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**An Opportunity to Study the Impact of Legal Structures on Public Health: A
Review of Michigan State Juvenile Law on Status Offenders**

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**A thesis submitted in partial fulfillment of the requirements for the degree of
Master of Public Health**

**Yale School of Public Health
Department of Social & Behavioral Sciences**

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Abstract

Background/Introduction: There is a scarcity of studies in public health that investigate and address structural and political level factors, such as juvenile justice-related legislation and their implementation, and how they contribute to poor health outcomes and health inequities (i.e. by race/ethnicity and gender) in children and adolescents. By reviewing and analyzing the social and political context of juvenile justice and status offenses in the U.S. and Michigan and Michigan state legislation on status offenses, this narrative review aims to identify characteristics of status offense law that may contribute to the inequitable institutionalization of youth and perpetuate public health harms and health inequities.

Methods: Guided by the definition of Public Health Law Research (PHLR), this narrative literature and legislative review had two main components: (1) a general search in Congressional Report Service and Nexus Uni databases using keywords to investigate the framing of juvenile justice and status offenses in U.S. and Michigan-based law reports/reviews and (2) a more targeted search and time-bound investigation of Michigan state legislature (bills and public acts) regarding juvenile justice and status offenses in Michigan state legislature's digital archives. The results, 27 law reviews, reports, and articles and 17 Michigan bills and acts, were qualitatively analyzed to extract relevant themes.

Results: Findings from both parts of the review yield four important themes: (1) the acknowledgment by federal and state legislation of disproportionate and/or specific ways of contact with certain youth populations ("vulnerable" youth, racial/ethnic minority youth, girls, and LGBT youth) via status offense laws, (2) the deeply interconnected nature of the juvenile justice, child welfare, and education systems, (3) the special legal considerations and policies that specifically address status offenses as a unique class of offenses, and (4) the important role of data collection on outcomes related to status offenders for funding of rehabilitative programs and monitoring inequities.

Conclusion: Given the health implications of legal structures surrounding juvenile status offenders identified by this study, researchers should use these findings as potential frameworks for future research proposals that aim to study the public health impacts of status offense laws.

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Introduction

For years, social activists and advocates have been calling attention to the injustices of U.S. Criminal Legal Systems (CLS) and the resulting harms and inequities it causes, such as mass incarceration and police brutality. Books, articles, and essays by scholars across disciplines have analyzed the history and origins of the CLS to better understand its current problems and fight for reform and abolition (Adelson, 2020). More recently, there has been an increasing awareness among health professionals of the multiple, complex associations between involvement in the CLS and health, particularly regarding health and racial inequities (Robles-Ramamurthy & Watson, 2019). In many ways, U.S. Juvenile Justice Systems (JJS) parallel and intersect with larger CLS and consequently cause many similar harms and inequities among children and adolescents. There is a scarcity of studies in public health that investigate and address structural and political level factors, such as JJS-related legislation and their implementation, and how they contribute to poor health outcomes and health inequities in children and adolescents. This thesis presents a literature review which aims to review and identify characteristics of state juvenile justice legislation and legal frameworks that may contribute to the inequitable involvement and incarceration of youth and perpetuate public health harms and health inequities, as well as analyze law reviews and reports surrounding juvenile justice to understand the social context of juvenile justice legislature.

To understand how state JJS legislature and policy implementation impacts health of children and adolescents, I will focus particularly on state law that addresses policies on status offenses and procedures for handling the processing of status offenders in the JJS. Status offenses, defined by the JJDPA as “a juvenile who is charged with or who has committed an offense that would not be criminal if committed by an adult”, such as truancy, runaway,

incurability, underage drinking, and curfew violations, are specifically targeted in this literature review because legislation on status offenses is an ideal target for reform, as they only apply to juveniles and have been documented to (1) be enforced inequitably (as mentioned previously) and (2) be a result of environmental context and social factors that are better addressed outside of the JJS (*34 U.S. Code § 11103 - Definitions*, n.d.). A valid court order (VCO), defined by the JJDP as “a court order given by a juvenile court judge to a juvenile— (A) who was brought before the court and made subject to such order; and (B) who received, before the issuance of such order, the full due process rights guaranteed to such juvenile by the Constitution of the United States”, related to status offenses are also of interest in this study, as the federal law discourages institutionalization of status offenders but allows for institutionalization of juveniles who commit violations of VCOs. This is referred to as the VCO exception to deinstitutionalization of status offenders and allows for the confinement of juveniles previously convicted of a status offense (*34 U.S. Code § 11103 - Definitions*, n.d.).

Additionally, even though one of the four core requirements of the JJDP (including the JJRA of 2018) mandates the deinstitutionalization of status offenders (DSO), there are still thousands of juveniles confined for status offenses and/or technical violations. In a report by Pew Charitable Trusts, cross-sectional data from a single day in 2015 shows that about one fourth of the 48,043 juveniles held in residential facilities in the U.S. were confined for status offenses or technical (court order) violations (*Juveniles in Custody for Noncriminal Acts | The Pew Charitable Trusts*, n.d.). This study also particularly considers in policies and law reports and reviews regarding girls, as girls are disproportionately involved in the JJS for status offenses, and youth of color (racial/ethnic minority youth), as 2017 data from Easy Access to the Census of Juveniles in Residential Placement (EZACJRP) database managed by the OJJDP shows the disproportionate

rate of Black and American Indian youth that are confined and detained for status offenses and technical violations (including court order violations) (Saar et al., 2015; Sickmund et al., 2019).

Given that juvenile justice institutions often operate at the local and state level, this study will use Michigan state legislature as a case study to review and identify characteristics of current Michigan state laws, policies, and practices that may contribute to punitive, carceral outcomes for status offenders and create potential inequities by race/ethnicity and gender. Michigan was selected for this analysis for several reasons. First, according to the 2015 report mentioned above by Pew Charitable Trusts, Michigan is in the top 10 of states (number 9) for the rate of confined youth held for status offenses or technical violations (51 per 100,000 youth age 10 to 17 in the state): ranked 8th for status offenses (15 per 100,000 youth age 10 to 17 in the state) and 10th for technical violation (36 per 100,000 youth age 10 to 17 in the state) (*Juveniles in Custody for Noncriminal Acts / The Pew Charitable Trusts*, n.d.). Also, according to the EZACJRP database, in 2017 Michigan had a higher rate of females (11 per 100,000 youth age 10 to 17 in the state) than males (10 per 100,000 youth age 10 to 17 in the state) in residential placement for status offense (Sickmund et al., 2019). Additionally, Michigan is one of eight U.S. states and territories that reported more than 100 uses of the VCO exception (630 uses in FY 2016), while 32 U.S. states and territories that reported zero uses and 16 U.S. states and territories that reported 100 uses or less of the VCO exception (*State Use of the Valid Court Order Exception*, n.d.). Finally, since this literature review has a focus in part on racial inequities, the history of racial injustice in Michigan, including historical and ongoing racial segregation and the ongoing Flint, Michigan water crisis, which has gained attention as an example of racialized health inequities created by direct state (in)action, gives important social

context to the study of Michigan state legislation that disproportionately impacts youth of color (Wilkinson, 2017).

By studying the social and political context of juvenile justice and status offenses in the U.S. and Michigan and Michigan state legislation on status offenses to identify characteristics that may contribute to the inequitable involvement and incarceration of youth and perpetuate public health harms and health inequities, the questions this narrative literature review aims to answer are: (1) among Michigan state juvenile justice laws, policies, and institutions for status offenses and technical violations, what aspects and factors likely shape social and health outcomes and inequities in youth? and (2) what is missing and what are the gaps in legal policy and public health data and research, especially to describe the health impacts/outcomes of laws relating to status offenses and to examine alternatives to the JJS for status offenders?

Background

To analyze and understand how specific laws and policies on status offenses in the Michigan state may perpetuate harms and inequities and how we can conduct research to prevent these harms, it is important to first understand legislative history and social foundations of the JJS, the history of the JJDP, the relationships between the JJS and other U.S. institutions, and the populations that are (over)represented in JJS.

Early History of the Juvenile Justice Systems

The current JJS, carried out at the state-level with minimum standards set by federal law, have been informed by a history of reactions to and understanding of minors (the legal definition of a minor has changed throughout history and can be different across states, many define a minor as children and adolescents 17 years old or younger) who were deemed disobedient or

who committed criminal acts. The JJS was part of the creation of various institutions to control and monitor children and adolescence and maintain social order, values, and norms of the dominant culture, especially social norms surrounding families and parental (Thompson & Morris, 2016). Before the creation of the first juvenile court in the late 19th century, adolescents and children were treated as adults through the criminal justice system, as there were no alternatives for punishment or rehabilitation of these youth. As a result, many minors were tried as adults in the court system and confined or detained with adults who had been convicted of crimes. Then, in the early 1800s, a new way of thinking emerged that established children as being developmentally different from adults, which required a change in the way children were seen and treated by the criminal justice system. The Society for the Reformation of Juvenile Delinquents, created in the 1820s, was a key player in the passing of legislation that established the House of Refuge in 1825 in New York, a correctional and reformatory institution for “disciplining and treating” minors (Thompson & Morris, 2016).

Even with this new understanding that children and adolescents should be viewed as developmentally different from adults and this major shift away from a harsh, punitive system for children and toward a more rehabilitation-based system, these institutions still operated under the idea that (dis)placing children and adolescents deemed “delinquent” – a term used to replace the word “criminal” and separate children who commit crimes from adults who commit crimes – into facilities, public and private, was a solution to improving behavior and reducing disobedience and delinquent acts. Eventually, these separate institutional facilities for minors, such as the House of Refuge, began developing problems similar to the criminal justice system, such as discrimination, abuse, and overcrowded, poor conditions (Pickett, 1969). Similar tactics for punishment of adult inmates were also used at these institutions, such as solitary

confinement, whippings, and withheld or reduced meals (Pickett, 1969). It is important to note that the majority of the delinquent minors in these early facilities were white, given the historical context of slavery during this time period, and many were from poor, urban, industrialized areas with concentrated disadvantage and a large population of European immigrants (Ferdinand, 1991; Pickett, 1969). This points to the use of these institutions for social control of the working-class poor, which is relevant for the development and evolution of the JJS. Importantly, the notion of who was considered a child was influenced by historical context, like the U.S. history of treating enslaved children as property and indigenous children as lesser, and social context, as social constructs of gender represented a key axis of how persons were defined before the law.

In 1899, the first formal juvenile court in the U.S. was created in Cook County, Illinois as an alternative to and separate entity from the larger U.S. Criminal Justice System. This new juvenile court focused on rehabilitation and protection of children and adolescents who committed illegal acts, with almost all states adopting a juvenile court system by 1925 (Field, n.d.; Thompson & Morris, 2016). While the JJS became more organized with the establishment of juvenile courts in almost every state, it was still a loose, informal system of private and public institutions, facilities, and programs from the 19th century, and was organized mostly from the state and local (i.e., city, county, etc.) level. These early juvenile courts operated on the doctrine *parens patriae*, which allowed and gave responsibility to the state to step in, protect, and take custody of minors who violated the law and were beyond parental control or whose parents/legal guardians were negligent and not providing the appropriate level of supervision (Thompson & Morris, 2016). This doctrine, articulated in the *Prince v. Massachusetts* (1944) case, both contributed to the development of the social welfare and rehabilitative model of the JJS and to

the development of a more powerful and overbearing JJS, as it upheld the value of parental and state authority over juveniles (*PRINCE v. COMMONWEALTH OF MASSACHUSETTS.*, n.d.).

