



Online citation: Butler, Frank. 2011. "Rush to Judgment: Prisoners' Views of Juvenile Justice" *Western Criminology Review* 12(3):106-119 (<http://wcr.sonoma.edu/v12n3/Butler.pdf>).

Rush to Judgment: Prisoners' Views of Juvenile Justice

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Abstract: *Using qualitative interviews with adult prisoners who had previously been in some form of placement as juveniles, this study presents the perceptions of juvenile justice and its processes from a population who experienced them first-hand. Common themes about police, court (juvenile and adult), and correctional processes are identified, raising significant ethical issues about the operation of contemporary juvenile justice. Such findings can inform juvenile justice practice.*

Keywords: ethics, juvenile court, juvenile justice, qualitative research

INTRODUCTION

To fully appreciate the workings and outcomes of the juvenile justice system, it is valuable to understand the experiences of persons who have been processed through it. Having lived through the "system" first-hand, they are well positioned to comment on its operation. The present study was developed to hear the voices of former juvenile offenders, who have since become adult offenders, for the unique insights they can make to our understanding of how juvenile justice is received. This research focuses on the perceptions of adult male prisoners whom juvenile justice failed to prevent recidivating. Listening to these adult convicts' voices about what it means pragmatically to be processed as "delinquent" yields insights that can help to humanize juvenile justice, both by sensitizing juvenile justice practitioners to the backstage perceptions of delinquents, and by suggesting public policy reforms that might address some of the issues—particularly ethical ones—raised by the prisoners. Listening to their stories helps us to better understand the human condition (Waldram, 2007).

REVIEW OF THE LITERATURE

Major ethical issues of social inequity have inhered in juvenile justice in the United States since its inception. Platt's (1977) classic account of the Progressive "child savers," who crafted juvenile courts, details the class-based politics that led genteel reformers to couch intrusive control mechanisms for the financially poor as benign ministrations that would rescue them from evil and corruption. Rothman (2002) describes the conflict between moral conscience and bureaucratic convenience that ensnared the burgeoning juvenile system, with the latter ultimately triumphing.

Idealism continued to collide with reality during the first century of a formal juvenile justice "system." The grand rehabilitative rhetoric which draped its beginnings in the first half of the 20th century became increasingly tattered as socio-political forces in the latter half of the century reconstructed deviant youth as primarily depraved (Feld 1999). A focus on the behavioral malleability of wayward adolescents dimmed as dazzling visions of

hardened proto-criminals, who threatened social stability, became politically ascendant.

In the mid-to-late 20th century, juvenile justice was increasingly politicized, resulting in what Feld (2003) describes as an “inversion” of juvenile jurisprudence and sentencing policy. Judicial discretion was supplanted by politically charged legislative and executive power, as goals like public safety and criminal punishment were substituted for more benign concepts like a youth’s “amenability to treatment” and her “best interests.” A spurious wave of juvenile violent crime in the late 1980s and 1990s, sensationalized by the mass media (Ruddell and Decker 2005), discredited the juvenile court and enabled the transfer of adolescents from juvenile adjudication to adult criminal processing and punishment (Beckett and Sasson 2004). The shift of power was from ostensibly impartial juvenile court judges to the politicized public prosecutor, whose discretion in both juvenile and adult cases is vast and primarily unregulated (Davis 2007). That transfer of power has been described as ripe with “injustice and irrationality” from a public policy standpoint (Bishop 2004).

More recently there appears to be some “softening” in juvenile justice. In 2005 the U.S. Supreme Court eliminated the death penalty for juveniles (*Roper v. Christopher Simmons*, 543 U.S. 551), and in 2010 it ruled that for non-homicide crimes, juveniles cannot be sentenced to life in prison without parole (*Terrance Graham v. Florida*, 130 S.Ct. 2011). Rates of transfer of juveniles to adult court have declined (Redding 2008). The number of juveniles in residential placement decreased from 105,055 in 1997 (a rate of 356 juveniles per 100,000 juveniles in the population) to 81,015 in 2008 (a rate of 263 per 100,000) (Hockenberry, Sickmund, and Sladky 2011; Sickmund 2010). The public—at least when presented with highly hypothetical vignettes—is willing to pay for early childhood delinquency-prevention programs and for rehabilitation, in lieu of incarceration, for youth charged with serious crimes (Nagin et al. 2006). Some states, such as Florida, favor transfer to adult court “[o]nly for youths accused of especially serious crimes and for those with a history of failing to reform” (Applegate, Davis, and Cullen 2009:70).

The raced nature of much of criminal justice has been lamented (Alexander 2010; Reiman and Leighton 2010; Sentencing Project 2008; Mauer and King 2007; Capers 2006). In the United States in 2006, of the nearly 93,000 youth in residential placement: 40 percent were Black, 35 percent were White, and an additional 20 percent were classified as Hispanic (Office of Juvenile Justice and Delinquency Prevention n.d). The targeting of illegal drugs since the 1980s has had markedly disparate impact on people of color, including youth of color who are brought into the juvenile and adult systems (Mauer 2006).

Detention had an especially pernicious effect in disadvantaging Black youth relative to White youth

(Leiber and Fox 2005), and racial disparities intensify as one progresses through the juvenile process (Hoytt et al. 2002). In 2002, Blacks represented 16 percent of the juvenile population nationwide, but 29 percent of the delinquency caseload, with Black youth constituting a disproportionate share of cases at all stages of case processing (referral, detention, petitioning, waiver, adjudication, residential placement, and formal probation) (Snyder and Sickmund 2006).

