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Clinical Evaluations for Transfer of Juveniles to Criminal Court: Current Practices and Future Research

Ivan P. Kruh, Ph.D., and
Stanley L. Brodsky, Ph.D.*

Completing clinical evaluations of juveniles considered for transfer to criminal court requires specialized expertise. However, there is little empirical foundation upon which they can be based. Within each of the three major evaluation domains (amenability to treatment, risk for future violence, and sophistication/maturity), we ask the following questions: a) Can forensic examiners properly assess this area, and if so using what tools?; b) How can social science research clarify the transfer evaluation, particularly as it is impacted by systems issues?; and c) How should the evaluation be structured? In doing so, we review clinical suggestions for completing these evaluations and identify pertinent research directions. A number of general issues specific to these evaluations are also discussed.

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A 50% increase in total juvenile arrests for violent crimes occurred between 1988 and 1994 (FBI, 1995, as cited in Snyder, Sickmund, & Poe-Yamagata, 1996). That same time period saw an increase in the juvenile proportion of violent crimes cleared from 9% to 14% (FBI, 1995, as cited in Snyder, Sickmund, & Poe-Yamagata, 1996). The average age range of homicide defendants dropped from 20–25 to 15–20 between 1985 and 1995 (Edwards, 1995). These marked changes are occurring despite relative stability in juvenile violence for decades before the 1980s (Snyder & Sickmund, 1995). The reality that the juvenile violent crime rate is likely to increase in the future, coupled with distorted perceptions that more juveniles than adults commit violent acts (Jensen & Rojek, 1992) has led to a widespread public outcry to stop juvenile violence.

These statistics have caused many critics to condemn the juvenile justice system and its rehabilitation philosophies as failures. Scholars have critiqued the

*Correspondence to: Stanley L. Brodsky, Ph.D., at the Department of Psychology at The University of Alabama, 348 Gordon Palmer Hall, P. O. Box 870348, Tuscaloosa, Alabama 35487-0348, USA. Electronic mail may be sent via Internet to SBRODSKY@GP.AS.UA.EDU.

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dispositions typically given adjudicated youths (e.g., Bazemore, 1995). For instance, probation, or releasing youths to the care of their parent(s) and requiring periodic meetings with a typically overloaded probation officer, is the most common adjudication (Jensen & Rojek, 1992). An increasingly popular disposition is restitution, or requiring the youth to compensate the victim or the community for their deeds. In fewer cases youths are placed in foster homes, treatment programs, or institutions.

Concerns about the adequacy of the juvenile system have prompted philosophy and policy changes that increasingly allow for juvenile delinquents to be dealt with in ways similar to adult criminals (Forst, 1995). Progressive increases in the punitive nature of juvenile justice system adjudications have occurred since the 1970s. Not merely a knee-jerk response to juvenile crime trends, the rise of retribution in juvenile justice also has been due to a) Supreme Court decisions that found the *parens patriae* philosophy of juvenile justice prevented appropriate due process for juvenile defendants; b) research highlighting the high recidivism rates of juveniles ''treated'' within the system and the system's inability to adequately identify and incapacitate ''dangerous'' youths; and c) social science research and judicial decisions suggesting that adolescents possess the same abilities to make rational and moral decisions as do adults (Gardner, 1995).

As juvenile system dispositions have become more akin to those of the adult criminal justice system, actual transfer of juveniles out of the juvenile justice system and into the adult criminal justice system has markedly increased since the 1970s (Snyder & Sickmund, 1995). Many politicians support legislation to increase the number of transfers because they assume that harsher sentences and reduced juvenile violence will follow (e.g., Moseley-Brown, 1994). Subsequently, the age at which juveniles may be tried as adults is currently falling in many states (Edwards, 1995).

