TREATMENT OF MINORITY YOUTH OFFENDERS IN THE CRIMINAL JUSTICE SYSTEM: AN ANALYSIS OF "JUVENILE DEFENDANTS IN CRIMINAL COURTS (JDCC): SURVEY OF 40 COUNTIES IN THE UNITED STATES, 1998"

BY

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This thesis was prepared under the direction of the candidate's thesis advisor, Dr. Gregory Adams, Department of Sociology, and it has been approved by the members of the candidate's thesis committee. It was submitted to the School of Graduate Studies and was accepted in partial fulfillment of the requirements for the degree of Master of Science.

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ABSTRACT

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The purpose of this study is to examine the offender and offense variables that influence juvenile transfers of minority youth to criminal court and the resulting sentence outcomes. It has been well documented that minority youth are disproportionately transferred at higher rates than white youth; however, the literature on sentence outcomes is sparse. Through secondary analysis of The United States Department of Justice Bureau of Justice Statistics work, "Juvenile Defendants in Criminal Courts (JDCC): Survey of 40 Counties in the United States, 1998," I tested the hypothesis: sentences handed down to minority youth are more severe than those given to their white counterparts. The study found that white juveniles are more likely than African American juveniles to receive sentence outcomes of restitution and probation and that race had no significant effect on an incarceration sentence.

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CHAPTER ONE: INTRODUCTION

The transfer of youth to the criminal jurisdiction has been a practice of the juvenile court since its inception in the early 20th century; however, "legislative changes in the 1980's and 1990's have dramatically eased the process of transferring children to the criminal court" (Shook 2005: 461). Designed to take a punitive stance towards delinquency, revisions of transfer law have generally expanded the types of offenses and offenders eligible for transfer (Redding 2008; Snyder and Sickmund 2006; Shook 2005; Bortner, Zatz and Hawkins 2000). In an effort to make transfers more expedient state legislatures have lowered the minimum age for transfer, increased the number of transfer eligible offenses, expanded prosecutorial discretion and reduced judicial discretion (Redding 2008; Snyder and Sickmund 2006; Shook 2005; Redding 2003; Bishop 2000). A number of states' transfer policies thus implicate a broad range of offenders who are neither serious nor chronic (Bishop 2000). Accordingly, the number of youth transferred and sentenced in criminal court has increased (Redding 2008; Snyder and Sickmund 2006; Shook 2005; Redding 2003; Males and Macallair 2000; Bishop 2000; Feld 1993).

Many critics allege that such legal reforms do not fall uniformly on all youth associated with the juvenile justice system (Bortner et al. 2000; Males and Macallair 2000). Evidence supporting the "ethnic and racial differences in the handling of delinquent youths signal(s) the continuation of a long-standing debate regarding American juvenile justice practices" (Bortner et

al. 2000: 278); two contrary claims mark this debate of race in contemporary juvenile justice practices. First, it is argued that minority youths are transferred in greater numbers because racial bias and discrimination are imbedded within the justice system itself (Bortner et al. 2000; Males and Macallair 2000). Alternatively, supporters of current juvenile justice practices argue that, disproportionate rates of minority transfers result from an underlying assertion that these youth commit greater amounts of violent and serious crime (Shook 2005; Puzzanchera et al. 2004; Bishop 2000; Bortner et al. 2000). Nevertheless, these claims acknowledge that issues of race and ethnicity are heavily imbedded in the discourse surrounding punitive juvenile justice reforms (Shook 2005; Bortner et al. 2000; Feld 1993).

It has been well documented that minority youth are disproportionately transferred, to criminal court. Between the years 1985 and 2005, delinquency cases of African American youths are more likely to be waived than were cases involving white youths or youth of other races (Shook 2005; Puzzanchera et al. 2004; Rainville and Smith 2003; Bishop 2000). In comparison, the literature on sentence outcomes is sparse. Therefore, it is my intention to examine the offender and offense variables that influence the outcomes of transfer cases, with particular attention paid to minority youth. This will be accomplished through a data analysis of The United States Department of Justice Bureau of Justice Statistics work, "Juvenile Defendants in Criminal Courts (JDCC): Survey of 40 Counties in the United States, 1998".

The purpose of this analysis is to test the hypothesis: the sentences handed down to minority youth are more severe than those given to their white counterparts in criminal court. What follows in this study is a discussion of the potential racial disparities that emerge in the sentencing phase of transfer cases. Beginning with an overview of juvenile court history and trends in transfer policy, this paper will examine the scope of juvenile transfer and sentencing outcomes.

CHAPTER TWO: REVIEW OF LITERATURE

TRANSFER POLICY AND PRACTICE

Transfer policies address which court, either juvenile or criminal, has jurisdiction over certain delinquency cases; jurisdiction provisions vary depending on where the responsibility for decision making lies (Redding 2008; Snyder and Sickmund 2006). Transfers generally occur through three broad mechanisms[1]: judicial discretion, statutory exclusion and, prosecutorial discretion. With judicial discretion jurisdiction begins in the juvenile court (Redding 2008; Snyder and Sickmund 2006; Shook 2005; Bishop 2000; Dawson 2000). Individual cases are considered for transfer upon the filing of a motion; following a due process hearing the juvenile court judge makes the transfer decision based upon enumerated criteria (Redding 2008; Snyder and Sickmund 2006; Shook 2005; Bishop 2000; Dawson 2000). Statutory exclusion excludes particular youth offenders from being processed in the juvenile court because of specific criteria established by state statutes (Redding 2008; Snyder and Sickmund 2006; Shook 2005; Bishop 2000; Dawson 2000). Under statutory exclusion conditions cases originate in criminal rather than the juvenile court (Snyder and Sickmund 2006). Alternatively, prosecutorial discretion allows the prosecutor to decide within what jurisdiction to file a case; original jurisdiction is

[1] There is considerable variance in how states define mechanisms for transfer. All states, individually, maintain primary authority for establishing jurisdiction and the structure of their juvenile justice system (Snyder and Sickmund 2006; Shook 2005).

shared by both the criminal and juvenile court (Redding 2008; Snyder and Sickmund 2006; Shook 2005; Bishop 2000).

Judicial discretion historically, has been the primary mechanism used for transferring juvenile offenders; however, changes in transfer policy over the last three decades has resulted in a shift towards the use of statutory exclusion and prosecutorial discretion (Snyder and Sickmund 2006; Shook 2005; Bishop 2000; Tanenhaus 2000). This change reshaped and reorganized the decision making process. Ultimately, the determination of whether youth crossed the line into adulthood shifted away from an individual's biography and towards the offense itself; in this regard, adulthood is largely equated to a single act (Shook 2005; Tanenhaus 2000).

Subsequently, those in the juvenile justice field have been left to question the effectiveness of these two transfer mechanisms. The literature reveals that both mechanisms have potential drawbacks that may have contributed to the increased number of juvenile transfers. Although statutory exclusions are thought to remove discretion and establish firm rules based on age and offense, the offense types included are often correlated with race (Shook 2005). Imbedded racial discrimination ultimately undermines the equalization process, which the legislation tries to accomplish. Similarly, prosecutorial discretion provisions often do not include enumerated criteria from which to base transfer decisions on or provide opportunities for review (Shook 2005). Statutory exclusion and prosecutor discretion, as transfer mechanisms, may also be subject to both legal and social influences, which, effectively shape the way the state maintains authority and how decision makers interpret a case (Shook 2005). For example, public acceptance of transfers is shown to have a positive relationship to the proliferation of the "superpredator" threat of the latter 1990's (Shook 2005; Potter and Kappeler 2005).

