The Juvenile Justice System: A Cultural (R)evolution

by Amanda Wiesehan

In 1973, Dr. Thomas Courtless wrote:

> America's juvenile justice systems are under fire. And the dissatisfaction is widespread. Stemming from continuously rising juvenile crime rates and high levels of recidivism, the basic complaint is that these systems neither protect the public nor help children. However, nobody seems to be able to agree on the cause of this unsatisfactory performance.[1]

This statement illustrates the sentiment of failure with regard to young people felt by countless Americans in the 1960s and 1970s. Even more importantly, it emphasizes the dilemma that American society faced and chose to attempt to meet head-on through legal means during this time. Finally, and perhaps most importantly, these remarks hint that juveniles, those citizens under the age of eighteen, had long received the attention of society.

Since the evolution of government and the creation of laws regarding behavior, American society has struggled with how children and adolescents should be treated when they break the law or do things that society considers wrong. Offenses considered unlawful for juveniles include adult crimes such as murder, rape, robbery, and burglary. In addition, some laws apply only to juveniles. These include truancy and underage consumption of alcohol and are classified as "status offenses" by the juvenile court system. Young people believed to have committed such offenses are brought to the attention of the juvenile court system. What is referred to today in the U.S. as the juvenile justice system includes both the decision-making process itself, in which a determination is made as to whether or not a child has committed such an offense, and all of the people involved in this process.

A key part of this process is whether a minor should be labeled "delinquent". Delinquency is essential to understand because it is one of the main concepts involved in the study of juvenile justice. Steven Cox and John Conrad provide excellent information as to what common definitions of delinquency are used in the field. In their research, they discuss two types of definitions that can be used: legal and behavioral. Legal definitions, although difficult to determine, commonly refer to delinquency as "violations of state or federal criminal law, municipal ordinances, or violations of previous lawful juvenile court orders."[2] The difference between legal and behavioral definitions, as Cox and Conrad point out, is that "behavioral definitions focus on juveniles whose behavior violates statutes pertaining to them, even if that

behavior does not lead to an official label."[3] In this case the legal definition described above will be utilized due to the nature of the sources used in the investigation.[4]

The definition of delinquency is just one key component of the juvenile justice system. The other important aspects of the juvenile justice system are its history and evolution, the reasons for the changes in the system, and perhaps most importantly, its purpose. All of these are vital in order to gain a clear understanding of the juvenile justice system. The juvenile justice system is based on the belief, a belief backed by research, that when young offenders commit crimes, they simply do not have the capacity to understand what they are doing and the consequences of their actions. Thus, the emphasis in juvenile court is on providing the extra help and guidance that juveniles need to become contributing members of society. This is a shift from an emphasis on punishment rather than rehabilitation.

In fact, this purpose was the whole reason for the creation of the juvenile justice system. The last decade of the nineteenth century and the first decade of the twentieth century saw the emergence of a separate court because of this ideology; an ideology that had been espoused by a group called the child-savers for years. Their conviction emerged after they discovered that the prisons and institutions meant to help juveniles find their way in reality did not provide such help. Often, these establishments ended up harming the adolescent rather than setting them on the right path. Before 1899, juveniles would have been tried in the same courts as adults instead of in a separate court. Those who did come before a judge would have been treated with a bit of care, however, because their age was a consideration in the determination of the sentence they would receive.[5] When the first juvenile court was finally established in the United States in Chicago, Illinois, it was based on the ideals of the child-savers. The development of a separate court to handle juveniles signaled the first of three major transformations that the juvenile justice system has undergone in the last century or so.

The second major transformation came in the1960s. Most people, when they think of this era, think of the Civil Rights movement. The Civil Rights movement had a dramatic impact during this time, in more ways than one. Not only did it have a positive impact on the African-American community, but surprisingly, it also had an indirect effect on the juvenile justice system. This is because the Civil Rights movement focused on equality and opportunity for all, and it was the catalyst for similar changes in the juvenile justice system during the 1960s and early 1970s. Finally, while the Civil Rights movement changed both state and federal law, the transformation in the juvenile justice system was primarily in federal law, not state law.

Over the course of fifteen years, 1960-1975, laws were passed by Congress to study the problem of juvenile delinquency and fund programs that aimed to reduce the number of juvenile delinquents. These laws placed an emphasis on finding and promoting programs that actually would reduce the number of juvenile delinquents. The Supreme Court, during the same period, applied many of the rights of adult offenders to juveniles. Among those were the right to a notice of the charges, the right to counsel, and the right to confront the accuser. One significant right that was not applied to juveniles was the right to a trial by peers. These things were done in order to ensure that juveniles would receive the attention needed while protecting society.

In recent years, a third significant change in the course of juvenile justice has caused a shift away from the original purpose of the juvenile court. More emphasis has been placed on protecting society, and because of this, more and more juveniles are being tried in adult criminal court. Those who are tried as adults are typically accused of serious offenses (murder, rape, robbery) or are repeat offenders. The latter have been before juvenile judges so often that little hope is given to his or hers rehabilitation because the options available to the juvenile court have been exhausted.

Since it would take far too long to discuss each transformation in detail, this study will focus on the changes and developments in federal law that occurred from 1960 to 1975. Because of the focus on federal law and specific cases involving juveniles, the sources utilized will primarily be legal in nature. These sources include written transcripts of Congressional Hearings, transcripts mainly coming from hearings held by the Subcommittee to Investigate Juvenile Delinquency of the Senate Judiciary Committee. Also utilized will be the decisions of four Supreme Court cases decided during the time period being discussed.

All of these documents will illustrate a concern with several important items: the rise in the number of juveniles coming under the jurisdiction of the juvenile court, the treatment of juveniles under the current juvenile justice system, the programs available to help juveniles, and the desire to maintain the distinctiveness of the juvenile court. It will also become clear that the changes that occurred in the mid-twentieth century resulted in a juvenile justice system that treated juveniles as equal citizens deserving the same safeguards as adults, but at the same time recognizing that juveniles need special safeguards, attention, and programs to instruct them in proper behavior and anger management to ensure that they are contributing members of society. While these two goals may seem contradictory on the surface, in reality they are not, because the two together ensure that juveniles are given a fair hearing while at the same time still maintaining the distinctiveness that the juvenile court needs and is known for.

Perhaps most important is the fact that the United States Congress and the Supreme Court were equally important in bringing about these changes. The Supreme Court made the changes in the decision-making process, but the United States Congress created more options for the juvenile court. Each institution was essential for the changes that did occur to come about; one could not have done so without the other. Even with both the United States Congress and the Supreme Court working together, these changes would not have been possible without the Civil Rights Movement, as the Civil Rights movement made the time right for changes in the juvenile justice system because it brought the inequalities and the limited options for delinquent juveniles to their attention. Together, the United States Congress and Supreme Court made substantial and lasting changes to the juvenile justice system, changes that made the juvenile justice system far better, although not perfect.

