



# Juvenile Transfers to Criminal Court in the 1990's

Lessons Learned From Four Studies

# Office of Juvenile Justice and Delinquency Prevention

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# Juvenile Transfers to Criminal Court in the 1990's: Lessons Learned From Four Studies

## **Summary**

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# Foreword

In recent years, a growing number of States have modified their laws to facilitate the transfer of certain categories of juveniles from the jurisdiction of juvenile courts to the jurisdiction of adult criminal courts.

This Summary describes four studies of juvenile transfers to adult criminal court conducted for the Office of Juvenile Justice and Delinquency Prevention by the National Center for Juvenile Justice.

Two of the studies (South Carolina and Utah) reviewed all instances in which a prosecutor requested a judicial waiver to transfer the jurisdiction of the case to adult criminal court. Another study (Pennsylvania) compared the characteristics of juveniles waived in 1994 with their counterparts in 1986. The final study (also Pennsylvania) explored the decisionmaking process for cases with juvenile defendants originating in adult criminal court under new “statutory exclusion” legislation.

The Summary addresses such relevant questions as the following:

- What criteria were used in the transfer decision?
- Did the nature of transfer and decisionmaking change during the 1980’s and 1990’s over and above changes in legislation?
- What was the impact of new legislation that excludes additional offenders from juvenile court jurisdiction?

The Summary features an overview of each of the four studies, and the key findings are outlined across study lines. Background on transfer mechanisms, past transfer research, and study methodology is also provided.

In sum, the information provided in these pages should enhance our understanding of the transfer of juvenile offenders to adult criminal court and its impact on recidivism and justice system decisionmaking.

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# Executive Summary

## Transfer mechanisms

Juveniles may be prosecuted in criminal court under certain circumstances, and State law determines the conditions under which youth charged with a criminal law violation can be processed in the criminal, rather than the juvenile, justice system. The legal mechanisms for “transferring” juveniles from the juvenile to the criminal justice system differ from State to State and may mandate criminal court processing for juveniles or leave it to the discretion of specific justice system officials. These mechanisms vary in the degree of discretion involved in the transfer decision and are categorized according to who makes the decision.

Under judicial waiver provisions, the juvenile court judge is the decisionmaker. Judicial waiver provisions are generally limited by age and offense criteria and typically include criteria relating to the juvenile’s potential for rehabilitation. Some provisions make the waiver decision entirely discretionary. Other provisions establish a presumption in favor of waiver, reducing judicial discretion. And some provisions make waiver mandatory under certain age and offense conditions, completely removing judicial discretion.

Under statutory exclusion provisions, legislatures have decided that certain young offenders are outside the jurisdiction of the juvenile justice system. The broadest examples of this are States that have defined all 17-year-olds or all 16- and 17-year-olds as “adults” by setting the upper age of juvenile court jurisdiction at 15 or 16. Most statutory exclusion provisions target serious offenses and older youth.

Concurrent jurisdiction provisions give prosecutors the discretion to file certain cases in juvenile or criminal court. Under such provisions, both courts share original jurisdiction. Prosecutor discretion provisions are limited by age and offense criteria.

Most States have historically relied primarily on judicial waiver provisions. In recent years, however, a growing number of States have implemented statutory exclusion and/or concurrent jurisdiction provisions. Most States now rely on a combination of transfer provisions, the most common being judicial waiver together with statutory exclusion (18 States). For detailed information on judicial waiver provisions, readers should refer to appendix A. Between 1992 and 1997, all but six States expanded their statutory provisions for transferring juveniles to criminal court, making it easier for more juveniles to be transferred. For example, States have added statutory exclusions, expanded the list of offenses eligible for transfer, and/or lowered the minimum ages at which a juvenile may be transferred under one or more mechanisms.

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## Prior research on transfer

Transfer research in the 1970's and 1980's found that, contrary to conventional wisdom, transfers (1) were not necessarily violent offenders, (2) did not necessarily receive harsher sanctions in criminal court than they would have received in juvenile court, (3) were not necessarily incarcerated, and (4) if incarcerated, did not necessarily receive longer sentences than their juvenile court counterparts. Research in the 1990's that compared the recidivism outcomes of transfers and of youth retained in the juvenile system found that transfers were more likely to recidivate within 2 years. After a 6-year followup period, there was no difference between the groups in the proportion of offenders who recidivated, although the transferred youth who reoffended did so more quickly and more often, on average, than delinquents handled in juvenile court who reoffended. Even though such research attempted to study comparable groups (matching transfers with delinquents on several demographic and case variables), it left open the question whether observed differences existed because transfers were "tougher" youth. The research presented in this Summary was designed to improve understanding of the differences between cases transferred to criminal court and "similar" cases retained in juvenile court.

## Four studies of juvenile transfers to criminal court in the 1990's

Researchers at the National Center for Juvenile Justice (NCJJ) designed a set of four studies to identify the factors decisionmakers consider when transferring cases from the juvenile to the criminal justice system. Researchers selected study sites with large samples of cases that met the State's transfer criteria and contained sufficient detail on the crime incident, the youth's court history, and case processing characteristics to model the decisionmaking process in the jurisdiction. Studies in South Carolina and Utah considered all cases in which the prosecutor requested a judicial waiver. One of the two Pennsylvania studies compared the characteristics of juveniles waived in 1994 with those waived in 1986 to assess whether the waiver criteria had changed during this period—a period during which the State's transfer legislation had not changed, but public attitudes toward juvenile transfers were changing. The second Pennsylvania study explored the decisionmaking process for cases involving young offenders that began in criminal court rather than juvenile court under Pennsylvania's 1996 statutory exclusion legislation.

## Findings: What criteria are used in the transfer decision?

Judges concurred with most waiver requests made by prosecutors (solicitors) in South Carolina and Utah. Two factors distinguished cases that were waived

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from those that were not: the extent of a juvenile's court history and the seriousness of his or her offense. The data show that although common criteria were used in waiver decisions in South Carolina and Utah, the decisionmaking process in each State retained a local flavor. In both South Carolina and Utah, the juvenile court was less likely to approve a waiver request in cases involving juveniles who did not have an extensive history with the court. However, the courts in these States approved waiver requests in the vast majority of cases involving juveniles who had no formal juvenile court record prior to the waiver incident. Thus, court history was not the only factor considered in deciding whether to approve a waiver request.

In South Carolina, offense seriousness was also a key determinant in the waiver decision. Regardless of a youth's court history, cases involving serious person offenses were more likely to be approved for waiver than other types of cases. Although the seriousness of the offense category alone was not as key in Utah as it was in South Carolina, the juvenile court in Utah was also quite consistent in its waiver decisionmaking. Characteristics of the crime incident were important in decisions to waive in Utah. Waiver was most likely to be granted in cases involving serious person offenders who used weapons and seriously injured someone, regardless of the offenders' court history. Even first-time offenders in Utah were waived if they seriously injured their victim. For other types of cases, the court looked to a youth's court history to decide whether to waive the matter to criminal court. In these cases, youth with long histories were more likely to be waived than those with shorter histories.

## **Findings: Did the nature of transfer decision-making change during the 1980's and 1990's over and above changes in legislation?**

A youth referred to juvenile court in Pennsylvania for a delinquency offense in 1994 was far more likely to be judicially waived to criminal court than a youth referred in 1986. The large increase in the likelihood of waiver does not appear to be related to a change in transfer legislation, the growth of the juvenile population, or a change in the overall number of juvenile arrests. Between 1986 and 1994, the 84-percent growth in judicial waivers was greater even than the 32-percent increase in juvenile arrests for violent crimes.

The increase in waiver from 1986 to 1994 appears to have been related to a change in the waiver criteria. Although the number of juveniles waived to the criminal system in Pennsylvania for committing violent offenses was much larger in 1994 than in 1986, the proportion of youth committing violent offenses among the total waived was similar in 1986 and 1994. The growth of waiver in Pennsylvania was greatly affected by the waiver of a much larger number of juveniles charged with drug offenses—in fact, about 40 percent of the overall increase in the number of waivers between 1986 and 1994 can be attributed to

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these youth. However, additional factors also contributed to the increase in waivers.

Another important difference between the 1986 and the 1994 waiver groups was that juveniles waived in 1994 had less serious court histories than juveniles waived in 1986. Although the court histories of juveniles in each group were similar (in terms of the number of prior adjudications and prior residential placements), the 1994 waiver group included a smaller proportion of juveniles who had been classified as serious person offenders prior to the transfer incident. Thus, both the 1986 and the 1994 groups had progressed through the court's range of sanctioning levels before being waived to criminal court. The 1994 group, however, stepped through the sanctioning alternatives with less serious offense histories.

Therefore, the increased use of judicial waiver in Pennsylvania between 1986 and 1994 appears to have been related to several factors, including the following:

- The juvenile justice system's response to an increase in juvenile violence.
- The court's severe response to its increasing caseload of juvenile drug offenders.
- The system's assessment that a greater proportion of adjudicated delinquents was no longer amenable to treatment within the juvenile justice system.

## **Findings: What was the impact of new legislation that excludes additional offenders from juvenile court jurisdiction?**

In many ways, implementation of Pennsylvania's 1996 exclusion law mimicked the State's judicial waiver process in previous years. Under the statute, when a case is not dismissed at the preliminary hearing, the criminal court judge's decision to keep the case in criminal court or to decertify it to juvenile court must be based on the same factors that a juvenile court judge uses to decide whether a youth should be waived to criminal court: the youth's age, prior referrals to juvenile court, and amenability to treatment.

The juvenile courts in the three Pennsylvania study counties judicially waived 277 youth in 1995. In the transition year of 1996, when the State's exclusion law took effect, the number of waivers dropped to 157—a decrease of 120 youth. Of the 473 youth excluded from juvenile court jurisdiction in these counties in 1996, a total of 109 were convicted in criminal court. Assuming that cases still open in criminal court at the end of the study period resulted in the same proportion of convictions and dismissals, approximately 135 of the 473 excluded youth eventually would have been convicted in criminal court. The drop in the number of waived youth between 1995 and 1996—120—is close to the number of excluded youth convicted in criminal court when all cases are

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closed—135. These numbers suggest that the ultimate impact of Pennsylvania’s 1996 exclusion legislation was to retain in criminal court those cases that the juvenile court would have judicially waived had it been given the opportunity. Consequently, regardless of the transfer path in Pennsylvania—judicial waiver or legislative exclusion—about the same number of youth were sentenced to an adult correctional facility.

Therefore, considering only case outcomes, the impact of Pennsylvania’s new exclusion statute was negligible. The statute, however, increased the processing time for cases eventually handled within the juvenile justice system and placed an additional burden on local jails and the criminal courts.

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## Background

### Transfer mechanisms

All States have established legal mechanisms whereby some juveniles may be prosecuted within the criminal justice system. These mechanisms, while having different labels across the States, fall into three general categories, according to who makes the transfer decision.<sup>1</sup> The three mechanisms are judicial waiver, statutory exclusion, and concurrent jurisdiction; the decisionmakers are, respectively, the juvenile court judge, the legislature, and the prosecutor.

#### Judicial waiver (the juvenile court judge)

In judicial waivers, a hearing is held in juvenile court, typically in response to the prosecutor's request that the juvenile court judge "waive" the juvenile court's jurisdiction over the matter and transfer the juvenile to criminal court for trial in the "adult" system. Most State statutes limit judicial waiver by age and offense criteria and by "lack of amenability to treatment" criteria (Snyder and Sickmund, 1999; Griffin, Torbet, and Szymanski, 1998). States often limit waiver to older youth or to youth who have committed certain serious offenses. Amenability determinations are typically based on a juvenile's offense history and previous dispositional outcomes but may also include psychological assessments. Under many State statutes, a court making an amenability determination must also consider the availability of dispositional alternatives for treating the juvenile, the time available for sanctions (for older juveniles), public safety, and the best interests of the child.

Judicial waiver provisions vary in the degree of flexibility they allow the court in decisionmaking. Some provisions make the waiver decision entirely discretionary. Others establish a presumption in favor of waiver or specify circumstances under which waiver is mandatory.

Regardless of the degree of flexibility accorded to the court, the waiver process must adhere to certain constitutional principles of fairness. The U.S. Supreme Court, in *Kent v. United States* (1966), held that juvenile courts must provide "the essentials of due process" when transferring juveniles to criminal court. (See pages 2–3 for additional information on the *Kent* decision.) In 1996, approximately 10,000 cases—or 1.6 percent of all formally processed delinquency cases disposed in juvenile courts that year—were judicially waived to criminal court (Stahl et al., 1999).

#### Statutory exclusion (the legislature)

In a growing number of States, legislatures have statutorily excluded certain young offenders from juvenile court jurisdiction based on age and/or offense

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<sup>1</sup> The term "transfer" refers to three general mechanisms. However, only one mechanism (judicial waiver) actually involves the transfer of a juvenile from the juvenile court to the criminal court. Cases that follow the other two paths may never pass through the juvenile court system.



All States have established legal mechanisms whereby some juveniles may be prosecuted within the criminal justice system.



## ***Kent v. United States, 383 U.S. 541 (1966)***

### **Procedural Background**

In 1961, while on probation from an earlier case, 16-year-old Morris A. Kent, Jr., was arrested and charged with housebreaking, rape, and robbery. Kent confessed to the offenses and offered information on several similar incidents. Anticipating that the District of Columbia Juvenile Court would consider waiving its jurisdiction over Kent and remitting him for trial to the criminal system, Kent's attorney filed motions requesting a hearing on the issue of jurisdiction and seeking access to the juvenile court's social services file on Kent. The juvenile court judge did not rule on this motion. Instead, he entered an order stating that the juvenile court was waiving jurisdiction over Kent after making a "full investigation." The judge did not describe the investigation or the grounds for the waiver.

When Kent was indicted in criminal court, Kent's lawyer moved to dismiss the criminal indictment, arguing that the juvenile court's waiver had been invalid. That motion was overruled, and Kent was subsequently tried in criminal court and found guilty on six counts of housebreaking and robbery. He was sentenced to 30 to 90 years in prison.

On appeal, Kent's attorney again challenged the validity of the waiver. Appellate courts, however, rejected the appeal, refused to scrutinize the juvenile court judge's "investigation," and accepted the waiver as valid. In appealing to the U.S. Supreme Court, Kent's attorney argued that the judge had not made a complete investigation and that Kent had been denied his constitutional rights simply because he was a minor.

### **U.S. Supreme Court's Decision**

The U.S. Supreme Court ruled the juvenile court order waiving jurisdiction invalid, holding that Kent's counsel should have had access to all records involved in the waiver decision and that the judge should have provided a *written* statement of the reasons for waiver. The Court also held that waiver hearings do not need to conform to all the formal requirements of a criminal trial, but that they must measure up to "the essentials of due process and fair treatment." In particular, the Court held that juveniles facing waiver are entitled to:

- Representation by counsel.
- Access to social services records.
- A written statement of the reasons for waiver.

