

**Juvenile Decertification in Philadelphia County:
a Model for Jurisdiction-Specific Research**

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DEDICATION

for

Lynn Holcomb Faford Riggs

who is my mother, whose daughter I am.

Thank you for teaching me to see the adventure.

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ABSTRACT

Juvenile Decertification in Philadelphia County; a Model for Jurisdiction-Specific Research

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Although most states provide a “fail-safe” mechanism by which youth charged in adult court can be decertified back to the juvenile court’s jurisdiction, little research has examined how judges make decertification decisions. This study examined the legal files of 144 juveniles charged as adults in Philadelphia County to examine the factors associated with decertification decisions. Results suggest that in making decertification decisions, the judge appears to have considered and weighted a number of complicated factors. Some risk factors for recidivism identified in previous research were not associated with the legal decision. Older youth, youth committing more serious offenses, youth with a history of probation, and youth described as less amenable to treatment were more likely to remain in adult court. Mental health information provided by the forensic evaluator, specifically substance use information and treatment recommendations, also were associated with the decertification decision.

1 BACKGROUND AND LITERATURE SUMMARY

1.1 Juveniles in Adult Court

For as long as there have been juvenile courts, mechanisms have been in place to prosecute the most serious and violent offending youth in adult court (Tanenhaus, 2000). With the rates of juvenile crime increasing dramatically in the 1980s and early 1990s (Woolard, Odgers, Lanza-Kaduce, & Daglis, 2005), the media brought public attention to cases of young people committing violent crimes (Brannen et. al., 2006). In response to growing public concern, legislatures and juvenile courts implemented “get tough” policies (Taylor, Fritsch, & Caeti, 2002) that increased the number of juveniles sent to detention and correctional facilities and allowed more youth to be transferred to adult court (Jordan, 2006; Steiner & Wright, 2006; Torbet, Gable, Hurst, Montgomery, Szymanski, & Thomas, 1996). Changes to existing transfer statutes were particularly common (Jordan & Myers, 2007), with almost every state amending the jurisdiction of its juvenile court in the 1980s and 1990s (Steiner & Wright, 2006). Most states expanded the list of offenses eligible for transfer and lowered or removed the age limit at which juveniles could be transferred to adult court (Brannen et al, 2006; Steiner & Wright, 2006).

As a result of these changes, the number of youth entering state prisons more than doubled between 1985 and 1997 (Bureau of Justice Statistics, 2000). Underlying the “get tough” policies was the rationale that transferring youth, especially those committing violent crimes, to the adult criminal system would increase both the accountability and punishment of these youth (Jordan & Myers, 2007). In Pennsylvania, for example the original goal of the juvenile justice system was rehabilitation, but, in 1996, the

commonwealth added to the Juvenile Code the goals of protecting the community and imposing accountability (Holtzman, 2004).

Historically, juvenile courts focused on the rehabilitation needs of juvenile offenders and were, in fact, created to address the unique needs of youth by separating juvenile offenders from adult criminals (Woolard, Odgers, Lanza-Kaduce, & Daglis, 2005). The “get tough” policies of the late 1980s and early 1990s were a dramatic shift from the individualized treatment that has been the goal of these courts (Cauffman, Piquero, Kimonis, Steinberg, Chassin, & Fagan, 2007). In effect, the focus of decision-making was moved from the offender to the offense (Steiner & Wright, 2006).

1.1.1 The Impact of Transfer to the Adult System

As the number of youth transferred to the adult criminal system increased exponentially, researchers struggled to keep pace in examining the impact of policy changes (Woolard, Odgers, Lanza-Kaduce, & Daglis, 2005). Findings suggest that transfer to adult court can have numerous negative effects on youth. For instance, following a hearing and adjudication in adult court, a juvenile, typically, will be placed in the adult court jurisdiction for any subsequent offenses committed as a juvenile. As of 2004, 34 states had implemented some version of this “once an adult, always an adult” policy (Snyder & Sickmund, 2006). Furthermore, unlike adjudications in juvenile court, convictions in adult court are a matter of public record, and youth may have to report their convictions to future employers (Young & Gainsborough, 2000).

In addition to examining future consequences of transfer to adult court, researchers have questioned youths’ abilities to participate in the adversarial court process (e.g., children are more likely to confess, youth are easily confused during

testimony, and children may not grasp the long-term consequences of decisions) (Allard & Young, 2002) and raised concerns about the impact that imprisonment with adult offenders may have on juveniles found guilty in adult court (Woolard, Odgers, Lanza-Kaduce, & Daglis, 2005). Adolescence is a period of development and change (Lerener & Galambos, 1998; Steinberg, 1999); in addition to physical changes, adolescents develop senses of identity and autonomy during this period, and they develop the ability to form intimate relationships (Steinberg, 1999). Housing juveniles with adult criminals may lead those who would have otherwise desisted to be socialized to the criminal world and develop their identities within the criminal culture (Forst, Fagan, & Vivona, 1989). Research comparing youth detained in the adult and juvenile court systems has suggested that such iatrogenic effects may be occurring. Youth detained in New York's adult system were 85% more likely to be re-arrested for violent offenses, and 44% more likely to be arrested for property crimes than were youth committing similar offenses in the New York metropolitan area but detained within New Jersey's juvenile justice system (Fagan, 1996). Odds were highest for New York youth with no prior arrest history (Fagan, 1996), suggesting that treatment in the adult system may keep some youth from the natural desistance of delinquent behavior.

Other studies have also observed higher recidivism rates among youth detained in the adult correctional system (Bishop, Frazier, Lanza-Kaduce, & Winner, 1996; Mason & Chang, 2001; Myers, 2001), and differences remain even when selection bias (i.e., differences between youth who remain in the juvenile system and those who are sentenced in adult court) is controlled for statistically (Myers, 2003). It seems, therefore, that the transfer of juveniles to the adult courts does not have the intended deterrent effect

on those youth impacted directly by transfer policies (i.e., specific deterrence) (Steiner & Wright, 2006). Additionally, no general deterrent effects have been observed; in a study of juvenile crime rates in the first five years after waiver laws were enacted, Steiner and Wright (2006) observed no differences in the juvenile homicide/manslaughter rates in the 14 states with prosecutorial discretion policies.

Furthermore, research has suggested that placement in correctional facilities may have direct, negative consequences for the transferred youth. Youth in adult facilities were 500 times more likely to be sexually assaulted while incarcerated and 200 times more likely to be physically assaulted by facility staff (e.g., beaten) than were youth in the juvenile justice system (Beyer, 1997). Suicide rates in the juvenile justice system are estimated to be 165 times the national adolescent average (Krisberg & DeComo, 1991), and youth in adult facilities are eight times more likely to commit suicide than are their counterparts held in the juvenile justice system (Beyer, 1997; Schiraldi & Zeidenberg, 1997). Because prosecution and placement in the adult correctional system may negatively impact juveniles' safety (Beyer, 1997), normative development (Forst, Fagan, & Vivona, 1989), and likelihood of future offending (e.g., Fagan, 1996), it is imperative that policies placing youth under the auspices of the adult justice system be applied only to those serious and violent offenders for whom transfer policies were originally intended (Jordan & Meyers, 2007).

1.1.2 Methods of Transfer to and from Adult Court

Juveniles can be transferred to the jurisdiction of the adult courts via several mechanisms. Judicial waiver, currently in place in 46 states, allows the juvenile court to waive jurisdiction over a juvenile and transfer the case to the adult courts (Griffin, 2003).

Language varies from jurisdiction to jurisdiction (e.g., transfer versus certification, waive versus decline) (Snyder & Sickmund, 2006), but judicial waiver generally requires a juvenile court hearing at which the judge makes an informed decision that the youth can or cannot be rehabilitated by the juvenile justice system (Steiner & Wright, 2006). Under judicial waiver policies, cases originate in the juvenile courts, and states delineate some standards for consideration in the transfer decision (Griffin, 2003). Waiver proceedings must meet due process standards established in *Kent v. United States* (1966), and waiver decisions are generally based on the criteria established by *Kent*: risk to community, maturity, and amenability to intervention (Brannen et al., 2006). Generally, judicial waiver authorizes, but does not require a transfer to adult court (Griffin, 2003). As of 2004, however, 15 states had established presumptions in favor of waiving cases to adult court in certain circumstances, and 15 states had established circumstances under which transfer is mandatory (Snyder & Sickmund, 2006).

Prosecutorial discretion is the second method by which juvenile cases can be placed under the jurisdiction of the adult system (Steiner & Wright, 2006). Also known as direct file or concurrent jurisdiction (Snyder & Sickmund, 2006), prosecutorial discretion allows prosecutors to decide whether some cases are filed in juvenile or adult court (Griffin, 2003). As of 2004, 15 states had established prosecutorial discretion for certain offenses (Snyder & Sickmund, 2006).

The third method by which juvenile cases are heard in adult courts is statutory exclusion. Also known as legislative waiver (Steiner & Wright, 2006), statutory exclusion takes place when legislatures exclude certain offenses from the jurisdiction of the juvenile courts and require that charges be filed directly in adult court (Griffin, 2003).