Other ethical issues regarding the experience of juvenile justice processes have also been studied. For example, Feld’s (2006) research on police interrogation of juveniles concluded that youth who are fifteen and younger are generally incapable of exercising their *Miranda* rights. Institutionalization of juveniles in reform schools has been seen as iatrogenic in terms of promoting future criminality (Miller 1991). Unhealthy “paradoxes of treatment” have been identified in juvenile correctional facilities: encouraging emotional displays while also rigidly controlling such displays; exposing youth to competing frames of interpersonal misfortune and individualized deviant motivation as sources for their delinquency; and providing incentives for youth to game the system by simply “jumping through the hoops” (Abrams, Kim, and Anderson-Nathe 2005).

Against the ethical thicket that encompasses so much of what is done with juveniles, it is prudent to explore the experiences of those who have lived within juvenile institutions. Consistent with the tenets of many critical perspectives, the present study relates stories of the marginalized.

Relatively few studies in contemporary criminal justice have examined juvenile justice from the vantage points of those who have experienced it. First-hand perspectives on adult imprisonment have been explored (e.g., West-Smith, Pogrebin and Poole 2000; Toch 1992). Also, some research has been done with regard to perceptions of other important players in juvenile justice. For example, in a mail survey of 115 parents of youths involved in juvenile justice in a mid-western county, Benner, Mooney, and Epstein (2003) found that respondents felt their children’s most important service need was responsible case management. Brubaker and Fox (2010) interviewed 20 service providers who worked with girls in juvenile justice and found providers were often overwhelmed by the panoply of serious social disadvantages faced by their clients. Additionally, there was a lack of structured collaboration among providers, as well as a dearth of gender-specific and culturally-specific programming, particularly for African-American girls.

Gaarder, Rodriguez and Zatz (2004) examined the perceptions of girls from the viewpoint of juvenile court practitioners, particularly probation officers. They found that “stereotypical images of girls outweighed any realities,” with court practitioners commonly using gendered stereotypes that failed to perceive links between

the girls' manipulative behaviors and their prior victimizations (2004:555). They concluded that "juvenile court staff often act based more on the perceptions they have of girls and their families than on the realities the girls face, including both individual and societal factors" (2004:572).

Corley, Bynum and Wordes (1995) also interviewed juvenile court personnel and found that decision-makers weighed family factors as particularly important in determinations about intake, processing, disposition, and placement. Leniency was more likely when parents exhibited what the court personnel perceived as acceptable levels of control over their families, and when they were seen as cooperative with the court. Two-parent families were presumed to have better control than single-parent families, and such family variables effectively "became class and race surrogates" (1995:168).

A few studies have examined youths' perspectives shortly after discharge from juvenile institutions. In interviewing 35 youth in Massachusetts who had been in residential treatment, Hartwell et al. (2010) learned that the most difficult aspects of transitioning back to the community, according to the youths, involved the allure of former peers and the old environment, as well as the availability of drugs and lack of money. Abrams (2006) studied ten youths during the first few months post-release from a twelve-month therapeutic correctional institution in Minnesota, and found that financial support and "selective involvement" with old influences were important means to reduce the likelihood of recidivating. Mincey et al. (2008) interviewed nine graduates of juvenile residential programs in Miami, revealing the importance of supportive families during this time of transition, as well as the challenges of overcoming environmental factors like drugs, violence, and lack of income.

A few studies have examined the views of delinquents themselves. Hueter and Saltzman (1992) assessed the perceptions of 24 youths in residential placement in Colorado, with regard to their delinquency court processes. Participants generally had a negative view of the police, and only half of participants felt they understood what was happening when they were in court. Common suggestions by participants for improving the system included: treat juveniles separately from adults; have court personnel speak to and listen to juvenile defendants; and treat juveniles with patience, including allowing them time to question and comment in court.

Redding and Fuller (2004) studied 37 juveniles who had been automatically tried as adults under Georgia law. The participants had been unaware of the transfer law; they felt that they may have been deterred from their crime if they had been aware; and they believed it was unfair to be criminally processed as adults. Shannon and Abrams (2007) interviewed seven juvenile offenders who were fathers during their incarceration in Minnesota. They concluded that "fatherhood posits the potential for

desistance from crime, yet these young men are in need of a structured intervention to actualize this possibility" (Shannon and Abrams 2007:189).

Bright, Ward, and Negi (2011:45) interviewed nine girls following juvenile court involvement, finding that "maltreatment and victimization, family problems, neighborhood-level poverty and crime, and a lack of support from larger-scale institutions such as income maintenance and school systems" were major factors perceived by participants as contributing to their delinquency. Veneziano, Veneziano, and Gill (2001) had 116 state prison inmates complete a questionnaire with regard to their perceptions of juvenile justice. They found that most participants who had been adjudicated found juvenile justice not especially helpful, nor did those participants feel that the system acted as a deterrent for other juveniles.

The present study focuses on convicted adult offenders' recollections and perceptions of juvenile justice system events that they experienced as youth. Though they are not necessarily accurate or complete descriptions in an "objective" sense, the perceived realities of juvenile justice processes by former juvenile offenders who are now adult offenders, are worthy of study, in order to assess the deep, human impacts that such processes can have, and in order to appreciate that subjective definitions of reality have very real consequences for individual actors (Thomas and Znaniecki, 1995 [1918]).