Extensive media coverage of juvenile crime has resulted in a deteriorating image of youth as well as waves of widespread fear and panic. Contributing to this altering view was the book, *Body Count: Moral Poverty and How to Win America's War against Crime and Drugs*. Written in 1996 by politicians, William J. Bennett, John J. DiIulio, and John P. Walters, the piece attempted to define social and economic solutions that would drastically reduce America's juvenile crime problem. Simultaneously, John J. DiIulio introduced a theory which tried to explain the dramatic increase in youth crime. The Superpredator Theory, as it was called, depicted 20th century juveniles as the youngest and most terrible generation of all time (Potter and Kappeler 2005). DiIulio emphasized that, more punitive measures would be necessary to end the rising crime wave. In support of his claims, DiIulio predicted that by 2010 approximately 270,000 superpredators would exist in the United States (Potter and Kappeler 2005). The public indisputably accepted DiIulio's calculation, and accordingly, was led to believe that all juveniles were a potential threat (Potter and Kappeler 2005). The public's misconception resulted in the perpetuation of a common crime myth which undoubtedly affected juvenile justice reform[2].

THE JUVENILE AND CRIMINAL COURTS

Juvenile justice initiatives can be traced back to the development of the Child Saving Movement, a progressive effort of the early 20th century, which focused on alleviating the social ills of urban life through rational methods (Platt 1974; Tanenhaus 2000). The watershed movement which, in essence, created the concept of juvenile justice, effectively ended the practice of treating juveniles accused of criminal activity similar to adult offenders (Agnew

[2] In 2001, five years after the Superpredator Theory was introduced, the United States Surgeon General discredited DiIulio's findings and stated no sufficient amount of evidence existed to prove that juveniles committed more violent and vicious offenses than in previous years (Kappeler and Potter 2005).

2005). Before the advent of this social reform and the invention of childhood, many children were subjected to severe sentences and punishment not fitting of their crime. Reasons for the shift in juvenile justice correspond to social, environmental and technological advances produced by the Industrial Revolution. For instance, the urbanization of the country played a major part in differentiating between juveniles and adults (Platt 1974; Tanenhaus 2000). The creation of large urban cities led to outbreaks of poverty and health epidemics along with other social problems which resulted in homelessness for many poor children who were consequently left to roam the streets; many turned to lives of crime. These children soon became the topic of much debate as it was unclear who should be to blame for their disadvantaged state and whether or not the community should offer assistance.

In response, two opposing sociological perspectives, traditionalist and conflict, both attempted to define the problem of juvenile delinquency and offer potential solutions. Traditionalists believed that reformers were genuinely concerned about the plight of the disadvantaged children, as they willingly offered up their time and services to help rehabilitate this population (Platt 1974; Tanenhaus 2000). Conversely, the conflict perspective sought to maintain the existing social hierarchy and distribution of wealth by attempting to control and stabilize the poor and their children (Platt 1974).

These perspectives have important applications in the modern juvenile justice system, most visibly through the implementation of policies. Most noticeable of the progressive reforms was the creation of a separate court system for youthful offenders. The first juvenile court was a result of the Juvenile Court Law in Cook County, Illinois (Tuthill 2001). Enacted in 1899, the law gave the state of Illinois, the power to intervene in the lives of children under the doctrine of

parens patriae (Tuthill 2001; Tanenhaus 2000). The court's benevolent attitude was soon mirrored across the nation and by 1925, all but two states had created juvenile courts of their own (Tuthill 2001; Tanenhaus 2000).

The juvenile justice system is developmentally different than the criminal justice system. The juvenile court system operates under the assumption that youth are incomparable to adults. Juveniles, unlike their adult counterparts, face a hearing which follows a social psychology case work approach. A detailed history of each youth is compiled and assessed to ensure that the youth's specific needs are met and to maintain that the ordered sentence reflects the child's best interest (Agnew 2005). Rehabilitation and treatment are often emphasized to ensure individualized treatment within the juvenile court setting (Agnew 2005).[3]

Juvenile courts have also recognized how painfully damaging stigmatization effects can be; consequently the public's access to youth cases is severely limited (Agnew 2005, Bruce 2007). Likewise, juveniles are adjudicated delinquents rather than being found guilty to reduce stigma; this choice of language is very specific and reflects the benevolent attitude of the court (Agnew 2005). Finally, because children are often "more amenable to intervention and treatment," courtroom sentencing tends to be informal and less adversarial than criminal court proceedings (Juvenile Justice 1999: 2).

With regards to juvenile sentencing, there is much debate on whether or not emphasis should be placed on the offender or the offense. One view point dictates that juveniles should not be judged based solely upon an offense; instead, when adjudicating a juvenile, it is necessary to consider the offense, as well as all, mitigating social circumstances (Agnew 2005). The social

[3] Criminal defendants have a constitutional right to a trial by jury however, not all states give the same right to juvenile offenders (Agnew 2005).

context in which an offense is committed holds covert information that may explain reasons for why the crime was committed. Conversely, advocates of offense based sentencing follow the assembly line model of justice, a model focused on speed and efficiency. Offense based sentencing completely ignores all social and environmental factors and instead considers the crime itself; a prime example of this procedure are statutory waivers (Juvenile Justice 1999; Agnew 2005).

THE SCOPE OF YOUTH TRANSFER

Although data exists on the number of youth transferred via judicial discretion, little can be found on the numbers of youth transferred through statutory exclusion and prosecutorial discretion, as data collection methods have not kept up with transfer reforms (Shook 2005; Bishop 2000). Donna M. Bishop's (2000) review of all available data sources estimates that approximately 210,000 to 260,000 juveniles, under the age of 18, are processed annually in criminal court. Bishop's (2000) estimates were formulated from two separate data sources, judicial discretion provisions and state court processing statistics; the latter source includes information on all three types of transfer mechanisms.

With regards to race, children of color are disproportionately transferred to criminal court, mirroring many other aspects of both the juvenile and criminal courts (Shook 2005). Bortner et al. (2000), in their review of all quantitative transfer studies published between January 1983 and March 1998, revealed that children of color are waived to criminal court at much higher rates than white youths. In similar respects, Bishop (2000) noted that in 1999, 46% of judicial waivers were children of color. The State Court Processing Statistics reported that 69% of transferred youth are minorities (Shook 2005; Bishop 2000). Males and Macallair

(2000), utilized data collected from various court and state agencies in Los Angeles County, California, for the years 1996-1999, and found that Hispanic youth are 6 times more likely; African American youth are 12 times more likely, and Asian/other youth are 3 times more likely than white youths to be transferred to criminal court. Overall, delinquency cases of African American youths are more likely to be waived than were cases involving white youths or youth of other races each year between 1985 and 2000 (Shook 2005; Puzzanchera et al. 2004; Rainville and Smith 2003; Bishop 2000).

