

# Differential Selection of Juveniles for Detention

EDWARD J. PAWLAK  
Associate Professor

The University of Tennessee School of Social Work  
Ph.D. Social Work and Social Science, 1972, University of Michigan

*This study examines detention practices of sixty-six county juvenile courts in one state during a three year period. Two kinds of analyses are reported. First, courts with and courts without a detention home are compared. Second, in courts with a detention home the effect of the juvenile's prior court contacts, offenses, sex, and race on detention are examined.*

*Courts without a detention home detain juveniles with less frequency than courts with a detention home even though juveniles in both types of courts have the same characteristics. Variation among the courts in detention practices as a consequence of the availability of a detention home suggests that there may be needless detention of children.*

*The number of prior court contacts of a juvenile increases the probability of detention. Overall, offenders who commit juvenile code violations are more frequently detained than juveniles who commit other offenses. White females are detained more frequently than any other group. While some findings point to discriminatory handling of non-white juveniles, other findings suggest that nonwhites are not always treated more harshly than whites. The study of the careers of juveniles as they are processed through the court enables us to evaluate social control agencies and to make them responsive to the people they serve.*

**A**LLEGED JUVENILE OFFENDERS are brought to juvenile court, or referrals are made to the court in the alleged offender's absence. In either case the referral agent must file a formal written complaint. Upon receiving a complaint the court must decide whether to detain or to release the juvenile pending his court disposition. In case of detention, several kinds of facilities<sup>1</sup> are used to

detain alleged offenders: detention homes,<sup>2</sup> jails, police stations, and foster homes. This study examines the differential selection of juveniles for detention. Variation in the use of detention can be attributed to the availability of a detention home, to the characteristics of the juveniles, to the characteristics of the court personnel who process the juveniles, and to the court's policies or conventions regarding the use of detention.<sup>3</sup> This study focuses on the first two sources of variation.

2. A detention home is a facility maintained by the juvenile court for the purpose of caring for alleged offenders and delinquents pending their disposition.

3. One reviewer of an earlier draft of this article suggested that it would have been useful to examine court policies regarding deten-

1. Cf., Table 6, Types of Facilities Used for Temporary Detention or Shelter Care of Juveniles Involved in Delinquency Cases in 207 Juvenile Courts Serving Population of 100,000 or Over, United States and Puerto Rico, 1966. The President's Commission on Law Enforcement and Administration of Justice, *Task Force Report: Juvenile Delinquency and Youth Crime* (Wash., D.C.: U.S. Government Printing Office, 1967). p. 79.

### DATA AND METHODOLOGY

The data used in this study were obtained from one state's Department of Research and Planning.<sup>4</sup> Sixty-six county juvenile courts sent their data about case transactions to the Department on a standard official reporting form, the Juvenile Court Statistical Card, CB-203, Children's Bureau. The cards were completed by probation officers for every referral for which a disposition was reached. The data pertain to delinquency cases handled by county juvenile courts (hereafter referred to as "courts") from 1966 through 1968.

---

tion as sources of variation in detention practices among courts. The author recognizes the merits of such an analysis. However, the enormity of gathering information on the detention policies of sixty-six courts, and the nature of the research project of which this study was a part, precluded such an analysis. The research project focused on secondary analysis of data originally collected for official purposes. Since the data pertain to a three year period, it would have been difficult to obtain information about court policies one to three years after the cases were processed. The state judicial office indicated that although a few of the larger courts may have specialized detention policies, all of the courts are governed by state juvenile court laws and standards set by state and national agencies. The state judicial office also reported that courts do not necessarily codify their detention policies and rules. Furthermore, the number of judges presiding in certain courts, and the changes in court personnel complicate an analysis of the relationship between policy and detention practices.

A study of the variation in detention policies among courts is a substantial undertaking. A study of the relationship between variations in detention policies and variations in detention practices is more complex than the latter.

4. The identity of the state and the county juvenile courts is withheld at the request of state officials. This is one of the few states that has a centralized repository of county juvenile court data. Thus, it is not necessary to approach each organization individually in order

Two kinds of analyses are reported in this study. First, courts with and courts without a detention home are compared (only 21 of 66 courts have a detention home.)<sup>5</sup> Second, in courts with a detention home the effect of the juvenile's prior court contacts, offense, sex and race on detention are examined. (The small number of white females and of nonwhites in courts without a detention home precludes their inclusion in such an analysis.) Court data are aggregated into one table to examine the detention of juveniles in the state (Table 6). In addition, thirteen courts with a sufficient number of cases to sustain a multivariate cross-tabular analysis are examined individually to analyze variations in detention practices among courts. For obvious reasons, the tables for each court are not presented.