Before embarking on this examination of the juvenile justice system of the 1960s and 1970s, it is essential to realize that many studies have been conducted on this very subject. One only has to look in a library catalogue to see that a variety of sources are available on the American Legal system, the Supreme Court, and most importantly, the juvenile justice system.

Two works illustrate the direction of scholarship in regards to the American legal system generally. This primarily is concerned with the adult court system,

how a case goes through that system, and the factors that influence those involved throughout that process. One is *Trials and Punishments* by R.A. Duff, written in 1986, and the other is *Unequal Justice: Lawyers and Social Change in Modern America*, written by Jerold S. Auerbach in 1976. *Trials and Punishments* details how the system works, and what could happen to someone at each stage in the process. While doing this, Duff is attempting to show that:

> First, that there are illuminating connections and analogies between the criminal process of trial and punishment, not merely in the impersonal terms of familiar types of political theory, but in terms of our personal dealings with each other as moral agents. Second, that though punishment may obviously be imposed against the criminal's express will, we should not simply see her as the passive victim of her punishment; we should rather see the criminal process of trial and punishment as one to which the defendant is meant to respond, and in which she is called to participate, as a rational moral agent.[6]

Essentially, the argument is that the court system is an attempt by a society to control interactions between individuals and how others behave. Duff believes that people like to feel in control at all times, and will attempt to control anything they can. This includes the criminal court system. In this case, they maintain control by dictating the circumstances under which people communicate with each other and accuse each other of harming a fellow member of society. The point made is a valid one, but would do better if specific examples would be included.

The other work illustrative of research done on the American Court system, *Unequal Justice: Lawyers and Social Change in Modern America*, looks at the effect lawyers have on the judicial process. In this work, Auerbach specifically details the impact of lawyers at different points in American history. He shows that they have held different amounts and types of influence at different points, and that this has only hurt the judicial system. His work is biased, in many respects, as he attended law school and only turned to the field of history after becoming disenchanted with the legal profession.[7]

Of course, a specific federal court that is of significant importance here is the Supreme Court of the United States. In general, Supreme Court studies focus on one of three things: how the court operates, specific time periods and decisions made by the Supreme Court, and the Justices of the Supreme Court. Three works illustrate what has been done by scholars in this field. These are *The Supreme Court,* written by Lawrence Baum, *The United States Supreme Court: The Pursuit of Justice*, written by Christopher Tomlins, and *The Burger Years: Rights and Wrongs in the Supreme Court 1969-1986*, written by Herman Schwartz. Baum's work illustrates the emphasis on the process, as he details how a case arrives at the court, how the justices decide which ones to take, and what happens once the Supreme Court takes a case.

Tomlins, in his work *The United States Supreme Court: The Pursuit of Justice,* emphasizes the different eras within the history of the Supreme Court, essentially marked by a change in the Chief Justice of the United States Supreme Court. What he does is break down each era, and analyzes the cases that were decided to evaluate the

impact of the court during that time. What is good is that by doing so, he is as able to see changes in how the court operates[8] Herman Schwartz, on the other hand, narrows his investigation and evaluates just one individual justice, in this instance Warren Burger, in order conduct a better investigation into the impact of one individual justice. This is more insightful, because more space is dedicated to one individual. This allows for greater detail and a more complete analysis.[9]

In relation to studies on juvenile delinquency, three questions seem to encompass the work available. First, how young is too young to prosecute for a crime? Second, how soon does someone comprehend his or her actions and thus have the ability to understand the consequences of his or her actions? And lastly, at what age and at what point should a juvenile, someone under the age of eighteen that is, not be given special consideration because of their age? Different perspectives and ways of analysis have led to different interpretations and ultimate conclusions about the juvenile justice system and the direction it has taken over the years.

The questions that historians tend to ask focus on changes and the reasons for those changes. In regards to this topic, historians focus on the history of the juvenile justice system: when it developed, what changes have occurred, and why. Some, such as John Sutton, even go farther back than the beginning of the American juvenile justice system. Most historians do, however, include at least some discussion of the development of the system, and what led up to the creation of a juvenile court. By doing so, historians provide significant context, evidence, and explanation for their findings so that many have the necessary information to understand the argument being made.

Sociologists, who in fact have done the most research on this topic, focus on far different things than historians. They focus on the social aspects, such as gender and race, as well as the motivations for the system. In addition, a lot of emphasis is placed on social theories and an analysis of their effectiveness in explaining juvenile delinquency. This is not suprising, however, because sociologists look for theories and trends to explain human behavior. Sociological works place far less emphasis on the historical aspects such as when things happened and why as a result of their discipline. They only present this type of information when necessary to add to their discussion of theory and social factors. Historians place more emphasis on the history of the system, and why changes happened and when. They place less emphasis on the social aspects and theories.

It must also be mentioned that while numerous volumes have been published on the topic, historians have not done a significant amount of research until recently – the late 1970s. Most of the early work comes from sociologists and legal scholars. As result, the discussion of specific work will first focus on sociological works, and then historical works on the subject. While this might seem awkward, as this is a historical analysis, not beginning with the sociological works would be confusing to both the understanding of works done, and the development of scholarship.

There are several different reasons for discussing the sociological works first. For one, the sociological works came first. But besides this fairly obvious point, they actually have much to offer historians because they provide a different perspective, and add to the basis of the work of historians. In other words, it is essential to discuss these first, because as John Tosh, a noted scholar on history states, "In fact the theories

whose influence on recent historians has been particularly pervasive are those which seek to encompass social structure or social change as a whole."[10] This is relevant here, because the sociological works on juveniles focus on those exact things: what is crime, and what motivates them to take such action-social structures.

There is another important aspect that is equally relevant to the importance of sociological works. Without the work of sociologists, historians on the subject would be quite limited in their research, and in fact would be far less convincing. This would happen because without taking these works into consideration, they would miss factors that influence the juvenile justice system, factors that today are considered essential to the understanding of the system and how it operates. Sociological works, then, are important to historians studying the juvenile justice system because of the different perspective and factors that they have taken into account in their works.

Stanton Wheeler, a sociologist, published a very interesting study in 1966 that detailed what he perceived as the major problems, issues, and developments in the area of juvenile delinquency. Specifically he argues in *Juvenile Delinquency: Its Prevention and Control* that the problem and main issue with regards to juvenile delinquency and the justice system is two-fold. His study perceives the problem to be the fact that money is invested in prevention programs that are only nominally effective. In addition to investment in ineffective prevention programs, money that he feels would be better invested in research to find programs that do work; he sees one other major problem. This is a lack of effective communication between preventative programs, the government, schools, and the courts. With better communication, juveniles would receive the attention and help that they really need.[11] This argument makes sense, simply because communication is both a problem and a solution in many instances. Additionally, the examples provided to illustrate how communication would help the juvenile justice system only highlights his point.