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## **Kent Waiver Criteria**

In an appendix to its opinion, the Court in *Kent* detailed the following “criteria and principles concerning waiver of jurisdiction”:

An offense falling within the statutory limitations . . . will be waived if it has prosecutive merit and if it is heinous or of an aggravated character, or—even though less serious—if it represents a pattern of repeated offenses which indicate that the juvenile may be beyond rehabilitation under Juvenile Court procedures, or if the public needs the protection afforded by such action.

The determinative factors which will be considered by the Judge in deciding whether the Juvenile Court’s jurisdiction over such offenses will be waived are the following:

1. The seriousness of the alleged offense to the community and whether the protection of the community requires waiver.
2. Whether the alleged offense was committed in an aggressive, violent, premeditated or willful manner.
3. Whether the alleged offense was against persons or against property, greater weight being given to offenses against persons especially if personal injury resulted.
4. The prosecutive merit of the complaint, i.e., whether there is evidence upon which a Grand Jury may be expected to return an indictment (to be determined by consultation with the [prosecuting attorney]).
5. The desirability of trial and disposition of the entire offense in one court when the juvenile’s associates in the alleged offense are adults who will be charged with a crime in [criminal court].
6. The sophistication and maturity of the juvenile as determined by consideration of his home, environmental situation, emotional attitude, and pattern of living.
7. The record and previous history of the juvenile, including previous contacts with [social service agencies], other law enforcement agencies, juvenile courts and other jurisdictions, prior periods of probation to [the court], or prior commitments to juvenile institutions.
8. The prospects for adequate protection of the public and the likelihood of reasonable rehabilitation of the juvenile (if he is found to have committed the alleged offense) by the use of procedures, services and facilities currently available to the Juvenile Court.

**S**tate concurrent jurisdiction provisions, like other transfer provisions, typically are limited by age and offense criteria.

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criteria. Perhaps the broadest such exclusion occurs in States that have defined the upper age of juvenile court jurisdiction as 15 or 16 and thus excluded large numbers of youth under age 18 from the juvenile justice system. NCJJ has estimated that (assuming such age-excluded youth are referred to criminal court at rates similar to those at which their juvenile counterparts are referred to juvenile court) as many as 218,000 cases involving youth under age 18 were tried in criminal court in 1996 as a result of State laws that defined them as adults solely on the basis of age (Snyder and Sickmund, 1999; Griffin, Torbet, and Szymanski, 1998). Whether juvenile and criminal court referral rates are in fact similar is not known. If they are not, or if the most minor incidents referred to juvenile court are never prosecuted in criminal court, the estimated number of age-excluded youth would be lower.

Many States also exclude certain individuals charged with serious offenses from juvenile court jurisdiction. Such exclusions are typically limited to older youth. The offenses most often targeted for exclusion are capital and other murders and violent offenses; however, an increasing number of States are excluding additional felony offenses. No national data exist on the number or characteristics of cases excluded by statute from juvenile court jurisdiction.

### **Concurrent jurisdiction (the prosecutor)**

Under this transfer option, State statutes give prosecutors the discretion to file certain cases in either juvenile or criminal court because original jurisdiction is shared by both courts. State concurrent jurisdiction provisions, like other transfer provisions, typically are limited by age and offense criteria (Snyder and Sickmund, 1999; Griffin, Torbet, and Szymanski, 1998).

Prosecutorial transfer, unlike judicial waiver, is not subject to judicial review and is not required to meet the due process requirements established in *Kent*. According to some State appellate courts, prosecutorial transfer is an “executive function” equivalent to routine charging decisions. Some States, however, have developed guidelines for prosecutors to follow in “direct filing” cases. No national data exist on the number or characteristics of the cases that prosecutors exclude or have the discretion to exclude from juvenile court jurisdiction.

State legislation delineates the conditions under which individuals charged with a violation of the law (and whose age places them under the original jurisdiction of the juvenile court) may or must be processed in the adult criminal system. Historically, the majority of States have relied on judicial waiver as the mechanism for transferring juveniles to criminal court (Feld, 1987; Snyder and Hutzler, 1981). For many years, all States except Nebraska, New York, and, more recently, New Mexico have had statutory provisions that allow juvenile court judges to waive the juvenile court’s jurisdiction over certain cases and transfer them to criminal court for prosecution (Snyder and Sickmund, 1999; Griffin, Torbet, and Szymanski, 1998). Statutory exclusion and concurrent jurisdiction provisions have been relatively less common, but the number of States in which these options exist is growing. Between the 1992 and 1997 legislative sessions, 45 States expanded

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their statutory provisions governing the transfer of juveniles to criminal court. Generally, States have done so by adding statutory exclusion provisions, lowering minimum ages, adding eligible offenses, or making judicial waiver presumptive. As of the end of 1997, legislatures in 28 States had statutorily excluded from juvenile court jurisdiction cases involving certain offenses and certain age youth, and, in 15 States, prosecutors had the discretion to file certain cases in criminal court.


Nearly all States rely on a combination of transfer provisions to move juveniles to the criminal system. As of the end of 1997, the most common combination (18 States) was judicial waiver together with statutory exclusion (Snyder and Sickmund, 1999; Griffin, Torbet, and Szymanski, 1998). Relying on judicial waiver alone was the second most common transfer arrangement (16 States). Tables summarizing the 1997 transfer criteria in each State and demonstrating statutory variations across States appear in appendix A.

## Prior research on transfer

Research on transfers in the 1970's through the middle 1980's documented court practice regarding the transfer of juveniles to criminal court. Studies found that although transfer to criminal court was intended for the most serious juvenile offenders, many transferred juveniles were not violent offenders, but repeat property offenders (Howell, 1996; Feld, 1987; Snyder and Sickmund, 1995; Nimick, Szymanski, and Snyder, 1986). In addition, studies found that transferred youth often were handled more leniently in criminal court than they would have been in juvenile court—arguably because they were appearing in criminal court for the first time at a relatively young age and with a relatively short offending history. For example, a 1978 national survey by Hamparian and colleagues (1982) found that the majority of juvenile transfers convicted in criminal court received sentences of probation, fines, or other alternatives to incarceration. Forty-six percent of cases judicially waived and 39 percent of those filed directly in criminal court by prosecutors resulted in incarceration. Research by Bortner (1986) found that 6 out of 10 judicially waived offenders received probation as their primary disposition, compared with 3 out of 10 who received sentences of incarceration.

Other studies, by contrast, have found that criminal courts were more likely than juvenile courts to incarcerate offenders. Fagan (1991), for example, compared juvenile and criminal court handling in 1981 and 1982 of 15- and 16-year-old felony offenders in similar counties in New York (where they are excluded from juvenile court) and New Jersey (where they are not). The study found that criminal court sanctions in New York were twice as likely to include incarceration as juvenile court sanctions in New Jersey. In a followup study of more recent cases (1986–87), however, Fagan (1995) found the reverse (at least for robbery cases).

Researchers have also explored sentence lengths for those incarcerated. Rudman and colleagues (1986), for instance, studied case outcomes of violent youth considered for transfer in urban jurisdictions by comparing outcomes for



**N**early all States rely on a combination of transfer provisions to move juveniles to the criminal system.

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**I**t remains uncertain what case characteristics trigger a decision to transfer.

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those transferred with outcomes for those whose transfer was denied. The study found that criminal court sentences were longer than juvenile court sentences. Fagan's (1991) research on sentences imposed by juvenile and criminal courts in felony burglary or robbery cases, on the other hand, found no differences in sentence lengths.

Recidivism rates of juveniles transferred to criminal court and juveniles retained in juvenile court have also been compared to assess the ultimate impact of transfer. For example, Fagan's 1991 analysis of felony burglary and robbery cases found that the likelihood of rearrest and reincarceration, as described earlier, did not differ among youth charged with burglary. Among juveniles charged with robbery, however, those handled in juvenile court in New Jersey were significantly less likely to be rearrested and reincarcerated than those handled in criminal court in New York. Of those who recidivated, the length of time before rearrest was significantly longer for those who remained in juvenile court.

Research by Bishop and Frazier and their associates compared case outcomes for nearly 3,000 juveniles transferred to criminal court in Florida with outcomes for a comparison group of juveniles retained in juvenile court. The groups were matched along several dimensions, including offense, age, race, sex, and prior offenses. The 1-year followup study (Bishop et al., 1996) found that transferred youth had a higher rate of rearrest, were rearrested for more serious offenses, and were rearrested within a shorter time than youth retained in juvenile court. After nearly 6 years, the juveniles who had not been transferred had caught up with the transferred youth in terms of the proportion who had been rearrested (Winner et al., 1997). However, transferred youth who were rearrested were rearrested more quickly and more times, on average, than the comparison group of delinquents handled in juvenile court. Only transferred youth charged with felony property crimes (many of whom had substance abuse problems) were found less likely to be rearrested than their juvenile court counterparts—although, if arrested, transferred youth were rearrested more quickly and more often than their juvenile court counterparts.

The difficulty with much of the research concerning the effect of transfer is that observed differences in case handling and outcomes may result from differences in the seriousness of the cases ultimately handled in juvenile and criminal courts. The underlying assumption is that transfer is reserved for the most serious cases. Because the very rationale for transfer is to allow courts to impose potentially harsher penalties on the most serious juvenile offenders, one would expect cases handled in criminal court to be more serious than those remaining in juvenile court. However, with numerous studies finding large proportions of relatively less serious cases (e.g., property cases) among transferred cases, it remains uncertain what case characteristics trigger a decision to transfer. If, in fact, transferred cases are more serious than cases remaining in juvenile court, one would expect the sanctions imposed in criminal court to be harsher than those imposed in apparently similar cases in juvenile court. Furthermore, one might also expect transferred offenders to be more likely to reoffend.

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Researchers have yet to examine recidivism in a study fully controlling for case and offender seriousness. Even research that has attempted to study comparable groups (matched samples, for example) of transfers and delinquents retained in juvenile court has not been able to control for many of the factors that might make the transfers a more serious group. Thus, it remains unclear whether the reason harsher sanctions are more likely and reoffending is higher among transfers is because these juveniles are more serious offenders. The studies presented in this Summary add to the research literature and improve the understanding of the differences between cases transferred to criminal court and “similar” cases retained in juvenile court.

## Site selection

The project included four research studies in three States: Pennsylvania, South Carolina, and Utah. These sites were chosen because they have historically relied on judicial waiver as their primary transfer mechanism. In addition, in 1996, Pennsylvania enacted an exclusion provision targeting older, violent juveniles that provided an opportunity to study transfer decisionmaking in the criminal justice system.

## Method overview

As those who have attempted to conduct research on transfers are well aware, the data collection process in transfer studies presents many unique and, at times, insurmountable hurdles. The difficulty in these efforts rests on the fact that transfer cases touch so many distinct components of the justice system. To track transferred cases through the justice system completely, researchers must extract information from the records of law enforcement, juvenile courts, juvenile detention centers, probation agencies, criminal courts, adult jails, and State police repositories. For the four research studies described in this Summary, the project developed a form to facilitate consistent definitions and data collection across jurisdictions (see appendix B). However, available data were often incomplete or incompatible across systems. More specifically, case records at times did not contain key data about the circumstances of the criminal incident (e.g., weapon presence or use, gang involvement, level of victim injury, relative criminal responsibility of offender, relationship of victim and offender). This type of information is found in the narrative of police and probation reports, the contents of which are not standardized, varying from author to author and, even more, from jurisdiction to jurisdiction. It is also not uncommon to find juvenile court records of cases transferred to criminal court for which there is no corresponding criminal court record or to find transferred cases that were never completed in criminal court because the offenders were parties in other cases that resulted in criminal court sanctions. These transferred cases, in other words, were essentially ignored.



**T**he project included four research studies in three States: Pennsylvania, South Carolina, and Utah.

**O**ther than the general seriousness of an offense, what characteristics make a case more likely to result in transfer?

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In each of the three States, the basic data collection strategy consisted of extracting information from automated juvenile court records and then supplementing those data with information gleaned from automated records from the criminal court, prosecutor's office, or law enforcement. If automated records did not contain the desired information, researchers culled through paper files.

## Research questions

The studies in this project asked three basic research questions:

- What criteria are used in the transfer decision?
- Did the transfer decisionmaking criteria change during the 1980's and 1990's over and above changes in legislation?
- What was the impact of new legislation that excludes additional offenders from juvenile court jurisdiction?

Although no single jurisdiction generated data that addressed all three questions, each question was addressed by data from one or more sites. Each question is described below.

### What criteria are used in the transfer decision?

Although there is a general sense that transfer should be reserved for the most serious juvenile cases, numerous studies have shown that a significant proportion of transfers seem to fall outside that category, calling into question the decisionmaking of the juvenile court judges and/or prosecutors who control transfer decisions. Other than the general seriousness of an offense, what characteristics make a case more likely to result in transfer? For example, does the likelihood of transfer vary with the seriousness of a victim's injury, the use of weapons (especially firearms), the presence of gang motivation in the underlying incident, or a juvenile's history of substance abuse or prior offending? Are there interactions between these characteristics? Data from South Carolina and Utah on cases in which a waiver request was made were used to address these questions. South Carolina provided data on more cases than Utah, but the Utah data included more detail on each waiver incident.

### Did the transfer decisionmaking criteria change during the 1980's and 1990's over and above changes in legislation?

In the past several years, many States have passed legislation that makes it easier to transfer juveniles to criminal court. Has there been any change, however, in the nature of transferred cases and/or decision criteria in jurisdictions where transfer provisions did not change? In other words, did the transfer process change even where there was no change in State statutes?

Data used to answer this question were drawn primarily from Pennsylvania. Researchers compared waivers in Pennsylvania during 1986 with waivers in

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the State during 1994 (a period during which there were no changes in transfer legislation). The 1986 data were originally collected for a study published by the Pennsylvania Juvenile Court Judges Commission that described the more than 200 cases judicially waived to criminal court in Pennsylvania in 1986 (Lemmon, Sontheimer, and Saylor, 1991). Comparable 1994 data were collected as part of the current project. In addition, even though South Carolina and Utah waived far fewer cases each year, data from these States were analyzed to test for historical changes in transfer criteria.

### **What was the impact of new legislation that excludes additional offenders from juvenile court jurisdiction?**

Of those States that have passed laws that make it easier to try juveniles in criminal court, the most common change was the enactment or expansion of statutory exclusion provisions. Legislatures responded to public outcry regarding “failures” of the juvenile justice system and proposed exclusion as at least a partial solution. The phrase “Do the adult crime, do the adult time” became a cliché. The efficacy of exclusion provisions, however, was not well established. Were more or different juveniles tried in the criminal system in jurisdictions that had enacted new statutory exclusion provisions? Did excluded juveniles receive harsher sanctions under new exclusion provisions than they would have received under prior judicial waiver provisions? Data on cases excluded in Pennsylvania during 1996—under the State’s new exclusion provisions—were used to address this question.


