutory exclusions (Griffin, Torbet, & Symanski, 1998) Another 34 states have provisions that if a juvenile has been transferred to adult court in a previous case, that all subsequent cases involving the juvenile will be automatically transferred to adult court (Griffin, 2008). The National Council for Juvenile Justice and Delinquency Prevention (NCJPP) website lists all of the individual state statutes, along with a summary table. In addition, the website lists the minimum age for juveniles to be transferred into the adult court (if there is a minimum age specified in the statute) and the age of offenders in each state that are excluded automatically from juvenile court (Griffin, 2008). For example, in

three states (Connecticut, New York and North Carolina), all offenders over 16 years of age are excluded from the juvenile court. In another 10 states, offenders' aged 17 or older are automatically excluded (Strom, 2000). In the remaining 37 states, all defendants aged 18 or older are processed as adults (Griffin, 2008; Strom, 2000).

Discerning the effect of statutes that ease the process of transferring juveniles is difficult to determine because of the multiple systems that comes into play when considering how to research even basic facts about those effects (Zimring, 1998). The easiest way to start to measure the effect would be to first determine whether there are more juveniles serving sentences within the adult facilities than were before the statutory changes. However, even that preliminary analysis is difficult because the actual number of juveniles transferred into the adult court system nationally in any given year is difficult to determine because of the varied state mechanisms of transfer. While the National Council for Juvenile Justice (NCJJ) tracks the number of judicial waivers each year, the subjects of the other mechanisms for transfer -- statutory exclusion and direct file -- are rarely tracked by the adult court systems in which these prosecutions are initiated (Bishop & Frazier, 2000; Shook, 2005).

Adult prisons and adult probation systems often do not collect data on juveniles under their supervision. Since juveniles comprise such a small percentage of the actual prison population (.5 of 1% between 1985 and 1997, according to Strom, 2000), not very much attention has been paid to their demographics (Bishop & Frazier, 2000; personal communication to NCJJ representative Melissa Sickmund on 9-23-08). Thus, information

of the total number of juveniles who are transferred (through all mechanisms) to the adult courts is current only through 1998.

To examine the demographic characteristics of that pre-1998 transferred juvenile population, Bishop (2000) used data from the State Court Processing Statistics and estimated that between 210,000 and 260,000 juveniles were transferred into adult court each year through judicial waiver, direct file and statutory exclusion. The data also indicated that 66% of the juveniles transferred into adult court were charged with offenses designated by the Federal Bureau of Investigation (FBI) as violent index offenses (Bishop, 2000; Shook, 2005). According to the judicial waiver information available annually (Puzzanchera, 2003), the vast majority of those judicially waived into adult court are 16 and 17 years of age, although the number of judicially waived juveniles under 16 years of age increased from 7% in 1987 to 13% in 1999. Data from the State Court Processing Statistics report that 32% of all transferred youth are less than 16 years of age. This suggests that direct file to adult court by prosecutors and statutory exclusion provisions have resulted in younger juveniles being transferred since legislative changes were made in the early 1990s (Bishop, 2000).

A Bureau of Justice Special Report, "Profile of State Prisoners under Age 18, 1985-97" (Strom, 2000), contains information obtained from the National Corrections Reporting Program (NCRP), National Prisoner Statistics (NPS), Survey of Inmates in State Correctional Facilities (SISCF), Annual Survey of Jails (ASJ), and the National Judicial Reporting Program (NJRP). The report states that the number of persons under age 18 held in state prisons more than doubled from 3,400 in 1985 to 7,400 in 1997.

The annual under 18 admissions to state prisons, however, consistently represented approximately 2% of the total annual state prison admissions (Strom, 2000).

Considering differences in population numbers from available sources, it is clear that drawing conclusions about the exact number of juveniles transferred each year and what their demographic characteristics are is extremely difficult. However, it is clear that the number transferred has increased substantially over the last several decades (Shook, 2005).

To determine the actual number of transferred youth within the system, the most accurate statistics originate from the U.S. Bureau of Justice Statistics. The Bureau of Justice Statistics shows that the number of youth being held in adult jails quadrupled between 1990 and 1999, and then dropped. Adult jails typically hold juveniles convicted as adults to terms of less than one year, or awaiting trial in adult court (Snyder & Sickmund, 2006)). In 2004, an estimated 7,083 youth younger than 18 years of age were held in adult jails. They consistently accounted for approximately 1% of the total jail population. In 2004, 87% of jail inmates under 18 years of age were being held under adult court jurisdiction, and this proportion was greater than the proportion in 2002 (80%) and 1994 (76%) (Snyder & Sickmund, 2006). The juveniles sentenced as adults to prison terms of more than one year would typically be sent to adult state prison facilities. Using Bureau of Justice Statistics Reporting Program (NCRP) data, the National Report (2006) estimated 4,100 new court commitments to state adult prison systems in 2002. These youth accounted for 1.1% of all new court commitments in 2002, which was down from a peak in 1996 of 2.3%. This decrease likely reflected the overall growth in new prison

commitments among adults (Snyder & Sickmund, 2006). Between 1985 and 2002, the annual number of new court commitments of juveniles grew 22%, while overall commitments increased 114%.

Snyder & Sickmund (2006) state that of the juveniles committed to adult prison, 61% were convicted of person offenses (*e.g.*, homicide, sexual assault, robbery or assault), while 23% were convicted of property offenses (*e.g.*, burglary, theft or motor vehicle theft). The remaining offenders were mainly convicted of drug offenses, including trafficking and possession. In terms of ethnicity, black males comprised 41% of all youth imprisoned for person offense crimes and were over-represented at each stage in the criminal case processing.

Faced with information concerning the increasing number of younger juveniles transferred into adult court and being sentenced to adult prisons, researchers from a number of different fields began writing extensively about the transfer phenomenon in the early 1990's and early 2000's. Similar to the intersection of the many different fields that united to bring about the formation of the first juvenile court in 1899, these modern researchers undertook the task of examining in detail the effects of easing transfer laws specifically on minority youth, whether the transfer of juveniles actually served as a deterrent to future criminal actions, and whether juveniles should ever be transferred to adult court given that their fundamental developmental capacity is less than adults. At the same time, legal scholars began to question whether different state procedures, like those listed above, resulted in a national injustice described as "justice by geography" (See, for

example, Brannen, Salekin, Zapf, Kubak & Decoster, 2006; Burrow, 2005; Klein, 1998; Puritz & Mead, 2007).

One of the earliest concerns within the research community about the unforeseen effects of stricter transfer provisions was the possible disproportionate impact on racial minorities. In 1987, Krisberg and colleagues utilized data from the national Children in Custody study to document the over-representation of minorities in the juvenile justice system. Krisberg states, “As the public policy agenda embraced tougher penalties and longer stays in custody in the 1980’s, minority youth bore the overwhelming brunt of these “get tough” policies . . . [and throughout the 1980’s and 1990’s] racial disparities continued to worsen” (Krisberg, 2004, p. 82).

Podkopacz & Feld (1996) found a racial disparity in the 330 cases they studied in Hennepin County, Minnesota. In Minneapolis/St. Paul, in Hennepin County Minnesota, demographics reflected white juveniles comprised 81% of the 10 to 17 year old youth population, African-American adolescents comprised 9%, and other minority adolescents an additional 10%. Despite their low percentage in the juvenile population, the rate of arrest was substantially higher for minorities. Police arrest rates differed for types of offenses and racial groups. Police cleared most of the property crimes with arrests of white juveniles (57%), and cleared most of the violent crimes with arrests of African-American juveniles (54%), indicating that race-crime specificity was evident at very early stages of the juvenile justice process.

With regard to transfer motions filed by the prosecutor for judicial waiver, although 34% of the arrests for violent crimes involved white juveniles, only 19% of the

violent offenders against whom prosecutors filed reference motions were white. While African-American youth accounted for 54% of all juvenile arrests for violent crimes, they made up 65% of the population against whom prosecutors filed transfer motions (Podkopacz & Feld, 1996).

Later, Bortner, Zatz & Hopkins (2000) conducted a meta-analysis of the studies of racial disparities conducted from 1985 through 1997. They concluded that youths of color, notably African-Americans and Latinos, are the candidates most likely to be arrested and confined in secure facilities. Youths of color, involved in 36% of all delinquency cases, made up more than 50% of the transfers to adult court (Bortner et al., 2000).

Bortner et al. (2000) found several studies of local jurisdictions (Cook County, IL; Hennepin County, MN; Ohio Department of Corrections; and Arizona Department of Corrections) that reflected even higher racial group disparities. For example, of the cases in which prosecutors requested judicial waiver in Boston, Detroit, Newark and Phoenix, judges transferred 27% of the white youth, and 39% of the nonwhite youth. In Cook County in 1970, 92% of those transferred were African-American. Twenty years later, researchers found that the percentage was relatively unchanged -- that 94.7% of the automatically transferred youth there were nonwhite (Bortner et al., 2000). Transferred youth in Ohio were 67% black, which was considerably higher than the percentage of the minority populations in Ohio. Researchers found that in Arizona in 1994, the youth population was 29% Hispanic, 58% Anglo, 4% African-American, and 8% Native American. A full 44% of youths charged with crimes were transferred via judicial waiver

in Arizona. Of those however, 44% were Hispanic, 39% were Anglo, 13% were African-American, and 4% were Native American (Bortner et al., 2000).

The “get tough” on juvenile crime legislation passed in the late 1980s and early 1990s reflected not only the easing of transfer provisions, but also included measures to increase the length of terms of juvenile incarceration and to lower the age of juveniles subject to criminal court jurisdiction. The stated intent of those measures was to mete out enough punishment to establish individual accountability and enhance public safety (Altschuler, 1994). The desire was to stop the tide of violence by teaching all juveniles a lesson so strong and effective that they would not get involved in crime again.

The juvenile system was criticized during that time as “being too lenient, too forgiving, too short-term, too rehabilitation and treatment-oriented, not sufficiently punitive and as a consequence of all those factors: ineffective” (Altschuler, 1994, p. 217; Steiner & Wright, 2006). The alternative available to the “ineffective” juvenile courts was transfer to the adult court, which was seen to have great deterrent value (Fagan & Deschenes, 1990; Ward, 2003). Reductions in violence were hypothesized to occur in two ways, either through “specific deterrence” or “general deterrence” (McGowan et al., 2006). Specific deterrence pertains to the effect of the punishment on the individual who is sanctioned: if a person is deterred in the future by the actual experience of punishment, it is “specific deterrence” (Myers, 2001). General deterrence refers to the effect on potential offenders in the greater community or when sanctions are imposed on one person to demonstrate the expected cost and thereby discourage criminal behavior in the general community (McGowan et al., 2006; Myers, 2001).

