

**The Bill Blackwood
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**Treating Juveniles as Adults:
Sending America's Children to Adult Courts**

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ABSTRACT

The concept of the certification process of juvenile offenders to the adult court system is relevant to contemporary law enforcement because it dictates whether a juvenile offender's punishment is rehabilitative or punitive. In the 1990s, juvenile crime increased dramatically, and with the spike of juvenile crime, many states began enacting laws that allowed juvenile offenders of serious and violent crimes to be certified into the adult criminal court. This "get tough" approach sent a message that juveniles were going to be held accountable for their actions. The underlying result of the "get tough" approach was to act as a deterrent for future juvenile crimes. Even as juvenile crimes rates drop, many states are enhancing the certification process to encompass more juveniles into adult criminal court systems. The purpose of this research is to examine the effects of the juvenile certification process and to determine if this is the right course of action with juvenile offenders. As the laws move away from a rehabilitative method to a punitive method, there are effects of this course that may or may not be beneficial to juvenile offenders.

The method of inquiry used by the researcher included: a review of articles, internet publications, books, journals, and a survey was distributed to 134 survey participants. The research discovered there was an advantage to the rehabilitative method instead of the "get tough" concept when reviewing publications, journals, books, and professional studies. When comparing the findings of the studies and publications with the response from the survey, the results get conflicting determinations.

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INTRODUCTION

The history of juvenile crime and punishment in the United States began when the country was being settled by the Europeans (Hile, 2003). During that time, when a child reached the age of seven, he was believed to understand the difference between right and wrong, and at fourteen years of age, youth were considered adults (Hile, 2003). Cook County, Ill. founded the first juvenile court in 1899 and developed the term *parens patriae* (parent of the country) (Hile, 2003). In 1948, the Federal Juvenile Act formed, and this gave the juvenile court jurisdiction over youths under the age of 18 for criminal and status offenses. According to the National Center for Juvenile Justice (NCJJ) (2006), in the 1970s, state legislatures began changing laws to allow more juveniles who committed serious crimes in adult criminal court without a judicial waiver.

In 2003, estimates of 2,220,300 children were arrested in the United States, and over half of those arrests were theft, simple assault, drug and alcohol violations, and disorderly conduct (National Center for Juvenile Justice [NCJJ], 2006). The relevance of judicial procedures for juveniles related to law enforcement has a dramatic effect. One major impact on law enforcement would be the accountability of the juvenile who committed serious offenses. It also acts as a deterrent to other juveniles who may commit violations of the law. Finally, cities and towns will be safer because law enforcement should be able to show a reduced crime rate in those areas.

The purpose of this research is to examine the effects of juvenile judicial procedures for certifying juveniles as adults. In 1990, the rise of juvenile violent crimes contributed to the increase of transferring juveniles to the adult court system (Pagnanelli, 2007). The main goal of the research is to gain knowledge on how to

punish juveniles for serious and violent crimes and if those punishments are having any positive effect on them.

This research is going to focus on whether or not the juvenile judicial system should be treating the children of this country as adult offenders. The 1990s became the era of “get tough” with juveniles and increasingly referred more juveniles to the adult criminal justice system (Yablonsky, 2000). In response to the growing statistics of juvenile crimes, numerous states began enacting laws to remove more juveniles from the juvenile justice system and move them to the adult criminal justice system. One must ponder if this is the right thing to do. Juveniles should not be transferred to adult court when violent juvenile crime arrest has decreased since 1994 to levels of 25 years ago (Pagnanelli, 2007).

The method of inquiry will come from a variety of informational sources. Information will be gained from juvenile justice system articles and professional journals that explored the juvenile justice system. Other material will include textbook publications, internet sites, personal interviews within the juvenile justice system, and a survey.

The intended outcome of the research is to determine if the current trend of certifying children as adults is not only harming the children, but giving them the tools and resources to engage in criminal behavior as adults. The research will show that treating children as adults is against the Constitution of the United States of America. The certification of juveniles to adult court system fails to deter violent offenders and actually increases recidivism among these offenders (Pagnanelli, 2007). The findings will also show that when juveniles are transferred to adult sentencing, juveniles are

“sentenced more harshly than their adult counterparts” (Benekos & Merlo, 2005, p. 318). Juveniles differ from adults more than in age, and the certification process is not rehabilitating juveniles to become productive citizens.

