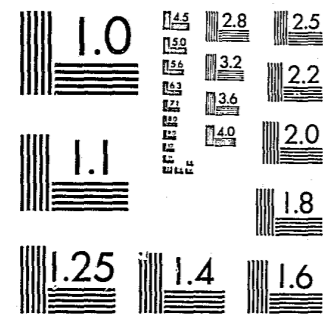


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National Center For Juvenile Justice
Research Division of
National Council of Juvenile and Family Court Judges

The Serious Juvenile Offender: The Scope of the Problem and the Response of Juvenile Courts

by
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In recent years the serious criminal behavior of juveniles has become a vocal concern of mainstream America. From the conversations of private citizens, to the content and tone of newspaper articles, to the offices of local, state, and national policy makers, this concern is fueled by the belief that serious juvenile crime is increasing at an alarming rate and creating pressure for changes in the juvenile justice system's handling of these offenders. There are calls for more serious sanctions for the juveniles who commit serious crimes and increasing pressure to treat such offenders as adults. But are these perceptions of the magnitude and extent of serious juvenile crime supported by facts or are they derived from inaccurate reporting and the internalization of erroneous interpretations of data. This monograph is a response to the growing volume of misinformation about the extent of the serious juvenile offender and the juvenile court's handling of serious offenders. Our goal is to provide to those concerned with the future course of juvenile justice a valid, empirically supported, picture of serious juvenile crime in America.

The Sources of Information

It is our premise that the volume and proportion of serious crime committed by juveniles have been exaggerated. This, we believe, is primarily due to the fact that no single comprehensive national information source is designed to explore the major aspects of juvenile crime. When reporters, researchers, and legislators attempt to determine the volume and character of juvenile crime, they generally tap one or more of three major sources of information available on juvenile delinquency. These sources are (1) the National Crime Survey, (2) the FBI Uniform Crime Reports, and (3) the National Center for Juvenile Justice juvenile court data archive. Each information resource was designed to address specific issues related to juvenile delinquency. Any conclusions drawn from these sources should be accompanied by the limitations inherent in the data bases, but often these limitations or biases are overlooked. Furthermore, any attempt to combine the information from different sources must be done with extreme care. However, if their limitations and qualifications are kept in mind, the three sources together can provide a much broader picture of juvenile crime in America and the justice system's response to it than can any one alone.

The National Crime Survey (NCS) conducted by the U.S. Bureau of the Census in cooperation with the Law Enforcement Assistance Association, surveys a representative sample of approximately 60,000 households and 50,000 businesses to determine the nature of victimization each has suffered since the last survey contact. A valuable outcome of this work is its estimate of the amount and types of crime experienced in the country and the details of these criminal acts. Respondents who have been victimized are asked to describe the act(s) (e.g., the nature of the offense, type of injury, weapon used, and financial loss incurred). This detailed description of the event goes far beyond the simple labels found in the other two information resources. For example, information from the NCS allows users to distinguish among various types of robbery (e.g., purse snatching and armed robbery) and to study how the severity of offenses has varied over time and geographical areas. In addition to a description of the criminal event, respondents who have been involved in a personal

victimization (rape, robbery, assault, and personal larceny) are asked to indicate the offender's sex and race and estimate the offender's age. Although the accuracy of this information has never been tested and clearly these characteristics are available only in circumstances where the victim and offender come face to face, for personal victimizations the NCS is unique in providing information for the study of the relationship between age and the severity of crime — an important issue in policy makers' plans for the serious juvenile offender. In summary, the NCS is the source of information on the volume and characteristics of crime committed in America and the characteristics of offenders as perceived by the victims.

The second source of national information on criminal and delinquent behavior, and the most widely cited, is the FBI Uniform Crime Reports (UCR). Police departments across the country report summary information on the number and types of offenses reported to their departments, the number of arrests made within each of the 29 offense categories, and the age, sex, and race of the persons arrested. This information system is designed to measure police activity and work loads. However, many have attempted to use reported crime figures and, especially, arrest data as measures of criminal and delinquent activity, a practice which is extremely questionable. First of all, many crimes, and even some serious crimes, are not reported to police agencies. Therefore, as a measure of crime in America the "reported crime" figures are under counts and probably influenced by the mood of the country and the confidence which victims have in their local police departments. A more serious problem is the inclination, even among experts in the field, to interpret FBI arrest statistics as an indication of the relative proportion of serious crime committed by juveniles and adults. The use of arrest statistics may exaggerate the crime threat posed by juveniles. First, it has been argued that less powerful groups in our society are disproportionately selected for official processing among those engaging in criminal behavior (e.g., Chambliss and Seidman, 1971; Quinney, 1970). It has been suggested that the probability of detection and arrest varies with age, sex, and race and this process would be reflected in the FBI arrest figures. In support of this a study by the Rand Corporation (Greenwood, Petersilia, and Zimring, 1980) found that at marginal levels of criminal behavior, the police are more likely to make an arrest if the offender is a juvenile than if he or she is an adult. They go as far as to posit that the recent increase in arrests of juveniles for violent crime results from this tendency of police to arrest for marginal criminality and does not reflect a real increase in violent juvenile crime. Another problem in using FBI arrest statistics as an indicator of the crimes committed by juveniles is that a young offender is much more likely than an adult to commit crimes as a member of a group (Smith and Alexander, 1980). Two burglaries may represent the same amount of social harm even though one is committed by a lone adult and the other by three juveniles. If all four offenders are apprehended, they will generate arrest statistics which may be misinterpreted as juveniles commit three times as many burglaries as adults. A final caution in the use of arrest statistics as a measure of criminal activity surrounds the offense labels used. "Robbery" is a label for a wide range of criminal behavior from purse snatching to armed bank robbery. To assume that all persons arrested for robbery have committed a criminal act

of the same severity is a mistake. (As we shall see, it has been shown that young offenders tend toward the less serious end of the crime label's spectrum.)

