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# Juveniles in Adult Court Repercussions and Benefits for Juveniles and Communities

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**Juveniles in Adult Court**  
**Repercussions and Benefits for Juveniles and Communities**

By

Rebecca J. Gulstad, B.A.

M.S.W. Clinical Research Paper

Presented to the Faculty of the  
School of Social Work  
St. Catherine University and the University of St. Thomas  
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The Clinical Research Project is a graduation requirement for MSW students at St. Catherine University/University of St. Thomas School of Social Work in St. Paul, Minnesota and is conducted within a nine-month time frame to demonstrate facility with basic social research methods. Students must independently conceptualize a research problem, formulate a research design that is approved by a research committee and the university Institutional Review Board, implement the project, and publically present the findings of the study. This project is neither a Master's thesis nor a dissertation.

### Abstract

The treatment of juveniles within the confines of the law has changed throughout history. When juvenile court was introduced in the United States most juveniles were tried as though they were in adult court. Juvenile court reformers did not feel this practice should continue, and as such, they advocated for a more rehabilitative system based on the ideology that juveniles would be more amenable to treatment than adults. This view changed in the 1980's and the 1990's when it became clear that not only were juvenile crime rates increasing, they were also becoming more serious in nature. During this time the concept of juvenile "super predators" was developed due to the egregious crimes being perpetuated. The aim of this paper is to address what possible costs and benefits may be associated with transferring juveniles to adult criminal court. Any costs or benefits would not only apply to the juvenile being sentenced, but also their families, the public, and any potential social worker assigned to work with the juvenile.

*Keywords:* Juvenile, Criminal Court, Crime, Recidivism

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### Juveniles in Adult Court

A separate juvenile justice system was established in the United States in 1899 with the formation of the nation's first juvenile court in Chicago, Illinois. The goal of the new juvenile court was to divert juvenile offenders from the harsh punishments of the adult criminal court, and encourage rehabilitation based on the individual needs of the juvenile (Jenkins Keenan, Rush, & Cheeseman, 2015, p. 101). The legal basis for the establishment of separate juvenile courts comes from the doctrine of *parens patriae*. Under this doctrine, if a child is being neglected or is not responding to parental control, it is the right, indeed the duty, of the state to intervene and assume the role of the parent (McCune, 1991, p. 3). This philosophy continued until the last 30 years. At that point the juvenile justice system continued to focus on treating juvenile criminality with the intention of rehabilitating juveniles to follow law-abiding futures (Freiburger & Burke, 2010, Shook, 2014). Examination of the costs and benefits that may be associated with transferring a juvenile to adult criminal court will hopefully not only bring to light the skill set and importance of forensic social workers, but also how underrepresented they are in the field of social work.

As the rate of juveniles committing serious crimes such as homicide, aggravated robbery, and felony level drug and property crimes started to rise, public perception began leaning toward sentencing those juveniles in adult criminal court. For example, juvenile violent crime arrest rates increased by more than 60% from 1988 to 1994, and the murder arrest rate rose by more than 100% over this same period (Jenkins Keenan et al., 2015). During the rise in crime throughout the 1980s and the 1990s the term "super-predator" started to be used for juveniles committing crimes such as murder, attempted

murder, aggravated robbery, and aggravated rape (Shook, 2005). As public perception shifted so did the laws regarding how juveniles should be handled in court. Juvenile codes that supported punishment and doctrines that included transfers to adult criminal court were created. Some of these codes explicitly support the aims of punishment, accountability, and the protection of public safety. Some of the courts operate with offense-based doctrines. The doctrines may include: determinate sentencing (a jail or prison sentence that has a defined length that cannot be changed by a parole board or other agency); extended jurisdiction statutes (allowing a juvenile who has committed a serious crime to remain on juvenile jurisdiction with an adult criminal court sentence stayed); and mandatory minimum sentences (a court decision setting where judicial discretion is limited by law). Other similar doctrines may result in the relaxation of obstacles to transferring juvenile offenders to adult criminal court (Fass & Pi, 2002, Miller & Applegate, 2015). The changes to the court system in regard to juveniles had a trickle-down effect on social workers as it altered the way in which they worked with juveniles who have been certified in adult criminal court.

As these codes were adapted, juveniles started being transferred to adult criminal court in larger numbers. By 2005, between 210,000 and 260,000 juveniles under the age of 18 were being processed in the U.S. Criminal Court (Shook, 2005). Studies have also shown that there are about 7,000 juveniles being held in adult jail on any given day (Schubert et al., 2010). There are also over 2 million juvenile arrests annually in the United States resulting in 900,000 arrests being formally processed, more than 350,000 held in detention centers, and more than 90,000 held in correctional facilities (Mallett, 2015). One of the reasons that the numbers significantly increase is due to many states



lowering the age at which a juvenile would be adjudicated (admitting to an offense or being found guilty resulting in consequences aimed at rehabilitation) in juvenile court or convicted [admitting to an offense or being found guilty which may result in a jail or prison sentence, something that cannot happen as an adjudicated juvenile]) in adult criminal court. While it may be easy to see why remaining in juvenile court could be an advantage for the juvenile, there may also be benefits to being sentenced in adult criminal court. The significance of knowing the benefits or costs to either outcome is that it helps determine the level and type of services that are set into motion for the youth by their social worker.

As criteria have evolved making it easier for juveniles to be charged and sentenced in adult criminal court, the role of the social worker involved with corrections has needed to evolve. The term forensic social worker, or correctional social worker, is sometimes used to describe a social worker who directly serves the population that is incarcerated in adult facilities or adjudicated to juvenile facilities.

In fact, there are several functions that forensic social workers fulfill: testifying in courts of law as expert witnesses; systematically evaluating individuals with the results being presented in court or to legal authorities; investigating where criminal conduct has possibly occurred and presenting the results to judges, juries, and other law authorities; making recommendations to courts of law and other legal authorities in ways to resolve, punish, or rehabilitate those found guilty of crimes of negligence in civil actions; facilitating the court-ordered sentence for the convicted person; mediating between individuals and groups who are involved in conflicts that might otherwise require intervention in court; testifying about the

professional standards of social work to facilitate cases of possible malpractice; educating colleagues about the influence of law on their profession; facilitating the development and enforcement of licensing laws; and maintaining relationships with their own clients that uphold the letter and spirit of the law (Barker & Branson, 2000, p. 15).

While there is such a wide variety of tasks the forensic social worker can undertake, for the most part, there are only a small percentage of social workers who have chosen to make the role of forensic social worker their main purpose.

As the number of juveniles being sentenced in adult criminal court continues to rise there continues to be a disconnect with social work due to the small number of forensic social workers who are specifically trained to work within the correctional setting. As such, there has been a critical need for social work services for juvenile offenders (Brownell & Roberts, 2002). This is not to say that social workers in general are not equipped to assist those who are incarcerated and their families; however, they may be less familiar with the rules and regulations that go hand-in-hand with a correctional setting. The growing need for social workers familiar on how to work within the correctional setting has helped make the relationship between social work and the legal system grow closer (Barker & Branson, 2000). As social work has such a wide variety of functions, the correctional setting would dictate what level of social worker may be utilized due to the different types of services the juvenile may require or benefit from (services typically staffed with social workers). This research could benefit forensic social workers by bringing to light how important their skill set is and how it is under-

represented. It would also benefit social work as a whole by highlighting some of the services they are providing to incarcerated youth and their families.

## **Literature Review**

### **Policy Reforms**

In the 1990s and 2000s nearly every state attempted to dramatically toughen their laws governing criminal prosecution and sentencing of juveniles through policy reforms. Some of the statutory revisions would both widen the age of eligibility and the range of the mechanisms by which transfer could be accomplished (Loughran et al., 2010). More often than not, this was the result of the perceived increase in juveniles' involvement in serious crime in the 1980s and 1990s (Miller & Applegate, 2015). Additionally, this increase in crime created images of a juvenile "super-predator", or in other words a juvenile who is particularly more violent and therefore more 'dangerous' (Shook, 2005). Additionally, juveniles transferred to the adult system are typically seen as the worst offenders (Cooper & Urban, 2012, p. 43).

Laws are being modified to accommodate views that the modern practice of controlling young criminals by giving them sanctions appropriate for the adult crimes they are committing (Urbina & White, 2009). An overwhelming public sentiment during the time of policy reform was that youth violence is one of the most serious problems facing American society (Johnson & Kurlychek, 2012). The change in laws has had a dramatic effect on the amount of youth under the age of 18 incarcerated in adult jails. There was a 366% increase of juveniles under the age of 18 being incarcerated between 1983 and 1998 (Kupchik, 2007). The volume of juvenile delinquency cases increased by

300% between 1960 and 2005 which amounts to over 1.6 million cases handled by juvenile courts annually (Onifade, Wilkins, Davidson, Campbell, & Petersen, 2011).

