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Gender and Justice: An Examination of Policy and Practice Regarding Judicial Waiver

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GENDER AND JUSTICE: AN EXAMINATION OF POLICY AND PRACTICE
REGARDING JUDICIAL WAIVER

A Dissertation

Submitted to the School of Graduate Studies and Research

in Partial Fulfillment of the

Requirements for the Degree

Doctor of Philosophy

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December 2008

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The current study addressed the issues of gender and racial differences in judicial waiver decisions in one state. The study provides an examination of existing juvenile justice research, and augments a neglected area of research regarding girls and judicial waiver. The present research examines the variables that influence the judicial waiver decision for girls and explores the differences between girls and boys who were judicially waived to adult court.

This study analyzed Arizona Juvenile Court data from 1994 through 2000. Through the use of logistic regression, three general research questions were tested. These research questions explore the differences between girls and boys who were judicially waived to adult court, the differences between girls who were judicially waived and girls who were not, and the effect that Arizona legislation (Proposition 102) had on girls and minority youth.

The results indicated that both legal and extra legal factors influenced the decision to judicially waive youth in Arizona. Of particular importance were the

effects of age and the number of prior referrals. Contrary to previous research, neither gender nor race was a significant predictor of judicial waiver.

The current findings provide a fairly complex portrait of the effects of several variables on judicial waiver. The variables that were tested in this study suggest that increased delinquency prevention programs, such as truancy prevention and increased counseling services for girls, are warranted. The findings also indicate that future research about the transfer of girls to adult court is needed in order to attempt to understand fully the variables that influence judicial waiver.

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CHAPTER I

INTRODUCTION

Context of the Problem

In recent years, the media have focused attention on girls involved in acts of violence and aggressive behaviors. In 2004, a 17 year old girl in Brooklyn, New York, fatally stabbed her father after he struck her repeatedly with a baseball bat (Elliot, 2004). In May 2005, a 9 year old girl also in Brooklyn, New York, was accused of fatally stabbing her 11 year old friend with a kitchen knife in an argument over a rubber ball. On April 21, 2005, three teenage girls were charged with first-degree murder for participating in a drive-by shooting that killed a 10-year-old boy in Ayden, North Carolina (Scelfo, 2005). These tragic events represent the view of a burgeoning national crisis: the increase of violence and aggressive behavior among girls (Scelfo, 2005). However, this fear of youth crime is not a new phenomenon.

Since the early 1990s, America has witnessed an increase in the fear of youth crime (Benekos & Merlo, 2004; Merlo, Benekos & Cook, 1997; Triplett, 2000). Sensationalized media exposure in the 1990s facilitated the public's fear of youth crime, which resulted in get tough legislation and a perceived need to "do something" about juvenile crime (Benekos & Merlo, 2004; Merlo, Benekos & Cook, 1997; Myers, 2005; Podkopacz & Feld, 2001). The juvenile court was criticized for its inability to control youth crime and, as a result, policies shifted from rehabilitation to punishment of juvenile offenders (Benekos & Merlo, 2004; Feld, 2001). This punishment included an increase in the number of states that

adopted new legislation or revised their previous statutes to facilitate the transfer of youthful offenders from juvenile court to criminal court to be tried as adults (Feld, 2001; Steiner, Hemmens & Bell, 2006; Snyder & Sickmund, 2006; Zimring, 1998).

There is no uniform juvenile justice system in the United States. Matters concerning minors and children who transgress the law are left to the discretion of the individual states and their legislative bodies. States have different priorities and legislators enact new laws and revise legislation according to their own perceived needs at the time. Although the states operate independently, they manifest common trends and respond to certain issues in a similar manner. For example, the increasing fear of youth violence in the 1990s precipitated more specific and punitive legislation in almost every state (Feld, 2001).

Prior to 1996, judicial transfer was the sole transfer mechanism for prosecuting juveniles in adult court in Arizona. On November 5, 1996, the majority of voters in Arizona supported Proposition 102, which had:

the effect of mandating adult prosecution at age 15 for murder, forcible sexual assault or armed robbery; repealing the court's discretion to suspend prosecution of juveniles accused of crime, allowing enactment of laws by the legislature or the people governing all matters affecting juveniles; repealing the court's sole jurisdiction over juveniles (Secretary of State, Ballot Proposition, 1996).

On July 1, 1997, the Arizona legislature implemented new and expedited procedures for juvenile offenders to be processed in adult court. As a result,

Arizona joined the majority of states that supported expediting the waiver process and making it easier to try juveniles as adults.

These policies and legislative practices have transferred jurisdiction from the rehabilitative services of the juvenile court to the punitive punishment offered in the criminal court. The shift from rehabilitation to punishment is not a one sided debate but one that occurs at both ends of the political spectrum (Feld, 2003). For example, conservatives have argued that the rehabilitative driven juvenile justice system is soft on crime. They advocated for a more retributive approach to juvenile crime (Feld, 2003). However, liberals also became disenchanted with the juvenile justice system's individual approach to justice and argued that it was discriminatory in nature (Feld, 2003).

Since its inception, the juvenile court has become more formalized, accountability driven, and "criminalized" (Feld, 1993, 2003; Jensen & Metzger, 1994). The earliest juvenile justice system sought to remove youth from the criminal justice system and act in the best interest of the child, thus giving the court the jurisdiction to pursue child welfare (Tanenhaus, 2004; Zimring, 2005). However, states in the 1990s authorized different mechanisms to allow juvenile offenders to be prosecuted in the same manner as adult offenders. Currently, all states have at least one mechanism that allows youth to be transferred from juvenile court to adult criminal court (Griffin, Torbet & Szymanski, 1998). The requirements vary across states, but typically a combination of determining factors is considered. These include: current offense, prior record, and amenability to treatment.

Prior to the youth violence surge of the mid 1980s, property crime accounted for the largest number of youth transferred to adult court (Bishop & Fraizer, 1991; Champion, 1989). Trends in the mid 1990s (from 1993-1997), demonstrated that violent offenses made up the largest group of judicially waived youth (Puzzanchera, 2003; Sickmund, Snyder & Poe-Yamagata, 1997; Stahl, 1999, 2000). However, by the end of the 1990s and the beginning of the millennium, juvenile courts once again waived more property offenders than person offenders (Stahl, 2001, 2003). While property offenses made up the greatest number of waived cases for White youth between 1990 and 1998, person offenses made up the largest number for Black youth (Puzzanchera, 2001). Ninety-five percent of the youth waived between 1990 and 1999 were boys (Puzzanchera, 2003).

Although the juvenile justice system continues to be dominated by boys, the past decade also has witnessed a significant increase in the number of girls entering the system (Sharp & Simon, 2004). Girls are the fastest growing population in the juvenile justice system (Snyder & Sickmund, 1999). In 1980, they accounted for 20% of all juvenile arrests (Snyder & Sickmund, 2006). In 2002 and 2003, girls accounted for 29% of all juvenile arrests (Snyder & Sickmund, 2006; Snyder, 2004). Girls were involved in 29% of arrests in 2006 as well (United States Department of Justice, 2007).

Even though the female arrest trends continue to escalate, girls remain largely marginalized or completely ignored by a majority of researchers. In a correctional system designed for boys and men, girls have proceeded through

the juvenile justice system as the “forgotten few” (Bergsmann, 1989). There are a limited number of studies that focus specifically on girls’ court processing, and many important studies do not include girls in their samples or do not analyze the data separately (Champion, 1989; Fagan & Deschenes, 1990; Fritsch, Caeti & Hemmens, 1996; Kruttschnitt, 1994; Kupchik, 2006; Leiber & Fox, 2005; Loeber & Farrington, 1998; Myers, 2001; Podkopacz & Feld, 1996; West, Houser & Scanlan, 1998).

While the juvenile Violent Crime Index rate decreased for boys between 1980 and 2003, the rate for girls remained relatively high. According to the Office of Juvenile Justice and Delinquency Prevention (2001), the rate for both aggravated and simple assaults increased for girls. The percentage of aggravated assaults jumped from 15% in 1980 to 22% in 1999 (Snyder, 2001). This number again increased to 24% in 2003 (Snyder & Sickmund, 2006). Similarly, the rate of arrests for simple assault rose from 21% to 30% and continued to increase to 36% in 2003 (Snyder & Sickmund; Snyder, 2001). During the same period, the rate for property crime decreased 41% for male offenders but increased for female offenders. The proportion of female juveniles arrested for property offenses increased from 19% in 1980 to 32% in 2003 (Snyder & Sickmund).

Disproportionate Minority Contact

Similarly, there was evidence of disproportionate minority contact in the juvenile justice system. According to Snyder and Sickmund (2006), Black youth accounted for 16% of the juvenile population in 2003, but were disproportionately

involved in the number of juvenile arrests for robbery (63%), murder (48%), motor vehicle theft (40%), and aggravated assault (38%). According to the National Juvenile Court Archive Data, Black youth also accounted for 29% of the delinquency cases processed in juvenile court in 2003 (Snyder & Sickmund). From 1985 to 2002, the delinquency cases for White juveniles increased 15% while the delinquency cases for Black juveniles increased 27% (Snyder & Sickmund). In 2002, the number of delinquency cases for Black juveniles was more than two times the rate of Whites. This percentage, while still large, has actually decreased since the Juvenile Justice and Delinquency Prevention (JJDP) Act addressed disproportionate minority confinement.

Considerable research on disproportionate minority confinement has been conducted over the past two decades (Chapman et al., 2006; Devine, Coolbaugh & Jenkins, 1998; Hsia, Bridges & McHale, 2004; Leiber, 2002; Poe-Yamagata & Jones, 2000; Pope, Lovell & Hsia, 2002). Disproportionate minority confinement (DMC) “occurs when the proportion of youth of color who pass through the juvenile justice system exceeds the proportion of youth of color in the general population” (Short & Sharp, 2005, p.v). In the 1988 amendments to the Juvenile Justice and Delinquency Prevention (JJDP) Act of 1974 (Public Law 93-415, 42 U.S.C. 5601 et seq.), Congress required States to address disproportionate minority confinement in their State plans. In the 1992 amendments to the JJDP Act, DMC was elevated to a core requirement and the eligibility of future funding was tied to State compliance with the Act (Hsia & Hamparian, 1998).

States participating in the Federal Formula Grants Program were required to determine whether DMC existed within their justice system, identify the causes, and develop strategies designed to correct the issue (Federal Register, 1991; Hsia, 1999). The statute mandated the reduction of racial disparities “regardless of whether those disparities were motivated by intentional discrimination or justified by ‘legitimate’ agency interests” (Johnson, 2007, p. 374). States failing to make progress or, at the very least show that they were making an effort toward this endeavor, risked losing one fourth of their formula grant funds for that year and were required to direct the remaining three-fourths of their grant funds toward achieving compliance with the Act (Leiber, 2002).

As with arrest rates and court processing, minority youth also are disproportionately represented in juvenile detention facilities. In the 1990s, Black youth represented 41% of youth held in detention centers, 46% of youth in public long term facilities, and 52% of youth waived to adult court (Snyder & Sickmund, 1995). In 1995, minorities accounted for 68% of the detention population (Sickmund, Snyder & Poe-Yamagata, 1997).

However, the number of Black juveniles in all types of custodial facilities actually declined between 1997 and 2003. While Black youth accounted for the majority of minority youth in juvenile facilities, they also accounted for the majority of the overall reduction in the custody population, decreasing by 5,000 between 1997 and 2003 (Snyder & Sickmund, 2006). This indicates that States are taking measures to decrease the number of minority youth who are involved

in the juvenile justice system, even though they are still disproportionately represented in the juvenile justice system.

The Influence of Variables on Judicial Decisions

Since the beginning of the juvenile court, there has been debate concerning the variables that most influence judicial decision making. Scarpitti and Stephenson (1971), for example, found that those who are concerned with judicial decision making in juvenile courts have found the administration to be puzzling and inconsistent. As a result, judges often have been accused of basing their decision making on vindictiveness, bias, or even a paternalistic protectiveness (Chesney-Lind, 1977).

Feld (2001) contends that waiver decisions are subjective and lack effective guidelines. Judges are allowed to make unequal and disparate rulings without the safeguard of effective appellate checks or procedural confirmation (Feld, 2001). Research suggests that judges apply waiver decisions in an arbitrary and discriminatory manner (Fagan & Deschenes, 1990; Feld, 1991). For example, Fagan and Deschenes found that prosecutors in Phoenix sought transfers for nearly all seventeen year olds for the purpose of obtaining a longer sentence in a secured facility since the jurisdiction of the juvenile court ended at eighteen.

By and large, juvenile court case processing research is predominantly atheoretical (Guevara, Herz & Spohn, 2006). There are, however, two perspectives that attempt to explain sentencing outcomes. Although sentencing is not the same as waiver, the research provides some indication that the

inclusion or exclusion of different variables may affect the decision making process.

The first perspective proposes that sentencing decisions and outcomes are based on legally relevant factors, such as seriousness of the crime. Some researchers believe that legal variables maintain the most influence over juvenile court outcomes (Barnes & Franz, 1989; Cohen & Klugel, 1978; Hagan, 1977; Horowitz & Wasserman, 1980). Hagan noted that larger urban courts focus on legal factors, and sentences tend to be based on offense severity. Similarly, Barnes and Franz studied urban courts in California, and reported that waiver decisions relied on legal factors, most notably the severity of the current offense. In general, research suggests that the more serious the offense committed and the more extensive the youth's prior record, the greater the likelihood of transfer (Jordan & Myers, 2007). There is evidence that legal rules govern sentencing decisions and "sentencing outcomes are primarily the result of legal rules and criteria applied equally to all classes and races" (Dixon, 1995, p. 1161). This is referred to as "formal rationality."

The second perspective is referred to as "bounded rationality" and suggests that sentencing decisions are influenced by other "extra legal" factors, such as demographic data (Albonetti, 1987; Armstrong & Rodriguez, 2005). Some researchers believe that extra legal variables, such as gender, race, age, and a juvenile's character, are powerful factors in juvenile court (Conley, 1994; Scarpitti & Stephenson, 1971).

Still, there are those who contend that both legal and extra legal variables are weighted evenly and that judges take a wide variety of factors into account when determining a sentence (Hoge, Andrews & Leshied, 1995; Poole & Regoli, 1980). The judge considers the youth's blameworthiness, the degree of harm caused to the victim, the protection of the community, and the pragmatic implications of a sentencing decision (Steffensmeier, Ulmer & Kramer, 1998). Because judges often lack information to determine the degree of dangerousness, culpability, and amenability to treatment, it has been suggested that they revert to stereotypes about a youth's characteristics to make their rulings (Steffensmeier, Ulmer & Kramer).

Similarly, Bortner and Reed (1985) conducted a log linear analysis of 9,223 delinquency cases and contend that the decision making process is impacted by decisions made during the detention process, which then affects the decisions during the screening process (deciding to handle the case formally or informally). For example, youth who were detained were more likely to be formally charged. The researchers found that there is interdependence between legal and extralegal factors, which may become obscured at the final decision point. Bortner and Reed suggest that process variables, which are legal variables (such as offense severity), include social characteristics (such as gender, race, socioeconomic status, and education). The legal variables tend to mask the impact that the social characteristics have on subsequent decisions. Thus, it seems that offense severity and criminal history, the most customary

indicators of disposition, may be influenced by previously biased extra legal variables.

With formal rationality, characteristics such as race and gender would have little or no bearing on a judge's sentencing decision. This perspective suggests that only legally relevant information is considered. Some research also indicates that the seriousness of the current offense and prior record are the strongest predictors of sentencing and transfer decisions (Clarke, 1996; Clement, 1997; Fritsch et al., 1996; Houghtalin & Mays, 1991; Kinder et al., 1995; Myers, 2003; Steffensmeir et al., 1998) However, another view suggests that race and gender have a direct or an indirect effect on judicial outcomes and that these variables are taken into account after legally relevant factors have been considered (Guevara, Herz & Spohn, 2006). For example, research that explored the effect of age and race as extra legal variables finds that older offenders were more likely to be transferred to adult court than younger offenders (Fagan & Deschenes, 1990; Myers, 2003; Podkopacz & Feld, 1996), and that non-White offenders made up the majority of youth who were transferred to adult court (Clarke, 1996; Clement, 1997). Interestingly, these results reflect primarily male samples and do not examine gender or explore the differences that gender might make.

Judicial waiver decisions individualize justice and allow the judge to consider all relevant aspects of the case (Fields, 1999). The judge considers the seriousness of the crime, the maturity of the offender, and the level of aggression and violence exhibited during the commission of the crime (Del Camen, Parker &

Reddington, 1998). The judge also determines the youth's amenability to treatment, the safety of the community, and the harm done to the victim and the victim's family (Fields, 1999).

Limitations of Past Research

Previous literature regarding the juvenile justice system and transfer mechanisms has yielded important findings; however, the literature also is limited. Although many transfer studies explore the issue of judicial waiver (Feld, 2001; Griffin et al., 1998; Podkopacz & Feld, 1996; Smith & Craig, 2006), the literature is seriously lacking in regard to how judicial waiver decisions affect female and minority youth. For example, an empirical study of 330 judicial waiver decisions conducted by Podkopacz and Feld does not refer to girls within the analysis. In his study of youth transferred in Pennsylvania, Jordan (2005) noted that there were girls present in his study, but the number was too small to be analyzed separately. This lack of attention to gender is particularly remarkable since the arrest rate for girls has continued to increase in recent years, even while the overall rate of juvenile violence has declined (Snyder & Sickmund, 2006).

There is little research that examines the specific effect that waiver legislation has on female and minority youth. For example, research suggests that girls and minorities are being particularly affected by punitive juvenile justice laws (Belenko, Spratt, & Petersen, 2004), yet the interaction of gender and race requires further study. McDonald and Chesney-Lind (2001) contend that the

juvenile justice system needs to consider the effect of gender, race, and culture if it intends to act in the “best interest” of girls.

To date, the limited research that has mentioned transferred girls is solely descriptive in nature. These studies do not offer comparison groups, and they do not take into account other factors that might influence the transfer decision. It is unclear if additional factors have an effect on transfer decisions and if unmeasured factors might account for the relationship. Clearly, the variables that affect judicial transfer for girls merit examination.

Purpose and Objectives of Current Study

One of the most striking observations about the transfer research is the virtual exclusion of girls. Although it is well known that boys comprise the majority of cases within the juvenile justice system, girls are entering the system at increased rates. Research shows that extra legal variables influence judicial decisions (i.e., bounded rationality perspective), yet gender and extra-legal variables have never been analyzed in conjunction with judicial transfer. The purpose of this study is to determine which factors influence judicial transfer and to explore the differences, if any, between girls and boys who are transferred to adult court.

This research seeks to increase knowledge in three areas. First, it will examine the differences between girls and boys who were judicially waived in Arizona between 1994 and 2000. Second, it will analyze the differences between girls who were judicially waived and girls who were not. It specifically will focus on the legal and extra legal variables as factors that contribute to waiver

decisions. Third, this study will describe the change of waiver legislation in Arizona from 1994-2000 and examine how the legislative changes (Proposition 102) affected the judicial process for girls and minorities. This research will augment the existing scholarship regarding girls transferred to adult court in one state.

To illuminate further about this topic and provide a foundation of relevant background information, the next chapter briefly discusses girls' involvement with the juvenile justice system (specifically the courts), the role of the juvenile court, and the controversy regarding gender bias and racial differences within the juvenile justice system. Chapter Three examines the transfer mechanisms available in Arizona, reviews deterrence literature associated with juvenile transfer, and explores the variables that influence waiver decisions and outcomes. Chapter Four describes the methods and techniques that were used in this study. In Chapter Five, the quantitative results and findings are presented. The final chapter is devoted to discussing the results and the broader policy implications of the research.

This research examines judicial waiver of youth and assesses the impact that Arizona's transfer legislation had on female and minority youth. For this research, the law's application is evaluated using multiple variables (such as gender, race, age, and offense), which offer a more complete and accurate interpretation of the law's effect. It attempts to identify and describe the significance of the law in the state of Arizona during the 1990s and the differences, if any, between transferred girls and boys.

CHAPTER II

LITERATURE REVIEW

Excluding Girls from the Research

Until recently, female delinquency has not been considered a serious problem (Chesney-Lind & Pasko, 2004; Sondheimer, 2001). Historically, the literature and empirical research ignored girls and gender as a variable in analysis (Chesney-Lind, 1989, Chesney-Lind & Pasko, 2004; Fine, 1988; Hey, 1997; Griffin, 2004; Schaffner, 2006; Ward & Benjamin, 2004). Traditional research focused on male delinquency and aggression with relatively little attention devoted to delinquent girls (Chesney-Lind, 1989; Chesney-Lind & Pasko, 2004; Hoyt & Scherer, 1998). When girls were included, researchers tended to rely on antiquated notions about masculinity and femininity to explain girls' transgressions from the law (Boritch, 1992; Chesney-Lind, 1989; Chesney-Lind & Pasko, 2004; Griffin, 2004; Schaffner, 2006). Therefore, it is important to explore the historical context of gender roles, specifically female gender roles, when addressing female delinquency.

History of the Treatment of Girls

The first juvenile court was established in 1899 in Cook County, Illinois (Knupfer, 2001; Merlo & Benekos, 2000; Tanenhaus, 2004; Zimring, 2005). Although far fewer girls appeared before the court than boys, this number increased in the early twentieth century (Tanenhaus, 2001). During this time, sexuality overshadowed the issue of female delinquency and nearly 80% of the girls brought to juvenile court were charged with immorality (Knupfer, 2001, p. 2;

Tanenhaus, 2004). Similarly, the other common charge for girls was incorrigibility, which was frequently used in lieu of immorality in order to protect the girl's reputation (Knupfer, 2001). Girls often were charged with *moral* rather than criminal offenses (Chesney-Lind & Shelden, 2004; Odem and Schlossman; 1991; Tappan, 1942). Charges for incorrigibility included indiscrete activities such as riding in a closed automobile, loitering in a department store, inhabiting a furnished room with a young man, or even shimmying on a roadhouse dance floor (Abrams & Curran, 2000; Knupfer, 2001).

Rosenberg and Paine (1973) examined the records from the Industrial School for Girls in Lancaster, Massachusetts, during the first few years of operation (between 1856 and 1861) and found that the reasons for commitment to the school "were listed as 1) stubbornness and disobedience, 2) larceny, and 3) leading 'an idle and vicious life'" (p. 73). The girls often entered Lancaster at thirteen years of age and "were detained at the discretion of the trustees" (Rosenberg & Paine, p. 73). While at Lancaster, the girls were indentured to work as servants to selected families in the community. The school was intended to rehabilitate the girls because it was feared that they would become hardened criminals if exposed to prison life (Rosenberg & Paine, 1973).

The juvenile court was responsible for protecting girls who were in danger of becoming morally depraved; and juvenile court judges feared that sexually promiscuous girls would become "lost women" (Odem 1995; Tappan, 1947). These girls were therefore incarcerated at a higher rate than boys in the early 20th century, since boys were eligible for probation and girls were not

(Tanenhaus, 2004). Girls were incarcerated for their own good, and even when they committed the same crime as boys, the court judged them in terms of their moral welfare, not their delinquent behavior (Abrams & Curran, 2000; Boritch, 1992; Gora, 1982). Antisocial girls were seen as “especially vulnerable to evil forces and temptation” (Sharp & Hancock, 1998, p.42). Incarceration was used to keep them safe and “pure”.

Historically, the court treated female youth and male youth differently. Girls were held to a higher moral standard of conduct and “wayward” girls often were placed in residential settings to protect them and prepare them for their roles as wives and mothers (Odem, 1995). The residential placements were intended to train the girls in feminine skills and hold them until marrying age (Chesney-Lind & Sheldon, 2004). Between 1899 and 1909, the Chicago family court sent half of the female juvenile delinquents to reformatories, but only sent one fifth of the male juvenile delinquents to reformatories (McDonald & Chesney-Lind, 2001). Similarly, girls were twice as likely as boys to be detained for their offenses and were held five times longer in detention than delinquent boys (McDonald & Chesney-Lind, 2001). Until recently, the courts and police condoned more punitive reactions to female status offenders than to their male counterparts, which reaffirmed the double standard for male and female sexuality (Belknap, 2007; Boritch; 1992; Chesney-Lind & Pasko, 2004; Chesney-Lind & Sheldon, 2004; Knupfer, 2001).

The juvenile court was created to function under the *parens patriae* doctrine, which meant that it was acting in the best interest of the child (Chesney-

Lind & Shelden, 2004; Merlo & Benekos, 2000; Pisciotta, 1985; Tanenhaus, 2004, Zimring, 2005). The juvenile court judge served as a benevolent yet stern father (Chesney-Lind & Shelden, 2004). Because girls often were brought into court for immorality and “precocious sexuality,” officials in Cook County determined that it was inappropriate for girls to have their cases heard before a male judge (Knupfer, 2001; Tanenhaus, 2004). In 1913, shortly after the inception of the juvenile court, the Chicago Juvenile Court hired Mary Bartleme to preside over the adjudication of girls. She became the first woman judge for the Chicago Juvenile Court in 1920 (Knupfer, 2001; Tanenhaus, 2004). Bartleme functioned as a mediator between immigrant parents and their daughters, often scolding the girls for their unladylike appearance and behavior, and attempting to negotiate a compromise with the parents (Knupfer, 2001; Tanenhaus, 2004).

