

1986

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Charles E. Frazier, Donna M. Bishop, Pretrial Detention of Juveniles and Its Impact on Case Dispositions, The, 76 J. Crim. L. & Criminology 1132 (1985)

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THE PRETRIAL DETENTION OF JUVENILES AND ITS IMPACT ON CASE DISPOSITIONS

Charles E. Frazier*
Donna M. Bishop**

I. INTRODUCTION

Some scholars have charged that the pretrial detention of juveniles involves greater abuses of law and power than any other aspect of the juvenile justice system.¹ Unlike the adjudicatory stage of delinquency case processing, the detention stage traditionally has been unrestrained by either strict substantive or procedural legal safeguards. This lack of standards and guidelines appears to invite arbitrary and capricious decisions by officers of the court entrusted to protect the interests of children. Unfortunately, we know little about the bases upon which court officers decide to detain juveniles prior to case disposition or about the impact which these decisions have on confined juveniles. The purpose of this paper is to examine empirically two of the key questions relating to juvenile detention practice. First, the paper will attempt to determine whether juvenile detention decisions are premised on factors related to the legitimate objectives of detention (i.e., assuring appearance at court proceedings, preventing recidivism prior to case disposition). Second, it will address the question of what impact detention has on juvenile case outcomes. This issue is particularly important in light of research indicating that pretrial detention has highly adverse consequences for adult criminal defendants.

* Professor of Sociology and Associate Director for Research, Center for Studies in Criminology and Law, University of Florida. Ph.D., Southern Illinois University, 1973; M.A., Kent State University, 1967; B.A., Muskingum College, 1965.

** Associate, Center for Studies in Criminology and Law, University of Florida. Ph.D., State University of New York at Albany, 1982; M.A., College of William and Mary, 1974; B.A., Wheaton College, 1968.

¹ See, e.g., R. SARRI, *UNDER LOCK AND KEY: JUVENILES IN JAIL AND DETENTION* (1974); Bookin-Weiner, *Assuming Responsibility: Legalizing Preadjudicatory Juvenile Detention*, 30 *CRIME & DELINQ.* 39 (1984); Triplet, *Pretrial Detention of Juvenile Delinquents*, 6 *AM. J. CRIM. L.* 137 (1978).

II. BACKGROUND

The potential for discretionary abuse in juvenile detention decision-making arises from the founding principles of the juvenile justice system. To the early reformers who initiated the development of a separate justice system for juveniles, the rules, technicalities, and formalized procedures of the adult criminal justice system were anathemas. These features of the adult criminal justice system were designed to insure that any punishment rendered is based upon a fair determination of guilt. The proponents of juvenile courts adopted a treatment-oriented approach to juveniles charged with wrongdoing: the issue of guilt was to be less significant than the issue of the child's welfare. As Justice Mack observed:

The problem for determination by the judge is not, has this boy or girl committed a specific wrong, but what is he, how has he become what he is, and what had best be done in his interest and in the interest of the state to save him from a downward career.²

The juvenile system adopted a treatment orientation organized around informal, nonadversarial proceedings presided over by a kindly and humane judge. The new system rested on the *parens patriae* doctrine, which called for the court to respond to the needs of wayward youth with paternalistic protection, care, and assistance. While this doctrine served the goals of early reformers seeking better treatment of juveniles, observers have noted that the *parens patriae* doctrine gave immense power to those officials charged with the responsibility to control and rehabilitate delinquent youths.³ Specifically, the doctrine gave inordinate authority to the court to prescribe any intervention thought to have a salutary effect upon the child. This authority existed no matter how slight the infraction, no matter how weak the evidence of the child's guilt of specific wrongdoing, and no matter how restrictive the intervention contemplated by the court.

It is thus not surprising that the procedures of the juvenile justice system and the *parens patriae* philosophy that underlie them have been the object of intense criticism almost since their inception.⁴

² Mack, *The Juvenile Court*, 23 HARV. L. REV. 104, 119-20 (1909).

³ See, e.g., R. CALDWELL, *CRIMINOLOGY* 370-78 (2d ed. 1965); A. CICOUREL, *THE SOCIAL ORGANIZATION OF JUVENILE JUSTICE* (1968); N. KITTRIE, *THE RIGHT TO BE DIFFERENT* 113-37 (1971); E. SCHUR, *RADICAL NONINTERVENTION: RETHINKING THE DELINQUENCY PROBLEM* (1973); P. TAPPAN, *COMPARATIVE SURVEY OF JUVENILE DELINQUENCY* (1958); Paulsen, *Juvenile Courts, Family Courts, and the Poor Man*, 54 CALIF. L. REV. 694 (1966).

⁴ See, e.g., F. ALLEN, *THE BORDERLAND OF CRIMINAL JUSTICE* (1964); L. EMPEY, *AMERICAN DELINQUENCY* (1978); A. PLATT, *THE CHILD SAVERS: THE INVENTION OF DELINQUENCY* (1977); E. SCHUR, *supra* note 3.