## **South Carolina Waiver, 1985–94**

### **Study overview**

#### **South Carolina’s waiver provisions**

Prior to January 1995, South Carolina law permitted only one form of juvenile transfer: judicial waiver. In South Carolina, the upper age of original juvenile court jurisdiction is 16, and persons 17 or older are considered adults for purposes of criminal prosecution. This study focuses on the years 1985 through 1994, during which time South Carolina’s waiver provisions remained the same. These provisions permitted judicial waiver if:

- A youth was charged with murder or criminal sexual conduct.
- A youth age 16 or older was charged with a delinquency offense.
- A youth age 15 was charged with drug trafficking or carrying certain weapons on school property.
- A youth age 14 or 15 with two prior unrelated adjudications for enumerated person or property offenses was charged with a third or subsequent such offense.



**T**he efficacy of exclusion provisions, however, was not well established.



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**T**he South Carolina study was designed to model the decisionmaking process in the State's family court between 1985 and 1994.

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Waiver legislation directed courts to waive such juveniles to criminal court if it was in the best interests of the child or the public to do so.

### **South Carolina data collection**

South Carolina's Department of Juvenile Justice (DJJ), formerly known as the Department of Youth Services, is an umbrella agency responsible for nearly all juvenile justice services in the State, including intake, diversion, detention, probation, corrections, and aftercare. The only juvenile justice functions not under DJJ's direct control are the functions of the prosecutor and the judge.

DJJ, which served as the lead agency in coordinating data collection for the South Carolina study, is the repository of all data relating to juvenile offender characteristics and family court processing of cases in South Carolina. DJJ has an online statewide offender tracking system that records all contacts with the family court for delinquency and status offenses. Accurate data on the prevalence of transfer as a family court disposition were available through this system from the early 1980's onward, supporting the longitudinal study of transfer actions in relation to offender characteristics.

Because a variety of different agencies are involved in processing and supervising adult criminal cases, final dispositional data on transfers were far more difficult to obtain than particulars of transfer decisions in family court. DJJ had access to data files from the Department of Probation, Parole and Pardon Services (PPP) and the South Carolina Department of Corrections (SCDC), which allowed the extraction of criminal court dispositional information for transferred juveniles who were convicted and sentenced to either probation or incarceration. The agencies have a long and positive history of sharing data in areas of mutual interest or concern. DJJ's experience with earlier longitudinal research on a 1967 male birth cohort (Rivers and Trotti, 1989) helped to delineate a significant portion of this process.

Using names, birth dates, and other personal identifiers, DJJ personnel matched the records stored in the DJJ automated information system on cases considered for waiver with the records in the automated records of South Carolina's adult probation and corrections departments. In addition, DJJ staff used facilities of the State's National Crime Information Center (NCIC) to obtain information on adult arrests and the initial processing of criminal court cases.

From this information, the project team developed data files containing the complete juvenile court histories of all youth for whom a waiver was requested in South Carolina during the 10 years from 1985 through 1994 and showing the specific disposition of the waiver action at the adult criminal court level. Data elements included the offender's date of birth, sex, and race; his or her history of drug use; offenses charged, waived, or adjudicated; and dates of case disposition and processing (see appendix B). Thus, the South Carolina study was designed to model the decisionmaking process in the State's family court between 1985 and 1994, a period when statutory provisions for waiver in the State were stable.

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## South Carolina findings

### Waiver requests

In the 10-year period from 1985 through 1994, South Carolina family courts considered 595 requests for waiver to criminal court, involving 557 juveniles. The vast majority of waiver requests involved males (95 percent), most involved blacks (80 percent), and most involved juveniles age 16 or older at the time the case was referred to family court (table 1). As noted above, 17-year-olds are generally considered adults in South Carolina; however, in South Carolina, the family court’s jurisdiction over delinquents for dispositional purposes can extend until a youth’s 21st birthday. Therefore, youth age 17 or older were candidates for judicial waiver when they were under the continuing jurisdiction of the juvenile court for a previous offense committed before the youth was 17.

**Y**outh age 17 or older were candidates for judicial waiver when they were under the continuing jurisdiction of the juvenile court for a previous offense.

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**Table 1: Demographic Profile of Juveniles in Waiver Request Cases in South Carolina, 1985–94**

Juvenile Characteristics	Percent of Waiver Request Cases
<b>Total waiver request cases</b>	595 100%
<b>Sex</b>	
Male	95%
Female	5
<b>Race</b>	
White, non-Hispanic	20%
Black	80
Other	1
<b>Age at referral</b>	
14 or younger	7%
15	14
16	65
17 or older	15

**Note:** Detail may not total 100 percent because of rounding.

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For 7 percent of the waiver request cases, the juvenile had been the subject of a previous waiver request.<sup>2</sup> Although most waiver requests involved juveniles with at least one formally handled referral prior to the waiver request case, at least one previous adjudication, and at least one prior court-ordered probation placement, less than half of the juveniles had a prior court-ordered residential placement (table 2, page 12). Most waiver request cases involved a serious person or serious property offense (table 3, page 13). Aggravated assault was the most common charge, followed by robbery.

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<sup>2</sup> Unlike many States, South Carolina does not have a “once an adult, always an adult” provision. Juveniles are referred to family court for offenses until they turn 17—even if they have been previously convicted of an offense in criminal court.

**A**nalysis of offender and case characteristics reveals factors key in the judicial decision to waive.

**Table 2: Court History of Juveniles in Waiver Request Cases in South Carolina, 1985–94**

Juvenile Characteristics	Percent of Waiver Request Cases
<b>Total waiver request cases</b>	595 100%
<b>Number of prior referrals</b>	
None	15%
One	13
Two to four	39
Five or more	32
<b>Number of prior formal referrals</b>	
None	26%
One	18
Two to four	43
Five or more	12
<b>Number of prior adjudications</b>	
None	30%
One	24
Two	20
Three or more	26
<b>Number of prior court-ordered probation placements</b>	
None	41%
One	32
Two or more	26
<b>Number of prior court-ordered residential placements</b>	
None	63%
One	21
Two or more	15
<b>Prior waiver requests</b>	7%

**Note:** Detail may not total 100 percent because of rounding.

### Waiver decision criteria

Overall, from 1985 through 1994, the juvenile court in South Carolina approved 80 percent of waiver requests (474 of 595). Analysis of offender and case characteristics reveals factors key to the judicial decision to waive (table 4). The juvenile court was significantly more likely to approve waiver requests made in cases involving males than in cases involving females.<sup>3</sup> Waiver approval was somewhat less likely for white juveniles than for black juveniles, although the difference was not statistically significant. The court was significantly less likely to waive cases involving youth age 15 or younger than cases involving older youth. The study found no difference in the likelihood of waiver between youth who never used drugs and youth who had a history of casual or habitual drug use.

<sup>3</sup> The use of the term “significant” throughout the remainder of this Summary refers to statistical significance ( $p$  values  $<0.05$ ). Differences that did not reach statistical significance are not described as significant.

**Table 3: Most Serious Offense in Waiver Request Cases in South Carolina, 1985–94**

<b>Most Serious Offense</b>	<b>Waiver Requests</b>	<b>Offense Profile*</b>
<b>Total waiver request cases</b>	595	100%
<b>Serious person offenses</b>	331	57%
Murder	86	15
Violent sex offenses	34	6
Robbery	93	16
Aggravated assault	105	18
Kidnaping	13	2
<b>Serious property offenses</b>	101	17%
Burglary	84	14
Motor vehicle theft	14	2
Arson	3	<1
<b>Other offenses</b>	151	26%
Other person offenses	17	3
Other property offenses	41	7
Drug offenses	66	11
Public order offenses	27	5
<b>Offense unknown</b>	12	–

\*As a percent of waiver request cases with known offense.

–Not applicable.

**Table 4: Decisions in Waiver Request Cases in South Carolina, by Offender Characteristics, 1985–94**

<b>Juvenile Characteristics</b>	<b>Percent of Waiver Request Cases</b>	
	<b>Approved for Waiver</b>	<b>Not Approved for Waiver</b>
<b>Total waiver request cases (595)</b>	474 80%	121 20%
<b>Sex</b>		
Male	81%	19%
Female	50	50
<b>Race</b>		
White	74%	26%
Black	81	19
<b>Age</b>		
15 or younger	63%	27%
16	82	18
17 or older	86	14
<b>Drug use history</b>		
None	80%	20%
Casual use	80	20
Habitual use	79	21

**I**n general, the juvenile court was significantly more likely to waive juveniles who had extensive court histories.

In general, the juvenile court was significantly more likely to waive juveniles who had extensive court histories (table 5). Juveniles with five or more prior referrals to court had a significantly greater probability of waiver than juveniles with four or fewer prior referrals. In addition, juveniles with four or fewer prior referrals to juvenile court had a significantly greater likelihood of waiver than youth with no court history. The study found a similar pattern for previous formally handled referrals. The juvenile court was significantly more likely to waive juveniles who had two or more previous formal cases than juveniles who had only one previous formal case or none. Juveniles with prior adjudications were significantly more likely to be waived than juveniles who had never been adjudicated. Similarly, those with prior court-ordered probation placements were significantly more likely than those without prior probation placements to be waived. The same pattern was true for prior court-ordered residential placements.

**Table 5: Decisions in Waiver Request Cases in South Carolina, by Offender Court History, 1985–94**

Juvenile Court History	Percent of Waiver Request Cases	
	Approved for Waiver	Not Approved for Waiver
<b>Total waiver request cases (595)</b>	474 80%	121 20%
<b>Number of prior referrals</b>		
None	66%	34%
One to four	79	21
Five or more	87	13
<b>Number of prior formal referrals</b>		
None	71%	29%
One	74	26
Two or more	86	14
<b>Number of prior adjudications</b>		
None	72%	28%
One to four	83	17
Five or more	83	17
<b>Number of prior court-ordered probation placements</b>		
None	75%	25%
One	81	19
Two or more	85	15
<b>Number of prior court-ordered residential placements</b>		
None	75%	25%
One to two	81	19
Three or more	85	15

Although the court was significantly more likely to waive juveniles with extensive court histories, substantial proportions of juveniles in each of the “no priors” categories were waived. For example, among waiver request cases involving juveniles who had never before been referred to juvenile court, 66 percent were approved for waiver, indicating that the court was considering factors other than court history when deciding whether to waive these juveniles to criminal court.

The study found a relationship between the seriousness of the offense charged in the waiver incident and the probability that a juvenile would be approved for waiver once a waiver request was made. The South Carolina court was significantly more likely to waive juveniles who had been charged with serious person or serious property offenses than those charged with other offenses (table 6). Among the less serious offense categories, drug cases were somewhat more likely to be waived than less serious person, less serious property, or public order cases.

A juvenile’s offense history interacted with the seriousness of the offense charged in the waiver incident.

**Table 6: Decisions in Waiver Request Cases in South Carolina, by Offense, 1985–94**

Most Serious Offense	Percent of Waiver Request Cases	
	Approved for Waiver	Not Approved for Waiver
Serious person	85%	15%
Serious property	84	16
Less serious person	65	35
Less serious property	70	30
Drugs	76	24
Public order	39	61

Analyses documented the joint effect of case/offender characteristics on the waiver decision. More specifically, a juvenile’s offense history interacted with the seriousness of the offense charged in the waiver incident (table 7, page 16). Cases involving juveniles with one or more prior offenses who were charged with a serious person or property offense were significantly more likely to be approved for waiver than juveniles in other waiver request cases—87 percent of such cases were approved for waiver. Juveniles with no prior adjudications in juvenile court were significantly more likely to be approved for transfer if they had been charged with a serious person offense—82 percent of such cases were approved for waiver. Juveniles charged with less serious offenses were significantly more likely to be waived if they had two or more prior adjudications—79 percent of such cases were approved for waiver, compared with 57 percent of cases with fewer than two prior adjudications.

The South Carolina study compared dispositions of cases approved for waiver with dispositions of cases retained in juvenile court.

**Table 7: Proportion of Waiver Request Cases Approved for Waiver in South Carolina, by Offense and Legal History, 1985–94**

Most Serious Offense	Percent of Waiver Request Cases Approved for Waiver, by Number of Prior Adjudications		
	None	One	Two or More
Serious person	82%	81%	91%
Serious property	46*	93*	89
Other less serious	54	57	79

\*Based on fewer than 20 cases.

### Case dispositions

The South Carolina study compared dispositions of cases approved for waiver with dispositions of cases retained in juvenile court (table 8). Waived cases were more likely to result in a confinement disposition than cases retained in juvenile court (66 percent, compared with 35 percent). In addition, 50 percent of the cases retained in juvenile court were ordered to probation. Probation, however, was used infrequently in cases disposed in criminal court (8 percent). Compared with cases retained in juvenile court, a greater proportion of cases waived to criminal court were dismissed (25 percent, compared with 16 percent). This dispositional pattern is consistent with the study’s findings that transferred cases involve offenses that are more serious and offenders who are less amenable to traditional juvenile court sanctions.

**Table 8: Disposition of Waiver Request Cases in South Carolina, 1985–94**

Most Severe Disposition Ordered	Percent of Cases	
	Retained in Juvenile Court	Waived to Criminal Court
<b>Total</b>	121 100%	474 100%
Confinement	35	66
Probation	50	8
Dismissed	16	25

**Note:** Detail may not total 100 percent because of rounding.

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## Utah Waiver, 1988–95

### Study overview

#### Utah's transfer provisions

Between 1988 and 1995, transfer laws in Utah varied from (1) waiver and concurrent jurisdiction to (2) waiver and concurrent jurisdiction plus a limited statutory exclusion to (3) an arrangement that included only the waiver and limited statutory exclusion provisions. Prior to 1981, Utah relied on a broad judicial waiver provision that allowed waiver for any youth age 14 or older who had been charged with a felony. Under that provision, the State had an average of nine waivers per year between 1967 and 1980. In 1981, the legislature enacted a concurrent jurisdiction provision that allowed prosecutors to file directly in criminal court any case involving a youth age 16 or 17 charged with a first-degree or capital felony.

Following two homicides committed by juveniles in the summer of 1993, a special session of the Utah legislature was called to address juvenile crime. In the fall of 1993, transfer provisions were modified to exclude youth from juvenile court if they were 16 years of age or older and had been charged with aggravated murder.

