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The Decision to Incarcerate in Juvenile and Criminal Courts

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Despite a recent proliferation of laws transferring adolescents from juvenile court to criminal court, no research examines whether these transfer policies subject adolescents to a different set of evaluative criteria in criminal courts than in juvenile courts. Prior literature and political rhetoric suggest that a criminal justice model of offense-based evaluative criteria would apply in the criminal court, in contrast to an offender-based juvenile justice model. Yet this hypothesis remains untested by prior research. In response, this article tests whether legal and case-processing factors have a relatively greater influence in criminal than in juvenile court, as the literature and political rhetoric would predict. To do so, the author uses comparable samples of cases, matched by age and offense, from two adjacent jurisdictions with different thresholds for criminal court eligibility. By finding no differences among factors predicting sentencing across the two legal forums, the results challenge widely held assumptions about the distinctions between juvenile and criminal courts.

Keywords: *transfer; sentencing; juvenile justice*

The prosecution of adolescent offenders in criminal (adult) courts is an increasingly common phenomenon. 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 (Dawson, 2000; Feld, 2000; Snyder & Sickmund, 1999; Zimring, 1998). This proliferation of laws transferring jurisdiction from juvenile to criminal court—known as transfer policies—fits within a larger crime control movement of being “tough on crime,” and tough on juvenile crime in particular (Bortner, Zatz, & Hawkins, 2000; Feld, 1999; Mears, 2001).

By implementing transfer policies, policy makers seek to impose greater punishment for adolescents who commit serious offenses (Zimring, 1998) and who are deemed unworthy of the protections provided by juvenile court (Singer, 1996). 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 (see DiFrancesco, 1980; Regnery, 1986). In addition to increased punishments in criminal court, transfer policies also seek to subject

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adolescents to different evaluative criteria than typically found in juvenile courts. Prior scholars and policy makers often take for granted that the transfer process results in the imposition of an ideal-typical “criminal justice” model, in which offenders are punished proportionally to their offenses, rather than an ideal-typical “juvenile justice” model, in which adolescents are judged and treated according to their individually assessed rehabilitative needs (see Feld, 1999; Zimring, 1998). In the following sections I discuss these two theoretical models and how one might expect them to result in differences across juvenile and criminal courts.

Despite the assumed distinction between the models of justice reflected by criminal courts and juvenile courts, the actual practices of juvenile and criminal courts prosecuting adolescents may not be entirely distinct. Courtroom workgroups often are not able to dispose with traditional concerns and norms of justice following the introduction of laws that contradict them. For example, by studying the implementation of sentencing guidelines in the federal court system and in Minnesota, Joachim Savelsberg (1992) demonstrated how efforts to formalize sentencing through neoclassical sentencing guidelines are impeded by structural and cultural factors, such as norms guiding court decision making (see also Ulmer & Kramer, 1996). Other scholars as well find that formal policies are “filtered” through and adapted by local legal communities (Dixon, 1995; Eisenstein, Flemming, & Nardulli, 1988; Ulmer, 1997; Ulmer & Kramer, 1998) or subverted to the organizational efficiency needs of courtroom actors (Engen & Steen, 2000). Hence, it is possible that the distinctions between juvenile and criminal courts are mitigated by courtroom workgroups that filter and adapt transfer policies to reproduce a juvenile justice model in the criminal court (Kupchik, 2003; Singer, Fagan, & Liberman, 2000).

In this article, I consider the actual distinctions between juvenile and criminal courts prosecuting adolescents, first by comparing punishments across these two court types, and then by asking whether offense severity, prior record, and case-processing factors (e.g., prior bench warrants, pretrial detention) are more influential in criminal court than juvenile court. If in fact juvenile and criminal courts operate according to different models of justice—with a criminal justice model operating in criminal court and a juvenile justice model in juvenile court—then I will find a significant difference in both the punishments and the factors that predict sentencing decisions across court types, with offense severity, prior record, and case-processing factors having a larger influence in criminal than juvenile court. However, it is also possible that courtroom workgroup members “filter” transfer policies to take youthfulness into account when sentencing adolescents and to use similar sentencing criteria as in juvenile court. Such a result would be consistent with prior research showing that criminal court decision makers do take age into account in sentencing, often by allocating less severe sentences to young adults than older offenders¹ (Steffensmeier & Demuth, 2000; Steffensmeier, Ulmer, & Kramer, 1998). If it is indeed true that courtroom workgroup members “filter” transfer policies, then I will find no difference among factors predicting sentencing decision making across court types. To make these comparisons, I analyze data collected via a natural experimental design (see Fagan, 1990), with comparable samples of 16-year-old offenders prosecuted in both types of courts in two adjacent states (New York and New Jersey).

Comparing sentencing decision making across juvenile and criminal courts is important for both development of theory and an understanding of juvenile justice policy. Its primary theoretical contribution is to test whether a conceptual distinction between sentencing in juvenile

and criminal courts exists. Prior literature and policy makers who argue on behalf of transfer policies (e.g., DiFrancesco, 1980; National District Attorneys Association, 2000) assume that such a distinction exists between a juvenile justice model and a criminal justice model. Finding that sentencing decision making is guided by different factors in juvenile and criminal courts would support the assumptions of difference made by prior researchers and policy makers; yet finding that this theoretical contrast does not apply here would suggest that accepted understandings of the difference between these two court types need to be revised.

In addition, this research evaluates the relationship between the legal status of adolescents and the models of justice used to punish them across legal forums. Finding that adolescents are judged similarly in juvenile and criminal courts could lead to further questioning of the resilience of conceptions of youthfulness and adolescent culpability; finding that adolescents are subjected to different evaluative criteria in the two court types could lead to a better understanding of the effect of legal rules (transfer policies) on the actual sentencing rationales used by court actors. Thus, this article is a beginning to the understanding of how notions of adolescence and statutory guidelines intersect when adolescents are punished as adults. From a policy perspective, this article offers a much needed examination of the actual impact transfer policies have on sentencing criteria, rather than just comparing sentencing outcomes across court types.

Prior Research on Transfer Outcomes

A great deal of discussion of the relative merits of juvenile and criminal courts as forums for prosecuting adolescents has followed the recent proliferation of transfer policies (see Bishop & Frazier, 2000; Myers, 2001). Several studies compare the outcomes of prosecuting adolescents in these two types of courts (for a review, see Myers, 2001), yet few compare the factors that shape these outcomes. Instead, these studies focus on rates of recidivism among adolescents prosecuted in each type of court (Bishop, Frazier, Lanza-Kaduce, & Winner, 1996; Fagan, 1995, 1996; Myers, 2001; Winner, Lanza-Kaduce, Bishop, & Frazier, 1997), or on conviction and sentencing rates (Brown & Langan, 1998; Eigen, 1981; Fagan, Forst, & Vivona, 1987; Greenwood, Petersilia, & Zimring, 1980; Kinder, Veneziano, Fichter, & Azuma, 1995; Osburn & Rode, 1984; Poulos & Orchowsky, 1994), rather than comparing the factors that predict decision making across court types.

These prior comparative studies show equivocal results. Whereas some studies find that juveniles prosecuted in criminal courts are either more likely to be convicted, more likely to be incarcerated, or more likely to receive a longer prison term than juveniles prosecuted in juvenile court (Eigen, 1981; Fagan, 1996; Fritsch, Caeti, & Hemmens, 1996; Houghtalin & Mays, 1991; Rudman, Hartstone, Fagan, & Moore, 1986), others find that juveniles prosecuted in criminal courts actually may be treated more leniently at the adjudication or sentencing stages² (Feld, 1987; Greenwood, Abrahamese, & Zimring, 1984; Kinder et al., 1995). The majority of research and the most recent studies, however, find that youth who are transferred to criminal court are more likely to be convicted and incarcerated than non-transferred youth. Though it is possible that judges in some criminal court jurisdictions accustomed to older offenders may take pity on transferred youth, it appears that in most jurisdictions, transfer does indeed lead to more severe sanctions than in juvenile court (Kupchik, Fagan, & Liberman, 2003).