METHOD

The study sample was selected from the largest men's prison in a state located in the mid-Atlantic region of the United States. The prison held a variety of prisoners, classified at different levels of security, including maximum security. There is no reason to believe the inmates of this particular prison differed appreciably in terms of demographics, compared with inmates in other men's prisons throughout the state. Adults were interviewed, rather than juveniles, in order to obtain a retrospective on juvenile justice experiences held by men who had time to reflect on their youth and its impact on their adult lives.¹ Though the men's narratives do not necessarily portray present operations of juvenile justice, they do offer insights into the philosophies that prevailed in the system, especially the impacts on the lives of these adult offenders in their youth.

The prison in which the interviews were conducted did not possess information on which prisoners had been in placement as juveniles, but it did maintain a listing of all prisoners under age forty (n=183), which was initially chosen as the upper age limit for this study so that the participants' juvenile experiences would not be too remote from contemporary juvenile justice, and so that a meaningful sample could be obtained. The author was

permitted access to the automated case summaries for each of these prisoners. For some, but not all, prisoners who had been considered for parole, the case summary contained a section on juvenile history and placement.² Sampling was limited to prisoners whose case summaries indicated at least one juvenile placement.

Twenty-eight participants were identified in this way. Each potential participant was initially issued a "call out" sheet by the prison's psychology department to report to the psychology treatment area at a particular time. There was no indication of the purpose of the visit. The author met with each man individually, explained the study and its purpose, and inquired whether the prisoner wished to participate.³ It was made clear that the study concerned only the prisoner's juvenile experiences, not his adult criminality. The refusal rate at initial meeting was 21 percent (n=6). Additionally, three men, who agreed to participate, withdrew during the course of the study, for a variety of reasons.

The files on the participants that were accessible to the author contained only rudimentary information, sometimes incomplete, about the reasons for their current confinement. The available data indicate that these men's current incarceration was related primarily to aggravated assault, robbery, criminal homicide, or drug offenses.

In order also to understand the experiences of persons who had committed extremely serious crimes as youth, another eleven participants were identified from among the "juvenile lifers" at the prison. Those are men who were convicted of some form of criminal homicide committed when they were juveniles, and they were sentenced to "natural life" (with no possibility for parole in this state) in prison. Because the prison had no listing at all of who were juvenile-lifers, the author relied on the prison psychologists to identify juvenile-lifers, in large part, by a snowball method. An informal, hand-written list of juvenile lifers, prepared by some of the juvenile lifers themselves, was also consulted. These men were invited to participate in the same manner as described above for the men who were not juvenile-lifers.

The racial/ethnic composition of the participants (n=30, consisting of 19 non-juvenile-lifers and 11 juvenile-lifers) was: 50 percent African-American (n=15), 13 percent bi-racial (n=4), 20 percent White (n=6), 13 percent Latino (n=4), and 3 percent Asian (n=1). Among the juvenile-lifers alone, 64 percent were African-American (n=7), 27 percent bi-racial (n=3), and 9 percent Latino (n=1). The mean age of the juvenile lifer sample was 35 years (range 23 to 50; median 34); the mean age of the non-lifer sample was 29 years (range 21 to 38; median 30).

Semi-structured, open-ended interviews were used. Each prisoner was asked to describe his youth: his experiences of getting in trouble with the law as a youth (discussed chronologically), who or what was important to him, how he felt he was treated during the juvenile justice processes he experienced, his home and school

experiences, his friends, and his dreams for the future. Finally, each was asked about his present views of juvenile justice, including what, if anything, he would like to see changed with the system. [Not all of these topics are part of the present analysis.]

All interviews were conducted by the author, working alone with the participant, in an office with a closed door. The setting for the interviews was the prison's psychology department, in whichever psychologist's, psychiatrist's, or nurse's office happened to be vacant. Interviews were conducted from November 2007 to January 2008. Each participant was interviewed at least twice, and each interview lasted approximately one hour. The interview topics had been pre-tested with a small group of juvenile-lifers at the prison.

The second interview with each participant was largely a validity check: the author summarized his understanding of what the participant had said during the first interview, asked for clarification and elaboration on issues that were unclear, and allowed the participant to add any new information that was relevant.

The prison prohibited any form of recording of interviews, other than hand-written notes, so the author manually recorded participants' statements, including participants' narratives during each interview, and these were transcribed shortly after the interview. Thus, the statements reported in this article are not verbatim quotes but rather the author's best recordation of what the participant said. Attempts were made to capture the participant's authentic phraseology as much as possible.

Data analysis was based primarily in grounded theory (Charmaz, 2006), starting with participants' own perspectives and meanings and recognizing that participants are experts with regard to their own experiences. A major goal is to understand the nature of a phenomenon, especially its key concepts, as it occurs across individuals. The inductive method yields theories that are contextual and local.⁴

CENTRAL THEMES

The participants' earliest recollection of episodes of apprehension as juveniles involved their participation, primarily in theft (including shoplifting, bicycle theft, and car theft) and drug possession. Over half of participants had early histories of theft, and one third had early histories of drug possession. Nearly all participants received probation, rather than a more severe penalty, for their early juvenile cases.

Over three quarters of participants discussed at least one crime against the person as part of their juvenile history. (This includes twelve participants who described homicides, including all the juvenile-lifers). Excluding the homicides by the juvenile-lifers, crimes against the person tended to be either assault [usually of another youth] (sixteen participants) or robbery (ten participants). Another

relatively common crime, described by nearly a quarter of participants as part of their juvenile history, is burglary.

A variety of themes surfaced from participants' discussions of their juvenile-justice experiences, which can be categorized chronologically as involving police, courts, and placement.

