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# Race, Gender, and Legal Counsel

## Differential Outcomes in Two Juvenile Courts

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This study examines the influence of race, gender, and type of legal counsel on juvenile court outcomes. Data from a sample of juvenile court referrals from two midwestern juvenile courts indicate that the effect of these factors varied by court location. The severity or leniency of the disposition outcome was determined by race, gender, type of legal counsel, and court location. This study clearly demonstrates the need for an approach that considers the interplay between legally relevant and legally irrelevant factors on juvenile justice decision making.

**Keywords:** *race; gender; location; legal counsel; juvenile justice*

### Introduction

In 1967, the U.S. Supreme Court ruled in *In re Gault* that juvenile offenders were constitutionally entitled to the assistance of legal counsel in juvenile delinquency proceedings, where the consequences were that the child could be committed to a state institution. The Supreme Court held that representation by legal counsel was fundamental to due process in the juvenile court. However, the holding of *Gault* was limited because it dealt solely with the adjudicatory stage of the juvenile proceeding, where facts were presented and the juvenile was declared delinquent (Nesburg, 1971). The Court held that a state could no longer successfully argue that a juvenile proceeding was "civil" when, in reality, the commitment of adults and juveniles was indistinguishable in terms of the loss of liberty (Neigher, 1967; Winslade, 1974). Therefore, the Court ruled that if the liberty of adults and juveniles was equally restrained, then due process safeguards, such as the right to legal counsel, afforded at criminal trials should apply equally to juvenile proceedings (Melton, 1989; Nesburg, 1971).

The *Gault* decision indicates that for fairness and due process to occur in juvenile court hearings, youth faced with confinement to a state institution must be given the opportunity to consult with legal counsel. However, previous research indicates that not all juveniles facing confinement are represented by legal counsel. For example, studies have revealed

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that anywhere from 15% to 95% of juveniles were assisted by an attorney (Aday, 1986; Clarke & Koch, 1980; Feld, 1988, 1991, 1993b; Langley, 1972; Reasons, 1970). Research also indicates that presence/absence of counsel and type of legal counsel may affect juvenile court outcomes. Specifically, some studies have revealed that youth appearing with counsel received a harsher disposition than those who appeared without an attorney (Burruss & Kempf-Leonard, 2002; Duffee & Siegel, 1971; Feld, 1988, 1991, 1993a; Guevara, Spohn, & Herz, 2004; Langley, 1972). In addition, some research has found that juveniles represented by private attorneys received better outcomes than youth represented by public defenders (Carrington & Moyer, 1990; Clarke & Koch, 1980; Duffee & Siegel, 1971; Erickson, 1975; Lefstein, Stapleton, & Teitelbaum, 1969; Reasons, 1970; Stapleton & Teitelbaum, 1972). Furthermore, there is some evidence that racial minorities are either less likely than Whites to be represented by counsel or more likely than Whites to be represented by a public defender than a private attorney (Feld, 1988, 1991, 1993b).

In addition to evidence of difference in type of legal representation by race, there is also some evidence that White and minority youth appearing in the juvenile court receive different outcomes. African Americans represent 15% of all juveniles younger than age 18 in the United States but represent 32% of adjudicated delinquency cases and 40% of juveniles in residential placement (U.S. Department of Justice, Office of Justice Programs [OJJDP], 1999). African American males are also confined at a rate of seven to nine times that of White males (Hawkins & Jones, 1989). Moreover, previous research has indicated that non-White juveniles received more severe outcomes than Whites (Bishop, 2005; Bishop & Frazier, 1996; Bray, Sample, & Kempf-Leonard, 2005; Frazier & Bishop, 1995; Frazier, Bishop, & Henretta, 1992). In addition, studies have revealed that minority youth were discriminated against at all stages of the juvenile justice system (Bishop & Frazier, 1987; DeJong & Jackson, 1998; Fagan, Slaughter, & Hartstone, 1987; Kempf-Leonard & Sontheimer, 1995). On the other hand, some studies indicate that when controlling for seriousness of current offense and prior record, White and minority youth received similar outcomes (Frazier & Bishop, 1985; Henretta, Frazier, & Bishop, 1986; Marshall & Thomas, 1983). Research has also provided some evidence that gender influences court outcomes. Specifically, female youth may receive harsher outcomes than males for status offenses but more lenient outcomes for delinquent offenses (Chesney-Lind, 1977; Chesney-Lind & Shelden, 2004; Datesman & Scarpitti, 1977).

Although presence/type of legal counsel, race, and gender may be some of the factors influencing juvenile court outcomes, there is also some evidence that court location has an impact. Geographical disparities in the processing of juveniles have existed since the enactment of the Juvenile Court Act of 1899. Because of variation in laws and statutes, some courts may be viewed as strict, whereas others are viewed as lenient, and still others may be seen as rehabilitative. Some studies reveal that urban courts are more formal, bureaucratized, and due-process oriented, whereas rural courts are procedurally less formal and sentence youths more leniently (Aday, 1986; Bray et al., 2005; Cohen & Klugel, 1978, 1979a, 1979b; Feld, 1991).

In summary, the Supreme Court expanded the due process rights of youths in juvenile court through the *Gault* decision. This decision applied requirements that are essential to due process and fair treatment but do not supplant the "unique benefits" derived from the

juvenile proceeding (Melton, 1989; Nesburg, 1971). As part of protecting the interests of children, the juvenile court is challenged with ensuring fair and equitable treatment in its proceedings through due process guarantees. Focusing on outcomes in the juvenile court raises questions regarding the equity and influence of legal representation across race and gender in juvenile courts in different jurisdictions. Despite the contribution of studies that examined the influence of race, gender, type of legal counsel, or court location on juvenile court outcomes, no research has examined the influence of all these factors together. The current study addresses this limitation by simultaneously examining the impact of race, gender, legal counsel, and court location on disposition outcomes in two juvenile courts.

