OFFENDERS IN CRIMINAL AND JUVENILE COURTS: A COMPARISON OF CHARGING AND SENTENCING PRACTICES.

by Patricia M. Harris

OFFENDERS IN CRIMINAL AND JUVENILE COURTS: A COMPARISON OF CHARGING AND SENTENCING PRACTICES

By Patricia Mary Harris

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ABSTRACT OF THE THESIS

Offenders in Criminal and Juvenile Courts:

A Comparison of Sentencing and Charging Practices

By Patricia M. Harris

Thesis Director: Todd R. Clear

This study tests a key assumption underlying contemporary criticisms of the juvenile court, namely, that juveniles are treated more leniently than adults for behaviors of similar seriousness. Subjects of the study were the first 250 persons charged with assault and the first 250 persons charged with robbery from September 1, 1979 in the Union County (New Jersey) criminal court and from January 1, 1980 in the Union County juvenile court. Data were collected from prosecutor's files on offense and offender characteristics, on highest degree at intake and conviction, and on type and length of sentence. A scale of offense seriousness was developed using descriptions of the behaviors of each of the defendants in the sample. Two null research hypotheses were tested, which asserted the absence of an association between court of jurisdiction and highest degree charged, in the case of the first hypothesis, and severity of sentence (certainty of imprisonment), in the second.

Analysis using multiple regression led to the rejection of both hypotheses. Little difference was noted between the two courts with respect to charging practices, but the court variable was found to play a substantial role in sentencing

decisions. Holding constant offense seriousness, race and number of convictions, the study found that greater severity was exercised against criminal court offenders with respect to the decision to incarcerate than was exercised against juvenile court defendants. The findings are not entirely consistent with criticisms of the juvenile court; in separate analyses, sentence decisions of the juvenile court exhibited higher associations with rated offense seriousness than did the sentence decisions of the criminal court. Verification of the assumption underlying juvenile sentence reform should not be interpreted as a justification for that reform.

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SOCRATES: Now which kind of conviction about right and wrong is issued in law courts and other gatherings by rhetoric? That which issues in belief without knowledge, or that which issues in knowledge?

GORGIAS: Evidently, Socrates, that which issues in belief.

SOCRATES: Then rhetoric is apparently a creator of a conviction that is persuasive but not instructive about right and wrong.

***

POLUS: But what do you think rhetoric is?

SOCRATES: ...I call it "flattery"...

from Gorgias, by Plato

Chapter 1
INTRODUCTION TO THE STUDY

Whatever else may be disputed about the juvenile court, its accompaniment by a rhetoric that is readily identified, appealing and persistent is inarguable. As its rhetoric explains, the juvenile court emphasizes rehabilitation, not punishment. The extent of its penetration into the lives of youngsters is determined in light of their "best interests". It looks not to what criminal behavior a youth may have committed, but to what person he or she may become, in a setting that is individualized, in an atmosphere that is informal and private.

For over a half-century the center of undisturbed indifference by observors of law and justice, the juvenile court has been turned in the last twenty years into an arena for critics who debate the appropriateness of traditional methods for addressing youth crime. Although the critics disagree about what more appropriate methods are, they do agree on one point--that the rhetoric is flattery.

For the earliest critics of the juvenile court, the rhetoric was perceived as flattering because it masked grave wrongdoings against the youth who came before it. Because it lacked resources and the commitment of policymakers and practitioners, because it attempted to achieve too great a goal, the juvenile court was never able to make good on its promises (Ketcham,1962; Lemert,1967). Its informal procedures and its isolation from the rest of the criminal justice system

aided in discouraging application of constitutional protections to young offenders (Schultz and Cohen,1976), even after these protections had explicitly been extended to juveniles (Sosin and Saari,1976). And in the guise of rehabilitation, dispositions were more often hurting than helpful (Miller and Ohlin,1976; American Friends Service Committee,1971).

More recently, a different attack has been made on the juvenile court. To these newer critics, the rhetoric of the juvenile court is flattery, because it masks injustices committed against the law-abiding community--injustices which occur whenever the court fails to adequately punish, or protect the public from, dangerous youths. The roots of the more modern of the two critiques can be traced to various broad developments within the criminal justice system, among them, uncertainty about the effectiveness of rehabilitation (Lipton, Martinson and Wilks,1975), and desire for more predictable and proportionate punishments (Twentieth Century Fund,1976; von Hirsch,1976); but can be traced as well to a new, punitive philosophy directed specifically at the juvenile offender. The new philosophy has three distinct features.

A principal feature of the new philosophy is its awareness of the contribution made by juveniles to the overall crime problem. For evidence of the criminal activity of the young, observors appeal to arrest statistics reported annually by the Federal Bureau of Investigation (FBI-UCR,1968-1978), which attribute responsibility to juveniles "for a majority of

serious property crimes and a disproportionate share of violent offenses...an amount of crime...grossly disproportionate to the youth population" (Zimring,1978:35).[1]

Second, the philosophy promotes the idea that crimes committed by juveniles are the same condemnable behaviors committed by adults, which should therefore be subject to the same kinds of punishments. Among the most vocal of proponents of this argument is van den Haag (1975), who points out that

> [t]here is little reason left for not holding juveniles responsible under the same laws that apply to adults. The victim of a fifteen-year-old muggers (sic) is as much mugged as the victim of a twenty-year-old mugger, the victim of a fourteen year-old murderer or rapist is as dead or raped as the victim of an older one. The need for social defense or protection is the same...[t]he process of adjudication and the law should be the same (p. 174).

Of special interest in the new philosophy are two groups, one, the subset of "sophisticated, persistent or violent juvenile offenders," who [a]lthough chronologically juveniles, [commit] criminal conduct indistinguishable from that of adult offenders" (Feld,1981:170-171); the other the subset of older youths, aged sixteen to eighteen, whose "capacity to understand the outcomes and consequences of their acts" approximates that shared by adults (Wolfgang,1978:25). A remaining feature underlying the new attitude toward the juvenile court is that more appropriate (i.e., harsher) punishments are available within the legal framework of the criminal justice system. Feld (1981:170) notes that "[t]he criminal law applicable to adults accords far greater significance [than the law applicable to juveniles] to the

offense committed and attempts to proportion punishment." The idea is that in the criminal justice system, punishments can be found that are both harsh and fitting of the crimes committed by juveniles.

These are ideas that have not been confined to mere rhetoric. In the last decade, they have found their way into a variety of juvenile code revisions, three of which are legislative waiver, serious delinquent and determinate sentencing provisions.

Legislative waiver. Unlike the judicial waiver, which is dependent for its application upon judicial discretion regarding the propensity of a child for rehabilitation, this reform legislatively authorizes the criminal court certification of any juvenile who meets certain criteria. Criteria usually require the commission of certain grades of offenses, but may also require a history of prior offense (The Ursa Institute,1983). In Minnesota, where the certification provision is especially broad, a presumptive case for waiver is met whenever a juvenile falls into one of four possible sets of criteria which include prescriptions for major felonies only, and any felony if accompanied by a prior record of adjudications (Minnesota Statutes Annotated 260.125). In 1978, New York adopted an even tougher provision, which automatically transfers original jurisdiction to the criminal court juveniles between the ages of 13 and 15 who have been charged with very serious violent crimes (e.g., murder, rape and first degree robbery) and juveniles aged 14 and 15,

charged with second degree assault or robbery or any felony if a prior record is present (The Ursa Institute,1983:171-172).

"Serious delinquent" provisions. At least eight states have adopted this kind of reform (Fisher, Fraser and Rudman,1983:59), which authorizes the mandatory commitment of youths for designated felonies. Exact provisions vary between states, but in most cases, two characteristics are present: qualifying delinquents can be very young, and terms of commitment can be very long.[2]

Determinate sentencing provisions. This final class of reforms refers to efforts that address issues of accountability, uniformity and proportionality throughout entire juvenile codes. Washington, for example, removed such sentencing considerations as "the best interests of the child" from its juvenile code in 1977 and in its place implemented a system of sentencing based upon explicit criteria involving offense seriousness, prior criminal record and age, and leading to mandatory, presumptive or recommended choices, depending upon the specific combination of criteria present (Scneider and Schram,1983:1-5). Mandatory terms of incarceration are required for the most serious of offenses, such as first degree manslaughter, and second degree assault and rape, specifically; and the commission or attempted commission of class A felonies, generally (The Ursa Institute,1983:247).

These reforms share the characteristics of the newer critics of the juvenile court in three ways: First, they share

criminal court processing, or the characteristics of that processing. Legislatively mandated waiver and reduced ages of majority encourage the handling of greater numbers of juveniles within the criminal justice system. Determinate sentencing provisions, such as mandatory terms of incarceration for certain offenders, mimic provisions adopted by the criminal justice system in previous years.

Second, these provisions are sweeping, as criteria call for inclusion of persons charged with or convicted of certain classes of offenses, irrespective of their individual differences. All specify the inclusion of so-called serious delinquents, where seriousness is a function of offense and/or record of prior offenses.

Finally, each presumes that the criminal court punishes serious behaviors more severely than the juvenile court, or, conversely, that the latter is a relatively lenient institution. Specifically, they assert the lenient treatment of juveniles adjudicated of serious crimes within unrevised codes, and affirm that the criminal justice system, with its desirable sentencing characteristics, provides more harsh treatment of offenders who are charged with or are convicted of the same behaviors.

The purpose of this study is to test a single critical assumption underlying the most recent revolution in the juvenile court. The study seeks to answer a basic question, namely, is it true that the juvenile justice system responds

more leniently than the criminal justice system to the same behaviors?

Before initiating a search for an answer, it is necessary to make explicit what this study is, and what it is not. This is a study of the relative responses of the juvenile and criminal justice systems to behaviors that would be considered illegal if committed by adults. The study will not, therefore, address the question of the appropriateness or severity of treatment of status, neglected or dependent children by the juvenile justice system. This is the study of the ways in which two systems of control--the criminal and the juvenile justice systems--process criminal behaviors, with attention paid specifically to the issue of "severity". Further, the focus of this effort is concentrated upon only those offenses which have been the subject of widespread concern and the target of juvenile code revision, specifically, so-called serious criminal behaviors.[3]

It is important to note as well that the study addresses the basis of only one proposed juvenile justice reform, namely, sentence reform. Throughout this work, mention of juvenile justice reform, generally, should be interpreted only as the referral to this particular area of proposed change. Actually, a number of competing proposed reforms of the juvenile court can be identified. Some observors of the juvenile court, for example, press for increased procedural safegaurds for young offenders (see, e.g., Rubin,1981) while continuing to support its parens patriae rationale. This study

is not concerned with alternate proposed reforms in the juvenile court, nor does its failure to address competing ideas denote a rejection of whatever value or legitimacy such other reforms may possess.

The study begins with a review of literature pertaining to the basic assumptions of the more recent critics of the juvenile court. Chapter 2 undertakes an "absolute" search for leniency in the juvenile justice system, by pooling together available facts about the formal processing of young offenders. Chapter 3 extends the search to a comparison with the criminal justice system. An overview of the study's hypotheses and research methods can be found in Chapter 4.

A description of the data set, and its analysis, are presented in Chapters 5 through 7. Chapter 5 outlines the distribution of each of the variables employed in the study, and compares the two jurisdictions with respect to offense and offender characteristics, and justice system processing. The analysis in Chapter 6 investigates the validity of the use of charges and convictions as bases for comparing the behaviors of juveniles and adults. Chapter 7 measures the relative punitiveness of the two courts at the time of sentencing; Chapter 8 culls the study's findings, and discusses implications for policy and research.

Notes

1 That juveniles commit crimes at a rate disproportionate to their size in the general population was actually first observed approximately 150 years ago. Quetelet (1842, reproduced in Diamond,1969) noted the relatively greater frequency of crimes by the young using samples of persons from Belgium and France in the early part of the nineteenth century.

2 Colorado, Delaware and Illinois specify no limiting age of qualification; New York and Georgia specify 13 as their lower age limit; and North Carolina, 14. In Georgia and New York, terms of commitment may be as long as five years; in Illinois, youths can be committed until age 21 (Fisher, Fraser and Rudman, 1983:59).

3 It would surely be apropos to provide a definition of "serious" criminal behaviors, or "serious" crimes. Unfortunately, the term "serious" is usually invoked absent the benefit of explanation. Two likely definitions for serious, which may be inferred from the contexts in which the term is found, are "crimes of violence" and "crimes against the person". Since not all crimes against the person involve violence--some pursesnatches, do not, for example--the two definitions are not exactly interchangeable. For the time being, however, the term "serious" will be employed to mean either violent or persons offenses.

Chapter 2
LENIENCY IN THE JUVENILE JUSTICE SYSTEM

This chapter examines the first of the assumptions of the juvenile court critics, that the juvenile justice system is "lenient". The review focuses on critical steps in juvenile justice decision-making, in the order that they occur.

The Police Response

The police are responsible for initiating the juvenile justice system. In response to a misbehaving juvenile, the police can choose one or more of the following alternatives: taking the child into custody, making an official record of his behavior, placing him in a detention setting, or applying for the youth's formal processing by the family court (Rubin,1979:61; Krisberg and Austin,1978:83). Or, they may do none of these things. The conventional view of the police role in the handling of juveniles suggests that law enforcement agencies exercise wide discretion in their treatment of young offenders (Kenney and Pursuit, 1975:109). In place of custody or referral to the family court, informal alternatives to the formal juvenile justice system may be invoked. Two well-known informal options are 'counsel and dismiss', and 'referral' or 'diversion', such as to a social service agency.

Actually, the traditional perception of police involvement in the juvenile justice system is deceiving, because it leads one to believe that there is something

special about the way that young offenders are processed. In reality, discretionary decision-making permeates police practices across both juvenile and criminal justice systems (Goldstein, 1960; Goldstein, 1977; LaFave, 1967);[1] analagous counseling and referral alternatives to formal procedures have been a mainstay within the criminal justice system as well (Goldstein, 1977:40); and relatively few citizen-police encounters which do not involve juveniles lead to formal justice system processing (Goldstein, 1963; LaFave, 1967, Reiss, 1971).

One explanation which has been offered for police use of discretion is that much of the activity for which their response is sought involves either noncriminal matters, or those that are only marginally criminal. On this subject, Reiss (1971:76-77) notes:

> The large proportion of noncriminal matters, and particularly, matters which citizens considered of a criminal nature while the police did not, suggests that the police exercise enormous discretion in handling citizen calls. It also raises the question of whether the police are arbitrary in labeling these matters, thereby subverting the goals of citizens in mobilizing the police.

The point made by Reiss is simply this: The failure to initiate formal processing does not mean that a crime has occurred for which formal processing should take place. Unfortunately, discussions of discretionary decision-making at this stage encourage the perception that the majority of cases for which an arrest or citation is not made involve criminal activity, and therefore, police discretion not to invoke the formal process.

Citizen awareness of the distinction between criminal and non-criminal activity is no further enhanced when the behaviors in question belong to juveniles. Writing of the police function in the juvenile justice system, Emerson (1969:41-42) reached a similar conclusion:

> The juvenile officer, who does no patrol work and who only by chance witnesses the actual commission of offenses, spends most of his time checking out complaints that concern juveniles. Many of these complaints bear only superficial resemblance to "crimes", are distinctly minor in nature, and are taken less seriously because they involve children... The juvenile officer's job is not so much to "solve" crimes committed by juveniles as to handle often legally ambiguous complaints involving juveniles.

About his experience as an observor of police responses to juvenile-related calls for assistance in two California cities in the mid-60s, Cicourel (1968:87) notes:

> The amount of time devoted to activities having little or nothing to do with popular or sociological impressions of crime is impressive...[m]embers of the community rely upon the police for settling many routine problems of daily living, and families are likely to receive considerable unwanted intrusion (often because of neighbors) into their private activities without being able to do much about it.

The converse of the idea that police are often called to respond to marginally criminal behaviors is that they are rarely involved in more serious ones. In his study of the handling of incidents by the Chicago Police Department, Reiss (1971:73) found that crimes against the person comprised only three percent of patrol-related incidents; burglary, nine percent, and all other crimes, just five percent.

Although there are no analagous efforts specifically revealing of the proportion of police-juvenile encounters that are appropriate as opposed to clearly inappropriate for justice system handling, available accounts do point to the trivial nature of much of the criminal misbehaviors that officers confront--although the extent and character of the nontrivial offenses vary widely among studies. Of the categories of offense contacts for one of his data sites, Cicourel (1968:86) found that 14 percent concerned events that could be labelled felonies; misdemeanors and "minor contacts" made up the rest. Goldman's (1963) study of police decision-making in four Pennsylvania communities revealed that out of a total of 1,236 arrests, only one percent involved crimes against the person. The largest portion of criminal behavior-related arrests--22.9 percent--involved larceny. The proportion of behaviors accounted for by felonies in the study of 281 encounters in several major cities by Black and Reiss (1970) totalled only nine percent; for the 200 incidents observed in a midwestern city by Lundman, Sykes and Clark (1978) in a replication of the Black and Reiss effort, this total was five percent. Piliavin and Briar (1964) found that "minor behaviors" comprised over ninety percent of the incidents they studied in a large metropolitan police department, although the number of events--sixty-six--was very small. Very different results were obtained by Hamparian and others (1978) using data about persons born between 1956 and 1958, who had been arrested at least once by the Columbus,

Ohio police department. In this study, 32.2 percent of 3,373 arrests alone involved crimes against the person, although simple assaults consumed one-third of this total.[2]

The preceding examination of the kinds of behaviors most likely encountered by the police illustrates that the capacity of law enforcement officers to respond leniently will be constrained to a relatively small percentage of situations involving serious illegal activity.[3] An important question to address now is: In what way do the police respond to those behaviors of juveniles which would be regarded as serious crimes if committed by adults, however few they may be?

While diversion is often portrayed as a more commonplace and viable mechanism in the juvenile system as opposed to the adult system (Kenney and Pursuit,1975:32; Rubin,1979:67), there is reason to believe that its use is not as widespread as some would suggest. The FBI Uniform Crime Reports provide the most convincing picture of the role of referral in police handling of juveniles: over the last fifteen years--a period which, by the way, includes the 'heyday' of juvenile diversion programming (see Gibbons and Blake, 1976)--rates of referral by the police ranged from a low of 2.9 percent in 1972 to a modest 'high' of 4.8 percent in 1977 (FBI-UCR, 1967-1983).[4]

Some observors of police involvement in the juvenile justice system (Krisberg and Austin 1978:91; Rubin,1979:71) argue nonetheless that officers are often reluctant to refer even delinquent behaviors to court because of their belief that the matter is likely to be expelled at later stages, or

because decisions to process a case formally entail cumbersome activities and time they feel they do not have. Yet almost uniformly, observations of police-juvenile interactions suggest that the "serious" criminal behaviors of juveniles are likely to be taken seriously.

Terry (1967), studying the decisions made about 9,023 juvenile offenses processed at the police level for a midwestern city from the beginning of 1958 through the end of 1962, found that although most of the behavior encountered by the police of one midwestern city resulted in release, officers did in fact employ legalistic criteria (seriousness of the offense, number of prior offenses committed) as screening tools for court referral. He concluded:

> The variables that are regarded as criteria [in making disposition decisions] are the same as those which could be expected to guide their handling of adult offenders as well. In other words, the police appear to interpret the "best interests of the child" in terms of criteria also used when dealing with adult offenders (p. 179).

McEachern and Bauzer (1967) analyzed data on a large number of California youth for a twenty year period and found that seriousness of the instant offense, rather than offender (sex, age, family situation, probation status, number of priors) or offense characteristics, played the largest role in determining whether a petition would be filed. Similar results were found by Thornberry (1973) in his study of decisions made about 3,475 Philadelphia youths. Although intended as a test of the influences of race and socioeconononomic status upon the handling by police and other justice system actors,

Thornberry's effort indicated that the effects of these influences diminished when offense seriousness was introduced as a control. And in the words of James Q. Wilson, based upon his observations of police behavior in eight communities, "if the crime committed by a juvenile is serious enough, he will be arrested in any city. To a patrolman, a felony arrest is a 'good pinch' even if the felon turns out to be fifteen years old" (Wilson 1978:113).

Some dissent is found in the studies of Ferdinand and Luchterhand (1970) and Piliavin and Briar (1964). The former, which involved an examination of the relation between official, demographic and attitudinal data, and disposition by the police, for 324 youths within a middlesized city in 1964, revealed that police tended to treat property offenses more harshly than person offenses. Nonetheless, the presence of a prior record was found to influence the decision to refer a youth for formal processing. Piliavin and Briar (1964) discovered that police used all possible alternatives for disposition in all possible offense categories, but their sample--sixty youths--was very small.

Criticisms of the traditional juvenile justice system fail to reflect the dark side of police discretion. Where firm evidence of criminal behavior is lacking, observors of police-juvenile encounters note that decisions can be based upon alternate but questionable criteria. Bittner (1976:82) believes that law enforcement officers use extraneous behaviors as a substitute for their inability to link misdeeds

with their respective doers, particularly when confronted with groups of potential delinquents after an illegal act is alleged to have taken place. Other authors (Werthman and Piliavin,1967:79) point out that criminal behavior of young persons may be inferred from a phenomenon they call 'ecological contamination', which occurs whenever juveniles are in close proximity to other youth already known to the police as suspicious types. Cicourel notes that

> particular ecological settings, populated by persons with "known styles" of dress and physical appearance, provide the officer with quick inferences about "what is going on" although not based upon factual type material he must describe sooner or later in oral or written form (pp. 67,113).

This observation is not limited to descriptive studies, and has been documented in some quantitative analyses as well. Morash (1984), for example, has demonstrated how membership in or affiliation with a group known to the police can lead to higher rates of arrest. Moreover, the studies of Black and Riess (1970) and Lundman, Sykes and Clark (1978) indicated that the probability of arrest was higher for those juveniles exhibiting either low or exaggerated respect for the police. In the absence of direct evidence of criminal behavior, arrests which are traceable not to proof of wrongdoing but to demeanor or gang affiliation furnish unlikely illustrations of leniency in police processing of juveniles.

Statutes governing warrantless arrest are much more broad in cases involving juveniles than in those involving adults (Davis, 1984:3-9). While the authority of the police to take

into custody without a warrant those persons who have clearly violated the law is not likely to offend the sensibilities, the capacity of law enforcement personnel to make warrantless arrests in cases involving noncriminal, status offenses could be. The ability of officers to take children into custody on the grounds that they are in danger of leading a "dissolute life" when firm evidence of criminal behavior is lacking may leave one hard pressed for an argument in favor of leniency. Davis writes, "Police officers are poorly equipped to [decide when the juvenile is in danger of leading a dissolute life], and the possibility of abuse is too hazardous to allow them to exercise it unchecked" (Davis 1984:3-10). Nonetheless, such discretion is unregulated in most states.

A view that law enforcement agencies react to the juvenile crime problem with leniency is founded in two critical assumptions--namely, that police encounters with juveniles typically concern serious criminal behaviors and further, that their handling regularly appeals to other than traditional justice system processing. Three themes which contradict these conventional assumptions but which emerge consistently from relevant literature on this topic are: one, that most juvenile behavior encountered by police officers is of a minor or insignificant nature; two, that serious criminal behaviors are typically referred for formal justice system processing; and three, that when extra-legal criteria and discretion are in fact introduced, cases most likely involve

behavior which is of only a minor or even ambiguous legal nature.

Detention

Once the police have decided to file an application for a petition, or review, by the juvenile court, they are faced with the choice of detaining the juvenile pending his review by the court's intake authorities. Most children referred to intake are not detained, but there is reason to believe juveniles are detained at similar or higher rates than adults.[5]

How might the detention stage be viewed as lenient in the context of the juvenile justice system? This is a difficult question to answer, since detention practices, generally, are so very controversial (Goldfarb,1976; McGee,1971).

Like its counterpart in the criminal justice system, detention in the juvenile justice system has legitimate as well as illegitimate applications. Certain of these parallel the use of jails for alleged criminal offenders. Analagous applications include detention as a means to secure the accused's presence at a court proceeding, and as a mechanism for the prevention of further crimes. In addition to these justifications, the juvenile justice system maintains other rationales. These include the use of detention to protect the child from harm, to prevent the child's removal from the vicinity by a parent, and to provide supervision for the child where supervision by parents or other adults is lacking (Rubin, 1979:89). One

important but negative consequence of this mixture of purposes is that the system has the capacity to combine youths who are dangerous with those who have been detained for their own protection (Chused,1973:496; Sarri and Vinter,1976:164).

Detention in the juvenile justice system is used for less legitimate reasons which serve to broaden even further its potential for social control. A child may also be detained for any of the following reasons: to punish; to fill up a detention center bed; to facilitate the scheduling of interviews with parents (when they come to pick up the child), or the testing of the detainee; to attend to the demands of the police, when they want a child detained; and to compensate for shortage of mental health facilities (Rubin, 1979:90-91).

What can be inferred about the leniency or severity of detention practices from its known purposes? As far as policy is concerned, detention practices in the juvenile justice system appear to be responsive to public safety issues, however difficult operationalization of that response may be.[6] Moreover, it is clear that the juvenile justice system is empowered with a broad scope that can lead to the detention of numerous children who in fact pose no certain threat to the community. No researcher of juvenile detention has ever questioned whether or to what extent detention practices actually reflect a concern for appearance at court hearings or a concern for the safety of the juvenile. With rare exception, the successfulness of the application of the dangerousness criterion has been ignored as well. It is

conceivable, given current limited knowledge regarding prediction of future dangerousness, that suitable criteria are likely not to be developed in the near future.[7]

In the absence of clearly defined and meaningful criteria for the achievement of its purposes, one may be led to wonder whether a system of justice which engages so liberally in a practice of preadjudicatory detention could be lenient by anything other than by chance. Nonetheless, it is possible to explore conventional concerns about the existence of leniency at this point. These include measurable views regarding the optimum size and nature of populations detained.

That detained populations should not exceed a small proportion of the population of offenders before the juvenile court has been the recommendation of a number of influential and concerned agencies.[8] Yet widely varying rates of detention have been recorded by researchers. For Chused (1973), who studied the passage of 624 youths through successive stages of juvenile justice processing in three New Jersey counties during 1969, the rate was one-third all juveniles referred to intake. The study of detention decisions in the Denver County (Colorado), Shelby County (Tennessee), and Montgomery County (Pennsylvania) juvenile courts during 1972 by Cohen (1975) revealed rates ranging from just under seventeen percent to as high as 45 percent. Of course, an appreciation of a "correct" rate of detention would depend upon information regarding numbers of potentially dangerous, flight-prone and vulnerable

(i.e., to harm by others) juvenile offenders in the population of apprehended youths, and no one reports such rates.

Popular belief, if nothing else, holds that persons who commit serious crimes are those who should be considered the most eligible for detention. For whom is the option of preadjudicatory detention applied?

Uniformly, research shows that detained populations represent a mix of offenses. Usually, delinquent (as opposed to status) offenses comprise from less than half of the offenses for which offenders have been detained (Saari,1972:19; Ferster and Courtless,1972:10,13; Sumner,1968:121) to just under two-thirds (Saleeby,1975:1). Commonly, descriptions of delinquent offenses are not provided in a dissaggregated format, but even the more crude categories of 'personal' versus 'property' and 'status' offenses afforded by most studies of detention show that juveniles charged with crimes against the person tend to comprise a minority of detained populations (see, e.g., Ferster and Courtless, 1972:10, where crimes against the person, for five communities, ranged from 1.2 percent to 25.2 percent; and Sumner, 1968:121, where they totalled six percent). Where detail is available, data indicate that juveniles charged with violent crimes make up a small portion of detained youths. In a 1972 study by the Institute of Government of the University of Georgia (in Saari, 1974:19) the proportion of youths detained for "serious violent crimes" was three percent. In Cohen's (1972:30-31) tri-county study, violent crimes

accounted for 10.7 percent, 5.8 percent and 8.5 percent of the populations of juveniles detained in the Denver, Shelby and Montgomery counties, respectively.

The small percentage of youth detained for violent crimes may represent the majority of those in the population of apprehended juveniles referred to the court by the police who have been charged with persons offenses, or they may underrepresent that population. The extent to which offense seriousness determines the decision to detain has been treated by numerous researchers, with mixed results.

The analysis of Denver, Shelby and Montgomery County detention decisions by Cohen (1975) considered the roles of such variables as sex, age, race, socioeconomic status, family stability, type of referral (police or other), present activity (work/school), prior referrals and present offense in the detention decision. Results of a bivariate analysis showed that severity of the offense was not substantially related to the decision to detain in either the Denver or Shelby Counties, but that the variable had an inverse relation with the detention decision in the Montgomery County (i.e., status offenders were more likely to be detained than those charged with delinquent offenses). On the other hand, prior court referral and present activity were significantly related to this decision. Yet a multivariate analysis produced different results across the three courts. For Denver, the three most apparently influential variables were shown to be prior court referral, present activity and family stability. In order of

importance in the Shelby County court, substantial associations with detention were demonstrated by prior referrals, sex, and type of referral. In Montgomery County, present activity, referring agency and family stability were related to detention decisions. In none of the counties studied was the amount of overall variance explained a substantial figure, however: resulting coefficients of determination indicated, respectively, nine, eleven and twelve percent of explained variation (Cohen, 1975:36-38).

In another multivariate analysis of juvenile justice decision-making, Bailey (1981) considered the impact of a number of demographic and legal variables on the preadjudicatory detention decisions affecting over 60,000 cases in the Cuyahoga County (Ohio), Juvenile Court during the years 1969 through 1975. Unlike most other researchers of juvenile justice system decision-making, Bailey's offense seriousness variable contained a wide range of values, corresponding to each of thirteen separate categories of offense, including nine delinquency and four status offenses. Results of a multivariate analysis showed demographic variables of age, sex and income to be poor predictors of detention, as opposed to prior court contacts, for which a stronger relationship was noted. No consistent relation was noted for detention and offense seriousness, in that detention rates were both high and low within sets of delinquency and status categories. However, rates were highest for the most serious of the felonies (robbery, burglary, larceny and sex

offenses) considered in the study, a finding which suggests that the decision by other researchers to disaggregate the offense variable into only the most crude categories may leave valuable information unnoticed. Still, when the analysis took into account both legal and extralegal variables, only thirteen percent of the variance was explained.

Using a different approach to the question of the role of offense seriousness, Pawlak (1977) compared the use of preadjudicatory detention practices in 66 courts of an unidentified state in an effort to determine first, the extent to which presence or absence of a juvenile detention facility affected use of detention in the individual counties. Bivariate analysis indicated that courts with detention homes detained far larger proportions of youth than those having to resort to placement in jails and other institutions. What may appear at first to be an obvious phenomenon was turned into a chance to examine the criteria of selective decision-making: courts practicing detention most extensively were not those with the highest proportions of serious offenders or youths with prior records. A conclusion drawn by Pawlack is that less valid criteria tend to underly the detention decisions of those courts with detention homes than those without, an observation which raises an interesting possibility--that at a minimum, courts detain serious offenders, and will extend the practice to less serious offenders when additional resources are available.[9] Across all courts, detention rates were related positively with offense seriousness and prior record,

although in some courts, rates of detention appeared no higher for crimes against the person than for property offenses.

The failure of researchers to find a consistent association between offense seriousness and the detention decision may not be difficult to explain. In all of the analyses considered to this point, delinquent and status offenders have been subjects of mutual consideration. Were different rationales to underly the decisions made with respect to each group, it would be easy to see how offense seriousness could surface as weak or inconsistent correlates of the decision to detain for the aggregate sample. It is certainly feasible that the decision to detain a person charged with incorrigibility might be rooted in concerns other than the seriousness of the act. If this is true, such extralegal factors as family stability, performance in school and so on--which may be substantially relevant to the decision to detain status offenders--will also fail to surface as consistent criteria in studies using similarly aggregated populations. Viewed in this way, it is not surprising that Chused (1973:507) found that rates of detention were high among both delinquents charged with assaultive behaviors and those charged with status offenses.

One exception is the research undertaken by Dungworth (1977), who looked at prehearing detention decisions made about 1,607 juveniles in the Calhoun County (Michigan) Juvenile Court in 1975. Recognizing that detention decisions may be based upon different criteria for different classes of

offenders, Dungworth examined relations between variables within two subsets: one, consisting only of delinquent offenses; the other, consisting only of status offenders. Using a method of multivariate analysis known as Probit for the variables age, sex, race, status of home (intact or broken), stability of home (e.g., whether there is alcoholism or delinquency already in family), offense seriousness, prior referrals and school problems, Dungworth found that prior referrals produced the greatest change in the detention decision when all other variables were controlled (Beta=.192), followed by offense (Beta=.119), and age (Beta=.116). The model, however, explained only 29 percent of the overall variance in the decision to detain.

Of course, it is possible that in focusing upon available variables, researchers may have skirted other determinants of the detention decision. One study in which a record was made of stated reasons for detention revealed most frequent rationales to be parents' request for detention, parents' refusal to take their children home, and parent/guardian unavailability following a child's apprehension (Ferster and Courtless,1972:26).

Actually, responsibility for the detention decision belongs not merely with the police, but with the juvenile court intake authorities as well. Intake personnel are in a position not only to detain youth in cases where the police have not already done so, but also to continue detention where they have.

Unfortunately, the decision to continue detention--a choice which can lead to potentially lengthy periods of preadjudicatory confinement in some states--is not the detention decision that has been most often studied.

Only Chused (1973) looked at variables related to the court's decision to continue detention. He found that in each of the three New Jersey counties studied--where continuance rates ranged from a low of twenty-five percent to a high of seventy-five percent--the decision to continue a youth in detention appeared relevant to neither the seriousness of his offense nor his prior record. Two variables which were found to be consistently related to the continuation decision, by the way, were presence of a drug history, and family status (i.e., whether the child was living with one or both parents).

Some authors have statistically assessed the impact of detention upon later stages of the juvenile justice system. Chused (1973) found that preadjudicatory detention was strongly associated with findings of guilt at adjudication in two of the three New Jersey counties he studied, and that the association was present, however not as strongly, in the third. Bortner (1982:31) similarly observed a relation between detention and adjudication in his study of a large midwestern county juvenile court.

Theoretically, the appropriateness of a child's detention is subject to judicial review in most states in the form of a detention hearing (King,1980:67-68), but the failure of more than half the states to govern statutorily the time period in

which a hearing should be held (King,1980:66) and the fact that defense counsel is not required in all states during the detention hearing (Davis,1984) may limit the effectiveness of this mechanism.

Not much is known about the length of time juveniles actually spend in detention. In Bortner's (1982:30) study, fifty percent of those detained were released within a few hours of admission. What is certain is that the potential exists for the prolonged detention of many youths. An analysis by Saari (1974:45) of the data from a 1966 Census of juvenile custodial facilities revealed that 86 percent of detention facilities held children for periods up to one month, and the remaining, for periods of at least one month and as long as one year. In a later survey, King (1980:66) discovered that certain states allow continuances of as long as six months.

If it is true that conditions in youth detention centers are favorable, those who are most knowledgeable have chosen not to write about them. Available descriptions of life in these settings dwell on their bleak and detrimental character. Suicide and self-injury are no strangers to children's jails (Goldfarb, 1976:323; Saari, 1976:169); medical, vocational and educational programs range from nonexistent to inadequate in a majority of facilities, and may be spottily applied (Wooden, 1976:98-99; Saari,1974:47-53; Saari, 1976:168-170; and Goldfarb,1976:329-339); and accounts of inmate abuse by both staff and other inmates are not uncommon (Goldfarb, 1976:339-350).

Unadjudicated children are detained among persons who may endanger their well-being, as well as among persons whose guilt has already been determined. The segregation of delinquent and status offenders is not provided for in most states (King, 1980:42). In at least five states, juveniles may be detained among the adjudicated, in state youth institutions (King,1972:41). As of 1980, the placement of juveniles in adult jails was prohibited by only five states (King, 1980:39), and according to the most recent figures available, attempts to decrease the numbers of children incarcerated with adults appear to have been met with only minimal success (USDOJ,BJS,1983a:2).

Given the harshness of the detention setting and relatively high rates of detention, one might wonder if some juveniles truly are detained for illegitimate purposes, such as for punishment. As many as twenty-five percent of detained juveniles were released with no petitions filed by the court in one study (Ferster and Courtless, 1972:21). In a Utah county, only five percent of detained children were eventually sentenced to the state training school (Goldfarb, 1976:324). Each of these figures encourages one to question the need for this kind of secure confinement for so many youths.

What role is played by leniency at the detention stage of the juvenile justice process? The question remains a difficult one. The available research indicates that seriousness of offense does not play a significant role in the decision to detain, although across studies, decision-makers appear to

emphasize prior court referrals. Nonetheless, no researcher was able to explain much of the variance in detention, no matter what the variable or combination of variables. One might suggest, given numerous accepted justifications for detention, that an expectation of substantial influence by any one variable is unfounded. Given available accounts, it does appear to be generally true that detention subjects persons of unadjudicated status to fairly punitive conditions.

Intake

For those children who are not released by the police, the next major stage of juvenile justice system processing is intake. Much attention has been paid to the intake stage of the juvenile justice system, because a large proportion of cases is dismissed at this point (Snyder, Finnegan and Hutzler,1983:8). The conventional interpretation views dismissals as indication of the system's commitment to rehabilitative ideals, and to decision-making in the 'best interests of the child'. Actually, there are alternative explanations for dismissals at this stage that have nothing whatsoever to do with these objectives.

Intake serves a number of different functions. Intake personnel must review a case for its evidentiary strength, as well as decide whether alternatives to court processing are more appropriate (Rubin,1979:110; Fernster et al.,1970:864-865). Other functions include screening a case to decide whether it falls within juvenile court jurisdiction, and whether it should be referred to criminal court jurisdiction.

In the interest of the conservation of limited resources, intake personnel must determine which cases are "necessary" for court handling (Rubin,1980:302). Finally, intake staff must decide whether court processing is in the "best interests" of the child (Fernster et al.,1970:865). When it is not, a youth may be placed on "informal" probation; referred or diverted to a social service agency or program; or his case may be dismissed (Krisberg and Austin, 1978:95).

Although some researchers have sought to explain the choice between referral to court and dismissal in terms of offender and offense characteristics, rarely has anyone investigated reasons explicitly recorded for case dismissal. Theoretically, the reasons need not differ substantially from reasons for dismissals by prosecutors in criminal courts: cases may be dismissed for lack of evidence,[10] for victim incredibility, for victim/witness failure to cooperate, because of handling by some other social control agency, because the offender is being processed for other offenses, and so on. Part of the reluctance to look more closely at this question may be attributed a paucity of this kind of detail in intake record-keeping. Perhaps it has been the persuasive rhetoric of the juvenile court--with its suggestion of dismissal in the best interests of the child--that has diverted the attention of researchers away from this issue.

With general attention to this issue, Chused (1973:505) reported that "many" of the cases dismissed by the intake unit of one New Jersey county (approximately one-half of all

complaints referred by the police) represented largely unsolved cases.

Using a sample of 162 juvenile offenders handled informally by one Iowa juvenile court (which they referred to as Affluent County) in 1968 and the first four months of 1969, Ferster, Snethen and Courtless (1970) provide the only detailed examination of cases referred for informal handling. They noted a variety of explanations for case termination, most unrelated to outright dismissal. In their sample, thirteen percent of the 162 youths were placed on informal probation; seventeen percent were closed following a period of informal probation; in four percent of the cases the juvenile was found not to have been involved; the offense was minor in seven percent; the family (presumably, the complainant) was found able to cope with the problem in twenty percent of the cases; restitution was made in four percent; the juvenile was transferred for handling by another agency in seven percent of cases; the juvenile was found not to be a resident, or had moved, in ten percent of cases; "no further difficulties" were noted in twenty-eight percent of cases; the reason was unknown in four percent of cases; the juvenile reached eighteen in one percent of cases; and, most interestingly, fifteen percent of the cases were 'closed' because a formal petition had subsequently been filed for formal court action (pp. 881-882). Thirty-five percent of the total 162 cases, however, had received some form of informal probation prior to dismissal. Fifty-seven percent of these cases, by the way, involved

criminal offenses, although crimes against the person comprised only six percent of the total. Nearly all of those referred for informal processing had come before the court for the first time--five percent had had one previous referral, and only one percent, two or more previous referrals (pp. 875-876). These results suggest that outright dismissals do not occupy a prominent place among intake decisions.

Decisions not to refer cases to court lead to the possibility that in the absence of judicial review, informal handling--albeit a precursor to "dismissal"--can serve as a mechanism for the bona fide punishment of unadjudicated children.[11] Krisberg and Austin (1978:96) point out that "[t]he regulations of informal supervision may be just as stringent as the conditions of formal probation" which can last "from a few months to several years". They caution:

> One should not always assume that informal probation is always geared to the best interests of the child. Police sometimes use it to develop a network of informers or to gain information to assist them in making further arrests (p.96).

Moreover, youths who have undergone periods of informal probation can have their cases referred back to the court, and--if adjudicated--be administered additional punishment (Ferster et al.,1970:882; Krisberg and Austin,1978:96-97).

Sometimes, authorities use informal probation as a way of avoiding the scrutiny afforded a case at later, more adversarial stages of the juvenile justice process. During intake, a youngster admitting guilt may be automatically assigned informal probation, an action which effectively

removes from the state its burden to prove the defendant guilty (Krisberg and Austin, 1978:97). On this issue, Rubin (1979:110-111) observes:

> Many intake programs do not accord top priority to the legal dimensions of screening. And while legal screening should be the top job of a prosecuting attorney, this is true in only a minority of jurisdictions. In the absence of legal assessment, youngsters may accept informal probation supervision or admit to the allegations of a petition when the charge should have been dismissed at the outset.

An answer to the question which asks: What are the true reasons underlying the decision not to refer a case to court? is important to an understanding of the role played by leniency during the intake stage of the juvenile justice process. It is now clear that a decision to deny formal court handling is not always the equivalent of an outright dismissal. Available research highlights what may be characteristic of non-referral to court, generally: that "dismissal" stands not for rapid expulsion from the juvenile justice system, as many may believe, but for a disposition that is more likely to follow a determination either that the case should not be handled by the court, for reasons having to do with evidentiary concerns or jurisdictionary boundaries; or actual sanctioning by intake authorities. What is not obvious is whether cases subject to informal probation are those for which an adjudication could have been obtained.

A second question critical to substantiation of a charge that the juvenile justice system operates in a lenient manner during intake refers to the handling of juveniles charged

specifically with serious offenses. One might propose, for example, that a system predisposed to leniency is one in which the referral of serious offenders to the least severe of dispositional alternatives (i.e., referral to informal probation or diversion as opposed to referral to court) is likely.

The choice between referring a youth to court or retaining his case on an informal basis is the most often studied of juvenile justice system decisions. This is curious, in light of the fact that all of the research that has been performed in relation to this decision is subject to the same critical limita tion. Despite marked similarities between the functions of decision-making at intake in the juvenile justice system and at the prosecutorial stage in the criminal justice system (i.e., a decision to refer a juvenile for court handling is tantamount to the decision to prosecute), the approaches undertaken by researchers in their attempts to understand the decision to prosecute have been entirely different for each of the two systems. While the issue of evidentiary strength (including victim or witness credibility and cooperation) is a critical issue for both intake and prosecutorial decision-making, its role has been subject to substantial attention in quantitative studies of criminal justice system charging,[12] but has been left virtually unexplored by researchers of juvenile intake decisions. Since evidential strength is known to exert significant influence at

the charging stage, there may be reason to regard the fruits of studies of juvenile intake with some mistrust, generally.

Although efforts to uncover determinants of intake decision-making meet with a lack of consensus overall, fully half of these find offense seriousness to be the most substantial of influences on the intake decision. This is interesting finding, not merely in light of the preceding remarks, but because the majority of the studies producing similar findings share a single, critical characteristic--that of the scaling of the offense severity variable.

Studies which point to influences other than offense seriousness include multivariate analyses by Pacquin (1977), and Kiekbusch (1973); and bivariate analyses by Eaton and Polk (1961) and Chused (1973).

Research by Pacquin (1977) centered around all (a total of 224) cases processed by the juvenile intake division of a mid-sized New York County during a six-month period in 1975. In addition to a variety of demographic, family, school and prior and present offense variables, the study included an elaborate measure of interpersonal maturity. In a bivariate analysis, family status and school performance were found to be related to intake decisions. Using data gathered from official records in a multiple regression analysis, Pacquin discovered the strongest determinant of referral to court to be the probation officer's characterization of the father figure, at as much as twenty-six percent of variance explained. The only other powerful variable was a one called

'the appropriateness of own home as an alternate placement', which explained eight percent of the variance. Using data drawn from interviews, the most powerful variables in explaining handling at intake were extent of delinquency among friends, at thirteen percent of variance explained, and family closeness, at five percent.