---

to obtain data about their operating modes and clients. The use of official data in organizational analysis allows for a longitudinal and a comparative perspective. The time and money that would be required to duplicate the data gathering efforts of official agencies would prohibit or seriously limit such research. However, official data have shortcomings. In this case the data were not made available until late in 1969. It took one year to de-bug the tapes, recode the data, and to write a new computer program that could process over 90,000 cases efficiently. The data had to be accepted without certain information and about clients and about the courts that would have enhanced the analysis. One has to balance the above disadvantages with the advantages of having a considerable amount of data about many organizations.

5. Courts without a detention home may arrange to use the detention home of a court in a nearby county. Otherwise, they rely on jails, foster homes, or other facilities to detain juveniles pending their disposition. Eighteen of the courts without a detention home have less than 50 referrals per year. It is not practical for courts with a small volume of referrals to build and staff a detention home that is likely to receive little use.

## EFFECTS OF DETENTION HOMES

Approximately one-fourth of the juveniles in the State's courts are detained prior to their disposition (Table 1). Among the detained

detention among the two types of courts raises questions about the validity of detention, i.e., is it just and necessary. The courts are insistent in their detention practices, and the frequency of detention is unrelated to the characteristics of the of-

TABLE 1  
CARE OF JUVENILES PENDING DISPOSITION (PERCENT)

No Detention or Shelter Care	Detention	Jail or Police Station	Other	Unknown	Total
72.7	20.1	2.3	1.9	3.0	91,716

juveniles, 74 percent are placed in detention homes, 9 percent are jailed, and the remainder are placed in various other facilities. Among the 21 courts that have a detention home, 9 to 79 percent of the juveniles are detained, while among the 17 courts without a detention home zero to 28 percent of the juveniles are detained (Table 2). Overall, courts without a detention home detain juveniles with less frequency than courts with a detention home (Table 3).

The variation in the frequency of

fender. For example, the data indicate that juveniles with similar characteristics have a higher probability of detention in courts with a detention home than in courts without a detention home (Compare Table 5 with the White Males section of Table 6). Juveniles with similar offenses and prior court contacts have higher rates of detention in courts with a detention home than in courts without a detention home. The difference in the percentage of juveniles detained among the two types of courts ranges from 4 to 26

TABLE 2  
NUMBER OF JUVENILE COURTS WITH SIMILAR PERCENTAGES OF DETENTION CLASSIFIED BY COURTS WITH AND COURTS WITHOUT DETENTION HOMES<sup>a</sup>

		Percentage of Detained Referrals						Total	
		0-10	11-20	21-30	31-40	41-50	51-60		79
Number of juvenile courts	With a detention home	1	4	9	2	2	2	1	21
Number of juvenile courts	Without a detention home	5	7	5	—	—	—	—	17

<sup>a</sup>Only those courts with 200 or more referrals are included.

TABLE 3  
 CARE OF REFERRALS PENDING DISPOSITION IN JUVENILE COURTS WITH AND IN JUVENILE  
 COURTS WITHOUT A DETENTION HOME (PERCENT)

	Care Pending Disposition					Total
	No Detention OR Shelter	Detained			Unk	
		Detention Home	Jail or Police Station	Other		
Courts with a detention home	71.2	22.4	1.9	0.45	4.1	80,386
Courts without a detention home	84.2	4.8 <sup>a</sup>	6.5	4.2	0.4	11,330

<sup>a</sup>Courts without a detention home use the detention home of a court in a nearby county.

percent when each offense and prior court contact are examined. In courts without a detention home, less than 10 percent of the juveniles in court for the first time are detained. In courts with a detention home, 15 to 25 percent of such juveniles are detained. The differences in the handling of juvenile code offenders is marked; depending on the number of prior court contacts, courts with a detention home detain 15 to 26 percent more of such juveniles than courts without a detention home.