Other scholars focus on recent juvenile justice legislation that seeks to “criminalize” the juvenile court and conclude that juvenile and criminal courts are converging in practice. Using as evidence legislation designed to achieve three tasks—to punish juvenile offenders more severely in juvenile court, to transfer increasing numbers of offenders from juvenile to criminal courts, and to reduce the role of discretion within juvenile court by replacing it with standardized decision-making criteria such as fixed sentencing guidelines—some scholars conclude that juvenile courts now act more like criminal courts (compared to juvenile courts 40 years ago) regarding how youthful defendants are prosecuted and how court decisions are made (e.g., Bazemore & Umbreit, 1995; Butts & Mitchell, 2000; Dawson, 1990; Feld, 1987, 1998, 1999; Fritsch et al., 1996). However, these conclusions and judgments are reached in the absence of comparative research seeking to determine how decision making in these two forums varies.

Thus, although many previous studies compare court outcomes across court types, they largely neglect to examine whether the different court environments shape the decision making that occurs in each type of court or if different factors influence decision making between these two types of courts (see Mears, 1998; Mears & Field, 2000). Moreover, methodological limitations—specifically the difficulty of matching comparable cases across juvenile and criminal courts—handicap much of this body of research (see Fagan, 1996; Kupchik et al., 2003). If it is true that more serious cases are more likely to be prosecuted in criminal court, then suitable comparisons across courts within a single jurisdiction would be difficult and research results would be biased.

Models of Justice

Although research comparing factors that shape sentencing in juvenile and criminal courts is sparse, many scholars who discuss these two forums for prosecuting adolescents assume a disparity between the sentencing practices in each (see Fagan, 1996; Howell, 1996; Zimring, 2000). According to Mears and Field (2000), “Juvenile and adult courts frequently are characterized as representing rehabilitative and punitive orientations, respectively” (p. 1009). The assumed differences between the two court types correspond to policy makers’ explicitly stated goal to expose adolescents to the offense-based criminal justice decision-making criteria of criminal courts, relative to an offender-based juvenile justice orientation of juvenile courts. Thus, these two theoretical models of justice offer a theoretical understanding of how the two types of courts might (and are assumed to) vary.

Criminal Justice Model

Relative to juvenile courts, criminal courts often are considered to reflect a criminal justice model. Sentencing in criminal courts is thought to be more punitive than in juvenile courts, with greater reliance on imprisonment and less use of intermediate sanctions such as probation than in juvenile courts. And though almost all criminal court sentencing is discretionary to some extent, criminal court actors often take into account fewer social and substantive factors than juvenile court actors, instead restricting their evaluations to considerations of offense severity and prior offending history (Feld, 1999). For example, the statutes guiding the incarceration decision in New York’s criminal courts prescribe a range of sentence lengths that depend only on offense severity and prior offending history. For

adolescents in the criminal courts, judges may only depart from the sentencing ranges if they reclassify the offender as a “Youthful Offender,” a distinct dispositional category that is not considered an official conviction; but for this reclassification to proceed, the offender must not have any previous convictions for any of a list of designated felony offenses (New York Penal Law 70.05; Warner, 2000). Thus, judges retain some sentencing discretion, but only within a structured system that is guided by consideration of prior offending history and offense severity.

To better understand how the New York criminal court statutes reflect a criminal justice model, one can compare this court to the New York family (juvenile) court. Statutes guiding New York family court sentencing for the same offense categories are very different. A family court judge is required by statute to consider the following factors in deciding whether to impose a custodial sentence:

1. the needs and best interests of the respondent (defendant);
2. the record and background of the respondent, including but not limited to information disclosed in the probation investigation and diagnostic assessment;
3. the nature and circumstances of the offense, including whether any injury was inflicted by the respondent or another participant;
4. the need for protection of the community; and
5. the age and physical condition of the victim. (New York Family Court Act 353.5)

This mandate for family court judges to consider social and background information (and the absence of such a mandate for criminal court judges) demonstrates that in New York, the criminal court sentencing statutes are more focused on offense severity and prior record than are family court sentencing statutes.

This concern with offense-based decision making is an important (though not exclusive) feature of criminal courts (e.g., Savelsberg, 1992). Recent nationwide trends of reducing discretion in sentencing, such as determinate sentencing (Dixon, 1995; Tonry, 1996; Ulmer, 1997), “truth in sentencing” laws, and emphases on just deserts (von Hirsch, 1976), are examples of attempts to increase the influence of offense severity and proportionality on criminal court sentencing (Savelsberg, 1992; Ulmer & Kramer, 1996). Policy makers often intend for these reforms to restrict the influence of substantive factors such as race or class on sentencing by mandating that only prior record and offense severity determine sentences (Tonry, 1996; von Hirsch, 1976).

Moreover, when enacting transfer policies, policy makers explicitly endorse the goal of subjecting adolescents to relatively more severe punishment and offense-based evaluative criteria in the criminal court than in the juvenile court. For example, according to the National District Attorneys Association (2000), transfer to the criminal court is necessary because

the traditional role of the 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. (p. 7)

In its *Resource Manual and Policy Positions on Juvenile Crime Issues*, this association argues that transferring youth to the criminal court will subject what it calls “a new breed of delinquents” to a more severe sentencing framework relative to the juvenile court (see

also DiFrancesco, 1980; Singer, 1996; Wilson, 2000). Using phrases such as “old enough to do the crime, old enough to do the time,” policy makers create transfer policies with the stated goal of subjecting violent and chronic adolescent offenders to different evaluative criteria than in the juvenile court.

Juvenile Justice Model

In contrast to criminal justice, a juvenile justice model suggests that offenders receive relatively lenient sentences that seek to preserve offenders' future life chances, such as probation as an alternative to incarceration. A juvenile justice model also suggests that youth are judged with a wide variety of “extralegal” criteria in mind, in an attempt to take the offender's mental development, amenability to treatment, and future welfare into account (see Horwitz & Wasserman, 1980). By this model, one would expect adolescents punished in juvenile courts to be evaluated with a wider array of criteria in mind than the evaluative criteria of criminal courts.

Progressive Era reformers created the juvenile justice system at the turn of the 20th century to create a more individualized and rehabilitative system of judging adolescents than the criminal court allowed. Faced with the modern belief that children are different from adults and would benefit from disparate intervention strategies, treatments, and punishments than would adults, Progressive Era reformers created a new court system for juveniles that encouraged individualized, subjective decision making aimed at rehabilitation, rather than the formal offense orientation of criminal courts. Eclipsed by this concern for the individual needs of the child, the particulars of the offense as well as concerns about retribution became less important in juvenile courts relative to criminal courts (see Bernard, 1992; Rothman, 1980; Ryerson, 1978).³

Many believe that this legacy continues and that current juvenile court actors take into account social and substantive factors more so than criminal court actors (see Bortner, 1982; Cavender & Knepper, 1992; Cullen, Golden, & Cullen, 1983; Emerson, 1969; Giardino, 1997; Gottfredson, 1999; Grisso, Tomkins, & Casey, 1988; Horwitz & Wasserman, 1980; Martin, 1992; Parker, Casbarn, & Turnbull, 1981; Sanborn, 1994). For example, according to Franklin Zimring (2000), “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” (p. 210). In other words, because they are more likely to consider defendants' future life opportunities, juvenile courts could be considered more reliant on juvenile justice than criminal courts.