The adult courts have original jurisdiction, and the juvenile's case is not reviewed by a juvenile court judge (Brannen et. al., 2006). As of 2004, 29 states had established statutory exclusion for certain offenses (Snyder & Sickmund, 2006).¹

Many states that provide mechanisms by which juvenile offenders can be tried in the adult courts also provide mechanisms by which youth can be returned to the jurisdiction of the juvenile courts (Griffin, 2003). Commonly known as decertification (or reverse waiver), such procedures are considered "fail-safes" that provide a mechanism through which an adult court judge may review youths' appropriateness for criminal prosecution or sanctions. Twenty-five states² allow decertification and have procedures in place that juveniles, prosecuted in adult courts, may use to petition for their cases to be transferred back to juvenile court (Snyder & Sickmund, 2006). Fifteen states³ have established comprehensive fail-safe procedures, by which no youth may be tried or sentenced as an adult (by either statutory exclusion or prosecutorial discretion) without an opportunity to contest his/her appropriateness for criminal prosecution (Griffin, 2003). Another 15 states⁴ have established partial fail-safe procedures (Snyder & Sickmund, 2006) that do not cover every type of case (e.g., in Wisconsin and Maryland murder cases are excluded) (Griffin, 2003). Fourteen additional states⁵ and the District of Columbia

¹ A fourth and slightly different mechanism, blended sentencing, is available in 26 states. Blended sentencing laws allow the courts to determine in which system a juvenile will be sanctioned. Two types of statutes exist: those allowing the juvenile courts to impose criminal sanctions, and those allowing criminal courts to impose juvenile sanctions.

² States with decertification procedures: AZ, AR, CA, CO, CT, DE, GA, IL, IA, KY, MD, MS, MT, NE, NV, NY, OK, OR, PA, SD, TN, VT, VA, WI, WY.

³ States with comprehensive fail-safe procedures: AR, CO, DE, ID, IA, MS, MT, NE, OK, PA, SD, TN, VT, WV, WY.

⁴ States with partial fail-safe procedures: AZ, CA, CT, FL, GA, IL, KY, MD, MA, MI, NV, NY, OR, VA, WI.

⁵ States with no fail-safe procedures: AL, AK, IN, LA, MN, NJ, NM, NC, ND, OH, RI, SC, UT, WA.

provide no mechanism for decertification. Finally, six states⁶ have no need for fail-safe mechanisms because no juvenile cases can reach the adult courts without review by a juvenile court judge (Snyder & Sickmund, 2006).

1.1.3 Statutory Exclusion and Decertification in Pennsylvania

Before 1996, judicial waiver was the primary mechanism by which juvenile cases were transferred to the adult courts in Pennsylvania (Jordan & Myers, 2007). The exception to this rule was the charge of murder, which was excluded from the jurisdiction of the juvenile courts regardless of the age of the alleged perpetrator (Holtzman, 2004). Pre-1996, the juvenile court, or family court as it is known in Pennsylvania, had discretion to waive certain cases to adult court, if specified criteria were met (Jordan & Myers, 2007). These criteria included the age and amenability of the youth (Jordan & Myers, 2007).

In 1996, however, major changes came to the Pennsylvania juvenile justice system in the form of Act 33, which changed the existing Pennsylvania Juvenile Code (Holtzman, 2004). Act 33 excluded many offenses from the definition of “delinquent acts” (Jordan & Myers, 2007). Youth meeting criteria for those offenses were charged directly in adult court because, technically, no delinquent act had been committed (Jordan & Myers, 2007). After Act 33 was enacted in March of 1996, statutory exclusion was extended to include youth 15, 16, and 17 years of age who were charged with using a deadly weapon while committing an offense that, if committed by an adult, would be classified as: rape; involuntary deviate sexual intercourse; aggravated assault; robbery; robbery of a motor vehicle; aggravated indecent assault; kidnapping; voluntary

⁶ States with no need for fail-safe procedures: HI, KS, ME, MO, NH, TX.

manslaughter; or attempting, conspiring, or soliciting to commit any of these crimes or to commit murder (Holtzman, 2004). In Act 33, Pennsylvania also instituted a “once an adult, always an adult” provision, requiring that juveniles adjudicated guilty in the adult courts must have subsequent charges filed in adult court (Holtzman, 2004).

Before the enactment of Act 33, family courts had wide discretion in most transfer cases, and amenability to treatment in the juvenile justice system was a significant consideration in the transfer decision (Jordan & Myers, 2007). Since the passing of Act 33, amenability is not considered in the automatic transfer of cases to the adult courts (Jordan & Myers, 2007). However, it is considered, along with other factors, in the decertification process established by Act 33.

In addition to other changes, Act 33 established a mechanism to decertify youths’ cases from adult court to family court. Juveniles may request a decertification hearing in which the burden of proof lies with the juvenile defendant to establish that “public interest” is served by adjudicating the youths’ case in family court (Pennsylvania Juvenile Court Judges’ Commission, 2005). During this hearing, the judge is required to consider the same criteria used to transfer adolescents to adult court (Jordan & Myers, 2007). Specifically, the code requires that the following factors be considered: the impact of the offense on victim(s); impact of the offense on the community; the threat posed to the public or any individual; the nature and circumstances of the alleged offense; the degree of culpability; the adequacy and duration of dispositional alternatives available within the juvenile and adult systems; the presence of mental illness or retardation; and the child’s amenability to treatment, focusing on his or her age, mental capacity, maturity, criminal sophistication, previous record, delinquent history and attempts at rehabilitation,

probation or institutional reports, whether the child can be rehabilitated prior to the expiration of juvenile court jurisdiction, and any other factors deemed relevant by the judge (Pennsylvania Juvenile Court Judges' Commission, 2005).

The procedures in place in Pennsylvania are fairly common. Pennsylvania is, currently, one of 29 states⁷ that, by statute, exclude certain offenses from the jurisdiction of the juvenile courts (Snyder & Sickmund, 2006). It is one of 15 states⁸ in which a juvenile is entitled to an opportunity to show that he or she should remain in juvenile court and one of 17 states⁹ that have both statutory exclusion and decertification procedures (Snyder & Sickmund, 2006).

1.2 Empirical Research on Transfer and Decertification

1.2.1 Transfer

Most of the existing research on transfer decisions has focused on factors that predict juvenile court judges' decisions to transfer cases to adult court (Jordan & Myers, 2007).

The seriousness of the offense and presence of a delinquent record seem to be the strongest predictors of transfer to adult court (e.g., Clarke, 1996; Fritsch, Caeti & Hemmens, 1996; Jordan & Myers, 2007; Sridharan, Greenfield, & Blakley 2004). These two legal variables seem to affect the juvenile court judges' perceptions of youth as amenable to treatment in the juvenile system (Jordan & Myers, 2007).

Extra-legal factors have also been observed to predict transfer decisions (Jordan & Myers, 2007). Older youth are more likely to be transferred to adult court (e.g., Fagan & Deschenes, 1990; Myers, 2003), and recent research suggests that youth who have

⁷ States with statutory exclusion: AL, AK, AZ, CA, DE, FL, GA, ID, IL, IN, IA, LA, MD, MA, MN, MS, MT, NV, NM, NY, OK, OR, PA, SC, SD, UT, VT, WA, and WI.

⁸ States in which juveniles are entitled to an opportunity for decertification: AK, CO, DE, ID, IA, MS, MT, NE, OK, PA, SD, TN, VT, WV, WY.

⁹ States with both statutory exclusion and decertification procedures: AZ, CA, DE, GA, IL, IA, MD, MS, MT, NV, NY, OK, OR, PA, SD, VT, WI.

dropped out of school may also be more likely to be transferred to the adult court system (Sridharan, Greenfiled, & Blakely, 2004). Race has been examined as a predictive factor, with mixed results (Jordan & Myers, 2007). The majority of youth transferred to adult court are non-white (Clarke, 1996; Clement, 1997), but when other explanatory factors have been statistically controlled, no relationship has been found between race and transfer status (Fagan, 1990; Podkopacz & Feld, 1996). Some researchers have suggested that racial differences in transfer rates may reflect racial disparities at other points in the justice system (e.g., Podkopacz & Feld, 1996).

In addition to identifying factors that predict transfer decisions, extant research has examined how transfer-related legal criteria are conceptualized and weighed by relevant parties involved in the transfer-decision process. Judges and psychologists seemed to conceptualize the factors noted in *Kent v. United States* (1966), risk, sophistication-maturity, and amenability to treatment, in very similar ways (Salekin, Rogers & Ustad, 2001; Salekin, Yff, Neumann, Leistico, & Zalot, 2002). Furthermore, both judges and psychologists typically reported that all three constructs were important to consider in decisions to transfer youth to adult court, with dangerousness rated as most important by both judges and psychologists, followed by amenability to treatment and, finally, sophistication-maturity (Salekin, Rogers & Ustad, 2001; Salekin, Yff, Neumann, Leistico, & Zalot, 2002). A study using hypothetical case vignettes found that, although judges rated psychological report data on amenability to treatment as very useful, amenability was not a significant predictor of actual decisions about whether to transfer the hypothetical juvenile's case to adult court (Brannen et. al., 2006). Although the study provided valuable information about how judges weigh relevant criteria when making

decisions about youth in hypothetical vignettes, the question remains about how judges weigh relevant factors in real-life, complicated legal cases in which much more information is presented.

