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March 23, 2017

The Fall of the Child Savers, The Rise of Juvenile Lockdown,
and The Evolution of Juvenile Justice in Twentieth-Century America

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Abstract

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By Rebecca Flikier

In 1967, the U.S. Supreme Court ruled in *In re Gault* that juveniles are legal persons entitled to procedural and due process rights. While liberals at the time hailed this ruling as a victory for children's rights, historians have since blamed the decision for the rise of juvenile lockdown facilities. However, the process of criminalizing and adultifying juveniles began long before *In re Gault*. This thesis tracks the cultural, socioeconomic, and political changes, beginning during World War II, that changed how Americans viewed children, and subsequently, how the criminal justice system treated juvenile offenders. It relies largely on the writings and correspondence of Justine Wise Polier, a juvenile court judge in New York City from 1935-1973. It situates juvenile justice in New York within the context of national trends and events. It examines contemporary periodicals, expert opinions, political platforms, and legal proceedings that collectively expose the changing public view of juveniles, and juvenile delinquents, over the course of the twentieth century. Ultimately, it seeks to understand how social movements and processes transformed the American perception of childhood and determined the development of the juvenile justice system.

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...

I dedicate this thesis to the loving memory of my dear friend, Brett Cohen.

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Introduction

In November 1954, a 12-year-old boy named David arrived before the Domestic Relations Court in New York City. David had allegedly committed delinquent behaviors including stealing and truancy. The court remanded David to Youth House, a rehabilitative and reform facility for delinquent boys. At Youth House, a psychiatrist determined that David's behaviors resulted from his family situation. He was born out of wedlock, his father disappeared, and his mother had remarried but then divorced. His behaviors, the psychiatrist reported, stemmed from the physical beatings he had received from his stepfather. Due to his inadequate parental management, David was poorly conditioned and never learned appropriate social conduct. Youth House staff found him to be self-involved, attention craving, emotionally disturbed, and mentally retarded. According to the psychiatrist, David had difficulty expressing himself, acted on impulse, and drew attention to himself through bad behavior to satisfy his basic needs.¹

This psychiatric report was representative of the juvenile justice process for most white children during the 1950s. Juvenile courts committed delinquent children to reformatory, rehabilitative institutions, where staff were to carefully examine the juvenile, analyze the familial and socioeconomic factors that contributed to his delinquent behavior, and design a remedial course of action to treat, rather than punish, the child. Most of these juveniles committed status offenses, actions that are not illegal in and of themselves, but that the law prohibits for juveniles. In the course of this process, juvenile offenders generally did not face prosecutors, nor did they receive assistance from an

¹ Justine Wise Polier Papers, 1892-2015; "Psychiatrist's Report of 12 Year Old Boy at Youth House," 23 November, 1954. MC 413, folder 88. Schlesinger Library, Radcliffe Institute, Harvard University, Cambridge, Mass.

attorney. No trial ensued. Children like David simply appeared before the judge, often with a social worker, probation officer, and the child's family, and informally discussed the best remedial course of action. Children did not receive legal protections because the state viewed their guilt or innocence as inconsequential. The state viewed its role as treating and helping the juvenile, not punishing him; thus, he did not need due process rights. Granted, the parental state largely excluded nonwhite children from its rehabilitative goals; often dismissing minority children as unworthy of saving. The scope of this thesis will predominantly focus on white delinquents and the rehabilitative goals of the state in reforming these children.

The rehabilitative approach that most white children encountered in the mid-twentieth century has essentially vanished in the new millennium. In February 2009, police in New Beaver, Pennsylvania charged 11-year-old Jordan Brown with murder for the death of his father's pregnant fiancée, Kenzie Houk, and her unborn child. After his arrest, police placed Jordan in the Lawrence County Jail, a facility for adults. Eventually, Jordan's lawyers successfully advocated for his transfer to Edmund L. Thomas Juvenile Detention Center in Erie, Pennsylvania. Jordan remained in detention for three years while Pennsylvania courts deliberated his status as a juvenile.² Prosecutors subsequently charged Jordan as an adult with criminal homicide.³ The county District Attorney's Office filed charges in adult court because Pennsylvania statute required all homicide cases to go to adult court, regardless of the defendant's age.⁴ If convicted, Jordan faced a sentence of life imprisonment without the possibility of parole. He pled not guilty to the

² Stephanie Chen, "Boy, 12, faces grown up murder charges," *CNN*, March 15, 2010.

³ *Ibid.*

⁴ Joe Mandak, "Judge: Pa. boy killed dad's pregnant fiancée at 11," *Associated Press*, April 13, 2012.

charges in May.⁵ Judge Dominick Motto of the Lawrence County, Pennsylvania Common Pleas Court, initially denied Jordan's transfer to juvenile court.⁶ On appeal, the Pennsylvania Superior Court ruled that the state needed to try Jordan as a juvenile. In April 2012, Judge John Hodge of the Lawrence County Family Court found Jordan responsible for first-degree murder in the death of Kenzie Houk, and of homicide for the death of her unborn child.⁷ Jordan's case is indicative of twenty-first-century juvenile justice. Prosecutors often charge youths as adults, and courts do not always redirect youth offenders to juvenile courts. Offenders who commit crimes even as young as Jordan at 12 years old still face substantial incarceration.

Although the courts eventually transferred Jordan's case to juvenile court, it is clear that the process he encountered as a juvenile offender was markedly different from David's experience in 1954. The lawyers, the trial, the appeals, the initial adult charges, and the ultimate conviction. These factors would have been foreign to David's 1954 experience with the juvenile justice system. Granted, David committed nonviolent, mostly status offenses, while Jordan committed murder. Nonetheless, the two boys faced completely different criminal justice systems and processes. Furthermore, even juveniles who committed more violent crimes during the mid-twentieth century faced a juvenile justice system much closer to David's experience than to Jordan's.

On September 28, 1964, two 12-year-old boys brutally assaulted and raped housekeepers in Brooklyn, New York, resulting in one of their deaths. Two weeks later, police brought one of the assailants, Gregory W., into the station for questioning

⁵ Chen, "Boy."

⁶ "Boy accused in pregnant woman's death to be tried as a juvenile," *CNN*, August 23, 2011.

⁷ Mandak, "Judge."

regarding an unrelated offense. Other detectives proceeded to question Gregory for the September 28 assault and murder. Gregory readily confessed to the crimes and led police to his accomplice, Gerald S. Upon further questioning, both boys provided more detailed accounts of the crime.⁸ Although the events occurred the year after *Gideon v. Wainwright*, wherein the Supreme Court ruled that all criminal defendants were entitled to legal counsel, neither boy received the aid of an attorney, unlike Jordan in 2009. Furthermore, while Jordan awaited trial in an adult jail, authorities detained Gregory and Gerald in the Youth House, like David, where psychiatrists evaluated the boys.⁹ Pursuant to New York's Family Court Act, police could only question a minor for, "a reasonable period of time...in a facility designed...as a suitable place for the questioning of children."¹⁰ Clearly, the protections in place for children like David, Gregory, and Gerald, during the 1950s and 1960s, that distinguished them from adult offenders were nonexistent for Jordan in 2009. In fact, the reader need not go beyond the title of the 1964 case to understand the context of juvenile delinquency during the mid-twentieth century: *In the Matters of Gregory W. and Gerald S.* demonstrates the state's mission to protect juveniles during this era, as it did not even make public the alleged offenders' last names. Furthermore, in naming the case "In the Matters of," rather than, "The State of New York vs. Gregory W. and Gerald S.," the state highlighted that it did not view this case as a criminal trial. This specification contrasts with *The Commonwealth of Pennsylvania v. Jordan Brown*.

⁸ *In the Matters of Gregory W. and Gerald S.*, 19 N.Y. 2d 55 (1966).

⁹ *Ibid.*

¹⁰ *Ibid.*

Ultimately, the difference between the mid-twentieth-century cases and the twenty-first century trial illustrate the transformation the juvenile justice system has undergone in the past half century. While the state has increasingly afforded children more criminal rights, like the right to an attorney, whose aid Jordan received, it has also increasingly subjected children like Jordan to incarceration in adult jails and prison-like facilities. Overall, the legal and criminal justice system has increasingly treated children as adults. This shift begs the questions: *How did the American juvenile justice system get here? What happened between the 1950s and the early 2000s to invoke such a stark transformation in American juvenile justice?*

To address this query, many experts turn to the 1967 Supreme Court decision, *In re Gault*, which granted juveniles procedural and due process rights for the first time. On June 8, 1964, police in Gila County, Arizona, took 15-year-old Gerald Gault into custody for allegedly making lewd phone calls. At his court hearing, the complainant was absent, the court made no transcript or recording, took no record of the proceedings, and swore in no witnesses. As a minor, Arizona state law did not permit him an appeal, and the court sentenced him to six years in the State Industrial School. The *maximum* penalty for an adult who had committed this same offense would have been 50 dollars and two months in jail. In an 8-1 decision, the Supreme Court held that the state could not deprive juveniles of their right to due process, including the right to an attorney, the right to remain silent, and the right to appellate review. Justice Fortas wrote that the Juvenile Court's benevolent motivation for rehabilitating juveniles was a "poor substitute for principle and procedure."¹¹

¹¹ *In Re Gault*, 387 U.S. 1 (1967).

For many historical and legal experts, *Gault* marked the end of the rehabilitative and reformatory juvenile justice system that David encountered in 1954, and the beginning of the criminalized and adultified justice process that Jordan experienced in 2009. In 1999, juvenile justice expert Barry Feld wrote that, “*In re Gault*’s procedural reforms provided the impetus for the substantive convergence between juvenile and criminal courts, so that today juvenile courts constitute a wholly owned subsidiary of the criminal justice system.”¹² In crediting *Gault* for the criminalization of the juvenile justice system, Feld and others ignore the historical events and developments over the course of the twentieth century that changed how Americans viewed children, and subsequently, how American society treats juvenile offenders.

This thesis seeks to explore the cultural, political, and socioeconomic transformations during the mid-twentieth century that altered America’s perception of the juvenile offender, and ultimately led to the rise of the juvenile carceral state. It will demonstrate how World War II and its effects on American society ignited a transformation in the concept of American childhood and adolescence. The cultural changes in postwar America dramatically and permanently transformed how Americans view juveniles, and led to calls for policy changes in the treatment of youth offenders. Thus, this paper concludes, *In re Gault* did not mark the beginning, but rather the *culmination* of a process of legal adultification and criminalization of youth offenders over the course of the mid-twentieth century, fueled by cultural and socioeconomic revolutions, that led the juvenile justice system to the carceral state that it is today.

¹² Barry C. Feld, “The Honest Politician’s Guide to Juvenile Justice in the Twenty-First Century,” *The Annals of the American Academy of Political Science*, Vol. 564, Will the Juvenile Court System Survive? (July 1999): 14.

Chapter One traces the transformation of the American childhood and the subsequent development of the juvenile justice system in white America in the late-nineteenth and early-twentieth centuries. It explores the role of juvenile courts, including individual justices, correctional facilities, and child welfare agencies in the treatment of juvenile offenders. While it focuses on institutions and actors in New York, it will clarify the ways in which these people and places are representative of or divergent from national trends at this time.

Chapter Two delves into the mentality of Americans, especially those involved in the juvenile justice system, regarding white delinquents during the 1940s and 1950s. It explains how Americans understood delinquency, the factors that they held accountable for youth crime, and the actions that society labeled as “delinquent” during these years. Again, New York will serve as a focal point, but the story will demonstrate how events and trends relate to those in other states and cities.

Chapter Three explores cultural and socioeconomic developments in the 1950s that led to a shift in America’s view of the delinquent in the 1960s. A newfound teenage culture that emerged as a result of WWII, a perceived rise in delinquency exacerbated by misleading statistics and media sensationalism, and a new image of the juvenile delinquent led Americans to increasingly view juveniles as adults and resulted in calls for increasing criminalization.

This is the story of how cultural, social, and political movements in the mid 1900s transformed how Americans perceived their children, and especially how they understood juvenile offenders. While *In re Gault* marked the culmination of these shifts, it is the processes of the decades leading up to the decision, and not the decision itself, that

resulted in the growth of the juvenile carceral state. When evaluating the current state of the American juvenile justice system, policymakers and advocates must realize the power in the American people and their social standards in the formation of the child criminal.

Chapter I: The Development of the Juvenile Justice System

From prehistoric times to the beginning of the nineteenth century, societies disregarded the importance of childhood, and considered children miniature adults, capable of physical labor. Adults expected children to begin working alongside them as soon as they were physically able. Societies held similar expectations for children and adults, and authorities punished improper behavior in a similar fashion, regardless of age. However, during the nineteenth century, views of children began to evolve. Adults started to take on the perception that children had unique needs and characteristics. Doctors and psychologists studied children, artists painted them, and educators taught children unique curricula.¹³ Correspondingly, the criminal justice system also evolved to treat children differently. By 1900, special juvenile courts took on the role of *parens patriae*, acting as parents on behalf of the state. Reformers built special legal institutions and detention facilities for juveniles. The juvenile delinquent became the focal point of family courts throughout the nation. However, reformers primarily sought to protect and rehabilitate white juveniles, largely ignoring minority children. This chapter details how changing views of juveniles during the nineteenth century translated into the development of the white juvenile justice system.

A Brief History of Childhood

The concept of childhood is a relatively modern phenomenon. For most of human history, society expressed little interest in children. Adults considered childhood an unimportant and inconvenient period before their offspring could begin contributing to

¹³ Barbara Kaye Greenleaf, *Children Through the Ages: A History of Childhood* (New York: McGraw-Hill, 1978), 45-51.

the family's sustenance.¹⁴ During prehistoric times, ancient civilizations, and the Middle Ages, parents taught their young how to gather food, barter, and practice a trade starting at an early age. As children worked alongside adults, there was little distinction between the two age groups.¹⁵ The perception of childhood in Europe began to evolve during the Enlightenment. Philosophers wrote about children as unique individuals, and artists highlighted children in portraits. For the first time, children received unique clothing, medicine, and education that were distinct from those for adults. However, authority figures still subjected children to harsh discipline in the home and the school. Misbehaved schoolboys received public flogging, the same punishment as adults.¹⁶ Therefore, while the idea of childhood emerged during the Enlightenment, society still associated children with adults in many ways.

The recognition of the child in Europe continued to expand in the Victorian Era. In 1740, publisher John Newbery began publishing books specifically for children, while society became more focused on children's health and welfare. As the Industrial Revolution transformed eighteenth-century Europe, children worked in factories alongside adults. Furthermore, Victorian Era children continued to receive brutal discipline. However, by 1800, people considered children fully important but socially different beings from adults. During the nineteenth century, reformers began to demand child labor laws, which furthered this distinction.¹⁷

While the development of American childhood progressed along similar lines, American children since the colonial era had more independence than their European

¹⁴ Greenleaf, *Children Through the Ages*, xiii.

¹⁵ *Ibid.*, 1, 8, 32, 37.

¹⁶ *Ibid.*, 45-52, 61.

¹⁷ *Ibid.*, 79, 82.

counterparts. Puritan colonists emphasized work ethic, but they nonetheless considered children separate from adults and ensured formal education for their youngsters.¹⁸ Like their European counterparts, American children labored during the Industrial Revolution and suffered from the effects of industrialization. However, during the 1800s, labor and compulsory education laws gave children higher standing in society.¹⁹ As Americans increasingly viewed children as unique individuals distinct from adults, lawmakers and reformers acknowledged the need for separate juvenile legal institutions.

The Emergence of Juvenile Courts

Beginning in the early-nineteenth century, the American legal system began to distinguish juvenile offenders from adults. The first group of juvenile justice reformers in the 1820s and 1830s successfully advocated for the creation of separate correctional institutions for minors. After the Civil War, reformers turned their energy to the establishment of juvenile courts.²⁰ Progressive Era reformers argued that childhood was a sacred stage of life that the state ought to protect legally, and they advocated for compulsory education, child labor laws, recreational facilities, and institutions of juvenile justice.²¹ The Illinois Juvenile Court Act of 1899 established the nation's first juvenile court in Cook County, Illinois.²² Lawmakers designed this court to avoid treating children as criminals. Juveniles did not face arrest, nor did they stay in cells with adult offenders.

¹⁸ Greenleaf, *Children Through the Ages*, 87-100.

¹⁹ *Ibid.*, 102-122.

²⁰ Jonathan Simon, "Power without Parents: Juvenile Justice in a Postmodern Society," *Cardozo Law Review* (1994): 1364.

²¹ Michael Willrich, *City of Courts: Socializing Justice in Progressive Era Chicago* (New York: Cambridge University Press, 2003), 214.

²² Simon, "Power without Parents," 1364.

Rather, parents, guardians, and probation officers brought children before the court for assistance. Judges attempted to act as the child's own parents, relying on their intuition about the youngster's "best interests" to guide their decisions.²³ This parental mindset describes the *parens patriae* philosophy that governed juvenile justice in the late-nineteenth and early-twentieth centuries. When parents did not properly rear a child, the state assumed the right to inherit parental duties.²⁴ Again, judges and Child Savers were largely concerned with reforming and parenting white children. Americans increasingly accepted this public responsibility during the late 1800s and early 1900s as their views of children evolved.

By 1920, the preference for judicial paternalism over trial and punishment had gained acceptance in the U.S. and began to spread throughout the globe.²⁵ The "Child Savers," a group of nineteenth and early-twentieth century upper-middle-class juvenile justice reformers, promoted this attitude. They believed that the courts ought not to accuse children of crimes but rather offer support and guidance.²⁶ For this reason, there was no prosecutor or trial. Judges encouraged a collaborative intervention between themselves, social workers, probation officers, mental health professionals, and charity workers. They imposed fines and imprisonment only as a last resort.²⁷ This process, clearly distinct from the criminal trial process of adult offenders, parallels the changing view of children during the early-twentieth century.