The data lead to the obvious conclusion that the likelihood of detention is a function of detention facilities that are available for use. However, the obvious character of the conclusion may cause one to overlook a more important and meaningful interpretation. Courts without a detention home are constrained to be selective and discriminating in determining which juveniles should be detained. This suggests that courts with a detention home err in the direction of deten-

tion, and that they can be more selective and discriminating in their detention decisions than they have been. The variation in the percentage of juveniles who are detained among the two types of courts indicates that there is needless detention of children and that detention is a function of arbitrary administrative discretion regarding the use of detention resources.

One court with a detention home merits separate discussion because it is a good illustration of the point made above. It averages 145 referrals per year and it ranks thirtieth in volume of referrals among the courts. It has the highest detention rate in the state (79 percent) and it has the lowest ratio of juveniles per detention home bed. The court has a larger detention home than most of the courts with a larger volume of referrals. The social composition of the court's referrals does not account for the need for such excessive detention; it does not have the highest rate of serious offenders, recidivists or runaways. This court handles vir-

tually all cases formally, and it has the highest rate of institutionalization of all the courts. The court's stringent orientation toward juvenile offenders may have inclined officials to build a larger detention facility than it needs and to use it to capacity. This court in particular is unreasonable and severe in the detention and in the processing of juveniles.

The jailing of juveniles also merits discussion. The detention of a child in a jail or a police station is not recommended, and where it is permitted by law, the judge is urged to insist on separate quarters for juveniles. State guidelines for juvenile courts indicate that a jail may be used for detention only in extreme circumstances and it should be held to an absolute minimum. (The state guidelines do not define extreme circumstances).

Courts with a detention home jail a smaller percentage of juveniles (1.9 percent) than courts without a detention home (6.5 percent, Table 3). When the courts within each type are examined individually, several

courts with a detention home have jailing rates similar to courts without a detention home (Table 4). Although one court with a detention home has the highest jailing rate (21 percent), more courts with a detention home jail virtually none of their juveniles, and more courts without a detention home jail more than 10 percent of their juveniles. The court with the highest jailing rate has the smallest detention home (five beds) and the highest ratio of referrals per bed (10). Thus, the high frequency of jailings is partly a function of the volume of referrals and the size of the detention home.

In light of the state's guidelines concerning the jailing of juveniles it is surprising to find so many courts with a detention home that have a similar percentage of jailings as courts without a detention home (See Table 4; Compare Table 5 with the White Males section of Table 6).

Approximately 700 juveniles are jailed per year, and three-fourths of the jailed juveniles are in courts with a detention home. The data indicate

TABLE 4  
NUMBER OF JUVENILE COURTS WITH SIMILAR RATES OF JAIL DETENTION  
CLASSIFIED BY COURTS WITH AND WITHOUT DETENTION HOMES<sup>a</sup>

		Percentage of Referrals Detained in a Jail or Police Station						Total
		<1	0-5	6-10	11-15	16-20	21	
Number of county juvenile courts	Counties with a detention home	6	6	8	—	—	1	21
Number of county juvenile courts	Counties without a detention home	2	6	6	3	—	—	17

<sup>a</sup>Only those courts with 200 or more referrals are included.

TABLE 5  
 CARE PENDING DISPOSITION OF WHITE MALE RESIDENT OFFENDERS IN JUVENILE COURTS  
 WITHOUT DETENTION HOMES BY PRIOR COURT CONTACTS, AND OFFENSE TYPE<sup>a</sup>  
 (PERCENT)

Prior Court Contacts	Offense Type	No Detention or Shelter Care Overnight	Detained			Total
			Detention Home	Jail or Police Station	Other and Unk	
None	Persons	93.2	2.3	2.7	1.9	222
	Property	92.5	1.8	2.4	3.3	3196
	Victimless	93.6	1.7	3.2	1.4	407
	Juvenile	90.7	2.5	3.0	3.8	1321
One	Persons	71.9	10.9	10.9	6.3	64
	Property	81.1	6.4	7.1	5.3	737
	Victimless	86.4	6.8	4.2	1.7	118
	Juvenile	82.1	5.4	7.0	4.7	386
Two or more	Persons	60.9	2.7	29.1	7.3	41
	Property	63.1	10.4	19.2	7.3	565
	Victimless	75.8	5.1	15.7	3.4	58
	Juvenile	67.7	11.6	15.2	5.5	197

<sup>a</sup>The small number of white females and of nonwhites in county juvenile courts without detention homes precludes their inclusion in this analysis.

that several courts are not holding jailing to the absolute minimum and that the concept "extreme circumstances" is strictly interpreted by some courts and liberally interpreted by others.

