U.S. Department of Justice
Office of Juvenile Justice and Delinquency Prevention
National Institute for Juvenile Justice and Delinquency Prevention

DANGEROUS JUVENILE OFFENDERS: JUVENILES OR OFFENDERS?

A POLICY READER

The Comparative Dispositions Study

This volume is one of a series of reports prepared by The Academy in 1983 and 1984, to be published by the National Institute for Juvenile Justice and Delinquency Prevention. The volumes are entitled:

- Handling Dangerous Juveniles: An Executive Summary
- Statutes Related to Handling Dangerous Juveniles
- Practices in Nine Jurisdictions
- Statistical Appendix
- Dangerous Juvenile Offenders: Juveniles or Offenders?

The Academy, Inc. is a nonprofit center for social and policy research located in Columbus, Ohio. It specializes in large-scale surveys, program design and evaluation, policy analysis, training, and technical assistance, primarily in the areas of crime, delinquency, and other social services. Staff members have conducted research in every state in the Union. The Academy, Inc. maintains state-specific files and possesses what well may be the most complete directory in the country of state and local agencies in child welfare, education, juvenile justice, and mental health.

EDUCE FOR
6X9

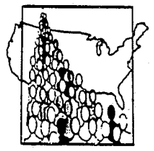
DANGEROUS JUVENILE OFFENDERS: JUVENILES OR OFFENDERS?

A POLICY READER

Joseph L. White
Evalyn C. Parks
Coeditors

The Academy, Inc.
A Center for Social Research
COLUMBUS, OHIO

1984



U.S. Department of Justice
Office of Juvenile Justice and Delinquency Prevention
National Institute for Juvenile Justice and Delinquency Prevention

academy-2/Misc.-65, 04.80/df

REDUCE TO 6X9

A DETERRENCE PERSPECTIVE OF WAIVER FROM JUVENILE COURT

ABSTRACT

The authors consider the question of waiver from a deterrence perspective and exclude all other considerations. From that deterrence perspective, two approaches to waiver would be most appropriate: automatic waiver and presumptive waiver, both based on offense seriousness and prior record.

This conclusion was reached by pointing to specific deterrence research conducted by the authors that shows that sanctions have an effect on recidivism, that graduating sanction severity is required to have an effect on reducing activities that reflect increasing levels of offender seriousness/recidivism proneness, and that consistent use of sanctions is more effective than inconsistent use.

Based on deterrence criteria, the authors contend that handling all juveniles in juvenile court is the least desirable option. A system that makes finer age distinctions but retains this factor as the only criterion for court assignment falls between the others in desirability.

A DETERRENCE PERSPECTIVE OF WAIVER FROM JUVENILE COURT

Sarnoff A. Mednick and Katherine Van Dusen

We are living in a time of serious crime. We are afraid of it. Much of the serious crime is committed by youthful offenders. These facts, taken jointly, make it a critical time for us. We must decide how to handle these young felons while trying to accomplish several (sometimes) conflicting goals:

- increase public safety;
- protect the civil rights of those accused; and
- take into account the youth of the accused so as not to foreclose, prematurely, the possibility that he is vulnerable and remediable.

We hardly need to do more than mention these dilemmas in problems and goals as the chapters by Feld, Novak, and Kessler, et al. explore them at great length. Indeed, these dilemmas underlie a good deal of the existing literature on the subject of "waiver." Each of the chapters in this volume take a position on how youngsters accused of serious crime should be dealt with. The proposals are very different from one another. Each one does make an attempt to address all of the goals, but that there are different emphases is unmistakable.

Feld argues strongly for automatic waiver on the basis of a "just deserts" philosophy, strongly flavored with a concern with the civil rights of the youth. From a very humanitarian, treatment-oriented philosophy, with a firm commitment to individualized handling, Novak pleads for retaining all but the most exceptional cases in juvenile court. Kessler, et al., focus on the post-adjudication experience of youthful offenders to propose a trifurcated system of justice. They base this proposal on humanitarian concerns together with the well-known age distribution of criminal behavior. This latter consideration

although we provide no supporting data for these conclusions in this chapter. Space prohibits it. Evidence can be seen in the previously cited reports. First, we do see (statistically and substantively) significant deterrent effects of sanctions. This is true in spite of the usual assignment biases that are the bane of the deterrence researcher's life work. In Copenhagen, we find deterrent effects from all types of sanctions, including fines and probation. In Philadelphia, probation was much less effective, and fines were not used at all. The difference in the effectiveness of probation in Philadelphia is easily explainable. Table 1 shows the distribution of sanctions for the first five arrests in the two cohorts.

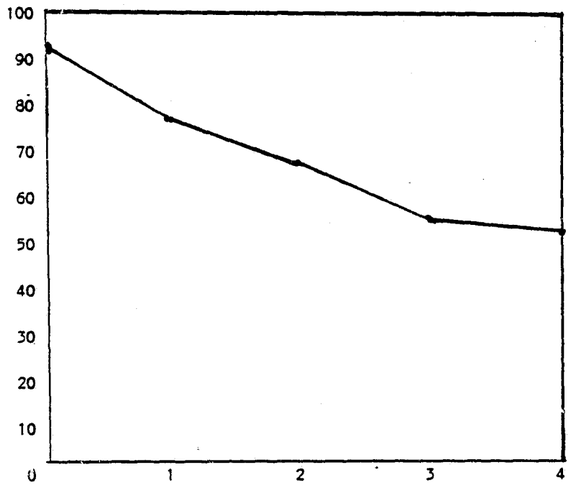
TABLE 1. JUDICIAL SANCTIONS IMPOSED ON JUVENILES IN COPENHAGEN, DENMARK, AND PHILADELPHIA, PA FOR FIRST FIVE OFFENSES

