

The attached seminar paper/educational project, by Karl Simandl entitled Risk Assessment Tools that Reduce Use of Juvenile Detention, when completed, is to be submitted to the Graduate Faculty of the University of Wisconsin-Platteville in partial fulfillment of the requirements for the Master of Science degree, for which 3 credits shall be allowed is hereby:

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Risk Assessment Tools that Reduce Use of Juvenile Detention

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By

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### **Acknowledgements**

*This paper is dedicated to my wife Kim and my three boys, and the tireless nights they put her through so I could work on my degree. I would not have made it through this process without your love and support.*

*I would also like to thank my parents, siblings, and others who have helped me along this journey.*

*As for my brother-in-arms that did not make it back from Iraq with us, I try to live each day to its fullest and make my life worth being called a good father and a good man. Rest in peace, it's our turn to carry the flag and make this world just a little bit better.*

*To my sons, who are lucky enough to be born into freedom and smart enough to know it; You can do anything you want if you just set your mind to it. Always try to learn something new. My hope is that of every parent, to give you a better life than I had.*

### **Abstract**

The identification of juvenile offenders as being low risk and preventing them from being unnecessarily detained is important for the reduction of recidivism. Pre-adjudication detention has been shown to have iatrogenic effects, even if juveniles are exposed to more disturbed juveniles for a brief period of time. This paper will look at the use of risk assessment tools that have been shown to be related to reducing recidivism. Research shows that identification of who should be the focus of services is more important to the reduction of juvenile detention than the identification of why juveniles offend.

This paper will first look at the development and history of the juvenile justice system. It will look at social movements and reforms that have affected the system. It will also look at the methodology that has been utilized to inform detention decision for juveniles prior to adjudication.

This paper will then look at the use of risk assessment tools in juvenile justice and how they help to create better-informed detention decisions. Disproportionate detention rates of minorities have been identified as a serious issue within the juvenile justice system. Risk assessment tools will be looked at for empirical validity and reliability. The stages of development and implementation of risk assessment systems will also be evaluated to see if there is any relationship to recidivism reduction within the juvenile justice system.

Finally, this paper will give recommendations for best practices in the use of risk assessments in juvenile justice systems. Recommendations will be given for further research and development in the utilization and deployment of risk assessment tools.

Keywords: Juvenile, risk assessment, recidivism, treatment groups

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### **Introduction and Statement of the Problem**

Juvenile violent crime is currently a hot button topic that encompasses political, legal, socio-economic, judicial and ethical arenas. Major cities like Milwaukee are becoming political powder kegs as residents experience unprecedented increases in juvenile violent crime and demand that action is taken to stop it. Milwaukee, alone, has seen a 330% increase in juvenile-related auto theft since 2011, concomitant with a 163% increase in juvenile arrests (Sears, 2016).

Similar spikes in crime were seen throughout the United States during the 1980's and 1990's. In 1996, juvenile arrest rates peaked at a rate of about 8,500 arrests per 100,000 youth (Office of Juvenile Justice and Delinquency Prevention [OJJDP], 2017). Media special reports about school shootings, juvenile homicides, and juvenile crime, in general, may have constructed a conducive backdrop to the 'lock 'em up' mentality of the time (Myers, 2012). In response to this sensationalized news coverage of juvenile crime, states across the United States passed legislation to "get tough on [juvenile] crime." (Child trends data bank, 2017). The result of this legislation was an unprecedented increase in juvenile detention and arrest rates.

The media's continued portrayal of rising rates of juvenile crime recently is not necessarily supported by actual numbers, however. From 1996 to 2015, arrests for juveniles drastically declined by about 67% (OJJDP, 2017). On the other hand, the total number of incarcerated juveniles only declined 52% (Child trends data bank 2017). During the "get tough on crime" era of the 1990's, the juvenile incarceration rates increased faster than the juvenile crime rate; yet while juvenile crime rates were declining, juvenile arrest rates continued to rise (Holman & Ziedenber, 2011). This calls into question how detention decisions are made within the juvenile justice system, and what effect they might have on future offending.

For most juveniles, their initial contact with the juvenile justice system occurs after several minor infractions have been dealt with directly by the police (Aizer & Doyle, 2013). A serious criminal infraction could result in a juvenile being detained by the police and entered into the juvenile justice system (Aizer & Doyle, 2013). Juvenile offenders who are referred to the juvenile justice system are scheduled for an intake hearing in juvenile court and may be held in secure detention pending that hearing (Crowe, 2000). Juveniles may also be referred to a diversion program, thus avoiding a formal delinquency hearing and possible commitment, or leading to the outright dismissal of the charges (Crowe, 2000). Depending on the juvenile's age, criminal history, and/or the seriousness of the alleged offense, juvenile offenders can also be transferred to adult court (Crowe, 2000). Of the juveniles who are adjudicated delinquent, most are placed on probation, and a small fraction of juveniles are placed in residential facilities (Crowe, 2000). Of the 90,000 juveniles being housed in detention facilities on a daily basis, about 28% are pre-trial detainees, and 70% are the subject of a court-ordered commitment (Crowe, 2000).

Placing juveniles in secure detention prior to adjudication is a significant expense for communities who might be better served looking into alternatives to holding juveniles in secure detention while awaiting their hearing. The cost of detaining a juvenile, on average, is between \$32,000 to \$62,000 a year (Holman & Ziedenberg, 2011). In addition, the cost of residential housing and treatment for juvenile offenders that have severe psychological needs can be several times that of community-based programming.<sup>1</sup> Costs can run in excess of \$100,000 annually per special needs youth. In general, increasing numbers of out-of-home placements for juvenile

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<sup>1</sup> About two-third of youth in the juvenile justice system display signs of mental illness (Holman & Ziedenberg, 2011)

offenders diverts resources from community-based programming and quickly exhausts county and state resources as well (Hunter, Gilbertson, Vedros & Morton, 2004).

The current juvenile justice system model is woefully inadequate at treating juvenile offenders given what is currently known about their needs. It is common knowledge that juvenile offenders – and the characteristics of their offenses – are not the same. This is highlighted by the fact that there are numerous criminological theories to explain what motivates youth to engage in deviant behavior. This is what leads scholars to contend that a classification system based on specific combinations of risk factors may be more effective than a system based on the type of offense committed (Mulder, 2010). However, current models stress classification of juvenile offenders based on the type of offense committed, regardless of the underlying motivations for the crime.

This paper will specifically focus on two offense categories in the Uniform Crime Report in which juvenile offenders are considered homogenous groups – sex offenders and firesetters (arsonists). Stickle and Blechman (2002) found that juvenile firesetters are likely to exhibit serious antisocial behavior compared to non-firesetting juvenile offenders. They also tend to begin committing offenses at a much younger age. Wijk, Mali, Bullens, and Vermeiren (2007) found that juvenile sexual offenders, when compared to non-sex offenders, are more frequently the victims of sexual abuse. Juvenile sex offenders exhibit more antisocial behavior compared to non-sex offenders. Juvenile sex offenders have been found to be younger at the time of their first arrest (Wijk et al., 2007). Juvenile firesetters and sexual offenders are similar in the sense that they all fall within a group of offenders that externalize maladaptive behavior. When these negative behaviors are directed outward toward the external environment, they are considered externalized behaviors (e.g., fighting, intentional damage to property) (Williams, n.d.).

Externalized behavior, such as setting fires, becomes maladaptive when it impairs normal functioning (e.g., engaging in physical activities detrimental to one's health) (Williams, n.d.).

The categorization of juvenile firesetters and sexual offenders as homogenous groups for the purpose of how the juvenile justice system handles them ignores the underlying psychosis that can present across a broad spectrum of deviant psycho-social behaviors (Mulder, 2010). Firesetters can be classified into two main groups – criminally and non-criminally motivated actors (Gannon & Pina, 2010). Criminally motivated firesetters see their behavior as a “means to an end.” Some of the “ends” for firesetters in the literature include financial gain, concealment of a crime, revenge, relief from boredom, a cry for help, to become a hero, to commit suicide, or to enhance self-esteem (Gannon & Pina, 2010). Similar to firesetters, juvenile sex offenders to have wide-ranging motivations for their offenses and individualized underlying risk factors which make this group of offenders quite heterogeneous (Mulder, 2010).

A problem arises when the causes of juvenile crime and the characteristics specific to the offender and their offense are not taken into account – especially the differences between criminally and non-criminally motivated offending. Case management decisions must be based on the characteristics of youth being processed by the juvenile justice system, as needs-based treatment is more effective at preventing reoffending. Sanctions and services must be individualized. And terminology used in the juvenile justice field must differentiate between criminally and non-criminally motivated offenders, as their motivation is tied to common criminogenic needs (Guy, Vincent, Grisso & Perrault, 2015)

When deciding whether to hold a juvenile in secure custody, proper risk assessments can help inform detention decisions based on evidence-based risk profiles. These risk profiles can help differentiate between a juvenile's need for treatment (non-criminally motivated behavior)

and the need to protect the public from dangerous behavior (criminally motivated behavior). The goal of juvenile courts is to best serve the needs of the child through programming, all while providing ample protection to the community. The ultimate goal is to provide treatment and services along with proper sanctions so that the juvenile can return to being a productive member of society (Calvino, n.d.). Courts must carefully balance effective treatment against the safety of the community to which these juveniles must eventually return.

Most states have provisions that allow for the waiver of juveniles to adult criminal court based on the severity of their offense and their age, a cursory measure of maturation. The juvenile justice system is set up similarly to the adult process; however, it allows juvenile court staff an increased amount of discretion which allows for more opportunities for a juvenile to be diverted out of the formal juvenile court process (Guy et al., 2015).

Contact with law enforcement is frequently the entry point into the juvenile justice system for most youthful offenders. Law enforcement files a complaint based on their investigation, and the complaint is then reviewed by Juvenile Intake Services. Juvenile intake workers decide whether the complaint is serious enough for prosecution by the district attorney's office or if informal action would be more suitable to the child's needs (Calvino, n.d.). Juvenile intake workers may also recommend informal action coupled with the threat of prosecution. In these instances, juveniles must participate in, and meet the requirements of, programming set up by the intake staff (Calvino, n.d.).