Despite popular belief that juveniles are transferred to criminal court for violent and serious offenses, Bishop's (2000) data indicates that youth are transferred for numerous other offenses. Judicial discretion data, for 1999, indicates that 34% of transferred cases were person offenses, 40 percent were property offenses, 16% were drug offenses and, 11% were public order offenses (Shook 2005; Puzzanchera 2003). State Court Processing Statistics tell a somewhat different story; SCPS reports that in 1999, 66% of transferred youth were waived for a violent crime (Shook 2005; Bishop 2000). Likewise, Rainville and Smith's (2003) report on the Bureau of Justice Statistics, *Juvenile Defendants in Criminal Courts: Survey of 40 Counties in the United States, 1998*, indicates that nearly two-thirds of juvenile felony defendants were charged with a violent crime. Males and Macallair (2000) found that in Los Angeles County (accounts for 40% of California's juvenile transfers to adult court) the transfer rate for minority violent arrestees is double that for white violent arrestees. The discrepancies in findings "may be attributable to the focus of prosecutorial and statutory exclusion provision on person offenses" (Shook 2005: 467). Additionally, these discrepancies give merit to the debate concerning racial disparities in the transfer of juveniles as they reaffirm both of the contradictory positions.

The inconsistencies in data make drawing conclusions about youth transfers difficult; but, "despite the considerable error in the estimates, the conclusion is inescapable that there have been substantial increases in transfer over the past two decades" (Bishop 2000: 105-108; Redding 2003; Shook 2005). The available data does however indicate that: (1) the offenses for which youth are transferred vary considerably and (2) African American youth are disproportionately represented in transfer cases. These conclusions find themselves in accordance with the proliferation of transfer legislation over the past few decades (Shook 2005).

SENTENCING OUTCOMES OF YOUTH TRANSFER

The existing literature on (1) criminal court outcomes for transferred youth (2) the subsequent treatment of youth offenders by the criminal justice system and (3) the effectiveness of youth transfer as a crime control mechanism, is sparse (Shook 2005; Bishop 2000). What the studies comparing outcomes of juveniles tried in juvenile and criminal court generally conclude is that criminal courts treat violent serious youth offenders more severely than do juvenile courts (Bishop 2000; Bishop and Frazier 2000; Shook 2005; Myers 2003; Feld 1993). Rainville and Smith (2003) found, in their national survey of juvenile felony defendants in criminal court, that 66% of juvenile felony defendants were convicted of either a felony or misdemeanor. Of those convicted, 64% were sentenced to confinement in jail or prison; the average prison sentence handed down was 90 months (Rainville and Smith 2003). In terms of the juveniles who find themselves in adult prisons and jails after sentencing, what the literature reveals is that juvenile facilities differ from adult facilities with regards to the number and quality of educational and treatment programs offered (Shook 2005). As for to the effectiveness of youth transfers as a crime control mechanism, the majority of empirical evidence suggests that transfer laws have

little or no general or specific deterrence effect (Redding 2008; Redding 2003; Bishop 2000). Bishop and Frazier (2000) found in their review of literature concerning the effects of transfer that juvenile waivers are counterproductive because transferred youth are more likely to reoffend, reoffend more quickly and, reoffend more often than juveniles retained in the juvenile justice system.

THE RACIAL CONTEXT OF YOUTH TRANSFTER

Children of color disproportionately experience consequences of transfer. There is an underlying assertion that the disproportionate number of transfers results from the belief that these children commit disproportionately higher amounts of violent/serious crime (Shook 2005; Bishop 2000; Puzzanchera et al. 2004). This assumption however, neglects any correlation between poverty and crime, as well as the way race, ethnicity and, crime are intertwined (Shook 2005). Controlling for poverty in a study of racial and ethnic disparities in juvenile crime, Males (1999) finds that income inequality accounts for much more than racial or ethnic identity. This agrees with prevailing notions that minorities have higher rates and live in higher concentrations of poverty (Shook 2005; Bishop 2000).

Popular media images of juvenile crime often focus on images of serious minority offenders, despite the fact that these images do not compare to the reality of youth crime (Myers 2003; Potter and Kappeler 2005). Although conflated, these images have resonated with the public; "providing an image of a dangerous 'other' that threatens social stability" (Shook 2005: 470). Identifying minority youth as the dangerous 'other' has increased support for transferring these children.

Notions of "at risk" youth are often equated with pathologies and increasingly the pathologizing of youth have commodified childhood and adolescence. Subsequently, there has been an insistence on diagnosing and treating this problem population (Reamer and Siegel 2008; Shook 2005). Troubled youth, typically middle class whites are being "fixed" by a thriving for profit mental health industry that solicits parents with frightening images of problem children, while low income non-whites are sent to a punitive justice system (Shook 2005; Reamer and Siegel 2008). This exemplifies what Shook (2005) deems to be the duality of youth. This notion "identifies one group of juveniles as receiving support to climb the latter to a successful adulthood, while a second group does not receive these benefits" (Shook 2005: 469). Reamer and Siegel (2008) support this claim stating that "one of the most troubling aspects of the troubled teen industry is that many youths with the greatest needs have the least access to high-quality services" (138). Disparities in race, ethnicity and class are thus, critical elements that must be considered when analyzing youth transfers.

CHAPTER 3: METHODOLOGY

The literature overwhelmingly reveals that minority youths are transferred more often than whites to criminal court; though, the literature on sentencing outcomes in such transfer cases is less abundant. Thus, it was my intention with this research to examine the offender and offense variables that influence prosecutorial charging, legislative mandates and judicial sentencing, with particular attention paid to minority youth offenders. This was accomplished through a secondary analysis of The United States Department of Justice Statistics data collection, "Juvenile Defendants in Criminal Courts: Survey of 40 Counties in the United States, 1998." The purpose of the current analysis is to test the hypothesis: sentences handed down to minority youth are more severe than those given to juvenile offenders, in criminal court.

"Juvenile Defendants in Criminal Courts: Survey of 40 Counties in the United States, 1998," was chosen as the data set for this analysis because it was representative of juveniles who were transferred to criminal court and contained case specific data. The JDCC study collected data on arrest charges, demographic characteristics, criminal history, pre-trial release and detention, adjudication, and sentencing from national, state and, local agencies. The dataset was the most recent work of its kind. The data was originally released by the Inter-University Consortium for Political and Social Research on September 25, 2003 (U.S. Dept. of Justice: BJS 2003).

DATA COLLECTION

The Juvenile Defendants in Criminal Courts (JDCC) sample was drawn from the 1998 State Court Processing Statistics (SCPS) (U.S. Dept. of Justice: BJS 2003). The SCPS sample was designed by the U.S. Census Bureau, to be a two-stage stratified sample. At stage one, 40 of the 75 most populous counties in the United States were selected to be included in the sample frame; the 40 counties resided in 19 different states; the selected counties were not representative of their respective states (U.S. Dept. of Justice: BJS 2003). Instead, the JDCC sample was intended to be representative of the nation's 75 most populous counties (U.S. Dept. of Justice: BJS 2003). Data collection problems however, caused some counties to drop out; because this occurred late in the course of the study, finding a systematic replacement was not feasible. The sample therefore became non-probabilistic.