		COPENHAGEN		PHILADELPHIA	
		SANCTIONS	PERCENT	SANCTIONS	PERCENT
1.	RELEASED (NO SANCTIONS)	5,549	34.7	6,559	85.9
2.	ADJUDICATED DELINQUENT	8,554	65.3	1,078	14.1
	A. FINE	5,323	(62)	0	(0)
	B. PROBATION	1,481	(17)	797	(74)
	C. INCARCERATION	1,750	(20)	281	(26)
	TOTAL SANCTIONS	14,103	100	7,637	100

In Philadelphia, probation constitutes 74 percent of the sanctions (sanctions being defined as something beyond release after contact), while probation constitutes only 17 percent of the Copenhagen sanctions. We think this difference results in very distinguishable meanings being associated with the sanction

sanctions have a cumulative effect. That is, the more sanctions that have been applied in the past, the more effective any given current sanction will be. Figure 1 is a plot of the number of sanctions given for four prior arrests against percent of recidivism after the fourth arrest. Only subjects who have at least four arrests on their records are represented in the table. From the table, it is clear that those who have had no sanctions as a result of the four arrests are the most likely to commit a fifth offense. On the other side, those who have received four sanctions for the four arrests are the least likely to commit a fifth offense. The pattern is the same with all of the categories in between: the more often a sanction is given, the less likely the subject is to recidivate. Consistency in sanction, then, appears to be important in effecting deterrence.

FIGURE 1. RECIDIVISM AMONG OFFENDERS IN COPENHAGEN COMMITTED FOUR OFFENSES (BY NUMBER OF SANCTIONS RECEIVED FOR PRIOR OFFENSES)



tougher administrative policies within the institutions they occupy.

Second, since adult institutions are, by law, less concerned with rehabilitation than are the juvenile institutions, the staff-inmate ratios are lower and fewer constructive programs are offered.[3] Adult institutions are, in short, more custodial and punishing than juvenile institutions.

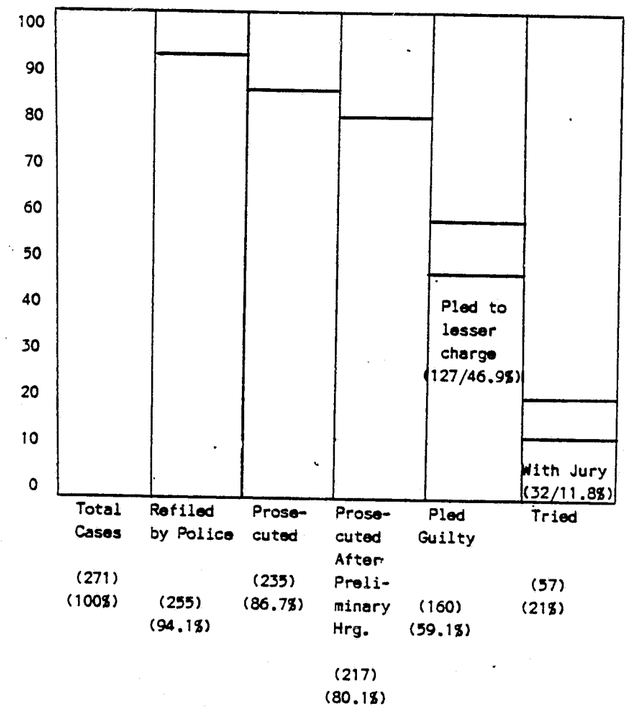
A similar comparison can also be applied to the state and county institutions within the adult and juvenile sectors. State institutions are tougher places than county institutions on both sides of the justice system. We take the position, then, that in terms of places of confinement, adult state prisons are the harshest, followed by county jails, which are in turn, followed by the two juvenile categories of state delinquency facilities and, last, county camps, ranches, and rehabilitation centers.

Nevertheless, in spite of the fact that we can assume differences between adult and juvenile institutional harshness, and in spite of the fact that earlier referral to criminal court automatically means the potential for more severe sentences for future crimes, the issue of sanction severity has other components that must be addressed. We shall address them using data collected for a study of waiver and its consequences in California covering the years of 1976 and 1977.

There are several ways that we can look at the question of sanction severity: the probability of conviction in the two systems (as indicated earlier, there still are fewer due process mechanisms in juvenile court than in criminal court); the probability of confinement given conviction; the type of institution, given confinement; and length of actual confinement, given a sentence of confinement. Other aspects might be considered, but we think these are the primary ones, and they present the questions that can be addressed adequately with the data at hand.

Data presented here were collected in two of the most populous and most crime-ridden counties in California - Los Angeles and Alameda. Detailed information was collected on all cases that were given waiver (fitness) hearings to decide the question of whether or not a juvenile would be tried in the criminal court. (In California, a juvenile waived to criminal

FIGURE 2. OUTCOMES OF ADULT SYSTEM HANDLING OF JUDICIAL WAIVER CASES (UNFITNESS CERTIFICATIONS) IN LOS ANGELES COUNTY IN 1976 AND 1977 (FROM POLICE REFILING TO TRIAL)



got to court yielded convictions; all "fit" cases got to trial in juvenile court but the rate of conviction was only 84.6 percent (no table is presented for these adult data). Thus, so far, we see no real advantage to the defendant in being tried as an adult as we might have expected based on Figure 2.

