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Juvenile justice reform: A tale of two systems

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JUVENILE JUSTICE REFORM: A TALE OF TWO SYSTEMS

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DISSERTATION

Submitted to the University of New Hampshire
in Partial Fulfillment of
the Requirements for the Degree of

Doctor of Philosophy

in

Sociology

May, 2002
This dissertation has been examined and approved.

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April 21, 2002

Date
DEDICATION

To my grandmother, Barbara Eileen Griffin Bennett, who never saw the end of this journey, but who was so inspiring.
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ABSTRACT

JUVENILE JUSTICE REFORM:
A TALE OF TWO SYSTEMS

By

Erika Gebo
University of New Hampshire, May, 2002

This study examines two juvenile justice reform efforts in one state. The first initiative, a detention risk assessment tool, is embedded within the second initiative, a family court pilot project. Detention screening tools have been developed primarily to alleviate detention center overcrowding and to reduce disproportionate minority confinement in those centers. The instrument under analysis limits discretion by judges in the detention decision making process. The second reform effort, family court, is premised on the rehabilitative ideal. In these courts, judges are presumably given wide latitude in deciding cases in order to meet the individual needs of each offender. These two seemingly disparate reform initiatives are examined through two theoretical traditions, borrowing concepts from organizational theory and penal theory.

Family courts are organized much more bureaucratically than the traditional court system, yet their goals are explicitly rehabilitative. Bureaucratic tenets of consistency and predictability are in conflict with rehabilitative tenets of holism and individualism. Analysis of the risk assessment instrument as well as other case processing outcomes is
conducted to understand dynamics of family court in relation to dynamics of the traditional court system in this state.

The study population consists of all detainees in four counties in one state over a one-year period (n = 174). Ordinary least squares regression and logistic regression were used to test hypotheses about case processing. Results show that family court is meeting its expressed purpose of rehabilitation on a number of different measures. Consistent with what would be expected from a rehabilitative approach, family court tends to resist the risk assessment instrument more so than the traditional court. Family court also is more likely to order assessments for youth, hold youth in detention for longer periods of time, and less likely to accept plea bargains. In the end, however, there are no differences with regard to sentencing between family court and the traditional court system. This research demonstrates the need to take court structure into account in case processing studies. While family court systems are advocated as the most appropriate structure to address delinquency, this study suggests further investigation of their outputs is needed.
CHAPTER 1

INTRODUCTION

The juvenile justice system is at the center of an ideological debate about how youth should be treated, and the juvenile court is at the core of the juvenile justice system. The court traditionally is based on the premise of parens patriae in which the court, as a parental figure, acts in the best interests of each individual child. Some praise the court for addressing the immaturity of youth and for its attempts to rehabilitate rather than punish youth (i.e. Zimring, 1998). On the other hand, some adamantly believe that a rehabilitative focus has led to leniency in treating youth, which in turn, is responsible for the high rates of youth crime and will be responsible for a generation of “superpredators” (DiIulio, 1995; Elikann, 1999). This project examines two different court structures within one state. One structure, family court, is a reform effort that is a conscious attempt to return to the rehabilitative focus, while the other structure, district court, is a traditional system of processing juvenile offenders. Another reform effort focused on juvenile detention is examined within these two court structures. To adequately understand this ongoing issue, it is necessary to situate the court in a historical context.
History of Juvenile Court

The juvenile court has undergone immense changes since its inception 103 years ago. Changes can best be understood through a policy lens that reflects broader shifts in society. The juvenile court was not conceived upon equity, rather it was borne from a rehabilitative idea during the Progressive Era that emphasized that the appropriate treatment for each youth depends upon individual situations. These progressives were called “child savers” who believed that children were inherently different than adults and, due to their special situation, needed to be treated differently. Rothman (1980) documented this benevolent view of the child savers. Under the rehabilitative umbrella, however, lower class youth and minorities were the subject of greater social control because they were perceived as needing more assistance (Platt, 1969). While there is some scholarly debate about the purposes of the child savers, many studies note the rehabilitative orientation of the court (Colomy and Kretzmann, 1995, Platt, 1969, Sutton, 1985). In its original conception, juvenile judges had broad discretion in deciding cases. As time went on, discretion was limited. During the civil rights movement, Supreme Court action reduced judges’ discretion by providing greater procedural safeguards to juveniles. Arguably, as a result of these measures, the inherent inequalities in youth processing were reduced (Feld, 1998 in Tonry). Procedural safeguards fell short, however, of providing the full due process rights accorded to adults. The confidentiality of juvenile court proceedings and the prohibition of jury trials have continued to fuel the fire of critics concerned with equitable treatment of youth (Feld, 1984; Schwartz, 1989).
In the 1970s, an increase in juvenile crime and the conclusion of 'nothing works' in rehabilitative programming brought about a disillusionment of the rehabilitative ideal of the court and the larger juvenile justice and criminal justice systems (Lipton, Martinson, and Wilks, 1975; Martinson, 1974; Stinchcombe, Adams, Heimer, Scheppel, Smith, and Taylor, 1980; Wilson, 1983). As a result of the perceived failure of the court to rectify children, many conservatives called for the court's demise believing the court was too "soft" on young offenders (Van den Haag, 1975). Meanwhile, many liberals also clamored for juvenile court abolition for another reason: widespread abuse of discretion in the treatment and sentencing of youth. Echoing earlier sentiments, these reformers believed that because youth were not offered all the due process rights of adults, they were second-class citizens (Feld, 1990).

Thirty years later the debate still rages and the juvenile court remains. Schwartz, Weiner, and Enosh (1999, in Schwartz) attribute the court's continued existence to institutional history and influential judges. In the broader field of social policy, this view may be best characterized by Skocpol's (i.e. 1992) theory of how policy is made and develops in which Progressive reformers brought about the inception of the juvenile court and historic legacies (i.e. benevolent views of children) and influential political agents (i.e. the National Council of Juvenile and Family Court Judges) have perpetuated the institution.

Some argue that the juvenile court of today is at a crossroads in terms of its future and its purpose. Increasingly, states have added a punishment orientation to their juvenile code. Washington State, for instance, has gone the furthest in remodeling their juvenile
court to resemble its punitive adult counterpart (Castellano, 1986). Most states now include both a treatment and a punishment aspect to their legislative code (Snyder and Sickmund, 1999). Legislative reforms have not pleased everyone for a number of different reasons. Some believe that the coexistence of punishment and treatment within the same institution is wrong and that Progressive reformers initially made a fatal flaw in combining the aspects of social control with public welfare. These reformers advocate the abolition of the juvenile court in order to provide the full range of procedural safeguards to youth that has been afforded to adults (See works by Feld). Others argue that the juvenile court is appropriate to handle both punishment and treatment, and it can do so effectively with modifications to the current system (Krisberg and Austin, 1993). A variation of the latter opinion is reflected in those who support a restorative justice approach to juvenile justice. Restorative justice advocates believe that the juvenile court can effectively balance the offender’s need for treatment with the needs of the community and the victim for accountability and reparation (See works by Bazemore).

Ideological debates about the court’s purposes have melded into practical reform experiments. The court structure itself has been undergoing changes in many states. There traditionally has been a lot of statewide variation in juvenile court organization (National Center for Juvenile Justice, 2002). Some states have separate juvenile courts, which hear only juvenile cases; other states hear juvenile cases in their courts of limited or general jurisdiction that also hear civil and criminal matters; still other states hear juvenile cases in family court; finally, some states consist of a mixture of systems. In fact,
almost 40% of all states have at least two types of juvenile court systems in operation (National Center for Juvenile Justice, 2002).

While legislatures continue to add punitive components to the juvenile code, a seemingly contradictory process is happening on the court level. Courts are experimenting with different court structures, in particular, a family court system which is touted as a return to the rehabilitative ideal for juvenile cases (Farnworth, Frazier, and Neuberger, 1988). Moore and Wakeling (in Tonry, 1997) cite the proliferation of family court in states around the country and in Western Europe. It is a statewide experiment with the family court that is of interest in this study, because while there has been an increasing interest in family court for juvenile cases, there correspondingly has been no examination of the impact of divergent court systems on the juvenile justice process. It may be that court structure has an effect on how cases are processed by the system.

Juvenile Justice Processing

This study examines juvenile justice processing in two court systems, though studies document that juvenile court operations in general have been and continue to vary widely in procedures and results. This is not surprising given the different perspectives and the disparate views about the juvenile court. The juvenile court has been described as a loosely coupled system (Lemert, 1970a) which has no strong, centralized organization. Other studies of juvenile court operations have confirmed Lemert’s description (Jacobs, 1990; Leiber and Jamieson, 1995; Schwartz, et al., in Schwartz). In the juvenile court paradigm of a loosely coupled system, key individual actors and situational idiosyncrasies have a great deal of opportunity to influence the operation of
each court. The resulting variation in juvenile court operation and processing among
individual courts has led some to charge that the court is discriminatory, particularly with
regard to ethnicity, gender, and class. For instance, some scholars have found that non-
white males are punished more severely than white males; females are punished more
severely for minor offenses; and that lower class youth are punished more severely than
those in the middle and upper classes (i.e. Chesney-Lind and Shelden, 1992; Thornberry,
1979). Other scholars, however, have found no differences in juvenile offender
processing (i.e. Bailey and Peterson, 1981; Johnson and Scheuble, 1991; Leiber and
Jamieson, 1995).

There is one relatively consistent finding in juvenile court processing literature:
detention decisions often have a large impact on future decisions. Specifically, youth
detained prior to court disposition regardless of ethnicity, gender, or class, are more likely
to be sentenced to out of home placement than other youth, even after controlling for
other variables such as seriousness of offense (Frazier and Cochran, 1986; McCarthy and
Smith, 1986; See Schwartz and Barton, Eds., 1994). Although discrimination at the
detention stage of the court process has not been the main catalyst for reform, the issue of
discrimination coupled with the practical reality of detention overcrowding, has led to the
development of detention screening tools to assist juvenile court actors in making
appropriate detention decisions (See Schwartz and Barton, Eds., 1994). Such tools have
only been in existence for the past decade and many states are now considering their use.
These instruments limit discretion in the decision making process, but have not yet been
linked to the larger questions of court processing. It may well be that the use of these reform tools may vary by court type (i.e. family court, court of limited jurisdiction).

While the topic of juvenile court processing continues to be a widely researched issue that has produced mixed and inconsistent results, most court processing research only deals with sentencing outcomes. There are, however, other 'intermediary outcomes', such as case processing time, that are important to study (i.e. Butts, 1994). The ongoing debate about the purposes and the existence of the juvenile court, the mixed findings of court processing practices, experiments with different court structures, and the use of reformatory decision making instruments make the juvenile justice system a fertile ground for continued research. A clearer understanding of how these instruments operate and how cases are processed in different court systems holds implications for the treatment of juvenile offenders and juvenile justice policy. The purpose of this study is to evaluate a decision making instrument and to examine that instrument within the larger context of juvenile court processing in two different court systems: a family court and a district court (court of limited jurisdiction).

There are two main objectives of this study. The first objective is to conduct an evaluation of a detention screening instrument. The evaluation will examine systematic use of the tool and examine decision congruence, or the degree to which judges abide by the detention screening instrument’s results. The second objective is to examine case processing, including intermediary outcomes and dispositional outcome. Both of these objectives are embedded within two different court structures in one state.
Theoretical Framework

Theory development and utilization in juvenile court processing literature has been noticeably lacking, particularly when compared to its adult counterpart (Mears and Field, 2000). Detention screening tool studies have typically lacked any sort of theoretical framework and, as noted, have not been linked to the broader juvenile court decision making process (For example, see Dembo, et al., 1994; Schwartz and Barton, Eds., 1994). Some studies of juvenile court processing have relied on penal theory, or the degree to which courts are oriented toward punishment or treatment, to explain court processing (i.e. Cohen and Kluegel, 1979b; Feld, 1991). Penal theory explanations have been tied to individual orientations toward punishment as well as to institutional and geographical attributes that are believed to be symbolic of punishment orientations. Other research has examined the issue of differential juvenile court processing through a conflict lens (i.e. Chesney-Lind, 1988, 1997; Crew, 1991) in which ethnicity, gender, and class are all salient variables used in decision-making processes to treat minorities more severely. Finally, a small but growing group of studies has incorporated elements of organizational theory into explanations of court processing (i.e. Hagan, 1977).

Theoretically, this study utilizes elements from both penal philosophy and from organizational theory. Specifically, the study examines the relationship between 'rehabilitation' and elements of 'bureaucratization'. Essential elements of rehabilitation include individualization and a treatment focus. According to this perspective, each child entering the system is seen as an individual and efforts to rehabilitate necessarily involve an examination of the child's social world – family, school, community. Sentences are
meted out based on individual need. The premise of bureaucratization stands in sharp contrast. According to Weber, as the world becomes more and more modernized, bureaucracy will be the hallmark of organizations in the economic, political, and administrative realms because it is the most efficient form of government. A characteristic of bureaucratization is assembly-line justice in which like cases are treated similarly because the law is no longer able to deal with individual differences. This theory suggests that in more bureaucratized locations, juvenile court processing should be meted out more uniformly. There is a tension between the rehabilitative ideal and the tenets of bureaucracy. That tension forms the basis for the hypotheses tested in this study.

Significance of Study

This study is significant for several reasons. Importantly, this study examines the effects of reform efforts. This includes an examination of court reform and of detention reform. This study also places that detention reform instrument in the larger context of decision making. Moreover, many previous studies assessing the effects of court processing have not taken into account intermediary outcomes or how juvenile justice processing differs according to court type. This is particularly significant as current shifts in ideologies, legislative mandates, and social policies are part of a “watershed of reform” in juvenile justice practices (McGarrell, 1988), which all may affect processing. Finally, although most studies of juvenile court processing tend to examine only one or two courts, a consistent finding has been that courts vary widely in their decision making process (Cohen, 1975; McCarthy and Smith, 1986; Mears and Field, 2000). A basic task for research has been to extend analysis of juvenile court processing beyond only one or
two courts and to more systematically examine the variables associated with the decision making process (Barton, 1976). This study does so.

**Juvenile Court Terms and Structure**

In order to understand the juvenile court process, it is important to understand terminology used in the juvenile court as well as the structure of the court itself. The juvenile court uses different language, often characterized as euphemistic, to describe the juvenile justice process, as compared to that of adults. In juvenile court, a “petition” is filed against an offender, rather than a “complaint”. If the youth is deemed a flight risk or a personal or community safety concern, s/he can be “detained” prior to court hearings. A detention center is the juvenile counterpart to adult jail. Although juveniles and adults both attend an “arraignment” to answer charges, a juvenile does not plead guilty, not guilty, or *no lo contendre*. Instead, s/he must plead “true” or “not true”, there is no option for “no contest”. A juvenile who pleads “not true” must then be “adjudicated”. This process is equivalent to a trial. In most states, juveniles are not afforded a jury trial. Also, in smaller areas, the state’s prosecutor is often the town’s police juvenile officer. Upon presentation of all the evidence, if the judge finds in favor of the state, a juvenile is said to be adjudicated “delinquent”. If the judge finds against the state, the case is dismissed.

The final phase in the juvenile court process is the “disposition”. This is similar to the adult sentencing phase. Probation officers are required in most states to be involved after the adjudication in order to make appropriate recommendations to the judge regarding the juvenile’s disposition. Among other sentencing alternatives, the judge can continue the case upon good behavior of the juvenile; assign informal, also called
unsupervised, probation for a period of time; assign formal, or supervised probation; sentence the youth to a non-secure facility, such as a wilderness program; or assign the youth to secure placement, known as a “training school”. In the adult system, the training school is prison. While there is some variation among and within states as to how the process operates, a general schematic will aid in clarifying the process. A flow chart at the end of the chapter illustrates the operation of the juvenile court process.

Organization of Study

The second chapter of this work will discuss the literature on reform, risk assessment instruments and juvenile justice processing. The following chapter will explain the current study and the research methods employed. Subsequent sections will discuss the results of the evaluation and case processing research. The final chapter will conclude with a discussion of policy implications and directions for future research.
Figure 1: New Hampshire Juvenile Justice Flow Chart

- Arrest
  - Detention
  - Petition Filed (6 yrs. for felony; 1 yr. for misdemeanor)
  - Arraignment (w/in 24 hrs. if detained; 30 days if not)
  - Detention Hearing (w/in 48 hrs.)
  - Disposition (w/in 21 days if detained; 30 days if not)
  - Summary Disposition
- Adjudication (w/in 21 days if detained; 30 days if not)
  - Summary Disposition
CHAPTER 2

LITERATURE REVIEW

This chapter is organized into three areas: court reform efforts, detention reform efforts, and court processing studies. Analysis of court processing studies comprises the majority of the chapter as there has been a significant amount of research done in that area, and comparatively little with regard to the reform efforts discussed here. The chapter concludes with how penal theory and elements of organizational sociological theory specific to bureaucratization will be used to relate these areas of research to the present study.

Court Reform Efforts

Court reform efforts are necessarily linked to ideas about punishment and corrections. Although there are many influences on how offenders are treated in court, penal orientations and justice models may affect outcomes. Typologies of penal orientations and justice models abound (i.e. Pakcer, 1968, Hagan, 1989). Penal orientations are often melded into a discussion of justice models, or how justice is carried out. Of concern here are typologies that have been used to describe the juvenile justice system. They include rehabilitation, or a focus on treating each offender through a comprehensive examination of his/her needs. This view is often contrasted with
retribution, a focus on punishing the offender in response to an offense against society. Alternatively, in a due process model the emphasis is on ensuring that the accused receives full due process rights. Under this model, it is better to let the guilty go free than to sentence the innocent. This view is often compared to a crime control model that emphasizes the need to punish offenders as a deterrent to further criminal activity and downplays offenders' rights. In reality, the present juvenile justice system embodies elements of all of these models. The typologies are useful in the context of the current research, however, in order to understand the history of reform efforts and particularly those examined here.

As discussed in the previous chapter, the original conception of the juvenile court was derived from the Progressive Era, a time of great reform in the US (Pease, 1962). The Child Savers believed that children were not the same as adults and should be treated differently, even when it came to criminal offenses. Out of this rationale, a distinct juvenile court system with separate correctional programs and facilities developed during this time. The newly created juvenile system was devoted to rehabilitation, not punishment. The U.S. Children's Bureau reflected the sentiment of the newly established juvenile court when they held that, unlike adult court, the juvenile court should be based on treatment and adapted to individual needs (Children's Bureau, 1923).

Major court reform efforts took hold in the 1960s and 1970s. As previously discussed, widespread criticism of discrimination against non-white youth in the 1960s led to the curtailment of some discretionary practices through procedural safeguards. According to some scholars, these reforms also signaled a shift in philosophy away from the rehabilitative ideal toward a more due process and punitive approach to delinquency.
Changes in procedure, however, did not stop some groups from continuing to advocate for a rehabilitative approach. One such rehabilitative measure was a family court, which would take the individual needs and dynamics of each family into account in devising appropriate treatment plans. The National Advisory Committee (1976) not only recommended that jurisdictions around the U.S. adapt due process rights, but also a family court model to assist in better family functioning. They believed that rights of children could be safeguarded through due process while the court continued to act in the best interests of the child and family most appropriately through a family court system.

McGarrell (1988) disputed the notion of protecting rights while acting in the best interests of the child. He stated that the court’s shift toward procedural rights re-oriented the sentencing practices of the court away from rehabilitation and individualization toward a due process focus. Instead of an emphasis on children’s needs, the primary basis for sentencing under the new due process reform was the seriousness of offense and prior delinquent history. In his view, individualism became lost in the fight to treat children equitably as some argued (i.e. Feld, 1998) and, ironically, as discussed below, in the fight to get tough on crime, as others demanded (i.e. Wilson, 1983).

Seriousness of offense and prior offense history became the cornerstones of “get tough” approaches to crime and delinquency in the 1980s and 1990s. Torbet and Szymanski (1998) state that the erosion of the rehabilitative ideal toward a more retributive model is illustrated through state legislative changes. Punitive policies enacted by legislatures during this time included waivers to adult court for juveniles who met certain criteria (i.e. committed violent crimes), statutory exclusion of some crimes from
juvenile court jurisdiction (i.e. murder), and "once an adult/always an adult" laws, wherein youth convicted in criminal court could not thereafter be charged in juvenile court for any subsequent offenses. As will be demonstrated later, tools to limit judicial discretion, such as the detention risk screening instrument, can be construed as part of this movement to consider legal variables, such as offense severity and prior offenses, as only the most relevant for court processing (See generally, Feeley and Simon, 1992), which may reflect more equal treatment for youth.

These legislative changes took some discretion away from the judges, yet, in and of themselves, they cannot be equated with an overall more punitive juvenile court as some suggest (Feld, 1988; Torbet and Szymanski, 1998). Juvenile court practices also must be considered independently from legislative laws. While legislatures may be moving in a more punitive direction, an investigation of actual court practices is the only way to demonstrate if the court itself is following suit.

Family Court

With retributive policy changes toward juvenile offenders, it is perhaps remarkable that family courts and experimentation with these courts are proliferating (Moore and Wakeling, 1997 in Tonry). In the wake of retributive approaches, family courts represent a return to the rehabilitative premise of the court (Farnworth, et al., 1988). This may, in fact, signal a divorce between legislative codes and court practices. Legislative codes have inherently restricted judicial discretion. Meanwhile, family courts' focus on rehabilitation corresponds to a necessary increase in judicial discretion. Some may view the legislative changes discussed above as politically conservative. Family
court, on the other hand, with its focus on individual treatment, can be seen as politically liberal. That point is illuminated with a more detailed description of the family court.

