

THE JUVENILE DRUG COURT DECISION MAKING PROCESS: AN ANALYSIS
OF OPERATING STYLES, OUTCOME DECISIONS AND DISPARITIES

By

SCHANNAE L. LUCAS

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To the Faculty of Washington State University

The members of the Committee appointed to examine the dissertation of
SCHANNAE L. LUCAS find it satisfactory and recommend that it be accepted.

Chair

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ABSTRACT

By SCHANNAE L. LUCAS, Ph.D.
Washington State University
May 2008

Chair: Faith Lutze

The rapid expansion of drug courts throughout the United States ultimately has introduced a new approach to justice. They represent a change from the traditional juvenile court by having a team of professionals making decisions that are theoretic in nature with the goal of reducing the problems associated with juvenile crime and adolescent drug abuse. This study attempts to enhance the understanding of the effectiveness of a juvenile drug court by examining the decision-making process of a juvenile drug court team in the Northwest region of the United States. A process evaluation was conducted during its first year of implementation. Behavioral characteristics as they pertain to how the courtroom workgroup's team operated was observed and recorded, along with the team's outcome decisions to sanction, treat, or reward program participants.

This study found that this juvenile drug court's approach to justice is normative, and one in which the courtroom workgroup interacted in a non-adversarial, collaborative and cooperative manner. Formality, Activeness, Reasonableness, and Talkativeness were the operational styles that had a significant influence on how the team sanctioned, treated, and rewarded the participants. This study also examined the demographic variables of

gender, race and age of the JDC participants related to the outcome decisions.

Statistically significant relationships were found between sanctions and race and sanctions and age. Non-whites were more likely to be sanctioned at the highest levels when sanctions were administered, and as the participants increased in age, they were less likely to be sanctioned. Policy implications and future research related to these findings are discussed.

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Dedication

To my Grandparents Benny and Mary Lucas and B.W. and Ora Marshall
who instilled a vision.

To my parents Sylvester and Corine Lucas
who laid the foundation and nourished my dreams.

And to my husband Greg Johnson
who inspires me every single day.

CHAPTER 1

INTRODUCTION

Drug courts are one of the newest and fastest growing criminal justice innovations aimed at crime reduction. The emergence of drug courts comes at a time when our justice system is continually experiencing high rates of crime and recidivism among adult and juvenile offenders with substance abuse problems (Goldkamp, 1994; National Council of Juvenile and Family Court Judges and National Drug Court Institute, 2003). Since the mid-1980's the impact of the "War on Drugs" has resulted in an outpouring of harsh drug policies and sanctions that are producing lasting ripple effects on the entire criminal justice system. This has led to an unprecedented number of arrests, sentences, and imprisonments for drug-related offenders (National Council of Juvenile and Family Court Judges and National Drug Court Institute, 2003). In an effort to cope with this systemic change, major actors in the criminal justice system have directed their attention to combining social control with treatment in the establishment of drug courts. The first drug court was initiated in Dade County, Florida in 1989, the ensuing drug court movement has experienced rapid expansion across the country ever since.

Drug courts represent a type of specialized court case management process resulting from frustrations encountered in dealing with the traditional means of managing drug offenders. "The drug caseload raised challenges to most criminal justice agencies, including police, prosecutors, defense systems, jails, and prisons, exacerbating already difficult problems of correctional overcrowding and court backlogs, and raising public safety concerns about drug-crime violence" (Goldkamp & Weiland, 1993, p. 1). Drug courts allowed the court system to address crime control problems in the drug crime area

from a public health promotion perspective, which has come to be known as *therapeutic jurisprudence*. This approach to justice has become an increasingly popular response to the growing number of adult and juvenile offenders with drug abuse problems who have traditionally cycled in and out of the system while receiving little to no attention to their substance abuse problem (Kondo, 2001; Rosenthal, 2002).

Despite the positive popular response to the drug court movement widely regarded as an innovative way to address the problems of crime and drug abuse, the scholarly research and systematic evaluations associated with the drug court phenomenon have not progressed at the same accelerated pace. Research conducted on adult drug courts has suggested some promise with respect to the reduction of recidivism, but as it relates to recidivism rates within juvenile drug courts the research literature remains limited (Belenko, 2001). Studies that examine actual processes of the juvenile drug court are even more sparse (see Butts & Roman, 2004), and none have been published on the potential disparities of disproportionate minority contact that may occur throughout the juvenile drug court decision-making process. This study builds upon prior drug court research by examining the juvenile drug courtroom workgroup's decision-making process as it relates to effectiveness, efficiency, and potential disparities in managing juvenile drug court participants. Before any meaningful analysis of the juvenile drug court decision-making process can occur, however, it is necessary to understand the history of juvenile delinquency management in the United States and to understand the contemporary juvenile justice trends in order to identify pertinent issues in conjunction with the political, social, and legal circumstances within which juvenile drug courts have emerged across the United States.

First, this dissertation provides an historical account of the treatment and handling of delinquent youth in the United States. The varying correctional models that reflected different philosophical influences with regard to the proper treatment and management of delinquent youth are discussed. There are six distinct periods in history that explore the treatment of delinquent youth, including an account of the differential treatment received by youth based on class and racial background. There is clear evidence of great change in how the juvenile justice system has operated over time. The state of juvenile courts, as well as the purpose and functions served by them, are discussed at some length. There is still widespread debate regarding the role of the juvenile court, ranging from the *parens patriae* philosophy to the progressive criminalization of juveniles in an increasingly adversarial criminal justice system.

Contemporary trends in the justice system include a dynamic increase in punitive sanctions, the expanding web of drug laws and policies, and the overrepresentation and inequitable treatment of minorities. The war on drugs is discussed at length since it influences all of the above trends and initiated the need for drug courts. Mandatory sentencing at the state and federal level is at the forefront of the political agenda. One adverse effect of many of these punitive laws is that they result in the overrepresentation of minorities at different points in both the adult and juvenile justice systems. When studying drug courts it is important to consider the connection between crime, race, and drug laws, and explore the disparities that have arisen as a consequence of our national war on drugs. Based on the long history of racial disparities in the American criminal justice system, it is essential to examine the potential influences drug courts may have on

the treatment of racial minorities and girls in the juvenile justice system as it operates today.

Importantly, this dissertation examines the process of implementing this new approach in dealing with drug offenders through collaborative efforts bringing together different criminal justice entities. The development of adult and juvenile drug court theories and approaches to achieve justice within the drug court setting is explored, and existing research and evaluation studies are discussed. As juvenile drug courts emerged, it is clear that the circumstances and needs of youth and their families are quite different from those of adult criminal offenders. Juvenile courts have a significant advantage over adult courts in applying therapeutic jurisprudence theory because the original orientation of juvenile courts was clearly focused on rehabilitation (Gilbert, Grimm, & Parnham, 2001). Juvenile drug courts aim to promote greater accountability in the justice system, including enhancing responsiveness to youth and their families affected by substance abuse and its related problems. It is still unknown, however, how the courtroom workgroup functions within the juvenile drug court setting to affect the lives of children who are involved in substance abuse.

To answer the question of how the courtroom workgroup functions within a juvenile drug court, a process evaluation was conducted that examined the interactions and decision-making of drug court team members during a one-year period of observation in a juvenile drug court. This study suggests that this JDC's approach to justice is normative, one in which the courtroom workgroup interacted in a non-adversarial, collaborative and cooperative manner. The JDC operating styles that had the greatest influences on when a sanction and treatment was allocated to a participant was

reasonableness, talkativeness, and activeness. The operating style of formality had the greatest influence on when a reward was given. This study also found the age of the drug court participant has an influence on when the JDC team sanctioned a participant.

CHAPTER 2

THE JUVNILE JUSTICE SYSTEM

Historically, attitudes toward delinquent youth in the United States reveal clear patterns of fluctuation between protection and punishment. This oscillation is exhibited throughout the juvenile justice system, and is present within police, court, and correctional practices alike. Juvenile courts have attempted to narrow this fluctuation within the operations of juvenile drug courts. Juvenile drug courts have endeavored to merge many of the traditional and modern forms of sanctioning juveniles into a cohesive process reflecting a collaborative framework for case management. To more fully understand the conceptual foundations of the juvenile drug court process it is helpful to look at the models, structures, and institutions of the juvenile justice system as a whole. This chapter lays the groundwork for understanding the operations of the juvenile justice system through a review of the philosophical, social, and political influences at work on the juvenile justice system, and explores the historical trends that have shaped the U.S. juvenile justice system over time.

This chapter first describes the traditional correctional models developed in American juvenile justice early on in our history. These models sought to explain why delinquent behavior occurs, and to specify the best ways to deal with it. Many of the changes occurring in these models over time are explained by the varying political, social, and legal contextual factors that arose as American society evolved into its current form. The basic correctional models discernible in the literature are: (1) the medical model; (2) the adjustment model; (3) the reintegration model; (4) the justice model; (5) the balance and restorative model; and (6) the crime control model. Next, this chapter

gives a historical overview of the juvenile justice system. It focuses on how juvenile offenders have been treated, handled, and sanctioned during different periods of time. Each period also takes into account different patterns of delinquency and the treatment of Black youth. The history of handling juvenile delinquents can be divided usefully into six distinct periods: (1) the colonial period; (2) the refuge period; (3) the Progressive Era and the juvenile courts period; (4) the juvenile rights period; (5) the reform agenda period of the late 1970's; and (6) the social control and crime control period (Bartollas, 2003).

Finally, after reflecting on the different juvenile justice periods, the focus of this chapter turns toward the contemporary operation of the juvenile courts. The general state of juvenile courts today is discussed, and the issues underlying the widespread debate about the basic function and purpose of juvenile courts is examined. The chapter ends by looking at how the increasing legalization of the juvenile court process is gradually moving away from the *parens patriae* philosophy and towards an adversarial system perspective.

Traditional Correctional Models for Juvenile Offenders

Several traditional models of deviance among youth in the juvenile justice system have shaped and influenced the way noncompliant juveniles have been treated and managed in the United States. These models are used to explain delinquent behavior, and to suggest ways of correcting delinquency. They also contain implications for the best ways of controlling and sanctioning this population in general. The basic correctional models are: (1) the Medical Model; (2) the Adjustment Model; (3) the Reintegration model; (4) the Justice Model; (5) the Balance and Restorative Justice Model; and (6) the Crime Control Model (Bartollas, 2003). Each of these models is primarily grounded in

one of two philosophical ideas reflecting other rehabilitative or punitive predispositions, but at times the two predispositions influence one another. The medical model, the adjustment model, and the reintegration model are primarily manifestations of the rehabilitative philosophy. “The goal of the rehabilitative philosophy is to change an offender’s character, attitudes, and behavior patterns to diminish his or her propensities for youth crime” (Von Hirsh, 1976). The justice model and the crime control model are both the product of a punitive philosophy that places an emphasis on punishment and security. The balance and restorative model falls somewhere in between the rehabilitative and punitive philosophies. As the juvenile justice system’s political, social, and ideological climate has fluctuated over time, support for particular models has increased while support for others has decreased; in some cases ideas drawn from one or two models have been merged with one another and advocates of the synthesized model gained support in the process.

The *Medical Model* was one of the first treatment models and began to receive serious attention in the juvenile justice area in the 1930’s. This rehabilitative approach first became popular within adult correctional circles in the 1870’s (Mitford, 1974). The medical model reflects the assumption that delinquency can be treated as if a juvenile offender suffered from an illness or disease. It prescribes that the causes of delinquency ultimately could be effectively identified, isolated, treated and eventually cured (McAnany, Thomson, & Fogel, 1984). Its advocates argued that the problems of juvenile delinquency are not solved through punishment, and that punishment should be avoided if possible. Punishment only perpetuates negative self-images that a troubled youth already has, and generally only serves to increase alienation (Bartollas, 2003). This

belief was quite common in correctional circles, but it was not until the 1930's that serious attempts were made to implement the medical model into corrections (Clear & Cole, 2000).

The *Adjustment Model* was developed during the 1960's and 1970's as a number of proponents of this model became progressively dissatisfied with the medical model (Bartollas, 2003). The adjustment model emphasizes the need to incorporate intensive psychological treatment (counseling) in dealing with juveniles. It was argued that treatment was needed to help deal with the underlying problems that lead to delinquency in the first place. However, the proponents of the adjustment model recognized that the youth had some important degree of responsibility to change their own behavior. Advocates in support of the adjustment model believed that juveniles could not change the past, but were capable of demonstrating responsible behavior in the future (Bartollas, 2003).

Proponents of the *Reintegration Model* argue that it is the responsibility of the broader community to help reintegrate law violators back into the community and society at large (Hahn, 1975). The reintegration model rests on the assumption that youthful offenders have been either alienated from their community or estranged from broader society. It is reasoned that since delinquency problems began in the community setting, it must be resolved in the community setting. It was argued that the majority of juvenile offenders should be placed in community-based correction programs. As for the hardcore offender that must be institutionalized, it was argued that re-entry programs and services that focus on restoring family, employment, and education are essential to their recovery prior to being released (Krisberg & Austin, 1993). In the early 1970's, support

for this model led to the establishment of a variety of community-based programs such as diversion to community service activities and treatment programs and the development of a variety of residential and day treatment centers for drug offenders (McCarthy, McCarthy, & Leone, 2001).

Advocates for the *Justice Model* contend that punishment should be the basic purpose of the juvenile justice system (Fogel & Hudson, 1981). Punishment is not intended to achieve either social benefit or rehabilitation. It is argued that the only proper reason for punishment is that the offender deserves it. During the mid-to-late 1970's the idea that retribution was the sole proper justification required for criminal sanctions gained considerable momentum. This model falls in line with the concept of "just desserts," where offenders are assumed to be free-willed and responsible human beings and should be punished in accord with the seriousness of their offense if they violate the law. The justice model supports fairness in treatment and due process throughout the juvenile justice system. Proponents of this model argue that decisions for the juvenile offender should not be based on their individual needs, but rather on the penalties they deserve to receive as a consequence of their acts. This model emphasizes the point that the punishment method given to the offender should fit the seriousness of the offense regardless of the needs of the offender (Fogel, 1975; Von Hirsh, 1976).

The *Balance and Restorative Model* is a relatively new approach to the way American society thinks about crime. This model encompasses the restorative justice, community justice, and reintegrative shaming approaches. With a little more than a decade of research and practical experience behind it, the balance and restorative model represents an integrated model that seeks to reconcile the interests of the victim, offender,

and community through community-based programs and actively supported supervision practices (Bazemore & Umbreit, 1994). This approach to criminal justice operations comes from the rise of local jurisdictions' desires to develop more proactive responses and more broadly collective strategies to crime control and criminal justice processes (Clear, 1994). Its central concerns are “restoring” the harm done to the victim and to the community after a crime has been committed (Van Ness, 1990).

The restorative and community justice approach functions under the premise that when a crime is committed against an individual, it is also committed against the community (Van Ness, 1990). It's not just the state and the victim who have an opportunity to play a key role in the justice process. This balance and restorative approach provides an opportunity for the offender to take responsibility and become accountable for the harm they have caused, as well as reinforce community protections.

Reintegrative shaming is another theory that embodies many of the balance and restorative principles, but begins to introduce some ideas of the crime control model in addition. Reintegrative shaming suggests that the key to crime control is the development of cultural commitments to shaming in a way that is reintegrative (Braithwaite, 1989). Braithwaite argues that when interdependent communities are able to shame an offender, a sense of disgrace, dishonor, or regret is generated, and in most cases the individual has an opportunity to make proper amends and reintegrate back into the community. Different theories or approaches have fluctuated in popularity during this time, but community commitment and active collaboration among criminal justice agencies is important when striving for a balanced outcome that seeks simultaneous justice for the offender, the victim, and the community.

As the political climate changed in a conservative direction in the 1970's and 1980's, the public became increasingly intolerant of serious youth crime and progressively more receptive to the *Crime Control Model*. An important focus in the crime control model is the repression of criminal conduct. Punishment is emphasized as a remedy for juvenile delinquency in which ultimately the society is protected and crime is deterred. The crime control model is grounded in the belief that the first priority of justice should be the protection of life and property of the innocent (Packer, 1968). Deterrence is achieved when penalties are harsh and imposed quickly and with certainty, but hindered when they are harsh and their imposition is long-delayed with pre-trial hearings and other such criminal justice process delays.

Juvenile delinquency had been addressed in a number of ways over the course of American history. In comparing these models, it is clear that rehabilitative models are primarily concerned with juvenile delinquents receiving treatment rather than being institutionalized. The crime control model focuses on punishment, and reflects the belief that non-compliant juveniles must pay for their crimes. The punishment handed out is for the purpose of offender deterrence and for society's protection. The justice model argues that juveniles should be punished according to the severity of their crimes, but that fairness and procedural safeguarding in the sanctioning process are essential. The balance and restorative model represents an accountability model that recognizes the needs of victims, the need for protecting society, and the need for restoring the offender. Each of these models not only has led the direction for reform, but they also have been the basis for change in the juvenile justice system at different periods in history. The next section illustrates how these models overlap with the history of juvenile justice

reform. It provides an image of the social and political context within which these correctional models operate at different points in American history.

The History of Juveniles in the US Justice System

How juvenile delinquents have been treated, managed, and sanctioned has changed over time as the American juvenile justice system took shape. These changes can be accounted for by varying political, social, and legal contexts at play throughout different periods in American history. The history of handling juvenile delinquents can be divided usefully into six distinct periods: the colonial period; the refuge period; the juvenile courts period; the juvenile rights period; the reform agenda period of the late 1970's; and the social control and crime control period of more recent decades. Each time period differed in the way law-violating juveniles have been dealt with over time in our country.

Most communities during the early years of our nation's history treated youthful law violators and adult offenders in largely the same way (Bartollas, 2003; Clear & Cole, 2000). Children and adults were subject to the same rules and laws, treated under the same legal processes, and when convicted, they generally suffered the same penalties (Bartollas, 2003; Drowns & Hess, 2000). A separate juvenile justice system was created for a number of complex and sometimes conflicting reasons. Some people felt the punishment of juveniles in the adult criminal justice system was too harsh; others thought the existing legal formalities in the criminal justice system were inappropriate for juvenile offenders; yet others wanted to save children from a life of crime and degradation (Champion, 1998). Despite these competing perspectives, they all played a

role in establishing a separate system for juveniles and provided momentum simultaneously to strengthen the American juvenile justice system as a whole.

Historically, gender and class inequalities in the treatment and handling of juvenile delinquents can be seen throughout different periods, but differences in the treatment of juvenile delinquents due to race are not as clear. Issues pertaining to girls and juvenile delinquency first emerged in the mid-1800's. However, gender issues in delinquency did not receive much attention during these years and only recently has interest in this area gained momentum. In particular, considerable attention was given to girls and delinquency during the 1970's when there was a focus on the deinstitutionalization of juvenile status offenders (Chesney-Lind & Shelden, 1998). Given this developing interest in criminal justice in gender issues, the treatment and handling of delinquent girls over time will be looked at in this chapter.

As pertaining to class, historical accounts do discuss the differential treatment of ethnic juveniles such as Irish, German, and European immigrants and different religious affiliations in the context of class differences (Bernard, 1992). However, early historical accounts of the differential treatment of juveniles based on race or ethnicity has not been discussed thoroughly in the juvenile justice literature and is not well documented. Only sparse records pertaining to the court hearings of Black juveniles appear in the 1900's (Gupta, 2001; Walker, Spohn & Delone, 2004). Only recently have Hispanic or Latino juveniles been identified as an ethnic group of interest in the criminal justice literature. Historically, and even still in many instances, Hispanic juvenile delinquents were grouped in to the category of White (see Walker, 1998). We do know that minorities in the United States have a long history of being plagued by racial oppression

and institutionalized discrimination (Joseph, 1995). Not until the mid-1960's did major changes for better legal statutes and social practices for Black Americans occur. This observation raises the important question: Is the treatment of juveniles throughout U.S. history the exclusive history of White juveniles, or can it be generalized to include Black and Hispanic juveniles as well? A review of race-based differences and a discussion of the history of the treatment of Black delinquent youth in the U.S. both suggest that racial minorities, girls and the poor have been treated differently by the juvenile justice system (Tonry, 1995; Walker et al., 2004)

Colonial Period (1636-1823)

The history of juvenile justice in the United States began in the colonial period (Bartollas, 2003). During this time, the family was the cornerstone of the community and delinquent youth, or youth who broke the law, usually were sent back to their family for appropriate punishment. Colonists believed that the family was the primary means of discipline and social control over children (Rothman, 1971). Those youth who continued on the path of disobedience or non-law-abiding activities often were returned to local community officials such as town fathers, magistrates, sheriffs, and watchmen. When sent to community officials, they were subject to forms of corporal punishment, such as public whippings, dunkings, the stocks, and in some extreme cases, capital punishment (Bartollas, 2003; Champion, 1998). Children who were convicted of crimes were typically treated as adults with respect to the sanction received. There was no separate system of justice for juveniles. All juveniles over the age of seven years were subject to trials and punishment as an adult if accused of a serious crime (Rothman, 1971). During

this time, jails were the only penal institutions, and essentially were used both for prisoners awaiting trial and for confinement as a form of punishment.

During the colonial period the treatment of Black youth was not very clearly documented. During this time Blacks were brought to this country in great numbers involuntarily as slave labor, and they lived primarily on plantations. Blacks in servitude were considered to be property, and they were frequently subjected to unthinkable inhumane treatment (Christianson, 1998). From its conception, the institution of slavery was based on a dual system of justice: one for Blacks and one for Whites. The lack of legal rights for Blacks was evident in laws that prohibited voting, the ownership of property, or the signing of contracts (Bennett, 1993). The enforcement of laws was left to the slave masters rather than the family or community officers. “Justice” for slaves who violated these restrictive laws often included brutal forms of punishment such as castration, flogging, mutilation and even executions (Joseph, 1995, p. 19). Abused slaves had little, if any, legal remedy against this kind of systematic cruelty.

Specific accounts of the treatment of delinquent girls during the colonial period are not discussed very often in the historical literature. We do know, however, that during this time women and men subscribed to strict gender roles guided by patriarchy (Walby, 1990). Patriarchy is a system of social structures and practices in which men dominate, oppress, and exploit women. It was believed that women should possess character traits that were pure, morally sound, and domestically inclined, and women who fell out of these subscribed roles were highly frowned upon, often stigmatized and labeled as highly undesirable (Chesney-Lind & Shelden, 1998). Some institutions treated women different from men by strictly enforcing the traditional role of a woman, resulting

in either more lenient or harsher treatment. However, Rafter notes that in the “pre-penitentiary era, there were no marked differences in the handling of the sexes” (Rafter, 1995, p. 4). The consequence and treatment of delinquent juvenile girls acting outside their socially prescribed role begins to come to light after the early 1800’s in the U.S.

During the early 1800’s the traditional forms of social control for juveniles began breaking down. This breakdown continued throughout the century as the social dynamics of American society changed in the United States. The Civil War, Reconstruction Period, and the Industrial Revolution were a few of the historical developments that changed the nature of social norms and constraints and ultimately placed tough new demands on American youth and their families (Krisberg & Austin, 1993). As the country became more industrialized, the social control that families exercised weakened considerably. During the Industrial Revolution, a large number of Black and White families began migrating to larger cities to work in the factories due to the new opportunities for employment stemming from the increased demand for labor (Conley, 1999). Children were put to work alongside of adults, and they were often exploited both on farms and in urban sweatshops. Child labor increased greatly for the next twenty years making up almost half of the cotton mill workforce (Krisberg, Onek, Jones, & Schwartz, 1993, p. 15). During this time there were also working parents who could not afford or find childcare, so their children were often left unsupervised and instructed to fend for themselves as best they could.

As a result of this lack of supervision, many children were idle, defined as vagrant, and some committed criminal acts such as theft or vandalism (Champion, 1998). The method of dealing with problem youth evolved from the treatment of criminally

active poor people (Rothman, 1971). The poor were perceived both as a threat to society and to be in need of societal help. The primary response in dealing with the poor was to provide them with some sort of occupational training. Society at this time was not able to do very much to help poor adults, but poor children were viewed as trainable. The key aspect to this training was the removal of the child from the bad influences of their inadequate parents (Drowns & Hess, 2000).

Poverty levels increased greatly for many American families during this time. The vast wave of people migrating to major cities from the county side and abroad introduced different classes of people, a wide range of cultural values, and different religious traditions to American cities. This combination of social changes subsequently weakened family social control and increased urban migration and poverty, as well as brought about fear of crime from established and well off Americans (Bartollas, 2003; Clear & Cole, 2000). Established Americans feared a growing “dangerous class” and sought ways to “control the wayward youth who epitomized this threat to social stability” (Krisberg et al., 1993). These initial expressions of middle class values and conservative philosophies gained considerable momentum over time and would continue to do so with the advent of the “Child Saver Movement” evident throughout this century (Platt, 1977).

The Refuge Period (1824-1898)

The child savers movement was one of the major reforms that swept the county around the mid-century. This movement began the fight to establish a separate juvenile justice system that would endeavor to rehabilitate young offenders rather than simply punish them from their transgression. It focused on issues related to child labor, the treatment of orphans and the imprisonment of young offenders in adult jails, workhouses,

and penitentiaries. The child saver's movement was driven by a collective effort from a variety of groups called "child savers" by the American press (Platt, 1969). The term child savers is used for the groups of reformers largely comprised of White, middle to upper class women who were community workers and civic leaders, criminal justice system professionals, and civic-minded citizens (Platt, 1969). This set of reformers believed that a child's environment could cause them to become "bad" and these troublesome youth were in need of being saved from the unsuitable environment and provided with suitable structure. This idea ultimately steered the development of houses of refuge and reform schools (Drowns & Hess, 2000).

The reformers viewed themselves as "altruistic humanitarians dedicated to rescuing those who were less fortunate and in need of social order" (Rothman, 1971, p. 225). Some of their primary concerns were purity, salvation, and protecting innocence. With these core values in mind, they looked for an alternate way to provide an orderly, disciplined environment similar to the "ideal" Puritan family of the distant past (Rothman, 1971, pp. 225-227). Platt criticized the work of child savers and argued that their efforts were neither entirely humanitarian nor libertarian. He argued that they viewed poor children as a threat to society in need of reform to conform to their values (Platt, 1969). There was the belief that the child savers were disinterested reformers influenced by middle class women's material values, using this movement to extend their housewife roles into public service to provide themselves with legitimate careers (Platt, 1969). Despite this criticism, the child saver reformers raised genuine concerns of social reform that were instrumental in changing state laws and public policy practices that

affected children and their families in important ways (Champion, 1998; Drowns & Hess, 2000).

Further change occurred as reformers became disillusioned with the family as the primary means for social control and became more concerned with the way in which delinquent children were treated (Rothman, 1971). The reformers' first proposed solution was the institution of the House of Refuge that reflected a new distinctive direction in juvenile justice. The first House of Refuge, which was opened in 1825 in New York City, represents the first attempt to provide a separate "correctional" facility for juveniles (Joseph, 1995). Parents and families no longer were the first line of control for their children. The family's authority had been superseded by the state, and wayward children were placed in facilities presumably better equipped to reform them. This facility was intended to care for children who were vagrant, thieves, runaways, neglected, or convicted of a criminal offense. Children were placed there by a court order, and usually stayed there until they reached the age of maturity.

One of the major problems with the houses of refuge was their similarity to the harsh conditions found in adult prisons (Fox, 1970). "They were run according to a strict military regimen in which corporal punishment (girls in one institution were "dunked" under water and boys were hung by their thumbs), solitary confinement, and 'silent system' were part of the routine" (Chesney-Lind & Shelden, 1998, p. 128). The Houses of Refuge came to be criticized for their harsh discipline, and over time they were forced to become more lenient and provide a more nurturing environment.

In an attempt to get away from the House of Refuge institution, the more progressive states began to develop institutions known as "reform schools." These

reformatories were intended to provide discipline in a somewhat “homelike” environment featuring an emphasis on basic education. In time, many of the disheartening concerns associated with the Houses of Refuge came to plague reformatories as well. In addition, some reformatories, such as the infamous Elmira Reformatory, accepted both juveniles and young adults, largely negating the benefits of a separate system for older offenders (Piaciotta, 1982).

The development of private foster homes as another alternative began in the mid-1800’s. Foster homes were designed with a family surrogate focus for neglected and delinquent children at all stages of the juvenile justice process (McCarthy, B. R., McCarthy, B., & Leone, M. C., 2001). Since foster homes were frequently located in more rural areas, they became increasingly popular during this time (Drowns & Hess, 2000). Cities were widely viewed as crime-infested and constituting a bad influence on the youthful, while the foster homes were perceived as being clean, safe, and crime-free. Despite the non-institutional setting of the foster homes, crime arose in these facilities as well. Critical issues arose among the foster parents, juvenile clients, and related personnel alike. Particularly concerning was the persistent abuse and neglect of the child entrusted to the care of foster parents witnessed in too many cases. By the mid-to late-1800’s it was clear that the several types of juvenile institutions were too often not as effective as hoped. Many youth were still being confined in adult jails or prisons that were often unsanitary, dangerous, degrading, overcrowded, and lacking in order. They were universally ill-equipped to care for children and delinquent youth, and needed far more capacity for the provision of humane care for law-violating youth (Bernard, 1992).

The child savers movement that arose during this period in American history has come under great criticism. Although the child savers movement was originally presented and was for a long time viewed as a “moral enterprise to strengthen and rebuild the moral fabric of the society,” this perception was very different from the reality as reviewed in retrospect (Clement, 1997, p. 17). Many critical analyses saw the child savers as placing the urban poor under excessive control, restraint, and punishment, especially with respect to those who were experiencing premature independence. Of particular concern was the enormous social disconnect which existed between the large number of poor immigrants and the small groups of prominent powerful reformers in New York City (Bernard, 1992). It is argued that their sense of “moral and intellectual superiority justified” them taking control of a morally inferior population of people living in their midst (Bernard, 1992, p. 77). The child savers movement was not benign, nor were the child savers true humanists since they “promoted correctional programs requiring longer terms of imprisonment, long hours of labor, militaristic discipline, and the inculcation of middle-class values and lower-class skills” (Platt, 1969, p. 176). Regardless of how the child savers movement can be perceived, there was clearly a need for change in the way juveniles were being treated in Post-Civil War America. At the end of the 19th century the Progressive Era began establishing new laws and public policies, and the newly developed juvenile court system represented the formal beginning of this dramatic change.

