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ARTICLES

JUSTICE BY GEOGRAPHY: URBAN, SUBURBAN, AND RURAL VARIATIONS IN JUVENILE JUSTICE ADMINISTRATION

BARRY C. FELD*

ABSTRACT

Despite statutes and rules of statewide applicability, juvenile justice administration varies consistently with urban, suburban, and rural social structure and context. In urban counties, which are more heterogeneous and diverse, juvenile justice intervention is more formal, bureaucratized, and due process-oriented. Formality is associated with greater severity in pre-trial detention and sentencing practices. By contrast, in more homogeneous and stable rural counties, juvenile courts are procedurally less formal and sentence youths more leni-

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ently. The Article explores the implications of "justice by geography" for juvenile justice policy.

I. INTRODUCTION

Although the same statutes and juvenile court rules of procedure apply, juvenile justice administration varies substantially in Minnesota. Juvenile courts' procedural characteristics and sentencing practices relate consistently to urban, suburban, and rural differences in social structure. Urban courts operate in milieu that provide fewer mechanisms for informal social control than do rural ones; consequently, they place greater emphasis on formal, bureaucratized social control.¹ For example, the presence of counsel provides an indicator of a court's legal formality. Attorneys appear in urban courts more than twice as often as they do in rural courts. Structural influences on formal versus informal social control also affect the selection of delinquents and the administration of justice. Urban courts sweep a broader, more inclusive net and encompass proportionally more and younger youths than do suburban or rural courts. Social structure and procedural formality are also associated with more severe sanctions. The more formal, urban courts place over twice as many youths in pre-trial detention and sentence similarly-charged offenders more severely than do subur-

¹ See, e.g., Feld, *Right to Counsel in Juvenile Court: An Empirical Study of When Lawyers Appear and the Difference They Make*, 79 J. CRIM. L. & CRIMINOLOGY 1185 (1989) [hereinafter Feld, *Right to Counsel*]. The variations in rates of representation suggest that in urban courts, a due process or "formal rationality" model of justice obtains, while rural juvenile courts adhere to a more traditional, "substantive rationality" model. See, e.g., M. WEBER, *MAX WEBER ON LAW IN ECONOMY AND SOCIETY* (M. Rheinstein ed. 1954). Weber's typology of law distinguishes between formal legal rationality and substantive rationality. Formal rationality is characterized by the application of explicit, universal rules to legal problems. By contrast, substantive rationality prevails when decisions are made on the basis of principles that are not derived from the legal system but from some other authoritative source or belief system. See generally J. INVERARITY, P. LAUDERDALE & B. FELD, *LAW AND SOCIETY: SOCIOLOGICAL PERSPECTIVES ON CRIMINAL LAW* 112-16 (1983) [hereinafter J. INVERARITY, *LAW AND SOCIETY*].

The traditional juvenile court provides an instance of Weberian substantive rationality. D. MATZA, *DELINQUENCY AND DRIFT* 125-29 (1964); A. PLATT, *THE CHILDSAVERS* (2d ed. 1977); Schultz, *The Cycle of Juvenile Court History*, 19 CRIME & DEL. 457 (1973).

Decision-making in systems of substantive justice is guided by reference to a substantive goal or by the best decision in the individual case, not by the application of abstract rules. The ideal in the juvenile court has been one of 'individualized' justice whereby each offender should be treated as unique and as deserving such treatment. The framework of relevant criteria of decision-making is far broader than only the 'legal' factors relevant in adult courts, and encompasses a variety of social background variables that are indicative of the offender's personal, home, and community situations.

Horowitz & Wasserman, *Some Misleading Conceptions in Sentencing Research: An Example and Reformulation in the Juvenile Court*, 18 CRIMINOLOGY 411, 417 (1980).

ban or rural courts. As a result, where youths live affects how their cases are processed and the severity of the sentences they receive.

This Article examines the relationships between social structure, procedural formality, and juvenile justice administration and considers the implications of "justice by geography" for juvenile court reform.

A. SOCIAL STRUCTURE, CRIME, AND JUSTICE ADMINISTRATION

Crime and delinquency are disproportionately urban phenomena.² Criminology uses social structural features to explain variations in the distribution of crime. Classical sociological theory, for example, attributes the greater prevalence of crime in cities to urban anomie.³ In traditional rural communities, homogeneity and uniformity of beliefs foster informal social control, whereas in urban settings, population density, anonymity, and heterogeneity weaken social cohesion and increase reliance on formal social control.⁴ Social ecology, associated with the Chicago School, relates urban structural features such as income inequality, family structure, or racial composition to variations in crime rates.⁵

Urbanization is associated with greater bureaucratization and formal social control as well as with higher rates of crime.⁶ Weber associated the formal rationalization of social life with urbanization and bureaucratization and argued that abstract rules would supplant more traditional methods of dispute resolution as law became in-

² Blau & Blau, *The Cost of Inequality: Metropolitan Structure and Violent Crime*, 47 AM. SOC. REV. 114 (1982) [hereinafter Blau, *Cost of Inequality*]; J. LAUB & M. HINDELANG, JUVENILE CRIMINAL BEHAVIOR IN URBAN, SUBURBAN, AND RURAL AREAS (1981) [hereinafter J. LAUB, JUVENILE CRIMINAL BEHAVIOR].

³ See, e.g., M. CLINARD & D. ABBOTT, CRIME IN DEVELOPING COUNTRIES (1973); E. DURKHEIM, THE DIVISION OF LABOR IN SOCIETY (1964); L. SHELLEY, CRIME AND MODERNIZATION: THE IMPACT OF INDUSTRIALIZATION AND URBANIZATION ON CRIME (1981).

⁴ The limited empirical research generally supports these theoretical propositions. See, e.g., J. CONKLIN, THE IMPACT OF CRIME 137 (1975) (formal control of crime may be weakest in communities where informal controls are strongest); Boggs, *Formal and Informal Crime Control: An Exploratory Survey of Urban, Suburban, and Rural Orientation*, 12 Soc. Q. 319 (1971) (suburban and rural residents more likely than their urban counterparts to rely on informal controls to deter crimes).

⁵ C. SHAW & H. MCKAY, JUVENILE DELINQUENCY AND URBAN AREAS (1942); THE SOCIAL ECOLOGY OF CRIME (J. Byrne & R. Sampson eds. 1985); Heitgerd & Bursik, *Extracommunity Dynamics and the Ecology of Delinquency*, 92 AM. J. SOC. 775 (1987); Ladbroke, *Why are Crime Rates Higher in Urban than in Rural Areas? — Evidence from Japan*, 21 AUST. & N.Z.J. CRIM. 81 (1988); Sampson, *Crime in Cities: The Effects of Formal and Informal Social Control*, in 8 CRIME & JUST.: A REVIEW OF RES. 271 (A. Reiss, Jr. & M. Tonry eds. 1986).

⁶ M. MYERS & S. TALARICO, THE SOCIAL CONTEXT OF CRIMINAL SENTENCING (1987); Myers & Talarico, *Urban Justice, Rural Injustice? Urbanization and its Effect on Sentencing*, 24 CRIMINOLOGY 367 (1986) [hereinafter *Urban Justice, Rural Injustice*].

creasingly rational and functionally specialized.⁷ Presumably, urban courts would be more formal and bureaucratized, emphasize rationality and efficiency, and punish on the basis of legally relevant factors such as present offense and prior record. By contrast, rural courts would be less bureaucratized and sentence on the basis of non-legal considerations.

Surprisingly, very little research has been done on the relationships between urbanization, bureaucratization, and justice administration. The few studies available document significant urban-rural differences in sentencing. Hagan found that differential treatment of racial minorities was more pronounced in rural courts than in bureaucratized urban ones.⁸ Tepperman reported that rural juvenile courts treated female offenders more leniently than males, but that gender differences declined with urbanization.⁹ Austin found that rural criminal courts considered social background factors while urban courts adhered to a more legalistic model of sentencing.¹⁰ Paternoster found that social context influenced charging decisions; rural prosecutors were more likely to seek the death penalty than urban ones.¹¹ Myers and Talarico reported that urbanization and social context affect criminal court sentencing decisions.¹² In short, these studies support Weberian expectations that similarly-situated offenders may be treated differently based upon their locale and that differential processing is more prevalent in rural settings and declines with urbanization and bureaucratization.¹³

Criminology also attempts to explain variations in the administration of justice. Organizations interact with and are influenced by their external environments; for example, the expectations of police, politicians, appellate courts, news media, and the public all affect how courts perform.¹⁴ Criminal justice agencies operate within

⁷ M. WEBER, *THE THEORY OF SOCIAL AND ECONOMIC ORGANIZATION* (1947); M. WEBER, *MAX WEBER ON LAW IN ECONOMY AND SOCIETY* (M. Rheinstein ed. 1954); J. INVERARITY, *LAW AND SOCIETY*, *supra* note 1.

⁸ Hagan, *Extra-legal Attributes and Criminal Sentencing: An Assessment of a Sociological Viewpoint*, 8 *LAW & SOC. REV.* 357 (1974).

⁹ Tepperman, *The Effect of Court Size on Organization and Procedure*, 10 *CANADIAN REV. OF SOC. & ANTHRO.* 346 (1973).

¹⁰ Austin, *The Influence of Court Location on Type of Criminal Sentence: The Rural-Urban Factor*, 9 *J. CRIM. JUST.* 305 (1981) (in rural courts, blacks received harsher sentences and females more lenient ones).

¹¹ Paternoster, *Race of Victim and Location of Crime: The Decision to Seek the Death Penalty in South Carolina*, 74 *J. CRIM. L. & CRIMINOLOGY* 754 (1983).

¹² Myers & Talarico, *Urban Justice, Rural Injustice*, *supra* note 6; see also M. MYERS & S. TALARICO, *THE SOCIAL CONTEXT OF CRIMINAL SENTENCING* (1987).

¹³ Myers & Talarico, *Urban Justice, Rural Injustice*, *supra* note 6.

¹⁴ J. EISENSTEIN & H. JACOB, *FELONY JUSTICE: AN ORGANIZATIONAL ANALYSIS OF CRIMINAL COURTS* (1977); Bursik, *Political Decision-making and Ecological Models of Delin-*

differing socio-political environments and depend upon their environment for legitimation, resources, and clients. As a result, external social, economic, and political variables constrain even ostensibly similar organizations. Wilson's analyses of urban police practices attributed differences in police behavior to variations in community social structure.¹⁵ Levin compared criminal sentencing in two metropolitan areas and attributed differences in sentencing practices to differences in the cities' political cultures.¹⁶ Eisenstein and Jacob identified the pivotal roles of courtroom work groups on judicial sentencing decisions in different jurisdictions.¹⁷

B. SOCIAL STRUCTURAL VARIATIONS IN JUVENILE JUSTICE ADMINISTRATION—FORMAL VERSUS INFORMAL SOCIAL CONTROL

The traditional juvenile court's emphasis on rehabilitating offenders fostered judicial discretion, procedural informality, and organizational diversity.¹⁸ The broad legal framework associated with individualized justice allows judges to apply the same law very differently; descriptions of contemporary juvenile courts continue to emphasize judicial diversity.¹⁹

With the imposition of formal procedures in *In re Gault*²⁰ and

quency: *Conflict and Consensus*, in THEORETICAL INTEGRATION IN THE STUDY OF DEVIANCE AND CRIME (S. Messner, M. Krohn & A. Liska eds. 1989); Sampson, *Effects of Socioeconomic Context on Official Reaction to Juvenile Delinquency*, 51 AM. SOC. REV. 876 (1986) (context influences police responses to delinquency).

¹⁵ J.Q. WILSON, VARIETIES OF POLICE BEHAVIOR (1968) (community social structure affected departmental bureaucratization and professionalism, which was reflected in more legalistic and even-handed law enforcement); see also Crank, *The Influence of Environmental and Organizational Factors on Police Style in Urban and Rural Environments*, 27 J. RES. CRIME & DEL. 166 (1990) (environmental and organizational features influenced the exercise of police discretion in different contexts); Smith, *The Organizational Context of Legal Control*, 22 CRIMINOLOGY 19 (1984).

¹⁶ M. LEVIN, URBAN POLITICS AND CRIMINAL COURTS (1977).

¹⁷ J. EISENSTEIN & H. JACOB, FELONY JUSTICE, *supra* note 14.

¹⁸ D. ROTHMAN, CONSCIENCE AND CONVENIENCE (1981); Feld, *The Juvenile Court Meets the Principle of Offense: Punishment, Treatment, and the Difference it Makes*, 68 B.U.L. REV. 821, 847-50 (1988) [hereinafter Feld, *Punishment, Treatment*]; Mack, *The Juvenile Court*, 23 HARV. L. REV. 104 (1909).

¹⁹ See, e.g., H. RUBIN, BEHIND THE BLACK ROBES: JUVENILE COURT JUDGES AND THE COURT (1985).

²⁰ 387 U.S. 1 (1967). *Gault* mandated procedural safeguards in the adjudication of delinquency. The Court first reviewed the traditional rationales for denying procedural safeguards to juveniles—specifically, delinquency proceedings were not adversarial; they were civil, not criminal; and when the state acted as *parens patriae*, a child was not entitled to liberty, but to custody—and then rejected them. *Id.* at 14-17. Several factors were critical to the Court's decision to impose procedural safeguards on the juvenile court: the fact that delinquents were charged with behavior that would be criminal if committed by adults; the stigma of delinquency convictions; and the prospects of institutional

the emergence of punitive sentencing goals,²¹ juvenile courts no longer can be assumed either to conform to the traditional therapeutic model or to be similar to one another. Ethnographic studies of a single juvenile court cannot be generalized to other courts in other settings.²² Indeed, most juvenile court ethnographies do not provide enough information about a court's social or political context to help explain its behavior.

The few studies that compare juvenile courts in different locales indicate that they are variable organizations that differ on several structural and procedural dimensions.²³ Contrasting traditional therapeutic courts with those holding a more legalistic, due process orientation captures many of the variables in juvenile justice administration.²⁴ The former intervene in a child's "best interests" on an informal, discretionary basis, while the latter emphasize more formal, rule-oriented decision-making. "Traditional" and "due process" courts may be arrayed across a continuum from informal to formal with corresponding procedural and substantive differences.

Recognizing that juvenile justice is not a uniform system vastly complicates analyses of courts' behavior. Even research that recognizes courts' diversity does not explore either the structural sources or administrative consequences of formal-informal or due process-

confinement. *Id.* at 27-28. As a consequence, the Court mandated elementary procedural safeguards in delinquency adjudications: advance notice of charges; a fair and impartial hearing; assistance of counsel, including opportunities to confront and cross-examine witnesses; and the protections of the privilege against self-incrimination. *Id.* at 31-57. See generally Feld, *Criminalizing Juvenile Justice: Rules of Procedure for Juvenile Court*, 69 MINN. L. REV. 141 (1984) [hereinafter Feld, *Criminalizing Juvenile Justice*].

²¹ Feld, *Criminalizing Juvenile Justice*, *supra* note 20; Feld, *Punishment, Treatment*, *supra* note 18; Feld, *Juvenile Court Meets the Principle of Offense: Legislative Changes in Juvenile Waiver Statutes*, 78 J. CRIM. L. & CRIMINOLOGY 471, 478 (1987).

²² M. BORTNER, *INSIDE A JUVENILE COURT: THE TARNISHED IDEAL OF INDIVIDUALIZED JUSTICE* (1982); A. CICOUREL, *SOCIAL ORGANIZATION OF JUVENILE JUSTICE* (1968); R. EMERSON, *JUDGING DELINQUENTS: CONTEXT AND PROCESS IN JUVENILE COURTS* (1969); A. MAHONEY, *JUVENILE JUSTICE IN CONTEXT* (1987).

²³ Stapleton, Aday & Ito, *An Empirical Typology of American Metropolitan Juvenile Courts*, 88 AM. J. SOC. 549 (1982) [hereinafter Stapleton, *An Empirical Typology*] (classification based on differences in courts' status offender orientation, centralization of authority, formalization of procedure, and intake screening discretion); see also Hasenfeld & Cheung, *The Juvenile Court as a People-Processing Organization: A Political Economy Perspective*, 90 AM. J. SOC. 801 (1985); 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); Cohen & Kluegel, *Determinants of Juvenile Court Dispositions: Ascriptive and Achieved Factors in Two Metropolitan Courts*, 43 AM. SOC. REV. 162 (1978) [hereinafter Cohen & Kluegel, *Juvenile Court Dispositions*].

²⁴ Handler, *The Juvenile Court and Adversary System: Problems of Function and Form*, 1965 WIS. L. REV. 7; Cohen & Kluegel, *Juvenile Court Dispositions*, *supra* note 23; Stapleton, *An Empirical Typology*, *supra* note 23.

traditional organizational variation.²⁵ One recent study examined the impact of counsel on juvenile justice administration.²⁶ Variations in rates of representation provided an indicator of a formal, due process orientation and were associated with differences in pre-trial detention, sentencing, and case processing practices.²⁷ While the presence of defense attorneys was associated with differences in juvenile justice administration, that study could not account for variations in rates of representation. Although those juvenile courts operated under statutes and rules of statewide applicability, external political, social structural, or legal variables and individual judge's policies apparently influenced courts' procedural and substantive orientations.