### **Federal Law and Variations in State Laws**

The process of modifying the laws regarding juvenile transfer to adult criminal court has varied from state to state. Federal law also changed to accommodate the new wave of serious crimes being committed by juveniles. U.S. Code, Title 18, Part IV, Chapter 403, §5032 outlines delinquency proceedings in district courts; transfer for criminal prosecution. It states that a juvenile alleged to have committed an act of juvenile delinquency can proceed in any court of the United States if the offense charged is a crime of violence that is a felony or an offense described in section 401 of the Controlled Substances Act (21 U.S.C. 841), or section 1002(a), 1003, 1005, 1009, or 1010(b)(1), (2), or (3), section 922 (x) or section 924 (b), (g), or (h) of this title, and that there is a substantial Federal interest in the case or the offense to warrant the exercise of Federal jurisdiction (Crimes and Criminal Procedure, 2008). This U.S. Code outlines circumstances in which a juvenile could be prosecuted in District Court. Federal, State, and County laws and statutes also continue to change with the ebb and flow of crime.

Laws and statutes regarding juvenile crime vary between the states.

For example, Alabama has two such codes: Alabama Code §12-15-203 *Transfer of cases from juvenile court* and Alabama Code §12-15-04 *Acts for which person who has attained age 16 shall be charged, arrested, and tried as adult; removal of person from jurisdiction of juvenile court.* §12-15-203 allows for the prosecutor to file a motion requesting the juvenile court judge to transfer a child for criminal prosecution to the circuit or district court if the child was 14 or more years of age

at the time of the conduct charged and is alleged to have committed an act which would constitute a criminal offense as defined by this code if committed by an adult ("Juvenile in adult court," 2011, p. 6). This section also describes what steps need to be taken for the request to be heard by the judge. §12-15-204 specifically deals with juveniles age 16 and older who have been charged with the commission of any act or conduct, which if committed by an adult would constitute: a capital offense; a Class A felony; a felony which has as an element thereof the use of a deadly weapon; a felony which has an element thereof the causing of death or serious physical injury; a felony which has an element thereof the causing of death or serious physical harm; a felony which has as an element thereof the use of a dangerous instrument against any person who is one of the following: a law enforcement officer or official; a correctional officer or official; a parole or probation officer or official; a district attorney or other prosecuting officer or official; a judge or judicial official; a court officer or official; a person who is a grand juror, juror, or witness in any legal proceeding of whatever nature when the offense stems from, is caused by, or is related to the role of the person as a juror, grand juror, or witness; or a teacher, principal, or employee of the public education system of Alabama; and trafficking of drugs ("Juvenile in adult court," 2011, p. 8).

While Alabama has two codes, Alaska only has one, §47.12.100 *Waiver of jurisdiction*, and Arizona has three, §8-302 *Transfer between juvenile and criminal courts*, §8-327 *Transfer hearing*, and §13-501 *Persons under eighteen years of age; felony charging; definitions*. The purpose of Arizona's statutes is to clearly outline

procedures to take based on how the juvenile is charged for the crime that has been committed. For example, §8-327 *Transfer hearing* sub. D provides the following factors to consider in determining if public safety would be served by the transfer of a juvenile for criminal prosecution: the seriousness of the offense involved; the record and previous history of the juvenile, including previous contacts with the courts and law enforcement, previous periods of any court ordered probation and the results of that probation; any previous commitments of the juvenile to juvenile residential placements and secure institutions; if the juvenile was previously committed to the department of juvenile corrections for a felony offense; if the juvenile committed another felony offense while participating in, assisting, promoting or furthering the interests of a criminal street gang, a criminal syndicate or a racketeering enterprise; the views of the victim of the offense; if the degree of the juvenile's participation in the offense was relatively minor but not so minor as to constitute a defense to prosecution; the juvenile's mental and emotional condition; and the likelihood of the juvenile's reasonable rehabilitation through the use of services and facilities that are currently available to the Juvenile Court ("Juvenile in adult court," 2011, p. 11).

In Arizona, the youngest a juvenile can be tried in adult criminal court is fifteen. According to Arkansas Code §9-27-318 *Filing and transfer to the criminal division of circuit court* a juvenile as young as 14 can possibly be transferred to adult criminal court depending on what the juvenile is charged with. Additionally, Arkansas code §9-27-501 *Extended juvenile jurisdiction designation* is similar to Minnesota code §260B.130 *Extended jurisdiction juvenile prosecutions*. Both codes give the steps necessary to allow a juvenile who commits a very serious crime to remain on juvenile probation for an

extended amount of time after they turn eighteen with an adult sentence stayed. Despite both states allowing for extended jurisdiction juvenile, they are also different. For example Arkansas states that if a youth under the age of 13 at the time of the alleged offense and is charged with capital murder, §5-10-101, or murder in the first degree, §5-10-102 the state may request an extended jurisdiction designation ("Juvenile in adult court," 2011). The youngest age Minnesota will consider for extended designation is 14. Minnesota has six codes and also addresses how the extended jurisdiction designation can be revoked ("Juvenile in adult court," 2011). Most of the other states are very specific in regard to what age, crime committed, and competence a juvenile must have to be considered for transferred to adult court.

### **Juvenile Transfer**

Juvenile transfer embodies a core “status transformation from ‘redeemable youth’ to ‘unsalvageable adult’.” As an unsalvageable adult, these youth face not only increased severity of punishment in relation to juveniles being processed in the juvenile system but also a myriad of other social consequences, both real and symbolic, which are not associated with a juvenile record or juvenile punishment (Kurlychek & Johnson, 2010, p. 748-749). In 2007, nearly fourteen thousand juveniles were waived to the adult criminal court (Jenkins Keenan, Rush, & Cheeseman, 2015, p. 100). There are three broad mechanisms in which juvenile transfer occurs – judicial discretion, statutory exclusion and prosecutorial discretion (Shook, 2014, Cooper & Urban, 2012). This does not include the cases that are excluded from the juvenile court in states that set the maximum age of juvenile jurisdiction under the age of 18. Judicial discretion allows judges to move individual cases from the juvenile court to adult criminal court. This consideration is

made after a motion is filed, generally done by a prosecutor, and following a due process hearing where a judge makes the transfer decision based upon enumerated criteria. It has been found that judges assess three primary considerations before making the sentence decision: offender blameworthiness; protection of the community; and the practical constraints and consequences of their decision (Kurlychek & Johnson, 2004). Statutory exclusion pertains to juveniles who would normally be heard in juvenile court; however they are moved to adult criminal court base upon specific criteria. Prosecutorial discretion allows for jurisdiction to be dually held in Juvenile and adult court over statutorily specified youth and allows the prosecutor to decide where to file the individual cases (Shook, 2005).

The most popular method of waiver is discretionary, which exists in 45 states and the District of Columbia. Juvenile Court Judges weigh a variety of factors in determining whether to waive a juvenile.

In Alabama the factors are: the nature of the present alleged offense; the extent and nature of the prior delinquency record of the child; the nature of past treatment efforts and the nature of the response of the child to the efforts; demeanor; the extent and nature of the physical and mental maturity of the child; and the interests of the community and of the child requiring that the child be placed under legal restraint or discipline. In Mississippi the factors are: whether or not the alleged offense constituted a substantial danger to the public; the seriousness of the alleged offense; whether or not the transfer is required to protect the community; whether or not the alleged offense was committed in aggressive, violent, premeditated or willful manner;



whether the alleged offense was against person or against property, greater weight being given to the offense against persons, especially if personal injury resulted; the sophistication, maturity and education background of the child; the child's home situation, emotional condition and life style; the history of the child, including experiences with the juvenile justice system, other courts, probation, commitments to juvenile institutions or other placements; whether or not the child can be retained in the juvenile justice system long enough for effective treatment or rehabilitation; the dispositional resources available to the juvenile justice system; dispositional resources available to the adult correctional system for the child if treated as an adult; whether the alleged offense was committed on school property, public or private or at any school-sponsored event, and constituted a substantial danger to other students; any other factors deemed relevant by the youth courts; and nothing in this subsection shall prohibit the transfer of jurisdiction of any alleged offense and a child if that child, at the time of the transfer bearing, previously has not been placed in a juvenile institution (Jenkins Keenan et al., 2015, p. 103).

One of the underlying thoughts behind pushing for new juvenile codes to allow for easier transfer to adult criminal court is that the juveniles committing these serious crimes were demonstrating they were no longer immature and innocent, and as they committed the crimes they should be held responsible for their behavior (Miller & Applegate, 2015, Kupchik, 2006). There was also a general belief that juvenile offenders committing the more serious offenses would receive harsher punishment in adult court, which would aid in decreasing juvenile crime (Brown & Sorensen, 2013, Kupchik, 2006).

Another public perception is that juvenile courts are too lenient on juveniles who commit serious crimes. One of the sentences that a juvenile might face (depending on the crime committed) if they are transferred to the adult criminal court system is life in prison.

Nearly half of the juveniles serving life terms are located in five states: California; Texas; Pennsylvania; Florida; and Nevada. The states with the largest Black populations have more inmates who are serving life terms for crimes they committed as minors (Brown & Sorensen, 2013). Although each state may have different crimes for which a juvenile can be transferred, there is generally a wide range of said crimes.

