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Document Title: Profiles, Predictors, and Minority Overrepresentation in Jurisdictional Decisions for Maryland Youths: A Final Report

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Document No.: 205509

Date Received: May 2004

Award Number: 98-CE-VX-0018

This report has not been published by the U.S. Department of Justice. To provide better customer service, NCJRS has made this Federally-funded grant final report available electronically in addition to traditional paper copies.

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**Profiles, Predictors, and Minority Overrepresentation
in Jurisdictional Decisions
for Maryland Youths:
A Final Report**

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**National Institute of Justice
July, 2003**

This project was supported by Grant No. 98-CE-VX-0018s awarded by the National Institute of Justice, Office of Justice Programs, U.S. Department of Justice. Points of view in this document are those of the author and do not necessarily represent the official position or policies of the U.S. Department of Justice or the Department of Juvenile Justice.

ABSTRACT

Research Goals and Objectives:

Statement of Purpose. The Maryland Legislature passed waiver laws based on the best available anecdotal data in 1994 and 1998, primarily as the result of public outcry to highly publicized crimes. These laws changed the court of original jurisdiction to the adult court for 1500 youths per year to ensure that youths who were not amenable to treatment and/or had committed a serious offense would have a significant consequence – to be processed in the adult system. The purpose of this research was to assist policy makers in determining if the targeted youths are being processed in the Legislature’s vision.

The three goals of this research are 1) developing prediction models of waiver; 2) creating profiles of the youths in each waiver category; and 3) comparing 1990-92 overrepresentation results to 1998-99 data for various decision points and extension into the adult system.

Research Subjects. The subjects in this study include 298 males, age 12-19, of which 80.2 percent are Black.

Research Design & Methods:

Methods. A stratified disproportionate random sample of 298 urban and rural youths processed in 1998 was selected resulting in at risk (n=69), waiver (n=105), and reverse waiver (n=72) youths. A convenience sample was drawn for the legislative waiver (n=52) youths, limiting the use of the data for this group.

Data Analysis. Logistic regression was used to develop predictor models of waiver and reverse waiver. Clustering was used to develop profiles of the waiver groups. The overrepresentation data were analyzed using a proportion to the population index.

Research Results and Conclusions:

Results: The three broad results are 1) waiver decisions result in predictors from legal and extra-legal variables; 2) profiles offer insight into needed treatment and security components, but highlight the need for flexible individualized treatment; and 3) Black overrepresentation at nine decision points has worsened since 1992 in the juvenile justice system and exists in the adult system.

Conclusions: Legislators should articulate the expected criteria and proportional weights with relationship to the desired outcomes. A future prospective study should ensure adequate sampling procedures and collection of a broader array of characteristics from multiple sources to develop more

thorough predictors and profiles. While overrepresentation of Blacks continues to exist, based on the data available, a causal relationship was not made. Future research should focus on the causes of overrepresentation to develop sound policy changes and include indices by crime type and social variables.

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ACKNOWLEDGMENTS

The authors of this report could not have successfully completed the labor if it had not been for the dedicated work of our current research staff, Angela Patrick and Jisoon Hwang, as well as all of those who participated in the original data collection during the last project.

The commitment and cooperation of the staff at the various facilities and the leadership from the various agencies and the Legislature made this report possible. Specifically, we especially appreciated the support of Secretary Bishop Robinson of the Department of Juvenile Justice, Secretary Stuart Simms of the Department of Public Safety and Correctional Services, and Judge Martin P. Welch, Administrative Judge, Juvenile Court for Baltimore City. Each led the way for his agency and personnel to cooperate and we appreciated it. We would like to thank Robert Gibson of the Department of Public Safety and Correctional Services and Lakshmi Iyengar of the Department of Juvenile Justice for their assistance and comments throughout the process.

The authors also wish to thank Barry Stanton, Director of Prince George's County, Maryland Department of Correction, and his staff for graciously allowing us entry into the Prince George's Correctional Center to collect data. Thanks also to Arthur Wallenstein, the Director of Corrections for Montgomery County, Maryland, for providing us with data from his jurisdiction.

Many other staff were particularly helpful, but many were interviewed as a part of the original study. To maintain confidentiality for the entire study, we will not list these individuals, but thank them just the same!

In addition to the agency support, we enjoyed the guidance and direction of our advisory group: Donna Bishop, Ph.D., Lon Lanza-Kaduce, J.D., Ph.D., Charles Frazier, Ph.D., and Barry C. Feld, J.D., Ph.D. We would like to thank the members of the Commission for their support and insight into the research process. Additionally, Akiva Liberman, Ph.D., our NIJ grant monitor had first hand research experience in the topic and his comments were insightful throughout the research process. We also wish to thank Christopher Innes, Director of the Justice Systems Research Division, Thomas Feucht, Acting Assistant Director of the Office of Research and Evaluation, and Sarah V. Hart, Director of the National Institute of Justice for their continued support of this important research.

Several individuals reviewed our draft document and we benefited from their comments. Our final thank you goes to the peer reviewers of the draft report for their wise and insightful comments.

EXECUTIVE SUMMARY

The Maryland Legislature passed waiver laws affecting the lives of youths, their families, and the greater society based on the best available anecdotal data in 1994 and 1998, primarily as the result of public outcry to several highly publicized crimes. Since the implementation, these laws have changed the court of original jurisdiction to the adult court for approximately 1500 youths per year to ensure that those youths who were not amenable to treatment and those who had committed a serious offense would have a significant consequence – to be processed in the adult system. Now, the policy makers need to know if the targeted youths are being processed in the intended system.

This research presents one small step of what was previously lacking— three data driven results:

- 1) prediction models that identify key criteria in the waiver decisions based on the five legislative criteria and extra-legal variables,
- 2) profiles of the youths in each of the waiver categories resulting from waiver decisions to assist in treatment and security related issues, and
- 3) comparison of the 1990-92 Maryland disproportionate minority data to 1998-99 data for various decision points and extension into the adult system.

The Four Pathways Through the Juvenile and Adult Systems

Various terms are used to describe the action that results in the decision of which court will have jurisdiction over a particular offender. Four pathways of court processing emerged as a result of the legislation, which created four groups of youths to study: at risk of waiver (not waived), waiver, legislative waiver, and reverse waiver. The *at risk* and *reverse waiver* youths are processed in the juvenile justice system and the *waiver* and *legislative waiver* youths are processed in the adult system.

Maryland Waiver Decision Criteria

The Maryland Legislature developed the following five (5) legislative criteria upon which a judge bases his or her decision during a waiver or reverse waiver hearing:

“(e) Criteria. – In making its determination [to waive], the court shall consider the following criteria individually and in relation to each other on the record: (1) Age of the child; (2) Mental and physical condition of the child; (3) The child’s amenability to treatment in any institution, facility, or program available to delinquents; (4) The nature of the offense and the child’s alleged participation in it; and (5) The public safety.” (MD Courts and Judicial Proceedings, Sec. 3-8A-03).

The law does not state that each or all criteria must be used with equal weight. Each criterion can be weighted differently based on any factor involved in the individual case. Additionally, multiple combinations of factors can be considered.

RESEARCH METHODS

A stratified disproportionate random sample of 298 urban and rural youths processed in 1998 was selected from the population resulting in at risk (n=69), waiver (n=105), and reverse waiver (n=72) Maryland youths. A convenience sample was drawn for the legislative waiver (n=52) youths, limiting the use of the data for this group.

The data were collected from multiple sources and included a wide range of variables believed to be important to jurisdiction questions and the five legislative criteria. In addition to studying variables pertinent to the five legislative criteria, additional variables, such as demographics (e.g., gender, race, rural verses urban environments, birthplace, socioeconomic status, and physical size, or the appearance of adulthood), school issues, special education needs, and family information, were studied based on their pertinence to the waiver decision as documented in the literature.

Perhaps the greatest strength of this study is the triangulation of data from multiple file review sources in a variety of formats (automated, hard copy, and electronic files) from a variety of agencies to compare and contrast youths processed in the juvenile and adult systems. Additionally, interviews with courtroom workgroups across 23 jurisdictions were conducted (n=87) and videotapes of selected Baltimore City waiver hearings were viewed (n=16) to support or explain findings in the files.

PREDICTION OF WAIVER - FINDINGS

Research Question 1: *Is the decision to waive or reverse waive based on the five legislative criteria for waiver?*

Can the waiver group be predicted from the legislative criteria, or are there other factors more predictive?

- Five Criteria Predict Waiver with 75.6% Accuracy

The judicial decision to waive a youth from the juvenile system to the adult system can be predicted with 60.9% accuracy by chance alone. In other words, 60.9% of the youths in the sample are waived. However, if we consider all the information available to the judge (legal variables) defining the five legislative criteria, we can improve the prediction to 75.6% accuracy. Only three variables are predictive:

- Age at current intake is 17 or older,
- Youth has prior intakes, and
- Current offense mentions a weapon.

This means we can predict that a youth who is over age 17 (i.e., 17.7) has been through the intake process previously, and the current offense description included the use of a weapon will be waived and we would be right 75.6% of the time.

- Extra-Legal Variables Improve the Waiver Prediction to 84.6% Accuracy.

Adding the following three extra-legal variables available in this project, the prediction improves from 75.6% to 84.6% accuracy:

- Youth resides in an urban area,
- Parent(s) have a drug history mentioned, and
- Youth is large physically, looking more adult-like.

- Five Criteria Predict Reverse Waiver with 65.8% Accuracy

The judicial decision to not reverse waive a youth from the adult system to the juvenile system when compared to those who are legislatively waived and remain in the adult system can be predicted with 60.4% accuracy by chance alone. In other words 39.6% of the youths in the sample were reverse waived. This can be improved to 65.8% accuracy using the following available measure from the mental health criteria:

- There is some degree of parent-child separation (e.g., there is still regular contact with at least one parent).

In other words, youths who have some parental support are more likely to be moved back into the rehabilitative environment of the juvenile system. Methodological concerns with the comparison group make this finding tenuous. Further research should be completed to see if this finding holds true with randomly selected cases.

- Extra-Legal Variables Improve the Prediction to 68.4% Accuracy.

A change in the model occurs when the extra-legal variables are added. Using extra-legal variables, the model improves that accuracy slightly (68.4%):

- Parental drug history mentioned,
- Low socioeconomic status (SES),
- Youth had an employment history mentioned, and
- One or more physical health issues were mentioned.

Parent-child separation is no longer predictive, but physical health issues become predictive. This is only a slight improvement indicating that the extra-legal variables add little to the prediction.

Waiver research, in general, is fraught with methodological issues using the best available data and research methods. Although the 14.4% waiver and 31.6% reverse waiver error prediction in the models are difficult to explain, they possibly represent the unmeasured legislative criteria, unmeasured extra-legal factors, flaws in sampling techniques, or simply the result of the judiciary using different combinations of criteria for different cases (i.e., the inability of the model to predict to 100%).

Courtroom work group interviews offer some insight into the findings. One explanation for the lack of consistency is that few jurisdictions have written policies other than the statute to guide the waiver process. Only half of the courtroom work group subjects (29 of 59) interviewed received training in the process and administration of waiver, which in most instances, was a one-time event, such as a component of new employee orientation and/or new trial judge training (Smith, et al., 2001). Interview data also indicate that amenability to treatment is the factor with the least available data and is given the most consideration in the waiver decision. Other factors, prior offense record, seriousness of the offense, and offender age figure prominently into the waiver decision (Smith, et al. 2001).

Observations of a convenience sample of waiver hearings offer some additional insight into the findings. While each of the five factors are considered and orally reviewed, amenability to treatment (broadly defined to include, for example, counseling, probation, or secure confinement) appears to be given the most consideration. Although the judge relies on the case file to obtain treatment information, the sample of 298 cases in this study contained very limited comments on treatment and rarely reported the outcome or circumstances of a treatment. Physical condition appears to be given the least amount of consideration in the observed hearings. Mental health issues seldom appear to be discussed in detail and the impact they may have on the offense is not discussed. Finally, crime seriousness and public safety often seem to be considered together, carry equal weight in the decision, and equal weight across cases.

PROFILES - FINDINGS

Research Question 2: *Who is being waived in Maryland? What are their characteristics?*

Profiles describe the *typical* case. When examining each waiver group, there appears to be a wide range within many characteristics. However, within the group, some characteristics sub-divide into small clusters

One use of clusters is in treatment development. For example, based on the characteristics of a cluster of youths, the treatment provider may decide to include a strong special education component. However, not every youth needs these services. Therefore, it is important to develop a system of individualization, such as individualized treatment plans, to ensure that the generalized program can be tailored to fit all of the variation within the group.

Characteristics for program development must be dynamic – have the ability to change. For example, race is a static variable. Regardless of treatment, it cannot be changed. A group of characteristics that cannot be changed may be important but are not useful measurements for treatment outcome. Race, for example, may indicate the need for various culturally appropriate materials. Also, knowing that there exists an over representation of Blacks involved in the waiver process is useful to policy makers. For example, policing patterns may focus on predominantly Black neighborhoods,

resulting in more Blacks in the pool for potential waiver. While this is not a treatment concern, it is a policy issue. The following identifies the overall profiles and clusters of static and dynamic characteristics of youths within each of the four waiver groups discussed in this report.

Profiles of *At Risk* Youths

All *At Risk* Youths - Static

- Reside outside birth state
- Black
- Small family
- Younger & small in stature
- Various & minor offenses
- Not chronic offenders

All *At Risk* Youths - Dynamic

- Limited contact with one or more parents
- Low SES
- Lack of adult male in home
- Mental health issues
- No employment history

- At Risk* – Cluster 1**
- Under age 17
 - Rural area residents
 - No diploma or GED
 - Special education needs
 - Parental & family crime & drug involvement
 - Peers/siblings delinquent

- At Risk* – Cluster 2**
- Under age 17
 - Rural residents
 - Special education needs
 - No diploma or GED
 - Some parental & family crime & drug involvement
 - Delinquent peers/siblings

- At Risk* – Cluster 3**
- Under age 17
 - Urban residents
 - School problems
 - No diploma or GED

Treatment Implications for *At Risk* Youths

A generalized treatment program for *at risk* youths might include a strong mental health component, job skills readiness, and the availability of family support, including financial, physical, and emotional family support. A big brother mentoring program should be available for the more than 50% of the youths that lack these male role models.

In addition to the generalized treatment program for all at risk youths, treatment providers would divide the larger group into three subgroups. Subgroup or cluster one would add a strong special education component, positive peer culture, and some treatment that addresses the effects of a criminogenic and drug involved family (i.e., Alateen). Cluster two would have some special education services and positive peer culture, but limited treatment for the effects of a criminogenic and drug involved family. Cluster three would include some treatment addressing school issues (i.e., anti-truancy), but have very limited need for services for special education or the effects of a criminogenic and drug involved family.

Profiles for Reverse Waived Youths

All Waived Youths - Static

- Urban residents
- Born outside of MD
- Black
- Small family
- Large stature – adult-like
- Weapon involved offense
- First time offenders
- Over age 13 at first offense

All Reverse Waived Youths - Dynamic

- No diploma or GED
- Few w/ special education needs
- One-half have:
 - Adult male role model
 - Medium to High SES
 - Positive family structure
 - Prior employment
 - Mental health issues

Reverse Waived – Cluster 1

- School problems
- About one-half have:
 - Delinquent peers/siblings
 - Separation from at least one parent

Reverse Waived – Cluster 2

- Delinquent peers/siblings
- No intact families
- Parental & family crime & drug involvement

Treatment Implications for Reverse Waived Youths

A generalized treatment program for *reverse waived* youths might include an education program, including job readiness skills, and with limited special education services. Additionally, there is a need for a male mentoring program and mental health services for one-half of the youths. Parent education programming should be available also, but may be funded by the participants because many of the families in this group are medium to high socioeconomic status.

In addition to the generalized treatment program for all *reverse waived* youths, treatment providers would divide the larger group into two subgroups. Subgroup or cluster one would include some treatment addressing school issues (i.e., anti-truancy) and positive peer culture programming. Additionally, these youths need loss counseling for the loss of at least one parent. Treatment for cluster two would include positive peer culture programming, loss counseling for the loss of at least one parent, and treatment that addresses the effects of a criminogenic and drug involved family.

