

DID TRANSFER OF JUVENILE OFFENDERS TO ADULT JURISDICTIONS PRODUCE
DIFFERENT OUTCOMES FOR DIFFERENT OFFENSES? COMPARISONS OF TRANSFER
EFFECTS ON BURGLARY AND ROBBERY IN FLORIDA, NEW YORK, AND NEW
JERSEY

By
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With legislation amended or enacted to expedite transfer of more juvenile offenders to adult court jurisdiction, more and more juvenile offenders, including many property crime offenders, have been transferred to adult criminal courts. However, it has been unclear whether severity of sanctions differs greatly for property crime in the two court jurisdictions. Also unclear is the effect of transfer on recidivism of juveniles convicted of burglary, compared to juveniles convicted of serious personal crime such as robbery. Our study answers these questions of sanctions and recidivism for juveniles referred to adult court compared with juveniles referred to or retained under juvenile court jurisdiction. We compared recidivism and sanctions by type of offense between the two court jurisdictions, based on Florida and New York/New Jersey data sets. Results showed that juvenile offenders who were transferred to criminal court jurisdiction were more likely to recidivate and they also received harsher punishment than their counterparts retained in juvenile court jurisdiction. The findings on differences by offense type were different in the two data sets. Possible explanations are given for this discrepancy.

CHAPTER 1 INTRODUCTION

In response to the rising frequency and seriousness of juvenile crimes in the United States in the latter part of the twentieth century, there were a number of local and state efforts (with federal backing and encouragement) to institute law enforcement and court policies that would “get tough” with juvenile offenders. One expression of this movement was the introduction of legislation since 1970s by a number of states providing for expedited transfer of youthful offenders from juvenile court to adult court jurisdiction. While, the juvenile court statutes have always allowed for the juvenile court to waive jurisdiction in certain cases, after a hearing, the newer laws provided for ways to expedite transfers and increase the number of juvenile offenders tried in adult court. There are three main ways (with all three often being available in the same states): judicial waiver, prosecutorial waiver or direct file, and legislative exclusion or statutory waiver. The assumption behind this was that criminal courts were able to mete out harsher punishment and make it harder on serious juvenile offenders than the juvenile court would and would provide a greater deterrent effect on juvenile crime.

Research has not found much support for this effect from juvenile transfers. But research has shown that the punishment for property crimes by the juvenile court is much less than punishment for the same offense in adult court (Podkopacz and Feld, 1996). But there has been little research specifically exploring whether the sanctions differ greatly for property crime in the two court jurisdictions and what the effects of transfer are on recidivism of juveniles who committed burglary compared to serious personal crime such as robbery, aggravated assault etc. The purpose of our study was to address that issue through secondary analysis of data collected in one study in Florida and data from New Jersey and New York in another study.

Background and Philosophy of the Juvenile Court

There has been a great variation and change in juvenile justice policy in the last three decades in the United States. One of the most striking one is that more and more juveniles were excluded from juvenile justice system and referred to the criminal justice system for adjudication.

Compared with adults, juveniles are assumed to be immature and unable to think reasonably. Their moral development is not as complete as adults as well. Therefore, juvenile offenders are considered to be less culpable for their offenses committed and are prosecuted and adjudicated in a separate juvenile justice system which emphasizes on child saving and serving the best interests of children.

Treating juvenile offenders differently from adult offenders extends back about 600 years ago. English common law in the 14th century recognized that children under the age of seven could not be convicted of a crime (Empey, 1979). There was a rebuttable assumption that children from age of 7 to 14 were presumed to lack criminal capacity (McCarthy 1977; Weissman 1983). And youths above fourteen were treated as fully responsible for their criminal behaviors and received the same treatment as adults (Myers, 2001). However, until the late 19th century, an attempt of constructing a separate and new legal mechanism specially for juvenile offenders came into being under the effects of Progressive reform movement (Platt, 1999).

The first juvenile court dedicated to dealing with juvenile offenders was opened in Chicago in 1899 based on the doctrine of “*parens patriae*” which meant that the state had the responsibility to take care of children who were unable to care for themselves and whose parents either could not or would not care for them (Tanenhans, 2000; Mack, 1999). Under this doctrine, the early juvenile courts emphasized a philosophy of rehabilitation and individualized justice. Herein, the juvenile offenders were “just one class of child in need of help, and the only official

reason for any legal response when children committed crimes was to help the child” (Zimring, 2000). The interventions under this philosophy of helping rehabilitation of juveniles presented patterns and characteristics no different from the responses from legal system for noncriminal youths. At the same time there was a great discrepancy of dispositions imposed on the juvenile offenders compared with those on the adult criminals. The children accused of crime were exposed to informal procedures and protective court environments and thereby offered some assistance, treatment or guidance different from adult offenders (Ainsworth, 1999). For example, the hearing was conducted in privacy and hearing records were saved under seal to avoid the children being stigmatized. When a child was brought into the separate juvenile court, the judge was empowered to investigate the background of the child and develop a treatment to meet the individualized needs of the child. At the same time, the punishment was not regarded as a central goal of juvenile court. Instead, the primary task of juvenile court was to take positive strategies to change the behaviors of delinquent children and prevent more serious criminal behavior from happening in the future (Mack, 1999). This orientation underlying the flexible judgment made the decision-making discretionary and processing procedures informal.

According to Zimring (2000), the advantages of juvenile court included two points. The first was the expertise that juvenile court had regarding youth characteristics and developments. The juvenile court was a better institution to know the real needs of juveniles and it was capable of providing youthful offenders with special treatment together with its affiliated rehabilitation agents or organizations. The second advantage compared with the adult court lay in the restrictiveness of destructive punishment imposition inherent in the juvenile court. The juvenile court basically took action under the principle of protecting the welfare of youthful offenders. So the policy direction of juvenile court was to punish young offenders without writing off or

cutting down their opportunities or spaces of personal development in the long run (Zimring 1998).

In spite of the philosophy of rehabilitation and individualized treatment for juveniles, juvenile court judges at that time were also authorized to transfer serious juvenile offenders to adult criminal court (Snyder and Sickmund, 1999). So the notion of transferring juveniles is not an invention of modern justice system. In United States, the practice of transferring juveniles to criminal court has been allowed in some states for more than 80 years. For example, Arkansas, California, Colorado, Florida, Georgia, Kentucky, North Carolina, Ohio, Oregon, and Tennessee have permitted juvenile transfer since before the 1920s. Other states have also authorized this way of transferring juveniles to adult courts from at least the 1940s, such as Delaware, Indiana, Maryland, Michigan, Nevada, New Hampshire, New Mexico, Rhode Island, South Carolina, and Utah (Snyder and Sickmund, 1999).

In the early history of juvenile court jurisdiction, the punishments for the law violation behaviors of youths were included within the juvenile justice system. The juvenile court judges traditionally had the discretion of transferring juveniles to criminal courts based on the juveniles' individual circumstances in each case (Dawson, 2000).

Criticisms of Juvenile Court.

Since 1950s, the juvenile justice system has been criticized for a few reasons. At first the criticisms focused on the lack of formal procedures granted to juvenile defendants in the juvenile court. Then, from the 1970s into the 1980s, the criticisms were directed at the perceived ineffectiveness of rehabilitation programs that had been implemented in juvenile justice system. The idea that "Nothing works" was accepted widely and quickly (Cullen, 2005). At the same time, juvenile crime increased rapidly especially juvenile violence (Feld, 1997). Juvenile justice system which was more prone to rehabilitate than punish children was perceived as too lenient to

juvenile offenders and unable to control the serious and violent juvenile offenders and ensure the public safety.

The informality of procedure practiced in juvenile court and the unfettered discretionary power granted to juvenile justice judges were first under great attacks from critics. They argued that children were not provided with due process protections in the juvenile courts and were often arbitrarily or unfairly punished (Tanenhaus, 2000). With the due process revolution in the late 1960s and early 1970s, there were two remarkable decisions made by the United States Supreme Court that had the most influential significance respecting providing juveniles with due process protections in juvenile courts. One of these landmark cases was *Kent v. United States* (1966). The other was *In re Gault* (1967).

In the case of *Kent v. United States*, the Supreme Court ruled that children should have the rights to a formal hearing respecting the waiver criteria and reasons. The children should also be entitled to counsel before they were transferred to criminal courts. In addition, the Supreme Court also placed the concern for the substantive criteria considered in waiving court jurisdiction and listed eight factors which should be taken into account in making transfer decisions (Tanenhaus, 2000). These criteria were followed by many states and integrated into their state juvenile codes to ensure the procedural consistency in the process of transferring juvenile offenders to the criminal court.

Another noticeable case is *In re Gault*, in which a 15-year-old boy was arrested for making a lewd phone call to a female neighbor without any notice to his parents. He was adjudicated and committed to the state industrial school up to his twenty-first birthday. There was not any record kept about the adjudication hearing and the victim did not appear in the hearing. The Supreme Court held that juveniles should have rights for elementary procedural protections including the

right to obtain notice of charges in advance, the right to counsel, the right to confront and cross-examine witnesses, and the right against self-incrimination. Furthermore, the court stated that in spite of the rationale of “*parens patriae*”, the juvenile system did not produce the expected result. The informal procedures and broad discretion empowered to judges more often led to arbitrariness and injustice (Feld, 1999). *In re Gault* was regarded as the one which changed the juvenile court to a different institution from what it was perceived before (Tanenhaus, 2000).

Then, in the 1970s, two other cases should be mentioned. First was the Supreme Court decision in *In re Winship* (1970). The court reduced the standard of proof in the delinquency proceedings to “beyond a reasonable doubt” from “preponderance of the evidence” (Feld, 1993). In *Breed v. Jones*, the Supreme Court applied the protections of the double jeopardy clause from the 5th Amendment to prevent the juveniles from being re-adjudicated in adult courts after they had been previously adjudicated in juvenile courts. The Court again indicated that the results of the juvenile justice system were less than satisfactory (Feld, 1993).

Reforms aiming to change the informality of the case processing in juvenile courts were based on the intention to make the juvenile court more punitive (Tanenhaus, 2000; Feld, 1997). Following the initial critics on the informal adjudication procedures and discretionary power of judges, the criticisms which appeared in the mid of 1970s to 1980s then focused on the ineffectiveness of rehabilitation programs advocated by the juvenile justice system and its inability to stem the rapid increase of juvenile crime rate.

In the 1970s, the most influential review of research on the effectiveness of rehabilitation program was the study of Lipton, Martinson, & Wilks. The overall conclusion from their study was that most rehabilitation program had little or no positive effect (Lipsey, 1999). There were other reviews followed showing the similar conclusions. (Lipsey, 1999). Martinson’s “nothing

works” doctrine had a profound and enduring effect that was quickly and widely accepted. (Cullen, 2005).