Evidence suggests, however, that juveniles tried in criminal court most often obtain first-time offender status, irregardless of previous delinquency, and receive less severe sanctions than similar youths tried in the juvenile system (Bortner, 1986; Champion, 1989; Gillespie & Norman, 1984; Houghtalin & Mays, 1991), although some evidence suggests the opposite (Rudman, Harstone, Fagan, & Moore, 1986). Past investigations suggested that most transfers result in guilty findings (Hamparian et al., 1982); however, most juveniles sentenced in criminal court received a fine or probation, rather than incarceration (Bortner, 1986; Hamparian et al., 1982; Hamparian, Schuster, Dinitz & Conrad, 1978). Although it is unclear, incarceration likely results more commonly now.

THE TRANSFER PROCESS

Juveniles are tried in adult courts following one of three procedures, with individual states allowing for various combinations of these procedures. First, statutory exclusion legislation automatically assigns jurisdiction over some juvenile violence to the adult criminal justice system. Second, concurrent juvenile and adult jurisdiction over certain violent crimes allows the prosecuting attorney to determine in which court to file charges. Some states also apply automatic transfer or concurrent jurisdiction to certain property, drug, and weapons offenses,

particularly when they are serious or repeat offenses by older offenders (Snyder & Sickmund, 1995).

The third route by which juveniles are tried as adults is judicial waiver. All but two states currently allow the juvenile system judge, usually upon the request of the prosecution, to hold a hearing to determine if the juvenile is appropriate for transfer (Snyder & Sickmund, 1995). The transfer criteria are generally adaptations of the somewhat vague suggestions offered by the U.S. Supreme Court (*Kent v. United States*, 1968) which can be summarized as follows (Weatherly, 1990):

1) Consideration of the severity and nature of the accused offense.
2) Consideration of community protection from further harm by the juvenile.
3) Consideration of the maturity level of the juvenile.
4) Consideration of the juvenile's legal history and prior response to juvenile system supervision.
5) Consideration of the juvenile's amenability to juvenile system treatment.

Whereas the court's conclusions regarding the offense and previous response to supervision come from its own data, forensic child psychiatrists and psychologists frequently assess the remaining *Kent* criteria. Clinicians are often asked to provide the court with information regarding the juvenile's amenability to treatment; likelihood of future violent behavior; and level of sophistication and maturity.

Given the procedures used to transfer juveniles, it is not surprising that the age of the defendant, the nature of the primary crime (violent; weapon use; or drug related), and previous delinquent history have been identified as variables predictive of trial as an adult (Eigen, 1981; Poulos & Orchowski, 1994; Snyder & Sickmund, 1995). However, current transfer procedures can allow for inconsistent decisionmaking. In a Virginia sample, for example, juvenile defendants disposed of in rural courts were more likely than those disposed of in urban courts to be tried as adults (Poulos & Orchowski, 1994). In a Texas sample, MMPI results indicated that the psychological and personality functioning of juveniles tried as adults did not differ from juveniles retained by the juvenile system (Hays & Solway, 1979).

Some legal experts favor the recent appearance and explosion of automatic transfers because blanket rules can eliminate inconsistent transfer decisions (Feld, 1981; Malmquist, 1979). However, a number of problems with this policy have been noted: a) imprisonment is more expensive than treatment programs and may cause a shift in fund allocations away from treatment outcome research (Tate, Reppucci, & Mulvey, 1995); b) automatic transfers have led juveniles with no prior delinquency petitions and little exposure to treatment efforts to be tried as adults (Gillespie & Norman, 1984); c) social science theory and research questions the appropriateness of equating adolescence and adulthood for all individuals (Grisso, 1996); and d) psychology and criminal justice statistics consistently indicate that most juvenile violence is committed by a small subset of serious, chronic juvenile offenders and that many violent juveniles will grow out of their violence (OJJDP, 1995). Psychologists (Redding, 1995) and lay people (Stalans & Henry, 1994) alike tend to feel that society is better served by basing transfer decisions on careful examination of individual case information.