In the mid 1990s, researchers began to question whether the transfer of youth from juvenile court correlated with either general or specific deterrence. Early research showing that transfer resulted in higher rates of recidivism was criticized because of a continuing methodological concern of selection bias in the sample, i.e., that the youth who are transferred will normally be those who commit the most serious crimes and thus be more likely to re-offend (Fagan, 1995; Jordan, 2006; McGowan et al., 2006). One of earliest studies designed to combat this potential sample bias was conducted by Fagan (1994). Fagan compared youths charged with felonies in New Jersey, which then lacked a transfer statute, with similarly situated youth in New York who had been transferred into adult court.

Fagan sampled youth ($N = 800$) in four matched counties in New Jersey and New York. He compared those charged with robbery or burglary in the two jurisdictions. He avoided the selection bias present in earlier studies through the use of comparable offense-offender characteristics in both jurisdictions. Fagan used court data on the 800 youth and followed them for eight years after their release from sanctions to determine if and when they had a re-arrest. Fagan found that re-arrest rates for youth convicted of burglary in the two systems was very similar. However, for robbery charges the youths who were processed in the adult court system had a 50% higher re-arrest rate than their juvenile court counterparts. As compared to youth processed in the juvenile court, youth processed in adult court and also sentenced to at least one year of prison had a 100% greater rate of re-arrest than those juveniles kept in juvenile court (Fagan, 1995). Fagan also noted that even with no evidence that harsher or more consistent sanctions were

imposed by adult courts, more and more state legislatures were passing harsher transfer statutes based on the perception that adult courts were indeed harsher and more consistent (Fagan, 1995).

Later, Winner, Lanza-Kaduce, Bishop, & Frazier (1996) studied the re-arrest rate in Florida. The authors reported short-term re-arrest rates for the population of transferred juveniles in Florida in 1987 for a broad range of offenses and for a matched group of youth retained in juvenile court. In a short-term analysis of re-arrest (through December 1988), they found, similar to Fagan in New York and New Jersey, that youths transferred to adult court were *more* likely to re-offend than their counterparts who were processed in juvenile court. Other researchers studied this same group of subjects for another six years and they found that the transferred youth showed 34% more re-arrests than the youth retained in juvenile court (Winner et al., 1996). Like Fagan then, they showed a higher rate of re-arrest for the transferred juveniles.

Podkopacz and Feld (1996) found similar patterns of the lack of a deterrent factor in Minnesota. They found that 60% of all cases were transferred to adult court. Re-arrest rates were such that 58% of the youths referred by juvenile court for criminal prosecution as adults committed an additional crime, compared with 42% of those who remained in juvenile court (Podkopacz & Feld, 1996).

Similarly, Myers (2001) examined re-arrest rates and whether transfer was a deterrent in Pennsylvania. Since Pennsylvania had recently made a statutory change, he was able to compare juveniles processed in juvenile court before the statutory change with juveniles processed in the adult court after the statutory change (Myers, 2001).

Myers matched the offenders for crime, race, urbanicity, home and school settings, and prior criminal arrests, including the age at first arrest (Myers, 2001). He found that the re-arrest rate for a subsequent violent offense was 13% for retained juveniles and 23% for transferred juveniles.

Finally, in 2007 an independent, non-federal Task Force on Community Preventive Studies conducted a systematic review of published evidence concerning the effectiveness of transfer laws in terms of preventing or reducing violence. The Task Force used the following guidelines: “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 multiple pre- and post-intervention measurements, but with no comparison group; and “least suitable design” refers to a cross-sectional study with one single pre- and post-intervention measurement, and without comparison groups. The Task Force concluded on the basis of their review that six studies met the research design criteria (the five studies listed above, along with one other that replicated the findings of Myers (2001) in the State of Washington). The Task Force found that “the weight of evidence shows greater rates of violence among transferred than among retained juveniles; transferred juveniles were approximately 33.7% more likely to be re-arrested for a violent or other crime than were juveniles retained in the juvenile justice system” (McGowan et al., 2006, p. 276). The Task Force concluded that available evidence on the use of transfer laws and strengthened policies is “counterproductive for the purpose of reducing juvenile violence and enhancing public safety” (McGowan et al., 2006).

From a developmental psychology viewpoint, the relevant question within the transfer debate is whether there are scientific reasons to warrant the differential treatment of young people and adults within the legal system (Scott & Grisso, 2005). Steinberg & Cauffman (1999) break this broad question into two primary ones: (1) when do individuals become competent to be adjudicated within an adversarial court context, and (2) is there an age before which individuals who have normal psychological immaturity should be considered less punishable for their actions.

Despite the high numbers of youth transferred into the adult system and the observations of many researchers that the population of transferred juveniles should be studied due to the serious issues presented by the transfer of extremely young juveniles into the adult system (Quinn et al., 2001; Morris & Morris, 2006), there is a dearth of research regarding the characteristics of this population, especially with regard to disability status. There is no national reporting on this particular group of youth, nor are there any large-scale studies of this special group of inmates (Beyer, 2006; personal communication with Melissa Sickmund, 9-23-08)

Beyer (2006) interviewed 50 juveniles in different states and conducted developmental assessments on all 50 participants. Most of the assessments were completed either for a court's use in the transfer hearing or for a juvenile judge to determine whether rehabilitation was likely. Ultimately, 50% of the youth were sent to adult prison and 50% were kept in the juvenile system. Through extensive interviews with the youth, Beyer found that 42% had learning disabilities, and those sent to adult prison were developmentally similar to those sent to juvenile facilities. Although this

study is the first to concentrate on that particular group of youth, it does not provide enough information to allow replication. In addition, Beyer's analysis seems to rely solely on interviews with the juveniles and did involve any sort of file review to verify learning disability claims or the administration of a specific, valid test to measure academic achievement reliably.

Teplin et al. (2005) conducted a study of youth detained in the Cook County Juvenile Temporary Detention Center ($N = 1829$) for a six month period in 1998. The juveniles processed through the Detention Center were arrested juveniles 10 to 17 years of age and youth awaiting transfer to the adult courts. The researchers were primarily interested in whether youth who needed mental health treatment received it during their detention or immediately after their release to the community. They interviewed the participants using a structured interview and defined "need" for mental health services conservatively as an individual who was considered to need treatment if s/he met criteria for a major depressive episode, a manic episode, or psychosis within the previous six months and had impaired functioning (Teplin et al., 2005). On the other hand, service utilization was defined broadly in the following manner: based on the review of records from the detention center and from local public health records, an individual was deemed to have received service if records included a recommendation that the juvenile receive mental health services or if the juvenile saw a mental health worker within the facility. Of the participants who needed treatment, 16% received the treatment either within the detention center or with an outside agency. Approximately 84% did not receive any type of mental health service even though they needed it according to the definition. In

addition, the researchers found that when they searched for variables that explained which individuals needed treatment and received it, they found a statistically significantly lower likelihood for juveniles processed as adults to receive the necessary service (Teplin et al., 2005). The authors report the limitations of their study as being confined to one single site with that site's demographic characteristics. They also raised concerns about the structured interview used and the general definition that was used of "treatment received" as well as the narrow definition of "needs services". Such limitations, according to Teplin et al., likely contributed to an under estimation of the mental health need.

CHAPTER 3.

METHOD

Participants

Data for this study were gathered from a database provided by the Arizona Department of Juvenile Corrections (“ADJC”) for two groups. The “Transferred” group that consisted of 100 randomly selected juveniles aged 14 – 17 years who were in custody between 2006 and 2008 and who obtained new charges for which they were transferred (through either direct file or judicial transfer) to adult court jurisdiction. The “Non-Transferred” group consisted of 100 randomly selected juveniles aged 14 – 17 years who were in custody between 2007 and 2008 and who did not obtain new charges for which they were transferred. The records were randomly selected by ADJC and supplied to the researcher with no identifying information on the juveniles. There was no input from the researcher regarding selection of the files for the two groups, other than the request for two groups: the Transferred and Non-Transferred groups. The database consisted of the following fields: whether a youth was transferred or not transferred, classification of the most serious recent offense for which the juvenile was committed, IDEA diagnosis versus no diagnosis, and ethnicity. Only data on males were used in the present study.

To compare the levels of offenses committed by these youth, data were provided on the most serious level of offense that the youth had received a term of imprisonment for, either within ADJC (for the Non-Transferred group) or Adult Department of Corrections (ADC) for the Transferred group. The Arizona legal system divides offenses

into felonies and misdemeanors at various levels according to their seriousness. The felonies represent the more serious offenses. The felonies are subdivided into classes one through six according to their seriousness, with the lowest numbered felonies being the most serious crimes. For example, a class one felony is homicide, and class two felonies include sexual assaults and armed burglaries of residences. The higher numbered classes, like the class four, five, and six felony offenses, include less serious offenses, for example, “joyriding,” illegal drug possession for personal use, and theft of low value property. Misdemeanors are also subdivided into classes one through three; with class one representing the most serious of the misdemeanors. The misdemeanor laws cover less serious offenses, like low-dollar criminal damage to property or shoplifting. One of the juveniles’ cases included in the database did not contain sufficient information to identify the level of offense, so that case was eliminated from the analysis.

Prior to the data collection, analyses were planned on youths with a Specific Learning Disability (SLD), Emotional Disability (ED), Speech and Language Impairment (SLI), Mental Retardation (MR) and an Other Health Impairment (OHI). But, as there were only three youths with MR within the sample and only three youth with OHI, the diagnoses of MR and OHI were combined to form an adequate cell count and labeled “Other category within the analysis. Although analysis on Speech and Language Impairment (SLI) youth was planned, there were no youth in the sample with such an impairment, and therefore, SLI was not included in the analyses. The data set also identified one additional group of youth designated with special education diagnosis as Limited English Proficient (LEP). Since this is not a category of eligibility under IDEA,

data on the 10 youth having LEP were not included. Thus, the total sample was $N = 189$ youth, with 98 youth in the Transferred group and 91 youth in the Non-Transferred group.

Independent and Dependent Measures

The independent variables for the present study included: (1) Transferred versus Non-Transferred status, (2) offense level, (3) IDEA disability diagnosis, and (4) ethnicity. The basis of comparison was frequency data with regard to disability status, IDEA diagnosis and offense level.

