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The Decertification of Transferred Youth

Examining the Determinants of Reverse Waiver

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Much of the research on juvenile transfer to adult court examines the predictors of the waiver decision. Few studies, however, have focused on the determinants of decertification, a process whereby certain initially transferred youth are reverse waived to juvenile court. This study sought to examine this underresearched area by focusing specifically on the factors that predict decertification and utilizing quantitative data pertaining to 345 youth initially transferred to adult court in 1996 under Pennsylvania's law that automatically excludes certain youth from juvenile court jurisdiction. The findings indicated that legal factors are the strongest predictors of decertification. The need for further research and policy implications also are discussed.

Keywords: *Act 33; juvenile decertification; juvenile transfer; legislative waiver; offense exclusion*

In reacting to the growing concern of youth violence, legislatures and juvenile courts enacted numerous "get tough" policies (Taylor, Fritsch, & Caeti, 2002), including more juveniles being sent to detention and correctional facilities. The most popular policy, however, was for states to make it easier to transfer certain youth to adult criminal court (Jordan, 2006; Torbet, Gable, Hurst, Montgomery, Szymanski, & Thomas, 1996). Historically, juvenile transfer was thought to be reserved for the small numbers of serious and violent offenders. However, modern transfer laws sought to change and increase the use of this practice, by reducing judicial discretion in juvenile court, enhancing prosecutorial power to file charges directly in adult court, and statutorily excluding certain offenses and offenders from juvenile court jurisdiction. The underlying rationale was that greater use of juvenile transfer, particularly for violent offenders, would boost accountability and punishment for these youth.

Several states, however, have a mechanism in place where initially transferred youth can be decertified (or reverse waived) back to juvenile court. The purpose of the current study, therefore, was to identify the statistical predictors of decertification to juvenile court, a highly underresearched area of inquiry in the juvenile justice literature.

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Past Empirical Research

During the past 20 years, as transferring juveniles to adult court grew in popularity, an increasing number of empirical studies also were conducted on this topic. This body of research has included studies that have considered the influence of legal variables (e.g., offense seriousness and prior record) and extralegal factors (e.g., age and race) in the transfer process.

Legal Factors

Overall, research that has examined the characteristics of waived offenders generally indicates that offense seriousness and prior record are the strongest predictors of the decision to transfer (Barnes & Franz, 1989; Clarke, 1996; Clement, 1997; Fritsch, Caeti, & Hemmens, 1996; Houghtalin & Mays, 1991; Keiter, 1973; Kinder, Veneziano, Fichter, & Azuma, 1995; Myers, 2003; Sridharan, Greenfield, & Blakley, 2004). In general, the more serious the offense committed, the greater the likelihood of transfer. Moreover, the more extensive the prior record of youth, the greater the chance of being transferred to adult court. These studies suggest that legal variables affect the perceptions of youth's amenability to treatment in the juvenile court system. If youth are viewed as not being able to benefit from the treatment provided by the juvenile court, the likely result is transfer to the adult system.

Extralegal Factors

Extralegal variables, however, also may play a role. Older youths, for example, consistently are found more likely to be waived than younger offenders (Fagan & Deschenes, 1990; Myers, 2003; Podkopacz & Feld, 1996; Poulos & Orchowsky, 1994). In contrast, the effect of race is widely debated. Most descriptive research finds that non-Whites make up a majority of those who are transferred to adult court (Clarke, 1996; Clement, 1997; Keiter, 1973; Thomas & Bilchik, 1985). However, other multivariate studies have found no direct race effect, while controlling for other explanatory factors (Fagan, 1990; Fagan, Forst, & Vivona, 1987; Podkopacz & Feld, 1996). Some researchers believe that the effect of race on transfer is indirect, affecting court outcomes earlier in the process, which in turn may have a subsequent effect on transfer (see, e.g., Podkopacz & Feld, 1996).

More recent research on prosecutorial waiver in Virginia also has found legal variables to be significant in predicting which cases were transferred to adult court (Sridharan et al., 2004). However, the same research also found school status to be significant in the certification decision. Those who dropped out of school were more likely to be waived to adult court than those who were enrolled in school.

Although past empirical research on juvenile transfer decisions has provided several important findings, this body of literature also is limited. Most of the prior studies have examined juveniles transferred through judicial waiver, which occurs when a juvenile court judge makes the decision to send a case to adult court (DeFrances & Strom, 1997; Griffin, Torbet, & Szymanski, 1998). Much less research has been done on prosecutorial waiver (see, e.g., Sridharan et al., 2004), which in certain cases grants prosecutors the authority to file charges directly in adult court, and hardly any studies have investigated offense exclusion cases,¹

whereby certain offenses or offenders are statutorily excluded from juvenile court jurisdiction (Howell, 1996; Myers, 2001). The lack of research on this particular method is particularly striking because this approach became very popular as a response to the increase in juvenile violence from the mid-1980s to the mid-1990s.

Juvenile Decertification

As mentioned earlier, within many transfer laws, there also are provisions for decertification, which allows youth initially transferred to adult court to be “reverse waived” back to juvenile court. Twenty-three states currently have mechanisms in place whereby juveniles can have their cases returned to juvenile court (Griffin et al., 1998). To date, there has been only one multivariate study that examined the predictors of decertification, and this research used data from the late 1970s and early 1980s in the state of New York (Singer, 1996). Similar to the findings of the juvenile transfer literature, the findings indicated that legal variables (i.e., offense seriousness and prior record) were significant in predicting decertification. As the seriousness of the offense increased, the likelihood of decertification decreased. Again, serious offenders may be viewed as less amenable to juvenile court treatment, therefore increasing the probability of them being retained in the adult system. In regard to prior record, as the number of prior arrests increased, the likelihood of decertification decreased, suggesting that those with extensive prior records are perceived as not previously benefiting from juvenile court treatment.