## Theoretical Perspectives and Juvenile Justice Decision Making

With few exceptions (see, e.g., Bridges & Steen, 1998), the juvenile justice case processing research is largely atheoretical. Disparities in adult sentencing outcomes, in contrast, have garnered significant attention, and the theoretical developments in this area can be applied to juvenile justice decision making. Court officials in both adult and juvenile courts operate on a decision-making strategy based on routine choices, as well as on the assumption that strategies that worked in the past will work in the future. Therefore, these theoretical perspectives have enhanced the ability to explain and predict court outcomes in both adult and juvenile courts.

Theoretical explanations for sentencing outcomes essentially fall into two basic categories. The first category holds that sentence severity—and by extension outcomes in the juvenile court—are determined by legally relevant factors, especially crime seriousness and prior contact with the criminal (juvenile) court system. According to the “formal rationality” perspective, for instance, “formal legal rules govern sentencing decisions via the application of these rules and sentencing outcomes are primarily the result of legal rules and criteria applied equally to all classes and races” (Dixon, 1995, p. 1161). From this perspective, legal factors are the major determinants of juvenile court outcomes, and extralegal factors, such as race and gender, have little influence (Ulmer, 1997).

The second category of theoretical perspectives, which does not discount the importance of legal factors, views outcomes in terms of the interplay between legally relevant and legally irrelevant factors (i.e., race, gender, and social class). Several different, but related, perspectives fall within this category. The first perspective, “bounded rationality” (Albonetti, 1987, p. 294), holds that “court officials attempt to achieve rational outcomes in the face of incomplete knowledge by relying on stereotypes that differentially link defendant groups to recidivism and dangerousness” (Albonetti, 1987, p. 294). In other words, judges use legally relevant and legally irrelevant factors to determine sentencing decisions and predict future behavior.

Consistent with the “bounded rationality” perspective is the “focal concerns” theory of sentencing (Steffensmeier, Ulmer, & Kramer, 1998). According to this view, three focal concerns influence judges in reaching sentencing decisions: “the youth’s blameworthiness and the degree of harm caused the victim; protection of the community; and practical implications of sentencing decisions” (Steffensmeier et al., 1998, p. 766). The first focal concern

is related to the seriousness of the offense and other legally relevant factors. The second and third concerns reflect judges' assessments of the youth's dangerousness and risk of recidivism and of the practical constraints and consequences of sentencing decisions. According to this perspective, then, judges base their sentencing decisions in part on assessments of the youth's dangerousness, culpability, and likelihood of recidivism. Because judges rarely have enough information to accurately determine this, they develop a "perceptual shorthand" (Steffensmeier et al., 1998, p. 767) based on stereotypes and attributions that are themselves linked to youth characteristics such as race, gender, and age. Thus, "race, age, and gender will interact to influence sentencing because of images or attributions relating these statuses to membership in social groups thought to be dangerous and crime prone" (Steffensmeier et al., 1998, p. 768).

A third perspective, attributional theory, proposes that court decision makers are influenced by their individual judgments about a youth's attitudes and motivations, and such attributions affect the final outcome (Bridges & Steen, 1998). These attributions or perceptions, in turn, are based on both legally relevant and legally irrelevant factors, such as race and gender.

The theoretical perspectives described lead to different predictions about the effect of race, gender, location, and type of legal counsel on juvenile court outcomes. Whereas formal rationality predicts that neither race, gender, type of attorney, nor location will have an effect once legally relevant factors are taken into consideration, the other theoretical perspectives predict that race, gender, type of legal counsel, and location will have direct and/or indirect effects on decision making even after legally relevant factors are taken into consideration.

## Previous Research on Disparities in Juvenile Justice Processing

The theoretical perspectives described above are helpful in understanding the current literature on race and juvenile justice decision making, gender and juvenile justice decision making, as well as the effect of type of legal counsel and court location on juvenile justice decision making. As with most research related to court decision making, the findings are mixed and support the predictions associated with both types of explanations.

In general, there is substantial support for the notion that legal factors play the most significant role in court decision making (Bailey, 1981; Bishop, 2005; Black & Reiss, 1970; Carter, 1979; Cohen & Klugel, 1978, 1979a, 1979b; Marshall & Thomas, 1983; Thomas & Sieverdes, 1975). Factors such as prior criminal history, the seriousness of the current charge, and placement in preadjudication detention are the best predictors in models that include demographic and other extralegal factors. In some studies, the influence of extralegal factors dissipates after legal factors are controlled (Belknap, 2001; Carter, 1979; Clarke & Koch, 1980; Dannefer & Schutt, 1982; Fenwick, 1982; Kempf-Leonard & Sontheimer, 1995; Phillips & Dinitz, 1982; Teilmann & Landry, 1981). In other studies, however, extralegal factors continue to exert an influence even when legal factors are included (Bishop, 2005; Bishop & Frazier, 1996; Bortner, Sunderland, & Winn, 1985; Bray et al., 2005; Conley, 1994; Frazier & Bishop, 1995; Guevara et al., 2004; Leiber, 1994; Thornberry & Christensen, 1984; Wordes & Bynum, 1995; Wordes, Bynum, & Corley, 1994).