TABLE 3. ADULT COURT AND JUVENILE COURT SENTENCE OUTCOMES IN CASES IN WHICH JUDICIAL WAIVER (UNFITNESS CERTIFICATION) HEARINGS WERE CONDUCTED IN LOS ANGELES COUNTY IN 1976 AND 1977.

Cases Found Guilty (Delinquent)	Confined		Not Confined		
	Number	Percent	Number	Percent	
Unfit - Adult Court	209	95.8	9	4.2	
Fit - Juvenile Court	165	76.0	52	24.0	
Totals	374		61		
All Cases in Which Hearings Were Conducted					Unknown
Unfit - Adult Court	209	76.0	66	24.0	5
Fit - Juvenile Court	165	64.0	93	36.0	2
Totals	374		159		7

It is important to note here that, while an adult tried in criminal court can be sentenced (in terms of confinement) to the state penitentiary or county jail, a juvenile tried in criminal court offers the court three confinement options: state prison, county jail or the California Youth Authority (the state-based juvenile institution). There was, then, some question about the degree to which judges would actually sentence waived juveniles to adult institutions since the California Youth Authority was also available to them. Thus, this is yet another sanction severity issue that can only be addressed with data.

Table 4 reveals that 52.5 percent of all convicted "unfit" juveniles did indeed go to the California Youth Authority. However, about 22 percent went to county jail and 20 percent went to state prison. Thus, about 42 percent of convicted, "unfit" juveniles got a more severe disposition than the most severe

TABLE 5. JUVENILE COURT DISPOSITIONS OF ALL FIT CASES ADJUDICATED DELINQUENT IN LOS ANGELES COUNTY IN 1976 AND 1977.

Dispositions	Number	Percent
Informal Court Probation	1	.5
Placement at Home	39	18.2
Placement Outside Home (Not Specified)	6	2.8
Juvenile Hall	2	.9
Probation Camp	56	26.2
California Youth Authority	107	50.0
Other	3	1.4
Totals	214	100.0

placements. Time spent in the California Youth Authority is about equivalent to that spent in state prison, at least up to the time of data collection. Table 6 does not show the projected release dates since we did not know them for any cases but those in the state prison. For these cases, the mean number of days expected (including good behavior) is 1,754. Subjects placed in the Youth Authority would have to stay considerably longer than the average to match this amount of time. Nevertheless, it is possible that such an outcome could occur since we are dealing with rather severe cases in this study. An interim summary might indicate that court of trial makes less difference in the time served than whether a county or state facility is the place of sentence.

Another issue that should not be ignored in a study of time served is the time spent between arrest and sentence. This time

must again conclude that county versus state facility placement is more important than juvenile versus adult status of the placement.

Table 7 indicates the numbers and percentages of cases that were still committed to placement institutions, on parole, or discharged, at the time of data collection. This, too, is a measure of relative length of confinement for the four conditions. It is clear that the bulk of the prison cases were still confined, while most cases in other placements were at least on parole (in the case of the Youth Authority) or completely discharged (in the cases of camp and jail). A comparison of the proportion of cases still confined in the Youth Authority and the prisons shows that, by this measure, a sentence to the state prison portends a longer stay than a sentence to the Youth Authority. Jails, however, still look equivalent to county camps for juveniles in terms of the length of confinement expected.

TABLE 7. COMMITMENT STATUS AT TIME OF DATA COLLECTION FOR ALL UNFIT CASES SENTENCED TO CONFINEMENT BY ADULT COURTS IN LOS ANGELES COUNTY IN 1976 AND 1977 (BY TYPE OF INSTITUTIONAL PLACEMENT).

Commitment Status*	Type of Institutional Placement			
	Camp	CYA	Jail	State Prison
Committed	0	26 (13.5)	0	36 (90.0)
On Parole	0	100 (51.8)	0	4 (10.0)
Discharged	46 (100.0)	63 (32.6)	19 (95.0)	0
Other	0	4 (2.1)	1 (5.0)	0

*At time of data collection in 1979.

no official part in the waiver decision and 2) those attorneys actually involved in the process think there is no difference in quality of evidence between "fit" and "unfit" cases (based on personal communication with the researchers). We shall now proceed to the analysis of the Alameda County data.

Alameda County

Convictions

We now briefly address the same questions in Alameda County that we considered in Los Angeles County, beginning with the issue of conviction. In this county, cases that did not get to trial at all number about 17.4 percent (see Figure 3). These cases were either not refiled by police, were rejected by the adult District Attorney, or were dismissed at preliminary hearing. However, as in Los Angeles County, the ultimate outcome relating to guilt findings were roughly equivalent in the two systems (see Table 8). In the juvenile court, 88.2 percent of the cases involving fitness hearings were found guilty, compared to 79.1 percent in adult court. There was a slightly higher chance of being found guilty in the juvenile court than there was in adult court for this type of case. The same was true in Los

TABLE 8. ADULT COURT AND JUVENILE COURT JUDGMENT OUTCOMES IN CASES IN WHICH JUDICIAL WAIVER (UNFITNESS CERTIFICATION) HEARINGS WERE CONDUCTED IN ALAMEDA COUNTY IN 1976 AND 1977.