Extralegal variables (e.g., age and gender) also were found to be significant in predicting decertification (Singer, 1996). Younger offenders were more likely to be decertified than older offenders. Similar to the research on juvenile transfer, younger offenders may be viewed as amenable to juvenile court treatment, as opposed to older youth who will soon be legal adults. The results also indicated that females were more likely to be decertified than males.

One more recent Pennsylvania study described the characteristics of decertified youth, using data from 1996; however, the determinants of decertification were not assessed while controlling for the effects of other possible explanatory factors (Snyder, Sickmund, & Poe-Yamagata, 2000). The findings, however, weakly suggest that legal and extralegal variables play a role in the decertification decision. Consistent with the findings of Singer (1996), age was associated with decertification (i.e., younger offenders were decertified at a higher percentage than older offenders), along with race (i.e., a higher percentage of Whites were decertified than non-Whites), weapon type (i.e., those using a firearm were decertified at a higher percentage than those using other deadly weapons), and prior record (i.e., those with a shorter prior record were decertified at a higher percentage than those with an extensive prior record). Again, a major limitation of this study is that multivariate analysis was not employed, meaning the suggested relationships may be spurious. Therefore, although much empirical research has examined the predictors of transfer to adult court, mainly through judicial waiver, the lack of research on the predictors of decertification presents a gap in the literature.

Another general limitation in the prior research on juvenile transfer and decertification is that it has generally examined the effect of legal and extralegal factors on the subsequent decision. However, other potential extralegal factors in this particular decision-making

process have yet to be explored, though they may play a role in this decision (e.g., type of attorney representation). As discussed later, prior research does suggest that factors other than those typically examined in transfer and/or decertification research are significant in predicting court outcomes among juvenile offenders.

Juvenile Transfer in Pennsylvania

Prior to 1996 in Pennsylvania, virtually all transfer cases originated from juvenile court (Lemmon, Sontheimer, & Saylor, 1991; Snyder et al., 2000). The only exception was for the charge of murder, which was excluded from the jurisdiction of the juvenile court and automatically sent to adult court, regardless of the youth's age. At this time, judicial waiver was the main mechanism for transfer. For the vast majority of cases, the juvenile court judge had discretion in deciding which cases to waive to criminal court, based on certain specified criteria.

The minimum criteria that had to be met were specified in accordance with the standards set forth in the *Kent v. U.S.* (Lemmon et al., 1991; Snyder et al., 2000). First, the juvenile had to be at least age 14 years when the offense was committed. Second, the crime must have been a felony. Third, a *prima facie* case had to be made, meaning that there was sufficient evidence that the defendant committed the alleged offense. Fourth, the court needed to determine that the youth was not mentally ill. Finally, the youth had to be reasonably viewed as not amenable to treatment in the juvenile justice system. In determining amenability to treatment, many factors could be considered, including age, prior record, criminal sophistication, mental illness, and circumstances surrounding the current offense. In addition, transfer also could occur through the request of the juvenile.

During the mid-1990s, a major change occurred regarding Pennsylvania's handling of juvenile offenders. Similar to other states, Pennsylvania "cracked down" as a result of the dramatic increase in youth violence that spanned almost a decade (Torbet et al., 1996). In doing so, Pennsylvania redefined the purpose of juvenile justice interventions in its Juvenile Act. Prior to 1996, the focus was on a youth's condition, not on the behavior or offense. The court was to focus on treating and rehabilitating offenders because that would be in their best interests.

As a result of this new focus, many changes occurred regarding the handling of juvenile offenders, including the dissemination of fingerprints by law enforcement agencies and public court proceedings for certain felony cases (Torbet et al., 1996). The most controversial and high-profile change came from Act 33, which was state legislation passed that automatically excluded certain violent youthful offenders from the jurisdiction of the juvenile court, resulting in immediate transfer to adult court (Merlo, Benekos, & Cook, 1997; Snyder et al., 2000).

Again, prior to 1996, only youth charged with murder were automatically excluded from juvenile court. Act 33, which went into effect in March 1996, excluded many more offenses (in combination with other criteria) from the category of "delinquent acts." Those committing the specified offenses and meeting certain other criteria essentially bypass the juvenile justice system (because no delinquent act was committed) and are transferred automatically to the adult criminal system (Pennsylvania Juvenile Court Judges' Commission, 1996; Snyder et al., 2000). First, except in the case of murder, the juvenile must be at least age 15

years at the time of the offense. Second, the offender must be charged with a violent crime (i.e., rape, involuntary deviant sexual intercourse, aggravated assault, aggravated indecent assault, robbery, robbery of a motor vehicle, voluntary manslaughter, or kidnapping, or an attempt, conspiracy, or solicitation to commit any of these crimes). Third, the youth must have either used a deadly weapon in the offense, or must have been previously adjudicated for an excluded offense (except the offense of aggravated assault was not included in the repeat offender clause).

Although previously only juveniles charged with murder were automatically transferred, Act 33 statutorily waived many more youth, based largely on the nature of the offense committed. Whereas juvenile court judges once had discretion regarding almost all transfer cases, based to a great extent on the issue of amenability to treatment, the new state law eliminated amenability to treatment as a consideration in sending an offender to adult court. Discretionary judicial waiver is still allowed, however, for cases that fall outside Act 33.