Using the concurrent jurisdiction provision, prosecutors filed murder charges in criminal court against a youth named Mohi in September 1993. The Mohi murder case ultimately resulted in a constitutional challenge to Utah's concurrent jurisdiction provision. In 1995, the State Supreme Court found the provision unconstitutional, and it was later repealed. Throughout these changes in law, however, Utah relied primarily on its judicial waiver provision to transfer youth to criminal court.

#### Utah data collection

This study focused on cases that began in juvenile court in which the prosecutor requested a judicial waiver. More specifically, the study considered cases in which the judicial waiver decision was made between 1988 and 1995. Information on these cases was captured in the juvenile court statewide automated case tracking system maintained by the Administrative Office of the Courts. This system contains information on all cases in a youth's career and the disposition of each case. In addition, the State's youth corrections agency shares the juvenile court's information system. The system therefore contains all information on a youth's prior placements. Court administrators use these data extensively to investigate a wide range of issues, including juvenile waivers.

The Administrative Office of the Courts also maintains an automated case tracking system for the criminal court. Because the juvenile and criminal court systems are housed in the same facility, extracting information on the criminal court's response to transferred cases is not an administrative or a technical problem. The Department of (Adult) Corrections has always been very cooperative



**T**he Utah study focused on cases that began in juvenile court in which the prosecutor requested a judicial waiver.



**M**any juveniles in Utah's waiver request cases had accrued long offense histories with the juvenile court.

when the Administrative Office of the Courts requested data on transferred youth for research studies.

Using these data sources, the Administrative Office of the Courts documented the case processing characteristics of waiver request cases between 1988 and 1995. Data were captured on waived cases and cases retained by the juvenile court. Data were extracted on cases considered for waiver and on juveniles' court histories. Data elements included an offender's birth date, sex, and race; offenses petitioned, waived, or adjudicated; disposition of criminal court cases; and sentencing information.

To obtain information on incident characteristics not included in the automated files (e.g., victim characteristics; the presence or use of a weapon; and an offender's gang involvement, relative responsibility in an incident, or relationship to the victim), data were extracted from paper files housed at juvenile courts around the State. Juvenile court clerks were given the names of the juveniles and asked to locate files (which were often in offsite storage). Project researchers then went from court site to court site around the State to read the files and code the information onto data collection forms.

Criminal court information on waived cases was also collected, along with information on any criminal court cases that took place after the waiver decision. These data were manually extracted from multiple automated criminal court databases and from microfiche record storage. Some desired criminal court information (e.g., predisposition custody dates, bail amounts) was not available in criminal court files.

Although Utah did not waive a large number of cases in the period studied, the data collected on waiver incidents and court history support a study of the numerous factors associated with the waiver decision.

## Utah findings

### Waiver requests

During the 8 years from 1988 through 1995, Utah juvenile courts considered requests to waive 225 youth to criminal court. These juveniles were predominantly male (96 percent), most were non-Hispanic whites (57 percent), and nearly 70 percent were age 17 or older at the time the case was referred to court (table 9).<sup>4</sup>

Like the juveniles for whom waiver was requested in South Carolina, many juveniles in Utah's waiver request cases had accrued long offense histories with the juvenile court. Most of the waiver requests involved youth with at least one formally handled referral prior to the waiver request case, and most had at least one prior adjudication. However, as shown in table 10, less than half had any prior court-ordered probation placements or had ever been ordered to residential

<sup>4</sup> Cases that were initiated in criminal court were not included in the study.

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**Table 9: Profile of Juveniles in Waiver Request Cases in Utah, 1988–95**

<b>Juvenile Characteristics</b>	<b>Percent of Waiver Request Cases</b>
<b>Total waiver request cases</b>	225 100%
<b>Sex</b>	
Male	96%
Female	4
<b>Race</b>	
White (non-Hispanic)	57%
Black	5
Hispanic	27
Native American	4
Asian	4
Unknown	2
<b>Age at referral</b>	
15 or younger	13%
16	18
17	53
18 or older	16

**Note:** Detail may not total 100 percent because of rounding.

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**Table 10: Court History of Juveniles in Waiver Request Cases in Utah, 1988–95**

<b>Juvenile Court History</b>	<b>Percent of Waiver Request Cases</b>
<b>Total waiver request cases</b>	225 100%
<b>Prior formal referrals</b>	
None	15%
One	12
Two to four	31
Five or more	43
<b>Prior adjudications</b>	
None	17%
One	14
Two	12
Three to four	21
Five or more	36
<b>Prior court-ordered probation placements</b>	
None	64%
One	21
Two or more	14
<b>Prior court-ordered residential placements</b>	
None	61%
One	15
Two or more	24
<b>Prior waiver requests</b>	0%

**Note:** Detail may not total 100 percent because of rounding.

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**T**he offense profile of waiver request cases in Utah shows that the majority of juveniles had been charged with serious person or serious property offenses.

placement, and none of the waiver request cases involved juveniles who had been the subject of previous waiver requests.

The offense profile of waiver request cases in Utah shows that the majority of juveniles had been charged with serious person or serious property offenses (table 11). However, nearly 4 out of 10 had been charged with less serious offenses. Aggravated assault was the most common charge, followed by burglary.

Analyses of other characteristics of the incident leading to the waiver request provide an understanding of these cases and the waiver decision process (table 12). Although 66 percent of the juveniles had at least one accomplice when they committed the offense leading to the waiver request, nearly all (98 percent) were the primary offender in the incident. For 20 percent of the waiver request incidents, there was at least some indication that the crime was gang motivated. Of the waiver request incidents involving crimes against persons, 44 percent involved one victim and 26 percent involved two victims. Twenty-two percent of the person offenses involved three or more victims.

In 42 percent of the waiver request incidents during the study period, the juvenile involved did not have a weapon. Juveniles in 32 percent of incidents had a firearm, and in 26 percent of incidents, juveniles had a weapon other than a firearm. Seventy-three percent of the juveniles who had a weapon used it during the incident; the remainder merely carried or brandished it. In 20 percent of waiver request incidents, one or more victims suffered a major injury requiring medical treatment.

**Table 11: Most Serious Offense of Waiver Request Cases in Utah, 1988–95**

<b>Most Serious Offense</b>	<b>Number of Waiver Requests</b>	<b>Offense Profile*</b>
<b>Total waiver request cases</b>	225	100%
<b>Serious person offenses</b>	89	42%
Murder	22	10
Violent sex offenses	4	2
Robbery	19	9
Aggravated assault	39	18
Kidnaping	5	2
<b>Serious property offenses</b>	43	20%
Burglary	30	14
Motor vehicle theft	12	6
Arson	1	<1
<b>Other offenses</b>	82	38%
Other person offenses	20	9
Other property offenses	40	19
Drug offenses	10	5
Public order offenses	12	6
<b>Offense unknown</b>	11	–

\*As a percent of waiver request cases with known offense.

–Not applicable.

**Table 12: Incident Characteristics of Waiver Request Cases in Utah, 1988–95**

<b>Incident Characteristics</b>	<b>Percent of Waiver Request Cases</b>
<b>Total waiver request cases</b>	225 100%
<b>Number of offenders</b>	
Lone offender	34%
Multiple offenders	66
Primary offender if multiple	98%
<b>Gang motivated</b>	20%
<b>Number of victims in person offense</b>	
One	44%
Two	26
Three or more	22
Unknown	8
<b>Weapon present?</b>	
No weapon	42%
Nonfirearm	26
Firearm	32
<b>Weapon used?</b>	
Yes	73%
No	27
<b>Major injury to victim?</b>	
Yes	20%
No	80

Overall, the juvenile court in Utah approved 76 percent of waiver requests from 1988 through 1995.

### Waiver decision criteria

Overall, the juvenile court in Utah approved 76 percent of waiver requests (171 of 225) from 1988 through 1995. The juvenile court was significantly less likely to approve waiver requests in cases involving white juveniles than in cases involving nonwhite youth (table 13, page 22). The court was as likely to waive cases involving offenders younger than 16 as those involving older offenders. This finding is contrary to expectations, given that amenability criteria tend to result in a greater likelihood of waiver for older youth (who have more time to accrue offenses and be judged no longer amenable to juvenile court intervention). With respect to amenability issues, the study also found that juveniles with five or more prior formally handled cases were somewhat more likely to be waived than juveniles with one, two, three, or four prior cases (although the difference was not statistically significant). However, the juvenile court was as likely to waive juveniles with no prior formally handled cases as those with five or more prior formal cases.

Similarly, the court was as likely to waive juveniles with no previous adjudications as those with five or more prior adjudications. Waiver, however, was less likely for juveniles with one to four prior adjudications.

The study revealed a relationship between offense seriousness and the decision to approve a waiver request.

**Table 13: Decisions in Waiver Request Cases in Utah, by Offender Characteristics, 1988–95**

Juvenile Characteristics	Percent of Waiver Request Cases	
	Approved for Waiver	Not Approved for Waiver
<b>Total waiver request cases (225)</b>	171 76%	54 24%
<b>Race</b>		
White (non-Hispanic)	70%	30%
Nonwhite	84	16
<b>Age</b>		
Younger than 16	76%	24%
16 or older	76	24
<b>Prior formal referrals</b>		
None	85%	15%
One to four	69	31
Five or more	80	20
<b>Prior adjudications</b>		
None	82%	18%
One to four	70	30
Five or more	81	19
<b>Prior court-ordered residential placements</b>		
None	82%	18%
One to two	67	33
Three or more	78	22

A similar pattern was found when placement data were analyzed. Waiver was as likely for juveniles with no prior court-ordered residential placements as it was for those with three or more previous placements. Waiver was less likely for juveniles with one or two previous placements. These patterns indicate that factors other than juvenile court history affected the waiver decision.

The study also revealed a relationship between offense seriousness and the decision to approve a waiver request (table 14). The court was significantly more likely to approve waiver requests for juveniles charged with serious person offenses than for juveniles charged with other offenses. Among the less serious offense categories, drug and public order cases were somewhat more likely to be waived than less serious person or property cases.

Characteristics of the incident resulting in the waiver request were also related to waiver decisions (table 15). Waiver was slightly more likely for juveniles who had a weapon at the time of their incident than for those who did not have a weapon. Waiver was significantly more likely if the crime victim suffered major injury. Although incidents involving multiple offenders were slightly more likely to lead to waiver, gang-motivated incidents were not more likely to result in waiver.

**Table 14: Decisions in Waiver Request Cases in Utah, by Offense, 1988–95**

Most Serious Offense	Percent of Waiver Request Cases	
	Approved for Waiver	Not Approved for Waiver
<b>Total waiver request cases (225)</b>	171 76%	54 24%
Serious person	84%	16%
Serious property	71	29
Other person or property	73	27
Drugs	60	40
Public order	58	42

**Table 15: Decisions in Waiver Request Cases in Utah, by Incident Characteristics, 1988–95**

Incident Characteristics	Percent of Waiver Request Cases	
	Approved for Waiver	Not Approved for Waiver
<b>Total waiver request cases (225)</b>	171 76%	54 24%
<b>Weapon present?</b>		
Yes	81%	19%
No	71	29
<b>Major injury to victim?</b>		
Yes	91%	9%
No	72	28
<b>Number of offenders</b>		
Multiple offenders	80%	20%
Lone offender	73	27
<b>Gang motivated?</b>		
Yes	75%	25%
No	80	20

Further analyses provide an explanation for the high proportion of first-time offenders approved for waiver (85 percent). Cases stemming from incidents that involved use of a weapon and serious injury to one or more victims were significantly more likely to result in waiver (87 percent) than cases stemming from other types of incidents, regardless of offender characteristics (70 percent). First-time offenders accounted for 17 percent of incidents involving weapon use and victim injury. Such incidents, however, accounted for 42 percent of cases involving first-time offenders. For cases not involving these types of incidents, the juvenile court was significantly more likely to waive juveniles with long

The outcomes of cases waived to criminal court in Utah during the study period were compared with outcomes of cases retained in juvenile court.

court histories (i.e., those who had five or more prior formal cases) than those with shorter court histories. Waiver requests were approved for 87 percent of cases involving youth who used a weapon and seriously injured one or more victims, for 81 percent of other cases involving youth who had five or more prior formal cases, and for 62 percent of other cases involving youth who had four or fewer prior formal cases (table 16).

**Table 16: Proportion of Waiver Request Cases Approved for Waiver in Utah, by Offense and Legal History, 1988–95**

Most Serious Offense	Percent of Waiver Request Cases Approved for Waiver, by Number of Prior Formal Cases	
	One to Four	Five or More
Weapon + victim injury	92%	79%
No weapon or no injury	62	81

### Case dispositions

The outcomes of cases waived to criminal court in Utah during the study period were compared with outcomes of cases retained in juvenile court (table 17). This comparison revealed that the most common disposition for both groups was confinement; however, a significantly greater proportion of waived cases than nonwaived cases resulted in incarceration. Correspondingly, probation was used as a disposition less often in transferred cases. Few cases in either group were dismissed or otherwise released. As in South Carolina, this dispositional pattern is consistent with the fact that more serious cases and youth less amenable to juvenile court sanctions are being transferred to criminal court.

**Table 17: Dispositions of Waiver Request Cases in Utah, 1988–95**

Most Severe Disposition Ordered	Percent of Cases	
	Retained in Juvenile Court	Waived to Criminal Court
<b>Total</b>	54 100%	171 100%
<b>Confinement</b>	68	76
Prison	–	58
Jail	–	18
<b>Probation</b>	28	20
<b>Dismissed</b>	4	4

–Not applicable.

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# Pennsylvania Waiver, 1986 Versus 1994

## Study overview

### Pennsylvania's waiver provisions


Between 1986 and 1994, there were no changes in Pennsylvania's transfer provisions. Pennsylvania law during that time provided that, except for murder cases, all cases alleging a criminal law violation by an offender prior to his or her 18th birthday were to begin in juvenile court. In some of these cases, the juvenile court judge had the discretion to transfer (or judicially waive) the matter to criminal court. Between 1986 and 1994, judicial waiver was possible in Pennsylvania if all of the following conditions were met:

- The youth was at least 14 years of age at the time of the incident.
- The alleged act was a felony.
- A *prima facie* case that the youth committed the act had been established.
- Reasonable grounds existed to believe that the youth was not amenable to treatment in the juvenile justice system.

In determining amenability, Pennsylvania legislation indicated that the court should consider a broad range of factors, including a youth's age, mental capacity, and maturity; the degree of criminal sophistication exhibited by the youth; the nature and extent of any history of delinquency (including the success or failure of any previous attempts by the juvenile court to rehabilitate the youth); the possibility of rehabilitating the youth before the juvenile court's jurisdiction expired; information in probation or institutional reports; the nature and circumstances of the acts for which transfer was being sought; the mental illness/retardation of the child; and the interests of the community.