Although this new JJS was designed to create the “juvenile court as a social welfare alternative to criminal courts to respond to criminal and noncriminal misconduct by youths”, in many ways throughout the 20th century it was transformed to mirror many of the same practices of the formal CLS (Field, n.d.). These transformations were, in part, due to scholars criticizing the practices and outcomes of the JJS during the mid-20th century, citing concerns of unfair punishments and racial discrimination in juvenile courts, which ironically resulted in more protections for juveniles but did not make the system any less punitive (Ferdinand, 1991). Particularly during the 1960s and 1970s, the juvenile courts came under scrutiny for failing to uphold the rehabilitative model of the JJS, becoming too paternalistic, and using so-called rehabilitative measures that were revealed as being worse than punishment (Ferdinand, 1991; National Research Council, 2013). The outcome of *In re Gault* (1967), a landmark juvenile court case in the Supreme Court of Arizona, was a reflection of these concerns. This case established a guarantee for the right of due process for juveniles in court, in response to Gault, a 15-year-old boy, being charged and harshly sentenced without proper protections from personal discretion of the prosecutor and judge (*Application of Paul L. GAULT and Marjorie Gault, Father and Mother of Gerald Francis Gault, a Minor, Appellants.*, n.d.). This was another development in the JJS that both contributed to the social welfare and rehabilitative model of the JJS, as it increased the constitutional rights and protections of minors facing excessively harsh punishments from the JJS, and contributed to the formalization of the JJS and reliance on formal court processes rather than preventive and rehabilitation programs, which created ‘due process’ procedures that mirrored the larger criminal justice system (Field, n.d.).

The Juvenile Justice and Delinquency Prevention Act of 1974 and Modern Juvenile Justice System

In response to the outcry against the unfair application and discriminatory practices of the JJS, the United States Congress passed the Juvenile Justice and Delinquency Prevention Act (JJDP) of 1974. This act established one of the first coordinated federal efforts to implement juvenile justice programs at the state level as well as mandate requirements that address juvenile delinquency treatment and prevention and improve the practices of the JJS. The goals of the JJDP were to focus on the prevention of delinquency, rehabilitation of delinquent youth, and deinstitutionalization of incarcerated youth (Auspitz, 2018). To accomplish these goals, the JJDP created the Office of Juvenile Justice and Delinquency Prevention (OJJDP) that was tasked with assisting local and state juvenile institutions in preventing delinquency and improving the juvenile justice system (*Legislation | Office of Juvenile Justice and Delinquency Prevention*, n.d.). Additionally, the JJDP established the Formula Grant Program, managed by the OJJDP, which provides federal funding in the form of grants to state and local delinquency prevention and intervention programs and initiatives (i.e. community-based and diversion programs) given they meet the requirements mandated by the JJDP. In the original 1974 act, the JJDP established two core requirements: (1) deinstitutionalization of status offenders (DSO), which required that states remove juveniles charged with status offenses (i.e. offenses which are only illegal due to the age of the offender) from secure detention and correctional facilities, and (2) separation (by “sight and sound”) of institutionalized juveniles from adult inmates (Auspitz, 2018; Thompson & Morris, 2016).

In the following years, 1977-1992, the JJDP was reauthorized, amended, and expanded to include four core requirements, adding a third requirement for removal of juvenile offenders

from adult jails and detention centers and a fourth requirement to address racial and ethnic disparities in juvenile confinement (known as the disproportionate minority confinement or DMC requirement), and established new programs to address gender bias in the JJS (*Legislation / Office of Juvenile Justice and Delinquency Prevention*, n.d.). Additionally, in 1980, the JJDPA added the valid court order (VCO) exception to DSO requirement, which permits institutionalization of status offenders only upon violation of a previously established court order (such as a court order to attend school regularly or obey curfew laws). State compliance with these core requirements is monitored annually by the OJJDP and states are incentivized to develop programs and policies to meet these requirements through the Formula Grant Program, as failure to comply with these requirements results in reduction of funding amount (*Formula Grants Program*, n.d.).

While the enactment of the JJDPA helped to increase capacity of local and state juvenile institutions to implement programs to prevent delinquency and improve the practices to reduce inequities and harm, it also allowed for the continuing formalization of the JJS and integration into the U.S. Criminal Justice System, a departure from the separate, informal, rehabilitative origins of the JJS. The period between the 1980s and 1990s was characterized by increasingly punitive and harsh reactions to increasing juvenile criminal activity and an increase in policies across the country that allowed for juveniles to be prosecuted and treated as adults and increased the length of confinement for juveniles, increasing the rates of incarcerated youth (National Research Council, 2013; Thompson & Morris, 2016). During this time, media and political officials even referred to juvenile offenders as “super-predators”, especially Black and Hispanic/Latinx youth, who were portrayed as posing a threat to public safety, which contributed further to racial inequities in the JJS (National Research Council, 2013). Additionally, many state

policies on the confidentiality of records and court hearings for juveniles were changed in the 1990s to increase open access of these records (Snyder & Sickmund, 2006).

Following this “touch on juvenile crime” era, the JJDPDA was reauthorized in 2002 for six more years. In this reauthorization, the scope of the DMC requirement was broadened from "disproportionate minority *confinement*" to "disproportionate minority *contact*", to reflect the ongoing racial inequities throughout all stages and processes in the JJS, not just confinement. This reauthorization also expanded the Formula Grant Program to include grants for research, training and technical assistance, and information dissemination and incentivize evidence-based programs for juvenile delinquency prevention and intervention/treatment (*Legislation | Office of Juvenile Justice and Delinquency Prevention*, n.d.). In the early 21st century, with the 2002 reauthorization of the JJDPDA, juvenile crime rates at a two-decade low in 2004, the recession of 2008, and the emergence of new research on development, health, and behaviors of adolescents, the idea that juveniles are developmentally different from adults and need different justice systems returned and many started to question expensive and harmful policies that increase incarceration rates in the JJS (Cauffman & Steinberg, 2012; National Research Council, 2013). It wasn't until recently, in December of 2018, that the JJDPDA was reauthorized and amended, newly named the Juvenile Justice Reform Act (JJRA) of 2018 (P.L. 115-385). Although most of the new provisions were not in effect until fiscal year (FY) 2020 (October 2019), the amendments include changes in reporting and planning requirements, state allocations of funding, and definitions. Importantly, amendments pertaining to the four core requirements include: (1) extra requirements to justify placing a juvenile in a jail or lockup for adults, (2) requirement to identify AND reduce racial and ethnic disparities, and (3) additional requirements

for the use of the VCO exception to the DSO requirement (*Key Amendments to the Juvenile Justice and Delinquency Prevention Act Made by the Juvenile Justice Reform Act of 2018*, n.d.).

Interconnected Systems: Education & Child Welfare Systems

The JJS does not work in isolation, but rather historically has impacted the lives of juveniles in conjunction with other systems that serve and have jurisdiction over children and adolescents. During the development and evolution of the JJS, the child welfare system and education system in the U.S. were also developing concurrently and becoming established as interconnected systems that interact with and manage children and adolescents.

The first formal, compulsory public education systems began to arise in the northeast in the early 1800s, around the same time that The Society for the Reformation of Juvenile Delinquents helped to establish the House of Refuge in New York in 1825. Although there had been a few private and public schools formed in the past, the system became more formalized in the 19th century and was viewed as a way to control and promote obedience in children and adolescents (Ferdinand, 1991). As the education system became compulsory, the JJS was used as a means to manage and keep in check children and adolescents who were found to be disobedient (such as minors labeled “incorrigible” or “truant”, both of which are considered status offenses) in school and uphold the authority of parents and schools. Therefore, during the formation of what would become the modern education system and the modern JJS, the two systems were fundamentally connected.

This is reflected in the phenomenon commonly known as the “school-to-prison” pipeline which describes “the use of educational policies and practices”, especially disciplinary policies and practices, “that have the effect of pushing students, especially students of color and students with disabilities, out of schools and toward the juvenile and criminal justice systems” (Skiba et

al., 2014). In addition to bias and discrimination, especially by race/ethnicity, in school disciplinary actions, there is no formal, shared standard for what behavior justifies certain punishments. For example, a more recent study on the “school-to-prison” pipeline phenomenon found that the “use of out-of-school suspension is not restricted to serious, safety-threatening behaviors, but rather is distributed across a wide range of infractions”, such as disrespect, disobedience, attendance issues, and disruption (Skiba et al., 2014). This lasting relationship between the U.S. Education and Juvenile Justice System further expands the power and control of the state in the lives of minors and exacerbates the harms caused by each system and the collaboration between these systems.

The child welfare system (CSW) also developed and formalized over a similar timeline to the JJS and employed similar values and ideas on the responsibility of states to protect and safeguard the welfare of children as well as rehabilitate children who demonstrate behavioral problems. In the 1800s, child welfare was limited and informal, with private religious and charity organizations establishing orphanages to care for children without guardians or whose guardians could not take care of them and some private agencies placing orphans in foster homes (Murray & Gesiriech, n.d.). Then in 1935, the Social Security Act authorized federal grants for child welfare services, which encouraged states to establish formal child welfare agencies and local programs to deliver child welfare services (Murray & Gesiriech, n.d.).

Since the Social Security Act, many different acts have broadened the definition and reach of child welfare programs, all focusing on giving aid to neglected and abused children. It has been acknowledged that the child welfare and JJS populations have significant overlap and that these systems seek to provide similar, and often duplicate, services for children and adolescence, such as substance use and mental health services (Wiig & Tuell, 2014). The

documented high rates of child welfare involvement among children and adolescents in the JJS demonstrate that the same reasons children and adolescents enter the child welfare system are also risk factors for delinquency and involvement in the JJS such as child maltreatment and mental health needs (Goodkind et al., 2013). Unfortunately, both systems do not emphasize or prioritize primary prevention methods and “struggle with obtaining adequate resources and require the involvement of multiple systems and partnerships to work well” (Wiig & Tuell, 2014). Similar to the relationship between the U.S. Education and Juvenile Justice System, this relationship further expands the power and control of the state in the lives of minors and exacerbates the harms caused by each system and the collaboration between these systems.

Populations Represented in the Juvenile Justice System: Patterns of Inequity

With knowledge of the legislative and social history that led to the development of the JJS and the historical context of the relationships between the JJS and the child welfare and education system, I turn next to explore research on different populations of children and adolescence that have been disproportionately or uniquely targeted by and represented in the JJS.