Two other important authors of work in this field from a sociological perspective emerged in the 1960s. Aaron Cicourel, author of *Method and Measurement in Sociology* and *the Social Organization of Juvenile Justice*, uses sociological theory and methods in his book on juvenile justice to illustrate how theoretical problems in this area can be looked at and solved from this perspective. In regards to this particular work he states that:

> Basic questions about how social order (or concerted social action) is possible need not be limited by the traditional views that a common value system and network of norms provide consensus in society, and that the problems that sociologists must focus upon stem from special-interest groups, inadequate pursuit and realization of basic values, and the implementation of accepted norms…I have chosen to give equal (if not more) attention to how the "problem" is generated by the everyday activities of professionals and laymen in contact with juveniles, without denying the concern of sociologists, professionals in law enforcement and corrections, and laymen interested in "law and order" regarding what are taken to be the "facts of rising delinquency rates and its demoralizing and disorganizing influence on the socialization of youth and the "future" of the United States. The decision-making activities that produce the

> social problem called delinquency (and the socially organized procedures that provide for judicial outcomes) are important because they highlight fundamental processes of how social order is possible.[12]

Essentially, as Cicourel puts it, he believes that the people involved in the juvenile justice process affect the young people who are brought into the system and in fact add to the problem of juvenile delinquency. This argument is also a valid one, but would be better if he could cite specific instances where this outcome was seen, instead of generalizing this the entire time.[13]

Approaching the topic in a somewhat different manner were Brenda S. and Charles T. Griffin. In this case, they utilize some of the same sociological theories, but first talk about how juvenile delinquency came into being in the first place and how the juvenile justice system came into being. It is only after this that they apply psychological and sociological theories to the study of juvenile delinquency in an attempt to answer three basic questions: Where have we been? Where are we now? Where are we going?. This is all in an effort to order to assess developmental changes in the area of juvenile delinquency in order to come to a better understanding of juvenile delinquency. This will, in their belief, lead to effective organizations for the prevention, control, and treatment of juveniles.[14]

Sociologists who took a completely different view from these texts were Barry Krisberg and James Austin who wrote *The Children of Ishmael: Critical Perspectives on Juvenile Justice* in 1978. Their purpose for the book was to "'restore a sense of balance to the study of juvenile delinquency'; to review traditional explanations and theories and offer several alternative hypotheses."[15] Krisberg and Austin accomplish this by pointing out that the traditional explanations of delinquency fail to give enough emphasis to social issues such as racism, economic exploitation, poverty, sexism, and political repression. In addition, they point out that delinquency is the same across the board, not merely a lower-class phenomenon. Finally, they also believe that the juvenile court system of the late 1970s was a bureaucratic nightmare where due process and legal safeguards were virtually nonexistent.[16] This analysis, while valid in its critique against other prior works, such as avoiding issues like racism and poverty, loses in validity in discussing the legal system of the late 1970s as a bureaucratic nightmare. This is because there is significant evidence that shows that justice was being served in a fairly timely matter. This does not mean that there were not problems and instances where this was true. They just simply take the instances and make it out to be a bigger problem than it truly was.

Clemens Bartollas provides us with a modern day sociological analysis in his 2006 work *Juvenile Delinquency*. In this work, Bartollas espouses the sociological theories like prior works, but also includes specific examples of cases that have gone through the juvenile justice system. This is what makes his work worth mentioning and his argument a very credible one. Adding to this is the fact that he provides a lot more context and background information, as sociological works have begun to do in the last decade or two. The reason for such extensive context, as Bartollas writes,

> Contextual analysis attempts to determine how the interrelationships of various contexts affect the social phenomenon under examination. This

> text also emphasizes the importance of human agency, or the interpretation and meaning that delinquents themselves bring to their social world. Thus, this book gives value to the life experiences leading up to delinquent behavior, to the external and internal influences on the delinquent, and to the choices that lead to a life of crime.[17]

His study, then, is enhanced by the inclusion of a deeper context and background, as well as personal stories that help the reader understand what he is talking about.

Turning to a recent work by a scholar discussed earlier, Barry Krisberg, it is apparent that the field of sociology is evolving. In his 2005 work *Juvenile Justice: Redeeming Our Children*, Krisberg this time does not put emphasis on theory and such. Even more importantly, what he does do is to detail a history of the system, pointing out significant changes in the direction of the system, and how it administers justice to those it serves. Additionally, he includes information about how young women are treated in the system as well as discussing gangs and their effect on youth crime. He also takes a stab at creating a strategy that would improve the system. Finally, he also puts in real examples, something that wasn't there before.[18] This makes his argument far more credible and convincing than it would have been otherwise.

Historical works provide a sharp contrast to the body of sociological work, especially the early works. One of the early historical works comes from Anthony Platt, who wrote *The Child Savers: The Invention of Delinquency in 1977*. In this, Platt discusses the early movement toward treating children differently and with special considerations because of their age and mental capacity. He discusses specifically the movement and the early development of the juvenile justice system. He looks at Illinois as a catalyst for the system as a whole in the United States, and focuses on why Illinois developed the system, and why this is an example of the whole juvenile justice system in the United States.[19]

While he has a good point, this work is limited due to the fact that he focuses on just the juvenile justice system in Illinois. He attempts to illustrate why this example is a valid one for the trends in juvenile justice across the United States, but would be far better if he provided examples from several states instead of just one. Had he done so, his would have been a far more believable argument.

Ten years later, John Sutton wrote about ways to control delinquency. He wrote about the foundations of juvenile justice in a book entitled *Stubborn Children: Controlling Delinquency in the United States, 1640-1981* in 1988 in order to provide a better perspective as to the motivations for the system of justice in place today. What makes his work different than the other scholars previously mentioned is the fact that he places far more emphasis on the historical aspects of juvenile justice and how it has developed over time. This emphasis is far greater and extends further back in time than any of the others already mentioned. This is because unlike others, he discusses what beliefs about children and misbehavior were brought from other countries to the United States by colonists and immigrants who came to America for a fresh start.[20]

This is an excellent work, because more background is given. In addition, going back so far provides much more context and a deeper understanding of the development of the system. By doing this, he shows where the ideas that eventually

became the cornerstone of the juvenile justice system came from, and how they evolved to become the cornerstone known to scholars of juvenile justice.