²³ Willrich, *City of Courts*, 213.

²⁴ Simon, "Power without Parents," 1386.

²⁵ Willrich, *City of Courts*, 209.

²⁶ Anthony M. Platt, *The Child Savers: The Invention of Delinquency*, rev. ed. (New Brunswick, NJ: Rutgers University Press, 2009), 137.

²⁷ Willrich, *City of Courts*, 210-213.

Since there was no trial, juvenile justice during the Child Savers era generally resembled a judge, social worker, police officer, delinquent child, and the child's family seated around a table talking. The judge often placed his arm around the child's shoulders in a patriarchal manner.²⁸ Such an image sharply contrasts trial proceedings of a criminal court. There was no need for a trial because the court was not concerned with the guilt or innocence of the child, and the state claimed to be more concerned with helping the child than punishing him. Courts disregarded the presumption of innocence afforded to accused adults in America in order to guarantee jurisdiction to treat and discipline the minor.²⁹ This parental form of juvenile justice continued into the early-twentieth century, as American society continued to evolve its views of children.

Historians label the twentieth century the "century of the child." As scientists began to study human development, G. Stanley Hall founded the field of child psychology, and Sigmund Freud examined the concept of childhood. According to historian Barbara Kaye Greenleaf, "Over the centuries, the child had moved from the obscurity of the wings to a prominent place on the stage of human life."³⁰ Throughout the 1900s, as American society began to study and focus on the child, children gained increasing legal distinction in courts nationwide.

By 1938, 46 states and the District of Columbia had juvenile courts. Judges continued to consider their courts "civil courts," with the responsibility to aid and protect children, rather than to convict them of crimes. In 1946, legislators passed the "Girls' Court Act of the City of New York," creating the Girls' Court of New York and granting

²⁸ Platt, *The Child Savers*, 144.

²⁹ Willrich, *City of Courts*, 213, 228.

³⁰ Greenleaf, *Children Through the Ages*, 126-128.

it exclusive original jurisdiction over girls ages 16 to 21. The law specified that this jurisdiction did not entail criminal proceedings. Rather, judges were to provide to each girl before the court, “custody, discipline, guidance, and control...conducive to the girl’s welfare.”³¹ Thus, legislators during the 1940s continued to view juvenile courts as non-criminal institutions intended to help, rather than punish, offenders.

However, juvenile court judges in the early- and mid-twentieth century attempted to expand their roles in the lives of children beyond their enumerated legal authority.³² They not only assumed the responsibility of studying the delinquent and helping put him on the road to social adjustment, relying on the resources and services within his community.³³ Juvenile courts also sought to understand what factors had brought each child before them and attempted to enlist community resources to help ameliorate these factors.³⁴ Chicago’s Boys’ Court was a court for 17- to 21-year-old young men. The main question it sought to address was who was at fault for each boy’s delinquent behavior, and its primary goal was to save the child for “future citizenship.”³⁵ Juvenile courts assumed that their offenders would come out of detention as better people and more productive citizens. Judges often tried to reduce first time felony charges (excluding murder, rape, and armed robbery) to misdemeanors, in order to minimize detention time

³¹ Justine Wise Polier Papers, 1892-2015; “Girls’ Court Act of the City of New York of 1946,” n.d. MC 413, folder 30. Schlesinger Library, Radcliffe Institute, Harvard University, Cambridge, Mass.

³² Willrich, *City of Courts*, 211.

³³ Justine Wise Polier Papers, 1892-2015; “The Role of A Juvenile Court in 1948,” 30 January, 1948. MC 413, folder 559. Schlesinger Library, Radcliffe Institute, Harvard University, Cambridge, Mass.

³⁴ Justine Wise Polier Papers, 1892-2015; “University of the Air,” 7 June, 1948. MC 413, folder 556. Schlesinger Library, Radcliffe Institute, Harvard University, Cambridge, Mass.

³⁵ Willrich, *City of Courts*, 240.

and save the child's future.³⁶ Each court intake began with a judge conducting an "informal talk" with the juvenile, a social worker, and the child's parents, with the goal of understanding the needs and background of the individual child. During the interview, the judge explained that the court was there to help the child, not punish him.³⁷ Through this process, the judge hoped to better understand why children found themselves in court, to work towards the ultimate goal of alleviating juvenile delinquency in the community.

In addressing this objective, many judges sought to engage various community actors. Judge Justine Wise Polier served on New York City's Domestic Relations Court from 1935 to 1973. Throughout her career, Polier often stressed the importance of community involvement in addressing juvenile delinquency. She believed that the judge's role was not just to treat the offender, but also to decrease delinquency in the community.³⁸ In line with Judge Polier's philosophy, the New York State Youth Commission (NYSYC) determined that the first task of the court was to find the child before he became a delinquent.³⁹ By assigning judges this task, the NYSYC hoped that judges would use their position on the bench to identify factors that contributed to the child's delinquency, allowing them to both alleviate these causes to save that specific child from future offenses, as well as to more broadly address these issues to decrease

³⁶ *Ibid.*, 227. Such violent crimes were extremely rare among juveniles during this era; see chapter two for a further explanation of types of crimes juveniles committed.

³⁷ Justine Wise Polier Papers, 1892-2015; "Memo to Each Justice of the Domestic Relations Court of New York City Re: Court Intake Project," 10 April, 1945. MC 413, folder 340. Schlesinger Library, Radcliffe Institute, Harvard University, Cambridge, Mass.

³⁸ Justine Wise Polier Papers, 1892-2015; "How Can We Curb Youthful Delinquency?", Town Meeting, 14 January, 1943. MC 413, folder 554. Schlesinger Library, Radcliffe Institute, Harvard University, Cambridge, Mass.

³⁹ Justine Wise Polier Papers, 1892-2015; "Stop Pushin'" New York State Youth Commission Bulletin I, n.d. MC 413, folder 435. Schlesinger Library, Radcliffe Institute, Harvard University, Cambridge, Mass.

future youth crime in their community. These goals differ from the goals of adult incarceration because courts considered the juveniles before them to be worth saving.

While juvenile court judges often sought to address the broader causes of delinquency in their communities, they were also responsible to carry out the duties enumerated to them in state and local statutes. In New York, juvenile courts operated under a state law dictating that once a court found a child to be delinquent or neglected, it could, “commit the child to the care and custody of a duly authorized association, agency, society, or institution.” The New York State Constitution of 1938 assigned the legislature the authority to provide “aid, care, support,” and education to juvenile delinquents and allowed both the state and municipalities to contribute to correctional facilities.⁴⁰ While private charities and agencies coordinated the majority of childcare and adoption services, the state helped fund these activities and acted as a convener for various service providers. In a 1943 town meeting on curbing delinquency, Polier defined the court’s role in convening public and private child welfare agencies to promote more cooperative and effective programs for children. She advocated for the entire community, including parents, teachers, and citizens, to work together to curb delinquency.⁴¹ Judges achieved these goals by participating in town hall discussions and conferences, publishing articles and letters, speaking at various community gatherings, and serving on advisory boards for schools, correctional institutions, and welfare agencies. While judges like Polier worked hard to engage the community from behind the bench, they were not the only state actors tasked with alleviating juvenile crime.

⁴⁰ N.Y. Const. art. VII, §8, pt. 2, art. XVII, §2.

⁴¹ Polier Papers, “Youthful Delinquency,” 14 January, 1943.

In addition to the courts, other state agencies and institutions worked to address juvenile delinquency in New York. During the 1940s, NYSYC helped municipalities study and analyze juvenile delinquency, coordinated child guidance and protective services, and rendered financial assistance to localities for children's services. In conjunction with the Commission, cities and counties created Youth Bureaus to coordinate public, private, and religious agencies devoted to youth welfare. Youth Bureaus in New York were eligible to receive up to 15,000 dollars annually in state aid. Municipalities also opened and operated recreation projects, facilities that provided leisure activities and space for youth, including sports, drama, crafts, dance, social games, and winter activities. The State of New York provided up to 250 dollars annually per one thousand children that these recreation centers served.⁴² Ultimately, by funding these various agencies and facilities, New York legislators demonstrated their wide-reaching commitment to addressing juvenile delinquency.

Juvenile Court Judges

With this preliminary understanding of the role and function of New York's juvenile courts during the 1940s and 1950s, it will be useful to examine how individual judges shaped juvenile justice and the experience of delinquents. In particular, this section details the background and judicial philosophy of Judge Polier, a leading figure in New York's family court system from 1935 to 1973. In many ways, Judge Polier characterized many of her contemporary colleagues. She practiced judicial activism and demonstrated a lifelong passion for reforming the juvenile justice system and

⁴² Polier Papers, "Stop Pushin'," n.d.

rehabilitating youth offenders. Her career illustrates the focus of many juvenile judges in advocating for community involvement and seeking to address the roots of juvenile crime. Her papers, which this thesis cites extensively, reveal that Polier did not always agree with her colleagues, and parts of this chapter will detail some of these debates. Nonetheless, Polier's personal and legal background are informative to the reader's understanding of many of her ideas and publications, which appear often throughout this essay.

Judge Justine Wise Polier

Justine Wise Polier was born in 1903 in Portland, Oregon to Rabbi Stephen S. Wise, a social activist, and Louise Wise, the founder of an adoption agency. Like her parents, Polier took an interest in child welfare at a young age and remained committed to social justice issues throughout her entire life.⁴³ Her parents raised her with much independence but instilled in her the values of work ethic, tolerance, and respect. She continually strove to better understand the lives of the disadvantaged. As a sophomore at Radcliffe College, she lived in a settlement house for underprivileged children next to Charles Street Jail in Boston, where she grew concerned for the poor and incarcerated. She believed that young people had the duty to “claim responsibility” for the social ills of their time.⁴⁴ After transferring to and graduating from Barnard College, she began working at a mill in New Jersey to better appreciate the lives of the working class. Her

⁴³ Edward Hudson, “Justine Wise Polier is Dead; A Judge and Child Advocate,” *New York Times*, August 2, 1987.

⁴⁴ Joyce Antler, *The Journey Home: Jewish Women and the American Century* (New York: The Free Press, 1997), 183, 186.

supervisors ultimately fired her from this job when they caught her organizing workers.⁴⁵ This experience ignited a spark in Polier to advocate for labor and workers' rights, especially for women. She decided to attend law school with the hope of better solving social problems and addressing the evils of capitalism, but ultimately became inspired to improve the lives of women and children.⁴⁶

Polier's desire to work on legal social justice issues was not atypical for a woman of her background. During the 1920s, a Jewish woman was eight times more likely to study law than the average American woman.⁴⁷ Like Polier, most Jewish women entering law school aimed to help others and address social ills. When Polier graduated from Yale Law School in 1928, law firms in New York City did not hire women.⁴⁸ Instead, Polier worked on a New York State committee to examine labor laws, then served as counsel to New York City. In 1935, Mayor Fiorello H. La Guardia appointed her to the Domestic Relations Court.⁴⁹ At the time, she was the first woman to hold a municipal judgeship in the county and was the youngest judge ever appointed to the bench. During her 38 years on the court, she practiced judicial activism for matters of public concern and social justice, believing the court was an agent of social change. She rooted her judicial philosophy in social and behavioral sciences, and favored rehabilitative treatment over punishment.⁵⁰ Polier advocated for an improved Family Court, better care for poor children, and the creation of a mental health unit. During World War II, she served on the

⁴⁵ Hudson, "Justine Wise Polier is Dead."

⁴⁶ Antler, *The Journey Home*, 182.

⁴⁷ *Ibid.*, 182.

⁴⁸ Hudson, "Justine Wise Polier is Dead." Antler, *The Journey Home*, 189.

⁴⁹ Hudson, "Justine Wise Polier is Dead." Antler, *The Journey Home*, 189.

⁵⁰ Antler, *The Journey Home*, 190-194. Joyce Antler, "Justine Wise Polier," *Jewish Women's Archives*, March 20, 2009.

committee of judges who oversaw and advised Wiltwyck School for disturbed and delinquent children in Esopus, New York.⁵¹ She was active on and off the bench in attempting to reform the child foster care system. In 1943, she published her first book, *Everybody's Children, Nobody's Child: Children and Youth Social Problems and Social Policy*. In this monograph, Polier criticized societal indifference to poor and orphaned children, and called for a greater devotion of resources for youths.⁵² An avid opponent of racial discrimination, Polier advocated for the integration of childcare facilities and was one of the first judges to eliminate the use of racial and religious classifications when assigning children to foster families or homes.⁵³

After her 1973 retirement from the bench, Polier continued to advocate for children and families around the world. She directed the Juvenile Justice Division at the Children's Defense Fund and served as president of the Marion E. Kenworthy- Sarah H. Swift Foundation, which advances mental and emotional health for children under 21. Cities, states, and foreign countries continued to seek Polier's expertise on developing children and family court services. For many years, Polier served as the president of Louise Wise Services, the adoption and childcare agency her mother founded in 1916.⁵⁴ While Judge Polier was an especially activist and outspoken judge, many of her colleagues similarly practiced judicial activism and favored rehabilitation over punishment.

⁵¹ Hudson, "Justine Wise Polier is Dead."

⁵² Justine Wise Polier, *Everybody's Children, Nobody's Child* (New York: Arno Press, 1974), ix-xi.

⁵³ Antler, *The Journey Home*, 193.

⁵⁴ Hudson, "Justine Wise Polier is Dead."

Ultimately, Judge Polier's life and career exemplified the judicial activism and community involvement typical of juvenile court judges during the mid-twentieth century. Like many of her colleagues, Polier was active not only from the bench in promoting children's welfare and fighting discrimination, but was also extensively involved with other organizations, agencies, and community actors. Polier and other judges not only directed children to correctional facilities, but also remained involved with these institutions' activities.

Juvenile Detention in New York

The institutions that many judges helped oversee were often the next step for juveniles who had appeared in their courts. After meeting with judges and social workers in the courts, youth offenders in New York City often arrived at one of several correctional homes and schools. While these institutions aimed to rehabilitate and treat offenders pursuant to Child Savers ideals, they often failed to carry out these goals. This section examines the development and conditions of correctional institutions.

In New York City, courts began incarcerating juvenile offenders with adults upon the opening of the New York State penitentiary in 1797. However, many New Yorkers grew concerned about housing impressionable youths with hardened adult criminals. The New York Society for the Prevention of Pauperism began to lobby for a separate juvenile facility beginning in the early 1800s. By 1825, the New York State legislature opened the House of Refuge for Delinquent Children in Manhattan. For 35 years, the court sent any minor convicted of a crime to the House of Refuge. In 1851, the Children's Aid Society

built the New York Juvenile Asylum to serve children below the age of 12.⁵⁵ The creation of these institutions parallels the increasing separation of children from adults and recognition of the unique needs of juveniles in nineteenth-century America.

Despite these reforms, courts sometimes remanded juveniles to adult jails when correctional youth homes were beyond capacity. Due to the increase in youths charged with crimes during WWII, law enforcement often temporarily placed pre-trial juvenile detainees in adult jails. Child advocacy groups again lobbied state legislators to not only provide separate facilities to juveniles, but to ensure that children did not stay in adult facilities under any circumstances. In 1945, New York state lawmakers passed legislation prohibiting the incarceration of minors in adult facilities. Reformers in other cities and states had succeeded in advocating for this type of legislation decades prior. In Chicago, the Juvenile Protective Association (JPA) fought hard to successfully abolish the incarceration of young offenders with adult criminals in 1914.⁵⁶ These laws increased the strain on existing juvenile facilities and ultimately led to the expansion of correctional institutions and the creation of new facilities. However, these facilities often failed in meeting their rehabilitative visions.

The Wiltwyck School

In 1937, the New York City Protestant Episcopal Mission Society founded the Wiltwyck School for the care of delinquent and pre-delinquent Protestant African-

⁵⁵ Sarina Roffe, "Juvenile Detention in New York: Then and Now," *John Jay College of Criminal Justice*, n.d.

⁵⁶ Willrich, *City of Courts*, 209.

American boys in Esopus, New York.⁵⁷ Before its founding, there was no other institution to which the courts could send black delinquent boys under the age of 12.⁵⁸ Courts had to choose between sending these children to adult correctional institutions and putting them back on the streets. After New York City officials passed the Antidiscrimination Act of 1942, Wiltwyck began accepting white boys, and it welcomed Catholic children beginning in 1950.⁵⁹ Interracial staff members oversaw the school's activities.⁶⁰ In 1949, administrators enumerated the school's mission statement:

Wiltwyck...accepts boys...referred or committed by New York City courts or by other agencies. Only children are considered who can profitably use its educational program of individualized treatment in a controlled and well-planned environment...We are interested in receiving boys at our Home who have failed when living with their own families or are rejected by their parents. We are interested in taking in boys who need more supervision or training than their families can provide for them. We are interested in boys who are so emotionally or socially untrained that they cannot fit into any private family, whether their own or foster family. We are interested in emotionally or socially retarded and handicapped children, whom we can help to develop normal social habits. By broadening their personalities and helping them to find acceptance, recognition, security, success, and prestige in a children's community, we are achieving this vital objective. Our treatment is child-centered and focused on human relations.⁶¹

Through this mission statement, Wiltwyck administrators demonstrated that the goal of the institution was to provide affection, not punishment. They hoped that after one or two terms at Wiltwyck, boys would become happy, relaxed, healthy children who directed

⁵⁷ Justine Wise Polier Papers, 1892-2015; "Report of the General Survey of the Wiltwyck School for Boys," 1951. MC 413, folder 45. Schlesinger Library, Radcliffe Institute, Harvard University, Cambridge, Mass.

⁵⁸ Justine Wise Polier Papers, 1892-2015; "Wiltwyck Interracial School for Maladjusted Boys," n.d. MC 413, folder 557. Schlesinger Library, Radcliffe Institute, Harvard University, Cambridge, Mass.

⁵⁹ Polier Papers, "Report of the General Survey of the Wiltwyck School for Boys," 1951.

