

THE EFFECT OF TRANSFER MECHANISM FROM JUVENILE COURT ON THE LIKELIHOOD OF INCARCERATION IN CRIMINAL COURT

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ABSTRACT

The question of whether juvenile offenders should be handled in criminal court has been addressed by a number of studies. However, few studies have examined the effectiveness of the type of transfer mechanism and how it relates to protecting the public. This article examines whether the mechanism used to transfer juvenile offenders to criminal court has any effect on the likelihood of incarceration in criminal court.

In Pennsylvania, there are two mechanisms for transferring juveniles who commit crime into adult court. The transfer of juvenile offenders to adult court has traditionally been justified on the grounds that the juvenile court is ill equipped to handle two classes of offenders (Bishop & Frazier 2000).

The first mechanism, judicial waiver, targets for removal chronic offenders who have been afforded interventions at the juvenile court level, usually exhausting all available interventions. Judicial waiver occurs when a judge decides (based on information provided by a juvenile probation officer) that the safety of the community would be better served by having a juvenile receive a disposition in criminal court. The traditionally stated purpose of judicial waiver is to permit individualization of the decision whether a particular juvenile is amenable to treatment in the juvenile justice system (Dawson 2000; Feld 1987). Traditionally, judicial waiver was virtually the sole method for transferring juvenile offenders to adult court (Dawson 2000). However, in recent years state legislators have increasingly created alternatives to this mechanism (Dawson 2000; Feld 2000; Zimring 2000).

The second mechanism for transferring juveniles who commit crime to criminal court deals with seriously violent offenders from whom the public demands heavy penalties that are beyond the scope of the juvenile court to administer (Bishop & Frazier 2000). This mechanism is statutory exclusion, where the state legislature sets forth the criteria by which juveniles will be sent directly to criminal court, bypassing juvenile court altogether. Whether these offenders will respond to juvenile court intervention is irrelevant. The community will not tolerate mild responses to violent crimes, and therefore the protection of the community demands that violent juvenile offenders be sent directly to adult court. Each mechanism for transferring juvenile offenders to

adult court in Pennsylvania reflects

different ways of asking and answering similar questions: who are the serious, hard-core youthful offenders; by what criteria should they be identified; which branch of government [judicial or legislative] is best suited to make these sentencing decisions; and how should the juvenile or adult systems respond to them? (Feld 1999b 162)

The criteria for transferring juveniles to adult court through judicial waiver in Pennsylvania are as follows: 1) the child was 14 years of age or older at the time of the alleged conduct, 2) the court has found that there is a prima facie case that the child committed the delinquent act, 3) that the delinquent act would be considered a felony if committed by an adult, 4) that there are reasonable grounds to believe that the public interest is served by the transfer of the case for criminal prosecution. In determining whether the public interest is served, the court must consider the following factors: the impact of the offense on the victim or victims; the impact of the offense on the community; the threat to the safety of the community or any individual posed by the child; the nature and circumstances of the offense allegedly committed by the child; the degree of the child's culpability; the adequacy and duration of dispositional alternatives within the juvenile justice and criminal justice systems; and whether the child is amenable to treatment, supervision, or rehabilitation as a juvenile. The fifth factor in considering whether a juvenile should be judicially waived to criminal court is that there are reasonable grounds to believe that the child is not committable to an institution for the mentally retarded or mentally ill (Pennsylvania Juvenile Court Judges' Commission 2001).

The criteria for transferring juveniles who commit crime to adult court in Pennsylvania

through statutory exclusion are grouped into two tiers. Tier One states that the juvenile in question 1) must be at least 15 years age or older at the time of the alleged conduct, 2) used a deadly weapon as defined in Pa.C.S. §2301¹ and committed one of the following offenses: rape, involuntary deviate sexual intercourse, aggravated assault, robbery, robbery of a motor vehicle, aggravated indecent assault, kidnapping, voluntary manslaughter, or an attempt, conspiracy, or solicitation to commit any of these offenses (Pennsylvania Juvenile Court Judges' Commission 2001).

The second tier (Tier Two) of the statutorily excluded cases in Pennsylvania includes the following: the juvenile in question must 1) be at least 15 years age or older at the time of the alleged conduct, 2) commit one of the following offenses: rape, involuntary deviate sexual intercourse, robbery, robbery of a motor vehicle, aggravated indecent assault, kidnapping, voluntary manslaughter, or an attempt, conspiracy, or solicitation to commit any of these offenses, and 3) the child has been previously adjudicated delinquent of any of the Tier One crimes (Pennsylvania Juvenile Court Judges' Commission 2001). Note that while Tier Two requires a previous adjudication for one of the Tier One offenses, it does not require that the alleged act be committed with a deadly weapon.