Unfortunately, many issues undermined the court’s capacity for reform. These issues included delayed hearings, untrained probation and parole staff, and overcrowded reform institutions (Knufer, 2001; Tanenhaus, 2004). As a result of the overcrowding, many girls were returned to their original unfit homes and circumstances (Knupfer, 2001; Tanenhaus, 2004). These issues were especially distressing to minority girls.

Court records indicate that the original delinquent girls in Chicago were poor and working class girls of immigrant and African-American migrant families (Knufer, 2001). Black girls were specifically affected by the overcrowded courts and delayed case processing because they were only allowed to be sent to the State Training School for Girls at Geneva, and it only accepted a few girls at a

time (Tanenhaus, 2004). When the school was full, girls were held in the Juvenile Detention Home until spaces became available at the school. This process was known to take as long as six months (Tannenhaus, 2004). As a result, Black girls in the 1920s experienced longer periods of incarceration than their White counterparts (Tanenhaus, 2004).

As the juvenile justice system evolved, girls continued to be referred to the court for lesser offenses, particularly status offenses. Status offenses are offenses that would not be considered criminal if the youth were over a specified age, such as curfew violations, running away from home, truancy (not attending school), incorrigibility, and drinking alcohol. According to self report studies, girls and boys commit a similar number of status offenses; however, girls are more likely than boys to be arrested for these offenses (Chesney-Lind & Shelden, 2004). It is assumed that girls need more protection than boys; and girls are more likely to be perceived as out of control or incorrigible if they are out at night with their friends (Schaffner, 2006).

In 1974, Congress passed the Juvenile Justice and Delinquency Prevention Act (JJDPA), which was intended to divert and deinstitutionalize status offenders from secure institutions (Belknap, 2007; Chesney-Lind, 2006). Since girls have been disproportionately sanctioned as status offenders, it was predicted that this Act would significantly impact the number of girls processed through the court system and admitted to detention facilities and training schools (Belknap, 2007). As expected, there was a decline in the processing of girls. However, it has been suggested that girls were instead institutionalized in

“hidden” facilities, such as mental health and chemical dependency programs, by parents who disapproved of their daughter’s behavior (Belknap, 2007; Datesman & Aickin, 1984; Lerman, 1980).

It further is suggested that deinstitutionalization produced a racial bias along with a gender bias within the juvenile justice system wherein White girls were directed to private facilities and mental health institutions while Black girls were detained and institutionalized in public facilities (Bartollas, 1993; Chesney-Lind, 1999). For example, Bartollas sampled girls in public and private facilities in a Midwestern state and found that 61% of the girls in the public institution were Black while 100% of the girls in the private facility were White. Interestingly, there was little difference between the offense patterns between the two groups, and 70% of the girls in the public facility were detained because of a status offense.

Judges also apparently engaged in “bootstrapping” as a way to circumvent deinstitutionalization. In this way, girls who have not committed a criminal offense can be charged with a delinquent offense for violating a court order (Chesney-Lind & Sheldon, 2004). A study conducted by the American Bar Association and the National Bar Association (2001) found that girls in the juvenile justice system between 1991 and 1999 were more likely than boys to be detained and to return to detention after being released due to contempt of court charges and probation and parole violations. Research suggests that this practice of bootstrapping has especially affected Black girls (Bartollas, 1993), and “facilitates the incarceration of girls in detention facilities and training schools

- something that would not be possible if the girls were arrested for non-criminal status offenses” (Chesney Lind, 1999, p.187).

The JJDP of 1974 was intended to address the needs of status offenders; however, it did not solve the problem of female status offenders’ involvement in the juvenile court. The amended versions from 1977 to 1988 contained no specific language to address the discrepancy of female youth (OJJDP, 1998). Therefore, in 1992, as part of the reauthorization of JJDP, states were encouraged to identify gaps in their ability to provide appropriate services for female juvenile delinquents (42 U.S.C. 5601; OJJDP). The Federal Government expected states to provide specific services for the prevention and treatment of female delinquency and prohibit gender bias in the placement, treatment, and programming of female delinquents (OJJDP).

Despite this legislation, research suggests that the court continues to act as an instrument to control the sexuality of girls (Bishop & Frazier, 1992; Chesney-Lind, 1974; Mallicoat, 2007). The differential treatment of girls in the juvenile justice system is further discussed later in the chapter.

Girls and Victimization

Female delinquents have special needs and unique underlying causes for their delinquency (Chesney-Lind, 2006; Hoyt & Scherer, 1998). According to Widom (2000), female delinquents are victims as well as offenders. A majority of delinquent girls have histories and backgrounds of abuse, victimization, and exploitation (Finkelhor & Baron, 1986; Lennings et al., 2007; Office of Justice Programs, 1998; Siegel & Williams, 2003). In fact, approximately 70% of girls

who enter juvenile institutions report being victims of abuse (Calhoun, Jergens & Chen, 1993; Chesney-Lind & Shelden, 2004). Owen and Bloom (1997) found that almost three quarters of the girls incarcerated in the California Youth Authority reported ongoing physical abuse, and nearly half (46%) reported sexual abuse. Most of the abuse is perpetrated by family members or close family friends who are considered to be trusted adults (Davis et al., 1997).

Girls from abusive homes grow up with feelings of worthlessness and hopelessness that often result in low or damaged self esteem. Research about juvenile detainees found that female youth have greater mental health needs than male youth (Teplin, 2001). Similarly, it has been found that delinquency is significantly related to suicidal behaviors for girls (Thompson, Kingree & Ching-Hua, 2006; Wasserman & McReynolds, 2006). Some self report data indicate that more than half of the girls in juvenile facilities have attempted suicide; and of those, 64% have tried to kill themselves more than once (American Correctional Association, 1990; Bergsmann, 1994).

Research suggests that child abuse enhances the risk of delinquency, aggressive behavior, and antisocial tendencies (Consentino et al., 1992; Einbender & Friedrich, 1989; Garnefski & Diekstra, 1997; Harrison et al., 1989; Makarios, 2007; Mannarino et al., 1989, 1991; Rimsza et al., 1988; Runtz & Briere, 1996; Thornberry, 1994; Trickett & Gordis, 2004; Widom, 1992; Widom & Kuhns, 1996). According to Widom, child abuse and neglect increase the likelihood of arrest. In a study of 1,515 cases (908 cases of abuse and 607

comparison cases), Widom found that the likelihood of arrest increased by 77% for abused girls when compared to girls who were not abused.

Not surprisingly, abuse is the primary cause for running away from home (Belknap, Holsinger & Dunn, 1997; Chesney-Lind, 1986; Chesney-Lind, 1997; Chesney-Lind & Shelden, 2004; Rimsza et al., 1988; Siegel and Williams, 2003; Trickett & Gordis, 2004; Welsh et al., 1995). Girls may run away in an attempt to escape the abuse at home; and then they are subsequently arrested for running away, which is a status offense (Chesney-Lind, 1997; Flowers, 2001; Snyder & Sickmund, 2006). Rimsza et al. (1988) conducted a study with 72 sexually abused girls aged 2-17 and found that the abused girls were more likely than the comparison girls to run away from home. Being caught for running away often is a girl's first involvement with the juvenile justice system (Chesney-Lind, 1997; Flowers, 2001). In 2003, girls accounted for 59% of the arrests for running away from home (Snyder & Sickmund, 2006).

According to the National Survey on Drug Use and Health (NSDUH, 2004), in 2003, substance abuse was the most common delinquent behavior among girls in the 12-17 age category. Additionally, a study by the National Center on Addiction and Substance Abuse at Columbia University (2004) found that 78.4 percent of juveniles were arrested in 2000 because of drug or alcohol use. For example, some were under the influence of drugs or alcohol at the time of committing a crime, tested positive for drugs or alcohol, reported drug or alcohol problems, or were arrested for committing a drug or alcohol offense (CASA, 2004). The National Center on Addiction and Substance Abuse at

Columbia University (2003) also found that substance abuse was positively correlated to delinquency, specifically fighting.

Increase in Girls' Arrest Rates

Aggravated and simple assault arrests contribute to the recent increases in juvenile violent crime arrests for girls. While most girls are predominately arrested for non violent crimes and status offenses, the rate of girls arrested for violent crimes such as assault have increased in the past decade (Chesney-Lind & Irwin, 2006; Snyder & Sickmund, 2006). Media attention has focused on the “bad girl” and there are reports that girls are becoming increasingly violent (Chesney-Lind, 2005; Chesney-Lind & Irwin; Specht, 2007). While there is little evidence to support the notion that girls are more violent today than they were half a century ago, there is evidence that girls’ arrests for violent behavior have indeed increased (Chesney-Lind & Shelden; Snyder & Sickmund, 2006). Between 1980 and 2003, female aggravated assault arrests increased from 15% to 24% and simple assault arrests increased from 21% to 32% (Snyder & Sickmund, 2006).

Interestingly, while the arrest rates for violent offenses have increased, the FBI’s UCR data report that the actual arrest statistics for girls under the age of 18 have decreased from 445,332 arrests in 1994 to 369,281 arrests in 2006. Historically, girls were most likely to enter the juvenile justice system for status offenses and to be targeted for morality instead of criminal offenses. Recent data indicate a shift in the arrest trends as girls are beginning to enter the system “for traditionally ‘masculine’ violations” (Chesney-Lind & Irwin, 2006, p. 276).

However, this change might be related to policy revisions rather than an increase in female juvenile violence (Chesney-Lind & Belknap, 2004; Chesney-Lind & Irwin, 2004, 2006; Chesney-Lind & Shelden, 2004).

There are several explanations that might account for the increased arrests for these offenses. First, it may be attributed to law enforcement's more contemporary approach to handling domestic violence incidents. Mandatory arrest laws might account for some of the rise in girls arrested for assault, while having no affect on other violent crimes (Chesney-Lind & Shelden, 2004; Chesney-Lind, 2005; Steffensmeier et al., 2005). For example, in an analysis of data from 1980 through 2003 gathered from the UCR, National Crime Victimization Survey (NCVS), Monitoring the Future (MTF), and National Youth Risk Behavior Survey, (NYRBS), Steffensmeier et al. found that changes in law enforcement policies have escalated the arrest rates of juvenile girls. Their study found no change in girls' violence, but a significant change in law enforcement's arrest response.

Second, the arrest rates might be related to girl's involvement in gang offenses and police attention toward the gang problem (Chesney-Lind & Shelden, 2004). Third, the increase might be attributed to zero tolerance policies in schools. Girls who engaged in fighting at school were once sent to detention or suspended from class, but these girls are now arrested for assault (Chesney-Lind, 2005).

Anti-violence policies and zero-tolerance practices have had an especially negative effect on minority girls (Chesney-Lind & Irwin, 2006). These policies not

only inflated the arrest rates for girls but created a disproportionate number of arrests of minority girls for violent crimes (Chesney-Lind & Irwin, 2006). The burgeoning number of arrests at school might have contributed to an increase in the arrest rates for assault for female offenders. Despite this upsurge, girls still have not achieved parity with boys' arrest rates by a significant margin for all offenses except running away (Snyder & Sickmund, 2006). Chesney-Lind and Belknap (2004) suggest that the "closing gender gap" in youth violence and aggressive behavior is likely a myth, and that the increase in arrest rates for girls is a product of changing policies and practices within schools, law enforcement agencies, and home lives.

As previously mentioned, girls were arrested mostly for offenses related to their sexuality. The issue of sexuality dominated the early years of the juvenile court system, and it continues to play a role. In 1957, Mazie Rappaport attempted to explain the psychology of the female offender. She believed that girls and women offenders were destructive against themselves and others. Rappaport (1957) wrote:

But in her anger and unhappiness, her first retributive weapon against society is a form of behavior difficult to control: promiscuity, which in our society is a socially unacceptable and socially destructive way of life...When a girl or woman consistently puts all her needs first, when she acts against the best interest of others, then she and those about her must be protected (p. 10).

Rappaport (1957) believed that girls become offenders when they reject their traditional responsibilities and use their sexual ability to defy social norms. Shaw and McKay (1969) also implied that girls' delinquency mostly was sexual in nature and occurred in the vicinity of dance halls and movie theaters. Similarly, Nadler (1988) reported that girl offenders act out in order to defy their traditional image or create a new image of themselves as outlaws living outside the acceptable social boundaries.

However, researchers have recognized that these views are inaccurate, distorted, and biased (Chesney-Lind & Shelden, 2004; Chesney-Lind & Irwin, 2004; Schaffner, 2006; Teitelbaum & Harris, 1977; Ward & Benjamin, 2004). More recent attempts to understand female offending consider girls' multifaceted backgrounds and pathways as well as societal gender roles and expectations (Steffensmeier & Allen, 1996). Yet, even with continued research and more contemporary perspectives regarding equality between the sexes, there remains a perceptual difference in the ways that boys and girls are treated within the juvenile justice system.

Juvenile Justice and Gender

Since the inception of the juvenile court, some research indicates that there may be a prejudicial bias toward young girls (Bishop and Frazier, 1992; Chesney-Lind & Shelden, 2004; Schlossman & Wallach, 1978). More than twenty years of empirical study; however, has yielded controversy as to whether gender bias does indeed exist in the contemporary juvenile justice system. Some research found evidence of gender bias in the system when legal factors

such as offense type and offense severity were taken into account (Staples, 1984), and other research has found no evidence to suggest gender bias in the juvenile justice system (Dannefer & Schutt, 1982).

Earlier research contends that the court attempts to protect the traditional role of women. The result is that female youth are less likely to be detained, prosecuted, convicted, or sentenced to incarceration (Cohen & Klugel; 1981; Nagel & Hogen, 1983; Poe Yamagata and Butts, 1996; Staples, 1984; Tielmann & Landry, 1981). For example, Cohen and Klugel (1981) found that girls were less likely than boys to be treated formally at intake for property offenses (see Appendix D for an overview of studies that investigated gender bias in the juvenile court.)

Likewise, Tielmann & Landry (1981) analyzed two data sets: a random sample of court records of arrested juveniles from thirty three police departments in a southern California county in 1975, and a data set from five juvenile court jurisdictions in 1976- a northern California county, an Arizona county, two Illinois counties, one Delaware county, and two counties in Washington. An empirical analysis of these juvenile court records revealed that girls were less likely than boys to be incarcerated for committing a delinquent offense. However, girls who were arrested and detained for delinquent offenses in Arizona were detained longer than boys; and, in California and Arizona, girls were detained longer than boys for runaway offenses and delinquent offenses. In this study, status offenders were overrepresented in the five sites; therefore, when the authors

controlled for offense type and prior offenses, they found no gender bias present in the study.

Staples (1984) conducted a study with 3,911 juvenile delinquency cases from 19 juvenile court jurisdictions within the United States between 1978 and 1981. Staples (1984) included gender, prior record, and offense type as the primary variables of interest and found that when controlling for the legal variables of prior offenses and the severity of the current offense, girls were less likely to be incarcerated than boys.

Johnson and Scheuble (1991) examined gender bias in the juvenile courts in one Midwestern state. The analysis consisted of a nonparametric analysis of covariance of 36,680 juvenile court dispositions between 1975 and 1983 (F=8,604, M=28,706). Johnson and Scheuble found that girls were less likely than boys to receive probation or to be incarcerated, and girls were more likely than boys to have their cases dismissed. When the authors took into account disposition by type of offense, they found that for misdemeanors and property offenses, girls were more likely to be dismissed while boys were more likely to be placed on probation or incarcerated.

While the results also indicated that girls were more likely than boys to be incarcerated for person offenses, the results were not statistically significant. Overall, Johnson and Scheuble (1991) found support for the chivalry effect for less serious offenses and that “sex role traditionalism has its strongest effect when girls commit more serious offenses since they would be the most inconsistent with gender role expectations” (p. 694).

A similar study found comparable results. Poe-Yamagata & Butts (1996) analyzed data from 1989 to 1993 from the FBI's Uniform Crime Reporting (UCR) Program, the National Juvenile Court Data Archive, and the biannual Census of Public Juvenile Detention, Correctional, and Shelter Facilities, more commonly known as the Children in Custody (CIC) census. They found that girls involved in the juvenile justice system received less severe sanctions than boys, and that girls also were less likely than boys to be transferred to adult criminal court. Since girls are less likely to impose harm and more likely to commit a non violent offense, it is argued that the court is less inclined to impose a harsh sanction (Sharp & Hancock, 1998).

Conversely, it also has been argued that the juvenile justice system's processing of girls illustrates that they are still being punished, not for harm done to society, but for deviating from socially accepted sex-appropriate behavior (Chesney-Lind, 1974). For example, Mallicoat (2007) examined the effect that gender has on juvenile offender processing. She hypothesized that gender differences lead to discriminatory treatment of female offenders. This study utilized a content analysis of pre-sentence investigative reports for male and female juvenile offenders between January 1, 2001 and July 1, 2002 (n=114). By using a multivariate analysis including gender, legal variables, and the assignment of attributions (the way people explain the behaviors of others) and culpability, Mallicoat found that probation officers continue to concern themselves with child saving techniques, and as a result, girls are punished for their sexuality. Mallicoat found that girls "were described as engaging in sex-related

behavior of moral question...” By contrast, “the nature of boy’s sexuality was not described unless they were engaging in criminal sexual activity” (Mallicoat, p. 25).

The notion that girls are punished for deviating from socially accepted sex-appropriate behavior is evident in the greater number of girls who are referred to the juvenile justice system for status offenses. Early research contends that, once referred, female status offenders were more likely than male offenders to be petitioned for formal court processing, placed in pre-adjudicatory detention, and incarcerated (Andrews & Cohn, 1973; Chesney-Lind, 1973; Chesney Lind, 1977; Conway & Bogden, 1977; Datesman & Scarpitti, 1980; Krohn et al., 1983; Mann, 1979; Shelden, 1981).

Findings from earlier studies indicated that gender influenced juvenile justice processing. Compared to their male counterparts, female status offenders, in particular, received especially harsh treatment (Bishop & Frazier, 1992). However, more recent studies report inconsistent patterns. Some researchers continue to support the conclusion that girls receive more lenient treatment (Poe-Yamagata & Butts, 1996; Sharp & Hancock, 1998), while others found that girls were subjected to harsher punishment (Gaarder & Belknap, 2002; Johnson & Scheuble, 1991). The discrepancies appear to lie in mixed methodologies, samples, and the idea that gender bias continues unabated, but in a manner that is undetectable to researchers who employ the usual methods of analysis (such as utilizing official data) (Mahoney & Fenster, 1982).

Paternalism and Sexism in the Courts

The term “paternalistic justice” has been used to explain the difference in the treatment accorded male and female delinquents based on the traditional gender roles adopted by society (Chesney-Lind, 1988, 2006). It is implied that girls who behave in ways that are proper and appropriate to the traditional female roles of purity and submission receive preferential treatment and more lenient sentences. Leiber & Mack (2003) suggest that, “...decision makers treat females more leniently because they have been socialized to protect females, or they have stereotypical beliefs that females do not engage in criminal behavior” (p. 59).

On the other hand, girls who violate these roles may be dealt with more severely than boys who commit the same offense (Chesney-Lind, 1977). This supports the notion of the “evil woman” and “vengeful equity” hypothesis. The evil woman perspective suggests that girls are treated more harshly than boys who commit similar offenses because these girls have not only violated the law, but also have violated acceptable gender roles (Belknap, 2007). The vengeful equity perspective postulates that girls are treated as though they were boys “particularly when the outcome is punitive, in the name of equal justice” (Chesney-Lind, 2006, p. 18). For example, empirical studies of the processing of girls’ and boys’ cases between 1950 and the early 1970s found that girls who were charged with status offenses were treated more harshly than boys and girls who were charged with criminal offenses (Chesney-Lind, 1973; Datesman & Scarpetti, 1980; Odem & Schlossman, 1991).

MacDonald & Chesney-Lind (2001) examined the issues of gender equity in the administration of justice outcomes for juveniles in Hawaii between 1980 and 1991 (n= 85,692). They found that gender plays a significant role in decision making and court handling. Specifically, MacDonald & Chesney-Lind found that if a girl makes it through the initial processing stages (petitioning and adjudication), she is likely to be more harshly sanctioned than her male counterparts. While there appears to be evidence of gender equity in the earlier stages of the filter, girls are more likely to receive harsh dispositions for relatively minor offenses, such as running away from home. One limitation to this study, however, is that it utilized status and public offense cases in the analysis. Therefore, it is difficult to assess girls' involvement exclusively in status offending behavior and the courts' reactions.

Even though recent studies indicate a gender difference in outcomes, a review of the literature suggests that gender might not play as significant a role in juvenile justice processing today as it did in the past (Bishop & Frazier, 1992). However, there is very little contemporary research about the topic of gender and juvenile judicial processing trends (Guevara, Herz, & Spohn, 2006; MacDonald & Chesney Lind, 2001; Schaffer, 2006). One explanation for this change of focus might be the increased awareness regarding additional variables, such as race, that might influence processing outcomes.

Juvenile Justice and Race

Gender is not the only factor that can influence sentencing outcomes. Race plays a significant role in juvenile justice. Research has documented that

minority overrepresentation occurs at all stages of the juvenile justice system: referral, detention, formal charging, adjudication, and disposition (Belenko, Sprott, & Petersen, 2004; Bishop, 2004; Chapman, et al., 2006; Devine, Coolbaugh & Jenkins, 1998; Holley & van Vleet, 2006; Hsia, Bridges & McHale, 2004; Poe-Yamagata & Jones, 2000; Pope, Lovell & Hsia, 2002; Snyder & Sickmund, 2006) (see Appendix E for an overview of studies that investigated the effect of race in the juvenile court.) .

For example, Pope & Snyder (2003) conducted a study regarding race and arrest. They utilized a sample of 102,905 juvenile offenders from the 1997 and 1998 NIBRS master files from 17 states. An analysis of the data revealed that police officers were not more likely to arrest non-White juvenile offenders than White juvenile offenders; however, there was evidence to suggest that non-White offenders were more likely to be arrested when their victim was White than non-White.

Bishop (2004) examined national arrest data from 1994-1998 and found a disproportionate number of minority youth involved in all stages of the juvenile justice system. Bishop found that Black youth were 2.4 times more likely to be referred to court than White youth, 3.4 times more likely to be detained than White youth, more likely to be formally charged, less likely to receive probation, and more likely to be sentenced to out of home placement. The racial disparities were especially pronounced for drug offenses. Black youth arrested for drug offenses were more likely to be detained than White youth arrested for violent offenses. Similarly, Black youth were more likely to be formally charged for drug

offenses, and Black drug offenders were more likely to be sentenced to out of home placement (Bishop).

Similarly, Horowitz & Pottieger (1991) conducted an empirical study of gender and race bias in the handling of serious delinquent juveniles at three stages of the juvenile justice system: arrest, adjudication, and disposition. The study utilized 391 Black and White youth between 14 and 17 years of age (100 girls and 291 boys). The data were collected between December 1985 and November 1987 in Miami, Florida. Horowitz & Pottieger found that gender and race differences exist even when controlling for seriousness of offense and juvenile record. Their findings indicated that Black male youth were arrested on drug charges more often than Black female youth or White male and female youth. Girls (both White and Black) were arrested more often than their male counterparts for less serious offenses, such as prostitution. By contrast, boys were more likely to be arrested for felony offenses. Similarly, the adjudication rate for prostitution involving girls was significantly higher than the adjudication rate of boys for the same offense.

In regard to disposition, the researchers found a significant bias in favor of White boys. When arrested for drug charges, White girls who were first time offenders were especially likely to receive no punishment. White girls with three or more prior offenses were more likely than Black girls and White and Black boys to be incarcerated. For both the Black and White youth in the study, significantly more girls had been incarcerated than boys (Horowitz & Pottieger, 1991).

Bortner & Reed (1985) found that race and gender affect the decision to detain youth. Their analysis of 9,223 delinquency cases referred to juvenile court in 1977 revealed that, regardless of the offense type or the number of prior offenses, Black youth were more likely to be detained prior to trial than White youth. Additionally, girls were more likely to be detained than boys and, when taking offense severity into account, Black female delinquents were detained more readily than White female delinquents. Bortner & Reed also found that Black female offenders were more likely to be formally processed than either White or Black males or White female offenders, and when controlling for the seriousness of offense, girls (Black and White) generally received more severe dispositions than boys.

Miller (1994) found White female delinquents were more likely to be referred to a treatment facility than detention. By contrast, Black girls were more likely to be referred to detention because their behavior resulted from “inappropriate lifestyle choices”. White girls were perceived as delinquent because of low self esteem and peer pressure. However, while the three previous studies yield important results and indicate that race and gender bias exist in the juvenile justice system, it must be noted that these are older studies.

In a more recent study, Steffensmier et al. (1998) found that young Black male youth are sentenced more harshly than their White counterparts. They also found that the incarceration odds for White female offenders are significantly less than those for Black female offenders. Additionally, while older Black female youth have a lower incarceration rate than their younger counterparts, the

incarceration rate for both age groups is higher than the incarceration rate for White female youth. Steffensmier et al. also noted that Black girls received longer sentences than White girls.