The present study provides compelling evidence of "justice by geography." A court's social context strongly influences the ways in which cases are selected, heard, and disposed. Social structure is associated consistently with differences in rates of juvenile criminality, the degree of procedural formality, and juvenile justice administration. These differences are reflected in pre-petition screening of cases, the presence of counsel, pretrial detention, and sentencing practices. In urban counties, which are more heterogeneous, diverse, and less stable than rural counties, juvenile court intervention is more formal and due process-oriented. Urban formality, in turn, is associated with greater severity in pre-trial detention and sentencing practices. By contrast, in the more homogeneous and stable rural counties, juvenile justice administration is procedurally less formal and sentences more lenient. However, rural judges' exercises of discretion also result in gender differences in the processing of female offenders. What are the costs and benefits of formal versus informal dispute resolution? How do these difference in juvenile justice administration affect the lives of young people? Formulating juvenile justice policy requires an appreciation of the structural sources of local variation.

²⁵ Stapleton, *An Empirical Typology*, *supra* note 23; Feld, *Right to Counsel*, *supra* note 1.

²⁶ Feld, *Right to Counsel*, *supra* note 1 (compared and contrasted juvenile courts in high representation counties where about 95% of juveniles had lawyers, in medium representation counties where 47% of youths were represented, and in low representation counties where less than 20% of juvenile offenders had counsel); *see also* Feld, *In re Gault Revisited: A Cross-State Comparison of the Right to Counsel in Juvenile Court*, 34 *CRIME & DELINQ.* 393 (1988) [hereinafter Feld, *In re Gault Revisited*].

²⁷ The courts differed in their "status offender orientation" and detention and sentencing practices. Feld, *Right to Counsel*, *supra* note 1, at 1215-16 (courts in high representation counties handled more juveniles charged with criminal offenses and fewer status offenders than did those in low representation counties; procedurally more formal courts had more severe sentencing practices, as well as higher rates of pretrial detention); *see also* Cohen & Kluegel, *Juvenile Court Dispositions*, *supra* note 23.

II. THE PRESENT STUDY—DATA AND METHODOLOGY

This study uses data from two sources.²⁸ Minnesota county census data from 1980 provide indicators of social structure. Data collected in each county by the Minnesota Supreme Court's Judicial Information System (SJIS) for delinquency and status offense cases processed in 1986 provide information on juvenile justice administration.²⁹ To facilitate analyses between the census and SJIS data sets, the county is the unit of analysis, and counties are then aggregated as urban, suburban, or rural.

The SJIS sample consists of individual juveniles against whom delinquency or status offense petitions were filed in 1986. It excludes juvenile court referrals for abuse, dependency or neglect, and routine traffic violations. Only formally petitioned delinquency and status cases are analyzed; the SJIS does not include cases referred to juvenile courts which were subsequently disposed of informally without the filing of a petition.

This study uses a youth-based data file that analyzes all 17,195 individual juveniles whose cases were formally petitioned in Minnesota's juvenile courts in 1986.³⁰ Unfortunately, the Minnesota SJIS

²⁸ The data files are housed in the National Juvenile Court Data Archive (NJCDA) at the National Center for Juvenile Justice (NCJJ), which is the research arm of the National Council of Juvenile and Family Court Judges. The Office of Juvenile Justice and Delinquency Prevention, United States Department of Justice, has supported the juvenile court data archive for the past decade. Currently, about 30 states contribute their annual juvenile court data tapes to the NJCDA.

²⁹ The SJIS compiles statewide statistical data on juvenile delinquency and status petitions filed annually. It also contains the same data on dependency, neglect, and abuse cases. The data are based on the petitions filed; there is no data base that includes the cases referred to intake, county probation, or juvenile courts that were handled informally. The data are collected on a case-specific basis and include offense behavior, representation by counsel, court processing information, entries each time a court activity occurs, any continuation or change in the status of a case, and types of dispositions. In most counties, this information is obtained from the juvenile courts' own automated computer system and is entered by court administrators in each county who are trained by the state court administrator. Since the juvenile courts themselves rely upon this computerized information for record-keeping, scheduling hearings, maintaining court calendars, and monitoring cases, it is highly reliable.

³⁰ Normally, the NJCDA unit of count is a "case disposed" of by a juvenile court. Each "case" represents a youth whose case is disposed of by the juvenile court for a new delinquency or status referral. A case is "disposed" when some definite action is taken, whether dismissal, warning, informal counseling, probation, referral to a treatment program, adjudication as a delinquent with some disposition, or transfer to an adult criminal court. E. NIMICK, H. SNYDER, D. SULLIVAN & N. TIERNEY, *JUVENILE COURT STATISTICS 1983* (1985). As a result of multiple referrals, one child may be involved in several "cases" during a calendar year. Moreover, each referral may contain more than one offense or charge. The multiple referrals of an individual child may tend to overstate the numbers of youths handled annually. Multiple charges in one petition may appear to understate the volume of delinquency in a jurisdiction. Because the unit of count is a

does not include data on a juvenile's family, school, socioeconomic status, or prior record of offenses or dispositions. However, each youth processed in a county's juvenile court receives a unique identifying number which is used for all subsequent purposes. By merging 1984, 1985, and 1986 annual data tapes and matching the county/youth identification numbers across years, a youth's prior record of petitions, adjudications, and dispositions was reconstructed.³¹ The data reported here reflect a youth's most current juvenile court referral as well as all petitions, adjudications, and dispositions for at least the preceding two years or more.

In this study, the offenses reported by the SJIS were re-grouped into six analytical categories.³² The "felony/minor" offense distinction provides an indicator of offense seriousness. Offenses are also classified as being against person or property, other delinquency, and status.³³ Combining person and property with the felony/misdemeanor distinction produces a six-item offense severity scale.³⁴ When a petition alleges more than one offense, the youth is

"case disposed," one cannot generalize from the NJCDA data either the number of individual youths who are processed by the courts or the number of separate offenses charged to juveniles.

³¹ The youth identification numbers are unique within a county but not within the entire state. A youth who has delinquency referrals in several different counties will receive separate identification numbers in each county. Thus, the variable "prior referrals" may be slightly inflated by a juvenile with multiple referrals in several counties, and slightly reduced by juveniles whose prior records consist of only one referral in each of several counties. Such multi-county cases appear to be rare. A cross-tabulation of youths' county of residence with the county of adjudication reveals between 95-98% overlap (Table 4). Because Minnesota lacks a statewide juvenile information system, at sentencing a juvenile court normally has information regarding prior referrals only in its own county. Thus, the variable "prior referrals" includes the information routinely available to and relied upon by the courts themselves.

³² The NJCDA has developed a seventy-eight item coding protocol that recodes the raw offense data provided by the states into a uniform format. This permits delinquency offense data from several different original formats to be recoded for analysis using a single conversion program.

³³ "Status offenses" refer to those forms of juvenile misconduct which would not be criminal if committed by an adult, such as truancy, runaway, incorrigibility, or alcohol consumption. See MINN. STAT. ANN. §§ 260.015 (19)-(24) (West 1982). See generally T. RUBIN, *JUVENILE JUSTICE: POLICY, PRACTICE, AND LAW* 51-80 (2d ed. 1985).

³⁴ Felony offenses against person generally correspond to the FBI's Uniform Crime Report classification of Part I violent felonies against the person—homicide, rape, robbery, and aggravated assault. Felony offenses against property generally include Part I property offenses—burglary, felony theft, and auto theft. Minor offenses against person consist primarily of simple assaults; minor offenses against property consist primarily of larceny, shoplifting, or vandalism. Other delinquency contains a mixed-bag of residual offenses—drug offenses primarily involving possession of marijuana, public order offenses, and offenses against the administration of justice such as contempt of court. FEDERAL BUREAU OF INVESTIGATION, *UNIFORM CRIME REPORT* (1987).

classified on the basis of the most serious charge.³⁵ The study uses two indicators of severity of dispositions: out-of-home placement and secure confinement.³⁶ Out-of-home placement includes any disposition in which the child is taken from his or her home and placed in a group home, foster care, in-patient psychiatric or chemical dependency treatment facility, or correctional institution.³⁷ Secure confinement is a substantial subset of all out-of-home placements but includes only commitments to county institutions or state training schools.

The classification of counties as urban, suburban and small urban, and rural uses the census concept of Standardized Metropolitan Statistical Area (SMSA) and youth-population density.³⁸ In this study, counties were classified as *urban* if they were located within an SMSA, had one or more cities of 100,000 inhabitants, and had a juvenile population aged ten to seventeen of at least 50,000 youths.³⁹ Counties were classified as either *suburban* or *small urban* if they were located within a metropolitan SMSA (suburban) or, if within their own SMSA (small urban), they had one or more cities of 25,000 to 100,000, and had a juvenile population aged ten to seventeen of more than 7,500 but less than 50,000 youths.⁴⁰ Counties

³⁵ When a petition contains multiple allegations, there is no way to separate whether they are multiple charges arising out of the same offense transaction or whether they represent several offenses committed on different occasions which were simply petitioned in the same document.

³⁶ The NJCDA has developed a twenty-two item conversion program that transforms the state-specific dispositions into a uniform national format. The NJCDA staff members speak directly with the states' data collectors and reporters to determine how specific dispositions or programs should be classified—as either out-of-home placement or secure confinement—within the national format.

³⁷ While many in-patient psychiatric or chemical dependency placements are secure facilities, these commitments are classified as “out-of-home” to distinguish them from more traditional institutional confinement in training schools.

³⁸ An SMSA is an integrated economic and social unit with a large population nucleus. An SMSA always includes a central city of specified population (50,000 or greater), and the remainder of the county in which it is located. In addition, an SMSA also includes contiguous counties and their smaller cities (generally with populations less than 50,000) when the economic and social relationships between the central and contiguous counties meet specified criteria of metropolitan character and integration. Thus, an SMSA includes the central cities, the suburban cities, and the remainder of the area within the SMSA counties but outside the cities labeled suburbs.

One consequence of using SMSAs is that they do not separate the component central cities from their suburban periphery, so that the suburbs tend to dilute the central problem zones. Thus, within the same “urban” county, the characteristics of a city and its suburbs may be substantially different and summary statistics may not be representative of either. Since the SJIS data are collected on a county-specific basis, however, it is necessary to use aggregated county-level census data for comparisons.

³⁹ Hennepin County (Minneapolis) and Ramsey County (St. Paul) are classified as urban counties.

⁴⁰ The Twin Cities metropolitan-area suburban counties meeting the SMSA and ju-

were classified as *rural* if they were located outside of an SMSA, had no principal city of 25,000 or greater, and had less than 7,500 juveniles aged ten to seventeen.

III. DATA AND ANALYSES

A. URBAN, SUBURBAN, AND RURAL SOCIAL STRUCTURAL CHARACTERISTICS

This study explores how social structural context influences juvenile courts' responses to delinquency in their county. Tables 1 and 2 introduce Minnesota's urban, suburban, and rural social structure and counties' crime rates and allocation of law enforcement resources. Based on the census criteria, Minnesota has two urban counties, eight suburban or small urban counties, and seventy-seven rural counties. More than one-third (34.4%) of the population lives in the urban counties, about one-quarter (25.2%) in suburban or small urban settings, and the remainder (40.4%) in rural counties.

1. *Juvenile and Family Population Characteristics*

Juvenile courts deal almost exclusively with delinquent youths aged ten to seventeen. Table 1 reports the number and percentage of those young people in the general population. While 14.02% of Minnesota's population falls within the age jurisdiction of juvenile courts, the geographic distribution is uneven: suburban counties have the highest proportion of youths (15.68%); rural counties have the second highest (14.29%); and urban counties have the lowest proportion (12.50%). There is a similar pattern for family households with children under eighteen as a proportion of total households in the state.⁴¹

Sampson emphasized the theoretical importance of family organization as a criminogenic variable since family disruption may decrease the effectiveness of both informal and formal social controls.⁴² Youths in areas characterized by stable families—regardless

venile population criteria include: Anoka, Dakota, Scott, Washington, and Wright counties. The small urban counties and their principle cities include: Olmsted (Rochester), St. Louis (Duluth), and Stearns (St. Cloud).

⁴¹ While nearly 40% of all households include children under 18, substantially larger proportions of suburban (47.6%) and rural (40.3%) households include children than do urban households (34.2%).

⁴² Sampson, *Crime in Cities: The Effects of Formal and Informal Social Control*, in 8 *CRIME & JUST.: A REVIEW OF RES. 271* (A. Reiss, Jr., & M. Tonry eds. 1986) [hereinafter Sampson, *Crime in Cities*] (Cohesive, two-parent families assume responsibility for other youths as well their own children and provide increased supervision of children and property as well as public activities in the neighborhood. The social control effectiveness of cohe-

TABLE 1
URBAN, SUBURBAN, RURAL COUNTY POPULATION AND ECONOMIC
CHARACTERISTICS
(1980 CENSUS, EXCEPT AS INDICATED)

	STATE	URBAN	SUBURBAN	RURAL
Total Number of Counties	87	2	8	77
Population	4076000	1401195	1028709	1646066
Proportion of Total Population	100.00	34.40	25.20	40.40
Juvenile Population Age 10 - 17	571648	175152	161345	235151
Juvenile % of Total Population	14.02	12.50	15.68	14.29
Family Households with Children < 18 as Proportion of Total Households %	39.70	34.20	47.60	40.30
Female-Headed Household with Own Child as Proportion of Total Households %	4.50	5.70	4.80	3.30
Black Households as Proportion of Total Households %	1.30	3.20	0.30	0.10
Hispanic Households as Proportion of Total Households %	0.60	0.90	0.50	0.40
Non-White ¹ Population as Proportion of Total Population %	3.40	6.70	1.80	1.70
Households with Income < 10,000 as Proportion of Total Households %	27.10	23.50	20.80	34.10
Persons Below Poverty Level (1979) as Proportion of Total Persons %	9.50	7.70	6.60	12.80
Children < 18 Below Poverty Level (1979) as Proportion of All Children %	10.20	9.00	6.40	13.70
Owner-Occupied House as Proportion of Occupied Housing %	71.70	62.10	76.60	77.70
Persons Born in State as Proportion of Total Persons %	74.90	69.60	76.60	78.20

¹ Non-white population includes Blacks, Native Americans, Asians, Hispanics, and other races.

of their own family situation—probably have more informal controls placed on their activities.⁴³ While the urban counties have the lowest proportion of juveniles, they have the highest proportion of children in female-headed households. Although 4.5% of all the households in Minnesota are female-headed with children, the percentage varies significantly within our geographic paradigm. In the urban counties, 5.7% are female-headed households with children, compared to 4.8% in suburban counties and 3.3% in rural counties. If family disruption weakens informal social control, then urban counties may need more alternative formal controls.

sive families derives less from intervention in criminal acts than from awareness of and control over peer-group activities.)

⁴³ *Id.* See also Blau, *The Costs of Inequality*, *supra* note 2 (divorce and separation in a population may indicate instability and conflict in personal relations, which also may be reflected in social disorganization and criminal violence).

2. *Racial Diversity*

Racial diversity is relevant both to crime rates and justice administration. Variations in racial composition are associated with differences in crime rates.⁴⁴ Moreover, population heterogeneity decreases common traits and shared experiences, relates negatively to social integration, and affects reliance on and effectiveness of informal means of social control.⁴⁵ Minnesota is almost totally white; other races account for only 3.4% of the total population. In 1980, Blacks (1.3%), Spanish/Hispanics (0.6%), and Native Americans (0.9%) accounted for most of the racial diversity. Significantly, minority racial groups are concentrated almost exclusively in the two urban counties. Black households account for more than ten times the proportion of urban households (3.2%), as they do of suburban (0.3%) or rural (0.1%) households. All non-whites are nearly four times more likely to reside in urban counties (6.7%) than in either suburban (1.8%) or rural (1.7%) settings. If racial heterogeneity decreases the effectiveness of informal social controls, then urban counties may need more formal mechanisms of control.

3. *Income Distribution*

Affluence or poverty affects both crime rates and community responses. While poverty may increase the likelihood of offending, a low tax-base may reduce expenditures on formal social controls. Moreover, the relationship between crime and poverty is complex and may result from relative deprivation and not simply low income.⁴⁶ Table 1 provides some indicators of geographic variations in income. By all measures—households with income less than \$10,000, households below poverty level, and proportion of children living in poverty—poverty is greatest in rural counties, followed by urban counties, and then by suburban settings. Paradoxically, the greater prevalence of rural poverty may decrease relative deprivation and result in less crime.⁴⁷ Moreover, rural poor may be more fully integrated into community institutions, such as churches, than in urban settings, where economic stratification carries over into other social institutions as well.

⁴⁴ Blau, *The Costs of Inequality*, *supra* note 2; Hindelang, *Race and Involvement in Common Law Personal Crimes*, 43 AM. SOC. REV. 93 (1978).

⁴⁵ Angell, *The Moral Integration of American Cities: II*, 80 AM. J. SOC. 607 (1974).

⁴⁶ Bailey, *Poverty, Inequality, and City Homicide Rates: Some Not So Unexpected Findings*, 22 CRIMINOLOGY 531 (1984); Messner, *Poverty, Inequality, and the Urban Homicide Rate: Some Unexpected Findings*, 20 CRIMINOLOGY 103 (1982) [hereinafter *Poverty, Inequality, and Urban Homicide*].