#### FACTORS THAT INFLUENCE SELECTION

The State's detention guidelines assign priority to children who are likely to commit more crimes, who are a threat to the community, who are runaway risks, or who are in need of secure custody. A juvenile with prior court contacts may be viewed as a threat to the community, who is likely to become involved in further offenses, and one who should be detained.<sup>6</sup> Juveniles who

commit serious offenses (crimes against persons) may also be perceived as a threat to the community.<sup>7</sup>

and Ethnicity Relative to Other Factors in Juvenile Court Dispositions," *American Journal of Sociology*, Sept, 1971, pp. 211-227; Robert M. Terry, "Discrimination in the Handling of Juvenile Offenders by Social Control Agencies," *Becoming Delinquent: Youthful Offenders and the Correctional System*, P. G. Garabedian and D. C. Gibbons, eds. (Chicago: Aldine, 1970), pp. 78-92; Helen Sumner, "Locking Them Up," *Crime and Delinquency*, April, 1971, pp. 168-179.

7. For a discussion of the effects of the offense see *Ibid.*; also, see Yona Cohn, "Criteria for the Probation Officer's Recommendations to the Juvenile Court Judge," *Becoming Delinquent: Youthful Offenders and the Correctional System*, P.G. Garabedian and D. C. Gibbons, eds. (Chicago: Aldine, 1970), pp. 262-275; and Richard Stephenson and Frank Scarpitti, "Negro-White Differentials and Delinquency," *Journal of Research in Crime and Delinquency*, July, 1968, pp. 122-133.

6. For a discussion of the effects of prior court contacts, see William R. Arnold, "Race

Juveniles who run away or who are incorrigible are runaway risks and children in need of secure custody. Thus, the variables, prior court contacts and type of offense were selected for an analysis of their effects on detention.

The sex of the juvenile was also selected for an analysis of its effect on detention. Differences in the type and in the frequency of detention among the sexes were expected not only because males commit different offenses than females, but also because of the special consideration society expects the court to give to wayward girls. Courts are concerned that girls will lead a dissolute and lascivious life. Consequently, female offenders have priority over certain resources, and they receive dispositions which make them less vulnerable to the deviant elements in their environment. Most empirical studies of social control agencies support the contention that males and females are handled differently.<sup>8</sup> Thus, differences in the frequency and in the nature of detention among the sexes were expected in this study.

Differences in detention among racial groups were expected under the assumption that there is discrimination in the handling of nonwhite juveniles. If detention is a more severe sanction than no detention, and if a jail is a more severe sanction than a detention home, then nonwhites are more likely to receive severe sanctions as a consequence of discrimination. Thus, nonwhites are more likely to be detained and more likely to be detained in a jail. From both the of-

fender's and the parent's point of view, any form of detention is likely to be viewed as a severe sanction. On the other hand, the court may view detention in a detention home as a positive remedial response. From this perspective, more frequent detention of whites may be viewed as discriminatory inasmuch as the preferred treatment is not provided to nonwhites. In this study, the perspectives of the court decision-makers are unknown. While it is difficult to infer discrimination from findings which reveal differences in frequency of detention by race, detention patterns among whites and nonwhites can be described and interpreted. There is inconsistent empirical support for the contention that one should expect racial differences in detention and in other phases of processing by social control agencies. Certain studies report racial differences<sup>9</sup> while others report no differences.<sup>10</sup>

#### EFFECTS OF CHARACTERISTICS OF JUVENILES

##### *Prior Court Contacts*

The number of prior court contacts of a juvenile is a significant determinant of detention, regardless of sex, race, and offense type (Table 6). The probability of a juvenile being detained increases as the number of prior court contacts increase. Table 6 was constructed for 13 of 66 courts

9. Cohn, *supra* note 7; Sumner, *supra* note 6; Arnold, *supra* note 6; Stephenson and Scarpitti, *supra* note 7.

10. Terry, *supra* note 6; Charles V. Willie and Norman L. Weiner, "Decisions by Juvenile Officers," *American Journal of Sociology*, September, 1971, pp. 199-210; Albert Reiss, Jr. and Don Black, "Police Control of Juveniles," *American Sociological Review*, February, 1970, pp. 63-77.