Along with the seriousness of the crime that has been committed, there are other factors that are looked at when making the decision to transfer juveniles to adult court, or have them remain in the juvenile justice system. Some of those factors include: the potential for rehabilitation; possession or distribution of drugs; lethality of offense; and potential treatment. The two most influential factors in a study in Florida were prior record and offense severity (Urbina & White, 2009). A study found that juvenile status can significantly affect the use of upward departure in Pennsylvania and the use of either upward or downward departures in Maryland. Upward departure is when the judge imposes a sentence that is longer than what is the recommended sentence; downward departure is when the judge imposes a sentence that is much more lenient than suggested sentencing guidelines. In both states the juvenile sample more likely involved a person offense and had a more serious offense severity score (Johnson & Kurlychek, 2012). Other factors taken into consideration when transferring juveniles to adult criminal court include, but are not limited to: the view that some cases 'consume too much energy and effort' in juvenile court; however, they can be handled with minimal probation

supervision in the adult system; legal decision makers are simply adhering to the present ideology of American society of: 'lock them up'; there is a stronger message to the public that violent juvenile crime is being addressed when more juveniles are transferred to adult criminal court; and as juvenile services are generally under-funded, waivers alleviate limited resources in the juvenile system (Urbina & White, 2009).

Transferred youth are more likely to have committed serious offenses, be older than youth retained in the juvenile system, and have an extensive prior record. Generally, transferred offenders are considered inappropriate for juvenile court processing, removing them from a system that focuses more on treatment and put into a system that focuses more on punishment (Jordan, 2014).

### **How Age Makes a Difference**

There are several states in which the statutes have lowered the age of automatic transfer to adult court. Additionally, during the 1980's and 1990's there were a number of laws created to increase penalties for those committing serious crimes, such as homicide. Currently there are three states in which every juvenile over the age of fifteen is automatically transferred to adult criminal court. There are also several states in which the age of automatic transfer is lowered depending on the crime that is committed. In regard to judicial discretion, this too can be dependent on age. For example, in Louisiana, statutes give discretion to permit the transfer of fourteen year-old offenders to adult court if they are charged with 1<sup>st</sup> or 2<sup>nd</sup> degree murder, aggravated kidnapping, aggravated rape, aggravated burglary when committed by the discharge of a firearm, armed robbery when committed with a firearm, and aggravated oral sexual battery (Feiler & Sheley, 1999, p. 56). There is a wide range of ages for which a juvenile can be

transferred to adult criminal court, with a wide variety of dispositions. North Carolina is one of three states whose maximum age for juvenile court jurisdiction is 15 years-old (McCarter & Bridges, 2011). There are currently children as young as 12 that are being sentenced to 20 years to life in adult prison (Beyer, 2006). In 2000, it was estimated that 14,500 youth under the age of 18 are incarcerated in adult jails and prisons on any given day, a 366% increase between 1983 and 1998 (Kupchik, 2007).

It is not uncommon for different dispositions for the same crime to differ widely depending on the state in which the juvenile resides. For example, a thirteen year-old charged with murder would be ineligible for transfer to adult criminal court in Ohio, automatically excluded from juvenile court in Illinois, subject to being tried as an adult or in family court in Michigan (based on the discretion of the prosecutor), and subject to being transferred to the adult criminal court by the judge in Indiana (Shook, 2005). There are now several states with statutes that have tackled the issue of age of the defendant by incorporating blended sentencing. There are currently 12 states that set the maximum age of juvenile court jurisdiction as either 15 or 16, and 14 states provide the juvenile court authority to impose a blended sentence (Shook, 2014).

Studies have shown that age can also affect the seriousness of the disposition. Seventeen year-old juvenile offenders are often times more severely sentenced in adult criminal court than their 18 year-old counterparts. For example, one study in Maryland found the average sentence for 17 year-olds is 41% longer than the average 18 year-olds (Johnson & Kurlychek, 2012). A 1996 U.S. Department of Justice report stated that juveniles transferred to adult court are more likely than other adults to be sentenced to prison (Kurlychek & Johnson, 2004).

### **Extralegal Factors**

The number of variables that could be discussed when assessing how decisions are made regarding juvenile transfer to adult criminal court is nearly limitless (Cooper & Urban, 2012, p. 46). While it is not something that most people would like to admit, extralegal factors such as socio-economic-status, race, and gender do tend to have an influence on sentencing. Studies have shown that in fact, race and gender are significant determinates once legal and extralegal factors were considered (Brown & Sorensen, 2013). Studies have also found that race and the type of crime have an effect on the public feeling that a juvenile should be sentenced in adult criminal court or not (Feiler & Sheley, 1999).

Differences in race can have an effect on disposition; for example, middle-class White youth are many times seen as being 'fixed' by involvement in the mental health system, while their non-White counterparts are being sent to an increasingly punitive juvenile justice system, or, even given up on by being sent to the adult criminal justice system (Shook, 2005). Additionally, the results of one study showed that a larger proportion of Blacks (57%) and Hispanics (54%) were transferred to adult criminal court than were Whites (23%). Results of this study also had a larger proportion of males (53%) being transferred to adult criminal court than females (15%) (Brown & Sorensen, 2013). Certain extralegal factors such as being male and a minority can create greater perceptions of dangerousness and blameworthiness (Freiburger & Burke, 2010, Brown & Sorensen, 2013). Additionally, studies have shown that African American children are

more likely than any other race or ethnicity to not only live below the poverty line (three times more likely than whites), but live below 50% of the poverty line (Cooper & Urban, 2012, p. 47). Studies have also shown that a Black or Hispanic youth is approximately three times as likely as a White youth to receive a transfer to adult criminal court and males were nearly seven times as likely as females to be transferred (Brown & Sorensen, 2013).

In a study in Missouri that used a sample of both juveniles certified as adults and those adjudicated as delinquent in juvenile court found that 6.3% of the transferred juveniles were White and 93.7% were African American; for the noncertified sample 8.1% were White and 90.9% were African American (Kinder, Veneziano, Fichter, & Azuma, 1995); this is in line with other studies that have shown that White offenders are significantly less likely to be incarcerated than African American offenders (Kupchik, 2006). A study looking at the juvenile system in 2008 found that in comparison to their White counterparts, African American youths were 160% more likely to have been referred to juvenile court for a delinquent offense and 11% more likely to have had their petition case waived to adult criminal court (Howell & Spicer Hutto, 2012). This stark difference is not surprising to many as it has generally been argued that racial minorities are more susceptible to being given severe justice dispositions than Whites are (Leiber & Mack, 2003). Another study, based in Arizona found that Hispanic, Native American, and African American youths had greater odds of adjudication than their White counterparts. In 2009 African American youth accounted for 16% of the juvenile population, yet were involved in 52% of juvenile arrests for violent crimes and 33% of juvenile arrests for property crimes (Freiburger & Burke, 2010).

**Blended Sentencing**

Blended sentencing occurs when juveniles are sentenced in juvenile court; however, they will have an adult sentence stayed upon successful completion of the juvenile jurisdiction. It seeks to use a mix of both juvenile and adult punishments for eligible youth, rather than simply transferring them to the adult criminal court and correctional systems (Kupchik, 2007, p. 248). By utilizing blended sentencing, the judicial system is able to keep juveniles out of the adult facilities where they are more likely to be physically victimized and much less likely to receive helpful education or counseling (Kupchik, 2007). In Minnesota the youth given such sentences are designated Extended Jurisdiction Juvenile (EJJ). This is also the terminology that other states with blended sentencing use. By the late 1990's there were at least 20 states that had enacted some type of blended sentencing (Southerland, 2001). Should juveniles not comply with their court orders, they can be brought back to court in front of the sentencing judge for possible revocation of their EJJ designation. In recent years all state legislatures have lowered the age of automatic adult prosecution for an expanded range of offenses (Beyer, 2006, p. 206).

During the revocation hearing, the prosecutor and the assigned probation officer will offer evidence as to how the juvenile violated the terms of juvenile probation. This can happen for several different reasons, but in Hennepin County, Minnesota, it is generally due either to new delinquency charges, or not complying with any of the orders of the court. The court can order the EJJ status be vacated and the juvenile will be sent to

an adult facility (it can be prison or the workhouse in Minnesota) to serve the length of the adult sentence that was previously stayed (Extended Jurisdiction Juvenile Prosecutions, 2015). When a group of young adults in adult facilities and juvenile facilities were interviewed, many inmates believe “deep-end” juvenile placements (secure placements in juvenile correctional facilities) are more beneficial than either adult prison or less severe juvenile sentences (Kupchik, 2007). If the juvenile successfully completes the juvenile sentence the adult sentence is then vacated (Southerland, 2001).

### **The Role of Social Work**

There has been a growing and critical need for social work services for both juvenile and adult offenders, as well as their victims (Brownell & Roberts, 2002). Forensic social work is broadly defined as the application of social work to questions and issues relating to law and legal systems (Butters & Vaughan-Eden, 2011, p. 61). The social workers that operate within the criminal justice system are known as forensic or correctional social workers. The field of forensic social work has been around since the beginning of the juvenile justice system; however, it is not currently a specialty that many social workers are practicing (Brownell & Roberts, 2002). This may be in part due to the fact social workers’ skills are not well-understood or valued in the contemporary criminal justice system (Brownell & Roberts, 2002). Despite the lack of understanding, forensic social work ties in well with those incarcerated as social workers tend to believe in the dignity and self-determination of all citizens in comparison to more conservative members of society that have a tendency to believe that people who commit felonies will never change. Additionally, as the correctional system generally affects individuals and



communities at the heart of social work's efforts, people with a low SES and people of color, it is of no surprise the two systems would intertwine (Peters, 2011).