In summary, the FBI arrest data measure entry into the criminal justice system, not the proportion of crime committed by different subgroups within our society. Care should be taken when interpreting juvenile arrest figures since juveniles are likely to be over represented, due to their tendency to engage in group crimes and the greater likelihood of their being processed officially, and since juveniles are likely to commit less severe crimes within each offense category.

The third source of national information on juvenile offenders, and the only one that describes the juvenile courts' handling of these cases, is the national juvenile court archive established and maintained by the National Center for Juvenile Justice with the support of the National Institute for Juvenile Justice and Delinquency Prevention within the Office of Juvenile Justice and Delinquency Prevention. Juvenile courts from over 20 states and a number of larger jurisdictions have supplied data to the National Center for Juvenile Justice. These data are then merged into a national base which at present contains over 4.5 million individual case records from the years 1975 through 1980. In general, each case record describes the reason for referral to court intake, the age, sex, and race of the youth, and a description of the court's handling of the case including detention history and court disposition. These data are a valuable source of national information on the juvenile courts' reaction to the youthful offender. However, its figures should not be used as a measure of juvenile crime since, as already mentioned, many crimes go unsolved and furthermore some of the most serious juvenile crimes are handled by adult courts.

Each of the three information resources just described contributes important insights into the problem of dealing with juvenile crime, if interpreted properly. The focus and limitations of each report must be kept in mind when drawing conclusions or speculations from the data reported.

Before a summary of the findings from these resources are presented, one further problem of interpretation and use must be addressed. The term "serious juvenile offender" is used so often that one might expect there to be a standard definition for it. However, this is not the case. Depending on the context and the available information the definition varies. For national work, we must rely on the available distinctions among the variety of criminal acts and offenders. The NCS can report the offender characteristics of age, sex, and race only for personal victimizations, not for all serious crime; however, its detailed description of the criminal event makes it possible to use this resource to identify the pattern of serious crimes committed nationally. The FBI Uniform Crime Reports labels eight offenses as "serious" (e.g., murder and non-negligent homicide, forcible rape, robbery, aggravated assault, burglary, larceny/theft, motor vehicle theft, and arson). This collection of offenses provides the most widely used definition of "serious crime" in the field. Clearly, many of these offenses are not personal victimizations; therefore, any discussion which includes offender characteristics from both the NCS and the UCR must emphasize the incompatibilities of the data. Finally, the national juvenile court archive has within the last year begun classifying offenses according to the UCR defini-

tions. The categories used by these two bases are compatible; and we will hereafter use the term "serious juvenile offender" to indicate an individual under the age of 18 arrested or referred to court for one of the eight FBI index offenses. Further, we shall use "violent juvenile offender" to refer to a juvenile arrested or referred for murder and non-negligent homicide, forcible rape, robbery, or aggravated assault and "serious property offender" for one arrested or referred for burglary, larceny/theft, motor vehicle theft, or arson.

What follows is a brief discussion of the findings and indications of the national information resources. We will include where necessary a reminder of the limitations and qualifications of these conclusions.

Serious Juvenile Crime

The National Crime Survey (NCS) shows that between 1973 and 1977 there was an increase in both the number and rate of personal victimizations (rapes, robberies, assaults, and personal larcenies) committed by adults while during the same period there was a decrease in both measures of personal victimizations committed by juveniles. The survey found that one-fourth of all personal victimizations during those five years were committed by juveniles. There was, of course, wide variation in the proportion of juvenile involvement across offense categories. For example, juveniles accounted for approximately 32 percent of all personal larcenies but only eight percent of all rapes.

The survey also found that the older the offender the more likely he was to use a weapon. In personal crimes guns were used rarely by juveniles, and there was no evidence that the use by juveniles of weapons generally, and guns specifically, had increased between 1973 and 1977. Juvenile offenders used a weapon in 27 percent of their personal victimizations, while weapons were used in 36 percent of the cases involving 18- to 20-year-olds, and 41 percent of adults 21 years of age or older. Adult offenders were approximately four times more likely to use guns than were juvenile offenders.

A popular misperception of person crimes committed by juveniles is that, unlike adults, they involve random violence, physical assaults beyond what is necessary to control the victim's behavior. Greater injury might also be expected because juveniles more often employ the use of physical force instead of the threat of weapons to control their victims. However, the NCS shows that the proportion of victimizations resulting in some form of injury is no higher for juvenile offenders than for adults, and the likelihood of serious injury to the victim is significantly higher when the offender is an adult than when he is a child. Eleven percent of all personal victimizations by adults and seven percent of all those committed by juveniles resulted in physical injury that required medical attention.

Finally, the NCS surveyed the economic consequences of these victimizations. Financial losses were consistently greater in crimes committed by adults than by juvenile offenders. For example, cash losses of ten dollars or more occurred in only ten percent of the robberies committed by juveniles but in 34 percent of those committed by adults. Similarly, cash losses of more than ten dollars occurred in 28 percent of the personal larcenies committed by juveniles and in 59 percent of those committed by adults.

In summary, the results of the NCS show that during the five-year period from 1973 to 1977 both the number and rate of personal victimizations committed by juveniles decreased while victimization committed by adults increased. In addition, there was no change in the seriousness of crime committed during the five-year period. Personal victimizations committed by juveniles were less serious, in terms of weapon use, rate of injury, and financial loss, than similar crimes committed by adults. The findings of the NCS show that juvenile involvement in personal victimizations is substantial; however, they do not support the common belief regarding the increasing volume and seriousness of juvenile crime.