Thomas Bernard provides another excellent example of the perspective historians take. As is evident by his title, *The Cycle of Juvenile Justice*, written in 1992, he finds a pattern in how juvenile justice is served. In the book, he argues that the changes in juvenile justice revolve around a cycle. It goes from people complaining that there is too much crime because judges are too lenient, to it swinging the other way and the public complaining about too much crime because judges are too harsh on offenders. He does not talk about such things as gender and race in this book. His focus is solely on the pattern and showing through the evidence that the pattern exists and has existed for a long time. His additional purpose in writing the book was to show what would break the cycle that he had proven to exist earlier in the book.[21]

An additional example of a work that illustrates the focus on context and background rather than the social issues surrounding juvenile justice is *Juvenile Justice in the Making* by David Tanenhaus. Parts of this work had been published separately prior to this as individual sections looking at specific eras in the history of the juvenile justice system. What makes the book unique, however, is the inclusion of specific cases to enhance his discussion of how the juvenile justice system has developed, and how it worked at certain points.[22] His work is valuable because he actually spent time in juvenile courts making observations about it and seeing how it worked in real life. In addition, his examples show that what he is saying is actually true.

Although a political science scholar, Thomas Freshwater master's thesis is worth noting because he follows the line of historians. Entitled *The Cyclical Pattern of Juvenile Justice Policy*, he details the different eras of juvenile justice, and how the changes occurred during that time. He goes through how the juvenile justice system developed, and why people felt that changes were needed. Besides this, he looks at policy a bit as he discusses sentences and Senate Bill 179. What he doesn't do is use actual cases, except in the instance of his discussion of the Supreme Court cases in the 1960s and 1970s. The one thing he does mention that is along the line of sociological research is the question of race in the justice system.[23]

Another excellent work details juvenile crime and the reasons for a separate system. After answering two questions: What is juvenile crime, and why a separate system to handle juvenile offenders, Ahranjani, Feguson, and Raskin detail the impact of the Constitution on the juvenile justice system in recent years. In addition, they go through and show what applies in the case of juveniles and what does not and why. To do this, they look at the Supreme Court decisions made in the late 1960s and early 1970s, as well as other cases that apply parts of the Constitution to the criminal justice system in general. In doing so, they provide real examples and evidence for why things are the way they are.[24]

Yet another work worth noting in regard to juvenile justice is *Juvenile Justice in Double Jeopardy: The Distanced Community and Vengeful Retribution* by Justine Wise Polier. Here, one notices that a shift is taking place, and that the topics previously mentioned as being covered by sociologists, especially in recent years. Not only does Polier give a basic synopsis of the events that have transpired over the years regarding juvenile justice, she begins to incorporate questions such as race and gender and their role in the system of juvenile justice. The biggest thing that Polier does however, is stated in

the forward to her book when Robert H. Bremner writes, "Justice Polier asks us not only to respect the rights of the poor and troublesome children but to recognize their vulnerability and promise. The great enemies of respect and consideration for any individual or group are ignorance, arrogance, and prejudice. Justine Wise Polier fought these forces throughout her career and she continues to attack them in this remarkable book." [25] Essentially, she begins to force the reader to ask tough questions, questions not frequently asked prior to this.

Two final works illustrate how the justice system has evolved. *A Century of Juvenile Justice* by Margaret Rosenheim, Franklin Zimring, David Tanenhaus, and Bernardine Dohrn attempts to provide a comprehensive overview of the juvenile justice system at one hundred years old, at least from the date of the creation of the first juvenile court. It is divided into five sections. The first looks at juvenile justice from a historical perspective, and the second section looks at it from a legal point of view. The second part of the book looks at the social aspects of juvenile justice, including theory, schools, the government, and how the American system compares to that of other countries.[26]

The other book, *Thinking about Crime: Sense and Sensibility in American Penal Culture*, looks at crime and how Americans believe it should be dealt with. It goes through the stages of more punishment and less rehabilitation and the opposite, more rehabilitation and less punishment. In addition to detailing crime itself and the trends in dealing with it, the author, Michael Tonry, makes a concerted effort to through why the system is unique and making recommendations for improvement. These improvements, he believes, will lead to less crime in the United States.[27]

As is evident from these studies, several approaches have been taken to the study of juvenile justice. Sociologists generally have focused on theories that explain juvenile delinquency and suggest how the juvenile justice system can improve to actually benefit those for whom is was created to serve and thus live up to the ideals it professes. Historians, on the other hand, have focused more on how the system was formed, and how it has developed over time. In recent years, however, sociologists and historians have begun to come together, as historians have taken more notice of sociological factors such as gender, race, and socioeconomic background as factors that have influenced the development of the juvenile justice system. Similarly, over time sociologists have taken more notice of the historical aspects of delinquency and its development over time. Both the inclusion of context and background are essential to any study, because one cannot begin to understand a specific argument without at least a basic understanding of the topic. Additionally, sociological factors cannot be discounted because it is evident through the work of sociologists that these do have a role in how the system has developed, and how changes can come about.[28]

Juveniles and Federal Law

Federal legislation and decisions of the United States Supreme Court both impacted the juvenile justice system and brought about significant changes during the 1960s and 1970s. As previously mentioned, federal legislation may not have had the impact in the courtroom that the Supreme Court decisions did, but they still had substantial long term effects like the Supreme Court decisions as they provided alternatives to incarceration for delinquent juveniles. These alternatives included

community programs that without a doubt eased the burden on the court by reaching juveniles before they had committed a crime. This also allowed more opportunities for juveniles in the long-term, as by taking advantage of the new programs, the court gave them a better chance of doing something with their life than if they were institutionalized.

It is important to discuss federal legislation regarding juveniles prior to discussing Supreme Court decisions for several different reasons. First, it makes sense simply because federal legislation regarding juveniles came about over five years prior to the first major Supreme Court decision. Along similar lines, it is also fitting due to the fact that federal legislation deals mostly with funding programs aimed at preventing juveniles from becoming delinquent, while the series of U.S. Supreme Court decisions is aimed at the actual court process, which takes place after an offense has been committed. Finally, federal legislation illustrates the concern over juvenile delinquents expressed by the government, which carries over into the actions taken by the United States Supreme Court.