Stage two required a systematic sample be drawn from state court felony filings (U.S. Dept. of Justice: BJS 1998). Data was collected on all cases filed in 1998, in which a juvenile was charged with a felony in the criminal jurisdiction of the 40 counties (U.S. Dept. of Justice:

BJS 2003). In order to get a more complete description of juvenile processing, the cases were tracked for one year. The JDCC study collected data on: demographic characteristics, criminal history, current arrest charges, relationship to the court, pretrial conditions, adjudication outcomes, and conviction sentences (U.S. Dept. of Justice: BJS 2003).

SAMPLE

The JDCC dataset focused primarily on aggregates of individuals and was cross-sectional. The sample was an independent sample of juvenile felony defendants from 40 U.S. counties drawn from the SCPS 1998 series. SCPS data was collected on a total of 15,909 felony cases, 7,135 of the total cases were juvenile felony defendants; this number of juvenile defendants is representative of the number of juvenile cases transferred to criminal court. The number of felony cases varied between counties because of differences in population size and composition, variances in state transfer legislation, and general levels of criminal activity in a given county (U.S. Dept. of Justice: BJS 2003).

MEASUREMENT

For the purposes of the current study the variables race/ethnicity, age and, file mechanism will be defined in terms of the original JDCC research; whereas, measures of sentence severity and offense type will be defined by the researcher.

Race & Hispanic/Latino Origin

Race and ethnicity were considered to be mutually exclusive; a juvenile defendant was identified as being either American Indian/Alaska Native, Asian, Black, Native Hawaiian/Other Pacific Islander, White or, Hispanic/Latino or Unknown (U.S. Dept. of Justice: BJS 2003).

With regards to the original JDCC study, if a person was identified as Hispanic/Latino, then race was unknown; if the person was identified as Black, White, Asian or some other race, then the person was identified as not being Hispanic/Latino (U.S. Dept. of Justice: BJS 2003). Additionally, during data collection procedures, the researchers noted that the public record of some defendants' race or ethnicity was inaccurate. For example, it was common practice for jurisdictions to categorize defendants with Spanish surnames as Hispanic/Latino however, some jurisdictions categorize these people as white (U.S. Dept. of Justice: BJS 2003). To account for this error, JDCC researchers' categorized all apparent inaccuracies in the 'don't know' category.

For the purposes of the current research, I used the same categories of race and ethnicity described above however, each category was re-coded into six binary variables; the resulting variables were created: *indian, asian, black, pasisl, white, hisp.*

Juvenile

The term youth is used interchangeably with the term juvenile and most often refers to, a person eighteen years of age or younger (Snyder and Sickmund and Snyder 2006). However, in terms of the juvenile justice system, the definition of juvenile is far more complex. When determining youth or juvenile status, age is typically considered to be the primary indicator (Tanenhaus 2000). Although chronological age is the dominant fact in determining juvenile status, there is no federal consensus or standard. Instead, each state is allowed to independently set an age threshold, thus creating a complex set of criteria (Corriero 2006; Agnew 2005). In legal terms, a juvenile is "a youth at or below the upper age of juvenile court jurisdiction" (Neubauer 2008: 464). Consequently, jurisdictional differences inhibit the creation of a single, unifying definition. The JDCC sample includes juveniles from nineteen states; the upper age

limit for juveniles varies across these states. Of the 40 counties, 25 have an upper age limit of 18, nine counties have an upper age limit of 17 and, six counties have an upper age limit of 16 (U.S. Dept. of Justice: BJS 2003).

The JDCC sample maintained two categories of ages, one at the time of filing in the criminal jurisdiction and the other at time of arrest; if a juvenile defendant's age, in either category, fell under the upper age limit, the case was retained in the study (U.S. Dept. of Justice: BJS 2003). If both ages were over the upper age limit of the court at filing and arrest, the JDCC study sought the defendant's age at offense date; if the defendant was a juvenile at the time of the offense, the case was included in the study (U.S. Dept. of Justice: BJS 2003). In the present study juvenile status or age is represented by the binary variables: *under16, under17 and, under18.*

Transfer Laws & Practice

Transfer laws address which court, juvenile or criminal, has jurisdiction over juvenile cases (Snyder and Sickmund 2006; Redding 2008). Transfer type was measured nominally and was referred to in the JDCC'S original variable list as filing/transfer mechanism type; specific types of transfer included: discretionary judicial waiver/certificate, direct file and, statutory exclusion[4]. An 'other' and 'don't know' category were also available however, it was decided that they should be excluded as variables because of vagueness in their categorical description.

[4] Discretionary judicial waiver/certificate is also referred to judicial discretion, meaning the judge decides within which jurisdiction to file a case. Direct file is used interchangeably with the term prosecutorial discretion, meaning the prosecutor decides within which jurisdiction to file a case.

Sentence Severity

The method used for scaling sentence severity type was based loosely on James L Croyle's (1983) work, "Measuring and Explaining Disparities in Felony Sentences: Courtroom Work Group Factors and Race, Sex, and Socioeconomic Influences on Sentence Severity." Croyle (1983) created a scale where severity was assessed on the expected incarceration time for a given sentence. In essence, the sentence severity scale is a function of legislative sentencing mandates (Croyle 1983). This approach is favorable, like most other empirical attempts (*see McDavid and Stipak's 1982 canonical correlation analysis*) in that they favor a scale based on data rather than subjective or comparative judgments.

The severity of sentence was operationalized to include all types of sentence outcomes included in the JDCC's original variable list. Sentencing information indicates that data was collected on twenty different kinds of sentence outcomes. For the purposes of the current study the above sentence types were ordinally ranked into a hierarchy of three broader categories: restitution, conditions of probation and, time served; the variable *senord*, refers to the ordinally measured sentence severity outcome. The sentencing categories and corresponding variables are depicted below:

Table 1.1 - Sentence Severity Categories
Restitution
Restitution
Conditions of Probation
Community Service
Electronic Monitoring
Treatment
Intensive Probation
Juvenile Probation
Anger Management
GED
Drug Test
Counseling
Curfew
Incarceration Time
Jail
Juvenile Facility
Prison Minimum Years
Prison Maximum Years
Other Sentences
Boot Camp
Youthful Offender Sentence
Sex Offender Registry
Community Control
Driver's License Suspension Sentence

The first category, restitution, was comprised of only one binary variable, restitution; where the numeric code 1 was equal to the condition, yes a restitution sentence was given and, the numeric code 2 was equal to the condition, no a restitution sentence was not given. All other responses were coded as missing. Restitution is a legal response in which the defendant is ordered to give up his gains to the plaintiff (U.S. Dept. of Justice: BJS 2003). The second category, conditions of probation, was comprised of ten probation variables from the JDCC study. These ten variables (community service, electronic monitoring, treatment, intensive probation, juvenile probation, anger management, GED, drug test, counseling and curfew) were

coded so that the numeric code 1 was equal to yes a probation sentence was given and, the numeric code 2 was equal to the condition that, no a probation sentence was not given. Within the overarching conditions of probation category, probation variables were not ordinally ranked; scaling the probation variables was deemed unnecessary because I was not interested in drawing comparisons within the sentencing groups, only between the groups to see the larger picture of sentence outcomes given to transfer juveniles. The third category, time served, was constructed in a similar fashion to the conditions of probation category in that, the individual components of the group were not ordinally ranked. Once again, the interest was focused on comparisons made between categories not within. The final and fourth category, other sentences, was added as an additional source of information; the JDCC study categorized these sentence outcomes as 'other'; because there was not enough information to categorize these sentences into one of the other three categories or place them within the category hierarchy, they remain a separate category.