Youth that have been classified as having complex problems are those that have challenges that require intervention from multiple public systems, which includes mental health, child welfare, juvenile justice, and special education (McCarter, Maschi, & Morgen, 2014). There has been a Code of Ethics maintained by the National Organization of Forensic Social Workers (NOFSW) since 1987 (Butters & Vaughan-Eden, 2011). There are effective programs across the social work profession that may decrease or even eliminate some delinquent behavior for both low-level and more serious juvenile offenders (Mallett, 2015).

The preexisting literature addresses policy reforms, juvenile transfer, how age affects transfer, extralegal factors, blended sentencing, the costs and benefits of transferring juveniles to adult court, and to some degree, the role of social work with incarcerated youth. There are a few journal reviews regarding the role of social work; however, there seems to be a gap in the literature about how social workers specifically work with those who are incarcerated. There is also a limited amount of credible research on how having a social worker while incarcerated may reduce recidivism. The purpose of this literature review is to explore the costs and benefits to the juvenile, their family, and the public when the juvenile has been transferred to the adult criminal court.

### **Conceptual Framework**

The conceptual framework for this research comes from more than one lens. Evidence has surfaced that juveniles are different from adults because of key brain function development (Cooper & Urban, 2012, p. 43). This evidence is just one of many

factors reflected in the theories best applied to this research. It would behoove social workers to remember that each juvenile should be treated as an individual.

### **Social Learning Theory**

The social learning theory originator was Albert Bandura. He believed that humans are active information processors and think about their behavior and its consequences (McLeod, 2011). The Social Learning Theory is a cognitive process that takes place in a social context. It can occur through either observation, or direct instruction. Children pay attention to people in their environment and the people that they observe are called models. These models provide both good and bad examples of behavior to observe and imitate (McLeod, 2011).

It is not uncommon for inner-city youth that end up in the juvenile and adult system to be seen as a product of their environment (i.e. low income families possibly with siblings and/or adult family members that have been, or are currently in the system). This is of importance as the social learning theory suggests that human behavior is learned as an individual interacts with their environment, otherwise known as modeling. If that environment is poverty ridden, adolescents would more than likely continually face the reality they may stay in that environment. It is common for juveniles in the court system to come from a lineage that has been shaped by such an environment. The juvenile may try to compensate for their environment through illegal means, for example, by committing crimes such as theft and burglary.

### **Critical Theory**

Critical theory emphasizes contextual influences on human behavior. It also delineates the interconnections between people and their environment (Krogsrud Miley,

O'Melia, & DuBois, 2013, p. 30). For example, it would not be uncommon for some people to assume that inner-city teenagers walking in a group might be gang members based on recent news stories, or simply by the assumption that if they are in a "bad" neighborhood, they must have "bad" behavior. Critical theorists view the relationship between human actions and social structures as recursive: both are products of and influences on each other; repetitive patterns of recursive actions result in stability of structural arrangements. However, multiple shifts in these patterns of action can result in changes in social structures and social relationships; patterns of culture and power are elevated to positions of truth while others are invalidated; and the intersections of social location influence access to privileged resources or result in marginalization, oppression, and scarcity of the opportunities and resources. Critical theory offers a perspective for "examining institutional and social practices with a view to resisting the imposition of oppressive and dominant norms and structures" (Krogsrud Miley et al., 2013, p. 30).

Factors such as socio-economic-status, ethnicity, prior arrest record, history of substance use, and gender are commonly known as extralegal factors in court. Some research has found that certain extralegal factors such as family dysfunction, deviant peer association, and the presence of substance abuse problems can directly affect the outcome in court. There are other studies that have found demographic factors which, in and of themselves, should have no bearing on dispositional decision-making, but are nevertheless strongly associated with dispositional outcomes (Cauffman et al., 2007). Social workers informed by critical theory can take actions to collaborate with clients to promote social justice.

### **Methodology**

This study was completed through a systematic review which will identify and evaluate how transferring juveniles to adult criminal court can have costs and benefits for those involved, including the public. It will also bring forth some qualities of the juveniles and their families that forensic social workers can hopefully use to reduce recidivism. This study also included information regarding how extralegal factors affect incarceration and convictions.

### **Literature Search**

An exhaustive article search of psychology, criminal justice, and social work databases was completed in order to gather articles that addressed juvenile delinquents that were transferred to adult criminal court. Articles were gathered from SocINDEX, PsychINFO, and the Criminal Justice Database. Words used while searching the databases included combinations of “juvenile,” “commitment,” “mental health,” “delinquency,” “jail,” “conviction,” “adult,” “court,” “social work,” “social worker,” “forensic,” “criminal” and “correctional.” Only articles in English were included.

Articles that were utilized in this study met the definitions of extralegal factors, blended sentencing, and recidivism as defined by existing literature. Studies that were included in the extralegal factors category contained methods addressing issues of race, gender, and socioeconomic status. The blended sentencing category included methods addressing delinquency, jail, and conviction. Studies were also included that addressed juvenile jurisdiction and adult criminal court as they are important components of blended sentencing. The category of recidivism included studies that investigated the

different effects of a case being handled in the juvenile justice system and those that are handled in adult criminal court. It is necessary to look at both situations to enable a comparison regarding any recidivism that might occur after jurisdiction ends for each group. The issues of costs and benefits of juveniles being transferred to adult criminal court, or the lack thereof were categorized and coded for extralegal factors, blended sentencing, and recidivism. Articles in this study have a range from 1995-2015. It was not limited to quantitative research, but also included qualitative research as long as specific interventions were included to address the costs and benefits of juveniles being transferred to adult criminal court.

### **Data Analysis**

Once articles met the inclusion criteria as described above, the articles were then assessed for which component of costs and benefits of juveniles being transferred to adult criminal court were included. Studies that included information for more than one category were used in both categories. Studies were then put into the categories of extralegal factors, blended sentencing, and recidivism based on which issues were included in the article. Methodologies, setting, inventions and research design for each study were coded and included in the findings. There were seven themes that emerged from the research. Commonalities found in the included literature were pulled together to formulate each theme.

### **Results and Findings**

The purpose of this systematic literature review was to explore the question: What are the repercussion and benefits of transferring juveniles to adult criminal court for the juvenile and the community. The databases of SocINDEX, PsychINFO and Criminal

Justice were utilized to locate 15 peer-reviewed articles that met the above listed criteria to review.

Of the fifteen articles included in this study, eight (53%) were focused on race, ethnicity, gender, and other extra-legal factors and how they can affect the decision to either remain in juvenile court or transfer to adult criminal court. Of the articles that dealt with extra-legal factors six (75%) directly dealt with adjudication decisions, one (12.5%) touched on how extra-legal factors can influence confinement in the Juvenile Justice System, and one (12.5%) dealt with the effect of extra-legal factors on juvenile court outcomes and why pre-adjudication detention matters. Of the remaining seven (47%) articles, four (57%) dealt directly with the decision to incarcerate juveniles in either juvenile or adult criminal court, two (29%) dealt with the experiences of youth in adult criminal court, and one (14%) dealt with recidivism.

The majority of the research included in this review (73%, n=11) contained quantitative data gathered from self-report or pulling the information from an existing database. Four of the articles (27%) used information from systematic reviews. All of the articles considered for this systematic review focused on juvenile offenders. While the focus was on juvenile offenders and whether and the possibility of said offenders being transferred to adult criminal court, they also dealt with how extralegal factors can factor into pre and post adjudication status.

### **Thematic Analysis**

Seven interrelated themes emerged from careful analysis of the literature. Themes include: 1) sentencing juveniles in adult criminal court; 2) legal and extralegal factors; 3) outcomes for youth transferred to adult criminal court; 4) detention and

housing of juvenile offenders; 5) recidivism; 6) costs and benefits of transfer to adult criminal court; and 7) effects on the community. All aforementioned themes are interrelated as they all touch upon legal and extralegal factors and how transfer to adult criminal court affects said juveniles.

**Sentencing juveniles in Adult Criminal Court.** According to Kurlychek and Johnson (2010, p. 726), the number of state prison admissions under the age of 18 more than doubled between 1985 and 1997, and the proportion of adult correctional populations comprising juveniles has increased substantially in recent decades.

While the number of juveniles being sentenced to adult criminal court has more than doubled a sizable amount of literature found that in adult criminal court almost two thirds of juvenile offenders sentenced in adult criminal court were sentenced to probation. On the other end of the spectrum, a sample of transferred juveniles in Pennsylvania found that, even after controlling for a variety of key factors known to influence sentencing decisions, juveniles received a substantial “juvenile penalty”; on average, their sentences were 80% more severe than for their young adult counterparts (Kurlychek & Johnson, 2010).

