

Chapter 13

Benefits to Juvenile Court (JC)

ABSTRACT

Chapter 13 details how transfer to criminal court (CC) benefits juvenile courts (JCs). The first benefit deals with JCs' maintaining a positive public image (and acceptance). Simply put, transfer allows JC to avoid claims of being a never-ending-revolving-door for juvenile offenders or a place where juveniles get away with murder. Unlike CCs, JCs need that positive image because they are not indispensable. As important, transfer helps JCs' operation by preventing them from becoming even more punitive (and criminalized), which would likely require an increase in the rights afforded to defendants. Transfer also helps the image of rehabilitation, critical to the preservation of JCs; it allows rehabilitation (a reward of sorts) to be denied to rapists and murderers (among others). Rehabilitation's operation is also benefitted by not losing resources that would be spent for increased rights in JC, and by not having violent and chronic offenders clogging up facilities and compromising the treatment of salvageable youths.

INTRODUCTION

The first benefactor is JC whose image and rehabilitation mission are aided by transfer.

Part 1: Helping the JC's Image and Operation

a) Transfer Aids the Public's Perception and Societal Acceptance

Preserving the JC's image is no small measure or mission. Transfer helps JCs to better maintain their commitment to the BI of the youth, and to project that commitment credibly to the community. Transfer allows JCs to avoid criticism for not prioritizing society's/the victim's best interests (BI) since only *relatively* non-chronic/violent offenders are prosecuted there. The public can perceive that JCs are all about helping kids; rehabilitation is given a real and meaningful chance. JCs are not forced to severely punish juvenile offenders since transfer removes most that deserve that outcome. Transfer communicates to the public that society's interests are considered and influence the prosecution of some chronic/violent offenders via transfer. Transfer promotes JC's credibility that it can exist with its mission (a

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system that attempts to help *most* offenders and serves as a CC diversion project) without demanding unrealistic, unnecessary, extreme and dangerous sacrifices from the public for its safety. Transfer makes it palatable that JCs should be and can afford to be helping children and most adolescents more than protecting society, per se, that it can and should address juvenile delinquency and not youthful chronic and wanton criminality.

Transfer also enables offenders to retain a positive attitude towards JC. Bishop has found that offenders processed in JC regard it fondly, compared to transfers who dislike just about everything in CC. This makes sense since JC is mostly about relatively benign treatment of juveniles, while CC is not. As Bishop (2000) pointed out, JCs are nicer, more concerned about their clientele, and offer better rehabilitation programs compared to CCs (pp. 136-137). Transfer brings about some nasty realities of punishment and reactions to chronic and violent crime. What is not acknowledged by the ATC is that transfer is what allows JCs to remain mostly faithful to their original design, and that the removal of the bad eggs helps JCs to do their rehabilitation job.

Transfer for the truly criminal juvenile offender allows for the *condemnation* of that behavior to occur in its proper forum; JC does not have to condemn its population. Fagan and Zimring were disturbed that JCs abandoned their non-blameworthy perception of juveniles not long after JCs were launched, but are willing now to force JCs to process the most blameworthy juveniles. Similarly, as then pro-transfer Feld (1987) noted 36 years ago, transfer supports and reaffirms fundamental norms. JCs should be spared mostly from having to fulfill this task.

Besides providing solace that juveniles will not get away with murder, etc. (see Welch, Butler, & Gertz, 2019, p. 474), transfer makes the pursuit of juveniles' BI more likely and more palatable. Total retention would make pursuit of a juveniles' BI-only policy more problematic, more dangerous, and less credible. It seems disingenuous to argue that the BI of brutal juvenile rapists and wanton juvenile murderers should be paramount, anywhere! To contend that JCs will commit to juveniles' BI (and to only this) in this context strains credibility. Transfer allows JCs to better retain community support and confidence that JCs are doing the right things by offenders (i.e., mostly treatment or only minimum punishment), while allaying fears that JCs are threatening the safety of the community by adhering to this approach since "bad kids" are transferred to CC.

Unlike indispensable CCs, JCs mostly persist at the sufferance and deference of the legislature (and society). At any time, a state legislature can severely modify or even abolish JC. Cases unwisely and unnecessarily kept in JC (e.g., heinous rape/murder charges) and/or blatant treatment failures (e.g., a chronic violent offender who commits yet another highly publicized violent crime despite several previous JC rehabilitation efforts) can put JC's remaining intact, or surviving, in jeopardy. Comparable failures in the CJ system can and have led to modifications (e.g., all those new laws named after victims failed by the system), but the survival of the court, itself, has never been seriously challenged. A lack of viable alternatives prevents the destruction of CC. Since CCs are a viable Plan B should JCs be abolished, and surely not the reverse, the latter do not enjoy invincibility.

This was recognized as early as a century ago when JCs were almost brand new:

In the 1920s and 1930s, the charge that juvenile courts coddled criminals was a much greater threat to the legitimacy of these courts than scattered procedural critiques by academics and judges. The "soft on crime" argument was dangerous because it threatened devastating political consequences... (Tanenhaus, 2000, p. 27).

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