

The American Juvenile Justice System: Examining Disparities and Effects in Sentencing

Dakema L. Welch

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Approved by:



Lisa Speropolous, Faculty Mentor



Dr. Lowell C. Matthews, University Honors Director



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Abstract

In the American juvenile justice system, the rights afforded to juveniles and the sanctions they may be subject to vary considerably from state to state. These disparities contribute to inconsistent effects of detainment and incarceration on juveniles, as well as varying rates of recidivism, between states. This research explores the various ways in which juveniles throughout the country are processed and sentenced, as well as how these practices impact juvenile offenders. Additionally, alternative sentencing options and their efficacy are evaluated. To understand this issue, the present research uses two vastly different states in the United States to compare and contrast the juvenile justice practices in each state, and analyze how a real case of juvenile parricide would be handled in each state based on the relevant laws and sentencing guidelines. The way in which juveniles are detained and sentenced plays a significant role in their potential for rehabilitation and this research aims to provide insight on which juvenile justice practices offer youth the best opportunity for success after contact with the justice system.

Key words: juvenile justice system, detainment, incarceration, sentencing, parricide

The proper functioning of the American juvenile justice system is critical in rehabilitating juveniles and ensuring the betterment of themselves and society. Every part of the juvenile justice system has an impact on the juvenile being processed, from intake to sentencing. Due to the fact that most delinquent behavior is handled by state court systems, it is crucial that there are standards and laws in place to balance the issuance of justice and protecting the juvenile. However, it is apparent that the juvenile justice system could be perceived by some to be broken and ineffective, similar to the American criminal justice system. Not only is the juvenile justice system inconsistent, as policies and procedures vary from state to state, but it appears that the way juveniles are sentenced is ineffective and often times harmful. By examining the effects of various types of sentences imposed on juveniles and evaluating delinquency and incarceration rates, as well as the application of two states' widely different approaches to juvenile law, the argument will be made for consistency and rehabilitation focused sentencing practices.

Juvenile Crime Rates

The Office of Juvenile Justice and Delinquency Prevention defines a juvenile as a youth who is either at the age of original jurisdiction of a state or below it. In forty-two of the fifty states, a juvenile is a person who is seventeen years of age or younger. However, eight states define a juvenile as sixteen years of age or younger, and only one as fifteen years of age or younger ("Jurisdictional Boundaries," 2019). According to the Office of Juvenile Justice and Delinquency Prevention, total arrests of juveniles reached its highest point in two decades in 1996. Between 1996 and 2017, it decreased by seventy-two percent. However, juvenile offending is still prominent and a concern for many across the country. In 2018, one in thirteen arrests for murder and aggravated assault, and one in five arrests for robbery and arson involved

juveniles (“Juvenile Arrests,” 2019). This same year, the United States estimated that approximately 728,280 juveniles were arrested. Of these total offenses, seventy percent were committed by males, leaving only thirty percent to be committed by females (“Juvenile Arrests,” 2019).

It is important to note that while there is a gap between female and male juvenile offenders, this is largely due to the type of crime each group tends to commit. According to the Office of Juvenile Justice and Delinquency Prevention, “females accounted for thirty-nine percent of all juvenile arrests for larceny theft, thirty-seven percent of all arrests for simple assault, and thirty-six percent of all arrests for disorderly conduct,” (“Juvenile Arrest Rates,” 2019, para. 1). This gap widens when examining more violent offenses. When looking at violent offenses committed by juveniles, males were nearly three times as likely to commit aggravated assault, twelve times more likely to commit murder and nonnegligent manslaughter, forty-eight times four likely to commit forcible rape (“Juvenile Arrest Rate Trends,” 2019). Similar disparities in offending based on demographic characteristics are also seen when evaluating the race of juvenile offenders. Of the total arrests in 2018, sixty-two percent of offenders were white, thirty-five were black, two percent were American Indian, and one percent were Asian (“Juvenile Arrest Rates,” 2019).