The field of law enforcement and the juvenile justice system will benefit from the research because it will change the way society perceives the youth offenders of this country. The findings will help state lawmakers write laws that will accurately provide the right tools for the juvenile justice system. Judges, juvenile workers, and law enforcement officers will have clear objectives and goals that will not only assist in crime prevention, but will rehabilitate juveniles in the justice system.

REVIEW OF LITERATURE

In 1899, the first statute in the United States to define a “delinquent child” and create a juvenile court to deal with dependent, neglected, and delinquent children was enacted (Yablonsky, 2000). In most jurisdictions, juvenile delinquency involves the illegal behavior of a person under the age of 18. The term delinquency includes offenses that an adult would commit and juvenile deviant behavior, such as curfew violations, truancy, and runaways. Since this first statute, the juvenile justice system has expanded to fulfill the needs of the justice system and the current shift is making juveniles’ punishments similar to adults. The scope of the literature is to analyze the accountability, deterrence, recidivism, sentencing structure, rehabilitation, and culpability of the juvenile justice system.

Yablonsky (2000) stated, “The “get tough,” more punitive approach became more politically correct in the 1990s and is fueled by the public’s attitude toward crime based on their personal experiences” (p. 13). The movement created an attitude of “getting

tough” with the violent and severe acts committed by juveniles and referred them to adult courts to be tried and receive punishment as an adult. Since this movement, the referral rate for juveniles to adult court has increased, meaning juveniles are being treated like adults more and more everyday. Transfers of juvenile offenders to adult criminal courts increased 71% between 1985 and 1994 (Yablonsky, 2000). According to a Public Broadcast Service (PBS) (n.d.) article, during the period of 1987 and 1995, juvenile crime increased 60% for offense of aggravated assault, murder, manslaughter, and rape while adult violent crime only saw an increase of 24% during the same time period. During 1994 and 1996, PBS (n.d.) noted a significant decrease in juvenile crimes, including a 31% decrease in juvenile homicides.

Even with the decrease of violent juvenile crime, the public is in support of legislation that favors “get tough” and feels if it is an adult crime, then the juvenile should be punished as an adult (Hile, 2003). Hile (2003) stated that many believe the light sentence that juveniles receive for serious offenses lacks punitive measures, and survey responses from the American public indicated that most people prefer treating juveniles as adults for serious offenses. According to Hile (2003), Dr. Bohsiu Wu analyzed a national survey conducted by the Criminal Justice Center Survey Research Program of Sam Houston State University, and many adults were in favor of sending juveniles to adult criminal courts for thefts, property damage, drugs, and violent crimes, but were less likely to approve adult sentences. Pagnanelli (2007) stated that legislatures have been pressured by the American public to establish laws to treat juveniles as adults and transfer them to adult court.

As the number of juveniles being transferred to adult criminal court increases, some wonder if transferring juveniles to adult criminal court actually deters and decreases the recidivism rate of juvenile offenders. According to Pagnanelli (2007), studies showed the transfer of juveniles to adult criminal courts failed to deter violent juvenile offenders. In fact, the transfer actually increased recidivism among the juvenile offenders (Pagnanelli, 2007). Juvenile offenders often return to prison later in life due to “a failure to rehabilitate, and most significantly, a failure to protect society” (Pagnanelli 2007, p. 183). According to Pagnanelli (2007), Jeffery Fagan examined the records of juvenile offender who were transferred to New York’s adult criminal court and found that those offenders had a higher recidivism rate. Similar studies in Florida and Minnesota showed that the recidivism rates of juveniles who were sentenced in adult criminal court increased along with the severity of crimes as compared to juveniles who stayed in the juvenile court system (Pagnanelli, 2007). Franck (2003) quoted Scott Decker, a criminologist at the University of Missouri at St. Louis: “That exposure to the adult system, particularly for the youngest offenders, seems to make the kid worse” (p. 1). Hile (2003) pointed to the study where Steven Levitt analyzed the relationship between crime rate and punishment. He concluded that evidence showed harsh sentences or the threat of harsh sentences can influence juvenile crime positively.