Offense Type

In this analysis type of offense was represented by the adjudicated charge type; measured at an ordinal level, thirteen types of offenses, from the JDCC variable list, were included. The thirteen offense types were ordinally ranked, in descending order, into five crime categories: violent offenses, property offenses, drug offenses, public order offenses and, misdemeanor offenses. Included in the violent offense category were: murder, rape, robbery and, assault. The property offense category included: burglary, theft, motor vehicle theft, fraud and, forgery. The drug offense category included drug trafficking. The public order offense category included weapons charges and driving related offenses. Lastly, misdemeanor offenses included any and

all misdemeanors. Each of the individual adjudicated charge types was also coded as their own binary variable where the numeric code 1 was equal to the condition, yes - charge type and the numeric code 2 was equal to the condition no - charge type.

Table 1.2 - Adjudicated Crime Type Categories
Violent Offenses
Murder
Rape
Robbery
Assault
Property Offenses
Burglary
Theft
Motor Vehicle Theft
Fraud
Forgery
Drug Offenses
Drug Trafficking
Public Order Offenses
Weapons
Driving Related Offense
Misdemeanor Offenses
Misdemeanors

DATA ANALYSIS

The primary purpose of the current study was to explore transfer rates of minority offenders and the severity of sentence handed down from the criminal jurisdiction to minority felony defendants and to test the hypothesis, the sentences handed down to minority youth are more severe than those given to juvenile offenders. To assess these premises, a combination of logistic regression and ordinary least squares model equations for conjoint analysis were run using the statistical computer software package, STATA/IC 11. The objective of this analysis

was to produce a set of variables that corresponds to the maximum likelihood criteria. A formal regression equation is written as:

$$\bar{Y}=b_o + b_1X_1 + b_2X_2 + b_3X_3 + \ldots + b_kX_k$$

In total eight separate regression analyses were run. $\bar{Y}$ was the predicted value of the dependent variable; the dependent variables utilized were the sentence outcomes: restitution, probation, time served and, maximum year sentence. The predictor values included measures of gender, race, criminal history, file mechanism, attorney type and, adjudicated crime type. Age and the ethnicity measure Hispanic were not included as predictor values because the JDCC variables were measured vaguely. The individual regression models are explained more fully alongside the findings in the results portion of the paper.

CHAPTER FOUR: RESULTS

DESCRIPTIVE JDCC STATISTICS

The Juvenile Defendants in Criminal Courts study, *Survey of 40 Counties in the United States, 1998*, included a number of variables for ascribed characteristics; all of which are useful in giving the reader an overview of the sample juveniles. Race was coded as five individual binary variables: American Indian/Alaskan Native, Asian, black/African American, Native Hawaiian/Other Pacific Islander and, white. Hispanic or Latino origin represented the study's only measure of ethnicity. On average, 23.68% of the sample was white; the majority of the sample, 74.14%, was black. Additionally, 23.24% of the total sample (n=7,135) was of Hispanic or Latino origin. The juveniles were overwhelmingly male, 95.75%. The average age of juvenile respondents' at arrest was 16.66 years old, with a standard deviation of 1.08 years. Overall, the minimum age at arrest was 10.67 and maximum age was 26.8.

Table 1.3 Descriptive Statistics for Demographic Variables			(N = 7,135)
Variables	%	M	SD
Race			
American Indian or Alaskan Native	0.49		
Asian	1.32		
Black or African American	74.14		
Native Hawaiian or Other Pacific Islander	0.37		
White	23.68		
Ethnicity			
Hispanic or Latino Origin	23.34		
Gender			
Male	95.75		
Female	4.25		
Age			
Under 16	26.55		
Under 17	57.63		
Under 18	97.50		
Age at Arrest Date		16.66	1.08

The criminal history of juvenile offenders was also key to the study's assessment of sentence severity and juvenile transfers. Two correlated variables, adult prior arrests/convictions and juvenile prior arrests/convictions, help to establish this background information. A majority, 74.72%, of the sample respondents had prior juvenile arrests and/or convictions. Likewise, 18.2% had prior adult arrests and/or convictions.

Attorney type at adjudication was used as a proxy measure of social capital. Attorney type was coded as a dichotomous independent variable, either public or private counsel. On average, 50.72% of the total sample population was assigned public counsel; whereas, only 18.04% had access to private counsel.

Table 1.4 Descriptive Statistics for Criminal History & Attorney Type Variables (N=7,135)	
Variables	%
Criminal History	
Adult Prior Arrests/Convictions	74.72%
Juvenile Prior Arrests/Convictions	18.20%
Attorney Type	
Public	50.72%
Private	18.04%

The study also sought to explore the independent measure, adjudicated charge type, Adjudicated charge type variables were recorded as 13 individual crimes. When broken down into broad categories, it becomes apparent that violent offenses (murder, rape, robbery, assault) comprise the majority, 55.85%, of all adjudicated charge types. Similarly, drug offenses (drug trafficking) account for 18.96%; property offenses (burglary, theft, motor vehicle theft) account for 16.61%, public order crimes (fraud, forgery, weapons, driving related offenses) account for 3.29% and, misdemeanors account for 2.57%.

Table 1.5 Descriptive Statistics for Adjudicated Charge Type Variables	(N= 7,135)
Variables	%
Adjudicated Charge Type *(DV)*	
Murder	3.30
Rape	2.77
Robbery	30.82
Assault	18.96
Drug Trafficking	10.18
Burglary	8.08
Theft	5.59
Motor Vehicle Theft	2.94
Fraud	0.09
Forgery	0.30
Weapons	2.79
Driving Related Offenses	0.11
Misdemeanor	2.57

Sentence outcomes and the related measure, incarceration, serve as another of the study's independent measures. The most frequent sentence juveniles received was time served, 39.06% of the time, as compared to a sentence of restitution, probation or, other sentence, which includes options like: boot camp, juvenile sanction, sex offender registry, community control and driver license suspension. The sentence, time served, was a measure of incarceration time; specifically, a measure of the variables: time served days, jail days, prison minimum days, life sentence and juvenile sentence facility days. The average sentence length was 171.26 days with a moderately high standard deviation of 21.73 days.

Table 1.6 Descriptive Statistics for Sentencing Outcome Variables (N = 7,135)			
Variables	%	M	SD
Sentencing Outcomes			
Restitution	10.68		
Probation	10.62		
Time Served	39.06		
Other Sentence	3.45		
Incarceration			
Time Served Days		171.26	21.73
Jail Days		92.13	4.97
Prison Minimum Days		11.93	4.34
Life Sentence	.88		
Juvenile Sentence Facility Days		373.61	35.31

SENTENCE OUTCOME LOGISTIC REGRESSION MODELS

The four groupings of logistic regression and ordinary least square models center on the sentence outcomes of convicted juvenile offenders. The sentence outcomes used as response variables included: restitution, probation, incarceration time and, maximum prison sentence measured in years. Predictor variables included: race, gender, criminal history, attorney type, adjudicated charge type and, file mechanism (transfer type).