As has been discussed, the arrest statistics of the FBI Uniform Crime Report (UCR) are subject to misinterpretation which can magnify the apparent proportion of juvenile contribution to serious crime. The 1979 UCR report shows that 23 percent of all arrests were for serious crimes and 39 percent of these arrests were of juveniles. Juveniles accounted for 20 percent of all arrests for violent crimes (murder and non-negligent manslaughter, forcible rape, robbery, and aggravated assault) and 43 percent of all serious property arrests (burglary, larceny/theft, motor vehicle theft, and arson). These figures and their comparisons with past years' data are the common foundation for most reports on the volume of serious crime committed by juveniles. But given that juveniles are more likely to be arrested, as found in the Rand Corporation Study, and are more likely to act in groups, a better measure of the serious crime committed by juveniles may be found in the proportion of crimes cleared by juvenile arrests. In 1979 juvenile arrests accounted for approximately 12 percent of the violent offenses cleared and 30 percent of serious property crimes cleared. Both these numbers are substantially lower than the corresponding arrest figures, and probably a better — although not error-free — indication of the proportion of serious crime attributable to juveniles.

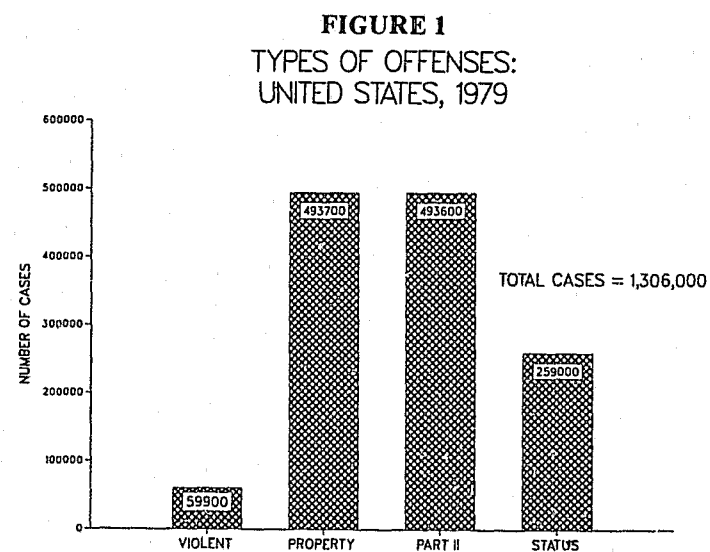
If we can assume the biases that exist in the arrest figures have been relatively constant over the 1970's, then the trends in arrest figures should be helpful in exploring the accuracy of the perception that there has been a disturbing growth in serious juvenile crime over the decade. Between 1970 and 1979 the Uniform Crime Reports show a 37 percent increase in arrests for serious crime: a 48 percent increase in arrests for violent crimes, and a 35 percent increase in arrests for serious property crimes. Both juvenile and adult arrests increased but in each case the percent increase was greater for adults than for juveniles. Between 1970 and 1979 (1) adult arrests for serious crimes increased by 54 percent while juvenile arrests increased by only 17 percent, (2) adult arrests for violent crime increased 50 percent while juvenile arrests increased 41 percent, and (3) adult arrests for serious property crimes increased by 56 percent while juvenile arrests increased by only 15 percent. Clearly, the increase in arrest figures for serious crimes is greater for adults than juveniles. Moreover, in 1979, index crime arrests represented a significantly higher proportion of all arrests than they did in 1970. This indicates that there has been a change in the character of criminal activity in this country, and the change is a general phenomenon shared by both juveniles and adults. The proportion of all arrests for serious crimes have increased, more so for adults than juveniles, but have increased for both.

Combining the UCR finding that the increase in adult arrests for serious crimes was greater in the 1970's than the increase in juvenile arrests with the NCS work showing that many "serious" juvenile crimes (in face-to-face victimizations) were less severe than "serious" adult crimes should provide a more useful perspective for addressing the problem of serious juvenile crime faced by our justice system.

Serious crime is a major social concern and the data support the fact that a significant proportion of this problem is attributable to juveniles. But exaggerated perceptions of the growth and magnitude of the serious crime committed by juveniles produce a distorted response to the problem. New programs and policies should be developed to handle the serious juvenile offender, but care should be exercised so as not to unduly restrict the allocation of already limited resources.

Juvenile Court's Reaction

An analysis of the National Center for Juvenile Justice juvenile court data archive gives a detailed picture of the youth who come before the juvenile court. The data for the following analyses were drawn from a sample of ten states (Alabama, California, Florida, Iowa, Kansas, Minnesota, Nebraska, Pennsylvania, Utah, and West Virginia) which reported over 360,000 cases in 1979.

