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## They're Just Not Ready Yet: A Developmental Argument for Abolishing Juvenile Transfer

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THEY'RE JUST NOT READY YET: A DEVELOPMENTAL ARGUMENT FOR  
ABOLISHING JUVENILE TRANSFER

by

Taylor S. Gerry

B.A., University of Sioux Falls, 2022

A Research Paper  
Submitted in Partial Fulfillment of the Requirements for the  
Master of Arts

School of Justice and Public Safety  
in the Graduate School  
Southern Illinois University Carbondale  
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**RESEARCH PAPER APPROVAL**

**THEY'RE JUST NOT READY YET: A DEVELOPMENTAL ARGUMENT FOR  
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Taylor S. Gerry

A Research Paper Submitted in Partial

Fulfillment of the Requirements

for the Degree of

Master of Arts

in the field of Criminology and Criminal Justice

Approved by:

Matthew Giblin, Chair

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Southern Illinois University Carbondale  
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## **AN ABSTRACT OF THE RESEARCH PAPER OF**

Taylor S. Gerry, for the Master of Arts degree in Criminology and Criminal Justice, presented on March 26, 2024, at Southern Illinois University Carbondale.

**TITLE: THEY'RE JUST NOT READY YET: A DEVELOPMENTAL ARGUMENT FOR ABOLISHING JUVENILE TRANSFER**

**MAJOR PROFESSOR: Dr. Matthew Giblin**

The purpose of this paper is to examine and identify the core issues of juvenile transfer laws, arguing for abolishment. This paper utilizes a comprehensive overview of the literature on juvenile transfer laws to explain the history of the juvenile justice system and provide an overview of juvenile transfer laws and their core issues. The justification for the use of juvenile transfer is based on the idea that they will deter individual juvenile offenders along with those that may become juvenile offenders in the future, and because of that deterrence, juvenile transfer laws are said to reduce recidivism rates. In addition, literature on adolescence development is examined to argue that juvenile offenders are not developed enough to be held fully responsible for their actions, and thus, should not be transferred to adult criminal courts. Instead, they should remain in the juvenile justice system and be given a rehabilitative alternative. The overall findings in this paper will show that juvenile transfer laws do not deter juveniles and in turn, do not reduce recidivism rates. Additionally, literature documents a maturation gap experienced within the brain during the period of adolescence, providing strong support for rehabilitative alternatives such as Multisystemic and Functional Family therapy. The underdevelopment of juveniles allows for a rehabilitative alternative to be utilized, focusing on the causes of juvenile offending, and allowing juvenile offenders to receive a second chance. Overall, there is strong support for the abolishment of juvenile transfer laws.

*Key Words:* Juvenile transfer, deterrence, development, rehabilitative alternatives

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I would like to thank everyone who helped prepare me for this research paper. From Southern Illinois University as a whole, to individual professors, you all gave me the skills and knowledge to research, formulate, and complete this paper. I am grateful for the time and effort that my committee members have put in to helping this paper become all that it is. I will never forget this experience.

## **DEDICATION**

I dedicate this paper to my family. The support you have given me to pursue my education brought me here and that support has pushed me to achieve everything I have wanted to and more. I love every one of you and I will forever be grateful for your support and love.

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## CHAPTER 1

### INTRODUCTION

On January 18, 2007, Nathaniel Abraham, one of the youngest juveniles to be charged with murder and tried as an adult, was released from a Michigan detention facility (Park, 2007). Nathaniel's trial began in 1998, where, at 12 years old, he was being held accountable for shooting and killing 18-year-old Ronnie Green Jr. in Pontiac, Michigan (Moore, 2007; Park, 2007). When asked about the incident, Nathaniel, 11 years old at the time of the crime, admitted he was shooting a .22 caliber rifle but insisted he was firing at trees in the distance and did not mean to kill anyone (Nathaniel Abraham Trial: 1999, n.d.; Park, 2007). He had prior interactions with police, which included suspicion of larceny, larceny, home invasions and trespassing, armed robbery, and battery, but his attorney successfully managed to keep his prior record out of the trial, making it unknown to the jury (Levine et al., 2001; Moore, 2007). However, the prior interactions with police did not result in any conviction or formal intervention, making this murder Nathaniel's first offense (Moore, 2007).

Nathaniel's defense attorney, Geoffrey Fieger, argued that the shooting was a tragic and unfortunate accident and, while Nathaniel fired the gun, his intent was not to harm anyone, let alone kill them. Additionally, Fieger called child psychologists to the stand during the trial, allowing them to describe Nathaniel's mental state (Nathaniel Abraham Trial: 1999, n.d.). Experts testified that he had an IQ of 70, was both mentally and emotionally impaired, and had thought processes more like a seven-year-old, allowing Fieger to argue that Nathaniel lacked the mental capacity to form the intent to kill (Grisso, 2000; Nathaniel Abraham Trial: 1999, n.d.). Despite these arguments, the prosecutor depicted Nathaniel as the type of offender who the law was attempting to target, a premeditated murderer, and the jury convicted him of second-degree

murder in November 1999 at 13 years old (Grisso, 2000; Levine et al., 2001; Moore; 2007; Nathaniel Abraham Trial: 1999, n.d.). While Nathaniel was tried as an adult, Judge Eugene Moore sentenced him as a juvenile, sending him to a juvenile detention facility until he turned 21. This was one of three options the judge was given, and prosecutors and lawmakers were stunned (Grisso, 2000; Moore, 2007; Park, 2007). The growing push to try younger and younger children as adults has come from changes in social and political environments instead of an increase in knowledge about the adolescent's that are being dealt with (Cohen et al., 2016; Grisso, 2000). The changing perceptions of juvenile crime and the belief in juvenile superpredators led Judge Moore to denounce these "get-tough" attitudes and give Nathaniel the chance he deserved (Grisso, 2000). Other sentencing options included sentencing him as an adult or utilizing blended or delayed sentencing (Grisso, 2000; Moore, 2007), but Judge Moore's opinion on his decision noted the progress Nathaniel had made during his time awaiting his trial, and worried that adult and blended sentencing, both of involve at least some placement in adult correctional facilities, would stall the rehabilitative progress and effort that Nathaniel had made (Moore, 2007).

Cases such as Nathaniel's are tragic, not only for the victim and their family, but for the offender and their family as well, especially when the case involves a juvenile offender. While this was not Nathaniel's first encounter with the law, there was no attempt at intervention from police when he was a suspect for a multitude of other crimes. This failure to react and help Nathaniel during other low-level, less harmful acts created further issues for Nathaniel, allowing the system to miss the opportunity to prevent further interactions with the law (Moore, 2007). This failure from the system was only exacerbated when Nathaniel killed Ronnie Green, Jr. and was transferred to the adult criminal justice system to be punished while exhibiting mental

deficits and immaturity.

While some may view Nathaniel's case as one that was dealt with correctly, agreeing with the transfer to adult criminal court, others would argue that Nathaniel was just a child, someone who was immature and unaware of the consequences of his actions. Until the 1990s, the juvenile justice system operated under this same assumption, that youth were immature, justifying differential legal responses to their crimes and it was thought that juveniles were still malleable and could benefit from rehabilitation (Grisso, 2000). In fact, Judge Moore saw the rehabilitative potential within Nathaniel, and luckily allowed the punishment Nathaniel received to help turn him into a productive member of society. It is important to understand that youth who commit serious crimes, like Nathaniel, need to be held accountable and responsible for their actions, and the argument is not that we should be glancing over the seriousness of the offense and letting young offenders go free because of their age. The argument runs much deeper, and this paper will explain why juvenile transfer laws should not be utilized under any circumstance for those who are eighteen or younger. Within the following chapters, juvenile transfer laws will be criticized for the harm they cause the many juveniles who end up justice involved since the laws do not take into consideration the multitude of factors that can lead a juvenile to commit a crime.

Chapter two will begin with the history of the juvenile justice system, explaining the origins of this system and how we came to create a separate system for young offenders completely. In addition, the modern juvenile justice system, its modifications through various court decisions, and the underlying reasons for an increase in punitiveness towards juvenile offenders will be explained. Chapter three will expand on these historical moments and explain juvenile transfer and waiver laws. The types of waivers that are utilized to transfer juvenile

offenders to adult courts will be explained along with three core issues that underscore juvenile transfer laws. This will include the inability of juvenile transfer to deter juvenile offenders both generally and specifically, resulting in increased recidivism rates, in contrast to the argument that they reduce recidivism rates. Finally, their ability to exacerbate the collateral consequences felt by those who are justice involved, especially youth who are transferred, will be explained.

Chapter four will take a detailed approach in describing the missing piece to the juvenile transfer debate: adolescent brain development. By reviewing the recent Supreme Court case *Roper v. Simmons* in 2005 and expanding to the *Miller v. Alabama* decision in 2012, this paper will show how the Court's opinion on brain development has been applied to specific cases. Next, evidence of the age-crime curve will be shown, showing how adolescent crime and antisocial behavior are well-documented phenomenon among a large group of offenders. The maturity gap will be added as an additional explanation as to why youth tend to begin criminal careers and potentially desist from those criminal careers. The overall argument of chapter four is that the maturity gap experienced by juveniles leads to poor decision-making skills due to an increase in risk-taking and reward-seeking behavior that is paralleled by a gradual maturation of impulse control, along with juveniles' inability to think about long-term consequences, especially within the presence of peers.

The final chapter of this paper, chapter five, will provide a recap of the previous chapters and utilize that argument to provide alternatives to juvenile transfer. The proposed alternatives that will be discussed will be community-based treatment programs for juvenile offenders within the justice system, which target not only the juvenile's themselves, but their surrounding environments leading to overall lifestyle changes and increased support from those closest to the juvenile. Multisystemic and functional family therapy will be discussed along with their

effectiveness to reduce recidivism rates and overall offense severity, making them better options for juvenile offenders who are not mature enough to fully understand their actions.

## CHAPTER 2

### THE JUVENILE JUSTICE SYSTEM

The original goals of a separate juvenile justice system were not to find guilt and blame, but, rather, to investigate and treat juveniles (Beresford, 2000). Juvenile courts were deemed quasi-civil with the legal authority to use broad discretion regarding juveniles, allowing a more individualized approach to supervision and dispositions (Butts, 1998). Therefore, with the beginning of the 20<sup>th</sup> century came a shift in attitudes toward juvenile criminal responsibility, driven by Progressive views of children (Chamberlin 2001; Allen, 2002). Initial concerns were of those who were innocent or could potentially be rescued or “cured” (Park, 2007, p. 791), showing the idea that the best interests of the child should be considered (Allen, 2002; Walsh, 2007). It was thought that criminal behavior in children resulted from various external forces, including impoverished living conditions and parental neglect (Chamberlin, 2001). While the current juvenile justice system we see today is more closely related to adult criminal justice systems, they are still two separate systems with different founding philosophies (Chamberlin, 2001). The main difference between juvenile and adult courts was the idea of rehabilitation versus punishment (Butts, 1998; Park 2007). When looking at the history of the juvenile justice system, it is apparent that the court has gone through multiple philosophical and institutional developments since the 1820s (Jensen & Howard, 1998). In the following pages, the cyclical nature of juvenile justice reform will be discussed, explaining how the juvenile justice system has gone back-and-forth between rehabilitation and punishment. Despite the original goals of the juvenile justice system, subsequent concerns about increasing juvenile crime and a predicted surge of juvenile superpredators shaped public opinion and fear, significantly changing how the system handled juvenile crime.

## **The History of the Juvenile Justice System**

### **The Beginning of the Juvenile Justice System**

The changes seen through the juvenile justice systems' history have been called the "cycles of reform", with the first cycle beginning with the New York House of Refuge in 1825, which emphasized that children should be treated differently from adults (Jensen & Howard, 1998). However, while the first cycle is seen as rehabilitative in nature, by 1890 this attitude shifted, and institutions were more closely related to adult prisons and showed few rehabilitative efforts. The second cycle of reform then comes with the creation of the first separate juvenile court in 1899, emphasizing social casework and rehabilitation once again (Jensen & Howard, 1998).

Historically, crimes committed by juveniles were treated differently or ignored altogether. Common law recognized two defenses still applicable today: some children under fourteen can be shown differential treatment due to a lack of maturity or lack of capacity to understand the consequences of their actions and children under seven cannot be held accountable for the commission of a crime (Allen, 2002). Illinois was the first state to enact a separate court with its own jurisdiction over law violations committed by youth due to concerns about the legal treatment of minors. The Juvenile Court Act of 1899 extended the court's jurisdiction to "delinquent minors", or those who had violated any law prior to their seventeenth birthday (Allen, 2002; Beresford, 2000; Butts, 1998; Park, 2007; Weijers, 1999). The jurisdiction of this new court extended to all juveniles, including serious criminal offenders, status offenders, and neglected and dependent children and, by 1945, every state had a juvenile court (Ferdinand, 1991).