During the past thirty years there has been vigorous debate over the juvenile justice system's philosophy and procedures (Myers 2001). While there have been a variety of criticisms, most of them have focused on the juvenile court's lenient treatment of violent and repeat offenders and a lack of direction in dealing with juvenile crime (Feld 1993; Greenwood 1995; Jacobs 1993; Moore & Wakeling 1997; Schwartz 1989). Combined with increases in youth violence, these criticisms have led to a number of states enacting various "get tough" policies in their juvenile courts. At the heart of this issue is transferring juvenile offenders to adult criminal court.

PURPOSE OF STUDY

The purpose of this study is to examine both of the mechanisms in Pennsylvania for transferring juvenile offenders to criminal court to determine which better serves public safety in terms of being incarcerated in an adult facility (i.e. jail or prison). Juveniles who

were transferred to criminal court through judicial waiver in 1994 will be compared with juveniles who were transferred to criminal court through statutory exclusion in 1996. This study will examine only those juveniles who were charged with aggravated assault and robbery, to control for type of offense committed. Aggravated assault and robbery were chosen because they make up the bulk of offenses for juveniles transferred to adult court under statutory exclusion and judicial waiver.

Judicial Waiver

Almost all of the states in America have a mechanism for transferring juvenile offenders to criminal court (Dawson 2000; Myers 2001), and judicial waiver is the oldest (Rothman 1980), and most common mechanism (Feld 2000). After the establishment of a prima facie case, a juvenile court judge decides whether the interests of the juvenile and the community would be best served by having the juvenile in question transferred to criminal court for prosecution and (if found guilty) sentencing. A judge's decision is based upon what Dawson (2000 45) calls the "amenability decision". That is, whether the juvenile is amenable to treatment in the juvenile justice system. Factors that can influence such a decision are the juvenile's age, seriousness of the offense, the juvenile's threat to public safety, and their prior record. Judicial waiver reflects the juvenile court's original philosophy of an individualized, offender oriented system (Feld 1999b; Zimring 1991).

From 1966, when the *Kent*² case was decided, until the middle of the 1980's, judicial waiver was "largely ignored by the legislatures" (Dawson 2000 58). It existed primarily to handle the occasional violent or serious juvenile crime. Then, an increase in violent juvenile crime by juveniles demanded that more juvenile offenders be transferred to criminal court. As the public's fear of juvenile crime increased, "[l]egislators began to view juvenile justice as a politically fruitful area for exploration" (Dawson 2000 59).

In terms of absolute numbers, there has been a dramatic increase in the number of judicial waivers to criminal court. Nationally in 1985 about 7,200 cases were judicially waived to criminal court, while in 1994 that number had risen to 12,300 (Butts 1997). Prior to 1992, more property offenses than

Table 1: Cases Waived to Adult Court 1985-1995

Year	Total Dispositions	Number Waived	Percent of Total Dispositions
1985	29,137	227	0.7
1986	31,649	247	0.8
1987	29,602	284	1.0
1988	32,173	241	0.7
1989	33,336	339	1.0
1990	35,359	378	1.0
1991	30,836	394	1.2
1992	31,039	332	1.0
1993	32,212	386	1.2
1994	35,531	453	1.3
1995	36,997	533	1.4

Source: Pennsylvania Juvenile Court Judges' Commission (1985-1995). Pennsylvania Juvenile Court Dispositions. Shippensburg, PA: Center for Juvenile Justice Training and Research.

person offenses were waived to adult court, but by 1995 person offenses accounted for 47 percent of the waived cases, while property offenses accounted for 34 percent (Stahl 1999). In Pennsylvania (as indicated by Table 1) the number of juvenile offenders judicially waived to criminal court more than doubled between 1985 and 1995 (227 to 533). However, the 533 juveniles waived in 1995 accounted for only 1.4 percent of the dispositions in Pennsylvania that year.

Prior to 1996 the more commonly used method of transfer in Pennsylvania was judicial waiver. Before any formal determination of guilt, a formal transfer hearing had to be held and a number of criteria had to be met as specified in Section 6355 of the Juvenile Act (Pennsylvania Juvenile Court Judges' Commission 1992), which are the same criteria that are listed in the introduction to this paper.