With the perception of incapability of juvenile justice system on providing effective rehabilitation program, the rate of crimes committed by juveniles increased dramatically from the mid-1960s. “Beginning in 1985 and continuing through 1994, the juvenile violent crime arrest rate increased by 75%. While juvenile arrest rates for robbery and aggravated assault exhibited rapid growth, the surge in youth homicide rates was particularly disturbing. Not only did the juvenile murder arrest rate rise at a much faster pace than that of adults, but also for older youths the increase was over 100%” (Myers, 2001). Most striking was the rise in homicides in which youth used guns. This of course spurred great panic in the public. They were becoming less and less tolerant to youth offenders, especially to serious, chronic and violent juvenile offenders. Accordingly policymakers were influenced by this public fear and made great efforts to “get tough” and “crack down” on violent juvenile crime.

Another demographic reason made it more exigent and imperative for government to take some actions against “young predators” (Levitt, 1998). Research on life-course criminology concluded that most youth offenders peaked in their involvement in most types of crime by mid to late adolescence and from then they exhibited steadily decline in the crime committed (Farrington, 2003). There was a distinct growth in the population of youth during mid 1960s to 1970s, as a result of the “baby boomers” after the World War II. Nowadays, there will be another large generation of youth coming into being as the children of the baby boom generation approaching adolescence (Schuman and Scott, 1989). This predicted increasing crime rate of juvenile further stirred up the public fear. People and policy makers thought the juvenile courts treatment was too lenient for juvenile offenders. Under its commitment of protecting the best

interests of children and preventing them from continuing further law violation behaviors, the juvenile court imposed the limited punishment towards youthful offenders. However, this sanction strength of the juvenile court on avoiding a good number of juvenile offenders from being stigmatized incurred by adult court sanctions became, on the other side, the weakness in its dealing with a few of the most serious or chronic juvenile offenders. In response to the criticisms of the juvenile justice system on its informal procedure, its inability to provide effective rehabilitation program, and its too lenient sanctions to control violent juvenile crime, and with the potential threat to public safety from the increasing juvenile offenses, the legislatures, juvenile corrections agencies, and the juvenile courts were prompted to adopt new strategies of more serious, swift, and certain sanctions for violent juvenile offenders (Bishop, 2000).

It was commonly known that criminal justice could provide the more serious and certain treatment to crime offenders, especially violent crime offenders. In response to these demands of “get tough” with juvenile offenders and strengthen juveniles’ greater accountability, most states adjusted their juvenile codes to allow or facilitate the transfer of juvenile offenders to criminal courts. Some states adopted measures to restrict the jurisdiction of juvenile courts by lowering the minimum age of criminal court jurisdiction, and some states created broader legislative criteria for juveniles transfer, others instituted simplified methods of “direct file” for the transferred (Feld, 1993; Bishop, 2000).

Despite variation among states in the ways to transfer, there are three primary methods to move juveniles from juvenile courts jurisdiction to criminal courts jurisdiction: judicial waiver, prosecutorial waiver or direct file, and legislative exclusion or statutory waiver. Each exhibits different pathway to identify which youth offenders should be transferred and treated as adults. Most states have some combination of these three procedures in practice (Griffin et al., 1998).

Types of Transfer

Judicial Waiver

Judicial waiver is the most common way to transfer juveniles to adult criminal courts (Dawson, 2000). Now, 46 states and the District of Columbia have judicial waiver provisions (Griffin et al., 1998). In the judicial waiver, the juvenile court judge makes the key decision of whether a child should be excluded from the juvenile court. There are some criteria contained in the statutes specifying under what circumstances a transfer is appropriate. A judge's determination of whether to implement transfer or not is based on whether the youth is no longer amenable to the treatment offered in juvenile justice system. The age of offender at the time of the offense, offense seriousness, prior record, and public safety will be taken into account by a judge to make such a decision (Dawson, 2000). This method of transfer exhibits the individualized orientation that is the basic characteristic of traditional juvenile courts.

The Supreme Court established a procedural framework in the case of *Kent v. United States* to guide judges in making the waiver decision. It seemed that *Kent* would eliminate judicial discretion. However, although there are several factors for a judge to consider in making a decision to transfer in *Kent*, the vagueness of such phrases as “amenability to treatment”, “best interests of the public”, and “dangerousness to the public” leaves much discretion for juvenile courts judges (Klein, 1998). As Klein stated, “danger to the public requires judges to make qualitative decisions about the predictability of a youth's dangerousness. To make these decisions, judges rely on clinical evaluations, which then raises questions about the validity of clinical diagnoses or predictions and the propriety of delegating issues of social policy to the discretionary judgments of social service personnel and judges” (Klein, 1998). Respecting amenability to treatment, the vagueness contained within this phrase granted juvenile courts judges great discretion because they can make whatever decision they think reasonable by

relying on one factor or another in the long list in *Kent*. Moreover, some research indicated that amenability can be abused or often measured negatively so that any time a child has a previous unsuccessful experience in the juvenile justice system, he or she would be probably regarded by judges as unamenable to treatment (Champion and Mays, 1991).

In addition, research on the judicial waiver revealed that juvenile offenders at an older age at the time of offense were more likely to be transferred to criminal courts by judicial waiver (Champion and Mays, 1991). For example, the sanction power of a juvenile court is limited when a child is approaching the maximum age of juvenile court jurisdiction especially when the juvenile court will sanction a longer sentence. In this case, the child is most likely to be excluded from the juvenile court and transferred to adult court for sanction. Another factor that judges tend to overweigh is the nature of the offense. When judge makes his determination of whether a child should be transferred based too much on the one factor or another, we would not expect that the judges' determination under these situations would proceed much from the consideration of the best interests of the children or the public safety rather than from the consideration of the resource and facilities available in the juvenile justice system. Some other extralegal factors can also affect the decision of juvenile court judges like a juvenile's race and adjudication location (Eigen, 1981; Bortner, 1986; Fagan and Deschenes, 1990; Snyder and Sickmund, 1999).

Despite some problems, judicial waiver, while not perfect, the case-by-case mechanism maintains the rationale of individualized treatment that theoretically better serves the best interests of children because judges can decide to transfer only those who cannot be truly helped or whose offenses are beyond the jurisdiction of juvenile justice system. Therefore, with some reformative measures, judicial waiver could become a desirable solution for problem juveniles. Such improvements aiming to limit the judges' discretion include a feasible procedure for

reviewing waiver decisions, a set of explicit and workable criteria for judges to use in making transfer decisions (Zimring, 1991).

Another issue in judicial waiver is “presumptive waiver” statutes. In response to the “get tough” and “crack down” for violence juvenile offenders, twelve states and the District of Columbia enacted presumptive waiver in which the burden of proof of amenability to treatment shift to the juveniles for some certain types of juvenile offenders (Griffin et al., 1998). In this case, individualized analysis by judges is eliminated and more and more juveniles are transferred to adult courts for sentencing.

Prosecutorial Waiver or Direct File

Prosecutorial waiver is probably the most controversial method of transfer. In prosecutorial waiver, a prosecutor makes the decision to file a charge in either juvenile or adult court. Prosecutorial waiver is utilized in a relatively small number of states and only 14 states and the District of Columbia have adopted this form of transfer (Griffin et al., 1998).

Prosecutorial waiver is an efficient way to transfer more juvenile offenders to adult courts. With the shift of emphases of policymakers from rehabilitation to retribution and incapacitation for juvenile offenders, the public and many proponents of direct file consider the judicial waiver process as such a long and complicated procedure. Prosecutorial waiver undoubtedly greatly simplifies the proceeding process and speeds up the process of juvenile transfer to adult courts.

Different from judicial waiver, a prosecutor’s determination on where to motion a file is not subject to appellate review. It seems that prosecutorial waiver induces the shift of discretionary power from juvenile court judges to prosecutors. Moreover, the provisions regarding prosecutorial waiver are loaded with ambiguity and lack of explicit standards. Even the speed with which to make a decision itself incurs great dangerous potential in that this power granted to prosecutors could be abused or misapplied. Some researchers concluded that there was

some arbitrariness from evidence of “justice by geography” resulted from the great disparity between different locations under the same law (Feld, 1990).

There are some concerns about prosecutorial waiver. One of them is that prosecutorial waiver will lead to disproportionately transferring more African-Black Americans to adult courts. While at first glance there seems to be support for this argument, there are other probable explanations for it evidence that more nonwhite than whites are referred to adult court by prosecutorial waiver. Since 1980s, minority youth, especially African Americans are increasingly overrepresented in the correctional facilities. “Some research found that African-American offenders were over-represented by nearly 180% based on their proportion in the general population” (Rodriguez, 2003). Furthermore, the race bias is not the concern only for prosecutorial waiver. There exists the same concern for other forms of transfer as judicial transfer. Another concern is regarding the nature of position of prosecutors. Prosecutors are elected or appointed. Their decisions can be too easily influenced by public calls for harsher punishment to juvenile offenders.

Statutory Waiver

Unlike judicial waiver and prosecutorial waiver, legislative waiver put the eligible juvenile offenders into the criminal justice system from the time of arrest. In response to the trend for more objective criteria for transfer proceeding, more and more states added legislative waiver into their statutes. Some states revised the law to lower the age limit on some serious crime or extend legislative waiver to a broad span of serious juvenile offenses to make more juveniles transferred automatically by statutes to adult courts in opposition to both judicial and prosecutorial waiver which include more discretionary decisions (Griffin et al., 1998).

Thirty-six states and the District of Columbia have legislative waiver provisions to remove certain offenses or offenders or both from juvenile court jurisdiction to adult court (Griffin et al.,

1998). The most commonly transferred by legislative waiver are murder and other serious crimes against persons and those youths who are charged with a felony and have a prior adjudication of delinquency may also be excluded (Griffin et al., 1998).

Compared with judicial waiver and prosecutorial waiver, legislative waiver is more effective to realize selective incarceration for the more serious offenders. Previous research presented that transferred juveniles were not usually charged with violent offenses or crime against persons, instead many of them were property crime or petty delinquency (Lanza-Kaduce et al., 1998; Frazier et al., 1994). By excluding the lesser property offenses out of the transfer list and at the meanwhile controlling the discretionary judgment in judicial and prosecutorial waiver, legislative waiver can more effectively target the most serious juvenile offenses and ensure the serious offenders will receive appropriate and rational sanctions. From this perspective, legislative waiver can better guard the public safety.

However, when the legislative waivers were broadened to include more and more juvenile offenses, this broadening led to the transfer of some less serious offender and drug offenders who might have obtained benefits if retained in juvenile justice system. Since age, severity of offense, and past record are three primary elements in legislative waiver, legislative waiver is obviously inclined to offense-based rather than the individualized offender-based orientation which is the key rationale underlying the juvenile justice system. Therefore to some extent, it is inconsistent with the basic purpose of juvenile system (Singer, 1999).