Currently there are about two dozen states that maintain a guidelines system for the sentencing of adult criminal offenders, including juveniles that have been transferred to adult criminal court. In Maryland juvenile waiver can apply to any offender age 15 or older. If a capital offense has been committed there is no age restriction enforced. As explained in the literature review the age of juvenile waiver to adult court varies greatly from one state to the next. According to the National District Attorneys Association (2000), transfer to the criminal court is necessary because the traditional role of the

**Table 1** Studies Included in the Research Synthesis

Author(s), Year published	State	Population	Age	Gender	Race/Ethnicity	Type of Committing Offense	Prior Arrests
Bechtold & Cauffman, 2013	California	364 Incarcerated Juvenile Offenders between 14 and 17 in a Juvenile Facility	Mean – 16.42 SD .80	Male – 100%	White – 6.0% Black – 29.1% Hispanic – 53.6% Other – 11.3%	Violent – 69.8% Property – 12.1% Public Order – 6.6% Weapon – 3.6% Drug – 3.6%	SD = 3.79 Median = 3
Boulger & Olson, 2011	Illinois	1, 894 Youth released from youth centers	14 – 7.2% 15 – 28.7% 16 – 64.1%	Male – 89.9% Female – 10.10%	White – 37.80% Black – 52.30% Hispanic – 9.90%	Violent – 39.40% Property – 46.40% Drug – 11.90% Other – 2.3%	
Brown & Sorensen, 2014	Texas	Juveniles from Harris County that have a blended sentence between age 14-16	14 – 7.2% 15 – 28.7% 16 – 64.1%	Male – 97.3% Female – 2.7%	White – 7.7% Black – 48.1% Hispanic – 44.1%	Violent – 93.4% Property, Drug, and Weapons – 6.6%	0-1 prior petitions – 94.4% 2+ - 5.6%
Brown & Sorensen, 2013	Texas	752 Juveniles from the largest urban jurisdiction in Texas between age 14-16	14 – 17% 15 – 30% 16 – 53%	Male – 91% Female – 9%	White – 17% Black – 42% Hispanic – 41%	Violent – 49% Property, Weapon, and Drug – 51%	0-1 – 97% 2+ - 3%
Cauffman, et al., 2007	Arizona and Pennsylvania	1,355 14-18 year-old juvenile offenders adjudicated of a serious criminal offense	Mean – 16 SD – 1.14	Male – 86.4% Female – 13.6%	White – 20.2% Black – 41.5% Hispanic – 33.5% Other – 4.8%	Violent – 54.5%	Mean – 2.15 SD – 2.46
Espinosa, Sorensen & Lopez, 2013	Texas	34,222 youth referred to 3 urban juvenile probation departments in Texas between January 1, 2007 and December 21, 2008	Male – 14.96 Female – 14.90	Male – 69.9% Female – 30.1%		Violent – 39.40% Property – 46.40% Drug – 11.90% Other – 2.30%	



Freiburger & Burke, 2010	Arizona	15,924 Juveniles in an urban county in Arizona	Mean – 14.8 SD – 1.8	Male – 74% Female – 26%	White – 54% Black – 11% Hispanic – 33% Other – 3%	Violent – 24% Property – 52% Public Order – 77% Drug – 14% Public Safety – 3%	Mean – 1.9
Jordan & Freiburger, 2010	Illinois, Kansas, and Florida	3,889 Youth	Mean – 16.76 SD - .92	Male – 97.1% Female – 2.9%	White – 19% Black – 56% Hispanic – 25%	Violent – 55.7% Nonviolent – 27% Drug – 17.3%	Prior - 80.2% No Prior – 19.8%
Jordan & Myers, 2011	Pennsylvania	345 juvenile legislatively waived to Adult Court	Mean – 16.71 SD - .80	Male – 88% Female – 12%	White – 13% Non White – 87%	Aggravated Assault – 41% Robbery – 53% Other Violent – 6%	
Kupchik, 2007	Large Northeastern state	95 juvenile males incarcerated through Adult Court	Mean – 16.6	Male – 100%	White – 8.8% Black – 70.6% Hispanic – 17.6% Other – 2.9%	Violent – 97.1% Parole/Probation Violation – 2.9%	
Kupchik, 2006	New Jersey	556 Juveniles		Male – 84.7% Female – 15.3%	White – 13.1% Black – 56.1% Hispanic – 26.4% Other – 4.4%	Aggravated Assault – 43.7% Robbery – 25.2% Burglary – 31.1%	Prior Arrests – 70.9%
Kurlychek & Johnson, 2010	Maryland	2,387 Juveniles		Male – 94% Female – 6%	White – 17% Black – 78% Hispanic – 5%	Property Crime – 9% Drug – 18% Personal Crime – 71% Other – 2%	
Leiber & Peck, 2015	Midwest state, Mid-Atlantic state, and Northeast state	58,906 Juveniles from 28 juvenile courts	Mean – 15.32 SD – 1.70	Male – 74% Female – 26%	White – 45% Black – 55%	Property Crime – 34% Person Crime – 32% Drug – 18%	Prior Referrals – Mean – 1.94 SD 2.74
Rodriguez, 2010	Arizona	23,156 Juveniles	Mean – 15.16 SD – 1.99	Male – 66.9% Female – 33.1%	White – 50.3% Black – 6.6% Hispanic – 37.9% Other – 5.3%	Person Felony Crime – 3.1% Person Misdemeanor Crime – 9.2% Property Felony Crime – 8.5% Property Misdemeanor Crime – 16.6%	Yes – 42.6% No – 57.4%

Schubert et. al, 2010	Arizona	129 Juveniles	Baseline age – 17.02	White – 24% Black – 7% Hispanic – 59.7% Other – 9.3%	Drug – 9.5% Status – 23.3% Assault W/Weapon – 49.6% Burglary – 35.7% Other – 14.7%	Mean – 3.4
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juvenile justice system in seeking to place rehabilitation and the interests of the child first should no longer be applicable in the case of serious, violent, or habitual offenders

(Kupchik, 2006, p. 313)

There is a significant difference between sentencing in juvenile court and sentencing in adult criminal court. In adult criminal court jurisdiction, where retribution and public safety are the most salient tenets, juvenile court sanctions are intended to serve the best interest of the child and to direct focus on rehabilitation. The high value placed on the future life opportunities of the delinquent is a defining aspect of the juvenile court that sets it apart from the open-ended punishment portfolio of the criminal court (Kupchik, 2006, p. 314). As such, the goals of juvenile court sanctions are, in general, for the child to reintegrate into society and desist from delinquent behaviors. These goals are achieved by offering youth in juvenile court facilities individualized case management programs, which often include educational and vocational training as well as other individually tailored rehabilitation services (Bechtold & Cauffman, 2014, p. 126-127).

**Legal and extralegal factors.** Kurlychek and Johnson (2010) organized their sample by: juvenile criminal history; gender; race; age; and offense type. Jordan & Myers (2011) reviewed existing research that found that race does affect juvenile court decision making, but more so in the early stages of the process. In their study the finding regarding race was that minorities were less likely to be convicted than Whites. Aaron Kupchik's study (2007) included very few White youth in the sample, none of which were adult-facility respondents and only 8.8% of the juvenile-facility respondents. Both of his subsamples consisted mainly of African American and Latino/as. In another study

by Aaron Kupchik (2006) he found a greater percentage of Latino/a defendants, smaller percentage of White defendants, and a slightly larger proportion of males from his New York sample in comparison to his New Jersey sample. In his 2006 study Aaron Kupchik found that race (Whites are significantly less likely to be incarcerated than African Americans), number of prior arrests, number of arrests during case processing and a history of incarceration are all significant predictors of incarceration. Additionally he found that the likelihood of African Americans to be incarcerated is greater in criminal than in juvenile court. Studies have found that non-White juveniles receive harsher dispositional outcomes than White juveniles with Black juveniles being three times more likely than Whites to end up in residential placement (Cauffman et al., 2007).

In 2009 it was found that Black youth accounted for just 16% of the juvenile population but were involved in 52% of juvenile arrests for violent crimes and 33% of juvenile arrests for property crimes in 2008. Researchers in 1998 found that being a drug offender resulted in a greater likelihood of being placed outside the home for Black youths but did not significantly impact the placement decision for White youths. It was also found that Black youth arrested for drug crimes were more likely to be detained than White youth arrested for violent crimes. Black youth were also more likely to be formally charged for drug crimes and Black drug offenders were more likely to be sentenced to out-of-home placement. Hispanic or Latino youth are also significantly overrepresented in the U.S. justice system and have also been found to receive harsher treatment than White youths, even when charged with the same offenses (Freiburger & Burke, 2010). Systematic disparities may appear in case processing because minorities

and males are seen as more dangerous than Whites and female offenders (Brown & Sorensen, 2013).

While the juvenile crime rate has declined, there has been an increase in the number of girls involved in the juvenile justice system. Possible explanations for the gender difference include the impact of exposure to trauma and mental health needs on developmental pathways and the resulting influence of youth's involvement in the justice system. Between 1994 and 2006 arrests for simple assault declined by 4% for males and increased by 19% for females (Espinosa et al., 2013). Delinquent girls have a higher risk of self-devaluation, suicidality, and conflict with family and at school compared with their male counterparts. Some studies have revealed girls receive more severe sanctions than their male counterparts, especially in response to status offenses. Other studies indicate that females received more lenient outcomes for delinquent behavior than males. Studies reported no difference between boys and girls in the decision to petition an offense; however, during the adjudication stage, "charge seriousness" was a bigger factor for girls than boys with the reverse trend during the disposition stage. When females were adjudicated delinquent they were more likely than boys to be given a restrictive sanction for a less serious offense (Espinosa et al., 2013).