1.2.2 Decertification

Despite the fact that half of the states have decertification policies in place, very little research has examined how adult court judges make decertification decisions about whether to return youth to the juvenile court's jurisdiction (Jordan & Myers, 2007). The little research that does exist suggests that decertification decisions seem to be based on the same factors as transfer decisions; in New York, in the late 1970s and early 1980s, juveniles committing more serious offenses were less likely to be decertified to juvenile court, as were those with extensive histories of prior arrests (Singer, 1996). Age and gender were also significant predictors of decertification decisions, with females and younger youth more likely to be decertified.

More recent research in Pennsylvania found that age, race, prior record, and weapon type were all associated with decertification decisions; youth who were older, were non-white, had a delinquent record, and were charged with use of a firearm in the commission of the alleged offense were less likely to be decertified (Snyder, Sickmund, & Poe-Yamagata, 2000). Similarly, reviewing court and probation records in three urban counties in Pennsylvania (Allegheny, Dauphin, and Philadelphia), Jordan and Myers (2007) found that youth who played a primary role in the offense were more likely to remain in adult court. Additionally, as the juvenile's number of prior referrals increased, the likelihood of decertification decreased, regardless of whether the prior referrals were for violent offenses (Jordan & Myers, 2007). Neither the county within Pennsylvania in

which the youth was charged nor age was significantly associated with the decertification decision.

Other research in Philadelphia, PA reviewed files of juveniles charged directly in adult court, forensic psychologists' reports prepared for the decertification hearing, and judges' decertification decisions; certification status was significantly associated with age, number of violent charges, and scores on the Massachusetts Youth Screening Instrument (MAYSI), Psychopathy Checklist- Youth Version (PCL-YV), and Youth Level of Services/Case Management Inventory (Marczyk, Heilbrun, Lander & DeMatteo, 2005). The authors concluded that the court appeared to consider relevant risk factors in decertification decisions.

Although the extant research identifies some key factors that may influence judges' decertification decisions, the findings are limited by the research methodology of the various studies. One study provided valuable information about the factors associated with decertification to juvenile court but it did not statistically control for other explanatory factors (Snyder, Sickmund, & Poe-Yamagata, 2000). For this reason, finding may reflect spurious relationships. Another study did statistically control for multiple explanatory factors, but it examined all the court and probation records of all juvenile cases filed directly in adult court; it did not distinguish which cases involved decertification hearings. Researchers were left unable to determine whether the findings reflected characteristics associated with judges' decertification decisions or with youths' requests for decertification hearings (Jordan & Myers, 2007).

Finally, although the third study suggested that judges may consider risk-relevant factors when making decertification decisions, the risk relevant measures (i.e., YLS-CMI

and PCL-YV) included in the study were completed by record review long after the judge reached a decision (Marczyk, Heilbrun, Lander, & DeMatteo, 2005). Although the contributing information would have been available to the judge, the scores on the measures were not presented to the judge at the time of the decertification hearing. Thus, although this study provided valuable information about the relationship between risk factors and decertification, it did not examine the association between directly-presented information about risk and other factors dictated by the juvenile code and decertification decisions.

Research is needed that examines information provided to the judge at the time of the decertification hearing and statistically controls for key variables to weed out meaningless correlations between factors. Specifically, two lines of research are required. First, research with good external validity is needed to examine factors associated with decertification decisions across jurisdictions. Individual state statutes dictate the factors considered in decertification hearings, but most states consider similar factors (i.e., the juvenile's record of prior offenses¹⁰, the seriousness and impact of the offense⁵, the adequacy of available juvenile services⁵, the youth's amenability to treatment¹¹, and public safety⁶). Multiple-site studies involving the decision-making of many judges would provide a broad understanding of the factors that make youth more or less likely to be decertified to juvenile court. Generalizable and externally valid research would provide an understanding of the norms, or averages, of what occurs across jurisdictions.

¹⁰ Factor noted explicitly in Pennsylvania, Illinois, Oklahoma, and Oregon states statutes (42 Pa. C. S. Sec. 6322; IL ST CH 705 s 405/5-805; Okla. Stat., Tit. 10, Sec. 7306-2.5; 1997 ORS Tit. 34, Sec. 419C.361)

¹¹ Factor noted explicitly in Pennsylvania, Illinois, and Oregon states statutes (42 Pa. C. S. Sec. 6322; IL ST CH 705 s 405/5-805; 1997 ORS Tit. 34, Sec. 419C.361)

Although such broad-based and broadly applicable research would inform the field, the results would vary in their relevance and applicability to individual jurisdictions, each with its own set of laws, policies, and procedures. To understand and affect decertification decisions in one specific jurisdiction, a second line of research is required. This type of jurisdiction-specific research should examine the decertification decisions made in one location, within the unique system of that jurisdiction. Because states vary in the scope of the juvenile court's jurisdiction and the combination of judicial waiver, prosecutorial discretion, and statutory exclusion provisions allowed, it would be difficult to generalize decertification findings across states (Griffin, 2008). Even within states, counties vary in their procedures. In some Pennsylvania counties, for instance, a family court judge hears the decertification case, in others the hearing is held by the criminal court judge. In most counties, only one judge makes all the decertification decisions for that county (M.Moore, personal communication, July 15, 2008). Socioeconomic status, setting (i.e., urban/suburban/rural), local dispositional services, previous experience of the judge and the judge's priorities and biases could all influence the decisions made in a specific location; thus, jurisdiction-specific research is needed to provide an understanding of each county's decertification process.

1.2.3 Jurisdiction Specific Research

The records of juveniles who have requested a decertification hearing provide a valuable source of jurisdiction-specific information and a means by which to examine the information presented to the judge at the time of the hearing. These records commonly include a forensic mental health assessment, as psychologists and other mental health professionals are routinely called on to evaluate youth eligible for transfer or

decertification (Brannen et al., 2006; Salekin, Yff, Neumann, Leistico, & Zalot, 2002). Guidelines suggest that a juvenile evaluation should include detailed information about the youth's functioning in a variety of relevant contexts; personality and mental health needs; and intellectual, academic, and vocational abilities (Melton, Petrila, Poythress, & Slobogin, 2007). Forensic mental health assessments provide valuable information about the factors relevant to decertification decisions. Although some research has suggested that reports may not affect judges' decisions (Niarhos & Routh, 1992), research conducted in the greater Philadelphia region family court system found that quality reports that include relevant information appear to impact judges' dispositional decisions (Hecker & Steinberg, 2002).

Jurisdiction-specific research can also provide useful information to several of the involved parties. First, if interested, local judges can learn what factors seem to systematically influence their decertification decisions and compare those findings to the factors set forth in state statutes. Forensic psychologists who provide decertification reports for the local court can learn which factors have the strongest association with decertification decisions in their jurisdictions and compare those results to what is known about risk factors for recidivism. Results of jurisdiction-specific studies may highlight certain factors that require explicit explanation and link to the relevant legal criteria if they are to be considered in the judge's decertification decision. Results of these studies may also suggest areas for judicial training and future communication between psychologists and judges. In this way, jurisdiction-specific research may help to answer the call within psychology to better understand how judges use information presented in psychological reports (Hecker & Steinberg, 2002) and to establish a feedback loop for

judges to learn which factors are affecting their decision-making (Brannen et. al., 2006). Lawyers may also benefit from jurisdiction-specific research, providing them with information on which factors are most associated with decertification decisions. At the same time, this research may highlight factors noted in state statutes that are not associated with judge's decision-making. If one of these non-associated factors is present in a case, it may be helpful to explicitly draw the judge's attention to this factor and its legal relevance. Research may also highlight cases in which certain factors make decertification unlikely, if not impossible. Such information may allow lawyers to redirect limited resources to cases in which they can have an impact.

2 THE CURRENT STUDY

The objective of this study was to conduct jurisdiction-specific research examining decertification decisions in Philadelphia County. Of the 104,614 youth arrested in Pennsylvania in 2007, almost one-third (32,457) were arrested in Philadelphia County. Proportions are higher for serious charges; over half (1,265) of youth charged with murder, manslaughter, forcible rape, and robbery in Pennsylvania were arrested in Philadelphia County ("Pennsylvania Uniform Crime Reporting System," 2008). This study will examine which factors from the juvenile code were associated with decertification decisions in this county. Results of the study may contribute to a feedback loop, providing information that may assist judges, lawyers, and psychologists involved in decertification hearings.

2.1 Hypotheses

1. Present offense, use of a firearm, age, and amenability to treatment would significantly predict of decertification decisions.