With this being said, Congressional concern with the rising number of juvenile delinquents was established throughout the 1950s. The first significant sign of this concern was in 1953. That year the Senate Judiciary Subcommittee to Investigate Juvenile Delinquency began hearings on the subject. This subcommittee and other groups conducted these hearings over many years and eventually issued a series of reports. Their concern and interest in the subject is aptly described by the Chairman of the Subcommittee to Investigate Juvenile Delinquency, Senator Thomas C. Hennings, Jr. Hennings discusses this concern in a hearing held in Chicago in 1959:

> I want to thank the other witnesses who have come here on such short notice in order to give us the benefit of their years of dedicated and intelligent service on this vast and far-reaching problem. We hope here to get as comprehensive a view as may be had with the problem, as well as the achievements of your city as they relate to our common problem, and we certainly want to know of any successes you have had with curative, rehabilitative, and preventative programs in this very vital area. [29]

This statement is significant because it shows not only the subcommittee's concern with the rise in the number of juvenile delinquents, but also in programs that have had an impact on young lawbreakers, and those at risk of becoming lawbreakers. It shows that they want to find ways to teach the adolescent while at the same time giving them the best chance for pursuing their futures as valuable members of society.

In addition to these hearings, the United States Congress attempted to pass legislation to provide funding for investigation into the causes and possible remedies of the problem of juvenile delinquency. Two measures to provide funding for such purposes, one in 1956 and another in 1960, were passed by the U.S. Senate but failed in the House of Representatives. The Senate made a third attempt in 1961. This measure, which became known as the Juvenile Delinquency and Youth Offenses Control Act of 1961, ultimately won passage and was signed into law by President Kennedy on September 22, 1961.[30]

As enacted by Congress, this act provided funding for grants from the Secretary of Health, Education, and Welfare for pilot projects, training programs, and studies on juvenile delinquency. Those eligible for the grants under the law included states, municipalities, public agencies and nonprofit private groups. The amount authorized in the legislation was ten million dollars per year for fiscal years 1962, 1963, and 1964. Congress later extended this law for two more years in 1964, which provided another ten million dollars for fiscal year 1965, but required authorization for additional spending in fiscal year 1966.[31]

This extension did not come as easily as one might have expected, however, given the support for such a measure. The major debate, and the main question of the hearing held by the Subcommittee on Employment and Public Welfare, was not so much a debate on the effectiveness of the programs implemented under the act, but whether they should be continued to be funded under the act or receive funding from an alternative source that had been made available since the initial passage of the Juvenile Delinquency and Youth Offenses Control Act of 1961. Most of the programs would be moved to the new source, but supporters were requesting continued funding under the act for five programs in order to complete the study and provide concrete results and analysis for future use.[32]

Similar extensions and funding for similar programs were made again in 1965 and 1967. The 1967 legislation, which became law in 1968, authorized twenty-five million dollars to assist states in developing and improving juvenile delinquency projects and facilities. Specifically, it provided for grants covering 75 percent of the cost of diagnostic, treatment and rehabilitation programs, and up to 50 percent of the cost of constructing facilities. In addition, it also provided funding for the training of juvenile delinquency diagnostic, treatment or rehabilitation specialists.[33]

Another piece of legislation that is worth noting is the Juvenile Delinquency Prevention and Control Act. Passed in 1968, this bill authorized one hundred and fifty million dollars for block grants to states using the funds to plan and operate projects to prevent juvenile delinquency and rehabilitate young offenders. These funds would be distributed over three years, 1969-1971. Twenty-five million dollars would be available for fiscal year 1969, $50 million for fiscal year 1970, and $75 million for fiscal year 1971. This bill was extended in 1971 for another year with another $75 million dollars being appropriated for the cause. In addition, this extension formed the Interdepartmental Council on Juvenile Delinquency to coordinate all federal delinquency programs.[34]

In addition to extending the Juvenile Delinquency Prevention and Control Act of 1968 for an additional two years in 1972, this bill also made amendments to the previous legislation. These included authorization for direct grants to local agencies as well as preventative services separate from law enforcement authorities.[35] It would not be a leap to say that these steps were taken as a result of the numerous hearings that had been held, which without a doubt indicated that the current system was not working, and that these new programs outside the system were achieving at least limited results.

One final significant piece of legislation was passed in 1974. This act, the Juvenile Justice and Delinquency Prevention Act of 1974, had a more long-term feel to it. This is evident in the wording of Section 102 (b):

> It is therefore the further declared policy of Congress to provide the necessary resources, leadership, and coordination (1) to develop and implement effective methods of preventing and reducing juvenile delinquency; (2) to develop and conduct effective programs to prevent delinquency, to divert juveniles from the traditional juvenile justice system and to provide critically needed alternatives to institutionalization; (3) to improve the quality of juvenile justice in the United States; and (4) to increase the capacity of State and local governments and public and private agencies to conduct effective juvenile justice and delinquency prevention and rehabilitation programs and to provide research, evaluation, and training services in the field of juvenile delinquency prevention.[36]

This more long-term approach indicates that the United States Congress had learned what it needed to and believed it knew what was necessary in order to combat the growing juvenile delinquency problem in the United States. It also indicates that little faith remained in the programs available to juvenile courts, and that other programs were necessary if headway was to be made in regards to juvenile delinquency.

While it may seem redundant to discuss all of these various acts and extensions of acts regarding juvenile delinquency, it is necessary because it illustrates a progression from programs authorizing a limited number of experimental preventative programs, to funding for numerous state and locally sponsored programs, as well as national programs coordinated by the Interdepartmental Council on Juvenile Delinquency. This progression indicates a decrease in the amount of faith that Congress had in the current juvenile court system and an increase in the faith that they had in alternative programs due to evidence provided to them that showed that these alternatives were working, at least on a limited basis. It also indicates that they saw value in the centralization of funding and oversight, because they felt that it gave a better chance for communication between programs. Through all of this, one point remains the same: the United States Congress never wavered in its concern for the juvenile delinquent, and a desire to provide the resources necessary to combat a growing national problem.

The Supreme Court Gets Involved

The Supreme Court also had a major impact on the juvenile justice system in this era. It was not until the late 1960s, however, that the United States Supreme Court decided to weigh in on the subject of the treatment and adjudication of juveniles by the criminal court system. Four cases decided by the Supreme Court within a span of just seven years, 1968-1975, dictated the direction of the juvenile court system. Among those significant cases involving juvenile justice are *Kent v. United States* (1966), *In re Gault* (1967), *In re Winship* (1970), and *McKeiver v. Pennsylvania* (1971). Prior to the first of these significant cases being decided, virtually no juvenile court cases were appealed, mainly because it was not permitted in most jurisdictions. This is one of the main reasons for the Supreme Court deciding its first case regarding juveniles in 1966, even though the juvenile court was established in 1899. Significant case background will be provided in order to fully understand the Supreme Court's decisions and their motivation and reasoning for doing so.