The role of prosecutors in these three forms of transfer should receive attention. In judicial waiver, the waiver process is initiated by the prosecutor's motion. In a legislative waiver, prosecutors take on the charging decision. In prosecutorial waiver, prosecutors decide where to file a charge. To some extent, the decisions of prosecutors have great effects on the sanctions to

juveniles and most decisions of prosecutors are not subject to any hearing review or check. There is only one exception in judicial waiver where the juvenile court judge can either affirm or deny the prosecutor's decision and in this case the judge's decision can be appealed to higher court. Although it is not clear that one of the three methods of transfer can better serve the interests of children and society, judicial waiver seems like a better mechanism for juvenile transfer. A judge can consider the individualized characteristics of each juvenile offender to make his decision and at the same time the discretion power of judges are carefully limited by a series of criteria or procedures regulated by statutes.

Other Transfer Provisions

There are other provisions regarding transfer proceedings. One is reverse waiver in which a juvenile who has been transferred to adult court may petition to have the case transferred back to juvenile court for adjudication (Dawson, 2000). Reverse waiver provides an opportunity to reconsider the appropriateness of adult court prosecution.

Another is "once an adult, always an adult" (Bishop, 2000). It means that if a juvenile has once been prosecuted as an adult he or she will be subsequently prosecuted as adult for new offenses. There are 31 states adopting this transfer method. In practice, there is variation among states. Most states with this provision require criminal prosecution of all the subsequent offenses. Others delimit the implementation of this provision to a defined subset of offenses or offenders (Griffin et al., 1998).

CHAPTER 2 LITERATURE REVIEW AND RESEARCH QUESTION

Previous Research Regarding the Deterrent Effects of Transfer

As a result of the expanding mechanisms through which transfer could be implemented, more and more juveniles were transferred to criminal courts for sanctions (Butt & Poe-Yamagata, 1993; Snyder & Sickmund, 1999).

It is commonly known that punishment is harsher in adult criminal court than in juvenile court. Transferring juveniles to adult criminal court is consistent with the belief that punishment deters criminal behavior especially when the punishment is harsher, swifter and more certain. The theoretical framework on which the policy of transferring to adult courts is based (although not always made clear) is deterrence theory. According to the deterrence theory, the purpose of punishment is deterrence and in order to achieve maximum deterrence, punishment should be based on the principles of certainty, severity, and swiftness. The more prompt, certain and severe the punishment is, the better the effect of deterrence is.

Some previous research was focused on the general and specific deterrence effects of transferring juveniles to criminal courts. General deterrence indicates the effects of punishment on potential offenders while specific deterrence has been thought as the effects of punishment on the individual who has been sanctioned. Studies of early 1980s on general deterrence showed that there was a moderate inverse relationship between the perceptions of punishment and criminal behaviors (Paternoster, 1987). When a number of other explanatory variables were controlled, the subsequent studies showed little evidence of a deterrent effect derived from perceived risk of formal sanctions (Paternoster, 1989). Later research concentrated on the evaluation of perceived threats of punishment from criminal prosecution and found that perceptions of threat of punishment, especially the perceived certainty of punishment produced

deterrence, at least for some people. In sum, the results of research on the general deterrence from formal sanctions were mixed. A few studies have found the evidence to support a moderate inverse relationship between the perceived deterrence and formal sanctions. Others found little or no significant evidence showing the relationship of perceived deterrence from formal sanctions.

Studies on the specific deterrence showed some support for the specific deterrence effects of certain punishment but there were little effects of harsher sanctions on recidivism. Recent studies on specific deterrence have emphasized the evaluation of the proposition by Sherman who argued that the effects of legal punishment on future criminal offenses were dependent on various factors related to the degree to which the offenders perceive the sanctions as legitimate, the extent of fairness that the offenders perceived the sanctions, and the strength of social bonds between the offenders and the sanctioning agent and community (Sherman 1993). The results of previous studies can not support the conclusion that punished offenders will consistently reduce their future criminal behavior.

As an important research part of the deterrence effects primarily on whether and/or to what extent the transfer policies impacted the juvenile future crime, some previous research examined the recidivism comparisons between the transferred juvenile offenders and the retained counterparts.

Singer and McDowall (1988) examined the deterrent effects of the 1978 New York Juvenile offender law. They indicated that New York Juvenile offender law was “the most punitive delinquency law in the nation” and provided a ideal example to examine the effects of transfer. The New York Juvenile offender law authorized transfer of juveniles charged with homicide for a lower age of thirteen and also those charged with four other felonies at age fourteen. They compared the age-specific crime rates between transferred juvenile offenders in

New York City and those who were retained in juvenile justice systems in upstate New York. The results showed that the Juvenile Offender law had little effects on reducing juvenile crime.

In the 5-year time-series studies by Jensen and Metsger (1994), they proceeded their analysis before and after the 1981 Idaho statutory transfer law was enacted and found that there was a 13% increase in arrest rates for the violent crime juvenile offenders compared to those for counterparts juveniles in the neighboring states of Montana and Wyoming, which shared the similar demographical characteristics but there was no automatic transfer law available in these two states by then.

Podkopacz and Feld (1996) analyzed judicial waiver practices in Minnesota between youths who were waived to the criminal court and those who were retained in the juvenile justice system. They found that the transferred youths were more likely to re-offend compared to their counterparts who were retained in the juvenile justice system, after controlling the offense and prior record.

Fagan (1995, 1996) conducted a more complex and innovative research design. He compared the recidivism of juvenile offenders who were charged with robbery and burglary tried separately in comparable counties of New York and New Jersey. According to the state laws, juvenile offenders in New York were more likely to be transferred to criminal courts, while those comparable juveniles in New Jersey were retained in the juvenile justice system for jurisdiction. Based on this transfer policy difference, Fagan avoided the selection bias observed in the previous similar research. He reported that the juveniles who were charged with robbery in New York had higher recidivism rates, more likely to re-offend, and had shorter failure time compared to the comparable youths in New Jersey. However, there were no differences in recidivism between two jurisdictions for burglars.

A series of research on transfer impact conducted in Florida found the similar results to the previous research both in the two-year short-term study (Bishop et al., 1996a) and long-term research lasting for seven years (Winner et al., 1997). To overcome the problem of selection bias, they used seven factors as matching criteria to select matched juvenile offenders retained in the juvenile justice system with youths transferred to the criminal justice system. They analyzed the differences of recidivism within the matched pairs and across the groups as well. In the short-term study, they disclosed that the juveniles transferred to criminal courts were more likely to re-offend than their counterparts who were retained in the juvenile courts. And the transferred youths who re-offended were arrested more quickly and frequently than those who were retained. In the long-term study, the results showed that transferred youths had a higher recidivism in five of seven types of offenses than those who were retained in the juvenile justice system. Furthermore, consistent with the Fagan's 1995 finding, they also found that only for serious property offenders including burglary, the recidivism of those juveniles retained in juvenile justice system was comparable to, or even higher than those tried as adults in criminal justice system.

Later research by Myers (2001) showed the similar results to the previous studies. Myers analyzed recidivism rates based on 557 violent juvenile offenders in Pennsylvania. After controlling for demographic variables and offense-related factors such as prior offenses, age of onset of offending etc., the transferred juveniles were rearrested more quickly than those retained in the juvenile justice system.

In sum, previous research has found that, contrary to the original intention of policymakers, the transfer did not help reduce the juvenile future crime and had little deterrence effects on both potential young offenders and on reducing the future criminal behaviors or

delinquency of juvenile offenders. However, for the property crimes, it seemed that transfer had at least no disadvantageous impacts on the recidivism of juveniles.

Review of Research on Punishment

Another portion of prior research was examining the punishment or sanctions received by transferred juvenile offenders primarily on punishment certainty, severity, and swiftness compared with the juvenile offenders retained in the juvenile justice system.

The conviction rate is the main factor used to evaluate the punishment certainty. Most previous studies on the conviction rate found that there was higher conviction rate for transferred youth offenders than those retained in juvenile justice system. The studies by Eigen compared the juvenile homicide offenders transferred to Philadelphia adult court with the youths offenders retained in juvenile courts in 1970 and 1973 and found that the conviction rate in adult court was relatively higher than that in juvenile court (Eigen, 1981). However, since Eigen did not control for the other explanatory factors within this comparison, the conclusion of higher conviction rate for transferred juvenile offenders was possibly caused by the fact that the offenses committed by transferred youths were more serious by themselves than those committed by youths retained in juvenile court. The following studies by Fagan and Deschenes focused on the 201 violent youths considered for transfer in Boston, Phoenix, Newark, and Detroit and demonstrated that the extent of punishment certainty was pretty much identical (Fagan and Deschenes, 1990). Another important study is Fagan's (1995) study. Unlike the previous studies that only focused on the violent juvenile offenders, the study area was extended to include both violent and property juvenile offenders. Fagan compared the rate of conviction between New York adult criminal court and New Jersey juvenile court. He found that the burglary conviction rate in New Jersey was relatively higher than that in New York while the robbery conviction rate exhibited the opposite trend. From the mixed findings, Fagan concluded that "accountability for adolescent

offenders in criminal courts was no greater than for those in the juvenile courts” (Fagan, 1995). In sum, from previous studies on the comparison of conviction rate, we can not get to the conclusion that the punishment in adult criminal court was more certain than that in juvenile court.

Respecting punishment severity, most studies focused on sentence type and sentence length. From the previous studies, the results lacked consensus in the comparison on both sentence type and sentence length. Concerning the sentence type, most research primarily focused on incarceration. The findings were also mixed. On one hand, Champion (1989) found that only 11% of the juveniles who were transferred to criminal court were incarcerated, based on the data in four states drawn from 1980 to 1988. However, on the other hand, Dawson (1992) conducted an empirical study of juvenile transfer proceedings in Texas and found that 58% of the juveniles transferred to adult courts were incarcerated. Strom et al. (1998) and Podkopacz & Feld (1996) also found that more than 50% of the transferred juveniles were incarcerated in the criminal courts. The studies by Eigen (1981) and Fagan and Deschenes (1990) that evaluated the comparisons on sanction types between adult criminal court and juvenile court also arrived at the conclusion of higher incarceration rates in the transferred youth offenders (Eigen, 1981; Fagan and Deschenes, 1990). Barnes and Franz (1989) utilized data collected on all youth considered for transfer over a six year period and found that the transferred youths were treated more harshly. Fagan (1995) studies got similar results on either robbery offenses or burglary offenses. Even in the longer sentence treatment to transferred youths, some studies showed that the actual time served by youths in adult criminal system may be shorter than their counterpart in juvenile justice system. Levitt (1998) examined the trends of juvenile crime rates from 1978 to 1993 across a number of states and detected that substantial reductions in juvenile crime rates after the

states lowered the minimum age of jurisdiction in criminal courts. The rates of violent juvenile crime were decreased by 25%. Furthermore, he found that the greatest decreases in juvenile crime rates happened in the states where there were the greatest differences on the severity of punishment implemented between in the juvenile courts and in the adult courts. It appeared that transfer had some benefits for reducing juvenile crime.