- a. As observed in previous research on transfer and decertification decisions (e.g. Jordan & Myers, 2007), it was expected that youth accused of committing more serious offenses, accused of using a firearm in commission of an offense, and who were older at the time of the offense would be more likely to remain in adult court. It was predicted that youth decertified to family court and those remaining in adult court would differ in their amenability to treatment and that amenability would be significantly associated with decertification decisions. Previous research suggested that judges may not consider amenability in their decisions (Brannen et. al., 2006); however, amenability is one of the factors listed for consideration in the Pennsylvania code.
2. Decertification decisions would correspond with recommendations made by the evaluating psychologists.

 - a. Previous research showed that clinician recommendations impact judges' decision-making (Hecker & Steinberg, 2002). It was hypothesized that clinician recommendations and decertification decisions would be associated. This relationship was also examined when statistically controlling for the effects of other potentially important factors (i.e., those listed in Hypothesis 1). It was expected that relatively few reports would have recommended that the youth remain in adult court (i.e., a “file drawer” problem was expected. That is, when an evaluator finds no factors that may make the youth appropriate for the juvenile system, the formal report is generally not used in the decertification hearing and might

not even be written after the evaluation.). For this reason, analyses would not be limited to examining the judge's agreement with the dichotomous recommendation made by the evaluators but, also, would examine how the number and type of recommendations made by the evaluator were associated with the judge's decision.

2.2 Exploratory Analyses

1. The relationship between judicial decertification decisions and factors laid out in the Pennsylvania juvenile code (see Appendix A) were examined in order to explore which factors, in addition to present offense, use of a firearm, and age (explored in Hypothesis 1), were associated with decertification to family court.
2. The relationship between Philadelphia County decertification decisions and factors identified in the transfer and decertification literature (race, gender, school status, youth's role in the alleged event and youth's age at the time of the decertification hearing) were explored to determine which extra-legal factors (i.e., those not directly stated in the Juvenile Code) influenced decertification decisions.
3. Previous research on family court judges' use of psychological evaluations suggested that the inclusion of information about youths' mental health functioning influenced dispositional decisions (Hecker & Steinberg, 2002). The relationships between decertification decisions made by the judge and the presence and nature of mental health information included in the psychological reports was examined.

4. Atypical cases (i.e., if hypotheses were supported, these would include older youth or those charged with serious crimes who were decertified to family court) were examined to identify factors that may have taken precedence over the typical, salient factors.

3 METHODS

Data were collected from 144 archived records of juveniles that had decertification hearings between January 2006 and March 2009 and whose cases were represented by the Philadelphia Defender Association unit that specializes in juvenile transfer. It is important to note that in Philadelphia County, youth charged as adults for murder are represented by a specialized homicide unit at the public defender's office. For this reason, youth charged with murder in adult court were not included in this study¹². Records from the Defender Association were eligible for review if they contained the youth's charge(s) and a forensic mental health assessment (the psychological, decertification report). Forensic mental health assessments were conducted by experts selected and retained by the defense whose findings were favorable to the defense (i.e., the defense, generally, would not have utilized the report if the evaluation had not been favorable). Other records in the file, such as the juvenile record (known as the J-File) and psychosocial summary (a brief report completed by the Defender Association social worker) were reviewed if available. The sample represented 92% of the youth represented by the public defender's office in decertification hearings¹³

¹² One youth was included in this study that had charges that included murder. It is unclear why this youth was not represented by the homicide unit, but it is likely that the original charge of murder was dropped at some stage of the preliminary hearing phase.

¹³ Note: The cases of many (42%) juveniles charged as adults and represented by the public defender's office are decided before the decertification hearing takes place. The majority of these cases are reslated by agreement of the prosecution and defense.

within the designated 39-month period. The remaining 8% were not included because records were unavailable for review ($n = 6$) or did not meet inclusion criteria ($n = 5$).

The sample was 80% male ($n = 115$). Youth ranged from 15 to 18 years ($M = 16.61$, $SD = .86$), and 89% were African-American, 6% Hispanic, 3% Caucasian, and 2% “Other.” IQ scores ranged from 45 to 117 ($M = 82.63$, $SD = 12.10$). The forensic mental health evaluation reports indicated that most youth (42%) were enrolled in school and attending occasionally, 32% attended regularly, 24% were not attending school, and 2% had graduated or completed GED requirements. Youth had 0 to 8 previous arrests ($M = 1.58$, $SD = 1.63$), and 38% had been on probation at least once. Charges for the index offense ranged from theft to murder, with aggravated assault the most common charge. Fifty-eight percent of youth were decertified to the jurisdiction of the juvenile courts.

3.1 Procedures for Coding Reports

A structured coding scheme was created that operationally defined the factors noted in the Pennsylvania Juvenile Act that are relevant to decertification decisions. For example, the Act states that the judge should consider “the nature and circumstances of the offense allegedly committed by the child” (42 Pa.C.S. § 6355(a)(4)(iii)(D)). The following information was recorded on the coding form: the role the youth played in the index offense (primary/non-primary), charge(s), presence of a weapon, type of weapon, discharge of weapon (if applicable), and presence of peers. Information on the charges was coded in two ways. First, coders recorded the most serious charge brought against the youth. Second, coders recorded the category of offense, using the categories defined by Gottfredson and Barton (1993). Using these categories, youths’ most serious charges

fell into categories 5 (Major Property Felonies), 8 (Felonious Assault, Felony with Weapon), and 9 (Murder and Attempted Murder¹⁴).

The Juvenile Act states that the following factors should be considered when evaluating a youth's amenability to treatment as a juvenile: age, mental capacity, criminal sophistication, previous records, nature and extent of prior delinquent history and attempts to rehabilitate, probation or institutional reports and any other relevant factor. Each of these component factors were recorded separately, and the unique relationship between each factor and the legal decision was examined. The amenability to treatment described by the evaluating psychologist in the forensic mental health assessment was recorded and examined as a separate measure of amenability.

Under the Juvenile Code provision that allows for the consideration of "any other relevant factors" (42 Pa. § 6355(a)(4)(iii)(G)(IX)), the coders recorded those factors suggested in the literature as possibly related to decertification decisions, as well as specific factors of interest in this study (e.g., mental health diagnoses, prior treatment, substance use, traumatic experiences). . Additionally, all treatment recommendations listed in the forensic psychological evaluation were recorded. To limit the subjective decision-making required of coders, factors were coded on the basis of explicit statements made by the forensic evaluator and factual information available in the file.

Mental health diagnoses listed in the evaluation report were recorded and later coded as either risk-relevant or non-risk-relevant. Risk-relevant diagnoses were those associated with increased risk for offending in either the literature (see Cottle, Lee, & Heilbrun, 2001; Hawkins et al., 2000) or by nature of the diagnosis itself (e.g., substance

¹⁴ Note, this category would typically include charges of Rape and Arson, however no youth in the sample were charged with these offenses.

use is an illegal activity; American Psychiatric Association, 2000). This category included Oppositional Defiant Disorder, Conduct Disorder, Substance Use disorders, and Attention-Deficit/Hyperactivity Disorder. Non-risk-relevant diagnoses included all other DSM-IV-TR diagnoses.

The use of structured forensic assessment instruments to code certain factors was intentionally avoided throughout the coding scheme. First, it is questionable whether the available records would allow accurate completion of measures, such as the Youth Level of Services- Case Management Inventory (Hoge & Andrews, 2002) or Risk-Sophistication-Treatment Inventory (Salekin, 2004). Although such measures provide useful interview guides, it would have been difficult for coders to accurately complete such instruments without the ability to ask youth follow-up questions and to seek more information. Additionally, the goal of this study was to examine how information available to the judge at the time of the decertification hearing may be associated with decertification decisions. Because scores on these forensic assessment instruments were not presented to the judge at the time of the hearing, they are less relevant to the questions of interest in this study.

Files remained in the Defender Association offices at all times, and coders did not record any identifying information (e.g., name, parents' names, names of victims or witnesses, address). Instead, an identification number will be assigned to each file.

Three coders (a doctoral student in clinical psychology, a master's student in psychology, and an undergraduate psychology major) were trained by the primary investigator on the decertification process, the information available in legal records, and the specific coding procedures. Each coder independently coded six sample files.

Coders discussed variables about which there was any disagreement, and coding differences were resolved. One of every seven study files was coded separately by two coders, and inter-rater reliability was calculated for all factors requiring judgment. Good agreement was observed for “Impact of Offense on Victims” and “Maturity” (Kappas = .86), and perfect inter-rater reliability was observed for all other factors (Kappa = 1) (mean Kappa rating = .94).

3.2 Method of Analysis

Correlation and logistic regression analyses were used to examine the relationship between various factors included in the juvenile code and the dichotomous legal decision to keep the youth in adult court or decertify him to juvenile court. First, the correlation between each factor and the legal decision was examined. In exploratory analyses examining many factors, only factors significantly correlated with the legal decision were included in regression analyses. Next, logistic regression analyses were conducted. To provide statistical control for the influence of multiple predictor variables, the decertification decision (decertify to juvenile court/remain in adult court) was regressed simultaneously on the factors specified in each hypothesis. Statistical significance of each predictor was examined. As a measure of effect size, the odds ratio of significant predictors and the correct classification of each model is reported.

