

The Changing Borders of Juvenile Justice: Transfer of Adolescents to the Adult Criminal Court

Adolescent Development and Juvenile Justice

Through much of the 20th century, the juvenile court was the primary legal forum to respond to children who broke the criminal laws. With the rise in youth crime beginning in the late 1970s, legislators and commentators spoke ominously of a nation under siege by a rising generation of violent young criminals. These fears led many Americans to blame the juvenile court and demand that legislators “get tough” with violent and chronic young offenders.

In response to recurring epidemics of youth violence over the past three decades, 46 states made significant changes in laws that lowered the age and broadened the circumstances under which young defendants could be prosecuted in the criminal courts. Prosecution in the criminal court was designed to punish young offenders more harshly and for longer periods of time, thereby deterring them and other youths from further crimes.

But have these efforts been effective? Does the prospect of harsher sentences and adult time deter youth from committing crimes? Although there are strong proponents on each side of the argument, new evidence has raised questions about the effectiveness of the new laws.

Network researchers have examined whether the prosecution of adolescents as adults reduces crime and recidivism. Their research capitalizes on unique conditions in the New York City region, where the laws of two states, New York State and New Jersey, span the border of a single metropolitan area. On the New York side of the border, juveniles as young as 13 are charged in adult court, while on the New Jersey side, nearly all cases of juvenile offenders below the age of 18 are processed in juvenile court. By comparing similar offenders in the two settings who were arrested and charged with the same felony offenses during the same time period, the researchers were able to determine whether treating juveniles as adults in the legal system is an effective deterrent to crime.

They find that adolescents processed in the New York adult courts were more likely to be re-arrested, they were re-arrested more often and more quickly and for more serious offenses, and they were re-incarcerated at higher rates than those in the New Jersey juvenile courts. The results suggest that harsher sentences and adult punishment are ineffective deterrents to crime among the juveniles in this sample.

Teens Prosecuted in Adult Courts at Greater Risk of Repeat Offenses

The study examined more than 2,000 adolescents who committed one of three types of serious crimes (aggravated assault, armed robbery, burglary) during 1992 and 1993. The youth were tracked through 1999 to determine re-arrest rates for several types of crimes. By using the two groups from the same metropolitan area, with similar economic opportunity, access to weapons, drug use, gang influences, and other influences on crime, any differences in re-arrest between the two groups can be assumed to be due to the different court systems. The re-arrest rates were calculated after controlling for time on the street.

Table 1 shows that youth prosecuted in the adult courts in New York were 85% more likely to be re-arrested for violent crimes than those prosecuted in the New Jersey juvenile courts, and 44% more likely to be re-arrested for felony property crimes. The odds of re-arrest

were greatest for those youths with no prior arrest record who were prosecuted and sentenced as adults. Only for one type of crime, drug offenses, were youths in the adult courts less likely to be re-arrested. The chances of being re-incarcerated were 26% greater for youths prosecuted as adults. When the researchers compared the number of each type of offense during the follow-up period, the results were nearly identical.

Youths who received lighter sanctions – those whose cases were either dismissed or who received lighter sentences – also were less likely to be re-arrested; this was true in both states. In other words, teens whose cases are diverted from court or dismissed are less likely to be arrested again. More work is needed to determine whether this stems from the courts’ ability to identify those youth at greater risk for reoffending and give them a sanction, or if the mere fact of a sanction causes an adolescent to feel more like a criminal and then act more like one after release.

The research also showed that longer sentences did not reduce the likelihood of rearrest either in the juvenile or the adult court. But, the research did show that a history of prior arrests and re-arrests is a reliable predictor of future re-arrests. So too are several demographic factors: males are more likely to be re-arrested than females, and African-Americans are more likely to be re-arrested than other race-ethnicities. More study is needed to determine whether these differences stem from different behaviors of the individuals in the groups or from different arrest policies.