Kiekbusch's (1973) study of 826 youths processed through St. Joseph's County (Indiana) intake during 1971 and 1972 stands apart from most other studies of intake because only alleged delinquents (as opposed to alleged status offenders) were included in the effort. Information on standard demographic variables (sex, race, age, family status) was gathered, as well as on a wide array of legal variables. Aside from current offense, for which scaled values were assigned by probation officers participating in the study,[13] legal variables included an index of the present offense (a combination of nature and number of offenses in the present referral), most serious prior offense, a prior offense index, most serious prior disposition, a prior disposition index and number of previous referrals. A second unusual feature of Kiekbusch's study was his use of an expanded outcome measure. Unlike other studies, which basically sort dispositions into two categories--referral or informal handling--Kiekbusch's disposition variable had seven values, which ranged from no action taken, to a referral. Results of a multiple regression analysis were somewhat dismal; the largest amounts of variation explained were due to the prior disposition index

and family status--but these contributed only seven percent and three percent explained variance, respectively. Other variables explained less than two percent of variation.

A rather large data set--8,615 cases--was the target of a series of bivariate analyses by Eaton and Polk (1961). The data, which concerned cases handled by Los Angeles County intake during 1956, were composed of information on race, age, sex, marital status of parents, source of referral as well as offense severity. The latter, by the way, was broken down into five categories, which they labelled minor violations, property violations, major traffic violations, human addictions and bodily harm. Results encourage only gross generalizations--that referrals tend to be male, and from broken homes. Although the majority of cases within each offense category were referred for formal handling, rates were greatest among cases involving major traffic violations, human addictions and violations against property.

In his study of three New Jersey counties, Chused (1973) found that a variety of factors was associated with the decision to refer for formal handling; among them, charge seriousness, prior record of referrals, drug history, family status and age (the older the child, the more likely to be referred).

Studies which demonstrate an association between offense seriousness and intake decision-making include the multivariate research of Rosen and Carl (1974), Thornberry

(1973), Thomas and Sieverdes (1975), Fenwick (1982) Cohen and Kluegal (1979); and a bivariate analysis by Terry (1967).

A study of 260 boys processed in a Philadelphia intake facility spanning a twenty-one month period beginning in May of 1971 was completed by Rosen and Carl (1974), who used the Sellin-Wolfgang offense seriousness scale (Sellin and Wolfgang,1964) to order their own offense seriousness variable.[14] Using a computer program known as Automatic Interaction Detection, Rosen and Carl discovered that the scaled variable explained more variance (R^2=.167) than any other (other variables included age, race, income and welfare status). Thornberry (1973), too, employed the Sellin-Wolfgang scale in his study of intake decisions made about 3,475 Philadelphia males born in 1945, with similar results. Although Thornberry demonstrated that race and socioeconomic status were associated with the decision to refer a case for formal handling, he found that these relations dissappeared when more serious offenses only were studied.

Thomas and Sieverdes (1975) analyzed legal and extralegal data on 346 cases processed in the intake division of a juvenile court in a small southeastern city between 1966 and the end of 1969. Although their study did not involve as elaborate a scale of offense severity as the preceding researchers, their separation of felonies from misdemeanors may be important. In this study, the offense seriousness variable was composed of three categories: felony offenses, misdemeanors, and status offenses. Following the calculation

of conditional associations, their findings indicated that while such factors as sex, age, family stability and number of codefendants were each related to the decision to refer a case for formal handling, "no single variable other than seriousness of the most recent offense account[ed] for more than a relatively small proportion of the variation in the dependent variable" (p. 423). They found too, that the role played by offense seriousness was maximized when certain other characteristics were present, including whether the offender was male and black, was from a lower class background, had a prior record, was from an instable family setting, had at least one other co-defendant, and was between the ages of sixteen and seventeen at the first offense.

A scaled offense seriousness variable was found to play a prominent role in intake decision-making in one other study. Fenwick (1982) studied 350 cases processed through the juvenile intake division of a large eastern city during mid-1976. Data collected in addition to sex, race, age, and present and prior offense activity included items on family affiliation and demeanor of youth during intake interaction. Fenwick's scaling involved the use of a what he considered to be a unitary dimension combining current and prior delinquency.[15] Using multivariate analysis, Fenwick found the cumulative offense score to be the strongest determinant of the decision to refer a case for a formal hearing, explaining thirty-two percent of the variance.

A study of intake decision-making with a different perspective was completed by Cohen and Kluegal (1979) for juveniles processed in the Denver, Colorado (2,654 cases) and Memphis, Tennessee (5,963) juvenile family courts during 1972. What made this study unusual was the strong due process orientation of the Denver Court, which could be contrasted with the effects of the avowed therapeutic stance taken by the Memphis Court.[16] They found that extralegal factors of race, class and family bias were related to the intake decision at neither the main nor any of the higher-order levels. On the other hand, three factors--sex, the seriousness of the offense (disaggregated into the categories status, alcohol or drug, property, violent offenses, and 'miscellaneous'--a label undefined by the authors) and type of court--were more substantially related to case outcome. Overall, Cohen and Kluegal found that so-called miscellaneous offenders stood a greater chance of informal treatment than those charged with other types of offenses; and that status and violent offenders, the greatest chance of formal handling. Gender classification appeared to have an effect within individual categories of offense, but was inconsistent across all categories. In both courts, prior record was related to case outcome. Especially interesting is the finding that court type was associated with the outcome decision for status, alcohol and drug, and property offenders, but not to the the outcome for violent offenders. A possible explanation for this finding

is that both courts regarded violent offenders as similarly serious and deserving of formal action.

In one other study offense seriousness was found to be related to intake decision-making. Terry (1967) collected data on 775 cases referred to the intake division of a midwestern city. In addition to the variable offense seriousness (which was not only left unscaled in this study but unarticulated to the reader as well), Terry's data set included information on race, age, sex, socioeconomic status, parental occupation and area of residence. Offense severity, prior referrals and age were also found to be related to the decision to refer to court.

In each of these studies except for one undertaken by Kiekbusch (1973), the intake decision is represented as a dichotomy (i.e., referral to court versus referral to informal handling). Such representation may have been necessary, if the respective sample sizes prohibited further dissaggregation of the informal handling category. Unfortunately, such gross categorization does not permit one to determine the extent to which serious offenders are either dismissed outright--which could be the result any one of a number of items irrelevant to the exercise of leniency--or are diverted and dismissed--which has been clearly interpreted as a more lenient alternative to formal court handling (Cressey and McDermott, 1974:3-4). Phrased in another way, a question that remains is this: When studies fail to demonstrate associations between offense seriousness and intake alternatives, is it largely because

youths charged with serious offenses are those whose cases are dismissed for legitimate reasons, or is it because they are diverted from the system? By way of responding to this question, two points deserve consideration. One is that diversion programs, by definition, exclude persons charged with serious offenses, as well as those with prior records of such activity (Rubin,1979:131). The second is that results of evaluations of diversion programs uniformly point to the programs' net-widening effects (Cressey and McDermott,1974; Blomberg, 1981; Krisberg and Austin, 1981; Bynum and Greene, 1984). If it is only a matter of inference that youths charged with serious offenses tend not to be diverted, it is an inference that does not lack a strong basis: If diversion programs maintain as admission criteria explicit guidelines for the exclusion of serious offenders, but at the same time are known to admit persons charged with marginally criminal offenses that would not otherwise have been handled by the system--at the expense of failing to admit intended clientele (i.e., first-time or minor offenders)--the idea that it is serious offenders who are "diverted" is difficult to accept.

In this section, attention has centered around potential bases for leniency at the intake stage of the juvenile justice system. Much of the review has concentrated on two areas, namely, justifications for dismissal, generally, and the handling of serious offenders, specifically. The literature points firmly to misperception surrounding the nature of case attrition at this stage in the system. It does not, however,

point as clearly to determinants of intake decision-making, with regard to seriousness of offense or any other characteristic. It is not known to what extent evidentiary concerns influence the decision to refer cases for court handling, although the role of evidence has at least intuitive promise.

Adjudication and Disposition

Adjudication refers to that point in the juvenile justice process where a determination of the alleged offender's guilt or innocence is made. In the special jargon of the juvenile justice system, a youth is either found "delinquent" or "not delinquent" (Krisberg and Austin,1978:102).

Ages of juvenile court jurisdiction vary across states, with one-half the states setting the limit of jurisdiction at eighteen or nineteen, and most of the remaining, at twenty-one (Fisher, Fraser and Rudman,1983:56-57). Two states--New York and Connecticut--have particularly low ages of majority, at sixteen (Fisher, Fraser and Rudman,1983:56-57). The idea that the jurisdiction of the juvenile court "terminates" at a designated age may lead some to believe that the chances of prolonged punishment diminish as young criminals approach the age of majority. Actually, one-third of the states grant extensions of at least one-year periods but as long as multiple three-year periods of the amount of time an offender may be committed while within the juvenile court jurisdiction (Fisher, Fraser and Rudman,1983:55-58).[17] Of course, the other side of the coin is the possibility that very young offenders

may be subject to unusually long periods of punishment--perhaps even exceeding those experienced by adults. In her national survey of juvenile codes, King (1980:75) found that only nine states expressly prohibited such longer sentences for juveniles.

Very little attention has been paid to understanding the determinants of adjudication, in comparison to the attention that has been paid to understanding disposition decision-making (the equivalent of sentencing in the criminal justice system). Since adjudication is analagous to conviction, it is easy to see why researchers might not pursue such an inquiry--similar to intake decision-making, the adjudication decision is likely to be dependent at least partially upon items related to the evidentiary strength of a case. Yet, as is true of most studies of decision-making throughout the entire juvenile justice system process, the role played by the youth's admission of guilt--in itself evidence--upon successive decision-making stages is paid scant attention. Only Bortner (1982:45) mentions this factor: 95 percent of the youths formally petitioned by the juvenile court of southwestern county admitted some involvement in the alleged offense, although from his account, the nature or degree of legal proof of the involvement is less than clear.

An admission of guilt may exert substantial influence upon the adjudication decision if it means that the state does not have to prove its case. In a detailed study of the impact of defense counsel upon juvenile justice decision-making,

Stapleton and Teitelbaum (1972:112,142-149) show how quickly the evidentiary case against young offenders can dissolve when the state is so pressed. In one site--the so-named Zenith juvenile court--where defense lawyers automatically entered pleas of not guilty even in cases in which youths had made an admission of guilt, a dismissal rate as high as one-third was attributable to evidentiary weakness or the failure of a witness to cooperate. In the Gotham court, a second site, where pleas of not guilty were far less common, the rate was just under ten percent. Chused (1973) found a relation between type of representation (i.e., privately represented juveniles experienced lower rates of guilty findings than did those who were publicly represented) and rate of guilty findings for New Jersey counties. A descriptive study undertaken by Finkelstein et al. (1973) of case processing in the Boston juvenile court led to similar findings. In this study, youths who were not privately represented were approximately two-thirds as likely to be found delinquent at adjudication as those who were. Among the explanations offered for this finding were the tendencies of private counsel to be better prepared and more interested in their clients than public defenders.

Most studies of juvenile dispositions focus on the role played by legal and extralegal factors available to the judge or probation officer at the time the final disposition decision or its recommendation is made.

Cohn (1963) studied presentence reports in 175 cases processed through the Bronx Children's Court in an effort to

uncover determinants of probation officer recommendations. The child's personality (a measure of extent of the youth's behavioral problems, if any), cooperation with probation officer, age, sex, family relationships, prior record and offense were among the independent variables under consideration in an attempt to explain officers' referrals of youths for probation, institutionalization, psychiatric examination and discharge. The offense, which was disaggregated only into the categories 'against life or property' 'against sexual taboos' and 'against parents' appeared not to be a major consideration in dispositional decision-making. Offenses involving the first kind of behavior tended not to be recommended for institutional- ization, whereas offenses involving the third were most likely to be.[18] Recommended to probation was a high proportion of cases that had experienced previous prosecution. These results provide confusing input into the question of leniency in juvenile disposition decision-making, as it appears, on one hand, that relatively serious behaviors are treated less severely than less serious ones; but on the other, that chronicity is regarded sternly. One possibility is that the label associated with the first category of offenses only sounds serious, and that a substantial proportion of the actual behaviors contained within the category are themselves relatively minor.

Bortner (1982) studied 10,476 cases processed through the juvenile court of a large and affluent midwestern county

during an unspecified time. A bivariate analysis using such variables as number of prior referrals, detention decision, presiding officer, race, referral source, offense seriousness, sex and age showed that severe dispositions (actual and suspended terms of incarceration) tended to be administered when the youth had been detained and had previously been referred. Also, the decision was found to be related to the identity of the officer presiding over the adjudication processes. Results were not significantly altered by multivariate analysis. When only petitioned cases were considered, age, prior referrals and the detention decision surfaced as the dominant influences in disposition decision-making. This study has a particularly unsettling feature, in that included in the group of juveniles categorized as sentenced to "least severe dispositions" was a large proportion of those whose cases were dismissed. Since dismissed youths have no chance at all of receiving either moderate dispositions (probation) or most severe dispositions (incarceration), and since they comprise of large proportion of Bortner's sample, their inclusion in the analysis is questionable. Such an outcome measure would be exactly like trying to predict the use of imprisonment using all cases listed in a prosecutor's docket book.

An outcome variable employed by Cohen (1975) in his study of disposition decision-making in the Denver, Shelby and Montgomery counties is similarly flawed, since the lowest level of dispositional severity, the category containing the

largest proportion of offenders, consisted of informally adjusted cases. Since Cohen was able to demonstrate the relevance of prior record to what he considered to be disposition decisions, one might be led to conclude that juveniles in the sample who had prior records were most likely to be adjudicated.

Bailey and Peterson (1981) looked at the effect of age, sex, race, referral history, offense seriousness, and preadjudicatory detention status in their consideration of the determinants of 54,679 dispositions administered by juvenile courts in Ohio for the years 1969 through 1979. Unlike the analyses of either Cohen (1975) or Bortner (1982), Bailey's outcome measure consisted only of dispositions administered after adjudicated, and was dichotomized into incarceration and nonincarceration alternatives. The offense variable was divided into nine categories of delinquent and four categories of status offenses, as in Bailey (1981). Results of a bivariate analysis showed that type of offense accounted for more variation than did any extralegal variable, but for only three percent of the variation overall. This relatively insignificant role played by offense surfaced in a multivariate analysis of the data as well, where prior court experience was found to account for more, but still modest variation, at six percent. In each case, however, robbery, auto theft, burglary and sex offenses accounted for most of the cases institutionalized.

The study of the dispositional decisions made about 1,210 sixteen and seventeen year-old males in a large eastern metropolitan county by Scarpitti and Stephenson (1971) using data gathered from the Minnesota Multiphasic Personality Inventory (Dahlstrom and Welsh,1960) as well as data on present offense, prior record and social background produced only "slight evidence" that the offense was associated with disposition type (probation, institutionalization, residential counseling and non-residential counseling). A stronger association was noted for prior record and disposition type, in that those with previous histories of court referral were more likely to be institutionalized. Although Scarpitti and Stephenson found that boys assigned to probation scored "significantly lower on most of the clinical scales [than boys assigned to other dispositions]"--which they interpret as an illustration of the tendency of the probationers to be less antisocial, and better adjusted emotionally than the other groups--they view such results cautiously, given than the MMPI had been administered <u>following</u> the disposition decision, and not before. Thus, disposition decisions might have affected biased the administration of the Inventory (p. 149).

Arnold (1971) discovered that offense seriousness and prior record played important roles in his study of 758 offenses processed in the juvenile court of a southern, middlesized community in 1964. In his study of 246 offenses processed in the juvenile court of a midwestern city, Terry (1967) found that the variables prior record, number of

participants in the offense and degree of involvement with adults all influenced the disposition decision, but that offense seriousness did not.

Chused's (1973) review of the disposition-related trends in three New Jersey counties revealed that the most severe dispositions tended to be given to youths who had been detained prior to their adjudicatory hearing. Institutionalization was the least used sanction, but probation with a condition of a residential placement was fairly common. Only Thornberry (1973), using the dispositional decisions made about 3,475 Philadelphia youths born in 1945 who had committed at least one delinquent act, found that offense seriousness influenced processing at this stage.[19]

The problem with a finding that offense seriousness is unrelated to disposition decisions is that it does not mean that serious offenders are treated leniently. One alternative explanation is that the most severe dispositions are reserved for serious offenders as well as other kinds of offenders, with the effect that no single decision-making preference can be observed.

In the absence of firm information about the disposition decisions made about serious offenders, critics of current juvenile court policies may be pressed to argue that the court nonetheless employs other means to divert attention away from the seriousness of the offenders who come before it, thereby demeaning the capacity of the juvenile court to give even <u>appear</u> punitive.

One characteristic commonly attributed to the adjudicatory process in the juvenile justice system which may be thought to demean the seriousness of delinquent behaviors is the informality of its court proceedings. In the absence of a highly structured adversarial setting, the harshness of the encounter between child and state is supposedly minimized, and in its place created an atmosphere conducive to the youth's individualized treatment. Albeit a feature imbedded firmly in the rhetoric of the juvenile court, the alleged benefits of this mode of handling have yet to be substantiated. One detailed account of juvenile court processes is provided by Emerson (1969) who in the wake of formal procedure observed a set of norms degrading and abusive to young offenders:

> The juvenile court's routine presentational strategy seeks to subordinate the delinquent and highlight the authority of its own actions in order to produce an intimidating impact on delinquents...(p. 174) The setting clearly indicates...a hearing of a legal nature (p. 175)...The courtroom ceremony is characteristically structured to thrust the delinquent into the status of wrongdoer: the delinquent is pressured to conduct himself in a repentant, contrite manner and hence to acknowledge his own guilt and blameworthiness. But beyond this, the delinquent is not only thrust into this discredited and soiled role, he is also subjected to systematic pressure to show full commitment to it. He is prevented from withdrawing or showing distance from the role of wrongdoer in any way that might stave off its discrediting implications for both character and self...(p. 183).

Any attempt on the part of the alleged offender to defend his innocence, observed Emerson, was perceived as equivalent to an act of contempt.

Some may argue that in the wake of the due process reforms of the late sixties, scenarios such as the one presented above have become more rare. Unfortunately, more recent observations concur with the earlier finding. Bortner (1982) discovered one concomitant of informal handling during adjudication to be minimal accountability in the application of due process rights. Generally, he found that assignment of counsel rested upon the alleged delinquent's request for one (p. 142). He writes:

> While court personnel allow participation by defense attorneys and officially recognize juvenile's rights to legal representation, they limit the effectiveness of defense counsel through official policies as well as informal activities. The failure to insist that juveniles be informed of their rights in a specific and detailed manner, the failure to assign counsel to all cases, and the prevalence of informal decision-making sessions at which juveniles are not represented demonstrate the court's lack of support and enthusiasm for the adversary process. Clearly the court does not view the provision of effective defense counsel as integral to fulfilling its mission of "protecting children" (p. 142).

Susman's (1973) observational study of 169 cases processed in the juvenile court of the District of Columbia in 1971 led him to marvel at "the speed with which dispositions are held...in light of the number of participants and the extent of their interaction" (p. 497). Hearings, in which a presiding judge, the juvenile and his parents or gaurdians, defense attorneys, probation and police officers generally participated, ranged in duration from 1.6 to twelve minutes, and involved approximately twenty remarks.

In his study of processing in the Bronx and Brooklyn (New York) family courts, Fabricant (1983) discovered that a high volume of petitions stood in the way of individualized justice. Hearings, which lasted approximately five minutes, were invariably preceded by the burden of prolonged delay for complainants, defendants and professionals. He writes:

> The delays prior to and between hearings exacted a particular cost upon petitioners. Their efforts to have specific grievances redressed were frustrated by an apparently overworked bureaucracy. The requirement that they appear before the court repeatedly dictated that the complainant miss work days. The emotional and financial cost of sustaining a case frequently persuaded the complainant either informally or formally to discontinue his involvement with the court. This discouragement resulted in the petitions' being either dismissed or withdrawn (p. 129)

Another common misperception about the disposition stage in the juvenile justice system is that even the most severe of dispositional alternatives can lead to the coddling of serious offenders. Yet the study of life in state training schools (Bartollas, Miller and Dinitz, 1976) demonstrates that certain features of the most severe alternative are virtually indistinguishable from what has come to be known as "the pains of imprisonment" (Sykes, 1958) for adult offenders. In their study of life within an Ohio state institution for boys, Bartollas, Miller and Dinitz (1976:133-134) demonstrate how easily the population can be dissagregated into groups of "exploiters" and "exploited", and describe victimization activities stemming from a "politics of scarcity", in which inmates harass, steal from and physically brutalize--including

rape--other inmates. Coping mechanisms, which were found to parallel those employed in institutions for adults, included mostly negative forms of adaptation such as shame and humiliation, rebellion, anxiety, hopelessness, mental breakdown and suicide (pp. 169-176). Wooden (1976:106-128), who has documented the victimization experiences of young offenders--including the rape and sexual harassment of females--by staff in the training schools of a number of states, terms the institutionalization of juveniles "legalized child abuse".[20]

Another facet of juvenile court rhetoric which encourages the perception that disposition decision-making demeans the seriousness of delinquent behaviors is the idea that the juvenile court, unlike the criminal court, may choose from a wide and diverse array of dispositional alternatives, including incarceration, probation, fine or restitution, and foster-home placement, for serious offenders. However, the choice of particular alternatives may be constrained by a number of factors. For example, a more recent development in the juvenile justice system has been the creation of residential programming, which appears to avoid the more pathological features of traditional juvenile institutionalization. While these efforts may sound at first like lenient punishments, each in fact has a fairly stringent set of admission criteria, all of which exclude juveniles who have been charged with crimes against the person (see, e.g., Empey and Lubeck,1971; and McCorkle, Elias and Bixby,1958).

Bortner (1982:82) noted that the private ownership of residential facilities encouraged selective admission practices which excluded juveniles felt to be "unsuitable" by program authorities, a judgement which could be rendered following review of a youth's file and psychological assessment, or after a "pre-placement" interview. The option of private agencies to reject court referrals is particularly unfortunate if their programs and facilities are superior to those owned by the state.

The preceding review of literature related to adjudication and disposition decision-making reveals that conventional concerns regarding leniency at these stages may be unfounded. The potential exists for lengthy commitment of juveniles, adjudication takes place in a setting more oppressive than gentle, and adversarial features of the system may be overlooked at this point. Most efforts to determine factors related to disposition decision-making meet with general agreement with regard to the prominence of prior record. However, where analysis is more rigorous, it has been shown that no variables account for substantial variation in the disposition decision.

Summary

This chapter examined the bases for one assumption underlying current juvenile code reforms, namely, that the juvenile justice system is "lenient". Although research on the juvenile justice system has never been directed specifically at the measurement of leniency, it was possible to examine the

assumption, however indirectly, by 1) exploring empirical bases for conventional concerns about the ways juveniles are processed by the system with respect particularly to case attrition and the use of discretion; 2) investigating the setting in which each step of the process occurs; and 3) questioning, specifically, the role of offense severity in successive stages of juvenile justice decision-making.

Perhaps the most firm of conclusions concerns the way juveniles tend to leave the system. Conventional perceptions of the system invariably interpret attrition--particularly, during police and intake decision-making--to benevolent uses of discretion and a commitment to the best interests of the child. On closer inspection, a number of explanations for attrition can be identified that do not support claims of leniency. Some of the more justifiable causes of attrition include inadequate substantiation of reported misbehaviors, during both police and intake decision-making stages, and the availability of punishment options prior to adjudication. The use and misuse of evidence in the juvenile justice system is a topic which has had the benefit of only scant attention, and what little is known indicates that evidentiary concerns may be responsible at least in part for the departure of cases prior to adjudication.

The review demonstrates that contrary to popular opinion, discretion in the juvenile justice system is a door that swings both ways. In informal handling, probation officers have an incentive to "eliminate" weak cases from the

system by assigning them to a less visible means of control. On the other hand, the juvenile justice system has less incentive to support strictly adversarial procedures during police encounters and adjudication, since attrition at each of these stages is equivalent to release from system control. In each case, the possibility exists for decision-makers to exercise discretion in ways that would not be regarded as lenient.

Given that decisions do not always appear to be in the child's best interests, one might be pressed to argue that the system nonetheless performs its duties in a gentle, informal and individualized manner. Yet according to the literature, informality is the more likely precursor of a failure to observe the adversarial, due process-related features available to the juvenile justice system. Settings that may have been presumed to be gentle--adjudication and dipositional hearings, for example--have been described instead as fairly punitive undertakings as well as ones which encourage a presumption of the juvenile's guilt.

The point is not to suggest that the juvenile justice system fails to exhibit leniency beyond its rhetoric, because the literature does not support such a wholesale conclusion. Rather, the point is to draw attention to the fact that assumptions of leniency are not clearly substantiated in the literature. Where there is less ambiguity, the available documentation does, however, lend support to assumptions to the contrary.

A final area of discussion relates to the role of offense seriousness in juvenile justice decision-making. Since the charge of leniency in the juvenile justice system has never been clearly articulated, a suggestion was offered that leniency could occur whenever an inverse relationship was found between seriousness of offense and severity of disposition at each of the various decision-making points. Although offense seriousness was found to be positively related to harsh dispositions during police encounters, similar relationships could not be substantiated at later stages. Yet given the varied rationales of detention, and the legitimacy of a preoccupation with evidence at intake, one may not be justified in charging the system with leniency during these stages on the basis of such findings. Only with respect to disposition decision-making does a finding of the irrelevance of offense seriousness seem questionable, for one can easily argue that it is at this point--if no other--when offense seriousness should receive the greatest consideration.

But does a failure to find a positive relationship between seriousness of offense and severity of disposition point to leniency in the juvenile justice system? It does, but only if certain assumptions can be upheld. One assumption is that the absence of a statistical relationship between serious offenses and dispositions means that juveniles adjudicated for serious crimes are generally not granted severe dispositions, as opposed to an alternative interpretation--that no disposition decision tendencies could be identified, because

serious offenders as well as some other kinds of offenders are treated harshly. A second assumption is that so-called serious offenses are truly serious, and that the dispositions the offending juveniles receive are truly proportionately less severe than their offenses. What is needed is a closer examination of the leniency question, with regard specifically to the handling of those offenses which have been the target of greatest concern, and with regard specifically to the behaviors themselves.

To this point, attention has centered on an "absolute" search for leniency in the juvenile justice system. In the next chapter, the discussion turns to a "relative" search for leniency, as the juvenile and criminal court treatment of offenders is compared.

Notes

1 What is especially noteworthy about the treatment of police discretion by these authors is that they refer specifically to the choice not to invoke formal justice system processing in the face of behaviors that are truly illegal, as opposed to other kinds of behaviors to which the police may be asked to respond. The point is that where discretion is construed to mean the decision to ignore illegal behavior, it is a practice not limited solely to encounters with juveniles.

2 See also Wolfgang, Figlio and Sellin (1972). In this study, which involved arrest data on 9,945 Philadelphia males born in 1945, it was found that crimes such as nonindex events and petty thefts accounted for 87 percent of a total of 10,214 delinquencies.

3 The work of Lundman, Sykes and Clark (1978), as well as that of Black and Reiss (1970), raises questions about the capacity of the police to exercise discretion in many of the situations they encounter, generally, as both efforts revealed that police motivation to act in situations involving juveniles was largely citizen-precipitated. LaFave (1967:50) suggests that citizen interest exerts a major influence on the decision by the police to take an alleged offender into custody, in cases in which the police would not otherwise arrest.

4 These figures represent total proportions of youths diverted to categories labelled in the UCR reports as "welfare agencies" and "other police". I have added the two,assuming that the "other police" represents a form of diversion. If it does not, the figures should actually much lower, and will range from 1.3 percent in both 1969 and 1972, to 3.0 percent in 1977.

5 Bookin-Weiner explains: "Although the average juvenile detention rate nationally is about 33 percent, from 25 to 50 percent of the detainees included in juvenile detention studies are status offenders. Under recent changes in national guidelines or under decriminalization, the detention rate for delinquents (non-status offenders) would be reduced to 16 to 25 percent. About 33 percent of all adults have bail set or are denied release entirely, but about half of those with bail make bond..." (Bookin-Weiner,1984:44).

6 With respect to the risk-of-flight criterion, Wald (1976:122) notes that there is "...a lack of reliable statistics on the nonappearance rate of juvenile defendants..." With respect to the dangerousness criterion, she notes that "the kind of illegal behavior that warrants detention is not even specified [in statutes authorizing

detention]; it could be any offense, from murder to marijuana"(p.124), and finally, that "in almost any detention facility, the majority of juveniles will be charged with no criminal conduct at all; they will be runaways, incorrigibles, PINS (persons in need of supervision)--youngsters beyond control"(p.125). In a study of detention practices in eleven California counties in the late sixties, Sumner (1968:34) observed that the meaning of statutory provisions relating to juvenile detention was prone to misinterpretation and disagreement by persons responsible for detaining children.

7 Chused (1973:509) is the only researcher to ask directly whether juveniles who are believed to be dangerous are detained at higher rates than those who are believed to be less-dangerous or non-dangerous, but his criterion for dangerousness--whether or not the instant offense was a serious crime--reflects a conventional yet uninformed measure of future criminality. For a concise overview of the limitations and current potential of prediction techniques, see von Hirsch and Gottfredson (1983:13-16).

8 For example, the National Council on Crime and Delinquency (1961) recommends a detention rate of no higher than ten percent of the detainable population. The Juvenile Justice Standards Project of the American Bar Association (1982) calls for a statewide quota, "to be reduced annually...as alternative forms of control are developed" (p.204).

9 For an analysis of the same question with similar conclusions, see Kramer and Steffensmeier (1978).

10 In some jurisdictions, cases which do not meet evidentiary standards may nonetheless be referred for a court hearing, upon insistence by the complainant (Ferster et al., 1970:868).

11 Chused (1973), for example, observed the use of non-home, residential placements for a portion of the cases handled informally in his study of three New Jersey counties.

12 A picture of the extent to which researchers of the charging stage of the criminal justice process have considered evidentiary and victim/witness related concerns, and of the extent to which those concerns influence the decisions of prosecutors, is provided in an overview of this area of study by Gottfredson and Gottfredson (1980:145-169). Witness and evidence problems were the reasons related to the decision not to charge in over one-half the Washington D.C arrests studied by Forst, Lucianovic and Cox (1977); and the presence of a prior relationship between the victim and the accused was found to be an instrumental factor in the decisions of Washington, D.C. prosecutors to drop charges involving persons offenses in a study by Williams (1978). Although the presence

of a most serious charge of either burglary or assault was found to be one factor related to likelihood of dismissal in a study of male felons arraigned in New York City during five months of 1975, Bernstein, Kelly and Doyle (1977) reasoned that burglaries were likely candidates for dismissal due to the crime's low potential for observation by witnesses.

13 This was not an especially elaborate scale of offense severity--probation officers were asked only to rank offense groupings, e.g., murder, rape burglary, as opposed to specific acts within those groups.

14 Unlike the type of offense scaling undertaken by Kiekbusch (1973), the Sellin-Wolfgang offense seriousness scale takes into account variations in severity within legal offense categories.

15 Underlying this choice was a desire to avoid the problem of multicollinearity between measures of current and prior delinquency when the decision outcome is regressed on the variables.

16 Unlike the Memphis Court, the charging decisions of Denver probation officers were subject to the review of the district attorney. Further, police were required to observe a probable cause standard of evidence. The idea that Memphis officials did not concentrate on due process concerns was based on observed absence of district attorney review, a failure to emphasize the probable cause standard, and officials' stated preoccupation with the best interests of the child.

17 Some states (e.g., Maryland, Alaska, Pennsylvania) simply grant extensions; others (e.g., Louisiana, New Hampshire) grant them in order to prevent the brief commitment of older juveniles (Fisher, Fraser and Rudman,1983:56-57).

18 A description of the actual behaviors included in the sample reveals that various forms of life-threatening behaviors were in fact encompassed by the category of acts against life and property--as well as apparently less serious ones such as truancy and failure to observe curfews--but proportions are not provided.

19 The reader may recall that Thornberry employed the Sellin-Wolfgang offense seriousness scale in ordering the delinquent events in his sample.

20 For a detailed and similar account of the nature of incarceration of female delinquents, see Rogers (1972).

Chapter 3
DELINQUENCY AND THE CRIMINAL COURTS

This chapter examines a second assumption underlying current criticisms of the juvenile court, namely, that the criminal court provides harsher penalties for the same behaviors. The truthfulness of this assumption is especially important to determine, because it is this belief which has encouraged the adoption of criminal court and criminal court-like processing within a number of states.

There are two ways in which a belief in the relative severity of the criminal court may be inaccurate. The assumption is subject to refutation if the behaviors processed by the separate court systems are unequal in seriousness, to the point that comparisons are prohibited. Or--in the event that behaviors are equally serious--it is subject to refutation if it can be shown that the juvenile court punishes as severely, or more severely than the criminal court. It is to the study of these two premises that the discussion now turns.

Serious Behaviors: A Comparison

From the start, a comparison of the serious criminal behaviors of juveniles and adults is impeded by the fact that almost uniformly, available descriptions of the behaviors of juveniles avoid direct comparisons with adults. Studies which combine examinations of the seriousness of the offense with the characteristics of the offender tend not to consider the

effects of age in a way that encourages the meaningful comparison of the two groups. In Pokorny's (1965) research on homicide and aggravated assault, for example, subjects are categorized by age in five-year intervals, with the effect that the majority of juveniles in the sample are combined with adults, in the 15 to 19-year age bracket.

An alternative source of comparison is the separate review of studies of juvenile and adult behavior, but this, too, proves unsatisfying, since most researchers of the violent behaviors of juveniles forfeit descriptions of the act in favor of an emphasis on the actor. Illustrations include studies of children who commit murder by Sorrells (1977,1980), Smith (1965) and Gardiner (1976), which concentrate solely upon subjects' psychological demeanors and family backgrounds, as opposed to their illegal behaviors.

One might be pressed to argue that in the case of homicide, direct comparisons of juvenile and adult offenders are unnecessary. This is because there is a strong sense in which the degree of injury experienced by the victim (i.e., death) is equivalent across all cases. Yet in the case of such serious behaviors as assault and robbery, not only is injury an <u>unnecessary</u> element for the commission of the crime, when injury <u>does</u> occur, it can exhibit any one of a number of degrees of severity. For example, in their study of the characteristics of 251 crimes classified as aggravated assaults by the Houston Police Department in 1961, Pitman and

Handy (1964:465) found that nearly half involved situations in which the victim was not seriously wounded.

Although the argument can be made that murders committed by juveniles are just as serious as murders by adults, their low incidence precludes the usefulness of such a comparison in this discussion. What is needed are direct comparisons of the serious behaviors that can be generalized to the majority of the serious behaviors committed by both juveniles and adults.

One of the few direct comparisons of the serious criminal behaviors of juveniles and adults was undertaken by McDermott (1979), using data collected as part of a National Crime Victimization Survey undertaken in 26 cities. This analysis compared robberies and assaults for the two groups.

According to the results of McDermott's study, robberies committed by juveniles tended not to exhibit the seriousness of those committed by adults, with respect particularly to level of injury, weapon use, and consequences. Although National Victimization Survey data tend to show that violent crimes, generally, are underrepresented by the Uniform Crime reports (USDOJ-BJS,1983b), one of the interesting findings of this research is that juvenile participation in the offense of robbery for the period under study had been overestimated by the UCR, by almost fifty percent.[1] Over three-quarters of the commercial robberies were found to involve adults, [2] whereas pursesnatches were characterized by the greater participation of juveniles, at forty percent. Weapons were found to be more commonly employed by adults, both for commercial as well as

personal robberies. Robberies by juveniles involved smaller financial losses to victims than did those perpetrated by adults. Moreover, the NCS data revealed that while juveniles initiated attacks more often than their victims, those attacks did not result in a higher rate of injury than in robberies by adults. In fact, robberies resulting in hospital treatment of victims represented one-quarter of all robberies by adults, yet only one-tenth of those committed by juveniles. All things considered, the NCS data indicate that in a number of ways, the robberies of juveniles were not as serious as the robberies of adults. These results are consistent with the findings of research by Strassburg (1978:37) using a sample of juveniles petitioned in the New York metropolitan area during 1974. In the latter study, robberies were most likely committed without weapons or injury to their victims.

With respect to assaults, McDermott's study provided some indication that the assaultive behaviors of juveniles were as serious as those of adults. Juveniles were more likely to attack their victims, and rates of injury among attacked victims were similar for the two groups. In aggravated assaults, analysis could not significantly discriminate between the weapon use of juveniles and adults. But of much importance, the analysis pointed to only a minimal involvement of juveniles in assaults, who were found to account for only eight percent of rapes, 19 percent of aggravated assaults and 26 percent of simple assaults. Nonetheless, as far as the results of McDermott's study are concerned, the assaultive

behavior of juveniles, while far below that of adults in incidence, appears to approximate the behavior of adults in seriousness.

To summarize, a limited body of evidence helps to solidify a belief that juveniles and adults both commit behaviors falling within comparable crime categories. Yet in terms of either incidence, seriousness or both, the need for the juvenile justice system to respond with desired levels of severity appears to be far lower than the need for the criminal justice system to so respond. Nonetheless, the assumption of current critics of the juvenile court--that juveniles and adults commit the same serious behaviors--appears to have been substantiated, but not without a number of disquieting qualifications.

Unfortunately, because they are based largely on victimization survey data, such comparisons are not entirely like comparisons that might be drawn were official data available, for at least three reasons. First, comparisons have been provided at least in part for behaviors that in fact may never have been reported. For example, about her own analysis, McDermott (1979:118) points out that "there is little compatability between [the National Crime Survey] and [the Uniform Crime Reports] with regard to assault," reflecting the fact that much of the assault-related data were not likely to have been officially reported. This is especially interesting, in light of the above findings that the assaultive behaviors of juveniles are as serious as those of adults. If this is the

case, one or both court systems are denied the opportunity of even handling those behaviors, and the opportunity of lenient treatment as well. Clearly, knowledge regarding the characteristics of assaults by both juveniles and adults that come to the attention of each justice system is integral to understanding whether claims of lenient treatment may be substantiated.

Second, victimization survey data are incapable of providing absolute, correct distinctions between the behaviors of juvenile and adults, because respondents must rely upon their impressions of offenders' ages (McDermott,1979:133). Although available response categories separate 15 through 17 year-olds from 18 through 20 year-olds, there are two difficulties associated with such distinctions. One is the possibility that respondents will not be able to correctly guess offenders' ages. Because a large proportion of arrests for violent crimes are made of offenders around the age of majority (Zimring,1978:36), the failure to make precise judgements can lead potentially to an over- or underestimation of the degree to which the criminal behaviors of either juveniles or adults possess certain characteristics. Moreover, even if respondents were able to correctly identify their assailants' ages, the fact that data represent aggregate responses of residents of states which have diverse ages of majority prohibits accuracy of statements regarding the respective behaviors of juveniles and adults.

Finally, it is not possible to make sound inferences from victimization data because legal crime categories have been assigned by the researcher and may not be the same as those that might have been assigned by the courts in petitions and indictments, were all of the behaviors to have been reported and the offenders apprehended. This is perhaps the most critical of the problems associated with available comparisons, because observations about the relative handling of offenders by the juvenile and criminal courts are often comparisons based on initial charges and charges at conviction.[3]

Juvenile and Criminal Court Processing

A final assumption of current critics of the juvenile court is that the criminal court provides harsher punishments for the same behaviors. A review of the literature reveals that comparisons of juvenile and criminal court processing are few, and that what studies there require acceptance of a number of questionable assumptions. Nonetheless, they are useful because they open the leniency debate to speculation, and help to establish the research needs of a more rigorous study of this issue.

The first comparison is provided by Snyder and Hutzler (1981), of juvenile and criminal justice system attrition rates, using to represent the criminal justice system, PROMIS data compiled by Brosi (1979) in her study of felony-case processing in six cities; and to represent the juvenile justice system, national data on delinquency processing

compiled by the National Center for Juvenile Justice. The results, which have been reproduced in Table 3-1, suggest that--contrary to popular belief--the juvenile justice system retains substantially greater proportions of offenders from one decision-making stage to the next than does the criminal justice system. The figures indicate dismissal rates of 40 percent and 26 percent, for the criminal and juvenile justice systems, respectively; and conviction rates of 59 percent and 70 percent, respectively. On the other hand, the data reveal that once criminal defendants are convicted, they are twice as likely to experience incarceration than are adjudicated delinquents. If the data are taken to be truly representative of the way courts across the nation operate, they provide mixed input into the question of leniency in the juvenile justice system. Unfortunately, this is not a very defensible comparison--not only do the data as aggregated disguise differences between jurisdictions, they fail even refer to the same aggregates of jurisdictions. Moreover, they represent processing of felonies, generally, as opposed to processing of crimes against the person, and it is unknown what proportion within each group represents crimes against the person only. A somewhat different but more sound picture of case attrition within each of the two systems is provided by Greenwood, Petersilia and Zimring (1980), who compared dispositions of adult and juvenile burglars and robbers, from arrest through conviction. Their results, which have been reproduced in Table 3-2, reflect the decisions made within a single jurisdiction,

TABLE 3-1 Comparison of Criminal and Juvenile Court Handling of Serious Offenders

Criminal[a] Of 1,000 felony offenders referred to district attorney:		Juvenile[b] Of 1,000 serious juvenile offenders (over 15) referred to juvenile court:
338	Rejected at Screening	374[c]
662	Filings	626
Of 662 Filings:		Of 626 Filings:
270	Dismissed, Acquitted, "Other"	163
392	Conviction, Adjudication	441
	Waived to Criminal Court	22
		20 Convictions
Of 392 Convictions:		Of 441 Adjudications:
170	Probation or Fine	329
222	Incarceration	112

[a] Source of data is Brosi (1979).
[b] Source of data is National Data Archive (1981).
[c] Of juveniles rejected at screening, 109 placed on informal probation.

SOURCE: Snyder and Hutzler (1981:10).

Los Angeles County. The figures indicate that although a significantly larger proportion of young burglars are released by the police after arrest than adults, three times as many adult robbery suspects are released by the police than juvenile robbery suspects. Attrition due to court dismissal or acquittal appears to be fairly equitable across the two groups within each offense category. The results bear even closer resemblance to the Snyder-Hutzler data, when one looks at conviction and incarceration rates. Not only are juveniles convicted at substantially higher rates than adults (nearly twice the rate for adults, for burglaries, and over three-times as high for robberies), when the two offenses are considered together, juveniles tend to be incarcerated at far lower rates than adults. The table is particularly interesting, however, because it does not limit the reader to aggregated data. When only robberies are considered, the incarceration rate approximates that for adults.

Of course, given that a major focus of the current debate about the criminal court concerns length of terms of incarceration, as well as certainty of incarceration, the most staunch of juvenile code revisionists will have yet to be convinced by this indication of the absence of leniency in the juvenile court. A third comparison relates specifically to a debate first introduced by Boland and Wilson (1978), who believed that at least two things were true about the relationship of the juvenile to the criminal courts: one, that the juvenile court's philosophy of protection of juvenile

TABLE 3-2
Comparison of Dispositions of Juvenile and Adult Arrests in Los Angeles County for Burglary and Robbery

Offense	Disposition (percent of total arrests)					Type of Incarceration (percent of total arrests)	
	Released by Police	Rejected Dismissed, or Acquitted	Convicted and Released	Convicted and Incarcerated	Total	Local	State
Juvenile burglary (residential)							
n = 92[a]	27	22	38	13	100	9	4
n =101[b]	25	20	35	21	100	8	13
Adult burglary[c]	17	22	20	41	100	35	6
Juvenile robbery (armed)							
n = 93[a]	7	33	30	30	100	14	16
n =103[b]	6	30	27	37	100	13	24
Adult robbery[c]							
n = 400	22	29	9	40	100	23	17

[a]Excluding missing cases
[b]Counting missing cases as committed to CYA
[c]18-year olds

SOURCE: Greenwood, Petersilia and Zimring (1980:26).

records prohibited criminal court prosecutors and judges from access to them when juveniles grew into young adults; and two, that such a prohibition led to the lenient treatment of young adults as they achieved age of majority. The point of Boland and Wilson's argument was that court officials, blinded by juvenile court policy, would be unaware of the prior records of young adults and be therefore predisposed to setting sentences appropriate for first-time offenders but not in fact appropriate for the persons who were actually being sentenced. Since publication of this argument, a survey relating to the confidentiality of juvenile records was administered to a national sample of prosecutors by the Rand Corporation (Petersilia,1981), the results of which revealed the first of Boland and Wilson's premises to be untrue.[4] Following the survey, a study was undertaken by Greenwood, Abrahamse and Zimring (1984) to test the second.