Research on the sentence length also showed mixed results. Some studies found juvenile offenders committing property offenses received shorter sentences in adult courts than their counterparts who were retained in the juvenile courts while violent juvenile offenders normally could be ensured to get longer periods of incarceration in criminal justice system. Fagan's 1995 study showed that there was no difference between the comparison groups across two court jurisdictions on the average minimum and maximum length of sentence (Fagan, 1995).

Few studies have evaluated the swiftness of punishment compared with punishment certainty and severity. From the previous studies, Kinder et al. (1995) and Fagan (1995) pointed out that the disposition process was longer in adult court than that in juvenile court. Juvenile court is more likely to impose swift sanctions than adult court.

In sum, there was no consistent evidence to support the common expectation of people that the transferred juvenile offenders would be treated more harshly in the criminal courts than those retained in juvenile courts.

Some research indicated that due to the possibility of sentencing constraints to the non-violent felony in the criminal justice system, property crime offenders who were transferred to the criminal courts received shorter sentences than their counterparts retained in the juvenile justice system, while longer sentences for youths charged with violent or serious personal crimes were observed in criminal courts (Podkopacz and Feld, 1995).

Research Question

The conclusions drawn from previous research did not support the effectiveness of transfer on helping control juvenile crimes and there was no consistent evidence to support that the juveniles who were transferred to criminal courts received harsher punishment than those retained in juvenile justice system. However, different pattern of effect outcomes of the transfer occurred on juveniles charged with property crime such as burglary compared with the comparable juveniles charged with serious personal crime like robbery, assault etc. The prior research suggested that there seemed to be a “punishment gap” for property crime among the two court jurisdictions (Podkopacz and Feld, 1996). Podkopacz and Feld (1996) found that juveniles convicted of violent personal offenses in criminal court received almost two times longer sentences than juveniles convicted of the same serious level of offense who were retained in juvenile court, while juvenile offenders convicted of property offenses received shorter sentences in criminal court than those received by their counterparts convicted of similar property offenses in juvenile court. But there has been little research specifically exploring whether the sanctions for property crime including burglary in the criminal justice system were more lenient than those charged with similar offenses in the juvenile justice system and what the effects of transfer were on recidivism of juveniles who committed burglary compared to serious personal crime such as aggravated assault, robbery, etc. That is the research question that I address in my thesis.

CHAPTER 3 METHODOLOGY

Data Source

Two data sets were used in my study. One data set was derived from Fagan's 1995 research examining the comparative effects of juvenile versus criminal court sanctions on recidivism among juvenile felony offenders from New York versus New Jersey. The other data set came from the Florida 2005 study of the impact of transfer by Lanza-Kaduce, Frazier, and others (Lanza-Kaduce et al., 2005).

Sample Selection

Both the sample selection process in Fagan's 1995 study and Florida 2005 transfer research were well-designed, which avoided the limitations of methodology in previous research on transfer effects. The 800 matched sample cases of Fagan 1995 study were drawn from a greater New York metropolitan area including two counties in New York City and two counties in New Jersey. The four counties shared a similar context of the social construct such as the juvenile crime problems and characteristics of socioeconomic factors. The legal context of the greater metropolitan area provided "an opportunity for a natural experiment" (Fagan, 1990a) to select the comparable matched cases tried in New York City criminal justice system and New Jersey juvenile justice system. The 400 juveniles aged from 15 to 16 who were charged with robbery and burglary in juvenile justice system of New Jersey were matched and compared with the other 400 juveniles with similar age-offense characteristics who were statutorily excluded from juvenile court and transferred to criminal justice system in New York.

Florida 2005 study of transfer effects (Lanza-Kaduce et al., 2005) replicated and extended the prior short-term and long-term studies of transfer impacts conducted in Florida. Similarly, in order to make the results of transfer comparison more validly, the 475 matched pairs in Florida

2005 study were selected based on seven important criteria to overcome the selection bias inherent in the selection procedure from a single site or one pool of juvenile offenders. Furthermore, the selection was confirmed by the local record details to ensure the comparability of the matched juvenile offenders.

The type of offense (burglary v.s. robbery) is one of the most important independent variables in my study. Because the Fagan 1995 study examined the comparative effects of sanctions in the criminal and juvenile justice systems for burglary and robbery offenders, the type of offense by robbery and burglary is available in Fagan 1995 New York/New Jersey data set for me to utilize directly. However, in the Florida 1995 data set, the available distinction of offenses includes violent felony, property felony, drug felony, other felony, misdemeanors, and others. Hence, I selected out the cases of burglary and robbery offenses one by one in terms of the records of arrest offense in Florida 2005 data set and coded burglary as 1, robbery as 2, and others as 0. Therefore, a new variable was created and added into the data set to distinguish robbery, burglary from other offense types, which is what I need to analyze specifically.

Recidivism Analysis

The recidivism data collected in Florida study were integrated. One of its sources was the information of subsequent arrests from the Florida Department of Law Enforcement (FDLE). Florida law does not require all arrests to be reported to FDLE. Moreover, law enforcement agencies and Clerks of Court in the criminal justice jurisdiction and juvenile justice jurisdiction reported arrests in different ways. Hence, the other source of recidivism the researchers selected was commitment data from Department of Corrections (Lanza-Kaduce et al., 2005). Then the two sources of data were merged to create an integrated and comprehensive measurement--- recidivism after age 18. In the NJ and NY data, the recidivism analysis will be assessed by

several measurements of recidivism. The first is the re-arrest rate and the second is the interval time to re-arrest or called failure time.

The purpose of recidivism analysis is to detect whether and how the transfer resulted in different effects on the transferred young offenders compared to the retained youths. At the same time, the analysis will expect to examine whether transfer affected recidivism by type of offenses (burglary v.s. robbery). Therefore, the comparisons of recidivism between juveniles transferred and juvenile retained will be conducted both across the two aggregate groups and within the breakdown of offense distinctions by property crime (burglary) and personal crime (robbery). And the analysis by type of offense will also be conducted within each of the two court jurisdictions. Then, I will utilize regression analysis to further examine the magnitude of transfer effects by type of case or type of offense on recidivism after controlling for other variables. And the time-at-risk, if it is available, will also be adjusted when the comparisons are made.

Sanction/Sentence Analysis

Sanction analysis will be also conducted by type of offense across the two court jurisdictions and within either of the juvenile justice system and criminal justice system as well to examine the disparity of punishments. Then, the multivariate analysis will be utilized to analyze the differences of sanctions between property juvenile offenders (burglars) and personal juvenile offenders (robbery), controlling for other variables that might cause the differences of sanctions. The sanction dimensions include conviction, incarceration (also controlling for time-at-risk), sentence length including maximum and minimum sentence.

Research Strengths

First, both of the data sets are well-designed with more validly comparable matched samples included. The validity of the comparative outcomes of recidivism relies on how well the

transfer cases are matched by cases retained in the juvenile courts (Lanza-Kaduce, L. et al., 2005).

Second, by using both data sets, the traditional limitations of methodology in the previous research are able to be avoided. The risks of the selection bias of cases from one site would be overcome. The data of Fagan's study could ease the question that the different transfer effects are as a result that the youths who are transferred to criminal courts for trial are by themselves more serious and intractable than those who are retained. At the same time, "justice by geography" is usually evident (Bishop, 2000). Transfer practices; conviction and/or incarceration rates and sanctions vary widely between and within states (Howell, 1996). New York would be unique in its juvenile crime problems. New York Juvenile Law also excludes a wide range of offenses from juvenile justice system (Singer and McDowall, 1988), while in Florida more juvenile offenders are transferred by "direct file". The "justice by geography" would be better controlled by using both data sets.

Therefore, in order to examine whether transfer brought about different outcomes for burglary and robbery, I will first compare the recidivism rate, re-arrest rate, time to first re-arrest across the court jurisdictions and then within either of the court jurisdictions by burglary and robbery separately. Next, I will conduct logistic regression analysis to further examine whether the differences, if it existed, are still significant after controlling for other variables such as age, gender, race, prior conviction record or number of previous juvenile referrals, weapon use, previous participation in the alcohol/drug program, and risk time (if it is available).

I will first analyze Florida 2005 data and then proceed to the analysis using New York/New Jersey data.

CHAPTER 4 RESULTS

First, the Florida 2005 study data were analyzed. The findings of recidivism analysis were presented and then went to the sanction/punishment analysis.

Findings on Recidivism from Analysis of the Florida Data

Among the whole group of cases, 402 of the 950 (42.3 percent) cases were felony re-offenders. The transferred youths were significantly more likely to re-offend than the retained youths. Among the youths who were retained in the juvenile justice system, 168 (35.4%) had a record of felony re-offending compared to 234 (49.3%) juvenile offenders re-offended who were transferred to the criminal justice system.

Then I turn to recidivism by committing burglary as a property offense compared to recidivism by committing robbery as a personal violence offense. There were total 275 juveniles who were charged with burglary, in which 145 juveniles were transferred to criminal justice courts while the remaining 130 juveniles were retained.

Unlike the findings of Fagan in his 1995 study (Fagan, 1995) and the Florida 1997 long-term study of transfer impacts (Winner et al., 1997), the transferred juveniles charged with burglary were much more likely to re-offend than their comparably retained juveniles. The difference was significant in that 55.9 percent of the transferred juvenile burglars did re-offend compared with 33.8 percent of the retained youths charged with similar offense (table 4-1. $\chi^2 = 13.4$; $df = 1$; $p < .001$). With respect to the juveniles who committed robbery, more youths who were transferred recidivated than those who were retained, although the comparison does not differ significantly. Of the transferred juveniles, 62.5% re-offended after 18 years old compared to 44.4% of the retained youths. It seemed that the effects of transfer did not differ by type of offense.

Table 4-2 showed compared recidivism between these two types of felonies in each of the jurisdictions. In both criminal justice and juvenile justice jurisdictions, the recidivism rates for those juveniles who were charged with the robbery were slightly higher than those of the young burglary offenders. But the difference was not statistically significant.

In sum, the recidivism analysis utilizing Florida data set revealed that transferred juveniles were more likely to re-offend violent felony. The number of the transferred juveniles who re-offended was more than the number of the retained youths. Contrary to the previous research findings (Fagan, 1995; Winner et al., 1997), those youths charged with burglary (property crime) who were transferred and tried as adults were more likely to recidivate than their retained counterparts. The trend also held for those who were charged with robbery (personal crime).