Finally, there is a mechanism in place for offenders who initially are waived under Act 33 to be decertified to juvenile court (Snyder et al., 2000). A juvenile can request a hearing to have the case considered for decertification. The burden is on the juvenile to establish, by a preponderance of the evidence, that decertification will serve the "public interest" (Pennsylvania Juvenile Court Judges' Commission, 1996). In considering this issue, criminal court judges are required to use the same criteria that juvenile court judges utilize in making a judicial waiver decision (e.g., child's culpability, age, maturity, prior record, and amenability to treatment). If the case is decertified, it is then processed in juvenile court. If the case is not decertified, it remains in adult court. Therefore, although Act 33 greatly increases the offenses excluded from juvenile court in Pennsylvania, offenders still have the opportunity to have their cases tried in juvenile court as a result of the decertification process.

Theoretical Foundation

Most of the prior research on juvenile transfer simply identifies the significant predictors of the transfer (or decertification) decision. What is missing from the body of knowledge is tying those findings into criminal justice theory. More specifically, what factors generally affect sentencing outcomes? Although the decertification decision is not the final "sentence" for these violent youth in their court process, criminal court judges essentially are asked to render a sentence on these youthful offenders. Mears and Field (2000) provided clear evidence of the lack of theory in juvenile justice literature, specifically when it pertains to juvenile sanctions in an era of a more "criminalized" view of young offenders.

Dixon (1995) identified a formal legal perspective. According to this theory, legal decision making is believed to be a rational process. The sentences of offenders should be predictable, meaning that regardless of offender demographics (e.g., race, gender, socioeconomic status, etc.), legal factors should be the strongest determinants in the decision. Most juvenile justice literature has found that legal variables (e.g., offense seriousness and prior record) have the strongest effect on subsequent court outcomes, such as predispositional custody (see, e.g., Feld, 1995) and secure placement (see, e.g., DeJong & Jackson, 1998).

According to this perspective, extralegal factors should not play a significant role in sentencing, due to it making the process less predictable and potentially discriminatory. A few studies have found that while controlling for legal variables, factors such as race play a significant role in juvenile court outcomes (see, e.g., Wordes, Bynum, & Corley, 1994). The majority of studies, however, have found that when legal variables are statistically considered, the direct effect of extralegal factors is insignificant (see, e.g., Frazier & Bishop, 1995).

Regarding decertification, it is the decision of the criminal court judge to determine how to "sentence" the offender: either decertify the case to juvenile court or retain the case in adult court. As discussed earlier, Pennsylvania criminal court judges are required to use the same criteria in the decertification decision that juvenile court judges use in the decision to transfer youth to adult court (Pennsylvania Juvenile Court Judges' Commission, 1996). Spohn (2002) noted that when judges determine the sentencing of offenders, the strongest factors considered are the seriousness of the offense and prior record. The rationale is that the laws are written in such a way to punish the serious and repeat offenders, as opposed to the less serious offenders with little or no prior record. The results from the current research, therefore, are expected to be consistent with the formal legal perspective, in that legal variables play the strongest role in the decertification decision.

The purpose of the current study was to identify the significant predictors of juvenile decertification in three Pennsylvania counties: Dauphin (Harrisburg), Allegheny (Pittsburgh), and Philadelphia. Allegheny and Philadelphia Counties are urban areas and Dauphin County is a combination of rural and urban. Specific attention was given to the impact of legal and extralegal factors on the decertification decision.

Method

Sample

Data were employed from the previously mentioned research conducted by Snyder et al. (2000), which utilized the same three research sites as in the current study. The data set originally was built by National Center for Juvenile Justice (NCJJ) researchers, gathering the names of all youth who had preliminary hearings between March 1996 (the date of Act 33's implementation) and December 1996 in three Pennsylvania counties, and who were determined to meet Act 33's criteria for juvenile court exclusion ($N = 473$). These names were identified onsite through the assistance of local court and probation personnel in the respective counties.

After eligible offenders were distinguished, data were gathered on each youth with the assistance of local magistrates, juvenile courts, clerk of courts, and probation offices. The current research not only sought to employ multivariate techniques in identifying the determinants of decertification to juvenile court but also to update the incomplete data set by collecting information that was previously missing, mainly because of many cases being open by the end of the original data collection period. In the current study, additional measures also were included that were not utilized in Snyder et al.'s (2000) research (e.g., type of attorney).

Table 1
Descriptive Statistics for All Variables (N = 345)

Variable	<i>M</i>	<i>SD</i>	Minimum	Maximum
Decertification	0.42	0.50	0.00	1.00
Age	16.71	0.80	15.01	18.00
Gender	0.88	0.32	0.00	1.00
Race	0.87	0.33	0.00	1.00
Prior referral	1.74	2.27	0.00	13.00
Prior violent referral	0.62	1.01	0.00	5.00
Aggravated assault	0.41	0.49	0.00	1.00
Robbery	0.53	0.50	0.00	1.00
Other offenses	0.06	0.24	0.00	1.00
Primary role	0.71	0.46	0.00	1.00
Nonprimary role	0.04	0.20	0.00	1.00
Unknown role	0.25	0.43	0.00	1.00
Firearm	0.55	0.50	0.00	1.00
Nonfirearm	0.28	0.45	0.00	1.00
Unknown weapon	0.18	0.38	0.00	1.00
Public defender	0.46	0.50	0.00	1.00
Allegheny	0.16	0.37	0.00	1.00
Dauphin	0.06	0.24	0.00	1.00
Philadelphia	0.78	0.42	0.00	1.00

After reexamining the original files and “cleaning” the data, it was discovered that numerous youth included in the data set were either younger than age 15 years or older than age 18 years at the time of the offense, meaning they should not be included in subsequent analyses because of the Act 33 statute applying to youth only between ages 15 and 18 years. Second, there were juveniles included twice in the data set, due to having preliminary hearings for two Act 33 offenses in 1996. Third, 78 cases were excluded from the analyses because those cases were dismissed at the preliminary hearing. After eliminating ineligible and second cases, the final sample employed included 345 youth, of which 144 were decertified and 201 remained in the adult system. All of these offenders were Act 33 cases.²

Measures

Table 1 presents descriptive statistics (i.e., means, standard deviations, and ranges) of all the variables employed in the current study, based on the entire group of violent offenders. Table 2 then presents comparative descriptive information, based on the decertification status of the youth.

