BIND OVER AND BLENDED SENTENCING IN OHIO

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by

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DEDICATION

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The Ohio Department of Youth Services

The Juvenile Courts in the counties of:

Cuyahoga, Hamilton, Lucas, Stark, and Summit

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May 5, 2011, Kent, Ohio
CHAPTER 1

Introduction

Approximately two decades ago, juvenile crime in the US appeared to be not only on the rise, but also to be more violent. Between 1973 and 1988, the rate of juvenile arrests for violent crime remained constant, varying only with the changing size of the juvenile population. However, during the succeeding six-year span, from 1988 through 1994, juvenile arrests for violent crime more than doubled (Snyder, Sickmund, and Poe-Yamagata 1996). This phenomenon did not go unnoticed by the media, the public, or the political establishment, prompting legislators nationwide to enact juvenile justice policies that increased criminal sanctions and lower the age that juveniles were eligible for the criminal justice system.

Beginning in 2002, and because of legislative changes that resulted from S.B. 179, Ohio’s juvenile justice system took on a different perspective, a perspective that more resembled the state’s adult criminal justice system. Prior to S.B. 179, the purpose of juvenile dispositions was to ‘provide for the care, protection, mental and physical development of children… protect the public interest in removing the consequences of criminal behavior and the taint of criminality from children committing delinquent acts, to substitute… a program of supervision, care, and rehabilitation… and to achieve the foregoing purposes, whenever possible, in a family environment, separating the child
from the parents only when necessary for the child’s welfare or in the interests of public safety’(Ohio Revised Code §2151.01 (A) (B) (C) 1999).¹

Subsequent to the passage of S.B. 179 the overriding purpose in juvenile offender cases became “to provide for the care, protection, mental and physical development of children, to protect the public interest and safety, to hold the offenders accountable for their actions, to restore the victim, and to rehabilitate the offender…these purposes shall be achieved by a system of graduated sanctions and services” (Ohio Revised Code: §2152.01 2010).

This dissertation is intended to illuminate the impact of policy changes in the juvenile justice system, specifically in Ohio, by providing empirical insight into how Juvenile Courts are using sentencing policies intended to move Ohio’s juvenile justice system from ‘best interests of the child’ model to an accountability model. This study is not a debate about the merits of specific policies or an attempt to measure one sentencing option against another; it merely attempts to provide an awareness of how policies are being operationalized in the juvenile justice system.

The most important question this study seeks to answer is this: What legal and extra legal factors are predictors of outcomes in juvenile court dispositions? My objective is to identify the judicial determinants most salient in the decision to dispose of

¹ This section of the Ohio Revised Code which predated S.B. 179 was obtained from a report issued by the Ohio Sentencing Commission, A Plan for Juvenile Sentencing in Ohio, David J. Diroll, Editor (Fall 1999). Also reference: Baldwin's Ohio Revised Code Annotated Title XXI. Courts--Probate-Juvenile Chapter 2152. Delinquent Children; Juvenile Traffic Hearings -- Purposes of dispositions under chapter. Current through 2004 File 155 of the 125th GA (2003-2004) and the 2004 1st Special Session, apv. by 1/24/05.
youthful offenders who engage in felony-level, violent, and/or repetitive criminal offending by comparing legal and extra-legal characteristics of each group to determine which factors significantly correlate and trigger specific judicial action. To that end, I will study all youth who were adjudicated for felony offenses and were eligible for transfer to the adult court and all youth who were designated as a Serious Youthful Offender (SYO)\(^2\) and committed to the Ohio Department of Youth Services (ODYS) under Ohio’s blended sentencing law. Thus, I was interested in studying all cases that were eligible, by sampling felony adjudication cases from the juvenile courts, as well as studying the population of cases that were transferred to the adult court and the population of cases disposed of through a blended sentence and committed to ODYS.

1.1 Historical Context

Crucial to an understanding of the sentencing structures and policies that have evolved nationally, and specifically in Ohio, is an awareness of the historical and contemporary circumstances that have marked the progression of the juvenile justice

\(^2\) Under Ohio law (Serious youthful offender dispositional sentence), when a child commits certain serious offenses, he/she is eligible for a trial as a Serious Youthful Offender. The following factors are considered by the court in determining this: act of violence, use of firearm; prior commitment to ODYS for a serious offense; and for certain very serious offenses, this category is considered mandatory if the child was at least 14 at the time of the offense, and discretionary if the child was between 10 and 14. The juvenile court process for a Serious Youthful Offender allows the child the same due process rights as if the trial were in the criminal court, including a jury trial. A child sentenced as a serious youthful offender will receive a traditional juvenile sentence to ODYS, along with an adult sentence. The adult sentence is suspended upon successful completion of the juvenile sentence. O.R.C.:§2151.13 (A) (B) (C) (D).
system, an essential recognition of the on-going context in which sentencing policies for serious juvenile offenders were gradually enacted. Within that context, two significant factors intersected - an evolving dissatisfaction with the juvenile court and a momentary spike in violent juvenile crime.

The development of the juvenile court in 1899 represented the culmination of nearly thirty years of reform efforts by child-saving organizations in Illinois, an attempt to reform children without committing them to reform school (Platt 1977; Bremner 1971). This new and enlightened system of justice for juvenile offenders was founded on the concept of rehabilitation through individualized justice – a focus on offenders and not offenses, on rehabilitation and not punishment, and on the responsibility of the government to serve in the best interests of the child.

Throughout a century of existence, juvenile courts have been underfunded and under staffed, making it increasingly difficult to live up to the ideals envisioned by the founders. Juvenile Court judges, operating in a legal vacuum and possessed with broad discretionary powers, frequently abused the ideal of fundamental fairness in proceedings that came before them (Besharov 1974). Compounding the challenges was a steady and rapid growth in referrals; between 1960 and 2007, delinquency caseloads increased by more than 300 percent, from about 1,100 cases daily to about 4,600 cases daily (Puzzanchera, Adams, and Sickmund 2010). In 1968, the President’s Commission on Law Enforcement and the Administration of Justice declared that ‘…the hopes originally held for the juvenile court have not been fulfilled. The court… has not succeeded in
rehabilitating delinquent youth, in reducing the tide of delinquency, or in bringing justice and compassion to the child offender’ (p. 216).

More recently, criticisms of the Juvenile Court have mirrored the findings of the 1968 Commission Report - the lack of procedural formality or due process (Fagan and Deschenes 1990; Paulson 1966), the inability of the court to control violent juvenile crime (Jensen and Metsger 1994; Fagan and Deschenes 1990), the ‘leniency’ of the court as exemplified by its rehabilitative ideal (Myers 2003; Jensen and Metsger 1994; Snyder and Sickmund 1999; Fagan and Deschenes 1990), and the ‘nothing works’ perception that was reinforced in the Lipton, Martinson, and Wilks Report in 1975 (Myers 2003; Jensen and Metsger 1994; Fagan and Deschenes 1990).

1.2 The Contemporary Context

Throughout the last five decades, sentiment about the law-violating behavior of youth has implied contemporary uniqueness when, in fact, past narrations tell us that juvenile misbehavior has permeated every era in the history of the world. As cited by Katzman (2000), tablets describing the challenges that disobedient youth posed for society have been found that date from before 2000 B.C.E. (Katzman 2002).

The decades of the 1980’s and 1990’s were distinguished by a dramatic rise in violent juvenile crime that left lasting scars on the country as a whole (U.S. Dept of Health and Human Services, 2001) and were punctuated by DiIulio’s warning of the coming of morally impoverished juvenile super predators (DiLulio 1996). According to a
1999 survey conducted by Pew Research, crime was one of the public’s top concerns, with overwhelming majorities of voting blocs favoring laws that resulted in juvenile offenders, age fourteen and older, being tried as adults (Kohut 2009).

Thus, in an effort to satisfy constituent demands for stronger ‘get tough’ crime policies, elected officials throughout the United States began to gradually change the foundation of the juvenile justice system into a pseudo criminal system, one that emphasized incarceration, mandatory sentences, adversarial procedures, and the transfer of youthful offenders to the adult criminal court (Butts 2000). Laws that transferred juvenile offenders from the juvenile court to the adult criminal court, available to judges since the inception of the Juvenile Court in 1899, suddenly, in the latter years of the 20th century, became more widespread, more far-reaching, and more automatic than ever before (Griffin 2003).

Juvenile transfer laws establish provisions and criteria for trying certain youth of juvenile age in criminal court. Depending on one’s correctional jurisdiction these cases can be referred to as waivers, certifications, transfers, remands, or bindovers. As noted by Patrick Griffin, National Center for Juvenile Justice, “…while still an exception to the general rule… transfer must now be regarded as a very prominent feature of America’s approach to juvenile offending” (Griffin 2008, p. 1).

Currently, the majority of states have more than one mechanism for transferring cases to criminal court: prosecutors may have the authority to file certain juvenile cases directly in criminal court (direct file), state statute may order cases meeting certain age
and offense criteria be excluded from juvenile court jurisdiction and filed directly in criminal court (statutory exclusion), or a juvenile court judge may waive juvenile court jurisdiction in certain juvenile cases, thus authorizing a transfer to the adult court (transfer, waiver, bindovers). Every state allows certain juveniles, usually depending on the severity of the offense and the youth’s offending history, to be tried in adult court or otherwise face adult sanctions (Snyder and Sickmund 2006). In 2005, juvenile court judges waived jurisdiction over an estimated 6,900 delinquency cases, sending them to criminal court (Sickmund, Sladky, and Kang 2008). Although this statistic represents less than a half percent of all delinquency cases handled in 2005, it should be noted that these numbers do not represent the totality of juvenile cases transferred to the adult criminal court; they merely reflect the number of cases transferred by judicial waiver (Sickmund 2009). At present, there is no national data source that collects information on the numbers of youth transferred to adult court through prosecutorial discretion, statutory exclusion, and blended sentencing (Snyder, Sickmund, and Poe-Yamagata 2000).

A total of fifteen states have statutes which allow the prosecutor to determine whether to proceed with a case in juvenile or adult criminal court; twenty nine states have statutory exclusion laws; forty five states have discretionary judicial waiver laws; fifteen states have mandatory judicial waiver laws; fifteen states have juvenile blended sentence laws; and seventeen states have criminal blended sentencing laws (Snyder and Sickmund 2006; Griffin 2008). Additionally, twenty-three states have no minimum age for
transferring youth to adult court, for all other states, the minimum age for transfer ranges from ten to fifteen years (Hartney 2006).

1.3 Ohio Legislation

1.3.1 Substitute H.B. 1

Similar to the country as a whole, and in the 1990s, Ohio responded to this momentary increase in, and public concern about, violent juvenile crime in a predictable way, by passing two pieces of legislation, which increased the severity of sanctions that could be imposed on youthful offenders. Effective January 1, 1996, Substitute H.B. 1 represented a legislative ‘get tough’ response to real or perceived increases in the frequency and severity of juvenile crime in Ohio and mandated the transfer of certain classifications of juvenile offenders to the adult criminal court (Ohio CLE Institute 1995). Under H.B. 1, the juvenile court was legislatively mandated to transfer a case for criminal prosecution when a youth, age fourteen or older, committed a felony offense, and specific court history, age, and offense characteristics applied (Ohio CLE Institute, 1995).

1.3.2 Senate Bill 179

The second piece of Ohio legislation increasing the severity of sanctions that could be imposed on youthful offenders was Senate Bill 179 enacted by the General Assembly on January 1, 2002. Senate Bill 179 resulted in major systemic change to Ohio’s juvenile justice system by further limiting judicial discretion, reducing the age for
state institutional commitment to ten, creating a new classification of juvenile offenders (Serious Youthful Offenders or SYOs) and, most significantly, creating a juvenile blended sentencing option that allowed the juvenile courts to impose a combined juvenile and adult sentence on certain categories of delinquents (SYOs).

Blended sentencing laws address the correctional system in which the juvenile will be initially sanctioned. The two types of blended sentencing laws are juvenile court blended sentencing laws and criminal court blended sentencing laws (Snyder and Sickmund 2006). A juvenile court blended sentencing law authorizes the juvenile court to combine a juvenile disposition with a criminal sentence that is suspended and conditioned on compliant behavior by the offender. A criminal court blended sentencing law allows the adult criminal court to impose a sentence that is only available to offenders in the juvenile court (Snyder and Sickmund 2006).

The history of blended sentencing in Ohio has been fraught with controversy. Five months after passage of S.B.179, the Ohio Judicial College released a report critical of the final legislation, which indicated that the bill passed by the Ohio legislature, was significantly different from the recommendations proposed by the Ohio Sentencing Commission (Gross 2000). As indicated in the Judicial Impact Statement, while the initial intent of the bill was to increase judicial discretion and make available additional dispositional resources to the courts, the outcome of the passed legislation was to actually limit the discretion of the juvenile court judges (Gross 2000).
Statistics on the extent to which the blended sentencing statute has been utilized in Ohio have been difficult to ascertain and there are statistical and reporting variations depending on the source of information. For example, data on SYO cases for 2002-2005, compiled by ODYS for the Governor’s Council on Juvenile Justice, differed from survey data compiled by the Cuyahoga County’s Prosecutor’s Office (Diroll 2007). In part, this discrepancy was the result of differences between the number of SYO cases filed and the actual number that resulted in a commitment to ODYS (versus the number of cases resolved through plea bargaining and other prosecutorial and judicial remedies). This discrepancy serves to exemplify why it has been difficult to gather accurate statistics on blended sentence cases.

Two years after blended sentencing was enacted in Ohio, David A. Hejmanowski, a Magistrate from Delaware County (OH) Juvenile Court, released a report titled, “Serious Youthful Offenders in Ohio: The Impact of Senate Bill 179 and Blended Sentences on Ohio Youth” (Hejmanowski 2004). Magistrate Hejmanowski surveyed all eighty-eight Ohio counties and found that the use of the blended sentencing provision and the attitudes toward it varied widely from county to county and from

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3 Data provided by DYS indicated that 137 youth received a blended sentence from January 1, 2002 through October 2006. This number reflected adjudicated cases that were committed to DYS. Four cases, according to DYS, had their adult sentence invoked. In comparison, data from the Cuyahoga County Prosecutor’s Office indicated that 291 SYO cases were filed in 84 Ohio counties. This number is inclusive of adjudicated cases that were committed to DYS and cases that were plea bargained and resolved through other judicial and prosecutorial remedies. According to the data provided by the Cuyahoga County Prosecutor’s Office, the adult sentence was invoked in fifteen cases (Diroll 2007, p.8).
individual to individual within each county. Hejmanowski concluded that, ‘in general, the use of blended sentencing has been minimal or non-existent in most counties” (2004, p. 14).

More recently, the Children’s Law Center, Inc. (2010) convened more than five hundred stakeholders (Juvenile Court Judges, Probation/Placement/Court Officers, Juvenile Prosecutors, Attorneys, Law Enforcement Officers, Parents, and Youth) in information-gathering sessions which focused on Ohio’s juvenile justice system (Children’s Law Center, Inc. 2010). With respect to SYO cases, the majority of participants indicated that they rarely saw cases classified as serious youthful offenders and that it is a non-issue in Ohio. Specifically, probation/diversion officers, representing eighty eight percent (77) of all Ohio counties, indicated that twenty five percent never saw SYO dispositions, fifty five percent rarely did, seventeen percent encountered them several times a year, two percent frequently but they were often negotiated away, and one percent acknowledged SYO cases were a common practice in their court. Some respondents indicated that blended sentencing has not worked and should be eliminated,

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4 David A. Hejmanowski. Serious Youthful Offenders in Ohio: The Impact of Senate Bill 179 and Blended Sentences on Ohio Youth. Unpublished report (2004). For additional information, or to obtain copies of specific survey responses, contact David A. Hejmanowski, Magistrate, Delaware County Juvenile Court, 88 North Sandusky Street, Delaware, Ohio 43015.

while others liked having a ‘safety net’ for the most serious offenders and were not ready to dispose of the legal option (Children’s Law Center, Inc. 2010).

The fact remains that currently we know very little about blended sentencing and what we do know is riddled with contradictions, anecdotal information, and statistical uncertainties. This study will further enhance our knowledge about sentencing policies and practices by not only identifying the judicial determinants that separate a blended sentence from other dispositional options but by gaining insight into the circumstances under which this sentence is used. Additionally, this research will provide legislators, members of sentencing commissions, the judiciary, justice system professionals, and scholars with empirical insight into offenders, offenses, and implementation of sentencing policies that were part of a national legislative movement to refocus the purpose of the juvenile justice system from a best interest to accountability model.

1.4 Definition of Terms

Several terms are used in this paper that may not be readily understood by readers who are not already familiar with the juvenile justice system. The following definitions are offered for clarification:

**Adjudication:** A determination by the court that a child is delinquent (Black 1990).
**Arraignment:** In juvenile court, this is a hearing where the accused juvenile offender is brought before the court to enter a plea to a delinquent or unruly charge in an indictment or police report (Black 1990).

**Blended Sentencing:** Senate Bill 179, effective on January 1, 2002, created blended sentencing in Ohio and established a new category of juvenile offenders—serious youthful offenders (SYOs). Under this provision, the juvenile court retains jurisdiction and imposes both a juvenile disposition and an adult sentence. The juvenile term is served and, if successful, negates the need for invoking the adult sentence (Diroll 2007).

**Delinquency:** Currently, Ohio law defines a delinquent child as: “any child, except a juvenile traffic offender, who violates any law of this state or the United States, or any ordinance of a political subdivision of the state, that would be an offense if committed by an adult; any child who violates any lawful order of the court; any child who purchases or attempts to purchase a firearm; any child who is a habitual truant and who previously has been adjudicated an unruly child for being a habitual truant; and, any child who is a chronic truant” (Ohio Revised Code 2010).

**Delinquency Petition:** A petition filed by a prosecutor asking for a youth to be declared "delinquent" by the juvenile court. An adjudicatory hearing will determine if the youth is culpable.
**Disparity:** A circumstance where the probability of receiving a particular outcome (e.g., being waived vs. not being waived) differs for different groups. Disparity may in turn lead to overrepresentation (Snyder and Sickmund 2006).

**Disproportionate Minority Contact:** DMC occurs when the proportion of minority youth in a community is lower than the proportion of minority youth involved in the local juvenile justice system. DMC is also referred to as racial and ethnic disparities (The Burns Institute 2010).

**Disposition:** The result of a hearing in which the Court decides what penalties and/or sanctions a child will receive for the offense committed. A disposition is the juvenile court’s equivalent of adult sentencing (Ohio Department of Youth Services 2009).

**Felony Offense:** A Felony offense, under Ohio law, is the general name for the most serious criminal offenses and applies to adults and juveniles. Felony offenses include aggravated murder, murder, and felonies of the first, second, third, fourth, and fifth degree; any offense not specifically classified is a felony if imprisonment for more than one year may be imposed as a penalty (Ohio Revised Code 2010).

**Judicial Waiver:** Waived cases are those cases in which a youth is transferred to criminal court because of a judicial finding in juvenile court. During a waiver hearing, the prosecutor usually files a petition asking the juvenile court judge to waive jurisdiction over the case. The juvenile court judge decides whether the case merits criminal prosecution. When a waiver request is denied, the matter is usually scheduled for an
adjudicatory hearing in the juvenile court. If the request is granted, the juvenile is judicially waived to criminal court for further action (Ohio Department of Youth Services 2009).

**Juvenile Delinquency:** A delinquency act is an act that would be considered a crime if committed by an adult.

**Juvenile Court:** In Ohio, a division of the court of common pleas, which, exercises exclusive original jurisdiction over children under 18 years of age. The juvenile court has original jurisdiction over delinquent, dependent, and neglected children.

**Juvenile Offender:** A person accused of committing a crime/delinquent act. A juvenile is defined in the U.S. Code, The Juvenile Justice & Delinquency Act, and the Ohio Revised Code as a person under the age of 18. In Ohio, and under certain circumstances, the juvenile court may extend jurisdiction over a juvenile offender until age 21 (Black 1990).

**Ohio Department of Youth Services:** The Ohio Department of Youth Services is the juvenile corrections system for the state of Ohio. ODYS is statutorily mandated to confine felony offenders, ages 10 to 21, who have been adjudicated and committed by one of Ohio’s 88 county juvenile courts.

**Overrepresentation:** A situation in which a larger proportion of a particular group is present at various stages within the juvenile justice system (such as intake,
detention, adjudication, and disposition) than would be expected based on its proportion in the general population (Snyder and Sickmund 2006).
CHAPTER 2

The Literature

Expanded waiver policies, judicial as well as non-judicial, have been decisive for the last three decades in reshaping the juvenile justice system. While these policies have always been politically controversial, contemporary research has challenged the underlying principles and stated goals that initially promoted passage of the legislation (Steinberg 2008; Scott 2008; Benekos and Merlo 2008; Fagan 2008; Redding 2008; McGowan et al. 2007). Some specific areas of research, which will be summarized in this chapter, include the following: deterrence or the ability of criminal justice system to prevent crime and promote public safety; minority over representation; research on the maturation and cognitive development of the adolescent brain; and prosecutorial and judicial net widening. Research in these areas has cast empirical doubt on waiver policies as an effective method of crime control and ultimately on the effectiveness of these policies to realize their stated statutory goals.

Secondly, and most importantly, this research is about how courts process serious or felonious offenders into dispositional categories that allow some cases to remain in the juvenile court, some cases to be transferred or waived into the adult criminal justice
system, and some cases to be disposed of through a blended sentence which straddles both the juvenile and the adult justice systems. The literature that is pertinent to my research, and which I will discuss in this chapter, includes three studies on blended sentencing and waiver - Podkopacz and Feld 2001; Cheesman et al. 2002; and Cheesman and Waters 2008; and, four studies which focus on judicial decision making in transfer cases – Burrow 2008; Smith, Craig, Brodus, and Kimmelman 2003; Snyder, Sickmund, and Poe-Yamagata 2000.

I will begin this chapter with a description and review of transfer and blending sentencing laws. Subsequently I will summarize the research that has challenged the efficacy of waiver policies. Lastly, I will discuss the various studies that are relevant to the research that is the focus of this dissertation.

2.1 What are transfer laws?

Transfer laws identify categories of juveniles who, because of their ages, their past records, or the seriousness of the charges against them, may or must be tried in courts of criminal jurisdiction (Griffin 2003). It is state law and not federal law that determines the circumstances under which a youth, charged with a criminal law violation, can be processed in the adult criminal, rather than the juvenile justice system (Snyder, Sickmund, and Poe-Yamagata 2000). The legal mechanisms for transferring cases from the juvenile to the criminal justice system differ from state to state and may include requirements that mandate the waiver action or allow discretionary decision making by
judges or prosecutors. These processes vary in the degree of discretion involved in the transfer decision and are categorized according to who makes the decision (NCJJ 2006). Currently the legal processes that may be used are judicial waiver, statutory exclusion, and prosecutorial or concurrent jurisdiction; the decision makers are, respectively, the juvenile court judge, the legislature, and the prosecutor (Snyder, Sickmund, and Poe-Yamagata 2000).