There is a well-documented pattern in which minors coming from concentrated socioeconomic disadvantage are disproportionately represented in the JJS and are disproportionately arrested and confined by the JJS (Rodriguez, 2013). This is a pattern that traces back to the early history of the JJS, as mainly urban, poor, immigrant minors were labeled as disobedient and “wayward”, leading to their majority representation in the early rehabilitation facilities and first juvenile courts. One study theorizes that concentrated socioeconomic disadvantage is a predictor for correctional confinement because “juvenile court officials rely on their perceptions of concentrated disadvantage to inform how to best address the needs and risks of juvenile offenders”, which include perceptions that the minor’s environment causes them “to

be at risk of reoffending” and that minors are “extremely vulnerable to ‘dangerous places and people’” (Rodriguez, 2013). This demonstrates the lack of emphasis on primary prevention, which would aim to improve the environment and resources for disadvantaged minors, and the reliance on tertiary prevention, in which disadvantaged minors are introduced to the JJS on the basis of “saving” them from their environment or getting them treatment.

Racial and ethnic minority children and adolescents are also disproportionately introduced to and represented in the JJS. Additionally, there is significant interaction between race and ethnicity and socioeconomic disadvantage, due to historical and current structural racism in U.S. institutions. In a 2013 report, Black youth, who represent 17% of the overall youth population, made up 30% of those arrested nationwide, and there were significant inequities in arrest rates between white and Black youth (Smith, 2013). Racial/ethnic inequities in arrests may in part be due to the use of stop-and-frisk practices that target low-income, urban neighborhoods of color (Smith, 2013). Additionally, the relationship between the education system and JJS especially perpetuates inequities for racial/ethnic minority youth, as harsh “zero-tolerance” policies that encourage punitive responses (i.e. status offense charges for truancy) to normal child and adolescent behavior have been shown to particularly target youth of color, which is exacerbated by the presence of police officers in urban schools (Robles-Ramamurthy & Watson, 2019; Smith, 2013).

The JJS also relies on discretion of law enforcement officers and prosecutors to decide whether to send a juvenile further into the JJS (i.e. through a referral to juvenile court) or to divert the case out of the system as well as deciding if a juvenile’s case will be tried in juvenile or adult court (*Case Flow Diagram*, n.d.). This can lead to racial/ethnic inequities in juvenile justice-related outcomes for youth of color, as personal biases of law enforcement officers and

prosecutors can determine the extent to which a juvenile moves through the JJS (i.e. formal processing or charging, residential placement or confinement, etc.). These inequities are further compounded by unequal access to adequate legal representation for minors of color and minors coming from concentrated socioeconomic disadvantage, which can influence court outcomes and incarceration. The deterrence-based approaches, stop-and-frisk and “zero-tolerance” policies – which have not proved successful at reducing crime and delinquent behavior in minors – and the inequities in adequate legal representation demonstrate the ineffectiveness and inefficiency of the JJS as well as how the juvenile justice system perpetuates racial and ethnic inequities (Smith, 2013).

The impact of gender on experiences with the JJS is largely understudied but has recently shown to be an important factor in examining gender inequities in the JJS. This is especially important given recent studies that show that girls make up an increasing portion of the JJS population (National Institute of Corrections, 2015). As with other children and adolescents, many girls who come into contact with the juvenile justice system have experienced abuse, exploitation, and/or violence. Particularly, gender-based violence and sexual abuse are common experiences of young girls who are arrested, charged, detained, and processed through the juvenile justice system, which is highlighted by the coining of the term “sexual abuse-to-prison” pipeline (Saar et al., 2015). To highlight this gender disparity, a recent report based on 2014 data from the US Department of Justice’s Office of Juvenile Justice & Delinquency Prevention (OJJDP) shows that 31% and 45 % of girls vs 7% and 24% of boys in the JJS have reported sexual abuse and five or more Adverse Childhood Experiences (ACEs), respectively (Saar et al., 2015). These statistics also inform the mental health needs of girls in the JJS. The same report shows that 80% of girls, compared to 67% of boys, who are involved in the JJS meet the criteria

for at least one mental health disorder (Saar et al., 2015). This is significant given the insufficient resources for mental health care within the juvenile justice system. For example, results from a 2010 national census conducted by OJJDP showed that only about half the youth in the JJS are placed in a facility that provides mental health evaluations of residents and follow-up mental health treatment or therapy is often insufficient for youth who do receive evaluations due to lack of resources and trained or licensed personnel (Saar et al., 2015). In addition to not being able to effectively provide programs and treatment to address past trauma, there have been many reports of the juvenile justice system exacerbating trauma and producing new trauma, such as through strip searches and shackling as well as sexual victimization in detention (National Institute of Corrections, 2015; Saar et al., 2015). Studies have also found negative child and adolescent developmental outcomes resulting from punitive sanctions, such as confinement (detainment or out-of-home placement) (Cauffman & Steinberg, 2012).

The theories to describe and explain the over representation of girls who have experienced trauma or abuse in the JJS employ both a historical and social lens as well as a behavioral lens. Historically, the JJS was created to maintain social order and uphold social norms, which applies to social norms surrounding the role of girls in society, and was used as an apparatus to control and shape the values and morals of children according to the dominant culture. Early “juvenile courts revolved around monitoring the behavior of young girls, particularly immigrant girls and girls of color, to prevent their straying from the path of sexual purity” and were used by the state to control and confine girls on the basis of protecting them and promoting social norms of “sexual morality” and “sexual purity” (Pasko, 2010). This, in essence, criminalized the sexual activity of girls (often called sexual delinquency), even sexual activity that resulted from sexual abuse and assault, and labeled sexually active girls as “promiscuous”

and “wild”, which translated to their need to be rehabilitated and “saved” (Pasko, 2010). From a behavioral perspective, girls are both punished for their behavioral reactions to abusive or traumatizing environments, such as running away from home, truancy, substance use, and incorrigibility (all non-criminal, status offenses), and their behaviors are viewed as character, moral, and individual-level flaws, rather than a result of trauma and/or environmental causes (Pasko, 2010; Saar et al., 2015). This gendered perspective of girls' (mis)behavior and paternalistic role of the early JJS has impacted modern practices of the JJS and has resulted in the overuse of the system for girls. It is not uncommon for judges, prosecutors, and law enforcement in the JJS to arrest and confine girls on the basis of protection and welfare or to confine girls by charging them with a minor offense, like simple assault, instead of a status offense, like incorrigibility (Feld, 2009; Saar et al., 2015). By doing this, judges, prosecutors, and law enforcement can more easily institutionalize girls as they will still be adhering to the DSO requirement of the JJDPA. Even for status offences, cases are disproportionately initiated for girls and girls are disproportionately detained or referred to out-of-home placement for status offences, which can exacerbate trauma and weaken family connections and social support (National Institute of Corrections, 2015; Saar et al., 2015).

Methods

Narrative Review Methodology/Framework: Public Health Law Research

My thesis essay is structured as a narrative review, taking its guidance from the definition of Public Health Law Research (PHLR), which is “the scientific study of the relation of law and legal practices to population health” (Burriss, 2011; Burriss et al., 2010). PHLR is mainly concerned with scientific and empirical research investigating whether law can be shown to have an impact

on the health of the population: this narrative review is positioned as a research proposal, seeking to begin the discussion on state juvenile justice laws impact on population health by reviewing Michigan state legislation and relevant law reviews and reports regarding juvenile justice, the JJDP, and status offenses as well as highlight gaps, barriers, and potential directions for future PHLR.

According to typology of the main forms of PHLR studies described by Burris et al., this review follows the elements and frame of a mapping study. The purpose of mapping studies in PHLR is “to analyze the state of the law or the legal terrain and the application of laws surrounding a particular public health topic”, and specifically my study uses content analysis of legal texts (Burris et al., 2010). Additionally, using the logic model for PHLR proposed by Burris et al. (Figure 1), this study in particular follows path C, as I seek to qualitatively assess and summarize law’s/legal practice’s effect on social structures and institutions (the JJS) and drawing conclusions about the way these institutions and their practices have specific impacts on public health, specifically the health of juveniles under their control.

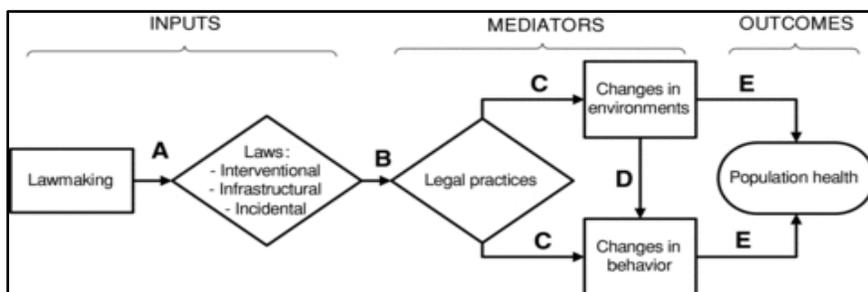


Figure 1. Logic Model of PHLR. Adapted from Burris *et al.*

Search Strategy

In practice, by doing this narrative review, the search is broken down into two main components: (1) a general search to provide an overview and framing of the JJS, relevant federal

acts, such as the JJDP, and status offenses in U.S. and Michigan-based law reports/reviews and (2) a more targeted search and time-bound investigation of Michigan state legislature (bills and public acts) regarding juvenile justice and status offenses. The general review sought to understand, through acts and scholarly writing at a federal and state level, the political and social context, conceptualization, and perception of status offenses/offenders in the JJS via legal scholars. The review of Michigan state legislation aimed to identify and assess particular aspects and factors of these laws on status offenders/offenses that shape their impact on juveniles. Potential aspects and factors of law include description of the conduct/activity considered a status offense, levels and details of interactions between the JJS and CWS and/or education system, policy on confinement/detention of status offenders, power granted to court officials, law enforcement, and/or prosecutorial, and funding allocated to juvenile justice programs for status offenders.

The first component of the narrative review is based on material derived from two databases: Congressional Research Service (CRS) and Nexis Uni (formerly Lexis Nexis Academic). Given the differences in search functionalities, search terms were slightly different for each database. The search through CRS was used to retrieve U.S.-based congressional reports and was done using a full text search and the following search terms: (1) "juvenile justice", (2) "juvenile justice" AND "status offense", (3) "juvenile justice" AND "status offender", (4) "juvenile justice" AND "valid court order", (5) "juvenile justice" AND "equity", (6) "juvenile justice" AND "health", (7) "juvenile justice" AND "gender", and (8) "juvenile justice" AND "race" or "ethnicity".

These search terms were selected to provide a wide search of reports on juvenile justice and subsequently narrow the search by specific topics relevant to the research questions: 1) among Michigan state juvenile justice laws, policies, and institutions for status offenses and technical

violations, what aspects and factors likely shape social and health outcomes and inequities in youth? and (2) what is missing and what are the gaps in legal policy and public health data and research, especially to describe the health impacts/outcomes of laws relating to status offenses and to examine alternatives to the JJS for status offenders? This search yielded 298 results. Exclusion and inclusion criteria were then applied. The exclusion criteria included: (1) duplicate reports, (2) reports before 1974, (3) non-U.S.-based reports, and/or (4) any detailed appropriations reports (i.e. budget and funding allocations). To apply inclusion criteria, abstracts, summaries, and/or articles were screened for relevance to the research questions. Reports were selected and included for review if they meaningfully discussed status offenses or offenders and/or the JJDPA. After applying these criteria, 15 reports remained for analysis.