The present-day New Jersey juvenile court is a good example of a contemporary juvenile justice model. The New Jersey juvenile court focuses on individualized rehabilitation rather than systematic punishment. Offenses, of course, still matter in this juvenile court, yet state law requires the court to consider a wide range of factors regarding the welfare of individual offenders. Of the five sections of the New Jersey juvenile court's stated purpose, the first reads as follows:

to preserve the unity of the family whenever possible and to provide for the care, protection, and wholesome mental and physical development of juveniles coming within the provision of this act. (New Jersey Code of Criminal Justice 2002 §2A:4A-21).

Moreover, sentencing in the New Jersey juvenile courts reflects several tenets of a juvenile justice model. The following is the list of factors to be considered in sentencing adolescents—note that following the first two criteria, all the rest are focused on the defendant's social background, development, and well-being:

1. The nature and circumstances of the offense;
2. The degree of injury to persons or damage to property caused by the juvenile's offense;
3. The juvenile's age, previous record, prior social service received and out-of-home placement history;
4. Whether the disposition supports family strength, responsibility and unity and the well-being and physical safety of the juvenile;
5. Whether the disposition provides for reasonable participation by the child's parent, guardian, or custodian, provided, however, that the failure of a parent or parents to cooperate in the disposition shall not be weighed against the juvenile in arriving at an appropriate disposition;
6. Whether the disposition recognizes and treats the unique physical, psychological and social characteristics and needs of the child; and
7. Whether the disposition contributes to the developmental needs of the child, including the academic and social needs of the child where the child has mental retardation or learning disabilities; and any other circumstances related to the offense and the juvenile's social history as deemed appropriate by the court. (New Jersey Code of Criminal Justice 2002 §2A:4A-43)

Varying From Ideal Types

Of course the concepts of juvenile justice and criminal justice are ideal types that are unlikely to exist in pure form. Rather, most if not all courts incorporate elements of both models. Mitigating circumstances such as an offender's background or disadvantage often are important considerations in criminal courts, as are due procedure concerns and characteristics of offenses in juvenile courts (DeJong & Jackson, 1998; Schissel, 1993; Singer, 1996; Wu & Fuentes, 1998). Fixed sentencing schemes have been implemented in juvenile courts as well as in criminal courts, in an attempt to increase objectivity and predictability of sentencing (Feld, 1999). Moreover, some scholars have argued that despite the rhetoric within which it was created, even the initial Progressive Era juvenile court either changed little in practice from previous procedures for prosecuting children (Schlossman, 1977) or resulted in systematic social control of lower- and working-class families, rather than care for individual children in need (Platt, 1977).

Legislative attempts to alter sentencing for adolescents by imposing transfer policies might be diluted if they meet resistance or are filtered by local court communities (Dixon, 1995; Eisenstein et al., 1988; Engen & Steen, 2000; Savelsberg, 1992; Ulmer, 1997; Ulmer & Kramer, 1998). This resistance could stem from the same culturally rooted ideas about childhood that gave rise to the initial juvenile court—that juveniles are less responsible for their actions than adults and require separate types of punishments. Though in this article I am unable to address the sources or nature of any such resistance, I examine the extent to which adolescents are subjected to disparate criteria for punishment—as hypothesized by the models of justice I describe above—in criminal and juvenile courts.

Given the differences between juvenile justice and criminal justice, one would predict that youth in criminal court are more likely to be sent to prison than youth in juvenile court and that the factors shaping sentencing in the two court types are significantly different. However, the assumptions that suggest this comparison do not fully consider the similarities between juvenile and criminal courts or the possibility that sentencing decisions are based on similar formulae. Thus, using these two models of justice as a guide, I ask whether the factors that predict sentencing decisions are similar across the criminal/juvenile court jurisdictional boundary. In particular, after comparing the punishments handed down in each court type, I test whether legal factors associated with a criminal justice model—offense severity, prior record, and case-processing factors—are more influential in criminal court than in juvenile court. If the results show that different factors predict sentencing decision making in the two court types, with a greater reliance on legal factors in criminal than juvenile court, then the data support the theoretical distinction between juvenile and criminal justice, and the conventional wisdom about how juvenile and criminal courts vary is supported. Alternatively, if the results fail to confirm a distinction among sentencing decision making in the two court types, then I can reject the hypothesis of difference suggested by these two models of justice, and the conventional wisdom needs to be rethought.

Data and Method

To compare sentencing criteria across juvenile and criminal courts, I analyze quantitative data that consist of two subsamples: a sample of juvenile court cases in New Jersey and a sample of criminal court cases in New York.⁴ Because the boundary between juvenile and criminal court jurisdictions varies between these two states, I am able to study comparable cases of adolescents across them. This method avoids the methodological limitations of many previous comparisons between juvenile and criminal court cases. Specifically, it avoids the potential sample selection bias inherent in comparing transferred cases to non-transferred cases in a single jurisdiction; such a bias occurs if only more serious cases are transferred to the criminal court (see Fagan, 1996).

The disparate juvenile/criminal court boundary in New York and New Jersey is a product of New Jersey's fairly traditional juvenile court boundary and New York's low threshold for criminal court prosecution. In New Jersey, adolescents are under the juvenile court's jurisdiction for any offense committed at age 17 or younger. Judges can selectively transfer some adolescents to criminal court, though prior research shows that they do so very rarely (see below). As a result, almost all adolescents in New Jersey younger than 18 are prosecuted in juvenile courts. In contrast, New York sets its age of criminal majority at 16. This means that all youth 16 or older are excluded from juvenile court in New York and prosecuted in criminal court, without exception, regardless of offense severity.

This jurisdictional disparity between these two adjacent states allows me to compare similar offenders across the two types of courts. Due to these offenders' ages and criminal charges, the state boundary between New York and New Jersey decides in which court they are prosecuted. Their ages and charges would (if living in New Jersey) place them in New Jersey's juvenile justice system but (if living in New York) in New York's criminal justice system. I analyze 1,470 such cases—914 from New York's criminal courts and 556 from New Jersey's juvenile courts. All sampled cases are of 16-year-old defendants in 1992 or

1993 who are charged with aggravated assault (first and second degree), robbery (first and second degree), or burglary (first degree). I use these three charges because they are all serious felony charges⁵ and they represent the prototypical violent and serious property offenses that drive current debates to prosecute larger numbers of youth in criminal courts (Fagan, 1996). I compare 16-year-olds because this is the youngest age at which *all* adolescents in New York are prosecuted in criminal court, thus eliminating the possibility of introducing a selection bias whereby certain cases are selected for criminal court prosecution and others are not. Additionally, though New Jersey courts have the option to transfer 16-year-old adolescents up to criminal court, prior research in the same counties with a similar sample (see Fagan, 1991) has shown that this option is used extremely rarely.⁶ As a result, I can compare New Jersey juvenile court cases to similar cases that were all processed in New York's criminal courts.

Precautions were taken to help ensure that the cases in both states were of equal severity offenses. First, cases are sampled after an initial screening process in each system. In New York they are sampled at arraignment, after screening by prosecutors for legal sufficiency and appropriate charging. In New Jersey, they are sampled at court filing, after having passed an initial screening by a prosecutor. As a result of the screening, one can be fairly confident that most of the sampled offenses were appropriately charged. Second, only the most serious subcharges within each offense type are sampled.