Although the study's main focus is upon the treatment of young adults (aged 18 to 20) and its comparison with the treatment of other age groups, the data permit an examination, however limited, of the treatment of juveniles in relation to the treatment of adults.[5] The best and most relevant summary of their data for the purposes of this discussion have been reproduced in Table 3-3. Despite the dual categorization of the adult defendants, this study, which involved robbery and burglary defendants in Los Angeles and Las Vegas, produced results that also encourage doubts about the exercise of leniency in the juvenile court. Although the conviction rates

TABLE 3.3 Disposition of Arrests (in Percent) for Los Angeles and Las Vegas Robberies and Burglaries

DISPOSITION	AGE GROUP		
	16-17	18-20	21-25
Los Angeles Robberies			
Convicted	59	54	41
Incarcerated	39	47	33
State time	20	32	21
Las Vegas Robberies			
Convicted	45	58	47
Incarcerated	41	43	40
State time	34	43	38
Los Angeles Burglaries			
Convicted	51	56	62
Incarcerated	20	41	46
State time	8	5	9
Las Vegas Burglaries			
Convicted	43	51	39
Incarcerated	22	20	22
State time	18	16	17

SOURCE: Greenwood, Abrahamse and Zimring (1984:59).

for robberies are inconsistent across the two counties (in that juveniles were convicted at higher rates than adults in Los Angeles County and lower rates in Las Vegas), they are incarcerated at similar rates in both.[6]

Until now, the discussion has centered around comparisons of juvenile and criminal court processing, for similarly charged behaviors. These comparisons indicate that the truthfulness of assertions about leniency in the juvenile court may be overstated. Yet, the possibility exists that the behaviors processed by each of the courts may not be the same, with respect to seriousness. Another method that is available for comparing the relative handling of the two courts is one which contrasts the treatment of juveniles and adults within courts with the same or similar systems of penalties. Since the demand for stiffer penalties by current critics of the juvenile court presumes the eligibility of so-called serious juvenile delinquents for harsher punishments, one test of the claim of lenient treatment is the observation of the processing of serious juvenile behaviors in systems which permit punishments that are more harsh than those which have been traditionally accepted within the juvenile court. If the behaviors are as serious as the critics believe, than such an observation should reveal the freely flowing administration of sterner penalties.

The evaluation of waiver provisions and more recent reforms of the juvenile court provide the bases for this kind of observation. Research on the impact of waiver provisions

permits the direct study of the consequences of mixing juvenile behavior with criminal court penalties. Evaluations of other changes, e.g., presumptive sentencing, in the juvenile justice penalty systems permit the observation of the consequences of mixing juvenile behavior with criminal court-like penalties.

One of the most uniform and interesting findings of studies of waiver provisions is their demonstration of the reluctance of the juvenile court to certify eligible juveniles. For example, Eigen (1977) compared homicide and robbery cases waived to criminal court in Philadelphia during the year 1970, and found that of all cases eligible for waiver, only 49 percent of homicide defendants and only five percent of robbery defendants were actually waived. Following the enactment of an elaborate scheme of presumptive waiver in Minnesota, which explicitly broadened the use of this provision in that state, it was discovered that prosecutors initiated waiver motions for only half of the eligible juveniles (Osbun and Rode, 1984).

Research on waiver can be useful if authors provide comparisons of cases that are waived and not waived. Unfortunately the most detailed of the waiver studies is Eigen's (1977), and his comparisons are limited. His findings do show however, that while waived robberies tended to be committed with firearms, unwaived robberies involved weapons in only a minority of cases. Since only a small percentage of robberies were actually waived, one is led to speculate

whether robberies committed by juveniles, generally, did not involve weapons. Further, a comparison of waived and unwaived felony homicide defendants demonstrated that those who were not certified by the criminal court rarely (sixteen percent of the time) inflicted the wound that led to the victim's death. Interestingly, certified juveniles inflicted the wound in a minority of cases as well (39 percent). One additional interesting finding from Eigen's research involving the comparison of adults and waived juveniles charged with robbery was that robberies by the latter more often involved victims who were acquaintances than were robberies by the former. Because robbery requires at least fear of injury, as well as a theft or attempted theft from a person for its commission, one might wonder what level of fear was present between persons who were acquainted with each other.

An early evaluation by Schneider and Schram (1983) of the impact of Washington's revised juvenile justice code produced results analagous to the studies of waiver. One expectation for the impact of the new code, which established a system of determinate penalties for juveniles, was the increased certainty of incarceration for offenders who met certain prior record/offense criteria. An evaluation revealed to the contrary that a large proportion of juveniles appeared not to be affected by the new law. To begin with, only a small proportion of juveniles studied over the first two years following the new law's implementation fell into the Class A and Class B felony categories that denoted eligibility for

presumptive penalties--a total of six percent of the sample of juveniles studied, to be exact. Ironically, the rate of commitments of juveniles to state institutions dropped during the first two years of the new law. This is a finding which could be due to any one of a number of factors, of which two could be changes in the offense profiles of juveniles over the years and the reluctance of administrators to use the new law. Of course, one other alternative explanation can be postulated, but which is less favorable to the intent of the new law's founders--that the attempt to structure penalties encouraged the use of alternative sentences for juveniles who would have been confined had the determinate sentencing law not been enacted. That is, in the presence of new, highly operationalized definitions of serious behavior, offenders who would under the old system have been regarded as serious would no longer so regarded under the new system.

Still a different comparison is afforded by the experience of New York state with respect to its Juvenile Offender Law. Under this law, jurisdiction over juveniles between the ages of 13 and 15 charged with specific Class A, B and C offenses originates in the criminal court. Of all eligible cases coming to the attention of the court in New York City between the period beginning September 1, 1978 and ending December 31, 1983, 13 percent of cases were declined for prosecution in the adult court system. Of those cases arraigned, 40 percent were removed to the family court, by either the criminal court or a grand jury; 16 percent were

dismissed by the court or the grand jury; and 42 percent were indicted. Not an insubstantial figure, the 42 percent soon withers: of all indictments for juveniles obtained during this period, convictions were achieved in only 75 percent. Of the convicted, 16 percent were removed to the family court for punishments, and 62 percent were sentenced under the state's youthful offender statute, which limits sentences to indeterminate four year terms (Office of Policy...1984).[7]

When measuring the relative treatment by the juvenile and criminal courts, two kinds of comparisons were available. The first was a comparison of juvenile and criminal court processing, for behaviors that might be viewed as similar. The second was a comparison of the criminal court processing of juvenile and adult behaviors that might be viewed as similar. In the first case, results fail to lend much support for a theory of leniency in the juvenile court; in the second, they lead to an ambiguous set of consequences.

Actually, neither comparison provides a clear indication of the absence of lenient treatment by the juvenile court. In the first case, if charging practices in the juvenile and criminal courts are dissimilar, we cannot be sure that we have considered similar behaviors. In the second, we are confronted with the as yet unanswered question of why cases involving juveniles are rejected in large numbers by the criminal court.

Discussion

What explanations exist for such ambiguous results? At least four can be postulated. The first, the argument of

current critics of the juvenile court, is that juveniles are being treated with leniency. Both juvenile and criminal court officials who resist implementation of juvenile code revisions might fall into this category. Second, perhaps juvenile cases do not meet the tougher evidentiary standards of the criminal courts. In each of these cases, although the behaviors involved are the same, cases are being processed differently than their adult counterparts. For both explanations, differences in the treatment of the two groups stem solely from differences in the behavior of the decision-makers.

The following two explanations consider that while it is generally true that juveniles are capable of committing the same serious behaviors as adults, those behaviors tend not to be reflected in the charges which serve as the basis for the selection of the samples studied. In these cases, differences between the two groups are truly differences in the behaviors of the offenders, and not merely differences in the behaviors of the decision-makers.

The third explanation is that the research did not pay sufficient attention to detail. Attention to general offense labelling at the expense of recording specific degrees of charges can lead to wide differences in the seriousness of the behavior studied. Offenses committed by adults and charged by the police as third or fourth degree assaults may be downgraded to disorderly persons offenses and filtered to the lower courts, with the effect that only the most serious of assaults remain in the higher courts. But there is only one

juvenile court, and unless there exists a policy to weed out lesser degrees of particular offenses, lower degreed offenses remain within it. If this is true, and researchers select samples on the basis of broad offense categories, samples of adults may contain larger proportions of serious offenders within broad legal crime categories than would samples of juveniles. It is not known to what extent juvenile intake authorities distinguish between varying levels of seriousness within specific offense categories, or whether any researchers of juvenile justice system processing have looked beyond general offense labels. At least, none of the researchers cited in the preceding sections made this distinction. Of course if this is the case, the potential exists for juveniles charged with such crimes as simple assault to receive more severe punishment than the person whose case is initiated in or remanded to a lower court.

The fourth explanation is simply that the behaviors are not the same, despite similarities across charges. Put in another way, cases charged similarly represent entirely different behaviors. Like the preceding explanation, this rationale attributes the failure of system personnel to process juveniles as severely as adults to the fact that the behavior of the former was actually much less severe than that of the latter. But how can charges be the same for widely varying behaviors? There are at least two reasons. One, purely hypothetical, is that the police are more harsh in their charging practices when the alleged offender is young

than when he or she is an adult. A practice, if it did exist, might be due to attempts by the police to overcome perceived leniency in the juvenile justice system. Juvenile court authorities may be similarly harsh, for the same reason. Of course, such an explanation flies in the face of the juvenile court philosophy, which allegedly attends to the child's best interests.

A second explanation for the phenomenon of similar charges for dissimilar behavior relates to differences in the capacity of each of the systems to negotiate charges. This explanation suggests that, in the case of adults, charges at conviction often represent charges that have been downgraded through plea bargaining processes; but that in the case of juveniles, charges associated with adjudications of delinquency represent charges listed originally on the petition. If this is true, comparisons will inevitably be made between adults, whose behavior labels, so to speak, have been downgraded; and juveniles, whose behavior labels will not have been altered. The point is, however similar the two groups appear initially or eventually, the behavior of adults may actually be more severe than that of the juveniles.

Strictly speaking, there is little in the literature to substantiate any of these claims, but some general facts about the operation of the juvenile court are supportive of two--one pertaining to evidentiary sufficiency, and the other, to negotiation of charges in the juvenile court.

In literature dealing with the juvenile court, very little attention is paid to the role of the prosecutor, a fact which has been attributed generally to the traditional absence of representation of the state's interest in the adjudication of juveniles (Finkelstein et al.,1973:9). Since only the child's best interests were at stake, there was never a need to represent those of the state (Rubin,1979:171). Consequently, observors of the juvenile court may have perceived little need to discuss the prosecutorial role, when no such role existed. Following the introduction of due process rights, however, the institution of defense counsel in the juvenile courts led to increased use of state's representatives (Finkelstein et al.,1973:10), and eventually prosecutors achieved their own presence in the juvenile court, albeit limited and not very well understood.

Do prosecutors of the juvenile courts share the same functions of those of the criminal courts? Hardly. Although prosecutors are now common to many juvenile court jurisdictions (Rubin,1979:173), they are often denied responsibility for case screening. A 1972 survey by the Boston University Center for Criminal Justice of prosecutorial decision-making in 68 of "the nation's largest cities" revealed that in as many as four-fifths of the responding jurisdictions, prosecutors were prohibited from preparing petitions, and in approximately two-thirds, from reviewing the petition for legal sufficiency (Finkelstein et al.,1973:14,18-19). Where the prosecutor's role was so limited, these duties

were reported as being performed by either the judge, court clerk, or probation staff. Interestingly, in one-tenth of the responding jurisdictions, "no one reviewed petitions" (p.19). In a more recent survey, juvenile courts supporting similarly limited prosecutorial functions constituted approximately half of all respondents (Stapleton, Aday and Ito,1982:557).[8] Sometimes, the person functioning as the prosecutor has no formal legal background whatsoever. For example, in their observation of the Boston juvenile court, Finkelstein et al. (1973:61) found a link between acquittal and the poor performance of police prosecutors--actually, juvenile officers--who failed to carefully prepare their cases, and who could not adequately respond to defense motions.

If the juvenile court prosecutor is so constrained in the area of charge determination, what can be said of his or her capacity to reduce charges? This is an important question to answer, if the fourth explanation is to be substantiated.

Few references have been made to the actual workings of plea-bargaining practices in the juvenile court. Stapleton and Teitelbaum (1972) are one exception to this rule, but they discuss plea negotiation in the Gotham and Zenith courts only in relation to bargaining for guilty pleas, where incentives were viewed largely in terms of costs (time and resources) of the defendant and the juvenile justice system (as opposed to reduction in sentence or number of charges).

Of course, an argument can be made that plea-bargaining has no meaningful role in the juvenile court, and is therefore

an unworthy topic for consideration. Platt, Schechter and Tiffany (1968), in an observation of the role of the public defender in a large midwestern city, described the potential for plea bargaining in the Metro court in this way:

> There are limited opportunities for plea bargaining in Metro's juvenile court because a defendant can only be found guilty of "delinquency" no matter what criminal charge is proved. Nothing is gained by reducing "aggravated battery" to "assault" if the outcome is the same in either case. The state's attorneys cannot make deals about reduced "time" in exchange for a guilty plea because they do not have the power to fix sentences (p. 357).[9]

At least in theory, however, juvenile court authorities of some jurisdictions are empowered to elicit plea negotiation. Ewing (1978), for example, in describing the system of plea-bargaining available to juvenile delinquents in Texas, enumerates the following negotiation techniques: 1) in which the prosecutor exchanges the delinquency petition for a CINS (Children in Need of Supervision) petition; 2) in which the prosecutor dowgrades the offense or removes references to violent activity from the petition; and 3) in which the prosecutor rewords the petition "to reflect the wishes of the child". According to Ewing, the first alternative is rarely employed, and although neither of the latter forms result in a change in disposition, when they are applied, they can alter the character of a juvenile's prior record at a later date. How effective such future-oriented incentives actually are to juveniles in relation to the effectiveness of the immediate impact of a changes in criminal court dispositions available

to adults is unknown. One may be led to speculate that they are not as effective, and perhaps, not as widely used. In commenting on the use of "enhancements" to petitions by juvenile court prosecutors in California, Hicks (1978) admits that the central impact of the technique lies in the amplified capacity of the prosecutor to "display" leniency toward juveniles, in spite of the absence of substantive support for that display.

A situation in which prosecutors are encouraged to manipulate charges at conviction--and the literature is concerned with reduction, primarily (one never hears about the reverse)--and a situation in which prosecutors have more questionable incentive to do so can eventually make defendents who are initially charged with the same offenses appear quite different when comparisons in dispositions are based upon initial charge. In fact, those same sets of persons may not be subject to comparison at all when charge at conviction becomes the basis for consideration.

In a commentary about the distorting effects of plea negotiation Goldstein (1983:21) observes:

> The distorting effect of inaccurate pleas is obvious. They make the world of crime and corrections a world of fictions. The criminal conviction becomes a suspect unit of analysis for counting crimes, for sentencing, for making restitutionary awards, and for parole.

Clearly affected by the distortion is the area of sentencing research. For example, in their survey of California inmates Peterson and Braiker (1980) found that for most inmates, their offense at conviction failed to reflect

the actual offense committed; and that, according to "a substantial number" the offense for which they were convicted was one they had only infrequently committed. These discoveries led the authors to conclude that "relying on a single principal conviction offense label obscures differences among offenders convicted of the same offense" (p. x). Is there any reason to believe that comparisons between sentences for juveniles and adults that are based on charge at conviction will not be similarly flawed?

What is needed is a direct comparison of the characteristics of juvenile and adult behaviors within categories that have been assigned by the respective court systems, either in the form of charges set by the police or prosecutor, or in the form of charges at conviction. Such an analysis would allow the matching of behaviors of similar seriousness, and their subsequent comparison with respect to separate systems of handling. Only then will it be possible to determine whether or not the juvenile court is a more lenient institution than the criminal court.

Notes

1 McDermott attributes the UCR bias to the likelihood that juveniles are more easily apprehended.

2 The analysis actually disaggregated adulthood into two groups of offenders: those between 18 and 20, referred to in the study as "youthful offenders"; and those older than 20. For the purposes of this review, both groups constitute adults.

3 The advantage of being able to make stronger comparisons of the behaviors of juveniles and adults when the courts have assigned them legal categories is evident in one of McDermott's findings: that when the statutory definitions of robbery for New York state were applied to the descriptions in her study, only a small minority (13 percent) of offenses eligible for first degree robbery could be attributed to juveniles (p.234).

4 The survey showed information-sharing between the two courts to be characteristic of a large number of the responding jurisdictions, although the extent of sharing varied widely among them. As it turns out, "confidentiality" of juvenile records precludes public disclosure, but generally does not prohibit their access by individuals within the system.

5 Actually, this was the second attempt to measure the veracity of the Boland-Wilson argument. The first was undertaken by Farrington and Langan (1983) on a sample of English youths. English data, which were used because of the liberal juvenile history information-sharing policies in effect in that country, were borrowed from a longitudinal study called the Cambridge Study in Delinquent Development, and included subsets of 84 youths and 110 adults convicted of offenses that could be called analagous to indictable crimes. Of all the youths in the study, the authors were able to match 36 in each group on the basis of offense severity. The research, which showed an increased probability of more severe sentences--including a greater likelihood of incarceration--for young adults with previous records, was interpreted as supporting the Boland-Wilson hypothesis, in spite of an absence of comparison with a jurisdiction with a dissimilar information-sharing policy. Unfortunately, this study did not compare juvenile and adult probabilities of severe dispositions.

6 Because the authors did not report the actual Ns corresponding to each of the cells in the table from the limited information provided in the Greenwood, Abrahamse and Zimring (1984) report, I averaged the rates of the young adult and older adult age groups.

7 Two additional comparisons which lack directness but not relevance involve a comparison of the processing of juveniles and adults in the mental health system, and a comparison of the impacts of rehabilitation and justice models of sentencing. In the former, undertaken by Schwartz, Jackson-Beck and Anderson (1984), a comparison of the rates of commitments of juveniles and adults to mental health and chemical dependency systems following the deinstitutionalization movement in Minnesota showed that the length of stay experienced was "consistently twice as long for juveniles than for adults" (p. 374). The authors pointed out that juveniles did not receive "more intense or qualitatively different psychiatric treatment than adults," just longer treatment (p. 376).

Gottfredson, Chandler and Cohen (1983) compared the sentence lengths of offenders sentenced under the Federal Youth Correc-tions Act, a system of penalties with an overtly rehabilitative aim, with those of offenders sentenced to regular, allegedly more punitive federal dispositions, and discovered with respect to actual time served that "the incarceration experiences of the two groups [did] not, for the most part, differ markedly" (p.111). The studies show that more lenient penalties are not a necessary concomitant of either youthful status or a rehabilitative bent.

8 The survey was administered by mail and telephone to a saturated sample of 150 metropolitan juvenile courts. The courts I have referred to in the text have been typified by Stapleton, Aday and Ito as "low task specification", where there is "little prosecutorial function" (p.557), particularly with respect to intake.

9 This situation does in fact exist to a limited extent in the criminal court as well, but curiously, has been described as encouraging a reverse set of consequences. Miller (1969) points out that when prosecutors cannot hope to increase a sentence by additional charges, they will charge fewer offenses (p. 197). Moreover, they may be encouraged to charge a lesser offense if the greater offense will not materially increase the sentence (p. 194).

Chapter 4
METHODS

This study is an examination of the thesis that the juvenile court treats offenders with greater leniency than the criminal court. As the preceding chapters have indicated, assumptions about dispositional tendencies of the juvenile court have been made in the absence of close scrutiny of the offending behaviors that the court allegedly treats leniently. These discussions assume that there is no difference between criminal and juvenile courts with respect to the severity of charges set by prosecutors for similar offenses, as well as with respect to the severity of sentences administered for similar offenses.

This chapter outlines the design of a study which undertakes tests of each of these assumptions, using an improved measure of offense seriousness. Subsequent sections describe the study's data site, sample, research hypotheses and its plan of analysis, and detail the development of the offense scaling instrument.

Setting

Union County, New Jersey served as the study's data site. The state of New Jersey provided a particularly good setting for the research, because the development of juvenile sentencing in this state parallels the development of juvenile sentencing in other parts of the country.[1] During the period from which the sample was selected--the end of 1979 through

1981--juvenile sentencing took place within an indeterminate structure, with release determined by the board of parole. Sentencing by the criminal court, on the other hand, occurred within the framework of legislatively determined minimum and maximum penalty ranges. The choice of this particular time period for study permitted a comparison between the traditional system of juvenile sentencing in New Jersey and a system of criminal sentencing which the state's juvenile code has since been revised to emulate. Given that sentences for juveniles during the period under study could not exceed three years, New Jersey offers a fairly conservative test of the idea that the juvenile court responds with greater leniency than the criminal court.

The selection of Union County over other counties within New Jersey was predicated to a certain extent upon quality of the data necessary for accomplishing the research, but mostly upon the receptivity of the host agencies.[2]

Records used in the study include files maintained by the juvenile and criminal court prosecutors' offices. These records, which encompass the reports of the police and the prosecutors' investigators, in addition to a variety of legal documents related to case processing (e.g., disposition orders, plea agreements), provide basic demographic information about the defendant, as well as detailed descriptions of the alleged behavior. They are also a source of data about prior offense history (with respect to adults,

information regarding arrests and convictions; with respect to juveniles, about prior court referrals).

The criminal court has access to the official delinquency histories of adult defendants, both during prosecution and sentencing. During sentencing, an adult defendant's juvenile record is inserted into the presentence report. During pretrial processes, criminal court prosecutors can request the official juvenile records of criminal defendants. Resources did not permit the incorporation of information about juvenile histories into the criminal records of adult defendants, but their absence is not as problematic an issue as might first appear to be true.[3]

Sample Selection

A total of four samples, two from the criminal and two from the juvenile court, were selected for use in the research. The units of analysis were persons charged with assault or robbery. Within each court, one sample was composed of persons charged by the prosecutor with assault, the other, of persons charged with robbery.

There are several rationales behind the selection of robbery and assault for study. Robbery and assault are both crimes against the person, and are therefore representative of the kinds of offenses that have been the targets of recent revisions in juvenile codes, as well as being representative of behaviors that are the focus of public concern, generally. Moreover, for both assault and robbery, charges occur within each court at a frequency that will permit their meaningful

statistical analysis in this research. Two other persons offenses, homicide and sexual assault, could not be included in the research due to the extremely low numbers of charges of these crimes in Union County during the period under study.[4] Even if this were not the case, however, the selection of homicide would at least partially defeat the purposes of this study, given that the maximum penalty for juveniles convicted in New Jersey of this offense--thirty years--was the same penalty available for adult felons so convicted in the criminal court at the time.

Only males were included in the sample, because females are neither distributed evenly nor in adequate numbers across the two classifications. This exclusion prohibits the use of the variable of sex as a statistical control in the analysis. The deliberate omission of females from the study makes a test of the relative leniency of the juvenile court even more conservative, given that the juvenile justice system is known to handle large numbers of females, and to adversely discriminate against them in disposition decisions (see, e.g., Armstrong,1977; Chesney-Lind, 1977).

The number of cases within each robbery and each assault sample totalled 250. Two reasons underlying the choice of 250 as the size of the sample included 1) the need to ensure a sample size that could lend itself to meaningful statistical analysis; and 2) limitations on resources for data collection. In the case of criminal court defendants, these numbers represented the universe of all defendants charged with

assault and robbery from September 1, 1979 through the first half of 1981. In the case of juvenile court defendants, these numbers represented the universe of all defendants charged with robbery and assault from January 1, 1980 through the first nine months of 1981. The beginning date for adults corresponds to the date of the implementation of a new code of criminal procedure in New Jersey, which replaced a system of indeterminate penalties with a presumptive penalty system (New Jersey Statutes, 2C). September 1, 1979 could not be used as the start of the sampling period for juveniles due to record-keeping limitations during 1979. These limitations prevented the determination of juveniles charged with either of the offenses under study.[5] For both groups, the ending date of the sampling period was established by the period of time required to assemble 250 cases.

Within the criminal court, the sampling frame employed was the prosecutor's record of indictments. Because indictments were listed in order of the date that they were delivered, as opposed to the date of the alleged offense, indictments for assaults and robberies that were obtained through the middle of 1982 were reviewed for their respective offense dates in an effort to make certain that no cases falling within the period sampled would be omitted. Within the juvenile court, the sampling frame was the prosecutor's log of cases scheduled for formal court hearings. Since these cases, too, are listed in the order that they are scheduled, the 1982 logbook was reviewed as well to ensure that all cases within

the sampled period were included in the data set. For both juveniles and adults, cases were sampled even if the subjects were charged with other offenses. The manner in which these cases were handled by the analysis is discussed in later chapters.

Research Hypotheses

The study first seeks to determine the nature of the association between court jurisdiction and charging practices, using a two-tailed test of the null hypothesis, H_{0-1}, where H_{0-1} states that:

> The severity of offense charged is unrelated to court jurisdiction.

This hypothesis tests the idea that no double standard exists between the criminal and juvenile courts with regard to charge decision-making.

The second hypothesis tested by the study seeks to determine the association between court jurisdiction (juvenile vs. criminal) and sentence severity, using a two-tailed test of the null hypothesis H_{0-2}, where H_{0-2} states that:

> The severity of disposition administered is unrelated to court jurisdiction.

This hypothesis addresses the question of whether there is a double standard--one for adults and one for juveniles--at the time of sentencing within the respective courts. Stated in the null form, both hypotheses allow for a test of the possibility that the juvenile court may actually respond with greater harshness, as well as with greater leniency, than the criminal court.

Definitions

What is meant by the idea that charge and sentence severity are unrelated to court jurisdiction? One interpretation is that all else being equal, defendants charged and sentenced in one manner in one court would be charged and sentenced similarly in the other. Of course, critical to the test of each hypothesis is the phrase "all else being equal". In light of the findings of the research described in previous chapters, we would especially want to make certain that there is comparability with regard to the seriousness of the behaviors involved in each of the charging and sentencing decisions in question.

Before advancing to a discussion of analytic methods, it is appropriate to clarify the terms "court jurisdiction", "charge severity", "sentence severity", and "offense similarity".

Court jurisdiction. Court jurisdiction (COURT), the independent variable, is a dichotomous, nominal variable, and is represented by the attributes, "juvenile court" and "criminal court". Offenders were assigned the characteristic of juvenile court jurisdiction if their cases originated in the juvenile court. Strictly speaking, this would have included youths who are waived to the criminal court, since the capacity to certify youths has long been an option available to the juvenile justice system, even before states undertook to revise juvenile penalty systems. Given the incidence of waiver for youths charged with assault and

robbery during the period studied (only three juveniles were waived), and the concomitant fusion of juvenile and criminal court decision-making, waiver cases were excluded from the analysis.

Charge and disposition severity. Charge and disposition severity represent the two dependent variables of interest here. The definition of charge severity employed in this study relates to the legal grade, or degree, attached to either the assault or the robbery charge. In the case of criminal court defendants, who will have been charged with indictable offenses, subjects were assigned the attributes "first", "second", "third" or "fourth" degree. In the case of juvenile court defendants, who may be prosecuted for what would be indictable as well as non-indictable offenses, values include disorderly persons (e.g., simple assault) status in addition to the above degrees.

Charge severity at prosecutorial intake is represented by the variable HIGHEST, the highest degree of crimes charged. At conviction, charge severity is represented by the variable DEGREE, or the highest degree of crimes to which the defendant has pled or for which he has been found guilty. The use of degree is an appropriate measure of charge severity, because each degree reflects a different level of severity with respect to presumptive penalties applicable to adults as defined by New Jersey's Criminal Code.[6]

The values and ordering of the severity of assault and robbery charges are represented by individual degrees as

defined by New Jersey Statutes 2C:12-1 and 2C:15-1, respectively, the texts of which have been reproduced in Appendix B. Briefly, assault can be dissaggregated into three degrees of aggravated assault (second, third and fourth) and simple assault. Simple assault encompasses two grades of offense, disorderly persons and petty disorderly persons, but is collapsed into one category in the present research. Distinctions between the five grades of offenses depend upon various combinations of degree of bodily injury,[7] weapon use, intent and victim provocation.

Robbery is disaggregated into first and second degree offenses. First degree offenses are characterized by any of the following: attempts to kill, weapon use, or the purposeful infliction of serious bodily injury or its attempt.

A majority of subjects are charged with multiple offenses, of which assault or robbery is but one charge. In these cases only the highest degree charged was recorded.

The principal measure of the second dependent variable, sentence severity, is represented by sentence <u>type</u> (also referred to as the in/out decision). A dichotomous variable (PRISON)--commitment to a state institution vs. sentence to probation--serves as the dependent variable in this analysis. Included within the value called sentences to probation were straight probation supervision, suspended terms of incarceration, and split sentences.

<u>Offense similarity</u>. In most analyses of juvenile justice system decision-making, offenses are considered similar if

they fall within the same broad categories. Examples of such categories are "crimes against the person", and "property crimes". The problem with the use of this taxonomy in juvenile justice system studies is its grouping of behaviors that range from the most benign (the petty disorderly persons offense) to the most fear-invoking (first degree offenses such as homocide, rape, and robbery).

A minority of the analyses involved the scaling of offense seriousness, a technique which improved the prediction of the dependent variable. These scaling efforts involved equating the mean of seriousness scale scores attributed to offense descriptions by a set of judges (usually, college students) to the seriousness of events under study. The measure of offense similarity employed in the present study is a scaled variable (SERIOUS), the use of which is largely analagous to these earlier efforts.

The Scaling of Offense Seriousness

Development of the seriousness scale proceeded in two stages. First, a brief description of the criminal behavior of every subject in the sample was recorded using information contained in the documentation of police and prosecutor investigations.[8] These initial descriptions bore several unique features which distinguish them from items used in other scaling efforts.

One characteristic of the offense seriousness scale is its representation of the entire offense episode. Although support for the legitimacy of the additivity of seriousness

scores for individual offenses has been offered by some researchers (see e.g., Wellford and Wiatrowski,1975), others have concluded that the separate scores of included events cannot be added together to accurately represent the overall severity of a particular sequence of events. For example, Gottfredson, Young and Laufer (1981) noted the presence of interaction effects in ratings of offense seriousness, particularly with regard to type of crime and amount of loss to the victim. In their study, they found that the amount of the loss contributed less to the overall seriousness score when the crime was a robbery than when the crime was a non-violent offense.

A second important feature of the offense descriptions employed in the current research is the inclusion of details that would be helpful to respondents' assessment of the offender's intent. Acknowledgements of the need to address the issue of intent in the scaling of offense seriousness have been limited and controversial. Reidel (1975) was the first to introduce the relevance of information about culpability to offense seriousness scaling, and to conclude that the introduction had only a marginal impact. Sebba (1980) undertook a similar endeavor, with very different results. Since Reidel's effort depended upon respondents' capacity to infer offender intent from a variety of external stimuli (e.g., availability of rewards for misbehavior), and Sebba's effort, upon the direct introduction of states of mind, the results achieved by the latter appear to be more convincing.

In reality, descriptions of events that are compiled by police and prosecutors do not describe offenders as acting "knowingly" or "recklessly", but they do contain details from which the intent of the offender may be inferred by the decision-maker. One of the most prominent examples noted in the present research was the use of the word "stab" in some official case descriptions versus the use of the term "cut" in others, when both sets of events involved the use of a knife and similar injury to the victim. Where injury to the victim is the same in both cases, use of the first word may confer to the rater a different level of intent than might the latter. In the present scaling effort, such critical terms were preserved in creating offense descriptions for rater's responses.

Where events involved the loss of money, the approximate amount of the loss was encompassed by the description. It is important to include such data, as the logarithmic relation of the perceived seriousness of theft with the value of goods or money taken has been demonstrated (Kern and Bales,1980:644; Figlio, 1975:195), and the amount of loss to the victim in robbery cases has been found to contribute, although in a diminished manner, to seriousness ratings with respect to robberies (Gottfredson, Young and Laufer,1981).

The feasibility of incorporating data concerning victims' receipt of physician and/or hospital attention in the offense was considered but rejected in favor of more explicit indicators of the extent of injury to victims. This choice was

based upon the belief that receipt of medical attention would be a more likely indicator of victim, rather than offense, characteristics. On this issue, Gottfredson (1976:127) notes:

> The conception of what constitutes injury requiring medical care may vary among victims to an unknown extent. It may be, for example, that variations in types of crimes are associated with victim characteristics which, in turn, are related to differential conceptions of the need for medical attention. In addition, the need for medical attention can in itself be quite heterogeneous, ranging from minor attention given to cuts, to extensive hospital care.

In place of the use of medical attention as an indicator of injury, the current effort incorporated extent of injury itself--for example, broken bones, bruises or damage to vital organs.[9] In addition to the features of the scaling instrument just described, items were created to reflect information relating to the extent of each offender's participation, in cases involving multiple offenders.

After descriptions were recorded for every case, redundancies among the offense descriptions were eliminated. Typically, redundancies were located among "simple" events, i.e., those involving only one illegal event (e.g., purse snatching) and were less likely to be found among "complex" events, i.e., those involving a series of illegal behaviors.

Like the original descriptions, revised items reflected variation along several dimensions (weapon use, injury, number of victims, loss to the victim and nature of the offender's participation), but underwent two additional adjustments. In order to be able to reduce the number of items to a feasibly

workable exercise of a number that would not intimidate or fatigue the respondent, categories were created that reflected broad variations in injury, loss and participation. For example, events involving stabbings leading to the receipt of forty stitches by the victim were grouped with those leading to the receipt of fifty stitches; events involving cuts with a knife leading to five stitches were grouped with those leading to ten, and so on. For each grouping, one item was created using an "average" number of stitches.[10] Dollar amounts of loss to the victim were similarly collapsed. In cases involving loss of goods, such as a radio, bicycle or car, type of good taken continued to be named in the item, as well as its respective value, when such information was available.

With respect to offender participation, a different criterion was employed in the creation of items. Originally, five roles--"driver or lookout", "unarmed participant at scene of crime", "armed participant at scene of crime", "unarmed participant engaging in attack upon the victim" and "armed participant engaging in attack" were identified. However, preserving such a fine distinction greatly impeded the effort to reduce the number of items to be included in the offense seriousness questionnaire. It was decided that the second and third categories would be collapsed when the offense involved a group of offenders entering a residence or commercial establishment in order to commit a robbery. In these cases, both the second and third types of participation were represented by a single item. In other words, a case involving

an offender accompanying someone with a gun who enters a bank, commercial establishment or residence and a case involving the armed offender himself were both represented by an item which began "A person with a gun..." Basically, the assumption being made was that persons who accompany armed individuals who force their way into the homes of others or who surround the cashier of an establishment without attempting to purchase any goods have not arrived at the scene of a crime inadvertently. In contrast, with respect to crimes taking place in open locations, participation consisting of "mere presence" introduces some degree of doubt regarding the actor's role in that situation. In these cases, the distinction was preserved.[11]

The entire set of descriptions was collapsed into two questionnaires, one consisting of 208 assault items and the other consisting of 201 robbery items. Since there is some evidence that respondents' perception of offense seriousness is affected by the ordering of individual questionnaire items, with the rated seriousness of items shifting toward the rated seriousness of preceding items (Evans and Scott,1984), questionnaire items were randomly ordered, using the Q-sort technique outlined by Stephenson (1953). According to this technique, which has been incorporated into the efforts of other researchers of offense seriousness (Reidel,1975; Figlio,1975), items are printed on individual cards which can be shuffled to ensure random ordering. Once in the hands of the respondent, the cards are sorted, or ordered, into

separate piles, each one representing a different degree of seriousness.

Actually, nonrandom ordering of events has been found to explain only minute, however statistically significant, amounts of variance. For example, Evans and Scott (1984) found that item order explained from one-half to two percent of variance for items in their study. Interestingly, the smaller amounts of variance explained were associated with violent offenses, encouraging a belief that the effects of item order will be minimized when violent offenses are the focus of the effort. However, since the current offense seriousness scale consists only of violent events, such a relation may not be presumed to hold true. Nonetheless, due to the unusual nature of this particular scaling instrument, which contains many items that initially appear very similar yet actually contain fine differences, a design which allows respondents to check their responses for internal consistency was regarded as more preferable to a more fixed questionnaire format.

At least two methods are available for eliciting scales from respondents (Sellin and Wolfgang,1964). One, referred to as categorical scaling, requires that respondents assign a value to each event, using as possible values a small set of numbers, usually ranging from one to eleven, with eleven representing the most serious value an item can take on. The other, referred to as magnitude scaling, allows respondents to assign any value they want to each of the items in a questionnaire. The conventional view has been that the latter

approach provides more information about the perceived seriousness of individual items (Sellin and Wolfgang,1964), because it is not "numerically constraining" (Figlio,1975:191; Kern and Bales,1980:638). In reality, categorical scales have been shown to be but logarithmic transformations of magnitude scales, in which distributions produced by the two scales "approximate each other across most of the offense stimuli" (Bridges and Lisagor,1975:220). Because categorical scaling is conducive to more straightforward coding and keypunching activities, it is the form of scaling that was employed in this study.

Respondents were asked to locate items along a scale with values ranging from 1 to 7, with 1 representing an event of least seriousness, and 7, most seriousness. The averages (means) of all respondents served as the values of the variable offense seriousness.

Within each questionnaire (assault and robbery), items were printed on individual sheets of paper cut small enough to encourage their quick handling by respondents. Bundles of items were accompanied by a set of seven labelled envelopes, each one corresponding to one of the values in the seriousness scale. Respondents were asked to read the descriptions and to place each item over the envelope which most closely represented their perception of that item's seriousness. They were instructed as well to review their initial sorting attempt and to make any adjustments they felt were necessary to ensure internal consistency within each envelope. Following

this review, respondents were to insert the separate piles of items into their respective envelopes, and return the questionnaire in its sorted form.[12]

The pool of potential respondents consisted of thirty-three prosecutors and six law clearks from the Union County Prosecutor's Office.[13] Nineteen assault questionnaires (actually, nineteen bundles of assault descriptions) and twenty robbery questionnaires (bundles of robbery descriptions) were randomly distributed to this group. Eighteen assault questionnaires, and all robbery questionnaires were completed.[14] The completed robbery scale, listed in order of descending seriousness, has been reproduced in Appendix D. The completed assault scale, listed in similar order, is reproduced in Appendix E.

Efforts to scale offense seriousness have not been without their methodological shortcomings. Miethe (1982:517) points out that the sole use of the mean as a measure of the seriousness of an event overlooks the potential for a high degree of individual variability in responses, and can be misleading. Yet some researchers (including Miethe, himself,1982; and Rossi et al.,1974) have discovered that variability is the more likely concomitant of less serious, as opposed to violent, offenses such as the ones that are the focus of this study.

Because of the relatively small number of respondents, it was not possible to address the issue of extreme variability in responses, and for this reason, no attempt was undertaken

to exclude items on this basis. Had a larger number of respondents been involved, it would have been possible to make more informed judgements based upon the consideration of such parametric statistics as the mode and the standard deviation from the mean. With a small number of respondents, a value could qualify as a mode following its selection by merely three or four respondents.

Actually, concern over variability may be overstated, since what is of real importance here is the order in which respondents place the items. Thus the critical question becomes, "How do respondents rate the behavior reflected in this particular item with respect to the behaviors reflected in all other items?" Viewed in this way, the absolute value assigned to each individual item diminishes in importance.

Another potential shortcoming of scaling efforts is the presence of instructional bias. Miethe (1982:519) points out that researchers may confuse personal perceptions of offense seriousness with perceptions of seriousness in the eyes of the law. In the present effort, instructions to respondents did not contain this kind of wording. During verbal instructions, each respondent was specifically told that what was solicited was his or her individual perception of the seriousness of the event, and not the reflection of office policy or the criminal code.

No effort was made to completely inform any respondent about the purpose of the questionnaires, because it was believed that some might scrutinize the items for those that

were potentially "juvenile" in nature, as opposed to those that were potentially "adult" in nature. Distinctions in seriousness might be then based upon the respondents' separation of the two groups. Thus, respondents were informed only that their questionnaires represented "all" robberies or assaults processed by Union County during the period under study.[15]

Additional Control Variables

Presented to this point is a simplified model of decision-making in the juvenile and criminal courts. The reality is that one or more other variables (in addition to COURT or SERIOUS) may affect charge or sentence severity, either in and of themselves or in interaction with other exogenous variables. Generally speaking, one would want to control for as many additional yet theoretically sound variables as possible.

The current effort centered around the collection of additional data on three categories of control variables. These concerned characteristics of the offender, the offense, and particular features of justice system processing (e.g., evidence).

In this study, social data such as family status, school, and employment were not collected, for two reasons. First, they are typically unavailable to prosecutors, whose decisions comprise one-half the focus of this research. Statistically controlling for such variables at this point may be presuming too much. Second, where social data are available, namely, to

judges at the time of sentencing, studies routinely demonstrate the relatively minor contribution of these items to sentencing decisions made within both the juvenile and criminal justice systems.[16]

A complete list of all variables and their respective values is provided in Appendix F; a description of their distribution according to crime and court of jurisdiction is provided in the next chapter. Certain variables underwent coding transformations during analysis; these revisions are discussed in later chapters.

Offender-related variables include the defendant's age (AGE), his race (RACE), and his criminal history (CONVICNO). In this study it was not possible to collect uniform prior record information for both juveniles and adults. In the case of juveniles, files contained data about prior referrals to court. The files of adults, on the other hand, contained records of both criminal arrests and convictions, but not indictments. While this may appear to present an awkward situation for analysis, that is actually not the case. While some researchers (Welch, Gruhl and Spohn,1984) have demonstrated the absence of sizeable associations between alternate measures of prior record, there is reason to believe that the same alternate measures display similar degrees of association with outcome variables.[17]

Process variables include three measures of evidentiary sufficiency: the presence of witnesses (WITNESS); the pretrial or pre-plea admission of guilt by the defendant (ADMIT); and

method of apprehension (CAUGHT). They include, as well, such characteristics of charging and conviction as number of charges at intake (CHARGES); number of counts at intake (COUNTS); number of charges and counts at conviction (OUTCHARG, OUTCOUNT); method of processing, e.g., plea or trial (METHOD); and reason for dismissal (DISMISS).

In the group of variables pertaining to the characteristics of the offense are number of accomplices (ACCOMPNO); number of victims (VICTIMNO); victim sex (VICSEX); victim-offender relationship (RELATION); extent of injury (INJURY); dollar amount of victim loss (PROPERTY); weapon use (WEAPON); location of the crime (PLACE); extent of participation by the offender (ROLE); and the use of verbal threats (THREATS). For descriptive purposes, values of most variables were established to allow as much detail as possible. (Certain variables, for instance, reason for dismissal, and location of the crime, were included in the study for no other reason than for their descriptive importance.) In later, multivariate analyses, values were collapsed to form dichotomies. The forms taken by these dichotomies are discussed in Chapters 6 and 7.

Analytic Method

The multivariate analytic method employed in the research was multiple regression,[18] a technique that focuses on the prediction of each dependent variable from linear combinations of sets of exogenous variables.

The choice of multiple regression as the main analytic tool for studying charging decisions was predicated chiefly on the need to measure the relative impacts of the variables court of jurisdiction and offense seriousness on charge and sentence severity, as well as to assess their impacts in relation to other exogenous variables. Inspection of each regression equation's standardized regression coefficients allows the researcher to estimate what proportion of a unit change in each exogenous variable is required to produce one unit change in the dependent variable, holding the contributions of other variables constant. In other words, the technique makes it possible to answer such questions as, "How much change in the variable COURT is needed to effect change in degrees of charging, and with what amount of accompanying change in SERIOUS (as well as other variables)? Multiple regression permits hierchical inclusion criteria, allows comparisons among standardized coefficients and produces F-statistics for significance testing.

The method has been incorporated in the present research with the exercise of caution. Strictly speaking, the technique assumes interval level data--i.e., data that can be meaningfully added and subtracted. This assumption is often violated in social science research because variables tend to be of nominal and ordinal classification, although the use of regression with nominal and ordinal variables has been shown to produce results as robust as techniques requiring less stringent assumptions (Gottfredson and Gottfredson,1979;

Greenberg, 1979:24). Nonetheless, it was possible to adapt most of the variables in this study to interval level status, through the creation of dummy variables.[19]

A less innocuous pitfall of regression methods stems from the failure to specify a causal model. Because multiple regression allows the researcher to merely enter all variables of interest into an analysis without first determining relations between their subsets, interaction effects may be overlooked, a situation which can lead to misleading estimates of R^2, or explained variation in the dependent variable. The potential for interaction effects is especially high when the data set is composed of observations about more than one population (Hanushek and Jackson,1977:127). This is certainly the case in the present research, in which at least four populations may be identified, namely, persons charged with assault, persons charged with robbery, juveniles and adults. The issue of interaction and its treatment is addressed in later chapters.