2.1.1 Judicial Waiver – The Juvenile Court Judge

Judicial waiver reflects the traditional individualized approach used by the juvenile courts to determine whether a youth should be treated as a juvenile or punished as an adult (Zimring 1981; Feld 1998). Under judicial waiver law, a case must originate in juvenile court and cannot be transferred elsewhere without an official order from a judge (Snyder and Sickmund 1999). Most state statutes limit judicial waiver by age and offense criteria and by lack of amenability to treatment as determined by offense history, prior dispositional outcomes, psychological assessment, availability of dispositional alternatives, time available for sanctioning, public safety concerns, and best interests of the child (Snyder and Sickmund 1999). As of the end of the 2007 legislative session, forty-six states had judicial waiver provisions (Griffin 2008). Historically, the majority of states have relied on judicial waiver as the mechanism for transferring juveniles to criminal court (Feld 1987).

2.1.2 Statutory Exclusion - The Legislature
Twenty-nine states have statutory exclusion provisions that grant criminal courts original jurisdiction by removing certain offenses or lowering the age or removing prior record categories from the jurisdiction of the juvenile court (Griffin 2008; NCJJ 2007). Under statutory exclusion provisions, legislatures have essentially predetermined the question of the appropriate forum for trial, extracting the decision from the prosecutorial and judicial arenas (Griffin 2008). Most statutory exclusion provisions target older youth charged with violent and felonious offenses such as aggravated murder and murder. In general, these provisions exclude anyone fitting into a predefined age or offense category from being a child for purposes of juvenile court jurisdiction (Griffin 2008; Griffin, Torbet, and Szymanski 1998).

### 2.1.3 Concurrent Jurisdiction - The Prosecutor

Fifteen states have direct file laws, which allow the prosecutor to decide whether to initiate a case in juvenile or adult criminal court (Griffin 2008; NCJJ 2007). Under this transfer option, state statutes give prosecutors the discretion to file certain cases in either juvenile or criminal court because both courts share original jurisdiction. Direct file provisions, like other transfer provisions, typically are limited by age and offense criteria (Griffin 2008; Snyder and Sickmund 1999).
2.1.4 Blended Sentencing Laws

Unlike transfer laws, blended sentencing laws do not focus on the arena where the trial occurs but on the system, juvenile or adult, in which the offender will be sanctioned (Griffin 2003; Snyder and Sickmund 1999). Fifteen states have juvenile blended sentencing laws that empower juvenile courts to impose adult criminal sanctions on certain categories of serious juvenile offenders; seventeen states have criminal blended sentencing laws, under which criminal courts, in sentencing transferred juveniles, may impose sanctions that would ordinarily be available only in the juvenile court (NCJJ 2007; Griffin 2003; Snyder and Sickmund 1999).

Juvenile blended sentencing laws authorize the court to combine a juvenile disposition with a suspended criminal sentence; criminal blended sentencing laws allow the adult criminal court to return transferred juvenile offenders to the juvenile justice system for sanctioning. In both instances, the sentencing pattern is suspended and conditional, predicated on compliant behavior by the offender (Griffin 2008).

In whichever setting blended sentencing authority occurs (juvenile or criminal), it may be exclusive, inclusive, or contiguous (Tolbert, Griffin, Hurst, Jr., and MacKenzie 2000). A juvenile exclusive blended sentencing model allows a judge to impose either a juvenile or an adult sanction with imposition of the sanction occurring immediately. New Mexico is the only state that has a juvenile exclusive blended sentencing scheme (Griffin 2003).
In a juvenile inclusive blended sentencing model, a judge may impose both a juvenile and an adult sanction, the latter usually remaining suspended and becoming effective only in the event of a subsequent violation. There are eleven states with a juvenile inclusive blended sentencing scheme - Alaska, Arkansas, Connecticut, Illinois, Kansas, Michigan, Minnesota, Montana, Ohio, South Dakota, and Vermont (Griffin 2003).

In a juvenile contiguous blended sentencing model, a juvenile court may impose a sanction that begins in the juvenile system but lasts beyond the maximum age of extended juvenile court jurisdiction, at which time the offender must be moved into the adult correctional system to serve the remainder of the sentence. Five states use a contiguous blended sentencing model - Colorado, Massachusetts, Rhode Island, South Carolina, and Texas (Griffin 2003).

In a criminal exclusive blended sentencing model, the criminal court imposes either juvenile or criminal sanctions. There are ten states with a criminal exclusive blended sentencing model - California, Colorado, Illinois, Kentucky, Massachusetts, Nebraska, New Mexico, Oklahoma, West Virginia, and Wisconsin (Griffin 2003). In a criminal inclusive blended sentencing model, the criminal court imposes both juvenile and criminal sanctions, typically suspending the criminal sanction. There are seven states with a criminal inclusive blended sentencing model - Arkansas, Florida, Idaho, Iowa, Michigan, Missouri, and Virginia (Griffin 2003).
It is the tendency of juvenile blended sentencing laws to enlarge the sanctioning powers of the juvenile court and thus to increase the risks and penalties to which young offenders may be exposed; and, it is the tendency of criminal blended sentencing laws to reduce or mitigate the effects of existing transfer laws in some cases (Griffin and King 2007; Griffin 2003).

2.2 Statistical Trends and Transfer

Historically, the statistical picture of transfer in the United States has been fragmentary and incomplete (Mears 2003). While there are no national datasets that track the overall number of juveniles who are tried as adults it is possible to develop a national estimate of judicially waived cases based on information submitted to the National Juvenile Court Data Archive (Griffin 2008). However, there is no way to estimate the number of cases that are tried in criminal court as a result of actions by the legislature (statutory exclusion), choices made by prosecutors (concurrent jurisdiction) or adult sentences imposed from stayed blended sentence actions (Griffin 2008; Snyder, Sickmund, and Poe-Yamagata 2000). Consequently, there is no accurate national estimate of the total number of juvenile offenders affected by transfer to the adult criminal justice system (Griffin 2008).

The peak year for judicially waived delinquency cases occurred in 1994 when judicial transfer cases grew to a number that was eighty one percent greater than similar cases waived in 1985 (Puzzanchera, Adams, and Sickmund 2010). Subsequently, there
was a forty-three percent decline in judicial waiver cases between 1994 and 2001 (Puzzanchera, Adams, and Sickmund 2010).

From 2001 through 2007 judicial waivers increased fifteen percent; the number of cases judicially waived in 2007 was seventeen percent greater than in 1985 (Puzzanchera, Adams, and Sickmund 2010). While post-1994 witnessed a decline in violent offending by juveniles, it is probable that the decline in judicial waivers is also attributable to the large number of states that passed statutory exclusion and prosecutorial direct file legislation (Puzzanchera, Adams, and Sickmund 2010).

2.3 Deterrence, Public Safety, and Waiver Legislation

A premise that accompanied the passage of waiver legislation across the country was that it would promote public safety by punishing juvenile offenders, thus holding them accountable for their behavior. Indeed, in Ohio, two stated purposes of Senate Bill 179 were to “protect the public interest and safety and to hold offenders accountable for their actions” (Gross 2000, p. 2). This was to be done by focusing transfer decisions on legal variables such as age of the offender, the severity of the offense, use of a firearm, prior commitment to a state institution, or various combinations of the aforementioned.

However, extant studies of the effectiveness of transfer policies have indicated that they are not successful in controlling crime or preventing recidivism and, strongly
suggest that waiver polices neither promote public safety nor provide for the public interest (Benekos and Merlo 2008; Fagan 2008; Redding 2008; McGowan et al. 2007; Redding and Fuller 2004; Myers 2003; Lemmon, Austin, Verrecchia, and Fetzer 2005; Podkopacz and Feld 1996; Jensen and Metzger 1994; Bishop 2000; Butts 2000).

Deterrence theory is based on the thesis that people are rational, directed by self-interests, and prefer pleasure to pain (Cullen and Agnew 2003). Individuals engage in criminal behavior when that behavior serves their best interests. It thus becomes necessary, according to deterrence theorists, to apply punishments that are swift, certain, and severe (Cullen and Agnew 2003).

Jensen and Metsger (1994) studied the deterrent effect of the 1981 Idaho legislative waiver statute and determined that the waiver law did not have a deterrent effect on violent juvenile crime. Bishop (2000), after reviewing extant research, concluded that there was no evidence that transfer had any general or specific deterrent value. Redding (2008) in a bulletin published by the U.S. Department of Justice, concluded that the bulk of the evidence suggests that transfer laws, at least as currently implemented and publicized, have little or no general deterrent effect in preventing serious juvenile crime. Fagan (2008), in The Future of Children, a publication released in conjunction with Princeton University and the Brookings Institution, indicated that the scientific evidence demonstrates that policies promoting transfer of adolescents from juvenile to criminal court fail to deter crime among sanctioned juveniles and may even worsen public safety risks.
And finally, McGowan et al. (2007), Task Force on Community Preventive Services, Center for Disease Control, conducted a review of published scientific evidence concerning the effectiveness of transfer laws and policies and determined that juveniles transferred to the adult justice system have greater rates of subsequent violence than juveniles retained in the juvenile justice system and that strengthened waiver policies are harmful for those juveniles who experience transfer. The Task Force concluded that the transfer of juveniles to the adult justice system is counterproductive as a strategy for deterring subsequent violence (McGowan et al. 2007).

The claim that severe punishment of juvenile offenders, as defined by transfer to the adult criminal court system, will in fact reduce the probability that such offenders will not engage in subsequent offending has not been supported empirically. In reality, the evidence has indicated that youth transferred to the adult criminal court system have significantly higher rates of reoffending than youths who remain in the juvenile justice system. These finding are contradictory to the suppositions underlining the theory of deterrence as an effective strategy for controlling juvenile crime.

### 2.4 Minority Over Representation

Minority over representation occurs when a larger proportion of a particular group is present at various stages within the juvenile justice system (such as intake, detention, adjudication, and disposition) than would be expected based on its proportion in the general population (Snyder and Sickmund 2006).
There is a considerable amount of literature which confirms that minority overrepresentation has existed for a very long time at virtually every stage in the juvenile justice system including the waiver of juveniles to adult court (Brown 2009; Fagan 2008; Benekos 2008; Piquero 2008; Snyder 2006; McGowan et al. 2007; Bishop 2000; Tolbert 2000; Podkopacz 1995; Pope 1995). Studies show that racial or ethnic disproportion tends to accumulate (cumulated disadvantage) as youth are processed through the stages or decision points of the juvenile justice system and waiver is, in many cases, the final stage in that process (Hartney and Vuong 2009; Piquero 2008; NCCD 2007; Mears 2003).

Minority youth are arrested, charged, and incarcerated at a rate greater than non-minority youth for behavior that is similar; and, minority youth are disproportionately represented at every decision-making point in the juvenile justice system (Bell and Ridolfi 2009; Piquero 2008; Mears 2003). In 2008, while African-American youth comprised sixteen percent of the youth population ages ten through seventeen; they were identified in fifty-two percent of the Violent Crime Index (juvenile arrests) and thirty-three percent of the Property Crime Index (juvenile arrests) (Puzzanchera 2008).

According to the National Council on Crime & Delinquency, from 2002 to 2004, youth of color comprised sixteen percent of the population, thirty-five percent of all cases waived to the adult criminal justice system, and fifty-eight percent of all youth admitted to adult prisons (2007). In 2006 in Ohio, minority youth (African American, Hispanic, and Asian) comprised twenty percent of the state’s population, represented sixty-one
percent of the institutional commitments to DYS (Stickrath 2007) and sixty-nine percent of all youth transferred to the adult criminal justice system (Ohio Department of Youth Services 2006).

In 2007, DYS in collaboration with the Governor’s Council on Juvenile Justice and fourteen Ohio counties, representing more than eighty-six percent of Ohio’s minority population, worked in partnership to address the disproportionate number of minority youth entering Ohio’s juvenile justice system (Ohio Department of Youth Services 2009). The five counties that are represented in this dissertation (Cuyahoga, Hamilton, Lucas, Stark, and Summit) are also represented in Ohio’s DMC initiative (Ohio Department of Youth Services 2009). The effectiveness of those initiatives will be evaluated in 2010.

### 2.5 Cognitive Development in Adolescents and Waiver Policies

The results of neurobiological research strongly suggest that indiscriminate waiver of adolescents into the adult criminal justice system is unwise, counterproductive, and serves few correctional goals other than retribution (Steinberg 2008; Scott 2008; Fagan 2005; Zimring 2005; Steinberg 2000; Zimring 1981). As succinctly stated in a brief released by the MacArthur Foundation Research Network on Adolescent Development and Juvenile Justice: The scientific arguments surrounding this research do not say that adolescents cannot distinguish right from wrong, nor that they should be
exempt from punishment; they do suggest the need to consider the developmental stage of adolescence as a mitigating factor when juveniles are facing transfer to the criminal justice system (Scott and Steinberg 2008).

In the past decade, research has demonstrated that adolescents think and behave differently from adults and that those deficits in judgment and reasoning are the consequence of biological immaturity in brain development (Fagan 2005). According to Dr. Rubin Gur, Director, University of Pennsylvania Medical Center, “The evidence is strong that the brain does not cease to mature until the early 20s, in those relevant parts that govern impulsivity, judgment, planning for the future, foresight of consequences, and other characteristics that make people morally culpable…. ” (Gur, 2004, p. 2). Gur’s comment is further strengthened by research in developmental psychology which supports the thesis that characteristics of adolescence, such as “deficiencies in decision-making ability, greater vulnerability to external coercion, and the relatively unformed nature of adolescent character,” differentiate young offenders from adults in ways that mitigate culpability (Scott and Steinberg 2008, p.19; Steinberg 2008).

2.6 Net Widening and Labeling (Societal Reaction) Theory

The concept of net widening flowed from the diversionary movement in juvenile justice in the nineteen seventies and nineteen eighties. Around that time, the President's Commission on Law Enforcement and the Administration of Justice (1968) proposed the creation of youth services bureaus which were intended to funnel offenders away from
the official, and labeling, structure of the juvenile court and into community based programs.\textsuperscript{6} The Commission’s proposal was fueled by the concern that official intervention by the juvenile justice system contributed to a delinquent self and community image and youthful offenders might be better served informally, in the community, without the stigma and label that attached to court involvement (Sheldon 1999).

The theoretical underpinning of the diversionary concept was labeling theory, the principles of which were expressed in the writings of Tannenbaum (1938), Becker (1963), Lemert (1961), and others.\textsuperscript{7} The distinction of labeling theory or, the societal reaction perspective, lies in its rejection of using the offender as the focus of the criminal analysis. Instead, labeling proponents suggest that we direct our attention on the behavior of those who label, react to, and otherwise seek to control the offender rather than on the behavior of those who offend (Tontodonato and Hagan 2009; Cullen and Agnew 2003; Sheldon 1999). Labeling theorists believe that formal criminal punishment


\textsuperscript{7} According to Tontodonato and Hagan (2009): Labeling theory is about how behaviors come to be viewed by society as deviant, how society responds to deviant acts, and the consequences of this detection and processing on the offender. Lemert believed that more important than the act of deviance (primary deviance) was the reaction to the act (secondary deviance). He conceptualized secondary deviance as the psychological reorganization that takes place by the offender as a result of getting caught and labeled as a delinquent. Tannenbaum coined the phrase “dramatization of evil”, a reference to the official and public actions of the court system which he believed tended to highlight both the act of delinquency and, the offender, as delinquent. Thus the labeling of a youth as a delinquent became a self-fulfilling prophecy whereby the youth assumed, and identified with, the persona of the label. Lemert viewed labeling theory as a paradigm shift in which social control leads to deviance rather than deviance leading to social control.
is stigmatizing and, as a consequence, ineffective as a method of social control (Cullen and Agnew 2003).

Austin and Krisberg (1981) identified three types of changes in social control nets, a phenomenon more commonly referred to as net widening or widening the net. According to the authors, these changes can occur as the result of a wider net, whereby there is an increase in the proportion of a subgroup whose behavior is controlled by the state; a stronger net, whereby the state, through changes in its legal code, increases its capacity to control individuals; or, as a new net, whereby the state, through code changes, is able to transfer jurisdiction from one agency or control system to another (Austin and Krisberg 1981; Polk 1987; Cheesman 2002).

In 1996, the Ohio Legislature passed Substitute H.B. 1, which was decried by Ohio’s legal community8 as the criminalization of the state’s juvenile justice system (Kurtz, Liston, Skendelas, and Strait 1995). The intent of the legislation was to increase the severity of sanctions that could be imposed upon juvenile offenders and significant changes were made to the juvenile code in the areas of waiver, mandatory minimum terms of commitment to ODYS, consecutive sentencing enhancements, and firearm specifications.

8 Ohio Continuing Legal Education (CLE) is a nonprofit, statewide continuing legal education organization founded in 1961 by the Ohio State Bar Association, the Ohio State Bar Foundation, and the Ohio State University to provide lifelong learning for members of the profession and their staffs. Members of the corporation include the Organized Bar of Ohio, Ohio Law Schools and Local Bar Associations.
Sub. H.B. 1 reduced the minimum age for discretionary waiver from fifteen to fourteen and required the court to consider the age and injuries of the victim, the use of a firearm, and a lack of rehabilitation in the offender’s background. These additional circumstances constitute aggravating factors which favor the transfer of the case to the adult criminal justice system (Sarri et al. 2001; Kurtz et al. 1995).

Prior to the enactment of Sub. H.B. 1, mandatory judicial transfer only occurred when a youth was charged with aggravated murder or murder or was previously adjudicated as a delinquent for the offense of aggravated murder or murder (United States General Accounting Office 1995). The juvenile justice system was not required to consider any other factors; the responsibility of the court was simply to transfer the case to the criminal justice system (Sarri et al. 2001; Kurtz et al. 1995).

Under Sub H.B. 1 the court is required to transfer any offender at age fourteen who is charged with aggravated murder, murder, or the attempt to commit aggravated murder or murder if the youth had a prior ODYS commitment based on a category 1 or 2 offense. Additionally, the court is required to transfer any offender at age sixteen, who is charged with aggravated murder, murder, or the attempt to commit aggravated murder or murder without reference to other criteria; and, any youth age sixteen, who is charged with a category 2 offense (minus kidnapping) and who either had a firearm at the time of

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9 Category 1 offenses include Aggravated Murder, Murder, and Attempt of either. Category 2 offenses include Voluntary Manslaughter, Kidnapping, Rape, Felonious Sexual Penetration, Aggravated Arson, Aggravated Robbery, Aggravated Burglary, and Involuntary Manslaughter (as an Aggravated Felony of the First Degree).
the offense or was previously adjudicated delinquent and committed to the custody of ODYS for a category 1 or 2 offense (Sarri et al. 2001; Kurtz et al. 1995). Ohio also adopted, at that time, a provision mandating that ‘once an adult always an adult’ or, once convicted in the criminal court, all subsequent offenses committed as a juvenile are prosecuted in the adult court (Sarri et al. 2001; Kurtz et al. 1995).

In 2001, S.B.179 was enacted by the Ohio legislature. S.B. 179 elevated the concerns of public safety and juvenile accountability into the top two stated purposes of the legislation. Under 179, the minimum age for commitment to an ODYS institution was decreased from twelve to ten years of age for specified offenses,\(^\text{10}\) a dispositional option of a blended sentence was created, a new legal label of serious youthful offender was incorporated into the lexicon of the state, and a number of penalty enhancements were specified for offenses involving guns and gangs (Diroll 2007, Gross 2000).

The changes in the legal code that resulted from Sub H.B. 1 and S.B. 179 increased the youth population eligible for transfer by decreasing the minimum age and adding other offense-related criteria that aggravated in favor of waiving the youth thus widening the net by enlarging the scope of the population that must and could be transferred to the criminal justice system. Additionally, codified changes in both pieces of legislation created new nets by transferring the decision-making authority to a different

\(^{10}\) Aggravated Murder/Murder or the Attempt of either; or, a Felony 1 Violent Offense with an Enhancement. Enhancements include: a violent offense; a gun displayed, brandished, or indicated; or certain ODYS terms of commitment). There are 34 offenses classified in the Ohio Revised Code, Section 2901.01 (A) (9), as offenses of violence.
control system and moving the power to process cases from the juvenile justice system to
the adult criminal justice system. Finally, stronger nets resulted from the increase in the
severity of sanctions that could be imposed upon juvenile offenders, such as mandatory
minimum terms of commitment to ODYS, consecutive sentencing enhancements, and
gun and gang specifications.

Testing other empirical expectations of labeling theory other than net widening,
Matarazzo, Carrington, and Hiscott (2001) researched patterns of judicial decision
making, using societal reaction theory as a framework, and identified a relationship
between prior and current juvenile court dispositions. The study used data from the
Canadian Youth Court Survey (YCS) for fiscal years 1993 and 1994. These data include
all cases (60,519) disposed of (sentenced) in youth court. The unit of analysis was a case,
operationalized as all charges pertaining to an offender that were disposed of (sentenced)
at the same court hearing. In order to study the effect and sequencing of prior
dispositions, the data were limited to the 16,636 cases involving young offenders with at
least two previous cases that reached disposition. Log linear models were used for the
empirical analysis.

The dependent variable was the most recent disposition or the Current Disposition
(multiple dispositions were operationalized according to the most severe disposition).
The independent variables were prior dispositions (Prior Dispositions). Control variables
were seriousness of the offenses, (both current and prior), age, and gender, all of which
have been shown to be related to the severity of dispositional outcomes.
The goal of the research was to focus, theoretically and empirically, on the role of prior dispositions, in an attempt to identify a particular theory (societal reaction) underlying judicial decision-making in youth court. Societal reaction theory was defined using the traditional concepts of labeling theory, such as negative self-images, reactions of significant others, and issues of secondary deviance, and was based on the assumption that a delinquent label incorporates criteria more than just the behavior of the youth. Thus, societal-reaction theory suggests that assessments such as dispositions are one type of label and any prior assessments (or prior labeling) will remain indefinitely, and have a strong influence on future assessments.

The results indicated that case outcomes were strongly influenced by prior dispositions, rather than being determined entirely by the current offense. This finding supports the notion of the societal-reaction perspective that dispositions are a type of label, or disadvantage, which once attached to an offender have a strong influence on future assessments by youth court judges. Age and gender were not determined to be significant variables in judicial decision making which is contrary to societal reaction theory.

The authors recommended, as a practical response to the findings of their study, that only the most serious cases should be referred to the youth courts and that only the most egregious of cases should receive custodial dispositions. These recommendations are consistent with the philosophy of societal reaction theorists, which support
nonintervention and diversionary programs in dealing with young persons in conflict with the law.

2.7 Research on Judicial Decision Making

2.7.1 Blended Sentencing and Waiver Cases

Cheesman and Waters (2008) examined the implementation of juvenile inclusive blended sentencing in Ohio using data from five Ohio counties. The goal of the research was to identify the factors that influence the probability that offenders will be processed (charged) in one of three dispositional tracks – as a conventional case processed through the juvenile court, as a blended sentence case (SYO) processed through the juvenile court, or as a case transferred to the adult criminal justice system. For their study, a sample of 600 was taken from a population of felony adjudication cases and populations of SYOs (139) and transfer cases (164). Data were received from the counties of Cuyahoga, Hamilton, Lucas, Summit, and Delaware and from the Ohio Department of Youth Services and included cases processed from 2002-2004.

Using bivariate analysis, the authors constructed profiles of juvenile offenders for all three tracks. In general, and consistent in all three tracks, most offenders were male; females were atypical as SYO and transfer cases. Juveniles transferred to the adult court tended to be older than SYO cases and conventional cases. There were a large percentage of minorities in all tracks and especially in cases transferred to the adult court (eighty-one percent). Approximately two thirds of SYO and conventional cases were
minorities. Transfer cases were detained at a higher rate than the other two processing tracks, were least likely to be enrolled in school, and were most likely to have been charged with a first-degree felony, murder or attempted murder. Conventional juveniles were most likely to be charged with fourth and fifth-degree felonies while SYO cases were most likely charged with first or second-degree felony offenses.