The search through Nexus Uni was used to retrieve U.S. law reports and articles and news, specifically concerning Michigan, using an “all fields” search (similar to full text search) of two types of sources: (1) law reviews and journals and (2) news. The following search terms were used: (1) "juvenile justice" w/seg status offense AND Michigan, (2) "juvenile justice" w/seg status offense AND Michigan AND gender, (3) "juvenile justice" w/seg status offense AND Michigan AND race, and (4) "juvenile justice" w/seg status offense AND Michigan AND ethnicity. These search terms were selected to provide a wide search of reviews that mention or discuss status offense laws in Michigan and subsequently narrow the search by specific topics relevant to the research questions. This search yielded 238 results for law reviews and reports and 47 results from news sources. Exclusion and inclusion criteria were then applied. The exclusion criteria included: (1) duplicate reports, (2) reports before 1974, and (3) non-U.S.-based reports. To apply inclusion criteria, abstracts, summaries, and/or articles were screened for relevance to the research questions. Reports were selected and included for review if they meaningfully discussed status offenses or

offenders AND discussed specific Michigan state laws, policies, or institutions related to status offenses. After applying these criteria, 20 law reviews and reports and 7 news sources remained for analysis.

The second component of the narrative review presented is based on material derived from Michigan state legislature's digital archives located at www.legislature.mi.gov (*Michigan Legislature - Home*, n.d.). The search was done using a keyword search for all available years (1989-2021) with following search terms: (1) "status offender", (2) "status offense", (3) "juvenile justice and delinquency prevention", (4) "truancy", and (5) "incorrigible" OR "incorrigibility". Only bills introduced by and engrossed (passed) by the House and Senate and public acts were included. The full text of the bill or act was screened and was included for review if it mentioned any procedures, policies, and/or definitions/language regarding status offenses (i.e truancy, incorrigibility, runaway, etc.) or offenders. After applying these criteria, 17 bills and public acts remained for review (after removing duplicates).

Review and Analysis Strategy

All law reports, reviews, and news from the first component of the narrative review were qualitatively analyzed for major themes and topics regarding policies, practices/procedures, language/definitions, perceptions of legal scholars and state legal officials, claims/arguments, and/or research on status offenders. Significant quotes and findings were organized into categories corresponding to major themes, summarized, and analyzed in context of the public health implications. All Michigan state bills and public acts were qualitatively assessed for major themes in policies and programs related to status offenses/offenders. Significant sections and subsections of the bills and public acts will be organized into categories corresponding to major themes, summarized, and analyzed in context of the public health implications.

Results/Discussion

Section 1: Social and Political Context of Juvenile Justice, the JJDP, and Status Offenses in the U.S. and Michigan

In reviewing and analyzing U.S. congressional reports as well as law reviews and news related to or mentioning Michigan state law, five major themes emerged related to the JJS, JJDP, and status offenses: (1) JJS disproportionate contact with youth considered vulnerable or “at-risk”, (2) interactions between the JJS, CWS, and education system, (3) specific populations in the JJS (including racial/ethnic minorities, girls, and LGBT youth), (4) the role of the JJDP in grants/funding for youth programs, and (5) new policy reform for status offenses.

The Juvenile Justice System and Disproportionate Contact with Vulnerable Youth

In many of the congressional reports, there was an acknowledgement that the JJS often comes into contact with, handles, and adjudicates juveniles that come from a variety of disadvantaged and vulnerable backgrounds, also frequently referred to as “at-risk” or “high-risk” youth (Fernandes Alcantara, 2008, 2015b, 2019a, 2020). This phenomenon was also highlighted in law reviews and news that were related to or mentioned Michigan state law (Arthur & Waugh, 2009; Enciso, 2019). In congressional reports with a focus on federal policies and programs that target and/or impact vulnerable youth, the contributions (i.e. in the form of funding or administration of programs through the JJDP) of the JJS are described as one part of the federal government’s role to create solutions for and assist vulnerable youth in the U.S. (Fernandes Alcantara, 2019a, 2020).

In many of the congressional reports, as well as law reviews and news relating to Michigan laws, certain youth populations were frequently highlighted as relevant to the JJS and JJDP, such

as runaway and homeless youth, sexually exploited and trafficked youth, disconnected youth (those not working or in school), and youth who use substances. Some of these youth populations are directly targeted by acts and programs through the JJS and JJDPA -- such as the The Runaway Youth Act of 1974 enacted as Title III of the JJDPA, Juvenile Mentoring Program (JUMP) operated by the Department of Justice (DOJ), and Opioid Affected Youth Initiative administered by the OJJDP -- as well as Michigan state statutes and programs -- such as safe harbor legislation and Michigan Network of Runaway and Youth Services (Annitto, 2011; Fernandes Alcantara, 2008, 2019b, 2019c; Sacco et al., 2019; Sanger & Willemsen, 1992). A small number of congressional reports highlighted the lack of federal funding for programs that increase services for victims of trafficking or commercial sexual exploitation and/or divert trafficking victims out of the JJS (Finklea, 2014; Finklea et al., 2015).

While congressional reports highlighted that JJS and JJDPA federal programs intend to improve health, particularly mental health, and social outcomes, such as school attendance and housing stability, of various vulnerable youth populations, they often did not address other components of JJS law and/or provisions of the JJDPA that may impact health. For example, and most notable for this thesis, only a couple congressional reports identified that vulnerable youth often come into contact with the JJS, which itself could impact health, through violations of the law such as status offenses, such as running away and truancy (Fernandes Alcantara, 2015a, 2019a).

In some law review articles that both mentioned and/or discussed Michigan state law, there were more explicit mentions of the way laws impact the life, health, and well-being of vulnerable youth (i.e. by increasing their contact with the JJS). In one article that discusses issues associated with running away (a status offense), the author mentions that Michigan law (Mich. Comp. Laws.

Ann. § 712A.14) “allows law enforcement officers to take a youth or child whom they reasonably believe to be a runaway into custody without a warrant” (Enciso, 2019). This mention of Michigan state law is situated in the author's discussion on the history of how the JJS deals with runaway youth, in which he highlights how the complexity and variability of runaway statutes by state makes it harder for runaway youth, who often run away from abuse or violence, to get appropriate assistance and how institutionalized juveniles often do not receive the help they need (Enciso, 2019). Notably, a law review symposium issue from the National Conference on Homeless Youth and the Law in 2009 highlighted that many states, including Michigan, have legislation that “explicitly allows status offenders to be placed in secure detention” (Mich. Comp. Laws Ann. § 712A.15), especially through the VCO exception, and describes the harms that result from institutionalising youth that commit status offenses, who are often vulnerable and in need (i.e. runaway youth) (Arthur & Waugh, 2009). This article asserted that the JJDP core requirement to deinstitutionalize status offenders is significantly undermined by the VCO exception and youth status offenders need “care, treatment, and services--not confinement--to address the underlying causes” of their behavior (Arthur & Waugh, 2009).

Another vulnerable youth population mentioned in law review articles that mentioned and/or discussed Michigan state law was sexually exploited and trafficked youth (Annitto, 2011; Conner, 2016; Hessick & Stinson, 2013). Two law review articles specifically critiqued state safe harbor legislation (in Michigan, Public Act 336/Mich. Comp. Laws § 750.451) and its impact on sexually exploited and trafficked youth, specifically its role in increasing contact with the JJS (i.e. via institutionalization) and restricting access to services (Annitto, 2011; Conner, 2016). One article claims that, although the policy rationale is to view sexually exploited youth and youth in sex trades as victims not criminals, state safe harbor laws: (1) contribute to “increasing arrests,

extending the length and restrictive conditions of involuntary commitment, and codifying the collateral consequences of an arrest, namely social services denial and endemic law enforcement misconduct” and (2) apply only prostitution offenses (for Michigan, the law applies only to offenses of prostitution, permitting prostitution, solicitation, and aiding and abetting) which allows for the “possibility that youth in the sex trades will continue to be criminally prosecuted for ‘proxy’ or ‘masking’ charges” (Conner, 2016). Another article discussing state safe harbor legislation emphasized that in some states (including Michigan) there is no legislative funding provision under the statute for therapeutic services for victims of sex trafficking and advocated for moving away from (defunding) current detention models for sexually exploited youth and toward (funding) state and local community-based prevention and therapeutic services (Annitto, 2011).

Interactions between the Juvenile Justice, Child Welfare, and Education Systems

In congressional reports and law reviews and news related to Michigan state law, there was an acknowledgement of the overlap in populations and history of collaboration between the JJS, CWS and education system to manage and meet the needs of youth. A few congressional reports identified the lack of a single federal entity or “legislative vehicle” for assisting and meeting the complex needs of justice-involved youth and the resulting “piecemeal creation” of programs from the JJS, CWS, education system, and other social service agencies (Fernandes Alcantara, 2019a, 2020). Congressional reports also focus on populations in contact with these systems and federal funding for programming that targets these populations. For example, youth in foster care are often overseen by all three of these systems, particularly the CWS and JJS, as state juvenile courts play an important role in supervising the safety of youth in foster care and foster care youth often have certain needs that increase their involvement with both systems, such as housing needs (Fernandes-Alcantara, 2014). Additionally, one congressional report noted that many children are “placed in

child welfare or juvenile justice custody so that the children could receive mental health services”, and discussed the creation of a task force between different federal departments, agencies, and offices, such as the OJJDP, to prevent the placement of juveniles in custody for mental health services by addressing the “issue of mental health and children and youth in the child welfare and juvenile justice systems, including issues related to access to services and the role of agencies in promoting access to these services for children and youth” (Stoltzfus, 2008). While the acknowledgement of the impact of the JJS and CWS on children's health is important, these congressional reports often cite the need for creation of competitive grants through acts like the JJDPA. This can have implications for which state and/or local governments receive funding for these goals, as competitive funding may result in exclusion of certain state and/or local governments (Stoltzfus, 2008).

Collaboration between the JJS, CWS, and education system was also explored in several law review and news articles that mentioned and/or discussed Michigan state law (Blitzman, 2015; Diaz, 2016; Schwartz et al., 1999; Shubik & Kendall, 2007; Tulman & Weck, 2009). One article highlighted the relationship between CWS and the juvenile court system during cases in which child protective service (CPS) cases are combined with status offender cases (i.e. truancy and runaway) and noted that juvenile courts often rely on the recommendations and decisions of CPS agencies without checks and balances (Schwartz et al., 1999). Michigan was specifically mentioned as it was found that CWS authorities were “routinely placing abused and neglected children with relatives instead of in foster homes”, due to financial pressures and large costs of foster care (Schwartz et al., 1999). This is a critical finding, as this error of placing abused and neglected children in potentially dangerous environments was a (inadvertent) result of two systems that lacked oversight and appropriate checks and balances to prevent poor outcomes.

