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Juvenile Transfers in Florida: The Worst of the Worst?

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JUVENILE TRANSFERS IN FLORIDA: THE WORST OF THE WORST?

*Lonn Lanza-Kaduce, Charles E. Frazier,
Donna M. Bishop**

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I. THE SIGNIFICANCE OF TRANSFER

In the United States, some form of waiver of juvenile jurisdiction, or transfer of youth to criminal jurisdiction, has been available in most states since the inception of their juvenile courts around the turn of the last century.¹ From the beginning, transfer to criminal court was regarded as necessary to remove serious and violent offenders who were thought to be too dangerous or too intractable for the juvenile justice system.² Transfer

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1. See BARBARA FLICKER, *CURRENT POLICY ISSUES: TRANSFERRING JUVENILES TO ADULT COURT FOR TRIAL* (1983); Julian W. Mack, *The Juvenile Court*, 23 HARV. L. REV. 104, 109 (1909).

2. See David S. Tanenhaus, *The Evolution of Waiver in the Juvenile Court*, in *THE CHANGING BORDERS OF JUVENILE JUSTICE: TRANSFER OF ADOLESCENTS TO CRIMINAL COURT* (Jeffrey Fagan & Franklin E. Zimring eds., forthcoming 1999).

was available for the most serious offenders, the "worst of the worst."³ Transfer was rarely used and remained nonproblematic as long as the juvenile justice system had a more or less shared notion of intractability and dangerousness and as long as "it remained firmly grounded in a *parens patriae* orientation."⁴ Support for the *parens patriae* philosophy has since eroded.⁵ Now, on the brink of a new century, transfer has become a pivotal issue, driving the most recent reform movement.⁶

Between 1992 and 1995, forty-one states enacted provisions to facilitate the trial of juveniles as adults in criminal court.⁷ This was pursued in three basic ways: the expansion of judicial waiver, for example, as through presumptive judicial waiver statutes; the legislative exclusion of cases either by lowering the maximum age of juvenile justice jurisdiction from seventeen to fifteen or sixteen or by excluding some offenses, for example, murder, from juvenile court jurisdiction; and the authorization of prosecutors to file charges directly in criminal court.⁸

The impact of the recent expansion of judicial waiver has been mixed. The number of cases judicially waived increased 73% from 6800 cases in 1987 to 11,700 cases in 1994.⁹ The number then decreased in 1995 to about 9700 cases before rebounding somewhat to 10,000 cases in 1996.¹⁰ When the number of judicially waived cases was examined as a percentage of all juvenile cases, the percentage remained low throughout the period (less than 1.5%).¹¹ Judicial waiver, however, represents just the tip of the iceberg.

Legislative exclusion and prosecutorial direct file have a far greater

3. *Id.* We do not intend to define what is meant by the "worst of the worst." Rather we are content with examining some dimensions of seriousness that have relevance for transfer decisions, including the initial charges, the circumstances surrounding the offense, prior records, case processing events, and background information. We believe the data raise questions about whether transfer in Florida is reserved for the most serious offenders.

4. Donna M. Bishop et al., *Juvenile Justice Under Attack: An Analysis of the Causes and Impact of Recent Reforms*, 10 U. FLA. J.L. & PUB. POL'Y 129, 131 (1998).

5. *See id.*; Barry C. Feld, *The Juvenile Court Meets the Principle of Offense: Legislative Changes in Juvenile Waiver Statutes*, 78 J. CRIM. L. & CRIMINOLOGY 471, 472 (1987) [hereinafter Feld, *Legislative Changes*]; Barry C. Feld, *The Juvenile Court Meets the Principle of the Offense: Punishment, Treatment, and the Difference It Makes*, 68 BOSTON L. REV. 821, 852 (1988).

6. *See* PATRICIA TORBET ET AL., STATE RESPONSES TO SERIOUS AND VIOLENT JUVENILE CRIME 3 (1996).

7. MELISSA SICKMUND ET AL., U.S. DEP'T OF JUSTICE, OJJDP, JUVENILE OFFENDERS AND VICTIMS: 1997 UPDATE ON VIOLENCE 30 (1997).

8. *See id.*; TORBET ET AL., *supra* note 6, at 4.

9. *See* ANNE L. STAHL, U.S. DEP'T OF JUSTICE, OJJDP FACT SHEET, DELINQUENCY CASES WAIVED TO CRIMINAL COURT, 1987-1996, Apr. 1999, at 1.

10. *See id.* These statistics focus only on judicial waivers and do not include estimates of cases that were either legislatively excluded from juvenile jurisdiction or directly filed in criminal court. *See id.*

11. *See id.*

potential to affect the processing of juvenile offenders. Over a span of only a few years, legislatures in thirty-two states modified their statutes to lower the age limit of juvenile justice jurisdiction, or increase the range of offenses excluded from juvenile jurisdiction, or both.¹² Estimates for 1991 indicated that 176,000 youths were brought into criminal court by lower age jurisdictions.¹³

The potential impact of expanding the direct file authority of prosecutors has been documented most clearly in Florida.¹⁴ In 1980, less than 3% of the nearly 43,000 delinquency filings in Florida were transferred to criminal court and only about half of the transfers had charges filed directly by the prosecutor.¹⁵ By 1987, over 7% of the more than 57,000 delinquency filings resulted in transfer and over 88% of the charges were filed directly by the prosecutor.¹⁶ In 1993, almost 9% of the nearly 75,000 delinquency filings resulted in transfer to criminal court, and 93% of the cases were directly filed by the prosecutors.¹⁷ From July 1994 through June 1995, over 5000 youths, involved in more than 7000 cases, were transferred to criminal court, over 90% of the time by direct files.¹⁸

Prosecuting juveniles as adults in criminal court is no longer an unusual occurrence, especially where age jurisdictions have been lowered, where offenses have been legislatively excluded from juvenile jurisdiction, and where direct file has become available.¹⁹ Although some maintain that transfer ought to be reserved for exceptional cases in the juvenile system (and in this sense even liken transfer to capital punishment in the adult system),²⁰

12. See TORBET ET AL., *supra* note 6, at 4.

13. See HOWARD N. SNYDER & MELISSA SICKMUND, U.S. DEP'T OF JUSTICE, JUVENILE OFFENDERS AND VICTIMS: A NATIONAL REPORT 88 (1995).

14. See JUVENILE JUSTICE ADVISORY BOARD, 1996 ANNUAL REPORT AND JUVENILE JUSTICE FACT BOOK 64-65 (1996) [hereinafter 1996 ANNUAL REPORT]; JUVENILE JUSTICE ADVISORY BOARD, 1994 ANNUAL REPORT AND JUVENILE JUSTICE FACT BOOK 122 (1994); Donna M. Bishop & Charles E. Frazier, *Transfer of Juveniles to Criminal Court: A Case Study and Analysis of Prosecutorial Waiver*, 5 NOTRE DAME J.L. ETHICS & PUB. POL'Y 281, 286 (1991); Donna M. Bishop et al., *Prosecutorial Waiver: Case Study of a Questionable Reform*, 35 CRIME & DELINQ. 179, 182 (1989); Lon Lanza-Kaduce et al., *Changes in Juvenile Waiver and Transfer Provisions: Projecting the Impact in Florida*, 18 L. & POL'Y 137, 138 (1996); Charles E. Frazier, *Deep End Juvenile Justice Placements or Transfer to Adult Court by Direct File: A Report to the Florida Commission on Juvenile Justice 1* (1991) (unpublished manuscript, on file with the author).

15. See Bishop et al., *supra* note 14, at 183.

16. See *id.*

17. See 1996 ANNUAL REPORT, *supra* note 14, at 66.

18. See Donna M. Bishop et al., *Juvenile Transfers to Criminal Court Study: Phase I*, at 1 (1998) (unpublished manuscript, on file with the author). This amounted to 10% of juvenile offenders who were handled judicially in the state. See *id.*

19. See Franklin E. Zimring, *The Treatment of Hard Cases in American Juvenile Justice*, 5 NOTRE DAME J.L. ETHICS & PUB. POL'Y 267, 272-75 (1991).

20. See *id.* at 279.

the evidence indicates that the practice is becoming common and perhaps even routine.²¹ Thus, transfer warrants close study.

Transfer raises questions about fairness and effectiveness that deserve careful scrutiny. “[W]aiver reforms assume that the transfer of juveniles to criminal court can work to make the administration of justice more fair, and more effective in controlling and preventing serious juvenile crime.”²² However, the reforms might be a reflection of “the personal and institutional goals of politicians and other opinion leaders . . . [more] than a rational reaction to any real crisis.”²³

Two basic questions concerning fairness are how “bad” are transferred youth and are they sufficiently “bad” to require their removal from the juvenile justice system? To answer these questions, information needs to be collected that describes transfers accurately, but neither question can be answered in the absolute. Even if transferred youth were “bad” (as measured by some agreed upon objective criteria), they might not be “worse” than many who are retained in the juvenile system. Thus, the two questions should be combined and recast: Are transferred youths the worst of the worst?

Some research suggests that not all transferred youths are the most serious offenders, even if seriousness is defined broadly. In Howell’s recent review of thirty-six studies of judicial waiver, for example, at least ten percent of the cases across the various jurisdictions did not involve either violent offenders or serious property offenders.²⁴ In Florida, where direct filing is the primary method of transfer,²⁵ the percentage of cases transferred for misdemeanor offenses remains over fifteen percent, although it has declined since the last decade.²⁶ The empirical record, at least at first glance, casts some doubt on the conclusion that transfer is reserved for the worst of the worst.

