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Juvenile Transfers to Criminal Court Study: Phase I

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to the
Office of Juvenile Justice and Delinquency Prevention
by the
University Research Consultants
in collaboration with the
Juvenile Justice Accountability Board

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Points of view or opinions in this document are those of the authors and do not necessarily represent the official position or policies of the U.S. Department of Justice, the Juvenile Justice Accountability Board, or the Florida Legislature.



Table of Contents

SECTION I. INTRODUCTION.....	1
SECTION II. THE PROCESSES AND PLAYERS INVOLVED IN TRANSFERS OF JUVENILES FOR PROSECUTION AS ADULTS IN FLORIDA: A LEGISLATIVE AND LEGAL HISTORY	4
INTRODUCTION	4
THE ORGANIZATION OF THE LEGAL SYSTEM IN FLORIDA.....	5
THE SUBJECT MATTER AND PERSONAL JURISDICTION OF THE COURTS.....	7
CURRENT STATUTORY MECHANISMS FOR TRANSFER OF JUVENILES TO THE ADULT CRIMINAL JUSTICE SYSTEM.....	8
<i>Indictment - FLA. STAT. §. 985.225 (1997)</i>	9
<i>Waiver</i>	9
Voluntary Waiver - FLA. CONST. Art. I, § 15; FLA. STAT. §. 985.226(1) (1997)	9
Involuntary Waiver.....	10
Discretionary Involuntary Waiver - FLA. STAT. §. 985.226(2)(a) (1997)	10
Mandatory (Presumptive) Involuntary Waiver -- FLA. STAT. §.985.226(2)(b) (1997).....	10
<i>Waiver Hearing - FLA. STAT. §. 985.226(3) (1997)</i>	11
<i>Direct File</i>	13
Discretionary Direct Filing of an Information - s. 985.227(1), FLA. STAT. (1997).	13
Mandatory Direct Filing of an Information - s. 985.227(2), FLA. STAT. (1997).....	15
<i>Effect of a Transfer for Adult Prosecution - FLA. STAT. Ch. 985 (1997)</i>	16
<i>Direct File Policies and Guidelines - FLA. STAT. §. 985.227(4) (1997)</i>	17
SENTENCING AND DISPOSITIONAL ALTERNATIVES AND PROCEDURES FOR YOUTH PROSECUTED AS ADULTS	17
<i>Youth Transferred by Indictment - FLA. STAT. § 985.233(4) (1997)</i>	17
<i>Youth Transferred by Waiver or Direct Filing of an Information - FLA. STAT. § 985.233(4) (1997)</i>	18

<i>Future Proceedings Involving Youth Transferred for Prosecution as Adults - FLA.</i>	
STAT. § 985.233 (1997).....	21
LEGISLATIVE AND LEGAL HISTORY OF KEY PROVISIONS RELATING TO TRANSFER OF JUVENILES TO THE ADULT CRIMINAL JUSTICE SYSTEM	21
<i>Indictment</i>	22
<i>Voluntary Waiver</i>	23
<i>Involuntary Judicial Waiver</i>	24
<i>Waiver Hearing</i>	27
<i>Direct Filing of an Information</i>	30
<i>Mandatory Direct Filing of an Information</i>	39
<i>Direct File Policies and Guidelines</i>	40
<i>Effect of Adult Prosecution on Future Law Violations</i>	41
<i>Dispositional Alternatives for Juveniles Prosecuted as Adults</i>	42
CONCLUSION.....	46
 SECTION III. COMPONENT 1: EXAMINING THE IMPACT OF THE 1994 JUVENILE JUSTICE REFORM ACT	 47
TRANSFER PRACTICES IN 1993 AND 1995: CIS DATA.....	48
<i>Sociodemographic Comparison</i>	49
<i>Major Offense Categories</i>	50
<i>Felony Referrals and Transfer</i>	52
<i>Specific Offense Categories and Transfer</i>	53
<i>Offense History and Transfer</i>	55
<i>Current Offense, Prior Record and Transfer</i>	57
PROCESSING STAGES FOR JUVENILES TRANSFERRED TO ADULT COURT 1993 AND 1995 -	
OBTS DATA	58
<i>OBTS as a Dynamic Database</i>	63
<i>Counts at the Time of Arrest or at the Issuance of the Summons - 1993 and 1995</i> ..	65

<i>From Counts to Initiated Cases for 1993 and 1995</i>	<i>67</i>
<i>Cases Proceeding to Court for 1993 and 1995.....</i>	<i>71</i>
<i>Cases Disposed in Court for 1993 and 1995.....</i>	<i>75</i>
<i>Cases Sentenced for 1993 and 1995</i>	<i>86</i>
LABOR AND SCHOOL DATA.....	95
<i>Methodology</i>	<i>95</i>
<i>Results</i>	<i>97</i>
DLES Data.....	97
DOE Data	98

SECTION IV. COMPONENT 2: POLICIES AND PERCEPTIONS OF JUVENILE JUSTICE

PRACTICE	100
1995 POLICY GUIDELINES ON TRANSFER.....	100
SURVEY OF PROSECUTORS AND JUDGES.....	103
<i>The Prosecutor Survey</i>	<i>104</i>
<i>The Judge Survey.....</i>	<i>107</i>
COMPARING POLICY GUIDELINE STATEMENTS WITH THE PROSECUTOR SURVEY RESEARCH.....	114

SECTION V. COMPONENT 3: INTERVIEWS WITH JUVENILE OFFENDERS..... 116

METHODOLOGY	116
FINDINGS: THE JUVENILE JUSTICE SYSTEM	119
<i>Perceptions of the Juvenile Court.....</i>	<i>119</i>
PERCEPTIONS OF JUVENILE DETENTION	121
<i>Perceptions of Juvenile Justice.....</i>	<i>123</i>
<i>General Effects of Juvenile Justice.....</i>	<i>124</i>
<i>Perceptions of the Impact of Juvenile Justice System Experiences.....</i>	<i>126</i>
FINDINGS: THE CRIMINAL JUSTICE SYSTEM	127
<i>Perceptions of the Criminal Court.....</i>	<i>127</i>
<i>Perceptions of Adult Corrections Experiences - Incarceration as an Adult</i>	<i>130</i>

<i>Staff-Inmate Interactions</i>	131
<i>Institutional Atmosphere</i>	135
<i>Inmate-Inmate Interaction -- Criminal Socialization</i>	140
<i>Perceived Impact of Adult Correctional System Experiences</i>	141
SUMMARY	146
SECTION VI. COMPONENT 4: IN-DEPTH CIRCUIT COURT DATA	150
INTRODUCTION: PURPOSE OF IN-DEPTH STUDY	150
METHODOLOGY	152
<i>Selection of Circuits for the In-Depth Study</i>	152
<i>Identification of Transfers and Matches</i>	153
DEVELOPING A DATA COLLECTION INSTRUMENT FOR THE IN-DEPTH STUDY	156
RESULTS	161
FIELD ADJUSTMENTS TO SAMPLING	162
IN-DEPTH PROFILING OF TRANSFERS	165
WHO ARE THE CIS TRANSFERS LOCATED IN LOCAL RECORDS?	165
TRANSFERS CONVICTED	168
<i>Weapon Use</i>	169
<i>Victim Injury</i>	170
<i>Property Damage/Loss</i>	170
<i>Gang Activity</i>	170
<i>Multiple Counts/Incidents</i>	171
<i>Prior Record-Violent Offenses</i>	172
<i>Extra-Legal Problems</i>	172
WHAT IS LEARNED ABOUT THE TRANSFER PROCESS?	173
COMPARING TRANSFERS WITH THEIR MATCHES	174
<i>An Aggregate Comparison</i>	174
<i>Weapon Use</i>	178

<i>Victim Injury</i>	178
<i>Property Damage/Loss</i>	178
<i>Gang Activity/Co-defendants</i>	179
<i>Multiple Counts/Incidents</i>	179
<i>Prior Record</i>	181
<i>Extra-legal Problems</i>	182
AN ANALYSIS OF THE MATCHED PAIRS ACROSS VARIABLES	182
REFERENCES	187
ENDNOTES	189
ATTACHMENTS	
ATTACHMENT A1: PROSECUTORS' TELEPHONE SURVEY FIXED-RESPONSE	
ATTACHMENT A2: PROSECUTORS' TELEPHONE SURVEY VERBATIM RESPONSES TO OPEN-ENDED QUESTIONS	
ATTACHMENT B1: JUDGES' TELEPHONE SURVEY FIXED-RESPONSE	
ATTACHMENT B2: JUDGES' TELEPHONE SURVEY VERBATIM RESPONSES TO OPEN-ENDED QUESTIONS	
ATTACHMENT C: FACE-TO-FACE INTERVIEW SCHEDULE	



SECTION I.

INTRODUCTION

In 1996, the Juvenile Justice Advisory Board submitted a grant proposal to the U.S. Department of Justice, Office of Juvenile Justice and Delinquency Prevention (OJJDP). Upon award of the grant, the Juvenile Justice Advisory Board contracted with university research consultants: Donna M. Bishop, Ph.D., University of Central Florida; Charles E. Frazier, Ph.D., University of Florida; and Lonn Lanza-Kaduce, Ph.D., University of Florida. Members of this research team have completed a number of recent Florida studies in the juvenile justice field, most recently in the area of juvenile case processing.

The intent of this proposal was to examine Florida's policies and practices relating to the transfer of juvenile offenders to criminal court in the 20 judicial circuits that include all of Florida's 67 counties. Florida leads the nation in discretionary transfers. From July 1, 1994 through June 30, 1995, for example, nearly 5,000 youth (more than 7,000 cases), representing 10% of the juvenile offenders handled judicially in the state, were transferred to criminal court. In the same year, 8,100 youth received residential commitment to the juvenile justice system. In Florida, as in no other state, transfer has come to rival juvenile justice placement as a disposition for young offenders. This study will examine youth retained in the juvenile court system as well as those youth transferred to the adult system.

Since the mid-1970s, the Florida Legislature has incrementally expanded both the methods by which cases may be transferred and the scope of eligibility criteria. These provisions include lowering the age of juveniles that may be transferred and increasing

the number of offenses that could be considered for transfer. The changes in 1994 authorized greater use of detention bed space for several hundred offenders and raised the age of jurisdiction over those in juvenile placement from 19 to 21. The same legislation also enacted sweeping juvenile justice reforms that created a new Department of Juvenile Justice to deal exclusively with juvenile offenders.

This study sought to compare the 1993 transfers (prior to the 1994 changes) and the 1995 transfers (the first year of implementation of the 1994 changes). The research team pursued a four-pronged process evaluation:

1. An analysis of 1993 and 1995 transfer practices using statewide automated data with an emphasis on evaluating the impact of the 1994 juvenile justice reforms.
2. A content analysis of the black-letter law regarding transfer criminal/juvenile procedure, a comparison of that law with the formal transfer policies in the respective judicial circuits, and interviews/focus groups with local prosecutors and judges to assess how actual transfer decisions are made;
3. Qualitative interviews with juveniles regarding their perceptions of adult versus juvenile court and adult versus youth offender versus juvenile sanctions; and
4. An analysis of local police, jail, and court records to determine the extent to which centralized automated records mask important case and offender characteristics that are important to transfer decision-making.

This report summarizes the findings of the research team during this first phase of the grant. It should also be noted that at the time of this report the Juvenile Justice

Accountability Board (the name changed in 1998) and the research team received a continuation grant award from OJJDP that will continue this study into the year 2000. The continuation award will further examine not only adult and juvenile sentencing but add a third sentencing option. This third option, "blended" sentencing, includes a combination of adult and juvenile sanctions. In addition, the continuing study will analyze the recidivism of the 1995 transfers to adult court. It is expected that a final report on the entire study will be completed in September 2000.

SECTION II.

THE PROCESSES AND PLAYERS INVOLVED IN TRANSFERS OF JUVENILES FOR PROSECUTION AS ADULTS IN FLORIDA: A LEGISLATIVE AND LEGAL HISTORY

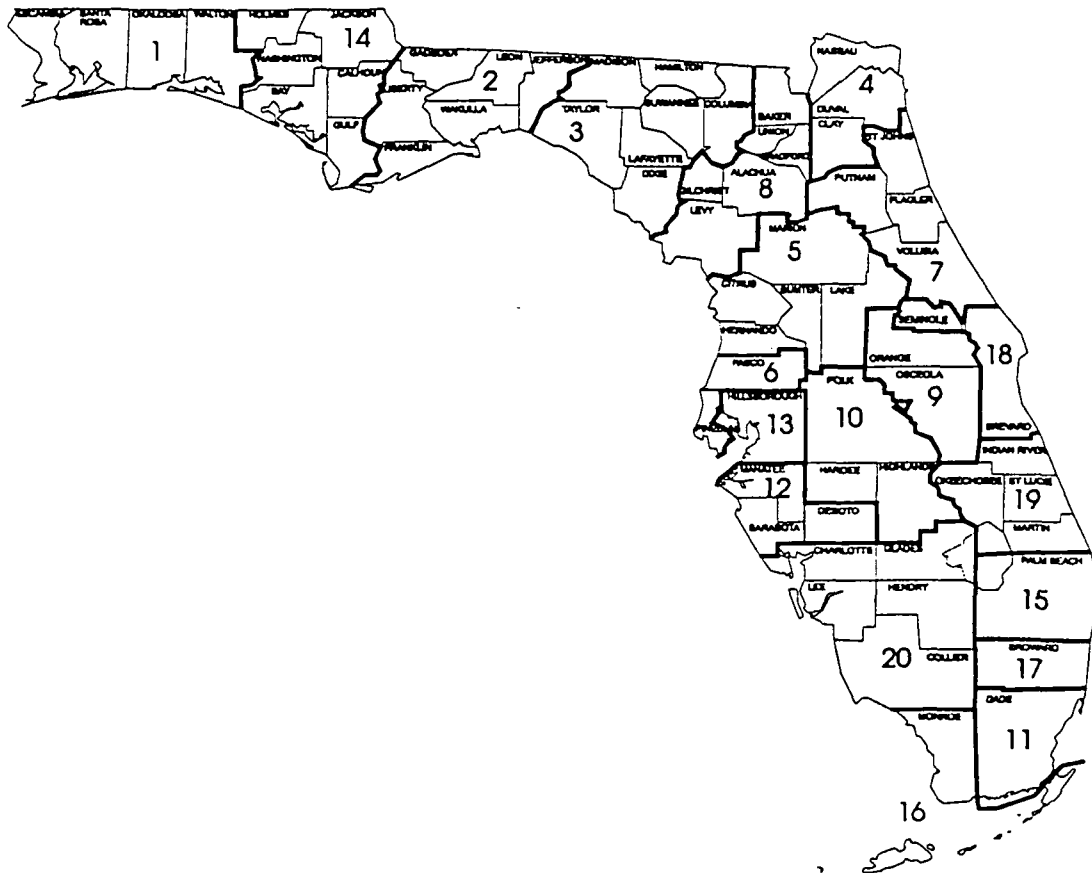
Introduction

The origins and evolution of juvenile courts in this country have been well documented. This section of the report will trace this history in Florida, and focus on the evolution of the various statutory mechanisms by which juveniles are transferred from the juvenile to the criminal court system for prosecution. The current judicial system within which decisions are made in Florida regarding the transfer of juveniles to criminal court for prosecution as adults will be described. The geopolitical subdivisions of the state's legal system are detailed, and the significant decision-makers identified. The jurisdiction of the courts that are implicated in transfer decisions will be noted, and the statutory provisions that currently govern decisions by prosecutors and judges regarding juvenile transfers to adult court will be described in some detail in order to convey the close attention that this subject has received from the Florida Legislature over the past 20 years. The Legislative history of the statutory provisions relating to the prosecution of juveniles as adults will be explored in an effort to more clearly identify the rationale and policy goals that motivated the choices that were made.

The Organization of the Legal System in Florida

The Florida Legislature has divided the state into 20 judicial circuits as indicated in the following map¹. The Florida Constitution creates a circuit court in each judicial circuit of the state. Circuit courts have uniform statewide jurisdiction over all matters not vested in county courts.² County courts are created in each county, with uniform jurisdiction throughout the state as prescribed by general law.³ Circuit and county courts may organize such specialized divisions that are authorized by general law. The qualifications, method of selection, terms of office, and compensation of circuit and county judges are specified in either the constitution, in statute, or both.⁴

Florida Judicial Circuits



In addition to the circuit and county judges established within each of the 20 judicial circuits, the constitution also creates and specifies the qualifications for a state attorney and a public defender who are elected in each circuit and who share with judges the responsibility for the administration of justice within their respective circuits. The constitution provides that the state attorney is the prosecuting officer of all trial courts with the circuit.⁵ The authority and duties of each state attorney and public defender are further specified in statute.⁶

Circuit and county courts may sit in such divisions as may be established by local rule approved by the Supreme Court.⁷ Each of Florida's 20 circuits has established a criminal division within both the circuit and county courts, and most have established a juvenile division with responsibility for cases involving matters relating to juvenile delinquency or dependency. In some circuits, responsibility for such cases is placed in a family division. Clerks of court are required to keep records relating to delinquency cases separate from other records of the circuit court, and such records are not open to public inspection except as otherwise provided by law.⁸

The offices of the 20 respective state attorneys and public defenders organize their staffs into divisions that parallel the divisions established by the circuit and county courts. The practical effect of this arrangement is teams of judges, prosecuting attorneys and defense attorneys regularly work in the same divisions on a common caseload. Judicial assignments of judges to the various divisions of the court, including the juvenile and criminal divisions, normally last for a two-year period.

The Subject Matter and Personal Jurisdiction of the Courts

General law provides that Florida circuit courts have jurisdiction of all felonies and of all misdemeanors arising out of the same circumstances as a felony which is also charged.⁹ Circuit courts also have exclusive jurisdiction of proceedings in which a child is alleged to have committed a delinquent act or violation of law.¹⁰ Florida circuit courts are also exclusively authorized to assume jurisdiction over any juvenile offender who is surrendered to the circuit court as provided in federal law and charged with violating a federal law or a law of the District of Columbia.¹¹ The substantive and procedural rights of juveniles, and the responsibilities of Florida executive and judicial authorities in processing a juvenile charged with a violation of law, are specified in chapter 985, FLA. STAT. (1997).

County courts have original jurisdiction in all misdemeanor cases not within the jurisdiction of the circuit courts.¹² County courts, which have jurisdiction over traffic violations, have original jurisdiction in the case of any minor who is alleged to have committed a violation of law or of a county or municipal ordinance pertaining to the operation of a motor vehicle. However, any case involving a minor who is alleged to have committed a traffic offense that is punishable by law as a felony is within the exclusive jurisdiction of the circuit court.¹³

In Florida, a felony is defined as any criminal offense that is or would be punishable under the laws of Florida by death or imprisonment in a state penitentiary.¹⁴ A misdemeanor is defined as any criminal offense that is or would be punishable under the laws of Florida by confinement in a county correctional facility not in excess of one year.¹⁵ By law, a child, or juvenile, is defined as any unmarried person under the age of 18

years who is charged with a violation of law occurring prior to the time that person reached the age of 18 years.¹⁶

Florida law provides that persons are to be formally charged with violations of law by either indictment or information. No person can be tried for a capital crime without presentment or indictment by a grand jury. Other felony offenses may be tried based upon either an indictment or an information filed under oath by the prosecuting officer of the court.¹⁷ The Florida Constitution provides that when authorized by law, a child may be charged with a violation of law as an act of delinquency instead of a crime; be tried without a jury or other requirements applicable to criminal cases; and be disciplined as provided by law. The Legislature has enacted a general law providing that all proceedings seeking a finding that a child or juvenile has committed a delinquent act or violation of law must be initiated by the state attorney with the filing of a petition for delinquency.¹⁸

Current Statutory Mechanisms For Transfer Of Juveniles To The Adult Criminal Justice System

Under the current laws of Florida, there are three means by which the presumptive jurisdiction of a juvenile court over a child can be transferred to the criminal court where the juvenile will be prosecuted as an adult: (1) indictment by a grand jury; (2) waiver of jurisdiction by a juvenile court judge (waiver); and (3) the filing of an information by the state attorney directly in the criminal division of the circuit court (direct file). The present law defining the circumstance under which each of these mechanisms can be used are described below.

Indictment - FLA. STAT. §. 985.225 (1997)

A state attorney may seek a grand jury indictment against a child of any age who is charged with an offense punishable by death or life imprisonment. After a child is indicted, any delinquency petition that may have been filed against a child based on the same offense or series of offenses must be dismissed, and the child is thereafter tried and handled in every respect as an adult.

A juvenile of any age who is charged with an offense punishable by death or life imprisonment is subject to the jurisdiction of the juvenile court unless and until an indictment is returned by the grand jury. In such cases, an adjudicatory hearing in juvenile court may not begin until 21 days after the child is taken into custody unless the state attorney advises the court in writing that an indictment will not be sought, or unless the grand jury has refused to indict the child. If the grand jury fails to act within 21 days of the day the child is taken into custody, the court may proceed with the juvenile case.

Waiver

Under the current law of Florida, waivers can be voluntary or involuntary, and involuntary waivers are either discretionary or mandatory (presumptive).

Voluntary Waiver - FLA. CONST. Art. I, § 15; FLA. STAT. §. 985.226(1) (1997)

A Florida court must waive jurisdiction over a juvenile, and transfer the child's case for trial as an adult when the child, joined by a parent, guardian or guardian ad litem demands, in writing and prior to the adjudicatory hearing in juvenile court, to be tried as an adult.¹⁹

Involuntary Waiver

After considering the recommendation of an intake counselor or case manager, and before the adjudicatory hearing, a state attorney may file a motion requesting that the juvenile court waive its jurisdiction over a juvenile and transfer the case to the criminal court for prosecution as an adult. The filing of such a motion is discretionary in some cases and mandatory or presumptive in others. Under Florida law and procedure, the authority to seek an involuntary waiver rests with the state attorney, and the authority to grant or deny the waiver request rests with the juvenile court judge.

Discretionary Involuntary Waiver – FLA. STAT. §. 985.226(2)(a) (1997).

A state attorney may request an involuntary waiver of juvenile court jurisdiction if a child was 14 or older at the time of the alleged offense. If such a child has been previously adjudicated delinquent for murder, sexual battery, armed or strong-armed robbery, home-invasion robbery, carjacking, aggravated battery or aggravated assault, and is currently charged with a second or subsequent violent crime against a person, the state attorney must either seek an involuntary waiver or file an information against the child directly in the criminal court.

Mandatory (Presumptive) Involuntary Waiver – FLA. STAT. §.985.226(2)(b) (1997)

A state attorney must request an involuntary waiver if:

- A juvenile was 14 years or older at the time of the commission of a fourth or subsequent alleged felony; and

- The juvenile has previously been adjudicated delinquent, had adjudication withheld, or been found to have committed, or to have attempted or conspired to commit three offenses that would be felonies if committed by an adult; and
- One or more of such felony offenses involved the use or possession of a firearm or violence against a person.

A state attorney who does not seek an involuntary waiver of a juvenile who meets these criteria must provide written reasons to the court for not seeking an involuntary waiver, or must file an information against the child directly in the criminal court.

When a state attorney seeks an involuntary waiver under these provisions, the court must either transfer the case to the criminal court or provide written reasons for not doing so.

Waiver Hearing - FLA. STAT. §. 985.226(3) (1997)

The following specific statutory criteria must be considered by the court in ruling on a request by the state attorney for an involuntary waiver of juvenile court jurisdiction and transfer of the case to the criminal court for prosecution as an adult:

- The seriousness of the alleged offense to the community and whether the protection of the community is best served by transferring the child for adult sanctions;
- Whether the alleged offense was committed in an aggressive, violent, premeditated, or willful manner;

- Whether the alleged offense was against persons or against property, greater weight being given to offenses against persons, especially if personal injury resulted;
- Whether there is probable cause based on the report, affidavit, or complaint;
- The desirability of trial and disposition of the entire offense in one court when the child's associates in the alleged crime are adults or children who are to be tried as adults;
- The sophistication and maturity of the child;
- The record and previous history of the child, including:
 - ◊ Previous contacts with the department, the Department of Corrections, the former Department of Health and Rehabilitative Services, the Department of Children and Family Services, other law enforcement agencies, and courts;
 - ◊ Prior periods of probation or community control;
 - ◊ Prior adjudications that the child committed a delinquent act or violation of law, greater weight being given if the child has previously been found by a court to have committed a delinquent act or violation of law involving an offense classified as a felony or has twice previously been found to have committed a delinquent act or violation of law involving an offense classified as a misdemeanor; and
 - ◊ Prior commitments to institutions;

and,

- The prospects for adequate protection of the public and the likelihood of reasonable rehabilitation of the child, if the child is found to have committed the alleged offense, by the use of procedures, services, and facilities currently available to the court.

In each such case, a study and written report on the applicable statutory criteria must be prepared by the Department of Juvenile Justice and submitted to the court, the state attorney, the child, the child's parents or legal guardian and counsel prior to a hearing. A hearing on the waiver motion is required, and all parties have a right to question the persons responsible for the information in the written report. A decision to involuntarily transfer a youth pursuant to these provisions must be in a written order that includes findings of fact with respect to the statutory criteria. Such an order is reviewable on appeal.

Direct File

Current Florida law provides that the authority of a state attorney to file a direct information on a juvenile can be either discretionary or mandatory.

Discretionary Direct Filing of an Information - s. 985.227(1), FLA. STAT. (1997).

The state attorney may file an information directly in the criminal division of the circuit court when, in the state attorney's judgment and discretion the public interest requires that adult sanctions should be considered or imposed for a child who was age 14 or 15 years at the time of the commission of one of the following offenses:

- Arson;
- Sexual battery;
- Robbery;
- Kidnapping;
- Aggravated child abuse;
- Aggravated assault;
- Aggravated stalking;
- Murder;
- Manslaughter;
- Unlawful throwing, placing, or discharging of a destructive device or bomb;
- Armed burglary in violation of s. 810.02(2)(b) or specified burglary of a dwelling or structure in violation of s. 810.02(2)(c);
- Aggravated battery;
- Lewd or lascivious assault or act in the presence of a child;
- Carrying, displaying, using, threatening, or attempting to use a weapon or firearm during the commission of a felony; or
- Grand theft in violation of s. 812.014(2)(a).

For any child who was age 16 or 17 years at the time of the commission of any alleged offense, the state attorney may file an information directly in the criminal division of the circuit court when, in the state attorney's judgment and discretion the public interest requires that adult sanctions should be considered or imposed. However, a state attorney may not file an information on a misdemeanor charge unless the child has been

adjudicated or had adjudication withheld for two or more previous delinquent acts, one of which involved a felony offense under Florida law.

Mandatory Direct Filing of an Information - s. 985.227(2), FLA. STAT. (1997).

A state attorney must file an information against any child who was age 16 or 17 years at the time of any alleged offense that is a second or subsequent violent crime against a person, if the child has previously been adjudicated delinquent for one of the following violent crimes against a person:

- Murder;
- Sexual battery;
- Armed or strong-armed robbery;
- Home-invasion robbery;
- Carjacking;
- Aggravated battery; or
- Aggravated assault.

Notwithstanding these provisions, and regardless of a child's age at the time an alleged offense was committed, a state attorney must file an information against any child who has previously been adjudicated for felonies, and such adjudications occurred at three or more separate adjudicatory hearings, and three of those adjudications resulted in commitments to the custody of the Department of Juvenile Justice for placement in a residential facility.

The state attorney must file an information if a child, regardless of the child's age at the time of the commission of the alleged offense, is accused of an offense that

involves any criminal wrongful taking of a motor vehicle, including but not limited to carjacking or grand theft of a motor vehicle, and while the child was in possession of the stolen motor vehicle the child caused serious bodily injury to or the death of a person who was not involved in the underlying offense. In all such cases the driver and all willing passengers in the stolen motor vehicle at the time such serious bodily injury or death is inflicted must also be subject to mandatory transfer to adult court. For purposes of this provision, "willing passengers" means all willing passengers who have participated in the underlying offense.

Effect of a Transfer for Adult Prosecution - FLA. STAT. Ch. 985 (1997)

Once a child has been transferred for criminal prosecution pursuant to an indictment, a waiver or an information, an information, and has been found to have committed the presenting offense or a lesser included offense, the child must be handled thereafter in every respect as an adult for any subsequent violation of state law unless the court imposes juvenile sanctions pursuant to the provisions of Ch. 985, F.S.

When a child is transferred for criminal prosecution as an adult, the court must immediately transfer to the appropriate court all pre-adjudicatory cases which are pending in juvenile court. This requirement also includes all cases involving offenses between the date of transfer and the date of sentencing in adult court as well as all cases awaiting juvenile disposition orders. The juvenile court must make every effort to dispose of all pre-dispositional cases involving the transferred youth and transfer those cases to the adult court prior to adult sentencing. The Legislature clearly expressed its intent that all juvenile cases occurring prior to the sentencing hearing in criminal court be disposed or

sentenced by the adult court in conjunction with the sentencing in the original case that was transferred from juvenile court.

Direct File Policies and Guidelines - FLA. STAT. §. 985.227(4) (1997)

Each state attorney must develop and annually update written policies and guidelines to govern determinations for filing an information on a juvenile. The written policies and guidelines must be submitted to the Executive Office of the Governor, the President of the Senate, the Speaker of the House of Representatives, and the Juvenile Justice Accountability Board not later than January 1 of each year. The content of state attorney direct file guidelines in 1995 is discussed in Section IV of this report.

Sentencing And Dispositional Alternatives And Procedures For Youth Prosecuted As Adults

Youth Transferred by Indictment - FLA. STAT. § 985.233(4) (1997)

Current Florida law provides that youth who are indicted for, and are found to have committed, an offense punishable by death or life imprisonment must be sentenced as an adult.

Juveniles who are indicted for an offense punishable by death or life imprisonment, but who are found to have committed a lesser included offense or any other offense included in the indictment as a part of the criminal episode, may be adjudicated a delinquent and sentenced to: any of the range of options available in the juvenile justice system; or sentenced as an adult to the Youthful Offender Program within the adult corrections system; or to any of the other sanctions available for an adult offender.

Youth Transferred by Waiver or Direct Filing of an Information -
FLA. STAT. § 985.233(4) (1997)

Youth who are prosecuted as adults pursuant to either a waiver or the direct filing of an information, and who are found to have committed an offense other than one punishable by death or life imprisonment, may be adjudicated a delinquent and sentenced to any of the full range of options available in the juvenile justice system; or to the Youthful Offender Program within the adult corrections system, or to any other sanctions available for an adult offender.

The following specific statutory criteria must be considered by the court in deciding whether to impose juvenile sanctions rather than traditional adult or youthful offender sanctions:

- The seriousness of the offense to the community and whether the community would best be protected by juvenile or adult sanctions;
- Whether the offense was committed in an aggressive, violent, premeditated, or willful manner;
- Whether the offense was against persons or against property, with greater weight being given to offenses against persons, especially if personal injury resulted;
- The sophistication and maturity of the offender;
- The record and previous history of the offender, including:
 - ◊ Previous contacts with the Department of Corrections, the Department of Juvenile Justice, the former Department of Health and

Rehabilitative Services, the Department of Children and Family Services, law enforcement agencies, and the courts;

- ◆ Prior periods of probation or community control;
- ◆ Prior adjudications for delinquent acts or violations of law as a child;
- ◆ Prior commitments to the Department of Juvenile Justice, the former Department of Health and Rehabilitative Services, the Department of Children and Family Services, or other facilities or institutions;
- ◆ The prospects for adequate protection of the public and the likelihood of deterrence and reasonable rehabilitation of the offender if assigned to services and facilities of the Department of Juvenile Justice;
- ◆ Whether the Department of Juvenile Justice has appropriate programs, facilities, and services immediately available; and
- ◆ Whether adult sanctions would provide more appropriate punishment and deterrence to further violations of law than the imposition of juvenile sanctions.

Any decision to impose adult sanctions must be in writing but the court is not required to make specific findings or enumerate which of the criteria influenced its decision to impose adult sanctions.

When juvenile sanctions are to be imposed, the criminal court must stay and withhold adjudication of guilt, and instead adjudge the child to have committed a delinquent act. An adjudication of delinquency is not deemed a conviction, and imposes none of the civil disabilities ordinarily resulting from a criminal conviction. In such cases, the following sanction options are available to a criminal court judge:

- Placement of the child in a community control program under the supervision of the Department of Juvenile Justice for an indeterminate period of time until the child is 19, or sooner if discharged by the court. If the child subsequently proves not to be suitable to a community control program, the court has the power to commit the child to an appropriate treatment program or a serious or habitual offender program, as noted below.
- Commitment of the child to the Department of Juvenile Justice for treatment in an appropriate program for an indeterminate period of time until the child is 19, or sooner, if discharged by the department after it provides 14 days notice to the court having jurisdiction, and the court does not affirmatively object to the proposed release. If a child proves not to be suitable for a treatment program, the criminal court may revoke the previously withheld adjudication in the criminal case, impose an adjudication of guilt, and classify the child as an adult youthful offender when appropriate, or impose any lawful adult sentence, with credit for time spent in the custody of the Department of Juvenile Justice.
- Commit the child to the Department of Juvenile Justice for placement in a serious or habitual delinquent children program for an indeterminate period of time until the child is 21, or sooner, if discharged by the treatment provider and department after the department provides 14 days notice to the court having jurisdiction, and the court does not affirmatively object to the proposed release. If a child proves not to be suitable for a serious or habitual delinquent children program, the criminal court may revoke the previously withheld

adjudication in the criminal case, impose an adjudication of guilt, and classify the child as an adult youthful offender, when appropriate, or impose any lawful adult sentence, with credit for time spent in the custody of the Department of Juvenile Justice.

Future Proceedings Involving Youth Transferred for Prosecution as Adults - FLA. STAT. § 985.233 (1997)

When a child has been transferred for criminal prosecution as an adult, the child is found to have committed the presenting offense or a lesser included offense, and the child is sanctioned as an adult offender, the child must be handled thereafter in every respect as if an adult for any subsequent violation of state law.

Legislative and Legal History of Key Provisions Relating To Transfer Of Juveniles To The Adult Criminal Justice System

In its introduction to a report detailing a comprehensive review of Florida's juvenile justice system, a legislative committee wrote:

The juvenile justice system has been criticized as being too lax and permissive, and news stories suggest that juvenile court is merely a revolving door which returns serious offenders too quickly to their communities. Law and order advocates condemn the system's treatment focus, while proposing a return to a punishment model.²⁰

These words could be the lead in a 1998 Florida newspaper editorial, and would have described the prevailing attitudes among policy makers as Florida began a major reorganization of its juvenile justice system in 1994. Instead, the words are from the

findings of a 1978 study that provided the impetus for significant reforms in the way juveniles could be prosecuted as adults. If the concerns that drove policy choices 20 years ago are still present today, then it may be fair to question how effective those policy choices have been in responding to those earlier concerns.

Since the enactment of the first Florida laws establishing a juvenile court and related procedures in 1951, those laws have undergone major revisions in every succeeding decade. Although other sections of this report focus on changes in transfer practices between 1993 and 1995 in order to assess the impact of changes made by the Florida Legislature in 1994, this section will examine earlier reform efforts that resulted in policies that today permit Florida prosecutors to transfer more juveniles to the criminal court system than any other state. Only those revisions that involved major shifts in policy or practice will be reviewed. The objectives of Florida policy-makers regarding the prosecution of juveniles as adults do not seem to have changed much in the past quarter century, and they do not seem to be fundamentally different from the stated objectives of policy makers throughout the nation. For this reason, a review of the evolution of Florida's policies may be instructive to a wider audience.

Indictment

The first provision of statute relating to the indictment of juveniles²¹ provided that when a child of any age was charged with an offense punishable by death or life imprisonment, and a grand jury returns an indictment on the charge, the juvenile court must waive its jurisdiction of the child for that offense and transfer the case to the court of proper jurisdiction.

The statute was later amended to divest the juvenile court of jurisdiction in any case where a child of any age was indicted by a grand jury for an offense punishable by death. In such cases the juvenile court had no jurisdiction and the child was to be handled in all respects as an adult.²² Two years later this provision was expanded to include cases where the juvenile was indicted for an offense punishable by life imprisonment.²³

The provision for automatic divestiture of juvenile court jurisdiction in capital and life cases was amended in 1973 to vest jurisdiction over a juvenile who was charged with an offense punishable by death or life imprisonment in the juvenile court unless and until an indictment was returned by the grand jury. In such cases, an adjudicatory hearing in juvenile court could not commence until 14 days after the child was taken into custody unless the state attorney advised the court in writing that an indictment would not be sought, or unless the grand jury refused to indict the child. If the grand jury failed to act within 14 days of the day the child was taken into custody, the court could proceed with the juvenile case.²⁴ The 14-day delay in juvenile court jurisdiction in capital and life cases was amended to 21 days in 1978.²⁵ Otherwise, the statute governing indictments of juveniles for an offense punishable by death or life imprisonment has not changed substantially in the last 20 years.

Voluntary Waiver

The current Florida constitution provides that any child who is charged with a violation of law as an act of delinquency may instead demand to be tried in an appropriate court as an adult. The demand must be made as provided by law, and be made before a

trial in a juvenile proceeding.²⁶ This provision was adopted in 1968. There was no similar provision in the earlier constitutions.

The initial Florida statutory reference to the right of a juvenile accused of a violation of law to demand waiver of juvenile court jurisdiction and transfer of the case for prosecution as an adult appears in the first comprehensive chapter of Florida law that addressed the jurisdiction of juvenile courts. The law required that the demand be made prior to the commencement of the hearing in juvenile court.²⁷ In 1967 this provision was amended to require that the juvenile be joined by at least one parent, a guardian, or legal counsel in making the demand prior to the commencement of a hearing. When these conditions were met, the juvenile court was required to transfer the juvenile's case for processing as adult.²⁸ This provision of law has remained unchanged for the past 30 years.²⁹

Involuntary Judicial Waiver

Whereas the current law places primary jurisdiction over youth charged with crimes within the juvenile division, the early history of juvenile case processing in Florida was to permit cases to be transferred from the criminal court to the juvenile court, and the emphasis was on the dispositional rather than the adjudicatory aspects of the case. A 1911 statute provided that a court having jurisdiction over a child less than 16 years of age who was charged with certain crimes could, before or after trial but before sentencing, turn the child over to a probation officer to be dealt with as a delinquent child. If such a child later proved to be "...incurable, or incapable of reformation, or dangerous to the welfare of the community..." the child could be sentenced as though the criminal charge had not

been suspended. This option was not available for children charged with the crimes of rape, murder, manslaughter, robbery, arson, burglary or the attempt to commit any of these crimes.³⁰

The statutory provisions that created and defined the jurisdiction of the first constitutionally authorized juvenile courts in Florida were enacted in 1951. They gave juvenile court judges complete discretion to waive juvenile jurisdiction and transfer to a criminal court any alleged delinquent over the age of 14 years who was charged with a felony.³¹ The juvenile court was required to transfer for adult prosecution any juvenile over 16 years of age who was charged with a capital offense.³²

These provisions remained unchanged until 1967 when they were amended to require that jurisdiction not be waived until a hearing was held in the juvenile court. Under the revised provisions, the juvenile court could not waive jurisdiction without a written order finding that it was in the best interest of the public to do so. If such a finding was based on social histories, psychological or psychiatric reports, then the child and his parents, guardian and counsel had the right to examine the reports and to question the parties responsible for preparing them at the waiver hearing.³³ Another change that year permitted a juvenile court judge to waive jurisdiction of a juvenile charged with any state or federal law or city ordinance relating to the operation of a motor vehicle, and to transfer the case to the court that would have jurisdiction if the accused were an adult. No hearing was required in such cases.³⁴ As had been the case since the beginning of juvenile courts, judges continued to have exclusive and unfettered discretion and initiative to select the cases that were to be considered for waiver of jurisdiction.

The 1973 Legislature enacted changes that marked a major turning point in Florida's approach to the process of selecting and transferring juveniles for prosecution as adults. For the first time state attorneys were given the initiative to seek transfers of juveniles 14 years of age or older by the filing of a motion requesting the waiver of juvenile court jurisdiction. Moreover, while prior law limited a judge's discretion to initiate a waiver hearing in cases where the youth was charged with a *felony* offense, the 1973 changes gave state attorneys the authority to request a waiver hearing whenever the a juvenile's alleged conduct would be a violation of law, *felony or misdemeanor*, if committed by an adult.³⁵

Just two years later the Legislature again amended the waiver provisions, and this time it took back some of the far-reaching discretion that it had given to state attorneys in 1973. This provision was part of a major piece of legislation that preoccupied the Legislature during the 1975 Regular Session, and differences in the House of Representatives and Senate bills were such that a conference committee was required. One of those differences concerned the provisions mandating that a state attorney file a motion for waiver in certain cases. The House version of the legislation³⁶ did not include the mandatory waiver language that was subsequently agreed upon by the Conference Committee,³⁷ and codified in statute. The 1975 changes mandated, for the first time, that a state attorney file a motion for waiver in all cases where a juvenile had previously been adjudicated delinquent for murder, rape, or sexual battery, armed robbery or aggravated assault, and was currently charged with any of those offenses for a second or subsequent time.³⁸ The impact of this change was probably greater than anticipated, and may have been the catalyst for even more significant changes that were on the horizon.

In just two years, the number of juveniles tried as adults more than doubled, from 381 in 1974 to 865 in 1976.³⁹ This presumably was the result of the mandatory waiver provisions that were added to the law in 1975. The 1975 revisions had also significantly broadened the statutory criteria that the court was required to consider in determining whether the child should be transferred. These changes are discussed in more detail below under waiver hearings. The combination of a flood of new mandatory waiver hearings, and the added complexity of those hearings, undoubtedly had a tremendous workload impact on the juvenile justice system. This was especially true for prosecuting attorneys who now had to prepare and conduct a waiver hearing in juvenile court, and then a criminal prosecution in the adult court.

The current provisions of Florida law relating to judicial waivers are not substantially different than they were following the 1975 changes. The fallout from those changes appears to have shifted attention away from judicial waivers and set the stage for a legislative initiative to authorize the direct filing of an information by the prosecuting attorney as an alternative. Although unsuccessful in 1976, the initiative succeeded in 1978. With the availability of the direct file option, the use of the waiver procedure declined steadily from 1978 to 1994, and has declined even more since then with the expansion of direct file option to juveniles who were 14 years of age.

Waiver Hearing

As has been noted already, from the time that juvenile courts were first constitutionally established in Florida in 1951 with primary jurisdiction over juveniles, those courts were given statutory authority to waive that jurisdiction and transfer the

juvenile for prosecution as an adult.⁴⁰ For many years there was no statutory guidelines for such decisions, which were left to the sound discretion of juvenile court judges. In 1967, the Legislature enacted the first requirement for a hearing as a prerequisite to a waiver. The new law required a written order finding that it was in the best interest of the public to waive jurisdiction, and if that finding was based on social histories, psychological or psychiatric reports, then the child and his parents, guardian and counsel were given the right to examine the reports at the waiver hearing and to cross examine the individuals who prepared them.⁴¹

Significant statutory changes with regard to waiver hearings were enacted in 1973. One change required that two questions be addressed by the court in a waiver hearing:

- Whether there was probable cause to believe that the juvenile committed the offense charges; and
- Whether there were reasonable prospects of rehabilitation before the child reached the age of majority.⁴²

The 1973 changes also established, for the first time, that a court must consider the following factors in deciding the prospects for rehabilitation of the child:

- The nature of the presenting offense, as well as the nature and extent of the child's delinquency record;
- The nature of past treatment efforts and the child's response; and
- The techniques, facilities and personnel available to the court for rehabilitation.⁴³

A written report by the youth agency relevant to these factors had to be prepared prior to the hearing, and the individuals responsible for preparing them were subject to

questioning by the child's attorney at the hearing. The court was also required to state in a written order its reasons for a finding that there were no reasonable prospects for rehabilitation before the juvenile reached the age of majority.⁴⁴

The statutory criteria to be considered by a court in a hearing on a motion to involuntarily waive juvenile jurisdiction was again substantially revised by the Florida Legislature in 1975. The new criteria, which addressed such factors as the nature of the presenting offense, the juvenile's delinquency history and rehabilitative prospects in the juvenile system, and public safety considerations, were virtually identical to the so-called "Kent criteria" that were part of the statutory scheme reviewed by the United States Supreme Court in the landmark case of *Kent v. United States*.⁴⁵ The statutory provisions governing waiver hearings that were enacted in 1975⁴⁶ are essentially those that are in effect today as outlined in detail in Section II, on page 8.

The *Kent* case, decided in 1966, as well as *In Re Gault*,⁴⁷ decided a year later, have been written about extensively, and are beyond the scope of this project. The United States Supreme Court's dictates about the need for fundamental fairness and due process of law in juvenile court proceedings had an influence on the subsequent legislation that was enacted in Florida concerning the processes by which juveniles could be transferred to the criminal courts for prosecution as adults. As will be noted below, even after a transfer decision and a successful adult prosecution, the Florida Legislature obviously believed that the *Kent* criteria were useful tools to guide subsequent judicial dispositional decisions in cases involving juveniles.

In 1978, a major piece of legislation concerning Florida's juvenile justice system was enacted. Most pertinent to this discussion was a change relating to a juvenile's prior

adjudications. It required the court to give greater weight to a finding that the juvenile had previously been found to have committed a felony or twice had been found to have committed a delinquent act, and was currently charged with a second felony or third delinquent act. At the same time, the requirement of a finding of probable cause was deleted, leaving the more general requirement that the prosecutorial merit of the complaint be considered by the court.⁴⁸

Direct Filing of an Information

Earlier it was noted that the volume of juvenile cases waived to the adult court as a result of the mandatory waiver provisions enacted in 1975 was bound to attract the Legislature's attention as prosecutors and judges sought relief. The first attempt to ease the pressure came during the next session when a number of bills were introduced that would have excluded certain offenses from juvenile court jurisdiction, or mandated the transfer of juvenile to adult court under certain circumstances.⁴⁹ Out of this assortment of ideas, a single piece of legislation emerged in 1976. House Bill 1300 attempted to give state attorneys two means by which to transfer juveniles to adult court while bypassing a waiver hearing. First, it permitted the state attorney to file an information directly in the criminal court against any juvenile 16 years of age or older who was alleged to have committed a:

- Capital offense;
- Crime punishable by life imprisonment;
- Felony of the first degree; or
- Felony of the second degree.

Second, it permitted a state attorney the option of seeking a grand jury indictment against a juvenile charged with any felony. In making its decision on whether to return an indictment against a juvenile, the grand jury was required to consider a report by the social services agency on the *Kent* type criteria then contained in statute. In an apparent attempt to balance the expanded new authority given to prosecutors, HB 1300 also authorized a criminal court judge to dismiss an information or indictment and treat the juvenile as a child when it determined that the circumstance so justify.⁵⁰

The fact that, on final passage of HB 1300, there were a substantial number of dissenting votes in both chambers of the Legislature may have been a precursor of its fate. The bill was vetoed by Governor Reubin Askew on June 23, 1976. In his veto message the Governor stated:

House Bill 1300 is essentially an attempt to make it easier for prosecutors in Florida to try 16 and 17 year olds as adults. It emerged from a widespread feeling of frustration with the performance of our criminal justice system as it relates to these older juveniles. Many feel that our present system is inadequate in confronting the problems posed by juvenile crime. And I agree. But the answer will not be found in efforts to transfer more juveniles to the adult corrections system.⁵¹

Governor Askew found two basic flaws in the bill. First, he believed the provision that allowed prosecutors to file an information against a juvenile in a capital case violated the constitutional requirement of a grand jury indictment in capital cases.⁵² Second, the Governor was troubled by the fact that there was no provision for judicial review of direct

file decisions by state attorneys, and no requirement that the eight statutory *Kent* criteria⁵³ be considered. The Governor noted that the Florida House of Representatives had just adopted legislation directing a comprehensive study of juvenile laws for action during the 1977 session, and committed himself to support that effort. At the same time, he admonished the Legislature that this review should be "...careful, cautious, and comprehensive..." so as to protect the rights of accused juveniles while protecting society from the harm caused by juvenile crime.⁵⁴

The review of the juvenile justice system that was promised in 1976 was indeed comprehensive, and was ongoing throughout the 1977 session of the Legislature. The study was conducted over a period of 18 months, and included: a two-day conference sponsored by the Supreme Court of Florida in December, 1976; public hearings in Miami in January, 1977 and St. Petersburg in February, 1977;⁵⁵ a survey of more than 1,100 juvenile justice system stakeholders; a review of the juvenile laws in other states; a statistical analysis of delinquency and social variables; and a special study of the judicial waiver process. In addition, there were numerous legislative committee and subcommittee meetings where public testimony and comment were received. The study culminated in a report issued by the Ad Hoc Committee on Children and Youth on February 8, 1978.⁵⁶

The issues addressed at the Supreme Court's conference included procedures for waiver from juvenile to adult court. The Ad Hoc Committee's staff report on the conference indicates that there was dissatisfaction with waiver requirements in cases where a juvenile had previously been waived to adult court. One of the recommendations

to address this problem was the enactment of a "once waived, always waived" statutory provision.

The stakeholder survey⁵⁷ covered a number of key system issues, including the age range for juvenile court jurisdiction and the confidentiality of juvenile records, but the issue most relevant to this OJJDP research project was the legal mechanisms by which juveniles accused of a violation of law could be transferred from the juvenile to the criminal division of the circuit court for prosecution as adults. More than 63% (N=410) of the survey respondents favored retaining the then current system under which juveniles could be transferred to adult court through a grand jury indictment or a judicial waiver. The committee staff believed that this showing of preference was made even more significant by the fact that nearly 8% (N=49) of the respondents had no response to this question.⁵⁸

Notwithstanding the survey results, the report of Ad Hoc Committee on Children and Youth noted that critics of the waiver hearing believed it was

...cumbersome, time-consuming, and functions as a "mini-trial" considering factors which have often been previously determined at a detention hearing.⁵⁹

There is no finding to this effect in the report, but neither is there any acknowledgment of arguments in favor of the waiver hearing process. The legislation that resulted from the study suggests that while there was no consensus to eliminate waiver hearings entirely, there was a good deal of interest in expediting the process by which

older juveniles, who had prior delinquency records and who had not responded favorably to juvenile system interventions, could be transferred for prosecution as adults.