Plea bargaining varied according to the county of jurisdiction although there was a slight trend to offer a higher percentages of plea agreements to conventional and SYO cases and a lower percentage of plea agreements to transfer cases. Again a slight trend was noted in Hamilton and Cuyahoga counties where SYO and conventional cases (ninety-six percent and ninety percent, respectively) tended to accept the plea agreements while transfer cases did not. All plea agreements offered in Summit and Delaware counties were accepted.

The authors used multivariate regression to identify factors that influenced the decision to process a case in one of the three tracks. Data on conventional cases were weighted because those cases represented a sample of cases and not the entire population, as was the situation with the SYO and transfer cases. Weighting was done according to the frequency with which a given dispositional alternative was invoked during the period of 2002 through 2004.

Identical to a study conducted in Minnesota (Cheesman et al. 2002), the authors used a two-step statistical process that began with the prosecutor’s decision on whether to handle the case conventionally (traditional juvenile court) or non-conventionally (transfer
or blended sentence). The second decision-making point was the selection (by the prosecutor) of a non-conventional case as either an SYO or a transfer case.

With respect to the first step, results indicated that being charged with murder or attempted murder, a first degree felony, or a second degree felony, being older, being male, being detained after arrest, and having more prior DYS placements increased the probability that a juvenile offender would be processed non-conventionally as opposed to being processed conventionally in the juvenile justice system. The number of charges, race, number of non-DYS out-of-home placements, and the number of prior felonies were not predictive of the selection of non-conventional as opposed to conventional processing.

The second-stage probit regression identified the variables that influenced the prosecutorial decision to move a case from the non-conventional pool of cases, into either that of an SYO or transfer case. The analysis indicated that being charged with murder or attempted murder, being older, being male, being minority, and being detained after arrest, all increased the probability that a juvenile offender would be processed as a transfer case as opposed to an SYO case. Being charged with a first-degree felony, number of prior DYS commitments, number of non-DYS out-of-home placements, and the number of prior felonies were not predictive of the selection of transfer as opposed to SYO.

The authors concluded that the analysis demonstrated that juvenile offenders who were processed as conventional cases could be distinguished from juvenile offenders
whose cases were transferred to the adult criminal justice system. The initial decision to process a case conventionally or non-conventionally was influenced primarily by legal factors. The type of offense with which the offender was charged influenced the probability of conventional as opposed to non-conventional processing. Age and gender were the only significant demographic variables that influenced the initial processing decision. Compared to younger offenders, older juvenile offenders had a higher probability of being processed in a non-conventional track, and males were more likely to be processed non-conventionally than females. Cases with a greater number of commitments to ODYS were more likely to be processed non-conventionally; and, cases detained subsequent to arrest were also more likely to be processed non-conventionally.

The variables that differentiated transfers from SYOs, controlling for the probability of selection for non-conventional processing, were a combination of legalistic and demographic factors. Among the legal variables, the seriousness of the offense distinguished the two processing tracks; offenders charged with murder or attempted murder were significantly more likely to be processed as transfer cases than SYO cases, in comparison to offenders charged with lower level felonies. Demographic factors seem to play a greater role in the selection of transfer over SYO than they did in the selection of non-conventional over conventional processing. Consistent with the selection model, age and gender were significant predictors of processing track. Males and older juveniles were significantly more likely to be processed as transfers rather than as SYOs. Race was a significant predictor in the second stage of the analysis. Minorities were
significantly more likely than non-minorities to be processed as transfer cases rather than as SYO cases. The study found that while race was not a factor in the decision to process a case conventionally or non-conventionally, it was a factor in determining if a case was processed as an SYO or transfer with minorities having a greater probability to be designated as a transfer case. The only offense-related variable that influenced the probability of transfer over SYO was a conviction for the offense of murder. The authors characterized this outcome as positive in that a transfer, arguably the most punitive sanction examined in the study, targeted the most serious offenders, as defined by those convicted of murder, and thus reflected a deliberate and rational decision-making process. This finding conflicts with results from the Minnesota study, which found that the probability of a transfer to the adult court was much lower than the probability of a blended sentence for the most serious offenses.

Cheesman and Waters (2008) sought to determine if blended sentencing was successfully targeting the intended offender groups as a measure of determining the impact of net widening. A censored probit regression showed that juvenile offenders who were processed as conventional juvenile offenders could be distinguished from juvenile offenders whose cases were transferred to the adult criminal justice system in ways that were generally expected, such as severity of offense (greater versus lesser felony offenses), age (older versus younger offenders), gender (male versus female), detained after arrest versus released after arrest, and a greater number of ODYS placements. Additionally, the authors determined that transfer to the adult court, the most
serious sanction examined in the study, seemed to have targeted the most serious offenders, and thus reflected a deliberate and rational decision making process. These results suggest that net widening did not occur in Ohio.

Burrow (2008), using data from the Detroit Recorder’s Court and the Wayne County Prosecutor’s Office, researched sentencing outcomes in Michigan that resulted from laws that were enacted by the state legislature in 1987. These laws expanded prosecutorial power in juvenile waiver decisions while allowing judges the discretionary authority to render final dispositions. Judges, empowered by statute, were authorized to sentence juvenile offenders who were convicted in adult criminal court to juvenile facilities until age twenty one or, alternatively, to adult correctional facilities, a variant of reverse waiver. Data for this research came from case files maintained by the Detroit Recorder’s Court and the Wayne County Prosecutor’s Office between the years 1988 and 1996.

Statistics were collected on 516 juvenile offenders; 368 cases had waiver motions filed against them and were sentenced in the juvenile system and 149 cases had waiver motions filed against them and were sentenced as adults. The dependent variable was the decision to sentence an offender as an adult or juvenile. The independent variables were categorized into four groups, the legally relevant (age, triggering offense, weapon, accomplices, and victim injury), the secondary legal (pending charges, prior placements, probation, prior felony adjudications), the extralegal (race, family history, relationship to victim, sex of victim), and the statutory (treatment amenability, danger to community,
pattern of violence). Using logistic regression, the study identified the type of offense (violent, person offenses such as homicide and serious assault), multiple charges, stranger victimization (as compared with relationship victimization), prior out-of-home placements, and intact family homes (as compared with single parent households) as significant determinants in the sentencing of offenders as adults. The author identified the finding of an intact family home as a judicial determinant as ‘important’; this is in contrast to results from prior research which identifies parental supervision and involvement as a positive factor in case evaluation.

Smith, Craig, Brodus, and Kimmelman (2003) evaluated the effects of waiver legislation that was enacted by the Maryland legislature in 1994 and 1998. The goals of the research were to develop prediction models of waiver, create offender profiles, and analyze minority overrepresentation data, pre-and-post legislation. A stratified disproportionate random sample of 298 urban and rural youths, processed in the Maryland juvenile justice in 1998, was selected resulting in at-risk (sixty-nine), waiver (105), and reverse waiver (seventy-two) youths; a convenience sample was drawn for the legislative waiver youths (fifty-two). The sample included 298 males, ages twelve through nineteen, of which 80.2 percent were African-American. Legislative waiver is a statutory mandate that grants the adult criminal court jurisdiction over a juvenile offender because of specific age or offense characteristics. Reverse waiver is a legal process whereby a juvenile offender, who was legislatively waived from the juvenile court to the adult criminal court, may petition the criminal court for a waiver back to the juvenile
court. If the presiding judge grants the petition, jurisdiction of the case is transferred from the criminal court to the juvenile court. Logistic regression was used to develop predictive models of waiver and reverse waiver and clustering was used to develop profiles of the waiver groups. The overrepresentation data were analyzed using a proportion to the population index. Results indicated that waiver decisions could be traced to predictors in legal variables, specifically, age, prior court record, and the use of a weapon and extra-legal variables, specifically, residing in an urban area, parental drug involvement, and a large physique. The authors concluded that the offender profiles offered insight into treatment and security needs and highlighted the need for flexible individualized treatment; and, disproportionate overrepresentation of African-Americans had increased in severity since 1992.

Cheesman et al. (2002) employed a multi-method inquiry to determine if the three dispositional alternatives, identified in Minnesota’s EJJ (Extended Jurisdiction Juvenile)\(^\text{11}\) statute, were being used to target their intended offender populations. A team of researchers from the National Center for State Courts conducted this research, in

\(^\text{11}\) Blended sentencing and Extended Juvenile Jurisdiction are two terms that represent slightly different but overlapping sentencing models. A blended sentence model authorizes the juvenile court to impose immediate sanctions in the juvenile justice system followed by a suspended sentence in the adult criminal justice system (Griffin 2003). The adult sentence is stayed, dependent on compliant behavior by the offender. Extended Juvenile Jurisdiction is a blended sentence model that authorizes the juvenile court to retain supervision over the offender beyond the age of majority, usually until the age of twenty one (Minn. Stat. §260B.130) (Podkopacz and Feld 2001).
conjunction with staff from the Minnesota Supreme Court. Data came from a statewide random sample, drawn from 17,882 cases disposed of during 1997 and 1998. The goal of the research was to determine whether consistent criteria were being used to distinguish between adult certification cases and EJJ cases from conventional juvenile court cases. Conventional cases were defined as offenders who received a traditional juvenile court sentence. The analysis included evaluating a variety of offender and case characteristics to look for intended and other differences between offenders selected to receive one of the three dispositional alternatives.

The research consisted of a two stage statistical analysis. For stage one, the dependent variable was the probability of being motioned or direct filed and the statistic used was a maximum likelihood skewed logit estimation or scobit. For stage two, the dependent variable was the three dispositional alternatives and a multinomial logit was selected as the statistic.

In Minnesota the decision to motion, or direct file, is made by the county attorney whereas the type of disposition is usually negotiated by the county attorney and defense lawyers and subject to the approval of the judge. This two-step process determines which dispositional alternative an offender, aged fourteen years or older and charged with a felony, will receive. The initial step is to assess how the case will be processed, as an adult certification case or an EJJ case. Cases that were not motioned were placed in the conventional (traditional) juvenile court group. Step 2 occurs when motioned juveniles are sentenced to a dispositional alternative. Offenders who are direct filed, or motioned
for EJJ or adult certification, are eligible to receive one of three types of dispositions: an EJJ disposition (juvenile disposition and stayed adult sentence), an adult certification, (and a subsequent sentence in adult court) or a traditional juvenile sentence. (Offenders can also be designated as an EJJ case through a failed adult certification.)

Case processing was analyzed using factors that were expected to influence the probability of motioning and factors that were expected to influence the selection of dispositional alternatives. The factors were taken from the original legislation and included age, current offense, prior offense record, culpability (extent of participation in the offense), and amenability to juvenile programming. Additionally, the authors used other socio-demographic characteristics such as race and gender and case processing factors such as judicial districts.

The authors found that intended and unintended factors influenced the prosecutor’s decision to motion for EJJ or transfer. Factors that were significant and were legislatively intended to impact the process included age, seriousness of the offense, number of charges, the presence of an adult co-defendant, use of a firearm, and number of out-of-home placements. Factors that were not expected to influence the process but, in fact, were found to be significant included race and the judicial district where the case was processed.

Prior offense record strongly distinguished (in the direction expected) cases that were transferred from cases that received EJJ status. Age and current offense factors also distinguished the two but were much less influential. The majority of current offense
factors failed to distinguish the two, including whether the offense involved a firearm, number of charges, victim injury, and type of offense (person, drug, or other). Thus, cases with offenses against another person, use of firearms, and injury to victims were just as likely to be EJJ cases as to be transferred to the adult court. Unpredictably, the probability of transfer was found to increase as the seriousness of the offense decreased. This finding was explained by suggesting that transfer to the adult court, as a dispositional alternative, was not being targeted as intended in the legislation.

Additionally, judicial district and race were found to influence the odds of being transferred to the adult court rather than receiving an EJJ status, more than any intended factor except prior offense history. The authors concluded that results from both stages of the analysis indicated that the factors influencing the decision to motion were different from the factors that influence the selection of dispositional alternatives and that the latter selection was not influenced by the probability of motioning.

The authors found little evidence of unintended net widening based on the fact that motioned and conventional juveniles differed in ways anticipated by the 1994 Juvenile Crime Act. The intent of Minnesota’s Juvenile Crime Act was that each dispositional alternative would target a specific type of offender, distinguishable from one another, primarily, based on age, seriousness of the current offense, and prior offense record.

Net widening was contingent on the viability of EJJ, as the intermediate sanction between conventional juvenile dispositions and adult certification, effectively targeting
its intended offender population. The authors concluded, based on multivariate analysis that conventional juvenile dispositions seemed to be targeting the intended offender population. Conventional juveniles were the youngest, had the least serious current offense-related factors, showed the least culpability\textsuperscript{12}, and had the least extensive programming histories in comparison with the other two groups of offenders.

Podkopacz and Feld (2001) analyzed cases of 504 youth against whom prosecutors filed waiver and EJJ\textsuperscript{13} (Extended Jurisdiction Juvenile Prosecution) motions between 1995 and 1997 to identify the offender and offense variables that affected prosecutorial charging and judicial sentencing decisions. The analysis compared and contrasted the characteristics of the EJJ youth and transfer youth with a sample of juveniles certified for transfer to the adult court by Hennepin County (Minneapolis) prosecutors prior to legislative enactment of the EJJ statute (1986-1992). EJJ, or Extended Jurisdiction Juvenile Prosecution, was enacted by the Minnesota legislature in 1995, and is another name for a juvenile inclusive blended sentence. Under this legislation, judges were empowered to impose a delinquency disposition and an adult criminal sentence, the execution of the sentence stayed, pending successful completion of

\textsuperscript{12} According to Minnesota’s EEJ law the culpability of an offender is determined by the extent of the youth’s participation in planning and carrying out the offense and the existence of any mitigating factors recognized under the sentencing guidelines. Podkopacz and Feld (2001). 1007.

\textsuperscript{13} EJJ or Extended Jurisdiction Juvenile Prosecution is the Minnesota blended sentencing act which allows judges to simultaneously impose a delinquency disposition and an adult criminal sentence, the execution of which is stayed pending successful completion of the delinquency sentence.
the delinquency sentence. Data were collected through paper and electronic juvenile court and criminal court files, and consisted of information on the offense (type, severity, victim injury, weapon usage, and disposition), the offender (age, gender, and race), and court processing variables (which judge presided, whether the case was plea bargained or went to trial, and recommendations from the probation officer and psychologist - hereafter referred to as court services personnel).

The authors used two separate logistic regression equations to analyze judicial sentencing decisions. Binominal logistic regression was used to identify judicial determinants on cases (181) for which prosecutors filed EJJ motions. An EJJ motion presented two judicial sentencing options – retain in the juvenile court or dispose of through a blended sentence. The dependent variable was the sentencing options; the independent variables were age, recommendations from court services personnel, commission of a presumptive offense and use of a weapon, and prior out-of-home placements. A presumption (presumptive offense) is a legally created status in which it is presumed that a juvenile will be tried as an adult based on conditions of age, offense

\[14\] Podkopacz and Feld (2001): The law adopted the presumptive commitment offenses in the adult Sentencing Guidelines to define serious juvenile offenders whom juvenile court judges presumptively should waive. The Sentencing Guidelines, which applied to adult criminal defendants, presumed that judges should commit to prison offenders convicted of certain violent crimes. According to guidelines released on August 1, 1999 by the Minnesota Sentencing Guideline Commission, presumptive offenses included: second degree murder (intentional and drive by shootings), third degree murder, second degree murder (unintentional), first degree criminal sexual assault, first degree assault, and first degree aggravated robbery. Available at: http://www.msgc.state.mn.us/msgc5/guidelines.htm Accessed on: May 9, 2010.
committed, and probable cause that the offender has committed the crime. A juvenile may overcome presumption by presenting clear and convincing evidence that maintaining the case in the juvenile court would serve public safety. Juveniles who were retained in the juvenile court were younger (fourteen and fifteen as compared to EJJ cases which were sixteen and seventeen), charged with a non-presumptive offense, and had fewer out-of-home placements than did cases that were disposed of through a blended sentence.

Multinominal logistic regression was used to identify judicial determinants of cases (323) for which prosecutors filed certification motions. A certification motion has three distinct judicial outcomes – retain in juvenile court, dispose of through a blended sentence, or transfer to the adult court. Youth disposed of through a blended sentence (in comparison with youth transferred to the adult court) were younger (sixteen years of age as compared to seventeen), recommended by court services personnel, did not use a weapon in commission of their offense, and had less out-of-home placements than did youth who were transferred to the adult court. Juveniles sentenced as EJJ cases (compared with juveniles retained in the juvenile court) were more likely to be sixteen years of age rather than seventeen, recommended for the disposition by court services personnel, and charged with a presumptive offense. Only two variables were significant in comparisons between juveniles retained in the juvenile court and juveniles transferred to the adult court – recommendations by court services personnel and out-of-home placements. Offenders with a larger number of out-of-home placements were more likely to have their case transferred to the adult criminal court system.
The authors, subsequent to an evaluation of the certification and blended sentencing (EJJ) statute in Minnesota, concluded that blended sentencing had a substantial net widening impact. While the number of judicial transfers remained constant in comparison with prior years, the number of prosecutorial motions to certify cases more than doubled (108 vs. 47) increasing the pool of cases deemed, by prosecutors, eligible for transfer. Of the total number of cases certified, one half or fifty percent (fifty-four cases) received a blended sentence when otherwise those cases would have been handled as delinquency cases in the juvenile court. Moreover, prosecutors filed sixty EJJ motions creating an even larger number of youth eligible for an adult sentence if unsuccessful with the juvenile portion of their sentence. On average, an additional eighty-three youths annually received an EJJ status. Of the 240 EJJ cases studied from 1995-1997, thirty-five percent (eighty-four cases) were revoked and committed to an adult institution.

Podkopaicz and Feld concluded that the blended sentencing law widened the net of criminal social control, and moved larger numbers of younger and less serious youth into the adult correctional system, indirectly, through the back door of probation revocations.

Snyder, Sickmund, and Poe-Yamagata (2000) focusing on the states of South Carolina and Utah developed two distinct case studies to identify the factors judicial decision makers consider when transferring cases from the juvenile to the criminal justice system. In each of the states, the basic data collection strategy consisted of extracting information from automated juvenile court records and supplementing those data with
information from automated records from the criminal court, prosecutor’s office, or law enforcement. Both state case studies reviewed all instances in which a prosecutor requested a judicial waiver to transfer a case to adult criminal court. The research question that was seminal to the case studies was based on identifying the criteria that was used in disposing of cases that transfer out of the juvenile justice system and into the criminal justice system.

Prior to January 1995, South Carolina law permitted only judicial waiver of juveniles. In South Carolina, the upper age of original juvenile court jurisdiction is sixteen; persons seventeen or older are considered adults for purposes of criminal prosecution. This study focuses on the years 1985 through 1994, during which time South Carolina’s waiver provisions remained constant. Data elements included the date of birth/age, gender, race, history of drug use, court history, and sentencing history.

In South Carolina, judicial waiver is allowed if a youth is charged with murder or criminal sexual conduct; a youth, age sixteen or older, is charged with a delinquency offense; a youth, age fifteen, is charged with drug trafficking or carrying certain weapons on school property; a youth, age fourteen or fifteen with two prior unrelated adjudications for enumerated person or a property offense, is charged with a third or subsequent such offense. The legislation directed courts to waive such juveniles to criminal court if it was in the best interests of the child or the public.

In the ten-year period from 1985 through 1994, South Carolina family courts considered 595 requests for waiver to criminal court, involving 557 juveniles. The vast
majority of waiver requests involved males (ninety-five percent), most involved blacks (eighty percent), and most involved juveniles age sixteen or older at the time the case was referred to family court. In South Carolina, seventeen year olds are generally considered adults; however, the family court’s jurisdiction over delinquents can extend until age twenty-one. Consequently, youth ages seventeen or older were eligible for judicial waiver when they were under the continuing jurisdiction of the juvenile court for an offense committed before age seventeen.

Cases involving juveniles with one or more prior offenses who were charged with a serious person or property offense were significantly more likely (eighty-seven percent) to be approved for waiver than juveniles in other waiver request cases. Juveniles with no prior adjudications in juvenile court were significantly more likely (eighty-two percent) to be approved for transfer if they had been charged with a serious person offense.

In general, the South Carolina juvenile court was significantly more likely to waive juveniles who had extensive court histories. Review of the data suggested that a juvenile’s offense history interacted with the seriousness of the offense charged in the waiver incident and suggests that transferred cases involve offenses that are more serious and offenders who are less amenable to traditional juvenile court sanctions.

The Utah study focused on cases in which the prosecutor requested a judicial waiver between the years of 1988 and 1995. Data were captured on waived cases and cases retained by the juvenile court and included the offender’s court history, sentencing
history, birth date, gender, race, victim characteristics, use or possession of a weapon, gang involvement, responsibility in the offense, and/or relationship to the victim.

During the eight-year period, Utah juvenile courts considered requests to waive 225 youth to criminal court. These juveniles were predominantly male (ninety-six percent), most were non-Hispanic whites (fifty-seven percent), and nearly seventy percent were age seventeen or older at the time the case was referred to court. Similar to South Carolina, many juveniles had accumulated extensive court and offense histories.

The offense profile of waiver request cases in Utah showed that the majority had been charged with serious person or serious property offenses. Although sixty-six percent of the juveniles had at least one codefendant, nearly all (ninety-eight percent) were the primary offender in the incident. Gang involvement was noted in twenty percent of the waiver request cases. Crimes against another person usually involved one victim (forty-four percent) or two victims (twenty-six percent). Twenty-two percent of the person offenses involved three or more victims.

In the majority of cases the offender used or brandished a weapon. In thirty-two percent of the cases, offenders were arrested in possession of a firearm and in twenty-six percent of the cases the offender was found with a weapon other than a firearm. Seventy-three percent of the juveniles who had a weapon used it during the incident; the remainder merely carried or brandished it.

The study revealed a relationship between offense seriousness and the decision to approve a waiver request. The court was significantly more likely to approve waiver
requests for juveniles charged with serious person offenses; for cases that involved use of a weapon; and for cases that resulted in serious injury to one or more victims (eighty-seven percent).

The case studies of South Carolina and Utah identified support for transfer requests between the juvenile court and the prosecutor - in approximately four out of five cases these decision makers agreed about who should, and who should not, be waived. For the most part, the case studies indicated that transfer is reserved for the most serious cases and the most serious juvenile offenders. The use of a weapon, injury to a victim, and long juvenile court histories also increased the probability that case would be transferred to the criminal court.

To summarize, an extensive prior court history, seriousness of offense, use of weapons, age of the offender, and victim injury were identified in Snyder, Sickmund, and Poe-Yamagata (2000) case studies as important variables in cases that were waived to the adult criminal justice system.