The purpose of family court is to treat the offender as embedded within the family system. Generally, family courts hear all juvenile and family cases, including delinquency, child abuse and neglect, divorce, domestic disputes, and probate. The court is structured so that the same judge hears all cases involving the same family. The belief is that if the judge knows more about the family, then better decisions will be made for that family. This process is intended to create an individualized, comprehensive approach for each family. While the first family court was started in 1914 (Mennel, 1973), the court never gained popularity until much later. Moore and Wakeling (1997, in Tonry) state that the idea of family court was ‘resurrected’ in 1959 due in large part to the advocacy of child-centered groups, including the National Council on Crime and Delinquency, the National Council of Juvenile and Family Court Judges, and the Children’s Bureau. These organizations believed that family court was the most appropriate way to address the best interests of the child, while also improving family functioning.

Moore and Wakeling (1997, in Tonry) equated the family court model to the parens patriae doctrine. They further advocated that the family court model needed to be ‘sold’ to the public, but in order to do so, it needed to be ‘repackaged’ to sound less like the Progressive model. The National Council on Juvenile and Family Court Judges has more recently advocated for family courts in their 1998 recommendations for improvement of the judicial system. They recommend that all jurisdictions move toward a unified family court so that family issues could be examined as a whole (National
Council on Family and Juvenile Court Judges, 1998). Though the socio-political dynamics of the renewed support for family court have not been traced, it is probably not a coincidence that advocacy of this model occurred contemporaneously with the widespread criticism of the juvenile court system and the national attention to cases which would forever change the way cases were processed in the juvenile court system (i.e. *In re Gault*). As previously discussed, political legacies and influential actors not only may keep the court alive, but also may keep the rehabilitative ideal viable. If the family court is indeed a return to the rehabilitative ideal and a ‘repackaging’ of Progressivism, then perhaps the movement can be characterized as “child saving” in the 21st century. The next section will examine New Hampshire’s experimentation with the family court system.

**Historical Progression of the New Hampshire Family Court**

In 1993, the New Hampshire Judicial Council, an independent research body of the Executive Branch of government, was commissioned to study the ways that family matters could be better served by the court system. After an investigation of how other states handled family matters, the Council recommended implementing a unified family court system that would efficiently handle all cases relating to the family, and reduce the time between hearings for each case. The family court intended to represent a more holistic approach to serving families rather than the then traditional district court system in the state where juvenile cases and family cases were processed by whichever judge happened to be sitting on the day of the docketed court case. They wrote:

> The judicial system handling family matters must become, therefore, a manager of services in a broad sense. It must evaluate the needs of each family and allocate services in the way best suited to that family. It must not
withdraw from its traditional role; rather, it must expand that role to include servicing the needs of families in conflict as effectively as possible. (Resolution of Family Issues in the Court Study Committee, p. 5)

Another New Hampshire report further described the family court’s heritage to rehabilitation and the child saving movement. The report stated that the creation of the family court was “to provide ‘therapeutic justice’ to families in crisis. The hallmarks of ‘therapeutic justice’ are fairness, protection and safety, less adversarial forms of conflict resolution, individualized decision making, civility and family friendliness” (Carbon, Korbey, and Briggs, 1998, p. iii). In the same report, procedural safeguards were an expressed priority of the court. The report stated, “[b]enevolent intentions should not be allowed to mask unwarranted interference in family life, as it sometimes has in the past” (p. vi). Four goals described in this report were enacted as part of the New Hampshire family court law (See Appendix A for law): (1) comprehensive jurisdiction for all family matters (i.e. delinquency, divorce, probate, child abuse and neglect); (2) efficient administration (i.e. the same judge hearing all aspects of the same family’s cases; “one judge one family”); (3) court personnel with expertise and commitment to family issues; (4) comprehensive services for families (i.e. providing some services, such as mediation and ‘triaging’ families to appropriate resources offered by public and private agencies).

Legislative law (Chapter 152:1 Laws of 1995) created and appropriated funds for a pilot family court project in two counties. Inception of the project began on July 1, 1996. For juvenile matters, cases from several district courts were consolidated into four family court locations in each county. Family court judges were selected by the state Supreme Court primarily on the basis of interest and knowledge in family issues. Further
training with judges and family court staff was made available by the State's
Administrative Office of the Courts.

An evaluation by an independent consultant one year after inception showed that
clients who received services from family court and professionals working in the family
court were generally satisfied with the new system (Solomon, 1997). The evaluation also
revealed that the court was “successfully working toward” meeting its goals of reducing
case processing time and of applying the principles of “one family, one judge”. The
consultant recommended that the pilot project be continued for another year and
evaluated again at the end of that year.

In the same evaluation, however, surveys of law enforcement, social workers,
lawyers, and probation officers showed that the court was perceived to be of greater
benefit for marital cases than for juvenile cases.¹ Other evaluation results relating to
juvenile cases demonstrated that 57% of professionals believed that family courts
processed cases the same or more slowly than before the pilot project implementation. In
interviews conducted with judges and family court staff, analysis revealed that these
court professionals believed that local district court judges who knew their communities
may have had a greater impact on delinquency than family court judges who did not have
as much knowledge of the same communities. In sum, survey results showed that there
was some ambivalence in the utility of family court for delinquency matters. How that
compared with empirical analysis of court outcomes was not addressed.

¹ There was a 30% response rate for the surveys that the author concludes was “very good”, though others
argue that obtaining a 60% response rate may be a bare minimum for validity (Fowler, 1988). Great caution
must be taken in generalizing these results to all those who work with the family court. Nevertheless, the
report assists in describing the evolution of the system.
There were actually two follow-up evaluations to the first. The 1998 report cited previously showed that the court was meeting stated goals, particularly that of client satisfaction. Through surveys of court professionals and those availing themselves of court services, the authors of the report, two supervisory family court judges and the family court administrator, demonstrated staff and client satisfaction with the way cases were handled and recommended statewide expansion (Carbon et al., 1998). Yet another evaluation was conducted in the year 2000 by the Office of Legislative Budget Assistant. The Office of Legislative Budget Assistant was charged by the legislature to determine whether the family court continued to meet stated goals. The evaluation showed this to be the case, again using a survey methodology. The authors explicitly stated, however, that the additional costs to run family court should be taken into account when deciding its future. In the State's 1998 fiscal year, those costs were $486,000 primarily for thirteen additional personnel (Office of Legislative Budget Assistant, 2000).

The future of the family court in New Hampshire is uncertain. The pilot project, originally extended for one year, is now in its sixth year of operation. Still, there are important issues that have not been addressed by these evaluations. As a reform effort, the family court was designed to improve family functioning and to meet the service needs of its clientele. Surveys have shown a measure of success with client satisfaction. Other questions about the court, specifically how and if its outputs differ from the district court system, have not been examined. This study assesses differences with regard to delinquency matters, and if there are differences, whether those variations can be

\footnote{No survey methodology was discussed in this report. Response rate is unknown.}
perceived as a consequence of the rehabilitative orientation as previously discussed, or as a consequence of bureaucracy, which will be discussed later in the chapter.

**Detention Reform Efforts**

Detention reform efforts include expediting case processing, limiting length of stays in detention, and almost invariably contain a screening instrument to reduce the number of youth who are placed in detention (Orlando, no date; DeMuro, no date). As one part of reform, risk assessment instruments (RAI) attempt to limit discretion by focusing on factors associated with recidivism. These factors involve a heavily, if not exclusive, reliance on present offense and prior offense history. As such, they seemingly stand in opposition to the family court notion of individualism. The present study will examine how this latter reform effort is handled in the family court system and in the district court system. First, however, it is important to understand how and why detention risk assessment instruments were developed.

Detention is a crucial stage in the juvenile justice process. Detention can occur at any time prior to court disposition. Generally speaking, there are three purposes for detention: 1) risk of flight prior to court appearances; 2) risk to community safety; 3) risk of personal harm (Krisberg and Austin, 1993); some studies conducted on detained youth, however, have found that low-level offenders who do not meet the above criteria are often detained (Guarino-Ghezzi and Loughran, 1996). In addition, many studies have found that detention of status offenders (youth who have committed offenses which, if they were adults, would not be considered crimes, such as running away) and disproportionate minority confinement are commonplace (Barton, Schwartz, and Orlando, 1994, in Schwartz and Barton, Eds.; Orlando and O'Brien, 1997; Poe-Yamagata
and Butts, 1995). In 1994, federal legislation mandated that status offenders could not be
detained with delinquents (the Juvenile Justice and Delinquency Prevention Act of 1994).
The federal position is that detention should be reserved for the most chronic and serious
offenders (Howell, 1995). While state statutes comply with the federal position, the
composition of detention centers often demonstrates a different reality (See Schwartz and

Risk assessment instruments have been used only recently at the juvenile
detention level to address inappropriate placement, overcrowding, and disproportionate
minority confinement, though these tools are not new to the criminal justice process.
Screening tools have been used by parole boards to predict recidivism (See Klein and
Caggiano, 1986), by probation to determine level of surveillance (Howell, 1995), and by
the judiciary to determine sentencing (ABA, 1974; Stith and Cabranes, 1998).

One detention decision making tool that has been used in Florida; Cook County,
Illinois; Sacramento County, California; Multnomah County, Oregon; New York City;
and now New Hampshire, is the risk assessment instrument (RAI) developed by those
involved in the Florida Detention Initiative (Barton, et al., 1994, in Schwartz and Barton,
Eds.) and modeled after detention reform recommendations by the National Council on
Crime and Delinquency (See Baird, 1984). While the original instrument was based on
factors correlated with detention risk, subsequent uses of the instrument have included a
normative component in which stakeholders have added categories felt to be important
policy concerns in their jurisdictions (Orlando, no date). For example, New Hampshire
has added an open ended “aggravating factors” section. With funds from the Annie E.
Casey Foundation, the instrument was first piloted in Broward County, Florida. The
development of the instrument was initiated because of a detention overcrowding lawsuit. The lawsuit was a catalyst for political action. Pilot data showed that the instrument achieved positive results: fewer youth were detained and fewer low risk offenders were placed in detention.

Based on the RAI's success in Broward County, in 1990 the Florida legislature mandated its use throughout the state. A policy analysis of statewide implementation two years later showed that the instrument had been further "refined". Those changes allowed for more discretionary decision making and, as a result, the overall detention population increased once again, though not to the level it was prior to the instrument's inception (Bazemore, 1998; also see Frazier and Lee, 1992). At present, the detention population in Florida has swelled to levels similar to what they were prior to instrument implementation (Orlando, 2002). Other sites, however, have had continued success in the use of their versions of the RAI (Annie E. Casey Foundation, 1999).

Historical Progression in New Hampshire

The State of New Hampshire has recently adopted the instrument adding its own normative component to reflect their policy concerns. This includes the aggravating factor section as previously mentioned as well as different 'offense severity' scoring schemes based on state offense severity categories. The RAI is being piloted in two counties and is being evaluated by the researcher. To properly evaluate the instrument, it is useful to understand its historical progression in New Hampshire.

In 1995, concerned with detention overcrowding and the outcry from certain groups for more detention beds, a statewide task force commissioned an analysis of the Youth Detention Services Unit (YDSU). YDSU is the State's only pre-disposition detention
facility. The co-ed facility has a total of 23 beds, but is often overcapacity, though the commissioned report stated an average daily population of 19 youth. Based on a review of YDSU records, the final report pointed out that over two-thirds (69%) of youth detained were low level, misdemeanor offenders who did not need to be securely detained (Orlando and O’Brien, 1997). The report recommendations were to implement a screening criteria for detention (i.e. RAI) and to create alternatives to secure detention, such as day reporting centers. Three and a half years after the release of that document, the State, with funds from the Casey Foundation, began the process of implementing and evaluating the first recommendation.

The report was not received without criticism. The current YDSU Intake Coordinator, who was also in the same position during the study period, points out that the population of the detention center ebbs and flows with juvenile delinquent activity. The study only examined the average daily population of the facility for the first four months of 1997. These tend to be slower months for detention admission. She states that the report’s average daily population of 19 cannot be generalized to the rest of the year as juvenile activity typically picks up in the late spring and again in late summer and early fall (W.C., personal communication 2/28/01).

Moreover, the report failed to address one of the overriding considerations for the scrutiny of detention centers—the issue of minority overrepresentation. Although the stakeholders (in this case the New Hampshire Task Force on Crime) may not have requested an analysis of discriminatory practices, the report revealed some alarming figures. Hispanics represented 7% of detained youth, yet New Hampshire’s population is only 1% Hispanic (Bureau of the Census, 1990). Four percent of detainees were black,
yet New Hampshire's population is only ½% black. Asians represented 2% of the detained population, while New Hampshire's population is only .8% Asian. While these figures equate to small raw numbers and do not represent \textit{prima facie} evidence of discrimination, they do signal a need for further investigation.

Finally, it should be noted that some members of the New Hampshire Task Force who commissioned the study were never notified of the results (Judge A., personal communication 2/23/01). Failure to communicate results may undermine the success of initiatives (Weiss, 1998). In the present study, some of the court personnel involved in the project have little, if any, awareness of the logic behind the screening tool and the reason for its pilot in the State (Judge H., personal communication 1/19/01). Failure to understand initiatives can also play a large role in the acceptance or resistance of new policy initiatives (Weiss, 1998).

Previous evaluation studies of detention risk screening instruments have used process and outcome measures (Maupin and Bond-Maupin, 1999; also see Schwartz and Barton, Eds., 1994), but have not examined them within the broader context of case processing. How this screening tool, which runs counter to an individualized approach, is utilized by family court and district court will be examined here, along with other court processing outcomes.

\textbf{Court Processing Studies}

Most court processing studies focus on sentencing outcomes. Sociological study of sentencing outcomes has been conducted from the early 1960s to the present. Very limited research, however, examines the intermediary court outcome processes. Though
not an exhaustive list, four intermediary outcomes will be examined here: case processing time, length of detention stay, plea bargaining, and court ordered assessments.

**Intermediary Outcomes**

**Case Processing Time.** While no national statistics are available on case processing time, one broad study addressed length of time in processing cases in 123 counties across the U.S. (Butts, 1994). In this study, the author found that the median time to process cases from the filing of a petition to the disposition of a case ranged from 36-171 days. In a follow up study, Butts and his colleague surveyed juvenile justice professionals on their opinions about case delays (Butts and Halemba, 1994). Using factors gathered from studies on adult courts, they asked professionals to rate juvenile court delay problems. Juvenile court workers cited all the problems associated with adult court: high workloads, poor organizational arrangements, inefficient courtroom procedures, and indifferent staff attitudes (p. 37). Unfortunately, the authors did not attempt empirical analyses to compare workers' perceptions with actual case flow. As mentioned, almost one half of all states have two different juvenile court systems in operation within them. Logically, case processing time may vary by court structure. One of the stated goals of the New Hampshire family court was to reduce the length of time between court hearings. This study will examine if family court does indeed differ from district court on case processing time for delinquent offenses.

**Detention Stay.** Length of detention stay is predicted on court practices. Courts in New Hampshire determine who gets into detention and when they get out of detention. While there may be a high correlation between length of court case and length of detention stay, length of detention stay is important on its own though most research
examines detention as an in/out decision in order to model the sentencing process. Detention involves more than simply entering and leaving. Ultimately, detention is a loss of liberty. During secure confinement, offenders are away from their families, their schools and out of the community. Rosner (1988) has called detention a period of 'forced idleness'. Meanwhile other studies have begun to document detention’s negative psychological impact (See for example, Bookin-Weiner, 1984) Clearly, length of stay is an important issue related to court practices that has received little empirical investigation. As a function of those court practices, length of detention stay, similar to length of time in the court process, may vary by court system.

Plea Bargaining. According to Sanborn (1992), researchers barely acknowledge that plea bargaining occurs in juvenile court, yet plea bargaining is a product of court action. In one of the first and only studies, Sanborn (1993) examined plea bargaining in rural, suburban, and urban areas. He distinguished between sentence bargains, where a plea is obtained for a reduced sentence, and charge bargains, where a plea is obtained for reduced charges. He found that sentencing bargains were more accepted in urban areas than in rural or suburban areas. Based on these findings, he argued that suburban and rural judges were more unwilling to surrender their control than their urban counterparts. Bortner (1982) also acknowledged that plea bargaining existed in his in-depth examination of one suburban court. In this court, he found that charge bargaining and sentence bargaining melded together and could not be considered separately. Rather than conduct a more detailed analysis of plea bargains, Bortner utilized pleas as a control variable (yes/no) in an overall sentencing model. Sanborn (1992, 1993) argues that plea bargains are an important outcome and should be examined as more than a yes/no
decision in sentencing models. Clearly, more research needs to be conducted to redress the paucity of literature in this area.

Assessments. There has been a similar absence of literature on court ordered evaluations and assessments, which are part of case processing. One possible reason for lack of examination is that most case processing studies rely almost exclusively on computerized court files which often may not include information about evaluations and assessments that were completed on the child or the child's family. One Ontario study that examined actual case records found that although judges ordered evaluations, they rarely followed clinical recommendations (Bell, 1994). Of concern in the present study is not whether or not judges follow clinical recommendations; rather the interest is in whether or not the judicial ordering of assessments varies by court type and how theoretical strains of rehabilitation and bureaucracy may play a role in that variation.

Dispositional Outcome

Finding of dispositional outcomes, or sentencing outcomes, have shown mixed results. As will be discussed, many studies have found more severe treatment for minority youth, lower class youth, and girls, while a smaller portion have found no evidence of discrimination. Variation in results is due to many factors. Hagan, Hewitt, and Alwin (1979) attribute the lack of consistent findings and the large amount of unexplained variance to the loose coupling of the justice system wherein different subsystems have the ability to influence outcomes. Beyond coupling, factors that account for the variation in sentencing findings include issues of theory and method. A number of different theoretical viewpoints have been used in sentencing studies thereby influencing the variables that have been included in court processing models. Methodological
differences have led to different results. More current studies used regression techniques, and earlier studies used bivariate analyses. A review of the literature points to two distinct factors, one substantive and one methodological that have influenced studies of court processing. Substantively, *In re Gault*, which entitled youth to the Sixth Amendment right to an attorney, has demanded that the court to pay closer attention to legal factors (Feld, 1990; Thomson and McAnay, 1984, in McAnay, Thomson, and Fogel; also see Lemert, 1970a). As a result, pre-*Gault* and post-*Gault* courts may vary markedly in how they process juveniles.

Methodologically, the development and use of multivariate techniques consistently has shown that the most reliable and valid models of court processing need to control for other factors. Early quantitative studies that do not use multivariate techniques may not represent an accurate picture of court processing. For these reasons, this review examines only post-*Gault* studies that, when analyzing quantitative data, have used multivariate techniques.

**Qualitative Studies.** Generally, studies that have examined the juvenile court through systematic observation have enhanced an understanding of how courts operate. Early observers writing about the same time included Cicorrel (1968), Emerson (1969), and Lemert (1970a). Their findings, however, are not consistent. In his observational study of one urban court, Emerson (1969) concluded that the judge was the main decision maker in the court. Lemert (1970a), on the other hand, believed that urbanization, especially after World War II, transformed the court into a complex organization that no longer reflected the characteristics of a sitting judge. Lemert also triangulated his observation of several courts with interviews, surveys, and file reviews of courts around
the State of California. He concluded that the California juvenile court system evolved from informal justice based on humanitarianism and judicial decisions to another type of informal justice predicated by ecological factors, administrative considerations, and specialized group interaction. Cicorurel (1968) echoed the interaction theme. In his examination of one court from an ethnomethodological approach, he demonstrated a negotiated order between court actors, rather than a single, powerful judicial actor.

In a more recent study, Bortner (1982) observed court cases, interviewed decision makers, and statistically analyzed court records in one mid-western, suburban court. He concluded that the juvenile court is a complex organization: “Even when one is familiar with the general organizational structure, basic philosophy, and statutes regarding juveniles, each court represents a unique approach to the implementation of legislative edicts” (p. 16). Although he defined decision making as a subjective human process, he believed that decisions were made in the context of the larger community. In contrast to Lemert (1970a) and Cicorurel (1968), he asserted that individualized justice had taken a back seat to bureaucratized, assembly-line justice in which court actors as well as juveniles and their families did not meaningfully participate in the process. Bortner’s observation on bureaucracy points to a common problem of many studies: although he discussed the idea of bureaucratized justice, he failed to operationalize its concepts.

Theoretical perspective provides a method of organizing quantitative research on dispositional outcome. The concept of bureaucracy, borrowed from organizational sociology, is discussed as a contribution to court processing discourse.

Conflict Perspective. A broad characterization of the conflict school includes feminist research and social ecology as subgroups. The conflict approach focuses on the
effects of inequality in society. Although varied in its forms, the basic tenets of conflict
theory contend that those with greater access to resources wield greater social control
over those with fewer resources. Contemporary conflict approaches tend to view society
as pluralistic, believing that there is not just one group vying for power, but many (See
Walker, Spohn, and DeLone, 2000 for relation to the criminal justice system). In a
juvenile court framework, conflict theory suggests that minorities, such as non-white
youth, girls, and lower class youth will be treated more severely than white male youth.
Support for this approach in case processing literature has been mixed (Hansenfeld, 1976,
in Sarri and Hansenfeld; Leiber and Jamieson, 1995; Pope and Feyerherm, 1990; Thomas
and Fitch, 1975).