As the 1978 session of the Florida Legislature approached, both the House of Representatives and the Senate developed a package of juvenile justice reforms that included provisions granting state attorneys the authority to file an information on certain juveniles directly in the criminal division of the circuit court. Several groups submitted written recommendations with respect to procedures for prosecuting juveniles as adults as well as the processing of subsequent cases. The Florida Conference of Circuit Judges adopted a resolution recommending statutory changes providing that a child who previously had been waived for prosecution as an adult should thereafter be treated as an adult for all alleged pending and subsequent law violations.⁶⁰ The Juvenile Justice and Delinquency Prevention Task Force of the Governor's Commission on Criminal Justice Standards and Goals recommended the following with respect to an early version of legislation under consideration by the Senate:

- That the minimum age for waiver be 16 years, because the juvenile justice system was better equipped to deal effectively with young offenders;
- That procedures for indictments should be eliminated so that judicial waiver would be the only process by which a child could be transferred to the criminal justice system; and
- Because of the serious consequences of transferring a child to the adult system, it should never be imposed without a waiver hearing, and therefore the direct filing of an information was strongly opposed.⁶¹

The original version of the Senate bill⁶² would have allowed the direct filing of an information on a juvenile who was 16 or 17 years of age at the time of the alleged offense when, in the judgment and discretion of the state attorney, adult sanctions should be considered or imposed. The Senate Bill also included ambiguous, if not internally-contradictory, provisions requiring a criminal court judge to transfer the case back to juvenile court upon a showing by the juvenile that:

- He had not previously been found to have committed a delinquent act that was classified as a felony and been committed to state custody; or,
- Had not twice previously been found to have committed misdemeanors for which he was committed to state custody; and
- Was under the age of 16 when the offense charged was committed.

A later version of the Senate bill deleted this last requirement, which appeared to be in conflict with provisions setting the age limits on the state attorneys discretion to direct file charges against juveniles.⁶³ The Senate legislation also sought to amend the section of the law mandating that a state attorney file a motion for waiver of juvenile jurisdiction in all cases where a juvenile had previously been adjudicated delinquent for murder, rape, or sexual battery, armed robbery or aggravated assault, and was currently charged with any of those offenses for a second or subsequent time, by giving prosecutors the option of direct filing of an information in such cases.

The House bill⁶⁴ contained the same age restrictions, but avoided the constitutional problems of the 1976 bill by excluding cases involving capital or life felonies. The discretion of state attorneys to direct file an information was limited to cases in which the juvenile had two prior findings of delinquency and one prior commitment

for an act that would have been a felony if committed by an adult. Both bills provided that once a child had been transferred for adult prosecution by any means, and had been found to have committed the offense charged, or a lesser offense, the child was to be treated as an adult for any subsequent violation of law.

Because the direct file provisions were part of comprehensive legislation affecting Florida's juvenile justice system, it was inevitable that differences in the Senate and House provisions would require the appointment of a conference committee to find a consensus position that would be acceptable to both bodies. The differing provisions in the two bills relating to the filing of a direct information became a conference committee issue on which each body compromised.⁶⁵ The compromise that was reached allowed the direct filing of an information on a juvenile who was 16 or 17 years of age at the time of the alleged offense when, in the judgment and discretion of the state attorney, the public interest required that adult sanctions be considered or imposed. Under the compromise a juvenile against whom a direct information was filed could challenge the action of the state attorney in the criminal court and have the case transferred back to the juvenile court. To do so, however, the juvenile had to prove a negative, by showing that he had not previously been found to have committed two delinquent acts, one of which involved an offense classified as a felony under Florida law.⁶⁶

This new discretionary authority of prosecutors to transfer certain youth for prosecution as adults was coupled with new requirements for judges in considering the sentence to be imposed on juveniles prosecuted as adults. Those changes are detailed below.

Although the 1978 law did not include an explicit statement of findings or intent concerning the rationale for authorizing the transfer of juveniles to criminal court by the filing of a direct information, numerous clues to that effect can be found in the legislative records connected with that legislation. Earlier, it was noted that the Florida Supreme Court sponsored a juvenile justice "summit" in cooperation with several executive agencies and legislative committees. The keynote address for that conference was delivered by the State Representative who chaired the Ad Hoc Committee on Juvenile Justice that was described above, and a summary of themes from that conference was prepared for members of the ad hoc committee.⁶⁷ One of the themes noted the general dissatisfaction with the waiver procedure for juveniles who had previously been waived for prosecution as an adult. The summit resulted in three recommendations to address this issue: adoption of a "once waived, always an adult" requirement; mandating adult processing for any juvenile over the age of 15 years who had previously been waived when there was probable cause to believe that the juvenile had committed a new felony; or make no changes to the law.⁶⁸

The staff of the House Committee on Health and Rehabilitative Services also prepared an explanation of changes to the law that were finally enacted that year. The explanation states that a major concern was expressed during the committee's public hearings about the need... "to more efficiently and effectively remove hard core, repeat offenders from the juvenile justice system."⁶⁹ The analysis notes that this goal is achieved with the direct file provisions, and concludes, "...the underlying assumption is that such a child is unresponsive to rehabilitative efforts, and accordingly should be considered for placement in the adult correctional system for the protection of society."⁷⁰

The Senate Staff Analysis and Economic Statement on the new law offers little additional insight into the rationale for the direct file provisions that were finally agreed upon. It does, however, include a statement suggesting that one of the compromises that was made to win the direct file language was a complete revamping of the provisions governing sentencing of juveniles who were successfully prosecuted as adults. The details are more fully discussed later, but the pertinent point made in the analysis is that all of the criteria that had to be considered by a juvenile court judge before making a waiver decision would now have to be considered by a criminal court judge at the end of trial of a juvenile prosecuted as an adult.⁷¹ This change appears to have been designed to preserve a role for the judge, and a place for the *Kent* criteria, in sentencing decisions affecting juveniles prosecuted as adults.

The direct file provisions enacted in 1978 remained unchanged until 1981 when the right to challenge a state attorney's direct file decision was limited to cases in which a juvenile was charged with a misdemeanor, and the juvenile still was required to demonstrate that he had not previously been found to have committed two delinquent acts, one of which involved an offense classified as a felony under Florida law.⁷² In 1990 the Legislature limited the authority of state attorneys to direct file on misdemeanor charges to situations in which the child had twice previously been found to be delinquent, and one such case involved an offense classified as a felony offense. This change eliminated the awkward requirement that a juvenile prove a negative in order to challenge the direct file decision in misdemeanor cases.⁷³ Other than these minor refinements, the discretionary authority of a Florida prosecutor to direct file an information is the same in 1998 as it was in originally enacted in 1978.

Mandatory Direct Filing of an Information

The same legislation that first granted prosecutors the discretion to file an information against a juvenile in the criminal court included a change in the waiver provisions that had the effect of creating a de facto mandate for the direct filing of an information in certain cases. The 1978 law required that in any case where a child 14 years of age or older had previously been charged with murder, sexual battery, armed or strong-armed robbery, aggravated battery, or aggravated assault, and was currently charged with a second or subsequent offense of a similar nature, the state attorney must file a motion requesting a waiver of juvenile jurisdiction unless an information was filed under the new provisions that had been enacted.⁷⁴ Faced with a choice of a mandatory waiver hearing or the mandatory filing of an information, the choice for prosecutors would have been obvious in most, if not all, cases.

Most of the mandatory direct file provisions of law that are currently in effect in Florida were adopted as a part of the Juvenile Justice Reform Act of 1994 which brought sweeping changes to the system. As has already been noted, the 1994 reforms were a reaction to a number of homicides perpetrated by juveniles, and a general sense that juvenile crime was out of control. In the 1990s, no crime seemed to attract juveniles and irritate adults more than motor vehicle theft. Literally hundreds of thousands of Floridians became victims who, together with their insurers, complained loudly and often to their legislators.

The Legislature responded in 1996 by adding a new category of offense to the mandatory direct file provisions of law. Prosecutors were required to file an information against a child, regardless of age, who was accused of an offense that involves any

criminal wrongful taking of a motor vehicle, including but not limited to carjacking or grand theft of a motor vehicle, and while in possession of the stolen motor vehicle, the child caused serious bodily injury to or the death of a person who was not involved in the underlying offense. In all such cases the driver and all willing passengers in the stolen motor vehicle at the time such serious bodily injury or death is inflicted were subject to mandatory transfer to adult court. For purposes of this provision, the Legislature defined "willing passengers" to include all willing passengers who had participated in the underlying offense.⁷⁵

Before the first direct file provisions were enacted in 1978, virtually all of the juveniles prosecuted as adults were transferred following a waiver hearing where the decision maker was the juvenile court judge. As the complexity and the time burden of waiver hearings increased, it was inevitable that prosecutors would come to increasingly rely on direct file as the transfer mechanism of choice. By 1998, almost 97% of juveniles transferred to adult court got there by way of a direct file, meaning that judges have effectively been removed from this decision-making process. The acquiescence of judges in this shift of power is demonstrated by the fact that a consistent 80% of the judges who participated in the structured telephone survey for this study (Section IV, page 107) indicated a belief that the current direct file and waiver provisions are adequate.⁷⁶

Direct File Policies and Guidelines

By the time of the 1990 juvenile justice reforms in Florida, the authority to direct file juveniles to the criminal justice system had been used by prosecutors for more than 10 years, and during that period the number of transfers through the direct filing of an

information grew steadily. Sensitive to the claims of some that prosecutors were exercising unbridled discretion, but unwilling to ignore the popular desire to deal more firmly with serious and habitual juvenile offenders, the Legislature enacted a requirement that each state attorney develop and annually update written policies and guidelines to govern decisions regarding the filing of an information on a juvenile.⁷⁷ In 1994, the Legislature added the requirement that a copy of the guidelines be submitted by January 1 of each year to the President of the Florida Senate, the Speaker of the Florida House of Representatives, and the Florida Juvenile Justice Accountability Board.⁷⁸

Effect of Adult Prosecution on Future Law Violations

It has already been noted that a 1976 law change that mandated waiver hearings in a specified class of cases placed great strain on the juvenile court system because it more than doubled the number of such hearings. This stress was aggravated by the fact that many of those cases involved repeat juvenile offenders who had previously been the subject of a waiver hearing and had been transferred for adult prosecution. One feature of the 1978 legislation remedied this problem by providing that a child who is transferred for adult prosecution, whether by indictment, waiver or direct file, and who is found guilty, would thereafter be handled in every respect as if he or she were an adult for any subsequent violation of Florida law.⁷⁹ As will be noted below, the 1978 legislation included provisions that were intended to encourage criminal court judges to carefully consider the benefits of sentencing a juvenile back to the juvenile justice system in lieu of adult sanctions. This policy direction appears to run counter to the "once prosecuted as an adult, always an adult" requirement.

This ambiguity was not corrected until 1990 when the law was amended to provide that any juvenile who was prosecuted as an adult, would thereafter be handled as an adult for any subsequent violation of law unless the criminal court opted to impose juvenile sanctions.⁸⁰ The effect of this change was a "once sentenced as an adult, always an adult" provision that has remained the law in Florida since 1990.

Dispositional Alternatives for Juveniles Prosecuted as Adults

For most of this century Florida law has afforded flexibility in the sentencing of persons under the age of 18 years. In 1905, the Legislature permitted judges to sentence a person under 18 years of age to the state reform school as an alternative to county jail or state prison. Even when a sentencing judge chose not to exercise that option, a child or the parents of a child under the age of 18 years who had been sentenced to county jail or state prison could request that the Governor commute such a sentence, and substitute a term in the state reform school until the child reached the age of 18 years.⁸¹ The law also allowed a child who was sent to the reform school in lieu of another sanction to be returned to jail or prison upon a finding by the Board of Managers that the child was incorrigible or injurious to the management and discipline of the reform school.⁸²

In 1911, this authority was expanded in cases involving a juvenile under the age of 16 years by permitting a criminal court to commit the youth to the care and custody of a probation officer while remaining in his own home, or to an appropriate residential placement which could vary from a family home to a state reformatory.⁸³ Similar provisions were subsequently codified and transferred to various locations within the Florida Statutes.⁸⁴

As was suggested earlier, when the Legislature first authorized the direct filing of juveniles into the adult court system in 1978, there was an intention to compensate for the fact that this procedure would bypass the application of the *Kent* criteria that occurs in waiver hearings. In addition to the comments in the staff analyses of the legislation noted earlier, several explicit decisions demonstrate the Legislature's concern in this regard. The statutory provisions that address the procedures by which a criminal court judge can choose to impose juvenile sanctions on a youth prosecuted as an adult were transferred from chapter 959, Florida Statutes, to chapter 39, Florida Statutes, where they were more accessible and adjacent to related provisions of law.⁸⁵ Second, the statute was amended in a way that added significant substantive rights to juveniles who had been successfully prosecuted as an adult, and were pending a disposition of their case. Those changes required that the court receive and consider a predisposition report regarding the suitability of the child for disposition as a juvenile, and that all affected parties have an opportunity to comment on the report and the question of an appropriate sentence or rehabilitative plan for the juvenile. The new provisions also required the court to first decide the suitability of adult sanctions in reference to the following criteria:

- Seriousness of the offense and protection of society;
- Whether the offense was committed in an aggressive, violent or willful manner;
- Whether the offense was against persons or property, giving greater weight to person offenses;
- The maturity of the child, considering the child's home, environmental situation, emotional attitude and pattern of living;

- The previous record and history of the child, including:

- ◊ previous contacts with state agencies;
- ◊ prior periods of probation or community control;
- ◊ prior adjudications for law violations; and
- ◊ prior commitments;

and

- The prospects for protection of the public and the likelihood of reasonable rehabilitation of the child.⁸⁶

The Legislature could not have made its intention clearer concerning the importance its placed on these provisions:

- (d) Any decision to impose adult sanctions shall be in writing, and it shall be in conformity with each of the above criteria. The court shall render a specific finding of fact and the reasons for the decision to imposed adult sanctions. Such order shall be reviewable on appeal by the child pursuant to s. 39.14....⁸⁷

In an adjacent portion of the same legislation this theme is reiterated:

- (j) It is the intent of the Legislature that the foregoing criteria and guidelines shall be deemed mandatory and that a determination of the disposition pursuant to this subsection is subject to the right of the child to appellate review pursuant to s. 39.14.⁸⁸

In the same piece of 1978 legislation that added these strict procedural requirements to the law, the Legislature also revamped the statute with respect to procedural requirement for disposition hearings in juvenile court cases. Many of those provisions are similar to those outlined above except the following which stands in stark contrast:

- (j) It is the intent of the Legislature that the criteria set forth in paragraph (d) of this subsection are intended as general guidelines to be followed at the discretion of the court. These criteria shall not be mandatory requirements of procedure. It is not the intent of the Legislature to provide for the appeal of the disposition made pursuant to this subsection.⁸⁹

It must be remembered that the 1978 legislation was developed as a result of nearly two years of study and public hearings, and in spite of that effort, the differing version of the House and Senate bill could not be resolved without a conference committee. One of the last issues to be resolved was the question of whether prosecutors should be allowed to independently decide whether to prosecute juveniles as adults without the involvement of either a grand jury or a judge. It appears that part of the compromise that was reached involved a detailed articulation of procedural and substantive rights available to juveniles who had been successfully prosecuted as adults, and were at the dispositional phase of their case. As noted earlier, staff notes explaining the 1978 legislation indicate that it was important to some members that there be an opportunity for consideration of the *Kent* criteria at some point in a juvenile case. For

those who were to be direct filed, that opportunity would come at the dispositional hearing.

The provisions of statute relating to dispositional options in cases where a juvenile has been prosecuted as an adult have been renumbered several times since 1978,⁹⁰ but have otherwise remained unchanged.

Conclusion

It is apparent that the Florida Legislature has devoted a great deal of attention to the matter of how and when juveniles should be transferred to the adult court system for prosecution and to the adult corrections system for punishment. The research team believes that this history is an important part of the context within which a judgment about the efficacy of this policy must be made.

SECTION III.

COMPONENT 1: EXAMINING THE IMPACT OF THE 1994 JUVENILE JUSTICE REFORM ACT

This section examines several statewide data sets to assess the impact of changes in transfer provisions that became law as a result of the 1994 Juvenile Justice Reform Act. These changes are discussed fully in Section II of this report. In brief review, however, the 1994 changes added to the earlier transfer provisions both by extending discretionary direct file eligibility to 14- and 15-year-old juveniles charged with one or more of 14 specified offenses and by introducing presumptive or mandatory judicial waiver for youth who met specified criteria combining a juvenile's offense, prior record, and prior disposition history.

The findings reported here draw primarily from two data sets: the Client Information System (CIS) currently maintained by the Florida Department of Juvenile Justice (DJJ) and an Offender Based Tracking System (OBTS) created and maintained by the Florida Office of the State Courts Administrator (OSCA).

The research design also calls for an effort to supplement the CIS and OBTS data sets with information collected and maintained by the Florida Department of Education. One supplemental data set contains school-based information ranging from attendance records to academic performance (hereafter called the DOE data). The other supplemental data set focuses on employment information and draws from records collected from the Department of Labor and Employment Security (hereafter called DLES data). The DLES data obtained were maintained by the Florida Department of Education. (Explain)

Because of limitations with the DOE and DLES data, efforts to supplement the CIS and

OBTs data have proven to be largely unsuccessful. The analyses performed on these data sets are reported at the end of this section.

Transfer Practices in 1993 and 1995: CIS Data

Using the CIS data maintained by DJJ, the research team was able to identify youth who were referred to the juvenile justice system and transferred to criminal courts in Florida during 1993 and 1995. The CIS system consists of information submitted by local officials to DJJ headquarters regarding all referrals to the juvenile justice system, whether initiated by law enforcement, school officials, parents, or other sources. Because all localities in the state participate in the system, the CIS is designed to provide a complete census of cases.

The purpose of this analysis is to determine the nature and extent of the impact of the 1994 changes in Florida's transfer provisions. The analysis was done by comparing transferred and non-transferred youth in 1993 and 1995. Aside from merely reporting the numbers of transfer cases, the CIS data provide some descriptive information. Information on the sociodemographic characteristics of these youth is available. CIS also provides information on the offenses for which each youth was referred to the juvenile justice system.⁹¹ Access to CIS data for the period 1984-1995 enabled the reconstruction of the offense histories for each youth in the data set.

The CIS tracks each referral charge in the juvenile justice system from the point of initial intake to disposition. For cases transferred to criminal court, the end point in the CIS database is the point at which the transfer is made, either through grand jury indictment, judicial waiver, or prosecutorial filing of an information. Data on

adjudicatory and sentencing outcomes within the criminal courts for cases transferred from the juvenile courts is not available within the CIS. To track transferred cases through the criminal court system, analysis was conducted on the OBTS. The OBTS data are presented and discussed later in this section.

The following comparisons were based on CIS data of transferred and non-transferred youth for 1993 and 1995, as well as comparisons over time. [In the event that a youth had more than one case transferred in these years, only the first such case was counted.] *after Rich adult?*

In 1993, 5,747 youth were transferred from the juvenile justice system to the criminal courts in Florida. They constituted 6.8% of the total number of charges referred to the juvenile justice system in that year. Despite changes in the law that made more youth eligible for transfer, the CIS data indicate that slightly fewer youth were transferred *in 1995* than in 1993. In 1995, 5,637 youth were transferred, or 5.6% of the total number of charges referred to the justice system.

Sociodemographic Comparison

Sociodemographic comparisons of transferred and non-transferred youth for 1993 and 1995 are reported in Table 3:1. Compared to the non-transfer population, transferred youth are more often male and more often non-white. While females make up approximately one quarter of the total population of youth referred to the justice system, only 10% of transferred youth are female. This was true in both 1993 and 1995. A majority of youth referred to the juvenile justice system in both 1993 and 1995 were white (60% in 1993; 62% in 1995). However, slightly more than half of the youth transferred to criminal court were non-white. As noted below, the overrepresentation of

males and non-whites among those transferred is due in large measure to the fact that males and non-whites are significantly more likely than females and whites to be referred to the juvenile justice system for serious and violent offenses for which the likelihood of transfer is greatest.

Table 3:1
Sociodemographic Characteristics of Transferred and Non-Transferred Youths, 1993 and 1995

	1993				1995			
	Transfers		Non-Transfers		Transfers		Non-Transfers	
	N	%	N	%	N	%	N	%
Gender:								
Male	5,254	91%	58,070	74%	5,093	90%	67,964	72%
Female	491	9%	20,285	26%	538	10%	27,062	28%
Total	5,745	100%	78,355	100%	5,631	100%	95,026	100%
Race:								
White	2,611	45%	47,165	60%	2,722	48%	58,434	62%
Nonwhite	3,136	55%	31,246	40%	2,915	52%	36,649	38%
Total	5,747	100%	78,411	100%	5,637	100%	95,083	100%
Age:								
7	10	4%	259	96%	5	2%	268	98%
8	4	1%	479	99%	3	1%	454	99%
9	14	2%	798	98%	6	1%	784	99%
10	10	1%	1,319	99%	9	1%	1,345	99%
11	20	1%	2,302	99%	16	1%	2,601	99%
12	55	1%	4,556	99%	56	1%	5,417	99%
13	135	2%	8,028	98%	94	1%	9,897	99%
14	306	3%	11,927	98%	328	2%	14,371	98%
15	522	3%	14,698	97%	657	4%	17,897	97%
16	1,928	11%	16,007	89%	1,751	8%	19,361	92%
17	2,465	0%	16,458	87%	2,483	0%	20,692	89%
Total	5,469		76,831		5,408		93,087	

*For some cases, gender was not recorded.

Major Offense Categories

Table 3:2 shows a breakdown of transferred and non-transferred youth within major offense categories. In 1993, 14% of those referred for felonies were transferred, and 2% of misdemeanants were transferred. Four percent of those referred for other offenses (e.g., violations of community control) were transferred. Over the period 1993 to 1995, percentages of youth transferred within major offense categories remained fairly

stable: 13% of felony offenders were transferred, 2% of misdemeanants, and 2% of those referred for other offenses.

From 1993 to 1995, the number of referrals to the juvenile justice system increased substantially. The increase was nearly 20%, from 84,158 in 1993 to 100,720 in 1995. Most of the growth was attributable to an increase in the number of youth referred for misdemeanor offenses. Of the 16,562 additional youth referred in 1995 compared to 1993, nearly 80% were misdemeanor referrals.⁹² Felons made up 40% of juvenile referrals in 1993, but only 35% in 1995. Despite the increase in the *number* of felons, the *proportion* of transfers did not change significantly from 1993 to 1995.

Table 3:2
Youths Transferred by Major Offense Category, 1993-1995*

	1993				1995			
	Felony	Misd.	Other	Total	Felony	Misd.	Other	Total
Transfer	4,550 (13.7) [79.2]	1,070 (2.2) [18.6]	127 (4.0) [2.2]	5,747 (6.8) [100]	4,612 (13.0) [81.8]	923 (1.5) [16.4]	102 (2.2) [1.8]	5,637 (5.6) [100]
Non-Transfer	28,754 (86.3) [36.7]	46,603 (97.8) [59.4]	3,054 (96.0) [3.9]	78,411 (93.2) [100]	30,942 (87.0) [32.5]	59,651 (98.5) [62.7]	4,490 (97.8) [4.7]	95,083 (94.4) [99.9]
Total	33,304 (100.0) [39.6]	47,673 (100.0) [56.6]	3,181 (100.0) [3.8]	84,158 (100.0) [100]	35,554 (100.0) [35.3]	60,574 (100.0) [60.1]	4,592 (100.0) [4.6]	100,720 (100.0) [100]

*Column percent shown in parentheses. Row percent shown in brackets.

*greater growth
in m.300 mean*

In 1993, 79% of all youth transferred were referred for felony offenses. By 1995, the composition of the transfer population was slightly more serious: 82% were transferred for felonies. Separating the felonies into crimes of violence and property offenses permits a closer look at the severity of the offenses.

Felony Referrals and Transfer

In 1993, there were 9,618 referrals to the juvenile justice system for felony crimes of violence. Of these, 1,808 (or 19%) were transferred to criminal court. They made up 40% of the transfer population. In 1995, 1,925 violent felons were transferred, representing 18% of the 10,724 violent felony referrals. They constituted 42% of the transfer population (See Table 3:3).

Table 3:3
Felony Referrals and Transfers, 1993 and 1995*

	1993			1995		
	Violent Felony	Other Felony	Total Felony	Violent Felony	Other Felony	Total Felony
Transfer	1,808 (19%) [40%]	2,742 (12%) [60%]	4,550 (14%) [100%]	1,925 (18%) [42%]	2,687 (11%) [58%]	4,612 (13%) [100%]
Non-Transfer	7,810 (81%) [27%]	20,944 (88%) [73%]	28,754 (86%) [100%]	8,799 (82%) [28%]	22,143 (89%) [72%]	30,942 (87%) [100%]
Total	9,618 (100%) [29%]	23,686 (100%) [71%]	33,304 (100%) [100%]	10,724 (100%) [30%]	24,830 (100%) [70%]	35,554 (100%) [100%]

*Column percent in parentheses. Row percent in brackets.

Three points are especially noteworthy. First, the vast majority of youth referred to the juvenile justice system for violent felonies are retained in the juvenile justice system (81% in 1993 and 82% in 1995). Some would argue that the juvenile court and the Department of Juvenile Justice are entrusted with the prosecution, adjudication, punishment and/or treatment of the vast majority of youth for whom transfer is most appropriate. Second, despite changes in the law that targeted several enumerated violent felony offenses for mandatory transfer, the law apparently had little impact in the first

year of implementation. Either those youth eligible under the mandatory transfer provisions were already being transferred prior to passage of the 1994 legislation, or the law was not fully implemented in 1995. Unfortunately, the offense categories among the violent felonies in the CIS data do not correspond closely enough to the offense categories targeted for mandatory exclusion to determine which of these explanations is most accurate. Third, of the felons transferred to criminal court in both 1993 and 1995, the vast majority were lesser offenders charged with property and drug offenses (69.5% in 1993 and 65.5% in 1995). The issue of whether these offenders, as well as those transferred for misdemeanors, were youth with especially long histories of offending is discussed below.

Specific Offense Categories and Transfer

Table 3:4 provides a more detailed breakdown of transferred youth by offense type. The table shows the number and percentage of youth transferred to criminal court within each of the CIS offense categories for 1993 and 1995. More than 75% of youth referred for homicide and homicide attempts were transferred to criminal court during both periods. Slightly more than half of the youth referred for armed robbery are transferred to criminal court. For the other felony offenses, no more than 25% of youth are transferred to criminal court. A low percentage of youth referred for felony sexual battery (16% in 1993; 15% in 1995) and aggravated assault and/or battery (13% in each year) were transferred to criminal court.

Table 3:4
Number and Proportion of Youths Transferred By Offense Category
1993 and 1995

	1993		1995	
	N	%	N	%
<i>Felony</i>				
Murder/Manslaughter	126	82%	81	78%
Attempted Murder/Manslaughter	127	67%	128	79%
Sexual Battery	109	16%	95	15%
Other Sex Offense	27	5%	28	6%
Armed Robbery	431	53%	436	53%
Other Robbery	259	22%	285	20%
Arson	25	7%	21	5%
Burglary	1,134	10%	1,060	10%
Auto Theft	423	13%	338	12%
Grand Larceny	170	7%	174	6%
Receiving Stolen Property	19	7%	16	7%
Concealed Firearm	110	16%	93	17%
Aggravated Assault and/or Battery	660	13%	789	13%
Forgery and Uttering	17	7%	18	6%
Drug Offenses Excluding Marijuana	474	26%	556	23%
Marijuana Offenses	70	14%	71	9%
Escape from Secure Facility	112	19%	100	15%
Resisting Arrest with Violence	29	10%	38	11%
Deadly Missile	40	6%	45	6%
Traffic	9	17%	13	20%
Other Misdemeanor	179	7%	227	7%
Assault and/or Battery	285	3%	253	2%
Prostitution	6	10%	-	
Other Sex Offense	1	1%	-	
Petit Larceny	73	2%	74	2%
Retail Theft	178	1%	142	1%
Receiving Stolen Property	2	3%	3	5%
Concealed Weapon	21	3%	5	1%
Disorderly Conduct	51	4%	36	2%
Criminal Mischief	80	3%	50	2%
Trespassing	119	3%	97	2%
Loitering and Prowling	36	3%	42	3%
Drugs Excluding Marijuana	15	3%	23	2%
Marijuana Offenses	63	4%	69	2%
Possession of Alcohol	20	1%	12	1%
Resisting Arrest Without Violence	57	6%	54	4%
Other	63	2%	66	2%
<i>Other Offenses</i>				
Contempt of Court	30	6%	13	2%
Violation of Community Control	96	4%	85	2%

Comparing transfer practices across years, Table 3:4 indicates that (with the exception of a 12% increase in the proportion of youth transferred for attempted murder/manslaughter) there is a great deal of stability in the proportions of youth within offense category who are transferred to criminal court. What variation there is tends to be within one or two percentage points. There was strong consistency over this time period in statewide transfer practices.

Offense History and Transfer

Table 3:5 displays information on the offense histories of the transfer and non-transfer populations for 1993 and 1995. Marked differences in offense history between the transfer and non-transfer populations are evident in the table. In both years, more than 50% of the non-transfer youth have no prior referrals, while this is true for only about 15% of the transferred youth. Approximately 50% of the transferred youth have five or more prior referrals, compared to approximately 12% of the non-transfer group in both years. Approximately 25% of the transferred offenders have 10 or more prior referrals, compared to less than 5% of the youth retained in the juvenile justice system.

Table 3:5
Offense Histories of Transferred and Non-Transferred Youths, 1993 and 1995

	1993		1995	
	Transfer	Non-Transfer	Transfer	Non-Transfer
<i>Number of Prior Referrals</i>				
0	868 (15%)	41,033 (52%)	874 (16%)	49,437 (52%)
1	636 (11%)	13,621 (17%)	650 (12%)	16,649 (18%)
2-4	1,374 (24%)	14,343 (18%)	1,401 (25%)	17,723 (19%)
5-9	1,380 (24%)	6,603 (8%)	1,424 (25%)	8,202 (9%)
10 or more	1,489 (26%)	2,811 (4%)	1,288 (23%)	3,072 (3%)
Total	5,747 (100%)	78,411 (99%)*	5,637 (101%)*	95,083 (101%)*

*Percentages do not add to 100 due to rounding.

The majority of the youth with lengthy prior records are not transferred to criminal court (see Table 3:6). While those who have few prior referrals are unlikely to be transferred, the vast majority of youth with very lengthy records are also retained in the juvenile justice system. In 1993, 65% of those with 10 or more prior referrals remained in the juvenile justice system. In 1995, this proportion had increased to 70%.

Table 3:6
Proportion Transferred By Offense History

	1993					1995				
	Number of Priors					Number of Priors				
	0	1	2-4	5-9	10+	0	1	2-4	5-9	10+
Transfer	2%	4%	9%	17%	35%	2%	4%	7%	15%	30%
Non-Transfer	98%	96%	91%	83%	65%	98%	96%	93%	85%	70%

Current Offense, Prior Record and Transfer

Prior research suggests that very serious offenders may be transferred regardless of any offense history, while chronicity of offending may prompt transfer even in the absence of a serious current offense. In Table 3:7, the impact on transfer of both prior record and current offense is evident. Current offense has been grouped into four categories: violent felony, non-violent felony, misdemeanor, and other. The cells in Table 3:7 display percentages for each category. Prior referrals and offense type each have an independent impact on the decision to transfer. There may also be an interaction between the two such that the combination of serious offense and lengthy offense history greatly elevates the likelihood of transfer.⁹³ Comparison of patterns across the two years shows very little change in transfer practice before and after the 1994 changes in the law.

Table 3:7
Percentages of Youths Transferred to Criminal Court, 1993 and 1995,
by Offense Type and Prior Referral Categories*

1993						
<i>Current Offense Type</i>	Number of Prior Referrals					Total
	0	1	2-4	5-9	10 +	
Violent Felony	8%	14%	23%	35%	54%	19%
Other Felony	4%	7%	13%	23%	40%	12%
Misdemeanor	1%	2%	3%	9%	21%	2%
Other	0%	4%	4%	5%	5%	4%
Total	2%	5%	9%	17%	35%	

1995						
<i>Offense Type</i>	Number of Prior Referrals					Total
	0	1	2-4	5-9	10+	
Violent Felony	8%	15%	22%	33%	47%	18%
Other Felony	4%	6%	12%	23%	38%	11%
Misdemeanor	1%	1%	2%	6%	17%	2%
Other	6%	2%	3%	2%	2%	2%
Total	2%	4%	7%	15%	30%	

*The numbers reported in each cell refer to the percentage of youth within each offense/prior record category who were transferred to criminal court.

Processing Stages for Juveniles Transferred to Adult Court 1993 and 1995 - OBTS Data

The OBTS data track charges or counts (rather than persons or cases) based on information obtained from county criminal court clerks' offices.⁹⁴ OBTS includes counts considered for prosecution in criminal court involving persons under 18 years of age, but excludes cases retained in the juvenile system. For example, in the OBTS system, if an individual has been arrested for three counts of burglary, and has been subsequently arrested for two counts of robbery, five lines of data appear in OBTS if this person has

been considered for prosecution in criminal court. Each of the five counts are tracked in OBTS as they move through the system. OBTS structures the flow of counts across four phases: (1) the initial phase, which lists the counts resulting from a physical arrest or notice to appear; (2) the prosecutor phase, which involves actions taken by the prosecutor prior to each count actually being taken to court (including cases diverted or handled out of court by the prosecutor); (3) the court phase, which reflects the adjudications made at court on each count; and (4) the sentence phase, which identifies the penalties or conditions imposed when a defendant is convicted on a count.

This analysis begins with the counts (either the arrest charges or the charges indicated on a notice to appear) that are recorded in OBTS. The challenge in this is to reconstruct how these counts are grouped for prosecution. In the above example, all three of the burglary counts on January 14, 1993, may be consolidated into a single multiple-count case.

The case then becomes the unit of analysis. Because of the need to distinguish *counts* from *cases*, both words are italicized throughout this discussion. Each of the four stages of *case* processing are analyzed: *cases* initiated and dealt with by the prosecutor in some way, *cases* proceeding to prosecution in court, *cases* disposed of or adjudicated in court, and *cases* sentenced by the court. Unfortunately, the data fields in OBTS are not described or explicitly linked to important terms used in legal processing. For example, the variables dealing with level and degree of charge and nature of the offense are not described in terms of the formal *counts* presented in an indictment or information. The *counts* at the initial phase represent arrests or notices to appear, but the *counts* at the prosecutor phase may refer to "any changes to the charge ... along with any other actions

taken by the prosecutor.”⁹⁵ It is uncertain whether the charge information at the prosecutor phase reflects charges on formal charging instruments because of prosecutorial decisions to divert or handle *cases* informally. OBTS does not represent its data as necessarily reflecting the *counts* on the information or an indictment.

The first stage of processing is where multiple OBTS *counts* are combined to form *cases* initiated by the State Attorney. According to the OBTS codebook, some arrest *counts* are screened out and are not included in the prosecutorial phase. (For example, charges that are disposed of at first appearance are screened out.) To construct *cases* from *counts*, the maximum values for the variables PRDEG (degree of the charge at the prosecutor phase) and PLEVEL (level of the charge at the prosecutor phase) were retained for any individual under 18 years of age for any *count* on a given filing date. Thus, if a 17 year old had both a felony *count* (PLEVEL) that was of the second degree (PRDEG) and a misdemeanor *count* (PLEVEL) that was of the first degree (PRDEG) listed for January 14, 1993, the two charges were combined into a single *case* characterized by the more serious second degree felony *count* at this stage.

The second stage of processing, *cases* proceeding to prosecution, is constructed by using the variable PFINACT (the final action taken by the prosecutor or grand jury). This OBTS variable contains the following categories: dismissed due to speedy trial problems, dropped, no bill, administratively dismissed, pretrial diversion, no action, transferred to another court, “nolle prossed,” consolidated, and filed for court. *Cases* are selected for analysis if any of their constituent *counts* have been filed for action by the court (*i.e.*, have continued to the court phase of processing). Because some *counts* may have been dropped or changed during the prosecutorial stage, a *multiple-count case* is characterized by the

most serious *count* that proceeds to court. This characterization is constructed from the PLEVEL (felony, misdemeanor, or other), the PRDEG (first, second, or third degree), and a variable created by OBTS called FILECAT. FILECAT is a combination of all offenses into 13 basic categories ranging from capital murder through misdemeanors and other violations. By combining the FILECAT offense category with PLEVEL and PRDEG, the primary *count* for a *case* can be constructed (*e.g.*, whether it is a second degree drug felony or a lesser drug misdemeanor).

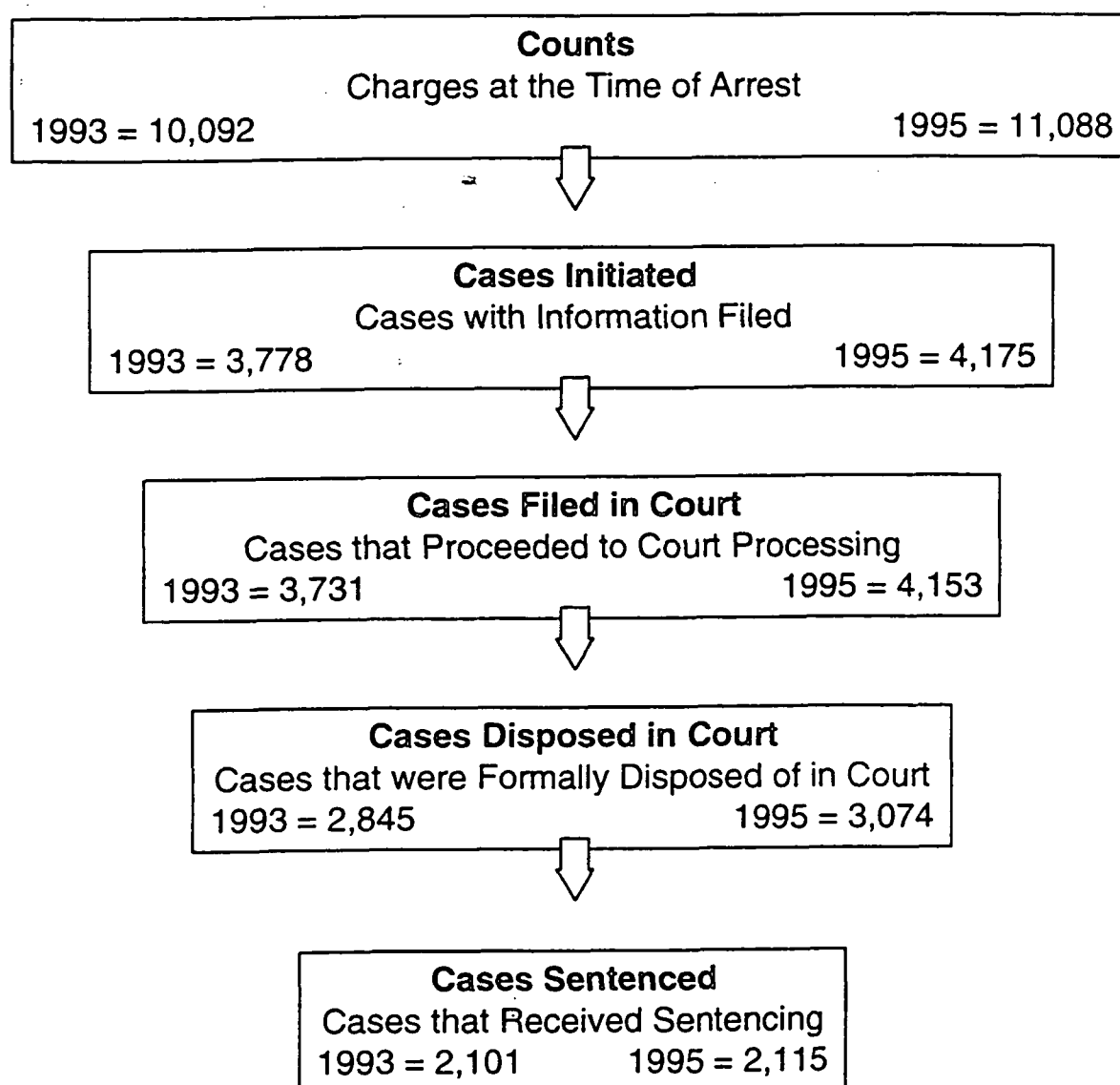
The third stage of processing in the analysis is *cases* disposed in court; it consists of *cases* that were formally disposed of in court. The screen variable for this phase is CTACTN (court action taken), which has been recoded into the following categories: (1) dismissed; (2) adjudicated delinquent; (3) adjudication withheld; and (4) convicted as adult. For multiple *count cases*, the maximum value of conviction is selected from among the respective *counts*. The offense characteristics at this stage were constructed by retaining the maximum values for the variables CTDEG (like PRDEG except it measures degree of charge at the court phase), CLEVEL (like PLEVEL except it measures the level of the charge at the court phase--felony, misdemeanor, or other, and DISPCAT (disposition categories that have been created by OBTS in the same way FILECAT has been constructed). A 14th category was added by obtaining convictions for ordinance violations from another OBTS variable called OFFENSE.

The final stage of processing discussed below is *cases* sentenced. Here, *cases* are examined on four sentence outcomes: (1) fine, (2) restitution, (3) jail, or (4) prison. For *multiple-count cases*, the most severe sentence received for any *count* is used for analysis. The offense characteristics at this stage were constructed by retaining the maximum

values for the variables CTDEG (degree of charge in court phase), CLEVEL (level of the charge in court phase - felony, misdemeanor, or other), and DISPCAT (disposition categories).

Chart 3:1

Processing Stages for Juveniles Transferred to Criminal Court



To summarize, the analysis of OBTS data focuses on *cases* that have been constructed by combining *counts* or charges for an individual that were recorded on the same date. The *cases* are then followed through four stages of processing: initial prosecutorial consideration; prosecution in court; adjudication; and sentencing. The OBTS data for the years 1993 and 1995 are analyzed, and *cases* for both years have been selected to include only those defendants who were under 18 at the time of their offenses. The basic flow in both 1993 and 1995 of counts to cases initiated for prosecution, cases prosecuted in court, cases adjudicated, and cases sentenced is depicted in Chart 3:1.

OBTS as a Dynamic Database

Before comparing the 1993 and 1995 OBTS data sets, a few words of caution are in order. OBTS data are dynamic. That is, the staff at the Office of State Courts Administrator (OSCA) in Tallahassee constantly receives local updates on previously entered records. Unfortunately, some counties have never reported and others dropped out of reporting to OSCA.⁹⁶

These local updates are in turn used to change information relating to defendants and offenders, or the number or nature of offenses for a given person. In fact, it is conceivable that some records may be expunged from the system altogether. The end result is that the total number of records for a given year changes over the course of time. In a sense, this process produces a maturation effect, which, according to OSCA statisticians, means OBTS data become more complete and a better reflection of final case outcomes over the course of time.

For example, assume that a given offender was arrested for burglary in 1993 and the case disposition was two years of probation, and adjudication was withheld. By 1994,

this person may have violated a condition of probation, and as a result of a revocation, the offender is then adjudicated and sent to prison. The significance for this analysis is that this hypothetical offender may have appeared as a case with "adjudication withheld" in the data obtained in 1993. However, by 1994, this same person will show up in OBTS data as "convicted as adult." Thus, for the purpose of this report, this maturation effect basically means that the longer the span of time between the first arrest and the date the data set is obtained, the more likely it is the data will reflect the final status of a case. Further examination of the data revealed that where the earlier version of the data set showed that about 23% of the offenders received "adjudication withheld," the more recent version indicated that only about 12% of the offenders received "adjudication withheld." This difference was probably caused by the fact that some offenders violated their probation or community control, which resulted in the reopening of a case and subsequent conviction as an adult (72% of the cases had adult convictions in the old data set vs. 81% in the new).

This experience suggests that reporting and maturation results more often in a decrease in the number of records. One of the state administrators told a member of the research staff that sometimes OBTS data processors receive lengthy lists of counts from county clerks for deletion. Another member of the research team was told that some counties no longer report. To further examine this issue, a 1993 OBTS data set received in 1994 was compared with data from the same year received in 1998. This comparison indicated that the overall number of counts for 1993 decreased by about 9,800 from the first version to the second version. Other things may have an impact on the data set as well. For example, multiple cases may have been consolidated into one case for

sentencing, or some cases awaiting trial may have been dropped after the loss of a witness or the discovery of new evidence.

Readers should keep in mind that both the 1993 and 1995 OBTS data sets have undergone changes or updates. For data obtained in 1998, 58 of Florida's 67 counties reported data to OSCA for both 1993 and 1995. These counties are used in the following analyses. Since both sets of data were received in 1998, the 1993 data have had a longer maturation period than have the 1995 data.

The following section presents some general comparisons between the OBTS data for 1993 cases and that for 1995 cases. Because the 1993 data have had roughly five years for case maturation while the 1995 data have had only about three years for adjustments, direct comparisons of the data must be done cautiously.

Counts at the Time of Arrest or at the Issuance of the Summons - 1993 and 1995

At the time of this research, OBTS data for 1993 indicate that 10,092 counts involving crimes committed by persons under age 18 were considered for prosecution in the adult system either through arrest or the issuance of a summons. The distribution of these counts by level of offense is shown in Table 3:8.

Table 3:8
Total Counts Initiated By Level and Degree of Offense

	1993		1995	
	N	%	N	%
Capital Felonies	79	0.8%	120	1.1%
Life Felonies	325	3.2%	296	2.7%
1st Degree Felonies	1,199	11.9%	1,336	12.0%
2nd Degree Felonies	1,864	18.5%	1,973	17.8%
3rd Degree Felonies	4,168	41.3%	4,749	42.8%
1st Degree Misdemeanors	1,304	12.9%	1,326	12.0%
2nd Degree Misdemeanors	1,065	10.6%	1,163	10.5%
Infractions	38	0.4%	61	0.6%
Ordinance Violations	50	0.5%	64	0.6%
Total	10,092	100%	11,088	100
	Missing = 2,836		Missing = 3,769	

As shown in the table, approximately one quarter of the counts involved misdemeanors or other more minor violations of the law. Slightly more than 40% (the bulk of the offenses in any one category) involved third degree felonies; approximately 20% involved second degree felonies; the remainder (16%) were serious first degree, life, and capital felonies. The number of missing counts reflects the fact that some referred charges are not formally prosecuted or are handled at first appearance.

During the calendar year 1995, 11,088 counts involving crimes committed by persons under age 18 were considered for adult prosecution according to OBTS data (at the time of this research). The distribution of initiated counts by level of offense is shown in Table 3:8. Again, note that the large number of missing cases refers to those arrests or summons that were not formally prosecuted or that were handled at first appearance.

As seen in Table 3:8, nearly one quarter of the offenses involved misdemeanors or other more minor violations of the law. More than 40% (the bulk of the offenses in any one category) involved third degree felonies; roughly 20% involved second degree

felonies; the remainder (around 15%) were serious first degree, life, or capital felonies. These percentages suggest that overall distribution of counts in any given offense category did not change significantly from 1993 to 1995.

From Counts to Initiated Cases for 1993 and 1995

Table 3:9 presents information on the most serious count for each of the 3,778 cases that were initiated in 1993 against persons less than 18 years old according to the OBTS data. The distribution of cases is presented by the most serious count's level and degree of offense. Overall, more than 20% of the cases initiated at the prosecution level in 1993 involve a charge that was a first degree, life, or capital felony; 21% involve second degree felonies; 28% involve third degree felonies; and 26% involve misdemeanors or minor violations of the law as the most serious charge.

Table 3:9
Total Cases Initiated by Level and Degree of Most Serious Offense

	1993		1995	
	N	%	N	%
Capital Felonies	62	1.6%	67	1.6%
Life Felonies	151	4.0%	145	3.5%
1st Degree Felonies	631	16.7%	736	17.6%
2nd Degree Felonies	800	21.2%	979	23.4%
3rd Degree Felonies	1,069	28.3%	1,203	28.8%
1st Degree Misdemeanors	564	14.9%	500	12.0%
2nd Degree Misdemeanors	428	11.3%	456	10.9%
Infractions	37	1.0%	46	1.1%
Ordinance Violations	36	1.0%	43	1.0%
Total	3,778	100%	4,175	100%

For 1993, the percentage of cases being prosecuted that have misdemeanors or minor violations of the law (infractions and ordinance violations) as their most serious charge is 28%. Recall that, for 1993, only 24% of all counts are for these lesser offenses (see Table 3:8). Consequently, the high number of misdemeanor counts for youth being considered

for adult prosecution in 1993 is not merely a function of lesser charges being tacked on to more serious ones. Often these lesser charges become the primary basis for the case itself.

Nearly 40% of the cases in 1993 involve a second degree felony charge or higher according to Table 3:9. Since less than 35% of all the counts involved these most serious levels and degrees of felony (see Table 3:8), cases with more serious charges must also often contain less serious counts. Many of these less serious counts seem to be third degree felonies. The percentage of third degree felony cases in 1993 (28%) is much lower than the percentage of third degree felony counts (41% shown in Table 3:8) for that year. In other words, many of the third degree felonies are included in multiple-count cases involving at least one more serious felony.

Table 3:9 displays information on the 4,175 transfer cases that were initiated by prosecutors in 1995. The information is presented by the level and degree of the most serious count contained in each case. The percentage of cases initiated on only misdemeanors or minor violations of the law (infractions and ordinance violations) in 1995 is 25% (similar to the percentage of counts in 1995 that involve these minor offenses presented in Table 3:8). The percentage of serious cases in 1995 involving at least a second degree felony offense is about 46%. (The percentage of counts involving a serious felony in 1995 was about 34% as shown in Table 3:8.) For 1995 data, the percentage of third degree felony cases is less than 30% - a much lower percentage than found for third degree felony counts (nearly 43% shown in Table 3:8).

