

# **Incapacitating the Innocent:**

## **An Investigation of Legal and Extralegal Factors Associated with the Preadjudicatory Detention of Juveniles**

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*Incapacitating the Innocent:  
An Investigation of Legal and Extralegal Factors Associated  
with the Preadjudicatory Detention of Juveniles*

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## ABSTRACT

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The purpose of this study was to identify the factors associated with the utilization of preadjudicatory detention among juveniles in the United States. Specifically, this study identified: (a) the philosophical basis associated with the utilization of the preadjudicatory detention of juveniles, (b) the legal origins of the preadjudicatory detention of juveniles, (c) a number of theoretical perspectives associated with the use of preadjudicatory detention of juveniles, and (d) whether legal (i.e., prior record, offense, etc.) or extralegal factors (i.e., race, gender, etc.) were associated with the detention of juveniles in the juvenile justice system.

The study utilized a quantitative method design in which secondary data were employed. A total of 7,135 juveniles were analyzed from secondary data gathered by the United States Department of Justice, Bureau of Justice Statistics in 1998. Various types of statistical analysis (bivariate cross-tabulation, binary logistic regression) provided clarification and differentiation concerning factors associated with the preadjudicatory detention of juveniles.

With respect to extralegal factors, the results from this study indicate that race was associated with the detention of juveniles. Specifically, African American juveniles were likely to experience preadjudicatory detention. The results also reveal that certain legal factors were associated with the preadjudicatory detention of juveniles. For instance, a juvenile's relationship with the juvenile court at the time of intake and the juvenile's prior arrest record were associated with preadjudicatory detention. In addition, the juvenile's total number of charges as well as the specific charges of burglary, robbery and assault were associated with the preadjudicatory detention of the juvenile. This study underscores the need for creating and developing objective assessment tools during the intake process for juveniles. Future investigative studies should include the attitudes of certain legal practitioners and the use of qualitative data when researching juvenile court decisions.

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This dissertation was the result of utilizing data from a database available through the Inter-university Consortium for Political Science and Research (ICSPR) and was the product of the Bureau of Justice Statistics. Neither the original collectors of the data or the ICSPR bear any responsibility regarding the use of those data, nor for any inferences or interpretations within this study.

United States Dept. of Justice, Bureau of Justice Statistics (2003). Juvenile Defendants in Criminal Courts (JDCC): Survey of 40 Counties in the United States, 1998 [Computer file]. Conducted by Preadjudicatory Services Resource Center, ICPSR ed. Ann Arbor, MI: Inter-university Consortium for Political and Social Research [producer and distributor].

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## CHAPTER I

### INTRODUCTION

The juvenile justice and court system has experienced a considerable amount of change in comparison to its original existence during the late 19<sup>th</sup> century. Unlike the fundamental beliefs associated with rehabilitation and treatment, research suggests that the system appears to be increasingly retributive (Feld, 2003). This ideological shift is evident within many of the changes in policies and procedures within the juvenile justice and court system, especially within the initial stages commonly referred to as juvenile preadjudicatory detention.

Preadjudicatory detention is a measure utilized within the juvenile justice system that is intended to keep the accused in custody prior to adjudication. It is used with individuals who are suspected of being a danger to themselves or a danger to others. It is also used with the possibility that additional violations may occur in the event the juvenile is released prior to adjudication. Despite its regulatory function, as stated by the Supreme Court, studies indicate that preadjudicatory detention is far too often used as a means of placing juveniles in detention who do not present a danger to themselves or the community (Coalition for Juvenile Justice, 2003).

Research reveals that between 1987 and 1996 over 70% of juveniles in detention centers were detained for nonviolent offenses (i.e., property, drug, etc.) with more than half of the juveniles detained under the age of 15. Between 1985 and 2002, the number of

juvenile cases which resulted in detention increased from 234,600 to 329,800, an increase of 42% (Snyder & Sickmund, 1999; 2006).

When considering the impact of various juvenile demographics, cases involving the detention of females increased by nearly 60%, cases involving males increased by 35% in 1999. In terms of race, the number of African American juveniles was detained at a higher rate than the relative increase of the delinquency cases. In addition, African American juveniles in 1996 were twice as likely to experience juvenile detention when compared to Whites and juveniles of another race (Snyder & Sickmund, 1999). Between 1985 and 2002, males were more likely to experience detention at a rate of 22% to 17% when compared to females. The number of African American juveniles who experienced detention increased at a rate of 64%. In 2002, African American juveniles were detained at 25%, Whites at 18% and those of a different race at 21%. Delinquency cases with respect to juveniles age 16 and older had a higher probability of experiencing detention when compared to juveniles age 15 or younger (Snyder & Sickmund, 2006).