Many scholars assert that race, gender, and class cannot be considered
independently (Chesney-Lind, 1988; Daly, 1998 in Tonry; Miller, 1994, in Schwartz and
Milovanovic). These scholars believe that race, gender, and class variables are
inextricably intertwined and attempts to disentangle their effects could lead to biased
results. Nevertheless, because of such things as difficulty obtaining large samples and
relatively homogenous groups of offenders, even these scholars continue to examine or
emphasize specific variables as will be shown below.

In a methodologically sophisticated study, McCarthy and Smith (1986) sought to
explain the variance in juvenile court dispositions by controlling for whether or not youth
were detained and for decisions made at previous points in the justice process. They
examined race, gender, and class during the phases of referral, adjudication, and
disposition. They found that as cases move through the system, race and social class
became more salient while legal factors, such as offense severity, declined in importance.
This supports Barton's (1976) early review of research where he found that the present offense lessened in importance as youth proceeded through the system.

In contrast, Phillips and Dinitz (1982) found that legal variables have more importance in sentencing than social characteristics. These scholars couched their study in terms of legal and social characteristic, or extra-legal, determinants of disposition. In their examination of violent offender dispositions in one court, they found that social characteristics (race, gender, class) did not influence court decisions. The most influential variable was the legal variable of prior record.

On the other hand, other conflict-oriented or critical criminologists that have examined racial effects have found a more nuanced effect. These scholars have found that race was a factor in pre-trial detention and that while race had little direct effect on subsequent court processing, detention had a large influence (Bishop and Frazier, 1988; Frazier and Bishop, 1995 in Leonard, Pope, and Feyerherm; Leonard and Sontheimer, 1995, in Leonard, et al.; Thornberry, 1979). Reasons for the discrepancies among these studies may be due to methodological approach and geography. For example, Phillips and Dinitz (1982) only examined violent offender dispositions in one court while Bishop and Frazier's collaboration (i.e. 1988; 1992; 1996) has modeled the phases of referral, arraignment, adjudication, and disposition for all alleged delinquents in an entire state (Florida). It is difficult to reconcile these studies when they take such varied approaches to the subject.

Leiber and Jamieson (1995) conducted a very comprehensive analysis of juvenile processing in four urban counties in Iowa from a “revised conflict perspective” that examined racial stereotypes, thereby adding an attitudinal component to their sentencing
They analyzed case level factors, community factors, and attitudinal factors of decision makers (judges, prosecutors, probation officers, court workers). The authors were particularly interested in how punishment orientations and stereotypes by decision makers played a role in racial disparities in sentencing. They found that the effects of race were not routinely significant. Racial disparities were contingent upon decision makers’ perceptions of punishment in the juvenile justice system as well as their perceptions of minorities. These authors examined variables at multiple levels, not just case factors. They showed that judicial orientation may be an important variable in case processing analysis (but see Hansenfeld and Cheung, 1985).

In comprehensive review of research relating to race, Pope and Feyerherm (1990) examined court processing studies from 1970-1988 and found that race operated in three different ways. First, race operated indirectly as decision-makers used other criteria associated with race to make decisions, such as family status or school participation. Race also operated cumulatively as a determining factor in each stage of the court process. Finally, race operated geographically as there were fewer community options for juvenile delinquents in areas with large minority populations. This study serves as an excellent summary of the literature, pointing to reasons why findings about the interaction of race in the juvenile justice system are so mixed. Ultimately, the operation of race is vague and may vary by location. What is clear, however, is that race should be a variable in any case processing study.

Carter and Clelland (1979) argued that when class is appropriately operationalized, race fails to be an important variable in sentencing. They took a neo-Marxian view of social reality. In their study, they conceptualized class dichotomously as
the ‘lumpenproletariate’, or those not working, and the ‘stable working class’. They further divided offenses into those of moral order (i.e. drugs, sex) and traditional (i.e. offenses against person and property). They found that lower class youth received more severe sentences when crimes were of the moral order, and they reasoned that was because society could not depend on socialization of the lower class to occur in primary groups, such as the family. The authors argued that the intersection of class and crime, not necessarily race, must be examined in more sophisticated ways in future research in order to fully test the conflict perspective.

**Feminist Theory.** Feminist research is included under the conflict perspective because feminist theory has tended to draw on elements of conflict theory (i.e. Hartsock, 1998; Smith, 1990). These scholars underscore the intersection of race, gender, and class (Flavin, 1998, in Ross; Miller, 1994 in Schwartz and Milovanovic; Naffine, 1987).

A particular focus within feminist research has been on status offender differences between boys and girls. Chesney-Lind and Shelden (1992) documented the juvenile court’s historic discrimination against girls, particularly with regard to status offenses where girls were consistently treated more harshly than boys. The authors conceptualized the juvenile justice system as one that harbors a double standard: a system for boys that was concerned with justice, and another for girls that was concerned with their morality. The influence of race further confounded that justice track. Their research, however, focused on status offenders, making little mention of how the landscape changed with more serious offenders.

Johnson and Scheuble (1991) examined both status and delinquency offenses. They found that traditional sex role conflict in sentencing had application for less serious
offenses, such as status offenses, but not necessarily more serious offenses. Similar to the research cited above (Chesney-Lind and Shelden, 1992; also see Chesney-Lind, 1997), they found that status offenders were given more severe sentences. Moreover, girls who were repeat offenders were also given more severe sentences than boys because of their violation of gender role expectations. For all other offenses, the authors found elements of paternalism, in which girls were treated more leniently than boys. Other feminists (Flavin, 1998, in Ross; Simpson, 1989) argue that feminist research needs to move beyond the simplistic conceptualization of sex role conflict and the paternalism/chivalry debate to take into account social constructs of female crime which are necessarily rooted in masculine-defined reality.

Finally, some feminist research provides different findings depending on the method used. Miller's (1994, in Schwartz and Milovanovic) work suggests subtle and indirect bias against minority youth. In her examination of probation recommendations for disposition, Miller, using log-linear analysis, found no racial bias in the treatment of delinquent girls. Qualitative results of probation officer dispositional reports, however, suggested that class and gender-centered minority expectations pervaded the recommendations of probation officers. There were different expectations for white girls, as opposed to Latinas, as opposed to blacks. In sum, different feminist frameworks and different methods have shown some measure of gender disparity. Studies conducted outside of a feminist lens, on the other hand, have not necessarily shown a gender bias (i.e. Fader, et al., 2001; Jacobs, 1990).

Social Ecology. Social ecologists emphasize the community as a context for decision making. This view strongly focuses on community level factors that account for
variation. Lauristen and Sampson (1998, in Tonry) assert that community context helps interpret the race-crime association, and how the macrosocial contexts such as poverty or urbanization affect sentencing decisions. The authors also state that decision makers respond to the social conditions of the area and variation in decision making can be differentiated by ecological contexts. Such things as access to quality jobs, to marriageable partners, and to quality schools can affect justice system outcomes (Wilson, 1978; Elliot, et al., 1996). Social ecologists posit that, rather than overt ethnic or class bias, social conditions that disproportionately affect minorities (i.e. joblessness and poverty) exert their influence through family disruption (Sampson and Groves, 1989). Family disruption, in turn, affects how courts view offenders (Berger and Hoffman, 1995; Daly, 1989, 1994; See review by Pope and Feyerherm, 1990).

In their study of youthful confinement, Bridges, Conley, Engen and Price-Spratten (1995, in Leonard, et al.) state, “Among the most significant of the limitations [of previous research] is that studies typically overlook important regional or areal differences in the administration of juvenile justice that may contribute to disparities in confinement” (p., 129). They found that minorities were more likely to be confined in communities with high violent crime rates. They also found that disproportionate minority confinement was related to officials’ perceptions of crime and minorities. The authors’ point to the need to integrate structural information into analysis of decision making.

Related to community variables, such as crime rate and access to quality institutions, is access to and availability of options and alternatives for juveniles who are identified by agents of social control. Krisberg and Austin (1993) logically point out that
court intake decisions are made largely on the availability of existing resources. Emerson (1969) notes that case outcomes are contingent, in part, on practical matters, particularly outside services which affect the range of possibilities of what can be done (Also see MacDonald and Chesney-Lind, 2001 and Pope and Feyerherm, 1990). In a recent study, Fader, et al. (2001) found that the strongest factor associated with the decision to commit a juvenile to out-of-home placement was the youth’s history of drug abuse. While the authors mention in passing that lack of programming may be related to the results, the availability of drug programs may be much greater in the geographical area under study (in this case Philadelphia) than other types of treatment options. Judges thus would be more likely to sentence youth to out-of-home drug treatment programs because the option is available and in absence of other programs. Social ecologists take this sort of resource availability as well as other ecological variables discussed above into account in analyses.

Penal Theory. Scholars that have examined court processing through a penal theory orientation have general examined the issue from a retributive/punitive versus rehabilitative/therapeutic dichotomy. In reality, the degree to which individuals and/or courts are retributive or rehabilitative falls on a continuum. Generally, it is argued that courts adhering to a rehabilitative approach, or the original conception of parens patriae, are more likely to be discriminatory because of the wide discretion that key actors use in deciding cases. Feld (1998, in Tonry) notes, “To the extent that parens patriae ideology legitimates individualization and differential processing, it exposes ‘disadvantaged’ youths to the prospects of more extensive state intervention” (p. 532). Penal theory has been used to examine processing both at the court and the individual level. There are two major flaws with these studies. First, some assume that legislative edicts predict court
practices (i.e. Cohen and Kluegel, 1979). In reality, court practices may differ markedly from legislative mandates (Bortner, 1982). Punitive changes in juvenile law may have occurred, but that does not necessarily translate to actual punitive court practices. Second, post-hoc explanations are often used to describe court practices. That is, the degree to which empirical analysis shows legal factors to be more important than extra-legal factors justifies court orientation (i.e. Feld, 1991). These studies may, to some extent, explain how courts are operating, but do not explain why courts are operating in such a manner. In order to explain why, penal orientation must be justified beforehand.

Clarke and Koch (1980) analyzed two metropolitan courts in one state and found evidence to categorize the juvenile court as oriented toward crime control rather than toward rehabilitation. The based their categorization on results that showed that legal factors, such as offense severity, were more likely to influence disposition than social factors such as gender, class, and race.

In another early study of court processing, Cohen and Kluegel (1979a) used log-linear analysis to determine differential intake decisions by probation officers in two courts in two different states. One court was oriented toward due process, while the other was more rehabilitative/therapeutic. The basis of court orientation distinction was the degree to which juvenile courts adhered to adult court rules and procedures imposed by law in each state. The most important factors in decision making were type of offense, as well as gender, and the guiding court philosophy. Overall, the due process court was more likely to treat all juveniles more punitively. For specific types of offenses (i.e. alcohol and drug violations), females were likely to be treated more harshly in both
courts. Though not fully addressed in their discussion, legislative mandates do not appear to uniformly or overwhelmingly predict court practices.

Among more recent penal studies, Mears and Field (2000) used penal theory to examine dispositions in one juvenile court. To frame their study, they used the distinction often made in research at the adult court level between substantive and procedural justice. They defined substantive justice as taking into account the needs of the offender, as morally based, and as akin to the rehabilitation approach used by other juvenile court researchers. They defined procedural justice, on the other hand, as formal and bureaucratic adhering to due process concerns. The authors found that while the juvenile court process was complex and nuanced, more severe sentences resulted from the legal variables of more serious present offenses and prior records and that social characteristics did not play a large role in decision making. They found that blacks received less severe sanctions than whites; that there was little gender influence on sentence severity; and that age explained little in dispositional outcome for youth who were not eligible to be waived to adult court for offenses.

Ultimately, they determined that procedural justice had taken hold in this one metropolitan juvenile court. They, however, did not control for many factors beyond race, gender, and class. Substantive justice by definition takes into account more factors than that. Thus, their model may have been misspecified, and it may have been premature to assume the court was more procedurally rational without more controls in the model.

Feld (1991) examined the degree to which courts rely on punitive or rehabilitative orientation based on geography in one state. He found that in rural locations, courts tended to be more informal, more treatment oriented, and, in these locations, judges used
wide discretion in deciding cases. In urban areas, the opposite resulted; courts were more bureaucratic and oriented toward due process rights. He argued that the more a court was oriented toward bureaucracy and due process, the more likely it was to be punitive. Conversely, the more informal and less concerned with due process rights a court was, the more likely it was to be treatment oriented (also see Burress and Leonard, 2000).

Feld (1991) then believes that justice by geography is the most relevant factor. Geographic location determines penal orientation; yet geographic location is predicated on the degree of bureaucratization. Thus, his logic then is that bureaucratization determines punitiveness (also see Hagan, 1977). His analysis, like a previously discussed study (Bortner, 1982) suffers from the poorly defined concept of bureaucratization. He used urbanization as a proxy for bureaucratization. While urban areas may be more efficient and rational than rural areas, that proposition must be examined. Myers and Talarico (1986) point out that urbanization and bureaucratization are not equivalent.

This connection between penal theory and bureaucratization is intriguing, particularly in the present study. As will be shown, the family court is more bureaucratically organized than the district court, but its ostensible purpose is more rehabilitative. Before looking at that conundrum, bureaucracy within the context of court practices must first be more fully explored.

**Organizational Studies.** An organizational approach to the sociological issue of decision making may assist in adding clarity to court processing research. Many court processing and sentencing researchers have discussed the necessity of adding organizational measures to any future analysis (i.e. Leiber and Jamieson, 1995; Mears and Field, 2000; Sampson, 1986; Stapleton, Aday, and Ito, 1982). Sampson and Laub
(1993) note, "There is a growing body of research suggesting that organizational structure of the court and resource allocations are important in understanding court variations in detention and commitment" (p. 307). Despite this need, most studies continue to fail to take organizational measures into account. The organizational approach is premised on the notion that the organizational culture mediates court processing outcomes, although there are different variations of organizational theory.

There have been only a handful of studies that have used an organizational approach or borrowed from organizational theory in the study of court processing. Most of those studies have been conducted in adult courts, which may not translate to what occurs in juvenile courts. These studies also have not included penal theory as a complementary approach to court processing.

In one of the most well-known studies, Nardulli (1978) and Eisenstein and Jacob (1987) discussed what they term the "courtroom workgroup" as ultimately determining how cases are processed. The courtroom workgroup consisted of an elitist group of the judge, the prosecutor, and the defense attorney who all negotiated in the ruling of the courtroom. In this paradigm, power is conceptualized monolithically as an elitist group controlling the courtroom in their own best interest. This conceptualization does not leave room for the idea that various groups, elitist or not, and individuals vie for power (i.e. Foucault, 1980). This view also presupposed a tight coupling in which the courtroom elite control other aspects of the system. As previously discussed, the juvenile court is more likely to be characterized as loosely-coupled, and the assumption of tight coupling may not be an empirical reality.
In contrast, Hansenfeld and Cheung (1985) used a political economy perspective, in which different groups engage in negotiating scarce resources to explain court processing, or as they term it, "people processing". While they conceptualized power more broadly, Hansenfeld and Cheung did not consistently find support for this theoretical perspective in empirical analysis.

Finally, using concepts borrowed from the organizational theory of neo-institutionalism, Albonetti (1991) examined the idea of bounded rationality in the criminal (adult) court system. Although she used no other organizational measures, she found that in the face of uncertainty about who will recidivate, judges patterned their decisions based on stereotypical notions of who has recidivated in the past. As Bell and Lang (1985) note, stereotyping generally is considered to be consistent with rationality in the economics literature. The above studies demonstrate the utility of using organizationally theory for understanding criminal justice processes. This particular study will examine elements of bureaucracy.

Weber is widely considered to be the founder of organizational theory and originator of ideas about how bureaucracy operates. Writing in the early 20th century, Weber believed that the modern world was becoming increasingly more rational and more bureaucratized. Rationality and bureaucracy, Weber thought, occurred in tandem. A formal system of rationality invaded the political, economic, and administrative realms of individuals' social lives. A modern system of organization was formed based on abstract rules, or formal rationality, rather than on the traditional, patrimonial system of personalities and values, or substantive rationality. Bureaucracy, because it was predictable,
quantifiable, and efficient (Ritzer, 1993), was the most capable form of government able to handle an increasingly globalize world that needed to meld pluralities.

According to Weber, characteristics of bureaucracy included fixed jurisdictional authority managed by written documents; general rules guiding interactions; and specialization of tasks, or a division of labor (Weber, 1958). Weber believed that bureaucracy promoted rationality and regularity. Under such a system, discretion and individualism fell by the wayside.

In the arena of law, general rules applying universalistic criteria resulted from the demand for equality and elimination of case-by-case decision making: “‘Equality before the law’ and the demand for legal guarantees against arbitrariness demand a formal and rational ‘objectivity’ of administration, as opposed to the personally free discretion flowing from the ‘grace’ of the old patrimonial domination” (Weber, 1958, p. 220). In patrimonial systems, tasks were carried out by individuals who left their mark on organizations. In a bureaucratic world, individuals performed specialized tasks, but the power to leave indelible marks was gone. Thus, in Weber’s view, modern law was meted out consistently based on general principles of formal rationality, and not on the idiosyncratic nature of individuals or places of substantive rationality.

Juvenile justice processing may very well be a microcosm of Weberian rationality. The historical beginnings of the court show a very patrimonial construction of justice. Discretion and individualization were the cornerstones of the juvenile court and the rehabilitative ideal. Individual judges were extremely influential in their own courts (i.e. Mack, 1909). Over time, the rehabilitative ideal was limited by procedural safeguards and by urbanization. Case law, analogous to Weber’s idea of general rules,
created standards of procedure that regulated judges' decisions. An artifact of urbanization has been the need to process more juveniles through the court system. As a result, organizational assembly-line justice has been the most efficient way to deal with heavy caseloads (Bortner, 1982). A new system, such as an implementation of a risk screening tool, presents a cog in the wheel of efficient justice and may therefore be met with resistance. This new system, however, is borne out of a rational procedure of calculability and prediction through automation, not human estimation. On the other hand, a family court system is a return to discretion and individualization, but a more bureaucratized system, in Weber's view, would overpower such ideals.

The organizational context of bureaucracy has been used in a few previous studies of juvenile court processing to examine case outcome. Most of these studies look at decision making in terms of a traditional, rehabilitative versus bureaucratic system of court administration (Bortner, 1982; Dixon, 1995; Feld, 1991; Hagan, 1977; Phillips and Dinitz, 1982). With the exception of Dixon (1995), a consistent problem with these studies has been the operationalization of the term "bureaucracy". Most studies equate urbanization to bureaucratization, either examining population density or court caseload. These two attributes may not measure the same underlying concepts, and if they do measure bureaucracy, they may not do so exhaustively. While bureaucratization may be difficult to measure fully (Dixon, 1995), increasing refinement of bureaucratic measures may provide a stronger foundation in understanding court processing. Prior measures of bureaucracy include the degree to which courts operate efficiently or their workload status; the degree to which courts are decentralized; and the number of specialized
personnel involved with the court (Dixon, 1995; Myers and Talarico, 1986; Tepperman, 1973).

As mentioned, penal theory approaches may compliment a discussion of organizational influences. Scholars who have utilized a penal philosophy perspective (Cohen, 1975; Cohen and Kluegel, 1979a; Feld, 1991) often discuss urbanization as affecting court structure which, in turn, affects the degree to which court sentencing is oriented toward punishment or rehabilitation. They do so, however, without examining organizational measures. These studies may be using tautological reasoning in assuming that a court is either punitive or rehabilitative in the absence of such measures. Rather than being based on implicit assumptions about court organization, a refined operationalization of elements of bureaucracy may provide a more grounded approach to examining case processing.

Overall, the idea of bureaucracy may have positive consequences for charges of discriminatory juvenile justice processing. Youth processed in more bureaucratic courts may be less likely to be discriminated against because of the need for efficient, and as a by-product, uniform administration of justice. Individual traits give way to general principles and a system that is concerned with equality and the larger foray of maintaining social order. The RAI in New Hampshire would appear to fit nicely with a bureaucratic rationale. The court reform effort, in contrast, appears to be at odds with such a structure.

**Bureaucracy and Rehabilitation**

An inherent tension exists between the penal idea of rehabilitation and individualization and the organizational idea of bureaucracy and standardization. Lemert
(1970b, in Garabedian and Gibbons) believed that "bureaucratic procedures [are] antithetical to individualized treatment" (147). Moore and Wakeling (1997, in Tonry) empirically demonstrated one problem with the wedding of bureaucracy and rehabilitation ideals using Rhode Island family court as an example. They stated, "In effect, a principle of bureaucratic rationality governing the fair and efficient delivery of overall services is coming into conflict with a judicial determination of what justice demands in individual cases" (284). A family court that is bureaucratized but espouses individual treatment is problematic both theoretically and empirically. Figure 2 illustrates the characteristics of each theoretical strain.

Figure 2: Theoretical Tenets

<table>
<thead>
<tr>
<th>Bureaucracy</th>
<th>Rehabilitation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Consistency</td>
<td>Human Estimation</td>
</tr>
<tr>
<td>Efficiency</td>
<td>Discretion</td>
</tr>
<tr>
<td>Calculability</td>
<td>Holism</td>
</tr>
<tr>
<td>Predictability</td>
<td>Treatment Orientation</td>
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<tr>
<td>Standardization</td>
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<tr>
<td>Automation</td>
<td></td>
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<tr>
<td>Specialization</td>
<td></td>
</tr>
<tr>
<td>Task Differentiation</td>
<td></td>
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</tbody>
</table>

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As discussed there are several characteristics of a more bureaucratized system. Weber (1942) identifies several hallmarks of bureaucracy: standardization of procedures, specialization of personnel, hierarchical decision making, and formality in process. Those scholars that have translated Weber's ideas of bureaucratization into a court context add further elements of more bureaucratized court systems. Aday (1986) added that bifurcation of the court process is symbolic of the formality characteristic of more bureaucratized systems and should be used to measure the degree of bureaucracy. In a bifurcated court process, each phase (i.e., adjudication, disposition) of the court process is a separate hearing.\(^3\) Dixon (1995) included that a docket specific court structure—in which the same judge hears all aspects of the same family's court case—as a further characteristic of more bureaucratized court systems.