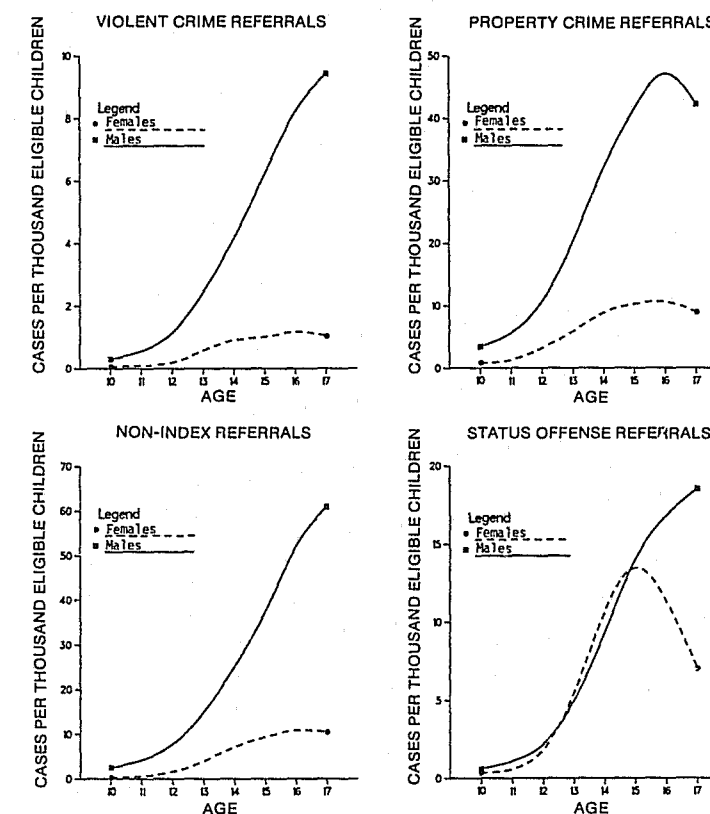


In 1979 an estimated 1.3 million cases were processed by the nation's juvenile courts. As Figure 1 shows, only 4.6 percent of all cases were referred for violent offenses, 37.8 percent for serious property offenses, 37.8 percent for FBI Part II (non-index) offenses, and 19.8 percent for status offenses. Overall, 78 percent of all cases involved males and 22 percent involved females, but, as might be expected, for serious offenses the percentage of males was greater. Of the cases involving serious offenses brought to the court in 1979, 82 percent were male and 18 percent were female cases.

As Figure 2 shows the rate of serious delinquent behavior generally increased with age across offense categories. The rate of male involvement in violent crimes increased continuously with age throughout the range of juvenile court jurisdiction, but peaked at 16 years of age for serious property crimes. Of course, the female rates were lower for serious crimes than male rates and they also peaked at a younger age. This appar-

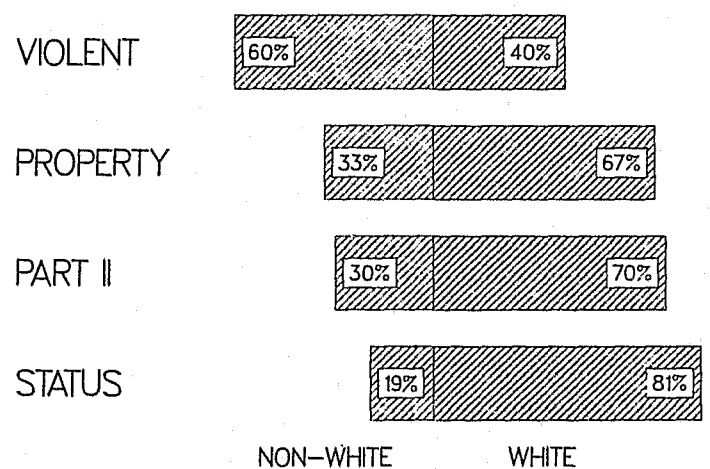
ent difference in the rates of court involvement is clearly demonstrated in the graph showing status offense referrals.

FIGURE 2
AGE — SEX PROFILES OF JUVENILE OFFENDERS



The 360,000 cases in the sample were coded into two racial categories: White and Non-White (e.g., Black, Hispanic, American Indian, and Orientals). Overall, the sample was composed of 69 percent white and 31 percent non-white cases. However, as Figure 3 shows, the relative proportion was not constant across each offense category. Non-whites were over represented in violent cases and under represented in status offenses.

FIGURE 3
Percent of Cases Within Offense Category
Involving Non-whites and Whites



While cases can be referred to the courts from a number of sources, most serious juvenile cases are referred by police. Table 1 shows the proportion of arrests within each offense category that reach the juvenile courts. Juvenile courts in this country disposed of an estimated 61 percent of all juvenile arrests for serious (FBI Index) crimes in 1979. This represents more than 90 percent of all serious juvenile arrests referred to any court by police. Clearly, it is to the juvenile court by a wide margin that the justice system directs the problem of the serious juvenile offender.

The public misperception that there has been a dramatic and disproportionate increase in violent and serious crime by juveniles during the 1970's has brought to the forefront the question of whether such offenders should be "coddled" by the juvenile court or "hammered" by the criminal system. Comparative analysis of state legislation on transfer between courts and exclusion of offenses from juvenile court jurisdiction entails an incredible variety of existing provisions around the country by which an individual below the age of 18 may be tried as an adult: upper age of juvenile jurisdiction less than 18, exclusions of certain crimes from juvenile jurisdiction for certain ages or all ages, exclusive jurisdiction, concurrent jurisdiction, presumptive waiver, mandatory waiver, legislative waiver, judicial waiver, waiver back provisions. To provide a national overview of how a juvenile may be tried in criminal court we focused on the question of "Who decides?" In that context, all of the legislative alternatives listed above boil down to three — either the legislature decides the matter for a class of offenders, or it delegates, either to the criminal justice system or to the juvenile court, the authority to decide on a case by case basis whether a juvenile is to be tried as an adult.

Figures 4 and 5 which follow detail for each UCR Index offense and each age group 10 through 17 the number of states providing for such an offender to be tried as an adult in criminal court. There are essentially the three alternatives just described. First, the legislature may determine that a particular class of offenders *must* be tried in criminal court. Such provisions as New York's exclusion of all persons over 16 from Family Court jurisdiction and Delaware's exclusion of all murder from juvenile court jurisdiction are represented by the lowest, or plaid, areas of the graph for murder. Second, the legislature may delegate to the prosecutor, grand jury, and/or criminal court its authority to decide whether or not a juvenile shall be tried as an adult. Such provisions as New York's Youthful Offender Law as it applies to juveniles 13 to 15 charged with murder, Pennsylvania's reverse waiver of homicide, and Nebraska's prosecutorial discretion are represented by the second layer on the graph. The third alternative, traditional juvenile court waiver, represented by the top shaded area of the graph, vests exclusive discretion in the juvenile court. (The cross-hatched area, or third level, represents those few states in which overlapping provisions place discretion in both the juvenile and criminal systems, and the unshaded area, of course, represents those states in which offenders may, under no circumstances, be prosecuted as adults.)