Fagan and Deschenes (1990) using data collected from four urban juvenile courts in the cities of Boston, Newark, Detroit, and Phoenix examined factors that guided transfer decisions for 201 violent juvenile offenders. Data were collected from juvenile court records, police arrest reports, and court histories and included information on the presenting offense, victims, offender demographics, offender background history, and information about the statutory criteria in the transfer legislation. Eligible offenders were selected from an offense-based definition of violent juvenile offender using the criteria
that the current offense must have been violent and the subjects must have had a prior adjudication for a felony person or property offense (only youth who were charged with aggravated murder were exempt from the second criteria). In each court, the judge decided on the motions. Fewer than half of the petitions were certified to criminal court (seventy-six cases); the remaining cases were retained in the juvenile court. Analyses comparing transferred and retained youth were conducted to examine the relationship between the transfer decision and statutory criteria and extra-legal characteristics of the offender. The authors, using multivariate analysis, were unable to isolate strong or consistent determinants of the judicial transfer decision. The only variable that could significantly identify differences between youth who were transferred to the adult criminal court and youth who were retained in the juvenile justice system was an extensive prior offense history.

Daniel Mears (2003, p. 169), in his critique of waiver research, stated, “Despite the wealth of research, the fact remains that we know relatively little about the true effects of waiver.” Nor is there good information on the frequency and characteristics of blended sentencing options and on the role plea bargaining plays in the transfer and sanctioning process (Mears, 2003). Mears suggested that researchers must begin to assess systematically the intended and unintended effects of waiver policies, and he identified two critical challenges that must be addressed. The first consists of arriving at philosophical uniformity on the reason for the waiver process and then ensuring that implementation of that philosophy is consistent. The second focuses on developing a
greater understanding about how a juvenile court’s response and adjustment to the statutes may affect the implementation and effects of waiver. The research in this dissertation addresses Mears second concern - the implementation of statutory changes in waiver and blended sentencing options in Ohio.

In the foregoing literature review, Burrow (2008); Smith, Craig, Brodus, and Kimmelman (2003); Snyder, Sickmund, and Poe-Yamagata (2000); and Fagan and Deschenes (1990), with slightly different goals and research designs, sought to identify the variables that were most salient in binary sentencing decisions – retain in the juvenile court or transfer to the adult criminal justice system. Fifteen states have blended sentencing laws, yet a review of the literature indicates that there is sparse empirical information available on the judicial determinants affecting the use of blended sentencing. Generally, research has yet to distinguish cases that are transferred to the criminal court, cases of youth disposed of through a blended sentence (SYOs), and cases of juvenile offenders who engage in serious felonious behavior but remain within the juvenile court for adjudication and sanctioning (Snyder and Sickmund 2006). The Podkopacz and Feld (2001), Cheesman et al. (2002) and, Cheesman and Waters (2008) research are the exceptions to that statement.

What distinguishes the current research in this dissertation from the Podkopacz and Feld research is the fact that the data will be drawn from five counties and the Department of Youth Services. The research conducted by Podkopacz and Feld (2001) is limited by the fact that there were no cross jurisdictional comparisons; the research was
conducted in one county – Hennepin County, Minnesota. A multi-jurisdictional study allows for the detection of variation in patterns of sentencing across jurisdictions and, therefore, greater generalization of findings. The lack of jurisdictional variation in research is identified, in a study conducted by Cauffman, Piquero, Kimonis, Steinberg, Chassin, and Fagan (2007, p. 521), as a “limitation in previous studies of dispositional outcomes.”

This research will extend the research conducted by Cheesman and Waters (2008) in Ohio. Whereas that research focused on motioning activity that occurred at the prosecutorial level, this research focuses on decision making activity that occurs on the judicial level. What I seek to understand is what happens after a Prosecutor files a charge or seeks a motion. What I seek to know is what factors judges find salient in their decision making in regards to adjudication and disposition.

2.7.2 Summary of Previous Research Findings

To summarize the relevant research: Burrow (2008) researched sentencing outcomes in Michigan and found that the offense committed (violent, person offenses such as homicide and serious assault), the existence of multiple charges, stranger victimization, prior out-of-home placements, and intact family homes were significant determinants in the decision to sentence offenders as adults and not as juveniles. Smith, Craig, Brodus, and Kimmelman (2003) studied 298 juvenile male offenders in Maryland and found that age, prior court record, weapon use, residing in an urban area, parental
drug involvement, and physical size were important triggers in the decision to waive a juvenile to the adult system. Snyder, Sickmund, and Poe-Yamagata (2000) in South Carolina and Utah identified the factors of prior court history, seriousness of offense, use of weapons, age of the offender, and victim injury as important factors judicial decision makers consider when transferring cases from the juvenile to the criminal justice system. Fagan and Deschenes (1990), in four urban juvenile courts, examined factors that guided transfer decisions for 201 violent juvenile offenders and found that age and offense were the overriding sentencing determinants.

Cheesman and Waters (2008) in Ohio and Cheesman et al. (2002) in Minnesota researched prosecutorial decision making and the processing of cases as non-conventional (transfers or SYOs), or conventional (retain in juvenile court). In Ohio, gender, minority status, age, seriousness of the offense, number of DYS placements, and detention after arrest were predictive variables that distinguished non-conventional from conventional cases. In Minnesota, age, race, use of a weapon, number of charges, number of out of home placements, seriousness of the offense, judicial district, and an adult co-defendant aggravated toward the motioning of an offender as either a transfer or blended sentence case. Podkopacz and Feld in Minnesota (2001) analyzed cases of 504 youth against whom prosecutors filed waiver and EJJ motions to identify the variables that affected charging and sentencing decisions. Cases retained in juvenile court system involved offenders who were younger, committed non-presumptive offenses, had few placements, and were recommended by court personnel. EJJ or blended sentence cases in
comparison to transfer cases were younger (16), had fewer out of home placements, did not use a weapon in the commission of the offense, and were recommended by court personnel.

Age, gender, and minority status were predictive variables in all the literature. Older (17), male, and minority correlated with transfer cases; slightly younger (16), male, and minority correlated with blended sentencing cases; and younger (14 and 15), minority/non-minority status, and male/female correlated with cases usually retained in the juvenile justice system. A significant prior offense history aggravated toward a transfer to the adult justice system especially in juvenile systems without a blended sentence option. Murder and attempted murder were significant predictors of transfer while a felony one offense could result in either a transfer or blended sentence. Use of a weapon tended to aggravate toward a transfer while the lack of a weapon tended to mitigate in favor of a blended sentence. Offenders who remained in the juvenile justice system were charged with lower level felony offenses, primarily felony four and five offenses, had less history with the system, and were bolstered by recommendations from court personnel. In Minnesota, recommendations from court personnel mitigated between a transfer to the criminal justice system and a blended sentence. The number of placements outside the home had contradictory outcomes. In some court systems, a larger number of placements aggravated toward a more severe sanction, in others, fewer placements mitigated toward a less severe sanction, while in others, the variable was not predicative.
To reiterate: the objective of this research is to identify the judicial determinants most salient in the decision to dispose of youthful offenders who engage in felony-level, violent, and/or repetitive criminal offending by comparing legal and extra-legal characteristics of cases retained in the juvenile court, cases waived to the adult court and cases disposed of through a blended sentence to determine which factors significantly correlate and trigger specific judicial action. Additionally, this research affords an opportunity to assess the distinctions between offenders disposed of through transfer laws and offenders disposed of through a blended sentence which is something that is lacking in the extant literature. To be sure, there are distinctions within each piece of the Ohio legislation that address each dispositional option but these distinctions, in some instances, overlap and function as guidelines that can facilitate more than one dispositional response. Again, the most important question this research seeks to answer is what legal and extra legal factors predict outcomes in juvenile court dispositions and, secondly, what do we know about blended sentencing in Ohio
CHAPTER 3

Research Questions and Hypotheses

The literature review in chapter 2 indicated the following: 1) age, gender and minority status were predictive factors relative to waiver of a case to the adult criminal justice system in a significant majority of the research on judicial decision making, 2) a significant prior offense history aggravated toward a transfer to the adult criminal justice system especially in juvenile systems without a blended sentencing option, 3) weapon usage tended to result in more severe sentences, and 4) there is limited research on blended sentencing. Based on these findings, I propose in the first section a series of research questions to guide my study. These research questions lead to specific hypotheses, presented in the second section, which will be tested in the study’s analysis in a later chapter.

3.1 Research Questions

The initial three research questions are about identifying the legal and extra legal factors related to the three dispositional options. Central to this research project is the identification of specific legal and extra legal factors that predict outcomes in juvenile
court dispositions. There are three possible dispositional options: retain the case in juvenile court; a blended sentence invoked by the juvenile court; or a transfer to the adult criminal court. I offer four initial research questions.

*Research Question One:* Which legal and extra legal factors influence the decision to transfer a case to the adult criminal justice system?

*Research Question Two:* Which legal and extra legal factors influence the decision to dispose of a case through a blended sentence?

*Research Question Three:* Which legal and extra legal variables influence the decision to dispose of a case by retaining jurisdiction and processing within the traditional structure of the juvenile court?

*Research Question Four:* Which are more important in determining dispositional outcomes, legal factors, or extra legal factors?

The distinction between legal factors and extra legal factors in sentencing decisions is made in several research studies (Burrow 2008; Smith, Craig, Brodus, and Kimmelman 2003; Podkopacz and Feld 2001). Legal factors are based on legislatively defined characteristics that may be legitimately used by judges in making their sentencing
decisions. Legal factors include the age of the offender at the time the offense was committed, if the presenting offense was a violent offense, the number of presenting offenses, the felony level or severity of the presenting offense, if a weapon was used in commission of the presenting offense, the number of prior adjudications or offense history, the number of previous court interventions (or treatment history), and age at first referral to the juvenile court. Extra legal factors, which are not legitimately relevant to sentencing decisions, are race and gender.

The Ohio statutes, initially Sub. H. B. 1 and subsequently and more significantly, S.B. 179 sought to make public safety a key consideration in dealing with juvenile offenders and, with that objective embedded in the legislation, highlighted the importance of legal variables such as the age of the offender, severity of the offense, the use of a weapon, number of presenting offenses, and prior offense history for considering transfer and blended sentence actions.

The extra legal factors may include age at the time of first referral to the court, gender, and minority status all of which were predictive variables in the literature (Cheesman and Waters 2008; Burrow 2008, Smith, Craig, Brodus and Kimmelman 2003; Chessman et al. 2002; Podkopacz and Feld 2001; Snyder, Sickmund, and Poe-Yamagata 2000; and Fagan and Deschenes 1990).

While age is frequently identified in the literature as a legal variable and a part of sentencing legislation which specifies age and offense characteristics as salient to the sentencing process, age can also be classified as an extra legal factor. More specifically,
the age at which juveniles commit their first offense has been identified in research as one of the strongest predictors of later aggression and delinquent behavior (Thornberry, Huizinga, Loeber 2004; Podkopacz and Feld 2001; Dahlberg 1998; Fagan and Deschenes 1990). Longitudinal research findings on more than 4,000 youth from three cities show that youth who begin their delinquency careers before age 13 are at a higher risk of becoming serious and violent offenders than those who begin their delinquency careers later (Thornberry, Huizinga and Loeber 2004). In Ohio, offenders age 13 and younger are not eligible for waiver to the criminal justice system. Consequently, age may then be an extra legal factor that can be taken into consideration.

The case profiles identified in the literature (Cheesman and Waters 2008, Cheesman et al. 2002, Podkopacz and Feld 2001) suggested that offenders who were older (seventeen), male, and minority usually correlated with transfer; offenders who were slightly younger (sixteen), male, and minority usually correlated with blended sentencing; and offenders who were younger (fourteen and fifteen), minority and non-minority, and male and female usually correlated with cases that were retained in the juvenile justice system. These previous research studies indicate that minority status is usually related to dispositional outcomes, thus the sixth research question.

*Research Question Five:* All else being equal, what impact do minority status and gender have on dispositional outcomes?
The remaining legally relevant factors that have also been identified in the research literature as predictive of dispositional outcomes include prior offense history, severity of the offense, and use of a weapon. A significant prior offense history was predictive of transfer to the adult justice system especially in juvenile systems without a blended sentence option (Smith, Craig, Brodus and Kimmelman 2003, Chessman et al 2002, Snyder, Sickmund, and Poe-Yamagata 2000, and Fagan and Deschenes 1990). Murder and attempted murder were significant predictors of transfer while a felony one offense could result in either a transfer or a blended sentence (Cheesman and Waters 2008, Burrow 2008, Chessman et al 2002). The use of a weapon also was predictive of transfer while the lack of a weapon tended to be predictive of blended sentences (Smith, Craig, Brodus and Kimmelman 2003, Chessman et al 2002, Podkopacza and Feld 2001, Snyder, Sickmund, and Poe-Yamagata 2000).

**Research Question Six:** To what extent do prior record, severity of offense and use of a weapon predict the three dispositional outcomes?

Matarazzo, Carrington, and Hiscott (2001) focused theoretically and empirically on the role of prior dispositions in an attempt to identify a particular theory (social reaction/labeling) underlying judicial decision-making. The results indicated that case outcomes were strongly influenced by prior dispositions, rather than being determined entirely by the current offense. The authors concluded that the evidence supported the
societal reaction perspective, which posits that dispositions are a type of label, or disadvantage, which once attached to an offender, strongly influence future assessments by juvenile court judges. Thus an seventh research question (related to the sixth research question) inquires about the labeling impact of prior record on dispositional outcomes.

*Research Question Seven:* Do prior court dispositions influence extant court dispositions? Is prior record a predictor of dispositional outcome?

The seven research questions developed in this section guide the development of specific hypotheses that will be tested in the forthcoming analysis presented in later chapters.

### 3.2 Hypotheses

Each of the above research questions implies sets of hypotheses that attempt to pinpoint the expected pattern of variables that predict the three dispositional outcomes: transfer to adult court, blended sentence, or retention in the juvenile system. In the analysis (which uses multinomial logistic regression), retention in juvenile court will be the reference variable to which the two other outcomes are compared. For that reason, the hypotheses should be understood as comparisons to the dispositional outcome of retention in juvenile court, which is viewed as the least severe outcome. The overall expectation is that blended sentences and transfers will be similar in terms of predictive factors, and both will be significantly different from retention in juvenile court. Even though I expect the blended sentencing outcome and the transfer outcome to have similar
relationships to the independent variables, I present separate hypotheses for each of these outcomes, because it is possible that the findings may support expectations for one of these outcomes but not the other one. The following hypotheses are statements about the expected direction of the relationships between independent variables and dependent variable, the measurement of which will be discussed in chapter 4. The hypotheses deal with both legal and extra legal factors, as discussed in the previous section. Each variable is related (in parenthesis) to either a legal or an extra legal factor.

The first set of hypotheses states predictions about transfer to adult court as compared to retention in juvenile court:

**H1.** The probability of transfer to adult court increases as the severity of the alleged offense increases after controlling for all other factors (legal factor).

**H1a.** As the felony level of an offense increases, the probability of transfer to adult court increases after controlling for all other factors (legal factor).

**H1b.** The probability is greater that offenses involving violence will be transferred to adult court after controlling for all other factors (legal factor).
H2. The probability of transfer to adult court increases in cases where a weapon was used in the commission of an offense after controlling for all other factors (legal factor).

H3. The probability of transfer to adult court increases as the age of the juvenile increases after controlling for all other factors (legal factor).

H4. Juveniles who have longer histories with the juvenile justice system are more likely to be transferred to adult court after controlling for all other factors (legal factor).

H5. Minority youth are more likely than other youth to be transferred to adult court after controlling for all other factors (extra legal factor).

H6. Males are more likely than females to be transferred to adult court after controlling for all other factors (extra legal factor).

H7. Youth who committed their first offense at a younger age are more likely to be transferred to the adult court after controlling for all other factors (extra legal factor).
The second set of hypotheses state predictions about blended sentencing as compared to retention in juvenile court:

H8. The probability of receiving a blended sentence increases as the severity of the alleged offense increases after controlling for all other factors (legal factor).

H8a. The probability of a blended sentence increases for cases that involve violence after controlling for all other factors (legal factor).

H8b. The probability of a blended sentence increases after controlling for all other factors as the felony level of the offense increases (legal factor).

H9. The probability of a blended sentence increases for cases that involve a weapon after controlling for all other factors (legal factor).

H10. The probability of a blended sentence is higher for juveniles who have a greater number of prior adjudications after controlling for all other factors (legal factor).

H11. The probability of a blended sentence is more likely for older juveniles than for younger juveniles after controlling for all other factors (legal factor).
H12. Juveniles who have a longer history with the juvenile justice system are more likely to receive a blended sentence after controlling for all other factors (legal factor).

H13. Minority youth are more likely than other youth to receive a blended sentence after controlling for all other factors (extra legal factor).

H14. Males are more likely than females to receive a blended sentence after controlling for all other factors (extra legal factor).

H15. Youth who committed their first offense at a younger age are more likely to receive a blended sentence after controlling for all other factors (extra legal factor).

One additional hypothesis is also offered concerning the overall effects of legal versus extra legal factors in predicting dispositional outcomes.

H16: Taken together, legal factors are more predictive of dispositional outcomes than are extra legal factors after controlling for all other factors.
These 16 hypotheses will be tested in the analysis presented later, in chapter 5. The hypotheses are used to predict dispositional outcomes, which form the dependent variable for the study: transfer to adult court, blended sentence, and retention in juvenile court. The predictor variables for these outcomes contained in the above hypotheses form the independent variables for the study. In chapter 4, after describing the context of Ohio juvenile justice and the study’s population and sample, I will discuss in detail the measurements of the variables contained in the hypotheses presented in this section. Chapter 4, then, provides more details about the current study.
CHAPTER 4

Data and Methods

In this chapter, I will be covering the context of the Ohio study, the sample and sampling method, measurement of variables, and the analytic strategy.\textsuperscript{15} I will begin by identifying the participants in the study and describing the context in which the juvenile justice system delivers services to serious delinquent offenders in Ohio.\textsuperscript{16}

Delinquency services are organized at both the state and local level in Ohio (NCJJ 2006). It is the statutory responsibility of the counties to fund juvenile probation services and detention services; those services are administered by the juvenile courts or, in the case of detention services, through a multi county collaborative or the juvenile court of jurisdiction.

\textsuperscript{15}This project was approved by the Ohio Department of Youth Services on February 28, 2008 and the Institutional Review Board at Kent State University on March 6, 2008.

\textsuperscript{16}Juvenile law is largely a matter of state law and adjudication of juveniles in the federal system is limited. Federal law requires that prosecutors restrict proceedings against juveniles to those cases in which they certify to the court that there is a substantial federal interest in the case and the state does not have jurisdiction or refuses to assume jurisdiction; the state with jurisdiction does not have adequate programs or services for juvenile offenders; or the offense charged is a violent felony, a drug trafficking or importation offense, or a firearms offense (18U.S.C. § 5032). For additional information access: http://bjs.ojp.usdoj.gov/content/pub/pdf/Jdfcjs.pdf or Cornell University Law School, Legal Information Institute (Juvenile Justice) at: http://topics.law.cornell.edu/wex/juvenile_justice or the Ohio Revised Code, at: http://codes.ohio.gov/.
The Ohio Department of Youth Services (ODYS) is the agency that has statutory responsibility for administration of the juvenile corrections continuum in the state of Ohio. This responsibility includes state juvenile institutions and aftercare or parole services.

4.1 Context of the Study

4.1.1 The Juvenile Courts

The juvenile courts in Ohio are established through statutory authority granted by the Ohio Constitution and are considered a specialized division of the court of common pleas. The Courts of Common Pleas exercise jurisdiction over delinquency matters in Ohio. All eighty-eight counties have courts of common pleas and most have specialized divisions for juvenile, probate, and domestic relations cases. Depending upon the county in Ohio, the juvenile court can be a division, separate from or part of, a family, probate, or domestic relations court. Ten of Ohio's eighty-eight counties have separate juvenile court divisions. The remaining seventy-eight counties have juvenile court divisions

17 Source: The Supreme Court of Ohio and the Ohio Judicial System. For additional information, access the Ohio Supreme Court web site at: http://www.sconet.state.oh.us/.

18 Cuyahoga, Hamilton, Lucas, and Summit are stand-alone juvenile courts. Stark is a family court and shares jurisdiction with a domestic relations court.
combined with other divisions. Judges for all common pleas division courts are elected public officials, who serve a term of six years, and can be reelected indefinitely.

In Ohio, the juvenile justice system is predicated on home rule, which allows cities and counties throughout the state to function with a great deal of independence (Schnelle 2007). For this reason, a majority of services available through the juvenile justice system is provided by county governments and can be remarkably dissimilar from court to court.

4.1.2 The Ohio Department of Youth Services

ODYS is the statutorily mandated correctional system for the confinement of felony offenders, ages ten to twenty one, who are adjudicated and committed by Ohio’s eighty-eight juvenile courts. This state agency operates five correctional and rehabilitation facilities, one private treatment facility, and administers parole services from five regional Ohio sites (Akron, Cleveland, Columbus, Dayton, and Toledo). In addition, the agency provides funding for twelve Community Correctional Facilities (CCFs) which are operated by county agencies and function to treat lower-level felony (delinquent) youth who otherwise would be committed to an ODYS facility.

19 For additional information, access the web site for the Ohio Department of Youth Services at http://www.dys.ohio.gov/dnn/Home/tabid/36/Default.aspx.
4.2 The Study Population and Sample

4.2.1 The Ohio Counties

The juvenile courts in the counties of Cuyahoga (Cleveland), Hamilton (Cincinnati), Lucas (Toledo), Summit (Akron), and Stark (Canton) participated in this study. These jurisdictions represent the first, third, fifth, sixth, and seventh most populous counties in the state and include the second, third, fourth, fifth, and eighth largest cities in the state. In Ohio, the counties that have the highest violent crime rates correspond to those having a large urban city such as Cleveland, Cincinnati, Akron, etc. (Contos Shoaf 2007).

Other than the difference in the size of the population, these counties are more similar than dissimilar. The racial composition of the counties is predominantly Caucasian, ranging from ninety percent of the population in Stark County to sixty-eight percent of the population in Cuyahoga County. African Americans comprise the largest group of minorities in all counties, ranging from a high of twenty-seven percent in Cuyahoga County to a low of ten percent in Stark County. In all counties, approximately one quarter of the population is below the age of eighteen.

Initially I selected three northeastern counties in Ohio to sample – Cuyahoga, Summit, and Stark – based on the knowledge that these three counties supported the largest number of Serious Youthful Offender (SYO) cases filed in the state, from the inception of S.B. 179 in January 2002, through December 2006 (Hejmanowski 2004; Naso 2007).²¹

From January 1, 2002 through December 31, 2006, 355 SYO cases were filed by all juvenile courts in Ohio. Cuyahoga, Summit, and Stark Counties filed 101 cases or approximately thirty percent of all SYO cases filed (Hejmanowski 2004; Naso 2007).

Subsequently, and at the suggestion of representatives from DYS, I included the counties of Hamilton and Lucas in the study. Officials from DYS were aware that both counties had the availability to transmit data electronically and believed that inclusion of the counties would enlarge the scope of the study. Hamilton County adds an interesting dimension to the research because of a seemingly disproportionate number of cases transferred to the adult criminal court. There were 505 transfer cases; forty-two percent were from Hamilton County, followed by Cuyahoga County with 24% and downward to a low of 4% in Stark County.

The period of interest for this study is from January 1, 2002 through December 31, 2006. January 1, 2002 corresponds to the date that blended sentencing became law in

²¹Information on SYO cases was obtained from former Prosecutor Carmen Naso, Cuyahoga County Juvenile Court and Magistrate David Hejmanowski, Delaware County Juvenile Court and is based on survey research completed in 2004 (Hejmanowski) and updated in 2006 (Naso).
Ohio. The year of 2006 was selected as an end date for the study to insure that a sufficient number of blended cases were available for the research. It was determined that four years, subsequent to the passage of the blended sentencing legislation, would allow for an adequate number of blended cases.