The education system was particularly highlighted in law reviews that mentioned or discussed Michigan state law, covering topics like zero-tolerance school policies, children with special education needs, and compulsory school attendance age and their relation to status offense laws and the JJS. In an article by a Massachusetts Juvenile Court judge, he argues against police in schools and zero-tolerance policies, asserting that they “are counterproductive and unintentionally biased against children of color”, citing these school policies as a “re-criminalization of status offense conduct” such as truancy and incorrigibility (Blitzman, 2015). Flint, Michigan was particularly highlighted in this article as the one of the first cities to have school resource officers (by 2005 almost half of public schools reported having school resource officers), with the author noting that the “presence of police in schools frequently results in significant increases in student arrests for misbehavior previously addressed by educators and parents” (Blitzman, 2015). Another article highlights the impact of state laws on age eligibility requirements for juvenile status offense jurisdiction and compulsory school attendance on the ability for youth to be charged for truancy and subsequently involved in the JJS (Shubik & Kendall, 2007). Michigan state law was mentioned in this article for both of these topics of legislation: (1) Michigan has a proposed bill (H.B. 4851) to raise status offense jurisdiction to 18 and (2) Michigan has legislation pending that would require youth to attend school up to age 18 (Shubik & Kendall, 2007).

Two articles address the issue of students with special education needs getting introduced to and involved in the JJS through status offenses, such as truancy and incorrigibility (Blitzman, 2015; Diaz, 2016; Tulman & Weck, 2009). One article emphasized the importance of special education law in “shutting down” the “school-to-prison pipeline” (i.e. via status offense charges) for students with disabilities and special education needs and spoke positively on a Michigan state

special education law (Mich. Comp. Laws §§ 380.1711, 380.1701, 380.1751) that covers eligibility for special education services for students with disabilities (who have not graduated from high school) until the age of twenty-five (which is extended past the usual age of twenty-one) (Tulman & Weck, 2009). The other article examined charter schools and their effectiveness in providing special education services, highlighting that a “common trend for children with disabilities in the justice system is that their disabilities were not identified, so they did not receive services” (Diaz, 2016). Michigan was specifically highlighted in this article, as they have entire school districts composed of only charter schools (established by Mich. Comp. Laws § 380.502). Lower budgets for charter school districts compared to public school districts in Michigan was emphasized as playing a role in decreasing availability of special education services, because if “a district still has outstanding special education costs after using all of the funds dedicated to special education, then the district must use general education funds to make up the difference” (Diaz, 2016).

Specific Youth Populations in the Juvenile Justice System

In several law review and news articles related to or mentioning Michigan state law, there was discussion on specific youth populations that are overrepresented and/or uniquely impacted by and in contact with the JJS, such as racial/ethnic minority youth, girls, and LGBT+ youth (Adler, 2009; Claus et al., 2017; Dalby, 1994; Gamal, 2018; Godsoe, 2014; González, 2012; Sherman, 2012; Thibodeau, 2002). Interestingly, only a few congressional reports mentioned these populations, such as racial/ethnic minority youth and girls, and often only acknowledged them in relation to risk factors for involvement in the JJS, such as proportion of runaway and disconnected youth that are girls or racial/ethnic minorities, or in relation to the creation and funding of federal programs that should reach “diverse youth” (Fernandes Alcantara, 2008, 2015a, 2019a).

In regard to law review articles that focus on girls in the JJS, many discuss charges that significantly impact girl's involvement in the JJS, such as status offenses, violations of court orders, and prostitution charges. Articles that highlight the disproportionate use of status offense charges and violations of court orders to institutionalize and adjudicate girls often discuss the history of the JJS (and the JJDPa) in relation to how girls are viewed by the JJS (Dalby, 1994; Godsoe, 2014; Thibodeau, 2002). Common themes among these articles include the paternalistic nature of the JJS especially for girls, the historical aim of the JJS to control female sexuality and maintain societal norms that dictate obedience and modesty in girls, how trauma pushes girls into the JJS via non-criminal acts (like status offenses) or offenses relating to prostitution. Two articles that focus on girls and gender bias in the JJS mention Michigan state safe harbor law that decriminalizes prostitution for minors under 16 years old (Mich. Comp. Laws § 750.448), which diverts many commercially sexually exploited girls from the delinquency system to the status offense system in the JJS (Godsoe, 2014; Sherman, 2012). Another article specifically compared Virginia and Michigan state JJS and their impact on female delinquency and gender bias in the JJS and noted that "many of each state's committed female juveniles are detained for violations of court orders and status offenses" (Thibodeau, 2002). Two other articles, also focusing on gender bias in the JJS, discuss solutions to reduce the amount of status offenders and juveniles who violate court orders in the JJS and addressing the specific needs of girls, including minor emancipation laws (Mich. Comp. Laws § 722.4e), which would make an emancipated minor unable to be charged with a status offense, and the creation of Girl Courts (which Michigan has established), which address the "specialized needs of adolescent girls" in the JJS (Dalby, 1994; Gamal, 2018). Although not mentioned in the articles on gender bias in the JJS, one article did mention LGBT youth and their unique experiences with the JJS (Adler, 2009). The article highlights that

homelessness is a huge problem among LGBT youth, especially for those who run away from parents/caretakers (a status offense) due to homophobia, transphobia, and/or abuse in the household, and noted that, while some community organizations (like Ozone House in Ann Arbor, Michigan) are addressing LGBT youth homelessness, laws that uphold parental control and rights have not been addressed as impacting the lives of LGBT youth (Adler, 2009).

Interestingly, only some law articles that mention and/or discuss Michigan or Michigan state law focused on racial/ethnic minority youth in the JJS. One article specifically describes research on racial and ethnic disparities in police handling of juvenile arrests that uses juvenile arrest data from 14 states, including Michigan, and found that “consistent with previous studies, analyses disaggregated by crime severity found that ethnic and racial disparities were more pronounced for less serious offenses, such as status offenses” and they theorize that “police officer discretion may contribute to disproportionality” in arrests for minor offenses (Claus et al., 2017). Interestingly, the methods section of this article highlighted that “84% of cases with missing ethnicity data and 22% of those missing on race were from Michigan jurisdictions”, which highlights a potential problem with data collection in Michigan (Claus et al., 2017). Another article discusses indigenous youth in the JJS by highlighting the Indian Child Welfare Act (ICWA) which recognizes indigenous tribes’ “unique rights that must be preserved regarding the placement of their children” (González, 2012). As established in state law, including Michigan state law, ICWA “protections apply in proceedings where an Indian child is at risk of being removed temporarily from the home, as is the case in status offense proceedings” (Mich. Comp. Laws § 712A.2(a)(2)-(4)), however this article highlights that “implementation, adoption, and enforcement of ICWA protections in status offense proceedings are inconsistent among the states and can be based on highly discretionary ad hoc determinations made by intake officers, practitioners, advocates, and

judges without clear legal guidance” (González, 2012). This article also highlighted that Michigan is one out of 18 states that handles compliance with the ICWA through statutes and/or administrative codes (Mich. Comp. Laws Ann. § 712A.19a), which shows “commitment to the procedural rights and protections of the Act [ICWA] by strengthening the tribal role in child welfare, promoting sovereignty, and ensuring Indian children's cultural ties with their tribes in status offense proceedings” (González, 2012).

The JJDPA and the Role of Grants and Programs

Unsurprisingly, many of the congressional reports mentioned different sources of federal funding, such as the JJDPA Formula Grants Program and the Juvenile Accountability Block Grant (JABG), and the role of these grants in creating, expanding, and improving juvenile delinquency prevention programs for youth “who have come into contact, or are likely to come into contact, with the juvenile justice system” (Sacco et al., 2019). One congressional report highlighted how the history of juvenile justice legislation has shaped the establishment and maintenance of these different federal grant programs that serve to prevent juvenile delinquency. For example, the restrictions and requirements for state plans set by the JJDPA to determine eligibility for state and local grants have evolved over time with the additions and amendments to core requirements and the creation of the JABG, which allows “the Attorney General to make grants to states and units of local government to strengthen their juvenile justice systems and foster accountability within their juvenile populations” and was shaped by the more punitive ideologies of the 1980s and 1990s (Finklea & Hanson, 2015). This report particularly addresses the power of the federal government in shaping programs that impact the health of youth both involved and “at risk” of being involved in the JJS, suggests that congress should consider “whether the federal government, through its grant programs, should be focusing on rehabilitating juveniles, holding them accountable for their

actions, or some combination of both of these philosophies” (Finklea & Hanson, 2015). A news article from the South Bend Tribune in 1995 highlighted the more punitive ideologies of Michigan leaders in the 1990s, as the past Michigan governor John Engler supported a provision in a package of juvenile justice bills that would result in Michigan losing “up to \$3.2 million in federal funds” from the JJDPa formula grants if it passed “a measure allowing juveniles to be jailed for breaking curfew or running away”, or in other words institutionalization of status offenders (Daubenmier, 1995). The news article also emphasized the problem Michigan state officials had with federal control and oversight on state laws. For example, the article quoted a speaker for Gov. Engler, who addressed the new bill proposal, saying "is it worth \$3.2 million if they're going to dictate how we can write our laws and juvenile justice” (Daubenmier, 1995).

Congressional reports created after the 2018 reauthorization of the JJDPa (JJRA) explored the amended formula grant requirements for state plans -- such as “prioritizing evidence-based programs, phasing out the use of restraints on pregnant juveniles, screening for human trafficking victimization, and screening and treating the mental health and substance abuse needs of youth in the care of the state’s juvenile justice system”--, new purpose areas of the formula grants --such as programs to “address needs of girls in or at risk of entering the juvenile justice system, assist youth with access to legal representation, and provide youth information on procedures to seal and expunge records”--, and overall juvenile justice funding trends from the past twenty years -- which showed an overall decrease in funding for juvenile justice programs (Finklea & Hanson, 2019, 2021). Certain JJDPa policies related to grant requirements were also highlighted in these congressional reports, such as the VCO exception to the DSO mandate that was retained by the recent reauthorization of the JJDPa (with the addition of a seven-day limit on the time a status offender in violation of a VCO can be held in a secure facility) and mandate for more thorough

audits of OJJDP grantees, due to recent criticism regarding the “monitoring of states’ compliance with the JJDPA” (especially for state formula grants core requirements) and claims that “certain grantees had falsified compliance data submitted to OJJDP and that OJJDP had failed to sufficiently act on reports of this misconduct” (Finklea & Hanson, 2019). Juvenile justice-related programs in Michigan that received federal funding were specifically mentioned in testimony given in 2014 by the Administrator of the OJJDP on the subject of the JJDPA reauthorization, as he highlighted the Defending Childhood and Safe Start programs that have sites in Detroit and Kalamazoo, MI, respectively, both of which provide “evidence-based trauma-informed treatment to children exposed to violence” (“Senate Judiciary Committee Hearing; ‘The Juvenile Justice and Delinquency Prevention Act: Preserving Potential, Protecting Communities.’; Testimony by Robert Listenbee, Administrator, Office Of Juvenile Justice And Delinquency Prevention, United States Department of Justice, Washington , DC,” 2014).