These patterns for 1995 are similar to those for 1993. Many of the third degree felony counts in 1995 are included in multiple-count cases involving at least one more serious felony. Overall, about 22% of the 1995 cases initiated involve first degree, life, or

capital felonies; 23% involve second degree felonies; 29% involve third degree felonies; and 25% involve misdemeanors or minor violations of the law. Compared with 1993, the overall distribution of the types of cases initiated at the prosecutorial level does not appear to have changed markedly.

Sociodemographic characteristics of youth in 1993 cases where criminal prosecution was initiated are reported in Table 3:10.⁹⁷ The vast majority of cases involve males (92%) and youth ages 16-17 (91%). Blacks are disproportionately represented (54%) relative to their numbers in the youth population.

Table 3:10
Sociodemographic Characteristics of Youth
in Cases Initiated

		1993		1995	
		N	%	N	%
GENDER:					
Male		3,471	92.1%	3,788	90.9%
Female		297	7.9%	380	9.1%
Total		3,768	100%	4,168	100%
		Missing=10		Missing=7	
		N	%	N	%
RACE:					
Black		2,036	54%	2,258	54.2%
White		1,725	45.8%	1,894	45.5%
Other		6	0.2%	9	0.2%
Total		3,767	100%	4,161	100%
		Missing=11		Missing=14	
		N	%	N	%
AGE:					
11		5	0.1%	6	0.1%
12		6	0.2%	13	0.3%
13		18	0.5%	29	0.7%
14		68	1.8%	116	2.8%
15		245	6.5%	343	8.3%
16		1,052	27.8%	1,095	26.5%
17		2,383	63.1%	2,536	61.3%
Total		3,777	100.0%	4,138	100.0%
		Missing=1		Missing=37	

Sociodemographic characteristics of youth in 1995 cases where criminal prosecution was initiated are reported in Table 3:10. Once again, the vast majority of cases involve males (91%) and 16-17 year-olds (88%), and blacks are disproportionately represented (54%) relative to their numbers in the youth population.

To some degree, the race and gender differences in transfers can be explained by differences in seriousness of the conviction offense. There may also be differences by

gender and race in frequency and seriousness of prior offending. Because the OBTS data do not contain information on prior record, the research team was unable to address this issue, and therefore cautions against drawing conclusions about discrimination from these data.

There appears to be a slight decrease in the percentage of 16- to 17-year-olds who were prosecuted between 1993 and 1995 and a slight increase in the percentage of 14- and 15-year-olds who were prosecuted. In raw numbers, 146 more 14- to 15-year-olds were prosecuted as adults in 1995 than in 1993. This is most likely the result of the changes in transfer provisions introduced in the 1994 Juvenile Justice Reform Act.

Cases Proceeding to Court for 1993 and 1995

In 1993, of the 3,778 cases in which criminal prosecutions were initiated, 3,731 (or 99%) moved on to the court phase. The same high rate of taking cases to court occurred in 1995. Of the 4,175 cases in 1995 in which criminal prosecutions were initiated, 4,153 (or 99%) were "filed" (*i.e.*, not disposed of at the prosecutor phase) according to OBTS. In other words, only a few cases for 1993 and 1995 were dropped, diverted prior to filing, or "nolle prossed." The following paragraphs provide more detail regarding the cases that moved on to the court phase.

Table 3:11 presents information about the level, type, and degree of the most serious offense charged for cases proceeding to court in 1993. Juveniles processed as adults in criminal court in 1993 are charged with a wide variety of offenses, ranging from minor infractions and misdemeanors to capital murder. Of those charged with life and first degree felonies, the offense is most often armed robbery or burglary of occupied dwellings. For those prosecuted for second or third degree felonies, burglary is the most

common offense, followed by theft. About 29% of the cases involve misdemeanors or other minor infractions of law.

Table 3:11
Most Serious Charge in Cases Filed in Criminal Court
By Level, Degree, and Type of Offense

	1993		1995	
	N	%	N	%
Capital Murder	45	1.2%	57	1.4%
Capital Sex Offense	15	0.4%	10	0.2%
Life/1st degree felony Murder	122	3.3%	115	2.8%
Life/1st degree felony Sex Offense	65	1.7%	46	1.1%
Life/1st degree felony Robbery	297	8.0%	341	8.2%
Other Life/1st degree felony Other Person Crimes	48	1.3%	79	1.9%
Life/1st degree felony Burglary	186	5.0%	246	5.9%
1st degree felony Theft	8	0.2%	10	0.2%
1st degree Other Property Crimes	18	0.2%	11	0.3%
1st degree felony Drug Offenses	32	0.9%	27	0.7%
2nd degree felony Murder/Manslaughter	20	0.5%	32	0.8%
2nd degree felony Sex Offense	44	1.2%	50	1.2%
2nd degree felony Robbery	126	3.4%	202	4.9%
2nd degree felony Other Person Crimes	129	3.5%	226	5.4%
2nd degree felony Burglary	280	7.5%	247	5.9%
2nd degree felony Theft	40	1.1%	33	0.8%
2nd degree felony Other Property Crimes	6	0.2%	11	0.3%
2nd degree felony Drug Offenses	145	3.9%	176	4.2%
3rd degree felony Manslaughter	5	0.1%	3	0.1%
3rd degree felony Sex Offense	1	0%	1	0%
3rd degree felony Robbery	8	0.2%	15	0.4%
3rd degree felony Other Person Crimes	175	4.7%	286	6.9%
3rd degree felony Burglary	374	10.0%	395	9.5%
3rd degree felony Theft	352	9.4%	322	7.8%
3rd degree felony Other Property Crimes	21	0.6%	8	0.2%
3rd degree felony Drug Offenses	116	3.1%	163	3.9%
1st degree Misdemeanors	564	15.1%	500	12.0%
2nd degree Misdemeanors	428	11.5%	457	11.0%
Infractions and Ordinance Violations	71	1.9%	84	2.0%
Total	3,731	100.0%	4,153	100.0%
	Missing cases = 47		Missing cases = 22	

Table 3:11 also presents information on the level, type, and degree of the most serious offense charged for cases proceeding to court in 1995. The bulk of the most serious life and first degree felonies are armed robberies, armed burglaries and burglaries of occupied dwellings, and murders. Of the second and third degree felony cases, burglary

is the most common offense, followed in frequency by other personal felonies (*e.g.* aggravated assault and battery). Finally, the percentage of misdemeanor infractions is 25% in 1995, similar to what it had been in 1993. In 1995, the juveniles transferred to criminal court involved more serious charges than in 1993.

A modest increase in the severity of charges between 1993 and 1995 can be seen in the distributions of cases by general offense type (irrespective of degree) which are presented in Table 3:12. As seen in this table, felony offenses against persons (*i.e.*, crimes of violence) represent almost 30% of the total in 1993 and close to 35% of the total in 1995. In 1993 and 1995, about 40% of all cases involve felony property (34% in 1993 and 31% in 1995) and felony drug offenses (8% in 1993 and 9% in 1995). Somewhat fewer cases involved misdemeanors, infractions, or ordinance violation in 1995 (25%) than in 1993 (29%). It is possible that the 1994 changes in transfer provisions produced greater focus on serious offenders in 1995. The difference might diminish, however, as the 1995 data set is further updated, especially if some of the cases are still being negotiated.

Table 3:12
Most Serious Charge In Cases Filed By Offense Type

	1993		1995	
	N	%	N	%
<i>Felony Person Crimes</i>				
Murder/Manslaughter	192	5.1%	207	5.0%
Felony Sex Offense	125	3.4%	107	2.6%
Felony Robbery	431	11.6%	558	13.4%
Felony Other Person Crimes	352	9.4%	591	14.2%
Subtotal, Felony Person Crimes	1,100	29.5%	1,463	35.2%
<i>Felony Property/Drugs Crimes</i>				
Felony Burglary	840	22.5%	888	21.4%
Felony Theft	400	10.7%	365	8.8%
Felony Other Property Crimes	35	0.9%	30	0.7%
Felony Drug Offenses	293	7.9%	366	8.8%
Subtotal, Felony Property/Drugs Crimes	1,568	42.0%	1,649	39.7%
<i>Minor Offenses</i>				
Misdemeanors	992	26.6%	957	23.0%
Infractions/Ordinance Violations	71	1.9%	84	2.0%
Subtotal, Minor Offenses	1,063	28.5%	1,041	25.1%
Total	3,731	100.0%	4,153	100.0%
	Missing cases = 47		Missing cases = 22	

In Table 3:13, the 1993 charges are arrayed by level and degree. More than 22% of the total cases involve capital, life, or first degree felonies. Second degree felonies account for about 21% of the offenses charged; third degree felonies make up 28% of the total. Significantly, misdemeanors, infractions, and ordinance violations make up more than a quarter of the total.

Table 3:13
Most Serious Charge In Cases Filed By Level And Degree Of Offense

	1993		1995	
	N	%	N	%
Total Capital/Life/First Degree Felony	844	22.3%	948	22.7%
Total 2nd degree Felony	800	21.2%	979	23.4%
Total 3rd degree Felony	1,069	28.3%	1,203	28.8%
Total Misdemeanors	992	26.3%	956	22.9%
Total Infractions/Ordinance Violations	73	1.9%	89	2.1%
Total	3,778	100.0%	4,175	100.0%

In Table 3:13, the 1995 charges are also arrayed by level and degree. As in 1993, about 22% of the total cases involve capital, life, or first degree felonies. About 52% of the cases involve second or third degree felonies as the most serious charge in 1995. In 1995, 25% of the cases proceeding to court involve misdemeanors, infractions, and ordinance violations, a figure that is down by about three percentage points from 1993. Again, it is important to keep in mind the different maturational stages of the two data sets. It is possible that some portion of the second and third degree felonies will be reduced to lesser charges in the future.

Cases Disposed in Court for 1993 and 1995

The next question of interest is how these cases are being disposed of in criminal court. As seen in Table 3:14, for 933 (25%) of the 3,778 cases in 1993, no court action was recorded. Even after five years for these cases to mature, some number of them may still be pending (especially in cases in which the offender has absconded). Others may have been “nolle prossed” after a court date was set. Of the 2,845 cases for which some court disposition is recorded, 257 (9%) resulted in something less than a finding of guilt by the court. That is, the defendant may have been acquitted or diverted, charges may have been dismissed by the judge, or the defendant may have been found incompetent to stand trial. For the remaining 2,588 cases, (91% of the total for which court action is recorded), there is a finding of guilt.

Table 3:14
Court Dispositions of Cases Filed

	1993		1995	
	N	%	N	%
Dismissed, acquitted, incompetent	257	9.0%	206	6.7%
Guilty	2,588	91.0%	2,868	93.3%
Total	2,845	100%	3,074	100%
No court disposition recorded	933		1,101	
<i>Dispositions of Those Found Guilty</i>				
	N	%	N	%
Guilty, Adjudicated Delinquent	161	6.2%	255	8.9%
Guilty as Adult, Adjudication Withheld	325	12.6%	489	17.1%
Guilty, Convicted as Adult	2,102	81.2%	2,124	74.1%
Total	2,588	100.0%	2,868	100.0%

For 1,101 (26%) of the 4,175 cases in 1995, no court action is recorded. Of the 3,074 cases for which some court disposition is recorded, approximately 7% concluded without a finding of guilt, which is slightly less than the percentage in 1993 (9.0). In 1995, 93% of the cases have a finding of guilt recorded, slightly higher than the 91% in 1993.

For 1993, 161 (or 6%) of the 2,588 cases resulting in findings of guilt in criminal court are recorded as being adjudicated delinquent rather than as being convicted as adults. (See Table 3:14.) These youth retain their juvenile status and presumably receive sanctions in the juvenile justice system. The remaining 2,427 cases (94% of those who pled or were found guilty) are treated as adults in criminal court and are eligible for adult sanctions. Of these, 325 (13%) have adjudication withheld by the court, and 2,102 (81% of those treated as adults) are convicted outright as adults.

Of the 2,868 cases in 1995 that resulted in findings of guilt, a higher number and percentage (255 or 9%) receive adjudications as delinquents. The remaining 2,613 cases

(91% of those who pled or were found guilty) are treated as adults in criminal court. Of these, 489 (17%) have adjudication withheld by the court (a higher percentage than that for 1993). Adult convictions are recorded for 2,124 (74% of those treated as adults). Cases in 1995 seem to have been sentenced more leniently than in 1993. Again, this may be in part due to the maturational stages of the two data sets.

Sociodemographic characteristics of defendants disposed in court in 1993 and 1995 are reported in Tables 3:15a and 3:15b. In 1993, 17-year-olds are least likely to have been adjudicated delinquent and most likely to have been convicted as adults. The tables also show differences by gender and race. Females and whites are slightly more likely than males and blacks to have been adjudicated delinquent and to have adjudications withheld. Black offenders are markedly more likely than white offenders to have been convicted as adults. Because these differences may be reduced or disappear when controls like offense severity and prior record are introduced, caution should be used against concluding that discrimination occurs in the processing of juveniles in criminal court.

Table 3:15a
Court Dispositions Of Those Found Guilty
By Age, Gender, And Race (1993)

AGE	Delinquent		Adjudication Withheld		Convicted as Adult		Row Total
	N	(Row %)	N	(Row %)	N	(Row %)	
17	78	4.8%	204	12.5%	1,344	82.7%	1,626
16	66	8.9%	86	11.5%	593	79.6%	745
15	10	6.2%	24	15.0%	126	78.8%	160
14	6	13.9%	7	16.3%	30	69.8%	43
13 and under	1	7.1%	4	28.6%	9	64.3%	14
Total	161		325		2,102		2,588
Missing = 1,190							

GENDER	Delinquent		Adjudication Withheld		Convicted as Adult		Row Total
	N	(Row %)	N	(Row %)	N	(Row %)	
Male	150	6.2%	266	11.1%	1,998	82.7%	2,414
Female	11	6.5%	57	33.5%	102	60.0%	170
Total	161		323		2,100		2,584
Missing = 1,194							

RACE	Delinquent		Adjudication Withheld		Convicted as Adult		Row Total
	N	(Row %)	N	(Row %)	N	(Row %)	
Black	79	25.6%	125	8.9%	1,202	85.5%	1,406
White	82	7.0%	198	16.9%	895	76.2%	1,175
Other	-	-	1	33.3%	2	66.7%	3
Total	161		324		2,099		2,584
Missing = 1,194							

Table 3:15b
Court Dispositions Of Those Found Guilty
By Age, Gender, And Race (1995)

AGE	Delinquent		Adjudication Withheld		Convicted as Adult		Row Total
	N	(Row %)	N	(Row %)	N	(Row %)	
17	121	6.9%	316	18.1%	1,313	75.0%	1,750
16	90	11.7%	116	15.1%	561	73.1%	767
15	31	13.1%	38	16.1%	167	70.8%	236
14	12	15.8%	12	15.8%	52	68.4%	76
13 and under	1	4.5%	2	9.1%	19	86.4%	22
Total	255		484		2,112		2,851
Missing = 1,324							

GENDER	Delinquent		Adjudication Withheld		Convicted as Adult		Row Total
	N	(Row %)	N	(Row %)	N	(Row %)	
Male	242	9.1%	426	16.1%	1,977	74.7%	2,645
Female	13	5.9%	63	28.8%	143	65.3%	219
Total	255		489		2,120		2,864
Missing = 1,311							

RACE	Delinquent		Adjudication Withheld		Convicted as Adult		Row Total
	N	(Row %)	N	(Row %)	N	(Row %)	
Black	112	7.2%	210	13.4%	1,244	79.4%	1,566
White	143	11.1%	277	21.5%	869	67.4%	1,289
Other		0.0%	2	28.6%	5	71.4%	7
Total	255		489		2,118		2,862
Missing = 1,313							

A relatively similar pattern exists for 1995 (see Table 3:15b). Specifically, in 1995, 17-year-olds are less likely to have been adjudicated delinquent and more likely to have been convicted as adults than are other age groups (too few 13-year-olds are included to establish patterns reliably). There are also important differences by gender and race. First, whites are more likely to have been adjudicated delinquent or to have

adjudication withheld. Second, males and black offenders are significantly more likely than females and white offenders to have been convicted as adults.

In Table 3:16, information regarding the most serious offense is presented for those who have been found guilty for cases from 1993. Twenty percent are reported as having been found guilty of a first degree, life, or capital felony; 26% guilty of a second degree felony; nearly 27% guilty of a third degree felony; and about 27% guilty of misdemeanors or other minor offenses (as the most serious charge). One must be cautious in interpreting these data with regard to minor offenses. It is possible and perhaps likely (see the section on the in-depth data) that many of these cases are consolidated for court dispositions with cases from other years.

Table 3:16
Case Convictions By Level And Degree Of Offense

	1993		1995	
	N	%	N	%
Capital Felony	22	0.9%	18	0.6%
Life Felony	75	2.9%	71	2.5%
1st degree Felony	428	16.5%	474	16.5%
2nd degree Felony	673	26.0%	779	27.2%
3rd degree Felony	701	27.1%	894	31.2%
1st degree Misdemeanors	388	15.0%	325	11.3%
2nd degree Misdemeanors	255	9.8%	248	8.6%
Infractions/Ordinance Violations	45	1.7%	59	2.1%
Total	2,587	100.0%	2,868	100.0%
	Missing = 1,191		Missing = 1,307	

Table 3:16 also contains information regarding the most serious offense for those who have been found guilty for the cases from 1995. Twenty percent are reported to have been found guilty of a first degree, life, or capital felony; 27% were found guilty of a second degree felony; 31% of a third degree felony; and 22% guilty of misdemeanors or other minor offenses. In 1995, there is a slight increase in the percentage of third degree

felony convictions and a decrease in misdemeanor and other minor offense convictions from what is reported for 1993.

When these figures are compared with those contained in Tables 3:11 through 3:13 (where information is provided on offenses charged), serious felonies constitute a higher proportion of cases charged than of cases convicted. The reason for this is not that those charged with more serious offenses are more likely to be acquitted, or have their cases dismissed. Instead, what is happening is that those charged with more serious felonies are more likely to be convicted of a lesser offense.

Table 3:17a presents information about 1993 case dispositions by level, degree and type of offense. This provides a basis for examining the distribution of court outcomes across each offense category. A review of the table suggests that it is those who commit felony property and drug offenses who have the highest probability of return to the juvenile justice system. Next to youth charged with first degree murder, those charged with misdemeanors are least likely to be adjudicated delinquent. Those charged with serious offenses against persons are least likely to have adjudication withheld. The highest rate of adjudication withheld is found in the two misdemeanor categories and other third degree property offenses, where more than 20% receive a withheld adjudication.

Table 3:17a
Court Disposition by Level, Degree and Type of Offense (1993)

	Delinquent		Guilty Adjudication Withheld		Convicted as Adult	
	N	(Row %)	N	(Row %)	N	(Row %)
<i>Felonies</i>						
Capital Murder	-	0.0%	-	0.0%	15	100.0%
Life/1st deg. Murder	1	1.4%	2	2.8%	69	95.8%
Capital/1st deg. Sex	5	10.0%	5	10.0%	40	80.0%
Life/1st deg. Robbery	13	6.1%	16	7.4%	186	86.5%
Other Life/1st deg. Person	1	4.3%	2	8.7%	20	87.0%
Life/1st deg. Burglary	8	6.4%	13	10.3%	105	83.3%
1st deg. Theft	-	0.0%	-	0.0%	5	100.0%
Other 1st deg. Property	1	20.0%	-	0.0%	4	80.0%
1st deg. Drug	3	23.1%	1	7.7%	9	69.2%
2nd deg. Murder/Mansl.	1	2.7%	2	5.4%	34	91.9%
2nd deg. Sex	1	2.9%	5	14.7%	28	82.4%
2nd deg. Robbery	9	7.4%	6	5.0%	106	87.6%
Other 2nd deg. Person	7	7.4%	11	11.6%	77	81.0%
2nd deg. Burglary	19	8.2%	13	5.6%	199	86.2%
2nd deg. Theft	1	4.8%	2	9.5%	18	85.7%
Other 2nd deg. Property	2	28.6%	1	14.3%	4	57.1%
2nd deg. Drug	12	9.8%	16	13.0%	95	77.2%
3rd deg. Manslaughter	1	100.0%	-	0.0%	-	0.0%
3rd deg. Sex	-	0.0%	-	0.0%	3	100.0%
3rd deg. Robbery	2	15.4%	2	15.4%	9	69.2%
Other 3rd deg. Person	8	7.3%	6	5.4%	96	87.3%
3rd deg. Burglary	28	10.5%	24	9.0%	215	80.5%
3rd deg. Theft	20	9.4%	23	10.9%	169	79.7%
Other 3rd deg. Property	-	0.0%	2	25.0%	6	75.0%
3rd deg. Drug	3	3.8%	9	11.4%	67	84.8%
<i>Misdemeanors, other minor offenses</i>						
1st deg. Misdemeanor	5	1.3%	89	22.9%	294	75.8%
2nd deg. Misdemeanor	7	2.7%	66	25.9%	182	71.4%
Infrac/Ord Violation	-	0.0%	7	15.6%	38	84.4%
Totals	158	6.1%	323	12.6%	2,093	81.3%
N = 2,574; Missing Cases = 1,204						

A fairly similar pattern exists for 1995 (see Table 3:17b). Note, however, that when compared to 1993, a smaller percentage of cases are convicted as adults (down from 81% in 1993 to 74% in 1995). The percentage of cases that received adjudication withheld is higher in 1995 (up to 17% from 13% in 1993). Given the maturation effect of continuous updates to the data set described earlier, it is possible that the percentage of adult convictions for 1995 data will increase with the passage of time.

Table 3:17b
Court Disposition by Level, Degree and Type of Offense (1995)

	Delinquent		Guilty Adjudication Withheld		Convicted as Adult	
	N	(Row %)	N	(Row %)	N	(Row %)
<i>Felonies</i>						
Capital Murder	0	0.0%	0	0.0%	5	100.0%
Life/1st deg. Murder	1	1.9%	3	5.6%	50	92.6%
Capital/1st deg. Sex	8	26.7%	4	13.3%	18	60.0%
Life/1st deg. Robbery	25	11.2%	14	6.3%	185	82.6%
Other Life/1st deg. Person	2	4.4%	8	17.8%	35	77.8%
Life/1st deg. Burglary	26	15.5%	25	14.9%	117	69.6%
1st deg. Theft	0	0.0%	10	0.0%	4	100.0%
Other 1st deg. Property	0	0.0%	2	33.3%	4	66.7%
1st deg. Drug	4	25.0%	2	12.5%	10	62.5%
2nd deg. Murder/Mansl.	0	0.0%	5	15.2%	28	84.8%
2nd deg. Sex	6	17.1%	3	8.6%	26	74.3%
2nd deg. Robbery	11	6.6%	31	18.7%	124	74.7%
Other 2nd deg. Person	22	14.4%	32	20.9%	99	64.7%
2nd deg. Burglary	25	11.8%	35	16.5%	152	71.7%
2nd deg. Theft	1	4.5%	5	22.7%	16	72.7%
Other 2nd deg. Property	1	11.1%	1	11.1%	7	77.8%
2nd deg. Drug	13	9.2%	14	9.9%	114	80.9%
3rd deg. Manslaughter	0	0.0%	2	40.0%	3	60.0%
3rd deg. Sex	0	0.0%	0	0.0%	1	100.0%
3rd deg. Robbery	1	9.1%	3	27.3%	7	63.6%
Other 3rd deg. Person	30	14.4%	34	16.3%	144	69.2%
3rd deg. Burglary	33	10.5%	48	15.3%	233	74.2%
3rd deg. Theft	17	7.8%	29	13.3%	172	78.9%
Other 3rd deg. Property	0	0.0%	1	14.3%	6	85.7%
3rd deg. Drug	15	12.6%	19	16.0%	85	71.4%
<i>Misdemeanors, other minor offenses</i>						
1st deg. Misdemeanor	9	2.8%	71	21.8%	245	75.4%
2nd deg. Misdemeanor	3	1.2%	77	31.0%	168	67.7%
Infrac/Ord Violation	0	0.0%	14	23.7%	45	76.3%
Total	253	8.9%	482	16.9%	2,113	74.2%
N = 2,848; Missing Cases = 1,327						

Table 3:18a
Court Disposition By Level And Degree Of Most Serious Charge at Conviction (1993)

	Adjudicated Delinquent		Treated as Adult, Adjudication Withheld		Convicted as Adult		Total
	N	(Row %)	N	(Row %)	N	(Row %)	
Capital Felony		0.0%	-	0.0%	22	100.0%	22
Life Felony	4	5.3%	5	6.7%	66	88.0%	75
1st deg. Felony	28	6.5%	34	7.9%	366	85.5%	428
2nd deg. Felony	52	7.7%	56	8.3%	565	84.0%	673
3rd deg. Felony	65	9.3%	67	9.6%	569	81.2%	701
1st deg. Misd.	5	1.3%	89	22.9%	294	75.8%	388
2nd deg. Misd.	7	2.7%	66	25.9%	182	71.4%	255
Inf/Ord Viol.	-	0.0%	7	15.6%	38	84.4%	45
Total	161	6.2%	324	12.5%	2,102	81.3%	2,587
Missing = 1,191							

As seen in Table 3:18a, in 1993 all of those charged with capital felonies, who have pled or have been found guilty, have been convicted as adults. This is true of 86% of those guilty of first degree felonies, 84% of those guilty of second degree felonies, 81% of those guilty of third degree felonies, and 74% (on average) of those guilty of misdemeanors or other minor infractions of law.

The parallel figures for 1995 cases are presented in Table 3:18b. In 1995, 78% (on average) of those who have pled or been found guilty for capital, life, or first degree felonies are convicted as adults. This was true of 73% of those guilty of other felonies and 72% of those guilty of misdemeanors and other minor infractions of law. The 1995 percentages for the more serious felonies are substantially lower than they were for the 1993 cases. This is consistent with the maturation effect in that it takes longer for more serious cases to reach final disposition.



Table 3:18b
Court Disposition By Level And Degree Of Most Serious Charge at Conviction (1995)

	Treated as Adult,						Total
	Adjudicated Delinquent		Adjudication Withheld		Convicted as Adult		
	N	(Row %)	N	(Row %)	N	(Row %)	
Capital Felony	-	0.0%	1	5.6%	17	94.4%	18
Life Felony	10	14.1%	9	12.7%	52	73.2%	71
1st deg. Felony	56	11.8%	48	10.1%	370	78.1%	474
2nd deg. Felony	80	10.3%	126	16.2%	573	73.6%	779
3rd deg. Felony	97	10.9%	143	16.0%	654	73.2%	894
1st deg. Misd.	9	2.8%	71	21.8%	245	75.4%	325
2nd deg. Misd.	3	1.2%	77	31.0%	168	67.7%	248
Inf/Ord Viol.	-	0.0%	14	23.7%	45	76.3%	59
Total	255	8.9%	489	17.1%	2,124	74.1%	2,868
Missing = 1,307							

Cases Sentenced for 1993 and 1995

This section examines information on sentences that have been imposed by the criminal court. Cases that have resulted in adjudications of delinquency are omitted from this discussion, as these would have received juvenile sanctions. Of the 3,778 cases treated as adults in 1993, 2,101 (56%) have proceeded to the sentencing phase at the time these data were collected. For the 4,175 cases in 1995, 2,115 (51%) have proceeded to the sentencing phase. The higher percentage of cases going to sentencing in 1993 probably reflects the maturation effect.

Table 3:19 shows that in 1993, more than three quarters of those who have pled or have been found guilty as adults have been sentenced to some form of incarceration (43% to prison and 34% to jail). For the 1993 cases, nearly 23% have received something less than incarcerative sanctions.

Table 3:19
Sentences Imposed for Those Found Guilty in Criminal Court

	1993		1995	
	N	%	N	%
Fine/Restitution/Other	155	7.4%	185	8.7%
Probation/Community Control	324	15.4%	372	17.6%
Jail	723	34.4%	736	34.8%
Prison	899	42.8%	822	38.9%
Total	2,101	100.0%	2,115	100.0%
	Missing Cases=1,677		Missing Cases=2,060	

Table 3:19 also shows a fairly similar pattern for 1995. In 1995, about 74% of those who have pled or have been found guilty as adults have been sentenced to incarceration (39% to prison and 35% to jail). More than 26% of the 1995 cases have received nonincarceratory sentences as of the time the OBTS data were obtained. The prison cases in 1995 can be expected to increase as the data set matures over time and as violations of conditions of release occur and probation sentences or withheld adjudications are reconsidered.

In Table 3:20a, criminal court sentences imposed for the 1993 cases are presented by the maximum level and degree of the charge for which there was a determination of guilt. Juvenile offenders sentenced in criminal court in 1993 have received severe adult sanctions. Most (61%) of those convicted of a felony offense have been sentenced to prison terms. An additional 25% of those convicted of felony offenses have been sentenced to jail. Moreover, 56% of those convicted of misdemeanors or other minor violations of law have received jail sentences. When the total group of offenders found guilty in criminal court is considered, more than 77% have been sentenced to terms of incarceration.

Table 3:20a
Sentence Imposed by Most Serious Offense (1993)

	Restitution/ Fine/Other		Probation/ Community Control		Jail		Prison		TOTAL	
	N	Row %	N	Row %	N	Row %	N	Row %	N	Row %
Felony										
Capital	-	0.0%	1	6.3%	3	18.8%	12	75.0%	16	100%
Life	1	2.0%	2	4.1%	4	8.2%	42	85.7%	49	100%
1st degree	4	1.4%	28	9.5%	45	15.2%	219	74.0%	296	100%
2nd degree	11	2.1%	61	11.4%	152	28.4%	312	58.2%	536	100%
3rd degree	10	1.7%	86	15.0%	166	29.0%	311	54.3%	573	100%
Total Felony	26	1.8%	178	12.1%	370	25.2%	896	61.0%	1,470	100%
Misdemeanor										
1st degree	32	8.9%	90	25.1%	235	65.6%	1	0.3%	358	100%
2nd degree	60	26.2%	52	22.7%	115	50.2%	2	0.9%	229	100%
Inf/Ord	37	84.1%	4	9.1%	3	6.8%	-	0.0%	44	100%
Total Other	129	20.4%	146	23.1%	353	55.9%	3	0.5%	631	100%
Total	155	7.4%	324	15.4%	723	34.4%	899	42.8%	2,101	100%

Table 3:20b shows the severity of sanctions that have been received by juvenile offenders sentenced in adult court in 1995 as of the time the data were obtained. Fifty-three percent of those convicted of a felony offense have been sentenced thus far to prison terms. An additional 31% of those convicted of felony offenses have been sentenced to jail (about six percentage points more than in 1993). Forty-six percent of the cases prosecuted in 1995 for misdemeanors or other minor violations of law have been sentenced to jail. When the total group of 1995 offenders found guilty in criminal court is considered, 74% were sentenced to terms of incarceration. It is suspected, based on observations of changes in the 1993 data set, that this percentage will grow with time as a result of more offenders violating conditions of release.

Table 3:20b
Sentence Imposed by Most Serious Offense (1995)

	Restitution/ Fine/Other		Probation/ Community Control		Jail		Prison		TOTAL	
	N	Row %	N	Row %	N	Row %	N	Row %	N	Row %
Felony										
Capital	-	0.0%	2	11.1%	-	0.0%	16	88.9%	18	100%
Life	-	0.0%	1	2.3%	5	11.6%	37	86.0%	43	100%
1st degree	3	0.9%	30	9.5%	52	16.5%	231	73.1%	316	100%
2nd degree	3	0.6%	96	17.8%	156	28.9%	285	52.8%	540	100%
3rd degree	8	1.3%	112	17.6%	265	41.6%	252	39.6%	637	100%
Total Felony	14	0.9%	241	15.5%	478	30.8%	821	52.8%	1,554	100%
Misdemeanor										
1st degree	28	9.8%	78	27.3%	179	62.6%	1	0.3%	286	100%
2nd degree	92	41.1%	53	23.7%	79	35.3%	-	0.0%	224	100%
Inf/Ord	51	100.0%	-	0.0%	-	0.0%	-	0.0%	51	100%
Total Other	171	30.5%	131	23.4%	258	46.0%	1	0.2%	561	100%
Total	185	8.7%	372	17.6%	736	34.8%	822	38.9%	2,115	100%

Tables 3:21a and 3:21b present the same findings broken out in greater detail for individual offense category. They show that in both years sentencing relates to offense severity.

Table 3:21a
Sentence Imposed by Level, Degree and Type of Offense (1993)

	Restitution/ Fine/Other		Probation/ Community Control		Jail		Prison		Total	
	N	Row %	N	Row %	N	Row %	N	Row %	N	Row %
Capital Felony										
Murder	-	0.0%	1	10.0%	-	0.0%	9	90.0%	10	100%
Sex	-	0.0%	-	0.0%	3	50.0%	3	50.0%	6	100%
Other Person	-	0.0%	-	0.0%	-	0.0%	-	0.0%	-	0%
Life Felony										
Murder	-	0.0%	-	0.0%	-	0.0%	13	100.0%	13	100%
Sex	1	5.3%	2	10.5%	1	5.3%	15	78.9%	19	100%
Robbery	-	0.0%	-	0.0%	-	0.0%	4	100.0%	4	100%
Other Person	-	0.0%	-	0.0%	1	20.0%	4	80.0%	5	100%
Burglary	-	0.0%	-	0.0%	2	25.0%	6	75.0%	8	100%
1st degree Felony										
Murder	1	2.7%	0	0.0%	2	5.4%	34	91.9%	37	100%
Sex	0	0.0%	1	8.3%	1	8.3%	10	83.3%	12	100%
Robbery	2	1.4%	10	7.2%	31	22.5%	95	68.8%	138	100%
Other Person	0	0.0%	1	7.7%	1	7.7%	11	84.6%	13	100%
Burglary	1	1.3%	13	16.9%	8	10.4%	55	71.4%	77	100%
Theft	0	0.0%	1	20.0%	1	20.0%	3	60.0%	5	100%
Drug	0	0.0%	2	22.2%	0	0.0%	7	77.8%	9	100%
Other Property	0	0.0%	0	0.0%	1	25.0%	3	75.0%	4	100%
2nd degree Felony										
Murder	2	6.5%	4	12.9%	5	16.1%	20	64.5%	31	100%
Sex	0	0.0%	7	21.9%	7	21.9%	18	56.3%	32	100%
Robbery	-	0.0%	5	5.5%	31	34.1%	55	60.4%	91	100%
Other Person	1	1.3%	15	19.7%	16	21.1%	44	57.9%	76	100%
Burglary	6	3.3%	16	8.7%	46	25.0%	116	63.0%	184	100%
Theft	0	0.0%	5	25.0%	14	20.0%	51	55.0%	70	100%
Drug	1	1.1%	9	9.7%	42	45.2%	41	44.1%	93	100%
Other Property	1	20.0%	4	10.0%	0	0.0%	4	80.0%	5	100%
3rd degree Felony										
Manslaughter	-	0.0%	-	0.0%	-	0.0%	-	0.0%	-	0%
Sex	0	0.0%	1	33.3%	0	0.0%	2	66.7%	3	100%
Robbery	-	0.0%	1	12.5%	3	37.5%	4	50.0%	8	100%
Other Person	-	0.0%	8	8.9%	36	40.0%	46	51.1%	90	100%
Burglary	4	1.9%	33	15.6%	55	26.1%	119	56.4%	211	100%
Theft	5	2.7%	32	17.6%	42	23.1%	103	56.6%	182	100%
Drug	1	1.4%	10	14.5%	27	39.1%	31	44.9%	69	100%
Other Property	-	0.0%	1	16.7%	1	16.7%	4	66.7%	6	100%
Misdemeanor, Ordinance Violation, and Civil Infraction										
1st degree	32	8.9%	90	25.1%	235	65.6%	1	0.3%	358	100%
2nd degree	60	26.2%	52	22.7%	115	50.2%	2	0.9%	229	100%
Infraction/Ord.	37	84.1%	4	9.1%	3	6.8%	-	0.0%	44	100%

Table 3:21b
Sentence Imposed by Level, Degree and Type of Offense (1995)

	Restitution/ Fine/Other		Probation/ Community Control		Jail		Prison		Total	
	N	Row %	N	Row %	N	Row %	N	Row %	N	Row %
Capital Felony										
Murder	-	0.0%	-	0.0%	-	0.0%	15	100.0%	15	100%
Sex	-	0.0%	2	66.7%	-	0.0%	1	33.3%	3	100%
Other Person	-	0.0%	-	0.0%	-	0.0%	-	0.0%	-	0.0%
Life Felony										
Murder	-	0.0%	-	0.0%	2	25.0%	6	75.0%	8	100%
Sex	-	0.0%	-	0.0%	3	23.1%	10	76.9%	13	100%
Robbery	-	0.0%	-	0.0%	-	0.0%	3	100.0%	3	100%
Other Person	-	0.0%	1	7.1%	-	0.0%	13	92.9%	14	100%
Burglary	-	0.0%	-	0.0%	-	0.0%	5	100.0%	5	100%
1st degree Felony										
Murder	-	0.0%	-	0.0%	4	11.4%	31	88.6%	35	100%
Sex	-	0.0%	-	0.0%	1	100.0%	-	0.0%	1	100%
Robbery	1	0.7%	7	4.8%	24	16.4%	114	78.1%	146	100%
Other Person	-	0.0%	3	13.0%	6	26.1%	14	60.9%	23	100%
Burglary	1	1.1%	15	16.3%	13	14.1%	63	68.5%	92	100%
Theft	-	0.0%	2	66.7%	-	0.0%	1	33.3%	3	100%
Drug	-	0.0%	1	11.1%	2	22.2%	6	66.7%	9	100%
Other Property	-	0.0%	2	33.3%	2	33.3%	2	33.3%	6	100%
2nd degree Felony										
Murder	-	0.0%	2	7.7%	2	7.7%	22	84.6%	26	100%
Sex	1	3.7%	4	14.8%	4	14.8%	18	66.7%	27	100%
Robbery	-	0.0%	21	20.8%	25	24.8%	55	54.5%	101	100%
Other Person	-	0.0%	19	19.2%	29	29.3%	51	51.5%	99	100%
Burglary	-	0.0%	27	18.1%	39	26.2%	83	55.7%	149	100%
Theft	1	5.6%	4	22.2%	8	44.4%	5	27.8%	18	100%
Drug	1	1.0%	18	17.1%	46	43.8%	40	38.1%	105	100%
Other Property	-	0.0%	1	12.5%	1	12.5%	6	75.0%	8	100%
3rd degree Felony										
Manslaughter	-	0.0%	3	75.0%	1	25.0%	-	0.0%	4	100%
Sex	-	0.0%	-	0.0%	1	100.0%	-	0.0%	1	100%
Robbery	-	0.0%	1	25.0%	1	25.0%	2	50.0%	4	100%
Other Person	1	0.7%	28	19.3%	58	40.0%	58	40.0%	145	100%
Burglary	-	0.0%	30	14.9%	76	37.8%	95	47.3%	201	100%
Theft	6	3.3%	35	19.1%	68	37.2%	74	40.4%	183	100%
Drug	1	1.2%	7	8.2%	56	65.9%	21	24.7%	85	100%
Other Property	-	0.0%	4	57.1%	1	14.3%	2	28.6%	7	100%
Misdemeanor, Ordinance Violation, and Civil Infraction										
1st deg.	28	9.8%	78	27.3%	179	62.6%	1	0.3%	286	100%
2nd deg.	92	41.1%	53	23.7%	79	35.3%	-	0.0%	224	100%
Infraction/Ord.	51	100.0%	-	0.0%	-	0.0%	-	0.0%	51	100%

Table 3:22 examines the length of incarceration for sentences received by youth disposed of as adults as of the time these data were obtained. OBTS provides information

about sentence length for 1,445 of the 1,622 cases from 1993 in which a sentence of incarceration has been imposed (the remainder may have been sentenced to time served). The table shows that nearly 33% have received sentences of less than one year; about 36% have been sentenced to 1-5 years; 18% have received a sentence of 5-10 years, and more than 12% have received sentences ranging from ten years to life. One offender has been sentenced to death.

Table 3:22
Maximum Length of Confinement
for Those Sentenced to Terms of Incarceration

	1993		1995	
	N	%	N	%
Less than six months	370	25.6%	373	26.9%
Six months to one year	106	7.3%	165	11.9%
One to five years	525	36.3%	642	46.2%
Five to ten years	262	18.1%	133	9.6%
Ten to twenty years	116	8.0%	43	3.1%
Twenty to thirty years	30	2.1%	12	0.9%
Thirty years to life	35	2.4%	19	1.4%
Death	1	0.1%	2	0.1%
Total	1,445	100.0%	1,389	100.0%

In 1995, of the 1,558 cases in which a sentence of incarceration has been imposed, the OBTS provides information on length of sentence for 1,389 (again, the remainder may have been sentenced to time served). The table shows a higher percentage of 1995 offenders (39%) have received sentences of less than one year compared to 1993 (33%). An additional 46% of the cases in 1995 have been sentenced to 1-5 years (an increase of about 10 percentage points when compared to 1993); 10% have received a sentence of 5-10 years (a decrease of about 8 percentage points from 1993); and less than 6% have

received sentences ranging from ten years to life (a reduction of 6 percentage points when compared to 1993). Two offenders from 1995 have been sentenced to death.

Between 1993 and 1995, there was an increase of sentences in the one- to five-year range and a substantial decrease in all other categories. There was little change in the offenses for which persons were convicted between 1993 and 1995 (Tables 3:16). The increase in the one- to five-year prison sentences is not likely to be due to maturation of the 1993 OBTS data. This may be an indication that the criminal court is scaling back sentences for juvenile offenders. Also in 1994 the Florida Legislature instituted "truth in sentencing." Prisoners could not be released until they had served 85% of their sentences. Shorter sentences in 1995 do not necessarily mean shorter prison stays.

For cases from both 1993 and 1995, more than 70% of those juveniles sentenced to incarceration have terms of greater than six months. The average stay in a "deep end" residential facility for juvenile offenders prior to 1994 (the year of juvenile justice reforms) was approximately six months. Since less than 30% of those sentenced to incarceration as adults received similarly short sentences, it is apparent that much harsher sanctions were being applied in cases sentenced in criminal court in 1993. The difference is so large that it would exist even after one makes adjustments for gain time and other early release credit in the adult correctional system. With the 1994 reforms (and the new level 10 juvenile justice programs and the extended age for juvenile justice supervision), the average length of incarceration in "deep end" juvenile facilities will almost certainly be greater than 12 months. For those who want to "get tough" with young offenders, juvenile sentences after 1994 may be as long as those for many juveniles sentenced as adults. After the 1994 reforms, the critical difference between the adult and juvenile

systems may lie in the programs available rather than the length of sentence. This may explain why the impact of "liberalized" transfer provisions legislated in 1994 have not been nearly as great as projected (see Lanza-Kaduce et al., 1996).

Finally, information is provided on sentences of incarceration by level and degree of the offense for which youth were convicted. Table 3:23a shows that 65% of those incarcerated in 1993 for felonies of the first degree or higher have received sentences of five years or more. By contrast, as seen in Table 3:23b, in 1995, about 45% of those incarcerated for felonies of the first degree or higher have been sentenced to prison for five years or more. Part of this difference may be attributable to the different maturational stages of the two data sets. However, it is more likely that some part of this difference reflects a real shift toward scaling back the severity of sentences for offenders in criminal court.

Table 3:23a
Incarceration Sentences by Level and Degree of Most Serious Offense (1993)

	<6 mos.	6-12 mos.	1-5 yrs.	5-10 yrs.	10-20 yrs.	20-30 yrs.	30- life	Death	Total
Capital Felony	-	-	4	1	2	1	6	1	15
Life Felony	1	-	5	4	13	10	9	-	42
1st deg. Felony	7	8	78	60	57	15	14	-	239
2nd deg. Felony	44	37	194	93	43	3	6	-	420
3rd deg. Felony	48	47	231	103	1	1	-	-	431
1st deg. Misd.	168	14	13	-	-	-	-	-	195
2nd deg. Misd.	99	-	-	1	-	-	-	-	100
Infrac/Ord	3	-	-	-	-	-	-	-	3
Total	370	106	525	262	116	30	35	1	1,445

Table 3:23b
Incarceration Sentences by Level and Degree of Most Serious Offense (1995)

	<6 mos.	6-12 mos.	1-5 yrs.	5-10 yrs.	10-20 yrs.	20-30 yrs.	30- life	Death	Total
Capital Felony	-	-	1	1	1	-	10	2	15
Life Felony	2	-	11	11	13	1	-	-	38
1st deg. Felony	14	15	125	62	18	11	6	-	251
2nd deg. Felony	53	53	243	37	9	-	3	-	398
3rd deg. Felony	112	82	256	22	2	-	-	-	474
1st deg. Misd.	128	13	6	-	-	-	-	-	147
2nd deg. Misd.	64	2	-	-	-	-	-	-	66
Infrac/Ord	-	-	-	-	-	-	-	-	-
Total	373	165	642	133	43	12	19	2	1,389

Labor and School Data

An effort was made to supplement the CIS and OBTS data with information from two other centralized state data sources. Data from both the Florida Department of Education (DOE) and the Florida Department of Labor and Employment Security (DLES) were obtained for the 1995 transfer cases identified by CIS and those matches that could be located. The DLES data were obtained to examine whether the labor histories of transfers were different from those of their counterparts who were retained in the juvenile justice system. DOE data were collected to search for additional background and education variables that might differentiate transfers from their juvenile matches.

Methodology

Florida's 1995 transfer cases were selected using CIS data to identify the earliest date on which an individual had referral charges instituted which led to transfer to adult criminal court. Seven criteria were used to profile each transfer case (see discussion in the In-Depth Study component): (1) the most serious referral charge that led to transfer on that date (from 45 offense categories recorded in CIS); (2) the number of referral charges

on that date (1, 2-3, 4 or more); (3) the number of referral charges on prior dates (0, 1-2, 3 or more); (4) the most serious prior referral charge from a scale of eight categories (personal felonies, property felonies, drug felonies, other felonies, personal or more serious property misdemeanors, mid-range misdemeanors like retail theft or petit larceny, minor substance use offenses like alcohol violations or public order offenses, and prior status offenses); (5) age (less than 14, 14-15, 16, or 17), gender, and race (white or non-white).

These profiles were used to locate matches from the remaining 1995 cases in CIS that were retained in the juvenile justice system. Because each transfer case could have multiple matches, a search was conducted for up to four juvenile system matches. This procedure identified 10,021 cases (*i.e.*, 4,154 transfer cases and 5,867 acceptable matches).

The names and social security numbers of these individuals (both transfer and matches) were submitted to the Department of Education. Clearance for access to the data had been previously obtained and the DLES data were maintained at the Department of Education.

Department of Education staff constructed employment histories for those cases in their records for the four quarters of 1995 and for the first quarter of 1996. The employment summaries they produced contained information about the number of weeks employed by each employer and wage categories (in \$1,000 increments beginning with \$1-\$999, \$1,000-\$1,999, etc.). The wage data were eventually collapsed into four categories: \$1-\$999, \$1,000-\$2,999, \$3,000-\$5,999, and \$6,000 or more.

The Department of Education database was reviewed for variables of interest and DOE was asked to retrieve data on numerous variables for the submitted names and identification numbers. Unfortunately, many of the variables (*e.g.*, free or reduced lunch status, exceptional student status, disciplinary incidents) proved to have mostly missing data and could not be analyzed. The DOE data provided unique information on country of natural origin, limited English, English proficiency, grade in school, Department of Children and Family Services and Department of Health involvement, and migrant status that was not available from CIS.

Results

DLES Data

The unique information provided by the DLES data were the length of employment and wages earned. These variables were analyzed both by matched pairs (from a subset of cases that was constructed from the respective transfer cases and their best juvenile system match for which DLES data were available) and in the aggregate (where all transfers with DLES data were compared as a group with the group of all matches with DLES data).

No employment data existed for many of the cases, not surprising given this age group (many of whom were not employed and some of whom probably worked "off the books"). Of the 4,154 transfers, only 1,270 (31%) had DLES data. Of the 5,867 cases of juvenile system matches, only 1,805 (31%) had employment information. In only 580 of the 4,154 possible transfer/match pairs (or 14%) did both the transfer and the match have

length of work data. And, finally, in only 378 of the 4,154 possible pairs (9.1%) did both the transfer and the match have wage data.

A paired t-test of the 580 matched pairs indicated that the matches worked more weeks during the given quarters (17.95 weeks on average) than did their transferred counterparts (16.04 weeks on average). Although this difference was statistically significant ($p=0.04$), the ability to generalize the finding is extremely limited because of the loss of cases. The difference in wages in the matched pairs analysis was not significant ($p=0.16$) according to a test of marginal homogeneity. The median wage category for both groups was \$1-\$999. Because of the even greater loss of cases for the wage analysis, more caution still must be taken in interpreting these results. Any generalization to the entire population from these data is not recommended.

When all transfers with employment data ($n=1,270$) were examined in the aggregate with all the matches ($n=1,805$), the length of employment and wage results were similar to the paired comparisons. The average number of weeks worked by the 1,270 transfers was 15.45 while that of all 1,805 matches was 17.24. This difference was significant ($p=0.03$). The median wage category for both the aggregate of transfers and the aggregate of matches was \$1-\$999 and there was no significant difference ($p=0.10$). Caution is warranted about generalizing these results both because of the imprecise nature of the aggregates and because of case attrition from the original sample.

DOE Data

The education data were scanned for the 10,021 cases described above (4,154 transfers and 5,867 matches, a number which includes more than one match for some transfer cases). These DOE data came from three academic years (1992-93, 1993-94, and

1994-95) and so contained duplicate identification numbers and multiple records. The data were structured by taking the most recent year's identification number for the case and working back to earlier ones. Following the procedure used with the DLES data, efforts were made to compare transfers and matches both by particular matched pairs (using the best match that could be found which had data) and in the aggregate (where all transfers having education data were compared as a group with all matches having data).