When looking specifically at New Hampshire, a juvenile is defined as a person who is seventeen years of age or younger. This age was recently increased from sixteen years old in 2015. In a study performed by the National Center for Juvenile Justice in 2014, of every 100,000 juveniles aged ten to seventeen, there were 3,084.5 arrests nation-wide and 3,561.5 arrest in the state of New Hampshire. While New Hampshire has slightly more total arrests per 100,000 juveniles, the state actual has fewer arrests for violent crimes in comparison to the national

average. The United States had approximately 151.4 arrests for violent crime per 100,000 juveniles while New Hampshire only had 67.5 arrests (“New Hampshire Juvenile Justice,” n.d.).

Juvenile Incarceration Rates

In studies performed by the Office of Juvenile Justice and Delinquency Prevention, it is apparent that not only are juvenile incarceration and detainment rates decreasing, but that various races are incarcerated disproportionately. From 1999 to 2017, the number of detained youths per 100,000 dropped from 28, 576 to 15, 660, meaning only approximately forty-five percent of youth offenders were detained. This study also showed alarming disproportionality amongst the races of juveniles that were placed in facilities. Of all detained juvenile offenders over the age of fifteen, forty-five percent were black, twenty-nine percent were white, and twenty-seven percent were other races. While this may not seem alarming at first, when taking into consideration that nearly sixty-two percent of all juvenile offenders were white, it begs the question of why they are incarcerated at significantly lower rates (“Trends and Characteristics,” 2019).

While it may seem that significant racial disparities are the only problem within the juvenile justice system, the American Civil Liberties Union finds that the United States still has the highest youth incarceration rates than any other country. Additionally, the model in the United States for the incarceration of juveniles is “outdated and harmful” as it allows for many states to use detrimental methods like confinement, decreased communication with family, and other prison- like methods. The American Civil Liberties Union also discusses that the funding of youth incarceration stretches local and state budgets and diverts fund from necessary budgets, like education. (“Youth Incarceration,” 2020).

Effects of Incarceration

Incarcerating juvenile offenders has severely traumatic and harmful effects that can be observed in cases like that of Kalief Browder. In 2010, sixteen-year-old Kalief Browder of Bronx, New York City, New York was arrested and charged with second-degree robbery after being accused of stealing a backpack that contained \$700, a credit card, a camera, and an iPod Touch. Since the Browder family could not afford bail, Kalief was sent to Rikers Island where he was imprisoned in the Robert N. Davoren Center which held approximately 600 other male juvenile offenders aged sixteen to eighteen. This was an incredibly violent environment and, despite trying to keep to himself, Browder was often times attacked by guards and other inmates. When he attempted to defend himself, Browder was placed in the Central Punitive Segregation Unit where he spent twenty-three hours a day locked by himself in a small cell, receiving smaller portions of food. In total, Browder spent 800 of his 1,000 days at Rikers Island in solitary confinement (Kennedy, 2019).

Despite having never even been convicted of a crime, a juvenile spent three torturous years at Rikers Island. Browder attempted to commit suicide multiple times during his time there before his case was dismissed in 2013 when the prosecutor could not locate the witness. When Browder initially returned home, everyone hoped this would be his fresh start as he completed his GED, enrolled in the Bronx Community College, and began taking classes. However, his trauma followed him home where flashbacks sent him into a depression. Browder no longer wanted to spend time with friends and family. He stopped going to classes and his entire demeanor changed. Eventually Browder's paranoia and depression lead him to multiple suicide attempts and hospitalizations. In June of 2015, Browder hanged himself by tying his bed sheets to an air conditioning unit and jumping out of his bedroom window, ending his life (Gonnerman, 2015).