Additional criticism directed towards the juvenile justice systems and the child saver’s lack of benevolence towards the treatment of Blacks and females was fairly widespread during the refuge period. Pisciotta (1993) has offered rather concerning

evidence that the juvenile justice system was both racist and sexist during this period. Most residential juvenile institutions operating in the early 1800's refused to admit Blacks, therefore subjecting Black youths to incarceration in adult facilities (Pisciotta, 1993). When they were admitted to juvenile institutions, Blacks generally received little education, and the intervention received typically focused on performing menial labor and learning their "proper place in society."

Females juvenile offenders were handled in a similar manner, with very little emphasis being placed on their academic education and a great deal of emphasis being assigned to morals and domestic training (Pisciotta, 1993). The "proper training" that women in these institutions typically received rested on the expectations that a woman's role is in the home and their propose is the raising of their children (the private sphere). This is the same type of training that delinquent girls received when they were placed in the House of Refuge for being incorrigible, unruly, or in need of moral and religious training (Chesney-Lind & Shelden, 1998).

Refuge Period for Blacks

The end of slavery brought about the reconstruction period, and for the few years of 1865 through 1877 the paternalistic relationship between Blacks and Whites came to a temporary end. During this time, and primarily in the North, "Blacks experienced the right to vote, sit on a jury, and were even elected to political office in state and federal government" (Joseph, 1995). However, many Blacks who could not find lawful employment after emancipation were arrested for curfew violations, or theft, and often they were convicted without the benefit of counsel. The first civil rights thrust by emancipated Blacks sought the right to serve on juries (Christianson, 1998). This taste of

equal rights was short-lived, however, and “this competitive spirit led to the disenfranchisement of Blacks and the implementation of a system of segregation” (Joseph, 1995, p. 20).

As Whites realized that they might have to share power with Blacks, laws and policies were created that limited Blacks’ rights. For instance, Blacks were blocked from the political process through legal obstacles created especially for Blacks. Literacy tests, poll taxes, White primaries, and a variety of grandfather clauses were all put in place to disqualify Blacks from the voting process. In addition to these legal restrictions, intimidation was employed frequently to prevent Blacks from voting by destroying their property, making them subject to beatings, and even carrying out lynchings. Blacks in many parts of this country were discouraged from exercising their newly acquired civil rights (Bennett, 1993).

In the North and South, most of the major correctional institution’s infrastructure was either destroyed or suffered prolonged neglect during the war, and many of the penal systems in operation continued to undergo racial changes (Christianson, 1998). In the State of Virginia, for example, the penal system before the war was comprised mostly of Whites, but by the 1870’s it was dominated by Blacks. By 1874, 384 of 455 prisoners were Black, and four years later Blacks accounted for 846 of 952 prisoners (Steiner & Brown, 1927). Elmira Reformatory held first-time offenders sixteen to thirty years old. Initially, judges sentenced offenders to the reformatory for an indeterminate period, and Elmira’s management later decided offender release dates within certain broad statutory limits (Christianson, 1998; Pisciotta, 1994). The new offenders, indentured servants (in between slavery and freedom because they owed their old master money), were leased to

employers or government entities to rebuild the city; they helped construct penitentiaries, roads, railroads, and canals (Steiner & Brown, 1927). Despite the common belief that Blacks were emancipated by the Civil War, in reality the end of slavery shifted many Blacks from formal private control to state control in many ways.

The Progressive Era and the Juvenile Courts Period (1899-1964)

During the Progressive Era, juvenile courts were created throughout the country. This development reflected a change in ideological assumptions about juvenile crime and deviance (Feld, 1992). “The juvenile court was the creation of the Progressive Era reformers who believed that children were incapable of being fully responsible for antisocial and criminal behavior” (Drowns & Hess, 2000, p. 18). It was believed that children were not solely responsible for their behavior and that they should not be seen as criminals, but rather they should be viewed as youthful violators in need of care, moral guidance, and protection (Platt, 1969). Poverty, unstable families, poor schools, and unsafe neighborhoods all greatly impacted children, and they were often innocent victims of their circumstances.

The first juvenile court in the United States was created in Cook County, Illinois in 1899. This court was established with the state legislature passing the Act to Regulate the Treatment and Control of Dependent, Neglected Children. Key features of this juvenile court statute were that it: (1) defined a delinquent as a detainee under the age of 16; (2) separated children from adults in institutions; (3) set distinct special rules for juvenile courts; (4) introduced the idea of probation officers; and, (5) prohibited the detention of youth under the age of 12 in a jail or police settings (Drowns & Hess, 2000).

The establishment of this new type of court for children was based on the English common law principle known as *parens patriae*. This concept, when applied to juveniles, gave the courts the right to become their legal guardian and limit or terminate the rights of the parent; the Illinois statute in question contains the idea that, “Parents are merely the agents of society in the area of child rearing, and the state has a primary and legitimate interest in the upbringing of children” (Champion, 1998, p. 19). This doctrine holds that juvenile law violators are not legally capable, but rather are in need of protection and the guidance of the juvenile courts. The *parens patriae* doctrine aims for the juvenile justice courts to offer youth and adolescent offenders individual justice and appropriate treatment rather than punishment. The Chicago Bar Association that advocated for the creation of the new court explains the logic behind the concept thusly:

The philosophy of the juvenile court as an agent of reform is the foundation of our juvenile justice system. Serving as the crux of society’s response to delinquency, the court plays a critical role in the lives of children. Juvenile courts mandate appropriate sanctions to ensure accountability and establish treatment plans in order to strengthen offenders’ sense of responsibility and to protect the public. Clearly, the court is on the front line of the fight against violence. (Bilchik, 1997, p. iii)

Progressive reformers further developed the medical model and applied it to the new juvenile courts (Feld, 1992). Juvenile courts would be able to provide specialized attention to each child to identify the cause of their specific delinquency. Once identified, the child would be treated and eventually cured, ultimately deterring juveniles from jail and prison while avoiding additional corruption from adult criminals. These ideas were certainly good in theory, but seldom executed in practice in the U.S. Children continued to be institutionalized in inadequate facilities and families continued to be

subservient to the state, leaving juveniles under a state of absolute custody (Bartollas, 2003).

Society's support of this idea of a separate juvenile justice system led to the development of juvenile bureaus in police departments, as well as the creation of probation and parole aftercare agencies (Bartollas, 2003). Despite these new developments occurring during the juvenile court period, radical positive change did not take place in the prevailing philosophy of juvenile justice. Juvenile courts had, indeed, laid the groundwork for a separated system for juveniles, but substantial changes in the way juveniles were treated and their cases handled did not begin until influential U.S. Supreme Court decisions were made during the juvenile rights period.

As for Black Americans, after the disenfranchisement period the "Jim Crow" period followed which resulted in widespread racial segregation throughout American society. The so called Jim Crow laws mandated the use of separate facilities for Blacks and Whites with respect to schools, transportation, neighborhoods, public facilities and drinking fountains (Bennett, 1993). Not only did Jim Crow laws affect Blacks politically, socially, and economically, but they also affected them psychologically. The psychological separation of Blacks and Whites was based on a system of racial "etiquette" reflecting a racist belief in White supremacy. Whites were encouraged to avoid shaking hands with Blacks, and Blacks were expected to address Whites with a "Sir" or "Mister." Blacks were referred to by Whites as "Boy," or by the person's first name. "Two caste-like systems were established under this system of segregation that were separate and unequal" (Joseph, 1995, p. 20). Jim Crow laws remained in effect for more than a century, and not until 1964 were many of these laws struck down by the U. S.

Supreme Court. Despite the removal of Jim Crow laws, the racist practices that were established by the laws are still practiced in many boardrooms, in the public educational system, and in the criminal justice system (Conley, 1999; Massey & Denton, 1993).

In 1933, the U.S. Department of Labor assembled records on sixty-seven courts. They found that “Negro boys and girls are younger on the whole than White boys and girls handled by the courts” (Frazier, 2002, p. 99). In “Rebellious Youth” (2002) Frazier looks at the rate of Black delinquency and the state of the Black family in the early 1900’s. He provides information on the fluctuating rates of delinquency among Black and White boys and girls, and the different types of delinquent acts being reported. He measures the rate of delinquency as the number of boys brought before the court per 10,000 of juvenile court age. In 1933, New York City’s rate of Black delinquents was three times that of White delinquents, while in Baltimore Blacks accounted for four times the rate of White delinquents. In Baltimore, from the years 1930-1933, the rate rose from 672 to 962, and in New York City it leaped from 170 in 1927 to 342 in 1928 and remained close to the latter rates until 1933.

It is rather difficult to document any significant trends in juvenile delinquency among Black youth for the country as a whole because the delinquency rates of Blacks have not universally risen, but have also declined in different cities as well. In Hudson County, New Jersey, the rate declined from 698 to 264 in 1933, and in Fulton County, Georgia the rate declined from 644 to 496 for the years 1930-1933 (Frazier, 2002). In 1929, 70 percent of boys and 63 percent of girls brought to court were between twelve and fifteen years old. Nearly half of the boys were charged with stealing, and almost all the girls were charged with incorrigibility and disorderly conduct (Frazier, 2002). Black

juvenile delinquents were apprehended and brought to court by police more frequently than their White counterparts (Frazier, 2002).

There were major shortcomings in the reform effort for girls during this time period. Early family court studies reveal that almost all girls that appeared in these juvenile courts were charged with immorality or waywardness (Chesney-Lind & Shelden, 1998). Severe sanctions for girls misbehaving continued to become more common. In Chicago's family courts in the period 1899-1909, fully half of the girl delinquents were sent to reformatories whereas only a fifth of boy juvenile delinquents received that severe sanction. Similar to the situation documented in Chicago, twice as many girls as boys were committed to training schools in Milwaukee, and in Memphis, females were twice as likely to be committed to training schools as males (Shelden, 1981). It became clear that in juvenile court, issues pertaining to a girl's immorality and waywardness were vigorously pursued resulting in a large number of girl reformatories and training schools being constructed across the country during this time period.

The Juvenile Rights Period (1965-1973)

Significant court decisions affecting juveniles began during this time period, but prior to these legal changes criticism of the juvenile courts continued to intensify. By the advent of the 1960's criminal courts were "widely accused of dispensing capricious and arbitrary justice" (Bartollas, 2003, p. 17). These criticisms were consistent with many of the social equity oriented political movements during this time period. American society experienced the Civil Rights Movement, the Women's Liberation Movement, the War on Poverty, and widespread civil resistance to the Vietnam War. There were many mass protests and high profile political murders associated with the civil rights movement

(Joseph, 1995), and there were major riots in a number of inner city communities engendered by racism, inequality, injustice, and the deterioration of living conditions in inner city slums. There were a number of college campus demonstrations and street revolts in opposition to the Vietnam War. Moreover, a number of politically devastating assassinations occurred all within less than an eight-year span: President John F. Kennedy, Senator Robert Kennedy, Dr. Martin Luther King, Jr., and Malcolm X all perished in that brief time period (Bennett, 1993).

In response to widespread social disorder and a slowly growing fear of crime, President Lyndon Johnson in 1965 established the President's Commission on Law Enforcement Assistance and Administration (LEAA) officially launching the "war on crime" initiative (Walker, 1998). This high profile commission was established to study the growing crime problem in America and to make public policy recommendations on how to tackle this problem. The goals emerging from the Commission were to increase the funding for the operations and the staffing of virtually all criminal justice agencies across the country. It was felt that a reduction of injustice and an enhancement of enforcement efforts would increase citizen cooperation, increase community assumptions of responsibility for public safety, and address the "war on poverty" issues clearly of great concern to President Johnson.

The social climate in the United State's federal courts changed a great deal during the 1960's as well. Dramatic decisions that shaped sentencing practices and judicial philosophies occurred during the tenure of the Warren court in the 1960's, and carried on, for the most part, during the change in 1970 to the Berger court. In the 1960's, court decisions related to criminal law and civil rights alike were heavily influenced by Chief

Justice Earl Warren (Walker, 1998). The Federal courts issued a large number of precedent decisions based on the due process model. This model placed a heavy emphasis on the need to protect individual rights and redefined who is protected under these rights. In addition Congress passed several major laws such as the Civil Rights Act of 1964 and the Economic Opportunity Act of 1964.

Noteworthy changes in the operation of the juvenile courts began when the U.S. Supreme Court responded to widespread criticism it was receiving regarding juvenile justice. These criticisms launched a series of critical cases that directed the path of juvenile justice from that point on: *Kent v. United States*, 1966; *In re Gault*, 1967; *In re Winship*, 1970; *Mckiever v. Pennsylvania*, 1971; and *Breed v. Jones*, 1975 were the critical U.S. Supreme Court decisions in question. These judicial decisions ensured that juvenile offenders would receive greatly enhanced due process protections and legal rights, including timely notice of charges, the right to counsel, the right to confrontation of witnesses, the right to cross examination, and the privilege against self-incrimination (Bartollas, 2003; Drowns & Hess, 2000). Lower-level federal appellate court decisions were followed by the implementation of more juvenile justice due process and legal protection rights. In particular, the lower-level courts condemned a wide range of unfair, unjust, and brutal practices applied to juveniles that clearly degraded them and argued that this type of abusive treatment more likely fostered delinquency than reduced it. In tackling these issues, a rapid growth in community-based corrections programs of various types arose as an alternative to the institutionalization of juvenile offenders.

Community-based correctional programs increasingly gained momentum as federal funding for such programs increased from the late 1960's to the early 1970's

(McCarthy, B. R., McCarthy, B., & Leone, M. C., 2001). The 1967 President's Commission on Law Enforcement and Administration of Justice reported "crime and delinquency are symptoms of failure and disorganization of the community. The task of corrections, therefore, includes building or rebuilding societal ties, obtaining employment and education, and securing in the larger sense a place for the offender in the routine functions of society" (U.S. President's Commission on Law Enforcement and Administration of Justice, 1967, p. 7). One year later Congress recommended through the Juvenile Delinquency Prevention Control Act of 1968 that children charged with status offenses should be handled outside the juvenile court system.

The push to reintegrate offenders outside of correctional institutions increased the role of community-based corrections substantially (Clear & Cole, 2000). Emphasis was placed on keeping offenders in the community rather than placing them in institutions, whenever this was possible without sacrificing public safety. The goal of juvenile justice reform was that only the hardcore violent delinquents would be sent to long-term training schools (Bartollas, 2003). This change in the juvenile justice system became known as deinstitutionalization, and the perspective soon was established as the new progressive direction of the juvenile justice system. Despite the intentions of the proponents of deinstitutionalization, it became clear by the mid-1970's that this approach to juvenile justice reform was having noteworthy adverse effects on young women offenders (Chesney-Lind & Shelden, 1998).

The Reform Agenda Period (1974-1980)

By the mid-to-late 1970's a new juvenile justice reform agenda brought about more systematic changes. This new reform agenda focused on the reduction of juvenile

correctional institutions and the redirection of status offenders and minor offenders from the juvenile justice system. Status violations are a variety of acts for which only juveniles can be held accountable. Acts that typically fall under these status offenses include truancy, smoking, drinking, curfew violations, disobeying the orders of parents, teachers, or other adults, swearing, and running away from their home (Whitehead & Lab, 1990). In addition to the above status offenses, a sexual double standard of status offenses existed for girls. Actions such as sexual misconduct or moral misconduct led to the overrepresentation of girls in the juvenile justice system (Chesney-Lind & Shelden, 1998). During this time, the actions of a status offender were distinctly defined, identified, and set apart from those of delinquents. Numerous concerns arose regarding whether status offenders should be institutionalized with delinquents, and whether the juvenile courts should retain jurisdiction over status offenders.

The U.S Congress answered many of these questions with the passage of the 1974 Juvenile Justice and Delinquency Prevention Act. This landmark legislation established the Office of Juvenile Justice and Delinquency and Prevention (OJJDP) to support local and state efforts to prevent juvenile delinquency and improve the juvenile justice system (Shepard, 1999). This federal mandate required the deinstitutionalization of status offenders, the removal of juveniles from adult jails and lockups, and the separation of youthful offenders from adults in secure institutions (Bilchik, 1997, 1999; Snyder & Sickmud, 1999).

Girls initially benefited from the deinstitutionalization reform. The number of young women confined in training schools and detention centers across the country fell dramatically. Despite the statutory efforts associated with the 1974 Juvenile Justice and

Delinquency Prevention Act, there was still ample evidence that status offenders were being sanctioned harshly and that girls were experiencing a sexual double standard. Girls were harshly sentenced, detained, sent to detention for laws that no longer fell under deinstitutionalization such as violating a court order, contempt citations in court, and running away from home (Chesney-Lind & Shelden, 1998).

While the juvenile justice system was experiencing reform of status offenders and institutional corrections, the public's concerns about violent juvenile crime and repeat offenders began to increase substantially. People were becoming dissatisfied with the philosophical basis and practical results of juvenile rehabilitation. Some critics argued that this political agenda had too much of a liberal focus, and, as a consequence, the reform for serious offenders received little public attention. For example, less than ten percent of the monies provided from the Office of Juvenile Justice and Delinquency Prevention between 1975 and 1980 were directed at serious and violent offenders (National Advisory Committee for Juvenile Justice and Delinquency Prevention, 1984, p. 18). It is at the end of this period when the "get tough movement" slowly gained momentum. The "get tough" movement was a surge of policies and practices geared towards swifter, harsher, and more certain punishment for law-violators (Palmer, 1992). Critics of the offender reintegration reform claim that the failure of these reforms to provide meaningful programs and policies directed at serious youthful offenders contributed to the wave of "get tough" legislation that consequently swept across the United States (Krisberg, Schwartz, Litsky, & Austin, 1986).

The Social Control and Crime Control Period (1980's to Present)

By the early 1980's the American public became quite alarmed about the increasing problems of juvenile delinquency, and policymakers decided that something dramatic needed to be done to curtail this undesirable behavior. A number of teen issues became serious social problems: drug and alcohol abuse grew in frequency and severity, teen pregnancy reached epidemic proportions, and teen suicide increased at an alarming rate (Schwartz, 1998). Some scholars even argued that American youth seemed to be out of control at all levels. One of the changes that did occur among American youth during this time was their engagement in riskier substance abuse behaviors. The Centers for Disease Control and Prevention (1992) reported that the rates of smoking, drinking, and other illicit drug use among high school students had increased in the early 1990's (Center for Disease Control and Prevention, 1992). This study indicated that more than half of all secondary school students reported alcohol use, and more than one-third were binge drinkers. Almost one-third of high school students reported the use of marijuana, and 6.6 percent admitted use of cocaine (Center for Disease Control and Prevention, 1992). Substance experimentation and chronic abuse rates remained alarmingly high among American youth through the 1990's.

The political response to this "out of control" population was the "get tough" on crime movement. A major goal for this current conservative crime control effort was incapacitating serious and violent offenders and deterring crime by enhancing sentencing. How the justice system functioned, and what it aspired to accomplish during this time is reflected in the crime control model. The principle goal of the crime control model is the effective suppression of criminal conduct through deterrence. This suppression was to be accomplished through achieving maximum speed, efficiency, and finality in criminal

processing (Packer, 1968). Within this model, deterrence is achieved when penalties are imposed quickly and with certainty, and deterrence is hindered when the process is prolonged with pre-trial hearings and other legal procedural delays.

Both Republicans and Democrats were concerned with the dramatic increase in juvenile crime, but the Republican approach on the best way to address this problem took precedent. They took a very hard line on serious criminal offenders, implementing law enforcement and correctional policies and laws that rose to the forefront of the juvenile justice agenda. The new “get tough” federal agenda attacked the Juvenile Justice and Delinquency Prevention Act of 1974 as being “anti-family,” and issued a call for the serious crack down on juvenile law violators. A speech given by Alfred S. Regnery, a highly recommended Juvenile Justice and Delinquency Prevention administrator discussed the new federal juvenile perspective:

In essence, we have changed the outlook of the office from emphasizing the lesser offender and the non-offender to one emphasizing the serious juvenile offender. We have placed less emphasis on juvenile crime as a social problem and more emphasis on crime as a justice problem. In essence, the office now reflects the general philosophy of President Reagan and his administration rather than that of President Carter and his administration (Regnery, 1986, p. 40).

From this new direction, new trends on how juveniles should be dealt with came out of new federal mandates: mandatory and determinate sentencing for violent juveniles, increases in the confinement of juveniles, transfer of violent juveniles to the adult courts, and enforcement of the death penalty for extremely violent cases. Essentially, these new crime control mandates diverted attention from the goal of reintegration and rehabilitation that juvenile justice was taking in the 1970's (Rubin, 1985).

The nature of juvenile delinquency in the 1990's was influenced by a number of social factors. Crack cocaine was introduced in American cities in the mid-1980's, and its use soon became a public health and safety problem of epidemic proportions. This epidemic created a huge drug demand, and young people began to be recruited into the lucrative business of selling crack (Bartollas, 2003). A sharp increase in drug trafficking, gang violence, and youth murder rates occurred as a consequence. This development gave rise to the creation of a large illegal marketplace in which guns were being sought for protection. Young people also became increasingly involved in various types of hate crime. During the 1990's state and local governments responded to the changing dimensions of delinquency through new initiatives for handling juvenile delinquents including: (1) enacting curfews; (2) creating parental responsibility laws; (3) combating street gangs; (4) implementing graduated sanctions; (5) creating juvenile boot camps; (6) initiating gun control; (7) focusing on juvenile proceedings and records; (8) transferring juveniles to criminal courts; and (9) expanding sentencing authority (Bartollas, 2003).

This surge of "get tough" policies was at least in part a result of the increase in the public's fear of crime occurring at this time. Some scholars argue that the public was alerted to this problem by the media's exposure of the realities of youth crime, a reality that previously had not been addressed by journalist (Irwin & Austin, 1997). Fear of crime can be a fundamental social problem, and may well be a problem that is more difficult to treat than criminality due to the fact that the fear of crime often is far greater than the actual experience of crime (Hahn, 1998). It has distorted our political process with politicians offering quick-fix solutions with no realistic method of reducing crime.

Public fear of crime and anger over sensationalized crime reports culminates in pressure on politicians who, in most cases, have little knowledge about crime control and little will to advance other than simplistic solutions (Walker, 1998). The “get tough” policy is one of these simple solutions. It is fully expressed in the “lock-‘em-up” correctional policy through the use of secure incarceration that is familiar and comfortable as a panacea in crime control regardless of the low level of efficiency, effectiveness, and budgetary responsibility associated with this public policy option (Irwin & Austin, 1997). Hahn refers to this peculiar American phenomenon as the “away syndrome.”

This is the condition of mind in which we simply wish that all our “problem people” would go away or, better still, be “sent away.” This avoidance mechanism type thinking leads us to somehow feel secure if our social problems are away, kept securely out of sight and all of this is accomplished with as little expense as possible (Hahn, 1975, pp. 5-6).

Proponents of the “get tough” approach concluded that the fear people have of crime does not come as much from the real situation as it does from what was portrayed on TV (Beale, 2003; Irwin & Austin, 1997). The media attention, coupled with the inflammatory rhetoric of politicians who feel they can never be faulted by their opponents for being too “tough on crime,” has aroused the American public to an unrealistic state of fear and anger (Hahn, 1998). In an effort to appease public pressure and push their own political agendas, for more than a decade American policy makers have increased the number of people sentenced to prison, and have made them stay longer under more harsh conditions than ever before. These purposely punitive measures are said to ensure that violent offenders are taken off the nation’s streets. Unfortunately, the overwhelming majority of people entering state prisons and local jails are still being

incarcerated for non-violent crimes (Walker et al., 2004). As the 1990's approached, girls were continually over-represented among those charged with status offenses. In 1992, the U.S. House of Representatives held hearings for the reauthorization of the Juvenile Justice and Delinquency Prevention Act, and for the first time the provision of services for girls within the American juvenile justice system was discussed in some depth (United States, 1992). From this Congressional hearing stemmed legislation from which each state received federal funds to study existing gender-specific needs, treatment, and services, and to fund programs intended to address these needs as well. Unfortunately, in 1996 the federal funds originally allocated to focus on girl's delinquency was reallocated almost exclusively to violent offenders, in essence shifting attention away from female offenders towards dangerous male offenders in the juvenile justice system.

Studies on girl's delinquency, as it pertains to race and ethnicity issues have generally looked at the different types of offenses, personal background, and referral and placement similarities and differences. Miller (1996) looked at the influence of race and ethnicity in probation processing of girl offenders in Los Angeles in the period 1992-1993. The largest minority population of girls in this study was Latina (45%), followed by White (34 %), and then African American girls (23%). Miller found that white girls were significantly more likely to be recommended for treatment facilities rather than a "detention-oriented" placement than either African American girls or Latina girls (Miller, 1996). In this study, 75% of White girls were recommended to treatment facilities, compared to 35% of Latinas and only 20% of African American girls. Some research

studies similarly suggest that deinstitutionalization may have different effects on girls based on their race and ethnicity (Chesney-Lind & Shelden, 1998).

Disproportionate Minority Confinement (DMC)

During this time period of the 1990's the juvenile justice system was often criticized for its inequitable treatment of racial minorities throughout the entire system. Racial minorities are more likely to be detained in secured facilities prior to their adjudication and to be sentenced to secured confinement following adjudication (Bilchik, 1999). The unfair treatment and handling of racial and ethnic minorities throughout different points of the juvenile justice system has gained fairly wide attention in both the scholarly journals and the public process (Feyerherm, 1995; Walker et al., 2004). African American and Hispanic youth are substantially over-represented in arrests, in convictions, and in incarceration with respect to the proportion of the general population, and it is argued that this is in good measure the result of patterns of bias decision-making (Bartollas, 2003; Bilchik, 1999). Juvenile justice literature has focused on issues of selection bias, and the literature posits that processing decisions made by many states and local juvenile agencies are not racially neutral. Researchers have found that African American youth are more likely than White youth to become involved in the criminal justice system even when controlling for income and social status differences (Pope & Clear, 1994; Pope & Fayerherm, 1995; Pope & Feyerherm, 1990b).

Most recently, particularly in the last fifteen years, this issue of inequitable treatment of minorities in the juvenile justice system is increasingly receiving attention and is coming to the forefront of issues addressed by researchers and policy makers alike (Bilchik, 1999; Joseph, 1995; Kempf & Austin, 1986; Pope & Fayerherm, 1995; Walker

et al., 2004). Specific attention was given to these issues after the completion of a highly regarded assessment of the issues of discrimination against minorities carried out by Pope and Feyerherm in their 1995 Office of Juvenile Justice and Delinquency Prevention (OJJDP) report. This meta-analysis study revealed that two-thirds of the empirical studies reviewed found both direct and indirect race effects, and a mixed pattern in which the effects were present at some stage of case processing and not at others. In 1997 minorities made up about one-third of the juvenile population nationwide, but accounted for nearly two-thirds of the detained and committed population in secure juvenile facilities.

For African American juveniles in particular, the disparities were most glaringly evident. African American juveniles were over-represented at all stages of the juvenile justice case processing system, compared with their proportion in the general population. Blacks made up 15 percent of the US population aged 10-17, but constitute 31 percent of all youth in the juvenile justice system (Bilchik, 1999). In addition, this study argues that selection bias can take place at any stage, and that relatively small racial differences may accumulate and become more pronounced as minorities are processed more deeply into the criminal justice system (Pope & Fayerherm, 1995).

National attention concerning the significant problem of disproportionate minority confinement (DMC) was addressed in the 1988 Annual report to Congress submitted by the National Coalition of State Juvenile Justice Advisory Group (now called the Coalition of Juvenile Justice). Congress responded to this early expression of concern and amended the Juvenile Justice and Delinquency Prevention (JJDP) Act of 1974 to address these social justice issues. This amended Act required each of the states to determine

whether the proportion of minorities in confinement exceeded the proportion of minorities in the state's population. If states did find the presence of over-representation, they must demonstrate to the federal government's Department of Justice reasonable and appropriate efforts to reduce that over-representation (Bilchik, 1997, 1999; Snyder & Sickmud, 1999).

The core requirements of the Juvenile Justice and Delinquency Prevention Act of 1974 primarily addresses issues related to custody. Subsequent to its 1998 amendment, the disproportionate minority confinement (DMC) concern was elevated to one of this Act's four "core requirements." States must agree to comply with each requirement in order to receive Formula Grant Funding. In 1999, states that were non-compliant with the core requirements experienced an average loss of 25 percent of their annual state's allocated funds from the U.S. Department of Justice Formula Grants Program (Snyder & Sickmud, 1999).

Some state and local officials were strongly opposed to this new state mandate. Tracy (2002) argues that the legal mandates, the threat of frozen funds, and the reports and bulletins which the Office of Juvenile Justice and Delinquency Prevention promulgates periodically provide a distorted picture of disproportionate minority confinement nationally. Tracy claims these reports serve to reinforce the misperception that minorities are experiencing differential and selective processing for their delinquent behavior. The message being conveyed, whether intentional or not, is that a more harsh, severe, or more selective treatment outcome in case processing represents racial bias on the part of various agents within the juvenile justice system across the country (Tracy, 2002). He argues the following in this regard: "OJJDP perpetuates a climate which

makes it difficult and burdensome for a state to defend itself and demonstrate that the disproportionate confinement statistics result from valid and appropriate decision-making on the basis of real and legally permissible differences in offending behavior” (Tracy, 2002, p. 8). This important issue will be explored in considerable depth in the next chapter.

Each major period in American history has reflected somewhat different philosophical, social, and political influences that shaped and directed the operation of the juvenile justice system at specific times in American history. These historical eras over time have caused the juvenile justice system to come to focus on the simultaneous management of social problems and crime control. Currently, the direction of public policy has led juvenile courts to become more criminalized and more adversarial in nature in responding to crime control concerns. Juvenile drug courts, however, are quite strongly geared toward bringing the juvenile courts back to their prevention/rehabilitation roots. Rehabilitative and non-adversarial processes lie at the very core of the drug court phenomenon in American juvenile corrections.

The State of Juvenile Courts Today

Within the juvenile court system there are still some vague remnants of treatment, or rehabilitation-oriented sanctions, that largely function under the *parens patriae* concept for which the juvenile courts were originally founded (Bartollas, 2003). The U.S. Supreme Court, however, continues to view juvenile courts essentially as rehabilitative and treatment centered judicial bodies. Over the years, the difference between theory and practice has unquestionably widened, and continual change in juvenile court procedures and the juvenile justice system generally suggest that it is

becoming increasingly criminalized and adversarial (Feld, 1992; Krisberg, B., Schwartz, I. M., Litsky, P., & Austin, J., 1986).