Profile of Waived Youths

All Waived Youths - Static

- Urban residents
- Reside outside birth state
- Black
- Large structure – adult-like
- Under age 17
- Small family

All Waived Youths - Dynamic

- School problems
- One-half need special education
- No diploma or GED
- No employment history
- Limited contact with one or more parents
- Low SES
- Poor family structure

Waived Youths – Cluster 1	Waived Youths – Cluster 2	Waived Youths – Cluster 3	Waived Youths – Cluster 4
<ul style="list-style-type: none"> • Over age 13 at 1st intake • No prior intakes • Delinquent peers/siblings • Parental & family drug involvement • Family crime involvement • Mental health issues 	<ul style="list-style-type: none"> • Prior intakes • Under age 13 at 1st intake • Delinquent peers/siblings • Mental health issues 	<ul style="list-style-type: none"> • Prior intakes • Under age 13 at 1st intake • Delinquent peers/siblings • Parental & family crime & drug involvement • Mental health issues 	<ul style="list-style-type: none"> • Over age 13 at 1st intake • Delinquent peers/siblings • One-half have mental health issues

Treatment Implications for Waived Youths

Waived youths are commonly thought to be chronic offenders. A broad brush stroke of the total group might support this notion, with a high number of prior intakes, early onset, and a person offense for the first offense. However, cluster analysis produces a clear division between those who have these stereotypical characteristics and the *majority* who do not possess these characteristics.

A generalized treatment program for *waived* youths might include treatment programming addressing school issues (i.e., anti-truancy), job readiness skills, and some special education services. The availability of family support, including loss counseling for the loss of at least one parent, financial support, and parent education classes should be included.

In addition to the generalized treatment program for all *waived* youths, treatment providers would divide the larger group into four subgroups. Cluster one would add positive peer culture programming, a strong mental health treatment component, and treatment that addresses the effects of a criminogenic and drug involved family (i.e., Alateen). Cluster two would add positive peer culture programming and a strong mental health treatment component. Cluster three would add positive peer culture

programming, a strong mental health treatment component, and treatment that addresses the effects of a criminogenic and drug involved family (i.e., Alateen), similar to cluster one. Cluster four would add positive peer culture programming for most participants and a mental health treatment component for one-half of them.

Profile of *Legislatively Waived Youths*

All *Legislatively Waived Youths* - Static

- Urban residents
- Reside outside birth state
- Black
- Over 13 at 1st intake
- No prior intakes\
- Large structure – adult-like
- Under age 17
- Over one-half weapon involved
- Person offense

All *Legislatively Waived Youths* - Dynamic

- No diploma or GED
- Delinquent peers/siblings
- Limited contact with one or more parents
- Low SES
- Poor family structure
- No employment history

- Legislatively Waived – Cluster 1***
- School problems
 - No adult male in home
 - Small family

- Legislatively Waived – Cluster 2***
- Parental & family drug history
 - Family crime history
 - One-half have small family
 - Physical & mental health

Treatment Implications for *Legislatively Waived Youths*

A generalized treatment program for *legislatively waived* youths might include an education program with a job readiness skills component. The availability of family support, including loss counseling for the loss of at least one parent, financial support, and parent education classes should be included. Finally, a positive peer culture program should be included.

In addition to the generalized treatment program for all *legislatively waived* youths, treatment providers would divide the larger group into two subgroups. Cluster one would include programming addressing school issues (i.e., anti-truancy) and a male mentoring program. Cluster two would add strong physical and mental health components, as well as treatment that addresses the effects of a criminogenic and drug involved family (i.e., Alateen).

OVERREPRESENTATION OF BLACKS - FINDINGS

The findings are divided into two sections, statewide and local, to assist in developing the best picture of Maryland's overrepresentation problems. Blacks represent 27.8% of the statewide population, but 66.6% of Baltimore City. One significant limitation of this analysis is the lack of consideration of social and crime related variables. Future research should include these important variables.

Four data sources (e.g., juvenile intakes, jail, prison, and probation and parole) were used to analyze the nine decision points (e.g., intake, formalized, probation, detention, residential placement, secure commitment, probation & parole, adult detention, prison).

Research Question 3: *Does waiver further exacerbate an already disproportionately minority system?*

- The findings from the updated disproportionate minority confinement (DMC) indices indicate that Black male youths who move into the adult system are overrepresented at all nine decision point in both statewide Maryland and Baltimore City. The waived and legislatively waived males are disproportionately Black. This provides evidence that Blacks are overrepresented in both the adult system and in those who are waived, but falls short of a causal relationship. A prospective study tracking these youths should be conducted.

Are minorities more likely to be included at various levels in the criminal justice system?

- Black males are represented at every level of the juvenile and criminal justice systems at a higher rate (1.78 to 5.5 times) than their proportion in the general population of both statewide Maryland and specifically in Baltimore City. The data from FY1999 indicate that overrepresentation of minorities in the juvenile justice system has worsened over the seven to nine-year period.

Are minorities more likely to more deeply penetrate the criminal justice system?

- The extension of the decision points flow chart includes the deepest penetration, which is prison. Black males were overrepresented in prison by more than five times their proportion in the general population; this number is higher than overrepresentation figures at any other decision point in the flow chart.

STATEMENT OF THE PROBLEM

The Maryland Legislature passed waiver laws affecting the lives of youths, their families, and the greater society based on the best available anecdotal data in 1994 and 1998, primarily as the result of public outcry to several highly publicized crimes. Since the implementation, these laws have changed the court of original jurisdiction to the adult court for approximately 1500 youths per year to ensure that those youths who were not amenable to treatment and those who had committed a serious offense would have a significant consequence – to be processed in the adult system. Now, the policy makers need to know if the targeted youths are being processed in the intended system.

Impetus for Maryland's Increase in Waivers

There were several reasons for the heightened attention given to Maryland's existing waiver laws in the mid-1990's. Much of the attention was a direct response to several horrendous crimes committed by juveniles in an affluent Maryland county. The Legislature was bombarded with potential legislation from the *get tough on crime agenda* in response to the moral outrage to the incidents. In addition, the *get tough on crime agenda* made its way into political platforms of the 1994 Maryland legislative election and played a key role in the election outcome. Finally, there was a national response to the fear of the *super predator* youths. From 1995 to 1998 the increased pressure for more restrictive waiver legislation continued its momentum.

The American Bar Association (ABA) and the various child advocacy groups strongly opposed amending waiver legislation because it erodes the juvenile court system. In the 1998 legislative session, seven bills were proposed. Both the ABA and the advocacy groups strongly opposed the legislation. Recently, these child advocacy organizations joined forces and created a coalition to strengthen their position and to protect the children of Maryland from premature adult court jurisdiction. The solution to the inherent conflict between *get tough on crime* with its erosion of the juvenile justice system and the continued individualized treatment perspective of the juvenile justice system was further confounded by the fact that there are little Maryland data to support either side.

In light of this pressure, both in 1994 and 1998 the legislature called upon experts from the Maryland Department of Juvenile Justice (hereafter DJJ)¹ and several child advocacy agencies to educate the legislature about the known effects of waiver. The overwhelming response of DJJ personnel and various child advocates was that Maryland data are not available, or even collected, on the process or effects of criminal court prosecution on young Maryland offenders.

¹ DJJ changed its name to Department of Juvenile Services as a result of the change in philosophy after the 2002 gubernatorial election.

Results: 1500 Youths Moved to the Adult Court per Year

There are two ways in which youths can be tried in an adult court. First, in 1994, and in subsequent amendments in 1996 and 1998, the Legislature changed the court of original jurisdiction to the adult court (*legislative waiver*) for those youths who are charged with one of 17 crimes that fall into particular crime categories.² It is estimated that 1200 youths per year have been tried via legislative waiver since 1998 (Weibush, 1999). There is a safety net built into the legislative waiver process for youths who may benefit from the juvenile system. This process is called reverse waiver. The adult court judge must determine that a youth is fit for rehabilitation to waive jurisdiction (MD Courts and Judicial Proceedings, Sec. 3-8A-06). Approximately 150 youths have been reverse waived to the juvenile system in 1998 (Smith, et al, 2001). Second, judicial waivers are permitted based upon the five legislative criteria of age, mental and physical condition of the child, amenability to treatment available in the juvenile system, nature of the offense and the child's involvement, and public safety for those who for those who are believed to have exhausted the available juvenile options but do not have a legislatively waivable offense. A juvenile court judge must determine that a youth is unfit for rehabilitation to waive jurisdiction. Maryland has tried approximately 300 youths per year (Smith et al., 2001) in the adult court with the use of judicial waiver. Case files indicate that some youths have been in the juvenile system so many times (chronic) that they have exhausted all available juvenile options and fall into this category.

This research presents one small step of what was previously lacking— three data driven results:

- 1) prediction models that identify key criteria in the waiver decisions based on the five legislative criteria and extra-legal variables,
- 2) profiles of the youths in each of the waiver categories resulting from waiver decisions to assist in treatment and security related issues, and
- 3) comparison of the 1990-92 Maryland DJJ disproportionate minority data to 1998-99 data for various decision points and extension into the adult system.

It was and continues to be unknown whether waiver related legislative changes perpetuate minority overrepresentation in the criminal justice or the juvenile justice systems. This research compares current data to data from the prior study and includes data from the adult system providing some insight into minority overrepresentation, but falls short of a causal relationship.

² The specific crimes that exclude youths from juvenile jurisdiction include: abduction, kidnapping, second-degree murder, manslaughter (excluding involuntary manslaughter), mayhem or maiming, second-degree rape, robbery with a dangerous or deadly weapon, second and third-degree sex offenses, violation of fire arms laws (machine gun offenses, regulated firearms offenses, short-barreled rifles or shotguns, assault weapons, using wearing, carrying, or transporting a firearm during and in relation to a drug trafficking crime), carjacking with or without a weapon, second-degree attempted murder, first-degree assault, attempted robbery with a dangerous or deadly weapon, and assault with intent to murder, rape, rob or commit a sexual offense in the first or second degree.

The Four Pathways Through the Juvenile and Adult Systems

Various terms are used to describe the action that results in the decision of which court will have jurisdiction over a particular offender. Four pathways of court processing emerged as a result of the legislation, which created four groups of youths to study: at risk of waiver (not waived), waiver, legislative waiver, and reverse waiver (See Appendix A for a pathway diagram). For the purposes of this report, the following definitions were used:

At risk: Maryland's law allows the state's attorney to request a waiver from the juvenile system to the adult system for almost any youth that commits a delinquent act. However, in practice, a youth with a relatively minor offense would not be recommended for waiver. The youths for whom waiver has been recommended are considered *at risk* of being waived.

The youths may be recommended for waiver and have that recommendation denied or withdrawn. Unfortunately, the data systems do not consistently track whether a youth has been recommended; they track only if the youth is waived. Therefore, this study defines *at risk* as a youth that has been committed to one of Maryland's secure juvenile facilities.

Waiver: A youth is commonly referred to as *waived* from juvenile court to adult court when the youth commits a delinquent act, the state's attorney requests the youth be processed in the adult court, and the judge determines the youth meets the five criteria to waive juvenile jurisdiction. The states' attorney may then file in the criminal court. In the research literature, this is known as a judicial waiver.

Legislative waiver: A *legislative waiver* is when the court with original jurisdiction over a youth is the adult court because he/she is charged with any one of 17 crimes listed in the Maryland Codes. (See Footnote 1 for a listing of these crimes.) The youth is processed in the adult system.

Reverse waiver: A youth who is legislatively waived may request a reverse waiver to the juvenile court and the presiding judge may determine the youth meets the five criteria and waive criminal jurisdiction. The state's attorney may then file in the juvenile court. This process is known in the research literature as *reverse waiver*.

REVIEW OF WAIVER LITERATURE

Precursor to Waiver Criteria

Over 100 years ago, the founders of the juvenile court struggled with how to process juveniles (Feld, 1999; Shepherd, 1999). During that time, the criminal justice system sought to move youths out of the adult system because of the reduced standard of accountability appropriate for the developmental capacity of youths (Klein, 1998). As a result, a series of reforms were made in this country to carve out a juvenile justice system that would be physically and philosophically separate from the adult system. Young offenders were no longer housed with adult offenders in a punitive environment. Instead, youths were cared for by the state in an environment emphasizing rehabilitation instead of punishment under the guise of *parens patrie*, the state's duty to reform misguided youths (Klein, 1998). The result of these broad reforms was a treatment-oriented juvenile justice system sensitive to the best interest and reformation of the child, a fate decided during court proceedings resembling civil court rather than criminal court (Feld, 1999).

The decision to try an offender in the juvenile or adult court was largely dependent on age, with age 17 being the cut off for juvenile court in most states. Many states, however, had provisions in place to try youths under age 18 in the adult system given certain circumstances, such as public safety concerns or crime severity. Until the 1960's, decisions to waive youths to the adult system were made by juvenile court judges on a somewhat informal basis using state legislative guidelines, but cases waiving jurisdiction were infrequent (Fritsch & Hemmens, 1995; Osburn & Rode, 1984).

In the 1960's waiver laws began to change. In 1966, in the case of *Kent v. United States*, the Supreme Court provided a list of factors, such as offense seriousness, public safety, criminal history, premeditation, and rehabilitation potential, the juvenile judge could consider in making the waiver decision (Nimick, Szymanski, & Snyder, 1986). In 1967 *In re Gault*, procedural rights, such as the right to counsel, were granted to juveniles facing waiver to adult court (Fritsch & Hemmens, 1995).

The decades after *Kent* and *In re Gault* witnessed a national desire to return some juvenile offenders to the adult system in cases where serious and violent crimes have been committed. As we moved through the *get tough on crime* and *super-predator eras* of the 1980's and 1990's, the pendulum continued to swing toward moving serious youthful offenders into the adult system. Legislation that allowed waiving serious juvenile offenders to the adult courts grew nationally (Fritsch & Hemmens, 1995). For example, in the three year period from 1992 to 1995, 80% of the United States enacted new laws pertaining to juvenile waiver and, as of 1997, all states had laws in place to waive juveniles to adult court under certain circumstances (Griffin, Torbet, & Szymanski, 1998). Recent waiver legislation has focused on lowering the age of qualification to the criminal court or expanding the types of crimes for which juveniles may be automatically sent to adult court (United States General Accounting Office, 1995). Maryland followed these national trends.

Predictors of Waiver

Considerable research has occurred within the last few years on predictors of serious and violent youths – categories that are often associated with the waiver decision (See, for example, Loeber & Farrington, 1998). However, considerably less research on predictors has been done specifically with youths in the jurisdictional categories: waiver, reverse waiver, and legislatively waived. Instead, most of the research on waiver characteristics has been descriptive in nature.

One study specifically examined predictors of a waived group of youths. Poulos and Orchowsky (1994) studied predictors of youths tried in juvenile court compared to youths transferred to adult court. In examining 31 potential predictors of waived youths compared to non-waived youths, they found that 13 variables were predictive, two of which, age and current offense, are discussed in much of the literature (Poulos and Orchowsky, 1994).

Historically, age was and continues to be an important predictor in waiver decisions. Based on the descriptive research to date, youths nearing the age of majority (usually 18) are more likely to be waived (Bishop and Frazier, 1991; Feld, 1989; Houghtalin and Mays, 1991; Kinder, Veneziano, Fichter, & Azuma, 1995; Podkopacz and Feld, 1995; Podkopacz and Feld, 1996; Thomas and Bilchik, 1985). This would suggest the need for the development of alternative sanctions for youths who are still too young for the adult system, but have outgrown the juvenile system. In Maryland, the Commission discussed this issue and began the development of a *youthful offender* program (Commission on Juvenile Justice Jurisdiction, 2001).

Examining waiver decisions based on the type of offense or specific offense has produced mixed results in the research. One reasonable way to approach these conflicting results is to examine the changes in recent legislation. Research prior to 1990 indicated that offenders with property crimes accounted for the bulk of the waivers. However, by the mid-1990's fewer property offenders were waived, while more youths committing person crimes (including those with weapons) were transferred to adult court (Puzzanchera, 2000). Therefore, analysis of offense should include a discussion of the corresponding legislation in the state(s) being researched.

Other variables Poulos and Orchowsky (1994) found to be predictive of waiver include prior adjudication, prior placement in the juvenile justice system, the use of a weapon in the current offense, education level, and location of the court (in a rural versus an urban setting). While some of these variables were found to increase the likelihood of waiver, such as the use of a weapon and prior adjudication, other variables served as predictors of youths who would remain in the juvenile system. For example, Poulos & Orchowsky (1994) found that a youth with prior mental health services or a youth who had completed at least one year of high school was less likely to be waived.

Maryland Waiver Decision Criteria

The Maryland Legislature developed the following five (5) legislative criteria upon which a judge bases his or her decision during a waiver or reverse waiver hearing:

“(e) Criteria. – In making its determination [to waive], the court shall consider the following criteria individually and in relation to each other on the record: (1) Age of the child; (2) Mental and physical condition of the child; (3) The child’s amenability to treatment in any institution, facility, or program available to delinquents; (4) The nature of the offense and the child’s alleged participation in it; and (5) The public safety.” (MD Courts and Judicial Proceedings, Sec. 3-8A-03).

The law does not state that each or all criteria must be used with equal weight. Each criterion can be weighted differently based on any factor involved in the individual case. Additionally, multiple combinations of factors can be considered.