When juveniles were actually incarcerated for crimes, juvenile crime decreased 20% between 1978 and 1993, which indicated that juveniles perceived there was no incentive to stop committing crimes if they were less likely to be punished in the juvenile court system (Hile, 2003). According to Texas Youth Commission (TYC) (2001), between 1988 and 1994, certification of juveniles into the adult system doubled in

Texas. In spite of the increase of juvenile crime in the 1990s, TYC has also shown a decrease by 66% between 1996 and 2000 (TYC, 2001).

Transferring juveniles to adult criminal court can lead to juveniles receiving harsher sentencing than their adult counterparts and lead to a decreased chance of rehabilitating the juvenile offender. Puzzanchera (2003) found that the largest percentage of juvenile offenders who were waived into adult criminal court had committed property crimes instead of violent offenses (as cited in Benekos & Merlo, 2005, p. 318). There is limited research being conducted for comparing the lengths of sentences juveniles receive when transferred to adult criminal courts to those juveniles who remain in the juvenile court system. Therefore, it is difficult to determine if certifying juveniles to adult court is reducing the crime rate. The research that does exist shows that juveniles who are being incarcerated in the adult courts for serious and violent crimes receive longer sentences than their counterparts who were not transferred to the adult criminal court (Public Broadcasting System [PBS], n.d.). In many cases where the juvenile received longer sentences in the adult criminal court, they are actually serving a small portion of the sentence, which in “many cases is less time than they would have served in a juvenile facility” (PBS, n.d., p. 1). A study conducted in Pennsylvania by Kurlychek and Johnson (2004) found that “juveniles transferred to criminal court are sentenced more harshly than their adult counterparts” (as cited in Benekos & Merlo, 2005, p. 318).

Juveniles who are transferred to the adult criminal court tend to have a significantly higher negative effect during their adolescent development process. Instead of rehabilitating juveniles, sending them to adult criminal court is encouraging

recidivism (Pagnanelli, 2007). According to Pagnanelli (2007), juveniles “do not perceive risks or appreciate the consequences of their actions the way adults do” (p. 185). Pagnanelli (2007) advised that the juvenile court system has many tools and resources that help rehabilitate juvenile offenders. Pagnanelli (2007) stated that juveniles who are transferred to the adult criminal court fail to develop relationships that help them with trust, values, and responsibility to make them a productive citizen. He also stated that “these relationships, in conjunction with the nurturing of the juvenile system’s rehabilitation process stimulate the development of trust, core values, and character in juveniles and aid their effective reintegration into society” (Pagnanelli, 2007 p. 185). Pagnanelli (2007) believed the most effective means of protecting the public is through the juvenile justice system, since the juvenile justice system focuses on nurturing and resocialization and is more appropriate for juvenile offenders.

As society has shifted and taken a harsher stance on juvenile offenders by allowing legislators to enact laws to allow more juvenile offenders to be transferred to adult criminal court, one must consider the juvenile’s mental culpability. Opponents against the adult certification process argue that juveniles have not achieved full mental development and are less culpable for the offense they have committed (The Gale Group, 2007). Research studies, “have determined that the human brain undergoes continuous development up to the age of about twenty-one” (The Gale Group, 2007). Adam Ortiz says the brains of a juvenile are not fully developed, particularly the frontal lobes, and youths lack the ability to perform critical functions. Juveniles do not plan and anticipate consequences as adults do (as cited in The Gale Group, 2007). American society has determined that juveniles lack maturity and decision making ability, so

society has deemed it necessary to restrict certain rights, i.e. voting, alcohol, and tobacco, from them. By certifying juveniles as adults, it is contradictory to allow them to be held accountable as adults for certain criminal offenses but not allowed all the rights afforded to every adult.

Many would not challenge the notion that adults have better reasoning skills than juveniles, but juveniles' understanding and reasoning in making decisions is less than half of an adult's (Steinberg & Scott, 2003). According to Vogel and Vogel (2003), the juvenile justice system recognizes that juveniles lack maturity and are not as responsible as their adult counterparts, and with this reasoning, the focus has been on rehabilitation for the care and treatment of youth offenders. There are several factors as to why juveniles differ from adults: first, juveniles are more susceptible to peer pressure; second, they have a tendency to discount the future and take more risk; and third, juveniles are more impulsive than adults (Steinberg & Scott, 2003). According to Steinberg and Scott (2003), based on the uniqueness of immaturity, juveniles should be dealt with in a separate justice system, and the goal should be aimed at rehabilitation, not ultimate punishment.