In addition to the problems of automatic transfers, it is our opinion that prosecuting attorneys do not receive the requisite training to make sound transfer decisions in cases of concurrent jurisdiction. There is some support for

our conclusion. A Chicago case study found that attorneys abandoned their predetermined transfer criteria and tried juveniles as adults in situations of public pressure and ''companion cases'' in which one juvenile with a minimal prior record committed a crime with a juvenile who had a substantial record (Keiter, 1973).

We believe that case-by-case assessment, whether it be incorporated into judicial or statutory decision-making, should always precede juvenile transfer. Others support similar transfer policy (Redding, 1995). Ideally, clinical transfer evaluations would precede all transfer decisions; however, this is not the current trend. If clinical transfer evaluations are to become a standard step in transfer decision-making, much improvement of these evaluations is needed. Neither legal guidelines regarding the specific clinical application of the *Kent* criteria (Grisso & Conlin, 1984), nor empirical guidelines based on social science research have been developed. The task of translating the relevant legal constructs into measurable psychological constructs has not yet been realized. Consequently, many clinical transfer recommendations are based upon the inconsistent application of scientific knowledge to the legal issue.

Grisso's (1992) review of the Competency to Stand Trial (CST) evaluation literature has stimulated much empirical inquiry. The present article mimics his format with the goal of replicating his results. We review recent evaluation suggestions and provide directions for research into meaningful and valid procedures. The questions of treatment amenability, future violence risk, and maturity constitute the heart of the transfer evaluation; it is within each of these domains that procedures must be developed. Three necessary questions to be investigated within each area are: 1) Can forensic examiners properly assess this area, and if so using what tools?; 2) How can social science research clarify the transfer evaluation, particularly as it is related to systems issues?; and c) How should the evaluation be structured?

AMENABILITY TO JUVENILE SYSTEM TREATMENT

Juvenile justice traditionally espouses a rehabilitation approach with offenders, and a determination of amenability to treatment is central to many juvenile justice determinations. However, the prediction of treatment effects with juvenile offenders is difficult. Because an empirical base for such predictions is limited, forensic examiners must be exceedingly careful when informing the court what treatment might be successful for a juvenile (Melton, Petrila, Poythress, & Slobogin, 1987).

Some past literature reviews concluded that treatment of juvenile offenders is nearly universally ineffective (e.g., Romig, 1978; Wright & Dixon, 1977). Although outcome studies continue to demonstrate methodological shortcomings (Basta & Davidson, 1988), recent meta-analyses of juvenile treatment suggest programs can be effective. For example, Lipsey (1992) found that 64% of 443 studies of institutional and community-based treatment programs demonstrated a reduction in recidivism relative to comparison groups. Garrett (1985) reported an average effect size of +0.37 in favor of groups treated by institutional and community-based programs. A literature review by the National Council on Crime and Delinquency concluded that ''the most effective programs are those that address key areas of risk

in the youth's life, those that seek to strengthen the personal and institutional factors that contribute to healthy adolescent development, those that provide adequate support and supervision, and those that offer youth a long-term stake in the community (OJJDP, 1995, p. 141).'' There is some evidence that comprehensive programs can effectively target violent juveniles, as well (Tate et al., 1995).

The blanket statement that juvenile treatment efforts are ineffective seems unwarranted. Nevertheless, the need to determine the amenability of any given juvenile requires that future research address the question, ''what works with which juveniles under which conditions?'' (Basta & Davidson, 1988). With empirical investigation, amenability determinations can be based less on clinical experience and intuition (Mulvey, 1984). First, a valid and reliable classification system for juvenile delinquents must be developed. Although valid classification has been difficult to achieve (Bornholt & Rosenthal, 1987), the Sullivan, Grant, and Grant (1957) system based on interpersonal level of maturity (I-levels), and Quay's (1977) system, that includes unsocialized aggressive, neurotic disturbed, immature/inadequate, and subcultural socialized categories, provide a foundation for future research. Further, the personality construct of psychopathy, as validly measured in juvenile offenders with Hare's Psychopathy Checklist—Revised (Brandt, 1993; Forth, Hart, & Hare, 1990), has differentiated between positive and negative treatment responders in adult offender populations (Harris, Rice, & Cormier, 1994), suggesting that research with juveniles is warranted. Research and refinement of these and similar systems may allow classified groups of delinquents to be empirically compared following various treatment approaches, and an offender/treatment ''matching'' approach can truly be initiated (Mulvey, 1984).