A study performed by Barnert and her colleagues (2017) utilized a longitudinal study with 14,344 adult participants to analyze the effects of youth incarceration on physical and mental health. Of the 14,344 total participants, 14 percent reported being incarcerated between durations of less than a month and up to a year. The results of this study demonstrate that those who were incarcerated for less than a month were more likely than those who have never been incarcerated to develop adult depressive symptoms. For those incarcerated from one to twelve months, results support a prediction for worse general health as adults. The participants who were incarcerated as juveniles for longer than a year demonstrated a significantly higher likelihood for functional limitations, depressive symptoms, and suicidal thoughts as adults (Barnert et al., 2017).

Alternative Methods

Due to the high cost of juvenile incarceration and the potential harmful effects, many organizations and states are working to research and implement various forms of alternative sentencing methods. In a study conducted by the National Conference of State Legislatures (2017), it was suggested that youth prison models should be replaced with community-based programs with the exception of juveniles that require secure confinement. For this population of juvenile offenders, it is recommended that smaller facilities that have a more home-like environment be utilized as they tend to use more age-appropriate rehabilitation techniques. This study suggests many potential alternatives to incarceration of youths. For example, electronic monitoring, supervised release programs such as home detention, and local treatment programs may be more beneficial in terms of both cost and for the juvenile offender (“Alternatives to Incarceration,” 2017).

The findings of many studies encourage states to look towards a more rehabilitation-focused approach to sentencing to not only protect juveniles from the harm caused by incarceration, but to also prevent recidivism and entry into the adult criminal justice system. Rehabilitation for offenders was originally designed for adult offenders that had at least partially fulfilled their sentence (Praveen & Rawat, 2020). These programs were designed to assist in continuing education, preventing or stopping substance abuse, improving mental health, and all around better prepare the offender for re-entry to society. It is suggested that these programs can be altered for juvenile offenders to avoid time spent in incarceration, hold them accountable for their actions, and aid them in making better decisions in their future. Some rehabilitative programs that have been very effective for juvenile offenders are vocational training, therapeutic behavior training, sponsorship or mentorship by a trusted community member, and substance abuse counseling (Praveen & Rawat, 2020).

For those juveniles who are incarcerated, many facilities are incorporating rehabilitative-based practices so that they can reap the same benefits as those juveniles who were sentenced using alternative practices. A study performed in a juvenile facility in San Diego created mediation programs for youth offenders with three primary objectives, “1) to resolve disputes; 2) to decrease violence; and 3) to teach conflict resolution skills,” (Morton & Einesman, 2001, para. 2). The purpose of this study was to examine whether or not rehabilitative practices, like mediation programs, would be beneficial to juveniles who have been incarcerated as a part of their sentence. The goal of this program was to modify violent behavior and shift the attitudes of juveniles by demonstrating peaceful resolutions to conflicts and disputes, anger and violence management techniques, and the importance taking responsibility. This program also included the involvement of family and community members as well. The results of this study showed

that after the introduction of the mediation program the environment in the wards was significantly less tense and stressful, overall conflict and violence appeared to decrease, and the participating juveniles demonstrated a stronger ability to empathize, feel empowered, and take responsibility for their own actions (Morton & Einesman, 2001).

Parricide in Alton, NH

On March 15th of 2019, the Alton Police Department in New Hampshire received a call at approximately 7:30 am. They responded to the residence of the Eckert family to find two victims of gunshot wounds. Lizette Eckert, fifty, was pronounced dead on scene, but her husband James, forty-eight, was rushed to the hospital in critical condition where he later died. The medical examiner ruled their deaths homicides due to gunshot wounds, one victim with a single gunshot wound to the head and the other with multiple gunshot wounds. In the meantime, all local schools were locked down while a two-hour-long manhunt ensued in the surrounding woods for the suspect. At approximately 9:30am, the suspect was apprehended in the woods surrounding the Eckert's property and is believed to be their eleven-year-old son (Briquelet, 2019).