Findings on Sanction/Punishment from Analysis of Florida Data

Due to the limited sanction measurements available in the Florida 2005 study data set, only certainty of punishment could be examined by the conviction rate. Although limitation of measurements existed, some studies concluded that the perceived certainty had the most effective impacts on deterrence (Waldo and Chircos, 1972; Tittle 1980; Hollinger and Clark, 1983a). Table 4-3 showed the comparisons of conviction rate between the transferred and retained juvenile offenders in the aggregate cases. The conviction rates for the transferred juvenile offenders were significantly higher than those for their matched groups who were retained in the juvenile justice system. Of the transferred youths, 90.7 percent were convicted in the criminal justice courts, whereas only 66.5 percent of those who were retained were convicted in the juvenile justice courts (chi sq. = 82.852; df = 1; p. < .001).

The results of comparisons of conviction rates by type of offenses (burglary and robbery) were indicated in Table 4-4. In both burglary and robbery cases, the conviction rates were significantly higher in the criminal justice courts for the transferred juveniles. For the burglary

young offenders, 94.5 percent of the transferred youths were convicted compared with 66.9 percent of the retained ones (chi sq. = 34.465; df = 1; p. < .001). Likewise, the transferred robbery offenders were more likely to be convicted than the retained ones. For those who were transferred, 87.5% of them were convicted compared with only 55.6% of those who were retained (chi sq. = 5.430; df = 1; p. < .05). Then in order to test whether the punishment certainty differed by type of offenses and there was a lenient gap of sanctions existing for burglary (property crime) and robbery (personal crime), the comparisons of conviction rates between the two type of offenses were made within each of the court jurisdictions (table 4-5, burglary coded as 1, robbery coded as 2). Neither in the criminal nor the juvenile justice courts were more juvenile offenders charged with robbery (personal crime) convicted than the youths charged with burglary (property crime). On the contrary, a slightly higher percent of conviction rates for the burglary groups occurred but they did not differ significantly in both justice systems.

A multivariate logistic regression was also conducted here. The findings showed that the transferred youths were significantly more likely than the retained one to be convicted, after controlling for some factors which possibly had influences on the conviction rate including gender, age, race, the number of previous juvenile referrals, weapon use, and previous participation in the programs of alcohol/drug abuse or mental treatment (table 4-6, B = -1.693; p. <.001). The results also displayed that male were more likely to be convicted than female. And those juveniles who had previous referral records or who were provided with mental/drug/alcohol treatment program were more likely to be convicted than those who did not (table 4-6). In order to further examine the effects of type of offenses with which the juveniles were charged on conviction, multivariate logistic regression results showed that the type of offenses (burglary v.s. robbery) had no significant association with conviction rate (table 4-6).

Findings on Recidivism from Analysis of New York/New Jersey Data

The recidivism analysis in this data set was primarily evaluated by two measurements: re-arrest rate and failure time which is the time to the first re-arrest for each case. There were 408 of the 818 cases handled in the New York criminal courts. 313 of these 408 transferred youths (76.7%) were re-arrested compared with 283 of the 410 (69%) retained cases. The transferred young offenders seemed to be much more likely to re-offend (table 4-7, chi sq. = 6.118; df = 1; $p < .05$). When it came to compare the failure time between the transferred and retained youths, the independent T-test results demonstrated that the youths who were transferred in New York criminal courts recidivated more frequently than those retained in the New Jersey juvenile courts. The failure time of New Jersey retained youths were much longer than that of the transferred cases in New York, although the difference was not statistically significant (table 4-7). In order to control the variances of re-arrest rate that could be brought about by other factors, multivariate logistic regression was used to examine the transfer effects on it. After controlling for age, race, risk time, weapon use in the offense, and prior conviction record, those who were transferred and handled in the New York criminal courts were still more likely to be re-arrested (table 4-8, $B = 1.039$; $p < .001$).

The re-arrest rate analysis showed that for the robbery cases, the transferred youths (NY) were statistically significantly more likely to be re-arrested than those of the retained youths. 75.9% of the transferred juveniles who were charged with robbery were re-arrested compared with only 67 percent of the retained comparable cases (table 4-9, chi sq. = 6.757; df = 1; $p < .001$). However, for the burglary cases, the re-arrest rate for the retained youths even surpassed that for the transferred ones although they did not differ significantly. Table 4-9 showed that 81.3 percent of the retained juveniles were rearrested compared with 80.9 percent of the transferred group. The different trends of transfer effects on re-arrest rate between robbery and burglary

were consistent with Fagan 1995, 1996's study and the prior Florida 1997 long-term research (Fagan, 1995, 1996; Winner et al., 1997). Respecting the comparison of failure time by burglary versus robbery, the mean value indicated that transferred youths who were charged with burglary had a longer time to first re-arrest than the retained burglary youths offenders (501.1 versus 337.7), although the difference was not significant. On the contrary, for the robbery juvenile offenders, the retained group in New Jersey has a significantly 17.5% percent longer failure time than their transferred counterparts in New York (NJ: 553.0 versus NY: 456.5; $p < .05$). Furthermore, the output from multivariate logistic regression, after controlling age, race, weapon use in the offense, prior conviction record of those youths, and risk time, indicated that significantly more of the transferred juveniles charged with robbery were re-arrested than those who were retained in the juvenile courts charged with similar offense (table 4-10, $B = 1.041$, $p < .001$).

In sum, the recidivism analysis showed that the transferred youths were more likely and quickly to be re-arrested compared to their counterparts retained in the juvenile justice system. With respect to the specific burglary and robbery cases, the re-arrest rate and time to first re-arrest were significantly different across the two court jurisdictions only for robbery juvenile offenders; with their higher re-arrest rate and shorter failure time in the criminal justice system. As for the burglary, transfer seemed to produce not much harmful effects on recidivism. Both the value of re-arrest rate and the time to first re-arrest were comparable between the transferred and retained groups charged with burglary.

The comparisons in the criminal court demonstrated that the burglary and robbery cases did not differ significantly on the recidivism measurements (table 4-11). When it came to juvenile court, the re-arrest rate of burglary offenders did not differ significantly from that of the

robbery offenders. Yet the burglary offenders had much less time to first re-arrest than the robbery offenders ($p. < .05$).

From the above analysis, it seemed that transfer had different effective impacts on recidivism by type of offenses. For robbery, a personal crime, the transferred youths were more likely and more quickly to re-offend criminal behaviors than the retained youths, but for burglary, as a property crime, the transferred subgroup did not present much difference from the retained one. For those who were retained in the juvenile justice system, the re-arrest rate of the burglary offenders was pretty comparable to that of the robbery offenders. But once they re-offended, they will be recommitted much more quickly. The recidivism between the two types of offenses in the criminal justice system did not differ significantly.

Findings on Sanction/Punishment from Analysis of New York/New Jersey Data

The sanction comparison results showed that the juvenile offenders who were transferred received harsher punishment than their counterparts tried in the juvenile courts. Of the transferred youths, 25.2 percent compared with only 10.4 percent of the retained ones were incarcerated ($\chi^2 = 30.168$; $p. < .001$). Both the minimum and the maximum sentences received by the transferred youths were significantly longer than those retained in the juvenile justice system (table 4-12).

The differences of sanctions between two court jurisdictions for the burglary juvenile offenders were not significant except for maximum sentence. Both the incarceration rate and minimum sentence length did not differ significantly between two court jurisdictions for youths charged with burglary (table 4-13). Although, the maximum sentence by type of court did differ significantly for offenders charged with burglary ($p. < .001$), the case number for the transferred included in this analysis is only 1. So the limited sample number raised the question of validity regarding the results. On the other hand, regarding the robbery offenders, the transferred youths

were more than two times than the retained counterparts to be incarcerated. Table 4-13 also showed that 24.7 percent of the NY transferred youths were incarcerated compared with 10.1 percent of the NJ retained ones ($p. < .001$). The transferred robbery offenders were punished 5 to 10 times of sentence length than those retained. The mean values of minimum and maximum sentence for the transferred were much more than the retained youths charged with similar offenses. After controlling for race, age, weapon use in the offense, prior conviction record, and risk time, the logistic regression also showed that the transferred robbery offenders were more likely to be incarcerated (table 4-14, $p. < .001$).

No significant differences on the sanction were found between the types of offenses charged in both the juvenile and criminal justice systems (table 4-15).

In sum, the results from the New York/New Jersey data (Fagan, 1995) supported that the transferred youths charged with robbery were tried more harshly than their retained counterparts, even after controlling other related factors. At the same time, they also were more likely and more quickly to recidivate.

Table 4-1. Recidivism by type of offenses in Florida

	Burglary (N=275)		Robbery (N=42)	
	The transferred (N=145)	The retained (N=130)	The transferred (N=24)	The retained (N=18)
N	81	44	15	8
%	55.9	33.8	62.5	44.4
Chi-sq	13.4		1.354	
p	<.001		>.20	

Table 4-2. Recidivism by type of offense within court jurisdictions in Florida

	Criminal Court		Juvenile Court	
	Burglary (N=145)	Robbery (N=24)	Burglary (N=130)	Robbery (N=18)
N	81	15	44	8
%	55.9	62.5	33.8	44.4
Chi-sq	.377		3.232	
p	>.80		>.10	

Table 4-3. Conviction in the aggregate group in Florida

All cases (N=950)		
	The transferred (N=475)	The retained (N=475)
N	431	316
%	90.7	66.5
Chi-sq	82.852	
p	<.001	

Table 4-4. Conviction by type of offenses in Florida

	Burglary (N=275)		Robbery (N=42)	
	The transferred (N=145)	The retained (N=130)	The transferred (N=24)	The retained (N=18)
N	137	87	21	10
%	94.5	66.9	87.5	55.6
Chi-sq	34.465		5.430	
p	<.001		<.05	

Table 4-5. Conviction by type of offense within court jurisdictions in Florida

	Criminal Court		Juvenile Court	
	Burglary (N=145)	Robbery (N=24)	Burglary (N=130)	Robbery (N=18)
N	137	21	87	10
%	94.5	87.5	66.9	55.6
Chi-sq	3.562		1.011	
p	>.10		>.60	

Table 4-6. Coefficients for logistic regression of conviction in Florida

	B.	S.E.	Wald	Sig.
Type of case (transferred 1; retained 2)	-1.693	.196	74.583	<.001
Gender (male 1; female 2)	-.778	.342	5.171	<.05
Type of offense (Bu 1; Ro 2)	-.068	.157	.188	>.60
Age	-.066	.087	.573	>.40
White	.277	.184	2.265	>.10
Prior referrals	.072	.028	6.512	<.05
Weapon use	.063	.207	.093	>.70
Treatment program	1.810	.477	14.391	<.001