Notes

1 It parallels nationwide development because its indeterminate structure has been replaced (as of January 1, 1984) with a system that provides longer, presumptive penalties for serious offenses.

2 The issue of data availability for the study was largely a question of being granted access to juvenile court records. The task of obtaining permission began with the signed consent of the Union County Prosecutor, the Family Court Administrator, the Administrator of the Juvenile Detention Unit, and the Director of Juvenile Services; and ended with the successful review of the research proposal by the Supreme Court of the State of New Jersey. Authorization of access to juvenile court records in New Jersey is reproduced in Appendix A.

3 With attention to this very issue, Greenwood, Petersilia and Zimring (1984) found that access to the juvenile court histories of criminal court defendants across justice subsystems did not result in more severe penalties than in jurisdictions where such records were unavailable. In Union County, moreover, the review of the juvenile records of adult defendants by prosecutors is not automatic, as it is at the time of sentencing by criminal court judges. When questioned about the regularity of the review of juvenile records, criminal court prosecutors stated that a point was made to look at the juvenile files of young adult defendants charged with serious offenses, but not necessarily at any others.

4 Furthermore, the infrequence with which adults were charged with these crimes was rivaled by an even greater infrequence with which juveniles were charged.

5 Of course, it would have been possible to start both samples in 1980, but the proposed study is part of a larger study, for which additional data collection and analyses are planned that will center around the question of actual time served by juveniles and adults who are incarcerated. It was believed that the difference of three months, which would allow for more cases to achieve termination for the later stage of this study, would not pose significant threats to the present analysis.

6 As prescribed by the New Jersey Code of Criminal Criminal Justice, 2C:43-6, the presumptive sentence for a conviction on a first degree charge is a term between ten and twenty years; on a second degree, between five and ten years; on a third degree charge, between three and five years; and

for a fourth degree charge, a term not to exceed eighteen months.

7 A statutory definition of bodily injury is found in Appendix B. It is dissagregated into "bodily injury", which requires pain or general physical impairment, and "serious bodily injury", which requires substantial risk of death or impairment of a bodily organ. The definition does not provide its users with the criteria for making judgements about substantial risk of death.

8 This is somewhat similar to the methods employed by Wolfgang, Figlio and Sellin (1972), and Gottfredson (1981), who used police reports to develop descriptions of events. But because my research begins at the stage of prosecutorial decision-making, and because prosecutors employ their own investigators, the technique was modified to include all reports available to the prosecutor in order to develop as complete a picture of the event as possible.

9 A review of a large number of prosecutors' files indicates that in most cases investigators provide descriptions regarding the manner in which injuries occur (e.g., the victim was hit over the head), and in a smaller proportion of cases, the extent of the injuries (e.g., victim broke his leg, suffered a concussion, etc.). Offense descriptions were created to reflect the most detail possible.

10 However, special attention was paid to other details surrounding the injury. For example, knife wounds to the neck were <u>not</u> grouped with knife wounds to the leg or arm, because it was believed that this kind of difference might reflect varying degrees of offender intent in the eyes of the rater. Similarly, gunshot wounds to the chest or head were not categorized with those to the leg or arm.

11 In a small number of cases it was not possible to determine the exact nature of the offender's role. In these cases, precisely the same amount of information that was available to the prosecutor was presented in the item itself. Such an item would begin as follows: "A person is in a group of three individuals, one of whom punches another person in the face."

12 Written instructions, reproduced in Appendix C, accompanied each questionnaire. Questionnaires were distributed on an individual basis, and a verbal demonstration of the use of the questionnaire was presented at each distribution.

13 The thirty-three prosecutors do not represent the entire sample of prosecutors in the county. Omitted from consideration were the Chief Prosecutor, one assistant

prosecutor who was on vacation, and three assistant prosecutors involved in a death penalty case.

14 The division of the offenses under study in this research into two groups, and their scaling by two sets of respondents, may at first appear problematic. Some research on offense seriousness scaling indicates the contrary. Studies by Figlio (1975) and Rossi et al. (1974) produced results demonstrating that consensus is usually achieved with respect to the ordering of items, even when apparently heterogeneous populations are considered. Of course, two groups of prosecutors from the same office are not exactly heterogeneous populations.

15 Two respondents specifically asked if the descriptions reflected juvenile behavior as well as adult behavior, and their question was answered affirmatively. They asked no further questions, and their responses appeared no more remarkable than those of any other respondent.

16 Some of the evidence reflecting the priority of the influence of prior record in decisions made in the juvenile justice system has been reviewed in Chapter 1. With specific attention to the role of social factors, Cohen (1975) found that family situation was unrelated to disposition by the court in three counties; Bortner (1982) could attribute only minimal variance explained to drug involvement, school performance and family stability. For a review of evidence more directly targeted toward understanding the impact of legal variables in the criminal justice system, refer to Gottfredson and Gottfredson (1980:180-188).

17 See, for example, Table A-10 in Gottfredson and Gottfredson (1979:75), in which the correlations of ten measures of prior record (involving convictions, incarcerations and revocations) with the outcome variable ranged from .10 to .24. This study involved the prediction of parole failures using data on 4,500 persons paroled from federal institutions.

18 The software package employed in this research was the Statistical Package for the Social Sciences (SPSS).

19 Dummy variables, which convert each variable into a number of other variables having the attributes "1" and "0", permit the meaningful addition and subtraction of ordinal and nominal variables. The variable race, for example, may be converted into the variables "white", "black" and "other". Thus a particular defendant becomes one more white than he is a black or a member of another race.

Chapter 5
DESCRIPTION OF THE DATA SET

This chapter provides an overview of the study's data set. In a descriptive statistical treatment of each of the study's independent and dependent variables, it details the nature of the differences in the behaviors of juveniles and adults charged with assaults and robberies, and compares the manner of their processing by respective court systems.[1]

Offender Profile

Subjects of the study were 474 and 468 offenders from the juvenile and criminal courts, respectively. Of the 474 juveniles, 36 had been charged with both robbery and assault; among the 468 adults were 44 individuals charged with both offenses. When the sample is disaggregated by offense and court, there are 250 subjects for each offense-court combination.[2]

Offender-specific variables included in the data set were age, race and prior record. The youngest offender charged by the juvenile court in this study was seven years of age; the oldest charged by the criminal court was 69. Subjects in the juvenile court sample tended to be older youths; in the criminal court sample, young adults. The mean age of juveniles in the sample was 15.8; of adults, 25.9. The mean ages of juveniles charged with assaults and robberies, respectively, were indistinguishable from the average age of the aggregate population of juveniles, but adults charged with assault

tended to be somewhat older (X=27.6) than adults charged with robberies (X=23.9).

Table 5-1 summarizes the racial distribution of the sample. Disaggregation by jurisdiction only illustrates that minority status is distributed unevenly among the two courts, with a larger proportion of whites included in both offenses within the juvenile court, compared with the criminal court. Race appears most influential in the juvenile court with respect to assaults, where roughly half--45 percent--of the defendants were white. In contrast, only one-third of the adult population charged with assaults is white. The distribution along racial lines for the two jurisdictions with respect to robberies is less disparate, but interestingly, the proportion of whites is considerably less for juvenile robberies than for juvenile assaults. Here, the percentage of whites is only fifteen percent.

Since uniform prior record data were not available, a comparison of the two jurisdictions on the basis of a specific criminal history criterion was not possible. No matter what criterion is used, substantial proportions of defendants from both jurisdictions appear to have had limited justice system involvement, although appearances may be deceiving in the case of adults, for whom information on prior activity as juveniles is lacking.

The prior delinquent activity of the juveniles in the sample is reflected by the number of times the individual had been referred to the juvenile court. For 43 percent of all

TABLE 5-1 Percent Distribution of Race of Assault and Robbery Defendants, by Crime and Court of Jurisdiction [a]

	Juvenile Court			Criminal Court		
Weapon	Assault	Robbery	Total	Assault	Robbery	Total
White	44.1 (93)	12.2 (30)	27.7 (119)	33.7 (82)	23.8 (59)	29.2 (134)
Non-White	55.9 (118)	87.8 (215)	72.3 (311)	66.3 (161)	76.2 (189)	70.8 (325)
Total	100.0 (211)	100.0 (245)	100.0 (430)	100.0 (243)	100.0 (248)	100.0 (459)

[a] Figures in parentheses represent number of cases.

juveniles, the present referral represented the subject's first contact with the court. For the entire sample of juveniles, the mean number of referrals was 3.5. Juveniles charged with assaults tended to have slightly longer records of referrals (X=3.7) than those charged with robbery (X=3.4).

The prior record of adult offenders is summarized by both number of arrests and number of convictions.[3] For approximately half of the adults in the sample, involvement with the criminal justice system had been minimal. The mean number of arrests for the aggregate population was 5.6, but 52 percent of the adult sample had experienced three or fewer arrests. For one-quarter, the present arrest was the first. Adults charged with robbery accumulated a slightly higher arrest record (X=5.8) than those charged with assault (X=5.3).

Just under one-half of the adults studied had never encountered a conviction. The average number was 4.8, with 44 percent of the adult sample encountering no convictions. Little disparity was noted among adults charged with assault and adults charged with robbery with respect to records of convictions (X=4.8, for assaults; X=4.9, for robberies).

Offense Seriousness

Offense seriousness scores represent the average of the the weights (values from one to seven) assigned by Union County prosecutors to brief descriptions of assaults and robberies committed by juveniles and adults in the sample.

With respect to both offenses, scores assigned to the behaviors of juveniles and adults indicate that on the whole, offenses committed by the former are regarded as of a less serious nature than those of the latter. On a scale ranging from one to seven, the mean of scores assigned to robbery items involving adults was 4.834, compared with a mean robbery score for juveniles, of 3.923. Much greater distance was exhibited between average scores for assaults, in which the mean for adults was 4.766, and for juveniles, 3.022.

To facilitate comparisons, all seriousness scores were recoded in one of six categories, which ranged in value from one (representing a score of least seriousness) to six (representing a score of most seriousness). Figure 5-1 depicts the distribution of scores for assaults and robberies for the two courts. While patterns of distribution differ across offenses, it is clear that the majority of both assaults and robberies by juveniles have been assigned scores that fall within the bottom (least serious) two-thirds of the range, and that the reverse is true for adults.

Figures 5-2 and 5-3 reveal that the strength of the association between rated offense seriousness and court of jurisdiction differs from assaults to robberies, but that the direction of the relation remains the same. The greatest disparity between the two courts is evident among ratings of assaults, where nearly all juvenile behaviors fall within the bottom half of the range, and nearly all adult behaviors, within the top half. Scores for robberies committed by

Figure 5-1 Percent Distribution of Offense Seriousness Scores Assigned to the Behaviors of Assault and Robbery Defendants (Combined), by Court of Jurisdiction

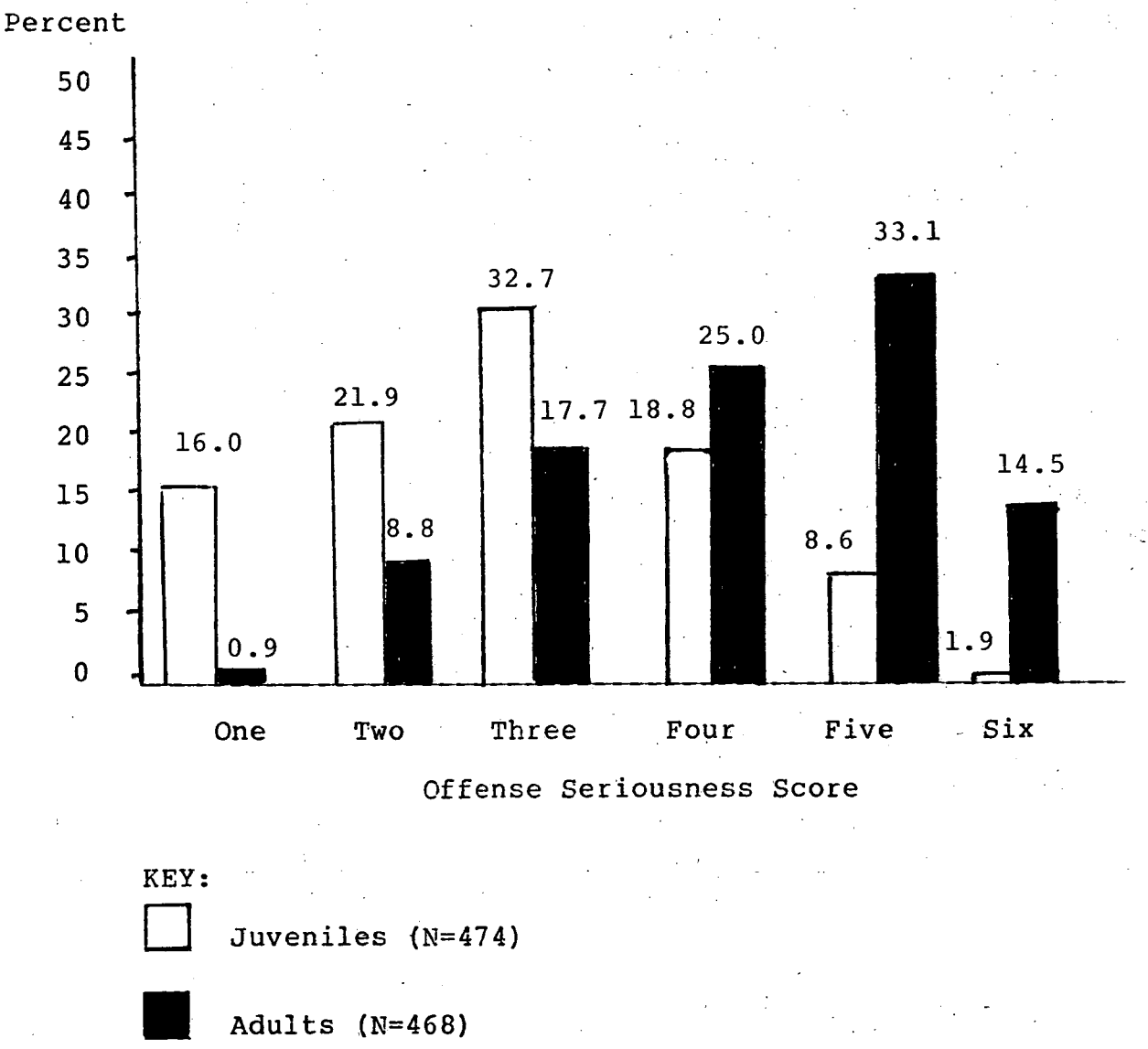


Figure 5-2 Percent Distribution of Offense Seriousness Scores Assigned to the Behaviors of Assault Defendants, by Court of Jurisdiction

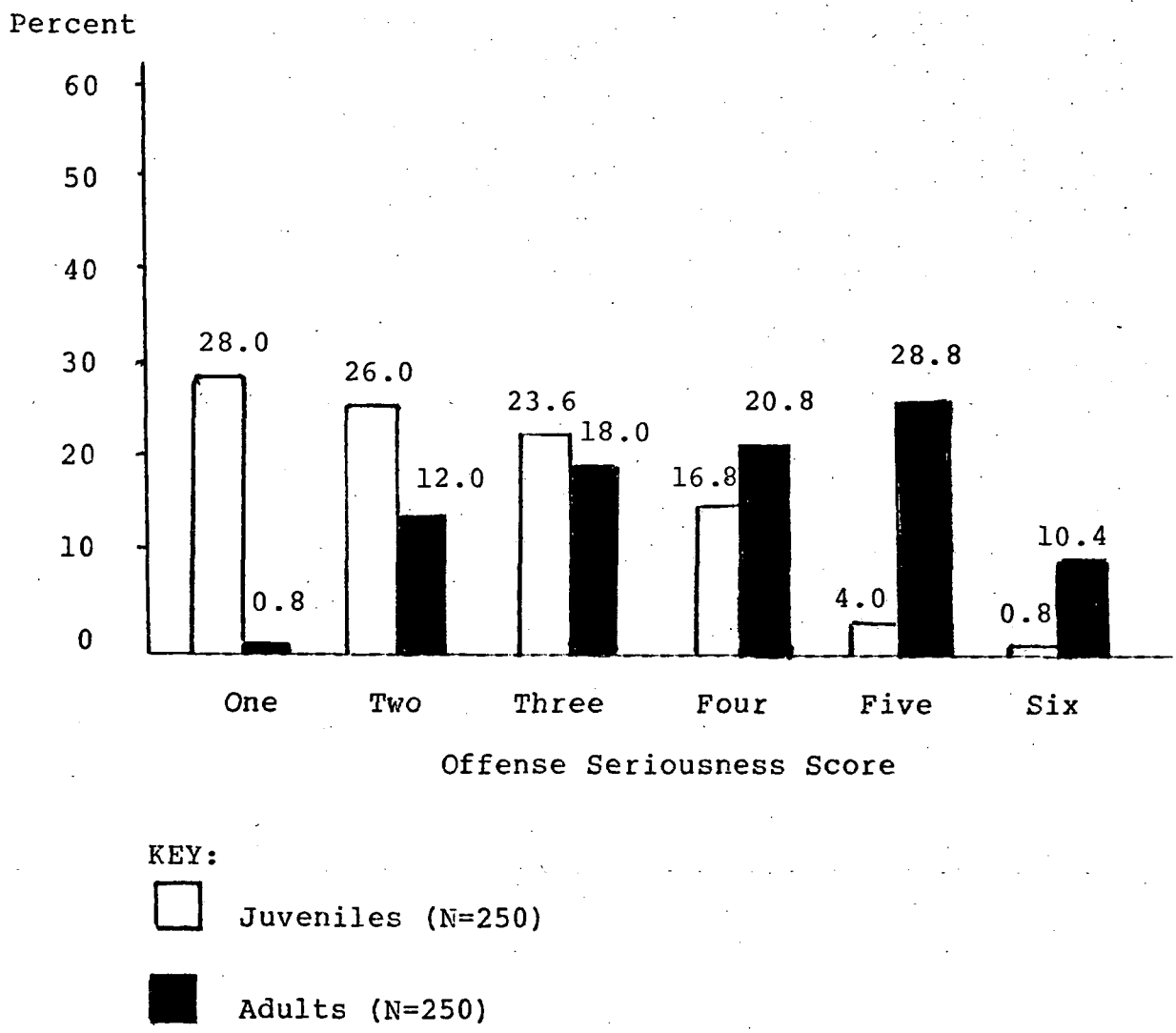
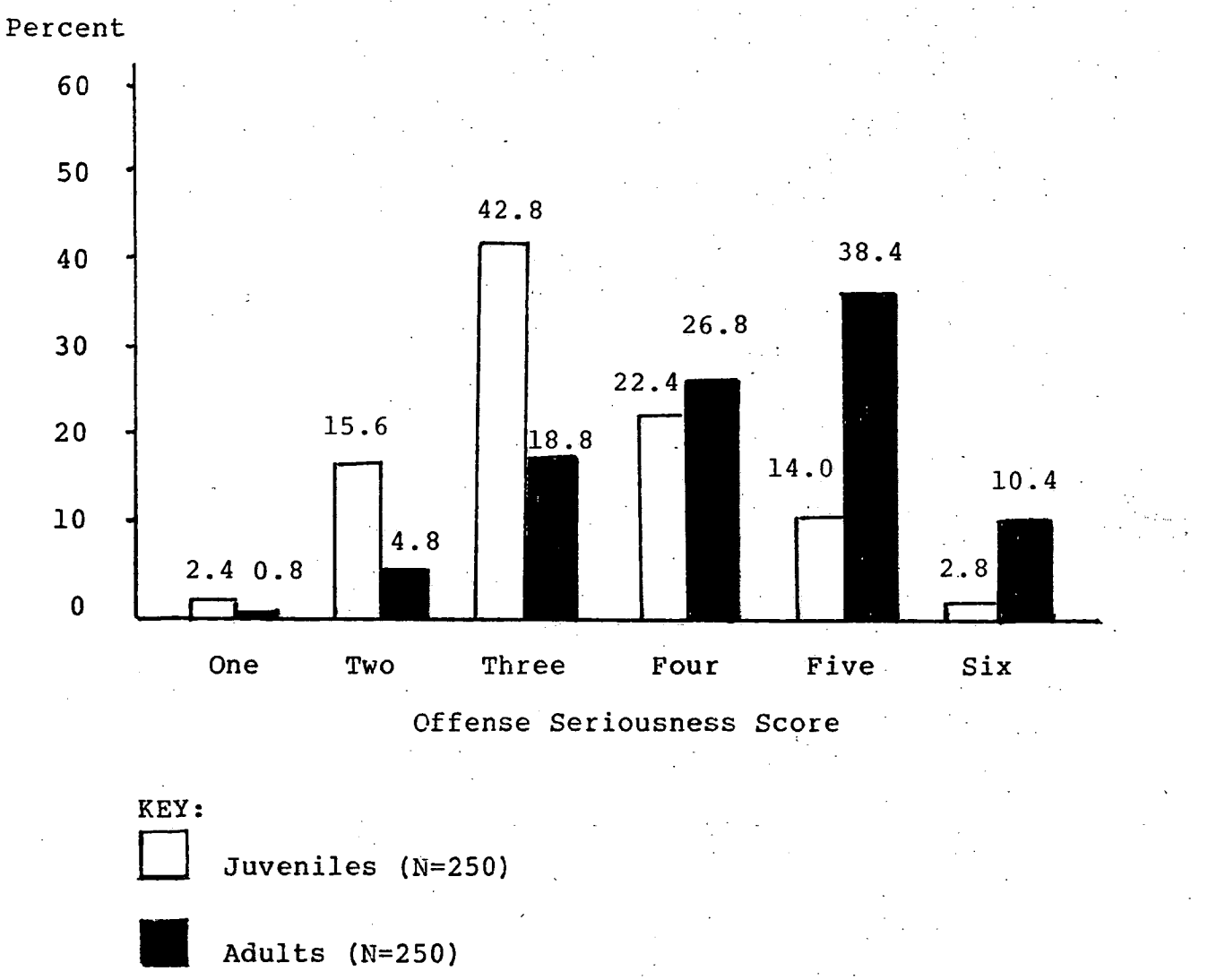


Figure 5-3 Percent Distribution of Offense Seriousness Scores Assigned to the Behaviors of Robbery Defendants, by Court of Jurisdiction



juveniles more closely approximate a normal distribution, but one that is negatively skewed, with nearly half of the juvenile behaviors ranging from one to three. By contrast, robberies by adults continue to dominate the upper half of the range.

What were the features of the behaviors of juveniles that helped to set them apart from the behaviors of adults? This question is addressed in detail in the following section, but a potential answer can be detected here. Since a limited number of offense characteristics (number of victims, level of offender participation, extent of injury to victims, weapon use and loss to victims) were coded apart from their representation in questionnaire items, it was possible to probe associations between offense characteristics and seriousness ratings.

By far the most substantial of the zero-order correlations when all items are considered together is the relation between seriousness, and a version of the variable WEAPON called KNIFEGUN, coded to reflect presence of either a knife or a gun. The simple correlation between KNIFEGUN and SERIOUS for the sample as a whole was .71.[4] The relation between SERIOUS and an alternate version of weapon use--gun use alone (GUN)--was not as strong, but still substantial, at .56.

The variable demonstrating the next most substantial association with rated seriousness was the degree of offender participation (ROLE). When the values of ROLE were

trichotomized[5] as driver or lookout (value=1); no weapon used/ no injury caused (value=2); and weapon employed and/or injury caused (value=3), the association between ROLE and SERIOUS is .34.

When all items were considered, neither extent of injury (coded as none=0, minor=1, beatings/broken bones=2, rapes, stabbing or shooting=3, and death=4), number of victims nor value of property taken bore more than low associations with the seriousness score (values of r for the three variables were .16, .14, and .14 respectively).[6] Overall, these associations suggest that raters are likely to judge as most grave those events that involve at least the threat of serious injury (as when a firearm or knife is involved), whether or not serious injury actually takes place.

Characteristics of the Offense

This section distinguishes the behaviors of adults from those of juveniles on the basis of individual characteristics of the victimization event.[7]

Weapon use. For each defendant, record was made of whether the offense involved a weapon, and if it did, whether the weapon was a firearm or alledged firearm, knife, object or other destructive device. A case was coded as involving a firearm if at least a firearm was involved, whether or not other kinds of weapons were involved. A case was coded as involving a knife if one were involved, whether or not the event involved any other weapon but a firearm. Similarly, a case was coded as involving an object if an object, but no gun

or knife, was used in the offense. Most often included in the category called objects were tools, rocks, baseball bats and furniture (e.g., chairs). "Other" weapons included ropes and automobiles.

Patterns of weapon use are presented in Table 5-2. Two clear pictures of weapon use--one for juveniles, and one for adults--emerge from this data. Juveniles charged with assaults and robberies tended to commit crimes without weapons; where weapons were employed, more often than not they were objects. In marked contrast, adults tended to employ weapons in the commission of their offenses; in the overwhelming majority of these events, the weapon was a firearm.

More than half of the juveniles charged with either offense participated in a crime that did not involve any weapon. By contrast, this proportion is just under one-quarter for adults. In both assaults and robberies, guns were carried by charged adults more than any other weapon. Firearms were present in fifty-one percent of assaults involving weapons, and, taking into consideration the contribution of a small proportion of alleged guns, in fifty-eight percent of robberies in which weapons were involved.

For juveniles as a whole, firearms accounted for twenty percent of weapons carried, but unlike offenses committed by adults, the presence of a gun is highly sensitive to crime category. The proportion of weapon use attributable to firearms climbs to 37 percent of youths charged with robberies, but comprises only five percent of those charged

TABLE 5-2 Percent Distribution of Weapon Use by Assault and Robbery Defendants, by Crime and Court of Jurisdiction [a]

	Juvenile Court			Criminal Court		
Weapon	Assault	Robbery	Total	Assault	Robbery	Total
None	57.9 (143)	62.0 (152)	60.7 (283)	23.7 (8)	24.7 (1)	24.5 (113)
Handgun	2.0 (5)	13.9 (34)	7.9 (37)	38.8 (95)	43.7 (108)	40.9 (189)
Knife Only	11.3 (8)	14.7 (36)	11.8 (55)	22.4 (55)	13.4 (33)	17.5 (81)
Alleged Gun	0.4 (1)	3.2 (8)	2.0 (9)	0.8 (2)	9.7 (24)	5.6 (26)
Object	27.5 (68)	6.1 (15)	17.2 (80)	27.7 (26)	4.9 (12)	7.6 (35)
Other	0.8 (2)	0.0 (0)	0.4 (2)	3.7 (9)	3.6 (9)	3.9 (18)
Total	100.0 (247)	100.0 (245)	100.0 (466)	100.0 (245)	100.0 (247)	100.0 (462)

[a] Figures in parentheses represent numbers of cases.

with assaults. Nonetheless, given the higher of the two figures, firearm use by juveniles is far outstripped by that of adults, whose rate of gun use in robberies exceeds that of the former by more than half.

Extent of injury. Values for the variable INJURY included no injury, minor injury (cases involving bruises or lacerations), beatings, broken bones, stabbings or shootings, rapes and deaths. Cases involving a combination of injuries (e.g., blows to the body, and stabbing) were coded as the most serious injury (stabbing). "Other" injuries included mostly puncture wounds and incisions committed with objects.[8]

As illustrated in Table 5-3, juveniles and adults in the sample exhibited very different patterns with respect to victim injury. Juveniles were more likely than the adults to cause injury, but only rarely were the injuries they caused of a life-threatening nature (i.e., stabbings, shootings, death). Adults, by comparison, were less likely to cause injury, but were responsible for the majority of life-threatening behaviors.

Eighty-six percent of juveniles charged with assaults and 58 percent of those charged with robberies injured their victims. The rate of injury in assaults only slightly exceeded that effected by adults charged with assaults (77 percent of defendants); but much more substantially exceeded the rate of injury by adults charged with robbery (43 percent of defendants).

TABLE 5-3 Percent Distribution of Extent of Injury Caused by Assault and Robbery Defendants, by Crime and Court of Jurisdiction [a]

Extent of Injury	Juvenile Court			Criminal Court		
	Assault	Robbery	Total	Assault	Robbery	Total
No Injury	14.1 (34)	41.9 (103)	29.9 (134)	22.8 (54)	59.5 (132)	43.0 (193)
Minor	9.1 (22)	13.1 (32)	12.1 (54)	3.0 (7)	10.7 (23)	6.9 (31)
Punched/ Beaten	70.5 (170)	38.2 (94)	54.7 (245)	38.0 (90)	18.5 (41)	25.4 (114)
Broken Bones/ Teeth	0.0 (0)	2.0 (5)	1.1 (5)	0.4 (1)	0.0 (0)	0.2 (1)
Stabbed/ Shot	2.5 (6)	1.2 (3)	1.6 (7)	26.6 (63)	0.9 (2)	14.5 (65)
Rape	0.4 (1)	0.8 (2)	0.4 (2)	0.8 (2)	2.7 (6)	1.8 (8)
Death	0.0 (0)	1.2 (3)	0.7 (3)	3.0 (7)	4.5 (10)	3.8 (17)
Other	3.3 (8)	1.6 (4)	2.7 (12)	5.5 (13)	3.6 (8)	4.5 (20)
Total	100.0 (241)	100.0 (246)	100.0 (448)	100.0 (237)	100.0 (222)	100.0 (449)

[a] Figures in parentheses represent numbers of cases.

Where injuries were of a more serious nature, i.e., involving stabbing or shooting, rape or death, the prevalence of the involvement of adults in their commission is obvious. Considering assaults and robberies together, adults engage in behaviors leading to these injuries at a rate seven and one-half that of the juveniles in the sample.

Use of accomplices. Data were collected about this variable because victimizations involving multiple offenders may be perceived as posing a greater threat of harm to the victim than those involving lone offenders.

Table 5-4 displays the use of accomplices by crime and court of jurisdiction. Juveniles charged with assaults and robberies were more likely than adults to have had accomplices, but the difference between the two groups is not substantial.

While nearly half of the adult defendants in the sample worked alone, compared with just 38 percent of juveniles, the groups more closely approximate each other with respect to the use of one and two accomplices. Roughly one-quarter of each group committed the offense in the company of another offender. Smaller but similar proportions of juveniles and adults (18 and 15 percent, respectively) were found to be accompanied by two other individuals. Only where four or more accomplices are involved do the differences between the two groups become more noticable (juveniles worked with four or more accomplices at over four times the rate of adults) but the relation reflects only a small number of cases. Persons

TABLE 5-4 Percent Distribution of Use of Accomplices by Assault and Robbery Defendants, by Crime and Court of Jurisdiction [a]

Victim-Offender Relationship	Juvenile Court			Criminal Court		
	Assault	Robbery	Total	Assault	Robbery	Total
None	57.0 (135)	15.4 (38)	37.6 (172)	65.3 (162)	35.7 (89)	50.8 (236)
One	81.1 (43)	34.1 (84)	26.2 (120)	19.4 (48)	32.1 (80)	25.4 (118)
Two	9.7 (23)	26.4 (65)	17.5 (80)	6.9 (17)	22.5 (56)	15.3 (71)
Three	7.2 (17)	13.0 (32)	9.4 (43)	4.0 (10)	8.4 (21)	6.0 (28)
Four or More	8.0 (19)	11.0 (27)	9.4 (43)	4.4 (11)	1.2 (3)	2.6 (12)
Total	100.0 (237)	100.0 (246)	100.0 (458)	100.0 (248)	100.0 (249)	100.0 (465)

[a] Figures in parentheses represent numbers of cases.

charged with robberies were more likely to have employed accomplices than those charged with assault, but differences across court for each offense are not unlike those for both offenses combined. A finding that two-thirds of adults charged with robberies employed accomplices is particularly interesting, in light of a suggestion that juveniles "compensate" for being unarmed (i.e., increase the threat of harm to the victim) by committing robberies in groups (Conklin,1972).

Extent of offender participation. Categories reflecting the extent of each subject's involvement have been outlined above.[9] The purpose in collecting data about offender participation was to establish a statistical control for participation given that some events involve more than one offender.

Table 5-5 depicts the distribution of offender roles by crime and court of jurisdiction. Considering both offenses, the most often engaged-in role by juveniles (consisting of 48 percent of defendants) is that of an offender who is present at the crime scene and who promotes injury to the victim. Adults, who as a whole group are more widely dispersed among roles, are most likely (33 percent of cases) to be present with a weapon, but uninvolved in victim injuries--a role adopted by only ten percent of juveniles. However, adults chose the role of the weapon-carrying, injury-causing offender at twice the rate of juveniles (22 percent versus 11 percent). When proportions of defendants engaged in the most threatening

TABLE 5-5 Percent Distribution of Extent of Participation in Assaults and Robberies, by Crime and Court of Jurisdiction [a]

Extent of Participation	Juvenile Court			Criminal Court		
	Assault	Robbery	Total	Assault	Robbery	Total
Driver or Lookout	0.1 (1)	3.0 (7)	1.6 (7)	0.8 (2)	6.8 (16)	4.0 (18)
Participant No Weapon/ No Injury	14.0 (34)	49.0 (115)	30.7 (138)	7.0 (17)	28.4 (67)	17.6 (79)
Participant with Weapon/ No Injury	7.0 (17)	11.0 (26)	9.6 (43)	23.4 (57)	42.4 (100)	32.7 (147)
Participant No Weapon/ Injury	62.0 (150)	32.5 (76)	47.6 (214)	32.8 (80)	14.8 (35)	23.8 (107)
Participant with Weapon/ Injury	16.5 (40)	4.3 (10)	10.7 (48)	36.0 (88)	7.6 (18)	22.0 (99)
Total	100.0 (242)	100.0 (234)	100.0 (450)	100.0 (244)	100.0 (236)	100.0 (450)

[a] Figures in parentheses represent numbers of cases.

of roles, involving weapon use and/or injury, are added together, one sees that the difference between the two groups is not large: 68 percent of juveniles fit this description, compared with 79 percent of adults.

The most substantial proportion of juveniles (49 percent) charged with robberies reflects offenders who are present at the scene of the crime, who do not carry weapons, and who do not cause injury. In contrast, although a substantial proportion of adults charged with robberies (42 percent) do not cause victim injury, they are nonetheless armed.

The role exercised most often by juveniles charged with assaults is that of the unarmed, injury-causing offender (62 percent of cases). The role most often exercised by adults so charged, on the other hand, is that of the armed, injury-causing offender (36 percent of defendants), followed closely by participation in an unarmed, injury-causing role (33 percent of defendants).

Taking into consideration what might be viewed as the most threatening levels of participation--i.e., weapon-carrying and/or injury-causing activities--the difference between juveniles and adults charged with assaults is slight (86 percent of juvenile defendants versus 92 percent of adult defendants fit this description) but much more substantial with regard to those charged with robberies (48 percent versus 65 percent).

Loss to victims. Table 5-6 displays distribution of the value of losses to victims incurred during robberies promoted

TABLE 5-6 Percent Distribution of Value of Victim Loss Caused by Robbery Defendants, by Court of Jurisdiction [a]

Value of Victim Loss	Jurisdiction			
	Juvenile Court		Criminal Court	
$ 0[b]	26.9	(58)	15.7	(32)
$ 1- 10	17.1	(37)	5.4	(11)
$ 11- 50	21.3	(46)	16.2	(33)
$ 51-100	16.2	(35)	7.4	(15)
$101-200	10.2	(22)	22.1	(45)
$201-500	5.1	(11)	16.2	(33)
Over $500	3.2	(7)	17.2	(35)
Total	100.0	(216)	100.0	(204)

[a] Figures in parentheses represent numbers of cases.

[b] Includes attempts.

by the juveniles and adults in the sample. Larger losses are associated with criminal court defendants, but this relation does not appear as strong as might be expected.[10] Nonetheless, almost half (47 percent) of the robberies by juveniles resulted in losses no greater than ten dollars, compared with only 21 percent of robberies by adults. Conversely, in more than one-half of robberies by adults, losses exceeded 100 dollars, an amount taken by less than one-fifth of the juveniles.

Victim characteristics. The number of victims involved per offense, victim gender and victim-offender relationship were victim-related variables included this study.

Table 5-7 presents the distribution of number of victims by crime and court of jurisdiction. Both with respect to assaults and robberies, offenses committed by adults were more likely to involve multiple victims than those committed by juveniles. While defendants from both courts tended to commit their offenses around lone victims, nearly one-third of adults were charged with offenses involving more than one victim, a rate double that of the juveniles in the sample.

With respect to the gender of the victim, subjects were recorded as having victimized a male, a female, or--in cases involving multiple victims--both male and female. Table 5-8 illustrates an association that displays sensitivity to changes in crime and court. Whereas substantial proportions of both adults and juveniles charged with assaults involved only male victims (80 percent and 71 percent, respectively), nearly

TABLE 5-7 Percent Distribution of Number of Victims of Assault and Robbery Defendants, by Crime and Court of Jurisdiction [a]

Number of Victims	Juvenile Court			Criminal Court		
	Assault	Robbery	Total	Assault	Robbery	Total
One	79.8 (190)	85.4 (210)	84.1 (385)	67.4 (159)	68.7 (156)	69.1 (297)
Two	16.0 (38)	13.0 (32)	13.3 (61)	20.3 (48)	25.1 (57)	22.6 (97)
Three	4.2 (10)	1.6 (4)	2.6 (12)	7.2 (17)	5.3 (12)	5.8 (25)
Four or More	0.0 (0)	0.0 (0)	0.0 (0)	5.1 (12)	0.9 (2)	3.0 (13)
Total	100.0 (238)	100.0 (246)	100.0 (458)	100.0 (236)	100.0 (227)	100.0 (430)

[a] Figures in parentheses represent numbers of cases.

TABLE 5-8 Percent Distribution of Sex of Victims of Assault and Robbery Defendants, by Crime and Court of Jurisdiction [a]

Sex of Victim	Juvenile Court			Criminal Court		
	Assault	Robbery	Total	Assault	Robbery	Total
Male Victim	79.6 (191)	75.4 (184)	76.8 (354)	71.3 (176)	51.4 (126)	61.6 (284)
Female Victim	15.4 (37)	22.3 (55)	19.7 (91)	16.6 (41)	29.8 (73)	23.4 (108)
Male and Female Victim	5.0 (12)	3.2 (8)	3.5 (16)	12.1 (30)	18.8 (46)	15.0 (69)
Total	100.0 (240)	100.0 (247)	100.0 (461)	100.0 (247)	100.0 (245)	100.0 (461)

[a] Figures in parentheses represent numbers of cases.

one-half of adults charged with robbery victimized females, compared with only one-quarter of juveniles.[11]

If victimization by strangers is indicative of acts more grave than ones committed by persons known to the victim, then with respect to relationship with their victims, adults in this sample were responsible for a larger proportion of more serious behaviors than were juveniles.

Table 5-9 portrays the distribution of victim-offender relationships for the defendants in this sample. Adults charged with assault victimized strangers at a rate (35 percent) twice as high as juveniles, and were two-thirds more likely to victimize police officers than were the latter. While strangers were the victims of choice for a large majority of both juveniles and adults charged with robberies, persons known to the offender were victimized by charged juveniles at approximately twice the rate of victimizations by charged adults in both assaults (60 percent versus 31 percent) and robberies (24 percent versus eleven percent).

Use of threats. Data on the use of verbal intimidation during assaults and robberies are presented in Table 5-10. Cases were noted as either involving no threats, threats of shooting or stabbing, threats of death, or "other" threats, which included miscellaneous threats of harm (beatings, mostly) against the victim or family members. As the Table indicates, although verbal intimidation is likely not to be a part of the behavior of either juvenile or adult defendants involved in assaults and robberies, adults nonetheless engaged

TABLE 5-9 Percent Distribution of Victim-Offender Relationships in Assaults and Robberies by Crime and Court of Jurisdiction [a]

Victim-Offender Relationship	Juvenile Court			Criminal Court		
	Assault	Robbery	Total	Assault	Robbery	Total
Stranger	18.4 (44)	75.8 (179)	51.8 (211)	35.4 (86)	85.5 (213)	71.6 (275)
Known to Offender	59.8 (143)	23.7 (56)	41.2 (185)	30.9 (75)	11.2 (28)	20.8 (96)
Relative or Spouse	4.2 (10)	0.4 (1)	2.4 (11)	4.6 (11)	0.8 (2)	2.8 (13)
Police Officer	15.5 (37)	0.0 (0)	8.2 (37)	25.5 (62)	1.6 (4)	14.3 (66)
Other	2.1 (5)	0.0 (0)	1.1 (5)	3.7 (9)	0.8 (2)	2.4 (11)
Total	100.0 (239)	100.0 (236)	100.0 (449)	100.0 (243)	100.0 (249)	100.0 (461)

[a] Figures in parentheses represent numbers of cases.

TABLE 5-10 Percent Distribution of Use of Verbal Threats by Assault and Robbery Defendants, by Crime and Court of Jurisdiction [a]

Type of Threat	Juvenile Court			Criminal Court		
	Assault	Robbery	Total	Assault	Robbery	Total
No Threat	79.3 (188)	77.4 (185)	79.3 (357)	72.9 (175)	67.5 (160)	70.5 (313)
Threatened w/ Shooting or Stabbing	4.2 (10)	5.0 (12)	4.0 (18)	7.1 (17)	13.1 (31)	10.6 (47)
Threatened w/ Death	8.0 (19)	9.6 (23)	8.2 (37)	16.3 (39)	15.6 (37)	15.3 (68)
Other Threats	8.4 (20)	7.9 (19)	8.4 (38)	3.8 (19)	3.8 (9)	3.6 (16)
Total	100.0 (237)	100.0 (239)	100.0 (450)	100.0 (240)	100.0 (237)	100.0 (444)

[a] Figures in parentheses represent number of cases.

in threat-making more often than juveniles. Thirty percent of adult defendants were involved in crimes in which threats were projected, compared with only 21 percent of juvenile defendants. Responsibility for the most serious of threats belonged with the adult defendants, who were two and one-half times more likely to threaten their victims with stabbing or shooting than were juveniles, and nearly twice as likely to threaten death. Juveniles, on the other hand, threatened beatings at twice the rate of their adult counterparts.

Location of the offense. One remaining offense-related variable is the location of the victimization, depicted in Table 5-11. Not surprisingly, two very different patterns--one for adults and one for juveniles--emerges.

Whether the offense is an assault or a robbery, juveniles are least likely to commit their crimes indoors. Over two-thirds of the robbery defendants were involved in offenses that took place on the street or in parking lots, a rate double that of adult defendants, a substantial proportion of whom--47 percent--were involved in robberies in commercial (e.g., stores, gas stations, fast-food restaurants) establishments. Beyond commercial establishments, adult robbers were most likely found on the street, as well (one-third of the time) but also in the residences of others (eight percent of cases). Beyond the street, juveniles were most likely found in the school (15 percent of cases) and in commercial establishments at a rate of seven percent. These findings suggest that robberies by adults require more

TABLE 5-11 Percent Distribution of Location of Crimes Committed by Assault and Robbery Defendants, by Crime and Court of Jurisdiction [a]

Location of Crime	Juvenile Court			Criminal Court		
	Assault	Robbery	Total	Assault	Robbery	Total
Street/ Parking Lot	43.3 (101)	68.9 (164)	57.4 (256)	47.1 (113)	33.3 (83)	40.3 (183)
Comm. Estab.	7.3 (17)	7.1 (17)	6.7 (30)	14.2 (34)	46.6 (116)	30.2 (137)
School	20.6 (48)	14.7 (35)	17.0 (76)	1.7 (4)	3.6 (9)	2.0 (9)
Residence	14.6 (34)	0.8 (12)	8.1 (36)	26.3 (63)	8.0 (20)	17.6 (80)
Other	14.2 (33)	8.4 (20)	11.0 (49)	10.8 (26)	9.2 (23)	9.9 (45)
Total	100.0 (233)	100.0 (238)	100.0 (446)	100.0 (240)	100.0 (249)	100.0 (454)

[a] Figures in parentheses represent number of cases.

planning as well as greater threats of force than those committed by juveniles. They may require more planning, if settings (e.g., banks, stores) are accessible during limited periods of time, and if care must be exercised to minimize the number of persons (e.g., personnel and customers) who could intervene in a victim's behalf. They may require greater threats of force, if it is not possible to anticipate or control numbers of other parties who might interrupt a crime in progress. As for juveniles, the findings suggest, but similarly do not compel one to believe, that robberies are largely muggings, requiring no more than spontaneity and not as much threat of force.