In addition to demographics, studies reveal that juvenile detention facilities often fail to provide certain fundamental needs to ensure the overall well-being of juveniles. This includes educational and vocational training, adequate housing and recreational opportunities, as well as health and psychological assessment measures (Stohs, 2003; Teplin et al, 2005). Research also indicates that juveniles within detention centers are exposed to overcrowded conditions which may lead to physical violence. In addition, the potential for types of abuse may occur as a result of being unconstitutionally confined with adult offenders (Sickmund, 2002; Vandervort & Ladd, 2001). Further, juveniles who

experience preadjudicatory detention are likely to receive more severe treatment (i.e., longer sentences, etc.) within subsequent phases of the juvenile and criminal justice system, are more inclined to experience recidivism, and they are more inclined to engage in suicidal behavior during confinement (Bishop & Frazier, 1988, 1992, 1996; Wiebush et al., 2005; Liebling, 1993). Such research findings imply that the current trend of detaining juveniles is detrimental to their well-being. The increasing use of juvenile detention seems to contradict the original purpose supporting the creation of a distinct juvenile justice system; which was the charitable and individualized treatment of the juvenile offender (Krisburg & Austin, 1978).

In order to gain perspective regarding the changing philosophy in which juvenile preadjudicatory detention is more commonly utilized, a thorough historical analysis of the development of the juvenile justice and court system is needed. This analysis will explore those events (i.e., social, legal, etc.) that stimulated change with respect to the assumptions associated with juvenile behavior and how the juvenile justice and court system should address delinquency.

#### *The Origins of the Justice and Court System for Juveniles*

Unlike the adult criminal justice system and its processes, the juvenile system is an arrangement of interrelated social services and criminal justice agencies intended to deal with and care for juveniles. Prior to the formulation of a separate justice and court system in 1899, juvenile justice treatment has and continues to develop according to various legal, historical, and economic contexts (Taylor et al., 2007).

### *From Rehabilitation to Refuge*

The idea of rehabilitation for juveniles who engaged in delinquency stems from a religious group known as the Puritans. The Puritans, a religious group, promoted the belief that faith, education and hard work would result in an intimate relationship with God. These ideas were exemplified in early juvenile and adult penal institutions in America (Taylor et al., 2007). The creation of the Society for Alleviating the Miseries of Public Prisons serves as example of the Puritans interest in the plight of those who were confined as result of breaking the law. This society, which was created in 1787 in Philadelphia, was made up of important citizens as well as members of the clergy who were concerned about the deplorable conditions of prisons and jails. Three years later, the Walnut Street Jail was created in Philadelphia. This facility promoted rehabilitation and provided separate housing conditions for adults and juveniles (Taylor et al., 2007; Champion, 2004).

Reforms associated in juvenile cases initially took place in the cities of Boston, New York and Philadelphia. Houses of Refuge were initially established in order to address problems associated with juveniles in Massachusetts, New York, and Pennsylvania. These institutions were created in order to take in and care for children who were dependent, neglected, or delinquent. The idea that individuals are inherently evil and must be instructed as to how to be good was the fundamental belief with these institutions. In general, the establishing of the first juvenile court in America stemmed from the belief that the source of delinquent behavior could be recognized and that government intervention was necessary (Taylor et al., 2007).

The possibility of a child being labeled as delinquent, dependent or neglected served as the basis for establishing and placing them in Houses of Refuge. The basis for the existence of the Houses of Refuge stemmed from *in loco parentis*, which referred to the state acting in place of the parent, and *parens patrie*, which refers the state acting as the parent of the child. Both legal terms served as justification for the state to remove the custody of children from their parents. The documentation and ultimate legitimization of separating children from their parents was identified in the case of *Ex Parte Crouse*. The decisions within this case established the premise for what eventually becomes the modern juvenile justice system. Within this case, the Supreme Court of Pennsylvania agreed with the state decision to remove the child custodial rights from the parents, recognized the distinction between adults and children with respect to treatment, and legitimized the existence and necessity for the Houses of Refuge in the United States (Taylor et al., 2007).

#### *From Refuge to Reformatories*

During the 19<sup>th</sup> century, the creation of industrial reform schools served as further evidence of support regarding the idea of separating juveniles from adults. These institutions were initially created in England during the early part of the 19<sup>th</sup> century. In many cases, certain Houses of Refuge eventually were changed into reformatories for juveniles. Overall, a variety of aspects aimed at removing the penal system's repressive method to handling juvenile offenders served as the basis for the creation of the juvenile reformatory system in America. Within the 1840s, the belief in rewarding juveniles for demonstrating appropriate conduct was presented in order to establish incentive to

change behavior. Simultaneously, the idea of indeterminate sentencing was gaining attention. This measure supported the belief that juveniles can only be reformed through employment within a setting where the juvenile is exposed to common temptations. True reform cannot take place unless these conditions are presented. Finally, the Pennsylvania Quakers presented and developed the notion of instructive labor in the Walnut Street Jail. By the 1860s, the leading reformers in America recognized the efficacy associated with the aforementioned measures and lobbied for ways in which to implement them (Barnes & Teeters, 1945).