This criticism reached its peak in the 1960's before the Supreme Court began to institute procedural reforms, recognizing that juveniles were receiving "neither the protections accorded to adults nor the solicitous care and regenerative treatment postulated for children."⁵

Beginning with *Kent v. United States*,⁶ the Supreme Court has challenged the operation of the juvenile justice system on several fronts. In a series of cases the Court carefully scrutinized the adjudicatory phase of delinquency proceedings and extended to youths, with the exception of the right to jury trial,⁷ the same due process guarantees applicable in adult criminal proceedings.⁸ In each of these cases the Court determined that the informal procedures and unfettered discretion of juvenile justice officials provided benefits to juveniles that were more illusory than real. Notwithstanding the stated protective and therapeutic aims of the juvenile justice system, the Court found that the system was punitive. Substantive and procedural laxity therefore could not be justified.⁹

Although challenges to the adjudicatory phase of delinquency proceedings were largely successful, the Court has been reluctant to intervene in the dispositional and post-dispositional phases of the juvenile justice process.¹⁰ Similarly, the Court has failed to require strict substantive and procedural safeguards in the pre-adjudicatory stages of delinquency proceedings.

Most recently, the Supreme Court has approved the preventive detention of juveniles. In *Schall v. Martin*,¹¹ the Court held that notions of due process and fairness are not offended by a statute that permits judges to make detention decisions based on predictions that a child may commit another offense if released pending disposition of the current charges.¹² Writing for the majority, Justice Rehnquist referred approvingly to the "*parens patriae* interest in pre-

⁵ *Kent v. United States*, 383 U.S. 541, 556 (1966).

⁶ 383 U.S. 541 (1966).

⁷ *McKeiver v. Pennsylvania*, 403 U.S. 528 (1971).

⁸ *See Breed v. Jones*, 421 U.S. 519 (1975); *In re Winship*, 397 U.S. 358 (1970); *In re Gault*, 387 U.S. 1 (1967).

⁹ *See Winship*, 397 U.S. at 366-67; *Gault*, 387 U.S. at 18-31; *Kent*, 383 U.S. at 554-62.

¹⁰ It should be noted, however, that many lower courts have taken the lead in extending due process protections to juveniles at dispositional hearings, including the right to appear, the right to counsel, and the right to confront and cross-examine witnesses. *See, e.g., A.A. v. State*, 538 P.2d 1004 (Alaska 1975); *In re G.S.J.*, 281 N.W.2d 511 (Minn. 1979); *In re Cecilia R.*, 36 N.Y.2d 317, 327 N.E.2d 812, 367 N.Y.S.2d 770 (1975). These are, of course, rights long applicable to adults at sentencing proceedings.

¹¹ 467 U.S. 253 (1984).

¹² *Id.* at 256-57.

serving and promoting the welfare of the child.”¹³ The Court viewed detention as a beneficent and therapeutic intervention designed to protect juveniles from the consequences of their misdeeds.¹⁴ The Court also believed that detaining juveniles was necessary in order to protect society from children who, due to their immaturity, were likely again to commit crimes.¹⁵ It is questionable, however, whether beneficent intent, like previous practices premised on the *parens patriae* philosophy, really translates into practices that provide benefits to youth. In this regard, there are two issues meriting serious attention that the Court failed either to address or to resolve.

First, the Court failed to confront the possibility that allowing judges to base detention decisions on predictions of recidivism gives them a broad and potentially pernicious mandate. All fifty states and the District of Columbia currently have preventive detention statutes which, like the provisions of New York law challenged in *Schall*, permit the confinement of juveniles based on predictions of further law violations. These statutes, however, rarely provide specific criteria that a judge can use to make this prediction. This statutory vagueness may result in essentially arbitrary detention decisions. Thus, the initial issue for consideration is whether the decision to detain is formed after evaluating legitimate factors, such as the juvenile's prior record (which may bear on the risk of repeat offending) and the seriousness of the current offense (which may affect the risk of failure to appear at subsequent proceedings), or whether the decision to detain is essentially idiosyncratic.

The second issue concerns the impact of detention on case outcomes. In *Schall*, the Court conceded that the detention practice permitted under the challenged statute would be unconstitutional if certain conditions prevailed.¹⁶ One such condition cited by the Court would be a finding that the *intent* of the enabling statute is

¹³ *Id.* at 263 (quoting *Santosky v. Kramer*, 455 U.S. 745 (1982)). The Court added that the juvenile's freedom from institutional restraint “must be qualified by the recognition that juveniles, unlike adults, are always in some form of custody.” *Id.* at 264. It apparently was of little or no consequence to the *Schall* majority, although it made a great deal of difference to the Court in *Gault* seventeen years earlier, that custody of the child reverted to “‘a building with white-washed walls, regimented routine and institutional hours . . .’ Instead of mother and father and sisters and brothers and friends and classmates, his world is peopled by guards, custodians, state employees, and ‘delinquents’ confined with him for anything from waywardness, to rape and homicide.” *Gault*, 387 U.S. at 27 (footnotes omitted)(quoting *Holmes’ Appeal*, 379 Pa. 599, 616, 109 A.2d 523, 530 (1954)(Musmanno, J., dissenting)).

¹⁴ *Schall*, 467 U.S. at 264-65.

