



Transfer and Certification of Juveniles

Holly Boyle, Policy Analyst

April 5, 2011

Overview



- Study Authorization
- Methodology
- Background
- Virginia Code
- Adolescent Brain Development
- Juvenile Data
- 2011 Legislative Session

Study Authorization



- HJR 136 (2006) and HJR 113 (2008), introduced by Del. Moran, directed the Crime Commission to conduct a study of Virginia's juvenile justice system.
- Crime Commission members extended the study in December 2008 and again in December 2009 to specifically focus on the many issues identified regarding the transfer and certification of juveniles.

Methodology



- Conducted national and state literature review.
- 50 state survey on transfer laws and pending legislation.
- Gathered relevant juvenile statistics.
- Extensive research on adolescent brain development.
- Met with juvenile justice professionals.
- Attended statewide juvenile justice meetings, conferences, and trainings.
- Observed JDR Court proceedings.
- Surveyed professionals in the juvenile justice field.
- Collected and analyzed data from DJJ, VCSC, and Supreme Court.

Background



- Virginia's transfer statutes were amended in the mid-1990's:
 - Reduced eligible age for transfer from JDR to Circuit Court from 15 to 14 years old;
 - Provided a distinction between automatic transfer and discretionary transfer eligible crimes;
 - Expanded list of criteria to be considered before a transfer pursuant to subsection A; and,
 - Replaced judicial discretion with prosecutorial discretion for 12 crimes under the new subsection C.



Virginia's Transfer and Certification Statute, § 16.1-269.1

Subsection A: Transfer hearing is held to determine whether it is proper for the juvenile to remain in JDR court. The court considers:

- age,
- seriousness of offense,
- prior juvenile proceedings and adjudications,
- prior criminal proceedings,
- use of weapon,
- ancillary charges,
- whether the juvenile system would be rehabilitative,
- physical injury to victim,
- availability of alternatives,
- past history with juvenile correction center,
- mental health,
- school records/educational history; and,
- physical and emotional condition and maturity.



Virginia's Transfer and Certification Statute, § 16.1-269.1

Subsection B: Automatic transfer - murder and aggravated malicious wounding.

Subsection C: Prosecutorial discretion for 12 crimes - felony homicide, felonious injury by mob, abduction, malicious wounding, malicious wounding law enforcement officer, felonious poisoning, adulteration of products, robbery, carjacking, rape, forcible sodomy, and object sexual penetration.

Adolescent Brain Development



- Research shows that adolescent brains are constantly changing, with some adolescents not reaching full development until they have reached their mid-twenties.
- The prefrontal cortex, or the executive control, is the seat of reasoning and the last region of the brain to reach structural maturity.
- Juveniles' biological maturation of the brain is what controls their moral reasoning, judgment, impulse control, planning, character, and behavior.