Beyond a matching methodology, systems issues and vaguely worded statutes and definitions specific to the context of transfer evaluations significantly increase the difficulty of offering amenability recommendations (Barnum, 1987). First, the definition of treatment in amenability determinations is unclear. Clinical examiners may tend to consider only traditional therapy and exclude other approaches, such as special education, work programs, foster care, advocacy, residential treatment, vocational treatment, and incarceration (Barnum, 1987; Quinn, 1992). Further, each clinician's personal conceptualization of delinquency etiology (e.g., psychodynamic vs. social-learning) may influence the treatment approaches considered and recommended. Empirical research is necessary to examine disparity in treatment considerations and its impact upon clinical amenability recommendations and ultimate transfer decisions.

Second, amenability recommendations are impacted by the services available and the time remaining in juvenile jurisdiction. Whereas we believe that it is unethical to consider a juvenile ''unamenable'' due to these systems issues alone, scholars disagree on how to address the limitations in transfer evaluations. Some authors write that it is the responsibility of the forensic examiner to provide recommendations that appropriately consider these limitations (Barnum, 1987; Ewing, 1990; Melton et al., 1987). Others, however, suggest that the examiner provide a detailed amenability determination that considers unlimited treatment possibilities and leaves service availability issues to the judge (Quinn, 1992). The extent to which clinical information provided to courts and ultimate court decisions

are affected by examiners' manners of addressing these systems issues is a researchable question.

Third, statutes do not require a specific degree of success nor area of improvement to term a juvenile amenable. Barnum (1987) suggests that clinicians identify the specific areas and degree of expected improvement, while allowing the court to choose how to apply that information. We suggest that refining the definition of amenability might allow for more structured and useful information to be provided to the court. Bonnie (1989) provided a multifactor, theoretical re-conceptualization of criminal competency and initiated empirical study of the relative utility of different construct definitions. A similar approach to the amenability issue is much overdue.

Current suggestions for structuring the evaluation of amenability are based on clinical experience and have minimal empirical support. Barnum (1987) suggests clinicians measure amenability using signs of low risk for career criminality and treatable violence related psychopathology, such as depression and post-traumatic stress (Grisso, 1996; Kinscherff & Tobey, 1995). Melton et al. (1987) recommend an investigation of four broad domains (family, community, academic/vocational, and personality functioning) and specific areas within each; however, they also caution that subsequent conclusions are of limited validity.

Grisso (1995) advises clinicians to develop a diagnostic and dynamic conceptualization of the offense causes, using the juvenile's life history, family functioning, and psychological test results. Assessment of anxiety due to previous trauma or threatening living conditions, appreciation for subcultural norms, examination of the situational details of the crime, and consideration of positive relationships with significant others, including gang peers, are critical to this conceptualization (Kinscherff & Tobey, 1995). Through careful consideration of the juvenile's traits that might facilitate or hamper treatment, empirically and clinically supported interventions should guide the amenability recommendation (Grisso, 1995).

Standardized and normative methods for developing amenability recommendations are needed and the reviewed suggestions provide a starting point. We believe that the development of a valid and reliable offender-to-treatment matching methodology, although only one piece of the puzzle (Mulvey, 1984) and massive in scope (Grisso, 1996), should be considered the primary long-term goal of research on juvenile amenability. Clarification of the systems and definitional issues inherent in the transfer evaluation context is also needed.