If the judge decided that the youth was no longer amenable to treatment in the juvenile justice system, the case could be waived to criminal court. Additionally, the judge could waive a case to criminal court at the request of the juvenile. In this case, whether the juvenile was amenable to treatment was the only waiver criterion that was not considered. Under this form of transfer from 1985 through 1995, approximately 1 percent of the total number of juvenile court dispositions in Pennsylvania resulted in judicial waiver. In terms of total number of judicial waivers in the same time period, there was a gradual increase from 227 in 1985 (0.78% of the total dispositions), to 375 in 1990 (1.06% of the total dispositions), to 533 in 1995 (1.44% of the total

dispositions).

Statutory Exclusion

Recent changes in Pennsylvania's juvenile laws are typical of the way many states have enacted laws pertaining to juvenile justice issues. An increasing number of states automatically exclude cases from the juvenile court that meet specific age and offense criteria (Sickmund 1994; Snyder & Sickmund 1995; Stahl 1999). The major change came in the mechanisms for transferring juvenile offenders to criminal court. Statutory exclusion of youths to criminal court represents the cornerstone of the "get tough" movement (Feld 1999b).

Prior to March 1996, Pennsylvania's Juvenile Act (Pennsylvania Juvenile Court Judges' Commission 1992) provided that the transfer of juveniles to criminal court could occur through either judicial waiver or legislative (or statutory) exclusion. However, the only crime that fell under legislative exclusion was murder. Also, the statute allowed for excluded youths to be returned to the juvenile court for adjudication, disposition, or both (i.e. reverse waived) at the criminal court's discretion³.

In 1995, significant changes were made in Pennsylvania's juvenile law, and the Commonwealth's Juvenile Act was modified. There were numerous changes made regarding juvenile offenders⁴, but the most significant change concerned the statutory exclusion of juvenile offenders from juvenile court, granting criminal court both original and exclusive jurisdiction for a certain number of juvenile offenders.

The impetus for the changes in Pennsyl-

vania's Juvenile Act came primarily from the Philadelphia District Attorney's Office. Prosecutors were frustrated by the reluctance of Philadelphia Juvenile Court judges to judicially waive violent juvenile offenders to adult court. For example, between 1991 and 1993, Philadelphia Juvenile Court judges only approved about one third of cases motioned for transfer by prosecutors (Sontheimer & Labecki 1996). In a 1992 survey of Pennsylvanians, 63 percent of respondents believed that Pennsylvania judges were "too soft on crime" (Jacobs 1993 11), thus adding impetus to the movement for the decision whether a juvenile offender should be handled in adult court away from judges and into the hands of the state legislatures.

The push for expanding the number of juveniles who can be transferred to adult court received a boost when Tom Ridge was elected Governor in 1994. He immediately convened a special session of the legislature devoted to crime related issues, and Act 33 was passed in 1995.

Pennsylvania's Juvenile Act of 1996 was the first to exclude juvenile offenders who fell under Tier One or Tier Two. Also, the new juvenile code allows for all excluded cases to be transferred back to juvenile court, but it is up to the offender to prove beyond a preponderance of the evidence that they are amenable to treatment in the juvenile court, and that a reverse waiver will serve the public interest (Pennsylvania Juvenile Court Judges' Commission 1996a). The Pennsylvania Juvenile Act of 1996 still allows for juvenile offenders to be transferred to criminal court via judicial waiver. However, through the process of statutory exclusion the "judiciary is totally excluded from participating in the decision-making process" (Dawson 2000 49).

As with the former juvenile code, the new act provides for two mechanisms for removing violent juvenile offenders from juvenile court jurisdiction: judicial waiver and statutory exclusion. Youths between the ages of 15 and 18 who commit a violent offense with a deadly weapon, as well as some repeat offenders, receive "automatic adulthood" (Feld 1993 239). Overall, Pennsylvania's Juvenile Act of 1996 corresponds well with the nationwide shift toward a more retributive model of juvenile justice, which emphasizes protecting the public from violent juvenile offenders. Which mechanism is more effective

in reaching this goal has yet to be determined.