It is common knowledge in criminology that by engaging in a practice referred to as bootstrapping, courts detain females through findings of contempt of court, probation violations, or violations of court orders for underlying status offenses or minor delinquent behavior. As a result of bootstrapping, early evidence suggests more female juvenile offenders are detained prior to adjudication for offenses less threatening to the community than those of their male counterparts (Espinosa et al., 2013). Many times

boys are detained as a response to public safety issues; however, girls are detained because of problems at home. According to Espinosa et al. by 2003 this trend had extended to custodial placements other than detention as well, with females accounting for 40% of the status offenders but only 14% of delinquents held in custody. Girls who commit status offenses continue to receive harsher and more punitive treatment than boys who commit similar offenses (Brown & Sorensen, 2013, p. 185). Sexual victimization is a common form of trauma experienced by girls involved in the justice system and is likely a contributing factor to the complex mental health needs of this population. In a study of chronically delinquent offenders, 77% of female offenders had a history of sexual abuse in comparison to only 3% of the males. This suggests a potential relationship between trauma and chronic delinquency in girls. In summary, extralegal factors, particularly race and gender can have an impact on the juvenile's experience in the court system, including, but not limited to, sentencing and incarceration.

The average number of prior arrests is higher among the adult-facility respondents than juvenile-facility respondents. However, the juvenile-facility respondents began their criminal careers on average, at earlier ages (Kupchik, 2007). Almost all of the juvenile-facility respondents in Aaron Kupchik's study (2007) were imprisoned for a violent offense (all but 2.9% who are probation or parole violators). In contrast, while a majority of the adult-facility sample is incarcerated for a violent offense, other offense types are also represented.

**Outcomes for youth transferred to Adult Court.** Kurlychek and Johnson found that the sentence for the average 17 year-old in their sample is 41% longer than the sentence of the average 18 year-old. Their findings indicate that juveniles processed in

adult criminal court, on average, receive an additional sentencing penalty related to their juvenile status (Kurlychek & Johnson, 2010). They also found that contrary to theoretical arguments some juvenile offenders will be treated with leniency that said juvenile offenders receive more severe sentencing outcomes than comparable young adults. On average they found that juvenile offender sentences in adult criminal court are between 62% and 75% more severe than those of similar young adults. This finding translates into a typical 17 year-old drug offender in their sample being approximately 10% more likely than an 18 year-old drug offender to receive a sentence of incarceration and to be incarcerated for approximately 1 year longer after all other factors are held constant (Kurlychek & Johnson, 2010). What they have found is that public outcry over the increased threat posed by a new breed of violent juvenile offender, youth who fit the “juvenile super-predator stereotype” and commit violent offenses might be singled out for particularly harsh punishments in adult court (Kurlychek & Johnson, 2010).

The emergence of the “super-predator” resulted in “get-tough” policies to be enacted. As a result more juvenile offenders were sent to detention and correctional facilities with longer periods of time than previous generations. The “get-tough” policies also made it easier to transfer, or waive, juveniles to adult criminal court. One of the reasons cited for transferring the juveniles who had committed serious offenders to adult criminal court is to allow the juvenile courts to concentrate on the juveniles who are more amenable to treatment and deterrence (Jordan & Myers, 2011). Jordan and Myers (2011) found early on in their research that there is a high conviction rate (between 76% and 96%) among transferred offenders. There is also a lower likelihood of reduced charges in adult criminal court. Kurlychek and Johnson found that the effect of juvenile status on

adult court punishments is dramatically more pronounced for drug crimes. Juveniles convicted of drug offenses receive sentences that are more than six times as severe as comparable adults (Kurlychek & Johnson, 2010, p. 744).

**Detention and housing of juvenile offenders.** According to Bechtold & Cauffman (2014) very little research has empirically investigated where youth transferred to criminal court should be housed. Housing juvenile offenders with adult criminals might be unsafe and might turn young offenders into mature, sophisticated criminals. However, housing the most violent and persistent juvenile offenders (youth who are transferred to adult criminal court) in juvenile facilities might increase rates of violence within these settings and, as a result, negatively affect juvenile court youth (Bechtold & Cauffman, 2014). It has also been found that juveniles in adult facilities experience a significant degree of physical and sexual abuse. This might account for the higher rates of suicide among youth in adult facilities compared to youth in juvenile facilities.

Researchers interviewed juveniles adjudicated for similarly violent offenses and sentenced to either a juvenile (n=59) or an adult facility (n=81) in 4 locales: Boston, Memphis, Detroit, and Newark. Among youth in adult facilities, 9.9% reported being beaten up by staff (compared to 5.1% in juvenile facilities), 32.1% reported being attacked with a weapon (compared to 23.7% in juvenile facilities), 8.6% reported being sexually attacked or raped (compared with 1.7% in juvenile facilities), and 45.7% reported being violently victimized (compared with 36.7% in juvenile facilities). Although youthful offenders only represent 1% of the population of inmates in adult facilities, they represent 13% of sexual assault victims (Bechtold & Cauffman, 2014). As peers are generally highly influential during adolescence, it may be possible that an



unintended consequence of housing adult court youth with juvenile court youth is the former may train the latter to become more deviant. The goal of juvenile court sanctions is generally to reintegrate the juvenile back into society and cease their delinquent behaviors.

Juveniles who are felt to be beyond the scope of services offered in the juvenile justice system are often times transferred to the adult system. Transfer to adult criminal court has been occurring since the establishment of the juvenile court. Juveniles processed through adult criminal court jurisdiction may spend time prior, or after the criminal trial. Many times the jurisdiction of the sentencing court does not necessarily determine where a juvenile offender may be housed (Bechtold & Cauffman, 2014). Currently there is a lot of flexibility in regard to where adult court youth may be housed. Many times it is determined by the local jurisdiction and that juvenile may be housed in either an adult or juvenile facility. There are a few states that prohibit any minor from being housed in an adult facility, and adolescent offenders transferred to federal criminal courts are also prohibited from being housed in federal adult prisons. Much of the time juveniles that get placed into adult correctional facilities are held in solitary until they are 18 and can be with the general population.

There are times when a juvenile convicted in adult criminal court ends up in juvenile facilities because of criminal court blended sentencing laws, something that 17 states utilize, one of which being Minnesota. In Minnesota it happens due to the extended jurisdiction, juvenile (EJJ) cases. Youth on EJJ probation are on juvenile jurisdiction until they are 21 and have an adult sentence stayed. Unless they reach a point where their EJJ status is revoked they are housed in a juvenile detention center for any

warrants that may have had to be issued. In some states, youth who are transferred to criminal court and sentenced to prison are incarcerated initially in juvenile correctional facilities but can be transferred to adult correctional facilities after they reach a certain age (often 18) (Kupchik, 2007, p. 248).

Introducing a younger population of inmates into correctional facilities accustomed to only adults may create practical problems for staff in those facilities. Protecting a more vulnerable population of youth may mean extra guards or enhanced surveillance to protect them. Overall, young prisoners cause more disorder and commit more acts of violence than adults in prisons. As such they may require enhanced discipline and security measures to prevent them from committing crimes while incarcerated (Kupchik, 2007, p. 248). In 1974, the Juvenile Justice and Delinquency Prevention Act, known as the “sight and sound” separation rule required that youth not be mixed with general adult populations. This may be burdensome for prisons that can hardly afford space to create isolated youth wings. As this is the case, providing required educational curricula or even fresh milk (per Federal lunch requirements) might add to the difficulties of punishing youth in adult facilities (Kupchik, 2007).

**Recidivism.** Bechtold & Cauffman (2014) found that youth who are typically transferred to Adult Criminal Court may have elevated rates of recidivism. According to a U.S. Department of Justice Special Report that examined recidivism rates among prisoners released from a state prison, the highest rate of rearrests, reconviction, and being returned to prison with a new sentence were found among 14-to 17-year olds. In fact, approximately 82.1% of 14- to 17-year olds were rearrested within 3 years of release from an adult prison. Studies have shown that juveniles transferred to adult criminal

courts have an increased likelihood of future offending compared to juveniles who have been released from a juvenile facility. Additionally, studies show that youth who were incarcerated in adult criminal court returned to an institutional setting more quickly than youth who were placed on probation (Schubert et al., 2010); for example, a Pennsylvania study found that juveniles sent to adult jails re-offend more often with more serious crimes than those who remained in Juvenile Courts (Urbina & White, 2009). Severe formal sanctioning by the juvenile court jeopardizes juveniles' individualized attention, rehabilitation, and subsequent conformity to the law, interfering with the efforts aimed at their future socialization into mainstream society (Brown & Sorensen, 2013, p. 182).

An analysis of youth released from either an Illinois Youth Center (IYC) or adult prison found that approximately 45% of the youth were returned to a juvenile facility within six years, and when admission into an adult prison was included the recidivism rate increased to 62% (Boulger & Olson, 2011, p. 1). While society has always felt some compulsion to lock up incorrigible youth, instead of deterring youth from future criminal behavior, incarceration may promote criminal behavior. While some consider prisons to be a "school" for criminality, states still turn to the use of incarceration as a response to many types of crimes committed by juveniles (Boulger & Olson, 2011). Between 1991 and 1999 Illinois saw a steady increase in its juvenile corrections population from about 1,300 to almost 3,900. Additionally, the Illinois Criminal Justice Information Authority noted a 14% increase in the number of juveniles incarcerated in Illinois from 1995 to 2004 with much of the increase being attributed to high arrest rates. Illinois studied 13,511 juveniles released from correctional facilities between 1996 and 2003 and found that

49% were re-arrested within 18 months of release, with a mean time to re-arrest of 215 days (Boulger and Olson, 2011).