The New Hampshire family court system embodies the problematic nature of bureaucracy and rehabilitation. It involves elements of a more bureaucratic system than the traditional district court system, and it is ostensibly focused on rehabilitation. The rehabilitative purpose of the family court has been discussed, and the greater degree of bureaucracy of family court can be divided into two categories: structure and personnel. With regard to structure, and in contrast to district courts, the family court is docket specific, there are standardized rules and procedures about file handling, and there are significantly more bifurcated hearings. With regard to personnel, and in contrast to the district courts, family courts have specialized 'family court' judges and county coordinators who provide direction and oversight of all courts in the county. Figure 3 illustrates these conceptual ideas graphically.

\(^3\) As shown in Figure 1, New Hampshire allows for hearings to be combined to allow for a summary disposition.
In sum, this study examines if there are differences between the family court and the district court, and utilizes both penal theory and elements of bureaucracy as a framework to examine how bureaucracy and rehabilitation co-exist within the same system.
Figure 3: Conceptual Framework and Question

FAMILY COURT
Elements of both
Bureaucracy and Rehabilitation

Bureaucratic Elements
1. Standardization – file handling
2. Specialization – specialized personnel
3. Task Differentiation – cases specifically docketed

Rehabilitative Elements
1. Treatment Orientation – goal of ‘therapeutic justice’
2. Holism – ‘one family, one judge’

How does family court operate?

Efficiently and Consistently

Individually and Discretionarily
CHAPTER 3

METHOD

There are two main objectives of this study. The first objective is to conduct a process evaluation of a detention screening instrument. That evaluation has two components. One component will examine the systematic use of the instrument in all detention cases, and the second component will examine decision congruence, or how often the instrument recommendations are followed by judges. The detention screening instrument is then used as an independent variable in analyses relating to the second objective.

The second objective is to examine what factors predict court processing outcomes. Both objectives are theoretically tied to elements of penal theory and organizational theory. Hypotheses contrast a bureaucratic position with a rehabilitation orientation. This chapter begins with a discussion of the research design. The following sections address study population, state culture, measurement, data collection methods, hypotheses, and data analysis.
Research Design

There are several models used in this research to examine predictions about bureaucracy and rehabilitation: a process evaluation model, 'intermediary outcomes' models, and a dispositional outcome model. The research project involves an investigation of juvenile court records for a one-year period (August, 2000 - August, 2001) in four counties in New Hampshire. Two counties (one family court system - Grafton County; one district court system - Hillsborough County) employ the detention screening tool, called the risk assessment instrument (RAI), and two counties do not (one family court system - Rockingham County; one district court system - Cheshire County). The two counties that utilize the instrument were chosen by the State. The two counties that do not use the RAI were selected by the researcher based on county demographic comparability.

For the process evaluation model, the use of the RAI is the dependent variable. Systematic implementation of the instrument in the two pilot counties is explored primarily with regard to case factors and type of court (family/district). The second process question is the degree to which there is decision congruence between the instrument recommendations and the judges' decisions. The RAI was implemented six months into the study period. An analysis examining the counties before and after implementation was conducted. As noted in subsequent chapters, no significant differences before or after implementation were found. Because use of the RAI could influence further case processing, the RAI, as previously mentioned, was used as an independent variable in analyses relating to intermediary outcomes and dispositional
outcome. Where appropriate, qualitative information gathered from discussions with judges, probation officers, attorneys, and police officers inform quantitative findings.

**Study Population**

The population of concern in this study is juvenile delinquent offenders in the State of New Hampshire who are detained. In this study, detainees are juveniles who are placed in secure, locked custody at any point during their court proceedings. Four counties compose the study population. For each of the four counties, all youth who were detained during the study time period were included in the study. Total study size is 174 youth gathered from the sixteen courts located in these four counties. The sample can be termed a census of four counties because it involves an examination of all subjects during a time period who exhibit a certain characteristic – detention.

Importantly, the study population is not random. Inferential statistics are based on the assumption of random sampling methods to obtain probability samples. Probability samples are the "only type of sample that fully supports the use of inferential statistical techniques to generalize to populations" (Healey, 1999, p. 140). Because the study counties are not necessarily predictive of the full state, these results cannot be generalized to the rest of the state. Because these cases are gathered cross-sectionally by time period, however, it is possible to generalize, albeit cautiously, to other years in which the family court existed and to subsequent years given no significant change in these two court systems or in juvenile law. Therefore, while differences shown between these two court types are actual differences for the study year, it is possible to use inferential statistics to generalize to case processing outcomes in these courts during other years. Generalization to other jurisdictions outside the state is also not possible. National statistics show that

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19% of all delinquency cases processed in 1998 were securely detained (Stahl, 2001). In contrast, only 9% of all delinquency cases in these New Hampshire courts were detained during the study period. There certainly may be some real differences between what happens in these New Hampshire jurisdictions and what happens nationally.

Seven youth were removed from the study population. Four youth were arraigned in a study court, but subsequently transferred to courts outside the study area for adjudication and disposition. All four were transferred because they had open cases in these other jurisdictions. Cases were dismissed for the remaining three detained youth. Two of these youth were found incompetent to stand trial and the third youth’s case was dismissed because the state failed to prove its case. Excluded youth composed only 4% of the total study population. Characteristics of excluded youth were compared to the remaining study youth. No differences were found among the youth dropped from the analysis and the study youth.

In addition to cases removed, six youth were held in detention on an “interstate compact” during the data collection period. These youth were not included in the study. Interstate compacts are agreements between states to hold delinquent/runaway youths, picked up in one state but offenders from another state, in secure facilities until they are extradited back to the state in which they offended. Because these youth did not go through the court process in New Hampshire, they were not included in the study.

Selection Bias Issues

As the flow chart in Chapter 1 shows, there are a number of decision points in the juvenile justice process that affect future decisions. Filtration occurs throughout the court process (i.e. police prosecutors select which youths to petition) and there are multiple
stages to the court process (i.e. arraignment, adjudication, disposition). This study cannot account for which youths are petitioned to court, thereby creating a selection bias issue. Only a subsample of delinquents is available for inclusion. Nor can the study account for non-detained youth, further limiting the subsample for analysis. This study can, however, examine all the phases of the court process for youth once they are detained. Other researchers note that failure to model each phase of the process (i.e. decision of who gets detained) may result in underestimation of certain effects (Bishop and Frazier, 1988; Myers and Talarico, 1986; see generally, Heckman, 1979). A two-stage modeling procedure is often applied to such data (see Berk, 1983). Because the selection process for who becomes detained is unknown, the process cannot be modeled.

An analysis of the present data shows that bifurcated hearings, or separate hearings for each phase of the court process, are atypical. Almost two-thirds (62%) of all cases are disposed prior to the adjudication through what is called summary dispositions. For example, a youth that has an arraignment hearing during which s/he pleads true also can be sentenced during that same hearing. For processing occurring after detention, a two two-stage modeling procedure is inappropriate. Therefore, while the study cannot model court decision phases for non-detained youth, the procedure is not employed in this study of detained youth because it would inaccurately model the court process in this state (also see Clarke and Koch, 1980). The fact that all detained youth in this study moved through all stages of the court process further demonstrates that the two-stage modeling procedure is unnecessary, since no filtration of cases occurred in the adjudication process.
Youth who are detained are not representative of all youth who enter the juvenile justice system. Factors influencing detention in different areas tend to vary. Others have found, though not consistently, that the following variables influence detention: offense severity, number of prior offenses, race, positive/negative family relationships, and positive/negative school issues (See Bishop and Frazier, 1996; Bookin-Weiner, 1984; Bortner and Reed, 1985; Clarke and Koch, 1980; Dannefer, 1984; Fenwick, 1982; Frazier and Cochran, 1986). In addition, though detention facilities contain chronic, severe, and violent offenders (Howell, 1995), less serious offenders are also included in the detention population, as evidenced by factors taken into account during the decision to detain. The study findings, then, may only be generalized to detainees from other years in the counties from which the population originated.

**Data Collection and Procedures**

An analysis of court records was used to uncover factors associated with decision making through quantitative analysis. Court records include information on the present offense charges, court orders, assessments, and usually the police report and a predispositional investigation conducted by the probation officer which includes a history of the child’s family, school, mental health, and other factors the probation officer deems relevant to the youth’s ultimate disposition. Under state law, school districts must participate in court action against educationally disabled youth. Court files on these youth also include some school records.

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4 Educational disabilities include such things as emotionally handicapped (EH), attention deficit/hyperactivity disorder (ADD/ADHD), learning disabled (LD), special education (SPED), and other health impaired (OHI).
Because there is no statewide, integrated court computing system, at various intervals the researcher traveled to each court to gather the information from court records into an SPSS data file. All records of detained youth for the one year period were examined. Access to court records was granted through the State’s Administrative Office of the Courts (AOC). The AOC provides oversight and administration for all courts throughout the State. It was the AOC who sought out the particular instrument, decided upon pilot implementation, and requested an evaluation. The researcher wrote a proposal to support an evaluation of the instrument and requested access to further information to use as a dissertation study. Logistical issues, such as the collection of the data and the mode of communication, were negotiated by the researcher with staff at each individual court.

Confidentiality was maintained throughout the project. Names of youth involved in the study were converted to a study number, thereby eliminating identification of individual youth. Confidentiality procedures were approved through the University of New Hampshire’s Internal Review Board (See Appendix A for approval letter), and through the State’s Administrative Office of the Courts.

The Culture of New Hampshire’s Juvenile Court

While this study examines differences between two court systems in New Hampshire, it is important for the reader who is familiar with other studies of court processing to understand the general culture of New Hampshire’s juvenile court. Lemert (1970a) discussed the court as a loosely coupled system and found variations throughout the State of California. This may very well be true within states and from state-to-state. This section will discuss New Hampshire state differences in order to put the study in
context and to understand the reasons why some variables were collected for study inclusion.

Attorneys

The basic right to counsel in juvenile court was afforded under *In re Gault* (1967). Since that time there has been much debate in the literature about the effects of attorneys and the quality of public and private attorneys (Feld, 1993; Burruss and Leonard, 2000). Whether or not a child has an attorney or the type of attorney (public/private) is not examined here. Under New Hampshire state statute (RSA 169:B 12), all youth who are detained or have the potential to be detained or committed to institutions are required to have representation. Since all youth in this study were detained, all youth have representation. Moreover, all but two youth had public defenders. New Hampshire may differ from other jurisdictions in this regard.

Although families of a large portion of juveniles in this study (at least 40%) can afford private counsel according to state limits, they are allowed to retain a public defender and to subsequently reimburse the court (or more aptly, the county) for attorney expenses. Most families employ this option. Comments from two state juvenile justice professionals are illuminating.

As explained by one public defender, "You can't find many private attorneys who are willing to do juvenile work. First, there's no money or glory in it, and second, juvenile law is more complex than criminal law, so people just stay away from it. Besides, the truth of the matter is that public defenders are the best representation that these kids are going to get." (Public Defender J.C., personal communication, 11/12/01). Certainly a public defender may have a jaundiced view of their work as compared to
private attorneys, but a probation officer shares this perception. “The public defenders as a group generally try to do what is in the best interests of the child, and most of them do a great job of it. Sometimes, when you do get a private attorney in there [courtroom], it’s a nightmare. They have no idea about protocol and little knowledge of juvenile law. It’s an entirely differently world than what they’re used to.” (Probation Officer D.S., personal communication, 10/12/01).

The present study does not include a predictor variable of attorney representation like many other studies of case processing, because all potentially detainable youth in New Hampshire are represented, and almost all of these youth are represented by a public defender. In a sense, then, representation is a constant. All defendants are represented by the same agency, though there is likely to be some variation in the quality of representation within the agency.

**Referral Agencies**

Some studies have included the referral source in considering case outcomes for delinquents (Bailey and Peterson, 1981; Clarke and Koch, 1980; Garcia, 1998). Referrals to court can originate from police, schools, parents, and sometimes other community agents. In this study, all youth are referred by police agencies. Schools or parents initially may call the police for assistance. Once at the scene, however, the police take over and file the petition in court. Police, or prosecutors connected to a police department, decide whether cases go to court based on such things as the strength of the case and the type of offense. In most states, particularly larger ones, this is the task of a court officer or probation officer, and it is termed an intake procedure. It is important to know that
determining who comes to court in New Hampshire is a matter decided by police departments, not the courts.

Parents and Judges

Unlike some other states (i.e. Pennsylvania, Oregon), in New Hampshire, a legal parent or guardian is required to attend all court hearings pertaining to the alleged delinquent child. While the degree of parent involvement varies by case, parents may have an effect on judicial decisions. As Bortner (1982) notes "...a major assumption inherent in the juvenile court process is that family structure not only contributes to the creation of delinquency, but that the structure can also be strengthened to minimize or eliminate delinquency" (p. 205). Family variables that assess family structure as well as family relationships are included in the study.

In New Hampshire, attorneys interested in serving as a member of the judiciary must first submit an application to the State for consideration. Judges are appointed to the bench by the Governor's Executive Council. Once appointed, judges can serve for life. Juvenile court judges in New Hampshire probably have more discretion than their counterparts in larger states when it comes to detention. These judges ultimately determine who gets detained, unlike judges in larger states. If police officers or probation officers want to detain youth, they must obtain a valid court order, which can only be issued by a judge. Judges are on call around the state 24 hours a day to determine whether or not youth should be detained. This function in larger states is usually relegated to probation officers or court intake officers.
Resource Availability

New Hampshire is what the National Center for Juvenile Justice terms a "centralized system", where administration of services to pre-delinquents and delinquents is organized at the state level (National Center for Juvenile Justice, 2002). This means that facilities such as detention centers and treatment institutions are run or contracted by the State. In addition, services are options available to all courts through the State. The result of statewide organization is that all courts vie for the same resources. In contrast, some other states organize their services at the county level. In those states, commitment to facilities is often a function of differential availability of services in each county. Methodological implications for a centralized system are that, while there is no control for resource availability in the study, there is no bias by county because all courts compete for the same available services.

Measurement

The unit of analysis for the research is the individual juvenile case. It is possible that some individuals may have more than one case; for instance, if a juvenile is in the system more than once over the course of the study period. In such instances, only the first case during the study time period is included. An advantage of examining 'hard copy' data files as opposed to computer files is the availability of more information, particularly qualitative information that can be garnered from reports. This method provided a rich source of individual level data, including some measures (i.e. educational disability and mental health/substance abuse diagnosis) that have rarely been used in this type of research (Fader et al., 2001), but have case as relating to differential court outcomes (Applegate, Turner, Sanborn, Latessa, and Moon, 2000).
All variables in the analysis are individual level based on the case, except for two aggregate factors. Court type, the main variable of interest and geographic location are measured at a higher unit of analysis. Different levels of measurement could result in problems with analyses. Potential problems include collinearity between individual level factors and aggregates and heteroscedasticity as large numbers of individual cases are nested within smaller numbers of aggregates (Byrk and Raudenbush, 1992). A correlation matrix (shown and discussed in the following chapter) and diagnostic graphs for measurement variables show that neither problem is an issue in this study. Given that, it should be noted that hierarchical linear and logistic modeling specifically addresses this type of multi-level data (Byrk and Raudenbush, 1992). This technique models individual factors, aggregate factors, and their influence together. Unfortunately, small study size limits the use of that technique here.

**Independent Variables**

Independent variables used in this study are operationalized below. As mentioned, court type is the main variable of interest and the other aggregate variable is geographic location. Individual variables are grouped according to the characteristics of legal factors, or factors related to the case, and extra-legal factors, or social characteristics.

*Court Type* is coded as a dichotomous variable 0 = district court and 1 = family court. *Geographic Location* is coded as a dichotomous variable 0 = urban and 1 = rural based on 1993 US Department of Agriculture Beale Coding for US counties.

*Legal factors.* *Offense Severity* is the New Hampshire state severity coding of offenses; range from Level I (minor offenses) to Level IV (major offenses). Appendix B includes a full description of levels and offenses. *Prior Offenses*, the number of prior
court cases, was coded as 0,1,2,3 or more. Because there were very few youth who had
court cases, these cases were combined into a “three or more”
category. *Multiple Charges* was coded as a dichotomous variable 0 = no and 1 = yes,
indicating whether or not there is more than one offense charge for current court case.
*Weapon* was coded as a dichotomous variable 0 = no and 1 = yes, indicating whether a
weapon was used in present offense. Weapons can include many things such as firearms,
knives, and blunt instruments (i.e. lead pipes). *RAI* is coded as 0 = no and 1 = yes for the
use of the instrument in the court processing models. As previously mentioned, the RAI
is a dependent variable for the evaluation model.

**Extra-Legal Characteristics.** *Gender* is coded as 0 = male and 1 = female.
*Ethnicity* is coded as 0 = white and 1 = non-white. The original database had separate
coding for black, Hispanic, Asian, and other. Because there were so few minorities (n =
30), these categories were collapsed for analysis. *Socio-Economic Status* was coded as 0
= poverty-public assistance and 1 = non-poverty-non-public assistance. Information on
socio-economic status (SES) was obtained by an examination of financial information in
court files. Parents or legal guardians are required to fill out a financial affidavit in order
to obtain a public defender. Household income was taken from this affidavit to determine
SES. Households under the current poverty level standards for New Hampshire published
by the U.S. Department of Health and Human Services were coded as “poverty-public
assistance”. *Age* of youth was coded as 13 and under, 14, 15, and 16. Younger ages were
combined because there were only five youth under age 13 in the sample. Cell size
became too small for multivariate analyses. To correct for this problem, categories of
cases were combined which resulted in a more stable model with variation across x and y
combinations. *Family Structure* was coded as $0 = \text{two parent}$, $1 = \text{single parent}$, $3 = \text{other}$.

Two parent families included blended families, while the other category included juveniles living with other relatives and those in state care, such as those in foster/group homes. *Mental Health/Substance Abuse Diagnosis* is coded as a dichotomous variable $0 = \text{no}$ and $1 = \text{yes}$, indicating whether a youth has a mental health diagnosis, a substance abuse diagnosis, or both. *Educational Disability* is coded as a dichotomous variable $0 = \text{no}$ and $1 = \text{yes}$. *Family Issues* is coded as a dichotomous variable of $0 = \text{no}$ and $1 = \text{yes}$, indicating whether youth has noted negative family relations in the court case file. *School Issues* is coded as a dichotomous variable $0 = \text{no}$ and $1 = \text{yes}$, indicating whether youth has noted negative school relations in the court case file.

**Dependent Variables**

There are several different dependent variables in this analysis. The first dependent variable for the process evaluation question is systematic use of the *RAI*, coded dichotomously as $0 = \text{no}$ and $1 = \text{yes}$. This refers to whether the RAI was used in each detention case. The second process evaluation dependent variable is the decision congruence of the RAI coded dichotomously as $0 = \text{no}$ and $1 = \text{yes}$. Decision congruence refers to whether or not actions taken by the judge to detain/not to detain match what the instrument predicts should happen. For the larger questions of how cases are processed in the two different court systems, there are several dependent variables broken down into intermediary outcomes and dispositional outcome.

**Intermediary Outcomes.** Intermediary outcomes include the following dependent variables. *Case Processing Time* is a base 10 logarithmic transformation of the number of days cases take to be processed from petition to disposition. This variable was...
transformed because univariate analysis showed that the distribution of the variable was not normal, displaying a severely positive skew. A graph of case processing time in its original form is shown in Appendix C. While transformation of any variable, and particularly a dependent variable, makes interpretation more complicated, it changes the distributional shape to allow mean-based statistics to more accurately describe the data and to be more efficient and unbiased in estimation (Hamilton, 1992). Length of Stay at the detention facility is another intermediary outcome that suffers from the same problem as case processing time: specifically, severe positive skew. Appendix C also shows the line graph of length of detention stay. This variable was also transformed into its base 10 log.\textsuperscript{5} Plea Bargains was coded dichotomously as 0 = no and 1 = yes, indicating whether a case was resolved through a plea bargain. Finally, Court-Ordered Evaluations was coded dichotomously as 0 = no and 1 = yes, indicating whether the case included any court-ordered evaluations or assessments of the youth and/or his family.

**Dispositional Outcome.** Dispositional Outcome was coded dichotomously as 0 = released and 1 = committed. Released refers to a dispositional placement in the community on probation. In 3% of cases (n=6) it also refers to cases placed “on file without a finding” for a period of time. In these cases, judges dismissed charges, provided that offenders had no new court cases within a certain period of time (i.e. 6 months). In essence, these youth were released to the community with a stipulation that they remain “petition free”. Committed, on the other hand, refers to a dispositional

\textsuperscript{5} There are several points at which youth seem to leave detention - after seven days and after 28 days. An attempt to recode the variable into quartiles (25\textsuperscript{th} percentile = 7 days, 50\textsuperscript{th} percentile = 16 days, 75\textsuperscript{th} percentile = 23 days) not only resulted in a loss of efficiency, but also did not seem to accurately model the process.
commitment to residential facilities or the training school. Residential facilities are committal placements to institutions that deal with behavioral problems. Some residential facilities also specialize in other defined problems, such as substance abuse, teen pregnancy, and sexual offending. As noted in Chapter One, the training school is the juvenile equivalent to adult prison.