These latter studies are more consistent with the bounded rationality, focal concerns, or attribution theories of case processing, which highlight the myriad ways that race and gender

can affect juvenile justice decision making. Several studies revealed that minority youth were more likely to be taken into custody by the police than White youth (Black & Reiss, 1970; Conley, 1994; Dannefer & Schutt, 1982; Piliavin & Briar, 1964; Thornberry, 1973; Wordes & Bynum, 1995) and were more likely to be detained following arrest and be formally petitioned to juvenile court (Bortner et al., 1985; DeJong & Jackson, 1998; Frazier & Bishop, 1995; Johnson & Secret, 1990; Kempf-Leonard & Sontheimer, 1995; McGarrell, 1993; Thomas & Sieverdes, 1975; Wordes et al., 1994).

Pope and Feyerherm's (1990) review of 46 studies on juvenile justice outcomes highlights the importance of taking race into consideration. Although they found support for both theoretical perspectives in the studies they reviewed, they concluded that there was "substantial support for the statement that there are race effects in operation within the juvenile justice system, both direct and indirect in nature" (Pope & Feyerherm, 1990, p. 335). Building on their analysis, they highlighted four themes that emerged from this research. First, selection bias was found at all stages of juvenile justice processing. Second, the way in which race was related to outcomes (i.e., directly or indirectly) depended on the processing stage investigated. Third, the role of race in decision making was complex, and often mixed, when other factors were controlled in multivariate analysis. Finally, small race effects at individual stages of the process accumulated and became more pronounced as minority youth were processed further along in the juvenile justice system.

The cumulative effect of race is illustrated in several studies that examined the way in which racial bias at the early processing decisions (i.e., detention and petition) affected later court decisions (i.e., disposition). As mentioned earlier, several studies found that race affected the decision to detain a youth preadjudication. Youth who were pre-detained, in turn, were more likely to receive a harsh disposition (Bishop, 2005; Bishop & Frazier, 1996; Bortner & Reed, 1985; Frazier & Cochran, 1987; McCarthy & Smith, 1986; Poole & Regoli, 1980). This cumulative effect of racial bias results in a "compound risk" of harsher outcomes for minority youth. At almost every stage in the juvenile justice process, racial bias may be present without being extreme, but "because the system operates cumulatively, the risk is compounded and the end result is that Black juveniles are three times as likely as White juveniles to end up in residential placement" (McCord, Spatz-Widon, & Crowell, 2002, p. 257).

Consistent with the findings for race, research provides some evidence that female youths receive harsher outcomes than male youths, especially for status offenses (Chesney-Lind, 1977; Chesney-Lind & Shelden, 2004; Datesman & Scarpitti, 1977; Mann, 1979; Odem, 1995; Shelden & Horvath, 1986). These findings may be explained by the double standard of juvenile justice, in which youths receive differential treatment simply because of the perceptions associated with their gender (Chesney-Lind, 1973, 1977; Chesney-Lind & Shelden, 2004, p. 192; Schlossman & Wallach, 1978). Female youths, in other words, experience paternalistic treatment by the system, based on the assumption that females, not males, are in need of protection and guidance; as a result, they are treated more harshly than males. Harsher treatment for both status and delinquent offenses also results from a view that the female has violated gender roles. If females are skipping school, purchasing alcohol, or committing criminal acts, the system assumes that they lack protection at home; therefore, the juvenile justice system steps in and dispenses harsher treatment, which is aimed at helping and protecting them.

In contrast to studies on race, research findings have also shown that female youths receive more lenient outcomes for delinquency offenses than males when prior record and offense seriousness are taken into consideration (Bishop & Frazier, 1992; Farrington & Morris, 1983; Johnson & Scheuble, 1991; Morris, 1987; Visser, 1983). These findings may be explained by the chivalry perspective, which hypothesizes that “there is sex discrimination against male youths; that is females are treated or processed more leniently than males” (Belknap, 2001, p. 131). The findings also are consistent with the focal concerns perspective. Because female youth are viewed as less dangerous, less threatening, and less likely to recidivate than male youth, they receive more lenient outcomes.

Research that has focused on the effect of presence/type of counsel on juvenile court outcomes is consistent with the bounded rationality, focal concerns, or attribution theories of case processing. Specifically, this research has indicated that type of counsel has an effect; however, the direction of the effect is not consistent. Most of the research addressing the performance of juvenile defense counsel has focused on comparing juvenile court outcomes for those youths represented by an attorney to those for youths without counsel. Some research indicates that juveniles appearing in court with counsel were actually at a disadvantage. Duffee and Siegel (1971) found that presence of counsel in juvenile court significantly increased the likelihood of incarceration and decreased the likelihood of dismissal. Langley (1972) looked at two groups of delinquents—those who received probation as their disposition and those who were securely confined. The results indicated that youth who appeared without an attorney received probation at a higher rate than those who appeared with legal counsel. In addition, some research has found that an out-of-home placement was more likely in cases where legal counsel was present (Burruss & Kempf-Leonard, 2002; Guevara et al., 2004).

Feld’s (1988, 1991, 1993b) research similarly reveals that the presence of an attorney is an aggravating legal factor in the juvenile court. He found that youths represented by counsel were three times more likely than those without counsel to receive a severe disposition. Specifically, when the seriousness of the offense and prior record were controlled, youths appearing with an attorney were more likely to receive an out-of-home placement and secure confinement. In contrast to the results discussed above, Ferster, Courtless, and Snethen (1971) and Ferster and Courtless (1972) found that although only a small percentage (27%) of juveniles were represented by counsel, these youths had better outcomes than youths who appeared without counsel. Specifically, juveniles with legal representation were more likely to have their case dismissed and, if formally processed, were less likely to receive a secure confinement disposition than juveniles without representation.