A glance at the graphs for all offenses shows:
First, that most states (virtually all for violent crimes) provide some avenue to criminal court for serious juvenile offenders over 15 years old;

TABLE 1
Estimated Proportion of Juvenile Arrests
Disposed of by Juvenile Courts

FBI Index Offenses	Total Arrests of Persons Under 18 ¹	Total Cases Disposed of by Juvenile Courts ²	Cases/Arrests %
Murder and Non-negligent manslaughter	1,800	1,100	61.1
Forcible Rape	5,000	2,600	52.0
Robbery	44,400	24,500	55.2
Aggravated Assault	43,000	31,700	73.7
Burglary	245,400	168,200	68.5
Larceny-Theft	478,700	263,500	55.0
Motor Vehicle Theft	76,200	55,700	73.1
Arson	9,700	6,300	64.9
Violent Crime ³	94,200	59,900	63.6
Property Crime ⁴	810,000	493,700	60.6
Crime Index Total ⁵	904,200	553,600	61.2
Non-Index Offenses ⁶	1,406,400	753,200	53.6
TOTAL	2,310,600	1,306,800	56.6

Police Dispositions of Juvenile Arrests⁷

Total	Handled Within Department and Released	Referred to Juvenile Court	Referred to Other Court	Referred to Other Agency
100.0%	34.6	57.3	4.8	3.3
2,310,600	799,500	1,324,000	110,900	76,200

¹Extrapolation of total reported arrests of persons under 18 from *Crime in the United States, 1979*, Table 32, representing estimated population of 204,622,000 to estimated U.S. total population of 220,584,000.

²From *Delinquency 1979: United States Estimates of Cases Processed by Courts with Juvenile Jurisdiction*, National Center for Juvenile Justice, forthcoming 1981.

³Violent crimes are offenses of murder, forcible rape, robbery, and aggravated assault.

⁴Property crimes are offenses of burglary, larceny-theft, motor vehicle theft, and arson.

⁵Includes arson, a newly established index offense in 1979.

⁶Police are the source of referral for an estimated 93.2% of all index crimes disposed of by juvenile courts, but only 78.7% of non-index offenses.

⁷Percents are from *Crime in the United States, 1979*, Table 54, and were applied to the estimate of total arrests.

Second, that across all offenses and all ages, the juvenile court is charged with deciding whether juveniles may be prosecuted as adults more often than all other options combined. However, the more serious the offense, and the older the offender, the more likely it is that the legislature

will insist upon criminal prosecution or permit the criminal court or district attorney to elect the forum.

Since juvenile court waiver is the most common legislative provision for criminal prosecution of serious juvenile offenders, we analyzed the sample of 360,000 juvenile court cases

from the National Center for Juvenile Justice's juvenile court data archive to assess the extent of juvenile court waiver and variations in waiver rates across jurisdictions with different statutory provisions.

FIGURE 4

Number of States Providing for Criminal Trial of
Persons Aged 10 to 18 Charged with Violent Crime

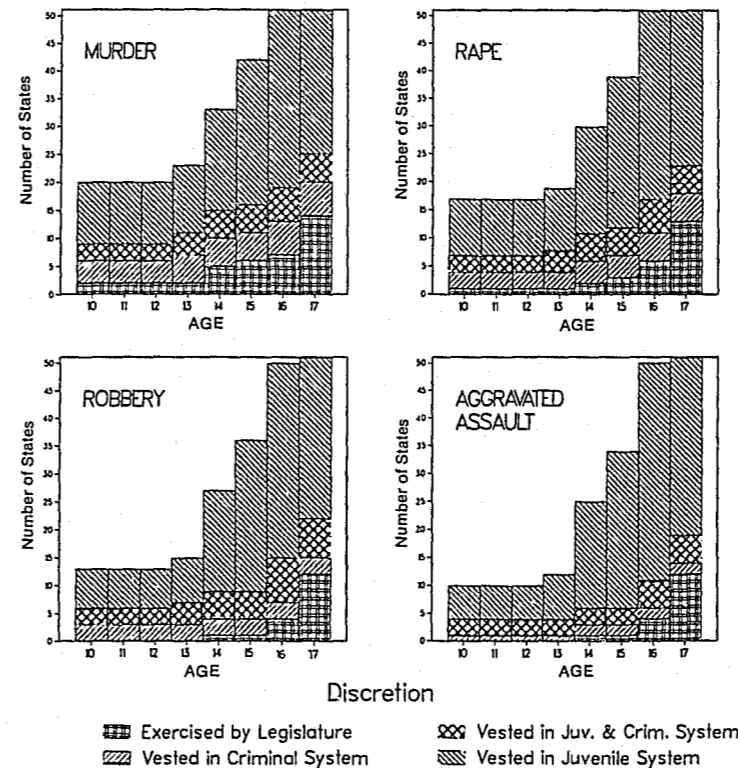
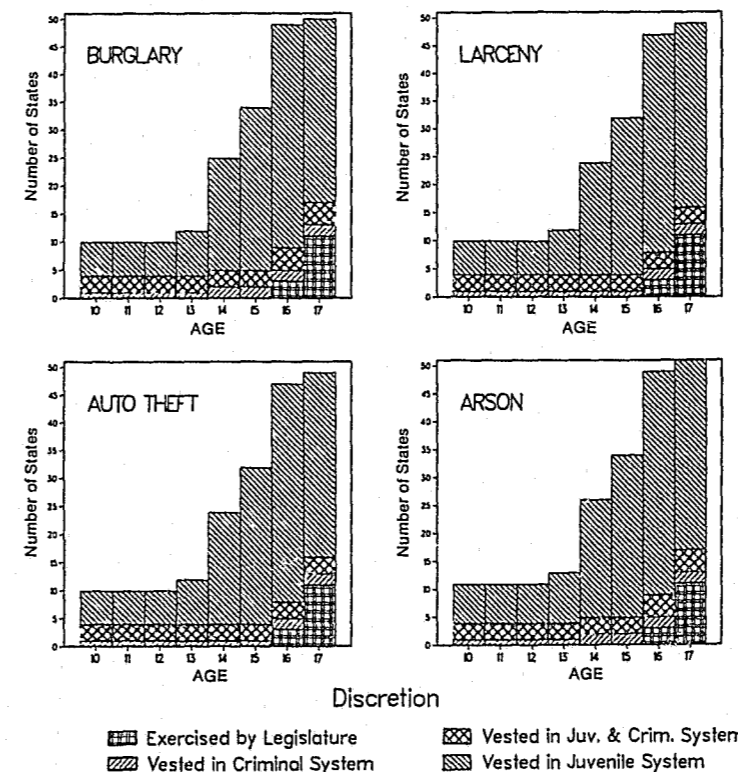