Table 4-7. Recidivism by type of case in NY and NJ

Total case (N=818)		
	The transferred in NY (N=408)	The retained in NJ (N=410)
Re-arrest		
N	313	283
%	76.7	69.0
Chi-sq	6.118	
P	<0.05	
Failure time		
Mean (days)	464.3	533.2
Sig	>.090	

Table 4-8. Coefficients for logistic regression of re-arrest in NJ and NY

	B.	S.E.	Wald	Sig.
Site (NJ 1; NY 2)	1.039	.262	15.740	<.001
Age	.308	.224	1.889	>.10
Weapon use	.415	.212	3.828	>.05
Prior conviction	.649	.358	3.290	>.07
White	.455	.401	1.288	>.20
Risk Time	-.001	.000	7.584	<.01

Table 4-9. Recidivism by type of offense in NJ and NY

	Burglary (N=100)		Robbery (N=707)	
	Criminal Court (N=68)	Juvenile Court (N=32)	Criminal Court (N=340)	Juvenile Court (N=367)
Re-arrest				
N	55	26	258	246
%	80.9	81.3	75.9	67.0
Chi-sq	.002		6.757	
P	>.90		<.01	
Failure time				
Mean (days)	501.1	337.7	456.5	553.0
Sig.	>.10		<.05	

Table 4-10. Coefficients for logistic regression of re-arrest in robbery case in NY and NJ

	B.	S.E.	Wald	Sig.
Site (NJ 1; NY 2)	1.041	.271	14.714	<.001
Age	.305	.235	1.683	>.10
Weapon use	.253	.225	1.264	>.20
Prior conviction	.550	.372	2.183	>.10
White	.957	.501	3.654	>.05
Risk time	.000	.000	4.985	<.05

Table 4-11. Recidivism by type of offense within court jurisdictions in NY and NJ

	Criminal Court (N=408)		Juvenile Court (N=399)	
	Burglary (N=68)	Robbery (N=340)	Burglary (N=32)	Robbery (N=367)
Re-arrest				
N	55	258	26	246
%	80.9	75.9	81.3	67.0
Chi-sq	.793		2.743	
P	.373		.098	
Failure time				
Mean (days)	501.12	456.49	337.69	552.97
Sig.	.565		<.05	

Table 4-12. Sanctions by type of case in NJ and NY

	The transferred (N=408)	The retained (N=402)
Incarceration		
N	103	42
%	25.2	10.4
Chi-sq	30.168	
P	<.001	
Sentence		
Minimum (months)	3.48	.38
Sig.	<.001	
Maximum (months)	39.00	6.24
Sig.	<.001	

Table 4-13. Sanction by type of offense in NY and NJ

	Burglary (N=100)		Robbery (N=707)	
	Criminal Court (N=68)	Juvenile Court (N=32)	Criminal Court (N=340)	Juvenile Court (N=367)
Incarceration				
N	19	5	84	37
%	27.9	15.6	24.7	10.1
Chi-sq	1.810		26.609	
P.	>.10		<.001	
Sentence				
Minimum (months)	1.76	.75	3.82	.36
Sig.	>.50		<.001	
Maximum (months)	144.00	4.46	30.92	6.54
Sig.	<.001		<.01	

Table 4-14. Coefficients for logistic regression of incarceration in robbery case in NY and NJ

	B.	S.E.	Wald	Sig.
Site	4.672	.813	33.03	<.001
Age	.928	.415	5.007	<.05
White	19.268	8559.718	.000	>.90
Weapon use	.022	.327	.005	>.90
Prior conviction	2.487	.671	13.731	<.001
Risk time	-.003	.000	69.421	<.001
N included = 452, Missing N = 255 from "White"				

Table 4-15. Sanction by type of offense within court jurisdictions in NY and NJ

	Criminal Court (N=408)		Juvenile Court (N=399, missing N=11)	
	Burglary (N=68)	Robbery (N=340)	Burglary (N=32)	Robbery (N=367)
Incarceration				
N	19	84	5	37
%	27.9	24.7	15.6	10.1
Chi-sq	.314		.960	
P	>.50		>.30	
Sentence				
Minimum (months)	1.76	3.82	.75	.36
Sig.	>.10		>.30	
Maximum (months)	144.00 (note)	30.92	4.46	6.54
Sig.	<.01		>.50	
Note: N =1 included in the burglary case in the criminal court				

CHAPTER 5 CONCLUSION AND DISCUSSION

The results from both data sets used in this study reached a convergent conclusion in that the juvenile offenders who were transferred to criminal court jurisdiction were more likely to recidivate. They also were more quickly to re-offend based on findings from the New York/New Jersey data set. Compared with the youths who were tried in the juvenile courts, the transferred juvenile offenders received harsher punishment. They were more likely to be convicted and incarcerated. Besides, they received longer sentence length once they were incarcerated.

When it came to the effects of transfer by type of offenses (burglary v.s. robbery), the analysis using two data sets demonstrated the inconsistent results by type of offense. The Florida 2005 data analysis showed that the transferred young offenders were more likely to be convicted, and they were more likely to recidivate than the retained counterparts regardless of the type of offenses with which they were charged. Therefore, the Florida 2005 data supported that the effects of transfer did not differ by type of offenses charged and the transfer did not have the deterrent effects to prevent the juveniles from re-offending. On the other hand, NY and NJ data set supported that transfer did result in certain negative effects on the juvenile crime prevention. Yet such effects differed by type of offenses. For robbery, punishment were more certain and more serious for the transferred juveniles than similar cases who were retained to be handled in the juvenile justice courts. They were more likely to be incarcerated. Once they were incarcerated, they also received much longer sentence than the retained juveniles. Those transferred youths who were charged with robbery were greatly more likely to be re-arrested after release, controlling for the risk time, and they were significantly more quickly to be rearrested than the retained similar group. But this trend did not hold for the burglary. For youth convicted of burglary, there were no significant differences of sanction they received between

the transferred and retained group. Furthermore, the recidivism analysis revealed that the transferred and the retained did not differ significantly in re-arrest rate and the time to first re-arrest.

The results from the two data sets did not agree on the effects of transfer by type of offense. There were some probable explanations. First was the limitation on samples of robbery offenders in Florida 2005 data which I used. There were 275 cases of burglary but only 42 cases of robbery. Within 42 cases of robbery offenders, 24 were transferred to criminal justice system and 18 were retained in the juvenile justice system. The results would be less tentative if there were more robbery cases included in the data set. Second, there were many disparities in the transfer practices implemented in the two areas to which the data sets were traced back. The primary method of transfer implemented in Florida was prosecutorial waiver. According to Florida law, the Florida prosecutors are authorized the discretion to direct file virtually any case involving a juvenile who is eligible for judicial waiver (Frazier et al. 1994). Since Florida 1994 reform, there were large numbers of juveniles who were transferred to the criminal justice system by prosecutorial waiver and research revealed that many of transferred youths were not most serious or intractable juvenile offenders. For example, many property offenders who were not much serious were excluded from the juvenile justice system (Frazier et al. 1994; Lanza-Kaduce et al, 1998). New York and New Jersey cases were selected based on the statutory waiver implemented in the greater New York metropolitan area (Fagan, 1995). Third, the Florida 2005 data on sanction measurements was limited. With different rationales, the two justice systems carried on the different processes to impose sentences on the juvenile offender. The juvenile courts imposed indeterminate sentences on the young offenders in order to better rehabilitate them (Singer and McDowall, 1988). So sentence length and case length is not

available in the Florida 2005 data. Conviction rate is the only measurement of sanction available in the Florida 2005 data set. The limited data also bear uncertainty on the conclusion regarding the comparison of transfer effects based on different offenses. The fourth, the time interval when these two data sets were collected and constructed makes it possible the disparate results of the transfer effects by type of offenses from both the data sets I used in this study. The NY and NJ data were comprised of samples drawn from 1982 to 1983. Yet, the Florida 2005 data included the youths transferred and retained in 1995 and 1996. It is reasonable that the time period of more than 10 years could produce some changes regarding the effects of transfer in practice. Fagan and his colleagues replicated and extended their previous study of transfer in 2003. Unlike what was found in Fagan's prior research (Fagan, 1995), they found that the transferred property offenders were as likely to recidivate as the young offenders charged with personal felony (Redding, in press).

The policy of transferring juvenile offenders to the adults courts for trial is primarily based on the deterrence theory that the harsher punishment, specifically the more certain, serious, and quick punishment can be imposed on the transferred youths and then subsequently deter their further criminal behavior, and at the same time, deter the occurrence of criminal behaviors by the potential offenders. Consistent with the prior research regarding the deterrence effects of transfer, the findings in this study also showed that the transfer policy has an ineffective effect on deterring crime.

There are some possible explanations to account for the ineffectiveness of transfer on reducing crime. First, previous research showed that New York Juvenile Offender Law did not deter juvenile crimes because "it did not sufficiently increase the risks of punishment" (Singer and McDowall, 1988). They indicated that although the New York JO law had been

implemented widely but it was still seen that the law was not applied fully in many cases. They pointed that “14 percent of the JO arrests made in New York City through 1983 resulted in sentences of confinement imposed by the criminal court; this of course implied that 86 percent of the arrested juveniles managed to avoid such sentences” (Singer and McDowall, 1988).

Second, some researchers supported the effectiveness of the rehabilitative programs inherent in the juvenile justice system (Redding, 2003). Forst et al. (1989) indicated that results based on the interview of 140 juvenile offenders with 59 cased in juvenile facilities and 81 in the adult facilities. They found that the criminal facilities were short of effective programs to help juveniles to learn life skill and enhance their techniques of handling interpersonal relations as those available in the juvenile facilities.

Third, the criminal behavior culture engrained in the adult prison or jail would contribute to the higher recidivism for the transferred young offenders in the criminal justice system. The transferred youths were exposed to the adult facility culture and were easily able to learn more advanced techniques of criminal behaviors from their older inmates. At the same time, with their bonding to the older career criminals, they might be more and more prone to the attitudes tolerant to serious criminal behaviors or they could develop the perceptions neutralizing their crime motives.

Fourth, the different resource available and practice implemented across the two correction facilities would engender the perceptions of the transferred youths that they had been unjustly treated compared with their counterparts retained in the juvenile facilities with similar serious offenses charged. The transfer policy was widely used with the belief that sanctions of adult courts would enhance the fairness by making the punishments more proportionate to the severity of offenses committed by the transferred juveniles. However, the punishment based on the

offense and the history of prior delinquency neglected the individual disparity, which raised the question of fairness and effectiveness. Winner et al. (1997) attributed the higher recidivism rate for the transferred youths to the reason that they felt injustice resulted from criminal court processing and then to retaliate by recommitting.