RISK OF VIOLENT BEHAVIOR

The second area typically addressed by forensic examiners in transfer evaluations is the degree of future danger the juvenile poses to the public. Often termed a prediction of dangerousness, this is more accurately described as a prediction of future violence (Monahan, 1981) or a risk assessment (Steadman et al., 1993). As the research base regarding violence predictions extended in the 1970s (Kozol, Boucher, & Garafolo, 1972; Steadman, 1977; Monahan, 1982), many authors concluded that they were inaccurate and unethical to perform (Dix, 1977; Ennis & Litwack, 1974).

However, a "second-generation" of research that combines actuarial and clinical approaches to prediction and directly addresses the low base-rate problems inherent in prediction has been initiated (Monahan, 1982). Current recommendations are that risk assessments be made along a continuum of probabilities; address the type, severity, and frequency of the predicted violence; and be specific to environment and time frame (Grisso, 1995; Monahan, 1981, 1996; Steadman et al., 1993; Webster & Eaves, 1995). A well constructed risk assessment might indicate, "for example, that the likelihood of a specific violent act occurring in a specific context within a specific period of time is 40%, 80%, or some such figure (Webster & Eaves, 1995, p. 8)." Many scholars now hold that accurate violence predictions are possible in certain situations (e.g., Grisso & Appelbaum, 1992, 1993); however, others continue to argue that these predictions remain invalid and unethical (e.g., Litwack, 1993).

Although much current risk assessment research targets adult psychiatric offenders (see Monahan, 1996, for a review), some findings may be applicable to juvenile offenders. Some recent attempts at statistical/actuarial prediction have found negligible results (e.g., Menzies, Webster, McMain, Staley, & Scaglione, 1994); however, other prediction schemes are more promising. The Risk Assessment Guide (Harris, Rice, & Quinsey, 1993; Webster, Harris, Rice, Cormier, & Quinsey, 1994), provides for the standardized scoring of nine actuarial/demographic variables and three clinical variables. The RAG, providing scores predictive of violent recidivism by psychiatric offenders (Harris, Rice, & Quinsey, 1993), has been labeled "far superior to anything previously available (Monahan, 1995)." Empirical examination of the generalizability of the RAG to juvenile populations is warranted. The awaited results of the extaordinarily comprehensive MacArthur Risk Assessment Study (Monahan & Steadman, 1994) may also have applications to juvenile populations.

There is mounting evidence that personality variables are an important consideration in predicting the frequency, severity, and situational correlates of violence, although much more research is needed. For example, the clinical construct of psychopathy identifies offenders at higher risk for past and future violence, who are more likely than others to have become violent in situations where material gain is possible, to have used verbal threats and weapons, to have victimized males and strangers, and who are less likely than others to have caused severe injury to their victims (Hare, 1996; Hart, 1996). Those findings may generalize to juvenile offenders (Forth, Hart, & Hare, 1990). Overcontrolled-hostility (Megargee, 1966) is a personality construct that has been useful in identifying offenders with a history of infrequent, but extremely severe, violence (Du Toit & Duckitt, 1990). The generalizability of overcontrolled-hostility to juvenile offenders has also been suggested, and it may identify weapon-related violence with homicidal intent against friends during periods of disinhibition (McGrory, 1991). Personality measures developed for general adolescent populations (e.g., the MMPI-A; Butcher et al., 1992) and juvenile offenders (e.g., the Jesness Inventory; Jesness, 1983) may also provide relevant information to clinicians. Longitudinal research examining the predictive validity of these measures with juveniles is needed.

Despite advances, "the debates continue, the dilemmas persist, and the problem of violence prediction remains one of the most persisting enigmas in the interrelated fields of psychology, medicine, and law" (Menzies & Webster, 1995; p. 776).

Prediction of violent behavior with juveniles is more difficult than with adults (Ewing, 1990) and the literature is so scant as to cause leading researchers to conclude that a standardized juvenile violence risk assessment measure cannot yet be achieved (Krause, 1995). We believe that research can eventually refine and support juvenile violence prediction efforts.