The Eckert family had three children, a fifteen-year-old daughter, and two sons, aged eleven and thirteen. The two boys were adopted from Russia at the ages of four and two (Fortier, 2019). Shortly after the murders, it was believed by locals and reporters that the eleven-year-old son was the suspect as he was absent from the funerals and community gatherings. The Eckerts were well liked in the community and were heavily involved in their church, Saint Katherine Drexel Parish. The family was integral in their church community, with their two sons serving as altar boys. A family friend explained that they showed, "no outward signs of trouble at home," and seemed to be a very supportive and loving family (Briquelet, 2019, para.18). The family participated in various sports and supported one another in matching t-shirts at soccer games and

marathons. Friends of the family also stated that even if the family was struggling, they would not have expressed it or reached out for help as they were resourceful, independent, stubborn, and strong-willed (Briquelet, 2019).

While the family may not have shown obvious signs of trouble at home, the Eckerts were not strangers to difficulty in their family and home. The family was originally from Maine where they ran a successful chiropractic practice, however they incurred a substantial amount of credit card debt, were audited by the Internal Revenue Service, and were sued by their bank for nearly \$500,000 in missed mortgage payments. This financial burden led the family to move before they could be served. During their bankruptcy in 2011, they listed for sale a boat, RV, jet skis, office equipment, children's toys, and several firearms. In 2012, the family purchased a \$140,000 farmhouse in Alton, New Hampshire, James opened a new chiropractic practice, and Lizette went to work at an office in Pittsfield (Fortier, 2019). The family was also described to have lived "a different way," by their peers. The Eckerts were described as having a labor of love approach as they worked hard together to run their farm and raise their animals (Briquelet, 2019).

Following the apprehension of the juvenile accused of committing the murders, he was initially charged with reckless second-degree murder and attempted murder (Syed, 2019). Following the death of James, the charges were modified to two counts of reckless second-degree murder. In the states of New Hampshire, a certification process is required to determine whether or not the juvenile can be charged as an adult, including interviews with the child. While the media has share information with the public, RSA 169-B prohibits the release of any details or documents in regard to the juvenile, specifically. If the state of New Hampshire continues to

process the eleven-year-old as a juvenile, it is likely that no further information will be released to the public (Syed, 2019).

Federal Protections

When examining this case out of Alton, New Hampshire and working to predict potential outcomes, one must consider the federal protections afforded to every juvenile offender. These rights have been granted to juveniles through amendments, acts, and case law, and must be upheld in every state across the country.

The Juvenile Justice and Delinquency and Prevention Act (JJDA) was passed in 1974 and acted as an amendment to the Federal Juvenile Delinquency Act that had remained unchanged since its passing in 1938 (Berkovich, 2014, p. 572). Not only did the JJDA make major significant changes to the federal juvenile justice system, but it encouraged consistency amongst states by offering funding to those that participated in the programs created by the act. One of the primary goals of the JJDA was known as the deinstitutionalization of status offenders, where status offenders that were once being held in secure and correctional facilities were released (Kubicek, 2019). The term “status offenders” refers to juveniles who committed acts that, “are illicit only for those younger than the age of 18,” (Mallet & Tedor, 2019, p. 8). These offenses are non-criminal and the most common examples are truancy, curfew violation, and running away (Mallet & Tedor, 2019). Another important change that the JJDA made was the removal and separation of juvenile offenders from adult offenders. It was not uncommon to hold juveniles and adults in facilities where they had frequent contact with one another. The JJDA called for juveniles to be held in a separate area where they cannot see or hear the adult offenders also being held in the facility. Lastly, the JJDA worked to provide funding to programs that better support juvenile offenders and prevent recidivism (Kubicek, 2019).

While the Fourteenth Amendment of the United States Constitution grants due process of law to any persons within the country's jurisdiction, traditionally, this right was not afforded to juveniles. However, the original juvenile courts handled their matters as civil actions as opposed to criminal ones, meaning, these rights guaranteed to adults under the Fourteenth Amendment were not automatically afforded to juveniles. It was not until several landmark United States Supreme Court cases emerged that juveniles were afforded these crucial due process rights (Berkovich, 2014).