The first of these cases to be decided, *Kent v. United States*, involved a fourteen-year-old boy by the name of Morris A. Kent, Jr. He had been under the jurisdiction of the Juvenile Court of the District of Columbia for earlier housebreakings and an attempted purse snatching. In this instance, police had been called to the apartment of a woman on September 2, 1961, because someone had entered her apartment, stole her wallet, and raped her. Finding fingerprints, the police developed and processed them and determined that they matched those of Morris Kent. Three days after the incident, Kent was arrested and taken into custody, where he apparently admitted to the above offenses. The following day his mother retained counsel, who promptly conferred with the Social Service Director of the Juvenile Court. Discussed in this interview was the possibility that even though Kent was only sixteen at the time, the juvenile court might waive jurisdiction and have Kent tried by the District Court instead. Counsel opposed this action. Appearing in Court, the decision was made by the judge to waive jurisdiction. This decision was made without a hearing, without conferring with Kent's parents or counsel, and without citing a specific reason for doing so. Additionally, the juvenile court judge ignored Counsel's request for a copy of the Social Service file that had been accumulated while Kent was on probation.

When the case was presented in District Court, Counsel moved to have the indictment dismissed on the grounds that the waiver was invalid. The court did not grant the request, citing the juvenile judge's reference to a "full investigation." Further, the District court judge felt that a hearing was not required. For each count, Kent was ordered to serve five to fifteen years in prison, which totaled thirty to ninety years in jail. In addition, as to the counts regarding rape, he was found "not guilty by reason of insanity."[37]

The issues surrounding the juvenile court's waiver of jurisdiction in the case of Morris Kent was what prompted the Supreme Court to take up this case. This is evident, as in the opinion, Justice Fortas states,

> We do not consider whether, on the merits, Kent should have been transferred; but there is no place in our system of law for reaching a result of such tremendous consequences without ceremony-without hearing, without effective assistance of counsel, without a statement of reasons. It is inconceivable that a court of justice dealing with adults, with respect to a similar issue, would proceed in this manner. [38]

Essentially, the issue for the Supreme Court was whether the protection of society should trump the needs of young individuals. Given the enormous consequences and impact that such an order would have, Fortas, in leading up to the decision of the court, also declares, "We conclude that, as a condition to a valid waiver order, petitioner was entitled to a hearing, including access by his counsel to the social records and probation or similar reports which presumably are considered by the court, and to a statement of reasons for the Juvenile Court's decision."[39] For these reasons, the Supreme Court remanded the case back to the District court for a full hearing on the issue of waiver. In doing so, the court also made it known that should the court find the waiver invalid, the conviction would be vacated. Should the waiver

be valid, however, the District Court would be free to enter an appropriate judgment after consideration of all motions entered by counsel.[40]

The ultimate decision in this case illustrated the Supreme Court's desire to ensure that the responsibility and the purpose of the juvenile court were met. In addition, the decision, in demanding a full and thoughtful consideration of the individual prior to waiving jurisdiction, showed that the Supreme Court respected and saw the need for a special court to ensure a balance between protecting society and punishing for wrongdoing on the one hand, and a system in which young people would learn right from wrong and become productive members of society on the other. Not only did this decision do all of these things, it also laid the groundwork for the case decided a year later that would have a far greater impact on the juvenile court system.

The case, *In re Gault*, decided in 1967, extended the idea of due process to all juvenile court proceedings, not just those regarding waiver to adult criminal courts. This case involved a 15-year old boy by the name of Gerald Gault. In June of 1964, Gerald and a friend by the name of Ronald Lewis made a telephone call to a neighbor, Mrs. Cook. The problem was that during the phone call, "lewd or indecent remarks... of the irritatingly offensive, adolescent, sex variety"[41] were made. This offended Mrs. Cook so much that she made a verbal complaint. At the time of the incident, Gerald Gault was still subject to a six month probation order because he had been in the company of another boy at the time he had stolen a wallet from another lady.[42] He was taken into custody by the sheriff, who did not notify his parents that he was in custody. His brother found out later that night, and then told his mother. A hearing was scheduled for the following day, but again, the Gaults were not notified. During the hearing, the probation officers, Gerald Gault's mother, and his older brother were present, but not Mrs. Cook. During the hearing, questions were raised as to who actually had made the telephone call, and what role Gerald had played in the incident. No record was made of this hearing

At an additional hearing held a few days later, Gerald Gault's parents and Officer Flagg were again present. Noticeably absent again was Mrs. Cook, the individual who had brought about the charges. When Mrs. Gault requested that Mrs. Cook be present, but the juvenile court judge disagreed. Thus, at no time did the Juvenile court judge speak to Mrs. Cook or communicate with her. At the conclusion of the hearing, Gerald Gault was found delinquent and committed to the State Industrial School until the age of 21. Interestingly, had he been over eighteen, the maximum punishment would have been a fine of between five and fifty dollars or imprisonment for no more than two months.

Again, because of the many questions surrounding the finding of delinquency, the Supreme Court took up the case. As indicated by the opinion of the court delivered by Justice Fortas:

> We consider only the problems presented to us by this case. These relate to the proceedings by which a determination is made as to whether a juvenile is a "delinquent" as a result of alleged misconduct on his part, with the consequence that he may be committed to a state institution. As to these proceedings, there appears to be little current dissent from the proposition that the Due Process Clause has a role to play. The problem is

> to ascertain the precise impact of the due process requirement upon such proceedings.[43]

Thus, the main question of the case was to what extent the court would apply the Due Process Clause to juvenile Court proceedings. During conference, Chief Justice Earl Warren stated:

> The purpose of these acts is to get away from strict criminal proceedings. But even if it is a non-criminal proceeding, the same due process is required. It is one thing in a property foreclosure case, and another matter in a criminal case. We can set out minimal standards. There is no right to a jury trial. There is no Fifth Amendment right. But due process requires minimum standards and they were not met here. Minimally, I would require (1) a lawyer; (2) proper notice of proceedings to the family; (3) a fair hearing; and (4)a right of confrontation.[44]

Fortas, in an attempt to keep the purpose of the juvenile court in mind had this to say:

> The Fifth Amendment issue is raised in a different way. Juvenile courts do not or should not put pressure on the juvenile. It is not a question of either giving juveniles rights or detracting from the courts. They can function with counsel. We must start with the requirements of a hearing. Where what was done by juvenile would be a crime if done by adult, then there must be a hearing.[45]

Ultimately, the Supreme Court decided that when there was the chance that a juvenile could be put in detention, then the following safeguards, at the very least, must be provided: access to counsel, appointed counsel for those who could not afford it, adequate notification of charges, the right to confront witnesses, and rights against self-incrimination.