Doubts also can be raised about the effectiveness of transferring youth to criminal court relative to retaining them in the juvenile system. Although recidivism is not the only measure of outcome effectiveness,²⁷ it remains a critically important policy consideration. Policymakers need and want to

21. See SICKMUND ET AL., *supra* note 7, at 29-30.

22. Simon I. Singer, *Merging and Emerging Systems of Juvenile and Criminal Justice*, 18 L. & POL’Y 1, 11 (1996).

23. G. Larry Mays & Peter R. Gregware, *The Children’s Code Reform Movement in New Mexico: The Politics of Expediency*, 18 L. & POL’Y 179, 179 (1996).

24. See James C. Howell, *Juvenile Transfers to the Criminal Justice System: State of the Art*, 18 L. & POL’Y 17, 21 (1996).

25. See Bishop et al., *supra* note 14, at 183 (stating that in 1987, nearly 90% of transfer were made through direct file).

26. See Bishop et al., *supra* note 18, at 51.

27. See Singer, *supra* note 22, at 9-11.

know whether retention in the juvenile court or transfer to criminal court is more effective in preventing recidivism. To date, the only studies directly on point suggest that transfer may actually aggravate recidivism.²⁸

These studies have received a great deal of attention as states and the federal government struggle with ways to deal with serious and violent juvenile offenders.²⁹ The scrutiny has highlighted the need to address fundamental philosophical and research questions. Primary among them are questions about whether transfer effectively screens out the worst cases from the juvenile justice system and how to gather the information needed to make that determination. Earlier research has depended mainly on automated data sets³⁰ and small samples of cases collected over several years, which make the results vulnerable to historical events.³¹

The purpose of this article is to examine what is needed to assess the issues of fairness and effectiveness, which are central to the rationales underpinning transfer policies. We start by considering the adequacy of the data that are most often used to learn about transfer. We then report the findings from an in-depth study of local records. This field research illustrates how complex information gathering is on matters relevant to transfer. We then use the more detailed processing information gained from our study of local records to profile transfer cases and to assess the comparability between criminal court transfers and their juvenile matches, who were selected on the basis of statewide automated data. The implications of the results for studying the fairness and effectiveness of transfer are then discussed.

28. See Jeffrey Fagan, *Separating the Men from the Boys: The Comparative Advantage of Juvenile Versus Criminal Court Sanctions on Recidivism Among Adolescent Felony Offenders*, in A SOURCEBOOK: SERIOUS, VIOLENT, AND CHRONIC JUVENILE OFFENDERS 238, 252 (James C. Howell et al. eds., 1995); Donna M. Bishop et al., *The Transfer of Juveniles to Criminal Court: Does It Make a Difference?*, 42 CRIME & DELINQ. 171, 183 (1996); Jeffrey Fagan, *The Comparative Advantage of Juvenile Versus Criminal Court Sanctions on Recidivism Among Adolescent Felony Offenders*, 18 L. & POL'Y 77, 98 (1996) [hereinafter Fagan, *The Comparative Advantage*]; Lawrence Winner et al., *The Transfer of Juveniles to Criminal Court: Reexamining Recidivism over the Long Term*, 43 CRIME & DELINQ. 548, 557 (1997).

29. For example, the State of Florida conducted a study to compare the effectiveness of the juvenile and criminal justice systems regarding violent, serious, and chronic offenders. See 1996 ANNUAL REPORT, *supra* note 14, at 31-32.

30. See Bishop & Frazier, *supra* note 14, at 286; Bishop et al., *supra* note 14, at 182; Bishop et al., *supra* note 28, at 176; Winner et al., *supra* note 28, at 549.

31. See Dean J. Champion, *Teenage Felons and Waiver Hearings: Some Recent Trends 1980-1988*, 35 CRIME & DELINQ. 577, 580 (1989); Francis Barry McCarthy, *The Serious Offender and Juvenile Court Reform: The Case for Prosecutorial Waiver of Juvenile Court Jurisdiction*, 38 ST. LOUIS U. L.J. 629, 635 (1994).

II. SOURCES OF TRANSFER DATA

Although issues of fairness and effectiveness in juvenile transfer cases are always important, the trend toward increased use of transfer raises the stakes in the policy debate. Policymakers need to know whether transfer is reserved for the worst of the worst and whether transfer is more effective than juvenile intervention. However, the data to inform the debate are derived from official records, including automated statewide information systems, which depend on the accuracy of local input.³²

Problems with the validity and reliability of official juvenile data and the implications these problems hold for decision-making have long been recognized.³³ Usually, researchers focus on the summary information collected by government, for example, whether the person was formally charged, the category of the most serious formal charge, whether the person was adjudicated guilty, and the sentence given.³⁴ This information is not standardized from place to place.³⁵

The summary official data that are most readily available provide more information about outcomes than they do on the processes that produced those outcomes.³⁶ This gap in knowledge about legal processing might, at once, hamper both an understanding of transfer as law in practice and the ability to assess issues of fairness and effectiveness.

Legal processing can affect the accuracy of evaluations of fairness and effectiveness in several ways. First, decisions at various stages of processing, even when reasonable and justifiable, might produce a distorted final picture of the seriousness of the case in that they are recorded as successive summaries of the outcomes along the way. Such outcome summaries are often forced into categories, for example, transferred versus retained, detained versus released.³⁷ The case and the profile of the offender involved in it become simplified, and information is lost. The input used to make each of the series of decisions as the case moves through the system usually is not

32. See MELISSA SICKMUND ET AL., DEP'T OF JUSTICE, OJJDP, JUVENILE COURT STATISTICS 1995, at 2 (1998).

33. See Maynard L. Erickson & Lamar T. Empey, *Court Records, Undetected Delinquency and Decision-Making*, 54 J. CRIM. L., CRIMINOLOGY & POLICE SCI. 456, 456 (1963).

34. See SICKMUND ET AL., *supra* note 32, at 2.

35. For example, the 1998 nationwide analysis of judicial waiver relied on the secondary analysis of data originally compiled by juvenile courts or juvenile justice agencies to meet their own information and reporting needs. See *id.* That analysis was hampered because data files were not standardized across jurisdictions. See *id.*

36. See *id.* (briefly describing a generic model of court processing).

37. See Erickson & Empey, *supra* note 33, at 463-66 (discussing the usefulness of various traditional dichotomies).

captured in automated statewide data. For example, the summary might indicate that an individual was detained and subsequently adjudicated delinquent on a battery but might not contain information about the circumstances, such as victim injury, which might influence decisions and help assess the seriousness of the case or the offender. The final characterizations beg the questions of how "bad" the offenders are or whether they are the worst of the worst. The oversimplifications undercut the ability to make valid comparisons across individuals or cases, or between groups of transferred youth and groups of juveniles retained in the juvenile system. Without valid comparisons, neither the fairness nor the effectiveness issues can be assessed.

Second, prior legal processing decisions can affect what data are collected or maintained, which in turn, affect subsequent decision-making. Consider, for example, how a prior offense history is built and maintained, a variable that is often officially identified as a consideration in transfer decisions.³⁸ A juvenile who is diverted benefits from a different prior record, with different information collected and maintained, than a juvenile who is processed through the juvenile system, even though their original offenses might have been similar. Different types of data might be available to characterize individuals or cases, making it difficult to use summary outcome information to assess either the fairness or effectiveness of juvenile transfer.

Third, researchers and policymakers who rely on summary outcome data, especially data obtained from statewide automated information systems, tacitly assume that processing decisions are made in a cohesive and unified justice system.³⁹ This simplifying assumption is problematic for two reasons. First, the degree of coupling between the juvenile and adult justice systems is contested as a matter of both principle and practice.⁴⁰ To the extent that the juvenile system is distinct, its processes, the data it gathers, and the outcomes it produces are less comparable with those of the adult system.⁴¹ This dissimilarity between the systems complicates the assessment of whether transfers are the worst of the worst and of the relative effectiveness of juvenile versus adult court processing.

Second, singularity in either the juvenile system or the adult system

38. For example, see the waiver criteria prompted by *Kent v. United States*, 383 U.S. 541, 566-67 (1966) (Appendix to Opinion of the Court), which the State of Florida codified in its presumptive judicial waiver provision, FLA. STAT. § 985.226(3)(c)(1997).

39. See SICKMUND ET AL., *supra* note 32, at 2-3. "The Archive restructures contributed data into standardized coding categories in order to combine information from multiple sources." *Id.*

40. See Singer, *supra* note 22, at 2.

41. See *id.*

cannot be assumed. In reality, both are constituted by multiple subsystems.⁴² Considerable variation in practices concerning juvenile offenders, including practices that involve transfer, has been documented across locales in the same state.⁴³ Local cultures and local practices affect decision-making.⁴⁴ Data that summarize outcomes do not take these differences into account,⁴⁵ making it more difficult to determine how “bad” cases are or how effective different interventions are.

A major concern is that automated data banks might mask the seriousness of most transfer cases and how complicated processing of a case is in general. Analyses of Florida’s automated statewide Client Information Services (CIS) data from 1984⁴⁶ and from 1990⁴⁷ raised questions about whether transfer was being reserved for the worst juvenile offenders.⁴⁸ How these questions will be answered depends in part on the accuracy of the data.

If the seriousness of cases is being masked, the statewide automated CIS data might produce invalid matches between transfer cases and cases retained in the juvenile court — matches that were used in our prior recidivism analyses.⁴⁹ Inasmuch as the prior studies found higher recidivism for transferred youth than for their matches retained in the juvenile justice system,⁵⁰ the possibility that the automated data misses crucial information has important research and policy implications regarding recidivism.

One aim of our ongoing research sponsored by the federal Office of Juvenile Justice and Delinquency Prevention was to address this potential weakness in the data on transfer. The automated state data might have provided only partial and incomplete pictures of transferred youths, their offenses, and offense histories. Too little was known about some potentially crucial features of offenses that might have both influenced transfer decision-making and differentiated transferred youths from those retained in the

42. See Barry C. Feld, *Justice by Geography: Urban, Suburban, and Rural Variations in Juvenile Justice Administration*, 82 J. CRIM. L. & CRIMINOLOGY 156, 156 (1991).