New Policy Reform for Status Offenses

In several law review and news articles related to or mentioning Michigan state law, there were discussions on specific law reforms that established rights or policy changes for status offenders (Cohen & Eldeib, 2020; Hunt Federle, 2010; Lapp, 2019; “Mich. Gov. Whitmer Signs Additional Bills Expanding Criminal Justice Reform in Michigan,” 2021; “MICHIGAN’S MANY CRIMINAL JUSTICE POLICY VICTORIES IN 2020,” 2021; Moore & Wakeling, 1997). Two law review articles specifically touched on state law that allows for the right to counsel for juveniles in status offence proceedings and require judges to appoint counsel to juveniles in status offense proceedings, which is included in Michigan state law under Mich. Comp. Laws Ann. § 712A.17c (Hunt Federle, 2010; Lapp, 2019). While one article emphasizes the importance of this law to uphold the rights of children and protect them from discretion of judges and prosecutors,

the other article specifically mentions that “the extension of the right to counsel in these particular cases”, referring to status offense cases, “may be the direct result of the increasingly punitive nature of these proceedings, rather than of a strong commitment to a civil right to counsel” (Hunt Federle, 2010).

Two recent news articles examine new Michigan legislation that relates to the criminal and juvenile justice systems (“Mich. Gov. Whitmer Signs Additional Bills Expanding Criminal Justice Reform in Michigan,” 2021; “MICHIGAN’S MANY CRIMINAL JUSTICE POLICY VICTORIES IN 2020,” 2021). Both articles praise the new reforms to the criminal and juvenile justice systems and particularly mention the newly enacted senate bill (S.B.) 700, which establishes new policies for status offenders. S.B. 700 is sponsored by Senator Sylvia Santana, who is quoted in the news article describing the significance of this new bill, stating “with today’s bill signing by the Governor, Michigan took a step huge forward in these areas by changing how we handle juveniles who run away from home, skip school, and disobey their parents. Under this new law, the number of days a juvenile can be locked up will be limited and the focus will be shifted to discovering the root cause of their behavior” (“Mich. Gov. Whitmer Signs Additional Bills Expanding Criminal Justice Reform in Michigan,” 2021). In both news articles, a summary of S.B. 700 is presented, highlighting the JJDPa requirement to “limit the use of secure juvenile detention facilities for status offenders” and the adjustment of “the list of offenses for which a juvenile may be detained pending a hearing” which included “removing the status offense of running away from home and adding the violation of a court order” to this list (“Mich. Gov. Whitmer Signs Additional Bills Expanding Criminal Justice Reform in Michigan,” 2021; “MICHIGAN’S MANY CRIMINAL JUSTICE POLICY VICTORIES IN 2020,” 2021).

The last two articles that mention Michigan and Michigan state law bring up concerns regarding state juvenile justice policy and status offenders (Cohen & Eldeib, 2020; Moore & Wakeling, 1997). One article discussed the role of juvenile courts in handling status offenders and offered the “family court model” as an alternative to juvenile courts that usually handle both delinquency and status offender cases (Moore & Wakeling, 1997). The article argues that family court, which would have jurisdiction over “all those legal matters that involve relationships within the family and between the family and the state” would provide a better model for handling status offense cases and lists Michigan as one of 25 states not having a family court in 1995 (Michigan actually established a family court in 1997, after this article was released) (Moore & Wakeling, 1997). The other, more recent, news article was released on ProPublica, a nonprofit newsroom that investigates abuses of power, and titled “Judges Are Locking Up Children for Noncriminal Offenses Like Repeatedly Disobeying Their Parents and Skipping School” (Cohen & Eldeib, 2020). This article was written about juvenile justice in Michigan in the context of the COVID-19 pandemic and highlighted several concerns and problems that allow for abuses of power and negative outcomes for youth , especially status offenders. According to the article, Michigan, unlike other states that are moving towards reform, “continues to lock up children for minor transgressions that aren't actually crimes”, such as technical violations (violations of court orders) and status offences, and gives a specific example of a 15-year-old Black girl who was “sent to detention for violating her probation on earlier charges of theft and assault by failing to do her online schoolwork” (an act of truancy) during the pandemic (Cohen & Eldeib, 2020). In their analysis of data collected by the federal government, the authors found that “Michigan ranked fourth in the nation, trailing only the much more populous states of California, Texas and Florida in the number of minors held for technical violations, and that Michigan's rate was more than twice

the national rate”, with children of color being disproportionately affected (Cohen & Eldeib, 2020). The authors of this article also did interviews with over 80 lawyers, government and court officials, experts, and young people involved in the system and found that Michigan is “lacking statewide coordination” and that its “decentralized structure allows counties to act with little oversight, and the state gathers almost no data from those jurisdictions, so it doesn't know what happens to the juveniles in them” (Cohen & Eldeib, 2020). The article emphasizes that the Michigan Supreme Court has the power to “require county courts to standardize and report data” but has not done so, which has resulted in “such poor data that the state can't even say how many juveniles it has in custody at any given time or what crimes they committed” (Cohen & Eldeib, 2020). Finally, this article highlights the need for alternatives to institutionalization/detention, especially for youth who are in need of services (such as substance use and mental health services) like community-based programs, with many experts (such as attorneys and juvenile justice program supervisors) expressing that most juvenile, especially status offenders, “would be better treated for their mental health issues in the community but get locked up because there's nowhere for them to go” (Cohen & Eldeib, 2020).

Section 2: Content Review of Michigan State Laws concerning the JJDPA and Status Offenses

In reviewing and analyzing Michigan state legislature, including introduced and passed bills and public acts, themes similar to the previous section emerged related to the JJDPA and status offenses. In total, four themes were identified from the qualitative analysis (1) interactions between Michigan’s juvenile justice and education systems, (2) interactions between Michigan’s juvenile justice and child and family welfare systems (3) specific youth populations in Michigan’s JJS (including racial/ethnic minorities and girls), and (4) policy impacting status offense cases.

Interactions between Michigan's Juvenile Justice and Education Systems

Many of the Michigan state bills and public acts identified in the search detailed school policies for handling youth considered truant, guidelines for data collected on number of truant youth, and programming targeted to youth at risk of truancy. Bills that describe requirements for collecting and reporting data on truant youth in Michigan often assign the responsibility of data collection and reporting to school officials, such as school boards, or government agencies. For example, a senate bill (S.B. 68) was recently introduced in the 2021-2022 legislative session that proposes amendments to specific sections of 1976 Public Act (PA) 451, entitled "The revised school code,". Section 1310a of this bill describes the role of school boards in preparing and submitting annual reports to the superintendent of public instruction and specifies that data should be collected on the number of students who were "truant, chronically absent, or disciplinary absent during the immediately preceding school year" and for each incident of a student who was truant, chronically absent, or disciplinary absent, "a brief written description of the incident and the identification of the race, gender, and ethnicity" of the student should be reported. This bill defines "truant" as "a child who has 10 or more unexcused absences per school year" and specifies that a student "must not be suspended or expelled solely for being truant or chronically absent." Other bills describe the coordination that must happen with school and juvenile justice systems to collect data on truancy. For example, a bill (House bill or H.B. 4239), passed during the 2019-2020 legislative session for appropriations for the Department of Licensing and Regulatory Affairs, describes the responsibility of the Department of Licensing and Regulatory Affairs to coordinate with local law enforcement, prosecutors' offices, and school systems to "prepare and submit a report to the subcommittees and the senate and house fiscal agencies providing the addresses of all facilities licensed under the medical marihuana facilities licensing act" that provides a

community impact statement. Under this bill, the impact statement is required to describe any “increases or decreases in total crimes” including abuse and neglect cases and truancy rates.

Other bills that describe interactions between Michigan’s juvenile justice and education systems detail how truancy cases are handled by school officials and the policy for when to involve the juvenile court system. For example, S.B. 104, passed during the 2017-2018 legislative session to amend 1976 PA 451 (entitled "The revised school code,"), set a policy for schools to assign an “attendance officer” or “designated school official” to investigate cases of non-attendance, truancy, and chronic absenteeism and detailed the procedures for these investigations. The bill outlined that the first step “if a child is repeatedly absent from school without valid excuse”, is failing schoolwork, or demonstrates evidence of behavior problems is to attempt to consult with the student’s parent or guardian. If this fails and no lesser intervention will address the problem, then the school district superintendent may request the attendance officer or designated school official to notify the parent or guardian by mail to come to the school or other meeting space at a specific time “to discuss the child's irregularity in attendance, failing work, or behavior problems with the proper school authorities”. During this meeting, the bill specifies that “school officials shall offer an attendance agreement that requires the child to resume regular and consecutive attendance, shall discuss consequences that will occur if the attendance issue is not resolved, and may offer interventions as available, including, but not limited to, mental health screening, problem solving, tutoring, and mentoring.” Finally, if this meeting and any subsequent interventions do not improve the students absenteeism, truancy, school performance, or behavioral problems, then the attendance officer or designated school official can pursue the court intervention, which may include: (a) requesting a truancy conference in the juvenile court with the parent or guardian and with the child if the child is age 12 or older, (b) filing a truancy petition in

the juvenile court, or (c) referring the case to the prosecuting attorney for review and appropriate action. Another bill (H.B. 4844), introduced in the 2001-2002 legislative session to amend 1976 PA 451 (entitled "The revised school code,"), sought to establish a timeline for the development of local truancy definitions and policy, such as "protocols and criteria for notifying the parents of a truant child", as a joint effort and coordination between "each intermediate school board and the county prosecutor for each county in the territory of the intermediate school district."

Interactions between Michigan's Juvenile Justice and Child and Family Welfare Systems

In searching and analyzing contents of Michigan bills and public acts for policy regarding status offenses and the JJDPA, many bills sought to establish policy around the coordination and interaction between state child and family welfare services and JJS. A majority of bills that were selected for analysis discussed particular services, such as mental health services for children, continuity and consolidation of child and family welfare services, and direct interactions between juvenile justice and child and family welfare systems. Especially for bills that concern appropriation of local, state, or federal funding, many include requirements for data collection to monitor services and programs. For example, an appropriations bill, S.B. 192, passed in the 2013-2014 legislative session established policy for the Michigan Department of Human Services that allows the department to use funds to contract with research entities (i.e. state universities) to conduct studies on behavioral and mental health in juvenile justice facilities, collecting data such as the proportion of juvenile justice detainees with a primary diagnosis of an emotional disorder or addiction disorder, data classifying the types of offenses committed by juvenile justice detainees with a primary diagnosis of an emotional disorder or addiction disorder, and data indicating whether juvenile justice detainees have previously received services managed by a community mental health or substance use program. Public Act 540 of 2012, an act regarding mental health

services and local agencies that provide mental health services, sets policy and guidelines around mental health hospitalization of minors, stating that a “minor of any age may be hospitalized if both of the following conditions are met: (1) the minor’s parent or guardian or the department of human services or county juvenile agency requests hospitalization and (b) the minor is found to be suitable for hospitalization. While this demonstrates the interaction between state child and family welfare services and JJS, via mental health care/services for minors, this bill also establishes that in the determination of suitability for mental health hospitalization, the determination of the presence of emotional disturbance should not be determined only by things such as sexual activity or “juvenile offenses, including school truancy, home truancy, or incorrigibility”.