4.2.2 Sampling Procedure

I accessed felony adjudication reports from DYS that identified all youth who were charged and convicted of a felony offense from the counties of interest for the period of FY02 through FY06 and I selected a systematic sample from each county.\(^{22}\)

I did this by identifying a desired sample size of 1,200 felony adjudication cases and apportioning at least 300 cases to Cuyahoga and Hamilton counties (the largest counties) and at least 200 cases each to Lucas, Summit, and Stark counties. In all instances, my goal was to oversample to account for missing cases, expunged cases, cases sealed by the juvenile court, or cases where the files were unavailable and to acquire enough cases for analytical purposes. Once the sample sizes were defined numerically, I divided the population of cases by the desired sample size and selected every case that corresponded to that factor as I numerically advanced through all the cases. For example, the population of felony adjudications in Cuyahoga County was 5,902. I wanted at least

\(^{22}\) All Ohio juvenile courts are required to submit a monthly report to ODYS, which lists all offenders who were adjudicated for commission of a felony offense.
300 cases so I divided 5,902 by 300, which resulted in a whole number factor of 19, so I selected every 19th case in the population.

Information accessed from the felony adjudication databases provided by ODYS included: the tagging offense, the felony level of the tagging offense, the age of the offender at the time the offense was committed, gender, and race of the offender.

Because the total number of felony adjudication cases from the five counties was in excess of 15,500 cases and it became necessary to identify a sample of cases from each county, the data from the counties of Cuyahoga, Hamilton, Summit, and Stark were weighted as appropriate before any analysis occurred. Additionally, the data were weighted because the samples drawn from the population of felony adjudication cases were not proportionate but disproportionate. The weighting of samples is a procedure that is used to “adjust sample data to enable inference to the general population” (Hagan 2000 p.138).

23 The tagging offense is the offense that qualified the case for selection into this study. All tagging offenses were felony offenses of any level and included aggravated murder, murder, F1, F2, F3, F4, and F5 (ORC§2901.02).

24 Lucas County did not return data on felony adjudication cases but did provide data on all cases transferred to the adult court. DYS provided data on SYO cases from all counties including Lucas County.

25 The weighting factor is determined by the proportion of the respective group in the population divided by the proportion of that group in the sample. Sampling weights are the inverse of the likelihood of being sampled. Stated differently: the weighting factor = % in population / % in sample. For example in Cuyahoga County the population of felony adjudications was 5,902 and the sample taken was 311 cases. The likelihood of a case being selected in Cuyahoga was 311/5,902 or about 5.27 % of the population was sampled. I then computed the inverse of 5.27 (1/0.053) which produced a weighting factor of 19 for Cuyahoga County. I then computed that factor for all other counties (Hamilton: 1/.053=12; Stark: 1/.166=6; Summit 1/.083=12). Statistik-Tutorial: http://en.statistik-tutorial.de/tutorials/weighting-spss.html.
Secondly, I accessed from ODYS a listing of all youth who were transferred to the adult criminal court from the counties of interest for the period of CY02 through CY06 and I selected all cases for study. 26 Finally, I accessed information from ODYS on all youth committed to their custody under a blended sentence from the counties of interest for the period of CY02 through CY06 and I selected all blended cases for inclusion in the study. I selected populations of transfer and blended sentencing cases, because of the relatively small number of such cases in each group (505 transfer cases and 91 blended sentencing cases). I have identified the county populations and samples in Tables 4.1, 4.2, 4.3 and the weighted data in Table 4.4.

Table 4.1 Total Felony Cases Processed in Period of Interest

<table>
<thead>
<tr>
<th>County</th>
<th>Population</th>
<th>#Felony Adjudications</th>
<th>#Transfers</th>
<th>#Blended Sentences</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cuyahoga</td>
<td>1,393,845</td>
<td>5,905</td>
<td>137</td>
<td>39</td>
</tr>
<tr>
<td>Hamilton</td>
<td>845,303</td>
<td>3,572</td>
<td>299</td>
<td>11</td>
</tr>
<tr>
<td>Lucas</td>
<td>445,054</td>
<td>2,130</td>
<td>61</td>
<td>6</td>
</tr>
<tr>
<td>Stark</td>
<td>378,132</td>
<td>1,354</td>
<td>18</td>
<td>10</td>
</tr>
<tr>
<td>Summit</td>
<td>542,899</td>
<td>2,550</td>
<td>108</td>
<td>46</td>
</tr>
<tr>
<td>TOTAL</td>
<td>3,605,233</td>
<td>15,514</td>
<td>623</td>
<td>112</td>
</tr>
</tbody>
</table>

*Source: U.S. Census Bureau, 2000 Census of Population
#Source: Ohio Department of Youth Services (2008)

26 All Ohio juvenile courts are required to submit a monthly report to ODYS, which lists all juvenile offenders who were transferred to the adult criminal court for prosecution.
<table>
<thead>
<tr>
<th>Samples</th>
<th>Felony Adjudications</th>
<th>Transfers</th>
<th>Blended Sentences</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cuyahoga</td>
<td>311</td>
<td>137</td>
<td>39</td>
</tr>
<tr>
<td>Hamilton</td>
<td>300</td>
<td>299</td>
<td>11</td>
</tr>
<tr>
<td>Lucas</td>
<td>213</td>
<td>61</td>
<td>6</td>
</tr>
<tr>
<td>Stark</td>
<td>225</td>
<td>18</td>
<td>10</td>
</tr>
<tr>
<td>Summit</td>
<td>212</td>
<td>108</td>
<td>46</td>
</tr>
<tr>
<td>TOTAL</td>
<td>1,261</td>
<td>623</td>
<td>112</td>
</tr>
</tbody>
</table>

Table 4.3 Actual Sample Sizes

<table>
<thead>
<tr>
<th>Sample</th>
<th>Felony Adjudications</th>
<th>Transfers</th>
<th>Blended Sentences</th>
<th>Total and Percentage of Sample</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cuyahoga</td>
<td>269</td>
<td>119</td>
<td>28</td>
<td>416 (26%)</td>
</tr>
<tr>
<td>Hamilton</td>
<td>295</td>
<td>214</td>
<td>11</td>
<td>520 (33%)</td>
</tr>
<tr>
<td>Lucas</td>
<td>0</td>
<td>59</td>
<td>6</td>
<td>65 (4%)</td>
</tr>
<tr>
<td>Stark</td>
<td>216</td>
<td>18</td>
<td>10</td>
<td>244 (15%)</td>
</tr>
<tr>
<td>Summit</td>
<td>201</td>
<td>95</td>
<td>36</td>
<td>332 (21%)</td>
</tr>
<tr>
<td>TOTAL</td>
<td>981</td>
<td>505</td>
<td>91</td>
<td>1,577</td>
</tr>
</tbody>
</table>

Table 4.4 Samples (Weighted Data)

<table>
<thead>
<tr>
<th>Samples</th>
<th>Felony Adjudications</th>
<th>Transfers</th>
<th>Blended Sentences</th>
<th>Total and Percentage of Sample</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cuyahoga</td>
<td>5,111</td>
<td>119</td>
<td>28</td>
<td>5,258 (41%)</td>
</tr>
<tr>
<td>Hamilton</td>
<td>3,540</td>
<td>214</td>
<td>11</td>
<td>3,765 (29%)</td>
</tr>
<tr>
<td>Lucas</td>
<td>0</td>
<td>59</td>
<td>6</td>
<td>65 (&lt;1%)</td>
</tr>
<tr>
<td>Stark</td>
<td>1,296</td>
<td>18</td>
<td>10</td>
<td>1,324 (10%)</td>
</tr>
<tr>
<td>Summit</td>
<td>2,412</td>
<td>95</td>
<td>36</td>
<td>2,543 (20%)</td>
</tr>
<tr>
<td>TOTAL</td>
<td>12,359</td>
<td>505</td>
<td>91</td>
<td>12,955</td>
</tr>
</tbody>
</table>

The discrepancy between the planned and actual sample sizes can be the result of a number of factors: the case was sealed by the court and access to the files can only be granted by an order of the court, the file was missing from the record room, there was no file kept on the case, or the record was expunged.
4.3 Measurement of Variables

4.3.1 Dependent Variable

The dependent variable or the outcome variable is comprised of the categories of dispositional options, which may be invoked by the juvenile court when sentencing an offender who has engaged in felonious behavior. In Ohio, there are three possible dispositional options: retain in the juvenile court, a blended sentence invoked by the juvenile court, or a transfer to the adult criminal court (see Table 4.5).

<table>
<thead>
<tr>
<th>Categories</th>
<th>Frequencies and Valid Percentages</th>
</tr>
</thead>
<tbody>
<tr>
<td>Retained in Juvenile Court</td>
<td>12,359 (95.4%)</td>
</tr>
<tr>
<td>Blended Sentence</td>
<td>91 (0.7%)</td>
</tr>
<tr>
<td>Transferred to Adult Court</td>
<td>505 (3.9%)</td>
</tr>
<tr>
<td>Total – Valid N</td>
<td>12,955</td>
</tr>
</tbody>
</table>

N= 12,955 *Weighted Data

The distribution of juvenile dispositions according to each county is displayed in Table 4.6. Cuyahoga County (41%) processed the largest percentage of cases that were retained in the juvenile court followed by Hamilton County (29%). Together these two counties were responsible for processing approximately 70% of all the sample cases that were retained in the juvenile court (felony adjudications). Summit and Stark were
responsible for the remainder of the sample cases that were retained by the juvenile court, with 20% and 10% respectively.

Even though Cuyahoga County processed the largest number of felony adjudication cases, it was responsible for less than one-fourth of all cases transferred to the adult court and less than one-third of all blended sentence cases. Hamilton County had the highest percentage of cases transferred to the adult court (42%) while Stark County had the lowest percentage (4%). Summit County (40%) had the largest percentage of cases disposed of through a blended sentence, followed by Cuyahoga (31%), Hamilton (12%), Stark (11%) and Lucas (7%) counties.

<table>
<thead>
<tr>
<th>Case Type → County ↓</th>
<th>Retained in Juvenile Court</th>
<th>Blended Sentence</th>
<th>Transfer To Adult Court</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cuyahoga</td>
<td>5,111 (41%)</td>
<td>28 (31%)</td>
<td>119 (24%)</td>
<td>5,258 (41%)</td>
</tr>
<tr>
<td>Hamilton</td>
<td>3,540 (29%)</td>
<td>11 (12%)</td>
<td>214 (42%)</td>
<td>3,765 (29%)</td>
</tr>
<tr>
<td>Lucas</td>
<td>0</td>
<td>6 (7%)</td>
<td>59 (12%)</td>
<td>65 (&lt;1%)</td>
</tr>
<tr>
<td>Stark</td>
<td>1,296 (10%)</td>
<td>10 (11%)</td>
<td>18 (4%)</td>
<td>1,324 (10%)</td>
</tr>
<tr>
<td>Summit</td>
<td>2,412 (20%)</td>
<td>36 (40%)</td>
<td>95 (19%)</td>
<td>2,543 (20%)</td>
</tr>
<tr>
<td>Total</td>
<td>12,359</td>
<td>91</td>
<td>505</td>
<td>12,955</td>
</tr>
</tbody>
</table>

N= 12,955 *Weighted Data

4.3.2 Independent Variables

The independent legal variables came from the Ohio legislation, specifically H.B. 1 and S.B.179, and from the literature and include the age of the offender at the time the offense was committed, if the tagging offense was a violent or non-violent offense, the
number of tagging offenses, the felony level or severity of the tagging offense, if a weapon was used in commission of the tagging offense, number of prior adjudications or offense history, and the number of court interventions or treatment history (Cheesman and Waters 2008, Burrow 2008, Smith, Craig, Brodus and Kimmelman 2003, Cheesman et al. 2002, Podkopacz and Feld 2001, Snyder, Sickmund, and Poe-Yamagata 2000, and Fagan and Deschenes 1990). A comprehensive description of all legal variables is provided in Table 4.7; a description of all independent variables that are extra legal and categorical (race and gender) is provided in Table 4.8; and a description of all continuous independent variables, one legal, and the second extra legal is provided in Table 4.9.

---

28 Valid Percentage reflects the percentage of cases in the database (for a particular variable) without missing data. The N is the actual number of cases in the database (for that variable) without missing data. Data can be missing from cases for a number of reasons such as the information was not collected by the agency, the information was collected but was missing from the court records/case files, or the data was not included in the information transmitted to the researcher from the agency.
Table 4.7 Independent Variables and Univariate Descriptives*

<table>
<thead>
<tr>
<th>Variable</th>
<th>Categories</th>
<th>Frequencies and Valid Percentages</th>
</tr>
</thead>
<tbody>
<tr>
<td>Felony Level</td>
<td>Murder and Felony 1</td>
<td>1,044 (8.1%)</td>
</tr>
<tr>
<td></td>
<td>Felony 2 and 3</td>
<td>3,543 (27.3%)</td>
</tr>
<tr>
<td></td>
<td>Felony 4 and 5</td>
<td>8,368 (64.6%)</td>
</tr>
<tr>
<td></td>
<td>N=12,955</td>
<td></td>
</tr>
<tr>
<td>Violent Offense</td>
<td>Non-violent</td>
<td>8,670 (67.9%)</td>
</tr>
<tr>
<td></td>
<td>Violent</td>
<td>4,098 (32.1%)</td>
</tr>
<tr>
<td></td>
<td>N=12,768</td>
<td></td>
</tr>
<tr>
<td>Weapon used</td>
<td>Yes</td>
<td>1,802 (14.2%)</td>
</tr>
<tr>
<td></td>
<td>No</td>
<td>10,904 (85.8%)</td>
</tr>
<tr>
<td></td>
<td>N=12,706</td>
<td></td>
</tr>
<tr>
<td>Number: Tagging Offenses</td>
<td>One</td>
<td>4,059 (44.3%)</td>
</tr>
<tr>
<td></td>
<td>Two</td>
<td>2,777 (30.3%)</td>
</tr>
<tr>
<td></td>
<td>Three or more</td>
<td>2,334 (25.5%)</td>
</tr>
<tr>
<td></td>
<td>N=9,170</td>
<td></td>
</tr>
<tr>
<td>Number: Prior Adjudications</td>
<td>None</td>
<td>4,093 (32.5%)</td>
</tr>
<tr>
<td></td>
<td>One</td>
<td>2,650 (21.0%)</td>
</tr>
<tr>
<td></td>
<td>Two</td>
<td>1,508 (12.0%)</td>
</tr>
<tr>
<td></td>
<td>Three or more</td>
<td>4,352 (34.5%)</td>
</tr>
<tr>
<td></td>
<td>N=12,603</td>
<td></td>
</tr>
<tr>
<td>Number: Court Interventions</td>
<td>None</td>
<td>4,795 (38.7%)</td>
</tr>
<tr>
<td></td>
<td>One</td>
<td>4,075 (32.9%)</td>
</tr>
<tr>
<td></td>
<td>Two</td>
<td>2,082 (16.8%)</td>
</tr>
<tr>
<td></td>
<td>Three or more</td>
<td>1,424 (11.5%)</td>
</tr>
<tr>
<td></td>
<td>N=12,376</td>
<td></td>
</tr>
</tbody>
</table>

*Weighted Data

*Felony Level.* Aggravated murder, murder and felonies of the first, second, third, fourth, and fifth degree are classified as felony level offenses in Ohio (Ohio Revised Code § 2901.02). In Ohio, a Felony 1 offense is more serious than a Felony 2 offense is more serious than a Felony 3 offense and so on down to a Felony 5 offense, which is slightly more serious than the most serious misdemeanor offense. Violation of a felony offense can result in imprisonment for more than a year (O.R.C. §2901.02 (e)).

Data for this variable were initially measured according to the total number of cases involving juveniles charged with aggravated murder, murder, and the specific
felony levels. Subsequently, the variable was recoded by collapsing the information into three categories: Murder and Felony 1; Felony 2 and 3; and Felony 4 and 5. This was done to resolve the dilemma of the small number of Felony 3 (four cases), Felony 4 (three cases), and Felony 5 (zero cases) offenses in the population of blended sentence cases, which can distort the results of bivariate analysis (Hagan 2000). In such instances, it is “recommended that the number of cells be collapsed or combined” (Hagan 2000 p. 377). This ordinal (rank-order) level variable is dummy coded since it contains less than five categories. In the regression analysis each of these categories will be recoded as dummy variables, with the category ‘F4 and F5’ used as the reference category.

Violent Offense. A violent offense for purposes of this study is defined as any offense against a person. The specific offenses which are included under person crimes include aggravated murder, murder, felonious assault, assault, rape, gross sexual imposition, robbery, kidnapping, sexual battery, domestic violence, manslaughter, and aggravated menacing.

The data initially measured five categories of offenses: person crimes, property crimes, drug crimes, crimes against the public order, and weapons offenses. This method of categorizing offenses is similar to that which is found in the extant literature (Puzzanchera, Adams, and Sickmund 2010; Fagan, Kupchik, Liberman 2007; Kurlychek and Johnson 2004; Smith, Craig, Brodus, Kimmelman 2003; Griffin 2003).

Subsequently this variable was recoded by collapsing the categories of property crimes, drug crimes, public order offenses, and weapon offenses into non-violent crimes
and person crimes into violent crimes. This is a dummy variable that is coded: 0= non-violent and 1= violent.

*Weapon Used.* This nominal level variable measures the number of cases where a weapon was used while committing the tagging offense. The data collected specifically refers to cases where a gun specification was added to the tagging offense. This is a nominal level variable with a coding of 1= yes and 0= no.

*Number of Tagging Offenses.* Some cases in the database violated multiple criminal statutes, the multi-offending occurring in conjunction with the tagging offense. This ordinal level variable categorizes the number of offenses committed in addition to, and at the same time as, the tagging offense. It is divided into three categories: one tagging offense, two tagging offenses, and three or more tagging offenses. This ordinal (rank-order) level variable is dummy coded since it contains less than five categories. In the regression analysis, each of these categories will be recoded as dummy variables, with the category ‘one tagging offense’ used as the reference category.

*Number of Prior Adjudications.* Adjudications, rather than offenses, were used to measure prior involvement in the court system because some courts bundle multiple complaints under one adjudicatory hearing. Thus, based on a review of the data collected and submitted electronically it was determined that a count of adjudications was a more accurate statistic to assess prior offending or recidivism. This ordinal level variable has four categories: no priors, one prior, two priors, and three or more priors. This rank-order variable is dummy coded since it contains less than five categories. In the
regression analysis, each of these categories will be recoded as dummy variables, with the category ‘no priors’ used as the reference category.

*Number of Court Interventions.* This variable reflects prior dispositional actions of the court for adjudications that occurred before the triggering offense occurred and as such is the accumulative action taken by the court relative to a single case. It is the history of a case relative to the number of interventions or treatments dispositionally imposed by a court for each case. Initially the data collected for this variable identified specific interventions such as probation services, treatment/counseling services, undefined community resources, and out-of-home placements. It was subsequently recoded into numerical categories, which reflect a measurement of case management services provided by the court. This ordinal level variable has four categories: no previous court interventions, one previous, two previous, and three or more previous. This variable is dummy coded since it contains less than five categories. In the regression analysis, each of these categories will be recoded as dummy variables, with the category ‘no previous’ used as the reference category.

*Race and Gender.* Race and gender are extra-legal categorical (nominal) variables that are described in Table 4.8. Extra-legal variables are not prescribed in statute and may or may not influence judicial decision-making (Cauffman et al. 2007). For purposes of this study race was initially measured in three categories consisting of white (Caucasian), black (African-American), and other (Hispanic and Asian). Subsequently the data were recoded into white and non-white with black and other
collapsed into non-white. The race variable is dummy coded with non-white equal to 1 and white equal to 0. The collapsing of race categories occurred because the category of other, which supported all cases that were Hispanic and Asian, comprised less than 3% (N=359) of the total number (N=12,955) of cases in the database. Gender is coded as a dummy variable with female equal to 1 and male equal to 0.

<table>
<thead>
<tr>
<th>Variable</th>
<th>Categories</th>
<th>Frequencies and Percentages</th>
</tr>
</thead>
<tbody>
<tr>
<td>Race</td>
<td>White</td>
<td>4,469 (34.5%)</td>
</tr>
<tr>
<td></td>
<td>Non-white</td>
<td>8,486 (65.5%)</td>
</tr>
<tr>
<td>Gender</td>
<td>Male</td>
<td>11,206 (86.5%)</td>
</tr>
<tr>
<td></td>
<td>Female</td>
<td>1,749 (13.5%)</td>
</tr>
</tbody>
</table>

Table 4.8 Independent Variables of Race and Gender and Univariate Descriptives*

N=12,955 *Weighted Data

Age at the Time of Offense. Age at the time of offense is a legal variable, which measures the age of the offender at the time the tagging offense was committed. This factor is a legal variable because age is specifically stated in the statutes. The age at the time the offense was committed ranges from 10 to 19 years of age. The mean age is 15.46 years (s.d. =1.52). In Ohio, according to §2151.011 (5) of the Revised Code: a child is a person who is under eighteen years of age, except that the juvenile court has jurisdiction over any person who is adjudicated prior to attaining eighteen years of age and until the person attains twenty-one years of age and, for purposes of that jurisdiction related to that adjudication, a person who is so adjudicated shall be deemed a child until the person attains twenty-one years of age.” Thus, cases of offenders who are 18 years of
age and in custody for an offense that was committed prior to that age are subject to the
court until the age of twenty-one.

*Age First Referred to Juvenile Court.* Age when first referred to the juvenile
court is an extra legal variable with a range of 7 to 17 years. Age when a youth first
came to the attention of the juvenile court is an extra legal variable because it is not
specifically identified in the Ohio statutes (H.B.1, S.B. 179, or the Revised Code) as
seemingly to the disposition of cases. However, extra legal variables, while not prescribed
in statute may influence the dispositional decision making process (Cauffman et al.
2007). The mean age is 13.88 years (s.d. =2.03). Table 4.9 describes the descriptive
statistics for the legal and extra legal age-related continuous variables.29

29 The smaller N statistic between the two age variables is a result of information missing in files or
information that was never transferred from one Ohio court to another Ohio court or from an out of state
court to an Ohio court. For example, Lucas County adjudicates a youth who is a first time offender in
Lucas County but who recently moved from Detroit, MI where such offender had an extensive juvenile
record. Records transferred from Detroit to Lucas County may or may not include the age when the youth
first appeared before the Detroit juvenile court.
Table 4.9 Independent Variables and Univariate Descriptives*  
(Continuous Variables; Legal and Extra Legal)

<table>
<thead>
<tr>
<th>Age At: ↓</th>
<th>N</th>
<th>Range Statistic</th>
<th>Minimum Statistic</th>
<th>Maximum Statistic</th>
<th>Mean</th>
<th>Standard Deviation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Time of Offense</td>
<td>12,955</td>
<td>9</td>
<td>10</td>
<td>19</td>
<td>15.46</td>
<td>1.52</td>
</tr>
<tr>
<td>First Referral to the Court</td>
<td>12,554</td>
<td>10</td>
<td>7</td>
<td>17</td>
<td>13.88</td>
<td>2.03</td>
</tr>
</tbody>
</table>

*Weighted Data

A summary of the coding of the independent variables is presented in Table 4.10.