Recall that some of the most important variables (*e.g.*, free/reduced lunch status, exceptional student status, disciplinary actions, etc.) contained mostly missing data when they were received from DOE. For those variables that had valid information, there was so little variability that many of the categories had too few cases to analyze. Almost all the students were proficient in English and almost none of them were migrant. The bottom line is that the DOE data provided no useful information for understanding who was transferred and how they compared with those who were retained in the juvenile justice system.

SECTION IV.

COMPONENT 2: POLICIES AND PERCEPTIONS OF JUVENILE JUSTICE PRACTICE

This section addresses formal transfer policies and first-hand perceptions of juvenile justice officials in Florida through analyses and comparisons of three sources of data: (1) Policy guidelines on transfers to adult court developed in 1995 by prosecutors in each judicial circuit, (2) A telephone survey of prosecutors representing each of Florida's 20 judicial circuits, and (3) A telephone survey of judges representing 18 of the 20 judicial circuits. Each data set is first discussed independently, then significant similarities and differences are noted where appropriate.

1995 Policy Guidelines on Transfer

One goal in this study was to understand what transfer policies prosecutors in each circuit established following the 1994 reforms. In Florida, each state attorney, pursuant to section 985.227 (4), F.S., is required to formalize such policies. Staff from the Juvenile Justice Accountability Board (JJAB) collected the 1995 written policies and guidelines generated by the prosecutors' offices in each circuit. Members of the university research team analyzed and classified the documents. This first reading suggested the following five categories: (1) Guidelines that focus exclusively on the mandates of the law; (2) Guidelines that emphasize, within the confines and mandates of the law, that decisions should be made on a "case-by-case" basis; (3) Guidelines that emphasize formal law, case-by-case discretion, as well as some specific guiding considerations; (4) Guidelines that emphasize mandates of formal law but note exceptions with regard to some kinds of cases; and (5) Guidelines that essentially emphasize the

"Kent criteria" as a basic standard for discretion. Each guideline or policy statement was put in the one category that seemed to best fit the overall intent of the statement. The results indicating which statements fit into which categories by circuit are presented in Table 4:1.

Table 4:1
Categorization of 1995 Written Polices/Guidelines for 20 Judicial Circuits

Circuit	(1) Mandates of Law	(2) Case-by-case	(3) Formal Law, Case-by-case, Other considerations	(4) Formal Law with exceptions	(5) Kent Criteria Applied
1		X			
2			X		
3				X	
4			X		
5					X
6		X			
7	X				
8		X			
9		X			
10		X			
11			X		
12			X		
13			X		
14			X		
15	X				
16		X			
17			X		
18	X				
19	X				
20	X				

There was considerable variation in the ways prosecutors chose to write their guideline statements. The variation goes from statements that essentially assert that local policy is or should be an exact reflection of the formal law to those that indicate that any discretion that is applied will follow certain guidelines.

Another purpose of the analysis of these statements was to assess the extent to which they provide guidelines that might assist assistant prosecutors in day-to-day practice. The five-point categorization scheme in Table 4:1 does not distinguish between minimalist restatements of the law and more carefully constructed guidelines. More insight into the role of these guidelines in practice can be gained by collapsing some of the categories. Statements classified under categories (1), (4) and (5), even though the last two offer some special guidelines, are mostly based on restatements of the law. Those statements categorized under categories (2) and (3) seem potentially more instructive than the others.

There is wide variation in statements of the 13 circuits represented in these two categories. At the highest level, the statements go beyond summarizing the formal law and add specific considerations that prosecutors should weigh in all decisions. In some of the circuits, there is also a discernible philosophical or guiding tone to the document. The more complete statements show that there is clear respect for the complexity of prosecutorial discretion and there is a clear effort to give discretion a standard form. At the lower end within this same broad category, the statements are fairly simple. That is, they first emphasize the law, then they note that decisions are to be made on a case-by-case basis, and then finally they enumerate two or more non-statutory considerations assistant prosecutors should factor in their decisions as appropriate.

One final screen was used in reviewing the guideline statements. Each statement was reviewed to determine whether there was oversight for actual decisions. Stated differently, the statements were examined to get a sense of whether discretion, where acknowledged or encouraged, was to be given supervisory review. In particular, there was interest in knowing if approval for actual transfer decisions was explicitly required. Review and approval was clearly

indicated in only four of the 20 circuits - circuits 1, 3, 4 and 16. In these circuits, decisions by assistant state attorneys were to be reviewed, or approved, or both by the juvenile division chief, someone in the felony division, or by the state attorney. There are several possible implications of differences such as these across circuits. One is that there may be a greater likelihood for conformity to stated policies in circuits requiring review or approval. One might also expect that the kinds of cases transferred in these circuits would show less variation.

In sum, the policy statements generated by prosecutors appear to be offered more as basic compliance with statute (Section 985.227(4), F.S.) than as guidelines intended for use by assistant prosecutors as they make day-to-day decisions. In only a few circuits is it clear that actual guidelines for those making transfer decisions are incorporated in the statements.

Survey of Prosecutors and Judges

The survey instruments were developed jointly by the JJAB staff and university research consultants (See Attachments A and B). Consistent with the research team's interests in the guideline statements from prosecutors in each circuit discussed above, the general purpose in conducting these surveys was to obtain more detailed information on the perceptions of practitioners on a wide variety of subjects relating to the transfer provisions in Florida law and, in particular, their opinions about the changes introduced in the 1994 Juvenile Justice Reform Act. The target sample for the prosecutor survey was one juvenile division and one criminal division prosecutor (or one prosecutor who does both juvenile and criminal court prosecutions) in each of the 20 judicial circuits. Twenty-eight prosecutors responded to the survey, four who did exclusively criminal court prosecutions and 24 who did all juvenile or a mix of juvenile and criminal court prosecutions. Similarly, for the judge survey the target sample was one juvenile

court and one criminal court judge (or one judge who hears both juvenile and criminal court cases) from each circuit. The final sample includes 25 judges, eight who heard criminal cases only, seven who heard cases in both courts, and 10 who served on the juvenile bench exclusively. The item-by-item results for both surveys are presented in frequency tables in Attachments A1 and B1. Attachments A2 and B2 include reports of all verbatim responses to open ended questions on the prosecutor and judge surveys.

The Prosecutor Survey

(See Attachment A for the instrument)

At least one prosecutor from each circuit was interviewed. In general terms, this survey shows that the prosecutors surveyed are reasonably satisfied with the available transfer provisions, with changes introduced in the 1994 Juvenile Justice Reform Act, and with the continuation of a juvenile court for some offenders. Filing an information (direct file) was the method of transfer most preferred (79%) by the prosecutors. This same preference was indicated by prosecutors even when asked to consider a theoretical case which met criteria for either a judicial waiver or direct file. The reasons for this strong preference are probably related to the fact that a direct file decision is easier for prosecutors.

Just more than half (54%) of the respondents indicated direct file decisions were made by juvenile division prosecutors. Consistent with the analysis of the circuit guideline statements, the decisions were most often made without review or oversight by a chief of the division or a prosecutor in the criminal felony division. This reaffirms the indication from the policy statements that case-by-case discretion is very important to prosecutors.

A series of items on the survey asked prosecutors whether particular factors were important in their determinations of whether or not to exercise the transfer option. For example, respondents were asked to respond in terms of a five-point Likert-type scale ranging from "very important" to "not at all important." All of the offense severity indicators (*e.g.*, violent offense, weapon involved, etc.) and indicators of serious prior offense histories were seen as important considerations in the decision to transfer. Beyond these offense and offender prior history characteristics, the most important considerations, as measured by the proportion choosing important or very important responses, were the age of the juvenile and the age of the juvenile in relation to the upper limit of juvenile court jurisdiction. The older the juvenile or the closer the juvenile was to the upper age limit for juvenile jurisdiction, the more important age was considered to be used as a factor in making the transfer decision. This is consistent with findings from earlier research (Bishop, Frazier, and Henretta, 1989) which focused on prosecutorial waiver and changes made in 1981. To a lesser degree, age, in relation to the upper limit of extended jurisdiction, was considered important as well. The vast majority of prosecutors responding to the survey indicated that the juvenile offender's attitudes and demeanor were important considerations. Eighteen percent reported that these factors were very important and another 64% thought they were important. In sum, the items that were designed to determine whether there is variation in what prosecutors regard as important generally failed to do so. Almost all of the listed variables were considered important to very important to almost all prosecutors who responded.

All but two of the prosecutors responding to this survey indicated that the availability of more severe punishments in the criminal courts was an important consideration in the transfer decision. When asked what change in the 1994 reforms was most significant, however, the most

frequently chosen change was the lower age of eligibility for transfer to adult court. Consistent with their responses on important considerations in the transfer decision, 64% of the respondents said change in age eligibility was a most significant change.

Prosecutors were also asked if they believed the 1994 changes in transfer provisions had had an impact on transfer policy and practice in their jurisdiction. Forty-six percent responded yes, 43% said no, and the remainder were uncertain. As discussed in other sections of this report, the comparison of 1993 and 1995 CIS and OBTS data suggest mixed messages as well. Therefore, the answer to the question of whether these changes in law produced a greater use of transfer powers is inconclusive.

An analysis was performed to examine the extent to which there were differences between the responses of prosecutors who worked exclusively in criminal divisions and those who had some or all their duties focused on juvenile cases. Only four of 28 prosecutor respondents worked exclusively in criminal divisions. Even though the variation in assigned duties is small, this line of analysis was pursued because of the interesting possibility that functional position might influence perceptions. There was interest in whether criminal division prosecutors viewed the outcomes for transferred juveniles differently than those who were primarily juvenile prosecutors. Criminal division prosecutors, are most likely in a better position than are juvenile division prosecutors to know the disposition meted out in criminal court. Pursuing this line of reasoning, perceptions of conviction outcomes were examined from a series of items that sought responses to the question, "Of those juveniles transferred to criminal court and convicted, what percentage would you estimate are sentenced to prison, to youthful offender sanctions, to adult jails, to community control or juvenile sanctions?," the analyses show that juvenile prosecutors generally estimate that higher percentages of transferred youths end up with

prison sentences. Reference is to items Q117 through Q121 on the survey instrument in Attachment A and to the same item numbers in the frequencies presented in Attachment A1. Juvenile prosecutors estimate that almost 25% of the transfers who are convicted go to adult prison as compared to an average estimate of only half that (12.5%) by criminal prosecutors. This tendency for juvenile prosecutors to anticipate more severe sanctions is supported in another comparison as well. With regard to estimates of the percentage of convicted offenders who are sentenced to youthful offender facilities, 33% of the criminal prosecutors opined that transferred offenders get this type sentence as compared to 24% of the juvenile prosecutors. The other estimates for sentences, ranging from jail to adult community control/probation and juvenile sanctions, are similar for the two groups of prosecutors.

The Judge Survey

(See Attachment B for a copy of the instrument)

As with the prosecutor survey instrument, the report includes attachments with frequencies of responses for each fixed response item, the added items created to report the specifications allowed for certain items, and the verbatim responses to open-ended questions (See Attachments B1 and B2). Attachment B1 reports the frequencies for each survey item from Q1 through Q137. Attachment B2 reports the verbatim responses from the judges to the open-ended questions on the survey. As with the prosecutor report above, responses to these open-ended survey items are reported in sequential order from question number 18 to question 139.

Much of the judge survey instrument matches the prosecutor survey. This was done to provide a basis for direct comparison. That is, the two survey instruments were designed with a

large number of identical or very similar questions for the purpose of comparing responses from these two fundamental groups in the juvenile justice system.

The final sample of respondents included 25 judges representing 18 of the 20 circuits. No respondents were obtained from circuits 14 and 16. Judges responded very much like prosecutors to the survey, especially to questions designed to determine whether they weighed some factors differently when making transfer decisions. Like prosecutors, most judges that responded ranked all the considerations as important to very important. However, 8 of the 25 judges responded that they “did not know” throughout this series of questions.

For purposes of a more general comparison of judge and prosecutor responses, a number of survey items were selected for discussion here. They have been abbreviated for presentation in Table 4:2. The numbered statement in the first column is a paraphrase of a survey question or response category that was matched exactly on both survey forms. The percentages reported indicate the proportion of each group that agreed with the statement.

Table 4:2
Comparison of Prosecutor and Judge
Responses to Selected Items from the
Telephone Survey

Comparison Statement	Prosecutors %	Judges %
1) Lower direct file age was the most significant 1994 change	61	32
2) 1994 changes did influence transfer policy & practice in circuit	46	48
3) Most important goal to achieve in transfer is protecting public safety	39	24
4) The goal that transfer actually achieves is public safety	36	8
5) There is not a significant difference between the goals of transfer and what transfer as practiced actually achieves	79	60
6) Juveniles that should be transferred are at least occasionally not transferred	61	4
7) Juveniles who should not be transferred are either often or occasionally transferred	25	26
8) Direct file is the transfer method preferred	79	36
9) More than 50% of juveniles convicted as adults get prison time	11	8
10) Current direct file provisions are adequate	29	80
11) Further changes in direct file eligibility criteria would be beneficial	43	20
12) Current indictment provisions are adequate	75	80
13) Current judicial waiver provisions are adequate	71	80
14) DJJ*** program options for serious offenders are adequate	32	28
15) Recent changes in types of DJJ programs have impacted policy and practice in my circuit	36	20
16) There is variation in transfer practices across jurisdictions	57	44
17) Need measures to promote greater consistency in use of transfer across jurisdiction	14	12
18) Favor abolition of juvenile court and move to unified criminal court that would make adjustment for a youth's age and maturity	36	16
<p>* These percentages combine "occasionally", "often" and "always" responses. ** All of the prosecutor responses were in the "occasionally" response category while the judge responses were split between the "occasionally" and "often". *** DJJ refers to the Florida Department of Juvenile Justice.</p>		

The comparisons are ordered as they are on the survey instruments so one may refer directly to Attachments A, A1, B and B1 for more specific information on the distribution of responses.

The clear result throughout these comparisons is that the changes in transfer provisions associated with the 1994 reforms and the use of direct file in general are perceived to be much more important to prosecutors than to judges. For example, lowering the direct file age was regarded as significant by 61% of the prosecutors responding to the survey as compared to only 32% of the judges.

About half of both groups thought the 1994 changes had an impact on subsequent policy and practice in their circuits. This, of course, also means half of each group did not think this or that they did not know for sure whether there was an impact. Comparison statements 3, 4, and 5 in the table show that a much larger percentage of prosecutors than judges thought the goal of transfer was public safety and, in turn, that this goal was actually achieved in practice. Item number 4 in Table 4:1 indicates that 36% of the prosecutors thought transfer changes achieved increased public safety while only 8% of the judges thought public safety was impacted by transfer. A cross check of this same sentiment is presented in the comparison statement number 5. Here, 79% of the prosecutors indicated that they believe there is not a significant difference between the goals of transfer and what transfer actually achieves in practice. By contrast, 60% of the judges think there is not a difference.

Similarly, under comparison number 6, while 61% of the prosecutors think cases that should be transferred are frequently not transferred, only 4% of the judges are of this opinion. The same proportion of prosecutor and judge respondents (25 and 26% respectively) reported

under statement 7 they thought cases that should not be transferred sometimes (occasionally or often) are transferred.

Another very significant contrast is shown in comparison 8. While 79% of the prosecutors indicated a preference for direct file as the method of transfer, only 36% of the judges preferred this method. Judges, understandably, are more likely to prefer judicial waiver. Only 28% of the judge respondents expressed a clear preference for judicial waiver over direct file and another 36% of the judges expressed no preference at all with regard to methods of transfer. Prosecutors were more of one mind with none preferring judicial waiver over direct file and only 21% having no preference at all.

Prosecutors and judges are close to the same opinion regarding whether more than half of the juveniles convicted as adults get prison time (11% and 8% respectively). Perhaps it is more informative to the present discussion to turn these percentages around. This really means that the vast majority of both prosecutors and judges think very few of the juveniles convicted in adult court get prison time. The reader should consider this finding in light of the fact that all but two of the 28 prosecutors opined that the availability of more severe sanctions in the criminal court is a significant reason for transfer. A possible explanation of this was suggested in earlier research. Bishop, Frazier and Henretta (1989) found that the symbolism of punishment was as important to some prosecutors as was the reality of punishment. That is, some prosecutors indicated that the symbolism of the severe sanctions available in the criminal justice system was sufficient cause for them to prefer transfer. Once transferred, they thought, juveniles would at the very least have to face the possibility of a prison sentence and that this would contribute to specific deterrence.

In comparison 10, it is clear that less than a third of the prosecutor respondents thought direct file provisions were adequate while 80% of the judges thought they were. Comparison statements 12 and 13 refer to perceptions of the adequacy of other methods of transfer. High percentages of both groups selected response categories indicating they believe the current indictment and judicial waiver provisions are adequate. Judges are slightly more inclined to have that perception. Some confirmation of this relative prosecutor dissatisfaction is shown in comparison 11, where it is seen that 43% of the prosecutors responding said further changes in direct file eligibility would be seen as beneficial and only 20% of the judges thought this.

It is frequently suggested that dissatisfaction with juvenile justice system program options have produced high transfer rates in Florida. Interestingly, about the same proportion of prosecutors and judges (32 and 28% respectively) responded that current Department of Juvenile Justice program options for serious offenders are adequate. In comparison number 15, this may be why only 36% of the prosecutors indicate that they believe the recent changes in DJJ programs has had an impact on practice in their circuits. They attribute this to the addition of level 8 and 10 beds. Even a smaller portion (20%) of the judges had this perception.

Comparison statements 16 and 17 deal with perceptions about transfer practices in other jurisdictions. Comparison number 16 inquires as to whether prosecutors and judges think there is variation across jurisdictions. Most prosecutors (57%) think there is variation in transfer practice across jurisdictions and a substantial proportion (44%) of the judges have a similar perception. When asked if they believe measures to promote greater consistency in the use of transfer across jurisdictions are needed, only a small percentage of both groups (14% and 12% respectively) responded yes. This is likely an indication that both groups strongly favor local control over statewide juvenile justice policies.

Finally, are the responses by both groups to the question of whether the juvenile court should be abolished in favor of a unified criminal court that would make adjustments in sentencing for a youth's age and level of maturity. This is a very widely debated issue among legal scholars and policy analysts (see, for example, Federle, 1990; Ainsworth, 1991 and 1995; Feld, 1997; Geraghty, 1997). While more than a third (36%) of the prosecutors favored this option, most did not. This, taken in combination with earlier prosecutor responses, may indicate that prosecutors in Florida are now relatively content with the juvenile court as long as they have wide authority to transfer what they regard as the most serious juvenile offenders to criminal court. By contrast, only 16% of the judges in the survey were in favor of the abolition option. While it is not surprising to find a more favorable opinion among judges regarding the potential of the juvenile court to respond to juvenile crime, it is important to note that judge respondents had served relatively short periods as judges. Sixty percent had been judges less than two years and 64% of those who had served on the juvenile bench had served in that capacity for less than one year.

Finally, by way of general comparison of the ways prosecutors and judges think about transfer, an open-ended question which pointed directly to the differences in the standards underpinning prosecutorial and judicial waiver was posed to the respondents. The question (Q 138 on both the prosecutor and judge survey) was stated as follows: "In an order waiving a juvenile to adult court for prosecution, Florida law requires a judge to consider the so-called 'Kent criteria' and to include written findings of fact with respect to those criteria. On the other hand, a state attorney may direct file when in his or her judgment the public interest requires that adult sanctions be considered or imposed. Do you have any thoughts about the use of different criteria for transfer mechanisms?" Seventeen prosecutors and 18 judges responded.

The prosecutors generally believed the public interest standard underlying direct file was an appropriate one for them and while it was different than the "Kent criteria" standard applied to judicial waiver, no change should be required that would alter their practice. Three of the prosecutor respondents did indicate that they believed they were in fact applying the Kent criteria in their decisions and one other opined that judges should have the same discretion in transfer decisions as prosecutors.

The opinions of judges on this issue reflected a wider diversity of views. The most common response of the judges (5 of the 18 respondents) was that the two standards were appropriate. Three other judges thought prosecutors should follow Kent criteria and one thought both prosecutors and judges should use the same standards with no preference for either. Four of the judges expressed the view that all transfer decisions should be made at the prosecutor's level and only one judge thought all transfer decisions should be made at the judicial level.

Comparing Policy Guideline Statements with the Prosecutor Survey Research

Comparing the circuit-level policy statements with the telephone survey results in broad terms indicates a substantial correspondence. For example, when asked in the phone survey whether actual practices differed significantly from stated policy, nearly 90% of the respondents said no. When asked if there were differences in practice among the different prosecutors in the circuit when deciding whether to file informations on juveniles, more than 85% of the prosecutor respondents indicated there was consistency. Part of the reason both of these telephone survey items could be answered with such high rates of concurrence is that most policy statements either restated the law without further guidelines or they put any discretion in

decisions squarely on the shoulders of the individual prosecutor. Recall that the common language to describe the decision process in the guideline statements is "case-by-case." More particularly, these guidelines encourage a focus on case-by-case discretion after weighing the law and after taking into account additional considerations. Further, the statutory standard set forth in section. 985.227(1), F.S., for transfer decisions rests on the idea that transfer serves "the public interest." With such broad guidelines and policy statements developed at the circuit level, it is easy to imagine that most prosecutors generally see themselves and others as deciding cases in the same way and clearly in the best interest of the community.

Another item on the telephone survey inquired whether decisions by juvenile prosecutors were in any way guided by the kinds of cases felony division prosecutors routinely file. Only about four percent of the juvenile prosecutors agreed that this does influence their decisions. Fifty percent said it does not. While some policy statements specifically mentioned consideration of the criminal division inclinations, it was far more common for the statements to indicate the need to consider the "prosecutive merit" of the case or "the likelihood of conviction." In sum, there is a high degree of correspondence between the policy statements and what prosecutors perceived to be actual practice in their survey responses. The non-specific nature of the guidelines tends to support a perception of close correspondence between policy and practice.

SECTION V.

COMPONENT 3: INTERVIEWS WITH JUVENILE OFFENDERS

This section presents the third component of the research: face-to-face interviews with juvenile offenders. Much of the rationale behind legislation designed to expand transfer provisions in Florida and around the country is based on the belief that the juvenile and criminal justice systems are different in substance and different in effects. Approximately half of the interviews summarized below were with youth who were prosecuted, convicted, and sentenced in criminal court as adults. Half were with juvenile offenders who were disposed and sanctioned as juveniles in the juvenile court. The primary goal of these interviews was exploratory, designed to gain insight into the ways juveniles experience both the juvenile and adult systems of justice and to determine relationships that may exist between their experiences in these systems and their perceptions about any effects on subsequent attitudes and behaviors. While some numbers and proportions from the two groups of respondents as well as findings within smaller sub-groups are reported, the results may or may not be generalizable to a larger population of cases in Florida or elsewhere. The purpose of this report is to search for the range and depth of information available through first-person accounts of justice experiences. Tapping this source of information may explain why the two systems may yield different results.

Methodology

In conjunction with another phase of the current study, in-depth data were gathered from police and court records in four of Florida's 20 judicial circuits on a group

of youth processed in criminal courts in 1995, as well as a "matched" group of youth processed in the juvenile system. The original plan was to interview 100 of these subjects, half of whom had been transferred to criminal court, half of whom had been retained in the juvenile system. Officials from the state's Department of Corrections (DOC) provided information on the whereabouts of all subjects processed in criminal court who were placed under DOC jurisdiction, either on probation/parole status or incarcerated in any of several adult correctional facilities. Similarly, officials from the state's Department of Juvenile Justice identified the location of all subjects processed in juvenile court. Using this sampling frame, the intent was to begin by interviewing members of the transfer group, then to interview those processed in the juvenile system. After interviewing transferred youth who were incarcerated in adult correctional facilities, problems were encountered gaining access to offenders who were not in custody.⁹⁸ Consequently, the original design was revised. It was decided to interview offenders who were currently housed in deep-end juvenile residential commitment facilities.

Florida's juvenile justice system classifies commitment facilities into five restrictiveness levels (2, 4, 6, 8, 10). Higher restrictiveness levels are characterized by greater physical security, closer supervision, and longer lengths of stay. The Level 8 and 10 facilities target "high-risk" and "maximum-risk" offenders, with lengths of stay ranging from 9-12 months in Level 8 and 18-36 months in Level 10. The interviews were restricted to youth in the Level 8 and 10 facilities. Further, because the transferred youth interviewed ranged in age from 17 to 20, the juvenile interviews were limited to youth in this age range. Fifty-two subjects were contacted in four different commitment programs. Forty-nine of these subjects agreed to be interviewed.

The transfer sample consisted of 46 male offenders. Forty of these subjects were incarcerated at the time of the interview. Six were under community supervision. Five of these six respondents had previously served an adult prison sentence. Therefore, the total sample consists of a "juvenile" sample of 49 male offenders (all of whom were in residential commitment programs at the time they were interviewed) and 46 male offenders who were transferred (all but 6 of whom were in prison facilities). A review of the files of youth in the juvenile sample indicates that they are a group of serious offenders whose offenses and offense histories closely approximate those of the transferred subjects.⁹⁹

The interviews were conducted by two members of the university research team. Institutional and probation staff were cooperative and very helpful in providing a setting for each interview that was out of sight and sound of other persons in the facility. Each subject was informed that the purpose of the interview was to learn "what you and other youth in your situation think and feel about the justice system and how you think those feelings have influenced your behavior." Each subject was encouraged to respond candidly to the questions posed and was assured of the confidentiality of his responses.

In light of the exploratory nature of the research, the interview format was largely unstructured, consisting almost entirely of open-ended questions.¹⁰⁰ The interview began with some questions about the subject's background (*e.g.*, where he had lived at various times in his life, the composition of his family) which were designed to be non-threatening and to put the subject at ease. These were followed by questions about each contact that the youth had experienced with justice officials; about his perceptions of the purpose or intent underlying justice officials' decisions and actions; about experiences

during the pre-trial or pre-adjudication period, in court proceedings, in community-based programs (e.g., probation, house arrest) and in confinement (e.g., detention, jail, various juvenile programs, prison). Questions about the youths' experiences were multi-dimensional, focusing on the climate of various programs to which they had been exposed, interactions with staff and other offenders, and services that they received. Subjects were also asked to reflect on the effects of their experiences on their attitudes, beliefs, relationships, and behaviors, and to consider which of their experiences were most important. Those subjects who had been through both the juvenile and criminal justice systems were asked to compare the two systems. Finally, all subjects were asked about what they foresaw for the future, and whether their perceptions of the future were related in any way to their experiences in the justice system.

The vast majority of the youth interviewed were willing and sometimes eager to respond to questions. Many expressed appreciation that someone cared to learn about their experiences and reactions.¹⁰¹ Many spoke at great length. While it had been anticipated that the interview would take approximately one hour, many subjects talked for two hours or more. The vast majority of youth appeared to provide honest and thoughtful replies to the questions posed. Most of the questions were non-threatening because they asked about personal perceptions, attitudes, and experiences.

Findings: The Juvenile Justice System

Perceptions of the Juvenile Court

Respondents in both the transfer and juvenile groups were asked to recount their experiences in the juvenile system, including their perceptions of the intentions

underlying justice officials' decisions. Nearly two-thirds of the respondents in the non-transfer group reported that they believed that the actions of juvenile court judges were motivated by a desire to help or rehabilitate them. A lesser but nonetheless substantial proportion of transferred youth also perceived juvenile court judges in the same way. Less than 25% of subjects in either group believed that the primary intent of juvenile judges was to punish them. Those who did mention punishment most often reported that they thought judges wanted to "teach me a lesson," "teach me consequences," or "slow me down."

Several points are noteworthy about these responses. First, in light of recent commentaries about the shift in focus toward punishment and accountability in juvenile justice policy, it is somewhat surprising that relatively few youth in the sample ascribed punitive motivations to judicial actions and decisions. There are many indicators that Florida's juvenile justice system has become more punishment-oriented in recent years.¹⁰² Despite this trend, most youth in the sample (a sample which consists disproportionately of serious and chronic offenders) experienced the juvenile court as a setting in which decisions were made out of a desire to promote good behavior rather than punish past actions. At the level of the juvenile court, the juvenile justice system in Florida appears to remain firmly entrenched in a rehabilitative philosophy.

Second, even when youth ascribed punitive motivations to juvenile court judges, they had a decidedly benign quality to them. With a couple of exceptions, comments about juvenile judges' intentions to punish highlighted utilitarian purposes that the youth tended to construe as beneficial to them (*e.g.*, "it was for my own good, to teach me a lesson"). Often, when youth discussed judges' talks with them in court, they spoke in

positive terms and drew parallels between judges' motivations and parental motivations in disciplining them (*e.g.*, "He was talking to me in a tone like a dad talks to you." "He was a tough love judge." "He was trying to get me to do right ... teach me the right way"). Notable by their absence were reports that retributive or vengeful motives underlay juvenile judges' decisions.

Third, it is noteworthy that transferred offenders viewed juvenile judges' actions and motivations in much the same way as the non-transferred offenders. In broad terms, when looking at the two sets of interviews, one finds striking parallels between transferred and non-transferred offenders' responses not only about juvenile judges, but indeed about all aspects of their experiences in and reactions to the juvenile justice system. They echoed each other repeatedly in their discussions of processing, justice officials, and programs. Transferred youth did not appear more hardened, more hostile, or more cynical in their comments than the non-transfers.

Perceptions of Juvenile Detention

This section focuses on responses to questions about juvenile detention and corrections, the nature of facilities/programs, perceptions of juvenile program staff, and perceived effects of programs and staff on subjects' attitudes and behavior while in the programs and following release.

Respondents made a clear distinction between juvenile detention and programs to which they were sentenced following case disposition (*e.g.*, juvenile probation, day treatment, residential commitment). They recognized that detention centers were holding facilities that were neither designed nor equipped to provide them with much in the way

of counseling or education, or to teach them new skills. Fewer than half of the subjects in both groups reported that most detention staff were inclined to help them. Instead, they saw staff functions as largely custodial.

The survey did not ask respondents about the therapeutic orientations of detention staff, instead asking, "What were the staff like?" In their reflections, a dimension that emerged as very salient was whether they "cared about me" or "understood me" or, alternatively, "were just there to watch and babysit us" or "didn't want nothin' but to get their money." Youth's responses clearly indicate that they were very much attuned to differentiating between those staff members who took a personal interest in them and those who did not. Moreover, those subjects who reported a positive experience in detention generally had developed one or more relationships with individual staff members which they described as close and accepting. Usually this occurred because they had been in the same detention center multiple times, often for 21 days or more. Often great significance was attributed to relationships with individual staff members in contributing to positive change.

Youth's experiences in detention facilities were not perceived as positive. Most of the respondents reported that few if any staff were oriented toward helping them. There were several accounts of fights among inmates - often involving racial conflict or neighborhood rivalries - as well as complaints about staff's failure to maintain order and protect them from each other. Many commented that in detention facilities they had little to lose by fighting, since "pretty much you know you gonna get out of detention in 21 days no matter what." Approximately 20% of the respondents reported instances of staff assaults on themselves or fellow inmates. Some of these assaults were alleged to have

been committed by staff directly; others involved staff providing incentives to some residents to beat other residents. These accounts are not without foundation: in one of the four detention facilities to which respondents had been confined, a number of high-profile incidents involving abuses by detention staff had come under formal investigation in 1995 and 1996.¹⁰³

Perceptions of Juvenile Justice

In contrast to their responses to questions about detention, youth's reactions to juvenile justice programs were overwhelmingly positive. Almost without exception young offenders thought juvenile justice programs were designed to be helpful and rehabilitative. Most of the respondents had been committed to more than one juvenile justice program.

This place is all about rehabilitation and counseling, not about being a juvenile prison and people faking it to make it...This place here we have people to listen to you when you have something on your mind and you need to talk. "Twenty-four-Seven" you can talk to somebody here, even at 2 in the morning ... They dig deep inside you. They understand you and help you.

This program is about guidance and teaching and parenting myself. They teach you to give yourself the guidance and discipline you never had. And how to parent my own kids so I can break the chain.

This is a good place. They do treatment work. They help us deal with our issues ... They try to make us better so when we get out we can be better.

They really tryin' to help you out, put some good things in your head.

General Effects of Juvenile Justice

Beyond perceiving the design and purposes of juvenile justice programs as being rehabilitative in orientation, nearly two-thirds of the transferred and non-transferred respondents believed that one or more programs had affected them in a positive way. There was variability in response, some suggesting that every program had been beneficial to one degree or another, others suggesting that benefits had been limited to one or two programs.

Level 2 and Level 4 programs don't do nothin'. They stupid talkin' all this stuff. In Level 8 they told me they were going to help but they didn't help at all. I left the same as I came in. This one [a Level 10 program] helped me a lot. I can make money, I got my GED, this is what I need, this is what I been asking for all this time. They got to show us how to make it in this world ... They showed me a trade.

The tendency was for them to find the greatest benefit in more lengthy residential programs and those nonresidential programs in which they encountered caring adults who monitored and encouraged them. Their comments made clear that it was particularly important that staff recognize their basic worth, demonstrate a genuine interest in their potential, be empathic, and not easily give up hope for their reform. Many of these youth reported that they had very poor relationships with parents, teachers, and other conventional members of the society. They were used to "tuning out" people whom they could not trust to be understanding and supportive. Consequently, their willingness to engage in educational, vocational, social skills, counseling, and other programs that might

benefit them were largely contingent on personal qualities of staff. In turn, the programs that subjects perceived as most beneficial were those that taught them vocational skills to improve their life chances, those that taught them how to exercise greater self control, and those that provided them with opportunities to learn conventional values.

Many recounted childhoods characterized by little parental supervision or guidance. A surprising number of these youth were insightful enough to realize that they needed some socialization with respect to conventional values and basic interpersonal skills. The following are illustrative comments:

They helped me know how to act. I never knew any of this stuff. That really helped me cuz I ain't had too good a life you know.

I wanted to be there. I liked it a lot because they taught me good things like how to talk to people and how to handle my attitude. Kids in trouble are angry! They are mad! They have resentment and they need to realize when they're mad and work it through. Some don't realize they're mad. Some don't think they can make it out there in the neighborhoods without selling drugs. This program teaches them they can and shows them how.

I learned it ain't right to have lots of girlfriends cuz it's not treating them with respect, especially when you love someone. And I learned how to interview for a job, and how I need to have a job or else I be stealin'. And I learned that I need to have more positive friends, not people that steal and do drugs and get in trouble ... I want to make new friends. The friends I had before were negative and I'm trying to be positive...These are all new ideas since I been here.

Perceptions of the Impact of Juvenile Justice System Experiences

Each juvenile was asked what they thought their future held for them and if their experiences in the juvenile justice system had any impact. Fifty-eight percent of those interviewed in juvenile justice programs expressed confidence that they would not repeat violations of the law following their release. Nearly 90% of these attributed the change at least in part to the programs to which they'd been exposed. The remaining ten percent attributed change to natural processes of maturation and to the specific deterrent effects of being confined. The vast majority of those who expressed confidence that they would remain law-abiding had plans to further their education and were being assisted in implementing those plans by juvenile justice staff.

Thirty-nine percent of youth in the juvenile system were uncertain about their futures. Some expressed concern that the conditions of probation that they faced upon release were so strict that they might violate them. Some feared that they might give in to temptations to commit crime once they returned to the environments from which they had come. Some expected significant pressure from friends to commit new offenses. More had family responsibilities that they feared they could not handle without resorting to well paying illegitimate careers:

It's a possibility that I will stay out of trouble ... I like to work ... but I'm going to do what I got to do. I got five children and my grandma is retired and I need to take care of them. I don't plan to sell drugs to take care of them. I like to work and I could have two jobs. I'll try to do better.

Only a couple of the juvenile justice system interviewees expressed a clear intent to continue engaging in criminal behavior.

Findings: The Criminal Justice System

The responses of those transferred to criminal court closely paralleled the responses of those who were residents of deep-end juvenile justice programs. However, transferred youth frequently drew sharp distinctions between the quality of their experiences in the juvenile and criminal justice systems.

Perceptions of the Criminal Court

Transferred respondents made the traditional distinction between juvenile and criminal court. Juvenile courts and programs were seen as rehabilitative and criminal courts and facilities were seen as having a punitive orientation. Only 12% of those who commented on their criminal court experiences made any mention of sentencing judges' hope to rehabilitate them. The vast majority felt that the sole intent of the criminal court judge was to punish them.

It was noted earlier that, while some respondents also believed that juvenile judges intended to punish them, the underlying intent was construed as positive (*i.e.*, "to teach me to do right"). Such attributions were all but absent from reports of perceptions of criminal court judges. Curiously, many respondents believed that criminal court judges intended to exploit them: "He wanted to punish me and get some money off me." Moreover, instead of viewing the sentence as a deserved response to the offense, juvenile respondents processed in the criminal courts tended to personalize the punishment and

see the judges' sentencing decisions as vengeful. The following comments are illustrative:

The judge gave me this sentence to be mean.

I felt like he was trying to destroy my life.

I thought the criminal judge hated me.

Many youth distinguished criminal proceedings from juvenile ones in terms of the adversarial nature of the process. With few exceptions, they understood the juvenile court process as fairly straightforward and intelligible. Most youth processed in the juvenile court seemed to have the sense that the juvenile judge was looking out for them. Most waived the right to counsel, pled guilty, and accepted the disposition imposed by the judge.¹⁰⁴ Youth quickly learned that criminal proceedings were much more complex and that they involved deal-making and gamesmanship. They tended to perceive both judges and prosecutors as antagonists.

In the criminal court, many recognized for the first time that they needed the counsel of an attorney/advocate. Respondents indicated they felt that if they were going to succeed, they had to have help "playing the game." While many of the respondents commented on the quality of the representation they received, none believed that they had been well served by public defenders. Virtually everyone drew a distinction between "lawyers" and "public defenders," and some reported that public defenders took little interest in them and attempted to manipulate them to accept pleas which were not in their

best interest. Because respondents had little basis on which to distinguish between a “good deal” and a “bad deal,” they almost always felt dissatisfied that counsel had not done as well for them as they might have. Feelings of unfairness or injustice were fairly common.

After I sat in jail for 22 months with a public defender, I realized I needed a lawyer so my family chipped in and got me one. The public defender said I would get 12 years. The lawyer got it lowered from 12 to 4.

I had a public defender and he didn’t seem to care. He never came to see me, not once in those eight months in jail.

I had a public defender, a paid attorney working for the state...I don’t think he did a good job for me. He could’ve had the charges lowered. I was naïve. I learned in prison that I could’ve gotten a better deal.

I had a retarded, dumb ass drunk attorney, a public defender. Really, a public prosecutor is what he should have been.

My attorney wasn’t trying to help me. She told me to take those 11 years instead of 17 if I went to trial. I told her I had to check with my brother. He said ‘hell no.’ Everybody in the jail told me not to take the plea.

Public defenders try to get you to jump on a lot of time.

Many of the respondents reported that, while awaiting trial, they “learned the ropes” of how to negotiate the criminal justice system, not from their attorneys, but from fellow jail inmates who had more experience with the system. Indeed, they commented that they had formed bonds with other inmates in the course of assisting each other to negotiate unfamiliar territory and to resist system pressures.

I didn't have a lawyer. I had a public defender. They were trying to get me to cop out to 15 years with 8 mandatory. I said no. Other inmates told me what to do. They told me to refuse the plea, that they would come back with a better deal. So that's what I did. They offered 7, with 6 mandatory. I refused again. Then they came with 5, 3 mandatory. I refused again. I was just on the borderline of my trial date, running out of time, and they offered 2 and 2. I refused the 2 and 2. And then they came with 1 year county jail and 5 years probation. And I took it This was a learning experience. I knew the next time I'd be more prepared in the way they would try to handle me.

Such accounts were not reported in respondents' descriptions of their experiences in the juvenile justice system.

Perceptions of Adult Corrections Experiences - Incarceration as an Adult

Most of the transferred respondents, as noted earlier, were incarcerated in prisons at the time of the interviews. For that reason, discussion focused on incarceration in prison as opposed to incarceration in jails or sentences involving probation. According to accounts by the respondents, prisons are perceived primarily as custodial facilities. As one inmate notes:

All of this is like one big long day - bars, steel, concrete, every day just like the next. There is so limited things to do. You try to alter it, but it ends up being all the same. The only thing that makes it different is confrontations with different inmates on different days.

Only a few respondents indicated that they were involved in any programs designed to promote their social and personal development. Fewer than 10% reported being engaged in any sort of counseling or treatment program. Several attended remedial education classes for a portion of each weekday while some others reported that they were learning a trade, usually one that was related to facility maintenance, housekeeping, culinary arts, laundry, or grounds maintenance. Many reported hours and hours of idle time. As will be shown below, time was sometimes seen as destructive and sometimes it was regarded as beneficial to the respondents' own reform goals. The respondents' observations and perceptions in other content categories are also highlighted. In order, they are (1) staff-inmate interactions; (2) institutional atmosphere; and (3) inmate-inmate interaction - criminal socialization. Under each subheading, responses from the interviews that bear on the subject are consolidated.

Staff-Inmate Interactions

When transferred youth were asked about adult correctional institutions, their responses about daily life contrasted markedly with what they had said about juvenile facilities. For youth housed in prison facilities, the most frequent staff-inmate interactions are with uniformed correctional officers whose primary functions are to maintain order and control. Correctional officers are seen as being highly authoritarian in their

interactions with residents. The respondents' emphasis is on the power differential. This is consistent with direct observations as well. In several of the institutions visited, for example, researchers noted a brusqueness and exaggerated formalism in staff-inmate interactions on the compound. Almost all communication audible to the observer was one-sided, consisting of officers barking out orders such as: "set up straight," "pull up your pants," "keep your eyes down," "walk to the right."¹⁰⁵ It also appeared that superior-subordinate relationships were reinforced by the physical distance maintained between officers and inmates. For example, inmates on the compound tended to congregate in groups as officers watched from a considerable distance on the perimeter.

When respondents spoke of staff attitudes toward them, they rarely perceived that staff were helpful or positive. Further, while some respondents reported that teachers did try to help them, most reported spending very little time with teachers, counselors, or other professionals who were likely to view themselves as helpers. On the infrequent occasions these contacts did occur, the respondents generally saw them as very beneficial. Two respondents, for example, were participants in small specialized drug treatment programs that physically segregated them from the rest of the population. Importantly, both youth had generally positive attitudes about their prison experiences which contrasted sharply with those reported by other inmates in adult facilities. Note the quote that follows:

They got good officers, counselors here. They try to help you. I am in an addiction treatment program. It is like a family in there. It's a real good program.

It has real good counselors to help you out.

For more than 90% of the inmates interviewed, the primary referent when asked about "staff" was the correctional officers with whom they had contact throughout the day and evening hours. These were the most prominent figures in the institutional setting. Some characterized the correctional officers as indifferent. More often correctional officers were perceived as overtly hostile, derisive, and denigrating.

They don't really *see* us. They don't care about us. I'm not a person.

Only a few guards care. The rest don't care. There's a lack of respect. Coming here when you're 15 or 16 hurts seriously. When you come to prison you don't show it but you have feelings and you don't know enough to be here. You close down. Your pride is crushed. If you show your feelings here the staff will take them away. The staff don't look kids in the eye.

The staff here, they'd rather write you up and take away gain time than explain something to you. Staff will send you to the box for something petty rather than have you learn something. Here the staff are just trying to punish you. They could care less about inmates. They are mean spirited.

Here I am just a number and a bed space. Staff have negative attitudes, don't show us any respect.

You can count on one hand the number you can talk to about problems, except for the psych counselors, who is likely to put you on medicines. Officers

talk a lot of stuff. This is their world and they do what they want to with you ...

This ain't no place to be growing up in.

Staff here, I can't figure it out. Half of them are pretty cool. If you follow the rules they leave you alone. Half of them are assholes. They cuss us out. They want to punish us as much as they can so we won't want to come back.

It was noted earlier that, in juvenile justice facilities, youth perceived that staff were trying to help them to turn their lives in a more positive direction. While it is clear that many respondents resisted or rejected the assistance that was offered, they nonetheless reported appreciation that staff were caring and well intended. In the atmosphere of the adult correctional system, however, youth often reported feeling threatened by correctional staff. Frequently respondents conveyed the sense that they were involved in a struggle to survive (a struggle to preserve their identities and a sense of dignity) in the presence of forces that were out to destroy them. Many turned to fellow inmates for support. Others turned inward and tried to keep to themselves, minimize interactions with both staff and fellow inmates, and simply "do time" until their release. Still others noted that they became defiant and fought back, violating the rules, accumulating disciplinary reports, losing gain time, and becoming increasingly embittered. As one angry young man put it: "Why not fight, talk back to officers, and get respect among inmates. You want to show the officers that you're your own person, that you don't deserve to be treated this way. It's your pride you are going to lose."

Institutional Atmosphere

Another theme that emerged in the interviews is that, relative to the adult system, the juvenile justice system generates expectancies about youth's potential for development and change. Most respondents felt that juvenile programs were designed to help them, and many believed that they had in fact benefited by them to some degree. At the same time, some said that positive features of the juvenile justice programs did not work, and perhaps nothing else would have worked, at the time. The predominant message youth get from juvenile justice programs is positive and forward-looking. Many respondents recognized the staff's hope that they might be reintegrated into the community as productive young adults. In contrast, the predominant message of the criminal justice system was negative and backward-looking. Respondents in the adult system, for example, frequently commented that officials believed that they would never change. This contrast in the ways the two justice systems were perceived is illustrated in the following comments by prison inmates:

In the juvenile system the staff and I were real close. They wanted to help me. They were hopeful for me. They are not hopeful for me here. They think I am nothing but a convict now ... I can't tell people I've changed. They won't believe that anymore.

In the juvenile system you feel like you've got a chance in life. Here you don't have much of a chance. People look at you different ... They look at you as a criminal. They think you will keep doing the same thing.

When I was in juvenile programs they were telling me that I am somebody and that I can change my ways and get back on the right track. In here they tell me I'm nobody and I never will be anybody.

COs [Correctional Officers], they talk to you like you ain't nothing and they is everything. They see me as a convict, another criminal. They tell us, 'He ain't never gonna learn.' Everyone that leaves they say 'He be back, he be back.' That makes me angry cuz the day I leave they gonna say the same thing.

[Prison staff] could care less about inmates. They are mean spirited. Staff in juvenile institutions ... will talk to you because they care and they know you're not a failure even though you've made a mistake.

It is important to note that the atmosphere of institutions is related, at least in large part, to size. Correctional facilities in the juvenile justice system tend to be small. Even the Level 10 programs visited house less than 100 residents. In contrast, the prisons in which the transferred offenders were housed had capacities of 1,000-2,000 inmates. In part because of their size and also because they house more chronic and violent offenders, prisons tend to be more dangerous places than juvenile justice facilities (Forst, Fagan, and Vivona, 1989). In contrasting their adult correctional experience with what they had experienced in juvenile commitment programs, the respondents often noted the atmosphere in adult facilities was one of fear and violence.

Respondents were not surveyed with direct questions about whether they had experienced or witnessed a victimization. Nevertheless, many volunteered such reports in

the course of describing institutional life. Nearly 25% of the transferred youth spontaneously reported that they had either suffered an assault or witnessed an act of assault by a fellow inmate. Additionally, many other respondents, while not recounting specific events, reported that they felt the danger of violence was far greater in prison than in juvenile residential facilities. The following are some representative accounts of inmate-inmate violence:

When I was in [the receiving facility] I had a roommate who beat me up and stole my food ... Since I been here [the main camp] the guy who beat me up came here too. Another inmate got his homeboys and beat him up and he never tried to do it to me again.

This is a dangerous place. There be shanks and stuff. One of my friends was shanked in the side and back. They took him away in Life Flight. That was a year ago. I don't know if he died or nothing.

If you don't have a strong mind you are not going to survive. You worry about people beating you up or taking your manhood or stealing your things. You end up in P.C. [protective custody] or hurt real bad if you are not strong. Officers can't be in the compound all the time and stuff happens. You sure can get your mind messed up in here if you are not strong ... Some guys are in P.C. all the time because they're scared. You can't be too bold or you'll get slashed. Since I've been locked up I've seen three or four people get shanked. I've seen somebody get butted at this camp.

In addition to accounts of victimization by fellow inmates, there were vehement reports of staff-inmate victimizations. More than 30% of the transfer respondents reported either witnessing an assault on a fellow inmate or being personally assaulted by correctional staff. The excerpts below are illustrative of negative comments about adult facility correctional officers:

I was at [names facility] first. It was like hell...They beat the shit out of us and covered it up. It's a big scam I was beaten plenty of times, kicked around for talking in a "no talking" zone, kicked and punched for pretending to do pushups when they ordered me to. And my asthma started and I didn't have my inhaler. They told me to stop whining and take my punishment like a man....All the inmates talk to each other about the beatings. We get angry and it bottles up. And we take it out on each other.

You write a grievance against an officer and they take you in a back room and beat you up, then put you in the hole until you heal.

Some people in here have been locked up and emotionally and physically brutalized. Like a kid yesterday they thought he had closed a gate on an officer's hand and another officer came up - a big guy-- and he handcuffed him to the gate and beat him. He was all bruised in his face. The officer said "If you say anything to anybody I'll fuck you up." Now that kid is only 17 and his experience is going to make him angry and a lot worse when he gets out.

Officers beat you for no reason. They shouldn't be punching on people.

That's against the law ... The officers here are just as crooked as we is.

Other respondents gave accounts of being humiliated by correctional staff, and of being goaded or provoked into conflicts with the officers. Respondents indicated that these experiences also contributed to their general sense of anger and resentment:

They wouldn't let me lift my head up. They called me "boy" and said "you don't like white people telling you what to do." I said "no, suh." Then they said I was racist. Then they put me in handcuffs and shackles and took me to an isolation room and beat me where nobody else could see.

The C.O.'s are really sorry people. They do mean shit here. They beat you up, humiliate you. They tell you to make sure seagulls don't land on the ground and if a seagull lands, your ass is grass. They order you to sweep the shade away. Stupid shit.