¹⁵ *Id.*

¹⁶ *Id.* at 273.

punitive. Confident that the intent of the New York legislation was therapeutic, not punitive, the Court in *Schall* approved the practice.¹⁷ Detention practices not punitive in intent might nevertheless be punitive in effect. Recognizing this fact is crucial because the Court, beginning with *Winship*, has made it abundantly clear that good intentions alone will not provide the *quid pro quo* for substantive and procedural laxity: "Civil labels and good intentions do not themselves obviate the need for criminal due process safeguards in juvenile courts."¹⁸ Our focus, therefore, is on the effect rather than the intent of less rigorous procedural protections.

III. PREVIOUS RESEARCH ON PREDICTION OF DETENTION

Despite the important and controversial legal and ethical issues raised by the detention of juveniles, there has been surprisingly little research designed to examine pretrial detention decisions. Most of the extant research is based on data more than a decade old. Because substantial changes in juvenile justice policy and practice have occurred since the 1960's, generalizations from early studies may be inappropriate.

Three more current studies have examined the link between rates of pretrial detention and the availability of detention centers.¹⁹ Each provides evidence that detention rates vary in direct proportion with the availability of detention facilities, suggesting the illegitimate use of detention.

Gottfredson and Gottfredson, in a study of attitudes of police and probation officers, found that police are more inclined to favor detention than probation officers.²⁰ They also found that counties in which police participate in the detention decision have higher rates of detention than do counties in which police are not involved.²¹ If generalizations based on these findings are appropriate, a juvenile's detention status may be based on illegitimate factors such as the organization of the decision-making process or the philosophies of justice held by officials.

Other studies have examined the impact of legal, soci-

¹⁷ *Id.* at 274.

¹⁸ *Winship*, 397 U.S. at 365-66.

¹⁹ Kramer & Steffensmeier, *The Differential Detention/Jailing of Juveniles: A Comparison of Detention and Non-Detention Courts*, 5 PEPPERDINE L. REV. 795 (1978); Letman, *Discussion of Differential Selection of Juveniles for Detention*, 14 J. RESEARCH CRIME & DELINQ. 166 (1977); Pawlak, *Differential Selection of Juveniles for Detention*, 14 J. RESEARCH CRIME & DELINQ. 152 (1977).

²⁰ Gottfredson & Gottfredson, *Decision-Maker Attitudes and Juvenile Detention*, 6 J. RESEARCH CRIME & DELINQ. 177 (1969).

²¹ *Id.*

odemographic, and social background characteristics on detention status.²² There is little evidence in these studies to indicate that sociodemographic variables such as age, race, and gender are related directly to detention decisions.²³ Detainees do tend to be older, but this is a function of the effect of a prior record. Prior records are consistently found to be related to detention, and their effects are generally found to be strongest when multivariate techniques are employed.²⁴ In addition to past record, the seriousness of the offense appears in some studies to be related to detention status.²⁵ Several other variables have been examined in attempts, with largely inconclusive results, to model detention decisions. For example, school factors²⁶ and family relationships²⁷ are sometimes related to detention decisions.

IV. PREVIOUS RESEARCH ON THE EFFECTS OF PRETRIAL DETENTION ON CASE DISPOSITION

The little research on the juvenile justice system that has employed pretrial detention as an independent variable has centered on individual behavioral or attitudinal responses to detention.²⁸ Curiously, in the vast majority of studies of adjudication and final disposition of juvenile cases, consideration of the effect of detention status is absent.²⁹ Considering the amount of public and official at-

²² See, e.g., T. BLACK & C. SMITH, REPORT OF THE NATIONAL ASSESSMENT OF JUVENILES PROCESSED IN THE JUVENILE JUSTICE SYSTEM (1980); H. SUMNER, LOCKING THEM UP (1970); Bookin-Weiner, *supra* note 1; Cohen & Kluegel, *The Detention Decision: A Study of the Impact of Social Characteristics and Legal Factors in Two Metropolitan Juvenile Courts*, 58 SOC. FORCES 146 (1979); Dungworth, *Discretion in the Juvenile Justice System: The Impact of Case Characteristics on Prehearing Detention*, in JUVENILE DELINQUENCY: LITTLE BROTHER GROWS UP 19 (T. Ferdinand ed. 1977); Pawlak, *supra* note 19.

²³ *But see* Cohen & Kluegel, *supra* note 22 (independent of prior record, males are more likely to be detained for violent and property offenses, females are more likely to be detained for alcohol and drug offenses and for offenses against public order); Pawlak, *supra* note 19 (females are more likely to be detained than males, independent of prior record and offense type).

²⁴ See Cohen & Kluegel, *supra* note 22; Dungworth, *supra* note 22.

²⁵ See Cohen & Kluegel, *supra* note 22; Dungworth, *supra* note 22.

²⁶ Bookin-Weiner, *supra* note 1; Cohen & Kluegel, *supra* note 22; Dungworth, *supra* note 22.

²⁷ Cohen & Kluegel, *supra* note 22.

²⁸ See Gibbs, *The Effects of Juvenile Legal Procedures on Juvenile Offenders' Self-Attitudes*, 11 J. RESEARCH CRIME & DELINQ. 51 (1974); O'Connor, *The Impact of Initial Detention Upon Male Delinquents*, 18 SOC. PROBS. 194 (1970).