43. See *id.* at 156-67; Donna M. Bishop et al., *A Study of Juvenile Case Processing in Florida: Issues of Timeliness and Consistency Across Jurisdictions 1* (1996) (unpublished manuscript, on file with author).

44. See Feld, *supra* note 42, at 208.

45. See *id.*

46. See Bishop & Frazier, *supra* note 14, at 293.

47. See Frazier, *supra* note 14, at 1.

48. Analysis of transfer cases in 1993 using Florida’s statewide automated Offender Based Transaction System for the Office of the State Courts Administrator (OSCA) raised similar questions. Charles E. Frazier et al., *Juvenile Justice Transfer Legislation in Florida: Assessing the Impact on the Criminal Justice and Correctional Systems 1* (1995) (unpublished manuscript, on file with author). According to the OSCA data, over 25% of the cases filed in adult criminal court against persons under 18 years of age listed misdemeanors, infractions, or ordinance violations as the most serious charge. See *id.* at 4-5.

49. See Bishop et al., *supra* note 28, at 175; Winner et al., *supra* note 28, 549-50.

50. See Bishop et al, *supra* note 28, at 183.

juvenile system. Examples of missing data include extent of victim injury, weapon use, whether the offender was under the influence of drugs or alcohol, number and nature of codefendants, and the victim-offender relationship.

Additionally, too little was known about the actual processing of transfer cases. Critical issues that were not explored adequately included the detention or release status of youths awaiting trial, attrition of cases as they moved from juvenile division prosecutors to prosecutors in criminal divisions, crimes committed by youths on pretrial release, the nature and extent of plea negotiations in transfer cases, and the nature of dispositions/sentences for transferred youth who were convicted. Details about offenders, offenses, and processing that are needed to address issues of fairness and effectiveness are contained primarily in case records maintained at the local level. Those local records offer a potentially rich source of information that could be useful to the policy debates about transfer.

III. AN IN-DEPTH STUDY OF LOCAL RECORDS

A. *The Sample*

Florida is divided into twenty judicial circuits, and case detail is compiled in the records of the county clerks of court. Gleaning information from court records is a slow and labor-intensive process. Without a master list of cases identified by the statewide automated CIS system, searching all the local criminal records to isolate the transfers is like finding a needle in a haystack. Even with a master list, time and funding constraints precluded us from reviewing cases from all Florida circuits. Jurisdictions were selected that ranged from rural to urban because Feld had found that transfer practices varied along this dimension.⁵¹ Jurisdictions were also chosen that had different rates of transfer according to research of Florida's automated CIS data for 1993.⁵²

The four judicial circuits chosen for study were circuits 3, 5, 6, and 9, which are located in north central and central Florida.⁵³ Circuit 3, a very rural circuit, had a moderate rate of transfer in 1993, according to the CIS data (7.0% of cases referred to intake).⁵⁴ Circuit 5, covering a largely rural area, had the lowest rate of transfer in Florida in 1993, according to CIS data

51. See Feld, *supra* note 42, at 156.

52. See Bishop et al., *supra* note 43, at 23, 31.

53. The counties in the Third Circuit are Columbia, Dixie, Hamilton, Lafayette, Madison, Suwanee, and Taylor. The counties in the Fifth Circuit are Citrus, Hernando, Lake, Marion, and Sumter. The counties in the Sixth Circuit are Pasco and Pinellas. The counties in the Ninth Circuit are Orange and Osceola.

54. See *id.* at 31.

(2.6% of cases referred to intake).⁵⁵ Circuit 6, a mostly urban jurisdiction, had the state's highest rate of transfer in 1993, according to the CIS data (10.8% of cases referred to juvenile intake).⁵⁶ Circuit 9, an urban area, had a modest rate of transfer in 1993, according to CIS data (4.6% of cases referred to intake).⁵⁷

The statewide CIS data for 1995 were used to identify both transfer cases and match cases retained in juvenile divisions in each of the four circuits. We relied on the same matching procedure that we had used in our previous short- and long-term recidivism analyses. This procedure matched cases on the seriousness of the referral charge, the number of referral charges, the number of prior charges according to CIS, the most serious prior offense, age, gender, and race.⁵⁸ We identified up to four matches for each transfer case in the four circuits, rather than across the circuits or statewide, as we had done in the original recidivism analyses. Within-circuit matches could not be found in the CIS data for all transfer cases, especially in the smaller, more rural circuits. The list of transfers and matches were then taken into the county courthouses in each of the circuits. The files were pulled and data were collected from both the computerized local records and the actual hard-copy case files.

B. *Local Variation and the Lack of Uniformity:
Developing a Local Data Collection Instrument*

The development of a data collection instrument for the in-depth circuit court records proved to be a multistage process. Members of our research staff first visited courthouses in Columbia and Marion counties to peruse records of transferred youth. The various records included similar documents and contained much of the detail absent from the automated state data. The first draft of our data collection instrument focused on the documents that were contained, more or less consistently, in the county clerk-of-court files, for example, formal charging instruments, arrest or probable cause affidavits, offense or incident reports, judgment documents, and sentencing orders. The plan was to link the recorded data with the court documents from which they were retrieved. Because official record "jackets" often contain some inconsistent information from one document to another, the researchers wanted to attach the source to each item of data. Reliance on specific documents also would reduce the amount of interpretation that would be required of field staff and in turn, improve the reliability of the in-depth data.

55. *See id.*

56. *See id.*

57. *See id.*

58. *See* Bishop et al., *supra* note 28, at 175; Winner et al., *supra* note 28, at 549-50.

Because of the possibility of multiple charges, the document-based approach resulted in a lengthy data collection instrument that collected recurring information, for example, arrest charges, charges on the information or indictment, and charges at time of judgement or adjudication.

After we had gained more experience with collecting data in additional counties in Circuits 6 and 9, the document-based approach was modified, as several problems became apparent. First, the clerk-of-court documents proved to be too dissimilar from county to county. A specific detail regularly found in a particular type of document in one jurisdiction might be found in different paperwork in another jurisdiction. Thus, the researcher had to leaf from page to page in the data collection instrument to locate and record the information. This was time-consuming and increased the likelihood of recording errors. The data collection instrument could not be organized exclusively around particular documents.

Second, juvenile justice processing is both similar and dissimilar to criminal court processing. A comparison of transfers and their juvenile justice matches required a data collection instrument that was standardized to collect information that was similar in both systems yet flexible enough to capture that which was different. Arrest, formal charging, plea bargaining, adjudication, and disposition follow parallel courses in the two systems, so directly comparable data collection instruments can be used for much of the information, such as offense charges, legal representation, victim matters, restitution, and drug testing. Nevertheless, some adjustments in language and recording options had to be made. For example, the range of adult dispositions ran from locally operated probation and community-based corrections to county jail confinement to state-administered probation, community control, and prison. Since each of these dispositions were structured differently, separate subsections were required on the data collection instrument. Juvenile dispositions ranged from diversion programs to "community control," which referred to probation in the juvenile system, to various levels of nonresidential and residential treatment. Again separate subsections had to be included. Some matters, like adult sentencing guidelines, are distinctive of only one system, so alternate sections were devised on the data collection instrument to reflect systemwide differences.

Third, even when the same type of information was found in different documents, it could not necessarily be compared across documents. Some case information changed over time, for example, charges were added or dropped, bail was reconsidered, or lawyers were replaced, and therefore the information could not be recorded as a single entry. However, these changes were critical to understanding the dynamics of the case and the processing decisions that were made. The data collection instrument had to capture the sequence or flow of the cases so information could be recorded at multiple points in the process. A short and compact format was not possible.

The data collection instrument had to be organized around the customary or typical flow or sequence of a case, be flexible enough to record information in parallel ways to reflect the similarities of the adult and juvenile systems, contain separate subsections for information that was unique to one of the respective justice systems, and be comprehensive enough to incorporate the dynamics and change that occurred during case processing. A new data collection instrument was drafted and field tested. The sequence approach worked better but also needed to be refined.

Some data, for example, complainant characteristics, victim characteristics, and victim loss or injury, were found on more than one document, which were completed at various points in processing. Thus, we created a section to collect this type of repeated information. Inasmuch as some cases involved multiple charges and covered multiple events, complainant and victim details were gathered for only the most serious charge, as determined by the field researcher after reading the case file.

The field staff also quickly learned that the course of cases often did not follow the anticipated progression as laid out in the data collection instrument. Even though the court records generally were organized chronologically, some cases as they proceeded became complicated. For example, new charges were added or cases were consolidated sometimes for prosecution or sometimes just for sentencing, new offenses were committed during processing, or the current case triggered disposition on an old outstanding case. Consequently, the data collection form had to be revised to reflect how many separate or related "incidents" were involved in the processing. A single incident involving a single charge might be processed differently from a single incident involving multiple charges. Moreover, a single incident whether involving one or multiple charges might be processed differently from multiple incidents, which by definition yield multiple charges.

The timing of incidents also proved to be important in understanding the larger context of a case and how processing decisions were made. Multiple incidents would often be handled differently if all of the incidents were known at the outset rather than when additional incidents occurred or came to light after processing had begun.

The data collection instrument had to reflect the complexity surrounding single versus multiple charges, single versus multiple incidents, and the prospect that charges in a case could be added, dropped, or reduced. In addition, incidents could be severed from or consolidated with the triggering case at various points in processing. Field staff soon learned that they had to read the case file in its entirety to complete the data collection instrument well. To get a handle on a case, the researchers wrote a narrative overview that captured the nature of the triggering event, the flow of the resulting case, and that case's relationship to other incidents before they entered specific

information on the data collection instrument. This made it easier for the field researcher to record the various items on the data collection instrument and for research supervisors to review codings for accuracy. The extra time taken resulted in more accurate data collection and fewer mistakes.