MacDonald & Chesney-Lind (2001) conducted a longitudinal study of Hawaiian juvenile court records and found that both White girls and boys were significantly less likely than Hawaiian youth to receive formal dispositions. The authors suggest that ethnicity influences juvenile court processing in Hawaii.

Similarly, Kupchik (2006) examined the prosecution of 556 cases from New Jersey juvenile courts and 914 cases from criminal courts in New York between 1992 and 1993. The sample consisted of 16 year old defendants who were charged with aggravated assault, robbery, or burglary. Kupchik (2006) found that the likelihood of incarceration is greater in criminal court than in juvenile court, and that Blacks are more likely to be incarcerated when compared to White adolescents. However, Kupchik (2006) also found that transfer policies may be less effective than intended because cases are “filtered” by courtroom workgroups. Specifically, workgroup members take youthfulness into account when sentencing adolescents and do not implement criminal sentences as policy makers intended. He did not, however, separate girls and boys in his study. Therefore, it is not known if there is a difference based on gender.

Schaffer (2006) argues that the decisions regarding punishment in the juvenile court are influenced by gender, race, and social class. Guevara, Herz, and Spohn (2006) examined the role that race and gender have on juvenile justice decision making and found that gender and race influenced pre-

adjudication detention decisions and that female youth, in general, were less likely than male youth to be detained prior to adjudication.

However, Guevara et al. (2006) found that although they had a lower probability of pre-adjudication detention, White female youth did not always receive the most lenient outcomes. In a study of 1,388 case files from 1990 through 1994, Guevara et al. reported that White girls were more likely than non-White girls to receive an out of home placement. The researchers suggest that this is a result of White girls violating sex-role expectations, but also being perceived as amenable to treatment and rehabilitative services offered by out of home placements.

The effect of race on sentencing has not been consistently demonstrated. For example, a number of researchers have found that Black offenders receive harsher treatment than Whites (Bishop, 2004; Bortner & Reed, 1985; Engen et al., 2002; Lizotte, 1978; Petersilia, 1983; Spohn, 1990; Thornberry, 1973; Visher, 1983; Wolfgang, Figlio, & Sellin, 1972), while a few studies report that Black offenders receive less severe sentences (Bernstein et al., 1977; Levin, 1972). Other studies report mixed results (Dixon, 1995; Kramer & Steffensmeir, 1993). Engen et al. examined the effects of race in numerous empirical studies, and found that disproportionately punitive treatment is most likely associated with Black youth. Lieber & Mack (2003) found that race (specifically being Black) affects justice outcomes, whereas court outcomes for Whites are influenced more by gender and family status. Similarly, Leiber & Fox (2005) suggest that race directly influences detention and intake decisions.

Disproportionate Minority Confinement

Disproportionate minority confinement has been the focus of considerable research over the past two decades (Devine, Coolbaugh & Jenkins, 1998; Hsia, Bridges & McHale, 2004; Huizinga et al., 2007; Leiber, 2002; Poe-Yamagata & Jones, 2000; Pope, Lovell & Hsia, 2002), and the issue continues to receive attention (Cabaniss et al., 2007; Johnson, 2007; Kakar, 2006; Kempf-Leonard, 2007). There is evidence that DMC occurs in almost every state; and it is considered a national problem (Kempf-Leonard, 2007). Statistics reveal that Black youth, who accounted for 16% of the juvenile population in 2003, were involved in a disproportionate number of juvenile arrests (Snyder & Sickmund, 2006).

Macallair & Males (2004) found that offenders who were previously excluded from juvenile justice processing were caught in the system's "net widening" approach to decrease minority confinement in the 1990s. Net widening refers to policies or programs that result in more youth being brought into the system than previously would have entered (OJJDP, 1999). It occurs when youth who would otherwise be subjected to informal social controls (and not be involved in the system) are placed in programs and subjected to formal controls. Net widening increases the likelihood that youth will have to endure increasingly punitive controls that usually result in increased arrest rates (Elrod & Ryder, 2005; Steffenmeier et al., 2005). Studies have found that the juvenile court is more likely to formally charge Black youth than White youth, sentence

Black youth to incarceration, and give Black youth longer sentences than their White counterparts (Juszkiewicz, 2000; Poe-Yamagata & Jones, 2000).

The issue of “net widening” especially impacted minority female offenders and resulted in their rate of incarceration increasing more than any other group. Today, approximately two-thirds of the girls in the juvenile justice system are minorities, primarily Black and Latina (Short & Sharp, 2005).

Drakeford & Staples (2006) ascertain that:

...whether fairly or unfairly arrested, the representation of African American youth increases disproportionately through the formal and punitive decision making stages of the juvenile justice and criminal justice processes. Conversely, the representation of White juvenile offenders diminishes as they filter through the justice system: They are frequently diverted to less punitive programs. As a result, White youth tend to have greater access to more innovative options, including special education, mental health treatment services, mentoring, and other rehabilitative services (p. 55).

Drakeford & Staples (2006) also argue that this may not be simply a matter of racial bias within the system, but may actually be class bias. Minority youth are disproportionately impoverished and are more likely than White youth to live in a single parent home or live with neither parent. Additionally, minority youth also are more likely to fail in public school. As a result, juvenile justice professionals might consider minority youth a lost cause and reserve the more innovative options and programs for White youth (Drakeford & Staples, 2006; Wilson, 1997).

The Influence of Additional Variables

Some researchers suggest that the relationship of race, gender, and social class is pertinent to the study of bias and inequality within the criminal justice system (Drakeford & Staples, 2006; Joseph, 2006). This point of view often is referred to as intersectionality perspective. Intersectionality perspective argues that race/ethnicity, class, and gender interact and overlap. The dynamics of racism and class relation must be studied in order to understand sexism. Similarly, the dynamics of sex and class must be explored in order to understand racism, and the interaction of sex and race must be examined in order to understand discrimination based on class (Joseph, 2006). This approach studies the disempowerment of marginalized people, and “addresses the manner in which racial, sexist, class-based, and ethnic oppression create inequalities that determine the positions of individuals in society” (Joseph, 2006, p. 299). Daly (1994), for example, contends that gender differences in criminal justice processing are the result of the social location of women and that judges take into account family factors when sentencing a defendant.

Likewise, Armstrong & Rodriguez (2005) found that differential treatment in juvenile court was not simply attributed to the juvenile’s characteristics, but also related to additional variables. In their study of 65 counties in a Northeast state, Armstrong & Rodriguez (2005) concluded that the characteristics within and between counties, specifically the racial composition of the counties, accounted for the differential treatment of juveniles in the justice system.

Johnson and Scheulbe (1991) also found that the court jurisdiction had an influence on court dispositions. For example, they analyzed dispositions from urban and rural courts and hypothesized that the effects of gender on disposition outcomes would be larger (either positive or negative) in counties with greater conservative sex role attitudes. They found that urban courts, which were classified as having more liberal sex role attitudes, were more likely to dismiss cases involving girls but were more likely to incarcerate or grant probation to boys. Rural courts, which were considered to have conservative sex role attitudes, were more likely to place girls on probation and dismiss boys. Their results indicate that urban courts exhibit some degree of chivalry in court dispositions. They further suggest that gender bias may be present based on court location.

As previously mentioned, Lieber & Mack (2003) found that race affects justice outcomes for Blacks, but gender and family status influence court outcomes for White youth. Leiber & Mack contend that the effects of race, gender, and social status have been studied within the adult population, but the literature and research examining the characteristics in juvenile justice decision making are lacking. The researchers proposed that the effects of race on decision making may be conditioned by gender and family status. After reviewing a logistical regression of juvenile court cases (N= 6,933) in Iowa over a 12 year period (1981-1992), Leiber & Mack (2003) found that leniency was afforded to White female youth from single family homes, but not White males or Black youth. Additionally, the leniency was limited to the earlier stages of court

processing because White female youth from single family homes then appear to receive more severe treatment than their White counterparts at judicial disposition.

The results support Belknap's (2007) evil woman hypothesis that female offenders are punished harshly for violating appropriate gender norms.

According to Leiber & Mack (2003), "These results appear to be consistent with traditional sex-role perspective that argues that decision-makers treat females more harshly than males to enforce stereotypical notions of proper female behavior and to protect female sexuality" (p. 59).

Additionally, Leiber & Mack (2003) found that Black youth were less likely than White youth to participate in diversion programs. The researchers suggest that this might be because decision-makers do not view Black youth as being suitable for rehabilitation or that there are simply a lack of diversion programs for Black youth. Similarly, Black youth from single family households have an increased chance of receiving more severe outcomes at intake. Further research conducted by Leiber & Fox (2005) found that White youth from single parent households had an increased chance of being released (by 6%), but Black youth from single parent households had a decreased chance of being released at intake (by 6%).

It is evident from the research that several "extra legal" variables, such as race, gender, and family status, interact and affect justice outcomes (Albonetti, 1987; Armstrong & Rodriguez, 2005; Bortner & Reed, 1989; Conley, 1994; Lemmon et al., 2005; Scarpitti & Stephenson, 1971). Extra legal variables need

to be examined further in order to fully understand the influence that they have on sentencing decisions, specifically judicial waiver decisions.

Summary

Historically, girls were referred to the juvenile justice system for status offenses and research revealed that girls received harsh penalties for their transgressions. However, research also has found that girls who were referred to court for delinquent offenses instead of status offenses, received less severe sanctions than delinquent boys. Earlier research indicated that female delinquents were less likely than male delinquents to be formally charged with criminal offenses, and if they were charged for a criminal offense, they were less likely to be incarcerated or institutionalized (Chesney Lind, 1973; Cohen & Klugel, 1979; Datesman & Scarpitti; 1980).

Similarly, the effects of extra legal variables, such as race, family status, and court jurisdiction, have been found to affect court dispositions for girls. While research has shown that these variables influence judicial decisions, the direction and impact have not been adequately assessed. The effect of legal and extra legal variables on sentencing decisions continues to be debated.

Present Study

The inconsistency of findings in prior research indicates that further research about gender disparity in the juvenile justice system is warranted. The literature suggests that the juvenile courts have not completely dismissed or eliminated the gender bias and/or racial bias that has existed in the past 109 years. Given the extent to which gender bias has been found in the sentencing

and processing of status offenders, it is important for research to explore the implications of differential treatment in the processing and sentencing of girls and boys charged with delinquency offenses.

As noted previously, the literature about girls and minorities in regard to the juvenile justice system and sentencing outcomes is limited. Chesney-Lind (2006) suggests a need for feminist criminology to maintain a focus on the characteristics of race and gender in particular. She suggests, "Something is going on, and it is not just about race or gender; it is about both- a sinister synergy that clearly needs to be carefully documented and challenged" (p. 10). More research also is needed about the topics of race and gender in juvenile justice. As noted earlier, girls are the fastest growing population in the juvenile justice system, and it is useful to actively examine their representation and their treatment.

The next chapter discusses the types of waiver practices available, the waiver techniques utilized in Arizona, and the rationale for transferring juveniles to adult court. In addition to reviewing the deterrence literature, the following chapter also examines prior waiver literature and the effects that extra-legal variables have on waiver decisions. It appears that minority youths are overrepresented in transfer proceedings; however, there is no research that explores the relationship of gender and race in transfer proceedings.

The current research proposes to examine these characteristics (race and gender) as variables in relation to judicial waiver. The literature is lacking in this respect; therefore, the current study will augment the literature about female

juvenile court processing and the practice of treating juveniles as adults within the courts.

CHAPTER III

TREATING JUVENILES AS ADULTS

Waiver Practices

During the past 20 years, nearly every state revised its laws or adopted new legislation allowing juvenile offenders to be transferred from juvenile court to criminal court, where they are tried as adults (Feld, 2001; Kupchik, 2006; Sanborn, 2004; Snyder & Sickmund, 1999; Tatum, 2003). Legislative initiatives facilitating juvenile prosecution in criminal court are viewed as a response to the escalation of juvenile violent crime and the perception that juvenile courts were ineffective in dealing with these offenders (Gelles, 1997). By implementing transfer procedures, policy makers seek to impose greater punishment for youthful offenders who commit serious transgressions (Merlo, Benekos & Cook, 1997; Zimring, 1998). Theoretically, transfer policies are reserved for youth who are beyond the reach of the rehabilitative services offered by the juvenile justice system and are aimed at deterring future juvenile crime (Bishop & Frazier, 1991; Steiner & Wright, 2006).

In 1994, over 12,000 juveniles were waived to adult criminal court (Gelles, 1997). According to the OJJDP (2007), between 1984 and 1994, the number of cases that were judicially waived increased 77%. This number decreased in subsequent years and was 29% lower in 2004 than in 1994, the peak year for judicial waiver. While property crimes represented the largest share of waived cases in the early 1990s, crimes against persons represented 43% of waived cases (the largest share) in 2004 (OJJDP, 2007). Though still relatively low in

number, the percentage of girls waived to adult court increased from 5% to 7% between 1985 and 2002 (Stahl et al., 2005).

Waiver Laws

The mechanisms to transfer youth to criminal court and the number of youth transferred have increased dramatically over the past three decades (Ainsworth, 1991). Transfer was once reserved for the “worst juveniles”, or those youth who were charged with the most serious offenses and who already had a lengthy record. These youth were considered dangerous and a threat to society (Champion, 1989; Fagan & Deschenes, 1990). Recently, waivers are being used to transfer juveniles who are accused of committing less severe offenses and who have little or no prior record (Ainsworth, 1991). Between 1992 and 1997, 44 states enacted legislation to expedite the transfer of young offenders from juvenile court to prosecution in criminal court (Children’s Action Alliance, 2003). In 1996, Arizona was among the states that changed the transfer policy.

There are three mechanisms by which a juvenile can be transferred to adult criminal court: judicial waiver, legislative waiver, and prosecutorial waiver. As noted earlier, Arizona currently utilizes all three methods.

Judicial Waiver- Discretionary, Presumptive, and Mandatory

Historically, judicial waiver has been the most common transfer method (Feld, 2001; Whitebread & Batey, 1977). Judicial waiver affords the juvenile court judge the discretion and authority to transfer a case to adult criminal court (Feld, 1993, 2001; Myers, 2005; Steiner, Hemmens & Bell, 2006; Steiner & Wright, 2006). Judges demonstrate their discretion on a case by case basis. In

this way, judicial waiver provides individualized justice for juvenile offenders (Fagan & Deschenes, 1990; Feld, 1993, 2001). There are three types of judicial waiver, discretionary, presumptive, and mandatory.

Discretionary (regular) transfer allows a judge to transfer a juvenile from juvenile court to adult criminal court (Sanborn, 2004). With this type of transfer, the burden of proof rests with the state and the prosecutor must confirm that the juvenile is not amenable to treatment (Sanborn, 2004). In *Kent v. United States* (383 U.S. 541, 566-67 [1966]), the Supreme Court outlined threshold criteria that must be met before a court can consider waiving a case. These waiver statutes typically include minimum age, specified type of offense, a sufficiently serious prior record, or a combination of the three (Griffin et al., 1998).

In Arizona, eight is the minimum age specified for discretionary waiver. Arizona Rev. Statute Sec. 8-327 states that the juvenile court must hold a hearing to consider transferring the jurisdiction of a child accused of committing any felony. The court can transfer the case if there is a preponderance of evidence that the youth committed the alleged offense and if the safety of the public is best served by the transfer (Griffin, 2005; Griffin et al., 1998.).

Presumptive waiver involves shifting the burden of proof from the State to the defendant (Sanborn, 2004). It is presumptive because it is presumed that it will occur unless the youth can meet the burden of proof and provide justifiable reason to remain in juvenile court (Sanborn, 2004). If the youth is unable to show just cause or sufficient reason why the case should be tried in juvenile court, the case will be transferred and tried in adult court.

Arizona enacted a presumptive waiver mechanism in 1997. Arizona Rules of Procedure, Juvenile Court, Rule 14 states that:

While subsequently enacted statutes have largely superseded a provision of an older court rule that created a presumption in favor of transfer under specified conditions, the provision is still technically applicable in the case of a juvenile of at least 16 years of age who (1) is charged with certain types of class 3 or 4 felonies and (2) has at least four previous delinquency adjudications, at least one for a serious offense, but (3) is not otherwise subject to prosecution as an adult under the direct file or statutory exclusion laws. In such a case, it is presumed that the public safety or public interest would best be served by a transfer. The presumption may be rebutted by evidence that the public will be adequately protected and the juvenile's rehabilitation better served if the case is retained (Griffin et al., 1998).

The third type of judicial waiver is mandatory waiver. Mandatory waiver specifies that a juvenile judge must automatically transfer to adult court juvenile offenders who meet certain criteria, such as age and current offense (Griffin et al., 1998). In these cases, the role of the judge is simply to confirm that the waiver criteria are met and then to transfer the case to adult court. Mandatory waiver attempts to remove all discretionary powers from the juvenile court judge in transfer proceedings (Jordan, 2005). Arizona does not utilize this type of transfer mechanism.

Direct File

Prosecutorial waiver also is referred to as “Direct File” and “Concurrent Jurisdiction.” With this waiver mechanism, the legislature grants a prosecutor the discretion to determine in which court to file charges against the juvenile (Del Carmen, Parker & Reddington, 1998; Feld, 1998, 2001; Steiner, Hemmens & Bell, 2006). The prosecutor, or district attorney, can choose to file charges in juvenile court or adult criminal court. This procedure does not require a transfer hearing, and the defense is not accorded the opportunity to present evidence in an attempt to avoid the transfer (Feld, 2001; Sanborn, 2004). In Arizona, the county attorney can file adult charges on a juvenile who is 14 or older and considered a chronic offender, and/or a juvenile who is 14 or older and has been charged with a specified offense (Children’s Action Alliance, 2003).

Depending on the state, prosecutors use various criteria for filing charges directly in adult court (Feld, 2001; Jordan, 2005). While not commonly utilized, it is the most controversial waiver method because of the wide discretion granted to court officials who often are influenced by crime control policies (Frost Clausel & Bonnie, 2000; Jordan, 2005; Myers, 2005). Opponents argue that prosecutors lack procedural safeguards, do not have the benefit of waiver hearings, and are not afforded the juvenile’s personal information to determine those who are amenable to treatment (Bishop & Frazier, 1991; Feld, 2000, 2001).

Jordan (2005) contends that prosecutors may be more concerned with retribution rather than rehabilitation and focus on the punishment rather than the original *parens patriae* philosophy of the juvenile court. It further is suggested

that since prosecutors act in the interest of the state, they also may be more apt to place the interests of the state above the interests of the juvenile (Sridharan, Greenfield & Blakely, 2004).

Statutory Exclusion

Statutory waiver also is known as legislative waiver. This procedure identifies certain offenses which have been mandated by state law to be excluded from juvenile court jurisdiction (Steiner, Hemmens & Bell, 2006; Steiner & Wright, 2006). It is utilized as a method to decrease or eliminate the discretionary powers of judges and prosecutors (Feld, 2001; Griffin, 2003; Myers, 2005; Sanborn, 2004; Steiner, Hemmens & Bell, 2006). Legislatures are responsible for creating court jurisdiction and can modify the specific age and/or offense criteria (Feld, 1993, 2001; Torbet & Szymanski, 1998). In this way, the legislature is able to focus on the offense instead of the offender and enact policies that promote retribution instead of rehabilitation (Feld, 1998). Statutory exclusion does not take into account the individualized needs and circumstances of the juvenile offender but rather enforces sanctions based only on the offense committed. For example, in Arizona, the legislature mandated that any juvenile 15 or older charged with murder, forcible sexual assault, armed robbery, or other violent offenses be prosecuted as an adult (Children's Action Alliance, 2003).

Reverse Waiver

Many states recognize the need for greater flexibility in order to deal with the increased number of young offenders in the criminal justice system (Feld, 2001). Seventeen states authorize reverse waiver statutes (Sanborn, 2004).

Reverse waiver permits a criminal court judge or prosecutor to transfer a case back to juvenile court for adjudication or disposition (Feld, 2001; Sanborn, 2004). It involves an examination of the youth's amenability to treatment; but the burden of proof rests with the juvenile (Sanborn, 2004). If the criminal court judge or prosecutor believes that the youth is better served through the juvenile court or more appropriate for juvenile court processing, the case may be decertified to the juvenile court (Jordan & Myers, 2007; Marczyk, Heilbrun, Lander & Dematteo, 2005).

In most instances, reverse waiver is limited to prosecutorial transfer cases (Sanborn, 2004). It is a mechanism by which criminal court judges can make an individualized determination about the best interests of the juvenile and evaluate a juvenile's suitability for adult prosecution and sanctioning (Griffin, 2003). If the juvenile will not benefit from the treatment of the juvenile court, the case will remain under the jurisdiction of the criminal court (Jordan, 2005).

In Arizona, if the county attorney has transferred a case to adult court based on the allegation that the juvenile is a "chronic felony offender" (a youth with two or more previous adjudications for offenses that would be considered felonies if committed by an adult), the youth may demand a post arraignment pre-trial hearing to determine if s/he qualifies as a chronic offender. Prosecutors must then establish the case by a preponderance of evidence or it is transferred back to juvenile court (Griffin et al., 1998).

Once an Adult/ Always an Adult

“Once an adult/ always an adult” provisions exist in 34 states (Bishop, 1999, 2000; Mears, 2003; Merlo, Benekos & Cook; 1997; Myers, 2005; Torbet & Szymanski, 1998). This provision forces a previously transferred youth to be tried in criminal court and to be prosecuted as an adult for each subsequent new offense (Griffin, 2003; Torbet & Szymanski). The rationale is that the young offender was previously found not amenable to treatment in the juvenile court and is no longer afforded that consideration (Jordan, 2005). Although most states (including Arizona) apply this provision to all subsequent offenses, four states (Maryland, Michigan, Minnesota, and Texas) limit it to subsequent felonies, while Iowa and California require the offender to be at least 16 years of age in order for the law to apply (Myers, 2005).

Arizona Waiver Law

After years of relative stability in the juvenile crime rate, the number of arrests for violent crime substantially increased between 1988 and 1994 (Snyder, 2004). Following a peak in 1994, these arrests have declined each year. Similarly, at the national level, arrests for adult crime, serious violent crimes (rape, robbery, aggravated assault, and homicide) and property crimes (burglary, theft, and motor vehicle theft), have declined since 1993 (BJS, 2006). In the years between 1993 and 2002, the decrease in the number of violent crime arrests was greater for juveniles than for adults (Snyder, 2004). However, the peak in juvenile arrests in 1994 focused the nation’s attention on the problem of juvenile violence. Politicians responded with get tough legislation as a way to “do

something” about juvenile crime (Benekos & Merlo, 2004; Myers, 2005; Podkopacz & Feld, 2001; Snyder, 2004).

Prior to 1996, juvenile offenders in Arizona were transferred to adult court through judicial waiver. Judicial waiver means that the juvenile court judge decides to transfer the case only after it has gone through a transfer hearing. Until 1996, Arizona utilized only discretionary and presumptive waiver (Sanborn, 2004; Torbet & Szymanski, 1998).

The Arizona Rules of Procedure for the Juvenile Court (Rules 12, 13 and 14) stipulate the process for transfer. Although the juvenile court normally retains jurisdiction until age 18, a juvenile may be transferred to adult criminal court before his or her 18th birthday. In the 1980s, Rule 12 of the Arizona Juvenile Court Rules of Procedure authorized the county attorney to file a motion with the clerk of the court to request that the court waive jurisdiction of the case and transfer the child to the appropriate court for criminal prosecution. This motion had to be filed prior to adjudication and only if the county attorney believed that the child was appropriate for the adult court.

Rule 14 of the Arizona Juvenile Court Rules of Procedure outlined the determinants for the transfer proceedings. If the court determined that there was probable cause that an offense had been committed and that the child committed it and that the public safety would be better served by transferring the child to criminal court, the court was required to consider eight factors:

1. the seriousness of the alleged offense and whether it was committed in an aggressive, violent, premeditated or willful manner;

2. whether the alleged offense was against person or property, and whether personal injury resulted;
3. the sophistication and maturity of the child as determined by consideration of the child's age, intelligence, education, environment, emotional attitude, and pattern of living;
4. the child's physical, mental, and emotional condition;
5. the record and previous history of the child, including previous contacts with juvenile courts and law enforcement agencies in this and other jurisdictions, prior periods of probation in any court and their results, and any prior commitments to juvenile residential placements and secure institutions;
6. whether the child has previously been transferred for criminal prosecution in this or any other state;
7. the prospects for adequate protection of the public and the likelihood of reasonable rehabilitation of the child by the use of services and facilities currently available to juvenile court; and
8. any other factors which appear to be relevant to the determination of the transfer issue (AZ ST JUV CT Rule 14, effective March 1, 1984, p. 450-451).