INCREASES IN YOUTH VIOLENCE

Between 1965 and 1980, the overall juvenile index for violent crime and homicide rates doubled, followed by a second upsurge between 1986 and 1994 (Appleby Jr 1999; Feld 1999a; Snyder 1999). During this second upsurge, the juvenile crime arrest rate increased by 75 percent (Sickmund, Snyder, & Poe-Yamagata 1997). The number of youths arrested for murder increased 89.9 percent, and the number arrested for violent crimes (rape, robbery, aggravated assault) increased 67.3 percent (Merlo, Benekos, & Cook 1997). The substantial rise in homicide rates (Snyder 1999) and the increasing number of younger juveniles being arrested for committing violent offenses increased the public's fears about youth crime (Blumstein 1995) and began to define the public's image of the crime problem and the political debate over anticrime policy.

Today, a fear of a generation of young Americans is prevalent (Myers 2001). In an age where politicians banter the term "violent juvenile super-predator" about (Dilulio 1995), legislatures in every state have approached public protection from juvenile offenders with a "frenzy" (Dawson 2000 46). Based upon the projected size of the population of children age 14-17 in this country, total juvenile arrests are expected to increase, or at least remain high (Howell, Krisberg, & Jones 1995). Howell and his colleagues suggest that if youth violence rates increase as they did from the mid-1980's through the mid-1990's, "it would not be unreasonable to see juvenile arrests increase more than 100% by the year 2002" (1995 10).

Predictions like these have increased fears of juvenile offenders. Legislators regularly mention the need to "get ready" (Wilson 1995 507) for the juvenile crime wave. This is despite the fact that there has been a recent downturn in the juvenile violent arrest rate (Snyder 1997), and that it is possible that the warnings of juvenile offending could be incorrect (Howell 1997). Nonetheless, within the past decade there has been a desire to "get tough" with juvenile offenders, and this has provided the political impetus to prosecute large numbers of juveniles in criminal court (Feld 1993, 2000; Gordon

1991; Merlo et al 1997; Tonry 1995). Gordon Bazemore (2002 768) states that this ideology gives "priority to punishment" because it places central focus on just deserts as the primary rationale for decision making in the field of juvenile justice.

The increase in homicide rates corresponded with the accumulation of firearms among young offenders (Blumstein 1995; Cook & Laub 1998; Fagan & Wilkinson 1998). In 1990 juvenile arrests for violent crime were up 27.3 percent from 1980, and in 1990 juvenile arrests for weapon law violations were up 62.2 percent from 1980 (Federal Bureau of Investigation 1999). The prevalence of guns, the rise in the prevalence of youth-gang related crime (Huff 1998) and the randomness of juvenile violence inflamed public fear about youth crime. Politicians

demonized young people in order to muster support for policies to transfer youths to criminal court and to incarcerate them. (Feld 2000 109)

DATA AND METHODS

Subjects

The current study will examine and compare two cohort groups of juvenile offenders. One group consists of juvenile offenders who were judicially transferred to criminal court in 1994. This cohort consists of 138 males who were arrested for robbery, aggravated assault, or both, and a deadly weapon was involved in their offense. These youths were between the ages of 15 and 18 at the time of offense.

The second cohort consists of 530 males⁵ who were arrested in 1996 (the first year of Pennsylvania's new legislation) for robbery, aggravated assault, or both. These youths were transferred to criminal court through statutory exclusion.

It should be noted that because of a lack of random sample this study cannot directly confront the problem of selection bias. Those juvenile offenders who were judicially waived to criminal court in 1994 were certified by a juvenile court judge as being not amenable to juvenile court treatment. The juveniles who were transferred to criminal court through statutory exclusion in 1996 were all charged with an excluded offense. Unfortunately, this type of selection bias is unavoidable in transfer research, as random assignments are just not possible.

Data Source

Case information pertaining to the juvenile offenders discussed in the previous section was obtained through The Center for Juvenile Justice Training and Research (CJJT &R) located at Shippensburg University. The Center was established by and is managed by the Juvenile Court Judges' Commission (JCJC), a Commonwealth of Pennsylvania agency within the Governor's Office and its Office of General Counsel. In addition to providing a number of training and educational programs to juvenile justice professionals from across the Commonwealth of Pennsylvania, CJJT&R also operates an Information and Technology Division that compiles data and publishes an annual report on the activities of all juvenile courts in Pennsylvania. Because of this latter responsibility, CJJT&R maintains individual county data that will permit testing of the research question.

In order to receive funding from the JCJC, each county in Pennsylvania must submit offender and offense information pertaining to every juvenile court disposition handled within its jurisdiction. Data for this study were taken directly from the database maintained by the CJJT&R and are limited to the information that the agency considers important for its purposes. Consequently, some variables that may be relevant to court processing were not available⁶.