There are four main goals of the juvenile justice intake process (National Council on Crime and Delinquency (NCCD), 2015). The first, and most important, is to ensure the safety of the community and all parties involved in the process. Secondly, the process should match juveniles with appropriate treatment and monitoring programs. Third, juveniles should be

housed in the least restrictive manner possible. And the fourth is to return the juvenile to the community as soon as possible (NCCD, 2015). Juvenile intake officers make decisions as to whether or not secure detention is necessary prior to adjudication. They are often aided by a detention assessment instrument which can help them make an informed decision on the likelihood of a juvenile re-offending prior to adjudication (NCCD, 2015). Intake officers then decide whether a juvenile should be released, released with conditions, or held in secure detention with increased restrictions based on their greater likelihood of re-offense prior to adjudication (NCCD, 2015).

In many jurisdictions, risk assessment training for juvenile intake workers is lacking or non-existent. Juvenile intake workers' detention decisions are based on their personal experience, intuition, and limited training. In other words, they are relying on professional judgment often in the absence of any objective guidelines (Brennan, Dieterich & Ehret, 2009). Pre-adjudication detention decisions could be more standardized through the use of risk assessments. Furthermore, the use of risk assessments could help intake officials determine which of the thousands of youth in the system they should focus on; by targeting a specific group of adjudicated delinquents, the juvenile justice system's limited resources can be stretched (NCCD, 2015).

In the state of Wisconsin, juvenile intake workers are not required to perform or be trained in the use of risk assessment for juvenile offenders. Although not using risk assessments may allow juvenile intake officials to have more discretion in determining which juvenile offenders should be allocated limited resources, it does not give insight into why some juveniles may re-offend or how interventions should be implemented for a particular youth (NCCD, 2005). The lack of knowledge regarding reasons for re-offense and the appropriate allocation of services

might proffer an explanation as to how a lack of specificity in treatment and placement in detention can cause the disproportionate representation of minority offenders within the juvenile justice system. Although this is outside the scope of what this paper intends to examine, the argument that juvenile intake officials without proper training can be subject to bias may be useful in arguing for the use of an actuarial risk assessment tool. Use of these tools during the initial intake process as part of a check and balance system can help avoid intentional or unintentional biases.

The juvenile justice system has not developed a clear action plan to deal with the average juvenile offender. This may be because most juvenile offenders do not fall within the scope of local and federal policy initiatives (Chapin Hall Center for Children, 2005). Policy initiatives usually focus on small, specialized groups of offenders. For example, youth violent crime has been a major focus of the juvenile justice system, but these offenders make up fewer than 10% of all juvenile offenders. If policy focuses on specialized groups such as pre-trial detainees, drug abusers, and juvenile violent offenders, over half of the delinquent population are overlooked. The current system establishes basic monitoring of youthful offenders and simply waits to see if they re-offend (Chapin Hall Center for Children, 2005).

In Wisconsin, training for juvenile intake workers is mandated by state statute to consist of a minimum of 18 hours of “face-to-face” training and a total of 30 hours of training. This training is completed in conjunction with the Wisconsin Juvenile Court Intake Association. The training focuses on teaching juvenile intake workers about state statutes relating to the determination of juvenile court jurisdiction, charging referrals, and the workings of the Wisconsin juvenile court system overall (Wisconsin Juvenile Court Intake Association, 2016).

Juvenile case managers should be trained to perform a proper evidence-based assessment of youths' criminogenic needs and behavioral health needs when processing youth in juvenile justice settings. Doing so will help divert youth from the juvenile system when their needs could be better met in the community, and the juvenile poses a low risk to the safety of the community. Evidence-based risk assessments are also necessary to create better rehabilitation and treatment plans for youth who are placed in either the community or in juvenile justice out-of-home placement programs.

With the increase in juvenile referrals to the system, juvenile intake workers have become the gatekeepers to the system, having a large amount of say in which juveniles need to be detained while awaiting their hearings. Current decisions are based on court officials' emotions, including the fear of youth behavior and racial stereotypes, which can be explained by the symbolic threat thesis. These emotions can manifest themselves in a set of beliefs that minority youth pose a symbolic threat to middle-class standards and public safety. This bias can translate into the detention of certain youth based simply on pre-conceived notions of threat to the community (Schmallegger, 2009). Changes to the system are necessary to equalize all juvenile offenders when they enter the system so that juveniles are not penalized by intake officer's perceived needs to protect the community from threats to the fabric of society (Schmallegger, 2009).

Providing intake workers within the juvenile justice system with appropriate tools to perform risk-based assessments in order to provide proper referrals for and placement of offenders is integral to the reduction of recidivism for juvenile offenders. For juvenile offenders who tend to externalize maladaptive behavior, such as sex offenders and firesetters, long-term monitoring is critical to the development of evidence-based treatment programs.

Currently, most risk assessments are weak and are not performed until near or after adjudication, well after a juvenile has been exposed to other youth within the system who are more serious offenders (Guy et al., 2015). Baird (2017) contends that the major risk assessment models that have been developed over the past 20 to 30 years have numerous and varied problems. These models may be considered by some to be based on “poorly designed research, flawed logic, and misrepresentations of older, well-established risk assessment systems” (Baird, 2017, p.2). For-profit vendors have muddied the waters in order to promote sales and support of their product. Evidence-based practices should guide decision making when looking into a system’s adoption of a risk assessment tool (Baird, 2017).

The proper implementation and use of risk assessment tools has resulted in more appropriate treatment and placement decisions for youthful offenders and reduced the cost of intervention. The use of risk assessments leads to more valid placement and treatment decisions because they are based on a juvenile’s individual risk level and needs (Guy et al., 2015). Data collected from these assessments are known predictors of recidivism.

Furthermore, the use of structured risk assessments by juvenile intake workers can increase transparency and allow inter-rater reliability in the detention decision process. The results from these risk assessment tools and the decisions made using their results can create consistency and integrity in a department’s data.

In one study of the implementation of empirically-validated risk assessments in juvenile justice, out-of-home placement rates dropped by 50 %, the use of high security detention decreased by 30%, and the use of community services dropped as well(Guy et al., 2015). These results suggest that unstructured assessments of juvenile offenders typically overestimate the need for more restrictive placements. It would be expected that a decrease in the use of detention

would result in an increase in the use of community services; however, the fact that the use of these options decreased could be an indicator of a lack of inter-rater reliability within the current implementation process of risk assessments within the juvenile justice system. This paper will later explore how risk variables that are being used in current risk assessment models have been spuriously correlated without proving validation, leading to questions of validity in the use of the current tools being sold by for-profit vendors (Baird, 2009).

Reductions in out-of-home placements result in cost reductions and increase the availability of funds for other programming that can better serve the community in proactively preventing delinquency.

Juvenile offenders who externalize maladaptive behavior are specifically problematic to most current risk assessment models. These models introduce empirically based and theory guided interventions. Most of the assessments being used suffer from a narrow, theoretic base, mostly focused around Social Learning Theory (Brennan et al., 2009). First, very little is known about the demographic profile of this category of juvenile offenders. Second, the majority of juveniles who engage in juvenile firesetting and bombmaking (JFSB) and juvenile sexual offending are behaviorally different from other juvenile offenders. These offenders lack extrinsic rewards or motivation, which requires different approaches to early intervention, treatment, and monitoring to reduce the chances of recidivism which impacts their offending.

This paper will examine the existing literature on the effectiveness of risk assessment tools used on juvenile offenders, especially those that externalize maladaptive behavior. The existing risk assessment tools will be evaluated from the perspective of knowing how and when it is beneficial to implement ongoing intervention and monitoring for juvenile offenders. Then, the paper will address recommendations for the development of a new risk assessment

implementation programming for staff and avenues for further research on various risk assessment tools.

## **Literature Review**

### **History of the juvenile justice system**

The concept of how to define delinquency is intertwined in social relationships amongst family, school, media, law enforcement, and the courts. In the early 19<sup>th</sup> century, children could be committed to houses of refuge (and later reform schools) for something as seemingly minor as acts of disobedience toward their parents. Boys and girls often received different treatments from the courts based on what society deemed was appropriate behavior for boys or girls at the time. For example, a larger percentage of girls than boys were accused of “immorality” and sent to reformatories. Juveniles could be referred to the courts by parents, relatives, or neighbors, who did so much more often than the police did at that time. Juvenile courts and probation officers dealt with just as many cases in an “unofficial” capacity as they did through the courts. This allowed the juvenile justice system to deal with every conceivable non-conforming juvenile behavior (McCord, Widom & Crowell, 2001).

During the first part of the 19<sup>th</sup> Century, juveniles who were deemed to be out-of-control, juveniles that were homeless, or those that were abused were often sent to adult prisons under deplorable living conditions (Springer et al.,2011). Although society realized that social problems could be magnified by detaining children with adults, at the time, there were no other options for juvenile detention.

In 1824, the first House of Refuge opened in New York City. This was a place where children could go to be saved from a life of poverty and crime (Schmallegger, 2009). Similar facilities for juveniles were opened in 1826 in Boston and in 1828 in Philadelphia (Springer et

al., 2011). By 1840, approximately 25 similar facilities had been opened throughout the United States (Center on juvenile and criminal justice (CJCJ),n.d.). Children in these houses often lived in substandard conditions and were often sent to work in factories or on farms (Springer et al., 2011).

Reformers began to call for a new social movement centered around education (CJCJ, n.d.). Around the mid-19th century, Chicago opened a reform school. These schools attempted to embody the atmosphere of a Christian home and had strict rules governing behavior (Schmallegger, 2009). One of the more notorious institutions was the San Francisco Industrial School which opened in California in 1859. Reform schools too were plagued by abuse and mismanagement though, and, in 1891, the school was ordered closed. The reform school concept has lasted and is the conceptual basis for today's youth correctional institutions (CJCJ, n.d.).