While many believe that juvenile courts were created to "go easy" on young criminals (Butts, 1998, p. 3), research shows that the true reason for the creation of juvenile courts was far

more complicated. Many reformers advocating for juvenile courts were motivated by humanitarian initiatives and desires to save poor and homeless children on the streets of America's cities (Merlo & Benekos, 2003), while others were motivated simply by the idea of removing the obstacles that prevented criminal courts from effectively dealing with "young hoodlums" (Butts, 1998, p. 3). However, before the creation of juvenile courts, judges and jurors frequently saw juveniles as immature and often found them innocent or just released them and, when these courts emerged, they maintained an informal atmosphere, giving judges enough discretion to carry out a rehabilitative philosophy (Ferdinand, 1991). To these court actors, acquitting juveniles was better than risking a conviction that would send a young person to prison (Butts, 1998). But, for police and prosecutors, years of acquittals led them to push for separate juvenile courts that could address the illegal behavior of juveniles in their own terms, thus leading to the creation of juvenile courts (Butts, 1998).

A key moral argument justified the existence of the juvenile court. Its operations were predicated on saving rather than punishing children. Child savers began addressing the issue of "the neglected child" who lived in slums and were in danger of becoming paupers and criminals (Weijers, 1999, p. 334). At the time, the child savers movement lacked legal authority to properly handle children suffering from neglect. The solution was to create a new juvenile court for neglected children that was not a criminal court. The new juvenile courts were given virtually unlimited power to act in the role of *parens patriae*, which extended from the idea that kings were meant to protect weaker classes in society, including children and those deemed incompetent (Weijers, 1999; Allen, 2002; Merlo & Benekos, 2003). Now, juvenile courts were characterized as non-criminal in nature and acted as parents to the juveniles with whom they had contact. Additionally, diversion was a key component of the creation of the juvenile justice system,



allowing juveniles to stay out of traditional systems by providing an alternative forum (Weijers, 1999; Park, 2007).

During this second cycle of reform almost every state had made changes, and by 1925, only two states had not established a juvenile court, while the other states embraced them and emphasized the rehabilitation of juvenile offenders (Chamberlin, 2001). The first half of the 20<sup>th</sup> century had juvenile courts structured to support rehabilitation through individualized treatment while having jurisdiction over all juveniles under the age of 18. Within this time, confidentiality of juvenile court proceedings was important, as it was believed to prevent stigmatization of the juvenile as a criminal, hindering future educational and employment opportunities. Further, court proceedings within the juvenile system were more informal as protecting the child was the main goal. Adult due process protections were unnecessary for juveniles, mainly because juveniles were not within a criminal system. Finally, judges possessed large amounts of discretion about sentencing, allowing the tailoring of treatment to each individual juvenile, making them indeterminate and lasting until rehabilitation occurred or the juvenile reached age 21 (Chamberlin, 2001).

### **The Modern Juvenile Justice System**

In the 1960s the prior rehabilitative system was criticized, as it was deemed ineffective in reducing crime and unable to rehabilitate delinquents, making it a prime target for reform once again (Chamberlin, 2001; Jensen & Howard, 1998; Shichor, 1983). Three key Supreme Court decisions were issued during this time especially relevant to the juvenile court system: *Kent v. United States* (1966), *In re Gault* (1967), and *In re Winship* (1970). When the Supreme Court decided *Kent v. United States* in 1966, it held that juveniles could not be transferred from juvenile court to adult court without first having an investigation (Park, 2007), or a waiver hearing (Allen,

2002, Juvenile Justice Initiative, 2014). Additionally, this included the right to be represented by an attorney at the hearing (Allen, 2002; Butts, 1998). When the Supreme Court decided *In re Gault* in 1967, the juvenile court increased certain procedural safeguards in delinquent proceedings, such as advanced written notice of the charges against them, the right to counsel and to confront and question witnesses, and protection against self-incrimination along with a the right to a fair and impartial hearing (Allen, 2002; Butts, 1998; Feld, 1991; Park, 2007). Despite the revolution in due process rights for juveniles, there was still concern (Ward, 2003). The decision of *In re Winship* (1970) raised the criminal standard of proving delinquency to “beyond a reasonable doubt” and banned double jeopardy for delinquent convictions. Each of these decisions more closely aligned juvenile courts with adult criminal courts and ultimately made them less like the rehabilitative, social service agency of their origins. However, some Supreme Court decisions, such as *McKeiver v. Pennsylvania*, denied juveniles the constitutional right to jury trials and stopped adult procedures becoming fully equivalent with the juvenile system (Feld, 1991; Shichor, 1983).

The expansion of the legal rights of juveniles in the 1960s was paralleled by the support of decriminalization of delinquency and deinstitutionalization that occurred in the 60s and 70s (Jensen & Howard, 1998). Due to findings that state training schools had become large, inefficient, and costly, along with findings that institutions did not reduce recidivism, the federal government passed the Juvenile Justice and Delinquency Prevention Act of 1974, which promoted placing offenders in the least restrictive treatment settings and established community-based programs (Jensen & Howard, 1998). However, while evidence found that community-based treatment reduced recidivism, the application of these initiatives was short-lived (Jensen & Howard, 1998) as there was growing concern that rehabilitation allowed juveniles to get away with “a slap on the wrist.” Indeed, changes in youth crime and the political climate in the mid-1980s kickstarted the

advocacy for the crime control model which had a social control aim emphasizing incapacitation and deterrence over rehabilitation (Jensen & Howard, 1998; Shichor, 1983, p. 64).

### ***Perceived Increases in Juvenile Crime***

While changes in youth crime and the political climate shifted the ideas of the juvenile justice system to a more punitive focus, the trends that were pushing these punitive ideas forward were not as straightforward as some made it seem. In the late 1980s and throughout the 1990s, a new attitude about the treatment of children in the criminal justice system emerged. Ultimately, short-lived increases in juvenile arrest and overall violent crime, fear about public safety, warnings from misguided policymakers, and claims from victim's rights advocates generated increased concern in the public about juvenile crime (Dempsey, 2021; Nellis, 2011; Ward, 2003). Highly publicized, violent crimes committed by juveniles pressured politicians to create a more punitive landscape within the juvenile justice system (Langemo, 2004; Ward, 2003). For example, between 1980 and 1995, the number of law violations referred to juvenile courts increased 57 percent (Butts, 1998).

The juvenile crime picture during the 1980s and 1990s was more complicated, however. Between 1985 and 1991, the offending rate for homicide among males between fifteen and nineteen increased from 13 per 100,000 to 33 per 100,000 (Beresford, 2000). The increase in referrals to juvenile courts and the increase in homicide rates created a surge in the caseloads of juvenile courts because of a growth in arrests, but also due to police sending more juveniles to court rather than utilizing the alternatives available (Butts, 1998). However, even with these increases in crime, in 1994, the U.S. experienced a 12 percent decrease in the homicide rate and, in 1998, there were only 2,100 homicides committed by juveniles out of 2.6 million juvenile arrests (Beresford, 2000). Federal Bureau of Investigation data showed that juvenile arrests for violent

crime fell six percent between 1995 and 1996 (Butts, 1998), and between 2006 and 2007, juvenile Violent Crime Index offenses (murder and non-negligent manslaughter, forcible rape, robbery, and aggravated assault) declined four percent (Puzzanchera, 2009). Despite these statistics, the overall concern about youth violence made 47 states and the District of Columbia pass laws between 1992 and 1997 that would ease the transfer of juveniles to adult courts (Dempsey, 2021).

### ***The Rise of the Juvenile Superpredator***

During this time, as concerns about youth violence were intensifying, another noteworthy trend was occurring: the rise of juvenile “superpredators” (Allen, 2002; Taylor, 2018; Ward, 2003). The term superpredator was used to describe kids “of whatever race, creed, or color... most likely to become criminally depraved when they are morally deprived” (Allen, 2002, p. 37). The fear of juvenile “superpredators” rose because of a prediction that, between 1992 and 2010, there would be an explosion of violent crime committed by this group thereby justifying the expansion of juvenile transfer laws and other punitive measures (Dempsey, 2021; Kurlycheck & Johnson, 2010; Langemo, 2004). At the time, Senator John Ashcroft stated that young criminals were predators and hardened criminals, yet, according to Allen (2002), the Violent Crime Index from the early 1970s through 1989 showed the number of juvenile arrests for murder and nonnegligent manslaughter, forcible rape, robbery, and aggravated assault remained consistent.

The perceived and short-lived increase in violent juvenile crime and the spreading belief about the rise of superpredators (Park, 2007) permitted public policy to create and enact laws that de-emphasized youth privacy, treatment, and rehabilitation and favored laws that increased the likelihood that juveniles would be held accountable for serious crimes (Ibarra, 2023, p. 35; McConnell, 2012, p. 34; Mulvey & Schubert, 2012). States began moving away from the emphasis on rehabilitation and toward tougher and more punitive treatment for youth (Brown, 2012). The

growing fear of juvenile superpredators from the public pushed nearly every state to pass or revise legislation that allowed for more juveniles to be tried in adult courts due to the lowering of the threshold age, broadening the scope of offenses that were deemed triable in adult courts and utilizing judicial waiver or prosecutorial discretion (Beresford, 2000; Taylor, 2018; Ward, 2003). Simultaneously, as mentioned in previous sections, questions were raised regarding the effectiveness of the juvenile system's rehabilitative efforts and treating juvenile offenders too leniently (Allen, 2002; Beresford, 2000).

### **Summary**

The creation of the first separate juvenile court and the Juvenile Court Act of 1899 was done so under the assumption that it would be best for those justice involved youth. Since the 1820s, the way in which the government has dealt with juvenile delinquents has gone through various reform cycles, swinging from rehabilitative in nature, to a more punitive stance. The creation of the first juvenile justice system, while beneficial, also began the punitive path. The various Supreme Court decisions beginning in the 1960s that were meant to protect young, justice involved youth, instead led to the enactment of various policies that would allow the juvenile justice system to become increasingly like the adult criminal justice system. These changes were due to public concerns and fear over the seemingly rising violent crime rates of youth, and the "superpredator" group that was predicted to emerge. The next chapter within this paper will touch on one area of change that led to a more punitive juvenile justice system: transfer and waiver laws.

## CHAPTER 3

### TRANSFER AND WAIVER LAWS

In 2020, juvenile courts within the United States handled 508,400 delinquency cases which involved youth charged with violations of the criminal law (Hockenberry, 2023a, 2023b). This is a 28 percent decrease in the number of cases from 2019, when law enforcement agencies arrested 696,620 juveniles (Hockenberry, 2023b; Ibarra, 2023). Juvenile transfer laws are the mechanism through which juveniles are brought to adult court for crimes committed while under the statutory age of adulthood. Bishop (2009) and Ibarra (2023) estimated that 200,000 youth under the age of 18 are tried in the criminal justice system annually, which was documented by Hockenberry (2023b), who showed that of the 508,400 delinquency cases handled in 2020, 54 percent were petitioned to adult criminal courts (roughly 276,300). Additionally, in 2020, juvenile judges waived the jurisdiction of an estimated 3,000 of those petitioned delinquency cases, meaning one percent of formally handled delinquency cases were sent to criminal courts (Hockenberry, 2023a, 2023b).

Numerous states have expanded the types of crimes for which transfers occur, lowered the permissible age for transfer, expedited the transfer process, and altered sentencing structures and modified or removed confidentiality within juvenile processes (Dempsey, 2021; Kurlychek & Johnson, 2010; Langemo, 2004; Loughran et al., 2010; Mulvey & Schubert, 2012; Myers, 2003; Slobogin, 2013). Overall, the creation of more punitive juvenile justice policies, stemming from the theory “adult crime deserves adult time,” has made it normal for youth to be treated as adults (Gowen et al., 2011, p. 189; Ibarra, 2023, p. 35). Within this chapter, transfer and waiver laws will be described along with their underlying principles, specifically the idea that they will deter young offenders, ultimately reducing recidivism rates. However, it will be shown that there

are fundamental issues with the utilization of juvenile transfer and waiver due to their inability to deter, their inability to reduce recidivism among those youth who are transferred, and the way that these laws increase collateral consequences for those transferred. The issues described here will be the first part of the overarching argument first described in the introduction of this paper: juvenile transfer should not be utilized under any circumstance for those eighteen years old or younger.

### **Transferring Juveniles to Adult Criminal Courts**

To begin arguing for the abolishment of juvenile transfer laws, it is important to understand transfer laws and why we use them. Once that is understood, the major flaws within these laws become apparent. As previously stated, the Illinois Juvenile Court Act defined a “delinquent minor” as any minor who violated any law prior to their seventeenth birthday (Walsh, 2007, p. 767). Additionally, the growing fear of violent juvenile crime and juvenile superpredators led to almost every state passing or revising legislation that would allow more juveniles to be tried in adult courts (Beresford, 2000; Taylor, 2018). For example, in 2018, U.S. courts handled 744,500 delinquency cases, with 57 percent of these being handled formally within juvenile jurisdictions, meaning a petition was requested for an adjudication or waiver hearing, and about one percent of these formally handled cases resulted in a judicial waiver (an estimated 3,600) (Hockenberry, 2021).

### **Types of Waivers**

Butts (1998) noted that nearly every state has been moving a greater number of juvenile offenders into adult criminal courts with a variety of mechanisms, known as “transfer” (p. 6). By the mid-1990s, 45 states had introduced legislation that permitted the transfer of juveniles to the adult court system (Merlo & Benekos, 2003) and doing so meant that the juvenile lost their legal

status as a minor and was therefore fully culpable for their behavior (Butts, 1998). The path from juvenile to adult court can occur in three different ways: judicial waiver, prosecutorial discretion, and legislative waiver (Allen, 2002; Butts, 1998).