### Pennsylvania waiver data collection

Pennsylvania's Juvenile Court Judges Commission published a study in 1991 describing the attributes of all 246 cases and 222 youth judicially waived to criminal court in the State during 1986 (Lemmon, Sontheimer, and Saylor, 1991). This study documented the demographic characteristics of the waived youth, their juvenile court histories, the charges waived to criminal court, and the resulting convictions and dispositions. The authors of the 1991 study made available for the project described in this Summary a copy of the automated data file that supported the original 1986 Pennsylvania transfer study and the original data collection forms on which this data file was based. A review of the data collection form found that several data elements on the form had not been entered into the automated data file. The 1986 data file was expanded to include these variables. The resulting data file captured a range of case characteristics on each youth waived to criminal court in Pennsylvania in 1986, including the birth date, sex, and race of the offender; the original and amended charges in all



**I**n determining amenability, Pennsylvania legislation indicated that the court should consider a broad range of factors.



**B**etween 1986 and 1994, there was no change in the size of Pennsylvania's juvenile population or in the overall number of juvenile arrests in the State.

cases eventually waived; court processing dates; and the criminal court disposition of each case. The data file also contained a summary of all previously formally processed juvenile court cases involving these youth. The summary included the case's referral and disposition dates, the offenses charged, and the juvenile court's response to these charges.

Using the multijurisdiction data collection form developed for this project as a base, the project team collected data on all youth who were judicially waived in Pennsylvania in 1994. Cases waived to criminal court in 1994 were identified in the automated court history files maintained by the Juvenile Court Judges Commission, and from this data file, researchers prepared a list of waived youth and the county in which the transfer occurred. For counties with fewer than 10 waiver incidents in 1994, forms were sent with detailed instructions to juvenile probation offices or the county district attorney's office. Research staff were available by phone to answer any questions regarding information to be collected. When necessary, followup contacts were made to verify or complete information. Onsite data collection and coding were completed by research staff in counties that had 10 or more transfers in 1994.<sup>5</sup> Research staff met with court personnel to develop an understanding of local recordkeeping and processing procedures and to obtain access to records and automated files. Data collectors obtained information on the initial processing of the waiver incident and any prior court incidents from official juvenile court records. When available, information on extralegal variables (e.g., educational level, family status) was obtained from family files maintained by the juvenile court. Information on the criminal court processing and criminal court outcomes was obtained from public records maintained by county clerks of court. Criminal court records were identified by using names, social security numbers, and offense/arrest dates. When a youth was involved in more than one transfer case, the case in which the youth received the most severe disposition was selected for study, to make the data consistent with the 1986 work.

## **Pennsylvania waiver findings**

Between 1986 and 1994, there was no change in the size of Pennsylvania's juvenile population or in the overall number of juvenile arrests in the State (table 18). During this period, the number of juvenile arrests for property crimes changed little. The number of juvenile violent crime arrests increased moderately—with arrests for Violent Crime Index offenses up 32 percent. This increase resulted almost completely from a near doubling in juvenile arrests for aggravated assault. The number of juvenile arrests for robbery, the other major component of the Violent Crime Index, was the same in 1986 and

<sup>5</sup> These counties included Allegheny, Bucks, Dauphin, Delaware, Erie, Lackawanna, Lancaster, Luzerne, Northampton, and Philadelphia. Staff from NCJJ completed data collection in Allegheny County, and researchers from the Juvenile Court Judges Commission's Center for Juvenile Justice Research and Training completed data collection in the remaining nine counties.

1994, and arrests for forcible rape increased only 7 percent. In addition, there was a large increase in juvenile arrests for drug offenses (152 percent). Therefore, while the overall number of juvenile arrests in Pennsylvania changed little between 1986 and 1994, the number of juvenile arrests for aggravated assault and drug offenses increased substantially. These juvenile arrest trends led to similar changes in the juvenile court caseload. For example, although the number of delinquency cases processed in Pennsylvania juvenile courts rose slightly (12 percent) between 1986 and 1994, there was a large increase in cases involving drug offenses. In 1986, the juvenile court handled just over 700 drug cases, and by 1994, the drug caseload had increased to well over 2,000—an increase of more than 200 percent.

The public's attitude toward juvenile offenders (especially violent juvenile offenders) changed noticeably.

**Table 18: Juvenile Arrests: Trends in Pennsylvania, 1986–94**

	Estimated Arrests of Persons Under Age 18		Percent change 1986–94
	1986	1994	
<b>Total</b>	116,870	113,920	–3%
<b>Violent Crime Index</b>	5,260	6,960	32%
Murder	50	100	107
Forcible rape	320	350	7
Robbery	2,860	2,840	0
Aggravated assault	2,030	3,670	80
<b>Property Crime Index</b>	26,070	25,150	–4%
<b>Drug Offenses</b>	2,080	5,230	152%

During this period, juvenile placements in residential facilities fell by 4 percent and waivers to criminal court increased 84 percent. The public's attitude toward juvenile offenders (especially violent juvenile offenders) also changed noticeably, as did media coverage of juvenile violent crime. Juvenile violence became a popular media topic, and the public became increasingly distressed by reports and images of juveniles who were “out of control” and seemed to be getting away with violent behavior. As a result of the changing public attitudes, juvenile justice reform was a major issue in Pennsylvania's 1994 gubernatorial race and subsequently resulted in a special session of the legislature to focus on juvenile justice issues.<sup>6</sup> These changes in Pennsylvania from 1986 to 1994 provided an opportunity for researchers to study the impact of changing juvenile crime patterns and changing public attitudes on juvenile transfers to criminal court.

In 1986, Pennsylvania's juvenile courts waived 222 youth to criminal court. By 1994, the number of waived juveniles had nearly doubled, from 222 to 408. In 1986, the juvenile court waived 1 out of 128 delinquency cases

<sup>6</sup> The special session resulted in substantial changes to the juvenile justice system in Pennsylvania, including passage of an expanded statutory exclusion provision, which is the focus of the next section of this Summary.

**I**n some respects, juveniles waived to criminal court in Pennsylvania in 1986 were similar to those waived in 1994.

processed to criminal court; by 1994, juvenile court judges were waiving 1 out of 78 delinquency cases.

In some respects, juveniles waived to criminal court in Pennsylvania in 1986 were similar to those waived in 1994 (tables 19 and 20). In both years, the juveniles waived were mostly male. The two waiver groups also had similar proportions of juveniles with no prior adjudications in their juvenile court histories and similar proportions of youth with three or more prior adjudications. In both 1986 and 1994, slightly more than 40 percent of juveniles waived had never been previously placed in a residential facility. Slightly less than half of the juveniles waived in each year were waived for a serious person offense (table 21). The nature of these violent cases, however, changed. Consistent with arrest trends, a smaller proportion of juveniles waived in 1994 had been charged with robbery and a larger proportion had been charged with aggravated assault.

**Table 19: Profile of Juveniles Waived in Pennsylvania, 1986 and 1994**

Juvenile Characteristics	Percent of Waivers	
	1986	1994
<b>From Philadelphia County</b>	44%	36%
<b>Sex</b>		
Male	96%	99%
Female	4	1
<b>Race/ethnicity</b>		
White (non-Hispanic)	38%	28%
Black (non-Hispanic)	50	60
Hispanic	12	10
<b>Age at waiver</b>		
15 or younger	3%	4%
16	10	20
17	45	58
18	35	15
19 or older	6	2

**Note:** Detail may not total 100 percent because of rounding.

In other respects, the youth waived in 1994 were quite different from those waived in 1986. The 1994 cohort contained a smaller proportion of white youth (38 percent in 1986 and 28 percent in 1994), a much smaller proportion of youth charged with burglary, and a much larger proportion of youth charged with aggravated assault or a drug violation (again, paralleling arrest trends from 1986 to 1994). A larger proportion of the 1994 cohort was under age 18 at the time of the transfer.

**Table 20: Court History of Juveniles Waived in Pennsylvania, 1986 and 1994**

<b>Juvenile Court History</b>	<b>Percent of Waivers</b>	
	<b>1986</b>	<b>1994</b>
<b>Prior adjudications</b>		
None	14%	16%
One	15	15
Two	17	15
Three to five	39	37
Six or more	15	17
<b>Prior probations</b>		
None	35%	49%
One	33	27
Two or more	32	24
<b>Prior residential placements</b>		
None	45%	41%
One	18	24
Two	16	20
Three or more	21	15

**Table 21: Most Serious Offense of Juveniles Waived in Pennsylvania, 1986 and 1994**

<b>Most Serious Offense Waived</b>	<b>Percent of Waivers</b>	
	<b>1986</b>	<b>1994</b>
<b>Serious person offenses</b>	46%	49%
Murder	3	0
Violent sex offense	6	2
Robbery	26	16
Aggravated assault	12	31
<b>Burglary</b>	31%	9%
<b>Theft</b>	14%	16%
<b>Drugs</b>	6%	22%
<b>Other</b>	3%	4%

The youth in the 1994 waiver cohort were, on average, approximately the same age at their first delinquency adjudication as youth in the 1986 group (14.9 years and 14.6 years, respectively). However, a larger proportion of the 1986 cohort had their first adjudication before age 14 (35 percent of the 1986 cohort, compared with 27 percent of the 1994 cohort). The average age of waived youth at the time of their first court-ordered probation and residential placement was also approximately the same for the two groups (nearly 15 years at first formal probation and just over 15 years at first formal residential placement).

**T**he study revealed certain differences in the criminal dispositions of juveniles waived in 1986 and those waived in 1994.

The juveniles waived in 1994 differed from those waived in 1986 in terms of the seriousness of their juvenile court histories or “careers.” To conduct this comparison, the researchers classified each waived juvenile’s career as one of five types:

- **First-time offenders:** Youth with no prior adjudications.
- **Nonserious offenders:** Youth with no prior adjudications for a serious person or serious property offense or a drug offense.
- **Serious property offenders:** Youth with at least one adjudication for a serious property offense and no adjudications for a serious person offense.
- **Serious person offenders:** Youth with at least one adjudication for a serious person offense and no adjudications for a serious property offense.
- **Serious person and property offenders:** Youth with at least one adjudication for a serious person offense and at least one adjudication for a serious property offense.

An analysis of each group’s career profile shows that members of the 1986 group had been judged, on average, to be more serious offenders before their referral to court in the waiver incident (table 22). Among those waived in 1986, 22 percent had a prior court career that placed them in the *serious person and property offender* category, compared with 6 percent of those waived in 1994. Forty-five percent of juveniles waived in 1986 had a prior adjudication for a serious person offense (i.e., were *serious person offenders* or *serious person and property offenders*), compared with only 36 percent of those waived in 1994. Overall, 66 percent of the 1986 group had been adjudicated for a serious person or serious property offense before the referral for which they were waived, compared with only 51 percent of the 1994 group. In addition, although the proportion of offenders with no prior adjudications in juvenile court was similar for the two groups, the percentage of youth who were *nonserious offenders* prior to the waiver referral was larger in the 1994 group than in the 1986 group (33 percent versus 20 percent, respectively). Further, while the juveniles waived in 1986 and 1994 were similar in terms of the number of prior adjudications and in terms of the proportion that had been placed in a residential facility for a prior adjudication, a smaller proportion of the 1994 group had a prior court-ordered probation (51 percent, as opposed to 65 percent of the 1986 group). These findings imply that, compared with the court handling of juveniles waived in 1986, the juvenile court had been more likely to place those juveniles waived in 1994 in a facility without first trying probation as a dispositional alternative. Then, when the youth recidivated after a placement disposition, the youth was waived.

The study revealed certain differences in the criminal dispositions of juveniles waived in 1986 and those waived in 1994 (table 23). In both groups, almost 10 percent of cases were dismissed in criminal court. The criminal courts ordered nearly 80 percent of youth in both groups to serve time in an adult correctional facility. However, more of the juveniles waived in 1994 served their sentence in a State prison (43 percent, compared with 27 percent of the 1986 group). Most of the incarcerated youth among those waived in 1986 served their sentences in county jails.

**Table 22: Court Career Profile of Juveniles Waived in Pennsylvania, 1986 and 1994**

Career Type	1986	1994
<b>Serious offenders</b>	66%	51%
Person offenses	45	36
Person and property offenses	22	6
Property offenses	20	15
<b>Nonserious offenders (no serious offenses)</b>	20%	33%
<b>First-time offenders</b>	14%	16%

**Table 23: Criminal Court Disposition of Cases Waived in Pennsylvania, 1986 and 1994**

Dispositions	1986	1994
<b>Total</b>	222	408
	100%	100%
State prison	27	43
County jail	52	35
Probation	9	12
Other sanction	5	1
Dismissed	8	9
<b>Average sentence</b>	1.64 years	2.09 years
State prison	3.32	3.07
County jail	0.79	0.89
Probation	3.77	1.81

By their nature, prison sentences are longer than jail sentences. Thus, the average minimum sentence ordered for incarcerated youth in the 1994 group was about 25 percent longer than the average sentence ordered in cases waived in 1986.<sup>7</sup> The average institutional sentence (i.e., the combined average of prison and jail sentences) was longer for the 1994 group because a greater proportion of those institutionalized from that group served their time in prison. However, the average prison sentence for the 1986 group was actually about the same as that for the 1994 group (approximately 3 years and 4 months for the 1986 waivers, compared with 3 years and 1 month for the 1994 waivers). For those sent to county jail, the average sentence for the 1994 waivers was approximately 1 month longer than that for the 1986 waivers (10.7 months versus 9.5 months). A small proportion of both groups were not institutionalized but placed on adult probation. For these youth, the minimum length of probation ordered by judges for the 1986 group was almost 2 years longer than that ordered for the 1994 group (3 years and 9 months for the 1986 waivers and 1 year and 10 months for the 1994 waivers).

<sup>7</sup> One youth in the 1994 cohort received a life sentence. His sentence was not included in the analysis of sentence lengths.

**A** small proportion of both groups was not institutionalized but placed on adult probation.

## In both South Carolina and Utah, the use of waiver changed substantially over time

**South Carolina:** Over a 10-year period from 1985 to 1994, the volume of waiver requests changed substantially—even though judicial waiver provisions did not change. The number of requests by prosecutors (solicitors) was relatively static from 1984 through 1990. Waiver requests tripled between 1990 and 1992 and then dropped off, so that by 1994, waiver requests had nearly returned to the pre-1990 level. Changes in waiver requests were more extreme than changes in the number of arrests of juveniles under age 17 in the State. Between 1990 and 1992, South Carolina experienced a 19-percent increase in the number of arrests of juveniles under age 17. Juvenile arrests for Property Crime Index offenses rose 17 percent, and juvenile drug arrests rose 28 percent. In comparison, juvenile arrests for Violent Crime Index offenses increased more substantially (91 percent) during that time. From 1992 to 1994, juvenile arrests increased 17 percent (property arrests rose 14 percent, drug arrests rose 124 percent, and violent crime arrests rose 30 percent). These increases in juvenile arrests run counter to the 60-percent drop in waiver requests during the same time period.