Within New Jersey, the cases are sampled from Passaic, Essex, and Hudson Counties. These counties are among the three most populous in the state, are the closest to New York, and include large urban areas (the cities Paterson, Newark, and Jersey City, respectively). Within New York, the cases are sampled from the Bronx, Brooklyn, and Queens. These six counties border one another (separated by only the Hudson River), are part of a single Census Metropolitan Statistical Area, and are comparable along a variety of dimensions. They have similar crime problems relative to their positions in their respective states, and they are each in the top five counties in the state regarding numbers of homicides and numbers of individuals sent to state prison. Furthermore, according to 1990 census data, the six sampled counties have similar rates of unemployment, poverty, female-headed households, and residential mobility (U.S. Census Bureau, 1994). The two states are comparable criminal justice climates as well; the similarity of their sentencing laws demonstrates that the two states' criminal justice systems punish comparable offenders fairly similarly. For example, an adult who is sentenced for a first armed robbery may receive a maximum prison sentence of up to 20 years in New Jersey and up to 25 years in New York. In sum, the sample includes cases from two states within a similar social and criminal justice milieu. Thus, the research design is well suited for my research question because it allows me to explore the effect of type of court while holding constant characteristics of offenders and offenses, as well as broader social, political, and economic characteristics of the jurisdictions from which the cases are sampled.⁷

The data are sampled using a multistage stratified random sampling design. The first sampling stage involved enumerating the population within the sampled counties in New York criminal courts and New Jersey juvenile courts and the representation of males and females within each county-specific arrest charge category. The second stage involved randomly sampling cases within each county/arrest charge/sex category to match each population's distribution of eligible male and female defendants for each of the three sampled

Table 1
Summary Statistics and Sample Description by Court Type

	Juvenile Court/ New Jersey (<i>n</i> = 556) (%)	Criminal Court/ New York (<i>n</i> = 914) (%)	Full Sample (<i>N</i> = 1,470) (%)	Mean	Standard Deviation
Sex					
Male	84.7	88.6	87.1		
Female	15.3	11.4	12.9		
Race/ethnicity					
White	13.1	5.5	8.4		
African American	56.1	57.4	56.9		
Latino/a	26.4	32.4	30.1		
Other and unknown	4.4	4.7	4.5		
Charge					
Robbery	25.2	75.2	56.3		
Aggravated assault	43.7	19.6	28.7		
Burglary	31.1	5.3	15.0		
Associated weapon charge	36.0	37.5	36.9		
Preadjudication detention	43.9	46.4	45.4		
Number of prior arrests				2.3	4.2
% with any prior arrests	70.9	45.7			
Arrests during case processing				0.4	0.9
% any arrests during case processing	37.6	17.8			
Previously incarcerated	4.7	15.3	11.3		
Arrest warrant executed during case processing	16.7	9.8	12.4		

offenses. Hence, the sample distribution reflects the population distribution of eligible males and females charged with each offense type within each county.

Table 1 displays a comparison of the two samples. Although the cases from each state are similar along most dimensions, they differ in a few important ways. The criminal court (New York) subsample consists of a greater percentage of Latino/a defendants, a smaller percentage of White defendants, and a slightly larger proportion of male defendants than in the juvenile court (New Jersey). In the juvenile court subsample a greater percentage of individuals have prior arrest records, are arrested during sampled case processing, and have arrest warrants issued by a judge during case processing. And a larger proportion of the criminal court defendants had been previously incarcerated. I include all variables as control variables in the following analyses to prevent the introduction of a sample selection bias.

Another noticeable difference between samples is the distribution of arrest charges. The juvenile court cases are divided nearly equally among the three sampled charges, though the criminal court cases consist of mostly robbery arrests. This is the result of the sampling procedure and reflects the proportion of robbery arrests among the population of eligible cases within each state's court system. Thus, sample differences result from natural variation between the two populations sampled. This sampling method includes the most serious 16-year-old offenders in each state other than adolescents arrested for homicide or sexual assault. I should note that though they involve different behaviors, charges of first-degree aggravated assault and first-degree robbery are of equal legal severity in New York.

The above data are assembled from a variety of sources. New Jersey data for Hudson County were provided in machine-readable format by the New Jersey Administrative Office of Courts. For the other two New Jersey counties, data were manually collected at the county courthouses from case files of sampled individuals. The New York City Criminal Justice Agency, the city's pretrial services agency, which collects and stores data on all New York City criminal defendants, provided the New York criminal court data. The New York data were supplemented by data from the New York Department of Criminal Justice Services.

The data are analyzed in three steps. First, I examine descriptive results of the sentence outcomes reached in each court type, for the entire sample as well as for each arrest charge separately. The second step includes estimating a series of Heckman two-stage probit models with robust standard errors; these equations test for interaction effects of the independent variables with court type (juvenile vs. criminal court), to determine whether the predictors of sentencing have different influences across the two court types overall. The third step is to compare individual regression coefficients from probit models predicting sentencing separately in each court type (Paternoster, Brame, Mazerolle, & Piquero, 1998), to look for how particular variables shape sentencing differently in juvenile and criminal court.

A sentence of incarceration is the dependent variable in each of the probit models. The decision to incarcerate is perhaps the most crucial sentencing decision. It also offers a clearer comparison between court systems than would the juxtaposition of other sentencing decisions. Other sentences such as probation or restitution may have different meanings across jurisdictions or may be invoked and enforced differently. Of course, custodial sanctions imposed by juvenile and criminal courts differ from each other regarding duration, type of institution, and conditions of confinement (Forst, Fagan, & Vivona, 1989). Yet on a basic level of comparison, imprisonment is a fairly similar punishment in both systems, in that it always involves deprivation of liberty through coercive means in institutions designed to punish. Perhaps more important, sentencing represents a key distinction between juvenile and criminal courts, and the decision to incarcerate is the most significant sentencing decision made in these two courts. As I discuss above, policy makers create transfer laws with the explicit intention of exposing youth to a more punitive and offense-oriented sentencing system, thus making the decision to incarcerate an appropriate juncture for juvenile/criminal court comparisons.⁸

I should note that this article does not examine what factors predict conviction or what factors predict longer prison sentences among those given custodial sentences. I do not model conviction (other than being included as the censorship parameter in the Heckman two-stage procedure) for two reasons. First, the data do not include what has been found to be one of the most important determinants of conviction—quality of evidence presented by

the prosecutor (Adams, 1983; Rauma, 1984; Vera Institute of Justice, 1977). Without variables measuring quality of evidence, models of conviction would suffer from omitted variable biases. Second, because the dispositional categories and court procedures for reaching conviction vary across the two court types, one cannot accurately compare them.⁹ However, as I discuss below, the Heckman two-stage analyses adjust the prediction of sentencing to account for factors that shape conviction and thereby minimize the likelihood of the conviction decision distorting the results of sentencing on which I focus.

I do not estimate lengths of custodial sentences in the multivariate analyses because the data are not comparable across jurisdictions. In the criminal court subsample, the data include estimated sentence lengths, with the estimate calculated as two thirds of the maximum sentence.¹⁰ No such estimate is feasible for the juvenile court subsample; because New Jersey juvenile court judges prescribe indeterminate prison sentences, there is great variation in actual amounts of time served. Instead, I obtained the actual custodial release date for each sampled individual and used these to calculate lengths of custodial sentences served. In addition, the data set contains no information on custodial facility bed-space or parole board decision making for either court type, both of which would be crucial for predicting the length of sentences that are served. Restricting the analyses to whether or not courts prescribe prison sentences allows for analysis of more accurate and complete data.