Procedure

Consent for the data collection was granted by the ADJC (see Appendix B). All data were randomly selected and compiled by AJDC and supplied in Excel format. No identifying information was included in the records sent by AJDC. The data were organized by whether the youth was Transferred or Non-Transferred, disability status, offense level and ethnicity. In those instances where a juvenile had a disability diagnosis, the specific diagnosis was listed.

Statistical Analyses

Data analyses were performed using the IBM SPSS for Windows Statistical package 18.0 (SPSS, 2010), and included descriptive statistics, such as means and percentages. Chi-square analyses were used to examine the frequency data pertaining to transfer status, IDEA diagnosis status, level of offense, and ethnicity status. The null hypotheses were tested at the .05 alpha level of significance.

CHAPTER 4.

RESULTS

Demographics

Of the 189 youths represented within both the Transferred and Non-Transferred groups, 75 (39.7 %) had special education diagnoses under IDEA categories, while 113 (59.8%) did not. Of the 13 possible IDEA categories, only three were represented as the primary category of eligibility: Specific Learning Disability (SLD) (48 %), Emotional Disability (ED) (44 %), and Other (8%). SLD was the most widely represented category in the Transferred group (55 %) but it was lower in the Non-Transferred group (40 %). Regarding ED, 40 % of the Transferred group had this diagnosis, 48.6 % of youth in on-Transferred group had this diagnosis. In the Transferred group 8% had the Other category, and 11.4% of the Non-Transferred group were in the Other category. Youth with an ED diagnosis were the second highest category of special education eligibility represented, and the third highest category was Other. (See Table 1 for the frequency and percentage for the youth receiving special education services).

In the database provided, no youths had committed class one felonies, making the most serious level of crimes in both the Transferred and Non-Transferred groups class two felonies. Approximately three percent (3%) of the Transferred and Non-Transferred youth had been imprisoned for class two felonies. The most frequent level of offense committed by both the Transferred and Non-Transferred youth was class six felonies,

Table 1.

Frequency and Percentage of Youths' Special Education Placement

Youths	Special Education Category					
	Specific Learning Disability (SLD)		Emotional Disability (ED)		Other	
	Freq.	%	Freq.	%	Freq.	%
All youths ($N = 189$)						
All Special Education youths ($N = 75$)	36	48	33	44	6	8
Transferred Special Education youths ($N = 40$)	22	55	16	40	2	5
Non-Transferred Special Education youths ($N = 35$)	14	40	17	48.6	4	11.4

representing 34.4% of the sample. The misdemeanor category was the second highest category and included 21.2% of the sample. Due to low cell counts, the misdemeanor classes were collapsed into one cell for further analysis. (See Table 2 for the specific percentage and frequency of each level of offense).

Ethnicity

Slightly less than half, (48.4%), of the youths in the database were of Hispanic origin. The other categories represented were Caucasian (29.3%), African-American (15.4%), Native American (5.3%) and Asian (1.6%). (See Table 3 for the specific ethnic percentages within the Transferred and Non-Transferred group).

Table 2.

Frequency and Percentage of Level of Most Serious Offense

Youths	Level of Most Serious Offense											
	F2		F3		F4		F5		F6		M ^a	
	Freq.	%	Freq.	%	Freq.	%	Freq.	%	Freq.	%	Freq.	%
All youths (<u>N</u> =189)	6	3.2	25	13.2	26	13.8	27	14.3	65	34.4	40	21.2
Transferred youths (<u>N</u> = 98)	3	3.1	13	13.3	15	15.3	20	20.4	33	33.7	14	14.3
Non-transferred youths (<u>N</u> = 91)	3	3.3	12	13.2	11	12.1	7	7.7	32	35.2	26	28.6

Note: There were no F1 offenses in the data set.
One case is not included due to missing data.

^a: Includes all misdemeanor offenses collapsed into one category. Since 32 of the misdemeanors were class one, and 6 of the misdemeanors were class twos , while only one of the misdemeanors was a class 3, thus, all the cells were collapsed as two of the classes had too few to perform chi square analysis.

Table 3.

Frequency and Percentage of Ethnicity for Transferred and Non-Transferred Groups

Youths	Ethnicity									
	Hispanic		Caucasian		African-American		Native American		Asian	
	Freq.	%	Freq.	%	Freq.	%	Freq.	%	Freq.	%
All youths (<u>N</u> =189)	91	48.4	55	29.3	29	15.4	10	5.3	3	1.6
Transferred youths (<u>N</u> =98)	52	53	22	22.4	18	18.4	4	4.1	2	2
Non-transferred youths (N=91)	40	44	33	36.7	11	12.2	6	6.7	1	1.1

Transfer Status

Hypothesis 1: Disability Status

Table 4 presents the chi-square analysis that was performed on the IDEA diagnoses to determine whether the groups had different categories of eligibility within the sample. A chi-square analysis (χ^2) found no significant associations between the Transferred and Non-Transferred groups across IDEA diagnoses $\chi^2 (2, n = 75) = 2.15, p > .05$.

Hypothesis 2: Level of Offense

Table 5 presents the chi-square analyses conducted on the disability status and level of offense data. To examine whether any specific type of disability was associated

Table 4.

Chi-Square Analysis of Youths' Special Education Diagnosis

Youths	Special Education Category			χ^2
	Specific Learning Disability (SLD)	Emotional Disability (ED)	Other	
All Special Education youths ($N = 75$)				2.15
Transferred ($N = 40$)	22	16	2	
Non-Transferred ($N = 35$)	14	17	4	

Table 5.

Chi-Square Analyses of Level of Offense Committed by Disability Status

Youths	Level of Offense						Total	χ^2
	F2	F3	F4	F5	F6	M		
All youths	6	25	26	27	65	40	189	
Transferred	3	13	15	20	33	14	98	
Non-transferred	3	12	11	7	32	26	91	
Special Educ. youths								5.13
Transferred	2	4	7	8	13	6	40	
Non-transferred	3	2	5	2	14	9	35	
Non-Special Educ. youths								7.53
Transferred	1	9	8	12	20	8	58	
Non-transferred	0	10	6	5	18	17	56	
SLD youths								3.83
Transferred	2	3	3	4	6	4	22	
Non-transferred	1	1	3	0	5	4	14	
ED youths								4.39
Transferred	0	1	4	4	6	1	16	
Non-transferred	2	1	2	2	7	3	17	

with a particular level of offense, chi-square analysis was also performed. The Other category was not included in the chi-square analysis due to low cell count. For these analyses, the categories of special education services were collapsed into two categories: SLD and ED. The SLD youth were found to be equally distributed across the Transferred and Non-Transferred groups, $\chi^2 (5, n = 36) = 3.83, p > .05$. In addition, the ED youth were equally distributed among all levels of offenses across both the Transferred and the Non-Transferred groups, $\chi^2 (5, n = 33) = 4.39, p > .05$.

Hypothesis 3: Ethnicity

Table 6 presents the chi-square analyses conducted on the ethnicity and special education diagnosis. The data on the Native-American youth and Asian youth were not included in the chi-square analyses due to low cell counts. A chi-square (χ^2) analysis found no significant association between the Transferred and Non-Transferred groups in terms of ethnicity. When examining individual categories of disabilities, there were also no significant associations in the distribution of ethnic groups across the individual IDEA diagnosis categories in both the Transferred and Non-Transferred groups, SLD, $\chi^2 (4, n = 36) = 2.36, p > .05$; ED, $\chi^2 (3, n = 33) = 4.94, p > .05$. The remaining category of "Other" was not included in the chi-square analyses due to low cell counts.

Table 6.

Chi-Square Analyses of Ethnicity and Disability Status

Youths	Ethnicity					χ^2
	Hispanic	Caucasian	African-American	Other	Total	
Non-Special Education youths						
Transferred	32	14	9	3	58	
Non-Transferred	25	21	6	4	56	
SLD youths						
Transferred	13	5	2	2	22	2.36
Non-Transferred	6	4	2	2	14	
ED youths						
Transferred	6	3	7	0	16	4.94
Non-Transferred	5	8	3	1	17	

Note: Chi-square analyses were not performed on the “Other” category, which included MR and OHI, due to low cell count.

CHAPTER 5.

DISCUSSION

The purpose of this study was to compare two groups of youth originally within ADJC custody. The first group consisted of youth who were within ADJC custody and later received charges that resulted in their cases being transferred to adult court. The second group was within ADJC custody but did not receive any later charges that resulted in their transfer to adult court. Specifically, this study compared the two groups with regard to disability status, level of offense, and ethnicity. It was hypothesized that no associations existed between the two groups on the observed frequencies of each of the variables studied. It was also hypothesized there would be no significant associations between the two groups with regard to their disability status and each of those variables.

In terms of disability status, the null hypothesis was not rejected when examining the two groups. The categories of eligibility for special education services were the same three categories in both groups: SLD, ED and Other. The most widely represented category in both groups was SLD, followed by ED. Both groups were similar with regard to the frequency of special education categories, as well as the proportion of youths within the facilities who were eligible to receive special education services. The categories of eligibility SLD and ED represented in this sample are similar to those found in previous research (Rutherford et al., 2002). MR was also a represented category in the prior research; however, the most common diagnoses of youth receiving special education services in both groups were SLD and ED. In this study, the percentage of youth receiving special education services in both the Transferred and Non-Transferred

groups was approximately 39.7%. This is considerably higher than the usual percentage of school-age youth receiving special education services, which is typically reported to be approximately 11.48% (U.S. Department of Education, 1999; U.S. Department of Education, 2002). The over-representation of youth receiving special education services within correctional facilities has been widely reported in the research literature (Bullock & MacArthur, 1994; Morris & Morris, 2006). The 39.7% found in the present study is somewhat higher than the 31% that Baltodano et al. (2005) reported of those youth eligible to receive special education services when studying an Arizona correctional facility.

Within the Transferred group, 40.1% were identified as being eligible to receive special education services. This percentage is somewhat lower than the only previous research study to examine this variable, which found 57.7% of the Oregon youth transferred to adult court had some type of disability (Bullis & Yovanoff, 2005). However, as with the Non-Transferred group, this percentage is considerably higher than the typically-reported 11.48% of all school-age youth receiving special education services (U.S. Department of Education, 2002). Similar to the Oregon youth in the Bullis & Yovanoff study, the SLD and ED categories of eligibility studied in the present study represented approximately 95% of the entire special education youth within the Transferred group.