4 RESULTS

4.1 Primary Hypothesis 1

Forty-two percent of youth remained in adult court, and 58% were decertified and returned to the jurisdiction of the juvenile courts. See Table 1 for characteristics of the two groups. Neither the specific offense, $r = -.06$, $p = .463$, nor the use of a firearm in the

commission of the index offense, $r_{\phi} = .10$, $p = .225$, was significantly correlated with the legal outcome. However, age at the time of arrest, $r = .40$, $p < .001$, the evaluator's perspective on amenability, $r = -.42$, $p < .001$, and category of offense, $r_{\phi} = .23$, $p = .006$, were all significantly correlated with the legal outcome. Older youth, those rated by the evaluator as less amenable to treatment, and those committing offenses in the more severe category (Murder and Attempted Murder) were more likely to remain in adult court.

Because the category of offense could not be independent of the specific offense, the two factors could not be simultaneously entered into the regression analysis. When the judge's legal decision was regressed simultaneously on the specific offense, use of a firearm, age at the time of arrest, and amenability, specific offense continued to have no clear relationship with the legal outcome. The least serious charge, Aggravated Assault, was used as the baseline for comparison. Having the charge of Attempted Murder as the most serious charge was not a significant predictor of the legal outcome, $b = 1.29$, $SE_b = .95$, $p = .174$; however, having the charge of Robbery as the most serious charge was a significant predictor of the legal outcome, $b = -1.50$, $SE_b = .72$, $p = .038$, $OR = .22$. In theory, Robbery is considered a more serious offense than Aggravated Assault, yet youth whose most serious charge was Robbery were less than one-quarter as likely to remain in adult court as youth whose most serious charge was Aggravated Assault. Attempted murder was the least common of the three charges ($n = 15$), and there may not have been adequate power to detect a relationship between this charge and the legal decision.

Table 1

Sample Characteristics and legal decision Legal Decision

	Legal Decision		
	Total	Remain in Adult Court	Decertify to Juvenile Court
	<i>M (SD)</i>	<i>M (SD)</i>	<i>M (SD)</i>
Number of charges	7.89 (2.6)	8.39 (2.74)	7.52 (2.4)
Age (at arrest)	16.61 (.86)	17.00 (.73)	16.31 (.83)
IQ score	82.63 (12.1)	82.98 (11.3)	82.37 (12.7)
Age at first arrest	14.43 (1.9)	14.15 (2.0)	14.64 (1.74)
Number of previous arrests	1.58 (1.6)	2.30 (1.6)	1.06 (1.5)
Number of delinquent placements	.44 (.84)	.72 (1.0)	.24 (.64)
Number of dependant placements	.25 (.82)	.33 (1.0)	.19 (.61)
Number of mental health placements	.17 (.64)	.33 (.87)	.06 (.36)
Number of recommendations	3.56 (1.3)	3.98 (1.1)	3.25 (1.3)
	N (%)	N (%)	N (%)
Inflicted physical harm in index offense	69 (49)	30 (50)	40 (50)
Category of Offense			
Murder and Attempted Murder	16 (11)	12 (20)	4 (5)
Felonious assault, felony with weapon	127 (88)	49 (80)	78 (94)
Major property felonies	1 (1)	---	1 (1)
Amenability rated by the evaluator			
Low	2 (1)	2 (4)	---
Mixed	35 (30)	22 (42)	13 (20)
Moderate	35 (30)	19 (37)	16 (24)
Moderate to high	32 (27)	8 (15)	24 (36)
High	14 (12)	1 (2)	13 (20)
Used a firearm	97 (68)	45 (74)	52 (64)
Discharged firearm	28 (30)	17 (39)	11 (21)
Peers present during offense	96 (69)	38 (64)	58 (72)
Regular marijuana use	61 (42)	39 (64)	22 (27)
Regular alcohol use	12 (8)	10 (17)	2 (3)
Substance use treatment	10 (7)	6 (10)	4 (5)
Deviant peers	111 (78)	50 (96)	61 (87)
Non-risk relevant mental health	102 (71)	43 (72)	59 (71)
Risk relevant mental health	83 (58)	42 (70)	41 (49)
Mental health treatment	73 (51)	35 (57)	38 (46)
History of employment	35 (35)	16 (36)	19 (35)
History of structured activities	35 (36)	26 (44)	19 (32)

When the judge's legal decision was regressed simultaneously on the category of offense, use of a firearm, age at the time of arrest, and amenability, the category of offense continued to be a significant predictor of the legal outcome, $b = 2.08$, $SE_b = .87$, $p = .017$. Youth with a charge in the category of "Murder and Attempted Murder" were 8.04 times more likely to remain in adult court than were youth with charges in the category of "Felony Assault, Felony with Weapon." Because the category of offense showed a clear and consistent relationship with the legal outcome across analyses, category of offense was used in subsequent analyses.

Results from logistic regression analyses were similar to those observed in correlation analyses. When the judge's legal decision was regressed simultaneously on the category of offense, use of a firearm, age at the time of arrest, and amenability, use of a firearm was not a significant predictor of the legal outcome, $b = .13$, $SE_b = .53$, $p = .81$; however, age continued to be a significant predictor, $b = 1.34$, $SE_b = .33$, $p < .001$, such that each year of age beyond 15 made youth 3.82 times more likely to remain in adult court. The evaluator's perspective on amenability also continued to be a significant predictor of the legal outcome; when the evaluator rated the youth's amenability as Moderate ($b = 2.94$, $SE_b = 1.16$, $p = .011$) or Mixed ($b = 3.04$, $SE_b = 1.15$, $p = .008$), as opposed to High, the youth was 18.82 or 20.94, respectively, times more likely to remain in adult court. Amenability rated by the evaluator as "Moderate to High" was not significantly associated with the legal outcome, $b = 1.40$, $SE_b = 1.17$, $p = .230$.

A model including age, category of offense, use of firearm, and amenability accurately classified 77.4% of youth as decertified or remaining in criminal court.

4.2 Primary Hypothesis 2

Evaluations were conducted by 11 doctoral level psychologists. Each evaluator completed between 1 and 46 reports, $M = 13$, $SD = 13$. Two evaluators completed only one report each, 1 completed 46, and the remaining 8 completed between 3 and 23 reports. Evaluators varied in the number of recommendations made. Individual evaluators' mean number of recommendations ranged from 2 to 5.3 recommendations per report. Individual reports included 1 to 7 recommendations, $M = 3.56$, $SD = 1.29$. The number of recommendations correlated with the legal decision, $r = .28$, $p = .001$. Youth who received more treatment recommendations were more likely to remain in adult court. As expected, all reports stated that the juvenile system could appropriately meet the treatment needs of the youth ($n = 141$) or provided no information about whether the juvenile or criminal court jurisdictions could meet the needs of the youth ($n = 3$). No evaluators stated that the youth was appropriate for treatment in the adult system.

All treatment recommendations fell into the following categories: education services, therapy (other than family-based treatment), family therapy, development of positive peer relationships, mentoring relationship, structured activities, substance use treatment, substance use education, and parent training. Only recommendations for education services ($r = .25$, $p = .003$), positive peer relationships ($r = .21$, $p = .014$), substance use treatment ($r = .34$, $p < .001$), and parent training ($r = .17$, $p = .040$), correlated significantly with the legal decision. In each case, the presence of the recommendation made youth more likely to remain in adult court.

To examine the independent influence of each of these factors, the legal decision was regressed simultaneously on category of offense, age at the time of arrest,

amenability, and one of the significantly correlated recommendations listed above¹⁵. Substance use treatment was the only specific recommendation to remain significantly associated with the legal decision when controlling for the influence of the other factors, $b = 1.67$, $SE_b = .56$, $p = .003$. The number of recommendations provided was also significantly associated with the legal decision when controlling for the effects of the other three variables, $b = .63$, $SE_b = .22$, $p = .004$. Education services ($b = 1.38$, $SE_b = .99$, $p = .164$) and positive peer relationships ($b = -.01$, $SE_b = .64$, $p = .994$) were not significantly associated with the legal decision.

4.3 Analysis of Exploratory Hypotheses

Correlation analyses were used to examine the importance of other factors listed in the Pennsylvania Juvenile Act and those considered within the provision of “any other relevant factors.” Pearson r correlations were calculated to examine the relationship between the legal decision and factors that were continuous or had more than two categories. Phi was calculated to examine the relationship between the dichotomous legal decision and dichotomous factors. See Table 2 for a list of factors and the observed correlations.

¹⁵ Parent training was only recommended for three youth, a number too small to allow for regression analyses.

