

JUVENILE OFFENDERS TRIED AS ADULTS: WHAT THEY KNOW AND  
IMPLICATIONS FOR PRACTITIONERS

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### Abstract

The current policies of juvenile bindover to adult criminal court and severe sentencing have been unsuccessful in the decrease of juvenile crime and recidivism. Policies are based on theories that threats of severity lead to deterrence and rational decisions regarding commission. However, legal socialization of juvenile offenders plays a decisive part through cognitive development and social learning. Few studies have been conducted on juvenile offenders' awareness of sentencing as adults. This article reviews literature on quantitative and qualitative studies and reports on a qualitative phenomenological study of offenders' understanding, knowledge, and perceptions of their sentencing as juveniles. Participants were 12 adult inmates in four Ohio prisons (10 males, 2 females; age range 19-30; sentenced as juveniles at ages 14-17; serving sentences from 2 to 45 years). Findings of 12 open-ended questions indicated that few of the participants had heard of juvenile transfer to adult court and none understood that juvenile transfer court could apply to them for their crimes, thus precluding their rational decision-making and deterrence. Findings should supplement the existing literature on juvenile transfer and support the evidence that severe punishment or threat of punishment does not discourage adolescent crime. Recommendations are offered for further research, more effective deterrent policies, and early education of juveniles by juvenile justice officials and attorneys.

212 Words

## **Introduction**

In the most recent statistics available, the U.S. Office of Juvenile Justice Prevention (USOJJDP, 2013) recorded that in 2008 an estimated 2.11 million juvenile were arrested, and 96,000 of these were for violent crimes, such as murder, rape, robbery, and assault (Boxer & Goldstein, 2012). As of 2010, 70,792 youth are held in incarceration facilities on a given day (USOJJDP, 2013).

Between 1992 and 1999, 49 states amended their juvenile laws by expanding types of crimes, such as violent crimes, that would provide for juvenile offenders to be tried as adults in adult criminal courts (Sickmund, 2003). Some states increased the offenses that mandated transfer to the adult court, limited judicial discretion, and expanded the number of offenses statutorily excluded from the juvenile courts (Redding, 2008). For example, 35 states created or expanded laws for automatic transfer to adult court; 27 states extended judicial waiver laws that granted transfer to adult court, with lowering of age requirements and extension of eligibility; and 13 states signed into law new presumptive waiver provisions (USOJJDP, 2012).

Today, most states specify no minimum age for juvenile prosecution, with the upper age limit 16 or 17 years old (USOJJDP, 2012). However, all states now have provisions for trying certain juveniles (dependent on seriousness of crime) as adults in criminal court. Under judicial waiver provisions, the juvenile court judge can waive juvenile court jurisdiction and transfer the case to criminal court. A total of 21 states and the District of Columbia have at least one provision for transferring juveniles to criminal court, with no minimum age specified (USOJJDP, 2012). Present penal trends continue to waive large numbers of juveniles to adult court, and the cost continues to grow; consequences include increased marginalized cultures, decreased social spending in distressed areas, and increased crime (Listwan, Johnson, Cullen, & Latessa, 2008).

The current trend for sentencing of juveniles as adults, or juvenile bindover, derives largely from the presumption that more punitive sentences will have a deterrent effect. The theory of specific deterrence holds that generally severe punishment should discourage offenders from repeat offenses (Pogarsky & Piquero, 2003). This theory also presupposes rational choice: before committing a crime, an individual will consciously weigh the risks and rewards inherent in the act (Peterson-Badali, Ruck, & Koegl, 2001). This article examines the issue of juvenile offenders tried as adults, including the theories behind this policy, its efficacy in decreasing juvenile crime, and the findings of a study by the author on the actual knowledge and understanding of juvenile offenders who were tried and sentenced as adults. Results should aid juvenile justice officials and attorneys in better informing adolescents and juvenile offenders of the bindover consequences of criminal behavior.

## **Literature Review**

### **Legal Socialization**

Legal socialization constitutes the development and process of an individual's acquisition of standards, attitudes, beliefs, and behaviors about the legal system, institutions, and authorities. Acquisition takes place through cognitive development as one ages and social learning as one is exposed to the law-related media and interacts with others, such as relatives, police, and other judiciary officers (Bandura, 1986; Cohn & Modecki, 2008; Piquero, Fagan, Mulvey, Steinberg, & Odgers, 2005).