Officers here are all shit eaters. They take your gain time away as fast as they can and put you in the box [solitary confinement] for 60 days, 120 days, whatever. I have been in there a number of times. And they harass you to try to get you in there. They harass the f— out of you but if you swing back you get 15 years. We wear blue polyester and they wear brown, and they think it's a Superman outfit. You try to write them up but they don't follow their own procedures so nothing happens to them. Prison makes people monsters.

When inmates do something right, officers will say something smart just to mess with them.

Inmate-Inmate Interaction – Criminal Socialization

Another contrast between juvenile and adult correctional programs that was frequently noted by respondents involved opportunities to learn about crime. The juvenile correctional programs visited were small. The inmate:staff ratios are low, and the youth are constantly interacting with staff in various activities during the daytime hours (academic and vocational programs, group counseling, etc.), and at night they sleep in dormitories together with staff members. In the adult correctional facilities, inmate:staff ratios are much higher, and there are hours of idle time each day where inmates congregate together in “the yard” while staff members observe from a distance. When inmates are in their cells or dormitories, staff members observe them from glass enclosed control rooms. Consequently, there are many more opportunities for “private” interaction among inmates in the physical setting of adult correctional institutions. According to many of the inmates interviewed, much of that interaction focuses on crime. The frequency and duration of interaction apparently provides fertile soil for criminal socialization. Note the statements below:

This place has a negative effect. There are hard rocks in here who don't just talk about it, they do it. You can learn about a lot of crimes here. These criminals are vets. They gossip around the pound. You can get smart in ways you don't need to get smart in. You can become a master criminal.

Prisons is a whole nother world. Sometimes you get a trade, like electronics. And you learn how you can do a home burglary and turn the alarm system off. A lot of people develop master plans here ... You learn more [crime] than you do on the street. And people think they gonna be a better criminal, not so likely to get caught. They pass time...thinking about what they gonna do when they get out. And some of it is real negative things.



If you come to prison with your mind open to learn, you're going to learn to do wrong. You learn too much. And it makes you worse...In prison you learn too much wrong. People are crammed in together and have all day long to talk. They talk about crime they got away with. And the ones that got caught ask the ones who got away with it how to do it. Like I said, you learn too much.



Nearly 40% of the inmates interviewed commented upon the opportunities presented in prison to learn new techniques of crime, to hone existing skills, and to gain confidence in one's ability to commit further crimes without being detected or apprehended. In contrast, only one of the 95 respondents commented about learning to commit crime in juvenile justice programs.

Perceived Impact of Adult Correctional System Experiences

The responses of those in the adult system to questions about their future, and to what they attributed change, were quite different from those heard from the juvenile respondents. Forty-six percent of those in the adult system indicated with certainty that they planned to refrain from crime in the future.¹⁰⁶

Unlike the juvenile respondents, few of the transferred youth who were positive about their futures attributed changes in attitude to the development of more personal



resources or skills to deal with the world outside the institution. Some who had intentions to go straight indicated that their motivation came strictly from the pains of imprisonment:

This place is doing me good because it makes me not want to come back here.

I think it takes treating people badly for us to realize that we need to change.

“[This experience] is the worst thing in my life. A grown man getting shanked, screwed in the butt, officers actually putting their hands on inmates ... It’s bad, even the food, rats in the food, contamination. It really makes me not want to come back here because I don’t --I don’t think I could handle it.

I needed prison to stop and think.

A few others attributed change to the fact that they had been befriended by “lifers” and other elderly inmates whose lives had been ruined by crime. These older inmates gave them reason to hope and convinced them that they still had time to make something of their lives - and should. Here is an example:

I don’t ever want to come back I changed because I got older but I also changed from being here talking to inmates who have life sentences and who tell me I have my whole life ahead of me. That’s helped. I’ve learned more from other inmates than from the staff. If I had known back then about people

dying in prison from diseases and stabbings, and about how you treated in places like this, things might have been different for me.

Most who expressed an intention to go straight attributed change to time: time to reflect, time to “slow down,” time to mature.

Prison, it's good in a way cuz it gives you time to look into yourself. I look at me and everything I did in the past and I can't believe I did that cuz I see now how stupid it was ... In here you slow down and you can really look at it. All you got to do is look at the wall and you see everything. So, in a way, prison is a blessing –in a way it's a curse too ... Out on the street you don't think, you just do stuff. That's the difference from here. Here we have time to think. I never used to think of the consequences of what I did.

Unlike those in the juvenile system, the majority of the transferred youth were either uncertain about the future or they indicated an intent to commit further crimes upon release. Thirty-eight percent were unsure. Some thought the course of the future was a matter of luck or fate. Others were fearful of falling back into previous patterns of behavior once they returned to their old neighborhoods and ran into former associates. Still others feared (quite realistically) that the stigma of a criminal conviction would inhibit their ability to obtain gainful employment.¹⁰⁷

I want to do right but I know society gonna look at me with past references.

[Probationer:] I'm having trouble getting a job. People see on my application the charges and they won't hire me. It's not fair. Even though I did crimes I'm still human. I'm trying not to go back to jail, trying to do something with my life. Sometimes I think about doing crimes again because of the pressure of having no money.

After you've been in trouble people don't believe you. People don't want you to work for them.

Still others feared that they were likely to fail on probation following release because of their inability to satisfy conditions of supervision.¹⁰⁸

I wanna get out and survive, do right. My life is messed up. I can't seem to get away from the system ... I can't get that monkey off my back. Like when I get out on probation, I know I can stay away from drugs and alcohol. But I might have to live in a motel, and that's a violation because that's not a stable home. And they say I can't be in touch with no convicted felons, and my Mom is a convicted felon and my Dad is, my brothers, aunts, uncles, they all be locked up one time or another. They've set me up to come back. They say to stay out of bad areas and drug areas. My whole neighborhood is a bad area and a drug area. I can't go to no rich neighborhood you know They predict that I will be back I'm one of the ones wants to better myself. I'm trying to do right ... But chances are slim things will fall out the way I would like.

Many inmates commented that they needed the period of incarceration that the criminal justice system provided to have time to reflect and grow up. The duration of confinement had given them time to mature, but they expressed concern that this was not enough. They needed tools to make it: an education, job skills, social skills, and the ability to resist peer pressures. In hindsight, many lamented that they had not taken advantage of programs offered in the juvenile system that they perceived prepared them better for the world outside.

Eighteen percent of the transferred respondents, compared to three percent of respondents in the juvenile system, anticipated that they would continue their criminal careers. Some claim to have been undeterred by their prison experience: they planned to pick up where they left off, but now more adept at crime than they were when they entered. Others who planned to continue in crime seemed to be expressing anger and frustration; still others, only hopelessness and resignation.

What I think is going to happen is that I will get out, nobody is going to want to hire me, I will go back to selling drugs to get money, end up right back in here. I have seen too many people go out with great hopes and ain't nobody out there wants em around.

Future? There is no future ... Every time I try to do right they kick me to the curb, so I just say "f___ it, I'm not going to try." You can only tolerate so much ... I look forward to getting out but I don't know what's going to happen when I do. I don't have sadness or joyful anymore. I smile every once in a while just to be nice or because there's something funny. But I don't have feelings anymore except anger and sober. I don't think I'd be sad if my Mom or my

brothers and sisters died ... Just like seeing people die on the news ... I guess I just don't have any feelings ... I don't think I will do well on the outside or anywhere. I could kill and not feel anything. I've been beaten and I just don't care anymore.

JDC [Juvenile Detention Center], it was rough at first, but after my first time I got used to it. Then jail, then prison, that changes you, that hardens you up. The next step is death and I know it. But I can get used to anything.

Summary

This section of the report explored the perceptions of a group of young offenders about their experiences in the juvenile and criminal justice systems. The data were obtained from interviews conducted with 95 male offenders aged 17-20, 46 of whom had been transferred to criminal court and sentenced as adults, 49 of whom had been committed to one of Florida's "deep-end" juvenile residential facilities.

The vast majority of youth perceived that the purpose of the juvenile court was to rehabilitate them. Even when they attributed punitive motivations to juvenile judges, they tended to believe that judges acted with helpful intentions. In the criminal courts, in contrast, young offenders most often reported that judges' intent was to punish them. Often, they interpreted this punishment as a personal condemnation, rather than as a reaction to their offenses. The overall tone of youth's comments about the criminal court system was angry and resentful. Many construed the criminal court process as a "racket,"

a high stakes game of negotiation in which public defenders colluded with the opposition while feigning advocacy on their behalf.

Youth reported a wide range of experiences in and reactions to the juvenile justice system. The most negative comments were reserved for detention centers, where many respondents had been incarcerated on numerous occasions. Detention was seen most often as simply a custodial function and many youth reported that they did not feel adequately protected from assaults, some at the hands of the staff. Most perceived that detention staff rarely took a personal interest in them. Youth who reported that their experiences in detention had a positive impact were those who over time had established close relationships with one or more detention care workers who had taken the time to listen to them, advise them, and encourage them.

Most juvenile interviewees had previously been on juvenile probation and in one or more day treatment and residential programs less restrictive than the one they were in at the time of the interview. Many perceived that one or more of these programs had been beneficial to them, changing their attitudes and behaviors at least to some degree. Several reported that after release from these programs they managed to refrain from illegal behavior for a period of time, but eventually they re-offended in response to the same family, peer, and "street" influences that had prompted their previous offenses. Some who did not consider these low-end programs beneficial thought they were meaningless. Most, however, offered the opinion that these low-end programs were of insufficient duration and intensity to have a real or sustained impact.

More than 80% of those who were incarcerated in deep-end juvenile facilities believed that these programs had affected them favorably. Staff were generally described

as caring, skilled at modeling or teaching appropriate behaviors, concerned about their progress, and encouraging about their futures. Many youth reported that they believed they were making substantial progress in their educational programs.¹⁰⁹ In addition, they frequently commented about improvements they had made in dealing with anger and in learning new social skills and conventional values.

In contrast, young offenders who had been transferred to criminal court perceived little that was positive about the staff or the programs to which they had been exposed in the adult corrections system. While transferred youth endorsed the juvenile justice system with the same degree of appreciation as youth who were still in the juvenile system, there was a decided change in the tone of their responses when they began discussing the adult system. They reported that they spent very little time in programs aimed at promoting their social or personal development. Most of the learning they alluded to involved information about new techniques of committing crime and methods of avoiding detection, passed on from more experienced to less experienced inmates. Very little two-way communication between staff and inmates was reported. Staff with whom they had the most frequent contact were correctional officers whose responsibilities were primarily custodial. These officers were most often characterized as cynical about young offenders' potential for change. A substantial number of interviewees reported instances of inmate-inmate and staff-inmate violence.

Despite their negative reports about the institutional climate, several of those in prison believed that they had profited from their incarceration. Some reported that the length of their incarceration was helpful in giving them time to reflect and mature. Others believed that the pains of imprisonment were so severe that they would never again

commit an act that might result in their return to prison. Nevertheless, it is significant to note that fewer transferred youth than youth in the juvenile system expected to remain law abiding and that more transferred offenders had adopted the role of the "hard con." When the transfers had intentions to "go straight" they more often expressed fear that they would fail because of the stigma of a criminal conviction and the stringent conditions of post-release supervision. Some of these youth lamented that they had not previously taken greater advantage of juvenile programs which they believed better prepared them to succeed.

In summary, the study found very strong opinions favoring and condemning basic features of both justice systems, but there were more favorable opinions about the value and positive effects of the juvenile justice system. Many more negative opinions were registered about the criminal justice system. Similarly, when weighing the respondents' perceptions in terms of which system provides the best prospects for behavioral change, there was more support for the juvenile justice programs. When the criminal justice system was endorsed or appreciated in any regard, it was the length of confinement and the harshness of the situation that provided an incentive to change. Importantly, however, many of these same individuals who found value in the hard hitting aspects of the criminal justice system were quick to note that other characteristic aspects of adult confinement either entirely or substantially diminished any reformative value.

SECTION VI.

COMPONENT 4: IN-DEPTH CIRCUIT COURT DATA

Introduction: Purpose of In-Depth Study

This final section of the report presents data from an in-depth study of court records on a sample of transfers and their juvenile justice system matched cases. Most of the extant research literature on transfers to criminal court has relied on automated data systems that provide only partial and incomplete pictures of transferred youth, their offenses, and offense histories. Little is currently known about some potentially crucial features of offenses that may both influence transfer decision-making and differentiate transferred youth from those retained in the juvenile system (*e.g.*, extent of victim injury, weapon use, whether the offender was under the influence of drugs/alcohol, number and nature of co-defendants, victim-offender relationship). In addition, little is known about the actual processing of transfer cases. Critical issues that have not been explored adequately include: the detention and/or bail status of youth awaiting trial in the criminal courts, attrition of cases as they move from the caseloads of juvenile division prosecutors to prosecutors in criminal divisions, crimes committed by youth on pre-trial release, the nature and extent of plea negotiations in transfer cases, and the nature of dispositions/sentences for transferred youth who are convicted.

The original purpose of an in-depth study of Florida circuits was twofold. First, additional detail would permit construction of a more comprehensive description of transfer cases. More would be known about offenders, offenses, and case processing than was possible using statewide automated data. The summary information in automated data banks may not accurately represent the seriousness and complexity of most transfer cases. Analyses of Florida's automated

state data (CIS) from 1984 (Bishop and Frazier, 1991) and from 1990 (Frazier, 1991) raised questions about whether transfer is reserved for the "worst" juvenile offenders. Analysis of transfer cases in 1993 using Florida's Offender Based Tracking System (OBTS) from the Office of the State Courts Administrator raised similar questions. More than 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 according to these OBTS data (Frazier, Bishop, Lanza-Kaduce, and Winner, 1995).

Second, enhanced detail would permit an assessment of the validity of using the CIS data to match transfer cases with cases retained in the juvenile court (see Bishop, Frazier, Lanza-Kaduce, and Winner 1996; Winner, Lanza-Kaduce, Bishop, and Frazier, 1997). The CIS data contain the same information on both juvenile offenders and persons under 18 who are transferred to criminal court. Because prior studies found higher recidivism for transferred youth than for their "matches" retained in the juvenile justice system, the possibility that the CIS data miss crucial information has important research and policy implications.

The additional detail needed about offenders, offenses, and processing is available in the case records maintained by county clerks of court throughout Florida. Gleaning information from these court records is a slow and labor-intensive process. Time and funding constraints required the team to choose jurisdictions. Since Florida's counties are grouped in judicial circuits which establish the jurisdictions of judges, state attorneys, and public defenders, circuits were used as the starting point to draw a sample of transfer cases and their matches.

Methodology

Selection of Circuits for the In-Depth Study

The research design called for drawing a sample of approximately 400 youth who were transferred to criminal court in 1995 in four of Florida's judicial circuits and then locating precise matches for these transfers from among youth retained in the juvenile justice system. The four circuits were selected to represent jurisdictions that varied in several respects. First, jurisdictions were selected that ranged from rural to urban because Feld (1991) found that transfer practices varied along this dimension. Second, jurisdictions were chosen that had various rates of transfer according to research using CIS data from 1993 (Bishop, Lanza-Kaduce, and Winner, 1996). That study showed variation in transfer rates across Florida circuits which ranged from a low of transferring 2.6% of all juvenile cases to a high of transferring 10.8% of cases. Subsequent to the selection of circuits, additional CIS transfer results for 1995 indicated that variations in transfer practices continued in the selected jurisdictions (Lanza-Kaduce, Bishop, and Winner, 1997).

The four judicial circuits chosen for study were:

- Circuit 6. This circuit comprises Pasco and Pinellas counties. It is, for the most part, an urban jurisdiction, and it had the highest rate of transfer in the state in 1993 (10.8% of all cases referred to juvenile justice intake). The rate had dropped by 1995 (to 7.2%) but was still higher than 15 of Florida's 20 judicial circuits.
- Circuit 3. This circuit comprises Columbia, Dixie, Hamilton, Lafayette, Madison, and Taylor counties. It is a very rural circuit with a moderate rate of transfer in both 1993 (7.0% of all cases referred to intake) and 1995 (7.7% of all cases referred to intake).

- Circuit 9. This circuit comprises Orange and Osceola counties. It is an urban jurisdiction, but it had a modest rate of transfer in both 1993 (4.6% of all cases referred to intake) and 1995 (4.8% of all cases referred to intake).
- Circuit 5. This circuit comprises Citrus, Hernando, Lake, Marion, and Sumter counties. It is a primarily rural circuit that had the lowest transfer rate in the state in 1993 (2.6% of all cases referred to intake). The rate rose slightly to 3.2% in 1995--a lower rate of transfer than 14 of Florida's 20 circuits.

Identification of Transfers and Matches

The statewide CIS data were used to identify transfer cases in 1995 for each of the four circuits. CIS tracks all referrals to the juvenile justice system from the point of initial intake through final disposition. The CIS data are organized around each separate referral rather than persons or cases. Because any single individual may have been referred at more than one time in 1995 for charges that may have resulted in transfer to criminal court and because referrals at any particular time may have involved multiple charges, the data had to be segmented both by individuals and by cases. If more than one referral of an individual occurred on the same day, the referrals were grouped together as a "case" for analysis. For individuals who had more than one case in 1995 which was transferred, the earliest referral date that resulted in transfer to criminal court triggered the individual's inclusion in the study. It was this earliest 1995 "case" (and its associated referral charges) that was used to describe the case and locate matches in the juvenile system.¹¹⁰

Once the individuals who were transferred in 1995 were identified, their descriptions were constructed from the CIS data so that matches could be found who had been retained in the juvenile justice system. Seven matching criteria were employed.

First, the most serious referral charge for the transfer case (from all referrals on the date which led to transfer) was identified. CIS data contained 45 offense categories which represent hundreds of offense types defined in Florida law. Most of the CIS categories were specific as to the nature of the crime (*e.g.*, armed robbery, carrying a concealed firearm) and its level (felony or misdemeanor) but not about the degree of the offense. Some categories, however, were quite broad (*e.g.*, burglary was a general category and was not specified by residential, commercial, conveyance or by degree). When transfer cases involved multiple charges, the most serious referral charge was used to type the primary offense. The same decision rules applied to those retained in the juvenile justice system so matches could be identified.

Second, the total number of counts (or referral charges) for each case was calculated for both the transfers and the potential matches. For matching purposes, the number of counts was coded 1, 2-3, or 4 or more.

Third, the CIS offense histories for each transfer case were reconstructed from prior referrals in 1995 (which did not result in transfer) and referrals for the previous ten years so that the number of prior referrals could be calculated. This was also done for juveniles retained in the juvenile system so that matches could be found. The coding for matching was 0, 1-2, or 3 or more.

Fourth, CIS referral histories were reviewed to identify the most serious prior offense. Precision matching was not possible using all 45 offense categories. Instead, a scale was constructed which ranked prior offenses into eight severity classes ordered to correspond to the

severity of penalties associated with each class. Class 1 consisted of felony offenses against persons. Class 2 consisted of major property felonies. Class 3 included felony drug offenses. Class 4 was a miscellaneous felony class that included possession of concealed firearms, receiving stolen property, and a generic "other felony" CIS category. Class 5 consisted of misdemeanor offenses against the person and trespass/breaking and entering. Class 6 contained various mid-range misdemeanors like petit larceny, retail theft, and loitering and prowling. Class 7 included minor drug and alcohol offenses and offenses against public order. Class 8 included status offenses such as running away or truancy. These eight classes were used to match transfers and non-transfers.

Fifth, age at time of referral was used as a matching criterion. For purposes of matching, age was grouped into less than 14 years old, 14-15 years old, 16 years old, and 17 years old.

Sixth, gender was used as a matching criterion. Male transfers were matched with males retained in the juvenile justice system and female transfers were matched with female youth.

Seventh, race was a criterion for matching. The coding was white versus nonwhite.

One of the potential problems with previous recidivism analyses using this matching procedure was that matching occurred statewide. That is, a transfer likely would have been matched with a juvenile from a different circuit. A fairly constant or standard decision-making process throughout Florida had been tacitly assumed. Decision-making regarding juveniles might be quite different from place to place (See Bishop et al., 1996; Lanza-Kaduce et al., 1997; Feld, 1991). Matching across circuits, therefore, might result in nonequivalent comparisons because of variations in local practices and decision-making. For this reason, all the transfers were matched with a juvenile justice case from the same judicial circuit in the in-depth study.

These stringent matching criteria reduced the number of possible matches. Some transfer cases were left unmatched, especially the less typical cases and those coming from less populous circuits. Some transfer cases, however, had multiple matches in their respective circuit. To make sure no further attrition in cases occurred, as many matches for each transfer case as the computer program could locate from the juvenile CIS data (up to four) were identified. When possible, a match was selected from these multiple cases that came from the same county as did the transfer. For those cases that had multiple matches identified by CIS, replacement cases could be used if the records of the first match were incomplete or proved to be too different from the CIS description that had been constructed.

The goal was to collect 400 matched pairs of transfers and juveniles retained in the juvenile system. To permit comparisons across circuits, the initial intention was to draw about 100 cases from each of the four circuits. Based on the CIS transfer data from 1993 that were available at the time this research was designed, the projected sampling rate was 10% of transfer cases in Circuit 6, 25% of transfer cases for Circuit 9, and 100% of transfer cases for Circuits 3 and 5.

Developing a Data Collection Instrument for the In-Depth Study

The development of a data collection instrument for the in-depth circuit court records proved to be a multi-stage process. Research staff first visited courthouses in both Columbia and Marion counties to peruse records of transferred youth. These records included similar documents which contained much of the detail absent from the automated state data. The first draft of a data collection instrument focused on the respective documents that were contained more or less consistently in these counties' clerk of court files (*e.g.*, formal charging instrument,

arrest or probable cause affidavit, offense or incident report, judgment document, sentencing order, etc.). The idea was to link the recorded data with the court documents from which they were retrieved. Because official record "jackets" often contained some inconsistent information from one document to another, the researchers wanted to track the source of the data. Reliance on documents would also reduce the amount of interpretation that would be required of field staff and would improve the reliability of the in-depth data. Because of the possibility of multiple charges, the document-based approach resulted in a lengthy data collection instrument that collected recurring information (*e.g.*, arrest charges, charges on the information/indictment, charges at time of judgement/adjudication).

The document-based approach, however, had to be modified when the instrument was taken to a third site (Circuit 9, specifically Orange County). Several problems became apparent. First, the clerk of court documents proved to be too dissimilar from county to county. The dissimilarity meant that a particular detail found in a document regularly in one jurisdiction might be found in other paperwork in another jurisdiction. Thus, the researcher would have to leaf from page to page in the data collection instrument to record the information--something that was time-consuming and increased the likelihood of recording errors. The data collection instrument could not be organized exclusively around particular documents, especially if it were a lengthy instrument.

Second, juvenile justice processing is both similar to and different from criminal court processing. A comparison of transfers and their juvenile justice matches would require a data collection instrument that was comparable for both systems yet flexible enough to capture their differences. Arrest, formal charging, plea bargaining, adjudication, and disposition run parallel in the two systems, so directly comparable data collection instruments could be used for much of

the information (*e.g.*, offense charges, legal representation, victim matters, restitution, drug testing, etc.). Nevertheless some adjustments in language and options had to be made. For example, the range of adult dispositions ran from locally operated probation and community-based corrections to county jail to state-administered probation, community control, and prison. Since each of these could be structured differently, separate subsections were required on the data collection instrument. Juvenile dispositions ranged from diversion programs to "community control" (which refers to probation in the juvenile system) to various levels of residential commitment. Again separate subsections had to be included. Some matters (like adult sentencing guidelines) are distinctive of only one of the systems so alternate sections were devised on the data collection instrument to reflect system-wide differences.

Third, when a desired piece of information was found in different documents in the court records in different jurisdictions, the information was not necessarily comparable across documents or sites. Some case information changes over time (*e.g.*, charges get added or dropped, bail is reconsidered, lawyers are replaced) and so cannot be recorded as a single entry. Changes, however, are critical to understanding the dynamics of the case and processing decisions that are made. The data collection instrument had to capture the sequence or flow of the cases and record some information at multiple points in the process. This added length to the data collection instrument; a short and compact format would not be possible.

The only choice was to devise a data collection instrument that was organized around the customary or typical flow or sequence of a case, that could be used to record information in parallel ways to reflect the similarities of the adult and juvenile systems, that had separate subsections for information that was unique to one of the respective justice systems, and that could incorporate the dynamics and change that occurred during case processing. The resulting

data collection form opened with a section on identifying information. The next focus was on initial events (prior to formal charging) that brought the matter to the attention of the authorities no matter which document reported the information (*e.g.*, arrest report, incident report, or sworn complaint). Other sections would reflect the later stages of processing (*e.g.*, defendant's legal status at the time of the triggering offense, the formal charges, charge dismissals and reductions, adjudication, and disposition).

The new data collection instrument was drafted and field tested. The sequence approach worked better but also needed to be refined.

Some data (*e.g.*, complainant or victim characteristics, victim loss or injury) were found on various documents completed at various points in processing. Thus, a separate section was created to collect this type of information. Since 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 cases often did not flow in the same way as the data collection instrument. Even though the court records were generally organized chronologically, some cases became complicated as processing unfolded (*e.g.*, new charges may be added; cases may be consolidated sometimes for prosecution but sometimes just for sentencing, new offenses may be committed during processing, the current case may trigger 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. For research purposes, an incident was defined as a discrete event or transaction which may involve one or more counts. For example, breaking into a house and assaulting an occupant may result in an arrest for multiple counts. As long as they are part of the same event (*i.e.*, they are a continuation

of the same transaction), they are part of a single incident. Stealing three cars, even on the same day, involves three separate incidents because each event occurs at a different time and place. If a violation of probation or community control was charged as a result of any incident, it was not counted as a separate incident. A single incident involving a single charge may be processed differently from a single incident involving multiple charges. Moreover, a single incident (whether involving one or multiple charges) may be processed differently from multiple incidents (which by definition will yield multiple charges).

The timing of incidents also proved to be important to understand the larger context of a case and how the processing decisions may have been made in regard to it. Multiple incidents would often be handled differently if all of the incidents were known at the outset than if some 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 and single versus multiple incidents and the prospect that charges in a case could be added, dropped, or reduced and 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 understand a case, the researchers would write a narrative overview that captured the nature of the triggering event, the flow of the resulting case, and its relationship to other incidents before they would start entering 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 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 (see Attachment C) was far more complex and lengthy than the first one. 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 learn how to use the instrument. Decision rules were made and shared as unanticipated situations arose in the field. "Trouble cases" were reviewed by another researcher.

One of the goals of the study was to gather details that were not available from the statewide data sources. The gradual incremental development of the data collection instrument and its complexity stood as stark reminders of how simplified the automated data systems were.

Results

The results from the in-depth study are organized into three subsections. The first describes the field adjustments that had to be made to the sampling procedure. This subsection reviews problems of reliability and validity with the CIS data and raises questions about how to locate individuals retained in the juvenile system who match those who have been transferred. The second subsection looks at the in-depth profiling of transfer cases in Florida. It attends to both who the transfers are and what the transfer process is like. The final subsection compares

the transfers with their juvenile justice matches and considers the implications for studying outcomes and recidivism.

Field Adjustments to Sampling

The earliest transfer cases (*transfer* in the tables) for each individual in 1995 were identified and separated from the other CIS cases (*non-transfer* in the tables) in each of the four judicial circuits. The respective numbers are presented in Table 6:1.

Table 6:1
Transfer and Non-transfer Cases
according to 1995 CIS Data

Circuit	Transfer Cases	Non-Transfer Cases	Transfer as % of Cases	Sampling Ratio
3	75	947	7.3%	100%
5	125	3870	3.1%	100%
6	635	7149	8.2%	10%
9	379	7116	5.1%	25%

The planned sampling ratios would have resulted in drawing fewer than 400 cases. Because of this and because of the likelihood of case attrition, an adjustment was made in selecting the cases for the in-depth study.

In each of the four circuits, a computer search was made of the CIS data to locate those transfer cases for which perfect matches on all seven criteria were available. Table 6:2 presents the results of this search, including the percentage of transfers out of the total cases for which perfect matches were located (percent "hits").

Table 6:2
Transfer Cases in Four Circuits for which
Perfect Juvenile Matches Were Located in CIS

Circuit	Transfers		
	with Matches	Total Transfers	Percent "hits"
3	14	75	18.7%
5	55	125	44.0%
6	370	635	58.3%
9	176	379	46.4%

As data collection began in Circuits 6 and 9, it became clear that the percentage of "hits" using CIS data was inconsistent with the findings 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 (the study period). The sampling rate was adjusted accordingly and was increased to 100% in Circuit 6 and to 50% in Circuit 9.

This strategy 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 6:3.

Table 6:3
Number of Transfer Cases for In-depth Data Collection
and Reasons for Attrition by Judicial Circuit

	CIS Transfers*	Actual 1995 Transfers	Not Found	Not Transferred	Not 1995 Transfers
Circuit					
3	14	7 (50%)	2 (14%)	5 (36%)	0 (0%)
5	55	36 (65%)	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%)
Overall	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 are disappointing. Overall, most of the cases identified by CIS as 1995 transfers for which a juvenile match could be located, in fact, were not transfers. This high "miss" rate was primarily due to Circuit 6 where more than 70% of the CIS-identified cases were faulty according to local court data. Most of the Circuit 6 errors occurred in Pinellas County--the larger of the two counties in the circuit. By contrast, 80% 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 identified by CIS as being transferred that actually were not transferred. At least part of this problem stems from CIS data entry. For example, in Pinellas County, some of the misidentified cases resulted from inconsistent use of the acronym "TRANS." in the juvenile files, all of which were counted by some input staff as transfer to adult criminal court. In some cases, the local court records showed that the misidentified transfer case involved the offender being "transported" to another facility or "transferred" to another county for

juvenile processing. Another use of the term "trans" used in the files referred to the fact that a transcript had been ordered.

Several lessons were re-learned from the in-depth data collection. First, state data are dependent on local input of information, the accuracy of which can vary widely from locale to locale. Second, local variations occur at the county level. The unit of analysis for sampling and matching probably needs to be the local county rather than the larger judicial circuit. Third, and most importantly, at this point the state CIS data regarding transfer appear too inaccurate to be used for 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 "miss" rate is 20%. It can be as high as 80%. What remains to be seen is whether this level of inaccuracy extends to other CIS information. For example, is CIS information about prior offenses, current charges, and dispositions similarly inaccurate?

In-Depth Profiling of Transfers

The in-depth data allow a more detailed look both at CIS-identified transfers to adult criminal court and how those transfers take place. Although the local records data reveal that CIS misidentified many cases as being transfers, those records confirm the transfer in 243 cases. Of these, 227 were paired with matches from the juvenile. These 227 cases are used to describe transfer to criminal court.

Who Are the CIS Transfers Located in Local Records?

Table 6:4 presents the frequencies and percentages of transfer cases within various offense categories. The first column indicates the general offense category of the cases that

correspond with the statewide CIS data or the closest corresponding case found in the court records. When the two differed, the offense noted in the court files was noted as the initial offense. The bulk of cases are charged with property felonies (43%). Nearly a third are charged with violent personal felonies according to CIS. Smaller, but still substantial, percentages are charged with other felonies (which include drug felonies) or misdemeanors (17% and 10% respectively).

Table 6:4
Primary Offense Categories for Transfers
at Various Stages of Case Processing
(counts and percentages)

Offense Categories	CIS Offense/ Initial Offense		Most Serious Offense in Incident		Prosecution Offense		Conviction Offense	
	N	%	N	%	N	%	N	%
Violent 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%
Misdemeanors	23	10.1%	18	7.9%	26	11.5%	28	14.9%
Total	227		227		226		188	

The second column of Table 6:4 presents information from local court records on the charges contained on the arrest or incident report or the sworn complaint that gave rise to the transfer according to CIS or the court record. Because some episodes involve multiple incidents (e.g., burglarizing three separate cars at three different locations), more than one report or complaint could have been reviewed. An incident was defined as "a discrete event or transaction which may involve one or more counts." The numbers and percentages in the second column reflect the most serious charge found in those initiating reports/complaints for each transfer case. The percentages do not vary markedly from those for the CIS/Initial Offense category. The most

frequent serious offenses are property felonies (44%, an increase of less than two percentage points over the CIS charge). Nearly a third of the most serious charges are violent personal felonies (31%, an increase of less than one percentage point). The percentage of other felonies as the most serious charge stays about the same (16% for most serious vs. 17% for CIS). Only the percentage involving misdemeanors as the most serious charge goes down (from 10% of CIS charges to 8% of the most serious charges). For those cases that are really transferred, CIS data capture seriousness of the offense quite well.

The description of transfer cases in the four sample circuits that emerges from the initial incident reports is not one of violent offenders. Most transfers are property felons. Substantial numbers of transfers are accused of nonviolent and nonproperty felonies and misdemeanors. Some of these other felonies are not thought of as being serious crimes. For example, the number of drug felony charges in the other felony category is surprisingly low (n=26), and 14 of those are for possession (rather than possession with intent to sell, sales, delivery, or manufacturing). In this category at least, it does not appear that the transfers are the "worst of the worst."

The numbers and percentages presented in the third column of Table 6:4 reiterate the concern. Virtually all the cases initiated are prosecuted, but the percentage of cases being prosecuted for violent personal felonies drops to 24% - less than a quarter of the transfer cases. The percentage of transfers prosecuted on property felonies goes up to 47% and the percent prosecuted on misdemeanors increases to 11%. The percentage of those prosecuted for other felonies remains much the same at 17%.

The percentages at conviction, presented in the fourth column of Table 6:4, are also telling. Following the original CIS charge, more than 80% of the transfer cases (n=188) have resulted in convictions by the time the data were collected (which was at least a year and a half

after the incident took place). The rate of conviction varied among jurisdictions. The percentage of transfers convicted of violent personal felonies goes down to 19%. The percentages for the other three offense categories increase: property felonies to 48%, other felonies to 18%, and misdemeanors to nearly 15%. The description that emerges at conviction suggests the offenders may be less serious than their charges at referral suggested. On the other hand, the conviction description may reflect bargaining processes that ultimately make offenders look less serious. Alternatively, the original charges may have been exaggerated, perhaps due to incomplete information or perhaps to provide leverage for bargaining. With these two possibilities in mind, note that the impression of the field researchers was that over-charging often took place. For example, one juvenile who stole an electrician's truck was charged with armed burglary because there was a screw driver in the cab of the truck. In another case, a 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 its driver, another student who the offender thought had cut him off. No serious injury resulted, and the conviction (on the original charge) brought relatively minor juvenile sanctions even though the offender had since reached 18 years of age.

Transfers Convicted

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

The sentencing decisions suggest that many transfers are not especially serious offenders since they did not receive severe sentences. The most frequent sentence given to transfers upon conviction in the clerk records is state supervised release, or probation (n=73). Another 10 convicts got county supervised release. The county clerk records indicate that 42 transfers received prison or a split sentence involving prison, 24 received jail or a split sentence at the county level, and 22 transfers are listed as being sentenced back to juvenile sanctions. The records indicate that the remaining cases received fines or other sanctions.

A variety of other information collected from the local county clerk records in four circuits helps address the question of who is being transferred and may shed light on whether the transfers are serious or chronic offenders. They include a number of indicators generally associated with more serious crime: 1) weapon use, 2) victim injury, 3) property damage/loss, 4) gang activity, 5) multiple counts/incidents, and 6) prior record. A seventh factor, evidence of extra-legal problems, may either reinforce or mitigate the seriousness with which a case is viewed. These problems include such individual difficulties as dropping out of school, learning disabilities, mental problems, and being the victim of abuse. These indicators of seriousness are discussed below.

Weapon Use

While the majority of the transfers do not involve use of a weapon, more than a third do and half of these involve a firearm of some kind. For nearly two-thirds (65%) of the transfer cases, the records have no indication of a weapon being involved in the incident(s). When a weapon is indicated in the records, it is about equally likely to be a gun or firearm (18% of cases

involved a gun) and some other kind of weapon (17%). Clearly, many of the transfers do not result because of weapon use.

Victim Injury

In nearly 80% of the transfer cases, there was no indication of victim injury--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 others who reported an injury lacked documentation of treatment or the presence of an injury. Victim injury does not appear to be an important factor in explaining why most of the cases are transferred.

Property Damage/Loss

Records for a majority of the cases (n=128) indicate some kind of property loss or damage (56%). The bulk of these (n=70) indicate property loss only. Most often the amount of damage or loss is not recorded. In the 72 transfer cases where it is, the recorded amounts are most often less than \$400 (n=37), but in 20 cases property loss was estimated at more than \$1,000. The records indicate that most of the transfer cases do not involve large property losses or extensive property damage.

Gang Activity

For all the recent comment and concern about youth gangs, the records of the transfer cases show very little evidence of gang-related crime. Only 10 of the 227 transfer cases have an indication of gang activity in their case records. Most of the time, however, transfers have co-defendants. For nearly 60% of the cases (n=133) at least one co-defendant is indicated. For the 98

cases where the age of the co-defendant is known, the co-defendants are usually under 18 years of age (n=61).

Multiple Counts/Incidents

Transfers may be involved in multi-count incidents or multiple incidents that give rise to numerous charges rather than single events giving rise to a single count. The way CIS organizes records around each referral may mask the seriousness of the offender's total crime involvement. Court records data were used to examine various issues about counts and charges and incidents.

The records indicate whether the primary offense charge grows out of a single incident or whether multiple incidents are known to prosecutors that may be consolidated at different stages of the process. Multiple incidents are not always formally combined for prosecution, and they may be combined at various stages. Sometimes charges from one incident would remain in the juvenile court and those from another would be brought over to criminal court but the sanctions would be consolidated. More than 72% of the transfer cases stem from a single incident according to the clerks of court data. The incidents usually involve only one (47% of the cases) or two (35% of the cases) arrest charges. Forty-five cases (20%) involve multiple incidents which were known to the officers at the time of the arrest. In 18 transfer cases (7.9%), prosecutors learned, after the original arrest, of additional incidents that had also taken place.

Because of additional information (*e.g.*, learning of additional incidents) prior to formal prosecution, the number of charges increases at the prosecution phase. For 63 transfer cases (28%), the records contain an indication of events after the initial arrest that are relevant to prosecution (failure to appear, new arrest, escape). Most of the time (n=38), the intervening event is indicated as an arrest for a new incident. Charges stemming from these intervening events are

consolidated with the original case only part of the time. About a fifth (21%) of the transfer cases also have additional counts from separate incidents consolidated on the information. It is not surprising, therefore, that the average number of charges goes up to more than three counts at prosecution.

Prior Record-Violent Offenses

The transfer cases have, on average, nearly 11 previous referral charges listed in the CIS data. Those charges are grouped across an average of a little less than seven prior cases. Those cases usually do not involve a violent offense. The mean number of violent prior cases was less than 1 for the transfers.

Information collected from clerk of court files suggests that the median number of prior referrals is 5. The court clerks, however, do not systematically collect prior record information, and there was no indication of priors for 68 transfer cases in the court files.

Extra-Legal Problems

The records also give indications whether the transfers suffered from a variety of other problems, including: dropping out of school, functioning below grade level, learning disability, mental/emotional problems, physical disabilities, drug use/addiction, alcohol abuse/addiction, and physical or sexual abuse. While these indicators do not relate directly to the offenses, they may influence decision-making and they provide additional detail about who the transfers are. The records of 62% of the transfer cases include no indications of these larger problems. Of the 86 transfers (38%) who have such indications, usually there is only one or two such problems indicated (n=57).

Some kinds of problems have a greater tendency to mitigate the seriousness of the crime or the attribution of responsibility; other kinds of problems tend to aggravate its seriousness. Some of the indicators of mitigating personal circumstances include learning disabilities, physical disabilities, diagnosed mental or emotional problems, and having been a victim of either physical or sexual abuse. Some indicators of aggravating extra-legal problems include dropping out of school, functioning below grade level, and histories of alcohol or drug use/abuse..

Only 16% (n=36) of all the transfers have indications of mitigating extra-legal problems, and 30% (n=67) have aggravating ones. Forty nine (21%) of the transfers have more aggravating indicators than mitigating ones, and 18 (8%) have a balance of more mitigating than aggravating extra-legal problems.

What Is Learned about the Transfer Process?

Table 6:4 presented earlier in this section provides important information about the transfer process in the four sample circuits. First, less than half of those with initial charges involving violent personal offenses are actually convicted of violent personal offenses at the time of data collection — at least a year and a half after the crimes occurred. On the other hand, more transfer cases are convicted on a primary misdemeanor offense than have initial primary charges of misdemeanors. The percentage actually convicted of property felonies also increases over the initial primary charges, while the percentage of other felonies stays fairly constant through conviction.

Second, clerk of court records on incidents and counts show that most transfer decisions are not being driven by multiple incidents, lengthy lists of charges, or consolidation of charges. Most are not affected by events that occur subsequent to arrest (like arrests for new crimes or

failure to appear). Most transfers involve a single incident and no more than two arrest charges. In only 20% of the cases are additional charges from separate incidents consolidated with the original case.

Third, nearly all the initial charges are translated into formal charges for prosecution (226 of 227 cases). This suggests that the cases have been carefully screened prior to making the transfer decision. Only about 80% (n=188) of the transfer cases, however, reached conviction on the originating CIS incident. Another 12 cases resulted in a conviction because of a consolidated charge. Thus, 88% of the transfer cases have been convicted in some way. Overall, nearly 30% (n=66) of the transfer cases have at least one count dropped, and 12% (n=27) have at least one count reduced. It appears that charge concessions are not often given during plea bargaining for these transfer cases.

Sentencing of this sample of transfer cases was not particularly harsh. About 1 in 10 of all transfers (and 1 in 9 of all convicted transfers) are sentenced back to the juvenile system for sanctions. The plurality of convicted transfers (n=83) receive only some form of supervised release (43%), and only a third (n=66) receive an adult sentence that includes incarceration (24 of which are to jail).

Comparing Transfers with Their Matches

An Aggregate Comparison

The aggregate analysis of transfers and their CIS matches focuses on 554 cases--the 227 cases correctly identified (by CIS) as transfers and their respective 227 juvenile justice system matches with which they are paired. Local records data in the four sample circuits were found on all the cases. The analysis has two purposes. One is to assess the relative seriousness of the

transfer cases in comparison with juvenile justice matches to learn more about who is being transferred. The other purpose is to investigate whether the CIS-based matching procedure yields sufficiently equivalent comparison groups to support an evaluation of recidivism between transfers and juvenile match cases. Even if the CIS matching proves to be imprecise, it can be learned whether there is an overlap between transfer cases and those retained in the juvenile justice system (and whether some other means of matching is likely to be more accurate).

Table 6:5 contrasts the offense categories at various stages of processing for transfers and their juvenile justice matches. The first column presents the raw counts and percentages of the 227 CIS-identified transfers and the closest corresponding charge in the local records to the original CIS charge. There were some instances in which a CIS charge was inaccurate based on court records. For example, a personal felony in CIS might have been a personal misdemeanor in the local records. If they differed, the court record was used as an indication of the accurate initial charge. The second column compares transfers and non-transfers on the most serious charge listed in arrest/incident reports or complaints associated with the event that gave rise to the CIS referral. The third column contrasts the two groups on the primary charge as it has been presented for prosecution, and the final column makes the contrast on these offenses between transfers and juvenile matches at conviction. The number of cases for each group at each stage are presented at the bottom of the table.

Table 6:5
Primary Offense Categories for Transfers and Matches
at Various Stages of Case Processing
(counts and percentages)

	CIS Offense/ Initial Offense		Most Serious Offense in Incident		Prosecution Offense		Conviction Offense	
	N	%	N	%	N	%	N	%
<i>Violent Personal Felonies</i>								
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%
<i>Property Felonies</i>								
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%
<i>Other Felonies</i>								
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%
<i>Misdemeanors</i>								
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	

The totals at the bottom of the table are themselves telling. The matches in the juvenile justice system are less likely to proceed to each successive stage of processing. Whereas only one transfer case does not have the initial charge brought forward for prosecution in the court records, 41 match cases are diverted prior to formal charging by the prosecutor. Thirty nine of the 227 transfer cases have not proceeded to conviction on the initial charge, but 75 of the 227 juvenile matches have not gone to conviction.

Cases where the primary initial charges begin as violent personal felonies are most likely to be transformed (either dropped or reduced to other offenses) prior to conviction for both transfers to criminal court and juvenile justice matches. See the first pair of rows of Table 6:5. The number of cases involving property felonies is fairly constant for transfers, but it drops from 91 to 62 for the juvenile justice matches. See the second pair of rows in Table 6:5. The number of cases involving other felonies declines slightly for criminal court transfers (from 38 to 33) and more markedly for juvenile justice matches (from 41 to 26). See the third pair of rows. The cases involving misdemeanors as the primary charge increase for the transfers (from 23 to 28 cases) and for juvenile justice matches (from 32 to 41). See the fourth pair of rows in the table. The biggest differences between transfers and juvenile justice matches in regard to charges appears to be with property felonies (where transfers are more likely to have charges proceed to conviction than are juvenile justice matches).

More transfers (n=188) than juvenile justice matches (n=152) are convicted on charges stemming from the CIS incident. Of those convicted on initial charges, transfers (n=73) and juvenile justice matches (n=72) most often receive probation-like sentences. The number and percentage of juvenile cases (n=42 or 28% of those convicted) that receive any residential commitment is less than that of transfers who receive 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 above to detail who is transferred. They include: 1) weapon use, 2) victim injury, 3) property damage/loss, 4) gang activity, 5) multiple counts/incidents, 6) prior record, and 7) extra-legal problems.

Weapon Use

Transfers cases are more likely to involve weapon use than are the juvenile justice matches (80 of the 227 transfers vs. 43 of the 227 matches). This difference is largely due to the greater likelihood for the transfer cases to involve handguns (35 for the transfers vs. 9 for the matches). Transfers are also more likely to use weapons other than guns, knives, or blunt objects (like tire irons or clubs) than are their juvenile justice matches (16 for the transfers vs. 4 for the matches). On this dimension, the transfers are more serious offenders as a group than their matches. Nearly twice as many transfers (n=80 vs. n=43) used weapons during their offenses.

Victim Injury

Transfer cases are somewhat more likely to involve victim injury. Physical injury of some level is reported in 45 of the 227 transfer cases and 32 of the corresponding juvenile justice matches. The biggest difference between the transfers and matches occurs at the highest degree of injury. Eighteen of the victims injured by transfers are reported to have been taken for medical treatment but only 5 of the victims of the matches received medical treatment. For all other injury categories, there is little difference. The most that can be said on this dimension is that a fairly small number of the transfer cases are more serious because they involve injuries requiring medical treatment. While some juvenile justice cases involving victim injury also required medical treatment, this number was very small. Clearly, it is possible to find comparable match cases in the juvenile justice system for these transfers.

Property Damage/Loss

Indications of property damage or loss occur in more transfer cases than among the matches (128 of the 227 transfers vs. 105 of the 227 matches). The difference is largely due to

cases in which only property damage occurs. Thirty of the transfer cases are recorded as having only property damage and only 12 of the matches have that indication. On this dimension, the transfer cases show a small tendency to be more serious. Again, however, there are numerous juvenile justice cases that involve property damage and/or loss; sufficient numbers equivalent to transfer cases to indicate a matching strategy is feasible. Furthermore there is little difference between transfers and matches on the extent of the damage or loss. The dollar amount is indicated for 72 of the transfer cases and 76 of the juvenile justice matches, and the respective numbers at different dollar levels do not vary markedly.

Gang Activity/Co-defendants

Both transfer cases (n=10) and juvenile justice matches (n=7) rarely have indications of gang activity. The transfer cases are a little more likely, however, to involve co-defendants (133 of the transfer cases have co-defendants but 103 of the juvenile justice matches do). Transfer cases are both somewhat more likely to have co-defendants who are under 18 years of age (61 transfer cases vs. 48 matches) and to have co-defendants who are 18 or older (38 transfer cases vs. 24 matches).

Multiple Counts/Incidents

Transfer cases are less likely than their juvenile matches to stem from a single incident (164 transfer cases vs. 194 matches). However, transfer cases are more likely to arise from multiple incidents of which officials are aware prior to the prosecutor filing formal charges (45 transfer cases vs. 26 match cases) and from multiple incidents, some of which are discovered after formal charges are filed by the prosecutor (18 transfer cases vs. 7 matches). Overall, the

transfer cases tend to be somewhat more complex than are their matches. Many of the matches, however, are comparable to transfer cases on this dimension.

Another difference between transfers and their juvenile justice matches emerges during case processing. More than twice as many transfer cases (n=63) experience some intervening complication after formal charging by the prosecutor than is true of matches (n=30). This difference is almost entirely due to more transfers being arrested for new crimes that occur after processing begins. Thirty-eight transfer cases have a new arrest indicated. Only 10 juvenile justice matches indicate a new arrest. This is one way in which some of the transfer cases are clearly more serious than their juvenile matches. This differential is relevant in a small percentages of cases.

The median number of arrest counts for transfer cases (two) is somewhat higher than that for matches (one). The median number of counts on the prosecutor's information is two, the same for both groups. The median number of counts at conviction is two for transfer cases but one for the matches.

Although transfers are somewhat more likely to have more arrest charges and conviction charges, that does not mean they benefit less from dropped or reduced charges. At least when formal charge reductions or count dismissals are examined, the transfers benefit more. Nearly 30% (n=66) of transfer cases contain indications of at least one count being dropped. This was true in less than 20% (n=42) of matches. Twelve percent of the transfer cases (n=27) have at least one count reduced. Only seven percent (n=17) of the matches have at least one count reduced. Recall, however, that more of the juvenile justice match cases have not proceeded to adjudication. Some of their counts seem to have been handled more informally. It appears that

juvenile charges can remain pending for lengthy periods, especially if the juvenile is already under Department of Juvenile Justice supervision. This varies among jurisdictions.