I estimate Heckman two-stage models because any analysis of sentencing practices is based on a censored sample, in that only convicted cases are included in models with sentencing as the dependent variable (Berk, 1983; Breen, 1996). Using a censored sample excludes from the analyses a nonrandom subset of observations. The effect of excluding this subset is to introduce a nonlinear relationship between the independent and dependent variables, in which the estimated causal relationship between them is inflated. This inflation is due to a positive correlation between the independent variables and the disturbance term, which threatens both internal and external validity of one's estimates, even when one is only concerned with values above the point of censoring (e.g., only concerned with convicted cases) (Berk, 1983).¹¹

The Heckman two-stage model produces parameter estimates that take into account the censoring process—a censoring parameter is estimated and then incorporated into the probit analysis of the dependent variable. In doing so, it adjusts for the potential bias caused by a censored sample (Berk, 1983). I estimate probit models because the dependent variable is dichotomous (see Greene, 1997).¹² Conviction in the original court is the censorship value included in each model, meaning that cases only remain in the censored sample if they result in conviction. The models include a robust cluster by county, which adjusts the standard error of each coefficient to account for any systematic differences among cases from each of the six included counties.¹³

The data consist of both offense-oriented and offender-oriented variables. The offender-relevant variables include sex (coded 1 = male, 0 = female) and race/ethnicity (dummy variables indicating White, Latino/a, African American, and any other ethnicity). A significant debate exists in the current literature with regard to whether offender-relevant variables predict court outcomes when controlling for offense-relevant factors (see Albonetti, 1997; Kleck, 1981; Steffensmeier & Demuth, 2000, 2001). I include these variables because this debate focuses primarily on the impact of sex and race on sentencing, which I estimate in the following analyses. For the series of dummy variables representing race/ethnicity, I exclude the largest category, African American, as the reference category in each regression model.

The list of offense-relevant variables mirrors those of other studies predicting court outcomes and includes measures that account for the severity of offense and the offender's prior offending history. The variables related to prior offending history are number of prior arrests, number of arrests during the time the sampled case was being processed (labeled concurrent arrests), and if the defendant was previously incarcerated (coded 1 = yes, 0 = no). The variables related to the current offense are most serious arraignment charge (dummy variables indicating robbery, aggravated assault, and burglary), presence of an associated weapon charge (coded 1 = yes, 0 = no), if the defendant was detained by the court pending adjudication (coded 1 = yes, 0 = no), and whether a warrant for the defendant's arrest was executed during case processing (coded 1 = yes, 0 = no). I also include the type of court (coded 2 = criminal court, 1 = juvenile court). I include associated weapon charge to account for when the sampled offenses are committed with a weapon and, thus, to help control for offense severity.¹⁴ For the series of dummy variables representing the three distinct arrest charges, I exclude the largest category, robbery, as the reference category in each full sample regression model. Variation inflation factors revealed that no independent variables are sufficiently correlated with each other to risk multicollinearity.¹⁵ I provide a correlation matrix as an appendix.

I estimate four models. The first model predicts likelihood of a custodial sentence using the above independent variables. The second model adds several interaction terms to the first model; this model includes interaction terms for type of court with each other independent variable (e.g., court type multiplied by sex, court type multiplied by presence of a weapon charge, etc.). I compute these interaction terms using a centering technique to avoid multicollinearity (see Aiken & West, 1991). The change in model fit from Model 1 to Model 2 tells us whether the independent variables operate differently as a function of court type. If the resultant log likelihood of Model 2 is significantly greater than the log likelihood of Model 1, then the interaction terms significantly improve the model fit and one can conclude that together the independent variables exert disparate effects in juvenile court than in criminal court. This would signify that sentencing formulae do in fact vary across type of court and would support the hypothesis that distinct models of justice guide the punishment of adolescents in juvenile and criminal courts. If this theoretical distinction between the court types is true, then one would expect to see a greater influence of offense-relevant variables (all independent variables other than sex and race/ethnicity) in criminal court than juvenile court.

The third and fourth models are Heckman two-stage probit models predicting incarceration separately in each court: Model 3 considers the juvenile court and Model 4 considers the criminal court. This method will add to the interaction model (Model 2) by allowing me to compare individual regression coefficients across the two court-type-specific models and how each independent variable operates distinctly in the two jurisdictions (Paternoster et al., 1998).¹⁶

Results

Bivariate Comparisons

Table 2 displays the bivariate comparison of dispositions across the two court types.¹⁷ The data clearly confirm the prior studies that find that criminal courts prescribe more severe punishments than juvenile courts (see Kupchik et al., 2003); in this sample, adolescents

in the criminal court are more likely to receive custodial sentences than juvenile court defendants (36.3% compared to 13.7% overall).¹⁸ This disparity exists for the three different arrest charges included in the sample and is thus not a result of the abundance of robbery cases in the criminal court subsample; the disparity is also consistent for both males and females and for Whites and racial/ethnic minorities.¹⁹ Consistent with the predicted difference between a criminal justice model and a juvenile justice model, there appears to be a criminal court tariff, in that adolescents prosecuted in criminal court are more likely to be incarcerated. However, because this result tells us nothing about the relative criteria guiding decision making across court types, I continue with the multivariate analysis.

Probit Models

1. Testing for Difference Using Interaction Terms

Table 3 presents the results of the first two probit models with a dependent variable of incarceration. Model 1 includes only the main effects of the above independent variables, without any interaction terms. The coefficient for type of court is positive and statistically significant. Controlling for all other variables, prosecution in criminal court leads to a greater likelihood of incarceration than in juvenile court ($p < .001$); in fact, the type of court is the best predictor of incarceration in the model, as measured by its regression coefficient (B) and its z score (not shown). Again, the results confirm the hypothesis that transfer to criminal court does indeed lead to more severe punishments for adolescents. Other significant predictors of incarceration are race (Whites are significantly less likely to be incarcerated than African Americans), number of prior arrests, number of arrests during case processing (labeled concurrent arrests), and a history of incarceration.

Overall, Model 1 suggests that persistent offenders are more likely than others to be incarcerated, that African Americans are more likely than Whites to be incarcerated, and that the likelihood of incarceration is greater in criminal than in juvenile court. The significance of prior arrest records and histories of incarceration may indicate either the importance of offending background, that decision makers are less willing to offer second chances to more persistent offenders, or that defendants with prior justice system experience are "labeled" and punished more severely as a result of this degradation (e.g., Lemert, 1967; Schur, 1977; Schwartz & Skolnick, 1964). The significance of the variable for arrests during case processing (concurrent arrests) suggests that defendants who demonstrate non-compliance or repeated criminal involvement during case processing are viewed as more serious offenders.

The only significant variable in the model (other than type of court) that is not directly related to the defendant's current or past offending history is the variable for White adolescents. Much of the recent research on the influence of race on court outcomes has found a significant effect, with racial minorities punished more severely than White defendants (for reviews see Albonetti, 1997; Steffensmeier & Demuth, 2000; Zatz, 2000). However, there are very few White youth in this sample. This underrepresentation of White youth makes statistical comparisons difficult and suggests caution interpreting the significance of this variable in Model 1.²⁰ Moreover, the fact that this variable is no longer statistically significant in Model 2 (see below), after adding the interaction terms to the model, demonstrates that this result is not robust and deserves a cautious interpretation.

Table 2
Disposition by Arrest Charge and Court Type (Among Convicted Cases)

	Juvenile Court (New Jersey)			Criminal Court (New York)				
	Robbery	Aggravated Assault	Burglary	All Juvenile Court	Robbery	Aggravated Assault	Burglary	All Criminal Court
Informal sanction (%)	33.4	27.5	26.9	28.7	20.0	46.5	24.1	24.5
Probation (%)	29.2	37.8	43.5	37.8	38.9	30.2	41.4	37.6
Fine/restitution (%)	0.0	0.0	0.0	0.0	1.0	4.7	0.0	1.5
Suspended sentence (%)	22.2	17.3	21.3	19.9	0.0	0.0	0.0	0.0
Incarceration (%)	15.3	17.3	8.3	13.7	40.1	18.6	34.5	36.3
If incarcerated, average sentence length (in months)	11.7	7.8	9.6	9.2	28.6	16.1	22.6	27.3

Table 3
Coefficients for Two-Stage Probit Regression of Incarceration,
With and Without Interaction Terms