Restitution

The first set of logistic regression models illustrates the effects the variables: race, gender, criminal history, attorney type, adjudicated charge type and file mechanism (transfer type) have on the sentence outcome, restitution. There was no association between the sentence outcome restitution and the gender variable, male. As for race, white ($p<.001$) juveniles are 2.09 times more likely to receive a restitution sentence whereas, black ($p<.001$) juveniles are 0.4239 times as likely to receive restitution. There were no significant associations between restitution and the attorney type predictor variable, assigned. If a juvenile had prior arrests and/or

convictions in juvenile court, he was approximately 2.75 times more likely to receive restitution. Five of the seven adjudicated crime type variables increased the likelihood of a juvenile receiving a restitution sentence. Specifically, the risk of receiving a restitution sentence is 1.76 times greater for a robbery ($p<.000$) offense, when controlling for the race variable, white; and 1.80 times greater, when controlling for the race variable, black. Drug ($p<.001$) offenses decrease the likelihood of restitution by 0.1308, controlling for the variable white, and by 0.1366, when controlling for the variable black. On average, burglary ($p<.001$) and theft ($p<.0001$ increase the possibility of restitution by 3.37; whereas, vehicle theft ($p<.05$) increases a juvenile's chance of restitution by only half as much. The adjudicated crime types, murder and rape were not significant. The file mechanisms, discretionary judicial waiver ($p<.001$) and prosecutorial discretion (direct) ($p<.001$), were also found to increase the likelihood of being sentenced to restitution. In both models, discretionary judicial waiver was more likely than a direct filing to result in a restitution sentence. In terms of overall model fit, both models explain approximately 19% of the total variance.

Table 1.7 Logistic regression analysis examining the effects of race prior arrests/convictions, current arrest charges, attorney type and, file mechanism on the sentence outcome, restitution N = 5376

Dependent Variable: Restitution	Odds Ratio	*z*	P > |z|	Odds Ratio	*Z*	P > |z|
	White			*Black*		
Control Variables						
Gender – Male	1.0598	0.19	0.851	1.0856	0.26	0.792
Race***	2.0952	7.16	0.000	0.4239	-8.42	0.000
Criminal History						
Juvenile Prior Arrests/Convictions***	2.7213	9.74	0.000	2.7745	9.89	0.000
Attorney Type						
Assigned	0.9921	-0.06	0.952	1.0069	0.05	0.958
Adjudicated Crime Type						
Murder	1.5240	1.36	0.174	1.8041	1.06	0.288
Rape	0.6936	-0.77	0.444	0.7107	-0.71	0.476
Robbery***	1.7662	4.33	0.000	1.8041	4.47	0.000
Drug***	0.1308	-4.41	0.000	0.1366	-4.32	0.000
Burglary***	3.2074	7.93	0.000	3.1840	7.86	0.000
Theft***	3.5131	7.72	0.000	3.5784	7.81	0.000
Vehicle Theft*	1.7539	2.24	0.025	1.8230	2.39	0.017
File Mechanism						
Discretionary***	4.9491	9.74	0.000	4.7017	9.40	0.000
Direct***	3.4236	7.59	0.000	3.3450	7.44	0.000
Pseudo R^2	0.1873	-	-	0.193	-	-

*Coefficient is significant at α.05

**Coefficient is significant at α.01

***Coefficient is significant at α.001

Probation

Probation was used as the dependent variable in two logistic regression models. Each model assessed the effects of gender, race, criminal history attorney type, adjudicated crime type and file mechanism on the sentence outcome probation. There was no association between the sentence outcome probation and the gender variable, male. A white ($p<.000$) juvenile receiving a probation sentence are 1.87 times more likely than non-whites. Similarly, a black ($p<.001$) juvenile receiving a probation sentence are 0.5202 times as likely, or half as likely, than non-blacks. When controlling for the race variable white, there is no increase or decrease in the likelihood of receiving probation for juveniles with a prior arrest and or conviction in juvenile court. When controlling for the race variable black, the predictor variable, juvenile prior arrests/convictions was not significant. No significant associations were found to exist between adult prior arrests/convictions and attorney type. There were however, six correlations found between a probation sentence and the adjudicated crime types. Violent offenses, including: murder ($p<.001$), rape ($p<.001$), robbery ($p<.001$) and, assault ($p<.001$) all had positive associations with probation. Likewise, property offenses, burglary ($p<.01$) and vehicle theft ($p<.001$) increased the risk of receiving a probation sentence. The file mechanism, direct filing ($p<.001$), also increases the likelihood of receiving a probation sentence by 1.82. In terms of overall model fit, both models explain approximately 9% of the total variance.

Table 1.8 Logistic regression analysis examining the effects of race prior arrests/convictions, current arrest charges, attorney type and, file mechanism on the sentence outcome, probation N = 5376

Dependent Variable: Probation	Odds Ratio	*z*	P > |z|	Odds Ratio	*Z*	P > |z|
	White			*Black*		
Control Variables						
Gender – Male	1.1084	0.61	0.540	1.1104	0.62	0.533
Race***	1.8731	8.64	0.000	0.5202	-9.18	0.000
Criminal History						
Juvenile Prior Arrests/Convictions**	1.1920	2.67	0.008	1.1996	2.76	0.006
Attorney Type						
Assigned	0.9373	-0.71	0.475	0.9420	-0.66	0.509
Adjudicated Crime Type						
Murder***	0.1281	-7.06	0.000	0.1217	-7.22	0.000
Rape***	0.2214	-6.17	0.000	0.2230	-6.14	0.000
Robbery***	0.3602	-11.05	0.000	0.3607	-11.03	0.000
Assault***	0.2741	-12.15	0.000	0.2707	-12.25	0.000
Drug	0.8876	-1.10	0.270	0.8976	-1.00	0.318
Burglary**	0.7244	-2.69	0.007	0.7182	-2.76	0.006
Theft	0.8617	-1.08	0.279	0.8669	-1.04	0.299
Vehicle Theft***	0.50616	-3.85	0.000	0.5130	-3.77	0.000
File Mechanism						
Discretionary	1.1541	1.58	0.115	1.1124	1.17	0.244
Direct***	1.8183	7.83	0.000	1.8100	7.77	0.000
Pseudo R^2	0.0946	-	-	0.096	-	-

*Coefficient is significant at α.05

**Coefficient is significant at α.01

***Coefficient is significant at α.001

Incarceration

The response variable incarceration time, comprised of all incarceration sentences including time served in: jail, prison and juvenile facilities, was utilized in two logistic regression models. Both models revealed positive associations between incarceration time and the demographic variable representing gender, male ($p<.001$); in both models being male increases the likelihood of incarceration time by approximately 1.93. No associations were found between incarceration time and the race variables white and black. As for criminal history, juveniles with a prior juvenile criminal record ($p<.000$) are 1.76 times more likely to receive an incarceration sentence; similarly, juveniles with a prior adult criminal record ($p<.001$) are 1.73 times more likely to receive an incarceration sentence. The likelihood of juveniles receiving an incarceration sentence increases by 1.75 when their attorney is assigned ($p<.001$) by the court. The predictor category, adjudicated charge type, yielded two significant associations. The risk of receiving a sentence of incarceration are approximately 2.6 times greater for juveniles who have committed a murder ($p<.000$) and 1.5 times greater for juveniles who have committed a burglary ($p<.001$). With regards to the predictor category, file mechanism (transfer type), discretionary judicial waiver ($p<.000$) increased the likelihood of incarceration time by 4.932, when controlling for both race variables, white and black. Additionally, the risk of incarceration time is 1.7 times greater for juveniles transferred via direct filing. In terms of overall model fit, both models explain approximately 11% of the total variance.