Table 2

Correlations between Factors and the Legal Decision

PA Juvenile Act Factor	<i>r/ r_φ</i>	Other Relevant Factors	<i>r/ r_φ</i>
A. Impact on Victims	.01 ^a	G.IX. Any Other Relevant Factor	
B. Impact on Community		Gender	-.05
Most serious charge	-.06	Race	.03
Category of offense	.23**	Appearance (relative to age)	.05
C. Threat to Safety		School status	.27***
Risk assigned by evaluator	.36***	Academic abilities	-.84 -.05
D. Nature & Circum. of Offense		Alcohol use	.28***
Youth's role in offense	-.17*	Marijuana use	.37***
Weapon used (Y/N)	.14	Other substance #1	.23***
Firearm used (Y/N)	.10	Other substance #2	.51*
Peers Present (Y/N)	-.06	Other substance #3	.74*
E. Degree of Culpability		Substance use treatment	.10
Reduced culp. noted (Y/N)	.02	Family support	.06
F. Adequacy of Dispos. Altern.		Deviant peer relationships	.16
Placement recommendation	.24*	Trauma (Y/N)	.17*
G. Amenability to Juvenile Treat.	-.42***	Number trauma experiences	.16
G.I. Age	.40***	Mental health diagnosis	
G.II. Mental Capacity		Risk-relevant	.21*
IQ score	.02	Non-risk-relevant	.01
G.III. Maturity	-.18*	Mental health treatment	-.10
G.IV. Degree Sophistication	.07	Employment	.02
G.V. Previous Record		Structured activity	.19
Age first arrest	-.13	Number recommendations	.28***
Number previous arrests	.38***		
Most serious charge	.04		
G.VI. Extent Delinquent History/ Success or Failure of Treatment			
Probation	.37***		
Probation violated in past	.28		
Out of home placements			
Delinquent	.28***		
Dependant	.08		
Mental health	.21*		
G.VII. Rehabilitation before juvenile jurisdiction expires			
Evaluator recommendation	-.21		
G.VIII. Probation, Institutional Reports			
Institutional escape	.13		
Institutional misconduct	.14		

* $p < .05$, ** $p < .01$, *** $p < .001$

Note: Phi values are reported in italics

4.3.1 Juvenile Act Factors

The role that the youth played in the offense (primary or non-primary) and the maturity of the youth both correlated significantly with the legal decision. Additionally, recommendations made by the evaluator (risk level assigned and placement recommendations), several factors related to youths' delinquent histories (number of previous arrests, number of previous delinquent placements, and history of probation), and the number of mental health placements all correlated significantly with the legal decision (See Table 2).

To examine the independent influence of each of these factors, each of the significant factors described above was added to the final regression model described in the primary hypotheses. Use of a firearm was not included in this model because, across analyses, it was not a significant predictor of the legal decision. Thus, the legal decision was regressed simultaneously on category of offense, age at the time of arrest, amenability, and one of the significantly correlated factors listed above. Eight regression analyses were conducted. Table 3 lists the regression weights for each factor when it was added to the larger model. Only three factors were significantly associated with the legal decision when controlling for the other factors in the model; risk level was significantly associated with the legal decision such that for every increase in risk level (e.g., from low to moderate), youth were 2.07 times more likely to remain in adult court; a history of probation was associated with a 5.46 increase in likelihood to remain in adult court; and each prior delinquent placement was associated with a 1.97 increase in likelihood to remain in adult court.

The three significant predictors were added to the larger model and the legal decision was regressed simultaneously on age at the time of arrest, number of delinquent

placements, risk level assigned by the evaluator, category of offense, amenability, and history of placement on probation (see Table 3 for results). This full model accurately classified 83.7% of youth as decertified or remaining in adult court. Only age at the time of arrest ($OR = 6.14$), category of offense ($OR = 60.39$), amenability rated by the evaluator as moderate ($OR = 17.01$), and a history of probation ($OR = 7.75$) were significantly associated with the legal decision. Older youth, youth who committed offenses in the most serious category, youth with a history of probation, and youth rated by evaluators as having only moderate amenability to treatment were more likely to remain in adult court.

Table 3

Juvenile Act Factor Regression Values

Factor	<i>b</i>	<i>SE_b</i>	<i>p</i>	<i>OR</i>
Maturity	.62	.56	.265	
Threat to safety (risk)	.72	.32	.023	2.07
Rec. for juvenile placement	.079	1.35	.954	
Number previous arrests	.281	.15	.070	
History of probation	1.70	.58	.003	5.46
# Delinquent placements	.680	.32	.037	1.97
# Mental health placements	1.13	.57	.050	
Full Model				
Age	1.82	.47	<.001	6.14
# Delinquent placements	.57	.45	.210	
Threat to safety (risk)	.17	.38	.658	
Category of offense	4.10	1.51	.007	60.39
“Mixed” amenability	1.53	1.37	.262	
“Moderate” amenability	2.83	1.41	.040	17.01
“Moderate to high” amenability	.99	1.36	.46	
Probation	2.05	.89	.022	7.75

4.3.2 “Other Relevant Factors”

Table 2 lists all the factors explored under the Juvenile Act provision of “any other relevant factors.” Only a few factors were significantly associated with the legal decision. Notably, gender and race were not significantly associated with the legal decision. School status was significantly correlated with the judge’s decision. Youth who reported alcohol, marijuana, and other substance use were also more likely to remain in adult court. “Other substances” were recorded in an open ended fashion based on the number of different substances of use reported in the juvenile’s file. In order to have a substance listed on “Other Substance 3,” records must have indicated at least two other substances of use. The highest correlation with the legal decision was observed for “Other Substance 3.” Youths whose records reported this type of poly-substance use were more likely to remain in adult court. It is important to note that only a small number of subjects reported this level of substance use.

A history of experiencing potentially traumatic events, but not the number of potentially traumatic experiences, was significantly associated with the legal decision. The presence of a risk relevant mental health diagnosis was correlated with the legal decision such that youth with these diagnoses were more likely to remain in adult court. Substance use disorders were included in this category of risk relevant disorders. Because of the relationship observed between substance use history and the legal decision, youth whose only risk-relevant diagnosis was a substance use disorder were removed from the category for this analysis. Once these subjects were removed, the correlation with the legal decision was no longer significant, $r_{\phi} = .15, p = .078$.

Again, to examine the independent influence of each of these factors, each of the significant “other factors” described above was added to the final regression model

described in the primary hypotheses (use of a firearm was not included). The legal decision was regressed simultaneously on category of offense, age at the time of arrest, amenability, and one of the significantly correlated factors listed above. Seven regression analyses were conducted. Table 4 lists the regression weights for each factor when it was added to the larger model. Only marijuana use was significantly associated with the legal decision when controlling for the other factors in the model. Youth reporting regular marijuana use were 8.54 times more likely to remain in adult court than were youth who denied using marijuana. Despite the high correlations observed, the other substance use factors were not significantly associated with the legal decision. This is likely influenced by the small number of youth for whom this level of substance use was reported. Only 18 youth reported regular use or experimentation with one other substance, and only 4 reported these types of use with a third substance.

Marijuana use was added to the significant predictors from the model tested in exploratory hypothesis 1. The legal decision was regressed simultaneously on age at the time of arrest, category of offense, amenability, history of placement on probation, and marijuana use (see Table 4 for results). This model accurately classified 80% of youth as decertified or remaining in adult court; however, only age at the time of arrest ($OR = 3.93$), category of offense ($OR = 20.67$), history of probation ($OR = 4.76$) were significantly associated with the legal decision. As previously observed, older youth, youth who committed offenses in the most serious category, and youth with a history of probation were more likely to remain in adult court. Only marijuana use was significantly associated with the legal decision when controlling for the other factors in the model. Youth reporting regular marijuana use were 8.54 times more likely to remain in adult

court than were youth who denied using marijuana. Despite the high correlations observed, the other substance use factors were not significantly associated with the legal decision. This is likely influenced by the small number of youth for whom this level of substance use was reported. Only 18 youth reported regular use or experimentation with one other substance, and only 4 reported these types of use with a third substance.

Marijuana use was added to the significant predictors from the model tested in exploratory hypothesis 1. The legal decision was regressed simultaneously on age at the time of arrest, category of offense, amenability, history of placement on probation, and marijuana use (see Table 4 for results). This model accurately classified 80% of youth as decertified or remaining in adult court; however, only age at the time of arrest ($OR = 3.93$), category of offense ($OR = 20.67$), and history of probation ($OR = 4.76$) were significantly associated with the legal decision. As previously observed, older youth, youth who committed offenses in the most serious category, and youth who had a history of probation were more likely to remain in adult court.