Haley v. Ohio (1948) was the first United States Supreme Court case that acknowledged that juveniles should be granted extra protections, specifically in regard to custodial interrogations, citing due process rights afforded under the Fourteenth Amendment. These extra protections discussed in this case included the presence of parents or guardians, the timing of the interrogation, and the duration. *Gallegos v. California* (1962) is another crucial case that applied to the custodial interrogation of juveniles. The holding of this case required the consideration of the totality of circumstances to determine the voluntariness of confessions made by juveniles. *In Re Gault* (1967) is another pertinent case when evaluating the rights of juvenile offenders as it applies the case holding of *Miranda v. Arizona* (1966) to juveniles (Berkovich, 2014). *Miranda v. Arizona* (1966) is a landmark case that led to the creation of Miranda warnings. In their opinion, the Justices explained that, "the Fifth Amendment requires that law enforcement officials advise suspects of their right to remain silent and to obtain an attorney during interrogations while in police custody," (*Miranda v. Arizona*, 1966). The results of this case is crucial in ensuring that any person in police custody is aware of the rights entitled to them.

Many of the aforementioned United States Supreme Court cases referred to the rights afforded to juveniles during interrogation and court proceedings, however there are also cases

that protect juveniles during sentencing as well. *Roper v. Simmons* (2005) is a landmark United States Supreme Court case that was decided in 2005 after seventeen-year-old Christopher Simmons was sentenced to death in 1993. In a five to four decision, the United States Supreme Court decided that due to an evolving standard of decency the juvenile death penalty violated the Eighth Amendment that protects against cruel and unusual punishment (*Roper v. Simmons*, 2005). Another important United States Supreme Court decision that afforded juvenile offenders important rights during sentencing is *Miller v. Alabama* (2012). This case prohibits mandatory life without the possibility of parole sentences to all juveniles as it also violates rights afforded under the Eighth Amendment. In the holding of this case Justice Elena Kagan made a crucial distinction between the process of sentencing juveniles and adults. According to Justice Kagan, children are constitutionally different from adults when it comes to sentencing purposes and that mandatory sentences of life without the possibility of parole is an unconstitutionally disproportionate sentence for children (*Miller v. Alabama*, 2012).

State Comparison Analysis

To demonstrate how drastically different juvenile justice systems across the country function, the aforementioned case of parricide from Alton, New Hampshire will be examined through three various states' juvenile justice systems. The first state is New Hampshire, as that is the state with actual jurisdiction over the aforementioned case. Following this, the state of Wisconsin's laws regarding juvenile justice will be examined to demonstrate the wide differences amongst various states' practices.

Unlike many states, the state of New Hampshire has no minimum age requirements on the transfer of delinquent juveniles from juvenile court to adult court, with the exception of truancy which carries a minimum age requirement of six years old. However, in order to proceed

with the case, the court must be confident that the child is legally competent to stand trial (“Juvenile Courts,” 2016). Despite a lack of clear age requirements in terms of petitioning from juvenile to adult court, the state of New Hampshire does have clear restrictions when it comes to the commitment of juveniles. New Hampshire prohibits the commitment to the state’s youth development center unless there is no other private or public home or institution suitable for the given case (RSA 169- B:30, 2000). The maximum age for delinquency is eighteen, as those who are seventeen years of age or older are prosecuted as adults. While all juveniles have the right to an attorney, they are only required to be represented by an attorney in cases regarding juveniles who are facing detention and those whose parent filed their petition. (“Juvenile Courts,” 2016). Additionally, the state of New Hampshire doesn’t permit the detainment of any minor in a facility where adults being charged or convicted of criminal offenses are also being detained (RSA 169- B:15, 1993).