CHAPTER 6 LIMITATIONS AND FUTURE RESEARCH

First, the robbery cases in Florida 2005 data set are very limited. There are total only 42 robbery cases available. So the limited samples raise the question of the validity on comparison results of recidivism and sanction between the robbery and burglary juvenile offenders. Second, Florida 2005 data set lacks of information about sentence length and case length, which are important measurements to assess the severity and celerity of punishment. The case length is also unavailable in the NY and NJ data set. Therefore, it is unclear whether the transferred youths received longer sentences than the retained youths with the limitations of the Florida 2005 data set in this study. Also it cannot be estimated whether there were any differences of celerity of punishment imposed on the youths across two court jurisdictions within both data sets. Third, the offenses examined in this study are only limited to violent or serious felony. Therefore, the examination of patterns or comparisons between the two disparate court jurisdictions of nonviolent offenses committed by juvenile offenders remains intact and needs future research.

The last but not least point is that the information of the actual time served in two justice models is unavailable. Accordingly, the conclusion of the sentence length is needed to be attended cautiously. The two court jurisdictions have different sanction practices. In the juvenile justice system, the sentences are often indeterminate, which is the reason of the difficulty in collecting data of the sentence length for the retained youths. At the same time, the criminal courts could impose definite sentences on the transferred youths as adults; therefore juveniles can be released on bail like their older adult inmates. Hence, the actual time served is maybe largely different from the length of sentence imposed by the courts. So future research is needed to examine and compare the actual time served by the youths transferred and retained.

The limitations resulted from the lack of measurements in the Florida 2005 data set I used could possibly be avoided, if future research can access the larger raw data set of the Florida studies of transfer impacts, which might include some of the measurements or other variables unavailable in this study. This study used the more limited data on which the previous publications were based. It should be recognized that in the larger raw data set that was not available for this study there may be some way of dealing with these limitations.

It is reasonably believed that the effects of transfer between burglary or property crime offenders and robbery or personal crime offenders on recidivism and sanctions will be clearer if the future research can be conducted with a more comparable number of cases by type of offense and by type of cases (transferred or retained). The question of whether the transferred juvenile offenders received harsher punishment than the retained youths will be better answered if the measurements of punishment certainty (conviction rate, incarceration rate), severity (sentence length, actual time served) and celerity (case length) can be simultaneously aggregated in future studies regarding transfer effects.

We can further ascertain the effects of transfer and provide with the important implications for policies, if the future research could extend to include nonviolent juvenile offenses for investigation. Many states adjusted the statutes or enacted new legislations to decrease the minimum age or broaden the type of offenses of criminal court jurisdiction. As a result, more and more juvenile offenders could be waived to the criminal justice system including many nonviolent youthful offenders. The prior research showed that besides the most serious or chronic juvenile offenders who were transferred to criminal courts for trial, a great number of the juvenile offenders charged with nonviolent or petty offenses were also excluded from the juvenile justice system (Frazier et al. 1994; Lanza-Kaduce et al, 1998). The effects of transfer to

those nonviolent juveniles remained in the dark. It will provide the policy makers with more explicit picture about the consequences of transfer on the juvenile offenders who were transferred charged with nonviolent or not much serious offenses, in turn has important and significant policy implications.

APPENDIX A
NEW YORK STATUTORY DEFINITION OF BURGLARY AND ROBBERY

140. 20 Burglary in the third degree.

A person is guilty of burglary in the third degree when he knowingly enters or remains unlawfully in a building with intent to commit a crime therein.

Burglary in the third degree is a class D felony.

140. 25 Burglary in the second degree.

A person is guilty of burglary in the second degree when he knowingly enters or remains unlawfully in a building with intent to commit a crime therein, and when:

1. In effecting entry or while in the building or in immediate flight therefrom, he or another participant in the crime:

- (a) Is armed with explosives or a deadly weapon; or
- (b) Causes physical injury to any person who is not a participant in the crime; or
- (c) Uses or threatens the immediate use of a dangerous instrument; or
- (d) Displays what appears to be a pistol, revolver, rifle, shotgun, machine gun or other firearm; or

2. The building is a dwelling.

Burglary in the second degree is a class C felony.

140.30 Burglary in the first degree.

A person is guilty of burglary in the first degree when he knowingly enters or remains unlawfully in a dwelling with intent to commit a crime therein, and when, in effecting entry or while in the dwelling or in immediate flight therefrom, he or another participant in the crime:

- 1. Is armed with explosives or a deadly weapon; or
- 2. Causes physical injury to any person who is not a participant in the crime; or

3. Uses or threatens the immediate use of a dangerous instrument; or

4. Displays what appears to be a pistol, revolver, rifle, shotgun, machine gun or other firearm; except that in any prosecution under this subdivision, it is an affirmative defense that such pistol, revolver, rifle, shotgun, machine gun or other firearm was not a loaded weapon from which a shot, readily capable of producing death or other serious physical injury, could be discharged. Nothing contained in this subdivision shall constitute a defense to a prosecution for, or preclude a conviction of, burglary in the second degree, burglary in the third degree or any other crime.

Burglary in the first degree is a class B felony.

160.00 Robbery

Robbery is forcible stealing. A person forcibly steals property and commits robbery when, in the course of committing a larceny, he uses or threatens the immediate use of physical force upon another person for the purpose of:

Preventing or overcoming resistance to the taking of the property or to the retention thereof immediately after the taking; or

Compelling the owner of such property or another person to deliver up the property or to engage in other conduct which aids in the commission of the larceny.

160.05 Robbery in the third degree.

A person is guilty of robbery in the third degree when he forcibly steals property.

Robbery in the third degree is a class D felony.

160.10 Robbery in the second degree.

A person is guilty of robbery in the second degree when he forcibly steals property and when:

1. He is aided by another person actually present; or
2. In the course of the commission of the crime or of immediate flight therefrom, he or

another participant in the crime:

- (a) Causes physical injury to any person who is not a participant in the crime; or
- (b) Displays what appears to be a pistol, revolver, rifle, shotgun, machine gun or other

firearm; or

3. The property consists of a motor vehicle, as defined in section one hundred twenty-five of the vehicle and traffic law.

Robbery in the second degree is a class C felony.

160.15 Robbery in the first degree.

A person is guilty of robbery in the first degree when he forcibly steals property and when, in the course of the commission of the crime or of immediate flight therefrom, he or another participant in the crime:

1. Causes serious physical injury to any person who is not a participant in the crime; or
2. Is armed with a deadly weapon; or
3. Uses or threatens the immediate use of a dangerous instrument; or
4. Displays what appears to be a pistol, revolver, rifle, shotgun, machine gun or other

firearm; except that in any prosecution under this subdivision, it is an affirmative defense that such pistol, revolver, rifle, shotgun, machine gun or other firearm was not a loaded weapon from which a shot, readily capable of producing death or other serious physical injury, could be discharged. Nothing contained in this subdivision shall constitute a defense to a prosecution for,

or preclude a conviction of, robbery in the second degree, robbery in the third degree or any other crime. Robbery in the first degree is a class B felony.

APPENDIX B
FLORIDA STATUTORY DEFINITIONS OF BURGLARY AND ROBBERY

810.02 Burglary

(1)(a) For offenses committed on or before July 1, 2001, "burglary" means entering or remaining in a dwelling, a structure, or a conveyance with the intent to commit an offense therein, unless the premises are at the time open to the public or the defendant is licensed or invited to enter or remain.

(b) For offenses committed after July 1, 2001, "burglary" means

1. Entering a dwelling, a structure, or a conveyance with the intent to commit an offense therein, unless the premises are at the time open to the public or the defendant is licensed or invited to enter; or

2. Notwithstanding a licensed or invited entry, remaining in a dwelling, structure, or conveyance:

a. Surreptitiously, with the intent to commit an offense therein;

b. After permission to remain therein has been withdrawn, with the intent to commit an offense therein; or

c. To commit or attempt to commit a forcible felony, as defined in s. 776.08.

(2) Burglary is a felony of the first degree, punishable by imprisonment for a term of years not exceeding life imprisonment or as provided in s. 775.082, s. 775.083, or s. 775.084, if, in the course of committing the offense, the offender:

(a) Makes an assault or battery upon any person; or

(b) Is or becomes armed within the dwelling, structure, or conveyance, with explosives or a dangerous weapon; or

(c) Enters an occupied or unoccupied dwelling or structure, and:

1. Uses a motor vehicle as an instrumentality, other than merely as a getaway vehicle, to assist in committing the offense, and thereby damages the dwelling or structure; or

2. Causes damage to the dwelling or structure, or to property within the dwelling or structure in excess of \$1,000.

(3) Burglary is a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, if, in the course of committing the offense, the offender does not make an assault or battery and is not and does not become armed with a dangerous weapon or explosive, and the offender enters or remains in a:

(a) Dwelling, and there is another person in the dwelling at the time the offender enters or remains;

(b) Dwelling, and there is not another person in the dwelling at the time the offender enters or remains;

(c) Structure, and there is another person in the structure at the time the offender enters or remains; or

(d) Conveyance, and there is another person in the conveyance at the time the offender enters or remains.

(4) Burglary is a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, if, in the course of committing the offense, the offender does not make an assault or battery and is not and does not become armed with a dangerous weapon or explosive, and the offender enters or remains in a:

(a) Structure, and there is not another person in the structure at the time the offender enters or remains; or

(b) Conveyance, and there is not another person in the conveyance at the time the offender enters or remains.

812.13 Robbery

(1) "Robbery" means the taking of money or other property which may be the subject of larceny from the person or custody of another, with intent to either permanently or temporarily deprive the person or the owner of the money or other property, when in the course of the taking there is the use of force, violence, assault, or putting in fear.

(2)(a) If in the course of committing the robbery the offender carried a firearm or other deadly weapon, then the robbery is a felony of the first degree, punishable by imprisonment for a term of years not exceeding life imprisonment or as provided in s. 775.082, s. 775.083, or s. 775.084.

(b) If in the course of committing the robbery the offender carried a weapon, then the robbery is a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(c) If in the course of committing the robbery the offender carried no firearm, deadly weapon, or other weapon, then the robbery is a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(3)(a) An act shall be deemed "in the course of committing the robbery" if it occurs in an attempt to commit robbery or in flight after the attempt or commission.

(b) An act shall be deemed "in the course of the taking" if it occurs either prior to, contemporaneous with, or subsequent to the taking of the property and if it and the act of taking constitute a continuous series of acts or events.