Police Unfairness

With regard to the police, the major theme expressed by participants related to police unfairness. One common aspect involved *intimidation by the police, especially during interrogation*. Examples of comments follow.⁵

GL: They didn't give *Miranda* warnings because they said I wasn't under arrest. As a kid, I didn't think I could leave. I was there from 9 a.m. to 11 p.m.

FF: I wish I knew not to speak without a lawyer present. The detective had me thinking I'd just be a witness. The detective was the con man, and I took it.

A major purpose of the *Miranda* warnings is to communicate clearly to suspects that the police are not their friends or allies. However, some police officers and police departments have devised subtle ways to comply with the letter of *Miranda* but not its spirit. Teens' immaturity and impulsivity make them especially vulnerable to such duplicitous tactics.

The observations are primarily consistent with the literature. Feld (2006) found that juveniles under sixteen years of age generally lacked the ability to exercise *Miranda* rights. Grisso (2006) reported that 55 percent of delinquent youth misunderstood at least part of the *Miranda* warnings, compared with 23 percent of adults. Rogers et al. (2008:80) concluded that "[t]he synergistic effects of poor reading comprehension, low intelligence, and comorbid mental disorders are likely to have catastrophic effects on *Miranda* comprehension and subsequent reasoning."

Another theme regarding the police relates to *street-level harassment, including the use of extra-legal violence*. Examples are:

AF: The police would take us to a White neighborhood where there was a rival gang, and tell us to walk home.

TR: I got my ass whooped by the police every time. When I wasn't arrested, I got smacked with a gun and harassed.

Experiencing abuses of power by the police can easily engender further disrespect for the law among youth, whose view of authority is often unfavorable to begin with, as part of the natural history of adolescence. Extra-legal

imposition of official force against youth aggravates an already tenuous relationship, boding ill for long-term equanimity in police-community relationships. Brunson and Miller (2005) have identified common concerns among Black youth with regard to persistent harassment and disrespectful treatment by the police, undermining the legitimacy of the police. Huerter and Saltzman (1992) also found that adjudicated youth tended to have a low opinion of the police, due largely to perceived harassment and physical abuse of power.

Finally, it should be noted that one-third of study participants (and one-fourth of juvenile lifers) felt they were treated fairly by the police when they were juveniles.

Courtroom Alienation

Beyond the police stages of arrest and interrogation, participants tended to find their court experiences almost hostile. Indeed, the frequency of misgivings about the court far exceeded those about the police. The most common concern about court, expressed by at least two-thirds of participants (including all of the juvenile lifers), is *lack of understanding of the juvenile and/or adult court processes* in their cases. For example:

PS: I didn't understand what they were talking about. The words they was using I never heard before. I'm just agreeing even though I don't know what they talking about.

DT: While in juvenile detention before trial, I couldn't study the law. There was no law library. I wouldn't know where to start even if a law library was available. You need a guide to take you through anything at that age... I had no clue that life was actually life... I never got into life "without parole"; I took parole for granted.

FD: As a kid, you understand nothing. The whole process goes over your head... All the lawyer talk (like objections, cross-examination), I got none of that... You're sitting there, and everything around you is affecting you but you don't understand it... The process is like walking in the complete dark. You need somebody to set them down and explain; kids need to understand the process and get help with legal terminology. When at the detention facility pending trial, I had major charges over my head, but nobody explained them; it was just TV and card games.

AM: I didn't understand court. I found it was a lot different from the movies. I was nervous, shaking. The judge looks at you like you're guilty, prove your innocence. My lawyer tells me to be quiet... Everything is yak, yak, yak. You say you know because you don't want to look dumb.

A few participants noted that they understood court proceedings eventually, after having been through multiple, prior court processes. Finally, six participants felt that they comprehended what was going on in juvenile court.

Participants' non-comprehension of what was transpiring in court was very common. This occurred in juvenile court and was exacerbated when juveniles were prosecuted in adult court. It is difficult for juveniles to accept the basic fairness of a process directed at or against them when they cannot fathom how the outcome is derived. Indeed, Redding and Fuller (2004) found that none of the 37 juveniles who participated in their study had anticipated they would be tried as an adult for the particular crime they committed. In juvenile court it is ironic that that many youth cannot understand what is happening to them in what is theoretically a youth-centered jurisprudence (Rajack-Talley, Talley, and Tewksbury 2005).

Procedural due process would seem to require at least a basic comprehension of legal processes being used to remove one's liberty. A youth's ability to engage in crime is not necessarily correlated with his level of legal sophistication. What is striking is the naiveté and immaturity that many of these youth exhibited, often in the face of potentially major criminal punishments.

Aside from the inherent difficulties of the specialized jargon so typical of court processes, youth involved in juvenile justice commonly present with learning disabilities (Beyer 2006). The average IQ of youth in detention is approximately 85 (general range: 70 to 100), compared to a youth nation-wide average of 100 (general range: 85 to 115), and about sixty percent of youth in detention meet the criteria for at least one mental disorder, compared to about eighteen to twenty percent of youth in the general population (Grisso 2006). The combined effects of psycho-social immaturity, compromised mental faculties, and an environment steeped in esoteric terminology make comprehension of court procedures a genuine challenge for many youth.

Exacerbating these difficulties is another court-related theme: *ineffectiveness and poor quality of defense counsel*. Nearly all the men were seriously dissatisfied with the legal representation they received when they were juveniles. In contrast, a few participants (including two juvenile-lifers) felt their lawyers did at least an adequate job, and a few participants who had had multiple juvenile cases reported differing experiences (some good, some bad) with their lawyers.