Independent Variable

The key independent variable in this study is the mechanism of transfer to criminal court. Juveniles transferred to criminal court through judicial waiver will be coded as 0, and juveniles who were transferred to criminal court via statutory exclusion will be coded as 1. This study will examine what effect each mechanism had on the dependent variable.

Control Variables

Based on the quasi-experimental design of this study, numerous variables will be utilized to control for case outcomes. The first is age. Harsher penalties tend to be associated with older offenders (Podkopackz & Feld 1996). The mean age at the time of referral for both the 1994 and 1996 cohorts is 16.2 years.

Race will also be utilized as an offender characteristic. Past research (see Paternoster & Iovanni 1989) shows that racial characteristics are hypothesized by labeling theory

Table 2: Incarceration in an Adult Facility

Variables	b	(SE)	Exp. B	Sig.
TRANSFER	4.148*	.530	63.335	.000
AGE	-.034	.101	.967	.737
RACE	-.311	.426	.733	.466
COUNTY	2.033*	.355	7.641	.000
JCVIOADJ	-.486	.343	.615	.156
Constant	-.100	1.724	.904	.954

*p<.001

NOTE: TRANSFER=transfer to criminal court mechanism; AGE=age juvenile was transferred to criminal court; RACE=race of juvenile transferred to criminal court; COUNTY=county of jurisdiction where case was prosecuted; JCVIOADJ=prior juvenile court adjudication for a violent offense

to influence judicial outcomes. Race was coded as 0 for white and 1 for nonwhite⁷. In both the 1994 and 1996 cohorts, 78 percent of the judicially waived offenders are non-white.

Justice processing and case outcomes often depend upon whether the offender was handled in a rural, suburban, or urban location (Feld 1993). The county of jurisdiction is coded as 0 for suburban/urban and 1 for rural. Of the 1994 cohort, 80 percent of the youths were processed in urban or suburban counties. For the 1996 cohort, sixty-five percent of these cases were processed in an urban or suburban jurisdiction.

Finally, the past delinquent behavior of these youths will be considered. Specifically, since these juveniles were transferred to criminal court due to allegations of violent criminal conduct, their past violent conduct will be controlled for. For both cohorts, a prior juvenile court adjudication for a violent offense was coded as 1, while no prior violent adjudication will be coded as 0. Of the 138 youths who make up the 1994 cohort, 30 percent had a prior juvenile court adjudication for a violent act. Of the 530 youths in the 1996 cohort, 26 percent had a prior juvenile court adjudication for a violent act.

Dependent Variable

The case outcome variable that will be examined in this study is incarceration in an adult facility. The incarceration variable pertains only to those juveniles who were convicted on a target offense in criminal court. This variable was coded as 0 if the sentence did not involve incarceration, and 1 if the juvenile was incarcerated in an adult facility (jail or prison). For the youths waived to criminal court in 1994 and convicted on a target offense, 96 percent received a sentence of in-

carceration in an adult facility. Of the offenders in the 1996 cohort who were convicted on a target offense, 50 percent received a sentence of incarceration in an adult facility.

Statistical Analyses

Bivariate logistic regression will be employed in this study. Since the research variable is dichotomized, it would appear that this would be the appropriate statistical technique. While the coefficients obtained through linear regression indicate the amount of change in the dependent variable that is associated with a one-unit change in the independent variable, logistic regression examines the log odds of an event occurring given a one-unit change in the independent variable.

FINDINGS

Out of the 668 cases that comprise both cohorts, 288 (43.1%) were included in the analysis. This represents the number of juveniles in the cohorts who were convicted on their target offense (robbery or aggravated assault) in criminal court. The logistic regression estimates are presented in Table 2, and the full model was significant (chi-square (5)=122.475, p=.000).

The full model reveals a significant and positive relationship between judicial waiver and conviction on a target offense (b=4.148, p=.000). Of the youths who were convicted in adult court, those who were transferred there through judicial waiver were more likely to be incarcerated in an adult facility than those transferred to criminal court through statutory exclusion.