Process Characteristics

This section addresses the distribution of the study's independent variables--charge severity and sentence severity--with respect to the two courts of jurisdiction and distinguishes the two groups as well on the basis of justice system variables (evidence and method of disposition) which are employed as statistical controls in later analyses.

Evidence. Measures of evidentiary sufficiency encompass method of apprehension (CAUGHT), admission of guilt by defendants (ADMIT), and witness availability (WITNESS).

Table 5-12 displays percent distribution of methods of apprehension in assaults and robberies for each of the two jurisdictions. The three methods most commonly employed included apprehension at the scene of the crime, apprehension in the vicinity of the crime scene shortly following the

TABLE 5-12 Percent Distribution of Methods of Apprehension of Assault and Robbery Defendants, by Crime and Court of Jurisdiction [a]

Method of Apprehension	Juvenile Court			Criminal Court		
	Assault	Robbery	Total	Assault	Robbery	Total
Vicinity of Crime	9.8 (21)	40.9 (85)	24.7 (99)	16.8 (37)	36.6 (78)	26.2 (107)
Identification by Victim	47.2 (101)	37.0 (77)	42.6 (171)	18.6 (41)	39.9 (85)	28.2 (115)
At Scene of Crime	40.2 (86)	13.0 (27)	27.7 (111)	60.0 (132)	6.1 (13)	34.8 (142)
Other	2.8 (6)	9.1 (19)	5.0 (20)	4.5 (10)	4.7 (10)	10.8 (44)
Total	100.0 (214)	100.0 (208)	100.0 (401)	100.0 (220)	100.0 (213)	100.0 (408)

[a] Figures in parentheses represent number of cases.

offense and positive identification by the victim. The last includes photo or in-person line-ups at police headquarters, but also encompasses cases in which apprehension was made because the offender was known to the victim.

Unlike apprehension in the vicinity of the crime and identification by the victim, which may furnish only circumstantial or testimonial evidence, apprehension at the scene of the crime can provide direct evidence linking a particular individual to the commission of an offense. Overall, it accounts for just over one-third of the apprehensions of adults, and slightly more than one-quarter of the apprehensions of juveniles, but this is a misleading picture. As Table 5-12 indicates, the variable is highly sensitive to changes in offense as well as court of jursidiction. For example, it plays a prominent role in cases charged with assault, but is the least likely mode of apprehension in robberies. Juvenile robbers are twice as likely as adults to be caught in the act, whereas adults charged with assaults are 50 percent more likely than juveniles to be apprehended in this manner. All things considered, with respect to method of apprehension, the criminal justice system needs to rely less on circumstantial evidence than does the juvenile justice system. Interestingly, across the two jurisdictions, rates of apprehension in the vicinity of the crime scene account for substantial proportions of cases as well as approximate each other, but the rate of "vicinity" apprehensions for adults charged with

assaults is over fifty percent greater than it is for juveniles so charged. This is an interesting finding, in light of the promotion of a "group hazard" hypothesis which suggests that juveniles, by virtue of their affiliation with groups known to the police, are subject to a higher probability of apprehension on such circumstantial grounds as these (Erickson,1973).

Subjects were coded as admitting to guilt if their files contained signed waivers of their fourth amendment rights, and if the transcripts of their admission were contained therein.[11] Rates of admission for the two offenses by court are displayed in Table 5-13, where it is obvious that with respect to either crime, adults exhibit a greater likelihood of admitting guilt in pretrial stages than do juveniles. Almost 38 percent of adults charged with robbery admit to involvement, a figure that is nearly double the rate for juveniles. A lower rate of admission is found among cases charged with assault, but the relation between courts is similar: nearly 20 percent of adults admit their guilt, a rate one and three-quarters that of juveniles.

A case was considered to have had a "witness" either if the event involved more than one victim or if the event was characterized by the presence of another party who could confirm the subject's involvement in the offense. This excludes investigating or arresting police officers, who serve as witnesses during grand jury proceedings but who do not actually witness the crime taking place.

TABLE 5-13 Percent Distribution of Pre-Plea/Pre-Trial Admission of Guilt by Assault and Robbery Defendants, by Crime and Court of Jurisdiction [a]

Admission of Guilt	Jurisdiction					
	Juvenile Court			Criminal Court		
	Assault	Robbery	Total	Assault	Robbery	Total
No Admission of Guilt	88.7 (212)	80.0 (196)	83.8 (384)	80.2 (195)	62.4 (148)	71.9 (322)
Admission of Guilt	11.3 (27)	20.0 (49)	16.2 (74)	19.8 (48)	37.6 (89)	28.1 (126)
Total	100.0 (239)	100.0 (245)	100.0 (458)	100.0 (243)	100.0 (237)	100.0 (448)

[a] Figures in parentheses represent number of cases.

Rates of participation of witnesses in cases charged with assault and robbery are represented in Table 5-14, where it is obvious that across both crimes, criminal court prosecutors have witnesses available to them more often than prosecutors in the juvenile court. Although witnesses are available in cases involving robbery charges against adults at a rate (sixteen percent) only slightly greater than in cases involving robbery charges against juveniles, the rate for assault cases with respect to adults is 31 percent higher than it is for juveniles so charged.

Why should the criminal court have more evidence available to it than the juvenile court? Several possible explanations come to mind. One is that assaults and robberies committed by adults occur under circumstances that lead naturally to stronger evidence. For example, offenses that take place in commercial settings can be reported to the police more quickly than those that occur on the street. When robberies take place in commercial settings, as many robberies by adults in this study have, the presence of additional store personnel or customers makes the identification of witnesses by investigators a relatively straightforward task.

A different possibility, but one which does not preclude the former, is that the accumulation of evidence is not as high a priority in the juvenile court as it is in the criminal court. Low emphasis on evidentiary concerns may be a function of more limited resources,[13] or it may be the extension of a

TABLE 5-14 Percent Distribution of Availability of Witnesses in Cases Involving Assault and Robbery Defendants, by Crime and Court of Jurisdiction [a]

Availability of Witnesses	Jurisdiction: Juvenile Court			Jurisdiction: Criminal Court		
	Assault	Robbery	Total	Assault	Robbery	Total
No Witnesses Available	40.1 (91)	53.7 (130)	47.6 (211)	21.6 (53)	46.1 (112)	32.2 (147)
One or More Witnesses	59.9 (136)	46.3 (112)	42.9 (232)	78.4 (192)	53.9 (131)	67.8 (309)
Total	100.0 (227)	100.0 (242)	100.0 (443)	100.0 (245)	100.0 (243)	100.0 (456)

[a] Figures in parentheses represent number of cases.

philosophy that does not encourage adversarial procedures or their requirements.

A third explanation, purely speculative, is that a larger proportion of defendants handled within the juvenile justice system are innocent, and so there is necessarily less evidence in such cases.

Charging. The distribution of highest degree of charges at intake for the two courts is presented in Table 5-15.[14] Aggregation both by court and by crime within jurisdiction indicates that adults tend to be charged with more serious degrees of offenses in higher proportions than their counterparts in the juvenile court. Overall, nearly half of the defendants in the criminal court face conviction on first degree crimes, compared to only fifteen percent of juveniles. Whereas the majority of the remaining adults are charged with second degree crimes, proportions of remaining juveniles are fairly evenly divided between second degree and disorderly persons offenses.

Since processing of adults on disorderly persons offenses takes place only in the lower courts, there is a sense in which a suggestion that juveniles tend to be charged with lower degreed crimes in cases involving assaults lacks merit. Excluding disorderly persons charges, which account for nearly half of the juveniles charged with assault, the relation continues to hold, although not as strongly. Using only the recalculated proportions, adults are charged with first degree offenses in cases involving assaults at three times the rate

TABLE 5-15 Percent Distribution of Highest Degree of Charges Filed at Intake Against Assault and Robbery Defendants, by Crime and Court of Jurisdiction [a]

Highest Degree Charged at Intake	Jurisdiction					
	Juvenile Court			Criminal Court		
	Assault	Robbery	Total	Assault	Robbery	Total
First	3.4 (6)	44.3 (35)	14.8 (36)	20.0 (46)	78.9 (221)	46.4 (207)
Second	29.4 (52)	55.7 (44)	35.4 (86)	54.8 (126)	21.1 (59)	40.6 (181)
Third	13.6 (24)	0.0 (0)	9.9 (24)	25.2 (58)	0.0 (0)	13.0 (58)
Fourth	6.2 (11)	0.0 (0)	4.5 (11)	0.0 (0)	0.0 (0)	0.0 (0)
Disorderly Persons[b]	47.5 (84)	0.0 (0)	35.4 (86)	NA	NA	NA
Total	100.0 (177)	100.0 (79)	100.0 (243)	100.0 (230)	100.0 (280)	100.0 (446)

[a] Figures in parentheses represent number of cases.

[b] Includes petty disorderly persons.

of juveniles; and with second and third degree offenses at roughly the same rates.

The tendency of adults to be charged with higher degreed offenses is also evident when only robberies are considered. Robberies provide a more convincing picture of the relation between charges at intake and court of jurisdiction, because robberies can only be distributed among first and second degree offenses. Here, adults are charged with first degree offenses at a rate nearly twice that of juveniles.

Disposition. Employment of various dispositional alternatives by the two court systems is depicted in Table 5-16. The table reveals a relation between court of jurisdiction and method of dismissal, but one which operates differently across crime categories. Of cases adjudicated or convicted, it is clear in the case of robberies that whether the mode of disposition is plea or trial, adults encounter a greater likelihood of conviction on the most serious charge than do juveniles. They are one-third more likely to be found guilty of the most serious charge at trial, and are over three and one-half times as likely to plea to the most serious charge. Conversely, juveniles are twice as likely as are adults of being found guilty of less serious charges at trial, and one and one-third times more likely to plea to less serious or amended charges. This pattern may be the manifestation of an exercise of leniency by the juvenile court, yet downgrading may also occur if the available evidence does not substantiate more serious charges.

TABLE 5-16 Percent Distribution of Method of Disposition of Defendants Originally Charged with Assault or Robbery, by Crime and Court of Jurisdiction[a].

Method of Disposition	Jurisdiction					
	Juvenile Court			Criminal Court		
	Assault	Robbery	Total	Assault	Robbery	Total
Trial: Guilty of most serious or all charges	8.4 (20)	9.7 (24)	9.1 (42)	7.4 (18)	13.0 (32)	10.0 (46)
Trial: Guilty of Less Serious Charges	12.6 (30)	8.1 (20)	10.0 (46)	5.3 (13)	4.1 (10)	4.8 (22)
Pled Most Serious or All Charges	10.9 (26)	13.0 (32)	11.9 (55)	22.1 (54)	47.6 (117)	35.3 (162)
Pled Less Serious or All Charges	26.8 (64)	34.4 (85)	31.6 (146)	46.3 (113)	23.6 (58)	34.4 (158)
Trial: Not Guilty	5.9 (14)	4.5 (11)	5.2 (24)	9.8 (24)	5.3 (13)	7.6 (35)
Dismissed	35.6 (85)	30.4 (75)	32.3 (149)	9.0 (22)	6.5 (16)	7.8 (36)
Total	100.0 (239)	100.0 (247)	100.0 (462)	100.0 (244)	100.0 (246)	100.0 (459)

[a] Figures in parentheses represent number of cases.

In both jurisdictions the most often employed mode of disposition is the plea bargain, but it is used more extensively by the criminal court. Just under half of all juveniles are disposed through plea bargain in cases originally charged with robberies, compared to a rate of 70 percent for adults. Trial rates are virtually similar for the two groups with respect to robbery, at approximately 17 percent, but exhibit dissimilarity for assaults, where juveniles are over one and one-half times as likely to request a hearing, and where juveniles display a more conservative use of plea bargaining. One may speculate whether the greater use of hearings in assault cases is linked to the defendant's desire to challenge weak evidence, but this seems an improbable explanation in light of the fact that the rate of acquittal for adults in assault cases exceeds that of juveniles by two-thirds. Of course, it is possible that evidence in juvenile court hearings fails to be subjected to the same rigorous test that it meets in the criminal court.

The most uniform as well as the most pronounced characteristic of the association between jurisdiction and method of disposition relates to rates of dismissal. With respect to either offense, cases involving juveniles are subject to far higher rates of dismissal than are cases involving adults. For robberies the rate is nearly five times as high; for assaults, four times as high. Although popular opinion holds higher rates of dismissal to be the result of practices that are more lenient, this does not appear to be

the case in Union County. Table 5-17 reflects proportions of dismissal types by jurisdiction for each of the two offenses.

Dismissal in the child's "best interests" appears to play only a minor role in case attrition at the prosecutorial stage of the juvenile justice process in Union County, where it accounts for roughly one-tenth of cases dismissed. Much more significant are factors related to case strength, such as robustness of evidence and victim cooperation,[15] which account for nearly three-quarters of both assault and robbery cases dropped at this point. By contrast, cases in the criminal court exhibit greater evidentiary sturdiness. This appears to be especially true for assaults, where juvenile cases are dismissed for reasons related to case strength at over seven times the rate of cases handled in the criminal court. The contrast for robberies is more conservative. Here, the rate of cases dismissed for evidentiary sufficiency in the juvenile court exceeds that of the adult court by three-quarters.

Small numbers prohibit forceful generalizations, but a second characteristic of the relation between court of jurisdiction and case dismissal suggested by Table 5-17 is the more extensive use of dismissal by the criminal court in cases involving defendants facing multiple indictments or sentencing for recent convictions. Four times as many adult robbery defendants are dismissed for this cause as are juveniles, and twice as many assault defendants.

Why should victims be more reluctant to pursue cases handled by the juvenile court? Victims may lack confidence in

TABLE 5-17 Percent Distribution of Reasons for Dismissal of Assault and Robbery Defendants, by Crime and Court of Jurisdiction[a].

Reason for Dismissal	Jurisdiction: Juvenile Court			Jurisdiction: Criminal Court		
	Assault	Robbery	Total	Assault	Robbery	Total
Insufficient Evidence	16.3 (13)	35.5 (27)	24.8 (36)	5.0 (1)	22.2 (4)	13.9 (5)
Victim Does Not Cooperate	58.8 (47)	34.2 (26)	49.0 (71)	5.0 (1)	16.7 (11)	8.3 (3)
Def. Punished for Other Crime	10.0 (8)	9.2 (7)	10.3 (15)	20.0 (4)	38.9 (7)	30.6 (11)
Unreasonable Delay	0.0 (0)	0.0 (0)	0.0 (0)	10.0 (2)	5.6 (1)	8.3 (3)
Best Interests of Defendant	11.3 (9)	10.5 (8)	8.3 (12)	5.6 (1)	0.0 (0)	2.8 (1)
Other[b]	3.8 (3)	10.5 (8)	7.6 (11)	60.0 (12)	11.1 (2)	36.1 (13)
Total	100.0 (80)	100.0 (76)	100.0 (145)	100.0 (20)	100.0 (18)	100.0 (36)

a Figures in parentheses represent number of cases.

b Includes death and transfer to other jurisdictions.

the juvenile justice system, believing adjudication and fitting disposition to be unlikely consequences of their own continued participation in the justice process. Or, they may view the nature of the offense as less important than the investment of their time in court. Alternatively, some may perceive certain of the delinquent behaviors of juveniles as the manifestation merely of adolescence, for which justice system responses are inappropriate. In any case, responsibility for attrition is removed from the juvenile justice system.

Sentencing. Sentences were disaggregated into five categories, which included three varieties of sentence to probation, sentence to a jail term, and sentence to a state facility.

Among the most evident of disparities between the juvenile and the criminal court is the use of sentence alternatives, represented by Table 5-18. The relation may be stated very simply: of persons convicted on charges orginally stemming from assaults and robberies, juveniles are most likely to receive probation, and adults, incarceration. Grouping together all forms of probation (straight, suspended and split sentence[16] probation), the data indicate that juveniles are sentenced to this disposition at a rate slightly in excess of two and one-half times the rate of adults. Moreover, when juveniles were sentenced to probation, a much more substantial proportion received straight supervision, a sanction that may be perceived by some observors as the most

TABLE 5-18 Percent Distribution of Type of Sentence Administered to Assault and Robbery Defendants, by Crime and Court of Jurisdiction[a].

Sentence	Jurisdiction					
	Juvenile Court			Criminal Court		
	Assault	Robbery	Total	Assault	Robbery	Total
Straight Probation	61.2 (74)	30.0 (46)	45.2 (118)	17.6 (36)	1.4 (3)	9.6 (37)
Suspended Sentence	19.0 (23)	41.3 (64)	29.1 (76)	21.6 (44)	7.3 (16)	15.1 (58)
Split Sentence	6.6 (8)	6.5 (10)	7.8 (19)	7.8 (16)	5.5 (12)	6.2 (24)
Jail or Detention	0.0 (0)	0.0 (0)	0.0 (0)	2.0 (4)	1.4 (3)	1.6 (6)
State Institution	13.2 (16)	22.6 (35)	18.4 (48)	50.1 (104)	83.5 (182)	67.5 (260)
Total	100.0 (121)	100.0 (155)	100.0 (261)	100.0 (204)	100.0 (218)	100.0 (385)

[a] Figures in parentheses represent number of cases.

lenient of probation alternatives, than did adults (55 percent versus 31 percent).

Slightly more than two-thirds of adults received terms of incarceration, compared with just 18 percent of juveniles. Within crime rates indicate the tendency of both courts to sentence persons originally charged with robberies more harshly than it does those originally charged with assaults. Here, the ratio of prison sentences for robbery to prison sentences for assault is roughly one and two-thirds for the defendants of both jurisdictions. Sentences to straight jail terms were not administered to juveniles, and only comprised a very small proportion (less than two percent) of criminal court sentences. This category would have been chosen had juveniles been sentenced to a correctional facility, but none were so sentenced.

Summary

This chapter outlined similarities and differences between juvenile and criminal court defendants with respect to the characteristics of victimizations and justice system processing. From the descriptive statistical summary of the data two themes emerge. These themes concern the accuracy of prevailing views of leniency in the juvenile court.

On the basis of data collected in Union County, the perception of critics of the juvenile court with respect to the relative severity of dispositions appears to be partially founded. Much more than are adults, juveniles are convicted for offenses less serious than those originally filed, are

filtered out of the system at higher rates, and are punished largely through the most lenient of alternatives.

The perception that less serious dispositions are not deserved is not as well-founded. Judgements of the behaviors of juveniles and adults illustrate that when raters are free to weigh offenses on the basis of such factors as harm to victims, weapon use, and nature of the defendant's involvement in the offense, the actions of the former are unambiguously regarded as less serious.

It is true, however, that the offense scaling instrument provides only an artificial arena for the rating of the behaviors of juveniles and adults. By allowing its respondents relatively unimpeded selection of factors for emphasis, the instrument is vulnerable to the criticism that perceptions have not necessarily promoted those features of behaviors that the law condemns most. In other words, if public perceptions of seriousness do not match "legal seriousness", arguments that the juvenile court is lenient cannot be dispelled on the basis of analyses using subjective ratings of behavior established by the former.

This is not a viable argument. Although several of the distributions detailed here have been provided for purely descriptive purposes, in the context of the criminal law certain variables included in the study serve as alternative indicators of offense seriousness. Weapon use, for example, may be interpreted as a measure of offense seriousness because possession and use of different types of weapons is associated

with increasing and decreasing severity of sentences.[17] Serious bodily injury is defined and distinguished from nonserious injury in the statutory definitions of both assaults and robberies (N.J. Statutes 2C:12-1(b);15-1;11-1). Moreover, the commission of crimes involving more than one victim can lead to the charging of additional counts, which carry the potential for separate punishments. With respect to individual (and perhaps more objective) aspects of victimization such as these, the data encourage a belief that the assault and robbery behaviors of juveniles are indeed less serious than those of adults.

In the next two chapters, analyses will turn to the determination of the extent to which differences at the dispositional end of the separate systems of justice can be attributed to what has now been established as distinct behaviors by their defendants.

Notes

1 All of the following descriptions take into account juveniles who have been charged with disorderly persons offenses, as well as those who have been charged with first through fourth degree offenses. In later analyses juveniles initially charged with disorderly persons offenses are excluded from the analyses to make the juvenile and criminal court populations as comparable as possible. Juveniles initially charged with disorderly persons offenses have not been omitted from the present analysis, because the chapter is intended only for descriptive purposes.

2 The reader may wonder how a total of 1,022 charges leads to 1,000 cases for analysis. Since only 250 offenders were to be studied within each crime category and jurisdiction, not all of the offenders charged with both crimes were entered into both the robbery and assault analyses. The criterion for inclusion within each of the crime-specific analyses was membership in the group of the first 250 persons charged with that particular crime following a January 1, 1980 crime date for juveniles and a September 1, 1979 crime date for adults. Thus, not all of the subjects charged with both crimes could be considered by both analyses.

3 Both measures of adult prior record include disorderly persons offenses.

4 All correlations reported in the study are significant at .001 unless otherwise noted.

5 Initially, the extent of each offender's involvement in the events under consideration was assigned to one of five categories, which could be located along three dimensions, according to presence at the scene of the crime, weapon use and amount of injury caused. The first category, that of driver or look-out, represents a non-weapon, non-injury causing role. The second category represents a non-injury, non-weapon carrying role by offenders present at the scene of the crime; the third represents offenders who carry weapons but who do not cause any injury; the fourth, offenders without weapons whose actions cause injury. The remaining category represents injury-causing, weapon carrying offenders.

6 Of interest, associations between the variables just mentioned and seriousness scores remained relatively stable across the robbery and assault questionnaires, indicating a high degree of homogeneity among the judgements of the two groups of raters. This is not a trivial finding, given that raters are given the opportunity to weigh all characteristics equally, give more weight to some than to others, or to even discard one or more features of the event.

Zero-order correlations for each of the component variables, and robbery and assault scores, respectively, were

.43 and .40, for ROLE; .70 and .72, for KNIFEGUN; .56 and .56 for GUN; .23 and .28 for INJURY; and .22 and .15, for VICTIMNO. The zero-order correlation between PROPERTY and robbery scores was .16, and although the association was .09 in cases of individuals charged with assaults (p=.03), this figure is based upon very few observations, namely those involving subjects charged with assaults and robberies.

7 It is important to note that all of the following descriptions employ subjects, as opposed to events, as units of analysis. Hence, in a discussion of weapon use, the focus is on numbers of persons charged with assaults or robberies involving weapons, and not upon numbers of assaults or robberies involving weapons. An emphasis upon the subject is important to preserve, because contemporary debate about the juvenile court centers specifically around the disposition of individuals, as opposed merely to the clearance through disposition of the offenses it processes. Moreover, all observations concern persons who have been charged with assault or robbery and do not necessarily represent persons committing assaults and robberies, generally. This latter issue will be addressed again later.

8 These injuries were kept apart from "stabbings" and from "minor injuries" because of their ambiguous nature.

9 Refer to note 4 of this document.

10 Similarly nonsubstantial differences were reported by McDermott (1979:203) in her analysis of victimization data from 26 cities. Nonsubstantial differences may also arise because the table reflects the dollar equivalent of losses, as opposed merely to dollars lost. Thus, it is likely that the presence in this sample of significant numbers of juveniles who forcibly removed bicycles and radios from their victims pushed the distribution upward. All losses may appear modest, but largely because most of the robberies occurred during 1980.

11 The higher proportion of females in robberies undertaken by adults may be more the function of the setting in which robberies occur than the deliberate choice of the offender. As a later discussion indicates, adults are much more likely to pursue robberies in commercial settings (in which females are disproportionately employed as cashiers) than are juveniles.

12 The reason for requiring both criteria is that some subjects sign the consent form but deny involvement in the offense during their interview.

13 Indeed, this suggestion was offered by an assistant prosecutor in Union County, who observed that the criminal

court had many times the number of investigators available to the juvenile court.

14 The table reflects highest degree charged in cases involving, but not necessarily limited to, charges of assaults and robberies. In other words, the table does not reveal whether or not the highest degree charged is actually attached to either offense, or if it is attached to some other crime the defendant is charged with. For example, a person who is charged with a second degree assault and a first degree robbery will be represented by the category "first degree" in both the assault and robbery columns. Obviously, a charge of "first degree" in the assault column applies to an offense committed in conjunction with an assault, for which there is no first degree in New Jersey.

15 A number of reasons exist for victim or witness failure to participate in the prosecution phase that are unrelated to leniency, among them, inadequate systems of victim/witness notification or scheduling. This did not seem to be the case in the current research. Forms reflecting official declination to prosecute were often accompanied by letters from victims expressing reluctance to pursue the case further. Where letters were absent, a number of files noted telephone contact with the victim to the same end.

16 Subjects were regarded as having received a split sentence when sentenced to probation was combined with a placement at a residential facility. In a few criminal court cases, the label was applied if probation was combined with a brief jail term.

17 According to the New Jersey Code of Criminal Justice, possession of a firearm is a crime of the third degree, whereas possession of a knife or other "destructive devices" is a crime of the fourth degree (N.J. Statutes 2C:39-3).

Chapter 6
A COMPARISON OF CHARGING PRACTICES

This dissertation asserts that efforts to ensure comparability among two systems of justice--the juvenile court and the criminal court--have been undertaken with very little information regarding the comparability of the behaviors processed by each of the respective systems. Often the basis for comparison is the offense that is reflected in subjects' charges as set by the prosecutor or as established at conviction. Stated differently, equivalent charges or convictions are interpreted as equivalent behaviors.

Whether or not there is reason to ask if the charging protocols of the criminal court betray the characteristics and overall seriousness of the behaviors that come before it, there is certainly some impetus for questioning the integrity of charges filed by the juvenile court. A review of literature on the pretrial processing of juveniles undertaken earlier revealed that little is known about prosecution practices in the juvenile court. What limited descriptive information exists can be summarized briefly: There is some factual basis for believing that the traditional prosecutorial role is yet only minimally developed in the juvenile court (Rubin,1980), and in its absence, evidentiary sufficiency is subject to no sure test (Finkelstein et al., 1973; Stapleton, Aday and Ito,1982). The point is that low levels of accountability can encourage different standards for charging than may already be present in the criminal court.

The issue of uncertain comparisons grows more acute when attention turns to charges at conviction. Initially, conviction-based comparisons appear innocuous--after all, charges at conviction may more likely represent what it was about alleged behaviors that could actually be proven than charges initially filed against a defendant. But reason for distrusting the use of charges at conviction as a basis for assuming equivalent behaviors is compelling. Transformation of initial charges via plea bargains encourages the aggregation of subjects who, at least from the standpoint of offense seriousness, can be very dissimilar (Peterson and Braiker, 1980).

Impediments to meaningful comparisons arising from the omnipresence of plea bargaining practices are compounded when the comparisons sought involve the defendants of the juvenile and criminal court systems. Given the relatively fixed (with respect to length) nature of punishments available to the juvenile court, plea bargaining plays a questionable and little understood role (Platt, Schechter and Tiffany,1968; Ewing,1978; Hicks, 1978). If it is true, following pleas, that charges tend not to be altered in the juvenile court to the extent that they are believed to be altered in the criminal court, the aggregation and subsequent comparison of adjudicated juveniles and convicted adults on the basis of charges at conviction may be an even more misleading undertaking than comparisons of convicted adults alone.

For whatever reason, be it diminished prosecutorial accountability, lack of evidentiary oversight, or the infrequency of plea bargaining in the juvenile court,[1] doubt about the comparability of convictions in the two jurisdictions has now been introduced. The clarification of the relationship between the juvenile and criminal courts on the one hand, and charges at intake and conviction on the other, is essential to determining the usefulness of charges as a basis for comparing dispositions across the two jurisdictions. This chapter probes influences upon charging practices in the juvenile and criminal courts.

Background to the Study of Charging

The analysis develops an understanding of the relative influences of the variables "court of jurisdiction" and "offense seriousness" upon severity (i.e., highest degree) reflected in both charges initially filed against defendants in the juvenile and criminal courts, and charges at conviction. Specifically, it provides a two-tailed test of the first hypothesis, which states

> The severity of offense charged is unrelated to court of jurisdiction.

The hypothesis is subject to rejection if the association between the variable COURT and the variable HIGHEST (in the case of intake) or DEGREE (in the case of conviction) is unequal to zero at a probability exceeding chance,[2] controlling for other variables. It is eligible for rejection

if either the juvenile or criminal court is found to affect the practice of degree-setting at intake.

Control variables. Control variables were selected on the basis of two criteria, namely, each variable's theoretical soundness, and the size of its simple correlation with the dependent variable. Variables manifesting high (.70 or above) correlations with any other independent variables were excluded from the analysis. Variables such as number of charges at conviction (OUTCHARGE) and method of disposition (METHOD) were clearly inappropriate because these data become available only after the charging decision is formed (in the case of intake) or during its formation (in the case of conviction). The variable number of counts at intake was rejected because of substantial association with the variable number of charges at intake (r=.93) Charges at intake was retained as an exogenous variable in the analysis despite the simultaneity of the filing of number of charges and the filing of their respective degrees because the variable may be perceived as a measure of the quantity of illegal behaviors contained within each defendant's offense episode. The CHARGES variable is thus perceived as an offense-related, as opposed to process-related, characteristic.

Eligible cases. In the present effort to understand the determinants of charging, disorderly persons offenses have been omitted from all analyses. Since by definition the criminal court processes only those defendants charged with indictable offenses, the inclusion of disorderly offenses

would automatically bias the analysis in favor of rejection of the null hypothesis, because adults in the sample could never be charged as leniently as juveniles, no matter how non-serious their offenses.

With respect to the proposed analysis, the exclusion of disorderly persons offenses initially seems self-defeating. After all, this is an effort that is directed at the understanding of charges in two courts; the exclusion of any set of cases based upon the degree they are classified under seems circular. Yet it is also true, albeit less apparent, that adults charged with disorderly offenses have been similarly excluded from this analysis on the basis of the same phenomenon that we seek to understand. The difference is that following the determination of charges, adults are maintained in or diverted to the lower court. Despite the dissimilarity in procedure, the end result is the same--both sets of defendants are excluded on the basis of charges as opposed to behaviors. Thus, for both adults and juveniles, the current study is limited to the understanding of influences upon charging in cases charged as felonies and high misdemeanors.

A detriment to the proposed study is the large number of juvenile cases for which the highest degree charged could not be identified, a consequence, perhaps, of minimal prosecutorial screening of juvenile court cases in Union County. The prosecutor exercises minimal control over juvenile cases because responsibility for selecting and scheduling delinquency cases for formal court hearings is the function of

the court's juvenile intake unit; the capacity of the juvenile court prosecutor to file charges against any juvenile is limited to the alteration of charges once the delinquent is on the court calendar. The prosecutor can affect existing charges by increasing or decreasing degrees or by charging different crimes altogether, but he will exercise this option only in the event that new evidence has accumulated; normally, no setting of charges by the prosecutor takes place.

The limited involvement of the prosecutor in the setting of charges affects the present analysis in an important way. In the criminal court, following indictment by the grand jury, degrees of all charges are clearly expressed in each adult defendant's file. Unfortunately, this is not the case in the juvenile court, where more often than not the only available indication of the specific offense (degree or crime category) was the arresting officer's citation of a particular statute of the criminal code. Where individual statutes represented specific degrees, coding of highest degree charged was a relatively straightforward task. Where individual statutes did not reflect specific degrees,[3] usually no determination of the highest degree charged could be made. Aside from raising questions about the quality of prosecution when such critical information is overlooked, the situation resulted in the loss of many cases for analysis. Taking into consideration cases missing and omitted (because they were disorderly persons charges), only 157 juvenile court cases were eligible for an analysis of influences on the highest degree charged at

intake, compared with 446 cases from the criminal court. For the analysis of highest degree charged at conviction, charges of but 140 juvenile court cases were identified, compared with 374 cases from the criminal court. The relatively small number of juvenile cases demands the careful selection of additional variables to minimize the extent to which other cases drop from regression analyses. Of critical importance, the small number of juvenile cases prevented the researcher from performing separate analyses for each offense category. In other words, analysis was undertaken using the aggregated group of juveniles, and the aggregated group of adults.

Coding. This section addresses the coding of independent variables. Clarification of the manner in which specific variables have been coded or collapsed into dichotomies is necessary, not only because the interpretation of regression coefficients is so obviously affected by different coding schemes, but because where several coding schemes seem feasible, the choice of one over others deserves justification.

Cases handled in the juvenile court were coded as "1"; cases in the criminal court were coded as "2". Degrees were coded from "1" through "4". To facilitate interpretations, first degree charges were represented by the value "4", second degree offenses by the value "3" and so on. Positive associations may be interpreted to mean that cases are likely to be charged more severely in the criminal court, or conversely, that they are likely to be charged more leniently

in the juvenile court. Negative associations mean that cases are likely to be charged more severely in the juvenile court.

Most of the non-interval level control variables were collapsed into dichotomies; a few retained ordinal status. Logic dictated the manner in which dichotomies were formed, but in cases where alternative logic presented itself, coding was subject to experimentation. When variables were coded in more than one way, the dichotomous scheme yielding the strongest correlation with the independent variable was retained for analysis.

Non-interval level variables that were not already dichotomies included victim-offender relationship (RELATION), method of apprehension (CAUGHT), victim sex (VICSEX), type of weapon (WEAPON), extent of the defendant's participation in the victimization (ROLE), extent of injury (INJURY), and type of threats (THREATS).

The variable RELATION was coded to highlight offenses against strangers (acquaintances and relatives were coded as 1; strangers were coded as 2), but two versions of the variable were tested. Since there was reason to believe that prosecutors might regard assaults upon police officers with some ambivalence,[4] police officers were excluded from one coding scheme, but grouped with "strangers" in an alternate scheme. A slightly better performance with the independent variable was noted for the latter method.[5]

Method of apprehension (CAUGHT) was recoded as a dichotomy to emphasize apprehension at the scene of the crime

only (apprehension at scene of the crime was coded as 2; all other apprehensions were coded as 1).

Initially, coding for VICSEX reflected the victimization of males (value=1), females (value=2) and the combination of male and female victims (value=3). In light of the fact that this scheme did not truly distinguish all victims on the basis of gender, an alternative version of the victim sex variable was created which excluded from the analysis all case involving both males and females. Due to a weaker association with the independent variable, the second version of victim sex variable was dropped from the analysis.[6] The variable VICSEX does not provide a true measure of gender, then, but rather some interaction of gender as well as number of victims.[7]

The variable reflecting weapon use was dichotomized in two ways, one emphasizing gun or knife use (KNIFEGUN), the other emphasizing gun use only (GUN); the KNIFEGUN variable demonstrated consistently higher associations with highest degree charged and was retained for analysis.[8]

The variable ROLE was recoded to distinguish non-weapon using and non-injury causing defendants (value=1) from those who either carried weapons, caused injury, or did both (value=2). Since juveniles were found mainly to have taken on injury causing roles, and adults, weapon-carrying roles, the recognition that grossly disproportionate cell sizes would result with respect to court of jurisdiction discouraged the pursuit of other coding versions of this variable.

The INJURY variable was retained as an ordinal variable, but underwent two coding attempts, both of which involved the values "no injury" (coded as 1); and "minor injury" (coded as 2). In one version of INJURY, more serious harm was dissaggregated into the categories beatings (coded as 3), shooting, stabbings and rapes (coded as 4) and death (coded as 5). In a second, more successful version, all of the more serious injuries--from beatings through death--were assigned one value, 4.[9]

The last of the coding experiments involved the variable THREATS. One version of the dichotomy concentrated only upon threats of death and serious bodily injury (shooting or stabbing); a second, less successful, version included beatings.[10]

Influences on Charging: Intake

Generally speaking, research on the determinants of charging practices offers this study little guidance concerning the relative strengths of independent variables for analysis, because efforts in this area have focused almost exclusively upon such unrelated aspects of charging as the prediction of the decision to charge a suspect or reject prosecution (Brosi,1979), the prediction of charge reduction (Greenwood et al.,1973) or conviction (Forst and Brosi,1977), and the prediction of the negotiated plea versus trial (Figuiera-McDonough,1985). In spite of dissimilarities between the dependent variables, these efforts nonetheless indicate that the same small group of variables manifest associations

with whatever charging decision is studied. Briefly, what these studies suggest is that strength of evidence (particularly, apprehension at the scene of the crime), and specific characteristics of the offense (such as whether or not the victim and offender knew one another) exhibit the most substantial relations with the outcome studied, but that offender characteristics (such as prior record) do not.

This picture matches the one that is produced with respect to kinds of variables associated with the severity of charge decision-making at intake, which is presented in Table 6-1. While none of the independent variables was highly correlated with the dependent variable, the only variables displaying even moderate associations were evidence or offense-related. Of the three offender-related variables (AGE, RACE and CONVICNO), not one manifested noteworthy associations with HIGHEST.

The table portrays significant, non-negligible zero-order correlations between independent variables and highest degree at intake, as well as first-order (controlling for court) and second-order (controlling for crime and court) correlations.[11]

Summary of correlations. Zero-order correlations between highest degree at intake and court of jurisdiction (r=.23) and between highest degree at intake and rated offense seriousness (.46) portray the sensitivity of the dependent variable to both independent variables, but more specifically illustrate the relatively stronger influence of the seriousness score with respect to outcome.

Table 6-1 Intercorrelations of Select Independent Variables and Highest Degree Charged at Intake for All Defendants, All Defendants by Court of Jurisdiction, and All Defendants by Offense and Court of Jurisdiction.[a,b,c]

Independent Variable	All Defendants	All Defendants		All Defendants			
		Juvenile Court	Criminal Court	Juvenile Court		Criminal Court	
				Assault	Robbery	Assault	Robbery
Court	.23						
Charges	--	-.20*	--	-.24**	--	.30	.30
Admit	.22	.23*	.21	--	.33*	.18*	--
Caught	-.47	-.37	-.55	-.33*	--	-.47	.16**
Witness	-.17	-.20**	-.19	-.30	--	-.29	.15**
Seriousness	.46	.39	.43	.22**	.48	.49	.60
Relation	.48	.48	.45	.45	--	.38**	--
Gun	.46	.40	.43	--	.51	.37	.52
KnifeGun	.47	.35	.46	--	.59	.42	.71
Injury	-.31	--	-.35	--	--	--	-.24
Property	.22	.17**	.23	--	--	.14**	.17**
Threats	.18	--	.17	--	.32*	.15**	.21
Accompno	.20	.24*	.27	.33	--	.32	--
Vicsex	.20	--	.19	--	--	.21	--
Victimno	--	--	--	--	--	.16**	.15**
Role	--	-.18**	--	--	.27**	--	--
Age	--	.19**	--	.45	--	--	.13**
Race	.14	--	.13*	--	--	.16**	--
Convicno	--	--	--	--	--	-.17**	--

a Excludes persons charged with disorderly offenses. Correlations calculated using pairwise deletion.

b Blank denotes a non-significant or negligible association.

c All correlations with dependent variable significant at p=.001 unless otherwise noted.

* p =.01

** p =.05

Offense seriousness is not the variable possessing the most substantial association with highest degree charged for all defendants; CAUGHT, a measure of evidence relating to method of apprehension, displays a slightly higher, but negative correlation (-.47). Because it was believed that the degree of charges would be positively affected (i.e., would be higher) in the presence of stronger evidence, the fact that CAUGHT bears a negative, as well as a relatively strong relation with HIGHEST was a surprising discovery. Since it is possible that apprehension at the scene of the crime means that some offenders were not able to complete their acts, one interpretation attributable to a negative relation is that offenders so apprehended are charged with attempts only. While for most categories of offenses attempted crimes are eligible to be charged with the same degree as ones that are completed, attempted first degree crimes may only be charged as crimes of the second degree (N.J.Statutes 2C:5-4).

A similarly substantial association is exhibited by one measure of weapon use, KNIFEGUN (gun or knife use only), at .47, and is closely approximated by an alternative measure of weapon use, GUN (gun use only, r=.46).

When recoded as a dichotomy which distinguished victims known to the offender (value=1) from those who were strangers or police officers (value=2), the variable called RELATION bore the next highest association with the dependent variable, at .48. The only other variable possessing a moderate association with HIGHEST was INJURY (-.31), when recoded as a

trichotomous ordinal variable which separated no injury (value=1) from minor injury (value=2), and all other injuries (value=3). Because it suggests that defendants are likely to be charged more severely the less serious the injury, and conversely, that more serious injuries are likely to lead to less serious charges, this coefficient is puzzling as well. Actually, the preceding is a plausible interpretation, but not exactly because prosecutors hold serious injuries in low regard. A more reasonable explanation concerns the range of degrees an assault charge can adopt. Given that in New Jersey charges of aggravated assault can never exceed the second degree (N.J.Statutes 2C:12-1), assaults in the sample involving injuries rated most serious can never be charged as severely as some robberies, even when the latter do not involve injury. In the present sample, the relation between INJURY and HIGHEST may be moderate and negative because of the likelihood that a large number of robberies have been charged as first degree crimes solely due to the presence of firearms during their commission. The fact that rated seriousness bears a much larger yet positive association with HIGHEST provides further indication that scale respondents emphasized firearms over injuries in forming their choices.

Variables characterized by low associations with the dependent variable included the admission of guilt (.22); the availability of witnesses (-.17); the value of property taken (.22); the use of threats (.18); and number of accomplices (.20). A positive association between ADMIT and HIGHEST can be

interpreted to mean that higher degreed charges are filed against defendants about whom there is stronger evidence. As in the case of the variable CAUGHT, on the other hand, the reverse is true for WITNESS. An interpretation one may assign to this negative association is that more cautious actions may be taken by prosecutors in cases involving witnesses, if available witnesses are not particularly credible or cooperative with their efforts. Witnesses who possess criminal records, those who are not able to accurately recall the event in question, and witnesses who are related to the defendant may fall within this category. Correlations between PROPERTY and HIGHEST and between THREATS and HIGHEST suggest that the amount of loss suffered by victims and verbal intimidation are indeed concerns of the prosecutor at the time of charging, but that they do not occupy a prominent position in his decision.

Apparently little regard is given to the extent of the offender's participation in the offense; the separation of offenders merely present at the scene of the crime and those active by virtue of their possession of weapons or involvement in victim injury did not help to distinguish applications of charge severity. The data suggest a belief by prosecutors that once an offender decides to remain at the scene of the crime, he shares guilt for whatever consequences may occur during the victimization independently of the actions he himself may undertake towards that end. Similarly, not one of the newly created interaction variables manifested relations with

HIGHEST that approximated the strength of the associations exhibited by constituent variables.[12]

The aggregate bivariate relationships discussed above are altered when COURT or when both COURT and CRIME are introduced as controls. These results indicate that COURT, CRIME, and both COURT and CRIME interact with at least some of the variables represented in Table 6-1.

Looking only at the effects of the introduction of COURT as a control variable, the partial coefficients indicate that the juvenile court exercises a much more narrow range of criteria in forming charging decisions than does the criminal court. For instance, three offense-related predictor variables--INJURY, THREATS and VICSEX--exhibit low, however statistically significant associations with highest degree charged in the criminal court, but comparable relations cannot be noted for the juvenile court. Moreover, where associations between offense characteristics and the independent variable are present in both jurisdictions, all except KNIFEGUN are somewhat stronger in the criminal court. The impact of CAUGHT on the independent variable is much weaker within the juvenile court than it is in the criminal court, indicative perhaps of the diminished role played by evidence in that jurisdiction, compared with the criminal court. The former does appear, however, to take the nature of the defendant's participation into consideration where the latter does not. Nonetheless, a negative association between ROLE and HIGHEST (-.18) is confusing, because it suggests that it is defendants who

neither carry weapons nor cause injury who are likely to be charged more severely than those who possess either or both of these characteristics.

When both COURT and CRIME are introduced as controls, the nature of certain existing relations changes and some new associations emerge. While a control for COURT reveals a moderate association between RELATION and the dependent variable in both courts, the addition of a control for offense type restricts that association to cases involving assaults only. A similar phenomenon is noted for the association between HIGHEST and ACCOMPNO, which, by the way, is actually enhanced when a control is introduced for offense type. The findings are particularly interesting with respect to the relation between HIGHEST and CHARGES, for which no zero-order association had been noted. When CRIME and COURT are introduced as controls, one sees that the relation is negative for juveniles charged with assaults, but positive for adults charged with either assaults or robberies. Without the exertion of both controls, then, the nature of the relation between these two variables is virtually obscured.