LIST OF REFERENCES

- Ainsworth, J. E. (1999). Re-imagining childhood and reconstructing the legal order: The case for abolishing the juvenile court. In B. C. Feld (Ed.), *Readings in Juvenile Justice Administration* (pp. 8-13). New York: Oxford.
- Barnes, C. W., & Franz, R. S. (1989). Questionably adult: Determinants and effects of the juvenile waiver decision. *Justice Quarterly*, 6, 117-136.
- Bishop, D. M. (2000). Justice offenders in the adult criminal justice system. In M. Tonry (Ed.), *Crime and justice: A review of research* (pp. 81-167). Chicago: University of Chicago Press.
- Bishop, D. M., Frazier, C. E., Lanza-Kaduce, L., & Winner, L. (1996a). The transfer of juveniles to criminal court: Does it make a difference? *Crime and Delinquency*, 42, 171-191.
- Bortner, M. A. (1986). Traditional rhetoric, organizational realities: Remand of juveniles to adult court. *Crime and Delinquency*, 32, 53-73.
- Butts, J. A., & Poe-Yamagata, E. (1993). *Offenders in juvenile court, 1990*. Washington, DC: U.S. Department of Justice, Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention.
- Champion, D. J. (1989). Teenage felons and waiver hearings: Some recent trends, 1980-1988. *Crime and Delinquency*, 35, 577-585.
- Champion, D. J., & Mays, G. L. (1991). *Transferring juveniles to criminal courts: Trends and implications for criminal justice*. New York: Praeger.
- Cullen, F.T. (2005). The twelve people who saved rehabilitation: How the science of criminology made a difference. *Criminology*, 43, 1-42.
- Dawson, R. O. (1992). An empirical study of Kent style juvenile transfers to criminal court. *St. Mary's Law Journal*, 23, 975-1054.
- Dawson, R. O. (2000). Judicial waiver in theory and practice. In J. A. Fagan & F. E. Zimring (Eds.), *The changing borders of juvenile justice: Transfer of adolescents to the criminal court* (pp. 45-82). Chicago and London: The University of Chicago Press.
- Eigen, J. P. (1981). Punishing youth homicide offenders in Philadelphia. *The Journal of Criminal Law and Criminology*, 72, 1072-1093.
- Empey, L. (1979). Introduction: The social construction of childhood and juvenile justice. In L. T. Empey (Ed.), *The future of childhood and juvenile justice* (pp. 1-34). Charlottesville, Va: University Press of Virginia.
- Fagan, J. A., & Deschenes, E. P. (1990). Determinants of judicial waiver decisions for violent juvenile offenders. *The Journal of Criminal Law and Criminology*, 81, 314-347.

- Fagan, J. A. (1990a). Natural experiments. In K. Kempf (Ed.), *Measurement issues in criminology* (pp. 108-137). New York: Springer-Verlag.
- Fagan, J. A. (1995). Separating the men from the boys; The comparative advantage of juvenile versus criminal court sanctions on recidivism among adolescent felony offenders. In J. C. Howell, B. Krisberg, J. D. Hawkins, & J. J. Wilson (Eds.), *A sourcebook: Serious, violent, and chronic juvenile offenders* (pp. 238-260). Thousand Oaks, CA: Sage.
- Fagan, J. A. (1996). The comparative advantage of juvenile versus criminal court sanctions on recidivism among adolescent felony offenders. *Law and Policy*, 18, 77-114.
- Farrington, D. P. (2003). Developmental and life-course criminology: Key theoretical and empirical issues. *Criminology*, 41, 221-256.
- Feld, B. C. (1990). Bad law makes hard cases: Reflections on teen-aged axe-murders, judicial activism, and legislative default. *Law and Inequality*, 8, 1-102.
- Feld, B. C. (1993). Criminalizing the American juvenile court. *Crime and Justice*, 17, 197-280.
- Feld, B. C. (1997). Abolish the juvenile court: Youthfulness, criminal responsibility, and sentencing policy. *The Journal of Criminal Law and Criminology*, 88, 68-136.
- Feld, B. C. (1999). In re Gault revisited: A cross-state comparison of the right to counsel in juvenile court. In B.C. Feld (Ed.), *Readings in Juvenile Justice Administration* (pp. 117-126). New York: Oxford.
- Forst, M., Fagan, J., & Vivona, S. T. (1989). Youth in prisons and training schools: Perceptions and consequences of the treatment-custody dichotomy. *Juvenile and Family Court Journal*, 40, 1-14.
- Frazier, C. E., Bishop, D. M., Lanza-Kaduce, L., & Winner, L. (1994). *Juvenile justice transfer legislation in Florida: Assessing the impact on the criminal justice and corrections systems*. A report prepared for the Leroy Collins Center for public policy on behalf of the task force for review of the criminal justice and corrections systems.
- Griffin, P., Torbet, P., & Szymanski, L. (1998). Trying juveniles as adults in criminal court: An analysis of state transfer provisions. Washington, DC: U.S. Department of Justice, Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention.
- Hollinger, R. C., & Clark, J. P. (1983a). Deterrence in the workplace: Perceived certainty, perceived severity and employee theft. *Social Forces*, 62, 394-418.
- Howell, J. C. (1996). Juvenile transfers to the criminal justice system: State of the art. *Law and Policy*, 18, 17-60.
- Jensen, E. L., & Metsger, L. K. (1994). A test of the deterrent effect of legislative waiver on violent juvenile crime. *Crime and Delinquency*, 40, 96-104.

- Kinder, K., Veneziano, C., Fichter, M., & Azuma, H. (1995). A comparison of the dispositions of juvenile offenders certified as adults with juvenile offenders not certified. *Juvenile and Family Court Journal*, 46, 37-42.
- Klein, E. K. (1998). 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, 371-410.
- Lanza-Kaduce, L., Frazier, C. E., & Bishop, D. M. (1998). Juvenile transfers in Florida: The worst of the worst? *University of Florida Journal of Law and Public Policy*, 10, 277-312.
- Lanza-Kaduce, L., Lane, J., Bishop, D. M., & Frazier, C. E. (2005). Juvenile offenders and adult felony recidivism: The impact of transfer. *Journal of Crime and Justice*, 28, 59-77.
- Levitt, S. D. (1998). Juvenile crime and punishment. *Journal of Political Economy*, 106, 1156-1185.
- Lipsey, M. W. (1999). Can rehabilitative programs reduce the recidivism of juvenile offenders? An inquiry into the effectiveness of practical programs. *The Virginia Journal of Social Policy and the Law*, 6, 611-642.
- Mack, J. W. (1999). The juvenile court. In B. C. Feld (Ed.), *Readings in Juvenile Justice Administration* (pp. 13-20). New York: Oxford.
- McCarthy, F. B. (1977). The role of the concept of responsibility in juvenile delinquency proceedings. *University of Michigan Journal of Law Reform*, 10, 181-219.
- Myers, D. L. (2001). Excluding violent youths from juvenile court: The effectiveness of legislative waiver. New York: LFB Scholarly Publishing LLC.
- Paternoster, R. (1987). The deterrent effect of the perceived certainty and severity of punishment: A review of the evidence and issues. *Justice Quarterly*, 4, 173-217.
- Paternoster, R. (1989). Decisions to participate in and desist from four types of common delinquency: Deterrence and the rational choice perspective. *Law and Society Review*, 23, 7-40.
- Platt, A. (1999). The triumph of benevolence: The origins of the juvenile justice system in the United States. In B. C. Feld (Ed.), *Readings in Juvenile Justice Administration* (pp. 20-35). New York: Oxford.
- Podkopacz, M. R. & Feld, B. C. (1995). Judicial waiver policy and practice: Persistence, seriousness and race. *Law and Inequality*, 14, 73-177.
- Podkopacz, M. R. & Feld, B. C. (1996). The end of the line: An empirical study of judicial waiver. *Journal of Criminal Law and Criminology*, 86, 449-492.
- Redding, R. E. (2003). The effects of adjudicating and sentencing juveniles as adults: research and policy implications. *Youth Violence and Juvenile Justice*, 1, 128-155.

- Redding, R. E. (In press). The deterrent effects of juvenile transfer law. U.S. Government Printing Office. 2007.
- Rodriguez, N. (2003). Youth transfer decisions: Exploring county variations. *Juvenile and Family Court Journal*, 54,33-46.
- Schuman, H., & Scott, J. (1989). Generations and collective memories. *American Psychological Review*, 54, 359-381.
- Sherman, L. W. (1993). Defiance, deterrence, and irrelevance: A theory of the criminal sanction. *Journal of Research in Crime and Delinquency*, 30, 445-473.
- Singer, S. I., & McDowall, D. (1988). Criminalizing delinquency: The deterrent effects of the New York juvenile offender law. *Law and Society Review*, 22, 521-535.
- Singer, S. I. (1999). The automatic waiver of juveniles and substantive justice. In B. C. Feld (Ed.), *Readings in Juvenile Justice Administration* (pp. 204-210). New York: Oxford.
- Snyder, H., & Sickmund, M. (1999). *Juvenile offenders and victims: 1999 national report*. Washington DC: U.S. Department of Justice, Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention.
- Strom, K., Smith, S., & Snyder, H. (1998). *State court processing statistics, 1990-1994: Juvenile felony defendants in criminal courts* (Special report). Washington, DC: U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Statistics.
- Tanenhans, D.S. (2000). The evolution of transfer out of the juvenile court. In J. A. Fagan & F. E. Zimring (Eds.), *The changing borders of juvenile justice: Transfer of adolescents to the criminal court* (pp. 13-44). Chicago and London: The University of Chicago Press.
- Tittle, C. R. (1980). *Sanctions and social deviance: The question of deterrence*. New York: Praeger.
- Waldo, G. P., & Chircos, T. G. (1972). Perceived penal sanction and self-reported criminality: A neglected approach to deterrence research. *Social Problems*, 19, 522-540.
- Weissman, J. C. (1983). Toward an integrated theory of delinquency responsibility. *Denver Law Journal*, 60, 485-518.
- Winner, L., Lanza-Kaduce, L., Bishop, D. M., & Frazier, C. E. (1997). The transfer of juveniles to criminal court: Reexamining recidivism over the long term. *Crime and Delinquency*, 43, 548-568.
- Zimring, F.E. (1991). The treatment of hard cases in American juvenile justice: In defense of discretionary waiver. *Notre Dame Journal of Law, Ethics, and Public Policy*, 5, 267-280.
- Zimring, F.E. (1998). *American youth violence*. New York: Oxford University Press.

Zimring, F. E. (2000). The punitive necessity of waiver. In J. A. Fagan & F. E. Zimring (Eds.), *The changing borders of juvenile justice: Transfer of adolescents to the criminal court* (pp. 207-224). Chicago and London: The University of Chicago Press.

BIOGRAPHICAL SKETCH

Yang Liu was born in Wuhan, China. She was good at music. In 1998, Yang began her undergraduate study in Zhongnan University of Economics and Law, majoring in international law. She acquired a solid academic background in law and other related areas of social science. She was interested in criminology during her undergraduate study.

After graduation, she had 3 years of work experience in business and law, in Shenzhen, China. In fall 2005, after careful deliberation, she began her graduate studies in Department of Criminology, Law and Society, at the University of Florida and began her new life as a graduate student. She received a Master of Arts degree in criminology. Upon graduation, Yang plans to proceed to her research in criminology and law.