Juvenile Data

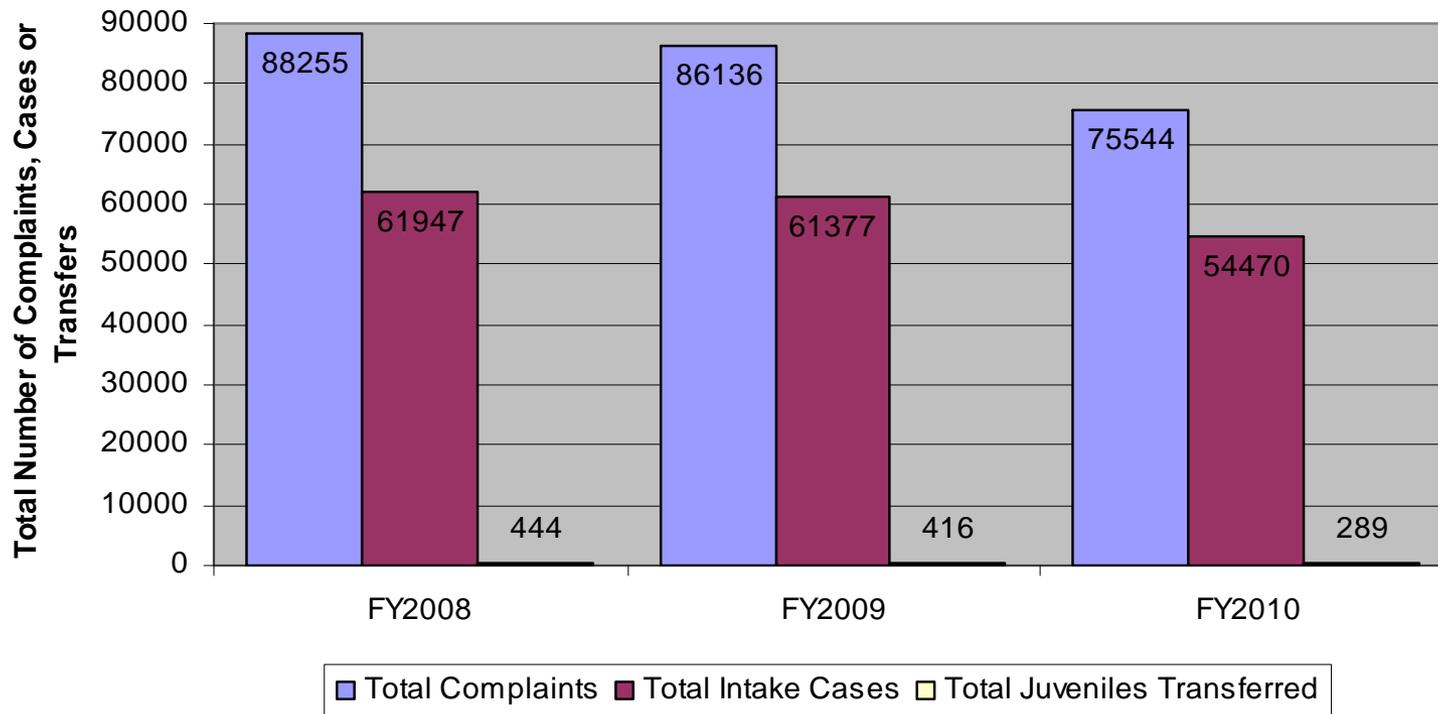


- There continues to be significant data limitations. For example:
 - Multiple data sources (DJJ, VCSC, and the Supreme Court of Virginia);
 - Unknown number of juveniles considered for transfer by subsection;
 - Unknown number of juveniles convicted in Circuit Court by subsection;
 - Data coding limitations; and,
 - Access to juvenile data.