FIGURE 5

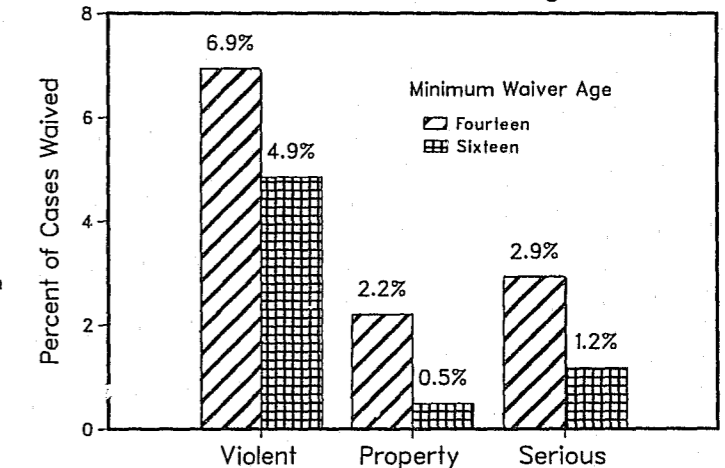
Number of States Providing for Criminal Trial of
Persons Aged 10 to 18 Charged with Property Crime



The sample of cases contained data from 163 courts in states with a minimum waiver age of 16 and 416 courts in which juveniles as young as 14 may be waived to criminal court. The analysis of the case records of the 70,000 serious offenders, aged 16 and 17 (offenders, keep in mind, who were eligible for waiver in all the courts in the sample) revealed that a substantially higher percentage of these offenders were waived to criminal court by courts who could waive even younger children (see Figure 6). This suggests that the 16- or 17-year-old offender may appear less amenable to juvenile court treatment to a judge who exercises that discretion in regard to younger offenders than to a judge whose amenability standard is derived from his experience with older offenders only. Thus, amenability to treatment appears to be a relative concept. If a judge has had experience with waiving a 14-year-old offender, it may be easier for him to conclude that a 16-year-old serious offender should be tried as an adult.

FIGURE 6

Effect of Minimum Waiver Age on Waiver
of Serious Juvenile Offenders Aged 16 and 17

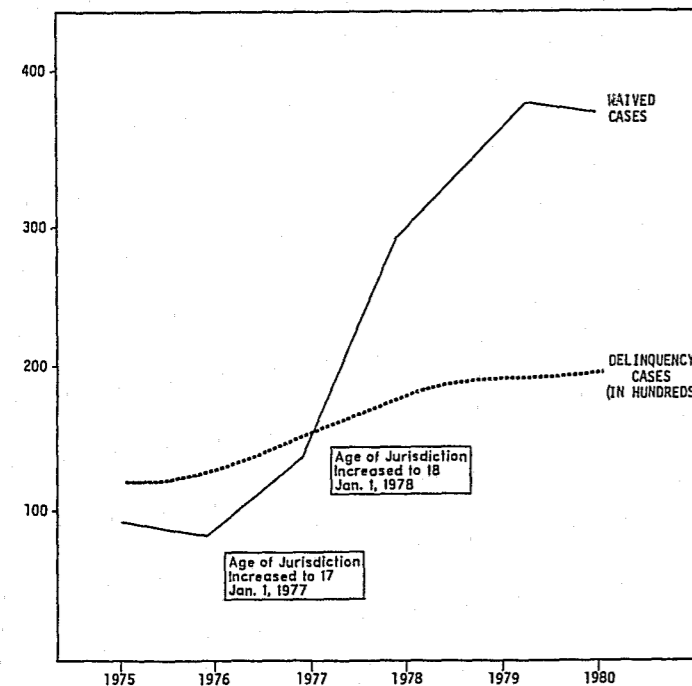


The state of Alabama provides an interesting case study of this theory of the relativity of judicial perceptions of amenability to treatment. Figure 7 depicts trends, from 1975 through 1980, in the volume of delinquency cases disposed of by juvenile courts in Alabama and in the number of such cases waived for criminal prosecution.