⁶⁰ Polier Papers, "Wiltwyck Interracial School for Maladjusted Boys," n.d.

⁶¹ Polier Papers, "Report on the General Survey of the Wiltwyck School for Boys," 1951.

their energy towards constructive activities.⁶² This objective and mission fell in line with the Child Savers vision of juvenile justice and the *parens patriae* philosophy that required the state to act as a parental figure. In fact, administrators even called the counselors “house mothers” and “house fathers” to recreate a sense of parental authority in the boys’ lives. These efforts contrast the contemporary missions of adult prisons and demonstrate the juvenile justice system’s interest in rehabilitating delinquent children, rather than punishing them, during this era.

Wiltwyck’s founders constructed the school on 300 acres of unfenced fields. They chose a location 80 miles outside of New York City, surrounded by wildlife, and free from the stress and constrictions of urban life.⁶³ Boys were to live in cottages in groups of 18 to 24 under the supervision of counselors.⁶⁴ During the day, Wiltwyck hoped the boys would take classes, receive treatment services, and participate in a variety of leisure activities. The New York City Board of Education designed a special educational program for disturbed children, and Wiltwyck administrators sought to hire specially trained teachers to meet these students’ needs. Each week, residents were to participate in group therapy, psychological and psychiatric services, psychotherapy, or art therapy. In their leisure time, administrators hoped boys would chose from activities including various sports, music, performing and visual arts, outdoor activities, and entertainment. Wiltwyck leaders designed this program in hopes of providing children with order, regularity, and constructive guidance.⁶⁵ Through these goals, administrators made clear that they sought to treat and help delinquents, not punish them. Thus, like the courts,

⁶² Polier Papers, “Wiltwyck Interracial School for Maladjusted Boys,” n.d.

⁶³ Ibid.

⁶⁴ Polier Papers, “Report on Wiltwyck,” December 1948.

⁶⁵ Polier Papers, “Report on General Survey of the Wiltwyck School for Boys,” 1951.

correctional schools like Wiltwyck did not seek to treat juveniles like criminal offenders. Wilwyck's leadership viewed detention at the school as rehabilitation, not punishment, in line with the Child Savers' ideals.

The New York State Training School for Boys at Warwick

In 1929, New York State took over the New York City correctional farm facility and rededicated it as the State Training School for Boys in 1933.⁶⁶ The State built the school's campus on 800 acres of land and erected 40 buildings for living, schooling, working, and recreation. Designers planned for boys to live in one of 16 cottages, each with its own playing field. The campus included a lake and a 165-acre farm that produced milk, eggs, and pork for 20 surrounding hospitals and institutions. Warwick leadership hoped that boys would contribute to the farm's activities by feeding chickens, painting buildings, growing vegetables, pasteurizing milk, cutting the lawn, milking the cows, and baking bread. Administrators also provided other work opportunities, including paperwork, maintenance, and laundry. When boys were not working or in school, Warwick officials envisioned that their residents could swim and fish in Wickham Lake, read, use the gym facilities, or learn art, woodwork, or metalwork. They hoped to teach the boys the importance of community involvement by volunteering with organizations like the Red Cross, Boy Scouts, church groups, and other charities.⁶⁷ Through the variety of the activities they sought to provide, administrators at Warwick demonstrated the importance they afforded to work ethic and structured leisure time.

⁶⁶ "History of the Mid-Orange Correctional Facility: The New York State Training School for Boys," *Albert Wisner Public Library*, 2011.

⁶⁷ "The Warwick Story: The Story of New York State Training School for Boys... Presented as a Service by the Daily Record," *Times Herald Record*, 1957.

Warwick's founders set out to help each boy reach his fullest potential by understanding the cause of his actions so that they could more effectively target his rehabilitation. Upon the school's founding, Governor Herbert H. Lehman declared that all adult criminals started as juvenile delinquents. In order to address New York's crime problem, "We must start at the beginning, we must build character."⁶⁸ He directed the school's staff to first understand each individual boy's background, and then determine the best individualized course of treatment for the unique child. Through this treatment, Training School officials ultimately sought to make "fine citizens" out of the delinquent boys.⁶⁹ This goal reflected the broader philosophy of juvenile detention during the early twentieth century that aimed to rehabilitate boys for future citizenship. While Lehman stressed the importance of individualized treatment, he also viewed the Training School as a research laboratory to better understand the broader societal causes of behavioral problems.⁷⁰ Ultimately, the leaders of the Warwick Training School aligned their objectives with those of the mid-twentieth-century juvenile justice system to reform the juvenile offender without punishing him and involving the whole community.

Warwick staff worked to achieve these goals by treating each boy like an individual, attempting to understand each child's unique personality, strengths, and weaknesses. They sought to engage various agencies and members of the community in their efforts. Boys were to inhabit cottages with house parents, where they purportedly learned the importance of living, working, and playing with other boys.⁷¹ Again, the School structured this arrangement in hopes of better preparing the boys for life after

⁶⁸ "The Warwick Story," *Times Herald Record*, 1957.

⁶⁹ *Ibid.*

⁷⁰ *Ibid.*

⁷¹ *Ibid.*

Warwick. The School attempted to further this goal by maintaining contact between the children and their parents so as to supposedly ease the transition out of Warwick and back into family life.

Warwick leadership designed the intake process so as to begin with a physical medical exam and extensive psychological and psychiatric testing to understand the child's interests, aptitudes, and potential.⁷² According to a 1945 report, through this testing procedure, personnel placed 50 percent of boys in a "personality category," meaning the boy had serious emotional character and behavior problems that required clinical treatment. Experts diagnosed 20 percent of boys in a "situational category," indicating they had come into difficulties through their home environment, and still needed social work treatment. They classified 25 percent of boys in a "gang category," blaming gang activity for the development of the boys' antisocial activities, and assigned them to educational and vocational training. Finally, the last five percent of boys reportedly had serious medical problems.⁷³ Following this initial intake, Warwick staff was to conduct a six-week orientation program to prepare each boy for life at the School.⁷⁴ In designing these procedures, Warwick leaders reemphasized their objective to provide treatment and rehabilitation at their facility.

By 1953, the average population at Warwick was reportedly 420 boys on any given day. Ninety-seven percent of commitments were from New York City. For older teenage boys, the average length of stay was 10 months, but for younger boys it was 14

⁷² "The Warwick Story," *Times Herald Record*, 1957.

⁷³ Justine Wise Polier Papers, 1892-2015; "Report on New York State Training School at Warwick," 28 April, 1945. MC 413, folder 40. Schlesinger Library, Radcliffe Institute, Harvard University, Cambridge, Mass.

⁷⁴ "The Warwick Story," *Times Herald Record*, 1957.

months.⁷⁵ During this time, the boys' lives were to revolve around the home. Warwick staff expected residents to eat, sleep, and spend leisure time in the cottages, and hoped they would learn personal hygiene, housekeeping, and the dynamics of group living. Outside the cottage, Warwick administrators wanted boys to regularly meet with a social worker to discuss their problems, attitude, self-worth, self-understanding, and life in general. Warwick emphasized religious education, held services every Sunday, and employed full-time Catholic and Protestant chaplains and a part-time rabbi. These chaplains also attempted to provide additional individual counseling. School leaders aimed to offer boys remedial academic education at Warwick, as many residents allegedly had mental retardation. Administrators designed smaller classrooms that they hoped would individualize education, since many children had had negative schooling experiences. They also included in the curriculum art, music, physical education, and library services.⁷⁶ Ultimately, the design of Warwick State Training School highlighted the goal of providing students with a well-rounded academic and social education to make them fully functioning and productive citizens upon their return to their communities.

Race and Juvenile Justice

Although the Wiltwyck School housed interracial students and employed an interracial staff, it represented a rare exception to most juvenile correctional institutions during this time period. Unfortunately, the Child Savers and other white early-twentieth-

⁷⁵ Justine Wise Polier Papers, 1892-2015; Letter to Justine Wise Polier from Superintendent of Warwick Alfred Cohen, 22 January, 1954. MC 413, folder 30. Schlesinger Library, Radcliffe Institute, Harvard University, Cambridge, Mass.

⁷⁶ "The Warwick Story," *Times Herald Record*, 1957.

century juvenile justice reformers largely excluded black children from their efforts. In *The Black Child-Savers: Racial Democracy and Juvenile Justice*, criminologist Geoff K. Ward explains that the Progressive approach to juvenile justice in the late-nineteenth and early-twentieth centuries rehabilitated white youths for future citizenship while rejecting black children as “lost causes.”⁷⁷ In examining Northern, Southern, urban, and rural regions of the country, Ward finds that the juvenile justice system overall both denied black children access to rehabilitative institutions and excluded black adults from employment in these facilities.⁷⁸

Not only did the juvenile justice system exclude blacks from correctional homes and schools, but some state agencies and programs discriminated against minorities in their allotment of community resources. In *Who Gets A Childhood? Race and Juvenile Justice in Twentieth-Century Texas*, historian William S. Bush examines the exclusion of blacks and Hispanics from rehabilitative juvenile justice in twentieth-century Texas. In 1949, Texas Governor Beauford H. Jester introduced legislation creating a new state agency, the Texas State Youth Development Council (TSYDC), to promote community-based rehabilitation programs.⁷⁹ Although the TSYDC insisted it would provide fair treatment of each child regardless of race, in reality, it systematically excluded black and Mexican-American children from its mission of building community and citizenship.⁸⁰ The lack of community programming available to minorities was not a problem unique to Texas. While black children in New York had unusual access to rehabilitation at the

⁷⁷ Geoff K. Ward, *The Black Child Savers: Racial Democracy and Juvenile Justice* (Chicago: The University of Chicago Press, 2012).

⁷⁸ Ward, *The Black Child Savers*.

⁷⁹ William S. Bush, *Who Gets a Childhood?: Race and Juvenile Justice in Twentieth-Century Texas* (Athens, GA: University of Georgia Press, 2010), 93.

⁸⁰ *Ibid.*, 108.

Wiltwyck School, they nonetheless faced exclusion and discrimination from many child welfare services and programs. In the 1940s, Judge Polier reported that private childcare agencies discriminated against black children in foster home placement, while the City excluded minorities from crucial community services.⁸¹ Unfortunately, the exclusion of black children from the Child Saving goals was not a new phenomenon in the twentieth century, nor was it to end quickly thereafter.

Conditions in Correctional Institutions

Despite the rehabilitative goals of correctional homes and schools, most administrators failed to uphold their institutions' original visions. Frequent evaluations and reports of juvenile detention centers in New York revealed the poor treatment that delinquents endured. In a 1948 report on the Wiltwyck School, observers noted the inadequate training of staff. They described distrust and suspicion between the caseworkers and the administration, noted that there was not enough supervision of caseworkers, and found there to be no training for counselors. Surveyors also noted that there were not enough women staff members.⁸² While the assessors found the medical care to be adequate, visitors in 1951 reported that there were insufficient health examinations before admission. Therefore, some conditions had actually worsened over these three years. The 1951 observers also noted physical deficiencies at the Wiltwyck

⁸¹ Justine Wise Polier Papers, 1892-2015; "Temporary Care and Detention of Dependent, Neglected, and Delinquent Children in New York City," 1945. MC 413, folder 302. "Report on the Critical Situation Facing the Children's Court of the City of New York in Regard to the Placement of Neglected and Delinquent Children for Temporary and Longterm Care," 28 December, 1945. MC 413, folder 43. "A Day in the Children's Court- As One Judge Sees It," December 1948. MC 413, folder 559. Schlesinger Library, Radcliffe Institute, Harvard University, Cambridge, Mass.

⁸² Polier Papers, "Report on Wiltwyck," December 1948.

School. They witnessed a lack of adequate beds and equipment, poor housekeeping standards, and unsanitary facilities. Beyond the physical conditions of Wiltwyck, assessors continued to criticize the delivery of services and implementation of the school's mission. They cited insufficient integration of services between intake caseworkers and daily counselors, and inadequate psychiatric services. The 1951 assessors also continued to report a lack of female staff. Overall, the later observers found that the staff did not understand the administration's philosophy of care.⁸³

Unfortunately, these issues were not unique to the Wiltwyck School. In a 1945 report on the Warwick State Training School, surveyors found that the state did not provide enough recreational equipment, leading to the emergence of serious conflicts. Since there was inadequate space or resources for leisure activity and no program or direction for the use of free time, boys hardly ever left their cottages. They remained miserable inside with low morale and resentful attitudes.⁸⁴ This problem contributed to racial tension and conflict. Dr. Jolowicz, the school psychologist, reported that 70 percent of the Wiltwyck population was black. During the summer of 1945, Jolowicz observed race riots erupting between white and black students. He also reported that house parents indulged in serious corporal punishment, although New York State law forbade it.⁸⁵

The violence Dr. Jolowicz reported was not confined to Warwick nor to violence between inmates. At youth homes for both boys and girls, children reported sexual

⁸³ Polier Papers, "Report on General Survey of the Wiltwyck School for Boys," 1951.

⁸⁴ Justine Wise Polier Papers, 1892-2015; "Report on New York State Training School at Warwick," 28 April, 1945. MC 413, folder 40. Schlesinger Library, Radcliffe Institute, Harvard University, Cambridge, Mass.

⁸⁵ Justine Wise Polier Papers, 1892-2015; "Interview with Dr. Jolowicz," 24 August, 1945. MC 413, folder 30. Schlesinger Library, Radcliffe Institute, Harvard University, Cambridge, Mass.

assault both between inmates and between inmates and staff. In 1946, Frank J. Cohen, the executive director of Youth House, recommended individual rooms for detention centers after several incidents of sexual violence between inmates. He also reported sexual assaults in bathrooms, where staff provided little supervision.⁸⁶ Echoing Cohen's concerns, in 1951, a troubled mother wrote to the Domestic Relations Court after her daughter's stay in a psychiatric hospital. The court had remanded her child to the institution for failing to attend school. However, during her stay, she became infested with lice, and suffered abuse and molestation at the hands of male patients and staff members. According to her mother, the child was much sicker when she left the institution than when she entered it.⁸⁷

These issues in New York correctional institutions reflected broader nationwide trends during this era. In *Who Gets a Childhood?*, Bush examines the conditions of detention homes in Texas and other states during the twentieth century. He reports that legislators began to inspect juvenile detention facilities in the 1940s and were horrified by the corporal punishment and other violent behaviors that they witnessed. Observers discovered that in using violence on inmates, correctional officers only encouraged violent behavior among them. Surveyors were especially horrified with the methods staff used to discipline girls; violence and sexual predation that were likely factors responsible for girls leaving home in the first place.⁸⁸ One former inmate recalled, "It's not a

⁸⁶ Justine Wise Polier Papers, 1892-2015; "Observations and Recommended Practices for a Juvenile Detention Care Program in New York City," January 1946. MC 413, folder 79. Schlesinger Library, Radcliffe Institute, Harvard University, Cambridge, Mass.

⁸⁷ Justine Wise Polier Papers, 1892-2015; Letter to Judge from Concerned Parent. 30 May, 1951. MC 413, folder 77. Schlesinger Library, Radcliffe Institute, Harvard University, Cambridge, Mass.

⁸⁸ Bush, *Who Gets a Childhood?*, 65-70.

corrective institution. It's a place of punishment. I've seen girls as young as 12 or 13 suffer treatment that shouldn't be given to a hardened criminal...I need help, not punishment. I was emotionally upset."⁸⁹ Clearly, the harsh punishment this former inmate described struck a contrast with the rehabilitative treatment the Child Savers envisioned, and the founders of many of these institutions set out to provide. According to historian Mara Dodge, reports of abuse and isolation within juvenile facilities nationwide continued throughout the 1950s.⁹⁰ Thus, despite the rehabilitative goals of the Child Savers, the administrators of most juvenile detention facilities were unable to implement effective treatment due to the persistence of poor conditions.

Conclusion

Ultimately, as society began to recognize the distinct nature of children during the nineteenth and twentieth centuries, many Americans saw the need for distinct juvenile justice institutions. Child Savers in the late 1800s designed juvenile courts that attempted to guide the juvenile as a parent would, drawing a sharp contrast between juvenile and adult criminal justice. Juvenile court judges expanded their roles as *parens patriae* by involving entire communities and various agencies and institutions in their attempts to fulfill Child Saving ideals. However, when detention homes and state agencies failed to live up to these ideals, juvenile delinquency persisted throughout the twentieth century. Throughout the 1940s and 1950s, various voices in the American public blamed different factors for the persistence and perceived rise in juvenile crime. Though these alleged

⁸⁹ *Ibid.*, 112.

⁹⁰ Mara L. Dodge, "'Our Juvenile Court Has Become More like a Criminal Court': A Century of Reform at the Cook County (Chicago) Juvenile Court," *Michigan Historical Review*, Vol. 26, No.2 (Fall 2000): 70-71.

causes would vary, they all involved external forces, highlighting the contemporary view that children were not independent actors, but products of the world around them, in need of molding by the parental state. However, the Child Savers mentality would begin to fall by the mid-twentieth century due to the changing face of juvenile crime, an increased sense of independence among teenagers, and a perceived rise in youth delinquency. Eventually, the perceived exacerbation of delinquency would lead to reversals of the Child Savers concept of childhood, resulting in increasing criminalization and adultification of children. This evolution would ultimately culminate with the 1967 *In re Gault* decision, solidifying children's standing as legal persons in the eye of the law. However, this gradual transformation would take several decades. In the mid-twentieth century, the juvenile justice system still sought to protect and infantilize the youth offender.