	Model 1: Main Effects Only		Model 2: With Interaction Terms	
	<i>B</i>	<i>SE</i>	<i>B</i>	<i>SE</i>
Sex (0 = female; 1 = male)	.212	.182	0.278	.234
Ethnicity dummies (contrast = African American)				
White	-.258	.088**	-0.194	.143
Latino/a	.095	.131	0.127	.110
Other ethnicity	.125	.129	0.071	.418
Current charge (contrast = robbery)				
Burglary	-.140	.122	-0.114	.099
Aggravated assault	-.135	.122	-0.132	.085
Associated weapon charge	.224	.116	0.205	.102*
Detained	.454	.349	0.601	.424
Number of prior arrests (natural log)	.219	.092*	0.144	.047**
Number of concurrent arrests (natural log)	.226	.110*	0.341	.052***
Previously incarcerated	.854	.146***	0.955	.182***
Arrest warrant	.356	.197	0.393	.178*
Court type (1 = juvenile; 2 = criminal)	.882	.112***	1.100	.063***
Interaction terms				
Court Type × Sex			-0.267	.350
Court Type × White			-0.194	.351
Court Type × Latino/a			-0.097	.220
Court Type × Other Ethnicity			0.053	.949
Court Type × Burglary			0.284	.214
Court Type × Aggravated Assault			-0.336	.175
Court Type × Weapon Charge			0.122	.180
Court Type × Detained			-0.121	.339
Court Type × Number of Prior Arrests			-0.358	.121**
Court Type × Number of Concurrent Arrests			0.207	.186
Court Type × Previously Incarcerated			0.101	.251
Court Type × Warrant			-0.104	.22
Constant	-.295		-0.480	
Log likelihood	-1,220.884		-1,211.087	

* $p < .05$. ** $p < .01$. *** $p < .001$.

Model 1 tells us which factors contribute to the likelihood of incarceration across both court types but offers no information about how sentencing decision making varies across the two legal contexts and, thus, no answer to whether a different model of justice describes the sentencing process across juvenile and criminal courts. For this reason, Model 2 adds interaction terms for each independent variable with court type. If the log likelihood statistic is significantly greater in Model 2 than in Model 1, then the addition of the interaction terms leads to a model that better fits the data and the independent variables have a different influence overall across the two court types. Yet I find that the difference between the two log likelihood values is not statistically significant²¹ ($p > .10$), suggesting that the independent variables operate similarly in juvenile courts and criminal courts and that similar factors affect sentencing decision making in the two types of courts. Based on this result, I cannot conclude that different models of justice guide sentencing criteria in juvenile and criminal courts.

2. Testing for Differences Among Individual Coefficients

In the next phase of the analysis, I compare regression coefficients from separate regression equations predicting sentencing in juvenile court and criminal court. This provides a finer tool for looking for differences among particular factors that may predict sentencing, despite that fact that the independent variables overall do not have a disparate impact across juvenile and criminal courts. When looking at particular independent variables, one would predict that the variables related to offense severity and severity of prior offending record would have a larger impact in criminal court than juvenile court. Specifically, one would expect the following variables to have a larger effect in criminal court: an associated weapon charge, pretrial detention, prior arrests, arrests during case processing, previous incarceration, and arrest warrants. To look for such different impacts across court type, I compare the regression coefficients in a juvenile court-only model to those in a criminal court-only model.

In Table 4, I display the results of Heckman two-stage probit models regressing incarceration on the independent variables separately for juvenile court cases and criminal court cases. Table 4 also displays the differences between coefficients and standard errors in each model, calculated according to the formula suggested by Raymond Paternoster et al. (1998). Of the 13 independent variables, only 2 show a statistically significant difference across the juvenile and criminal court equations: being charged with aggravated assault (relative to robbery) and prior arrests. Adolescents charged with aggravated assault (relative to robbery) are more likely to be incarcerated in juvenile than criminal court, and increasing numbers of prior arrests are a better predictor of incarceration in juvenile court than criminal court.

These additional results add to the comparison of juvenile and criminal courts, but they provide no compelling evidence that sentencing relies on different factors across the two court types. The increased risk of incarceration for assaulters in juvenile court relative to criminal court is interesting, and it suggests that the two jurisdictions react differently to the same offense category. However, this result has no bearing on the hypothesis that criminal courts are more focused on offense-relevant factors.

The result for prior arrest record is opposite to what the hypothesis would predict. It seems that prior arrest records contribute more to the incarceration decision in juvenile court than criminal court. One possible explanation for this is that criminal court judges discount prior juvenile court cases as trivial, whereas juvenile court judges might have presided over

Table 4
Coefficients for Separate Two-Stage Probit Regression of
Incarceration, in Juvenile and Criminal Court

	Model 3: Juvenile Court Only		Model 4: Criminal Court Only		Differences Among Coefficients	
	<i>B</i>	<i>SE</i>	<i>B</i>	<i>SE</i>	$B_1 - B_2$	SE^a
Sex (0 = female; 1 = male)	0.183	0.393	0.126	0.518	0.057	0.650
Ethnicity dummies (contrast = African American)						
White	-0.093	0.327	-0.252	0.164	0.159	0.366
Latino/a	0.201	0.118	0.072	0.224	0.129	0.253
Other ethnicity	0.160	0.775	0.098	0.045*	0.062	0.776
Current charge (contrast = robbery)						
Burglary	-0.251	0.229	0.015	0.050	-0.266	0.234
Aggravated assault	0.034	0.035	-0.432	0.139**	0.466	0.143**
Associated weapon charge	0.203	0.128	0.303	0.218	-0.100	0.253
Detained	0.572	0.670	1.214	0.688	-0.642	0.960
Number of prior arrests (ln)	0.412	0.098***	0.078	0.056	0.334	0.113**
Number of concurrent arrests (ln)	0.142	0.042***	0.574	0.428	-0.432	0.430
Previously incarcerated	0.840	0.248***	1.238	0.156***	-0.398	0.293
Arrest warrant	0.515	0.159**	0.363	0.364	0.152	0.397
Constant	-2.002		-1.779			
Log likelihood	-394.225		-813.650			

a. Using the method outlined by Paternoster, Brame, Mazerolle, and Piquero (1998), the standard error of the difference between B_1 and B_2 is $\sqrt{SEb_1^2 + SEb_2^2}$.

* $p < .05$. ** $p < .01$. *** $p < .001$.

defendants' prior juvenile court cases and therefore take these cases more seriously. It is also interesting to note that this is slightly offset by a greater importance of arrests during case processing in the criminal court than the juvenile court (when comparing coefficients), though a large standard error prevents this result from attaining statistical significance.

Thus, of the six relevant variables pertaining to offense severity or prior record (an associated weapon charge, pretrial detention, prior arrests, arrests during case processing, previous incarceration, and arrest warrants), only one is statistically significant at $\alpha = .05$ —prior arrests. Yet this result is in the opposite direction of what one would predict based on the difference between a criminal justice model and a juvenile justice model. Clearly, the results fail to support the hypothesis that sentencing is dictated by distinct factors in juvenile and criminal courts. Rather, the results suggest that juvenile and criminal courts rely on similar criteria during sentencing for adolescents.

Discussion and Conclusion

The goal of this article is to assess whether adolescents prosecuted in criminal courts are subjected to different punishments and sentencing criteria than adolescents in juvenile courts, as predicted by prior research and political rhetoric that portray juvenile courts as reflecting a juvenile model of justice and criminal courts as reflecting a criminal model of justice. These distinct theoretical models would lead one to expect that adolescents in criminal court are more likely to be incarcerated than adolescents in juvenile court and that offense-relevant variables would have greater influence in criminal court than in juvenile court.