This increasing criminalization of juvenile court can be illustrated in a number of ways. There is an underlying push to focus on individual accountability for one's actions consistent with the trends of "just deserts" ideologies (Cullen & Gilbert, 1982). The juvenile courts are directly influenced by this "get-tough" movement that is geared toward providing law violators with swifter, harsher, and more certain justice and punishment than what had previously dominated the courts (Rubin, 1985). From a practical sense, there is a greater use in sentencing of state group homes, industrial schools, and custodial reform schools. One of the more detrimental consequences to the progressive criminalization of juvenile courts that falls far from the ideas of the juvenile justice system is the transferring of juveniles charged with violent offenses to criminal adult courts for adjudication. The harsher sanctions available to prosecutors in adult criminal proceedings in many U.S. states include life imprisonment and even the possibly of the use of the death penalty for juveniles (Champion & Mays, 1991).

Currently, there continues to be a widespread debate about the proper nature and appropriate functions of the juvenile courts in the U.S. Three primary and very different positions have emerged concerning the proper role of juvenile courts today. One position supports the traditional *parens patriae* philosophy. It advocates the role of the state to step in as a parent to uphold standards for decision-making in the best interest of the child. Judge Leonard Edward argues that implicit in this position is the belief that children are fundamentally different from adults because children have developmental needs that cannot be satisfied without the assistance, care, and supervision that is critical

to their healthy upbringing (Edward, 1992). This position also features the belief that the juvenile court is superior to the criminal court because the juvenile court focuses on the rehabilitation of offenders, the protection of children, and is flexible in providing for the dispensation of individualized justice.

A second position is argued that holds that the justice model should replace the *parens patriae* philosophy, and the advocates of this position argue that the justice model stands as the proper premise of juvenile court procedures (Bartollas, 2003). Movement toward this position is illustrated in the increasing formalization of court proceedings at the core of traditional juvenile court operations such as the decriminalization of status offenders, the rise of determinate sentencing, the use of mandatory sentencing rules and grids, and the holding of open juvenile proceedings and maintenance of open records (Champion, 1985). An increasing acceptance of these procedural changes is seen in the fact that “about one-third of the states now use present offenses and prior records [in the juvenile court] to regulate at least some sentencing decisions through determinate or mandatory minimum sentencing statutes, or correctional administrative guidelines” (Feld, 1991, p. 711). The basic principles of the justice model outlined here continue to strongly influence the revising of state juvenile codes across the country (Feld, 1995).

The third position argued on the proper role for juvenile courts focuses on building momentum among scholars, practitioners and decision makers to abolish the juvenile courts across the country (Feld, 1995). According to proponents of this somewhat extreme position, juveniles suffer the “worst of both worlds.” They are increasingly subject to harsh punishment in juvenile courts, but they are not granted the full range of constitutional guarantees extended to adults in criminal courts (Feld, 1988).

Feld argues that an integrated criminal court operation with a youth discount would provide youthful offenders with greater protection and greater procedural regularity in the determinations of guilt, and result in more humane consequences than they are currently likely to receive in the juvenile system. The primary distinction between youth and adults in this type of system is that youthful offenders receive a so called “youth discount” which is a decreased percentage of a sentence that an adult would receive for the same offense. For example, a fourteen year old would receive 33 percent of an adult sentence; a sixteen-year-old 66 percent of an adult sentence, and an eighteen year old would receive a full adult penalty (Rojek & Jensen, 1996).

It is clear that advocates for all three of these positions are present and active in advocacy. Currently, juvenile courts in most American states are supposed to look for the “best interest of the child” for youth involved in minor crimes and status offenses (Bartollas, 2003). For juvenile offenders who commit more serious delinquent acts or violent crimes, the increasing use of the justice model principles are being witnessed in adjudicatory and disposition hearings alike. Those repetitive offenders and serious violent youthful offenders are frequently having their cases transferred to adult court, and those juvenile offenders are being tried as though they were adults (Bartollas, 2003).

Current Structure and Function of Juvenile Courts

Perhaps one of the most noteworthy landmark juvenile rights cases ever decided, and one which is still influential in juvenile court circles today, is the *In re Gault* (1967) case. Here, the U.S. Supreme Court decision represented the nation’s first serious introduction to juvenile judge accountability. In this case, Gerald Gault, a fifteen-year-old male child on probation for minor offenses, was taken into custody by police in

response to a complaint that he had made lewd telephone calls. After a hearing before a juvenile court judge, the juvenile offender was sentenced to a state industrial school for delinquent youth until he reached the age of twenty-one. Procedurally, Gerald Gault was denied a number of the due process rights he would have received had he been in an adult criminal court. The U.S. Supreme Court ruled that youth facing institutional confinement must be represented by counsel in juvenile justice courts. This decision also assisted in protecting children from biased treatment and limited the exercise of undue discretion by juvenile court judges. This landmark court decision brought about the dramatic transformation of juvenile proceedings, from largely unilateral judge-led hearings into adversarial proceedings resulting in much higher levels of procedural formality (Champion, 1998; Champion & Mays, 1991).

Of course the adversarial system represents a core feature of American adult courts, and this has been the case since the formalization of the adult courts in American society. An adversarial system of justice is where the plaintiffs and defendants litigate cases civilly for damages, and where prosecutors and defense attorneys attempt to convince judges or juries of the guilt or innocence of criminally accused persons. The juvenile justice system is not based on this adversarial approach; however, many of the formalities of the adult court have filtered into the juvenile court as a consequence of the *In re Gault* decision. Juvenile courts across the country have experienced a higher level of procedural formality associated with due process in recent years encouraging the development of a number of newly proposed juvenile codes in many states. This move towards progressive criminalization will likely continue to lead to the bureaucratization of the juvenile court system into the foreseeable future (Ito, 1987).

While the adult criminal justice system in the United States has historically been based on an adversarial model, until relatively recently, the juvenile justice system has not been so based. A new approach to justice in the adult courts, and an extension of justice for juvenile courts, comes in the form of drug courts. Adult and juvenile drug courts alike in many local jurisdictions have been returning to pre-1970's rehabilitative correctional approaches for their inspiration. These case management practices are more holistic in conception and collaborative in character, and they seed positive outcomes through the means of offender rehabilitation and active community involvement. Drug courts rely on courtroom players acting out a script that is primarily non-adversarial in nature (Hora, Schma, & Rosenthal, 1999). A non-adversarial approach to juvenile justice is increasingly utilized in specialty courts housed within the juvenile court structure. This non-adversarial model requires collaborative courtroom behavior and necessitates active engagement in a system wherein a number of traditionally adversarial players have adopted new collaborative roles. The juvenile defendant likewise plays a much more active role in the decision-making process right along with the court-based actors. There are also differences in the functions of the courtroom actors, the relative importance of courtroom rules, and in the courtroom lay out. Similar collaborative problem solving programs are widely used in public schools, in alternative education programs, and with at-risk youth in counseling settings (Hora, Schma, & Rosenthal, 1999). These innovative programs are intended to give troubled youth the tools needed to recognize, anticipate, and prepare for drug related problems that they may face in the future. The youth, their family, and school staff members monitor the drug court participants closely to assist

them with changes that need to be made to increase their future likelihood of success in their schooling and career development (Drowns & Hess, 2000).

Conclusion

A review of the history, functions, and purpose of the juvenile justice system, gives an informed perspective on the state of juvenile courts in the country today. Several correctional models emerge as important to the juvenile justice system and the various shifts in thinking about how the United States has dealt with the problems of juvenile delinquency at different periods in its history. The discussion of each major time period illustrates the way law-violating juveniles are handled, treated and managed over time as various political, social, and philosophical changes occurred. The juvenile drug court movement has emerged in recent years, at least in part, as an effort to combat the increasing criminalization and adversarial nature of many contemporary juvenile court proceedings. There are a wide range of contemporary criminal justice issues that are important to consider when discussing juvenile drug courts. Racial disparities and the influence of drug laws on juvenile offenders are important areas to consider in the study of the American juvenile justice system.

CHAPTER 3

THE WAR ON DRUGS AND INJUSTICE

An important trend in contemporary criminal justice is the escalated and persistent “war on drugs.” Beginning in the mid-1980’s the United States has undertaken aggressive crime control policies and initiated aggressive law enforcement strategies aimed at curtailing illegal drug use. These developments have had an impact on the justice system by producing a historically unprecedented number of drug offenders being arrested, being charged with felonies, being prosecuted, being convicted, and being incarcerated. This “war on drugs” has resulted in rates of arrest, conviction and ultimate incarceration, which are disproportionately affecting minorities and disadvantaged populations. “The prison population nearly tripled during the 1980’s, and by the 1990’s a quarter of young Black males were either in jail or prison, on probation, or parole” (Tonry, 1995, p. iiv). The relative benefits and costs of this national war on drugs are continually under debate. It will be shown that the already wide and now increasing gap of inequitable outcomes reflected in the over-representation of minorities caught up in the criminal justice system since the mid-1980’s is undoubtedly salient to our featured discussion of juvenile drug courts.

First, the evidence of the prevalence of racial disparity throughout the criminal justice system is presented reviewing the research literature on racial disparities in incarceration rates, arrest rates, decisions to get bail, and charging decisions. Second, the war on drugs has spurred a movement towards highly punitive sentencing policies for drug offenders. The political and social contexts that influence this movement, such as the media-fed fear of crime and the expanding awareness of some of the principal

unexpected outcomes associated with punitive drug laws, is relevant to more clearly understand the drug court phenomenon. Third, the justice system's move toward "truth in sentencing" legislation and "three strikes" laws is examined in some detail. These discussions fall within the get-tough on crime era where the political momentum for mandatory sentencing laws has caused the stiffening of criminal penalties and the awarding of harsher sentences for repeat offenders. The widespread adoption of more punitive sanctions has seriously impacted the juvenile justice system and exacerbated the prior existence of minority overrepresentation and racial disparities. Understanding the broader context of justice and race related to cultural and political attributes towards drug offenders will provide the framework necessary for understanding how drug courts will have to engage race and gender issues in their decision-making process.

Terminology

Over-representation, disparity, and discrimination are commonly used terms found throughout the research literature that pertains to race and the criminal justice system in the U.S. It is essential to understand how these key terms are defined in order to address the issue of social inequity. Throughout the literature, and even within particular studies, these terms are sometimes used rather interchangeably (Bilchik, 1999). However, Bilchik correctly argues that these terms are best thought to be distinct, and they have different implications as well as likely causes. The Office of Juvenile Justice and Delinquency Prevention defines these three key terms as follows (Bilchik, 1999, p.1):

Over-representation refers to a situation in which a larger proportion of a particular group is present at various stages within the juvenile justice system (such as intake, detention, adjudication, and disposition) than would be expected based on their proportion in the general population.

Disparity means that the probability of receiving a particular outcome (for example, being detained in a short-term facility vs. not being detained) differs for different groups. Disparity may in turn lead to over-representation.

Discrimination occurs if and when juvenile justice system decision-making treats one group of juveniles differently from another group of juveniles based wholly or in part on their gender, racial and / or ethnic status.

One does not imply a relationship to the other unless specific distinctions are made based on their connection. For example, overrepresentation or disparity does not necessarily imply discrimination. Now that the noteworthy trends in racial disparity and the substantial over-representation of minorities have been examined, the attention of this chapter turns to numerous political and social movements, policies and laws that have brought the criminal justice system to its current state of documented inequitable operations vis-à-vis racial and ethnic minorities.

Overrepresentation and Racial Disparities

Currently, African Americans are over-represented throughout the American criminal justice system (Tonry, 1995; Walker et al., 2004). The range of over-representation is illustrated in incarceration rates, in arrest rates, in decisions to grant bail, and in charging decisions alike. Racial disparities in incarceration increased in the 1980's and 1990's as the number of Blacks sent to prison grew at a faster rate than the number of Whites. Overall the institutional commitment for both races rose sharply, but the increase in the percent of population incarcerated was greatest for Blacks.

Racial disparities are ubiquitous and easily identified in the nation's incarceration rates. The prevalence of imprisonment in 2001 was higher for Black males (16.6%) and Hispanic males (7.7%) than for White males (2.6%). As it pertains to the female

population, the prevalence of imprisonment in 2001 for Black females (1.7%) was higher than that for Hispanic females (0.7%), and White females (0.3%) (U.S. Justice Department, 2001). In virtually every state, the proportion of Blacks in prison far exceeds their proportion in the general population. The national racially disaggregated incarceration ratio for Blacks (the number of confined Blacks and Whites per 100,000 residents of each racial group) is 8.2 (U.S. Justice Department, 1995). In other words, Blacks are 8.2 times more likely to be in prison than Whites nationally. When individual states are analyzed, the disparities become even more pronounced in many states. In seven U.S. states, Blacks are incarcerated 13 times the rate of Whites; in Minnesota, Blacks are incarcerated at 23 times the rate of Whites. In Washington D.C., Blacks are incarcerated at 34 times the rate of Whites (U.S. Justice Department, 1995).

Disparities can be observed at the beginning of the criminal justice process with the decision to arrest an offender. Racial minorities are arrested much more often than Whites. African Americans make up only 12 percent of the population, but in the year 2000 they represented 27.9 percent of all arrests (U.S. Department of Justice, 2001). African American and Hispanic defendants are more likely than White defendants to be detained prior to trial (U.S. Department of Justice, 2001). A study by Bridges (1997) on bail decision-making in King County, Washington showed that Whites were released on their own recognizance 25% of the time whereas all other population groups representing minorities were released only 14% of the time. This study also indicated that minorities were held in pre-trial detention 39% of the time whereas Whites were held in pre-trial detention only 28% of the time. The Bridges study controlled for the defendant's ties to the community, the perceived dangerousness of the defendant, and any previous history

of the defendant's failure to appear in court. It also took into account the defendant's age and gender. Bridges correctly concluded from this evidence that race and ethnicity matter in the disposition of criminal cases (Bridges, 1997).

Similar disparities are observed with respect to the prosecutor's decision to charge. A study in Los Angeles County conducted by Spohn, Gruhl, and Welch in 1987 revealed a pattern of racial disparity in prosecutors' charging decisions. They found that 39% of Black males and 42% of Hispanic males were fully prosecuted as compared to only 26% of White males. The study controlled for the defendant's age, prior criminal record, the seriousness of the charge, and whether or not the defendant used a weapon in committing the crime (Spohn, Gruhl, and Welch, 1987). In many of the studies available for review it is unclear whether this disparity is the result of racial discrimination or other factors, but what is clear is that disparity in these areas does indeed exist.

War on Drugs

Drug courts across the country arose to prominence in major part as a result of the assorted efforts at all levels of the government to cope with the unanticipated aftermath of the "war on drugs" (Goldkamp, 1994; National Council of Juvenile and Family Court Judges and National Drug Court Institute, 2003). The "War on Drugs" era began in the 1980's and remained strong for the next twenty years. During these years the rates of arrest and prosecution of drug offenders escalated dramatically, and the penalties assessed for the possession and sale of illegal drugs toughened considerably (Irwin & Austin, 1997; Tonry, 1995). According to the Bureau of Justice Assistance, "As a result of this nationwide war on drugs, an unprecedented number of drug offenders were arrested, charged with felonies, prosecuted, convicted, and incarcerated" (National

Council of Juvenile and Family Court Judges et al., 2003, p. 5). The impact of the “war on drugs” movement is a clear illustration of how this country’s politics, social culture, and ideologies exercised influence on criminal justice policies, procedures, and goals (Irwin & Austin, 1997; Walker, 1998; Walker et al., 2004).

Citizen attitudes toward crime and criminal offenders have become quite punitive, particularly with respect to illicit drugs (Irwin & Austin, 1997). These fear-driven attitudes have been translated into punitive laws and policies resulting in more drug arrests and longer sentences being given to offenders for drug convictions. A report conducted by The Clark Foundation, *Americans Behind Bars*, concluded that “much of the growth in prison population has resulted from a doubling of the number of arrests for drug law violations and a tripling of the rate of incarceration of arrested drug offenders” (Edna McConnell Clark Foundation, 1994, p. 8). The public’s growing fear of crime has influenced the “war on drugs,” both directly and indirectly, as this country has moved towards increasingly punitive drug sanctions. The “war on drugs” has also had particularly adverse effects on African American men and women that have been well documented (Bartollas, 2003; Mauer, Marc, & Huling, 1994; Tonry, 1995; Walker, 1998).

The expanding crack cocaine epidemic and the public perception that illicit drug use was the nation’s most alarming criminal justice problem influenced the “war on drugs” era (Walker, 1998). Public policies sought to implement zero tolerance practices against virtually any form of illicit drug use. The U.S. Congress and state legislatures implemented sentencing laws that substantially reduced judicial discretion when sentencing offenders convicted of drug-related offenses (Inciaridi, McBride, and Rivers,

1996). An indirect result of these initiatives was the placement of a heavy burden on both state and federal courts. It subjected an entire new population of individuals to arrest and prosecution. The courts faced an overloading of court dockets and the swelling of correctional populations within the prisons and jails in most jurisdictions across the country. The war on drugs increased daily jail and prison populations far beyond capacity in many locations. According to the Bureau of Justice Assistance, the number of adults arrested for drug-related violations increased 273% between 1980 and 1995, from 471,200 to 1,285,700 (General Accounting Office, 1997). During these same years, the percentage of prisoners in the custody of state correctional authorities for drug offenses increased from 6.4% to 22.7% (General Accounting Office, 1997). The comparable numbers are even more alarming for women in correctional facilities.

A main factor responsible for the overall increase in the imprisonment of women offenders was the “get tough movement.” Between the years 1985 and 1996, female drug arrests increased 95% while male drug arrests increased 55.1% during this time period (Federal Bureau of Investigation, 1985; Regnery, 1998; Stahl, 1998). Mandatory sentencing laws for drug offenders were enacted in 1986, and from 1986 to 1996 the number of women sentenced to state prison for drug crimes increased ten-fold from around 2,370 to 23,700 (Amnesty International, 1999, p. 26). Irwin and Austin (1997) argue that one of the most powerful factors that fueled the unprecedented imprisonment binge was growing public fear of crime.

Fear of Crime

The American “war on drugs” continued to gain political momentum as U.S. society’s fear of crime increased and political leaders made policy decisions in an attempt

to ease that fear. The fear of crime is the belief that crime is one of the greatest and most threatening problems facing society. In reality, however, the level of fear experienced is generally greater than the actual risk level (Kenney, 1988). Public fear of crime and drug abuse was heightened and sustained at high levels throughout the 1980's. Constant media attention coupled with the inflammatory rhetoric of politicians who felt they would never be faulted for being too "tough on crime" caused the American public to become aroused to a high state of fear and anger (Hahn, 1998). It continued to elevate each election year through the attention that many politicians and the media gave to crime in general, and specifically to the drug crime problem. In an effort to appease public pressure and push their political agendas, policymakers at both the federal and state levels of government pass laws that predictably increased the number of people sentenced to prison. This get tough on crime initiative produced longer stays in jail and prison under progressively harsher conditions.

It can be argued that fear of crime distorted the American political process. During this time, many U.S. politicians advocated quick-fix solutions with no realistic method of reducing crime (Irwin & Austin, 1997). Irwin and Austin argue that the public fear of crime produced citizen anger, pressing politicians to come up with "simplistic solutions." In most cases, politicians have little knowledge about crime control and will do little to study the true problems to be addressed. Many are simple solutions with high citizen approval rates that are often referred to as "get tough" policies.

This idea is fully illustrated in the "lock-'em-up" correctional policy through the use of secure and prolonged incarceration that is a familiar policy recommendation too often seen as a panacea for crime control, despite its low level of efficiency,

ineffectiveness, and budgetary responsibility (Irwin & Austin, 1997; Walker, 1998).

Between 1980 and 1995 the prison population in the U.S. grew at a frightening pace, with the prison population rising from 329,821 to 1,104,074--resulting in an increase of 235% (U.S. Department of Justice, 1995). Many researchers argue, rather convincingly, that the prison boom was generated more by public policy changes than by other rising crime rates or demographics (Hahn, 1998).

Unexpected Outcomes and Other Factors

Many scholars argue that the “War on Drugs” was most heavily waged against racial and ethnic minorities, and in particular young Black men (Irwin & Austin, 1997; Miller, 1996; Walker et al., 2004). It is also argued that the “war on drugs” did not deter crime, but rather contributed to the ultimate destruction of inner city communities and, as a direct consequence, has increased the likelihood of juvenile violence (Miller, 1996b). The adverse effects of new crime control policies which were directed at young African American men resulted in what Miller (1996b) calls a case of “search and destroy” policing. While the racial patterns of offenders did not drastically change over time, the policy practices and laws implemented during this time period disproportionately affected African Americans (Tonry, 1995).

For example, a study conducted by the Sentencing Project in 1995 reviewed the relationship of African American men and drug possession. That study showed that African Americans represented 13 percent of the population and 15 percent of all illicit drug users (according to the National Household survey) (Mauer, Marc, & Huling, 1995). Throughout the criminal justice process, they also disproportionately represented 35 percent of all people arrested, 55 percent of those convicted, and 74 percent of those

sentenced to prison for drug offenses (Mauer, Marc, & Huling, 1995). More specifically, one of the most common racial sentencing disparities that occurred had to do with the sentences given for cocaine-related drug offenses.

Crimes involving crack cocaine received a punishment far more severe than crimes involving powder cocaine (Irwin & Austin, 1997). In fact, the sentencing guidelines treat a given amount of crack the same as 100 times the amount of powder cocaine. This is best illustrated in the example of a 20-year-old African American College student and small time crack dealer. Arrested with just over a pound of crack in his car, he was convicted by a federal jury of conspiracy and distribution of crack and sentenced to prison for 19 years and 7 months with no possibility of parole (Clear & Cole, 2000). When comparing time served for other offenses, this was nearly three times the prison sentence served by most murderers in the U.S., four times the prison sentence served by most kidnappers, five times the sentence served by most rapists, and ten times the sentence served by those who illegally possess firearms.

Some state supreme courts have been successful in striking down laws that punish the possession or distribution of crack-cocaine more harshly than that of powder cocaine. “The court held that the differential punishment constituted illicit racial discrimination because most people convicted of possessing powder-cocaine were White, while most of those convicted of possessing crack cocaine were Black” (Clear & Cole, 2000, p. 385). The debate surrounding this discrepancy is centered on the fact that race and class are distinguishable by a user’s preference of using crack or powder cocaine.

Critics argue that there are a number other factors accounting for the war on drugs. Law enforcement strategies may be the reason for the “war on drugs,” and not

necessarily increasing patterns of minorities using drugs (Miller, 1996). Police were reactive in responding to crimes such as robbery, burglary, and other index crimes and proactive in dealing with drug offenses. Evidence suggests that law enforcement targeted minority communities since drug dealers are more visible and, therefore, easier to arrest. At the same time, little attention was given to other, less visible drug dealing in minority communities (Miller, 1996;Walker, 2004).

Critics of the crime control approach believe that the “war on drugs” has failed and “public safety has not improved as a result of the imprisonment binge” (Irwin & Austin, 1997, p.140). They call for a new approach, one that balances public safety and public health interests. Imprisonment may be appropriate for some offenders in securing public safety, but advocates of the public health approach argue for the expansion of alternatives to incarceration. Skolnick & Elliott (1997) suggests that two-thirds of the \$13 billion the United States spends annually to wage the “War on Drugs” should be allocated instead to treatment and prevention (Skolnick & Elliott, 1997). Similar arguments challenge the criminal justice system to improve the identification and diversion of drug crime offenders who do not pose a threat to public safety and would likely benefit from treatment and community supervision (Belenko, 1990).

Impact of Mandatory Sentencing Laws

Prior to the 1970’s the system of sentencing reflected a widespread belief that accepted rehabilitation as the governing rationale for imprisonment (Cullen and Gilbert, 1982). This assumed that the process of sentencing should contribute to offender reform, perhaps a concept that is honored more in doctrine than in practice (Walker, 2004).

During this time period, most state and federal systems relied on indeterminate

sentencing, a system that features a fixed minimum and a fixed maximum term of confinement. As the “War on Crime” movement gained momentum, crime control concerns came to the forefront of the political agenda. Increasing concerns about crime rates and fear of victimization gave rise to the recasting of sentencing laws and policies. Sentencing reform and legislative transformation was directed at the crime control political orientation, essentially changing the system from anti-imprisonment and anti-discrimination concerns into conservative law-and-order types of practices (Conodas, 1983). This change in outlook was codified in federal law with the enactment of the 1984 Comprehensive Crime Control Act in which determinate sentencing was adopted by the federal government for nearly all federal offenders (U.S. Sentencing Commission, 1987).

Determinate sentencing law rose to the forefront of the agenda for legislation at both the state and federal levels of government. The specific type of determinate sentencing primarily adopted and currently prevalent is termed mandatory sentencing. Mandatory sentencing entails penal code provisions that require the judge to sentence individuals convicted of certain crimes to prison terms of a specified length. All offenders convicted of a particular crime would be sentenced to the same length of time in prison. These statutes were targeted at recidivists, violent offenders, and other serious criminals to guarantee the strictness and certainty of their punishment. Probation and other forms of alternative sentences are not permitted when mandatory sentencing occurs.

New mandatory sentencing laws were developed at the state and federal level in the effort to achieve “truth in sentencing.” Truth in sentencing policies required the offender to serve a substantial proportion of their prison sentence before being released

on parole (usually 85% for violent crimes) (Clear & Cole, 2000). At the federal level, sentencing guidelines were developed with three distinct objectives being sought: honesty, uniformity, and proportionality. It is believed that these three principal objectives would enhance the ability of the criminal justice system to reduce crime through an effective and fair sentencing system. Honesty in sentencing sought to avoid the confusion and implicit deception that arose out of a system that permitted judges to impose an indeterminate sentence. In most cases, indeterminate sentencing automatically reduced an offender's sentence if they received "good time" credits during their incarceration. The parole commission played a part in the process by deterring the remaining time offenders would serve during their prison sentence. As a result, defendants often ended up serving only about one-third of the sentence imposed by the court (U.S. Sentencing Commission, 1987). Uniformity in sentencing aims to narrow the wide disparity in sentencing, which appeared within different federal courts for similar criminal conduct by similar types of offenders. Proportionality in sentencing was sought so that the system appropriately imposed different sentences for criminal conduct of different severity.

Unexpected Outcomes

The truth in sentencing approach was widely adopted at the state level as well. In 1994 several state legislatures enacted three strikes laws. Three strike mandatory sentencing laws were one of the most popular anti-crime measures created in the "get tough" area. These laws mandated life prison sentences to persons convicted of a third felony. An unexpected outcome of three strike laws is that they have resulted in the imprisonment of many non-violent offenders who could perhaps have been dealt with

more effectively with less costly and less punitive measures. In California, this law resulted in the incarceration of more than 15,000 offenders, 85 percent of whom had second and third strike convictions for non-violent crimes (Clear & Cole, 2000). In two extreme cases, one man received 25 years for stealing a pair of blue jeans, and another for shoplifting two packets of cigarettes. As a result, in 1996 the California Supreme Court issued a “time out,” ruling that trial court judges had the power to discard prior felonies (strikes) in making their sentencing decisions under this law (Clear & Cole, 2000, p. 378).

Despite the effort of the sentencing uniformity movement advocates, the result of these new laws was to remove the discretion from the judge and move it to the prosecutor (Harris & Jesilow, 2000). The prosecutor had the discretion to determine how the prosecutor’s office would file the cases brought to court. Mandatory sentencing laws have disproportionately impacted drug offenses, and this can be seen specifically during the years of prominence in the war on drugs movement.

The Overrepresentation of Minorities

Researchers note that the over-representation of African Americans in juvenile justice processing may be indicative of policy changes designed to “get tough” with juvenile offenders (Walker et al., 1996; Hawkins, 2000). Some scholars argue that one of the most serious indictments of the juvenile justice system is the mounting evidence of the unfair treatment of African American and Hispanic males by the juvenile justice system (Pope & Feyerherm, 1995; Walker, 2004). African American and Hispanic youth are over-represented in arrests, convictions, and incarcerations with respect to the proportion of their presence in the general population, and it is argued that this is at least

in part because of patterns of biased decision-making (Bartollas, 2003). Official statistics reveal significant racial and ethnic disparity in the confinement of juvenile offenders all across the country. Nationally, racial minorities made up 34 percent of the population referred to juvenile court in 1997. In 1997, racial minorities accounted for 62 percent of all juveniles detained pending adjudication, and 67 percent of all juveniles committed to public detention facilities (Bilchik, 1999). The minority proportion of youth committed to private facilities was slightly lower than to public facilities. In particular, in seven states the minority proportion is compared to total residential placement of all juveniles and it was found to be 75 percent or greater in California, Connecticut, Delaware, Louisiana, New Jersey, New Mexico, and Texas (Bilchik, 1999, p. 4).

The Office of Juvenile Justice and Delinquency Prevention looked at patterns of juvenile offenders in a number of areas throughout the juvenile justice system, including the stages of detention, residential placement following adjudication, and custody (Bilchik, 1999). Detention prior to adjudication was most likely for African American youth charged with drug offenses (40 percent), and it was least likely for White youth charged with property offenses (11 percent). African American juveniles made up 59 percent of all drug offenses resulting in detainment, but 33 percent of all drug offenders processed in juvenile court. This report found similar patterns for residential placement following adjudication. African Americans made up 40 percent of all juveniles in residential placement; Hispanics, 18 percent, and Whites 37 percent (Bilchik, 1999, pp. 9-14). As it pertains to specific offenses based on race and ethnicity, African American youth accounted for 64 percent of all residential placement for drug trafficking, 54 percent of all placements for other drug offenses, and 55 percent of all placements for

robbery. Hispanic youth accounted for 21 percent of drug trafficking, 18 percent of other drug offenses, and 24 percent for robbery. Custody rates for racial and ethnic juveniles are substantially higher in comparison to White juveniles. The custody rate patterns of African Americans are double that of Hispanics and nearly 5 times the rate for White juveniles. In the comparable figures for the population rate per 100,000 juveniles, African American juveniles accounted for 1,018, Hispanic juveniles accounted for 515, and White juveniles were 204 per 100,000 (Bilchik, 1999, pp. 9-14).

Some commentators argue that minority over-representation indicates that the interests of minority children differ from those of Whites, and the state may be better suited for the role of parents to minorities. In essence, the greater rates of detention and placement of youthful minority offenders may be more beneficial for non-White youths and for White girls. They argue that detention should not be used as a form of punishment, but should only be used as a sanction after adjudication (Joseph, 1995).

These statistics on disproportionate minority confinement do not account for the racial differences in the seriousness of crime, prior juvenile records, or other legally relevant criteria (Bilchik, 1999; Walker, 2004). Therefore, if “racial minorities are referred to juvenile court for more serious offenses or have more serious criminal histories than Whites, the observed racial disparity in case processing might diminish or disappear once these factors are taken into consideration” (Tracy, 2002; Walker, 2004, p. 335).