This rule was amended in 1994 in several ways. The amended rule added:

whether the child used a deadly weapon or dangerous instrument in the commission of the alleged offense; whether another person sustained serious physical injury as the result of the actions of the child; whether the

child committed the alleged offense while participating in, assisting, promoting, or furthering the interests of a criminal street gang, syndicate, or racketeering enterprise; and whether the child has been previously committed to the Department of Youth Treatment and Rehabilitation for a felony offense and has committed another felony offense while a ward of that department (AZ ST JUV Rule 14, effective December 1, 1994, p. 240-241).

Additionally, the rule added a clause which presumed that the public's safety and interest would best be served by transferring the youth to criminal prosecution if the youth were at least sixteen years of age at the time of the alleged offense and either committed first degree murder, second degree murder, aggravated assault with a deadly weapon causing serious physical injury, sexual assault involving a deadly weapon with the intention or infliction of bodily injury, or a class 1, 2, 3 or 4 felony and had four prior delinquent adjudications with at least one prior involving a serious offense. This amendment to the Rules of Procedure establishes "presumptive" transfer for juveniles who fit this category. However, the statute also stipulates that the presumption may be refuted if it can be proven that the public will be protected through retention of the juvenile court jurisdiction and that the juvenile's treatment and rehabilitation would best occur in the juvenile justice system. It is assumed that the transfer amendments in 1994 were a reaction to the increasing rates of youth crime and violence (Snyder & Sickmund, 2006).

Arizona in the 1990s

Arizona, like the rest of the nation, was concerned with increasingly violent youth and a perceived epidemic of juvenile crime. Blumstein (1995) contended that the surge of violence was primarily fueled by juveniles' use of drugs and their easy access to firearms and weapons. In 1992, the media reported that juvenile offenders were implicated in an unprecedented number of homicides in the city of Tucson (Cook, 1993). Similarly, gang related crimes increased and the Tucson Police Department identified nearly 3,000 known gang members in the area. Newspapers reported that the number of gang members more than doubled in Arizona from 1990 to 1992. As a result, Governor Symington proposed a sweeping criminal justice reform plan. One aspect targeted youth and guns and proposed to regulate possession of weapons by minors (Cook, 1993). The state attorney general also expressed concern about addressing juvenile crime and gang infiltration by prohibiting any juvenile from carrying a handgun in Arizona. The mayors of Tucson, Phoenix, and five Phoenix-area cities also pledged to work together to battle juvenile and gang crimes (Rawlinson, 1993).

At the end of 1993, violent crime was the focus of tremendous attention on the national level. It was also on the agenda of the Clinton administration and Congress as exemplified by the passage of The Violent Crime Control and Law Enforcement Act (VCCLEA) of 1994. In Arizona, violent juvenile crime was a focal point in the political arena as well (Beal, 1993). The increase of youth crime and the public's fear of youth crime were apparent in an article in *The Arizona Daily Star*. The newspaper reported that young offenders were not being

rehabilitated and that more than 50 percent of juvenile offenders released from incarceration would recidivate. Popyk (1994) contended that “the juvenile court system was not designed to handle today's serious brand of young criminals” because the youth of today are more brutal than they were ten years ago (Popyk, 1994, p. 11A). The same year, the Governor of Arizona, Fife Symington, signed two major crime bills, one of which was the juvenile-crime bill. Tom Smith, the chairman of the Judiciary House committee reported that juveniles were committing the most heinous crimes. Governor Symington also commented that he was interested in pursuing tougher measures against juvenile criminals, including automatically transferring violent juveniles to adult court (Popyk, 1994).

In 1995, gangs and guns were still an issue. *The Arizona Daily Star* published a story about guns, gangs, drugs, and the rise in the youth death rate. Haussler (1995a) reported that the number of murdered juveniles in 1995 had surpassed the previous year's total and that by midyear, three juveniles already had been charged with murder. One of the individuals charged was a 12 year old girl, who was the youngest person in the county to be charged with murder (Associated Press, 1995, p.1B). These news accounts perpetuated the fear that the problem was getting worse, and that tougher measures needed to be implemented in the handling of juvenile offenders. Many believed that the juvenile court did not punish juveniles adequately and that the system “was not designed to handle today's serious brand of young criminals” (Popyk, 1994, 11A).

Governor Symington referred to juvenile offenders in Arizona as “the new ‘warrior class’ of young thugs” and informed the residents of Arizona that they

had plenty to fear from the increase of juvenile violence (Associated Press, 1995, p.2E). He proposed increasing the number of juveniles transferred to adult court and granting the county attorney authority to transfer offenders.

The Governor's proposition was widely debated in Arizona. In July 1996, a bipartisan committee called the Committee for Juvenile Justice Reform, launched a statewide campaign and urged voters to defeat Governor Symington's juvenile justice initiative on the November ballot. The Committee called the initiative "short sighted" and argued that it would not deter crime or decrease the juvenile crime rate (Cook, 1996a). Additionally, the Judicial Ethics Advisory Committee gave Arizona judges permission to campaign against the initiative. Judges were free to contribute to campaigns and speak at public meetings about the initiative, but they were not allowed to appear in television commercials or campaign against candidates who supported the proposal (Fischer, 1996a). Governor Symington responded by noting that, "If the judges and the bar (association) intend to go on engaging in these kinds of political activities, I will seek legislation to make it an impeachable offense" (Fischer, 1996a, p.1B).

Further opposition to the initiative was led by the Arizona Attorney General. Attorney General Grant Woods contested Proposition 102 and reported that it was a dangerous proposal that would only hurt children (Cook, 1996b). Opponents of Proposition 102 also included U.S. Senator Patti Nolan, former Senator Barry Goldwater, former Governor Rose Mofford, and Maricopa County Attorney Rick Romley (Cook, 1996b). They argued that the initiative only

exacerbated people's fear of juvenile crime and would do nothing to protect the public. They further contended that control over juvenile matters should remain within the realm of the judicial branch and not in the hands of state bureaucrats (Cook, 1996b). Clearly, advocates and opponents from both political parties and with liberal and conservative perspectives had strong opinions about the issue of juvenile justice.

Despite the heated opposition and the decline of juvenile crime after 1994, Arizona legislators amended the State's transfer laws. Arizona's age jurisdiction and procedures changed in 1996 as a result of Proposition 102, the Stop Juvenile Crime Initiative, which became effective July 21, 1997 (Torbet & Szymanski, 1998). Proposition 102 amended the Arizona Constitution and authorized the legislature to enact procedural and substantive laws governing all proceedings affecting juveniles who engage in unlawful acts (Ariz. Const. Art. IV, pt2, §§22). The amendment was required to prevent the new transfer laws from being challenged as unconstitutional (Torbet and Szymanski, 1998), and it also has been argued that the laws were enacted to provide a more severe response to juvenile crime (*State v. Davolt*, 207 Ariz. 191 ¶¶ 100, 84 P.3d 456, 479 [2004]).

Proposition 102 became Senate Bill (S.) 1446, the Juvenile Justice Reform Act, and it established the following: Statutory exclusion for juveniles age 15 and older who were charged with a violent crime or who had two prior felony adjudications and were charged with a third felony; direct file for any 14 year old who was charged with a violent crime and charged with a third felony; reverse waiver; mandatory sentencing for juveniles age 14 and older adjudicated for any

second felony in juvenile court; and once an adult always an adult guidelines (Torbet & Szymanski, 1998, p. 6). The bill also mandated that proceedings and records be open to the public and created a chronic offender classification (Torbet & Szymanski).

Title 13, Chapter 5 of the Arizona Revised Statutes (A.R.S. 13-501) provides the definitions for persons under 18 who are referred to court with felony charges. Section A lists the offenses by which the district attorney can bring criminal prosecution against a fifteen, sixteen, or seventeen year old in the same manner as an adult. These offenses include first and second degree murder, forcible sexual assault, armed robbery, any felony offense committed by a chronic felony offender, and any other violent felony offense. A.R.S. §13-501 also grants the provisions by which the county attorney can criminally prosecute a fourteen year old and provides the manner in which the county attorney can establish a juvenile as a chronic offender.

Proposition 102 was not the only legislative change to occur during the decade. Every year, numerous state statutes are revised and annotated. During the 1990s, Arizona revised the criminal code for drug offenses, weapons and explosives (the negligent discharge of firearms within city limits was dubbed "Shannon's Law" in 2000), and school attendance. A.R.S. § 13-3405 is the Arizona Criminal Code for drug offenses concerning marijuana. In 1995, the amount of marijuana that was considered a felony changed with regard to the class of felony. Before 1995, any amount of marijuana between one and eight

pounds was considered a class 5 felony. This law was revised to state that any amount over four pounds constituted a class 2 felony.

Similarly, A.R.S. § 13-3407 states that a person shall not knowingly possess, use, sell, or manufacture dangerous drugs. In 1996, the drug offense violations were changed from one class of felony to another. Possession or use of dangerous drugs was changed from a class 3 felony to a class 2 felony, possession of a dangerous drug for sale was changed from a class 4 felony to a class 3 felony, and possession of equipment for the purpose of manufacturing drugs was changed from a class 3 to a class 2 felony. In 1997, amphetamines were added to the list of dangerous drugs that were considered a felony rather than a misdemeanor (A.R.S. § 13-3407).

Arizona legislators also revised statutes to authorize school districts to expel a student if he/she brought a firearm on school grounds. In 2000, a section that stated, "school districts may develop a program that will allow pupils to perform community service as an alternative to suspension" was removed (A.R.S. § 15-841). In the same year, provisions for expulsion for students who threatened an educational institution were added.

However, these amendments did not garner headlines or appear to be as confrontational as Proposition 102. In passing Proposition 102, it was said that voters "intended to speed the pace and augment the effectiveness of the juvenile justice system in Arizona, and to respond more stringently to juvenile crime when appropriate" (*In re Cameron T.* (App. Div.1 1997) 190 Ariz. 456, 949 P.2d 545). In 1998, 1,076 juveniles were transferred to adult court. This represents 7% of

all youth who received dispositions during that year in Arizona (Children's Action Alliance, 2003). This number has decreased in subsequent years with 575, or 3.8% transferred to adult court in 2002 (Children's Action Alliance, 2003). By 2004, more than 1,300 juveniles had been sent to adult prison as opponents continued to contest the law (Villa, 2004).

Deterrence

No study of crime policy is complete without reviewing the purpose of official policies and punishments, and the effects that those sanctions have on the prevention of crime. Deterrence theorists argue that people are rational and pursue their own interests while maximizing their pleasure and minimizing their pain (Andenaes, 1974; Becker, 1968; Cook, 1986; Cullen & Agnew, 2003; Hirschi, 1986; Nagin, 1998; Zimring & Hawkins, 1974). This perspective asserts that the best way to prevent crime is to offer punishments that are swift, certain, and proportionately severe (Andenaes, 1974; Beccaria, 1963; Gibbs, 1968; Tittle, 1969; Nagin, 1998; Nagin & Pogarsky, 2001; Zimring & Hawkins, 1974). While the current research intends to examine the effect that judicial waiver policies have on female and minority youth, and not analyze the impact that those policies have on the deterrence of crime, it is important to provide a foundation for the rationale of such policies.

Deterrence theory is rooted in the classical school of criminology and is more than 200 years old. Cesare Beccaria (1963) is the person most commonly associated with deterrence theory. He proposed that punishment should be fair

and equal for everyone while also being swift, certain, and proportionately severe.

Theoretically, deterrence works on two levels, general and specific. General deterrence suggests that perceptions of a certain punishment associated with a criminal activity will deter individuals from crime. It is the fear of punishment for offending because one has witnessed what happened to those who were caught offending. Specific deterrence is experiencing the sanction in order to prevent future offending. Specific deterrence suggests that criminals can be prevented from committing crime by being physically removed from the community. General deterrence is thought to affect individuals in the general public who have not offended or experienced punishment while specific deterrence is applied to those individuals who have been apprehended and experienced punishment in order to prevent future offending (Cavendar, 1979; Myers, 2005; Nagin, 1998).

General deterrence asserts that people will engage in deviant behavior if they do not fear being caught and punished. Deterrence theory focuses on reducing the probability of deviance and crime in the general population by producing the image that deviating from the norms or laws, or engaging in “negative” behavior, will receive attention and punishment (Keel, 2005). It focuses on the likelihood of future behavior taking place, and seeks to prevent that behavior from occurring by influencing rational decision making processes. General deterrence crime control activities include drunk-driving crackdowns, highly visible and publicized notices of laws and policies (such as fines for

littering or prosecution for shoplifters), and the death penalty (Keel, 2005; MacKenzie, 2002; Williams & Hawkins, 1986).

Numerous studies have attempted to determine if general deterrence has an effect on crime- that is, whether increasing the certainty and the severity of punishment reduces crime in the general population (Gibbs, 1968; Gibbs, 1975; Nagin, 1998; Tittle, 1969). It is suggested that increasing the certainty of the punishment might have a moderate effect on crime.

Specific deterrence focuses on punishing known offenders in order to prevent them from continued law breaking behavior. It is believed that punishment can be used as a negative sanction to extinguish existing behavior (Keel, 2005; Nagin, 1998). Specific deterrence crime control policies include scared straight programs, mandatory arrest for certain offenses, corporal punishment, shock probation, and chain gangs (Keel, 2005; MacKenzie, 2002).

However, research suggests that more severe punishments are no more effective than less severe punishments. After an extensive review of court and correctional programs designed to prevent crime, MacKenzie (2002) concluded that, "Deterrence programs that increase the punitive impact of the sentence, such as Scared Straight or shock probation, do not reduce crime. Reviews of the literature on these programs...continually show that these programs are not effective in preventing crime" (p.387). In fact, some studies suggest that more severe punishments might actually increase the likelihood of subsequent criminal behavior rather than decreasing it (Agnew, 2001; Cullen et al., 1996; Lipsey, 1992; Paternoster & Piquero, 1995). Additionally, research also finds that

arrested persons have higher rates of subsequent crime than persons who have not been arrested (Agnew). Therefore, it is suggested that punishing someone or punishing them more severely does not reduce crime overall (Cullen & Agnew, 2003). However, empirical research regarding specific deterrence on juvenile offenders is somewhat limited (Brown, Miller & Jenkins, 1987; Brown, Miller, Jenkins, & Rhodes, 1989; Brown, Miller, Jenkins, & Rhodes, 1991; Gottfredson & Barton, 1993; Jordan, 2005; Smith & Gartlin, 1989).

Several studies conducted by Brown and his colleagues reveal support for specific deterrence in juvenile court. Brown et al. (1987) assessed the effect of formal sanctions on future offending. They examined 500 delinquent youth randomly selected from juvenile justice probation files between 1960 and 1975 in Dauphin County, Pennsylvania. They obtained follow up data for 476 juveniles from the sample and found that those who received formal sanctions at their first referral were less likely than youth who were not sanctioned until later referrals to be incarcerated as adults.

Similarly, Smith and Gartlin (1989) also conducted a longitudinal study and found support for specific deterrence. They analyzed the police contact histories in a sample of 325 male youth who were born in Racine, Wisconsin in 1949. They were interested in whether police contact amplified or deterred future criminal activity. Smith and Gartlin found that as the number of arrests increased, the rate of subsequent police contacts decreased. However, the relationship was not as strong with repeat chronic offenders as it was with non-chronic offenders. Additionally, the researchers were not able to disaggregate

police contacts by offense type, which influenced the type of punishment received.

It would appear that research lends some support for specific deterrence. It is assumed that offenders refrain from committing future criminal acts because of their previous punishment. However, according to Beccaria, punishment should be swift, certain, and proportionately severe. The aforementioned studies did not test these components and merely compared sanctions with non-sanctions. Additionally, research that tests the deterrent effect of waiver decisions has found conflicting results.

Transfer as Deterrence

Research regarding the deterrent effects of waiver appears to be ambiguous. A study conducted by Jensen and Metsger (1994) found that waiver practices have no effect on juvenile crime. Jensen and Metsger conducted a time series analysis of five years before and after 1981 when Idaho passed its automatic transfer statute. The results revealed a 13% increase in arrest rates for violent juvenile crime following the implementation of the transfer legislation.

Conversely, Levitt (1998) found a decline in juvenile crime rates after states lowered the age at which criminal courts assume jurisdiction from 18 to 17. Using a multi-state economic analysis from 1978 to 1993, Levitt discovered that violent crime decreased nearly 25% and property crime decreased 10% to 15%. The decrease in crime was more substantial in states that offered the greatest severity in punishment between sanctions in the juvenile court and criminal court. The study results suggest that transfer laws provide a moderate deterrent effect.

Transfer policies are intended to be an effective deterrent against serious juvenile crime (Tatum, 2003). However, research suggests that transfer legislation has not successfully deterred youth. Studies indicate a higher recidivism rate for youth who are transferred to adult court than youth who remain and are processed in juvenile court (Bishop et al., 1996; Myers, 2001; Podkopacz & Feld, 1996; Stack, 2001). Recidivism would suggest these laws were not a deterrent. Myers (2001) conducted a study of 557 violent youth (138 who were transferred) in Pennsylvania. Myers found that the transferred youth were rearrested more quickly after their return to the community than those who remained in the juvenile justice system.

Likewise, Stack (2001) reported that the transfer law in Pennsylvania was ineffective. Stack examined 129 Allegheny youth who were transferred in 1996 and found that transferred youth were more likely to commit new offenses and more serious crimes than those who remained in juvenile court. Additionally, most of the youth convicted in adult court received sentences of less than one year instead of the five year sentence outlined by the transfer legislation.

Moreover, Stack's (2001) study revealed that minority youth, specifically Black youth, were disproportionately affected by the law. Black youth also received prison sentences nearly twice as long as sentences imposed on White youth. According to Tatum (2003), the association of race with juvenile crime and violence has allowed transfer legislation to target minority youth.

Steiner, Hemmens, and Bell (2006) analyzed the deterrent effect of legislative waiver in 22 states. By utilizing an interrupted time series design,

Steiner et al. (2006) were able to examine monthly juvenile arrest data five years prior to the law going into effect and five years after the law went into effect in each state. Steiner et al. found that only two states experienced a decline in violent juvenile crime after the legislative waiver went into effect. Their study found no deterrent effect overall which indicates that juveniles are not generally deterred by the possibility of being waived to adult court. Therefore, if waiver does not serve to prevent crime, it is possible that it serves merely as punishment.

Transfer as Punishment

Transferring juveniles to adult criminal court corresponds well with the view that “formal punishments have a deterrent effect but also that harsher sanctions are needed” (Myers, 2005, p. 105). Fagan and Deschenes (1990) note that the purpose of waiver is “to punish more severely violent juvenile offenders through longer terms of incarceration” (p. 343). According to Bazemore and Feder (1989), juvenile court judges agree that incapacitation is an important goal in juvenile justice and believe that confinement offers a strong specific deterrent aspect. It is suggested that adult court sanctions offer an appropriate reaction to violent criminal youth who are beyond the scope of the lenient treatment of the juvenile justice system (Bishop et al., 1996; Fagan & Deschenes; Myers). The process of transferring a youth to adult criminal court serves to accomplish two goals: (1) increase public safety because of the belief that the youth, once transferred, will receive harsher punishment, and (2) reduce motivation to commit future crime by acting as a mechanism for greater deterrence (Myers).

Several studies have explored the sanctions received by youth waived to adult court. Some research suggests that juveniles are more likely to receive probation or lenient sentences when transferred to adult court instead of lengthy incarceration (Bishop & Frazier, 1991; Bishop, Frazier & Henretta, 1989; Bortner; 1986; Champion, 1989; Clark, 1996; Feld, 1987; Kinder et al., 1995; McNulty, 1996; Redding, 2003). In a descriptive study, Champion analyzed 2,818 waiver cases in four states between 1980 and 1988 and found that only 11% of the waived cases received a prison sentence whereas 55% received probation, 8% received community based sanctions, and 26% had their charges dismissed or the youth was acquitted. The results revealed that transferring a youth to adult court does not always result in more severe penalties.

Conversely, some research finds that juveniles prosecuted in adult court are more likely to be convicted, incarcerated, or receive longer prison sentences than juveniles who remain in juvenile court (Egan, 1982; Fagan, 1996; Fritsch et al, 1996; Kupchik, 2006). For example, Kupchik conducted a comparative study of 556 juvenile court cases in New Jersey and 1,470 criminal court cases in New York. The samples were matched by age and offense type (16 year old charged with aggravated assault, robbery, or burglary). Kupchik found that youth in criminal court were more likely to be incarcerated than youth in juvenile court. The results indicated that the transfer to criminal court led to more severe punishment for juvenile offenders.

Other research contends that sentence length is contingent upon the type of offense committed. For example, Clement (1997) and Podkopacz & Feld

(1996) found that non-violent juvenile offenders (such as property crime offenders) are more likely to receive lengthy terms of incarceration when sanctioned in juvenile court, whereas violent juvenile offenders are more likely to receive a longer prison sentence in adult court (Snyder, Sickmund & Poe-Yamagata, 2000; Barnes & Franz, 1989). However, a recent study conducted by Kupchik, Fagan & Liberman (2003) reveals that, while some court jurisdictions may treat transferred youth more leniently, the majority of criminal courts respond to transferred youth with more severe sanctions than juvenile courts.

Legal Factors and Transfer

It is assumed that waiver policies should be reserved for the most violent offenders or juveniles who pose the most risk to society (Champion, 1989; Fagan & Deschenes). Several studies have shown that the majority of youth who are waived have committed violent offenses (Barnes & Franz, 1989; Champion, 1989; Clarke, 1996; Fritsch et al., 1996; Houghtalin & Mays, 1991; Kinder et al., 1995; Snyder & Sickmund, 2006). Barnes and Franz analyzed 206 waiver motions filed in California from 1978 to 1983 and found that 83% of the waived youth had committed violent offenses, while only 17% had been arrested for property or victimless crimes. Similarly, in a descriptive study of juveniles waived to adult court, Fritsch et al. examined data collected on 946 waived youth in Texas from 1981-1993 and found that 76.1% were convicted of violent offenses while 23.9% were convicted of a non-violent offense. Additionally, their study revealed that the mean sentence length for juveniles waived to adult court was 21.9 years.

Similarly, Clarke (1996) collected data from Cook County Temporary Juvenile Detention Center from November 1992 to March 1994 and found that 60% of the youth transferred were transferred for a violent offense, such as aggravated criminal sexual assault, armed robbery with a firearm, or murder. The remaining 40% were charged with a drug or weapon offense.

Conversely, several studies contend that property offenses are waived more often than violent offenses (Bortner, 1986; Butts & Mitchell, 2000; Feld, 1987; Myers, 2001; Snyder & Sickmund, 2006). According to Snyder and Sickmund, between 1993 and 2002, the majority of juveniles were transferred to adult court for person offenses. However, prior to 1993, the majority of cases were transferred for property offenses. On occasion, property offense waivers outnumbered person offense waivers nearly 2 to 1. Similarly, Howell (1996) examined the discretionary powers of juvenile court judges in transfer decisions and found that the percentages of person versus property offenses waived to adult court vary according to jurisdiction. Feld (1991) refers to the jurisdictional response to waiver as “justice by geography”, and notes that the waiver process often is dependent entirely on where a youth commits an offense (Feld, 1991; Mears, 2003).

However, Lee’s (1994) findings contradicted studies that suggested current offense is a significant predictor of transfer decisions (Clarke, 1996; Houghtalin & Mays, 1991; Fritsch et al., 1996; Myers, 2003; Podkopacz & Feld, 1996). Lee analyzed data from a cohort of all juveniles born in 1969 who later were referred to the Maricopa County Juvenile Court of Arizona. The sample

size was 567, but only 43 youth were transferred. Results indicated that offense seriousness did not predict transfer to adult court; however, youth who were waived once were more likely to be waived a subsequent time. This outcome would now fall under the “once an adult/always an adult” transfer mechanism, but Arizona had not implemented it at the time of Lee’s study.

Along with seriousness of the current offense, research suggests that a prior record increases the likelihood of transfer (Clement, 1997; Houghtalin & Mays, 1991; Myers, 2003; Thomas & Bilchik, 1985). Houghtalin and Mays conducted a study of waived youth in New Mexico. Their sample consisted of 49 cases between 1981 and 1990; and they found that prior record and offense seriousness influenced transfer decisions. The results revealed that most of the juveniles had a least one prior offense. Similarly, Clement’s study of transferred youth in Virginia revealed that all of the youth who were transferred had at least one prior record (an appearance or petition before the court).

Additionally, Poulos and Orchowsky (1994) conducted a comparative study of transferred youth. They utilized a sample of 364 waived juveniles and 363 juveniles incarcerated in restrictive juvenile learning centers in Virginia between 1988 and 1990. The study indicated that the number of prior felony property adjudications was the strongest predictor of transfer. Prior felony person offenses also had a strong positive effect. Their research suggests that youth with more extensive prior offense histories were more likely to be transferred than youth with less extensive prior offense histories.

More recently, Myers' (2003) study of transferred youth in Pennsylvania also found that prior record influenced transfer decisions. Myers examined data from 494 violent juvenile male offenders in 1994 (79 who were transferred and 415 who were retained by the juvenile court). The results indicated that the more extensive the prior record, the more likely the youth would be transferred.

However, Fagan et al. (1987) found that, even though seriousness of the current offense had a significant effect on transfer decisions, prior record did not. Fagan et al. controlled for age of onset in their model; and the findings revealed that age of onset explained the relationship between prior record and transfer.