Categories for dispositional outcome were grouped from an original coding of dispositional outcome as an ordinal variable because small study size prohibited a more detailed disaggregation of the dependent variable. The following ordinal classification, however, will be examined at the bivariate level with type of court. The breakdown of categories is as follows: The State's only training school, the Youth Development Center (YDC), is the most severe disposition for youth. However, there are some significant qualitative differences between probation, and YDC placement until the youth turns 18 years old. Youth can be sent to what is considered to be “staff secure” placements, or residential facilities, such as wilderness programs and substance abuse treatment facilities as discussed above. Dispositional release also can be distinguished by time. Ordinal categories of dispositional outcome will be examined on a severity continuum (probation for 6 months and under, probation between 6 months and one year, probation over one year, residential facility, YDC).

Instrumentation

One instrument, the RAI, is used in this study. A copy of the Risk Assessment Screening Instrument, as it is officially called, is included in Appendix D. This instrument has been piloted in Florida, California, Oregon, Illinois, and New York. In those locations, the instrument was adapted as a consensus-based tool. The statistical
reliability and validity may be questionable. Because the RAI has been modified by New Hampshire stakeholders, close scrutiny of the instrument is necessary. This analysis, however, addresses only a process evaluation of that instrument. In other words, the present study examines if the instrument is being utilized properly by juvenile justice professionals. The predictive efficacy of the instrument is another matter. This study makes no claims to address that issue, which should be a topic of future research.

**Hypotheses**

A tension exists between the bureaucratic ideals of uniformity and efficiency and the rehabilitative ideal of a holistic approach. The hypotheses stated below are organized to examine those tensions. The goal here is to examine whether family court is best characterized by a bureaucratic or a rehabilitative dynamic. Hypotheses relate to the tenets of these theories as enumerated in Figure 2.

**Evaluation Hypotheses**

The evaluation of the detention screening tool involves two research questions dealing with uniformity and decision congruence. Bureaucratic predictions about consistency and the acceptance of mandates would lead to one set of predictions, while the rehabilitative ideal of treating offenders as individuals would lead to a separate set of predictions.

1. *The RAI is more uniformly applied in family court cases than in district court cases* (bureaucratic prediction).

   *The RAI is less uniformly applied in family court cases than in district court cases* (rehabilitative prediction).
2. There is more decision congruence with the RAI in family court cases than in district court cases (bureaucratic prediction).

There is less decision congruence with the RAI in family court cases than in district court cases (rehabilitative prediction).

Decision Making Hypotheses

Because the RAI assists in the decision making process, it is used as an independent variable in this model. The issue of discriminatory or differential decision making will be examined. Although family courts are more bureaucratically organized, they are premised on the idea of rehabilitation – judges can make better decisions if they know more about youths’ situations and families. The hypotheses pertaining to decision making are as follows.

Intermediary Outcome Hypotheses. These hypotheses refer to system outcomes prior to case disposition. In these situations, case handling can be thought of as a series of “intermediary outcomes”. Bureaucracy leads to predictions of efficiency in handling court cases and consistency across categories of offenders. Detention times and case processing times should be shorter in more bureaucratic courts. There should be more plea bargains and fewer court-ordered assessments, both of which decrease case delay times. In addition, fewer clinical assessments can be predicted to increase consistency in handling offenders. Rehabilitation ideals predict the opposite in these situations.

3. Cases are processed more quickly in family courts as opposed to district courts (bureaucratic prediction).

Cases are processed more slowly in family courts as opposed to district courts (rehabilitative prediction).
4. *Periods of detention are shorter in family courts as opposed to district courts* (bureaucratic prediction).

*Periods of detention are longer in family courts as opposed to district courts* (rehabilitative prediction).

5. *There are fewer evaluations and assessments on cases in family court as opposed to district court* (bureaucratic prediction).

*There are more evaluations/assessments on cases in family court as opposed to district court* (rehabilitative prediction).

6. *There are more plea bargains in family courts as opposed to district courts* (bureaucratic prediction).

*There are fewer plea bargains in family courts as opposed to district courts* (rehabilitative prediction).

**Dispositional Outcome Hypothesis.** This refers to overall system output, which is sentencing. Given the bureaucratic and rehabilitative framework, each perspective would predict differences between family court and district court in the disposition of cases.

Prior research has shown that more bureaucratic courts dispense more severe dispositions than less bureaucratic courts while more rehabilitative courts may release more youth back into their communities.

7. *Cases will be sentenced more severely in family court than in district court* (bureaucratic prediction).

*Cases will be sentenced less severely in family court than in district court* (rehabilitative prediction).
Data Analysis

Bivariate relationships were examined for strong and significant relationships. Descriptive analysis is presented in the next chapter. Potential problems, such as multicollinearity are addressed. Multivariate analysis utilizes regression techniques, including logit for dichotomous dependent variables and ordinary least squares regression for the two transformed continuous dependent variables. Because this is a year census, any effects, significant or not are real. Significance, however, assists in generalizability.

In all multivariate models, court type was entered as a first variable. In a second step, all other variables were entered and backward selection was used to uncover any significant relationships. This particular method was used because theory and prior research do not provide any clear indications of what variables should be included in multivariate models. Further, the small study size limited the number of variables that could be entered into the model at one time. Backward selection, therefore, was used with a conventional .05 alpha level as a cut point for entry into the model. The following two chapters present the results of the analyses. Full regression equations for backward selection models are located in Appendix E.
CHAPTER 4

STUDY DESCRIPTIVES AND RISK ASSESSMENT INSTRUMENT RESULTS

Descriptive Analyses

Study Population Descriptives

Table 1 contains descriptive characteristics about the juveniles in the study. Most detainees were white males with an average age of 14.6 years. Detainees are more likely than not to have a mental health and/or substance abuse diagnosis and to have an educational disability coding in school. A majority of detainees live in single-parent homes and their families qualify for public assistance. The offenses resulting in detention tend to be misdemeanors against the person (62%), or Level II offenses under state guidelines. Importantly, 56% of those misdemeanor against the person offenses stem from violence within the family (i.e. assault or threat against a parent or sibling). Very few offenses (23%) resulting in detention were the result of felony crimes. Sixty-one percent of youth were on some sort of court ordered conditional release or placement when the offense for which they were detained occurred. Finally, approximately one-half of the offenders went through district court, while the other half went through family court. Slightly over three-quarters of youth came from urban counties (Hillsborough and Rockingham). In sum, detainees tend to be white males from single-parent homes with lower SES. They also tend to have mental health and/or substance abuse problems.

6 The age of majority for criminal offenses in New Hampshire is 17 years old.
and to have a difficult time in school. These offenders are not new to the system and usually have committed misdemeanor crimes that resulted in detention.

While New Hampshire does not keep statewide statistics on delinquent youth, generic comparisons suggest that there may in fact be some discrepancies in who gets detained. For instance, the study counties are 97% white overall, yet the detention study population shows non-whites constitute 18% of those detained. New Hampshire has one of the lowest rates of children living in poverty in the state (Annie E. Casey Foundation, 2002), yet the detention study population shows that 60% of youth in detention are at or below the poverty line. A recent national survey showed educationally disabled youth comprised 45% of the detained and/or committed population (Quinn, 2001), yet they compose 63% of the population in the New Hampshire detention facility. Finally, with regard to gender, national court statistics show that detention populations consist of approximately 16% female (Poe-Yamagata and Butts, 1996). The New Hampshire detention population, however, is 29% female.

Controlling for offense severity and prior offenses may paint a slightly different picture. For example, national arrest statistics show that non-whites are responsible for a disproportionate amount of the serious crime (Snyder and Sickmund, 1999). These data suggest that there may be some discrepancies between youth who are detained and those who are not. Those disparities, however, should not be thought of as synonymous with discrimination (See Myers and Talarico, 1986) and further investigation of the causes of disproportional confinement must be investigated.
Table 1: Study Descriptives (N = 174)

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<table>
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<tbody>
<tr>
<td>Gender</td>
<td>71% Male</td>
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<tr>
<td>Ethnicity</td>
<td>83% White</td>
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<tr>
<td>SES</td>
<td>62% Public Assistance/Poverty Level</td>
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<tr>
<td>Age</td>
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<td></td>
<td>31% age 16</td>
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<td></td>
<td>28% age 15</td>
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<td></td>
<td>26% age 14</td>
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<tr>
<td></td>
<td>15% ages 13 and under</td>
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<tr>
<td>Mean Age</td>
<td>14.6 Years</td>
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<tr>
<td>Family Structure</td>
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<tr>
<td></td>
<td>58% Single-Parent Homes</td>
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<td></td>
<td>35% Two-Parent Homes</td>
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<tr>
<td></td>
<td>7% Other Household Arrangement</td>
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<tr>
<td>Mental Health/Substance Abuse Diagnosis</td>
<td>56% Diagnosed</td>
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<tr>
<td>Educational Disability</td>
<td>63% Coded</td>
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<tr>
<td>Offense Severity</td>
<td></td>
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<tr>
<td></td>
<td>62% Misdemeanor Against Person</td>
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<tr>
<td></td>
<td>15% Misdemeanor Against Property</td>
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<tr>
<td></td>
<td>12% Felony Against Person</td>
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<tr>
<td></td>
<td>11% Felony Against Property</td>
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<tr>
<td>Current System Involvement</td>
<td>61% Involved with JJS</td>
</tr>
<tr>
<td>Court Type</td>
<td>51% District Courts / 49% Family Courts</td>
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<td>County Type</td>
<td>78% Urban County</td>
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<td>County Classification</td>
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<tr>
<td></td>
<td>40% Hillsborough</td>
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<td></td>
<td>38% Rockingham</td>
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<td></td>
<td>12% Grafton</td>
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<td></td>
<td>10% Cheshire</td>
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Bivariate Relationships

A bivariate Pearson correlation matrix of all variables is shown in Table 2. The method of data collection provided a rich source of information from case files. Because the literature is unclear about which variables are important in case processing, and because this study examines some case processing outcomes that have rarely been considered, many variables were initially examined.

Court type is moderately correlated to three of the four intermediary outcome variables. Cases from family court are significantly more likely to have longer days in detention ($r = .24$, $p < .01$), and less likely to be plea bargained ($r = -.22$, $p < .01$). Cases from family court are also more likely to include court ordered evaluations and assessments ($r = .22$, $p < .01$). These bivariate associations are all in the direction predicted by rehabilitation hypotheses.

There are other significant correlations between cases from these two court systems. Cases from family court include less serious offenders ($r = -.15$, $p < .05$), fewer females ($r = -.18$, $p < .05$), fewer non-whites ($r = -.17$, $p < .05$), higher familial SES ($r = .16$, $p < .05$), more mental health/substance abuse diagnoses ($r = .15$, $p < .01$), and more school issues ($r = .17$, $p < .05$). Differences with regard to case seriousness, ethnicity, and SES may well be due to the influence of the two largest cities in New Hampshire, Manchester and Nashua, both of which are located in district court jurisdictions. More urban areas are more diverse with regard to ethnicity and SES, and handle more serious offenses. Other significant correlations between independent and dependent variables are discussed below.
RAI. The correlations related to the RAI are only examined for the subset of the study population (two counties) that piloted the RAI and only refer to whether or not the RAI is used. The RAI is used more often in cases with offenders with two parent families ($r = -.30, p<.05$). Cases that use the RAI are also plea bargained ($r = .34, p<.05$) and involve a longer detention stay ($r = .36, p<.05$). These findings may reflect random variation, and as discussed in future analysis, have no significant influence in multivariate analysis of hypotheses.

Case Processing Time. There are no significant correlations between any of the independent variables and the log of case processing time. Another dependent variable, length of detention stay is correlated with the case processing time ($r = .19, p<.05$). Univariate analysis of the untransformed variable shows a considerable amount of variation in case processing time, ranging from 5 days to 479 days. Although univariate analysis shows that family courts took longer to process cases (family court mean = 58 days, median = 61 days, district court mean = 49 days, median = 53 days), these differences are not significant either in their original form or in their functional form. It may be that the independent variables in this analysis are not significantly related to case processing time because other factors, such as the availability of social services, may control how long cases take to be processed.

Detention Stay. Similar to case processing time, there is a lot of variation in length of detention stay (range = 1-136 days) at the univariate, untransformed level. As noted, because of this variation, the variable was transformed using a base 10 logarithm. Although transformations assist in modeling a linear relationship, it does provide difficulty in interpretation, especially at the bivariate level. As discussed, court type is
correlated with this variable. In addition, educational disability is correlated with the days detained ($r = .23, p<.01$). Cases with youth who have educational disabilities and cases coming from family court also have longer periods of detention.

**Plea Bargains.** As mentioned, court type is significantly correlated with plea bargains. Other significant correlations with plea bargains include the following: offense severity ($r = .24, p<.01$); number of prior offenses ($r = -.22, p<.01$); multiple charges ($r = .33, p<.01$); mental health/substance abuse diagnosis ($r = -.22, p<.01$). More severe offenses and multiple charges are correlated with plea bargains. On the other hand, those cases in which youth have mental health/substance abuse diagnoses as well as cases with more prior offenses are negatively correlated with plea bargains. Although little empirical work has been done in this area, it seems logical that more serious offenses and cases with multiple charges would be plea bargained, while cases with more prior offenses are less likely to be plea bargained.

**Assessments.** The strongest correlation in the analysis occurs between assessments and mental health/substance abuse diagnosis ($r = .53, p<.01$). Cases that include youth who have a mental health or substance abuse diagnosis are also more likely to contain a court ordered assessment. Again, court type is also significantly correlated with assessments, as are prior offenses ($r = .17, p<.05$); age ($r = -.18, p<.05$); educational disability ($r = .21, p<.01$); and school issues ($r = .35, p<.01$). There are more court ordered assessments with cases in which there are more prior offenses, older youth, youth with educational disabilities, and youth with negative school issues.

**Dispositional Outcome.** Table 2 shows that contrary to a bureaucratic or a rehabilitative prediction, court type is not significantly correlated with dispositional
outcome ($r = .07$). Number of priors shows a moderate association with the dependent variable ($r = .45$, $p < .01$). The more prior offenses, the more likely the dispositional commitment. Multiple charges show a weak negative correlation with dispositional outcome ($r = -.16$, $p < .05$). Cases that involve multiple charges are released upon disposition. On the other hand, cases that involve youth with mental health/substance abuse diagnoses are likely to be committed ($r = .27$, $p < .01$) as are cases in which offenders have an educational disability ($r = .15$, $p < .05$). Negative school issues also are related to dispositional commitment ($r = .18$, $p < .05$). Two dependent variables show a weak correlation with dispositional outcome. These are the log of days detained ($r = .24$, $p < .05$) and assessments ($r = .18$, $p < .05$). Longer logs of detention stays are correlated with dispositional commitment. Cases that include court ordered assessments are associated with commitment. Conversely, the intermediate outcome of plea bargains shows a weak, negative correlation with sentencing outcome ($r = -.22$, $p < .05$). As expected, cases that are plea bargained are released on community disposition.

There do not appear to be any problems of multicollinearity in this data. Multicollinearity involves situations where independent variables are highly correlated with each other, each variable not contributing independently to explaining variations in the dependent variable. Correlation matrices provide an initial indication of problems. A more definitive test is a regression of each variable on the other. Higher $R^2$ are indicative of multicollinearity issues (Hamilton, 1992). Given the relatively weak correlations found in the data, only offense severity and weapon involvement ($r = .37$) were further examined for multicollinearity issues. Regression results (not shown) do not reveal any problems. Both variables, then, remain in the analysis.
In sum, bivariate analysis shows that court type is significantly correlated to the dependent variables of length of detention stay, assessments, plea bargains, but not to case processing time. Two of these relationships are in the direction predicted by rehabilitative hypotheses (assessments and plea bargains) and one is in the direction predicted by bureaucratic ideals (length of detention stay).
Table 2: Pearson Correlation of all Variables

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<td>2 Detain Time</td>
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<td>3 Assessment</td>
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<td>1.00</td>
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<td>4 Plea Bargain</td>
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<td>5 Disposition</td>
<td>.13</td>
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<td>.18*</td>
<td>-.22*</td>
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<td>8 Multiple</td>
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<td>.23**</td>
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<td>-.07</td>
<td>.08</td>
<td>.07</td>
<td>.37**</td>
<td>.02</td>
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<td>-.25</td>
<td>.34*</td>
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<tr>
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<td>.12</td>
<td>.53**</td>
<td>-.22**</td>
<td>.27**</td>
<td>-.10</td>
<td>.22**</td>
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<td>.21**</td>
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<td>-.10</td>
<td>-.06</td>
<td>.05</td>
<td>-.16*</td>
<td>-.07</td>
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<td>-.03</td>
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<td>-.18*</td>
<td>-.17*</td>
<td>.16*</td>
<td>.10</td>
</tr>
</tbody>
</table>

Two-tailed significance * p<.05, ** p<.01

± For this variable, bivariate correlations were only examined for the subset of two counties that used the RAI.
<table>
<thead>
<tr>
<th></th>
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<th>16</th>
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<tr>
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<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>17 Coded</td>
<td>.02</td>
<td>.20**</td>
<td>1.00</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>18 Family Issues</td>
<td>.03</td>
<td>.23**</td>
<td>.09</td>
<td>1.00</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>19 School Issues</td>
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<td>.26**</td>
<td>.29**</td>
<td>.13</td>
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<tr>
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<td>.14</td>
<td>-.01</td>
<td>-.03</td>
<td>-.02</td>
<td>.00</td>
<td>1.00</td>
<td></td>
</tr>
<tr>
<td>21 Court Type</td>
<td>-.11</td>
<td>.15**</td>
<td>.07</td>
<td>.00</td>
<td>.17*</td>
<td>-.09</td>
<td>1.00</td>
</tr>
</tbody>
</table>

Two-tailed significance * p < .05, **p < .01
Risk Assessment Instrument Results

Recall from the previous chapter that two counties in the study are piloting the RAI. One county is a family court system (Grafton) and the other is a district court system (Hillsborough). Again, this research is concerned with the actual use of the instrument in detention cases and the decision congruence of the instrument as they relate to court type. As discussed, the RAI was implemented six months into the study period, so study size for these analyses is smaller than analyses in the next chapter. This section will first examine the actual use of the RAI and will subsequently examine the decision congruence of the RAI for the six months during the study period that the instrument was implemented. A discussion of results will follow. Because of the small number of cases involved, this section will emphasize bivariate results.

Use of Instrument

A key question for the process evaluation is whether or not the instrument was used in detention cases. Briefly, the bureaucratic rationale suggests that the RAI is more likely to be used in family courts because mandates, such as one to utilize forms, will be more easily absorbed and because the RAI, a simple scoring instrument, will be seen as resulting in efficient and consistent processing of offenders as well as a calculable and predictable method to deal with offender risk. In contrast, the rehabilitation approach would predict resistance by the family court to imposed standardization of cases. Under the rehabilitation rationale, each offender must be treated individually.

1. The RAI is more uniformly applied in family court cases than in district court cases (bureaucratic prediction).
The RAI is less uniformly applied in family court cases than in district court cases (rehabilitation prediction).

The RAI in general is more likely to be used with more serious offenses as shown in Figure 3, where bars reflect the use of the RAI for each offense severity level in each type of court. District courts are also more likely to use the instrument.

Figure 3: RAI use by Offense Severity and Court Type

Meanwhile, Table 3 shows these results numerically. While there is a numeric difference in whether or not the instrument was utilized when detention decisions were made, this difference is not statistically significant. It bears mentioning that because there are very few cases in general (n=46), significance tests may not be a good measure of the relationship between these two variables as they are very sensitive to study size (Healey, 1999). Relationships that are substantively important may not show up as statistically significant when study size is small. Further, given that this is a census and not a sample, any differences uncovered are real differences between the courts. Thus, family courts are less likely to use the instrument in general, giving support to a rehabilitative prediction.
Table 3: Uniformity in Use of RAI by Court Type

<table>
<thead>
<tr>
<th>Was RAI Filled Out</th>
<th>District Court (n=36)</th>
<th>Family Court (n=10)</th>
</tr>
</thead>
<tbody>
<tr>
<td>No</td>
<td>19.4%</td>
<td>30.0%</td>
</tr>
<tr>
<td>Yes</td>
<td>80.6%</td>
<td>70.0%</td>
</tr>
</tbody>
</table>

Fisher's Exact Test = .67

Decision Congruence in Use of Instrument

The process evaluation also takes into account whether or not there was decision congruence between the instrument and the judicial decision when the instrument was utilized in detention cases. On the RAI form, there is room for judges to override the instrument where they feel it is warranted in individual cases. Decision congruence takes into account overrides as well as inaccuracy in scoring the instrument. While these two issues (overrides and scoring) may result from different processes (i.e. overrides as a conscious decision and inaccurate scoring as an inadvertent mistake), it appears that some 'mistakes' in scoring may actually be intentional. As one supervisory police officer put it, "Officers look at it as perfunctory, and don't know its purpose. They just want the bottom line [overall score] to equate to detention." (Police Officer S.L., personal communication, 10/2/01). Thus, both overrides and scoring are incorporated into this dependent variable. Hypotheses and their logic are stated below.

Similar to the previous hypothesis, the bureaucratic rationale suggests that official mandates will be more easily absorbed into bureaucratic entities, and because of the bureaucratic emphasis on consistency and efficiency, there will be more decision congruence. On the other hand, a rehabilitative approach suggests that overrides and scoring issues will be more prevalent in family court because of the emphasis on individual treatment.
2. There is more decision congruence between the RAI and judges’ decisions in family court cases than in district court cases (bureaucratic prediction).