Dependent variable. The dependent variable of interest was decertification to juvenile court. Initially transferred youth can request a decertification hearing, essentially asking the adult criminal court judge to be reverse waived to juvenile court. As discussed above, the decertification process in Pennsylvania is a one-stage process, where a criminal court judge determines whether or not it would serve the “public interest” for the youth to return

Table 2
Descriptive Statistics by Decertification Status

Variable	<i>M</i>	<i>SD</i>	Minimum	Maximum
Decertified offenders (<i>N</i> = 144)				
Age	16.59	0.82	15.01	17.99
Gender	0.87	0.34	0.00	1.00
Race	0.81	0.39	0.00	1.00
Prior referral	1.19	1.61	0.00	9.00
Prior violent referral	0.47	0.89	0.00	5.00
Aggravated assault	0.40	0.49	0.00	1.00
Robbery	0.54	0.50	0.00	1.00
Other offenses	0.06	0.24	0.00	1.00
Primary role	0.66	0.48	0.00	1.00
Nonprimary role	0.09	0.29	0.00	1.00
Unknown role	0.25	0.44	0.00	1.00
Firearm	0.43	0.50	0.00	1.00
Nonfirearm	0.41	0.49	0.00	1.00
Unknown weapon	0.16	0.37	0.00	1.00
Public defender	0.54	0.50	0.00	1.00
Allegheny	0.22	0.42	0.00	1.00
Dauphin	0.06	0.24	0.00	1.00
Philadelphia	0.72	0.45	0.00	1.00
Nondecertified offenders (<i>N</i> = 201)				
Age	16.80*	0.79	15.13	18.00
Gender	0.89	0.31	0.00	1.00
Race	0.92**	0.28	0.00	1.00
Prior referral	2.13**	2.58	0.00	13.00
Prior violent referral	0.72*	1.07	0.00	4.00
Aggravated assault	0.42	0.50	0.00	1.00
Robbery	0.52	0.50	0.00	1.00
Other offenses	0.06	0.24	0.00	1.00
Primary role	0.74	0.44	0.00	1.00
Nonprimary role	0.01**	0.10	0.00	1.00
Unknown role	0.25	0.43	0.00	1.00
Firearm	0.63**	0.48	0.00	1.00
Nonfirearm	0.18**	0.38	0.00	1.00
Unknown weapon	0.19	0.39	0.00	1.00
Public defender	0.40**	0.49	0.00	1.00
Allegheny	0.11**	0.32	0.00	1.00
Dauphin	0.06	0.24	0.00	1.00
Philadelphia	0.83*	0.38	0.00	1.00

* $p < .05$. ** $p < .01$.

to juvenile court jurisdiction (Pennsylvania Juvenile Court Judges' Commission, 1996). The statute specifies that when deciding whether or not to grant decertification, criminal court judges must consider the *same* factors that juvenile court judges use in the decision to waive youth to adult criminal court (e.g., prior record, maturity, likelihood of successful rehabilitation, etc.).

For the current research, if an offender was in fact decertified, the dependent variable was coded as a 1. Cases that were not decertified were coded as a 0. Overall, 42% of the total 345 offenders were decertified to juvenile court.

A limitation of this data is that it was not possible to identify whether or not youth actually requested a decertification hearing. For instance, cases that were retained in adult court may have been because decertification hearings not being requested by the youth, rather than the criminal court judge denying a decertification request. Also, because it was not possible to include only those cases where the youth requested a decertification hearing, this research likely is assessing the determinants of the decision to file for decertification and the subsequent outcome. Because of this limitation, the results should be interpreted with caution.

Independent variables. The first control variable was age at arrest. Previous literature has found that older youth tend to have a greater likelihood of being transferred to adult court, in comparison to similar youth in juvenile court (Eigen, 1981; Fagan & Deschenes, 1990; Fagan et al., 1987; Kinder et al., 1995; Myers, 2003; Podkopacz & Feld, 1996; Poulos & Orchowsky, 1994). Prior research has also indicated a higher likelihood of decertification for younger youth (Singer, 1996; Snyder et al., 2000). For the current study, age at arrest was measured as a continuous variable, and the average age of the entire group of offenders was 16.71 years. In making comparisons across groups, the average age for decertified youth (16.59) was significantly lower than that of the nondecertified group (16.80, $p < .01$).

Gender also was used as a control variable. When examining court outcomes, research has generally found males experiencing harsher court sanctions than females (see, e.g., Frazier & Bishop, 1995; Minor, Hartmann, & Terry, 1997; Singer, 1996; Wordes et al., 1994). In regard to the current research, males were coded as 1, and females were coded as 0. Of the entire group of youth, 88% were male. The breakdown was similar across the two groups of offenders, with 87% of the decertified youth and 89% of the nondecertified youth being male.