Statistically controlling for both COURT and CRIME has other interesting effects. For example, it reveals that the number of offense-related characteristics associated with HIGHEST is reduced to but two among juveniles charged with assaults. In this case, only RELATION and ACCOMPNO vary with the dependent variable.[13] Moreover, it indicates that the association between rated offense seriousness and HIGHEST is

least marked for juveniles charged with assaults (r=.22) but is quite substantial for adults charged with robbery (r=.60).

Regression analysis. Selection of variables for inclusion in the regression analyses took into account several concerns. No attempt was made to establish interaction terms based in part upon either offense type, or COURT, for to have done so would have improved the predictability of the dependent variable at the expense of the interpretability of the regression coefficients.[14] Regressions were undertaken which involved the combination of RELATION, CAUGHT and INJURY, as well as their deliberate separation, to enable the researcher to demonstrate the relative impacts of each exogenous variable within different assumptions about their respective interpretations.[15]

Regressions incorporating rated offense seriousness (SERIOUS) excluded variables reflecting what could be interpreted as constituent offense characteristics. Clearly, none of the variables (weapon use, extent of offender participation, amount of loss to victim, extent of injury, and number of victims) unambiguously present for review by scale respondents within each of the scale items could be included in regressions involving the variable SERIOUS without sacrificing the integrity of the beta coefficients. Certain other characteristics of the offense were also excluded although their deliberate manipulation was not a feature of scale items. For example, VICSEX was excluded because victim

gender could be inferred from a number of the offense descriptions (e.g., those involving purse snatches).

Rated offense seriousness is a variable of much appeal because contemporary criticisms of the juvenile court are rooted in global assessments of the similarities of juvenile and adult behaviors. Less global yet legitimate measures of offense seriousness, such as weapon use and extent of injury to victims, are available for study, however. These may be viewed as alternate measures of seriousness given that prosecutors are specifically instructed by the criminal code to take such factors into account when making charging decisions. (N.J.Statutes 2C:12-1;15-1;39-3;39-4;39-5) Separate offense characteristics deserve their own analysis, because prosecutors are under no obligation to make charging decisions based upon global assessments of behaviors. Thus the analysis presents the findings of a second set of regressions which excludes SERIOUS yet which incorporates individual characteristics of the offense.

Regression results are summarized in Table 6-2. Four analyses are reported. Rated offense seriousness is entered into each of the first two regressions, and the KNIFEGUN measure of weapon use is entered into the second two. Each set of two regressions contains one equation into which both CAUGHT and RELATION have been entered, and one into which only CAUGHT or RELATION have been entered.[16] In all analyses, the COURT variable has been entered last, thereby encouraging a

Table 6-2 Summary of Regressions on Highest Degree of Charge at Intake (Equations 6.2.1 through 6.2.4)

Independent Variables by Order of Entry	N of Cases	Total R^2	R^2 Change	Beta	Standard Error	F-Ratio
(1)Relation	484	.47	.241	.303	.055	67.178
(2)Serious			.150	.340	.021	93.303
(3)Caught			.065	-.285	.060	59.087
(4)Admit			.007	.079	.058	5.372
(5)Court			.007	.089	.060	6.338[a]
Equation 6.2.1		Constant = 3.670				
(1)Relation	555	.40	.228	.381	.052	118.411
(2)Serious			.152	.372	.020	113.703
(3)Admit			.013	.105	.055	9.617
(4)Accompno			.007	.101	.020	8.191
(5)Court			.002	.054	.060	2.212[b]
Equation 6.2.2		Constant = 2.88				
(1)Relation	476	.47	.238	.273	.057	51.061
(2)KnifeGun			.145	.340	.018	91.161
(3)Caught			.069	-.287	.061	57.087
(4)Admit			.006	.068	.059	3.775
(5)Accompno			.000	.046	.021	1.532
(6)Court			.011	.113	.062	9.491[c]
Equation 6.2.3		Constant = 4.21				
(1)Relation	549	.41	.236	.365	.052	106.280
(2)KnifeGun			.148	.364	.017	107.172
(3)Admit			.011	.098	.056	8.340
(4)Accompno			.006	.100	.020	8.093
(5)Court			.005	.080	.060	4.903[d]
Equation 6.2.4		Constant = 3.42				

[a] d.f. 5 and 478, p=.001
[b] d.f. 5 and 549, p=.05
[c] d.f. 6 and 469, p=.001
[d] d.f. 5 and 543, p=.001

determination of the amount of change in R^2 attributable solely to COURT as opposed to other variables.

With respect to all but equation 6.2.1, F-ratios are sufficient to permit rejection of the null hypothesis. Thus, COURT may be perceived as a viable influence upon the charging decision, as its entry into the regression equation is accompanied by a probability exceeding chance. In all equations, the sign of the beta coefficient is positive, indicating that defendants in the criminal court experience a greater likelihood of having more severe charges filed against them than do defendants in the juvenile court.

Judging from the size of the beta coefficient as well as from the amount of R^2 change attributable to this variable, the impact of COURT is, however, very slight. Looking at the beta values in equation 6.2.1, one sees that each unit change in the dependent variable is accompanied by but 9 percent change in the COURT value, compared with as high as 34 percent change in SERIOUS. These coefficients are closely approximated by the beta coefficients associated with COURT and KNIFEGUN in Equations 6.2.3 and 6.2.4, which suggests as well, by the way, that the rated seriousness score may not be a better predictor of charge severity than knowledge of gun or knife use alone.

In none of the regressions did either SERIOUS or KNIFEGUN enter first; RELATION, the first variable to enter all equations, accounted for approximately 24 percent of variation in the dependent variable in each analysis. As the second variables to enter, SERIOUS and KNIFEGUN consistently

accounted for 15 percent of its variation. By contrast, the amount of R^2 change attributable solely to COURT ranged from a meager .2 percent, to a most conservative 1.1 percent. The fact that the amount of R^2-change attributable only to COURT is so small encourages one to suspect that the percent change in the COURT variable corresponding to a unit change in the dependent variable is really but the function of the respective change in the SERIOUS variable.

Interpretation of the regression results varies from equation to equation; equations 6.2.1 and 6.2.3, into which both CAUGHT and RELATION have been entered on the assumption that neither variable is a measure of offense type, suggest that charge severity is the consequence largely of the combined impacts of strength of evidence and offense seriousness.[17] Equations 6.2.2 and 6.2.4, into which only RELATION has been entered, suggest that charge severity is the consequence largely of offense seriousness given "limits", so to speak, upon the severity of charging in this state.

No matter what assumption is made about the variables' interpretations, it is clear that the impact of COURT, despite its statistical significance, is very slight. One may conclude that at least as far as court bias is concerned, charging decisions at intake are not dramatically different.

Influences on Charging: Conviction

There is a sense in which an understanding of the comparability of charges at conviction is even more important than an understanding of the comparability of charges at

intake. Aside from the fact that it is the more likely basis for comparison when post-conviction dispositions are at issue, a determination of the relation between offense seriousness and degree at conviction for each jurisdiction is critical for another reason. If it is true that degrees at conviction reflect different behaviors, one cannot be sure that differences in disposition are attributable to juvenile or criminal court leniency, severity, or to the simple fact that the disposition may have been selected on the basis of the very degree itself. If degrees at conviction do not represent markedly dissimilar behaviors across jurisdictions, the discussion of leniency is much more straightforward.

Summary of correlations. Table 6-3 presents correlations between HIGHEST and variables representing process-, offense-, and offender-related characteristics for all convicted defendants, and all convicted defendants controlling for COURT and both COURT and CRIME.[18] The table is dissimilar to Table 6-1 in very interesting ways.

Among zero-order associations, all but one variable exhibit weaker associations with charges at conviction than had been the case with respect to charges at intake. Interestingly, it was rated offense seriousness that did not diminish in importance. This finding initially suggests that, for the group as a whole, prosecutors are more prone to compromise on the significance of individual features of a victimization during plea bargains, but not to the point of demeaning its overall seriousness.

Table 6-3 Intercorrelations of Select Independent Variables and Highest Degree Charged at Conviction for All Defendants, All Defendants by Court of Jurisdiction, and All Defendants by Offense and Court of Jurisdiction.[a,b,c]

Independent Variable	All Defendants	All Defendants		All Defendants			
		Juvenile Court	Criminal Court	Juvenile Court		Criminal Court	
				Assault	Robbery	Assault	Robbery
Court	.22						
Charges	--	--	-.17	--	.27*	.17	.15**
Admit	.20	.21*	.20	--	.16**	--	--
Caught	-.44	-.39	-.53	-.40**	-.22**	-.39	--
Witness	-.11*	--	-.18	--	--	--	--
Seriousness	.46	.51	.39	.34**	.67	.46	.51
Relation	.31	.20**	.37	.48*	--	.23*	--
Gun	.39	.47	.33	--	.55	.29	.35
KnifeGun	.41	.46	.35	--	.58	.37	.42
Injury	-.14*	--	-.22**	--	.25*	--	--
Property	.21	--	.22	--	--	--	.17**
Threats	.17	--	.14**	--	.27*	--	.15**
Accompno	.19	.26	.24	--	.32	.23*	--
Vicsex	.18	--	.18	--	--	.19*	--
Race	.11*	.16**	.13*	--	--	.23*	--
Age	--	--	.12*	.37**	--	-,17**	--

[a] Excludes persons charged with disorderly offenses. Correlations calculated using pairwise deletion.
[b] Blank denotes a non-significant or negligible association.
[c] All correlations with dependent variable significant at p=.001 unless otherwise noted.
* p =.01
** p =.05

Also of interest are the changes undertaken by the coefficients when both COURT and CRIME are introduced as controls. A comparison of the coefficients contained in Table 6-1 and 6-3 reveals that correlations between SERIOUS and the dependent variable increase markedly for both assault and robbery defendants in the juvenile court but actually decrease for both assault and robbery defendants in the criminal court--so that it is with respect only with the defendants of the juvenile court that attention to overall seriousness is not likely to be compromised. Moreover, the data indicate that with respect to juveniles charged with robbery, the number of decision-making criteria (independent variables demonstrating an association with the dependent variable) actually increase, but decrease for both adults charged with assault and those charged wtih robbery. These marked changes in coefficients pertaining to the juvenile court reflect, perhaps, different sensitivities by the juvenile intake unit and by juvenile court prosecutors to the importance of specific features of offending behaviors.

Regression analyses. Variables were selected for use in the regression analyses following the conventions described in the section on charges at intake. Results of the regression analyses are produced in Table 6-4.

The findings with regard to charges at conviction are unlike those with respect to charges at intake in several ways. First, the entry of COURT into all equations is statistically significant; second, beta values corresponding

Table 6-4 Summary of Regressions on Highest Degree of Charge at Conviction (Equations 6.4.1. through 6.4.4.)

Independent Variables by Order of Entry	N of Cases	Total R^2	R^2 Change	Beta	Standard Error	F-Ratio
(1)Serious	421	.38	.206	.360	.031	77.097
(2)Caught			.121	-.288	.089	43.378
(3)Relation			.034	.181	.081	18.077
(4)Admit			.006	.071	.081	3.238
(5)Court			.015	.127	.083	9.807[a]
Equation 6.4.1		Constant = 3.07				
(1)Serious	435	.36	.195	.334	.031	65.676
(2)Caught			.134	-.379	.082	88.084
(3)Admit			.012	.100	.081	6.375
(4)Court			.015	.129	.085	9.927[b]
Equation 6.4.2		Constant = 3.85				
(1)Caught	419	.34	.173	-.329	.091	54.058
(2)KnifeGun			.118	.289	.026	46.110
(3)Relation			.025	.156	.084	12.375
(4)Admit			.005	.068	.084	2.713
(5)Court			.018	.141	.087	10.955[c]
Equation 6.4.3		Constant = 4.08				
(1)Caught	427	.34	.187	-.386	.085	85.946
(2)KnifeGun			.116	.284	.026	44.614
(3)Vicsex			.011	.085	.055	4.267
(4)Admit			.007	.082	.085	3.969
(5)Court			.014	.127	.088	8.930[d]
Equation 6.4.4		Constant 4.55				

[a] d.f. 5 and 415, p=.001
[b] d.f. 4 and 430, p=.001
[c] d.f. 6 and 413, p=.001
[d] d.f. 5 and 421, p=.001

to COURT have grown slightly, but are accompanied by much more substantial increases in amounts of R^2 change attributable to this variable; third, rated offense seriousness (SERIOUS) emerges as the most substantial predictor of charged severity at intake, no matter what assumptions are placed upon the interpretations of other variables in the equation; and fourth, all variables together explain a smaller proportion of variation in the dependent variable than did similar combinations with respect to charges at intake. Since the amounts of R^2 change attributable solely to COURT continue to be so small (ranging from 1.4 percent to 1.8 percent of variation explained) despite their increase over the preceding set of analyses, the possibility persists that change in the COURT variable is but the function of corresponding change in the SERIOUS variable. Overall, the findings indicate that while a greater number of unidentified variables may influence charge severity at conviction than might have been the case at intake, the role played by court continues to be a modest one.

Summary

The purpose of this chapter was the clarification of the relation between court of jurisdiction and charge decision-making, with respect to highest degree charged at intake and at conviction. For several reasons, the proposed comparison was a formidable task. Due perhaps to the minimal participation of the juvenile court prosecutor in the charging process, relatively few juvenile court cases were available for analysis, compared with the number of criminal court cases

that were available. The extent of the correlation between the two independent variables COURT and SERIOUS introduced ambiguity into the analysis of their relative impacts upon charging. Finally, broader problems were encountered when it was discovered that key predictor variables exhibited alternative explanations which not only further impeded the interpretation of regression coefficients but prevented the creation of interaction terms as well.

Nonetheless, it is possible to sort and then interpret the results of the regression analyses in light of "best-case" and "worst-case" scenarios. The best-case scenario is one in which changes in the COURT variable stem solely from changes in the SERIOUS variable. According to this scenario, charging decisions with respect to either intake or conviction are not marred by bias against the defendants of the criminal court.

The worst-case scenario is one in which changes in the COURT variable are <u>not</u> the product of changes in the SERIOUS variable. Yet in light of even this scenario, the impact of court bias is very conservative. Given the severity of charges at intake, over three (Equations 6.2.3 and 6.2.1) and up to four (Equation 6.2.4) times the amount of change is required in the SERIOUS or KNIFEGUN variables than is required in the COURT variable for each unit change in the dependent variable. The ratio is not as high with respect to charges at conviction, but percent changes in COURT are nonetheless accompanied by over twice the amount of change in KNIFEGUN, and nearly three times the amount of change in SERIOUS, for

each unit change in the dependent variable. All things considered, these findings encourage confidence in the acceptance of an assumption of the comparability of charging decisions across the two jurisdictions.

Notes

1 If in fact charging practices reflect dissimilar levels of offense seriousness within similar charges across the two jurisdictions in Union County, the difference cannot be attributed to the absence of plea bargaining in the juvenile court. In Union County, the revision of juvenile court charges through plea bargaining was a common occurrence during the time period studied. A simple analysis was performed to measure the extent to which numbers of charges as well as their degree underwent revision from intake to plea. The analysis involved the creation of two new variables representing the subtraction of OUTCHARG from CHARGES, and DEGREE from HIGHEST.

Perhaps interestingly, the manner in which charges were revised in the juvenile court appears unlike that of the criminal court. On the whole, defendants pleading guilty in the criminal court were twice as likely to have the number of their charges reduced than were defendants pleading guilty in the juvenile court (67.3 percent versus 35.3 percent). The association is stronger for assaults, where cases are twice as likely to undergo charge reduction (91.6 percent versus 44.3 percent), and weaker for robberies, where cases are forty percent more likely to undergo charge reduction (50.8 percent versus 36.1 percent).

Initially, the greater tendency of the criminal court to drop charges suggests that adults may be treated more leniently during plea bargaining than are juveniles, if fewer charges result in less punishment. However, where punishments for multiple charges are largely concurrent, as the data in this study have shown them to be (80 percent of cases involving multiple charges resulted in sentences to concurrent terms), the exact number of charges on which a subject is eventually convicted may be an irrelevant concern.

Actually, information about numbers of charges dropped is an insufficient criterion on which to assess the leniency of plea bargaining practices, because it is the degree of the charge, as opposed to the number of charges, that determines the maximium length of a sentence.

The use of reductions in degree was a more prevalent feature of plea bargaining in the juvenile court than it was in the criminal court. On the whole, reductions in degree occurred in the former approximately 53 percent more often than in the latter (47.4 percent of the time, versus 31 percent of the time). The relation was strongest for defendants charged with robberies, where reductions in degree occurred roughly twice as often among cases involving juveniles (44.7 percent versus 22.5 percent).

2 The level of probability to be used in the tests of significance in this and the following chapter is .001. Since this is to be a two-tailed test, F-ratios will actually be tested against a probability of .002.

3 This was always true for robberies, where the statute calls for the charging of a second degree offense except in cases involving threat of or actual serious injury, which are to be charged as first degree offenses (N.J. Statutes 2C:15-1(b)). While it was possible for the author to identify cases which in her judgement involved serious injury or its threat, what is really at issue here is the court's judgement, and where no indication was provided, cases were coded as missing. Exceptions were those cases in which comments pertaining to negotiated pleas implied original degree charged. For example, the phrase, "downgraded to second degree" implied that the initial charge had been of the first degree.

4 Ambivalence in the form of a low correlation with the independent variable was expected because the New Jersey Criminal Code labels the charging of assaults upon police officers aggravated assaults, despite the fact that with respect to some actual injuries involved the offense would qualify as a simple assault were its victims other than police officers (see N.J. Statutes 2C:12-1).

5 The correlation produced by the first version was .39, compared with a correlation of .48 produced by the second version. In all of the "coding tests", the sample employed was the aggregate sample of both juveniles and adults (i.e., no controls for either court or offense type were enforced). The tests were so limited because it was upon the basis of correlations for the aggregate sample that variables were selected for use in regression analyses.

6 The gender-based version was not able to produce a correlation with HIGHEST that was either significant or non-negligible. The VICSEX coding scheme led to a correlation of .20.

7 Since there is already a variable in the study representing number of victims (VICTIMNO), this manner of coding suggests that multiple measures of the same item may be present in the analysis. However, as a later analyses will indicate, VICTIMNO, by virtue of weak association with the independent variable, was excluded from the regressions. With respect to VICSEX and VICTIMNO, therefore, the problem of redundant measures was avoided.

8 Actually, the difference between the correlations corresponding to each version was slight (the coefficient was .47 for KNIFEGUN, compared with .46 for GUN), but additional preference was given to the former measure because cell sizes for the juvenile sample were much larger when cases involving guns and knives were collapsed than when gun use alone was considered.

9 The correlation yielded by the first coding scheme was -.18; by the second, -.31.

10 The version which included beatings produced a correlation of .09. With beatings excluded, the correlation grew to .18.

The reader should note that several interaction terms were created using existing independent variables (COURT and SERIOUS excepted). Three sources of interaction were hypothesized. The first, an index of evidentiary sufficiency, was created based upon the multiplication of the three separate measures of evidence, ADMIT, CAUGHT, and WITNESS. This new variable tested the possibility that the severity of charging decisions is influenced by the quantity of evidence available, as opposed to any one particular source of evidence. A belief that injuries committed against strangers might be perceived as more serious than those committed against persons known to the offender was the incentive underlying the creation of a second interaction variable, which combined INJURY and RELATION. Third and fourth interaction terms were formed by the multiplication of the INJURY and KNIFEGUN, and INJURY and GUN variables, respectively. These terms take into account the possibility that injuries caused in conjunction with weapons can have a greater impact upon charging than the commission of injuries or carrying of weapons alone.

11 The table does not reflect all exogenous variables available to the analysis. Only variables that demonstrated significant ($p<.05$) coefficients with HIGHEST of .15 or above for at least one of the zero or partial-order correlations were included; nonsignificant and/or negligible relations were excluded.

12 A summary of the correlations between the interaction terms and HIGHEST follows. The newly created measure of evidentiary sufficiency bore an association of -.28. The KNIFEGUN-INJURY combination, manifested a relation of .19, much unlike the GUN-INJURY combination, which exhibited no significant association at all. The coefficient associated with the RELATION-INJURY combination was only -.16.

13 At least two interpretations can be attributed to this observation. Since they provide entirely different input into the search for leniency in the juvenile court, they are worth noting. One--which might be the argument of critics of the juvenile court--is that the criminal court pays more attention to the characteristics of the offense than does the juvenile court. The other is that offense characteristics play a diminished role in the juvenile court because defendants in that jurisdiction tend to be charged equally severely (or leniently), irrespective of such criteria. Thus, the leap to a conclusion about leniency in the juvenile court on the basis of this particular finding requires the acceptance of a single

plausible assumption but the rejection of another, equally plausible one.

14 An attempt was made in the present effort to select variables for use in the regression analysis on the basis of 1) the size of their respective correlations with the dependent variable, 2) interpretations attributable to each of the coefficients, and 3) the nature of their interaction with other predictor variables. In other words, the choice of independent variables was predicated on the answers to these three questions: Is the bivariate correlation large enough to merit inclusion? Are interpretations attributable to the coefficients of each predictor variable as unambiguous and distinct as possible? And, should new variables be established to represent the interaction effects illustrated by Table 6-1?

Unlike the first question, which is relatively easy to address, with respect to the proposed analysis questions 2 and 3 are most difficult. The issue of interpretability is of special importance to this study, in which we are essentially less interested in our ability to predict the dependent variable, per se, than we are in our ability to determine the relative impacts of each of the predictor variables on the dependent variable. The question of interpretability is of utmost importance because unless we are very sure that two or more variables are measures of different items, it makes little sense to talk about relative impacts. Unfortunately, this condition could not be met by the present effort to understand the determinants of charging.

The most critical source of ambiguity can be found among the very two variables--COURT and SERIOUS--in which we are most interested. As Table 6-1 indicates, the variables exhibit positive associations, which initially suggest that both defendants from the criminal court and defendants from either court whose behaviors have been regarded as of a relatively serious nature, are more likely to have higher degreed charges filed against them than either juvenile court defendants, generally, or those whose behaviors have been rated less serious. In other words, the associations encourage the belief that charging decisions take into account legitimate (offense seriousness) information as well as illegitimate (bias against court of jurisdiction) information. Actually, the interpretation is not that straightforward, since the variables COURT and SERIOUS possess a moderate inter-correlation of .43.

Although one conventional meaning attributed to the latter coefficient is that behaviors of criminal court defendants are likely to be regarded as being of greater seriousness than the behaviors of juvenile court defendants, the coefficient suggests as well that certain seriousness ratings are likely to be attached to the behaviors of defendants from only one of the two courts, as opposed to both jurisdictions. Taking into consideration only this interpretation, change in the SERIOUS variable cannot occur

without an accompanying change in the COURT variable. Thus, it will not always be possible to discern--in cases where both COURT and SERIOUS are correlated with the dependent variable--whether the association with COURT truly stems from a posture of varying leniency among the prosecutors of the two courts, or whether the association is a necessary byproduct of changes in SERIOUS. With respect to regression results, then, unambiguous interpretations can be elicited only from beta coefficients of COURT and SERIOUS that do not approximate one another. That is, where there is less overlap, there is less confusion.

A second source of misinterpretation is located with two variables--RELATION and CAUGHT--which by virtue of their substantial associations with highest degree at intake are prominent candidates for use as predictor variables in regression analyses. Although initially each variable offers a straightforward interpretation, competing, more problematic interpretations are present.

Perhaps the most obvious meaning one might attach to the positive association between RELATION and highest degree at intake (r=.45) is that prosecutors tend to reserve the highest charges (i.e., exercise the most condemnation) for those offenses committed against strangers (including police officers), and treat with greater leniency offenses committed against family members and acquaintances. Not so apparent is that the RELATION variable is in a sense a measure of type of offense (assault or robbery) charged, when robberies involve a disproportionate number of strangers as victims. Similarly, CAUGHT, as well as INJURY, may also be perceived as a measure of offense type. CAUGHT may be so viewed because of the large proportion of assault defendants who are apprehended at the scene of the crime, compared with a much smaller proportion of robbery defendants apprehended in this manner. INJURY may be similarly regarded, because injuries are more likely to occur during assaults as opposed to robberies. As a distinct variable, offense type may be viewed as a plausible influence on the highest degree charged, because of the different ranges of degrees within which assault and robbery charges may fall.

Of course, there is nothing wrong with including a control for offense type in the analysis, if in fact RELATION, CAUGHT and INJURY actually represent differences in crimes rather than varying prosecutorial emphases on victim type, evidence type, and injury, respectively, as such a variable provides a way of controlling for the fact that assaults, independently of rated seriousness, are restricted to an upper limit of second degree as opposed to first degree charges. Thus when one includes both CAUGHT and SERIOUS in a regression analysis, one might be interpreted as asking the question, "Given that robberies may be assigned charges as high as first degree, and assaults, as high only as second degree, what effect does the overall seriousness of the behavior have on the way a case is charged?"

A problem <u>is</u> encountered, however, if in fact <u>both</u> or <u>all three</u> variables bear relations with HIGHEST because they are

all measures of offense type. If this is the case, the inclusion of two or all three of the variables has the likely effect of artificially inflating estimates of the amounts of variation (R^2) not due to either the COURT or SERIOUS variables, as well as deflating each of the beta coefficients (Cohen and Cohen,1975:114-115; Greenberg,1979:22-23). Inclusion of more than one of these variables calls for the cautious interpretation of regression results.

The problem is partially addressed by the exclusion of all but one of these three variables from regression analyses, but difficulties do not end here. Attempts to create interaction terms composed in part upon offense type are thwarted if offense type is already built into the regression equation in the form of the variables discussed above. For example, inclusion in the same regression equation of the variable CAUGHT (or RELATION or INJURY) and an interaction term composed of the multiplication of a dummy variable representing offense type and the variable ACCOMPNO may be tantamount to the duplicative inclusion of the dummy variable, offense type. Of course, the same problem would persist were one to compose an interaction term from the dummy variable offense type and either CAUGHT, RELATION or INJURY--as one might be encouraged to do, judging from the changes in correlations for these variables across crime categories in Table 6-1. One cannot be certain (given the variables' unclear interpretations) whether such interaction terms are not analagous to the multiplication of offense type by itself. An attempt to avoid the problem entirely by omitting CAUGHT, RELATION and INJURY from the analysis seems unsatisfactory, for with the exception of SERIOUS and two measures of weapon use (which cannot be entered simultaneously), no other variables exhibit noteworthy correlations with the independent variable. It may be true, as well, that unless one explicitly accounts for the bounds placed by the criminal code around charges of assaults and robberies, that a study of influences upon charging, at least as far as New Jersey is concerned, is a meaningless undertaking.

Ambiguity in the proposed analysis is limited not merely to the separation of the effects of COURT and SERIOUS, nor to the problem of how best to control for differences in crime category, but stems as well from attempts to address the interaction of COURT with other independent variables in this study.

Were the determination of the impact of COURT not so central to the analysis, the creation of interaction terms that are based in part upon this variable would be a straightforward task. Normally, upon creation of the interactive term source variables must be removed from the analysis, if one wishes to avoid resulting problems of high collinearity between the new term and each of the constituent variables. But were COURT to be removed from this analysis, the testing of the hypothesis which is the study's very raison d'etre would be an impossible undertaking. Moreover, interpretation of the beta coefficients of interaction terms

based on COURT would be awkward, since the purpose of the analysis is to measure the impact of the COURT variable against all of the others. When combinations are formed, it is no longer possible to do this.

15 Refer to the discussion in note 14.

16 Three features of the regression analyses reflected in Table 6-2 require clarification. One concerns the basis for inclusion of "extra" variables in the analyses--i.e., variables other than those of greatest concern in this study, namely, COURT,SERIOUS,HIGHEST (or DEGREE),and KNIFEGUN. The major criterion employed in selecting additional variables was the relative propensity of variables to cause cases to drop out of the analysis. The number of missing cases that could be attributed to any one variable became a critical issue indeed, given the application of listwise deletion in the regression analyses, and the currently conservative number of juvenile defendants with respect to whom values of the independent variable could be identified.

A second feature requiring clarification concerns the number of additional variables employed in each regression. As Table 6-2 illustrates, the number of variables was limited in all but one case to five. The reason for the limit stems largely from concern over the threat of an increasingly smaller N with each new variable that was entered. The fact that a limit was imposed was not viewed with regret, since the greatest proportion of variance in the dependent variable is usually attributed to the first few variables to enter the regression equation (Gottfredson and Gottfredson,1979:30). Actually, numerous regressions were computed in which various independent variables were substituted for ADMIT. ADMIT shows up in most of the computations because it effected approximately the same amount of change in R^2 while leading to the smallest number of cases lost to listwise deletion.

The third feature concerns the inclusion of RELATION as opposed to CAUGHT in the second and fourth equations. The main criteria employed in making this decision were 1) the minimization of cases lost through listwise deletion, and 2) the maximization of change in R^2. Correlation matrices corresponding to each of the regressions presented in Table 6-2 as well as later in this chapter can be found in Appendix G.

17 For reasons discussed elsewhere in this dissertation, KNIFEGUN has been interpreted as a measure of offense seriousness.

18 Variables were selected for inclusion in this table on the basis of the same criteria noted for Table 6-1. Obviously, some of the variables eligible for inclusion in a table summarizing correlations of exogenous variables with highest charges at intake--e.g., CONVICNO, ROLE, and VICTIMNO--were

not eligible for inclusion in the table summarizing correlations with highest degree charged at conviction.

Chapter 7
A COMPARISON OF SENTENCING PRACTICES

At the forefront of contemporary dissatisfaction over the juvenile court is a concern over the appropriateness of traditional mechanisms available for the sentencing of young offenders. The argument of the critics of the juvenile court may be stated simply: Although they commit offenses that are just as serious as those committed by adults (van den Haag,1975:174), juveniles, unlike adults, are protected by a system capable of neither acknowledging the seriousness of their behaviors nor administering punishments proportionate to their crimes (Feld,1981:170). Implied, but not stated, is the idea that the criminal court, given its capacity to exercise greater punitiveness and proportionality, actually does punish more severely than the juvenile court.

Operational definitions of the terms "leniency", with respect to juvenile court sentencing, and "severity", with respect to criminal court sentencing, are absent from much of the literature promoting reform of juvenile codes. In a few cases, one can infer the meaning of leniency or severity from the proposed reforms themselves. For instance, reforms encouraging the legislative presumption of custodial sentences for juveniles convicted of violent offenses (see e.g., Zimring, 1978:98), suggest it is the relative uncertainty of incarceration that is the basis for leniency in the juvenile court. More often, recommendations do not lead to

straightforward inferences. For example, van den Haag (1975:249) proposes simply that [a]fter the age of thirteen, juveniles should be treated as adults...for sentencing purposes."

The provision of a working definition of "proportionality" is similarly difficult to extract from the literature. For the Task Force on Sentencing Policy Toward Young Offenders (Twentieth Century Fund,1978), penalties are proportionate only if their severity varies positively with the seriousness of the offense. The inadequacy of such a definition is obvious: The fact that penalty severity varies positively with offense seriousness does not guarantee that the severity of any particular punishment will in itself be truly proportionate to the seriousness of its respective offense.

In the absence of clearly stated working definitions, it is necessary for the researcher to assign meanings to each of these terms. Two logical definitions of severity concern certainty and length of imprisonment. The criminal court may be regarded as a more severe institution if it administers prison sentences more frequently than the juvenile court in cases involving offenses of similar seriousness. Alternately, it may be regarded as more severe if it administers longer terms to those sentenced to prison than does the juvenile court, holding constant offense seriousness. In the absence of the specification of a system of matched penalties and offenses, the criminal court will be regarded as more proportionate only if the severity of its penalties exhibits a

stronger association with offense seriousness than do the penalties of the juvenile court. The test of the accuracy of each of these arguments is the purpose of this chapter.

Background to the Study of Sentencing

The analyses in this chapter develop an understanding of the relative influences of the variables "court of jurisdiction" and "offense seriousness" upon sentence severity. Specifically, they provide a two-tailed test of the second hypothesis, which states

> The severity of disposition administered is unrelated to court of jurisdiction.

The hypothesis is subject to rejection if the association between COURT and the dichotomous variable "sentence to prison" (PRISON) is unequal to zero at a probability exceeding chance, controlling for other variables.

Control variables. Correlations between the dependent variables and most of the same variables considered in the analyses on charging were reviewed for the latter's statistical and theoretical potential as controls in the current analysis, with few exceptions. The variable number of charges at intake (CHARGES) was replaced with number of charges at conviction (OUTCHARG), for obvious reasons. Due to its high correlation with OUTCHARG (r=.94) the variable number of counts at conviction (OUTCOUNT) was removed from consideration. Two variables added to the study of sentencing were the dummy variables PLEA and TRIAL, both of which relate to the method by which conviction was obtained.

Eligible cases. Juveniles initially charged with disorderly persons charges were excluded from the study of sentencing. Thus, for both samples (juveniles and adults), the analysis is concerned only with convicted persons originally charged with what would be indictable offenses if handled by the criminal court.

Data on sentence type were available for all of the convicted adults (a total of 389) in the sample. Of the 239 adjudicated juveniles originally charged with first through fourth degree offenses, dispositions could be identified for 219. Eventually eliminated from the subsample of adults were three cases sentenced to jail, for which no counterparts among adjudicated juveniles could be located.[1]

Among the 385 remaining adult cases were 260 individuals sentenced to prison, and 125 individuals sentenced to probation. Among the 219 remaining juvenile cases were 44 individuals sentenced to prison, and 175 individuals sentenced to probation.

Coding. The dependent variable in this analysis is the dichotomy, imprisonment/sentence to probation. Counted as cases sentenced to prison were sentences to state institutions of minimum, medium and maximum security classification. Counted as sentenced to probation were terms of straight supervision (which included the dispositions of juveniles whose formal sentences were held in abeyance but who were ordered nonetheless to report regularly to a probation officer), suspended and split sentences. Split sentences

encompass the combination of community supervision and brief jail terms, as well as the combination of community supervision and commitment to residential facilities.

To some, the choice of this particular dichotomy for study may appear questionable. An alternate dichotomy--residential vs. non-residential placements--was considered but ultimately rejected, for two reasons. The first reason was that intuitively, some program placements administered in conjunction with sentences to probation seem much less severe than institutionalization. The second was that program placements for juveniles tended to be considerably briefer (usually, placements spanned periods of approximately six weeks) than sentences to institutionalization. A way of addressing this issue would have been to create a trichotomous independent variable with the values "probation sentence", "split sentence" and "institutionalization", but the numbers of cases falling into the middle category precluded their meaningful analysis.[2]

Concern may be raised as well about the equivalence of particular combinations of split sentences served by juveniles and by adults. Whereas some offenders from each jurisdiction were sentenced to community supervision in combination with commitment to residential facilities, only adults were sentenced to supervision in combination with terms of confinement in jails. The two types of split sentences appear incompatible because residential facilities available to convicted adults in New Jersey are program-focused, whereas

the Union County Jail is not. Because only a very small number of adults were administered jail as opposed to residential-type split sentences, the inclusion of jail-type split sentence recipients was not regarded as much of a problem.

One may question whether the institutions to which juveniles are sentenced actually represent a level of punitiveness analagous to those to which adults are sentenced. If institutions are in fact very different in this respect, their aggregation into a single category of punishment in the proposed analysis is misleading.

A comparison of the impacts upon juveniles and adults of institutionalization under various settings is of course outside the scope of this dissertation. It is not possible to appeal to existing research to resolve this issue, for no direct comparison has ever been undertaken. Nonetheless, several observations are appropriate. The first is that of the institutions to which juveniles and adults may be sentenced in New Jersey, one is shared by the convicted offenders of both jurisdictions.[3] Second, of the five remaining institutions to which adults may be sentenced, the physical characteristics of one approximate those of the two other institutions to which juveniles may be sentenced.[4] Third, one study of the experiences of juvenile inmates in a state training school indicated that institutions for juveniles can indeed share the punitive and otherwise brutal character of institutions for adults (Bartollas, Miller and Dinitz, 1976).[5]

With respect to non-interval level control variables, dichotomies were formed in the manner described in Chapter 6. The same alternate coding schemes were tested using the sample of convicted offenders, with mostly similar results. The only difference found was with respect to alternate INJURY recodes, where the scheme which separated beatings from more serious injuries resulted in more substantial correlations.[6]

Interaction terms. Associations with PRISON and PROB and the interaction terms created for the analyses described in the preceding chapter were discouraging, in that again, the new terms failed to produce correlations greater than their constituent variables.

One additional source of interaction postulated for the present analysis concerned the impact of prior record upon the relation between SERIOUS and PRISON; however, comparison of the zero-order correlation with the partial correlation in which CONVICNO served as a control revealed that prior record did not interact to any notable degree with the relation between these two variables.[7]

Influences on Sentencing

Table 7-1, which dissaggregates the sample by type of disposition and court of jurisdiction for each level of rated offense seriousness, allows the assumption of greater certainty of imprisonment in the criminal court to be examined more closely.

With the exception of only the first category, the data indicate that both courts sentenced to both sanctions at each

Table 7-1 Percent Distribution of Rated Offense Seriousness by Type of Sentence and Court of Jurisdiction[a]

Rated Offense Seriousness	Juvenile Court		Criminal Court	
	Probation	Prison	Probation	Prison
One	84.6 (11)	15.4 (2)	100.0 (3)	0.0 (0)
Two	85.7 (36)	14.3 (6)	53.3 (16)	46.7 (14)
Three	90.7 (78)	9.3 (8)	42.0 (29)	58.0 (40)
Four	75.6 (34)	24.4 (11)	35.1 (33)	64.9 (61)
Five	54.2 (13)	45.8 (11)	22.9 (30)	77.1 (101)
Six	33.3 (3)	66.7 (6)	24.1 (14)	75.9 (44)
Total Number of Cases	175	44	125	260

[a] Figures in parentheses represent numbers of cases.

level of offense seriousness. Rates of imprisonment are much higher among adults than among juveniles for all but the first level, at which no adults were imprisoned. Among adults, more than one person is imprisoned for every person placed on probation for four out of the six categories. The ratio is lowest for level two offenses, where it is 1:1, and highest for level five, where it is 3:1. Among juveniles, the reverse is true. Probation is granted in the majority of cases involving juveniles in nearly all categories. The ratio of persons imprisoned to persons placed on probation is lowest for level three offenses, at 1:10, and highest for level six, at 2:1.

Generally speaking, the certainty of imprisonment grows with increases in seriousness, although the rate of growth is somewhat steeper within the juvenile court than it is within the criminal court.[8] Excluding the category at which no offenders are incarcerated, the rate of imprisonment among adults grows from 47 percent of offenders at level two to 78 percent of offenders, at level five, a difference of 31 percent. By contrast, the rate of imprisonment among juveniles grows from 9 percent of offenders, at level three, to 67 percent, at level six. This represents a difference of 58 percent.

In summary, Figure 7-1 indicates the generally consistent tendency of the criminal court to sentence more severely than the juvenile court. It does not demonstrate as consistently that the severity of criminal court sentencing stems from

concern over offense seriousness. Results should be interpreted cautiously, however, since some cell sizes are very small.

Summary of correlations. Other indicators of sentence decision-making in the two courts are summarized in Table 7-2, which displays significant, non-negligible associations between the study's exogenous variables and the dummy variable PRISON for all convicted offenders, all convicted offenders by court of jurisdiction, and all convicted offenders by court and offense type.

Of all potential indicators of the sentencing decision, it is highest degree of conviction (DEGREE) which exhibits the most substantial association with the dependent variable (r=.56), followed by COURT (.47) and SERIOUS (r=.38). These results are very unlike the bivariate analysis undertaken with respect to charging decisions, in which the association demonstrated by COURT greatly exceeds the association exhibited by SERIOUS.

Not surprisingly, the next most substantial of the associations are the alternate measures of weapon use, GUN (.35) and KNIFEGUN (.33). The variable RELATION manifests a much lower (.21) correlation with PRISON than it did with either HIGHEST or DEGREE, but its interpretation is still as unclear. In one sense, the association may be interpreted as the decision-maker's condemnation of crimes committed against strangers and police officers, but in another, may be interpreted as the strength of the measure offense type, where

Table 7-2 Intercorrelations of Select Independent Variables and Sentence to Prison for all Convicted Defendants; All Convicted Defendants by Court of Jurisdiction; and All Convicted Defendants by Offense and Court of Jurisdiction.

Independent Variable	All Convicted Defendants	Convicted Defendents Juvenile Court	Convicted Defendents Criminal Court	Convicted Defendents Juvenile Court Assault	Convicted Defendents Juvenile Court Robbery	Convicted Defendents Criminal Court Assault	Convicted Defendents Criminal Court Robbery
Court	.47						
Degree	.56	.35	.54	.31*	.37	.49	.42
Outcharg	.25	--	.20	--	.18**	.37	.18*
Caught	-.20	--	-.35	--	--	-.28	--
Admit	.15	--	--	--	--	--	--
Serious	.38	.30	.22	--	.37	.18	.31
Knifegun	.33	.27	.15*	.24**	.29	--	.27
Gun	.35	.34	.20	.38	.35	--	.22
Property	.20	--	.18	--	--	.18**	--
Vicsex	.16	.24	--	.23**	.34	--	--
Accompno	--	.15**	.13**	--	.20*	--	--
Injury	--	--	--	--	.18**	--	--
Relation	.21	--	.25	--	--	--	--
Role	.16	--	--	--	.19**	--	.22
Race	.18	--	.27	--	--	.33	--
Age	.17	--	--	--	--	--	--
Arrestno	.24	NA	.24	NA	NA	.31	.16*
Convicno	.22	.29	.20	.36	.28	.25	--

a Blank denoted a non-significant or negligible association. Correlations calculated using pairwise Deletion.
b All correlations with prison significant at p=.001 unless otherwise indicated.
* p=.01
** p=.05

first degree robberies are more likely to evoke prison terms than are second degree assaults.

Other indicators of sentence severity are the offender characteristics RACE, AGE and CONVICNO, all of which portray low associations with the dependent variable. Not surprisingly, CAUGHT and ADMIT demonstrate lower correlations with PRISON than they did with either HIGHEST or DEGREE, indicating--logically--the diminished role played by strength of evidence following conviction. Neither measure of justice system processing (PLEA or TRIAL) bore appreciable associations with PRISON.

The remainder of Table 7-2 displays correlations controlling first for jurisdiction, and then for jurisdiction and offense type. Several interesting sources of interaction with one or both control variables are evident. One concerns the negligible role played by weapon use in the sentencing of adults convicted of assaults. One might propose that with respect to assaults other offense characteristics take precedence among decision-makers, but the absence of associations for such key variables as RELATION and INJURY precludes this suggestion. Judging from the size of the correlations for RACE and ARRESTNO (.33 and .31, respectively), one may wonder if the sentencing of adults convicted of assaults is not primarily the function of offender characteristics.

A second perplexing source of interaction is found among juveniles convicted of assaults, for which no meaningful

association between SERIOUS and PRISON could be noted. Low to moderate associations are noted for the variables KNIFEGUN and GUN (.22 and .35, respectively) but these correlations need cautious interpretation, as they are based in part upon cells containing very few cases. The relative paucity of variables with non-negligible associations leads one to wonder whether social variables play a large role in disposition decision-making in these cases.

Regression analyses. The selection of variables for use in the discriminant analysis observed guidelines similar to those established with respect to the earlier analyses of charging. Desired was the establishment of an equation leading to the "best" prediction, while minimizing the number of predictor variables, limiting to the greatest extent possible the number of cases lost through listwise deletion, and avoiding problems of interpretability of regression coefficients. For reasons explained in the preceding chapter, the issue of interaction of the independent variables with either COURT or crime type was left unaddressed by the selection of variables for regression analyses. As in earlier analyses, assaults and burglaries were aggregated; in this instance, aggregation overcame the relatively small number of juvenile cases sentenced to prison within each offense category.

Several regression analyses were undertaken using various combinations of the variables listed in Table 7-2; eventually,

only four--SERIOUS, CONVICNO, RACE, and COURT--were needed to meet the conditions specified above.[9]

Results of the regression analysis upon sentence to prison (PRISON) are displayed in Table 7-3.[10] Since the entry of COURT was significant ($p<.001$) the null hypothesis can be rejected. Review of the regression coefficients indicates that responsibility for the greatest impact upon the decision to imprison belongs to the variable COURT, with a coefficient of .360. The extent to which the coefficient exceeds the coefficient of SERIOUS, at .217, suggests that an understanding of sentencing is marked with less ambiguity than was the earlier attempt to understand charging. That is, while over half of the change in the COURT variable may be attributed to change in the SERIOUS variable, a fairly substantial proportion of the coefficient of COURT is unaffected by change in SERIOUS.[11] A further indication of the role played by COURT concerns the amount of change in PRISON attributable to change in the COURT variable. The R-square change associated with court jurisdiction--.109--accounts for one-third of the total explained variation (.309) in the dependent variable that cannot be explained by any of the other predictor variables.