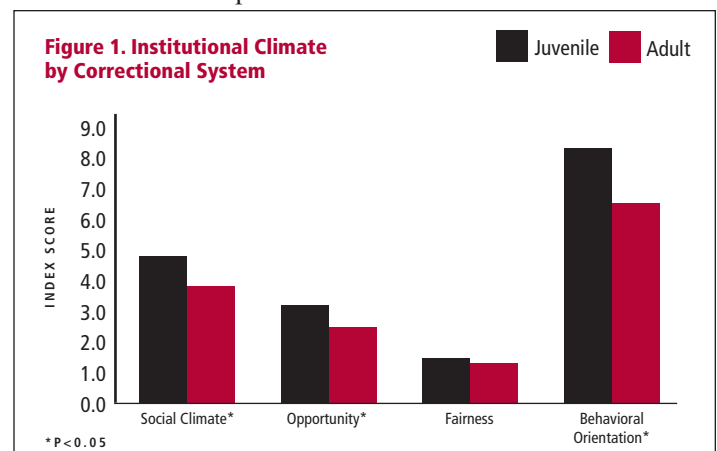
Table 1. Odds of Re-Arrest and Re-Incarceration for Adolescents in Adult Court Relative to the Juvenile System*

Recidivism Measure	Statistical Significance	Odds Ratio Relative to Juvenile System
Any Rearrest	ns	–
Violence	.001	1.85
Property	.001	1.44
Weapon	ns	–
Drug	.001	0.65
Re-incarceration	.05	1.26

* Log odds of 1.0 indicates no difference.

Teens in Adult Corrections Face Harsher Settings and Experience More Developmental Problems

In a related study, network researchers compared the correctional experiences of 425 adolescents placed in juvenile versus adult correctional facilities in 2000-2001. This research sought clues that might explain why adolescents adjudicated and sentenced in the criminal courts often have higher re-arrest rates and are more often returned to jail or prison. The research used a similar design in which youth in juvenile corrections were compared with matched samples of youths in nearby states where they were incarcerated as adults. The incarcerated youths were interviewed within three months of their scheduled release date and asked about their correctional experiences, the therapeutic and rehabilitative services they received, and their mental health and social outcomes. Four states were included in the study, each with varying programs and facilities where teenage offenders were incarcerated. The experiences of youth in juvenile correctional facilities in New Jersey and California were compared with those of similar groups of youth placed in adult correctional facilities in New York and Arizona.



The results suggest clear differences in the therapeutic and service contexts of each of these settings. Figure 1 shows that youths placed in adult correctional settings reported significantly weaker correctional climates along four critical dimensions: fairness, counseling and therapeutic services, educational and job training services, and program structure, compared with matched groups of youths placed in juvenile facilities. At the same time, the juvenile facilities were more chaotic. Adolescents in the juvenile programs reported higher rates of witnessing violence and violent victimization. They also reported higher rates of involve-

ment in several types of crimes while incarcerated as well as more drug use. Despite these unruly settings, they reported greater feelings of safety compared with youths placed in adult settings. This paradox may reflect the social networks that were dominant in the two different types of placements: older criminal offenders in more organized prison gangs were the dominant social group in the adult facilities, compared to the loosely organized groups of peers that populated the juvenile facilities.

This greater sense of danger, then, perhaps explains the higher rates of mental health problems reported by youths in the adult facilities. Figure 2 shows that the current levels of mental health symptoms of youths in adults corrections were significantly worse on two dimensions of mental health functioning compared with rates reported by youths in juvenile facilities. The significant dimension includes the important Global Severity Index, a scale that spans all of the dimensions of mental health in this assessment tool.

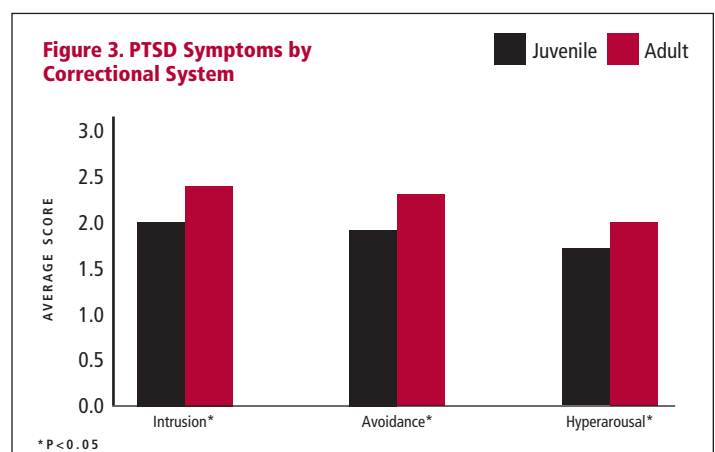
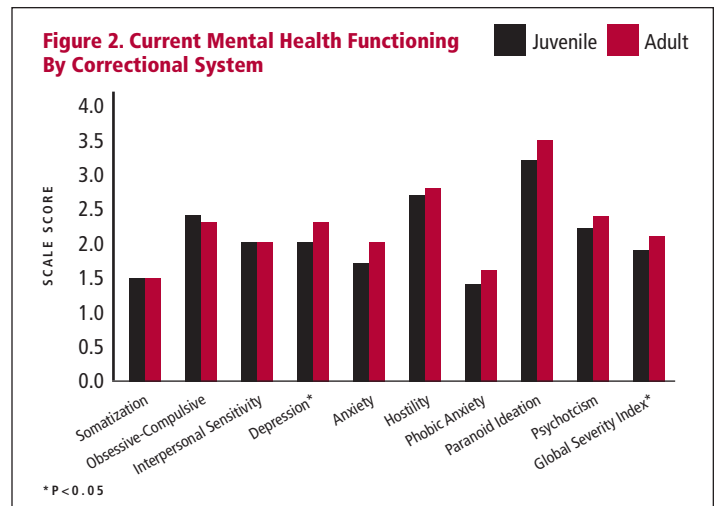
The same youths also reported higher rates of three dimensions of post-traumatic stress disorder. Figure 3 shows that youths in adult corrections had higher rates the same types of mental health problems experienced by soldiers returning from war and survivors of natural disasters.