There is less decision congruence between the RAI and judges’ decisions in family court cases than in district court cases (rehabilitation prediction).

Figure 4 shows the percent of cases in which the RAI was overridden in each type of court at each offense severity level. District courts are more likely to override less serious cases, while family courts are more likely to override the RAI with more serious cases. At state offense severity level 3, neither court overrode the RAI. Figure 4 demonstrates that family courts are, in general, more likely to override the RAI.

Figure 4: RAI Decision Congruence by Offense Severity and Court Type

Meanwhile, Table 4 shows that there was less decision congruence in family courts as opposed to district courts. Similar to the previous analysis, this relationship is not statistically significant. Again this analysis suffers from the same pitfalls of small study size. This analysis lends support to a rehabilitative model for family court. When the RAI is used, family courts are less likely to use it consistent with instrument recommendations.
Table 4: Decision Congruence of RAI by Court Type*

<table>
<thead>
<tr>
<th>Decision Congruence</th>
<th>District Court (n=29)</th>
<th>Family Court (n=7)</th>
</tr>
</thead>
<tbody>
<tr>
<td>No</td>
<td>37.9%</td>
<td>71.4%</td>
</tr>
<tr>
<td>Yes</td>
<td>62.1%</td>
<td>28.6%</td>
</tr>
</tbody>
</table>

Fisher's Exact Test = .20

*Note: There are fewer cases in this analysis as only those cases in which a form was used are available for analysis.

Multivariate Analyses

Multivariate analyses with such few cases is risky because without enough cases in each combination of x and y values, the model becomes unstable (Long, 1997). One way to examine instability is to examine the combination of x and y values, coefficients, and standard errors of the coefficients in the output. Thin cells and high standard errors are indicative of model instability and the inappropriateness of multivariate techniques. These diagnostic methods were used for each of the evaluation questions. Analysis revealed that only the model involving the question about form use appears to be stable controlling for only the variables considered on the RAI (offense severity and prior offenses). Because of small study size, backward selection of all independent variables was attempted, but it failed to converge. Due to the small number of cases, extreme caution should be used when these results are interpreted.

Table 5 includes court type as well as offense severity and number of priors, the two factors taken into account on the RAI form. The logistic model is not significant ($\chi^2 = 4.89, p=.18$) and explains ten percent of the variance in form use (pseudo $R^2 = .10$). Court type fails to be a strong predictor of form use (OR = .68), while offense severity and prior offenses are more strongly related to form use. Forms are two times more likely to be utilized in cases that have more serious offenses, holding constant prior offenses and
court type. Conversely, forms are two times less likely to be used in cases with more prior offenses, all things being equal. In sum, both offense severity and number of priors are more important factors than court type in determining use of the RAI, though family courts are less likely to use the form holding constant the factors taken into account on the RAI.

Table 5: Multivariate Analysis of Uniformity in Use*

<table>
<thead>
<tr>
<th></th>
<th>Odds Ratio</th>
<th>Significance</th>
</tr>
</thead>
<tbody>
<tr>
<td>Court Type</td>
<td>.68 (1.02)</td>
<td>.71</td>
</tr>
<tr>
<td>Offense Severity</td>
<td>2.14 (.52)</td>
<td>.14</td>
</tr>
<tr>
<td>Prior Offenses</td>
<td>.50 (.43)</td>
<td>.10</td>
</tr>
<tr>
<td>Likelihood Chi-Square</td>
<td>4.89</td>
<td></td>
</tr>
<tr>
<td>Pseudo R²</td>
<td>.10</td>
<td></td>
</tr>
</tbody>
</table>

* Standard errors in parentheses.

Summary

Bivariate analysis shows that family courts use the RAI less often, though that difference is not large. When family courts do use the RAI, they override it more often than district courts. Because of the problem of small study size, multivariate analysis could be conducted only on one set of hypotheses. Logistic analysis of uniformity in form use shows that the factors taken into account on the form, offense severity and number of prior offenses, are more important, all other things being equal, than court type. All analyses, however, were not significant. Since the study is a census of a one-year period and not a sample, the findings indicate that family courts are acting in ways predicted by a rehabilitative approach. These may be chance fluctuations, however, and not attributable to years.
CHAPTER 5

COURT PROCESS RESULTS

This chapter discusses the intermediary outcomes and the dispositional outcome of cases processed in two court systems. A summary table of regression results of how court type affects these dependent variables is discussed first. Subsequently, each set of hypotheses is repeated before the corresponding analysis. Intermediary outcomes are discussed before dispositional outcome. The chapter concludes with a discussion of these results.

Summary Analysis

Bivariate regression was used to examine the main effects of court type on different outcomes. Table 6 displays results from the OLS regression with transformed dependent variables, while Table 7 shows the results from the logistic regression for dichotomous dependent variables. Results are examined in relation to bureaucratic and rehabilitation predictions. Results should not be compared across categories because they involve different equations with different dependent variables and variation in error terms in each model. The tables are meant to provide a synopsis of how court type, without any other independent variables, affects each dependent variable.

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Because the RAI was implemented six months into the study period, an analysis with just the RAI counties was run. There were no strong relationships found, nor significant findings.
The effects of court type on the log of case processing time and the log of detention stay are not directly interpretable. Therefore Table 6 contains antilog transformations to the natural units (days) of these variables. Family courts take longer to process offenders than district courts (predicted average of 37 days vs. 35 days), though that difference is not statistically significant (p = .11) at the conventional .05 alpha level. On the other hand, court type is significantly related to the number of days detained (p = .00). Family courts hold youth in detention for longer periods of time. On average, family courts hold youth in detention for 13 days compared to 10 days for youth from district court. These results support rehabilitative predictions. Taking a holistic approach to offenders translates into longer case processing time and detention stays.

Table 6: Main Effects of Outcome by Court Type

<table>
<thead>
<tr>
<th>Outcome</th>
<th>Predicted Probabilities (days)</th>
<th>Significance</th>
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<tbody>
<tr>
<td>Case Processing Time</td>
<td>Family Court = 37</td>
<td>.11</td>
</tr>
<tr>
<td></td>
<td>District Court = 35</td>
<td></td>
</tr>
<tr>
<td>Detention Stay</td>
<td>Family Court = 13</td>
<td>.00</td>
</tr>
<tr>
<td></td>
<td>District Court = 10</td>
<td></td>
</tr>
</tbody>
</table>

Table 7 shows that court type is significantly related to plea bargains and assessments. Cases from family court are only 40% as likely to be plea bargained compared to cases from district court. Cases from family court also are two times more likely to contain assessments than district court. Both of these results lend support to a rehabilitative orientation. In contrast, family court is slightly (34%) more likely to commit youth at sentencing, but that result is not statistically significant.
Table 7: Main Effects of Outcome by Court Type* ±

<table>
<thead>
<tr>
<th>Outcome</th>
<th>Odds Ratio</th>
<th>Significance</th>
</tr>
</thead>
<tbody>
<tr>
<td>Plea Bargains</td>
<td>.40 (.31)</td>
<td>.00</td>
</tr>
<tr>
<td>Assessments</td>
<td>2.42 (.31)</td>
<td>.00</td>
</tr>
<tr>
<td>Disposition</td>
<td>1.34 (.32)</td>
<td>.35</td>
</tr>
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</table>

* Standard errors are in parentheses.
± Family court is coded as 1.

Intermediary Outcomes

Recall that intermediary outcomes include case processing time, length of detention stay, whether or not there were plea bargains, and whether or not there were case assessments.

Case Processing Time

The logic of case processing time is as follows: A hallmark of bureaucracy is efficiency. As such cases should be processed more quickly. Alternatively, a rehabilitative orientation calls for individual investigation of each case and the needs of each offender. Therefore, the rehabilitative ideal would predict that cases are processed more slowly.

3. *Cases are processed more quickly in family courts as opposed to district courts* (bureaucratic prediction).

*Cases are processed more slowly in family courts as opposed to district courts* (rehabilitation prediction).

A backward selection OLS model was run with court type entered first and all other variables in a second step. As with the bivariate model in Table 6, court type is not significantly related to the log of case processing time, though it does have some effect size (standardized beta = .09). No other variables in this study were significantly related...
to case processing time at the multivariate level. Other variables not included in the study must account for the remainder of the variation in case processing time.

One factor involved in case processing time, resource availability, may play a large role in how long cases take to be processed through the system. Cases that involve a dispositional commitment to residential facilities or to YDC are subject to service, or "bed space", availability (See, for example, Butts and Adams, 2001; Steinhert, no date). In New Hampshire, as in other states, cases can be continued until a space becomes available. Since both district courts and family courts compete for the same space, it is logical that there would be no differences in processing time when considering only those offenders committed to placements. It makes substantive sense to disaggregate those going to placement from those returning to the community. Logistic analysis (not shown) of disaggregated data does not show any differences in case processing times between court types, with regard to community disposition or residential commitment. Overall, this model cannot account for much of the variation in case processing time.

Table 8: OLS Regression of Case Processing Time*

<table>
<thead>
<tr>
<th>Standardized Coefficient</th>
<th>Significance</th>
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</thead>
<tbody>
<tr>
<td>Court Type</td>
<td>.09 (.05)</td>
</tr>
<tr>
<td>F</td>
<td>1.32</td>
</tr>
<tr>
<td>aR²</td>
<td>.01</td>
</tr>
</tbody>
</table>

* Standard error in parentheses.
Detention Stay

Bureaucracy would predict shorter detention stays because of the overriding goal of efficiency. On the other hand, family court, with a comprehensive approach to the child and the family, would predict longer detention stays, so that the needs of the child and his family can be more fully investigated.

4. Periods of detention are shorter in family courts as opposed to district courts (bureaucratic prediction).

Periods of detention are longer in family courts as opposed to district courts (rehabilitation prediction).

Table 9 shows the result of OLS regression. As discussed, court type was entered first into the model and all other variables were entered in a second step. Backward elimination was used to determine variables significantly related to the log of detention stays. Only two variables were significant: court type and educational disability. The model is significant \((F = 9.44, p<.00)\) and explains approximately 9% of the variation in the log of detention stay. Standardized coefficients reveal that court type is more strongly related to the log of the number of days detained than is educational disability. Because the dependent variable was transformed, predicted probabilities were calculated and an antilog was taken to put the variable back into its natural units (days) to assist in interpretation. Results of that analysis are shown in Table 10.
Table 9: Multivariate Analysis of Log of Detention Stay* ±

<table>
<thead>
<tr>
<th></th>
<th>Standardized Coefficient</th>
<th>Significance</th>
</tr>
</thead>
<tbody>
<tr>
<td>Court Type</td>
<td>.23 (.07)</td>
<td>.00</td>
</tr>
<tr>
<td>Educational Disability</td>
<td>.22 (.07)</td>
<td>.00</td>
</tr>
<tr>
<td>F</td>
<td>9.44</td>
<td></td>
</tr>
<tr>
<td>aR²</td>
<td>.07</td>
<td></td>
</tr>
</tbody>
</table>

* Standard errors in parentheses
± Family court is coded as 1.

For this analysis, educational disability was held constant and predicted probabilities were computed for district court and family court. To obtain the antilog, results from the predicted probability were multiplied by a factor of 10. The power transformation has corrected the skew and outliers, and predicts that offenders with no educational disability from district court will be detained for an average of nine days. Conversely, the same types of offenders from family court are predicted to be detained for an average of eleven days. When offenders have educational disabilities, the predicted mean number of days detained in both courts increases. In district court, offenders with educational disabilities are predicted to be detained for an average of eleven days, while in family court the same types of offenders are predicted to be detained for an average of thirteen days. There is a difference of two days in each analysis, and this difference is statistically significant. In sum, court type and educational disabilities are the only variables related to length of detention stay. Controlling for educational disability, youth from family courts are significantly more likely to be detained for longer periods of time.
Table 10: Predicted Probabilities of Length of Detention Stay

<table>
<thead>
<tr>
<th></th>
<th>Log Predicted Probability</th>
<th>Number of Days Detained</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>No Educational Disability</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>District Court</td>
<td>.92</td>
<td>9</td>
</tr>
<tr>
<td>Family Court</td>
<td>1.12</td>
<td>11</td>
</tr>
<tr>
<td><strong>Educational Disability</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>District Court</td>
<td>1.12</td>
<td>11</td>
</tr>
<tr>
<td>Family Court</td>
<td>1.33</td>
<td>13</td>
</tr>
</tbody>
</table>

**Plea Bargains**

Bureaucracy would predict more plea bargains in family court because plea bargains increase efficiency in processing cases. On the other hand, a rehabilitation orientation would predict fewer plea bargains as a holistic approach would necessarily involve probation officers and judges in decision making, not just prosecutors and defense attorneys who may not know each family's situation as well as the judge or the probation officer.

5. There are more plea bargains in family courts as opposed to district courts (bureaucratic prediction).

There are fewer plea bargains in family courts as opposed to district courts (rehabilitation prediction).

Table 11 shows the results of a logistic analysis of plea bargains. As with other analyses, court type was entered as the first step in the equation. All other variables were entered next and backward elimination utilizing the likelihood ratio technique was conducted because of the small study size. While the model is significant ($\text{lr } \chi^2 = 31.25$, $p<.00$), there is a lot of variation in plea bargains that is not explained by these variables.
(pseudo $R^2 = .18$). Court type is significantly related to the odds of plea bargains. Cases from family court are 40% as likely than cases from district court to be plea bargained taking into account multiple charges, prior offenses, and diagnoses. In addition to court type, the main variable of interest, several other variables were significantly related to the odds of plea bargains. Court files that include multiple charges are 3.4 times more likely to be plea bargained than files without multiple charges when controlling for mental health/substance abuse diagnosis, court type, and number of prior offenses. Cases which involve youth with mental health or substance diagnoses are 43% as likely to be plea bargained in family court as in district court, holding all other variables constant.

In sum, cases that contain multiple charges and more prior offenses from district court coupled with no diagnoses of mental health or substance abuse issues are most likely to be plea bargained. This analysis lends support to the rehabilitation prediction of fewer plea bargains in family court. A holistic consideration of offenders’ needs would not necessarily be addressed through plea bargains.

<table>
<thead>
<tr>
<th></th>
<th>Odds Ratio</th>
<th>Significance</th>
</tr>
</thead>
<tbody>
<tr>
<td>Court Type</td>
<td>.40 (.36)</td>
<td>.01</td>
</tr>
<tr>
<td>Multiple Charges</td>
<td>3.39 (.49)</td>
<td>.00</td>
</tr>
<tr>
<td>MH/SA Dx</td>
<td>.43 (.37)</td>
<td>.02</td>
</tr>
<tr>
<td>Prior Offenses</td>
<td>.76 (.16)</td>
<td>.09</td>
</tr>
<tr>
<td>LR Chi-Square</td>
<td>31.25</td>
<td></td>
</tr>
<tr>
<td>Pseudo $R^2$</td>
<td>.18</td>
<td></td>
</tr>
</tbody>
</table>

*Standard errors are in parentheses.
Assessments

A bureaucratic prediction about assessments would posit that uniformity and consistency are the most efficient means of processing offenders. Evaluations and assessments, therefore, would be unnecessary and inefficient. Alternatively, a rehabilitation prediction would stress individualization and the need to know more about the offender in order to make appropriate case processing decisions.

6. There are fewer evaluations and assessments on cases in family court as opposed to district court (bureaucratic prediction).

There are more evaluations/assessments on cases in family court as opposed to district court (rehabilitation prediction).

Table 12 displays the results of the logistic regression analysis. As mentioned, court type was entered first and backward selection was used to uncover other variables significantly related to the probability of court ordered assessments. The model itself is significant ($\chi^2 = 64.10, p<.00$) and explains approximately one third of the variation in court ordered assessments (pseudo $R^2 = .33$). Those cases processed in family court are 2.9 times more likely to include an evaluation or assessment, when controlling for a pre-existing mental health/substance abuse diagnosis, school issues, and age. Cases involving youth who have negative school issues are 2.5 times more likely to include a court-ordered assessment when controlling for court type, diagnoses, and age. Files that include youth who have a mental health and/or substance abuse diagnosis are 11 times more likely to have a court-ordered assessment, all other factors being equal. Finally, cases involving younger offenders are 1.81 times less likely to have a court-ordered assessment.
when noted school issues, court type and mental health/substance abuse diagnoses are held constant.

In sum, family court cases in which youth have a pre-existing diagnosis, have noted problems in school, and are older, are more likely to contain a court-ordered assessment. This analysis gives support to an individualistic prediction: family courts are significantly more likely to assess individual cases presented to them as opposed to the traditional district court system.

Table 12: Multivariate Analysis of Assessments*

<table>
<thead>
<tr>
<th></th>
<th>Odds Ratio</th>
<th>Significance</th>
</tr>
</thead>
<tbody>
<tr>
<td>Court Type</td>
<td>2.88 (.41)</td>
<td>.01</td>
</tr>
<tr>
<td>School Issues</td>
<td>2.52 (.44)</td>
<td>.03</td>
</tr>
<tr>
<td>MH/SA Dx</td>
<td>10.64 (.43)</td>
<td>.00</td>
</tr>
<tr>
<td>Age</td>
<td>.55 (.20)</td>
<td>.00</td>
</tr>
<tr>
<td>LR Chi-Square</td>
<td>64.10</td>
<td></td>
</tr>
<tr>
<td>Pseudo R²</td>
<td>.33</td>
<td></td>
</tr>
</tbody>
</table>

* Standard errors are in parentheses.

**Dispositional Outcome**

As discussed, almost all research on court processing, whether at the juvenile or the adult level, focuses on sentencing outcomes. Arguably, sentencing is the most important outcome that courts produce. Their sentencing actions determine the fate of the defendants before them. Recall from the previous chapter that utilization of a two-stage modeling procedure was discussed as inappropriate because 62% of these cases were disposed of at or prior to adjudication. Further, the fact that courts do not perform intake functions (i.e. determine which youth will receive a formal court petition) also
demonstrates that the two-stage modeling procedure is unwarranted for this study population.

Shown in Table 13 is the logistic model of dispositional outcome. Remember that dispositional outcome was recoded to release or commitment. Like other models, court type was entered first and backward selection was used for all other variables. The model is significant ($\chi^2 = 48.14, p<.00$) and explains approximately 27% of the variance in disposition. Offenders from family court are slightly more likely to be committed at sentencing as offenders from district court, but the difference is not statistically significant ($p=.38$). There are other factors that predict dispositional outcome.

Cases which involve a youth with a mental health or substance abuse diagnosis are 2.3 times more likely to incur a dispositional commitment, all other factors remaining equal. Cases which have been plea bargained are two times more likely to be released, all other things being equal. For each prior offense contained in a case, up to three offenses, youth are 2.5 times more likely to be sent to a residential facility or YDC, holding constant mental health/substance abuse diagnoses, plea bargains, and offense severity. Finally, cases involving youth with more severe offenses are more likely to receive more severe sentences, holding constant all other factors.

In sum, neither the bureaucratic nor the rehabilitation hypothesis is supported. Dispositional outcome does not differ by court type. Rather, important factors in disposition include mental health/substance abuse diagnoses, plea bargains, prior offenses, and offense severity. While no previous studies have investigated the effect of court type on sentencing outcomes, there is some support for the influences of prior offenses on sentencing (i.e. Bailey and Peterson, 1981; Carter and Clelland, 1979;
Thornberry, 1979), offense severity (i.e. Berger and Hoffman, 1995; Clarke and Koch, 1980), and only recently mental health and school problems (Fader, et al., 2001).

Table 13: Multivariate Analysis of Dispositional Outcome*

<table>
<thead>
<tr>
<th></th>
<th>Odds Ratio</th>
<th>Significance</th>
</tr>
</thead>
<tbody>
<tr>
<td>Court Type</td>
<td>1.42 (.40)</td>
<td>.38</td>
</tr>
<tr>
<td>MH/SA Dx</td>
<td>2.47 (.41)</td>
<td>.03</td>
</tr>
<tr>
<td>Plea Bargain</td>
<td>.50 (.41)</td>
<td>.09</td>
</tr>
<tr>
<td>Prior Offenses</td>
<td>2.51 (.19)</td>
<td>.00</td>
</tr>
<tr>
<td>Offense Severity</td>
<td>1.62 (.24)</td>
<td>.04</td>
</tr>
<tr>
<td>LR Chi-Square</td>
<td>48.14</td>
<td></td>
</tr>
<tr>
<td>Pseudo R²</td>
<td>.27</td>
<td></td>
</tr>
</tbody>
</table>

* Standard errors shown in parentheses

As noted, the dependent variable in this analysis was dichotomized because of problems with sparse combinations of x and y variables, which render the resulting model unstable (Long, 1997). Dichotomization results in a loss of efficiency, but it is useful in this analysis to examine the bivariate relationships between court type and dispositional outcome as an ordinal variable. Table 14 displays these results.

The bivariate relationship between court type and dispositional outcome is significant ($\chi^2=10.310, p<.05$), though the relationship is not straightforward. Family courts are more likely than district court to give youth probation for six months and under, while district courts are more likely than family courts to release offenders into the community on probation for over one year. Family courts are more likely to commit youth to residential facilities than are district courts, while district courts are slightly more likely to commit youth to the training school. From this analysis, a question of whether residential facilities are seen as therapeutic arises. Do judges deem commitment
to facilities that will address specific issues (i.e. substance abuse, educational problems, pregnancy) as therapeutic? If so, it certainly would seem that family courts support such an ideal. A logistic model using residential facility as the category of interest and all other values as the reference category was run (analysis not shown). The model, however, failed to show strong or significant relationships between court type and residential facility commitment. Court type did not matter when controlling for other factors. More data is needed and should be a task for future research.