²⁹ See, e.g., Arnold, *Race and Ethnicity Relative to Other Factors in Juvenile Court Dispositions* 77 A. J. SOC. 211 (1971); Scarpitti & Stephenson, *Juvenile Court Dispositions: Factors in the Decision-Making Process*, 17 CRIME & DELINQ. 142 (1971); Terry, *The Screening of Juvenile Offenders*, 58 J. CRIM. L., CRIMINOLOGY & POL. SCI. 173 (1967); Thomas & Cage, *The Effect of Social Characteristics on Juvenile Court Dispositions*, 18 Soc. Q. 237 (1977);

tention given to pretrial detention of both adults and juveniles over the last two decades³⁰ this omission is striking.

When academics claim that detention has a harmful effect on the severity of juvenile disposition, they usually do so by simple assertion, by citing studies that were completed more than two decades ago or by citing studies that pertain only to adult criminal court cases.³¹ Citations to early studies conducted by the Vera Foundation's researchers as part of the Manhattan Bail Project are common. These studies present evidence that the pretrial detention of adults affects both the likelihood of conviction and the severity of sentence.³² While more recent studies of criminal court dispositions³³ lend considerable support to these earlier works, generalizing from the findings of research on the adult justice system to the juvenile justice system may be wholly inappropriate.

In a major study focusing on the juvenile justice system, Cohen examined the effects of pretrial detention on the severity of case dispositions in a sample of cases referred to the Denver Juvenile Court in 1972.³⁴ The existence of a filed petition and the number of prior referrals to court explained most of the variation in the severity of case dispositions.³⁵ To a lesser but appreciable degree, detention status affected case outcomes. Independent of other factors, youths held in pretrial detention were consistently more likely to receive severe dispositions than those not detained. Moreover, on the basis of two separate analyses of the Denver data, Cohen suggested that once a child is detained, the chance that a formal petition will be

Thornberry, *Race, Socioeconomic Status and Sentencing in the Juvenile Justice System*, 64 J. CRIM. L. & CRIMINOLOGY 90 (1973).

³⁰ R. GOLDFARB, *JAILS: THE ULTIMATE GHETTO* (1975); R. SARRI, *supra* note 1; W. THOMAS, *BAIL REFORM IN AMERICA* (1976); Foote, *The Coming Constitutional Crisis in Bail: I*, 113 U. Pa. L. Rev. 959 (1965); GOLDKAMP, *Questioning the Practice of Pretrial Detention: Some Empirical Evidence From Philadelphia*, 74 J. Crim. L. & Criminology 1556 (1984).

³¹ See, e.g., McDiarmid, *Juvenile Pretrial Detention*, NLADA BRIEFCASE 77 (1977) (simply asserting that pretrial detention affects juvenile case dispositions); Triplet, *supra* note 1 (asserting relationship between detention and subsequent court actions and citing only general references that do not report specific findings relating to this presumed relationship); Comment, *A Due Process Dilemma: Pretrial Detention in Juvenile Delinquency Proceedings*, 11 J. MAR. J. PRAC. & PROC. 513 (1978) (citing studies focused on adults and studies which are now more than two decades old).

³² Ares, Rankin, & Sturz, *The Manhattan Bail Prospect*, 38 N.Y.U. L. REV. 67 (1963); Foote, *supra* note 30; Goldkamp, *supra* note 30; Rankin, *The Effects of Pretrial Detention*, 39 N.Y.U. L. REV. 641 (1964).

³³ Frazier, Bock & Henretta, *The Role of Probation Officers in Determining Gender Differences in Sentencing Severity*, 24 Soc. Q. 305 (1983); Swigert & Farrell, *Normal Homicides and The Law*, 42 AM. SOC. REV. 16 (1977).

³⁴ L. COHEN, *DELINQUENCY DISPOSITIONS: AN EMPIRICAL ANALYSIS OF PROCESSING DECISIONS IN THREE JUVENILE COURTS* (1975).

³⁵ *Id.*

filed increases greatly, which in turn increases the probability of a more severe case disposition.³⁶ Cohen's findings provide the strongest evidence to date that pretrial detention is punitive in effect.

V. THE PRESENT STUDY

DATA

The data for the present study are unique in a number of respects. They come from the total population of dependency and delinquency cases processed in one state between January 1, 1979 and December 31, 1981. From this larger data set, all cases which came to the attention of justice officials as a result of a delinquency referral (i.e., an offense that could have been charged as a crime if the suspect had been an adult) were selected (N = 224,132). These cases represent the total number of delinquency cases processed in the state during this three-year period.

The events in the data set include all juvenile cases processed by police and referred to juvenile court intake officials. In this state, officers of the intake unit record information on all youths that come into the juvenile justice system except those handled informally by law enforcement officials. The data set thus includes not only juveniles who were processed through the juvenile courts, but also those who were not processed beyond the level of intake, those diverted after intake to community service agencies, and those who were otherwise informally adjusted at the intake and prosecution levels. For the purposes of this analysis, it is important to consider cases that were not disposed of judicially, because many detained youths are never formally adjudicated. A sample of cases containing only those that were formally adjudicated would bias an analysis of the impact of detention on case outcomes. With the present data set, we were able to avoid a sample selection bias that is characteristic of most samples used in this area of research.