In the 1870's, Massachusetts enacted legislation that mandated that juveniles have separate court hearings from adults. Illinois formed a juvenile court soon after in 1899 through the Juvenile Court Act, which was enacted through the efforts of the Chicago Women's Club (Springer et al., 2011). This social movement pushed for the creation of separate juvenile courts and stemmed from the British justice system's principal of *parens patriae*, which, in practice, would mean that courts have a duty to act in the best interests of the child. The interests of the state, regarding a juvenile's welfare, even superseded parental rights (Springer et al., 2011).

Youthful offenders going through the juvenile court were adjudicated delinquent rather than found guilty, and therefore, they avoided being labeled a criminal. Juveniles were not afforded the same legal rights as adults. For example, juvenile defendants were not entitled to a trial by jury (Springer et al., 2011). Also, the Juvenile Court Act did not address the issue of children being housed with adult offenders. Nor did it address the lack of funding for

rehabilitation programs. Juvenile court actions at this point were considered civil in nature rather than criminal (Springer et al., 2011). This protected juveniles from gaining a criminal conviction on their record, since the proceedings were non-criminal in nature. Civil court procedures refer to court actions that fall under the *parens patriae* doctrine, or the responsibility of the state to look out for the interests of a person with legal disabilities such as juveniles (American Bar Association, n.d.).

Recognizing the needs of juvenile offenders were not being met due to a distinct lack of social services, social activist Jane Addams founded the Hull House in Chicago in 1889. Hull House sparked a social movement centered around better meeting the needs of juvenile offenders. Addams and about two dozen other prominent Chicago natives founded the Juvenile Protective Association. The association met weekly to discuss the needs of juveniles in the local community and began funding studies to determine the causes of juvenile delinquency. They also began psycho-social assessments of juvenile offenders using a professional team of doctors (Springer et al., 2011).

Juvenile courts began probation services as an intermediary level of treatment for juvenile offenders, and, by 1925, all but two states had separate juvenile courts that offered probation services. Probation officers would go to the homes of juveniles to better determine how the living circumstances of individual children might affect their behavior (Springer et al., 2011). This was part of the coordination efforts between the juvenile court system and the social movements such as the Hull House.

During the Great Depression Era, there was an influx of social workers who tried to create psychoanalytic theories for juvenile delinquency. Juveniles became more subject to court

ordered sanctions but were not accorded the same civil rights protections as those commonly afforded to adults that are accused of a crime (Springer et al., 2011).

### **Judicial and legislative reform in the juvenile justice system**

Since juvenile courts were first instituted, they have had authority over children who have committed illegal acts. And these courts have claimed authority over juveniles who defied their parents or societal norms by running away, skipping school, drinking alcohol, or engaging in pre-marital sexual activities (McCord et al., 2001). The courts also handled cases involving abused and neglected children. Most of these juveniles ended up in the same public institutions as juveniles who had committed criminal acts (McCord et al., 2001).

In response to the abuses endemic in public institutions, as well as a lack of juvenile facilities, Congress decided to act (McCord et al., 2001). In 1974, Congress passed the Juvenile Justice and Delinquency Act which provided federal dollars to states that wished to improve their juvenile justice systems. Juveniles were separated from adult offenders, and an effort began to deinstitutionalize juveniles into community supervision or foster homes. (Schmallegger, 2009).

By the early 1910's critics of the juvenile court system began to be heard. Critics called into question the lack of fairness and lack of attention to due process in juvenile court hearings. Due process is the legal concept that any legal process, civil or criminal, set by statute or court practice, must be followed the same way for every individual involved (Due process clause, n.d.). This includes such processes as the notification of rights, the right to an attorney, determination of maturity level for juveniles, and a number of other legal principles that ensure a fair and non-prejudicial trial. At this time, the court often treated children who had committed no crime the same as those who had committed a criminal act. Juveniles were often incarcerated

without a trial, access to a lawyer, or access to the complaint that had been filed against them (McCord et al., 2001).

In 1966, the U.S. Supreme Court ruled in *Kent v. U.S.* (383 U.S. 541) that there must be some sort of due process involved with juvenile hearings. The court held that Kent had been improperly transferred to adult court without due process – in this case, the lack of a hearing, access to effective counsel, and a statement about why the transfer was being requested.

About a year later, in 1967, the Supreme Court expanded the rights of juveniles to closely match the rights of adults in *In re Gault* (387 U.S.1). This decision entitled juveniles to the following due process rights: notification of the charges being brought against them, to a lawyer, to confront witnesses, to not be compelled to self-incriminate, to receive a transcript of the hearing, and to appeal a judge's decision (McCord et al., 2001).

In 1970, in *In re Winship* (397 U.S. 358) the Supreme Court raised the standard of proof in juvenile cases from a preponderance of the evidence<sup>2</sup> to beyond a reasonable doubt, the current standard for adult criminal cases (McCord et al., 2001). And in 1975's *Breed v. Jones* (421 U.S. 519), the Supreme Court extended double jeopardy protections to juveniles. Juvenile court proceedings were now recognized as criminal proceedings instead of social welfare cases (McCord et al., 2001).

Decisions by the Supreme Court after 1975 regarding juvenile court cases confirmed previous rulings which ensured some due process rights and prohibited the execution of juveniles under the age of 16 at the time of their crime. Miranda warnings were also mandated for juvenile interrogations (Schmallegger, 2009).

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<sup>2</sup> A civil court standard which means that a judge (or jury) would reasonably to believe that an offender probably committed the act they are being accused of.

### **Establishing the framework of the modern juvenile justice system**

Today, for a case to be heard in juvenile court, the offender's age and the severity of their conduct are taken into consideration. In 38 states, the age of criminal majority, that is when a person will be tried as an adult, is 18 years old. In 10 states, the age is 17 years old, Wisconsin being one of those states. And in three states, the age of criminal majority is 16 years old (Hjalmarsson, 2009). Juveniles who are below the age of majority, but commit serious enough crimes, can be transferred to criminal court and be tried as adults (Hjalmarsson, 2009). Appendix A outlines statutory provisions (by state) as to the minimum age a juvenile can be transferred to adult court. The juvenile justice court process is similar to the adult system, but it maximizes official's discretion and is far more likely to employ diversionary methods throughout the court process. (Schmallegger, 2009).

If a juvenile is arrested by law enforcement and referred to the juvenile justice system, they are usually taken to a holding facility where they are seen by a juvenile intake official. At this point, the intake official must decide whether the juvenile needs to be held in secure custody or if they can be released to a parent or guardian. Should the intake worker determine there is legal sufficiency for a juvenile to be held, a brief risk assessment could help inform the decision whether or not to hold the juvenile in pre-trial detention. Two factors that carry the most weight are the likelihood the child will appear for their court hearing and the potential danger to the community if the juvenile is released (Vincent, Guy & Grisso, 2012).

Detention is the temporary placement of a juvenile in a locked facility prior to the adjudication of delinquency charges. Detention is used to ensure juveniles will appear for their court appearance and to protect the public from future delinquent acts while the juvenile's case is being processed. The U.S. Supreme Court has upheld the use of pre-trial detention citing

that juveniles are subject to *parens patriae* doctrine – in other words, the state is holding them for their own welfare (Webb, 2007).

A formal complaint is then filed by police (or sometimes a school or other official) through the District Attorney's office. At this point, the District Attorney can issue charges or could choose to resolve the case by means of diversion; however, the District Attorney's options may vary from state to state.

The youth is then given a day to appear in court with their parents for an arraignment wherein the youth and their attorney answer to the charges against them. If they state the allegations are not true, they move forward to a hearing, which is similar to a trial in adult court (Calvino, n.d). If the juvenile admits to the charges, they move to a disposition hearing, unless the charges are dropped due to the fulfillment of a diversion agreement. A diversion agreement is an agreement entered into by the juvenile and the district attorney to terminate prosecution if a juvenile fulfills all the terms of the agreement within a specified time period. The concept is similar to probation, except the requirements have to be filled prior to adjudication, and the charges are then ultimately dropped.

Juvenile hearings are decided by a judge, as youths are not entitled to a jury trial. The judge can choose to accept or deny any plea agreements entered into by the District Attorney's Office with the child. If the child admits to the allegations, or the judge finds the allegations to be true, they move forward to a disposition hearing. During the time of the hearing and the disposition hearing, a caseworker is assigned to gather information about the needs of the child. The caseworker then writes a report for the court about their investigation and recommendations. It is at the disposition hearing that it is determined what services are to be provided to the child and his or her family and whether the child should be held in secure detention in order to protect

the public. The judge can order such things as counseling, attendance in school or other training, community service, electronic monitoring, and even out of home placement into a group or foster home, or residential treatment facility (Calvino, n.d.).

### **Examining inequalities that affect detention decisions in juvenile corrections.**

In the juvenile justice system, pre-trial detention decisions have received a great deal of attention due to the disproportionate number of juveniles of minority race/ethnicity detained and the impact detention itself can have on adjudication and disposition. Many studies have examined the influence of multiple factors on pre-trial detention.

#### **Legal factors.**

Legal factors relate to the characteristics of the actual offense, such as the seriousness, type of offense, available evidence, and prior offending (if any). Of the legal factors, the seriousness of the offense, and multiple or prior offenses tend to have a strong influence on pre-trial detention decision making (Webb, 2007).

#### **Extra-legal factors.**

Extra-legal factors include gender, race/ethnicity, socio-economic status, age, and community. The extra-legal factors that strongly influence pre-trial detention decisions include race and community characteristics.

With similarly situated youth, those that live in urban areas and those of minority race are more likely to be detained (Webb, 2007).