Investigating the developmental course of two characteristics of legal socialization, legal cynicism and legitimacy of the law, Piquero et al. (2005) studied 1,355 serious adolescent offenders, ages 14-18, in two U.S. cities. The legal cynicism questionnaire asked participants to rate their degree of agreement on statements such as the following: "Laws are meant to be

broken.” The legitimacy questionnaire asked for degree of agreement on statements such as the following: “The courts generally guarantee everyone a fair hearing (trial).”

Over the 18-month period after court ruling, both aspects showed little developmental change. However, with regard to cynicism, those with more prior arrests reported greater cynicism than those with fewer prior arrests, and Hispanics reported more cynicism than Caucasians. For legitimacy, older adolescents viewed the law as less legitimate than younger ones (those 14 years of age), and respondents who were incarcerated as well as African Americans had lower legitimacy perceptions than those not incarcerated and Caucasians.

Fagan and Tyler (2005) found different results, with age differences in cynicism and legitimacy with a sample of 215 children and adolescents, ages 10 to 16, from two New York City neighborhoods. One research site was more economically disadvantaged, had 90% African Americans, and high felony crime and arrest rates; the other site was less economically disadvantaged, had 49% Caucasians, and half the crime and arrest rates.

The findings showed that for these respondents, legal cynicism increased with age, and legitimacy decreased with age. Peer networks and high crime neighborhoods contributed to cynicism and low perceptions of legitimacy, as well as social learning of the “acceptability” of antisocial behavior. Thus, legal socialization apparently varied with many characteristics, including age, neighborhood, and socioeconomic context.

With 1,393 adolescents and young adults, ages 11 to 24, from the several states and including arrested participants and comparable community youth, Woolard, Harvell, and Graham (2008) examined racial differences in adolescents’ and young adults’ perceived unfairness of the justice system. A total of 62% were males, with 40% African American, 35% Caucasian, 23% Latino, and 2% from other groups. Ninety percent were of low socioeconomic status.

Woolard et al. (2008) found that African American and Latino adolescents and young adults who had previous experience with the justice system had greater perceptions of anticipatory unfairness. Their negative legal socialization may have been affected by their perceived sense of injustice and consequent greater reoffending.

### **How Effective Are Harsher Sentences?**

Studies addressing the issue of juvenile bindover and longer incarceration as contributory to greater public safety have yielded alarming results (Bushway & McDowall, 2006). Contrary to expectations, youth tried in adult court reoffend more often and with more serious offenses than their counterparts in juvenile courts (Ashkar & Kenny, 2008; Fagan, Kupchik, & Liberman, 2007; Lanza-Kaduce, Frazier, Lane, & Bishop, 2002; Redding & Fuller, 2004; Worrall, 2004). Redding (2008) reported that juveniles with the highest recidivism rates were those tried and sentenced in adult criminal court (excepting drug offenses). Pagnanelli (2007) contended that juvenile bindover actually encourages recidivism.

Steiner, Hemmens, and Bell (2006) examined arrest data in 22 states that added statutory exclusion laws placing juvenile offenders in adult criminal court. Violent juvenile arrest rates declined in only two states, with one of these showing a sudden and permanent change. Fagan et al. (2007) compared similarly situated youths assigned to the juvenile or adult courts in contiguous states. Youth charged and punished as adults were more likely to be arrested for serious crimes more quickly and more often than their counterparts who remained in the juvenile courts. Such studies indicate higher recidivism and an absence of deterrence. (Sickmund, Snyder, & Poe-Yamagata, 1997; Sickmund, Sladky, & Kang, 2008) is largely based on the assumption that more punitive sentences will lead to a greater general deterrent effect (Redding, 2008; Wright, Caspi, Moffit, & Paternoster, 2004).

