

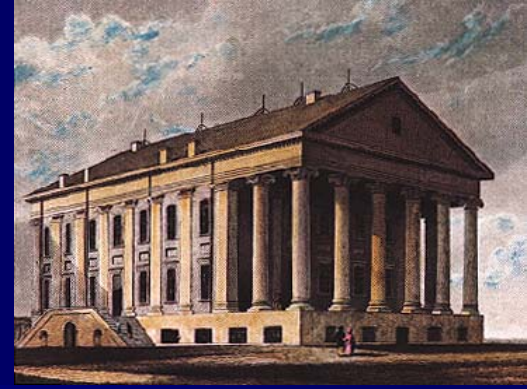


Virginia State Crime Commission

Transfer & Certification of Juveniles

December 15, 2009

Overview



- Virginia's Transfer and Certification Statute
- Transfer/Certification Data and Limitations
- Commonwealth's Attorney & Public Defender Survey
- Conclusion

Virginia Code



- **Virginia's transfer and certification statute (§ 16.1-269.1):**
 - A. Judicial review – 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, extent of physical injury to victim, presence of ancillary charges, whether the juvenile system would be rehabilitative, availability of alternatives, past history with juvenile correction center, mental health, school records/educational history, and physical and emotional condition and maturity;
 - B. Automatic transfer – murder and aggravated malicious wounding;
 - C. Prosecutorial discretion - 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.

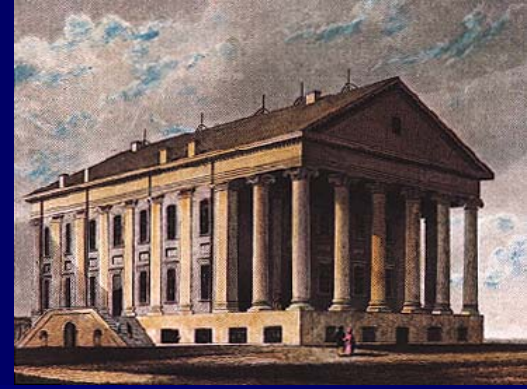
Transfer/Certification Data and Limitations



- Transfer reports account for the number of juveniles *considered* for transfer under subsection A:
 - FY2006: 300
 - FY2007: 257
 - FY2008: 222

- Transfer reports are not completed for transfers made under subsections B or C, therefore no data is available on the number of juveniles considered for transfer under these subsections.

Transfer/Certification Data and Limitations



- The Sentencing Commission can provide data regarding the number of juveniles who are transferred and convicted in Circuit Court.
 - FY2006: 532
 - FY2007: 678
 - FY2008: 697
- The Sentencing Commission is unable to provide figures regarding the number of juveniles who were transferred, but not convicted.

Transfer/Certification Data and Limitations



- The Sentencing Commission has determined that it is not receiving sentencing guidelines forms for all juveniles convicted in Circuit Court.
 - By statute, guidelines apply in these cases (§ 19.2-298.01).
- The Sentencing Commission has supplemented the guidelines data with information from:
 - Department of Juvenile Justice;
 - Department of Corrections;
 - Supreme Court;
 - Pre-Sentence Investigation reports; and,
 - Local and regional jails.
- The Sentencing Commission doesn't have access to the Supreme Court's JDR court case database, which limits their ability to obtain data.

Transfer/Certification Data and Limitations



- Beginning July 1, 2009, the Supreme Court started keeping track of the number of transfers for each of the three subsections.
- The Supreme Court should have this data available by March 2010.

Survey Data



- Commonwealth's Attorneys' survey response rate of 46% (55 of 120).

- Information requested regarding juveniles who were transferred under § 16.1-269.1(C) included:
 - Number of notices of intent to certify;
 - Number of plea agreements made; and,
 - Number of juveniles actually certified.

Survey Data



- Public Defender's survey response rate of 68% (17 of 25).
- Information requested regarding juveniles who were transferred under § 16.1-269.1(C) included:
 - Number of juvenile clients who received an intent to certify;
 - Number of plea agreements accepted; and,
 - Number of juvenile clients actually certified.

Conclusion



- More data is needed to determine whether or not transfer is effective, specifically,
 - Deterrence to crime;
 - Reducing recidivism rates; and,
 - Sentencing outcomes.
- Additionally, data needs to capture the total number of juveniles who are considered for transfer, as well as those who are transferred and not convicted.

Discussion