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Punishment First: A Study of Juvenile Pretrial Detention

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Punishment First: A Study of Juvenile Pretrial Detention



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Abstract

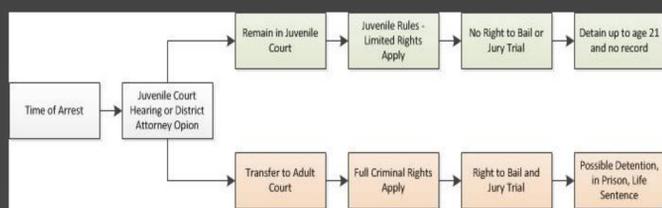
How society and the legal system should respond to youth crime is a volatile issue. Much research exists on this topic broadly. A largely overlooked subset exists regarding the rights of juveniles in the United States who face pretrial confinement, specifically how juveniles accused of delinquency are treated by the courts. Delinquency or a delinquent act, in the context of this study, is “an act that would be considered a crime if committed by an adult.”¹ Adults and children are processed by the courts differently, each with their own rights and court mandated procedures to follow. This report analyzes juvenile detention with specific focus on the U.S. Supreme Court case *Schall v. Martin* (1973) and how this case affects juveniles in the court system today.⁴

Primary and Secondary Sources

The primary sources for this research include documentation taken from various court cases, including legal briefs, pleadings, and court decisions from multiple levels of the justice system up to and including the United States Supreme Court. Secondary sources included a number of books published by subject matter experts in juvenile justice. Together, these sources both help to frame the issue and to provide support for additional research after the McNair Summer Research concludes.

Introduction and Purpose of the Study

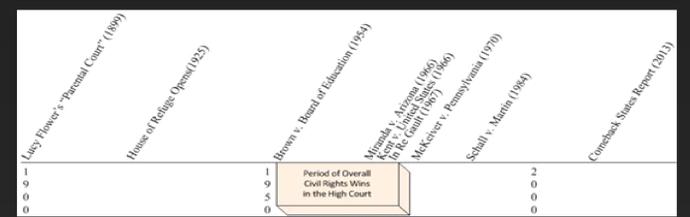
The purpose of this study is to examine “due process” within the juvenile justice system, with a focus on juvenile pretrial detention. The United States Constitution, the Bill of Rights, Amendments to the Constitution, and various legislative actions over the last two hundred years, all ensure that adults in America, when charged with a crime, regardless of citizenship status, are guaranteed basic civil rights of “due process.” Juveniles, however, even those charged with minor infractions, do not currently enjoy the same protection. This project analyzes the issue of juvenile pretrial detention by revisiting *Schall v. Martin*, which has shaped the debate of juvenile detention practices for the last three decades.⁴



Divergent Paths between Adults and Juveniles

The Four Most Significant Cases

- ❖ *Kent v. United States* (1966) – a case involving the waiver of juvenile court jurisdiction to pass the outstanding case to the adult court for adjudication²
- ❖ *In re Gault* (1967) – a case that challenged the procedural rights of juveniles in the process of adjudication of delinquency¹
- ❖ *McKeiver v. Pennsylvania* (1970), a case that addressed whether juveniles had a right to a jury trial in the adjudicative stage of juvenile hearings.³
- ❖ *Schall v. Martin* (1973) – a case that challenged the rights of the State to hold juveniles in pretrial confinement⁴



Timeline of juvenile justice in relation to Civil Rights movement

Summary of Literature Review

Based on the findings of this report the system of American juvenile justice is at a crossroads. What started as a bold social experiment in Chicago has, as is the case in most political issues, followed an ebb-and-flow as pressures from the public have demanded. The effect of the case of *Gault* was almost immediate; within a few short years, the public was screaming for harsher punishments and better control of juvenile offenders. By the 70s, the trend of “friendly” juvenile court rulings had turned.⁶ In 1970, the U.S. Supreme Court denied juveniles had a constitutional right to trial by jury.³ In 1973, the court denied that juveniles should be treated the same as adults during the adjudication stage of delinquency hearings regarding pretrial detention.⁴

Today, the system of juvenile justice is at a turning point. Does the system continue “as-is,” with all parties knowing there are flaws, or do policy makers need to step in and examine new visions and concepts to amend the system? It is clear to this researcher that this subject requires further exploration.

Primary Questions

Responding to juvenile crime is a challenge for society, and is a subject that today continues to spark passionate debate. Juvenile crime is riddled with challenges and conflicts that child advocates against those desiring to curb criminal activities of juveniles. Questions debated include:

- ❖ At what point do juveniles need to be treated as adults?⁶
- ❖ Do juveniles always deserve different treatment than adults?
- ❖ Does a juvenile have the cognitive ability to know right from wrong or to understand?
- ❖ Are juveniles competent to understand the consequences of their actions? If so, at what age?
- ❖ If a juvenile breaks the law, should he/she be detained?
- ❖ If so, where should he/she be held?
- ❖ Is there a “[distinction] between placing youth in “detention” and in “shelter care”?”⁵

References

- ¹*In re Gault*, 284 US 1 (1967)
- ²*In re Kent*, 282 US 531 (1966)
- ³*McKeiver v. Pennsylvania*, 302 US 56 (1970)
- ⁴*Schall v. Martin*, 364 U.S. 52 (1973)
- ⁵Manfredi, Christopher P. *The Supreme Court and Juvenile Justice*. Lawrence
- ⁶Scott, Elizabeth S. “*The Legal Construction of Adolescence*.”
- ⁷*Types of Juvenile Offenses in Pennsylvania*. <http://www.jlc.org>

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William S. Boyd School of Law

Most importantly, do juveniles have the same civil rights as granted to adults, especially regarding the subject of pretrial confinement?