### **Juveniles' Knowledge of Criminal Sentencing**

Although general deterrence—sentence severity perceived as a risk in the decision to commit a crime—is often cited as a primary reason for desistance (Webster & Doob, 2012), this rationale is weakened by juveniles' general ignorance of the laws and sentencing (Robinson & Darley, 2004; Doob & Webster, 2003; Kleck, Sever, Li, & Gertz, 2005). As Kleck et al. noted, youth may be inclined to weigh information rationally and consider potential costs and benefits, but they cannot make informed decisions without accurate perceptions of those costs and benefits. Nevertheless, policy makers continue to rely on deterrence theory as a primary basis for sentencing programs, including those for juveniles (Jacobs, 2010; Steiner & Wright, 2006).

Only a few qualitative studies have been conducted to better understand the subjective understanding, motivations, intentions, and perceptions of youth tried as adults. For example, Redding and Fuller (2004) studied 37 juveniles from Georgia charged with murder or armed robbery who were tried and sentenced as adults. The majority said that they never knew or believed that the law transferring them to adult court would ever apply to them. This study is the only one of its kind to explore qualitatively juveniles' knowledge regarding punishment and the effect of knowledge on general deterrence. In later work, Redding (2005) observed that if juveniles had known they could be tried as adults, they might not have committed their offenses.

As Peterson-Badali et al. (2001) observed, there is "a paucity of research reporting on juvenile offenders' perceptions about dispositions" (p. 594). Such research is necessary for the design and development of more evidence-based crime policies (Mears, 2007). A major impetus for the present author's study, reported on next, was Redding's (2008) suggestion of future

research focusing on three relevant questions: (a) Are juveniles aware of transfer laws? (b) Do they believe the laws will be enforced against them? (c) Do this awareness and belief deter criminal behavior? Redding (2010) also pointed out that a law can only act as a deterrent if the targeted population is aware of its provisions and consequences.

### **The Current Study**

#### **Sample**

To address Redding's (2008) questions, the author conducted a mixed-method (qualitative phenomenological and quantitative) study of the knowledge and perceptions of punishment of incarcerated adult offenders for crimes they committed as juveniles (Miner-Romanoff, 2010). The voluntary sample was 12 incarcerated adults who were bound over as juveniles and currently serving sentences for juvenile crimes in four prisons in Ohio under the state's waiver law. Written approval for data collection was given by the managing officers at each facility, and potential participants were given a letter of introduction to the study. Over 100 inmates volunteered, and the author chose a purposive sample based on variation in age, offending type, sentence length, and gender.

The sample was comprised of 10 males and 2 females; 50% Caucasian and 50% African American. Current ages at time of interviews varied from 19 to 30 (mean 22.6), the ages at waiver 14 to 17 (mean 16.5), and the sentences from 2 to 45 years. The crimes included murder (6 participants), aggravated robbery (3), felonious assault (1), kidnapping (1), and voluntary manslaughter (1). Table 1 summarizes the offender-related characteristics of participants.



Table 1

*Participants' Demographic Characteristics*

Characteristic	Mean	Range
Current age	22.6	19-30
Age at waiver	16.5	14-17
Sentence	169	24-540 months
Months served to date	81.4	24-168 months
Months remaining to serve	115.6	18-384 months

**Methods**

Individual interviews structured around 12 questions were arranged in private meeting rooms with each inmate, with appropriate security measures. A safety button was within the author's reach to alert nearby corrections officials if needed. Officials were also stationed nearby in the administrative area in which the interviews took place.

Pursuant to recommendations for qualitative research in criminology (Miller, 2008), the interviews took place for approximately one hour each, structured around 12 interview questions. The author took notes and recorded the interviews with inmates' prior written consent. On conclusion of the interviews, the author collected demographic data and performed data analysis.

**Findings**

In response to the 12 research questions, participants answered in a variety of ways. These are reported by question with summaries and illustrative responses.

1. As a juvenile offender, what was your understanding regarding possible adult criminal sentences?

Most participants reported that they had no knowledge of juvenile bindover, and all indicated that they did not understand juvenile bindover. Two only said they had a vague notion that juvenile bindover existed and they never knew that adult sentences applied to them. In addition, in response to this question, many expressed intense frustration, anger, and dismay.

P1: We don't have no understandin'. We still seein' it as a game—we still wild, young, didn't care.

P1: Nobody knew!

2. As a juvenile, where did you get your knowledge of sentencing?

This question applied only to the two participants who said they had some knowledge of juvenile bindover. They both reported that their source was television news.