In the next section, I will describe the statistical strategy that was used to analyze the data.
Table 4.10 Summary of Independent Variable Coding

<table>
<thead>
<tr>
<th>Independent Variable</th>
<th>Categories</th>
<th>Coding</th>
</tr>
</thead>
<tbody>
<tr>
<td>Felony Level</td>
<td>Murder and Felony 1</td>
<td>Yes = 1; No = 0</td>
</tr>
<tr>
<td></td>
<td>Felony 2 and 3</td>
<td>Yes = 1; No = 0</td>
</tr>
<tr>
<td></td>
<td>Felony 4 and 5</td>
<td>Yes = 1; No = 0 (ref cat)</td>
</tr>
<tr>
<td>Violent Offense</td>
<td>Non-violent</td>
<td>0</td>
</tr>
<tr>
<td></td>
<td>Violent</td>
<td>1</td>
</tr>
<tr>
<td>Weapon used</td>
<td>Yes</td>
<td>1</td>
</tr>
<tr>
<td></td>
<td>No</td>
<td>0</td>
</tr>
<tr>
<td>Tagging Offenses</td>
<td>One</td>
<td>Yes = 1; No = 0 (ref cat)</td>
</tr>
<tr>
<td></td>
<td>Two</td>
<td>Yes = 1; No = 0</td>
</tr>
<tr>
<td></td>
<td>Three or more</td>
<td>Yes = 1; No = 0</td>
</tr>
<tr>
<td>Prior Adjudications</td>
<td>No Priors</td>
<td>Yes = 1; No = 0 (ref cat)</td>
</tr>
<tr>
<td></td>
<td>One</td>
<td>Yes = 1; No = 0</td>
</tr>
<tr>
<td></td>
<td>Two</td>
<td>Yes = 1; No = 0</td>
</tr>
<tr>
<td></td>
<td>Three or more</td>
<td>Yes = 1; No = 0</td>
</tr>
<tr>
<td>Court Interventions</td>
<td>No Previous</td>
<td>Yes = 1; No = 0 (ref cat)</td>
</tr>
<tr>
<td></td>
<td>One</td>
<td>Yes = 1; No = 0</td>
</tr>
<tr>
<td></td>
<td>Two</td>
<td>Yes = 1; No = 0</td>
</tr>
<tr>
<td></td>
<td>Three or more</td>
<td>Yes = 1; No = 0</td>
</tr>
<tr>
<td>Race</td>
<td>White</td>
<td>0</td>
</tr>
<tr>
<td></td>
<td>Non-white</td>
<td>1</td>
</tr>
<tr>
<td>Gender</td>
<td>Male</td>
<td>0</td>
</tr>
<tr>
<td></td>
<td>Female</td>
<td>1</td>
</tr>
<tr>
<td>Age at Tagging Offense</td>
<td>Continuous</td>
<td></td>
</tr>
<tr>
<td>Age/1st Referral to Court</td>
<td>Continuous</td>
<td></td>
</tr>
</tbody>
</table>
4.4 Analytic Strategy

4.4.1 Bivariate Analysis

Initially, bivariate analysis, examining the relationship between an independent variable and the dependent variable, was used to identify possible predictors in a multivariate model (Collins et al. 2001). In bivariate analysis, the null hypothesis usually states that there is no relationship between the two variables or that the values on the two variables are independent of one another (Schutt 2001; Hagan 2000). For example, a null hypothesis seminal to this study is that there is no relationship between the severity of the offense (as measured by the felony level of the offense) and the dispositional outcome of a case.

The selection of statistical methods for bivariate analysis is dependent upon the measurement level of the variables. For bivariate analysis of categorical and rank-ordered variables, I conducted a chi square test of independence and for bivariate analysis of the continuous variables, I used a Kruskal-Wallis and Mann-Whitney test.

Initially I planned to use an ANOVA (analysis of variance) for the bivariate analysis of the continuous variables, which are ‘age at offense’ and ‘age at first referral to the court’. However based on results from the Test of Homogeneity of Variance (Levene’s Statistic) it was determined that the variance of the groups being compared

---

30 The ANOVA is used in comparing three or more sample means to the extent of which there are significant differences (Bachman and Paternoster 1997 p.385). The basic logic of the test is that there should be much greater variation between groups than within groups (Hagan 2000 p.385).
were not approximately equal thus violating one of the assumptions necessary to use the ANOVA (Norušis 2004 p. 303). In other words, the assumption that the with-in group variances were the same for each group was not met. Consequently, I selected the Kruskal-Wallis and Mann-Whitney tests for the bivariate analysis of the continuous variables. The Kruskal-Wallis is a nonparametric alternative to the ANOVA that requires fewer assumptions about the data (Norušis 2004 pp. 301 & 394).

While the Kruskal-Wallis test will indicate if groups are statistically different from each other, it will not identify which groups are statistically different from each other (Bachman and Paternoster 1997). Unlike the ANOVA, for the Kruskal-Wallis test, there are no post hoc tests to determine the difference between pairs of sample means. In such instances, the test of choice to determine the differences between the outcome groups and the two age variables is the Mann-Whitney U test (Garson 2008; Bachman and Paternoster 1997).

### 4.4.2 Chi-Square Test of Independence ($\chi^2$)

The predictor variables that I will be testing for an association with the outcome variable (essentially looking to reject the null of no relationship) include: the felony level of the tagging offense or the severity of the offense as defined by the felony level; if the tagging offense is classified as a violent offense as defined by the fact that the offense
was a person offense;\textsuperscript{31} if a weapon was used in commission of the tagging offense as defined by a gun specification charge attached to the tagging offense; the number of tagging offenses as defined by the quantity of offenses committed at the time the tagging offense was committed; prior adjudications or the recidivism history of the case as defined by numbers of previous adjudications; the number of court interventions prior to the tagging offense as defined by the level of case management services provided by the court prior to commission of the tagging offense; race; and gender.

I expect that there will be a significant relationship between the dispositional outcomes of cases (dependent variable) and all predictor (independent) variables.

4.4.3 Kruskal-Wallis

The Kruskal-Wallis test is a nonparametric (distribution free) test that is used to compare three or more unpaired groups of sample data (Norušis 2004). Whereas in the ANOVA we assume that each group is normally distributed, in the Kruskal-Wallis Test, we do not make any assumptions about the distribution of the data (Norušis 2004). This test, like many non-parametric tests, uses the ranks of the data rather than their raw values to calculate the statistic (Walsh and Ollenberger 2001).

The null hypothesis for the Kruskal-Wallis is that there is no difference in the distributions of the groups (Elliott and Woodward 2007). In other words, the null

\textsuperscript{31} Aggravated murder, murder, felonious assault, assault, rape, gross sexual imposition, robbery, kidnapping, sexual battery, domestic violence, manslaughter, and aggravated menacing.
hypothesis for this research using the variables of ‘age at offense’ and ‘age at first referral’ states that there are no distributional differences among the three outcome groups for either variable. The research or the alternative hypothesis assumes that the samples come from different populations (Elliott and Woodward 2007). In other words, the alternative hypothesis for this research assumes that there are differences in the age distribution of the three dispositional outcome groups.

I expect that for the continuous variables of age at the time the tagging offense was committed and age at first referral to the juvenile court, the null hypotheses will be rejected and there will be significant differences in the age distributions of the three dispositional outcome groups.

4.4.4 Mann-Whitney U Test

Mann-Whitney U test is a non-parametric test that is used to compare two population means that come from the same population and it is comparable to the $t$ test (Bachman and Paternoster 1997). The Mann-Whitney rank orders the data and then computes the average rank for the two groups (samples must be compared two at a time) (Norušis 2004; Bachman and Paternoster 1997). A finding of significant difference indicates that the two samples differ on the variable of interest, which for this research is age at the time of offense and age at first referral to the court (Garson 2008).

The null hypothesis for the Mann-Whitney is that the two groups have the same distribution. In other words, the null hypothesis for this research states that age is not a
predictor in the dispositional outcomes of cases. The alternative or research hypothesis states that the two groups do not have the same distribution. In other words, the research hypothesis for this dissertation states that age is related to the dispositional outcome of cases.

I expect that the null hypothesis for both age variables will be rejected and that there will be a relationship between age and the dispositional outcome of cases. Additionally I expect that age at the time of offense will be more significant to dispositional outcomes than will age at first referral.

### 4.4.5 Multinomial Logistic Regression

Multinomial logistic regression is a form of regression that is used when the categorical dependent variable has two or more classes or categories (Garson 2010). Unlike ordinal logistic regression, which supports a multinomial dependent variable where classes can be ranked, multinomial logistic regression is used for analyses where the classifications cannot be measured on an ordinal scale (Garson 2010; Steiner 2005).

Distinct from bivariate analysis, multinomial logistic regression analyzes the effects of each variable on dispositional outcomes while controlling for all other relevant variables. In other words, a multivariate regression “allows for and anticipates that predictor or independent variables will jointly influence the probability of the selection of a dispositional outcome” (Cheesman and Waters 2008 p. 25).
Multinomial regression is a “log regression model that predicts the log-odds of an observation being in one category of the dependent variable versus another (reference category) given a set of explanatory variables” (Jefferis et al. 1997 p. 385).

For example, with a multinomial logistic regression analysis, it is possible to identify three distinct outcomes such as retain in the juvenile court, transfer to the adult court, or a blend of sentences in both the juvenile and adult justice systems and determine the odds ratios that a case will end up in one group or another with respect to a reference group (Garson 2010; Chan 2005). If the reference group is identified as retain in the juvenile court, which is the reference category I will be using, then transfer to the adult system is compared to retain in the juvenile court and a blended sentence is compared to retain in the juvenile court.

The logistic regression model can be used to predict a dependent variable on the basis of continuous and/or categorical independents and to determine the effect size of the independent variables on the dependent variable; to rank the relative importance of independent variables; to assess interaction effects; and to understand the impact of covariate control variables (Garson 2010; UCLA Academic Technology Services 2009). The categorical independent variables, such as gender, are coded as dummy variables for the regression analysis.

Multinomial logistic regression was selected for this analysis because the dependent variable is categorical and includes three unordered classes of outcomes. I will be using this technique to test the research hypotheses described in Chapter 3. I
expect that the severity of the offense, use of a weapon, a significant history of prior adjudications, race, and age at the time the offense was committed will increase the probability that a case will be transferred to adult court.

In Chapter 5, I will provide results of the bivariate and multivariate testing for the seventeen hypotheses identified in this dissertation using the analytical techniques described previously.
CHAPTER 5

Results

This chapter reports the results of the statistical analyses that were conducted for each of the predictor variables examined. The results are based on de-identified data electronically received or collected from Cuyahoga County Juvenile Court, Hamilton County Juvenile Court, Lucas County Juvenile Court, Stark County Family Court, Summit County Juvenile Court, and the Ohio Department of Youth Services.

The unit of study in this research is a case; the population of concern is all cases adjudicated for commission of a felony offense between the years of 2002 through 2006 in the juvenile courts of Cuyahoga, Hamilton, Lucas, Stark, and Summit counties. The dataset consists of 1,577 cases, which, after appropriate weighting of felony adjudication cases, totaled 12,955 cases. SPSS was the statistical software used in the analysis and for all statistical tests; the level of significance was set at < .05.

The demographic or extra legal variables included in this study are age at first referral to the juvenile court, race, and gender. The legal variables are age at the time the tagging offense occurred, felony level of the tagging offense, if the tagging offense was violent or non-violent, use of a weapon, number of tagging offenses, number of prior adjudications, and number of court interventions.
The purpose and most important question this study seeks to answer is what legal and extra legal factors are predictors of outcomes in juvenile court dispositions? The objective is to identify the judicial determinants most salient in the decision to dispose of youthful offenders who engage in felony-level, violent, and/or repetitive criminal offending by comparing legal and extra-legal characteristics of each group to determine which factors significantly correlate and trigger specific judicial action.

The seven research questions I seek to answer in this study are:

- **Research Question One**: Which legal and extra legal factors influence the decision to transfer a case to the adult criminal justice system?

- **Research Question Two**: Which legal and extra legal factors influence the decision to dispose of a case through a blended sentence?

- **Research Question Three**: Which legal and extra legal variables influence the decision to dispose of a case by retaining jurisdiction and processing within the traditional structure of the juvenile court?

- **Research Question Four**: Which are more important in determining dispositional outcomes, legal factors or extra legal factors?
Research Question Five: All else being equal, what impact do minority status and gender have on dispositional outcomes?

Research Question Six: To what extent do prior record, severity of offense and use of a weapon predict the three dispositional outcomes?

Research Question Seven: Do prior court dispositions influence extant court dispositions? Is prior record a predictor of dispositional outcome?

Sixteen hypotheses were developed from the seven questions and will be used to empirically respond to the research questions. I will begin by providing the results for the bivariate analysis. I will conclude this chapter with information on the results obtained from the multinomial logistic regression.

5.1 Bivariate Analysis

5.1.1 Chi square ($\chi^2$)

The predictor variables that I tested for an association with the outcome variable (essentially looking to reject the null of no relationship) included: race, gender, the felony level of the tagging offense, if the tagging offense was classified as a violent offense, if a weapon was used in commission of the tagging offense, the number of
tagging offenses, the number of prior adjudications, and the number of court interventions prior to the tagging offense.

Table 5.1 summarizes the results of the chi square test. For all categorical independent variables, the null hypothesis was rejected and a relationship was found to exist between the predictor variables and the outcome variable.

At the bivariate level, the extralegal factors of race and gender were associated with dispositional outcome (see Table 5.1). Proportionately more minority cases compared to non-minority cases involved waiver to adult court (5.0% versus 1.8%). A greater percentage of male cases versus female cases were transferred (4.4% versus 0.6%).

Legal factors were also significantly related to sentence outcome. Over one-third of aggravated murder, murder or felony one offenses were waived, while less than four percent of lower level felonies were waived. A greater percentage of cases in which a weapon was used led to transfer (17% versus 1.5%) as was the case with violent offenses (a case ratio of 10 violent offenses to one non-violent offense were transferred). Proportionally more cases involving three or more tagging offenses, prior adjudications, or court interventions led to transfer.

A greater proportion of cases involving males led to blended sentences, relative to females (0.8% vs.0.2%). Although a relatively small number, eight times as many aggravated murder, murder, or felony one offenses were blended cases, compared to lesser felonies. The use of a weapon increased the likelihood of a blended sentence, as well as, did the commission of a violent offense.
Proportionately more cases of females, relative to males, were retained in the juvenile court (99.3% versus 94.8%). A greater proportion of non-minority cases compared with minority cases were more likely to be retained in the juvenile court (97.6% versus 94.2%). Lesser felonies were retained in the juvenile court; 99.5% of all felony 4 and 5 offenses and 96.2% of felony 2 and 3 offenses were handled traditionally in the juvenile court system. Cases involving juveniles without prior system or court experience, typically, were retained in the juvenile court; 98.6% of cases with no prior offending history and 97.5% of cases without a court history remained in the juvenile court. The likelihood that a case would be retained in the juvenile court increased when a weapon was not used and the offense was non-violent.
Table 5.1
Factors Significantly Associated With Sentencing Outcomes (Weighted Data)

<table>
<thead>
<tr>
<th>Category</th>
<th>Row Totals</th>
<th>Retain/Juvenile Court N = 12,359</th>
<th>Transfer/Adult Court N = 505</th>
<th>Blended Sentence N = 91</th>
<th>$\chi^2$</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Race (N=12,955)</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>White</td>
<td>4,469</td>
<td>97.6%</td>
<td>1.8%</td>
<td>0.6%</td>
<td>82.19***</td>
</tr>
<tr>
<td>Non-white</td>
<td>8,486</td>
<td>94.2%</td>
<td>5.0%</td>
<td>0.8%</td>
<td></td>
</tr>
<tr>
<td><strong>Gender (N=12,955)</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Male</td>
<td>11,206</td>
<td>94.8%</td>
<td>4.4%</td>
<td>0.8%</td>
<td>68.66***</td>
</tr>
<tr>
<td>Female</td>
<td>1,749</td>
<td>99.3%</td>
<td>0.6%</td>
<td>0.2%</td>
<td></td>
</tr>
<tr>
<td><strong>Felony Level (N=12,955)</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Aggravated Murder</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Felony 1</td>
<td>1,044</td>
<td>59.8%</td>
<td>34.3%</td>
<td>5.9%</td>
<td>3350.63***</td>
</tr>
<tr>
<td>Felony 2 &amp; 3</td>
<td>3,543</td>
<td>96.2%</td>
<td>3.1%</td>
<td>0.7%</td>
<td></td>
</tr>
<tr>
<td>Felony 4 &amp; 5</td>
<td>8,368</td>
<td>99.5%</td>
<td>0.4%</td>
<td>0.0%</td>
<td></td>
</tr>
<tr>
<td><strong>Violent Offense (N=12,768)</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Non-violent</td>
<td>8,670</td>
<td>98.8%</td>
<td>1.0%</td>
<td>0.2%</td>
<td>723.51***</td>
</tr>
<tr>
<td>Violent</td>
<td>4,098</td>
<td>88.0%</td>
<td>10.1%</td>
<td>1.9%</td>
<td></td>
</tr>
<tr>
<td><strong>Weapon Used (N=12,706)</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Yes</td>
<td>1,802</td>
<td>77.6%</td>
<td>17.0%</td>
<td>3.4%</td>
<td>1276.20***</td>
</tr>
<tr>
<td>No</td>
<td>10,904</td>
<td>98.2%</td>
<td>1.5%</td>
<td>0.2%</td>
<td></td>
</tr>
<tr>
<td><strong>Number of Tagging Offenses (N=9,170)</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>One</td>
<td>4,059</td>
<td>97.9%</td>
<td>1.2%</td>
<td>0.9%</td>
<td>91.76***</td>
</tr>
<tr>
<td>Two</td>
<td>2,777</td>
<td>95.9%</td>
<td>3.4%</td>
<td>0.7%</td>
<td></td>
</tr>
<tr>
<td>Three or more</td>
<td>2,334</td>
<td>93.5%</td>
<td>5.1%</td>
<td>1.4%</td>
<td></td>
</tr>
<tr>
<td><strong>Number of Prior Adjudications (N=12,603)</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>None</td>
<td>4,093</td>
<td>98.6%</td>
<td>1.1%</td>
<td>0.3%</td>
<td>294.64***</td>
</tr>
<tr>
<td>One</td>
<td>2,650</td>
<td>96.2%</td>
<td>2.7%</td>
<td>1.1%</td>
<td></td>
</tr>
<tr>
<td>Two</td>
<td>1,508</td>
<td>96.5%</td>
<td>2.7%</td>
<td>0.9%</td>
<td></td>
</tr>
<tr>
<td>Three or more</td>
<td>4,352</td>
<td>91.5%</td>
<td>7.8%</td>
<td>0.6%</td>
<td></td>
</tr>
<tr>
<td><strong>Number of Court Interventions (N=12,376)</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>None</td>
<td>4,795</td>
<td>97.5%</td>
<td>2.1%</td>
<td>0.3%</td>
<td>203.64***</td>
</tr>
<tr>
<td>One</td>
<td>4,075</td>
<td>95.9%</td>
<td>3.6%</td>
<td>0.5%</td>
<td></td>
</tr>
<tr>
<td>Two</td>
<td>2,082</td>
<td>93.5%</td>
<td>5.1%</td>
<td>1.3%</td>
<td></td>
</tr>
<tr>
<td>Three or more</td>
<td>1,424</td>
<td>89.0%</td>
<td>9.3%</td>
<td>1.6%</td>
<td></td>
</tr>
</tbody>
</table>

***p = <.001
### 5.1.2 Kruskal-Wallis

The Kruskal-Wallis test was used to determine if there was a difference in the distribution of data for the two continuous variables - age of the offender at the time the offense was committed and the age of the offender when initially referred into the juvenile justice system. In both instances, the null hypothesis was rejected; there were differences in the age distribution of the three dispositional outcome groups. In other words, age did matter and age was a factor in dispositional decision-making.

For the variable of ‘age at the time the offense was committed’ the null was rejected \( H (2) = 418.83, p =< .001 \).

For the variable of ‘age at first referral to the juvenile court’ the null was rejected \( H (2) = 59.32, p =< .001 \).

While the Kruskal-Wallis did establish that there were age differences in the three dispositional outcome groups, it did not indicate where those differences existed. To determine these contrasts or differences between pairs of dispositional outcomes, I conducted a Mann-Whitney test on each of the age variables for all possible pairing combinations of dispositional outputs.

For the contrast between cases retained in juvenile court and cases transferred into the adult criminal justice system, the null hypothesis was rejected for both age variables indicating that there were differences in the age distribution for each of these two groups.
For age at offense, $U = 1530922.00, p = < .001$.

For age at first referral, $U = 2389828.50, p = < .001$.

For the contrast between cases retained in juvenile court and blended sentence cases, the null hypothesis was rejected for ‘age at the time the offense was committed’ but the test failed to reject the null hypothesis for the ‘age at first referral to the court’. In other words, there was a difference in the average age of cases retained in the juvenile court and cases that received a blended sentence. However, there were not differences between the ‘age at first referral’ for cases retained in the juvenile court and blended sentence cases. In other words, cases retained in the juvenile court and cases that received a blended sentence were about the same age when they initially encountered the juvenile justice system which resulted in a failure to reject the null.

For age at offense, $U = 406732.00, p = < .001$.

For age at first referral, $U = 430880.50, p = .674$.

For the contrast between cases transferred to the adult criminal justice system and blended sentence cases, the null hypothesis was rejected for both age variables indicating that there were differences in the age distribution between these two groups. In other words, the average ages for these two pairings were not the same.
For age at offense, $U = 16265.50$, $p = < .001$.

For age at first referral, $U = 14560.00$, $p = < .05$.

Subsequent to bivariate analysis, which established that all predictors were significantly related to the dependent variable or dispositional outcomes, the variable of number of court interventions was eliminated from the logistic regression because it was highly correlated with the prior adjudications variable. (The Pearson Correlation between the two variables was .70.)

### 5.2 Multinomial Logistic Regression

The analysis (which uses multinomial logistic regression) identifies retention in juvenile court as the reference variable to which the two other outcomes are compared. For that reason, the hypotheses should be understood as comparisons to the dispositional outcome of retained in juvenile court, which is viewed as the least severe outcome. The sixteen hypotheses are statements about the expected direction of the relationships between independent variables and dependent variables. The results of the multinomial logistic regression are enumerated in two tables and explained below.\(^{32}\) Table 5.2

\(^{32}\) Two models were calculated for this research. The first model contained a variable (number of tagging offenses) that measured the impact of the number of extant offenses on dispositional outcomes and was identified in the literature as a measure of the severity of the criminal event (Cheesman & Water 2008; Podkopacz & Feld 2001). The variable of tagging offenses ($N=9,170$) contained missing data in 3,785 (29.2%) cases. The non-random missing data were from the counties of Hamilton and Summit and were the result of how those two counties collected and submitted data for this project. The first model, with the
identifies the relationships between the independent variables and cases waived to the adult criminal justice system using the reference category of cases retained in the juvenile court.\textsuperscript{33} Table 5.3 identifies the relationships between the independent variables and cases that were disposed of through a blended sentence using the reference category of cases retained in the juvenile court.

variable included, had 8,902 valid cases and 4,053 missing cases and the McFadden or Rho-squared was 0.55. The second model, a reduced model that was calculated without the number of tagging offenses, had 12,139 valid cases and 816 missing cases – a net gain of 3,237 valid cases. The McFadden or Rho-squared for the reduce model was 0.52. Severity of the criminal event in the reduced model is measured by the felony level of the offense committed, if a weapon was used in the commission of the tagging offense, and if the action was categorized as a violent (person), in reference to a non-violent offense. Based on the large number of cases with missing data it was determined that the reduced model was a more efficient model for analyzing the data.