The dynamic nature of case processing dictated that information be collected in such a way that the respective charges could be tracked. For cases with multiple counts, charge data were entered in the order in which they appeared on the formal charging document. That order was retained throughout the rest of data collection so developments with each charge could be traced. A separate subsection was included for charges that were consolidated with the case after the initial formal charging.

The final data collection instrument was far more complex and lengthier than the first. Several steps were taken to facilitate its use. For example, the sections were color-coded so they could be found more easily. Field training was crucial to researchers learning how to use the instrument. Decision rules were made and shared as unanticipated situations arose in the field. "Trouble cases" were reviewed by more than one researcher.

One of the goals of the research was to gather details not available from the statewide data sources. The incremental development of the data collection instrument and its complexity stood as stark reminders of how simplified the automated data systems are. Consequently, we could not dismiss the prospect that the summary outcome data previously used in much of the policy-relevant research on transfer might have distorted cases.

C. Field Adjustments to Sampling: Problems in the Automated Data

The data collected in the field immediately pointed to reliability and validity problems with Florida's CIS data, especially as regards the sampling method. The earliest transfer event for each individual in 1995 was identified using CIS. These cases were separated from the cases of individuals who were not transferred and who would be used in our screening for matches. In each of the four circuits, a computer search of the CIS data was made to locate those transfer cases for which perfect matches on all seven criteria (offense, number of counts, prior referrals, most serious prior referral, age, gender, and race) were available. Table 1 presents the results of this search, including the percentage of transfers for which perfect matches were located. We refer to this as the percentage of "hits" or the "hit" rate.

As data collection began in Circuits 6 and 9, it became clear that the percentage of match "hits" using CIS data was not holding up in the field for several reasons. Many of the cases coded in CIS as transfers (1) were not located in the local court records, (2) were never really transferred, or (3) had actually been transferred either prior to the date that triggered their inclusion

in the study or for offenses that occurred after 1995 (our study period). The sampling rate was adjusted accordingly. This adjustment yielded the target number of cases in Circuits 6 and 9 but could not compensate for the shortfall in cases from Circuits 3 and 5. The final counts of transfer cases for each of the respective circuits and the reasons for case attrition are summarized in Table 2.

Circuit	Transfers with Matches No.	Total Transfer No.	"Hits" %
3	14	75	18.7
5	55	125	44.0
6	370	635	58.3
9	176	379	46.4

No. = number

Circuit	CIS	Actual 1995		Not Found		Not Trans.		Not 1995	
	Trans.* No.	Trans. No.	%	No.	%	No.	%	No	%
3	14	7	50	2	14	5	36	0	0
5	55	36	66	6	11	11	20	2	4
6	371	107	29	27	7	219	59	18	5
9	176	105	60	0	0	71	40	0	0
Total	616	255	41	35	6	306	50	20	3

* In Circuits 3, 5, and 6, the number of CIS transfers is 100% of the 1995 transfer cases identified by CIS for which perfect juvenile matches were located; for Circuit 9, the number is 50% of the CIS-identified cases with matches.

These results were disappointing because most of the cases identified by CIS as 1995 transfers for which a juvenile match could be located, in fact, were not transferred. This low “hit” rate was primarily due to Circuit 6 where less than thirty percent of the CIS-identified cases were accurately coded according to local court data. Most of the Circuit 6 errors occurred in Pinellas County — the larger of the two counties in the circuit. Eighty percent of the cases identified by CIS as 1995 transfers in the other Circuit 6 county (Pasco) were accurately identified. In all circuits, the largest rate of error was due to cases that were identified by CIS as being transferred, but which were not actually transferred.

At least part of this problem could be traced to CIS data entry. For example, in Pinellas County, errors occurred because of the inconsistent use of the abbreviation “trans.” Coders counted cases with this abbreviation as transfers. Sometimes the abbreviation did mean transfer to adult criminal court, but in other cases the local court records showed that the offender had merely been “transported” to another facility or “transferred” to another county for juvenile processing. How abbreviations, acronyms, and various information are coded in the state data bases may not accurately reflect what they mean in local practice.

Several lessons were learned from the field research on clerk-of-court records. First, state data are dependent on local input of information, the accuracy of which can vary widely from locale to locale.⁵⁹ More uniform CIS data entry and better training in that data entry are needed to improve the accuracy of the CIS data. Second, local variations occur at the county level. The unit of analysis for sampling and matching ideally should be the county rather than the larger judicial circuit.⁶⁰ Third, and most importantly, at this point the state CIS data regarding transfer is too inaccurate to be used by itself for either research or policy-making. The mere identification of transfer itself is often wrong. Even in the locales where CIS is most accurate in identifying transfer cases, the “hit” rate is 80%.

Although these data derive from a small number of Florida counties, we have no reason to conclude that the problems we confronted are unique to those counties or to Florida. Most efforts to collect information from local sources and to code it in a useable way in a centralized repository probably share some of these problems. The amount of inaccuracy found in the state

59. We suspect that the accuracy of the input can also vary from time to time in the same jurisdiction.

60. An obvious problem with sampling from counties to pair transfer cases with juvenile matches is that it reduces the chance of getting matched pairs from small jurisdictions. Small numbers of cases in less populated jurisdictions make it more difficult to match precisely on all the selection criteria. This matching problem makes it difficult to compare transfers with matches in rural counties. Unfortunately, rural-urban differences in processing have been documented. See Feld, *supra* note 42, at 156-57.

data with regard to the designation of transfer cases in Florida raised questions about whether CIS information on prior offenses, current charges, and dispositions was similarly problematic. The validity and reliability problems discovered in the sampling pointed to the prospect that the seriousness of the transfer cases was masked in the automated state data.

D. *In-Depth Profiling: How "Bad" Are the Transfers?*

The clerk-of-court data allowed a more detailed look both at who was being transferred to adult criminal court and how those transfers took place. Although the local records data revealed that CIS had misidentified many cases as transfers, those records confirmed the transfer in 243 cases. Of these, 227 could be paired with matches from the juvenile system for which local clerk of court data were also available. The local clerk-of-court records were used to profile the 227 cases that were transferred to criminal court. By concentrating on the 227 transfer cases for whom matches were located, in-depth information could be used to address both how bad the transfers were in the absolute and whether they were worse than their juvenile justice matches.⁶¹

The detail in the local records allowed the course of a case to be followed from arrest to final disposition. Documents marked every formal procedural step. In a complete case file, nothing happened officially that was not clearly documented. The result was a much more complete picture of transfer than that obtained from the summary data contained in the state CIS data. The in-depth data provided better insight into who the transfers really were.

Table 3 presents the frequencies and percentages of transfer cases within various offense categories. The figures in the first column indicate the general offense breakdown of the cases according to the statewide CIS data. The bulk of cases were charged with property felonies (43%). Nearly a third were charged with violent personal felonies according to CIS (30%). Smaller, but still substantial, percentages were charged with other felonies, including drug felonies, or misdemeanors (17% and 10% respectively). However, the overall pattern in CIS did not depict transfers as being particularly serious or violent offenders.

The numbers and percentages in the second column of Table 3 present information from local court records on the charges contained on the arrest

61. Twenty-eight of the 255 cases confirmed as 1995 transfers in the local record could not be matched with a juvenile case. The following numbers and percentages include only those 227 transfer cases for which juvenile matches were found. Even if the unmatched transfer cases were included, the percentages might change but the basic conclusions would not.

or incident report or the sworn complaint that gave rise to the transfer according to CIS. Because some episodes involved multiple incidents, for example, burglarizing three separate cars at three different locations, more than one report or complaint might have been reviewed. An incident was defined as a discrete event or transaction that might involve one or more counts.

Category	CIS Offense		Most Serious Off. in Incident		Prosecution Offense		Conviction Offense	
	No.	%	No.	%	No.	%	No.	%
Personal Felonies	69	30.4	71	31.3	55	24.3	36	19.1
Property Felonies	97	42.7	101	44.5	107	47.3	91	48.4
Other Felonies	38	16.7	37	16.3	38	16.8	33	17.6
Misde- meanors	23	10.1	18	7.9	26	11.5	28	14.9
Totals	227		227		226		188	
No. = number; Off. = offense								

The numbers and percentages in the second column reflect the most serious charge found in the initiating reports or complaints for each transfer case. Forty-four percent of the cases were processed for property felonies. This percentage is less than two points higher than that indicated in the CIS data presented in the first column. In approximately 31% of the cases, the most serious charge was a violent personal felony, a percentage that is about one percentage point different from that indicated in the CIS data. The percentage of other felonies as the most serious charge remained about the same, 16% for most serious versus 17% for CIS data. Only the percentage involving misdemeanors as the most serious charge decreased from 10% of CIS charges to 8% of the most serious charges. For those cases that were really transferred, CIS data captured seriousness of the offense quite well.

The profile of transfer cases that emerged from the initial incident reports contained in the clerk files was not one dominated by violent offenders. A

plurality of the transfer cases involved property felonies. Over a quarter of transfers were accused of nonviolent and nonproperty felonies (“other felonies”) and misdemeanors.⁶²

The numbers and percentages presented in the third column in Table 3 reiterate the concern that transfer was not reserved only for “bad” offenders. We would expect particularly serious cases, especially those alleging personal violence, to proceed through the system without major adjustments. While all but one of the transfer cases were prosecuted,⁶³ the percentage of cases involving violent personal felonies dropped from 31% at initiation to 24% at the prosecution stage. Less than a quarter of the transfer cases that were prosecuted were prosecuted for violent personal felonies. The percentage of transfers involving property felonies went up from 44% at initial charging to 47% at prosecution, and the percent involving misdemeanors increased from 8% to 12%. The percentage of those prosecuted for other felonies was much the same as the percentage initially charged in this category, between 17 and 16%, respectively. Prosecution patterns in the four circuits did not indicate that the transfer cases were particularly “bad.”