Research has also revealed that type of attorney has an effect on juvenile court outcomes. Dootjes, Erickson, and Fox (1972) and Erickson (1975) interviewed public and private defense attorneys in juvenile court. This research revealed that juveniles did not expect the public defender to be an adversary. On the other hand, the private attorney was expected to spend a long time with the juvenile and was expected to “get the child off.” Consistent with this, some studies reveal that private attorneys in juvenile court obtain better outcomes than public defenders. Carrington and Moyer (1990) found that youths represented by a private attorney were less likely to be adjudicated and more likely to have the charges dismissed. In addition, Feld’s research (1993b) also revealed that youths with private counsel had the

lowest rates of out-of-home placement and secure confinement. Finally, Clarke and Koch (1980) examined the effect the presence and type of counsel had on disposition. They found that youth who were either unrepresented or represented by private counsel had high rates of dismissal and low rates of confinement. In contrast, Guevara et al. (2004) found that youth who were represented by a private attorney had the highest likelihood of secure confinement and the lowest likelihood of dismissal of charges.

Because the juvenile court system is organized at the county level, different courts may have different philosophies regarding the processing of juvenile offenders. Some courts may be considered “post-Gault” and have a “due process” orientation with a focus on procedural rights and court functions to protect these rights (Bray et al., 2005; Cohen & Klugel, 1978, 1979a, 1979b; Stapleton, Aday, & Ito, 1982; Tracy, 2005). Outcomes in these courts would be consistent with the formal rationality perspective in that decision making is determined by legally relevant factors. Other courts may be considered “pre-Gault” and have a “traditional” orientation with a focus on informal procedures and the best interest of the child (Bray et al., 2005; Cohen & Klugel, 1978, 1979a, 1979b; Stapleton et al., 1982; Tracy, 2005). Outcomes in these courts would be consistent with the bounded rationality, focal concerns, and attributional theories, which emphasize the various ways that legally irrelevant factors affect decision making. According to Feld (1991), urban courts are more diverse and are, therefore, more likely to place greater emphasis on formal, bureaucratized social control with a resulting “due process” orientation. The emphasis on procedural formality can be associated with more severe dispositions (Cohen & Klugel, 1978, 1979a, 1979b; Feld, 1991; Sampson & Laub, 1993; Sanborn, 1996). Rural and suburban courts are more likely to be homogeneous and rely on methods of informal social control with a resulting “traditional” orientation. This emphasis can be associated with more lenient dispositions (Cohen & Klugel, 1978, 1979a, 1979b; Feld, 1991; Sanborn, 1996).

Although some research has suggested that urban courts sentence youths more severely than rural courts, other studies reveal mixed findings. Specifically, DeJong and Jackson (1998) and Kempf-Leonard, Decker, and Bing (1990) found more severe sentences in rural counties. In contrast, Kempf-Leonard and Sontheimer (1995) found that type of court had no influence on juvenile court outcomes. In addition, the presence of legal counsel provides an indicator of a court’s legal formality and due process orientation (Bray et al., 2005; Feld, 1991). Some studies have found that juvenile courts with high rates of legal representation also have more severe dispositions (Aday, 1986; Feld, 1988, 1991).

Also, previous research examining the influence of race across jurisdiction has shown that the juvenile justice system is neither completely free of racial bias nor systematically racially biased. Some research (Kempf-Leonard & Sontheimer, 1995; Kempf-Leonard et al., 1990; Lockhart, Kurtz, Sutphen, & Gauger, 1991) has found that in urban courts, non-White youths are more likely than White youths to receive an out-of-home placement. On the other hand, Bray et al. (2005) found that the likelihood of an out-of-home placement varied by jurisdiction with number of prior court referrals and pre-detention status influencing the outcome. In addition, this study found that cases involving non-White youth had an increased chance of an out-of-home placement regardless of court type. The juvenile justice system falls somewhere between systematic bias and pure justice, and is characterized by “contextual discrimination” (Walker, Spohn, & DeLone, 2004). According to this perspective,



“the treatment accorded minority youth is more punitive than that accorded whites in some regions or jurisdictions but is no different than that accorded whites in other regions or jurisdictions” (Walker et al., 2004, p. 357).

Overall, research examining the influence of court location has revealed that the differing court philosophies result in varying outcomes for juvenile offenders across jurisdictions. Most research has found that urban or due process counties were more likely to file formal petitions, pre detain youth, and give more severe dispositions (Aday, 1986; Bishop, 2005; Cohen & Klugel, 1978, 1979a, 1979b; Feld, 1991; Sampson & Laub, 1993; Sanborn, 1996).

The themes found in empirical studies of race, gender, court location, type of attorney, and court outcomes guide current research. The research conducted to date suggests that non-White youth receive more severe outcomes than White youth and White females receive the most lenient outcomes. In addition, previous research indicates that juveniles represented by legal counsel receive more severe outcomes. Finally, youth in urban or “due process” oriented courts receive the more severe outcomes. These hypotheses were tested using data from two midwestern juvenile courts.

## Data and Methods

The data used for this study were collected from case files in two midwestern juvenile courts for the years 1990 to 1994 as part of a study to examine disproportionate minority confinement. The two counties used in this study included the two largest counties in a midwestern state. County A (an “urban” court) included a large metropolitan area with a total population of 416,444, with minorities representing 16% of this population (U.S. Bureau of the Census, 1990). Approximately 23% of County A’s total population was between the ages of 7 and 17. Of the juvenile population, 79% were White, 15% were African American, 15% were Latino, and 1% was Native American and Asian American. County B (a “suburban” court) was the second largest county in the state and included a moderately sized metropolitan area. This county had a total population of 203,013 with minorities representing 5% of this total (U.S. Bureau of the Census, 1990). Approximately 25% of the total population were juveniles under the age of 19. Of this juvenile population, 92% were White, 3% were African American youth, 2% were Latino, 1% was Native American, and 2% were Asian American.