Extra Legal Factors and Transfer

As previously mentioned, some researchers contend that legal factors, such as current offense and prior record, are the strongest predictors of sentencing and transfer decisions (Clarke, 1996; Clement, 1997; Fritsch et al., 1996; Houghtalin & Mays, 1991; Kinder et al., 1995; Myers, 2003; Steffensmeir et al., 1998). However, there is evidence that extra legal variables, such as age and race, play a significant role in the decision to transfer a youth to adult court.

Age

Age is considered to be positively associated with transfer decisions. It is suggested that older juveniles are transferred more often to adult court because their time is limited in the juvenile justice system and therefore their sentence length also would be limited. Transferring older youth is a method to increase their punishment (Fagan & Deschenes, 1990; Myers, 2005). A number of studies have found strong support for the relationship between age and transfer and

indicate that older youth are transferred more often than younger youth (Bishop & Frazier, 1991; Bishop et al., 1989; Bortner, 1985; Champion, 1989; Clarke, 1996; Clement, 1997; Fagan & Deschenes, 1990; Fagan et al., 1987; Fritsch et al., 1996; Houghtalin & Mays, 1991; Myers, 2003; Thomas & Bilchik; 1985). For example, numerous descriptive studies indicate that older juveniles, especially 17 year olds, are more likely to be transferred than younger juveniles (Bortner; Clement; Houghtalin & Mays; Thomas & Bilchik). It must be noted, however, that these studies were descriptive in nature and lacked comparison groups. Therefore, it is unclear if other factors had an effect on transfer decisions in these studies and if unmeasured factors might explain the relationship (Jordan, 2005).

On the other hand, other studies utilized comparison groups and the results indicated the same positive relationship between age and transfer. For example, in a comparative study of waived youth from 1981 to 1984 from four urban juvenile courts (Boston, Detroit, Newark, and Phoenix), Fagan, Forst, and Vivona (1987) compared 201 violent youth who had transfer petitions filed against them by a prosecutor with 225 chronically violent delinquents for whom no transfer petitions were filed. Both groups were matched on all characteristics except for transfer. The results indicated that age was a significant predictor of having the transfer petition filed. Older offenders were more likely to be petitioned than younger offenders.

In a follow up study, Fagan and Deschenes (1990) compared the characteristics of transferred youth with youth retained by the juvenile court. They found that since the jurisdiction of the juvenile court ended at eighteen, the

prosecutors in Phoenix sought transfers for nearly all seventeen year olds for the purpose of obtaining a longer sentence in a secure facility. Fagan and Deschenes also note that in Boston, Detroit, and Phoenix, youth who were within one year of the court's jurisdictional limit were more likely to be transferred. Conversely, Lee (1994) also studied transfer decisions in Arizona (Maricopa County) but found that age did not have a significant effect on transfer. Yet Lee suggested that this was due to a lack of variability of age in the sample.

As previously mentioned Poulos and Orchowsky (1994) conducted a comparative study of transferred youth. In their sample of 364 waived juveniles and 363 incarcerated juveniles in Virginia between 1988 and 1990. They found that older youth were more likely to be transferred than younger youth. However, transfer decisions also were associated with current offense, prior record, prior mental health history, and education. Additionally, age was coded as a binary variable for a logistic regression analysis (17 and 16 or younger), so the exact effect of age was unclear.

In another comparative study, Kinder et al. (1995) examined juvenile court cases from St. Louis, Missouri. The researchers collected data from 111 juveniles certified as adults and 111 juveniles adjudicated as delinquents in 1993 and found that older juveniles were more likely to be transferred than younger juveniles. Specifically, 74% of the transferred youth were either 16 or 17 years old, while 70% of the youth retained by juvenile court were either 14 or 15 years old. However, as Jordan (2005) noted, this study lacked a matched comparison group. There were no 17 years olds included in the comparison group.

Therefore, the possibility of other variables accounting for the results cannot be ignored.

Two more recent and extensive transfer studies also revealed that age had a positive effect on transfer decisions. Podkopacz & Feld (1996) collected data from juvenile court and probation files in Minnesota from 1986-1992. In their analysis of 330 cases, the researchers found that age was a strong predictor of transfer decisions. Similarly, Myers (2003) also found that older juveniles were much more likely to be transferred to adult court than younger juveniles.

The empirical evidence supports the notion that older juveniles are more likely than younger youth to be transferred. As such, age as an extra legal variable cannot be ignored in transfer research and must be considered as a prominent factor in waiver decisions.

Race

Along with age, race has been studied as a potential extra legal variable associated with transfer decisions. Minority youth are disproportionately affected by transfer legislation (Bishop, 2004; Bortner, Zatz & Hopkins, 2000; Feld, 2000; Podkopacz & Feld, 1996; Puzzanchera et al., 2004; Snyder & Sickmund, 2006; Tatum, 2003). Puzzanchera et al. report that, regardless of the offense type, Black youth are more likely to be judicially waived than White youth. Bishop (2004) found that transfer decisions are disproportionately applied to minority youth. When examining national arrest data from 1994-1998, Bishop (2000) noted that 48% of the cases waived involved Black youth while White youth

represented 52% (which is greatly underrepresented). Howell (1996) declared that minority youth are “often disproportionately selected for transfer, conviction, and incarceration in adult prisons” (p. 51). Likewise, Snyder and Sickmund (2006) report that in 2002, Black youth were more likely to be waived for drug offenses while White youth were more likely to be waived for person offenses.

It is suggested that the disproportionate transfer of Blacks and the disparity of judicial waiver often stem from the discretionary application of waiver criteria (Feld, 2000; Tatum, 2003). Judicial waiver criteria involve an assessment of dangerousness, amenability to treatment, and public safety. As mentioned in the previous chapter, juvenile justice professionals might consider minority youth a “lost cause” and therefore believe that they are not amenable to treatment (Drakeford & Staples, 2006). Negative stereotypes and assumptions are made about youth from inner city neighborhoods who dress a particular way and carry themselves in a certain way. Assumptions also are made about the criminal propensity of minority youth and, as a result, these attitudes negatively affect how they are treated by the juvenile justice system (Bridges & Steen, 1998; Tatum).

A number of earlier studies indicate a relationship between race and transfer decisions (Barnes & Franz, 1989; Clement, 1997; Eigen, 1981; Keiter, 1973; Thomas & Bilchik, 1985). Eigen analyzed a sample of 154 juveniles in Philadelphia arrested for homicide during 1970. In this sample, 75 youth were transferred to adult court while 79 were retained in juvenile court. Eigen also included a comparison group of 139 adults arrested for homicide. Eigen found

that Black youth were more likely than White youth to be transferred.

Additionally, the likelihood of transfer increased substantially when Blacks were accused of killing Whites.

Likewise, the findings of the study conducted by Fagan and Deschenes (1990) hint broadly at racial discrimination. They found that no White youth were considered for transfer in Newark and that transfer rates for minority youth were higher than transfer rates for White youth in Detroit and Phoenix. Likewise, Clement's (1997) findings support the notion of discrimination in transfer processes. Clement found that 97% of youth transferred to adult court were Black while other groups only comprised 3%. However, since this study was descriptive in nature, it is difficult to exclude the possibility of other variables influencing this outcome.

Podkopacz and Feld (1996) found that differences in judicial waivers were significantly linked to the types of offenses. Contrary to Snyder and Sickmund (2006), Podkopacz and Feld discovered that prosecutors charged most minority youth with violent crimes, which increases the chance of being waived to criminal court, and charged the majority of White youth with property crimes. Podkopacz and Feld concluded that the decisions made at the earlier stages of processing influenced the disparity culminating in waiver decisions. Therefore, although a disproportionate number of minorities were transferred to criminal court, the impact of race disappeared when the researchers controlled for legal variables (i.e., current offense and prior record).

However, Fagan et al. (1987) found that race was not significant when other variables were controlled (i.e., age of the offender, offense seriousness, prior record, and age of onset), but that race might have an indirect effect. Since minority youth are more likely to have extensive prior records, be arrested for more serious crimes, and have an earlier age of onset than White offenders, these variables can have an effect on the transfer decision (Jordan, 2005).

Males and Macallair (2000) also provide support for discrimination in transfer decisions. They analyzed data from Los Angeles County to determine if minorities are disproportionately transferred to adult court and sentenced to incarceration when compared with their White counterparts. The data contained arrests from 1996-1997 and sentencing results from 1997-1999. Males and Macallair argued that transfer rates should reflect the racial breakdown for violent offenses. That is, the rate of youth transferred to adult court should be consistent with the number of youth arrested for transferable offenses. For example, Black youth were arrested 6.1 times more than White youth for violent offenses.

Males and Macallair (2000) found, however, that the transfer of youth to adult court could not be explained by higher arrest rates for serious crimes. The transfer rate of minority youth to adult court was double that of White youth arrested for similar offenses. The researchers found that Hispanics were 6 times more likely, Black youth were 12 times more likely, and Asian/other youth were 3 times more likely than White youth to be considered unfit for juvenile court and transferred to adult court. Similarly, minority youth were 2.8 times as likely as White youth with similar circumstances to be arrested for a violent crime, 6.2

times as likely to be transferred to adult court, and 7 times as likely to be sentenced to prison.

Present Study

The major limitation to the transfer literature is the omission of gender in the analysis. Girls are not analyzed separately in any of the transfer studies. It might be suggested that the reason for this oversight is because there are not as many girls transferred as boys. As mentioned in the previous chapter, Poe-Yamagata and Butts (1996) found that girls are less likely than boys to be transferred to adult court. Similarly, Puzanchera et al. (2004) found that cases involving girls were less likely to be transferred to adult court than cases involving boys, regardless of the offense type. Snyder and Sickmund (2006) also report that boys are more likely than girls to be transferred; yet, they also note that the number of female youth waived increased between 1985 and 2002. However, the literature regarding judicially waived girls is seriously lacking and especially when examined in combination with racial factors.

Feld (2001) argues that judicial waiver practices allow a judge to make individualized assessments regarding a juvenile's amenability to treatment and dangerousness, even though, as Feld (2001) contends, the judge is not able to make these assessments "accurately, consistently, or uniformly" (p. 9). This inability to treat youth equally might leave room for bias and differential treatment based on extra legal factors. This bias is hypothesized to affect girls and minorities and result in differential treatment for both groups.

The following chapter discusses the methodology of this research. It begins by presenting the hypotheses of this study and then discusses the sample, the variables of interest, and the statistical analyses that were utilized.

CHAPTER IV

METHODOLOGY

The purpose of this study was to determine if gender or race is a factor in transferring juveniles to adult criminal court in the state of Arizona between 1994 and 2000. This study utilized secondary data analysis in order to explore whether girls are waived to adult court for lesser offenses than boys. Using the “bounded rationality” hypothesis (sentencing decisions are influenced by extra legal factors) as a guide, the current study focused primarily on the characteristics of female juvenile offenders who were judicially waived to adult court.

This study was comprised of three general research questions. The first question was based on a comparison between girls and boys in juvenile justice processing and is stated as: “What are the differences, if any, between girls and boys who are transferred to adult court?” The second research question tested for differences within the population of girls who are judicially waived. Specifically, “What are the differences, if any, between girls who are judicially waived to adult court and girls who are not?” The third research question referred to the 1996 Arizona legislation that increased the number of mechanisms for juvenile transfers. This research question is “What is the effect of the Arizona legislation (Proposition 102) on female and minority youth?” The goal of this research was to quantitatively test these three general research questions. If gender bias and/or racial bias existed in the juvenile court, it might be present in the decision to transfer male and female juvenile offenders.

This section begins with the hypotheses of this study. It then describes the data used in this study and provides an overview of the independent and dependent variables that were utilized. This section also discusses the research design and the general threats to reliability and validity that were associated with the design. Finally, this section offers an examination of the strengths and limitations of this methodological research.

Hypotheses

As mentioned previously, the research examining girls and waiver is extremely limited (Poe-Yamagata & Butts, 1996; Puzanchera et al., 2004; Snyder & Sickmund, 2006). Prior data and research indicate that girls are less likely than boys to be waived to adult court regardless of the offense. However, because research suggests that girls are more likely to face formal handling for less serious offenses compared to boys, it is hypothesized that girls who are waived will be charged with less serious offenses than the boys who are waived (MacDonald & Chesney-Lind, 2001). This study explored these findings and examined the results more in depth. The analysis tested the following hypotheses:

H_a (1): Girls will be less likely than boys to be judicially waived to adult court.

H_a (2): Girls who are waived will have less serious prior records than boys who are waived.

H_a (3): Girls who are waived will have less serious current offenses than boys who are waived.

Ha (4): Extra legal variables will have a stronger impact on girls than on boys who are waived.

Ha (5) Legal variables will have a stronger impact on boys than on girls who are waived.

This study also examined the differences within the group of judicially waived girls. As previously discussed, gender is not the only factor that influences sentencing outcomes. Therefore, it was necessary to explore the effect that race had on the judicial waiver decision for girls. According to Feld (1999), “cultural stereotypes about women’s proper roles reinforced judicial efforts to isolate sexually active females, to safeguard them from exploitation, to preserve their long term ‘marriageability,’ and to prevent them from reproducing” (p. 65). Some researchers have argued that courts attempt to control minorities, and especially girls, by making assessments about family structure (Berger & Berger, 1984; Grub & Lazerson, 1982; Odem, 1995).

Ha (6): Controlling for the legal variables of prior record and current offense, non-White female offenders will be more likely than White female offenders to be judicially waived to adult court.

Ha (7): Extra legal variables will have a stronger impact on non-White female offenders than on White female offenders who are waived.

Ha (8): Legal variables will have a stronger impact on White female offenders than on non-White female offenders who are waived.

Similarly, research has indicated that the age of the youth influences waiver decisions. Specifically, it has been shown that older youth are more likely

to be waived than younger youth (Myers, 2005). Yet this literature predominantly focuses on boys while the influence of age on girls who have had their cases waived has not been examined. It was hypothesized that age might have a similar effect on girls.

H_a (9): Older girls will be transferred to adult court more often than younger girls.

H_a (10): Younger non-White girls will be more likely to be transferred than younger White girls for the same offenses.

H_a (11): Younger non-White girls will be more likely to be transferred than older White girls for the same offenses.

Research also has suggested extra legal variables such as court jurisdiction and family status influence judicial decision making. Feld (1991) refers to the former as “justice by geography,” and Johnson and Scheulbe (1991) contend that gender bias may be present based on court location. They found that girls tried in rural courts received harsher outcomes than girls tried in urban courts. It is hypothesized that these extra legal variables affect transfer decisions for girls.

H_a (12): All other factors being equal, girls who commit offenses in densely populated and/or moderately populated areas will be less likely to be transferred than girls who commit offenses in lightly populated areas.

The third research question refers to the effect that the change in Arizona legislation had on female and minority youth. Consistent with the national trends regarding the decrease of youth violence in the latter half of the 1990s, it was hypothesized that fewer girls would be judicially waived after Arizona

implemented increased transfer mechanisms with the adoption of Proposition 102.

H_a (13): The number of female youth who are judicially waived will decrease after 1996.

H_a (14): Female youth waived between 1994 and 1996 will have different legal and extra legal histories than female youth waived between 1997-2000.

Data

The methodological technique used in the current study involved juvenile court data collected by the State of Arizona and archived at the National Center for Juvenile Justice (NCJJ) in Pittsburgh. Permission to use the data was granted by the State of Arizona and the NCJJ. Official court data provided an extensive examination of legal variables, such as current offense and the number of prior offenses, as well as extra legal variables, such as demographic information (gender, race, and age). This is especially important because of the lack of previous research devoted to the effects of gender in judicial waiver decisions (as discussed in Chapters 2 and 3).

These data were collected from cases involving violent and non-violent offenses in Arizona. Official court data are a rich source of information and have been used in previous juvenile waiver research (Bishop and Frazier, 1992; Fagan and Deschenes, 1990; Kupchik, 2006; Myers, 2001; Staples, 1984; Tielmann and Landry, 1981).

The sample included data for seven years: 1994, 1995, 1996, 1997, 1998, 1999, and 2000, which provided 556,873 cases in the entire data set. For the

purposes of this study, these were then refined to cases involving only felony offenses and those juveniles who were judicially waived to adult court. Data about female and male juvenile delinquents were analyzed in order to determine the impact of gender and race on judicial waiver decisions. Comparisons were made on the extra legal variables of the sample, girls versus boys, and Black versus White defendants. The type of offense and number of prior offenses also were compared in order to determine if waiver decisions were predominantly based on legal variables (see Table 1).

Sample

Before beginning a study, researchers must decide on the target population (the group to which the study will apply) and decide how the members of the target population will be selected (Babbie, 2004). According to Babbie (2004); “Sometimes it is appropriate to select a sample on the basis of the knowledge of a population, its elements, or the purpose of the study” (p. 183).

Because of the relatively small number of female cases, it was necessary to utilize all cases of girls who were transferred to adult court. For example, according to Arizona transfer data from 2006, only 9 girls were judicially waived to adult court that year, but 25 girls were direct filed (Administrative Office of the Courts, Juvenile Justice Services Division, 2006). Before the transfer laws changed in 1997, judicial waiver was the only mechanism used to transfer juveniles to adult court. Therefore, it was assumed that the number of girls who were judicially waived before 1997 would be greater than those who were transferred after the law went into effect. Including all the girls who were

transferred for seven years (1994-2000) produced a large enough sample to permit advanced statistical analysis.

In order to obtain a reliable equation, it is necessary to pay special attention to the sample size (Mertler & Vannatta, 2005). Stevens (1992) recommends the ratio of sample size (n) and number of predictors (k) should be about 15 subjects for every predictor (or independent variable). Therefore, with a model that incorporated seven independent variables, it was appropriate to have a minimum sample size of 105 cases. Generally, increasing the sample size allows researchers to produce lower standard errors and narrower confidence intervals (Meyers et al., 2005). The use of logistic regression in this study further necessitated a larger sample in order to produce reliable results through the model (Hardy & Bryman, 2004). Additionally, multiple logistic models comparing boys and girls were utilized, requiring sufficient sample sizes within these groups.

The present study was comprised of two groups: youth who were transferred to adult court and youth who were retained in juvenile court. The sample was stratified based on transfer and gender. The study utilized the cases of all transferred girls in Arizona (the full population within the data set) from 1994-2000, and took a random sample of an equal number of girls who were retained in juvenile court.

As a comparison, the current study also sampled boys. Because of the larger sample of male offenders, it was necessary to take a random sample of boys who were transferred and boys retained in juvenile court. Since the study

utilized secondary data from a computerized database, a simple random sample was selected automatically with SPSS.

Variables

Independent Variables

Prior research indicates that a number of variables have been found to influence transfer decisions. The independent variables of primary interest to this study were the individual characteristics and legal variables.

Table 1

Variables and Coding

Independent Variables

Legal Variables

Current offense (most serious)	Measurement: Nominal/Categorical
Person Crime	
No= 0	
Yes= 1	
Property Crime	
No= 0	
Yes= 1	
Drug Crime	
No=0	
Yes=1	
Other	
No= 0	
Yes= 1	
Prior referrals	Measurement: Interval
Number of prior referrals	
Extra-Legal Variables (individual characteristics)	
Gender	Measurement: Nominal/Categorical
Male= 0	
Female= 1	
Race	Measurement: Nominal/Categorical
White	
No= 0	
Yes= 1	
African American	

	No= 0	
	Yes=1	
Hispanic/Latino	No= 0	
	Yes=1	
Native American	No= 0	
	Yes= 1	
Asian or Pacific Islander	No= 0	
	Yes= 1	
Other	No= 0	
	Yes= 1	
Age	Years at time of arrest	Measurement: Interval
School Status		Measurement: Nominal/Categorical
	Not enrolled/not attending	
	No= 0	
	Yes= 1	
	Currently enrolled/attending	
	No= 0	
	Yes= 1	
	Graduated/GED	
	No= 0	
	Yes=1	
Court Jurisdiction		Measurement: Nominal/Categorical
	Lightly populated= 0	
	Moderately populated= 1	
	Densely populated= 2	
<i>Dependent Variable</i>		
Transfer outcome		Measurement: Nominal/Categorical
	Not transferred = 0	
	Transferred= 1	

The legal variables of seriousness of current offense and number of prior offenses have been found to strongly influence transfer decisions (Clarke, 1996; Clement, 1997; Houghtalin & Mays, 1991; Fritsch et al., 1996; Myers, 2003; Podkopacz and Feld, 1996; Thomas and Bilchik, 1985). Current offenses were

based on crime type (the most serious offense), and dummy variables were created to distinguish between person, property, drug, and other offenses. Person offenses included all cases involving homicide, murder, attempted murder, manslaughter, negligent homicide, armed robbery, aggravated robbery, robbery, aggravated assault, assault, aggravated assault with a deadly weapon, kidnapping, sex with minor, child molestation, child abuse, sexual abuse, sexual assault, sexual exploitation of a minor, stalking (fear of safety or death), endangerment, adding poison to food, drive by shooting, the attempt to commit these offenses, or the conspiracy to commit these offenses. Crimes involving burglary, aggravated criminal damage, graffiti, criminal damage, vehicle theft, fraud, attempted burglary, forgery, possessing or trafficking stolen property, theft, extortion by theft, shoplifting, failure to return rented property, fraudulent schemes or practices, unauthorized use of vehicle, tampering with physical evidence, the attempt to commit these offenses, or the conspiracy to commit these offenses fell into the property offense category. Drug crimes included making, selling, possessing, transporting, or trafficking narcotics or controlled substances. Other offenses included offenses that did not fit into the previously mentioned categories, such as truancy, liquor violations, cruelty to animals, runaway, failure to appear, dog fighting, perjury, curfew violation, or motor vehicle violations. Prior offense included the number of prior referrals to the juvenile justice system.

Earlier research also has shown that extralegal variables may have an effect on sentence outcomes. Of particular interest in the current study were the

findings that girls are treated differently than boys by the juvenile justice system (Bishop & Fraizer, 1992; Lieber & Mack, 2003; MacDonald & Chesney-Lind, 2001, Staples, 1984). Daly (1994) suggests that there is an important difference in the severity of offending between girls and boys and asserts that the two genders might be punished differently for like crimes. Gender refers to either male or female offenders. Therefore, gender was coded as (0) for male and (1) for female.

Similarly, race has been shown to significantly influence waiver decisions (Bishop, 2004; Bortner, Zatz, & Hopkins, 2000; Feld, 2000; Podkopacz & Feld, 1996; Puzzanchera et al., 2004; Snyder & Sickmund, 2006; Tatum, 2003). Race was coded as White, African American, Hispanic/Latino, Asian/Pacific Islander, Native American, or other.

As discussed in the previous chapter, age also is related to transfer decisions, and prior research shows that older youth are more likely to be transferred to adult court than younger youth (Bishop & Frazier, 1991; Bishop et al., 1989; Bortner, 1985; Champion, 1989; Clarke, 1996; Clement, 1997; Fagan & Deschenes, 1990; Fagan et al., 1987; Fritsch et al., 1996; Houghtalin & Mays, 1991; Myers, 2003; Thomas & Bilchik, 1985). The youth's age at time of arrest was entered into the model as a specific number of years (continuous variable).

Prior research has found that the type of county has an impact of court outcomes (Johnson & Scheulbe, 1991; Myers, 2001). According to census data, counties are designated as rural if the population is below 50,000 and designated as urban/suburban if the population is above 50,000 people (U.S Census

Bureau, 2000). There are 15 counties in Arizona. According to population data from 2000, four counties could be categorized as rural (Santa Cruz, Graham, La Paz, and Green-Lee), and 11 counties could be categorized as urban/suburban (Apache, Navajo, Coconino, Mohave, Yavapai, Maricopa, Yuma, Pima, Pinal, Gila, and Cochise). In order to obtain a more equal spread of jurisdiction, court jurisdiction was coded based on county population density, with (0) for lightly populated counties, (1) for moderately populated counties, and (2) for densely populated counties. For the purpose of this study, eight counties were coded as lightly populated (La Paz, Green-lee, Apache, Coconino, Graham, Navajo, Gila, and Mohave have between 4.381 and 11.646 people per square mile) and six were coded as moderately populated (Cochise, Yavapai, Yuma, Santa Cruz, Pinal, and Pima have between 19.087 and 91.848 people per square mile) with Maricopa county coded as densely populated (333.813 people per square mile).

Education was also a variable of interest. School status was measured as: not enrolled/attending, currently enrolled/attending, and graduated/GED. School status was dummy coded as youth who were not enrolled in or attending school, those currently enrolled in or attending school at the time of arrest, and youth who had graduated or earned their GED.

The dependent variable for the model was dichotomous and was coded as transfer to adult criminal court. In this analysis, (0) represented youth not transferred and (1) represented youth who were transferred.