\textsuperscript{33} The Hausman or independence of irrelevant alternatives (IIA) test was not used in this analysis because the data are weighted and the use of weighted data violates an assumption of the test. See http://www.uvm.edu/~wgibson/200f09/Technical_notes/Hausman.pdf. Additionally and because it was determined that the dispositional alternatives “could plausibly be assumed to be distinct and weighted independently in the eyes of each decision maker” the test was determined to not be applicable to this research (McFadden 1973 reported in Long & Freese (2006 p 243). Judicial decision making for serious juvenile offending is predicated on legislation and the Ohio Revised Code. Each alternative has distinct protocols that must be addressed prior to the imposition of the decision.
Table 5.2 Multinomial Logistic Regression Results
Waiver Cases – Reference: Retained in Juvenile Court

<table>
<thead>
<tr>
<th>Category</th>
<th>B</th>
<th>Standard Error</th>
<th>df</th>
<th>P-Value</th>
<th>Odds Ratio</th>
<th>Exp(B)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Waiver/Certification(^a)</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Age First Referral</td>
<td>-.095</td>
<td>.035</td>
<td>1</td>
<td>.007</td>
<td>.910</td>
<td></td>
</tr>
<tr>
<td>Age at Offense</td>
<td>1.195</td>
<td>.087</td>
<td>1</td>
<td>.000</td>
<td>3.304</td>
<td></td>
</tr>
<tr>
<td>AggMurd/Murder/F1=0</td>
<td>-4.255</td>
<td>.235</td>
<td>1</td>
<td>.000</td>
<td>.014</td>
<td></td>
</tr>
<tr>
<td>AggMurd/Murder/F1=1</td>
<td>0(^b)</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Felony 2&amp;3=0</td>
<td>-1.685</td>
<td>.220</td>
<td>1</td>
<td>.000</td>
<td>.185</td>
<td></td>
</tr>
<tr>
<td>Felony 2&amp;3=1</td>
<td>0(^b)</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Felony 4&amp;5 (Reference)</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>No Priors (Reference)</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>One Prior=0</td>
<td>-.668</td>
<td>.241</td>
<td>1</td>
<td>.005</td>
<td>.513</td>
<td></td>
</tr>
<tr>
<td>One Prior=1</td>
<td>0(^b)</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Two Priors=0</td>
<td>-.627</td>
<td>.280</td>
<td>1</td>
<td>.025</td>
<td>.534</td>
<td></td>
</tr>
<tr>
<td>Two Priors=1</td>
<td>0(^b)</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Three or More=0</td>
<td>-1.907</td>
<td>.235</td>
<td>1</td>
<td>.000</td>
<td>.149</td>
<td></td>
</tr>
<tr>
<td>Three or More=1</td>
<td>0(^b)</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Violent Offense=0</td>
<td>-.735</td>
<td>.177</td>
<td>1</td>
<td>.000</td>
<td>.479</td>
<td></td>
</tr>
<tr>
<td>Violent Offense=1</td>
<td>0(^b)</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>No Weapon</td>
<td>-1.095</td>
<td>.151</td>
<td>1</td>
<td>.000</td>
<td>2.989</td>
<td></td>
</tr>
<tr>
<td>Weapon</td>
<td>0(^b)</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Race (NonWhite)</td>
<td>.863</td>
<td>.168</td>
<td>1</td>
<td>.000</td>
<td>.422</td>
<td></td>
</tr>
<tr>
<td>Gender (Female)</td>
<td>.559</td>
<td>.359</td>
<td>1</td>
<td>.119</td>
<td>1.749</td>
<td></td>
</tr>
<tr>
<td>Intercept</td>
<td>-15.559</td>
<td>1.520</td>
<td>1</td>
<td>.000</td>
<td>----</td>
<td></td>
</tr>
<tr>
<td>Model chi-square</td>
<td>2499.504</td>
<td>(p = .001)</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Rho-squared(^c)</td>
<td>0.521</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

\(^a\) retained in juvenile court serves as the reference category
\(^b\) This parameter is set to zero because it is redundant.
\(^c\) Rho squared refers to McFadden’s rho-squared. This number is derived from the likelihood ratio statistic and used as a pseudo R-squared. Values of .20 or above suggest a good model fit (Steinberg & Colla 1994:18; Jefferis, et al.1997:387).
Table 5.3 Multinomial Logistic Regression Results
Blended Sentence Cases – Reference: Retained in Juvenile Court

<table>
<thead>
<tr>
<th>Category</th>
<th>B</th>
<th>Standard Error</th>
<th>df</th>
<th>P-Value</th>
<th>Odds Ratio</th>
<th>Exp(B)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Blended Sentence</strong>*</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Age First Referral</td>
<td>.008</td>
<td>.069</td>
<td>1</td>
<td>.906</td>
<td>1.008</td>
<td></td>
</tr>
<tr>
<td>Age at Offense</td>
<td>.346</td>
<td>.105</td>
<td>1</td>
<td>.001</td>
<td>1.414</td>
<td></td>
</tr>
<tr>
<td>AggMurd/Murder/F1=0</td>
<td>-4.417</td>
<td>.663</td>
<td>1</td>
<td>.000</td>
<td>.012</td>
<td></td>
</tr>
<tr>
<td>AggMurd/Murder/F1=1</td>
<td>0b</td>
<td></td>
<td>0</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Felony 2&amp;3=0</td>
<td>-2.144</td>
<td>.656</td>
<td>1</td>
<td>.001</td>
<td>.117</td>
<td></td>
</tr>
<tr>
<td>Felony 2&amp;3=1</td>
<td>0b</td>
<td></td>
<td>0</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Felony 4&amp;5 (Reference)</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>No Priors (Reference)</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>One Prior=0</td>
<td>-.818</td>
<td>.382</td>
<td>1</td>
<td>.032</td>
<td>.441</td>
<td></td>
</tr>
<tr>
<td>One Prior=1</td>
<td>0b</td>
<td></td>
<td>0</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Two Priors=0</td>
<td>-1.104</td>
<td>.427</td>
<td>1</td>
<td>.010</td>
<td>.332</td>
<td></td>
</tr>
<tr>
<td>Two Priors=1</td>
<td>0b</td>
<td></td>
<td>0</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Three or More=0</td>
<td>-.974</td>
<td>.410</td>
<td>1</td>
<td>.018</td>
<td>.377</td>
<td></td>
</tr>
<tr>
<td>Three or More=1</td>
<td>0b</td>
<td></td>
<td>0</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Violent Offense=0</td>
<td>-.583</td>
<td>.410</td>
<td>1</td>
<td>.155</td>
<td>.558</td>
<td></td>
</tr>
<tr>
<td>Violent Offense=1</td>
<td>0b</td>
<td></td>
<td>0</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>No Weapon</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Weapon</td>
<td>-1.717</td>
<td>.305</td>
<td>1</td>
<td>.000</td>
<td>5.568</td>
<td></td>
</tr>
<tr>
<td><strong>Race (NonWhite)</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Gender (Female)</td>
<td>1.418</td>
<td>1.024</td>
<td>1</td>
<td>.166</td>
<td>4.131</td>
<td></td>
</tr>
<tr>
<td><strong>Intercept</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Intercept</td>
<td>-5.998</td>
<td>2.164</td>
<td>1</td>
<td>.006</td>
<td>----</td>
<td></td>
</tr>
<tr>
<td>Model chi-square</td>
<td>2499.504</td>
<td></td>
<td></td>
<td>p= &lt;.001</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Rho-squared***</td>
<td>0.521</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Number of cases 12,139

*a retained in juvenile court serves as the reference category

bThis parameter is set to zero because it is redundant.

cRho squared refers to McFadden’s rho-squared. This number is derived from the likelihood ratio statistic and used as a pseudo R-squared. Values of .20 or above suggest a good model fit (Steinberg & Colla 1994:18; Jefferis, et al.1997:387).

The first set of hypotheses states predictions about transfer to adult court as compared to retention in juvenile court:
H1. The probability of transfer to adult court increases as the severity of the alleged offense increases after controlling for all other factors (legal factor).

The severity of an offense is measured by three variables – the felony level of the offense, if the offense was violent, and if a weapon was used in the tagging offense. The results of this research indicated that all three factors significantly predicted if a case was retained in the juvenile court or waived into the adult criminal justice system at the \( p = < .001 \) level. As the severity of the level of the offense increased so did the probability that the case would be transferred to the adult criminal court system rather than remain in the juvenile court system. For example, a case in which the offense was an aggravated murder, murder, or a felony 1 offense (and compared to all cases that were not an aggravated murder, murder, or a felony 1 offense) was more likely to be waived than retained in the juvenile court. Likewise, cases in which the offense was a felony 2 or 3 (and compared with all cases that were not a felony 2 or 3) were also more likely to be

---

34 The felony level of an offense is coded as two separate factors and a reference factor. The first factor is aggravated murder, murder, and felony 1; the reference factor is felony 4 and 5. The second factor is felony 2 and 3; the reference factor is felony 4 and 5. In each analysis of relationships between the felony levels and the reference factor, the b coefficients represent zero cases. For example, in determining relationship between aggravated murder, murder, and felony one and dispositional outcomes the b coefficient compares cases which are not aggravated murder, murder, and felony one offenses to all cases which are aggravated murder, murder, and felony one. (See Table 5.2).

35 A violent offense for purposes of this study is defined as any offense against a person. The specific offenses which are included under person crimes include aggravated murder, murder, felonious assault, assault, rape, gross sexual imposition, robbery, kidnapping, sexual battery, domestic violence, manslaughter, and aggravated menacing.
waived to the criminal court rather than retained in the juvenile court. Other indicators of offense severity were found to be important predictors of dispositional outcome as well. A case categorized as violent or one in which a weapon was involved was significantly more likely to be waived into the adult criminal justice system than retained in the juvenile court. Stated differently, a case in which the offense committed was non-violent, did not involve a weapon, and involved a felony 4 or 5 offense was more likely to be retained and disposed of in the juvenile justice system rather than waived into the adult criminal justice system (see Table 5.2).

H1a. As the felony level of an offense increases, the probability of transfer to adult court increases after controlling for all other factors (legal factor).

The felony level\(^{36}\) or the severity of the offense committed significantly predicted if a case was retained in the juvenile court or transferred to the adult criminal justice system. When the offense is an aggravated murder, murder, or felony one (and analyzed in relationship to all cases that were not an aggravated murder, murder, and felony one) the odds of being waived to the adult criminal justice system are 71 times greater while controlling for all other predictor variables.\(^{37}\) Likewise if the level of the offense

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\(^{36}\) See footnote 4.
\(^{37}\) The reference book used to compute this statistic and all subsequent statistics in this section was: *Discovering Statistics Using SPSS, 3rd* Ed. by Andy Field (2009), Chapter 8, Logistic Regression, pages 310-311. The computation used to determine the increase(decrease) in the odds exemplified in Field’s book is to divide the number one by the Exp(B). The resulting quotient equates to the increase (decrease) in the odds of an event occurring. For example: \(1/0.014=71.42\).
committed was a felony 2 or 3 (and analyzed in relationship to all cases that were not a felony 2 or 3) the odds of being waived to the adult criminal court are 5 times greater while controlling for all other variables.

H1b. The probability is greater that offenses involving violence will be transferred to adult court after controlling for all other factors (legal factor).

The commission of a violent offense (versus non-person offenses) significantly predicted if a case was retained in the juvenile court or transferred to the adult criminal justice system. The odds of being waived to the adult criminal justice system (versus retained) are 2.09 times greater if the offense committed was violent, in reference to a non-violent offense and after controlling for all other predictors.

H2. The probability of transfer to adult court increases in cases where a weapon was used in the commission of an offense after controlling for all other factors (legal factor).

The use of a weapon significantly predicted if a case was retained in the juvenile court or transferred to the adult criminal justice system. The odds of being waived to the adult
criminal justice system (versus retained) are 3 times greater for cases in which a weapon was used in committing the offense after controlling for all other predictors.

H3. The probability of transfer to adult court increases as the age of the juvenile increases after controlling for all other factors (legal factor).

Age at the time the offense was committed significantly predicted if a case was retained in the juvenile court or transferred to the adult criminal justice system. As age increases by one unit, the probability that a case will be waived to the adult criminal justice system increases by a factor of 3.30 after controlling for all other predictors. In other words, as the age of the offender increases so does the probability that the case will be waived to the adult criminal justice system as opposed to being retained in the juvenile court. Stated differently, the odds of being retained in the juvenile court system decrease as the age of the offender increases.

H4. Juveniles who have longer histories with the juvenile justice system are more likely to be transferred to adult court after controlling for all other factors (legal factor).
Recidivism, or prior involvement in the justice system, is coded ordinally into three separate categories (and a reference category). The prior history of offending (or recidivism) significantly predicted if a case was retained in the juvenile court or transferred to the adult criminal justice system – the longer the history with the system the greater the probability that the case will be transferred to the criminal court instead of being disposed of in the juvenile court. The odds of being waived to the adult criminal justice system (versus retained in the juvenile court) are 1.95 times greater for cases in which there was one prior offense after controlling for all other predictors. Likewise, the odds of being waived to the adult criminal justice system (versus retained in the juvenile court) are 1.87 times greater for cases in which there were two prior offenses after controlling for all other predictors, and 6.71 times greater for cases in which there were three or more priors after controlling for all other predictors.

H5. Minority youth are more likely than other youth to be transferred to adult court after controlling for all other factors (extra legal factor).

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Prior involvement in the juvenile justice system is coded as three separate variables and a reference factor. The first variable is one prior; the reference factor is no priors. The second variable is two priors; the reference factor is no priors. The third variable is three or more priors; the reference factor is no priors. In each analysis of relationships between the number of prior offenses and the reference factor, the b coefficients represent zero priors. For example, in determining relationship between one prior offense and dispositional outcomes the b coefficient compares cases which are not one prior offense to all cases which are one prior offense. (See Table 5.2).
Race significantly predicted if a case was retained in the juvenile court or transferred to the adult criminal justice system. The odds of being waived to the adult criminal justice system (versus being retained in the court) are 2.37 times greater if the offender is a minority, in reference to an offender who is non-minority, all other things being equal.

H6. Males are more likely than females to be transferred to adult court after controlling for all other factors (extra legal factor).

Gender did not significantly predict dispositional outcome in the multivariate analysis that compared cases that were transferred to the criminal court and cases that were retained in the juvenile court. Therefore, and in relationship to the other legal and extralegal factors studied, no statistically significant difference was observed between male and female delinquents. This is likely due to the skewed gender distribution in the data set and the relatively small number of cases of females who were waived to the adult criminal justice system.

H7. Youth who committed their first offense at a younger age are more likely to be transferred to the adult court after controlling for all other factors (extra legal factor).
Age at first referral to the juvenile justice system significantly predicted if a case was retained in the juvenile court or transferred to the adult criminal justice system. As identified in Table 5.2, as age decreases by one unit, the odds that a case will be transferred to the criminal justice system (versus being retained in the juvenile justice system) are 1.10 times greater after controlling for all other predictors. In other words, the younger the case at the time of initial contact with the juvenile justice system, the greater the probability of waiver to the adult criminal justice system. Stated differently, the odds of being retained in the juvenile court system decrease the earlier (younger) the case comes to the attention of the juvenile justice system.

The second set of hypotheses state predictions about blended sentencing as compared to retention in juvenile court:

H8. The probability of receiving a blended sentence increases as the severity of the alleged offense increases after controlling for all other factors (legal factor).

The severity of an offense is measured by three variables – the felony level\(^{39}\) of the offense, if the act was classified as violent\(^{40}\) and if a weapon was used in committing the

\(^{39}\) See footnote 4.

\(^{40}\) A violent offense for purposes of this study is defined as any offense against a person. The specific offenses which are included under person crimes include aggravated murder, murder, felonious assault,
offense. The results of this research indicated that two of the three factors significantly predicted if a case was retained in the juvenile court or disposed of through a blended sentence (at the $p = < .001$ level). A case in which the offense was an aggravated murder, murder, or a felony 1 (compared with all cases that were not an aggravated murder, murder, or felony one) and which involved a weapon was significantly more likely to be disposed of through a blended sentence than retained in the juvenile court. Likewise, a case in which the offense was a felony 2 or 3 (compared with all cases that were not a felony 2 or 3) and involved a weapon was also more likely to be disposed of through a blended sentence rather than retained in the juvenile court. Stated differently, a case in which the offense committed was a felony 4 or 5 and did not involve a weapon was more likely to be retained in the juvenile justice system than disposed of through a blended sentence. A relationship between the commission of a violent offense and the dispositional outcomes of a blended sentence versus a case processed traditionally in the juvenile justice system was not supported in this research.

H8a. The probability of a blended sentence increases for cases that involve violence after controlling for all other factors (legal factor).

Violent crime (versus a non-person offense) was not significantly related to receiving a blended sentence (reference to retention in the juvenile court). In other words, knowing

assault, rape, gross sexual imposition, robbery, kidnapping, sexual battery, domestic violence, manslaughter, and aggravated menacing.
that a violent offense was committed, relative to the other information available in the model, is not predictive of dispositional outcomes between a case disposed of through a blended sentence and a case disposed of traditionally and retained in the juvenile court.

H8b. The probability of a blended sentence increases as the felony level of the offense increases after controlling for all other factors (legal factor).

Measurement of the severity of the offense as indicated by felony level is explained in footnote 4 (See Table 5.3). The felony level or offense severity significantly predicted if a case was retained in the juvenile court or disposed of through a blended sentence. When the offense is an aggravated murder, murder, or felony one and analyzed in relationship to all cases that were not an aggravated murder, murder, and felony one, the odds of a case being disposed of through a blended sentence (versus retained in the juvenile court) are 83 times greater while controlling for all other predictor variables. Likewise when the offense is a felony 2 or 3 and analyzed in relationship to all cases that were not a felony 2 or 3, the odds of a case being disposed of through a blended sentence (versus retained in the juvenile court) are 8.55 times greater while controlling for all other predictor variables.

H9. The probability of a blended sentence increases for cases that involve a weapon after controlling for all other factors (legal factor).
The use of a weapon significantly predicted if a case was retained in the juvenile court or disposed of through a blended sentence. The odds of receiving a blended sentence (versus retained) are 5 times greater for cases in which a weapon was used (versus not) after controlling for all other predictors.

H10. The probability of a blended sentence is higher for juveniles who have a greater number of prior adjudications after controlling for all other factors (legal factor).

Recidivism\textsuperscript{41} or prior involvement in the justice system is coded ordinally into three separate categories (and a reference category). The prior history of offending (or recidivism) significantly predicted if a case was retained in the juvenile court or disposed of through a blend sentence – the longer the history the greater the probability that the case will receive a blended sentence instead of being disposed of in the juvenile court. The odds of a case receiving a blended sentence (versus retained in the juvenile court) are 2.27 times greater for cases in which there was one prior offense after controlling for all

\textsuperscript{41} Prior involvement in the juvenile justice system is coded as three separate factors and a reference factor. The first factor is one prior; the reference factor is no priors. The second factor is two priors; the reference factor is no priors. The third factor is three or more priors; the reference factor is no priors. In each analysis of relationships between the number of prior offenses and the reference factor, the \( b \) coefficients represent zero cases. For example, in determining relationship between one prior offense and dispositional outcomes the \( b \) coefficient compares cases which are not one prior offense to all cases which are one prior offense. (See Table 5.3).
other predictors. Likewise, the odds of receiving a blended sentence (versus retained in the juvenile court) are 3.01 times greater for cases in which there were two prior offenses after controlling for all other predictors, and are 2.65 times greater for cases in which there were three or more priors after controlling for all other predictors.

H11. The probability of a blended sentence is more likely for older juveniles than for younger juveniles after controlling for all other factors (legal factor).

Age at the time the offense was committed significantly predicted if a case was retained in the juvenile court or disposed of through a blended sentence, . As identified in Table 5.3, as age increases by one unit, the odds that a case will receive a blended sentence (versus retained in juvenile court) are 1.14 times greater after controlling for all other predictors. In other words, as the age of the offender increases so does the probability that the case will be disposed of through a blended sentence versus retained in the juvenile court. Stated differently, the odds of being retained in the juvenile court system decrease as the age of the offender increases.

H12. Juveniles who have a longer history with the juvenile justice system are more likely to receive a blended sentence after controlling for all other factors (legal factor).
Recidivism, or prior involvement in the justice system, was discussed in response to Hypothesis 10. To summarize: The prior history of offending (or recidivism) significantly predicted if a case was retained in the juvenile court or disposed of through a blend sentence after controlling for all other predictors. Cases with longer histories, as measured by the frequency in which a case recidivated, were more likely to be disposed of through a blended sentence than processed through the traditional structure of the juvenile court.

H13. Minority youth are more likely than other youth to receive a blended sentence after controlling for all other factors (extra legal factor).

Table 5.3 indicates that knowing the race of a juvenile, relative to other variables available in the model, is not predictive of a blended sentence (reference retained in the juvenile court).

H14. Males are more likely than females to receive a blended sentence after controlling for all other factors (extra legal factor).

Gender, relative to other variables in the model, is not predictive of dispositional outcome in a comparison between a blended sentence case and a case that is retained in the juvenile court system (Table 5.3). This may be because there are a small number of female cases in the population of blended sentence cases.
H15. Youth who committed their first offense at a younger age are more likely to receive a blended sentence after controlling for all other factors (extra legal factor).

Age at first referral to the juvenile justice system was not a significant predictor of a blended sentence (Table 5.3). In other words, knowing the age of a case when it first came to the attention of the juvenile justice system is not predictive of whether the case was disposed of through a blended sentence or retained in the juvenile court, all else being equal.

H16 Taken together, legal factors are more predictive of dispositional outcomes than are extra legal factors after controlling for all other factors.

The legal factors that were used as predictors in this research are age at offense, felony level of the offense, person offenses (violent offenses), weapon usage, and recidivism or prior court history. The extra legal factors that were used as predictor variables are age at first referral to the juvenile justice system, gender, and race. The significance level of predictor variables for the outcome of cases waived to the adult criminal court and cases
disposed of through a blended sentence was made in reference to cases that were retained in the juvenile court system.

The legal variables of age at offense and the use of a weapon were significant predictors of dispositional outcomes (transfer and blended sentence) at the $p = < .001$ level. The severity of the criminal behavior, especially cases involving aggravate murder, murder, or a felony one offense, was also significantly related and highly predictive of cases that were transferred to the criminal court and cases that were disposed of through a blended sentence at the $p = < .001$ level. The prior court history attached to a case was highly predictive of cases that were transferred to the criminal court ($p = < .001$) and predictive of cases that were disposed of through a blended sentence ($p = < .05$). Violent offending or cases that involved an offense against a person was highly predictive of cases transferred to the adult criminal justice system ($p = < .001$) but was not predictive in cases that were disposed of through a blended sentence.