As previously mentioned, the state of New Hampshire does not have many age requirements regarding the transfer from juvenile to adult court. RSA 169- B: 24 discusses the process of how a juvenile can be transferred. According to this RSA, any case that constitutes a felony or what would be a felony if committed by an adult can be transferred to superior court. However, in order for this transfer to occur a hearing must take place where the following is considered, “(a) The seriousness of the alleged offense to the community and whether the protection of the community requires transfer., (b) The aggressive, violent, premeditated, or willful nature of the alleged offense., (c) Whether the alleged offense was committed against persons or property., (d) The prospective merit of the complaint., (e) The desirability of trial and disposition of the entire offense in one court if the minor's associates in the alleged offense were adults who will be charged with a crime., (f) The sophistication and maturity of the minor., (g)

The minor's prior record and prior contacts with law enforcement agencies., (h) The prospects of adequate protection of the public, and the likelihood of reasonable rehabilitation of the minor through the juvenile court system,” (2016, para. I). However, if the felonious offense includes murder or attempted murder, manslaughter, first- or second-degree assault, sexual assault, kidnapping, robbery, or negligent homicide, then it is assumed that all of the aforementioned standards have been met and support the transfer to superior court (RSA 169- B:24, 2016). Pursuant to RSA 169- B: 27, any minor that has been transferred, tried, and convicted as an adult shall always be treated as an adult with any future criminal case (1979). When considering all these factors, it is likely that due to the nature of the criminal offense, this juvenile would be processed and charged as an adult in this state.

While most states have the same requirements regarding attorneys and being detained in the same facilities as adults, many have overwhelming contrasting procedures and age requirements when it comes to juveniles. When looking at the state of Wisconsin, one can see the disparities amongst states when considering the treatment of juvenile offenders. While the state of Wisconsin’s juvenile court system has jurisdiction of those under the age of ten who offend, a juvenile cannot be adjudicated as a delinquent until the age of ten. Once over the age of ten, the state of Wisconsin has jurisdiction over juvenile offenders until the age of seventeen when they begin being charged as an adult (“Wisconsin,” 2018)

Though the general age to be tried as an adult is seventeen, petitions can be filed to move juvenile offenders to adult court beginning at the age of fourteen. According to state legislature, one can be charged at the age of fourteen as an adult if they commit felony murder, second-degree reckless homicide, sexual assault, taking of hostages, kidnapping, Class E felony burglary, robbery with a dangerous weapon, or acting on behalf of a gang. At the age of fifteen a

juvenile can be petitioned to be transferred to adult court for any criminal offense. These waivers must be made either by the district attorney or by the juvenile themselves (Wisconsin Legislature: 938.18, 2007). Juveniles aged ten or older can also be transferred to the adult criminal court system if they have committed intentional or reckless homicide. The state of Wisconsin, like many others, has an “Once an Adult, Always an Adult,” statute that explains that once a juvenile is transferred to the adult criminal court system, all future offenses will be heard there as well.

When comparing the juvenile justice systems in New Hampshire and Wisconsin, it becomes apparent that state policies across the United States are vastly different. When taking into consideration the harmful effects that improper adjudication and sentencing can have on juveniles, it is important to work towards consistency and the encouragement of rehabilitative practices. When applying what is known about the case of parricide out of Alton, New Hampshire, it is alarming to see that regardless of the state, this juvenile could be prosecuted and treated as an adult and continue to be treated as an adult for the remainder of his life.

Conclusion

The American juvenile justice system is not just important because it ensures accountability for juvenile offenders and allows for the protection of society, but because it can transform a juvenile’s life. As a vulnerable group, more should be done to ensure consistency amongst state laws and processes, as well as lead our country towards a more rehabilitative and holistic approach. The research presented proves the need for better systems to process juvenile offenders and rehabilitative based sentencing to not only improve the juvenile’s life but their ability to impact society positively.

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