Judgment Type	Adult Court Unfit Cases		Juvenile Court Fit Cases	
	Number	Percent	Number	Percent
Guilty Delinquent	136	79.1	142	88.2
Not Guilty Not Delinquent	36	20.9	19	11.8
Totals	172	100	161	100

Confinement

Once convicted, were "unfit" juveniles more likely to be given sentences which include secure confinement? Table 9 shows that juveniles declared "unfit" were at considerably higher risk of confinement than were juveniles remaining in juvenile court. The percentages of cases ultimately convicted and confined are 84.5 percent and 50.0 percent respectively. However, since there was a slight difference in conviction rates across the two systems it is appropriate to ask whether the ultimate probability of confinement was different for juveniles found "unfit" than for those found "fit", ignoring the intermediate step of guilt. Table 9 also indicates that there was a considerable difference in these probabilities. For "unfit" juveniles, 68.6 percent were ultimately confined; for their "fit" counterparts, 44.0 percent were confined. This is a larger difference than that found in

TABLE 9. ADULT COURT AND JUVENILE COURT SENTENCE OUTCOMES IN CASES IN WHICH JUDICIAL WAIVER (UNFITNESS CERTIFICATION) HEARINGS WERE CONDUCTED IN ALAMEDA IN 1976 AND 1977.

Cases Found Guilty (Delinquent)	Confined		Not Confined		
	Number	Percent	Number	Percent	
Unfit - Adult Court	109	84.5	20	15.5	
Fit - Juvenile Court	70	50.0	70	50.0	
Totals	179		90		
All Cases in Which Hearings Were Conducted					Unknown
Unfit - Adult Court	109	68.6	50	31.4	13
Fit - Juvenile Court	70	44.0	89	56.0	2
Totals	179		139		15

For cases found "fit" and "convicted" in juvenile court, the bulk went to county probation camps (Table 11). The distributions appear about the same comparing Alameda to Los Angeles except for the Youth Authority category. Fewer Alameda County juveniles went to the Youth Authority (proportionately), and the difference seems to be accounted for by assignments to special programs, including restitution and fines and WETA (Weekend Training Academy), a work hours alternative to juvenile hall confinement.

TABLE 11. JUVENILE COURT DISPOSITIONS OF ALL FIT CASES ADJUDICATED DELINQUENT IN ALAMEDA COUNTY IN 1976 AND 1977.

Dispositions	Number	Percent	Number	Percent
Informal Court Probation	0	0	3	3.6
Placement at Home	6	11.8	14	16.7
Placement Outside Home (Not Specified)	3	5.9	3	3.6
Juvenile Hall	1	2.0	3	3.6
Probation Camp	12	23.5	20	23.8
California Youth Authority	19	37.3	15	17.9
Other	3	5.9	9	10.7
Restitution and Fine	3	5.9	9	10.7
Weekend Training Academy	4	7.8	8	9.5
Totals	51		84	

In summary, while somewhat fewer cases were found guilty in the adult court compared to the juvenile court (as was true in Los Angeles County), a larger proportion of those "unfit" cases

were repeated for violent, property, and public order offenses. The results remained the same.

3. Trial and sentencing by the criminal court constitutes more severe sanctioning than adjudication within the juvenile court.

4. Consistency in sanctioning is an important factor in generating a deterrent effect for more recidivistic offenders.

These are the four principles on which we will base our analysis of the proposals described in preceding chapters. To the extent that each proposal conforms to these principles, it will receive a positive assessment from a deterrence point of view.

Retaining Jurisdiction in the Juvenile Court

From a deterrence perspective, it would seem that retaining juvenile court jurisdiction over all juvenile offenders would be the worst alternative, at least in a jurisdiction that includes a substantial number of serious juvenile offenders. The major problem, as we see it, presents itself with the less serious offenders (or early offenders) in a jurisdiction that has to deal with many very serious offenders. That is, juvenile courts that are overcrowded with offenders, many of whom are charged with very serious felonies are likely to ignore the early, less-serious offenders. This could be called a "comparison level effect." When a judge is faced with a series of rapes, robberies, homicides committed by offenders with very long prior records, he is likely not to deal seriously with first or second offenders who have been arrested for malicious mischief. Such cases are not even likely to get on the calendar in such a jurisdiction. This is a well-known phenomenon and is similar to the processes described by Sudnow in his descriptions of the courthouse culture's definitions of "normal crime." We have seen it ourselves in the waiver study indicated earlier. Several deputy district attorneys have also described it.

sanction be and still remain effective, but not produce counterproductive results? Beyond this question, how serious can a sanction be and remain within the bounds of morality? In more concrete terms, we must acknowledge that we have not demonstrated that our adult institutions of confinement possess a productive level of severity. We have demonstrated (as has Murray, et al.[6]) that more serious offenders require more serious sanctions to be affected by them, but we have not demonstrated this at all points on the severity continuum, even at the state penitentiary level. Still, we consider the principle of graduation a viable one, worth serious attention, based on what has been demonstrated. It seems to us worthy of serious attention even at the level of our adult state prisons. Thus, while we acknowledge that the effectiveness of our prison system has not been demonstrated by the type of analysis we have conducted on Copenhagen and Philadelphia birth cohorts, the principle remains valid and applicable for this discussion, and we will continue to use it in this way.

In summary, we have noted three problems with the retention of juvenile court jurisdiction over all juvenile offenders. First, relatively low-risk offenders are ignored, thus prolonging what might have been very short delinquent careers. Second, more recidivistic offenders will not receive consistent sanctions over their first four or five offenses, so that when they are given sanctions later, they will not be as effective as they would have been had effective and appropriate sanctions been applied earlier as well. Third, when offenders become very serious or very chronic, retention in the juvenile court puts a ceiling on the possible graduation in sanction severity, perhaps prematurely.