The figure shows that the waiver rate in Alabama rose from just over one-half of one percent in 1976 to nearly two percent in 1979. Two significant changes in Alabama law are noted on the graph. On January 1, 1977, the upper age of juvenile court jurisdiction was increased from 16 to 17, and the waiver rate rose to just under 1 percent; on January 1, 1978, the upper age of jurisdiction was increased to 18, and by the end of 1979 the waiver rate had doubled again to nearly 2 percent. Of course the increase in upper age of jurisdiction brought to the court older, more serious offenders, and one would expect both the number and percent of cases waived to rise as a result. However, in 1979 Alabama juvenile courts waived 6.4 percent of the 16- and 17-year-old serious offenders who came before them, while the waiver rate for such offenders in the rest of our sample was only 1.8 percent.

FIGURE 7

Impact of Increase in Age of Jurisdiction on Number of Cases and Waiver of Cases in Alabama



These data suggest that juvenile court judges in Alabama, accustomed to dealing only with younger less serious offenders, perceived more of the older serious offenders as unamenable to juvenile treatment, than judges in states where the upper age of jurisdiction has remained at 18 for many years. The 1980 data for Alabama, if it represents the beginning of a return to more normal waiver rates, may indicate that once judges become accustomed to dealing with older more serious offenders, and programs for such offenders are developed within the juvenile system, perceptions of their amenability to juvenile treatment may change.

The same group of 70,000 Index offenders was analyzed to examine the impact upon the amenability standard of legislation providing for extended juvenile court treatment or correctional jurisdiction beyond the upper age of delinquency jurisdiction. As Figure 8 shows, 16- and 17-year-olds charged with murder, rape, robbery, and aggravated assault, who appeared before juvenile court judges aware that their jurisdiction over such offenders would end at age 18 or 19, were waived about twice as often as similar offenders in courts with extended treatment jurisdiction to age 21 and beyond, suggesting that *availability of or for treatment* may be a crucial element in the concept of *amenability to treatment*.

The state of Arizona provides additional evidence of the effect of extended treatment jurisdiction on waiver rates. A decision of the state Supreme Court in December, 1979, invalidated Arizona legislation providing for extended treatment jurisdiction over adjudicated delinquents to 21 years of age, and required that they be unconditionally released at age 18. Following that decision, waivers to adult court doubled.

Waiver is only one of many possible actions that can be taken by the juvenile court. Table 2 demonstrates the differ-

tial handling of juvenile offenders by the juvenile justice system based on the nature of the offense. It clearly indicates that the juvenile court deals most severely with violent and serious property offenders. Violent offenders are twice as likely to be detained, far more likely to be petitioned to court, least likely to be dismissed, five times more likely to be waived to criminal court, and twice as likely to be institutionalized, as any other offender category.

FIGURE 8

Effect of Extended Treatment Jurisdiction on Waiver of Serious Juvenile Offenders Aged 16 & 17

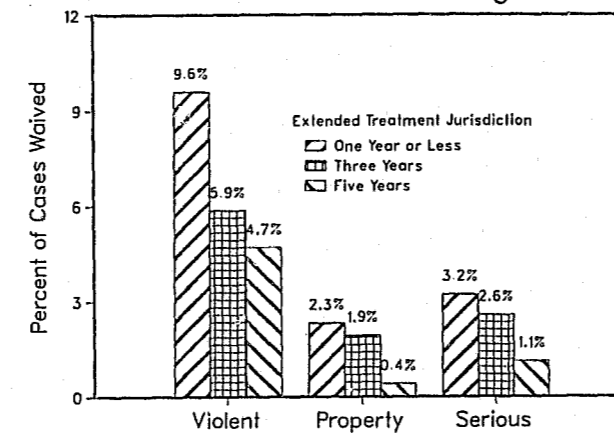
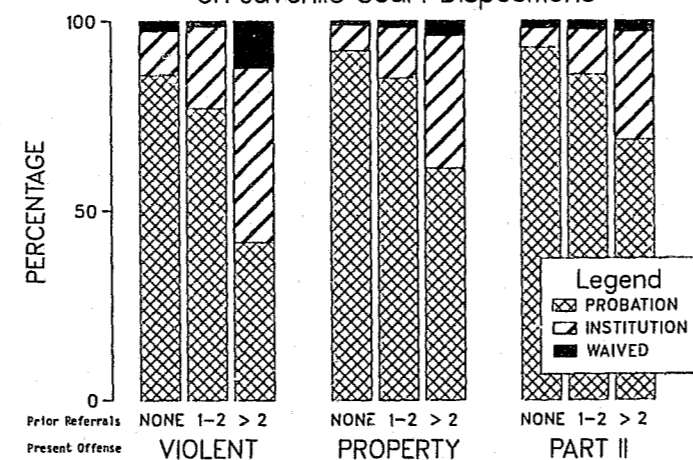


FIGURE 9

Effect of Present Offense and Prior Record on Juvenile Court Dispositions



Proportionality of disposition is an issue which has been hotly debated at least since the first drafts of the IJA-ABA Standards were released. The juvenile court has sometimes been criticized by prosecutors for its lack of proportionality in sentencing, and juvenile court judges have vigorously opposed standards which would require a punishment that fits the crime rather than a disposition tailored to the needs of the child.

An analysis of delinquency dispositions suggests that the basic premise of both parties to this debate may be mistaken. A juvenile's prior record of delinquency referrals and the nature of his present offense were found to be far more predictive of the court's disposition than any other variable examined. Figure 9 illustrates the effects of prior record and present offense

on the disposition. Within each offense category, the more severe dispositions of waiver to criminal court and institutionalization were used much more frequently in cases in which the offender had a prior record of more than two delinquency referrals. In addition, the more serious the present offense was, the more severe was the dispositional pattern across all prior referral categories. For example, nearly 60 percent of violent juvenile offenders with more than two prior delinquency referrals who were not dismissed were institutionalized or waived for criminal prosecution.