Upon examining the level of offense, the null hypothesis was not rejected when studying the two groups, as no significant associations existed between the groups. For

both groups, the most common offense level was a class 6 felony. This offense level represented approximately 34% of both groups.

The finding that the Transferred group was not significantly different from the Non-Transferred group in terms of the seriousness of offense level is counter-intuitive because it is popularly believed that Transferred youth have committed more serious and dangerous offenses (Feld, 2007). In this sample, the level of offense committed by both groups was not significantly different. In terms of disability status, and level of offense committed, the null hypothesis was also not rejected. The Transferred group eligible for special education and the Non-Transferred group eligible for special education were both most recently committed for the same level of offense.

In terms of ethnicity, the null hypothesis was not rejected. Thus no significant association was found between the Transferred and Non-Transferred groups in terms of ethnicity. In Arizona, the most recent census data for 2007 – 2008, shows that there were 1,807,700 children under the age of 18 (Kaiser Family Foundation). Of these, 46% were Caucasian, 41% were Hispanic, 3% were African American, and the remaining 9% were classified as “Other.” The combined percentage of Transferred and Non-Transferred Hispanic youth in the present study was 48.4%, which indicates that Hispanic youth are in greater frequency in the database in comparison to the population demographics of Arizona children. However, in contrast to previous research, the present findings did not indicate that Hispanics are transferred or not transferred at a higher frequency than other ethnicities.

For African-Americans, although they represent only 3% of the children under age 18 in Arizona (Kaiser Family Foundation), they represent 15.4% of the sample, representing a higher frequency within the sample. However, similar to the Hispanic data, there is no indication that African-Americans are more likely to be transferred than other ethnicities. This finding is in contrast to earlier research that found an over-representation of ethnic minorities transferred to adult court, both in Arizona specifically (Bortner, 2000) and in Minnesota (Podkopacz & Feld, 1996).

The combined percentage of Transferred and Non-Transferred Caucasian youth represented 29.3% of the sample. But, 46% of Arizona's youths are Caucasian (Kaiser Family Foundation). There was no indication within the sample that Caucasian youth were transferred at a lower frequency than Hispanic or African-American youth. This is contrary to previous research that has reported that Arizona has an over-representation of minorities transferred (Bortner et al., 2000). This finding may simply reflect the initial over-representation of minorities in the incarcerated group, however. As some researchers suggest, at every possible decision point along the course of a criminal proceeding, from the first contact with the police through incarceration, minorities are over-represented in the system (Bishop & Frazier, 1996). The finding that Caucasian youth are transferred at approximately the same rate as their minority counterparts may just reflect the cumulative effect of those decisions that end with the youth being incarcerated. This may be an alternative explanation for the lack of significant associations between both groups, since by the time members of the minorities are convicted, the over-representation has already occurred.

The findings of the current study contribute to the literature on transferred and non-transferred youth within the juvenile justice system. Although causality was not evaluated in the study, the results have important implications for the juvenile justice system. First, the results indicate that there is no difference between the group of youth that gets transferred to adult court and the group that does not. In addition, the groups are the same in terms of disability status and ethnicity. This study replicates previous research findings that have shown that Hispanic and other minority youth have a higher percentage of special education diagnoses within correctional systems. These findings suggest the need for further examination of the sources and dynamics of this over-representation.

Limitations of the Study

The present study has several methodological limitations. First, it assumes that only those youth identified by the ADJC as having a particular type of disability are in fact eligible for special education services. It is possible that this is an underestimate of the students eligible for special education services. Educational information received by ADJC may not reflect a youth's complete educational profile and may result in inaccurate counting of the youth eligible for special education services.

Second, although there was no significant association between the Transferred and Non-Transferred groups on the level of offense for which the members of both groups were convicted and sentenced, this does not necessarily mean that the groups as a whole actually committed crimes of equal magnitude. The apparent offense levels of Transferred youth may have been reduced more than those of Non-Transferred youth as a

consequence of different plea bargaining policies in adult courts that offer more generous terms than the bargaining policies in juvenile court.

Third, the findings of the study may have limited generalization to other states. Therefore, it is not possible to say with any certainty that the findings are representative of differences between Transferred and Non-Transferred youth elsewhere.

Conclusions and Areas of Future Research

Given the paucity of research available on the disability status of Transferred youth, the present study highlights the many ways Transferred and Non-Transferred youth are similar. The frequency and levels of offenses committed by youths in the two groups were not significantly associated based on disability status or ethnicity. This finding is similar to that of Bullis & Yovanoff (2005). Nor was there a difference in the frequency of IDEA diagnoses among youths in the two groups.

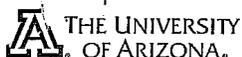
Considering the ethnicity data, the Transferred and Non-Transferred groups were not significantly associated. Minority youth were not transferred at a higher frequency, as had been suggested by previous research. But both groups reflected a higher frequency of minorities within the sample, as compared to the most recent ethnic distribution of children under age 18 in Arizona.

Further research is needed, with larger data samples, to evaluate all possible categories of special education eligibility, such as MR and SLI. This should include investigating why SLD youth are at a higher frequency within both groups and the impact of literacy programs on recidivism. If indeed it is the case that increasing academic

performance decreases rates of recidivism among youth receiving special education services, (e.g., Drakeford, 2002) then more resources could be directed at that effort.

APPENDIX A.

HUMAN SUBJECTS APPROVAL LETTER



Human Subjects
Protection Program

1618 E. Helen St.
P.O. Box 245137
Tucson, AZ 85724-5137
Tel: (520) 626-6721
<http://www.irb.arizona.edu>

HSPP Correspondence Form

Date: 06/02/09

Investigator: Julie Duvall, PhD Candidate

Advisor: Richard Morris, PhD

Project No./Title: 09-0475-02 Disability, Achievement Scores, and Type of Crime Committed by Juveniles Transferred Versus not Transferred to the Adult Court System

Period of Approval: 06/01/09 – 05/31/10

IRB Committee Information	
<input type="checkbox"/> IRB1 – IRB00000291 <input checked="" type="checkbox"/> IRB2 – IRB00001751 <input type="checkbox"/> IRB3 – IRB00003012 <input type="checkbox"/> IRB4 – IRB00005448 <input type="checkbox"/> Administrative Action FWA Number: FWA00004218	<input checked="" type="checkbox"/> Full Committee Review – 06/01/09 <input type="checkbox"/> Expedited Review <input type="checkbox"/> Facilitated Review <input type="checkbox"/> Administrative/Exempt Review
Nature of Submission	
<input checked="" type="checkbox"/> New Project <input type="checkbox"/> Amendment <input type="checkbox"/> Unanticipated Problem Involving Risks to Subjects or Others <input type="checkbox"/> Response to IRB Committee <input type="checkbox"/> Other (define):	<input type="checkbox"/> Continuing Review <input type="checkbox"/> Protocol Deviation/Violation/Waiver <input type="checkbox"/> Non-Compliance <input type="checkbox"/> Not Applicable
Documents Reviewed Concurrently	Appr: Approved Ack: Acknowledged Rev: Reviewed
<input checked="" type="checkbox"/> Project Review Form (dated 05/08/09)	Appr
<input checked="" type="checkbox"/> VOTF (dated 05/08/09)	Appr
<input checked="" type="checkbox"/> Surveys/Questionnaires: Data collection form	Appr
<input checked="" type="checkbox"/> Other (define): Arizona Department of Juvenile Corrections Policy 1130	Ack
Committee/Chair Determination	
<input checked="" type="checkbox"/> Approved as submitted	
Additional Determination(s)	

- **Waiver of Informed Consent (45 CFR 46.116(d)):** the research involves no more than minimal risk to subjects (this is a blinded chart review); the waiver or alteration will not adversely affect the rights and welfare of the subjects (subjects will not know data is being reviewed); the research could not practicably be carried out without the waiver or alteration (no subject identifying information is available to the researchers and therefore consent would not be possible); and whenever appropriate, the subjects will be provided with additional pertinent information after participation (not applicable as this is a blinded chart review).
- **Expedite Approval (45 CFR 46.110 Category 5):** Research involving materials (data, documents, records, or specimens) that have been collected, or will be collected solely for non-research purposes (such as medical treatment or diagnosis).
- **Research Site Authorization Requirement:** Clearance from official authorities for sites where proposed research is to be conducted must be obtained prior to performance of this study at those sites. Evidence of this must be submitted to the HSPP office.

Thomas K. Park, PhD
Co-Chair, IRB2 Committee
UA Institutional Review Board

TKP/mm
cc: Departmental/College Review Committee

Arizona's First University – Since 1885

Form version: 05/14/09

APPENDIX B

ARIZONA DEPARTMENT OF JUVENILE CORRECTIONS APPROVAL LETTER



Janice K. Brewer
Governor

Michael Branham
Director

October 27, 2009

Ms. Julie C. Duvall
Department of Special Education, Rehabilitation and School Psychology
University of Arizona
10640 E. Catalina Highway
Tucson, AZ 85749

Dear Ms. Duvall:

Thank you for your interest in the Arizona Department of Juvenile Corrections and your desire to conduct research on our juvenile population. I have reviewed your research proposal and strongly support your interest in examining the treatment of juveniles diagnosed with Special Education conditions. I understand that you are pursuing a Doctorate in Education. We are pleased to assist individuals pursuing advanced degrees.

In accordance with your research design and ADJC procedure 1130.01, *Outside Research Requests*, I approve your request to obtain the requested data on 200 of our juveniles. The attached Action Plan indicates the appropriate staff for you to work with, and the expected timelines to complete this work. Please contact Dr. John Vivian at 602-526-6066 if you have any questions. We are excited to be able to assist your efforts to conduct this important research.

Sincerely,

A handwritten signature in black ink, appearing to read "Kellie M. Warren". The signature is fluid and cursive, with a large initial "K" and "W".

Dr. Kellie M. Warren
Deputy Director

APPENDIX C.