The numbers and percentages of transfers in the four categories at conviction, presented under the fourth column in Table 3, are also telling. Following the original CIS charge through the court process, over 80% of the transfer cases (n=188) resulted in convictions by the time the data were collected, which was at least a year and a half after the incidents took place.⁶⁴ The percentage of transfers in the violent personal felony category went down from 24% charged to 19% convicted. The percentages of transfers in the other three offense categories were slightly greater for convictions than for prosecutions: the property felony percentage crept up to 48% from 47%, the percentage for other felonies edged up to 18% from 17%, and that for misdemeanors increased to nearly 15% from 12%. The transfer profile that emerged at conviction was not that of a violent predator. If transfer cases were of an especially serious nature, we would not expect the percentage decline in violent charges at conviction or the increase in

62. Some of the cases in the “other felony” category were not particularly serious crimes. For example, the total number of drug felony charges was low (n=26), and 14 of those were for possession rather than possession with intent to sell, or sales, delivery, or manufacturing of drugs. On the original charge, the local court data reinforced the concern raised by the CIS offense categories: many of the transfers in these four circuits were not the worst of the worst.

63. Initial charges at the time of arrest were subject to change before prosecution.

64. Because multiple incidents could give rise to charges that were consolidated (at the time of the information, in plea bargaining, or at sentencing), the transfer case records might contain convictions on charges other than the CIS charge that initiated the case. On a few occasions, no conviction was obtained for the CIS charge but one was obtained on other counts that had become part of the case. This occurred 12 times, so the total number of transfer cases with a conviction on at least one count was 200 (88%).

misdemeanor charges at conviction.

The picture of transfer cases obtained at conviction suggests fewer serious offenders than the snapshot of offenders that was taken when charges were initiated. The conviction profile, however, might reflect bargaining processes that "cleansed" the records and made offenders look less serious than they really were. Alternatively, the original charges might have been exaggerated, perhaps due to incomplete information or overcharging to provide leverage for bargaining.

Our impression as field researchers was that overcharging often took place. Several examples help make this point. One first-time offender was charged with a felony punishable by life (battery in the commission of a burglary) for reaching into a car to choke another student driver who the offender thought had cut him off. The victim suffered no serious injury, and the conviction (on the original charge) brought relatively minor juvenile sanctions even though the offender had reached 18 years of age by the time the sentence was imposed.⁶⁵ In another case, a young offender was charged with armed burglary for breaking into an electrician's van (the burglary) that contained a screwdriver (the weapon).

The most frequent sentence given to transfers upon conviction as reported in the clerk records, was state-supervised release (n=73). Another ten convicted juveniles received county-supervised release. The county clerk records indicated that 42 transfers received prison or a split sentence involving some time in prison, 24 received jail or a split sentence at the county level, and 22 transfers were listed as being sentenced to juvenile justice sanctions rather than criminal sanctions as adults. The records showed that the remaining cases received fines or other sanctions. These sentencing decisions suggested, as do the conviction charges, that many transfers were not especially serious offenders — at least they did not receive especially severe sentences.

A variety of other information collected from the local county clerk records helped address the question of who was being transferred and shed light on whether the transfers were serious or chronic offenders. They included a number of indicators thought to be associated with the seriousness of the crime: (1) weapon use, (2) victim injury, (3) property damage or loss, (4) gang activity, (5) multiple counts or incidents, and (6) prior record. A seventh factor, evidence of extralegal problems, for example, dropping out of school, learning disabilities, mental problems, and being the victim of abuse, might either reinforce or mitigate the seriousness of a case.

65. Florida law permits criminal court judges to revert to juvenile sanctions after transferred youth have been adjudicated in adult court. See Bishop et al., *supra* note 18, at 17-18.

Most of the transfers did not result because of weapon use. For nearly two-thirds (65%) of the transfer cases, the records had no indication of a weapon being involved in the incident(s). When a weapon was indicated in the records, it was not necessarily a gun or firearm (18% of cases involved a gun and 17% some other kind of weapon). Victim injury also did little to explain why most cases were transferred. In nearly four-fifths (79%) of the transfer cases, there was no indication of victim injury. This is not surprising given the large number of cases premised on property or other nonpersonal felonies. Of the 47 cases involving indications of injury, 22 victims received some kind of medical treatment, and 12 complained of injury but had no visible signs of any injury.

Most of the transfer cases did not involve large property losses or extensive damage. Records for a majority of the 227 cases (n=128, 56%) indicated some kind of property loss or damage. The bulk of these (n=70) indicated property loss only. In the 72 transfer cases where the amount of damage or loss was recorded, the recorded amount was less than \$400 in 37 cases, but was more than \$1000 in 20 cases.

For all the recent comment and concern about youth gangs, the records of the transfer cases showed very little evidence of gang-related crime. Only 10 of the 227 transfer cases had an indication of gang activity in their case records. Although an indication of gang involvement was rare, a majority of transfers had codefendants. The presence of codefendants, especially adult codefendants,⁶⁶ might indicate more serious and seasoned juvenile offenders. For nearly 60% of the cases (n=133), at least one codefendant was indicated in the court files. For the 98 cases where the age of the codefendant was recorded, the codefendants were less than 18 years of age in 61 cases. The data show that transfer cases generally were not complicated by either gang activity or adult codefendants.

Transfers might have been involved in multicount incidents or multiple incidents that gave rise to numerous counts rather than single events that led to a single count. The way CIS organizes records around each referral might inadvertently mask the seriousness of the offender's total crime involvement. Court-record data were used to examine counts, charges, and incidents. The case file records indicate whether the primary offense charge grew out of a single incident or whether multiple incidents were known to prosecutors that could be consolidated at different stages of the process. Multiple incidents were not always formally combined for prosecution; they might be combined at various stages. Sometimes charges from one incident would remain in the

66. See MALCOM W. KLEIN, *THE AMERICAN STREET GANG: ITS NATURE, PREVALENCE, AND CONTROL* 104-05 (1995); C. Ronald Huff, *Comparing the Criminal Behavior of Youth Gangs and At-Risk Youths*, NAT'L INST. OF JUST. RES. IN BRIEF, Oct. 1998, at 1 (1998).

juvenile court while those from another incident would be brought to adult criminal court. However, the sanctions for all charges would be consolidated.

Over 72% of the transfer cases we observed stemmed from a single incident according to the clerk-of-court data. The incidents usually involved only one (47% of the cases) or two (35% of the cases) arrest charges — and so were not unusually serious in this regard. Forty-five cases (20%) involved multiple incidents that were known to the officers at the time of the arrest. In 18 transfer cases (8%), prosecutors learned, after the original arrest, of additional incidents that had also taken place. Because additional information, such as, discovering more incidents, was sometimes learned prior to formal prosecution, the number of charges increased at the prosecution phase. The average number of charges increased to over three counts at prosecution.

About a fifth (21%) of the transfer cases had additional counts from separate incidents consolidated on the information. For 63 transfer cases (28%), the records contained an indication of events that occurred after the initial arrest and were relevant to prosecution, such as failure to appear, new arrest, and escape. For 38 of these 63 cases, the intervening event was indicated as an arrest for a new incident. Charges stemming from these intervening events were consolidated with the original case only part of the time.

Information collected from the clerk-of-court files indicated that the median number of prior referrals was five. The court files, however, did not systematically collect prior record information, and there was no indication of priors for 68 transfer cases in the court files. When prior record was included in the files, it often took the form of a computer printout of the CIS referral history. Consequently, the local records did not supplement the CIS data on this factor.

The field research in the local records also showed that the CIS referral histories were used to make processing decisions. Sometimes the referral histories were included so that the pretrial detention decision could be made. Occasionally, the referral histories were included to help compute sentencing guideline scores.⁶⁷ Other times, the referral histories would be part of disposition and sentencing investigations or other evaluations submitted to the court. Because the CIS data were organized around each referral, CIS had no standard for grouping referrals into cases.⁶⁸ We discerned no uniform way in which practitioners within or across the four circuits counted these

67. Sentences in Florida's criminal justice system are calculated on a point system according to sentencing guidelines. See FLA. STAT. § 921.0014 (1998). Points are added for prior record. See *id.*

68. For our research, the decision was made to group referrals occurring on the same day into a case.

prior referrals, even though the number of prior referrals was the basis for various decisions during processing. Sometimes they counted each separate referral, regardless of how many were opened on the same day, as a prior; however, sometimes they only counted each disposition, which might combine multiple referrals or even referrals from different times, as a single prior case. The irony was multitiered. The CIS data, the reliability and validity of which were questionable, were used in inconsistent ways to make decisions throughout processing that, in turn, helped to produce outcomes summarized in state data that might mask how serious the cases really were. The CIS referrals were the basic unit by which everyone was computing prior record.

The transfer cases had a mean of nearly eleven previous referral charges listed in the CIS data. The charges were, on average, grouped across a little less than seven prior cases (a case included all referrals opened on the same day). Those cases usually did not involve a violent offense as the most serious charge. The mean number of prior cases involving violence was less than one for the transfers. Even from the local court files, the best, albeit potentially flawed, measure of prior record was obtained from CIS. The CIS data indicated that the transfer cases had multiple prior offenses but not unusually serious or severe prior charges.

The records also indicated whether the transfers suffered from a variety of other extralegal problems, including dropping out of school, functioning below grade level, learning disabilities, mental or emotional problems, physical disabilities, illicit drug use or addiction, alcohol abuse or addiction, and physical or sexual abuse. While these indicators did not relate directly to the offenses, they might have influenced decision-making by legal officials. They also provided additional detail about who the transfers were. The records of over 60% of the transfer cases included no indications of these larger problems. In the 86 cases where there were such indications (37.9%), usually only one or two problems were noted (n=57).