Chapter II: Juvenile Delinquency During and After WWII

During the 1940s and 1950s, Americans continued to view juveniles as permeable minds that were not responsible for their own behavior. Judges and other experts turned to a variety of external factors to blame for youth delinquency. While liberals often focused on factors like budget cuts for social programming and the stress of wartime violence, conservatives tended to accuse feminism, urbanization, popular culture, lack of religion, and the breakdown of the family for the actions of juveniles. Despite differences in opinion regarding which influences most prominently drove delinquency, the majority of Americans agreed that the juvenile was not a willful actor, but that some external force determined his decisions and behavior. This belief aligned with the ideals and goals of the juvenile justice system during the mid-twentieth century, which viewed children as non-persons in need of the state's protection and guidance. The state sought to protect juveniles by regulating behavior that it did not deem appropriate for minors. In fact, as the following section details, the majority of juvenile "crimes" during the 1940s and 1950s were nonviolent, victimless offenses that were illegal simply because legislators wanted juveniles to refrain from such actions. Thus, through such laws and regulations, the state further acted as a parent and control over youths. This regulation of behavior further demonstrated the infantilization of American youths during the mid-twentieth century, highlighting the view of juveniles as non-willful actors.

Defining Delinquency

In order to better understand the anxiety surrounding juvenile delinquency during the 1940s and 1950s, it is essential to examine what these offenses entailed. In criminal

law, there are two types of offenses, *mala in se* and *mala prohibita*. *Mala in se* offenses are actions that any rational person would find inherently wrong, including murder, assault, and rape. Societies nearly universally accept these behaviors as morally abhorrent. By contrast, *mala prohibita* crimes are actions that are illegal simply because lawmakers have decided they are, like underage drinking or driving above the speed limit. Juvenile delinquency includes both *mala in se* crimes and actions that lawmakers have only criminalized for minors, like incorrigibility and truancy. This latter category is also labeled *status* offenses. In the early- and mid-twentieth century, juvenile crimes were nearly always *mala prohibita* behaviors that did not conform to social expectations, but would be legal if adults committed them. In the early 1900s, more than half of juvenile delinquency cases in Chicago represented what authorities labeled “disorderly conduct,” a wide variety of behaviors including loafing on street corners, loitering, sleeping outside, shaking dice, playing ball in the street, “being in bad company,” refusing to work, swearing, kissing in public, and singing in public.⁹¹ During these years, juvenile delinquency clearly represented a rejection of behavior that society deemed inappropriate for minors.

This classification of juvenile crime continued into the mid-twentieth century in major cities across America. In New York in 1945, Drs. Healy and Bronner defined delinquency as, “anti-social behavior through which the child seeks expression where ordinary forms of expression have either been barred or proven unsatisfactory.”⁹² Thus, the defining element of juvenile delinquency was “anti-social behavior,” rather than *mala in se* behavior that society considers a crime in and of itself. Indeed, in a 1950 report, the

⁹¹ Willrich, *City of Courts*, 220.

⁹² Polier Papers, “University of the Air,” 7 June, 1948.

executive director of the New York City Youth House noted that only five percent of admissions were for crimes that would have been felonies if adults committed them.⁹³ In 90 percent of delinquency cases, the community's chief complaint was that the child was hostile and aggressive; thus, not conforming to societal standards.⁹⁴ Often, authorities brought children into the court for being "incorrigible" or "ungovernable."

One of the most common offenses was truancy. In 1954, 2,000 children were absent from New York City schools every day, 600 of whom were unlawfully truant.⁹⁵ The Domestic Relations Court Act made habitual truancy a crime and gave the court jurisdiction over this delinquent behavior. The New York Education Law gave police officers authority to arrest any minor who was unlawfully absent from school.⁹⁶ According to Judge Polier, "truancy is now generally recognized as the first clear danger sign of an underlying social maladjustment."⁹⁷ Again, the judge highlighted "social maladjustment," reinforcing the court's definition of delinquency as a disregard for social obligations. Like Polier, many people considered truancy the first step to more serious delinquency. Chicago School sociologist Frederic Thrasher vocalized this fear:

"Beginning as a truant, he becomes in turn a minor delinquent, a hoodlum, a reckless young sport or daredevil, an occasional criminal, and finally, if nothing intervenes, he

⁹³ Justine Wise Polier Papers, 1892-2015; "Sixth Annual Report of Executive Director to Board of Directors," 31 March, 1950. MC 413, folder 80. Schlesinger Library, Radcliffe Institute, Harvard University, Cambridge, Mass.

⁹⁴ Justine Wise Polier Papers, 1892-2015; Untitled report, n.d. MC 413, folder 29. Schlesinger Library, Radcliffe Institute, Harvard University, Cambridge, Mass.

⁹⁵ Justine Wise Polier Papers, 1892-2015; "Court Studying Law on Naming Truancy Head," 1954. MC 413, folder 77. Schlesinger Library, Radcliffe Institute, Harvard University, Cambridge, Mass.

⁹⁶ Justine Wise Polier Papers, 1892-2015; "Report on Education and Delinquency," n.d. MC 413, folder 77. Schlesinger Library, Radcliffe Institute, Harvard University, Cambridge, Mass.

⁹⁷ Polier Papers, "Court Studying Law," 1954.

develops into a seasoned gangster or a professional criminal.”⁹⁸ Thrasher and Polier’s analyses of truancy illuminated broader societal fears for the disregard for social expectations among juveniles during the early- and mid-twentieth century.

In a 1946 report on the Youth House, officials described a boy whose mother had died and whom authorities had caught staying out late at night.⁹⁹ Though this behavior was not a crime for adults, society did not consider it to be proper behavior for a youth, thus resulting in the child’s admission to the correctional home. In 1947, the court admitted a child named Joseph to the Youth House. Joseph had ran away from home, quarreled with and disobeyed his mother, been truant from school, and maintained friends with girls instead of boys. While none of these behaviors were mala in se crimes, they qualified Joseph as a delinquent because they defied contemporary societal norms. A psychiatrist at Youth House diagnosed Joseph with “anti-social personality.”¹⁰⁰ These examples demonstrated the nature of most juvenile delinquency cases during the 1940s and 1950s; nonviolent, victimless offenses that did not violate mala in se standards but defied contemporary societal expectations for youth behavior.

Nonetheless, many children in correctional institutions were perpetrators of more serious offenses. From October 15 to November 25, 1946, six boys aged 13 to 15 arrived at the Youth House for stealing. One boy had even been stealing with his seven-year-old

⁹⁸ Willrich, *City of Courts*, 215.

⁹⁹ Justine Wise Polier Papers, 1892-2015; “Report on Youth House Intake,” 25 November, 1946. MC 413, folder 79. Schlesinger Library, Radcliffe Institute, Harvard University, Cambridge, Mass.

¹⁰⁰ Justine Wise Polier Papers, 1892-2015; “Youth House Report on Joseph,” n.d. MC 413, folder 82. Schlesinger Library, Radcliffe Institute, Harvard University, Cambridge, Mass.

brother.¹⁰¹ In 1948, authorities detained 16-year-old Michael for breaking and entering with the attempt to rob a home.¹⁰² The court charged an unnamed 14-year-old boy with vandalism after he defaced his school.¹⁰³ By 1950, the executive director of Youth House reported that out of the home's 1000 admissions in the past year, 355 cases (35.5 percent) represented property-related offenses. Boys most frequently committed burglary (193 cases), followed by larceny (42 cases), and robbery (40 cases).¹⁰⁴ Thus, while delinquent boys during the 1940s primarily committed mala prohibita offenses, those who did perpetrate property crimes were likely to be nonviolent.

Although much less common, some delinquents did commit violent crimes. Walter, a boy at the Wiltwyck School, began practicing violent behavior one year after his father went to prison for murder. Neil demonstrated a need to disrespect authority and deep emotional insecurity, arriving at Wiltwyck after nearly stabbing an 11-year-old girl to death.¹⁰⁵ The court sentenced an unnamed, 14-year-old boy to the Youth House after he shot his brother while playing with a rifle. Authorities sent another boy to Youth House for possession of a knife during a gang fight.¹⁰⁶ However, these children represented the exception, rather than the rule. Out of the 1000 boys admitted to the Youth House from April 1949 to March 1950, only 32 (3.2 percent) offenders perpetrated

¹⁰¹ Polier Papers, "Report on Youth House Intake," 25 November, 1946.

¹⁰² Polier Papers, "A Day in the Children's Court- As One Judge Sees It," December 1948.

¹⁰³ Justine Wise Polier Papers, 1892-2015; "Juvenile Delinquency: A Family Affair," n.d. MC 413, folder 559. Schlesinger Library, Radcliffe Institute, Harvard University, Cambridge, Mass.

¹⁰⁴ Polier Papers, "Sixth Annual Report," 31 March, 1950.

¹⁰⁵ Polier Papers, "Wiltwyck Interracial School for Maladjusted Boys," n.d.

¹⁰⁶ Polier Papers, "Report on Youth House Intake," 25 November, 1946.

violent crimes, including 25 for assault and robbery, and seven for armed robbery.¹⁰⁷

Therefore, the vast majority of incarcerated juveniles during the 1940s were perpetrators of nonviolent status offenses.

Delinquent Girls

Even more often than boys, girls in the juvenile justice system generally committed nonviolent, victimless offenses that were only illegal because they defied contemporary social expectations for girls. Authorities often brought girls before the court on charges related to immorality, incorrigibility, and sexual offenses. In 1948, nine-year-old Phillipa came before the court for running away from home three times. On the third occasion, she accepted three dollars to allow a 54-year old man to have sexual relations with her. The judge did not find her to be a delinquent, ruling that she had no responsibility for the actions and was the victim of neglect.¹⁰⁸ However, at this time there was no court or institution to rehabilitate neglected girls like Phillipa.¹⁰⁹ Instead, the juvenile justice system stigmatized girls who committed “immoral” acts as criminals.

In the 1950s, the courts committed girls like Phillipa to correctional institutions. A girl named Helen arrived at Girls’ Camp in January 1951 on charges of committing sexual acts with other girls and two adult males, drinking alcohol, and staying outside her home overnight. The following week, the court sent young Antoinette to Girls Camp for having sex with two juvenile boys. Staff members diagnosed her with schizophrenia and

¹⁰⁷ Polier Papers, “Sixth Annual Report,” 31 March, 1950.

¹⁰⁸ Polier Papers, “A Day in the Children’s Court,” December 1948.

¹⁰⁹ Justine Wise Polier Papers, 1892-2015; “Girls’ Term of Magistrate’s Courts of New York City,” 1 June, 1951. MC 413, folder 29. Schlesinger Library, Radcliffe Institute, Harvard University, Cambridge, Mass.

remanded her to Bellevue Hospital, where other experts re-diagnosed her with “primary behavior disorder,” then admitted her to the State Training School in June.¹¹⁰ In its handling of Antoinette, the state demonstrated its inability to properly treat girls with mental health issues.

The state also continued to stigmatize sexual or immoral behavior for teenage girls and young women. In 1952, the mother of 13-year-old Milagros brought her daughter before the court for incorrigibility, disobedience, and remaining out one night until 11 p.m. The state psychiatrist diagnosed her with a behavioral disorder.¹¹¹ In bringing her before the court and diagnosing her with a mental illness, Milagros’s mother and the state illustrated society’s stigmatization of girls’ independence and sexuality in the 1950s. Throughout the decade, parents increasingly petitioned the arrest of their daughters, and police increasingly arrested girls for incorrigibility and sexual offenses. While few parents were involved in the arrest of boys, they played a role in the majority of girls’ arrests.¹¹² These parents demonstrated society’s increasing concern of the corrupting forces of society on girls in the 1950s. Juvenile delinquency in this era primarily consisted of behaviors that society deemed inappropriate for children, and Americans placed more social restrictions on the actions of girls than of boys. According to Youth House for Girls consultant Frank Cohen, these female delinquency cases

¹¹⁰ Justine Wise Polier Papers, 1892-2015; Memos on Helen and Antoinette. January 1951. MC 413, folder 86. Schlesinger Library, Radcliffe Institute, Harvard University, Cambridge, Mass.

¹¹¹ Justine Wise Polier Papers, 1892-2015; Memo on Milagros, 31 July, 1952. MC 413, folder 86. Schlesinger Library, Radcliffe Institute, Harvard University, Cambridge, Mass.

¹¹² Justine Wise Polier Papers, 1892-2015; “Pilot Study: Youth House for Girls Comparative Statistical Analysis of 47 Girls in Residence for More than 35 Days as of January 1, 1959,” 25 February, 1959. MC 413, folder 46. Schlesinger Library, Radcliffe Institute, Harvard University, Cambridge, Mass.

evidenced an “alarming picture of moral, cultural, and sociological problems.” In a 1959 analysis of the correctional home, Cohen observed:

In the absence of other organized community forces to treat with the growing problems of the adolescent girls, the courts are impelled to act upon the complaints of parents, guardians, etc., who request relief and direction to curb the wanton excesses of their daughters. As a result the girls are remanded to detention where they remain for long periods of time to await study, and then further prolonged stay for placement.

Parents and guardians were often insufficiently stable to help their daughters. They knew how to turn their children into the police and the courts, but were often unable or unwilling to help their daughters through community resources, like social welfare or mental health agencies.¹¹³ In turning their daughters in to police and the courts, parents of the 1950s demonstrated their disapproval for behaviors that violated societal expectations for girls.

Girls in the juvenile justice system continued to face incarceration largely for the commission of *mala prohibita* crimes, which lawmakers only forbade for minors, and generally only enforced for girls. Out of the 47 cases in Cohen’s study, nine girls (19 percent) were incorrigible and ungovernable, eight (17 percent) had sex relations, seven (15 percent) left home, four (nine percent) were runaways, two had stayed out late, and one was the *subject* of a rape. Only one girl had committed a property offense, and a mere eight girls had committed crimes against persons.¹¹⁴ Thus, 81 percent of girls in Cohen’s study committed nonviolent, victimless crimes. The vast majority of females in the juvenile justice system during the 1950s were only guilty of committing actions society had deemed improper for young ladies. The stigmatization and attempt to regulate

¹¹³ Polier Papers, “Pilot Study,” 25 February, 1949.

¹¹⁴ Polier Papers, “Pilot Study,” 25 February, 1949.

these types of behaviors in juvenile girls further reflected the state's attempt to infantilize juveniles during the Child Savers era.

The state treated girls who committed "immoral" acts as mentally ill and in need of psychiatric help. Psychiatrists at the Youth House for Girls diagnosed residents with "personality trait disturbance," "passive aggressive personality," "adjustment reaction to adolescence," and "mental defective range." They determined that half of the girls had "inadequate personality, poor impulse control, psycho-neurotic reaction, neurotic character disorder, schizoid tendencies and personalities...emotionally disturbed, conduct disturbance." Thus, even mental health professionals during the 1950s conformed to societal standards that dictated that staying out late, disagreeing with parents, and exploring sexuality were criminal or deviant adolescent behaviors.

Perceived Causes of Juvenile Delinquency

Until the late-twentieth century, the American juvenile justice system did not view the juvenile offender as a willful actor capable of making his or her own decisions. Instead, judges, reformers, community activists, and other involved stakeholders blamed a variety of external factors for youth delinquency. During the 1940s, many of these external forces related to the immediate effects of WWII. While leftists blamed budget cuts and lack of social spending, conservatives blamed feminism and the breakdown of families. Even after the war's end and into the 1950s, experts continued to blame the after-effects and related consequences of WWII for youth behavior. Besides the war, other actors involved in the juvenile justice system focused on socioeconomic and cultural changes as contributors to youth crime. Conservatives began to attack popular

culture and a disregard for traditional values. Some judges and other stakeholders blurred political ideologies and blamed a variety of these factors. Regardless of which factors they emphasized, nearly all experts blamed external forces for youth behavior, reflective of the contemporary belief that children were non-willful actors.

World War II

During the 1940s and 1950s, many elites blamed the effects and after-effects of WWII for the perceived rise in juvenile crime. Conservatives believed the absence of parents from the home as fathers left for war and mothers began working for the first time left children without discipline and authority.¹¹⁵ Many assumed that children acted improperly during and after WWII because when they were growing up, they “were denied the guidance of their fathers who were at war.” Subsequently, parents began feeling like teenagers had “been liberated from adult control.”¹¹⁶ They often referred to these teenagers as “latchkey children” since they took care of their own households during the war, often without parental consent or supervision.¹¹⁷ In a September 1942 article for *PM* magazine, entitled “We’ve Let the War Make Lawbreakers of Our Children,” Judge Polier blamed WWII for the alleged increase in juvenile delinquency. She noted that children from good homes and decent socioeconomic status continued to

¹¹⁵ Laura L. Finley, *Juvenile Justice* (Westport, CT: Greenwood Press, 2007), 61-62.

¹¹⁶ Finley, *Juvenile Justice*, 61-62.

¹¹⁷ Jason Hostutler, “Kids, Cops, and Beboppers: Milwaukee’s Post-WWII Battle with Juvenile Delinquency,” *The Wisconsin Magazine of History*, Vol. 93, No. 1 (Autumn 2009): 17.

commit crimes, concluding that absent parents were responsible for the trend.¹¹⁸ Thus, taking a conservative position, Polier held parents responsible for their children's actions, rather than the children themselves. This perspective illustrated Polier's alignment with contemporary viewpoints that children were non-willful actors, who were not responsible for their own actions.

However, absent parents were not the only wartime impact that Polier blamed for rising juvenile delinquency. From a more leftist viewpoint, she criticized cuts to social programming under wartime budget restraints. During the war, Polier reported that community services were clearly not meeting demand. She described two boys who came before the juvenile court after getting into trouble on the streets. Since their high school had a shortage of teachers, they were only in school for a few hours a day, and spent the remainder of their time wandering the streets with few supervised activities or programs available to them.¹¹⁹ In 1942, Polier received letters from George Connaughton, the Director of Publicity for the Girls Scout Council, and from Attorney Reuben Lozner, urging an increase in social programming, agencies, and services for children.¹²⁰ Justice Polier took a similar viewpoint in advocating for an increase in social services. In December 1943, she testified before the Senate Sub-Committee on Wartime Health and Education that, "Facts and figures from the last war and from other countries, which

¹¹⁸ Justine Wise Polier Papers, 1892-2015; "We've Let the War Make Lawbreakers of Our Children," *PM Magazine*, 21 September, 1942. MC 413, folder 553. Schlesinger Library, Radcliffe Institute, Harvard University, Cambridge, Mass.