Of the five criteria upon which Maryland has decided to base its waiver decisions, *age* is discussed in the literature and *public safety* has been the focus of federal court decisions. In regard to *age*, numerous studies have found that the older the youth, the more likely he or she is to be waived to adult court (Podkopacz, 1999; Podkopacz & Feld, 1996; Snyder, et al., 2000). Also, the decision to process an individual in a juvenile or adult court is sometimes associated with the threat the youth poses to *public safety*, a standard set forth by the U.S. Supreme Court in 1966 in the case of *Kent v. United States* (Nimick, Szymanski, & Snyder, 1986). The remaining criteria are not extensively discussed in the research literature with reference to waiver. However, some other pertinent information has been discussed in the literature and is summarized here.

Almost two decades ago, there were discussions in the waiver literature of the lack of a reliable, valid instrument for the assessment of youths considered for waiver. The variables considered in the waiver decision were described as inadequate, unreliable, and inconsistent, and a reassessment of the data used to make the waiver decision was advised (Feld, 1983; Osburn & Rode, 1984). More than a decade after Feld’s call for improved assessment instruments, Podkopacz and Feld (1996) reiterated concerns over the lack of a reliable instrument to assess a youth’s potential for rehabilitation and the threat he or she posed to the community.

Lee (1994) called for better waiver guidelines in Arizona after finding that, with eight legislative criteria on the books for waiver decisions in Arizona, most waiver decisions were made based on the existence of a prior waiver. In determining waiver for first time or repeat offenders, neither the criteria of crime seriousness, nor current offense was significant. In addition, some waiver decisions appeared to be made as a function of a shortage of juvenile bed space. Clarke (1996) discovered that handwritten logs were the only indication of transfer in Chicago’s Cook County and that computerized data systems consisted of missing and inaccurate information. In 2000,

four waiver studies conducted in four different states found waiver data to be inconsistent, inaccurate, and unreliable. Basic descriptors of crimes (such as the use of a weapon) were often unavailable in hard copy files; data collection procedures were not standardized across jurisdictions and sometimes not standardized within the same office. Finally, there were some cases identified where a juvenile's file indicated that the youth had been waived, but no corresponding adult file was located (Snyder, Sickmund, & Poe-Yamagata, 2000).

Why is Research of Minorities Important to Waiver Research?

As youths penetrate the juvenile justice system and move into the adult system, there is strong evidence that they are disproportionately minority. This is a national concern. Research is necessary to explore the minority representation in waived youths.

Legislation

During the same timeframe that waiver became a national focal point, disproportionate minority confinement (DMC) issues were being brought to the forefront. The 1992 Juvenile Justice and Delinquency Prevention (JJDP) Act's Disproportionate Minority Confinement mandate (41 U.S.C. sec. 5633(a)(23)(Supp. 1994) added a requirement that states had to address DMC to continue receiving Formula Grants Program funds. The JJDP Act (1992) included requirements that states participating in the Formula Grant Program had to identify the extent to which DMC was occurring, assess the reasons for it, develop appropriate interventions and evaluate these efforts, and to monitor changes in DMC. While the years ahead promise a plethora of intervention and monitoring strategies as states move through the continuum of federal compliance, in the 1990's, most states concentrated their efforts on the identification and assessment stages of the DMC mandate (Building Blocks for Youth, 2002; Leiber, 2002). (For an update on individual state efforts to address DMC see Leiber, 2002.)

Current DMC Research

The Office of Juvenile Justice and Delinquency Prevention (OJJDP) funded considerable DMC research and has devoted a web site to DMC issues and research.³ In addition to the federal government focus, considerable national DMC research has been conducted (see, for example, Pope and Feyerherm's review of 46 articles and the Youth Law Center's annotated bibliography of 163 articles). This research began in the 1970's and intensified in the 1990's. A considerable number of the early DMC projects examined only one or two decision points in the juvenile justice system, but more recent projects have included all decision points. However, few DMC research projects have followed youths through to the adult system. Those that did, contend that the effects of race, both direct and indirect, appear to compound as minority youth penetrate further into the system (Hsia & Hamparian, 1998; Kurtz, Giddings, & Sutphen, 1993; McCarthy

³ The address for the OJJDP DMC web site is www.reducingdmc.com.

& Smith, 1986; Poe-Yamagata & Jones, 2000; Pope & Feyerherm, 1990a; Pope & Feyerherm, 1990b).

Juvenile DMC in Maryland

Maryland has followed the national lead by working on DMC as illustrated by several activities, including the Governor's Office of Crime Control and Prevention creating a position dedicated to overseeing Maryland's overrepresentation issues. In addition, the recent release of a preliminary report by the Secretary of the Department of Juvenile Justice (DJJ) states that the Department is working with numerous internal Divisions and the Juvenile Justice Coalition to determine the extent and possible contributing factors to DMC (Maryland Department of Juvenile Justice, 2000).⁴

Several reports about overrepresentation have been completed in Maryland. A study conducted in 1990 found that Black youths comprised 51% of the 37,000 juvenile arrests, but comprised 62% of those formally processed (Altschuler, 1992). Alternatively, White youths accounted for 48% of arrests, but only 35% were formally processed (Altschuler, 1992). The study was replicated in 1993 and 1994 with similar findings (Altschuler, 1994). In 1995, DJJ produced a study using 1990, 1991, and 1992 data to determine the level of over representation in Maryland juvenile justice system (Iyengar, 1995). The report indicates there is significant overrepresentation at various decision points throughout the juvenile justice system, and is more pronounced at intake, detention, and secure commitment points (Iyengar, 1995). Iyengar (1995) identified the following six decision points: intake/referral, formalization, probation, detention, residential placement, and secure commitment. These decision points are used as a comparison to the updated indices reported herein. However, no reports are related to waiver.

DMC Beyond the Juvenile Justice System

Coinciding with the nationwide expansion of laws allowing juveniles to be processed in adult court, the number of youths in state prisons doubled between the years of 1985 to 1997 (Snyder & Sickmund, 1999a). One out of every three youths admitted to state prisons between 1992 and 1997 was a minority⁵ (Poe-Yamagata & Jones, 2000; Snyder & Sickmund, 1999b). In light of these national trends, the investigation of DMC as it relates to juveniles should be expanded to include youths in adult corrections.

Nationally, minority youths tend to be waived more often than their White counterparts (Clarke, 1996; Juskievicz, 2000; Males & Macallair, 2000; Podkopacz & Feld, 1995; Ziedenberg, 2001). Maryland is no exception. For example, as part of a

⁴ The report was addressed to the Chairmen of the Senate Budget and Taxation Committee and House Committee on Appropriations in Maryland.

⁵ Of the 1992 to 1996 minority youth prison admissions, Blacks were the largest group represented. Of the 7400 youths admitted to state prisons in 1997, 58% were Black, 15% were Latino, and 2% were "other".

national study on youths processed in adult court, findings include statistics showing that nine out of every ten youths charged as adults in Baltimore City are Black (Juszkiewicz, 2000). In addition, a 2000 study revealed that 88% of youths recommended for transfer and processed in adult court under Maryland's exclusionary law were Black (Commission on Juvenile Justice Jurisdiction, 2001). An additional 1998 study of Maryland's waived, reverse waived, and legislatively waived youths published in 2001 agrees that a considerable percentage (approximately 75%) of these youths are Black (Smith et al., 2001). This appears to be disproportionate to the general population of Maryland, which was approximately 27.8% Black and 66.6% Black in Baltimore City in 1998.⁶

Although waived youths are the 'deep end' youths and therefore a selective group, they also are a group that should be of major concern to researchers and policy makers. It is possible that the numbers of minorities arrested and ultimately waived are proportionate to the population from which they were taken. If the problem is disproportionate minority penalties, steps must be taken to rectify this. On the other hand, if it is the public policy that focuses our criminal justice resources on areas of high populations of minorities, then the remedy needs to be quite different.

DMC is a concern that requires attention. Maryland officials are aware of the overrepresentation of minority youths in waiver cases and are committed to addressing the problem. For example, the Governor's Commission on Juvenile Justice Jurisdiction recently passed a resolution recommending funding research to study the reasons for DMC as it pertains to waived and transferred youths throughout the state (Commission on Juvenile Justice Jurisdiction, 2001). However, that study was never commissioned due to economic issues.

Summary of the Literature

For years, youths have been processed in a separate court and held to a different standard than adults. However, over the past thirty to forty years, the protections afforded youths have been diminished. With the formalization of the process (i.e., *Kent v. U.S.* and *In re Gault*) and an era of *get tough on crime*, more youths have been moved into the adult court.

Two jurisdictional predictors are discussed in the literature: age at current offense and the nature of the current offense. Poulos and Orchowsky (1994) found additional predictors that either increased or decreased the likelihood of transfer to criminal court, such as types of previous adjudication (property offenses, felony drug offenses, etc.), education level, and the setting of the court in a rural or urban area. Additional research is necessary to more fully explore these and other predictors.

⁶ Based on 1998 Census estimates.

RESEARCH METHODS

The purpose of this research is to assist policy makers in determining if the targeted youths are being processed in the way they envisioned. To this end, this research strives to better understand the predictors of waiver across groups, describe who is being waived within each group, and discuss the relationship of waiver to minority representation. The following section discusses the sample selection and the data collection techniques. The procedures used to answer each of the following three research questions are found at the beginning of each chapter with the findings:

Research Question 1: *Is the decision to waive or reverse waive based on the five legislative criteria for waiver?*

Can the waiver group be predicted from the legislative criteria, or are there other factors more predictive?

Research Question 2: *Who is being waived in Maryland?*

What are their characteristics?

Research Question 3: *Does waiver further exacerbate an already disproportionately minority system?*

In other words: *Are minorities more likely to be included at various levels in the criminal justice system? Are minorities more likely to more deeply penetrate the criminal justice system?*

Determining the Waiver Pathways

When examining the pathways that a youth travels to arrive in the juvenile or adult system, the researchers found differences within groups that have the same destination. For example, a youth that is first legislatively waived into the adult system and then judicially reverse waived into the juvenile system has by definition of a legislative waiver committed a crime held to a higher standard than other delinquent behaviors. The youth spends time in the adult facility where the criminogenic effect may impact the youth's life and then is moved into the juvenile system to be processed. This is a very different experience than the youth that begins in the juvenile system and remains there.

Youths were divided into four groups to identify where they began and where they ended with respect to the juvenile and adult system. Table 1 identifies the four groups of youths under discussion in this study and the respective numbers of youths in each category. The *at risk* and *reverse waiver* youths are processed in the juvenile justice system and the *waiver* and *legislative waiver* youths are processed in the adult system.

A disproportionate¹ stratified sample of 298 youths processed in 1998 was selected from the population of at risk (N=599), waived (N = 258), reverse waived (N = 282), and legislatively waived (N = approximately 1200) Maryland youths (fully documented in Smith et al., 2001 and portions repeated in this section).

Sample Selection of the Four Groups

Population. According to DJJ automated records, 282 youths were judicially reverse waived (from the adult court to the juvenile court) during 1998. In addition, 258 youths were waived (from the juvenile court to the adult court). Computer generated lists of waived and reverse waived youths were provided by DJJ for the sampling procedure (See Table 1, Column 1).

Table 1: 1998 population and sample for file reviews

Waiver Group	Column 1 Population (DJJ automated data)	Column 2 Estimated Population w/Court Record Correction	Column 3 Sample (DJJ automated data)	Column 4 Sample (Verified w/ court data)
At Risk, Not waived	599		69	79
Reverse Waiver	282	150	72	38
Waiver	258	300	105	123
Legislative Waiver	66 in DOC of approx. 1200		52	58

Sample. From the lists of youths provided by DJJ, a stratified disproportionate random sample of cases from counties that would represent both rural and urban Maryland was extracted from the population for at risk (n=69), waiver (n=105), and reverse waiver (n=72) youths. Unfortunately, random techniques were not available for the legislative waiver youths, which further limits the use of these data. All files that could be readily located were included from the DOC list (n=52). (These samples are listed in Column 3 of Table 1.) As the manual file review progressed, it became evident that the waiver codes used in the DJJ automated data were incorrect. Therefore, the final sample sizes (Column 4 of Table 1) varied by as much as 47% error from the original sample sizes by category. This demonstrates the necessity of triangulation² to ensure that the results are accurate.

¹ A disproportionate sample “involves oversampling – taking a larger than proportionate number of certain groups to assure the appearance of a sufficient number of cases for comparative purposes (Hagan, 2000. pg. 138).

² Triangulation is the process of examining a phenomenon from several perspectives to verify or support the findings. For example, to determine if a youth has delinquent peers, it is not sufficient to read the DJJ file and see if the case worker reported delinquent peers. Triangulation would include reviewing the

Having found that the waiver codes were incorrect on a large percentage of the sample, it is reasonable to assume that the overall population from the DJJ automated data are also incorrect by a similar percentage. Having used a random sampling technique, we can correct the population figures using a similar percentage. Therefore, a correction factor was calculated for the two waiver groups identified by DJJ codes. It is likely that nearly 300 cases were waived and only 150 cases were reverse waived (Column 2).

At risk and Waiver: The method of sample selection in waiver research is not simple. For the waiver groups, ideally, all youths with a waiver hearing referral would be enumerated. Those waived would be placed in the waiver group and those not waived would be considered *at risk of waiver* or not waived. Unfortunately, it is not possible to identify the youths recommended for waiver but not waived, except through court records, which are not automated. This means 40,000 records would have to be reviewed to enumerate all waiver hearings. Even this would not identify all of the waiver hearings because some judges order the waiver hearing expunged if the youth is not waived (Courtroom workgroup interviews, 2001).

Almost all Maryland youths in the juvenile justice system are eligible for waiver, but in practice only those who pose a serious threat to the community (serious offenders) or those who have exhausted all juvenile justice treatment options (sometimes considered chronic offenders) are waived. This is further supported by the descriptive findings in 2001 (Smith et al., 2001) where waived youths had an average of 8.2 prior intakes. Therefore, a random sample of all youths would not be an appropriate comparison group because it would include youths who would never be considered for waiver. Therefore, a decision was made to use a random sample of youths who were in one of Maryland's secure commitment facilities during the sample time frame. During 1998, 599 youths were housed in these facilities. They created the population of *at risk* youths for this study.

The impact of this decision is expected to mirror the *at risk* group (waiver referral, but not waived) because this sampling method combines the most severe of the recommended but not waived at risk group and includes youths who are very unlikely to be recommended for a waiver hearing. It is assumed that the average of these two groups is similar to the sample we seek. This assumption should be tested in future research.

Legislative waiver and reverse waived: There were 1200 legislatively waived youths (Weibush, 1999), of whom only 66 could be identified in the Division of Corrections (DOC)³ and an additional eight in the Baltimore City Detention Center

parental summary of the youth's activities in the home and the court files to determine if the youth had co-defendants.

³ The Division of Correction is within the Department of Public Safety & Correctional Services.

(BCDC)⁴, because they were under 18 at the time of admission (October 1998 to March 1999). Youths who languish in the court system for long periods of time, currently an average of 183 days in Baltimore City (Smith et al., 2001), are likely to be over 18 at admission and therefore, indistinguishable from the other 18 year olds who enter the adult system. As a result, random sampling was not possible. This lack of data is a serious limitation of generalizability for the legislative waiver group findings. The *reverse waiver* group is randomly selected from those identified as being returned to the juvenile justice system. It does not include any individual that might have been legislatively waived, had a reverse waiver hearing, was waived, but was not referred to the juvenile court. By the nature of the offenses included in legislative waiver, it is unlikely that a youth who has sufficient evidence to be detained as a legislative waiver and held long enough for a legislative waiver hearing, would not have sufficient evidence to be processed in the juvenile court, which has a lower standard of proof. Therefore, it is assumed that the *reverse waiver* youths are accurately enumerated.

Data collection

The data were collected from multiple sources and included a wide range of variables believed to be important to jurisdiction questions, including the five legislative criteria, demographic information, and court processing information. The data collection techniques are discussed in this section.