Table 1.9 Logistic regression analysis examining the effects of race prior arrests/convictions, current arrest charges, attorney type and, file mechanism on the sentence outcome, time sentenced N = 5376

Dependent Variable: Time Sentenced	Odds Ratio	*Z*	P > |z|	Odds Ratio	*z*	P > |z|
	White			*Black*		
Control Variables						
Gender - Male***	1.9352	3.86	0.000	1.9276	3.84	0.000
Race	0.9761	-0.33	0.739	0.9697	-0.44	0.663
					0.00	
Criminal History						
Juvenile Prior Arrests/Convictions***	1.7600	8.86	0.000	1.7631	8.89	0.000
Adult Prior Arrests/Convictions***	1.7278	6.55	0.000	1.7349	6.60	0.000
Attorney Type						
Assigned***	1.7518	6.58	0.000	1.7546	6.60	0.000
Adjudicated Crime Type						
Murder***	2.6317	5.14	0.000	2.6359	5.15	0.000
Rape	0.8879	-0.60	0.548	0.8884	-0.60	0.550
Robbery	1.1286	1.59	0.112	1.1327	1.64	0.102
Drug	0.9482	-0.52	0.604	0.9598	-0.40	0.689
Burglary***	1.5157	3.67	0.000	1.5029	3.60	0.000
Theft	1.1729	1.19	0.233	1.1659	1.15	0.251
Forgery	0.4853	-1.31	0.191	0.4775	-1.34	0.182
File Mechanism						
Discretionary***	4.9322	18.43	0.000	4.9046	18.32	0.000
Direct***	1.7043	7.23	0.000	1.6909	7.13	0.000
Pseudo R^2	0.1068	-	-	0.1068	-	-

*Coefficient is significant at α.05

**Coefficient is significant at α.01

***Coefficient is significant at α.001

Prison Sentence: Max Years

The last grouping of regression models illustrates the effect: demographic variables, race and gender, as well as, criminal history, attorney type, adjudicated crime type and file mechanism have on the sentence outcome, maximum prison sentence measured in years. There was no association between the maximum prison sentence measured in years and any of the demographic variables including: male, white, black and, Hispanic origin. No significant relationships were noted between maximum prison sentence and adult prior arrests and/or convictions. According to both models, juveniles who have an attorney assigned ($p<.05$) by the court are 35.59 times more likely to receive a maximum prison sentence. Two correlations were found between receiving a maximum prison sentence and the adjudicated crime type variables; both murder ($p<.001$) and rape ($p<.001$) were positively associated with the sentence outcome. No significant associations were noted between the sentence outcome and file mechanism. In terms of overall model fit, model 1 which utilizes the race variable, white, is superior to model 2, which utilizes the race variable, black. Model 1 explains approximately 25% of the total variance whereas; model 2 explains only 11% of the total variance.

Table 1.10 Regression analysis examining the effects of race prior arrests/convictions, current arrest charges, attorney type and, file mechanism on the sentence outcome, maximum years N = 776

Dependent Variable: Maximum Years	Unstandardized Coefficient	*t*	P > ltl	Unstandardized Coefficient	*t*	P > ltl
	White			*Black*		
Control Variables						
Gender – Male	50.8798	1.34	0.179	49.3017	1.30	0.193
Race	2.7992	0.18	0.859	-14.4548	-0.98	0.328
Hispanic Origin	-37.7965	-0.90	0.368	-45.0875	-1.08	0.280
Criminal History						
Adult Prior Arrests/Convictions	6.7143	0.40	0.686	7.6757	0.46	0.644
Attorney Type						
Assigned*	35.5897	2.48	0.013	35.5355	2.48	0.013
Adjudicated Crime Type						
Murder***	355.1920	14.43	0.000	355.3036	14.47	0.000
Rape***	106.0453	3.22	0.001	107.4590	3.27	0.001
Robbery	11.8230	0.75	0.453	13.3989	0.85	0.396
Assault	18.4889	0.98	0.327	18.2416	0.97	0.333
Drug	5.2482	0.23	0.817	7.6474	0.34	0.736
File Mechanism						
Discretionary	18.7943	1.41	0.158	16.7216	1.25	0.213
Direct	-5.8717	-0.33	0.743	-7.1876	-0.40	0.687
Constant	-59.6630	-1.51	0.743	-46.3913	-0.40	0.265
R-Squared	0.2465	-	-	0.1068	-	-

*Coefficient is significant at α.05

**Coefficient is significant at α.01

***Coefficient is significant at α.001

CHAPTER FIVE: DISCUSSION AND CONCLUSIONS

One could argue that juvenile transfers are in direct opposition to the primary goals of the juvenile court system. Fueled by widespread fear of violent juvenile "superpredators," the use of punitive justice reforms, waivers, has dramatically increased in recent years and has resulted in a number of collateral consequences. The consequences and implications resulting from trends in transfer policy and practice require serious consideration. Rethinking the way adolescents, especially minorities, are treated under transfer law is vital to preserving the founding principles of juveniles justice.

So why have the number of juvenile transfers increased in recent years? It may be that the juvenile court has strayed too far from its progressive ideals of rehabilitation and treatment. Or it could be that a number of states have passed legislation excluding certain serious offenses of juvenile court jurisdiction. Or it could even be that, the public perception of supposed 'serious juvenile crime' resulted in a tough on crime stance. In this study, I hypothesize that transferred minority youth are sentenced more harshly in criminal court than their white counterparts. I consider whether or not the juvenile court has extended its jurisdiction to a polar extreme where America's youth are increasingly criminalized. I explore the discourse surrounding youth

transfer; focusing not only on legal and policy implications but also on how this issue affects what Shook (2005) deems to be the duality of youth.

The findings of this study are consistent with those of more recent research that found evidence of disproportionate rates of transfer for minority youths (see Shook 2005; Puzzanchera et al. 2004; Rainville and Smith 2003; Bortner et al. 2000; Bishop 2000; Males and Macallair 2000). The data revealed that 74.14% of the total number of juveniles transferred (n=7,135) was African American while only 23.68% was white. Why is there such a huge discrepancy between races? One could argue that minority offenders, specifically African Americans, are committing and being charged with serious offenses that require harsher penalties of the law. Or perhaps, judges and prosecutors in charge of transfer decisions are racially biased and as a result, discrimination is embedded within the justice system itself.

While it is blatantly clear that minorities experience higher instances of transfer, less is known about the sentencing phase of the adult court proceedings. The existing literature reveals little in terms of criminal court outcomes for transferred youth. The results of this study are therefore unique in that the data offers insight into the sentence outcomes of juvenile transfers.