The proportion of waiver request cases that were approved also increased. Between 1985 and 1989, the percentage of cases approved for waiver ranged from 68 to 76 percent and averaged 72 percent. Between 1990 and 1994, the proportion of cases approved for waiver ranged from 76 to 96 percent and averaged 84 percent.

**Utah:** Overall, the juvenile court approved 76 percent of waiver request cases between 1988 and 1995. However, the use of waiver in Utah changed noticeably between 1993 and 1994. There were more waiver request cases and more cases approved for waiver in 1994 and 1995 than in the preceding 6 years combined.

### Trends in Use of Waiver in South Carolina and Utah

Year of Waiver Decision	Waiver Request Cases		
	Number	Number Approved	Percent Approved
<b>South Carolina, 1985–94</b>			
<b>Total</b>	<b>595</b>	<b>474</b>	<b>80%</b>
1985	36	26	72
1986	31	21	68
1987	34	24	71
1988	46	35	76
1989	48	36	75
1990	44	35	80
1991	99	84	85
1992	126	100	79
1993	81	65	80
1994	50	48	96
<b>Utah, 1988–95</b>			
<b>Total</b>	<b>225</b>	<b>171</b>	<b>76%</b>
1988	11	6	55
1989	7	6	86
1990	11	11	100
1991	19	11	58
1992	19	15	79
1993	18	13	72
1994	77	66	86
1995	63	43	68

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## Pennsylvania Exclusions, 1996

### Study overview

#### Pennsylvania's exclusion provisions


Prior to 1996, the only juveniles under age 18 who were excluded from the juvenile court's jurisdiction in Pennsylvania were those charged with murder. Other juveniles could reach the criminal justice system only by judicial waiver. The State's transfer mechanisms were expanded in March 1996. The new legislation (Act 33) amended Pennsylvania law by excluding from the juvenile court's jurisdiction youth who met all of the following conditions:

- Youth who were 15 years of age or older at the time of their alleged conduct.
- Youth who were charged with any of a list of violent crimes (i.e., rape; involuntary deviate sexual intercourse; aggravated assault; robbery; robbery of a motor vehicle; aggravated indecent assault; kidnaping; voluntary manslaughter; or an attempt, conspiracy, or solicitation to commit murder or any of the crimes listed).
- Youth who allegedly committed the offense with a deadly weapon or were adjudicated previously for one of the excluded offenses.

Although the details of implementing this new legislation were left to individual counties, the general processing of these excluded cases was as follows. At arrest, law enforcement officers (with the assistance of juvenile probation, when necessary) were to determine if, in their judgment, the youth met the exclusion criteria. If so, the youth would be arraigned and the bail set. When the parties were ready, the youth would be brought before a magistrate for a preliminary hearing, and the facts of the case would be presented. If a *prima facie* case could not be established, the case would be dismissed. At the preliminary hearing, if it was determined that the incident did not meet the exclusion criteria but that the youth could be charged with a delinquent act, the case would be refiled in juvenile court. If a *prima facie* case was made and circumstances met the exclusion criteria, a trial date was set in criminal court. At the youth's request, the first hearing in criminal court could be a decertification hearing, at which the youth would petition to have the case transferred to juvenile court. The decertification guidelines in the exclusion legislation paralleled those guidelines that legislators had noted should be considered by juvenile court judges when making waiver decisions. If the case was decertified, the matter was handled in juvenile court. If the decertification request was denied, the case was tried in criminal court.

#### Data collection on Pennsylvania's exclusions

In three Pennsylvania counties, the study tracked all cases that were excluded from juvenile court jurisdiction as a result of the expanded exclusion criteria in



**P**rior to 1996, the only juveniles under age 18 who were excluded from the juvenile court's jurisdiction in Pennsylvania were those charged with murder.



**O**verall, the excluded youth were younger than those waived: 20 percent of the excluded youth were under age 16 at the time of their preliminary hearing, whereas 5 percent of waived juveniles were under age 16 on the date their waiver petition was filed in juvenile court.

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Act 33, which took effect on March 18, 1996. The three counties (Allegheny, Dauphin, and Philadelphia) contain the cities of Pittsburgh, Harrisburg, and Philadelphia, respectively. In 1995, these counties processed 40 percent of all delinquency cases handled in juvenile courts in the State and 51 percent of all cases that were judicially waived to criminal court statewide.

At the time of the study, there was no systematic method for tracking cases excluded from juvenile court jurisdiction in Pennsylvania. With the cooperation of local court and probation personnel, the study team received the names and case numbers of all youth who had a preliminary hearing between March 18, 1996, and December 31, 1996, and were believed to meet Act 33's exclusion criteria.<sup>8</sup> With this information, the study team reviewed the records of local magistrates, juvenile courts, court clerks, and criminal courts to collect the information required on the data collection form. The study team returned to these agencies several times to update information on open cases. The team's last attempt to collect data on the cases took place in January 1998. At that time, 12 percent of the 473 cases initially excluded from juvenile jurisdiction in 1996 remained open, with no final disposition in either criminal or juvenile court.

## **Pennsylvania exclusion findings**

Of the 473 cases reviewed by the study team, 46 percent involved a charge of robbery; 48 percent, aggravated assault; 1 percent, a violent sex offense; and 4 percent, other offenses. Consistent with the Act 33 criteria, a weapon was noted in the record of 96 percent of the cases. In 67 percent of these, the weapon was a firearm. Another 20 percent involved knives, and 8 percent involved clubs or blunt objects. In 61 percent of weapon cases, the weapon was used, as opposed to being brandished or simply present. Few of these crimes were labeled as gang motivated (less than 3 percent).

In addition to examining the types of offenses and the presence of weapons in excluded cases, the study team compared the demographic and legal backgrounds of the 473 youth with those of 210 youth who were judicially waived to criminal court in 1994 in the same three counties for the same set of offenses. The comparison revealed that similar proportions of excluded and waived youth were black (81 percent for exclusions and 83 percent for waivers). However, 13 percent of youth excluded in 1996 were female, compared with 1 percent of the juveniles waived for similar charges in 1994. Overall, the excluded youth were younger than those waived: 20 percent of the excluded youth were under age 16 at the time of their preliminary hearing, whereas 5 percent of waived juveniles were under age 16 on the date their waiver petition was filed in juvenile court. Correspondingly, 50 percent of the excluded youth were age 17 or older at the time of their

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<sup>8</sup> Staff from NCJJ were responsible for data collection in Allegheny County, and researchers from the Juvenile Court Judges Commission's Center for Juvenile Justice Research and Training collected data in Dauphin and Philadelphia counties.

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preliminary hearing, compared with 75 percent of waived juveniles who were 17 or older when their waiver petition was filed.


The youth excluded from juvenile court in 1996 had less extensive legal (i.e., juvenile court) histories than the comparison sample of juveniles waived in 1994. More than one-third (37 percent) of the excluded youth had never been formally processed in juvenile court, and more than one-half (53 percent) had never been adjudicated in juvenile court. By contrast, just 7 percent of the comparison sample of juveniles waived to criminal court in 1994 had never been adjudicated in juvenile court. A study of the offense history of the two groups showed that 25 percent of the youth excluded in 1996 had at least one prior adjudication for a serious person offense, compared with 46 percent of juveniles in the comparison sample of 1994 waivers.

This study also showed that youth excluded in 1996 had received less treatment in the juvenile justice system than the juveniles in the 1994 comparison sample. Compared with the 1994 waivers, youth excluded in 1996 were less likely to have been placed on probation by a juvenile court (36 percent versus 52 percent) and less likely to have been placed in a residential facility by a juvenile court (28 percent versus 68 percent). Overall, the youth excluded in 1996 were younger and had less serious juvenile court histories than the sample of youth waived in 1994.

For half of the excluded cases, the time elapsing between a juvenile's arrest and his or her preliminary hearing was 12 days or less; by 48 days, 75 percent of excluded cases had had their preliminary hearing. At the preliminary hearing, 19 percent of excluded cases were dismissed and 1 percent were refiled in juvenile court (see figure, page 36). The other 80 percent of excluded cases moved deeper into the criminal justice system. At this point, each youth had the right to petition the court for a decertification hearing, essentially asking the criminal court to waive its jurisdiction over the matter and send the case to juvenile court. Available court records did not indicate the precise number of youth who requested decertification hearings. Records, however, did show that more than one-third (38 percent) of the excluded youth held for criminal court sanctioning after the preliminary hearing were decertified and their cases petitioned for adjudication in a juvenile court. The remaining approximately two-thirds (62 percent) of cases held for criminal court sanctioning were scheduled for trial in a criminal court.

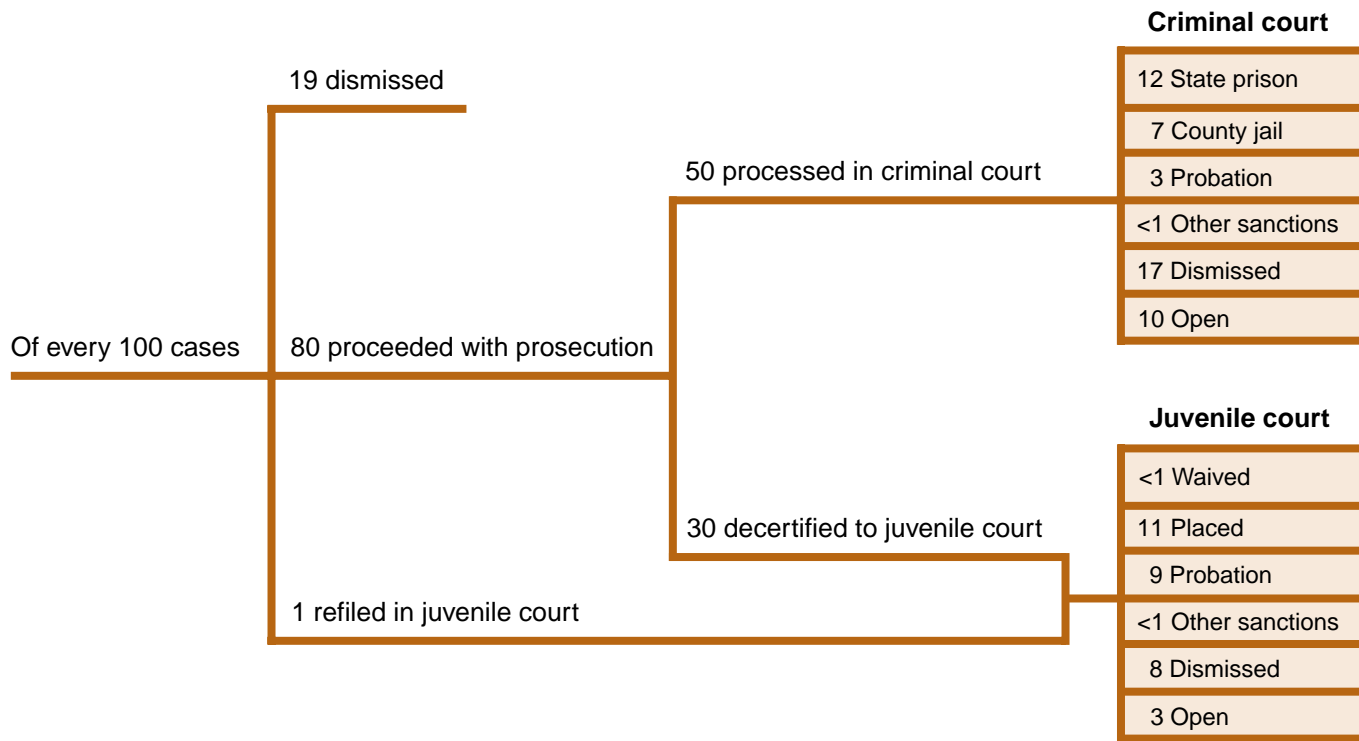
## Bail Amounts

Shortly after arrest, the excluded youth had an arraignment hearing, at which time charges were presented and bail was set. The average bail was \$17,770, and the median was \$10,000. Bail amounts ranged up to \$250,000. Bail amounts set in cases that were eventually tried in criminal court were significantly higher than those set in cases that were decertified and sent to juvenile court, with averages of \$22,800 and \$12,900 and medians of \$10,000 and \$5,000, respectively, for the two types of cases.



**O**verall, the youth excluded in 1996 were younger and had less serious juvenile court histories than the sample of youth waived in 1994.

**Figure: Of every 100 delinquency cases originally excluded from juvenile court jurisdiction in 3 counties in Pennsylvania in 1996, about one-fourth resulted in criminal court conviction**



**Note:** Detail may not add to totals because of rounding. Data based on 473 excluded cases.

The excluded youth who remained in the criminal justice system differed from those who were decertified and eventually handled in the juvenile justice system (table 24). White youth, for example, constituted a greater proportion of decertified cases than cases remaining in criminal court. In fact, white youth were significantly more likely to be decertified than other youth. Decertified youth were also younger, on average, than youth processed in criminal court. Although nearly all excluded cases involved incidents in which a weapon was present, use of the weapon was not predictive of how the case would be processed. The presence of a firearm (as opposed to a knife, club, or personal weapon), however, significantly increased the likelihood that the case would remain in criminal court.

Along with incident characteristics, a youth's legal history affected the processing of his or her case. The criminal court, for instance, was significantly more likely to decertify youth with no prior juvenile court referrals and no prior referrals for a serious offense. The criminal court also tended to decertify youth with no prior adjudications in juvenile court; however, the difference did not reach statistical significance. On the other hand, the criminal court was significantly more likely to retain for criminal trial those youth who had previously been placed either on formal probation or in a residential facility by a juvenile court.

**Table 24: Attributes of Cases Excluded in Pennsylvania in 1996 and Disposed in Juvenile or Criminal Court**

	Court Imposing Disposition	
	Criminal	Juvenile
<b>Number of cases</b>	236	149
<b>Youth under age 17</b>	46%	58%
<b>White youth</b>	10%	21%
<b>With robbery charges</b>	51%	43%
<b>With firearm present</b>	77%	51%
<b>With weapon used</b>	58%	55%
<b>Youth with prior—</b>		
Formal juvenile court referral	67%	56%
For a serious offense	50	38
Adjudication	50	40
For a serious offense	33	26
Probation in juvenile court	38	28
Placement in juvenile facility	31	21

Juvenile courts disposed of 149 of the initially excluded cases and dismissed 26 percent of them. By the end of the data collection period (22 months after initiation of the first excluded case and 13 months after initiation of the last excluded case), 12 (8 percent) of the initially excluded cases that were handled in juvenile court remained open. Of the cases adjudicated delinquent in juvenile court, the court ordered 55 percent of youth placed in a residential facility and 43 percent placed on probation.