In 2002, the U.S. Supreme Court reviewed *Atkins v. Virginia* and ruled it was a violation of the Eighth Amendment to execute a juvenile who is mentally retarded. The court found that juvenile offenders, compared to adult offenders, are perceived as less culpable for their crimes and should not be treated the same. The court found that juveniles are more immature and less responsible, more susceptible to peer pressure, and their personality traits are still developing (Benekos & Merlo, 2005). In 2005, the U.S. Supreme Court reviewed *Roper v. Simmons* and determined that the death penalty

for a person under the age of 18 was cruel and unusual and violated the Eighth Amendment. According to Benekos and Merlo (2005), a juvenile's behavior or delinquency is not the same as an adults; juveniles are more likely to be rehabilitated based on their susceptibility to change. The Supreme Court explained that juveniles cannot be categorized as the worst offenders because youths are immature, more vulnerable to peer pressure, and other influences, and their character is not as defined as adults (Pagnanelli, 2007).

METHODOLOGY

The research question to be examined considers whether or not society should be treating juveniles as adults by sending them to adult criminal court. The juvenile justice system has evolved throughout the years, and the growing trend is to hold juveniles more accountable for their actions. Society is increasingly sending more juveniles to adult criminal court, and advocates and opponents differ on the direction society should take with their juvenile offenders.

The trend of "get tough" attitude society has taken with juvenile offenders may be the wrong course of action. Society wants to punish and hold juveniles accountable for their actions by sending them to adult courts instead of trying to rehabilitate juvenile offenders. This research will attempt show that the "get tough" approach to juvenile offenders is not only harming the children, but is not laying the proper foundation to make juveniles productive and law abiding citizens.

In order to determine the direction the juvenile justice system should go, whether punitive or rehabilitative, there will be two methods of inquiry used during this study. Twelve professional articles, books, and publications were researched that were

written by psychologists and criminal justice personnel. The second method will be an anonymous survey that will be developed. The survey will attempt to answer the question of if America should be treating juveniles as adults. The survey will also attempt to answer questions about age and alternative methods to help guide the juvenile justice system.

The survey will contain eight questions that will be answered with various answer options. Some questions will have yes or no answers, and some questions ask participants to choose from a scale of more, equal, and less. The survey will be administered to 134 individuals who will include members of the general public, educators, law enforcement personnel, and juvenile justice personnel in the state of Texas. The response rate to the survey instrument resulted in 134 surveys being completed and returned to the researcher.

The intent of this research is to help define and address the needs of the juvenile justice system. The information should be able to assist in the guidance and development of sentencing guidelines for juvenile offenders for the future. The research should give society the insight that treating children as adults is not always the best answer.

FINDINGS

The information received from professional articles, books, and publication provided some insight to the future of the juvenile justices system. There seems to be advantage to a rehabilitative approach. The debate between the punitive and rehabilitative was not clearly convincing, but most research was supportive of a rehabilitative approach. According to PBS (n.d.), a 1996 study in Florida revealed that

the certification of juveniles to adult criminal courts did not deter juveniles from committing offenses, and according to Hile (2003), a Minnesota study conducted in 1996 showed an increase in the recidivism rate among juveniles who were transferred into the adult criminal court. A study conducted in New York and New Jersey by Fagan (2003) indicated that transferring the juvenile to adult criminal court made the juvenile worse (as cited in Franck, 2003). PBS (n.d.) stated that a 1996 Texas study found, in some situations, juveniles were receiving harsher sentences in the adult criminal court; however, with the way the adult system is designed, juveniles were being released earlier than if they had been sentenced in the juvenile justice system.

The juvenile justice system needs to shift from the “get tough” approach to a rehabilitative system to help the juveniles become productive members of society. The foundation has been laid by the U.S. Supreme Court in *Atkins v. Virginia* and *Roper v. Simmons*. Both cases dealt with juveniles being sentenced to death, and the court found that it was a violation against the juvenile’s Eighth Amendment rights, as the death penalty was cruel and unusual punishment. The court stated that juveniles have a diminished culpability compared to adults and are susceptible to rehabilitation.

