

Trying youths as adults

Transferring young offenders from youth courts to adult criminal courts.

First published

23 November 2015

Updated

6 January 2020

| Effect scale | Quality of evidence | | | | |
|---|--|--|--|--|-----------------------------|
| | Effect Impact on crime | Mechanism How it works | Moderator Where it works | Implementation How to do it | Economic cost What it costs |
|  Mixed findings |  Strong |  Strong |  Strong |  Moderate | No information |

Focus of the intervention

Many developed countries have separate juvenile or youth courts for young offenders. These systems were created in the belief that people under 18 years of age may be less aware of the consequences of their actions than adults, less able to understand and participate in adult criminal courts, and more amenable to rehabilitation.

Under certain circumstances – usually the severity of the offence or dangerousness of the offender – youths may be transferred to the adult system on the basis that adult courts can award tougher penalties. This may deter crime and reduce future offending.

The focus of this narrative is on the effect of transferring young people to adult criminal courts on their subsequent offending. The narrative is primarily based on a systematic review including meta-analysis of nine studies (Review one). It also draws on a second systematic review (Review two),

which contains additional evidence on the mechanisms, moderators and implementation of the intervention.

The findings in Review two on the effect of transferring juveniles to adult court are not presented in this narrative, as most of the six studies it summarised are included in Review one. All of the included studies in the two reviews were carried out in the USA.

Effect – how effective is it?

There is some evidence that transferring youths to the adult court system has either increased or reduced reoffending, but overall it has not had a statistically significant effect.

The meta-analysis in Review one found that transferring young offenders to adult courts had a small but non-significant effect on reoffending.

Five individual studies included in the meta-analysis found that juvenile transfers led to a significant increase in reoffending, three found no evidence of an effect, and one reported a significant reduction in reoffending.

The review authors note, therefore, that youth transfers do not result in an overall reduction in reoffending, but may increase it.

The review authors also found significant increases in crime when studies used reconviction as a measure of reoffending, but not when rearrest was used.

How strong is the evidence?

The review was sufficiently systematic that many forms of bias that could influence the study conclusions can be ruled out.

Review one demonstrated a high-quality design in terms of having a transparent and well-designed search strategy, featuring a valid statistical analysis, sufficiently assessing the risk of bias in the analysis and considering the validity of the way outcomes are measured and combined.

However, the review did not sufficiently quantify an overall effect for unanticipated outcomes or undertake an analysis of outliers.

While the studies included in Review one had strong designs, the authors recognised that the studies did not take account of:

- factors that could have influenced the overall effect (for example, offender attitude, gang membership, weapon use, and family and community risk factors)
- the severity and length of the actual sanctions awarded to the young offenders by the youth and adult courts
- the method of transfer used, which can be targeted towards particular offences or people

The review authors also noted that the design of the studies appeared to influence whether the intervention was found to have an effect on reoffending.

Studies using non-equivalent comparison groups with statistical controls found transfers increased reoffending, while those using propensity score matching found they decreased reoffending.

Mechanism – how does it work?

The reviews identify two mechanisms by which youth transfers might reduce reoffending.

- Specific deterrence (Reviews one and two) refers to how transfers might deter those offenders processed through the adult system from reoffending. Review one tested whether the tougher penalties available to adult courts had such a deterrent effect but found little evidence overall in support of the mechanism.
- Incapacitation (Review two) refers to the inability of offenders to commit offences in the community while in custody. The young people transferred to the adult system may be less capable of reoffending than those who remain in the youth system if they are awarded longer sentences and stay in custody for longer. This mechanism was not empirically tested by Review one or two.

The authors note that the significant increase in reoffending in five of the nine studies included in Review one might be due to the young offenders seeing the use of judicial waivers as unfair and offending out of defiance (see the moderators and implementation sections).

Reviews one and two also suggest that youth transfers could have a more general deterrent effect, not just on those who have been transferred to adult courts.

Review two tested the mechanism that young people in general may be deterred from committing crime because they are aware of the possibility of being transferred to the adult system and being given tougher penalties, but found insufficient evidence.

Moderators – in which contexts does it work best?

The reviews note that the effect of the intervention might differ according to crimes committed by the offenders, the method of transfer and how they subsequently offend.