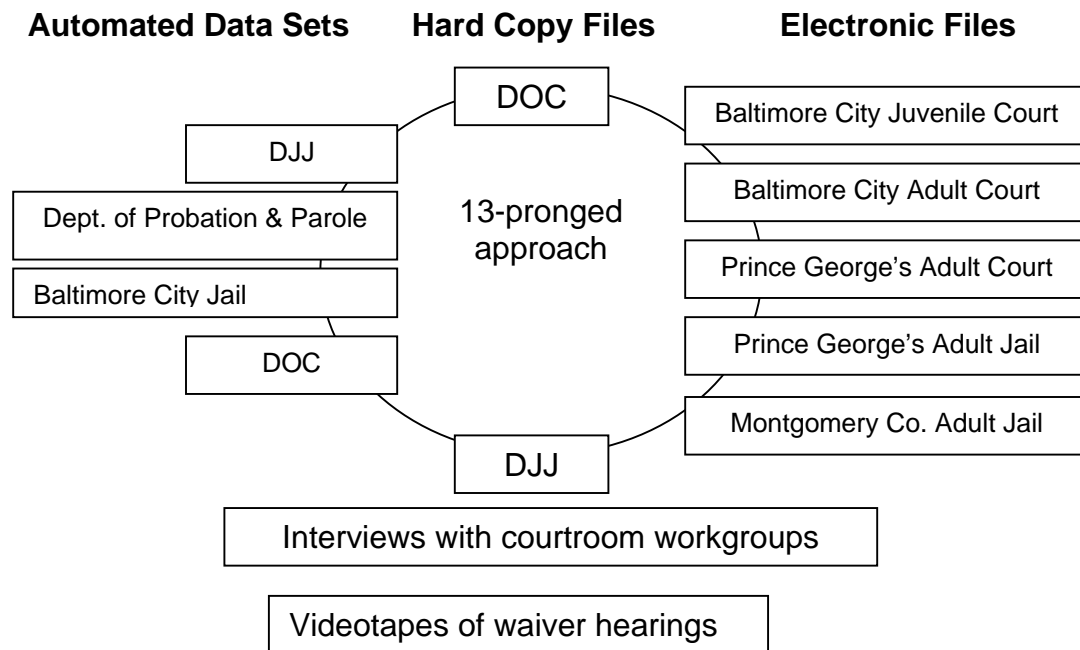
Data sources. A variety of data sources in both the juvenile and adult systems were triangulated to obtain the necessary information to accurately describe the youths involved in the jurisdictional question (See Figure 1). Perhaps the greatest strength of this study is the triangulation of data from multiple file review sources in a variety of formats (automated, hard copy, and electronic⁵ files) from a variety of agencies to compare and contrast youths processed in the juvenile and adult systems. Additionally, interviews with courtroom workgroups⁶ across 23 jurisdictions were conducted (n=87) and videotapes of selected Baltimore City waiver hearings were viewed (n=16) to support or explain findings in the files.

⁴ There was almost no data collected in the BCDC files. Therefore these files were deleted from the potential pool of legislative waiver youths.

⁵ *Automated data systems* consist of query-able systems featuring data that may be manipulated to reflect certain parameters and be extracted from the system in a data file. *Electronic data systems* are defined as systems that merely house data in an electronic format, for example, a scanned image of a hard copy file or the records are housed in a proprietary system accessible only to a third party owner. Electronic data systems cannot be manipulated.

⁶ The personnel who are most directly involved with transferring juveniles between courts are the judges, prosecutors, and defense attorneys, supplemented by the DJJ caseworkers (counselors and probation officers). All judges, DJJ personnel, prosecutors, and defense attorneys that have waiver or reverse waiver process experiences to describe and evaluate were interviewed. This process offered the opportunity to capture a triangulated view of the local court's work, employing the concept of the "courtroom work group" (Smith, et al., 2001).

Figure 1: Thirteen-pronged data sources



Triangulation

The data were collected from various sources using different methods and compared to each other and to existing information. Where the data are consistent across the groups and time, we can be relatively certain the findings accurately represent the sample and, thus, the population. Where the data are inconsistent across groups and time, further investigation is necessary. It is possible that the differences result from examining the same issue from varied perspectives (i.e., self-report vs. clinical assessment) and therefore the results look differently. Inconsistency could also result from poor methods (i.e., self-report in 1998 with a time lapse during which the youth matures and then a clinical assessment is completed in 1999) or from incomplete or missing data. (See Appendix B for a discussion of missing data).

Targeted Variables

The five legislative criteria plus extra-legal data were used as a framework to profile the youths in this study. Many of the variables chosen to explore each domain were included in previous studies and are discussed below. Other variables, such as those chosen to operationalize *mental health issues* (which were undefined by the legislation), were chosen to extend the literature and to generate the most complete profile of youths processed in each system. The following discussion summarizes variables used to operationalize the five legislative criteria.

- | |
|--|
| <p style="text-align: center;">Maryland Legislative Criteria for Waiver:</p> <ul style="list-style-type: none"> • Age • Mental & Physical Condition • Amenability to Treatment • Crime Seriousness • Public Safety |
|--|

Age

Because age is the primary determinate of the decision to process youths in the adult or juvenile systems, age is a common variable studied in waiver research. Although Lee (1994) did not find age to be statistically significant, some studies have found that the older the youth, the more likely he or she is to be waived to adult court (Podkopacz, 1999; Podkopacz & Feld, 1996; Snyder, et al., 2000). Therefore, age at time of offense was included.

Mental & Physical Condition

The Maryland waiver legislation says that judges must “consider” the “mental and physical condition of the child” (MD Courts and Judicial Proceedings, Sec. 3-8A-06). Unfortunately, the legislation includes no definitions or examples to further explain the legislative intent behind this element of the criteria. As a result, judges and prosecutors are left to interpret the legislative intent independently, which has resulted in varying interpretations of “mental condition” and is a source of frustration for judges and prosecutors, alike. During an interview, one prosecutor summed up the frustration in the following way:

“Nobody knows what to look for in considering the mental and physical condition. Every time a judge quotes the statute and gets to the mental and physical condition, the judge footnotes it by saying, ‘I don’t know what that means, but here is my interpretation of it....’ “

Therefore, multiple measures of mental and physical conditions were included in this project.

Mental Condition. The mental condition of youths is not well documented in the waiver literature, however some studies have found mental health disorders to be more prevalent among youths in the justice system than in other children of the same age group. For example, Cocozza & Skowrya (2000) estimate that 60% of juvenile offenders may have mental health disorders, one-third of whom have severe mental health issues.

Because the legislation did not operationalize “mental condition” and the relationship between mental health issues and waiver have not been discussed extensively in the research literature, the authors conducted exploratory research to identify what mental health data were made available to the courtroom workgroup. By examining juvenile and adult probation files (which sometimes included waiver reports), interviewing members of the courtroom workgroup (including judges, prosecutors, DJJ counselors, and public defenders), and observing waiver hearings (via videotape), the researchers were able to include mental health variables made available to the courtroom workgroup.

The research team collected information that may indicate the general presence of mental health treatment needs in offenders processed in both the juvenile and adult systems. Examples of variables used to assess mental health include mention of prior psychological or psychiatric evaluations or commitments, notations of prior mental health counseling, the presence of relevant DSM diagnoses, and current or previous use of psychotropic medications, exposure to trauma (for example, the death of a primary caregiver), or experiencing or witnessing serious injury.

Although drug use was not found to be statistically significant in some waiver studies (e.g. Snyder et al., 2000), information on both drug and alcohol use was collected as a measure of offender mental health.

Suicides and suicide attempts among youths processed in adult courts has been documented in some research studies to be up to eight times greater than youths processed in the juvenile system according to various child advocacy groups (see for example, Maryland Juvenile Justice Coalition, 1999; The Sentencing Project, 2000). For this reason, information on suicide attempts and suicides were also recorded as a measure of the mental condition of the child.

Physical Condition. The published waiver literature offers little insight into the medical issues of youths processed in juvenile and adult courts. Consequently, the researchers chose a series of variables to assess the physical condition of the child, such as birth complications, number of hospitalizations and traumatic factors such as head injuries and loss of oxygen to the brain.

Amenability to Treatment

In assessing the likelihood of rehabilitation, it is important for the courts to have an accurate picture of each youth's prior attempts at rehabilitation so that they are able to assess his or her capacity to excel in treatment. As a result, there is some overlap in variables collected under the mental and physical health domain and the amenability to treatment domain. For example, information on emotional disturbances and a history of brain injury were collected under the health domain, but these conditions also affect amenability to treatment according to Burrell & Warboys (2000). Documentation of attendance and performance in each prior treatment is glaringly missing from all data sources.

Crime Seriousness

In making jurisdiction decisions, studies often examine the type of crime committed to assess the seriousness of the offense. Cases are often distinguished as either person or property offenses, while other classifications add additional drug and weapon-related crime categories (Clarke, 1996; Podkopacz & Feld, 1996; Snyder et al., 2000). For the purposes of this project, crimes were categorized into one of five categories: *person*, *property*, *drug*, *weapon*, and *other*. (An example of a crime categorized as *other* is a probation violation.)

Public Safety

The decision to process an individual in a juvenile or adult court is closely related to the threat the youth poses to the community's safety, a standard set forth by the U.S. Supreme Court in 1966 in the case of *Kent v. United States* (Nimick, Szymanski, & Snyder, 1986). For the purposes of this project, ratings of public safety risk were categorized as *low*, *medium*, or *high*, based on DJJ reports and files.

Extralegal Variables

In addition to studying variables pertinent to the five legislative criteria, additional variables, such as demographics and family information, were studied based on their pertinence to the waiver decision as documented in the literature.

Demographics

The demographic variables of gender, race, rural verses urban environments, birthplace, and socioeconomic status provide basic information about offenders processed in the juvenile and adult systems. The characteristic most apparent to the courtroom work group is physical size, or the appearance of adulthood. For this reason, height and weight information was collected on each offender. Gender has been studied and found to be statistically significant in some waiver studies (see for example, Snyder, Sickmund, & Poe-Yamagata, 2000).

Race is often discussed in researching waiver issues. Although not always found to be statistically significant, research tends to show minority youths are likely to be waived more often than White youths (e. g., Feld, 1999; Podkopacz & Feld; 1996; Schiraldi & Ziedenberg 1999; Snyder, et al., 2000; The Sentencing Project, 2000). This disparity has contributed to discussions of disproportionate minority confinement (DMC) in the context of jurisdictional issues (Snyder & Sickmund, 1999b). However, these studies do not necessarily indicate a causal relationship.

The importance of a comparison of rural verses urban environments has also been documented in waiver research, especially in comparing geography and race. Because minority youths tend to live in urban areas, some research suggests that increased numbers of minorities tend to be arrested and considered for waiver in greater numbers than youths residing in rural areas (Feld, 1999; Podkopacz & Feld, 1995; Snyder & Sickmund; 1999b).

Although not researched extensively, there has been a discussion that a lower socioeconomic status may influence the decision to waive jurisdiction (Podkopacz & Feld, 1996). For example, one interviewed judge stated that he felt it was his responsibility to commit a youth in need of treatment to the juvenile justice system when the parents could not afford to otherwise obtain the treatment (Courtroom workgroup

interviews, 2001). To further study this interaction, socioeconomic status information was collected under the demographic domain.

Family Structure

Podkopacz and Feld (1996) studied variables associated with youths' home environments and lifestyles in an effort to assess the maturity of offenders and found that waiver to the adult system may be more likely for youths living in female-headed household. In an effort to build on this concept, the research team collected information on *familial structure*. Information on variables such as the family structure (living with mother only, father only, both parents, etc.), the presence or absence of an adult male in the home, family support structure, and familial criminal and drug abuse history were collected to assess family structure.

Other Issues

In addition, information was collected on a group of variables to assess *school issues*, such as special education needs, number of grades repeated, and a history of attendance problems, expulsions, and/or suspensions. The researchers hypothesize that low educational amenability may affect treatment amenability, as well as impact the need for developmentally appropriate programs for lower functioning youths. Other information collected to assess overall amenability to treatment includes gang involvement, a history of delinquent peers, and employment history.

The triangulation process significantly improved the quality of the data. Corrections and automated data sets are frequently missing between 25 to 50 percent of the data (See, for example, Smith, 2002). However, triangulation reduced the percent of missing data to 3.5% across eight variables out of a total of 29 variables (See Appendix B). To prevent the listwise deletion of cases during analysis, which would result in the sample not being representative of the population, appropriate missing data imputation techniques were employed (e.g., Hot deck, multiple imputation, and maximum likelihood).

Variables Not Previously Found in the Literature

This research includes family, education, and health variables that have not been the focus of DJJ record maintenance until recently. Therefore, a comparison of the triangulated data was made to existing literature, which is detailed in the following section. (See Table 2).

Based on the medical model that one can infer that if there is no mention of diabetes in a patient's file, the patient does not have diabetes, researchers examined existing literature to determine whether it was valid to assume that no mention of a particular characteristic is similar to a *no* response in the file. Shelton (1998) conducted a comprehensive study in Maryland to determine the mental health condition of youths in detention and commitment facilities and included some of the same variables sought

in this study. Although the samples are not comparable in terms of status (e.g., general detention youths and commitment youths compared to waiver youths), the groups in this study are a subset of the general numbers of the Shelton study. In addition to dealing with different offenses, the sample demographics also differed in that they included a larger portion of minorities other than Black and included females. However, the intent was to estimate whether the assumption of *silent* and *no* are similar, based on a comparison of the current data to other research findings; this does not necessarily mean that the populations examined have to be identical. The first column of Table 2 identifies characteristics collected in both studies. Column 2 shows the percent of youths with that characteristic in the current study, and column 3 shows the percent of youths in the Shelton study. There are insignificant differences (using a Chi-square statistic and a 5% level of probability that this would not occur by chance alone) in many of the categories (i.e., 34.2% compared to 36% for youths expelled or suspended), and a significant difference for one category: dads with drug histories. The overall differences are not great. It appears that the assumption is relatively accurate.

Table 2. Percent of all youths with characteristic compared to percent found in the literature

	Current study % (n=298)	Shelton study % (n=355)
Expelled or suspended	34.2	36
Need special education	45.3	37
Epilepsy	2.2	4.6
Asthma	12.8	7.7
Mom criminal history	10.9	12.3
Dad criminal history	21.9	31.0
Mom drug history	20.9	29.4
Dad drug history*	26.3	40.5

*Statistically significant $p < .05$

Summary

Although the original samples selected were relatively equal, triangulation from 11 data sources resulted in an uneven sample selection; 126 waiver, 85 at-risk, 38 reverse waiver and 59 legislatively waived. The comparison of the waiver and at risk youths were both randomly selected and are large enough to provide reliable findings. Although the reverse waiver group was randomly selected, the sample is small and the comparison group has some methodological flaws. Therefore, the findings are more tenuous. The findings from both of these comparisons are supported by the interview data and the observations made in the waiver hearings.

Variables included in this study have been found previously in the waiver literature. New variables were introduced in this study to extend the literature. However, these variables are found in case files relatively infrequently (less than 45%). Concerns regarding the reliability of these new variables prompted a comparison of the same variables in the general delinquent population and found to be comparable.

PREDICTION OF WAIVER

Research Question 1: *Is the decision to waive or reverse waive based on the five legislative criteria for waiver?*

Can the waiver group be predicted from the legislative criteria, or are there other factors more predictive?

Prediction occurs daily in the courtroom. During the waiver hearings, judges currently predict that public safety and the needs of the youth will be best served in the juvenile or adult court with little guidance from the legislative criteria. Legislative criteria are often in place to insure that waiver decisions are uniform, not discretionary, and that the waiver decision is grounded in legislative intent (Lee, 1994). Operationalizing legislative intent is difficult, and judges do seem to deviate from the waiver guidelines (Lee, 1994). For example, a shortage of juvenile facilities has been linked to an increased number of waivers to the adult court, but facility space is not a waiver criteria (See Bortner, 1986; Bishop, Frazier, & Henretta, 1989). Interviews with courtroom workgroups throughout Maryland indicate that jurisdictional decisions are made using the five legislative criteria, but these professionals report a weighting of the criteria that varies by courtroom and case. The extent to which each criterion plays a role in the decision has not been tested (Smith et al., 2001). The role other variables may play in the jurisdictional decision also is unknown. This section explores the predictability of judicial decision-making using the legislative criteria and other variables.

Methods

This research developed predictor models using 38 variables of the waiver decision, comparing waived youths to those at risk and the reverse waived youths to those legislatively waived. These models were developed recognizing the methodological limitations, but provide data based insight. Predictors were identified using the operationalizations of the five legislative criteria, and then extra-legal variables were used to develop more generalized models. The dependent variable, waiver group, consists of two categorical variables, making logistic regression an appropriate analysis technique. A full technical discussion of the analysis is found in Appendix C. Only the findings are presented here.