Research Design

Consideration of research design is essential when conducting a study. The design is directly related to the reliability and validity of a study (Shadish, Cook, and Campbell, 2002). Logistic regression was utilized to determine if the probability of judicial transfer can be predicted by the individual factors of gender, race, and age; and the legal variables, current offense and prior offense. This technique is appropriate to use when the study intends to examine the effects of several independent variables on a dichotomized dependent variable (Menard, 2002). Since the dependent variable was confined to two choices (waived or not waived), a linear probability model was not appropriate because the assumptions in regression analysis were violated (Bohrnstedt & Knoke, 1994). The best linear unbiased estimate (BLUE) regarding the normal distribution of error terms cannot be met when the analysis contains a dichotomous dependent variable.

For a dichotomous dependent variable, the model illustrates how the proportion of responses in one of the two categories depends on the independent variables in the equation. The use of logistic regression allows for the examination of dichotomous outcomes, producing probabilities of a particular outcome for each case (Tabachnick & Fidell, 2001). Odds ratios produced in logistic regression estimate the change in the odds of a particular outcome for each unit increase in the predictor variable (Grimm & Yarnold, 1995). The regression model produces coefficients that indicate the effect that a one-unit increase in each independent variable has on the log odds of an event (such as

judicial transfer) occurring (Menard, 2002). The logit equation used to assess the impact of the independent variables on the dependent variable is:

$$\text{logit}(Y) = a_0 + b_1 x_1 + b_2 x_2 + \dots + b_k x_k$$

where a_0 represents the constant, b is the coefficient for each independent variable, and x is the value for each independent variable (Menard, 2002).

As with multiple regression, independent variables can be continuous measures, dichotomies, multicategory dummy variables, or interaction terms (Bohrnstedt & Knoke, 1994). It is possible to interpret continuous coefficients by multiplying the logit coefficient by 100, which allows describing the effect of an independent variable in terms of the percentage change in the odds of the dependent variable (Y) given a unit change in a continuous independent variable (X) (Long, 1997; Roncek & Swatt, 2006; Walker & Madden, 2005). For dichotomous independent variables, the effects can be seen as $e^{b-1}(100)$, and interpreted as the change in the number of events for a change in switching from one category of the independent variable to the other (Long, 1997; Walker & Madden, 2005). It is the percentage change in the odds for each unit increase in X (DeMaris, 1995). The independent variables in this study were gender, race, age, prior offense, current offense, education, and court jurisdiction.

The first step of the analysis involved descriptive statistics. Descriptive statistics were run on all variables to examine the characteristics of the sample and the shape of the distribution for each variable. The mean, median, and mode were examined to assess the center point of the distribution of scores (Bachman & Paternoster, 1997). Measures of dispersion (standard deviation

and range) also were produced to consider the spread of the scores in the distribution for each variable.

The next step utilized logistic regression models in order to test the hypotheses in this study. H_a (1) through H_a (4) tested the difference between girls and boys who were waived. H_a (5) through H_a (12) addressed the difference between girls who were waived and girls who were retained in juvenile court, specifically focusing on the effects of race and age. These hypotheses involved multiple logistic models in order to ascertain the difference between girls and boys and also the impact that gender and race have on waiver decisions. H_a (13) and H_a (14) addressed the changes in waiver as a result of Proposition 102 and the analysis was descriptive in nature.

Separate multiple logistic regression models were run for girls and boys to assess the effects of the independent variables on judicial waiver. Using the coefficients from the two models, interaction effects also were calculated. This allowed for assessments to be made regarding the impact of different independent variables on the dependent variable. These interaction effects were calculated using the equation:

$$z = \frac{b_1 - b_2}{\sqrt{(se_1)^2 - (se_2)^2}}$$

in which b_1 is the unstandardized coefficient for the first group (girls) and b_2 is the unstandardized coefficient for the second group (boys). The standard error of the slope for the first group is represented by se_1 and se_2 is the standard error of slope for the second group (Paternoster, Brame, Mazerolle, & Piquero, 1998).

This analysis determined whether the independent variables had different effects on girls and boys who were judicially waived to adult court.

Separate models also were run for White and non-White girls. These models showed the effect of the independent variables on the dependent variables for each race. Interaction effects were then calculated using the above equation to determine whether the independent variables had a significantly different effect.

Reliability and Validity

As mentioned earlier, the present study analyzed secondary data. In order to guard against reliability and validity problems, it is necessary to know how the data were collected (Jacob, 1984; Maxfield & Babbie, 2004). Reliability refers to the consistency of a measurement and validity refers to the accuracy of a measurement (Carmines & Zeller, 1979). It is important to acknowledge that no data set is completely free from errors and that clerical errors are possible. Additionally, it is possible that the reliability of the statistics may vary over time. For example, the system for collecting data may have changed over time. Since this study will examine data from seven years, this is a particular concern.

When making use of secondary data, a researcher must be aware of the definitions used by those responsible for producing the data. It is important to note that discretionary actions of criminal justice officials affect the production of official agency data. Police do not arrest all offenders, prosecutors do not always file charges for the same offenses, and criminal justice officials apply their attention to different crime problems over time (Maxfield & Babbie, 2004).

The data for the study were collected by the Arizona juvenile courts and archived at the National Center for Juvenile Justice in Pittsburgh, Pennsylvania. Arizona uses a statewide case management system through which all counties collect and report their data. It is based on JOLTS (Juvenile Online Tracking System) and has been a model system for years (Puzzanchera, personal communication, 2008). JOLTS is a statewide juvenile probation and dependency management system developed by Maricopa County Juvenile Court in 1979 (Arizona Supreme Court, 2005). Maricopa County, the largest county in Arizona, utilizes an online case tracking system which “captures information contemporaneously with the event” (*Users Guide to Maricopa County, Arizona Juvenile Court Records 1990-2003*, p.1). For example, police arrest reports accompanying a referral are entered into the system at the time of referral. The system also has a validity check to ensure that all the codes entered are reasonable and consistent with prior information about a case. It is currently installed in every juvenile court and detention center in Arizona.

Summary

The purpose of this study was to determine if gender or race was a factor in transferring juveniles to adult criminal court in the state of Arizona between 1994 and 2000. There is currently a gap in the literature regarding girls and judicial waiver; and this study provides an important contribution to the research in this area.

With the use of secondary data, this study assessed the impact that several variables had on the likelihood of transfer. It began by analyzing

descriptive statistics to examine the characteristics of the sample and the shape of the distribution for each variable. It then utilized logistic regression to assess the effect of the independent variables on the dependent variable. It was hypothesized that there were differences between girls and boys who were waived to adult court and that extra legal factors played a significant role in transfer decisions.

CHAPTER V

DATA ANALYSIS

In this study, quantitative data, from Arizona, spanning a seven year period (1994 – 2000) were analyzed to determine which variables, if any, influenced judicial waiver for girls. This chapter presents the findings for the tests of the hypotheses discussed in Chapter IV. The analysis begins with the descriptive statistics of the girls judicially transferred to adult court compared to boys who were transferred. Then, the results of the logistic models are examined.

Frequency and Descriptive Statistics

The information contained within the data set includes a sample size of 556,873 juvenile cases. This represents the entire population of Arizona youth who were arrested between 1994 and 2000. Table 2 presents the number of cases referred to the juvenile court per year. Within the data set, girls accounted for nearly 30% of the total number of cases referred to juvenile court, which was similar to the national trends for girls (as discussed in previous chapters). A total of 121 of these juvenile cases were girls judicially waived to adult court. Of these, 115 girls were waived for committing felony offenses¹. The total number of cases involving felony offenses for girls was 22,571 (.5% of this number were judicially waived to adult court). Therefore, the analysis includes the entire population of girls judicially waived to adult court for felony offenses (N=115).

¹ Within the population of waived girls, six girls were judicially waived for committing misdemeanor offenses (i.e., driving without a license and minor consumption of alcohol). Since these are atypical cases and not representative of the entire population, these cases were excluded from the analysis.

Table 2: *Total Number of Cases for 1994-2000*

Year	Female (N=165,713)	Male (N=391,152)	Unknown (N=8)	Total # (N=556,873)
1994	20,662	51,634	2	72,298
1995	22,063	54,468	2	76,533
1996	24,142	60,516	0	84,658
1997	24,675	58,818	1	83,494
1998	25,253	57,232	1	82,486
1999	24,496	55,653	0	80,149
2000	24,422	52,831	2	77,255
% total cases	29.8	70.2	0	100

During the same period, 2,633 of the total number of cases were boys judicially waived to adult court for committing felony offenses (2.3% of the number of cases of boys who were charged with felony offenses, n=111,091). Of these, a representative sample of 115 cases was randomly selected for analysis.² The frequencies for the explanatory variables for girls and boys are presented in Table 3.

² Descriptive statistics were calculated for the population of transferred boys. The random sample of boys matched the population characteristic with a 5% margin of error.

Table 3: *Frequency Distribution of Variables for Waived Girls and Boys*

Value	Girls (N=115)		Boys (N=115)	
	N	%	N	%
Race				
White	63	54.8	40	34.8
Black	13	11.3	12	10.4
Hispanic	32	27.8	61	53.0
Native American	3	2.6	2	1.7
Asian/Pacific Islander	1	.9	0	0.0
Other	3	2.6	0	0.0
Current Offense				
Person	40	34.8	51	44.3
Property	47	40.9	48	41.7
Drug	26	22.6	13	11.3
Other	2	1.7	3	2.6
School Status				
Currently Enrolled	43	37.4	46	40.0
Not enrolled	72	62.6	69	60.0
Graduated/GED	0	0.0	0	0.0
Court Jurisdiction				
Lightly populated	28	24.3	17	14.8
Moderately populated	12	10.4	18	15.4
Densely populated	75	65.2	80	69.6
	Mean	SD.	Mean	SD.
Age	16.40	0.82	16.40	0.79
Prior Referrals	4.56	5.08	7.59	6.71

Similarly, a representative sample of girls and boys arrested for felony offenses but not waived to adult court were randomly selected from the data set. The frequencies for the explanatory variables for girls and boys who were not waived are presented in Table 4.

Table 4: *Frequency Distribution of Variables for Girls and Boys Not Judicially Waived*

Value	Girls (N=115)		Boys (N=115)	
	N	%	N	%
Race				
White	62	53.9	62	53.4
Black	12	0.4	7	6.1
Hispanic	30	26.1	41	35.7
Native American	11	9.6	3	2.6
Asian/Pacific Islander	0	0.0	0	0.0
Other	0	0.0	2	1.7
Current Offense				
Person	22	19.1	19	16.5
Property	44	38.3	42	36.5
Drug	34	29.6	43	37.4
Other	15	15.0	11	9.6
School Status				
Currently Enrolled	74	64.3	82	71.3
Not enrolled	41	35.7	33	28.7
Graduated/GED	0	0.0	0	0.0
Court Jurisdiction				
Lightly populated	16	13.9	17	14.8
Moderately populated	45	39.1	44	38.3
Densely populated	54	47.0	54	47.0
	Mean	SD.	Mean	SD.
Age	14.59	1.75	14.58	1.96
Prior Referrals	2.00	3.12	2.97	4.42

As shown in Table 3, the mean age for girls and boys who were judicially waived was 16.4. However, for girls, nearly 57% (n=65) of the population was 17 years of age; for boys, 53% (n=61) of the population was 17 years of age. This indicates that slightly more 17 year old girls were waived than boys. Conversely, slightly more 16 year old boys (n = 44) were waived than girls (n = 37) (38% compared to 32%).

Similarly, Table 4 illustrates that the mean age for girls and boys who were not waived to adult court was 14.6 years of age. The minimum age for boys was younger (8 years of age) than girls (10 years of age) and the maximum age for boys was older (18 years of age) than girls (17 years of age). In both cases, 16 year olds comprised the largest percentage of girls and boys not waived (28.7% of girls and 22.6% of boys).

Within the population of waived girls, 54.8 % were White (N= 63), 11.3% were Black (N=13), 27.8% were Hispanic (N=32), 2.6% were Native American (N=3), .9% were Asian/Pacific Islander (N=1), and 2.6% were other/unknown races (N=3). The racial distribution within the sample of girls who were not waived to adult court was very similar to those who were waived. Approximately 54% were white (n=62), 10.4% were Black (n=12), 26.1% were Hispanic (n=30), and 9.6% were Native American (n=11). There were no Asian or other/unknown races in the sample of girls not waived to adult court.

Within the sample of boys who were judicially waived, 34.8% were White (n=75), 10.4% were Black (n=12), 53% were Hispanic (n=61), and 1.7% were Native American (n=2). There were no Asian or other/unknown races in the sample of boys. Boys who were not waived also showed a comparable racial distribution, with slightly more White boys retained by the juvenile court (53.9%, n=62) than waived; and slightly fewer Hispanic boys retained by the juvenile court (35.7%, n= 41) than waived to adult court. White girls comprised the largest number of girls who were judicially waived, whereas Hispanic boys comprised the largest number of boys who were judicially waived.

In support of the waiver literature discussed in Chapter 3, a greater number of girls were judicially waived for property offenses (40.9%) rather than person offenses (34.8%). Conversely, a larger number of boys were judicially waived for person offenses (44.3%) rather than property offenses (41.7%). Both samples of girls and boys who were not judicially waived to adult court had a higher percentage of property crimes than person crimes (38.3% of girls and 36.5% of boys). Boys who were not judicially waived had a larger percentage of drug offenses than girls who were not waived (37.4% of boys and 29.6% of girls)³.

Similarly, the population of girls waived to adult court had fewer prior referrals than the sample of boys waived to adult court (4.6 compared to 7.6). The prior referrals for girls ranged from 0 to 24. For boys, the range for prior referrals was from 0 to 29. On average, judicially waived boys had more prior referrals than judicially waived girls. Additionally, both girls and boys who were judicially waived had a larger number of prior referrals than girls and boys not waived (2.0 for girls and 2.97 for boys).

School enrollment frequencies also were presented. In the population of waived girls, 62.6% (N=72) were not enrolled in school, and nearly half that number were currently enrolled or attending (37.4% or N=43). In the sample of waived boys, 60% (n=69) were not enrolled in school and 40% were enrolled (n=46). A larger percentage of girls and boys who were not waived were currently enrolled or attending school (64.3% of girls and 71.3% of boys). Furthermore,

³ Based on an independent samples t-test, the differences between the offenses were not statistically significant.

most of the population for both girls and boys who were judicially waived came from densely populated jurisdictions (65% of girls, 70% of boys). Forty-seven percent of girls and boys who were not waived came from densely populated jurisdictions. Geographical location affected the frequency of girls from lightly populated jurisdictions. More girls were judicially waived in lightly populated jurisdictions (24.3%, n = 28) than boys (14.8%, n = 17).

Multivariate Analysis

In order to accurately determine the effect that legal and extra legal variables have on judicial waiver decisions, logistic analysis was conducted. Logistic regression models were used to assess the effects of the independent variables (gender, race, age, school status, court jurisdiction, current offenses, and prior offenses) on judicial waiver. The goal of the models is to be complex enough to fit the data yet parsimonious to avoid over fitting the data. Based on an analysis of the frequency tables, correlation matrix (see Appendix F), and ANOVA, it was necessary to collapse categories. Categories are collapsed when expected numbers in cells are small. This technique improves the generalizability of the data (Altman, 1991). The race variable was collapsed into non-White and White, and the jurisdiction variable was collapsed into lightly/moderately populated and densely populated. Similarly, due to the small number of drug and other offenses, these two categories were collapsed and used as the reference category. Multiple logistical models were used to test the hypotheses discussed in Chapter IV.

Girls and Boys

Table 5 presents the results of a logistic regression model containing both girls and boys. In this model, several variables appeared to be significant predictors of judicial waiver as indicated by the slopes (b) and the corresponding Wald statistics. The slope is the change in the log odds of the dependent variable that is associated with a one unit increase in an independent variable (while controlling for the other independent variables). Values are significant if there is enough evidence to conclude a relationship between the independent variable and the dependent variable (judicial waiver).

Table 5: Logistic Regression Results for Judicial Waiver of Girls and Boys

Variable	B	SE	Wald	(Exp)B
Girls & Boys N = 460				
Gender	.383	.269	2.048	1.467
Race	.011	.267	.002	1.011
Age	1.129	.136	69.211**	3.093
Jurisdiction	.444	.268	2.743	1.559
School status	-.600	.260	5.314*	.549
Person offense	2.045	.364	31.593**	7.726
Property offense	1.030	.309	11.130**	2.802
Priors	.155	.029	27.684**	1.167
Constant	-19.594	2.287	73.426**	.000
-2 Log-likelihood	375.683			
Cox & Snell R ²	.434			
Nagelkerke R ²	.579			
Model Chi Square	262.013			

NOTE: * p < .05 ** p < .01

As shown in Table 5, age was a significant predictor for waiver ($b = 1.129$, $p < .01$), which means that there was a positive relationship between age and judicial waiver. The model indicated that as age increased by one year, the likelihood of waiver, or the simple odds of waiver, was three times greater for older youth than for younger youth. School status also was significant ($b = -.600$, $p < .05$) and the model indicated that the simple odds of waiver decreased by 44% for youth who were enrolled in school. Conversely, for youth who were not enrolled in school, the simple odds of judicial waiver increased by 182% ($1/.549 = 1.82$). In short, youth who were not enrolled in school were more likely to be judicially waived to adult court.

When examining legal variables, person offense, property offense, and prior referrals were all significant. The simple log odds of waiver was nearly eight times greater for youth who committed person offenses and nearly three times greater for youth who committed property offenses compared to youth who committed drug or other offenses. Prior referrals also were positively related to waiver ($b = .155$, $p < .01$). Youth with an increase of one prior referral were almost 17% more likely to be judicially waived to adult court.

Hypothesis one predicted that girls would be less likely than boys to be judicially waived to adult court. Using official data, it is clear that the number of girls judicially waived to adult court is significantly less than the number of boys waived to adult court (121 girls versus 2,529 boys). However, the full logistic model reported no statistical significance for gender ($b = .383$, $p = 1.467$).

Hypothesis two predicted that girls who were waived would have less serious prior records than boys who were waived. As previously mentioned, the frequency distribution of prior offenses indicated that girls waived to adult court had fewer prior referrals than boys who were waived to adult court (4.6 compared to 7.6). Twenty-five percent of the girls waived had no prior referrals, whereas only 14% of the boys waived had no prior referrals. On average, judicially waived boys had a greater number of prior referrals than judicially waived girls.

Additionally, hypothesis three predicted that girls who were judicially waived would have been referred for a less serious current offense than boys who were waived. As previously mentioned, a greater number of girls were transferred for property offenses (40%) rather than person offenses (34.8%). Conversely, a larger number of boys were transferred for person offenses (43.5%) rather than property offenses (41.7%). The finding is consistent with prior research and arrest data that report that most girls are typically arrested for non-violent crimes as opposed to violent crimes.

Table 6 presents the results of a logistic regression model that analyzed the effects that extra legal variables had on judicial waiver for girls and boys. In this model, age and school status were significant predictors for both girls and boys. For both girls and boys, age was the strongest predictor for transfer. As age increased by one year, the likelihood of judicial waiver was nearly three times greater for girls and boys. For every one year increase in age, a girl's log odds of being transferred increased by 1.063 ($b = 1.063, p < .001$). Similarly, a

boy's log odds of transfer significantly increased with the increase in age ($b = .999, p < .001$).

Girls and boys who were enrolled in school were 51% less likely to be judicially waived compared to youth who were not enrolled in school.

Conversely, the simple odds of waiver for youth who were not enrolled in school was nearly two times greater than for girls and boys who were enrolled in school ($1/.486 = 2.06$). Additionally, court jurisdiction was not a significant predictor of judicial waiver for girls, but appeared to be significant for boys ($b = .993, p < .01$). For boys, the simple odds of judicial waiver was 154% greater for boys in urban areas than for boys in rural jurisdictions. Interestingly, race was not a significant predictor for judicial waiver for either gender.

Table 6: Logistic Regression Results of Extra Legal Variables for Girls and Boys

Variable	B	SE	Wald	(Exp)B
Girls N = 230				
Race	.107	.338	.101	1.113
Age	1.063	.169	39.642**	2.896
Jurisdiction	.647	.339	3.649	1.910
School status	-.722	.334	4.669*	.486
Constant	-16.813	2.743	37.567**	.000
-2 Log-likelihood	222.453			
Cox & Snell R ²	.342			
Nagelkerke R ²	.456			
Model Chi Square	96.395			
Boys N=230				
Race	-.611	.338	3.258	.543
Age	.999	.162	38.032**	2.715
Jurisdiction	.993	.341	7.484**	2.542
School Status	-.767	.341	5.060*	.464
Constant	-15.343	2.635	34.786**	.000

-2 Log-Likelihood	216.789
Cox & Snell R ²	.358
Nagelkerke R ²	.478
Model Chi Square	102.050

NOTE: * p < .05 ** p < .01

Table 7 presents the results of a logistic regression model that examined the effects of legal variables on judicial waiver for girls and boys.

Table 7: Logistic Regression Results of Legal Variables for Girls and Boys

Variable	B	SE	Wald	(Exp)B
Girls N = 230				
Person offense	1.404	.308	13.633**	4.070
Property offense	.767	.339	5.122*	2.154
Priors	.177	.042	17.949**	1.194
Constant	-1.227	.295	17.395**	.293
-2 Log-likelihood	283.739			
Cox & Snell R ²	.142			
Nagelkerke R ²	.189			
Model Chi Square	35.108			
Boys N = 230				
Person offense	2.524	.443	32.518**	12.477
Property offense	1.438	.403	12.746**	4.213
Priors	.176	.033	28.141**	1.192
Constant	-2.223	.381	34.073**	.108
-2 Log-Likelihood	242.036			
Cox & Snell R ²	.284			
Nagelkerke R ²	.379			
Model Chi Square	76.811			

NOTE: * p < .05 ** p < .01

As presented in Table 7, all the legal variables were significant for girls and boys. The simple odds of judicial waiver was four times greater for girls convicted of person offenses ($b = 1.404, p < .01$) and more than two times greater for girls convicted of property offenses compared to girls who committed drug or other offenses ($b = .767, p < .05$). Similarly, the simple odds of judicial waiver was twelve times greater for boys convicted of person offenses ($b = 2.524, p < .01$) and four times greater for boys convicted of property offenses ($b = 1.438, p < .01$). Additionally, the number of priors was shown to be statistically significant for both genders. As the number of prior referrals increased, the log odds of waiver increased for girls ($b = 1.194, p < .001$) and boys ($b = 1.192, p < .001$). With each additional increase in the number of prior referrals, the simple odds of judicial waiver increased 17.7% for both girls and boys.

It is interesting to note one particular difference between the two models. It appears that the model containing the extra legal variables accounted for approximately the same amount of variation for both girls and boys (between 35% and 49% according to the pseudo R^2 's). However, the model containing the legal variables accounted for a different amount of variation in transfer for girls and boys. It accounted for less than 24% of the variation for girls but almost 40% for boys, which indicates that the model might show more predictive power for boys. To adequately determine the effect of the independent variables on judicial waiver for girls and boys, z-scores were calculated (see Table 8).

Table 8: *Analysis of Extra Legal and Legal Variables for Girls and Boys (N = 230 Girls and N = 230 Boys)*

Variable	Girls B	SE	Boys B	SE	z
Extra Legal Variables					
Race	.107	.338	-.611	.338	1.500
Age	1.063**	.169	.999**	.162	.272
Jurisdiction	.647	.339	.993**	.341	.719
School status	-.722*	.334	-.767	.341	.094
Constant	-16.813**	2.743	-15.343**	2.635	.386
Legal Variables					
Person offense	1.404**	.308	2.524**	.443	2.074*
Property offense	.767*	.339	1.438**	.403	1.273
Priors	.177**	.042	.176**	.039	.017
Constant	-1.227	.295	-2.223**	.381	2.066*

NOTE: * $p < .05$ ** $p < .01$

Examining the split model in Table 8, one of the independent variables appears to influence the two genders differently. The z-score for a person offense was significant ($z = 2.074$) which indicates that being arrested for a person offense affected judicial waiver for girls and boys differently. The remaining z-scores failed to reach statistical significance, indicating that the differences between girls and boys were statistically insignificant. In short, only arrest for a person offense had a different effect on girls and boys being judicially waived to adult court.

The findings presented in the previous tables fail to support the fourth hypothesis, which predicted that extra legal variables would have a stronger impact on girls than on boys. On the contrary, because jurisdiction was shown to

be significant only for boys, it would appear that extra legal variables were more significant for boys than for girls. However, the previous models support the fifth hypothesis, which predicted that legal variables would have a stronger impact on boys than on girls.

Girls and Race

Table 9 presents the results of a logistic regression model of the effects of the independent variables on judicial waiver for girls. The results indicate that several variables were significant predictors of judicial waiver. Age ($b = 1.179$, $p < .01$), person offense ($b = 1.660$, $p < .01$), property offense ($b = .922$, $p < .05$), and prior offense ($b = .166$, $p < .01$) were all highly significant predictors of judicial waiver for girls. In this model, older girls were more than three times as likely than younger girls to be judicially waived. Additionally, the simple odds of judicial waiver for girls charged with property offenses was five times greater than for girls charged with other offenses. Similarly, the simple odds of transfer increased 151% for girls charged with property offenses compared to other offenses.