There are several proposed causes of the over-representation of minorities in the juvenile justice system. One perspective focuses on the operation of the juvenile justice system while the other focuses on the behavior of individual juvenile offenders that

commit crimes. A five-state evaluation of disproportionate minority confinement initiatives conducted by the U.S. Department of Justice discusses how there are likely to be multiple factors contributing to minority over-representation. They narrow these down to four major categories that contribute in a noteworthy way to the occurrence of minority over-representation. These four categories interact and influence each other, and tend to accumulate to what we now define as the disproportionate minority confinement (DMC) phenomenon: 1) juvenile justice system; (2) educational system; (3) the family; and, (4) socioeconomic conditions.

- Juvenile Justice System: racial/ethnic bias, insufficient diversion programs, system labeling, barriers to parental advocacy, poor juvenile justice system/community integration.
- Educational system: inadequate early childhood education, inadequate prevention programs (early dropouts), inadequate education quality overall, and lack of cultural education and cultural role models.
- The Family: single-parent homes, high incidence of economic stress, and limited time for supervision.
- Socioeconomic conditions: low-income jobs, few job opportunities, urban density/high crime rates, few community support services, and inadequate health and welfare resources (Devine, Coolbaugh, & Jenkins, 1998, p. 8).

There clearly is not one simple answer, but these four factors taken in combination help conceptualize possible underlying causalities. These factors become relevant to the study of juvenile drug courts because the drug court is designed for individualized treatment that must address each of these areas. Given the multiple factors contributing

to systematic minority over-representation in the juvenile justice system, multiple strategies will need to be employed to address this problem. These problems may accumulate in ways that influence the drug court team's decision-making process.

Racial Disparity

Considerable research on racial disparity has been conducted in the adult criminal justice system, but few studies have focused on the possible bias experienced by minorities in the juvenile justice system (Leonard and Sontheimer, 1995). A Florida study by Bishop and Frazier (1990) examines the processing of youth through the juvenile justice system from in-take to disposition based on decision-making outcomes. They examined the effect of race at five stages of the juvenile justice system by following a cohort of 54,266 youth through the juvenile justice process. At each stage they look at the processing decision to: (1) handle the case formally or informally; (2) place the youth in detention prior to disposition; (3) petition the youth to juvenile court; (4) adjudicate the youth or hold a waiver hearing for transfer to criminal court; and, (5) be placed in a residential facility. After controlling for crime seriousness, prior record, and other predictors of juvenile justice process, as well as recognizing variance arising from racial disparity, racial discrimination, or bias, the racial difference did not disappear. In fact, multivariate analysis conducted on the data indicated that African Americans were more likely than Whites to be recommended for formal processing, referred to juvenile court, adjudicated as a delinquent, and receive a harsh sentence.

Based on these findings, Bishop and Frazier (1990) concluded that "race is a far more pervasive influence in processing than much previous research indicated" (1990, p.

41). A follow-up study in the Florida Juvenile Justice system produced similar results to those documented in the earlier study (Bishop and Frazier, 1995).

The processing of juveniles was also studied by Leonard and Sontheimer (1999). They explored the effects of race and ethnicity in juvenile justice case outcomes in the state of Pennsylvania. They found that minorities were over-represented among referrals to juvenile court. Within 14 counties, African American and Hispanics accounted for only 19 percent and 4 percent of the general youth population, respectively, but constituted 46 percent (African American) and 7 percent (Hispanic) of all referrals to juvenile court. Both Black and Latino youths were more likely than Whites with similar offenses, prior records, and school problems to have their cases formally processed, especially in non-rural court settings. Blacks constituted the majority of those detained and housed in out-of-home placements. “The race effects with detention, and the subsequent importance of detention, suggest that an indirect race effect also may result in adjudication and placement more often for minorities and especially for Blacks” (Leonard and Sontheimer, 1995, p 120). These findings have important public policy implications, so they recommend the following:

[The] criteria used by individual intake offices should be evaluated to determine whether factors that may more often negatively affect minorities are accorded importance. Racially neutral criteria in detention decisions should be established... Cultural bias including value judgments not based on fact (such as notions that minorities’ parents may not provide adequate supervision for their children or that certain neighborhoods are not conducive to growing up) must not influence detention (Leonard and Sontheimer, 1995, p 122).

Gender Disparity

Institutions for women have a long history of trying to rehabilitate their inmates, whereas institutions for men have long used punishment as their primary means of

offender treatment (Termin, 1980). The assumption underlying this difference is that women are seen as more pliable and willing to rehabilitate than are men.

Three prominent approaches examine if sex discrimination occurs in the criminal justice system: the evil women hypothesis, the equal treatment hypothesis, and the chivalry or paternalism hypothesis (Chesney-Lind, 1984; Belknap, 1996; Chesney-Lind & Shelden, 1998). The *Evil Women Hypothesis* presumes that for the same offense, females are treated more harshly than males by the criminal justice system. It reflects the belief that when females violate the gender role norm of what society perceives as appropriate behavior, they are vilified by the system. The second approach is termed the *Equal Treatment Hypothesis*. This approach reflects the belief that females receive the same type of treatment and processing as their male counterparts. The third approach, *Chivalry or Paternalism*, argues that sex discrimination occurs in favor of females by the criminal justice system in the way that offenders are processed and treated.

Studies that have examined gender bias in the various stages of decision-making points of crime-processing have produced mixed results, finding some degree of support for each one of the three above perspectives on female offenders (Nagel and Hagen, 1983; Chesney-Lind 1987; Miller, 1996; Chesney-Lind & Shelden, 1998). As it pertains to the decision-making points in the criminal justice system, Belknap (1996) argues that the Evil Women Hypothesis usually occurs at the earliest stages of criminal processing, the Equal Treatment Hypothesis is most evident in the middle stages of the process (decisions to prosecute, dismiss, or convict), and the Chivalry Hypothesis is commonly seen in the final decision-making stages (incarceration and sentencing decisions) (Belknap, 1996).

Although females represent a smaller proportion of the criminal justice system than do males, they are often sanctioned more harshly for status offenses (running away from home, incorrigibility, waywardness, curfew violations, etc.) (Chesney-Lind & Shelden, 1998). There are no consistent findings, however, that indicate a systematic bias in the treatment of females charged with non-status offenses by the criminal justice system.

Conclusion

There are a number of contemporary social equity issues pertaining to race, sentencing trends, drug laws, and the over-representation and the unfair treatment of minority juveniles. The war on drugs and the get-tough on crime movement have shaped public perceptions and led to the adoption of laws featuring an increased use of punitive sanctions. In the midst of these new policies and laws, America's minorities were disproportionately represented at different points of the criminal justice system, first in overall over-representation and secondly in the specific area of drug offenses. In particular, juvenile drug courts have the potential for biased decision-making based on the current drug laws and may reinforce disparities with respect to minorities represented. This examination of the literature on racial disparities may help to alert us to the potential for racial disparities to emerge in the juvenile court's decision-making process when juvenile drug courts are put into operation.

CHAPTER 4

DRUG COURTS AS A RESPONSE TO SUBSTANCE ABUSING JUVENILES

Drug courts have established an important presence in the American criminal court system (Belenko, 2001). In order to understand whether juvenile drug courts will become an extension of the traditional system and its legacy of racial and gender disparities, a review of the research on drug courts is important. The design and operation of drug courts suggest that they differ significantly from traditional courts and these differences in the drug court process elements, such as key legal system components, typical weekly operations, the workings of the workgroup team, and the roles of the several drug court team members, may result in different outcomes than those associated with traditional courts.

The drug court's theoretical approach and key operational concepts related to: (1) therapeutic jurisprudence; (2) courtroom workgroups; and, (3) interagency collaboration are essential for the drug court process to work effectively. There is a focus on the fundamental philosophy of drug court judicial bodies that apply a different jurisprudential theory than traditional courts by approaching their role in the legal system as a consciously therapeutic agent rather than an agent dispensing punitive justice. These jurisprudential principles are acted out within the courtroom workgroup and are relevant to decision-making related to the race, gender and age of the drug court participants.

Traditionally, courtroom workgroups are made up entirely of legal practitioners participating in an adversarial process, working together effectively to move cases through the court system. Plea-bargaining is a common practice carried out by such groups. Drug courts call for the courtroom workgroup to perform many of its basic roles,

however, they are asked to do so in a courtroom environment in which decision-making is non-adversarial, collaborative, and the ultimate goal is therapeutic in nature with respect to the offender. This ultimately creates a new approach to achieving justice.

Another essential component of drug courts is the effectiveness of the interagency collaboration occurring among criminal justice agencies, treatment and service providers, and political and community stakeholders. It is expected that effective partnerships between and among these agencies and drug courts is critical to program success. Some of the existing programs that utilize interagency collaboration are discussed. A review of available adult and juvenile drug court evaluations indicates that their practices, decision-making processes, and structures may have interesting effects on ultimate outcomes. A review of this research shows that there is relatively little known about juvenile drug court courtroom workgroups and their decision-making relevance to achieving justice for substance abusing juvenile offenders.

The Development of Drug Courts

Drug courts have emerged as a major form of therapeutic jurisprudence in the U.S. through the development of a variety of locally-based collaborative programs that integrate treatment and traditional criminal justice activities (Hora, Schma, & Rosenthal, 1999; Office of National Drug Control Policy, 2003). They offer a new way of dealing with the legal and social problems that arose from managing repeat drug offenders. These specialized courts provide intensive substance abuse treatment for adult and juvenile offenders, along with the social services necessary to help them change their behavior (Goldkamp, 1999; Finn & Newlyn, 1993). The use of courtroom-supported sanctions and rewards has proven to be an effective tool to promote behavioral

transformation. In addition, the opportunity for the dismissal of criminal charges has proven to be a strong incentive for offenders to participate in drug court programs (Nolan, 2001). Ultimately, drug court participants are presented with a clear choice to either take control of their own recovery, or to subject themselves to further adversarial contact with the criminal justice system (Belenko, 2001).

The drug court movement began as a grassroots effort to find an alternative to jail and prison for nonviolent substance abusing addicts. The need for this became clear with the growing number of drug cases crowding American courts, jails and prisons throughout the 1980's. The passage of the Violent Crime Control and Law Enforcement Act of 1994 further intensified efforts to promote the Drug Court movement (Goldkamp, 1994). This federal legislation provided local jurisdictional funding for judicial authorities interested in establishing community-based programs that focused on drug-using offenders (Travis, 1998). The first treatment-based drug court began operation in the summer of 1989 in Dade County Miami, Florida (Finn & Newlyn, 1993). Judge Stanley Goldstein was the first American judge to preside over what would essentially become the model for over twelve hundred similar courts spread throughout the United States (American University, 2001; Nolan, 2002).

Support of drug courts gradually spread across the political spectrum through favorable media coverage, discussion at professional conferences, and successful pilot implementation within the criminal justice arena (Nolan, 2001). Federal funding of drug courts increased steadily throughout the 1990's to sustain the drug court movement (Belenko, 1998; Goldkamp, 1994, 1999). In 1995, the Department of Justice established the Drug Court Programs Office. An excess of \$47 million in grants were awarded to the

Drug Court Program Office between the years 1995-1997. These funds were dispersed to approximately 270 different local government jurisdictions (American University, 2001; Bullington, 2001).

Since the early 1990's, drug court programs have been successfully implemented in cities and counties throughout the United States. The drug court movement has experienced remarkable progress since its early development of fewer than a dozen courts in 1991 (Office of National Drug Control Policy, 2003). By January 1st of 2005 the total number of drug courts nationally reached 1,262 (784 adult, 334 juvenile, 132 family, and 12 combination drug courts) encompassing all 50 states plus the District of Columbia, the Northern Mariana Islands, Guam, and Puerto Rico. There are an additional 575 courts in the planning stages of implementation at this writing (American University, 2004). Included among these entities are Tribal drug courts, of which more than 50 are fully operating and 65 are currently in the planning stages across the United States (American University, 2004).

Progression to Treatment-Oriented Drug Courts

The generic term "drug court" includes two quite different types of criminal court operations. What we commonly refer to as drug courts today entail focused treatment; however, drug courts originated from a traditional focus on punishment (Hora, Schma, Rosenthal, 1999). The first type of drug court was an Expedited Drug Case Management (EDCM) court, an experiment that began out of early efforts to relieve the stress on the court system and overcrowded jails and prisons. EDCM courts are specialized court dockets created to address specific issues pertaining to a certain type of offender or offense. Specialized courts for drug cases primarily focused on improving case flow

management in order to expedite the processing of the amplified volume of drug cases (Goldkamp, 1994). Currently, other commonly-known specialized courts are family court, mental health courts, and teen courts (Wexler & Schopp, 1992; Winick, 1996). Most early drug specialized courts only focused on drug possession cases. The purposes for which these specialized drug courts were created were to process felony drug cases, to reduce crowded felony dockets and case processing time, and to provide a mechanism for creative and effective dispositions. Some court dockets consisted of low-level felony cases, while others processed any type of drug felony. EDCM Court's primary goal is to speed up the disposition of drug cases through the use of differential case management.

Some of these early experiments were reasonably effective at reducing overloaded court dockets, however they did not address the underlying drug abuse problem of many offenders (Belenko & Dumanovsky, 1993; Prendergast & Maugh, 1995). Over the course of the last fifteen years the drug court model has evolved into what we now commonly refer to as "mature" drug courts today. This second type of drug court is defined by and functions under a clearly articulated treatment-oriented judicial philosophy. It is this type of drug court that will be examined in this study.

Treatment-oriented drug courts monitor drug treatment under diversion, deferred prosecution, or deferred sentencing arrangements that are designed to achieve favorable changes in the defendant's drug use behavior (Hora et al., 1999). Generally, treatment-oriented drug courts exclude offenders charged with the sale, delivery, or trafficking of drugs unless the offender's role in the offenses was relatively minor, or their drug addiction motivated their participation in drug selling. The treatment-oriented drug court approach departs from the traditional court approach by systematically bringing drug

treatment to the criminal justice population entering the court system (Hora et al., 1999). Traditional courts selected offenders and referred them to treatment as a condition of probation, whereas the drug court is based on the authority of the judge who holds the offender personally and publicly accountable for their treatment progress (Travis, 1998). While treatment-oriented and EDCM drug courts both share a common origin, they differ in the way these courts confront and perceive the problem of increased drug use as well as the methods they use to try to change it.

Juvenile Drug Courts

Juvenile drug courts (JDC) arose in response to the increasing number of juvenile drug offenders entering juvenile courts. Juvenile court judges began to confront many of the same complex issues surrounding substance-abusing adult offenders as had the adult court judges in the 1980's (National Council of Juvenile and Family Court Judges et al., 2003). The increase of teenage alcohol and drug use, as well more frequent as the delinquent behavior of juveniles, directly impacted the juvenile court system. The Centers for Disease Control and Prevention (1992) reported the rates of smoking, drinking, and other illicit drug use among students increased dramatically in the early 1990's, and these levels of use continued to remain alarmingly high throughout the decades studied (Center for Disease Control and Prevention, 1992). In 1995, the number of juvenile drug offense cases processed was 145 percent greater than it was in 1991 (Stahl, 1998). The way in which traditional juvenile courts deal with substance-abusing juveniles results in long treatment waiting lists, disjointed service delivery, lack of family engagement, and no input into the nature or extent of treatment (McGee, John, Merrigan, & Smith, 2000).

The nationwide implementation and favorable findings of adult drug courts in reducing recidivism progressively brought about the desire to introduce adult drug court theories, concepts, and frameworks into the juvenile court setting (National Council of Juvenile and Family Court Judges et al., 2003). In October 1993, the first juvenile drug court began operations in Key West, Florida (American University, 2001). By the mid-1990's, a number of innovative juvenile courts started drug court dockets that focused on the problems of delinquency and substance abuse. Between the years 1995-2001 more than 140 juvenile drug courts were established across the country (Copper, 2001).

Juvenile drug courts represent intensive treatment programs established and overseen by the juvenile court system to provide specialized services for eligible drug-offending youth and their families. They face unique challenges not encountered in the adult drug court environment. Juvenile drug courts incorporate the potential influences of an offender's family, peers, schooling, and environment with appropriate punishment, rewards, and treatment for each individual youth (Copper, 2001). Juvenile court often needed to counteract the negative influences of peers, family members, and the community environment. For instance, they had to address the important role of the family, and especially how influential a family member's behavior has been on the program participant. Juvenile drug courts must comply with strict confidentiality requirements during the juvenile's proceedings while at the same time seek to obtain the background information and current life circumstances necessary to address the particular juvenile's problems.

In theory, the juvenile justice system's core principles and the drug court's therapeutic jurisprudence principles coincide with one another and, for this reason, most

researchers believe that juvenile drug courts processes have a significant advantage over adult courts (Gilbert et al., 2001). Juvenile court values traditionally are to protect, to correct, to rehabilitate, and to strengthen family. “A more heightened and intensified emphasis on therapy and rehabilitation, accomplished by appropriate accountability and due process safeguards, does not represent a dramatic philosophical shift from past and current juvenile justice considerations and objectives” (Gilbert et al., 2001).

Enhancement of Traditional Juvenile Courts

Juvenile drug courts enhance traditional juvenile courts and offer special strategies in dealing with youth delinquency. Specifically, Roberts, Brophy, and Cooper (1997) discuss a number of specific juvenile drug court enhancements to the traditional juvenile court process.

- A simplified and comprehensive assessment of the intake process.
- A greater focus on the functioning of family and its effects on juveniles throughout the juvenile drug court process.
- An emphasis on the integration of the information obtained during the assessment process as it pertains to the juveniles and their families.
- Greater coordination among the courts, the treatment community, the school system, and other community agencies in response to the needs of the juveniles and their families.
- Increased activity and continuous judicial supervision of the juvenile’s case and treatment process.
- Increased use of intermediate sanctions for noncompliance and incentives for progress for juveniles and their families

Responsibility and Accountability Mechanisms

Juvenile drug court programs fall within one of the twelve purposes for the Juvenile Accountability Incentive Block Grants (JAIBG) program (Belenko, 1998). The

JAIBG program's primary goal is to hold juvenile offenders accountable in the juvenile justice system. The development of juvenile drug court programs created alternative means to integrate juvenile justice sanctions and services into the juvenile justice system. One of the core goals that drive juvenile drug court programs is the establishment of mechanisms that promote greater court responsibility and accountability.

Copper, in "Juvenile Drug Court Programs" (2001), discusses how juvenile drug court programs guide the judicial system in quick and effective responses to address: 1) juvenile delinquency activity systematically; 2) juvenile drug and alcohol abuse; and, 3) treatment services. First, juvenile drug courts are designed to screen eligible youth shortly after arrest and to promote their prompt entry into the juvenile drug court. The drug court team deals with the offense and subsequent additional delinquent activity immediately, through drug court team contacts throughout the week and at the routine judicial review hearing (often held weekly). Traditional judicial responses to delinquent activity are not nearly as timely.

Secondly, juvenile drug courts aim to provide a quick and effective response to juvenile drug and alcohol use. Frequent and random drug testing (often at least twice a week) allows the drug court team to promptly detect and respond to alcohol and drug use by participants. The juvenile drug court's response to substance abuse often includes any combination of the following: home detention, secured detention, more frequent drug testing, increased contacts with treatment providers, writing assignments, and community service. Relapse mechanisms are also built into the program, whereas traditionally the juvenile court has responded to drug and alcohol use more casually.

Finally, juvenile drug courts incorporate a range of treatment services. They strive for specialization of treatment, and timeliness in service delivery. Treatment is a fundamental requirement in juvenile drug court programs; therefore, the drug courts work daily/weekly with each treatment or service provider. Juvenile drug court treatment and service providers tackle a multi-faceted number of issues such as gender, cultural, and class concerns while collaborating with the team and one another to propose possible services pertaining to mental health, family counseling, or anger management (National Council of Juvenile and Family Court Judges et al., 2003). There are slots set aside and funding resources available for juvenile drug court participants to ensure access for participants needing treatment services immediately.

Traditionally, juveniles with substance abuse problems in regular juvenile court may not be treated, but if they are, treatment services tend to be neither specialized nor frequent. In many local jurisdictions, when youth are referred for treatment or other special programs, there are waiting periods of weeks to months, and when they get in to the requested program the treatment may not cater to the range of issues that the youth is facing (Copper, 2001). The National Council of Juvenile and Family Court Judges and the National Drug Court Institute (2003) note that as the juvenile justice system's environment is becoming increasingly punitive, juvenile drug courts are emerging as a promising option for providing an appropriate, timely and meaningful treatment response to juveniles and their families while ensuring accountability.

Drug Court Process

Two Key Components

The incorporation of relapse mechanisms and the dispersement of therapeutic sanctioning are critical facets of the drug courts' process. Drug courts recognize that relapse to substance abuse is expected and an accepted part of a drug offender's treatment process (National Council of Juvenile and Family Court Judges and National Drug Court Institute, 2003). Substance abuse is a chronic and recurring disorder, and the program participants are supervised throughout the recovery process. The application of therapeutic jurisprudence in the drug court setting occurs through the allowance of relapse episodes, and a willingness to give the participant chances to correct or adjust their behavior.

The types of sanctions that occur in drug courts are known as "smart punishments." This is a treatment philosophy founded in the therapeutic communities literature (Tauber, 1994). The least amount of punishment is imposed that is necessary to achieve the twin sentencing goals of reduced criminality and diminished drug usage. Smart punishment redefines the way traditional punishment is dispensed, in that it is not truly seen as punishment but rather as a therapeutic response to the realistic behavior of a drug offender working to end an addiction (Tauber, 1994).

The application of smart punishment in the drug court creates a new setting and different collaborative roles for the judge, prosecutor, and defense attorney. They must work together to apply smart punishment to offenders rather than punish them for the sake of retribution (Tauber, 1999). "The metamorphosis of these roles allows the goal of the court to become primarily therapeutic while remaining a legal institution" (Hora, Schma, Rosenthal, 1999, p.15).

Weekly Operations

The specific drug court operations in existence today vary somewhat from program to program; however, while each program is somewhat unique they tend to follow a common general format. Typically, delinquents who meet certain eligibility criteria are offered the option to participate in the drug court or to continue with traditional court processing. The two common core criteria required to participate in drug courts are having a drug problem and not having committed a violent offense. Once a juvenile offender is under consideration for juvenile drug court, they go through a number of assessments to determine if they are a good fit for the program. If accepted by the drug court team, the juvenile in question is brought before a judge and the team during the preliminary hearing or sentencing stage. At this time, the offender formally is given an option of whether to participate in the drug court program or to continue with the traditional juvenile court processing. If the offender chooses to participate in the drug court program, the judge gives the offender a set of rules to follow: abstaining from drugs, attending drug treatment sessions, taking drug tests, and/or attending weekly court meetings (Nolan, 2002; Rossman, Butts, Roman, DeStefano, & White, 2004). Throughout each month while taking part in the drug court program the participant has direct communications with the drug court team regarding his/her performance. This occurs in court with the drug court team, as well as outside of court with individual members of the team (i.e., at work, treatment sessions, home, or social gatherings) (National Council of Juvenile and Family Court Judges et al., 2003). The juvenile will participate in alcohol and drug treatment, in mental health treatment, as well as in out-patient or in-patient treatment as directed.

The drug court decision-making process consists of two types of meetings: pre-court and in-court. During the weekly pre-court meeting the team discusses each case and decides what is best for the program participant; they typically consider rewards for good behavior, admonishments for bad behavior, or alternative sanctions for noncompliance (Clear & Dammer, 2000). During the weekly in-court meeting, the judge leads the discussion and talks directly with the drug court participant. The other team members also add to the discussion when called upon by the judge. Although the courtroom set-up is similar to the traditional juvenile court, the interaction between the judge and the participant is non-adversarial in nature (i.e., judge addresses participants by first name and talks to them in more of an informal style). After the judge and team members finish talking, the judge renders the decision of sanction, reward, or warning as decided by the team in the pre-court meeting (Butts & Roman, 2004). Note that the judge has the discretion to deviate from the pre-court team's decision if the in-court participant discussion leads the judge to refer a different decision.

A wide range of potential sanctions and rewards are considered. Sanctions range from community service to incarceration, and rewards range from gift certificates to weeks off from attending court. The requirements and contacts change based on the progress of the offender in question. There are a series of phases through which each participant must pass, and each phase is less restrictive of personal liberties than the last. Drug court programs tend to range from nine to fourteen months in duration depending on the offender's progress through each phase. Drug court programs may have as few as 10, or as many as 200 participants at any given time.

Workgroup Team

Juvenile drug courts depend on the involvement of many individual players and organizations that traditionally have not worked together closely in the juvenile justice process. Collaboration must occur among the judge, prosecutor, defense counsel, case manager and probation officer, treatment providers, law enforcement, representative from schools, social services agencies, and other community-based organizations. The collaborative planning and organization among these parties is a core element in the operation of juvenile drug courts. It is essential to “engage all stakeholders in creating an interdisciplinary, coordinated, and systemic approach to working with youth and their families” (National Council of Juvenile and Family Court Judges et al., 2003, p. 11). Collaborative arrangements and practices tend to reflect local needs and the targeted population being served, and tend to differ considerably across drug courts (Hora, et al., 1999). In addition, collaborative planning is critical to identify and secure community resources that aid with ongoing support and outreach for the program.

Team Member’s Role

As a member of the juvenile drug court team, each team player engages in a type of dual role. They must collaborate with other team members to achieve the goals of the JDC while providing their expertise from their traditional role in the juvenile justice system. Specifically, juvenile drug courts create new and different roles for the judges, prosecutors, and defense attorneys (National Drug Court Institute, 2006). The judge is the leader of the JDC team linking participant, drug treatment, and the juvenile justice system. The JDC prosecutor and defense attorney must put aside their adversarial mindset and engage in the collaborative efforts of the team. These new roles allow the

goal of the juvenile drug court to become primarily therapeutic while remaining a legal institution (Hora, et al., 1999).

The JDC judge stands at the heart of this collaborative environment. The judge is the central figure in a team effort that focuses on sobriety and accountability as among the primary goals (Belenko & Dumanovsky, 1993). The JDC requires judges to step considerably beyond the traditional role of a judge. JDC judges must understand substance abuse issues well enough to guide the team into making decisions that produce outcomes that are both therapeutic and legally appropriate. “Without knowledge about addiction and the effects of drugs, the JDC judge can not purposely intervene and apply the "smart punishment" necessary to keep the offender on the path to recovery” (Hora, et al., 1999, p.21).

Under the circumstances created by the Juvenile Drug Court the JDC judge and the offender are usually able to develop an ongoing working relationship through frequent and mandatory court appearances. This judge to juvenile offender relationship tends to facilitate honesty and openness through familiarity. This familiarity allows the judge in many cases to become a powerful motivator for the offender’s ultimate rehabilitation (Hora, et al., 1999).

In most jurisdictions operating JDC programs the prosecutor screens new drug-related cases with the intention of deciding whether a candidate is appropriate for the program, as opposed to determining whether the case is winnable in court. The screening done at this early stage generally involves an assessment of the current charges, review the juvenile’s delinquent history and background, cursory assessment of the juvenile’s current social history, and review of known substance abuse history (Cooper, 2001; Butts

& Roman, 2004). The role of the prosecutor is to speak on behalf of the state while approaching justice therapeutically. The prosecuting attorney protects the safety of the public through the enforcement of the law.

After the initial screening, the defense attorney reviews the defendant's criminal and family history. If the team thinks the defendant is a good candidate for JDC the defense attorney promptly consults with the mandated eligible youth and their family. Here, legal advice is given as well as, and the explanation of the JDC rules and in an effort to determine whether the program is appropriate for the offender (Cooper, 2001). The defense attorney works with the program participant throughout the process and tries to ensure that the addicted defendant stays in the treatment program until graduation. Once accepted into the JDC, the defense attorney is then empowered to speak on behalf of the client. Defense counsel discusses what the client wants and what they believe would be in the best interest of the client, based primarily on JDC goals directed towards treatment and rehabilitation. The role of the defense attorney is treatment-oriented and is designed primarily to assist the participant through the various difficulties that might be experienced along the way to program completion (Goldkamp, 1994).

There are a number of other team members that interact with the participant more frequently. The probation officer and the case manager ensure that the participant complies with the JDC teams requirements. The case manager primarily oversees the court's caseload. They make sure the participant is aware of resources and needed assessments, and primarily coordinates services for the offender and acts as a liaison between the JDC team and the community. The probation officers perform their traditional role of assisting in supervision. They also assist with intervention,

surveillance, and law enforcement. The treatment provider plays an integral role in the JDC process by providing substance abuse treatment for each participant and notifies the JDC team on the progress, or relapse status, of each program participant. Local law enforcement works with the JDC team to provide informal information, to assist with confinement or detention as well as monitor new violations or arrest of the participant. The tracker works with the JDC team by conducting unannounced and random contacts at the participant's school, work, home, and various other randomly selected places such as nightclubs, parks, and youth hangout spots. The specific participants and the number of contacts per day vary based on the desire of the JDC. Tracking coverage is seven days a week, including evening hours as needed.

It is important for the JDC team to develop and maintain an interdisciplinary, non-adversarial relationship over time (National Council of Juvenile and Family Court Judges et al., 2003). This team is central to program planning, to effective therapeutic program implementation, and to maintaining program operations. Teams do evolve over time, but for effective collaborative teamwork it is imperative to ensure and sustain each member's commitment as well as retain the core therapeutic vision of the juvenile drug court. The teams' embracement of juvenile drug court philosophies, behavior theories, goals, and purposes often occurs with each team member partaking in juvenile drug court training, participating in ongoing workshops, and attending professional conferences for drug court personal.

Theoretical Approaches and Operational Entities

Therapeutic jurisprudence is the fundamental philosophy of drug courts (Tauber, 1994, 1999; McGee, Parnham, Merrigan, Smith, 2000). It has become an emerging

criminal justice perspective, where the formalistic applications of the law is de-emphasized and principal attention is given to the consequences of legal decisions and procedures. Therapeutic jurisprudence is a relatively new legal theory that was originally outlined by Wexler and Winick (1991). "Therapeutic jurisprudence is the study of the role of law as a therapeutic agent....legal rules, legal procedures, and the roles of legal actors (such as lawyers and judges) constitute social forces that whether intended or not, often produce therapeutic or anti-therapeutic consequences" (Winick, 1996, p. 646).