The results support the first prediction but not the latter. There is a punishment tariff to prosecution in criminal court, in that transfer to criminal court meets its legislatively prescribed goal of punishing adolescents more severely than juvenile courts do. This result is not surprising for two reasons. First, the most recent prior research would lead one to expect to see greater punishment in criminal courts (see Kupchik et al., 2003). Second, the more severe sentencing laws that apply to criminal court defendants, and the limited options for noncustodial sentences in criminal courts relative to juvenile courts (see Kupchik, 2004), produce a higher incarceration rate than found for comparable cases in the juvenile court. In other words, one might expect that even if criminal court actors reject a criminal justice model in favor of a juvenile justice model when sentencing adolescents, the disparate laws and sentencing options across court types would still produce disparate sentencing outcomes.

The results also find that the factors that predict incarceration are not significantly different across court types. Contrary to the hypothesized distinctions between the two types of courts, they do not rely on distinct models of justice when deciding whether to incarcerate adolescents. Thus, by finding similarity in the two court types, I reject the hypothesis of difference that is suggested by a juvenile justice model in juvenile court and a criminal justice model in criminal court, with regard to the factors that shape punishment across court types. The fact that similar factors predict sentencing in juvenile and criminal courts suggests that criminal court actors “filter” case processing to take youthfulness into account when sentencing adolescents (Kupchik, 2003). Consistent with prior research on how court communities filter and reinterpret laws to meet local norms (e.g., Savelsberg, 1992; Ulmer, 1997), it appears that criminal court actors may apply transfer laws in a way that allows them to use very similar criteria to that used in juvenile court, rather than relying on more offense-based evaluative criteria than what one would find in the juvenile court (as the distinction between a juvenile and criminal model of justice would imply).

Although the data show that similar factors predict incarceration in both court types, this does not suggest that juvenile and criminal courts are analogous environments, nor that the sentencing outcomes they reach are equivalent. Clearly this is not the case regarding sentencing outcomes, as there is a significant tariff to criminal court prosecution. Additionally, it is safe to say that the disparities among procedural rules of these two legal forums (e.g., lack of jury trials, confidentiality, and greater discretion among judges in juvenile court) render them very different court environments. Thus, this research does not suggest that jurisdiction does not matter, nor that the two types of courts are equivalent. Rather, the results here suggest the need to pay greater attention to how these two types of courts do in fact differ—a question to which qualitative comparative research might be able to

respond—and challenge assumptions that sentencing decision making operates based on disparate rationalities in these two court types.

This article represents a substantial step in understanding what does and does not change when adolescents are removed from juvenile court through jurisdictional transfer. Using this result as a guide, further research can determine which decision-making factors have similar impacts and which have distinct impacts across the two court types. In particular, research comparing the relative impacts of offender-oriented factors, such as family structure or school performance, across juvenile and criminal courts would help distinguish between sentencing formulae in the two court types. Analyzing the effect of offender-oriented factors on sentencing in juvenile and criminal courts would be particularly helpful in determining the extent to which either or both courts pursue a juvenile justice model. Unfortunately, most automated databases do not include these variables; furthermore, the subjective nature of these data often preclude accurate counts, even when they are counted. Though difficult to collect, data on offender-oriented factors could greatly enhance comparisons of sentencing in juvenile and criminal courts. Given that no prior research addresses this important research question, though, the current study offers a significant contribution to the literature by relying on a comparison of the impact of offense-oriented variables across court types.

Further research also should include greater numbers of offenses and less severe offenses, to help determine whether my results hold for a wide array of offense severity levels rather than only for felony cases. A meta-analysis seeking to discover the specific factors influencing sentencing across several studies of juvenile and criminal courts would be very helpful as well. Additionally, future research can consider the distinctions among courtroom workgroups and organizational characteristics of juvenile and criminal court communities and how these characteristics relate to factors that predict sentencing.

Further research also should compare juvenile and criminal court decision making across a wider array of decision-making junctions and with regard to how the two court types utilize sentences other than incarceration. In this article, I only examine a single decision-making point—sentencing. And I only study one of several sentencing options—incarceration. I impose these limitations intentionally to avoid comparing court outcomes that are unequal due to different operationalizations or different meanings across two justice systems. Rather than compare potentially unequal outcomes, the analysis is restricted to the most similar—and perhaps the most important—outcome across New Jersey's juvenile court system and New York's criminal court system. Moreover, a presumed distinction between court types vis-à-vis the decision to incarcerate is a primary justification given by policy makers for the necessity of jurisdictional transfer. Thus, the decision to incarcerate is an appropriate point of comparison. However, if it is possible to compare reliably a wider variety of outcomes across court systems, then future research should test my results by examining a greater number of decision making points (Bishop & Frazier, 1988; Mears & Field, 2000).

Moreover, repeating this analysis across a greater number of research sites would help establish the generalizability of my results. One would expect my results to be generalizable for two reasons. First, the punishment tariff of criminal court is fairly predictable given the different sentencing schemas and options in each type of court; this disparity is likely to exist in other jurisdictions as well, assuming that criminal courts elsewhere have fewer noncustodial options and a greater statutory emphasis on punishment than juvenile courts. Second, New York's method of excluding adolescents from the juvenile court is perhaps the most rapidly proliferating method, as greater numbers of states have both recently lowered

their jurisdictional boundaries between juvenile and criminal courts and excluded greater numbers of offenders from juvenile court by statutory exclusion (Feld, 1998, 2000). Thus, I compare cases in criminal court as a result of this increasingly common method (New York) to cases in a relatively traditional juvenile court (New Jersey); the character of each state's jurisdictional boundary between juvenile and criminal court enhances the likelihood of these results being generalizable to other jurisdictions.

Some might argue that these results support the notion that the recent trend to "criminalize" the juvenile court has rendered it very similar to the criminal court, with a criminal justice model guiding both court types. Moreover, one might suggest that the results support proposals to abolish the juvenile court. According to Barry Feld (1987, 1999, 2000), for example, juvenile courts should be eliminated because they are merely scaled-down second-class criminal courts that fail to offer the due process protections offered to adults. Perhaps the results reported here suggest that he is correct to some extent, in that the two court types act very similarly, and to maintain their separation is to ignore this resemblance. However, even if this is true regarding sentencing formulae, the greater imprisonment rate in criminal court complicates this comparison. Further research should examine the extent to which this criminal court sentencing tariff is shaped either by the criminal court environment itself or by the sentencing options available to criminal court judges. If criminal courts are structured to increase the likelihood of custodial sentences, then abolishing the juvenile court might only lead to increased sanctions for delinquents.

In sum, the results reported here are important for both research and policy reasons. There is surprisingly 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 (see Bishop & Frazier, 2000). By comparing the formulae for sentencing decision making, this article offers an empirical basis for discussing how the two types of courts relate to one another. In addition, it offers a starting point for considering how notions of youthfulness, culpability, and crime control intersect when adolescents are prosecuted as adults. Given my finding that criminal courts do not subject adolescents to a more offense-oriented, criminal justice model of evaluative criteria, this article raises the possibility that regardless of jurisdiction, adolescents are still judged by the norm of reduced culpability for youth relative to adults (see Kupchik, 2003). Perhaps more important, this article challenges simplistic theoretical comparisons of juvenile and criminal courts and the assumption that they follow distinct models of justice. Building on this, future research should delve deeper into this issue by studying how the varying organizational contexts of courts affect decision making beyond the impact of status as either a juvenile or a criminal court (see Blumberg, 1967; Eiseinstein et al., 1988; Ulmer, 1997; Ulmer & Kramer, 1998).

From a policy perspective, this research may help clarify the actual impact of transfer policies. It suggests that transfer policies may be less effective than intended by policy makers regarding how sentences are reached. Previous research has suggested this conclusion as well, either by showing that screening mechanisms fail to select the most serious juvenile court cases for transfer to the adult court (Bishop, Frazier, & Henretta, 1989) or that laws designed to transfer adolescents to criminal court are not utilized for many eligible youth (Singer, 1996). Hence, in conjunction with these prior studies, my analysis suggests that transfer policies indeed are "filtered" by courtroom workgroups rather than implemented as intended by policy makers.