The length of time that elapsed between the date of a juvenile’s preliminary hearing and the date of juvenile court disposition varied with the disposition of the case. Eliminating cases that remained open at the end of the study period, the juvenile court took an average of 172 days to dispose cases that were eventually dismissed. The one case that was judicially waived back to criminal court was refiled in criminal court 38 days after the date of the preliminary hearing. The juvenile court took an average of 145 days from the date of the preliminary hearing to complete cases in which a youth was ordered to a residential facility and an average of 116 days to complete cases in which a youth was ordered to probation. The juvenile court ordered youth to a residential facility in 39 percent of completed cases and placed youth on probation in 31 percent of completed cases. In all, the juvenile court disposed of initially excluded cases in an average of 143 days from the date of the preliminary hearing.

Of the cases initially excluded from juvenile court jurisdiction in 1996, 50 percent (236 cases) were tried in criminal court. Of these, 46 (19 percent) were still open at the end of the study period. The criminal court disposed the remaining 190 cases (40 percent of all initially excluded cases) by the end of the study.

The length of time that elapsed between the date of a juvenile’s preliminary hearing and the date of juvenile court disposition varied with the disposition of the case.

**E**xclusion laws are often promoted as a way to take a greater number of serious delinquents off the streets for a longer period of time.

Of the cases completed in criminal court, 43 percent were dismissed. The time elapsing between the preliminary hearing and disposition for these cases was, on average, 89 days. The criminal court sentenced youth to an adult correctional facility in 48 percent of completed cases. The average minimum sentence length ordered for those incarcerated was 3 years and 7 months. (The average county jail sentence was 1 year, and the average minimum commitment to a State prison was 5 years and 3 months.) When the criminal court sentenced youth to an adult correctional facility, it reached its disposition in an average of 252 days after the preliminary hearing—taking on average 247 days for a commitment to State prison and 260 days for a commitment to county jail. Eight percent of completed criminal court cases ended in an order of probation; these cases were completed in an average of 251 days. The average minimum length of probation was 6 years and 4 months. Probation was also ordered in cases in which youth were sentenced to an adult correctional facility. In incarceration cases, the average minimum length of probation was 5 years and 9 months.

Exclusion laws are often promoted as a way to take a greater number of serious delinquents off the streets for a longer period of time. Results of the study, however, indicate that exclusion laws do not always do so. By the end of the study period, 19 percent of all cases excluded in 1996 were completed and had resulted in sentences to an adult prison or jail. The juvenile court had placed 36 percent of the decertified excluded cases in a residential facility, compared with 39 percent of the excluded cases that remained on the criminal court's caseload. The juvenile court sentences were indeterminate. However, assuming that the juvenile court held serious offenders in a juvenile facility for at least 12 months, no more than 13 percent of all excluded youth (61 youth) received longer sentences in the criminal justice system than they would have received in the juvenile justice system. In addition, the juvenile court placement would have begun 3½ months earlier than the criminal court incarceration.

Juvenile courts in the three Pennsylvania counties judicially waived 277 youth in 1995. In 1996, when the State's exclusion law took effect, waivers dropped to 157. Of the 473 cases excluded in 1996, a total of 109 resulted in conviction in criminal court. Assuming that the criminal court cases that remained open at the end of the study period resulted in the same proportion of convictions and dismissals, approximately 135 of the 473 excluded youth were eventually convicted in criminal court. Therefore, the drop in the number of waived youth between 1995 and 1996 ( $n = 120$ ) was nearly equal to the estimated number of excluded youth convicted in criminal court by the time all cases were closed ( $n = 135$ ). These numbers suggest that the ultimate impact of Pennsylvania's exclusion legislation in 1996 was to retain in criminal court those cases that the juvenile court would have judicially waived had it been given the opportunity. Thus, regardless of the transfer path in Pennsylvania—judicial waiver or legislative exclusion—approximately the same number of youth were sentenced to an adult correctional facility.

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## Conclusions

Findings from the project's four transfer studies can be summarized as follows:

- **Juvenile court judges largely concur with prosecutors as to which juveniles should be transferred to criminal court.** These studies show that the juvenile court supports the prosecutor's request for transfer in approximately four out of five cases—indicating that these two key decisionmakers generally agree about who should be waived and who should not. Anecdotal evidence from the Utah study, in fact, indicates that in many cases in which a waiver petition was denied, the denial was based on a prosecutor's recommendation to withdraw the petition (following a plea bargaining agreement). It may be that the high proportion of judicial approval of waiver requests indicates that prosecutors are able to gauge which cases juvenile court judges will agree to waive and request waivers in only those cases. However, the study of exclusions in Pennsylvania implies that criminal court judges agree with juvenile court judges as to which youth should receive criminal court sanctions.
- **Transfer decision criteria are consistent with common interpretations of law.** For the most part, the studies indicated that transfer is reserved for the most serious cases and the most serious juvenile offenders. Youth are most likely to be transferred to criminal court if they have injured someone with a weapon (regardless of their background or court history) or if they have a long juvenile court record. The studies, however, revealed some jurisdictional variations in the relative emphasis given to certain criteria.

In Utah, for example, juveniles who did not use a weapon or injure their victim were more likely to be approved for waiver if they had five or more prior formal referrals. In South Carolina, the likelihood of waiver was higher for juveniles with just two prior formal referrals. These differing thresholds may stem from other differences in the juvenile justice systems in the two States. Utah, for example, has a relatively high juvenile arrest rate but arrests a disproportionate number of juveniles for less serious offenses. Utah's 1997 larceny arrest rate for juveniles was double the national rate, but its arrest rates for burglary and violent crime were approximately 30 percent lower than the national rates. In comparison, South Carolina's 1997 juvenile arrest rate for larceny theft was somewhat below the national average, and its arrest rates for burglary and violent crimes were somewhat higher than the national rates. Such variations reflect differences in community attitudes toward involving the formal juvenile justice system with the law-violating behavior of youth. By casting a wider net and drawing more juveniles with less serious offenses into its juvenile justice system, Utah may prevent juveniles from accumulating serious records until they have five or more referrals. Youth in Utah more easily compile longer juvenile court records. Consequently, a Utah judge's evaluation of the seriousness of the youth's court history may employ a different metric than that of a judge in South Carolina.



**F**or the most part, the studies indicated that transfer is reserved for the most serious cases and the most serious juvenile offenders.

**R**ecidivism after residential placement continued to be a key factor in the waiver decision.

- **Waiver decisions adjust to changing practice.** The studies reveal that judges continued to waive those juveniles who failed in custody, even when custody occurred at an early stage in a youth's court career. It appears at first that between the mid-1980's and mid-1990's, waiver in Pennsylvania was modified by the public's concerns about a "new breed" of juvenile offender. In response to these concerns, more and more youth with shorter juvenile court careers were waived. Unlike the earlier waiver group, a smaller proportion of the more recent waiver group in Pennsylvania had previously been placed on probation (51 percent of 1994 group versus 65 percent of 1986 group). However, approximately the same proportion (about 60 percent) of the youth waived in 1994 (who had shorter court careers) had been placed in custody at least once prior to the waiver incident. Thus, rather than changing the waiver decision criteria, the juvenile court seems to have changed its broader handling of cases, becoming more likely to place juveniles in a facility without first trying probation. Recidivism after residential placement continued to be a key factor in the waiver decision.
- **The system adapts to large changes in structure.** The structure of transfer decisions has changed in response to the public's concern over the increase in juvenile violence. Data in these studies confirm that the decisionmaking process will adapt to changing legal conditions and social pressure. For example, the study of the implementation of Pennsylvania's exclusion law found that even though the justice system adopted the State's new set of rules and followed new paths, case processing resulted in the same outcomes that would have occurred if the rules had not changed. There had been an expectation that the changed statutory exclusion provision would result in many, many more juveniles being tried in criminal court and in many of these youth ending up incarcerated in adult correctional facilities. However, Pennsylvania's exclusion legislation has had little overall impact on either the number of juveniles handled in criminal court or the proportion incarcerated in adult correctional facilities.

There was also an underlying assumption that transfer decisionmaking by juvenile court judges in Pennsylvania tended to favor juveniles and that decisionmaking by criminal court judges under the new provisions would be different. However, this study found that, in Pennsylvania, the decisionmaking process followed by criminal court judges regarding decertification was much the same as that followed by juvenile court judges regarding waiver.

- **Comparisons between waived and nonwaived juveniles must be made carefully.** Researchers, policymakers, and others who make use of research results must keep in mind that groups of waived and nonwaived juveniles differ in many respects. Simple comparisons are likely to be misleading and, thus, are inappropriate. Careful matching of waived and nonwaived juveniles on multiple characteristics, although often difficult, is virtually a prerequisite to any such comparisons. The studies presented in this Summary

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find that certain characteristics of the waiver incident (e.g., weapon use, victim injury, age of the offender, and nature of the court history) are important variables in transfer decisionmaking. Researchers should include such characteristics as matching variables when attempting to compare juvenile and criminal court processing of juvenile offenders and their case outcomes.

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# Appendix A

## Most States have a combination of transfer provisions

State	Judicial Waiver			Concurrent Jurisdiction	Statutory Exclusion	Reverse Waiver	Once an Adult/ Always an Adult
	Discretionary	Presumptive	Mandatory				
<b>Total Number of States</b>	<b>46</b>	<b>15</b>	<b>14</b>	<b>15</b>	<b>28</b>	<b>23</b>	<b>31</b>
Alabama	■				■		■
Alaska	■	■			■		
Arizona	■	■		■	■		■
Arkansas	■			■		■	
California	■	■					■
Colorado	■	■		■		■	
Connecticut			■			■	
Delaware	■		■		■	■	■
District of Columbia	■	■		■			■
Florida	■			■	■		■
Georgia	■		■	■	■	■	
Hawaii	■						■
Idaho	■				■		■
Illinois	■	■	■		■		
Indiana	■		■		■		■
Iowa	■				■	■	■
Kansas	■	■					■
Kentucky	■		■			■	
Louisiana	■		■	■	■		
Maine	■						■
Maryland	■				■	■	
Massachusetts				■	■		
Michigan	■			■			■
Minnesota	■	■			■		■
Mississippi	■				■	■	■
Missouri	■						■
Montana	■			■	■		
Nebraska				■		■	
Nevada	■	■			■	■	■
New Hampshire	■	■					■
New Jersey	■	■					
New Mexico					■		
New York					■	■	
North Carolina	■		■				
North Dakota	■	■	■				■
Ohio	■		■				■
Oklahoma	■			■	■	■	■
Oregon	■				■	■	■
Pennsylvania	■	■			■	■	■
Rhode Island	■	■	■				■
South Carolina	■		■		■	■	
South Dakota	■				■	■	■
Tennessee	■					■	
Texas	■						■
Utah	■	■			■		■
Vermont	■			■	■	■	
Virginia	■		■	■		■	■
Washington	■				■		■
West Virginia	■		■				
Wisconsin	■				■	■	■
Wyoming	■			■		■	

**Note:** In States with a combination of transfer mechanisms, the exclusion, mandatory waiver, or concurrent jurisdiction provisions generally target the oldest juveniles and/or those charged with the most serious offenses, while those charged with relatively less serious offenses and/or younger juveniles may be eligible for discretionary waiver.

**Source:** Adapted from Snyder, H., and Sickmund, M. 1999. *Juvenile Offenders and Victims: 1999 National Report*. Washington, DC: U.S. Department of Justice, Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention.

## In most States, juvenile court judges can waive juvenile court jurisdiction over certain cases and transfer them to criminal court

Judicial Waiver Offense and Minimum Age Criteria, 1997

States	Minimum Age for Judicial Waiver	Any Criminal Offense	Certain Felonies	Capital Crimes	Murder	Certain Person Offenses	Certain Property Offenses	Certain Drug Offenses	Certain Weapon Offenses
Alabama	14	14							
Alaska	NS*	NS				NS			
Arizona	NS		NS						
Arkansas	14		14	14	14	14			14
California	14	16	16		14	14	14	14	
Colorado	12		12		12	12			
Connecticut	14		14	14	14				
Delaware	NS	NS	15 <sup>a</sup>		NS	NS	16 <sup>b</sup>	16 <sup>b</sup>	
District of Columbia	NS	15	15		15	15	15		NS
Florida	14	14							
Georgia	13	15		13	14 <sup>c</sup>	14 <sup>c</sup>	15 <sup>b</sup>		
Hawaii	NS		14		NS	NS			
Idaho	NS	14	NS		NS	NS	NS	NS	
Illinois	13	13	15						
Indiana	NS	14	NS <sup>b</sup>		10			16	
Iowa	14	14	15						
Kansas	10	10	14			14		14	
Kentucky	14		14	14					
Louisiana	14				14	14			
Maine	NS		NS		NS				
Maryland	NS	15		NS					
Michigan	14	14							
Minnesota	14		14						
Mississippi	13	13							
Missouri	12		12						
Montana	NS	NS							
Nevada	14	14	14			14			
New Hampshire	13		15		13	13		15	
New Jersey	14	14 <sup>b</sup>			14	14	14	14	14
North Carolina	13		13	13					
North Dakota	14	16	14 <sup>b</sup>		14	14		14	
Ohio	14		14		14	14	16		
Oklahoma	NS		NS						
Oregon	NS		15		NS	NS	15		
Pennsylvania	14		14		15	15			
Rhode Island	NS		16	NS	17	17			
South Carolina	NS	16	14		NS	NS		14	14
South Dakota	NS		NS						
Tennessee	NS	16			NS	NS			
Texas	14		14	14				14	
Utah	14		14			16	16		16
Vermont	10				10	10	10		
Virginia	14		14		14	14			
Washington	NS	NS							
West Virginia	NS		NS		NS	NS	NS	NS	
Wisconsin	14	15	14		14	14	14	14	
Wyoming	13	13							

**Examples:** Alabama allows waiver for any delinquency (criminal) offense involving a juvenile age 14 or older. Arizona allows waiver for any juvenile charged with a felony. New Jersey allows waiver for juveniles age 14 or older who are charged with murder or certain person, property, drug, or weapon offenses. In New Jersey, juveniles age 14 or older who have prior adjudications or convictions for certain offenses can be waived regardless of the current offense.

**Note:** Ages in minimum age column may not apply to all offense restrictions but represent the youngest possible age at which a juvenile may be judicially waived to criminal court.

\*"NS" indicates that in at least one of the offense restrictions indicated, no minimum age is specified.

<sup>a</sup> Only if committed while escaping from specified juvenile facilities.

<sup>b</sup> Requires prior adjudication(s) or conviction(s), which may be required to have been for the same or a more serious offense type.

<sup>c</sup> Only if committed while in custody.

**Source:** Adapted from Snyder, H., and Sickmund, M. 1999. *Juvenile Offenders and Victims: 1999 National Report*. Washington, DC: U.S. Department of Justice, Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention.