⁴⁷ Messner, *Poverty, Inequality, and Urban Homicide*, *supra* note 46.

4. *Population Stability*

An inverse relationship exists between crime rates and residential stability.⁴⁸ An integrated social system fosters consensus in norms and values, cohesiveness and social solidarity, and a sense of belonging within a community; in contrast, mobility weakens social integration.⁴⁹ Table 1 includes indicators of population stability—the proportions of owner-occupied homes and of persons born in the state. The greatest residential stability occurs in the rural counties, followed closely by the suburban counties. In the urban counties, about 7% fewer residents were born in the state and nearly 15% fewer owned the houses in which they lived.

Urban, suburban, and rural counties differ consistently on social structural dimensions which affect both rates of offending and the effectiveness of informal social controls. As contrasted with the urban counties' diversity, rural counties' greater stability and homogeneity suggest they would rely less heavily on formal means of social control.⁵⁰ Racial diversity is almost exclusively an urban phenomenon, and a larger proportion of urban households are headed by a single, female parent. While more people in rural counties are poor, they are also more homogeneous and residentially stable. The suburban counties are about as stable and homogeneous as the rural ones, and more affluent than either urban or rural counties.

B. URBAN, SUBURBAN, AND RURAL VARIATIONS IN CRIME AND LAW ENFORCEMENT RESOURCES

1. *Crime*

Crime, especially serious crime, is primarily an urban phenomenon. Table 2 summarizes the urban, suburban, and rural distribution of serious crimes and the deployment of law enforcement

⁴⁸ Harries, *Cities and Crime: A Geographic Model*, 14 *CRIMINOLOGY* 369 (1976).

⁴⁹ Crutchfield, Geerken & Gove, *Crime Rate and Social Integration: The Impact of Metropolitan Mobility*, 20 *CRIMINOLOGY* 467, 468 (1982) (population mobility provides a social context which weakens social integration and results in higher crime rates); Johnson, *Community Characteristics, Law Enforcement Practices, and Delinquency Referral Rates*, 2 *J. JUV. L.* 29 (1977) (stable communities develop shared community standards and interpersonal linkages which provide mechanisms to control juvenile misbehavior, while rapid growth, in-migration and population diversity may disrupt informal control strategies); Schurman & Kobrin, *Community Careers in Crime*, in 8 *CRIME & JUST.: A REVIEW OF RES.* 67 (A. Reiss, Jr., & M. Tonry eds. 1986) (neighborhood deterioration and rising crime rates associated with a shift from single- to multi-family dwellings and a rise in residential mobility).

⁵⁰ E. DURKHEIM, *THE DIVISION OF LABOR IN SOCIETY* (1964) (differences in mechanical versus organic solidarity reflected in differences in types of legal controls).

TABLE 2
URBAN, SUBURBAN, AND RURAL COUNTY CRIME CHARACTERISTICS
AND LAW ENFORCEMENT RESOURCES

	STATE	URBAN	SUBURBAN	RURAL
<u>Crime</u>				
Number of Reported Serious Crimes in 1980 (FBI Pt. I) ¹	194598	98155	45792	50630
1980 Serious Crime Rate Per 10,000 ²	479.6	703.1	448.9	308.5
<u>Juvenile Crime</u>				
Juvenile Arrests in 1986 (FBI Pt. I) ³	16886	7696	4797	4393
Juvenile Arrest Pt. I Rate Per 10,000 ⁴	297.2	441.7	299.4	187.9
Juvenile Arrests in 1986 (FBI Pt. II) ⁵	16470	7324	4614	4532
Juvenile Arrest Pt. II Rate Per 10,000	289.8	420.3	288.0	193.8
<u>Deployment of Law Enforcement Resources</u>				
Police Officers 1982	5468	2212	1379	1877
Police Officers Per 10,000	13.42	15.79	13.41	11.40
Local Government Police Protection Expenditures Per 10,000	\$551.57	\$716.88	\$535.31	\$421.01
Serious Crimes Per Police Officer	35.59	44.37	33.21	26.97

1. FBI Part I offenses reflect information on eight "serious" crime categories: murder, rape, aggravated assault, robbery, burglary, larceny, motor vehicle theft, and arson.

2. The FBI 1980 population basis differs slightly from that used by the Census. The FBI population totals for the entire state and for urban, suburban, and rural counties are respectively: 4,057,503; 1,396,023; 1,020,143; and 1,641,337.

3. Data for 1986 juvenile arrests and rates were obtained from the Minnesota Bureau of Criminal Apprehension (BCA), which is the agency responsible for collecting activity information from law enforcement agencies throughout Minnesota.

4. The juvenile population base used to calculate rates of offending in 1986 differs slightly from the population reported in the 1980 census in Table 1 for juveniles aged 10 - 17. The 1986 juvenile population estimates, obtained from the NCJJ, for the entire state and for urban, suburban, and rural counties are respectively: 568,264; 174,249; 160,212; and 233,803.

5. FBI Part II offenses include a miscellany of "less serious offenses" including simple assaults, forgery, stolen property, vandalism, weapons possession, prostitution, drugs, driving while intoxicated, disorderly conduct, vagrancy, and other non-Part I offenses.

resources. More than half of the Federal Bureau of Investigation (FBI) Part I offenses in 1980 in Minnesota were committed in the two urban counties.⁵¹ Even after crime rates are standardized for population base, the greater prevalence of crime in the urban counties remains. There were 703.1 serious offenses per 10,000 people in the urban settings as contrasted with only 308.5 per 10,000 in the

⁵¹ Reliance on official crime statistics is frequently criticized. See, e.g., Sampson, *Crime in Cities*, *supra* note 42, at 288-89; Flango & Sherbenou, *Poverty, Urbanization, and Crime*, 14 *CRIMINOLOGY* 331, 334 (1976). Concerns include underreporting of crime by victims to the police as well as by police departments to the FBI and selection bias by police in detecting, recording, and reporting crime. Official data is used in this study for the limited purpose of highlighting geographic variation.

rural counties.⁵²

2. *Juvenile Crime*

A similar pattern is evident with respect to juvenile crime. Table 2 reports juveniles arrested in 1986 for FBI Part I and Part II offenses and the arrest rates per 10,000 juveniles. Almost one-half of all the juveniles arrested for serious and less serious offenses (45.6% and 44.5%) reside in the two urban counties. The pattern remains even after controlling for population differences. In the whole state, 297.2 juveniles per 10,000 aged ten to seventeen were arrested for serious felony offenses. However, when this rate is disaggregated geographically, 441.7 urban juveniles per 10,000 were arrested for serious crimes, as compared to 299.4 suburban and only 187.9 rural juvenile serious crime arrests. Similarly, urban juveniles were arrested for less serious offenses 146% more often than suburban youths and 217% more often than rural youths. Thus, it is readily apparent that urban youngsters are both quantitatively and qualitatively more criminally active than their suburban or rural counterparts.

3. *Law Enforcement Resources*

The deployment of law enforcement resources follows the distribution of crime. The largest numbers of police officers are located in the urban counties. Adjusting for differences in population, there are 15.79 police officers per 10,000 in urban counties, 13.41 in the suburban counties, and only 11.4 per 10,000 in rural counties.⁵³ As indicated by allocations of law enforcement resources, urban counties place greater reliance on formal social controls than do other parts of the state.⁵⁴

⁵² The urban rate of serious crime is 157% higher than in the suburbs and 228% higher than in the rural counties. In 1986, the urban-rural ratio of serious crime was about 7:1. BUREAU OF CRIMINAL APPREHENSION, 1986 MINNESOTA ANNUAL REPORT ON CRIME, MISSING CHILDREN, AND BUREAU OF CRIMINAL APPREHENSION ACTIVITIES 82 (1987) (urban-rural are defined differently than in the present study). This is consistent with other studies which report substantial urban-rural disparities in crime rates. See, e.g., Laub, *Patterns of Offending in Urban and Rural Areas*, 11 J. CRIM. JUST. 129 (1983) (rate of violent crime would be less than half and rate of property crime would be a third of present level if urban crime rates were similar to rural rates).

⁵³ The urban counties spend more money per capita (\$716.88) to provide law enforcement services than do the suburban (\$535.31) or rural (\$421.01) counties.

⁵⁴ By another measure, however, urban counties may be *under-policed* relative to suburban or rural settings. Calculating the number of serious crimes per police officer indicates that there are 35.59 serious crimes for each police officer in the state (194,598/5,468). However, the ratio of serious crimes per police varies with geography; there are 44.37 crimes/police in urban settings, 33.21 in suburban counties, and only 26.97 in the rural counties. Even with the greater geographic dispersion of rural police,

C. URBAN, SUBURBAN, AND RURAL VARIATIONS IN JUVENILE JUSTICE ADMINISTRATION

Tables 3 and 4 introduce Minnesota's juvenile justice system. Because of geographic differences in social structure and case volume, juvenile courts are organized differently throughout the state. In the two urban counties, a full-time district court judge is assisted by other judges, referees, and a large probation staff. Urban judges serve exclusively in juvenile court for several years and provide stability and predictability to courtroom workgroups. Due to lower volume, judges in non-urban counties hear juvenile cases as part of their general caseload and many preside over delinquency matters on a rotating basis. Thus, the urban courts are the most formally organized, bureaucratized, and functionally specialized.

1. *Screening Cases—Petitions and Offenses*

Table 3 reports the numbers of petitions and types of offenses with which juveniles were charged in the state and in the various geographic locales. The largest number and proportion of petitions were filed against juveniles in the rural counties, which reflects both the large number of rural counties and the population age distribution in the state (Table 1). Slightly more than one-third (36.5%) of the state's "official" delinquents are in urban settings, slightly more than one-fifth (21.4%) are in suburban locales, and the remainder (42.1%) are in the rural counties. Suburban juvenile courts "under-petition" youths relative to their proportional make-up of the youth population (21.4% vs. 28.2%) while the urban courts "over-petition" juveniles (36.5% vs. 30.6%).

Throughout the state, 18.4% of juveniles were charged with offenses that would be felonies if committed by adults, 54.4% were charged with minor offenses such as misdemeanors and gross misdemeanors, and 27.2% were charged with status offenses.⁵⁵ Within the felony category, offenses against property, primarily burglary, predominated. Similarly, within the minor offense category, property offenses such as shoplifting and theft predominated. Less than ten percent of delinquency cases involved felony or minor offenses against the person, and more than one-quarter involved non-criminal status offenses.

Different patterns of petitioned offenses emerge when they are examined separately in urban, suburban, and rural counties. De-

it may be argued that urban settings devote fewer law enforcement resources to their crime problems than do the other locales.

⁵⁵ For a discussion of "status offenses," see *supra* note 33.

TABLE 3
PETITIONED OFFENSES AND PRIOR RECORDS

	STATEWIDE	URBAN	SUBURBAN	RURAL
Juvenile Population				
Aged 10 - 17				
% =	100.0	30.6	28.2	41.1
N =	571648	175152	161345	235151
Delinquent & Status Offenders				
% =	100.0	36.5	21.4	42.1
N =	17195 ¹	6273	3681	7241
FELONY				
% =	18.4	17.5	23.0	16.9
N =	3153	1095	842	1216
Felony offense Against Person				
% =	4.0	4.5	5.0	2.9
N =	680	282	185	213
Felony Offense Against Property				
% =	14.4	13.0	17.8	13.9
N =	2473	813	657	1003
MISDEMEANOR				
% =	54.4	55.3	55.8	52.9
N =	9298	3457	2040	3801
Minor Offense Against Person				
% =	5.2	6.0	6.2	3.9
N =	889	376	230	283
Minor Offense Against Property				
% =	32.3	27.3	34.9	35.3
N =	5554	1714	1284	2556
Other Delinquency				
% =	16.6	21.8	14.3	13.3
N =	2855	1367	526	962
STATUS				
% =	27.2	27.2	21.2	30.0
N =	4649	1704	776	2169
Prior Referrals				
Overall				
0				
% =	71.9	64.7	71.8	78.1
N =	12359	4060	2642	5657
1 - 2				
% =	23.0	27.1	23.9	19.1
N =	3962	1700	881	1381
3 - 4				
% =	3.9	6.1	3.5	2.1
N =	669	385	129	155
5+				
% =	1.2	2.0	0.8	0.7
N =	205	128	29	48

¹ Of the 17,195 total juveniles, 95 are missing data on their present offenses. Those missing offense data include: 17 urban, 23 suburban, and 55 rural youths.

spite the greater prevalence of reported serious crime and juvenile felony arrests in the urban counties (Table 2), of those juveniles ac-

tually charged, the largest proportion of felony petitions are filed in the suburban, rather than urban, counties. The suburban county courts charge the largest proportion of juveniles with felonies against the person as well as against property. The smallest proportion of felony petitions are filed in the rural settings.⁵⁶ Proportionally more rural juveniles charged with felonies are accused of property crimes than are their urban or suburban counterparts. Rural counties charge the largest proportion of status offenders (30.0%) in the state while suburban counties process the fewest (21.2%).

Table 3 also reports the prior record of court referrals. For the entire state, 71.9% of juveniles made their first appearance in juvenile courts; only 1.2% were chronic recidivists with five or more prior appearances. When geographic locale is examined, a different pattern emerges. In urban settings, 64.7% of youths made their first appearance as contrasted with 71.8% and 78.1% of juveniles in suburban and rural counties, respectively. Thus, substantially more delinquency petitions had been previously filed against urban juveniles than had been filed against their non-urban counterparts.⁵⁷

There is a seeming anomaly between the distribution of juvenile offenses and juvenile court petitioning practices. Serious crime and juvenile arrests are concentrated in the urban locales (Table 2), while the largest proportion of felony charges are filed against suburban juveniles. However, Table 2 describes all *reported* offenses, both juvenile and adult, and juvenile arrests and arrest rates, while Table 3 includes only juveniles actually *charged* with delinquency or status offenses. While adult and juvenile differences in patterns of offending, apprehension, and justice administration account for some of the disparity between reported and charged offenses, the primary difference probably lies in geographic differences in pre-petition screening of cases.

Typically, juvenile delinquency cases begin with a referral either to the county attorney or to the juvenile court and its probation or intake department.⁵⁸ Many referrals are dismissed or disposed of informally by counseling, warning, referral to another

⁵⁶ This is consistent with the lower rates of rural juvenile felony arrests (Table 2), as well as other research on the prevalence of urban and rural juvenile crime. See, e.g., J. LAUB, *JUVENILE CRIMINAL BEHAVIOR*, *supra* note 2.

⁵⁷ Not only did urban juveniles have more prior referrals, but their predominance increased with the number of priors. Almost twice as many urban juveniles had 3 or 4 priors as did suburban and rural youths (6.1% versus 3.5% and 2.1%), and more than twice as many had 5 or more prior referrals (2.0% versus 0.8% and 0.7%).

⁵⁸ See generally Feld, *Criminalizing Juvenile Justice*, *supra* note 20, at 165 n.87.

agency, or informal probation. Unfortunately, the SJIS data does not include court referrals resolved informally, but only reports formally petitioned cases. In some unknown proportion of referrals, a petition—the formal initiation of the juvenile process—is filed by the county attorney.⁵⁹ The relationships between the screening functions of a juvenile court's intake staff and the charging functions in the county attorney's office vary from county to county. Undoubtedly, court personnel and county attorneys in different counties use different criteria to decide whether or not to file a formal delinquency petition, and the delinquent populations who are formally charged will vary accordingly. Despite differences in pre-petition screening, the common denominator of these cases is that each was formally charged in its respective county.

Without direct information about juvenile court referrals that did not result in petitions, some differences in screening practices may be inferred from rates of petitions filed per 1,000 juveniles aged ten to seventeen years, and from ratios of felony arrests to petitions. As Table 4 reveals, for the entire state, 29.32 juveniles per

TABLE 4
URBAN, SUBURBAN, RURAL COUNTY JUVENILE COURT
CHARACTERISTICS

	STATE	URBAN	SUBURBAN	RURAL
Rate of Referral Per 1,000 Youths Age 10 - 17	29.32	34.120	24.240	29.720
Felony Petitions Per 10,000 Youths Aged 10 - 17	55.16	62.520	52.190	51.710
Felony Petitions as a Proportion of Juvenile Felony Arrests Per 10,000 Youths % =	18.60	14.200	17.400	27.500
Proportion of Youths Tried in Same Type County as in Which they Reside		0.989	0.974	0.993

1,000 age-eligible youths had petitions filed against them. In the urban counties, 34.12 juveniles per 1,000 were charged as compared with 29.72 in rural counties and only 24.24 in suburban counties. Thus, in relation to their youth populations, urban courts

⁵⁹ A petition is a charging document comparable to the issuance of a complaint or a grand jury indictment in the adult criminal process. *See, e.g., id.* at 217. In other states, petitions are filed in about half the cases referred to juvenile courts. *See E. NIMICK, H. SNYDER, D. SULLIVAN & N. TIERNEY, JUVENILE COURT STATISTICS 1982 12 (1985)* (between 1957 and 1982, approximately half of delinquency referrals were handled by formal petition, ranging from a high of 54% to a low of 41%); *Feld, In re Gault Revisited, supra* note 26 (proportion of petitions to referrals is highly variable: California 46.3%; Nebraska, 62.8%; North Dakota, 10.7%; and Pennsylvania, 53.7%).

throw the widest net of social control, while suburban counties are the most selective. This confirms the earlier observation (Table 3) that urban courts "over-petition" and suburban courts "under-petition" relative to their eligible youth population.