3. If you had such knowledge, when did you learn about possible adult sentences?

This question applied only to the two participants who knew something about juvenile bindover. Neither, however, could recall when they had learned of it.

4. What was the influence of the source(s) on your understanding of possible sentencing?

This question was applicable only to the same two participants. However, with their admitted vague knowledge, no meaningful responses were reported.

5. What was the influence of the source(s) on your use of the knowledge about possible sentences?

This question again was applicable to the same two participants who had heard of juvenile bindover. Similarly, no meaningful responses were reported.

6. How much did you believe your source of knowledge of juvenile bindover? Again, this question pertained only to the two participants who had heard of juvenile bindover. Both said they believed the source, television news.

P7: It was on the news, and I figured they not going to lie . . . .

7. As a juvenile, how seriously did you consider the possible punishment and sentencing possibilities?

The responses of the same two participants were applicable here. Neither seriously considered adult sanctions prior to committing their offenses; they did not believe that juvenile bindover applied to them or their offenses.

P7: I just didn't think about it, you know. It just wasn't on my mind. I was just trying to have fun.

However, several participants admitted they thought of punishment but it did not deter them. P5 explained that his crimes started out small and escalated, and his need to survive outweighed punishment.

P5: I've always had it [punishment] in the back of my mind, but it was never really, 'cause my situation [early crime] it was small. I was homeless. My parents had kicked me out . . . . I robbed a lot of houses to get by.

8. If you considered possible punishment and sentencing possibilities, when did you do so—before, during, or after your decision to commit your crime?

Again, because of the minimal responses of the same two participants, this question was inapplicable.

9. What contributed to your consideration of punishment and sentencing possibilities?

This question encouraged participants to expand their responses with more personal and subjective rationales as to why they did not consider punishment prior to committing their offenses. Their responses indicated clearly the subjective nature of their logic.

P9: Your wrong may be my right.

Most considered juvenile crime as a normal part of their daily lives.

P3: Near my whole family been in jail. Like I was destined to come in here.

P8: I was just trying to protect myself because of the life I was livin', period.

Half reflected that the juvenile sanctions for earlier crimes were not a threat because of their shorter duration and easier conditions than adult sentences.

P6: I didn't care really . . . I was still young when I got out. Juvenile detention centers is like daycare compared to here [present adult incarceration].

P1: We still seein' it as a game, we still wild, young, didn't care.

As a follow-up question, respondents were asked if they would have considered adult sanctions had they known and understood that the sanctions could have applied to them and their offense. All but one answered in the affirmative.

P2: 'Cause then I wouldn't have committed the crime. It would have helped me out in the long run, through my life that way I would at least know what I was gettin' into.

P6: I think it would have made a big difference!

P10: I think my life would have went a whole different route.

10. How could your current sentence affect your possible future decision to reoffend or not commit a crime?

A large majority of the participants explained that that they had thought about this question. Their current sentence, including its length and conditions of incarceration (such as loss of freedom and daily violence), had significantly affected their future intent not to reoffend.

P4: Yeah, 'cause I don't want to be here. This ain't no place to stay by choice.

P7: Being away from family, friends, worrying about safety, worrying about stuff getting' stolen from you, worrying about having to fight for your life. You know, that's a pretty good deterrence from reoffending.

However, half revealed that their current sentence could be either a deterrent to future offending or promote future offending.

P10: It's got a negative and it's got a positive. The positive when you doing a lot of time, it make you think about never comin' back again. . . . [The negative is] You doin' a lot of time you feel like I can't do nothing so I'm just goin' go out and do the same thing.

#### 11. What might stop you from committing crime in the future?

Participants identified maturation, growth, supportive family members, and institutional training programs as possible insulators against future criminal behavior.

P2: You gotta take the time to think about the things before you do them . . . you get more mature and grow up.

P3: I got two sons and a daughter; that will stop me.

P11: I have tooke a lot of programs in here. I've done plumbing, I've learned how to do plumbing, horticulture. But, I do feel like I learned a lot here, and I do feel that once I leave here that I will, I will be able to adapt.

However, the prospect of finding employment with a felony record was also a major concern.

P6: If you can't get a job, if people ain't tryin' to hire you 'cause you a felon. It's going to be hard to get a job.