The context of the transfer evaluation adds to the complexity of the violence risk assessment. Statutes are not precise regarding the violent behavior to be employed as a criterion. In fact, many statutes do not specifically reference violent behavior, but rather threats to ''the public safety'' (e.g., Article 27, Section 594A of the *Annotated Code of Maryland*, 1982 supplement, as cited in Weatherly, 1990). Observational investigation of the different definitions employed by different courts and different examiners is important, particularly if it can be followed up by observational, archival, and controlled laboratory outcome investigations. The lack of a clear criterion certainly reduces prediction validity and the social sciences should play a role in refining and standardizing the criterion.

The fact remains that the current empirical basis for juvenile risk assessment is limited and forensic examiners may have difficulty structuring this component of the transfer evaluation. Ewing (1990) indicates that forensic examiners might respond ''We don't know'' when asked to provide a violent behavior prediction. When examiners do address the issue, the limited validity of predictions must be clearly stated, particularly since the court often weights these predictions heavily (Ewing, 1990). He also suggests that examiners offer relevant, factual information regarding the juvenile, including pertinent psychological test results, and allow the court to form their own prediction of the individual's future behavior.

According to Quinn (1992) the court's request for a prediction of violence should be addressed in some form. She suggests a mixed actuarial and clinical approach that includes an assessment of antisocial history and its age of onset, as well as an assessment of violence history, including the type, frequency, and severity of past violence, situations in which they occur, and the types of victims. An evaluation of the cognitive, affective, and situational factors that may contribute to future violence is also recommended (Quinn, 1992). Similarly, Grisso (1995) urges an assessment of relevant correlates, such as patterns of past aggression, psychopathology, substance abuse, past victimization by or witnessing of physical and sexual abuse, history of modeled aggression, and potential future stressors. Further, he suggests a separate statement of violence risk be provided for each of the juvenile's possible future settings, such as the street or an inpatient facility (Grisso, 1995).

Again, disparity in approaches to risk assessment is likely to add inconsistency to clinician recommendations. A future goal should be the development of structured, normative methods for assessing juvenile violence risk. In the meantime, attention should be given to the specific assessment techniques employed by examiners, addressing the norms of current practice, as well as the final risk statements and ultimate transfer outcomes of various approaches.

SOPHISTICATION AND MATURITY

The third domain of the typical transfer evaluation is the sophistication and maturity of the juvenile. In only this transfer evaluation domain is the ability of

clinicians to complete the task not typically questioned. The developing maturity of individuals has been a long-standing subject of psychological theory and research (Shaffer, 1988). It is generally accepted that psychiatrists and psychologists possess interviewing, observation, and testing expertise to assess maturity.

Standardized, norm-referenced psychological tests are often used in legal contexts. Intelligence tests such as the Wechsler Intelligence Scale for Children—Third Edition (WISC-III; Wechsler, 1991), academic achievement tests such as the Kaufman Test of Educational Achievement (K-TEA; Kaufman & Kaufman, 1985), and behavioral measures such as the Vineland Adaptive Behavior Scales (Vineland; Sparrow, Balla, & Cicchetti, 1984) allow individual children and adolescents to be compared to age peers on cognitive and behavioral maturity. Personality measures such as the Jesness Inventory (Jesness, 1983) also provide measures of childhood and adolescent maturity (Jesness, 1988). Assessments of maturity might also include Kohlberg's (1981, 1984) moral reasoning framework or Selman's (1980) perspective taking model.