8. Terry, *supra* note 6; Cohn, *supra* note 7; Sumner, *supra* note 6; Nathan Goldman, *The Differential Selection of Juvenile Offenders for Court Appearance* (New York: National Council on Crime and Delinquency, 1963).

with a sufficient number of cases to conduct a multivariate analysis. All of the courts conform to the above generalization.

The number of prior court contacts is also related to the likelihood of detention in jail; as the number of prior court contacts increase the percentage of juveniles who are jailed

increases. The detention of juveniles who have committed several offenses may be defensible on the grounds that such juveniles are a threat to the community and are likely to commit more crimes.<sup>11</sup> However, state

11. A survey conducted by the Children's Bureau shows that 21 of 152 courts reported

TABLE 6  
CARE PENDING DISPOSITION OF RESIDENT OFFENDERS IN JUVENILE COURTS WITH  
DETENTION HOMES BY SEX, RACE, PRIOR COURT CONTACTS AND OFFENSE TYPE  
(PERCENT)

Prior Court Contacts	Offense Type	Detained				Total
		No Detention or Shelter Care Overnight	Detention Home	Jail or Police Station	Other and Unk	
<i>White Males</i>						
None	Persons	78.9	18.8	1.9	0.4	1427
	Property	87.2	11.1	1.2	0.5	9800
	Victimless	85.9	11.7	2.2	0.2	2638
	Juvenile	75.5	21.9	1.9	0.7	3078
One	Persons	67.2	28.9	3.7	0.2	725
	Property	72.4	24.3	2.9	0.4	4020
	Victimless	77.3	20.1	2.1	—	1322
	Juvenile	60.8	35.4	3.3	0.5	1545
Two or more	Persons	52.8	33.3	11.8	2.1	279
	Property	51.9	36.5	10.4	1.2	2042
	Victimless	62.6	22.9	13.8	0.7	528
	Juvenile	41.7	42.5	14.0	1.8	979
<i>Nonwhite Males</i>						
None	Persons	79.7	19.8	0.2	0.3	2073
	Property	90.3	9.3	0.3	0.1	5713
	Victimless	87.7	11.3	0.6	0.4	1756
	Juvenile	79.9	19.2	0.5	0.4	978
One	Persons	60.4	39.2	0.3	0.1	3265
	Property	77.6	21.9	0.2	0.3	6311
	Victimless	77.2	22.4	0.2	0.2	2409
	Juvenile	66.2	32.7	0.7	—	1392
Two or more	Persons	47.1	50.0	2.7	0.2	1084
	Property	62.4	34.4	2.7	0.5	2371
	Victimless	66.5	29.8	3.2	0.5	669
	Juvenile	47.1	46.1	6.1	0.7	390



TABLE 6 (CONT.)  
 CARE PENDING DISPOSITION OF RESIDENT OFFENDERS IN JUVENILE COURTS WITH  
 DETENTION HOMES BY SEX, RACE, PRIOR COURT CONTACTS AND OFFENSE TYPE  
 (PERCENT)

Prior Court Contacts	Offense Type	Detained				Total
		No Detention or Shelter Care Overnight	Detention Home	Jail or Police Station	Other and Unk	
<i>White Females</i>						
None	Persons	90.2	8.6	0.6	0.6	174
	Property	84.3	14.9	0.1	0.7	713
	Victimless	80.3	18.9	0.5	0.3	588
	Juvenile	64.7	34.1	0.5	0.7	2344
One	Persons	81.4	18.6	—	—	43
	Property	71.3	27.5	1.2	—	157
	Victimless	63.7	35.3	1.0	1.0	187
	Juvenile	47.5	50.7	0.9	0.9	930
Two or more	Persons	59.0	31.3	9.0	0.7	22
	Property	51.2	44.4	4.4	2.0	45
	Victimless	48.8	44.1	0.9	6.2	43
	Juvenile	30.5	61.0	4.0	1.5	436
<i>Nonwhite Females</i>						
None	Persons	86.3	13.5	0.2	—	511
	Property	90.5	8.8	—	0.7	719
	Victimless	89.9	9.9	—	0.2	1006
	Juvenile	72.3	26.7	0.1	0.9	1421
One	Persons	70.0	29.6	0.4	—	210
	Property	79.2	20.2	—	0.6	304
	Victimless	80.7	19.1	0.1	0.1	533
	Juvenile	55.1	43.8	0.1	1.0	985
Two or more	Persons	82.0	12.8	5.2	—	39
	Property	71.1	27.1	1.8	—	59
	Victimless	70.7	27.6	1.7	—	65
	Juvenile	42.3	55.2	1.2	1.3	208