Therapeutic jurisprudence originated in the area of mental health law. It has quickly expanded beyond that original context to become a mental health law approach to the general study of law and society. Most recently there has been a growing interest in one dimension of therapeutic jurisprudence that accepts law for what it is, but explores ways existing laws might be most therapeutically applied (Wexler, 1996). This dimension of therapeutic jurisprudence builds on the basic notion that law is a social force that has inherent consequences, positive or negative, on one's mental and psychological health (Wexler and Winick, 1991). The consequences should be studied within the behavioral sciences, particularly those consistent with justice and other relevant normative values. This approach reflects the belief that the law should be reformed to minimize anti-therapeutic consequences and to facilitate the achievement of therapeutic outcomes (Wexler, 1996).

Traditional courts aim to employ punitive or legislative jurisprudence, whereas drug courts are grounded in therapeutic jurisprudence. Therapeutic jurisprudence is motivated by the best interest of the individual, and for the constructive adjudication of the offender. "In shifting the main focus of the court from legal to therapeutic, drug

treatment courts apply different solutions to the problems of the drug offender than do traditional courts” (Hora, Schma, Rosenthal, 1999, p.16). The therapeutic paradigm is equally applicable to criminal law practices as an option for what many define as intermediate sanctions. Wexler argues that rehabilitation and relapse prevention techniques can be used by criminal attorneys for their clients as plausible probationary dispositions (Wexler, 1996). In fact, courtroom members work as a team to implement therapeutic approaches in both adult and juvenile drug court settings.

Courtroom Workgroups

Drug courts add a new dimension to courtroom dynamics, interaction, and decision-making processes that occur among courtroom players. The courtroom workgroup is “a complex network of on-going relationships that determines who in the courtroom does what, how, and to whom” (Eisenstein & Jacob, 1977, p. 21). Eisenstein and Jacob (1977) first developed the idea of courtroom workgroups to explain the important interaction that occurs within the courtroom among the various players- including the judge, the prosecutor, and the defense attorney.

Nardulli (1978) further developed this concept within organizational behavior literature as a way to explain the operations of American criminal courts through what was called the courtroom elite. This organizational perspective relies on the belief that there is an important parallel between the operations of the court and the operations of the goal-oriented collectivities (i.e., victims, defendants, police offices, and clerks). Due to the common interest of the judge, prosecutor, and defense counsel, the courtroom elite cooperates to process cases expeditiously (Nardulli, 1978). In this organizational

construct, the courtroom elite is viewed as an interdependent collection of actors, each with an interest in having the group function effectively.

Many of the decisions made by the courtroom elite are of low visibility and often difficult to evaluate. External control over the actions of these officials is extremely limited. Nardulli (1978) argues that in many instances the common interest of the judge, defense counsel, and prosecutor has created a situation in which neither due process, nor the interest of the community nor the defendant are of paramount importance in criminal court decision-making. Rather, decisions tend to reflect the interest of those who control the dispositional process—namely, members of the courtroom elite. Although great discretionary authority is vested in each member of the courtroom workgroup, the traditional view is that power is distributed among the participants in a way that no single member can dominate court operations. An example of how this interaction is balanced among team members can be seen by comparing the prosecutor’s unilateral discretion to charge with the power of the defense to demand trial, and the judges’ authority to manage the trial and award a sentence. This balance creates interdependence among the several courtroom workgroup members and supports their continuing relationship to accomplish their common goal: expeditious case processing (Nardulli, 1978).

Other researchers have also characterized this shared understanding among the courtroom workgroups as a “local courthouse community.” “The courthouse community includes not only the actors who regularly interact with one another in the disposition of criminal cases, but also the structure of the dimensions and the power and authority relations among actors” (Nardulli, Eisenstein, Flemming, 1988, p. 38). It is understood that each individual member of the team must participate in the workgroup to deal with

the large number of cases they are called upon to resolve. Each court is faced with more cases than it can resolve, so it would be impossible to manage workloads without the courtroom workgroup (Blumberg, 1974). Making adaptations, delaying or speeding up cases, and setting bonds are commonly controlled by the collective effort of courtroom workgroups (Butts & Roman, 2004; Walker, 2004).

The most common practice the workgroup participates in is the process of plea-bargaining. Through this process, workgroup members achieve each of their individual goals. Managing caseload is a top priority because the work of the court could never be accomplished if all the cases filed went to trial. In addition, each member of the court has his or her own interests to protect. This set of interdependencies encourages participation in the workgroup and promotes plea-bargaining (Blumberg, 1974; Nardulli, Eisenstein, Flemming, 1988b). The plea bargaining system is the outgrowth of years of experience and negotiations. Workgroup members handle cases efficiently because over time they can correctly anticipate how other members will respond to specific circumstances (Nardulli, Eisenstein, Flemming, 1988, a; Walker, 2001).

Courtroom workgroup functions are strongly integrated into court dynamics and attempts to limit the discretion of the courtroom workgroup have often proven to be ineffective. Even when adaptations, flexibility, and mitigation were introduced in the court setting, courtroom workgroup operations appeared unchanged (Feeley & Kamin, 1996). In particular, the evidence supports the conclusion that when propositions are established, members of the courtroom workgroup will act to mediate or nullify legislative enactments that affect the operations of the court. We see this with the approval of the Victim Bill of Rights in 1982 by California voters supporting the end of

plea-bargaining in felony cases. Despite this mandate, an early study showed that plea rates did not decline (McCoy, 1993). Plea-bargaining was prohibited only after the information was filed in Superior Court. In compliance with the law, courtroom workgroup members simply bargained earlier in the process, such as before or during the preliminary hearing when the case information was initially filed (Harris & Jesilow, 2000).

The courtroom group norms and decision-making process was disrupted with the enactment of the 1994 “three strikes” laws in several states. “Three strikes had fundamentally changed the relationships and power among members of the courtroom workgroup, significantly disrupted the efficiency of their work, and made the prediction of case outcomes difficult, if not impossible” (Harris & Jesilow, 2000, p. 186). The common uses of plea bargaining practices were stifled. Offenders charged with their second and third offenses were less likely to trade a guilty plea for reduced punishment. Specifically, the felony trial rate increased for those on their third strike, and along with it the workload for each member. There was, however, a decrease in the non-strike cases that went to trial. Perhaps this was due to the workgroup finding other ways to decrease their workload (Harris & Jesilow, 2000).

The criminal justice system in the United States is based on an adversarial model, while drug courts rely on courtroom players to act out a script that is primarily non-adversarial in nature (Hora, Schma, & Rosenthal, 1999). Not only have the traditional courtroom players adopted new roles in the drug court, but the defendant also plays an active role in the decision-making process (Satel, 1998). Despite the apparent changes in court functions from the traditional adversarial nature to a non-adversarial approach, the

courtroom workgroup is still an intricate part of the drug court framework. This important interaction that occurs in the courtroom among team members and the structure in which each team member functions is essential to assist with the mediation and collaboration necessary in a non-adversarial approach to justice that is inherent in drug courts. Within the traditional court setting, the courtroom workgroup interaction is seldom discussed or mentioned, but the concepts of the workgroup are inherently understood among players in the courtroom. Unique to drug courts is the relative formalization of this concept and how it specifically occurs in the drug pre-court meetings in which all decisions are made prior to in-court discussions.

Normative and Coercive Power

The courtroom workgroup's behavior affects the investment of the defendant in the criminal justice process. There are two types of power adopted by organizations to induce the compliance of participants: (1) normative and (2) coercive power. If the JDC is able to exercise strategies based on normative power it enables the participants to invest in the goal of the organization (i.e., getting morally involved). Often compliance is forced when an individual is incarcerated; they have no choice but to comply. Drug courts offer a new way of doing justice. Individuals are actively engaged in the process because they have a choice to "opt into" drug court or to proceed through the traditional criminal process. They also have the personal choice on how to comply with the treatment and sobriety demands involved while participating in the drug court.

Organizational theories of compliance suggest that, by adopting different strategies of compliance, organizations can influence the investment of the lower-level participants in the organization (Etzioni, 1961). By relying on less coercive methods of

getting offenders committed to the goals of the organization, drug courts seek to induce a higher level of involvement of the offender than occurs in traditional courts. In particular, the primary organizational goal for drug court offenders is to get treatment for their substance problem. There are also other forms of normative power that the JDC employs such as sanctioning the participant and praising them in the same court hearing, or giving them a choice as to when they will carry out their sanction (e.g., weekday and weekends). These tactics create symbolic rewards because such small steps towards recovery are critical to overall success. As the JDC works to adopt this new way of doing justice, various community agencies and service providers must play their respective roles as well. JDC actors rely upon community partnerships and active collaboration with treatment service providers, correctional facilities, legal services, police departments, social services agencies, and community-based organizations. This type of ongoing interagency collaboration has been utilized in other areas of the criminal justice system, and has been recently incorporated into the drug court sector in a major way (National Council of Juvenile and Family Court Judges and National Drug Court Institute, 2003; Van Ness & Strong, 1997).

Interagency Collaboration

Effective crime control policy requires both an effective criminal justice system and an active network of crime control partnerships with many segments of the community becoming part of the action (Hahn, 1998). Interagency collaboration is vital to drug court operations because one particular agency, organization, or criminal justice entity cannot solve the problem of drug crime. The cooperation and partnerships with others who have the time, money, expertise, ideas, energy, and equipment may result in

the accomplishment of an appreciable impact on justice and public safety (Kennedy, 1993).

Community policing has facilitated such partnerships in many settings across the country. One of the ways in which community policing has been implemented into the justice system is in the form of community collaboration and networking. Community policing originally developed from concerns about police corruption, the rise and continued expansion of the drug problem, and public demand for the police to take more of a proactive role in the provision of day-to-day justice (Hahn, 1998). By 1988, community policing became a new paradigm model adopted by police departments throughout the United States that brought about a transformation in the way police think about their role in the promotion of public safety (Kelling & Bratton, 1993). Police departments moved away from central control by local government and from elite tactical units to more active cooperation with the public. Community policing identifies the need to pull together their resources and establish a commitment from what one prominent researcher labels the “Big Five:” the police, the community, social agencies, political leaders, and the media (Trojanowicz, 1994). “Citizens need to do more for themselves and volunteer to help rejuvenate their neighborhood; social agencies need to do their share; political leaders need to provide long-term commitment and support; the media needs to educate the public and the police cannot conduct business as usual” (Trojanowicz, 1994, pp 258-259). As community policing programs developed across this nation, the necessity of active community collaborations and networking became clear to many decision-makers.

Restorative justice programs are also centered on community collaborations and networking. Restorative justice is a relatively new approach to the way we think about crime. Its central concerns are “restoring” the harm done to the victim and to the community after a crime has been committed (Bazemore, 1991). This occurs through a process of “vindication and reparation,” in which the victim and the offender mediate a settlement of the crime committed. The restorative justice approach functions under the premise that crimes committed harm the community, not just the state. The victim has an opportunity to play a key role in the justice process. This approach provides an important opportunity for the offender to take responsibility for the harm he or she has caused. It is essential that community collaboration occur with traditional criminal justice agencies to ensure a balanced outcome that seeks justice simultaneously for the offender, the victim, and the broader community.

One of the major components of a restorative justice approach is mediation between the victim and offender. Involvement in the mediation process is voluntary for both the victim and offender. During the mediation process, a restitution contract is created and agreed upon by both parties. Restitution can involve monetary compensation, community service, or punishment in any variety of combinations. Restitution contracts are enforced by traditional criminal justice agencies. Mediation styles and techniques can vary among jurisdictions, but they often operate under these general guidelines. Some current examples of restorative justice programs include court-based restitution programs, community reparation boards, sentencing circles, peacemaking circles, family group conferencing, victim impact statement panels/classes, and victim-offender mediation programs (Bazemore, 1991; Hahn, 1998). The most

popular programs implemented under restorative justice are the victim-offender mediation programs.

There are several access points to this mediation that may be used (Umbreit, 1994). Police officers may refer victims and offenders to mediation rather than pursuing a formal arrest. Prosecutors may instruct victims and offenders to participate in mediation rather than going forward with formal prosecution. Participants may also forgo sentencing, choosing instead a diversion agreement to partake in mediation. Finally, judges may include mediation as part of a defendant's sentence. Knowing these access points is a key to understanding potential problems that may occur with restorative justice and the pursuit of collaboration among criminal justice agencies. The proper implementation of restorative justice approaches requires collaboration between traditional criminal justice agencies, community-based agencies, service providers, victims, the offender, and the community at-large to produce both an acceptable process and generate appropriate outcomes.

A benefit to community collaboration is that it provides offenders with new innovative opportunities to receive treatment that otherwise are limited to offenders that are in jail. The offender population has had minimal access to substance abuse treatment or other health care services in the past. The criminal justice system has the ability to serve as an important point of contact within the community (Hammett, Gaiter & Crawford, 1998). If drug courts are able to utilize and incorporate partnerships in an expanded courtroom workgroup that includes other key stakeholders, in addition to the courtroom elite, then they may be uniquely situated to achieve justice through an open decision-making framework that reduces class, racial, and ethnic disparities.

Drug Court Evaluations

Adult Drug Courts

The evaluation literature on drug courts indicates that they have shown varying degrees of success (Belenko, 1998; Belenko, 1999; Harrell, 1998; Peters, Hills, & Murrin, 1999; Tauber & Snavely, 1999). An array of approaches to evaluate drug courts exists. The way in which drug courts are designed, implemented, and function is a product of the particular circumstances that exist in each jurisdiction (General Accounting Office, 1997; Goldkamp, 1994; Huddleston, 1998). The statutes of each jurisdiction vary according to the resources available for operations, the level of community support present, and the approach adopted by the judge and the drug court team.

There have been a number of theoretical, descriptive, and empirical drug court studies conducted and published concerning various policies and programs (Belenko, 1998 & Belenko, 1999; Butts & Roman, 2004). Drug court evaluations tend to fall under one or more of three types: outcome, process or structure. A large number of outcome evaluations have examined recidivism rates. They tend to compare the recidivism rates of drug court participants to a sample of comparable offenders going through traditional courts. Process-orientated evaluations often look at operational components, screening mechanisms, target populations, and the admission process with particular care. Structure studies primarily identify conceptual and systematic frameworks for future drug court studies. Regardless of the focus or direction of drug court evaluations and studies, they are “based on an understanding of the physiological, psychological and behavioral realities of drug abuse and are designed and implemented with those realities in mind” (Tauber, 1994, p.2).

Outcomes Related to Adult Drug Courts

One of the first outcome findings began with one of the first adult drug courts placed in operation in Florida. This study, conducted by the National Institute of Justice, showed a 33 percent reduction in re-arrests for drug court graduates when compared to non-drug court graduates (Travis, 1998). A study in Jefferson County, Kentucky found that graduates had lower reconviction rates than either non-graduates or non-drug court offenders (Vito & Tewksbury, 1999). Evaluators of adult drug courts in Riverside, California, and Escambia and Okaloosa, Florida found lower rates of recidivism among drug court participants compared to the other comparable subjects (Sechrest, Shicior, & Artist, 1998; Peters, Hills, & Murrin, 1999). Evaluations conducted by American University concluded that reduced recidivism rates of drug court program graduates range from 0 to 20 percent (Clear & Dammer, 2000). The Chester County (PA) Drug Court evaluation found that drug court participants tend to have lower rates of positive drug tests and re-arrests during their participation in the program than other drug law violations being processed through regular criminal courts (Brewster, 2001).

The Office of National Drug Control Policy (2003) published a preliminary report from the National Institute of Justice entitled, "Estimate of Drug Court Recidivism Rates." This study followed more than 2,000 graduates from 100 different adult drug courts and found low recidivism rates (for convictions that would result in a sentence of at least one year). The recidivism rate for one year after graduation was 16.4 percent, and 27.5 percent at the two-year mark. The comparison figures of individuals who were imprisoned for drug offenses instead of entering drug court were 43.5 percent after one

year, and 58.6 percent after two years, respectively (Office of National Drug Control Policy, 2003).

Steven Belenko, a well-known drug court researcher, has conducted a number of studies in the area of substance abuse in the criminal justice system. Belenko has received attention for his critical review of 37 published and unpublished evaluations of drug courts conducted between 1999 and 2001. He reported that, "drug use and criminal activity are relatively reduced while participants are in the program," but "less clear are the long-term post-program impacts of drug courts on recidivism and other outcomes" (Belenko, 1999, 2001, p.1). In this critical review of drug court research, four of the six studies that examined one-year post-program recidivism found a reduction in recidivism, but noted that the level of reduction varied across courts. Despite these mixed findings, the impact of additional post-program outcomes is unknown because none of the studies reported other outcomes such as drug use or employment status.

Three studies conducted random assignments to drug court and controlled conditions. These studies showed a reduction in recidivism for drug court participants; however, the sample size was small in two of these studies, and none of these studies made a distinction between in-program and post-program recidivism. Program cost was another area studied, and on average the per client drug court costs were lower than standard processing. This finding was primarily due to the program's ability to keep the program participant from being incarcerated. Belenko (2001) suggests that straight diversion for those same low risk offenders entering drug court may be less expensive than placing them in drug court (Belenko, 2001, p.2).

Process and Structure

There are a number of process-oriented evaluations that study individual aspects of the drug court program. Some of these evaluations are small in scale, with findings from only one or two programs, but they do provide detailed and useful descriptions nonetheless (Belenko, 2001). Process-oriented evaluations discussed here include the types of treatment services provided, the screening mechanisms used, typical obstacles participants face, and a comparison of the severity of sanctions issued between minorities and non-minorities. Bouffard and Taxman (2004) examine the delivery of substance abuse and allied social services through what they call “a look inside the black box.” They explore the varying types and quantities of treatment services offered within four adult drug courts through the use of a combined qualitative/quantitative methodology. They suggest improvement in several areas that are believed to enhance the overall effectiveness for these courts. Their findings reveal that drug courts should adopt a scientific treatment approach such as cognitive-behavioral. It is also important not to incorporate too many types of approaches because this may confuse the client engaged in their own recovery (Bouffard & Taxman, 2004).

Cresswell and Deschenes (2001) looked at the perceptions of the severity and effectiveness of drug courts as perceived by minorities and non-minorities. Their study compared the drug court program to other types of intermediate sanctions. Perceptions of the effectiveness of the drug court program were measured by ranking the strength of its components. There were significant differences between minorities and non-minorities in their perception of the severity of various sentencing measures, but few differences in perception of the drug court program’s effectiveness (Cresswell & Deschenes, 2001). This is one of the few studies that specifically focused on minorities involved in the drug

court experience. They found that minority participants perceived diversion as more severe than non-minority participants, and viewed prison as less severe than non-minority participants. The two groups had similar views on probation and drug court. They suggest that minorities may not “fear the temporary loss of freedom but are threatened by the cost and consequences of drug treatment” (Cresswell & Deschenes, 2001, p. 277). In particular, for African Americans these findings can be explained by the negative stigma attached to mental and psychological counseling or treatment, which are common reactions within the African American community.

Wolf and Colyer (2001) considered the obstacles that drug court participants tend to face. They lay out the formal requirements of a drug court program and indicate some of the daily problems a participant may encounter trying to cope with those seemingly reasonable requirements. As the participants had in-court discussions with the judges and the team, problems primarily associated with everyday individual or personal issues were revealed. Issues pertaining to physical health, domestic violence, and obtaining Medicaid benefits were commonly mentioned in drug court decisions (Wolf & Colyer, 2001).

Miller and Shutt (2001) discussed operative effectiveness through the use of screening mechanisms to evaluate potential drug court candidates. Screening devices assist in identifying participants who would benefit from this type of program and the types of services provided and reveal risk factors related to drug court failure. Some of the specific predictors identified relating to drug court failure were the use of crack as their drug of choice, and existing criminality before using drugs (Miller & Shutt, 2001). Hoffman (2002) conducted a seven-year follow up study of a Denver drug court, and his study resulted in the documentation of a number of unintended consequences associated

with the drug court process. This drug court did not achieve its goals and expectations. It failed to reduce recidivism rates among drug court participants, and a number of drug court defendants were sent to jail. Even more detrimental is the fact that this program experienced an enormous amount of net-widening (Hoffman, 2002). Large caseloads, cutbacks, non collaborative drug court teams (the judge in particular), high turnover of staff, and a fundamental gap between drug court theory and practice all contributed to the failure of this particular drug court program.

Drug court studies on gender and race effects have primarily shown either no significant trends, or have been inconclusive (Brewster, 2001; Miller & Shutt, 2001; Vito & Tewksbury, 1999). Some national studies on drug court clients have depicted women as being more successful than men, while others describe men as being more successful than women (General Accounting Office, 1997; American University, 1999). One of the few studies that employed a multivariate analysis found no gender differences in terms of drug court outcomes (Schiff & Terry, 1997). The Brewster (2001) study found that African American drug court participants appear to do significantly less well than do Caucasian participants in terms of successful completion of the program (Brewster, 2001, Goldkamp & Weiland, 1993). Brewster attributes these findings to the correlation between employment and drug of choice. He found that African Americans were less likely to be employed and twice as likely as whites to identify cocaine as their drug of choice. There were no drug court programs that appeared to provide information on gender-specific and culture-specific programming (Bouffard & Taxman, 2004).

Drug court structural studies commonly argue that they offer a systemic view of drug court structure and process through components, frameworks, or typologies. One of

the commonly known core concepts of drug courts is the “ten components” idea (National Association of Drug Court Professionals, 1997). These components are a minimum set of precepts that any drug court should follow, but they do not necessarily come together to form a cohesive framework. Similarly, a “descriptive typology” of drug courts was introduced based on the seven dimensions necessary for the process and structure of drug courts to operate (Goldkamp, 1999). Some critics argue that this typology does not explain why each dimension is related to drug court outcomes. A more recent framework was comprised of five dimensions. This structural framework took into account similar previous studies, along with the drug court literature that was grounded in therapeutic jurisprudence. The five dimensions of drug court structure and process featured in the framework are: leverage, population severity, program intensity, predictably, and rehabilitation emphasis (Long, Turner, Wenzel, Morral, Harrell, McBride, Deschenes, & Iguchi, 2001). They propose the use of quantitative and qualitative methods for identifying effectiveness “in a simple but comprehensive way, on crucial structural and process dimensions of drug courts” (Long et al., 2001, p. 21). Structure and process factors are not likely to be systematic, and measurement strategies will differ among evaluation studies (United States, 1998).

Despite the overall favorable evaluation findings, increasing popularity, and the rapid spread of drug courts across geographic regions throughout the country, the systematic evaluation component of drug court programs is not yet very well developed (Belenko, 1999, 2001; Butts & Roman, 2004). In general, this is due to the relative infancy of most drug courts, the large variation in the theoretical design and practical implementation of existing drug courts, and the multiplicity of research designs employed

in evaluation studies. It is generally agreed among criminal justice researchers that have been unable to collect appropriate data that most drug court programs have significant and long lasting impacts on the reduction of drug use and associated drug related crimes (Belenko, 1999, 2001). Drug court research, however, has been attracting more attention in the last few years from the criminal justice research community. The drug court programs in existence continue to encourage the development and the implementation of both process and outcome evaluations. This active commitment to evaluation has led to an increase in the number of drug court research articles published in peer-reviewed academic journals in recent years.

Belenko (2001) suggested the need for further research on drug courts in a number of specific areas. He argued that research should not focus exclusively on program graduates, but rather analyze data from all program participants. He acknowledges that most local drug court evaluations are conducted under serious fiscal constraints, but insists that they can offer detailed and useful descriptions of operational components with relatively few additional resources. This type of research would provide a fuller understanding of the impact of drug courts in the context of the larger criminal justice system. There is a great need for research on client buy-in dynamics, and treatment delivery characteristics that affect outcomes, in particular. These dynamics and treatment effects are likely to vary across both racial/ethnic groups and across gender classifications. More recently, Lutze and Van Wormer (2007) expressed the importance of drug courts in providing quality treatment services. They emphasized that treatment services can help to ensure the longevity and effectiveness of drug court programs, but

they need to move towards evidence based treatment along with quality assurance measures for the treatment providers (Lutze & Van Wormer, 2007).

Juvenile Drug Court Studies

The studies that have been conducted on juvenile drug courts are largely consistent with findings derived from the study of adult drug courts (Butts & Roman, 2004). Initial studies would seem to indicate that juvenile drug courts show clear promise in reducing substance abuse and other forms of delinquency (Belenko, 2001; Nolan, 2002). The juvenile drug court literature that has been published primarily falls into two general categories: implementation techniques and specification of program goals, and general effectiveness and outcome evaluations. The National Drug Court Institute and the National Council of Juvenile and Family Court Judges conducted a notable study where they recommend sixteen strategies as optimal for the design of juvenile drug courts. The study lays out the definitive characteristics of juvenile drug courts and how they can become strongly connected to the community they serve. This guide provides information on planning, implementing, and evaluating, and also includes informative gender and cultural competency strategies (National Drug Court Institute and the National Council of Juvenile and Family Court Judges, 2003).

There are a number of articles that focus on the key dimensions and development of juvenile drug courts. Sloan and Smykla (2003) use Goldkamp's typology of adult drug courts and apply it to secondary national-level data on juvenile drug courts that were in operation since 1998. They found considerable variability in key dimensions of juvenile drug courts: target population, target problems, court processing focus, and candidate screening and evaluation (Sloan and Smykla, 2003). Copper (2001) shares

perspectives on the development and implementation of juvenile drug court programs and detail the critical components that may help to hold juvenile offenders accountable in juvenile drug court programs. Other articles have discussed similar program dimensions and key elements necessary for a successful juvenile drug court program (American University, 1999; Roberts, Brophy, & Cooper, 1997).

Since the first juvenile drug court was established in 1995, the evaluation literature has been understandably rather sparse. There were only a handful of published juvenile drug court evaluations available for review, and the majority of these studies indicated favorable findings of different components of the juvenile drug court programs. However, early studies suffer from numerous limitations in research design and methodology alike. Some of the limitations included data collected over an extremely short period of time, limited number of participants observed, results from only one drug court, no comparison group, or discussion of characteristics that are not comparable (Belenko, 2001). Many of these early evaluations had incomplete information, ranging from not specifying the number of participants or graduates to unspecified operational definitions of crucial variables (Byrnes & Parson, 1999; Miller, Scocas, & O'Connell, 1998; Shaw & Robinson, 1998).

More recent studies have begun to incorporate varying juvenile drug court dimensions into their study. In 2000, Applegate and Santana conducted a process evaluation in the Orange County, Florida juvenile drug court. They found that drug court graduates experienced an increase in the overall levels of social and psychological functioning and recidivated at a lower rate than youth who did not complete the program.

Most recently, Sloan, Smykla, & Rush (2004) examined if juvenile drug courts reduce recidivism by comparing terminated participants of drug courts to those in an adolescent substance abuse program. This study focused on which group was less likely to be rearrested 24 months after being terminated from the program. After considering prior arrests, the seriousness of their crime, and the extent of their substance abuse problems, they found that juvenile drug court participants were no more likely to recidivate than were the participants in the adolescent substance abuse program (Sloan, Smykla, & Rush, 2004; but also see additional arguments concerning recidivism).

Rodriguez and Webb (2004) reported on a 3 year juvenile drug court evaluation conducted in Maricopa County, Arizona. They investigated the impact of juvenile drug court participation on recidivism and drug use. Rodriguez & Webb, (2004) found that drug court participants were less likely to recidivate than youth on standard probation. When boys and Hispanic youth entered treatment, they committed a higher number of delinquent complaints. The study showed, however, that the majority of drug court participants were unsuccessful in meeting their program requirements and were subsequently released to state-operated or standard probation or detention. There was no difference between participants and the comparison group in marijuana use, but drug court participants were more likely to test positive for cocaine than were their counterparts in the comparison group (Rodriguez & Webb, 2004).

The existing literature on drug courts tends to fall into one of two general areas: typologies, frameworks, or guidelines to consider, or outcome results used to assess program effectiveness. Specifically, the juvenile drug court literature is even more in its early development than the adult drug court literature. The research literature and

evaluation studies conducted on process or outcome are minimal to date (because juvenile drug courts are relatively new programs). Due to the paucity of research and limited scope of juvenile drug court research, there are clearly a number of important areas that need to be explored in greater depth. Some studies have considered outcome findings, but before outcome is discussed, documenting the process of the programs is a cardinal requirement. The way the drug court functions, operates, progresses over time, and is managed based on its intended goals and expected outcomes is extremely important to specify. Missing from the literature in both adult and juvenile drug courts is an assessment of the drug court team and whether their weekly decisions regarding drug court participants are related to court processing such as incentives, rewards, and sanctions. As a consequence of these observed shortcomings in prior studies, this study will examine the decision-making processes of a juvenile drug court program.

The Current Study

The current study answers the question: “How does the courtroom workgroup function within the juvenile drug court setting, and does the decision-making style influence the awarding of incentives, rewards and sanctions given to participants?” Juvenile drug courts are designed to create a courtroom workgroup dynamic that employs therapeutic jurisprudence in a non-adversarial collaborative manner. This goal has been advocated as having an advantage over traditional courts due to its orientation towards rehabilitation (Butts & Roman, 2004; Gilbert, J., Grimm, R., & Parnham, J. 2001). However, no study to date has quantitatively addressed this key element of the drug court process. The courtroom workgroup is the decision-making body. Eisenstein and Jacobs (1977) suggest that the stability of a courtroom workgroup will be an important factor in determining

how justice is allocated in any particular time and place. It is important, therefore, that a stable courtroom workgroup makes decisions in a fair and nonbiased manner. Existing research that examines the impact of discriminatory decision-making has recognized the need to focus on multiple decision-making points as a process rather than as a series of individual steps (Wolf & Colyer, 2001; Liska & Tausing 1979; Zatz, 1987). Examining the process in which the JDC members make decisions for each participant throughout the program may allow one to identify patterns of systematic racism, individual biases, or equitable decision-making occurring within this setting. This decision-making process is an important area to examine since the juvenile justice system has a history of racial disparity and patterns of bias with regard to drug offenses (National Council of Juvenile and Family Court Judges et al., 2003; Pope & Fayerherm, 1995; Walker, 2007).

This study will examine the JDC decision-making process by analyzing team and individual level dynamics, interactions, and assessments. The following analyses will be examined: 1) the overall operating styles of the JDC at the team and individual level; 2) team and individual levels of operating styles, decision-making involvement, and collaboration during the frequent pre-court meeting discussions; and, 3) pre-court meeting decisions based on gender and race and age of the JDC participant during the allocation of sanctions, treatments, and rewards.

Research Questions

This study answers the following research questions.