A survey was conducted to evaluate the opinion of the treatment of juvenile offenders that corresponds to their sentencing. When asked if juveniles should be certified as adults for serious and violent crimes, 84% of the participants responded yes.

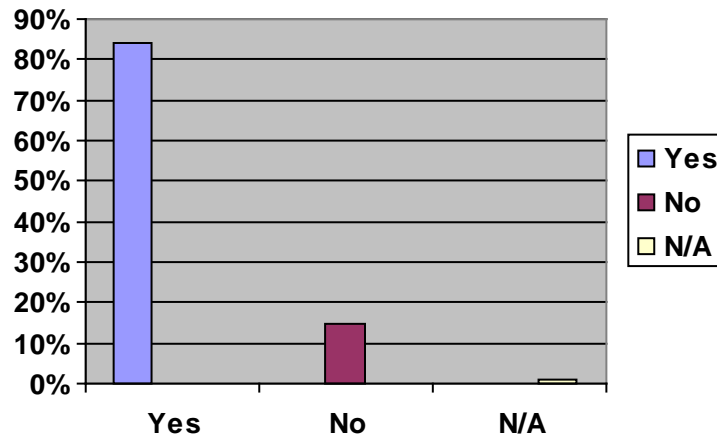


Figure 1. Percentage of survey participants who believe juveniles should be certified as adults

When the survey asked respondents if juvenile sentences should be equal or less compared to an adult offender when juveniles are certified, 64% responded equal.

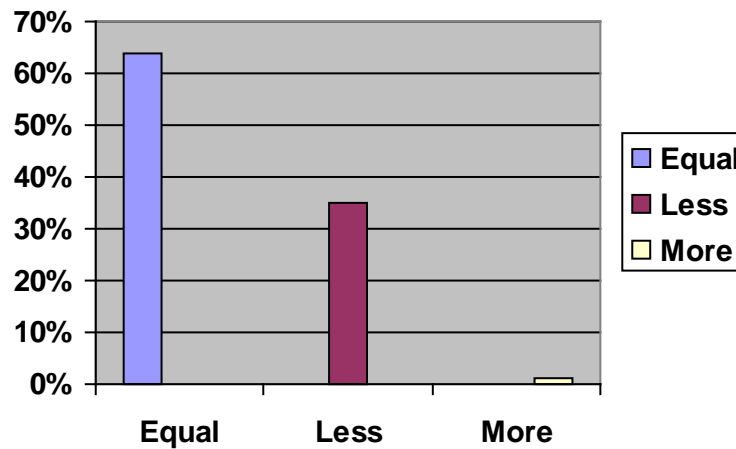


Figure 2. Percentage of participants who believe juvenile offenders should serve more, less, or equal time compared to an adult offender

When the respondents were asked if they feel juvenile offenders have the same mental culpability as adult offenders, 50% responded no, 46% responded yes, and 4% were undecided.

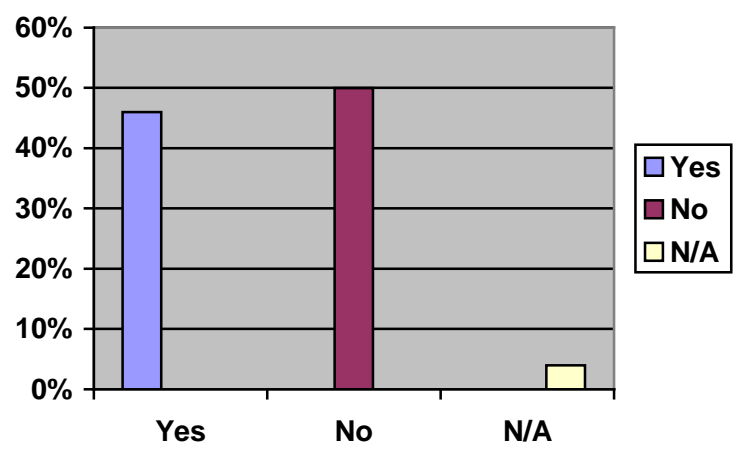


Figure 3. Percentage of participants that believe juveniles have the same mental culpability as adults.

When questioned about the minimum age to certify juvenile offenders as adults, age 15 received the highest percentage of 37%, while age 16 came in second with 31%, and the remaining answers continued in a descending order.