Other bills that describe interactions between state child and family welfare services and JJS establish policy to support the continuity of services provided by both systems. An appropriation bill for Michigan's Family Independence Agency (FIA), H.B. 5590, passed by the 1997-1998 legislative session describes actions the FIA should take to promote continuity of service for children and families, including entering into multiyear contracts for child welfare and juvenile justice services (Section 508) and allocating funds to these “multipurpose collaborative bodies” to implement and manage activities and services for at-risk children and families with CPS cases, such as family preservation and prevention services (Section 513). Additionally, the bill allocated funds from the federal juvenile accountability incentive block grant to support the boot camp program through the FIA, with the rest going to “provide funding to enable juvenile courts, juvenile probation offices, and community-based programs to be more effective and efficient in holding juvenile offenders accountable and reducing recidivism, treating substance abuse problems, and developing community-based alternatives for female offenders” (Section 701). Another bill, H.B. 4252, introduced in the 1989-1990 legislative session also contained policy that

demonstrated the overlap in jurisdictions and populations in Michigan children and family services and the JJS, as it established procedures for children committed to or under observation at the Michigan children's institute (and therefore committed to the Michigan Children and Family Services Agency), allowing for “review by the juvenile division of the probate court (under chapter XIIA of Act No. 288 of the Public Acts of 1939) and allowing the superintendent of the children’s institute to report to the probate court if an extended observation or commitment is needed to continue treatment for emotional disturbance at the facility (Section 3). Policy describing coordination between the Michigan Children and Family Services Agency and JJS was also introduced in H.B. 4113 during the 1991-1992 legislative session, as the bill suggested that the Children and Family Services Agency develop a state plan required by the JJDPa and a unified funding plan in conjunction with an advisory committee on juvenile justice. Section 3103 of this bill emphasized its goals, such as consolidating “certain services within a single agency”, creating a “coordinating mechanism for other services in order to provide a continuum of care and to avoid fragmentation of services to children and families”, increasing “accountability for the delivery and administration of services to children and families”, providing services “available to all children and families in a convenient, accessible manner and on an equitable basis”, assisting “children and families to become responsible for their own lives and to develop the capacity to control their own futures”, and emphasizing “early intervention and primary prevention services in order to avoid the costs to the state of individual and family dysfunction”.

Two other bills that were introduced by the House and Senate shed light on other ways in which Michigan juvenile justice (through status offense laws) and child and family services interact: through eligibility for social services. In S.B. 231, introduced in the 1991-1992 legislative session, it is established that a “student is required to attend school as a condition of eligibility for

aid to families with dependent children or general assistance, and that penalties may be applied either to the student or to the caretaker relative if a student has more than 2 unexcused absences during a month that 5 school is in session”; in other words, for a child who is found to be truant, the family may lose eligibility for welfare services. Although this bill is older, H.B. 4373, introduced in the 2019-2020 legislative session, describes similar eligibility requirements for services like the Family Independence Program, as part of data reporting for the Family Independence Program is to collect the “number of cases sanctioned [removed from assistance] due to school truancy policy”.

Specific Youth Populations in Michigan’s JJS

Michigan bills and public acts concerning status offenses often mention policies for data collection stratified by race, ethnicity, and/or gender (for example, S.B. 68 mentioned above and the OJJDP data on juveniles in residential placement) but beyond data collection some bills establish policy and programs that specifically target certain youth populations that uniquely interface with the JJS. For example, S.B. 503, passed during the 2015-2016 legislative session, amends sections of the 1939 PA 288 entitled “probate code of 1939” that were previously established by 2012 PA 565, which details the “Michigan Indian family preservation act”. Section 3 of this bill sets the definition of “child custody proceedings” to include cases when an “Indian child is charged with a status offense”, and establishes that the family division of circuit court should take “active effort” to “provide remedial services and rehabilitative programs designed to prevent the breakup of the Indian family and to reunify the child with the Indian family”, which is defined as more than just “a referral to a service without actively engaging the Indian child and family”. This section also establishes that “active effort” includes “identifying, notifying, and inviting representatives of the Indian child’s tribe to participate in all aspects of the Indian child

custody proceeding at the earliest possible point in the proceeding and actively soliciting the tribe's advice throughout the proceeding". This highlights the unique nature of how indigenous youth interface with Michigan's JJS. Additionally, H.B. 5590 (described previously) established policy that set considerations for criteria for the development of new "community-based alternatives to public and private residential placements for delinquent youth who are adjudicated for class 4 misdemeanors and class 5 status offenses." These recommended criteria included "the percentage of female class 4 and class 5 offenders placed in residential settings should be reduced and a priority shall be placed on removing female status offenders from residential placements." This shows an acknowledgement of the gender bias in rates of residential placement of female status offenders and encourages data collection for information on female status offenders.

Policy Impacting Status Offense Cases

Given that this search of Michigan state legislature was focused on status offenses, there were many bills that, at least in part, focused on policy directly impacting status offenders. As mentioned above in the first section of the results, S.B. 700 (also 2020 PA 389) is a recently passed legislation that impacted policy on institutionalization of status offenders and juveniles who violate court orders from the family division of circuit court. In Section 15, the public act establishes that "in the case of a juvenile concerning whom a complaint has been made or a petition has been filed under this chapter, the [family division of circuit] court may order the juvenile, pending the hearing, detained in a facility as the court designates", with the examples of petitions excluding a petition for the status offense of running away but including "a petition or supplemental petition alleging that a juvenile violated a court order". Additionally, this section of the public act states that if a juvenile in violation of a court order "is detained in a secure facility, the petitioner shall ensure that an appropriately trained, licensed, or certified mental health or substance abuse

professional interviews the juvenile in person within 24 hours to assess the immediate mental health and substance abuse needs of the juvenile”. If the family division of circuit court finds that a juvenile violated a court order, the court must state “the length of time, not to exceed 7 days, that the juvenile may remain in the secure facility and the plan for the juvenile’s release from the facility” as well as “the court’s finding of fact to support a determination that there is no appropriate less restrictive alternative placement available considering the best interests of the juvenile”.

In addition to S.B. 700, 2003 PA 56 also establishes policy that impacts the institutionalization of status offenders, as it describes policies of the Interstate Compact in which each compacting state is “responsible for the proper supervision or return of juveniles, delinquents and status offenders who are on probation or parole and who have absconded, escaped or run away from supervision and control and in so doing have endangered their own safety and the safety of others.” This act provides a description of the purpose of the compact, “through joint and cooperative action among the compacting states”, which includes making ‘contracts for the cooperative institutionalization in public facilities in member states for delinquent youth needing special services”, which impacts out-of-state placement of juvenile offenders, such as status offenders. Additionally, the act establishes an "Interstate Commission for Juveniles", which includes non-commissioner (non-voting) members from “national organizations of governors, legislators, state chief justices, attorneys general, Interstate Compact for Adult Offender Supervision, Interstate Compact for the Placement of Children, juvenile justice and juvenile corrections officials, and crime victims”. Interestingly, no child health or social service experts were listed as potential non-commissioner members.

H.B. 5676, passed during the 2009-2010 legislative session, relates to policy also discussed in the previous results section on right to counsel for juvenile status offenders, as it establishes policy on appointing public defenders to juveniles. Section 13 of this bill states that “a qualified attorney shall be appointed to meet with any juvenile who wishes to waive his or her right to counsel to ensure he or she fully understands the consequences of that waiver’ and that an “attorney providing public defense services to a juvenile in the family division of the circuit court shall continually represent that juvenile from the initial assignment of counsel until the case is dismissed or closed, including all post-disposition hearings, unless otherwise provided by commission policies or relieved of his or her duties”. Section 20 of this bill establishes that the court may order the parents or guardians of a juvenile who receives public defense services to pay a portion of the costs associated with receiving those services, as long as it has been determined that payment will not constitute a “substantial financial hardship”.

H.B. 4851, introduced during the 2005-2006 legislative session, is another bill that relates to policy discussed in the previous results section on age eligibility for juvenile jurisdiction, as it establishes jurisdiction for the family division of circuit court. The bill gives “exclusive original jurisdiction superior to and regardless of the jurisdiction of another court in proceedings concerning a juvenile under 18 years of age who is found within the county” if they have committed a status offense. The status offenses that apply in this bill are (1) runaway (defined as an instance in which “the juvenile has deserted his or her home without sufficient cause, and the court finds on the record that the juvenile has been placed or refused alternative placement or the juvenile and the juvenile's parent, guardian, or custodian have exhausted or refused family counseling”), (2) incorrigibility (defined as an instance in which “the juvenile is repeatedly disobedient to the reasonable and lawful commands of his or her parents, guardian, or custodian,

and the court finds on the record by clear and convincing evidence that court-accessed services are necessary”), and (3) truancy (as defined by school policy or an instance in which “the juvenile willfully and repeatedly absents himself or herself from school or other learning program intended to meet the juvenile's educational needs, or repeatedly violates rules and regulations of the school or other learning program, and the court finds on the record that the juvenile, the juvenile's parent, guardian, or custodian, and school officials or learning program personnel have met on the juvenile's educational problems and educational counseling and alternative agency help have been sought”).

A recent bill introduced during the 2021-2022 legislative session, H.B. 4104, amends 1895 PA 215, entitled "The fourth class city act," and establishes general powers of city corporations, including establishing city ordinances. In Section 1, the bill gives multiple general power to cities, including “to restrain and prevent vice and immorality, gambling, noise and disturbance, and indecent or disorderly conduct or assemblages; to prevent and quell riots; to preserve peace and good order; and to protect the property of the city or of persons in the city” as well as “to prohibit vagrancy, truancy, begging, public drunkenness, disorderly conduct, or commercial sexual activity”. This policy related to status offenders through the mention of truancy, but also the general language of this passage may also capture incorrigibility and violations of curfew, which are both status offenses.

Conclusion

Summary and Insights from Findings

This narrative review provided a qualitative analysis of U.S. congressional reports, U.S. and Michigan-based law reviews and news reports, and Michigan state legislation concerning

juvenile justice, the JJDP, and status offense policy. It accomplished this in two parts: (1) exploring and analyzing the social and political context of the patchwork of JJS policies and practices in the U.S. and Michigan related to the JJDP and status offenses and (2) reviewing and identifying aspects of Michigan state juvenile justice legislation and legal frameworks on status offenses that impact and may contribute to the inequitable involvement and incarceration of status offenders and perpetuate public health harms and health inequities. The findings from this review help to form a research proposal that aims to identify new research questions and frameworks to study how laws, policies, and practices of institutions and systems impact public health. Specifically, for this thesis essay, the findings help to identify questions for PHLR surrounding the laws, policies, and practices of the JJS and their impact on the health of juveniles under their control.