Race also was used as an independent variable in the statistical models. Prior research findings have been mixed when examining the possible effect of race on court outcomes. Some research has found that minorities are more likely to experience harsher court outcomes, as compared to Whites (see, e.g., Feld, 1995; Leonard & Sontheimer, 1995; Minor et al., 1997; Smith & Paternoster, 1990), whereas other research has found that when legal variables are controlled for in the analyses, the direct race effect disappears (see, e.g., Fagan & Deschenes, 1990; Fagan et al., 1987; Poulos & Orchowsky, 1994). For the current study, Whites were coded as 0, while non-Whites were coded as 1. Of the entire cohort of youth, 87% were non-White.³ When looking at each group separately, a significantly larger group of non-Whites were in the nondecertified group (92%) as opposed to the decertified group (81%, $p < .01$).

The number of prior referrals to juvenile court was used as an indicator of general prior offending. The research has been clear and consistent in that the more extensive a youth's prior record, the greater the likelihood of transfer (Barnes & Franz, 1989; Fagan & Deschenes, 1990; Fagan et al., 1987; Kinder et al., 1995; Lee, 1994; Myers, 2003) and the lower the likelihood of decertification (Singer, 1996; Snyder et al., 2000). For the current study, the number of prior referrals to juvenile court was measured continuously, with the

entire cohort of youth previously being referred an average of 1.74 times. In examining each group separately, the nondecertified youth had a significantly higher average number of prior referrals (2.13) than the decertified youth (1.19, $p < .01$).

It was also expected that the number of times youth previously were referred to juvenile court for a violent offense could affect decertification, as prior research indicates that a record of prior violent offending has a significant effect on court outcomes (see, e.g., Myers, 2001). For the current study, a prior violent offense included murder, nonnegligent manslaughter, negligent homicide, manslaughter, criminal homicide, forcible rape other violent sex offenses, sodomy, robbery, aggravated assault, and kidnapping. Of the entire group of offenders, the mean number of prior referrals for a violent offense was .62. However, the average number of prior referrals for violent offenses for the nondecertified youth (.72) was significantly higher than the average for the decertified youth (.47, $p < .05$).

With regard to the current study, it was not possible to examine a direct measure of offense severity using only the offense the youth was charged with because of Act 33 targeting violent felony offenses. In general, it is difficult to claim that one violent felony offense is more (or less) serious than another violent felony offense. Furthermore, in Pennsylvania in 1996, most Act 33 youth (approximately 95%) were charged with either aggravated assault or robbery. Therefore, offense was measured as three dichotomous variables: aggravated assault, robbery, and other offenses, with aggravated assault being used as the reference group in subsequent multivariate analyses. For the entire sample, 41% were charged with aggravated assault, 53% were charged with robbery, and 6% were charged with other violent offenses. When examining offenders based on decertification status, there were no significant differences in offenses across the two groups, as 40% of the decertified youth were charged with aggravated assault (42% of the nondecertified youth), 54% of the decertified youth were charged with robbery (52% of the nondecertified youth), and 6% of the decertified and nondecertified youth were charged with other violent offenses.

The type of weapon used during the commission of the crime also has been shown to affect the decision to transfer a youth to adult court (Myers, 2003; Sridharan et al., 2004). The use of a firearm also can be used as an indicator of offense severity, as compared to other weapons used in a crime. Unfortunately, due to limitations in the data, it was not possible to determine the type of weapon used for approximately 18% of the offenders ($n = 61$). Therefore, the "unknown" category was used as its own separate group, resulting in three dichotomous weapons variables being developed: firearm, nonfirearm, and unknown weapon, with the firearm category being used as the reference group in subsequent multivariate analyses.

Of the entire sample, 55% used a firearm, 28% used other deadly weapons (e.g., bats, knives, etc.), and 18% were unknown. It was further found that a significantly lower percentage of youth using a firearm existed in the decertified group (43%), as compared to the percentage of youth who were in the nondecertified group (63%, $p < .01$). In regard to those using other deadly weapons (i.e., nonfirearm), a significantly higher percentage of decertified youth used other deadly weapons (41%), as compared to the nondecertified group (18%, $p < .01$). Finally, there was no significant difference between decertified and nondecertified offenders with regard to the "unknown" weapon variable.

A neglected area of research when examining court outcome data has been the potential effect of the role a youth played in the offense. It is possible that judges in juvenile and adult court may hold offenders more accountable if they played a central role in the offense, as

compared to those offenders who did not play as big a part (see, Spohn, 2002, for a fuller discussion). In the current research, this potential relationship was explored. Similar to the “weapon” variable, limitations in the data resulted in 25% ($n = 86$) of the values for this variable to be missing. Therefore, this variable was treated similarly to the firearm variable, resulting in three dichotomous “role” variables: primary role, nonprimary role, and role unknown, with the primary role category serving as the reference group in the multivariate analyses.

Of the entire group of offenders, 71% played a primary role in the offense, 4% played a nonprimary role, and 25% were unknown. A significant difference emerged when examining the nonprimary group, based on decertification status. Nine percent of the decertified group played a nonprimary role in the offense, whereas only 1% of the nondecertified youth played a nonprimary role in the offense ($p < .01$), suggesting that those who do not play a primary role in offenses are more likely to get decertified to juvenile court. There were no significant differences across the other two variables, with 66% of the decertified youth playing a primary role (74% of the nondecertified youth), and 25% of the decertified and nondecertified youth being unknown.

Another variable that tended to be neglected in past juvenile transfer research is the potential effect of attorney type. Certain types of defense attorneys may be more experienced in certain types of cases, which undoubtedly influences the effectiveness of their representation for their clients. For instance, conversations with the public defender’s office in one county revealed a belief that the public defenders in this county are better able to handle Act 33 cases than most private attorneys because of their juvenile division that specializes in juvenile cases (i.e., private attorneys, in comparison, take cases that cover a wider variety of areas).