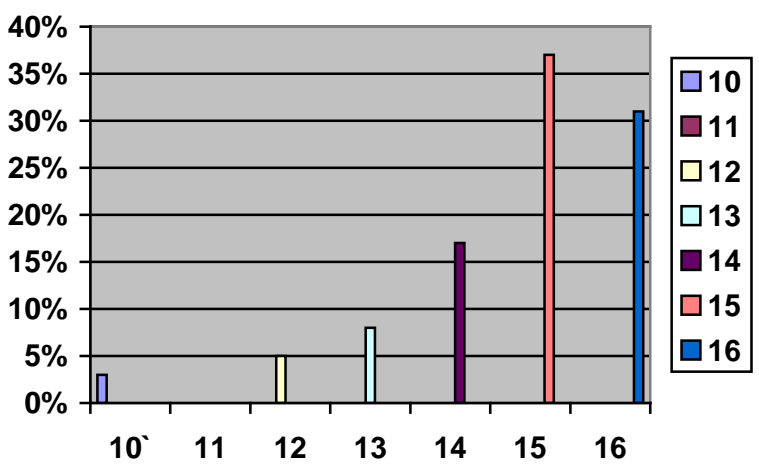


Figure 4. Percentage of respondents and their thoughts on what the minimum age should be to certify juveniles as adults.

In response to the question asking if certifying juveniles as adults deters juvenile crime, 58% responded yes and 53% believes it decreases the recidivism rate.

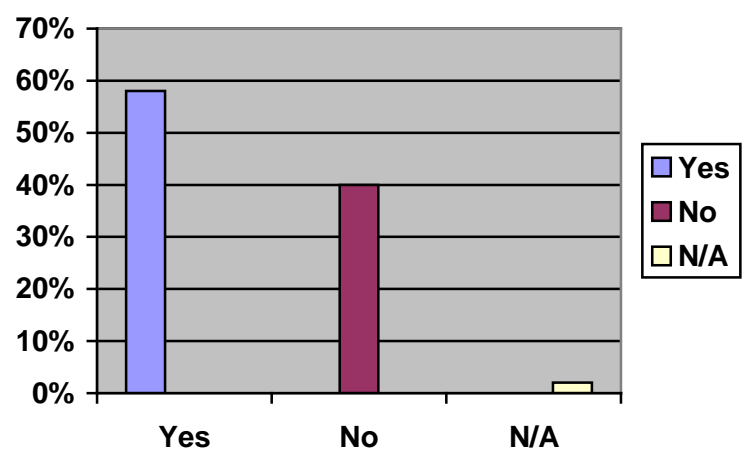


Figure 5. Percentage of participants that believe certification does or does not act as a juvenile deterrent.

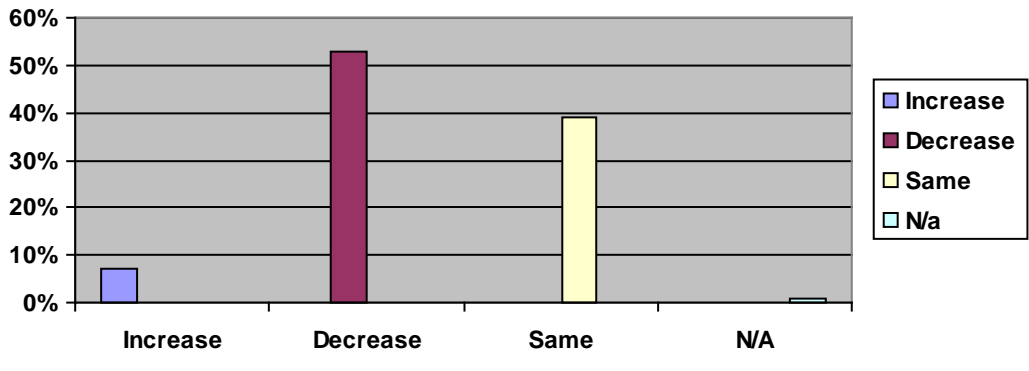


Figure 6. Percentage of participants that do or do not believe certification reduces the recidivism rate.