Because of these differences in pre-petition screening practices, larger proportions of urban youths are charged than are their suburban counterparts. The higher overall rate of urban referrals masks the more serious offenses with which urban youths are charged. Suburban counties, by contrast, file proportionally fewer petitions, screen referrals for seriousness, and charge a larger proportion of juveniles with felony and misdemeanor offenses than with status offenses. Other research reports that urban counties had higher rates of referral than did more stable, relatively poorer rural counties.⁶⁰

Some of the differences in juveniles' prior records (Table 3) probably reflect differences in pre-petition screening as well. Since larger numbers of urban juveniles are petitioned to juvenile courts than their suburban or rural counterparts, they have a greater opportunity over time to accumulate more extensive prior records.⁶¹ Previous juvenile court decisions affect later ones,⁶² and some component of urban juveniles' more extensive prior records likely reflects cumulative differences in pre-charge screening practices.

Table 4 also reports the number of felony petitions filed per 10,000 youths aged ten to seventeen. Despite differences in pre-petition screening practices and rates of referral, once the population is standardized, the urban pre-eminence in serious crime re-

⁶⁰ Johnson, *Community Characteristics, Law Enforcement Practices, and Delinquency Referral Rates*, 2 J. JUV. L. 29 (1977).

⁶¹ Some research indicates that courts may sentence "local" offenders differently than "outsiders," with the latter receiving more severe sentences. Austin, *The Influence of Court Location on Type of Criminal Sentence: The Rural-Urban Factor*, 9 J. CRIM. JUST. 305 (1981); Austin, *Does Where You Live Determine What You Get? A Case Study of Misdemeanor Sentencing*, 76 J. CRIM. L. & CRIMINOLOGY 490 (1985). Austin concludes that in communities characterized by normative consensus, crimes committed by outsiders will be deemed more threatening to local stability than crimes committed by insiders and will result in harsher sanctions of outsiders than insiders. Table 4 reports the proportion of juveniles tried in the same type of county as that in which they reside. Virtually all juveniles are tried in the same type, if not the same, county as the one in which they reside. Since rural youths are more geographically isolated and have to travel greater distances in order to offend in other types of counties, 99.3% of them are tried in rural juvenile courts. Because of the geographic propinquity of the two urban counties, almost all urban juveniles (98.9%) are tried in urban courts. Even the suburban/small urban youths who can migrate more readily into either urban or rural counties are most likely to be tried in suburban counties (97.4%).

⁶² Feld, *Right to Counsel*, *supra* note 1; Henretta, Frazier & Bishop, *The Effect of Prior Case Outcomes on Juvenile Justice Decision-Making*, 65 SOC. FORCES 554 (1986) [hereinafter Henretta, *Prior Case Outcomes*]; Thornberry & Christenson, *Juvenile Justice Decision-Making as Longitudinal Process*, 63 SOC. FORCES 433 (1984).

appears with 62.52 felony petitions filed per 10,000 urban youths at risk as compared with 52.19 in suburban and 51.71 in rural counties. Even though suburban counties charge a larger proportion of juveniles with serious offenses, relative to other types of delinquency, larger numbers of urban youths commit serious crimes (1,095 vs. 842); however, the larger volume of all urban delinquency petitions masks this reality.

A second indicator of geographic differences in pre-charge screening practices may be obtained by comparing the juvenile felony arrest rates (Table 2) with the juvenile felony petition rates in Table 4. For the entire state, 297.2 juveniles per 10,000 aged ten to seventeen were arrested for FBI Part I felony offenses. However, felony petitions were only filed against 55.16 youths per 10,000, or 18.6% of all of those arrests (Table 4). Comparing the proportion of felony arrests resulting in felony petitions in different locales reveals that the urban courts charged the lowest proportion of arrested juveniles (14.2%), while the rural counties charged the highest (27.5%). Although proportionally more than twice as many urban juveniles as rural juveniles are arrested for felonies (Table 2), almost twice as many rural juveniles so arrested are actually charged. This suggests that geographic differences in police apprehension practices as well as prosecutorial charging practices may affect the eventual population of "official" delinquents.

Although urban courts file more petitions overall, suburban and rural courts screen cases more rigorously. While formal petitions were filed in all of the cases analyzed herein, the informal threshold for charging youths may differ by geography. This introduces some important potential sample selection biases into the data. Compared to suburban courts, a smaller proportion of serious offenses and larger proportions of other delinquency and status offenses are charged in urban counties. Differences in urban petitioning rates may be attributable to the filing by police or school administrators of more petty petitions alleging minor and status offenses without any additional screening.⁶³

In addition, the type of behavior required to qualify for official attention in urban settings may be qualitatively more serious than in rural or suburban areas.⁶⁴ With substantially higher felony arrest

⁶³ See MINN. R. JUV. PRO., R. 19.01(2) (West 1991) (a petty petition may be filed directly with the court by a peace officer or attendance officer).

⁶⁴ See *supra* note 54, noting that as compared with suburban and rural settings, urban areas may be *under-policed* relative to their volume of serious crime. If this is so, then the actual "seriousness" of crimes ostensibly falling in the same official offense categories may actually be greater in urban settings. If each urban police officer has a significantly

rates, police or other referral sources in cities may view shoplifting, under-aged drinking, or vandalism as less important, relative to more serious violent and property crimes, than similar behaviors may appear in suburban and rural areas. With greater urban anonymity and more bureaucratized social control, minor juvenile deviance may represent less of a tear in the social fabric than it constitutes in more socially cohesive areas. Heavier caseloads and more serious crimes may lead urban officials to overlook some delinquency that other areas do not ignore. In short, even though all of the youths in this study were formally charged, geographic differences in rates of apprehension and pre-petition selection of cases for prosecution suggest that not all "delinquents" are necessarily equal.

2. *Source of Petitions*

The source of referrals—police, probation officers, parents, or schools—influences courts' actions.⁶⁵ As Table 5 indicates, while police are the primary referral source for all offenses (89.2%), probation officers and schools (designated as "other" on Table 5) refer many juveniles, especially in the other delinquency and status offense categories. Other delinquency is a mixed category which includes minor drug offenses such as possession of marijuana, disorderly conduct and public order offenses, and, most importantly, contempt of court and probation violations. These latter charges account for the role of probation officers as a referral source. The status offense category includes 1,187 (6.9%) truancy cases referred by schools.

While police referrals predominate, the proportions of non-police referrals differ in urban, suburban, and rural counties. Although schools are the next largest source of referrals, almost twice as many petitions originate from schools in urban counties as in suburban or rural counties (9.6% vs. 5.9%, 5.8%). A similar pattern emerges for allegations of criminal offenses.⁶⁶ Probation officers in the urban counties refer more than three times as many juveniles (5.3%) as they do in the suburban (1.6%) or rural (0.1%)

higher number of serious crimes to deal with, individual officers and the system as a whole may be more selective in screening the delinquent events that they formally refer to court.

⁶⁵ Feld, *Right to Counsel*, *supra* note 1.

⁶⁶ While relative geographic parity exists between urban, suburban, and rural areas for school referrals for truancy status offenses (15.6% vs. 16.5%, 11.2%), schools in urban counties refer about twice as many cases of criminal activity as do schools in suburban or rural counties (felony, 5.8% vs. 2.1%, 3.5%; misdemeanor, 6.7% vs. 3.4%, 3.3%).

TABLE 5A
PETITIONER AND OFFENSE

PETITIONER=>	STATEWIDE				URBAN			
	POLICE	PROB	PARENT	OTHER	POLICE	PROB	PARENT	OTHER
Overall								
%	89.2	2.3	1.5	7.0	83.5	5.3	2.1	9.6
Felony								
%	95.8	0.2	0.1	4.0	93.8	0.3	0.1	5.8
Felony Offense Against Person								
%	94.6	0.1	0.3	5.0	90.1	—	0.4	9.6
Felony Offense Against Property								
%	96.1	0.2	0.0	3.7	95.1	0.4	—	4.6
Misdemeanor								
%	91.8	3.2	0.1	4.6	85.9	6.8	0.6	6.7
Minor Offense Against Person								
%	95.7	0.3	0.2	3.7	94.7	0.5	0.3	4.5
Minor Offense Against Property								
%	95.8	0.3	0.4	3.6	95.2	0.6	0.1	4.1
Other Delinquency								
%	82.8	9.7	0.8	6.8	71.9	16.2	1.5	10.5
Status Offense								
%	79.8	2.2	4.4	13.7	72.4	5.6	6.5	15.6

counties.⁶⁷ The urban probation referrals indicate greater process formality and bureaucratization. Parents refer more status offenders to urban courts than they do to suburban or rural courts (2.1% vs. 1.3%, 1.1%). With greater urban family disruption, more parents may resort to the juvenile court.

The higher urban court rates of referral (Table 4) and the more extensive non-police referrals suggest that urban courts pursue a different strategy of social control than do their suburban or rural counterparts. Urban courts throw a broader and more expansive net to maximize formal social control. If youths lack familial or other informal community supports, then in a system of formal bureaucratized social control, more petitions will be filed against them. By contrast, in suburban and rural counties, police and schools are the primary agents of formal control.

⁶⁷ This disproportionality appears primarily in the categories of other delinquency and status offenses. More urban juveniles have prior records (Table 3), which increase their opportunities for probation violation referrals. Suburban probation officers play a substantial role in referring youths for other delinquency (9.9%), which is consistent with the greater formality than in rural counties.

TABLE 5B
PETITIONER AND OFFENSE

	SUBURBAN				RURAL			
	POLICE	PROB	PARENT	OTHER	POLICE	PROB	PARENT	OTHER
Overall								
%	91.2	1.6	1.3	5.9	93.0	0.1	1.1	5.8
Felony								
%	97.7	0.1	—	2.1	96.2	0.1	0.2	3.5
Felony Offense Against Person								
%	98.9	0.5	—	0.5	96.7	—	0.5	2.8
Felony Offense Against Property								
%	97.4	—	—	2.6	96.1	0.1	0.1	3.7
Misdemeanor								
%	93.6	2.6	0.4	3.4	96.1	0.2	0.5	3.3
Minor Offense Against Person								
%	95.2	0.4	0.4	3.9	97.5	—	—	2.5
Minor Offense Against Property								
%	96.5	—	0.4	3.1	95.8	0.1	0.7	3.4
Other Delinquency								
%	85.7	9.9	0.4	4.0	96.6	0.3	—	3.1
Status								
%	78.4	0.3	4.9	16.5	86.2	0.1	2.5	11.2

3. Age and Offense

Juveniles aged fifteen to seventeen constitute more than two-thirds (69.5%) of Minnesota's juvenile court clients. The length of a youth's prior record increases with age; recidivism peaks at fifteen.⁶⁸ Table 6 summarizes relationships between age,⁶⁹ delinquency, and prior referrals. In the state, 27.7% of all delinquents are fourteen

⁶⁸ Intuitively, one expects a step-wise progression by age downward in the percentage with no prior referrals and upward in each category of prior referral such that more 16 and 17 year-old juveniles than 14 and 15 year-old youths should have prior records. Recall that the prior record was constructed by merging 1984, 1985, and 1986 data tapes and matching identifying numbers across files. *See supra* note 31 and accompanying text. Thus, the prior record of a juvenile charged in January, 1986, could be only 2 years long (1984, 1985), while that of a youth charged in December, 1986, could be nearly 3 years long. Despite the inability to integrate prior records more than 2 years earlier or to control for the length of time within which the prior record was obtained, there are no obvious reasons why recidivism peaks at 15, rather than at 16 or 17.

⁶⁹ MINN. STAT. ANN. § 260.015(2) (West 1986 and Supp. 1991) defines "child" as any person under the age of 18 as well as any person who is alleged to have committed an offense prior to age 18. In some instances, a person who commits an offense at age 17 may be 18 by the time he or she is charged as a delinquent. The dispositional authority of Minnesota's juvenile courts continues until age 19. *Id.* § 260.181(4).

TABLE 6A
AGE, OFFENSE, AND PRIOR REFERRALS

STATEWIDE							
AGE=>	12	13	14	15	16	17	18
% Delinquents	6.1	7.8	13.8	21.1	22.6	25.8	2.8
<u>Present Offense</u>							
Felony Offense	7.0	8.1	13.7	21.5	24.1	23.1	2.6
Felony Offense Against Person	8.8	10.7	13.5	21.2	20.1	23.2	2.4
Felony Offense Against Property	6.6	7.3	13.7	21.6	25.2	23.0	2.6
Misdemeanor	6.5	7.9	13.5	19.9	22.7	26.3	3.2
Minor Offense Against Person	5.8	12.0	13.9	19.0	21.9	25.1	2.1
Minor Offense Against Property	8.7	8.3	14.4	20.0	22.1	23.8	2.8
Other							
Delinquency	2.6	5.7	11.6	19.9	24.1	31.7	4.3
Status Offense	4.3	7.5	14.5	23.5	21.5	26.5	2.1
<u>Prior Referrals</u>							
0	79.6	72.7	69.0	68.9	72.5	73.4	70.2
1-2	16.5	22.5	24.6	24.5	22.8	22.7	25.0
3-4	2.9	4.1	4.9	4.8	3.6	3.0	4.2
5+	1.1	0.7	1.5	1.7	1.1	0.9	0.6
URBAN							
AGE=>	12>	13	14	15	16	17	18
% Delinquents	6.3	9.5	15.5	23.6	20.4	22.3	2.4
<u>Present Offense</u>							
Felony Offense	6.8	8.3	13.6	21.3	24.0	23.9	2.0
Felony Offense Against Person	9.6	12.1	10.6	20.2	22.3	23.8	1.4
Felony Offense Against Property	5.9	7.0	14.6	21.6	24.6	24.0	2.2
Misdemeanor	5.9	7.6	12.7	21.7	22.2	26.9	3.0
Minor Offense Against Person	8.5	16.2	13.0	20.2	17.0	24.5	0.5
Minor Offense Against Property	7.8	7.4	13.3	20.7	22.5	26.0	2.5
Other							
Delinquency	2.9	5.6	11.9	23.3	23.3	28.6	4.3
Status Offense	6.7	13.8	22.5	29.0	14.5	12.0	1.3
<u>Prior Referrals</u>							
0	68.6	64.2	60.1	61.8	65.9	68.9	66.9
1-2	23.9	28.5	29.6	28.1	26.9	24.9	25.7
3-4	5.8	6.2	7.7	7.5	5.0	4.7	6.1
5+	1.8	1.0	2.7	2.6	2.2	1.5	1.4

TABLE 6B
AGE, OFFENSE, AND PRIOR REFERRALS

SUBURBAN							
AGE=>	12>	13	14	15	16	17	18
% Delinquents	4.5	7.0	13.1	22.7	23.8	25.9	3.0
<u>Present Offense</u>							
Felony Offense	4.5	8.6	12.6	25.3	23.2	22.8	3.1
Felony Offense Against Person	3.8	12.4	14.1	27.6	16.2	22.7	3.2
Felony Offense Against Property	4.7	7.5	12.2	24.7	25.1	22.8	3.0
Misdemeanor	4.9	7.3	13.9	21.3	23.7	26.0	3.1
Minor Offense Against Person	3.0	7.4	16.5	18.7	30.0	22.2	2.2
Minor Offense Against Property	6.6	7.6	13.8	21.9	23.7	23.7	3.0
Other							
Delinquency	1.3	6.5	12.9	20.9	21.5	33.3	3.6
Status Offense	3.4	4.8	11.7	23.6	25.0	29.1	2.4
<u>Prior Referrals</u>							
0	86.1	71.0	72.2	70.7	70.9	70.9	73.1
1-2	12.1	24.7	22.2	24.5	24.8	25.7	21.3
3-4	0.6	3.9	4.8	3.6	3.8	2.7	5.6
5+	1.2	0.4	0.8	1.2	0.6	0.7	0.0
RURAL							
AGE=>	12>	13	14	15	16	17	18
% Delinquents	6.6	6.8	12.7	18.2	23.9	28.7	3.0
<u>Present Offense</u>							
Felony Offense	9.0	7.5	14.6	19.1	24.8	22.5	2.7
Felony Offense Against Person	12.2	7.5	16.9	16.9	20.7	23.0	2.8
Felony Offense Against Property	8.3	7.5	14.1	19.5	25.6	22.3	2.7
Misdemeanor	8.0	8.4	14.0	17.5	22.7	26.0	3.4
Minor Offense Against Person	4.6	10.2	13.1	17.7	21.9	28.3	4.2
Minor Offense Against Property	10.3	9.3	15.4	18.6	21.2	22.3	2.8
Other							
Delinquency	2.9	5.4	10.5	14.4	26.8	35.1	4.8
Status Offense	2.8	3.6	9.3	19.0	25.7	37.0	2.6
<u>Prior Referrals</u>							
0	86.4	83.6	76.9	75.8	78.3	77.6	70.9
1-2	11.9	14.2	20.5	20.4	18.7	19.9	26.4
3-4	1.3	1.6	2.1	2.6	2.4	1.9	2.3
5+	0.4	0.6	0.5	1.1	0.6	0.6	0.5

or younger, as are 28.8% of those charged with felony offenses, 27.9% of those charged with misdemeanors, and 26.3% of those charged with status offenses. The seriousness of the offense appears to influence the decision to charge younger juveniles.