Research Question I: *How does the courtroom workgroup interact in a juvenile drug court setting?*

I would expect the JDC courtroom workgroup to interact in a manner that is cooperative and non-adversarial, with a therapeutic approach since the JDC members that work in this unique specialty court understand that its operations are unlike traditional juvenile courts. The JDC team members receive training and attend workshops that reinforced their understanding of therapeutic forms of justice geared towards changing the lives of the substance-abusing participants.

Research Question II: *Is the way the juvenile drug court interacts related to the implementation of sanctions, treatments, and rewards?*

I would expect that the interaction of the JDC workgroup to be less formal, less conflictual, and more collaborative than traditional courtrooms. Based on previous research, there are a number of operational styles that I would expect to have an influence on the implementation of sanctions, treatments, and rewards. The operating styles of formality and conflict should have an influence on sanctions. When the team interacts formally and there are high levels of conflict, attention is redirected from JDC participants to team members. Accommodativeness, talkativeness, and activeness should have an influence on the treatment and rewards that are given by the team. Previous literature indicates that a team that is more collaborative should function better. Furthermore, a better functioning team should produce the team goals of providing treatment services in an effort to modify bad behavior and give incentives for program compliance with rewards.

Research Question III: *Is the gender, race, and age of the JDC participants related to the JDC workgroup's decisions regarding sanctions, treatment, and rewards?*

I would expect the JDC workgroup's decisions regarding sanctions, treatment, and rewards to have an influence on race, gender, and age. Based on the history of race biases in the juvenile justice system and in juvenile decision-making, non-whites should experience more sanctions, less treatment, and less rewards. Girls have been sanctioned more severely for status offenses more often, but overall I expect them to be treated more leniently than boys in the juvenile justice system. It is important to note that exceptions occur when girls step outside of their traditional roles. When this happens, girls tend to be treated the same, or even more harshly than boys. I would expect to see girls experience fewer sanctions, more treatment and more rewards. As juveniles age, society tends to become less tolerant of their deviant behavior, therefore, I expect the JDC team to sanction, treat, and reward younger participants less than older participants.

CHAPTER 5

METHODOLOGY

To test my research questions, a participant-observation study was conducted for a JDC in the Northwest region of the United States. I systematically observed the decision-making process of the JDC team. The study focuses on the drug court workgroup's decision-making patterns, and how the team's decisions relate to the administration of sanctions, treatment, and rewards to JDC participants. The weekly pre-court meetings and in-court hearings were observed for the first year of operation of the court, between August 2002 and August 2003. Each team member's participation in the work group was observed and recorded, along with the team's decisions.

These data reported here come from a juvenile drug court program process evaluation. A process evaluation is a thorough description of a project that documents program development continuously during a period of implementation, identifies successes and failings in the implementation, and seeks to explain why program decisions were made (Patton, 1997). This process evaluation was conducted to determine the overall interaction of the JDC workgroup and to document the character of its decision-making process developed over its first year of operation. This evaluation is needed to identify the strengths and weaknesses of the process as it develops in the implementation of the juvenile drug court concept (Rossi & Freeman, 1993). It is also necessary to conduct this type of evaluation in order to document the program's effect on key drug court components and to come to an understanding of the likelihood of its continued effective operation. This study is primarily qualitative, but features a quantitative dimension used to measure the team's level of individual actor participation and style of

interaction within the workgroup. This chapter provides a description of the research setting, the procedures followed, and measures utilized in this study.

The primary source of funding for this Juvenile Drug Court Program was a \$500,000 grant awarded to the County's Juvenile Justice Center to fund the first three years of operation of the juvenile drug court. The Bureau of Justice Assistance (BJA), Office of Justice Programs, awarded the grant and it covered program expenses such as personnel, supplies, equipment, consultants, and fringe benefits (Juvenile Justice Court, 2002). While writing and applying for the grant, core stakeholders fully supported and endorsed the development of a JDC. The stakeholders were comprised of team members, treatment providers, and several local community agencies. To ensure that all team members were on-board with the JDC approach, the team trained together for approximately one year by attending conferences and workshops enabling them to gain a greater understanding of the JDC concept and to become more knowledgeable of JDC philosophies and techniques used in such courts elsewhere around the country

Program Description

The JDC began its formal operations in August of 2002. It is a program of 12 to 14 months duration targeted at minors charged with non-violent crimes. The program attempts to use education and treatment in combination to break the cycle of substance abuse, and operates as an alternative to incarceration within the court system. The program's primary goals are to: 1) promote and ensure public safety while protecting the juvenile offender's legal due process rights; 2) reclaim and restore the juvenile offender's dignity through sober, healthy, productive living; 3) reduce substance abuse and delinquent activity among participants by breaking the cycle of drugs and crime; 4)

improve the juvenile offender's school performance and attendance; and, 5) link youth to evidence-based services and programs in an effort to increase life protective factors of program participants. The secondary goals are to: 1) involve parents in the JDC process by providing services for them and family structures with the ultimate goal of reducing family substance abuse and conflict; 2) address the entire family's social and economic needs by first identifying the needs and strengths of the juvenile and parents, and then linking them with appropriate social services (Juvenile Justice Court, 2002).

To be eligible for the JDC a youthful offender must be a minor between the ages of 14 and 17 who is charged with an eligible offense and is diagnosed with a drug or alcohol problem. An eligible minor must have no prior violent felony or sex crime offenses, but must be subject to local sanctions if convicted. In order to qualify for the program, an eligible youth must be able to substantially benefit from treatment and education. The youth must also express a wish to participate in the program, and appropriate services must be available to address the identified needs of the youth. In addition, the juvenile offender's family must be supportive of the program and agree to participate in most if not all phases of the JDC process.

The JDC is divided into four distinct phases: orientation and information, accountability, life skills, and independence and mastery (see Appendix A). The purpose of Phase I is to transition the JDC participant into a treatment program, and allow the participant to accept responsibility for their actions. Phase II is designed to monitor the participant's sobriety, and to allow the participant to recognize their responsibility to others. During Phase III of the program, the participant is expected to maintain sobriety and increase their awareness of their responsibility to themselves and others. The length

of Phase IV is determined by the individual progress made by each individual participant. Progress is reflected in the participant's continued sobriety and continual involvement in the program. Successful completion of Phase IV involves a graduation ceremony and possible participation in aftercare programs. In addition to program requirements, participants are required to comply with their individually-assigned treatment agency's policies.

Research Setting

The location of this JDC is in a rural area with an economy primarily based on agriculture, with a significant migrant labor force. According to the 2000 census, the demographics of this study's JDC jurisdictional area is similar to the demographics of the region, with two principal exceptions. The JDC jurisdictional area has a higher percentage of juveniles, and also features a higher percentage of the "Other" and "Hispanic" racial ethnic categories (U.S. 2000 Census data).

The research facilities in this study included the juvenile courthouse and meeting rooms located in the county's Juvenile Justice Center. Within the Juvenile Justice Center, the decision-making process was primarily observed in two different settings: 1) a pre-court meeting room; and, 2) an in-court hearing room (traditional juvenile court setting). The majority of discussions and decision-making occurred during gatherings within the pre-court meeting room. These meetings were restricted to the juvenile drug court team and invited guests. Guests were invited when they could provide additional information to the team regarding the status of specific juveniles being discussed that week. The invitees typically included court officers, treatment providers, and JDC participants.

Evaluator's Role

I was introduced to the JDC team as a process evaluator. The role of the process evaluator is that of an independent witness and assessor of program activities and goals. The evaluator should maintain an independent position in order to take a broad view of the program being assessed (Rossi & Freeman, 1993). During the pre-court meetings, I typically sat slightly outside of the circle of team members at a corner of the group's table where I was able to listen to the discussion and unobtrusively observe and record the group's interactions (both verbal and non-verbal behaviors). During the in-court proceedings, I sat at the side bench or table next to the court reporter. These locations allowed me to have a good view of all of the court players and participants while I quietly recorded my observations of the proceedings. My consistent weekly attendance at the JDC team's pre-court meetings and in-court hearings allowed the JDC team and the JDC participants to become familiar with me, and to eventually regard me as a silent, ordinary fixture in the process.

Weekly Decision Making Process

Each week the team met to discuss the participants' activities for that week. The discussions centered on the program's required activities as well as the participants' progress towards their objectives regarding their treatment, family relationships, school progress, and peer interactions. All members were given access to each participant's current status documented in their individual file. They then each recommended a course of action that would, from their own perspective, best facilitate the participant's advancement into the next phase of the program. The team discussed and debated each member's recommendations until the team members arrived at a consensus on a position

that would be presented as a collective team decision during the upcoming in-court hearing implementing a sanction, treatment, or reward for the participant (see Table 1).

Sanctions and treatment were given for non-compliance or technical violations.

Sanctions were given to punish participant’s behavior and treatment aided in giving them the psychological and mental tools needed to change their behavior as it pertained to substance abuse. Incentives were given in the form of rewards for good behavior or progress.

Table 1 - Outcome Decisions for Sanctions, Treatments and Rewards

<i>Outcome Decisions for Sanctions</i>	
➤ Verbal reprimand / Warning	➤ Work crew
➤ Essays/ Writing assignment	➤ Home confinement
➤ Work with Probation Officer	➤ Phase demotion
➤ No contact order: peers, distractive parent	➤ Warrant for arrest
➤ Location restriction	➤ Detention or Jail
➤ Increase curfew	➤ Termination
➤ Community service	
<i>Outcome Decisions for Treatments</i>	
➤ Increase substance abuse treatment	➤ Increase physical exercise
➤ Increase mental health treatment	➤ Increase UA’s
➤ Assign family counseling	➤ Increase and counseling
➤ The patch (a sweat patch worn on the skin that detects drug use)	➤ Assign in- patient treatment
<i>Outcome Decisions for Rewards</i>	
➤ Recognition in Court, including applause from the entire team or individual team member	➤ Time served for prior sanction-house arrest or community service
➤ Gift certificate	➤ Future incentive/ reward
➤ Gift	➤ Phase Promotion
➤ Increase social activity	➤ Week off from court
➤ Leave court early	➤ Graduate from JDC
➤ Relaxed curfew, location restrictions, or driving privileges	
<i>Note: In addition, the team often gave sanctions, treatment, or rewards and it suspended its decisions.</i>	

Decisions of the JDC team made during the pre-court meetings were presented, recommended, and implemented the majority of the time during the in-court hearings. Occasionally, intervening events occurred after the pre-court meeting and before the in-court hearing. When this happened, individual JDC team members sometimes advocated courses of action that were different from the pre-court team decision. At that point, the judge or the JDC team had to make a new decision based on updated information in a somewhat different setting. These in-court JDC hearings were not open to the public. Exceptions, however, were occasionally made with the court's official approval.

During the in-court hearing, each participant was called to stand in the front of the courtroom next to the defense attorney. Each JDC team member then had an opportunity to talk to the court about the participant, and each program participant had an opportunity to speak to the court about his or her week's activities. The judge interjected as needed and, if everything proceeded as planned in court, she concluded the discussion by revealing the JDC team's pre-court meeting decision. (I was not able to observe other informal decision-making processes. General discussions were held and particular problems were discussed and resolved informally via phone calls, through emails, during hallway meetings, etc.)

JDC Team

The JDC team consisted of members of the jurisdiction's court system. The core JDC team is made up of the following: a judge, a defense attorney, prosecuting attorney-1, prosecuting attorney-2, a case manager, and a probation officer. These six core team members represented the decision-making body observed in my study. Although treatment providers, police officers, and trackers were an important addition to the JDC

program team, from time to time my observations of their activities are not reflected in the data reported here. These non-core team members, however, enhanced the core team's information regarding JDC participants when necessary, allowing the core team to make the most well informed decisions possible.

Core Team Members

Commissioner (JD): Juvenile Drug Court Commissioner (Judge). The commissioner serves as the leader of the court team, working with the other members of the drug court team to help the offender achieve the goal of living a life that is drug/alcohol free.

Prosecuting Attorneys (PA-1 and PA-2): Prosecutors act as the “gatekeepers” to the process by determining the legal appropriateness of the drug court for the juvenile participants.

Defense Attorney (DA): The defense attorney presents and explains the option of drug court to the juvenile and his or her family. The DA also explains the drug court process to the juveniles and their families and advises the juvenile of his or her rights within the drug court.

Case Manager (CM): The CM is the drug court coordinator who interacts regularly with JDC participants. The participants report weekly to the CM. The CM answers the juvenile's questions, monitors weekly progress, and informs the JDC team of the juvenile's compliance with the program and with treatment provider's requirements.

Probation Officer (PO): The drug court probation office assists the case manager with monitoring JDC participants and often took on the same role as the case manager when circumstances arose making this necessary.

Additional Team Members

Treatment Providers (TP): Treatment providers are responsible for coordinating the treatment services provided to the juveniles. They assess the level of the juvenile's addiction and provide him or her with an individualized treatment plan. They are also responsible for reporting the juvenile's progress to the Drug Court Coordinator on a weekly basis. The JDC has established contracts with numerous treatment providers for the timely provision of their services.

Tracker (T): The community tracker has the responsibility to make certain the juveniles in the program obey the JDC rules. He is authorized to unexpectedly visit the juvenile, day or night, and conduct random drug and alcohol tests whenever desired. He reports to the Drug Court Coordinator on a regular basis regarding these ongoing monitoring activities.

Police Officer: He assists in identifying problems with existing JDC participants, as well as identifying potential JDC program participants.

Sampling Procedure

The technique I used in my subject sampling design was the frequently used convenience sample. Convenience samples are obtained when the researcher selects the sampling units most conveniently available for the study (Frankfort- Nachmias and Nachmais, 1992). This study used a convenience sample primarily due to the fact that the subjects of the study are readily available for periodic observation from the Juvenile Drug Court client pool and Drug Court team. Because of the relative infancy of the juvenile drug court process in this jurisdiction, my research is properly viewed as

preliminary and exploratory. The team members involved were self-selected and willing subjects of study.

Research Sample

My observations of the individual JDC team member’s decisions as they related to juvenile drug court participants were the primary unit of analysis for this project. This observational field consisted of approximately 650 hours of JDC team member’s decision-making activities. In addition to the 44 pre-court meetings and in-court hearings observed, approximately 20 process meetings and a handful of other JDC-related observations were recorded. In all, I recorded close to 4,000 observations of 8 JDC team members (6 core), making decisions regarding up to 30 juvenile participants over the course of 40 weeks. The JDC participant population consisted of 19 (63%) boys and 11 (37%) girls, among whom 16 (53%) were White and 14 (47%) were non-White, 4 were between the ages of 13-14 (13%), 16 were between the ages of 15-16 (53%), and 10 (33%) were between the ages of 17-18 (Table 2).

Table 2 - Program Description

	<u>N</u>
All JDC Team Members	8
Core JDC Team Members	6
Juvenile Participants	30
Weeks of Observation	42
Phases in Program	4

<i>Race/Ethnicity of JDC participants</i>		
	<u>N</u>	<u>%</u>
White	16	53
Non-White	14	47
Total	30	100

<i>Gender of JDC participants</i>		
	<u>N</u>	<u>%</u>
Male	19	63
Female	11	37
Total	30	100

<i>Age of JDC participants</i>		
	<u>N</u>	<u>%</u>
13-14	4	13
15-16	16	53
17-18	10	33
	30	100

Measures

My data file consists of at least 3,930 documented observations of 6 core JDC team members making decisions over nearly a one-year period regarding between 2 and 30 JDC program participants. Each team member had approximately 655 opportunities to discuss each participant's progress (or lack thereof) in the program. My observations of JDC team members are divided into 2 distinct categories: individual behavior of each team member and group team outcome decisions. The independent variables are the observed behaviors that individual team members exhibited as they carried out their respective roles within the JDC process. These independent variables are perceived formality, accommodativeness, reasonableness, activeness, predictability, persuasion, acquiescence, talkativeness, assertiveness, conflict, collaboration, and stability. These variables were derived from the literature on courtroom workgroups, specifically the work of Nardulli, Eisenstein, and Flemming (1988) (see Table 3). The dependent variables of sanctions, treatments, and rewards were likewise observed as collective team decisions (Table 3). To better understand how these operating styles may aid in analyzing decision-making, they are grouped into three categories: 1) general interaction: formality, accommodativeness, reasonableness, activeness, predictability, persuasion,

acquiescence, talkativeness, assertiveness, conflictual; 2) team function: stability and collaboration; and 3) outcome decisions: sanctions, treatment, and rewards.

The demographic variables of gender and race were based on the observer’s perception. Participants age along with other demographic characteristics and participant progress information, were obtained from the archival data collected by the staff of the County Juvenile Court Management Information System’s office. The Statistical Package for the Social Science (SPSS), version 16 was used to analyze the data collected over the course of the study.

Table 3 - Summary of Variables

Independent Variable	Variable Meaning
Formality	Interact in a formal manner.
Accommodativeness	Willing to be accommodating and are helpful with problems.
Reasonableness	Sensible, fair, and logical with decision-making.
Active	Plays an active and critical thinking role in decision-making.
Predictability	Consistent and predictable in the processing of the case.
Persuasion	Persuades others to change their mind.
Acquiescence	Agrees or complies without resistance.
Talkativeness	Speaks up, contributes, or adds to the conversation.
Assertive	Argues with conviction and / or sternness.
Conflictual (conflict)	Strong disagreement with ideas or interest.
Collaboration	The JDC team’s ability to work together as a team during the in-court proceedings.
Stability	JDC team member absenteeism.
Gender (0= Boy, 1=Girl)	
Race (0 = White, 1 = Non-White)	White= Caucasian Non-White= Hispanic and African American
Age (13-18)	Recorded at time of observation
Dependent Variable	Variable Meaning
Reward	An incentive or recognition for positive progress.
Sanction	A punishment for noncompliance.
Treatment	A change in the treatment plan addressing substance abuse.

General Interaction

Formality

The variable of formality is used to measure the manner in which the JDC team members interacted with each other in collective action settings during the weekly pre-court meetings. Levels of formality were observed using a scale ranging from 1 to 3, with the number 1 representing an observation of low formality and the number 3 representing an observation of high formality. Low formality was recorded when a simple comment or casual statement was made by a team member in a collaborative spirit. Average formality was recorded when professional, yet informal and mutually respectful comments or discussions were observed. High formality was recorded when conversations more typical to a traditional adversarial courtroom setting were observed. The high formality conversations tended to be legalistic in character and adversarial in spirit. When this type of conversation occurred, team members were addressed in a formalistic manner, and they responded in a similarly formalistic way.

Accommodativeness

The variable accommodativeness was used to record when individual team members were willing to be cooperative and helpful with the decision-making during the weekly pre-court meetings. Accommodativeness was measured using a scale ranging from 1 to 3, with the number 1 representing an observation of low accommodativeness and 3 representing an observation of high accommodativeness. A low level of accommodativeness was recorded when the JDC team member's discussion illustrated a low level of cooperation and support during the decision-making process. An average level of accommodativeness was recorded when the team member's decision represented

a standard level of cooperation and group support, and high accommodativeness was recorded when the team member was very willing to be cooperative, be helpful, and be a team player during the decision-making process.

Reasonableness

The variable reasonableness was used to record when an individual team member was sensible, fair, and logical with their decision-making during the weekly pre-court meetings. Reasonableness was measured using a scale ranging from 1 to 3, with the number 1 representing an observation of low reasonableness and 3 representing an observation of high reasonableness. A low level of reasonableness was recorded when a JDC team member's decision or discussion did not make a lot of sense or was unfair based on their assigned role as a JDC member. An average level of reasonableness was recorded when the decision represented a standard level of fairness and sensibility, and reasonableness increased to high when the team member's decision-making processes was heightened by illustrating higher levels of logical processing of ideas, fairness, and sensibility.

Activeness

The variable activeness was used to record when an individual team member played an active role and critically processed their decision during the decision-making process. Activeness was measured using a scale ranging from 1 to 3, with the number 1 representing an observation of low active participation and 3 representing an observation of high active participation. Low levels of activeness were recorded when the team member's discussion was brief, and when they exhibited low degrees of engagement and

critical thinking during the meeting. As there was an increase in the JDC member's critical thinking and the active processing of potential options for the participant increased, so did the level of activeness recorded for that specific team member.

Predictability

The variable predictability was used to record when an individual team member was consistent and conventional in the processing of cases during the weekly pre-court meetings. Predictability was measured using a scale ranging from 1 to 3, with the number 1 representing an observation of low predictability and 3 representing an observation of high predictability. Predictability was low when the member was less consistent, somewhat unpredictable and irregular with their discussion and decision-making. Predictability increased as the team member's decision became reliable and consistent based on their past decisions and their role within the team.

Persuasion

The variable persuasion was used to record when an individual team member persuaded others to change their decision during the weekly pre-court meetings. Persuasion was measured using a scale ranging from 1 to 3, with the number 1 representing an observation of low persuasion and 3 representing an observation of high persuasion. Persuasion was low when the member successfully changed or persuaded another team member's idea on a concept or plan. Persuasion increased as the member was successful in changing large ideas, concepts or appeared to work hard on reversing a major decision that the team previously agreed upon.

Acquiescence

The variable acquiescence was used to record when an individual team member was originally set on their own idea, but ultimately complied with another member's recommendation during the weekly pre-court meetings. Acquiescence was measured using a scale ranging from 1 to 3, with the number 1 representing an observation of low acquiescence and 3 representing an observation of high acquiescence. Acquiescence was scored when the team member gave up on their idea, gave in, or consented to another member's recommendation and the acquiescence score increased as the team member continued to consent to others during the discussion.

Talkativeness

The variable talkativeness was used to record when individual team members orally participated in the decision-making process during the weekly pre-court meetings. Talkativeness was measured using a scale ranging from 1 to 3, with the number 1 representing an observation of low oral participation, and the number 3 representing an observation of high oral expression. Low levels of talkativeness were recorded when a JDC team member made a short comment or casual statement during the meeting. As the level of a JDC team member's oral expressions in decision-making processes of the team increased, so did the level of talkativeness recorded for that specific team member.

Assertiveness

The variable of assertiveness was used to measure the manner in which the JDC team members argued with conviction and / or sternness. Levels of assertiveness were documented using a scale ranging from 1 to 3 with the number 1 representing an

observation of low assertiveness and the number 3 representing an observation of high assertiveness. Low assertiveness was recorded when a passionate statement was made usually in disagreement with the discussion at hand. At this level of assertiveness, a slight bit of uneasiness became apparent in the room. Average assertiveness was recorded when there was an increase in passion and disagreement, and high assertiveness was recorded when the statements made were close to causing conflict within the team. Often when the group was assertive they were able to get back on track and come to some sort of consensus. This behavior is more typical of a traditional adversarial courtroom setting.

Conflict

Conflict was coded as high when the manner in which JDC team members disagreed with each other was adamant as opposed to restrained. Levels of conflict were observed using a scale ranging from 1 to 3, with the number 1 representing an observation of low intensity disagreement and the number 3 representing an observation of high intensity disagreement. A low level of conflict was recorded when a dissenting statement was uttered by a JDC team member and little or no argument ensued as a result. Higher levels of conflict were recorded when JDC team member dissent was met with combative behavior more typical of an adversarial setting than a collaborative setting. When any level of conflict occurred (low to high) the team's cohesiveness was disrupted to some extent due to a difference of opinion regarding the implementation of procedures and policies (usually concerning the appropriate sanction, treatment or reward). Conflict was seldom observed when minor differences of opinion between team members were exhibited; however, when strong differences of opinions among team

members arose and their tone of voice and/or physical demeanor became combative, an observation of conflict was documented.

Team Functions

Stability

Stability was measured by examining the pattern of “core” JDC team member’s absences during the pre-court decision-making process. If a JDC team member was unable to participate in the pre-court discussion meetings, a representative was usually sent on their behalf. These representatives or designees were given sufficient information and authority to take part in collective decisions, thereby enabling the JDC team to continue to operate in a cohesive manner. As a result, JDC team members who were replaced with representatives for the pre-court meetings were not recorded as missing. It should be noted that Prosecution Attorney 1 (PA-1), Prosecutor Attorney 2 (PA-2) and the Juvenile Probation officer became core members of the JDC team a few weeks into the collection of observations. Halfway into the year of observation, the original Defense Attorney left the team to take up a new position and was replaced by another Defense Attorney who remained a part of the JDC core team throughout the duration of the year of observation.

In- court Collaboration

The variable “workgroup” was used to measure the degree of inclusive collaboration being exhibited. The JDC workgroup’s ability to function as a team during in-court proceedings was recorded using a scale ranging from 1 to 3, with the number 1 representing an observation of very low inclusiveness and the number 3 representing an

observation of very high inclusiveness. A high score is indicative of the entire team following through with the pre-court decision while taking into account the new circumstances presented. A low score reflects individual team members resorting to their traditional adversarial roles. Although most decisions brought to court were finalized during the pre-court meeting, there were numerous times when the JDC team needed to disregard their pre-court decision and collaborate with the judge during in-court hearings. Since formal in-court procedures tend to influence JDC team member's behavior by encouraging them to assume their traditional adversarial roles, their in-court decisions are quite distinguishable from their pre-court decisions documented in this study.

Outcome Decisions

Sanctions

When the JDC team decided that a participant had failed to meet a requirement of the JDC program, they recommend an appropriate sanction for the participant during the pre-court meeting. Sanctions awarded ranged from the issuance of mere verbal warnings all the way to short-term incarceration. The severity of the sanction was coded on a scale of low to high (the lowest score given was 1, and the highest score given was 3). An example of a low level sanction was a verbal warning while an example of a high level sanction was incarceration.

Treatment

Every JDC participant is involved in a treatment program as a condition of admission to the program. This variable, therefore, represents the JDC team's recommendation of enhancements in the participant's treatment program. The severity of

the change in the participant's treatment program was observed on a scale of low to high, with the lowest score given being 1 and the highest score given being 3. An example of a low level change in a treatment program is the addition of a brief counseling session. Examples of high level changes in a participant's treatment program would involve actions such as mandatory detoxification sessions or being committed to inpatient treatment in place of outpatient treatment.

Rewards

Participants who consistently followed the JDC program's rules and regulations were given rewards as incentives to continue their desired behavior. The value of the rewards given by the JDC team was ranked from low to high with the lowest score given being 1 and the highest score given being 3. Rewards range from the display of congratulatory applause by the JDC team members during the in-court hearings, to a food or clothing store gift certificate, or a special book they wanted, to progression to the next higher phase of the drug court program.

Missing Variables

There are a number of observations missing that could not be observed in this study. When the JDC program participant was absent, a JDC core team member was absent (and not represented by a substitute), or there was no or minimal discussion by the team because the participant had an average week, a missing data designation was assigned. When a drug court participant was not present for the current week's court hearing, an observation of "participant absent" was recorded by the researcher. Program participants were absent in any given week for many understandable reasons. Sometimes they were participating in an in-patient treatment program, sometimes they were given

the week off as a reward for previous good behavior, and sometimes they simply did not show up for court as required. In any event, observations regarding absent participants were recorded as missing, and the data for these cases did not become a part of this analysis. Approximately 18 percent of the time a JDC team member was absent and was not replaced by an appropriate representative, therefore, observations of their behavior were recorded as missing. Even though this was a very rare event, data for those cases did not become a part of this analysis.

Approximately 5percent of the time the JDC team met but did not discuss or make any formal decisions regarding JDC program participants. Many times limited meeting time and staff resources required the JDC team to focus on those cases requiring immediate attention and timely action. Participants in need of urgent sanctions, treatments and rewards were necessarily discussed among the JDC team, and all observations regarding their decisions were duly recorded. Many participants who were complying with the rules and regulations of the JDC program required minimal discussion, and as a consequence resulted in the generation of limited observations in the data matrix completed for that day's set of observations. These three circumstances in which the behavioral observations couldn't be observed represents approximately 41 percent of the 3,930 total observations recorded.

CHAPTER 6

FINDINGS AND ANALYSIS

This analysis examines both the entire JDC team's patterns of interaction as well as each individual team member's role in the JDC's decision-making process. Previous research indicates that pre-court workgroup dynamics favorable to JDCs are present when there is evidence of relationships that are non-adversarial, cooperative, and supportive for the client (National Council of Juvenile and Family Court Judges and National Drug Court Institute, 2003). These favorable workgroup dynamics should occur in conditions where: 1) the team understands the philosophy and goals of the JDC; 2) the JDC team pursues therapeutically focused goals; and, 3) the JDC team operates in non-adversarial court settings.

Data Analyses

The first step in my data analysis involves describing the behavior of the individual JDC workgroup members as they interact with each other to arrive at a team decision. A bi-variate analysis was conducted using several descriptive statistics generated with the SPSS software program including frequencies, measures of central tendency and dispersion, arithmetic means, medians, standard deviations, and skewness. Descriptive statistics were analyzed by observing and summarizing various individual and team member interactions. Cross tabulations are used to describe operating styles based on: 1) the general degree of team interactions; 2) the range of individual member involvement from low to high; and, 3) the varying degrees of interactions when all of the team members were engaging at the lowest level or highest levels of interaction. A chi-

square analysis was used to determine the statistical significance of the relationships documented in the cross tabulations.

In the next step of my analysis, workgroup interaction patterns as measured by the means of the team operational style variables and participant demographic variables were compared to team outcome decisions (due to low sample sizes only six operational styles will be discussed). Multi-variate models were constructed for logistic regression analysis and divided into sections based on the dependent variables of sanctions, treatments, and rewards. Team operational styles (formality, accommodativeness, talkativeness, reasonableness, predictability, activeness) and the demographic variables (race, gender, and age) of the JDC participants are included in the regression models developed to explain the relationship between operational styles and participant characteristics and decisional outcomes of the court workgroup.

JDC Courtroom Workgroup Interactions

Research Question I: *How does the courtroom workgroup interact in a juvenile drug court setting?*

Formality. The JDC team did not interact at a high level of formality. The majority of the time (85.2%) the team exhibited an average level of formality among the 1,757 valid team observations of formality (Table 4). On a 1-3 scale, the team mean of the formality observations was 1.93, and the standard deviation around that mean was .599. A cross-tabulation table reveals that the Judge was the least formal actor in the workgroup and had the lowest mean (1.69) for formality, with a standard deviation around that mean of .63. In comparison, the Probation Officer was the most formal actor and had the highest mean (2.10) with a standard deviation around that mean of .38 (Table 5). Additional

cross-tabulations indicate that when all the team members were the least formal, exhibiting a low level of formality, the Judge had the greatest individual percentage of low formality observations (32.4%). When all of the team members were acting in the most formal manner – i.e., exhibiting the high level of formality - the Prosecuting Attorney-1 (PA-1) had the greatest individual percentage of high formal observations at (24.7%). A chi-square analysis demonstrates that the variations in the levels of formal observations among team members are statistically significant ($p < .05$) (Table 6).