Because we predicted that both the detention decision and the final disposition of delinquency cases would be partially dependent upon prior records of delinquency, we focused our analysis on the last referral recorded for each individual during 1981. This procedure, which reduced the sample N to 55,681, allowed us to evaluate at least two full years of prior record information on each youth in the sample.

³⁶ *Id.* at 33.

VARIABLES

The independent variables in this analysis were drawn from the standard intake form which is made available to judges at detention hearings. Intake forms include both sociodemographic and legal information. We included as variables all of the pieces of information routinely supplied to judges at the time they make a detention decision.

The sociodemographic variables include age, gender, and race. Age, a continuous variable, has values ranging from 7-18. For this and other variables the means and standard deviations are presented in Table 1. Gender is dummy coded (male = 1, female = 0). Race is also dummy coded (white = 1, non-white = 0).

The legal variables include, first, the number of prior delinquency referrals during the period 1979-1981. Scores on this variable were categorized to separate those with no prior referrals (77 percent), one prior referral (14 percent), and two or more prior referrals (9 percent).

The second legal variable measures the seriousness of the charges on the last referral. This figure was calculated in cases of referrals involving multiple offenses by summing the values of the specific offenses for which the individual was arrested. Scores on this variable range from 1 to 48. Offense values and their definitions are as follows, from most to least serious: felonies against persons = 7; felony property offenses = 6; felony offenses against public order = 5; misdemeanor offenses against persons = 4; misdemeanor property offenses = 3; misdemeanor offenses against public order = 2; and traffic offenses = 1.

The third legal variable is a measure of the severity of the disposition of past referrals, which consists of a sum of the value assigned to the most severe disposition for each prior referral. For each prior referral values from one to four were assigned to dispositions. A value of 1 was assigned to cases in which the court ordered neither informal nor formal sanctions or services (e.g., case closed after initial contact by intake). The value 2 was assigned to cases that resulted in sanctions or services at the informal level. Those cases in which the individuals were found delinquent by the juvenile court and ordered into some kind of community treatment were assigned the value 3. Those cases in which the individuals were found delinquent and committed to a residential program with custody transferred to the state were assigned the value 4. Scores on this variable range from 0 to 39.

Detention is measured as a dichotomous variable. Cases in

TABLE 1
CORRELATION MATRIX, MEANS AND STANDARD DEVIATIONS

	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	\bar{X}	S.D.
(1) Offense Severity	1.00	.12	.11	.00	.00	.14	-.07	.36	.32	4.88	2.94
(2) Number of Prior Events		1.00	.79	.03	.14	.14	-.07	.22	.17	.33	.63
(3) Severity of Prior Disposition			1.00	.01	.10	.12	-.07	.18	.18	.81	2.15
(4) Detention Status				1.00	-.01	.00	-.01	.02	.05	.10	.30
(5) Age					1.00	.02	.06	.07	.02	15.01	2.04
(6) Gender						1.00	.01	.10	.07	.78	.41
(7) Race							1.00	-.08	-.06	.71	.46
(8) Method of Disposition								1.00	.75	.39	.49
(9) Severity of Disposition									1.00	1.95	.95

which juveniles were detained continuously between the time of referral to intake and the disposition of their cases were assigned the value 1. Those cases in which juveniles were not detained, or were detained only for a short period and then released prior to case disposition, were assigned the value 0.³⁷

Our analysis of the effect of detention on case disposition employs two measures of case outcome. The first dependent variable, method of disposition, is measured as a dichotomy (formal disposition = 1, informal disposition = 0). Formal dispositions include all cases processed through an adjudicatory hearing and disposed of by the juvenile court. Informal dispositions include cases closed after initial intake, cases referred to community agencies by intake officers or prosecutors, and cases closed by prosecutors without a formal bill of petition or information.

Our second measure, severity of judicial disposition, is dummy coded (commitment to a residential facility = 1, community supervision = 0). This measure is similar to the coding of case outcomes used by Terry,³⁸ Arnold,³⁹ and Thornberry,⁴⁰ each of whom distinguished between the dispositions of probation and commitment to residential facilities. These dependent variables focus on both formality and severity of case dispositions. Examining both disposition dimensions is important because detention status may have different effects upon one dimension versus the other.

METHOD OF ESTIMATION

Because the dependent variables in our multivariate analyses are dichotomous contrasts while the independent variables include both categorical and continuous variables, the analytic procedure used is logistic regression.⁴¹ In addition to reporting the logistic regression coefficients, we also report the transformation of the regression coefficients into proportional effects. The logistic regres-

³⁷ The data were not sufficiently precise to permit construction of a measure of the proportion of time spent in detention among those detained for some period of time and then released prior to case disposition. Commonly, however, youths who are detained and released prior to disposition are held for only brief periods (a few hours or overnight, pending notification of parents or guardians) at the discretion of intake and law enforcement personnel. These initial decisions are short term and must be reviewed by a judge within 48 hours. Because our interest is focused on the exercise of *judicial* discretion, we chose to classify short-term detainees with those not detained.