The positive signs attached to each of the coefficients suggest that the likelihood of imprisonment increases with the likelihood of handling by the criminal court, and to a lesser extent, with the likelihood of increased offense seriousness, the likelihood of minority status, and number of

Table 7-3 Summary of Regression on Sentence to Prison, Using Offense Seriousness as an Independent Variable (N=531)

Independent Variables By Order of Entry	R-Square Change	Beta	Standard Error	F-Ratio
Serious	.133	.217	.015	30.103
Convicno	.050	.192	.003	27.786
Race	.017	.159	.041	18.875
Court	.109	.360	.041	83.270[a]

Total R^2=.309 Constant=.113

[a]d.f 4 and 526, p=.001

convictions (in the case of adults) or referrals to court (in the case of juveniles).

It is possible that at the time of sentencing decision-makers place greater emphasis upon the degree of the conviction than on offense seriousness. This is a plausible suggestion, if the evidence in the case does not substantiate all of the characteristics of the offense leading to a particular seriousness rating. It is a plausible suggestion, as well, that judges respond not to subjective perceptions of offense seriousness, but to the more objective structure of offense seriousness (i.e., legal degrees of offenses) present in the criminal code.

Table 7-4 displays the highest degree of conviction by type of sentence and court of jurisdiction. The results are similar to those presented in Table 7-1, because they illustrate the overwhelming propensity of the criminal court to sentence more severely. Sentences to prison form the majority of decisions made about persons convicted of second degree offenses in the criminal court, and comprise nearly all decisions made about persons convicted of first degree offenses. In contrast, probation is administered to the majority of juveniles for all but first degree offenses, where the ratio of prison to probation cases is approximately 2:1. Only for the least serious, fourth degree offenses, does the disposition decision-making of the two courts appear to be in agreement. The results are somewhat different than those presented in Table 7-1, however, in that the exercise of

Table 7-4 Percent Distribution of Highest Degree at Conviction by Type of Sentence and Court of Jurisdiction[a]

Highest Degree as Conviction	Juvenile Court		Criminal Court	
	Probation	Prison	Probation	Prison
First Degree	31.8 (7)	68.2 (15)	4.3 (6)	95.7 (132)
Second Degree	74.5 (35)	25.5 (12)	31.2 (39)	68.8 (86)
Third Degree	88.5 (46)	11.5 (6)	60.9 (53)	39.1 (34)
Fourth Degree	81.8 (9)	18.2 (2)	81.0 (17)	19.0 (4)
Total Number of Cases	97	35	115	256

[a] Figures in parentheses represent numbers of cases.

greater proportionality is located in the criminal court.[12] Once again, the conservative size of a number of the cells in the Table calls for its cautious interpretation.

Table 7-5 presents a summary of a regression on PRISON by the variables DEGREE, CONVICNO, RACE and COURT. The results indicate that while the entry of the variable COURT into the regression equation is significant (p=.001), the impact of court of jurisdiction (Beta=.257) is much smaller in relation to highest conviction obtained (Beta=.394) than it was shown to be with respect to subjective ratings of offense seriousness.[13]

Assumed by this analysis is that the selection of degree at conviction is not affected by court of jurisdiction. It cannot be determined from the data to what extent the high intercorrelation of DEGREE with COURT (r=.45) is due to the exercise of court bias at the time of conviction, or to the infrequency with which juveniles are convicted of first degree offenses in contrast to adults.[14] The implication is that at least three competing interpretations are present. One, which does not favor contemporary criticisms of juvenile court sentencing, is that change in the dependent variable PRISON is largely the product of a substantial change in the variable DEGREE, holding constant smaller amounts in the variables CONVICNO and RACE. This interpretation assumes that change in the COURT variable stems from differences in the behaviors of juveniles and adults, and not from jurisdictional differences. A second is that sentencing decisions are largely court-

Table 7-5 Summary of Regression on Sentence to Prison, Using Highest Degree at Conviction as an Independent Variable (N=503)

Independent Variables By Order of Entry	R-Square Change	Beta	Standard Error	F-Ratio
Degree	.290	.394	.015	95.611
Convicno	.387	.180	.002	26.022
Race	.008	.115	.040	10.388
Court	.051	.257	.041	41.518[a]

Total R^2=.388 Constant=.113

[a]d.f. 4 and 498, p=.001

driven, holding constant smaller changes in the variables DEGREE, CONVICNO and RACE. This interpretation assumes that change in DEGREE is largely a function of change in COURT. This is perhaps the least credible of interpretations, given the conservative findings of the analysis of the determinants of highest degree charged in the previous chapter. Perhaps the most cautious of interpretations is that sentencing decisions are the function of change in both DEGREE and COURT holding constant change in number of convictions and race, although it is not possible to state precisely which of the two variables is the more powerful predictor. Because it is not possible to verify any one of the three assumptions, it is at least true that the belief of contemporary critics of juvenile court sentencing has not been refuted.

Sentence Length

For critics of the juvenile court, the issue of certainty of imprisonment is not an only source of discontent. A second issue, perhaps more directly related to concerns over proportionality of punishment, relates to what has been perceived as the relative brevity of terms of confinement administered to juveniles.

Because the data report only maximum sentence length, because the number of juveniles sentenced to institutions is so small, and because there is little variation in maximum sentences to institutions administered to juveniles,[15] it is not possible to explain length of prison sentences across courts. Rather, it is possible only to make some

observations about the lengths of prison sentences administered to adults.

Table 7-4 provides a descriptive statistical summary of of criminal court sentence lengths administered to adult offenders within offense seriousness scores. Reported are average and modal sentence length for each offense seriousness category, and the range within which maximum sentence lengths fall. The data do not reflect indeterminate terms for which maximum sentence could not be identified, nor do they take into consideration the impact that parole might have upon sentence lengths in either court.

Taking into consideration average sentence lengths, one sees that maximum sentences tend to grow longer with increases in offense seriousness. On the other hand, judging from the ranges in which sentence lengths fall for each of the offense seriousness categories, one sees that the certainty of receiving longer sentences is definitely not the function soley of rated offense seriousness. Interestingly, the range is broadest for offenses rated most serious. This leads one to wonder whether in the face of opportunities for longer sentences judges may be more likely to draw upon decision-making criteria unrelated to offense seriousness than in circumstances in which the range of penalties is more limited.

When the presence of proportionality--as opposed merely to the certainty of greater severity--is the focus of concern, at least one other important observation may be drawn from Table 7-6. For all levels of seriousness except for the first,

Table 7-6 Average, Modal and Range of Maximum Sentence Lengths by Offense Seriousness, for Adult Offenders Sentenced to Prison (N=242)[a]

Offense Seriousness	Average Length	Modal Length	Range of Sentence (lowest-highest)	N
Two	5.3 yrs	5.0 yrs	3.0 - 12.0 yrs	12
Three	8.0 yrs	7.0 yrs	1.5 - 20.0 yrs	37
Four	8.5 yrs	5 and 7 yrs	3.0 - 32.0 yrs	56
Five	11.5 yrs	10.0 yrs	2.0 - 20.0 yrs	96
Six	12.8 yrs	10.0 yrs	1.5 - 40.0 yrs	38

[a] Number of cases excludes 15 persons sentenced to indeterminate terms, and three persons sentenced to life for whom maximum terms could not be determined.

for which no adults were imprisoned, there is at least one adult who is administered a sentence of a length equivalent to, if not less than, the length of sentences administered to juveniles.

Of course, these may be viewed as exceptional criminal court cases, in contrast to what may be perceived as the "rule" with respect to adults. But the point is precisely that no rule can be identified, judging from the range over which criminal court cases fall in this sample. According to the data in Table 7-6, the criminal court's option to impose lengthy sentences does not automatically lead to the uniform application of lengthy sentences. Moreover, the data indicate that judges in the criminal court were able to identify cases for which relatively lenient sentences were appropriate. Were juvenile sentencing options revised to completely emulate the sentencing provisions of the criminal court, the more severe sentencing of all youths might not be automatic.

Table 7-7 uses the same statistics to describe the sentence lengths of adult offenders sentenced to prison, categorized according to highest degree of conviction. Among the most prominent of observations, perhaps, is the less ambiguous presence of proportionality, compared with Table 7-6. Proportionality in the criminal court is more evident within degree categories than it is within offense seriousness categories according to all three descriptive statistics presented. Of special interest is the minimum and maximum lengths for each of the degree categories. Not only do maximum

Table 7-7 Average, Modal and Range of Maximum Sentence Lengths for Highest Degree Charged at Conviction, for Adult Offenders Sentenced to Prison (N=241)[a]

Highest Degree at Conviction	Average Length	Modal Length	Range of Sentence (lowest-highest)	N
First Degree	13.9 yrs	15.0 yrs	5.0 - 40.0 yrs	124
Second Degree	7.4 yrs	7.0 yrs	4.0 - 15.0 yrs	78
Third Degree	4.4 yrs	5.0 yrs	1.5 - 8.0 yrs	32
Fourth Degree	3.4 yrs	none[b]	1.5 - 5.0 yrs	4

[a] Number of cases excludes 15 persons sentenced to indeterminate terms, and three persons sentenced to life imprisonment, for whom maximum sentence lengths could not be determined.

[b] Of the four adults sentenced to prison for fourth degree offenses, one received an 18 month term; one, a three-year term; one, a four-year term; and one, a five year term.

lengths increase steeply with increases in degree of conviction, minimum lengths are found to increase as well, although the increase is very slight.

Summary

This chapter undertook two comparisons of sentencing in the juvenile and criminal courts. The comparisons involved the choice of sanction and lengths of sentences to prison, and lead to assessments about the role of certainty of imprisonment (probability of incarceration) and proportionality (probability of incarceration as well as length of sentence) in each court.

Findings indicate that on criteria of certainty of imprisonment as well as probability of longer sentences, the criminal court is a more severe institution than the juvenile court. Holding constant offense seriousness, adults are more likely to be incarcerated than juveniles, and of the two groups, they are more likely to be incarcerated for longer periods of time. Neither greater certainty nor longer sentences alone is necessarily an indicator of greater proportionality with respect to objective ratings of offense seriousness, for the decision to imprison in the criminal court exhibited smaller association with these ratings than it was found to exhibit in the juvenile court. In relation to certainty of imprisonment, the criminal court was found, however, to be responsive to legislatively mandated ratings of offense seriousness, in the form of highest degree at conviction. Overall, results substantiate criticisms of

juvenile court sentencing, which point to the low likelihood of incarceration, and to the relative brevity of sentence lengths for serious offenses. They do not substantiate claims that offense-centered rationality guides the decision-making processes of merely the criminal court.

Notes

1 While it is possible to argue for the grouping of the six offenders with adults sentenced to prison, I do not prefer this aggregation. Since the periods of confinement among the former were relatively brief, and among the latter, relatively long, the two kinds of punishment really do appear qualitatively distinct.

2 Fifteen juveniles in the adjusted sample, and 24 adults, were administered probation with placements.

3 This institution is the Youth Reception and Correctional Facility at Yardville.

4 Facilities to which adults may be sentenced include the State Prisons at Trenton and at Rahway, and the Reformatories for Men at Bordentown and Leesburg, and the Youth Correctional Facility at Annandale. The two other institutions to which juveniles may be sentenced are the Training School at Jamesburg and at Skillman. With respect to physical characteristics alone, the two latter facilities are most like the Annandale Reformatory, as each shares a dormitory-based cottage setting. This observation is based upon the author's own visits to each of the above-named facilities in a previous capacity as an employee of the New Jersey Department of Corrections.

5 Wooden (1976) suggests that conventional comparisons of the institutionalization of juveniles and adults are untenable. What may be perceived by adults to be relatively brief periods of incarceration, may be perceived by children to be relatively lengthy, given that a period of institutionalization of any length necessarily represents a larger proportion of the child's life than of an adult's.

Some persons may be pressed to argue nonetheless that adult maximum security institutions (such as Trenton State Prison or Rahway Prison), to which 46 percent of the convicted adults in the sample were sentenced, have no counterpart with respect to severity among any of the institutions available to juveniles in the study. If this is the case, it is simply impossible for the analysis to address this concern. Were the PRISON variable to be reconstructed (i.e., scaled) to take differences in severity among institutions into account, the fact that institutions like Trenton State Prison are perceived to be of greater severity than any juvenile institution means that penalties assigned to juveniles will not be free to vary to all of the values that penalties assigned to adults will be able to vary to. In other words, even before undertaking the analysis, it is fairly clear that with respect to either certainty or proportionality, sentences administered to adults are more severe than those administered to juveniles. I would argue, however, that as badly defined as the criticisms of

juvenile sentencing are, the focus of the criticisms is upon certainty and length of imprisonment, rather than the specific degree of punitiveness attached to the experience itself.

6 The INJURY coding scheme most successful in the preceding chapter involved the grouping of beatings with more serious injuries. In the present analysis, that scheme led to only non-significant or negligible associations for each of the relations (e.g., PRISON with INJURY for all convicted defendants, all convicted juvenile defendants, etc.) studied.

7 The zero order relation between SERIOUS and PRISON was .38. With CONVICNO used as a control, the association was reduced only slightly, to .37.

The reader will recall that the variable CONVICNO refers to number of convictions in the case of adults, and number of referrals to court in the case of juveniles. The dual set of definitions did not appear to pose a problem; correlations computed separately for the two groups of defendants produced close results. For juveniles, the zero-order correlation between SERIOUS and PRISON was .27, and was unaffected when the variable prior referrals was introduced as a control. For adults, the zero-order association between SERIOUS and PRISON was .22, a correlation that was enhanced--but only slightly--when number of prior convictions was used as a control (r=.23). Incidentally, the use of ARRESTNO (number of arrests) as a control with respect to the adult sample produced results indistinguishable from the use of CONVICNO. Here, the partial correlation was .23.

8 Spearman's rho for the juvenile cases is .27 (p=.001), and .21 (p=.001) for the adult cases.

9 The reader may wonder why certain variables are not represented by this regression. The variable OUTCHARG, and most of the offense-related variables have been omitted because the SERIOUS variable already consists of this information.

10 In this equation and in all other regressions reported in this chapter, the variable COURT was entered on the last step of the equation.

11 In other words, up to .217 of the COURT coefficient of .360 may be the product of change in SERIOUS, but anything over .217 cannot be. The .217 represents 60 percent of the COURT coefficient. Unaffected by SERIOUS, then, is at least 40 percent of the COURT coefficient.

If one were to accept the assumption that the first 60 percent of change in COURT is in fact the product of a change in SERIOUS, then obviously it is SERIOUS which is the most important predictor of the decision to imprison. But the part of the COURT coefficient unaffected by SERIOUS indicates that the decision to imprison is nonetheless the result as well of

an amount of bias (severity) against criminal court defendants that is too large to overlook.

12 Spearman's rho for the juvenile court cases is .35 (p=.001), and is .54 (p=.001) for the criminal court cases. These results suggest two things. One is that the sentencing decisions of both courts appear more responsive to ratings of offense seriousness present in the criminal code than they do to subjective ratings of offense seriousness. The other is that with respect to legislatively defined offense seriousness, it is the criminal court which exhibits substantially greater proportionality. This finding is in contrast to the results presented in note 8, which shows the juvenile court to be more proportionate with respect to subjective ratings of seriousness.

13 Regressions which incorporated other variables were performed, with similar results. The addition of OUTCHARG and KNIFEGUN resulted in only slight decreases to the Betas of both DEGREE and COURT (.37 and .22). The deletion of RACE and addition of only OUTCHARG increased the Beta of DEGREE slightly (.41) and decreased the Beta of COURT slightly (.22). The addition of both OUTCHARG and KNIFEGUN resulted in the greatest impact on the COURT Beta (.21) with little effect on the Beta of DEGREE (.40).

14 A review of the data in Chapter 5 illustrates that there may be a number of reasons not related to the propensity of the juvenile court to sentence any particular way that would explain why juveniles would be less likely to be convicted of first degree offenses. Among the most prominent is their low likelihood of firearm use.

15 Of the forty-four juveniles in the adjusted sample sentenced to incarceration in state institutions, 31 were sentenced to maximum terms of three years. Six were sentenced to six months; three, to 18 months; one to two years; one, to fiteen years; and two, to twenty years. In one case, maximum sentence length could not be identified. Juveniles sentenced to terms over three years were those convicted of murder for whom the maximum allowable penalty is the same as for adults so convicted.

Chapter 8
CONCLUSIONS AND POLICY IMPLICATIONS

This work grew out of an interest in providing empirical verification for what appeared to be a questionable rationale underlying popular revisions in juvenile sentencing systems which expand opportunities for more severe treatment of young offenders. This chapter reviews the nature of the research problem, outlines the most significant findings of the research effort, and discusses implications for policy.

Review of the Problem and Its Research

In recent years a number of states have undertaken or have considered substantial reform of juvenile sentencing policy. Depending upon the state, new provisions encourage the automatic exclusion of a greater number and type of offender from the juvenile court, the expansion of juvenile waiver mechanisms, and the establishment of presumptive or determinate penalties for offenders who remain within the jurisdiction of the juvenile court. All of these reforms share a similar characteristic, namely, the increased reliance upon or adaptation to more recent sentencing policies of the criminal court. Each reform assumes the provision of more severe penalties within the framework of criminal court sentencing for similar behaviors in relation to those administered in the juvenile court.

Interestingly, research available prior to the enactment of revisions in juvenile codes does not support a claim that the offending behaviors of juveniles and adults are

comparable. In fact, no direct comparisons were available, and the most approximate of indirect examinations, based upon victimization data (McDermott,1979), reveals that juvenile robberies and assaults lack the weapon use, extent of injury and loss to the victim that characterize the same offenses committed by adults.

Inferences that the behaviors of juveniles and adults are not similar can be drawn but not proven from the experiences of several states that have recently adapted features of criminal court sentencing to juvenile sentencing codes (Eigen,1977; Schneider and Schram,1983; Osbun and Rode,1984; Office of Policy...1984). Uniformly, these evaluations show that juvenile sentencing revisions have little impact. Reforms may appear to have limited impact if decision-makers resist their use, but will also appear ineffective if the majority of juvenile behaviors are not serious enough to warrant their application. In other words, if policy-makers have overstated the seriousness of behaviors by juveniles, they may have also overstated the need for the reform. Reforms, especially those which emphasize stiffer penalties for the most serious of behaviors, will appear ineffective if only a few juveniles actually qualify for their application.

The selection of methods employed in this research followed an assessment of the capacity of previous studies to address the problem stated above. The dissertation began with an "absolute" search for leniency in the juvenile justice system, using literature related to the handling of juveniles

from time of apprehension by police through post-adjudication disposition. The results of the absolute search for leniency demonstrated that there is little basis for assuming that the juvenile justice system is lenient, since most studies were not designed in a manner that allowed such a determination to be made. Specifically, much research of the juvenile justice system overlooked critical details relevant to the specification of the seriousness of the offenses of the juveniles whose handling was studied--in most instances the measure of offense seriousness used was only crudely categorized (e.g., property versus persons offenses). These taxonomies typically lacked attention to the offenses' legal classification (i.e., degree), with the result that behaviors ranging from as low as disorderly persons through as high as first degree crimes might have been included in each category. It is not difficult to see why offense seriousness, when so defined, would perform so poorly as a predictor of disposition decisions. The use of crude categories is even more inappropriate in comparisons with the criminal court, from which disorderly persons offenses have been separated.

Next, the study undertook a "relative" search for leniency, drawing upon research conducive to the comparison of disposition decision-making in the two courts. This search helped to highlight information needs surrounding the process of charging in the juvenile court. Recognition of the weak role of the juvenile court prosecutor led to doubt regarding

the use of either charges at intake or convictions as bases for comparing the behaviors of juveniles and adults.

The literature review influenced the design of the present study in two ways. First, its findings pointed to the need for the more careful measurement of the independent variable, offense seriousness, in making determinations of the relative leniency of the juvenile court. Second, they discouraged the conventional use of convictions as offense seriousness measures.

The importance of the need to develop an alternative measure of offense seriousness seemed obvious. The method of measurement employed in this study was the scaling of descriptions of the behaviors of juveniles and adults, using the subjective judgements of prosecutors. Additional data for the study, relating to characteristics of the offender and the manner of justice system processing, were taken from official records of prosecutors.

The study centered around two tests. One involved the verification of the rationale of juvenile court reform, as explained above. The other involved a determination of the usefulness of charges and convictions as bases for comparing juvenile and adult behaviors.

Before proceeding to a discussion of the study's findings, it is important to clarify its limitations. The design of the research is limited in several ways. The data have been drawn from one county of one state, and cover only a two-year period. Strictly speaking, the study's results are

not generalizeable to other counties, to other states, or to other time-frames. A second design limitation is that the study was undertaken in the absence of clearly established definitions for either leniency or severity; the meaning of severity assigned by the researcher may not coincide with the intent of all juvenile code reformers.

The study assumes as well the validity of subjective ratings as a measures of offense seriousness. It assumes that the four years difference between the time that the behaviors took place and the time that they were rated is not occupied by dramatic shifts in prosecutorial or judicial sentiment toward specific features of the offenses that were rated in the study.

One other potential design limitation concerns the validity of the measures of evidence employed in the study. It is possible to argue that adequate measures of evidence were never represented in the study. For example, data on presence of witnesses cannot be substituted as data reflecting the credibility of witnesses, and no data were collected about whether or not physical evidence was recovered. One cannot be entirely certain that observed differences in severity are not the function of differences in the strength of the case.

Finally, the design is limited because the presumptive sentencing mechanism of the criminal court to which the sentencing practices of the juvenile court were compared may not have been fully operationalized during the time period studied. The implementation of criminal court sentencing

revisions coincided with the time frame from which adults in the study were sampled. The possibility that code revisions were not fully implemented by practitioners leaves open the possibility that with respect to sentence length, greater proportionality in prison sentences might have been observed had the time frame occupied a period some years later.

Findings

Of most importance and relevance, this study verified a critical assumption underlying the rationale of contemporary juvenile court reform, namely, that the criminal justice system treats offenders more severely than the juvenile court, irrespective of offense seriousness. Greater severity on the part of the former was noted with respect to certainty of imprisonment and length of prison sentences for offenders located at every level of rated offense seriousness, as well as for offenders convicted of first, second and third degree offenses. The manner in which severity was accomplished however, was found to be inconsistent with another key assumption of critics of juvenile court sentencing, that sentencing decisions in the juvenile court are less responsive to offense seriousness than those in the criminal court.

With somewhat less certainty, the study found that double-standards across jurisdictions are absent from prosecutors' charge decision-making. In other words, the findings provide no compelling reason to believe that adults are charged more severely than juveniles.

The study yields several additional findings which should not be overlooked. Below is a summary of other significant results of this research.

Offense seriousness. The employment of offense seriousness scales in this research allowed a test of the assumption that juveniles and adults commit behaviors of similar seriousness.

The seriousness scales indicated that the behaviors of juveniles in this sample were distinguishable from and could generally be regarded as less serious than the behaviors of adults in the sample. When provided an opportunity to place the randomly ordered behaviors of Union County defendants unknown to them as either juveniles or adults along a seriousness continuum, two groups of raters agreed that the majority of the behaviors of juveniles belonged along the bottom half of the scale, and that the majority of adult behaviors belonged along the top half. On objective criteria as well (i.e., on the basis of offense characteristics), the aggregate sample of juveniles could be easily distinguished from the aggregate sample of adults. Of some importance, greater frequency of firearm use and of serious injury to victims was attributed to the adults in the sample.

The research also permitted an assessment of the utility of the offense seriousness scale itself. The use of offense seriousness scales has been promoted by researchers (see, especially, Gottfredson and Gottfredson,1984:127) as a potential means for improving the accuracy of prediction

instruments. The findings of this study demonstrate that the usefulness of offense seriousness scaling may not be as straightforward as may initially appear. Of much interest, the study uncovered a conflict between subjective judgements of offense seriousness and judgements of seriousness reflected in the criminal code. The conflict is an important one to recognize when decision-makers are bound to one set of judgements as opposed to the other.

One of the dilemmas encountered by the research was the fact that among the behaviors rated most serious by prosecutors were those restricted by the criminal code to second degree charges. Thus, it was not especially surprising to find, for example, that when the dependent variable was certainty of imprisonment, analyses demonstrated the relative superiority of the variable "highest degree of conviction" over "rated offense seriousness". When prediction of specific criminal justice decisions (as opposed to the prediction of offender behaviors) is the objective, researchers should not overlook key considerations, such as policy or legal constraints, which can affect the exercise of discretion stemming from decision-maker response to perceptions of offense seriousness.

Rates of attrition. Important differences unrelated to leniency separated the manner in which offenders were processed by the juvenile and criminal courts. One popular perception of the juvenile court concerns its propensity to eliminate high proportions of offenders from the justice

process process prior to adjudication, in contrast with the criminal court, which is believed to retain high proportions. Convention generally attributes this difference to the juvenile court's commitment to the best interests of the child. While the data from this study support the first view of the juvenile court (i.e., the fact of high attrition), they do not substantiate its presumed cause. Contrary to popular assumptions, substantial differences too large to overlook characterized the role played by evidence in each court. The data indicated that the juvenile court operated with less direct evidence, fewer witnesses and fewer confessions than did the criminal court.

Proportionality. The assumption that proportionality is absent from the decision-making processes of the juvenile court was not supported by this study.

Contrary to the belief of some juvenile sentence reformers, the study did determine that sentence decision-making in the juvenile court was indeed guided by consideration of offense seriousness, even more than was the sentence decision-making of the criminal court. With respect to certainty of imprisonment, behaviors rated as more seriousness were treated more severely than those rated as less serious. The usefulness of this finding is limited only to certainty of imprisonment for juveniles, however, and not to sentence length, given that sentences for juveniles during the period of study were limited to a maximum length of three years.

Conversely, the study finds that punishments administered by the criminal court do not necessarily reflect a greater concern over offense seriousness than punishments administered by the juvenile court. The research was able to verify that greater severity is the concomitant of criminal court handling, but it did not determine that greater severity was the product its concern over offense seriousness.

Implications for Policy

For those juvenile justice system reformers who believe that the juvenile court should be more lenient than the criminal court, the study's major finding should pose no problem. For those reformers who believe that the juvenile court should not be lenient, the finding is likely to evoke concern. It is to this group of reformers that the following implications are addressed.

The implications of this study for the juvenile justice system grow out of what the study does not demonstrate, as much as out of what it does demonstrate. Were the study to have found that equivalent levels of severity exist across courts, the appropriateness of a negative response to the question "Should juvenile court sentencing be revised to effect greater severity?" would perhaps be obvious. But does the fact that the study failed to make such a finding lead logically or automatically to an affirmative response?

The verification of an assumption that the juvenile court is less severe than the criminal court provides no <u>prima facie</u> case for increased severity in the former. This study

questioned the absence of severity in the juvenile court, but did not refute or confirm the need for it. Posing the inquiry, "Should the juvenile court be more severe?" is a step which flows logically from a determination that the court is not already severe; it is not, as some policy-makers may assume, a question to which an answer has already been secured. A closer look at the question of need for severity is important for a number of reasons.

Addressing the need for severity is important, because the task can and should involve formal specification of the purposes of sentencing in the juvenile court. Increased punitiveness does not lead, necessarily, to the negation of some justice system goals in favor of others. The exercise of severity has popularly been likened to the goal of retribution, but it is not necessarily irrelevant to the rehabilitative aim (see American Friends Service Committee,1971). Likewise, severity is popularly associated with the abrogation of individualization in the juvenile justice system, although the two are not incompatible concepts. In other words, the acceptance of a mission of increased severity does not obviate or resolve the longstanding question, "What purposes should sentences serve?"

Reevaluation of the need for juvenile code changes can help policy-makers to reexamine their own commitment to such reforms. Sometimes juvenile sentence reforms arise from public alarm over isolated criminal acts by juveniles that fail to represent the majority or even a sizeable minority of

delinquent acts by juveniles. For example, the birth of the New York Juvenile Offender Law--perhaps the most severe of juvenile code revisions to date--can be traced to public outcry over two homicides and two shootings by the same juvenile offender (Woods,1980:1-2). Given the circumstances of this particular case, it is not senseless to suggest that the application of desired increases in severity will not necessarily be generalizeable to large portions of the juvenile offender population. Moreover, the failure of legislatures to enact reforms following rigorous study of the need for change in which justice system decision-makers are permitted to have some input can help to explain why evaluations of recent code revisions demonstrate little or no impact.

Should policy-makers agree that increases in severity are warranted, the next question to be faced is how severity should be achieved. Mere affirmation of the relative severity of the criminal court does not help policy-makers to assess the extent to which the penalty systems of the juvenile court should be similar to those available to the criminal court, or the ways in which they should continue to be different.

In the design of reform and in its evaluation, policy-makers need to be aware that severity and proportionality are not equivalent or necessarily complementary concepts, and that it is possible to achieve one without the other. In their metaevaluation of studies of sentence reform, for example, Blumstein et al. (1983) found that following the

implementation of a number of mandatory and determinate sentencing laws, "increases in severity [were] experienced by marginal offenders, who previously might or might not have received prison sentences (pp. 185-186)."

The onus to design and carry out reforms in the juvenile justice system that are effective is a large one, for good reason. The call for reform in juvenile justice arose largely out of dissatisfaction with rehabilitation as a sentencing goal--dissatisfaction which closely followed criticism of the presence of the rehabilitative aim in the sentencing decisions of the criminal court, generally. In an influential work that addressed this issue, von Hirsch (1975:18) pointed out that

> ...in the more commonplace instances where no successful treatments are known, the rehabilitative disposition is untenable. It cannot be rational or fair to sentence for treatment, without a reasonable expectation that the treatment works.

Clearly, analagous arguments may be drawn with respect to the successfulness of newer juvenile sentence reforms. Without a reasonable expectation that increased proportionality will result, or that increases in severity will surface where intended, one can similarly and easily argue that dispositions based upon increased severity and/or proportionality are strictly untenable. The debate might more appropriately center around the question, "To which of the not yet successful aims of sentencing should resources and planning be directed?"

The argument against rehabilitation, when viewed in this context, may not be as palatable as once believed. More recent attention to treatment-focused dispositions indicates that the

rehabilitative ideal has been the target of unjust and premature criticism derived from evaluations lacking in methodological rigor and based upon programs which have failed to address specific, predetermined needs of offenders (Gendreau and Ross,1980; Gottfredson,1980). Attention to retribution-focused sentencing aims, on the other hand, has helped to highlight the extent to which the success of retribution-based reforms depends upon the unwieldy task of the planned structure and control of multiple sources of decision-maker discretion (see, e.g., Clear, Hewitt and Regoli,1978; Blumstein et al.,1983).

To this point the discussion leads to one basic thesis, namely, that the study answers only one of a number of questions that are critical to the implementation of greater severity in juvenile sentencing. A finding that the criminal court is more severe than the juvenile court opens a pandora's box of issues requiring resolution before increases in severity should (if ever) be implemented.

A number of other implications for juvenile justice policy may be drawn from this study. For instance, reformers of the juvenile court need to be aware of the dual standards that exist with respect to judgements about offense seriousness across the juvenile and criminal courts. The implementation of mechanisms that encourage greater severity in juvenile justice processes but which do not attempt to adapt opinions about seriousness to those that are present in criminal court decisions can simply lead to the more severe,

but disparate, handling of juveniles and adults. Policy-makers may wish to defend observed differences in offense seriousness judgements, but such differences may be hard to justify when parity with the criminal court is considered a driving force of reform.

A serious attempt to eliminate double standards in sentencing across the two courts is inevitably a more complicated task than policy-makers may realize. If equivalence with the criminal justice process is really what is desired, several requirements will need to be met. Among the most important, decisions in the criminal court must achieve greater predictability. The sentencing practices of the criminal court cannot be adapted to fit the juvenile court if the practices of the former are themselves so little understood. Legitimate efforts to eliminate double standards require that uniformity with regard to behaviors of similar seriousness be achieved in the criminal court as well.

Policy-makers need to recognize that as long as disparity is uncontrolled in the criminal court, the reality is that some offenders will be treated more leniently than others. Arguments for greater proportionality in the juvenile court that appeal to the sentencing practices of the criminal court are undermined in the face of wide disparity in the latter. Identification of "appropriate" criminal court punishments is impeded when punishments fall across as wide a range as was noted in this study.

Moreover, an effort to eliminate double-standards from the juvenile court at the time of sentencing should be accompanied by attention to the exercise of greater accountability at earlier stages in the justice process. For example, this study has illustrated the relatively weak function of the juvenile court prosecutor. The quest for parity in punishment, in this case, was undertaken without regard for the appropriate adversarial rigor at the time of charging. Similarly, using Minnesota as an example, Feld (1984) demonstrates how the quest for "criminalization" of the juvenile court in that state has overlooked key areas of procedural disparity.

Of much importance, reformers need to become reacquainted with the juvenile justice system. Results of this study indicate a disparity between what is believed to be true about the juvenile court and what may be its reality. For example, use of dismissals in the "child's best interests" was found to play a fairly trivial role in attrition rates, contrary to conventional depictions of the juvenile justice system. Proportionality played a more substantial role in decisions to sentence to prison in the juvenile court than it did in the criminal court, despite the assertion by one major task force on juvenile sentence reform that "proportionality is not an integral part of the present jurisprudence of juvenile justice (Twentieth Century Fund...1978:8)." Policy-makers may find that there is less about the court to be dissatisfied about than had once been believed. The education that is

recommended must be rhetoric-free, so that policy-makers are capable of posing what might perhaps be more appropriate questions about areas for reform.

Impetus for contemporary reform of the juvenile court stems partially from a concern about fairness in punishment. This discussion has helped to highlight the requirements of reforms that might attempt to promote this ideal. Without attention to these requirements, the ideal of fairness (if it is the best of ideals to pursue), like the ideals of the juvenile court that preceded it, may be confined to the realm of rhetoric but not practice.

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Appendix A
Authorization of Access to Juvenile Records

ADMINISTRATIVE OFFICE OF THE COURTS
STATE OF NEW JERSEY

ROBERT D. LIPSCHER
ADMINISTRATIVE DIRECTOR OF THE COURTS

CN-037
TRENTON, NEW JERSEY 08625

December 4, 1984

Ms. Patricia Harris
Rutgers, The State University
School of Criminal Justice
Office of the Dean
15 Washington Street
Newark, New Jersey 07102

Dear Ms. Harris:

Attached hereto please find a copy of the Order, dated November 26, 1984, which has been issued by the Supreme Court, whereby the Supreme Court conditionally authorized you and your representatives to access the records set forth in the Order. When the Court has received the affidavits referred to in the Order the Administrative Office will so advise the authorities in Union County and you will be able to access the subject records.

Pursuant to your request, I am hereby enclosing an affidavit format which, upon its completion, should be returned to me at the following address:

Family Division
Administrative Office of the Courts
CN 037
Trenton, New Jersey 08625

If I can be of any further assistance, please do not hesitate to contact me.

Very truly yours,

Helen E. Szabo, Esq.
Chief, Juvenile Services
Family Division

HES:pwt
Attachment
cc: Hon. Edward W. Beglin, Jr. (w/attachment)
Hon. William J. McCloud (w/attachment)
Robert D. Lipscher, Director (w/attachment)
John N. Miri (w/attachment)
Robert J. Fitzpatrick (w/attachment)
Steven Yoslov, Esq. (w/attachment)

SUPREME COURT OF NEW JERSEY

Patricia Harris, of the School of Criminal Justice, Rutgers University, having applied to this Court for an Order permitting her and each of her representatives access to certain court, prosecution and correctional agency records of juveniles and good cause having been shown;

It is ORDERED pursuant to N.J.S.A. 2A:4A-60 and R. 5:19-2 that Patricia Harris and each of her representatives be permitted access to the juvenile records of the Family Division (including those of the former Juvenile and Domestic Relations Court), Prosecutor's Office and Department of Corrections as to 1000 juveniles adjudicated delinquent, diverted or dismissed or referred to the criminal courts of Union County, provided that Patricia Harris and each of her representatives prior to accessing such juvenile records submits an affidavit to this Court through Robert D. Lipscher, Administrative Director of the Courts, promising compliance with the representations as to Patricia Harris' evaluation that were made in the August 27, 1984 letter from Patricia Harris to the Administrative Office of the Courts and specifically assuring that Patricia Harris and each of her representatives will not disclose any identifying data with respect to the juveniles whose juvenile records will be accessed.

This Order shall expire one year from the date of its issuance.

C.J.

Dated: N[illegible]

Appendix B
Statutory Definitions of Robbery, Assault and Bodily Injury

Source: Code of Criminal Justice
Title 2C: New Jersey Statutes[a]
Sections 12-1, 15-1 and 11-1

a As amended through Chapter 112, 1980 Laws.

New Jersey Statutes 2C:12-1 Assault

a. Simple assault. A person is guilty of assault if he:

(1) Attempts to cause or purposely, knowingly or recklessly causes bodily injury to another; or

(2) Negligently causes bodily injury to another with a deadly weapon; or

(3) Attempts by physical menace to put another in fear of imminent serious bodily injury.

Simple assault is a disorderly persons offense unless committed in a fight or scuffle entered into by mutual consent, in which case it is a petty disorderly persons offense.

b. Aggravated assault. A person is guilty of aggravated assault if he:

(1) Attempts to cause serious bodily injury to another, or causes such injury purposely or knowingly, or under circumstances manifesting extreme indifference to the value of human life recklessly causes such injury; or

(2) Attempts to cause or purposely or knowingly causes bodily injury to another with a deadly weapon; or

(3) Recklessly causes bodily injury to another with a deadly weapon; or

(4) Knowingly under circumstances manifesting extreme indifference to the value of human life points a firearm, as defined in section 2C:39-1 f., at or in the direction of another, whether or not the actor believes it to be loaded; or

(5) Commits a simple assault as defined in subsections a.(1) and (2) of this section upon

(a) Any law enforcement officer acting in the performance of his duties while in uniform or exhibiting evidence of his authority; or

(b) Any paid or volunteer fireman acting in the performance of his duties while in uniform or otherwise clearly identifiable as being engaged in the performance of the duties of a fireman; or

(c) Any person engaged in emergency first-aid or medical services acting in the performance of his duties while in uniform or otherwise clearly identifiable as being engaged in the performance of emergency first-aid or medical services.

Aggravated assault under subsection b. (1) is a crime of the second degree; under subsection b. (2) is a crime of the third degree, under subsection b. (3) and b. (4) is a crime of the fourth degree; and under subsection b. (5) is a crime of the third degree if the victim suffers bodily injury, otherwise it is a crime of the fourth degree.

New Jersey Statutes 2C:15-1 Robbery

a. Robbery defined. A person is guilty of robbery if, in the course of committing a theft, he:

(1) Inflicts bodily injury or uses force upon another; or

(2) Threatens another with or purposely puts him in fear of immediately bodily injury; or

(3) Commits or threatens immediately to commit any crime of the first or second degree.

An act shall be deemed to be included in the phrase "in the course of committing a theft" if it occurs in an attempt to commit theft or in immediate flight after the attempt or commission.

b. Grading. Robbery is a crime of the second degree, except that it is a crime of the first degree if in the course of committing the theft the actor attempts to kill anyone, or purposely inflicts or attempts to inflict serious bodily injury, or is armed with or uses or threatens the immediate use of a deadly weapon.

New Jersey Statutes 2C:11-1 Definitions

In chapters 11 through 15, unless a different meaning plainly is required:

a. "Bodily injury" means physical pain, illness or any impairment of physical conditions;

b. "Serious bodily injury" means bodily injury which creates a substantial risk of death or which causes serious, permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ;

c. "Deadly weapon" means any firearm or other weapon, device, instrument, material or substance, whether animate or inanimate, which in the manner it is used or is intended to be used, is known to be capable of producing death or serious bodily injury or which in the manner it is fashioned would lead the victim reasonably to believe it to be capable of producing death or serious bodily injury.

Appendix C
Instructions to Offense Seriousness Scale Respondents

Offense Seriousness Questionnaire

Directions

PLEASE READ ALL DIRECTIONS CAREFULLY.

1. Remove the contents of this envelope and place them in front of you. You should have a bundle of 200 offense descriptions, and a set of seven envelopes numbered from one through seven.

2. Take the rubber band off of the set of envelopes, and spread them out so that the numbers run sequentially.

3. Take the rubber band off of the offense descriptions, and begin to look through them. You will notice that they differ on a variety of dimensions, e.g., number of victims, extent of injury to victims, weapon use, and so on. Some or all of these dimensions may be important to you in forming an opinion about the seriousness of the event described. The point of this exercise is to locate each event along a seriousness continuum, represented by the numbers one through seven. For example, an event which involves a murder might be assigned a seven, one which involves serious injury, but not death, might receive a six or a five. The use of certain weapons might connote greater seriousness to you than other weapons, or weapon use may be irrelevant in your mind, and so on.

4. When you have decided how serious you believe the event to be, place the event over that envelope which has the appropriate number written on it. Do this for each description until all of the descriptions are sorted.

5. When you have sorted all of the descriptions, take some time to review each pile for internal consistency. THIS IS VERY IMPORTANT. Please be sure that each of the statements in pile number one represent comparable seriousness, that each of the statements in pile number two represent comparable seriousness, and so on. Make whatever adjustments to the piles that you feel are necessary.

6. When you are satisfied that each pile includes the appropriate descriptions, place the descriptions inside their respective envelopes and seal the envelopes. Return the completed questionnaire <u>in the large yellow envelope</u> to me, Patricia Harris, by Friday morning, June 7.

PLEASE BE SURE TO USE ALL SEVEN CATEGORIES IN MAKING YOUR CHOICES!

A word about anonymity.

Please be aware that your responses to this questionnaire will be anonymous. I need to record your name on the outer envelope only to ensure that I receive a response from you. Once responses have been received from all participants, all individual identifiers will be destroyed. Thank you.