Among the men who expressed concerns about legal representation, the most common issues related to the relatively little time spent with clients and shoddy representation. All of the illustrative quotes given here are from juvenile-lifers.

AD: I got a court-appointed lawyer. My mom was going to hire an attorney, but he convinced her he could handle the case by himself. I never seen him except when at court. He never discussed witnesses or strategy with me... I gave him a list of witnesses who was there; he tried to contact a couple of them the day of the defense and said they could be there at 3:00, but the judge wouldn't give a continuance... The lawyer skipped the defense, and we just went to closing argument.

FD: Based on what my court-appointed lawyer said, this isn't a complicated case. I only saw the lawyer twice before trial: at the preliminary hearing and at arraignment... There was no investigation by my lawyer, and no expert... My lawyer didn't put on a case: as soon as the prosecutor rested, he rested.

VK: My court-appointed lawyer had me believe I'd serve 10-15 years. She wanted me to plead guilty. My focus was on 10-15 years based on what my lawyer said, not "life." I didn't understand what "life" meant. Years later the lawyer said she made some mistakes early in her career.

AF: I had a court-appointed lawyer, who only talked to me at City Hall. My lawyer didn't explain the life sentence. Court-appointed lawyers, they be with the D.A... My lawyer tricked me into testifying, saying that if I don't get on the stand, he wouldn't put any of my witnesses on the stand. I was scared. I'm in adult court. I didn't want to testify.

It is axiomatic that government-appointed lawyers for indigent defendants rarely have much time to spend with those clients. Often viewed as a merely unfortunate issue in the background for adult defendants, it comes into much higher relief when the clients are adolescents who, from the outset, are more disadvantaged in that they are less likely to understand criminal processes and courtroom legalese.

Participants' generally poor experiences with their lawyers reflect serious issues with the role of counsel for youth. Drizin and Luloff (2007) suggest a number of problems with representation of youth in juvenile court: "poor investigation, infrequent use of motions, high caseloads, over-reliance on pleas, a juvenile court culture of wanting to 'help' juveniles, and a general lack of training among attorneys on youth and adolescence" (2007:289). Except for the juvenile court culture, all of these probably apply also for youth transferred to adult court.

Especially in cases of juveniles who were given "natural life" sentences, the quality of legal representation

was often seriously lacking and sometimes seemed unethical. The minimal time spent with youth facing the prospect of the penultimate penalty, the lack of investigation of their cases, and the miscommunications about fundamental matters—all betray capitulation to almost a rush-to-guilt process. Youth who trust in their counsel to help guide them through very adult-type processes may ultimately find themselves embittered.

Independent of concerns with defense counsel, the perception of a *compromise of judicial neutrality* was evident in the narratives of some participants, again more pronounced among the juvenile-lifers. Twenty percent of participants discussed issues regarding perceived improper conduct by judges in their cases as juveniles. All of these raise the specter of judicial bias.

ST: The judge doesn't listen to the kid or his lawyer; it's like a kangaroo court.

TR: I caught another case for resisting arrest. The judge threw the file across the courtroom. He said, "You were supposed to be here." [I had absconded.] He said I was a menace to society. He told the D.A. and the public defender to shut up. He kicked everybody out of the courtroom. I was sentenced to three years at a maximum security juvenile facility.

AD: During the trial, the guys at the jail told me every day to go to the law library and study my case, but I trusted my lawyer. Everything my lawyer asked for, the judge would shoot him down. The judge was like a third D.A... He was asleep during parts of my trial. My lawyer didn't want to embarrass the judge by objecting. I objected, saying clearly, "Your Honor, you can't be asleep during my trial." The record, though, just says there was an "excited inaudible outburst."

GL: They tricked me out of a jury trial. They said they'd go for the death penalty if I took a jury trial. It was a bench trial... The judge was running it like a well-oiled machine by the time we got to trial.

These perceptions, especially when viewed in combination with the other court-related themes, present images very much at odds with official rhetoric about how the courts are supposed to operate. Blatant compromises of judicial neutrality are supposed to elicit, at a minimum, strenuous objection from defense counsel. That such was not forthcoming is unsurprising if defense counsel were as deficient as many participants found them.

Dissatisfaction with the judicial role may in part reflect youth's anticipatory injustice: "Combined with immature psychosocial capacities that contribute to a foreshortened time perspective and reduced ability to take others' perspectives, adolescents may have a heightened

attention to fairness in justice system procedures" (Woolard, Harvell, and Graham 2008:209). Such an emphasis on fairness, however, is not entirely misplaced: a society that schools youth on civics lessons about government and justice had best seek to deliver on those goods when youth find themselves enmeshed in "justice."

Juvenile-placement Ambivalence

Finally, reflecting upon the "corrections" aspect of their cases, nearly all participants who discussed time they had spent at a private, non-secure juvenile facility reported primarily favorably on that experience. The same applies for those who discussed treatment facilities and adolescent-shelter facilities.

Private, non-secure juvenile facilities were the most common form of placement. These included traditional residential, as well as farm and school, facilities. A peculiar form of social commentary, the major theme from participants was that these *private, non-secure facilities were preferable to their home environments*.

SS: The private facility was better than home. There were van rides, three meals, snacks; you were allowed to smoke if your guardian agreed. I spent 15 months there.