Further, the present study operationalized dispositional outcome like some prior research, dichotomizing release/outcome (i.e. Bailey and Peterson, 1981; Bishop and Frazier, 1996; Cohen and Kluegel, 1979b; Frazier and Bishop, 1992). Results show no difference between court types. One possible explanation for the lack of significant findings is that regardless of court system, there are limited options available to judges in any court system and that all courts compete for the same commitment services. In other words, there is little variation to start, and therefore it is more difficult to see any differences that occur between court systems.

Table 14: Ordinal Dispositional Outcomes by Court Type

<table>
<thead>
<tr>
<th>Dispositional Outcome</th>
<th>District Court (n=76)</th>
<th>Family Court (n=76)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Probation: less than or equal to 6mo.</td>
<td>9% (7)</td>
<td>15% (11)</td>
</tr>
<tr>
<td>Probation: over 6 mo. &amp; up to 1 yr.</td>
<td>33% (25)</td>
<td>32% (24)</td>
</tr>
<tr>
<td>Probation: over 1 yr.</td>
<td>18% (14)</td>
<td>4% (3)</td>
</tr>
<tr>
<td>Residential Facility</td>
<td>25% (19)</td>
<td>38% (29)</td>
</tr>
<tr>
<td>Youth Development Center</td>
<td>15% (11)</td>
<td>12% (9)</td>
</tr>
</tbody>
</table>

$\chi^2 = 10.31, p<.05$
Summary

Overall, the rehabilitation predictions were supported more often in these analyses than the bureaucratic predictions (See Table 15 for summary). The influence of court structure, however, was not universal. Youth from family courts are held in detention for longer periods of time. This may be an unintended consequence of bureaucracy, or it may be that family courts, because judges hear all aspects of families' cases, know families better and are less likely to release offenders back into 'dysfunctional' homes.

In line with the rehabilitation prediction, family courts are more likely to order assessments than district courts. It is logical that younger offenders do not have as extensive a court history or as many assessments as older offenders and are more likely to receive an evaluation. Presumably, those youth with pre-existing diagnoses do have a 'paper trail' that follows them into court, but the fact that the court wants its own assessment may reflect the difficult nature of diagnosis. For instance, a youth who was diagnosed with depression two years ago, but ceased going to a therapist last year may no longer have that label. The court, however, may want to hear from a mental health professional in order to appropriately treat the youth.

Also supporting a rehabilitation prediction is the fact that family courts are less likely to plea bargain cases than district courts. As discussed, this finding does not support the bureaucratic ideal of efficiency. Instead, the finding suggest a holistic approach to the court process in which judges may not believe that plea bargains are in the best interests of the child or the family.

Ultimately, the analysis of dispositional outcome shows that there are no differences between court systems in whether detained offenders are released back into
the community on probation or committed to residential facilities/YDC. Thus, neither the bureaucratic nor the rehabilitation proposition was supported. Though the more detailed bivariate analysis does show that family courts are more likely to commit youth to residential facilities, an extrapolation for support of either prediction cannot be made. That is, while on the surface, commitment may seem to be a more punitive consequence for youth, it may be seen as the only place for services. As one probation officer states "There is no good drug treatment program in the community. In fact, the best drug treatment around is at YDC" (Probation Officer G.K., 10/21/01). In addition, there are not many options for disposition of cases. Judges must choose among a small number of alternatives (probation, residential treatment, YDC). Thus, because there are so few dispositional alternatives anyway, one may expect that the corresponding variation in dispositions meted out between court types is small.

Table 15: Summary of Support for Predictions

<table>
<thead>
<tr>
<th>Dependent Variable</th>
<th>Rehabilitation</th>
<th>Bureaucracy</th>
<th>Neither</th>
</tr>
</thead>
<tbody>
<tr>
<td>Case Processing Time</td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>Detention Stay</td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Plea Bargains</td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Assessments</td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Disposition</td>
<td></td>
<td></td>
<td>X</td>
</tr>
</tbody>
</table>

Taken all together, court type plays a role in the majority of these models. Also, whether cases contained a mental health or substance abuse diagnosis was significant in all but one of the multivariate models. The fact that cases with pre-existing mental health or substance abuse diagnoses are more likely to be assessed may reflect, regardless of court type, the courts' overriding concern of addressing the needs of offenders.

Educational disabilities, negative school issues, and negative family issues also were
significant in several models. Legal factors of offense severity and prior offenses did not play a prominent role in all of these models. If the juvenile justice system as a whole is moving toward a more retributive model, then that should be reflected in processing practices that emphasize legal variables, such as offense seriousness and prior offense history, over extra-legal variables, such as educational disability and mental health/substance abuse diagnoses. These analyses show that the collective New Hampshire 'court' may still be rehabilitatively oriented.

This analysis demonstrates that court processing studies should examine intermediary court outputs, and consider other factors in court processing. Factors rarely examined, but shown to be important are a pre-existing mental health/substance abuse diagnosis, negative school and family issues, and, of course, court structure.
Without regard to theoretical orientation, it would be wise to include court structure as a variable in future research as demonstrated here. Stapleton, Aday, and Ito (1982) make clear that “case outcomes and the determinants of decision making in juvenile justice should not be interpreted without knowledge of structure and procedure” (p. 560). While 40% of US states have at least two different court structures that hear juvenile cases (National Center for Juvenile Justice, 2002), to this point in the literature, there has been little empirical attention to the possible differential effects of court structure. Prior studies tended to have focused on one or two courts, and this research showed that there were some systematic differences occurring across different court types. Second, while the sentencing decision is clearly the most important judgment courts make, there are other decision points that need to be examined. Detention stays, plea bargains, and assessments warrant further discussion.

**Detention Stay.** The median length of detention stay in this study was approximately two weeks, and family court held youth in detention for significantly longer periods of time. Two weeks certainly can be regarded as a long time to be out of the home, absent from regular schooling, and away from the community. Over half of these detainees, regardless of court type, subsequently received a community sentence at disposition.
Questions beyond variation length of detention stay need be addressed, regardless of court type. Specifically, do these youth need to be held in detention in the first place, and do they need to be held for such long periods of time? Compounding this issue is that, while all juvenile offenders are required to receive educational services in detention, the majority of offenders in this study struggled with school as evidenced by the number of them with educational disabilities (63%). Moreover, services that youth may have been receiving in the community, such as counseling, may not be readily available in detention, and with regard to the example cited, certainly not with the same counselor. One may assume that offenders need an adjustment period when returning home from a relatively long period of detention stay. With the current national focus on prisoner reentry and necessary services for successful readjustment to community life (Petersilia, 2000; Travis, Solomon, and Waul, 2001), perhaps consideration for re-entry services needs to be extended to detainees as well.

**Plea Bargains.** While plea bargains are commonplace in many juvenile courts, they are a little researched aspect of the juvenile justice system (Sanborn, 1993). Sanborn (1993) found that judges from certain geographical areas were unwilling to give up power. In the present study, the fact that plea bargains occur less frequently in family court may reflect the fact that judges are unwilling to give up decisions for children because they are specialized in dealing with offenders needs. They may perceive attorneys as unable to fulfill that role. Ultimately, plea bargains matter in disposition, and they should be a control variable in any case processing study. As discussed by Sanborn (1992), plea bargains also warrant further investigation on their own merits.
Assessments. Court ordered assessments ostensibly assist the judiciary by providing more information, and many times recommendations, about the offender and/or the offenders’ family. As shown here, while there was a significant difference in the types of courts that utilized assessments, there were no differences in sentencing outcomes. There may be, however, some differences in how offenders with and without assessments are treated after disposition. It could be that assessments provide a lagged affect, positive or negative, on the treatment of youth in the juvenile justice correctional system. Future research that conducts more detailed analysis will uncover how assessments affect decision making and youth outcomes during the tenure of their juvenile justice system involvement.

Summary

This study has shown that court structure influenced how detained juveniles were processed through the juvenile justice system in New Hampshire. Results showed that whether or not an instrument of detention reform was overridden depended on court type. Court type proved to be a relatively strong and significant factor in explaining the length of detention stay, the use of plea bargaining, and the use of court ordered assessments. While court type had some influence in the length of case processing time, it was not significant. Court type was not influential or significant in explaining sentencing outcome.

The present study included refined elements of bureaucracy and elements from penal theory as the basis for comparison across court systems. Research results showed that rehabilitation predictions were supported more often than the bureaucratic predictions. Where there was a difference between family court and district court, results
followed rehabilitation predictions, though support for either approach was not found consistently. This study demonstrates that family courts in New Hampshire do seem to be meeting the goals of individualized justice in multiple ways. Family courts hold youth in detention longer, are less likely to accept plea bargains, and are more likely to order assessments. In the end, however, these differences do not necessarily translate into more rehabilitative sentences.

**Bureaucracy & Rehabilitation Reprise**

The conceptual framework used in this study is deserving of further discussion. While it is generally accepted that contemporary bureaucracy does not operate as mechanistic as Weber presupposed (for relation to the criminal justice system, see Chambliss and Seidman, 1971), the overall lack of support for bureaucratic predictions may seem surprising. Implementation of a RAI would certainly seem consistent with bureaucratic ideals of predictability, calculability, consistency, and efficiency. As revealed here, however, family court was more resistant to implementation, at least within the first six months of the pilot implementation period. These preliminary findings are tentative given the short evaluation period and the small study size in a single state, yet they may support the idea of a more rehabilitatively oriented family court that resists efforts to limit discretion and the ability to address individual offenders' needs. Emerson (1969) affirms this idea, noting that judges who are committed to the rehabilitative ideal see legal issues and other initiatives as secondary to rehabilitative efforts.

A further assertion could be made that the lack of support for bureaucratic predictions is due to geographical constraints. There is little variation between court sizes in this study. The largest court in this research encompasses a jurisdiction of only
125,000 people, and more rural areas have been the study of little systematic research (Butts and DeMuro, 1989; Eisenstein and Jacob, 1987; Maupin and Bond-Maupin, 1999). While urban court jurisdictions sizes have been operationalized differently, they generally consist of populations of 500,000 or greater (See Feld, 1991; Myers and Talarico, 1986). Both Feld (1991) and Hagan (1977) in their examination of juvenile courts made the claim that more urban areas are by nature more bureaucratic than rural areas. As discussed, however, urbanization cannot be equated with bureaucratization, and claims about the effects of population density are separate issues (See Myers and Talarico, 1986). In this study, no court would meet the definition of urban, and thus elements of bureaucracy may not operate in the same way as in more populous areas. Ultimately, bureaucracy may still play a role in how offenders’ cases are processed, but that certainly can be mediated by court structure.

Judicial ideologies may influence the way courts operate, regardless of structure. Indeed, more robust sociological perspectives see an interplay between the structure and the individual, and modern conceptualizations of bureaucracy allow for the influence of individuals within a constrained environment, such as the perspective advocated by neo-institutionalists (See generally, March, 1981, in Van de Ven and Joyce; Meyer and Rowan, 1983). Even if judges in family court are more rehabilitatively oriented than judges in district court, it is the structure that allows for those differences to surface. This study does not dispute individual influence, rather its aim was to explore the structural relationships between the theoretical tenets of bureaucracy and penal orientations.
Limitations of Study

This study is limited most clearly by limited measures of rehabilitative intent and elements of bureaucracy. Theoretical constructs contained herein need further refinement. Bureaucracy measurement suffers from unclear operationalization. This research eliminates the proxy measure of urbanization for bureaucracy (See, for example, Hagan, 1977) and controls for urban/rural areas. Family courts are more bureaucratic as shown through indicators from past research, yet the full measurement of bureaucracy is elusive (Scott, 1995). Further, both rehabilitation and bureaucracy may well embody more complex relationships than shown here. Longer detention stays, for instance, could be an unintended consequence of rehabilitative/bureaucratic measures.

Further investigation of court processing using the variable of court structure should be conducted and completed outside the one state and the areas used here. The study also only examines those youth who are detained and thus selection bias limits generalizability to other delinquents. Previous studies have found significant indirect effects of discrimination against ethnic minorities in court processing (i.e Bishop and Frazier, 1996). Because the absolute number of youth and the relative number of ethnic minorities processed through the system in this study is small, these affects, if present, may be difficult to detect. Selection bias also may mask indirect effects of discrimination.

Different levels of analyses are mixed in this study. Individual case level data is analyzed alongside court level data, violating the regression assumption that all explanatory variables are independent, or free to vary. The results of violating this assumption could manifest in multicollinearity between individual level and aggregate level data or biased tests of aggregate level null hypotheses because these tests are based
on the number of individuals, rather than the number of aggregates (Wooldredge, Griffin, and Pratt, 2001). For this analysis, multicollinearity does not appear to be a problem. The second potential result, however, is perhaps more serious. Caution must be used in extending influences due to court type.

Finally, this study takes into account only a snapshot of delinquent careers. This is particularly significant for youth who had previous court involvement. The act of detention as well as past placements may influence how the court reacts to youth (See Thornberry and Christenson, 1984). Where possible, research examining case processing should add controls for previous outcomes, and if prior commitments/placements are significant, model the process.

Policy Implications

This research has policy implications for the State of New Hampshire and, more broadly, for interests on a national level. The policy concerns laid out below address the juvenile justice reform efforts of detention screening instruments and court structures.

RAI

As may be expected, the RAI has not been the first attempt at juvenile justice system reform in the State of New Hampshire. In 1993, the State adopted YDC dispositional guidelines to address overcrowding issues. Much like the content of the RAI, those guidelines focused on limiting entrance to the training school through objective criteria weighing almost exclusively on the legal variables of offense severity and prior offenses. An analysis a year after implementation showed that the screening tool had little impact on commitment (Barton, 1997). In fact, the instrument was overridden 69% of the time (Barton, 1997). The author of the report attributed a lack of
successful implementation to the difficulty in obtaining a consensus about who should be admitted to YDC, lack of leadership for the project, and the absence of external rewards or sanctions for compliance with the mandate. The same could be said about the current effort with regard to detention reform.

The RAI is not being used consistently and when it is used, it is often overridden. There may be several factors that account for the inconsistency in use. While judges ultimately determine who will be detained, it is up to individual police officers and probation officers to complete the form. Judges are directed to ask for the score on the form prior to making a decision. This does not always happen. As one judge states, "If I get a call at three o’clock in the morning, I’m not thinking about what the score on the form is. If the police officer has a good reason to detain, then I will accept that. It isn’t like there is a wealth of other options for the juvenile. I don’t think any judge likes to place kids in detention, but sometimes there’s just no choice" (Judge A, 2001). A probation officer from a very rural part of Grafton County expressed another problem with instrument use. He stated that many small town officers are part time and they don’t see juveniles enough to know about the process of detention, let alone the knowledge of a screening tool (Probation Officer S.N., personal communication, 10/15/01). Clearly, training about the form is linked to successful implementation. Beyond this need, stakeholders must examine structural barriers (i.e. different court structures) to reform efforts. If differences between family court and district court are further upheld, then addressing ‘detention reform’ must take into account ‘court reform’.

Specific policy recommendations for the RAI in New Hampshire are as follows:
• Keep the risk assessment in use.
• Train professionals to use it properly.
• Coordinate training, use, and data collection of RAI through a central location.
• Ensure through coordination that the form is being completed and that any override includes written justification.

Family Court

While all reform efforts may encounter resistance, particular resistance to the RAI can be examined within the larger structure of court type. Is there something specific about family courts that engenders resistance to such measures? Family courts ostensible purposes are rooted within the rehabilitative ideal. As such, judicial discretion is a cornerstone of effective intervention, scrutinizing the child, his/her family, school, and community in order to create a plan that is in the best interests of the child and family. Perhaps the risk assessment instrument, with its concomitant limit on discretion, detracts from the guiding philosophy of the family court. The question is one of compatibility of reform efforts.

An answer, though far from definitive, may be found in penal theory. Feeley and Simon (1992) described a "new penology" that emerged in the 1980s as an actuarial system of risk management. According to them, new strategies of corrections involved three significant changes: (1) the emergence of probability and risk replacing clinical and retributive judgments; (2) a new objective of efficient control of system processes; (3) the development of new techniques to manage offenders as aggregates in place of individualizing or creating equity. The RAI is part of this movement to "identify, classify, and manage" youth sorted by level of dangerousness. The authors made clear that these
movements were not developed from the rehabilitative ideal and took the focus away from the individual. In fact, such a movement would seem to be congruent with bureaucratic principles.

With its outward focus on assisting the family unit, family court is the antithesis to such a movement. Moore and Wakeling (1997) point out that judges in family court are focused on which social services can help the family and are in the best interests of the child. Further research is needed to understand the interplay of reform efforts rooted in different philosophies. Perhaps the underlying and seemingly incompatible tenets of these efforts can successfully work together. If, as some argue, discretion invites injustice (i.e. Harris, 1984), then perhaps tools to limit discretion at certain stages (i.e. detention; training school commitment) can be part of a checks and balances procedure to ensure the just, equitable treatment of youth while retaining the ability to individualize sentences to the needs of each offender.

The future of family court in New Hampshire is tenuous, at best. At the beginning of the 2001 legislative session, the New Hampshire legislature voted not to fund the family court initiative (Representative Dowling, 2002). The State's Supreme Court must now decide if and how family court will be funded. This research examined only one aspect of the family court system – the processing of specific types of delinquent cases. Results showed that there was a difference in how family courts and district courts handle juvenile cases. Those differences, however, did not necessarily translate into any appreciable differences at sentencing.

From a fiscal standpoint, given that youth stay in detention longer, there are fewer plea bargains, and there are more court ordered assessments, family court is clearly more
expensive. Other issues need to be examined, however, particularly offender functioning and recidivism. Though family courts may be more expensive to operate based on factors examined here, if as a result of going through the family court system, youth are better functioning and are less likely to recidivate, then that success will also translate into more cost savings. Future research should examine such outcomes.

Prior family court evaluations perhaps may foreshadow future events. The judicial council report that recommended a pilot family court project also acknowledge that the district courts may handle juvenile cases as well as family court (Resolution of Family Issues in the Courts Study Committee, 1995). In the first evaluation of family court, the overriding concern according to interviews with court administration and staff was that the costs of statewide expansion were too expensive. Moreover, changes could be implemented at the district court (and superior court for marital cases) level to achieve the same goals as family court (i.e. one family, one judge) (Solomon, 1997). In that same report, interviewees also stated that family court judges, because of the consolidation of district court jurisdictions, may not be as familiar with community services for juveniles and their families as district court judges. There are some visible seeds of ambivalence in the state with regard to the appropriateness of family court for juvenile delinquency cases.

Specific policy recommendations for the family court in New Hampshire are as follows:

- Keep the family court system in operation.
- Assess differences in recidivism of delinquents in district and family courts through an outcome evaluation.
• Facilitate movement out of YDSU for youth, as detention stays are costly and most youth (55%) receive a community disposition.

• Evaluate other aspects of the family court system (i.e. divorce, child abuse and neglect, domestic violence) in comparison to the court structures in operation in the rest of the State.

Conclusion

Clearly, there has been a legislative movement toward more punitive sanctions for juvenile offenders (Torbet and Szymanski, 1998). New Hampshire is no exception. Over the last several years, the state has reduced the age limit for criminal offenses from 18 years old to 17 years old. It has added a judicial waiver clause that allows certain offenses to be tried in criminal court upon judicial approval. It has provided for concurrent jurisdiction of juvenile and adult cases, meaning that an offender who commits a crime as a juvenile can be transferred to the adult system once s/he becomes 18. The adult system will take over the supervisory role for that offender. Finally, the State has waived confidentiality over certain offenses, meaning that offenders' information is open to the public for certain crimes.

How legislative edicts transfer to judicial practices is another story. Feld (1992) states, “There is a strong nationwide movement, both in theory and in practice, away from therapeutic, individualized dispositions toward punitive, offense-based sentences” (p. 76). At the same time, however, others discuss the rigid features of the original

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8 The legislature is currently considering a bill to change the age limit back to 18 because of the problems/confusion the law has created surrounding the different ages for majority (18 years old) and for criminal offenses (17 years old).
juvenile court. Krisberg and Austin (1993) state, “Although the political rhetoric may swing back and forth from punitive themes to rehabilitative values, actual court practices are remarkably resilient to change” (also see Rothman, 1980). If reliance on legal factors is indicative of more punitive courts (i.e. Feld, 1992; Singer, 1996), then this research shows a more rehabilitative orientation by both court systems. Beyond type of court, legal factors clearly were not the most important variables shown to be related to court outcomes. Extra-legal factors, such as educational disability and mental health/substance abuse diagnoses, were. Thus, the processing of delinquents, at least in this state, shows that although the legislature has added punitive components, the court system is not moving in a punitive direction.

The need to continue to assess change, reform efforts and organizational interrelationships in the justice process is essential. While the juvenile justice system as a whole may be “resilient to change”, difference in processes do occur. Those differences may have lasting effects on individual offenders and their families and on the future direction of the juvenile justice system.
REFERENCES


~117~


Quinn, Mary. 2001. "National Survey to Determine Special Education Services for Youth with Disabilities in the Justice System." Presented at the annual meeting of the American Society of Criminology, November 14, Atlanta, GA.


**Court Cases Cited**

In Re Gault, 387 U.S. 1 (1967).
Statutes Cited


APPENDIX A

IRB APPROVAL LETTER
The Institutional Review Board (IRB) for the Protection of Human Subjects in Research reviewed and approved the protocol for your project with the following contingencies:

Investigator needs to confirm that per protocol #2448 (Kirkpatrick, Assessment of the NH Juvenile Detention Risk Assessment Instrument), the NH Juvenile Court has requested this assistance and thus making the records available, and that similar procedures as outlined in that protocol will be followed by the investigator to protect confidentiality of subjects.