There were also differences across the juvenile corrections facilities. Youths placed in larger juvenile justice facilities with a wider age range of inmates had similar outcomes to youths placed in the adult facilities. Youths sentenced as adults who spent some time in juvenile facilities before being administratively transferred to adult placements experienced fewer mental health problems and reported better service environments. These differences suggest that the size and diversity of populations in correctional placements are important dimensions of the correctional experience that interacts with the broader adult-juvenile legal categories to shape the correctional experiences of youths punished as adults.

Policy Implications

Policymakers and others advocating for harsher youth sentences argue that the threat of “adult time for adult crime” is a sound deterrent. The first study, however, shows the opposite: recidivism among 15- and 16-year-olds prosecuted in adult courts in New York is actually more common and more serious than it is in New Jersey, which refers adolescents who have committed similar offenses to juvenile courts. Youths sentenced in the criminal courts in New York were more likely to be re-arrested, their re-arrests were more frequent and their new offenses more serious, and they were more likely to be re-incarcerated within a few years.

The study also suggests that the longer sentences in adult courts are not responsible for the differences in re-arrest rates or in correctional outcomes. Rather, the second study finds that the adult courts may expose adolescents to harsher incarceration settings



and less effective probation supervision in the criminal justice system. One reason may be that a felony conviction has a more harmful effect on subsequent employment, citizenship, or other positive adult roles, factors that otherwise could lessen the tendency to return to crime. Another possibility is that prosecution in an adult court communicates to the adolescent that he or she is unsalvageable, and hence repeat offenses become a self-fulfilling prophecy. A third reason is the stark differences in correctional experiences for those youths who are incarcerated as adults. Not only do they receive fewer and weaker services, but they are confined with adult offenders during the critical developmental period of the transition from adolescence to adulthood. This environment obviously has its effects on mental health. But also, teens in adult corrections have limited exposure during this critical developmental stage to a broader set of social norms and a more diverse behavioral toolkit from the wider social networks of family, school or work, and community. Network researchers are not the only ones to reach these conclusions. Studies in Florida, for example, show similarly elevated risks of re-arrest for juveniles in adult court, and similarly toxic environments for those youths placed in adult correctional facilities.

Network researchers recommend that authority for making transfer decisions be returned to court judges who can consider criteria other than age and offense in determining how to prosecute an adolescent. Policies that result in a wholesale transfer of adolescents from juvenile to adult courts often fail to deter repeated instances of serious and violent crime. Although some of the most extreme cases may still need to be prosecuted in adult court, these should be the exception and not the rule. However, return of decision-making authority to judges must be accompanied by new models for decision-making. In the past, judges have not been able to consistently identify the most serious offenders, and there has been a tendency toward harsher sentencing that often reflected racial discrimination. If new models are not offered to judges, the same problems will recur. What is needed is a better method to distinguish between cases in which the community must be protected from predatory youth and those in which delinquent youth must be protected from negative effects of incarceration.

For more information

MacArthur Foundation Research Network on Adolescent Development and Juvenile Justice
Temple University, Department of Psychology
Philadelphia, PA 19122
www.adjj.org

The Research Network on Adolescent Development and Juvenile Justice is an interdisciplinary, multi-institutional program focused on building a foundation of sound science and legal scholarship to support reform of the juvenile justice system. The network conducts research, disseminates the resulting knowledge to professionals and the public, and works to improve decision-making and to prepare the way for the next generation of juvenile justice reform.