¹¹⁹ Justine Wise Polier Papers, 1892-2015; "Facts on Increased Delinquency in the City of New York," n.d. MC 413, folder 554. Schlesinger Library, Radcliffe Institute, Harvard University, Cambridge, Mass.

¹²⁰ Justine Wise Polier Papers, 1892-2015; Letter from George Connaughton, 2 October, 1942. MC 413, folder 553. Letter from Reuben Lozner, 5 October, 1942. Schlesinger Library, Radcliffe Institute, Harvard University, Cambridge, Mass.

entered the war before we did, provided ample warning that additional services to children become an essential war service.” Polier warned of insufficient schools and housing, and the curtailment of community services during wartime.¹²¹ In blaming cuts in programming for an increased occurrence of delinquency, Polier continued to hold external factors accountable for youth crime. This viewpoint further demonstrated the view of many stakeholders like Polier that children were legal non-persons, incapable of determining their own behavior. Furthermore, Polier’s emphasis on social programming highlighted her belief that children needed adults to organize and supervise activities for them in order to function properly.

Polier not only criticized programming cuts, but also budgetary restraints that decreased services for neglected and delinquent children. Despite the apparent greater need for services during the war, legislators under wartime budget restraints cut funding for probation officers, temporary shelters, social workers, hospitals, psychiatric clinics, foster homes, and juvenile facilities. Polier called on federal legislators to increase funding for community programming and afterschool activities.¹²² She also fought for state funding for children in need of mental health services. In a March 1945 editorial to the New York Times, Polier urged state legislators to pass a bill that would provide sufficient facilities and psychiatrists for the treatment of delinquent and mentally ill

¹²¹ Justine Wise Polier Papers, 1892-2015; Statement Before Sub-Committee on Wartime Health and Education, 3 December, 1943. MC 413, folder 554. Schlesinger Library, Radcliffe Institute, Harvard University, Cambridge, Mass.

¹²² Justine Wise Polier Papers, 1892-2015; “Wartime Needs of Children and Federal Responsibility,” n.d. MC 413, folder 555. Schlesinger Library, Radcliffe Institute, Harvard University, Cambridge, Mass.

children.¹²³ Unfortunately, inadequate program funding continued after the war's end. In August 1951, Polier lamented that the transfer of delinquent and neglected children from the community into institutions had resulted in community indifference to child welfare and subsequently insufficient support for institutions. The privacy the courts afforded children in fact prevented the community from understanding the services juveniles needed.¹²⁴

Inadequate funding for juvenile institutions, especially during WWII, was not a problem unique to New York. According to Bush, wartime budget restraints nationwide led to inadequate funding for juvenile facilities.¹²⁵ Judges and community activists often blamed budgetary restraints for the increase in juvenile criminal activity. Thus, while many Americans blamed the war for leaving children free from their parents' supervision, others believed WWII exacerbated delinquency by depriving youths of organized programming and services, while wartime budget cuts damaged the ability of institutions to treat youth offenders. Despite these disagreements over which policies and actors were most blameworthy for wartime crime, all of these actors agreed that some outside force besides the juvenile himself was responsible for his behavior.

Judges and other activists alleged that WWII further contributed to juvenile delinquency because the stress and uncertainty of war increased pressure on the entire family. They believed that this effect of war on children occurred universally due to the

¹²³ Justine Wise Polier Papers, 1892-2015; Editorial in *New York Times*, 17 March, 1945. MC 413, folder 556. Schlesinger Library, Radcliffe Institute, Harvard University, Cambridge, Mass.

¹²⁴ Justine Wise Polier Papers, 1892-2015; "The Community and the Institution: A Judge's View of Their Mutual Responsibilities," August 1951. MC 413, folder 562. Schlesinger Library, Radcliffe Institute, Harvard University, Cambridge, Mass.

¹²⁵ Bush, *Who Gets a Childhood?*, 74.

increased pressures of wartime. In a 1942 report on “Children in War Time,” Judge Polier cited statistics from other countries and previous wars. While Polier did not include the source of her data, she reported that in England, during the first four months of WWII, juvenile delinquency rose 28 percent, and during the second four months, it increased 62 percent from the previous year. However, according to Polier, after officials chose to reopen schools and extend health services to address the stress of wartime, delinquency decreased by 33 percent.¹²⁶ Polier maintained that these effects were not unique to the Second World War. She claimed that during WWI, delinquency rose by 48 percent in Germany, 97 percent in Hungary, and 47 percent in the England and Wales.¹²⁷ Justice Polier attempted to explain this phenomenon in a 1943 town hall on curbing delinquency. She asserted that war struck at the sense of security in children and adults, imposing a new burden on children, who could sense the anxiety and tension in the adults around them. In families that were emotionally or financially unstable, she believed that children faced additional difficulties adjusting to the stress of wartime. Ultimately, Polier concluded that a lack of emotional security in the home during WWII was a root cause in juvenile delinquency. She added that the curtailment of services for children in health, the courts, and education during the first few months of the war further exacerbated this issue.¹²⁸ However, the stressful uncertainty of war and lack of adequate services were not

¹²⁶ Justine Wise Polier Papers, 1892-2015; “Children in the War Time,” 17 September, 1942. MC 413, folder 552. Schlesinger Library, Radcliffe Institute, Harvard University, Cambridge, Mass.

¹²⁷ Justine Wise Polier Papers, 1892-2015; “Facts on Wartime Delinquency and Recommendations,” 10 December, 1942. MC 413, folder 552. Schlesinger Library, Radcliffe Institute, Harvard University, Cambridge, Mass.

¹²⁸ Polier Papers,” “How Can We Curb Youthful Delinquency?,” 14 January, 1943.

the only factors Americans held responsible for the perceived increase of juvenile crime during WWII.

Many experts believed, as some still do decades later, that the war damaged children by desensitizing them to violence, which could have contributed to a rise in violent crime during WWII. According to social worker Dr. Frederic Reamer, “The most obvious correlate of the great waves of violent crime in the past has been war and postwar readjustment, with its wrenching socio-economic dislocation, and emphasis on unleashed violence.”¹²⁹ Indeed, adds historian Jason Hostutler, the much-publicized violence of war had the effect of lowering the moral standards of society.¹³⁰ In 1950, child psychologist Erik H. Erikson published *Childhood and Society*, in which he analyzed the psychological development of children and the factors that affected them. Erikson described his five-year-old neighbor whose father became a celebrated bomber pilot during the war, then died when the Germans shot down his plane. According to Erikson, the child subsequently underwent a “change of personality” from a “mother’s boy” to a “violent, stubborn, disobedient child,” after his father’s violent death.¹³¹ Thus, psychological experts like Erikson attributed violent changes in behavior in children to wartime events that affected their families.

Many scholars believed these effects of wartime could persist after the end of the conflict. Some experts during the WWII and post-war years foreshadowed Reamer and Hostutler’s assessments. In 1948, Adrian P. Burke, member of the Board of Directors of

¹²⁹ Frederic G. Reamer and Charles H. Shireman, *Rehabilitating Juvenile Justice* (New York: Columbia University Press, 1986), 26.

¹³⁰ Hostutler, “Kids, Cops, and Beboppers,” 19.

¹³¹ Erik H. Erikson, *Childhood and Society*, 2nd ed. (New York: W. W. Norton & Company Inc., 1963), 238.

the New York City Welfare Council, reported that the moral life of the community continued to degenerate. Burke questioned how the community could expect a decrease in juvenile delinquency in a society that promoted violence and corruption.¹³² The postwar readjustment tendency toward violent crime Dr. Reamer describes appeared to continue in the 1950s. In the summer of 1954, four middle-class suburban white Jewish boys from Brooklyn went on a violent rampage, killing one man and brutally torturing several others, in a case the media labeled the Brooklyn Thrill Kill Gang. Like some other American Jews, they had viewed the Holocaust in horror and wanted revenge. One member demonstrated an obsession with Hitler and Nazi violence.¹³³ This crime spree shocked the entire New York community, as middle-class suburban children had not previously represented the typical face of juvenile delinquency.¹³⁴ However, for many New Yorkers in 1954, this disturbing event demonstrated the profound impression that the violence of WWII had made on Americans of all backgrounds.

Cultural and Socioeconomic Changes

While most experts focused on the effects and after-effects of WWII when they examined causes of juvenile delinquency during these decades, some social and political leaders at the time blamed other factors. Erikson argued that historical era and events

¹³² Justine Wise Polier Papers, 1892-2015; “Are We Preventing Juvenile Delinquency in New York City?” 15 January, 1948. MC 413, folder 219. Schlesinger Library, Radcliffe Institute, Harvard University, Cambridge, Mass.

¹³³ Mariah Adin, *The Brooklyn Thrill-Kill Gang and the Great Comic Book Scare of the 1950s* (Santa Barbara, CA: Praeger, 2015), 20-24, 62-63.

¹³⁴ While these boys were charged in adult court, one of them testified against the others, and another got his charges dropped. The other two, ages 17 and 18 at the time, were sentenced to life in prison, but successfully appealed for retrials, and each only wound up spending several years in reform school. See Adin, *The Brooklyn Thrill-Kill Gang*, 121.

only partially explained behavior. He believed other elements that contributed to childhood behavior and development included family life and social status. When the synthesis of these factors failed, Erikson observed that the child often expressed delinquent or “naughty” behavior.¹³⁵ Some conservatives specifically blamed women and feminism for rising delinquency rates. Federal Bureau of Investigation Director J. Edgar Hoover held working mothers responsible for the decline of family values, which he blamed for crime and delinquency.¹³⁶ Similarly, in a 1942 letter to Judge Polier, the National Sociological League accused feminism of disrupting family life and argued that children would not learn to respect authority if their mothers did not do so. The League wrote that the greatest criminals in history came from families that were broken down by feminism and divorce.¹³⁷ While Justice Polier wrote extensively about the war’s impact on juvenile delinquency, her papers do not present a focus on feminism as a predominant cause of youth crime. In fact, she faced criticism throughout her career for raising children while working in public service. Nonetheless, Polier encountered many other experts that insisted on blaming the working mother for youth problems. In a 1942 interview with Judge Polier, a Dr. Levy assessed that when a mother began working, she changed her relationship with her child because the child could sense that he was no longer her sole focus. As a result, Levy predicted that children became lost, abandoned,

¹³⁵ Erikson, *Childhood and Society*, 239-240.

¹³⁶ Finley, *Juvenile Justice*, 62.

¹³⁷ Justine Wise Polier Papers, 1892-2015; Letter from National Sociological League to Justine Wise Polier, 22 September, 1942. MC 413, folder 553. Schlesinger Library, Radcliffe Institute, Harvard University, Cambridge, Mass.

depressed, confused, spiteful, resentful, and more independent.¹³⁸ Thus, some criminal, sociological, and medical experts held women accountable for juvenile delinquency. While these experts focused on feminism over the other effects of war, they nonetheless blamed external forces for delinquent activity. Their perspective solidified society's infantilization of youth during this time period, because they held mothers responsible for protecting their children, demonstrating the belief that juveniles were distinct from adults and not responsible for their own actions.

Other experts sought alternative explanations for rise in youth crime. Judge Edwin Ray Potter blamed the lack of religion in children's lives for juvenile delinquency.¹³⁹ In 1948, federal probation officer Donald C. Stewart reported that in investigating hundreds of juveniles, he did not find a single case wherein the delinquent practiced religion. While Stewart conceded that the lack of religion in children's lives did not inherently cause crime, he maintained that religious participation could wean juveniles away from the path that led to incarceration.¹⁴⁰ Similarly, Erikson argued in his 1950 book that a child who attended church would learn discipline and self-restriction, and that church membership helped define social status and obligations in the community.¹⁴¹ The focus on religion among these experts and some conservatives reemphasized the belief that delinquents

¹³⁸ Justine Wise Polier Papers, 1892-2015; "The Family Goes to War," 8 October, 1942. MC 413, folder 552. Schlesinger Library, Radcliffe Institute, Harvard University, Cambridge, Mass.

¹³⁹ Justine Wise Polier Papers, 1892-2015; Letter from Edwin Ray Potter to Justine Wise Polier, 21 September, 1942. MC 413, folder 553. Schlesinger Library, Radcliffe Institute, Harvard University, Cambridge, Mass.

¹⁴⁰ Justine Wise Polier Papers, 1892-2015; "Juvenile Delinquency and Religion," n.d. MC 413, folder 555. Schlesinger Library, Radcliffe Institute, Harvard University, Cambridge, Mass.

¹⁴¹ Erikson, *Childhood and Society*, 319.

were not to blame for their own actions, and that children needed religious institutions to protect and guide them.

During the 1940s and 1950s, many legal, educational, sociological, and political experts highlighted the family as another declining institution. Dr. William E. Cole, director of the Department of Sociology at the University of Tennessee, considered the family the most important social structure. He argued that “broken homes” contributed greatly to delinquency, especially among younger children.¹⁴² Throughout her correspondence, Judge Polier and her colleagues frequently blamed “bad” or “broken” homes for juvenile delinquency. In a 1942 letter, Michael Levitan, School Health Director of Rome, New York Public Schools, wrote to Judge Polier that youth offenders were not born delinquents, rather, they grew up in “bad homes.”¹⁴³ While contemporary experts did not often define “broken homes,” they generally referred to families in which the parents were separated and/or one or more parent was deceased, incarcerated, abusive, or struggling with addiction. The panic over “broken homes” did not originate in the WWII era. Progressives during the late-nineteenth century feared the “breakdown” of the family unit, especially in urban communities.¹⁴⁴ These anxieties, which continued into the twentieth century, further represented the tendencies of Americans to blame external forces for juvenile behavior.

¹⁴² Justine Wise Polier Papers, 1892-2015; “Crime Causation- A Sociologist’s Viewpoint,” July 1948. MC 413, folder 559. Schlesinger Library, Radcliffe Institute, Harvard University, Cambridge, Mass.

¹⁴³ Justine Wise Polier Papers, 1892-2015; Letter from Michael Levitan, 22 September, 1942. MC 413, folder 553. Schlesinger Library, Radcliffe Institute, Harvard University, Cambridge, Mass.

¹⁴⁴ Willrich, *City of Courts*, 123.

In reporting on admissions to the Wiltwyck School, administrators noted the family situations of delinquent boys and often held these factors accountable for the boys' actions. They noted that a boy named Walter arrived at Wiltwyck one year after his father went to prison for murder. The mother of six-year-old Louie beat him.¹⁴⁵ A Youth House observer wrote that a child who arrived at the home in 1946 had a missing father and a hostile mother.¹⁴⁶ In 1947, Youth House Director Frank Cohen reported that Joseph's parents were separated.¹⁴⁷ Judge Polier documented "A Day in the Children's Court," in December 1948. She described Michael, age 16, and Bobby, age eight, who both had deceased mothers and alcoholic fathers.¹⁴⁸ In reporting on a 15-year-old girl who came before the court for running away from home, New York University's Dr. Alice Keliher specified that the delinquent was the daughter of an immigrant with a "bad temper" and an alcoholic mother.¹⁴⁹ Ultimately, in focusing on the status of parents when describing youth offenders, administrators, judges, and delinquency experts held parents accountable for their children's delinquent actions.

This type of assessment was not unique to New York. During the 1940s, the California Youth Authority (CYA) conducted a four-year study on youth crime, finding that 62 percent of the state's juvenile delinquents came from "broken homes."¹⁵⁰ As local and state officials tended to correlate these families with delinquency, national political

¹⁴⁵ Polier Papers, "Wiltwyck Interracial School for Maladjusted Boys," n.d.

¹⁴⁶ Polier Papers, "Report on Youth House Intake," 25 November, 1946.

¹⁴⁷ Polier Papers, "Youth House Report on Joseph," 25 February, 1947.

¹⁴⁸ Polier Papers, "A Day in the Children's Court- As One Judge Sees It," December 1948.

¹⁴⁹ Polier Papers, "Juvenile Delinquency: A Family Affair," n.d.

¹⁵⁰ Justine Wise Polier Papers, 1892-2015; "Federal Probation Quarterly Journal," December 1948. MC 413, folder 559. Schlesinger Library, Radcliffe Institute, Harvard University, Cambridge, Mass.

leaders took similar views. During his tenure as Assistant U.S. Secretary of State from 1941 to 1944, G. Howland Shaw wrote that delinquents tended to come from broken homes, where they encountered loneliness and insecurity.¹⁵¹ While experts like Levitan, the CYA, and Shaw focused on the family structure rather than the war, other leaders argued that the effects of WWII were more severe on poor or broken families.

During and after the war, many experts continued to focus on socioeconomic factors in evaluating the causes of juvenile delinquency. In addition to assessing the family's role in juvenile crime, Dr. Cole also examined socioeconomic and geographic status. He argued that wealth inequality, poverty, and materialism contributed to crime rates in America, and that a diverse population containing many racial, national, economic, and social backgrounds had more crime. Cole also found less crime in rural communities that maintained strong social controls in the home, church, and other institutions.¹⁵² This sociologist was not alone in correlating geographic factors with crime rates. In a January 1945 radio interview, Dr. Polier explained that, "In a high proportion of [juvenile delinquency] cases," delinquent children who come before the court, "live in congested or slum areas of the city."¹⁵³ Cole and Polier also found correlation between poverty and crime rates. Cole wrote that conditions of poverty, including poor nutrition, correlated with crime.¹⁵⁴ Polier cited a study of 1,000 juvenile delinquency cases, in which 76 percent of children came from poverty-stricken homes, and 85 percent lived in

¹⁵¹ Justine Wise Polier Papers, 1892-2015; "The Art of Disinterested Friendship in the Treatment of Juvenile Delinquency," n.d. MC 413, folder 555. Schlesinger Library, Radcliffe Institute, Harvard University, Cambridge, Mass.