The methods used to develop predictors include the following steps:

1. Operationalize each of the five legislative criteria based on the available data (Table 3).

Table 3: Operationalization of the five legislative criteria

Variable	Measures
AGE	
Age at current intake	Less than or equal to (LE) 16; >17
MENTAL & PHYSICAL CONDITION	
Mention of mental health issues	LE 3; >4 (counts)
<ul style="list-style-type: none"> • Birth complications • Brain injury • Head injury • Epilepsy • Lead poisoning • Asthma • Lack of oxygen to brain • Mental health evaluation • CINA • Relevant DSM diagnoses • Mental health counseling or commitment • Psychotropic medications • Suicide attempts • Trauma including: <ul style="list-style-type: none"> -hospitalizations, -serious injury, -deceased parent -exaggerated fear response 	
Mention of physical health issues	No/Yes
Degree of parent – child separation	None/ Some/ Serious
<ul style="list-style-type: none"> • Lives with Mom (some) • Lives with Dad (some) • Lives with Mom & Dad (None) • Lives with Others (serious) • Sees Mom (some) • Sees Dad (some) 	
Family Structure	Adequate or good/ almost none or minimal
Mention of adult male in the home	Yes / No
AMENABILITY TO TREATMENT	
Prior offenses	No / Yes
NATURE OF OFFENSE	
Current offense category	
– Person	No/ Yes
– Property	No/ Yes
– Drug	No/ Yes
– Weapon	No/ Yes
– Other	No/ Yes
Processing time for current intake to release	LE ½ year; >½ year
Age at first intake	>13; LE 13
PUBLIC SAFETY	
Residential mobility	Same/ Different
<ul style="list-style-type: none"> • Birthplace & jurisdiction of file review 	
Mention of gun in any offense	No/ Yes

The legislation does not identify how or in which proportion each of the five criteria must be applied. In fact, there is no particular number or combination of criteria that must be used, which makes it impossible to arrive at 100% prediction using any method of analysis. Multivariate analysis appears to be the appropriate technique, but has limitations. For example, if the judge determined that all youths over age 17.2 with the offense of auto theft would be waived, the analysis for youths with these characteristics still would not yield 100% prediction rate because of the nature of multivariate analysis. The other three variables would account for some varying portion of the prediction just because they are in the equation.

2. Operationalize each of the extra-legal variables available (Table 4).

Table 4: Operationalization of extra-legal variables

Variable	Measures
COMMUNITY	
Urban	Urban / Rural
EDUCATION	
Mention of school problems	No/ Yes
<ul style="list-style-type: none"> • Attendance problems • Expulsions • Grades repeated • Suspensions 	
Education Level	Graduated or GED / Not graduated;
Mention of special education	No/ Yes
PEER	
Mention of delinquent peers or siblings	No/ Yes
FAMILY	
Parental criminal history mentioned	No/ Yes
Parental drug history mentioned	No/ Yes
Family criminal history mentioned	No/ Yes
Family drug history mentioned	No/ Yes
Socioeconomic status	Low / medium & high
Family size	Four or less = small / more than four = large;
INDIVIDUAL	
Race	All others / Black
Physical size	Small (child-like) or large (adult-like) based on height and weight
Employment mentioned	No/ Yes

3. Test the predictive power of the operationalizations and develop other models as necessary using logistic regression to predict the odds that a youth will or will not be waived, based on a set of characteristics.

Findings - Predictors

Five Criteria Predict Waiver with 75.6% Accuracy

The judicial decision to waive a youth from the juvenile system to the adult system can be predicted with 60.9% accuracy by chance alone. In other words, 60.9% of the youths in the sample are waived. However, if we consider all the information available to the judge (legal variables) defining the five legislative criteria (see Table 3), we can improve the prediction to 75.6% accuracy.

Only three variables are predictive:

- Age is 17 or more,
- Youth has prior intakes, and
- Current offense mentions a weapon.

This means we can predict that a youth who is over age 17 (i.e., 17.7) has been through the intake process previously, and the current offense description included the use of a weapon will be waived and we would be right 75.6% of the time. None of the other variables listed in Table 3 are predictive.

Extra-Legal Variables Improve the Waiver Prediction to 84.6% Accuracy.

Adding the following three extra-legal variables available in this project, the prediction improves from 75.6% to 84.6% accuracy (See Table 4):

- Youth resides in an urban area,
- Parent(s) have a drug history mentioned, and
- Youth is large physically, looking more adult-like.

Five Criteria Predict Reverse Waiver with 65.8% Accuracy

The judicial decision to not reverse waive a youth from the adult system to the juvenile system when compared to those who are legislatively waived and remain in the adult system can be predicted with 60.4% accuracy by chance alone. In other words 39.6% of the youths in the sample were reverse waived. This can be improved to 65.8% accuracy using the following available measure from the mental health criteria:

- There is some degree of parent-child separation (e.g., there is still regular contact with at least one parent).

In other words, youths who have some parental support are more likely to be moved back into the rehabilitative environment of the juvenile system. However, it is cautioned that the methodological concerns with the comparison group make this finding tenuous.

Further research should be completed to see if this finding holds true with randomly selected cases.

Extra-Legal Variables Improve the Prediction to 68.4% Accuracy.

A change in the model occurs when the extra-legal variables are added. Using extra-legal variables, the model improves that accuracy slightly (68.4%):

- Parental drug history mentioned,
- Low socioeconomic status (SES), and
- Youth had an employment history mentioned.

However, parent-child separation is no longer predictive, but physical health issues become predictive.

- One or more physical health issues were mentioned.

This is only a slight improvement indicating that the extra-legal variables add little to the prediction.

Waiver research, in general, is fraught with methodological issues using the best available data and research methods. It is difficult to determine the explanation of the 14.4% waiver and 31.6% reverse waiver error prediction that is unexplained in the models. It is possible that it represents the unmeasured legislative criteria, unmeasured extra-legal factors, flaws in sampling techniques, or simply the result of the judiciary using different combinations of criteria for different cases (i.e., the inability of the model to predict to 100%).

Courtroom work group interviews offer some insight into the findings. One explanation for the lack of consistency is that few jurisdictions have written policies other than the statute to guide the waiver process. Only half of the courtroom work group subjects (29 of 59) interviewed received training in the process and administration of waiver (Smith, et al., 2001). Of those who did receive waiver training, most of this training was a one-time event, such as a component of new employee orientation and/or new trial judge training (Smith, et al., 2001). Interview data also indicate that amenability to treatment is the factor given the most consideration in the waiver decision and it is the factor with the least available data. Other factors that figure prominently into the waiver decision include prior offense record, seriousness of the offense, and offender age (Smith, et al. 2001).

Observations of a convenience sample of waiver hearings offer some additional insight into the findings. While each of the five factors are considered and orally reviewed, amenability to treatment appears to be given the most consideration. This is particularly troublesome because the judge relies on the case file to list the treatments administered and the resulting outcomes. Based on the sample of 298 cases in this study, the files were very limited in comments on treatment and almost never reported

the outcome or circumstances of a treatment. Treatment is broadly defined to include, for example, counseling, probation, or secure confinement. Physical condition appears to be given the least amount of consideration in the observed hearings. While mental health issues are mentioned, they seldom appear to be discussed in detail and the impact they may have on the offense is not discussed. Finally, crime seriousness and public safety often seem to be considered together and carry equal weight in the decision, as well as equal weight across cases. In other words, a small amount of a controlled substance carries the same weight as auto theft.

PROFILES

Research Question 2: *Who is being waived in Maryland? What are their characteristics?*

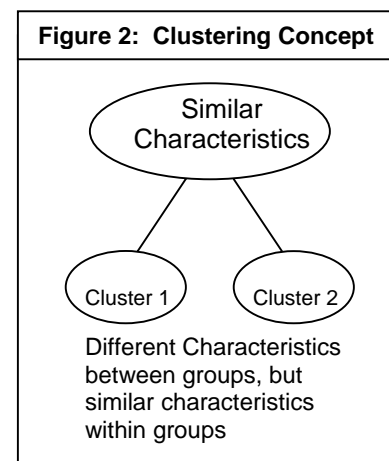
According to the legislative intent, to process specific youths in the adult system to ensure significant consequences, the youths who were legislatively waived should be a homogeneous group and the youths who were judicially waived should be a homogeneous group across the five criteria. Conversely, those processed in the juvenile justice system would be homogeneous within their groups (e.g., reverse waiver, at risk). To test this hypothesis, profiles were developed. The initial profiles were heterogeneous. In other words, the members of each group did not appear to have many characteristics in common. A closer examination using cluster analysis revealed some homogeneity when the groups were divided into subgroups (See Norusis, 1999 for a detailed description of clustering). Cluster analysis goes beyond single variable consideration. Knowing the characteristics of those in the groups is particularly important to treatment and security providers (i.e., develop appropriate programming). See Appendix D for a technical discussion of the clustering process as well as a complete listing of each variable and its percent of representation in that cluster.

Profiles and Discussion

Practitioners have used the profiles method informally for years, but to date, formal classifications have not been developed or tested for representativeness for waiver groups. Profiles describe the *typical* case. When examining each waiver group, there appears to be a wide range within many characteristics. However, within the group, some characteristics subdivide into small clusters (Figure 2). These small clusters result in more homogenous groups of youths, but are not perfect. There are some differences within the clusters.

One use of clusters is in treatment development. For example, based on the characteristics of a cluster of youths, the treatment provider may decide to include a strong special education component. However, not every youth needs these services. Therefore, it is important to develop a system of individualization, such as individualized treatment plans, to ensure that the generalized program can be tailored to fit all of the variation within the group.

Characteristics for program development must be dynamic – have the ability to change. For example, race is a static variable. Regardless of treatment, it cannot be changed. A group of characteristics that cannot be changed are not useful measurements for treatment outcome. However, that is not to say they are not



important. Race, for example, may indicate the need for various culturally appropriate materials. Also, knowing that there exists an over representation of Blacks involved in the waiver process is useful to policy makers. For example, policing patterns may focus on predominantly Black neighborhoods, resulting in more Blacks in the pool for potential waiver. While this is not a treatment concern, it is a policy issue. The following identifies the overall profiles and clusters of static and dynamic characteristics of youths within each of the four waiver groups discussed in this report.

Profiles of At Risk Youths

Generally, a profile of the *at risk* youths' static descriptors include the following characteristics (See Appendix D, Table 1 for the percentages of youths exhibiting each particular characteristic within the *at risk* sample).

- | |
|--|
| <p>At Risk Youths - Static</p> <ul style="list-style-type: none"> • Reside outside birth state • Black • Small family • Younger & small in stature • Various & minor offenses • Not chronic offenders |
|--|

Over 80% of the youths do not reside in the state in which they were born. Anecdotally, at least some of these youths have moved frequently during their early school years. Most of these youths are Black and come from small families. They are younger and small in stature, looking more child-like. They have committed a wide range of first and current

relatively minor offenses, with less than 30% of them with a person category offense and almost no weapons involved. Most youths are not chronic offenders.

Homogeneous dynamic characteristics include the following: They have limited contact with one or both parents and reside in low socioeconomic (SES) family environments. According to the various files reviewed, less than half of these youths have mention of an adult male in the home. Few have physical health issues mentioned, but a majority has noted mental health issues.

- | |
|---|
| <p>At Risk Youths - Dynamic</p> <ul style="list-style-type: none"> • Limited contact with one or more parents • Low SES • Lack of adult male in home • Mental health issues • No employment history |
|---|

The remaining characteristics cluster into three distinct groups (See Appendix D, Table 2). The following discusses the characteristics of the three groups.

Cluster 1. Most youths in Cluster 1 (n=21) committed their current offense while under the age of 17. Most youths did not have an indication of school problems, and none of them had graduated or earned a GED.

- | |
|---|
| <p>At Risk – Cluster 1</p> <ul style="list-style-type: none"> • Under age 17 • Rural area residents • No diploma or GED • Special education needs • Parental & family crime & drug involvement • Peers/siblings delinquent |
|---|

Three-fourths of them had special education needs mentioned. Over half of these youths lived in rural areas. Most of them had parents with noted criminal and drug histories. All of these youths had families with criminal histories mentioned and noted drug histories, and their peers or siblings were most often delinquent. Their criminal process often took less than one year, indicating a relatively minor offense.

Cluster 2. Cluster 2 accounts for one-half of the at risk youths (n=41) and is more heterogeneous than the other groups. About half of the youths in Cluster 2 committed their current offense while under the age of 17. Few of these youths had school problems mentioned, more than half of them had noted special education needs. Almost all of them had not earned a diploma or GED. They were from rural areas. These youths sometimes came from families with noted criminal histories and some of their parents had criminal and drug histories mentioned. Many had delinquent siblings or peers. Approximately 50% had offense processing time of over one year.

- At Risk – Cluster 2**
- Under age 17
 - Rural residents
 - Special education needs
 - No diploma or GED
 - Some parental & family crime & drug involvement
 - Delinquent peers/siblings

Cluster 3. Almost all of the youths in Cluster 3 (n=17) committed their current offense while under the age of 17. These youth had school problems mentioned in their files and more than half of them had not graduated, yet none of them had special education needs mentioned. More than half of these youths were from urban neighborhoods. The parents and families of these youths did not have criminal histories mentioned. Most of their parents and families did not have drug histories mentioned and their peers were seldom described as delinquent. Their criminal process most often took less than one year.

- At Risk – Cluster 3**
- Under age 17
 - Urban residents
 - School problems
 - No diploma or GED

Treatment Implications for At Risk Youths

A generalized treatment program for *at risk* youths might include a strong mental health component, job skills readiness, and the availability of family support, including financial, physical, and emotional family support. A big brother mentoring program should be available for the more than 50% of the youths that lack these male role models.

In addition to the generalized treatment program for all at risk youths, treatment providers would divide the larger group into three subgroups. Subgroup or cluster one would add a strong special education component, positive peer culture, and some treatment that addresses the effects of a criminogenic and drug involved family (i.e., Alateen). Cluster two would have some special education services and positive peer culture, but limited treatment for the effects of a criminogenic and drug involved family. Cluster three would include some treatment addressing school issues (i.e., anti-truancy), but have very limited need for services for special education or the effects of a criminogenic and drug involved family.

Profile of Reverse Waived Youths

Generally, a profile of the *reverse waived* youths' static descriptors include the following characteristics (See Appendix D, Table 3 for percentages of youths exhibiting these characteristics). Reverse waiver is an urban phenomenon and is seldom found in rural areas. These youths were not born in Maryland. Most of these youths are Black and come from small families. The majority of these youths are large in stature, looking like an adult. Most have a current person or weapon offense, which resulted in the legislative waiver and made them eligible for a reverse waiver. Most of these youths are on their *first* offense and do not comprise the early onset group. They are not serious repeat offenders. Most of their offenses were processed in less than one year.

Reverse Waived Youths - Static

- Urban residents
- Born outside of MD
- Black
- Small family
- Large stature – adult-like
- Weapon involved offense
- First time offenders
- Over age 13 at first offense

Reverse Waived Youths - Dynamic

- No diploma or GED
- Few w/ special education needs
- One-half have:
 - Adult male role model
 - Medium to High SES
 - Positive family structure
 - Prior employment
 - Mental health issues

Homogeneous dynamic characteristics include the following: Most of the youths have not earned a diploma or GED, but there is no mention of special education needs. About one-half of these youths have mention of an adult male role model in their home and live in medium to high socioeconomic status with an adequate or good family support system. Half of them have prior employment histories and have mental health issues.

The remaining characteristics cluster into two distinct groups (n=20, 18) (See Appendix D, Table 4). The following discusses the characteristics of the two groups.

Cluster 1. Youths in Cluster 1 (n=20) are likely to have school problems mentioned, may or may not have delinquent peers and siblings, and about half live with both parents who are not likely to have criminal or drug histories mentioned. The extended family is likely to be described as crime and drug free also. In other words, they come from desirable homes and are school involved.

Reverse Waived – Cluster 1

- School problems
- About one-half have:
 - Delinquent peers/siblings
 - Separation from at least one parent

Reverse Waived – Cluster 2

- Delinquent peers/siblings
- No intact families
- Parental & family crime & drug involvement

Cluster 2. Cluster 2 (n=18) has few school problems and comes from a dysfunctional family. Youths in this group live with either one or none of their parents, and it is likely they do not see the missing parent(s). The parents are likely to be drug and crime

involved, as is the extended family, as these issues are often mentioned in their files.

Treatment Implications for *Reverse Waived* Youths

A generalized treatment program for *reverse waived* youths might include an education program, including job readiness skills, and with limited special education services. Additionally, there is a need for a male mentoring program and mental health services for one-half of the youths. Parent education programming should be available also, but may be funded by the participants because many of the families in this group are medium to high socioeconomic status.

In addition to the generalized treatment program for all *reverse waived* youths, treatment providers would divide the larger group into two subgroups. Subgroup or cluster one would include some treatment addressing school issues (i.e., anti-truancy) and positive peer culture programming. Additionally, these youths need loss counseling for the loss of at least one parent. Treatment for cluster two would include positive peer culture programming, loss counseling for the loss of at least one parent, and treatment that addresses the effects of a criminogenic and drug involved family.

Profile of *Waived* Youths

Commonly, waived youths are described as chronic and serious offenders who have exhausted the resources of the juvenile system. The static characteristics of waived youths of Maryland can be described as residing in urban areas. They were born outside MD. They are Black and come from small families. They are under age 17, but are physically adult-like in size. Most youths have drug offenses and several prior offenses, but most are not weapon involved. (See Appendix D, Table 5).

Waived Youths - Static

- Urban residents
- Born outside MD
- Black
- Small family
- Large structure – adult-like
- Under age 17

Waived Youths - Dynamic

- School problems
- One-half need special education
- No diploma or GED
- Limited contact with one or more parents
- Low SES
- Poor family structure
- No employment history

Homogeneous dynamic characteristics include the following: These youths have school problems and one-half of them need special education services. They do not have a diploma or GED. They have limited contact with one or both of their parents and have a poor family support structure, including low socioeconomic status. Almost none of these youths have employment histories. Few have noted physical health issues.