Judicial waiver is the most popular form of waiver and was originally the only mechanism to transfer juveniles to adult court (Fritsch & Hemmens, 1995). Judicial waivers allow a juvenile court judge to waive or surrender jurisdiction over a case to adult courts after considering the merits of transfer in an individual case. This is like another form of waiver that is the least used, which is the prosecutorial waiver (Fritsch & Hemmens, 1995). With prosecutorial waivers, a prosecutor has the legal authority to file charges against a juvenile directly in adult court and such actions are usually reserved for serious offenders or those with lengthy arrest records (Butts, 1998; Fritsch & Hemmens, 1995). Like a judicial waiver, when a juvenile court judge reviews a petition submitted by a prosecutor to transfer a child to adult court, they will often consider the merits of the case and decide if the youth should be transferred (Fritsch & Hemmens, 1995; Juvenile Justice Initiative, 2014). For example, within the state of Illinois, a juvenile court judge conducts an individualized hearing where they will review the background, charges, mental health, education, and resources available for rehabilitation (Juvenile Justice Initiative, 2014). Considerations for waiving a juvenile to adult court can also include a combination of age, offense, amenability to treatment, dispositional history, the availability of alternative treatments, and supposedly, and the best interests of the child, but the reality shows that the offense type and concerns about public safety are utilized most often (Allen, 2002). For example, regarding offense types and public safety, Hockenberry (2021; 2023a) found that beginning in 1993 and up until 2020, cases involving person offenses were more likely to be judicially waived compared to other offense cases petitioned, such as property offense cases.



Additionally, when looking at the caseloads for the year 2018, 1.5 percent of person offenses petitioned were judicially waived compared to other offenses, such as drug offenses, which were waived .08 percent of the time (Hockenberry, 2021).

A final type of juvenile waiver is legislative, or automatic, waiver, where the statutory law defines entire classes of juvenile crimes that should be sent to adult courts, most often based on serious or violent offenses (Butts, 1998). Automatic waivers place a juvenile into the adult criminal justice system at the time of arrest, completely evading the juvenile justice system altogether (Fritsch & Hemmens, 1995). According to the Juvenile Justice Initiative (2014), in 1982, Illinois removed the critical decision that juvenile courts should be allowed to make: trying a child under the age of 17 as an adult. Automatic transfer laws made it so children aged 15 or 16 can be automatically tried and sentenced in adult court for certain felony offenses (e.g., first degree murder, aggravated sexual assault, aggravated battery with a firearm, previous transfer, and violation of bail). Now, a child is transformed into an adult by the filing of a charge alone, and judges within juvenile courts could not consider cases on an individualized basis, eliminating the consideration of background, the degree of participation in the offense, mental and physical health, issues in education, and resource availability, all factors that were once unique to the juvenile system (Juvenile Justice Initiative, 2014).

Additionally, during the mid-1980s, various provisions were expanded regarding automatic transfer. One example is in Illinois, with the passing of the “Safe School Act” in 1985, which allowed the automatic transfer of a youth 15 years or older for drug and weapon violations on or within 1,000 feet of a school and eventually added gang-related offenses (Juvenile Justice Initiative, 2014). The rationale behind the automatic transferring of juveniles for certain, violent, and serious offenses was that juvenile courts were not imposing “sufficiently severe” sanctions

for these offenses (Fritsch & Hemmens, 1995, p. 18).

### **The Core Issues of Juvenile Transfer Laws**

The modification of transfer laws, along with their increased use, illustrates the transformation of the juvenile justice system from one that had a rehabilitation focus to a more punitive focus (Johnson, 2014). Discussed below are the main goals that underly juvenile transfer laws: deterrence resulting in reduced recidivism rates. However, juvenile transfer laws are insufficient in deterring juveniles, in reducing recidivism rates, and will lead to various collateral consequences that exacerbate the criminogenic effects of criminal justice involvement.

#### **The Inability to Deter Juveniles**

The new attitude emerging in the 1980s pushed the creation of transfer laws for juveniles. They were created for the purpose of holding juveniles accountable for the crimes they committed and to incapacitate and deter juveniles, ultimately leading to reduced juvenile crime rates (Ibarra, 2023; Myers, 2003; Sharlein, 2018). According to Johnson (2014), for deterrence to be effective, potential offenders must be aware of the sentence that they could receive, and this potential punishment must discourage them from committing a crime. The main argument for deterrence held that if juveniles were to receive harsher sentences, juvenile crime would decline overall and there would be a potential reduction in future offending (Ibarra, 2023). However, research shows that juvenile transfer is not an effective deterrent to crime specifically or generally (Johnson, 2014; Slobogin, 2013), undermining the very argument that is the foundation for utilizing transfer and waiver. There is an abundance of evidence that proves that juvenile transfer laws have minimal effect on future engagement in criminal and antisocial activities among juveniles (Ibarra, 2023; Loughran et al., 2010). For example, Johnson (2014) examined six large scale studies that evaluated the general deterrent effect of transfer on the general youth

population and five out of the six studies showed no general deterrent effect, meaning that transfer laws were unsuccessful in stopping juveniles from committing future crimes.

One of the six studies, conducted by Jensen and Metsger in 1994, cited by Johnson (2014), analyzed legislative transfer laws from 1976 to 1986 in Idaho. The results showed a 13 percent increase in arrest rates for juveniles who committed violent crime after the transfer law was implemented in 1981. A second study by Singer and McDowall (1988) compared arrest rates of juveniles from 1974 to 1984 in New York and Philadelphia and found that the New York Juvenile Offender Law of 1978, which was an automatic transfer law enacted for those who committed violent offenses, had no deterrent effect on violent juvenile crime as well (Johnson, 2014). Furthermore, Redding and Fuller (2004) interviewed a smaller sample of 37 juveniles who had been automatically transferred and tried as adults in Georgia after committing armed robbery or armed robbery and felony murder. It was found that only eight of the 37 juveniles knew about automatic transfer laws, and none expected that the law would apply to the crimes they committed. In fact, most believed they would receive a more lenient sentence or be sent to a juvenile detention facility (Johnson, 2014).

This study fits well with what Dempsey (2021) found regarding the deterrent effects of potentially being tried criminally, finding that potentially being tried in a criminal court has different deterrent effects on youth compared to adults. Even Dempsey (2021) understands and emphasizes that additional research and evidence needs to be found to show that the utilization of transfer acts as a deterrent, and this information is limited. However, evidence found so far, through scientific studies of the brain, points to the idea that juveniles are less able to make conscious decisions and are unaffected by potentially being punished, making the potential for being tried criminally have limited effects on juveniles compared to the effect of being tried

criminally may have on adults (Dempsey, 2021).

### **Increased Recidivism Rates Among Transferred Juveniles**

Nevertheless, even with numerous studies showing the inability of juvenile transfer to deter youth from committing future crimes, juvenile courts emphasized retribution and justified the use of transfer using deterrence principles due to the belief that juvenile courts were too lenient (Allen, 2002; Beresford, 2000; Dempsey, 2021; Myers, 2003). Yet, transferring juveniles to adult criminal courts has been found to increase recidivism despite expectations to the contrary. If the juvenile justice system is going to utilize transfer to decrease juvenile crime, the evidence should show that transfer and waiver deters juveniles, and additional evidence should show a decrease in recidivism among those that are being transferred. Unfortunately, the literature shows that opposite.

For example, virtually every study conducted on general deterrence has found that transferring juveniles does not lower crime rates, and more than likely decreases these rates only marginally and can even increase them. It has also been found that transferred youth re-offend more quickly, commit higher numbers of crimes and more severe crimes than those who were not transferred (Bishop, 2009; Ibarra, 2023; Loughran et al., 2010). For example, specific studies, highlighted by Myers (2003), found that legislative waiver laws had little measurable effect on juvenile crime in the state of Idaho, with these laws backfiring and *increasing* juvenile offending. An additional study found that 30% of juveniles transferred to adult courts in Florida were rearrested during the one-year follow up compared to 19% of those who remained in the juvenile system (Myers, 2003).

Additional studies, highlighted by Johnson (2014), also found increased recidivism rates. For example, the MacArthur Foundation Research Network evaluated over 2,000 adolescents

who had committed aggravated assault, armed robbery, and burglary in 1992 and 1993. Researchers followed these juveniles until 1999 and examined re-arrest rates, with results showing that those prosecuted in adult courts in New York were 85 percent more likely to be re-arrested for a violent crime and 44 percent more likely to be re-arrested for felony property crimes (Johnson, 2014). Another study conducted by Fagan in 1996 analyzed recidivism rates among 800 15 and 16-year-old juvenile offenders. These offenders were charged with robbery or burglary from 1981 to 1982 in New York adult courts under automatic transfer laws. It was found that 91 percent of juveniles tried for robbery in an adult court were not only rearrested but were rearrested sooner and more often than those tried in a juvenile court (73 percent) (Johnson, 2014).

The goal of transferring juveniles to adult criminal courts is to decrease the likelihood of future offending and to hold juveniles accountable for their actions. However, research shows that transfer laws have little deterrent effect and can increase re-arrest and re-offense rates. While these reasons are a powerful argument for the reform of juvenile transfer, it can also be shown that transfer laws exacerbate the collateral consequences that a juvenile will already have to deal with due to their criminal justice involvement, allowing room to argue for the abolishment of juvenile transfer laws altogether.

## **Exacerbated Collateral Consequences**

### ***Harsher Punishment***

When a juvenile becomes justice involved, there are collateral consequences that can arise that are specific to their juvenile status, but there are also consequences that can be exacerbated due to the change to adult status. Well-known collateral consequences that arise from the transition of juvenile to adult status include increasingly harsh punishments upon

conviction, stigmatization, and victimization (Langemo, 2004; Slobogin, 2013; Taylor, 2015). Therefore, if a juvenile is transferred to adult criminal court, their risk of obtaining enhanced future sentences increases. These enhanced sentences can include incarceration within an adult correctional facility and many studies have found that juveniles who are in the adult criminal justice system receive harsher punishments compared to those who remain in the juvenile justice system (Ibarra, 2023; Kurlychek & Johnson, 2010). For example, youth that are given a sentence of incarceration in adult criminal courts are usually serving that sentence in adult correctional facilities, among adult inmates and the general prison population (Bishop, 2009), and despite the known risk factors and negative consequences, which will be discussed more in detail below, at the end of 2019, adult correctional facilities held 653 individuals who were 17 years or younger (Carson, 2020). Additionally, research has shown that the sentences that adolescents receive are harsher than the sentences imposed on adult defendants who commit comparable offenses (Bishop, 2009).

Incarceration within adult correctional facilities is a penalty which research has shown to be criminogenic, teaching individuals more about crime because they are exposed to adult offenders that can be hardened criminals and producing negative effects on multiple areas of life (Ibarra, 2023; Slobogin, 2013; Taylor, 2015). For an adolescent within an adult correctional facility, developing a criminal identity can be a protective factor, allowing them to formulate friendships with other inmates and adopt their behaviors and criminal tendencies (Ibarra, 2023).

### ***Stigmatization and Labeling***

In addition to the harsher punishments that lead to potential incarceration, direct results of being placed in adult correctional facilities include the labeling of juveniles as criminals, leading to significant and entrenched stigmatization (Grace, 2022; Taylor, 2015). Many researchers

argue that contact with the justice system will stigmatize an individual and will begin segregating them from the rest of society (Taylor, 2015). When a juvenile is transferred, they are stigmatized and labeled as more culpable, more dangerous, and irreformable, leading to a “spoiled identity” that is highly impactful to many areas of life (Ibarra, 2023; Sharlein, 2018, p. 31). For example, numerous studies have found structural and social stigmatization evidence from employers during the hiring process, along with stigmatization from peers and teachers in educational settings (Clark et al., 2020; Taylor, 2015). Essentially, individuals often have stigmatization relating to character morality, leading to a negative stereotype being attributed to their moral character, which results in discriminatory behaviors from others (Grace, 2022).

One reason that this stigmatization is seen is because of juvenile criminal records. Juvenile records and stigmatization go together because many believe and assume that a history of delinquency has minimal effects on juveniles because of the expungement and sealing of juvenile records, as it is believed that once a juvenile turns 18, their criminal records are gone (Nellis, 2011; Taylor & Spang, 2017). However, expunging and sealing juvenile records can be difficult, especially if a juvenile is sentenced using blended sentencing or if a juvenile is adjudicated for a felony, making their criminal record unable to be expunged at all (McConnell, 2012; Taylor & Spang, 2017). In educational settings for juveniles, there are also laws that require principals and other staff to be made aware of an arrest and criminal record. For instance, in Illinois (among many others), the State’s Attorney’s Office is required to inform schools of adjudications that occur, even ones where the offense did not occur on school grounds (Kirk & Sampson, 2013; McConnell, 2012). Therefore, the highly publicized nature and accessibility of juvenile criminal records, especially for those transferred, allows juvenile offenders to be labeled, leading to reduced employment opportunities and increased dropout

rates due to excessive absences and expulsion (Taylor, 2015).