The presence of extralegal problems could have worked for or against the transfers when officials dealt with their cases. Some kinds of problems probably mitigated the seriousness of the crime or the attribution of responsibility; other kinds of problems probably tended to aggravate its seriousness. Indicators of mitigating personal circumstances included learning disabilities, physical disabilities, diagnosed mental or emotional problems, and a history of suffering either physical or sexual abuse. Indicators of aggravating extralegal problems included dropping out of school, functioning below grade level, and using or abusing alcohol or drugs.

Only 16% (n=36) of the transfers had indications of mitigating extralegal problems, whereas 30% (n=67) had aggravating ones. Forty-nine of the transfers had more aggravating indicators than mitigating ones, and eighteen had, on balance, more mitigating than aggravating extralegal problems. The

local-records data did not yield any pattern of additional problems among transfers that could be used to characterize the transfers as being unusually "bad."

Our use of local court records to profile who the transfers were also provided clues about the transfer process itself. Our findings regarding transfers can be summarized by reviewing the patterns of processing that emerged in the four circuits that were studied. First, transfer cases continued to be screened from charging through disposition, with fewer cases remaining in the most serious offense categories at each successive step. By the time we collected our data — as least a year and a half after the crimes had occurred — fewer than half of those with initial charges involving violent personal offenses actually had been convicted on those charges. On the other hand, more transfer cases were convicted on a primary misdemeanor offense than had had initial primary charges of misdemeanors. This diminution of offense seriousness continued into sentencing.

Second, clerk-of-court records on incidents and counts showed that most transfer cases were not being driven by multiple incidents, lengthy lists of charges, or consolidation of charges. Most were not affected by events that occurred subsequent to arrest, like arrests for new crimes or failure to appear. Most transfers involved a single incident and no more than two arrest charges. In only 21% of the cases were additional charges from separate incidents consolidated with the original case.

Third, nearly all the initial charges were translated into formal charges for prosecution (226 of 227 cases).⁶⁹ However, only 83% (n=188) of the transfer cases had reached a conviction on the originating incident, as indicated by CIS. Another 5% (n=12) had a conviction for a consolidated charge. Thus, 88% of the transfer cases were convicted in some way. Overall, nearly 30% (n=66) of the transfer cases had at least one count dropped, and 12% (n=27) had at least one count reduced. It appears that the gradual diminution in seriousness across processing is partly a function of plea bargaining for these transfer cases.

Fourth, sentencing was not particularly harsh for the transfers who were convicted. About one in ten of all transfers (and one in nine of all convicted transfers) was sentenced back from criminal court to the juvenile court for sanctions. The plurality of convicted transfers (n=83) received only some form of supervised release (43%), and only a third (n=66) received an adult sentence that included incarceration, with twenty-four being sent to jail rather than prison.

69. That so many referral charges survived could reflect our methodology, in that we studied only cases for which local records data were available. Recall that for some cases designated as transfers by CIS, we found no local records in the adult system.

These shifts toward the less serious charges would not be expected if transfer were reserved for the worst cases. Neither the information on the individuals who entered the adult system through transfer nor the information on the case processing that took place once a transfer was in the adult system indicates that transfers were particularly serious offenders. In fact, the range of cases that were transferred and of criminal justice processing decisions that were made once transfer occurred suggests that transfer in these Florida circuits often dealt with cases that were not extraordinary. Another way to examine this possibility is to compare transfers with their juvenile justice matches, and this was done both in the aggregate and in head-to-head paired comparisons in our study.

E. *An Aggregate Comparison of Transfers and Matches:
Were Transfers the Worst of the Worst?*

The aggregate analysis focused on 554 cases, which included the 227 cases correctly identified by CIS as transfers and their respective 227 juvenile-justice-system matches with which they were paired. The cases were paired using seven variables derived from the state CIS data: offense, number of referrals at time of the offense, number of prior referrals, number of prior dispositions, age, race, and gender. According to the CIS data, the groups were comparable, so by inference transfer was not reserved for the worst of the worst. The local-records data served to check the equivalency of the group of transfers and the group of juvenile justice matches.

The local-records analysis had two purposes. One was to assess the relative seriousness of the transfer cases in comparison with juvenile justice matches to learn more about who was being transferred. The other purpose was to investigate the feasibility of a matching procedure based on the automated state data for comparing transfer cases with juvenile justice cases. Of particular interest was whether the CIS-based matching procedure employed in our earlier research had yielded sufficiently equivalent comparison groups to support our evaluation of the effects of transfer versus retention in the juvenile justice system on recidivism.

Table 4 contrasts the offense categories at various stages of processing for transfers and their juvenile justice matches. The figures under the first column are the raw counts and percentages of the 227 CIS-identified transfers and their juvenile justice matches on the CIS referral charge. The numbers under the second column compare transfers and nontransfers on the most serious charge listed in arrest and incident reports or complaints associated with the event that gave rise to the CIS referral charge. The information under the third column contrasts the two groups on the primary CIS charge as it was presented for prosecution, and the numbers under the final column contrast the transfers and juvenile matches on their most serious conviction

offense. The total number of cases for each group at each stage are presented at the bottom of the table.

Table 4 Primary Offense Categories for Transfers and Matches at Various Stages of Case Processing								
Category	CIS Offense		Most Serious Off. in Incident		Prosecution Offense		Conviction Offense	
	No.	%	No.	%	No.	%	No.	%
Personal Felonies								
Transfers	69	30.4	71	31.3	55	24.3	36	19.1
Matches	63	27.8	55	24.7	34	18.3	23	15.1
Property Felonies								
Transfers	97	42.7	101	44.5	107	47.3	91	48.4
Matches	91	40.1	97	43.5	81	43.5	62	40.8
Other Felonies								
Transfers	38	16.7	37	16.3	38	16.8	33	17.6
Matches	41	18.1	41	18.4	31	16.7	26	17.1
Misde-meanors								
Transfers	23	10.1	18	7.9	26	11.5	28	14.9
Matches	32	14.1	30	13.5	40	21.5	41	27.0
Totals								
Transfers	227		227		226		188	
Matches	227		223		186		152	
No. = number								

The totals for each group are telling. The juvenile justice matches were less likely to proceed to each successive stage of processing than were the transfers. Whereas only one transfer case did not have the CIS charge brought forward for prosecution in the court records, 41 match cases were diverted prior to formal charging by the prosecutor.⁷⁰ Thirty-nine of the

70. This might reflect our sampling strategy rather than important decision-making differences in the justice systems. See *supra* note 39 and accompanying text.

227 transfer cases did not proceed to conviction on the initial charge, compared to 75 of the 227 juvenile matches.

Cases where the primary CIS charges began as violent personal felonies were most likely to be altered prior to conviction for both the transfers to criminal court and the juvenile justice matches, as seen in Table 4. These alterations were the result of charges being either dropped or reduced to lesser offenses. The number of cases involving property felonies was fairly constant throughout the process for transfers, but dropped from 91 to 62 for the juvenile justice matches. The number of cases involving other felonies declined slightly for criminal court transfers from 38 to 33 and more markedly for juvenile justice matches from 41 to 26. The cases involving misdemeanors as the primary charge increased for the transfers from 23 to 28 cases and for juvenile justice matches from 32 to 41 cases. The greatest difference between transfers and juvenile justice matches in regard to charges was found in the property felony category, where more transfers had their original charge proceed to conviction than did juvenile justice matches.

Overall, more transfers (n=188) than juvenile justice matches (n=152) were convicted on charges stemming from the CIS incident. Of those convicted of their initial CIS charges, transfers (n=73) and juvenile justice matches (n=72) more often received probation-like sentences than other sanctions. The number and percentage of juvenile cases (n=42 or 28% of those convicted) that received any residential commitment was less than the number and percentage of transfers who received prison or jail sentences (n=66 or 35%).

Transfer cases can also be contrasted with their matches retained in the juvenile justice system for the same factors used previously to detail who was transferred. These factors include (1) weapon use, (2) victim injury, (3) property damage or loss, (4) gang activity or involvement with codefendants, (5) multiple counts or incidents, (6) prior record, and (7) extralegal problems.⁷¹ Because more of the juvenile justice match cases did not proceed through processing to disposition, a larger number of their case files were thinner. We could not determine whether their cases were less severe or whether the details were not collected because of a decision to divert or "nolle" the case.⁷²

71. The age of a juvenile's first run-in with the law has been found to predict recidivism. This information is not readily located in the local records unless the first offense is known to the researcher. The only efficient way to identify the first offense is through the state CIS data. The CIS data showed that the transfer cases were slightly younger at the time of their first referral (13.8 years) than were the matches (14.2 years). Although this difference was statistically significant (using a t-test for correlated samples), the relationship between age of first referral and transfer status in this sample was very weak ($r=-.08$).

72. Some cases or kinds of cases require different levels of attention to detail for processing. Different levels of scrutiny will be given to the details in the official record and

Transfers were more likely to involve charges of weapon use than were the juvenile justice matches (80 of the 227 transfers versus 43 of the 227 matches). This difference was largely due to the greater incidence of transfer cases involving handguns (35 for the transfers versus 9 for the matches). Transfers also used weapons other than guns, knives, or blunt objects (like tire irons or clubs) more often than their juvenile justice matches (16 for the transfers versus 4 for the matches). In this respect, the group of transfers seem to be more serious offenders than the match group. However, most offenders in both groups did not use weapons. In other words, the "worst" weapons offenders were not exclusively in the transfer group, and most transfers did not use weapons.