guidelines indicate that detention should not be used to punish the

that no juveniles committed a new violation prior to their hearing. One-hundred and ten courts reported that one to five percent of the juveniles committed new violations; 13 courts reported six to ten percent of the juveniles committed new violations; and eight courts reported 11 percent committed new violations, President's Commission, *supra* note 7.

offender, and that a detention home is the preferred facility for juveniles. Thus, the practice of jailing recidivists is questionable for it suggests that they are being punished.<sup>12</sup> What accounts for the

12. See Zenoff Elyce Ferster, Edith Nash Sneathen, and Thomas F. Courtless, "Juvenile Detention: Protection, Prevention, or

jailing of juveniles? It is conceivable that as law enforcement agencies encounter the same juvenile time after time, they may exercise some discretion over the site of detention. In certain jurisdictions, police do not have the authority to detain, but in practice they do make detention decisions.<sup>13</sup> The juvenile court law and state guidelines clearly specify that the court has jurisdiction over detention decisions.

Whether the police exercise unwarranted discretion with recidivists, or whether the judges approve the jailing of recidivists is unknown. In any case, as the number of prior court contacts increase the percentage of juveniles who are jailed increases even in courts with detention homes.

Again, the thirteen largest courts were examined individually. Four of the courts had no jail detention or virtually none. The remaining courts conform to the generalizations made above, namely, juveniles with prior court contacts are likely to be jailed. One court was particularly stringent toward its white male juveniles. Seventy-five percent or more of the detained white male juveniles (depending upon the offense) were jailed if they had two or more prior court contacts. In the same court, the percentage of jailings for most offenses exceeded the percentage of detention home placements, even for juveniles who were brought to the court for the first time. Nonwhite males were treated in a similar fashion, but they were small in number

and their percentage of jailings was not as large as that of the white males.

#### *Effect of Type of Offense*

There is a marked but inconsistent trend toward the more frequent detention of children who commit violations of the juvenile code than of children who have criminal code violations (Table 6). When 13 of the larger juvenile courts are examined individually, the generalization is supported. In certain courts, however, there are a few exceptions to the trend, and in one court the generalization does not hold at all. The exceptions are that crimes against persons have a comparable or a higher rate of detention than juvenile code offenses. In any case, the statement that offenders who commit juvenile code offenses have a larger percentage of detentions than juveniles who commit criminal code violations is a valid generalization.

Most students of the administration of justice view the more frequent detention of juvenile code violations as malevolent and lamentable.<sup>14</sup> Their objections are based on the argument that juveniles with less serious offenses (juvenile code violations) should not be detained at a higher rate than juveniles who commit more serious offenses (criminal code violations and particularly crimes against persons). The scale of seriousness is based on the social evaluation that acts which inflict injury are more serious than acts which do not inflict injury. Thus, murder, manslaughter, rape, assault, and robbery are considered to be more serious than truancy, ungov-

Punishment?" *Fordham Law Review*, 38 December, 1969, pp. 161-194. In a survey conducted by the Children's Bureau 13 out of 207 courts use detention for short time commitment and 12 out of 207 courts use detention "to teach the juvenile a lesson," President's Commission, *supra* note 1.

13. *Ibid.*, pp. 175-178.

14. *Ibid.*, pp. 163-167; Michael Langley, H. Ray Graves, and Betty Norris, "The Juvenile Court and Individualized Treatment," *Crime and Delinquency*, January, 1972, p. 79.

ernable behavior, curfew violations, possession of liquor, and running away. Though few would disagree with such ranking, the above argument is specious for it imposes one criterion (seriousness) on the evaluation of detention practices, where several criteria are required (children in need of secure custody, runaway risks). Even if one were to agree that any crime against a person is more serious than running away or ungovernable behavior, it does not necessarily follow that the former need to be detained more than the latter.<sup>15</sup>

The data in Table 6 also reveal a highly questionable practice—the jailing of juvenile code offenders. Juvenile code offenders are often jailed at rates similar to or higher than other types of offenders, though their acts do not constitute a threat to the community. This court practice is particularly alarming.