The remaining characteristics cluster into four distinct groups (See Appendix D, Table 6). The following discusses the characteristics of the four groups.

Cluster 1. Most of the youths in Cluster 1 (n=5) were 13 years of age or more at 1st intake and had no prior offenses. Less than half had a parent with a criminal history mentioned, but most had a parent with a noted drug history. More than half had extended family with a noted criminal history and many had family with a drug history mentioned. All had more than three mental health issues mentioned, and all had delinquent peers and siblings. Most had process time of one year or more from intake to release.

- Waived Youths – Cluster 1**
- Over age 13 at 1st intake
 - No prior intakes
 - Delinquent peers/siblings
 - Parental & family drug involvement
 - Family crime involvement
 - Mental health issues

Cluster 2. Cluster 2 (n=35) is the group of youths typically considered chronic. All of the youths in Cluster 2 had more than four offenses and many had early onset (13 years of age or less at first intake). Few had a parent with criminal or drug histories mentioned. Few had extended family with noted criminal histories and they seldom had family with drug histories mentioned. Most had four or more mental health issues mentioned, and most had delinquent peers and siblings. More than half had processing time of one year or less from first intake to release. Many had processing time of one year or less for current intake to release. None had less than one-year time from first to current intake.

- Waived Youths – Cluster 2**
- Prior intakes
 - Under age 13 at 1st intake
 - Delinquent peers/siblings
 - Mental health issues

Cluster 3. Cluster 3 (n=21) is also characteristic of the typical chronic offender. Most of the youths had five or more total offenses and a little more than half had early onset (13 years of age or less at first intake). Many had a parent with noted criminal and drug histories. All had extended family with a criminal history mentioned, and most had extended family with a mentioned drug history. Most had four or more mental health issues noted, and most of the youths had delinquent peers and siblings. Many had process time of one year or less from first intake to release and from current intake to release. Few had less than one-year time from first to current intake.

- Waived Youths – Cluster 3**
- Prior intakes
 - Under age 13 at 1st intake
 - Delinquent peers/siblings
 - Parental & family crime & drug involvement
 - Mental health issues

Cluster 4. Most of the youths in Cluster 4 (n=62), the majority of waived youths had four or fewer total offenses and many of them were over 13 years of age at intake. These are not the characteristics of the stereotypical chronic offender. Few had a parent with criminal or drug history mentioned, and the youth seldom had extended family with noted criminal or drug history. A little over half had three or fewer mental health issues noted and many of them had delinquent peers and siblings. Most had process time of one year or less from first intake to release

- Waived Youths – Cluster 4**
- Over age 13 at 1st intake
 - Delinquent peers/siblings
 - One-half have mental health issues

and from current offense intake to release. Many had less than one-year time from first to current intake.

Treatment Implications for *Waived* Youths

Waived youths are commonly thought to be chronic offenders. A broad brush stroke of the total group might support this notion, with a high number of prior intakes, early onset, and a person offense for the first offense. However, cluster analysis produces a clear division between those who have these stereotypical characteristics and the *majority* who do not possess these characteristics.

A generalized treatment program for *waived* youths might include treatment programming addressing school issues (i.e., anti-truancy), job readiness skills, and some special education services. The availability of family support, including loss counseling for the loss of at least one parent, financial support, and parent education classes should be included.

In addition to the generalized treatment program for all *waived* youths, treatment providers would divide the larger group into four subgroups. Cluster one would add positive peer culture programming, a strong mental health treatment component, and treatment that addresses the effects of a criminogenic and drug involved family (i.e., Alateen). Cluster two would add positive peer culture programming and a strong mental health treatment component. Cluster three would add positive peer culture programming, a strong mental health treatment component, and treatment that addresses the effects of a criminogenic and drug involved family (i.e., Alateen), similar to cluster one. Cluster four would add positive peer culture programming for most participants and a mental health treatment component for one-half of them.

Profile of *Legislatively Waived* Youths

Generally, a profile of *legislatively waived* youths' static descriptors include the following characteristics (See Appendix D, Table 7 for the percentages of youths exhibiting each particular characteristic within the *legislatively waived* sample). Legislative waiver is a phenomenon of urban life. These youths were born outside of Maryland. Almost all of the youths are Black and all of them had their first offense after age 13. Their current offense is only slightly more likely to have been committed when they were under age 17. Most of these youths have person and/or weapon offenses, which is not surprising because it is the legislative criteria.

Legislatively Waived Youths - Static

- Urban residents
- Born outside MD
- Black
- Over 13 at 1st intake
- Under age 17
- Large structure – adult-like
- Over one-half weapon involved
- Person offense
- No prior intakes

Homogeneous dynamic characteristics include the following: Some of the youths have delinquent peers or siblings, but generally, the parents do not have a noted

**Legislatively Waived Youths -
Dynamic**

- No diploma or GED
- Delinquent peers/siblings
- Limited contact with one or more parents
- Low SES
- Poor family structure
- No employment history

criminal history. These youths have not earned a diploma or GED. They have limited contact with one or more parents, have poor family structure, and have low socioeconomic status. The youths have no employment history.

The remaining characteristics cluster into two distinct groups (See Appendix D, Table 8). The following discusses the characteristics of the two groups.

Cluster 1. Most youths in Cluster 1 (n= 39) have school problems. None of the parents or families had noted drug histories. Only a few of the families had criminal histories mentioned. Most of the youths have a small family and most do not have an adult male in the home. Very few of the youths had physical health issues mentioned, and only a small number had more than four mental health issues mentioned.

**Legislatively Waived –
Cluster 1**

- School problems
- No adult male in home
- Small family

Cluster 2. Most youths in Cluster 2 (n=19) do not have school problems mentioned. More than half of the youths had families of five or more and more than half of the families had noted drug and criminal histories and a parent with a drug history mentioned. Many of the youths had files noting adult males in the home. Nearly all of the youths have physical health issues and four or more mental health issues.

**Legislatively Waived –
Cluster 2**

- Parental & family drug history
- Family crime history
- One-half have small family
- Physical & mental health

Treatment Implications for *Legislatively Waived* Youths

A generalized treatment program for *legislatively waived* youths might include an education program with a job readiness skills component. The availability of family support, including loss counseling for the loss of at least one parent, financial support, and parent education classes should be included. Finally, a positive peer culture program should be included.

In addition to the generalized treatment program for all *legislatively waived* youths, treatment providers would divide the larger group into two subgroups. Cluster one would include programming addressing school issues (i.e., anti-truancy) and a male mentoring program. Cluster two would add strong physical and mental health components, as well as treatment that addresses the effects of a criminogenic and drug involved family (i.e., Alateen).

OVERREPRESENTATION OF BLACKS

Research Question 3: *Does waiver further exacerbate an already disproportionately minority system?*

The findings from the updated disproportionate minority confinement (DMC) indices indicate that Black male youths who move into the adult system are overrepresented. This research was unable to divide the youths exactly at age 18, but indicates the racial proportions of that approximate age group. This larger group is disproportionately Black, and the waived and legislatively waived males are disproportionately Black. This provides evidence that Blacks are overrepresented in both the adult system and waiver, but falls short of a causal relationship. A prospective study tracking these youths should be conducted.

Are minorities more likely to be included at various levels in the criminal justice system?

Yes, Black males are represented at every level of the juvenile and criminal justice systems at a higher rate (1.78 to 5.5 times) than their proportion in the general population of both statewide Maryland and in Baltimore City. The data from FY1999 indicate that overrepresentation of minorities in the juvenile justice system has worsened over the seven to nine-year period.

Are minorities more likely to more deeply penetrate the criminal justice system?

The extension of the decision points flow chart includes the deepest penetration, which is prison. Black males were overrepresented in prison by more than five times their proportion in the general population; this number is higher than overrepresentation figures at any other decision point in the flow chart.

Introduction

The original intention of including a discussion of race in this waiver study was to determine if waiver produced disproportionate minority confinement (DMC). This goal was not attainable for several reasons. First, the population of legislatively waived youths was unidentifiable. Second, the outcomes for waived youths was unavailable. Next, the population of youths associated with waiver (judicial or legislative) sentenced to confinement was not identifiable. Finally, the waived youths identified in the adult system were almost 100% Black, but without the population numbers and the age of the youth at the time of the offense, we cannot be sure if those identified are similar to the population or an identifiable subset.

Therefore, this section identifies the race of the population at each decision point in the juvenile justice process and compares that proportion to the proportion in the next group and to prior research findings. Then it extends this analysis into the adult criminal

justice system with all available data. For example, this study is concerned with whether the proportion of Black youths at intake is similar to the proportion of Black youths at adjudication and whether those proportions are equal to the proportions found in the general population. Specifically, this study updates the Maryland findings of overrepresentation from the 1990-1992 data using FY1999 data, and extends the decision points into the adult system. The results are presented for both Baltimore City and statewide because of the difference in the proportion of Blacks in the general population of Maryland (27.8%) and Baltimore City (66.6%) (1998 Census estimates).

Methods

Decision Points

The current research replicates and extends the Department of Juvenile Justice study (hereafter called 1990 Study), which used an average of 1990, 1991, and 1992 data to determine the level of overrepresentation in the Maryland juvenile justice system (Iyengar, 1995). Maryland statewide data from 1998-1999 were analyzed for the current study, as well as data specific to Baltimore City. An examination of Baltimore City for DMC status is appropriate because it is representative of many large urban cities, has approximately one-seventh of the population of Maryland, and accounts for most of the murders and violent crime in Maryland (Lee, 1999).

The 1990 Study identified the following six decision points: the intake/referral, formalization, probation, detention, residential placement, and secure commitment (See Table 5). Past studies of DMC did not examine enough decision points in the juvenile or criminal justice systems. This literature suggests using a continuum of multiple

Table 5: Juvenile decision points

Decision Point	Variable
Juvenile Decision Points	
Intake	First complaint filed for each youth in FY1999
Formalized	Cases forwarded to the State's Attorney for processing
Probation	Formalized cases with a court disposition of "Probation"
Detention	Formalized cases with a court disposition of "Detention"
Residential Placement	Formalized cases with an admission type limited to commitment to a non-secure facility, purchased care, or shelter care
Secure Commitment	Formalized cases with a court disposition committing youths to one of DJJ's secure facilities.
Adult Decision Points	
Jail	Detained in Baltimore City Detention Center. May or may not be found guilty.
Probation & Parole	Found guilty and sentenced to Probation or Prison and then Parole.
Prison	Found guilty and sentenced to Prison

decision points and expanding them to include the adult system to correct the flaws previously identified (Poe-Yamagata & Jones, 2000; Zatz, 1987). Therefore, this study uses the same six decision points and adds the adult decision points of jail, probation and parole, and prison. As a result of prior flaws, the cumulative disadvantage of Black males was not sufficiently documented. This study addresses this issue. The examination of the nine decision points ensures that the cumulative effect of DMC on outcomes can be fully demonstrated.

Data Collection

Four sources of data were used to analyze the decision points; juvenile intakes, jail, prison, and probation and parole. The following briefly describes each source.

Juvenile Data. According to the Department of Juvenile Justice automated records, 4,814 males¹ were processed during fiscal year 1999.

Jail Data. Jail data are not automated in Maryland, with rare exception. Therefore, data are not available for the statewide analysis. An automated data file was received for the Baltimore City Detention Center (BCDC). The file contained data on all juvenile detentions for calendar years 1998 and 1999. The first occurrence for each male under the age of 18 at admission was selected, resulting in an average of 396 male youths per year. This may be a slight underreporting because a youth could have committed the offense and not be arrested and detained until after his 18th birthday.

Prison Data. Collection of an accurate accounting of youths in the DOC is much more difficult. In Baltimore City, youths who are detained are held in BCDC until sentencing. Assuming a prison sentence, these youths are routinely transferred to DOC within three days. However, in the remainder of the state, youths may wait a much longer period of time before being transferred to prison. Additionally, youths may languish in county jail for extended periods of time during their trials (Smith et al., 2001). DOC does not maintain records of arrest dates or the age of the youth at time of offense. Therefore, youths who committed their offense prior to age 18 are frequently 18 or 19 before they arrive in DOC. For the purposes of this study, all males who were age 18.75 or younger at the time of their DOC admit (N=389) were included. An average was taken for the two years (N=192/year). There is a potential that this overestimates the number of youths who were under age 18 at the time of their offense.

Probation & Parole Data. The same criteria used for prison data was used for probation and parole (P&P) data with regard to age of the youths. Youths who received probation instead of a prison sentence are likely to be over counted. Youths who received a prison sentence and have been paroled are likely to be under counted. Unfortunately, we were unable to more clearly identify the youths based on the available

¹ Because each youth is counted only one time in the census figures used to create DMC indices, only one complaint was counted for each youth. This results in an under counting of those youths with multiple intakes.

data. This process resulted in identification of 2,269 male youths, which was averaged between the two years resulting in 1,135 youths per year.

Although the estimates for P&P and prison may be slightly over or under, they are reasonable based on the fact that approximately 1500 youths per year enter the adult criminal justice system (1135 from P&P, 192 from prison, and some released without formal consequences).

Disproportionate Minority Representation: Indices

The DMC indices are calculated based on a formula supported by OJJDP (discussed below) for statewide data and for Baltimore City only. The DMC indices use FY 1999 population data from the statewide automated data systems (e.g., DJJ, probation and parole, and DOC) for the statewide data and include city court data for the Baltimore City-only analysis. The following steps created the indices found in Tables 6 and 7.

1. Identified decision point data in the systems.
2. Selected individual, not case data. The denominator, Census data, of the formula counts each individual only once. Therefore each individual is represented only once in the numerator. This may result in under counting, but more accurately represents the percent of the population in the system.
3. Calculated DMC using the OJJDP supported index (Devine, Coolbaugh, & Jenkins, 1998) as follows:

$$\frac{\% \text{ of juvenile males in the juvenile/ adult justice population}}{\% \text{ of male minorities in the overall juvenile population (ages 11 to 17)}}$$

Where an index value:

- ◆ Greater than 1 = minority overrepresentation
- ◆ Equal to 1 = proportional representation
- ◆ Less than 1 = minority underrepresentation

Findings

The findings are divided into two sections, statewide and local, to assist in developing the best picture of Maryland's overrepresentation problems. One significant limitation to this analysis is the lack of consideration of social and crime related variables. Future research should include these important variables.

Statewide: Maryland

Table 6 presents the decision points and the respective indices for the 1990 Study and the FY1999 data for males in the state of Maryland. At almost every decision

point, all males have increased their proportions. The indices for Black males has increased at all decision points, except one, and these increases are higher than the increases for all males. For example, Black males at intake in the 1990 Study were represented at 2.22 times their representation in the general population of Maryland. In FY1999, their proportion increased to 3.67 times their representation in the general population, an increase of 1.45 times. All other males increased from 1.13 to 1.34, an increase of only .21 times.

Table 6: Race indices of juvenile and adult decision points for Maryland

	1990 Study Intakes	FY1999 Intakes	1990 Study Formalized	FY1999 Formalized	1990 Study Probation	FY1999 Probation	1990 Study Juvenile Detention	FY1999 Juvenile Detention
MD Males Statewide		N=4814		N=3593		N=1135		N=2096
Blacks	2.22	3.67	3.01	4.08	2.72	3.56	3.76	4.39
All Others	1.13	1.34	0.96	1.12	1.21	1.39	0.72	.95

	1990 Study Residential Placement	FY1999 Residential Placement	1990 Study Secure Commitment	FY1999 Secure Commitment	FY1999 Probation & Parole	FY1999 Adult Detention	FY1999 Prison
MD Males Statewide		N=736		N=604	N=1135	*	N=192
Blacks	2.79	4.20	4.23	3.94	4.02		5.50
All Others	1.09	1.05	0.59	1.19	1.15		0.36

*Detention data are not available at the state level.

Black juvenile males on probation in the state of Maryland increased from a level of 2.72 in the 1990 Study to a level of 3.56 in 1999, while other males in Maryland showed a slight increase from 1.21 to 1.39. An increase in probation for Black males could be a positive step, if there was a corresponding decrease in the use of detention and commitment. However, this was not the case.

Black males were over represented in juvenile detention at almost four times their proportion of the population compared to the rate of other males, .72, in Maryland. Black representation increased from a level of 3.76 in the 1990 Study to a level of 4.39 in the current study. Juvenile detention rates of other males in Maryland, on the other hand, rose only slightly from .72 to .95.