The relationships between age and offense vary with locale. The urban courts charge more younger juveniles, while suburban and rural courts charge more older delinquents. In the urban counties, 31.3% of the delinquents are fourteen or younger as compared to 24.6% in the suburban counties and 26.0% in the rural counties. Conversely, while 51.4% of the delinquents in the state are sixteen or older, only 42.7% of urban delinquents are older juveniles, while in suburban courts, 49.7% are, and in rural courts, 52.7% are. These age disparities occur because urban courts charge more young offenders with status offenses and fewer with felony offenses than do the suburban or rural courts. Of those charged with status offenses, 43.0% of urban youths are younger juveniles, as contrasted with 19.9% in suburban courts and 15.7% in rural courts. Conversely, suburban and rural counties charge proportionately more than twice as many sixteen- or seventeen-year-old juveniles with status offenses as do the urban courts (54.1% and 62.7% vs. 26.5%). Finding that urban courts charge more of the younger status offenders supports the view that these courts rely more extensively on formal controls, especially for problem youths who lack alternative resources.⁷⁰

D. URBAN, SUBURBAN, AND RURAL VARIATIONS IN RATES OF REPRESENTATION—PROCEDURAL FORMALITY IN JUVENILE COURT

The Supreme Court in *Gault* held that juvenile offenders were constitutionally entitled to the assistance of counsel, because "a proceeding where the issue is whether the child will be found to be 'delinquent' and subjected to the loss of his liberty for years is comparable in seriousness to a felony prosecution."⁷¹ In the decades

⁷⁰ Since the status offense data are aggregated, one can only speculate from the source of referral that younger urban juveniles are charged with truancy or incorrigibility, while older rural and suburban youths are charged with alcohol or curfew violations (Table 5). Coupling the distribution of offenses (Table 3) with the sources of petitions (Table 5) and the age distribution of charges (Table 6) suggests that urban courts intervene more readily in the lives of younger "problematic" or "nuisance" juveniles, while suburban and rural courts allow these youths to exhaust informal community controls before intervening formally. By contrast, rural courts respond more readily to crimes by younger juveniles and intervene earlier than do urban courts.

⁷¹ *In re Gault*, 387 U.S. 1, 36 (1967). *Gault* also decided that juveniles were entitled to the privilege against self-incrimination and the right to confront and cross-examine

since *Gault*, the promise of counsel often remains unrealized. Although there is a scarcity of data, in many states, including Minnesota,⁷² less than half of juveniles adjudicated delinquent receive the assistance of counsel to which they are constitutionally entitled.⁷³ The most comprehensive study available reports that in three of the six states surveyed, only 37.5%, 47.7%, and 52.7% of the juveniles were represented.⁷⁴ The routine presence of defense counsel is the primary indicator of a procedurally formal, adversarial juvenile court with significant consequences for juvenile justice administration.⁷⁵

1. Rates of Representation

Table 7 reports rates of representation by type of offense. Only 45.3% of juveniles in Minnesota received the assistance of counsel. For the state as a whole, about two-thirds (66.1%) of juveniles charged with felonies, less than one-half (46.4%) of those charged with misdemeanors, and about one-quarter (28.9%) of those charged with status offenses were represented.

their accusers at a hearing. *Id.* at 31-57. For a further discussion of *Gault*, see *supra* note 20.

Without the assistance of counsel, these other rights could be lost as well. See, e.g., Guggenheim, *The Right to be Represented But Not Heard: Reflections on Legal Representation for Children*, 59 N.Y.U. L. REV. 76, 86-87 (1984). "[T]he juvenile needs the assistance of counsel to cope with problems of law, to make skilled inquiry into the facts, [and] to insist upon regularity of the proceedings. . . . The child 'requires the guiding hand of counsel at every step in the proceedings against him.'" *Gault*, 387 U.S. at 36. In subsequent decisions, the Supreme Court has reiterated the crucial role of counsel in the juvenile justice process. In *Fare v. Michael C.*, 442 U.S. 707, 719 (1979), the Court noted that

the lawyer occupies a critical position in our legal system Whether it is a minor or an adult who stands accused, the lawyer is the one person to whom society as a whole looks as the protector of the legal rights of that person in his dealings with the police and the courts.

⁷² The majority of juveniles in Minnesota charged with delinquency and status offenses appear without counsel. In 1984, only 46.8% of juveniles charged with delinquency and status offenses were represented. In 1986, only 45.3% youths had lawyers. Finally, in 1988, only 47.8% had attorneys. REPORT OF THE JUVENILE REPRESENTATION STUDY COMMITTEE TO THE MINNESOTA SUPREME COURT 11 (1990). See also Feld, *In re Gault Revisited*, *supra* note 26; Feld, *Right to Counsel*, *supra* note 1.

⁷³ Feld, *Criminalizing Juvenile Justice*, *supra* note 2, at 187-90; Feld, *In re Gault Revisited*, *supra* note 26; Feld, *Right to Counsel*, *supra* note 1. Surveys of representation by counsel in several jurisdictions suggest that "there is reason to think that lawyers still appear much less often than might have been expected." D. HOROWITZ, *THE COURTS AND SOCIAL POLICY* 185 (1977).

⁷⁴ Feld, *In re Gault Revisited*, *supra* note 26, at Table 2 and accompanying text.

⁷⁵ See *id.* (higher rates of representation in urban jurisdictions as contrasted with lower rates of representation in more rural, mid-western states); Feld, *Right to Counsel*, *supra* note 1 (impact of counsel on juvenile justice administration).

Rates of representation differ by geography and offense.⁷⁶ In the urban courts, 62.6% of all juveniles were represented, as were 55.2% of suburban youths. By contrast, only 25.1% of rural youths had counsel. Of those charged with felonies, 82.9% had counsel in the urban settings as compared to 67.9% in the suburban counties and 49.6% in the rural counties. An even sharper drop-off in rates of representation occurred in rural counties for juveniles charged with misdemeanors (23.5%) and status offenses (14.3%). More urban and suburban youths charged with misdemeanors had counsel (64.%, 57.9%) than did rural juveniles charged with felonies (49.6%). More urban and suburban youths charged with status offenses had counsel (45.6%, 33.9%) than did rural youths charged with misdemeanors (23.5%).

Using counsel as an indicator of procedural formality and a due process orientation, the urban courts are the most formal and legalistic while the rural courts adhere most closely to the traditional informal model. Moreover, the actions of various justice agencies are loosely connected; the structural features that determine a court's orientations are likely to be reflected in decisions by other law enforcement agencies as well.⁷⁷ This is consistent with the hypothesis

⁷⁶ Representation in juvenile courts is almost exclusively a public sector activity. Feld, *In re Gault Revisited*, *supra* note 26; Feld, *Right to Counsel*, *supra* note 1, at 1217-23. Privately retained counsel appear in only 5.1% of all delinquency cases; if juveniles have lawyers, they are most likely to be public defenders (28.5%). *Id.* at 1222.

There are some geographic patterns in the type of representation: urban counties deliver legal services primarily through public defenders; suburban and small urban counties rely about equally on public defenders and court appointed counsel; rural counties rely primarily on court appointed attorneys. These different strategies of delivering legal services may also result in qualitative differences in the performance of counsel. *Id.*

Just as offense seriousness increases the likelihood of representation (Table 7), it also increases the proportion of private attorneys who appear. For example, charging a juvenile with a felony against the person doubles the presence of private attorneys compared with their overall rate of appearance (11.2% vs. 5.1%). *Id.* The presence of private counsel differs by geographic locale. A larger proportion of private attorneys appear in urban courts (8.0%) than do in suburban (2.5%) or rural (3.8%) courts. The seriousness of the offense is associated with retaining private counsel; 13.2% of urban juveniles charged with felonies appear with private counsel as contrasted with 3.8% in suburban and 6.3% in rural courts. This pattern may reflect the urban concentration of Minnesota's lawyers. It may also reveal a more procedurally formal court orientation. Private attorneys who do not appear regularly in juvenile court are less likely to need to maintain personal relationships with court personnel at the expense of their clients and are more likely to bring a "criminal" court style of representation than may be true of public attorney regulars. *Id.*; Blumberg, *The Practice of Law as a Confidence Game: Organizational Cooptation of a Profession*, 1 LAW & SOC. REV. 15 (1967); Clark & Koch, *Juvenile Court: Therapy or Crime Control, and Do Lawyers Make a Difference?*, 14 LAW & SOC. REV. 263 (1980) [hereinafter Clark & Koch, *Therapy or Crime Control*]; Lefstein, Stapleton & Teitelbaum, *In Search of Juvenile Justice: Gault and Its Implementation*, 3 LAW & SOC. REV. 491 (1969).

⁷⁷ See, e.g., J.Q. WILSON, *VARIETIES OF POLICE BEHAVIOR* (1968) (bureaucratized, pro-

TABLE 7
RATES OF REPRESENTATION AND OFFENSE

ATTORNEY=>	STATEWIDE		URBAN		SUBURBAN		RURAL	
	<u>YES</u>	<u>NO</u>	<u>YES</u>	<u>NO</u>	<u>YES</u>	<u>NO</u>	<u>YES</u>	<u>NO</u>
Overall								
% Counsel at Adjudication	45.3	54.7	62.6	37.4	55.2	44.8	25.1	74.9
Felony	66.1	33.9	82.9	17.1	67.9	32.1	49.6	50.4
Felony Offense Against Person	77.3	22.7	88.8	11.2	74.9	25.1	63.7	36.3
Felony Offense Against Property	63.0	37.0	80.8	19.2	65.8	34.2	46.7	53.3
Misdemeanor	46.4	53.6	64.3	35.7	57.9	42.1	23.5	76.5
Minor Offense Against Person	62.4	37.6	80.7	19.3	57.3	42.7	40.7	59.3
Minor Offense Against Property	44.6	55.4	70.8	29.2	56.7	43.3	20.6	79.4
Other								
Delinquency	44.9	55.1	51.3	48.7	61.0	39.0	26.6	73.4
Status	28.9	71.1	45.6	54.4	33.9	66.1	14.3	85.7
Overall								
% Counsel at Disposition	38.9	61.1	43.9	56.1	53.5	46.5	26.5	73.5

that urban courts rely more heavily on formal social control than do courts in other locations (Table 4).

The last row of Table 7 provides another indicator of differences in courts' orientation. Comparing the rates of representation at adjudication (arraignment, plea, or trial) with those at disposition reveals that 6.4% fewer juveniles have counsel at sentencing than at earlier proceedings. Virtually all of the decrease in representation at dispositions occurs in the urban counties (62.6% vs. 43.9%). If prosecutors in more bureaucratized courts pre-screen cases using formal legal criteria, then there may be a correspondingly greater legal role for defense counsel at adjudication. Using the "courtroom work group" model, defense counsel are as effective as the juvenile justice system allows them to be.⁷⁸ Functioning in a procedurally formal adjudicative context is a more familiar and comfortable role for defense lawyers than is participating in a "messy" social services-dominated dispositional proceeding. Perhaps, urban defense attorneys appreciate that participating at disposition may be

fessional police departments exercised more legal control in their encounters with youthful offenders than did less formal agencies); Smith, *The Organizational Context of Legal Control*, 22 *CRIMINOLOGY* 19 (1984).

⁷⁸ J. EISENSTEIN & H. JACOB, *FELONY JUSTICE*, *supra* note 14, at 294-99; Feld, *Right to Counsel*, *supra* note 1, at 1321.

futile or even adversely affect the eventual sentence.⁷⁹ In any event, once proceedings shift from formal legality to substantive rationality (*i.e.*, social services disposition), urban defense lawyers apparently exit in droves.

E. URBAN, SUBURBAN, AND RURAL JUVENILE COURT SENTENCING PRACTICES

The preceding analyses described some of the characteristics of the courts and juveniles referred to them in different counties. The next analyses explore the consequences for juveniles of being tried in courts in different locations.

1. *Present Offense and Disposition*

There is extensive research on juvenile court sentencing practices. However, "even a superficial review of the relevant literature leaves one with the rather uncomfortable feeling that the only consistent finding of prior research is that there are no consistencies in the determinants of the decision-making process."⁸⁰ The studies—conducted in different jurisdictions at different times and using different methodologies and theoretical perspectives—yield contradictory results.⁸¹

Juvenile justice practitioners enjoy greater discretion than do their adult process counterparts, because of their presumed need to look beyond the present offense to the "best interests of the child" and paternalistic assumptions about the control of children.⁸² Juvenile court judges answer the question "what should be done with

⁷⁹ Feld, *Right to Counsel*, *supra* note 1, at 1322-34 (negative effects of representation on juveniles' sentences); Feld, *In re Gault Revisited*, *supra* note 26 (represented juveniles consistently receive more severe sentences).

⁸⁰ Thomas & Sieverdes, *Juvenile Court Intake: An Analysis of Discretionary Decision-Making*, 12 *CRIMINOLOGY* 413, 416 (1975).

⁸¹ For methodological critiques of prior juvenile court sentencing research, see, *e.g.*, Fagan, Slaughter & Hartstine, *Blind Justice? The Impact of Race on the Juvenile Justice Process*, 33 *CRIME & DELINQ.* 224, 229-30 (1987) [hereinafter Fagan, *Blind Justice*]; McCarthy & Smith, *Conceptualization of Discrimination in the Juvenile Justice Process: The Impact of Administrative Factors and Screening Decisions on Juvenile Court Disposition*, 24 *CRIMINOLOGY* 41, 43-47 (1986).

⁸² Feld, *Reference of Juvenile Offenders for Adult Prosecution: The Legislative Alternative to Asking Unanswerable Questions*, 62 *MINN. L. REV.* 515, 587 (1978) [hereinafter Feld, *Reference of Juvenile Offenders*]. Thomas and Fitch noted that:

[t]he juvenile justice system differs significantly from its adult counterpart in its express incorporation of highly differential processing of alleged delinquents. The separate juvenile court system emerged from a pervasive belief that the goal of rehabilitation best could be served by permitting juvenile courts to maximize flexibility, informality, and discretion, especially at the dispositional or sentencing stage. Thus, the dispositional alternatives available to the juvenile court are extremely broad.

this child," in part, by reference to statutory mandates.⁸³ Theoretically, juvenile courts pursue individualized justice in which offender characteristics determine dispositions; a youth's offense was relevant only insofar as it was symptomatic of treatment needs.⁸⁴ However, evaluations of juvenile court sentencing practices suggest that despite the court's nominal commitment to rehabilitation, the seriousness of the offense strongly pervades practical decision-making.⁸⁵ As a corollary of procedural formality, juvenile courts use general rules applicable to categories of cases rather than pursue individualized substantive justice.⁸⁶

Practical and bureaucratic considerations such as avoiding scandal and unfavorable political and media attention also temper judicial exercises of discretion.⁸⁷ Developing organizational strategies to cope with contradictory formal goals and highly individualized assessments encourages courts to impose more formal and restrictive sanctions on more serious forms of delinquency.⁸⁸ Since juvenile courts routinely and necessarily collect information about the

Thomas & Fitch, *An Inquiry into the Association Between Respondents' Personal Characteristics and Juvenile Court Dispositions*, 17 WM. & MARY L. REV. 61, 64 (1975).

⁸³ Feld, *Punishment, Treatment*, *supra* note 18.

⁸⁴ See generally *id.* at 879-96.

⁸⁵ Juvenile justice personnel make dispositional decisions throughout the process. Police officers may refer a case to intake for formal processing, adjust it informally on the street or at the station-house, or divert it. Intake, in turn, may refer a youth to the juvenile court for formal adjudication or dispose of the case through informal supervision or diversion. Finally, even after formal adjudication, the juvenile court judge may choose from a wide array of dispositional alternatives ranging from continuing a case without a finding of delinquency, to probation, to commitment to a state training school. See generally S. FOX, *CASES AND MATERIALS ON MODERN JUVENILE JUSTICE* (2d ed. 1981); F. MILLER, R. DAWSON, G. DIX & R. PARNAS, *THE JUVENILE JUSTICE PROCESS* (3d ed. 1985); Harris, *Is the Juvenile Justice System Lenient?*, 18 CRIM. JUST. ABS. 104 (1986).

Recent research indicates that the dispositional decision-making process is cumulative; decisions made by the initial participants—police or intake—affect the types of decisions made by subsequent participants. See, e.g., Barton, *Discretionary Decision-Making in Juvenile Justice*, 22 CRIME & DELINQ. 470 (1976); McCarthy & Smith, *Conceptualization of Discrimination*, *supra* note 81; Phillips & Dinitz, *Labelling and Juvenile Court Dispositions: Official Responses to a Cohort of Violent Juveniles*, 23 SOC. Q. 267 (1982). The seriousness of the offense also affects the type of disposition imposed. Bell & Lang, *The Intake Dispositions of Juvenile Offenders*, 22 J. RES. IN CRIME & DELINQ. 309 (1985); Fagan, *Blind Justice?*, *supra* note 81; Thomas & Sieverdes, *supra* note 80, at 429; Thornberry, *Race, Socioeconomic Status and Sentencing in the Juvenile Justice Process*, 64 J. CRIM. L. & CRIMINOLOGY 90, 94 (1973).