Table 4

“Other” Factor Regression Values

Factor		<i>b</i>	<i>SE_b</i>	<i>p</i>	<i>OR</i>
School					
	Not enrolled	.91	.81	.258	
	Not attending	.11	1.01	.913	
	Attending occasionally	-.17	.65	.797	
Alcohol					
	Regular use	1.61	1.01	.110	
	Tried	.37	.52	.475	
Marijuana					
	Regular use	2.14	.81	.008	8.54
	Tried	1.53	.84	.067	
Other Substance #1					
	Regular use (n = 7)	18.68	5256	.997	
	Tried (n = 11)	1.55	.82	.060	
Other Substance #2					
	Regular use (n = 3)	18.61	7196	.998	
	Tried (n = 6)	-17.44	5935	.998	
Other Substance #3					
	Regular use (n = 1)	38.82	0	---	
	Tried (n = 3)	0	---	---	
Trauma					
		-.65	.68	.337	
Full Model					
Age		1.37	.37	<.001	3.93
Category of offense		3.03	1.02	.003	20.67
Amenability					
	“Mixed”	1.85	1.25	.140	
	“Moderate”	2.05	1.23	.096	
	“Moderate to high”	.79	1.24	.520	
Probation		1.56	.63	.014	4.76
Marijuana					
	Regular use	1.59	.82	.056	
	Tried	1.61	.86	.061	

4.3.3 Mental Health Information

The influence of most mental health-related variables was explored above, and, for the most part, mental health related factors reported by evaluators were not significantly associated with the legal decision. To summarize these results, neither intelligence scores nor a history of mental health treatment was significantly associated with the legal decision. Fifty-one percent of youth reported that they had been in mental health treatment of some kind (38% outpatient treatment, 25% medication, 14% inpatient hospitalization, 6% family therapy), and no mental health treatment information was provided for 7% of the sample. The number of mental health placements (range: 0-4, mode: 0) was correlated with the legal decision, but was not significantly associated with the legal decision in regression analyses controlling for other predictors. Similarly, reports indicated that 80% of youth had experienced at least one potentially traumatic event. The presence of this type of experience was correlated with the legal decision, but was not significant in regression analyses when controlling for other variables.

An absence of mental health problems was noted for 14% of youth, 1% had no information reported, 26% were diagnosed with a non-risk relevant mental health disorder, 16% with a risk-relevant disorder, and 43% were diagnosed with both types of disorders. The presence of a risk relevant diagnosis was positive correlated with the likelihood of remaining in adult court, but was not significant in regression analyses. When substance use disorders were removed from this category, risk relevant diagnoses no longer correlated with the legal decision.

4.3.4 Exploratory Hypothesis 4

To identify “atypical” cases, the four factors consistently associated with the legal decision (category of offense, amenability assigned by the evaluator, probation, and age) were reviewed. Cases that violated the typical relationship between the factor and the legal decision were examined. For example, because youth with histories of probation were more likely to remain in adult court, I examined the cases of youth with histories of probation that were decertified. Although it is impossible to ascertain exactly which factors overrode the judge’s typical decision-making process, the goal was to identify factors that may have been influential in these atypical decisions to decertify.

Generally, I observed a trend that if one of the four factors had an atypical relationship with the legal decision (e.g., the youth was 17 and decertified), the other three factors tended to have a typical relationship with the legal decision (e.g., that same youth had never been on probation, committed an offense in the less serious category, and was rated as highly amenable to treatment). For example, only four youth committing offenses in the most serious category of Murder and Attempted Murder were decertified. Two of these youth were 15 years of age (i.e., younger youth) and had never been on probation, factors significantly associated with decertification. The other two youth were 16 and 17 years of age, but had intellectual difficulties clearly noted in their reports. Most youth who were decertified and had amenability rated by the evaluator as “moderate” had either no history of probation, were 15 years of age, or had IQ scores below 70.

Nineteen youth with histories of probation were decertified. Most of these youth committed offenses in the category of felony assaults, 80% were age 15 or 16, with none over the age of 17.5, and most (80%) had never had a delinquent placement. I examined

in detail the cases of the three youth with histories of probation, who had 2 or more delinquent placements, and were decertified. One youth had never been formally arrested before and appeared to have been on probation for dependency-related issues. The other two youth had significant documented histories of abuse and neglect and were described as having moderate amenability to treatment. One of these youth had 8 prior arrests beginning at the age of 10. It is unclear why his case was decertified, but his record was remarkable in the documentation of his successful employment history.

The final factor examined was age. Only six 15 year olds (off the 44 included in this study) had their cases remain in adult court. All six were described by the evaluator as having low to moderate amenability, and moderate to high risk for re-offense. Half of them had been on probation in the past, and all but one youth had prior arrests. The one 15 year old with no prior arrests who remained in adult court shot his victim in the head and face, reported regular substance use, and was described as at moderate risk for re-offense. At the other end of the age range, the cases of youth ages 17.5 and older who were decertified to juvenile court were examined. Seven of the eight youth in this category had never been on probation. Most were rated as having moderate to high amenability to treatment.

5 DISCUSSION

This study had two primary aims. First, to examine the factors associated with decertification decisions in Philadelphia County, a county in which large numbers of youth are charged as adults each year. The second goal was to extend the existing research on decertification decisions by examining which factors are correlated with this type of legal decision when controlling for the effects of other factors. It is hoped that

results of this study can contribute to a “feedback loop” (Brannen et. al., 2006) that may inform judges, lawyers, and psychologists conducting forensic evaluations about the factors relevant in these legal decisions and how those factors compare to identified risk factors for recidivism. The current study is a description of what is occurring in one county. It is important to remember that there is no value judgment placed on the outcome. That is, this study describes what occurs in these cases but does not examine whether this was the “correct” outcome. Such an evaluation would require following youth through adjudication, through treatment/incarceration, and to release to evaluate the outcomes of the decertification decisions on recidivism, adjustment, and other individual and community-oriented variable. Instead, this study provides a description of what occurs in these cases and which factors seem to be associated with the legal decision. This study provides a model by which future research can examine the same decisions in other jurisdictions.

The sample included in this study appears to be fairly typical of youthful offenders charged as adults and represented by the public defender’s office in Philadelphia, but included higher rates of female offenders and minority youth than did previous research, state data, or national data on youth in adult court (Bureau of Justice Statistics, 1998; Jordan & Meyers, 2007). The higher proportion of female offenders observed in the current study may be due to the increasing number female juveniles entering the justice system (Stahl 2008). The higher rates of minority youth may reflect some unique aspect of the county or of the youth who are represented by the public defender’s office; alternatively, it may reflect disparities at other points in the justice system (Podkopacz & Feld, 2006). Defender Association records indicate that, since direct file laws went into

effective in 1996, 84% of youth represented for adult charges were African-American, and 89% were minority youth (D.Rosen, J.D., personal communication, May 21, 2010). The average age of youth in this sample was similar to that in other studies of Pennsylvania youth charged as adults (Jordan & Myers, 2007).

The observed percentage of youth decertified (58%) was typical of the decisions in decertification cases represented by the public defender's office. The Defender Association has observed a consistent trend over the past eight years, with approximately two-thirds of their cases returned to the juvenile courts by negotiated agreement or through the decertification hearing process that was examined in this study (D. Rosen, J.D., personal communication, May 21, 2010).

5.1 Factors Associated with Decertification

Generally, results suggest that decertification decisions in Philadelphia were based on factors similar to those noted by previous research as relevant to legal decisions (e.g., Clarke, 1996; Fritsch, Caeti & Hemmens, 1996; Jordan & Myers, 2007; Singer, 1996; Snyder, Sickmund, & Poe-Yamagata, 2000; Sridharan, Greenfield, & Blakely, 2004). This jurisdiction-specific research provides detailed information about which factors were associated with decisions in Philadelphia County. It also suggests that some factors associated with legal decisions in previous research may not influence decisions when controlling for other factors.

As hypothesized, consistent with prior research, category of offense and age were consistently associated with the legal decision. Youth committing more serious offenses were more likely to remain in adult court. This is consistent with the general wisdom that past behavior is the best predictor of future behavior. Furthermore, recent research

suggests that the level of prior offending is related to community adjustment post-legal sanctions (e.g., probation, incarceration) and that this may be an important factor to consider in transfer and decertification cases (Schubert, Mulvey, Loughran, Fagan, Chassin, Piquero, et al, 2010). As seen in previous research (e.g., Fagan & Deschenes, 1990; Myers, 2003), older youth were consistently more likely to remain in adult court. In many ways, this relationship is a logical one. Youth who are 17 or 18 at the time of their disposition have less time for rehabilitative interventions before they age-out of the juvenile system, even with current Pennsylvania policies that allow court to extend their supervision until the age of 21.

Intuitively, older youth are more adult-like, and, thus, it could seem to the judge that they are, or should be, accountable in a manner similar to adults. In contrast, however, the risk literature suggests that the relationship between age and future offense is a complicated one. Younger age at first commitment and younger age at first contact with the law are the two factors with the strongest relationships with recidivism. Thus, if a youth is nearly 18 years of age and coming in contact with the law for the first time, he actually may be at lower risk for re-offense than would a 15 year-old with four prior arrests that began at age 10. For this reason, considering age alone can be misleading. As a risk factor for recidivism,¹⁶ age may need to be evaluated in the context of delinquent history. Analyses of atypical cases suggest that age is being considered this way in many Philadelphia cases.

One measure of delinquent history, prior probation, was consistently associated with legal decisions in Philadelphia County. This factor has not been examined in prior

¹⁶ Judges must consider other issues, such as community safety and retribution. Age may weigh differently in these considerations.

research. It appears that, at least in this county, youth who have been on probation and subsequently re-arrested may be viewed by the judge as either not amenable to treatment or at high risk for recidivism. Several legal factors correlated with the decertification decision in previous research (e.g., role in index offense, school involvement, prior delinquent placements, number of previous arrests) appeared to be correlated with the decision in this study, but were not significantly associated with the legal outcome in analyses that controlled for the effects of age, amenability, and category of offense. It is possible that the differences observed are due to unique characteristics of this county. Alternatively, previous research may have been affected by spurious correlations between factors. If the latter is true, results highlight the importance of controlling for the influence of multiple predictor variables when examining this complicated legal decision-making process.