AD: I was at the juvenile facility for 9½ months. I met guys from all over the city who were selling drugs, robbing, stealing cars... When I was 17, I thought that if I get caught, I'll do nine months at that beautiful facility or be with girls at the other private juvenile facility, and I'll get home passes.

PS: It made me feel comfortable, so it didn't help me; it was a nice juvenile placement. They should have been rougher (more rules); they should scare you. It shouldn't be like Candyland. It should be halfway like an adult prison... Only two staff members tried to help me; they talked with me on a daily basis. They felt bad when I lost my mom. Everybody else was a--holes.

TR: I was at a private juvenile facility for nine months. It was like a college campus. The food was better than five-star restaurants. There were weekend hikes, swimming, pool, basketball. School was in the morning. I got home passes every month. When I heard about how good it was, I wondered, "Are they sending me to jail or college?" If this is punishment, I'm gonna do crime the rest of my life.

Though obviously lacking in deterrent effect, due to their contrast with the pathetically destitute home environments from which most of these youth came, the private placements would seem appropriate milieu for

rehabilitative efforts. Participants' experiences also reflect the importance of continuation, and probably even expansion, of services post-confinement, when youth commonly return to impoverished communities that present them with few legitimate opportunities for success. The punitive side of juvenile justice is best complemented with an array of community and school resources that seeks to ameliorate the abject social conditions in which most of these youth find themselves.

The few men who had been sent to facilities specifically for treatment for substance abuse tended to have been sent there as young teens. Perhaps not surprisingly, the common theme was that the *substance-abuse treatment was ineffective, largely related to the youth's immaturity*.

NL: At 12 years old, I was sent to a 45-day rehab. It had one section for adults and another for juveniles... I didn't know nothing about rehab. I was too young to comprehend. I didn't think I had a problem with drinking or smoking weed.

HP: At 15 I was sent to a rehab facility for juveniles. It had girls; that's what I looked forward to. I was tryin' to do the time and get right back home; I didn't really hear that crap. I found out about PCP and said I wouldn't smoke that again; I just smoked marijuana after that... The placement was like camp, not like hard time.

For participants whose placements involved group homes there was no clear pattern: *some group homes were viewed favorably, while others were deemed baleful*. Such mixed findings are expected, in light of the great variability in milieu and resources among group homes. Nevertheless, it is easy to see how the lower strata among group homes can actually aggravate social and emotional conditions associated with delinquency and criminality.

GG: When I was 14, the judge put me in foster care. About six kids lived in the foster home in a trailer park. All the kids had been in trouble. There were two foster parents and their son and his wife and their kids too. The foster parents took the money and used it on themselves. I just got one phone call, and no other contact, with my parents... I skipped school every day when I was there. No one knew. I'd pretend I was going to school... The foster mother would put my clothes in the dryer without washing them... Then the judge put me in a halfway house for boys, with 10 to 15 kids. It was run by college interns. We cooked our own food and ran the house. The program was a joke. I had fun. There were fights all the time. We could do whatever we wanted... There was a fraternity house across the street and another one next door. As soon as the third shift came, he'd set the alarm clock and go to

sleep. Then we would go to the fraternity house next door and party... Where's the rehab? I faked it 'til I made it.

RL: I was found delinquent and placed in a group home for juveniles and dependents. All were treated equally. It was co-ed. The group home was very helpful. I graduated from computer school and got a GED while there. They taught independent living skills; the group home was great.

In contrast to group-home experiences, participants who had spent time at secure juvenile facilities almost uniformly found that experience unhelpful. These unfavorable views were offset only in that *school and sports programs at secure placements were often valued*. Those seemingly rehabilitative components, however, had little long-term impact on participants' lives, especially when subsumed in the more depressing environment of secure placement itself.

SS: I was 15 when I got locked up at the secure juvenile facility. There were drugs and stabbings there; it was like a penitentiary... They had an awesome school program; I did well. I got into the boxing program. They helped me with my dyslexia. I started to excel at academics, carpentry, welding, computers.

BL: At the maximum-security juvenile facility there was no discipline in terms of how they ran the place. We pretty much did what we wanted, other than when they pressed charges. They feared us more than we feared them... The staff sometimes came to work drunk or high; they sit around and collect a paycheck.

Maximum-security juvenile facilities have been found to produce youth who "lost hope and opportunities without ever having much of either to begin with" (Inderbitzin 2005:19). Austin, Johnson, and Weitzer (2005) report that community-based programs produce outcomes at least as good as traditional training schools, in terms of recidivism and community adjustment. Such programs "reduce crowding, cut the costs of operating juvenile detention centers, shield offenders from the stigma of institutionalization, help offenders avoid associating with youth who have more serious delinquent histories, and maintain positive ties between the juvenile and his or her family and community" (Austin et al. 2005:3).

Adult-institution Perniciousness

Finally, for participants whose histories included placement in adult jail or prison, their experiences were recalled—not unexpectedly—as traumatizing by nearly everyone. Participants' narratives convey some of the

terror of adolescent existence in the machismo of the adult institution.

DT: At 16 I was sent to adult prison, separated from adult prisoners. When I turned 17, I was transferred to another adult prison where there was no separation. It was creepy; there were dim lights. That was when I first started seeing the violence and attitude and atmosphere of prison, like fights over crazy stuff. The first thing I did was got me a knife; I made it from the bottom of my chair... It was very, very taxing mentally... Fear gave me a heightened awareness of seriousness. I had to grow up but didn't have any experience growing up. A lot of things I had to figure out real fast... They put me out in general population after I turned 18.