In another case, *McKeiver v. Pennsylvania*, the Supreme Court made it very clear that the right to a jury trial would not be extended to juvenile court proceedings. This case is actually a compilation of several cases, Joseph McKeiver, Edward Terry and Barbara Burrus. In May 1968, sixteen year-old Joseph McKeiver was charged with robbery, larceny, and receiving stolen goods. At the adjudication hearing he was represented by counsel, as per a previous Supreme Court decision-*In re Gault*, but his request for a jury trial was denied. In January 1969, fifteen-year old Edward Terry was charged with assault and battery on a police officer and conspiracy. Again, he was represented by counsel, but the request for a jury trial was denied. Finally, Barbara Burrus and 45 other children from the age of 11 to 15, were charged with willfully impeding traffic. Once again, all of the juveniles were represented by counsel, but the request for a jury trial was denied. All three, Joseph McKeiver, Edward Terry and Barbara Burrus were found delinquent as they had committed "an act for which an adult may be punished by law..."[46] and placed on probation for one to two years.[47]

It was because of the denial of a jury trial that the Supreme Court took up the cases in one decision, *McKeiver v. Pennsylvania*. As they aptly describe the question

in this instance, "These cases present the narrow but precise issue whether the Due Process Clause of the Fourteenth Amendment assures the right to trial by jury in the adjudicative phase of a state juvenile court delinquency proceeding."[48] In the opinion delivered by Justice Blackmun, it was noted:

> The Court, however, has not yet said that all rights constitutionally assured to an adult accused of crime also are to be enforced or made available to the juvenile in his delinquency proceeding. Indeed, the Court specifically has refrained from going that far: "We do not mean by this to indicate that the hearing to be held must conform with all of the requirements of a criminal trial or even of the usual administrative hearing; but we do hold that the hearing must measure up to the essentials of due process and fair treatment."[49]

That was the question before the court, and this time, they did not answer in favor of the equal rights. Instead, it went in favor of maintaining certain characteristics unique to the juvenile court. In doing so, the court remarks:

> [We] conclude that trial by jury in the juvenile courts adjudicative stage is not a constitutional requirement. We so conclude for a number of reasons.
> 1. The Court has refrained ...from taking the easy way with a flat holding that all rights constitutionally assured for the adult accused are to be imposed upon the state juvenile proceeding...
> 2. There is a possibility, at least, that the jury trial, if required as a matter of constitutional precept, will remake the juvenile proceeding into a full adversary process and will put an effective end to what has been the idealistic prospect of an intimate, informal protective proceeding." [50]

In a case decided a year earlier than *McKeiver v. Pennsylvania*, the Supreme Court took up the question of the weight of the evidence in juvenile court proceedings. This is slightly different than the application of rights surrounding the actual proceeding, which is why it follows the discussion of *McKeiver v. Pennsylvania* rather than going before it. This case came from New York and became known as *In re Samuel Winship*.

In this case, twelve-year old Samuel Winship stole $112 from a woman's pocketbook. During the adjudication hearing, Samuel Winship was found to have stolen the money. The problem was that this finding was by a preponderance of the evidence not proof beyond a reasonable doubt, a fact acknowledged by the presiding judge. He also made it clear that he believed that the Fourteenth Amendment to the Constitution did not require proof beyond a reasonable doubt.

During conference, Justice Brennan noted that, "After Gault, we can't retreat. Davis is not explicit, but it suggests that the Constitution protects the reasonable doubt standard. Earlier than that was presumption of innocence, which was also a constitutional decision."[51] In response to what was said by Justice Brennan, Justice Stewart commented, "If the state makes a specific offense that is a crime the basis of delinquency, then full criminal procedures should be followed." [52]

In the opinion, the Supreme court remarks:

> Moreover, use of the reasonable-doubt standard is indispensable to command the respect and confidence of the community in applications of the criminal law. It is critical that the moral force of the criminal law not be diluted by a standard of proof that leaves people in doubt whether innocent men are being condemned It is also important in our free society that every individual going about his ordinary affairs have confidence that his government cannot adjudge him guilty of a criminal offense without convinced a proper factfinder of his guilt with utmost certainty. Lest there remain any doubt about the constitutional stature of the reasonable-doubt standard, we explicitly hold that the Due Process Clause protects the accused against conviction except upon proof beyond a reasonable doubt of every fact necessary to constitute the crime with which he is charged...We conclude, as we concluded regarding the essential due process safeguards applied in *Gault,* that the observance of the standard of proof beyond a reasonable doubt "will not compel the States to abandon or displace any of the substantive benefits of the juvenile process."[53]

This Supreme Court statement emphasized their belief that everyone be given the same opportunities under the law, and that all people should be given a fair hearing. This was done to give the best prospect for an accurate determination of guilt or innocence. Also indicated is their belief that anything less than a fair hearing on the facts of a particular case would be a travesty and an embarrassment to the justice system.

All four cases, *Kent v. United States, In re Gault, McKeiver v. Pennsylvania,* and *In re Samuel Winship* illustrate the Supreme Court's desire to promote the juvenile court and its expressed purpose, while ensuring that fairness in the process was achieved. This is evident because certain safeguards: access to counsel, appointed counsel for those who could not afford it, adequate notification of charges, the right to confront witnesses, rights against self-incrimination, and proof beyond a reasonable doubt were all applied to juvenile court proceedings. While others, mainly the right to a jury trial, were not because the court felt that this would inhibit the juvenile court from doing was it set out to do.

Conclusion

The juvenile justice system experienced numerous changes during the 1960s and 1970s. More emphasis was placed on rehabilitation and prevention programs by the United States Congress. The United States Supreme Court also impacted the system in the late 1960s. Changes in the adjudication process were made because while the juvenile court system was designed to be less rigid than the adult criminal court, it was also too loose in certain respects and thus unable to provide juveniles a fair chance to be heard and receive the proper care. As a result, the Supreme Court applied many of the due process clauses of the Constitution to the juvenile court system, while exempting those they believed would get in the way of allowing the courts to provide the privacy necessary to determine the best course of action in each individual's case.

One thing is apparent from the documents from this time period. Providing the juvenile with the help necessary to become a contributing member of society was of the utmost importance during the 1960s and 1970s. The United States Congress did this through legislation providing for alternative programs that would provide the individual attention that many needed and that the juvenile court, in the state it was in, was unable to provide. The Supreme Court did this by providing a more uniform and fair process that was still private enough to determine what help the juvenile delinquent needed to keep him or her from committing another crime. Thus, both Congressional legislation and Supreme Court decisions made in the 1960s and 1970s had a significant impact on the juvenile justice system by drastically altering the decision-making process and the options available to the juvenile court.

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[1] Thomas E Courtless, "To Take Care of Their Own," *MH* 57 (Spring 1973): 32.

[2] Steven M. Cox and John J. Conrad, *Juvenile Justice: A Guide to Practice and Theory* (Dubuque: Wm. C. Brown Company, 1978), 12.

[3] Cox and Conrad, 14.