#### **Race.**

Most studies look at how detention is influenced by court context variables (e.g. urbanism, racial inequality, economic factors, and crime rates). These studies are conducted across multiple jurisdictions (macro-level analysis). The results from these studies do not appear to be

significantly explanatory of how micro-level community variables affect detention decisions for youth coming from the same geographical location. The results from cross-jurisdictional studies are a poor fit for explanatory variables used to explain how race and ethnicity affect outcomes for juveniles belonging to different communities (Latino, Black, etc.) that are living within the same jurisdiction. That is, the studies provide reasons for inequalities between a well-off community versus an economically disadvantaged community; but this does not help to explain why white juveniles might receive a more severe court disposition for the same crime as a black juvenile in the same jurisdiction because a judge believes that the black juvenile is a product of their environment or the victim of racial inequity (Rodriguez, 2007).

Whereas court context variables try to explain how communities impact a juvenile's behavior, the racial threat hypothesis looks at a court official's belief that they need to protect a community from juvenile delinquents. The racial threat hypothesis proposes that juveniles from these communities will receive harsher punishment given their perceived level of threat to the communities that are in power. Attributes of delinquency and victimization become subjected to racial and ethnic stereotypes. For example, some court officials in Arizona believed that young females in Hispanic communities often married their own family members. This led officials to lend very little credence to Hispanic female youths' accounts of sexual abuse (Rodriguez, 2007).

Latino youth tend to receive the least favorable detention decisions than other minority groups and are detained more often than white or black juveniles (Webb, 2007).

One study found that assignment of both internal attributes, such as attitude, personality, and level of cooperation, and external attributes, such as delinquent peers, poor school performance, and family problems, can be linked to racial disparities. Court officials surveyed were more likely to assign negative internal attributes to black offenders and negative external

variables to white youth. In addition, more severe outcomes were given to negative internal attributes (Rodriguez, 2007). Stereotypes of disadvantaged minority offenders were also found to be linked to the perception of minority offenders as chronic, violent offenders

### **Community characteristics.**

Rodriguez (2007) found that community characteristics may have more of an effect on detention decisions than factors such as sex and/or race. Most studies to date have dealt with macro-level theories, such as racial threat theories, and have not looked at whether community characteristics can mediate the effects of race/ethnicity within the detention decision-making process.

Juvenile justice officials that make detention decisions rely on their perceptions of how delinquent behavior is affected by internal and external influences of juveniles who enter the court system. It is entirely appropriate for these officials to regard a juvenile's community characteristics as external attributions of delinquency. Community characteristics include: delinquent peers, family/home life, school performance, and socio-economic status of the community they live in (Rodriguez, 2007)

Sometimes court officials can use community characteristics as an excuse - alleviating the level of responsibility placed on the juvenile. The juveniles are seen as a product of their environment (Rodriguez, 2007).

Poor living conditions and high unemployment are also viewed as key contributing factors to an increase in at-risk youth entering the system. Juvenile intake officials' perceptions of community conditions often lead to the stereotyping of youth coming from particular communities (Rodriguez, 2007).

. Court officials attributing community-level factors, such as racial and ethnic composition, to juvenile offenders coming from particular neighborhoods tend to confound the issue of court outcomes. A recent study found that court personnel tend to give more weight to class and areas of the county instead of race and ethnicity (Rodriguez, 2007).

Community variables that are attributed to juveniles such as living in a disadvantaged area may result in lower detention rates since juveniles from these communities are seen as a product of their living conditions (Rodriguez, 2007).

### **Mental health and behavioral issues.**

Youth with mental health and behavior issues have been found to have a disproportionate amount of contact with the juvenile justice system (Justice Policy Institute, 2009) Some studies estimate that two-thirds of juveniles in institutions have mental health issues, and about one-third require ongoing clinical care. Behavior that lands them in the system is driven by their mental health conditions. Youth with mental health needs also tend to spend more time in detention on average than a juvenile without these needs. The high rate of confinement for youth with mental health needs is due to several factors including inadequate intake screening processes, lack of training for staff, an over-reliance on isolation as a way of dealing with juvenile behavior, inadequate mental health services in the community, and lack of availability of other community-based services. Juvenile justice facilities have become the de facto mental health system for juveniles that cannot afford the formal mental health system (Justice Policy Institute, 2009).

### **Theoretical explanations for factors influencing detention decisions.**

The symbolic threat thesis contends that race is an underlying issue in how minority offenders are disproportionately represented within the juvenile justice system. This thesis attempts to identify the underlying decision making in the juvenile justice system by focusing on

characteristics of youth, particularly minority youth and the emotions of juvenile court officials, including intake officers (Leiber, 2009). Legal and extralegal factors cannot account for the discrepancies in admittance and detention rates between minority and white offenders. If pre-trial detention orders are evenly distributed among race groups, then legally justified variables such as severity of the crime, past criminality, and type of offense will be more statistically significant predictors of detention decisions than other variables such as race. Detention prior to the initial hearing is a more statistically significant factor in predicting future detention decisions within the juvenile justice system. Being detained also increases the chances of receiving a more severe outcome at disposition (Schmallegger, 2009).

The symbolic threat thesis emphasizes racial stereotyping and the negative perceptions of minority juveniles by juvenile court officials such as intake officials. Some of these stereotypes include black youth being undisciplined and having dysfunctional families, mostly headed by single mothers; dangerous, and prone to drug use (Leiber, 2009). These perceptions represent a symbolic threat to middle-class standards and values such as having both parents present in the household or underage juveniles not consuming alcohol or drugs. Intake officials then try to act out of concern for public safety and the moral order of the community (Leiber, 2009).

Whether detention decisions are based on protecting the public from a perceived level of threat, or on a set of legal and/or extra-legal justifications, more research should be done to examine inequalities that affect detention decisions in juvenile corrections (Schmallegger, 2009). Neither symbolic threat thesis or the legal and extra-legal justifications explained previously can fully account for the disproportionate amount of minority juvenile incarceration.

Members of the juvenile justice system need to look at the impact detention decisions have on minority youth and youths with a mental illness within the juvenile justice system.

There are many factors that influence detention decisions, and it is important that the issues of race and mental health be addressed to ensure that policies do not inadvertently create disadvantages for any specific groups represented within the system. Changes to the system that put everyone on an equal playing field when they enter the system are necessary; these changes would help make sure that juveniles are not penalized by an intake officer's perceived need to protect the community from social threats.

### **The effects of detention prior to adjudication.**

The “getting tough on crime” juvenile justice initiatives of the 1990's were influenced by the socioeconomic and racial demographic changes that occurred in the 1970's and 1980's, the stratification of minorities in major cities, and the “crack epidemic” along with associated increases in gun violence and homicides (Feld, 1999). One portion of the “lock ‘em up” mentality of crime control that is lacking in research is the failure to monetize the cost of suffering inflicted on juveniles, their families, and the community that the person is removed from (Woolredge, 2012). If the level of suffering inflicted on a typical juvenile awaiting trial, and the people who care about them, exceeds the estimated \$100 per day, it may be more expensive to continue mass incarceration than to utilize alternative solutions (Woolredge, 2012). It is hard to determine the exact amount of monetary harm caused by the incarceration of a juvenile since research has not been done on the true costs to a juvenile including the cost of a juvenile's reintegration, social service programming, or the cost of stigmatization associated with incarceration on future employment (Woolredge, 2012).

Detention of a juvenile, even for a brief period, can interrupt human and social capital accumulation during a critical period in a juvenile's development.<sup>3</sup> This results in reduced future

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<sup>3</sup> The economic model of crime supposes that criminal activity and participation in legal markets are substitutes. Individuals weigh the net gains of criminal versus legal endeavors based on the expected utility to be gained from

earnings potential and greater criminal activity (Aizer & Doyle, 2013). Aizer and Doyle (2013) found that juvenile detention decreases high school completion rates and increases future recidivism. They also found that once juveniles enter the juvenile justice system, the impact of recidivism is not certain. If juveniles are sufficiently deterred by detention, they may not recidivate. On the other hand, detention could potentially increase future criminal activity by interrupting the formation of social networks and the accumulation of human capital (Aizer & Doyle, 2013). Aizer and Doyle (2013) state that juveniles' propensity for future offending is inelastic in regard to the seriousness of penalties imposed. This supports the idea that the deterrent effect of detention should be considered less important than increasing rates of high school completion and the resulting decreased potential for adult incarceration.

Introducing a youth to the juvenile justice system can also have iatrogenic effects. Even limited exposure to other troubled youth has been found to double a youth's chances of an adult arrest (Guy et al., 2015). Recent research has demonstrated that the exposure of younger and less anti-social youth to older and more emotionally disturbed youth may promulgate enduring iatrogenic effects. Some of the iatrogenic effects include increased delinquent behavior, increased use of illicit substances, violence, and possible future adult maladjustment. This research informs the issue of placing relatively treatable and less dangerous youth in residential programs with more seriously disturbed ones; and, the potential negative effect it may have on their future development (Hunter et al., 2004).

Switching budgetary dollars from incarceration to treatment can have long term positive effects for the community. In a 2007 study, Aos, Miller & Drake (2007) found that certain

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participation. Criminal capital is gained by experiencing more success in criminal activity than legal activity. Human capital is a measure of education and other factors that are already mostly established by the time adulthood is reached. Accumulation of criminal capital hinders the accumulation of human capital (Aizer & Doyle, 2013).

family therapy programs reduced juvenile recidivism by about 16 %. The seemingly most effective program they found was a nurse-mother partnership program for low-income mothers, which resulted in a 56 % drop in future-crime for mothers as well as a 16 % decrease in future-crime committed by their children. Aos, Miller & Drake (2007), found that the family therapy programs cost, on average, \$2,325 per juvenile with net lifetime savings to the taxpayer of \$34,146. For the nurse-mother partnership program, they estimated a cost of \$6,142 per family with a net return in crime-reduction dollars of \$33,247 over the lifetime of the mother and child. Residential housing and treatment of juvenile offenders that have severe psychological needs can run into excess of \$100,000 annually per youth. The increase in youth incarceration causes a drain on county and state resources, which drains resources from community-based programming (Hunter et al., 2004).