## In States with statutory exclusion provisions, certain cases involving juveniles originate in criminal court rather than juvenile court

Statutory Exclusion Offense and Minimum Age Criteria, 1997

States	Minimum Age for Statutory Exclusion	Statutory Exclusion Offense and Minimum Age Criteria, 1997							
		Any Criminal Offense	Certain Felonies	Capital Crimes	Murder	Person Offenses	Property Offenses	Drug Offenses	Weapon Offenses
Alabama	16		16	16				16	
Alaska	16					16	16		
Arizona	15		15 <sup>a</sup>		15	15			
Delaware	15		15						
Florida	NS <sup>*</sup>	NS <sup>a</sup>				NS			
Georgia	13				13	13			
Idaho	14				14	14	14	14	
Illinois	13		15 <sup>b</sup>		13	15		15	15
Indiana	16		16		16	16		16	16
Iowa	16		16					16	16
Louisiana	15				15	15			
Maryland	14			14	16	16			16
Massachusetts	14				14				
Minnesota	16				16				
Mississippi	13		13	13					
Montana	17				17	17	17	17	17
Nevada	NS	NS <sup>a</sup>			NS	16 <sup>a</sup>			
New Mexico	15				15 <sup>c</sup>				
New York	13				13	14	14		
Oklahoma	13				13				
Oregon	15				15	15			
Pennsylvania	NS				NS	15			
South Carolina	16		16						
South Dakota	16		16						
Utah	16		16 <sup>d</sup>		16				
Vermont	14				14	14	14		
Washington	16				16	16	16		
Wisconsin	NS				10	NS <sup>e</sup>			

**Examples:** In Delaware, juveniles age 15 or older charged with certain felonies must be tried in criminal court. In Arizona, juveniles age 15 or older must be tried in criminal court if they are charged with murder or certain person offenses or if they have prior felony adjudications and are charged with a felony.

**Note:** Ages in minimum age column may not apply to all offense restrictions but represent the youngest possible age at which a juvenile's case may be excluded from juvenile court.

\*"NS" indicates that in at least one of the offense restrictions indicated, no minimum age is specified.

<sup>a</sup> Requires prior adjudication(s) or conviction(s), which may be required to have been for the same or a more serious offense type.

<sup>b</sup> Only escape or bail violation while subject to prosecution in criminal court.

<sup>c</sup> Requires grand jury indictment.

<sup>d</sup> Requires prior commitment in a secure facility.

<sup>e</sup> Only if charged while confined or on probation or parole.

**Source:** Adapted from Snyder, H., and Sickmund, M. 1999. *Juvenile Offenders and Victims: 1999 National Report*. Washington, DC: U.S. Department of Justice, Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention.

**In States with concurrent jurisdiction, the prosecutor has discretion to file certain cases, generally involving juveniles charged with serious offenses, in either criminal court or juvenile court**

Concurrent Jurisdiction Offense and Minimum Age Criteria, 1997

States	Minimum Age for Concurrent Jurisdiction	Any Criminal Offense	Certain Felonies	Capital Crimes	Murder	Certain Offenses			
						Person Offenses	Property Offenses	Drug Offenses	Weapon Offenses
Arizona	14		14						
Arkansas	14		14	14	14	14			14
Colorado	14		14		14	14	14		14
District of Columbia	16				16	16	16		
Florida	NS*	16 <sup>a</sup>	16	NS <sup>b</sup>	14	14	14		14
Georgia	NS			NS					
Louisiana	15				15	15	15	15	
Massachusetts	14		14			14			14
Michigan	14		14		14	14	14	14	
Montana	12				12	12	16	16	16
Nebraska	NS	16 <sup>c</sup>	NS						
Oklahoma	15				15	15	15	16	16
Vermont	16	16							
Virginia	14				14	14			
Wyoming	14	17	14						

**Examples:** In Arizona, prosecutors have discretion to file directly in criminal court those cases involving juveniles age 14 or older charged with certain felonies (defined in State statutes). In Florida, prosecutors may “direct file” cases involving juveniles age 16 or older charged with a misdemeanor (if they have a prior adjudication) or a felony offense and those age 14 or older charged with murder or certain person, property, or weapon offenses; no minimum age is specified for cases in which a grand jury indicts a juvenile for a capital offense.

**Note:** Ages in minimum age column may not apply to all offense restrictions but represent the youngest possible age at which a juvenile’s case may be filed directly in criminal court.

\*“NS” indicates that in at least one of the offense restrictions indicated, no minimum age is specified.

<sup>a</sup> Applies to misdemeanors and requires prior adjudication(s), which may be required to have been for the same or a more serious offense type.

<sup>b</sup> Requires grand jury indictment.

<sup>c</sup> Applies to misdemeanors.

**Source:** Adapted from Snyder, H., and Sickmund, M. 1999. *Juvenile Offenders and Victims: 1999 National Report*. Washington, DC: U.S. Department of Justice, Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention.

# Appendix B

## Current Incident Record

Demographic Information					
TR001 State	<input type="text"/>	TR002 Offender ID#	<input type="text"/>	TR003 Record Type	<input type="checkbox"/>
TR004-TR006 Date of Birth	Year <input type="text"/>	Mo. <input type="text"/>	Day <input type="text"/>	TR007 Sex	<input type="checkbox"/>
				TR008 Race	<input type="checkbox"/>
TR010 Attending School?	<input type="checkbox"/>	TR011 Highest Grade in School	<input type="text"/>	TR012 Living Arrangements	<input type="checkbox"/>

Incident Characteristics					
TR013 County of Venue	<input type="text"/>	TR014-TR016 Offense Date	Year <input type="text"/>	Mo. <input type="text"/>	Day <input type="text"/>
TR017 Number of Police Offenses Charged in Current Incident	<input type="text"/>	TR018 Charge 1	<input type="text"/>	TR019 Counts	<input type="text"/>
TR020 Charge 2	<input type="text"/>	TR021 Charge 3	<input type="text"/>	TR022 Counts	<input type="text"/>
TR023 Charge 4	<input type="text"/>	TR024 Charge 5	<input type="text"/>	TR025 Counts	<input type="text"/>
TR026 Was Incident Gang-Motivated?	<input type="checkbox"/>	TR027 Under the Influence?	<input type="checkbox"/>	TR028 Number of Co-offenders	<input type="text"/>
TR029 Offender's Alleged Role in Incident	<input type="checkbox"/>	TR030 Offender Weapon	<input type="text"/>	TR031 Co-offender Weapon	<input type="text"/>
TR032 Number of Victims	<input type="text"/>	TR033 Offender Weapon Use	<input type="text"/>	TR034 Co-offender Weapon Use	<input type="text"/>
Victim 1:	TR036 Age <input type="text"/>	TR037 Sex <input type="checkbox"/>	TR038 Race <input type="checkbox"/>	TR039 Ethnicity <input type="checkbox"/>	TR040 Injury <input type="checkbox"/>
Victim 2:	TR042 Age <input type="text"/>	TR043 Sex <input type="checkbox"/>	TR044 Race <input type="checkbox"/>	TR045 Ethnicity <input type="checkbox"/>	TR046 Injury <input type="checkbox"/>
Victim 3:	TR048 Age <input type="text"/>	TR049 Sex <input type="checkbox"/>	TR050 Race <input type="checkbox"/>	TR051 Ethnicity <input type="checkbox"/>	TR052 Injury <input type="checkbox"/>
TR053 Victim/Offender Relationship	<input type="checkbox"/>	TR054 Court to Which Case was Referred	<input type="checkbox"/>	TR055 Victim/Offender Relationship	<input type="checkbox"/>

## Current Incident Record

### Juvenile Court Processing of Current Incident

TR055-TR057			Year	Mo.	Day
Juvenile Court Intake Date					
TR068					
Number of Offenses Charged at Juvenile Court Intake					
TR059	Charge 1				
TR060	Counts				
TR061	Charge 2				
TR062	Counts				
TR063	Charge 3				
TR064	Counts				
TR065	Charge 4				
TR066	Counts				
TR067					
Was Waiver Requested?			<input type="checkbox"/>		
TR068-TR070			Year	Mo.	Day
Petition Date					
TR071					
Number of Charges in Petition					
TR072	Charge 1				
TR073	Counts				
TR074	Charge 2				
TR075	Counts				
TR076	Charge 3				
TR077	Counts				
TR078	Charge 4				
TR079	Counts				
TR080					
Pre-Disposition Custody?			<input type="checkbox"/>		
TR081-TR083			Year	Mo.	Day
Pre-Disposition Custody Admission Date					
TR084-TR086			Year	Mo.	Day
Pre-Disposition Custody Release Date					
TR087					
Juvenile Court Action			<input type="checkbox"/>		
TR088					
Type of Adjudication, if Adjudicated Delinquent			<input type="checkbox"/>		
TR089					
Number of Charges Substantiated in Juvenile Court					
TR090	Charge 1				
TR091	Counts				
TR092	Charge 2				
TR093	Counts				
TR094	Charge 3				
TR095	Counts				
TR096	Charge 4				
TR097	Counts				
TR098					
Disposition of Juvenile Court			<input type="checkbox"/>		
TR099-TR101			Year	Mo.	Day
Juvenile Court Disposition Date					



**Current Incident Record**

**Criminal Court Processing of Current Incident**

TR102-TR104  
Criminal Court Arraignment/Intake Date      Year      Mo.      Day  
              

TR105  
Number of Offenses Charged at Criminal Court Arraignment/Intake     

TR106      TR107  
Charge 1                       Counts     

TR108      TR109  
Charge 2                       Counts     

TR110      TR111  
Charge 3                       Counts     

TR112      TR113  
Charge 4                       Counts     

TR114  
Criminal Court Arraignment/Intake Decision     

TR115      TR116-TR118  
Pre-Disposition Custody?            Pre-Disposition Custody Admission Date      Year      Mo.      Day  
                    

TR119-TR121  
Pre-Disposition Custody Release Date      Year      Mo.      Day  
              

TR122      TR123  
Bail Amount Set?                 Bail Release?     

TR124  
Number of Charges in Petition     

TR125      TR126  
Charge 1                       Counts     

TR127      TR128  
Charge 2                       Counts     

TR129      TR130  
Charge 3                       Counts     

TR131      TR132  
Charge 4                       Counts     

TR133      TR134      TR135  
Criminal Court Action            Type of Conviction, if Convicted            Jury Trial?     

TR136  
Number of Charges Substantiated in Criminal Court     

TR137      TR138  
Charge 1                       Counts     

TR139      TR140  
Charge 2                       Counts     

TR141      TR142  
Charge 3                       Counts     

TR143      TR144  
Charge 4                       Counts     

TR145      TR146-TR148  
Disposition of Criminal Court            Criminal Court Disposition Date      Year      Mo.      Day  
                    

TR149-TR150  
Minimum Length of Disposition Order      Years      Mos.  
      

TR151      TR152-TR154  
Jail Time Credit?            Disposition Start Date      Year      Mo.      Day  
                    

TR155-TR157      TR158  
Disposition Completion Date      Year      Mo.      Day      Parole Supervision?

## Criminal History Record

Identification Variables			
TR201 State	<input type="text"/>	TR202 Offender ID#	<input type="text"/>
			TR203 Record Type <input type="checkbox"/>
TR204-TR206 Offense Date	Year <input type="text"/>	Mo. <input type="text"/>	Day <input type="text"/>
			TR207 Court to Which Case was Referred <input type="checkbox"/>
TR208 Number of Charges at Arraignment/Intake	<input type="text"/>		
TR209 Most Serious Charge	<input type="text"/>		
TR210 Counts	<input type="text"/>		
TR211 Arraignment/Intake Decision/Disposition	<input type="checkbox"/>		
TR212 Court Transfer?	<input type="checkbox"/>		
TR213 Court Action	TR214 Type of Conviction, if Convicted		TR215 Jury Trial?
<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>
TR216 Number of Substantiated Charges	<input type="text"/>		
TR217 Most Serious Substantiated Charge	<input type="text"/>		
TR218 Counts	<input type="text"/>		
TR219 Court Disposition	TR220-TR222 Court Disposition Date		Year <input type="text"/>
<input type="checkbox"/>			Mo. <input type="text"/>
			Day <input type="text"/>

## Recidivism Record

Identification Variables			
TR301 State	<input type="text"/>	TR302 Offender ID#	<input type="text"/>
			TR303 Record Type <input type="checkbox"/>
TR304-TR306 Offense Date	Year <input type="text"/>	Mo. <input type="text"/>	Day <input type="text"/>
TR307 Number of Police Offenses Charged in the Incident	<input type="text"/>		
TR308 Most Serious Charge	<input type="text"/>		
TR309 Counts	<input type="text"/>		
TR310 Offender's Status at Time of Offense	<input type="checkbox"/>		
TR311 Court to Which Case was Referred	<input type="checkbox"/>		
TR312 Number of Charges at Arraignment/Intake	<input type="text"/>		
TR313 Most Serious Charge	<input type="text"/>		
TR314 Counts	<input type="text"/>		
TR315 Arraignment/Intake Decision/Disposition	<input type="checkbox"/>		
TR316 Court Transfer?	<input type="checkbox"/>		
TR317 Court Action	TR318 Type of Conviction, if Convicted		TR319 Jury Trial?
<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>
TR320 Number of Substantiated Charges	<input type="text"/>		
TR321 Most Serious Substantiated Charge	<input type="text"/>		
TR322 Counts	<input type="text"/>		
TR323 Court Disposition	TR324-TR326 Court Disposition Date		Year <input type="text"/>
<input type="checkbox"/>			Mo. <input type="text"/>
			Day <input type="text"/>
TR327-TR328 Minimum Length of Disposition Order	Years <input type="text"/>	Mos. <input type="text"/>	
TR329 Jail Time Credit?	TR330-TR332 Disposition Start Date		Year <input type="text"/>
<input type="checkbox"/>			Mo. <input type="text"/>
			Day <input type="text"/>
TR333-TR335 Disposition Completion Date	Year <input type="text"/>	Mo. <input type="text"/>	Day <input type="text"/>
			TR336 Parole Supervision? <input type="checkbox"/>

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*RESTTA National Directory of Restitution and Community Service Programs.* 1998, NCJ 166365 (500 pp.), \$33.50.

*Trying Juveniles as Adults in Criminal Court: An Analysis of State Transfer Provisions.* 1998, NCJ 172836 (112 pp.).

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*1998 Report to Congress: Title V Incentive Grants for Local Delinquency Prevention Programs.* 1999, NCJ 176342 (58 pp.).

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*Combating Violence and Delinquency: The National Juvenile Justice Action Plan (Summary).* 1996, NCJ 157105 (36 pp.).

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*Portable Guides to Investigating Child Abuse (13-title series).*

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