DISSERTATION DATA

Case	Site	Ethnicity	Offense	Category	SPED
2	adc	caucasian	Att Agg Aslt-Against Correction Ofcr F6	ED	Y
3	adc	hispanic	Disorderly Conduct M1		N
4	adc	caucasian	Narcotic Drugs-Sale F2	SLD	Y
5	adc	hispanic	Theft \$250 - \$999 Vehicle F6	ED	Y
6	adc	hispanic	Att Burglary 3rd-NonRes/Yard F5		N
7	adc	native ame	Att Unlawful Use of Means of Trans/Contr F6	MOMR	Y
8	adc	caucasian	Burglary 3rd-NonResident/Yard F4		N
9	adc	hispanic	Disorderly Conduct M1	SLD	Y
10	adc	hispanic	Theft \$250 to \$999 F6	SLD	Y
11	adc	african-am	Agg Aslt Against Correction Officer F5	ED	Y
12	adc	hispanic	Agg Aslt Against Correction Officer F5	ED	Y
13	adc	caucasian	Agg Aslt Against Correction Officer F5	ED	Y
14	adc	african-am	Att Agg Aslt-Against Correction Ofcr F6	SLD	Y
15	adc	hispanic	Att Theft of Credit Card F6		N
16	adc	african-am	Escape 2nd Dgree-Cor. Fac.(Det.) F5		N
17	adc	caucasian	Forgery of checks/other instrument F4	ED	Y
18	adc	hispanic	Disorderly Conduct Ded Wpn F6		N
19	adc	hispanic	Influencing a Witness F5	SLD	Y
20	adc	hispanic	Theft Means of Transportation F3	SLD	Y
21	adc	hispanic	Burglary 2nd Degree-Resid. F3		N
22	adc	caucasian	Agg Crim Damage \$0-\$1499 F6		N
23	adjc	african-am	Agg Aslt Against Correction Officer F5	ED	Y
24	adc	hispanic	Escape 2nd Dgree-Cor. Fac.(Det.) F5		N
25	adc	hispanic	Agg Aslt Against Correction Officer F5	SLD	Y
26	adc	african-am	Agg Aslt D Wpn/Instr F3		N
27	adc	caucasian	Burglary 3rd-NonResident/Yard F4	SLD	Y
28	adc	african-am	Agg Assault F6	ED	Y
29	adc	caucasian	Att Dangerous Drugs-Poss F5		N
30	adc	caucasian	Dangerous Drugs-Possess F4	SLD	Y
31	adc	native ame	Aslt Simple Intent Cause Injury M1		N
32	adc	hispanic	Att Robbery-Armed F3	MIMR	Y
33	adjc	hispanic	Agg Aslt Against Correction Officer F5		N
34	adc	hispanic	Disorderly Conduct M1		N
35	adc	hispanic	Theft \$250 to \$999 F6		N
36	adjc	caucasian	Sexual Abuse-Victim <15 F3	ED	Y
37	adjc	caucasian	Solicit Burglary 3rd-NonRes/Yard F6		N
38	adc	hispanic	Burglary 3rd-NonResident/Yard F4	ED	Y
39	adc	hispanic	Unlawful Use of Means of Trans-Riding F5		N
40	adc	caucasian	Marijuana-Possess <2 lbs. F6		N
41	adc	hispanic	Solicit Burglary 3rd-NonRes/Yard F6		N

42	adjc	caucasian	Disorderly Conduct M1	ED	Y
43	adc	hispanic	Unlawful Flight-Law Enforce Vehicle F5	SLD	Y
44	adjc	caucasian	Unlawful Flight-Law Enforce Vehicle F5		N
45	adc	hispanic	Dangerous Drugs-Possess F4		N
46	adjc	hispanic	Burglary 2nd Degree-Resid. F3		N
47	adc	hispanic	Theft \$250 to \$999 F6	ED	Y
48	adjc	hispanic	Agg Aslt Against Correction Officer F5	SLD	Y
49	adc	caucasian	Theft Means of Transportation F3		N
50	adc	hispanic	Shoplifting <= \$250 M1	SLD	Y
51	adjc	native ame	Alcohol Under Age Consumption M1		N
52	adjc	caucasian	Marijuana Possess (Reduced to Misd) M1		N
53	adjc	caucasian	Agg Aslt Injury to Peace Officer F5	ED	Y
54	adjc	hispanic	Marijuana-Possess <2 lbs. F6	OHI	Y
55	adjc	caucasian	Dangerous Drugs-Possess F4		N
56	adjc	hispanic	Marijuana Possess (Reduced to Misd) M1		N
57	adc	hispanic	Unlawful Use of Means of Trans-Riding F5	SLD	Y
58	adc	hispanic	Burglary 3rd-NonResident/Yard F4		N
59	adc	hispanic	Theft Means of Transportation F3	SLD	Y
60	adjc	african-am	Att Agg Aslt-D Wpn/Instr F4	ED	Y
61	adc	hispanic	Agg Aslt Temp Disfigurement F4		N
62	adjc	caucasian	Att Robbery-Armed F3	SLD	Y
63	adc	african-am	Agg Aslt Against Teach/School Emp F6		N
64	adjc	hispanic	Disorderly Conduct M1		N
65	adc	african-am	Sexual aslt F2	ED	Y
66	adc	hispanic	Theft \$250 to \$999 F6		N
67	adc	caucasian	Burglary 3rd-NonResident/Yard F4		N
68	adjc	caucasian	Theft \$250 to \$999 F6	SLD	Y
69	adjc	caucasian	Conspire Escape 2nd Cor Fac(Det) F5	ED	Y
70	adjc	hispanic	DV Disorderly Conduct M1	ED	Y
71	adjc	hispanic	Sexual Abuse F5	MIMR	Y
72	adjc	hispanic	Unlawful Use of Means of Trans-Riding F5		N
73	adjc	caucasian	Crim Damage-Petty Less than \$250 M2		N
74	adc	hispanic	Agg Aslt D Wpn/Instr F3	SLD	Y
75	adjc	hispanic	Att Agg Aslt SPI F4	OHI	Y
76	adc	caucasian	Theft \$25 M1		N
77	adc	caucasian	Theft Means of Transportation F3		N
78	adc	native ame	Solicit Burglary 3rd-NonRes/Yard F6	SLD	Y
79	adjc	caucasian	Att Molestation of Child F3	ED	Y
80	adjc	caucasian	Unlawful Use of Means of Trans-Control F5		N
81	adc	hispanic	Theft of Vehicle < \$250 F6		N
82	adjc	hispanic	Marijuana Possess (Reduced to Misd) M1	LEPS	Y
83	adjc	hispanic	Facilitate Burglary 3rd-NonRes/Yard M1		N
84	adjc	hispanic	Att Unlawful Use of Means of Trans/Contr F6		N
85	adc	african-am	Dangerous Drugs-Possess F4		N
86	adjc	african-am	Att Unlawful Use of Means of Trans/Riding F6		N

87	adjc	hispanic	Unlawful Use of Means of Trans-Control F5		N
88	adc	african-am	Theft \$250 to \$999 F6		N
89	adjc	native ame	Att Agg Aslt-D Wpn/Instr F4	ED	Y
90	adjc	hispanic	Theft Means of Transportation F3		N
91	adjc	hispanic	Att Unlawful Use of Means of Trans/Contr F6	ED	Y
92	adjc	caucasian	Resisting Arrest F6		N
93	adjc	hispanic	Crim Damage \$250-\$1999 F6		N
94	adc	hispanic	Sexual aslt F2	SLD	Y
95	adc	hispanic	Burglary Tools-Possess F6	SLD	Y
96	adjc	hispanic	Escape 2nd Dgree-Cor. Fac.(Det.) F5	LEPS	Y
97	adc	hispanic	Firearm Poss/Adjud Delq/2nd Ofns F4		N
98	adjc	hispanic	Drug Parahernalia F6		N
99	adjc	african-am	Facilitate Burglary 2nd Degree-Res F6		N
100	adjc	african-am	DV Endangerment Risk of Death F6	LEPS	Y
101	adjc	hispanic	Att Theft Means of Transportation F4		N
102	adjc	hispanic	Threatening Intimidation M1	LEPS	Y
103	adjc	hispanic	Unlawful Use of Means of Trans-Control F5	SLD	Y
104	adjc	hispanic	Burglary 3rd-NonResident/Yard F4	SLD	Y
105	adc	african-am	Theft \$250 to \$999 F6		N
106	adc	hispanic	Drug Parahernalia F6		N
107	adjc	hispanic	Robbery-Agg F3		N
108	adjc	native ame	Resisting Arrest F6	SLD	Y
109	adc	hispanic	Crim Damage-Petty Less than \$250 M2		N
110	adjc	hispanic	Crim Damage \$250-\$1999 F6		N
111	adjc	hispanic	Burglary 2nd Degree-Resid. F3	ED	Y
112	adc	african-am	Drug Parahernalia F6		N
113	adjc	caucasian	Crim Trespass 1st Degree-Residence F6	ED	Y
114	adc	hispanic	Unlawful Use of Means of Trans F5		N
115	adjc	hispanic	Burglary Tools-Possess F6	LEPS	Y
116	adjc	caucasian	Burglary 3rd-NonResident/Yard F4	ED	Y
117	adc	hispanic	Burglary 3rd-NonResident/Yard F4		N
118	adjc	hispanic	Att Theft Means of Transportation F4	LEPS	Y
119	adc	hispanic	Damage \$250-\$1999 Graffiti F6	ED	Y
120	adjc	caucasian	Trafficking Stolen Prop-1st Degree F2		N
121	adc	hispanic	Marijuana Possess (Reduced to Misd) M1		N
122	adc	hispanic	Att Burglary 3rd-NonRes/Yard F5		N
123	adc	asian	Disorderly Conduct M1	SLD	Y
124	adjc	hispanic	Unlawful Use of Means of Trans-Riding F5	LEPS	Y
125	adjc	native ame	Att Agg Aslt-Against Correction Ofcr F6	SLD	Y
126	adc	hispanic	Att Burglary 2nd-Res F4		N
127	adjc	caucasian	Escape 2nd Dgree-Cor. Fac.(Det.) F5		N
128	adjc	hispanic	Damage Petty-Graffiti Crim Damage M2	SLD	Y
129	adc	african-am	Burglary Tools-Possess F6		N
130	adjc	hispanic	Damage Petty-Graffiti Crim Damage M2		N
131	adjc	hispanic	Crim Trespass 1st Degree-Yard M1		N