⁸⁶ See, e.g., D. MATZA, *DELINQUENCY AND DRIFT* 125-29 (1964); Horowitz & Wasserman, *Some Misleading Conceptions in Sentencing Research*, *supra* note 2.

⁸⁷ See, e.g., M. BORTNER, *INSIDE JUVENILE COURT*, *supra* note 22; A. CICOUREL, *SOCIAL ORGANIZATION* (1968); R. EMERSON, *JUDGING DELINQUENTS*, *supra* note 22; D. MATZA, *DELINQUENCY AND DRIFT* (1964); EMERSON, *Role Determinants in Juvenile Court*, in *HANDBOOK OF CRIMINOLOGY* 624 (D. Glaser ed. 1974).

⁸⁸ D. MATZA, *DELINQUENCY AND DRIFT* 122-25 (1964).

present offense and prior record, they provide the bases for decisions.

TABLE 8
OFFENSE AND DISPOSITION: OUT-OF-HOME PLACEMENT/SECURE CONFINEMENT

	STATEWIDE	URBAN	SUBURBAN	RURAL
Overall				
% Home	18.5	24.0	17.5	14.2
% Secure	11.1	15.1	9.1	8.7
Felony				
% Home	34.3	42.3	23.7	29.5
% Secure	24.4	33.3	13.6	20.4
Felony Offense Against Person				
% Home	42.2	51.0	33.1	38.3
% Secure	27.5	40.2	11.4	24.6
Felony Offense Against Property				
% Home	32.1	43.4	21.1	29.9
% Secure	23.6	34.3	14.1	20.8
Misdemeanor				
% Home	17.6	21.5	16.3	12.7
% Secure	11.3	14.1	9.5	8.3
Minor Offense Against Person				
% Home	24.0	28.8	19.5	21.3
% Secure	14.5	16.8	10.7	14.5
Minor Offense Against Property				
% Home	16.0	22.4	14.6	12.4
% Secure	10.8	16.6	8.0	8.4
Other				
Delinquency				
% Home	18.9	20.9	22.2	14.4
% Secure	11.3	12.0	13.8	8.8
Status				
% Home	12.4	17.4	13.2	8.1
% Secure	3.5	5.0	3.0	2.5

Unfortunately, the SJIS data do not include social variables often used in juvenile sentencing research. Table 8 explores the relationships between offenses, social context, and sentences. For the entire state, 18.5% of all petitioned juveniles are removed from their homes and 11.1% of all juveniles are incarcerated in state or local institutions. However, the urban, suburban, and rural counties differ markedly in their sentencing practices. In urban counties, about one of four (24.0%) juveniles is removed from home. In suburban counties, about one of six (17.5%) is removed. In rural counties, about one of seven (14.2%) is removed. Similarly, urban

youths (15.1%) receive secure confinement dispositions more often than do suburban (9.1%) or rural (8.7%) juveniles.

The seriousness of the offense substantially alters a youth's risk of removal or confinement. Despite the court's theoretical commitment to individualized dispositions, actual sentencing practices evidence an element of proportionality. Juveniles charged with felony offenses—person and property—and offenses against the person have the highest rates of out-of-home placements and secure confinement. For the state as a whole, more than one-third (34.3%) of all juveniles charged with a felony offense are removed from their homes, and about one-quarter (24.4%) are incarcerated. Conversely, about half as many juveniles charged with misdemeanors—minor property offenses such as theft and shoplifting, or other delinquency—are removed from home (17.6%) or confined (11.3%). As a result of legal restrictions on the placement of status offenders,⁸⁹ they have the lowest proportion of removal from the home or secure confinement. Even though legislation prohibits confining status offenders, 3.5% of them are in county or state institutions.⁹⁰

While there is a direct relationship between the seriousness of the offense and the severity of disposition, there are also marked differences between the sentences imposed in the urban, suburban, and rural counties. For nearly every offense category, urban judges sentence more severely than do suburban or rural judges. For example, of delinquents adjudicated for felonies, urban judges incarcerate one-third (33.3%) as contrasted with only about one-seventh (13.6%) in the suburban counties and one-fifth (20.4%) in the rural counties. Urban judges are nearly as likely to remove juveniles charged with misdemeanors from their homes (21.5%) as suburban judges are likely to remove juveniles charged with felony offenses (23.7%). Urban judges institutionalize more youths charged with misdemeanors (14.1%) than suburban judges do youths charged with felonies (13.6%). Even though suburban courts may pre-screen cases (Table 4) to produce a court docket that contains more serious offenses and fewer trivial ones (Table 3), urban courts still sentence similarly-situated offenders more severely. Only juveniles charged with "other delinquency" receive more severe sentences in suburban courts than they do in urban or rural settings. Rural judges sentence youths charged with felony offenses somewhat

⁸⁹ See MINN. STAT. ANN. § 260.194 (West 1982 and Supp. 1990). See also *State v. Hambergren*, 294 N.W.2d 705 (Minn. 1980) (contempt power used to convert status offender who violates court order into a delinquent).

⁹⁰ See MINN. STAT. ANN. § 260.185.1(c)(5)(d) (West 1982 and Supp. 1990).

more severely than do the suburban judges,⁹¹ but more leniently than do the urban judges. When juveniles are charged with misdemeanor or status offenses, however, rural judges' sentencing practices are comparable to or even more lenient than the suburban judges. Since the largest proportion of rural juveniles are minor and status offenders (Table 3), overall rural youths receive lenient sentences.

Perhaps there are qualitative differences in offenses which account for the geographical differences in sentencing practices. For example, within comparable offense categories, urban juveniles' crimes may be more serious than rural youths' crimes in ways that statistical controls cannot capture (*e.g.*, amount of injury to victim or value of property stolen) but which may affect sentencing severity. Because there is a greater volume of delinquency, there may be a higher threshold of seriousness before a case is referred to urban juvenile court. However, the scant research on geographic variations in the "quality" of crime concludes that "rural and urban victimizations are similar with respect to their consequences to victims (*e.g.*, injury) and characteristics (*e.g.*, the nature and extent of weapon use) . . ." ⁹² Alternatively, urban judges see more crime, including serious crime, and may just sentence more severely.

2. *Prior Referrals and Dispositions*

In addition to the seriousness of the present offense, a history of prior referrals and previous sentences affects a juvenile's disposition.⁹³ Table 9 reports the effects of present offense and prior refer-

⁹¹ A study of youths transferred to criminal courts found that rural courts waived jurisdiction over juveniles with less serious offenses and fewer prior court interventions than did their urban or suburban counterparts. Feld, *Bad Law Makes Hard Cases: Reflections on Teen-Aged Axe-Murderers, Judicial Activism, and Legislative Default*, 8 LAW & INEQUALITY 1 (1990).

⁹² J. LAUB, JUVENILE CRIMINAL BEHAVIOR, *supra* note 2. See also Laub, *Patterns of Offending in Urban and Rural Areas*, 11 J. CRIM. JUST. 129, 138 (1983). Laub compared urban and rural patterns of offending and concluded that:

More interesting and perhaps more important were the findings of *similarities* in urban and rural victimizations. For example, the extent of weapon use did not vary across the urban-rural dimension. Similarly, the types of weapons used—guns, knife, or other weapons—did not differ in victimizations across urban, suburban, and rural areas. Moreover, urban and rural victimizations had very similar consequences. For instance, success in theft, rates of victim injury, and financial loss did not differ across urban, suburban, and rural areas. Thus, although rates of victimization were much higher in urban areas, when victimizations did occur, the outcomes were not very different across the urban-rural dimension.

Id. (emphasis in original).

⁹³ See, *e.g.*, Clarke & Koch, *Therapy or Crime Control*, *supra* note 76; Feld, *Right to Counsel*, *supra* note 1, at 1244-52; Henretta, Frazier & Bishop, *The Effects of Prior Case Outcomes on Juvenile Justice Decision-Making*, 65 SOC. FORCES 554 (1986).

TABLE 9A
PRESENT OFFENSE, PRIOR RECORD, AND DISPOSITION
(HOME/SECURE)

	STATEWIDE				URBAN			
	0	1-2	3-4	5+	0	1-2	3-4	5+
Prior Overall								
%	71.9	23.0	3.9	1.2	64.7	27.1	6.1	2.0
N =	12359	3962	669	205	4060	1700	385	128
Disposition								
Overall								
% Home	12.4	29.5	52.9	61.6	15.9	32.4	57.6	70.1
% Secure	6.8	17.7	39.9	48.8	9.5	19.0	44.2	54.3
Felony								
% Home	23.8	47.4	78.4	73.1	32.0	49.0	86.9	89.7
% Secure	17.5	32.1	65.5	55.8	25.4	36.8	71.4	72.4
Felony Offense								
Against Person								
% Home	35.7	51.9	84.8	100.0	40.9	47.9	90.9	100.0
% Secure	22.9	33.3	60.6	100.0	31.7	42.3	59.1	100.0
Felony Offense								
Against Property								
% Home	21.7	46.4	76.5	72.0	28.7	49.3	85.5	88.9
% Secure	16.0	31.9	67.0	54.0	23.0	35.1	75.8	70.4
Misdemeanor								
% Home	11.4	29.9	49.7	62.4	13.6	30.7	51.5	67.7
% Secure	6.7	19.3	37.1	53.5	8.4	19.2	41.1	55.4
Minor Offense								
Against Person								
% Home	14.2	38.5	62.2	73.3	15.1	36.0	62.5	100.0
% Secure	8.0	22.6	40.5	66.7	8.2	19.0	45.8	85.7
Minor Offense								
Against Property								
% Home	10.4	27.3	49.0	65.2	14.5	28.2	52.3	67.7
% Secure	6.6	18.8	39.5	52.2	10.5	20.4	43.2	51.6
Other								
Delinquency								
% Home	12.4	31.5	46.9	55.0	11.9	32.2	46.3	59.3
% Secure	6.7	19.2	31.9	50.0	5.8	17.9	35.8	51.9
Status								
% Home	8.7	19.3	38.9	48.8	10.6	25.2	44.0	57.6
% Secure	1.6	5.8	23.5	30.2	1.9	6.9	25.3	36.4

rals on out-of-home placement and secure confinement dispositions.⁹⁴ As noted earlier (Table 3), the rate of prior referrals varied by geographic locale. Compared to the urban juveniles,

⁹⁴ Recall that a juvenile's prior record in 1986 was constructed by merging 1984, 1985, and 1986 annual data tapes and matching youth identification number across years. The prior record only includes cases that resulted in formal petitions; it does not include previous referrals in which formal charges were not filed. The number of prior referrals are coded as 0, 1 or 2, 3 or 4, and 5 or more. See *supra* note 31 and accompanying text.

TABLE 9B
PRESENT OFFENSE, PRIOR RECORD, AND DISPOSITION
(HOME/SECURE)

	SUBURBAN				RURAL			
	0	1-2	3-4	5+	0	1-2	3-4	5+
Priors Overall								
%	71.8	23.9	3.5	0.8	78.1	19.1	2.1	0.7
N =	2642	881	129	29	5657	1381	155	48
Disposition Overall								
% Home	11.9	28.0	50.0	60.7	10.1	26.8	43.5	39.6
% Secure	4.8	16.5	37.5	50.0	5.8	17.0	31.2	33.3
Felony								
% Home	15.5	38.9	64.0	72.7	21.7	46.5	67.4	38.9
% Secure	7.8	22.2	56.0	54.5	14.9	32.0	50.0	27.8
Felony Offense Against Person								
% Home	30.3	39.5	100.0	—	28.1	57.1	75.0	—
% Secure	14.1	7.9	100.0	—	18.1	38.1	50.0	—
Felony Offense Against Property								
% Home	10.8	38.8	57.1	80.0	20.3	44.6	65.8	38.9
% Secure	5.8	25.3	47.6	60.0	14.1	31.0	50.0	27.8
Misdemeanor								
% Home	10.1	28.1	52.6	64.3	8.8	25.4	34.7	42.9
% Secure	4.7	18.0	38.2	57.1	5.7	16.6	25.0	42.9
Minor Offense Against Person								
% Home	15.2	25.9	70.0	50.0	13.6	36.5	20.0	50.0
% Secure	8.2	15.5	40.0	50.0	10.1	23.0	20.0	50.0
Minor Offense Against Property								
% Home	9.0	25.6	47.6	83.3	8.4	25.0	34.0	30.0
% Secure	3.8	15.9	35.7	66.7	5.4	16.6	30.0	30.0
Other Delinquency								
% Home	10.8	34.3	54.2	50.0	8.7	21.6	41.2	57.1
% Secure	5.6	23.4	41.7	50.0	5.3	13.6	11.8	57.1
Status								
% Home	12.8	13.1	29.6	—	6.8	14.3	29.4	14.3
% Secure	2.1	3.6	18.5	—	1.7	6.1	17.6	—

7.1% more of the suburban juveniles and 13.4% of rural youths made their first appearance with correspondingly fewer recidivists.

Both overall and controlling for offenses, the length of the prior record affects a youth's likelihood of receiving a more severe disposition; the largest increase occurs between those juveniles with one or two prior referrals and those with three or four. By the time juveniles appear for the third or fourth time, more than half (52.9%) will be removed from home and more than one-third (39.9%) will be confined. For each offense, there is a linear relationship between additional prior referrals and more severe disposi-

tions. For example, while 42.2% of all juveniles who commit a felony offense against the person receive out-of-home placements (Table 8), only 35.7% of those with no prior referrals are removed, as compared with 51.9% of youths with one or two, 84.8% of those with three or four, and 100% of those with five or more priors.⁹⁵

Even though the relationship between prior referrals and sentencing severity is similar in all types of counties, urban judges remove and confine larger proportions of juveniles than do their suburban and rural counterparts. Comparing forty-eight possible cells (6 present offense \times 4 prior record \times 2 Home/Secure dispositions) reveals only eleven instances in which suburban courts sentenced more severely than did urban judges and only five cells in which rural judges did. This further supports the view that urban judges sentence similarly-situated offenders more severely than do their suburban or rural counterparts. The rural judges' dispositional leniency may reflect budgetary constraints, since the costs of placements are borne by county welfare funds.⁹⁶ In rural counties, with smaller population and tax bases and greater poverty (Table 1), extensive, and therefore expensive, intervention may be fiscally prohibitive for all but the most serious or troubled delinquents.

F. URBAN, SUBURBAN, AND RURAL PRETRIAL DETENTION PRACTICES

Several studies examined the relationship between pre-trial detention and subsequent disposition and reported that while several variables affect both decisions, after controlling for their affect, detention *per se* exhibits an independent effect on dispositions.⁹⁷ The next analyses examine the relationships between detention, offenses, and dispositions.

⁹⁵ Table 9 provides strong evidence that despite juvenile courts' nominal commitment to individualized sentencing, the judges have reintroduced *de facto* the principle of offense as a dispositional guideline. D. MATZA, *DELINQUENCY AND DRIFT* 122 (1964); Feld, *Punishment, Treatment*, *supra* note 83. Both the present offense and prior record, which are the two principle components in the Minnesota Adult Sentencing Guidelines, see MINNESOTA SENTENCING GUIDELINES COMM'N, REPORT TO THE LEGISLATURE (1980), exert substantial influences on a youth's eventual disposition, albeit to different degrees in different geographic settings. See also *infra* Table 14 and accompanying text.

⁹⁶ MINN. STAT. ANN. § 260.251 (West 1982 and Supp. 1990).

⁹⁷ See, e.g., Clarke & Koch, *Therapy or Crime Control*, *supra* note 76; Feld, *Right to Counsel*, *supra* note 1; Frazier & Bishop, *The Pretrial Detention of Juveniles and Its Impact on Case Dispositions*, 76 J. CRIM. L. & CRIMINOLOGY 1132 (1985) [hereinafter *Pretrial Detention of Juveniles*]; Krisberg & Schwartz, *Rethinking Juvenile Justice*, 29 CRIME & DELINQ. 333 (1983) [hereinafter *Rethinking Juvenile Justice*]; McCarthy, *Preventive Detention and Pretrial Custody in the Juvenile Court*, 15 J. CRIM. JUST. 185 (1987) [hereinafter *Preventive Detention*].

1. Detention by Offense

Table 10 shows the overall numbers and percentages of juveniles in pre-trial detention by present offense and prior referrals. Detention, as used here, refers to a juvenile's custody status following arrest or referral but prior to formal court action—adjudication or disposition. Detention, as distinguished from shelter care, connotes a physically restrictive facility (*i.e.*, a detention center, state institution, or adult jail).⁹⁸ Minnesota law and rules allow pre-trial preventive detention if a child constitutes a danger to self or others, or will not keep court appearances.⁹⁹ A juvenile's alleged offense is not an explicit criterion for detention except insofar as a juvenile court judge views it as evidence of "endangering" self or others.

While Minnesota appears to have a low overall rate of pre-trial detention (only 7.6%),¹⁰⁰ the SJIS uses a restrictive definition of "detention." Juveniles are only coded as detained if a detention hearing is held within thirty-six hours (about two court days) after a juvenile was taken into custody. Many juveniles who are either detained briefly pending the arrival of their parents or released within one or two days but prior to a detention hearing are not counted as detained.