¹⁵² Polier Papers, "Crime Causation," July 1948.

¹⁵³ Justine Wise Polier Papers, 1892-2015; "Interview with Nancy Craig," 18 January, 1945. MC 413, folder 556. Schlesinger Library, Radcliffe Institute, Harvard University, Cambridge, Mass.

¹⁵⁴ Polier Papers, "Crime Causation," July 1948.

slum areas. She concluded that economic pressures often strained relationships between parents, and that this could in turn negatively affect children.¹⁵⁵ Ultimately, while some experts blamed urbanization and poverty for juvenile crime and others focused on the effects of war, nearly all actors involved in the juvenile justice system held some outside force accountable for the juvenile's behavior, rather than the child himself. This tendency demonstrated the contemporary belief that children were non-willful actors, a theory which shaped the juvenile court system during the late-nineteenth and early-twentieth centuries.

Pop Culture

Although most legal and political leaders focused on WWII and its related familial and socioeconomic effects, some more right-wing experts blamed emerging forms of media and entertainment for youth crime. In New York, local and state leaders waged a war on comic books beginning during WWII. The legislature created a Joint Legislative Committee to Study the Publication of Comic Books. Comic book opponents gained momentum after the 1954 Brooklyn slayings, when the community quickly blamed horror movies and violent comics for the Thrill Kill Gang's activities. Others followed suit during the 1950s, blaming comic books and "salacious reading material" for juvenile delinquency.¹⁵⁶ In 1954, psychiatrist Fredric Wertham exacerbated fears regarding the effects of comic books with the publication of *The Seduction of the Innocent*. Wertham blamed comics for the corruption of youth and testified before various state legislatures and Congressional committees that comic books caused violent

¹⁵⁵ Polier Papers, "Interview with Nancy Craig," 18 January, 1945.

¹⁵⁶ Adin, *The Brooklyn Thrill Kill Gang*, 29,103, 102,105.

juvenile crimes.¹⁵⁷ In 2012, historian Carol Tilley largely discredited Wertham for misrepresenting his research and falsifying his results.¹⁵⁸ Nonetheless, at the time of his publication, he made a substantial impact on the public outcry against comics. Regardless of the validity of Wertham's claims, he blamed yet another external factor for juvenile delinquency, emphasizing the reluctance of public figures to hold juveniles liable for their own actions.

In addition to comic books, community leaders and activists held other emerging forms of media accountable for contributing to delinquency. Throughout the 1950s, various groups began questioning the impact of violent television on juvenile delinquency.¹⁵⁹ As studies indicated that delinquent boys were active in consumer and pop culture, communities considered banning films, cartoons, and other emerging forms of media and entertainment.¹⁶⁰ However, experts found little scientific evidence to substantiate claims that such media forms were responsible for juvenile crime. In 1955, Congress held hearings to investigate the suspected link between increased television usage and delinquency. Most scientific and medical experts testified that there was insubstantial evidence linking television to youth crime. However, community leaders and Federal Communications Commission (FCC) officials provided highly critical testimony of the damaging effects of television programs that contained violence or immoral behavior. Although these witnesses had little scientific proof, they vocalized

¹⁵⁷ Adin, *The Brooklyn Thrill Kill Gang*, 112.

¹⁵⁸ Carol Tilley, "Seducing the Innocent: Frederic Wertham and the Falsifications that Helped Condemn Comics," *Information and Culture: A Journal of History*, 47 (4): 383-413.

¹⁵⁹ Finley, *Juvenile Justice*, 67.

¹⁶⁰ Adin, *The Brooklyn Thrill Kill Gang*, 28, 33.

contemporary popular thought and had a powerful effect on Congress.¹⁶¹ Throughout the 1950s and 1960s, Congress granted increasing authority to the FCC to censor “immoral” words, actions, and images from television. These laws illustrated the widespread public belief that emerging media forms drove juvenile delinquency rates. Furthermore, calls to censor television reiterated the fact that Americans blamed external forces for juvenile crime, rather than the will of the offender himself. In seeking to censor emerging forms of media, conservatives reaffirmed the state’s role in sheltering youths, and demonstrated their commitment to traditional customs and values.

The Status of Juveniles

While liberals focused on different factors from their opponents in determining the cause of juvenile delinquency, nearly all experts held external forces accountable for children’s actions. From the nineteenth century until the 1950s, most Americans maintained the view that juveniles were not responsible for their own behavior, but that forces beyond their control compelled them to act.¹⁶² Throughout the history of juvenile justice, “special treatment for young offenders” depended on the claim that children were “innately different” from adults and were “incapable of forming the intent necessary willfully to commit a crime.”¹⁶³ This claim was evident in the tendency of early- and mid-twentieth-century activists to blame external forces for juveniles’ behavior.

In 1948, New York University Professor of Education Alice Keliher wrote that a child’s behavior was the result of what had happened to him or her. She did not blame

¹⁶¹ “Government: Witnesses Call For Study Of TV-Delinquency Problem,” *Broadcasting, Telecasting*, April 11, 1955.

¹⁶² Reamer, *Rehabilitating Juvenile Justice*, 9.

¹⁶³ Willrich, *City of Courts*, 212.

delinquents for their behavior because the events that had happened to them were not their fault. She argued that children exhibited delinquent behavior because of some other lack in their lives, like love and community.¹⁶⁴ Similarly, a post-war bulletin of the New York State Youth Commission (NYSYC) noted that children did not ask to be delinquents but were “pushed in that direction” by willful actors. Therefore, the Commission did not consider children to be independent people acting out of their own will.¹⁶⁵ Sociologist William Cole concurred, writing in a study of crime causation that children became delinquents as a result of nurture, not nature.¹⁶⁶ Like Cole, many experts during the 1940s and 1950s agreed that children were not born bad, but became delinquent as a result of their childhood experiences. Interestingly, most children did not consider themselves willful actors either. In a 1950 report of the New York City Youth House, the executive director wrote that children “consider their delinquency so minor in comparison to what has happened to them all their lives.”¹⁶⁷ Ultimately, despite variation in causes that experts held accountable for juvenile delinquency, most actors in the juvenile justice system focused on factors other than the child himself. Thus, the shaping of the juvenile justice system through the mid-twentieth century depended on the belief that the child was not an independent or willful actor.

¹⁶⁴ Polier Papers, “Juvenile Delinquency: A Family Affair,” n.d.

¹⁶⁵ Polier Papers, “Stop Pushin’,” n.d.

¹⁶⁶ Polier Papers, “Crime Causation,” July 1948.

¹⁶⁷ Polier Papers, “Sixth Annual Report of Executive Director to Board of Directors,” 31 March, 1950.

Chapter III: Changing Views and Treatment of Juveniles

Although American society did not recognize juveniles as willful actors during the early- to mid-twentieth century, by the 1950s Americans began to change their views. As the “latchkey children” of WWII matured into teenagers in the 1950s, they developed an unprecedented autonomy and unique youth culture. Slowly, Americans began to see their children as independent persons. This new perspective gave way to calls for increasing youth criminalization and more adult-like treatment of juvenile offenders, as the Progressive Child Savers ideals began to fade. Furthermore, as media outlets sensationalized youth crime and public figures relied on misleading statistics, white suburban America increasingly feared that juvenile crime was spreading from the urban slums into their middle-class communities. Ultimately, the combination of newfound youth independence, the perceived new face of delinquency, and misleading statistics and media coverage convinced much of the public that juvenile crime rates were rising faster than they actually were, driving Americans to abandon the original goals of the juvenile justice system in favor of adult criminal justice for all ages. This shift marked the beginning of a process that culminated with the 1967 *In re Gault* decision. As the right called to increasingly penalize and incarcerate youth offenders, the left called for increasing legal rights. Yet both groups, in some way, called on the law to treat juveniles more like adults, shifting away from the Child Savers ideals of the late-nineteenth and early-twentieth centuries.

Newfound Teenage Culture

The effects of WWII continued to impact American youth in the 1950s in various ways. Primarily, the unsupervised time that many juveniles spent without their parents during the war left them to create a youth culture for the first time that lasted into the following decade. According to Hostutler, historians point to WWII as an important moment in the creation of an American youth culture, as mothers often left home for the first time to enter the workplace, leaving children to spend more time on their own and take on increasing household responsibilities.¹⁶⁸ Bush notes that as a youth culture began to take form during the war years, juvenile courts increasingly used the word “teenager.”¹⁶⁹ Thus, the courts progressively began to recognize the unique and independent spirit of the American teenager. As children of the war years aged into teenagers, the image of the independent teenager with his or her own values and culture was still a new phenomenon in the 1950s. In the early postwar years, the concept of the “teenager” became one of the most studied cultural phenomena in American life.¹⁷⁰

In *Childhood and Society*, Erikson defined adolescence as a life stage between childhood and adulthood, characterized by an identity crisis, a period of self-discovery, role experimentation, and internal struggles.¹⁷¹ He distinguished adolescence from early childhood, when the child was coaxed into learning actions like walking by those around him, then continued to perform those actions because society praised him for doing so.¹⁷² By contrast, during the teenage years, the youth questioned conformity and social

¹⁶⁸ Hostutler, “Kids, Cops, and Beboppers,” 16.

¹⁶⁹ Bush, *Who Gets a Childhood?*, 51.

¹⁷⁰ *Ibid.*, 108.

¹⁷¹ Erikson, *Childhood and Society*, 263. Bush, *Who Gets a Childhood?*, 108.

¹⁷² *Ibid.*, 235.

expectations, and strove to become an individual.¹⁷³ He reached a stage of crisis when he began to develop autonomy, initiative, power over his actions, and a sense of moral responsibility.¹⁷⁴ Rather than seeking approval from his elders like a young child, the adolescent sought affirmation from his peers, and attempted to fuse his identity with theirs.¹⁷⁵ During adolescence, the youth established his individual identity separate from his parents and began to consciously think about his future life plan.¹⁷⁶ By defining adolescence as a unique period, Erikson reflected the popularization of the idea of adolescence in 1950s American society. Considered a leading figure in the field of child psychology during the 1950s, Erikson's book earned praise and a positive reception from the American public. In reviewing his book for the *New York Times*, Marian Rayburn Brown described the "favorable reception" of Erikson's thesis that, "has presented an interesting and timely point of view, one that reflects a healthy trend in psychiatry, psychoanalysis and child development."¹⁷⁷ Joseph Henry Jackson of the *Los Angeles Times* had similar praise for Erikson, who Jackson wrote, "states the chief problem," of social anxieties and how they determined juvenile behavior.¹⁷⁸ In 1951, *Parent's Magazine* awarded Erikson an honorable mention for his book's contribution to the field of childcare.¹⁷⁹ The positive reception that readers and other childhood experts afforded to Erikson's thesis reflected the growing perception among the American public that

¹⁷³ Ibid., 261.

¹⁷⁴ Ibid., 255-256.

¹⁷⁵ Erikson, *Who Gets a Childhood?*, 263.

¹⁷⁶ Ibid., 241, 306.

¹⁷⁷ Marian Rayburn Brown, "Go Back To the Roots," *New York Times*, November 19, 1950.

¹⁷⁸ Joseph Henry Jackson, "Bookman's Notebook: 'The Father of the Man'," *Los Angeles Times*, January 31, 1951.

¹⁷⁹ "Franks' Book Wins Award Of 'Parent's Magazine'," *New York Herald Tribune*, April 13, 1951.

adolescence was a unique stage of development at which youths became increasingly independent actors. As Americans increasingly recognized the distinctiveness of the teenage class, adolescents continued to reject societal expectations of them and form their own unique culture.

According to Erikson, American teenagers during the postwar years tested legal and social boundaries in their quest for a unique self-identity.¹⁸⁰ A distinct part of the 1950s American teenage identity was a culture of consumerism. The postwar economic boom further propagated teenage culture because young people had more disposable income and became targets of marketing campaigns.¹⁸¹ Reamer explains that delinquency historically accompanied periods of high economic prosperity.¹⁸² In the suburbs, the newfound teenage culture of consumerism highlighted the growing sense of independence of youths that threatened “adult authority and traditional values.”¹⁸³ Their desire for individualism made the adolescent mistrustful of politicians and authority figures, and he became a “self-made autocrat,” who narrowly stayed within the law.¹⁸⁴ While the new American teenager tested social and legal boundaries, psychological experts like Anna Freud blamed adolescence for cultivating childhood “naughtiness” into criminal behavior.¹⁸⁵ Ultimately, the independence that children gained during the war and the postwar economic boom contributed to the development of a unique teenage culture that made Americans rethink juvenile delinquency.

¹⁸⁰ Bush, *Who Gets a Childhood?*, 108.

¹⁸¹ Hostutler, “Kids, Cops, and Beboppers,” 27, 17.

¹⁸² Reamer, *Rehabilitating Juvenile Justice*, 26.

¹⁸³ Bush, *Who Gets a Childhood?*, 95.

¹⁸⁴ Erikson, *Childhood and Society*, 320, 322.

¹⁸⁵ *Ibid.*, 306.

Perceived Rise in Delinquency

Americans feared that juvenile delinquency was rising during and after WWII, fueling calls for harsher juvenile discipline. While some judges and activists remained committed to Child Savers ideals and continued to advocate for investment in rehabilitation and treatment, the tide of public opinion began to give up on these goals and turn to calls for harsher discipline to control the perceived youth problem. However, juvenile delinquency was not actually rising at the rates that the public feared.

Paraphrasing President Franklin Delano Roosevelt, Erikson wrote in 1950, “We have nothing to fear but anxiety. For it is not the fear of a danger...but the fear of the associated state of aimless anxiety which drives us into irrational action.”¹⁸⁶ In reviewing Erikson’s work, Jackson concurred that, “Anxiety and the fear of anxiety” were at the root of more social issues than most Americans realized.¹⁸⁷ Nonetheless, misleading statistics and media sensationalism distorted the public view of juvenile crime.

Upsetting and Misleading Statistics

A variety of government actors in the criminal justice system contributed to the exacerbation of public anxiety by publishing statistics and crime reports that exaggerated the occurrence of juvenile crime. The Federal Bureau of Investigation (FBI) had a monopoly on crime statistics in the 1950s and fueled nationwide panic over juvenile delinquency by misrepresenting statistics in its annual Uniform Crime Report (UCR).¹⁸⁸ Although the report made it appear that crime was increasing, FBI statistics failed to

¹⁸⁶ Erikson, *Who Gets a Childhood?*, 407.

¹⁸⁷ Jackson, “Bookman’s Notebook,” January 31, 1951.

¹⁸⁸ Dodge, “Our Juvenile Court,” 66.

reflect factors like improvements in reporting and the growth of the juvenile population. For example, between 1948 and 1954, UCR reported that the number of youths appearing before juvenile courts increased by 58 percent, causing public alarm. However, the FBI did not specify if this represented an actual increase in delinquency or heightened attention and more arrests.¹⁸⁹ Furthermore, state and local participation in the UCR was optional, and reports did not reflect the fact that different jurisdictions participated each year.¹⁹⁰ In the early 1960s, I. Richard Perlman of the U.S. Children's Bureau explained another challenge in calculating juvenile crime statistics. Since contemporary state laws defined delinquency as both *mala in se* crimes, which also applied to adults, and *mala prohibita* crimes, which were only illegal when children committed them, Perlman concluded that it was impossible to measure delinquency by this definition. He noted it was especially difficult to measure offenses like truancy, incorrigibility, and ungovernable behavior, which did not always come to the attention of legal authorities.¹⁹¹ Perlman also pointed out that juveniles born during the high birth rates of the late 1940s were then in their mid-teenage years, the peak age for juvenile delinquency.¹⁹² Thus, population and demographic changes may have accounted for the apparent rise in juvenile delinquency in the late 1950s and early 1960s. Ultimately, government statistics on juvenile delinquency often misrepresented the rate of youth crime and heightened concerns among the American public.

¹⁸⁹ Finley, *Juvenile Justice*, 63.

¹⁹⁰ "Patterns and Trends in Juvenile Crime and Juvenile Justice," *National Academic Press*, 2001.

¹⁹¹ Justine Wise Polier Papers, 1892-2015; "Antisocial Behavior of the Minor in the United States," 1960s. MC 413, folder 221. Schlesinger Library, Radcliffe Institute, Harvard University, Cambridge, Mass.

¹⁹² *Ibid.*

While federal agencies contributed to the panic over juvenile crime, local actors in the juvenile justice system also played a role in heightening public anxiety. Sometimes judges themselves publicized statistics indicating a rise in juvenile crime. As an activist judge focused on community involvement, Justine Polier frequently published articles, editorials, and reports. During the 1940s, she often reported the rising number of delinquency cases before the court and blamed the effects of WWII for this trend. Calculating delinquency appearances before her court in two-year intervals, Judge Polier reported a 20 percent increase in delinquency from 1940 to 1942 and a 50 percent increase from 1941 to 1943.¹⁹³ She observed a rise in delinquency before the U.S. entered the war that became more dramatic after American entry. For example, from 1938 to 1939, she cited that cases increased by 10 percent, by six percent from 1938 to 1940, and by 15 percent in 1941 from 1938. However, after U.S. entry, Polier observed that cases rose each year by 24 percent, 65 percent, 59 percent, and 67 percent from 1938 levels, respectively.¹⁹⁴ According to Polier, these wartime increases reversed a 10-year downturn in delinquency cases before the war. Polier further reported that her court not only received more cases of delinquency after 1941, but it saw children with greater problems who had been involved in more serious crimes.¹⁹⁵ Judge Polier concluded that juvenile crime was increasing during and as a result of the war, and she published these findings in a September 1942 article for *PM* magazine. This type of publication fueled public anxieties during WWII regarding the perceived rise in juvenile crime.