Hypothesis six predicted that non-White girls would be more likely than White girls to be judicially waived to adult court. The results depicted in Table 9 show that race was not a significant predictor for judicial waiver ($b = .269$, $p = .473$). Therefore, it can be concluded that for this sample there was no difference in the likelihood of transfer for White and non-White girls.

Table 9: *Logistic Regression Results for Judicial Waiver for Girls*

Variable	B	SE	Wald	(Exp)B
Girls N = 230				
Race	.269	.375	.515	1.309
Age	1.179	.195	36.584**	3.251
Jurisdiction	.400	.366	1.194	1.491
School status	-.572	.362	2.500	.565
Person offense	1.660	.481	11.904**	5.258
Property offense	.922	.425	4.702*	2.514
Priors	.166	.050	11.033**	1.180
Constant	-20.038	3.258	37.830**	.000
-2 Log-likelihood	198.096			
Cox & Snell R ²	.408			
Nagelkerke R ²	.545			
Model Chi Square	120.751			

NOTE: * p < .05 ** p < .01

Table 10 presents the results of a logistic regression model that examined the effects of extra legal variables on likelihood of judicial waiver for White and non-White girls. The results show that age was a significant predictor for both White (b= 1.170, p < .01) and non-White (b = 1.025, p < .01) girls. With a one year increase in age, the log odds of waiver increased, when controlling for other variables. The simple log odds of judicial waiver for older White and non-White girls was nearly three times greater than for younger white and non-White girls.

School status, on the other hand, was only significant for White girls (b = -1.058, p < .05). In this model, the simple odds of judicial waiver for White girls who were enrolled in school decreased by 65%. White girls who were not enrolled in school were 2.9 times more likely to be judicially waived compared to

White girls who were enrolled in school ($1/.347 = 2.88$). School status was not a significant predictor for non-White girls. The z-score ($z = 2.940$) presented in Table 12, also was significant. This analysis indicates that school status had a different effect on White and non-White girls.

Table 10: Analysis of Extra Legal Variables for Girls and Race

Variable	B	SE	Wald	(Exp)B
White Girls N = 125				
Age	1.170	.252	21.589**	3.223
Jurisdiction	.536	.454	1.396	1.710
School status	-1.058	.457	5.355*	.347
Constant	-18.184	4.044	20.223**	.000
-2 Log-likelihood	121.957			
Cox & Snell R ²	.360			
Nagelkerke R ²	.481			
Model Chi Square	51.322			
Non-White Girls N = 105				
Age	1.025	.242	17.908**	2.787
Jurisdiction	.884	.521	2.879	2.421
School Status	-.311	.528	.346	.733
Constant	-16.533	3.978	17.272**	.000
-2 Log-Likelihood	98.612			
Cox & Snell R ²	.360			
Nagelkerke R ²	.481			
Model Chi Square	46.939			

NOTE: * $p < .05$

** $p < .01$

Table 11 provides the results of a logistic regression analysis for legal variables for White and non-White girls. The results indicate that the number of priors was statistically significant for White and non-White girls. For White girls, as the number of prior referrals increased by one unit, the simple odds of transfer increased by 26% ($b = .257, p < .01$). Similarly, as the number of prior referrals increases by one unit, the simple odds of transfer increased by 13% for non-White girls ($b = .125, p < .01$). In short, the simple log odds of judicial waiver increase over 100% for each additional prior referral for both White and non-White girls.

The results also demonstrate that, compared to other offenses, person offenses were statistically significant for White girls ($b = 2.384, p < .01$). The findings indicated that, when controlling for other variables, the simple log odds for transfer for White girls who were arrested for committing person offenses was ten times greater than White girls who committed other offenses. Similarly, the z-score ($z = 1.840$) presented in Table 12, was significant. It indicates that person offenses affected White girls and non-White girls differently. Within the population of this data set, 25 White girls were arrested for committing person offenses compared with 35 non-White girls arrested for committing person offenses.

Table 11: *Analysis of Legal Variables for Girls and Race*

Variable	B	SE	Wald	(Exp)B
White Girls N = 125				
Person offense	2.384	.638	13.943**	10.845
Property offense	1.064	.484	4.838*	2.897
Priors	.257	.070	13.696**	1.293
Constant	-1.637	.450	13.255**	.194
-2 Log-likelihood	141.645			
Cox & Snell R ²	.224			
Nagelkerke R ²	.298			
Model Chi Square	9.450			
Non White Girls N = 105				
Person offense	.833	.495	2.831	2.299
Property offense	.566	.511	1.231	1.762
Priors	.125	.053	5.634**	1.134
Constant	-.926	.403	5.271*	.396
-2 Log-Likelihood	136.102			
Cox & Snell R ²	.086			
Nagelkerke R ²	.115			
Model Chi Square	31.634			

NOTE: * p < .05 ** p < .01

Additionally, property offenses also were significant for White girls (b = 1.064, p < .05). The simple odds of judicial waiver increased 190% (nearly three times greater) for White girls charged with property offenses compared with White girls charged with other offenses. In the data set, 59 White girls were arrested for property offenses compared with 32 non-White girls. Forty-one White girls and 36 non-White girls were arrested for other offenses.

Table 12: *Analysis of Extra Legal and Legal Variables for Girls (N=125 White and N= 105 Non-White)*

Variable	White B	SE	Non-White B	SE	z
Extra Legal Variables					
Age	1.107**	.252	1.025**	.242	.234
Jurisdiction	.536	.454	.883	.521	.401
School status	-1.058*	.457	-.311	.528	2.940*
Constant	-18.184**	4.044	-16.533**	3.978	.291
Legal Variables					
Person offense	2.384**	.638	.833	.495	1.840*
Property offense	1.064*	.484	.566	.511	.707
Priors	.257**	.070	.125**	.053	1.500
Constant	-1.637**	.450	-.926**	5.271	.134

. NOTE: * p < .05 ** p < .01

Hypothesis seven predicted that extra legal variables would have a stronger impact on non-White girls than on White girls who were waived. According to Table 10, age and school status were significant predictors for White girls; but only age was statistically significant for non-White girls. Therefore, these findings did not support the hypothesis.

The eighth hypothesis predicted that legal variables would have a stronger impact on White girls than on non-White girls who were waived. Despite the frequencies of offenses, it appears that legal variables were not a significant predictor of transfer for non-White girls. Person and property offenses, on the other hand, were a significant predictor of judicial waiver for White girls. Hypothesis eight was supported by the data.

Age and Race

Table 13 presents the results of a logistic regression model for girls where age was dichotomized into older and younger categories. Hypothesis nine predicted that older girls would be transferred to adult court more often than younger girls. In order to test this hypothesis, it was necessary to transform the age variable from a continuous variable into a binary variable (Age2). Ages 13 through 15 (N=81) were coded as 0 for the younger category, while ages 16 through 18 (N=149) were coded as 1 for the older category⁴.

Table 13: Logistic Regression Results for Judicial Waiver for Girls and Age

Variable	B	SE	Wald	(Exp)B
Girls N = 230				
Race	.307	.354	.751	1.359
Age2	2.458	.405	36.897**	11.684
Jurisdiction	.500	.349	2.056	1.648
School status	-.665	.344	3.722*	.514
Person offense	1.589	.461	11.903**	4.900
Property offense	.677	.400	2.861	1.967
Priors	.185	.050	13.925**	1.204
Constant	-3.064	.604	25.746**	.047
-2 Log-likelihood	218.939			
Cox & Snell R ²	.354			
Nagelkerke R ²	.472			
Model Chi Square	100.454			

NOTE: * p < .05 ** p < .01

⁴ When attempting to code the age category differently (i.e., 13-16 as younger and 17-18 as older), the groups had a similarly unequal number of cases (151 in the younger category and 79 in the older category).

The results indicate findings similar to the previous models: age, person offenses, and prior referrals were all significant. However, there are two differences from the previous logistic model of judicially waived girls. In this model, when age was changed from a continuous variable into a dichotomous variable of older and younger, school status became significant ($b = -.655$, $p < .05$), and property offenses became insignificant ($b = .677$, $p = .091$).

In support of hypothesis nine, the model shows that the simple odds of judicial waiver were more than eleven times greater for older youth than for younger youth ($b = 2.458$, $p < .01$). Conversely, the simple odds of judicial waiver for younger girls was only 9% ($1/11.684 = .086$). Therefore, older girls were significantly more likely than younger girls to be judicially waived to adult court.

Hypothesis ten predicted that younger non-White girls would be transferred to adult court more often than younger White girls for the same offense. Hypothesis eleven predicted that younger non-White girls would be more likely to be transferred than older White girls for the same offenses.

Table 14 indicates that age was the only significant predictor of judicial waiver for both White and non-White girls when controlling for offenses type. However, person offenses appeared to be significant for White girls ($b = 1.981$, $p < .01$); but due to the small sample size, no significance could be inferred. Based on the non-significant offense results for non-White girls presented in Table 14, hypotheses ten and eleven were not supported.

Table 14: *Logistic Regression Results for Judicial Waiver for Age and Race*

Variable	B	SE	Wald	(Exp)B
White Girls = 125				
Age2	2.362	.505	21.913**	10.613
Person offense	1.981	.657	9.084**	7.252
Property offense	.805	.471	2.913	2.236
Constant	-2.400	.561	18.290**	.091
-2 Log-likelihood	133.904			
Cox & Snell R ²	.270			
Nagelkerke R ²	.360			
Model Chi Square	39.375			
Non-White Girls = 105				
Age2	2.745	.544	25.440**	15.572
Person offense	1.104	.587	3.535	3.017
Property offense	.664	.583	1.299	1.943
Constant	-2.407	.602	15.991**	.090
-2 Log-likelihood	108.583			
Cox & Snell R ²	.297			
Nagelkerke R ²	.396			
Model Chi Square	36.968			

NOTE: * p < .05 ** p < .01

Gender and Jurisdiction

Hypothesis twelve predicted that girls who committed offenses in densely populated jurisdictions would be less likely to be transferred than girls who committed offenses in lightly/moderately populated areas. Based on the results presented in the previous models, jurisdiction was not a significant predictor of judicial waiver for girls regardless of race.

An examination of descriptive statistics revealed that more White girls (49.6%, N = 62) than non-White girls (37.1%, N = 39) were transferred to adult court from lightly/moderately populated areas. The frequency of judicial waiver for offense type based on jurisdiction indicated that a significantly greater number of White girls were waived for property offenses in lightly/moderately populated areas (23.8%, N = 15) compared to non-White girls (3.8%, N = 2); however, there were the same number (though different percentage of cases) of White girls (23.8%, N = 15) and non-White girls (28.8%, N = 15) waived for property offenses in densely populated areas. Additionally, the number of girls waived for person offenses in lightly/moderately populated areas was the same for both White girls (9.5%, N = 6) and non-White girls (11.5%, N = 6) and nearly the same for White girls (20.6%, N = 13) and non-White girls (28.8%, N = 15) waived for person offenses in densely populated areas. The data imply that a greater number of White girls are judicially waived in rural areas than non-White girls.

Proposition 102

Hypothesis thirteen predicted that the number of female youth who were judicially waived would decrease after 1996. Based solely on the number of

cases in the data set, this hypothesis was supported. Between the years 1994 and 1996, 73 girls were judicially waived for felony offenses in the state of Arizona. Between 1997 and 2000, 42 girls (nearly half the previous number) were judicially waived for felony offenses in the same state. The possible reasons for this drastic decrease in the judicial waiver of girls will be discussed in Chapter VI.

The final hypothesis, hypothesis fourteen, predicted that the girls who were waived between 1994 and 1996 would have different legal and extra legal histories than girls judicially waived between 1997 and 2000. The descriptive statistics are presented in Table 15.

Table 15: Frequency Distribution of Variables of Judicially Waived Girls

Value	1994-1996 (N=73)		1997-2000 (N=42)	
	N	(%)	N	%
Race				
White	40	54.8	23	54.8
Black	5	6.8	8	19.0
Hispanic	24	32.9	8	19.0
Native American	1	1.4	2	4.8
Asian/Pacific Islander	1	1.4	0	0.0
Other	2	2.7	1	2.4
Current Offense				
Person	30	41.1	10	23.8
Property	25	34.2	22	52.4
Drug	18	24.7	8	19.0
Other	0	0.0	2	4.8
School Status				
Currently Enrolled	24	32.9	19	45.2
Not enrolled	49	67.1	23	54.7
Graduated/GED	0	0.0	0	0.0
Court Jurisdiction				
Lightly populated	18	24.7	10	23.8
Moderately populated	8	11.0	4	9.5
Densely populated	47	64.4	28	66.7

	Mean	SD.	Mean	SD.
Age	16.55	0.76	16.17	0.85
Prior Referrals	4.42	5.46	4.88	4.39
	Year	N	Year	N
	1994	25	1997	19
	1995	26	1998	15
	1996	22	1999	7
			2000	1

Based on the descriptive statistics, there is a difference between the population of girls judicially waived prior to 1997 and the population of girls judicially waived after 1997. While the racial composition and court jurisdiction were relatively similar between the two groups, there were other dissimilarities. Most notably, the current offenses for the groups were different. Between 1994 and 1996, a majority of girls were judicially waived for person offenses (41.1%, N = 30). Between 1997 and 2000, however, a majority of girls were judicially waived for property offenses (52.4%, N = 22). Additionally, girls waived between 1997 and 2000 were slightly younger (minimum age was 13 years old with a mean age of 16.17), but they had a greater mean number of prior referrals (4.88) than those girls previously waived (14 years of age with a mean of 16.55 and a mean of 4.42 prior referrals). While recognizing that there are some differences between these groups, the mean age difference is only four months and the prior referral is only .4. Both of these differences seem insignificant.

The school status of both groups also is important. A larger number of girls who were judicially waived between 1997 and 2000 were enrolled in school

(45.2%, N = 19) compared to those who were waived between 1994 and 1996 (32.9%, N = 24). Based on these numbers, it would appear that, although there were a smaller number of girls judicially waived after 1996, the girls who were waived to adult court were waived at a younger age for less serious offenses, and with slightly fewer prior referrals. These data suggest that these girls were subjected to harsher penalties than those transferred in the previous years. These results will be examined more fully in the next chapter.

Summary

This chapter focused on the variables that influenced judicial waiver in Arizona between 1994 and 2000. The independent effects of extra legal and legal factors appeared to be important. Of particular importance were the effects of age as an extra legal variable and prior referrals as a legal variable. In both instances, the effects were positive and highly significant for girls and boys. Older youth were consistently more likely to be judicially waived than younger youth. Similarly, a higher number of prior referrals was associated with a greater likelihood of judicial waiver for girls (both White and non-White) and boys.

Additionally, the type of offense also influenced the judicial waiver decision. In the mixed model of girls and boys, person and property offenses were shown to be significant for both genders. Comparatively, person offenses were shown to be a stronger predictor of judicial waiver for boys than for girls. Boys were twelve times more likely to be judicially waived for person offenses, and girls were four times more likely to be judicially waived for person offenses.

Furthermore, person offenses had a stronger effect on White girls than non-White girls.

School status also was shown to be significant. Girls and boys who were enrolled in school were less likely to be waived than those who were not enrolled. Moreover, school status appeared to be significant for White girls but not a significant predictor of judicial waiver for non-White girls.

Jurisdiction had an effect on judicial waiver decisions for boys only. Boys in densely populated jurisdictions were more likely to be judicially waived than boys in lightly/moderately populated jurisdictions. Jurisdiction was not shown to be significant for girls. Finally, gender and race were not shown to be significant predictors of judicial waiver.

CHAPTER VI

DISCUSSION AND CONCLUSION

In examining judicial waiver, it is important to assess whether or not girls and boys are treated the same or if gender bias exists in the juvenile court's handling of youthful offenders. Judicial waiver decisions allow the judge to individualize justice and consider relevant aspects of the case such as severity of offense, maturity of the offender, and amenability to treatment (Fields, 1999; Del Carmen, Parker & Reddington, 1998). The purpose of this study was to determine if gender bias existed in judicial waiver decisions in one state and to analyze the factors that influenced the decision to judicially waive girls. The findings presented in Chapter V provide a fairly complex portrait of the effects of several variables on judicial waiver. However, a number of the specific hypotheses regarding the effects of gender and race were not supported by these data.

The results from the logistic regression analysis provided only partial support for the hypothesis that extra legal variables are a strong predictor of judicial waiver decisions for girls. In this study, legal variables are significant (current offense and the number of prior referrals). As in many studies previously discussed, the extra-legal variable, age, was found to be a predictor of waiver. However, the variables of race and gender were not significant in this study. A discussion of each variable is presented below.

The Effects of Extra-Legal Variables

There were several extra legal variables that were found to be significant predictors of judicial waiver and two that were not. Age, school status, and jurisdiction were found to have an effect on judicial waiver.

Age was found to be a significant predictor for both girls and boys, regardless of race. This finding lends further support to the previous research, which suggested that age was a factor in waiver outcomes (Bishop & Frazier, 1991; Bishop et al., 1989; Bortner, 1985; Champion, 1989; Clarke, 1996; Clement, 1997; Fagan & Deschenes, 1990; Fagan et al., 1987; Fritsch et al., 1996; Houghtalin & Mays, 1991; Myers, 2003; Thomas & Bilchik; 1985). Similar to Fagan and Deschenes' (1994) study, which found that nearly all seventeen year old youth in Phoenix were transferred for the purpose of obtaining a longer sentence in a secure facility, the present study also found that nearly 57% of the judicially waived girls and 53% of waived boys were seventeen. In this study, age was found to be positively associated with judicial waiver decisions. Older girls and boys were significantly more likely to be judicially waived to adult court than younger girls and boys.

School status also was found to be a significant predictor for judicial waiver for both girls and boys. For both genders, being enrolled in school significantly decreased the likelihood of being waived to adult court. However, while gender and race were not found to significantly influence judicial waiver decisions; when comparing White girls and non-White girls, school status was found only to be significant for White girls. It was not significant for non-White

girls. This means that White girls (but not non-White girls) were less likely to be judicially waived if they were enrolled in school.

Furthermore, geographical jurisdiction was found to significantly influence judicial waiver outcomes for boys but had no effect for girls. Boys were more likely to be judicially waived in densely populated jurisdictions rather than lightly or moderately populated jurisdictions. Although there were a larger number of girls judicially waived in densely populated jurisdictions compared to lightly/moderately populated jurisdictions, the variable was not a significant predictor of waiver for girls. While the numbers presented in the previous chapter indicated that more White girls were waived in lightly/moderately populated areas compared to non-White girls, the United States Census Data (2006) reveal that a majority of the counties coded as lightly and moderately populated were comprised of a greater percentage of White persons than non-White persons. Arizona's population is nearly 60% White. Therefore, it is not surprising that more White girls were judicially waived in lightly/moderately populated jurisdictions.

While jurisdiction was insignificant for girls, the finding that boys were more likely to be waived in densely populated areas warrants further scrutiny. Research has suggested that the discretionary powers of juvenile court judges in transfer decisions vary by jurisdiction depending on offense type (Howell, 1996). Additionally, it has been argued that urban courts might cast a wider net and petition a larger number of youth to the juvenile court. By contrast, rural courts are more selective in petitioning, and screen the youth more carefully (Feld,

1991; Guevara et al., 2008). Interestingly, according to the FBI arrest statistics for Arizona (2007), the total number of juvenile arrests in 2000 was actually less in the densely populated area compared to one of largest counties in the moderately populated category (17.3% versus 22.0%). This might indicate that other factors, including the culture of the court in the densely populated jurisdiction, could impact the decision to waive boys more often than the less populated jurisdictions.

The Effects of Legal Variables

As stated before, it is assumed that waiver policies should be reserved for juveniles who pose the most risk to society or who have committed the most violent offenses (Champion, 1989; Fagan & Deschenes). In this study, legal variables were shown to have a significant impact on judicial waiver outcomes. In the full model of boys and girls, all of the legal variables were found to be significant. Offenses against persons resulted in the greatest likelihood of judicial waiver, followed by property offenses. Boys were found to be more likely to be judicially waived for person offenses than girls. Within the population of girls, White girls were more likely than non-White girls to be judicially waived for person offenses. White girls also were more likely than non-White girls to be waived for property offenses.

The descriptive statistics presented in the previous chapter revealed that 6% more girls were judicially waived for property offenses than for person offenses. Boys, on the other hand, were waived more often for person offenses. These data might lend some support to previous studies suggesting that girls are

punished more harshly for less serious offenses and that the court continues to enact harsher forms of social control on girls than it does on boys (Bright et al., 2007; Kempf-Leonard, & Sample, 2000; MacDonald & Chesney-Lind, 2001).

Prior offenses also were found to be a significant predictor of judicial waiver, which supports previous research (Myers, 2001; Jordan, 2005; Poulos & Orchoswsky, 1994). In the full model, each additional prior referral increased the likelihood of judicial waiver for both genders. Prior record also was found to significantly affect the likelihood of waiver for girls regardless of race. However, on average, girls were waived with significantly fewer prior referrals than boys. As mentioned in Chapter V, 25% of girls who were waived had no prior referrals, whereas only 14% of boys had no prior referrals. This result yields two possible explanations.

On the one hand, the fact that girls were waived for a fewer number of prior referrals provides some support for the contention that there is more paternalism toward girls and Belknap's (2007) "evil woman hypothesis". In these instances, girls are treated more harshly than boys who commit similar offenses because the girls have violated not only the law, but also have violated acceptable gender roles (Belknap, 2007). It is suggested that they are punished, not for harm done to society, but for violating socially acceptable norms.

Conversely, it might be possible that the first referral for many of the judicially waived girls was for a serious offense. Bilchik (1997) examined juvenile homicide offenders in South Carolina and found that many youth in the study were first referred to court for a person offense, which was mostly a homicide

offense. If this were the case for the girls waived in this study, it would explain the lack of prior referrals. The data reveal that 35% of the girls who were waived for person offenses had no prior referrals compared to 55% of the girls who committed person offenses but were not waived. Within the population of judicially waived girls, 12% (N=14) were waived for person offenses and had no prior referrals, 9% (N=10) were waived for property offenses with no prior referrals, and 4% (N=5) of girls with no prior referrals were waived for drug offenses. Girls who were judicially waived for person offenses had an overall lower number of prior referrals compared to girls waived for property and drug offenses.

In general, the results of this study indicate that judicial waiver focused on the most serious offenders. More serious and frequent offenders were waived to adult court while less serious and less frequent offenders were retained in juvenile court. The current study supported research which suggested that the majority of youth who are waived have committed violent offenses (Barnes & Franz, 1989; Champion, 1989; Clarke, 1996; Fritsch et al., 1996; Houghtalin & Mays, 1991; Kinder, et al.; 1995; Snyder & Sickmund, 2006).

Proposition 102

As noted in the previous chapter, the number of judicially waived girls decreased after the implementation of Proposition 102 in 1997. Proposition 102 expedited procedures for juvenile offenders to be processed in adult court by increasing the mechanisms by which youthful offenders could be waived to criminal court. As expected, the creation of additional waiver mechanisms

resulted in a decrease in the number of girls who were judicially waived. However, this finding might be a result of more than the new transfer pathways. It is possible that other factors affected the reduction of judicial waivers. For example, as discussed in previous chapters, the number of juvenile arrests for violent crime substantially increased between 1988 and 1994 (Snyder, 2004). Following a peak in 1994, these arrests have declined each year. The decline in juvenile arrests might be related to a decrease in the number of youth judicially waived to adult court. The number of juveniles arrested in Arizona changed dramatically between 1994 and 2000. According to FBI arrest statistics for Arizona (2007), the total number of juvenile arrests decreased from 23.8% (N= 67,853) in 1994 to 19.6% (N= 59,732) in 2000.

Another explanation for the decrease in waiver might be related to economics. At the beginning of 1996, there were concerns about overcrowding in juvenile facilities in Arizona. In April of 1996, U.S. District Judge Richard Bilby closed the entrance to three state juvenile facilities because of overcrowding. He declared that no more youth could be sent to the facilities until the population of incarcerated juveniles dropped (Fischer, 1996b). As a result, nearly 100 youth were released by the following month (Hausler, 1996).

Less than a year later, at the beginning of 1997, the same Juvenile Correctional Facilities were facing a contempt hearing for violating the population caps mandated by the federal judge (Associated Press, 1997). After being fined, more juveniles were released in an attempt to comply with the population limit. The money authorized by the Juvenile Crime Bill might have allowed more

juveniles to be retained in the juvenile system because there was more room for them after the detention centers were allocated funding to expand. Proposition 102 awarded 5.8 million dollars to counties to expand their juvenile detention centers (McKinnon, 1997).

Additionally, Proposition 102 also sought to establish diversion programs that would allow some first-time juvenile offenders to avoid jail time or even a criminal record (McKinnon, 1997). As shown in Chapter V, 18 girls were judicially waived prior to the implementation of Proposition 102 for drug offenses compared to eight girls who were judicially waived for the same offense after 1996. It might be possible that the number of girls judicially waived for drug offenses decreased as a result of diversion programs and treatment programs that were made available after the adoption of Proposition 102. Conversely, more girls may have been waived through alternative mechanisms.