#### *From Reformatories to Training Schools*

As the popularity of the progressive philosophy spread throughout America, the reformatory schools for juveniles of the 1880s had experienced a change in identity. These facilities were now being recognized as training or industrial schools. For example, the juvenile reform school in Vermont evolved into the Vermont Industrial School. The philosophy which supported such a change stemmed from the objective of discarding the traces of the harsh and repressive institutional customs of the prison environments. The reformatory approach exemplified a military style of dealing with juveniles. This included the use of marching uniforms as well as strict rules of behavior. To the contrary, the training school offered an environment similar to a college campus, an institution that was theoretically similar to an ideal community setting. The philosophy of the training facility embraced the idea that criminal behavior among juveniles stemmed from an individual's surroundings as well as a lack of proper parenting. The reformatory school offered the belief that the initial source of criminal behavior among juveniles originated

from the natural immoral conduct of the individual. To that end, severe discipline was considered a necessity in correcting such behavior. The training school approach of dealing with juveniles who engaged in inappropriate behavior was to confront the juveniles through the philosophy of conscientious and scientific understanding. The remedy to such problems would call for the use of educational and vocational opportunities for the purpose preparing the juveniles for future productive community contribution. In a dissimilar fashion, the reformatory approach was considered unrefined and outdated with respect to its methods and measures. The training school was up to date and in agreement with the latest relative measures and developments (Rothman, 1980).

Academic instruction and vocational training were provided as the fundamental core beliefs of the training school. In addition, the living arrangements for juveniles existed through the use of a cottage and not cell block or dormitory as in the reformatories of the past. This design was established to ensure the support and implementation independence and distinctiveness among the juveniles. A sense of warmth as well as a favorable community-like environment in which juveniles would be motivated to do well was what the training school offered. Between 1920 and 1930, it became clear that the structure and philosophy of the training school had imitated many of the same characteristics common within various institutions such as the hospital and the guidance clinic (Rothman, 1980).

### *The Distinctive Development of the Juvenile System*

In light of the creation of the juvenile court system, numerous studies examine the various aspects of the juvenile court and processing system. A number of fundamental aspects within the juvenile court system distinguish it from the adult court system. For instance, early historical documents reveal that the both the juvenile court and the local detention center in Delaware County, Pennsylvania was operated by local county government. Under this type of governance, one person was selected to serve as the court's officer, who would be responsible for the supervision and management of children who were brought before the court (Anonymous, 1903).

This county-based operation included a number of alternatives for sending juveniles to adult facilities. For example, some of the juveniles were placed in permanent homes with relatives other than their parents. Several were sent to institutions for destitute children, with special consideration for their family's religious affiliations. Some were sent to the House of Refuge, many at the expense of their parent's request. Those who were remanded to their homes were under the care of a county appointed court officer who periodically monitored the behavior of juveniles with the assistance of the teachers within the local schools (Anonymous, 1903).

The efforts of the county-based operation were supplemented by the support of benevolent organizations and individuals and praised by city officials. With respect to expenses, the county-based court and detention center was less expensive than trying and punishing juveniles as adults. However, the saving of money is of little value compared to the saving of juveniles from a possible life of crime and placing within them the tools

needed in order to reach self-respecting dignity and individual contribution (Anonymous, 1903).

### *Compassionate Treatment*

In addition to varying forms of governance with respect to dealing with juveniles, early studies reveal that compassionate treatment of juveniles was a necessary component of the juvenile court system (Anonymous, 1905). Within the framework of reaching parents and children, the juvenile court is perceived as one of the greatest factors of civilization due to its new method of working with criminal classes of juveniles in a compassionate manner. The court is obligated with the responsibility of teaching and bringing up wayward children as good citizens and revealing the importance of such a task to their parents. From this standpoint, public policy steps in and takes charge of preparing wayward children for the future through a system of education, regardless of the failed or indifferent efforts of the parents. Many parents are aided by the court system through an understanding that if they fail in providing proper care for their children the state will punish them (Anonymous, 1905).

In order to achieve the compassionate goals of preparing wayward children for the future, the juvenile court judge must be an individual who loves and understands children. In addition, he must also possess a great deal of patience and tact. A single day for a juvenile court judge may consist of hearing at least 90 cases which must be heard at the conclusion of the day along with the judge's duties within the chancery division of the circuit court. This means that the judge must work into the night, often weary from his duties earlier in the day. The judge is responsible for examining the environments of