132	adc	hispanic	Molestation of Child F2		N
133	adjc	hispanic	Theft Means of Transportation F3	ED	Y
134	adc	native ame	Alcohol Under Age Consumption M1		N
135	adjc	hispanic	Crim Damage-Petty Less than \$250 M2		N
136	adc	caucasian	Burglary 2nd Degree-Resid. F3		N
137	adc	hispanic	Att Burglary 2nd-Res F4		N
138	adjc	hispanic	Disorderly Conduct M1	ED	Y
139	adc	hispanic	Unlawful Use of Means of Trans-Riding F5		N
140	adc	african-am	Crim Damage-Petty Less than \$250 M2	ED	Y
141	adc	hispanic	Drug Parahernalia F6		N
142	adjc	african-am	Make / Posses Forgery Device F6		N
143	adc	caucasian	Possession/Use of Prescription Drug F4		N
144	adjc	asian	Marijuana-Possess <2 lbs. F6		N
145	adjc	caucasian	Agg Crim Damage \$0-\$1499 F6		N
146	adjc	african-am	Marijuana Possess (Reduced to Misd) M1	ED	Y
147	adjc	african-am	Sexual Abuse-Victim <15 F3		N
148	adjc	caucasian	Endangerment-No Risk of Death M1	ED	Y
149	adjc	caucasian	Agg Aslt Against Peace Officer F6		N
150	adjc	hispanic	Escape 2nd Dgree-Cor. Fac.(Det.) F5		N
151	adc	african-am	Att Robbery F5	SLD	Y
152	adjc	caucasian	Arson of Unocc Structure F4	SLD	Y
153	adc	hispanic	Theft Means of Transportation F3	LEPS	Y
154	adjc	caucasian	Drug Parahernalia F6		N
155	adc	hispanic	Theft Means of Transportation F3		N
156	adjc	caucasian	Crim Trespass 1st Degree-Yard M1		N
157	adjc	african-am	Crim Damage \$250-\$1999 F6	SLD	Y
158	adc	caucasian	Drug Parahernalia F6	SLD	Y
159	adjc	caucasian	Unlawful Use of Means of Trans-Control F5		N
160	adc	caucasian	Poss or Use of Prescrip Drug M1		N
161	adc	hispanic	Agg Aslt D Wpn/Instr F3		N
162	adjc	hispanic	Theft \$250 to \$999 F6		N
163	adc	caucasian	False Reporting M1		N
164	adc	hispanic	Theft Means of Transportation F3		N
165	adjc	hispanic	Alcohol Under Legal Age Buy/Rec/Poss M1		N
166	adc	asian	Marijuana-Possess <2 lbs. F6		N
167	adc	african-am	Att Robbery F5	ED	Y
168	adjc	caucasian	Burglary 3rd-NonResident/Yard F4		N
169	adjc	hispanic	Solicit Burglary 3rd-NonRes/Yard F6		N
170	adc	caucasian	Reckless Burning M1		N
171	adjc	native ame	Unlawful Use of Means of Trans-Riding F5		N
172	adjc	african-am	Att Unlawful Use of Means of Trans/Riding F6		N
173	adc	hispanic	Unlawful Use of Means of Trans-Control F5		N
174	adjc	caucasian	Aslt Touch w/Intent Injure/Provok M3		N
175	adc	hispanic	Solicit Dangerous Drugs-Poss F6		N
176	adjc	african-am	Theft Means of Transportation F3	SLD	Y

177	adc	hispanic	Theft F6	SLD	Y
178	adjc	hispanic	Agg Aslt Against Peace Officer F6		N
179	adjc	hispanic	Misconduct w/ Weapons - Carrying M1	LEPS	Y
180	adjc	hispanic	Att Theft Means of Transportation F4	LEPS	Y
181	adjc	native ame	Att Theft Means of Transportation F4		N
182	adjc	hispanic	Theft Means of Transportation F3	SLD	Y
183	adjc	caucasian	Theft \$250 to \$999 F6		N
184	adjc	caucasian	Narcotic Drugs-Possess F4	SLD	Y
185	adjc	hispanic	Theft \$250 to \$999 F6	OHI	Y
186	adjc	caucasian	Unlawful Use of Means of Trans-Control F5		N
187	adjc	caucasian	Shoplifting <= \$250 M1		N
188	adc	african-am	Narcotic Drugs-Possess F4		N
189	adjc	hispanic	Theft Means of Transportation F3		N
190	adc	caucasian	Disorderly Conduct M1		N
191	adjc	caucasian	Crim Damage-Petty Less than \$250 M2		N
192	adjc	hispanic	Marijuana-Possess <2 lbs. F6	SLD	Y
193	adc	african-am	Agg Aslt Against Teach/School Emp F6	ED	Y
194	adjc	african-am	Solicit Robbery F6		N
195	adc	african-am	Theft \$250 to \$999 F6	ED	Y
196	adjc	hispanic	Burglary 1st-Armed in Residence F2		N
197	adjc	caucasian	Aslt Simple Intent Cause Injury M1		N
198	adc	hispanic	Agg Aslt Against Peace Officer F6	ED	Y
199	adc	caucasian	Att Unlawful Use of Means of Trans/Contr F6	SLD	Y

REFERENCES

- Abrantes, A. M., Hoffman, N. G., & Anton, R. (2005). Prevalence of co-occurring disorders among juveniles committed to detention centers. *International Journal of Offender Therapy and Comparative Criminology*, *42*, 179-193.
[doi:10.1177/0306624X04269673](https://doi.org/10.1177/0306624X04269673)
- Addressing the needs of youth with disabilities in the juvenile justice system: The current status of evidence-based research. (2003). In *National Council on Disability*. Retrieved from <http://www.ncd.gov/newsroom/publications/pdf/juvenile.pdf>
- Ainsworth, J. E. (1991). Re-imagining childhood and reconstructing the legal order: The case for abolishing the juvenile court. *North Carolina Law Review*, *69*, 1083-1133.
- Alltucker, K., Bullis, M., Close, D., & Yovanoff, P. (2006). Different pathways to juvenile delinquency: Characteristics of early and late starters in a sample of previously incarcerated youth. *Journal of Child and Family Studies*, *15*, 479-492.
[doi:10.1007/s10826-006-9032-2](https://doi.org/10.1007/s10826-006-9032-2)
- Altschuler, D. M. (1994). Policy consideration: Tough and smart juvenile incarceration: Reintegrating punishment, deterrence, and rehabilitation. *St. Louis University Public Law Review*, *14*, 217-237.
- American Psychiatric Association. (2000). *Diagnostic and statistical manual of mental disorders* (4th ed., Text Revision). Washington, DC: Author.

- Angell, K. M. (2004). Note: The regressive movement: When juvenile offenders are treated as adults, nobody wins. *Southern California Interdisciplinary Law Journal*, 14, 125-149.
- Baltodano, H., Harris, P., & Rutherford, Jr., R. B. (2005). Academic achievement in juvenile corrections: Examining the impact of age, ethnicity and disability. *Education and Treatment of Children*, 28, 361-379.
- Bandura, A. (1969). *Principles of behavior modification*. New York: Holt, Rinehart, and Winston.
- Bandura, A. (1977a). Self-efficacy: toward a unifying theory of behavior change. *Psychological Review*, 84, 191-215. [doi:10.1037/0033-295X.84.2.191](https://doi.org/10.1037/0033-295X.84.2.191)
- Bandura, A. (1977b). *Social learning theory*. Englewood Cliffs, NJ: Prentice Hall.
- Bandura, A. (1986). *Social foundations of thought and action: A social cognitive theory*. Englewood Cliffs, NJ: Prentice Hall.
- Bandura, A., Barbaranelli, C., Caprara, G. V., & Pastorelli, C. (1996). Mechanisms of moral disengagement in the exercise of moral agency. *Journal of Personality and Social Psychology*, 71, 364 – 374. [doi:10.1037/0022-3514.71.2.364](https://doi.org/10.1037/0022-3514.71.2.364)
- Bandura, A., & Walters, R. H. (1963). *Social learning and personality development*. New York: Holt, Rinehart, and Winston.
- Barnum, R., & Grisso, T. (1994). Competence to stand trial in juvenile court in Massachusetts: Issues of therapeutic jurisprudence. *New England Journal on Criminal and Civil Confinement*, 20, 321-344.

- Beebe, M., & Mueller, F. (1993). Categorical offenses of juvenile delinquents and the relationship to achievement. *Journal of Correctional Education, 44*, 193-198.
- Beyer, M. (2006). Fifty delinquents in juvenile and adult court. *American Journal of Orthopsychiatry, 76*, 206-214. [doi:10.1037/0002-9432.76.2.206](https://doi.org/10.1037/0002-9432.76.2.206)
- Bishop, D., & Frazier, C. (2000). Consequences of transfer. In J. Fagan, & F. E. Zimring (Eds.), *The Changing Borders of Juvenile Justice: Transfer of Adolescents to the Criminal Court* (pp. 227-276). New York: University of Chicago P.
- Blatz, S. L., & Smith, S. W. (1998). Using a liaison to increase interagency collaboration in correctional special education. *Intervention in School & Clinic, 34*, 126-128. [doi:10.1177/105345129803400211](https://doi.org/10.1177/105345129803400211)
- Blumstein, A. (1995). Youth violence, guns, and the drug industry. *Journal of Criminal Law and Criminology, 86*, 10-36. [doi:10.2307/1143998](https://doi.org/10.2307/1143998)
- Bortner, M., Zatz, M., & Hawkins, D. (2000). Race and transfer: Empirical research and social context. In J. Fagan, & F. E. Zimring (Eds.), *The changing borders of juvenile justice : Transfer of adolescents to the criminal court* (pp. 277-291). New York: University of Chicago P.
- Brannen, D. N., Salekin, R. T., Zapf, P. A., Salekin, K. L., Kubak, F. A., & Decoster, J. (2006). Transfer to adult court: A national study of how juvenile court judges weigh pertinent Kent criteria. *Psychology, Public Policy and Law, 12*, 332-351. [doi:10.1037/1076-8971.12.3.332](https://doi.org/10.1037/1076-8971.12.3.332)
- Breed v. Jones*, 421 U.S. 519 (1975).