Three-Level System

Kessler, et al. propose that we adopt a three-level system of justice. The system would be graded by age; a juvenile court that would handle all children under the age of 15 whether they are charged with delinquency, status offenses, neglect or dependency; a youth court that would handle all youth charged with criminal offenses and who are between 15 and 21 at the time of the offense; finally, there would be a criminal court to

deterrence perspective. First, it allows for the more serious offenders to be treated in another system, leaving the juvenile system free to concentrate on the less recidivistic, younger offenders with sanctions appropriate to these youths. Earlier offenses are, therefore, less likely to be ignored. Second, sanctions graduate in severity as the offender graduates in seriousness/recidivism-proneness. Third, as an outgrowth of the first point, consistency in sanctioning will be more likely to occur; in this case, consistency even includes predictability. From this perspective, there appears to be only one fly in the ointment. While there appears to be perfect rationality, consistency, and predictability in this system, it will all depend on the prosecutor who will determine the charges. He or she will make these decisions usually without benefit of guidelines. Certainly, no judicial review would be possible, as would be the case if such decisions were being made by the court. This could well undermine the apparent benefits from the deterrence point of view.

Judicial Waiver

Judicial waiver is the system that Novak advocates, although he focuses his discussion on retaining jurisdiction in the juvenile court. Feld argues strongly against it on the basis that it amounts to no more than clinical decision-making by the court. He makes other arguments as well, but the point that judicial waiver is a non-rational, unpredictable process is a point also relevant to the deterrence perspective we have taken here. That is, such a process is certain to be inconsistent and unpredictable and, therefore, flawed from a deterrence perspective. However, judicial waiver should not be ignored completely as a viable method. Through slight legislative modification, the process can be altered dramatically. The addition of a presumption of "unfitness" based on certain specified charges had this effect in California.

Prior to 1977, the California Welfare and Institutions Code authorized a very standard judicial waiver process. It specified five vague criteria for making the waiver decision:

sanction be and still remain effective, but not produce counterproductive results? Beyond this question, how serious can a sanction be and remain within the bounds of morality? In more concrete terms, we must acknowledge that we have not demonstrated that our adult institutions of confinement possess a productive level of severity. We have demonstrated (as has Murray, et al.[6]) that more serious offenders require more serious sanctions to be affected by them, but we have not demonstrated this at all points on the severity continuum, even at the state penitentiary level. Still, we consider the principle of graduation a viable one, worth serious attention, based on what has been demonstrated. It seems to us worthy of serious attention even at the level of our adult state prisons. Thus, while we acknowledge that the effectiveness of our prison system has not been demonstrated by the type of analysis we have conducted on Copenhagen and Philadelphia birth cohorts, the principle remains valid and applicable for this discussion, and we will continue to use it in this way.

In summary, we have noted three problems with the retention of juvenile court jurisdiction over all juvenile offenders. First, relatively low-risk offenders are ignored, thus prolonging what might have been very short delinquent careers. Second, more recidivistic offenders will not receive consistent sanctions over their first four or five offenses, so that when they are given sanctions later, they will not be as effective as they would have been had effective and appropriate sanctions been applied earlier as well. Third, when offenders become very serious or very chronic, retention in the juvenile court puts a ceiling on the possible graduation in sanction severity, perhaps prematurely.

Three-Level System

Kessler, et al. propose that we adopt a three-level system of justice. The system would be graded by age; a juvenile court that would handle all children under the age of 15 whether they are charged with delinquency, status offenses, neglect or dependency; a youth court that would handle all youth charged with criminal offenses and who are between 15 and 21 at the time of the offense; finally, there would be a criminal court to

deterrence perspective. First, it allows for the more serious offenders to be treated in another system, leaving the juvenile system free to concentrate on the less recidivistic, younger offenders with sanctions appropriate to these youths. Earlier offenses are, therefore, less likely to be ignored. Second, sanctions graduate in severity as the offender graduates in seriousness/recidivism-proneness. Third, as an outgrowth of the first point, consistency in sanctioning will be more likely to occur; in this case, consistency even includes predictability. From this perspective, there appears to be only one fly in the ointment. While there appears to be perfect rationality, consistency, and predictability in this system, it will all depend on the prosecutor who will determine the charges. He or she will make these decisions usually without benefit of guidelines. Certainly, no judicial review would be possible, as would be the case if such decisions were being made by the court. This could well undermine the apparent benefits from the deterrence point of view.

Judicial Waiver

Judicial waiver is the system that Novak advocates, although he focuses his discussion on retaining jurisdiction in the juvenile court. Feld argues strongly against it on the basis that it amounts to no more than clinical decision-making by the court. He makes other arguments as well, but the point that judicial waiver is a non-rational, unpredictable process is a point also relevant to the deterrence perspective we have taken here. That is, such a process is certain to be inconsistent and unpredictable and, therefore, flawed from a deterrence perspective. However, judicial waiver should not be ignored completely as a viable method. Through slight legislative modification, the process can be altered dramatically. The addition of a presumption of "unfitness" based on certain specified charges had this effect in California.

Prior to 1977, the California Welfare and Institutions Code authorized a very standard judicial waiver process. It specified five vague criteria for making the waiver decision:

TABLE 12. COMPARISON OF 1976 AND 1977 FITNESS HEARINGS IN LOS ANGELES COUNTY (BY MOST SERIOUS OFFENSE AND PERCENT OF INCREASE).