Cases were selected from each county using a random sampling procedure. County A had 15,728 delinquency referrals. These referrals were stratified by race and gender and then chosen at random with a resulting sample of 1,500. Referrals that did not have a court file or were transferred to another jurisdiction were dropped for a final sample of 1,388.<sup>1</sup> In County B, there were 6,825 delinquency referrals. Given the small number of minority offenders in this county, all referrals involving non-White youth were selected and 16% of referrals involving White youth were randomly selected. This procedure resulted in an initial sample of 1,181 referrals. Removal of referrals that did not have a court file or were transferred to another jurisdiction yielded a final sample of 1,047.

The sampling procedures used in the two counties resulted in an undersampling of White youth and an oversampling of non-White youth relative to their percentages in the total referral population. As a result, the data and subsequent analyses were weighted to reflect each racial category’s representation in the total referral population.<sup>2</sup>

**Table 1**  
**Definitions of Variables Used**

Variable	Definition
Dependent variable	
Disposition	0 = dismissed 1 = probation 2 = placement
Independent variables	
White <sup>a</sup>	0 = no 1 = yes
Gender <sup>a</sup>	0 = male 1 = female
Age	Interval variable
Predetention <sup>a</sup>	0 = no 1 = yes
Prior record	Ratio variable
Type of counsel <sup>a</sup>	
No attorney	0 = no 1 = yes
Public defender	0 = no 1 = yes
Private attorney	0 = no 1 = yes
Current offense <sup>a</sup>	
Person	0 = no 1 = yes
Property	0 = no 1 = yes
Other	0 = no 1 = yes
County	0 = County B (suburban) 1 = County A (urban)

a. Dummy variables, reference category varies by comparison made.

Data for each of these cases were derived from archived probation files using standard data collection forms. Because of missing information in these files, many case characteristics were not suitable for analysis. The final variables used in this study are presented in Table 1.

## Dependent Variable

One dependent variable is analyzed in this study. Disposition is a categorical variable that measured the final outcome after the juvenile has been adjudicated a delinquent and was captured using three levels of severity: “0” for dismissal of the charges, “1” for probation, and “2” for out-of-home placement. For the analyses, the final category (placement) was the reference category.<sup>3</sup>

Previous research on juvenile justice processing indicates that a multistage approach is the preferred method. For example, examining the predetention, petition, arraignment,

adjudication, and disposition decisions would constitute a comprehensive study. However, according to the *Gault* decision, a juvenile is entitled to legal representation only in adjudicatory hearings that could result in confinement to a state institution. In these two juvenile courts, counsel was not required/appointed until the disposition stage. Therefore, the stage that could best examine the influence of legal representation in these two juvenile courts is the disposition stage.

## Independent Variables

The independent variables in the analyses reflect offender characteristics, legal characteristics, and case characteristics. Because of the small number of Latinos, Native Americans, and Asian Americans in the sample, these cases are combined with those involving African Americans into a non-White category.<sup>4</sup> Race is therefore coded “1” for White and “0” for non-White youths. Gender is a dichotomous variable (male = 0, female = 1), age is an interval measure of the youth’s age at the time of arrest, and prior record is measured by the youth’s number of prior court referrals. To control for offense seriousness, the offender’s most serious charge was coded as a person, property, or other type of offense with “other offense” as the reference category. “Other offense” included drug, weapon, and traffic charges.<sup>5</sup> Preadjudication detention (yes = 1, no = 0) was also included as a control variable. Type of counsel was captured by three separate dummy variables: no attorney, public defender, or private attorney with the reference category varying by comparison made. The final variable included in these analyses was for the county in which the case was adjudicated (County A = 1, County B = 0).

## Analysis Procedures

Data analyses were conducted on one sample that combined the referrals from both counties with a control for county included. Preliminary analyses indicated that when each county was examined separately by race, gender, type of counsel, and disposition outcome, empty cells appeared. However, when the data were collapsed into one file, the empty cells disappeared. Combining the data was necessary because of the empty cells that appeared when individual race, gender, type of counsel, and disposition were pooled (Long, 1997, p. 60).

Multivariate analyses using multinomial logistic regression were conducted to determine the predictors of juvenile court outcomes. The dependent variable in this study (disposition) is a categorical variable with three outcomes measured. The most appropriate statistical technique for a dependent variable with several categories is multinomial logistic regression.<sup>6</sup> This technique estimates the effects of explanatory variables on a dependent variable with unordered response categories (Aldrich & Nelson, 1984; Liao, 1994; Menard, 1995). For this study, probability of being dismissed and receiving probation were compared to the probability of receiving out-of-home placement. The results of the analyses were used to calculate predicted probabilities for the independent variables of interest (race, gender, type of legal counsel, and court location) to examine their influence on the disposition outcome.

**Table 2**  
**Descriptive Statistics by County**

Variable	County A Urban Court <i>N</i> = 5,135 (62%)		County B Suburban Court <i>N</i> = 3,124 (38%)	
	%	<i>n</i>	%	<i>n</i>
<b>Disposition</b>				
Dismissed	52	2,651	29	915
Probation	33	1,705	61	1,894
Placement	15	779	10	315
<b>Race</b>				
White	43	2,195	81	2,538
Non-White	57	2,940	19	586
<b>Sex</b>				
Female	17	877	23	716
Male	83	4,258	77	2,408
<b>Age</b>				
Under 13	9	447	11	334
13	13	662	14	423
14	25	1,272	18	566
15	23	1,194	20	627
16	18	920	20	631
17	11	567	15	482
18	1	73	2	61
	<i>M</i> = 14.63		<i>M</i> = 14.69	
<b>Priors</b>				
0	31	1,607	89	2,783
1	28	1,458	9	283
2	15	750	1	37
3	10	502	1	21
More than 3	6	818	0	0
	<i>M</i> = 1.76		<i>M</i> = 0.14	
<b>Current offense</b>				
Property	58	2,995	58	1,830
Person	21	1,058	30	924
Other	21	1,082	12	370
<b>Predetained</b>				
Yes	47	2,406	12	384
No	53	2,729	88	2,740
<b>Legal counsel</b>				
Private attorney	28	1,466	13	405
Public defender	57	2,913	72	2,250
No attorney	15	756	15	469