The number of girls judicially waived for person offenses also decreased after 1996. However, although the number of girls who were judicially waived for person offenses substantially decreased after 1996, from 41% (N = 30) to 24% (N = 10), the number of girls who were judicially waived for property offenses stayed relatively constant (34%, N = 25 to 52%, N = 22). This may be due to the fact that Proposition 102 mandated that youth who were accused of murder, rape, armed robbery or other violent felony offenses or who were chronic felony offenders would be automatically tried as adults. However, the decision to waive property offenders would still be made by juvenile court judges or prosecutors. Even though the total number of girls who were judicially waived decreased after

the implementation of the legislation, the number of girls waived for “lesser” offenses (i.e., property offenses) remained the same.

Limitations of the Current Study

Before drawing conclusions about this research, a number of limitations should be considered. First, judicial waiver is the end-stage of juvenile justice processing and this research cannot account for potential gender bias in the decision to arrest, detain, petition, defer, or dismiss juvenile cases. Furthermore, the data used in this study did not consider the types of prior offenses (this variable was not included in the data set). It has been noted that prior offense history influences judicial waiver. It is therefore suggested that future research incorporate such considerations into examinations of gender and waiver.

The second limitation concerns the sample within the data. Because there were only a small number of Asian, Native American, and African American youth in the sample, these cases were combined with Hispanic youth into a non-White category. As a result, this study only compared the outcomes for White and non-White youth without taking into account the individual racial and/or ethnic characteristics and influences of each specific group.

The third limitation of this study relates to the collection of data. The data used for this study were collected by the juvenile courts in Arizona over a seven year period. In each year of data, the number of offenses increased, which suggests that perhaps the state was getting tough on crime and widening the net to incorporate arrestable offenses for youth who previously would not have been charged. For example, offenses such as furnishing obscene items to minors,

motorcycle theft, dog fighting, cruelty to animals, depositing explosives, continued sexual abuse of a minor, and destruction of a jail were added to the list of offenses within the data set throughout the years. Additionally, as previously mentioned, some offenses were amended or added throughout the years.

Jacob (1985) referred to this phenomenon as errors produced by changing circumstances. For example, in 1996, drug offenses were changed from one class of felony to another. The classes of felonies for possession or use of dangerous drugs, possession of a dangerous drug for sale, and possession of equipment for the purpose of manufacturing drugs were changed, and amphetamines were added to the list of dangerous drugs that were considered a felony rather than a misdemeanor (A.R.S. § 13-3407). Furthermore, in 1995, the amount of marijuana that was considered a felony changed with regard to the class of felony. Before 1995, any amount of marijuana between one and eight pounds was considered a class 5 felony. This law was revised to state that any amount over four pounds constituted a class 2 felony (A.R.S. § 13-3405). These changes in the Arizona criminal code and the addition of extra offenses may have affected these data.

The fourth limitation concerns the generalizability of the findings. This study examined the juvenile court data for one state from 1994 through 2000. Therefore, the results are only applicable to the population in this one state and during this one time period.

Policy Implications

This study, augmented by previous research, offers several implications for policy development in the area of juvenile justice. Based on the results of this study, age, school status, prior record, and type of offense had an effect on judicial waiver. While the purpose of waiver policies may be to deter or punish youthful offenders, pragmatic policy implications might seek to prevent such youth from offending to the point that judicial transfer is warranted.

First, since age was shown to be an influential predictor in judicial waiver, it is suggested that juveniles waived to adult court and convicted receive blended sentences. In this respect, more youth would be allowed to take advantage of the treatment options available in the juvenile system. According to the *Arizona Supreme Court Rules of Procedure for the Juvenile Court*, Rule 14, juvenile court judges consider “the sophistication and maturity of the child as determined by consideration of the child's age, intelligence, education, environment, emotional attitude, and pattern of living” before waiving him/her to adult court.

Fundamentally, the courts assume that juveniles rationally consider the consequences of their actions (Myers, 2005). However, the brain continues to grow and mature during adolescence and researchers suggest that the structural growth of the brain does not stop in the teenage years but continues to develop into the early 20s (Day, Chiu & Hendren, 2006; Beckman, 2004; Giedd et al., 1999). Research shows that youth also have less than a fully developed brain, and this difference can account for many behavioral discrepancies between adolescents and adults. Since the part of the brain that might suppress criminal

behavior has not fully developed, adolescents are more prone to impulsive behavior and lack the ability to make sound decisions (Day, Chiu & Hendren, 2006; Davies, 2004; Spear, 2000). Therefore, the age of the youth does not necessarily coincide with his/her maturity.

Waiving youth to adult court often has been associated with greater punishment since they can receive longer sentences as an adult but have limited time to serve their sentence as a juvenile (Fagan & Deschenes, 1990; Myers, 2005). By applying blended sentences, the youth would still be held accountable for his/her crime; and society would still be protected. The system would provide the youth with the resources to motivate and rehabilitate him/herself in a system more focused on rehabilitation than punishment (Goodman, 2007).

Second, this study found that girls who were not enrolled in school were more likely than girls who were enrolled in school to be waived to adult court. Future research, therefore, might determine why girls drop out of school, and attempt to reduce truancy. For example, Girls Inc (1996) studied girls in the juvenile justice system and found that 27% of the girls reported that they dropped out of school because they were pregnant, and 20% reported that they dropped out of school because they were mothers and needed to take care of their children.

Truancy has been linked to serious delinquent activity in youth and significant negative behavior in adults (Baker, Sigmon & Nugent, 2001). According to Dynarski and Gleason (1989), school based behavioral problems have been identified as risk factors for delinquency; and students with the highest

truancy rates have the lowest achievement rates. These low achievement rates are associated with other unfavorable outcomes such as substance abuse and delinquency (Dynarski & Gleason, 1989).

These outcomes also may be the initial reasons for truancy. Research shows that the decision to skip school or drop out completely might be a result of family problems, drug and alcohol abuse, and teenage pregnancy (Cantelon & LeBoeuf, 1997). It has been suggested that early intervention by the school can often solve school-based problems. Sometimes students stay away because they are falling behind in their academic work and tutoring may be needed. Mentoring or peer counseling can help with personal and social problems. It is important for policies to address the causes of truancy, and to attempt to prevent the youth's progression from truancy to more serious and violent behaviors (Baker et al., 2001).

Third, since offenses against persons and property offenses were the most likely to be judicially waived, the reasons for committing these offenses need to be explored. As mentioned in previous chapters, the rate of girls arrested for violent crimes has increased in the past decade (Snyder & Sickmund, 2006). The National Center on Addiction (2003) reported a correlation between substance abuse and physical fighting. It is possible that substance abuse, gang involvement, and home abuse might impact the commission of these crimes. Policies that seek to address the underlying causes of these offenses rather than reacting to the offense might include increasing the availability of drug, alcohol, and family counseling services.

Correspondingly, the number of prior referrals increased the likelihood of judicial waiver. It is suggested that girls might benefit from more counseling and mentoring services sooner, perhaps through existing probationary services. Additionally, these programs should be available in urban, suburban, and rural areas since the data indicate that girls are waived in each type of geographical jurisdiction.

A final recommendation is that the authority to waive youth to adult court probably ought to remain in the jurisdiction of the juvenile court judge and not be hastily relegated to statutory mandates or prosecutorial decisions. At the very least, the effects of direct file and mandatory transfer laws should be re-visited after more research about their application has been conducted. If part of the rationale for their implementation is due to the contention that judicial bias exists and has to be tempered, these data indicate otherwise: gender and race did not affect judicial waiver decisions in Arizona. Previous research which postulated that judges are allowed to make unequal and disparate rulings without the safeguard of effective appellate checks or procedural confirmation (Feld, 2001) was not supported in this specific study. Furthermore, researchers suggest that judges who have received training in juvenile issues and have experience in deciding juvenile court matters are better able to render decisions in cases meeting criteria for waiver than prosecutors or legislators (D' Ambra, 1997; Howell, 1996, Grisso, 1997).

Members of the State Bar of Arizona, such as attorneys and judges, must complete a minimum of 15 hours of mandatory continuing legal education every

year (Rules Of The Supreme Court Of Arizona, RULE 45, Mandatory Continuing Legal Education, 2007). These courses include topics such as legal ethics, trial skills, and family law updates. Participants can attend via an online medium, webcast, or through live sessions (State Bar of Arizona, 2008). Each individual has the discretion to choose these courses; and each attorney can select topics that pertain to his/her interest. However, this does not necessarily mean that he/she will attend courses that are directly applicable to juvenile case processing, or his/her field of practice. As long as attorneys attend 15 hours of approved courses, they have met their state bar requirements. Therefore, it is possible that prosecuting attorneys who believe that a case warrants transfer to adult court might not have any real training or education in juvenile justice. At the very least, such continuing legal education should be mandated for prosecutors who deal with youthful offenders.

Appellate court judges, superior court judges, and judges of courts of limited jurisdiction (such as magistrate offices, municipal courts, and juvenile courts), on the other hand, are regulated by the Council on Juvenile Education and Judicial Training (COJET). They are required to complete a minimum of 16 hours of courses that specifically relate to their position (Section 1-302, Arizona Code of Judicial Administration, 2007). It can be argued that specialized training and continuing education in one's position might produce more informed decisions. It is suggested, however, that the mandatory continuing education courses specifically address gender and culture in the juvenile court. Although the current study did not find any significant evidence of gender or racial bias,

ongoing judicial education on contemporary issues like diversity and gender is important. In this way, judges may better be able to continue to understand gender, race, and culture and afford youth every opportunity outside of the formal criminal justice system.

In summary, policies and programs should be implemented to prevent juvenile offenders from reaching the stage of offending when waiver is deemed necessary by focusing on school attendance and individual reasons for engaging in criminal behavior. If necessary, judicial waiver is the preferable method of transfer because it allows a judge to consider circumstances surrounding a case and other factors relating to the juvenile offender. Juvenile judges are likely to be more familiar with the special needs of adolescents, retain the *parens patriae* doctrine of the original juvenile court, and act in the best interest of each child.

Future Research

This area of research is important for a number of reasons. Legislation and social policy can be initiated as a result of research. Overall, the study of girls and judicial waiver has been severely neglected by scholars and researchers. Previous studies about waiver focused primarily on boys. Further research might be able to illuminate problems with juvenile transfer legislation and inform legislators who might implement new policies to remedy these problems.

Future research should continue to focus on girls and attempt to understand the variables that affect their transfer to adult court. One way to expand the research might include in-depth interviews with juvenile court judges

to augment the official data and provide a more detailed account of the reasons for transfer. By interviewing individual judges, a researcher might develop a greater understanding of factors that influence waiver decisions. Additionally, future research also should examine data from other states in order to increase the generalizability of the findings.

Future research also might benefit from incorporating additional extra legal and legal variables into the analysis of judicial waiver such as the parental marital status, socioeconomic status of the offender, and the types of prior referrals (status or delinquency offenses). Previous research postulated that sentencing outcomes differ for youth who live with one or two parents (Leiber & Fox, 2005). It also is suggested that socioeconomic characteristics influence and bias juvenile court processing decisions (Bortner & Reed, 1985). Similarly, as discussed in previous chapters, girls often are referred to the juvenile court for status offenses and receive disparate treatment than boys involved in those offenses (Chesney Lind, 2005; Mallicoat, 2007). Data limitations precluded the inclusion of these potentially important variables in the current study. Ongoing research is recommended to address additional dimensions of these variables.

Conclusion

The juvenile justice system was created to act in the best interest of the child. However, with the increase of youth crime and the emergence of the youthful “super-predator” in the media, the juvenile courts changed the focus from protecting the child to punishing the child. Over the past half-century, the special features that distinguished the juvenile court from the criminal court have

slowly eroded due to changes implemented by courts and legislatures. As a result, juveniles are sometimes transferred more readily to adult court and their opportunity for rehabilitation is limited.

There is a gap in the literature regarding girls and judicial waiver. The current study attempted to determine if gender bias exists in judicial waiver practices in one state. Specifically, the purpose of the study was to determine if gender and/or race were factors in judicial transfer of juveniles to adult criminal court in the state of Arizona between 1994 and 2000.

Research has suggested that judges apply waiver decisions in an arbitrary and discriminatory manner (Fagan and Deschenes, 1990; Feld, 1991). However, the results of this research found no overt cases of bias or discrimination. It was predicted that gender would influence judicial waiver decisions; however, this was not the case. Gender had no effect on waiver. Furthermore, it was predicted that race would influence judicial waiver decision, but again, this was not substantiated.

Based on the results of this study, it would appear that, in general, judicial waiver was applied consistently. It also appeared that the juvenile court judges primarily considered the seriousness of the offense, the previous history of the offender, and the age of the youth before waiving the juvenile to adult court. The finding that school status affected the likelihood of judicial waiver for White girls but not for non-White girls is puzzling and requires further study. Further research needs to be conducted at all levels of the juvenile justice system from arrest to waiver in order to gain a clearer assessment of the treatment of girls.

Ideally, juvenile justice policies should be based on informed decisions and not merely political rhetoric, media portrayals, and reactions to a perceived problem. Proposition 102 was enacted because of the public's fear of youth crime. It was a measure to focus attention on the offense rather than the offender. Arizona's response was similar to that of most of the other states. Nonetheless, this might be a good time to reconsider alternative policies.

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Appendix A: Data Request Letter

October 19, 2007

Ms. Anne Stahl, Manager of Data Collection
National Center for Juvenile Justice
3700 South Water Street
Suite 200
Pittsburgh, PA 15203

Dear Ms. Stahl,

Thank you for meeting with Dr. Alida Merlo and me on May 30, 2007 to discuss my dissertation research regarding judicially waived female delinquents in Arizona. Your assistance and counsel were extremely helpful. Per your advice, I am writing to you now as a formal request to access Arizona juvenile court data for purposes of secondary analysis for my dissertation research.

I am enclosing a copy of my research request with this letter. It discusses the research questions and hypotheses that will be explored in my study. I am happy to comply with the IRB requirements at the National Center for Juvenile Justice. I will also be going to the IUP IRB after my proposal is defended, which is the procedure at IUP. I am happy to furnish you with a copy of the IRB authorization once I receive it.

Please feel free to contact Dr. Merlo or me if you have any questions or need any additional information. Thank you for considering this data request.

Sincerely,

Alison S. Burke, MCJ
Doctoral Candidate
Department of Criminology
Indiana University of Pennsylvania

Appendix B: Dissertation Research Data Request

Dissertation Research Data Request to the National Center for Juvenile Justice

Researcher:
Alison S. Burke
Doctoral Candidate
Criminology Department
Indiana University of Pennsylvania

Advisor:
Alida V. Merlo, Ph.D.
Professor
Criminology Department
Indiana University of Pennsylvania

Purpose

The proposed dissertation research will address the issue of gender and racial differences in juvenile transfer decisions in Arizona. The researcher will examine juvenile court procedures for girls and minorities, compare and contrast girls and boys who are waived to adult court, and evaluate the influence that gender and race have on transfer decisions in Arizona. In order to successfully complete this study, the researcher needs official approval to access secondary data from the National Center for Juvenile Justice in Pittsburgh.

Research Hypothesis

The proposed research will address three general questions. The first question is based on a comparison between girls and boys in juvenile justice processing and is stated as: "Are there differences between girls and boys who are transferred to adult court?" The second research question will test for differences within the population of girls who are judicially waived. Specifically, "Is there a difference between girls who are judicially waived to adult court and girls who are not?" The third research question refers to the 1996 Arizona legislation that increased the number of mechanisms for juvenile transfers. This research question is "What is the effect of the Arizona legislation (Proposition 102) on female and minority youth?" The goal of this research is to quantitatively test these three general research questions. It is hypothesized that there will be a difference between girls and boys waived to adult court, that girls will be less likely than boys to be waived, and that non-White girls will be more likely to be waived than White girls (when controlling for legal variables).

Methods

The researcher will examine the influence of gender and race on judicial transfer decisions. If granted access to the data, the researcher will analyze secondary data collected by the state of Arizona and archived at the National Center for Juvenile Justice in Pittsburgh. Data will include cases representing both girls and boys waived to adult court. It will probably be necessary to use all available female cases instead of a sample, because fewer girls are waived to adult court. Since there are significantly more boys waived to adult court, only a representative sample of cases for boys is needed. The dependent variable of interest is waiver to adult court. The independent variables are gender, race, prior record, and current offense, age, and offense type.

The intended research is interested in examining judicial waiver data for seven years: 1994, 1995, 1996, 1997, 1998, 1999, and 2000.

Analysis

Logistical regression will be used to estimate the likelihood of waiver (dependent variable) occurring based on a juvenile's gender, race, prior record, and current offense, age, and offense type (independent variables). Results will be used to evaluate whether gender and race have a meaningful and statistically significant effect on transfer decisions.

Confidentiality

The researcher will ensure confidentiality of the secondary youth data and comply fully with the IRB requirements at the National Center for Juvenile Justice and Indiana University of Pennsylvania. The researcher will maintain confidentiality of the data by attributing all results to the state of Arizona as whole and not to individual counties within the state.

Research and Policy Implications

The researcher hopes that findings will contribute to policies and practices that ensure equity and improve the effectiveness of the juvenile justice system. This research may guide or support future research on gender and racial differences and enhance our understanding of the factors that contribute to waiver decisions in juvenile justice. Although it is focused on only one state, this research may facilitate comparative studies of policies and practices in different states.

Appendix C: Dissertation Data Authorization Form

DEC-05-2007 12:24

AZ SUPREME COURT

602 452 3879 P.02

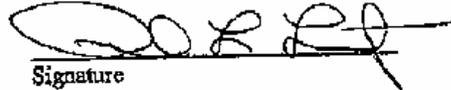
Alison Burke

RELEASE AND AUTHORIZATION FORM

I, Robin Lubitz, Director, Juvenile Justice Division
(Name and Title)

at Arizona Supreme Court, Administrative Office of the Courts
(Organization and State)

have the authority and hereby authorize the National Center for Juvenile Justice to release AZ Juvenile Court Case Records 1994 through 2000 data files to Alison Burke under the supervision of Dr. Alida Merle as set forth in correspondence dated August 24, 2007 from the National Center for Juvenile Justice.



Signature

11/29/07
Date

Conditions attached to release of the data file:

we would request a copy of the
final dissertation

Please mail to:

National Center for Juvenile Justice
3700 South Water Street, Suite 200
Pittsburgh, PA 15203

Attention: Sarah Livsey

Appendix D: Studies of Gender Bias Related to Current Study

Year	Author	Sample	Method	Dependent Variables	Predictors	Result
1981	Teilmann & Landry	Court records from seven counties: Southern California, Northern California, Arizona, Delaware, 2 x Illinois, 2 x Washington	Quantitative Cross sectional Tabular analysis Self report questionnaire	Case disposition	- Gender - Type of offense - Number of prior offenses	Status offenders receive more severe dispositions. Girls are most likely arrested for status offenses.
1985	Staples	Juvenile delinquency cases N= 3,911	Quantitative Log linear analysis	Court Disposition	-Prior offense -Offense Seriousness -Gender	Girls less likely to be incarcerated than boys
1985	Bortner & Reed	Juvenile delinquency cases N= 9,223	Quantitative Log linear analysis	Detention decision	-Prior offense -Offense type -Race -Gender	Girls are detained more than boys.
1991	Johnson & Scheuble	Juvenile court dispositions in Midwestern State N= 36,680	Quantitative Nonparametric analysis of covariance	Adjudicated disposition decision (detention, custody transfer, probation, and dismissal)	-Gender -Prior record -year of disposition -geographical location	Some evidence of gender bias in dispositions. Girls less likely to be incarcerated.

1991	Horowitz & Pottieger	Miami youth N= 391	Quantitative Self report offense data	Type of offense	-Gender -Race -Age	Girls arrested more often than boys for lesser offenses but less often than boys for serious offenses.
2001	MacDonald & Chesney-Lind	Hawaii family court records N= 85,692	Quantitative Logistic Regression	- Case officially petitioned - delinquency hearing -formal disposition	-Gender -Age -Race -Geographical location -Offense seriousness	Girls more harshly sanctioned than boys.
2006	Guevara, Herz & Spohn	Juvenile court referrals N= 1,388	Quantitative Binary and multinomial logistic regression	-Pre-adjudication detention decision -Disposition	-Race -Gender -Age -Prior Record -Current offense -County	Girls were more likely than boys to have charges dismissed. White girls were more likely than non-White girls to have charges dismissed or be placed on probation.
2007	Mallicoat	Pre-sentence investigative reports N=114	Qualitative Content analysis Quantitative Multivariate analysis	Assignment of attributions (internal high and external low)	-Age - Race - Gender - Current offense - Victim information - prior record - family history -Personal history and background	Evidence of gender differences in pre-sentence reports. Girls are considered less criminally dangerous.

Appendix E: Studies of Race Related to Current Study

Year	Author	Sample	Method	Dependent Variables	Predictors	Result
1985	Bortner & Reed	9,223 delinquency cases referred to juvenile court in 1977	Quantitative Log-linear analysis	-detention -screening -final disposition	-race -gender -prior referrals -offense type	Black female offenders were more likely to be formally processed than White females or Black or White males.
1991	Horowitz & Pottieger	391 Black and White youth (100 girls, 291 boys) in Miami, Florida between 1985 and 1987.	Quantitative Chi Square analysis	Adjudication and disposition	-race -type of offense -level of involvement -number of arrests	Black and White girls were arrested more often than boys for less serious offenses.
1994	Miller	244 investigative reports of delinquent girls between 1992 and 1993	Quantitative Log linear analysis	Disposition Recommendation	-race -prior record -demeanor	White girls were more likely to be referred to treatment facilities instead of detention. Black girls were more likely to be referred to detention.
1998	Steffensmier et al.	Roughly 139,000 sentencing outcomes in Pennsylvania between 1989 and 1992.	Quantitative Logistic and OLS regression analysis	probation vs. jail and sentence length	-age -race -gender -offense severity -offense type -history -multiple convictions -mode of conviction -court size, & year	The odds of incarceration for White females were less than for Black females.

2001	MacDonald & Chesney-Lind	85,692 family court cases between 1980 and 1991 in Hawaii.	Quantitative Logistic regression	Petition, adjudication, and disposition.	-sex -age -ethnicity -court jurisdiction -wealth of the area -current offense -year	White youth were less likely to receive formal disposition when compared with non-White youth.
2003	Pope & Snyder	102,905 juvenile offenders from 17 states in 1997.	Quantitative Descriptive	N/A	-age -sex -race -offense type -date of offense -place -injury to victim -weapon -victim sex and race -relationship of offender	Police were not more likely to arrest non-White than White juvenile offenders.
2004	Bishop	Juvenile arrest data from 1994-1998 and juvenile court statistics 1990-1999	Quantitative Descriptive	N/A	-race -adjudication type	Black youth were more likely to be referred to court, detained, formally charged, and be sentenced to out of home placement than White youth.

2006	Kupchick	556 New Jersey and 914 New York juvenile court cases from 1992 and 1993.	Quantitative Descriptive, Heckman two-stage probit models, and comparing individual regression coefficients from probit models.	Disposition decision (sentencing)	-gender -race -prior offenses -previous incarceration -current offense -weapon -Preadjudication detention -arrests during case processing -type of court	Black youth were more likely to be incarcerated when compared with White youth.
2006	Guevara et al.	1,388 juvenile court case files from 1990-1994	binary and multinomial logistic regression	Preadjudication detention and disposition	-White -gender -age -prior record -current offense -county	White girls were more likely to receive out of the home placement compared with non-White girls.

Appendix F: Bivariate Correlation Matrix

Variable	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16
(1) Gender	1.00															
(2) White	.100*	1.00														
(3) Black	.044	-.321**	1.00													
(4) Hispanic	-.182**	-.735**	-.242**	1.00												
(5) Native American	.098*	-.205**	-.608	-.155**	1.00											
(6) Asian	.047	-.046	-.015	-.035	-.010	1.00										
(7) Other	.021	-.103*	-.034	-.078	-.022	-.005	1.00									
(8) Age	.003	-.035	.001	.083	-.151	.042	.056	1.00								
(9) School	-.048	.114*	-.006	-.140**	.085	.044	-.070	-.274**	1.00							
(10) Jurisdiction	-.022	-.139**	.207**	.030	-.019	.040	-.036	.142**	-.045	1.00						
(11) Person Offense	-.038	-.155**	.153*	.100*	-.083	.074	-.020	.064	-.080	.209**	1.00					
(12) Property Offense	.004	.059	-.020	-.061	.056	-.038	-.042	.006	-.102*	.203	-.511**	1.00				
(13) Drug Offense	.020	.118*	-.121**	-.056	-.020	-.027	.094	-.040	.123*	-.145**	-.368**	-.468**	1.00			
(14) Other Offense	.026	-.040	-.028	.035	.075	-.013	-.028	-.058	.130**	-.170**	-.171**	-.217**	-.156**	1.00		
(15) Priors	-.182**	-.142**	.017	.134**	-.038	-.028	-.048	.222	-.089	.048	-.023	.041	-.076	.093*	1.00	
(16) Transfer	.000	-.091	.044	.100*	-.098*	.047	.021	.538**	-.292**	.206**	.240**	.040	-.190**	.182**	.329**	1.00