### ***Victimization***

Additionally, victimization in adult jails or prisons is another troubling possibility for adolescents that are processed in adult criminal justice systems (Kirk & Sampson, 2013; Mulvey & Schubert, 2012). In fact, juveniles within adult facilities report more weapons assaults, sexual violence, and physical altercations than those held in juvenile detention centers (Polacheck, 2008). For example, studies have found that juveniles in adult facilities are twice as likely to be beaten by staff and are 50 percent more likely to be attacked with a weapon compared to minors in juvenile facilities (Langemo, 2004; Mulvey & Schubert, 2012). Additionally, juveniles within adult facilities are five to ten times more likely to be sexually assaulted (Ahlin & Hummer, 2019), with one study finding that 21 percent of all victims of inmate-on-inmate sexual violence in jails were juveniles under the age of 18 (Mulvey & Schubert, 2012).

One reason for these statistics is that prisons are an environment founded on status, power, and control, and survival means being tough (Ahlin & Hummer, 2019; Mulvey & Schubert, 2012). This puts young inmates at risk for victimization, as they hold little power and have limited control due to being inexperienced and unaware of “inmate code”, making them targets for older, more hardened inmates that will test them (Ahlin & Hummer, 2019). Thus, when juveniles are placed in the adult criminal justice system, they are forced to adapt and assimilate to the environment and individuals around them to survive, leading juveniles to use aggression and violence to gain status and power or simply avoid victimization (Ibarra, 2023).

### **Summary**

The creation of juvenile transfer laws made it increasingly normal for youth to be treated as adults because of the "adult crime deserves adult time" theory, as shown by the number of



judicially waived delinquency cases between 1985 and 1994, which show a 188 percent increase (Dempsey, 2021; Gowen et al., 2011, p. 189; Ibarra, 2023, p. 35). Though there are different types of waivers utilized to transfer juveniles, judicial waivers peaked in 1994 with roughly 13,000 and have since declined to the current level of 2,980 in 2020 using the most recently available data (Hockenberry, 2023a). This chapter has shown that there are core issues with juvenile transfer laws, consisting of their inability to deter both specifically and generally (Johnson, 2014; Slobogin, 2013), their inability to decrease recidivism rates and the way they increase the frequency and severity of new crimes committed (Ibarra, 2023; Loughran et al., 2010), and the way that these laws exacerbate various collateral consequences due to harsher punishment, stigmatization, and victimization felt by juveniles transferred to and convicted in adult court (Ahlin & Hummer, 2019; Ibarra, 2023; Kurlychek & Johnson, 2010; Langemo, 2004; Mulvey & Schubert, 2012; Slobogin, 2013; Taylor, 2015).

While these core issues are powerful arguments to the transfer debate, there is another area of research that can be added. Adolescent brain development and neuroscience research can help explain why transfer laws do not deter juveniles and why they may in fact increase the risk of committing future crimes. In the next chapter, various aspects of adolescent development, including the age-crime curve, the maturity gap, and evidence of poor decision-making due to increase risk-taking and the inability to think about long-term consequences, especially within the presence of peers, will be discussed to further argue that juveniles should not be subjected to transfer to adult criminal courts, adding to the evidence that has already been given in the previous chapter regarding the creation, utilization, and issues with juvenile transfer.

## CHAPTER 4

### ADOLESCENT BRAIN DEVELOPMENT

Juveniles between the ages of 12 and 17 experience significant developmental change, a fact that is critical when discussing public policy in a general sense, and the transfer debate specifically (Cauffman et al., 2015; Steinberg & Cauffman, 1999). This range, known as adolescence, is typically defined by law, and distinguished from adulthood. Adolescents are children who are vulnerable and dependent and lack competence to make responsible decisions, while adults are “autonomous citizens” responsible for their own actions and entitled to legal rights and privileges (Steinberg, 2014, p. 59). The age range utilized in America to distinguish between when an adolescent is a child and when they are adults is wide ranging across various situations and jurisdictions but, most commonly, age 18 defines the age of majority for most states (Bonnie & Scott, 2013; Icenogle et al., 2019). This single age, however, masks the true variety of ages used to determine when an individual is sufficiently developed to make autonomous decisions. For example, some states allow juveniles to be tried as an adult at the age of 14 but are not allowed to purchase alcohol until the age of 21 (Bonnie & Scott, 2013; Steinberg, 2014). They can legally drive at age 16 or 17, depending on the state, but cannot join the military until the age of 18 (Bonnie & Scott, 2013; Moffitt, 2017; Steinberg, 2014). The age of majority is 18 for most countries, but this boundary is an imperfect divider when it comes to separating mature and immature individuals (Icenogle et al., 2019).

Adolescence is a period of tremendous change developmentally and criminologists often ask questions about the causes of adolescent crime and the mechanisms that increase risk-taking in juveniles? The following pages will outline the developmental nature of adolescence and how that development can lead to antisocial, delinquent, and criminal acts by individuals classified as

juveniles under the law. Within the remainder of this chapter, adolescent brain development research and neuroscience will be discussed to help further the argument that juvenile transfer laws should be abolished. Beginning with a few important Supreme Court decisions, it will be shown that adolescent brain development has been used as a rationale to support various decisions regarding juveniles. Next, the age-crime curve, the maturity gap, and evidence of poor decision-making skills will be used to show that juveniles should not be subjected to transfer to adult criminal courts. In sum, this research will show an obvious need to rethink the utilization of juvenile transfer and waiver to adult criminal courts for crimes they have committed.

### **The Supreme Court's Opinion**

Chapter 3 discussed multiple decisions made by the Supreme Court that contributed to the increased rights of juveniles within the legal system, for example, *Kent v. United States* (1966), *In re Gault* (1967), and *In re Winship* (1970). While these decisions allowed important changes to the juvenile justice system, the Supreme Court considered adolescent brain development and arguments of culpability and responsibility to rationalize their decisions in several other relevant cases. First, in 1988, the court rendered a decision in *Thompson v Oklahoma* (Allen, 2002; Steinberg, 2013; Steinberg, 2017; Taylor, 2018). The case ensured that capital punishment was prohibited for individuals younger than 16 years of age (Steinberg, 2013), a decision that was based on concerns over general standards of decency and a belief that a young person is incapable of acting with a degree of culpability that could justify the ultimate penalty (Steinberg, 2013; Steinberg, 2017; Taylor, 2018).

The decision in *Thompson* was followed by decades of silence until 2005 when the issue of the juvenile death penalty returned to the Supreme Court in the decision of *Roper v Simmons*, the first of three cases that would alter juvenile punishments (Park, 2007; Taylor, 2018). It was

also the first case where the highest court considered adolescent brain science as part of its decision (Steinberg, 2017). Christopher Simmons, age 17, was convicted of brutally murdering Shirley Crook, resulting in a jury recommending the death penalty (Park, 2007; Taylor, 2018). The Supreme Court reversed his death sentence, holding that the Eighth and Fourteenth Amendments prohibited the execution of persons under 18 at the time of the offense (Brown, 2012; Walsh, 2007). The reversal relied heavily on emerging trends across the United States, which supported the idea of reduced culpability for youthful offenders and eliminating the juvenile death penalty altogether (Park, 2007). Steinberg (2017) and Walsh (2007) further states that the reason provided by the Supreme Court for the reversal consisted of findings relating to the lack of maturity in young people and an undeveloped sense of responsibility resulting in impulsive decisions. There is evidence that shows adolescent brains are not fully developed, with mental abilities such as self-control and the ability to take responsibility for one's actions being affected (Brown, 2012).

Another Supreme Court decision that would use adolescent brain development in its argument, specifically behavioral control, was *Graham v. Florida (2010)* (Steinberg, 2017; Taylor, 2018). Terrence Graham was 17 and on probation for attempted armed robbery in 2004, and the trial court had sentenced him to life in prison for armed robbery and an additional fifteen years for attempted armed robbery (Taylor, 2018). It was sent to the Supreme Court, which ultimately decided that life without parole was banned for non-homicide offenses (Brown, 2012; Steinberg, 2013). Steinberg (2013) suggested the rationale behind this decision came from developments in psychology and brain science, which continue to show “fundamental differences between juvenile and adult minds” along with evidence that some parts of behavioral control “continue to mature through late adolescence” (p. 514).

Finally, both the *Roper* and *Graham* decisions set the stage for *Miller v. Alabama*, which was decided in 2012. Two cases make up *Miller* and both included 14-year-old males. Jackson and Miller were convicted of homicide and received the mandatory minimum of life without parole (Brown, 2012; Taylor, 2018). The decision in *Miller* held that the Eighth Amendment forbids juvenile offenders from a sentence of life in prison without the possibility of parole if mitigating factors were not considered during the sentencing process (Taylor, 2018). Consequently, courts were required to determine whether a crime reflects “irreparable corruption” or is simply a product of immaturity and recklessness (Taylor, 2018, p. 403), emphasizing proportionality between the crime and sentence given (Brown, 2012). Like the earlier cases, this one noted a lack of maturity, susceptibility to impulsive behavior and negative influences, and inability to understand the full impact of their actions (Brown, 2012; Steinberg, 2013; Taylor, 2018). The Supreme Court ultimately stated, “It is increasingly clear that adolescent brains are not yet fully mature in regions and systems related to higher-order executive functions such as impulse control, planning ahead, and risk avoidance” (Steinberg, 2013, p. 514).

These four decisions not only changed the penalties juveniles could receive for serious crimes, but they also pointed to the Supreme Court’s consideration of brain development in deciding cases. The remainder of this chapter will focus on the causes of juvenile crime and how these mechanisms increase the risk of committing crime, furthering the arguments that have already been used within past Supreme Court decisions. However, this paper will argue that these same arguments can be used to highlight the inappropriateness of juvenile transfer laws for individuals going through important developmental phases of their lives.

## The Causes of Juvenile Crime

### The Age-Crime Curve

Many scholars have attempted to explain the initiation and development of antisocial and delinquent behavior over the life course (Blonigen, 2010). The criminal career paradigm explains how crime unfolds over the life course and sets the stage for developmental and life course criminology (DLC), which accounts for the impact of different events across different stages of life (Ferreira, 2016). In doing so, the age-crime curve has been found to be the most important empirical regularity (Blonigen, 2010). There is a well-documented and sharp increase in antisocial and criminal activity and crime rates during the period of adolescence, with a peak around the age of 17 or 18, followed by an equally sharp decline in these rates that continues to plateau when into early adulthood (Blonigen, 2010; Cauffman et al., 2015; Sweeten et al., 2013). The age-crime curve is an inverted, U-shaped, pattern that documents criminal behavior over time (Cauffman et al., 2015), and the same pattern has been observed consistently across population samples (e.g., race, gender, and ethnicity), historical eras, crime types, and nations (Blonigen, 2010; Sweeten et al., 2013).

Moffitt's developmental theory of crime, developed in 1993, states that, as the age-crime curve shows, most youth will begin and end their criminal careers during adolescence (Cauffman et al., 2015). Moffitt calls this vast group of individuals *adolescent limited offenders* (AL), which are one of two groups explained, the other being *life course persistent offenders* (LCP). The AL offenders have criminal careers that are short and temporary, beginning in mid-adolescence but desisting in early adulthood (Blonigen, 2010; Moffitt, 2017). The reason for this desistance stems from the AL offender's absence of antisocial histories due to the stability that has been able to form within these individuals, such as the development of healthy personalities and cognitive

abilities, resulting in the gradual return to conventional lifestyle (Moffitt, 2017; Piquero & Moffitt, 2010). Further, there is a large amount of research that has deemed adolescent limited antisocial behavior as developmentally normative, but some research still suggests that this behavior is an indicator of future risk (Cauffman et al., 2015).

While the age crime curve shows a sharp increase in offending for those around 14 to around 18 years old, it also shows a sharp decrease in offending between the ages of 18 to 25 (Blonigen, 2010; Cauffman et al., 2015; Sweeten et al., 2013). The adolescent-limited offenders desist from offending—both in prevalence and frequency—as they undergo typical changes in life (Cauffman et al., 2015). Individual patterns of desistance are open to outside influence, which are changes and transitions that are experienced in various domains of life, for example, school, work, and romance. Essentially, as adolescence age, they become anchored in conventional society and take on adult social roles, adult obligations, and the expectations that come with them (Hill et al., 2016).

However, this paper is going to focus on the sharp increase in criminal and antisocial behavior seen in individuals between the ages of 13 to 18 years old. Moffitt explains that this increase in criminal behavior is a result of the gap that adolescent's experience between biological and social maturity, which is when an adolescent feels like an adult but does not have the social status to match and may use delinquency to fulfill this gap (Hill et al., 2016). Examples of adolescent's feeling like adults but not having the status could be when a 16-year-old can legally drive, have a job, and make some money to spend on various activities, but cannot legally vote or purchase alcohol. Essentially, the 16-year-old has some freedom and is partially within an adult role but is still highly limited in their privileges and allowable activities.

Therefore, the age-crime curve depicts a sharp increase in adolescent crime followed by a

sharp decrease and research suggests that desistance from crime occurs often around the same time that juveniles can still be tried and convicted similarly to adults for similar crimes. There are a variety of reasons that adolescents can begin their short-lived criminal careers, such as a well-documented maturity gap experienced by youth, and evidence of poor decision-making skills due to increased risk-taking behaviors. Increased risk-taking can occur because of the presence of peers and an adolescent's inability to think about long-term consequences of their actions, all of which will be discussed below.