The Virginia Department of Juvenile Justice (VDJJ) distributed a questionnaire to all 50 states in an effort to determine how states measure juvenile recidivism and only received 27 responses. The respondents used various methodologies to measure the recidivism of their juvenile prison populations. The recidivism rates reported by those 27 states ranged from 7% to 77% depending on which definition of recidivism was used, how long the cohorts were followed, and whether or not adult records were considered (Boulger & Olson, 2011, p. 6). The VDJJ found that among juveniles released in fiscal year 2003, the re-arrest rate was 49.4%, the reconviction rate was 37.6% and the re-incarceration rate was 17.2%. The North Carolina Department of Juvenile Justice and Delinquency Prevention (NCDJJD) also examined the outcomes of youth placed in juvenile prison facilities, in this case in fiscal year 2001 and fiscal year 2002, who were tracked for a three-year follow-up period. The NCDJJD found that the overall re-arrest rate for these youths was about 28% (Boulger & Olson, 2011, p. 6).

A recent meta-analysis on the transfer process from juvenile facilities to adult prison shows there is no deterrent value, and in fact, may actually increase subsequent antisocial behavior. Though the extent to which adult court youth are housed in adult facilities is slightly unclear for some of the studies included in the review, many youth who are processed in adult criminal court will spend some time in an adult facility before, during, or after trial proceedings (Bechtold & Cauffman, 2014, p. 127).

Several studies have been conducted in order to compare the rate of recidivism of juveniles who have remained in the juvenile system and juveniles who have been

sentenced in adult criminal court for the same crime. (Generally this would include murder, manslaughter, aggravated robbery, aggravated rape, and other high level felony cases.) Keeping youth in the juvenile system results in lower recidivism rates, which can lower costs in the future (Deitch, Breeden, & Weingarten, 2012). An analysis of youth in an Illinois study found that approximately 45% of the youth were returned to a juvenile facility within six years, and when admission into an adult prison was included, the recidivism rate increased to 62% (Boulger & Olson, 2011).

**Costs and benefits of transfer to adult court.** The costs and benefits to the community can differ depending on the outcome of the charge. It has been found that there are both favorable and unfavorable consequences for the public depending which consequence is ordered (Fass & Pi, 2002). One of the benefits in the eyes of the public when it comes to transferring juveniles to adult court is the sometimes misguided belief that getting the juveniles committing the more serious crimes off the street will help deter crime. However, it has been found that, except for a small number of offenders, the prospect of transfer to adult court did not appear to be a deterrent to crime (Kinder, Veneziano, Fichter, & Azuma, 1995). There have been changes found in Texas when local placement replaced intensive supervision. There was a decline of 31.8 technical violations, 16.4 misdemeanors, and 15.2 felonies in the first year. These continued to decrease in the two following years (Fass & Pi, 2002). Juveniles who are sentenced in adult criminal court are given more severe sentences than those sentenced in Juvenile Courts (Steiner, 2009). There can also be financial cost differences for the community. A study completed in Texas found that in a course of four years the cost-savings benefits of placement in the Texas Youth Commission rather than an adult facility reduces fiscal

outlays of \$610,000 at the start to \$395,000 at the end of the four years (Fass & Pi, 2002). The same study showed that although local placement instead of intensive supervision requires an initial incremental investment of \$2,565,000, cost saving benefits stemming from fewer re-dispositions (i.e. \$1,046,000 at the midrange) lower the aggregate financial burden to \$1,519,000 (Fass & Pi, 2002, p. 383).

One of the costs of juveniles being sentenced in adult criminal court pertains to the juveniles. Studies have shown that juveniles that are sentenced in adult criminal court receive harsher sentences than that of young adults; as noted above, the average seventeen year-old in the study received a sentence 41% longer than that allotted to the average eighteen year-old (Kurlychek & Johnson, 2010, Steiner, 2009). Additionally, it has been found that harsher sanctions as part of the disposition do not always produce net benefits for the correctional system (Fass & Pi, 2002). Research also indicated that for violent offenders, juvenile offenders transferred to adult criminal court are sentenced as severely as, or more severely than they would be in juvenile court (Kinder et al., 1995). Juveniles that remain in juvenile facilities have been found to have benefits those who are sentenced to adult facilities do not have. For example, juvenile facilities are much smaller, have much lower inmate-to-staff ratios, and place a greater emphasis on treatment, counseling, education, and mentoring of inmates (Kupchik, 2007). Once juveniles are in prison, juveniles tend to have little access to treatment and education. As a result, once they are eventually released back into the community, they will have limited coping/living skills, and no resources. Additionally, in some cases, juveniles do not have the ability to organize themselves to meet the strict conditions of adult probation

and some juveniles think that it is 'cool' to be tried in adult court (Urbina & White, 2009).

Introducing a younger population of inmates to adult correctional facilities, which are accustomed to only serving adults, creates practical problems for the staff in the facilities. As youth tend to be more vulnerable there tends to be a need for extra guards or enhanced surveillance to protect them. Young prisoners tend to cause more disorder and commit more acts of violence than adults in prison (Kupchik, 2007). At this time there has been little research into where juveniles offenders who are transferred to adult court should be housed (Bechtold & Cauffman, 2014). It is feared that it can be unsafe for juveniles to be housed with adults, and the mere fact they are housed with adults may turn them into mature, sophisticated criminals. Additionally, the adult justice system generally presumes that defendants who are found guilty are responsible for their actions and therefore should be held accountable and punished accordingly (Espinosa, Sorensen, & Lopez, 2013).

A cost-benefit analysis in Texas found that raising the age of juvenile jurisdiction from 17 to 18 would have a net benefit of \$88.9 million for every cohort of 17-year-olds moved into the juvenile system in Texas. The policy change would require an initial investment of \$50.9 million per cohort, but would result in \$139.9 million in benefits to taxpayers, victims, and youth. (Deitch, Breeden, & Weingarten, 2012). Additionally, keeping youth in the juvenile system results in lower recidivism rates, which will reduce costs in the future. Studies have shown that each teen prevented from becoming a chronic adult offender could save between \$1.7 and \$2.3 million per youth during their lifetime (Deitch et al., 2012). A 2010 report from the Wisconsin Council on Children and

Families found that for every youthful offender who does not reoffend after receiving the appropriate services, the economy benefits by \$1.7 to \$3.4 million over the lifetime of the juvenile (Deitch et al., 2012).

**Effects on the community.** Many studies have found that significantly harsher punishments are meted out to juveniles in adult court when compared with juveniles in juvenile court, particularly for serious or violent offenses (Kurlychek & Johnson, 2010, p. 727). Some states did allow for juveniles to be sentenced to the death penalty until 2005 when the Supreme Court ruled it out as “cruel and unusual” punishment, which to some degree reaffirmed the notion of reduced culpability of juvenile offenders (Kurlychek & Johnson, 2010). In January 2016 President Obama announced a ban on solitary confinement for juvenile offenders in the federal prison system, saying the practice is overused and has the potential for devastating psychological consequences (Eilperin, 2016, para. 1). Early descriptive research on juvenile transfer and punishment certainty reports high conviction rates (between 76% and 96%) among transferred offenders (Jordan & Myers, 2011, p. 249). To many community members this may be seen as a relief as a higher number of juvenile delinquents will be out of the community through their involvement in the adult system. Studies also show that there is a lower likelihood of reduced charges in adult criminal court. In fact, if juvenile transfer is to be effective in deterring youth, it would be expected that there would be increased punishment severity among transferred offenders (Jordan & Myers, 2011, p. 250).

While members of the community may feel somewhat relieved when the offending juvenile has been sentenced, that feeling may start to fade once the juvenile has served their sentence and returns to the community. There has been much empirical



research that has identified prototypes of youth who are typically transferred to adult court (i.e., particularly serious, chronic, or violent offenders): and has established that transferred youth may have elevated rates of recidivism (Bechtold & Cauffman, 2014). This can be particularly disturbing to members of the community where said offenders are returning. Due to a high chance of recidivism it is likely they may start to experience a decline in their standard of living. This may not only include an increase in crime, but as a result an increase in police presence and the possibility of sleep disruptions from the sounds of gun shots, police sirens, or similar noises that may be associated with crime.

### **Discussion**

This systematic review was developed to explore the body of work available on the topic of what repercussions and benefits exist for juveniles and the community when the juvenile has been transferred to the adult criminal court system. After an exhaustive literature search 51 sources were identified and then narrowed down to 15 bodies of literature using predetermined inclusion and exclusion criteria. What emerged from this review is the number of repercussions juveniles face when transferred to adult criminal court as well as benefits for the community when said juveniles are transferred. These findings suggest that transfer to adult criminal court has more detriments than benefits for the juvenile as well as the community.