Table 4 - Means, Frequencies, and Standard Deviations of the Team Operating Styles

<i>*N= 3930</i>			
<u>Variable</u>	<u>Mean</u>	<u>N</u>	<u>S.D.</u>
Formality	1.93	1,757	.599
Accommodativeness	2.28	1,753	.503
Reasonableness	2.27	1,747	.469
Activeness	1.97	1,745	.801
Predictability	2.12	1,459	.419
Persuasiveness	1.81	447	.815
Acquiescence	1.41	56	.654
Talkativeness	1.93	1,741	.805
Assertiveness	1.70	90	.827
Conflict	1.61	13	.870
Stability***	.18	3,222	.384
In-court Collaboration**	3	536	0

** Due to missing data, the N for some variables is less than 3,930.
Approximately 41% of data could not be observed (see missing data section)*

*** This variable only applies at the team level, N=655*

****This is a dichotomous variable*

Table 5 - Means, Frequencies, and Standard Deviations of Individual Team Member Operating Styles

N = 3,930*

<u>Member</u>	<u>Formality</u>			<u>Accommodativeness</u>			<u>Reasonableness</u>		
	<u>Mean</u>	<u>N</u>	<u>S.D.</u>	<u>Mean</u>	<u>N</u>	<u>S.D.</u>	<u>Mean</u>	<u>N</u>	<u>S.D.</u>
Probation Officer	2.10	377	0.388	2.35	376	0.482	2.31	374	0.462
Case Manager	2.01	388	0.503	2.30	387	0.475	2.28	386	0.465
PA-2	1.78	212	0.662	2.20	211	0.542	2.24	210	0.472
PA-1	2.03	239	0.716	2.25	236	0.498	2.24	238	0.474
District Attorney	1.89	233	0.660	2.39	234	0.555	2.40	231	0.491
Judge	1.69	308	0.634	2.15	309	0.460	2.19	308	0.436
Total	1.93	1,757	0.599	2.28	1,753	0.503	2.27	1,747	0.469

<u>Member</u>	<u>Activeness</u>			<u>Predictability</u>			<u>Persuasion</u>		
	<u>Mean</u>	<u>N</u>	<u>S.D.</u>	<u>Mean</u>	<u>N</u>	<u>S.D.</u>	<u>Mean</u>	<u>N</u>	<u>S.D.</u>
Probation Officer	2.31	374	0.671	2.12	318	0.414	1.76	78	0.840
Case Manager	2.18	388	0.770	2.12	335	0.387	1.92	104	0.784
PA-2	1.91	210	0.816	2.11	174	0.428	1.95	61	0.825
PA-1	1.79	234	0.777	2.15	196	0.489	1.74	70	0.793
District Attorney	1.86	229	0.829	2.19	181	0.525	1.75	79	0.792
Judge	1.55	310	0.717	2.04	255	0.285	1.65	55	0.865
Total	1.97	1,745	0.801	2.12	1,459	0.419	1.81	447	0.815

<u>Member</u>	<u>Acquiescence</u>			<u>Talkativeness</u>			<u>Assertiveness</u>		
	<u>Mean</u>	<u>N</u>	<u>S.D.</u>	<u>Mean</u>	<u>N</u>	<u>S.D.</u>	<u>Mean</u>	<u>N</u>	<u>S.D.</u>
Probation Officer	2.00	4	1.155	2.35	371	0.666	1.71	7	0.756
Case Manager	1.78	9	0.667	2.17	385	0.784	2.00	15	0.926
PA-2	1.00	10	0.000	1.88	211	0.819	1.61	23	0.783
PA-1	1.27	15	0.458	1.69	239	0.760	1.78	18	0.878
District Attorney	1.25	12	0.622	1.74	230	0.798	1.57	21	0.811
Judge	1.83	6	0.753	1.47	305	0.649	1.50	6	0.837
Total	1.41	56	0.654	1.93	1,741	0.805	1.70	90	0.827

<u>Member</u>	<u>Conflict</u>		
	<u>Mean</u>	<u>N</u>	<u>S.D.</u>
Probation Officer	--	--	--
Case Manager	1.50	2	0.707
PA-2	1.40	5	0.894
PA-1	1.33	3	0.577
District Attorney	2.00	2	1.414
Judge	3.00	1	--
Total	1.62	13	0.870

** Due to missing data, the N for some variables is less than 3930*

Table 6 - Levels of Formality by Team Member

	<u>Judge %</u>	<u>PA1 %</u>	<u>PA2 %</u>	<u>DA %</u>	<u>CM %</u>	<u>PO %</u>
Formality						
Low	32.4	15.3	19.7	17.1	12.4	3.2
Average	14.0	10.5	9.7	11.5	25.9	28.4
High	11.2	24.7	10.8	15.1	19.7	18.5
Total	N= 308	N= 239	N= 212	N= 233	N= 388	N= 377

Note: $\chi^2 = 235.94, p < .05.$

Accommodativeness. The JDC team interacted at a high level of accommodativeness. The vast majority of the time (97.4%) the team exhibited average to high levels of accommodativeness among the 1,753 valid team observations of accommodativeness. On a 1-3 scale, the team mean of the accommodative observations was 2.28, and the standard deviation of the mean was .503 (Table 4). Since the level of accommodation was so high the individual team means had little variance. A cross-tabulation table reveals that the Judge was the least accommodative team member with a mean of 2.15 and a standard deviation around that mean of .46, whereas the District Attorney was the most accommodative member with a mean of 2.39 and a standard deviation around that mean of .56 (Table 5). Additional cross-tabulations revealed that when all the team

members were the least accommodating, that is exhibiting the lowest level of accommodativeness; the Prosecuting Attorney-2 (PA-2) had the highest individual percentage of low accommodativeness observations at 30.4% while the Probation Officer had the highest individual percentage of high accommodative observations (24.7%). A chi-square analysis demonstrates that the variations in the levels of accommodative observations among team members are statistically significant ($p < .05$) (Table 7).

Table 7 - Range of Accommodativeness by Team Member

	<u>Judge %</u>	<u>PA1 %</u>	<u>PA2 %</u>	<u>DA %</u>	<u>CM %</u>	<u>PO %</u>
Accommodativeness						
Low	28.3	15.2	30.4	17.4	6.5	2.2
Average	20.2	13.9	12.0	10.7	22.5	20.7
High	11.1	12.4	10.5	18.8	22.4	24.7
Total	N= 309	N= 236	N= 211	N= 34	N= 388	N= 377

Note: $X^2 = 69.21, p < .05$.

Reasonableness. The JDC team interacted at a high level of Reasonableness. The vast majority of the time (99%) the team exhibited average to high levels of reasonableness among the 1,747 valid team observations of Reasonableness. On a 1-3 scale, the mean of the reasonableness observations was 2.27, and the standard deviation around that mean was .469 (Table 4). Since the level of collective reasonableness was so high, the individual team means did not vary much; however, there were a few noteworthy differences. A cross tabulation table reveals that the District Attorney was the most reasonable court workgroup actor with a mean of 2.40 and a standard deviation around that mean of .49 (Table 5). An additional cross-tabulation table shows that when all the team members were the most reasonable, exhibiting a high level of reasonableness, the Probation Officer had the highest individual percentage of high reasonableness observations at 23.1% (Table 8). A chi-square analysis demonstrates that the variations

in the levels of reasonableness observations are statically significant ($p < .05$) (Table 8).

Six cells, however, resulted in expected counts less than 5 which violate the distributional assumptions of this statistical test.

Table 8 - Range of Reasonableness by Team Member

	Judge %	PA1 %	PA2 %	DA %	CM %	PO %
Reasonableness						
Low	33.3	27.8	22.2	.0	16.7	.0
Average	19.4	13.8	12.3	11.2	22.2	21.0
High	12.7	12.4	11.0	18.7	22.1	23.1
Total	N= 308	N= 238	N= 210	N= 231	N= 386	N= 374

Note: $X^2 = 39.12, p < .05$.

Six cells (33.3%) resulted in expected counts less than 5

Activeness. The JDC team was very active at every level. The high number of team activeness observations were distributed fairly equally from low, average, and high among the 1,745 valid observation of activeness. On a 1-3 scale, the mean of the active observations was 1.97, and the standard deviation around that mean was .801 (Table 4). A cross tabulation-table reveals that the Judge was the least active team member with the lowest mean of 1.55 and a standard deviation around that mean of .717, and the Probation Officer was the most active team member with the highest mean of 2.31 with a standard deviation around that mean of .671 (Table 5). An additional cross-tabulation table revealed that when all of the team members were the least active, the Judge had the greatest individual percentage of low active observations (30.8%), and when all of the team members were most active, the Probation Officer and the Case Manager had the greatest individual percentage of high activeness observations (30.0% and 29.2%,

respectively) (Table 9). A chi-square analysis demonstrates that the variations in the levels of activeness observations are statistically significant ($p < .05$) (Table 9).

Table 9 - Range of Activeness by Team Member

		<u>Judge %</u>	<u>PA1 %</u>	<u>PA2 %</u>	<u>DA %</u>	<u>CM %</u>	<u>PO %</u>
Activeness							
	Low	30.8	17.0	13.6	16.4	14.7	7.5
	Average	14.1	13.3	11.1	10.9	23.4	27.2
	High	7.7	9.6	11.4	12.2	29.2	30.0
	Total	N= 310	N= 234	N= 210	N= 229	N= 388	N= 374

Note: $X^2 = 221.14, p < .05$.

Predictability. The JDC team interacted at a very high level of Predictability. The vast majority of the time (96.5%) the team exhibited average to high levels of predictability during the 1,459 valid team observations. On a 1-3 scale, the mean of the predictability observations among team members was 2.12, with a standard deviation around that mean of .412 (Table 4). A cross-tabulation table reveals that the Judge was the least predictable with a mean of 2.04 and a standard deviation around that mean of .285, whereas the District Attorney was the most predictable with the highest mean of 2.19 and a standard deviation around that mean of .525 (Table 5). An additional cross-tabulation table reveals that when all of the members were interacting at the highest level of predictably, the Probation Officer (21.9%), Case Manager (21.4%), and the District Attorney (20.1%) had the greatest individual percentage of high predictability observations (Table 10). A chi-square analysis demonstrates that the variations in the level of predictability observations among team members are statistically significant ($p < .05$) (Table 10).

Table 10 - Range of Predictability by Team Member

Predictability	<u>Judge %</u>	<u>PA1 %</u>	<u>PA2 %</u>	<u>DA %</u>	<u>CM %</u>	<u>PO %</u>
Low	11.5	21.2	13.5	21.2	13.5	19.2
Average	19.8	12.3	11.8	10.6	23.7	21.9
High	6.7	17.9	12.1	20.1	21.4	21.9
Total	N= 255	N= 196	N= 174	N= 181	N= 335	N= 318

Note: $\chi^2 = 46.23, p < .05$.

Persuasiveness. The JDC team interacted at a low level of persuasiveness. Persuasive observations among the team were observed only 11.4% of the time. The fairly low number of valid observed cases of team persuasiveness (447), were evenly distributed from low to high. On a 1-3 scale, the team mean of the persuasiveness observations was 1.81, with a standard deviation about that mean at .815 (Table 4). A cross-tabulation table reveals that the Judge was the least persuasive, with a mean of 1.65 and a standard deviation of .87, whereas the PA-2 was the most persuasive team member with the highest mean of persuasive observations at 1.95, and a standard deviation around that mean of .825 (Table 5). Additional cross-tabulations indicate that when all of the team members were the most persuasive, the Case Manager had the highest individual total percentage of high persuasive observations (24.8%) (Table 11). A chi-square analysis reveals that variations in the levels of persuasiveness observations among team members are not statistically significant ($p > .05$) (Table 11).

Table 11 - Range of Persuasiveness by Team Member

	<u>Judge %</u>	<u>PA1 %</u>	<u>PA2 %</u>	<u>DA %</u>	<u>CM %</u>	<u>PO %</u>
Persuasiveness						
Low	16.5	16.5	11.0	18.5	18.0	19.5
Average	6.0	16.4	14.9	18.7	29.9	14.2
High	12.4	13.3	16.8	15.0	24.8	17.7
Total	N= 55	N= 70	N= 61	N= 79	N= 104	N= 78

Note: $\chi^2 = 16.69, p = .08$

Acquiescence. Observations of acquiescence occurred only 1.4% of the time. On a 1-3 scale, the mean of the acquiescence observations was 1.41, with a standard deviation of .654 (Table 4). A cross-tabulation table reveals that the PA-1 was the most likely to acquiesce based on the total number of observations (Table 5). PA-1 had a mean of 1.27, and a standard deviation around that mean was .458 (Table 5). The low frequency of acquiescence observations do not allow for further analysis.

Talkativeness. The JDC team was talkative at every level, and accounts of team talkativeness were distributed fairly evenly from low to high among the 1,741 valid observations of talkativeness. On a 1-3 scale, the mean of the talkativeness observations was 1.93, and the standard deviation around that mean was .805 (Table 4). A cross-tabulation table reveals that the Judge was the least talkative team member with the lowest mean of 1.47 and a standard deviation around this mean of .649. The Probation officer was the most talkative team member of the team with the highest mean of 2.35, and a standard deviation around this mean of .666 (Table 5). An additional cross tabulation table revealed similar patterns of the Judge and Probation Officer. When all of

the team members were least talkative, the Judge had the greatest individual percentage of low talkative observations (29.9%), and when all the team members were the most talkative, the Probation Officer had the greatest individual percentage of high talkative observations (33.5.%) (Table 12). A chi-square analysis demonstrates that the variations in the levels of talkativeness observations among team members are statistically significant ($p < .05$) (Table 12).

Table 12 - Range of Talkativeness by Team Member

Talkativeness	Judge %	PA1 %	PA2 %	DA %	CM %	PO %
Low	29.9	18.6	13.4	17.4	14.4	6.3
Average	14.9	12.9	11.1	11.4	22.8	26.8
High	5.2	8.5	11.7	10.1	31.0	33.5
Total	N= 305	N= 239	N= 211	N= 230	N= 385	N= 371

Note: $\chi^2 = 283.4, p < .05$.

Assertiveness. Observations of assertiveness occurred only 2.3% of the time. On a 1-3 scale, the mean of the assertive observations was 1.7, with a standard deviation around this mean of .827 (Table 4). A cross-tabulation table reveals that the PA-2 (23 counts), DA (21 counts), and PA-1 (18 counts) were most likely to assert themselves based on the raw numbers of interaction, but the Case Manager had the highest mean of assertiveness of 2.0 and the standard deviation around this mean was .926 (Table 5). The low frequency of assertive observations does not allow for further statistical analysis.

Conflict. Observations of conflict occurred less than 1% of the time. As a result, there was very limited variability in the measure of conflict (Table 4). Despite the lack of

variability, the PA-2 had the greatest percentage of conflict-oriented actions with approximately 40% of the observations (Table 5).

Stability. The team operated at a high level of stability. The great majority of the time (82%), the six core team members were present during the pre-court decision-making process for a total of 3,222 observations (Table 4). Descriptive statistics of frequencies and percentages were used to determine the number of times a JDC core team member was absent or represented by a substitute during the decision-making process. This was a dichotomous variable represented by 0 (all core members present) and 1 (at least one team member absent). The mean of stability was a low score of .18, and the standard deviation around this mean was .384 (Table 5).

In-Court Collaboration. During the weekly in-court hearings the team interacted at a high level of collaboration. Among the 536 team observations, 98.5% of the time the team exhibited a high level of in-court collaboration (Table 4). This means that the decision made by the team in the pre-court team meeting was implemented 98.5% of the time during the court hearing. On a 1-3 scale, the team mean of in-court collaboration is 2.94 and a standard deviation around this mean is .296 (Table 5).

Operational Styles and Outcome Decisions

Research Question II: *Is the way the JDC workgroup interacts related to the implementation of sanctions, treatments, and rewards?*

Logistic regression analysis (multi-variate) was used to determine whether the JDC team's decision to sanction, treat, or reward participants was affected by the various

team interaction variables. Logistic regression is appropriate when the dependent variable is dichotomous and the independent variables are categorical or continuous (Hosmer & Lemeshow, 1989; & Menard, 2002).

Sanctions. The Sanctions model focuses on the effects the workgroup operating styles might have on sanctioning decisions. This model was statistically reliable, $\chi^2 = 66.73$, $df = 6$, $n = 458$, $p < .001$, and achieved a Nagelkerke R^2 coefficient of .185 indicating that approximately 19% of the variance in sanctioning decisions is explained by the model. It also correctly predicts 69% of the team's sanctioning decisions. Three variables achieve statistical significance at the .05 or greater level, and those are reasonableness, activeness, and talkativeness approaches significance. Table 13 presents the results of the logistic regression analysis and demonstrates that as the observations of reasonableness among team members increases, the likelihood of the team deciding to sanction a drug court participant decreases. The odds ratio column of the table ($\text{Exp}(\beta)$) indicates that for a one unit increase in reasonableness, the odds of the team sanctioning a participant decreases by a factor of 0.48. Additionally, the odds ratio of the activeness variable indicates that activeness plays a greater role in predicting the workgroup's decision to sanction drug court participants. For a one unit increase in activeness observations, the odds for the team sanctioning a participant increases by a factor of 2.55.

Table 13 - Logistic Regression Analysis of Sanctions Related to Team Operating Styles

	Sanctions			
	<u>B</u>	<u>S.E.</u>	<u>Sig.</u>	<u>Exp(B)</u>
Formality	.177	.314	.573	1.193
Accommodativeness	.037	.326	.911	1.037
Reasonableness*	-.745	.330	.024	.475
Activeness**	.936	.284	.001	2.550
Predictability	-.061	.253	.810	.941
Talkativeness	.502	.269	.062	1.651

Note: $X^2 = 66.73$, df 6, n = 458, $p < .001$.

* $p < .05$, ** $p = .001$

Treatment. The Treatment model focuses on the effects workgroup operational styles might have on treatment decisions. This model was statistically reliable, $X^2 = 33.82$, df 6, n = 458, $p < .001$, and achieved a Nagelkerke R^2 coefficient of .179 indicating that approximately 18% of the variance in treatment decisions can be explained by the model. It also correctly predicts 93% of the team's treatment decisions. Two variables achieve statistical significance at the .05 or greater level, those being reasonableness and talkativeness. Table 14 presents the results of the logistic regression analysis and demonstrates that as the observations of reasonableness among team members increases, the likelihood of the team deciding to assign treatment to a drug court participant also increases. The odds ratio column of the table (Exp(β)) indicates that for a one unit increase in the occurrence of reasonableness observations, the odds for the team treating a participant increases by a factor of 2.60. Additionally, the odds ratio of the talkativeness variable indicates that as the observations of talkativeness among team members increases, the likelihood of the team deciding to treat a drug court participant also

increases. For a one unit increase in talkativeness observations, the odds for the team treating a participant increases by a factor of 2.70.

Table 14 - Logistic Regression Analysis of Treatment Related to Team Operating Styles

	Treatment			
	<u>B</u>	<u>S.E.</u>	<u>Sig.</u>	<u>Exp(B)</u>
Formality	-.361	.582	.536	.697
Accommodativeness	-.195	.498	.695	.823
Reasonableness*	.955	.492	.052	2.598
Activeness	.677	.498	.174	1.968
Predictability	.014	.382	.971	1.014
Talkativeness*	.978	.468	.037	2.659

Note: $\chi^2 = 33.82$, df 6, n = 458, $p < .001$

* $p < .05$

Rewards. The Rewards model focuses on the effects workgroup operational styles might have on reward decisions. This model was statistically reliable, $\chi^2 = 22.80$, df 6, n = 458, $p < .001$, and achieved a Nagelkerke R^2 coefficient of .073 indicating that approximately 7% of the variance in reward decisions can be explained by the model. It also correctly predicts 76% of the team's reward decisions. Only the formality variable achieved statistical significance at the .05 or greater level in this model. Table 15 presents the results of the logistic regression analysis and demonstrates that as the observations of formality among team members increases, the likelihood of the team deciding to reward a drug court participant decreases. The odds ratio column of the table ($\text{Exp}(\beta)$) indicates that for a one unit increase in formality observations, the odds for the team rewarding a JDC participant decreases by a factor of .37.

Table 15 - Logistic Regression Analysis of Rewards Related to Team Operating Styles

	Rewards			
	<u>B</u>	<u>S.E.</u>	<u>Sig.</u>	<u>Exp(B)</u>
Formality*	-1.002	.339	.003	.367
Accommodativeness	.028	.361	.938	1.028
Reasonableness	.480	.352	.172	1.617
Activeness	-.181	.300	.545	.834
Predictability	-.047	.319	.882	.954
Talkativeness	-.341	.296	.250	.711

$X^2 = 22.80$, df 6, n = 458, $p < .001$
 * $p < .05$

Demographics and Outcomes Decisions

Research Question III: *Is the gender, race, and age of the JDC participants related to the JDC workgroup's decisions regarding sanctions, treatments, and rewards?*

The outcome decisions of the group were comprised of individual team members collaborating on collective decisions to speak with one voice. Of these 655 possible team outcome decisions, 114 were determined to be missing full information and 551 were determined to be complete and available for analysis. The majority of the observations were of whites (69%), males (55%), and those participants aged 17-18 years old (63.2%) (Table 16).

Descriptive Analysis of Sanctions and Demographic Characteristics

The demographic variables of gender, race and age were applied to the team outcome variable of Sanctions. Cross tabulation tables reveal that minorities, boys, and those participants between the ages of 13 and 16 are the most likely groups to be sanctioned, however these findings are not significant (Table 16).

Table 16 - Relationship between Gender, Race, and Age on Sanctions

	<u>Sanctioned</u> (N=186) n (%)	<u>Not Sanctioned</u> (N=365) n (%)	<u>Total Population</u> (N=551) n (%)
Gender			
Boy	108 (35.6)	195 (64.4)	303 (100.0)
Girl	78 (31.5)	170 (68.5)	248 (100.0)
<i>Note: $X^2 = 1.07, p = .301$</i>			
Race			
White	128 (33.6)	253 (66.4)	381 (100.0)
Non-White	58 (34.1)	112 (65.9)	170 (100.0)
<i>Note: $X^2 = .014, p = .905$</i>			
Age			
13-14	21 (41.2)	30 (58.8)	51 (100.0)
15-16	55 (36.2)	97 (63.8)	152 (100.0)
17-18	110 (31.6)	238 (68.4)	348 (100.0)
<i>Note: $X^2 = 2.37, p = .305$</i>			

Further analysis shows that when the levels of sanctions were compared, girls were likely to be sanctioned at the highest level 10% more of the time than boys (Table 17). In addition, Non-Whites were sanctioned at the highest levels 20% more often than Whites (Table 18). The chi-square analyses demonstrates that the variations in the levels of sanction decisions is statistically significant for race, but not for gender (Tables 17 & 18).

Table 17 - Level of Sanctions by Gender

	<u>Low</u> N (%)	<u>Average</u> N (%)	<u>High</u> N (%)	<u>Total Population</u> N (%)
Boy	36 (33.3)	41 (38.0)	31 (28.7)	108 (100.0)
Girl	24 (30.8)	24 (30.8)	30 (38.5)	78 (100.0)
<i>Note: $X^2 = 2.08, p = .354$</i>				

Table 18 - Level of Sanctions by Race

	<u>Low</u> N (%)	<u>Average</u> N (%)	<u>High</u> N (%)	<u>Total Population</u> N (%)
White	43 (33.6)	51 (39.6)	34 (26.6)	128 (100.0)
Non-White	17 (29.3)	14 (24.1)	27 (46.6)	58 (100.0)

Note: $X^2 = 7.91, p < .05.$

Descriptive Analysis of Treatment and Demographic Characteristics

The demographic variables of gender, race, and age were compared to the team outcome variable of Treatment. The Chi-square values demonstrate that the variations in the treatment decisions of the team are not significantly related to the gender, race or age of participants. In general, these data reveal that minorities, boys, and those participants between the ages of 17 and 18 are the groups most likely to be treated, although these differences are small (Table 19). Interestingly, the Chi-Square analysis for gender and treatment approaches significance. In general, boys are more likely to get treatment than girls. Further analysis shows that when participants were treated and the levels of treatment were compared, girls were likely to be treated at the highest levels 21% more often although the differences are not statistically significant (Table 20).

Table 19 - Relationship between Gender, Race, and Age on Treatment

	<u>Treated</u> (N=41) n (%)	<u>Not Treated</u> (N=510) n (%)	<u>Total Population</u> (N=551) n (%)
Gender			
Boy	28 (9.2)	275 (90.8)	303 (100.0)
Girl	13 (5.2)	235 (94.8)	248 (100.0)
<i>Note: $\chi^2 = 3.17, p = .075$</i>			
Race			
White	28 (7.3)	353 (92.7)	381 (100.0)
Non-White	13 (7.6)	157 (92.4)	170 (100.0)
<i>Note: $\chi^2 = .01, p = .902$</i>			
Age*			
13-14	3 (5.9)	48 (94.1)	51 (100.0)
15-16	9 (5.9)	143 (94.1)	152 (100.0)
17-18	29 (8.3)	319 (91.7)	348 (100.0)
<i>Note: $\chi^2 = 1.09, p = .579$</i>			
<i>* 1 cell < 5</i>			

Table 20 - Levels of Treatment by Gender

	<u>Low</u> N (%)	<u>Average</u> N (%)	<u>High</u> N (%)	<u>Total Population</u> N (%)
Boy	12 (42.9)	11 (39.3)	5 (17.9)	28 (100.0)
Girl	4 (30.8)	4 (30.8)	5 (38.5)	13 (100.0)
<i>Note: $\chi^2 = 2.01, p = .358$</i>				

Descriptive Analysis of Rewards and Demographic Characteristics

Finally, the demographic variables of gender, race, and age were compared to the team outcome variable of Rewards. The Chi-square analyses demonstrate that variations in the rewards decisions of the team are not significantly related to the gender, race or age of participants observed. Again, none of the chi-square models reveal statistically significant results. Cross-tabulations reveal that boys, whites, and those participants

between the ages of 17 and 18 were slightly more likely to be rewarded (Table 21).

Further analysis show that when rewards were given and the different levels of rewards were compared, girls were 7% more likely to receive rewards than boys at the average to high range (Table 22).

Table 21 - Relationship between Gender, Race, and Age on Rewards

	<u>Rewarded</u> (N=127) n (%)	<u>Not Rewarded</u> (N=424) n (%)	<u>Total Population</u> (N=551) n (%)
Gender			
Boy	72 (23.8)	231 (76.2)	303 (100.0)
Girl	55 (22.2)	193 (77.8)	248 (100.0)

Note: $X^2 = .2, p = .66$

	<u>Rewarded</u> (N=127) n (%)	<u>Not Rewarded</u> (N=424) n (%)	<u>Total Population</u> (N=551) n (%)
Race			
White	95 (24.9)	286 (75.1)	381 (100.0)
Non-White	32 (18.9)	138 (81.2)	170 (100.0)

Note: $X^2 = 2.48, p = .12$

	<u>Rewarded</u> (N=127) n (%)	<u>Not Rewarded</u> (N=424) n (%)	<u>Total Population</u> (N=551) n (%)
Age			
13-14	7 (13.7)	44 (86.3)	51 (100.0)
15-16	30 (19.7)	122 (80.3)	152 (100.0)
17-18	90 (25.9)	258 (74.1)	348 (100.0)

Note: $X^2 = 4.99, p = .082$

Table 22 - Levels of Reward by Gender

	<u>Low</u> N (%)	<u>Average</u> N (%)	<u>High</u> N (%)	<u>Total Population</u> N (%)
Boy	19 (26.4)	28 (38.9)	25 (34.7)	77 (100.0)
Girl	11 (20.0)	24 (43.6)	20 (36.4)	55 (100.0)

Note: $X^2 = .734, p = .693$

Multivariate Analyses

Using logistic regression the demographic variables of race, gender, and age were JDC team interaction variables and dependent variables of Sanctions, Treatments, and Rewards. Logistic regression is appropriate when the dependent variable is dichotomous,

and the independent variables are categorical or continuous (Hosmer & Lemeshow, 1989; Menard, 2002).

Sanctions Model. When the demographic variables of race, gender, and age were combined with the team operational style independent variables of formality, accommodativeness, reasonableness, activeness, predictability and talkativeness in the Sanctions model, the age of the participant was found to be statistically significant along with the operational style independent variables of reasonableness and activeness. This model was statistically reliable, $\chi^2 = 71.56$, $df = 9$, $n = 453$, $p < .001$, and achieved a Nagelkerke R^2 coefficient of .198 indicating that approximately 20% of the variance in sanctioning decisions can be explained by the model. It also correctly predicts 69.2% of the team's sanctioning decisions (Table 23). Table 23 presents the results of the logistic regression analysis and demonstrates that as the age of the JDC participant increases, the likelihood of the team deciding to sanction the participant decreases. The odds ratio column of the table ($\text{Exp}(\beta)$) indicates that for a one unit increase in the age of the participant, the odds for the team sanctioning the participant decreases by a factor of 0.80.

Table 23 - Logistic Regression Analysis of Sanctions Related to Team Operating Styles, Age, Gender and Race

	Sanctions			
	<u>B</u>	<u>S.E.</u>	<u>Sig.</u>	<u>Exp(B)</u>
Formality	.230	.318	.471	1.258
Accommodativeness	.039	.330	.907	1.039
Reasonableness*	-.755	.335	.024	.470
Activeness**	.965	.286	.001	2.625
Predictability	-.057	.257	.824	.945
Talkativeness	.466	.271	.085	1.593
Age*	-.221	.107	.038	.802
Gender	-.278	.229	.225	.758
Race	-.171	.259	.509	.843

**p < .05, ** p = .001*

Treatment and Rewards Models. When the demographic variables of race, gender, and age were combined with the independent variables of formality, accommodativeness, reasonableness, activeness, predictability and talkativeness in the Treatment logistic regression model, no independent variables were found to be statistically significant. In addition, when the same demographic variables of race, gender, and age were combined with the same independent variables of formality, accommodativeness, reasonableness, activeness, predictability and talkativeness in the Rewards logistic regression model, no independent variables were found to be statistically significant.