Most Serious Charged Offense	1976 Hrgs.	1976 Waived	1977 Hrgs.	1977 Waived	Percent Change Hrgs.	Percent Change Waivers
Homicide	24	16	51	41		
	24%	66.7%	12%	80.4%	113	156
Forcible Rape	11	8	32	18		
	11%	72.7%	7.6%	56.2%	191	125
Armed Robbery	25	17	152	69		
	25%	68.0%	36.2%	45.4%	508	306
Firearm (Except Robbery)	2	0	30	10		
	2%	0.0%	7.1%	33.3%	1400	
Strong-Arm Robbery	8	3	35	13		
	8%	37.5%	8.3%	37.1%	338	333
Other Felony Assault	12	6	63	20		
	12%	50.0%	15.0%	32.7%	425	233
Other Personal Crimes	3	2	8	4		
	3%	66.7%	1.9%	50.0%	167	100
Burglary	6	4	28	11		
	6%	66.7%	6.7%	39.3%	367	175
Other Property Offenses	6	3	19	7		
	6%	50.0%	4.5%	36.8%	217	133
Other	4	3	2	1		
	4%	75.0%	0.4%	22.2%	(50)	(67)
Totals	101	62	420	194	316	213

The point of describing California's experience is simply to note that, even with so small a change in the authorizing statute, the probability of being waived under specific criteria can be increased dramatically. This would have the effect of increasing the graduation of sanction severity with offender severity. It would also have the effect of increasing sanction consistency across offenders, if not within offender groups.

TABLE 14. PRIOR POLICE CONTACTS OF JUVENILES ON WHOM FITNESS MOTIONS WERE FILED IN LOS ANGELES COUNTY FOR 1976 AND 1977.

Outcomes	Prior Police Contacts	1976	1977	Net Change
Unfit	$\bar{X}$	11.45	11.39	-.06
	Standard Deviation	7.13	7.34	+.21
	Number	62	194	+132
Fit	$\bar{X}$	8.79	7.51	-1.28
	Standard Deviation	7.84	5.23	-2.61
	Number	39	228	+189
Total Average	$\bar{X}$	10.43	9.30	-1.13
Total Average	Standard Deviation	7.49	6.57	-9.2
Total	Number	101	422	+321

In summary, while automatic waiver may well be the best alternative in terms of deterrence principles, judical waiver with presumption based on offense (and maybe priors) may yield a similar effect. This knowledge can be important in view of the fact that there are many other criteria on which a choice of method will be made, not the least of which are political criteria. It is likely to be easier to "sell" legislation of

2. Graduating sanction severity is required to have an effect on increasing levels of offender seriousness/recidivism proneness.

3. Consistent use of sanctions is more effective than inconsistent use of sanctions.

Using these principles we have indicated that automatic waiver based on offense seriousness and prior record is most consonant with deterrence values, while handling all juvenile offenders in juvenile court fares least well. The trifurcated system based primarily on age falls between the two in deterrence desirability. Finally, judicial waiver with presumption based on offense and prior record is seen as a viable, perhaps more politically feasible alternative to automatic waiver, with most of the benefits of automatic waiver retained.

BIBLIOGRAPHY

Books and Documents

Aichhorn, August. Wayward Youth. New York: Viking Press, 1951.

American Friends Service Committee. Struggle for Justice. New York: Hill & Wang, 1971.

Bartollas, C., S. Miller and S. Dinitz. Juvenile Victimization: The Institutional Paradox. New York: John Wiley & Sons, 1976.

Blumstein, Alfred, Jacqueline Cohen, and Daniel Nagin, eds. Deterrence and Incapacitation: Estimating the Effects of Criminal Sanctions on Crime Rates. Washington, D.C.: National Academy of Sciences, 1978.

Bottoms, Anthony and Roger Brownsward. "Dangerousness and Rights," in Dangerousness: Problems of Assessment and Prediction, John W. Hinton, ed. London: George Allen and Unwin, 1983.

Bowker, Lee B. Corrections: The Science and the Art. New York: Macmillan Publishing Co., Inc., 1982.

Chisholm, Barbara A. "Canada," in Justice and Troubled Children Around the World. V. Lorne Stewart, ed., Volume 5. New York: New York University Press, 1983.

Clinard, Marshall B. Cities with Little Crime: The Case of Switzerland. Cambridge, England: Cambridge University Press, 1978.

Conrad, John P. "Crime and the Child," in Project MIJJIT: Readings in Public Policy. John C. Hall et al., eds. Columbus, OH: Academy for Contemporary Problems, 1981.

Conrad, John P. and Simon Dinitz. In Fear of Each Other. Lexington, MA: Lexington Books, 1977.

Fogel, David. "...We Are the Living Proof...": The Justice Model for Corrections. Cincinnati, OH: W.H. Anderson Co., 1975.

Gesell, Arnold and Frances L. Ilg. The Child from Five to Ten. New York: Harper and Row, 1946.

Greenwood, Peter. Age, Crime and Sanctions: The Transition from Juvenile to Adult Court. Santa Monica, CA: Rand Corporation, 1983.

_____. Selective Incapacitation. Santa Monica, CA: Rand Corporation, 1982.

_____, Allan Abrahamse, Albert Lipson and Franklin Zimring. Youth Crime and Juvenile Justice: A Report to the California Legislature. Santa Monica, CA: Rand Corporation, June 1983.