When respondents were questioned as to whether they would support certifying juveniles as adults if juvenile crime was declining, 73% responded that they would support certification. In response to alternative sentencing methods, i.e. longer juvenile sentences for juveniles would benefit the juvenile justice system instead of certifying them as an adult offender, 49% supported alternative sentencing methods, while 46% did not, and 4% were undecided.

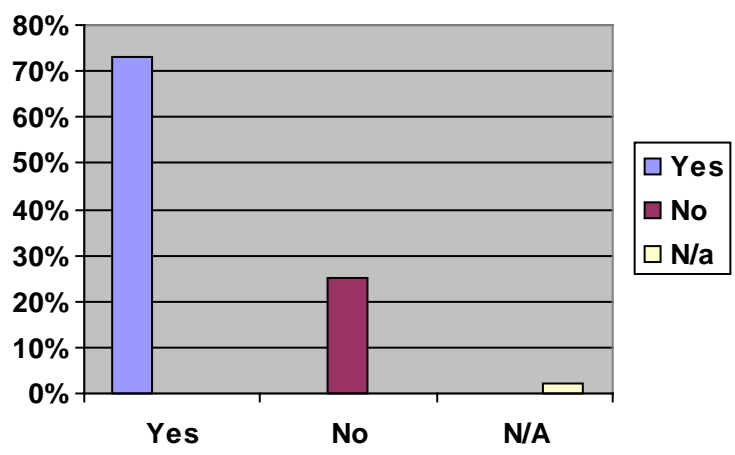


Figure 7. Percentage of participants who support the certification of juveniles when crime is declining.

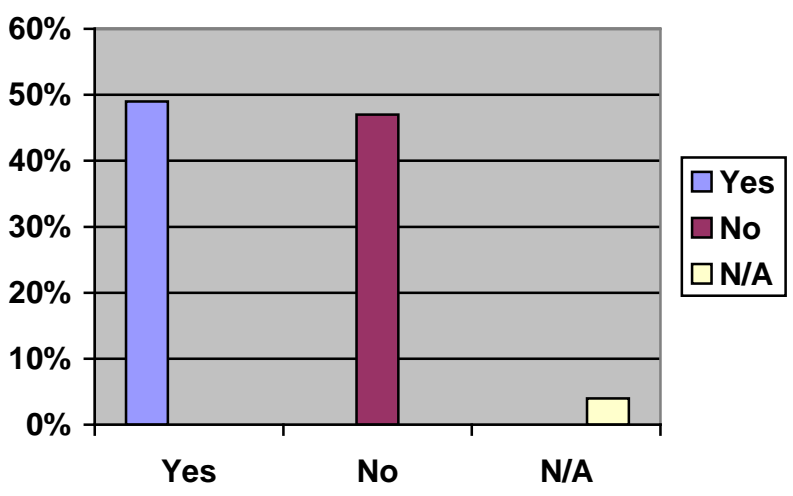


Figure 8. Percentage of participants that believe there should be alternative sentencing methods in lieu of certification.

The results of the survey showed that the majority of respondents support the certification for serious and violent crime and feel that certification deters and decreases the recidivism rate even if juvenile crime is declining. Respondents did feel the minimum age should be 15 years of age and that juveniles have less mental culpability than adults. The respondents felt the sentencing length should equal their adult

counterparts and supported alternative sentencing methods in lieu of certifying them as adults. The results of the survey indicated that society is in favor of certifying juvenile offenders as adults.

DISCUSSION/CONCLUSIONS

The issue examined by the researcher considered whether or not juveniles should be treated like adults by certifying juveniles to adult criminal court. In 1899, the country emerged as quasi-parent of juvenile delinquency or children in need. The foundation of the juvenile justice system has been to care, nurture, and reform juvenile offenders. In the 1990s, the juvenile justice system began to shift to a “get tough” approach, and legislators began enacting laws to transfer juvenile offenders to the adult criminal court. The certification process was left vague for each state to adopt their own certification guidelines, so not only were serious and violent juvenile offenders being transferred, some were being transferred to adult criminal court for property crimes and theft.

The purpose of this research was to examine if the “get tough” stance of transferring juvenile offenders to adult court is the appropriate punishment for juvenile offenders. During the 1990s, juvenile crime spiked rapidly, some in part to the introduction of “crack” cocaine. Due to the rise in juvenile crime, society began to take a tough stance against juvenile offenders. After examining the current crime statistics, it showed that juvenile crime has decreased, but more laws are being enacted to hold juvenile offenders as accountable as their adult counterparts.