¹⁹³ Polier Papers, "Wartime Needs of Children," n.d.

¹⁹⁴ Justine Wise Polier Papers, 1892-2015; "Until Adequate Services are Available for all Children Needing Them, We Shall Have to Pay the Ultimately Higher Costs of Maladjustment in Childhood and Adult Life," 1946. MC 413, folder 557. Schlesinger Library, Radcliffe Institute, Harvard University, Cambridge, Mass.

¹⁹⁵ Polier Papers, "Wartime Needs of Children," n.d.

However, not all of Polier's contemporaries agreed with her assessment. Polier's colleague on the Domestic Relations Court, Judge Cobb, challenged her article in a February 1943 letter. Cobb argued that a trend of one or two years did not necessarily reflect a significant increase in delinquency. He disagreed that delinquency increased during wartime, and cited WWI as a counterexample, during which he claimed there was no such increase in youth crime. Cobb was not alone in criticizing Polier's assessment. Other justices on the Domestic Relations Court and the Board of Justices challenged the accuracy and conclusions of the *PM* article.¹⁹⁶ Nonetheless, Polier's published article had a bigger impact on the American public's perception of youth crime than the personal letters judges wrote to Polier in critique of her claims. Cobb warned of this effect, in which the press created hysteria, then the public looked for signs of rising delinquency wherever it could find them.¹⁹⁷ Ultimately, despite counterevidence that juvenile crime was not increasing drastically, statistics indicating the rise of delinquency garnered more publicity and had a greater impact on public opinion.

Media Sensationalism

The trend toward media sensationalism of youth crime was not a phenomenon unique to the mid-twentieth century. Throughout American history, calls for increased youth criminalization have overshadowed calls for juvenile justice reforms, often perpetuated by the mass media.¹⁹⁸ According to sociologist Philip Smith, punishments

¹⁹⁶ Justine Wise Polier Papers, 1892-2015; Letter to Justine Wise Polier from Judge Cobb, 19 February, 1943. MC 413, folder 28. Schlesinger Library, Radcliffe Institute, Harvard University, Cambridge, Mass.

¹⁹⁷ *Ibid.*

¹⁹⁸ Finley, *Juvenile Justice*, x.

reflect the cultural feeling in their time and space, and are an “emotional reaction” by the public to what they see in the media and popular culture.¹⁹⁹ However, when looking at “the actual picture,” asserts professor of Urban Studies Michael Fortner, newspapers “play up the crime problem.”²⁰⁰ In the 1950s, newspapers fueled the atmosphere of panic surrounding juvenile crime. Articles focused on youth gangs, photographs depicted tattooed, hardened-looking delinquents, and headlines screamed of “teen-age terrorists” running wild through the streets of America.²⁰¹ The trend toward media sensationalism spread nationwide. At a 1957 conference, the American Psychological Association (APA) declared that juvenile delinquency was not increasing as rapidly as was the public furor over it. While serious crimes received all the headlines, they did not represent typical deviant juvenile behavior.²⁰²

The APA’s assessment accounts for the sensationalized media coverage of the 1954 Brooklyn Thrill Killers. Newspapers all over the country reported on the case, emphasizing the brutality of the killings in sensational detail. On August 19, the *Los Angeles Times* described the murders as “an outburst of sexual sadism,” and a “wild orgy of beatings and whippings that was climaxed by a second murder,” for the “thrill” of the teenage boys involved.²⁰³ Phyllis Battelle of the Norfolk, Virginia *New Journal and Guide* similarly reported on the brutal murders on August 28. Battelle described the

¹⁹⁹ Philip Smith, *Punishment and Culture* (Chicago: University of Chicago Press, 2008), 5, 15.

²⁰⁰ Michael Javen Fortner, *Black Silent Majority* (Cambridge, Massachusetts: Harvard University Press, 2015), 34.

²⁰¹ Bush, *Who Gets a Childhood?*, 134.

²⁰² Justine Wise Polier Papers, 1892-2015; “New Trends Seen in Juvenile Crime: Middle Class Youth is Now Involved, Accounting for Furor, Expert Asserts,” 1957. MC 413, folder 28. Schlesinger Library, Radcliffe Institute, Harvard University, Cambridge, Mass.

²⁰³ “Teen-Age Thrill Killers Confess Brutal Orgies,” *Los Angeles Times*, August 19, 1954.

crimes in sensational detail, as if recounting an action movie.²⁰⁴ Both these articles were illustrative of the sensationalized journalism that escalated the fears of many Americans that juvenile crime was more prevalent than it actually was.

Media sensationalism of juvenile crime continued through the end of the decade. In August 1957, the *New York Amsterdam News* reported on recent youth crime developments in a regular section titled, “Teen-Age Crime Scorecard.” The paper ran the bold-faced headline “Three Juveniles Admit Shooting Of Policeman,” although the fine printed article below read that the boys shot the officer accidentally, and the court immediately cleared them of the charges. The article continued by describing multiple teenage shootings, stabbings, muggings, and assaults.²⁰⁵ While nonviolent offenses still constituted the bulk of juvenile delinquency charges during this time, in highlighting the rare violent crimes, even those that were accidental and did not invoke charges, newspapers helped propagate misconceptions and anxieties about juvenile crime. The media continued to emphasize sensational crime stories in the 1960s. In May of 1960, newspapers around the country reported on a Nashville teenager who shot nine people by sniping from dark corners. *The Washington Post* and the *Boston Globe* reported that the teen “terrorized” the city’s 250,000 residents for three weeks and shot people with the intention of killing them. Both newspapers quoted 18-year-old Ray Criswell telling police, “I’ve just always had the urge to kill.”²⁰⁶ The media played a similar role in

²⁰⁴ Phyllis Battelle, “ ‘Thrill’ Killers Admit Brutal Killing of Negro,” *New Journal and Guide*, Aug. 28, 1954.

²⁰⁵ “Three Juveniles Admit Shooting of Policeman,” *New York Amsterdam News*, August 24, 1957.

²⁰⁶ “ ‘Just Always Had the Urge to Kill,’ Teen-Age Sniper Suspect Tells Police,” *The Washington Post, Times Herald*, May 16, 1960. “Teenage Sniper Arrested After Nine Shootings,” *Boston Globe*, May 16, 1960.

elevating public attention following a 1962 Los Angeles teenage shooting. Dubbing the youths involved the “Slauson Avenue Gang,” the *Los Angeles Sentinel* portrayed a group of hardened teenage gangsters who shouted, “We’re Slausons, and you don’t mess with us,” before shooting two other youths.²⁰⁷ Ultimately, by focusing on violent youth crimes, the media played a role in perpetuating the perceived exacerbation of juvenile delinquency during the 1950s and 1960s, convincing many Americans that violent youth crime was more prevalent than it actually was, and fueling overall anxieties regarding teenage offenders.

New Face of Juvenile Crime

While Americans feared that juvenile delinquency rates were increasing, the elite further worried that youth crime was spreading from urban slums into the middle- and upper-class suburbs. In 1957, Dr. Walter B. Miller, Director of the Roxbury, Massachusetts Youth Project explained that the public furor over the rise in delinquency resulted from the rise in middle-class delinquency.²⁰⁸ Thus, while juvenile delinquency cases may not have been increasing, middle-class children committed a growing proportion of those cases, contributing to the perception that caseload was on the rise among the middle-class community. Further, anxieties regarding the occurrence of delinquency heightened when middle-class Americans felt that delinquency was affecting *their* communities, as opposed to urban slums. By the mid-1950s, middle-class youths

²⁰⁷ “Capture Slauson Teenage Gang: Grill 6 in Party Shooting,” *Los Angeles Sentinel*, July 19, 1962.

²⁰⁸ Polier Papers, “New Trends,” 1957.

began to commit the same petty crimes formerly mainly perpetrated by working-class children.²⁰⁹ While American elites previously blamed poverty and “broken homes” for delinquency, the “new face” of juvenile crime that emerged in the 1950s was a white middle-class offender from a nuclear family.

This new image of the delinquent appeared both in the news media and fictional portrayals of juvenile crime. For example, in 1954, the Brooklyn Thrill Kill Gang shocked its suburban community because the boys came from comfortable, middle-class, two-parent families.²¹⁰ Newspapers around the country reporting on the case emphasized the unlikely perpetrators. The *Los Angeles Times* reported that the youths came from “respectable families” and “good middle-class homes,” and none had a previous criminal record.²¹¹ Battelle described the boys as, “all from middle-class homes,” who performed well academically, and whom neighbors and teachers praised for their “charming personalities,” and “bright and gentle” natures.²¹² Both these articles highlighted that the killers came from middle-class families, which heightened anxieties among America’s elite that juvenile crime was moving into their communities. Similarly, in a 1960 article on local juvenile crime, Lee Bastajian of the *Los Angeles Times* reported that many juvenile delinquents in the area came from “higher income bracket homes.”²¹³ Americans could no longer exclusively blame factors like poverty or “broken homes” for youth crime. Even those living in wealthy suburban communities had to fear for juvenile crime

²⁰⁹ Ibid.

²¹⁰ Adin, *The Brooklyn Thrill-Kill Gang*, 13-24.

²¹¹ “Teen-Age Thrill Killers Confess Brutal Orgies,” *Los Angeles Times*, August 17, 1954.

²¹² Battelle, “‘Thrill’ Killers,” August 28, 1954.

²¹³ Lee Bastajian, “Crackdown on Juvenile Crime Opens: Pacific Palisades Teen-Age Offenses in Sharp Rise,” *Los Angeles Times*, June 19, 1960.

in their neighborhoods.

In “The Shame of America,” a five-part series published in the *Saturday Evening Post* in 1955, juvenile justice expert Richard Clendenen claimed that annual youth arrests would reach two million by 1960, constituting a nineteen-fold increase over arrests in 1955. Bush clarifies that this unlikely estimate represented the “gulf between perception and reality,” among the American public.²¹⁴ While juvenile crime figures remained relatively low, Americans in the 1950s consistently listed delinquency as their top public concern behind Communism. Bush accounts for this inconsistency in the fact that for the first time in American history, juvenile crime in the 1950s seemed to appear in middle-class suburbs as often as it did in urban slums. In 1955, Clendenen summed up this phenomenon: “Juvenile delinquency today is everybody’s problem...the delinquent may be any child you know, including your own.”²¹⁵ Through this ominous warning, Clendenen echoed and exacerbated the fear of juvenile crime among the American elite.

This emerging stereotypical delinquent became the star of film and television shows that highlighted the new rebellious youth lifestyle. He was Jim Stark in *Rebel Without a Cause*, a white suburban, middle-class teenage delinquent. When the film premiered in 1955, the characteristics of James Dean’s character shocked much of the American public. In a review for *Variety* magazine, film critic Robert J. Landry suggested that the “shock impact...is perhaps greater because this is a pleasant middleclass community. The boys and girls attend a modern highschool [*sic*]. They are

²¹⁴ Bush, *Who Gets a Childhood?*, 95.

²¹⁵ *Ibid.*

well fed and dressed and drive their own automobiles.”²¹⁶ As Landry noted, Americans may have been surprised to see a delinquent who came from a middle-class community, was well educated, and was affluent enough to have decent clothes and his own car. Previously, such characteristics were not representative of the stereotypical delinquent American teenager. Landry continued to question the believability of the characters’ “cruel natures” despite their “healthy-seeming exteriors.”²¹⁷ Previously, most Americans blamed external factors like family life and socioeconomic status for delinquent behavior. However, as the new face of the delinquent defied these stereotypical external factors, actors in the legal system and the media had to turn to the juvenile’s “nature” to explain his actions. This indicated that society could no longer explain away juvenile delinquency with outside factors, but had to hold juveniles responsible for their willful actions, like adults.

Increasing Personhood for Children

The new image of the juvenile offender, a white, middle-class teenager from a two-parent family and a suburban home, shattered Child Savers era assumptions that delinquent children resulted from poor, urban, broken families. In reporting on the Brooklyn Thrill Killers in 1954, Phyllis Battelle wrote that despite the boys’ good homes and high intelligence, “something savage burned in [their] hearts.”²¹⁸ While the Child Savers and early-twentieth-century judges blamed external factors for juvenile crime, Battelle, like others in the 1950s, acknowledged the internal criminal nature of these four

²¹⁶ Robert J. Landry, “Review: ‘Rebel Without a Cause,’” *Variety Magazine*, October 26, 1955.

²¹⁷ *Ibid.*

²¹⁸ Battelle, “‘Thrill’ Killers,” August 28, 1954.

murderers. Finally, the juvenile justice system could blame no one for delinquent behavior other than the youth himself. Americans gradually began to recognize minors as willful actors, and called on policymakers to treat them accordingly.

Calls for Criminalization

As Americans increasingly recognized the independent will of the juvenile offender, they abandoned Child Savers ideals and called on the juvenile justice system to treat children like adult offenders. The American elite began to realize that delinquency was not just a poor urban problem, but also affected middle- and upper-class communities, and they subsequently increased demands for law enforcement and discipline of juvenile delinquents.²¹⁹ In Los Angeles, as juvenile crime began to affect high-end neighborhoods like Pacific Palisades, police turned to stronger enforcement methods to deter delinquency. Simultaneously, local officials echoed public calls to criminalize youth offenders. In 1960, City Councilman Karl Rundberg announced, “It’s time to take off the kid gloves and stop mollycoddling these youngsters.”²²⁰ In other cases, the media themselves directly called for tough-on-crime policies. After the 1957 Christmas Night shooting near Houston, Texas, the *Houston Press* began its own editorial campaign advocating harsher sentences for juvenile offenders. The editorial staff wrote that Texas officials handled juvenile criminals “in such a soft-headed, muddling manner” that crimes like the Christmas Night murder were inevitable. Writers called on their readers to carefully consider “whether or not the whole system of special treatment for

²¹⁹ Adin, *The Brooklyn Thrill-Kill Gang*, 27.

²²⁰ Bastajian, “Crackdown on Juvenile Crime Opens,” June 19, 1960.

juveniles is good or bad.”²²¹ Reflecting public opinion following the shooting, a newly elected county judge proposed lowering the age at which the courts tried juveniles from 17 to 15.²²²

As Americans reconsidered their rehabilitative approach toward juveniles, they began to demand that authorities criminalize and incarcerate delinquency. This trend occurred at both the federal and state level. For example, after the 1957 Christmas night shooting in Gatesville, Texas, the public called to try the four teenagers involved as adults and to replace reform efforts with “tough on crime” policies.²²³ In response to the panic, Governor Daniel promised to “assume leadership in combatting juvenile delinquency in Texas” by initiating a “statewide crackdown on juvenile delinquents.” A local newspaper quoted Daniel referring to juvenile delinquency as “one of the most serious problems confronting the state.” The governor recommended lowering the age at which the court tries juveniles as adults.²²⁴ In 1959, the Houston Community Council found that members of the city’s business class, who held political power and positions on the boards of directors of local service agencies, were twice as likely as children services professionals to favor punishment over treatment. Around the same time, recounts Bush, “a hue and cry” went out for the law enforcement agents and judges to crack down on delinquency. Two years later, Houston district attorney Frank Briscoe “declared war” on juvenile offenders, inherently recognizing them as sovereigns, much as

²²¹ “Memorial Fund Being Raised for Jay Evans,” *The Austin American*, January 12, 1958.

²²² Bush, *Who Gets a Childhood?*, 134.

²²³ *Ibid.*, 122.

²²⁴ “Price Hails Juvenile Crime Act,” *The Austin Statesman*, January 6, 1958.

states declare war against other sovereign nations.²²⁵

While Texans and many other Americans called for increasing punishment in the 1950s, New Yorkers stayed committed to rehabilitation and reform for several more years. In 1955, New York City Mayor Robert F. Wagner pledged three million dollars for a three-year program to address juvenile delinquency by improving recreational facilities, expanding remedial reading programs in public schools, broadening family services, increasing work opportunities for students, and establishing other programs designed to prevent and treat, rather than punish, juvenile delinquents.²²⁶ However, as anxieties about juvenile crime grew during the 1950s, New Yorkers made delinquency a more central political issue. When Wagner ran for a second term in 1957, “the flare-up in juvenile crime [emerged] as the prime political issue,” in the race, reported the *New York Times* that summer. Wagner’s Republican challenger, Robert K. Christenberry, criticized Wagner for his handling of juvenile delinquency, claiming that teenage crime in New York City was worse than ever before. Christenberry proposed hiring an additional 5,000 police officers and increasing nighttime presence of police with nightsticks.²²⁷ In his 1961 bid for a third term, Wagner faced even harsher criticism from Republican opponent Attorney General Louis J. Lefkowitz. Lefkowitz criticized the mayor for his reluctance to concede the danger in walking the streets at night and called for an increase of several thousand police officers. When Wagner dismissed this proposal as “sensationalism” and

²²⁵ Bush, *Who Gets a Childhood?*, 133-134.

²²⁶ Paul Crowell, “Mayor Promises Intensive Fight on Youth Crime: City Maps Fight on Youth Crime ‘Priority Program’ Is Offered by Epstein-- \$1,500,000 for It in Next Budget,” *New York Times*, May 9, 1955.

²²⁷ Robert Alden, “Teen-Crime Issue Taking Spotlight in City Hall Race: Wagner Scored and Backed on Handling of Problem—Boy, 18, Held in Killing Strategy Backfires Governor Voices Concern Crime is Emerging as Mayoral Issue,” *New York Times*, August 19, 1957.