Transfer cases were somewhat more likely to involve victim injury. Some level of physical injury was reported in 45 of the 227 transfer cases compared with 32 of the juvenile justice matches. The biggest difference between the transfers and matches occurred at the highest degree of injury. Eighteen of the victims injured by transfers were reported to have been taken for medical treatment, but only five of the victims of the matches needed this kind of medical attention. For all other injury categories, there was little difference. The most that can be said on this dimension is that some of the transfer cases were more serious because they involved injuries requiring medical treatment. However, since some juvenile justice cases also involved victim injury, the "worst" injury cases were not solely in the transfer group.

Indications of property damage or loss occurred in more transfer cases than in the matches (128 of the 227 transfers versus 105 of the 227 matches). The difference was largely due to cases in which only property damage occurred. Thirty transfer cases were recorded as involving only property damage, compared with only 12 match cases. Certainly, the presence of property damage or loss did not clearly distinguish the transfer group from the matches. Enough juvenile justice cases involved property damage, loss, or both that a matching strategy was feasible. Furthermore there was little difference between transfers and matches on the extent of the damage or loss. The dollar amount was indicated for 72 of the transfer cases and 76 of the juvenile justice matches, and the amount of loss or damage did not vary markedly. The "worst" property offenders were not confined to the transfer group.

Both transfer cases (n=10) and juvenile justice matches (n=7) rarely had indications of gang activity. The transfer cases were a little more likely, however, to involve codefendants (133 of the transfer cases had codefendants compared to 103 of the juvenile justice matches). When the ages of

different emphasis will be placed on entering additional details into the record. Not even the local records are always directly comparable.

codefendants were recorded, transfer cases were somewhat more likely to have codefendants who were under 18 years of age (61 transfer cases versus 48 matches) and more who were 18 or older (38 transfer cases versus 24 matches). The data show that the transfer group and the match group were equally “bad” in terms of gang activity — which, in fact, was not a serious problem with less than 10% being involved in gang-related activities. Additionally, in terms of involvement with adult codefendants, many of the matches were as “bad” as the “worst” transfers.

Transfer cases arose more often than match cases from multiple incidents known to officials prior to the prosecutor filing formal charges (45 transfer cases versus 26 match cases) and from multiple incidents, some of which were discovered after formal charges had been filed by the prosecutor (18 transfer cases versus 7 matches). Juvenile match cases stemmed more often from a single incident than did transfers (194 match cases versus 164 transfers). Overall, the transfer cases tended to be somewhat more complex than their matches. However, many of the matches were similar to transfer cases on this dimension.

Another difference between transfers and their juvenile justice matches that showed greater complexity in transfer cases emerged during case processing. More than twice as many transfer cases (n=63) experienced some intervening complication after formal charging by the prosecutor than matched cases (n=30). This difference was almost entirely due to more transfers being arrested for new crimes that occurred after processing had begun. An arrest for a new offense was indicated in 38 transfer cases compared with only 10 juvenile justice matches. This is one way in which some of the transfer cases were more serious than their juvenile matches, but this differential affected relatively few cases and occurred after the decision to transfer had been made.

The median number of arrest counts for transfers (two) was higher than that for matches (one). The median number of counts on the prosecutor’s information (two) was the same for both groups. The median number of counts at conviction was two for transfer cases and one for the match cases.

Although transfers had more arrest and conviction charges, that does not mean they benefitted less from dropped or reduced charges. At least when formal charge reductions or count dismissals were examined, the transfers benefitted more. Nearly 30% (n=66) of transfer cases contained indications of at least one count being dropped, as opposed to less than 20% (n=42) of match cases. Twelve percent of the transfer cases (n=27) had at least one count reduced, but only 7% (n=17) of the match cases did. Recall, however, that more of the juvenile justice match cases did not proceed to adjudication. Some of their counts seemed to have been more informally suspended. The impression from the fieldwork is that juvenile charges could remain pending for lengthy periods, especially if the juvenile was already under Department

of Juvenile Justice supervision. Given the countervailing complexities, the local court data were inconclusive about how much worse the transfer cases were. Certainly, some of the juvenile justice match cases were just as "bad" on this dimension.

The prior records of the transfers and matches were examined using both CIS data and local court records. The local clerk-of-court files contained some indications of prior record found in a variety of documents, for example, risk assessments for juvenile detention, adult sentencing guideline work sheets, and presentence investigation reports. Prior record information, however, was not systematically recorded, so the lack of an indication did not necessarily mean that a case had no priors. Indications of a prior record were almost always premised on the CIS data, including any errors the CIS data contained or problems of interpretation they presented (for example how to group multiple referrals in a case). An equal number of court files contained the prior record information for both groups (159 transfer cases and 160 match cases). The median number of prior referrals was five for transfers and four for matches.⁷³

Reexamination of prior record information revealed only small differences between the groups. Transfers had higher mean levels of prior cases (mean of 6.7) than did matches (mean of 5.0), and the sum of the total number of counts contained in those prior cases was clearly higher for transfers (mean of 10.6) than for matches (mean of 7.5). Cases having prior violence were relatively rare, and transfers and matches were similar on this dimension (mean of 0.6 for transfers and mean of 0.5 for matches). Both groups had substantial prior records, although the transfers tended to have lengthier prior records. The records of neither group were riddled with violence.

Eighty-six transfer cases had at least one kind of extralegal problem indicated in their records, compared with 116 juvenile justice matches. Transfer cases were somewhat less likely to have extralegal problems whether aggravating, like dropping out of school, functioning below grade level, and using or abusing alcohol or drugs, or mitigating, like learning disabilities, mental or emotional problems, physical disabilities, and physical or sexual abuse. For the transfers, 16% had mitigating circumstances (n=36) and 30% had aggravating extralegal problems (n=67). Over a quarter of the matches had some mitigating indication (n=61), and more than 35% had aggravating indications (n=85).

As shown by the data in this research, the juvenile justice matches were

73. Our matching procedure truncated prior record into categories of no prior referrals, one or two prior referrals, and three or more prior referrals. The local court data indicated that this may have curtailed differences, especially for those who had very lengthy prior records.

more likely to have indications of mitigating circumstances and aggravating extralegal problems. When the balance between mitigating and aggravating personal problems was calculated, little changed. Sixty-six matches (29%), compared with 49 transfers (22%), had more aggravating than mitigating indicators. Twenty-two matches (10%) and 18 transfers (8%) had a balance of more mitigating problems.

With regards to aggravating extralegal problems, transfer cases were not shown to be worse than the juvenile justice match cases. That the matches were more likely to involve both more mitigating and more aggravating extralegal problems might reflect differences between information collection in the juvenile and adult systems. Extralegal problems are germane to the juvenile system because of its traditional orientation toward treatment. Their relevance to the adult system, especially one operating under sentencing guidelines, is less clear.⁷⁴

None of the variables that the researchers obtained from the local records clearly distinguished "more serious" transfer cases from "less serious" juvenile matches, at least in the aggregate comparisons. Clearly, the state CIS data did not identify transfer cases accurately. However, they did locate roughly comparable juvenile justice matches for those transfer cases that were accurately recorded as transfers.

To this point in the analysis, the comparison of transfers and matches was pursued in the aggregate. On many dimensions, the transfer cases as a group seemed to be a little "worse" than the group of juvenile justice matches, but the differences were not pronounced and occurred in a relatively small percentage of cases. The aggregate analysis left open the possibility that many small differences combined to create complex cases in which transfers were distinguished from juvenile justice system matches.

IV. AN ANALYSIS OF THE MATCHED PAIRS ACROSS VARIABLES

Having compared transfers to their counterparts who remained in the juvenile system in the aggregate, it was necessary to sharpen the comparison by evaluating the matched pairs on each of the respective variables. An examination of differences across all the variables for the respective pairs

74. The effort to incorporate extralegal problems into the comparison of transfers with other juvenile offenders warrants further discussion. Inasmuch as the local data established that the transfer cases tended to have lengthier prior records and the CIS data indicated that the transfers tended to start their criminal careers at a slightly younger age, we initially expected to find more extralegal problems, especially aggravating factors, among the transfers. We suspect that the transfers really are as likely as their juvenile counterparts to have additional problems, but that these extralegal factors are more likely to become a matter of record in juvenile processing because of the traditional juvenile concern with "saving the child." The same factors hold less relevance to decisions in criminal processing.

revealed how often one member of the pair was qualitatively different from the other.

An index was created to capture the cumulative nature of differences across twelve variables. Indications on each of those twelve variables about what constituted a *less serious* case were used to construct the index.⁷⁵ The following variables were used:

- (1) Cases that had no indication of prior referrals were *less serious* than cases that had priors indicated, even if there was just one prior referral.
- (2) Cases that had only a single arrest charge were *less serious* than those that had more than one arrest charge.
- (3) Cases that arose out of a single incident were *less serious* than those that involved multiple incidents.
- (4) Cases in which no additional charges were consolidated with the original case during prosecution were *less serious* than those in which consolidation occurred.
- (5) Cases that had no indication of intervening legal problems after arrest on the primary charge, like new arrests, failure to appear in court, or escapes from supervision, were *less serious* than cases that had such indications.
- (6) Cases that had no indication of gang involvement were *less serious* than cases that did.
- (7) Cases that had no codefendants or accomplices were *less serious* than cases that did.
- (8) Cases with no indication of property damage or loss were *less serious* than cases that involved property damage or loss.
- (9) Cases in which no one was hurt were *less serious* than cases in which there was an injured victim.
- (10) Cases having no indication of weapons were *less serious* than cases where weapons were involved.
- (11) Cases involving misdemeanors and lesser felonies were *less serious* than cases involving violent personal felonies or property felonies.
- (12) Cases in which the defendant had more mitigating than aggravating

75. The index probably discriminates less serious cases from serious ones better than it distinguishes the "worst of the worst." The index's mean and median lie at three indicators of that which is "less serious" (out of a possible 12), so most of the cases are "serious." Unfortunately, establishing cutoff points between what is "serious" and what is "more serious" in cases will be difficult to do. For example, we know that a case without any property damage is "less serious" than one with property damage. But how much "more serious" is a case that involves \$800 worth of property damage than a case that has only \$400 worth of damage? And how many more problems of data reliability and validity will we have when we try to distinguish the *more serious* cases that have various amounts or degrees of damage recorded? The reason our index used *less serious* indications is that they pose fewer methodological problems.

extralegal problems were *less serious* than cases in which the defendant had more aggravating extralegal problems.