### *Effects of Sex and Race*

Females who commit juvenile code offenses, regardless of race and of prior court contacts, have a larger percentage of detentions than males who commit such offenses.<sup>16</sup> Males are more frequently detained for

crimes against persons and they have a higher probability of being jailed than females. Given the expectations concerning the detention of female offenders, these findings are understandable. However, the smaller percentage of detentions for nonwhite male<sup>17</sup> and female<sup>18</sup> offenders who commit juvenile offenses is puzzling. One would assume that children who commit juvenile offenses, and who may be in need of secure custody, would receive it regardless of race. Whatever the reason, courts do not follow their detention guidelines with nonwhite males and females as stringently as with white males and females. In fact, with the exception of crimes against persons and one other minor exception,<sup>19</sup> white females have the highest rates of detention of any group. When 13 courts are examined individually, this pattern is found in eight of the courts. In the remaining five courts other racial and sex groups have the largest percentage of detentions, but white female detentions are among the highest.

In general, nonwhite males and females have a smaller percentage of

15. Runaway refers to a single act of leaving or staying away from home without permission. Ungovernable behavior refers to children who are persistently beyond the control of parents or those who are responsible for him. Included under this offense are repeated absences from home, destructive or assaultive behavior, and frequent acts of disobedience to parents. This offense may also include regular disorderly and disobedient behavior in school.

16. When 13 courts are examined individually, the generalization holds, but three of the largest courts each have two exceptions to the generalization. In these courts males have higher detention rates for juvenile offenses depending upon the prior court contacts.

17. When 13 courts are examined individually, four courts do not have a sufficient number of nonwhite cases to sustain a white-nonwhite comparison. Of the nine remaining courts only five completely conform to the generalization; in four courts nonwhites have comparable or higher rates than whites.

18. When 13 courts are examined individually, six courts do not have enough nonwhite female cases to sustain a white-nonwhite comparison. Of the remaining courts, five conform to the generalization; two courts have comparable or higher nonwhite female detention rates.

19. Compare male and female offenders who have one prior court contact and who commit crimes against property. This is the one instance other than crimes against persons where males have a higher rate of detention. The difference is less than four percent.

detentions than white males and females respectively. Depending upon the number of prior contacts, nonwhite males and females often have a larger percentage of detentions for crimes against persons than white males and females respectively. If one were to interpret the above findings concerning white and nonwhite differences as indicators of racial discrimination, one might conclude that nonwhites have a higher probability of detention when they commit serious crimes but a lower probability of detention when they are in need of secure custody. This pattern is not consistent and in some cases the differences are small but the pattern is more evident among females than males. On the other hand, when the sex of the juvenile is taken into consideration, nonwhite recidivists are not detained at as high a rate as white recidivists.

White males and females have higher rates of jailing than nonwhite males and females respectively which is considered a more severe sanction than a detention home. However, this pattern is an artifact of the distribution of white and nonwhite juveniles in the court population and in the county population. The preponderance of the nonwhite juvenile court population is located in the two major metropolitan courts that jail virtually none of their juveniles. Two of the courts that have the highest jailing rates (21 and 10 percent) have a nonwhite court population of less than 5 percent and the percentage of nonwhite juveniles in their counties is less than 3 percent. (Earlier, it was reported that the court with the highest jailing rate had the smallest detention home.) This does not negate the fact that some white juveniles are being harshly treated because of their detention in a jail,

but one cannot infer that they are receiving such treatment because they are white.

#### RECAPITULATION AND DISCUSSION

Courts without a detention home detain juveniles with less frequency than courts with a detention home even though juveniles in both types of courts have the same characteristics, i.e., sex, race, offense type, prior court contacts. Variation among the courts in detention practices as a consequence of the availability of a detention home suggests that there may be needless detention of children.