Contrary to some prior research (Singer, 1996), gender was not associated with decertification decisions in this sample. Findings regarding the influence of race have varied in past research (Jordan & Myers, 2007); consistent with some of these findings (e.g., Fagan, 1990; Podkopacz & Feld, 1996), race was not associated with the legal decision when the sample was composed largely of minority youth. However, there may not have been enough variability in the racial make-up of the sample to detect race effects if they existed. Weapon use, noted as an important factor in previous Pennsylvania research (Snyder, Sickmund, & Poe-Yamagata, 2000), was not associated with the legal decision, nor was age at first arrest. It appears that the judge in Philadelphia may not consider these offense- and legal history-related factors to be indicative of a youth's amenability to treatment, as broadly defined by the Pennsylvania Juvenile Act. Clearly,

some aspects of prior delinquent history are considered by the judge, but factors such as placement on probation and the type of offense committed appear to be more influential in this county. Of the factors listed for consideration under amenability to treatment in the Juvenile Act, age and history of probation appear to be most strongly related to the judge's decision. Another significantly associated factor, category of offense, could have been considered under the statute factor of criminal sophistication. Amenability, as a construct determined by the evaluator, was also significantly associated with the legal decision.

The findings regarding the role of weapon use are difficult to interpret. A weapon was used in 96% of cases (a firearm in 68%). This reflects the charges that are subject to direct file in adult court, but the high rates of weapon and firearm use may also reflect which youth arrive at a decertification hearing (and do not have the case settled via another mechanism). Nonetheless, once at a hearing, it appears that weapon use as a single variable did not over-shadow other factors listed in the Pennsylvania Juvenile Act. It also is possible that the limited variability in the high rate of weapon use in this sample limited the ability to detect the effect of weapon use on the legal decision. The more specific variables of firearm use and discharge of the firearm during offense were also examined and were not associated with the legal decision.

Previous research has not examined the role of substance use in these decisions. Substance use is a risk factor for recidivism (Cottle, Lee, & Heilbrun, 2001), but is not specifically mentioned for consideration in the Pennsylvania Juvenile Act. Arguably, substance use could be considered under the provision that allows for consideration of the adequacy of services available in the criminal and juvenile systems or under the provision

that allows for the consideration of the nature of delinquent history (i.e., any substance use by a minor is illegal activity). Substance use would certainly fall under the provision of “any other relevant factor.” Reports varied in the level of detail provided about substance use and, generally, included only youths’ self reports of use. When information was provided, strong correlations were seen between reported marijuana, other substance use, and the legal decision. Regular marijuana use was an important predictor in analyses controlling for age, amenability, and category of offense, but was no longer associated with the decision when probation was included in analyses. This prioritization of legal-history variables is in line with recent research finding that this type of variable (e.g., age at first arrest, prior delinquencies) is associated with re-institutionalization and return to antisocial activity post-release (Schubert et al, 2010). Substance use was not correlated these outcome variables (Schubert et al, 2010). This research suggests that substance use may not be a strong predictor of future behavior, but it is a clear treatment need, one that could be targeted in the rehabilitative focus of the juvenile system. Currently, substance use appears to be considered a risk factor (making youth more likely to remain in adult court), and not a target for treatment and intervention. Future research is needed to examine how substance use is considered in other areas and if it can be effectively treated in the juvenile system. The way substance use is considered in legal decisions may vary with the treatment resources available in different jurisdictions.

5.2 Mental Health Information and Evaluator Recommendations

The expected “file drawer” effect was observed; no reports recommended that the youth remain in adult court. As expected, evaluators’ recommendations were associated

with the judge's decision. The more treatment recommendations offered, the more likely the youth was to remain in adult court. Recommendations for substance use treatment specifically (not for substance use education) were associated with a greater likelihood of remaining in adult court.

These results raise the questions, noted above, about how treatment needs should be considered in this type of evaluation. When considering placement in the rehabilitative juvenile system, should more recommendations for substance use treatment, therapy, positive peers, mentoring relationships and other interventions make youth more likely to be tried in the non-rehabilitative adult system? Treatment needs can be conceptualized as risk factors (i.e., problems currently present). Conversely, the same treatment needs can be considered targets for intervention that could significantly impact outcome -- that is, problems for which rehabilitative efforts could make a real difference. Currently, the risk-factor conceptualization appears to be at work in Philadelphia County, and this process needs to be examined in other areas. Research is needed to identify the treatment needs that are addressed within the juvenile justice system, and the effects of that treatment. If future research suggests that certain treatment needs can be effectively met in the justice system, judges may be willing to shift to the latter conceptualization of treatment needs. Similarly, when certain factors are absent (e.g., family support, structured activities) or present (e.g., deviant peers, substance use) they present a risk for delinquency. The converse of these factors, however, can be protective. Currently, known protective factors (e.g., older age at first contact with the law, family support, structured activities, employment, positive peer relationships) do not seem to impact the

judge's decision-making in these cases. Such factors may need to be emphasized in the future.

Some research has suggested that mental health information provided by evaluators is influential to judge's decision-making (Hecker & Steinberg, 2002). Previous transfer and decertification research has not specifically examined this question. In this sample, certain mental health-related factors (e.g., substance use, number of treatment recommendations) were influential to the legal decision. Other mental health related information provided by psychologists (IQ, treatment history, and diagnoses other than substance use) did not seem to impact decertification decisions in this county. This study did not examine the quality of reports provided to the courts. Factors such as the expertise of the evaluator, quality of the evaluation, and clarity of the report may affect the way judges utilize the information provided and the extent to which they rely on information provided by the evaluator.

5.3 Limitations

There are a number of limitations that affect the interpretation and generalization of this study's results. First, it is important to recognize that the goal of the proposed study was not to provide results generalizable outside Philadelphia; it was to provide valuable information to parties involved in the decertification process within Philadelphia County. Thus, results are reflective of one specific jurisdiction and the unique procedures in this locale. In Philadelphia County, forensic mental health evaluations, typically, are conducted by experts hired by the defense; in contrast, in many jurisdictions, forensic mental health evaluations are conducted by court-appointed evaluators; in yet other jurisdictions, forensic evaluations may rarely occur. Nonetheless, Jordan and Myers

(2007) found that decertification decisions did not differ across the three Pennsylvania counties they examined, suggesting that, although generalizability should not be assumed, results of this Philadelphia County study may be somewhat applicable to decertification decisions in other Pennsylvania counties. At the very least, because all counties in the state are required by law to consider the same factors set-out in the Pennsylvania Juvenile Act, this study provides a model by which to evaluate decisions in other counties. This study also provides a model by which other states can examine decertification proceedings, adjusting the coding scheme to reflect their own relevant state statutes.

Another limitation of this study is that only youth represented by the Philadelphia Defender Association were included in the sample; Jordan and Myers (2007) found that youth represented by the public defender were more likely to be decertified than were youth represented by private attorneys. They speculated that public defenders may request more decertification hearings or that they may be more familiar with the decertification procedures and have a team of juvenile lawyers specializing in the area (as there is in Philadelphia). Therefore, rates of decertification in the county may not be generalizable to youth represented by privately retained attorneys. Nevertheless, the factors associated with the judge's decision should not differ by counsel. When drawing conclusions from this study, it is important to consider that it examined a very specific group of youth represented by the public defender, those youth who had a decertification hearing. Almost half of youth represented by the public defender's office for adult charges have their cases decided before the hearing stage. Youth whose cases reach a

decertification hearing may differ from other youth in important ways, and results may not generalize to decision-making at other stages of the process.

Finally, although the purpose of this study was to examine how the factors established in the Act are associated with decertification decisions, some factors listed in the statutes are vague and lack operational definitions (i.e., degree of culpability, degree of sophistication). Others, such as amenability to treatment, require professional judgment and synthesis of available resources. In these cases, coders recorded the conclusions reached by the evaluating psychologist, an expert who was hired by the defense. When interpreting these results, it is important to consider the unique procedures in place in this county that allow the public defender's office to retain an expert and use his or her report only if it is beneficial to the youth's case. If a second evaluation ordered by the prosecution was included in the youth's file, it was used only as a secondary source of data to provide further details on the youth's history. Although the conclusions of the evaluator are impossible to verify, they provide the best available information and were reached by practitioners after face-to-face interviews with each youth. Additionally, these conclusions represent the information presented directly to the judge at the decertification hearing. As such, they maintain the study's focus on how judge's use presented information.

Despite these clear limitations, this study offers an examination of how the factors mandated by the Juvenile Act are associated with decertification decisions in Philadelphia County. The intended purpose of this jurisdiction-specific research was to provide useful information to the parties involved in decertification hearings in Philadelphia County and to provide a model for future jurisdiction-specific research.

Results suggest that age, amenability as described by the evaluator, category of offense, and history of probation are uniquely influential to decertification decision-making in this county. In making decertification decisions, the judge appears to have considered and weighted a number of complicated factors.

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7 APPENDIX A

Coding Scheme