The two logistic regression models used to examine the sentence outcome, restitution, reveal that white juveniles are exceedingly more likely to receive restitution than their non-white counterparts. In similar respects, white juveniles were also more likely to receive probation. Both restitution and probation are favorable compared to a time served sentence. With regards to restitution, a juvenile is likely to receive a reduction in the amount of time he was ordered to serve. In the case of probation, a juvenile is adjudicated without having to serve additional time in a juvenile facility, jail or, prison.

The type of crime committed, including: violent, property and, drug offenses, increased the likelihood that the offender would be sentenced to either restitution or probation. However, white offenders were more than twice as likely as non-whites to receive probation or restitution sentences, over and above the effect of the initial charge, than their non-white counterparts. These data demonstrate that youth once transferred to criminal court, are sentenced for various offenses. Previous literature does not make note of what types of crimes result in particular sentence types however; what the research does show is a discrepancy regarding what types of crimes are associated with juvenile transfer. A number of scholars argue that juveniles are transferred only for violent and serious offenses (see Shook 2005; Rainville and Smith 2003; Bishop 2000; Males and Macallair 2000). While other data indicates that youth are transferred for numerous other offenses (see Shook 2005; Puzzanchera 2003; Bishop 2000). This discrepancy may be attributed to a lack of uniform data. Data collection methods vary according to the data source; therefore, systematic information on the numbers and characteristics of youth transferred is difficult to obtain (Shook 2005). In similar respects, crimes of a violent and serious nature are most likely to be reported to law enforcement and as a result, provide the most accurate clearance rate data; it is therefore likely, that violent and serious crimes are overrepresented in some datasets. While this is certainly the case in the current data, controlling for each type of charge allows us to examine net effects of criminal charges independently.

Many critics allege that the consequences of youth transfers do not fall uniformly on all convicted youths (Bortner et al. 2000; Males and Macallair 2000) however, as evidenced by this study's analysis of incarceration sentences, ethnic and racial differences in the handling of delinquent youth are not visible. It was found that race had no significant effect on a time served

sentence. Likewise, neither race nor ethnicity had a significant effect on a maximum prison sentence, measured in years. Therefore, it would seem that racial disparities in sentencing are not as visible as one might assume, especially when limiting the analysis to the amount of time sentenced to incarceration.

Juvenile justice policy and practice are inundated with pessimism concerning racial bias. Shifts in discourse around crime and punishment are largely associated with race and ethnicity (Shook 2005); accordingly, we assume that minority offenders will be treated both harshly and unfairly. We assume that racial bias is imbedded within the justice system itself. The current study's findings quite unexpectedly show that minority status does not always result in the worst sentence outcome.

When it comes to a time served sentence, no statistical significance was found between races; this implies that the amount of time to which the offender was sentenced was based on other factors such as the seriousness of the offense. Likewise, the present study's findings suggest that the judges (direct waiver) whose decision it is to transfer the juveniles in the first place are in fact apt to weigh indicators of sentence severity evenly across race when calculating the amount of time to be served. Race is therefore, not considered to be of primary importance to judges when sentencing. These courtroom actors maybe acting in a manner consistent with the principles of the juvenile justice system; basing each sentencing decision off of a detailed history of each youth helps to ensure individualized treatment and that the ordered sentence reflects the child's best interest (Agnew 2005). Another reason for the insignificance of the race variable would be that race does not directly affect the likelihood of a time served sentence because race is an indicator of other social conditions. For example, other researchers in

particular Males (1999) found that when controlling for poverty in a study of racial and ethnic disparities in juvenile crime, income inequality accounts much more than racial or ethnic identity. Measures of poverty, if included in the current study, could have possibly negated the restitution and probation findings.

Ultimately, what the present study reveals is a polarization of sentencing outcomes in terms of race. White juveniles tend to be favored when it comes to the least severe categories of sentencing outcomes, restitution and probation; while race was not found to be a significant factor when measuring the expected likelihood of an incarceration sentence. These findings are consistent with the hypothesis: the sentences handed down to minority youth are more severe than those given to juvenile offenders in that, white youths disproportionately receive the least severe types of sentence outcomes at much higher rates. The caveat to this statement is that the data suggest a more evenly applied system is employed for calculating time served in jail or penitentiary.

LIMITATIONS AND IMPLICATIONS FOR FUTURE RESEARCH

Data collection methods have not kept up with transfer reforms (Shook 2005; Bishop 2000).[5] Most scholars would agree that establishing a national reporting program is essential, so that researchers can accurately assess extent of racial stratification. The discrepancies and general lack of information regarding legislative exclusion and prosecutorial discretion along with offender demographic characteristics severely limits the research being done. In similar respects, the discrepancies attest to the differences that exist across various juvenile and criminal

[5] The JDCC study was conducted approximately 13 years ago. Changes in policy and practice today might have altered the landscape of juvenile transfer. Revisions of transfer law since 1998 could have reduced or expanded the types of offenses and offenders eligible for transfer. A more current version of the JDCC study could potentially yield very different results.

jurisdictions. For example, there is considerable variation in how states define mechanisms for transfer as the states maintain primary authority for establishing jurisdiction and the structure for their juvenile justice system (Shook 2005; Snyder and Sickmund 2006). Issues of race further complicate the issue as there are often difficulties associated with disclosing information about the practices and institutionalized impacts of race in the United States justice system. A national reporting system would need to account for all types of transfer mechanisms; track juveniles in the course of the adjudication process up through the sentencing phase; keep detailed demographic information and; accommodate differences in how states define the concept of juvenile, as well as, differences in state legislation. Additionally, it would be increasingly beneficial to have a nationally recognized sentence severity scale. The scale produced in the current study was based on previous research however; it can be argued that the scale is based on subjective or comparative judgments.

It should also be noted that statistical assessments of this kind are limited in their ability to analyze constructs of sentence severity and race as the quality of measurement is dependent upon precision, accuracy, reliability and validity. For instance, the ways the JDCC code particular variables is limiting to quality social scientific research. In particular, the original study contained many variables with values labeled '*don't know*;' subsequently, these values were re-coded as missing. Since the values had to be considered missing, I lost a potentially substantial number of cases. Likewise, variables that were not well defined made it difficult to include them in the regression models. Scholars who attempt secondary analysis should be alert to the fact that because this study is using data from "Juvenile Defendants in Criminal Courts:

Survey of 40 Counties in the United States, 1998," using a cross-sectional sample from self selecting jurisdictions, problems with generalizations are inherent.

The claims of the present study acknowledge that issues of race and ethnicity are heavily imbedded in the discourse concerning punitive juvenile justice reforms. The findings should be considered a step to understanding the ways juveniles are treated after they are transferred to and convicted in criminal court. Likewise, the findings reveal profound changes in how society views delinquent youth, as well as the way race influences sentencing outcomes of transfer cases. Future research needs to begin by examining the underlying reasons for and solutions to the racial disparities in juvenile transfer cases. From there it is necessary to look at the sentencing phase of transfer cases. Comparative studies of transferred juveniles in criminal court and juveniles in juvenile court, as well as, transferred juveniles in criminal court and similar adult offenders, potentially could offer insight into whether or not disparities in sentencing exist. Similarly, future research should continue to examine whether juvenile transfer laws are an effective deterrent to delinquency.

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