The maturity assessment phase of the transfer evaluation is generally recommended to follow this clinical evaluation approach. Ewing (1990) subdivides the maturity assessment to evaluate cognitive maturity and emotional maturity. For the cognitive evaluation, he prescribes IQ testing to assess intellect, perception, processing, and judgment, as well as academic assessment of learning disabilities that may disrupt knowledge acquisition and contribute to immaturity. For the emotionality evaluation, he calls for a detailed psychosocial history, an assessment of current functioning and mental status through interviews with the juvenile and his/her family, and projective and self-report personality measures to obtain "useful indications of the juvenile's internal controls, ability to organize thoughts coherently, and reality testing" (p. 9). Benedek (1985) stresses the need to include an extensive evaluation of the family in the maturity assessment. Tests of the predictive validity of these approaches for courtroom decision-making are needed and essential.

Although standard psychological evaluations provide useful information to the court, the legal question of maturity extends beyond the customary scope. The legal relevance of maturity in this context is the juvenile's ability to understand and appreciate his or her wrongdoing and to participate adequately in the proceedings of the criminal justice system. Forensic clinicians should address the pertinent legal question. We propose an alternative conceptualization of the maturity issue to accomplish this end. Borrowing from the nomenclature of adult forensic evaluations, we hold that the maturity evaluation should include an assessment of Mental State at the Time of the Offense (MSO) and Competence to Stand Trial (CST).

Adult MSO evaluations try to determine if a mental disease or defect prevented the individual from appreciating the wrongfulness of his or her behavior at the time of the offense (Melton et al., 1987). Although mental illness is common in violent juveniles (Grisso, 1996), the rehabilitation orientation of juvenile justice historically rendered as unnecessary mental state defenses and the presentation of mitigating circumstances. Little clinical or empirical literature has discussed MSO evaluations with juveniles. Nurcombe and Partlett (1994) do provide recommendations for juvenile MSO evaluations that are virtually indistinguishable from adult evaluation guidelines. However, because MSO is relevant to criminal proceedings, it is

relevant for juveniles considered for transfer. Further, juveniles may be *developmentally* unable to appreciate the wrongfulness of their acts (Grisso, 1996); therefore, juvenile MSO evaluations cover more domain than is true with adults. For example:

> "... adolescents may not appreciate the long-term consequences or potentially serious ramifications of criminal conduct for themselves and others. Adolescents and adults may perceive differently the risks and benefits of both engaging in criminal behavior and being held legally responsible for such behavior (Scott, Reppucci, & Woolard, 1995, p. 239)."

Because the ability of juveniles to appreciate the nature of their acts is always in question, we recommend that transfer evaluations should routinely address the MSO issue in terms of developmental, cognitive, and mental health functioning. Research on juvenile MSO should parallel and then expand on the extensive literature on adult MSO (see Melton et al., 1987, for a review).

Competence to Stand Trial (CST) is the defendant's ability to consult legal counsel with rational understanding and factual knowledge of the legal proceedings. Virginia is the only state that currently specifies that transferred juveniles must be found competent (Scott, Reppucci, & Woolard, 1995). Policy changes to ensure juveniles are competent prior to transfer have been suggested (Redding, 1996) and there is empirical support for this notion. Significant CST age trends have been identified; young children (e.g., 12 or below) tend to be much more incompetent to stand trial than older adolescents (15–17), who are in turn less competent than adults (Cowden & McKee, 1995; Savitsky & Karras, 1984). In one study of juvenile CST, almost none of 112 13- to 16-year-olds were competent before competency training efforts, and less than 10% adequately responded to training, calling into question the ability of juveniles to meet the CST criteria (Cooper & Kamphaus, 1995). We believe that these findings highlight the ethical need to incorporate CST evaluations into all transfer evaluations. Research on juvenile CST may be facilitated by advances in the adult CST literature and development of new CST measures, such as the MacArthur Competence Assessment Tool—Criminal Adjudication (MacCAT-CA) which assesses a comprehensive definition of competence (Hoge et al., in press).

GENERAL ISSUES

Three other issues are the roles of defendant denial and self-incrimination; the relative contributions of the three evaluation domains in the final clinical opinion and the ultimate transfer decision; and the long-term differential effects of transfer v. retention in the juvenile system.