Summary of Findings and Analysis

This study suggests that this JDC's approach to justice is normative, one in which the courtroom workgroup interacted in a non-adversarial, collaborative and cooperative manner. This is illustrated by the JDC team's decision-making process having a low

degree of formality, a wide range of actively engaging and discussing team decisions, a high degree of stability, accommodativeness, predictability, and reasonableness, and an extremely low degree of conflict. It is important to point out that since conflict was observed so infrequently in team meetings, this measure does not address the conflict that occurred in other environments outside of the meetings. This study also looks at the influence that individual team members had during their decision-making process. The Judge tended to play more of a neutral role in the decisions, the CM, PO, and DA decisions reflected more supporting roles, and the PA-1 and the PA-2 reflected more traditional legalistic roles.

This study shows which JDC operating styles have the greatest influences on sanction, treatment, and reward decisions. Of the ten team operational styles, six were statically significant and the four that emerged as having a statistically significant relationship to the decision-making process were formality, reasonableness, talkativeness and activeness. More specifically, the JDC operating styles of reasonableness, talkativeness, and activeness had the greatest influences on when a sanction and treatment were allocated to a participant, and the operating style of formality had the greatest influence on when a reward was allocated.

Meaningful findings are presented for when the outcome variables of sanction, treatment, and rewards were analyzed with respect to the demographic variables of race, gender, and age. Particularly noteworthy, chi-square analyses illustrated a significant relationship between the levels of sanction and race. When comparing the severity of sanctions by race, a greater percentage of Non-whites were sanctioned at the highest levels when compared to Whites. Logistic regression analysis illustrated that the age of

the participant has an influence on the allocation of sanctions given by the team. This study also found as the age of the participant, and the reasonableness of the team increased, sanctions decreased. In addition, as the activeness of the team increased, sanctions increased. Having made these findings the question now stands: What do these observations indicate about JDC programs, and what do they mean for this field of study on juvenile drug courts? The final chapter will further discuss these issues, and identify areas for future research. These findings will give greater insight to important areas of focus within the operations and decision-making of juvenile drug courts.

CHAPTER 7

DISCUSSION AND CONCLUSION

This study presents evidence that a number of factors are essential to understanding the operations, functioning, and decision-making process of a juvenile drug court. The results derived from systematic observations of court actors show that many of the JDC operating styles identified are significant, and they constitute some of the core elements essential to the functioning and operation of an effective juvenile drug court. This study's results address what many researchers argue are some of the most important decision-maker attributes found within the courtroom community; work-specific attitudes and operating styles are central among these attributes (Narduilli, 1978; Nardulli, Eisentein, & Flemming, 1988a).

The foundation of this JDC rests upon what researchers of the courts argue are critical to all courts, including juvenile drug courts; that foundation requires all players of a JDC to create a cooperative, collaborative and non-adversarial approach to justice while managing the court's workload (Belenko, 2001; Cooper 2001; Hora, et al, 1999; Office of National Drug Control Policy, 2003). The empirical results reported here are based on detailed notes taken in the course of systematic observations of the court operations. It was found that a number of work-specific attitudes and operating styles were significant to the court decision-making process regarding the allocation of sanctions, treatment, and rewards. The four distinct operational styles of Formality, Reasonableness, Talkativeness, and Activeness show the greatest influence on the decisions made to sanction, treat, and reward a JDC participant. Statistical analysis results indicated that

relationships between sanction and race, between sanction and age and between rewards and race are all statistically significant.

Research Question Discussion

Research Question I: *How does the courtroom workgroup interact within a juvenile drug court setting?*

Consistent with previous research (Cooper, 2001 and Office of National Drug Control Policy, 2003) this study demonstrates that the JDC team operated with normative power. The variables Formality, Assertiveness, and Conflict are used to measure the presence of normative power in this JDC environment. The JDC operates in a normative power environment due to the relatively lower levels of formality and conflictual behavior exhibited in interactions among team members.

As would be expected in an effective JDC program, this study shows that the JDC team was likely to operate at low to average levels of Formality. This finding suggests that, as a whole, the team set aside their traditional criminal justice roles and adopted the more informal interactions indicative of a juvenile drug court team (Nolan, 2002). However, even though the team adopted the JDC informal approach, the team member that had the greatest percentage of high formal interactions was the PA-1. This suggests that PA-1 had a more difficult time than other team members in adopting the JDC informal approach and maintaining the dual role required for each team member, that is, performing their traditional roles and participating as a member of the JDC team. Therefore, more often than others, the PA-1 resorted to the conventional formal role of a prosecuting attorney (Wolf & Colyer, 2002).

The finding that the PA-1 was the least likely to adopt an informal role may be explained either by their lack of training or by their personal attributes. The PA-1 joined the JDC team later than the other members, and, as a consequence, did not receive the extensive and ongoing professional training that the other members of the team had received during the court's infancy stages. Another possible explanation for the PA-1's more formal behavior was that he exhibited somewhat of a politically conservative orientation to the law and politics. This characteristic was not measured directly, but was often observed over the course of the study.

This team also operated at very low levels of Assertiveness and Conflict, which is an additional indicator of a normative power environment (Boldt, 2002). The team had very few arguments featuring the display of deep conviction, rarely showed sternness, or had intense disagreements. One possibility for the low measures of assertiveness and conflict is that they occurred during the informal interaction or exchanges outside of the pre-court meeting. Unfortunately, this study did not investigate the informal discussions that took place by email, phone, office talk, or in informal gatherings. Therefore, by the time the team met to make their weekly collective decisions, the issue or problem causing the conflict or disagreement may have been resolved during the informal interactions taking place among the juvenile drug court actors.

Among the JDC team members, the prosecuting attorneys appear to have the greatest individual influence on both assertiveness and conflict. The PA-1 exhibited the greatest individual overall percentage of assertive observations, and prosecuting attorney PA-2 had the greatest overall individual percentage of conflict observations. This set of observations reinforces the notion that the prosecuting attorneys had a more difficult time

adopting the JDC informal approach and, at times, resorted back to the traditional formal role of a prosecuting attorney. Despite the occasional formal protestation of the prosecuting attorneys, this study shows that normative power behaviors were clearly a predominant feature of the JDC environment.

This study also found that the team functioned in a non-adversarial manner in a number of respects. The JDC team was considerably accommodating with one another, sensible, fair, and rather predictable in their decision-making. Team Accommodativeness, Reasonableness, and Predictability are three vital processes that aid in achieving and sustaining a non-adversarial environment (Nardulli, Eisenstein, Flemming, 1988). High levels of all three of these measurements were observed within the JDC team. These operating styles give insight as to how well the team united together in their efforts to achieve the desired path essential to the JDC as a courtroom workgroup (Hora, et al., 1999). Among the team members, the Probation Officer had the highest individual percentage of high Accommodativeness, high Reasonableness, and high Predictability. This set of findings suggests that the PO transitioned effectively to adopt the JDC approach. This transition for the PO appeared to be a natural progression primarily because a large part of their traditional role in the criminal justice system is one that focuses on offender rehabilitation and effective re-entry into the community (Seiter, 2008). These three operating styles facilitate the desired non-adversarial, cooperative, and collaborative dynamic, which is necessary for an effective JDC team (Cooper, 2001; Office of National Drug Control Policy, 2003).

Members of this JDC participated in the decision-making process on a relatively regularly basis. In this study, the measures of team Talkativeness and Activeness

operating styles showed a relatively even distribution of low, average, and high responses. They illustrated the range within which the team engaged in the weekly decision-making. Both measures assess the individual team member's participation in group decisions (Office of National Drug Control Policy, 2003). The decisions of the courtroom workgroup should not reflect the interests of just one team member, but rather the decisions of the entire team (Nardulli, Eisenstein, Flemming, 1988; Steen, 2002). The high mean for the Activeness variable may indicate that this team's communication method was influenced by the team exhibiting critical thinking in their decision-making. It may also reflect the fact that the team's communication did not consist merely of clarifications and summations. Among the team members, the Probation Officer and the Case Manager led the team in discussing each case about half of the time. These team members had the greatest individual percentages of high Talkativeness and Activeness observations. This should be expected based on these team member's administrative and organizational roles in the JDC. Typically, the Case manager or PO initiated the pre-court weekly discussions by giving the team members the weekly status reports for each participant. Therefore, this resulted in the highest levels of sustained commentary. The way in which members of this JDC team participated with each other is indicative of an effective JDC team and consistent with observations reported in previous research (Nardulli, Eisenstein, Flemming, 1988; Steen, 2002).

This study found that the variables of Persuasion and Acquiescence both had a fairly low number of observed cases, but gave insight into how the team communicated. Persuasion captured the frequency with which an individual team member disagreed on concepts or ideas with others and was successful in having other team members adopt

their own point of view. Acquiescence illustrated the frequency with which a JDC team member chose to compromise, comply, or consent to another team member's decision or perspective. The Case Manager's relatively high number of observations on the Persuasive measurement indicated that the CM was often influential in redirecting the discussion in such a convincing manner that other team members accepted the CM viewpoint. The PA-1 had the highest number of Acquiesce observations among team members, which indicates that he eventually accepted or complied with the team's decisions despite expressing the greatest amount of assertiveness and conflict. The PA-1's higher levels of Acquiescence observations, when coupled with the high level of Assertiveness observations, tended to balance his overall operating style.

The low number of Persuasion and Acquiescence observations can be explained from two perspectives. One way is to concede that the JDC team truly understood and embraced its therapeutic jurisprudence approach and, more often than not, had a common understanding about the specific needs of each participant. A second explanation stems from the great difficulty encountered in the accurate measurement of these variables. Communication tends to be an interactive process that requires constant mutual feedback between sender and receiver. As a consequence, an inherent element of human communication involved in the general exchange of words that are both persuasive and compliant, is one of mutual accommodation to a shared meaning of some aspect of reality. For instance, when the group brainstormed and team members shared their ideas, it was natural that the ideas of all parties were altered somewhat, and eventually a consensus emerged permitting a group decision.

The team function variables of in-court collaboration and stability similarly had a positive influence on the JDC team. The JDC team members were highly collaborative during the in-court meetings. This form of collaboration (in-court) is important and, in fact, represents an important strength in this type of program. During the pre-court meeting when the entire team came to an agreement on how to deal with a participant, it was expected that all of the team members would carry out that planned agreement during the in-court meeting. Low levels of in-court collaboration occurred in this study when an unforeseen event happened after a pre-court decision was made by the JDC. In these cases, the Judge was the final decision maker, but would make necessary changes only after each team member expressed their concerns based on the new circumstances. The high levels of in-court collaboration exhibited in this study indicate that the majority of the JDC team did not resort to their traditional adversarial interactions usually present in the courtroom.

This JDC team was highly stable and had a low degree of turnover. The very low levels of absenteeism among the team members reflected the high levels of Stability among the team. This high level of Stability is central to a well functioning JDC because it indicates that a small group of people are working together on a regular basis (Hora et al., 1999). Also, “the stability of the workgroup allows for a low level of conflict among players” (Steen, 2002, p 59). It was important that the team members were present each week to establish a strong courtroom workgroup. The strength of the courtroom workgroup is predicated on the team members being familiar with one another, depending on one another, and understanding each other’s approach (Nolan, 2002). This

stable characteristic of the JDC team is indicative of a well-functioning workgroup and supported by previous research.

This study has shown that this particular JDC does, in fact, operate in a normative power environment, is predominantly non-adversarial, and is highly collaborative during the pre-court meetings and in-court hearings; and finally it is a stable organization. Now that the JDC's operational styles have been examined in some detail, the influence that these operating styles have on the team's decision to issue sanctions, order treatment, and engage in the issuance of rewards to JDC participants will be studied.

Research Question II: *Is the way the juvenile drug court interacts related to the implementation of sanctions, treatments, and rewards?*

The JDC team's decision to sanction a participant was found in this study to be significantly related to its "reasonable" and "active" operational styles behavior. When the workgroup exhibited increased Activeness and decreased Reasonableness, it was more likely to recommend sanctions for the JDC participants. One explanation for this relationship involves the way in which the team addressed a program participant's non-compliance. When a problem was presented, the team increased its critical engagement with each other; this engagement was measured by the Activeness variable. This form of increased communication led to a slight decrease in reasonableness team behavior scores. This decrease in team reasonableness may have been triggered when the team had intense discussions on how to deal with a participant's non-compliance within the framework of their goal of being an effective JDC team. This process often produced the undesired result of more "traditional-role" team member responses, and ultimately increasing the likelihood of sanctioning decisions.

This study found that an increase in treatment of drug court participants was more likely to be recommended when the workgroup exhibited increased Reasonableness along with increased Talkativeness. This outcome may be explained by the team's behavior when members increasingly contributed to the conversations. They usually did this in an attempt to solve a participant's problem related to a relapse or potential relapse to substance abuse. When this problem solving behavior was accomplished in an increasingly reasonable, fair, and sensible manner, the outcomes of these conversations frequently resulted in the JDC recommending treatment for the participants. This courtroom workgroup's operational style behavior is consistent with an effective JDC team.

Another result emerging from this study is that when Formality increased, rewards tended to decrease. When the team exhibited increased Formality, they were less likely to recommend Rewards for drug court participants. When the team tended to function more formally they were likely to be addressing a participant's non-compliance with the program (i.e., program violations, technical violations, or substance abuse). Therefore, if the participant was non-compliant, it was unlikely that the team would reward them for their undesirable behavior. This behavior is consistent with an effective JDC team. Formalness increased around sanctions, which is the conventional outcome of a tradition formal court.

This study reveals some interesting patterns when the operating styles of the JDC team were compared to the outcome decisions of Sanctions, Treatments, and Rewards. Activeness and Talkativeness tended to increase among the team members as they dealt with a participant's problems and their non-compliance issues. Increasing participant

problems tended to increase the team's reasonableness, which was related to its outcome decision of increased Treatment. When the team's reasonableness decreased, it was more likely to recommend Sanctions for participants. Finally, formal behavior among team members was found to be related to decreased team Reward decisions.

Research Question III: *Are the demographic characteristics of race, gender, and age of the JDC participants related to the JDC workgroup's decisions regarding sanctions, treatments, and rewards?*

This study shows evidence of some patterns of influence on the JDC's outcomes being based on race, gender, and age as the team allocated Sanctions, Treatment orders and Rewards. Through the analysis of descriptive statistics and logistic regression, various relationships emerged. As discussed in the preceding chapters, disparities of gender and race exist in various areas of the American juvenile justice system (Bishop & Frazier, 1996; Walker et al, 2004). The sparse drug court studies on gender and race likewise have shown mixed results (Brewster, 2001; Miller & Shutt, 2001; Vito & Tewksburk, 1999), as do the results in this study.

The existing research on race, gender, age, and drug courts does not examine decision-making patterns based on race in the same way as this study does. Instead, they tend to show some differences in the level of delinquency complaints and perceptions of the severity and effectiveness of drug courts based on race. One study showed that there were race differences in the number of delinquency complaints documented while in the drug court for Hispanic youth (Rodriquez & Webb, 2004). Another study showed racial differences in the perceived severity and effectiveness of drug courts (Cresswell & Deschenes, 2001). Some national studies on drug court clients have depicted women as

being more successful program participants than men, while other studies have described men as being more successful in program completion (American University, 1999; U.S. General Accounting Office, 1997). One of the studies that employed a multivariate analysis found no gender differences in terms of drug court outcomes (Schiff & Terry, 1997). In reality, the systemic study of juvenile gender and race issues as they pertain to juvenile drug courts is still in its infancy.

The Relationship between Gender and Outcome Measures.

This study showed no statistically significant findings related to gender and the administration of sanctions, treatment, and rewards. The pattern of the relationship between gender and outcome measures show that girls receive fewer sanctions, experience less treatment, and are issued fewer rewards when compared to boys.

There have been persistent findings in sentencing research that indicates adult females are treated more leniently than male defendants (see reviews in Daly & Bordt, 1995; Bickle & Peterson, 1991). Theories that explain the handling of girls in the criminal justice system range from girls being treated more leniently, equally, or more harshly (Chesney-Lind & Sheldon, 1998). The Evil Women Hypothesis may explain this study's findings on the severity of the sanctions meted out to girls. This theory postulates that girls that violate the perceived gender role norm of what society identifies as appropriate behavior for girls tend to be sanctioned severely. My study found that one of the greatest differences in the treatment decisions observed was that of the severity of treatment ordered for girls in the JDC program. Even though boys received more overall treatment than girls, girls were treated at the higher level much more often than boys. These high levels of treatment are associated with increases in UA's and/or in-patient

management. This team's behavior indicates that they felt that girls at times were in need of more intensive handling than boys facing the same types of problems. Adult females tend to have physical, emotional, and social needs that are different from men, and thus require different treatment programs (Chesney-Lind, 2002; Seither, 2008), and are perhaps in need of more severe or intense treatment. Since girls were rewarded more often at the highest levels than boys, it would follow that the incentives and rewards they received were more often superior.

The Relationship between Race and Outcome Measures.

The results of this study are consistent with much of the existing literature on the treatment and handling of minorities in the American criminal justice system. Overall, this study showed no significant differences between race and the administering of sanctions, treatment, and rewards. Significant differences were found, however, in the level of sanctions administered. Non-whites were more likely to be sanctioned at the highest levels when sanctions were administered.

Minority youth are over represented at various stages in the criminal justice system (see Feld, 1991; Tony, 1995; Leonard, William; Pope, 1995; Walker et al., 2004; Rodriguez, 2007), however many disagree about the precise cause of racial disparities that exist within the American juvenile justice system (Bishop & Frazier, 1990; Wilbanks, 1987). Many studies have argued that the disproportionate minority population in the juvenile justice system is due to a combination of demographic and social-economic disadvantages and discrimination (Bilchik, 1999; Bridges, 1997; Tony, 1995; Walker, 2004). A number of studies show that Black offenders receive more severe sanctions than White offenders (Bishop & Frazier, 1996; Petersilia, 1983; Spohn,

1990). This study is unable to determine why non-whites, when sanctioned, are more likely to be sanctioned at the highest levels. That said, the results observed in this study are similar to the previous literature suggesting that disparities in the way minority groups are treated in the criminal justice system are both real and long lasting features of the American system of justice. However, future research will have to be conducted to determine whether these outcomes reflect disparity or discrimination in the administration of sanctions.

Relationship between Age and Outcome Measures

The results of this study indicate that as participants increase in age they are less likely to be sanctioned. These findings are likely to reflect how age was measured in this study and how the JDC program is designed. This program lasts 12 to 14 months and the participants mature as they pass through the program. When participants enter the program they begin intensive individualized treatment, and the JDC team works to keep the participants accountable and honest with their substance abuse and delinquency, as well as in all other aspects of their life (family, school, peers). This holistic approach gives the participants the skills to make better decisions and addresses those indirect causations that lead to both substance abuse and delinquency. Their behavior should change toward the better as they get older and progress through the program. A participant's non-compliance must decrease in order for them to move to the next phase. As they reach phases three and four they should have acquired and implemented the tools and skills they need to change their addictive and delinquent behavior. Therefore, the findings related to age may reflect the effectiveness of the JDC's process in shifting from

accountability of participants at the beginning of the program to focusing on participants' strength and independence toward the end of the program.

Validity and Reliability

Researchers are not always sure if they measure what they intend to measure, nor are they certain of the consistency, reliability, and validity of their indicators (Frankfort-Nachmias & Nachmias, 2007). Validity and internal reliability are assessed during the entire evaluation process because they cannot be completely anticipated in the evaluation design or in the measurement methods adopted (Patton, 1997). When qualitative data are collected by a program implementer, the data contain intricate and under-stated meanings that the researcher must interpret based on the relevant literature, the researcher's past, the researcher's personal experiences, and the researcher's progressive learning during the on-going analysis of the observed qualitative data collected (Strauss & Corbin, 1990).

The specific observational measures used to evaluate the JDC could be used in any drug court, either adult or juvenile. The main variables and definitions used to measure JDC team interactions come from the classic (Nardulli, Eisenstein, & Flemming, 1988) courtroom workgroup study. Of course, the responses of the team members in each drug court will vary somewhat based on the characteristics of the individuals in each group, and based on the cohesiveness exhibited by the group with respect to the sharing of common goals. The variables used in this study to evaluate the team, however, could be easily implemented in any other study of a therapeutic court operation.

One justice-oriented question every researcher must answer is, "to what extent can my research findings be generalized to larger populations and be applied to different social or political settings?" (Frankfort-Nachmias, Nachmias, 1992) Since JDC process

evaluations are fairly new, the ultimate answer will not be known unless several more studies are conducted. This study, however, should contribute to the overall knowledge base by examining the basic interactions of one courtroom workgroup's decision-making process developed in a rural setting featuring an ethnically and racially diverse population.

An inherent weakness of this study is the absence of a comparison control group. A more detailed and descriptive statistical analysis could be employed if an appropriate comparison group was available. Another weakness of the study became apparent when I observed, but did not record, the many informal discussions between the various members of the JDC team that occurred outside of the scheduled pre-court discussions and in-court hearings. These discussions involved hallway chats, telephone calls, emails, and unscheduled office visits. As the study progressed, it became evident that these many informal and nonscheduled meetings contributed importantly to the team's decision-making activities. Unfortunately, I did not anticipate this decision-making dimension of the JDC team, and therefore I did not document the frequency or composition of these relevant decision-making activities.

Another limitation worthy of future inquiry is the use of punitive sanctions for non-compliance in treatment. In the traditional court setting, drug treatment falls under the umbrella of possible sanctions, both punitive and non-punitive; however, in a JDC program, treatment is intended to fall into its own category. The JDC's goal is to recommend treatment, or increase treatment, to end a participant's addiction in an attempt to avoid future criminal violations. For future studies, there is a need to clarify whether sanctions are given for the purpose of non-punitive treatment or a punitive penalty.

The Importance of Policy Meetings to Group Functions.

Once a month the JDC team would have a meeting on policy issues where they would suggest changes to the program, or address individual concerns. This was the first year of the JDC, so the team wanted to address any policies that they felt a need to modify during its early period of implementation. The Judge set the agenda of the policy meeting, but members of the team also had input through the Judge. One of the policy concerns discussed regarded the issue that the grant for the JDC was geared to address the problem of disproportionate minority contact in the region. About half way into the first year of the program, it was felt that the goal of reducing disproportionate minority contact was not being met. As the JDC accepted applicants, the ethnic background of each potential participant did not appear to come into consideration in the decision-making process. Most team members agreed that this was how the process should work. The team accepted or rejected applicants that came from the Prosecutor's office after their initial screening process. Those juveniles that met the basic JDC requirements (diagnosed with a drug problem, no prior violent felony offenses, no prior sexual offenses, etc.) were considered eligible for the program by the JDC team without regard to their ethnicity.

About six months into the program's implementation, some team members exhibited concern that that the demographics of the county's population were not represented in the JDC's population. It was noted that the area's minority population was not receiving the opportunity to benefit from intensive drug treatment, judicial support, community resources, and, most importantly, having their offenses removed from their juvenile record. This discussion was usually initiated during informal side discussions.

It was also briefly addressed in the JDC weekly pre-court team meetings. Ultimately, further discussion of this topic was postponed until it could be more thoroughly addressed at the monthly team policy meeting. The team questioned whether it was their responsibility to worry about low representation of the minority population in their JDC program.

This research shows that the team's concerns regarding the racial makeup of participants ultimately became a non-issue. The racial and ethnic diversity of the JDC gradually increased throughout the program and at the end of the evaluation the population consisted of 53% Whites and 47% Non-Whites with the majority of non-whites being Latino. When the participants were selected there were no decisions to admit, sanction, treat, or reward that were blatantly based on race. The issue of race and ethnicity were discussed only a few times throughout the evaluation. Some of these discussions on the racial makeup of JDC participants may have influenced team member interactions and decisions. One of the major issues surrounding this topic was whether the team should be concerned about the racial makeup of the JDC participants.

Some team members strongly believed that they should not think about race when they made a decision on which participants to accept. Other team members strongly believed the JDC participants should represent the ethnic population of its jurisdiction. This discussion was sparked because some members questioned why minorities were not being considered for the JDC in higher numbers. After reviewing the low degree of representation of minority participants, the team found that one of the problems stemmed from the specific types of crimes committed by the juvenile in their jurisdiction and the types of charges being filed by the prosecutors. Many of the minority juveniles that

entered the juvenile justice system were automatically ineligible for the JDC program because of the charges pending. The team suggested that the prosecutor's office needed to look more closely into the specific circumstances surrounding the juvenile's offenses to see if more minorities could, in fact, qualify to participate in JDC program.

Whether minority juveniles are proportionately represented in a JDC program is a significant question, and worthy of future research since the conventional juvenile justice system is over represented with minorities (Bilchik, 1999; Hawkins et al. 2000; & Walker, 2004). This over-represented group should have the same opportunity to receive counseling, and be eligible for the reentry and therapeutic treatment programs that are provided for all participants in more diverse JDC programs. The valuable benefits of a JDC program for juvenile minorities derive from the fact that they entail intense treatment related to addiction, life skills, coping mechanisms, and the development of an external support system. In addition, if the juvenile offender successfully completes the program, the original charges against them may be dropped. These benefits have the potential to dramatically change the lives of youth caught up in this juvenile justice system. It is important that JDC programs represent the entire population of the substance-abusing offenders in their jurisdiction. JDC programs need to be aware of this potential issue if they are to promote justice evenly in their areas of authority.

Policy Implications

The findings reported here, although not conclusive, are insightful to policy and the promotion of future research in the area of juvenile drug courts. Among the most important findings documented in this study is that the JDC team should clearly understand the goals and desired interactions of the team, and that they should attempt to

change the undesirable behavior of participants in the program by sanctioning them more in the program's early stages if necessary. These findings support the existing literature which argues that individual team members of the JDC must play a dual role and understand that the decision-making process of the team is collaborative and cooperative, and that they must interact in a non-adversarial manner even though this behavior is contrary to their traditional functions.

This can be found to be challenging for team members because it requires them to embrace and desire to engage in a different type of justice, one that is different than traditional courts. For them to fully understand the goals and desired interactions of the team, it is essential that they receive adequate training and guidance to embrace the importance of the therapeutic jurisprudence philosophy. The training that they receive is necessary to give them guidance on how to employ the desired therapeutic outcomes. This holistic approach to justice requires that team members make decisions that address addiction by looking at the "whole person" which includes family, school, and peers. A team that is actively embracing the JDC philosophy should operate and function as expected.

In particular, the prosecuting attorneys were the most formal, assertive, conflictual, and least accommodating, and it appears that they may have had a difficult time adopting the dual non-adversarial JDC approach. The impact this difficulty on the prosecutor had on the team is somewhat unclear. It is conceivable, however, that this behavior had an adverse influence since one of the core elements of the JDC is the allocation of rewards throughout the program; when the team was most formal they were less likely to reward the participants. With additional training and with more complete

adoption of team goals the prosecuting attorney may have been a more constructive team member. It should be the policy of the court to ensure that all JDC team members have adequate levels of training necessary to ensure that they understand how they can meet the overall goals of the team.

JDC programs should utilize sanctions in the early stages of the JDC program to establish expectations, consistency, and accountability for the participants. This study showed that older participants received fewer sanctions than younger persons. This demonstrates a goal of the JDC since participants should progressively learn from their mistakes and begin to change their negative behavior, therefore requiring fewer sanctions. It is necessary for an effective JDC to deal with a juvenile's bad behavior immediately, and to decide when their behavior warrants a sanction, or whether the juvenile should be treated, or rather rewarded for progress demonstrated. If a JDC directly addresses a problem as it occurs, the participants will begin to understand the consequences of their actions and change their behavior with respect to drug abuse and delinquency conduct.

Future Research

Although this study contributes to the juvenile drug court literature, it also raises a few questions that should be addressed through future research. It would be insightful to have a comparison group of another JDC team to see if they function and make decisions in similar ways. It would also be interesting to see if JDCs in urban areas operate differently than JDCs operating in suburban and rural areas.

Future research should include observing informal environments in which decisions are made. This may help in explaining group interactions more fully. Since

many decisions are made during informal interactions (behind closed doors, in the hallway, in email, or on the phone), the JDC team member's behavior observed during formal meetings may not fully capture interactions taking place among JDC team members.

Succinctly defining specific behaviors, as sanctions or treatment and associating them with specific outcome decisions would allow for a clearer understanding of how drug court team members perceive their actions as they relate to combining accountability and treatment in the same program. For example, a verbal reprimand could be interpreted as a sanction or a treatment by the team member depending on the behavior it is intended to address. Also, future research can involve less interpretation of the severity of an outcome decision if it is associated with participant behavior.

This study answered important research questions related to the decision-making process of a JDC which is just as, if not more, important than pure outcome recidivism studies. This study also identifies the strengths and weaknesses of the JDC process in the implementation of the juvenile drug court concept. This drug court study has documented the program's effects on key drug court components, which aid in assessing the drug court team's ability to create a drug free, and law abiding lifestyle for program participants. In particular, this study has produced a number of findings that give insight into how JDC's function and operate as a single unit and on the roles which individual team members play. One of the strengths of this study is that it examined whether the decision-making process of the juvenile drug court functioned as expected. It demonstrated that members of this JDC team exhibited many of the essential operational styles previous research has shown to produce an effective courtroom workgroup. The

normative power environment, non-adversarial interactions, collaborative and cooperative team members, as well as the stable workgroup were all elements that enabled the JDC program to do what it is designed to do – namely, effectively treat juvenile offenders for their substance abuse problems. Race, gender, and age of the participants had some influence on how decisions were made, but the specific effect and lasting impact on the participants remain unknown until follow up research is conducted.

APPENDIX A-1 JDC PROGRAM PHASES

PHASE I – *ORIENTATION AND INFORMATION* – 8 WEEKS

Start of treatment
Acceptance of responsibility
Full Screen Assessment
Case management plan development
Referrals
Self-help meetings
Counseling
Journal writing
Reading assignments
Random drug/alcohol testing (at least twice weekly)
Meetings with counselor or coordinator (once a week)
Court Appearances (once a week)
Agreement to contract (describing incentives and sanctions of program)
Possible parental training
Successful completion of all Phase I advancement requirements

PHASE II – *ACCOUNTABILITY* – 16 WEEKS

Participation in 12-step program
Court Appearances (at least bi-weekly)
Positive recreational activities
Drug testing
Counseling
School attendance monitoring
Contact with PO or coordinator (weekly)
Successful completion of all Phase II advancement requirements

PHASE III – *LIFE SKILLS* – 12 WEEKS

Participation in 12-step program
Motivational activities
Drug/Alcohol treatment
Job skills training
Job referrals
Random drug/alcohol testing
School attendance monitoring
Contact with PO or coordinator (weekly)
Court appearances (monthly)
Successful completion of all Phase III advancement requirements

PHASE IV – *INDEPENDENCE AND MASTERY* – 12 WEEKS

Continued successful program participation
Graduation Ceremony

Source: Juvenile Justice Court (2002)

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