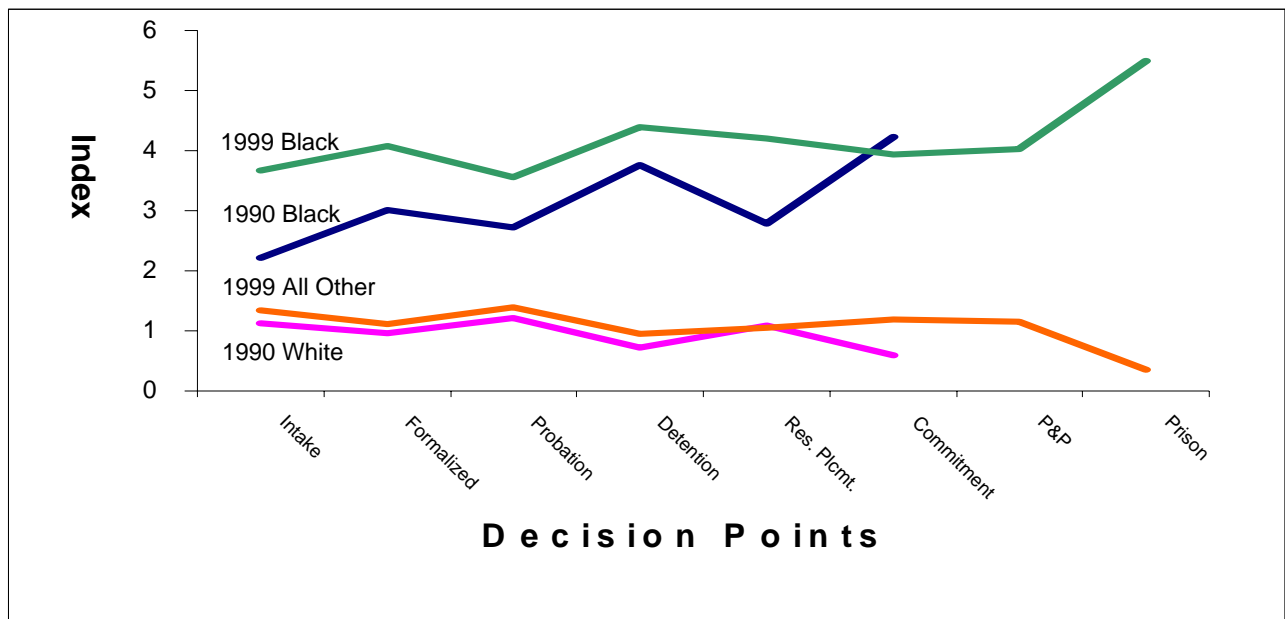
The only exceptions to the overall increase in DMC at the eight statewide decision points is in secure commitment for Blacks, down from 4.23 to 3.94, and residential placement for whites, down from 1.09 to 1.05. One interpretation of this phenomenon is that Blacks are being placed in non-secure residential placements at higher rate than previously found (2.79 to 4.2), which is resulting in a lowered use of secure commitment (4.23 to 3.94). All other races have doubled in use of secure commitment and decreased only slightly in residential placement. However, this doubling effect for non-blacks brings the index to only slightly more than the proportion in the general population.

The decision points for adult probation and parole and prison were not examined in the 1990 Study, but imprisonment rates for Black males in Maryland in 1999 were 5.5 times greater than their representation in the general population. This imprisonment level can be compared to an under-representation level of .36 for other males. However, imprisonment is only one of the decision points of overrepresentation. Blacks are disproportionately represented at intake and throughout six of the remaining seven decision points. Their numbers rise as they approach incarceration. The representation of other males in Maryland stayed relatively flat from the intake stage to the parole and probation decisions.

These findings support the suggestion that the initial arrest of an individual, particularly a Black male, places that individual in a criminal justice net that grows wider as they continue through the system. Black males are continually scrutinized by law enforcement, which presents more opportunities for future arrests and an increase in severity of the consequences (Dejong & Jackson, 1998, Tonry & Petersilia, 1999). Farrington and his associates (1996) contend that biases exist in police or court processing, which leads to more intense and frequent delinquency of Blacks.

Figure 3 graphs the changes in the eight decision points. Notice that the White youths in the 1990 Study and the “All Others” category in the current study hover at 1.0, which indicates they are almost equal to their respective proportion in the general population. However, the rates of Blacks in both studies are considerably higher than their proportion in the general population. Indices for Blacks in the 1999 study are notably higher than Blacks in the 1990 Study. Two additional comparisons are interesting. Notice that Whites or Others decrease in juvenile commitment and prison, while Blacks increase at the same points.

Figure 3. Index values of minority overrepresentation in Maryland: 1990-92 compared to 1999.



Local: Baltimore City

Table 7 presents the analysis of the status of over representation for Baltimore City youths. Over representation of Black males was reported in the 1990 Study, and the current study agrees with that finding. The Baltimore City findings are of interest because at the same time that Black males were experiencing an increase in their overrepresentation at every level in Baltimore City; other males in Baltimore City saw a decrease in their representation at every decision point. For example, intakes in Baltimore City have increased from the level of 1.78 reported in the 1990 Study to a level of 2.60 in the current study. At the same time, intakes decreased for other males in Baltimore City from a level of 1.02 to a level of .74.

Table 7: Race indices of juvenile and adult decision points for Baltimore City only males 11-18

	1990 Study Intakes	FY1999 Intakes	1990 Study Formalized	FY1999 Formalized	1990 Study Probation	FY1999 Probation	1990 Study Juvenile Detention	FY1999 Juvenile Detention
Baltimore City Males		N=4814		N=3593		N=1135		N=2096
Blacks	1.78	2.60	1.97	2.62	2.07	2.71	2.18	2.62
All Others	1.02	0.74	0.87	0.69	0.92	0.42	0.73	0.26

	1990 Study Residential Placement	FY1999 Residential Placement	1990 Study Secure Commitment	FY1999 Secure Commitment	FY1999 Probation & Parole	FY1999 Adult Detention	FY1999 Prison
Baltimore City Males		N=736		N=604	N=1135		N=192
Blacks	2.05	2.61	2.19	2.62	2.64	2.64	2.55
All Others	0.82	0.70	0.98	0.68	.63	0.61	.91

Conclusion

Overall, there exists overrepresentation at almost every decision point for Blacks and under-representation for all Others when examining both statewide and Baltimore City data. However, there are three differences between the statewide data and the Baltimore City data. First, the statewide disproportionate ratios are much higher because of the overall lower representation of Blacks in the general population. Second, there has been no decrease in the use of secure commitment in the Baltimore City data. Finally, the proportion of Black males going to prison in Baltimore City is less than those in commitment or residential placement.

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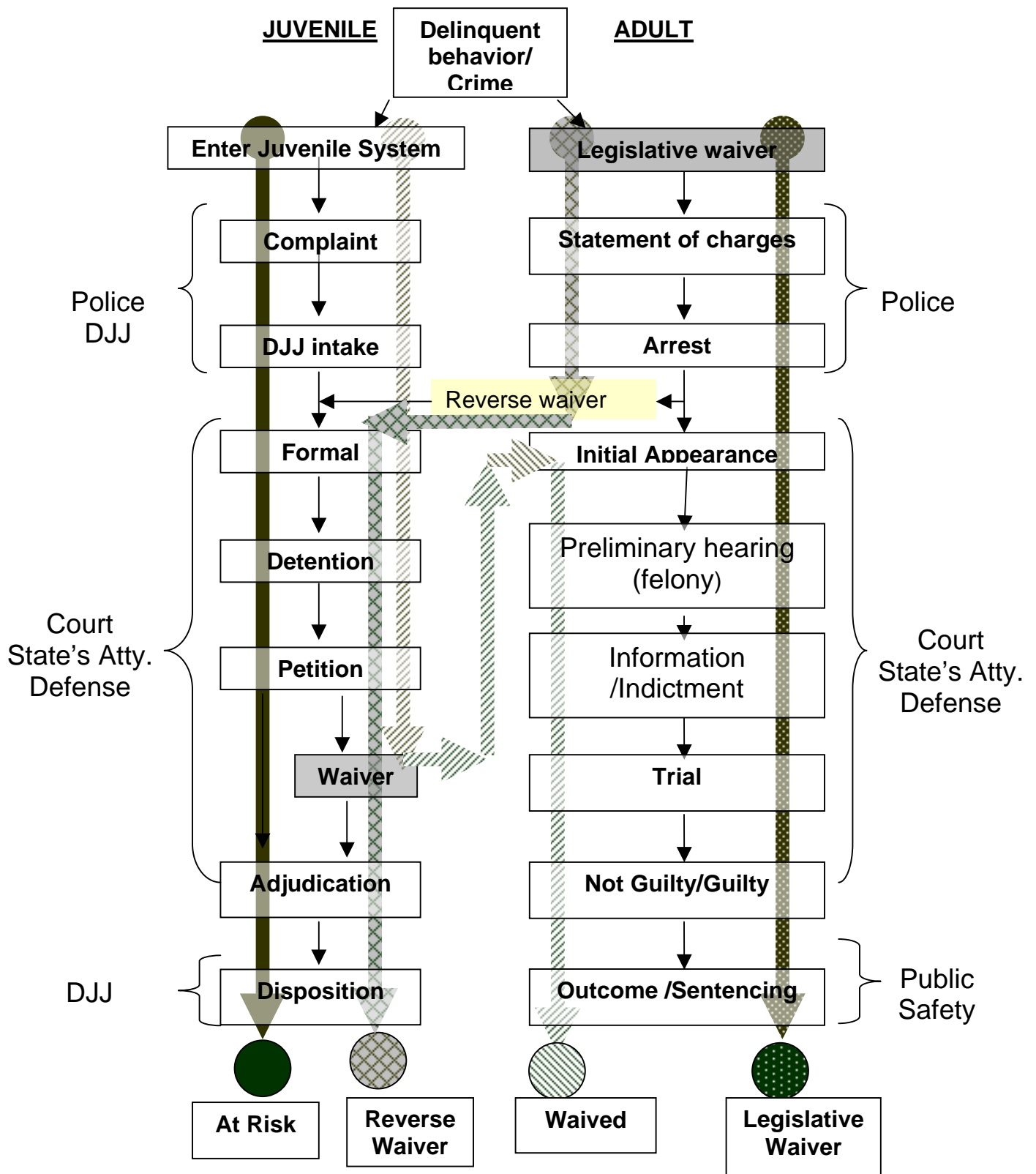
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Appendix A

Four pathways from offense to outcome.¹



¹ Figure 3.2 Four groups (pg. 3-7) (Smith, et al., 2000:3-7).

Appendix B

Missing Data

Data were collected on 28 variables for each of the 298 subjects in the sample for a possible 5364 values. Our data collection efforts produced 5143 values, or 95.9% of the total number of values sought. Of the 28 variables, 100% of the data were collected on 21 variables. The eight remaining variables ranged in missing values from 2 to 81 (.7 to 27.2%) of the 298 possible values. Missing techniques were used to approximate the values. Variables with missing values in excess of 10% should be used with caution (Davern, Blewett, Bershinsky, & Arnold, 2001).

Table B-1: Missing Data

Variable	Total Possible (n=298)	Present in Data Set	% missing
# Family Criminal History	298	298	
# Family Drug History	298	298	
Age at 1st Intake	298	298	
Age at Current Intake	298	298	
Criminal History Parent	298	298	
Current Offense	298	298	
Degree Parent Separation	298	295	1.0
Delinquent peers/siblings	298	298	
Drug History Parent	298	298	
Employed	298	298	
Family Size	298	237	20.5
Family Structure	298	217	27.2
First Offense	298	298	
Graduated or GED	298	269	9.7
Gun mentioned	298	298	
Male in Home	298	298	
Mental Health Issues	298	298	
Physical Health Issues	298	298	
Prior Intakes	298	298	
Process time for current intake to release	298	298	
Process time for first intake to release	298	298	
Race	298	298	
Residential Mobility	298	270	9.4
Rural – Urban	298	298	
Safety Risk (Group)	298	267	10.4
School Issues Mentioned	298	298	
SES	298	242	18.8
Size	298	296	0.7
Special Education	298	298	
TOTAL	8344	8053	3.5

Appendix C

Technical Discussion of Predictors

Two sets of models are developed: 1) variables measuring the five legislative criteria, and 2) variables measuring the five criteria and extra-legal variables as potential predictors. The predictor variables have been set to dichotomous variables with 1 equal to the existence of that characteristic. The legislative criteria are listed in Tables C- 1, 2, 7, & 8, while the predictor results of the extra-legal variables are listed in Tables 4, 5, 10 & 11.

Predictors for Waiver

Table C-1 lists the predictor variables and their respective means and standard deviations used to operationalize the five criteria for the 202 cases of waived and at risk youths in the sample.

Table C-1: Predictor variables operationalizing the five legislative criteria for waiver

Variables	Mean (or base rate when value = 1)	Standard Deviation	Minimum	Maximum
Age				
Age at current intake (1=17+)	.49	.501	0	1
Mental & physical condition				
Mental health issues mentioned (1=4 or more issues)	.67	.470	0	1
Physical health issues mentioned (1= 1 or more issues)	.33	.470	0	1
Degree of parent-child separation (1= none)	.09	.293	0	1
Degree of parent-child separation (1 = some)	.75	.436	0	1
Degree of parent-child separation (1 = serious)	.16	.366	0	1
Family structure (1= minimal or almost none)	.66	.475	0	1
Mention of adult male in the home (1= no male)	.51	.501	0	1
Amenability to treatment				
Number of prior offenses (1= priors)	.54	.500	0	1
Nature of offense				
Current offense category (1= person)	.27	.444	0	1
Current offense category (1= property)	.27	.444	0	1
Current offense category (1= drug)	.39	.488	0	1
Current offense category (1= weapon)	.04	.196	0	1
Current offense category (1= other)	.04	.196	0	1
Length of processing time for current offense (1=1/2 +)	.43	.496	0	1
Age at first intake (1=<13)	.14	.352	0	1
Public safety				
Residential mobility (1= no mobility)	.82	.384	0	1
Use of gun mentioned in any offense (1=yes)	.38	.486	0	1

Bivariate analysis resulted in three variables having a statistically significant association to the dependent variable: age at current offense ($\chi^2 = 6.322, .012$), age at first intake ($\chi^2 = 11.765, .001$), and prior offenses ($\chi^2 = 39.145, .000$). Although these are significant, they are weak associations. Multivariate analysis using logistic regression produced the results in Table C-2. The analysis develops a model consisting of two statistically significant independent variables (age at current intake & number of prior offenses) that change the odds of being waived from juvenile court to adult court. The odds ratio predicts the number of times a judge is more likely to make a decision to waive if the youth has that characteristic. For example, if a youth is over age 17 at the current offense, the odds of being waived is 2.003 times higher than if he is under age 17. If he has prior intakes, his odds are seven times higher to be waived as a youth without prior intakes. All other criteria are not statistically significant predictors.

Table C-2: Predictors of jurisdictional change of five legislative criteria

Variables	β coefficient	Standard Error	Wald significance	Odds Ratio
Age				
Age at current intake (1=17+)	.695	.330	.036	2.003
Amenability to treatment				
Number of prior offenses (1 = priors)	2.033	.336	.000	7.636
Nature of offense				
Current offense category (1 = weapon)	1.537	.865	.076	4.651
Constant:	-.944	.279	.001	.389

Based on the data collected to measure judicial decision-making, judges are waiving youths who are 17 or older at the current offense, have prior intakes, and whose current offense includes a weapon. Using operationalizations of the five legislative criteria produces an overall 73.8% accuracy in classifying the waiver group, with the prediction of youths waived being the best predicted (75.6%). (See Table C-3.)

Table C-3: Percent of correctly classified waiver groups

	Predicted At Risk	Predicted Waived	Percentage Correct
Observed at risk	56	23	70.9
Observed waived	30	93	75.6
Overall percentage			73.8

An additional analysis was conducted using extra-legal variables and the results are found in Table C-4, which lists the potential predictor variables, their respective means, and standard deviations for the 202 cases of waived and not waived youths in the sample. Bivariate analysis resulted in one variable having a weak, but statistically significant association to the dependent variable; size (height and weight) ($\chi^2 = 11.829$, .001).

Table C-4: Predictor variables not included in the five legislative criteria for waiver

Variables	Mean (or base rate when value = 1)	Standard Deviation	Minimum	Maximum
Community				
Urban (1=urban)	.63	.484	0	1
Education				
School problems (1 = school problems mentioned)	.61	.489	0	1
Graduated or GED (1 = not graduated)	.91	.286	0	1
Special education (1 = spl. ed. needs mentioned)	.49	.501	0	1
Peer				
Delinquent peers or siblings (1=delinquent)	.75	.436	0	1
Family				
Parental criminal history mentioned (1 = yes)	.32	.466	0	1
Parental drug history mentioned (1 = yes)	.44	.498	0	1
Family criminal history mentioned (1 = yes)	.41	.493	0	1
Family drug history mentioned (1 = yes)	.44	.498	0	1
Socioeconomic status (1 = low)	.31	.462	0	1
Family size (1 = large)	.27	.444	0	1
Individual				
Race (1 = Black)	.25	.433	0	1
Physical size (1 = large, adult)	.67	.470	0	1
Employment mentioned (1 = yes)	.15	.361	0	1

Multivariate analysis using logistic regression including variables measuring the legislative criteria and the additional variables resulted in the coefficients in Table C-5. The analysis develops a model consisting of six statistically significant independent variables that change the odds of being waived from juvenile court to adult court. All other criteria are not statistically significant predictors.