The use of pretrial detention follows a similar pattern in the state as a whole as well as in different geographic locales. While only a small proportion (7.6%) of all juveniles in the state receive a detention hearing, the seriousness of the present offense and the length of the prior record both appear to alter substantially a youth's likelihood of being detained.¹⁰¹ For the entire state, about twice as many juveniles charged with a felony offense are detained as compared to the overall detention rate (14.9% vs. 7.6%). A di-

⁹⁸ See MINN. STAT. ANN. §§ 260.015(16), (17) (West 1982 and Supp. 1990); Schwartz, Harris, & Levi, *The Jailing of Juveniles in Minnesota: A Case Study*, 34 CRIME & DELINQ. 133 (1988).

⁹⁹ The Minnesota detention statutes and Juvenile Court Rules governing detention procedures authorize pre-trial preventive detention if "the child would endanger self or others, not return for a court hearing, nor remain in the care or control of the person to whose lawful custody the child is released, or that the child's health or welfare would be immediately endangered." See MINN. STAT. ANN. §§ 260.171(1); 260.172(1) (West 1982 and Supp. 1990); MINN. R. JUV. PRO. R. 18.02(2)(A)(i); 18.06(5)(b)(i); 18.09(2)(D)(i) (West 1991). See generally Feld, *Criminalizing Juvenile Justice*, *supra* note 20, at 191-209.

¹⁰⁰ In 1984, the Minnesota rate of pretrial detention was 9.4%, the lowest in a six state comparison. See Feld, *In re Gault Revisited*, *supra* note 26, Table 5.

¹⁰¹ The significance of a prior record for the detention decision has been noted in several studies. See, e.g., Bailey, *Preadjudicatory Detention in a Large Metropolitan Juvenile Court*, 5 LAW & HUM. BEH. 19 (1981) (a youth's previous court experience was found to be an important predictor of detention); 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); McCarthy, *Preventive Detention*, *supra* note 97.

TABLE 10
OFFENSE AND DETENTION

	STATEWIDE	URBAN	SUBURBAN	RURAL
Overall				
% Detention	7.6	12.9	4.8	4.4
N =	1309	812	176	321
FELONY				
%	14.9	25.9	7.4	10.2
N =	470	284	62	124
Felony Offense Against Person				
%	24.3	37.6	11.4	17.8
N =	165	106	21	38
Felony Offense Against Property				
%	12.3	21.9	6.2	8.6
N =	305	178	41	86
MISDEMEANOR				
%	6.5	11.5	3.9	3.4
N =	606	397	80	129
Minor Offense Against Person				
%	11.4	17.0	7.4	7.1
N =	101	64	17	20
Minor Offense Against Property				
%	6.0	12.4	3.5	2.9
N =	332	212	45	75
Other Delinquency				
%	6.1	8.9	3.4	3.5
N =	173	121	18	34
STATUS				
%	4.8	7.6	3.9	2.9
N =	221	129	30	62
<u>Detention and Priors %</u>				
0	5.5	9.3	4.1	3.5
1-2	11.3	17.2	6.2	7.3
3-4	19.9	28.1	6.2	11.0
5+	20.5	27.3	13.8	6.3

rect relationship exists between prior referrals and rates of detention. However, even when youths are charged with the most serious offenses or have extensive prior records, the vast majorities are not detained. Moreover, larger numbers of minor offenders are detained than are felons. Indeed, for the entire state, slightly more than one-third of detainees are charged with felonies (36.2%), and most are charged with misdemeanors (46.7%) or even status offenses (17.0%). An earlier study found little legal rationale for detention practices and could explain only 9.0% of variance.¹⁰²

¹⁰² See Feld, *Right to Counsel*, *supra* note 1, at 1300. The inability to model the deten-

When urban, suburban, and rural county detention practices are examined, similar patterns emerge. Youths charged with felony offenses or offenses against the person, and youths with long prior records are detained more frequently than their less delinquent counterparts. However, the largest numbers and proportion of detained juveniles are charged with minor offenses.

While the offense pattern of detention is similar, its geographical use differs substantially. Detention is used most heavily in the urban counties, which detain proportionally two to three times as many youths as do suburban or rural counties. For youths charged with felony offenses, urban courts detain about one of four (25.9%) as contrasted with about one in ten in the rural counties (10.2%) and one of thirteen in the suburban counties (7.4%). Urban counties use detention disproportionately for juveniles charged with misdemeanors (11.5% vs. 3.9% and 3.4%) and status offenses (7.6% vs. 3.9% and 2.9%), as well as for those with prior records.

The heavier reliance on detention in urban settings probably stems from the greater availability of detention facilities. A primary determinant of state or county detention rates is the availability of bedspace.¹⁰³ Since there are more detention facilities located in the urban counties, their availability provides an inducement for their greater use. The greater availability and use of detention in urban settings reflects the presence of a critical mass of eligible juveniles, greater reliance on formal mechanisms of control, and a more formal and punitive orientation. Urban courts operate in milieu which provide fewer mechanisms for informal controls, such as stable families to whom youths can return pending court appearances.

tion decision is consistent with other recent research. Frazier and Bishop concluded that:

[n]either standard socio-demographic factors 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.

Fisher & Bishop, *Pretrial Detention*, *supra* note 97, at 1143.

¹⁰³ See, e.g., Bookin-Weiner, *Assuming Responsibility: Legalizing Preadjudicatory Juvenile Detention*, 30 CRIME & DELINQ. 39 (1984); Kramer & Steffensmeier, *The Differential Detention/Jailing of Juveniles: A Comparison of Detention and Non-Detention Courts*, 5 PEPPERDINE L. REV. 795 (1978); Krisberg & Schwartz, *Rethinking Juvenile Justice*, *supra* note 97; Lerman, *Discussion of "Differential Selection of Juveniles for Detention,"* 14 J. RES. IN CRIME & DELINQ. 166 (1977); Pawlak, *Differential Selection of Juveniles for Detention*, 14 J. RES. IN CRIME & DELINQ. 152 (1977). Frazier and Bishop summarized these studies and noted that "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." Frazier & Bishop, *Pretrial Detention*, *supra* note 97, at 1136.

G. REGRESSING OUT-OF-HOME PLACEMENT AND SECURE
CONFINEMENT DISPOSITIONS ON INDEPENDENT VARIABLES

The preceding analyses focused on bivariate relationships between selected variables while controlling for the effects of one or more other variables. The next analyses use multiple regression procedures to analyze the relative impact of a number of independent variables on the dependent variable. Using regression techniques allows one to estimate and evaluate the strength and significance of the independent contributions of a number of factors to the explanation or prediction of a dependent variable.¹⁰⁴ The standardized regression coefficient for each independent variable ("beta") expresses the relationship between each independent variable and the dependent variable, once the other variables are taken into account. The size of the beta coefficient indicates the relative importance of each independent variable in predicting the dependent variable. Where independent variables are measured in different units, standardized coefficients provide the only way to compare the relative effect of each independent variable on the dependent variable. Tables 11 through 14 also report the zero-order correlation coefficient ("r") between each independent variable and the dependent variable, the multiple regression correlation coefficient ("R"), and R^2 . The R^2 summarizes the amount of variation in the dependent variable that is explained by the independent variables included in the regression equation. The R^2 has the additional virtue of being interpretable as a straightforward percentage. For example, an $R^2 = 0.20$ means that twenty percent of the variation in a dependent variable is explained by the joint operation of the independent variables.

Forward, stepwise regression equations¹⁰⁵ were computed using SPSS separately for the urban, suburban, and rural counties and for the entire state for the dependent variables out-of-home place-

¹⁰⁴ See generally F. KERLINGER & E. PEDHAZUR, *MULTIPLE REGRESSION IN BEHAVIORAL RESEARCH* (1973); D. KLEINBAUM & L. KUPPER, *APPLIED REGRESSION ANALYSIS AND OTHER MULTIVARIABLE METHODS* (1978); M. LEWIS-BECK, *APPLIED REGRESSION: AN INTRODUCTION* (1980) (multiple regression estimates the relationships between the dependent variable and the independent variables by extracting from each variable the effects of the others).

¹⁰⁵ N. NIE, C. HULL, J. JENKINS, K. STEINBRENNER & D. BENT, *SPSS: STATISTICAL PACKAGE FOR THE SOCIAL SCIENCES* (2d ed. 1975). Using standard regression techniques, each variable is added to the regression equation in a separate step after the influence of all other variables has been calculated. The increment in R^2 due to the addition of that variable is taken as the component of variation attributable to that variable. Forward stepwise inclusion enters independent variables only if they meet certain statistical criteria (e.g., $p < .05$) and the order of inclusion is determined by the respective contribution of each variable to the explained variance. *Id.* at 345.

TABLE 11
URBAN COUNTIES
REGRESSION MODEL OF FACTORS INFLUENCING OUT-OF-HOME
PLACEMENT AND SECURE CONFINEMENT DISPOSITIONS

INDEPENDENT VARIABLES	ZERO-ORDER r	STANDARDIZED BETA COEFFICIENT	MULTIPLE R	R ²
<u>OUT-OF-HOME PLACEMENT</u>				
Prior Home Removal Disposition	.415*	.334*	.415	.172
Detention	-.262*	-.162*	.456	.208
Attorney	.219*	.106*	.474	.225
Offense Severity	.166*	.086*	.483	.233
Number of Offenses at Disposition	-.105*	-.077*	.489	.239
Prior Record	.159*	-.047	.490	.240
<u>SECURE CONFINEMENT</u>				
Prior Secure Confinement Disposition	.394*	.314*	.394	.155
Offense Severity	.239*	.155*	.448	.200
Detention	-.197*	-.104*	.461	.212
Number of Offenses at Disposition	-.108*	-.066*	.465	.217
Attorney	.187*	.065*	.470	.221
Gender	.146*	.055*	.474	.224
Prior Record	-.268*	-.066*	.477	.227
Age	-.055*	-.040*	.478	.229

* p < .001

** p < .01

*** p < .05

ment and secure confinement.¹⁰⁶ In addition to the other independent variables, the statewide regression equation included an urban “dummy” variable (0 = urban; 1 = non-urban). Since the SJIS data include only court-processing variables, this study cannot control for the influence of many social factors that juvenile courts deem relevant when sentencing.

Table 11 reports the urban regression equations for home removal and secure confinement. A previous home removal or insti-

¹⁰⁶ The independent and dependent variables and their coding, which effects the signs of the beta coefficients, include: attorney (1 = Yes, 2 = No); secure confinement (1 = Yes, 2 = No); a previous secure confinement disposition (1 = yes, 2 = No); out-of-home placement (1 = yes, 2 = no); a previous out-of-home placement (1 = yes, 2 = no); age (1 = 12 or younger, through 7 = 18 years of age); gender (1 = male, 2 = female); detention (1 = no, 2 = yes); prior record (1 = none, through 4 = 5 or more); present offense (1 = felony offense against person, through 6 = status); number of offenses at disposition (1 = none, through 6 = five or more).

tutional commitment explains most of the variance in the current home removal or secure placement sentences. Pretrial detention, a prior record, and the present offense also influence both dispositions. Even though the highest rates of representation obtain in urban counties, the presence of an attorney is an aggravating factor at sentencing, accounting for 1.7% of the variance in home removal and 0.4% of the variance in institutional confinement. The number of offenses provides an additional indicator that a case is more serious.¹⁰⁷ Finally, older male juveniles are more likely to be institutionalized.

Table 12 presents the suburban regression statistics for out-of-

TABLE 12
SUBURBAN COUNTIES
REGRESSION MODEL OF FACTORS INFLUENCING OUT-OF-HOME
PLACEMENT AND SECURE CONFINEMENT DISPOSITIONS

INDEPENDENT VARIABLES	ZERO-ORDER r	STANDARDIZED BETA COEFFICIENT	MULTIPLE R	R ²
<u>OUT-OF-HOME PLACEMENT</u>				
Prior Home Removal Disposition	.443*	.418*	.443	.196
Detention	-.203*	-.163*	.474	.225
Attorney	.157*	.056*	.478	.229
Offense Severity	.083*	.045**	.480	.231
<u>SECURE CONFINEMENT</u>				
Prior Secure Confinement Disposition	.468*	.432*	.468	.219
Attorney	.165*	.066*	.476	.226
Offense Severity	.195*	.060*	.480	.230
Detention	-.077*	-.036***	.481	.231
Prior Record	-.269*	-.040***	.482	.232

* p < .001

** p < .01

*** p < .05

home placement and secure confinement. A prior home removal disposition and pretrial detention are the strongest influences on the decision to remove a juvenile from home. Prior secure confinement, an attorney, the present offense, and pretrial detention are the determinants of the decision to commit a youth to an institution. Detention exerts a stronger influence on out-of-home placement than on secure confinement (home beta = -0.163, institutionalize beta = -0.036).

¹⁰⁷ Feld, *Right to Counsel*, *supra* note 1, at 1280-85.

In the rural counties (Table 13), a previous sentence removing or confining a juvenile, pretrial detention, the seriousness of the offense, and the presence of an attorney explain most of the variance in removal or confinement dispositions. Again, the previous sentence is clearly the dominant influence (home beta = 0.346; confine beta = 0.359) followed by pretrial detention. Despite the differences in rates of representation in urban, suburban, and rural counties (Table 7), a comparison of the beta weights indicates that the presence of an attorney exerts about the same deleterious effect on dispositions in all types of counties.

There is a weak but significant relationship between gender and home removal; rural female juveniles are more at risk for removal from their homes than are their male counterparts. Although female offenders commit less serious offenses and have less extensive prior records,¹⁰⁸ larger proportions are detained.¹⁰⁹ The association between gender and geography suggests that ascriptive characteristics may influence traditional, informal juvenile courts more than they do the more formal, urban ones. Alternatively, rural juvenile courts may be responding to parental preferences when they remove female juveniles from home at higher rates than they do male juveniles.¹¹⁰

Despite the major differences in sentencing practices in different geographic locales, these regression equations are strikingly similar. Recall that urban courts removed from their home and institutionalized substantially larger proportions of juveniles than did the suburban or rural courts (Table 8). Controlling for the present offense and prior record, urban courts sentenced similarly situated

¹⁰⁸ See, e.g., *id.* at 1274-75.

¹⁰⁹ Although the overall rate of detention is 7.6% (Table 10), 7.4% of male delinquents are detained as compared with 8.3% of females. *Id.* at 1276-79. The disproportionate detention and home removal of female offenders charged with minor delinquency and status offenses may reflect "double standards" and "paternalistic" attitudes for which scholars have criticized juvenile courts extensively. See, e.g., Anderson, *The Chivalrous Treatment of the Female Offender in the Arms of the Criminal Justice Systems: A Review of the Literature*, 23 SOC. PROBS. 50 (1976); Armstrong, *Females Under the Law—Protected But Unequal*, 23 CRIME & DELINQ. 109 (1977); Chesney-Lind, *Judicial Enforcement of the Female Sex Role: The Family Court and the Female Delinquent*, 51 ISSUES IN CRIMINOLOGY 51 (1973); Chesney-Lind, *Judicial Paternalism and the Female Status Offenders*, 23 CRIME & DELINQ. 121 (1977); Datesman & Scarpetti, *Unequal Protection for Males and Females in the Juvenile Court*, in WOMEN, CRIME AND JUSTICE (S. DATESMAN & F. SCARPETTI eds. 1980).

¹¹⁰ See D. MATZA, *DELINQUENCY AND DRIFT* 125-28 (1964). For some reason, parents of rural female juveniles charged with minor delinquencies may be less willing than those of male juveniles similarly charged to have the child at home, either prior to trial or following adjudication. What initially appears as judicial gender discrimination may actually reflect judicial responsiveness to parental preferences. Feld, *Right to Counsel*, *supra* note 1.

TABLE 13
RURAL COUNTIES
REGRESSION MODEL OF FACTORS INFLUENCING OUT-OF-HOME
PLACEMENT AND SECURE CONFINEMENT DISPOSITIONS

INDEPENDENT VARIABLES	ZERO-ORDER r	STANDARDIZED BETA COEFFICIENT	MULTIPLE R	R ²
<u>OUT-OF-HOME PLACEMENT</u>				
Prior Home Removal Disposition	.401*	.346*	.401	.161
Detention	-.279*	-.201*	.463	.214
Offense Severity	.192*	.098*	.481	.232
Attorney	.227*	.105*	.492	.242
Number of Offenses at Disposition	-.138*	-.073*	.497	.247
Gender	.003	-.029*	.498	.248
<u>SECURE CONFINEMENT</u>				
Prior Secure Confinement Disposition	.400*	.359*	.400	.160
Detention	-.223*	-.158*	.442	.195
Offense Severity	.203*	.126*	.467	.218
Attorney	.194*	.081*	.474	.225
Number of Offenses at Disposition	-.137*	-.063*	.478	.229
Age	-.017	-.033**	.479	.230

* p < .001

** p < .01

*** p < .05

juveniles more severely than did suburban or rural judges (Table 9). Despite the pronounced differences in sentencing severity, the same variables enter the urban, suburban, and rural regression equations in approximately the same order, with about the same beta weights, and account for virtually the same amount of variance in all types of counties. In urban counties, the regression equations account for 24.0% of the variance in home removal and 22.9% of the variance in institutionalization. In suburban counties, they explain 23.1% of the home removal variance and 23.2% of the variance in institutionalization. Finally, in rural counties, they account for 24.8% of the home removal variance and 23.0% of the variance in institutionalization.