- Bullis, M., & Yovanoff, P. (2005). More alike than different? Comparison of formerly incarcerated youth with and without disabilities. *Journal of Child and Family Studies, 14*, 127-139. [doi:10.1007/s10826-005-1127-7](https://doi.org/10.1007/s10826-005-1127-7)
- Bullock, L., & McArthur, P. (1994). Correctional special education: Disability prevalence estimates in teachers' preparation programs. *Education and Treatment of Children, 17*, 347-355.
- Burrow, J. D. (2005). Punishing serious juvenile offenders: A case study of Michigan's prosecutorial waiver statute. *University of California Davis Journal of Juvenile Law and Policy, Winter*, 1-55.
- Champion, D. J., & Mays, G. L. (1991). *Transferring juveniles to criminal courts : Trends and implications for criminal justice*. New York: Pager.
- Christle, C., Jolivette, K., & Nelson, C. (2005). Breaking the school to prison pipeline: Identifying school risk and protective factors for youth delinquency. *Exceptionality, 13*, 69-88. [doi:10.1207/s15327035ex1302_2](https://doi.org/10.1207/s15327035ex1302_2)
- Christle, C., & Yell, M. (2008). Preventing youth incarceration through reading remediation: Issues and solutions. *Reading and Writing Quarterly, 24*, 148-176. [doi:10.1080/10573560701808437](https://doi.org/10.1080/10573560701808437)
- Clarke, C. A. (2007). Bridging the gap: An interdisciplinary approach to juvenile justice policy. *DePaul Law Review, 56*, 927-946.
- Coie, J. D., Watt, N. F., West, S. G., Hawkins, D., Asarnow, J. R., Markman, H. J., . . . Long, B. (1993). The science of prevention: A conceptual framework and some

directions for a national research program, *American Psychologist*, 48, 1013–1022. [doi:10.1037/0003-066X.48.10.1013](https://doi.org/10.1037/0003-066X.48.10.1013)

Cropsey, K., Weaver, M., & Dupre, M. (2008). Predictors of involvement in the juvenile justice system among psychiatric hospitalized adolescents. *Addictive Behaviors*, 33, 942-948. [doi:10.1016/j.addbeh.2008.02.012](https://doi.org/10.1016/j.addbeh.2008.02.012)

Davis, S. (2000). The criminalization of juvenile justice: Legislative responses to "The phantom menace". *Mississippi Law Journal*, 70, 1-33.

Drakeford, W. (2002). The impact of an intensive program to increase the literacy skills of youth confined to juvenile corrections. *Journal of Correctional Education*, 53, 139-144.

Drakeford, W., Leone, P., Hamlett, J., & Vickery, K. (2005). An examination of disability issues in introductory juvenile and criminal justice textbooks. *Journal of Criminal Justice Educations*, 16, 280-291. [doi:10.1080/1051125042000333488](https://doi.org/10.1080/1051125042000333488)

Drizin, S., & Keegan, A. (2004). The aftermath of the Lionel Tate case: Abolishing the use of the felony-murder rule when the defendant is a teenager. *Nova Law Review*, 28, 507-541.

Duvall, J., & Morris, R. (2006). Assessing mental retardation in death penalty cases: Critical issues for psychology & psychological practice. *Professional Psychology: Research and Practice*, 37, 658-665. [doi:10.1037/0735-7028.37.6.658](https://doi.org/10.1037/0735-7028.37.6.658)

Education for All Handicapped Children Act, 20 U.S.C. Section 1400 (1975).

- Elliott, D. S., & Rhinehart, M. (1995). *Moral disengagement, delinquent peers and delinquent behavior*. Unpublished manuscript, Institute of Behavioral Sciences, University of Colorado.
- Fagan, J. (1995). Separating the men from the boys: The comparative advantage of juvenile versus criminal court sanctions on recidivism among adolescent felony offenders. In B. Krisberg, J. Hawkins, & J. J. Wilson (Authors), & J. C. Howell (Ed.), *Serious, violent & chronic offenders* (pp. 238-260). Thousand Oaks, CA: Sage.
- Fagan, F., & Deschenes, E. (1990). Criminology: Determinants of judicial waiver decisions for violent juvenile offenders. *Journal of Law and Criminology*, 81, 314-347. [doi:10.2307/1143909](https://doi.org/10.2307/1143909)
- Feld, B. (1987). Criminal law: The juvenile court meets the principle of the offense: Legislative changes in judicial waiver statutes. *Journal of Criminal Law and Criminology*, 78, 471-533. [doi:10.2307/1143567](https://doi.org/10.2307/1143567)
- Feld, B. (1999). *Bad kids: Race and the transformation of the juvenile court*. New York : Oxford UP.
- Feld, B. (1991). The transformation of the juvenile court. *Minnesota Law Review*, 75, 691-725.
- Feld, B. (2003). The constitutional tension between *Apprendi* and *McKiever*: Sentence enhancements based on delinquency convictions and quality of justice in juvenile courts. *Wake Forest Law Review*, 38, 1111-1224.

Feld, B. (2007). A century of juvenile justice: A work in progress or a revolution that failed? *Northern Kentucky Law Review*, 34, 189-256.

Finley, L. L. (2007). *Juvenile justice*. Westport, CN: Greenwood P.

Flowers, R. B. (2002). *Kids Who Commit Adult Crimes : Serious Criminality by Juvenile Offenders*. NY: Haworth P.

Gallegos v. Colorado, 370 U.S. 49 (1962).

Gordon, B. (1999). Note: A criminal's justice of a child's injustice? Trends in the waiver of juvenile court jurisdiction and the flaws in the Arizona response. *Arizona Law Review*, 41, 193-226.

Griffin, P., (2008). State juvenile justice profiles. In *National Center for Juvenile Justice*.

Retrieved from

http://www.ncjj.org/stateprofiles/overviews/transfer_state_overview.asp

Griffin, P, Torbet, S. & Symanski, L. (1998). Trying juveniles in adult court: An analysis of state transfer provisions. In Office of Juvenile Justice and Delinquency Prevention. Retrieved from <http://www.ncjrs.gov/pdffiles/172836.pdf>

Grusec, J. E. (1992) Social learning theory and developmental psychology: The legacies of Robert Sears and Albert Bandura. *Developmental Psychology*. 28, 776-786.

[doi:10.1037/0012-1649.28.5.776](https://doi.org/10.1037/0012-1649.28.5.776)

Haley v. Ohio, 332 U.S. 596 (1947).

Hirschi, T. (1969). *Causes of delinquency*. Berkeley, CA: University of California Press.

Illinois Juvenile Court Act, Ill. Laws 131 (1899).

In re Gault, 387 U.S. 1 (1967).

In re Winship, 397 U.S. 358 (1970).

Individuals with Disabilities Education Act, 20 U.S.C.S. Section 1400 (1990).

Individuals with Disabilities Education Act, 20 U.S.C.S. Section 1451 (2004).

Jensen, E. L. (1994). The waiver of juveniles to criminal court: Policy goals, empirical realities, and suggestions for change. *Idaho Law Review*, 31, 173-204.

Jonson-Reid, M., Williams, J., & Webster, D. (2001). Severe emotional disturbance and violent offending among incarcerated adolescents. *Social Work Research*, 25, 213-222.

Jordan, K. L. (2006). *Violent youth in adult court: The decertification of transferred offenders*. E-Book. *University of Arizona*. Retrieved from <http://site.ebrary.com.ezproxy2.library.arizona.edu/lib/arizona/docid=10172623>

The Kaiser Family Foundation statehealthfacts.org. Data Source: Urban Institute and Kaiser Commission on Medicaid and the Uninsured estimates based on the Census Bureau's March 2008 and 2009 Current Population Survey (CPS: Annual Social and Economic Supplements). (n.d.) *Arizona: Population Distribution of Children by Race/Ethnicity (2007-2008)*. Retrieved from <http://www.statehealthfacts.org/profileind.jsp?rgn=4&ind=7&cat=1>

Katsiyannis, A., & Murry, F. (2000). Young offenders with disabilities: Legal requirements and reform considerations. *Journal of Child and Family Studies*, 9, 75-86. [doi:10.1023/A:1009463716404](https://doi.org/10.1023/A:1009463716404)

- Katsiyannis, A., Ryan, J., Zhang, D., & Spann, A. (2008). Juvenile delinquency and recidivism: The impact of academic achievement. *Reading and Writing Quarterly*, 24, 177-196. [doi:10.1080/10573560701808460](https://doi.org/10.1080/10573560701808460)
- Kazdin, A. E., Kraemer, H. C., Kessler, R. C., Kupfer, D. J., & Offord, D. R. (1997). Contributions of risk factor research to developmental psychopathology. *Clinical Psychology Review*, 17, 375–406. [doi:10.1016/S0272-7358\(97\)00012-3](https://doi.org/10.1016/S0272-7358(97)00012-3)
- Kempf-Leonard, K., Tracy, P. E., & Howell, J. C. (2001). Serious, violent, and chronic juvenile offenders: The relationship of delinquency career types to adult criminality. *Justice Quarterly*, 18, 449–479. [doi:10.1080/07418820100094981](https://doi.org/10.1080/07418820100094981)
- Kent v. U.S.*, 383 U.S. 541 (1966).
- Kisthardt, M. (2006). Working in the best interest of children: Facilitating the collaboration of lawyers and social workers in abuse and neglect cases. *Rutgers Law Review*, 36, 1-77.
- Klein, E. J. (1998). Note: Dennis the menace or Billy the kid: An analysis of the role of transfer to criminal court in juvenile justice. *American Criminal Law Review*, 35, 371-409.
- Krisberg, B. (2004). *Juvenile justice: Redeeming our children*. Minneapolis, MN: Sage Publications, Inc.
- Kupchik, A. (2004). Direct file of youth to criminal court: Understanding the practical and theoretical implications. *Criminology and Public Policy*, 3, 645-650. [doi:10.1111/j.1745-9133.2004.tb00069.x](https://doi.org/10.1111/j.1745-9133.2004.tb00069.x)

- Kupchik, A. (2006). *Judging juveniles: Prosecuting adolescents in adult and juvenile courts*. New York: New York UP.
- Kvarfordt, C. L., Purcell, P., & Shannon, P. (2005). Youth with learning disabilities in the juvenile justice system: A training needs assessment of detention and court services personnel. *Child & Youth Care Forum*, 34, 27-42. [doi:10.1007/s10566-004-0880-x](https://doi.org/10.1007/s10566-004-0880-x)
- Larson, K. (1988). A research review and alternative hypothesis explaining the link between learning disability and delinquency. *Journal of Learning Disabilities*, 21, 357-369. [doi:10.1177/002221948802100607](https://doi.org/10.1177/002221948802100607)
- Leone, P. (1994). Education services for youth with disabilities in a state-operated juvenile correctional system: Case study and analysis. *Journal of Special Education*, 28, 43-58. [doi:10.1177/002246699402800104](https://doi.org/10.1177/002246699402800104)
- Leone, P., Rutherford, Jr., R. B., & Nelson, C. (1991). *Special education in juvenile corrections*. Reston, VA: The Council for Exceptional Children.
- Matsueda, R. L., & Heimer, K. (1987). Race, family Structure, and delinquency: A test of differential association and social control theories. *American Sociological Review*, 52, 826-840. [doi:10.2307/2095837](https://doi.org/10.2307/2095837)
- McGowan, A., Hahn, R., Liberman, A., Crosby, A., Fullilove, M., & Johnson, R. (2006). Effects on violence of laws and policies facilitating the transfer of juveniles from the juvenile justice system to the adult justice system: A systematic review. *American Journal of Preventive Medicine*, 32, 7-28. [doi:10.1016/j.amepre.2006.12.003](https://doi.org/10.1016/j.amepre.2006.12.003)

Morris, K. A., & Morris, R. J. (2006). Disability and juvenile delinquency: Issues and trends. *Disability & Society, 21*, 613-627. [doi:10.1080/09687590600918339](https://doi.org/10.1080/09687590600918339)

Morris, R. J., & Thompson, K. C. (2008). Juvenile delinquency and special education laws: Policy implementation issues and directions for future research. *Journal of Correctional Education, 59*, 175-190.