12. Are there any other comments you would like to add?

Participants were given the opportunity to discuss any other issues they deemed relevant. Several gave emphatic warnings to juveniles not to offend and end up like them.

P2: I mean, just that for every juvenile out there, just think of what you do before you do it. Whatever you gonna do to make sure you don't commit a crime and have to spend the rest of your life in prison or be bound over as an adult and still have to be away from your family and friends and loved ones.

Other participants censured the present system.

P12: But, I feel like sending juveniles to prison is stupid. It, it makes them angry.

All participants suggested educating young people in schools, as early as middle school, as well as community and legal institutions, and certainly at arrest.

P9: [Departments of Youth Services] and school; that's where you got the population at.

P6: I think it would make a big difference if they started letting kids know when they get arrested.

As an adjunct to understanding participants' responses to these qualitative questions, descriptive statistics were calculated. Table 2 summarizes the percentages of participants to each question.

Table 2

*Statistical Summary of Participants' Responses (N = 12)*

Question	Number	Percentage
1. Understanding of possible adult criminal sentences		
No knowledge	10	83
Vague knowledge	2	17
No understanding	12	100
2. Where knowledge of sentencing obtained: TV news	2	17
3. When learned of adult sentences		
Could not say	2	17
4. Influence of sources on understanding of possible sentences	NA	NA
5. Influence of sources on use of knowledge about possible sentences	NA	NA
6. Extent of belief in source of knowledge:		
Complete belief	2	17
7. Serious consideration of consequences before commission of crime		
No	10	83
Briefly	2	17
8. Consideration of sentencing before, during, after commission	NA	NA

(table continues)

Question	Number	Percentage
9. Contribution to consideration of punishment and sentencing possibilities		
Juvenile crime normal part of daily lives	10	83
Would have considered adult sanctions before committing crime	11	92
10. Current sentence affect decision to reoffend		
Deter	9	75
Deter or encourage	5	50
11. Possible deterrents to future crime		
Maturation, supportive family, institutional training programs	6	50
Current sentence	9	75
Recidivate because of difficulty of employment	2	17
12. Additional comments		
Plea to juveniles to think before acting antisocially	4	33
Unreasonableness of juvenile bindover	2	17
Education of adolescents to juvenile bindover in schools, communities, legal institutions	12	100



## Conclusions

The intent of juvenile transfer to adult court was to deter would-be serious juvenile offenders, lower crime rates, and improve public safety (Feld, 2004; Kelly, 2010). Yet, the efficacy of this severe sentencing strategy is dubious at best (Peterson-Badali et al., 2001; Redding, 2005; Steiner & Wright, 2006). Previous quantitative research has illustrated no general or specific deterrent impact and possibly even counterdeterrent effects (Fagan et al., 2007; Lanzu-Kaduce et al., 2002; Steiner et al., 2006). The findings of this study indicate that participants had little to no understanding of juvenile bindover, either generally or as it applied to them, as evidenced by the fact that only two participants had even heard of the provision. This conclusion concurs with the results of Ashkar and Kenny (2008), Redding (2005), and Redding and Fuller (2004).

Respondents generally did not consider the consequences of their criminal acts, for reasons of being “young,” having “fun,” or survival. Several reflected that crime was considered a normal activity by their peers and in their communities or families, supporting the theory of social learning (Bandura, 1986; Matthews & Agnew, 2008; Piquero et al., 2005; Nagin, Piquero, Scott, & Steinberg, 2006; Scott & Steinberg, 2008, 2010). In addition, some participants questioned the legitimacy of the law. With their mean age at participation of 22.6 and age at waiver 16.5, this questioning supports the findings of Piquero et al. (2005) that older adolescents view the law as less legitimate than younger ones. The majority also reflected they might not have committed their crimes with understanding of trial and sentencing as adults. Many thought they would be incarcerated for only a few months, and all expressed strong beliefs that adolescents should be educated about juvenile bindover.

With regard to the possibility of future offending, participants admitted that their current knowledge of harsh sentences and incarceration in adult facilities would deter them from repeat offending. Because they did not know of juvenile sanctions prior to their offenses, they could not apply rational choice. That is, they did not engage in cost- benefit decision-making, weighing the costs of offending against the “benefits” of commission of their crimes (Kleck et al., 2005; Peterson-Badali et al., 2001).