Approval for this protocol expires on the date indicated above. At the end of the approval period you will be asked to submit a project report with regard to the involvement of human subjects. If your project is still active, you may apply for extension of IRB approval through this office.

The protection of human subjects in your study is an ongoing process for which you hold primary responsibility. In receiving IRB approval for your protocol, you agree to conduct the project in accordance with the ethical principles and guidelines for the protection of human subjects in research, as described in the following three reports: Belmont Report; Title 45, Code of Federal Regulations, Part 46; and UNH's Multiple Project Assurance of Compliance. The full text of these documents is available on the Office of Sponsored Research (OSR) website at http://www.unh.edu/osr/compliance/Regulatory_Compliance.html and by request from OSR.

Changes in your protocol must be submitted to the IRB for review and approval prior to their implementation; you must receive written, unconditional approval from the IRB before implementing them. If you experience any unusual or unanticipated results with regard to the participation of human subjects, please report such events to this office promptly as they occur. If you have questions or concerns about your project or this approval, please feel free to contact this office at 862-2003. Please refer to the IRB # above in all correspondence related to this project. The IRB wishes you success with your research.

For the IRB,
<table>
<thead>
<tr>
<th>Description</th>
<th>Level</th>
</tr>
</thead>
<tbody>
<tr>
<td>Aiding Criminal Activity 642:4</td>
<td>I</td>
</tr>
<tr>
<td>Arson: Class A, occupied structure, actual occupant 634:1(II)</td>
<td>IV</td>
</tr>
<tr>
<td>Class A, occupied structure, no occupants 634:1(II)</td>
<td>IV</td>
</tr>
<tr>
<td>Class B 634:1(III)</td>
<td>III</td>
</tr>
<tr>
<td>Misdemeanor, other property under $1,000 634:1(IV)</td>
<td>II</td>
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<tr>
<td>Assault: Class A, with a deadly weapon 631:1(I)(b)</td>
<td>IV</td>
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<tr>
<td>Class A, serious bodily injury without a deadly weapon 631:1(I)(a)</td>
<td>III</td>
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<tr>
<td>Class A, serious bodily injury to a person under 13 years old 631:1(I)(b)</td>
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<tr>
<td>Class B, 2nd degree (injury with a deadly weapon or victim under 13) 631:2</td>
<td>III</td>
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<tr>
<td>Misdemeanor, Simple Assault 631:2-a</td>
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<tr>
<td>Assault: Sexual, Class A (aggravated) 632-A:3(I)</td>
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<tr>
<td>Sexual Contact, Class A, victim under 13 632-A:1(I)</td>
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<tr>
<td>Sexual, Class B (serious personal injury) 632-A:3(I)</td>
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<tr>
<td>Sexual, Class B, victim 13-16, nonconsensual 632-A:3(II)</td>
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<td>Sexual, Class B, victim 13-16, consensual 632-A:3(II)</td>
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<td>Sexual Contact, Misdemeanor – victim 13 or over, nonconsensual 632-A:4</td>
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<tr>
<td>Sexual Contact, Misdemeanor – victim 13 or over, consensual 632-A:4</td>
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<tr>
<td>Bad Checks: Class A 638:4(IV)(a)(I)</td>
<td>II</td>
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<tr>
<td>Class B 638:4(IV)(a)(C)</td>
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<tr>
<td>Bail Jumping: Felony 642:8</td>
<td>II</td>
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<tr>
<td>Misdemeanor 642:8</td>
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<td>Breaches of the peace: Riot 644:1(I)</td>
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<tr>
<td>Riot – Felony 644:1(IV)</td>
<td>II</td>
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<tr>
<td>Disorderly Conduct 644:1</td>
<td>I</td>
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<tr>
<td>Harassment 644:4</td>
<td>I</td>
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<tr>
<td>Abuse of Corpse 644:7</td>
<td>II</td>
</tr>
<tr>
<td>Cruelty to Animals 644:8</td>
<td>I</td>
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<tr>
<td>Violation of Privacy 644:9</td>
<td>I</td>
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<tr>
<td>Criminal Defamation 644:11</td>
<td>I</td>
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<tr>
<td>Refusing to Yield Telephone in an Emergency 644:12</td>
<td>I</td>
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<tr>
<td>Willful Concealment/Shoplifting 644:17</td>
<td>I</td>
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</tbody>
</table>
NH Dispositional Guidelines — Alphabetical Offense Rankings

Revised, 9/26/92

<table>
<thead>
<tr>
<th>Offense Description</th>
<th>Ranking</th>
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<tbody>
<tr>
<td>Burglary: Class A - Occupied Structure/Nighttime 635:1(II)</td>
<td>III</td>
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<tr>
<td>Armed/inflicts injury 635:1(II)</td>
<td>III</td>
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<tr>
<td>Class B - 635:1(II)</td>
<td>II</td>
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<tr>
<td>Carrying Pistol or Revolver without a License 159:4</td>
<td>III</td>
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<tr>
<td>Causing Injury (purposely) resulting in miscarriage or still birth 631:1(c)(c)</td>
<td>IV</td>
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<tr>
<td>Causing or Aiding Suicide 630:4</td>
<td>III</td>
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<tr>
<td>Changing Marks on a Firearm (serial number, etc.) 159:13</td>
<td>II</td>
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<tr>
<td>Compounding 642:5</td>
<td>I</td>
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<tr>
<td>Computer Crime: Class A 638:17</td>
<td>II</td>
</tr>
<tr>
<td>Class B 638:17</td>
<td>II</td>
</tr>
<tr>
<td>Misdemeanor, under $500 638:17</td>
<td>I</td>
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<tr>
<td>Concealing Death of Newborn 639:5</td>
<td>II</td>
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<tr>
<td>Courtroom Security/Possession of dangerous weapon in courtroom or courtroom area 159:19</td>
<td>III</td>
</tr>
<tr>
<td>Criminal Mischief: Felony 634:2(III)</td>
<td>II</td>
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<tr>
<td>Misdemeanor 634:2(III)</td>
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<td>Criminal Restraint 633:2</td>
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<tr>
<td>Criminal Threatening 631:4</td>
<td>I</td>
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<tr>
<td>Criminal Trespass 635:2</td>
<td>I</td>
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<tr>
<td>Criminal Use of Pistol Cane or Sword Cane: Misdemeanor 159:19-a(I)</td>
<td>II</td>
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<tr>
<td>Felony 159:19-a(I)</td>
<td>III</td>
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<tr>
<td>Drug: Cocaine</td>
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<tr>
<td>Sales (over 5 oz.) 318-B:26(I)(a)</td>
<td>IV</td>
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<tr>
<td>Sales (1/2 oz.-5 oz.) 318-B:26(I)(b)</td>
<td>III</td>
</tr>
<tr>
<td>Sales (less than 1/2 oz.) 318-B:26(I)(c)</td>
<td>III</td>
</tr>
<tr>
<td>Possession 318-B:26(I)(a)</td>
<td>I</td>
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<tr>
<td>Hashish:</td>
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<tr>
<td>Sales (1 lb. or more) 318-B:26(I)(b)</td>
<td>III</td>
</tr>
<tr>
<td>Sales (5 grams - 1 lb) 318-B:26(I)(c)</td>
<td>III</td>
</tr>
<tr>
<td>Sales (less than 5 grams) 318-B:26(I)(d)</td>
<td>II</td>
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<tr>
<td>Possession (5 grams or more) 318-B:26(I)(e)</td>
<td>I</td>
</tr>
<tr>
<td>Possession (less than 5 grams) 318-B:26(I)(e)</td>
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<tr>
<td>Heroin:</td>
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<tr>
<td>Sales (over 5 grams) 318-B:26(I)(a)</td>
<td>IV</td>
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<tr>
<td>Sales (1-5 grams) 318-B:26(I)(b)</td>
<td>III</td>
</tr>
<tr>
<td>Sales (less than 1 gram) 318-B:26(I)(c)</td>
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<tr>
<td>Possession 318-B:26(I)(a)</td>
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</table>
NH Dispositional Guidelines – Alphabetical Offense Rankings

Revised, 9/26/92

<table>
<thead>
<tr>
<th>Drug</th>
<th>Sales (over 100 milligrams)</th>
<th>Sales (less than 100 milligrams)</th>
<th>Possession</th>
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<tbody>
<tr>
<td>LSD:</td>
<td>318-B:26(T)(a)</td>
<td>318-B:26(T)(b)</td>
<td>318-B:26(T)(a)</td>
</tr>
<tr>
<td>Marijuana:</td>
<td>Sales (5 lbs. or more)</td>
<td>Sales (1 oz. - 5 lbs.)</td>
<td>Sales (less than 1 oz.)</td>
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<tr>
<td></td>
<td>318-B:26(T)(b)</td>
<td>318-B:26(T)(c)</td>
<td>318-B:26(T)(d)</td>
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<tr>
<td>Methamphetamine:</td>
<td>Sales (1 oz. or more)</td>
<td>Sales (less than 1 oz.)</td>
<td>Possession</td>
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<tr>
<td></td>
<td>318-B:26(T)(b)</td>
<td>318-B:26(T)(c)</td>
<td>318-B:26(T)(d)</td>
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<tr>
<td>PCP:</td>
<td>Sales (over 10 grams)</td>
<td>Sales (less than 10 grams)</td>
<td>Possession</td>
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<td>318-B:26(T)(a)</td>
<td>318-B:26(T)(b)</td>
<td>318-B:26(T)(c)</td>
</tr>
<tr>
<td>Other Schedule I-IV Drugs:</td>
<td>Sales (1 oz. or more)</td>
<td>Sales (less than 1 oz.)</td>
<td>Possession</td>
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<tr>
<td></td>
<td>318-B:26(T)(b)</td>
<td>318-B:26(T)(c)</td>
<td>318-B:26(T)(d)</td>
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<tr>
<td>Schedule V Drugs:</td>
<td>Sales 318-B:26(T)(d)</td>
<td>Possession 318-B:26(T)(b)</td>
<td></td>
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<tr>
<td>Drug Business, Use of Minors in</td>
<td>318-B:26(VII)</td>
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<td>IV</td>
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<tr>
<td>Drug Enterprise Leader</td>
<td>318-B:26(VI)</td>
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<tr>
<td>Electronic Defense Weapons (stun gun)</td>
<td>159:23</td>
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<td>III</td>
</tr>
<tr>
<td>Endangering the Welfare of a Minor</td>
<td>639:3</td>
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<tr>
<td>Endangering the Welfare of a Minor—non-support</td>
<td>639:4</td>
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<tr>
<td>Escape: Class A, employs force</td>
<td>642:6(II)</td>
<td></td>
<td>IV</td>
</tr>
<tr>
<td>Class B</td>
<td>642:6(I)</td>
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<td>II</td>
</tr>
<tr>
<td>False Alarm:</td>
<td>Class B — False Public Alarms</td>
<td>644:2</td>
<td>II</td>
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<tr>
<td></td>
<td>False Fire Alarms 644:3-a</td>
<td>False Fire Alarms/Death or Injury Resulting (felony) 644:3-b</td>
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<tr>
<td></td>
<td>Interference w/Fire Alarm Apparatus 644:3-c</td>
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<tr>
<td>False Imprisonment</td>
<td>633:3</td>
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</tr>
<tr>
<td>False Information (Purchasing firearms)</td>
<td>159:11</td>
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<td>II</td>
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</tbody>
</table>
NH Dispositional Guidelines — Alphabetical Offense Rankings

Revised, 9/26/92

Falsification: Class B, Perjury 641:1 .......................................................... II
Class B, Tampering with Witness 641:5 .................................................. III
Misdemeanor — False Swearing 641:2 .................................................... I
False Reports to Law Enforcement 641:4 .......................................... I

Falsifying Physical Evidence 641:6 .................................................. II
Firearm, Felonious Use of 650-A:1 .................................................. III

Forgery: Class B 638:1(I-III) .............................................................. II
Misdemeanor 638:1(IV) ..................................................................... I

Fraudulent Handling of Recordable Writings 638:2 ........................... II
Fraudulent Use of Credit Card: Class A & B 638:5 ........................... II
Misdemeanor 638:5 ..................................................................... I

Hindering Apprehension: (Underlying Offense Class A felony) 642:3(II) .................................................. II
(Underlying Offense Class B felony or lower) 642:3(I) .......................... I

Homicide: Capital Murder 630:1 ....................................................... IV
1st Degree Murder 630:1-a ................................................................ IV
2nd Degree Murder 630:1-b ............................................................. IV

Indecent Exposure 645:1(I) ............................................................. I
Indecent Exposure in presence of Child under 16 years old 645:1(II) ........................................ I

Interference with Cemetery or Burial Ground 635:6 ................. II
Interference with Custody: Felony 633:4(I) ..................................... II
Misdemeanor 633:4(II) ................................................................. I

Kidnapping: Class A felony 633:1(I) .............................................. IV
Class B, victim released without injury 633:1(II) ........................... III

Manslaughter 630:2 ...................................................................... IV
Negligent Homicide 630:3 ............................................................. III

Obstructing Government Administration 642:1 ............................. I
Possession of Burglary Tools 635:1(V) .............................................. I
Possession of Forged Instrument 638:1(V) ...................................... I
Possession of Implements of Escape 642:7 .................................... II
Possession of Weapons 159:15 ...................................................... II

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Sale of Firearms without License 159:10 ............................................. III
Sale of Martial Arts Weapons 159:24 ................................................... II
Sale of Weapons (generally) 159:16 ..................................................... II
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Misdemeanor.................................................................................. I
637:4 ...By Deception — Felony ............................................................. II
Misdemeanor.................................................................................. I
637:5 ...By Extortion — Felony ............................................................. II
Misdemeanor.................................................................................. I
637:6 ...Lost or Mislaid Property — Felony ........................................ II
Misdemeanor.................................................................................. I
637:7 Receiving Stolen Property — Felony ........................................ II
Misdemeanor.................................................................................. I
637:7-a Possession of property without serial number ..................... I
637:8 Theft of Services — Felony ....................................................... II
Misdemeanor.................................................................................. I
637:10 ...By Misapplication of Property ............................................. I
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Unauthorized Use of Propelled Motor Vehicle or Rented Property 637:9 .................................................. I
Unlawful Possession or Sale of Gravestones 635:7 ......................... II
CASE PROCESSING TIME

Untransformed Variable

Transformed Variable
NUMBER OF DAYS DETAINED

Untransformed Variable

Transformed Variable
# DETENTION ASSESSMENT SCREENING INSTRUMENT

## I. IDENTIFYING DATA

<table>
<thead>
<tr>
<th>Last Name</th>
<th>First</th>
<th>Middle</th>
<th>AKA</th>
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<th>D.O.B.</th>
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<table>
<thead>
<tr>
<th>Student at: (Name of school and address)</th>
<th>Grade</th>
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<table>
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<tr>
<th>Employed by: (Name of company and address)</th>
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<table>
<thead>
<tr>
<th>Custodial Parent / Guardian</th>
<th>Non-Custodial Parent</th>
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<table>
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<th>Number and Street</th>
<th>Number and Street</th>
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<tr>
<th>City, State, ZIP</th>
<th>City, State, ZIP</th>
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<table>
<thead>
<tr>
<th>Alleged Present Offense(s). (Specify level and class / Felony, Misdemeanor A, B, etc.)</th>
</tr>
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<tbody>
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<td></td>
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</table>

<p>| Regarding the juvenile, did the arresting / investigating officer observe evidence of: |</p>
<table>
<thead>
<tr>
<th>alcohol abuse? ☐ Yes ☐ No</th>
<th>drug abuse? ☐ Yes ☐ No</th>
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</thead>
</table>

<table>
<thead>
<tr>
<th>Law Enforcement Agency</th>
<th>Officer's Name and ID or Badge No. (officer who completes this form)</th>
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</thead>
<tbody>
<tr>
<td></td>
<td>YES/NO</td>
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<table>
<thead>
<tr>
<th>JPPO</th>
<th>District Office</th>
<th>Contacted</th>
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<td></td>
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</table>

<table>
<thead>
<tr>
<th>Did the arresting officer note any signs or symptoms of suicidal ideation or actions?</th>
</tr>
</thead>
<tbody>
<tr>
<td>☐ Yes ☐ No</td>
</tr>
</tbody>
</table>
Parent/Guardian Interviewed
☐ Yes ☐ No

1. Face to Face
2. Telephone
3. Unable to Contact

4. Message Left With Whom:
   Name: ____________________________ Relationship to Juvenile: ____________________________

Juvenile Record Check: ☐ Yes ☐ Not Available ☐ No Priors

II. ADMISSION CRITERIA
If answered in the affirmative, the following criteria indicate the youth's potential eligibility for detention.

☐ Yes ☐ No 1. The youth is alleged to be an escapee from jail, youth attendant program, shelter care, YDSU, an absconder from a residential program, or the child is wanted in another jurisdiction for an offense which if committed by an adult, would be a felony;

☐ Yes ☐ No 2. The youth has been charged with a delinquent act or violation of law and requests in writing through legal counsel to be detained for protection from an imminent physical threat to his/her personal safety (attach documentation);

☐ Yes ☐ No 3. The youth is charged with a capital crime, a Class A Felony, a Class B Felony or Felony violation under chapter 318-B;

☐ Yes ☐ No 4. The youth is charged with a Class A Misdemeanor or any offense involving the use of firearm and if one of the factors set forth below exists:

☐ Yes ☐ No (a) youth has a record of failure to appear at court hearings after being properly notified in accordance with the rules of juvenile procedure;

☐ Yes ☐ No (b) youth has a record of law violations prior to court hearings;

☐ Yes ☐ No (c) youth has already been detained or has been released and is awaiting final disposition of his case;

☐ Yes ☐ No (d) youth has a record of violent conduct resulting in physical injury to others;

☐ Yes ☐ No (e) youth found to be in possession of a firearm or other deadly weapon; or

☐ Yes ☐ No (f) present offense involves a domestic violence charge.

AOC-324-048 (06/00)
A youth delivered with a judicial order requiring detention must be detained. The screening instrument still must be completed for informational purposes, but the youth must be detained regardless of the point score.

III. RISK ASSESSMENT

A. Most serious current offense

1. All capital, first degree, second degree homicides and manslaughter; or 15
2. All level IV offenses under YDC Eligibility Guidelines or youth is wanted by another jurisdiction for a felony offense; or 15
3. All level III offenses under YDC Eligibility Guidelines; or 8
4. All level II offenses (Class A Misdemeanors only) under YDC Eligibility Guidelines and any misdemeanors charged as Class A. 4

B. Other pending charges (separate, non-related events occurring prior to instant offense). Pending charges are charges on which a juvenile is awaiting an adjudicatory or dispositional hearing.

1. Prior felony arrest within last seven days 6
2. Each felony - 2 points (if not included in #1) total
3. Each Class A misdemeanor - 1 point total

C. Legal Status

1. Presently committed or detained 6
2. Active case with last adjudication/disposition or adjudication continued within 90 days whether on conditional release or not 6
3. Active case with last adjudication/disposition or adjudication continued more than 90 days ago whether on conditional release or not 2

D. Prior History

1. 3 adjudications/dispositions or 3 adjudications continued for felony level offenses in last twelve months, or 9
2. 2 adjudications/dispositions or 2 adjudications continued for felony level offenses in last twelve months, or 5
3. 1 adjudication/disposition for felony level offense or adjudication continued or 2 or more Class A misdemeanor adjudications, or dispositions or adjudications continued in the last twelve months, or 2
4. 3 or more adjudications/dispositions for Class A misdemeanor offenses or 3 or more adjudications continued for Class A misdemeanor offenses in last 12 months 3

E. Aggravating/Mitigating Factors

1. Aggravating factors (add to score) specify: (example: presently in shelter care). 1-3

E. Aggravating/Mitigating Factors

1. Aggravating factors (add to score) specify: (example: presently in shelter care).
2. Mitigating factors (subtract from score) specify:  
(ex: domestic assault involved mutual combat)  

(1-3 minus) ___

Fully document the reasons for scoring aggravating or mitigating points

F. Detain/release decision    Total (Sum A-E) ___

0 - 6 points = release
7 - 11 points = eligible for shelter care, house arrest, electronic monitoring, day center, or other alternatives
12+ points = eligible for secure detention

IV. SCREENING DECISION

Eligible for detention: □ Yes □ No

Placement: □ Secure □ Home □ Non-secure □ Release

Judge's name and court

If JPPO recommended override - state reason(s):

If Judicial override - state reason(s) for override:

Released to: Name ________________________________
            Address ___________________________________
            Telephone _________________________________ Time: ______

Parent/Guardian refused to take youth home □ Yes □ No

Notification of Detention Hearing - Date: ________________ Time: ______

Signature of person completing form Date

Signature of person who reviewed assessment (if applicable) Date
V. ADDITIONAL INFORMATION FOR THE YDSU INTAKE OFFICER

Youth’s immediate medication needs, if any:

________________________________________________________________________

VI. REVIEW OF INSTRUMENT BY THE YDSU INTAKE OFFICER

☐ Is required information provided? ☐ Yes ☐ No

☐ Have points been properly determined and computed? ☐ Yes ☐ No

☐ If youth is not eligible for detention pursuant to the instrument, has agency responsible for sending been contacted? ☐ Yes ☐ No

Date: ___________________________ Signature of the YDSU intake officer
Backward Selection Terms Removed from Final Equations

### Case Processing Time

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