Table C-5: Predictors of jurisdictional change of the additional variables for waiver

	β coefficient	Standard Error	Wald significance	Odds Ratio
Community				
Urban (1=urban)	-1.052	.421	.012	.349
Education				
Graduated or GED (1= not graduated)	1.100	.655	.093	3.005
Family				
Parental drug history mentioned (1=yes)	-.824	.376	.028	.439
Individual				
Physical size (1=large, adult)	.736	.373	.048	2.088
From the 5 Legislative Criteria				
Age at current intake (1=17+)	.974	.362	.007	2.68
Age at 1 st intake (1=<13)	1.093	.691	.114	2.984
Family structure (1=minimal or almost none)	.721	.394	.067	2.056
Priors offenses (1=priors)	1.989	.400	.000	7.312
Current offense category (1=person)	.782	.419	.062	2.185
Current offense category (1=weapon)	2.275	.928	.014	9.732
Constant	-2.308	.775	.003	.099

Using the extralegal variables produces an overall 79.7% accuracy in classifying the waiver group, with the prediction of youths waived being the best predicted (84.6%). (See Table C-6.)

Table C-6: Percent of correctly classified waiver groups

	Predicted At Risk	Predicted Waived	Percentage Correct
Observed at risk	57	22	72.2
Observed waived	19	104	84.6
Overall percentage			79.7

Predictors for Reverse Waiver

Table C-7 lists the predictor variables and their respective means and standard deviations which were used to operationalize the five criteria for the 96 cases of reverse waived and legislatively waived youths in the sample.

Table C-7: Predictor variables operationalizing the five legislative criteria for reverse waiver

Variables N=96	Mean (or base rate when value = 1)	Standard Deviation	Minimum	Maximum
Age				
Age at current offense (1 = 17+)	.43	.497	0	1
Mental & physical condition				
Mental health issues mentioned (1 = 4 or more issues)	.52	.502	0	1
Physical health issues mentioned (1 = 1 or more issues)	.28	.45	0	1
Degree of parent-child separation (1 = none)	.15	.355	0	1
Degree of parent-child separation (1 = some)	.72	.452	0	1
Degree of parent-child separation (1 = serious)	.14	.344	0	1
Family structure (1 = minimal or almost none)	.58	.496	0	1
Mention of adult male in the home (1 = no male)	.51	.503	0	1
Amenability to treatment				
Number of prior offenses (1 = priors)	.21	.408	0	1
Nature of offense				
Current offense category (1 = person)	.67	.474	0	1
Current offense category (1 = property)	.04	.201	0	1
Current offense category (1 = drug)	.10	.307	0	1
Current offense category (1 = weapon)	.18	.384	0	1
Current offense category (1 = other)	.01	.102	0	1
Length of processing time for current offense (1 = 1/2 +)	.42	.496	0	1
Age at first offense (<13, 13-16, 17+)	.02	.144	0	1
Public safety				
Residential mobility (1 = mobile)	.79	.408	0	1
Use of gun mentioned in any offense (1 = yes)	.63	.487	0	1

Bivariate analysis resulted in two variables having a statistically significant association to the dependent variable: no separation from parents ($\chi^2 = 4.182, .041$), and family structure ($\chi^2 = 9.204, .002$). Although these are significant, they are weak associations. Multivariate analysis using logistic regression produced the results in Table C-8. The analysis develops a model consisting of only one statistically significant independent variable, family structure, that changes the odds of being reverse waived from adult court to juvenile court. All other criteria are not statistically significant predictors.

Table C-8: Predictors of jurisdictional change of five legislative criteria for reverse waiver

Variables	β coefficient	Standard Error	Wald significance	Odds Ratio
Mental & physical condition				
Degree of parent-child separation (1 = none)	1.157	.641	.071	3.181
Degree of parent-child separation (1 = some)	-1.404	.460	.002	.246
Nature of offense				
Age at first offense (1 = <13)*	8.509	25.923	.743	4957.345
Constant:	.097	.340	.775	1.102

* Only two occurrences and both reverse waived. Dropping them from the equation does not impact the analysis.

A decision to reverse waive a youth compared to those who are incarcerated at the adult level can be predicted if the youth has a strong family structure. Using these operationalizations produces an overall 68.8% accuracy in classifying the reverse waiver group. (See Table C-9.)

Table C-9: Percent of correctly classified waiver groups

	Predicted Legislatively waived	Predicted Reverse Waived	Percentage Correct
Observed legislatively waived	41	17	70.7
Observed reverse waived	13	25	65.8
Overall percentage			68.8

An additional analysis was conducted using the additional variables collected for this study and the results are found in Table C-10, which lists the potential predictor variables, their respective means, and standard deviations for the 96 cases of reverse waived and legislatively waived youths in the sample.

Table C-10: Predictor variables not included in the five legislative criteria for reverse waiver

Variables	Mean (or base rate when value = 1)	Standard Deviation	Minimum	Maximum
Community				
Urban (1 = urban)	.95	.223	0	1
Education				
School problems (1 = school problems mentioned)	.52	.502	0	1
Graduated or GED (1 = not graduated)	.95	.223	0	1
Special education mentioned (1 = special education needs mentioned)	.39	.489	0	1
Peer				
Delinquent peers or siblings (1 = delinquent)	.66	.477	0	1
Family				
Parental criminal history mentioned (1 = yes)	.19	.392	0	1
Parental drug history mentioned (1 = yes)	.25	.435	0	1
Family criminal history mentioned (1 = yes)	.29	.457	0	1
Family drug history mentioned (1 = yes)	.30	.462	0	1
Socioeconomic status (1 = low)	.72	.452	0	1
Family size (1 = large)	.36	.484	0	1
Individual				
Race (1 = Black)	.19	.586	0	1
Physical size (1 = large, adult)	.82	.384	0	1
Employment mentioned (1 = yes)	.28	.452	0	1

Bivariate analysis resulted in three variables having a statistically significant association to the dependent variable: mention of family drug history ($\chi^2 = 4.222, .040$), socioeconomic status ($\chi^2 = 14.889, .000$), and mention of employment ($\chi^2 = 14.889$). Multivariate analysis using logistic regression produced the results in Table C-11. The analysis develops a model consisting of four statistically significant independent variables that change the odds of being reverse waived from adult court to juvenile court. All other criteria are not statistically significant predictors.

Table C-11: Predictors of jurisdictional change of the additional variables for reverse waiver

	β coefficient	Standard Error	Wald significance	Odds Ratio
Peer				
Delinquent peers or siblings (1 = delinquent)	1.188	.691	.085	3.281
Family				
Parental drug history mentioned (1 = yes)	1.700	.679	.012	5.476
Socioeconomic status (1 = low)	-2.540	.694	.000	.079
Individual				
Physical size (1 = large, adult)	-1.212	.706	.086	.298
Employment mentioned (1 = yes)	1.527	.604	.012	4.602
From the 5 Legislative Criteria				
Age at 1 st intake (1 = <13)	8.973	21.527	.677	7885.892
Physical health issues mentioned (1 = 1 or more issues)	-1.439	.671	.032	.237

Appendix C: 7

When including the additional variables with the five criteria, we can predict a reverse waiver if the youth has a medium or high socioeconomic status (SES), if employment is mentioned, does not have any mention of physical health issues, and his parent(s) has a noted drug history. Every youth in the sample with high SES was reverse waived. Using the additional variables produces an overall 81.3% accuracy in classifying the reverse waiver group, with the prediction of youths legislatively waived being the best predicted (89.7%). (See Table C-12.)

Table C-12: Percent of correctly classified waiver groups for reverse waived and legislatively waived

	Predicted Legislatively waived	Predicted Reverse Waived	Percentage Correct
Observed legislatively waived	52	6	89.7
Observed reverse waived	12	26	68.4
Overall percentage			81.3

Appendix D

Profiles

A profile was created from the data collected for each of the four waiver groups. Within each group, subgroups were identified using the following steps for cluster analysis:

1. Standardize all variables using z scores to prevent large means from skewing the results.
2. Develop clusters using two, three, and four clusters.
3. Examine F statistics to determine which variables were demonstrative of the clusters. The cluster process was recomputed using these driving variables.
4. Analyze the three clusters (2, 3, & 4) to determine the differences. For example, not waived youths clustered with 51 and 28, respectively, in each cluster for the 2-group cluster. For the 3-group cluster, the 28 remained in a cluster and the 51 was split into two clusters of 50 and 1. The 4-group cluster included the 50 and 1 clusters, but further divided the 28 into 21 and 7 cluster counts. A decision was made to use the two cluster group because it was not logical to have a group of one and the differences between 21 and 7 were not great.

Each waiver group was analyzed similarly.

The following tables present first the general homogeneous characteristics in five domains (e.g., community, school, peer, family and individual) (See Tables D 1, 3, 5, 7). The subgroup or cluster characteristics are listed in the respective table immediately following the homogeneous characteristics (See Tables D 2, 4, 6, 8).

Table D-1: Profile of *at risk* youths (n=85)

Characteristics	%
Community	
Residential mobility (born in Maryland and live in Maryland)	17.7
School- no homogeneity	
Peer – no homogeneity	
Family	
Degree of parent-child separation (intact 2-parent)	12.7
Mention of adult male in the home	46.8
Socio-economic status (medium or high)	34.2
Family structure (adequate or good)	39.2
Family size (4 or less)	69.6
Individual	
Race (Black)	70.9
Size (small or medium)	46.8
Employment mentioned	16.5
No physical health issues mentioned	70.9
Few mental health issues mentioned (0-3)	32.9
Offense	
No mention of gun in any offense	68.4
First offense	
Person	29.1
Property	35.4
Drug	27.8
Weapon	3.8
Other	3.8
Current offense	
Person	26.6
Property	31.6
Drug	34.2
Weapon	2.5
Other	5.1
No priors	73.4
Age at 1 st intake (13 or more)	96.2
Process time for current intake to release (1 year or less)	75.9

Table D-2: Variables that cluster for *at risk* youths

At risk youths are relatively heterogeneous. Cluster results indicate they can be grouped in only 11 of 29 categories within the 5 domains.

	Cluster 1 n=21 %	Cluster 2 n=41 %	Cluster 3 n=17 %
Community			
Urban	38.1	14.6	70.6
School			
School issues mentioned	90.5	90.2	47.1
Graduated or GED	0	2.4	41.2
No mention of special education	28.6	48.8	100
Peers			
No delinquent peers or siblings indicated	4.8	21.9	64.7
Family			
No parental criminal history mentioned	14.3	85.4	100
No parental drug history mentioned	4.8	56.1	94.1
No extended family criminal history mentioned	0	73.2	100
No extended family drug history mentioned	3.8	63.4	88.2
Offense			
Age at current intake (under 17)	90.5	56.1	94.1
Process time for 1 st intake to release (1 year or less)	90.4	58.5	94.1

Table D-3: Profile of reverse waived youths (n=38)

Characteristics	%
Community	
Urban (Live within Baltimore City or Baltimore – Washington Corridor)	94.7
Residential mobility (born in Maryland and live in Maryland)	15.8
School	
Graduated or GED	5.3
Special education not mentioned	65.8
Peer– no homogeneity	
Family	
Mention of adult male in the home	55.3
Socio-economic status (medium or high)	50.0
Family structure (adequate or good)	60.5
Family size (4 or less)	57.9
Individual	
Race (Black)	86.8
Size (small or medium)	26.3
Employment mentioned	50.0
No physical health issues mentioned	76.3
Few mental health issues mentioned (0-3)	50.0
Offense	
No mentioned of gun in any offense	28.9
First offense	
Person	55.3
Property	10.5
Drug	10.5
Weapon	23.7
Other	
Current offense	
Person	60.5
Property	2.6
Drug	13.6
Weapon	21.2
Other	2.6
No priors	78.9
Age at 1 st intake (13 or more)	94.7
Age at current intake (under 17)	52.6
Process time for 1 st intake to release (1 year or less)	73.7
Process time for current intake to release (1 year or less)	81.6

Table D-4: Variables that cluster for reverse waived youths

Reverse waived youths are relatively heterogeneous. Cluster results indicate they can be grouped in only 7 of 29 categories within the 5 domains.

	Cluster 1 n=20 %	Cluster 2 n=18 %
School		
No indication of school problems	30.0	77.8
Peer		
No delinquent peers or siblings indicated	45.0	5.6
Family		
Degree of parent-child separation (intact 2-parent)	45.0	0
No parental criminal history mentioned	100	45.5
No parental drug history mentioned	90.0	38.9
No extended family criminal history mentioned	95.0	22.3
No extended family drug history mentioned	90.0	22.3

Table D-5: Profile of waived youths (n=123)

Characteristics	%
Community	
Urban (Live within Baltimore City or Baltimore – Washington Corridor)	60.2
Residential mobility (born in Maryland and live in Maryland)	17.9
School	
No indication of school problems	17.1
Graduated or GED	8.1
No mention of special education	49.6
Peer – no homogeneity	
Family	
Degree of parent-child separation (intact 2-parent)	7.3
Indication of adult male in the home	49.6
Socio-economic status (medium or high)	28.4
Family structure (adequate or good)	30.9
Family size (4 or less)	75.6
Individual	
Race (Black)	78.0
Size (small or medium)	23.6
Employment mentioned	14.6
No physical health issues mentioned	65.0
Offense	
No mention of gun in any offense	58.5
First offense	
Person	43.1
Property	24.4
Drug	22.0
Weapon	6.5
Other	4.1
Current offense	
Person	26.8
Property	23.6
Drug	41.5
Weapon	4.9
Other	3.3
Age at current intake (under 17)	43.9

Table D-6: Variables that cluster for *waived* youths

Waived youths are relatively heterogeneous. Cluster results indicate they can be grouped in only 10 of 29 categories within the 5 domains.

	Cluster 1 n=5* %	Cluster 2 n=35 %	Cluster 3 n=21 %	Cluster 4 n=62 %
Peers				
No delinquent peers or siblings indicated	0	5.7	4.8	43.6
Family				
No parental criminal history mentioned	60	77.2	14.3	80.6
No parental drug history mentioned	20	68.6	14.3	72.6
No extended family criminal history mentioned	40	65.7	0	75.8
No extended family drug history mentioned	20	65.7	9.5	74.2
Individual				
Few mental health issues mentioned (0-3)	0	17.1	4.7	53.2
Offense				
No priors	100	0	23.8	90.3
Age at 1 st intake (13 or more)	80	14.3	42.9	95.2
Process time for 1 st intake to release (1 year or less)	20	62.8	80.9	91.9
Process time for current intake to release (1 year or less)	20	82.8	76.2	96.8

*Small n, results are not reliable.

Table D-7: Profile of *legislatively waived* youths (n=58)

	%
Highlight indicates distinct clusters within these groups.	
Community	
Urban (Live within Baltimore City or Baltimore – Washington Corridor)	94.8
Residential mobility (born in Maryland and live in Maryland)	24.1
School	
Graduated or GED	5.2
No mention of special education	58.6
Peers	
No delinquent peers or siblings indicated	39.7
Family	
Degree of parent-child separation (intact 2-parent)	8.6
No parental criminal history mentioned	86.2
Socio-economic status (medium or high)	13.8
Family structure (adequate or good)	29.3
Individual	
Race (Black)	93.1
Size (small or medium)	12.1
Employment mentioned	13.8
Offense	
No gun in any offense	43.1
First offense	
Person	67.2
Property	10.3
Drug	8.6
Weapon	13.8
Current offense	
Person	70.7
Property	5.2
Drug	8.6
Weapon	15.5
No priors	79.3
Age at 1 st intake (13 or more)	100
Age at current intake (under 17)	60.3
Process time for 1 st intake to release (1 year or less)	98.3
Process time for current intake to release (1 year or less)	96.6

Table D-8: Variables that cluster for *legislatively waived* youths

Legislatively waived youths are relatively heterogeneous. Cluster results indicate they can be grouped in only 8 of 29 categories within the 5 domains.

	Cluster 1 % n=39	Cluster 2 % n=19
School		
No mention of school problems	23.1	89.4
Family		
No parental drug history mentioned	100	42.1
No extended family criminal history mentioned	92.3	47.4
No extended family drug history mentioned	100	31.6
Mention of adult Male in Home	30.8	73.7
Family size (4 or less)	76.9	47.4
Individual		
No physical health issues mentioned	92.3	21.1
Few mental health issues mentioned (0-3)	61.6	15.8