FF: In jail, I didn't know what was going to happen. I looked for ammunition like soda cans to defend myself. I carved my name in my hand with a razor blade, to make people think I'm crazy. I was in the adult jail until my second statement, when I told the detective I was 15. At first I lied and told them I was 18, thinking I'd get bail, because juveniles don't get bail.

RL: At 16 I was in the New York adult jail for a couple days, until my mother bonded me out. I was just in the intake block. It shattered my idea that I was just a kid.

Participants' experiences with adult jails and prisons show that those facilities may instill fear but are otherwise emotionally—and often physically—dangerous for youth. Far more than secure juveniles facilities, these institutions approach Goffman's (1957) "total institutions" and entail the fundamental deprivations of life that Sykes (1958) termed "pains of imprisonment." Unless the goal is to produce "state-raised convicts" who learn predation rather than cooperation (Abbott 1981), containment of adolescents in such institutions appears contraindicated. Redding and Fuller (2004) suggest that incarceration in adult facilities may have a brutalizing effect on youth, as they learn the acceptability of violence and also harbor a deep sense of having been treated unfairly.

Hope for Reform

Aside from an opportunity to tell their stories, a major appeal of the study for most participants was the ability to suggest ways in which juvenile justice might be improved for kids in the future. Perhaps participants saw some redemptive value in this discussion; even the relatively reticent tended to become garrulous on this topic. One-third of participants suggested ideas that harken back to

original *individualized and rehabilitative ideals* that underlay the formation of a separate juvenile apparatus.

RH: Don't rush to judgment about what type of person you are... You get a label. They too quick to label you... At camp, most of the staff were there for the paycheck. Just a few counselors took an interest. You need to sit down and talk with kids, give them a chance to open up.

ST: Probation officers should stop treating kids like future felons, instead of like a kid in trouble. Don't treat kids like they must be failures as adults.

PP: Cops and courts need to listen. Don't assume you're lying. We might not actually be lying. Don't just assume you've heard that line before.

NL: Don't certify juveniles as adults. You're saying there's no room for growth and development.

The tendency to pre-judge and stereotype young people is perhaps strongest when the youth are in trouble with the law. Based on the views of participants (which are fairly consistent with the tenets of labeling theory in criminology [e.g., Becker 1963; Lemert 1951]), treating youth as failures exacerbates their alienation and may actually be criminogenic.

Mincey et al's (2008) study of the perceptions of adjudicated delinquents also found marked concern with unfair treatment in juvenile justice. Similar to the present findings, Huerter and Saltzman (1992) noted that adjudicated youths' suggestions for improving juvenile justice stressed having court personnel speak with them and listen to them, seeing them as "much more than a piece of paper" (1992: 355).

The tendency for decision-makers to minimize youths' voices can create a system in which the "justice" that prevails is rooted in a reality devoid of particular details that do not fit well with decision-makers' own lives and experiences. It is especially easy to downplay the perspectives of youth who are most different from decision-makers:

The tendency in law to separate reason and objectivity from feelings and subjectivity, thereby reifying abstraction over context, has resulted in a legal system that ignores individual stories situated within specific contexts and governed by the facts of particular lives. The result is that, in many instances, individuals subjected to, restricted, and defined by norms based on the characteristics of people who share no similarities with them cannot avoid future interactions with a legal system that ignores the realities of their lives while forcing the individual to comply with a norm that simply does not fit. (Michaelis, 2001:306)

Over one-quarter of participants discussed ideas that centered on the theme of *mentoring and other safe havens*. Here the emphasis was on mentoring that expands a youth's horizons, provides models for lawful living, and gives hope. Such desiderata might also be considered valuable for schools in their social mission of fostering civility among youth.

RW: Children need to be shown love; they need to know that somebody cares about them. Mentoring shouldn't just be geared to sports. Talk about money and your own business or vocational skills. Take kids out of their environment and give them hands-on experience with different cultures.

DT: Kids need exposure to positive influences; they need to be around people they respect. They should be able to see that doing something good is cool too. Let kids see that I got plenty of money and am not doing anything illegal. Give kids hope, rather than having them think that respect is gained by hitting (like father hitting mother) or by having a gun.

AD: When they started closing the rec centers down, we roamed the streets after school to 6:30, looking for drug dealers. Kids need safe havens, rather than get into mischief, especially when their parents are at work. Summer camps are important too.

HG: We need to help kids stay in school, rather than not go to school because of fear of bullying or getting shot.

DISCUSSION AND POLICY IMPLICATIONS

When adult prisoners reflect upon their own experiences as juveniles, a variety of ethical discrepancies in the operation of justice systems becomes apparent. As the clay which the juvenile justice apparatus sought to mold into more law-abiding citizens, these men raise issues about the reality of juvenile processes, which they have known first-hand, as it differs significantly from what the jurisprudence of juvenile justice proposes ought to be. This includes experiences of juvenile exclusion from traditional processes in favor of removal to adult criminal processes. The sample used in this study (adult prisoners who were in some form of placement as juveniles) is particularly helpful in understanding the deficiencies of juvenile justice.