## Results

### Descriptive Statistics

Table 2 presents descriptive statistics using weighted data for each county. The descriptive statistics indicate that White youth were a majority of the sample in County B (81%) whereas

**Table 3**  
**Correlations**

Independent Variables	Dependent Variable		
	Dismissed	Probation	Placement
White	-.095*	.161*	-.096*
Female	.040*	-.049*	.013
Age	.034*	.019	-.076*
Priors	.096*	-.234*	.201*
Predetained	-.011	-.123*	.195*
Person offense	-.007	-.006	.020
Property offense	-.067*	.048*	.027*
Other offense	.083*	-.049*	-.051*
Private attorney	-.117*	.103*	.021*
Public defender	-.137*	.076*	.089*
No attorney	.092*	-.046*	-.067*
Urban court	.222*	-.272*	.072*

\*Significant at  $\leq .05$ .

non-White youth were a majority in County A (57%). In both counties, a majority of the youth were male, charged with a property offense, and the mean age for each county was almost identical. In addition, there were similar rates of legal representation in both counties. Specifically, 85% of the youth in each county appeared with some form of legal counsel. Also, there were similar rates of out-of-home placement in both counties. There are several differences in the descriptive statistics between the two counties. First, in County A, a large majority of the youth had the charges dismissed (52%), whereas in County B most of the youth received probation (61%). Second, the average number of prior court referrals in County A (1.76) was significantly larger than the average number of priors in County B (.14). Third, youth in County A had higher rates of predetention (47%) than did youth in County B (12%). Finally, youth in County A had higher rates of representation by a private attorney (28%) than did youth in County B (13%). In addition, 72% of the youth in County B and 57% of the youth in County A were represented by a public defender. In summary, these descriptive statistics indicate differences for youth in the two counties. Multivariate analyses were used next to determine the influence of race, gender, and type of legal counsel on juvenile court outcomes in these two counties.

Examination of the correlations between the independent variables and three disposition outcomes (Table 3) reveals that race, type of attorney, and county have a significant effect on all three outcomes and gender affects two of the three outcomes. White youth were less likely than non-White youth to have the charges dismissed or receive an out-of-home placement but were more likely than non-White youth to receive probation. Females were less likely than males to receive probation but more likely to have the charges dismissed. In addition, youth with either a public defender or private attorney were less likely to have the charges dismissed but more likely to receive probation or an out-of-home placement. On the other hand, youth appearing without legal counsel were more likely to have the charges

**Table 4**  
**Multinomial Logit Results (N = 8,259)**

	Dismissed		Probation	
	B	X <sup>2</sup>	B	X <sup>2</sup>
Urban court	1.032	108.57*	-0.205	4.36*
Priors	-0.209	114.32*	-0.355	235.17*
Predetained	-1.238	219.35*	-0.950	125.33*
Person <sup>a</sup>	-0.787	36.79*	-0.829	38.94*
Property <sup>a</sup>	-0.877	54.48*	-0.596	24.09*
Female	-0.320	11.94*	-0.784	69.84*
Age	0.118	29.60*	0.103	22.44*
White	-0.151	3.31	0.263	6.56*
Private <sup>b</sup>	-0.941	47.21*	0.135	0.94
Public <sup>b</sup>	-0.352	8.64*	-0.172	1.92
Public <sup>c</sup>	0.206	6.81*	-0.243	9.24*
Intercept	0.921	6.23*	1.506	16.55*
Pseudo R <sup>2</sup>	0.18			
-2 Log likelihood	10,849.38			

a. Estimated with other as the reference category.

b. Estimated with no attorney as the reference category.

c. Estimated with private attorney as the reference category.

\*Significant at  $\leq .05$ .

dismissed and less likely to receive either probation or an out-of-home placement. Finally, youth in County A were more likely than youth in County B to have the charges dismissed or receive an out-of-home placement but were less likely to receive probation.

## Multivariate Results

The results of the multinomial logistic regression analysis of the disposition outcome are presented in Table 4. The results indicate that White youth were more likely than non-White youth to receive probation (.263) than placement as their formal disposition. However, race did not have a significant influence on the dismissal of charges. Females were less likely than males to have the charges dismissed (-.320) or receive probation (-.784) so therefore more likely to receive an out-of-home placement. The results also indicate that youth represented by either a public defender (-.352) or a private attorney (-.941) were less likely than those without legal counsel to have the charges dismissed and more likely to receive a placement. In addition, youth with a public defender (.206) were more likely than those with a private attorney to have the charges dismissed and therefore less likely to receive a placement. In contrast, youth with a public defender (-.243) were less likely than those with a private attorney to receive probation and, thus, were more likely to receive a placement. In addition, youth who had priors, were charged with a person or property offense, or were predetained were less likely to have the charges dismissed or receive probation and were therefore more likely to receive a placement. On the other hand, older youth were more likely to have the charges dismissed or receive probation and were thus less likely to receive a placement.