### **The Maturity Gap**

Interest in adolescent maturity has been rejuvenated because of the increased advancement in knowledge about adolescent brain development (Bishop, 2009; Steinberg, 2014). Research that has been conducted to further the argument for structural and functional changes within the adolescent brain has come to an important conclusion: changes in brain anatomy and activity take place for much longer and further into development than what has been previously thought (Steinberg, 2014). The developmental changes exhibited in adolescence create a unique time of vulnerability to risk-taking behavior and research within this area has produced a new theoretical paradigm: the dual systems model (Cauuffman et al., 2015; Harden & Tucker-Drob, 2011). The dual systems model says that behavior is shaped by an imbalance in the development of two neurobiological systems. The first is called *the socio-emotional system*, which is responsive to emotions, newness, and rewards; the second is the *cognitive-control system*, which is critical to impulse control, emotional regulation, and decision making (Harden & Tucker-Drob, 2011). The inequivalent maturation of these two systems, known as the "maturation gap", creates an increase in reward-seeking behavior, while at the same time, there is only a gradual increase in self-regulation and control (Icenogle et al., 2019; Kambam & Thompson, 2009;



Moffitt, 2017).

Reorganization of the brain occurs during adolescence due to hormones that occur because of changes during puberty (Kambam & Thompson, 2009; Steinberg, 2017). These changes are thought to influence neural processes, as evidence shows that reward-related regions of the brain have increased activation during the time of adolescence (Cauffman et al., 2015). A great amount of change occurs to the dopaminergic system during this time, causing changes in the density and distribution of dopamine receptors in the neural pathways that connect to the main emotion, reward, and punishment processing area of the brain, and the prefrontal cortex, known as the “chief executive officer” of the brain (Steinberg, 2014, p.63). Dopaminergic activity plays a critical role in affective and motivational regulation, helping individuals experience pleasure (Steinberg, 2014, 2017). These changes cause decreased control of dopamine release, increasing sensitivity within this system and making stimuli that once was not rewarding, become highly rewarding during adolescence (Kambam & Thompson, 2009).

The changes within the socio-emotional system cause a tremendous amount of structural change within the brain during the period of adolescence, but the cognitive control system is responsible for an abundance of functional changes as well (Steinberg, 2014). As this system matures, there is an improvement in self-regulation and control, decreasing risk-taking behaviors, but as previously stated, this system matures more slowly than the socio-emotional system, causing the gap in biological and sociological maturity (Cauffman et al., 2015; Kambam & Thompson, 2009; Steinberg, 2014). The first functional change that occurs within this system begins with changes in gray matter density in the frontal and parietal lobes, known as synaptic pruning, where unused neural connections begin to be eliminated (Cauffman et al., 2015; Kambam & Thompson, 2009; Steinberg, 2014, 2017). Synaptic pruning allows for

improvements in basic cognitive abilities and logical reasoning skills, showing that the large amounts of gray matter in adolescent brains results in poor cognitive and reasoning skills (Steinberg, 2014). In fact, evidence shows that between adolescence and adulthood, the loss of this gray matter accelerates into the frontal cortex, but pruning will continue until at least the age of 21 (Kambam & Thompson, 2009).

A second functional change that occurs with the cognitive-control system begins when the density and volume of white matter in the brain increases in the prefrontal cortex, known as myelination, or when nerve fibers become sheathed in myelin, improving the efficiency of brain circuits and their processing abilities (Cauffman et al., 2015; Kambam & Thompson, 2009; Steinberg, 2014, 2017). Evidence has been found that the timing and patterns of myelination are different depending on the region of the brain this is occurring in. For example, myelination in the frontal and parietal areas of the brain occurs into adulthood and is less linear in maturation than the visual, auditory, and limbic areas, which will complete myelination much earlier (Kambam & Thompson, 2009). A functional change that occurs alongside myelination is the increase in connectivity between the prefrontal cortex and limbic systems, resulting in the emotional processing regions and self-control regions beginning to communicate, allowing for the increase in abilities to plan, weigh risks and rewards, and make more complex decisions (Kambam & Thompson, 2009; Steinberg, 2014).

Overall, literature on the maturity gap shows the poor-decision-making skills of juveniles. The maturity gap is evidence that structural and functional changes do not occur along a uniform timetable, as the socio-emotional system experiences easier arousal and increased activity, while the cognitive-control system matures eight to ten year later (Bishop, 2009), showing that an adolescent can be biologically mature but not socially mature leading them to

use delinquency as a way to overcome their immature status (Hill et al., 2016; Steinberg, 2014, 2017). Therefore, the maturation gap not only explains why juveniles may begin to commit crime, but it also shows that juveniles are not developmentally capable of being held fully responsible for the crimes they commit. Additionally, maturity gap research shows that protective policies (e.g., banning life without parole and death penalty sentences for juveniles) for those under the age of 18 are important. This reinforces the argument that adolescent crime is the product of developmental influences, and many offenders will simply mature and ultimately desist from crime (Bonnie & Scott, 2013), making the transfer of juveniles to adult criminal courts unnecessary.

### **Poor Decision-Making Skills Among Juveniles**

As a result of the maturity gap experienced by adolescents, decision-making capacities of youth may be altered. Decision-making capacities and their development in childhood and adolescents are not a new topic, as shown by the Supreme Court decisions throughout the decades, but only within the last 25 to 35 years has empirical research begun to develop on this topic (Kambam & Thompson, 2009). Poor decision-making capabilities often stem from issues with risk-taking, especially in the presence of peers. It can be hard for adolescents to think about the long-term consequences of their actions, as impulsivity and reward-seeking become more important due to their more present and tangible feeling. Below, increased risk-taking, the presence of peers, and the inability to think about long term consequences will be discussed to show that juveniles within the justice system are not developed enough to be fully culpable and responsible for their actions, and therefore, should not be transferred to adult criminal courts.

*Decision-making* is used by researchers to study the actual choices that individuals make, but *judgment* refers to the underlying cognitive, emotional, and social processes that are involved

when one makes a choice (Cauffman et al., 1998, p. 406). Further, decision-making capabilities are highly complex and are shaped by cognitive capacities and psychosocial immaturity (Kambam & Thompson, 2009). When one is psychosocially mature, it means that an individual has the capacity to exercise self-restraint in emotionally arousing situations (Icenogle et al., 2019), and includes characteristics such as impulsivity, sensation-seeking, future orientation, and susceptibility to peer influence (Cauffman et al., 2015). Therefore, when an adolescent experiences the need for conformity, underestimates the risks they take, and places greater weight on short-term versus long-term consequences, it can negatively impact decision-making capacities (Kambam & Thompson, 2009). Additionally, these deficits in psychosocial maturity can lead to increased risk-taking and subsequent delinquent behavior due to the lack of judgment that occurs within the second decade of life (Cauffman et al., 1998; Cauffman et al., 2015).

### **Increased Risk-taking**

Research on behavior has found that, in general, adolescents and individuals in their early 20s have a greater propensity to take risks compared to younger children and older adults (Bonnie & Scott, 2013; Cauffman et al., 2015; Steinberg, 2017). It is said that youths' immature judgment reflects differences in risk perceptions compared to adults (Feld, 2013).

Neurobiological research shows that teenagers are attracted to novel and risky activities, which include criminal activity, but can also encompass non-criminal activities, such as accidental drownings, automobile accidents, participation in unprotected sex and experimentation with alcohol and marijuana, as they lack judgment in exercising self-control and calculate the probability of risks and value them, differently (Bonnie & Scott, 2013; Steinberg, 2014, 2017; Ward, 2003). Essentially, adolescents will underestimate the amount of risk with a given situation and focus on what they can gain from them in the short term, as they consider fewer

options and weigh the costs and benefits differently than adults, usually adding different values to the potential outcomes (Feld, 2013).

Further, it has been found that levels of risk-taking and sensation seeking are found to sharply increase until their peak around age 16 or 17, which follows the pattern of the peak in adolescent's involvement in crime, and then decline slowly through the mid-20s (Feld, 2013; Harden & Tucker-Drob, 2011). This follows the idea of the dual systems model, showing the heightened sensitivity to rewarding stimuli, which begins with puberty and matures quickly, while also having limited control in diverting from that behavior due to a lack of self and impulse control, which will fully mature into early adulthood (Cauffman et al., 2015) closely following the peak and decline at 16 or 17. Essentially, the pattern in risk-taking and sensation seeking closely mirror the age-crime curve and the increased involvement in criminal activity for adolescents, which provides evidence of neurobiological factors at play. Therefore, it is argued that this is one reason why juveniles should not be held fully responsible for their actions.

### **Long-term Consequences and the Presence of Peers**

A final reason why juveniles are not fit to be transferred to adult criminal courts is because they often cannot think about long-term consequences. In fact, teens tend to lack "future orientation", meaning that when compared to adults, adolescents focus more on the present and less on the future (Scott & Steinberg, 2008). For example, studies have found that when individuals are asked about their perceptions of short-term and longer-term pros and cons of multiple risk-taking behaviors, or when asked to give advice to someone else about a risky decision, adolescents are more likely to discount the future and weigh the short-term consequences more heavily when making choices (Steinberg & Scott, 2003, 2008). Two explanations have been given for the difficulty in thinking about long-term consequences, with

the first being that adolescents have limitations in their ability to think hypothetically, and the other being that adolescents have limited life experience. For example, a consequence that could occur because of an adolescent's current choice could come five years into the future and seem highly unlikely, as teens attach more weight to the consequences that are more prominent in their current situations (Steinberg & Scott, 2003).

The case of Timothy Kane illustrates how adolescents fail to think in the long-term and often have very simple reasons for their engagement in crime. Kane was 14 years old and had never had contact with the justice system until one day a group of his friends met two older youths, who suggested they break into a house. Kane agreed to go and when they entered, the two older youths murdered an elderly mother and her son while Kane hid under the dining room table. He was given a life sentence in Florida in 1992, and said he went along because he did not want to stay behind alone and did not want to be called a "fraidy-cat" (Scott & Steinberg, 2008, p. 21). The case of Timothy Kane shows that adolescents rarely think in the long-term and are often more worried about the immediate rewards of their current situation, and in Kane's case, he saw the potential to lose status among his peers if he failed to participate.

Additionally, the Kane case shows the substantial role that the presence of peers has in decision-making among youth (Cauffman et al., 2015; Ward, 2003). In fact, the decision made in *Roper* (2005) stated that juveniles had diminished responsibility due to their susceptibility to negative peer influences that work to stimulate more neural activity in areas of the brain that deal with rewards (Feld, 2013). There is substantial research that support the idea that teens are more oriented and responsive to peers than adults, with several studies showing that situations involving pressure to engage in antisocial behavior will increase between childhood and adolescence, peaking around age 14 (Scott & Steinberg, 2008). A specific example of peers

influencing adolescence at a great rate can be seen during a driving simulation study involving groups aged 13 to 16, 18 to 22, and 24 and older (Blakemore & Robbins, 2012). Results showed that those ages 13 to 16 were found to take three times the number of driving risks when in the presence of peers than when they were alone during the task (Blakemore & Robbins, 2012; Cauffman et al., 2015). Additionally, in the 24 and older group, peers had no impact on risk-taking, while the 18 to 22 age group saw intermediate effects on risk-taking with peers (Blakemore & Robbins, 2012).

In addition, Ward (2003) explained that research has noted two ways in which peers will influence adolescent behavior: social comparison and conformity. It was mentioned previously within this chapter that adolescents may feel stressed when they are aware that they lack adult status (Hill et al., 2016) and the need to conform to others around them can be used to ease that stress. Adolescence is a time of identity development and during this time youth are continuously comparing themselves to others, reacting to that assessment, and shaping themselves to fit these views (Bishop, 2009; Ward, 2003). Thus, in order to achieve status among their peers, they often need to behave in a way that maintains and rewards them with that status, making the adolescent feel free from adult authority and potentially easing the stress of their status frustration (Scott & Steinberg, 2008). This was seen in the Kane case, as Kane did not want to be left behind or name-called, he wanted to maintain a certain level of status in the eyes of his new friends.

### **Summary**

The Supreme Court Decisions of *Thompson v Oklahoma (1988)*, *Roper v Simmons (2005)*, *Graham v. Florida (2010)*, and *Miller v. Alabama (2012)* showed just how long adolescent development has been a part of the juvenile justice system and began an important debate about juvenile development and crime. Juveniles' lack of maturity, impulsive behavior,

susceptibility to negative peer influence, and their inability to understand the full impact of their actions led to a discussion on how juveniles should be treated in the justice system. Thorough research has now shown that a large portion of youth will begin a criminal career in adolescence, but often desist from that in early adulthood, as the age-crime curve shows. Within this chapter, evidence of the maturity gap experienced by youth was used to show why some individuals may begin a criminal career in their adolescence, showing an inequivalent maturation of their need to take risks and their inability to control their impulses (Cauffman et al., 2016; Kambam & Thompson, 2009; Steinberg, 2014, 2017). Due to this maturation gap, it was further shown that this gap creates poor decision making among adolescents, due to increased risk-taking. The increased risk-taking is often a result of their inability to think about long-term consequences of their actions due to the more gratification coming from an immediate reward, especially when followed by increased status and acceptance from their peers (Bonnie & Scott, 2013; Cauffman et al., 2015; Steinberg & Scott, 2003; 2008; Ward, 2003).