The researcher hypothesized that continuing to follow this “get tough” trend of sending juvenile offenders to adult criminal court is harming children and failing to

protect society. According to Pagnanelli (2007), sending juvenile offenders to adult criminal court does not deter juvenile offenders from committing crimes and increases recidivism rates among juvenile offenders. Dr. Larson (n.d.) stated that when a juvenile offender is sent to adult criminal court, the system increases their propensity to commit crimes and to learn from hardened adult criminals. Pagnanelli (2007) stated that the juvenile justice system allows the juvenile offender to develop relationships with the individuals associated with the case, and the nurturing effects of the juvenile systems helps develop the juvenile offender's value system for successful entry to society.

The researcher concluded from the findings that most professional studies were limited in their scope, but the majority of the research indicated that the punitive approach is not the correct answer. Although studies in Texas, Florida, Missouri, Minnesota, New York, and New Jersey show favoritism for a rehabilitative juvenile justices system, there is still substantial progress being made to send juveniles to adult criminal court (Benekos &Merlo, 2005; Franck, 2003; Hile, 2003; Pagnanelli, 2007; PBS, n.d.). According to Hile (2003), Dr. Wu's study in 1995 indicated that adults approve of trying juveniles as adults for serious and violent crimes, but they are less willing to give support to adult sentences imposed on the juvenile offender. The survey did suggest a minimum age of 15 needs to be established, and they would like to see alternative methods in the juvenile justice system as opposed to sending them to adult criminal court.

The findings of the research were neutral because several studies prefer the rehabilitative method instead of the adult punitive method, but the American public perception and the increasing laws being passed that favor adult certification did not

support the hypothesis. The “get tough” laws were enacted based on the public perception of juvenile crimes, but the findings of the research support the hypothesis. Due to the minimal amount of research being conducted on the topic and the information not being readily assessable to society, the perception of juvenile sentencing needing change is inhibited. The professional studies that were examined suggested that treating juveniles as adult offenders is harming children and not protecting society. The researcher is in agreement that a small portion of juvenile offenders who commit a heinous crime or serious violent crime should be transferred to adult criminal court, but those cases only account for a small percentage of the juvenile crimes being transferred to adult criminal court.

Limitations that might have hindered this study resulted because there has not been a major case study throughout the United States. There have been a few studies in a couple of states, but the sample size of the study is relatively small. Another limitation that hindered this study would be the survey participants. The majority of the surveys were completed by someone involved or associated with the criminal justice profession. This research could be enhanced by using a broader section of survey respondents.

The study of treating juveniles as adults is relevant to contemporary law enforcement because it aids law enforcement in its duty to protect the public. One of the major foundations and duties of a law enforcement entity is to protect its citizens from harm. This study was chosen to provide insight on the direction of punitive or rehabilitative methods placed on juvenile offenders. The information can help mold the sentencing guidelines used to determine the punishment of juvenile offenders and help

young offenders become productive members in society. If their behavior can be altered and deterred from committing criminal acts, the American public will be better protected from juvenile violent offenders and society will benefit as a whole.

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APPENDIX

Juvenile Justice Survey

The survey is being conducted to collect information to aid in the determination of sentencing juvenile offenders. Your cooperation in completing the survey is greatly appreciated.

1. Should juvenile offenders be certified as adults to stand accountable for serious and/or violent crimes?
 Yes No
2. If juvenile offenders were certified as adults should their sentence be equal or less than adult offenders?
 Equal Less More
3. Do you feel juvenile offenders have the same mental culpability as adult offenders?
 Yes No
4. What should be the minimum age to certify juvenile offenders as an adult?
 10 11 12 13 14 15 16
5. Does certifying juveniles as adults deter juvenile crime?
 Yes No
6. Would alternative sentencing methods, i.e. longer juvenile sentences, for juveniles benefit the justice system instead of certifying them as adult offenders?
 Yes No
7. If juvenile crime was declining would you support certifying juveniles as adults?
 Yes No
8. How would certifying juvenile offenders as adults affect the recidivism rate?
 Increase Decrease Same