The identification of youth as treatable and less dangerous can prevent them from being exposed to more seriously disturbed youth. This lack of exposure can help to mitigate potential negative effects on their future development. (Hunter et al.,2004). Often in-custody placement of juveniles is unnecessary and less efficacious for the treatment of offenders. A recent study conducted by the National Council on Crime and Delinquency (2013) found that in nine states where evidence-based risk assessments were conducted, the majority of youth were determined to be of low to moderate risk for re-offending. The study found that of juveniles who were classified as low risk, less than one-third re-offended. Detention decisions should be based on legally justifiable variables. Empirically validated scoring systems developed using evidence-based risk assessments of youths' criminogenic needs and behavioral health needs are far more objective and accurate than an intake officer's perceived need to protect the community from a particular offender.

### **Externalized Maladaptive Behavior**

The two juvenile delinquent behaviors that fall within the realm of externalized maladaptive behavior which would, most likely, result in police contact are firesetting (arson) and sexual offending. Studies show that juvenile firesetters are usually the victims of physical or sexual abuse, neglectful parenting, and impoverished living conditions. As a result, these juveniles are highly likely to be unable to form secure attachments with caregivers. They may also be unable to develop appropriate social skills or self-regulate their behavior (Gannon & Pina, 2010).

Fire-setting is not specifically listed as a psychological disorder in the DSM-IV; however, it resembles a lot of the same characteristics as attachment disorders. A lot of attachment disorders meet these same criteria, though, so future firesetting behaviors are unlikely to be predicted by any particular diagnosis. Future firesetting behaviors can be better attributed to individual differences in levels of interest in setting fires, which is linked to early socialization with fire (Gannon & Pina, 2010).

Most children learn through imitation - a key factor in social learning theory. Social learning theory posits that it is the balance of rewards and punishments following certain behavior that either reinforces an observed behavior, making it more likely to be repeated or punishes it, making it less likely to be replicated (Tibbetts & Hemmens, 2010). Social learning theory seems only to be able to explain fires set by juveniles motivated by anger (Gannon & Pina, 2010). It is unlikely that a juvenile would experience the necessary amount of external reward or reinforcements over time to persist in arson-style behaviors. Therefore, social learning theory may be a poor fit for this specific type of offender. Juvenile sex offenders show the

lowest rate of sexual recidivism and their offending appears to be adolescence-limited (Mulder, 2010).

One longitudinal study in the Netherlands followed a group of violent juvenile offenders (including firesetters and sex offenders) for approximately five years and found that 69 % of these offenders recidivated within the follow-up period. And more specifically, 47 % of juvenile sex offenders recidivated during the follow-up period with only three percent of reoffenses being repeat sexual offenses (Mulder, 2010).

Kolko, Herschell, & Scharf (2006) found that within two years of receiving treatment in a hospital setting as a result of playing with fire, recidivism rates among juvenile firesetters in non-patient and patient samples was 50 % and 59 % respectively. However, juvenile sex offenders tend to receive court ordered treatment right away, resulting in their having a much lower recidivism rate than juvenile firesetters. In the Netherlands, Mulder (2010) found that lower sexual offending recidivism is associated with juvenile sex offenders being subjected to court-ordered treatment and tracking, which shows these offenders tend to be responsive to the deterrents and treatments ordered by the court. (Mulder, 2010).

Juvenile sex offenders have wide ranging offense characteristics and underlying risk factors which make this group of juvenile offenders quite heterogeneous (Mulder, 2010). Yet, most juvenile sex offenders that enter the criminal justice system are subjected to the same tracking, registration, and treatments, even though their underlying risk factors may well present on alternate ends of the spectrum. All juvenile sex offenders may not require intensive supervision even though they may require intensive inpatient treatment (Mulder, 2010).

Juvenile Firesetting and Bombmaking (JFSB) and juvenile sexual offending share similar prevalence rates within the U.S. The Office of Juvenile Justice and Delinquency Prevention

(OJJDP) reported that in 2014, an estimated 3,300 juveniles were arrested for rape. That same year, approximately 3,400 juveniles were arrested for arson. Of the 3,300 rape cases, 66 % were black, 33 % were white, with 39 % of the juveniles arrested being under the age of 15.

(*Statistical briefing book*, 2017). Of the 3,400 arson cases, 72 % were white, 25 % were black, and about 58 % of juveniles arrested were under the age of 15 (*Statistical briefing book*, 2017).

Firesetting and sexual behavior are being recognized at an earlier age than other juvenile delinquent behaviors (Abraxys, 2017). These offenses share comorbidity with more deeply seeded psychopathy which requires more intensive psychiatric treatment. (Abraxys, 2017) Firesetting and sexual behavior may be symptoms of more deeply rooted traumatic experiences. (Abraxys, 2017). Chakhssi, Bernstein, & Ruiter, (2012) identified this psychopathy as Early Maladaptive Schemas (EMS). EMS are maladaptive patterns of cognition that start with adverse childhood experiences and translate into maladaptive coping responses. The externalizing of maladaptive behavior appears to be maladaptive coping responses to EMS (Chakhssi, Bernstein, & Ruiter, 2012).

Despite a higher recidivism rate for youth who participate in firesetting behavior, more focus and attention is provided to juvenile sexual offenders. Both offenses are similarly characterized as sharing similar criminogenic and psychological characteristics that point toward an externalization of maladaptive behavior. Current practices of using juvenile intake officers' professional judgment without the use of any empirically validated tools (such as risk assessments) lack predictive validity and highlight the biases that are endemic in juvenile corrections.

### **The Need for Evidence-Based Risk Assessment Tools**

The use of pre-trial detention has been one of the most contested practices in juvenile justice administration. Youth that are placed in detention facilities, even for a short time, have been shown to be more likely to re-offend, perform worse at school, and are less likely to obtain employment (Maggard, 2013).

Detention risk screening is a strategy for implementing juvenile justice reform. Risk screening evaluates each juvenile to determine if secure detention is needed while they await a hearing. If risk assessment screening is a process, then a risk assessment instrument is a written tool used to conduct screenings. This instrument is a checklist that contains criteria that are applied to a rating scale that determines detention specific risks. The overall score is then utilized by intake officers to inform their detention decisions (Steinhart, 2006).

If a risk assessment tool is implemented at this point, it should be brief in nature given the large volume of juveniles entering the system. Also, conducting a comprehensive risk assessment could coerce a juvenile to incriminate themselves (Vincent et al., 2012). Furthermore, many of these risk assessments are not designed to fit all juveniles. Most target special categories of offenders or those with emotional or psychological trouble. Therefore, the juvenile justice diversion process becomes a cursory exercise in basic surveillance of most juveniles to see if they re-offend (Chapin Hall Center for Children, 2005).

A detention risk assessment that has a limited number of variables (usually eight to twelve factors) that have been proven to be related to recidivism can be utilized in an established decision-making system to guide detention decisions (Baird, 2009). Specific criteria that can be shown to predict recidivism can be used to help juvenile intake workers make detention decisions in an unbiased manner. Appropriate risk factors that have been shown to be directly

related to recidivism must be used. Smaller scale risk assessments have been shown to create better separation between risk categories (e.g. high, medium, low). Actuarial risk assessments should be viewed as a tool to identify subgroups within an offender population, rather than a tool to predict future offending (Baird, 2009).

Risk assessment must occur early enough in the juvenile justice system in order to be influential (Guy et al., 2015). Judges can take exception to this and often insist on being the final arbiter of placement decisions. In order for states to benefit from training and performing proper risk assessments, policy should dictate that they occur before decisions about disposition, placement and level of services provided are made. Judicial buy-in is often lacking in this area and is crucial to this type of programming (Guy et al., 2015) Programming must also be used consistently. For example, in one study of 12 courts across four different states, researchers found that only half of the juvenile justice system professionals were using the tools regularly in their decision-making (Guy et al., 2015).

#### **The current state of risk assessments.**

In the years following the inception of the juvenile justice system, the prediction of recidivism risk initially relied on professional and clinical judgment. However, these systems lacked predictive validity and were subject to inconsistency and bias because they did not have objective scoring systems (Brennan et al.,2009).

Around 1970, a new generation of assessments were adopted and are referred to as the 2<sup>nd</sup> generation assessments. These mostly consisted of point scales that added up selected factors. The factors used were established by professional judgment and common sense. They lacked theoretical backing, explanatory value, and did not account for the need factors of juvenile

offenders. These assessments tended to be more effective at predicting recidivism than professional judgment (Brennan et al., 2009).

Third generation assessments of the late 1970's and early 1980's used theory guided, empirically validated risk factors that utilized a wider array of criminogenic factors. The Level of Service Inventory- Revised exemplified these practices and was in common use in corrections during this timeframe. This model's narrow theoretical focus and overemphasis on risk drew criticism from those who thought assessments needed to focus on offender strengths and protective factors (Brennan et al., 2009).

The most recent generation of risk assessment tools contains a broader selection of explanatory theories and a broad range of risk and need factors. They also incorporate strengths (or resiliency) factors. The utilization of information technology has been incorporated to develop more advanced statistical models that can track offenders throughout the juvenile justice process (Brennan et al., 2009). Risk assessment tools such as LS/CMI, and COMPAS fit into this category (Brennan et al., 2009).

### **Risk assessments for juveniles who externalize maladaptive behavior**

What makes a good fit for firesetters and sex offenders? One of the more promising systems for juvenile risk assessments is utilized in Milwaukee, WI, named Wraparound Milwaukee. The system was initially designed for juvenile sex offenders, but showed promising results for any youth exhibiting externalized maladaptive behavior, with underlying mental health issues. Wraparound Milwaukee is a coordinated system of care for families of youth with severe emotional, behavioral, and mental health problems. The term wraparound refers to a collaborative, strengths-based model of family and community focused practice. The methods

used in Wraparound Milwaukee are evidence of a shift toward keeping juveniles out of detention centers, and using care models that integrate community, family, and culture awareness to develop strength-based alternatives to institutional based care (Hunter et al.,2004).