In the last few years there has been increasing pressure to handle serious juvenile offenders in the criminal system. But how might the criminal courts be expected to deal with the general population of serious offenders over age 15 presently handled by the juvenile justice system?

The only multi-jurisdictional study available on criminal court processing of serious offenders was a report based on

if anything, deal less severely with juvenile offenders than the adult felons.

The data indicate that the juvenile court system is far more likely to take some form of action in its most serious cases than is the criminal justice system. Less than 40 percent of adult felons referred to the district attorney are convicted and sentenced by the criminal courts. In contrast, some 55 percent of the serious juvenile cases result in some form of supervision or incarceration, including informal supervision by the intake office of cases handled without petition. In addition, another two percent of the cases referred to juvenile court will receive a criminal sanction following waiver and conviction in criminal court. Of those cases resulting in a criminal conviction or delinquency adjudication, however, the criminal court is more likely to sentence the adult felon to incarceration (56.7 percent of convictions) and the juvenile court more likely to impose probation (74.6 percent of adjudications). Thus, although the

TABLE 2
Juvenile Court System Processing

Reason for Referral	Source of Referral	
	Police	Other
Violent	92.4%	7.6%
Property	93.3	6.7
Part II	86.8	13.2
Status	61.3	38.7

Reason for Referral	Detention	
	Yes	No
Violent	42.4%	57.6%
Property	21.8	78.2
Part II	20.3	79.7
Status	15.2	84.8

Reason for Referral	Manner of Handling	
	Without Petition	With Petition
Violent	21.5%	78.5%
Property	45.0	55.0
Part II	55.0	45.0
Status	62.5	37.5

Reason for Referral	Disposition				
	Waived	Institution	Probation	Other	Dismissed
Violent	3.9%	17.7%	36.1%	5.8%	36.5%
Property	0.7	9.4	43.8	4.4	41.7
Part II	0.4	6.2	35.7	4.5	43.2
Status	0.0	6.1	41.1	5.1	47.7

data developed by the Prosecutor Management Information System (PROMIS) in 1977 (Brosi, 1979). Using that report and the National Center for Juvenile Justice juvenile court data base, the flow of 1,000 adult felony cases through the adult criminal system and 1,000 serious offenders over 15 years old through the juvenile court system was compared (see Table 3). Although the populations are not precisely comparable, it is reasonable to assume that the criminal justice system would,

criminal system incarcerates about twice as many of its 1,000 adult felony cases as the juvenile court does its 1,000 Index referrals, 570 of the juvenile referrals will result in some form of sanction or supervision, as compared to only 392 of the adult felony referrals.

In summary, the analysis of juvenile codes and juvenile court data on the handling of serious juvenile offenders supports the following conclusions:

Almost every state provides some avenue to criminal court for serious offenders over 15 years old.

In most states the legislature has given the juvenile court authority to decide whether a serious juvenile offender should be prosecuted as an adult; however, the more serious the offense and the older the offender, the more likely it is that the legislature will insist upon criminal prosecution or permit the criminal court or district attorney to elect the forum.

criminal conduct in the United States has become more serious and violent through the 70's. Persons between 16 and 24 have always been responsible for the vast majority of criminal conduct, but the present perception by the public and the media that the decade of the 70's produced a dramatic and disproportionate increase in serious and violent crime attributable to juveniles is unsupportable.

The present legal framework in the country for handling violence by youth is sufficiently diverse to provide a rich

TABLE 3
Comparison of Criminal and Juvenile Court
Handling of Serious Offenders

Criminal ¹		Juvenile ²
Of 1,000 Felony Offenders Referred to District Attorney:		Of 1,000 Serious Juvenile Offenders (over 15) Referred to Juvenile Court:
338	Rejected at Screening	374
		(Note: 109 placed on informal probation)
662	Filings	626

Of 662 Filings:		Of 626 Filings:
270	Dismissed, Acquitted, "Other"	163
392	Conviction, Adjudication	441
	Waived to Criminal Court	22
	20 Convictions	

Of 392 Convictions:		Of 441 Adjudications:
170	Probation or Fine (No Incarceration)	329
222	Incarceration or Institutionalization	112

Sources:

¹A Cross-City Comparison of Felony Case Processing, Kathleen B. Brosi, Institute for Law and Social Research, 1979.

²National Data Archive, National Uniform Juvenile Justice Reporting System Project, National Center for Juvenile Justice, 1981.

Most violent, serious, and repeat juvenile offenders are handled by the juvenile, rather than criminal, justice system.

In general, juvenile court judges appear to be more likely to waive 16- and 17-year-old serious offenders (a) if they can also waive 14- and 15-year-olds, (b) if they are accustomed to seeing only younger less serious offenders in juvenile court, and (c) if their juvenile system has little or no extended treatment jurisdiction.

The more serious his present offense is and the more prior delinquency referrals a juvenile has, the more likely it is he will be waived to criminal court, or, if adjudicated delinquent, institutionalized. The juvenile court deals most severely with violent, repeat offenders.

Although the juvenile court is less likely to incarcerate, it is much more likely to impose some sanction or supervision upon persons over 15 referred for serious offenses, than is the criminal justice system upon adults referred for felonies.

Final Observations

The problem of serious crime and how to deal with it is emerging as one of the most important social issues of the 80's. Existing national data sources suggest that the character of

laboratory for measuring the efficacy of alternative approaches, and we urge that research be undertaken and pursued before embarking on radical policy changes which may inappropriately allocate scarce social resources.

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