The last chapter in this paper will recap the overarching ideas within chapters two, three, and four. In addition, chapter 5 will also recommend alternatives to juvenile transfer, with recommendations to utilize more rehabilitative efforts, specifically, community-based treatment programs. The underlying argument for the final chapter is that juveniles charged with serious and violent crimes need rehabilitative services the most but are instead transferred to the same criminal justice system that adults are convicted in and will more than likely face the punishment of being incarcerated in an adult correctional facility instead of a juvenile detention facility. Ibarra (2023) states it best: “Regardless of how many times a juvenile has been in trouble, and regardless of the seriousness of the crime, the juvenile justice system and the criminal justice system are somehow forgetting that the juvenile appearing before them is in fact, still a child” (p.



22). Juvenile offenders who come into contact with the criminal justice system are going to reenter into society, like hundreds of thousands of others, and when transferred to the adult criminal justice system, they are set up to fail. Abolishing juvenile transfer and utilizing the recommendations within chapter 5 would give juveniles who do commit crimes, serious or not, a better chance at being rehabilitated and becoming productive, law-abiding members of society.

## CHAPTER 5

### DISCUSSION AND PROPOSED ALTERNATIVES

This paper argues for the abolishment of juvenile transfer laws. Chapter two gave a thorough background of the juvenile justice system, explaining how children began to be held accountable for their actions through the creation of a separate juvenile justice system (Allen, 2002; Beresford, 2000; Butts, 1998; Park, 2007; Weijers, 1999). Juvenile courts were non-criminal in nature, having a rehabilitative background with the goal of saving the children within it rather than punishing them or finding them guilty (Park, 2007; Weijers, 1999). The juvenile justice system cycled through various stages of reforming, bouncing from a rehabilitative focus to a more punitive focus multiple times throughout its history. Perceived changes in violent juvenile crimes and the warnings about juvenile superpredators from misguided policy makers led to a more punitive focus on juveniles who committed crime (Allen, 2002; Dempsey, 2021; Nellis, 2011, Taylor, 2018; Ward, 2003).

These beliefs created more punitive policies for juveniles and made it normal to treat youth as adults, mainly through transfer and waiver laws, which were explained in chapter 3. By the mid-1990s, 45 states had introduced legislation that created the transfer of juveniles to the adult court system (Merlo & Benekos, 2003) and doing so meant that the juvenile lost their legal status as a minor and was therefore fully culpable for their behavior (Butts, 1998). Additionally, the foundational arguments that favored transferring juveniles to adult criminal courts were discussed, such as the proposed ability to deter juveniles both generally and specifically and thus their ability to reduce recidivism rates because of that deterrence. Chapter three thoroughly showed that juvenile transfer laws do not deter juveniles, and will in fact increase recidivism rates, with evidence showing that juveniles that are transferred will often commit more severe

crimes at a quicker rate (Ibarra, 2023; Loughran et al., 2010). There is also an abundance of research that shows the exacerbation of collateral consequences that stems from being transferred to adult criminal courts as a juvenile. First, the research shows that transferred juveniles receive harsher punishments, such as longer and more severe sentences compared to those retained in juvenile systems, often ending in incarceration for those transferred (Kurlycheck & Johnson, 2009; Langemo, 2004; Slobogin, 2013; Taylor, 2015), followed by the stigmatization and labeling that stems from those punishments, resulting in reduced opportunities because of spoiled identities (Clark et al., 2020; Ibarra, 2023; Sharlein, 2018; Taylor, 2015). Finally, victimization statistics were utilized to show how incarcerating juveniles leads to not only an increase in sexual and physical victimization (Langemo, 2004; Mulvey & Schubert, 2012; Polacheck, 2008), but incarceration also becomes criminogenic as these juveniles adapt and assimilate to the environment and individuals around them, utilizing violence and aggression to survive their time in prison (Ibarra, 2023).

Chapter four tied the argument of the abolishment of juvenile transfer together by adding the missing piece: adolescent brain development and neuroscience research. Adolescent brain development has been utilized in the juvenile justice system for longer than some may think, as case decisions in *Thompson v. Oklahoma* (1988), *Roper v. Simmons* (2005), *Graham v. Florida* (2010), and *Miller v. Alabama* (2012) all had some discussion of adolescent development within their rationales. *Thompson* discussed the degree of culpability, while *Roper* addressed the lack of maturity, undeveloped sense of responsibility, and impulsive decisions of youth (Brown, 2012; Steinberg, 2013; 2017; Walsh, 2007). *Graham* noted fundamental differences between juveniles and adults in certain behavioral controls while *Miller* addressed all these same reasons but also emphasized the susceptibility to negative peer influence and being unable to understand the full

impact of their actions (Brown, 2012; Steinberg, 2013; Taylor, 2018).

The developmental discussion also incorporates the most empirically founded regularity in research: the age-crime curve, which shows an increase in criminal behavior around the age of 14 that persists until around the age of 18, when an equally sharp decrease in criminal activity will begin and plateau around the age of 25 (Blonigen, 2010; Cauffman et al., 2015; Sweeten et al., 2013). The maturity gap was used to provide evidence as to why youth between 14 and 18 begin their criminal careers, showing that there is a maturation gap within two systems in the brain, with one maturing quickly, beginning at puberty, increasing sensation seeking and risk-taking (Kambam & Thompson, 2009; Steinberg, 2017), while the other matures gradually into early adulthood, and controls impulses, while regulating emotions and decision-making (Harden & Tucker-Drob, 2011; Kambam & Thompson, 2009).

The evidence of the maturation gap” then explains why adolescents have poor decision-making skills, as adolescents underestimate the risk within situations and focus on gains within the short-term, thus, adolescents often take more risks than other age-groups younger and older than them (Bonnie & Scott, 2013; Cauffman et al., 2015; Steinberg, 2017). A final reason for the poor decision-making skills of adolescents is due to the presence of their peers. Chapter four documented studies that show that teens are more responsive to peers than adults are, which has been thought to be because of social comparisons and the need for conformity (Scott & Steinberg, 2008; Ward, 2003). Essentially, because adolescents are continuously comparing themselves to others and using that information to shape themselves, adolescents will feel pressured to maintain status among their peers. Oftentimes, when they are given this status, adolescents will also feel independent from adult authority and believe they have more control, relieving the status frustration they feel from the maturity gap (Steinberg, 2017; Ward, 2003).

The remainder of this chapter will answer the question, “If juvenile transfer laws were abolished, what would we do instead?”, by providing some alternatives to the transfer of juveniles to adult criminal courts, specifically community-based treatment programs known as Multi Systemic Therapy and Functional Family Therapy.

### **Proposed Alternatives to Juvenile Transfer**

When discussing how to deal with juvenile offenders, some would suggest abolishing the juvenile justice system completely, but there is evidence to support the need for a separate juvenile system, as presented in the previous chapters. The main emphasis of the remainder of this paper is on intervention strategies, as those that are being transferred to adult criminal courts have already committed a crime, thus making intervention a key part of their treatment. Therefore, instead of abolishing an entire justice system, a more realistic alternative is to focus on community-based treatment programs to prevent juveniles’ crime (Chamberlin, 2001).

Supporters of the community-based treatment programs say that focusing on punishment in the juvenile justice system is a reactive approach to juvenile crime, and what is really needed is a proactive and preventive response (Chamberlin, 2001). The historical background of juvenile justice shows how being reactive can lead to an abundance of negative consequences for all involved. Additionally, positive effects have been found for diversion programs, showing that well implemented programs that incorporate both behavioral and family strategies can generate reductions in future arrests and recidivism rates (DeVries et al., 2015). It has been established that juveniles are undergoing dramatic developmental changes, resulting in increases in reward-seeking and sensation-seeking behaviors, while having a lack of impulse control due to a gradually maturing cognitive-control system, making them less culpable and responsible for their crimes (Bishop, 2009; Icenogle et al., 2019; Kambam & Thompson, 2009; Moffitt, 2017).

The programs discussed below are shown to rehabilitate serious, chronic, and violent juvenile offenders, incorporating their risk-seeking and impulsiveness, while also addressing environmental and relationship needs (Chamberlin, 2001). The remainder of this chapter will focus on two forms of therapy that will be discussed as alternatives to juvenile transfer, as they are proven to be effective strategies and are also cost effective in comparison to incarceration and other juvenile placements. It is stressed that while some juveniles do need out-of-home treatment for certain mental health matters, a vast majority can be treated in their communities, where it can be addressed in the correct social and familial contexts (Karam et al., 2017) with the smallest amount of disruption to daily life as possible.

### **Community-Based Treatment Programs for Juvenile Offenders**

Youth violence is a complex issue that society must face, and with a complex issue comes a complex solution (Holliman, 2004). The American Psychological Association Task Force on the Promotion and Dissemination of Psychological Procedures, along with the Office of Juvenile Justice and Delinquency Prevention Blueprints for Violence Prevention, have deemed Multisystemic Therapy (MST) and Functional Family Therapy (FFT), among a few others, as the “gold standard” approaches with a large amount of empirical support (Gordon, 2002; Karam et al., 2017, p. 332; May et al., 2014, p. 300). There are multiple factors that shape and contribute to antisocial behavior in individuals, such as family, peer, school, neighborhood, and community domains (Hollimon, 2004), meaning there is going to be an equally complex solution that does not involve transferring juveniles to a more punitive system to lock them up and throw away the key. In regard to family context, Gordon (2002) states that the causative role of the family is shown through numerous studies, showing reductions in re-arrests, recidivism, and truancy following participation in family therapy.

### *Multisystemic Therapy*

Multisystemic therapy (MST) is a highly effective intervention strategy. MST is an intensive family and community-based model that was developed for serious juvenile offenders and designed to help parents deal with delinquent behavior effectively (Greenwood, 2008; Henggeler et al., 1992; Merritt, 2016). The four overarching goals of MST are to decrease problematic behaviors, improve family functioning, improve adolescent functioning in multiple domains, and minimize the out-of-home placement of the juvenile (Merritt, 2016). MST identifies and treats factors within a youth's environment that are contributing to or related to antisocial and problem behaviors and acknowledges that individuals have a complex and interconnected set of systems that need to be addressed (Henggeler et al., 1992; Hollimon, 2004). Because of this, therapists within MST will assess the risk and protective factors in various domains, such as individual, family, peer group, school, and community, building a strong support network within these areas of the adolescent's life (Merritt, 2016). This type of therapy is intensive and focused on the child, while including family, school, and social factors that may be the cause of delinquent behavior (Hollimon, 2004; May et al., 2014; Tate et al., 1995). This type of program is conducted in the home and community settings to try and generalize the therapy to everyday environments while increasing cooperation (Tate et al., 1995).

MST has shown both short-term and long-term efficacy with chronic, serious, and violent juvenile offenders with studies finding that MST is effective in treating those who experienced child-abuse and neglect and those who are adolescent sexual offenders (Henggeler et al., 1992). Further, evaluations have concluded that this program is effective in reducing re-arrests and out-of-home placements for youth involved in the juvenile justice system and social services, along with recidivism for serious juvenile offenders (Greenwood, 2008, May et al., 2014; Tate et al.,

1995).

For example, a study conducted by Henggeler and colleagues (1992) found that youth in a MST program had a little more than half the number of arrests as other service clients at 59 weeks post referral with recidivism rates at 42 and 62 percent. At the four-year follow up, MST youth were less likely to be arrested for violent offenses as well (Tate et al., 1995). This reduction in the severity of new offenses is shown by May and colleagues as well, as they found that even if there is recidivism among the juveniles participating, it is less severe than those juveniles released after their incarceration (2014). This shows the opposite results of juvenile transfer laws. As shown in Chapter three, juveniles who were transferred had an increased risk of recidivism as measured by severity, frequency, and duration (Bishop, 2009; Ibarra, 2023; Loughran et al., 2010). Additionally, participants in MST programs had a recidivism rate of 22.1 percent compared to those in individual therapy groups, who had a recidivism rate of 71.4 percent, and even temporary participation in MST showed a reduction of 46.6 percent in recidivism compared to the control groups (May et al., 2014).

### ***Functional Family Therapy***

Functional Family Therapy (FFT) is a part of the Multisystemic Family Therapy intervention and was first developed in the 1970s for an adolescent population whose parents had a difficult time controlling their child's behavior (Gordon, 2002; Hollimon, 2004). FFT targets 11- to 18-year-olds facing delinquency issues, substance abuse, or violence. The goal of FFT is for the therapist to take the attention away from the juvenile as the problem and focus it on family relationships instead (Gordon, 2002). Like MST, FFT attempts to address individual, family, peer, and system dynamics that directly and indirectly affect youth, and try to change the way youth interact with them (Merritt, 2016). The program will focus on altering interactions



with family, as the family is initially viewed as a dysfunctional unit, and will hopefully improve how the family unit communicates and functions by teaching problem solving skills, enhancing emotional connections, and strengthening a parent's ability to provide structure, guidance, and limits for their youth while eliminating negativity within the family (Gordon, 2002; Greenwood, 2008; Hollimon, 2004). Within FFT, families learn to identify solutions to family problems and develop strategies to change behaviors (Hollimon, 2004).