The more indicators found for a case across the twelve variables, the less serious it was. The more serious cases had few indicators. The median score across all cases on the index was 3; the mean was 2.92. Because the standard deviation was 1.15, a pair of cases was considered to be different if their scores on the index varied by more than one integer (or about a standard deviation). The scores also indicated how often the transfer case was less serious than the match case or vice versa.

The results suggested that the transfers and their matches were not very different when the respective pairs of cases were examined across all the variables captured by the index. In over 78% of the pairs (n=178), the cases were about the same, that is, the index scores were within a standard deviation of each other. In 14% of the cases (n=32), the match case was *less severe*, but in 7% (n=17), the transfer case was *less severe*.

The small differences observed on the individual variables did not accumulate to make marked differences overall. The transfers and juveniles in the matched pairs were more often similar than different. The analysis provided no support for the position that transfer was reserved for the “worst of the worst” in these four Florida circuits.

V. IMPLICATIONS FOR FAIRNESS AND EFFECTIVENESS

The effort to compare each CIS-identified transfer case with its match is significant for issues of fairness and effectiveness. The detail in local records raised questions about how precise the CIS matching was on particular criteria, but the detail, itself, produced similar overall profiles between transfers and matches in the juvenile system. Evidently, differences on individual variables tended to counterbalance each other over many variables.

These results suggest that cases of similar severity can be found in both the juvenile and adult systems. The automated state data did not contain all the detail on young offenders necessary to know exactly how “bad” the transfer cases were, whether they were the “worst of the worst,” or whether a valid comparison group of offenders retained in the juvenile system could be found to conduct evaluations of the effects of transfer on recidivism. Nevertheless, the profiles built from the local records data of the CIS-identified matches converged with the profiles of the transfers. Although many of the transfers and their matches were “bad” youths, the transfers did not stand out as being clearly worse in most of the paired comparisons. If the state CIS data do mask the seriousness of offenders or their cases, the “cleansing” occurred for both transfers and their matches.

The local records data suggest that the matching worked relatively well so that comparative recidivism studies can be performed. In other words, the

relative effectiveness of transfer can be evaluated. The local records data yield case profiles that are similar for pairs originally matched by state CIS data. The caveat lay with the fact that so many cases were misidentified by CIS as transfers. The basic comparative strategy employed in our previous recidivism research was sound, but the comparison groups were probably confounded because cases had been coded inaccurately.

Other criminal justice applications make use of general profiles like those that emerged from this study. For example, risk assessment instruments have established the utility of profiles for prediction. Given the overlap between the transfer cases and the juvenile justice cases in this study, the development of a risk assessment instrument to study recidivism might be a better way to match cases than precision matching that relies on "noisy" CIS data.

Another alternative to both precision-matching and risk assessment profiles is to use "clinical judgment."⁷⁶ Experts can make qualitative judgments about the cases.⁷⁷ The three lead researchers in this study have begun to explore this possibility. They have analyzed the seriousness of the cases in 40 matched pairs to assess how similar or dissimilar they are. Their intercoder reliability is 95%. Out of the 40 pairs, 17 are judged to be of similar seriousness (43%), 13 have the transfer case judged to be more serious (32%), 8 have the matched juvenile case judged to be more serious (20%) and 2 pairs result in conflicting judgments (5%). A qualitative clinical judgment may give a better global "read" of a case because it does not attend to a small number of predetermined matching criteria or risk factors. However, for prediction purposes, clinical judgments are generally less accurate across cases than are statistical risk assessment instruments.⁷⁸ The qualitative judgments, therefore, might have limited utility in recidivism studies.

VI. SUMMARY AND CONCLUSION

The decision to transfer a case from juvenile to adult jurisdiction alters both how the case will be processed and what dispositions will be available. Transfer is a qualitatively different response from traditional juvenile justice interventions; it replaces the benign "helping" orientation of the juvenile justice system with offense-driven punishment.⁷⁹ Legislation to expand transfer has been fashioned with the belief that transfer will achieve fairness

76. See Don M. Gottfredson, *Prediction and Classification in Criminal Justice Decision Making*, in PREDICTION AND CLASSIFICATION 1,1 (Don M. Gottfredson & Michael Tonry eds., 1987).

77. See *id.*

78. See *id.*

79. See Feld, *Legislative Changes*, *supra* note 5, at 487-88.

and enhance punishment thereby deterring subsequent crime more effectively.⁸⁰ The adult punishment model is argued to be fairer and more effective than the juvenile treatment model. The principle of offense calibrates punishment to the offense and the offender's delinquency history, and the emphasis on punishment avoids problems associated with treatment.⁸¹ Treatment has to be individualized to the offender, which raises questions of fairness. Moreover, the treatment model has been discredited in the minds of many, which raises questions about effectiveness.

Academic research does not support claims that transfer is fairer or more effective than retention in juvenile court. However, the research can be criticized because it has relied primarily on summary data maintained in statewide automated data systems. Because the data are suspect, the nonsupportive findings can be countered. The basic premises of the counter argument are that (1) the summary data do not provide an accurate picture of how "bad" the transfer cases are, (2) local prosecutors have more complete information about these cases, (3) that information will show that transfer is reserved for more serious and chronic cases, which are different from those retained in the juvenile system, and (4) because real differences exist between transfers and those retained in the juvenile system, the recidivism analyses have compared nonequivalent groups and therefore are invalid. Our analyses of data collected directly from the local court files address each of these premises.

First, the in-depth local records data indicated that many transfer cases were not particularly serious. Inasmuch as the state CIS data contained only information about the original referral charges, they actually might have overstated the seriousness of transfer cases. The in-depth local data showed that formal charges and conviction charges were actually less serious overall than were the original referral reasons contained in CIS that were used to characterize the cases.

Second, our in-depth local records research uncovered a somewhat surprising twist on the problems and prospects of state data. Despite their access to more detailed information, local decisionmakers, including prosecutors, relied on the CIS data for decision-making. The best information about prior record, one of the salient factors for decision-making, found in the local court records was produced by CIS. For example, sentencing guideline score sheets would often be accompanied by CIS printouts so the prior record could be computed. For prior offenses that occurred outside the county, CIS was the best way to locate the record. Even

80. See *Juvenile Crime Control Act of 1997*, H.R. 3, 105th Cong. (1997); *Violent and Repeat Juvenile Offender Act of 1997*, S. 10, 105th Cong. (1997).

81. See BARRY FELD, *BAD KIDS: RACE AND THE TRANSFORMATION OF THE JUVENILE COURT* (1999).

for those offenses that occurred in county, CIS was a quicker way of documenting the record. The same data that were suspect for research purposes were expedient for processing decisions.

Third, the detailed information in the local court records did not reveal clear and consistent differences between transfer cases and the juvenile justice matches that were identified through CIS data. Even among the subset of transfer cases that involved chronic and serious offenders, juvenile justice matches could be found that were as chronic and as serious according to the more detailed data obtained from local records. Fourth, the local records revealed that the CIS designation of transfer was often inaccurate, so often, in fact, that the comparison groups in our original recidivism analyses might have been confounded.⁸² On the one hand, this means that our recidivism results need to be interpreted with some caution. On the other hand, however, the data from the local records showed that transfer cases could be matched with similar cases that remained in the juvenile justice system.

This local records research adds another chapter to the policy debate over transfer. The recent reforms in the juvenile justice system took place before most of the relevant questions could be researched or evaluated. The reforms generated a first wave of research relevant to issues of fairness and effectiveness. Some research examined how many juveniles were transferred, the kinds of offenses for which they were transferred, and other legally relevant offender and offense characteristics and raised doubts about whether transfer was reserved for the "worst of the worst." Other studies in this first wave of research raised doubts about the effects of transfer on recidivism. This first wave of research relied primarily on statewide automated data bases that were readily available. Once the research itself was drawn into the policy debate, the adequacy of the research data became an issue. Concerns were raised that the summary data oversimplified transfer cases and decision-making and that comparisons made between transfer and juvenile cases were misleading because they were based on incomplete information.

Our in-depth local records research was designed to address these concerns. The research collected more complete information from local court records to improve the comparisons. The additional information has uncovered new and important complexities in our efforts to evaluate the fairness and effectiveness of transfer policies and practices. To be sure, the local data point to some inaccuracies in the automated data. The analysis of in-depth local records data, however, supports the general conclusions of the

82. Because Fagan's work did not use Florida data, his recidivism analyses are not subject to this reservation. See Fagan, *The Comparative Advantage*, *supra* note 28, at 79 (using data from New Jersey and New York).

first wave of research regarding fairness: many transfers do not involve particularly serious cases, and most of the cases that are transferred to adult court can be matched with a comparable case retained in the juvenile justice system. Transfer is not reserved for the “worst” offenders in the four Florida circuits we studied. The policy debate awaits findings from similar local records research in other jurisdictions, but the best evidence to date refutes claims that transfer enhances fairness.

The increased accuracy and completeness of information found in the clerk-of-court files will improve our matching procedures so that better recidivism analyses can be performed in the future. We recommend that other researchers consider the potential slippage between automated summary data and local records information. Evaluations of the relative effectiveness of transfer for reducing recidivism will depend on valid comparisons. Based on the evidence presented here, those valid comparisons will require local records detail.