Prior Record

The prior record of the transfers and matches is examined using both CIS data and local court records. The local clerk of court files contain some indications of prior record found in a variety of documents (*e.g.*, risk assessments for juvenile detention, adult sentencing guideline worksheets, presentence investigation reports). Such information, however, is not systematically recorded, so the lack of an indication does not necessarily mean that a case has no prior referrals. Indications of a prior record are almost always premised on the CIS data, including any errors the CIS data contain or problems of interpretation they present (for example how to group multiple referrals to make a case). An equal number of court files contain the prior record information (159 transfer cases and 160 match cases), and the median number of prior referrals is 5 for transfers and 4 for matches, both higher than the cut-offs used for matching. Recall the matching procedure truncated prior record into categories of none, one or two prior referrals, and three or more prior referrals. The field experience suggests that this may have curtailed differences, especially for the "worst of the worst" who have very lengthy prior records or may have had prior violence in that record. The matching also left out age of onset entirely. This is will be revisited.

When all these comparison variables are re-examined in CIS, the differences that emerge are not great. Transfers have higher mean levels of prior cases (mean of 6.7) than do matches (mean of 5.0), and the number of total counts across those cases is clearly higher for transfers (mean of 10.6) than for matches (mean of 7.5). While prior violence is relatively rare, transfers are slightly more likely to have prior cases for violence (mean of 0.6) than are the matches (mean

of 0.5). The age of the first referral is not very different. The average age of onset for transfers is 13.8 and for the matches is 14.2.

Extra-legal Problems

Transfer cases are somewhat less likely to have extra-legal problems like dropping out of school, functioning below grade level, learning disability, mental/emotional problems, physical disabilities, drug use/addiction, alcohol abuse/addiction, and physical or sexual abuse. For transfers, 86 cases have at least one kind of extra-legal problem indicated in their records. For the juvenile justice matches, that number is 116.

The juvenile matches in this research are more likely to have indications of mitigating as well as aggravating extra-legal problems.¹¹¹ More than a quarter of the matches (n=61) have some mitigating indication and more than 35% have aggravating indications (n=85). For the transfers only 16% have mitigating (n=36) and 30% have aggravating (n=67) extra-legal problems. When the balance between mitigating and aggravating personal problems is calculated, little changes. Sixty six matches (29%), but only 49 transfers (22%) have more aggravating indicators than mitigating ones. Twenty two matches (10%) and 18 transfers (8%) have a balance of more mitigating problems. These differences may be explainable by keeping in mind that extra-legal problems are more of an issue in the juvenile system because of its traditional treatment orientation.

An Analysis of the Matched Pairs Across Variables

On many dimensions, the transfer cases seem to be somewhat "worse" than their juvenile justice matches, but these differences are not pronounced. Perhaps many small differences combine to create complex cases that are quite different. An analysis that examines differences

across all the variables is warranted. That analysis also needs to examine the pairs themselves rather than the two groups. To this point the comparison of transfers and matches has been pursued in the aggregate. The respective pairs have not been examined to see how often one member of the pair is different from the other.

The cumulative nature of differences across 12 variables used to contrast the transfers and matches in the previous subsection is captured in an index. Indications on each of those 12 variables about what would constitute a less serious case are used to construct the index. Indications of that which is less serious are fairly straightforward. The following variables are used: 1) A case that has no indication of prior referrals is less serious than one that has priors indicated, even if there is just one prior referral. 2) Cases that have only a single arrest charge are less serious than those that have more than one arrest charge. 3) Cases that arise out of a single incident are less serious than those that involve multiple incidents. 4) Cases in which no additional charges are consolidated with the original case during prosecution are less serious than those in which consolidation occurs. 5) Cases that have no indication of intervening legal problems after being arrested on the primary charge (like new arrests, failure to appear at court, or escapes from supervision) are less serious than cases that have that indication. 6) Cases that have no indication of gang involvement are less serious than cases that do. 7) Cases that have no co-defendants or accomplices are less serious than cases that do. 8) Cases with no indication of property damage or loss are less serious than cases that involve property damage or loss. 9) A case in which no one is hurt is less serious than a case in which there is an injured victim. 10) Cases having no indication of weapons are less serious than cases where weapons are involved. 11) Cases involving misdemeanors and lesser felonies are less serious than cases involving violent personal felonies or property felonies. 12) A case in which the defendant has more

mitigating than aggravating personal problems is less serious than a case in which the defendant has more aggravating extra-legal problems.

The more indicators found for a case across the 12 variables, the less serious it would be. The more serious cases would have few indicators. The median score across all cases on the index is 3. The mean is 2.92. Because the standard deviation is 1.15, a pair of cases is considered to be different if their scores on the index vary by more than one integer (or about one standard deviation). The scores also indicate how often in the pairs the transfer case is less serious than the match case or vice versa.

The results suggest that the transfers and their matches are not all that different when the respective pairs of cases are examined across all the variables captured by the index. In more than 78% of the pairs ($n=178$), the cases are about the same (*i.e.*, the index scores are within a standard deviation of each other). In 32 cases (14%) the match case is less severe, but in 17 cases (7%) the transfer case is less severe. The small differences observed on the individual variables do not accumulate to make more marked differences overall.

Evidently differences on individual variables tend to counterbalance each other. These results establish that cases of similar severity can be found in both the juvenile and adult systems, and they suggest that the matching using CIS may have worked relatively well after all. The local records data yield case descriptions in matched pairs that are similar even as the local records detail raise questions about how precise the CIS matching was on particular criteria. Other criminal justice applications make use of general descriptions. For example, risk assessment instruments have established the utility of descriptions for prediction. Given the overlap between the transfer cases and the juvenile justice ones in this study, the development of an offender severity scale (a risk assessment instrument) to select transfer and match cases for a recidivism

study may be better than is precision matching that relies on CIS data given its limitations. The following discussion is offered in anticipation of work on the continuation grant that began June 1, 1998.

A statistical technique to describe the cases needs to be explored. The index used above may not be the best way to proceed because it focuses on indicators of the less serious cases. It probably identifies less serious cases better than it distinguishes the "worst of the worst" from other serious offenders. The index's mean and median lie at 3 indicators of less serious (out of a possible 12), so most of the cases are mostly serious. Establishing cut-off points between what is serious and what is more serious in cases will be difficult. For example, 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 are there when trying to distinguish the more serious cases that have various amounts or degrees of damage recorded? The reason the index used here focuses on less serious indications is that they pose fewer methodological problems.

Another alternative to either precision-matching or offender severity (risk assessment) descriptions is "clinical judgment." Experts can make qualitative judgments about the cases. The three lead researchers in this study have begun to explore this possibility. The seriousness of the cases in 40 matched pairs has been analyzed to assess how similar or dissimilar they are. The 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 evaluated as more serious (20%) and 2 pairs result in conflicting judgments (5%). A qualitative clinical judgment may give a better global "read" of the case because it does not

attend to a small number of predetermined matching criteria or risk factors. For prediction purposes, however, clinical judgments are generally less accurate across cases than are statistical risk assessment instruments (see Gottfredson). The qualitative judgments, therefore, may have limited utility in recidivism studies.

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ENDNOTES

¹ Sections 26.01 and 26.021, FLA. STAT. (1997).

² Art. V, § 5, FLA. CONST. (1968).

³ Art. V, § 6, FLA. CONST. (1968).

⁴ See, Art. V, §§ 5-14, FLA. CONST. (1968), and chapters 26 and 34, FLA. STAT. (1997).

⁵ Art. V, §§ 17 & 18, FLA. CONST. (1968).

⁶ Chapter 27, FLA. STAT. (1997).

⁷ Section 43.30, FLA. STAT. (1997).

⁸ Section 985.05(2), FLA. STAT. (1997).

⁹ Section 26.012, FLA. STAT. (1997).

¹⁰ Section 985.201(1), FLA. STAT. (1997).

¹¹ Section 985.201, FLA. STAT. (1997). *Also see*, 18 U.S.C. § 5001.

¹² Art. V, §§ 6 & 20, FLA. CONST. (1968), and section 34.01, FLA. STAT. (1997).

¹³ Section 316.635, FLA. STAT. (1997).

¹⁴ Art X, § 10, FLA. CONST. (1968), and section 775.08, FLA. STAT. (1997).

¹⁵ Section 775.08, FLA. STAT. (1997).

¹⁶ Section 985.03(6), FLA. STAT. (1997).

¹⁷ Art. I, § 15, Fla. Const. (1968).

¹⁸ Section 985.218, FLA. STAT. (1997).

¹⁹ Art. I, § 15, Fla. Const. (1968).

²⁰ Report of the Ad Hoc Committee on Children and Youth of the Florida House of Representatives Committee on Health and Rehabilitative Services, February 8, 1978. During the course of the 18-month study the name was changed to the Ad Hoc Committee on Juvenile Justice, but the two names were used interchangeably on reports, meeting notices, and in other official documents. See generally, the Ad Hoc Committee on Children and Youth of the Florida House of Representatives Committee on Health and Rehabilitative Services, Florida State Archives, Department of State, Series 19, Carton 371.

²⁰ *Id.*

²¹ Section 39.02(6), FLA. STAT. (1955)

²² Section 39.02(6)(c), FLA. STAT. (1967).

²³ Section 39.02(6)(c), FLA. STAT. (1969).

²⁴ Section 39.02(5)(c), FLA. STAT. (1973).

²⁵ Section 39.02(5)(c), FLA. STAT. (Supp. 1978).

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- ²⁶ Art I, § 15, Fla. Const. (1968).
- ²⁷ Section 39.02(6), FLA. STAT. (1951).
- ²⁸ Section 39.02(6)(b), FLA. STAT. (1967).
- ²⁹ See Section 985.226, FLA. STAT. (1997).
- ³⁰ Sections 9 & 10, Ch. 6216, Laws of Fla. (1911).
- ³¹ Sections 39.02, FLA. STAT. (1951).
- ³² *Id.*
- ³³ Section 39.02(6)(a), FLA. STAT. (1967).
- ³⁴ Section 39.02(1)(a), FLA. STAT. (1967).
- ³⁵ Section 39.09(2), FLA. STAT. (1973).
- ³⁶ See, Journal of the Florida House of Representatives, April 24, 1975, page 294, re consideration of Committee Substitute for Senate Bill 165.
- ³⁷ See, Journal of the Florida Senate, May 26, 1975, page 380, at 388-89, re conference Committee Report on Committee Substitute for Senate Bill 165.
- ³⁸ Section 39.09(2), FLA. STAT. (1975).
- ³⁹ *Supra*, note 20, at page 59.
- ⁴⁰ Sections 39.02, FLA. STAT. (1951).
- ⁴¹ Section 39.02(6)(a), FLA. STAT. (1967).
- ⁴² Section 39.09(2)(c), FLA. STAT. (1973).
- ⁴³ Section 39.09(2)(d), FLA. STAT. (1973).
- ⁴⁴ Section 39.09(2)(e) and (f), FLA. STAT. (1973).
- ⁴⁵ *Kent v. United States*, 383 U.S. 541, 86 S.Ct. 1045, 16 L.Ed.2d 84 (1966).
- ⁴⁶ Section 39.09(2)(c) & (d), FLA. STAT. (1975).
- ⁴⁷ *In Re Gault*, 387 U.S. 1.
- ⁴⁸ Section 39.09(2)(c), FLA. STAT. (Supp. 1978).
- ⁴⁹ Interim Study Report of the Florida House of Representatives Committee on Health and Rehabilitative Services Ad Hoc Committee on Juvenile Justice, Appendix A, page 1, Florida State Archives, Department of State, Series 19, Carton 371.
- ⁵⁰ House Bill 1300, enacted by the Fourth Legislature of Florida under the Florida Constitution, 1968 Revision, Regular Session, 1976.
- ⁵¹ Veto Message from Florida Governor Reubin Askew to Florida Secretary of State Bruce Smathers, dated June 23, 1976, page 4.
- ⁵² Art. I, § 15, FLA. CONST. (1968).
- ⁵³ Section 39.09(2)(d)1.- 8., FLA. STAT. (1975).

⁵⁴ *Supra*, note 51.

⁵⁵ The agenda for these hearings included representatives of the judiciary, prosecuting attorneys, public defenders, law enforcement, state and local social services agencies, school officials, and also afforded an opportunity for comment from the public. Agenda of the Ad Hoc Committee on Juvenile Justice of the Florida House of Representatives Committee on Health and Rehabilitative Services, Florida State Archives, Department of State, Series 19, Carton 371.

⁵⁶ Report of the Ad Hoc Committee on Children and Youth of the Florida House of Representatives Committee on Health and Rehabilitative Services, February 8, 1978. Although the study was technically under the jurisdiction of the House of Representatives, members of the Florida Senate contributed to its work.

⁵⁷ The survey was mailed to 1,100 individuals, and resulted in 652 valid responses, a return rate of 59%. The categories of respondents included law enforcement (14%), the legal profession (21%), public and private service providers (32%), elected officials (6%), interest groups (7%), youth serving professional organizations (11%), and private citizens (4%).

⁵⁸ *Id.*, at page 87. Also see *Analysis - Juvenile Justice Questionnaire* in the working papers of the Ad Hoc Committee on Children and Youth of the Florida House of Representatives Committee on Health and Rehabilitative Services, Florida State Archives, Department of State, Series 19, Carton 371.

⁵⁹ *Supra*, note 55, at page 59.

⁶⁰ Recommendations Regarding Potential Juvenile Law Legislation Adopted By the Florida Conference of Circuit Judges' Conference on October 11, 1977, in the working papers of the Ad Hoc Committee on Children and Youth of the Florida House of Representatives Committee on Health and Rehabilitative Services, Florida State Archives, Department of State, Series 19, Carton 371.

⁶¹ Statement of the Juvenile Justice and Delinquency Prevention Task Force on Draft Senate Bill 119, Florida State Archives, Department of State, Series 18, Carton 651, at pages 4 and 5.

⁶² Senate Bill 119, Regular Session, 1978, at page 25.

⁶³ Committee Substitute for SB 119, Regular Session, 1978, at page 28.

⁶⁴ House Bill 1956, Regular Session, 1978, at page 11.

⁶⁵ See, Journal of the Florida Senate, June 2, 1978, page 764, at 765, re conference Committee Report on Committee Substitute for Senate Bill 119.

⁶⁶ Section 7, Ch. 78-414, Laws of Fla. (1978); Section 39.04(2)(e)4., FLA. STAT. (Supp. 1978).

⁶⁷ *Staff Report: Orlando Conference on Juvenile Justice*, in the working papers of the Ad Hoc Committee on Children and Youth of the Florida House of Representatives Committee on Health and Rehabilitative Services, Florida State Archives, Department of State, Series 19, Carton 371.

⁶⁸ *Id.*, page 7.

⁶⁹ *Revision of CH. 39 - Explanation of Substantive Changes*, HB 1956, in the working papers of the Ad Hoc Committee on Children and Youth of the Florida House of Representatives Committee on Health and Rehabilitative Services, Florida State Archives, Department of State, Series 19, Carton 370, at page 2.

⁷⁰ *Id.*

⁷¹ Staff Analysis and Economic Statement on Committee Substitute for Committee Substitute for Senate Bill 119, March 7, 1978 (Updated), Florida State Archives, Department of State, Series 18, Carton 651, at page 4.

⁷² Section 39.04(2)(e)4., FLA. STAT. (1981).

⁷³ Section 39.047(4)(e)5., FLA. STAT. (Supp. 1990).

⁷⁴ Section 39.09(2)(a), FLA. STAT. (Supp. 1978).

⁷⁵ Section 985.227(2)(c), FLA. STAT. (1997)

⁷⁶ See Section IV, page 4-10, *supra*.

⁷⁷ Section 39.022(5)(e), FLA. STAT. (Supp. 1990)

⁷⁸ Section 39.052(3)(a)5.e., FLA. STAT. (Supp. 1994)

⁷⁹ Section 39.02(5)(d), (Supp 1978).

⁸⁰ Section 39.022(5)(c)&(d), FLA. STAT. (Supp. 1990).

⁸¹ Fla. Laws 1905, c. 5388, sections 1 and 2.

⁸² *Id.*, section 3.

⁸³ Sections 8 & 9, Ch. 6216, Laws of Florida (1911)

⁸⁴ See, Section 415.21, FLA. STAT. (1949), and Section 959.115, FLA. STAT. (1970).

⁸⁵ Section 16, Chapter 78-414, Laws of Florida, and Section 39.111, FLA. STAT. Supp. 1978).

⁸⁶ Section 39.111(6), FLA. STAT. (Supp. 1978).

⁸⁷ Section 39.111(6)(d), FLA. STAT. (Supp. 1978)

⁸⁸ Section 39.111(6)(j), FLA. STAT. (Supp. 1978)

⁸⁹ Section 39.09(3)(k), FLA. STAT. (Supp. 1978).

⁹⁰ See, section 39.059, FLA. STAT. (Supp 1990), and section 985.233, FLA. STAT. (1997).

⁹¹ CIS classifies offenses into 45 categories. Because none of these categories corresponds exactly to the statutory offenses targeted by some of the 1994 transfer provisions, we are unable to gauge the specific impact of statutory changes.

⁹² Large increases were observed in the misdemeanor assault and retail theft categories. Increases in the former were associated with a change in the domestic violence law, which permitted the detention of youth referred for misdemeanor domestic violence. It is unclear why substantial increases occurred in referrals for retail theft (5,330 additional cases in 1995).

⁹³ For example, the uppermost left-hand cell in the table for 1993 shows that eight percent of youth referred for violent felonies who had no priors were transferred. Looking across, 54 percent of youth referred for violent felonies and who had ten or more priors were transferred. Looking down to the misdemeanor row, 21 percent of those referred for misdemeanors who had 10 or more priors were transferred.

Reporting the cells in this way allows the reader to examine the main effects of each variable (and, in the marginals compare their separate effects and their joint effects).

It is interesting, for example, that for children with no priors, the class of offense with which they are charged makes relatively little difference. They are very unlikely to be transferred (0 percent of those referred for "other" offenses, 8 percent of those referred for violent felonies). Among those with long records, however, the nature of the referral offense matters tremendously. Among those with 10 or more priors, the percentage transferred in 1993 ranges from 5% to 54%, depending on the nature of the offense for which they are referred.

Looking across the 1993 and 1995 tables, it can be seen that there has been hardly any change over time. Nearly the same proportions within each offense/prior record combination are transferred in 1995 as in 1993. There are some minor shifts, but the largest one involves only a 7 percent change [i.e., violent felons with lengthy priors are somewhat less likely to be transferred in 1995 and 1993].

⁹⁴ It is important to note that the OBTS does not cover all counties in Florida (six are omitted). This information is important when numbers reported for OBTS are compared to OSCA monthly summaries and to CIS, both of which cover all counties. Further, it is important to note that OBTS data contain information on all cases involving offenders under 18 years who are processed in criminal court, regardless of whether they are first-time transfers or repeat offenders. Some of these offenders are processed for many cases before they reach the age of 18 years.

⁹⁵ The quoted material is from the codebook for the OBTS provided by the Office of the State Court Administrator.

⁹⁶ When the 1993 OBTS was first obtained in 1994, the following counties were excluded because they were not reporting to OSCA: Duval, Liberty, Palm Beach, Putnam, Seminole, and Suwannee. These counties were still not reporting as of 1998. By 1998, when the 1993 data was obtained a second time, seven additional counties (Broward, Escambia, Flagler, Monroe, Osceola, Pinellas and Walton) were not updating their records and consequently these counties were omitted from the OBTS data analysis. The impact on the number breaks down as follows: by 1998, 9,793 counts (or 43% of the 22,774 OBTS counts originally included in the 1993 data obtained in 1994) had been deleted from the data set. About half of these (4,527 counts or 46% of the 9,793 deleted counts) were lost as a result of additional counties not updating records with OSCA. In the end then, the 1993/1995 comparison presented here covers 53 of Florida's 67 counties. As is often the case with official data, some variation in reporting agencies or counties does not substantially affect percentages in the aggregate such as used here, especially when the numbers are very large and most of the aggregate is represented in the reporting counties.

⁹⁷ All missing cases in this and subsequent tables are based on total number of cases reported in Tables 3:2a and 3:2b. ⁹⁸ The research protocol involved contacting each subject, explaining the nature of the study, and obtaining informed consent for a face-to-face interview. For subjects in the transfer group who remained incarcerated in adult facilities, this procedure worked very well. Forty subjects were contacted in eight correctional institutions, and all agreed to be interviewed. For those transfers who were on probation/parole or who had been released from supervision, numerous logistical problems were encountered. Subjects who were on probation or parole were spread broadly around the four-circuit area. Making contact with them required coordination with many different probation offices and officers. Even when the coordination was

accomplished, we had little success in obtaining consent to be interviewed. For example, in Orange County, where large numbers of transferred probationers were identified by the state Department of Corrections, the practical problems of the original design were clear. In this county, 49 transfers who were on probation were identified. These 49 offenders were assigned to probation officers in 11 different offices. Within each office, contact with the probationer had to be made through an individual probation officer to whom each subject was assigned. After considerable effort on our part and on the part of the probation staff, we were successful in interviewing only three of the 49 subjects. The others either declined to be interviewed through their probation officers, could not be reached by phone, had already been released from probation with no new address, or were at large with outstanding arrest warrants.

Many more difficulties were encountered in efforts to contact youth who were processed and retained in the juvenile system. Some of the youth in this group had subsequently been charged and convicted as adults, so they no longer fit the interview criteria. Moreover, almost all of the youth who were processed in 1995 and committed to residential programs had since been released, and many who had been discharged were no longer at the address last known to the Department of Juvenile Justice. Finally, like the adult probationers, youth on community supervision (probation or aftercare) were difficult to contact.

⁹⁹ The youth interviewed in juvenile programs had from 4 to 19 prior referrals. They had been charged with from 4 to 33 prior offenses. The vast majority had previously been committed to juvenile correctional programs, some as many as five times. All had prior felony offenses. Typically, the most serious prior was a violent felony offense (including sexual battery, armed robbery, aggravated assault, throwing a deadly missile into an occupied dwelling, aggravated child abuse, and aggravated battery with a deadly weapon).

¹⁰⁰ A copy of the interview schedule is included in Attachment C.

¹⁰¹ This was especially true of youth in the adult correctional sample. Sigafos (1992) has observed that one of the most frequent inmate complaints is that no one listens to them, which is consistent with their positive responses.

¹⁰² For example, in 1994, the state's Juvenile Justice Act was revised to recognize protection of the public safety as a primary objective, and the Department of Health and Rehabilitative Services, a social services agency, was divested of responsibility for administering delinquency programs and that responsibility was transferred to a newly created Department of Juvenile Justice (DJJ), a self-described "criminal justice" agency headed by a former police chief. More recently, reforms include increasing the permissible length of stay in secure detention, broadening of detention criteria, and increasing the commitment capacity and length of stay in facilities for maximum-risk offenders.

¹⁰³ During 1995, the Public Defender's office publicly characterized this detention facility as a "snake pit," a school psychologist described it as a "grossly mismanaged madhouse" in which he feared for his own safety, and a juvenile judge publicly criticized the administration for mismanagement. In 1996, ten detention staff members were arrested, nine for aggravated child abuse - including encouraging residents to assault each other in return for candy, food, and telephone privileges. In the tenth case, a detention care worker admitted that he had engaged in sexual relations with a 12 year old resident (Bishop and Griset, 1997).

¹⁰⁴ Again, they tended to personalize the disposition. Illustrative is the young man who commented: "Judge ___ sent me here to help me ... He picked this program for me."

¹⁰⁵In the juvenile justice settings visited, no interactions of this kind were observed. The only shouts heard were those directed by staff at residents who were learning to march in formation or complete or perform some regiment or task in a boot camp program.

¹⁰⁶ This includes a group whose plans we considered to be highly unrealistic. The following are examples: One respondent who was slim and weakly built, 5'8" tall, and a high school dropout said: "I plan to play professional football." Another with no real experience or credentials in music said: "I want to be a singer and get me a solo album."

¹⁰⁷ Half of the adult probationers whom we interviewed reported having encountered great difficulty in finding jobs.

¹⁰⁸ Some even preferred to finish their entire sentence rather than be released on probation because of the perceived futility of trying to meet probation conditions.

¹⁰⁹ Most of the youth interviewed had either dropped out of school or were years behind their age-mates in school. Many were functionally illiterate. Because prior to their incarceration they were considered "failures" in the school setting, many told us that they felt embarrassed and defensive and had frequently acted out in the public school setting.

¹¹⁰ Information about subsequent referrals and processing were incorporated in other ways in the eventual case analysis. Because both separate "individuals" and their separate "cases" had to be identified, the number of events in this analysis is somewhat lower than in the analysis of "cases" reported by Bishop et al. 1996 and Lanza-Kaduce et al., 1997.

¹¹¹ Drawing from the list of extra-legal problems, several were categorized to indicate consideration that were likely regarded as mitigating and several likely regarded as aggravating. Juveniles who had some record of a learning disability, mental/emotional problems, physical disabilities or physical and/or sexual abuse were coded as having mitigating considerations. Aggravating considerations were indicated if the record showed a juvenile had dropped out of school, performed below grade level, had a drug use or abuse problem or an alcohol use or abuse problem.

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ATTACHMENT A1

Questions are numbered in serial order beginning with question one (Q1) and ending with question 136 (Q136). These “Q” numbers correspond exactly to the item numbers on the survey instruments included here as Attachment A. In bold are additional item numbers that refer to items created when respondents gave answers outside the fixed response categories on selected items. For example, item 6 allows respondents to select “other” as a choice for position or title. Therefore, if respondents believed none of the five fixed response categories fit their current position, they gave different answers that were recorded by the interviewer. Thus, another question number (Q6a) was created to present these results. Further, since some respondents gave more than one position such as both criminal division attorney and juvenile division attorney, question number Q6b was created for these additional categories. Another example follows item 10. Respondents were given a chance after this item to specify as many as three additional positions they have held within the state attorney’s office in the circuit. They were also given the opportunity to specify the length of time they held these other positions. Thus, the first other position is reported under Q10a1 and the length of time that position was held is reported under Q10a2 and so on through the third position and time in the position contained under Q10c1 and Q10c2. Thus, the sets of frequencies reported here in Attachment A1 cover all the fixed response items and all the items created from responses items allowing “other” responses and specification of “other” responses.

ATTACHMENT A2

Attachment A2 includes all the verbatim responses to open ended questions from the prosecutor survey instruments. The verbatim responses come in two categories. The first is to questions intended for every respondent. These are numbered as numeric items. The second category includes alpha-numeric items that cover the opportunities some respondents had to further specify or elaborate their answers. It should be noted that there are sometimes more responses to these "specification" items than the N of respondents to the survey indicates there should be. This is because some respondents made comments after selecting a fixed response category other than "other." The interviewers at The Research Network accepted all responses even when "other" was not the selected category. Therefore, if respondents chose a fixed response category and still commented further, their comments are reported in these results as well.

13 ATTACHMENT A2

14
15 Telephone Survey for Prosecutors
16

17 13. Are there any informal unwritten rules or guidelines for transfer in addition to
18 (or instead of) the written transfer policy? If yes,

19 13a. Would you please explain the nature of those informal rules or guidelines?
20 -----
21 -----

22 1P. Case by case method of review.

23 4P. Look at recommendations from DJJ.

24 6P. Look at crime/seriousness of offense to person/property-priors-strength of
25 case-age-pattern of criminality take into LE attitudes.

26 7P. Before the charge of a minor he determines what the juvenile will look like in
27 front of a jury. What sanctions are they going to receive in adult court compared
28 to juveniles.

29 12P. If a case is questionable as to what more juvenile system can offer-discuss
30 cases informally.

31 14P. Meeting with attorney in felony court who would be handling matter.

32 15P. If the case warrants adult sanctions then consider the transfer of the case to
33 adult court.

34 24P. Case by case evaluation-meet criteria in Chapter 39.

35 25P. In his discretion.

36 26P. Case by case basis. Based on age, record, charge, specific decisions.

37 27P. His own.

38 28P. Written guidelines indicate direct file on all 16 year olds charged with a
39 felony crime violence. However, SA has discretion in every policy regarding
40 transfer.

41 29P. Gun cases and gun cases are definite transfers.

42 31P. We are to refer to the State Attorney before transferring.
43 =====
44 =====

45 14. Does transfer in practice differ in any way from stated policy?

46 14a. If yes, in what way does it differ?
47 -----
48 -----

49 7P. Don't. Transfer as much as written policy.

50 28P. Cases that technically fit criminal charge but are factually mitigated will not
51 always be direct filed.
52 =====
53 =====

54 **16. Where transfer is concerned, do you believe that there are some differences in**
55 **actual practice between assistant state attorneys in your office or are they fairly**
56 **consistent in their practice?**

57 **16a. If different, what are the chief ways in which they differ?**

58 -----

59 -----

60 3P. Each attorney exercises their own discretion, but each operated within
61 statute.

62 7P. A juvenile had charges in two different counties. One county charged the
63 juvenile as an adult. The other charged as a juvenile.

64 28P. She is the only one who does it.

65 =====

66 =====

67 **17. Are you aware of prosecutorial transfer policies and practices in other**
68 **jurisdictions in Florida?**

69 **17a. If yes, in what ways are they the same or different from those in your office?**

70 -----

71 -----

72 9P. Ours are a little more basic, give prosecutor more discretion.

73 13P. Same as list.

74 14P. Other circuits handle things on a case to case as do we.

75 18P. Have seen guidelines, but haven't studied them.

76 22P. The same because everyone follows the statutory guidelines.

77 25P. Don't have a set written policy-like the flexibility.

78 26P. All basically the same.

79 28P. Most of them are pretty much the same, files on violent crimes first, some
80 are more specific, we don't get absolutely case specific.

81 29P. Very similar -- legislation has made less discretionary.

82 31P. Larger jurisdictions are more formal.

83 =====

84 =====

85 **17b. Do you see advantages and/or disadvantages to these other policies or**
86 **practices?**

87 -----

88 -----

89 9P. Both.

90 13P. None.

91 22P. A good consistent policy.

92 25P. Advantage-here is a guideline, disadvantage-lose flexibility.

93 28P. Major disadvantages of being too specific. Doesn't allow mitigating or
94 aggravating elements to be considered in some cases.

95 31P. Advantage effective for their jurisdiction and disadvantage wouldn't be
96 appropriate for our jurisdiction.

97 =====
98 =====
99 **19. When a case fits eligibility criteria for both direct file and judicial waiver, how**
100 **is the decision made as to which option is pursued?**
101 -----
102 -----

103 1P. Based on evidence and how it is presented in front of jury.

104 2P. Look at crime that was committed, seriousness, criteria, record, manner,
105 injury, view, death.

106 3P. Cost analysis-why spend time and money doing a waiver hearing when you
107 can direct file.

108 4P. Based on DJJ recommendation and depends on age.

109 5P. If they meet criteria for direct file that's what they'll do.

110 6P. Look at factors of policy and if situation mandates a direct file take to
111 supervisor.

112 7P. All they do is direct file. Few individuals waiver. Direct file more simple.

113 8P. Whatever is most expedient-direct file.

114 9P. Arrive at mutually-but, hasn't come up more.

115 11P. Don't make decision-don't use.

116 12P. Generally option is direct-file. Why utilize judicial resources when state can
117 do it.

118 13P. Direct file always.

119 14P. Don't know.

120 15P. If you can direct file, why go thru waiver hearing.

121 16P. Always use direct file.

122 17P. Usually go with direct file.

123 18P. Always go with direct file, if able.

124 19P. If it fits direct file criteria, then they'll direct file.

125 20P. Standard policy.

126 21P. No issue-always direct file.

127 22P. It's turned over to the felony adult division and they'll make decision based
128 on (my) input and the guidelines

129 23P. Agreement between juvenile and felony division chiefs, if there is a
130 disagreement, then division chief breaks the tie.

131 24P. Evaluation of case and defendant's history/

132 25P. Don't fool with waiver provisions.

133 26P. If direct file is possible, they do it.

134 27P. If it's eligible, always direct file.

135 28P. Always direct file.

136 29P. Direct file more convenient

137 30P. Look at each case individually, history of individual, safety for community,
138 which is most expedient means.

139 31P. Direct file usually.

140 =====
141 =====

142 **22. How often, if ever are these cases prosecuted in either court.**

143 **22a. What are the most frequent reasons for cases not being prosecuted in either**
144 **court?**

145 -----
146 -----

- 147 1P. Occasionally, lack of evidence.
- 148 4P. Seldom, not enough info.
- 149 5P. Seldom, provability.
- 150 10P. Seldom, witness/proof problems.
- 151 13P. Seldom, bad case, no facts.
- 152 18P. Seldom, uncooperative victims/unavailable. Insufficient case.
- 153 21P. Seldom, insufficient evidence.
- 154 22P. Seldom, insufficient evidence.
- 155 24P. Seldom, factual circumstance of case are such that prosecutors can't be
- 156 successful.
- 157 26P. Occasionally, no evidence.
- 158 28P. Factually insufficient. Incompetency of defendant.

159 =====
160 =====

161 **23. In your experience, do judges on the criminal bench view or treat juveniles**
162 **transferred to criminal court any differently than adult defendants who come**
163 **before them?**

164 **23a. If yes, in what ways are they viewed or treated differently?**

165 -----
166 -----

- 167 1P. Think they scrutinize them a little more.
- 168 3P. Do give juvenile offender status to some of them-depends on case.
- 169 6P. Depends on the severity of the crime, may look on them as meriting less
- 170 punishment.
- 171 7P. Treated more lightly. Look more towards rehabilitation not so much as
- 172 punishment.
- 173 10P. More lenient.
- 174 11P. Depends on judge.
- 175 13P. More lenient.
- 176 14P. The age is weighed heavily.
- 177 15P. Look at possibility of youthful sanctions.
- 178 17P. Take into consideration their age and that makes them more lenient.
- 179 19P. Consider age and prior juvenile programs.
- 180 20P. Seems to more leniency.
- 181 21P. Depends on judge-some are more harsher.
- 182 23P. Consistent tendency to treat as a youthful offender.

183 24P. Closer look at particular individual.
184 26P. More lenient because of age.
185 27P. Judges take closer look, sentencing more lenient.
186 28P. Judges have a fairly good understanding of juveniles, so they treat them
187 differently.
188 29P. Recognized possibly for rehabilitation.
189 30P. Reluctance by court to punish them as severely as adult perpetrator.
190 31P. When they are transferred the juvenile justice system will suggest juvenile
191 sanctions.

192 =====

193 =====

194 **25. Are there any circumstances in which you would want to discourage a juvenile**
195 **judge from pursuing the presumptive waiver option?**

196 **25a. If yes, would you please explain what those circumstances would be?**

197 -----

198 -----

199 1P. When only juvenile sentence should produce more time in juvenile rather
200 than adult facility and more time was needed.

201 7P. Think the juvenile system would have a more appropriate sanction.

202 9P. Cases that are handled that are heinous crimes, but are handled in a juvenile
203 manner-if no adult motive.

204 15P. When it's not in the interest of justice, when crime doesn't fit the
205 punishment.

206 22P. If the child is salvageable.

207 24P. Depend on evaluation of nature of crime and history of defendant.

208 26P. Due to age, mental status.

209 30P. 17 year old will score level 8-10, first felony community control, push to
210 handle him as juvenile-- 1 year to 18 months.

211 =====

212 =====

213 **27. When a case fits the criteria for both direct file and judicial wavier, which do**
214 **you generally pursue? Why?**

215 -----

216 -----

217 1P. Direct file, ease of handling.

218 2P. Direct file, if legislature has already passed it there is no reason to do it
219 differently.

220 3P. Direct file, comes down to cost and common sense resource analysis-why do
221 a waiver.

222 4P. Direct file, waiver is for younger kids.

223 5P. Don't know, depends on circumstances.

224 7P. Direct file, simpler.

225 8P. Direct file, more expedient than waiver process.

226 9P. Direct file, because otherwise might not make case.
227 12P. Direct file, easier-why use waiver?
228 13P. Direct file, no hearing that way.
229 14P. Direct file, mechanical/ease.
230 15P. Direct file, easier.
231 16P. Direct file, easier.
232 17P. Direct file, it's a criteria we have in place so we go ahead and do it.
233 18P. Direct file.
234 19P. Direct file, easier.
235 20P. Don't know, depends on each case-stated policy.
236 21P. Direct file, judges will not waive kids.
237 22P. Direct file, if there's a clear cut case we won't need a waiver, we'll make the
238 decision ourselves.
239 23P. Direct file, because most of time, juveniles are under detention status and
240 you have 21 days to file-direct file gets the defendant transferred quicker and
241 keeps them in custody.
242 25P. Direct file, easier-don't have to convince judge of transfer.
243 26P. Direct file, based on factors, send to criminal court, don't waste time.
244 27P. Direct file, simpler.
245 28P. Direct file, it doesn't seem efficient or economical for the public. We can do
246 it ourselves and it seem a waste of the court's time to have them do what we could
247 do.
248 29P. Direct file, convenience-- no early discovery, no input of DJJ
249 30P. Direct file, learned procedure
250 31P. Direct file, just the way we've always done it.

251 =====

252 =====

253 **28. Thinking about the cases you have transferred/waived in the past, how would**
254 **you characterize them?**

255 -----

256 -----

257 1P. Violent crime; continues criminal behavior, unaffected by juvenile
258 punishment; felony behavior unaffected by juvenile punishment.

259 2P. Serious, violent, felony or crimes where property of defendant, has prior
260 record.

261 3P. Absolute necessary given prior record and severity.

262 4P. Serious.

263 5P. Violent-habitual.

264 6P. Serious offenses.

265 7P. Generally, they are older than 16, juvenile who are chronic offender and
266 present crime is pretty serious.

267 8P. Usually very serious-extensive priors.

268 9P. Heinous crimes.

269 10P. Have never done it.
270 11P. Don't transfer or waive.
271 12P. Significant prior record-juvenile sanctions not appropriate.
272 13P. Worthy of adult court filing.
273 14P. Serious bodily injury-or repetitive property crimes-and age.
274 15P. Serious.
275 16P. Violent, chronic offenders.
276 17P. Serious violent felonies or juveniles has a history of lack of appliance to rules
277 of juvenile system.
278 18P. Serious felonies by older juveniles with long priors and multiple
279 commitments.
280 19P. More serious, repeat offenders.
281 20P. Have not transferred any.
282 21P. Very violent cases.
283 22P. Generally, violent crime(s) against person(s).
284 23P. Seriousness of offense, age of juvenile.
285 24P. Violent cases-more significant criminal cases.
286 25P. Haven't done any.
287 26P. Serious offenses; long histories.
288 27P. Serious cases, these involving juveniles with extensive history.
289 28P. Majority are crimes of violence, burglary, sales of drugs. Mostly male.
290 29P. Guns and sex cases -- armed robberies are definite direct file.
291 30P. Sexual offenders, very violent, repeat drugs.
292 31P. Mostly felony offenses that are beyond first offenses and they're usually 17
293 years of age.

294 =====

295 =====

296 **57. What features of the home environment do you consider in the transfer**
297 **decision?**

298 -----

299 -----

300 1P. Supervision or lack there of, attitude of parent.
301 3P. Parental involvement/control-parents present or structured home life.
302 4P. 2 parent home-parental crimes, prior complaints from HRS.
303 5P. All aspects.
304 8P. Other family members involvement in criminal justice system.
305 12P. Parental control.
306 13P. Really don't care.
307 14P. Supportive parents/role models.
308 15P. Amount of adult supervision.
309 16P. No suitable adult on child is out of control.
310 17P. Ability to supervise juvenile.
311 18P. Obeying parents, going to school.

312 20P. Haven't dealt with too much. If home is particularly troubled prefer to keep
313 in juvenile system.
314 22P. Not a whole lot. I hold them responsible for their actions.
315 23P. Is there a structured setting that you can work with.
316 24P. Stability of the home and supervision.
317 25P. Support network-do they have parents who can control them or have an
318 interest in them.
319 26P. Mitigating factors, family crisis, lack of parental supervision.
320 27P. Stability. Supervision.
321 28P. No idea. Hardly ever have information.
322 29P. Stability/ structure of lack thereof.
323 30P. Socioeconomic, educational opportunity, and how he's done, parents'
324 criminal background.
325 31P. The information I receive from the juvenile justice system.

326 =====
327 =====
328 **62. How do you assess whether or not a juvenile is amenable to treatment?**
329 -----
330 -----

331 1P. Past records, attitude.
332 3P. Looking at criteria-past history, nature of crime, family situation, who child
333 associates with.
334 4P. DJJ asks for Mental Health screening and look at priors.
335 5P. Depend on DJJ and referral history/prior record.
336 6P. No scientific method-look at whole case priors, prior programs, and program
337 left to offer them.
338 8P. History of commitments and completion of those programs.
339 9P. Based on previous record and actual offense at hand.
340 11P. Consider prior record and seriousness of offense.
341 12P. Look at record-old PDR's-prior commitments-reaction to commitments.
342 13P. Whether they keep committing crimes.
343 14P. Rely on DJJ and prior record and performance in programs.
344 15P. It's not what they say or do now, but past violations or history.
345 16P. Review of information of arrest reports.
346 17P. Based on prior criminal history.
347 18P. Usually by looking at previous treatment/commitments and the impact they
348 had.
349 19P. Rely on intake information from DJJ.
350 20P. Based on Department of Juvenile Justice recommendation.
351 23P. Have the agreement to exchange info with schools, police, parents, etc.-
352 priors.
353 24P. Generally an evaluation of history of that particular individual. Has juvenile
354 shown potential for rehabilitation.

355 25P. Look at past performance and whether they were successful or not.
356 26P. Review reports, speak to people involved with juvenile, psychiatrists.
357 27P. Past history, counselor reports, teacher reports.
358 28P. Never know until they go.
359 29P. Participation in other juvenile programs and still offends.
360 30P. Research his teachers-- disciplinary records, levels of hostility, and parents
361 comments.
362 31P. By attitude, prior contact and with treatment providers.

363 =====

364 =====

365 **70. How often are juvenile misdemeanor cases judicially waived in this county?**

366 **70a. Under what circumstances are misdemeanant waived to criminal court?**

367 -----

368 -----

369 1P. Seldom, on a mandatory waiver, when they fit the criteria, most cases are
370 direct file.

371 2P. Seldom, not sure if they ever have, person has a lot of other cases of direct
372 file, and want to keep the records clean.

373 5P. Seldom, don't know-haven't been there long.

374 6P. Occasionally, all of the factors in determining direct file score highly (age,
375 prior and what level of prior commitments) availability of a good juvenile
376 jurisdiction placement.

377 7P. Seldom, if child is 16 or 17 and has a long record with one prior felony and
378 present charge is a serious misdemeanor.

379 9P. Seldom, need to get them out of system.

380 13P. Seldom, very limited.

381 16P. Seldom, last resort, nothing left to do with them with extensive record.

382 17P. Seldom, based on prior history and the age.

383 18P. Seldom, mandatory direct file.

384 20P. Seldom, don't know.

385 22P. Seldom, if they have a prior adult record.

386 23P. Seldom, because juvenile has been treated as an adult with a felony.

387 27P. Seldom, extensive past history, approaching 18 years old.

388 30P. Seldom, generally felony.

389 31P. Seldom, fishing violations where a fine can be paid.

390 =====

391 =====

392 **71. Among those cases eligible for judicial waiver, are there certain offenses or**
393 **offenders whom you would be unlikely to transfer? If yes,**

394 **71a. Would you please explain?**

395 -----

396 -----

397 2P. First time property, non violent, first possession of cocaine.

398 4P. Not a long list of priors-misdemeanors.
399 7P. Very immature child.
400 9P. Certain misdemeanors.
401 13P. Less serious crimes are less likely.
402 15P. Diminished capacity, mental retardation.
403 19P. Don't know-have to talk to staff.
404 23P. First time offenders, etc. where juvenile system hasn't had a chance to deal
405 with them yet.
406 24P. Case by case evaluation.
407 26P. Age, lack of prior record, might be amenable, type of crime.
408 28P. We do not use the transfer hearing system in Palm Beach County. If they
409 don't qualify for direct file, they aren't transferred.
410 30P. Evidence is not very strong, more of legal argument versus fact basis. Not a
411 strong case judge might give guilty verdict whereas jury would let them free. Also,
412 what the crime is.

413 =====

414 =====

415 **72. The next section has to do with the changes in the law regarding transfers**
416 **which were made during the 1994 legislative session. Which if the legislative**
417 **changes do you consider to be most significant, and why? {a number was assigned**
418 **due to its significance, if more than one was chosen}**

419 **72a. Discretionary direct file for 14-15 year olds charged with a statutorily-**
420 **specified violent or serious offense [Lower Age-Direct File]**

421 -----

422 -----

423 1P. [1]Because it allows us to stop the more serious offense at an early age. (By
424 "us" she means the prosecutors with more background information)

425 2P. [1]Impacts more cases and allows to put more dangerous kids put away

426 6P. [1]

427 9P. [1]Used to be very hard to waive kids, now it's easier.

428 11P. [1]Permits to address younger kids.

429 12P. [1]

430 13P. [1]Very significant-no fooling with the waiver hearing.

431 14P. [1]Gives State Attorney more decision ability.

432 16P. [1]Enable to take violent offenders in adult system.

433 17P. [1]Afforded us a wider range of discretion in our office.

434 18P. [1]Because before had to do waivers.

435 19P. [1]

436 21P. [1]Allowed to bypass Juvenile waiver hearings.

437 22P. [2]

438 23P. [1]Opened up middle ground of serious offenders.

439 25P. [1]For serious offenses.

440 26P. [1]Very important-gives state attorney discretion to direct file, not in judges
441 hand.
442 27P. [1]Important-gives discretion with serious cases, quicken the process.
443 28P. [1]
444 29P. [1]Creation of level 10 -- but this is most significant
445 30P. [1]On line prosecutor is the best mechanism to give decision on juvenile
446 31P. [1]We have discretion to waive juveniles up to adult court

=====
448
449 **72b. Mandatory direct file for youths of any age who have three prior felony**
450 **adjudications and three prior commitments [Three Strike-Direct File]**
451 -----
452 -----

453 3P. [1]
454 4P. [1]Get juveniles into system that have committed some crime over and over.
455 7P. [1]No commitments.
456 8P. [1]Most significant and only one used.
457 9P. [2]Helps because office has no choice but to file.
458 13P. [1]Very significant-no wasting time.
459 18P. [2]
460 20P. [1]
461 22P. [4]
462 26P. [2]Important-but not used much.
463 27P. [2]Not that important-already direct filing.
464 28P. [4]Usually meet direct file criteria first.
465 31P. [3]After 3 prior commitments they've exhausted the juvenile court remedy.

=====
467
468 **72c. Presumptive judicial waiver for youths 14 or older charged with a second or**
469 **subsequent violent offense against person [Mandatory Waiver for 2nd +**
470 **Gun]**
471 -----
472 -----

473 13P. [1]Very significant-get rid of bad kid.
474 17P. [2]An appropriate statute to enact.
475 22P. [3]
476 26P. [2]Important-kids with second violent offense should be sent to adult court.
477 27P. [2]No feelings moderately important.
478 28P. [3]
479 31P. [2]Protects community.

72d. Presumptive judicial waiver for four-time felon 14 or older where one prior felony involved a violent offense against person or firearm possession [4 strikes + Gun]

- 6P. [1]Just a significant impact-happens a lot.
13P. [1]Very significant-get rid of bad kids.
15P. [1]Because it gives a wide latitude of discretion with out a lot of prerequisites.
22P. [1]Prior offenses with felons and firearms.
26P. [2]Important-more pressure on court to transfer.
27P. [2]Moderate importance.
28P. [2]Some of these cases actually exist in her county.
31P. [4]Important to have this option, but we have not run across it yet.
-
- =====
- =====

72e. Other:

- 3P. [1]They are all necessary.
4P. [1]
5P. [1]All equally significant.
10P. Don't know anything about them.
23P. [1]
24P. [1]They are all effective in letting prosecutors evaluate situations.
29P. [1]All were significant because they gave greater weight to case.
-
- =====
- =====

**101. Have any of the 1994 changes in the law had a significant impact on transfer policy or practice in your jurisdiction? If yes,
101a. Which change(s) have had the greatest impact?**

- 1P. Not significant but very useful. Direct file for 14-15 year olds.
2P. Direct file.
5P. Three (3) prior felonies.
9P. 14-15 year olds-helped a great deal.
13P. The more violent offense guidelines.
16P. More mandatory direct file.
19P. Reduction of the age.
22P. Ability to waive the 14 and 15 year olds up for the violent offense.
26P. Made available direct file very few transfer hearings anymore.
27P. The 14-15 year olds.

525 28P. 14 and 15 year old direct file.
526 29P. Discretionary direct -- 14-15 year olds.
527 30P. Younger, violent kids are habitual.
528 31P. Gives us more discretion and more leeway for waiving a juvenile up.
529

530
531 **101b. What has been the nature of the impact?**
532

533
534 1P. Allowing criminal justice to treat serious juvenile offenders according to their
535 behavior which is more adult like than in years pass.
536 2P. Much more direct files.
537 5P. They have been filed on as an adult.
538 9P. Helped a great deal.
539 12P. Can now direct file instead of waiver.
540 13P. Send up more kids.
541 16P. Been able to direct file and bypass grand jury.
542 19P. Reduced number of cases in front of grand jury, increased discretion.
543 21P. Able to bypass juvenile waiver and transfer more kids without grand jury.
544 22P. Transfer more juveniles to adult courts and we have more sentencing now.
545 26P. Made available direct file very few transfer hearings anymore.
546 27P. Filed on more individuals directly.
547 28P. Eliminated waiver hearings. Increases number of kids in adult court.
548 29P. Convenience of direct transfer instead of going through hearing.
549

550
551 **102. To your knowledge have these legislative changes in transfer law have had an**
552 **impact on:**

553 **102a. The police? If yes, in what way?**
554

555
556 2P. Expect more out of police but not arresting more kids.
557 4P. Aware of it and realize it may be easier to request.
558 19P. Arrests have decreased-have noticed.
559 21P. They're happier.
560 23P. Law enforcement doesn't have to deal with juveniles again as quickly because
561 juveniles are held longer.
562 24P. Assisted police in being able to perform their functions.
563 28P. Taking their cases more seriously and exercising due process and reading
564 Miranda. Juveniles in past they have been sloppy with kids concerning arrest
565 right.
566 29P. They call and like to see transfer exercised.