Nevertheless, although attorney type largely has been ignored in juvenile transfer research, the effect of type of attorney on juvenile court outcomes has been examined in several studies. Most prior studies that examine the impact of attorney on court outcomes simply compare youth, based on whether or not they were legally represented (see, e.g., Burruss & Kempf-Leonard, 2002; Langley, 1972). However, a limited number of studies compare juvenile court outcomes, based on the type of representation (i.e., public defender or private attorney). The general results of this research are mixed. Some research suggests that youth represented by a public defender were more likely to have their case dismissed and less likely to be sentenced to secure confinement (see, e.g., Guevara, Spohn, & Herz, 2004), whereas other research indicates that youth using private attorneys were less likely to be sentenced to secure confinement than youth who used a public defender (Feld, 1993).

For the current study, attorney type was measured as whether or not the offender’s attorney was a public defender.⁴ In examining all the youth, 46% used a public defender. There was a statistically significant difference between the two groups in attorney-type, with 54% of the decertified youth and 40% of the nondecertified youth having used a public defender ($p < .01$). In other words, a significantly higher percentage of youth using a public defender were among those decertified, as compared to those who were not decertified.

Finally, the county of the offender also was used as a control variable in the analyses. Prior research has found that the type of county (i.e., rural, suburban, or urban) has an impact on certain court outcomes (Myers, 2001). The current study, therefore, dichotomized each county into its own separate variable. Of the entire cohort of youthful offenders, 16% were

from Allegheny County, 6% were from Dauphin County, and 78% were from Philadelphia. A statistically significant result emerged, as a higher percentage of youth from Allegheny County were in the decertified group (22%), as compared to the nondecertified group (11%, $p < .01$). In addition, a significantly higher percentage of youth from Philadelphia were in the nondecertified group (83%) than in the decertified group (72%, $p < .05$). Finally, there was no significant difference between youth from Dauphin County in terms of decertification.

Results

Due to the dependent variable (decertification) being measured as a dichotomy, logistic regression was chosen as the appropriate method of estimation for the multivariate analyses (Menard, 2002).

Offense Seriousness

Based on prior research and the formal legal perspective, it would be expected that as offense seriousness increases, the likelihood of decertification decreases. It must be remembered that Pennsylvania's Act 33 statute targets violent felony offenses, so it was difficult to rank order the offenses by severity. Therefore, as mentioned earlier, the offenses were coded as three dichotomous variables: aggravated assault (the reference group), robbery, and other offenses. Weapon type also was used as another indicator of offense seriousness, as a firearm being utilized during the commission of a crime may be viewed as a more serious offense than one in which another weapon was employed. In addition, the role of the offender also may be seen as an indicator of offense seriousness, as a youth who played a primary role in the offense may be viewed more seriously by the court than one who did not play a primary role.

As shown in Table 3, those charged with robbery were significantly more likely to be decertified, as compared to those charged with aggravated assault ($b = .67$, $p < .05$), while controlling for other factors. The exponentiated coefficient indicates that the simple odds of decertification for those charged with robbery are 95% higher than the simple odds for those charged with aggravated assault. However, the coefficient for "other" violent offenses did not reach the level of statistical significance, although it was in the same direction as the robbery coefficient. The logistic regression results suggest, then, that offenders charged with aggravated assault were the least likely to be decertified to juvenile court.

When examining the effect of weapon on decertification, another significant effect emerged. The significant positive coefficient for nonfirearm confirms that while controlling for other explanatory factors, those who used a nonfirearm were more likely to be decertified than those who used a gun ($b = 1.48$, $p < .01$). Put differently, the adult court was more likely to retain those who used a firearm. In fact, the exponentiated coefficient suggests that while controlling for other explanatory factors, the simple odds of nonfirearm users being decertified are more than 4 times higher than the simple odds of firearm users being decertified. The coefficient for "unknown weapon," however, was weak and insignificant in the full model, suggesting these offenders were viewed more like gun offenders than nongun offenders.

Finally, the role of the offender also was significant in predicting decertification. In examining the logistic model, those who played a nonprimary role were significantly more likely

Table 3
Logistic Regression Estimates for the Determinants of Decertification ($n = 345$)

Variable	<i>b</i>	<i>SE</i>	Wald	Exp(<i>b</i>)
Age	-0.242	0.153	2.503	0.785
Gender	0.198	0.403	0.243	1.219
Race	-0.107	0.417	0.066	0.898
Prior referrals	-0.285	0.098	8.547**	0.752
Prior violent referrals	0.112	0.195	0.330	1.119
Robbery	0.668	0.301	4.925*	1.951
Other offenses	0.832	0.533	2.440	2.298
Nonprimary role	1.800	0.859	4.389*	6.051
Unknown role	0.691	0.450	2.356	1.995
Nonfirearm	1.484	0.364	16.614**	4.409
Unknown firearm	-0.334	0.509	0.429	0.716
Public defender	0.766	0.251	9.350**	2.152
Dauphin	-0.171	0.597	0.082	0.843
Philadelphia	-0.313	0.415	0.570	0.731
Constant	2.894	2.657	1.187	18.074
-2 log-likelihood	398.319			
Model chi-square	70.492**			
Cox & Snell R^2	0.185			
Nagelkerke R^2	0.249			

* $p < .05$. ** $p < .01$.

to be decertified, as compared to those who played a primary role ($b = 1.80$, $p < .05$). Again, stated differently, the adult court was more likely to retain those who played a primary role. Furthermore, the exponentiated coefficient indicates that the simple odds of decertification for nonprimary role offenders were slightly more than 6 times higher than for those who played a primary role in the offense. In addition, the coefficient for “unknown role” was weak and insignificant, suggesting those offenders were viewed more like primary offenders than nonprimary offenders.