The number of prior court contacts of a juvenile increases the probability of his detention. Offenders who commit juvenile code violations are more frequently detained than juveniles who commit other offenses. This practice is viewed negatively by many students of juvenile justice, because juveniles who commit serious crimes are detained less often than juveniles whose behavior does not constitute social harm. However, juveniles who run away, or who are ungovernable may be in need of secure custody, or they may need to be temporarily separated from parents until a reconciliation is achieved, or until family problems are resolved. There is little question that runaways and ungovernable children may be in need of temporary secure custody and supervision, but the mixing of runaway and ungovernable children in a detention facility with juveniles who commit criminal acts is questionable, as is the handling of juvenile code violations by a judicial agency. The wisdom of controlling such deviant behavior by means of laws that carry legal sanctions is also questionable. A child welfare technology rather than a correctional

or judicial technology should be used in behalf of such offenders.

It is quite likely that juvenile code offenders will continue to receive "secure custody" in detention homes, until more community based counseling services are established, until existing counseling resources are linked with the court, or until separate facilities are established for criminal code offenders and for juvenile code offenders. Other community alternatives to detention are foster homes, intensive supervision of the juvenile in his own home, group homes, and placement of children in homes of friends or relatives. Assaultive or destructive children should be placed in community mental health facilities or residential facilities for disturbed children.

In a related study of final dispositions, the author found that 27 of 35 courts referred only 5 percent of their cases to community agencies. None of the courts referred more than 15 percent of their cases to community agencies. The percentage of juveniles warned and released ranged from zero to 81 percent. Twenty-two courts warned and released one-fourth or more of their cases; seven courts warned and released over one half of their cases. This means that a substantial percentage of juveniles receive a perfunctory handling of their cases. The evidence strongly supports the contention of many critics that there has been insufficient use of community resources.<sup>20</sup>

The fact that jailings increase as prior court contacts increase suggests

20. The onus for the limited use of community resources may not belong to the courts. Juvenile courts may desire more accessibility to community resources, but agencies may not be responsive because of rigid intake policies, staffing problems, waiting lists, or disinclination to serve troublesome juveniles.

that detention in a jail is used as punishment. Jailings occur even in counties where the court has a detention home, and several courts do not hold jailing to an absolute minimum. The most lamentable court practice is the jailing of children and youths for juvenile code offenses. The courts must take more initiative to control jailings, or legislation should be enacted to prohibit it. More centralized state control rather than county control may be needed to reduce the wide range of variation in detention practices.

Overall, white females are detained more frequently than any other group. Males have a larger percentage of detentions for crimes against persons. For the most part, sex and race interact; and, consequently, generalizations about one of these variables cannot be made without reference to the other. Nonwhites have a higher probability of detention when they commit serious crimes, but a lower probability of detention when they commit juvenile offenses and when they are in need of secure custody and supervision. However, this pattern is not consistent and in some cases the differences are small.

Courts intervene more forcefully in behalf of white parents who refer their troublesome children to the court. The principle of *parens patriae* is applied differently to nonwhite children. While some findings point to discriminatory handling, other findings suggest that nonwhites are not always more harshly treated than whites. When courts are examined individually, some courts handle

On the other hand, juvenile courts may not use community resources because of a failure to formalize contacts with agencies, lack of awareness of community resources, or because adjudication pre-empts rehabilitation.

nonwhites and whites alike, while in other courts whites have higher detention rates. Nonwhite recidivists are not detained as often as white recidivists. However, the less frequent detention of nonwhite recidivists could be interpreted as a disservice to nonwhite juveniles and to nonwhite communities. Nonwhite communities may have more serious offenders returned to their communities than white communities. Frequent offenders need to be protected against their own behavior as much as the community needs to be protected from them.

In an analysis performed for another study, the author discovered a pattern which sheds additional light on the treatment of nonwhites in the juvenile justice system. The author compared the nonwhite court population with the nonwhite youth population in the county. In every instance, nonwhites were overrepresented in the court population in comparison to their distribution in the county population. The differ-

ences among the thirteen largest courts ranged from 2 to 31 percent with a mean difference of 16 percent. In the three counties with the largest nonwhite youth populations, nonwhites are disproportionately represented in the court population by more than 25 percent. Whatever the reason, be it institutional racism or discriminatory handling due to prejudice, the fact remains that the nonwhite juvenile has a higher risk of entering the juvenile justice system.

Courts need to develop management information systems in order to collect and analyze data about their decision-making and the careers of juveniles as they are processed through the court. An information system would allow courts to monitor their practices, to compare their practices over time, and to compare themselves with similar courts. Experience tables similar to those presented in this study enable us to evaluate social control agencies and to make them more responsive to the people they serve.