30P. Police are more educated in what they can do, can get waived up or direct file.

102b. The court system? If yes, in what way?

2P. Fewer waiver hearing, direct more kids.

3P. Philosophy has been to give a kid a chance in juvenile system-but if it says direct file, they direct file.

11P. Juvenile is more likely to be treated as an adult.

12P. Waiver hearings are significantly down.

13P. More kids in adult court.

17P. Slight increases of those prosecuted as adults.

18P. Probably a few more cases.

19P. Reduced the more serious cases in juvenile system.

21P. Prefer to see fewer transfers.

22P. People feel it's more effective, we have more "bite" now.

26P. Reduced number of transfer hearings.

28P. Criminal system changed by making more well rounded judges. Juvenile judges haven't seen much change.

29P. More cases in adult court.

30P. Court system is more aware that if we'll maintain nonpunitive vs, to have facilities ready to go. Demand for quicker turn around on filing.

31P. We are waiving more juveniles to adult court.

102c. Department of Juvenile Justice? If yes, in what way?

2P. Allowed them to be criminal agency verses social work.

3P. Made life a little more difficult in trying to make an appropriate recommendation.

4P. Consider more whether or not to direct file now.

9P. Records are different.

14P. Some level of dismay the State Attorney can direct file.

16P. More willingness to have court for juveniles.

19P. More money.

22P. They tend to recommend more juveniles to adult court.

23P. Keeping more individuals.

26P. Reduce their workload in waiver reports.

28P. Made DJJ learn more about the criminal court and made them more responsible to the kids.

610 29P. Doesn't know to what extent.

611

612

613 **102d. The Department of Corrections? If yes, in what way?**

614

615

616 1P. Received a few more adult file cases then in preceding years.

617 2P. Have to do a lot more communication with DJJ and more kids.

618 3P. Potentially giving younger juveniles to deal with.

619 4P. Younger inmates.

620 14P. Numbers.

621 19P. A larger number of juveniles being sent to adult court.

622 22P. They now have more juveniles to oversee.

623 23P. Reduced number of cases.

624 26P. Given them more kids.

625 28P. Increased their caseload, forced them to start creating programs to meet the
626 needs of the juveniles and public for better than HRS of DJJ has done in the past.

627 29P. Created useful offender program and seeing more juveniles in prison.

628

629

630 **103. Could you please describe for me your general understanding of the purpose**
631 **and goals of transfer. By that I mean, ideally, what specific goals are supposed to**
632 **be achieved in transferring a juvenile offender to criminal court. {The number in**
633 **the bracket refers to the importance if the respondent identifies more than one}**

634

635 **103a. General deterrence.**

636

637

638 16P. [1]

639 26P. [3]Get violent offenders off street, community safety, deterrent.

640 29P. [5]Possible consider.

641 31P. [1]We are transferring more juveniles who have exhausted the juvenile court
642 and when we waive juvenile offense up to adult court we request adult sanctions.

643

644

645 **103b. Specific deterrence.**

646

647

648 2P. [2]

649 27P. [1]Get kid's attention.

650

651

652 **103c. Retribution/just deserts.**

653 -----
654 -----
655 15P. [1]Adult sanctions are needed because even though rehabilitation is originally
656 the idea, they're beyond hope, and punishment is the primary goal.
657 17P. [1]Offenders with prior criminal history in the systems. Harsh offenses
658 should be dealt with accordingly.
659 19P. [1]Provide adequate disposition for those close to 18.
660 22P. [2]The younger individuals can be held accountable for their actions.
661 25P. [1]Punishment fitting the crime--these are not crimes of children and the
662 nature of the offense shows that they aren't worthy of juvenile sanctions.
663 =====
664 =====
665 **103d. Longer sentences.**
666 -----
667 -----
668 7P. [3]
669 14P. [2]
670 17P. [3]
671 =====
672 =====
673 **103e. Harsher sentences.**
674 -----
675 -----
676 7P. [2]
677 8P. [1]
678 17P. [2]
679 21P. [1]Seeking adult sanctions
680 24P. [1]If the offender has been through the system repeatedly--give harsher
681 sentence.
682 =====
683 =====
684 **103f. Incapacitation.**
685 -----
686 -----
687 1P. [1]Stopping criminal behavior.
688 2P. [1]Keep violent offenders off the streets.
689 11P. [1]Permits youths from committing violent crimes to be removed from
690 society.
691 13P. [1]Get more dangerous criminals off the street.
692 26P. [2]
693 =====
694 =====
695 **103g. Longer sentences.**

696 -----
697 -----
698 8P. [2]
699 19P. [4]Longer supervision.
700 22P. [3]Long term supervision.
701 23P. [3]Needs to be longer term lockup.
702 30P. [2]
703 =====
704 =====
705 **103h. More secure placements.**
706 -----
707 -----
708 23P. [2]Adequately deal with juvenile offender with supervision sentence, etc.
709 =====
710 =====
711 **103i. Rehabilitation/treatment.**
712 -----
713 -----
714 5P. [1]Is child amenable to treatment.
715 16P. [2]
716 24P. [2]Potential for rehabilitation of defendant.
717 29P. [2]
718 30P. [1]
719 =====
720 =====
721 **103j. Provide opportunities for reform of offenders that are not available in the**
722 **juvenile justice system.**
723 -----
724 -----
725 4P. [1]Nothing more juvenile system can do-or crime doesn't warrant juvenile
726 sanctions.
727 9P. [1]For the sicker/violent offenders.
728 12P. [1]Adult system should be used because juvenile system can't take care of
729 juveniles.
730 18P. [2]File on older kids who wouldn't be in juvenile system long and not helped
731 by system.
732 19P. [3]Adequate programs.
733 20P. [1]
734 29P. [3]
735 =====
736 =====
737 **103k. Protecting the public/insuring public safety.**

738 -----
739 -----
740 1P. [2]Protecting public.
741 3P. [2]
742 6P. [1]Overriding goal is to protect the community.
743 7P. [1]
744 14P. [1]An attempt at protecting the public/insuring public safety.
745 16P. [3]
746 18P. [1]Protect public from serious offenders who happen to be juveniles.
747 19P. [2]
748 22P. [1]Removing dangerous kids from the public.
749 23P. [2]Imposes a more severe sanction and public is protected because juvenile is
750 off streets.
751 26P. [1]
752 27P. [2]Protects community.
753 29P. [1]Some juveniles need to be removed from society.
754 30P. [3]
755 =====
756 =====
757 **103L. Other**
758 -----
759 -----
760 3P. [1]Properly sentence and/or rehabilitate the child and protect the public.
761 10P. Prefer not to answer because I have no dealings with transfer.
762 28P. [1]Immediate response of the adult judge for imposing, sanctions for ignoring
763 court orders.
764 29P. [4]Has a lot of discretion to make, public safety is #1 concern.
765 =====
766 =====
767 **104. What goals do you think transfer actually achieves in practice? {The number**
768 **in the bracket refers to the importance if the respondent identifies more than**
769 **one}**
770
771 **104a. General deterrence.**
772 -----
773 -----
774 2P. [2]
775 5P. [1]
776 8P. [2]Sends message to up and coming of what could happen.
777 16P. [1]
778 21P. [2]
779 26P. [3]Deterrence.

780 =====
781 =====
782 **104b. Specific deterrence.**
783 -----
784 -----
785 1P. [1]Really depends on child. It can wake the child up to the reality of the
786 future or slow down the criminal.
787 7P. 1Gets the child's attention, (2)Gets them in adult system.
788 17P. [1]Get attention of juvenile offender.
789 =====
790 =====
791 **104c. Retribution/just deserts.**
792 -----
793 -----
794 15P. [1]Doesn't really establish deterrence, but targets the individual for harsher
795 sanctions.
796 19P. [1]
797 22P. [2]Younger kids are being held accountable.
798 =====
799 =====
800 **104d. Longer sentences.**
801 -----
802 -----
803 14P. [2]
804 =====
805 =====
806 **104e. Harsher sentences.**
807 -----
808 -----
809 2P. [1]
810 5P. [2]More punishments.
811 7P. [2]
812 21P. [1]
813 24P. [1]
814 31P. [1]Gives us the ability to waive up violent juveniles to the adult court.
815 =====
816 =====
817 **104f. Incapacitation.**
818 -----
819 -----
820 18P. [3]Locks up for a long time.
821 26P. [2]Incarceration.

822 =====
823 =====
824 **104g. Longer sentences.**
825 -----
826 -----
827 8P. [1]
828 19P. [4]
829 22P. [3]Provides for long term supervision.
830 23P. [3]
831 =====
832 =====
833 **104h. More secure placements.**
834 -----
835 -----
836 6P. [2]Takes pressure off of Department of Juvenile Justice.
837 9P. [1]A select few are taken out of juvenile privilege.
838 11P. [1]Offenders who used to be treated lightly are now getting sent for longer
839 time periods in more secure settings.
840 23P. [2]
841 =====
842 =====
843 **104i. Rehabilitation/treatment.**
844 -----
845 -----
846 16P. [2]
847 24P. [2]
848 =====
849 =====
850 **104j. Provide opportunities for reform of offenders that are not available in the**
851 **juvenile justice system.**
852 -----
853 -----
854 4P. [1]Same as before.
855 12P. [1]Have to take a look at juvenile system and realize it's not doing what it's
856 supposed to.
857 16P. [3]
858 18P. [2]
859 19P. [3]
860 20P. [1]
861 25P. [1]More appropriate to deal with in adult system.
862 =====
863 =====
864 **104k. Protecting the public/insuring public safety.**

865 -----
866 -----
867 3P. [2]
868 13P. [1]
869 14P. [1]
870 18P. [1]Lock up for a long time.
871 19P. [2]
872 22P. [1]Removing dangerous kids from the public.
873 23P. [1]
874 26P. [1]Public safety.
875 27P. [1]Protects public.
876 =====
877 =====
878 **104L. Other**
879 -----
880 -----
881 3P. [1]All of those that were stated before.
882 6P. [1]
883 10P. Same as before.
884 23P. Those that were stated-more appropriate sentence.
885 28P. [1]Serious attitudes on behalf of the kids to inform then that violation will
886 result in a loss of liberty.
887 29P. [1]Good negotiation tool- allows more options for placements
888 =====
889 =====
890 **105. Do you believe that there is a significant difference between the goals of**
891 **transfer and what transfer as practiced actually achieves? If yes,**
892 **105a. Why do you think that transfers do not actually achieve the objectives?**
893 -----
894 -----
895 6P. Goal of transfer is to get a kid who doesn't belong in juvenile into adult
896 system to protect society.
897 7P. Often you end up with juvenile sanctions.
898 21P. Kids who are transferred are actually treated lighter.
899 26P. Sometimes kids bond out, ROR'd, out committing more crime.
900 29P. If they're being transferred to adult court and getting juvenile sanctions:
901 What's the point? Easier to get level 8-10 in adult and if violate then they can get
902 adult sanctions.
903 =====
904 =====
905 **106. In this county, how often are juveniles that you personally believe should be**
906 **transferred not transferred to criminal court?**
907 **106a. What kind of cases are these?**

908 -----
 909 -----
 910 1P. Seldom, cases too weak in evidence to present to a jury.
 911 2P. Occasionally, already in adult court and having juvenile record.
 912 3P. Seldom, evidence is weak, proof problems. Cases fall apart and sentencing
 913 capabilities are not good.
 914 5P. Seldom, charge with insufficient evidence that prohibited transfer.
 915 6P. Occasionally, if the department handled themselves correctly, there wouldn't
 916 be such a need to direct file.
 917 8P. Seldom, the property type crimes as opposed to offense against person.
 918 9P. Occasionally, repeat offenders-on juvenile court doesn't consider to be
 919 heinous-won't take.
 920 10P. Often, committed more than several offenses and uses violence.
 921 12P. Seldom, may find better placements than initially thought available.
 922 13P. Seldom, can't think of one.
 923 15P. Seldom, cases based on desires of victim, mitigating factors.
 924 18P. Seldom, can't prove case.
 925 19P. Seldom, sometimes the court does not waive when they want it waived.
 926 21P. Occasionally, below 14 and juvenile court can't deal with them and 14/15
 927 year olds attempt crimes, but no guidelines.
 928 22P. Seldom, misdemeanor or drug offense.
 929 24P. Seldom, not violent offenses, but defendant is prone to recidivism.
 930 26P. Seldom, judge gives kid one more chance, not strong evidence.
 931 31P. Seldom, don't know.
 932 =====
 933 =====
 934 **107. In this county how often are juveniles you personally believe should not be**
 935 **transferred actually transferred?**
 936 **107a. What kinds of cases are these?**
 937 -----
 938 -----
 939 1P. Seldom, sale of drug cases.
 940 2P. Seldom, circumstances are different then expected.
 941 6P. Seldom, where law enforcement is overriding reason why they're being
 942 transferred.
 943 8P. Seldom, property crimes, but more of the crimes against person, but may be
 944 saved by juvenile system so prefer.
 945 15P. Seldom, cases where there was a miscalculation in what judge would actually
 946 do with case.
 947 22P. Seldom, can't think of one.
 948 26P. Seldom, can't think of one.
 949 =====
 950 =====

951 **108. Juveniles can be transferred to criminal court through judicial waiver,**
 952 **indictment, and direct file. Do you prefer one of these methods over the others,**
 953 **and if so, why?**
 954 -----
 955 -----
 956 1P. Direct file, (1) easily handling (2) use of additional information with attitudes
 957 and background of child (3) timeliness of handling.
 958 2P. Direct file, more manageable and all other jury's are not needed.
 959 3P. Direct file, as stated before, cost analysis.
 960 4P. No preference, as long as end result is the same.
 961 5p. No preference.
 962 6P. No preference.
 963 7P. Direct file, simplest.
 964 8P. Direct file, quicker-less paperwork.
 965 9P. Direct file, try to keep as much authority as possible in state system.
 966 10P. No preference.
 967 11P. Direct file, gives prosecutor ability to ID juveniles who are danger to society
 968 and treat them more seriously.
 969 12P. Direct file, easier-cuts down on judicial time-cuts down on time.
 970 13P. Direct file, he controls it.
 971 14P. Direct file, easiest.
 972 15P. Direct file, judicial economy-waiver hearings/grand jury take up too much
 973 time.
 974 16P. Direct file, easier, don't have to engage in court hearing, defense prolong.
 975 17P. Direct file, again, it criteria we have in place and I prefer to use it.
 976 18P. Direct file, we have discretion and put a lot of thought into case.
 977 19P. Direct file, economy-efficiency.
 978 20P. No preference.
 979 21P. Direct file, easiest.
 980 22P. Direct file, it gives the office the most flexibility and it leaves it on us to
 981 make the decision.
 982 23P. Direct file, because of speed of action.
 983 24P. No preference.
 984 25P. Direct file, easier-no hearing, no grand jury.
 985 26P. Direct file, why leave it to discretion of judge?
 986 27P. Direct file, simplicity.
 987 28P. Direct file, doesn't incur expense of the court. Much more expedient.
 988 29P. Direct file, convenience.
 989 30P. Direct file, most control over it and what goes on.
 990 31P. Direct file, preferred method of the county.
 991 =====
 992 =====

109. During the 1994 legislative session, transfer law was rewritten to specify rather narrow offense and prior record criteria for so-called "presumptive waiver" and "mandatory direct file." What is your opinion of these changes?

1P. Appropriate changes.

2P. Good effort.

3P. Too narrow-some crimes are not covered and disqualify for direct file-include property crime, or long priors that don't fit criteria.

4P. Left leeway to use discretion.

6P. No opinion-not a great effect.

7P. Changes are good.

8P. Welcomes and good=more ammo.

9P. Work well if used appropriately. Some counties may over abuse.

11P. Changes were positive.

12P. Tool that was needed-list high offenses, good legislative enactments.

13P. Don't have one.

15P. Haven't seen them in action- don't know.

16P. No opinion.

17P. Don't have any problem with it because it gives specific guidelines.

18P. Liked them.

19P. Meaningless.

21P. Presumptive waiver is meaningless, and mandatory direct file is insignificant.

22P. It's good guideline to transfer by.

23P. Works for me.

24P. No problem with.

25P. Good and appropriate-but don't use waiver.

26P. Haven't got one.

27P. Wish it was broader. Wish he had more discretion

28P. They seem to work about 60% of the time overall. Need amendments to account for new crimes which may be created, and the list is not updated. There are always exceptions to the specifics and unless you update then, it becomes more of a hindrance than a help.

29P. Positive changes, but in keeping with previous policy.

30P. Good deal.

31P. I think it's good.

110. How have these provisions in the law affected transfer policy and practice in your county?

1P. They required a stricter review of a child's past history.

1036 2P. Follow same procedure but now for younger kids.
1037 3P. Forced to be more careful in making decision on 14-15 year olds.
1038 5P. Not much-don't have many transfers.
1039 6P. Not significance.
1040 8P. More clear cut rates.
1041 9P. More discretion.
1042 12P. Obviously statutorily created.
1043 13P. Yes-more direct files.
1044 14P. Negligibly.
1045 17P. Don't know that is has.
1046 18P. Expanded somewhat because of mandatory nature and reached kids of
1047 younger age.
1048 19P. Haven't.
1049 21P. Minimally.
1050 22P. Specific guidelines so we'll transfer cases that meet the guidelines.
1051 23P. No change.
1052 24P. Afforded more discretion to prosecutors.
1053 25P. Increased number of cases.
1054 26P. Haven't.
1055 27P. More filing on 14-15 year olds.
1056 28P. Increased the internal policy, since we were pretty close to begin with.
1057 29P. Not as much with presumptive waiver but with direct file, adult attorneys
1058 have had to learn more about juvenile system.
1059 30P. Not sure.
1060 31P. Given prosecutors a wider latitude to waive up more juveniles.

1061 =====

1062 =====

1063 **111. In your county are presumptive waiver hearings the same as traditional**
1064 **waiver hearings, or are the different in some ways?**

1065 **111a. If different, could you please explain to me in what ways they differ from**
1066 **traditional waiver hearings?**

1067 -----

1068 -----

1069 2P. Less length.

1070 28P. Non-existent, because there is confusion as to how to do them.

1071 =====

1072 =====

1073 **Some states use only judicial waiver to transfer juvenile offenders to criminal**
1074 **court. Many states use a combination of judicial waiver and legislative exclusion**
1075 **for certain crimes. Florida uses both of these methods in addition to direct file.**
1076 **Please give me you thoughts on the strengths and weaknesses of each approach.**

1077

1078 **112. Legislative exclusion of specified offenses**

1079 **112a. Strengths:**

1080 -----

1081 -----

1082 1P. Necessary it has legislation involved in mandatory review of criminal
1083 behavior. Good for protection of public.

1084 2P. Likes the way Florida does it because it is more flexible with all the three
1085 approaches.

1086 3P. What is there is good.

1087 6P. They're all equal.

1088 8P. Legislation supposedly knows what they're doing.

1089 9P. Good for felonies.

1090 22P. Specific guidelines.

1091 26P. None.

1092 28P. Allows for truer consistency in all circuits in the state.

1093 =====

1094 =====

1095 **112b. Weaknesses:**

1096 -----

1097 -----

1098 1P. Evidence problems.

1099 3P. Not enough mandatory sentences.

1100 13P. Don't allow for specific analysis.

1101 15P. By forcing a required outcome, you disregard mitigating factors and create a
1102 disparity-injustice.

1103 21P. Doesn't deal with individuals.

1104 22P. None.

1105 26P. Not giving any discretion, too much of a blanket statement.

1106 28P. Missing things and mitigating and aggravating info is sometimes lost.

1107 =====

1108 =====

1109 **113. Judicial Waiver**

1110 **113a. Strengths:**

1111 -----

1112 -----

1113 1P. Good when you have a review by an impartial party.

1114 3P. Very well laid out.

1115 4P. A collective decision from judge and attorney.

1116 8P. Sometimes judge should make decision.

1117 9P. Gives a system of checks and balances.

1118 13P. Get a complete picture of kid.

1119 17P. Good if your office can't step up and take initiative.

1120 18P. Only for cases where kid wants leniency.

1121 19P. Useful in many counties.

1122 21P. Have an objective judge hearing evidence (ideally).
1123 22P. Specific guidelines so we can approach judge and ask for a waiver.
1124 26P. None.
1125 28P. Judge knows the kids better than the prosecutor.
1126 29P. Don't use. Many people make decisions.

1127

1128

1129 **113b. Weaknesses:**

1130

1131

1132 4P. Takes longer.
1133 11P. Removes too much discretion from state attorney.
1134 13P. Stuck with the judge.
1135 15P. Discretion is ultimately given to court not prosecuting authority where
1136 decision should be left for purposes of prosecution.
1137 17P. Takes up time.
1138 21P. Reality is that waiver hearing is useless. Judges have attitude that no kid
1139 should be waived.
1140 22P. They may or may not have all information we have.
1141 23P. Inefficient.
1142 26P. Left to discretion of judge.
1143 27P. Have to go through hearing "tipping your hand".
1144 28P. Time element involved. Community is stuck with the judges there at the
1145 time. Some info should not be heard until trial.

1146

1147

1148 **114. Discretionary Direct File**

1149 **114a. Strengths:**

1150

1151

1152 1P. Affective and timely prosecution of cases using broader knowledge child
1153 history.
1154 3P. Gives state a lot more to deter delinquency.
1155 4P. Decision made by state attorney.
1156 5P. Gives discretion to prosecutor.
1157 6P. Favor this most.
1158 8P. Puts power in hands of prosecutor.
1159 9P. Best--assuming that person who files is unbiased.
1160 11P. Gives state attorney more tools.
1161 12P. Allows our office to make decisions on where prosecutors should lie.
1162 13P. Prosecutor gets control.
1163 14P. Needs to be some discretion.
1164 16P. Most sufficient, legislature.

1165 17P. My preference.
1166 18P. Prosecution makes decision.
1167 19P. Provides for broader consideration.
1168 20P. Use for very serious offense/injury to person.
1169 21P. Extremely convenient and can be controlled by individuals.
1170 22P. Know the case the best and can make best determination.
1171 23P. Gives state lead role in doing what needs to be done.
1172 26P. Gives discretion.
1173 27P. Gives discretion.
1174 28P. Child can be transferred in the 21 days allowed by statute.

1175 =====
1176 =====
1177 **114b. Weaknesses:**
1178 -----
1179 -----

1180 1P. Subject in nature and this is why you should have season prosecutor.
1181 3P. Not broad enough.
1182 4P. No input from judicial system.
1183 13P. No third party review.
1184 15P. Can be an abuse of discretion.
1185 17P. Have to have common sense and not abuse the approach.
1186 21P. Some may be harsher than others.
1187 22P. None.
1188 23P. None.
1189 28P. Each community has a different standard.
1190 29P. Only one person making decision.

1191 =====
1192 =====
1193 **122. In your opinion, are current direct file provisions of Chapter 39 inadequate? If**
1194 **yes,**

1195 **123. Why do you think they are not adequate?**
1196 -----
1197 -----

1198 2P. Would like to see direct file for attempts, murder in 1st degree.
1199 3P. Needs to be broadened.
1200 4P. Leaves out juveniles lifestyle, environment and upbringing
1201 12P. Update 14-15 year olds--add offenses relating offenses within same criminal
1202 transaction.
1203 19P. Permits the splitting of cases and gets everyone into 2 counts on the same
1204 case.
1205 21P. Don't direct file attempted/companion crimes.
1206 27P. Don't give enough discretion.
1207 28P. 14 and 15 year old discretionary direct file. The list of crimes is inadequate.

1208 29P. Should include conspiracies.
 1209 =====
 1210 =====
 1211 **124. Do you believe that further changes to direct file eligibility criteria would be**
 1212 **beneficial?**
 1213 If yes,
 1214 **124a. What changes would you like to see?**
 1215 -----
 1216 -----
 1217 3P. More enumerated crimes for direct file.
 1218 4P. Look more into environment.
 1219 5P. Depends on what they are.
 1220 11P. Like to see state attorney have as much discretion as possible.
 1221 12P. Make sure attempts and related offenses are included.
 1222 16P. Except-attempted robbery and other attempts.
 1223 19P. Crimes from the same criminal transaction all to included in the direct file.
 1224 21P. Want the juvenile system to be adequate so you don't have to direct file.
 1225 24P. Depends on what charges are proposed.
 1226 27P. More discretion.
 1227 28P. More crimes on the list. Attempted murder for example. All felony crimes of
 1228 violence.
 1229 29P. Should continue always to compare statistics to what criteria is available.
 1230 =====
 1231 =====
 1232 **125. Are the current indictment provisions of Chapter 39 adequate? If yes,**
 1233 **126. Would you please elaborate on the reason for your view?**
 1234 -----
 1235 -----
 1236 1P. Yes, provisions provided enough latitude for filing decision but also
 1237 specifically for protection of the public.
 1238 2P. Yes, very serious.
 1239 4P. Yes, have worked on a couple cases.
 1240 5P. Yes, haven't had any direct dealings with so don't know.
 1241 6P. Yes, it's broad enough to provide an adequate to indict.
 1242 7P. No, detention criteria aren't comprehensive enough.
 1243 8P. Yes, never had to use, but they're clear-cut.
 1244 9P. Yes, because they're not used that often.
 1245 11P. Yes, indictments are restricted to life sanctions and not used often.
 1246 12P. Yes, our office philosophy is only cases that go to Grand Jury are the very
 1247 serious ones.
 1248 13P. No, list of offenses should be expanded.
 1249 16P. Yes, 99% of time direct file O.K.
 1250 17P. Yes.

1251 18P. Yes, they don't control indictments, just give time limits for filing.
1252 19P. Yes, crimes specified are sufficient.
1253 20P. Yes, have only used twice that he knows and it was necessary and adequate.
1254 22P. Yes, there are very specific guideline when seeking transfer.
1255 23P. Yes, because anyone 14+ years old can direct file on, so don't need to use
1256 indictment.
1257 24P. Yes, almost never use- so they're fine. They encompass types of crimes that
1258 should be considered for indictment.
1259 25P. Yes, don't need to overuse the Grand Jury- use for serious capital offenses.
1260 26P. Yes, transfer for attempts.
1261 27P. Yes, just for murder cases, rare, no problems yet.
1262 28P. Yes, not an indictment problem, it's a detention problem.
1263 29P. Yes, but there needs to be clarification in indictment statistics and confusion
1264 on method of transfer.
1265 30P. Yes.
1266 31P. Yes, I don't have a problem with this provision.
1267 =====
1268 =====
1269 **127. Do you believe that further changes to the indictment eligibility criteria be**
1270 **beneficial?**
1271 If yes,
1272 **127a. What changes would you like to see?**
1273 -----
1274 -----
1275 13P. List of offenses should be expanded.
1276 =====
1277 =====
1278 **128. Are the current judicial waiver provisions of Chapter 39 adequate?**
1279 **129. Would you please elaborate on the reason for your view?**
1280 -----
1281 -----
1282 1P. Yes, capture significant criteria for making an educated decision.
1283 2P. Yes, Florida law has good flexibility.
1284 3P. Yes, wish we didn't have to use as often-direct file should be expanded more
1285 to include habitual property offenders.
1286 5P. Yes.
1287 6P. Yes, provides adequate avenue to get kids in adult court.
1288 7P. Yes, never seen a case that didn't meet the criteria that we wanted to send to
1289 adult.
1290 8P. Yes, no problems-works fine.
1291 9P. Yes, gives state enough to place juvenile in adult court.
1292 11P. Yes, because we have shifted decision making to state attorney or provided
1293 for mandatory filing.

1294 12P. Yes, because of discretion state attorney has for direct file-would like to see
1295 13 year olds added.
1296 13P. Yes, they are fine.
1297 16P. Yes, 99% of time O.K.
1298 17P. Yes.
1299 18P. Yes, haven't had to do any.
1300 19P. No, instances where court should be able to take into account other crimes in
1301 criminal transaction is deciding if it is appropriate for transfer.
1302 20P. Yes.
1303 21P. No, the language speaks to prior records and judges don't listen to priors.
1304 22P. Yes, the guidelines are specific, don't have to guess what legislation means.
1305 23P. Yes, not readily used plus it's rare that they are used.
1306 24P. Yes, they provide us with options to deal with different situations that arise
1307 when dealing with how a case should be handled.
1308 25P. Yes, the changes are good-it's adequate judges are elected to use discretion.
1309 26P. No.
1310 27P. Yes, given enough discretion, so waiver doesn't play as big a role.
1311 28P. No, archaic. Only used for property offenses. Unclear. Different judges have
1312 different opinions.
1313 29P. Yes, expanded types of cases that can be waived for stronger sanctions.
1314 30P. No problems thus far.
1315 31P. Yes.

1316 =====

1317 =====

1318 **130. Do you believe that further changes to the judicial waiver eligibility criteria**
1319 **would be beneficial? If yes,**

1320 **130a. What changes would you like to see?**

1321 -----

1322 -----

1323 3P. Wish we didn't have to use as often-direct file should be expanded more to
1324 include habitual property offenders.

1325 4P. Take into account juvenile's environment.

1326 9P. Mandatory waivers by judges should be taken out.

1327 12P. Lower age on transfers.

1328 21P. Look at the 13 year olds.

1329 26P. Transfer for attempts.

1330 28P. Nope, just clarification.

1331 30P. No specific ideas but changes of improvement are always good.

1332 =====

1333 =====

1334 **131. In the last several years, what changes, if any, have you perceived in the rate**
1335 **of juvenile crime?**

1336 -----
 1337 -----
 1338 1P. Increase in robbery, domestic, violence in school, drug sales, general violence
 1339 upon person and increase.
 1340 2P. More female crimes, double case loads, more violent.
 1341 3P. Forever increasing, more violent.
 1342 4P. Rising and being reported more.
 1343 5P. Haven't seen any.
 1344 6P. More violent and prolific.
 1345 7P. Appears to be going up.
 1346 8P. Gone up.
 1347 9P. Escalated-more violent/heinous.
 1348 10P. Increased.
 1349 11P. Increased.
 1350 12P. Increased 20% a year between 1990-1995, now it's leveled out.
 1351 13P. More of it.
 1352 14P. On the upswing.
 1353 15P. Less violent crime in out juveniles.
 1354 16P. Drops in Jacksonville.
 1355 17P. Increasing. Seriousness of offenses.
 1356 18P. Going up.
 1357 19P. Has declined slightly.
 1358 20P. Slight increase.
 1359 21P. Last 2 years, went down, but still outrageous.
 1360 22P. Gone up.
 1361 23P. Have increased.
 1362 24P. A gradual increase.
 1363 25P. Up considerably.
 1364 26P. Increase.
 1365 27P. Steady.
 1366 28P. Increased, still high on felonies, but misdemeanors still outnumber them.
 1367 29P. Increase in gun offenses, decrease in age, increase in female offenders and
 1368 more violence.
 1369 30P. Gone up.
 1370 31P. Increased 100%.

1371 =====

1372 =====

1373 **132. In the last several years, what changes, if any, have you observed in the types**
 1374 **of juvenile offenders who are being referred to the justice system?**

1375 -----

1376 -----

1377 1P. More violence, more angry, more fatherless, younger, more females.
 1378 2P. Women in gangs.

1379 3P. Younger, more violent-attitude of "I don't care and nothing can hurt me"
 1380 growing disregard for other people.
 1381 4P. More burglaries.
 1382 5P. No changes.
 1383 6P. More involvement in cults/gangs.
 1384 7P. See all kinds of people, hasn't really see them long enough to notice change.
 1385 8P. More serious offenses-younger.
 1386 9P. More callous/stupid, irresponsible-psychopath.
 1387 10P. Younger, more of them, more violent.
 1388 11P. More violent.
 1389 12P. Younger-more violent-gang activities, home life a wreck.
 1390 13P. More violent.
 1391 14P. More serious crimes.
 1392 15P. No real difference.
 1393 16P. Less violent crimes, but still violent and drug related.
 1394 17P. Harder, callous offenders, don't have respect for other people.
 1395 18P. More serious, plus more numbers.
 1396 19P. Getting younger/more violent.
 1397 20P. No changes.
 1398 21P. Violent and without guidance.
 1399 22P. They are more violent.
 1400 23P. Just more of them.
 1401 24P. More violent histories plus more offenders who are currently under
 1402 supervision.
 1403 25P. Increase in violent crimes.
 1404 26P. More violent, unconcerned for actions or consequences, senseless crimes.
 1405 27P. More serious crimes, violence against persons, more weapons.
 1406 28P. All have been boys. More property, but violence is on the upswing.
 1407 29P. More sophisticated and younger.
 1408 30P. More violent, more sophisticated in crimes committed. It used to be
 1409 misconduct sexual, fighting, light drugs, now it is more breaking, weapons, drugs
 1410 dealt (possessed/sold) towards more violent (domestic/children).
 1411 31P. Not remorseful, lacking supervision.

=====

=====

1414 **134. Are there any specific program needs that are not being met by the juvenile**
 1415 **justice system, either in terms of program types or program capacities?**

1418 1P. 1) Placement upon adjudication is needed. Still suffering 2-6 month for
 1419 placement. 2) program length--can't rid 13-14 year olds of problems in 3-4
 1420 months.

2P. More residential housing for 10-13 boy and especially girls.

1422 3P. Extremely poor for females, no programs for females-wait list is too long-for
 1423 males, programs are too short. Aftercare/follow through is lacking.
 1424 4P. Lack of facilities for girls.
 1425 5P. Need more options.
 1426 6P. Not enough facilities, too many kids waiting.
 1427 7P. Stand some changes.
 1428 8P. Waiting lists-lack of treatment for mental health or substance abuse.
 1429 9P. Not enough space-some commitment levels aren't appropriate.
 1430 10P. Have no idea what the programs are.
 1431 11P. Have a greater need for more restrictive confinement.
 1432 12P. More beds, longer placements, more placements.
 1433 13P. More capacity needed.
 1434 14P. Bed spaces-facilities in rural counties (lack of).
 1435 15P. Budget is too small.
 1436 16P. Residential sex-sex offenders, female programs.
 1437 17P. Increase in level 10 facilities. Better programs for female juvenile offenders.
 1438 18P. Not enough available-no openings tired of getting lesser sent because of no
 1439 space. On paper lots of placements, but reality is different.
 1440 19P. The entire spectrum.
 1441 20P. Problem with programs for females and getting more and more females.
 1442 21P. No proof that programs are good ones not enough space/programs.
 1443 22P. No.
 1444 23P. Waiting list for higher level commitments- not enough beds.
 1445 24P. More programs for violent offenders (get that individual into a restrictive
 1446 program with more supervision).
 1447 25P. None that I can think of.
 1448 26P. More severe facilities, more beds, more treatment for emotionally disturbed
 1449 and sex offenders.
 1450 27P. No criteria for some first time offenders to get sent to higher level facilities.
 1451 Not strict enough.
 1452 28P. Can't get them in. Time devoted in the program is too short. Too elementary
 1453 B.M. techniques.
 1454 29P. With respect to sex offenders and mental health problems => programs are
 1455 too short and don't offer enough. Eckerd program is the best.
 1456 30P. Capacities are severely understaffed not able to put kids in proper facilities.
 1457 Sex offenders and drugs.
 1458 31P. Yes, a lack of space availability and lack of appropriate placements.

1459 =====
 1460 =====

1461 **135. In the past few years, the Department of Juvenile Justice has made changes in**
 1462 **the types of programs available for juvenile offenders and in the numbers of**
 1463 **offenders they are able to accommodate. Have these changes had any impact on**
 1464 **transfer policy in your jurisdiction?**

1465 **If yes,**
1466 **135a. What impact have they had?**

- 1467 -----
1468 -----
1469 1P. Good impact...Program types and availability are allowing more filing in
1470 juvenile court. (Sometimes we can get longer sentences in juvenile court then adult)
1471 3P. Have expanded types of help available.
1472 5P. Very little because other items you consider.
1473 14P. The fact that there are more programs with more variety of things they
1474 address is considered when contemplating direct file.
1475 18P. They decided to hold in detention level 8 and higher-kept them in custody.
1476 22P. We can keep kids as juveniles because we have more programs for them.
1477 23P. Decreased number of juveniles compelled to file on.
1478 24P. Increase options available as alternatives.
1479 26P. Some more available beds, some kids aren't transferred.
1480 28P. Sentencing more than transfer.
1481 29P. Respect to level 10 beds-- option they didn't have before-- more people
1482 qualify.
1483 30P. Continue to get funding and keep facilities in tact, there will be a difference
1484 and less direct file.

1485 =====
1486 =====
1487 **136. Do you perceive that there is variation in transfer practices across different**
1488 **jurisdictions within the state? If yes,**
1489 **136a. What do you think accounts for these variations?**

- 1490 -----
1491 -----
1492 1P. Each locally is different is should be allowed variation.
1493 2P. Number of cases per jurisdiction, make up of judiciary, tolerance.
1494 7P. Internal policy within state office and attitudes of judges and availability of
1495 programs, types of juvenile offenders.
1496 8P. Diverse state-conservative to liberal, different cultures across state.
1497 9P. How each office handles policies levels of discretion.
1498 15P. Case load.
1499 16P. Different philosophies of judges and prosecutors, resources.
1500 17P. The numbers (population wise) may decide if you direct file or not.
1501 18P. Perception of personality of state attorney.
1502 21P. Don't know--different philosophies availability of programs.
1503 22P. The public in our area are very conservative and they support transfer as
1504 adults.
1505 23P. Number of cases, state attorney's reflect feelings of community.
1506 24P. Natural byproduct of the evaluation of community environment.
1507 25P. Different philosophies.

1508 26P. Attitudes of state attorneys, judges.
 1509 28P. 80% are identical, 20% is based on community standards.
 1510 30P. Difference in state demographics, mechanisms don't work in all areas.
 1511 =====
 1512 =====
 1513 **136b. Do you think that these variations are appropriate, or should measures be**
 1514 **taken to try to promote greater consistency in transfer practices? If need**
 1515 **measures,**
 1516 **136c. Do you have any suggestions regarding how to promote greater consistency?**
 1517 -----
 1518 -----
 1519 1P. More seasoned prosecutors and longer term juvenile judges, and longer
 1520 termed programs.
 1521 2P. Put more specific criteria in the guide lines, but it's hard because each case is
 1522 different.
 1523 15P. Re-legislation-take discretion away from judge and prosecutors.
 1524 17P. None.
 1525 26P. No.
 1526 30P. Written policy, yet takes away individual discretion from prosecutor.
 1527 =====
 1528 =====
 1529 **137. Some people have suggested that the juvenile court be abolished and absorbed**
 1530 **into a unified criminal court system that would make adjustments for a youth's**
 1531 **age and maturity at the sentencing or disposition phase. Would you favor such a**
 1532 **change?**
 1533 **137a. Why? Or why not?**
 1534 -----
 1535 -----
 1536 1P. No, because in practice non-judicial handling is used effectively.
 1537 2P. System is designed to rehabilitate kids and kids make mistakes so they
 1538 should be worked with.
 1539 3P. No, don't think you can throw it all together and get a good product-need to
 1540 be specialized.
 1541 4P. No, with so many defendant's in system, juveniles are a special breed and
 1542 juvenile system provides special considerations.
 1543 5P. Yes, because judicial system as it's set up doesn't give harsh enough
 1544 sentences to juvenile.
 1545 6P. Yes, with the understanding that facilities would be improved upon to treat
 1546 juveniles who aren't of age or severity.
 1547 7P. Yes, change of age to 16 then adult court.
 1548 8P. No, important to have separate court that focuses on juvenile issues.

1549 9P. Yes, much of what's handled in juvenile court-no recidivism except for those
1550 who needed adult sanctions anyway-juvenile court doesn't define sanctions/laws
1551 well and might be better if unified with well outlined sanctions, etc.
1552 12P. No, kids would get lost in the system.
1553 13P. Yes, he could do adult and juvenile work.
1554 14P. Yes, would favor investigating the possibility.
1555 15P. No, something inherent in juvenile system and should be treated separately.
1556 Should remain the way it is.
1557 16P. No, have court where juveniles needs are present. Fearful of juvenile system
1558 where they would be treated not according to crime.
1559 17P. No, I think the focus in the juvenile system can be rehabilitation and if it's
1560 uniformed that focus might change or may never happen.
1561 18P. No, needs to be a separate system, because kids are different.
1562 19P. Yes, want to know more about it but system needs to have adequate
1563 resources.
1564 20P. Yes, one court system dealing with such a wide range trying to deal with that
1565 plus could be handled in one court system. In county of his size one judge for
1566 everything plus everything is on equal basis.
1567 21P. No, should be separate because once you open kids to jury system, volume
1568 of cases would be too big and kids would be ignored.
1569 22P. No, it would slow the system down and we'd have more jury trials.
1570 23P. No, because I believe that if you think juveniles are actually children, then
1571 must have an effective separate juvenile system.
1572 24P. No, because by having specific judges who are more familiar with processes
1573 gives a better evaluation of the cases and circumstances.
1574 25P. Yes, add some consistency to how criminal cases are handled.
1575 26P. No, juveniles would be an afterthought, not concerned enough with juveniles
1576 needs. No rehabilitation possibilities.
1577 27P. Yes, juvenile system does not adequately accommodate sentencing needs for
1578 offenders (especially first time).
1579 28P. No, truly believe in Juvenile court for younger offenders. Judges are trained
1580 to understand maturation rates.
1581 29P. Yes, because don't know how successful separate system has been, but
1582 would be different to treat very young. Maybe specialize with the young.
1583 30P. Depends, sometimes JJS is worthless and sometimes it works. Depends on
1584 attitude of attorney, philosophy on rehabilitation alone will not work.
1585 31P. Maybe, the juvenile court system can be too lenient for certain serious
1586 offenses but I'd like provisions for first time offenders.
1587 =====
1588 =====
1589 **138. In an order waiving a juvenile to adult court for prosecution, Florida law**
1590 **requires a judge to consider the so-called "Kent criteria" and to include written**
1591 **findings of fact with respect to those criteria. On the other hand, a state attorney**

may direct file when in his or her judgment the public interest requires that adult sanctions be considered or imposed. Do you have any thoughts about the use of different criteria for transfer mechanisms?

1P. Use same criteria that judges do and so should all prosecutors. Direct file allows locals to maintain own protection for public.

2P. 14-15 year olds are not being filed as serious offenses.

3P. Can't think of any to add, but don't take into account victim enough.

6P. Public safety-take into account.

8P. No thoughts but seems inconsistent.

9P. It's appropriate. Gives judicial arm more power.

16P. If appropriate criminal sanctions they should be given out sanctions regardless of the mechanisms.

21P. Between waiver and attorney's office must be variation/discretion on transferring.

22P. No, we try to keep out system uniformed, we follow chapter 39.

23P. State attorney constitutionally is prosecutor plus it is their job to make decisions on prosecution but don't strip judge of authority.

24P. Allows prosecutor different options on how case should be handled.

25P. Appropriate for state to direct file without having to answer to others or explain.

26P. Everything is considered in a direct file, so not different criteria.

27P. Silly that judge must provide written criteria when prosecutor can simply do it. Judges take easy way out.

28P. Opposed to having direct file set criteria.

29P. No, most SA's consider same criteria.

30P. Direct file does not have to convince judge. Judicial waiver mixes 2 duties of State Attorney and judiciary. Judge is to sentence not decide on situation.

139. That is the last of our survey questions. Are there any additional comments that you'd like to make?

1P. Keep working on program length and design.

9P. Don't think legislation should tell us how to do our jobs.

18P. Why do we have to do this over the phone-there are liberals who are trying to take away discretion/direct file and that would be a very bad idea.

19P. Judges should be elected yearly.

20P. No--haven't been doing it too long, but have had great successes. Problem is a rise in number of females plus no facilities for placement.

1634 21P. Juvenile system is very inadequate in ability to respond to juveniles plus
1635 facilities are inadequate-not enough programs.
1636 22P. Things seem to be improving in the juvenile system.
1637 23P. Strong belief that state attorney needs its discretion plus makes appropriate
1638 decision.
1639 30P. Need to keep working on system. Just a taste in the last three years. More
1640 people need to take responsibility of actions. Cooperation of schools, community,
1641 juveniles have no fear and no respect.
1642 31P. The juveniles aren't being adequately supervised when in the juvenile system
1643 and continue to be repeat offenders. (This goes on in Monroe County).
1644
1645

ATTACHMENT B1

Questions are numbered in serial order beginning with question one (Q1) and ending with question 136 (Q136). These “Q” numbers correspond exactly to the item numbers on the survey instruments included here as Attachment B. In bold are additional item numbers that refer to items created when respondents gave answers outside the fixed response categories on selected items. For example, item 6 allows respondents to select “other” as a choice for position or title. Therefore, if respondents believed none of the five fixed response categories fit their current position, they gave different answers that were recorded by the interviewer. Thus, another question number (Q6a) was created to present these results. Further, since some respondents gave more than one position such as both criminal division attorney and juvenile division attorney, question number Q6b was created for these additional categories. Another example follows item 10. Respondents were given a chance after this item to specify as many as three additional positions they have held within the state attorney’s office in the circuit. They were also given the opportunity to specify the length of time they held these other positions. Thus, the first other position is reported under Q10a1 and the length of time that position was held is reported under Q10a2 and so on through the third position and time in the position contained under Q10c1 and Q10c2. Thus, the sets of frequencies reported in Attachment B1 cover all the fixed response items and all the items created from responses items allowing “other” responses and specification of “other” responses.

Attachment B2

Attachment B2 includes all the verbatim responses to open ended questions from the judge survey instruments. The verbatim responses come in two categories. The first is to questions intended for every respondent. These are numbered as numeric items. The second category includes alpha-numeric items that cover the opportunities some respondents had to further specify or elaborate their answers. It should be noted that there are sometimes more responses to these "specification" items than the N of respondents to the survey indicates there should be. This is because some respondents made comments after selecting a fixed response category other than "other." The interviewers at The Research Network accepted all responses even when "other" was not the selected category. Therefore, if respondents chose a fixed response category and still commented further, their comments are reported in these results as well.

ATTACHMENT B2

Telephone Survey for Judges

17. In your experience, has the number of waiver hearings changed since the 1994 changes in the law? If yes,

17a. Has it increased or decreased?

18. How would you explain the difference?

1J. Decreased, because of direct file cases.

2J. Decreased, based on the State Attorney who was handling the case at that time.

7J. Increased--doubled, new get tough policy on juveniles.

12J. Decreased, 50%.

16J. Decreased, you don't have to go through all the intra cases when you file direct.

18J. Increased, state attorney-total control of direct filing kid over 16-petition for waiver asked more people to try them as adults.

20J. Decreased, 99%. State attorney's feel if there's a need the juvenile needs to be tried as an adult without trying to find a way to really help the kids.

24J. Increased.

20. Has the number of youths waived increased or decreased as a result of the 1994 changes in the law? If yes,

20a. Has it increased or decreased?

21. How would you explain the difference?

5J. Decreased, use of direct files, etc. have taken cases that would've been waivers into adult system.

7J. Increased.

16J. Decreased, it's far easier to file an information.

18J. Increased, state decided to waive more children.

20J. Decreased, 98-99%. Goes back to the state attorney using their own discretion without looking out for the well-being of the child.

24J. Increased, lowering of age from 16 to 14.

24. Are there any other important age issues that you consider in making a decision to waive a juvenile to criminal court?

61 1J. No.
 62 4J. Extreme youthfulness.
 63 5J. Look at chronological age and maturity level, disabilities and emotionally
 64 mature.
 65 6J. Have to go along with their mental age as well.
 66 11J. Family dynamics.
 67 14J. Mental age has as much or more weight than calendar age.
 68 18J. No-not one of the criteria up to age 0-16, 16 direct file.
 69 20J. Maturity of youth.
 70 24J. No, alleged defense.
 71 =====
 72 =====
 73 **26. Are there any other offenses that you consider in making a decision to waive a**
 74 **juvenile to criminal court?**
 75 -----
 76 -----
 77 1J. Sexually related offense.
 78 6J. The available resources at home and what kind of parents they have and
 79 disciplinary problems.
 80 12J. Intellectual sophistication.
 81 14J. Sexual offenses rank high, elaborately planned offenses.
 82 18J. All other criteria in 39.052 subsection 2(c).
 83 20J. Repetitiveness.
 84 22J. The likelihood of criminal court imposing juvenile sanctions.
 85 =====
 86 =====
 87 **28. Are there any other prior record issues that you consider in making a decision**
 88 **to waive a juvenile to criminal court?**
 89 -----
 90 -----
 91 1J. No.
 92 3J. Violations of probation/community control.
 93 4J. Level of prior treatment.
 94 12J. How long has the child been an offender and proximity of offenses to one
 95 another.
 96 14J. If the crimes are accelerating in numbers and seriousness.
 97 18J. Everything redundant.
 98 22J. If found guilty of some offenses-been arrested three times for aggravated
 99 battery and is there for same offense.
 100 =====
 101 =====
 102 **29a. What features of the home environment do you consider in the transfer**
 103 **decision?**

- 104 -----
105 -----
106 1J. Consider whether both parents are their. Amount of support and stability of
107 home. Drug and alcohol use by the parents.
108 2J. Type of parental relationship, parental attitudes, positive home environment,
109 who is child living with (Mom, mom/dad, grandmother, etc.)
110 3J. Lack of supervision/interest in child, no structure, parental/criminal record.
111 4J. Degree of structure and parental involvement.
112 5J. Looking for support system and someone who is capable of supervising
113 juvenile sanctions functional single parent/intact family.
114 6J. A good family relation.
115 7J. What control the parents have-discipline parental support-deviance, presence
116 of drugs siblings.
117 9J. I wouldn't really consider the home because most of the time the child can't
118 control what's going on at home.
119 11J. Neglect, child abuse-prior violence in home. Single parent home or lack of
120 adult role models.
121 12J. Stability--attitude of parent(s) and their cooperation with sanctions-presence
122 of previous dependency referrals.
123 14J. Is home environment conducive to rehabilitation in juvenile system. Will
124 child have support from home or does home encourage criminal behavior-does it
125 increase danger to current or future victims.
126 15J. Family unit, active, participation of mom and dad, status of other children,
127 family history, community participation.
128 17J. Hardly any-not really helpful information.
129 18J. Only consider criteria.
130 20J. Of the home has been a positive or negative factor.
131 22J. If domestic violence is present in home, home contributes to juvenile criminal
132 history, relationship of people in the home.
133 23J. Not many.
134 24J. Type of financial conditions of home/both parents at home, violence at home,
135 if non-custodial parent is part of child's life.
136 25J. Support and concern, criminal record and background of parents.