The present findings support those of earlier quantitative studies as well as the few qualitative studies conducted to determine the understanding and knowledge of juvenile offenders regarding bindover. The distressing and indisputable findings of this study indicate a preclusion of general deterrence in contrast to policy goals. This finding should lead to future research, policy modifications, and educational initiatives.

## **Recommendations**

### **Research**

The results of the present study were limited by a small sample of adult offenders incarcerated by juvenile bindover in adult court for criminal offenses committed when they were adolescents. Thus, further research is suggested with similar and larger samples of offenders in other states. For example, in Ohio, the current research site, 803 juvenile offenders ages 14-19 are currently incarcerated who were bound over as juveniles (Ohio Department of Rehabilitation and Correction, 2013).

Larger, random samples and more extensive research with both quantitative and qualitative approaches are advised. Quantitative approaches could include current juveniles incarcerated as well as adults bound over as juveniles. Additional demographic data could be collected, similar to research by Fagan et al. (2007) and Lanza-Kaduce et al. (2002), such as

sentence length, offense history, education, and parental income. Environmental and cultural elements also should be explored, including family history of criminal activity, number of family members on welfare, gang membership, ethnicity, and geographic location. Studies could be conducted with juvenile justice officials as to how often they inform juvenile offenders about juvenile bindover.

In the present study, repeated question sequencing revealed that no participant had heard of juvenile bindover from any juvenile justice official. Qualitative research could include larger samples such as those of the current study as well as others, such as released offenders, recidivated and reincarcerated offenders, and juvenile justice officials and attorneys for their views and insights on juvenile bindover. Interview questions could replicate those used in this study, as well as others, such as the roles of families, schools, and peers in informing adolescents about juvenile transfer and specific role models of offenders. Such studies could provide more generalizable data for use as empirical evidence for policy changes and dissemination of education about juvenile bindover.

## **Policies**

The results of the current study and subsequent research could contribute to policies that could help increase juveniles' deterrence from committing crimes and enhancing public safety. Findings that inform legislators and the public that juveniles rarely, if ever, weigh the costs and benefits of offending, and that juvenile bindover to adult court and consequent harsh sentencing do little to stem recidivism could be disseminated to legal and judicial authorities. Hopefully, presentation of research evidence would lead to revision of the juvenile crime control models and current laws.

As a consequence, state and community stakeholders may be more inclined to develop and extend institutional rehabilitative programs for juveniles incarcerated as adults. Additional support programs could be developed specifically for this population on release into their communities. One participant emphasized that she had taken many institutional programs and felt that they would help her adapt in the outside world. Thus, additional programs could aid offenders' adjustment to the mainstream and help support nonviolent lifestyles.

### **Education**

The fact that only two respondents had even heard of juvenile transfer, and their source was television, further attests the need for education of adolescents who have not committed crimes but may be inclined to do so. All 12 participants spoke about education of juveniles to the possibilities and conditions of juvenile transfer as a deterrent.

Adolescents can be reached especially in at-risk and inner city neighborhoods, schools, and community venues. Teachers, guidance counselors, social workers, and other advocates should be educated themselves to the juvenile transfer laws. Juvenile law and its ramifications should be emphasized in law schools and law firms so that future attorneys and attorneys become more aware of juvenile bindover and act on their duties to inform clients and families.

Redding (2005) summarized the problem, which continues today:

There is no out-of-control juvenile crime problem . . . the public still supports the rehabilitative goals of the juvenile justice system, and research does not support the efficacy of punitive juvenile justice policies. Convincing policy makers of these realities will require vigorous and sustained efforts by researchers and advocates. (p. 387)

The present study, although with limitations of size and scope, confirms the sparse research on the ineffectiveness of juvenile bindover and need for research, reform of policies, and wider education with regard to juveniles tried as adults. Perhaps the strongest evidence is embodied in the expressions of two participants. One wrote a letter to the governor (with a copy to the researcher) recounting this participant's antisocial adolescent influences and experiences. He pointed out the ineffectiveness of juvenile bindover and strongly advocated educational resources for young people in many venues to avoid life-destroying experiences such as his. Another participant implored the researcher, "Tell them so they do not end up like us."

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