Prior Record

The current research examined total prior referrals to juvenile court and the number of prior referrals for violent offenses. However, only prior referrals remained significant when controlling for other factors ($b = -.29$, $p < .01$). As the number of prior referrals increased, the likelihood of decertification decreased. The exponentiated coefficient suggests that as prior referrals increase by one, the simple odds of decertification decrease by approximately 25%. In general, having a greater number of prior referrals significantly decreases the likelihood of decertification, regardless of whether these referrals were for violent offenses.

Extralegal Factors

The only extralegal factor that was significant in the statistical model was type of attorney. When accounting for other factors, the effect reached statistical significance. Those

who used a public defender were more likely to be decertified than those who did not use a public defender ($b = .77, p < .01$). Furthermore, the exponentiated coefficient suggests that the simple odds of decertification for those who used a public defender were more than 2 times higher than the simple odds for those who did not use a public defender.

The pseudo R^2 in Table 3 indicate that the model explains between 18.5% and 24.9% of the “variance” in decertification, strongly suggesting that there are other unmeasured factors that affect this outcome.

Discussion and Conclusions

The findings from this research generally are consistent with the formal legal perspective (Dixon, 1995), in that legal variables are the leading determinants in the “sentencing” decision. Again, because our society believes that sentences should be predictable and nondiscriminatory, it is logical for offense seriousness and prior record to play a strong role in sentences. However, as discussed below, legal variables were not the only factors significantly affecting decertification.

In the decertification models, several factors were found to have a significant effect on the decision to send an initially waived case back to juvenile court. First, the more prior referrals a youth possessed, the lower was the likelihood of decertification. In addition, offense seriousness seemed important, as youth who played a nonprimary role and those who did not use a firearm were more likely to be decertified than offenders who played a primary role or used a firearm. These findings are somewhat contrary to early transfer studies, many of which were descriptive in nature and found property offenders to constitute a majority of waived youth (Bishop & Frazier, 1991; Bishop, Frazier, & Henretta, 1989; Bortner, 1986; Champion 1989; Eigen, 1981; Gillespie & Norman, 1984; Lee, 1994). It should be noted that these earlier research studies mainly included youth who were judicially waived to criminal court, and the data utilized mostly took place prior to the contemporary laws that were put in place to target violent youthful offenders. The results are more consistent, though, with the limited research that previously examined the characteristics of decertified juveniles (Singer, 1996; Snyder et al., 2000) and more recent transfer studies that focused on serious and violent offenders (Clarke, 1996; Clement, 1997; Fagan & Deschenes, 1990; Fagan et al., 1987; Fritsch et al., 1996; Houghtalin & Mays, 1991; Kinder et al., 1995; Myers, 2003; Podkopacz & Feld, 1996; Poulos & Orchowsky, 1994), in that offense seriousness and prior record are the strongest predictors in the judge’s decision either to decertify youth to juvenile court or to transfer youth to adult court.

In the current research, legal variables (e.g., offense seriousness and prior record) were the strongest predictors of decertification. One possible reason for these findings is that youth who used a firearm or had a greater prior record could be viewed as being no longer amenable to juvenile court treatment. In general, if judges perceive youth cannot benefit from being returned to juvenile court, they appear less likely to decertify those cases and end up keeping them in adult court. In this sense, Pennsylvania’s Act 33 statute is achieving its goal of processing the more serious and violent youthful offenders in adult court.

A second reason could be that the more serious offenders (especially those who used a firearm) may be viewed a threat to the public. As discussed earlier, for a case to be decertified,

the youth must convince the criminal court judge that it will serve the public interest to be returned to juvenile court. Youth who committed more serious offenses, used a firearm, and have an extensive prior record may be viewed as more dangerous to the public, meaning it would not serve the public interest for decertification to occur. Theoretically, the formal legal perspective suggests that legal criteria in decision making applies equally across offender characteristics (e.g., race and gender), which explains why *most* of the extralegal factors were statistically insignificant when legal variables were controlled for in the analyses.

In examining the extralegal factors, results indicate that while controlling for legal variables, attorney type was significant in the model. Youth who used a public defender were more likely to be decertified than those who did not use a public defender (i.e., they used either a private or court-appointed attorney), which is consistent with some prior research (see, e.g., Guevara et al., 2004), but not others (Feld, 1993). One explanation for this finding was discussed earlier, whereas conversations with a public defender in one county expressed that his office was better equipped to handle decertification because of his office having a small group of public defenders who specialize in juvenile cases, including those transferred under Pennsylvania's Act 33 statute. He also expressed that public defenders are knowledgeable about the juvenile laws and have good relationships with the prosecutors and criminal court judges, both of which increase the likelihood of decertification for these youth, as opposed to private and court-appointed attorneys who are not at this "advantage."

A second explanation for this finding may be that public defenders are filing more petitions for decertifications, as opposed to private and court-appointed attorneys. This practice, therefore, may increase the likelihood of decertification for these violent youth, not because of the skill of the attorney but simply because they are filing more decertification petitions. Unfortunately, due to the current research not being able to examine only youth who requested a decertification hearing, this interpretation is left to speculation. However, consistent with the first explanation, Guevara et al. (2004) suggested that youth who use public defenders may be at an advantage in juvenile court because of public defenders being part of the regular courtroom workgroup and nonpublic defenders being seen as "outsiders." Therefore, public defenders may be in a better position to predict certain actions of the court because of their informal relationships with prosecutors and judges.