³⁸ Terry, *Discrimination in the Handling of Juvenile Offenders by Social Control Agencies*, 4 J. RESEARCH CRIME & DELINQ. 218 (1967).

³⁹ Arnold, *supra* note 29.

⁴⁰ Thornberry, *supra* note 29.

⁴¹ See generally E. HANUSHEK & J. JACKSON, *STATISTICAL METHODS FOR SOCIAL SCIENTISTS* (1977).

sion coefficients are therefore transformed into estimates of the predicted proportion of cases falling into category 1 rather than category 0 of the dependent variable for each one-unit change in an independent variable. This change in probability varies at different points on the curve, making it necessary to select a point on the distribution at which to evaluate effect parameters. We have chosen the mean of the dependent variable as the point of comparison. Choosing another location would yield different parameter estimates, but the relative size of the coefficients would remain the same. Holding other x variables constant, this change in the predicted probability of falling into category 1 of each dependent variable for a one-unit change in an independent variable, X_k , is $B_k[P(1-P)]$, where B_k is a logistic regression coefficient, and $[P(1-P)]$ is the variance at the point of comparison (the mean of the dependent variable).⁴²

FINDINGS

Our analyses are designed to determine what factors relate to decisions to detain juveniles and, in turn, whether detention affects either the method of disposition (informal or formal) or the severity of final dispositions of those cases in which youths are found delinquent.

Table 1 reports the correlation matrix which shows that, at the bivariate level of analysis, neither standard sociodemographic variables nor theoretically important legal variables are related to detention decisions. These findings suggest that courts do not make detention decisions based on the juvenile's age, gender or race and that courts are influenced neither by the seriousness of the current charges nor by prior records of offending.

These bivariate findings, however, do not indicate whether courts are more or less likely to detain juveniles categorized on the basis of expected predictors independent of the effects of other predictors. For example, prior research suggests that seriousness of the current charges may affect the probability of detention when age, gender, race, and prior record are held constant.⁴³ In order to test for this possibility we estimated a logistic regression equation regressing detention status on five predictor variables (See Table 2). This analysis indicates that neither legal variables nor sociodemographic characteristics can predict the probability of being detained. The predictors only minimally affect the predicted pro-

⁴² See generally *id.*

⁴³ Cohen & Kluegel, *supra* note 22; Pawlak, *supra* note 19.

TABLE 2
REGRESSION MODEL FOR DETENTION STATUS

	b	se(b)	Predicted Proportional Change	p
Offense Severity	.001	.004		
Number of Prior Events	.139*	.021	.013	
Gender	-.020	.035		
Race	-.073*	.031	-.007	
Age	-.018*	.007	-.002	
Intercept	-1.872			
N =	54,818			
- 2L intercept	36637.49			
- 2L model	36583.94			
Model X ²	53.55/5DF			
\bar{Y} =	.10			

* Indicates significance at the <.01 level

portional change in the probability of detention. The number of prior delinquency referrals, which increases the likelihood of detention by only 1.3 percentage points, has the strongest effect.

Whether or not detention status can be predicted by sociodemographic and legal variables, detention may affect both the formality and severity of case dispositions. In short, detention may have harmful effects regardless of its causes. The bivariate findings reported in Table 1 indicate that method of case disposition is correlated with offense severity, number of prior referrals, the severity of prior dispositions and, to a lesser extent, the sociodemographic factors of age, gender, and race. Detention status is not related to method of case disposition at the bivariate level.

The bivariate findings are consistent with what one might expect in one sense, and inconsistent in another. The bivariate findings are consistent with the expectation that legal variables and some sociodemographic factors would be related to the formality of case disposition methods. Given the *parens patriae* philosophy of juvenile courts, legal and sociodemographic factors such as age and gender should affect case dispositions. Because males, those with prior records, and those who are near the age of majority, may be more likely than other categories of juveniles to again commit offenses, these particular categories of juveniles should be more likely to occupy the full attention of the court and to receive formal dispositions. Indeed, such findings are common in the literature.⁴⁴ Our findings, however, are inconsistent with numerous claims in the legal and academic research literature that juveniles are disadvantaged by detention.⁴⁵ We find no relationship at the bivariate level between detention status and method of disposition.

Detention may nevertheless have an effect on case outcomes when other variables are controlled. We therefore estimated a multivariate logistic regression model including detention and other established predictors.⁴⁶ As shown in Table 3 (Model One), pretrial detention does have a significant effect on method of disposition when other variables are held constant. Detention between arrest and disposition increases the likelihood that a juvenile's case will move through an adjudicatory hearing to a formal judicial disposi-

⁴⁴ Pawlak, *supra* note 19; Terry, *supra* note 38; Terry, *supra* note 29; Thomas & Cage, *supra* note 29; Thornberry, *supra* note 29.

⁴⁵ See, e.g., Guggenheim, *Paternalism, Prevention, and Punishment: Pretrial Detention of Juveniles*, 52 N.Y.U. L. REV. 1064 (1977); McDiarmid, *supra* note 31.

⁴⁶ Because there was a substantial risk of multicollinearity involving severity of prior disposition and number of prior referrals ($r = .79$), we deleted severity of prior disposition from subsequent regression analyses.