Juveniles will often deny involvement in the crime during transfer evaluation interviews because the evaluations occur prior to adjudication. During the pre-evaluation confidentiality discussion, juveniles should be warned about self-incrimination in describing the crime (Barnum, 1990). As a consequence, denial must be carefully assessed, particularly since it can distort indications of amenability, violence risk, and maturity. Barnum (1990) developed a four-fold classification of

these denials: a) strategic, or deliberate denial due to personal belief or attorney recommendation that it will help the case; b) avoidant, or a characterological propensity to deny participation in a variety of negative behaviors: c) repressive, or a genuine loss of awareness of or a specific reaction to discomforting memories of the act; and d) genuine, or an accurate declaration of innocence. The literature on detecting malingering in forensic evaluations (Rogers, 1986) may aid in differentiating genuine and strategic denial. However, accurate differentiation remains difficult and more research is needed.

Some states eliminate the problems of denial and self-incrimination by prohibiting discussion of the offense within the evaluation (Grisso, 1995). When this prohibition is not mandated, examiners may still opt to omit discussion of the offense from the transfer evaluation (Barnum, 1990). Omitting case specifics, however, limits the utility of the evaluation (Grisso, 1995). For example, an MSO assessment would be impossible to conduct. Because decisions to include or omit the offense from the evaluation will influence the evaluation and, possibly, the ultimate legal decision, this area of evaluation procedure warrants empirical investigation.

Understanding how the three domains of the clinical transfer evaluation (amenability, violence risk, and maturity) interact to form examiner recommendations and judicial transfer decisions is an issue about which little is known. How do examiners and judges integrate the evaluation data? Which integration methods best predict outcomes for juveniles and facilitate the goals of the court? In the only empirical investigation of judicial decision-making in transfer hearings, Grisso, Tomkins, & Casey (1988) identified unwillingness to accept intervention, adult-like self-reliance, and greater offense record as factors most associated with judicial transfer decisions. Family socialization level was specifically associated with determinations of the juvenile's community threat (Grisso et al., 1988).

Finally, the most critical under-researched issue is the long-term differential outcome of transferred juveniles compared to those retained in the juvenile system.

> Well-designed studies of the various outcomes of correction [in the juvenile justice system] are relatively rare. . . . despite the inadequacy of research to date, the analyses which have been reported are most pessimistic with respect to the efficacy of correctional treatment when the criterion for effectiveness is reduced recidivism. Some aspects of offender behavior have been largely ignored in follow-up research on juveniles. One important example is the unintended negative effects of experience in correctional programs. Such factors as sensory deprivation, labeling, the fostering of dependency, and the destruction of family ties have relatively direct negative consequences (Weatherly, 1990, p. 325).

Transferred and incarcerated juveniles also lose treatment benefits and protections from publicity, they may risk execution and life sentences, and they often associate with adult criminals who may brutalize them or enhance their criminal sophistication (Edwards, 1995; Grisso, 1996; Grisso & Conlin, 1984). Understanding the consequences of differential placements would improve recommendations provided to the court by forensic examiners, as well as aid judges who make the ultimate transfer determination. For example, many transfers

may "backfire" in that more hardened and skilled criminals emerge from adult prison, causing greater life disruption for the offender and posing greater societal threat than with juvenile sentencing.

CONCLUSION

Given the intricacies of clinical transfer evaluations, we strongly agree with recommendations that they only be completed by specially trained clinicians (Kinscherff & Tobey, 1995). Despite the consequences that transfer evaluations may have on juveniles and society, systematic and empirical studies of the transfer evaluation and its individual components are almost non-existent. As juvenile transfers become more commonplace in the evolving justice system, it is the responsibility of social scientists and forensic clinicians to ensure that information provided to the court is valid and useful. Research-based guidelines, standardized procedures, and psychometrically sound assessment measures are essential to understanding how well transfer evaluations serve juveniles and courts.

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