**Table 5**  
**Predicted Probabilities**

	County A Urban Court				County B Suburban Court			
	WM	NWM	WF	NWF	WM	NWM	WF	NWF
Dismissed								
No Attorney	.61	.75	.68	.79	.24	.59	.32	.65
Public	.64	.55	.68	.63	.28	.33	.35	.41
Private	.40	.36	.47	.43	.12	.18	.17	.24
Probation								
No attorney	.35	.13	.25	.10	.72	.59	.60	.22
Public	.29	.35	.19	.28	.64	.59	.50	.50
Private	.52	.52	.37	.44	.82	.73	.69	.66
Placement								
No attorney	.04	.12	.07	.11	.04	.12	.08	.13
Public	.07	.10	.13	.09	.08	.08	.15	.09
Private	.08	.12	.16	.13	.06	.09	.14	.10

Note: WM = White male; NWM = non-White male; WF = White female; NWF = non-White female.

Youth in County A were more likely than youth in County B to have the charges dismissed (1.032) so they were less likely to receive a placement. On the other hand, youth in County A were less likely than youth in County B to receive probation (-.205) and therefore more likely to receive a placement. Therefore, youth in County A were more likely to receive the most lenient disposition (dismissal) as well as the most punitive disposition (placement).

### Predicted Probabilities

To assess how court location influenced the effect of race, gender, and type of counsel, predicted probabilities were calculated using the coefficients from the multinomial logistic regression analyses. The probabilities are presented in Table 5 and represent estimates controlling for prior record, pre-detention status, age, and current offense. The predicted probabilities indicate differences in disposition outcome by race, gender, and type of counsel both within and between the counties. In County A, non-White females appearing without counsel had the greatest likelihood of dismissal of charges (79%) whereas non-White males represented by a private attorney had the least likelihood (36%). For the probation outcome, White and non-White males represented by a private attorney had the highest likelihood (52%) whereas non-White females without counsel had the lowest likelihood (10%). With regard to the placement outcome, White males appearing without counsel had the least likelihood (4%) and White females represented by a private attorney had the greatest likelihood (16%).

In County B, White males represented by a private attorney had the least likelihood of dismissal of charges (12%) whereas non-White females appearing without counsel had the greatest likelihood (65%). For the probation outcome, White males represented by a private attorney had the greatest likelihood (82%) whereas non-White females without counsel had the lowest likelihood (22%). With regard to the placement outcome, White females

represented by a public defender had the highest likelihood (15%) and White males appearing without counsel had the least likelihood (4%).

County A was more likely than County B to dismiss the charges regardless of type of counsel. This effect was more pronounced when comparing White and non-White youth in the two counties. Specifically, White youth represented by a public defender, private attorney, or appearing without counsel in County A were 28% to 37% more likely than similarly represented White youth in County B to have the charges dismissed. In contrast, non-White youth represented by a public defender, private attorney, or appearing without counsel in County A were only 14% to 23% more likely than similarly represented non-White youth in County B to have the charges dismissed.

The probabilities also indicate that County A was less likely than County B to use probation as a disposition outcome. Again, this effect was more pronounced when comparing White and non-White youth in the two counties. Specifically, White youth represented by a public defender, private attorney, or appearing without counsel in County A were 30% to 39% less likely than similarly represented White youth in County B to receive probation. On the other hand, non-White youth represented by either a public defender or private attorney in County A were only 12% to 24% less likely than similarly represented non-White youth in County B to receive probation. Also non-White males appearing without legal counsel in County A were 46% less likely than similarly represented non-White males in County B to receive probation. Finally, the probabilities indicate that there were no noteworthy differences between the two counties in likelihood of receiving a placement based on race, gender, or type of legal counsel.

In summary, several findings emerge from the multinomial logistic regression analysis and predicted probabilities. First, non-White females appearing without counsel in both counties were the most likely to have the charges dismissed and the least likely to receive probation. Second, White females in both counties were the most likely to receive an out-of-home placement—in County A, it was White females represented by a private attorney and in County B, it was White females represented by a public defender. Third, non-White males with a private attorney had the lowest likelihood of dismissal in County A, but White males with a private attorney had the lowest likelihood of dismissal in County B. Fourth, White males with a private attorney had a high likelihood of receiving probation in both counties. Finally, White males without an attorney had the lowest likelihood of placement in both counties.

## Discussion and Conclusion

This research sought to examine whether the effect of legal counsel on juvenile court outcomes varied by race, gender, and jurisdiction. The study predicted that non-White youth would receive the more severe outcomes, White females would receive the most lenient outcomes, youth represented by legal counsel would receive more severe outcomes, and youth in urban or “due process” courts would receive more severe outcomes. The results, however, do not support all these predictions. Non-White youth did not always receive the more severe outcomes. White youth were more likely than non-White youth to receive probation so they were less likely to receive an out-of-home placement. However, race was



not a significant influence on the most lenient disposition outcome—dismissal of charges. In addition, White females did not always receive the most lenient outcomes. Specifically, White females were more likely than non-White females to receive an out-of-home placement. Also, youth represented by legal counsel were more likely to receive a severe outcome than youth appearing without counsel, and this effect was more pronounced for youth with a private attorney. Finally, youth in the urban or “due process” court (County A) were not more likely to receive a severe outcome. In fact, youth in this county had a greater likelihood of charge dismissal than youth in the suburban or “traditional” court (County B).

The results of this study reveal that race, gender, type of legal representation, and court location influenced juvenile court disposition outcomes differently in two counties. The differential outcomes based on court location, race, gender, and type of legal counsel could be because of several factors. First, the suburban court (County B) in this study may be as formal as the urban court (County A) as supported by similar rates of legal representation (85%). Therefore, the finding that this court relied on probation as a disposition outcome corresponds to the formality–severity relationship (Feld, 1991). Second, the urban court (County A) may be petitioning large numbers of youth to the juvenile court and throwing a wider net of social control (as evidenced by the higher number average of prior court referrals); whereas the suburban court (County B) may be more selective in petitioning juveniles by screening more youth out of the system earlier in the process (Feld, 1991, 1995, 1999). This observation could explain why the urban court (County A) was the most likely to dismiss the charges; the initial stages in the urban court did not screen youth as well as in the suburban court (County B).