TABLE 3
REGRESSION MODEL FOR METHOD OF DISPOSITION INFORMAL OR FORMAL

	MODEL ONE		MODEL TWO	
	b	se(b)	b	se(b)
Current Severity	.285*	.004	.285*	.004
Detention Status	.121*	.036	-.526	.294
Number of Prior Events	.634	.017	.635*	.017
Gender	.202*	.026	.187*	.027
Race	-.291*	.022	-.317*	.024
Age	.070*	.005	.068*	.005
Gender by Detention			.170	.090
Race by Detention			.274*	.007
Age by Detention			.022	.019
Intercept	-3.018		-2.964	
N =	48,426		48,426	
-2L Intercept	64,868.58		64,868.58	
-2L Model	56,113.98		56,095.55	
Model X ²	8,754.59/6DF		8,773.03/9DF**	
\bar{Y} =	.392		.392	
		Predicted Proportional Change		Predicted Proportional Difference in Effects of Detention
		.067		
		.028		
		.151		
		.048		
		-.069		
		.017		

* Indicates significance at the <.001 level

** Difference between models chi square equals 18.44/3DF, <.001

tion. The effect, however, is not large. Among juveniles who are detained prior to disposition, the predicted probability of a formal disposition increases by approximately three percentage points.

Each of the other predictors in the model also affects the method of disposition. Prior record has the greatest effect, increasing the likelihood of formal disposition by 15 percentage points. Those charged with more serious offenses are also more likely to be formally adjudicated (predicted proportional change = 6.7 percentage points). Further, the analysis indicates that, independent of legally relevant considerations, defendants' sociodemographic characteristics relate to method of case disposition. Each one-year increment in age slightly raises the probability of formal disposition (predicted proportional change = 1.7 percentage points). The cumulative effect is fairly substantial. Males are more likely than females to have their cases handled judicially (predicted proportional change = 5 percentage points). Finally, the analysis indicates that being non-white raises the predicted probability of formal adjudication by nearly 7 percentage points.

Although Model One shows the effect of detention on method of case disposition to be weak, detention may possibly impact more on some categories of youth than others. Thus, we also considered a model that included interaction terms to examine the combined effects of detention status and sociodemographic variables (See Table 3, Model Two). The results of this analysis indicate that the effect of detention varies depending on the race, gender, and age of the juvenile. This group of interactions is significant at the .001 level.

The beta coefficients for the interaction terms listed in Table 3 can be understood as the differences in the effect of detention for males compared to females, for whites compared to non-whites, and for each one-year increment in age over the basal age category of seven. Because the sign of each of the interaction terms is positive, being white, male, and older increases the likelihood that detention will result in formal case disposition. For boys, detention adds 4 percentage points to the probability of having a formal case disposition. Each additional year in the age of detained juveniles increases the likelihood of formal disposition by approximately one half of a percentage point. Finally, detention status increases the probability that whites will receive a formal disposition by 6.5 percentage points.

Some illustrations may help to clarify these effects. Consider, for example, a detained defendant who is female, non-white, and 7 years of age. The logistic regression coefficient for this group is

— .526. If we were to change this defendant's age to 15, the effect of detention would be to increase the likelihood of formal disposition to — .226. If we then change the defendant's race to white, the predicted logistic regression coefficient would become .048. Finally, if the gender of this hypothetical defendant were changed, so that we are estimating the effect of detention on a 15 year-old white male, the coefficient would increase to .210. The effect of detention on case disposition method is therefore highly dependent upon the social characteristics of juvenile defendants.

The effect of defendants' sociodemographic characteristics is most apparent when we consider race. In Table 3, Model Two, the sign for the combined effect of race and detention is positive, while the sign of the coefficient for race is negative. Thus, while non-whites who are not detained are more likely to have their cases formally adjudicated than are whites who are not detained, detention increases the likelihood of formal case disposition more for whites than for non-whites. For youths who are not detained there is considerable evidence of racial disparity in the method of case disposition. For example, the predicted probability of formal disposition for a non-detained 15 year-old white male is .279, while for a non-detained 15 year-old non-white male, it is .347. The effect of detention is to reduce this racial difference. The predicted probability of formal disposition for a detained 15 year-old white male, for example, is .297, and for a detained 15 year-old non-white male, this probability is .307.

We now consider whether a youth's detention status affects the severity of his or her judicial disposition. Is a youth who is detained more likely to be committed to a long-term residential facility than one who is not detained? In order to answer this question, we regressed severity of judicial disposition (commitment = 1, community supervision/treatment = 0) on detention status, severity of current offense, prior record, gender, race, and age. Table 4 reports the findings. This analysis indicates that a court's choice of disposition is influenced by a youth's prior record, the severity of the current offense, and the youth's gender and race. The findings suggest that males and non-whites are dealt with more severely. Detention status, however, is apparently not related to the sentencing decision. Moreover, in a separate logistic regression analysis not reported in the tables, we found no evidence that any interaction between detention status and sociodemographic characteristics influences the severity of case outcomes.