[4] Ibid., 14-15. See pages 11-15 for further information and details on the downfalls and benefits of both legal and behavioral definitions of delinquency. There was simply not enough space here to describe them in detail.

[5] This era is described in greater detail in John Sutton's work *Stubborn Children: Controlling Delinquency in the Unites States, 1640-1981*(1988), and specifically pages 92-95 describe this exact phenomenon.

[6] R. A. Duff, *Trials and Punishments* (Cambridge: Cambridge University Press, 1986), 7-8.

[7] Jerold S. Auerbach, *Unequal Justice: Lawyers and Social Change in Modern America* (New York: Oxford University Press, 1976), vii-xiii.

[8] Christopher Tomlins, *The United States Supreme Court: The Pursuit of Justice* (Boston: Houghton Mifflin Company, 2005), v-xiv.

[9] Herman Schwartz, *The Burger Years: Rights and Wrongs in the Supreme Court 1969-1986* (New York: Viking Penguin Inc.,1987), vii-x.

[10] John Tosh, *The Pursuit of History* (London: Pearson Education Limited, 2006), 225.

[11] Stanton Wheeler, *Juvenile Delinquency: Its Prevention and Control* (New York: Russell Sage Foundation, 1966),vii , 1-10. In addition, throughout the rest of the text, Wheeler goes into more detail in regards to specific programs and recommendations as to how the problems outlined can be fixed.

[12] Aaron V. Cicourel, *The Social Organization of Juvenile Justice* (New York: John Wiley & Sons, Inc., 1968), vii.

[13] See Ruth Rosner Kornhauser, *Social Sources of Delinquency: An appraisal of Analytical Models* (1978) for a slightly different perspective in which goes from theory to example of how that applies, which ends up being a far stronger analysis than Cicourel due to the numerous specific examples cited.

[11] Brenda S. Griffin and Charles T. Griffin, *Juvenile Delinquency in Perspective* (New York: Harper &Row, 1978), xix-xxi. Several more books take a similar approach in their discussion of the juvenile justice system, including an *Introduction to Juvenile Delinquency: Text and Readings* by Paul F. Cromwell, Jr., and others (1978), *Juvenile Justice: A Guide to Practice and Theory* written by Steven M. Cox and John J. Conrad (1978), *Introduction to Juvenile Delinquency: Youth and the Law* by James T. Carey and Patrick D. McAnany (1984), and *American Delinquency: Its meaning and Construction* by Lamar T. Empey.

[15] Barry Krisberg and James Austin, *The Children of Ishmael: Critical Perspectives on Juvenile Justice* (Palo Alto: Mayfield Publishing Company, 1978), i.

[16] Krisberg and Austin, i.

[17] Clemens Bartollas, *Juvenile Delinquency* (Boston: Pearson Education, Inc., 2006), xxiii.

[18] Barry Krisberg, *Juvenile Justice: Redeeming Our Children* (Thousand Oaks: SAGE Publications, 2005), v-7.

[19] Anthony Platt, *The Child Savers: The Invention of Delinquency* (Chicago: University of Chicago Press, 1977), xi-xxix) See his work for other studies covering the early stages of the juvenile justice system.

[20] John Sutton, *Stubborn Children: Controlling Delinquency in the United States, 1640-1981* (Berkeley: University of California Press, 1988), 1-9.

[21] Thomas J. Bernard, *The Cycle of Juvenile Justice* (New York: Oxford University Press, 1992), 3-19.

[22] David Tanenhaus, *Juvenile Justice in the Making* (New York: Oxford University Press, 2004), vii-xviii.

[23] Thomas Freshwater, "The Cyclical Pattern of Juvenile Justice Policy." Masters diss., Ohio University, 2001, 3-18.

[24] MaryamAhranjani, Andrew G. Ferguson, and Jamin B. Raskin, *Youth Justice in America* (Washington, D.C: CQ Press, 2005), iii-xii.

[25] Justine Wise Poller, *Juvenile Justice in Double Jeopardy: The Distanced Community and Vengeful Retribution* (Hillsdale: Lawrence Erlbaum Associates, 1989), xi.

[26] Margaret K. Rosenheim, Franklin E. Zimring, David S. Tanenhaus, and Bernardine Dohrn, eds., *A Century of Juvenile Justice* (Chicago: University of Chicago Press, 2002) v-xv.

[27] Michael Tonry, *Thinking about Crime: Sense and Sensibility in American Penal Culture* (New York: Oxford University Press, 2004), vii-x. See also *Restorative Justice and Responsive Regulation* by John Braithwaite for more information on this subject and other recommendations for the future of the justice system.

[28] For more information and research on this topic see the *Centennial Sourcebook on Selected Juvenile Justice Literature: 1900-1999* by John C. Watkins, Jr. This has resources listed in several different ways, by books, by periodicals and by secondary sources.

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[30] These actions are recorded in *Congress and the Nation*, Vol. I, p. 1323.

[31] Ibid., 1323.

[32] Congress, Senate, Committee on Labor and Public Welfare, Subcommittee on Employment and Manpower, *Extend the Juvenile Delinquency and Youth Offenses Control Act of 1961: Hearing before the Subcommittee on Employment and Manpower*, 89th Congress., 1st sess., 7 and 8 April 1965, 1-216.

[33] These actions are detailed in *Congress and the Nation*, Vol. II, p. 319.

[34] Congress and the Nation, Vol. III.

[35] Ibid.

[36] Senate, *An Act to Provide a Comprehensive, Coordinated Approach to the Problems of Juvenile Delinquency, and for Other Purposes*, 93rd Congress., 2d sess., 1974, 2.

[37] Eric J. Smithburn, *Cases and Materials in Juvenile Law* (Cincinnati: Anderson Publishing Co., 2002), 174-176. These pages provide full details of this case up to the point that the Supreme Court took up the case.

[38] *Kent v. United States*, 383 U.S. 541 (1966).

[39] Ibid., (1966).

[40] *Kent v. United States*, 383 U.S. 541 (1966).

[41] *In re Gault*, 387 U.S. 1 (1967).

[42] Ibid.

[43] *In re Gault*, 387 U.S. 1 (1967).

[44] Del Dickson, ed., *The Supreme Court in Conference (1940-1985): The Private Discussions Behind Nearly 300 Supreme Court Decision* (New York: Oxford University Press, 2001), 624.

[45] Ibid., 625.

[46] *McKeiver v. Pennsylvania*, 403 U.S. 528 (1971).

[47] Ibid.

[48] Ibid.

[49] *McKeiver v. Pennsylvania*, 403 U.S. 528 (1971).

[50] Ibid.

[51] *In re Samuel Winship*, 397 U.S. 358 (1970).

[52] Ibid.

[53] Ibid.