The former structure of FFT consisted of five phases: introduction/credibility, assessment, therapy, education, and generalization, but has since been reduced to three phases: engagement/motivation, behavior change, and generalization (Gordon, 2002; Merritt, 2016). Phase one is designed to alter attitudes, expectations, cognitive sets, labels, emotional reactions, and perceptions of the relationships between family members by utilizing reframing to change the motive behind behaviors (Gordon, 2002). Therapists will use cognitive techniques to reduce the anger, blame, and hopelessness that is felt and replace those negative feelings with more positive ones (Merritt, 2016). The behavioral change phase attempts to teach family members skills they are lacking, such as communication and problem-solving and teaching the family to reinforce functional behaviors. Therapists will work with parents on parenting skills, including parent training and conflict resolution along with the skills listed above (Merritt, 2016). Finally, within the generalization phase, the skills that have been taught are applied to a variety of situations that should occur naturally and the frequency of sessions will decline to one every two to three weeks for the final few sessions, with the goal of strengthening a positive relationship with the various systems in a youth's life (Gordon, 2002; Merritt, 2016).

Numerous studies have been conducted on FFT and its ability to reduce adolescent recidivism rates, substance abuse, and out-of-home placements (Gordon, 2002; Robbins et al.,

2016). For example, it has been found that FFT is one version of family therapies that is more effective when compared to nontreatment control groups ( $d = .70$ ) and modestly more effective than those who have treatment as usual (TAU;  $d = .20$ ) or had alternative treatments (ALTs;  $d = .30$ ) (Hartnett et al., 2017). Hartnett and colleagues conducted meta-analyses, three of which included random assignment, had favorable outcomes towards the groups who had FFT (2017). For example, in a random assignment of FFT compared to a control group (CTL), a fixed effects model was used, finding a significant ( $p = .004$ ) small to medium effect size ( $d = .48$ ), suggesting that those who received FFT did better than 68 percent of those in a no treatment control group. Further, found by Harnett and colleagues (2017), a random assignment of FFT compared with alternative treatments (ALT) used a random effects model to find a significant ( $p < .05$ ) small, pooled effect size ( $d = .35$ ). More generally, in one study of 27 delinquents, aged 14 to 16 who had committed a status offense, misdemeanors, and felonies, were chosen for treatment using FFT. With a similar comparison group, it was found that after a two and a half year follow up that the recidivism rate for those that received FFT was 11 percent, in comparison to 67 percent for the control group. An additional follow up period was conducted 32 months into adulthood and showed that the treatment group had a recidivism rate of nine percent compared to 41 percent for the group that received probation-only (Gordon, 2002).

An additional study also had 27 juveniles, between 16 and 17 years old, averaging two prior institutional commitments and four prior juvenile offenses. There was a follow up conducted 16 months after the start of treatment, showing the treatment group having recidivism rates of 33 percent, with recidivism including a recommitment to a state institution. In comparison, the group that did not receive home-based functional family therapy had a recidivism rate of 64 percent (Gordon, 2002). Essentially, there is an abundance of support for

the effectiveness of FFT when compared to those groups that are going untreated, along with when compared to those that receive a well-defined alternative method of treatment, such as cognitive behavioral therapy, individual and group therapy, and probation and mental health services (Hartnett et al., 2017).

### ***Cost-Effectiveness of MST and FFT***

On top of the inherently positive effects these programs have on chronic and serious juvenile offenders, these programs have economic potential, showing substantial returns on initial investments (May et al., 2014; Tate et al., 1995). In fact, even in 1992, the average cost to keep a juvenile in a correctional facility was \$105.27 per day, while it was only \$31.43 per day to keep a juvenile in an MST program, costing only \$3,300 per client for a 15-week treatment (Tate et al., 1995). May and colleagues (2014) showed that net costs of an MST program were around \$4,743 per participant (not much more than in 1992), and this investment ultimately saves taxpayers and victims of crime roughly \$131,918 per participant.

Further, the successful treatment of juvenile offenders will reduce costs in other areas, such court costs, more time in correctional facilities, and costs associated with victims (Tate et al., 1995). For example, a study conducted by The Urban Institute analyzed the implementation of FFT in Washington, D.C. and it found there was reduced arrests by 22.6 percent within the first year, with each avoided arrest saving \$6,100 federal juvenile justice programs and an amazing \$26,100 for local juvenile justice programs. Additionally, the program reduced victimization costs, equaling \$51,600 saved per victimization episode (Robbins et al., 2016).

### **Conclusion**

According to available evidence, community-based treatment programs such as Multisystemic Therapy and Functional Family Therapy are cost-effective in the short-and-long

term, as it is significantly less expensive in the initial investment and the long-term returns (May et al., 2014; Tate et al., 1995), making community-based treatment programs a more attractive way to hold juveniles accountable compared to utilizing transfer. MST and FFT are viable options to treat serious, chronic, and even violent juvenile offenders (Merritt, 2016). While prevention of juvenile crime should be the overall goal, as programs and strategies of this kind can reach juveniles before they commit a crime, juvenile offenders who are being subjected to transfer to an adult criminal court are in more need of intervention, as prevention was not available or failed in preventing an initial criminal act or future, more serious offenses.

While community-based treatment options for delinquent youth are important, it is important to emphasize that there is still a place for the criminal justice system. The age-crime curve depicts many adolescent offenders beginning and ending their criminal careers within adolescence, but there is a group of persistent offenders that may not be able to desist like most of the delinquent youth, known as life course persistent offenders (LCP) (Cauffman et al., 2015; Moffitt, 2017). LCP offenders differ from adolescent limited offenders (AL) in that LCP offenders have antisocial tendencies at a younger age than AL offenders do. For example, at age four LCP offenders may bite and hit more than the average child, at age 10 they may shoplift or commit truancy, and by age 16 sell drugs and steal cars (Moffitt, 2017). The reason AL offenders desist from crime, as learned in chapter four, stems from their absence of antisocial histories and the presence of the stability that has formed over their early lives, such as developing healthy personalities and cognitive abilities, allowing them to eventually return to a conventional lifestyle after committing criminal acts (Moffitt, 2017; Piquero & Moffitt, 2010). For LCP offenders, there are missed opportunities for acquiring and practicing prosocial skills at each stage of development, leading to rejection and being unable to associate with prosocial peers

(Moffitt, 2017).

With that said, research and literature show that there are individuals who will persist with a life of crime, and their criminal careers will not end within adolescence. For those that are waiting for a case to be processed after they have committed a crime, detention is the primary way of holding a youth awaiting adjudication, disposition, or placement (**Hockenberry, 2023**). Detention is not only a temporary way to hold delinquent youth but also a form of punishment, such as when youth are committed to a detention facility due to a placement order because of a violation of a pre-existing court order or for probation violations. In 2020, out of the 276,300 petitioned delinquency cases (54 percent), 3,000 (one percent) will be waived to adult courts, and 49 percent (134,200) will become adjudicated delinquents, found guilty of the crime they committed (**Hockenberry, 2023**). Once a youth is found to have committed a delinquent act, there are multiple outcomes that can occur, with most involving a form of supervision. A probation order not only includes supervision of the youth, but has additional requirements such as drug counseling, restitution to the victim, or community service. In 2020, 66 percent of adjudicated youth had formal probation as the most severe placement ordered (roughly 88,700 youth), which is like in 2005, when 63 percent of adjudicated delinquent cases had formal probation as the outcome (**Hockenberry, 2023; Hockenberry & Puzanchera, 2023**). Additionally, 27 percent, or 35,900 of those adjudicated delinquents were placed outside of their homes in residential facilities (**Hockenberry & Puzanchera, 2023**).

While most of the youth within the justice system are categorized as adolescent limited offenders, and can be given less severe sanctions, there is a place for those that are persistent offenders. The argument for this paper was to abolish juvenile transfer laws and utilize community-based treatment alternatives instead. While it is important to understand the harm

that comes from waiving the jurisdiction of a juvenile case to adult criminal courts, it is equally as important to understand that there is a place for those that commit serious, violent crimes and may be considered LCP offenders. However, even for those life-course persistent juveniles, waiver to the adult criminal justice system is not the answer. Instead, formal probation as a sanction coupled with community-based treatments, such as multisystemic therapy and functional family therapy, gives LCP juveniles a chance at rehabilitation while still maintaining public safety. If a juvenile is considered a danger and a persistent offender, other sanctions, shown using adjudication (49 percent), placement (27 percent), and probation (66 percent), are available within the juvenile justice system, and utilized, eliminating the need for juvenile transfer (**Hockenberry & Puzanchera, 2023**).

Based on the findings and evidence laid out within this paper, from historical perspectives, the core issues that are present within juvenile transfer laws, and the developmental research supporting poor decision-making skills, juveniles are simply not developmentally mature enough to be culpable for the crimes they commit. There is large empirical support for the age-crime curve, which shows evidence of desistance in a large group of adolescent offenders, along with more research being conducted on the maturation gap experienced by adolescents, contributing to their increased risk-taking and their focus on short-term rewards over long-term gains, ultimately affecting their decision-making skills, leaving them vulnerable to making the wrong decisions. Based on this knowledge alone, juveniles charged with serious and violent crimes need rehabilitative services the most and juvenile transfer laws do not allow for rehabilitative efforts to be made. Juvenile transfer laws instead set juveniles up for failure and increase the risk of committing future crimes. The proposed alternatives within chapter five are more acceptable alternatives to juvenile transfer, as community-based treatments will still hold

juveniles accountable for their actions, while also getting them the help they need. In addition to the community-based treatment alternatives, formal probation is already utilized as a sanction for adjudicated delinquents, allowing the community-based treatment alternatives described here to be made a part of probationary requirements, like drug counseling. With effective intervention strategies and programs, we can eliminate the need for juvenile transfer laws, as rehabilitation and treatment will be effective in reducing overall juvenile crime and recidivism rates among serious, chronic, and violent juvenile offenders, therefore, juvenile transfer laws can be abolished, as these community-based treatments show more promising recidivism results and are more cost-effective in the long run.

## REFERENCES

- Ahlin, E. M., & Hummer, D. (2019). Sexual victimization of juveniles incarcerated in jails and prisons: An exploratory study of prevalence and risk factors. *Victims & Offenders, 14*(7), 793-810.
- Allen, D. C. (2002). Trying Children as Adults. *Jones Law Review, 6*, 27-56.
- Angell, K. M. (2004). The regressive movement: When juvenile offenders are treated as adults, nobody wins. *Southern California Interdisciplinary Law Journal, 14*(1), 125-150.
- Beresford, L. S. (2000). Is lowering the age at which juveniles can be transferred to adult criminal court the answer to juvenile crime state-by-state assessment. *San Diego Law Review, 37*(3), 783-852.
- Bishop, D.M. (2009). Juvenile Transfer in the United States. In J. Junger-Tas, F. Dünkel, (Eds.), *Reforming Juvenile Justice* (pp. 86-104). Springer, [https://doi-org.proxy.lib.siu.edu/10.1007/978-0-387-89295-5\\_6](https://doi-org.proxy.lib.siu.edu/10.1007/978-0-387-89295-5_6)
- Blakemore, S. J., & Robbins, T. W. (2012). Decision-making in the adolescent brain. *Nature Neuroscience, 15*(9), 1184-1191.
- Blonigen, D. M. (2010). Explaining the relationship between age and crime: Contributions from the developmental literature on personality. *Clinical Psychology Review, 30*(1), 89-100.
- Bonnie, R. J., & Scott, E. S. (2013). The teenage brain: Adolescent brain research and the law. *Current Directions in Psychological Science, 22*(2), 158-161.
- Brown, S. A. (2012). Trends in juvenile justice state legislation 2001-2011. *National Conference of State Legislatures, 3-16*.
- Butts, J. A. (1998). Delinquents or Criminals?: Policy Options for Young Offenders.



- Carson, E. A. (2020). *Prisoners in 2019*. Bureau of Justice Statistics.  
<https://bjs.ojp.gov/library/publications/prisoners-2019>
- Cauffman, E., Cavanagh, C., Donley, S., & Thomas, A. G. (2015). A developmental perspective on adolescent risk-taking and criminal behavior. In A. R. Piquero. (Eds), *The Handbook of Criminological Theory* (pp.100-120). *Wiley Online Library*,  
<https://doi.org/10.1007/978-0-387-89295-5>
- Cauffman, E., Woolard, J., & Reppucci, N. D. (1999). Justice for juveniles: New perspectives on adolescents' competence and culpability. *Quinnipiac Law Review*, *18*, 403-420.
- Chamberlin, C. (2001). Not kids anymore: A need for punishment and deterrence in the juvenile justice system. *Boston College Law Review*, *42*(2), 391-420.
- Clark, H. G., Mathur, S. R., Ott, M., & Mctier Jr, T. S. (2020). Employer perceptions of hiring juveniles with criminal records. *Criminal Justice and Behavior*, *47*(9), 1156-1175.
- Cohen, A. O., Bonnie, R. J., Taylor-Thompson, K., & Casey, B. J. (2016). When does a juvenile become an adult: Implications for law and policy. *Temple Law Review*, *88*, 769-788.
- De Vries, S. L., Hoeve, M., Assink, M., Stams, G. J. J., & Asscher, J. J. (2015). Practitioner review: Effective ingredients of prevention programs for youth at risk of persistent juvenile delinquency—recommendations for clinical practice. *Journal of Child Psychology and Psychiatry*, *56*(2), 108-121.
- Dempsey, A. (2021). Transfer law and today's youth: Rehabilitating or creating lifetime criminals? Comparative analysis of juvenile transfer law in Kentucky, Florida, and New York. *University of Louisville Law Review*, *59*(3), 519-548.
- Feld, B. C. (1991). The transformation of the juvenile court. *Minnesota Law Review*, *75*(3), 691-726.