137 =====
138 =====
139 **29b. How do you assess whether or not a juvenile is amenable to treatment?**
140 -----
141 -----

- 142 1J. Past record-- current attitude and current home situation.
143 2J. Reports from Juvenile Justice workers and psychiatric reports.
144 3J. Does he have intact parent(s) who are supportive and if under previous
145 supervision, how did they respond.
146 4J. Hope, assess all the factors and try to weigh them all to give best estimate.

147 5J. Put a lot of reliance on DJJ report and psychological department reports and
148 past history.
149 6J. By prior criminal record.
150 7J. Judgment call based on experience.
151 9J. Consider what types of treatment he's had up to this point.
152 11J. Prior record of community control and programs.
153 12J. Look at prior record and program/commitments PDR information and track
154 record.
155 14J. Prior history of treatment-has close in age is child to maximum level of
156 treatment and availability of treatment that deals with the child's specific crime.
157 15J. Can't be determined.
158 16J. His attitude and his desire to stop what he/she is doing.
159 17J. Do a pre-deposition report.
160 18J. Psychological evaluation-how did in past-environment-does he go to school-
161 community control-substance evaluation-support of family and acts in
162 community.
163 20J. Look at prior record, length of time between offenses, how they're doing
164 school.
165 22J. Reports from DJJ case manager/staff/counselors/therapists/detention
166 personnel.
167 23J. Rely on DJJ and case managers.
168 24J. Past history, family, support system, education, demeanor/attitude in school.
169 25J. Based on history and inclination, behavior since change, progression with
170 school.

171 =====
172 =====
173 **30. Are there any considerations that I have not already mentioned that are**
174 **important to you in making waiver decisions?**
175 -----
176 -----

177 5J. Psychological reports-whether juvenile suffers from mental health issues.
178 18J. Yes, all 8 criteria must be taken into consideration. Each influences each
179 other.
180 20J. Mental state of the child.

181 =====
182 =====
183 **31. How often are juvenile misdemeanor cases judicially waived in this county?**
184 **31a. Under what circumstances are misdemeanant waived to criminal court?**
185 -----
186 -----

187 1J. Seldom, usually because of age.
188 2J. Never.
189 7J. Seldom, extreme cases.

190 14J. Seldom, it they have other adult charges and misdemeanor can't be direct
191 filed-nature of prior history.
192 17J. Seriousness of crime.
193 18J. Occasionally, none should not waive anyone unless horrendous
194 circumstances.
195 24J. Seldom, acts of violence/assault, battery, theft.
196 25J. Seldom, serious offenses.

197 =====
198 =====
199 **32. Among those cases eligible for judicial waiver, are there certain offenses of**
200 **offenders whom you would be unlikely to transfer? If yes,**
201 **32a. Would you please explain?**
202 -----
203 -----

204 1J. Very young child.
205 2J. Misdemeanor cases.
206 3J. Most get treated with lighters sanctions in adult court.
207 5J. Felony possession of drug cases.
208 6J. Driving with suspended license.
209 7J. Score low on assessments.
210 9J. Cases where the offenses are against property.
211 11J. Goes by recommendations of DJJ.
212 15J. Drug cases, property crimes.
213 16J. Non-violent offenders.
214 18J. Misdemeanor cases.
215 22J. Borderline incompetent (mental illness/retardation) is evident in child, child
216 with physical ailments or handicaps.
217 23J. Those who can still benefit from programs/health issues.
218 24J. Non-violent, those without criminal records, recommended for drug
219 treatment.
220 25J. Extremely young, drug related with out violence, things involving pranks.

221 =====
222 =====
223 **33. In juvenile court, how often have you had occasion to deny a request for waiver**
224 **of a juvenile?**
225 **33a. What features of the(se) case(s) or the juvenile(s) led you to conclude that**
226 **waiver was inappropriate?**
227 -----
228 -----

229 2J. Seldom, the child was at a borderline age, there looked like there was hope for
230 rehab thru positive treatment, and the charges were also borderline for transfer.
231 3J. Often, they would get treated more leniently in adult court.
232 5J. Often, based totally on child's age-priors.

233 6J. Seldom, don't remember.
234 7J. Seldom, didn't think factors were justified.
235 9J. Seldom, because the availability of treatment, center wasn't accessible.
236 11J. Occasionally, factors listed earlier and prospects of rehabilitation in juvenile
237 system.
238 12J. Seldom, the child's age and sophistication-nature of crime and amendable
239 treatment.
240 14J. Seldom, the age/nature of offense-all factors.
241 16J. Seldom, strength of evidence-age-nature of offense.
242 18J. Often, deny most of when do not meet their criteria again.
243 23J. Seldom, still benefit from other things.
244 24J. Age, type of offense.
245 25J. Seldom, can't remember.

246 =====
247 =====

248 **34. In your experience, what proportion of juveniles in waiver hearings are**
249 **represented by counsel? (If less than 100% then)**
250 **34a. A good deal of research in other states indicates that juveniles who are**
251 **represented by counsel are more likely to be transferred than juveniles who waive**
252 **the right to counsel, even when they are charged with similar offenses and have**
253 **similar prior records. Academicians have several possible explanation for this,**
254 **none of them definitive. As someone familiar with the system, do you have an**
255 **opinion as to why this is the case?**

256 -----
257 -----

258 7J. 20%
259 =====
260 =====

261 **37. Has the number of youths transferred to adult court in this county changed**
262 **since the 1994 changes in the law? If yes,**

263 **37a. Has it increased or decreased?**

264 **37c. How would you explain the difference?**

265 -----
266 -----

267 1J. Increased, number of mandatory direct file required by law.
268 4J. Increased, easier for state to direct file and attorney believes in county jail,
269 juvenile justice system.
270 5J. Increased, in the direct file cases-state attorney files whenever he can.
271 7J. Increased--doubled.
272 8J. Increased, personal philosophies of state attorney and more serious crimes,
273 13J. Increased, greater discretion with state attorney.
274 16J. Increased.
275 17J. Increased.

276 24J. Increased 30%, toughening up of juvenile, easy to transfer and lower age.

277 =====
278 =====

279 **38. In the criminal court, are there any ways in which you views or treat**
280 **differently case involving juveniles transferred to criminal court, compared to**
281 **cases involving adults who appear before you? If yes,**

282 **38a. Has it increased or decreased?**

283 **38c. In what ways do you view or treat them differently?**

284 -----
285 -----

286 1J. More strongly consider deviating from guidelines and committing to a juvenile
287 facility.

288 4J. Greater procedural safeguards regarding sanctions.

289 5J. Sentence back hearing-additional pre-trial look at statutory requirements and
290 if juvenile meets criteria.

291 6J. Stayed the same, try to impose a younger treatment facility.

292 7J. Look at age and amenability to rehabilitate.

293 8J. More likely to get youthful offender status.

294 10J. Consider rehabilitation-investigate what juvenile sanctions are available before
295 adult sanctions.

296 14J. Treat them different after finding guilt to see if juvenile or adult sanctions are
297 appropriate.

298 15J. Increased.

299 17J. If a child has been transferred-required by DJJ to do a predisposition report-
300 supposed to consider juvenile sanctions even if they are in the adult court.

301 19J. Bunch of hoops we have to jump through with juveniles.

302 21J. Have to consider criteria for Chapter 39.

303 24J. Increased, sentencing-past record, type of offense/attitude of juvenile, chance
304 of rehabilitation.

305 25J. Decreased, open and concerned to what can be recommended for kids which
306 is different than adults. More optimistic about rehabilitation.

307 =====
308 =====

309 **40. What are the key factors or considerations that would prompt you to impose**
310 **juvenile sanctions on a youth who has been transferred to criminal court?**

311 -----
312 -----

313 1J. Nature of offense.

314 2J. Remedial affect-he would rather have the child contribute with community
315 service and pay restitution rather than just pay a fine. Kids learn more.

316 4J. Some factors and consideration as waiver, level of prior treatment, degree of
317 structure in home, parental involvement, age.

5J. Some things for waiver-age, priors, opportunities/commitments in juvenile court.
6J. Didn't think the adult sanctions were warranted or someone who hasn't been in a lot of trouble.
8J. Age, lack of record, nature of crime-amount of time a person could be supervised by juvenile justice.
10J. Length of incarceration-whether the youth is subject and can be saved by juvenile justice sanctions.
14J. If crime is significantly different then what they were convicted of-are there reasonable sanctions in juvenile court? Activities of child since transfer occurred.
15J. Nature of offense, age, availability of sanctions, their efficacy.
16J. Some juvenile don't need criminal court, they're immature and can be salvaged.
17J. The crime itself-predispositional report.
19J. Haven't been there long enough.
21J. Recommendation from DJJ.
24J. Type of offense, injury to victim or property damage and past record.
25J. Seriousness of offense programs available, recommendations of probation.

=====
41. Do you believe that the defense bar is active enough in pursuing juvenile sanctions in transfer cases? If no,
41a. What do you think the reasons are for this?

5J. Juvenile is a limited jurisdiction that very few lawyers know about.
10J. They're not really educated for this.
14J. Not being as educated on juvenile system as should be.

=====
100. The next section has to do with changes in the law regarding transfers which were made during the 1994 legislative session. Which of the legislative changes do you consider to be most significant, and why?

100a. Discretionary direct file for 14-15 year olds charged with a statutorily-specified violent or serious offense [Lower Age-Direct File]

4J. [1] Those class of people is where we see the greatest impact because of state attorney's aggressive use of direct file.
5J. [1] Prosecutors like this, but it overworks adult system.
7J. [2]
8J. [1] Because the general feeling is that there is no faith in Juveniles system to handle the serious crimes.

361 9J. [1] Because it takes a lot of the discretion from the judge.
362 13J. [1] Most often used.
363 15J. [4] Not too important-not used.
364 16J. [1] It happens most frequently and it's easier to do.
365 18J. [3] Up to state attorney.
366 20J. [1] Because it permits state attorney to plea knee jerk reaction when the
367 situation may not be handled in juvenile court.
368 22J. [1] Very significant.

369 =====
370 =====
371 **100b. Mandatory direct file for youths of any age who have three prior felony**
372 **adjudications and three prior commitments [The Strikes-Direct File]**
373 -----
374 -----

375 1J. [1] Because gives prosecutors less discretion which resulted in more juveniles
376 going to adult.
377 2J. [1]
378 12J. [1] It's a problem that you see in kids and juvenile system is no longer
379 appropriate.
380 15J. [3] Unimportant.
381 18J. [1] Against that-overloaded in prison now-do something in juvenile court.
382 21J. [1] Probably meets what the public expects.

383 =====
384 =====
385 **100c. Presumptive judicial waivers for youths 14 or older charged with a second or**
386 **subsequent violent offense against person [Mandatory Waiver for 2nd + Gun]**
387 -----
388 -----

389 5J. [2] Zone where most kids who should be transferred come from.
390 15J. [2] Moderate significance.

391 =====
392 =====
393 **100d. Presumptive judicial waiver for fourth-time felons 14 or older where one**
394 **prior felony involved a violent offense against persons or firearm possession [4**
395 **strikes + Gun]**
396 -----
397 -----

398 5J. [3] No problem with it as long as it's not mandatory.
399 6J. [1] If their prior record is so bad we have to do something to change their life
400 or protect the public.
401 7J. [1]
402 15J. [1] Pretty important-is looked at by him.
403 18J. [4] Not in our discretion-do not need judge.

404 24J. [1] Firearms-are means for juveniles to be adults.

405 25J. [1]

406

407

408 **100e. Other.**

409

410

411 3J. [1] All equally significant.

412 10J. [1] Haven't had to deal with any of them, but all are significantly bad and
413 should leave discretion with judge and prosecutor.

414 14J. [1] His assessment is that they've all had little or no impact because state
415 attorney doesn't usually seek transfer law made available, but state attorney
416 doesn't use it.

417 17J. None of them-reactive responses.

418 18J. [2] Felony judge can put them in jail-violate juvenile sanctions.

419 19J. [1] All equally very important.

420

421

422 **101. Have any of the 1994 changes in the law had a significant impact on transfer**
423 **policy or practice in your jurisdiction?**

424 **101a. Which change(s) have had the greatest impact?**

425

426

427 1J. Yes, the mandatory direct file.

428 3J. Yes, direct file.

429 4J. Yes, same as before-discretionary direct file.

430 5J. Yes, in the direct file rate.

431 8J. Yes, more direct files.

432 11J. Yes, large number of cases that have been direct filed.

433 12J. Yes, mandatory.

434 17J. Yes, number's are affected.

435 18J. Yes, direct file-take out of juvenile.

436 20J. Yes, direct file for 14-15 year olds.

437 24J. Yes, ease of age.

438

439

440 **101b. What has been the nature of the impact?**

441

442

443 1J. The Mandatory direct file.

444 3J. More offenders with serious records are going to adult court-healthy.

445 4J. Aggressive use by state attorney.

446 5J. Direct file rate has increased.

447 8J. More cases in adult system.
448 11J. Can't tell how it changed anything.
449 18J. Less cases-kids will be tried as children will be charged as adults.
450 20J. Fewer delinquents charged with serious crimes.
451 24J. Increase number of cases being transferred. Immune to law.

452 =====
453 =====
454 **102. To your knowledge have these legislative changes in transfer law have had an**
455 **impact on:**

456 -----
457 -----
458 **102a. The police? If yes, in what way?**

459 -----
460 -----
461 5J. Given them more encouragement.
462 6J. Because the state attorney would be direct filing.
463 7J. Made police happier.
464 24J. Increase confidence in law.

465 =====
466 =====
467 **102b. The court system? If yes, in what way?**

468 -----
469 -----
470 4J. Increased number of direct files.
471 5J. Sent a lot of kids to adult system.
472 6J. Should have more cases in the adult system.
473 7J. Allowed to get tougher.
474 8J. More cases.
475 12J. Served to remove defendant's from juvenile justice system that were
476 inappropriate.
477 15J. More waivers.
478 18J. Making them into adult criminals.
479 23J. More defendants.
480 24J. Increase confidence of law by people.

481 =====
482 =====
483 **102c. The Department of Juvenile Justice? If yes, in what way?**

484 -----
485 -----
486 1J. Taken a number of repeat offenders away.
487 4J. Fewer people than they would have had.
488 5J. Eased their load a little.
489 7J. Takes worse cases away from them.

490 8J. Less cases.
491 12J. Juveniles were taken out who were inappropriate for the juvenile system.
492 13J. More inclined to recommend adult sanctions.
493 18J. May have saved children if not tried as adult.
494 20J. They're more confused than usual, they don't want certain kids that they feel
495 are too bad in their system.

496 =====
497 =====
498 **102d. The Department of Corrections? If yes, in what way?**

499 -----
500 -----
501 1J. Increased number of juveniles in system.
502 6J. They're getting more younger offenders.
503 8J. More inmates- more younger inmates.
504 14J. Because age is lowered more juveniles.
505 18J. Would if waived up there.
506 20J. They're dealing with more kids than they've dealt with ever.
507 24J. Transfer to adult court.
508 25J. Concerned statewide. A lot more magnitude in probation.

509 =====
510 =====
511 **103. Could you please describe for me your general understanding of the purpose**
512 **and goals of transfer. By that I mean, ideally, what specific goals are supposed to**
513 **be achieved in transferring a juvenile offender to criminal court?**

514 -----
515 -----
516 **103a. General deterrence.**

517 -----
518 -----
519 14J. [3] Recognize within justice community-knew juveniles who stopped crime
520 because of juvenile sanctions

521 =====
522 =====
523 **103b. Specific deterrence.**

524 -----
525 -----
526 3J. [2] It's a wake-up call.
527 20J. [1] Teaching kids they are not going to get away with wrong doings.
528 24J. [1]

529 =====
530 =====
531 **103c. Retribution/just deserts.**

532 -----
533 -----
534 1J. [1] Punish when juvenile system has proved ineffective.
535 8J. [2] Punish the more serious crimes.
536 =====
537 =====
538 **103d. Longer sentences.**
539 -----
540 -----
541 2J. [3]
542 5J. [1]
543 =====
544 =====
545 **103e. Harsher sentences.**
546 -----
547 -----
548 7J. [1]
549 9J. [1] Possibility to provide stricter punishment according to a juveniles
550 offense.
551 10J. [2] Reaction to public perception of crime problem-can get harsher sanctions.
552 15J. [1] Enhance amount of punishment.
553 16J. [1] The offense is so severe it requires adult sanctions.
554 18J. [1] State attorney has the right to punish them as adults.
555 22J. [2]
556 =====
557 =====
558 **103f. Incapacitation.**
559 -----
560 -----
561 2J. [2]
562 17J. [1] Society needs to be separated from this person.
563 20J. [2] Getting dangerous criminals off the streets.
564 =====
565 =====
566 **103g. Longer sentences.**
567 -----
568 -----
569 14J. [1]
570 25J. [1]
571 =====
572 =====
573 **103h. More secure placements.**

574 -----
575 -----
576 3J. [1] Get more active supervision on adult probation.
577 8J. [1] To have more control over the defendant.
578 12J. [1] Adult sanctions keep tighter control on defendant.
579 =====
580 =====
581 **103i. Rehabilitation/treatment.**
582 -----
583 -----
584 6J. [1] Trying to rehabilitate.
585 22J. [3]
586 =====
587 =====
588 **103j. Provide opportunities for reform of offenders that are not available in the**
589 **juvenile justice system.**
590 -----
591 -----
592 5J. [1] Last resort for juvenile system when nothing meets with success, leave
593 juvenile to adult court.
594 7J. [1] Taking violent offenders and putting them in adult .
595 10J. [1] Juvenile conduct is beyond capabilities of juvenile court.
596 12J. [2] Juvenile system can't do anymore. Defendant's need tighter control-
597 juvenile system is not reaching.
598 13J. [1] Recognize that juvenile sanctions are inappropriate.
599 21J. [1] Can not receive the protection of treatment in a juvenile court. Should be
600 treated as an adult.
601 23J. [1]
602 =====
603 =====
604 **103k. Protecting the public/insuring public safety.**
605 -----
606 -----
607 2J. [1]
608 6J. [1] Protect the public.
609 14J. [2] Protect community with longer term/sentence.
610 17J. [2] These people are kept away from society.
611 22J. [1] Pretrial supervision is better.
612 =====
613 =====
614 **103L. Other**
615 -----
616 -----

617 4J. [1] Distinguish those who are amenable to juvenile program from those who
618 aren't and allow for better use of resources.
619 11J. [1] Has to be a determination of guilt and juvenile amendable to rehabilitate in
620 juvenile system.
621 14J. [4] The judge should fashion the sentence to best fit the case-relieves juvenile
622 system from waste of resources and allows community to decide who will be tried
623 in what was juvenile/criminal.
624 17J. [3] Not sure that it really has any goals-mainly reactionary in nature-no
625 question that younger kids are committing more serious crimes.
626 18J. [2] No idea-legislative goal political-to be re-elected victims are ponicing (?)
627 quick thinking solution throw in jail; throw away key makes better criminal-don't
628 think about affects; tough on crime legislation.

629 =====
630 =====
631 **104. What goals do you think transfer actually achieves in practice?**
632 -----
633 -----

634 **104a. General deterrence.**
635 -----
636 -----

637 6J. [1] Giving a message to the public that if you do wrong you're not going to
638 be around for long.
639 12J. [2] For so long juveniles thought that nothing would happen to them now it's
640 changed.
641 16J. [1] Teaches juveniles they're going to be held accountable.

642 =====
643 =====
644 **104b. Specific deterrence.**
645 -----
646 -----

647 3J. [1] Perception of risk to juvenile and threat of incarceration.
648 9J. [1] Teaches the child if he doesn't straighten up he's going to prison.
649 23J. [1]
650 24J. [1]

651 =====
652 =====
653 **104c. Retribution/just deserts.**
654 -----
655 -----

656 8J. [2]
657 17J. [2] To show protection of society.
658 =====
659 =====

660 **104d. Longer sentences.**

661 -----
662 -----
663 =====
664 =====

665 **104e. Harsher sentences.**

666 -----
667 -----
668 15J. [1]
669 =====
670 =====

671 **104f. Incapacitation.**

672 -----
673 -----
674 1J. [1] Put defendants in a position where they will end up off the street.
675 7J. [1]
676 14J. [1] Removes juvenile from juvenile court who aren't suited for juvenile court.
677 Removes juveniles from community.
678 =====
679 =====

680 **104g. Longer sentences.**

681 -----
682 -----
683 =====
684 =====

685 **104h. More secure placements.**

686 -----
687 -----
688 8J. [1]
689 =====
690 =====

691 **104i. Rehabilitation/treatment.**

692 -----
693 -----
694 =====
695 =====

696 **104j. Provide opportunities for reform of offenders that are not available in the**
697 **juvenile justice system.**

698 -----
699 -----
700 7J. [1]
701 10J. [1] Gets those juveniles into adult court.
702 13J. [1] Same as before, allows more flexibility in sentencing.

703 24J. [2]
704 =====
705 =====
706 **104k. Protecting the public/insuring public safety.**
707 -----
708 -----
709 12J. [1]
710 22J. [1] A slight amount, child needs to be made sure they don't skip bail, so
711 forth.
712 =====
713 =====
714 **104L. Other**
715 -----
716 -----
717 2J. [1] By transferring kids to adult court is like they are going to college to be a
718 criminal. They will become more hardcore.
719 5J. [1] Gives us a place to dump our failures from the juvenile justice system.
720 11J. [1] Same as before.
721
722 12J. [1]
723 17J. [1] None of the above-too anecdotal to know-punishment goals gets satisfied
724 but there is no evidence.
725 18J. [1] None-goal of politicians and state attorney looks good to public, only goal
726 can be achieved can't handle in juvenile for violent crime.
727 19J. [1] Juveniles says adult court is more lenient.
728 21J. [1] Maintains public's confidence in the system.
729 25J. [1] Isolation and recognition of dangerous conduct.
730 =====
731 =====
732 **105. Do you believe that there is a significant difference between the goals of**
733 **transfer and what transfer as practiced actually achieves? If yes,**
734 **105a. Why do you think that transfers do not actually achieve the objectives?**
735 -----
736 -----
737 6J. Because some people aren't instructed to live in society once they've been
738 incarcerated.
739 17J. Just discussed that-it's going to happen-hard to achieve aspirational goals.
740 18J. Transfers don't produce anything productive but fill up jails and dockets.
741 20J. I don't think it's being used selectively.
742 21J. Not sure if there is a treatment goal. DOC can't treat like DJJ.
743 22J. Possible of acquittal, jumping bail, getting probation and not jail.
744 =====
745 =====

746 106. In this county, how often are juveniles that you personally believe should be
747 transferred not transferred to criminal court?

748 106a. What kind of cases are these?

749 -----

750 -----

751 2J. Occasionally, 2nd degree felony cases.

752 3J. Seldom, older teenager-1st degree felony, less record, very few priors.

753 5J. Seldom, with child's record=not as offense driven.

754 7J. Seldom, usually long term status offenders.

755 10J. Seldom, don't use unless transferred.

756 12J. Seldom, kids that have not committed violence crimes but long histories of
757 property crimes.

758 14J. Occasionally, cases with longer prior history even if current crime isn't
759 serious-exhausted juvenile programs.

760 17J. Seldom.

761 18J. Seldom, 2nd degree felonies.

762 24J. Often, burglary, firearms, attacks on persons, school ground offense.

763 =====

764 =====

765 107. In this county how often are juveniles you personally believe should not be
766 transferred actually transferred?

767 107a. What kind of cases are these?

768 -----

769 -----

770 1J. Seldom, repeat offenders whose crimes were not serious.

771 4J. Occasionally, it's what kind of kid they are-drug and non-violent cases.

772 5J. Often, 1st offense drug cases on sales of marijuana, etc.

773 7J. Seldom, cases where state attorney has a grievance towards juvenile.

774 8J. Occasionally, drug cases and possible 3rd degree burglaries.

775 10J. Seldom, lack of priors and nature of offense.

776 11J. Third degree felonies that are direct filed.

777 14J. Seldom, cases where the crime that they may be charged with is not as serious
778 as the actual crime.

779 15J. Never.

780 16J. Seldom, an escape or burglary case, a non-violent offense.

781 17J. Seldom, child didn't really meet direct file criteria-but got filed anyway.

782 18J. Often, misdemeanors-3rd degree felony drug cases-need drug treatment,
783 putting in jail.

784 20J. Often, crimes of violence, grand theft.

785 22J. Often, not specific on nature of offense, where the juvenile justice system
786 could impact in a positive way.

787 24J. Seldom, less serious like drug offense, drug addicts offenses are less
788 problematic.

789 =====
790 =====
791 **108. Juveniles can be transferred to criminal court through judicial waiver,**
792 **indictment, and direct file. Do you prefer one of these methods over the others,**
793 **and if so, why?**
794 -----
795 -----
796 1J. Direct file, more discretion in hands of prosecutors.
797 2J. No preference.
798 3J. No preference.
799 4J. No preference, very rarely see indictments as far as other 2 go, judge will
800 review one way or another.
801 5J. Waiver, somewhere in there is judicial discretion.
802 6J. Direct file, simpler, easier.
803 7J. Indictment and Direct file, either one, because it's more direct and less judicial
804 involvement.
805 8J. Direct file, state attorney has the most history and information on juvenile.
806 9J. No preference.
807 10J. Direct file, puts it in hands of prosecutor.
808 11J. Waiver, fairest because other 2 remove judges input.
809 12J. Direct file, that's truly an executive branch function should be left to that
810 branch (the prosecutor) and not the judiciary decision on how/where to change is
811 executive branch function.
812 13J. Direct file, practical matter-in discretion of state attorney.
813 14J. No preference, all serve purpose and do what they're supposed to.
814 15J. Waiver, good policy.
815 16J. Direct file, less judicial involvement.
816 17J. No preference.
817 18J. Waiver, Indictment, whole hearing is before judge, indictment works for those
818 cases before grand jury.
819 19J. No preference.
820 20J. Waiver, because we can analyze if it's the act of the child.
821 21J. No preference, each has own purpose.
822 22J. Waiver, children go to adult system as a result of judicial system not
823 legislative decision.
824 24J. Direct file, state attorney has investigative ability to charge adult or child
825 should have authority after investigation.
826 25J. Direct file, requires state to exercise discretion and they do so well.
827 =====
828 =====
829 **109. During the 1994 legislative session, transfer law was rewritten to specify**
830 **rather narrow offense and prior record criteria for so-called "presumptive waiver"**
831 **and "mandatory direct file." What is your opinion of these changes?**

832 -----
 833 -----
 834 1J. Opposed to any changes that lessened the discretion of prosecution in court.
 835 2J. Agrees with changes, creates uniformity among judges.
 836 3J. Healthy, state attorney can act without consent of court.
 837 4J. Fine for our county which has alternative juvenile programs.
 838 5J. Drop in age limit I approve of, mandatory direct file I disapprove of, and
 839 presumptive waiver because it throws it into a political arena.
 840 6J. I think they're positive.
 841 7J. Steps in right direction.
 842 8J. If it gives more discretion o courts and state attorney's, then I'm in favor.
 843 10J. Wrong--leave to discretion of state attorney and juvenile judge.
 844 12J. Appropriate.
 845 13J. Discretion should be with state attorney not legislation.
 846 14J. Didn't make a tremendous difference in who was/wasn't transferred.
 847 15J. Been used wisely, favors it.
 848 18J. Do not like it-it's automatic, has guidelines.
 849 19J. Don't use.
 850 21J. Legislation did what they wanted.
 851 22J. Opposed to "mandatory direct file", takes away prosecutorial and judicial
 852 discretion. No opinion on "presumptive waiver".
 853 23J. State attorney deals with this, he has no idea.
 854 24J. Supportive.
 855 25J. Like it, cuts into discretion, not exercised well.

856 =====
 857 =====
 858 **110. How have these provisions in the law affected transfer policy and practice in**
 859 **your county?**

860 -----
 861 -----
 862 1J. Increased number of direct filings.
 863 2J. Very minimal.
 864 3J. Immensely, state attorney can bypass court by using direct file.
 865 4J. Increased.
 866 5J. State has increased direct files.
 867 6J. There will be more waivers and direct file.
 868 7J. More direct files/indictments.
 869 8J. More juveniles in adult court.
 870 12J. More transfers.
 871 14J. Haven't to any great degree.
 872 15J. Haven't really noticed.
 873 16J. Able to transfer if desired.
 874 21J. Can't see any affect.

875 22J. Significant, everything done by direct file since 1994.
876 24J. Assistance to court system, improved ability to make punishment fit crime.
877 25J. Has not greatly affected edit.

878

879

880 **111. In your county, are presumptive waiver hearings the same as traditional**
881 **waiver hearings, or are they different in some ways? If different,**
882 **111a. Could you please explain to me in what ways they differ from traditional**
883 **waiver hearings?**

884

885

886 4J. Different, different kind of burden for judge.
887 14J. Same, they are all appropriate in certain circumstances and that's the great
888 thing about Florida because us has a system with varying levels of requirements
889 for transfer-tremendous advantage to having all options.
890 15J. Different.

891

892 **Some states use only judicial waiver to transfer juvenile offenders to**
893 **criminal court. Many states use a combination of judicial waiver and legislative**
894 **exclusion for certain crimes. Florida uses both of these methods in addition to**
895 **direct file. Please give me your thoughts on the strengths and weaknesses of each**
896 **approach.**

897

898 **Again, the three approaches are: legislative exclusion, judicial waiver and**
899 **discretionary direct file.**

900

901 **112. Legislative exclusion or specified offenses:**

902 **112a. Strengths:**

903

904

905 2J. Gives us certainty with types of cases.
906 4J. Reflects societal views.
907 7J. Lets will of people be heard.
908 9J. Provides some form of uniformity as far as who gets transferred down and
909 who doesn't.
910 11J. Gives the will of the people a voice.
911 12J. Prosecution is executive branch function and should be treated as such.
912 21J. Has a specific purpose.
913 24J. Easier.

914

915

916 **112b. Weaknesses:**

917 -----
918 -----
919 2J. Puts all defendants in the same pot no matter what characters are evident for
920 each case.
921 5J. Filing decisions based on whether there is a statutory crime.
922 6J. I don't think there should be any exclusions that weakens it (the case).
923 8J. Do away with it and leave decision, and leave decision to courts and state
924 attorney's-legislation should be out of it.
925 9J. Don't have chance to consider certain circumstances that would help decide if
926 the child's transferrable or not.
927 13J. Any time you try to classify people injustices occur.
928 15J. Too general.
929 17J. Have application problems.
930 18J. Arbitrary state can direct file-means direct file.
931 22J. Discretion away from those who should make the decision
932 (Judges/Prosecutors).
933 25J. Too time consuming, grand jury is needed and state attorney still does what
934 they want.
935 =====

936 =====
937 **113. Judicial Waiver:**

938 **113a. Strengths:**
939 -----
940 -----

941 2J. Cases are scrutinized more, a lot more thinking goes into it.
942 4J. Early analysis of direction of case.
943 5J. Judicial discretion is great.
944 7J. Gives discretion to judge.
945 8J. Courts have more information on what is best interest of juvenile and
946 community.
947 9J. Some circumstances that would justify keeping a child in the system that
948 needs to be kept in the juvenile justice system.
949 11J. As a judge, would rather see a waiver set.
950 12J. State attorney hands are not tied by written in stone policies.
951 13J. Have determination from an outside party.
952 15J. Good way to do it, judge helps out.
953 18J. Meet criteria/judge listens.
954 21J. Has a specific purpose.
955 22J. Gives judges the power to make right decision not legislative.
956 =====

957 =====
958 **113b. Weaknesses:**

959 -----
 960 -----
 961 2J. The possibility of abuse by judges and prosecutors.
 962 4J. The most time consuming of judicial efforts.
 963 5J. Driven by whoever is on bench at time.
 964 6J. Takes up additional time why use it when you can direct file.
 965 9J. You may come in contact with a person whose not flexible.
 966 12J. However prosecution is a legislative (executive branch) function and should
 967 be done by the prosecution.
 968 13J. Sentencing judge could do that anyway.
 969 20J. Allows state attorney full discretion.
 970 22J. Arbitrary judges. Politically driven.
 971 24J. Takes longer.
 972 =====
 973 =====
 974 **114. Discretionary Direct File:**
 975 **114a. Strengths:**
 976 -----
 977 -----
 978 2J. Expedites the cases.
 979 4J. Happy medium because get judicial input.
 980 5J. Throws state attorney into mix and as long as their agenda is clear cut, should
 981 be as affective as judge.
 982 6J. I think direct file takes up less time, it's the best way.
 983 7J. Quickest.
 984 9J. On paper everyone is treated the same.
 985 10J. Lets prosecutors make decision.
 986 13J. It's their role as prosecuting authority
 987 15J. Enables people to be transferred easily.
 988 16J. It's best because judge is able to make the final decision.
 989 20J. Speeds the procedure.
 990 21J. Has a specific purpose.
 991 22J. Decision being made at proper level.
 992 24J. Strongest.
 993 =====
 994 =====
 995 **114b. Weaknesses:**
 996 -----
 997 -----
 998 2J. Great potential for abuse by prosecutor.
 999 4J. Not till the end of case when more judicial was exhausted.
 1000 7J. Most unfair to juvenile.

1001 9J. Circumstances are that prosecutors are always posed with a decision that
 1002 they're sometimes unsure about when deal with a juvenile.
 1003 13J. Discretion can be abused.
 1004 15J. Pressured by public opinion.
 1005 20J. State attorney can do what they want right or wrong.
 1006 22J. Politics driven/not meant driven.
 1007 =====
 1008 =====
 1009 **122. In your opinion, are the current direct file provisions of Chapter 39 adequate?**
 1010 **If no,**
 1011 **122a. Why do you think they are not adequate?**
 1012 -----
 1013 -----
 1014 1J. Because they take discretion away from the prosecutor.
 1015 10J. Too strict-state attorney needs more discretion.
 1016 18J. Not adequate for judge-is adequate for state attorney.
 1017 19J. Ought to include 1995 changes in law.
 1018 20J. Makes it much too easy to take a child out of an appropriate environment
 1019 and put them in an inappropriate.
 1020 =====
 1021 =====
 1022 **124. Do you believe that further changes to direct file eligibility criteria would be**
 1023 **beneficial? If yes,**
 1024 **124a. What changes would you like to see?**
 1025 -----
 1026 -----
 1027 1J. Leave discretion to prosecutor.
 1028 10J. If they don't make it mandatory.
 1029 12J. Like to see a legislative mandate as to what is prosecutable-more
 1030 encompassing,
 1031 14J. Not sure if there are any changes with significant improvements.
 1032 20J. Want judicial review put back in there.
 1033 =====
 1034 =====
 1035 **125. Are current indictment provisions of Chapter 39 adequate?**
 1036 **126. Would you please elaborate on the reasons for your view?**
 1037 -----
 1038 -----
 1039 1J. Yes, because deal with offenses that are appropriate for grand jury
 1040 consideration.
 1041 2J. Yes, not sure, not used very much in his county.
 1042 4J. Yes, indictment is seldom a consideration.

1043 5J. Yes, getting a lot more direct files/certifications than we need to-net is broad
1044 enough.
1045 6J. Yes, they have the discretion, but it depends on the attorney on the case, it's
1046 a workable solution.
1047 7J. Yes, if state wants to prosecute there's plenty of ways to do it.
1048 8J. Yes, everything seems to be working fine. If legislation would fund there
1049 would be no need to continually change the laws.
1050 11J. Yes, that they deal with appropriate offenses that should be brought in front
1051 of grand jury.
1052 12J. Yes.
1053 13J. Yes, they're fine.
1054 14J. Yes, is limited to extremely serious offenses.
1055 15J. Yes, provides for controversial cases, gives criteria, binds state attorney's.
1056 16J. Yes, they reach a life or death defense.
1057 17J. Yes, indictment is mandatory-it's just another tool.
1058 18J. Not just 39 can indict anybody for serious crime doesn't mean charged-short
1059 of capital crime, don't indict-direct file them.
1060 21J. Yes, indictment is for very serious crimes and there are certain crimes which a
1061 person shouldn't receive protection of juvenile sanctions.
1062 22J. Yes, not yet experienced them being exercised in a way that is objectionably.
1063 23J. Yes, do not use indictment, we petition. That is a trick question.
1064 24J. Yes, gives a discretion to state attorney to treat as juvenile or adult sanctions.
1065 25J. Yes.
1066 =====
1067 =====
1068 **127. Do you believe that further changes to the indictment eligibility criteria be**
1069 **beneficial? If yes,**
1070 **127a. What changes would you like to see?**
1071 -----
1072 -----
1073 24J. Expand on types of crime, number of prior crimes.
1074 =====
1075 =====
1076 **128. Are the current judicial waiver provisions of Chapter 39 adequate?**
1077 **129. Would you please elaborate on the reasons for your view?**
1078 -----
1079 -----
1080 1J. Yes, because they allow for sufficient hearing when required.
1081 2J. Yes, the judge holds the hearing properly and the results will be for the best.
1082 3J. Yes, because chapter 39 is very detailed about considerations.
1083 5J. Yes, criteria that they establish are pretty much on point-no necessity to
1084 direct file a kid under 14 if indictment process is open.
1085 7J. Yes, plenty of methods for the prosecutors to try the case.

1086 11J. Yes, but if you couple it with the state attorney ability to direct file-more
1087 direct file going on.
1088 12J. Yes, appear to address most pressing problems.
1089 13J. Yes.
1090 14J. Yes, the few that actually fall into waiver requirement are appropriate for
1091 judge to discern whether to transfer or not.
1092 15J. Yes, defendant is protected, so is society.
1093 16J. Yes, they're O.K. because we don't use them.
1094 17J. Yes, another tool plus is adequate.
1095 18J. Yes, they're good-covered every possibility.
1096 20J. Yes, they're adequate, but they're never employed.
1097 21J. Yes, as far as I can tell-waiver procedure seems to allow those who need to be
1098 prosecuted to be prosecuted as adults.
1099 22J. Yes, never did it, feels adequate because he has had no bad opinions of it.
1100 23J. Yes, it works, enough criteria.
1101 24J. Yes, leave discretion to judge, he'll have enough experience and common
1102 sense to deal with the case.
1103 25J. Yes, before it was in effect, there was a good system and it worked well.
1104 Since then they are still reasonable and have not offended anyone. No problems.

1105 =====

1106 =====

1107 **130. Do you believe that further changes to the judicial waiver eligibility criteria**
1108 **would be beneficial? If yes,**

1109 **130a. What changes would you like to see?**

1110 -----

1111 -----

7J. Lower age.

12J. Legislation more encompassing.

18J. No specifics.

1115 =====

1116 =====

1117 **131. In the last several years, what changes, if any, have you perceived in the rate**
1118 **of juvenile crime?**

1119 -----

1120 -----

1J. Increased some what.

2J. Ever since he has been slowly moving up in rate.

3J. Substantial increase.

4J. Fairly stable.

5J. Crime is down but violent crime is up-agree with UCR.

7J. Maintained steady to slight increase.

8J. Increased-severity has also increased.

10J. Not tremendous changes.

1129 11J. Going down over last 2 years.
 1130 12J. Going down overall-gang related activity is going up.
 1131 13J. Accelerated.
 1132 14J. The numbers have gone up until last year that it actually went down--slight
 1133 dip.
 1134 15J. Gotten no worse or better, no change.
 1135 16J. Increase.
 1136 17J. More violent seems to be increasing.
 1137 18J. Juvenile down 11% in national crime down by great %-violent crimes up.
 1138 NRS-bad gun laws if charge gun.
 1139 19J. Gone up.
 1140 20J. It's going down, we have fewer kids being labeled as juveniles.
 1141 22J. The rate of increase has not significantly changed.
 1142 23J. Increase.
 1143 24J. Increase.
 1144 25J. In the last few years about 28% a year of crimes increase.

=====

=====

1147 **132. In the last several years, what changes, if any, have you observed in the types**
 1148 **of juvenile offenders who are being referred to the justice system?**

1151 1J. More offenders of a violent nature.
 1152 2J. Too broad of questions-can't make generalizations.
 1153 3J. More violent, younger, female.
 1154 4J. Not much.
 1155 5J. More serious offenders.
 1156 6J. They're more serious offenses and younger.
 1157 7J. More, younger, more violent.
 1158 8J. Severity has gone up- more cases involving school system and families which
 1159 in years past has been handled out of court.
 1160 10J. More violent.
 1161 11J. More offenses with guns.
 1162 12J. Not much change, but more gangs.
 1163 13J. More violent.
 1164 14J. Not a tremendous change in the types of offenders, but in the parents-not
 1165 being concerned and children will follow the attitude of parents.
 1166 16J. Certain groups are more dangerous and then there's the traditional juveniles
 1167 that can be saved.
 1168 17J. More violent, but not much difference.
 1169 18J. More violent crimes because of guns and drugs.
 1170 19J. We see the small % that are diversion failures-hardened.
 1171 20J. More mentally imbalanced kids.

1172 21J. See themselves as bulletproof-unafraid.
1173 22J. Don't know of any.
1174 23J. Severity in the crimes.
1175 24J. More violent crimes.
1176 25J. More repeat offenses. Serious offenses (car jacking, armed robbery).

1177 =====
1178 =====
1179 **134. Are there any specific program needs that are not being met by the juvenile**
1180 **justice system, either in terms of program types or program capacities?**

1181 -----
1182 -----
1183 1J. Detention bed space is insufficient. Appears that we may need more drug
1184 treatment programs.
1185 2J. Very seldom if a judge knows whether the restitution has been paid by child;
1186 judges have no control over this.
1187 3J. Need more bed space.
1188 4J. Programs available at 8 and 10 levels which are good but not enough bed
1189 space.
1190 5J. Capacities are very low-very little turn over-bed space-program don't meet
1191 needs but adult system doesn't either-mid-level program on local basis are very
1192 good.
1193 6J. They need to have enough level 10's and have resources for serious offenders
1194 to be sent there (level 10 facilities) quicker.
1195 7J. Not enough space, placements.
1196 8J. Lack of closer supervision-time spent in program and lack of education needs
1197 being met in programs.
1198 9J. Need more facilities and programs and keep them a little longer.
1199 10J. Need space.
1200 11J. Build more level 10 facilities.
1201 12J. Not enough available.
1202 13J. Sexual offenders have no good programs.
1203 14J. Don't have enough space or appropriate programs for crimes.
1204 15J. Not adequate, sexual offenders programs, community involvement desired for
1205 nonviolent criminals.
1206 17J. Length of time that they can keep kids in facilities-high turnover seems to be
1207 economic.
1208 18J. Trying to improve-not enough placements available. Wait in detention for a
1209 long time.
1210 19J. Too long a wait-12 month wait is not an option.
1211 20J. Yes, we need more programs for mentally disturbed or deprived kids.
1212 21J. Not that I know of.
1213 22J. Yes, level 8 facilities for female-need. Facilities requiring mental health
1214 overlays. Level 10 for both sexes. (Would cut down on direct file/waiver).

1215 23J. The waiting time is too long. No female facilities.
 1216 24J. Need more boot camps, length should be extended, prepare youth for job,
 1217 assist in having a job ready. Need more than 1 for females.
 1218 25J. Juvenile officers are burdened beyond belief. Limited to modify behavior.
 1219 Resources are light, not being monitored enough.
 1220 =====
 1221 =====
 1222 **135. In the past few years, the department of Juvenile Justice has made changes in**
 1223 **the types of programs available for juvenile offenders and in the numbers of**
 1224 **offenders they are able to accommodate. Have these changes had any impact on**
 1225 **transfer policy or practice in your jurisdiction? If yes,**
 1226 **135a. What impact have they had?**
 1227 -----
 1228 -----
 1229 4J. May have encourages direct filings.
 1230 5J. May have slowed it down a little because of bed spaces they can
 1231 accommodate.
 1232 9J. Allows juvenile to stay in the programs a little bit longer.
 1233 18J. Back again, state makes motion for waiver exclusive.
 1234 24J. Very helpful in providing residential programs.
 1235 =====
 1236 =====
 1237 **136. Do you perceive that there is variation in transfer practices across different**
 1238 **jurisdictions within the state? If yes,**
 1239 **136a. What do you think accounts for these variations?**
 1240 -----
 1241 -----
 1242 2J. Almost consistent but as with everything there are problems.
 1243 4J. Prosecutorial philosophy.
 1244 5J. Classic urban vs. rural circuit reasons and resources.
 1245 6J. Judges and state attorneys with different philosophies.
 1246 7J. Politics of the region and the judges.
 1247 14J. Local community gets what they want.
 1248 17J. Geography, attitude, philosophy.
 1249 18J. Philosophy and interpretation by judge and state attorney's.
 1250 22J. Prosecutorial policy, individual judicial policy, DJJ policies and staff make
 1251 up. Rural/urban areas.
 1252 25J. Different types of systems in different areas. Don't have same programs as
 1253 larger counties.
 1254 =====
 1255 =====

1256 **136b. Do you think that these variations are appropriate, or should measures be**
 1257 **taken to try to promote greater consistency in transfer practices? If need**
 1258 **measures,**
 1259 **136c. Do you have any suggestions regarding how to promote greater consistency?**
 1260 -----
 1261 -----
 1262 6J. Need measures, bring together more of judges and attorneys and their agencies
 1263 from different states to exchange ideas.
 1264 18J. Need measures, no waivers, up to judge discretion.
 1265 22J. Need measures, should be some consistency but not to the point as a
 1266 sentencing guideline (objectify).
 1267 =====
 1268 =====
 1269 **137. Some people have suggested that the juvenile court be abolished and absorbed**
 1270 **into a unified criminal court system that would make adjustments for a youth's**
 1271 **age and maturity at the sentencing or disposition phase. Would you favor such a**
 1272 **change?**
 1273 **137a. Why? Or Why not?**
 1274 -----
 1275 -----
 1276 1J. No, because the differences in development of young people and adults.
 1277 2J. No, when sanctions are given down by an adult court on a child, they are less
 1278 effective in treating/rehabing the juvenile as they would be in juvenile court.
 1279 3J. No, judges generally are not in interest in juvenile work. Juvenile can be more
 1280 focused because of diversity of programs.
 1281 4J. No, because adult courts are not equipped to give necessary attention to
 1282 juvenile cases-too many easy to treat them like other cases.
 1283 5J. No, mixing everyone into some pot and then coming up with guidelines, kids
 1284 would get lost in system and congress would try to pigeon hole everything and
 1285 you can't do that because you need to have feel for the individual. Defendants and
 1286 parents like the juvenile judges do.
 1287 6J. Yes, I think we aren't achieving the desirable resorts because the juvenile
 1288 justice system is too lenient.
 1289 7J. Yes, system we have is unnecessary and cumbersome and doesn't help
 1290 anyone and is costly.
 1291 8J. Yes, lack of credibility of the juvenile justice system and Chapter 39.
 1292 9J. No, department of juvenile justice develops programs that needs to be
 1293 separate from the Florida state prison system.
 1294 10J. No, too much to know-juvenile judge is better suited.
 1295 11J. No, purpose of juvenile court is to look at juveniles not just the offense and
 1296 deal with kids to see if they can be helped.
 1297 12J. No, you loose perspective as a judge-too much of a burden to lay on a judge.

1298 13J. No, volume of cases-enough on our plate as it is-kids would get lost in
1299 system.
1300 14J. No, cost of jury trials would be astronomical, not to mention cost of actual
1301 jail-juvenile system is very complicated and requires a lot of time to stay on top
1302 of option information-problem of keeping kids safe from adult offenders and that
1303 court players won't see difference of ages.
1304 16J. No, we need a juvenile justice system because some of the kids are
1305 salvageable.
1306 17J. No, wouldn't make much difference goal of Chapter 39-rehabilitation-
1307 wouldn't be reached-wouldn't be more efficient-no value.
1308 18J. No, absurd and unfair to children, no rehabilitation detriment to child.
1309 Conservative right wing eliminate juvenile court.
1310 20J. No, this recommendation grounded in the concept of punishment, it
1311 shouldn't happen.
1312 21J. No, there has to be some consideration of age instead of arbitrary rules for
1313 handling cases.
1314 22J. No, turn back 100 years of progress, and go back to 19th century juvenile
1315 justice which was admissible.
1316 23J. No, it's giving up, unique manner is appropriate, loose a lot if it was that
1317 way--loose app(?) for reform.
1318 24J. No, did not work before.
1319 25J. Yes, a lot more consistent, don't get to criminal issues sometimes because of
1320 restrictions and were not doing enough.

1321 =====
1322 =====
1323 **138. In an order waiving a juvenile to adult court for prosecution, Florida law**
1324 **requires a judge to consider the so called "Kent criteria" and to include written**
1325 **findings of fact with respect to those criteria. On the other hand, a state attorney**
1326 **may direct file when in his or her judgment the public interest requires that adult**
1327 **sanctions be considered or imposed. Do you have any thoughts about the use of**
1328 **different criteria for transfer mechanisms?**

1329 -----
1330 -----
1331 3J. The way it is fine.
1332 4J. State attorney should be using the same criteria.
1333 6J. I think we should leave it entirely to the state attorney's office.
1334 8J. Should be uniform if possible.
1335 10J. Juvenile judge should have same discretion as state attorney.
1336 11J. Prefers judicial waiver.
1337 12J. Don't see the sense in judiciary making decisions that should be left up to
1338 state attorney.
1339 13J. No, is an executive branch function.

1383

1384

1385

1386

22J. Like to see a trend away from legislative control that overrides judge/prosecutorial judgments. Legislative is least qualified to make case by case decisions. Hates mandatory sentencing. More commitment resources.

23J. Study confidentiality agreements with juvenile