On the other hand, another important point to consider is that Act 33 was implemented in part to reduce the discretion of juvenile court judges in deciding which cases to transfer to adult court. Juvenile court judges generally considered a wide variety of factors in previously making this decision in violent offender cases (e.g., age, prior record, offense seriousness, and amenability to treatment). Act 33 was intended to remove a great deal of this discretion, meaning age and offense, alone, determine which cases automatically were transferred to adult court. However, as a result of the decertification process, criminal court judges are required by law to exercise the same discretion in the decertification decision that was used by juvenile court judges in the past to make the transfer decision. Moreover, the unexplained variation in the quantitative decertification models suggests the influence of factors beyond those included in the models, which is somewhat contradictory to the purpose of Act 33 and the formal legal perspective.

Another issue to consider is that most of the prior research in this area examined the predictors of juvenile transfer via judicial waiver. In other words, the juvenile court was the original court of jurisdiction, and the factors that affect juvenile court judges in transferring

cases were assessed. As mentioned earlier, offense seriousness and prior record were the strongest predictors of whether or not a juvenile judge transferred a case to adult court, meaning the less serious and frequent offenders were retained in juvenile court. The current study found that more serious and frequent offenders were tried and sentenced in adult court, whereas less serious offenders with lower prior records were more likely to be decertified to juvenile court. This suggests that the cases that currently are being denied decertification (i.e., retained in adult court) are similar to those cases that were being judicially waived to adult court prior to Act 33.

Readers should not interpret the findings from this research to mean that Pennsylvania's Act 33 statute should be repealed. The quantitative results suggest the factors that predict decertification under Act 33 are the same factors that predict transfer under judicial waiver. If juvenile and criminal court judges consider the same factors under both systems of transfer, it seems to make more sense for cases to originate in juvenile court, where greater knowledge of the offender exists, cases can be processed more quickly, and there is a shorter time to punishment and treatment, while still preserving the ability to judicially waive the relatively small number of "most deserving" cases to adult court.

However, an argument also could be made that the decertification provision should not be included in Act 33. The statute was passed to exclude violent youth from juvenile court jurisdiction, process their cases in the adult system, and ensure greater offender accountability. Therefore, the decertification process appears to be an inherent contradiction to what the statute was trying to accomplish, in the sense that it allows for these youth to get reverse waived to juvenile court. The findings from this research, then, can mean that because the same factors appear to be predictors of the decertification decision for criminal court judges and the transfer decision for juvenile court judges, criminal court judges are utilizing the discretion that Act 33 was meant to eliminate among juvenile court judges. It can then be argued that for Act 33 to accomplish its goal of offender accountability, decertification should not be utilized. Nevertheless, due to the limitations of this research, no firm conclusions can be made regarding Pennsylvania's Act 33 statute or its decertification provision.

Limitations and Directions for Future Research

First, the current research was not able to examine only those youth who requested a decertification hearing, meaning that the dependent variable actually may be measuring the decision to request a decertification hearing *and* the subsequent outcome. For instance, the results also could be interpreted to mean that those who may have committed a more serious offense with an extensive prior record are less likely to petition the criminal court for decertification, due to a low likelihood of success. Conversely, the less serious offenders with little or no prior record may actually file more petitions, which likely will result in a successful decertification. Put differently, these significant factors actually may be identifying the decision of the youth to request a hearing, instead of the judge's decision. Again, because of this limitation, the results should be interpreted with caution. Therefore, future research should study youth who requested a hearing only, allowing for firmer conclusions to be made regarding the determinants of the judges' decision.

Second, due to the low explanatory power of the statistical models, unmeasured explanatory factors (e.g., victim injury, offender demeanor, and cooperation with authorities) should be explored, statistically controlled, and further assessed, allowing for greater understanding and stronger conclusions to be made about the variables that predict juvenile decertification. Future quantitative and qualitative research should focus on determining the impact of these unmeasured factors.

Finally, future studies on juvenile transfer (and decertification) should ground the results in criminal justice theory. As pointed out by Mears and Field (2000), theories of sentencing is used frequently when examining adult sanctions but almost nonexistent when examining the sentencing of juveniles. In determining the sentence of offenders, judges use a variety of factors (see, e.g., Spohn, 2002); however, what is now needed is some theoretical guidance to unify the literature on these outcomes for juvenile offenders.

Notes

1. This type of transfer to adult court typically is referred to as *legislative waiver* (or statutory exclusion). However, state legislators determine the criteria by which youth can be transferred to adult court, regardless of whether the transfer occurs via judicial, prosecutorial, or legislative waiver. This is because of each state's legislative branch determining which cases come under its respective juvenile court's jurisdiction. In essence, legislative waiver can be loosely interpreted to encompass all three transfer mechanisms because state legislators determine how juvenile cases can result in waiver to adult court. For this reason, the term *offense exclusion* is utilized to indicate the type of cases (specifically in PA) where certain offenses are automatically excluded from juvenile court, meaning the case originates in adult criminal court.

2. All of the cases utilized for this research were Act 33 cases. The court of original jurisdiction in these cases was the adult system. None of the cases were waived to adult court by a Pennsylvania juvenile court judge. When youth have been formally charged with an Act 33 offense (along with the other criteria mentioned earlier), they are automatically in the adult system. The juvenile court does not have the legal authority to transfer Act 33 "juveniles" because the youth completely bypassed the juvenile justice system and went to adult court. In addition, these youth being Act 33 cases was verified at each research site, through examination of case files, court records, probation files, etc.

3. Although 87% of the offenders in the data set were non-White, they also were predominantly African American (more than 90% of the non-Whites were African American).

4. Two separate issues were considered at this stage. First, the original coding of the variable included public defenders, private attorneys, and court-appointed attorneys. However, statistical tests revealed no significant differences between private and court-appointed attorneys in decertification. In addition, court-appointed attorneys are private attorneys who are hired by the court to take cases. Therefore, private and court appointed attorneys were combined into a nonpublic defender group.

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