The ease of overreaching in interrogations (e.g., Rogers et al. 2008; Scott-Hayward 2007); the less-than-zealous advocacy by counsel (e.g., Drizin and Luloff 2007); the psychological trauma, learning disabilities, and

immature thinking, identity, and moral reasoning that are common in these youth (e.g., Beyer 2006; Scott and Steinberg 2003); the substantial racial differences in the processing of Black youth (e.g., Lieber and Johnson 2008; Snyder and Sickmund 2006); the welcome nature of juvenile placement as a respite from poverty and family dysfunction juxtaposed against the terror of placement in adult jails and prisons (e.g., Ashkar and Kenny 2008; Equal Justice Initiative 2007)—individually and in concert these phenomena present serious ethical challenges for juvenile justice. Though the sample in the present study is inherently biased in that it consists of juvenile justice “failures,” an important consideration is that the general sense of injustice with regard to juvenile processes—including the “rush to judgment”—may further alienate troubled youth from non-criminal self-concepts (Redding 2008).

The tableau that emerges from participants' lived reality is of a heavily bureaucratic juvenile justice that is much more focused on efficient processing or removal of cases, than on the youths themselves. The bureaucracy can be self-serving in employing vast numbers of practitioners, with the youths themselves as ancillary considerations. In keeping with bureaucratic interests, there tends to be a “rush to judgment” with concomitant incentives to “cut corners” with regard to adolescents' legal and personal interests.

Ethical problems in the operation of juvenile justice are patent. The deontological ethics and rights-based ethics upon which ostensibly juvenile justice is founded are sometimes substantially compromised in the interests of bureaucratic goals. Perhaps an approach based in feminist ethics, with its emphasis on moral sentiments like compassion and sympathy, could engender reform that reflects some of the nobler original theoretical underpinnings of juvenile justice.

Many of the changes recommended by the study's participants are highly consistent with feminist ethical approaches and with restorative justice approaches. Participants suggested that rather than largely pre-judging youth and increasingly ostracizing them from juvenile justice processes, juvenile justice should pay greater attention to listening to youth and taking an interest in them. Ideas of participants emphasized mentoring and showing youth that people care about them. Those kinds of approaches may go much further in reducing juvenile crime than the more common scheme of rapid judgment and official ostracism.

Exploratory research of this nature contains a number of limitations. Though participants' experiences of juvenile justice spanned a few states, the fact remains that the study involved a small sample from one prison. Also, sampling was limited to the relatively small proportion of inmates whose juvenile histories were accessible through prison records. As commonly occurs in qualitative research, the findings are not intended as widely generalizable. Rather,

they provide rich information on the particular experiences of a set of men who are relatively difficult to access, yielding insights that are not adequately disclosed in less personalized approaches.

Additionally, though the author took pains to write notes, using the actual language of participants as much as possible, the inability to tape-record the interviews affects the ability to understand precisely what participants said. The observations and insights of the prisoners themselves may be inaccurate, due partly to the passage of time and the influence of subsequent experiences, such as incarceration in a maximum-security facility. From a phenomenological perspective, though, everything about the stories is significant in that each participant “is speaking a form of truth—his own truth—constructed according to what is meaningful for him” (Skrapec 2001:54). Finally, the juvenile experiences of participants occurred primarily in the 1990s, during times of moral panic over youth violence, so they may not reflect precisely how youths in juvenile justice are treated today.

In spite of these limitations, the experiences and perceptions of persons for whom juvenile justice has not “succeeded” raise important policy concerns. Indeed, these tend to be the youth with whom the “system” has not done a good job, both in terms of juvenile processes and in terms of their multiple socioeconomic disadvantages. Rather than transforming juvenile offenders into productive citizens, juvenile justice interventions paradoxically can be iatrogenic, doing further violence to their possibilities and beings.

These men’s experiences militate against heavy investment in juvenile justice as a type of “crime control industry,” or “prison-industrial complex,” that provides financial security for a host of criminal-justice practitioners, agencies, and institutions, while offering little in terms of guiding youth toward non-criminal futures. Processing youth as faceless “delinquents” through arcane legal machinations they do not understand, embittering them with hypocrisy about “rights,” and placing them in juvenile facilities of marginal rehabilitative value (or worse, in adult facilities where they know psychological terror)—such do not seem proper ingredients in a recipe for long-term reductions in youth criminality. Rather, consistent with the suggestions of participants who have lived through the failures of the system, it is much more prudent at least to attempt to address the enervating net of social pathologies that so commonly encompasses their lives, including poverty, joblessness, disrupted families, substance use, and alienation from school.

Consistent with the noblest ideals of juvenile justice, troubled youth are still malleable to ministrations that can change their lives for the better: mentors who take a sincere and enduring interest in them; safe havens from the social and emotional storms they confront so often; programs that alleviate abject poverty and its attendant

disadvantages; schools that provide hope for meaningful futures. These efforts are apt to do far more to reduce serious delinquency than wholesale processing of stereotypical youth through impersonal, degrading, and primarily punitive processes.

Endnotes

¹ This is in contrast to juveniles, who would be assessing their experiences *in medias res* and who presumably lack some of the maturity and insight that are supposed to accompany adulthood.

² More likely than not, the computerized file contained no information at all about juvenile history or placement. If a prisoner had not been considered for parole or had not recently been admitted to the prison, there likely was no juvenile information.

³ The study protocol, including the consent form, was approved by an Institutional Review Board after full review, which included affirmation from a long-time prisoner advocate that in her view the protocol posed no potential for harm to the prisoners.

⁴ The sizable quantity of textual data obtained from the interviews was analyzed for recurring themes with the aid of software (NVivo 8) for coding and organizing text. All interview transcripts were loaded as source documents. Themes and patterns were sought via the coding process, initially using “free” coding and then batching similar codes as “tree” coding.

⁵ Throughout this article, pseudonymous initials are used to identify participants; the initials for juvenile-lifer participants are shown in boldface italic type.

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