_____, Albert Lipson, Allan Abrahamse and Franklin Zimring. Youth Crime and Juvenile Justice in California: A Report to the Legislature. Santa Monica, CA: Rand Corporation, 1983.

_____, Joan Petersilia and Franklin Zimring. Age, Crime and Sanctions: The Transition from Juvenile to Adult Court. Santa Monica, CA: Rand Corporation, 1980.

Hadfield, J.A. Childhood and Adolescence. Baltimore, MD: Penguin Books, Ltd., 1962.

Hall, John C. et al., eds. Project MIJJIT: Readings in Public Policy. Columbus, OH: Academy for Contemporary Problems, 1981.

Hamparian, Donna M. and Joseph Davis. Ohio's Justice System for the Serious Juvenile Offender: Implications of H.B. 440. Cleveland, OH: Federation of Community Planning, 1982.

_____, Linda K. Estep, Susan M. Muntean, Ramon R. Priestino, Robert G. Swisher, Paul L. Wallace and Joseph L. White. Youth in Adult Courts: Between Two Worlds. Columbus, OH: Academy for Contemporary Problems, 1982.

Behavior in the United States: Its Trends and Patterns. Washington, D. C.: National Institute of Juvenile Justice and Delinquency Prevention, 1981.

Mann, D. Intervening with Convicted Serious Juvenile Offenders. Washington, D.C.: National Institute of Juvenile Justice and Delinquency Prevention, 1976.

Meehl, Paul E. Clinical Versus Statistical Prediction. Minneapolis, MN: University of Minnesota Press, 1954.

Minnesota Sentencing Guidelines Commission. Report to the Legislature. Minneapolis, MN: Minnesota Sentencing Guidelines Commission, 1980.

Monahan, John. Predicting Violent Behavior. Beverly Hills, CA: Sage Publications, 1980.

_____. Predicting Violent Behavior: An Assessment of Clinical Techniques. Beverly Hills, CA: Sage Publications, 1981.

Morris, Norval. The Future of Imprisonment. Chicago, IL: The University of Chicago Press, 1974.

Murray, Charles, D. Thomson, and C.B. Israel. UDIS: Deinstitutionalizing the Chronic Juvenile Offender. Washington, D.C.: American Institutes for Research, 1978.

National Opinion Research Center. General Social Survey (1972-80). Chicago, IL: University of Chicago Press, 1980.

Nettler, Gwynn. Explaining Crime. New York: McGraw-Hill Book Co., 1978.

Osbun, L. and P. Rode, "Prosecuting Juveniles as Adults: The Quest for 'Objective' Standards," Minneapolis, MN: University of Minnesota, 1984.

Packer, Herbert L. The Limits of Criminal Sanction. Stanford, CT: Stanford University Press, 1968.

Rozes, Simone. "France," in Justice and Troubled Children Around the World. V. Lorne Stewart, ed. Volume 2. New York: New York University Press, 1983.

Samenow, Stanton E. Inside the Criminal Mind. New York: Times Books, 1984.

Schlossman, S. Love and the American Delinquent: The Theory and Practice of "Progressive" Juvenile Justice, 1825-1920. Chicago, IL: University of Chicago Press, 1977.

Schneider,Anne L. and Donna D. Schram. An Assessment of Juvenile Justice System Reform in Washington State: Executive Summary. Eugene, OR: Institute of Policy Analysis, 1983.

Sechrest, L., S. White, and E. Brown, eds. The Rehabilitation of Criminal Offenders: Problems and Prospects. Washington, D.C.: National Academy of Sciences, 1979.

Short, James F., Jr., "Political Implications of Juvenile Delinquency: A Comparative Perspective," in Criminal Issues in Juvenile Delinquency. David Shichor and Delos H. Kelly, eds. Lexington, MA: Lexington Books, D.C. Heath and Company, 1980.

Snyder, Howard N., et al., Delinquency 1980: A Description of Cases Processed by the United States Courts with Juvenile Jurisdiction. Pittsburgh, PA: National Center for Juvenile Justice, 1982.

Snyder, Howard N. and John L. Hutzler, "The Serious Juvenile Offender: The Scope of the Problems and the Response of Juvenile Courts," Pittsburgh, PA: National Center for Juvenile Justice, 1981.

Strasburg, Paul. Violent Delinquents: A Report to the Ford Foundation from the Vera Institute of Justice. New York: Monarch, 1978.

Street, D., R. Vinter, and C. Perrow. Organization for Treatment. New York: The Free Press, 1966.

U.S. Department of Justice, Bureau of Justice Statistics. Report to the Nation on Crime and Justice: The Data. Washington, D.C.: U.S. Department of Justice, 1983.

U.S. Department of Justice. Sourcebook of Criminal Justice Statistics. Washington, D.C.: United States Government Printing Office, 1980.

U.S. Department of Justice, Bureau of Justice Statistics. Sourcebook of Criminal Justice Statistics. Washington, D.C.: United States Government Printing Office, 1982.

U.S. Senate. Judiciary Committee, Criminal Law and Procedures Subcommittee. West Germany's Political Response to Terrorism. Washington, D.C.: United States Government Printing Office, 1978.

Vachss, Andrew and Yitzhak Bakal. The Life-Style Violent Juvenile. Lexington, MA: Lexington Books, D.C. Heath and Co., 1979.

Vera Institute of Justice. Violent Delinquents. New York: Vera Institute of Justice, 1976.

Von Hirsch, Andrew. Doing Justice. New York: Hill & Wang, 1976.