With Wraparound Milwaukee, average annual psychiatric hospital days for the at-risk population have decreased from 5,000 to 200 (Hunter et al., 2004). Since its inception, the number of average daily residents in treatment has dropped from 375 to 110. The average inpatient stay has dropped from 14 to four months. And the average monthly cost of service has dropped from \$3,878 in 2008 to \$3,263 in 2013, compared to an increased cost from \$7,850 to \$8,714 for the same timeframe for a juvenile treated in a correctional environment (Kamradt, 2014). A team of providers and corrections officials conducts collaborative planning for delinquent youth. The plan of care addresses the needs of the youth within the context of their family's lifestyle. When juveniles participating in this program pose a risk to the safety of the community or themselves, community safety takes top priority. Juvenile offenders are taught individualized strategies that not only hold offenders accountable but also strengthen relevant youth and family concepts (Hunter et al., 2004).

### **Current state of implementation of risk assessment**

Results from implementation studies indicate that juvenile intake staff can be trained to complete violence risk assessments (Guy et al., 2015) In order for risk assessments to have an impact on juvenile case assessments and individual outcomes, they must be conducted early in the judicial process, and staff that is using these tools must be trained to conduct the assessments properly. A significant body of research has demonstrated that unstructured approaches to risk assessment (e.g. professional judgment) essentially have “accuracy” rates that are no better than chance (Guy et al., 2015). Most risk assessments are conducted close to the time of judicial

adjudication. This creates an environment where intake officers are making pre-trial detention decisions using unstructured and possibly detrimental criteria (Guy et al., 2015).

One such effort to implement and train juvenile justice officials in the use of proper risk assessments was the RAMSAY project. The two participating states, Mississippi and Connecticut, had different risk assessment, behavioral health screening, and case management practices in place prior to the implementation of the Risk and Mental Health Screening and Assessment of Youth (RAMSAY) project (Guy et al., 2015).

In Mississippi, structured risk assessment tools had not been used consistently. Structured risk assessments had been used in detention but not probation settings, and no comprehensive case planning had been conducted. In Connecticut an actuarial risk assessment tool, the Juvenile Assessment Generic (JAG), was being used in addition to the MAYSI-2. Case management plans were more detailed and structured (Guy et al., 2015).

In Mississippi, Youth Service Counselors (YSC's) complete risk assessments between the adjudication stages and within 15 working days of case assignment. On average, 40 days elapsed between the initial petition and assessment completion. In two cases, the assessment was completed post-adjudication (Guy et al., 2015).

The point at which adjudication decisions are made can vary by state, and even by different courts within a state. In one of the counties in Mississippi, one judge made it impossible for the YSCs to conduct the assessments at a point that would have guided any disposition or service referrals. Conducting a comprehensive risk assessment, at that point, has little value except to validate the potential effectiveness of any risk assessment tools being contemplated. It cannot be used to guide case management decisions about the youth (Guy et al., 2015).

In Connecticut, almost one-quarter of all assessments were not completed, contrary to departmental policy. Given that the risk assessment tools being contemplated are more than 10 years old, and have not integrated new research, the results did not show statistical significance from the risk assessment tools already in place (Guy et al., 2015). The risk assessments did show more promising results than did models using structured professional judgment to determine risk (Guy et al., 2015).

The Wisconsin Department of Corrections uses a computer based model, COMPAS, which was developed by Northpoint Inc. as a statewide automated risk and needs assessment system. This actuarial risk assessment system contains information specifically designed to determine their risk and needs of the specific offender as they enter the criminal justice system and informs decision points along the way. (Wisconsin Department of Corrections, n.d.). This programming is implemented at the point of adjudication, though, and youth may be better served by being screened for participation in this programming earlier in the judicial process.

### **Methodology**

The primary method of approach for this project will be a review of the juvenile justice literature. Information regarding pertinent laws and criminological theory, intake processes, legal decision-making, risk assessment, and current treatment options for justice involved juveniles will be explored. The research will also investigate the characteristics, processing, and treatment of juvenile offenders that display externalized maladaptive behavior. This literature will be obtained from scholarly and peer-reviewed sources including academic journals, books, and government reports to illustrate and support the arguments of this paper. And, risk assessment

tools will be explored for empirical validity and to determine the scope and scale of theoretical coverage in key assessment constructs (Brennan et al., 2009).

A qualitative review of the literature, as well as an exploration of the secondary data analysis present in these sources, will allow for the determination of “best practices” for addressing the needs of juvenile offenders – especially those that externalize maladaptive behavior. Furthermore, the conclusions drawn from the research will allow for the provisions of recommendations on how to better the juvenile justice system overall.

The findings may guide future utilization of risk assessment software will help to divert juvenile offenders out of the formal juvenile justice system. Diversion can have long-term cost savings for communities, enhance juveniles’ quality of life, and sufficient protection can still be provided to the community by treating the needs these youthful offenders have.

### **Findings**

Intervention with juveniles before they graduate to serious crimes is one of the core tasks of the juvenile justice system. The use of actuarial risk assessment tools can help agencies to assess the risk level and needs of juvenile offenders and provide them with appropriate interventions. Decision-making tools supported by empirically validated risk factors also help reduce bias which is endemic in the juvenile justice system.

With the advent of the latest generation of risk assessment models, the ability to purchase a validated risk assessment model may seem very appealing to many agencies, especially those with tighter budgets. However, few administrators have the technical background necessary to evaluate claims of validity and reliability properly. Vendors that market these tools want to make them transferable and generalizable between jurisdictions. In order to

do this, and still maintain validity and reliability, vendors cannot include local customs, laws, practices, or local demographics into their products (Baird, 2017).

### **Selection of an appropriate risk assessment tool.**

Administrators of juvenile justice need to base their selection of a risk assessment tool through the lens of a system of interrelated decision points that, taken together, have a cumulative effect on juvenile and community welfare.

The implementation of a new risk assessment tool requires a structured process to limit the collection of irrelevant data (Vincent et al., 2012).

Preparations need to be made well in advance to create an optimal environment in which to introduce a risk assessment tool. First, key stakeholders must be identified and buy-in must be established as these elements are essential to the success of a procedural change. In the juvenile justice system stakeholders include judges, attorneys, police, prosecutors and social service agencies. And the stakeholders' input should be included in the choice of risk assessment to gain procedural buy-in and avoid the duplication of services already available (Vincent et al., 2012).

The next step is the selection of a risk assessment tool. An appropriate decision-making model should be in place so that the risk assessment tool fits into the model, and not the other way around. Policies and practices need to be in place before implementation. Once the appropriate tool is selected, training needs to be conducted to ensure the system is utilized consistently and uniformly by all users (Vincent et al., 2012).

In selecting an appropriate risk assessment tool, administrators need to understand the inner workings of these systems. The earlier generations of risk assessments consisted of 12 or fewer risk factors. The goal of these early models was to separate groups of offenders into significantly different risk pools in an attempt to identify which individuals were at risk of re-

offending. Due to the small number of variables included in these models, it was relatively easy to prove the relationship between individual risk factors and recidivism. (Vincent et al., 2012).

As newer generations of risk assessment tools came out, they began to include more factors and began to differentiate between static and dynamic risk factors. The Level of Service Inventory-Revised (LSI-R) contains 54 risk factors, and the full YASI contains 117 factors (Vincent et al., 2012). Static risk factors are things that will not change over time such as criminal history, and dynamic risk factors are things that change over time such as the severity of a behavioral health problem. These factors are utilized together to try and identify both the risks and needs of individual offenders at the time of the assessment.

Recent studies have shown that some of the newer risk assessment models utilize factors that have little or nothing to do with recidivism (Vincent et al., 2012). The ever-increasing number of factors being utilized decreases the impact of individual factors as they relate to recidivism, making it harder to determine which factors can be proven predictors of recidivism (Vincent et al., 2012).

A risk assessment system properly implemented at the point of juvenile intake should estimate the likelihood that a juvenile's delinquent behavior may continue to occur if no interventions are implemented. A trained professional can then assess whether the juvenile is at low or high risk of recidivism based on empirically validated predictors of recidivism. A risk assessment tool can also guide intervention planning without having to definitively assess behavioral needs. Finally, a risk assessment tool can standardize data collection procedures for an agency (Hunter et al., 2012).

**Risk assessment validity.**

In attempts to make risk assessment models more predictive of future recidivism, for-profit companies have included factors that will attempt to predict success in treatment programs (Vincent et al., 2012). Despite challenges to the correlation between risk factors and recidivism rates, most modern risk assessment tools contain enough risk factors to maintain a relationship to predicting recidivism (Vincent et al., 2012).

There is a high prevalence of behavioral health issues present in juveniles who enter the juvenile justice system. Treatment is beginning to be viewed as an important part of the juvenile justice system's responsibility to care for juveniles in their custody under the concept of *parens patriae*. The juvenile justice system needs to identify a juvenile's behavioral health needs in order to determine if they might offend in the future. However, juvenile intake officers are not mental health professionals and cannot be expected to conduct diagnostic assessments. Brief, triage-style assessments can be conducted, though, using screening tools that can identify if a juvenile's behavioral health needs require immediate intervention (Guy et al., 2015).

The use of risk assessments to predict future success or failure in treatment programs unnecessarily complicates the juvenile justice decision-making process at intake. This is not to say that treatment success is not related future offending, but the use of this type of tool as a needs assessment is better implemented at a different decision point in the process (Vincent et al., 2012).