- Feld, B. C. (2013). The youth discount: old enough to do the crime, too young to do the time. *Ohio State Journal of Criminal Law*, 11(1), 107-148.
- Ferdinand, T. N. (1991). History overtakes the juvenile justice system. *Crime & Delinquency*, 37(2), 204-224.
- Ferreira, J. (2016). Life-course criminology: Comparing the dual taxonomy and age-graded theories of criminal behavior. *Inquiries Journal*, 8(06).
- Fritsch, E., & Hemmens, C. (1995). Juvenile waiver in the United States 1979-1995: A comparison and analysis of state waiver statutes. *Juvenile & Family Court Journal*, 46, 17-36.
- Genovés, V. G., Morales, L. A., & Sánchez-Meca, J. (2006). What works for serious juvenile offenders? A systematic review. *Psicothema*, 18(3), 611-619.
- Gordon, D. A. (2002). Intervening with families of troubled youth: Functional family therapy and parenting wisely. In J. McGuire. (Eds.), *Offender Rehabilitation and Treatment: Effective Programmes and Policies to Reduce Re-offending*, (pp. 193-219). *Wiley Online Library*.
- Gowen, C., Thureau, L., & Wood, M. (2011). ABA's approach to juvenile justice reform: Education, eviction, and employment: The collateral consequences of juvenile adjudication. *Duke Forum for Law & Social Change*, 3(1), 187-204.
- Grace, A. (2022). 'Get to know me, not the inmate': Women's Management of the Stigma of Criminal Records. *The British Journal of Criminology*, 62(1), 73-89.
- Greenwood, P. (2008). Prevention and intervention programs for juvenile offenders. *The Future of Children*, 18(2), 185-210.

- Grisso, T. (2000). Law & psychiatry: the changing face of juvenile justice. *Psychiatric Services, 51*(4), 425-438.
- Harden, K. P., & Tucker-Drob, E. M. (2011). Individual differences in the development of sensation seeking and impulsivity during adolescence: further evidence for a dual systems model. *Developmental Psychology, 47*(3), 739-746.
- Hartnett, D., Carr, A., Hamilton, E., & O'Reilly, G. (2017). The effectiveness of functional family therapy for adolescent behavioral and substance misuse problems: A meta-analysis. *Family Process, 56*(3), 607-619.
- Henggeler, S. W., Melton, G. B., & Smith, L. A. (1992). Family preservation using multisystemic therapy: An effective alternative to incarcerating serious juvenile offenders. *Journal of Consulting and Clinical Psychology, 60*(6), 953-961.
- Hill, J. M., Blokland, A. A., & van der Geest, V. R. (2016). Desisting from crime in emerging adulthood: Adult roles and the maturity gap. *Journal of Research in Crime and Delinquency, 53*(4), 506-535.
- Hockenberry, S. (2021). *Delinquency cases waived to Criminal Court, 2018*. Office of Juvenile Justice and Delinquency Prevention.  
<https://ojjdp.ojp.gov/library/publications/delinquency-cases-waived-criminal-court-2018>
- Hockenberry, S. (2023a). *Delinquency cases waived to Criminal Court, 2020*. Office of Juvenile Justice and Delinquency Prevention.  
<https://ojjdp.ojp.gov/library/publications/delinquency-cases-waived-criminal-court-2020>
- Hockenberry, S. (2023b). *Delinquency cases in Juvenile Court, 2020*. Office of Juvenile Delinquency and Prevention. <https://ojjdp.ojp.gov/publications/delinquency-cases-in-juvenile-court-2020.pdf>

- Hockenberry, S., & Puzzanchera, C. (2023). *Juvenile Court Statistics, 2020*. Office of Juvenile Justice and Delinquency Prevention. <https://ojjdp.ojp.gov/library/publications/juvenile-court-statistics-2020>
- Hollimon, A. S. (2004). *The impact of functional family therapy on youth and parent functioning* (Publication No. 3162239). [Doctoral dissertation, Indiana University]. ProQuest.
- Ibarra, K. L. (2023). *The impact of juvenile transfer laws* (Publication No.4529) [Doctoral dissertation, Liberty University]. Doctoral Dissertations and Projects.
- Icenogle, G., Steinberg, L., Duell, N., Chein, J., Chang, L., Chaudhary, N., ... & Bacchini, D. (2019). Adolescents' cognitive capacity reaches adult levels prior to their psychosocial maturity: Evidence for a "maturity gap" in a multinational, cross-sectional sample. *Law and Human Behavior*, 43(1), 69-85. <https://doi.org/10.1037/lhb0000315>
- Jenson, J. M., & Howard, M. O. (1998). Youth crime, public policy, and practice in the juvenile justice system: Recent trends and needed reforms. *Social Work*, 43(4), 324-334.
- Johnson, M. E. (2014). *A call for reform: The (in)effectiveness of juvenile transfer laws* (Publication No. 1526043). [Doctoral dissertation, University of New Hampshire] ProQuest.
- Juvenile Justice Initiative. (2014). Automatic Adult Prosecution of Children in Cook County, Illinois. *Juvenile Justice*, 4-21.
- Kambam, P., & Thompson, C. (2009). The development of decision-making capacities in children and adolescents: Psychological and neurological perspectives and their implications for juvenile defendants. *Behavioral Sciences & the Law*, 27(2), 173-190.

- Karam, E. A., Sterrett, E. M., & Kiaer, L. (2017). The integration of family and group therapy as an alternative to juvenile incarceration: A quasi-experimental evaluation using Parenting with Love and Limits. *Family Process, 56*(2), 331-347.
- Kirk, D. S., & Sampson, R. J. (2013). Juvenile arrest and collateral educational damage in the transition to adulthood. *Sociology of Education, 86*(1), 36-62.
- Kurlychek, M. C., & Johnson, B. D. (2010). Juvenility and punishment: Sentencing juveniles in adult criminal court. *Criminology, 48*(3), 725-758.
- Langemo, B. (2004). Serious consequences for serious juvenile offenders: Do juveniles belong in adult court. *Ohio Northern University Law Review., 30*(1), 141-166.
- Levine, M., Williams, A., Sixt, A., & Valenti, R. (2001). Is it inherently prejudicial to try a juvenile as an adult?. *Behavioral Sciences & the Law, 19*(1), 23-31.
- Lipsey, M. W. (1999). Can rehabilitative programs reduce the recidivism of juvenile offenders- an inquiry into the effectiveness of practical programs. *Virginia Journal of Social Policy & the Law., 6*(3), 611-642.
- Lipsey, M. W., Howell, J. C., Kelly, M. R., Chapman, G., & Carver, D. (2010). Improving the effectiveness of juvenile justice programs. *Washington DC: Center for Juvenile Justice Reform at Georgetown University.*
- Loughran, T. A., Mulvey, E. P., Schubert, C. A., Chassin, L. A., Steinberg, L., Piquero, A. R., ... & Losoya, S. (2010). Differential effects of adult court transfer on juvenile offender recidivism. *Law and Human Behavior, 34*, 476-488.
- May, J., Osmond, K., & Billick, S. (2014). Juvenile delinquency treatment and prevention: A literature review. *Psychiatric Quarterly, 85*, 295-301.

- McConnell, J. E. (2012). Five devastating collateral consequences of juvenile delinquency adjudications you should know before you represent a child. *Virginia Lawyer*, 61, 34-48.
- Merlo, A. V., & Benekos, P. J. (2003). Defining juvenile justice in the 21st century. *Youth Violence and Juvenile Justice*, 1(3), 276-288.
- Merritts, A. (2016). A review of family therapy in residential settings. *Contemporary Family Therapy*, 38, 75-85.
- Moffitt, T. E. (2017). Adolescence-limited and life-course-persistent antisocial behavior: A developmental taxonomy. *Biosocial Theories of Crime*, 69-96.
- Moore, E. A. (2007). Juvenile Justice: The Nathaniel Abraham murder case. *University of Michigan Journal of Law Reform*, 41(1), 215-242.
- Morris, B. (2019). A child is a child, except under Ohio law: A discretionary review of mandatory bindovers. *Capital University Law Review*, 47(3), 639-678.
- Mulvey, E. P., & Schubert, C. A. (2012). Transfer of juveniles to adult court: Effects of a broad policy in one court. *US Department of Justice, Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention*.
- Myers, D. L. (2003). The recidivism of violent youths in juvenile and adult court: A consideration of selection bias. *Youth Violence and Juvenile Justice*, 1(1), 79-101.
- Nathaniel Abraham Trial: 1999 (n.d.). *Nathaniel Abraham Trial: 1999*. Encyclopedia.com. <https://www.encyclopedia.com/law/law-magazines/nathaniel-abraham-trial-1999>
- Nellis, A. (2011). Addressing the collateral consequences of convictions for young offenders. *The Champion*, 20-27.

- Park, J. (2007). Balancing rehabilitation and punishment: A legislative solution for unconstitutional juvenile waiver policies. *George Washington Law Review*, 76(3), 786-818.
- Piquero, A. R., & Moffitt, T. E. (2010). Chapter 11: Life-course persistent offending. In Adler, J. R. & Gray, J. M. (Eds.), *Forensic Psychology* (2<sup>nd</sup> ed., pp. 201-222). Willan Publishing.
- Polacheck, E. A. (2008). Juvenile transfer: From get better to get tough and where we go from here. *William Mitchell Law Review*, 35(3), 1162-1193.
- Price, J. R. (2009). Birthing out delinquents: Alternative treatment options for juvenile delinquents. *Criminal Law Brief*, 4(1), 51-58.
- Puzzanchera, C. (2009). *Juvenile Arrests, 2007*. Office of Juvenile Justice and Delinquency Prevention.
- Robbins, M. S., Alexander, J. F., Turner, C. W., & Hollimon, A. (2016). Evolution of functional family therapy as an evidence-based practice for adolescents with disruptive behavior problems. *Family Process*, 55(3), 543-557.
- Scott, E. S., & Steinberg, L. (2008). Adolescent development and the regulation of youth crime. *The Future of Children*, 18(2), 15-33.
- Sharlein, J. (2018). Beyond recidivism: Investigating comparative educational and employment outcomes for adolescents in the juvenile and criminal justice systems. *Crime & Delinquency*, 64(1), 26-52.
- Shichor, D. (1983). Historical and current trends in American juvenile justice. *Juvenile & Family Court Journal*, 34(3), 61-76.
- Slobogin, C. (2013). Treating juveniles like juveniles: Getting rid of transfer and expanded adult court jurisdiction. *Texas Tech Law Review*, 46(1), 103-132.

- Steinberg, L. (2013). The influence of neuroscience on US Supreme Court decisions about adolescents' criminal culpability. *Nature Reviews Neuroscience*, *14*(7), 513-518.
- Steinberg, L. (2014). The science of adolescent brain development and its implications for adolescent rights and responsibilities. In Bhabha, J. (Eds.), *Human Rights and Adolescence* (pp. 59-76). *University of Pennsylvania Press*.
- Steinberg, L. (2017). Adolescent brain science and juvenile justice policymaking. *Psychology, Public Policy, and Law*, *23*(4), 410-420.
- Steinberg, L., & Cauffman, E. (1999). A developmental perspective on serious juvenile crime: When should juveniles be treated as adults. *Federal Probation*, *63*(2), 52-57.
- Steinberg, L., & Scott, E. S. (2003). Less guilty by reason of adolescence: Developmental immaturity, diminished responsibility, and the juvenile death penalty. *American Psychologist*, *58*(12), 1009-1018.
- Sweeten, G., Piquero, A. R., & Steinberg, L. (2013). Age and the explanation of crime, revisited. *Journal of Youth and Adolescence*, *42*, 921-938.
- Tate, D. C., Reppucci, N. D., & Mulvey, E. P. (1995). Violent juvenile delinquents: Treatment effectiveness and implications for future action. *American Psychologist*, *50*(9), 777-781.
- Taylor, B. (2018). Return to rehabilitation: Illinois' evolving juvenile sentencing practices in light of *Miller v. Alabama*. *Southern Illinois University Law Journal*, *43*(2), 403-434.
- Taylor, M. (2015). Juvenile transfers to adult court: An examination of the long-term outcomes of transferred and non-transferred juveniles. *Juvenile and Family Court Journal*, *66*(4), 29-47.
- Taylor, M., & Spang, T. (2017). I'd prefer an applicant who doesn't have a delinquency history: Delinquents in the labor market. *Journal of Juvenile Justice*, *6*(1), 72-86.



- Walsh, R. F. (2007). Raising the Age for Juvenile Jurisdiction in Illinois: Medical science, adolescent competency, and cost. *Loyola University Chicago Law Journal*, 39(4), 767-798.
- Ward, J. M. (2003). Deterrence's difficulty magnified: The importance of adolescent development in assessing the deterrence value of transferring juveniles to adult court. *UC Davis Journal of Juvenile Law & Policy*, 7(2), 253-284.
- Weijers, I. (1999). The double paradox of juvenile justice. *European Journal on Criminal Policy and Research*, 7, 329-351.

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Major Professor: Dr. Matthew Giblin