Mulcahy, C., Krezmien, M., Leone, P., Houchins, D., & Baltodano, H. (2008). Lessons learned: Barriers and solutions for conducting reading investigations in juvenile corrections settings. *Reading and Writing Quarterly, 24*, 239-252.
[doi:10.1080/10573560701808635](https://doi.org/10.1080/10573560701808635)

Myers, D. L. (2001). *Excluding violent youths from juvenile court: The effectiveness of legislative waiver*. New York: LFB Scholarly.

National Report Series: Juvenile justice: A century of change (1999). In *Office of Juvenile Justice and Delinquency Prevention*. Retrieved from <http://www.ncjrs.gov/pdffiles1/ojjdp.178995.pdf>

O'Brien, N., Langhinrichsen-Rohling, J., & Shelley-Tremblay, J. (2007). Reading problems, attentional deficits, and current mental health status in adjudicated adolescent males. *The Journal of Correctional Education, 58*, 293-315.

O'Neill, M. (2006). Note: Delinquent or disabled? Harmonizing the IDEA definition of "emotional disturbance" with the educational needs of incarcerated youth. *Hastings Law Journal, 57*, 1189-1211.

- Podkopacz, M. R., & Feld, B. C. (1996). Criminology: The end of the line: An empirical study of judicial waiver. *Journal of Criminal Law and Criminology*, Winter, 449-492. [doi:10.2307/1144033](https://doi.org/10.2307/1144033)
- Podkopacz, M. R., & Feld, B. C. (2001). The backdoor to prison: Waiver reform, "blended sentencing", and the law of unintended consequences. *The Journal of Criminal Law and Criminology*, 91, 997-1071. [doi:10.2307/1144155](https://doi.org/10.2307/1144155)
- Pumariega, A. J., Atkins, D. L., Rogers, K., Montgomery, L., Nybro, C., Caesar, R., & Milius, D. (1999). Mental health and incarcerated youth, II: Service utilization. *Journal of Child and Family Studies*, 8, 205-215. [doi:10.1023/A:1022092002435](https://doi.org/10.1023/A:1022092002435)
- Puritz, P., & Majd, K. (2007). Special Issue: The American Bar Association's youth at risk initiative: Ensuring authentic youth participation in delinquency cases: Creating a paradigm for specialized juvenile defense practice. *Family Court Review*, 45, 466-480. [doi:10.1111/j.1744-1617.2007.00162.x](https://doi.org/10.1111/j.1744-1617.2007.00162.x)
- Puzzanchera, C. M. (2000). Delinquency cases waived to criminal court, 1988 - 1997. *OJJDP Fact Sheet*. In Office of Juvenile Justice and Delinquency Program. Retrieved from <http://www.ncjrs.gov/pdffiles1/ojjdp/fs200002.pdf>
- Reader, H. W. (1996). They grow up so fast: When juveniles commit adult crimes: The laws of unintended results. *Akron Law Review*, 29, 477-489.
- Redding, R. R. (1997). Juveniles transferred to criminal court: Legal reform proposals based on social science research. *Utah Law Review*, 1997, 709-763.
- Redding, R. R. (2008). Juvenile transfer laws: an effective deterrent to delinquency? *Juvenile Justice Bulletin*, August, 1-10.

- Redding, R. R., & Howell, J. (2000). Blended sentencing in American juvenile courts. In J. Fagan, & F. E. Zimring (Eds.), *The Changing Borders of Juvenile Justice: Transfer of Adolescents to the Criminal Court* (pp. 145-179). New York: University of Chicago P.
- Rozalski, M., Deignan, M., & Engel, S. (2008). The world of juvenile justice according to the numbers. *Reading and Writing Quarterly*, 24, 143-147.
[doi:10.1080/10573560701808429](https://doi.org/10.1080/10573560701808429)
- Rutherford, Jr., R. B., & Nelson, C. M. (Eds.). (2005). Disability and involvement with the juvenile delinquency system: Knowing versus doing. *Exceptionality*, 13, 65-67. [doi:10.1207/s15327035ex1302_1](https://doi.org/10.1207/s15327035ex1302_1)
- Rutherford, Jr., R. B., Bullis, M., Anderson, C. W., & Griller-Clark, H. M. (2002). *Youth with disabilities in the corrections system: Prevalence rates and identification issues* (Rep.). American Institutes for Research. (ERIC Document Reproduction Service No. ED471213)
- Rutherford, Jr., R.B., Griller-Clark, H., & Anderson, C. (2001). Treating offenders with educational disabilities. In J. Ashford, B. Sales, & W. Reid (Eds.), *Treating adult and juvenile offenders with special needs*. Washington, D.C.: American Psychological Association. [doi:10.1037/10390-008](https://doi.org/10.1037/10390-008)
- Rutherford, Jr., R. B., Nelson, C. M., & Wolford, B. I. (1985). Special education in the most restrictive environment: Correctional/special education. *Journal of Special Education*, 19, 59-71. [doi:10.1177/002246698501900105](https://doi.org/10.1177/002246698501900105)

- Scott, E. S., & Grisso, T. (2005). Developmental incompetence, Due Process, and juvenile justice policy. *North Carolina Law Review*, 83, 793-845.
- Shader, M. (2003). Risk factors for delinquency: An overview. In *Office of Juvenile Justice and Delinquency Prevention*. Retrieved from <http://www.ncjrs.gov/pdffiles1/ojjdp/frd030127.pdf>
- Sheperd, R. E. (2009). Still seeking the promise of Gault: Juveniles and the right to counsel. Retrieved from <http://www.abanet.org/crimjust/juvjus/cjmag/18-2shep.html>
- Shook, J. J. (2005). Contesting childhood in the US justice system: The transfer of juveniles to adult criminal court. *Childhood*, 12, 461-478.
[doi:10.1177/0907568205058604](https://doi.org/10.1177/0907568205058604)
- Skilling, T. A, Martin, L., Craig, W., & Quinsey, V. L. (2003) *Juvenile Delinquency: Understanding the Origins of Individual Differences*. Washington, D.C.: American Psychological Association.
- Skinner, B. F. (1953). *Science and human behavior*. New York, NY: Macmillan.
- Skinner, B. F. (1971). *Beyond freedom and dignity*. New York: Knopf.
- Snyder, H. & Sickmund, M. (2006). Juvenile offenders and victims: 2006 National Report. In *Office of Juvenile Justice and Delinquency Prevention*. Retrieved from <http://www.ojjdp.ncjrs.gov/ojstatbb/nr2006/downloads/NR2006.pdf>
- Snyder, H., Poe-Yamagata, E., & Sickmund, M. (1996). Juvenile Offenses and Victims. In *Office of Juvenile Justice and Delinquency Prevention*. Retrieved from <http://www.ncjrs.gov/pdffiles/juvoff.pdf>

- Steinberg, L., & Scott, E. (2003). Less guilty by reason of adolescence: Developmental immaturity, diminished responsibility, and the juvenile death penalty. *American Psychologist*, 58, 1009-1019. [doi:10.1037/0003-066X.58.12.1009](https://doi.org/10.1037/0003-066X.58.12.1009)
- Strom, K. J. (2000). Profile of state prisoners under age 18, 1985-97. In *Office of Justice Program*. Retrieved from <http://www.ojp.usdoj.gov/bjs/pub/pdf/pspa1897.pdf>
- Teplin, L., Abram, K., McClelland, G., Washburn, J., & Pikus, A. (2005). Detecting mental disorder in juvenile detainees: Who receives services? *American Journal of Public Health*, 95, 1773-1780. [doi:10.2105/AJPH.2005.067819](https://doi.org/10.2105/AJPH.2005.067819)
- To assure the free appropriate public education of all children with disabilities: Twenty-first annual report to congress on the implementation of the Individuals with Disabilities Education Act. (1999). In *U.S. Department of Education*. Retrieved from <http://www.ed.gov/about/reports/annual/osep/1999/index.htmlnewsroom/news/2003/r03-413.html>
- To assure the free appropriate public education of all children with disabilities: Twenty-fourth annual reports to Congress on the implementation of the Individuals with Disabilities Education Act. (2002). In *U.S. Department of Education*. Retrieved from <http://www.ed.gov/about/reports/annual/osep/2002/index.html>
- Vanella, D. (2006). Let the jury do the waive: How *Apprendi v. New Jersey* applies to juvenile transfer proceedings. *William and Mary Law Review*, 48, 723-770.

- Ward, J. M. (2003). Deterrence's difficulty magnified: The importance of adolescent development in assessing the deterrence value of transferring juveniles to adult court. *Univ. of California Davis Journal of Juvenile Law and Policy*, 7, 253-284.
- Watkins, J. C. (1998). *The juvenile justice century: A socio-legal commentary on American courts*. Durham, NC: Carolina Academic Press.
- Watkins, J. C. (2001). *Centennial Sourcebook on Selected Juvenile Justice Literature, 1900-1999 : A Trans-disciplinary Index*. New York: Carolina Academic P.
- Wiatrowski, M. D., Griswold, D. B., & Roberts, M. K. (1981) Social control theory and delinquency. *American Sociological Review*, 46, 525-541. [doi:10.2307/2094936](https://doi.org/10.2307/2094936)
- Winner, L., Lanza-Kaduce, L., Bishop, D., & Frazier, C. (1997). The transfer of juveniles to criminal court: Does it make a difference? *Crime and Delinquency*, 43, 548-564. [doi:10.1177/0011128797043004009](https://doi.org/10.1177/0011128797043004009)
- Zimring, F. E. (1998). *American youth violence*. NY: Oxford UP, Incorporated.