- Review one found the effect of youth transfers differed by the type of crime committed by the offender. The five studies in the review that looked at serious non-violent offences found no effect of the intervention on reoffending, whereas the two studies that looked at serious violent offences found youth transfers increase reoffending.
- Review one found that the method of transferring youths to adult court may moderate the effect of the transfer (see the implementation section). The review reported a statistically significant increase in reoffending in studies when a judicial waiver was used to transfer young offenders. Other methods of transfer (such as statutory exclusion or multiple approaches) were found to have no effects.
- Review two suggested that young offenders who reoffend after being transferred to the adult system may commit more crime and more violent crime than those kept in the youth system. On average, youths who were transferred were 34% more likely to be arrested for violent and other crime than those who were not transferred (median of five studies).

Implementation – what can be said about implementing this initiative?

Review two explains that young offenders must be individually selected or deemed unreceptive to rehabilitation in the youth system to be transferred to the adult system. It identifies six methods of youth transfers across the USA.

- Judicial waiver – a youth court judge can waive a young offender to the adult system, generally based on perceived lack of amenability to treatment, which is often based on considerations such as the seriousness of offence and the offender's age and offending history.

- Prosecutorial waiver – a prosecutor can use his or her discretion to file a case in the youth or the adult court systems.
- Statutory exclusion – young people of particular ages can be automatically excluded from the youth system when charged with particular offences.
- Living independently – young people who are married or otherwise not living with parents can be excluded from youth courts.
- Age of criminal responsibility – individual states in the USA can set the age at which offenders are held criminally responsible for their actions as being less than 18 years.
- Remaining in the adult system – once transferred, young offenders can remain in the adult system for subsequent offences.

If the cases are considered inappropriate for adult courts, the authority exists to transfer the young offender back to the youth court under the reverse waiver.

Economic considerations – how much might it cost?

The reviews did not mention costs or economic benefits, or provide any formal economic analysis.

General considerations

- The effect of transferring young people to adult criminal court may differ according to the type of young offenders and types of offence that are committed. Reviews one and two reported significant increases in violent reoffending for young people transferred to adult criminal court compared to those retained in the youth justice system.
- All of the evidence is based in the USA, so caution should be taken when applying to other geographical contexts.

Summary

There is some evidence that transferring young offenders from youth courts to adult criminal courts has either increased or reduced reoffending, but overall it has not had a statistically significant effect.

The review authors note that youth transfers do not result in an overall reduction in reoffending, but

may increase it.

The review authors found that backfire (increased reoffending) may be more likely with particular types of crime (specifically serious violence) and when young people are transferred to adult courts by way of a judicial waiver.

While reduced reoffending is assumed to result from specific deterrence and incapacitation, increased reoffending might be due to offenders perceiving their transfers to the adult system to be unfair.

Reviews

Review one

| Quality of evidence | | | |
|---|---|--------------------------------|--------------------------------|
| Mechanism How it works | Moderator Where it works | Implementation How to do it | Economic cost What it costs |
|  Strong |  Strong | No information | No information |

Reference

- Zane, S., Welsh B., Mears, D. (2016). [Juvenile Transfer and the Specific Deterrence Hypothesis: Systematic Review and Meta-Analysis](#). Criminology & Public Policy. 15(3), pp. 901-924.

Review two

| Quality of evidence | | | |
|---|--|---|--------------------------------|
| Mechanism How it works | Moderator Where it works | Implementation How to do it | Economic cost What it costs |
|  Moderate |  Low |  Moderate | No information |

Reference

- McGowan, A., Hahn, R., Liberman, A., Crosby, A., Fullilove, M., Johnson, R., Moscicki, E., Price, L., Snyder, S., Tuma, F., Lowry, J., Briss, P., Cory, S. and Stone, G. (2007). Effects on Violence of Laws and Policies Facilitating the Transfer of Juveniles from the Juvenile Justice System to the Adult Justice System. *American Journal of Preventive Medicine*. 32(4S), pp. S7-S28.

Summary prepared by

This narrative was prepared by UCL Jill Dando Institute and was co-funded by the College of Policing and the Economic and Social Research Council (ESRC). ESRC grant title: 'University Consortium for Evidence-Based Crime Reduction'. Grant reference: ES/L007223/1.

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