In an effort to create a more universal tool, for-profit companies have conflated risk assessments and needs assessments in order to provide a tool that they claim better predicts recidivism. Studies have shown that the use of fewer factors and separate indices provide a better decision-making model for predicting recidivism. A study of the LSI-R in Pennsylvania showed

that just using eight of the 54 factors increased accuracy in risk assessments and lowered recidivism significantly (Vincent et al., 2012). This would suggest that by separating risk and needs into separate indices, better results can be obtained for all interested parties. Nevada found that improved classification for low, medium and high-risk offenders was obtained by adjusting scales for jurisdiction-specific factors . Substantial evidence has found that brief risk assessments, such as the pre-screen in the YASI, have stronger relationships to recidivism than do full assessment tools (Vincent et al., 2012).

Due to the complexity of the tools being used, and a lack of technical knowledge on the part of most administrators, most modern risk assessments are seen as a ‘black box’ of sorts, which is expected to produce valid data. Many companies also wish to protect their proprietary data by not fully disclosing the metrics they use to generate their results and copywrite the processes used for conducting assessments (Vincent et al., 2012). As systems become more complex and protected, administrators have begun to avoid asking how the system works and how it may be improved (Vincent et al., 2012).

### **Risk assessment reliability.**

About two-thirds of juveniles in the juvenile justice system have mental health issues, and juvenile justice facilities are being overwhelmed by the increasing cost of treatment (Justice Policy Institute, 2009). Most juvenile justice courts have developed targeted interventions for certain types of offenders. Juveniles with severe antisocial behavior are usually referred for family-based interventions. Sexual offenders are often sent through specialized programming. Juveniles utilizing drugs are sent through evidence-based treatment programs.

Violent and serious crime only accounts for about 20% of juvenile offenders, though (Chapin Hall Center for Children, 2005). Juveniles that are charged with theft, vandalism,

disorderly conduct or non-violent crimes are not a good fit for these specialized treatment protocols. If they are forced into a treatment program, it is one that is designed for other behavioral problems. (Chapin Hall Center for Children, 2005).

Consistent use of a risk assessment tool is important. Eighty percent of juveniles who enter the system do not require immediate intervention. Evaluating a system based on variables that assess treatment interventions as effective measures of predicting future recidivism will miss the overwhelming majority of juveniles who do not require treatment (Chapin Hall Center for Children, 2005).

Inter-rater reliability is important in proving validity. Static risk factors have proven to be the most consistently rated when tested across multiple raters, and dynamic risk factors are more subjective. The more of both of these factors that are used in a scale, the greater potential there is for errors to occur in risk classification. By attempting to integrate risk factors and needs assessments into one tool, it becomes harder to prove inter-rater reliability (Vincent et al., 2012). Risk assessment tools such as the LSI-R and YASI are heavy with dynamic variables.

Internal consistency is sometimes used as a measure of system reliability. Internal consistency is used to measure the correlation between responses given by a single subject at one time; this test is often used in psychology when someone wants to test a construct such as depression or the effectiveness of treatment since there are no objective tests for these constructs. Recidivism is an observable outcome, that is, it is something that can be measured. The strongest risk assessment factors are those that are independent, but positively related to the outcome measure that is being used (Vincent et al., 2012).

**Reducing disenfranchisement of minorities in the juvenile justice system.**

With most risk assessment models, decisions are made once. A decision is made in an isolated occurrence rather than through a process of decision-making. Studies to date focus on single stages of decision-making in the juvenile justice system which discounts biases that may impact decisions at multiple steps throughout the court process (Leiber & Fields, 2014). A finding of no selection bias at disposition does not account for the cumulative effect of decisions that put minority youth at a disadvantage during different stages of the system (Leiber & Fields, 2014). For example, if an equal number of white juveniles and minority juveniles with similar charges and background receive similar outcomes at disposition, the conclusion would be there is no judicial selection bias. Looking at pretrial detention, though, race has been shown to have a direct effect. So although there is no apparent effect on disposition, more minorities are selected earlier on for pre-trial detention, and detention has been shown to be significantly associated with a harsher disposition for minorities (Leiber & Fields, 2014).

Leiber (2009) found that race, in addition to legal and extralegal variables, is predictive of pre-adjudication detention. During the intake phase, black juveniles who were detained were significantly more likely to be referred for further court proceedings. None of the black juveniles in his study participated in diversion. Pre-adjudication detention decreased the odds of diversion (as opposed to court referral) by 96%. Black juveniles were detained at an almost two-to-one ratio over similarly situated white juveniles (Leiber 2009).

Juvenile justice officials rely on their own perceptions of how delinquent behaviors are affected by legal, extralegal, and community variables. Juvenile intake officers rely on their spatial perceptions of communities that juveniles come from to create typologies (Rodriguez, 2007). The symbolic threat thesis contends that juvenile intake officials' negative perceptions

and stereotypes of minorities can inadvertently and disproportionately affect detention decisions for black youth (Leiber, 2009). Stereotypes such as that most black juveniles that enter the system are coming from dysfunctional, single-parent homes are undisciplined and prone to drug use can influence an intake officer's perceived need to protect the community from a dangerous juvenile (Leiber, 2009). Therefore, the more latitude juvenile intake officers are given to rely on their own judgments and beliefs, the more likely personal biases might inadvertently (or intentionally) influence their decisions.

### **Detention risk assessments during intake.**

The Annie E. Casey Foundation has funded research on the effects of implementing risk assessments during the intake phase of the juvenile justice process. The Casey Foundation's latest research project is the Juvenile Detention Alternatives Initiative (JDAI). They supply expert assistance and funding for implementation of risk assessments. Several of the test sites have moved the point-of-intake screening to the point of arrest. The state of New Mexico and Cook County, Illinois now use a phone-in system for risk assessment screening which limits the time and cost of transporting and processing juveniles to high-risk cases. San Francisco has opened an assessment/ referral center where juveniles are taken to be risk scored and then interviewed for appropriate community-based interventions by social services housed in the same complex (Steinhart, 2006).

Early validation studies of the use of risk assessment instruments at the point of intake have shown very promising results. Validation tests in San Francisco, CA and Broward County, FL in 1989-90 showed success rates of over 94% with success being defined as no new arrests and no failures to appear in court (Steinhart, 2006).

In 1992, the Casey Foundation rolled out the JDAI. It has been implemented in 150 different jurisdictions across 32 states (Maggard, 2013). An example of a JDAI risk assessment tool that is currently in use is included in Appendix B. A validation study showed that in Virginia, only 6.2% of youth released pre-trial based on their JDAI score committed a new offense and only 1.3% failed to appear for their hearing. (Maggard, 2013). Steinhart (2006) recommended that a failure rate of five percent would be considered a good performance, and less than 10 percent is passing.

JDAI sites have seen smaller detention populations, improved public safety, cost savings, and a decrease in disproportionate minority contact (DMC), a measure instituted by the Juvenile Justice Delinquency Act (Maggard, 2013). By 2009, 24 of the JDAI sites had reduced their average daily population by over 50%, with an additional 70 sites seeing at least a 35% decrease (Maggard, 2013).

### **Conclusion**

The identification of juveniles as treatable and low risk can prevent them from being exposed to higher risk juveniles (Hunter et al., 2004). Pre-adjudication detention for juveniles has been found to have iatrogenic effects, essentially increasing a juvenile's criminal capital and interrupting social capital accumulation (Aizer & Doyle, 2013). Juveniles are removed from their social support systems and sent to live with other, more seriously delinquent youth. This increases the likelihood of their participation in future delinquent behavior (Hunter et al., 2004).

The use of empirically validated risk assessment tools can create consistency and integrity within the juvenile justice system. The factors used to inform decision-making at different points in the system must have known relationships with the prediction of recidivism.

Risk assessments lead to more valid placement and treatment decisions and address risk level and needs for each juvenile (Guy et al., 2015).

A good risk assessment tool will be designed not so much to answer the “why” of juvenile offending, but the “who”; that is, who is at the highest risk level of re-offending. And those at the highest risk of re-offense should then be the focus of limited resources including those for community-based treatment. The ultimate goal being that dollars can be allocated to effective treatment programs instead of to detention and incarceration costs (NCCD, 2015).

The use of numerous risk factors to provide a generalizable risk assessment tool has resulted in the skewing of risk categories that are claimed to be more predictive of recidivism. Combining criminogenic and behavioral risk factors to produce an all-encompassing risk assessment tool is creating a “black box” tool in which inner workings become proprietary, taking away the ability of administrators to adjust scales in response to community level characteristics. This waters down the predictive ability of specific risk factors that have been shown to have a relationship with recidivism, making it difficult to prove the validity of any one factor.

More studies need to be conducted that show how the use of fewer factors and separation of criminological and behavioral indices provide a better decision-making model for predicting recidivism. In addition, more studies need to be done on how to create administrative overrides for decision points generated by risk assessment tools in order to help protect the community from juveniles that are an obvious, increased risk but do not score high on a particular assessment.

Vincent et al. (2012) suggested that by separating risk and needs into separate indices, better results can be obtained for all interested parties. More research should be conducted as to

how this separating of indices can provide better predictive capabilities to determine which juveniles are in need of immediate detention and which require treatment. For juveniles who externalize maladaptive behavior, the separation of indices could provide a better picture of their risk profile in both categories, without an intake official having to determine the actual underlying pathology of their behavioral health needs. System effectiveness in relation to juveniles with behavioral health problems can be measured by the success rate of clinical treatment plans (Chapin Hall Center for Children, 2005).

The majority of juvenile offenders do not need behavioral health services, so there are no treatment plans in place by which to measure. It would be very difficult, cumbersome, and time-consuming for individual behavioral assessments to be conducted on every juvenile that enters the system. Triage-style assessments can be conducted, though, using screening tools that can identify if a juvenile's behavioral health needs require immediate intervention (Guy et al., 2015).

Vincent et al., (2012) also found that the predictive ability for classification of low, medium, and high-risk offenders was improved by adjusting scales for jurisdiction-specific factors. Substantial evidence has found that brief risk assessments, such as the pre-screen in the YASI, have stronger relationships to recidivism than do full assessment tools.