TABLE 4
REGRESSION MODEL FOR SEVERITY OF JUDICIAL DISPOSITION

	b	se(b)	Predicted Proportional Change
Offense Severity	.121*	.006	.019
Detention Status	-.010	.073	
Number of Prior Events	.729*	.027	.112
Gender	.335*	.070	.051
Race	-.566*	.045	-.087
Age	.015	.013	
Intercept	-.289		
N =	15,226		
-2L Intercept	1476.13		
-2L Model	13430.34		
Model X ²	1329.79/6DF		
\bar{Y} =	.189		

* Indicates significance at the <.001 level

CONCLUSIONS

Utilizing a large, recent data set covering juvenile justice operations in an entire state, this study has examined the factors that influence juvenile detention decisions as well as the effects of pretrial detention on juvenile case dispositions.

Our initial analyses were designed to identify the factors that influence juvenile detention. The findings indicate that neither relevant legal factors (such as severity of the offense and prior record) nor youths' sociodemographic characteristics inform the detention decision. Essentially, we find that detention decisions cannot be predicted in these data.

Of course, factors not captured by our data may influence the decision to detain. For example, our data include neither indicators of youths' involvement in constructive pursuits (i.e., attending school or working) nor indicators of youths' living arrangements. Both of these factors were found to be modestly related to detention status in two prior studies.⁴⁷ There is, however, little reason to believe that information regarding these factors is presented to judges at the time of the detention decision in the state where we conducted this study. If such information is made available, this information is provided irregularly and informally.

In sum, our analysis indicates that there are only small relationships between theoretically relevant legal and social variables and the selection of juveniles for pretrial detention. The variables used to model detention decision-making in this research included all of the information available to judges, including information on the juvenile's prior record which, in a state that permits the preventive detention of youths based on predictions of subsequent offending, arguably *ought* to inform the detention decision. In light of these considerations, we conclude that detention decisions are systematically related neither to characteristics of juveniles nor to the offenses of juveniles about which decision-makers are routinely informed.

The fact that we were unable to model detention decisions in these data may mean that courts detain juveniles based on legitimate considerations supplied to the judge in ad hoc fashion, although we have no evidence to suggest that this occurs. Alternatively, this inability to model detention decisions may mean that the

⁴⁷ Bookin-Weiner, *supra* note 1 (involvement in constructive activities related to detention status); Cohen & Kluegel, *supra* note 22; Dungworth, *supra* note 22 (juvenile justice officials' perceptions of family relationships/living arrangements associated with detention status).

process is idiosyncratic, causing some juveniles to suffer significant deprivations of liberty based on considerations that are irrelevant to the approved purposes of detention. If this latter explanation is correct, the problem may lie in the fact that statutory detention criteria are too broad and/or that detention statutes offer too little guidance regarding whether youths meet the stated criteria. It is worth noting that during the course of this research, juvenile justice personnel suggested to us that detention criteria are so broad that virtually every child charged with a delinquent act could be said to meet these criteria. This situation is not unique to the jurisdiction under study.⁴⁸

Our second set of analyses relates to the impact which detention has on case outcomes. We considered, first, whether detention affects the method of case disposition (formal adjudication versus informal handling) and, second, whether detention affects the severity of judicial dispositions.

We found no evidence that detention status has discernible effects upon the severity of judicial dispositions. Those who are detained are no more likely to be committed to a state residential facility than those who are released pending case disposition. Our analyses do indicate, however, that those who are detained are disadvantaged by an increased likelihood of formal as opposed to informal case disposition. It is important to note that those juveniles whose cases are disposed of informally generally receive sanctions considerably more lenient and of shorter duration than those sanctions ordered by a court. Further, the analyses indicate that these effects are not uniform. Juveniles who are male, white, and older are more disadvantaged by detention than those who are female, non-white, and younger. Nevertheless, the impact of detention status upon the method of case disposition, even among those categories of juveniles most affected by it, is small in comparison with the effect of factors such as prior record, severity of the current offense, and race.

There is therefore some evidence, albeit slight, that detention is harmful in effect. Detention exerts an independent influence towards increasing restrictions on a child (that is, court-ordered dispositions compared to informal sanctions or services) as well as increasing the probability of formal labelling as a delinquent.

⁴⁸ Most states provide very loose standards for the detention of juveniles and offer little or no guidance to decision-makers in determining whether a juvenile has met detention criteria. See Grisso & Conlin, *Procedural Issues in the Juvenile Justice System*, in CHILDREN, MENTAL HEALTH, AND THE LAW 171 (N. Repucci, L. Weithorn, E. Mulvey & J. Monahan eds. 1984).

Whether these effects would be considered punitive within the meaning of the Court in *Schall*, thereby providing support for a challenge to the practice on due process grounds,⁴⁹ is open to question. However, there is clearly room for debate on this issue.

In sum, our analyses indicate that juveniles are screened into or out of detention by what is apparently an idiosyncratic process. Our analyses also indicate that some categories of youth experience a real (though relatively slight) disadvantage in the disposition of their cases resulting from their detention. When the findings are combined in this way, it becomes apparent that considerably more discussion, debate, and policy-oriented research needs to be directed toward juvenile detention legislation and practice.

⁴⁹ See *supra* notes 16-18 and accompanying text.