One other significant effect was revealed in the full model, which was for county of jurisdiction (b=2.033, p=.000). Juveniles judicially waived to criminal court in rural counties were

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END NOTES

- ¹ Defined by 18 PA C.S. Sec. 2301 as any firearm, whether loaded or unloaded, or any device designed as a weapon and capable or producing death or serious bodily injury, or any other device or instrumentality which, in the manner in which it is used or intended to be used, is calculated or likely to produce death or serious bodily injury.
- ² See *Kent v. U.S.*, 383 US 541 (1966)
- ³ This reverse waiver clause is still a part of Pennsylvania's juvenile law.
- ⁴ For example, changes to the purpose clause, the fingerprinting of juveniles, public access to delinquency hearings, and parental responsibility for truancy, just to name a few.
- ⁵ This study is limited to male offenders because of the small number of female offenders who met these offense criteria. Only two female offenders were judicially waived to criminal court in 1994, and the number of female offenders transferred to criminal court through statutory exclusion in 1996 made up less than 15 percent of that sample.
- ⁶ For example, there is no information regarding offender's socio-economic status, or representation at trial (private attorney or public offender).
- ⁷ The nonwhite category in both cohorts is made up of mostly African-Americans.

more likely to receive a sentence of incarceration in an adult facility. Using the following probability equation:

$$y=e^u/1+e^u$$

the relationship between transfer mechanism and likelihood of incarceration in an adult facility was explored further.

For juveniles who were transferred to criminal court through judicial waiver and were convicted in criminal court in a rural county, the likelihood of incarceration in adult facility was 99 percent (.9977). For juveniles who were transferred to criminal court through statutory exclusion and were convicted in criminal court in a rural county, the likelihood of incarceration in an adult facility was 87 percent (.8711). The method of transfer to criminal court accounted for a 87 percent difference in the incarceration rate.

DISCUSSION

In spite of the limitations in this study, it should be noted that if significant differences exist between juvenile offenders transferred to criminal court through judicial waiver and statutory exclusion in terms of case outcomes, an argument that these differences are due to selection bias rather than a transfer effect may actually be used as a reason for caution with regard to the use of statutory exclusion over legislative waiver. If the juvenile court was successful in waiving the "worst" offenders, a policy of statutorily excluding many more youths does not seem prudent. Past research provides little support for treating large numbers of juveniles in criminal court. Youths in criminal court may be abused by adult inmates, be given a crash course in criminality by adult offenders, may receive inadequate treatment, or all three. Therefore, a policy of statutory exclusion may create a greater number of youths who are deemed a threat to society, but who remain in society.

The juvenile court was founded on the idea of individualization, a concept on which statutory exclusion is not based. In terms of putting the "serious juvenile super-predators" behind bars, it seems that statutory exclusion is a mechanism that is inferior to judicial waiver.

It comes down to a question of who should be making the decision to transfer juvenile offenders to criminal court: juvenile

court judges and juvenile probation officers who, through extensive background research, have an intimate knowledge of the juvenile in question; or the state legislature, many of whom may have never even met a delinquent child? Judicial waiver is a mechanism that has evolved over a century in the American juvenile court (Zimring 2000). Political solutions ("adult crime-adult time") reflect criminal sentencing policies that provide no formal recognition of youthfulness as a mitigating factor (Feld 2000) and may actually not be serving the interest of public safety.

RESEARCH IMPLICATIONS

Being incarcerated in an adult facility is only one measure of public safety. Other measures related to protecting the public (i.e. length of time served, recidivism) should be explored as well. The most effective way of doing this would be randomized experiment. However, political opposition may preclude this from happening, so future research will no doubt continue to employ a variety of matching, cohort, and time series designs.

Although no race effect was discovered in this study, minority overrepresentation appears to be an issue. It is interesting to note the equivalent racial make up of both cohorts. Having nearly eighty percent of both cohorts be made up of minorities (primarily African-Americans) is a cause for concern. Although it made no difference in case processing and outcome, the disparity in the cohorts between white and nonwhite youth is an area that should be explored.

One could look at the lack of a race effect as a positive outcome. Maybe justice really is blind, and that is why race did not have an effect on the likelihood of being incarcerated in an adult facility, or incarceration length. However, this would be a highly optimistic view of these findings.

In 1994, nonwhites accounted for 46.9 percent of referrals to juvenile courts in Pennsylvania (Pennsylvania Juvenile Court Judges' Commission 1996b), and in 1996 they accounted for 44.6 percent (Pennsylvania Juvenile Court Judges' Commission 1998). The obvious question, and area for further study, is why, then, did non-white (predominantly African-Americans) juveniles comprise about 80 percent of the sample for both the 1994 and 1996 cohorts? This question is especially troubling for the 1994 co-

hort. It would stand to reason that if non-whites accounted for around 47 percent of all referrals to juvenile court that year, then they should have accounted for the same percentage of judicial waivers.

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