The first theme found in the literature focused on sentencing juveniles in adult criminal court. There is more than one way to transfer a juvenile to adult criminal court with discretionary waiver being the most popular method of transfer (Kurlychek & Johnson, 2010; Jordan & Myers, 2011). In the past 25 years, nearly every state in the United States has revised its laws or adopted new legislation to facilitate the transfer of

adolescent offenders from juvenile courts to criminal courts to be tried as adults.

Transferring adolescents to criminal court follows from the belief that violent and chronically delinquent children should be punished in proportion to the severity of their offenses, rather than treated differently than “real” criminals because of their youthfulness (Kupchik, 2006, p. 309).

A second theme found in the literature was on how legal and extralegal factors factor into the population that is transferred to adult criminal court. More often than not minority youth were more likely to be transferred to adult criminal court and would receive longer incarceration terms. (Espinosa et al.2013; Cauffman et al., 2007; Brown & Sorensen, 2014; Freiburger & Burke, 2010) Studies have shown that delinquent girls have a higher risk of self-devaluation, suicidality, and conflict with family and school compared with their male counterparts. Other studies indicated females received more lenient outcomes for delinquent behavior (Espinosa et al., 2013).

Studies have shown that non-white juveniles receive harsher punishments than white juveniles. Additionally, black juveniles are three times more likely than whites to end up in residential placement (Cauffman et al., 2013). In fact, in 2009 Puzanchera found that Black youth accounted for just 16% of the juvenile population but were involved in 52% of juvenile arrests for violent crimes and 33% of juvenile arrests for property crime arrests in 2008 (Freiburger & Burke, 2010). Jordan and Freiburger’s findings from their study in 2010 suggest that race and ethnicity do impact the sentencing outcomes of convicted youthful offenders.

The third theme identified in the literature outlined the outcomes for youth that are transferred to adult criminal court. Juvenile facilities are smaller, have much lower

inmate-to-staff ratios, and they place greater emphasis on treatment, counseling, education, and mentoring of inmates (Kurlychek & Johnson, 2010; Bechtold & Cauffman, 2013). As a result one might expect juvenile-facility inmates to report a relatively more supportive, mentoring-focused style of staff inmate interactions than adult-facility inmates. Surprisingly, inmates in adult facilities report better access to education and treatment/counseling services offered in their facilities (Kupchik, 2007). Youth that are transferred to adult criminal court and are incarcerated in adult facilities will often experience more violence and sexual assaults while incarcerated. They are also generally kept in solitary confinement until the age of 18, which can have a mental toll on them.

The fourth theme found in the literature involved detention and housing of juvenile offenders waived to adult criminal court. Depending on the age of the juvenile and the type of sentence (either straight juvenile, straight adult or a blended sentence), the juvenile may be housed in a juvenile facility or in an adult correctional facility (Kupchik, 2007; Kupchik 2006; Bechtold & Cauffman, 2013). Due to the nature of the crimes the juveniles are committing to have either a blended or straight adult sentence the possibility of complications can arise whether the juvenile is housed in a juvenile facility or an adult correctional facility. While juvenile facilities generally have a more supportive, mentoring-focus style of staff to inmate interactions there is a concern that housing criminally sophisticated youth with younger, less sophisticated juvenile delinquents, may lead to corruption of said juvenile delinquents.

Proponents of a less restrictive placement for juveniles convicted of an adult offense feel that placing juveniles in an adult correctional facility can be detrimental to

the juvenile (Schubert et al., 2010). Justification for a less restrictive placement includes but is not limited to fears that the juvenile placed in the adult facility could be subject to abuse at the hand of the adults, be it physical or sexual abuse. Additionally, they feel that placing a juvenile in an adult correctional setting will expose them to a much more criminal element with little to no support for their education and other services that would be readily available from a juvenile placement.

Recidivism was the fifth theme identified in the literature. Studies have shown that juveniles kept in the juvenile system tend to have far less recidivism than those sentenced in adult criminal court. Studies have also shown that juveniles that have been transferred to adult criminal court tend to return to an institutional setting more quickly than youth retained in the juvenile system.

The sixth theme in the literature involved the costs and benefits of transfer to adult court. Studies have shown that the costs and benefits vary dramatically depending upon the area that is being studied. It is never as easy as just examining the population, it also includes many of the previously explored themes such as, recidivism and extralegal factors.

The final theme of the literature is the effect the waived juveniles have on the community after they have completed their court orders (which most of the time involve time in either a juvenile or adult correctional facility). As studies have shown that recidivism rates are higher for those youth that have been incarcerated in the adult system once said youth have been released back into the community there is a higher propensity for crime rates to increase. Higher crime rates would tend to bring down the standard of living for the communities in which these juveniles reside. As studies have also shown

that recidivism rates are lower for juveniles who have been placed in juvenile residential facilities. Given this information communities in which delinquent juveniles are released back home from a juvenile facility would benefit from the low rate of recidivism.

Boulger and Olson (2011) found that approximately 62% of juveniles return to prison within 6 years of discharge.

### **Limitations**

There were both strengths and limitations to the literature search. At first it was difficult to pull information from the three chosen databases. Once the correct combination of search terms was put into the database a fairly large amount of studies regarding juveniles being sentenced in adult criminal court. Given the amount of usable information it was important to pull studies performed in the last 10 years in order to have the most recent information. While there was an abundance of studies involving juveniles transferred to adult criminal court it was fairly difficult to locate studies that specifically took into account some of the extralegal factors of race, gender, prior history, or socio-economic-status that may have had an effect on the decision to transfer a juvenile to adult criminal court.

After trying several different combinations of search terms there were some recent studies that were located; however, overall there is a lack of studies regarding extralegal factors and juveniles being transferred to adult criminal court. Additionally, there is a scarcity of research and cost-benefit analyses that leaves unclear whether the newer, get tough focus achieves greater delinquency reduction (Fass & Pi, 2002). There is little comparative research on the differences of prosecution in juvenile and criminal courts, yet scholars often discuss the relative merits of prosecuting adolescents in these

two types of courts (Kupchik, 2006, p. 329). Additionally, although research has examined the effectiveness of juvenile transfer on recidivism, there has been a lack of research done in assessing how well juvenile waiver to adult criminal court meets the criteria necessary for deterrence to occur (Jordan & Myers, 2011). There has been little empirical attention made to the link between juveniles' developmental immaturity and courts' dispositional decision-making (Cauffman et al., 2013).

### **Further Research and Implications**

One of the first things that emerged from this systematic literature review was how limited the research is on how much extra-legal factors can change not only the outcome of a hearing, but even whether or not a juvenile is charged. While it may seem easy to speculate that the system works differently depending on gender, race, ethnicity, and economic status, it is much more powerful to have proof via research. It would be beneficial to conduct further research regarding extra-legal factors and how they affect the judicial system. It would be particularly beneficial to conduct more research on how extralegal factors can influence the decision to transfer a juvenile to adult criminal court. While there are some studies that focus on gender, and others that focus on race and ethnicity, there is little to no research that combines gender, race, and ethnicity.

It was very disappointing to find that there is little to no research regarding how social workers can affect and be affected by juveniles within the adult system. Given the variety of things that social workers can do to help to improve the experience of a juvenile in the court system it is surprising there is not more available research on the subject. Moving forward it would be beneficial to conduct research on how social workers can improve the judicial experience for juveniles and their families. Social

workers can help advocate for changes in policies that can affect not only the sentencing of juveniles involved in the court system, but also how the decision is made to charge them with a crime. They can also advocate on behalf of the juvenile, and many times may be the only advocate for the juvenile as there are many families that disengage once their child is in the system. This is the type of behavior that supports the social learning theory. Social workers can also rally to fight for changes in the decision to transfer juveniles to adult court. They can also advocate for more appropriate housing for juveniles who have been incarcerated as adults. Social workers that are informed by the critical theory can take actions to collaborate with clients to promote social justice. The effect that social workers can have on the judicial system is great, which is why there needs to be more research dedicated to social work within the correctional system.

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**A**

**Request for Establishing MSW Clinical Research  
Committee**

**STUDENT NAME:** \_\_\_\_\_ **Student UST ID#**

I have discussed my research with and request that the following comprise my research committee

**CHAIR:** \_\_\_\_\_  
Faculty Chair Signature \_\_\_\_\_ Date \_\_\_\_\_

**COMMITTEE MEMBERS:**

By signing below, committee members acknowledge their responsibility to, at minimum, meet as a committee once each semester, to read and comment on student's written work, to offer support and guidance throughout the research process and to attend the public presentation of the paper in May.

**1. COMMITTEE MEMBER:**

\_\_\_\_\_  
Name (**PLEASE PRINT**) \_\_\_\_\_ Signature \_\_\_\_\_

\_\_\_\_\_  
Date

\_\_\_\_\_  
Institution/Agency

\_\_\_\_\_  
Email address to send Final Program and other communication – PLEASE PRINT clearly

**2. COMMITTEE MEMBER:**

\_\_\_\_\_  
Name (**PLEASE PRINT**) \_\_\_\_\_ Signature \_\_\_\_\_

\_\_\_\_\_  
Date

\_\_\_\_\_  
Institution/Agency

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Email address to send Final Program and other communication – PLEASE PRINT clearly