Appendix D
Robbery Questionnaire

DESCRIPTION	MEAN SCORE
A person is an accomplice to someone who shoots and kills the victim of their robbery attempt.	7.000
A person beats to death a victim of a robbery in which $5 is taken. After the victim dies, he goes to the victim's house and steals his stereo.	7.000
A person shoots and kills someone who resists a robbery attempt.	7.000
A person is a member of a group of six persons who commit a string of four armed robberies in which automobiles are taken away from the victims. He uses a gun to take one automobile away from its owner, and waits while an accomplice shoots a victim in the neck, wounding the victim; and while another accomplice shoots and kills a different victim.	6.950
A person robs someone of $5 and tries without success to stab the victim. Later, the offender accompanies someone who beats the victim to death. Following the victim's death, he goes to the victim's house and steals his stereo.	6.950
A person is in the company of four others who use a gun to rob individuals of four automobiles. The offender waits as one accomplice shoots a victim in the neck, wounding the victim; and while another shoots and kills a second victim.	6.900
A person uses a knife to rob someone of $166, and then chases and stabs the victim, who almost dies as a result of his injuries.	6.500
A person with a gun abducts a woman and her two year old son and forces them into an automobile. While an accomplice drives them around, he touches the woman's breasts, tells her to kiss him, and tries to force her mouth on his penis. He takes $23 from the victim.	6.450
A person enters someone's house, awakening one of its residents. He threatens her with a knife, rapes the victim and ransacks the victim's home.	6.450
A person pushes a child behind a building, forces him to commit fellatio, and robs the victim of $1.	6.450
During a drug transaction, a person shoots someone three times, twice in the back, and once in the buttocks.	6.450
A person stabs someone in the chest, and drives off in the victim's car.	6.450

A person with a knife forces his way into someone's home, and makes the victim undress. The offender unsuccessfully attempts anal intercourse, successfully forces vaginal intercourse, takes $14 and leaves.	6.400
A person shoots and wounds a victim of a robbery attempt.	6.400
A person enters someone's house through a window, and orders the resident to commit fellatio with him. The offender rapes and robs the woman.	6.350
A person uses a knife to force someone to strip. Then he sodomizes the victim, and drives off in the victim's car.	6.300
A person accompanies another individual who forces a woman and her baby into a car. While the offender drives around, his accomplice touches the woman's breast, tells her to kiss him, and tries to force her mouth on his penis. The accomplice demands the woman's money and receives $23.	6.300
A person with a knife enters someone's home through an open window, robs the resident of $60 and attempts unsuccessfully to rape her.	6.200
A person sexually assaults someone and robs the victim of $21. The offender attempts to abduct the victim, but flees when the victim screams.	6.200
A person beats someone and robs him of $2. The victim is listed in critical condition in the hospital.	6.150
A person enters a business establishment with an accomplice. He lunges at one employee with a knife and slashes the victim's abdominal area repeatedly as his accomplice chases a second victim with a knife. The offender demands and receives money, but leaves only when one of the victims chases him with a pistol.	6.150
A person enters a business establishment with an accomplice. As his accomplice slashes the abdomen of one victim, he chases another victim around with a knife. The offender demands and receives money, and leaves only when one of the victims chases him with a pistol.	6.100
A person is an accomplice to someone who robs someone at gunpoint and then shoots the victim in the stomach. The amount taken from the victim is $80.	6.000
A person who is armed with a gun attempts a robbery, but is interrupted by someone who chases the offender. During the chase, the offender shoots at his pursuer, missing him.	6.000

A person with a gun takes $200 from someone. He then attempts to rob a second victim. When the second victim resists, the offender hits him repeatedly in the face with his handgun, and then flees. The victim suffers a broken nose, and requires twelve stitches in his face.	5.950
A person unsuccessfully attempts a robbery. When the victims pull out a gun, the offender fires two shots from his own gun, which fails to go off.	5.900
A person robs someone of $60. While his accomplice beats the victim around the face, he cuts the victim with his knife. The victim sustains a broken nose.	5.900
A person enters someone's home, struggles with one of its occupants and handcuffs him. Then the offender awakes the victim's wife, and points a gun at her, demanding money and diamonds. He takes $130 in cash and $450 in merchandise.	5.800
A person armed with a gun enters the home of another, hits the occupant several times, and drives off in the victim's car.	5.700
A person is an accomplice to an individual who has a gun. As the accomplice takes out the gun to rob someone, it goes off, hitting a victim accidentally. The offender flees without any money.	5.700
A person with a gun enters a cab, robs the cabbie of $100, and forces the cabbie into the trunk of the cab.	5.650
A person beats someone with his gun, and takes $28 from the victim.	5.650
A person enters the home of another. As the victim tries to call the police, the offender rips out the phone, takes out a knife and demands money. He takes the victim's pocketbook, which contains $150, and leaves the house. He returns in a few minutes for the keys to the victim's car. He breaks a window, reenters the house, takes jewelry from the victim and drives off in the victim's car.	5.600
A person who has a gun forces his way into a residence, threatens to shoot the occupants, and takes merchandise amounting to $1850.	5.600
A person who has a gun approaches two people as they are getting into their car. The offender puts the gun to the head of one, relieves the victims of their money, and drives them to a cemetary, where the victims are dropped off. Then, the offender drives away in their car.	5.550

A person with a gun enters two stores and commits two robberies in succession, taking a total of $205 in cash.	5.550
A person approaches someone in a car, shoves a gun into the victim's belly, makes the victim turn over his jewelry and wallet, and forces the victim to drive him around town, under threats of death.	5.500
A person grabs and punches someone, and forcibly takes $5 from the victim. He then cuts the victim's hand with a knife. The victim suffers cut tendons and a severed nerve, and accumulates $1200 in doctor's bills as a result.	5.500
A person punches someone and grabs her purse while holding a gun on the victim.	5.500
A person puts a gun to someone's head and demands and takes the victim's moped, valued at $1000.	5.500
Using a screwdriver, a person cuts two people who try to stop him from stealing their car. While this is taking place, they notice a hypodermic needle falling from the offender's pocket.	5.450
A person robs someone of $78 and attempts unsuccessfully to stab the victim.	5.450
A person with a gun hits someone and drives away in the victim's car.	5.450
A person shows someone a gun and demands the victim's money. He gets $350.	5.400
A person robs someone of $7600 at gunpoint.	5.400
A person jumps on someone and removes $20 from the victim. In the process, he cuts the victim on the ear with a knife.	5.400
A person uses a gun to rob two individuals of $50.	5.400
A person with a gun interrupts a card game, relieves all participants of jewelry and cash, orders the victims to strip and threatens them with shooting if they attempt to escape. The total value of cash and jewelry taken is $3788.	5.400
A person with a gun demands money from someone. The victim tells him he can have anything he wants, but to put the gun away. The offender puts the gun away and takes out a knife. He departs with $125.	5.400
A person uses a gun to rob someone.	5.400

A person with a gun robs someone of $1000.	5.400
A person approaches someone as he is entering his apartment, forcibly removes $15 from the victim, and takes $165 in cash and some jewelry from the victim's apartment. Then the offender beats the victim until he loses consciousness.	5.350
A person with a gun robs someone of $150.	5.350
A person with a gun robs someone of $200.	5.350
A person approaches someone, shows him a gun, and robs the victim of $35.	5.350
A person with a gun robs several people. The total value of cash and jewelry taken is $650.	5.350
A person who has a gun robs two people of $100.	5.350
A person with a gun robs someone of $850.	5.350
A person kicks someone after an unsuccessful attempt to rob the victim, while an accomplice cuts the victim with a sharp object.	5.350
A person who has a gun demands money from two people, and uses the gun to smash the windshield of their car.	5.350
A person with a gun robs someone of $2000.	5.350
A person with a gun robs someone of his radio.	5.350
A person with a gun robs someone of $3800.	5.350
A person who has a gun tries unsuccessfully to rob someone.	5.300
A person grabs a purse from someone while his accomplice punches her and holds a gun to her.	5.300
A person hits someone with a hammer and a cueball, and removes $800 from the victim's premises.	5.250
A person committing a residential burglary awakens the owner of the home. Holding a knife, the offender forces the victim to turn over money, jewelry and his wife's purse.	5.250
A person with a gun robs someone of $100.	5.250
A person with a gun takes someone's purse. Later the victim's car is stolen.	5.250

A person approaches two people, puts a knife to one person's throat, and demands and takes their bicycle tires, worth $23.	5.150
A person forcibly enters a residence of another while the owner is at home. He threatens the owner with physical harm, and ransacks the house. When the victim's husband arrives home, the husband is made to drive to his store where the offender takes $500 in cash and merchandise.	5.150
A person with a gun robs someone of $5. The gun used is a pellet gun.	5.150
A person is one of two people who put a knife to a person and demand money. The victim does not believe that the offender means to cut him. Then the offender punches a second victim and threatens him with stabbing.	5.100
A person is an accomplice to someone armed with a knife, who takes $78 from an individual and who then tries to stab the victim.	5.100
A person commits two robberies in succession while holding a knife. He takes a total of $166.	5.100
A person who holds a knife punches someone and attempts unsuccessfully to rob the victim.	5.100
A person with a knife forces his way into someone's home, where he takes $392 worth of goods.	5.050
A person with a knife robs someone of $30.	5.050
A person is in a group of five people who surround someone and demand her purse. One of the offender's accomplices has a gun, and another has a knife. This offender receives a share of the money in the purse. Later, the victim's car is stolen.	5.000
A person attempts unsuccessfully to rob someone at knifepoint. He repeats his attempt for a second victim, also without success.	5.000
A person goes to someone's home and poses as a gas inspector. He hits the occupant several times, and takes $150 from the house.	5.000
A person beats someone with a club and removes $85 and a watch from the victim.	5.000
A person approaches someone and demands his wallet. He punches the victim while one of his accomplices displays a knife. The victim turns over his watch and his wallet, which contains $70.	4.950

A person who has a replica of a gun robs some of $17.	4.950
A person grabs someone as his accomplice, who has a gun, snatches the victim's purse.	4.950
A person robs someone of $350 at knifepoint.	4.950
A person with a knife robs someone of $150.	4.950
A person is an accomplice to someone who commits a robbery with a gun.	4.950
A person is an accomplice to someone with a gun who robs an individual of $1000.	4.900
A person uses a knife to rob someone.	4.900
A person accompanies someone with a gun who robs an individual of $240.	4.900
A person approaches someone, places a metal object to the victim's throat and robs him of $15.	4.850
A person takes $70 and a wristwatch from two people while holding a knife on the victims.	4.850
A person beats someone and robs him of $40. In the process, the victim's nose is broken.	4.850
A person with a knife robs someone of his gold chains.	4.850
A person robs someone of $150, using a replica of a gun.	4.850
A person escapes from a police car, jumps into a drug store delivery car, tells the driver he has a gun and strikes him on the face. The driver exits the vehicle, and the offender drives the car away, hitting another vehicle and causing $850 in damage.	4.850
A person is an accomplice to an individual with a gun who robs someone of $300.	4.850
A person, holding a replica of a gun, robs someone of $250.	4.850
A person robs someone of $5 with a pellet gun.	4.800
A person is one of three people who approach someone and demand his bicycle. One of his accomplices has a knife, and threatens to cut the victim.	4.750
A person with a knife takes $5 from someone.	4.750
A person with a knife attempts without success to rob someone.	4.750

A person knocks on the door of a residence, ties the occupant up and takes merchandise totalling $10,385 from the house.	4.750
A person beats another, and robs him of $950.	4.700
A person accompanies an individual who has a gun and who robs someone of $10.	4.700
A person is in a group of people who demand money from someone, hit the victim across the stomach with a chain, punch and kick the victim, and forcibly remove $4.	4.700
A person accompanies somebody with a pellet gun who robs an individual of $1.	4.650
A person with a knife takes someone's bike.	4.600
A person beats someone, and robs him of $500.	4.600
A person grabs someone's portable radio-tv. As the victim attempts to retrieve his property, the offender strikes him over the head with chukka sticks.	4.600
A person unsuccessfully attempts a robbery with an alleged gun.	4.600
A person threatens to beat someone with a pipe unless he hands over his wallet. He holds the pipe while an accomplice takes $428 from the victim's wallet. Later, the offender is one of a group of persons who surround another victim and forcibly remove $100 and a gold money clip from him.	4.600
A person is in a group of six people, one of whom uses a knife to rob two victims, and forces the victims to turn over $70 in cash and jewelry.	4.600
A person committing a residential burglary inadvertently awakens the owner of the house. He tells the victim to cover her face and not to look at him. Approximately five minutes after the offender leaves, the victim finds $225 missing, and her telephone wires cut.	4.550
A person is an accomplice to someone who grabs a portable radio-tv from an individual, and who hits the victim over the head with chukka sticks when the victim attempts to retrieve his property.	4.550
A person is a driver for someone who commits an armed robbery.	4.500
A person beats someone in an unsuccessful attempt to rob him.	4.450

A person serves as a lookout for other people who commit an armed robbery.	4.450
A person chokes someone temporarily and robs him of $110.	4.450
A person knocks someone to the ground in an apparent attempt to rob the victim. The victim sustains cracked ribs.	4.450
A person beats someone and forcibly removes $200 from the victim.	4.400
A person enters someone's home, punches one victim and throws a second victim on the ground.	4.350
A person accompanies someone who has a knife and who takes $70 and a wristwatch from two victims.	4.350
A person accompanies someone with a knife who attempts a robbery.	4.350
A person is one of three people who punch someone and steal his car. When arrested, the offender is found to have a gun in his possession.	4.300
A person threatens to beat someone with a pipe and forcibly takes $525 from the victim.	4.300
A person who does not display a weapon states that he has a gun and robs someone of $2000.	4.300
A person enters the motel room of another, stating that he is there to repair the pipes. He threatens the victim with a chair, and takes $80 from the victim's pocket.	4.300
A person enters a store and steals some cheese. When he is chased by the storeowner, the offender displays a knife.	4.200
A person holds his hand in his pocket and robs someone of $400.	4.150
A person approaches two people, and tries to force one of them into his car, but lets the victim go when the victim offers him cash, totalling $352.	4.100
A person with a pipe approaches someone and demands money. He receives $317.	4.100
A person snatches someone's purse, knocking the woman to the ground in the process. Then the offender flees in a car, and tries to force a pursuing police vehicle off the road.	4.100

An inmate of a correctional institution forces a corrections officer to hand over his car keys and $20, and escapes in the victim's car.	4.100
A person forces his way into someone's home and takes $25 in cash and a color TV.	4.050
A person approaches someone, knocks him to the ground, robs him of $261 and drives off in the victim's car.	4.000
A person is a lookout for individuals who commit a strongarm robbery.	3.900
A person robs someone of $50. When apprehended, he has a knife in his possession.	3.900
A person holds a stick over someone and searches the victim unsuccessfully for money.	3.900
A person accompanies someone who hits a woman over the head and snatches her purse. The purse contains $28.	3.900
A person orders the driver of a vehicle to give him a ride. After the driver complies, he is grabbed and held down while his wallet and jewelry are taken.	3.850
A person approaches someone and demands and takes his bicycle, worth $155. When the victim refuses, the offender punches him in the face. As the victim lay on the ground, the offender searches his pockets.	3.850
A person approaches someone and attempts unsuccessfully to take her purse. In the process, the victim is dragged along the ground.	3.850
A person mugs two people in succession. He removes $2 and a watch worth $50 from the first, and gets nothing from the second.	3.750
A person punches someone while his accomplice removes the victim's wallet, which contains $22, and the victim's watch.	3.750
A person snatches a gold chain worth $950 from someone, and punches the victim in the face.	3.700
A person punches someone in the face and takes the victim's hat, which has three medals on it.	3.700
A person punches someone in an unsuccessful attempt to get his money.	3.700
A person who is committing a residential burglary is surprised by the owner, and flees from the house, dropping the goods.	3.650

A person snatches a gold chain from someone's neck. When the victim protests, the offender slaps him in the face, breaking the victim's glasses, valued at $100.	3.650
A person punches someone in the face and takes his bicycle, worth $75. He later sells the bicycle.	3.650
A person punches someone in the face and takes his bike.	3.650
A person punches someone in the face, and forcibly removes the victim's watch and $12.	3.650
A person who is unarmed forcibly removes $325 from someone.	3.650
A person punches a woman in the face and snatches her purse, which contains $16.	3.650
A person snatches someone's purse, knocking the victim to the ground in the process. The purse contains $350.	3.600
A person punches someone in the face in an unsuccessful attempt to get her purse.	3.600
A person punches someone and takes $20 from the victim.	3.600
A person punches someone and removes $55 from his pocket.	3.600
A person demands someone's bike, and punches the victim when he does not comply. The offender takes the bike, which is worth $75, and sells it.	3.600
A person is a driver for someone who commits a robbery.	3.550
A person snatches someone's purse, knocking the victim to the ground in the process.	3.550
A person forcibly takes a radio from someone who thinks the offender has a knife. The radio is valued at $115.	3.550
A person slaps someone's face and snatches her purse, which contains $86.	3.500
A person who is unarmed takes $100 from someone by force.	3.500
A person knocks someone to the ground and takes her purse, which contains no money.	3.500
A person punches someone and takes $2 from the victim.	3.450
A person punches two people and takes their bikes from them.	3.450

A person is in a group of seven people who demand someone's halloween mask. When the victim refuses, the offender punches him in the face. The victim turns over the mask, valued at $25.	3.400
A person is in a group of seven people who demand someone's halloween mask. When the victim resists, he is punched in the face by one of the group members. The victim turns over the mask, valued at $25.	3.350
A person who is unarmed forcibly removes $25 from someone.	3.350
A person forcibly takes bicycles worth $175 away from two people.	3.350
A person snatches someone's purse, knocking the woman to the ground in the process. The purse contains $140.	3.350
A person holds someone as an accomplice snatches a gold chain from the victim's neck worth $65.	3.300
A person forcibly takes a bicycle from someone.	3.250
A person forcibly removes $5 from someone.	3.200
A person accompanies someone who punches another in an unsuccessful attempt to snatch the victim's chain. The victim requires stitches and suffers a loose tooth.	3.150
A person pushes someone off of a moped and rides away on it.	3.100
A person snatches a purse from someone and drives off in a stolen motor vehicle.	3.000
A person who is unarmed attempts unsuccessfully to rob someone.	2.900
A person grabs a purse from someone and then attempts unsuccessfully to break into a store. The purse contains $14.	2.900
A person snatches a gold chain worth $200 from someone's neck.	2.750
A person plans a robbery, but does not participate in it.	2.700
A person snatches a gold chain from somebody's neck.	2.650
A person runs up to someone and snatches a chain from the victim that is worth $1500.	2.650

A person is in the company of someone who punches an individual and who snatches a chain from the victim's neck. The chain is valued at $130.	2.650
A person snatches a gold chain worth $65 from someone's neck.	2.600
A person snatches a purse from a woman. The purse contains $300.	2.600
A person snatches a purse from someone containing $100.	2.600
A person snatches a purse from someone. The purse contains $5.	2.550
A person snatches a purse from someone. The purse contains $25.	2.550
A person snatches a purse from someone.	2.500
A person accompanies an individual who snatches a gold chain from someone's neck.	2.350
A person helps someone to steal a car.	2.150
A person drives a car for a person who attempts a purse snatch.	2.000
A person receives a gold chain worth $1500 from someone who has snatched it from the neck of a victim. He sells it on the street for a few dollars.	1.750
A person receives a purse that has been taken from someone by an accomplice.	1.750
A person receives a gold chain that has been snatched from someone's neck by an accomplice.	1.650
A person is in the company of someone who snatches somebody's gold chain.	1.600
A person is in the vicinity of someone who snatches a purse from someone. The purse contains $675.	1.150

Appendix E
Assault Questionnaire

DESCRIPTION	MEAN SCORE
A person shoots someone as the victim lay in bed, killing the victim.	7.000
A person shoots and kills a person who resists the offender's attempt to take his auto.	7.000
A person shoots and wounds an individual who successfully resists the offender's attempt to take his auto. Later, the offender is in the company of someone who shoots and kills another victim of a robbery.	6.889
A person with a gun is a member of a group of six people who commit four robberies. He himself robs someone of his automobile at gunpoint, and is in the company of one individual who shoots and wounds a victim of a second robbery attempt, and the company of another who shoots and kills a third victim.	6.889
A person participates in a string of four robberies in which accomplices with guns take automobiles away from people. He stands beside one accomplice who shoots and wounds a victim in the neck, and waits while a second accomplice shoots and kills another victim.	6.833
A person rapes someone while holding a knife to the victim. Then he orders her to commit fellatio. He cuts the victim on the ear, neck, calf and thigh.	6.778
A person forces his way into someone's car, and shoots its driver in the neck. The bullet lodges in the victim's neck.	6.667
A person shoots someone in the face.	6.667
A person shoots a robbery victim, from whom he has taken $107, in the stomach.	6.611
A person shoots someone in the chest.	6.611
A person shoots someone two times.	6.556
A person shoots someone three times.	6.556
A person stabs someone nine times. One of the stabbings causes the victim's lung to collapse. The victim requires an operation to stop internal bleeding.	6.556
During a drug transaction, a person shoots someone three times.	6.556
A person shoots two people, hitting both.	6.500

A person forces his way into someone's home at knifepoint, where he beats and threatens to kill two people. He takes $10 from one, and stabs the victim in the stomach, causing a wound which requires six stitches. When the police arrive, he dissuades them from entering, stating that he has a knife and hostages.	6.500
A person robs someone of $166 at knifepoint and then stabs the victim, who almost dies as a result of the injuries.	6.500
A person stabs someone three times in the back and chest, lacerating the victim's spleen and pancreas.	6.500
A person stabs someone twice, once in the back and once in the stomach. One of the stab wounds penetrate the victim's liver.	6.500
A person rams someone's car with his own. When the victim of the accident gets out of his car, the offender stabs the victim twice in the back. One wound pierces the victim's ribs.	6.500
A person shoots someone. The bullet lodges in the victim's back, and causes his lungs to expand.	6.444
A person shoots someone in the stomach.	6.444
A person shoots at motorists, hitting one person in the knee, a second victim in the arm, and breaking the glass in a third victim's car.	6.444
A person punches someone in the face, and then goes and gets a knife, returns to the victim, and cuts him on the chest. He leaves and returns again, and stabs the victim three times in the chest, who is hospitalized for eight days as a result.	6.444
A person is an accomplice to someone with a gun who takes $70 from an individual, and then shoots the victim in the stomach.	6.389
A person tries to stab two people, and then stabs a third victim five times, once in the arm, and four times in the back. The victim suffers slash wounds which require stitches.	6.389
A person stabs someone twice, once in the kidneys and once in the thigh.	6.389
A person shoots someone in the arm with a shotgun. The victim does not recover the full use of his arm.	6.389

A person forces a six year old boy into the woods at knifepoint and sodomizes him, and then threatens the victim with physical harm if he tells anyone.	6.389
A person cuts someone on the head with a knife, and stabs the victim in the chest with a knife. The victim suffers an expanded lung as a result.	6.389
A person shoots two people, hitting one in the leg, and missing the other.	6.333
A person hits ten people on the head and chest with a ballpeen hammer, and then stabs another victim in the chest with a knife, fracturing the victim's rib and puncturing his lung.	6.278
A person enters a business establishment with his accomplice and a knife. He lunges at one employee with a knife, slashing the victim's abdominal area repeatedly as his accomplice chases a second victim. The offender demands and receives money, and leaves only when chased by a third victim, who has a pistol.	6.278
A person stabs two people. One individual is stabbed two times in the arm, and the other is stabbed in the abdomen. The second victim suffers a divided rib and a lacerated artery.	6.278
A person stabs someone twice, puncturing the victim's bladder.	6.222
A person stabs one victim in the back with a butcher knife, causing a puncture wound, and cuts a second victim on the thigh.	6.222
A person forces someone to strip at knifepoint, sodomizes the victim, and then drives off in the victim's car.	6.222
A person stabs someone in the chest, and then drives off in the victim's car.	6.167
A person punches someone, and stabs the victim a number of times with a screwdriver. The victim suffers five puncture wounds and a broken rib.	6.111
A person is an accomplice to someone with a gun who shoots a robbery victim in the stomach.	6.111
A person holds a child's hands under boiling water, causing first, second and third degree burns.	6.111
A person beats someone and stabs the victim five times in the arm and chest, the victim requires stitches as a result.	6.111

A person stabs someone two times, once in the arm and once in the face. The knife breaks off in the victim's arm.	6.111
A person stabs someone in the chest. The victim suffers a puncture wound as a result.	6.056
A person with a gun attempts unsuccessfully to rob someone. When the victim pulls out a gun, the offender fires two shots from his own gun, which fails to go off.	6.056
A person punches and kicks someone who is three months pregnant, causing internal bleeding. When police officers respond, he throws things at them, and threatens to blow them up with a grenade, which he holds in his hand. He throws the grenade, which is a tear gas grenade, and it explodes.	6.056
A person threatens to shoot someone and fires four shots from a gun, grazing the victim with one shot.	6.000
A person beats someone with a stick. During his arrest, he struggles with the police and grabs the pistol of one officer, shooting it off and hitting one officer in the foot.	6.000
A person beats someone and then shoots at the victim, missing him.	6.000
A person punches someone several times in the face, attempts to rape the victim and threatens to sodomize her. The victim suffers a broken nose, a pushed in front tooth, nightmares and residual emotional trauma.	6.000
A person shoots someone in the arm.	6.000
A person beats someone until the victim falls unconscious. Then the offender attempts to choke the victim, who suffers a concussion, a broken nose and broken cartilage.	5.944
A person shoots at three people, but misses them.	5.944
A person slashes someone with a knife, causing a wound which takes 40 stitches to close.	5.889
A person stabs someone in the abdomen, causing puncture wounds.	5.889
A person shoots someone in the leg.	5.889

A person enters a business establishment with an accomplice. As his accomplice slashes the abdomen of one victim, he chases another around with a knife. The offender demands and receives money, and leaves only when a third victim chase him with a pistol.	5.889
A person stabs two people. One victim is stabbed in the leg, the other is stabbed four times in the back. Both require stitches. During his arrest, the offender hits a police officer.	5.883
A person with a gun attempts to rob someone. He is interrupted by a third party, who chases the offender. During the chase, the offender shoots at his pursuer, but misses.	5.883
A person beats someone and takes $2 from a victim, who as a result of the beating is listed in critical condition in the hospital.	5.883
A person robs someone of $200 at gunpoint, and then attempts to rob a second victim, who resists. The offender then hits the second victim repeatedly with his handgun. The victim suffers a broken nose and requires twelve stitches.	5.883
A person is one of three people who threaten several individuals with a gun and a knife, and stab one victim, who requires stitches as a result.	5.778
A person punches someone and forcibly takes $5 from the victim. The offender cuts the victim's hand with a knife. The victim suffers cut tendons and a severed nerve.	5.722
A person cuts someone on the chest with a knife. Later, the offender points a gun at the victim, and fires a shot into the air.	5.722
A person with a gun robs two people of $278, and is with an accomplice who hits one of the victims on the head with a hard object.	5.667
A person puts a gun to someone's head and threatens to kill the victim. He returns a short while later and again threatens her with a gun.	5.500
A person chase someone with a hatchet and then punches a pregnant woman in the stomach.	5.444
A person stabs someone in the stomach, causing a superficial wound.	5.444

A person beats and chokes someone, and threatens to kill the victim with a gun. The victim escapes, and the offender threatens a second individual with the gun.	5.389
A person fires a gun at someone, missing him. Then the offender punches the victim.	5.389
A person threatens someone and then fires a gun several times into the victim's house.	5.389
A person pushes a woman up against a wall while his accomplice, who has a gun, punches her and demands her purse.	5.389
A person hits someone twice with a bailing hook, and threatens to kill the victim and a second party.	5.389
A person points a gun at someone and threatens to kill him.	5.333
A person points a gun at a police officer.	5.333
A person with a gun demands and receives money from several people.	5.278
A person beats someone with a shovel. The victim suffers a concussion, and requires stitches. During his arrest, the offender fights with police.	5.278
A person points a gun at two people and threatens to shoot them.	5.278
A person forcibly enters the home of another, hits the victim with his gun and drives off in the victim's car.	5.278
A person steals a car. During his arrest, he points a gun at the officers. When the offender is searched, marijuana and cocaine are found in his possession.	5.167
A person with a gun demands and receives someone's radio.	5.167
A person punches someone several times, and then takes out a gun and threatens to shoot the victim.	5.167
A person is in a group of six people who rob two victims at knifepoint, forcing them to give up $70 in cash and jewelry.	5.167
A person who is being chased by police for two residential burglaries in which he has taken $5000 worth of merchandise turns around and points a gun at police officers.	5.111

A person with a gun demands money from someone. He gets $160.	5.111
A person with a gun demands money from someone. When the victim resists, the offender hits him twice, and takes $500.	5.111
A person swings a baseball bat at someone, and hands a gun to an accomplice, for use upon the same victim.	5.111
A person punches someone until the victim loses consciousness, and then hits him again.	5.056
A person beats and attempts to rob someone, and then pulls a knife on an individual who intervenes in the victim's behalf.	5.000
A person beats someone until the victim falls unconscious.	5.000
A person attempts to run someone over with his car, and then attempts to elude police in a high speed chase.	5.000
A person strikes someone in the eye with a bottle. The bottle breaks upon impact, causing a wound which takes 100 stitches to close.	4.944
A person damages $500 worth of property belonging to another, punches someone and attacks a second individual with a knife. The victim is able to block the stabbing with his foot, and the knife lodges in the victim's shoe.	4.944
A person accompanies someone who shoots an individual in the chest.	4.944
A person points a shotgun at someone, and then strikes the victim in the face with his fists.	4.889
A person attempts to stab someone.	4.889
A person attempts to run over a police officer with his car during an attempted arrest.	4.889
A person punches one victim, and cuts a second victim with a razor.	4.889
A person tries to hit a pedestrian with his car.	4.833
During an arrest for a commercial burglary resulting in the theft of $2500 in goods and $51 in cash, a person attacks a police officer with a razor box cutter.	4.833
A person with a knife forces two people into their car, and cuts one of the victims on the finger.	4.778

A person damages property belonging to someone else, and then tries to stab the property owner with a knife.	4.778
A person chases someone with a machete, and then threatens the victim with a gun.	4.778
A person who has a gun forces someone out of his auto and drives off in the victim's car.	4.778
A person hits someone with a bottle while an accomplice hits the victim with a baseball bat, breaking the victim's hand.	4.778
A person beats someone in an unsuccessful attempt to rob the victim.	4.722
A person beats two people. One victim loses consciousness, and the second suffers a broken nose and two loose teeth.	4.667
A person tries to hit several people with his car.	4.556
A person holds someone while an accomplice touches the victim on the breasts and genitals. Then the offender threatens to push the victim's head into a toilet.	4.500
A person touches someone on the breasts and genitals and punches her. Then he threatens to push her head into a toilet.	4.500
A person swings a knife at a police officer.	4.444
A person points a gun at someone. During apprehension by police, cocaine is found in his possession.	4.444
A person with a knife punches someone and unsuccessfully demands the victim's money.	4.444
A person who is driving a stolen car forces a pursuing police vehicle to hit an obstruction. As a result, one officer suffers a fractured rib.	4.389
A person is a driver for someone who plans to stab someone with a knife.	4.389
A person hits someone with a baseball bat, fracturing the victim's elbow.	4.389
A person attempts to take a bike from someone. When the victim resists, the offender cuts him on the finger with a knife.	4.389
A person cuts someone with a knife, causing a superficial wound which requires several stiches.	4.389

A person points a gun at someone.	4.389
A person waits while an accomplice beats someone and robs the victim, who suffers a broken nose, of $40.	4.333
A person punches someone and threatens the victim with a knife.	4.278
A person threatens to kill several people, and hits police officers with a stick during his arrest.	4.278
A person intentionally turns his car in the direction of a police vehicle and crashes into it.	4.278
A person threatens to kill someone while holding a knife.	4.278
A person pulls down the pants of someone his accomplice has just slapped and thrown to the ground. He then jumps up and down on her, himself fully clothed.	4.278
A person strikes someone with a knife, causing no injury, and then throws a rock at the victim, hitting him.	4.222
A person holds a knife against someone.	4.222
A person steals a car and then attempts to run a pursuing police vehicle off of the road. During his arrest, he punches a police officer.	4.222
A person punches a police officer and tries to pull his gun from his holster.	4.222
A person hits someone with a baseball bat, and then hits the victim's auto, causing $943 in damage.	4.222
A person slaps someone in the face and throws her on the ground. After an accomplice pulls the victim's pants down, the offender jumps up and down on her, himself fully clothed.	4.167
A person is in a group of three people, one of whom beats someone with a pipe, and robs the victim of $40.	4.000
A person accompanies the driver of a stolen car who uses the car to force a pursuing police vehicle to hit an obstruction. One of the officers in the police vehicle suffers a fractured rib as a result of the collision.	3.944
An inmate ties up a corrections officer, takes the victim's keys, and escapes in the police officer's vehicle.	3.944

A person punches a police officer in the face, breaking his nose.	3.944
A person punches someone and takes $600 from the victim.	3.944
A person holds someone while an accomplice beats the victim.	3.889
A person who is fully clothed jumps up and down on someone whose pants have been pulled off by an accomplice.	3.833
A person steals a police car, and rams the car several times into another police vehicle. When he is apprehended, the offender struggles with the police officers.	3.833
A person makes threatening calls to the home of another. Later, he sprays de-icer in the victim's eyes.	3.833
A person hits someone with a baseball bat and then damages property belonging to another.	3.778
A person smashes the windshield of someone's car, while the victim is sitting inside of it. A piece of glass enters the victim's eye, scratching it.	3.778
A person punches someone and takes the victim's money, which totals $200.	3.778
A person punches someone and takes the victim's money, which totals $20.	3.722
A person steals some cheese from a store. When chased by the owner, the offender displays a knife.	3.722
A person throws a bottle at someone in a store, striking the victim, who requires several stitches, in the head. Then the offender flees from the store, knocking over and damaging $30 in groceries.	3.667
A person beats someone with a large stick.	3.667
A person shoves a police officer. During his arrest, the offender is found to have a club and a gun in his possession.	3.667
An inmate throws an object at a corrections officer, hitting him on the elbow. Then he sets fire to his mattress. When the cell is searched, a homemade knife is found.	3.667
A person steals a car. During a chase by the police, the person abandons the car and a gun.	3.611

A person accompanies an individual who tries to take a bike away from someone, and who cuts the victim's finger with a knife when he resists.	3.611
A person punches a police officer, and threatens to kill him.	3.611
A person punches someone repeatedly, breaking the victim's nose.	3.611
A person snatches a chain from someone's neck. When the victim protests, the offender slaps the victim in the face, breaking the victim's glasses, valued at $100.	3.556
While in the custody of the police, a person struggles with an officer, and breaks a finger on the officer's hand.	3.556
A person sprays mace in someone's eyes.	3.500
A person who is unarmed attempts unsuccessfully to rob someone.	3.444
A person attempts unsuccessfully to force someone into his car, which is unlicensed and unregistered.	3.444
A person throws a rock at someone, fracturing a bone.	3.389
During his arrest, a person punches a police officer. While he is searched, illegal drugs are found in his possession.	3.389
A person bites a police officer and is found to have a knife in his possession during arrest.	3.333
A person punches someone and steals the victim's cap, which has three medals on it.	3.222
A person throws a child to the ground.	3.222
A person punches a police officer, and then kicks the window out of a police vehicle.	3.167
A person cuts someone's hand with a bottle.	3.167
A person punches someone. The victim suffers a concussion.	3.111
An inmate punches a corrections officer.	3.056
A person punches two police officers.	3.056
A person who is in a car chases another person in a car, and attempts to hit the victim with bottles.	3.000

A person is a passenger in a stolen auto, the driver of which uses the car to crash into a police vehicle during a chase. During the offender's arrest, the police find three stolen pocketbooks in the car.	3.000
A person throws an object at someone. The victim requires several stitches.	3.000
A person is one of two people who place a lit firecracker in a bag and hand it to someone. The victim is uninjured because he is convinced by others to drop the bag.	3.000
A person struggles with police officers and attempts to kick out a window in a police vehicle.	3.000
A person punches a police officer.	3.000
A person damages a car belonging to others and then punches and kicks its owners.	2.944
A person throws rocks at someone's home, and threatens to kill its occupant.	2.889
A person punches someone in the face and then struggles with police officers during his arrest.	2.833
A person punches someone, who requires five stitches as a result.	2.833
A person shoplifts a $4 item. He breaks a store window and punches a security guard in the chest in an attempt to escape.	2.778
A person throws a bottle at a police officer.	2.778
A person snatches someone's purse.	2.778
A person attempts to hit the owner of a store who has just stopped him from shoplifting $128 worth of goods.	2.667
A person slaps someone on the head and then places a lit cigarette lighter close to the victim's pants.	2.667
A person throws bottles at someone and then breaks the windshield on the victim's car, which costs $146 to replace.	2.667
A person punches someone, causing the loss of two teeth.	2.611
A person defaces some property belonging to others and is in the company of someone who throws an object at an individual, who requires several stitches as a result.	2.611

During apprehension, a person kicks a police officer.	2.611
A person pushes a moped into a police officer.	2.500
A person helps to steal a car. When he is apprehended, a ballpeen hammer and a needle-nose pliers are found in his possession.	2.500
A person attempts to punch a police officer.	2.444
A person sprays someone in the face with a can of deoderant.	2.389
During his arrest, a person struggles with police officers.	2.167
A person punches someone several times.	2.111
A person hits another in the arm with a cane.	2.000
A person calls a police officer names. He is found to have nunchucks in his possession.	1.944
A person throws an object at someone, missing the victim.	1.889
A person punches two people.	1.889
A person intentionally breaks a window belonging to another, which costs $1000 to replace.	1.889
A person pokes someone with a baseball bat.	1.667
A person punches someone.	1.556
A person approaches someone, put his hands on her shoulders, and asks her for a date. When she refuses, the person asks her for a kiss. The victim runs away, afraid.	1.500
A person threatens to beat someone.	1.333
A person slaps someone in the face.	1.278
A person pushes someone.	1.167
A person is in the vicinity of three people who punch someone in the face.	1.111
A person throws a piece of food at another person.	1.056

Appendix F
Data Collection Instrument

OFFENDERS IN COURT CODESHEET

CASENO Case number

Begin with 1000 for juveniles and 2000 for adults

DOB Date of birth

Enter month/day/year

DOC Date of crime

Enter month/day/year

RACE Race of defendant

1/white
2/black
3/hispanic
4/oriental
8/other
9/unknown

D Number of defendants in this case
Enter number of defendants involved in this case

D RACE Race of other defendants

Same as RACE above; enter 3 when more than one race is involved

ACC Number of accomplices

Enter number of other perpetrators involved in the offense

V Number of victims

Enter number of victims involved in this event

9/unknown

V SEX Sex of victim(s)

Same as SEX above, but enter 3 if more than one victim is involved, and they are not of the same sex

REL Victim/offender relationship

0/stranger (not previously known)
1/acquaintance (known at least by sight)
2/relative
3/spouse
4/police officer
8/other
9/unknown

APP How defendant was apprehended

1/in vicinity of crime shortly after crime occurs
2/positively identified by victim or witness
3/caught with goods away from scene of crime
4/at scene of crime
5/implicated by other suspect
6/turned him/herself in to authorities
8/other
9/unknown

WEAP Type of weapon

0/none
1/at least a firearm (firearm or firearm in combination with other weapons)
2/knife or knife in combination with other weapons, but no firearm
3/alleged gun or knife
4/toy gun
5/object
8/other
9/unknown

PERS Manner of injury to person

0/none
1/scratched or knocked to ground
2/punched, kicked or beaten
3/stabbed or shot
8/other
9/unknown

HARM Extent of harm to victim

1/bruises or minor scratches
2/lacerations
3/lacerations needing stitches
4/broken bone(s)
5/damage to vital organ
8/other
9/unknown

PROP Property damage

Enter in dollars the value of property taken

PLACE Location of crime

0/street
1/parking lot
2/residence
3/store or gas station
4/motel, restaurant or bar
5/bank
6/police station
7/school
8/other
9/unknown

TRIAL Method of processing

0/trial; guilty on most serious or all charges
1/trial; guilty of less serious charges
2/pled to most serious or all charges
3/plead to less serious or amended charges
4/waived; guilty
5/waived; not guilty
6/trial; not guilty
7/dismissed or nolle pros
8/inapplicable
9/unknown

CHARGE Enter number of charges on petition or indictment

COUNTS Enter number of counts on petition or indictment

CRIME Offenses on petition/indictment

Enter all offenses on petition/indictment

0/robbery
1/assault
2/burglary
3/theft
4/threats
5/unknown
6/drugs
7/weapons
8/inapplicable
9/other

DEGREE Degree of offenses listed on petition/indictment

1/first degree
2/second degree
3/third degree
4/fourth degree
5/disorderly persons (petitions only)
6/petty disorderly persons (petitions only)

CONVIC Enter number of charges at conviction/ adjudication

ENDCO Enter number of counts at conviction/ adjudication

SERIOUS Enter most serious charge at conviction

0/robbery
1/assault
2/burglary
3/theft
4/threats
5/aid and abet; conspiracy; disorderly
6/drugs
7/weapons
8/inapplicable
9/other

DEGREE Degree of most serious charge

Enter appropriate degree

SENT Sentences; enter maximum term in months

To be recorded for each count on which the defendant is convicted

888/inapplicable

PAROLE Parole disqualifier; enter as number of months

To be recorded for each count on which the defendant is convicted

888/inapplicable

TYPE Type of sentence[a]

To be recorded for each count on which the defendant is convicted

0/state prison
1/reformatory for men
2/youth reception and correction
3/probation supervision
4/probation as a suspended sentence
5/training school
6/jail or detention (includes sentences to time served)
7/probation with a jail or residential term
8/other
9/unknown

CONC Method of sentencing

1/concurrent
2/consecutive
8/inapplicable
9/unknown

JAIL Jail time credit

Enter as number of days

DISM Reason for nolle pros or dismissal

1/weak evidence
2/victim incredibility
3/victim or witness failure to cooperate or prosecute
4/defendant charged or sentenced for other crimes
5/unreasonable delay
6/best interests of defendant
7/other
8/inapplicable
9/unknown

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a The values for this variable are obviously more descriptive than what is required in the analysis described in Chapter III, given other intended uses for these data. For the present analysis, values will be collapsed into three categories: probation, probation with a custodial placement, and institutionalization.

PART Participation in crime

0/planned crime only
1/driver or look-out
2/participant at scene without weapon
3/participant at scene with weapon
4/participant causing injury without a weapon
5/participant causing injury with weapon
8/inapplicable
9/unknown

WIT Witnesses available

0/no
1/yes

ADM Admission of guilt

0/no
1/yes

THREAT Threats made against victim

0/none
1/threatened with beating, shooting or stabbing
2/threatened with death
8/other threat
9/unknown

ARRNO Enter number of prior arrests

PRIOR1 Enter number of prior convictions

PRIOR2 Enter number of prior adjudications

CUST Last custody status

0/none
1/probation
2/incarceration

Appendix G
Correlation Matrices for Chapters 6 and 7

Table G-1 Matrix of Intercorrelations, Equation 6.2.1

	Y	X_1	X_2	X_3	X_4	X_5
Y Highest	1.00	.46	.22	.49	-.45	.21
X_1 Serious		1.00	.12	.16	-.14	.27
X_2 Admit			1.00	.14	-.17	.10
X_3 Relation				1.00	-.38	.16
X_4 Caught					1.00	.08
X_5 Court						1.00

Table G-2 Matrix of Intercorrelations, Equation 6.2.2

	Y	X_1	X_2	X_3	X_4	X_5
Y Highest	1.00	.45	.28	.48	.18	.22
X_1 Serious		1.00	.12	.13	-.02	.31
X_2 Admit			1.00	.17	.12	.08
X_3 Relation				1.00	.22	.16
X_4 Accompno					1.00	-.21
X_5 Court						1.00

Table G-3 Matrix of Intercorrelations, Equation 6.2.3

	Y	X_1	X_2	X_3	X_4	X_5	X_6
Y Highest	1.00	-.45	.47	.22	.48	.18	.21
X_1 Caught		1.00	-.13	-.17	-.39	-.28	.08
X_2 KnifeGun			1.00	.14	.20	.00	.25
X_3 Admit				1.00	.14	.15	.10
X_4 Relation					1.00	.24	.15
X_5 Accompno						1.00	-.22
X_6 Court							1.00

Table G-4 Matrix of Intercorrelations, Equation 6.2.4

	Y	X_1	X_2	X_3	X_4	X_5
Y Highest	1.00	.47	.23	.49	.18	.27
X_1 KnifeGun		1.00	.14	.19	.00	.29
X_2 Admit			1.00	.17	.12	.08
X_3 Relation				1.00	.23	.15
X_4 Accompno					1.00	-.21
X_5 Court						1.00

Table G-5 Matrix of Intercorrelations, Equation 6.4.1

	Y	X_1	X_2	X_3	X_4	X_5
Y Degree	1.00	.21	-.42	.45	.32	.19
X_1 Admit		1.00	-.17	.12	.18	.08
X_2 Caught			1.00	-.16	-.41	.12
X_3 Serious				1.00	.03	.26
X_4 Relation					1.00	.01
X_5 Court						1.00

Table G-6 Matrix of Intercorrelations, Equation 6.4.2

	Y	X_1	X_2	X_3	X_4
Y Degree	1.00	.44	-.43	.21	.18
X_1 Serious		1.00	-.16	.12	.27
X_2 Caught			1.00	-.16	.13
X_3 Admit				1.00	.08
X_4 Court					1.00

Table G-7 Matrix of Intercorrelations, Equation 6.4.3

		Y	X_1	X_2	X_3	X_4	X_5
Y	Degree	1.00	-.42	.20	.38	.32	.19
X_1	Caught		1.00	-.16	-.10	-.41	.12
X_2	Admit			1.00	.15	.18	.20
X_3	KnifeGun				1.00	.07	.38
X_4	Relation					1.00	.01
X_5	Court						1.00

Table G-8 Matrix of Intercorrelations, Equation 6.4.4

		Y	X_1	X_2	X_3	X_4	X_5
Y	Degree	1.00	.39	-.43	.21	.21	.18
X_1	KnifeGun		1.00	-.12	.12	.15	.30
X_2	Caught			1.00	-.18	-.16	.12
X_3	Vicsex				1.00	.14	.11
X_4	Admit					1.00	.07
X_5	Court						1.00

Table G-9 Matrix of Intercorrelations for Regression on Sentence to Prison, Using Offense Seriousness as an Independent Variable.

		Y	X^1	X^2	X^3	X^4
Y_1	Prison	1.00	.36	.16	.22	.45
X^1	Serious		1.00	.10	-.02	.38
X^2	Race			1.00	-.03	-.04
X^3	Convicno				1.00	.09
X^4	Court					1.00

Table G-10 Matrix of Intercorrelations for Regression on Sentence to Prison, Using Highest Degree at Conviction as an Independent Variable.

		Y	X1	X2	X3	X4
Y_1	Prison	1.00	.54	.22	.18	.45
X^1	Degree		1.00	.17	.04	.46
X^2	Convicno			1.00	-.02	.09
X^3	Race				1.00	-.01
X^4	Court					1.00