Gender (extra legal) was not a significant predictor of dispositional outcomes which could have resulted from the fact that there were very few blended sentence or transfer cases that involved female offenders. Whereas race or minority status was a significant predictor of cases transferred to the adult criminal justice system ($p = < .001$) it was not a significant predictor of case disposed of through a blended sentence. Likewise, age at first referral to the juvenile justice system was a significant predictor in cases transferred
to the adult criminal justice system \((p = < .001)\) but was not predictive relative to cases disposed of through a blended sentence.

Cumulative and based on the assessment (significance level) of each predictor variable relative to the dispositional outcomes of transfer and blended cases (reference is retained cases) the legal variables were more predictive of outcomes than were the extra legal variables.

In chapter 6, I will discuss and interpret the results of the analysis in comparison with previous literature. I will also discuss the theoretical and policy implications of the findings, as well as review the limitations of the study and make suggestions for further research.
CHAPTER 6

Discussion

In the early 1990s, juvenile crime in the US appeared to be increasing in frequency and seemed to be exceedingly more violent. This momentary statistical spike resulted in a majority of states enacting or expanding provisions to transfer juvenile defendants from the juvenile court to the adult court (Feld 2000). In state after state, legislative efforts increased the mechanisms of transfer, made transfer mandatory for a larger number of offenses, and generally sought to remove more serious and violent juveniles from the special jurisdiction of the juvenile courts. Ohio was no exception.

In 1996, Ohio enacted Substitute H.B. 1, which mandated the transfer of certain types of juvenile offenders to the adult criminal court. This legislative action was followed by the enactment on January 1, 2002 of Senate Bill 179, which reduced the age for state institutional commitment to 10 and created a juvenile blended sentencing option that authorized the juvenile courts to impose a combined juvenile and adult sentence on certain categories of delinquents legislatively labeled as serious youthful offenders or SYOs.
This research was an effort to understand how those legislative actions were operationalized by the juvenile courts, specifically by identifying the relationship between legal and extra legal variables and dispositional outcomes. I will discuss the results of this research in light of the study’s seven research questions. All relationships between predictors and outcomes should be understood as an analysis of the impact of the independent variables on the dispositional outcomes of transfer to the adult criminal court, retention in the juvenile court, and cases disposed of through a blended sentencing.

Later in this chapter, I will discuss the contributions this study makes to the ongoing efforts to understand sentencing patterns and youthful offenders who engage in serious or felonious offending, identify the limitations of this study, discuss policy implications, and offer suggestions for future research.

6.1 Summary of Findings and Discussion

Research Question One: Which legal and extra legal factors influence the decision to transfer a case to the adult criminal justice system?

In the multivariate analysis, minority status and age were predictive of waiver. That is, the older the offender at the time of the offense the greater the probability of transfer to the criminal court (compared to a traditional juvenile court adjudication). Non-white juveniles were more likely to be transferred than were white juveniles.
Gender was not influential, which may be understood in relationship to the very small number of cases involving female offenders. This pattern of age, gender, and minority status is consistent with what Cheesman and Waters (2008) found in the research they conducted in Ohio and was also identified in sentencing research conducted in South Carolina and Utah (Snyder, Sickmund, and Poe-Yamagata 2000) and Minnesota (Cheesman et al. 2002).

The age at which an offender was first identified by the juvenile justice system was significant (cases involving juveniles identified at an earlier age were more likely to be transferred to the adult court). The age at which juveniles commit their first offense has been identified in research as one of the strongest predictors of later aggression and delinquent behavior (Thornberry, Huizinga, Loeber 2004; Podkopacz and Feld 2001; Dahlberg 1998; Fagan and Deschenes 1990). Longitudinal research findings on more than 4,000 youth from three cities show that youth who begin their delinquency careers before age 13 are at a higher risk of becoming serious and violent offenders than those who begin their delinquency careers later (Thornberry, Huizinga and Loeber 2004).

The severity of the offense, as measured by the level of felony offending, was significant in the decision to transfer a case (see Table 5.2). This finding is consistent with results from the Cheesman and Waters (2008) research in Ohio.

The use of a weapon was also significant in the decision to transfer a case, as were cases that involved person or violent crimes. Burrow (2008) identified violent person offenses as predictive of transfer; Smith, Craig, Brodus, and Kimmelman (2003) and Snyder, Sickmund, and Poe-Yamagata (2000) identified the use of a weapon as
influential in the decision to transfer a case. As the number of prior adjudications and history of the case relative to involvement with the juvenile court increased, so did the probability that the case would be transferred to the adult court (Smith, Craig, Brodus, and Kimmelman 2003; Cheesman et al. 2002; Snyder, Sickmund, and Poe-Yamagata 2000; Fagan and Deschenes 1990).

Research Question Two: Which legal and extra legal factors influence the decision to dispose of a case through a blended sentence?

Although the bivariate analysis indicated race and gender predicted the dispositional outcome of a blended sentence, neither of these variables were influential in the multivariate analysis. Age was significantly related to disposition; the older the offender at the time of the offense, the greater the probability that the case would be disposed of through a blended sentence (in reference to retained cases). This finding is consistent with results obtained by Cheesman and Waters in Ohio (2008).

Tables 5.2 and 5.3 revealed that the severity of the offense (level) was significantly related to disposition. Again, Cheesman and Waters (2008) in Ohio, identified felony one offenses to be predictive of blended sentence cases and the offenses of aggravated murder and murder to be predictive of transfer cases.

The use of a weapon was significantly related to a case being disposed of through a blended sentence in relationship to cases that were retained in the juvenile court (see
Table 5.3). In fact, it was the use of a weapon that had the largest predictive effect on a blended sentence outcome. Unlike transfer cases, there was no relationship between the type of offense committed (violent versus non-violent) and the imposition of a blended sentence, relative to other factors.

Age at first referral to the justice system was not significant in blended sentence outcomes, which is contrary to the literature and perhaps can be explained as a function of the small number of cases in the blended sentence population (Thornberry, Huizinga, Loeber 2004; Podkopacz and Feld 2001; Dahlberg 1998; Fagan and Deschenes 1990).

*Research Question Three:* Which legal and extra legal variables influence the decision to dispose of a case by retaining jurisdiction and processing within the traditional structure of the juvenile court?

The multivariate analysis just described (Tables 5.2 and 5.3) indicates that when the choice is in terms of traditional juvenile court disposition versus waiver, age, offense severity, prior record, and race make a difference. That is offenders who are younger, engage in felony 4 and 5 offending, have less history with the system and are white (compared to non-white) are more likely to be retained and adjudicated in the juvenile court than transferred to the adult court. When the other option is a blended sentence, age, offense severity, and prior record are important. The use of a weapon is a significant factor in the dispositional outcomes of either waiver or a blended sentence in comparison with cases retained in the juvenile court.
**Research Question Four:** Which are more important in determining dispositional outcomes, legal factors, or extra legal factors?

The legal variables of age at offense and the use of a weapon were significant predictors of the more severe dispositional outcomes (transfer and blended sentence versus traditional juvenile court adjudication). In fact, these were the most important variables in Tables 5.2 and 5.3 and indicate the primacy of legal factors. The severity of the criminal behavior, especially cases involving aggravate murder, murder, or a felony one offense was also predictive of cases that were transferred to the criminal court and cases that were disposed of through a blended sentence. The prior court history attached to a case was predictive of cases that were transferred to the criminal court and predictive of cases that were disposed of through a blended sentence. Further, violent offending or cases that involved offenses against a person, was predictive of cases transferred to the adult criminal justice system but was not predictive of cases that were disposed of through a blended sentence (relative to traditional juvenile court adjudication).

Gender (an extra legal variable) was not a significant predictor of dispositional outcomes possibly because there were very few blended or transfer cases that involved female offenders. Whereas race or minority status was a significant predictor of cases transferred to the adult criminal justice system, it was not a significant predictor of cases...
disposed of through a blended sentence (versus a traditional outcome). Likewise, age at first referral to the juvenile justice system was a significant predictor in cases transferred to the adult criminal justice system but was not predictive of cases disposed through blended sentences.

Based on an assessment of each predictor variable in the multivariate analysis relative to the dispositional outcomes of transfer and blended cases (reference is retained cases); the legal variables were more predictive of outcomes than were the extra legal variables. This finding supports existing literature, which consistently has identified legally prescribed factors such as the type (violent) and severity of the offense committed, age at offense, and prior court record as the primary influence in dispositional decision-making (Cauffman et al. 2007; Zimring 1998; Feld 1999; Ulmer 1997).

*Research Question Five:* All else being equal, what impact do minority status and gender have on dispositional outcomes?

Race significantly predicted whether or not a case was transferred to the adult criminal justice system versus retained in the juvenile court. Race, however, was not predictive of a blended sentence versus retention in the juvenile court. This finding is consistent with research on transfer cases but inconsistent with the research on blended cases (Cheesman and Waters 2008; Cheesman et al. 2002; Podkopacz and Feld 2001). In part, this contradictory outcome could be the result of the size of the population of cases disposed of through a blended sentence. The weighted data consisted of 12,955 cases;
the population of blended cases was 91 or less than .01% of the data set. Within the population of 91 blended cases there were 64 minorities (70%) and 27 non-minorities (30%). The impact of race on dispositional decision-making is difficult to interpret given these small sample sizes. Within the larger body of criminal justice literature, the research is also conflicting and difficult to interpret (Ulmer 1997). One element of this research that might have affected the impact of minority status is the fact that all cases tagged for this database are cases that have engaged in felony level offending thus resulting in a sample with less variation than might be found in the population of all juvenile offenders.

Gender, relative to other variables in the model, was not predictive of dispositional outcomes. This is likely attributed to the fact that females comprised a relatively small number of cases -- less than 14% of the database and less than .04% of all transfer and blended cases.42

It is widely reported in the criminal justice literature that adult and juvenile males commit the majority of crimes; arrest, self-report, and victimization data reveal that males of all ages commit more frequent and serious crimes than do adult and juvenile females (van Wormer and Bartollas 2011). As a result, gender is frequently identified in the literature as one of the strongest predictors of criminal behavior (Belknap 2001). Gender

42 In the unweighted data set, there were 1,425 cases (90%) that were male offenders and 152 cases (10%) that were female offenders. In the weighted data set, there were 11,206 cases (86.5%) of male offenders and 1,749 cases (13.5%) of female offenders. From the population of 505 cases that were transferred into the adult criminal justice system, 495 or 98% were cases involving male offenders. From the population of 91 cases that were disposed of through a blended sentence, 88 or 97% were cases involving male offenders.
does matter in the context that males are more likely to be referred to the juvenile justice system for committing felony level offenses (see Table 5.1). Gender did not make a difference in the multivariate analysis. In the second stage probit that was used by Cheesman and Waters (2008) and which identified the factors that differentiated transfers from SYOs, controlling for the probability of selection for non-conventional processing, cases of male offenders (reference female offenders) were more likely to be processed as transfers or blended cases (p. 32).

*Research Question Six:* To what extent do prior record, severity of offense and use of a weapon predict the three dispositional outcomes?

The prior history of offending (or recidivism), the severity of the offense, and the use of a weapon significantly predicted dispositional outcomes after controlling for all other predictors. Cases that were characterized by a longer history with the system, by a more severe offense, and by weapon use were significantly more likely to be transferred to the criminal court or be disposed of through a blended sentence than cases that remained within the traditional structure of the juvenile court. These findings are consistent with prior research (Cheesman and Waters 2008).

*Research Question Seven:* Do prior court dispositions influence extant court dispositions? Is prior record a predictor of dispositional outcome?
This research question is about the labeling of behavior and if, in fact, those labels are detrimental to the outcomes of cases. Using the societal reaction perspective as a theoretical framework, the concern thus becomes the role and influence of prior dispositions on dispositional outcomes. In order to answer this question I will analyze the relationship between the history of offending and dispositional outcomes and the relationship between the severity of the offense and dispositional outcomes. Matarazzo, Carrington, and Hiscott (2001) focused theoretically and empirically on the role of prior dispositions in an attempt to identify a particular theory (social reaction/labeling) underlying judicial decision-making in juvenile cases. Their results indicated that case outcomes were strongly influenced by prior dispositions rather than being determined entirely by the current offense. The authors concluded that the evidence supported the societal reaction perspective, which posits that dispositions are a type of label, or disadvantage, which once attached to an offender, strongly influence future assessments by juvenile court judges.

The prior history of offending significantly predicted whether a case was retained in the juvenile court or transferred to the adult criminal justice system. Offense history was categorized to measure the frequency with which a case appeared in the juvenile court. The data was thus recorded to reflect one prior, two priors, and three or more.

43 In responding to this question, I chose the severity of the offense rather than the use of a weapon (which was more predictive of transfer and blended outcomes) because in the Matarazzo, Carrington, and Hiscott (2001) research the authors looked at current offense without enhancements such as the use of a weapon.
priors and was analyzed in reference to no priors. In all instances, and after controlling for all other predictors, any prior offending resulted in an increase in the probability that a case would be waived to the adult criminal justice system (versus retained in the juvenile court).

Likewise, the prior history of offending significantly predicted if a case was retained in the juvenile court or disposed of through a blend sentence. In all instances, and after controlling for all other predictors, any prior offending resulted in an increase in the probability that a case would be disposed of through a blended sentence (versus retained in the juvenile court).

The severity of the offense was significant in the judicial decision to transfer or blend the sentence of a case (reference retained juvenile court cases). In each analysis, the relationship between the dispositional outcomes was directly related to the severity of the offense. In other words, aggravated murder, murder, and felony one offenses were significantly related to transfer and blended sentencing decisions.

The research conducted by Matarazzo, Carrington, and Hiscott (2001) found that case outcomes were strongly influenced by prior dispositions, rather than being determined entirely by the current offense. This research did not find support for that conclusion. The severity of the offense is more predictive of dispositional outcomes than is prior offending (see Tables 5.2 and 5.3). Therefore, these results suggest that current offense characteristics were more seminal in judicial decision-making than was prior offending, which is contrary to the Matarazzo, Carrington, and Hiscott (2001) research. If labeling were influencing outcomes, then the expectation would be that prior record
should be the most influential predictor of outcomes. Clearly prior record has some influence (which might show that some labeling effect is occurring), but the characteristics of the current offense (its severity and violence) appear to be largely responsible for the dispositional outcomes.

6.2 Contributions of the Study

What distinguishes this research from the Podkopacz and Feld (2001) research is the fact that the data were drawn from five counties and the Department of Youth Services. The research conducted by Podkopacz and Feld (2001) was limited by the fact that there were no cross jurisdictional comparisons; the research was conducted in one county – Hennepin County, Minnesota. This multi-jurisdictional study allowed for the detection of variation in patterns of sentencing across jurisdictions and, therefore, greater generalization of findings. The lack of jurisdictional variation in research was identified by Cauffman, Piquero, Kimonis, Steinberg, Chassin, and Fagan (2007) as a “limitation in previous studies of dispositional outcomes” (521).

This research extended the research that was conducted by Cheesman and Waters (2008) in Ohio. Whereas that research focused on motioning activity that occurred at the prosecutorial level, this research focused on decision-making at the judicial level, essentially moving the research to another decision-making point in the juvenile justice system.
Although there have been a number of studies on sentencing and judicial decision-making, there have been only a handful that have dealt with the systemic impact of blended sentencing. This research has enhanced our knowledge about sentencing policies and practices by not only identifying the judicial determinants that separate a blended sentence from other dispositional options but by gaining insight into the circumstances under which this dispositional outcome is used.

Additionally, this research can provide legislators, members of sentencing commissions, the judiciary, justice system professionals, and scholars with empirical insight into offenders, offenses, and implementation of sentencing policies that were part of a national legislative movement to respond to what we now believe was a momentary spike in juvenile crime.

6.3 Limitations of the Study

6.3.1 Missing Data

For the most part, this study relied on agency staff to collect and transmit data. The data that I received from ODYS was initially collected by each court involved in this study and subsequently submitted to ODYS as part of a state mandated monthly reporting requirement. Data recorded by the courts passes through a number of decision-making points before it is eventually submitted to ODYS; each decision-making point increases the possibility of human error in the information that is recorded and ultimately received by ODYS. Additionally, once received by ODYS the information is then entered into a
different database, which also increases the possibility of error in the data set. The information used in this study came from ODYS and all five counties.

There are variables missing from this study that can be expected to play a meaningful role in decision making about cases (Cauffman et al. 2007). Information on the extent of treatment efforts related to mental health diagnoses, drug and alcohol abuse, and diagnosed posttraumatic stress disorder is not included. Also not included are data on gang involvement, issues of prior dependency and neglect, sexual abuse, and educational status, which can be expected to matter in the review and assessment of juvenile cases (Cauffman et al. 2007). Unfortunately, in the majority of the counties this information was not accessible. The one exception is Cuyahoga County for which I collected the data directly from the family court files that were located at the Cuyahoga County Juvenile Court. As mentioned later, this is a possible subset of the database to explore in future research.

Missing data is the result of information that is missing from the court files. Missing data can be the result of information that is not prioritized by the court and ultimately not collected; information that is collected but not kept in the filing system that was used to provide the data requested for this study; or information that is catalogued in a secondary filing system maintained by specific offices in the court, such as probation, placement, or intake departments. Courts maintain multiple filing systems for housing information on offenders such as probation files, placement files, family court files, and specialized programs or treatment interventions files such as mental health interventions,
trauma interventions and substance abuse intervention. Missing data can also be the result of files that are missing, lost, unavailable, currently in use, or expunged.

### 6.3.2 Population Size – Blended Sentencing Cases

This study was hindered by the very limited number of cases disposed of through a blended sentence. This limitation suggests the need for a more inclusive identification of cases that are processed under the legal strictures of the blended sentence legislation and speaks to the lack of any systematic statewide tracking of these cases. In particular, this research included blended cases that were committed to ODYS but did not include cases that were charged under the legislation and subsequently plea-bargained or disposed of in another manner. Thus while many cases met the legal criteria for a blended sentence, the outcome, for reasons not clear, did not reflect these criteria. Additionally, the time that elapsed since the enactment of the blended sentence legislation and this research might not have been extensive enough to allow for a larger number of blended cases.

### 6.4 Policy Implications

#### 6.4.1 Blended Sentences

Blended sentencing in Ohio seems to be used more as a prosecutorial tool than as a viable dispositional option that is widely embraced by the juvenile courts, at least those surveyed here. Although not part of the present analysis, the narrative summary of information provided by ODYS on several cases of serious youthful offenders seemed to
suggest unusual offending patterns and possible mental health issues. The court, perhaps recognizing that these cases presented differently from other delinquencies, and further recognizing that these cases were neither appropriate for the traditional structure of the juvenile court nor appropriate for the adult criminal justice system, seized upon a blended sentence as an option that maximized the ability of the juvenile court to constructively intervene in the life of the offender while minimizing the deleterious effects of the adult criminal system.

Perhaps the fact that a blended sentence disposition was used for almost 100 cases in this research suggests that, on some level, there is a need for additional alternatives to supplement the current array of services available in the juvenile justice system. The question that policy makers and the juvenile justice community must decide is whether those alternatives can be realized by adding specific services such as mental health interventions that might be combined with an alternative sentencing scheme such as a blended sentence. Whether or not blended sentencing, as it is now legislatively prescribed, would become part of that option remains to be seen.

In 2004, a Magistrate from Delaware County surveyed all eighty-eight Ohio counties on the impact of blended sentencing on Ohio youth and concluded, “in general, the use of blended sentencing has been minimal or non-existent in most counties” (Hejmanowski, 2004 p. 14). Certainly, the fact that the juvenile courts seem reluctant to use a blended disposition suggests that there is a need for policy makers and the judiciary to review and address that reluctance and to determine if blended sentencing should
remain as a viable outcome for cases of juvenile offenders who engage in serious offending.

6.4.2 Sentencing Policy

In today’s context of limited resources and economic distress there is a fundamental need for the juvenile justice system to reevaluate policies on federal and state levels of government to determine what works in sentencing schemes and what does not. Contemporary research has tended to discredit the effectiveness and efficiency of many sentencing policies which have moved large numbers of juvenile offenders to the adult criminal justice system (Benekos and Merlo 2008; Fagan 2008; Redding 2008; McGowan, et al 2007; Redding and Fuller 2004; Myers 2003; Lemmon, Austin, Verrecchia, and Fetzer 2005; Podkopac and Feld 1996; Jensen and Metzger 1994; Bishop 2000; Butts 2000). This only serves to highlight the need for policy makers and juvenile justice professionals to reassess how they deal with serious youthful offenders and ultimately develop legislation that speaks to the efficiency of policy by targeting those offenders, and only those offenders, who truly need the accountability-based model that the adult correctional system offers. As aptly stated by Franklin Zimring, “Social policy favoring youth development does not require a discounting of penal liability but suggests an effort to avoid using punishments that limit the opportunity of adolescent offenders to survive into normal adulthood” (Zimring 1998 p. 477).
6.4.3 Reporting Requirements

Finally, there should be federal and state requirements which mandate the collection and reporting of data on all juvenile offenders who are removed from the jurisdiction of the juvenile justice system. Historically, the statistical picture of transfer in the United States has been fragmentary and incomplete and Ohio is no exception to that statement (Mears 2003). Data that is available is based largely on judicial waiver cases. We simply do not know the number of cases of youthful offenders who are tried in criminal court as a result of actions by the legislature (statutory exclusion), choices made by prosecutors (concurrent jurisdiction) or adult sentences imposed from stayed blended sentence actions (Griffin 2008; Snyder, Sickmund and Poe-Yamagata 2000).

Information on the extent to which blended sentencing has been utilized in Ohio has been difficult to ascertain, and there are statistical and reporting variations depending on the source of information. The total numbers of cases processed differs depending on whether the total includes SYO cases that were filed and committed to ODYS and/or cases resolved through plea bargaining and other prosecutorial and judicial remedies.

The problem does not appear to be a lack of cases; the problem is essentially that no one was, by legislative mandate, required to collect and maintain statistics on blended sentence cases. Consequently, there is no database in Ohio which tracks cases that have been disposed of through a blended sentence.
6.5 Future Research

6.5.1 Juvenile Court as a Series of Decision-Making Points

We must begin to assess the impact of the juvenile court as a process that incorporates multiple points of assessment and decision-making. The idea that we can look at one point in the routing process of a case and truly comprehend the impact that public policies have on cases is not a realistic expectation. Ideally, this research should have begun at the prosecutorial level to assess the impact of charging and plea-bargaining on felony level cases involving juvenile offenders. Further, the present study did not look at the actual disposition (sentence) received by the juvenile, merely at the location of the disposition. Cases should be tracked as they move through the juvenile/criminal court systems as well as through the juvenile/adult institutional systems. Finally, release and reentry from both systems should be studied with particular attention paid to the heretofore-unknown consequences of a juvenile offender’s reentry into society after a significant period of incarceration in the adult institutional system.

6.5.2 Extra-Legal and Contextual Information

Finally, future research should be structured to include extra legal and contextual factors. This research attempted to incorporate additional extra legal and contextual factors (mental health status, substance abuse status, family structure, dependency status, and educational status) but was unsuccessful in collecting that information. Future research might, for instance, look more closely at the data I collected from Cuyahoga
County, which had more complete information, to see if variables related to mental health problems and treatment provide some additional context for understanding dispositional outcomes.

The justice system must understand, and it is the responsibility of researchers to make them understand, that the importance of what they do with juvenile offender cases on a daily basis cannot be solely understood through legal prescriptions. If we are going to get better at working with offenders we must begin to understand how all aspects of an offender’s life situation impact and direct behavior not just those that are prescribed by statutes.
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