Appendix Zero-Order Correlations for Variables Used in Regression Equations (Convicted Cases Only)

	Sex	African American	White	Latino/a	Other Ethnicity	Robbery	Burglary	Aggravated Assault	Weapon Charge	Detained	Prior Arrests (ln)	Concurrent Arrests (ln)	Previous incarceration	Warrant	Court Type	Incarcerated
Sex	1.00															
African American		1.00														
White			1.00													
Latino/a				1.00												
Other ethnicity					1.00											
Robbery						1.00										
Burglary							1.00									
Aggravated assault								1.00								
Weapon charge									1.00							
Detained										1.00						
Prior arrests (ln)											1.00					
Concurrent arrests (ln)												1.00				
Previous incarceration													1.00			
Arrest warrant														1.00		
Court type															1.00	
Incarcerated																1.00

Notes

1. Steffensmeier and Demuth (2000; see also Steffensmeier, Ulmer, & Kramer, 1998) found a curvilinear effect of age on sentencing, or an inverted U-shaped relationship. Peak sentence lengths are given to offenders around 30 years old, with less severe sentences for both younger and older offenders.

2. This phenomenon, of juveniles transferred to criminal court only to be treated more leniently than comparable juveniles retained in the juvenile court, is hypothesized to be a product of judicial discretion. Criminal court judges may look upon youthful offenders as less blameworthy than the adult defendants typically before the court; thus, they may assign relatively lenient sentences (Greenwood, Abrahamese, & Zimring, 1984).

3. It is important to note that a number of scholars have disputed this rosy view of the initial juvenile courts. Anthony Platt (1977), for example, asserted that the courts were class-based systems of social control, designed to train a young immigrant labor force for factory work, rather than therapeutic environments that helped children. Yet even in this view, relative to criminal courts, the initial juvenile courts were more focused on offenders than offenses, were less procedurally formal, and allowed greater discretion to judges.

4. The data are taken from a larger data set collected under the supervision of Jeffrey Fagan.

5. It is advantageous to sample serious felonies because they are more likely to be similarly defined and enforced across jurisdictions than less serious offenses, such as drug offenses or misdemeanors.

6. Moreover, in the larger data set from which these data were taken, only 1.2% of the sampled cases with the same sampling criteria as the cases here are waived from New Jersey's juvenile courts to the criminal courts (see Kupchik, Fagan, & Liberman, 2003).

7. Furthermore, the organizational climates of these two jurisdictions are very similar to one another during the sentencing stage. As I demonstrate elsewhere using qualitative data (Kupchik, 2003), during sentencing the courtroom workgroups in one of the criminal courts I study here begin to resemble a juvenile justice style of case processing. During the sentencing stage, this courtroom workgroup expands to include external treatment providers (e.g., social workers and probation officers) along with legal professionals, the court allows and even demands participation of defendants, and hearings follow a less formal and adversarial style of proceedings than during the adjudication stage. As a result, the organizational climate in this court is similar to that of the New Jersey juvenile courts; thus, I can compare sentencing with quantitative data while holding constant many factors (other than the type of court) that might be responsible for disparities between juvenile and criminal courts.

8. Comparing sentencing (rather than other decisions, such as detention or conviction) has a potential problem, as well. Because sentencing is the end point of the court process, one could argue that disparities between juvenile and criminal court processing that might appear at earlier stages might be removed by the sentencing stage as less severe cases are filtered out of courts' caseloads. Yet if this is true, then scholars and policy makers who highlight distinctions among sentencing between court types are incorrect, and transfer to criminal court does not meet the explicitly stated goals of policy makers. Thus, sentencing is the best theoretical comparison and the best methodological comparison (due to the similarity of sentencing across court types that does not exist for other court outcomes).

9. For example, both jurisdictions offer a similar disposition, titled "adjourned in contemplation of dismissal" in New York and "adjourned disposition" in New Jersey, in which cases are monitored for 6 to 12 months and dropped with no further court action if the defendant is not rearrested. However, to be eligible for this a defendant must plead guilty and hence be convicted in New Jersey, but not so in New York, where a defendant is still considered innocent when this disposition is ordered.

10. I computed this estimate after consulting with the New York City Criminal Justice Agency, who provided the data and have tested this ratio and found it to be the best available estimate (see Phillips et al., 2002).

11. There is some debate over whether to correct for sample selection (see Greene, 1997). In this article, I do so because conviction decisions may be based on quality of evidence rather than on other factors related to sentencing (Vera Institute of Justice, 1977). Thus, the question of what factors predict incarceration is relevant for the entire sample of arrestees, as it tells us what factors lead to incarceration regardless of the factors that lead to conviction. By correcting for a censored sample, the results can be generalized to the entire sample and not just to the portion of the sample that resulted in conviction. In addition, most research on court sentencing has used the two-stage sample selection bias correction method or variations thereof (e.g., Steffensmeier & Demuth, 2000; Ulmer, 1997).

12. All analyses are performed in the STATA 8 statistical package.

13. I only report the results of the second stage of the Heckman two-stage model, the prediction of a custodial sentence. For reasons discussed above, this article does not focus on the first of the two stages, the prediction of conviction.

14. When a weapon charge is present it is a secondary, less serious, offense. For all sampled cases, the sampled arrest charge (robbery, aggravated assault, or burglary) is the most legally severe charge. Other indicators of offense severity—level of injury and defendant's role in the offense (primary vs. secondary) were collected but not used in the final data set. These data, which were taken from police reports, were discarded because they were unreliable, often contradicting (depending on which reports were used to gather the information), and not available for all counties.

15. I estimated variation inflation factors (VIFs) with the interaction terms as well and found that all are at safe levels. The highest VIF is 4.1, though all but one variable are under 4.0 and all but three are under 3.0. Moreover, of the interaction terms included in Models 2 and 4, all but two have VIFs less than 2.0.

16. The results of these two methods—comparing interaction terms and comparing individual coefficients across the two equations—are identical in concept, but each has advantages. The first method I use, adding interaction terms to a full model including cases from both court types, is more parsimonious. It involves fewer calculations and allows for a larger sample size by using the entire sample in one equation rather than splitting the sample into two groups. Moreover, by considering all interaction terms at once, I perform a more conservative test than examining individual coefficients separately. This is because some of the individual coefficients may significantly vary by chance, a risk that is less likely to affect my significance tests when looking at the interaction terms overall. The second method is therefore a less efficient test, but it allows me to consider each coefficient individually rather than considering all independent variables at once.

17. A number of cases with missing sentences (10.1% of the total in the juvenile court) in the New Jersey juvenile court was removed when compiling Table 2.

18. Another difference between the bivariate outcomes is the disparity among suspended sentences. There were no cases in which a suspended sentence was the most serious outcome in the criminal court. Instead, as I describe elsewhere (Kupchik, 2004), criminal court defendants often receive probation with the explicitly stated threat of incarceration for repeated criminal behavior. Thus, probation in the criminal court serves the same function as a suspended sentence in the juvenile court.

19. Tables are available upon request from the author.

20. However, this underrepresentation of White youth also suggests a possible racial filtering process occurring before court, at prior decision-making junctures such as the decision to arrest or to formally prosecute (Bishop & Frazier, 1988; Conley, 1994; Leiber & Jamieson, 1995; Leiber & Stairs, 1999; Sealock & Simpson, 1998).

21. Log-likelihood values follow a chi-square distribution. To determine statistical significance of the difference between two log-likelihood values, one is subtracted from the other and this value considered using a chi-square table, with the degrees of freedom as the difference between the degrees of freedom of each model.

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