Despite numerous studies, the problem of overrepresentation of minority populations within the juvenile justice system seems to be endemic and persistent. Evidence-based actuarial risk assessment tools help to create transparency in decision making that affects a juvenile's pathway into or out of detention. Properly implemented risk assessment tools have been shown to identify variables that are empirically valid for the reduction of recidivism. A diverse leadership group can guide the decision-making process through the collection of, and acting upon, objective data that is consistently gathered. The data that is collected can also be used to

track any trends that could indicate bias, as well as make informed policy decisions (NCCD, 2015).

Implementation of a process that integrates the use of risk assessments for pre-trial detainees must have some way to evaluate the system in which it operates. More research should be done to evaluate the effectiveness of reducing recidivism both pre- and post-implementation of a risk assessment tool. This may assist with determining the impact of risk assessment tools on specific treatment and non-treatment groups (Chapin Hall Center for Children, 2005).

Conducting unstructured risk assessments using disparate data is no less prone to bias than the subjective judgment of each individual intake worker. (Guy et al. 2015). Researchers need to look at identifying risk assessment variables that can identify a juvenile's need for a separate behavioral assessment, rather than implementing an unnecessarily complicated risk assessment tool that attempts to integrate behavioral and criminal needs.

If the ultimate goal of the juvenile justice system is to help a juvenile become a well-adjusted, productive member of society, some measure of a juvenile's ability to thrive in their environment is needed. Responsivity is a key variable for measuring resiliency, or, a measure of how likely it is a juvenile will be able to return to their community and thrive. Resiliency is another important factor (Chapin Hall Center for Children, 2005). Researchers should look as to whether resiliency can be utilized as a control variable that is measured before and after any treatments or any level of detention has been applied. This can help to assess the overall impact of the juvenile justice system may have on an individual's chances of recidivating.

Past juvenile justice systems espoused a punitive or deterrence model (Vincent et al., 2012). Newer models of juvenile justice systems integrate data-driven decision-making to promote both public safety and the future potential of youth. Evidence-based approaches to

juvenile justice promote fairness, ensuring the safety of the juvenile and the public, while at the same time acknowledging the unique developmental differences between juveniles and adults. Future potential and personal responsibility are key parts of an integrated framework that supports juvenile development (Vincent et al., 2012).

Recent studies have shown that most juveniles tend to be able to thrive and develop even in the presence of numerous environmental stressors (Chapin Hall Center for Children, 2005). This calls into question some of the key tenants of General Strain Theory. A risk assessment tool that utilizes theory-based risk factors that are weighted toward community variables will run into serious issues with skewing of their data if they do not know how to change risk variables in order to account for the most recent research studies (Baird et al., 2013). Administrators must be aware of which risk factors are being utilized in risk assessment tools and how they have been tested to prove validity and reliability. Adjustments to risk assessments need to be made in accordance with changes in criminological theories.

Returning a juvenile to a community that lacks the resources needed for a juvenile not to recidivate would be problematic to measuring the recidivism rate of non-violent offenders that do not receive behavioral health treatment. Every juvenile that enters the system is not simply a delinquent that needs to be acted upon, but a self-directed, independent individual with specialized needs that can be developed to increase resiliency (Chapin Hall Center for Children, 2005).

Communities need well-adjusted youth in order to thrive, though. A juvenile justice system that measures success by meeting juvenile justice system goals alone (e.g. the number of dollars spent on incarceration, probation staff man hours, etc.) discounts the effect they have on human capital within a community. These systems base reduction of recidivism by addressing a

juveniles' individual problems and deficits, and is subject to the availability of resources within the community (Chapin Hall Center for Children, 2005)

Juvenile justice systems need to focus on treatment-related outcomes. By focusing on treatment programs that can increase a juvenile offenders level of resiliency, the system can focus on strengths and assets instead of problems and deficits. Positive youth development emphasizes the development of juvenile skill building and competencies that will allow them to take on new roles as they transition to adulthood. The number of positive interactions between juveniles and adults can be measured and viewed through the lens of social skills development. Teaching juveniles to develop a pro-social, positive environment can help to increase resiliency and reduce recidivism even when juveniles are returned to a community that is lacking in available resources.

Risk assessments that are simple, easy to understand, and placed relatively close to the point of introduction to the juvenile justice system are an integral part of juvenile justice reform. More research should be done as to the development of a risk assessment tool that measures a small number of empirically validated risk factors that have been shown to reduce recidivism.

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## Appendix A

Table 1. Minimum transfer age specified in statute, 2011

<i>State</i>	<i>None specified</i>	<i>Age 10</i>	<i>Age 12</i>	<i>Age 13</i>	<i>Age 14</i>	<i>Age 15</i>
Alabama					X	
Alaska	X					
Arizona	X					
Arkansas					X	
California					X	
Colorado			X			
Connecticut					X	
Delaware	X					
District of Columbia	X					
Florida	X					
Georgia	X					
Hawaii	X					
Idaho	X					
Illinois				X		
Indiana						
Iowa					X	
Kansas		X				
Kentucky					X	
Louisiana					X	
Maine	X					
Maryland	X					
Massachusetts					X	
Michigan					X	
Minnesota					X	
Mississippi				X		
Missouri			X			
Montana			X			
Nebraska	X					
Nevada	X					
New Hampshire				X		
New Jersey					X	
New Mexico						X
New York				X		
North Carolina				X		
North Dakota					X	
Ohio					X	
Oklahoma	X					
Oregon	X					
Pennsylvania	X					
Rhode Island	X					
South Carolina	X					
South Dakota	X					
Tennessee	X					
Texas					X	

Utah					X	
Vermont		X				
Virginia					X	
Washington	X					
West Virginia	X					
Wisconsin		X				
Wyoming					X	
<b>Total</b>	22	3	3	6	16	1

*Note:* This table is from the Office of Juvenile Justice and Delinquency Prevention’s Statistical Briefing Book (2012). Retrieved from [http://www.ojjdp.gov/ojstabb/structure\\_process/qa04105.asp?qaDate=2011](http://www.ojjdp.gov/ojstabb/structure_process/qa04105.asp?qaDate=2011)

### Appendix B

FIGURE 1

**SANTA CLARA COUNTY (CA) JUVENILE PROBATION DEPARTMENT  
DETENTION RISK ASSESSMENT INSTRUMENT**

Name: \_\_\_\_\_ File No. \_\_\_\_\_ DOB \_\_\_\_\_

Admit Date: \_\_\_\_\_ Admit time: \_\_\_\_\_ Ethnicity \_\_\_\_\_ Sex : M F

Primary referral offense: \_\_\_\_\_

**A. OFFENSE (Score only the most serious instant offense) DESCRIBE & CITE CODE SEC. IF KNOWN**

- WIC Section 707 (b) offenses ..... 10
- Sale of narcotics/ drugs ..... 10
- Possession of firearm ..... 10
- Assaultive felonies against persons including sex felonies ..... 7
- Domestic violence offenses (see guidelines)..... 7
- Possession of narcotics/drugs for sale ..... 6
- Felony property crimes including auto ..... 5
- Felony possession of narcotics/drugs ..... 3
- Other felony not covered above ..... 4
- Misdemeanors excluding no-time misdemeanors ..... 3
- Infractions, no-time misdemeanors or non-criminal probation violations ..... 0

A. \_\_\_\_ OFFENSE POINTS

**B. PRIOR OFFENSE HISTORY (Score only one of the following)**

- Felony petition or serious person misdemeanor petition pending ..... 6
- Current felony wardship..... 5
- Prior felony adjudication within the last 36 months ..... 3
- Documented escape from secure custody, last 18 months..... 5
- Documented court FTA within the last 12 months..... 1

B. \_\_\_\_ HISTORY POINTS

**C. AGGRAVATING FACTORS (Add all that apply, up to 3 points)**

- Multiple offenses are alleged for this referral ..... 1
- Crime or behavior alleged was particularly severe or violent ..... 1
- Confirmed runaway history or minor has no known community ties ..... 1
- Minor is under the influence of drugs/alcohol at arrest ..... 1

C. \_\_\_\_ AGGRAVATION POINTS

**D. MITIGATING FACTORS (Subtract all that apply, up to 3 points)**

- Involvement in offense was remote, indirect or otherwise mitigated..... 1
- Parent or relative is able to assume immediate responsibility for minor..... 1
- No arrests or citations within the last year ..... 1
- Minor demonstrates stability in school or employment ..... 1

D. \_\_\_\_ MITIGATION POINTS

TOTAL RISK SCORE (A + B + C – D)      →

**DECISION SCALE: 0-6 RELEASE, 7-9 RESTRICTED RELEASE, 10+ DETAIN**

**SPECIAL DETENTION CASES (Check as applicable)**

- \_\_\_\_\_ WIC 625.3 mandatory detention (14 or older charged w/ 707 (b) or felony with use of firearm)
- \_\_\_\_\_ Bench or arrest warrant, minor not authorized for release by probation officer
- \_\_\_\_\_ Placement return or failure—non-secure option not available
- \_\_\_\_\_ Pre-disposition community release (CRP) or electronic monitoring (EM) failure
- \_\_\_\_\_ Inter-county transfer, minor not authorized for release by probation officer

**DETENTION OVERRIDE**

- \_\_\_\_\_ Parent, guardian or responsible relative cannot be located
- \_\_\_\_\_ Parent, guardian or responsible relative refuses to take custody of minor
- \_\_\_\_\_ Youth refuses to return home
- \_\_\_\_\_ Other. Minor is detained because \_\_\_\_\_

**RELEASE OVERRIDE**

\_\_\_\_\_ The minor is released because: \_\_\_\_\_

**OVERRIDE APPROVAL (Supervisor signature required):** Approved by: \_\_\_\_\_ Supervisor

**RISK INSTRUMENT COMPLETED BY:** \_\_\_\_\_, Probation Officer

Note: Figure from Annie E. Casey Foundation. (2006). *Juvenile detention risk assessment: A practice guide to juvenile detention reform*. Retrieved from <http://www.aecf.org/resources/a-practice-guide-to-juvenile-detention-reform-1/>