Juvenile Data



Total Number of Juvenile Complaints, Intake Cases, and Transfers, FY2008-FY2010



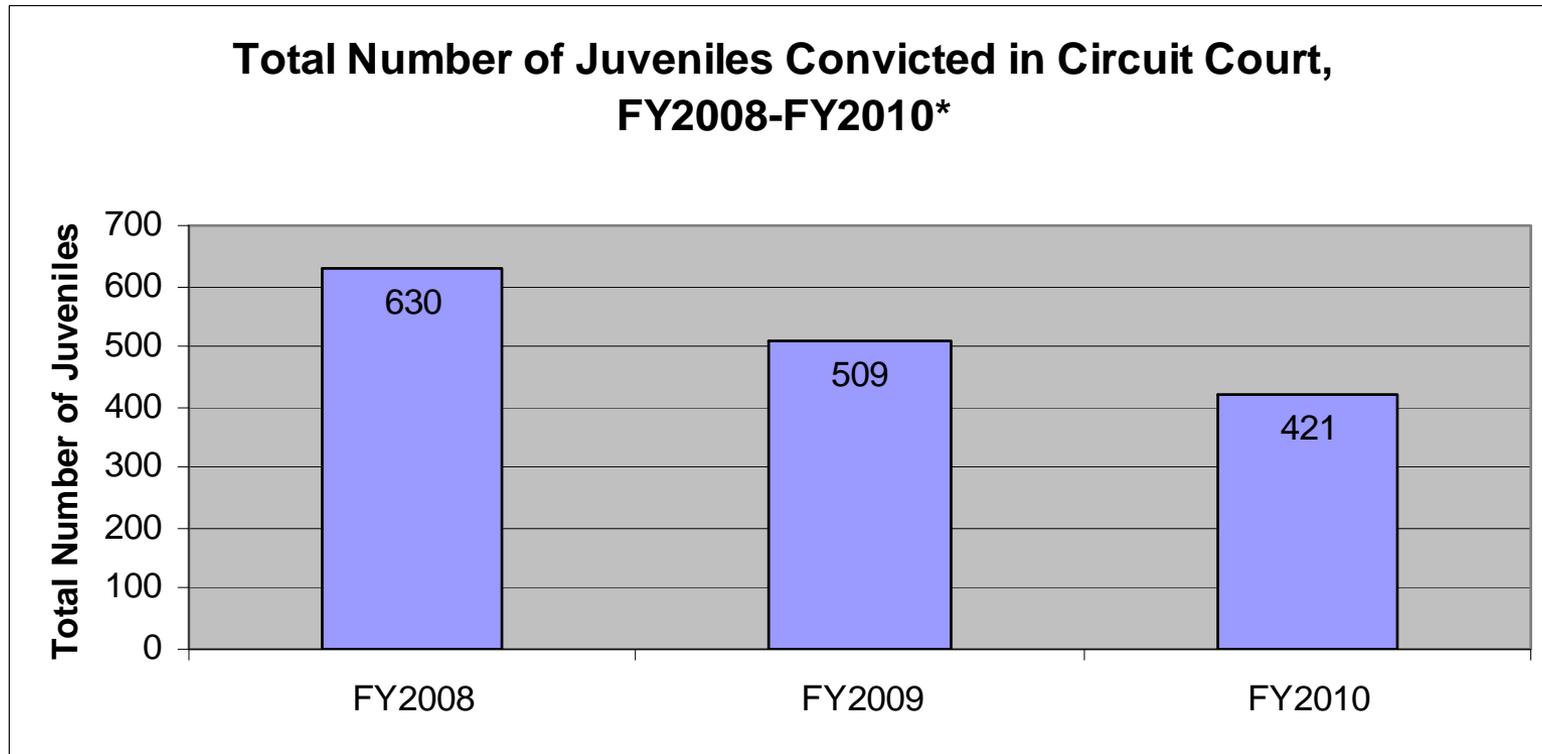
Sources: Total Number of Juvenile Complaints and Intake Cases, Virginia Department of Juvenile Justice; Total Number of Juvenile Transfers, Supreme Court of Virginia- Juvenile Case Management System

Juvenile Data



- Transfer reports account for the number of juveniles considered for transfer under subsection A.
 - FY08:227
 - FY09:220
 - FY10:155
- Transfer reports are not completed for subsection B and C transfers.

Juvenile Data



Source: Virginia Criminal Sentencing Commission

Note: These figures include first-time convictions of juveniles in Circuit Court, as well as juveniles who have previously been convicted in Circuit Court. *Data for FY10 is preliminary.

Juvenile Data



Juveniles Convicted in Circuit Court by Most Serious Offense, FY2008 - FY2010*

Type of Offense	Number	Percent
Robbery	624	40%
Assault	236	15%
Larceny/Fraud	154	10%
Burglary Dwelling	96	6%
Murder/Manslaughter	88	6%
Drug Schedule I/II	88	6%
Rape/For. Sodomy/Obj. Pen.	80	5%
Miscellaneous/Other	51	3%
Other Sex Offense	35	2%
Weapon	35	2%
Burglary Other	28	2%
Kidnapping	18	1%
Traffic	14	1%
Drug Other	13	1%
TOTAL	1,560	100%

Source: Virginia Criminal Sentencing Commission

*Data for FY10 is preliminary

2011 Legislative Session



- Crime Commission endorsed SB 914, which sought to add new offenses for which a juvenile is eligible for transfer under subsections B or C.
- The bill was passed by indefinitely in Senate Courts of Justice.

2011 Legislative Session



- Crime Commission endorsed SB 948, which would allow a judge the ability to give a transferred juvenile a “delinquent” finding in circuit court.
- The “delinquent” finding could only be given after successful completion of supervised probation.
- The bill was left in the House Courts of Justice.



Holly Boyle

Policy Analyst

Virginia State Crime Commission

hboyle@vscc.virginia.gov

(804) 371-4335