Table 14 reports the regression equation for juvenile court sentencing decisions for the entire state. The independent variables account for 24.5% of the home removal variance and 22.6% of the confinement variance. A previous sentence removing a juvenile from home is the most powerful determinant of the present decision

TABLE 14
STATEWIDE
REGRESSION MODEL OF FACTORS INFLUENCING OUT-OF-HOME
PLACEMENT AND SECURE CONFINEMENT DISPOSITIONS

INDEPENDENT VARIABLES	ZERO-ORDER r	STANDARDIZED BETA COEFFICIENT	MULTIPLE R	R ²
<u>OUT-OF-HOME PLACEMENT</u>				
Prior Home Removal Disposition	.422*	.367*	.422	.178
Detention	-.265*	-.174*	.467	.218
Attorney	.229*	.103*	.483	.233
Offense Severity	.157*	.076*	.490	.240
Number of Offenses at Disposition	-.084*	-.061*	.494	.244
Urban		.023*	.494	.244
Age	.039*	.018**	.495	.245
<u>SECURE CONFINEMENT</u>				
Prior Secure Confinement Disposition	.414*	.354*	.414	.171
Offense Severity	.191*	.122*	.445	.198
Detention	.194*	-.111*	.462	.214
Attorney	.197*	.073*	.469	.220
Number of Offenses at Disposition	-.086*	-.053*	.471	.222
Prior Record	-.260*	-.037*	.473	.223
Age	-.023**	-.033*	.474	.224
Urban		.032*	.475	.225
Gender	.080*	.023**	.475	.226

* p < .001

** p < .01

*** p < .05

to remove from home (beta = 0.357). Similarly, a previous secure confinement sentence is the most powerful determinant of the present decision to incarcerate (beta = 0.354).¹¹¹ The next three vari-

¹¹¹ Two recent studies examined the effects of prior juvenile court sentences on present ones. Thornberry and Christenson reported that prior dispositions exerted a strong influence on the current dispositions and that repeat offenders receive the same type of disposition for subsequent offenses (*i.e.*, there is stability in sentencing). Thornberry & Christenson, *Juvenile Justice Decision-Making as Longitudinal Process*, 63 Soc. Forces 433 (1984). By contrast, Henretta, Frazier, and Bishop analyzed the effects of previous sentences while controlling for other variables and reported evidence of progression or escalation, rather than stability, in sentencing. Henretta, *Prior Case Outcomes*, *supra* note 62 at 561 ("[P]rior dispositions exert a fairly strong influence on the disposition of new offenses . . . There is evidence of progression or escalation in the severity of disposition of subsequent offenses.").

Although this study does not replicate those of Thornberry or Henretta, it provides evidence of the influence of prior dispositions on later sentences. The zero-order corre-

ables to enter the equations for home removal and secure confinement, albeit in somewhat different order, are pretrial detention, the presence of an attorney, and the seriousness of the present offense. A relationship between the seriousness of the offense and the severity of the sentence reflects a modicum of proportionality in individualized dispositions (Tables 8 and 9). A comparison of the beta weights indicates that previous dispositions are substantially more powerful determinants of the present sentence than is the seriousness of the present offense.

Pretrial detention exerts a significant influence on the eventual sentence imposed (home beta = -0.175 , institutionalize beta = -0.115). The presence of detention in the regression equations means that after controlling for the effects of the present offense, prior record, and other variables that detention and dispositions may share in common, detention *per se* exerts an independent effect on sentences. Other studies note the negative impact of pretrial detention on dispositions.¹¹² Recall, too, that urban courts detained larger proportions of juveniles than did suburban or rural courts (Table 10). Pre-trial detention status is about as important as the present offense (beta = -0.115 vs. 0.120) in the decision to confine

lations ("r") between prior home removal and present home removal, and between prior secure confinement and present secure confinement, show the strong relationship between the two decisions. For the state as a whole and in all types of counties, a previous sentence of the same type as the current sentence is the first variable to enter the regression equation, has a beta weight that is double or triple that of the next variables, and explains about two-thirds to three-quarters of the total explained variance in sentencing.

The relationship between the previous disposition and the present one is consistent with the traditional, rehabilitative juvenile court sentencing philosophy. If sentencing decisions are individualized to fit the offender rather than the offense, then regardless of the present offense, a repeat involvement calls for similar or greater intervention, absent a significant change in individual circumstances. Recidivism provides strong evidence that a juvenile has failed to "learn a lesson" or respond to "treatment." The previous disposition serves as a minimum constraint on the severity of the present sentence. To intervene less stringently is to give up and admit failure.

¹¹² See *supra* note 97 and accompanying text. The inclusion of detention in the regression equations indicates that it has a significant impact on sentences. It is possible that the association is spurious and that both detention and dispositions share common factors other than those for which this study can control but which explain the relationship between the two. For example, a juvenile's troubled home situation may result both in detention and subsequent home removal. It is just as plausible that the initial detention decision is "irrational," in the sense of having no formal legal rational basis, but then strongly influences subsequent decisions. An earlier study concluded that

[d]etention constitutes a highly arbitrary and capricious process of short-term confinement with no tenable or objective rationale In operation, detention almost randomly imposes punishment on some juveniles for no obvious reason and then punishes them again for having been punished before.

Feld, *Right to Counsel*, *supra* note 1, at 1338. See also Feld, *Criminalizing Juvenile Justice*, *supra* note 20, at 191-209.

and about twice as important ($\beta = -0.175$ vs. 0.077) in the home removal decision.

The state regression equations indicate that the presence of an attorney is an aggravating factor in a juvenile's disposition, accounting for about 1.5% of the variance in home removal and about 0.6% of the variance in secure confinement. Again, the urban courts had higher rates of representation than did the suburban or especially the rural courts (Table 7). While the overall explained variance is small, the beta coefficient indicates that the presence of an attorney has more influence on a youth's removal from home than does the seriousness of the offense (attorney $\beta = 0.103$, offense $\beta = 0.076$). This confirms other studies that found an attorney was an aggravating factor at sentencing.¹¹³

The other variables explain very little additional variance in sentencing. The beta signs associated with the variable "age" indicate a slight tendency to remove younger juveniles from their homes ($\beta = 0.018$) and to institutionalize older juveniles (-0.033). The beta sign for gender (0.023) indicates a tendency to institutionalize more male offenders than females. While statistically significant, none of these variables explain even 0.1% of the variance in sentencing.

Finally, the urban "dummy" variable enters the state regression equations for both the home removal and secure confinement dispositions. Recall that urban juveniles had several characteristics—more serious offenses and lengthier prior records (Table 5), larger proportions held in pre-trial detention (Table 10), and higher rates of representation (Table 7)—associated with receiving more severe sentences. However, the regression equation controls for the effects of these other urban-related variables. The simple fact that a case is tried in an urban court exerts an additional, independent effect on the severity of sentences. There is "justice by geography."

Other studies of juvenile court sentencing practices reported that legal variables exhibit a stronger statistical relationship than do social variables.¹¹⁴ The findings in this study are consistent—pres-

¹¹³ Feld, *In re Gault Revisited*, *supra* note 26; Feld, *Right to Counsel*, *supra* note 1.

¹¹⁴ Clarke & Koch, *Juvenile Court: Therapy or Crime Control, and Do Lawyers Make a Difference*, 14 LAW & SOC'Y REV. 263, 286 (1980) (present offense and prior record explain 31% of variance in sentencing); Feld, *Reference of Juvenile Offenders*, *supra* note 82, at 598-99 (survey of dispositional studies that typically explain about 25% of variance); Horowitz & Wasserman, *Some Misleading Conceptions in Sentencing Research*, *supra* note 2, at 411 (inclusion of social background variables with offense variables accounts for 26% of variance); Marshall & Thomas, *Discretionary Decision-making the Juvenile Court*, 34 JUV. & FAM. CT. J. 47, 57 (1983) [hereinafter Marshall, *Discretionary Decision-making*] (careful measurement of legal and extralegal variables "account for only a little more than a

ent offense and prior record (or previous sentence) account for about 25% of the variance in sentencing (Table 14, home $R^2 = 0.245$; institutionalize $R^2 = 0.226$). Most sentencing variance remains unexplained.¹¹⁵ Moreover, the negative effects of detention, representation, and urban location on sentences introduce further arbitrariness into the dispositional process.

A system of justice in which the most powerful explanatory variables—present offense and previous disposition—only explain 25% of the variance in sentencing remains a highly discretionary and, perhaps, discriminatory one.¹¹⁶ Substantial attenuation exists between a youth's criminal behavior and the severity of the disposition; minor offenders can receive more severe dispositions than serious offenders. Depending upon the county in which they are tried, the judge before whom they appear, or the process by which their guilt is determined, offenders with similar offenses and prior records can receive markedly dissimilar dispositions. The desirability of perpetuating such subjective and idiosyncratic sentencing goes to the heart of the juvenile court as an institution.

IV. DISCUSSION AND CONCLUSIONS—VARIETIES OF JUVENILE JUSTICE

Although the same statutes and court rules of procedure apply, urban, suburban, and rural social structural features (Table 1) relate consistently to substantive and procedural differences in juvenile justice administration. Urban courts operate in communities with

quarter of the variance in the judicial dispositions"); Thomas & Fitch, *Personal Characteristics and Juvenile Court Dispositions*, *supra* note 82, at 75 ("the levels of association between both objective and personal variables and case dispositions are of weak to moderate magnitude, suggesting that no single factor exerts a major independent influence on judicial decision-making").

¹¹⁵ Marshall and Thomas observed that "the juvenile justice process is so ungoverned by procedural rules and so haphazard in the attribution of relevance to any particular variables or set of variables that judicial dispositions are very commonly the product of an arbitrary and capricious decision-making process." Marshall & Thomas, *Discretionary Decision-making*, *supra* note 114, at 57.

¹¹⁶ Although the Minnesota SJIS coding forms include the variable "race," racial information is omitted by court personnel in most counties in the state. Moreover, the extreme urban-skew in the distribution of racial minorities in Minnesota (Table 1) further complicate analyses. Fortunately, Hennepin County (Minneapolis), which has the highest proportion of minority youths in Minnesota, routinely records a juvenile's race. An earlier study of effects of race on juvenile justice administration in Hennepin County reported significant differences in petitioning, detaining, and sentencing minority youths compared to whites. Feld, *Right to Counsel*, *supra* note 1, at 1261-74. However, black and other minority youths share other characteristics, such as poverty or family disruption, which may also increase their likelihood of receiving more severe sentences than white juveniles. Thus, the racial disparities in detention and sentencing in the urban setting may not prove racial discrimination.

more disrupted families, more racially heterogeneous populations and less residential stability, all of which provide fewer mechanisms for informal social control. The urban counties represent less well-integrated, cohesive communities with less "mechanical solidarity" than do the suburban or rural counties.¹¹⁷ Accordingly, urban counties place greater emphasis on formal, rather than informal, mechanisms of social control. This is reflected in the deployment of police (Table 2), as well as in juvenile justice administration.

The structural-geographic variation influences juvenile justice administration. In relation to their youth population, the urban courts receive a larger proportion of juveniles in all offense categories (Tables 3, 4). Compared with suburban or rural courts, urban courts received a larger proportion of referrals from non-police sources, particularly probation officers and schools (Table 5). The diversity of urban referral sources reflects a greater reliance on a more inclusive network of formal social control, which encompasses more troublesome youths in the community. By contrast, the suburban courts, with the lowest overall rate of juvenile court referrals, screened cases more selectively and focussed more on serious offenders and less on status offenders. Perhaps parental affluence and stability, relative to the urban or rural counties, enabled parents and court intake personnel to develop informal, alternative dispositions in lieu of formal court intervention for less serious suburban offenders. Finally, the rural courts dealt with the smallest proportions of juveniles charged with serious crimes and the largest proportion charged with status offenses.

As a result of geographic differences in delinquency, referral sources, and pre-petition screening, the juveniles appearing in the respective courts differ. Urban courts intervened more extensively in the lives of younger juveniles (Table 6), especially status offenders (43.0%), as contrasted with the suburban (19.9%) or rural (15.7%) courts. Conversely, suburban and rural courts processed more serious young offenders and more older status offenders. The differences in age and offenses suggest that serious crime by younger juveniles in non-urban settings requires an immediate response, whereas for less serious offenses, rural juveniles exhaust informal community alternatives before courts invoke formal processes.

Representation by counsel provides an indicator of a court's

¹¹⁷ See E. DURKHEIM, *THE DIVISION OF LABOR IN SOCIETY* 79-82 (1964) (Mechanical solidarity is based on similarity of individual characteristics. Social organizations emphasize the common attributes rather than the differences.).

formality or due process orientation. While the majority of youths in Minnesota appeared in juvenile courts without counsel (45.3%), geographic diversity in representation existed. The highest rates of representation occurred in the urban courts (62.6%), followed closely by the suburban courts (55.2%), while the rural courts provided only about one-quarter (25.1%) of delinquents with lawyers. The differential presence of counsel suggests basic differences in court orientation—an urban, due process or “formal rationality” model of justice versus a rural, traditional “substantively rational” juvenile court.

Earlier research reported a relationship between procedural formality and sentencing severity.¹¹⁸ This study provides even stronger support for the formality-severity relationship. The urban courts sentenced youths charged with similar offenses more severely than did the suburban or rural courts (Table 8). The pattern of urban severity remained even after controlling for the present offense and prior record (Tables 9, 14). Urban courts' greater use of pre-trial detention reflects their reliance on formal controls and more severe intervention (Table 10). Finally, the regression equations indicate that urban (Table 11), suburban (Table 12), and rural courts (Table 13) used similar “frames of relevance.” Despite the substantive focus on similar legal variables, however, urban courts sentenced similarly situated offenders more severely (Table 14). Other research also reports that urbanization exerts a contextual influence on sentences.¹¹⁹

Finding “justice by geography” vastly complicates the tasks of criminologists. As this research demonstrates, there is both a theoretical and empirical relationship between variations in social structure and in juvenile justice administration. Studies which analyze and interpret aggregated data without accounting for contextual and structural characteristics may systematically mislead and obscure, rather than clarify. Both theoretically and operationally, it is necessary to refine the relationships between social structure and justice administration. What structural features influence a juvenile court's procedural and substantive orientation? How does the local culture foster a traditional or due process orientation? How do the roles of counsel operating in these diverse socio-legal settings differ?

¹¹⁸ Feld, *Right to Counsel*, *supra* note 1 (more formal courts, where lawyers appeared routinely, sentenced juveniles more severely than did informal courts, where counsel appeared infrequently).

¹¹⁹ See, e.g., M. MYERS & S. TALARICO, *SOCIAL CONTEXT OF CRIMINAL SENTENCING* (1987); Myers & Talarico, *Urban Justice, Rural Injustice*, *supra* note 6.

Finding "varieties of juvenile courts" has important implications for juvenile justice policy. Recent trends in juvenile justice emphasize punishment over rehabilitation with a corresponding increase in procedural formality.¹²⁰ What is the relationship between procedural formality and sentencing severity? Does greater urban crime engender more punitive responses, which then require more formal procedural safeguards as a prerequisite? Or, does urban bureaucratization lead to more formal procedural safeguards, which then enable judges to exact a greater toll than they otherwise might? Increases in urban crime may foster a "war-on-crime" mentality that places immense pressures on the justice system to "get tough." Urban racial diversity may foster a more repressive response to crimes by "those people" than in more homogeneous rural settings. While Minnesota traditionally favored a progressive, rehabilitative approach to many social ills, urban formality and punitiveness may reflect a more recent trend in which the ethic of care and treatment is subordinated to restoring social order.

What are the comparative costs and benefits of formal versus informal dispute resolution in juvenile courts? While the formal urban courts imposed the most severe sentences, the suburban courts were nearly as formal and yet sentenced about as leniently as the rural courts did. While the relationship between formality and severity is troubling, an uncritical embrace of the traditional, informal juvenile court does not necessarily follow. In the rural juvenile courts, female juveniles are processed differently and more severely than are either rural males or female offenders in other settings. Does rural "substantive justice" necessarily connote gender-bias and the application of a paternalistic double-standard for which informal juvenile courts are justly criticized?

The policy choices between more or less formal juvenile justice are neither simple nor straightforward. Moreover, if a court's practices are rooted in its social structure, then simply amending laws may not produce the desired change. While diversity rather than uniformity historically characterized juvenile courts, whether such extensive local variation should continue or be encouraged is questionable. Should a system of laws and court rules of procedure be applied generally and uniformly throughout the state? Should local norms and values influence the imposition of sanctions such that youths convicted of similar offenses receive widely disparate consequences? If formal legal guidelines are adopted to structure discre-

¹²⁰ See Feld, *Criminalizing Juvenile Justice*, *supra* note 20; Feld, *Juvenile Court Meets Principle of Offense*, *supra* note 22; Feld, *Punishment, Treatment*, *supra* note 18.

tionary detention and sentencing decisions, will they reduce the severity of urban courts' intervention or increase the severity of rural courts? If juvenile sentencing guidelines actually limit judicial discretion, would they produce the worst of both worlds—restricting the efforts of individual judges or communities to rehabilitate their children, while perpetuating more rigid and severe sentences?