Third, White females with legal representation were the most likely to receive an out-of-home placement. Juvenile court officials may be more likely to place White females because of a paternalistic notion of behavior for one racial or gender group over another. These officials may be using incomplete knowledge and relying on stereotypes that White females would receive more “benefit” from the placement than any other racial/gender group. In addition, behavior that warrants placement may be seen as more serious or “blameworthy” when exhibited by White females (Belknap, 2001).

Finally, the differential outcome based on race, gender, and type of legal counsel across court location could be explained by the perspective of “contextual discrimination” (Walker et al., 2004). According to this notion, in some situations or circumstances, some youth are treated more harshly and in other situations or circumstances, these youth are treated more leniently. For example, non-White youth appearing with a private attorney may be treated more leniently in one court location and yet treated more harshly in another. The two courts in this study may not be polar opposites; rather, they may represent points on a “continuum from formal to informal with corresponding procedural and substantive differences” (Feld, 1991, p. 161). The informal nature of the juvenile justice system leads to differential outcomes for youth across court locations, which highlights the importance of the need to examine court location when assessing factors influencing juvenile court outcomes.

Considered together, the findings are not consistent with the theoretical perspective, which proposes that legal factors will be the major determinants of juvenile court outcomes and that extralegal factors, such as race, gender, type of attorney, and court location, will have little influence (Dixon, 1995; Ulmer, 1997). Consistent with the “bounded rationality,”

“focal concerns,” and “attributional” perspectives, this study found that race, gender, type of attorney, and court location influenced disposition outcomes. According to these perspectives, court officials have incomplete knowledge about youth and their crimes, and, as a result, use stereotypes of dangerousness, blameworthiness, and amenability linked to race, gender, and type of attorney to decide on rehabilitation to determine outcomes.

This study has four limitations that must be taken into account. The first limitation concerns the data. Because of the small numbers of Latino and Native American youth in the sample, these cases were combined with those involving African American youth into a non-White category. As a result, this study only compares outcomes for White versus non-White youth, rather than for each individual racial category. The second limitation is connected with the decision-making stage analyzed. A comprehensive, multistage approach to understanding decision making in the juvenile justice system is the best approach. However, the distinctiveness of the topic of this study did not lend itself to a multistage analysis. Specifically, examination of the influence of type of legal representation in juvenile justice decision making is only appropriate in stages in which attorneys may be present. The two juvenile courts included in this study only require/appoint legal counsel at the disposition stage. Therefore, disposition outcome was the most appropriate decision-making stage for the current study. The third limitation of this study relates to the generalizability of the findings. The data used for this study came from two juvenile courts in the midwest. Therefore, the results are applicable only to those two courts at the disposition stage and cannot be said to reflect juvenile justice processing in other jurisdictions. This limitation, of course, is common to many studies. The fourth limitation is associated with the dates of the referrals (1990-1994). It is possible that significant changes may have occurred in both the operation of the juvenile courts as well as the juveniles appearing in these courts.

The current study adds to and improves on research examining juvenile court processing and decision making. Specifically, this study adds to prior research on juvenile court outcomes by exploring the influence of race, gender, type of legal counsel, and court location all at once. In addition, this study clearly demonstrates the need for an approach that considers the interplay between legally relevant and legally irrelevant factors on juvenile justice decision making. This type of approach allows for a more comprehensive and thorough assessment of both the independent and interrelated effects of race, gender, type of legal counsel, and court location on juvenile justice decision making and should be the direction for future research. Therefore, future research should examine how race, gender, type of legal counsel, and court location affect juvenile court outcomes. Future research should also examine how overcharging an offender perceived as “dangerous” influences juvenile justice decision making.

In summary, the results of this study suggest that race, gender, type of legal counsel, and court location do influence juvenile justice case outcomes but not always in the manner predicted. Youth of each racial category received different outcomes based on gender, type of legal representation, and court location. The severity or leniency of the disposition was determined by race, gender, type of counsel, and court location. The complexity of the juvenile justice system and the countless factors that affect decision making seem daunting. The analyses and interpretations presented in this study aim not to point to simple conclusions but to provide an assessment of how race, gender, and type of legal counsel affect juvenile court outcomes in two midwestern juvenile courts.

## Notes

1. The dropped referrals reflect cases that were dropped or transferred to another jurisdiction early in the process. Therefore, a comparison of the dropped and included referrals was not possible.

2. In County A, White male referrals were given a weight of 20, White female referrals given a weight of 12.50, African American male referrals given a weight of 14.29, African American female referrals given a weight of 7.14, and Native American and Asian American referrals given a weight of 4. In County B, no action White referrals were given a weight of 20, no action non-White referrals given a weight of 3.60, petitioned White referrals given a weight of 7.69, and petitioned non-White referrals given a weight of 1.39.

3. For the two juvenile courts in this study, dismissal of charges was an option at the disposition hearing—after the youth had been adjudicated a delinquency. Therefore, this category was included in the dependent variable.

4. To determine whether there was a statistically significant difference between outcomes for African American, Latino, and Native American youth, *t* tests were conducted. Results indicated no significant differences, so the above racial categories were combined into a non-White category.

5. Because of the low number of drug (4%), weapon (5%), and traffic offenses (16%), these were combined into the “other” category.

6. Ordered logit was attempted, but because the analysis failed the score test, this type of analysis could not be used.

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