“campaign talk,” his challenger doubted Wagner’s awareness of the violent crime rate in New York City.²²⁸ Though Wagner defended his administration, he realized that he needed to toughen his stance on crime to win the election. In October 1961, he announced a program to curb juvenile delinquency that would mandate sentences for chronic juvenile delinquents and lengthen mandatory sentences for juvenile lawbreakers who fought the police.²²⁹

Americans continued to call for increasingly harsh punishments of youth offenders into the 1960s. As Gallup polls in the 1960s reported crime as the nation’s top concern, politicians largely chose preserving their public support over protecting juveniles.²³⁰ While some judges continued to advocate for social services instead of stiffer punishments, proponents of law-and-order policies drowned out voices of caution.²³¹

Persistence of Racial Inequality

Although early eras of juvenile justice historically excluded nonwhite youths, the increasingly punitive policies of late-twentieth-century juvenile justice disproportionately penalized minorities. By the 1950s, black youths already comprised a disproportionate figure of the population in the juvenile justice system.²³² Statistical overrepresentation of black juveniles only expanded over the course of the twentieth century. Under President

²²⁸ Leo Egan, “Mayor Proposes New Crime Laws: Urges Curbs on Delinquents, Addicts and ‘Cop-Beaters’ to Make Streets Safer Mayor Proposes New Crime Laws,” *The New York Times*, October 18, 1961.

²²⁹ Egan, “Mayor Proposes New Crime Laws,” October 18, 1961.

²³⁰ Reamer, *Rehabilitating Juvenile Justice*, 10, 12.

²³¹ Bush, *Who Gets a Childhood?*, 135.

²³² Ward, *The Black Child Savers*, 242.

Johnson's War on Poverty, the Committee on Juvenile Delinquency and Youth Crime funded local Community Action Programs (CAPs) to address delinquency in their neighborhoods. In Houston, although the Houston Action for Youth (HAY) continued to portray juvenile delinquency as a largely white, middle-class problem, the juvenile justice system disproportionately affected black and Hispanic youths. In examining data from 1962, Bush finds that a disproportionate number of black and Hispanic arrests drove increases in juvenile crime rates.²³³

Besides arresting minorities in higher numbers, the juvenile justice system discriminated against non-white youths on multiple levels. As juvenile court judges in the 1960s increasingly began waiving their jurisdiction to criminal courts, they disproportionately delegated minority children to the adult system. In Texas, reports Bush, authorities were more likely to send white children to juvenile court and send black and Latino youths to adult court. Judges assigned a disproportionate number of white youths to probation, while black and Hispanic offenders received more institutional sentences. By the 1960s, black youths comprised one-third of Texas's incarcerated youth population, but only one-tenth of the state's high school age group.²³⁴ This trend was not unique to Texas. Philadelphia Juvenile Court Judge Lois G. Forer famously wrote that 90 percent of cases before her court were black youths, and that they received discriminatory sanctions.²³⁵ Unfair treatment of nonwhite youth offenders extended beyond court sentencing. Scandals in juvenile detention facilities have also fallen disproportionately on

²³³ Bush, *Who Gets a Childhood?*, 127, 131.

²³⁴ *Ibid.*, 132, 157.

²³⁵ *Ibid.*, 174-175.

black and Hispanic youths.²³⁶

During the 1960s, the Civil Rights movement and its inherently increased visibility of young black activists formed the backdrop for tough-on-crime juvenile justice policies.²³⁷ Law enforcement agents and the courts selectively criminalized and sanctioned Civil Rights activities of black youths and young adults, while they typically remained indifferent toward violent criminal activities of white anti-Civil Rights groups. For example, when the Little Rock Nine arrived at Little Rock Central High School in 1957, white students beat, harassed, and assaulted them, yet generally remained unpunished. Two hundred protesters took to the streets in 1959, defying police orders by refusing to disperse. The police arrested 21 people, but quickly released them. By contrast, when black students organized a peaceful sit-in in Macomb, Mississippi in 1961 in attempts to integrate the Greyhound bus terminal lunch counter, police arrested and jailed the nonviolent activists for 34 days.²³⁸ Countless similar cases impacted young black activists throughout the Civil Rights era.

In *The Black Child Savers*, Ward explains how white power-holders in the early 1960s used juvenile courts to deter Civil Rights activities. As a teenager, Brenda Travis became involved in the Mississippi Civil Rights movement. Local authorities arrested Travis, labeled her a delinquent, and committed her to a reformatory to deter her and other black youths from Civil Rights activities. After her second arrest for nonviolent expression of free speech, the juvenile court sentenced her to eight months at Oakley reformatory for black delinquents. During this time, the state of Mississippi had declared

²³⁶ Ibid., 204.

²³⁷ Ibid., 135.

²³⁸ Ward, *The Black Child Savers*, 203-205.

Travis an “enemy of the state,” and forbade her from reentering.²³⁹ “In hundreds of other similar cases,” recounts Ward, “the white-dominated parental state,” used its political and legal power, including its control over juvenile courts, “to defend against threats to white power and privilege.”²⁴⁰ The unjust use of the juvenile courts to oppress black children further highlighted flaws of the *parens patriae* system.

Interestingly, in trying to deter black activism and Civil Rights activities, white legal authorities often targeted youths. In Jackson, Mississippi, juveniles comprised over half of all demonstrators arrested in 1963. That summer, authorities arrested 125 juveniles in Americus, Georgia, and 234 youths in St. Augustine, Florida, following warnings from St. Augustine juvenile court judge Charles C. Mathis that parents should prohibit their children from participating in demonstrations.²⁴¹ These patterns were not unique to the South. As New Yorkers prepared for the opening of the World’s Fair in April, 1964, Civil Rights activists held demonstrations. On April 22, police arrested youth protesters demonstrating in subway stations. On July 25, following reports of police brutality during arrests of Civil Rights activists, public safety officers in Rochester, New York turned fire hoses on protesters in an effort to quell demonstrations. Police violence often targeted youth activists. On July 15, New York Police Lieutenant Thomas Gilligan shot and killed 15-year-old African American James Powell in Harlem.²⁴² Ultimately, while the juvenile justice system already disproportionately incarcerated black youths during the 1950s, the white-controlled law enforcement and legal system used juvenile courts in the 1960s to target black youth activists and Civil Rights

²³⁹ Ibid., 206.

²⁴⁰ Ibid., 205.

²⁴¹ Ward, *The Black Child Savers*, 207.

²⁴² Alan Taylor, “1964: Civil Rights Battles,” *The Atlantic*, May 28, 2014.

demonstrators.

Conclusion

Cultural and social developments that progressed throughout the 1950s and 1960s led to a gradual transformation in how Americans viewed juveniles and juvenile offenders. The newfound teenage culture, with roots in the independence of children during WWII, made American adults view their young as increasingly independent and responsible for their own actions. At the same time, the teenage rejection of traditional values led many adults to call for more controls on the youth population. Although delinquency rates rose minimally during these years, the publication of misleading statistics, combined with media sensationalism of violent crime, heightened American anxieties that juvenile delinquency was on the rise. As James Dean's white, suburban, middle-class character in *Rebel Without A Cause* came to represent the new face of juvenile delinquency, Americans feared that youth crime was spreading from poor, urban, ethnic slums to elite white communities, increasing their calls for state control of youth crime. Many began to realize that they could no longer blame factors such as poverty, broken homes, and urbanization for delinquency, so they had no choice but to blame the youth offender himself. Thus, Americans arrived at the new idea of the willful youth criminal, who deserved the same punishment as adult offenders. The combination of these factors led to calls for increasing criminalization of juvenile delinquents. Elected officials heightened policing, while family courts deferred children to adult jurisdictions and sentenced youth offenders to adult facilities.

By 1967, the right, and much of mainstream America, continued calls for

increasing punishments for youth offenders, while the left realized the need to protect juveniles a justice system that increasingly punished children as adults. These two philosophies came to a head in *In re Gault*, which both afforded juveniles due process protections they needed in an increasingly punitive system, and opened the doors for courts to further adultify and criminalize youth crime, under the guise of “due process.” It is clear, though, that this decision did not represent the beginning of a revolution in the juvenile justice system, but the culmination of decades of gradual consideration of the juvenile as an independent, willful actor. The Court found that, “There is no material difference [in legal respects] between adult and juvenile proceedings,” in line with the growing belief among the American public that children and adults were more alike than the Child Savers believed.²⁴³ Writing for the majority, Justice Abe Fortas cited an “increasing recognition of this view,” through the court decisions, legislative initiatives, and expert publications of the last decade. Over one-third of state legislatures had enacted laws to guarantee juveniles the right to counsel. Furthermore, at the federal level, the Court cited a recent recommendation of the President’s Crime Commission that children receive the aid of counsel, “without requiring any affirmative choice by child or parent.”²⁴⁴ Thus, by increasing rights for children and diminishing the role of the parent in the proceedings, the federal government recommended treating children more like adults.

While state and federal governments were granting juveniles increasing legal protections in the years leading up to *Gault*, they were simultaneously treating children more like adult criminals. According to the Supreme Court, in 1967, the majority of

²⁴³ *In re Gault*.

²⁴⁴ *In re Gault*.

states allowed juveniles to be placed in or transferred to adult penal institutions. Furthermore, Justice Fortas cited, most, if not all states at the time of *Gault* allowed juvenile courts to waive jurisdiction of minors to adult criminal courts, as was the case in Arizona for Gerald Gault.²⁴⁵ Ultimately, the *Gault* ruling made it clear that by 1967, a national consensus had developed supporting the adultification of children in the criminal justice system. While conservatives in the 1950s and 1960s successfully pushed for “tough on crime” policies that criminalized, incarcerated, and adultified juveniles, liberals hailed *Gault* as a victory for children. However, extension of due process rights to children paralleled the inclusion of children in the growing mass incarceration system during the end of the twentieth century. The scope of this paper does not evaluate the post-*Gault* developments of the juvenile justice system, but it has attempted to illustrate that this ruling did not ignite a revolutionary change in juvenile justice, but rather represented two decades of shifts in public opinion, law, and professional analysis of children.

²⁴⁵ Ibid.

Epilogue

While *In re Gault* marked a culmination of processes that had been developing for decades, it did not mark the end of anxieties regarding juvenile crime. In the 1980s, fears of youth crime in the American public continued to escalate, as the media continued to sensationalize youth violence, and national crime statistics failed to become more transparent in their depiction of juvenile crime. Consequently, Americans called on their legislators to increasingly criminalize youth offenses. State and federal lawmakers have passed laws to make the juvenile justice system more punitive and require the transfer of younger children to adult courts for a greater variety of offenses and in more ways.²⁴⁶ As a result of these policies, juvenile incarceration climbed throughout the end of the twentieth century until it peaked in 1999, with over 100,000 juveniles placed in facilities nationwide.²⁴⁷

The story of juvenile justice in the twentieth century is largely a tale of increasing incarceration, criminalization, and personhood afforded to youth offenders. However, twenty-first-century reforms have begun to steer the path of juvenile justice in a different direction. At the turn of the century, over 100,000 youth offenders were incarcerated. By 2014, that figure dropped by 53 percent, to less than 51,000 children.²⁴⁸ This change can be largely attributed to the growth and activism of juvenile justice reform groups. Organizations such as the Coalition for Juvenile Justice, Children’s Defense Fund, and Center for Juvenile Justice Reform have fought for changes at the state and federal level.

²⁴⁶ “Patterns and Trends in Juvenile Crime and Juvenile Justice,” *National Academic Press*.

²⁴⁷ Joshua Rovner, “Declines in Youth Commitments and Facilities in the 21st Century,” *The Sentencing Project*, December 11, 2015.

²⁴⁸ Office of Juvenile Justice and Delinquency Prevention. *Juvenile Residential Facility Census*, Washington, DC: U.S. Census Bureau.

Policymakers have reformed the juvenile justice system by focusing on early intervention, addressing child abuse and neglect, eliminating “zero tolerance” policies, implementing school-based conflict resolution programs, diverting youth from the criminal justice system, and prioritizing the continuation of education.²⁴⁹

In a further redirection from twentieth-century trends, the American legal system is showing signs of a gradual return to increased separation between youths and adults. In 2005, the Supreme Court abolished the juvenile death penalty in *Roper v. Simmons*. Christopher Simmons was 17-years-old in 1993, when he planned and carried out the murder of Shirley Crook. The State of Missouri charged Simmons with burglary, kidnapping, stealing, and first-degree murder. Per Missouri statute excluding 17-year-olds from the jurisdiction of the juvenile court system, the State tried Simmons as an adult and successfully sought the death penalty.²⁵⁰ On appeal, the Missouri Supreme Court reversed the sentence, finding that:

A national consensus has developed against the execution of juvenile offenders, as demonstrated by the fact that eighteen states now bar such executions for juveniles, that twelve other states bar executions altogether, that no state has lowered its age of execution below 18 since [*Stanford v. Kentucky* (1989)], that five states have legislatively or by case law raised or established the minimum age at 18, and that the imposition of the juvenile death penalty has become truly unusual over the last decade.²⁵¹

The Supreme Court upheld this ruling, using a similar reliance on the “national consensus” that had developed against the juvenile death penalty. The Court held that the Eighth Amendment’s “cruel and unusual punishment” clause forbade the execution of any offender under the age of 18, citing that modern society considers the juvenile

²⁴⁹ “Reform Trends,” *Juvenile Justice Information Exchange*, n.d.

²⁵⁰ *Roper v. Simmons*, 543 U.S. 551 (2005).

²⁵¹ *State ex rel. Simmons v. Roper*, 112 S. W. 3d 297 (2003).

“categorically less culpable” than the adult offender. Its consideration of public opinion and consensus in its ruling was not new in *Roper*. In weighing a “cruel and unusual punishment” claim in the 1958 case *Trop v. Dulles*, the Court decided that it must consider “the evolving standards of decency that mark the progress of a maturing society” when determining if a punishment is “cruel and unusual.”²⁵² The Court similarly relied on societal standards in its rulings of *Stanford v. Kentucky* and *Penry v. Lynaugh*, both of which it handed down on the same day in 1989. In both these cases, the justices found that there was not enough of a national consensus to proscribe execution for juveniles or the mentally retarded, respectively.²⁵³ However, in 2002, the Supreme Court reversed *Penry*, finding that in the intervening time, a national consensus *had* emerged against capital punishment for the developmentally disabled. In *Atkins v. Virginia*, the justices cited the fact that since *Penry*, 30 states had prohibited the death penalty for those with mental retardation.²⁵⁴ The Court relied on similar reasoning in determining *Roper*. It considered that 30 states prohibited the juvenile death penalty, and especially weighed the fact that in light of the “general popularity of anticrime legislation,” and “the particular trend in recent years toward cracking down on juvenile crime,” no state had moved to reinstate the juvenile death sentence.²⁵⁵

In weighing *Roper*, the Court not only considered state law but also turned to federal legislation to evaluate the national consensus. Writing for the majority, Justice Anthony Kennedy pointed out that when the Senate ratified the International Covenant on Civil and Political Rights in 1966, it did so subject to the President’s reservation

²⁵² *Trop v. Dulles*, 356 U.S. 86 (1958).

²⁵³ *Roper v. Simmons*.

²⁵⁴ *Atkins v. Virginia*, 536 U.S. 304 (2002).

²⁵⁵ *Roper v. Simmons*.

regarding the article that prohibited juvenile capital punishment. However, by 1994, when Congress enacted the Federal Death Penalty Act, legislators decided not to extend the federal death penalty to minors.²⁵⁶ The Court considered this change in federal policy an indication of a national consensus that had emerged against the juvenile death sentence in the preceding decades. Ultimately, the Court ruled that, “the rejection of the juvenile death penalty in the majority of States; the infrequency of its use even where it remains on the books; and the consistency in the trend toward the abolition of its practice—provide sufficient evidence that today our society views juveniles...as ‘categorically less culpable than the average criminal’.”²⁵⁷

In its decision, the Court went beyond analyzing changes in federal and state law, but determined itself that juveniles are inherently less culpable than adult offenders. Justices identified three distinct factors that differentiate youth offenders from adults: a lack of maturity and sense of responsibility, increased susceptibility to negative influences and peer pressure, and a less defined character. In his majority opinion, Kennedy acknowledged that, “Juveniles still struggle to define their identity,” thus, “It is less supportable to conclude that even a heinous crime committed by a juvenile is evidence of irretrievably depraved character.”²⁵⁸ Ultimately, the Court concluded, “The differences between juvenile and adult offenders are too marked and well understood to risk allowing a youthful person to receive the death penalty.”²⁵⁹ In highlighting the difference between juvenile and adult offenders in its consideration of *Roper v. Simmons*, the Supreme Court indicated the beginning of a gradual return to the Child Savers

²⁵⁶ Ibid.

²⁵⁷ *Roper v. Simmons*.

²⁵⁸ Ibid.

²⁵⁹ Ibid.

mentality, distinguishing children from adults.

Granted, *Roper v. Simmons* did not magically solve the grave concerns that persist in the juvenile justice system. In 2009, 11-year-old Jordan Brown faced adult charges, criminal court, and incarceration in an adult jail for the murder of his father's fiancée. Although the State Superior Court eventually reassigned Jordan's case to juvenile court, and a judge agreed to release Jordan from six years of confinement in 2016, every year, 250,000 minors are tried, sentenced, or incarcerated as adults nationwide.²⁶⁰ The majority of those prosecuted in adult courts are charged with non-violent offenses. Furthermore, as of 2012, a daily average of 10,000 youths were incarcerated in adult jails and prisons.²⁶¹ However, as *In re Gault*, *Roper v. Simmons*, and countless other cases demonstrate, it is not up to the U.S. Supreme Court alone to initiate changes in the juvenile justice system. The Court relies on a "national consensus" that considers state and federal statutes and public opinion polls. Cultural and socioeconomic changes over the course of history impact how American society views juveniles, and subsequently, how the legal and criminal justice system treat them. Therefore, the future of the juvenile justice system and the continuation of reforms rest in the hands of the American people.

²⁶⁰ Karen Kane, "Jordan Brown, 18, set free from juvenile confinement 7 years after killing," *Pittsburgh Post Gazette*, June 15, 2016.

"Key Facts: Youth in the Justice System," *Campaign for Youth Justice*, April 2012.

²⁶¹ "Key Facts," *Campaign for Youth Justice*.

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