Walker, Nigel D., "Protecting People," in Dangerousness: Problems of Assessment and Prediction. John W. Hinton, ed. London: George Allen and Unwin, 1983.

Weis, Joseph G. and John Sederstrom. The Prevention of Serious Delinquency: What to Do? Washington, D.C.: United States Department of Justice, 1981.

White, Joseph L. et al., The Comparative Dispositions Study: Handling Dangerous Juveniles: An Executive Summary. Columbus, OH: The Academy., Inc., 1984.

_____. The Comparative Dispositions Study: Practices in Nine Jurisdictions. Columbus, OH: The Academy., Inc., 1984.

Periodicals

Arzt, Gunther, "Responses to the Growth of Crime in the United States and West Germany: A Comparison of Changes in Criminal Law and Societal Attitudes," Cornell International Law Journal, 12(1979):43-64.

"Attitudes Toward Crime and Punishment," The Magistrate, 39(1983):68.

Boland, B. "Fighting Crime: The Problem of Adolescents," Journal of Criminal Law and Criminology, 71(1980):94-97.

Boland, Barbara and James Q. Wilson, "Age, Crime, and Punishment," Public Interest, 51(1978):22-34.

Coffee, John, "The Repressed Issues of Sentencing: Accountability, Predictability, and Equality in the Era of the Sentencing Commission," Georgetown Law Review, 66(1978):975-1038.

Dunlop, Anne and Catherine Frankenburg, "The Detention of Juveniles for Grave Crimes," Research Bulletin, London: Home Office Research and Planning Unit, 14(1982):41-44.

Eder, Richard, "Judges in France Being Pressed to Take a Harder Line on Crime," New York Times, March 31, 1981.

Edwards, L., "The Case for Abolishing Fitness Hearings in Juvenile Court," Santa Clara Law Review, 17(1977):595-630.

Ennis, Bruce J. and Thomas R. Litwack, "Psychiatry and the Presumption of Expertise: Flipping Coins in the Courtroom," California Law Review, 62(1974):693-752.

Evans, Peter, "Detention Centres' Intake Expected to Increase by 70%," London Times, April 6, 1983, p. 3.

Feld, Barry C., "Reference of Juvenile Offenders for Adult Prosecution: The Legislative Alternative to Asking Unanswerable Questions," Minnesota Law Review, 62(1978).

Livermore, J.C., et al., "On the Justifications for Civil Commitment," University of Pennsylvania Law Review, 117(1968):75-96.

Lundman, Richard J., Paul T. McFarlane and Frank R. Scarpitti, "Delinquency Prevention: A Description and Assessment of Projects Reported in the Professional Literature," Crime and Delinquency, 22(1976).

Mack, Julian W., "The Juvenile Court," Harvard Law Review, 23(1909).

McLaughlin, Edward and Lucia Whisenand, "Jury Trial, Public Trial...." Brooklyn Law Review, 45(1979).

Martinson, Robert, "What Works? -- Questions and Answers About Prison Reform," Public Interest, 35(1974):22-54.

Monahan, J. and L. Cummings, "Social Policy Implications of the Inability to Predict Violence," Journal of Social Issues, 31(1975):153-164.

Oppenheimer, Martin, "The Criminalization of Political Dissent in the Federal Republic of Germany," Contemporary Crises, 2(1978):97-103.

Palmer, Ted, "Martinson Revisited," Journal of Research in Crime and Delinquency, 12(1975):133-152.

Poole, E. and R. Regoli, "Violence in Juvenile Institutions: A Comparative Study," Criminology, 21(1983).

Robison, J. and G. Smith, "The Effectiveness of Correctional Programs," Crime and Delinquency, 17(1971):67-80.

Rosenberg, I.M., "The Constitutional Rights of Children Charged with Crime: Proposal for a Return to the Not So Distant Past,", University of California Law Review, 27(1980).

Rosenhan, D.L., "On Being Sane in Insane Places," Science, 179(1973):250-258.

Columbus, OH, 1983.

Dinitz, Simon. "Preventing Juvenile Crime and Delinquency," Paper presented to the International Union of Local Authorities, Columbus, OH, 1983.

Van Dusen, K.T., "Transfer to Adult Court: Legislative Changes and Its Impact," Volume VI of: Katherine Van Dusen and Malcolm W. Klein, "Implications of California's 1977 Juvenile Justice and Delinquency Prevention Act, Grant Nos. 77-JN-99-0012 and 78-JN-AX-0034."

_____ and S.A. Mednick, "A Comparison of Delinquency in Copenhagen and Philadelphia: Final Report to the National Institute of Justice, Grant No. 79-NI-AX-0087," 1983.

_____, S.A. Mednick, and W.F. Gabrielli, Jr., "Deterrence in Two Birth Cohorts: Part I of the Final Report to the National Institute of Justice, Grant No. 82-IJ-CX-0055, 1984.

Cases

Breed v. Jones, 421 U.S. 519, 95 S.Ct. 1779 (1975).

Duncan v. Louisiana, 391 U.S. 145 (1968).

In re Felder, 93 Misc. 2nd 369-370, 402 N.Y.S. 2nd 528-529 (1978).

In re Gault, 387 U.S. 1, 87 S.Ct. 1428, 18 L.Ed. 2d 527 (1967).

In re J.S., 438 A.2d 1125 (Vt.)

In re Winship, 397 U.S. 358, 90 S.Ct. 1068 (1970).

Inmates of the Boys' Training School v. Affleck, 346 F. Supp. 1354 (D.C.R.I. 1972).

END