Findings from both parts of the review yield four important insights. The first important insight from the results is the general acknowledgment by federal and state legislation of disproportionate or specific ways of contact with certain youth populations (“vulnerable” youth, racial/ethnic minority youth, girls, and LGBT youth) via status offense laws and the proposed solutions to rectify structural bias and discrimination experienced by these youth populations. The “vulnerable” youth populations, as described in the first results section, mainly included homeless and runaway youth, sexually exploited and trafficked youth, disconnected youth, and youth who use substances and these populations were discussed as needing services, programs, and protections through the law. “Vulnerable” youth populations in results section two were mentioned less explicitly but mental health resources/services, mental health hospitalization, and statutes on prostitution/sexually exploited youth were addressed in Michigan legislation. Findings from this review on racial/ethnic minority youth acknowledged the importance of culturally-sensitive laws

on status offenses (i.e. via the ICWA) and highlighted the problem of disproportionate minority contact and involvement in the JJS, especially via minor offenses like status offenses. Law enforcement discretion, harsh school policies, and school police presence were specifically identified as contributing to the phenomenon of disproportionate minority contact. Findings from this review on girls in the JJS demonstrated that the problem of gender bias towards girls in charges and institutionalization of youth for status offenses, violations of court orders, and prostitution charges and showed the acknowledgement by federal and state legislature that female youth offenders have specialized needs (i.e. via encouraging specific services and programming for girls and discouraging institutionalization of girls). Although, laws and law reviews and reports on LGBT youth were not specifically searched, there was an acknowledgement of the problem of homelessness and runaway cases among LGBT youth and a call for this recognition by federal and state legislation.

The second important insight from the results is the deeply interconnected nature of the JJS, CWS, and education system, especially related to identifying, handling, and adjudicating status offenders. For the education system, school truancy policy was discussed in depth in both law reviews and reports as well as Michigan state laws themselves. The responsibility of school districts to identify and handle truant and incorrigible youth (youth with chronic absenteeism and potential behavioral problems, respectively) is outlined in Michigan state law, which in writing prioritizes family intervention and alternative services, but are based on the best effort of school officials to attempt these rehabilitation measures before taking it to juvenile court. Law reports and reviews give perspective on this issue, as they highlight the use of harsh local school policy and lack of resources/services for youth often labeled truant and incorrigible. For the CWS, neglect and abuse cases that overlap with status offense cases (i.e. truancy and runaway cases) and the

provision of mental health and social services in the JJS and CWS were discussed as linking these two systems. Additionally, attempting to reduce the phenomenon of placing youth in juvenile justice custody to receive mental health services was addressed in both law reviews and reports and Michigan state legislation.

The third important insight from the results is that there are special legal considerations that are highlighted in legislation, law reviews, and law reports specifically for status offenders. In both results sections, the right to legal representation and counsel for juvenile status offenders was highlighted, as historically court judges, prosecutors, and law enforcement officials have been identified as using personal discretion when handling adjudication of status offenders, including endorsing ideologies of protectionism and paternalism and the punitive perspective of accountability and punishment for actions over rehabilitation. Also, laws on age eligibility for juvenile jurisdiction were highlighted as important for status offenses, as they are actions that would not be illegal if committed by an adult, and the higher the age eligibility for juvenile jurisdiction is, the more youth that can be charged with a status offense. Finally, the problem of (de)institutionalization of status offenders was addressed in both sections of the results and demonstrates the conflicting realities between legal professionals and government officials acknowledging the importance of the DSO mandate and state laws still allowing for the institutionalization of status offenders, especially via the VCO exception.

The fourth important insight from the results is the important role of data collection on outcomes related to status offenses in the JJS. Findings from both parts of the review demonstrate that data collection in the JJS on status offenders is utilized to inform laws that seek to reduce inequities in contact with the JJS (i.e. by gender or race/ethnicity) and to appropriate funds for alternative models of programs and services that serve juvenile status offenders. Data collection is

crucial for keeping state and local governments accountable for addressing things like the DSO mandate, disproportionate contact and institutionalization of racial/ethnic minorities and girls for status offenses, and implementation and quality improvement of community-based, rehabilitative programs and services that divert youth from the JJS. While many bills and public acts in Michigan specified data collection requirements relating to status offenders for institutions, such as school districts and juvenile courts, other research and reports on Michigan highlight that data collection and availability is lacking and severely flawed.

The insights and findings from this narrative review provide key themes that have the potential to be used as a guiding framework for research on the health impacts of state legal structures surrounding status offenses.

Health Implications: Legal Frameworks/Structures & Their Potential Impacts on Health

Involvement with the JJS, especially institutionalization, can have negative impacts on health, which is supported by results from this review that highlighted inconsistent access to services, such as mental health services and social services, as well as previous literature and research on access to care in the JJS (Glisson & Green, 2006; Lambie & Randell, 2013). Additionally, institutionalization can (re)traumatize juvenile through several mechanisms, such as long periods of confinement and isolation and exposure to violence and physical and/or sexual abuse from fellow institutionalized juveniles or staff (Lambie & Randell, 2013; Sapien, 2013). Previous research has also found that institutionalization and other punitive approaches, such as boot camps, have negative health impacts via increase in risk for recidivism and harms to the development and mental health of juveniles (Cauffman & Steinberg, 2012).

Given these serious health impacts, legal structures (such as laws, policies, and practices) that increase (or decrease) contact, involvement, and institutionalization in JJS have important

implications for juvenile health and therefore important implications for research that aims to identify how law impacts public health. This study has identified ways in which legal structures increase status offenders contact, involvement, and institutionalization in JJS:

- (1) **School policies on truancy and incorrigibility.** For example, Michigan laws that allow local school districts to make policies to define behavior that will be labeled as truancy leads to an overall decentralized legal structure for truancy policy that lacks consistency and can inadvertently lead to certain districts having more harsh or restrictive policies on truancy. Additionally, Michigan laws that give a designated school official discretionary power to request a truancy conference in the juvenile court, file a truancy petition in the juvenile court, and/or refer a truancy case to the prosecuting attorney for review and appropriate action may increase the risk of bias in which juveniles get involved in the JJS. Policies like these, as well as the utilization of school resource officers, contribute to the racial and gender inequities in contact, involvement, and institutionalization in the JJS and therefore health inequities by race/ethnicity and gender.
- (2) **Trauma, mental health, or family needs.** For example, “vulnerable” youth populations often experience trauma that may lead to them committing status offenses, such as running away, truancy, and incorrigibility, and therefore increase their risk of contact, involvement, and institutionalization in JJS. While Michigan laws that appropriate funding to or mandate data reporting for mental health services in the JJS aim to protect and improve the health of youth, they also contribute to the phenomenon of youth being involved or institutionalized in the JJS to receive services. In contrast, legal structures that direct funding to mental

health and trauma prevention services in the community may help prevent contact, involvement, and institutionalization in the JJS. Additionally, laws that mandate for contracts between child welfare and juvenile justice services and allocate funds to increase collaboration/coordination between CWS and JJS (i.e. to implement and manage services for “at-risk” children and families with CPS and status offense cases) may inadvertently increase juveniles contact, involvement, and institutionalization in the JJS.

The results from this study have also identified ways in which legal structures can decrease status offenders contact, involvement, and institutionalization in JJS:

(1) Cultural and gender responsive policies and programs for status offenders.

For example, the ICWA establishes policy to guide child custody proceedings, including status offense cases, involving an indigenous child to engage the tribal community and parents in child placement decisions and keep the family unit together, therefore decreasing further contact, involvement, and institutionalization in JJS. Additionally, laws that mandate research on and/or the establishment and implementation of community-based alternatives to institutionalization specialized for female status offenders help to incentivize the utilization of these rehabilitative programs and decrease contact, involvement, and institutionalization in JJS.

(2) Establishment of a maximum number of days juveniles who commit

violations of court orders can be institutionalized. For example, the new law passed in Michigan (S.B. 700) that limits the use of juvenile detention facilities for status offenders and removes running away as an offense that a juvenile may

be detained for pending a hearing actively works to decrease contact, involvement, and institutionalization in JJS. Although this law retained the policy that violation of a court order is as an offense that a juvenile may be detained for pending a hearing, which increases contact, involvement, and institutionalization in the JJS, it also set 7 days as the maximum length of detainment, which decreases health risks and impacts of institutionalization.

Results from this study also identified another important way that legal structures of the JJS for status offenders can impact juvenile health. Although only mentioned briefly, there are policies that limit access to services for juvenile status offenders and their families via the sanctioning/removal of family welfare services for children found to be truant. Given that previous research has shown that provision of social assistance is one of the most important ways that governments buffer the adverse consequences of socioeconomic disadvantage that impact health, this policy would most likely negatively impact the health of the juvenile and their family, especially as truancy is often an indicator that family is in need of services.

Recommendations for Future Research

Given the health implications of legal structures surrounding juvenile status offenders identified by this study, researchers should use these findings as potential frameworks for future research proposals that aim to study the public health impacts of status offense law. Below are a few proposed frameworks for further research:

- (1) **Looking at alternatives to the JJS.** Given the number of congressional reports, law reviews, new reports, and Michigan state laws that included topics on alternative programs that focus on rehabilitation rather than punitive actions, a potential research question could answer how laws that appropriate funds for alternative programs and laws

that mandate research and/or utilization of community-based alternatives and diversion programs translate at a local level to impact (and improve) health? Important supplemental questions might be: (1) who are the beneficiaries of these programs (i.e., by race/ethnicity, gender/gender identity, sexual orientation, etc.)? and (2) who is given the authority to decide who is eligible for community-based alternatives? This may help uncover how discretion may contribute to racial and/or gender inequities/bias in who is institutionalized versus diverted into alternative programs for status offenses.

(2) **Studying the gaps/holes in data.** Given the number of congressional reports, law reviews, new reports, and Michigan state laws that included topics on data collection, a potential research question could answer what factors (such as level of state JJS decentralization) impact the proper and efficient collection of data on status offenders in the JJS that could be used to measure the health impact of laws. Important supplemental questions might be: (1) how should data be collected? and (2) which health outcomes would be useful to measure to measure the health impacts of law (i.e. access to services or programs, days in residential placement, developmental health outcomes, etc.) This may help to inform JJS policy on data collection that could increase the accountability of the JJS to improve racial and gender disparities and lack of access to services.

(3) **Pre/Post studies to capture the impacts of certain legislation.** To study the impact of specific legislation on status offenders, future research should collect data before and after the implementation of a law to better capture potential health impacts of the law. One important caveat to this research is that data collection might be difficult given the current state of data collection by the JJS.

(4) **Comparative research within and across states:** Given the differences in laws on status offenses between states, studies that investigate health outcomes of juveniles in states with different laws on status offenses would provide important insight into how law impacts health. For example, a study may look at and compare states who use the VCO exception for DSO vs states who do not and measure any differences in health outcomes. Also, comparative studies within states could also yield important insights, such as studies on local truancy policies and their differential impacts on health (i.e. through contact with JJS or access to mental/behavioral health services/restorative programs).

Study Limitations

This narrative review study had many limitations. First, this study did not aim to locate all relevant literature and legislation on status offenses, and therefore the search of reports, reviews, news, and state legislature was limited given use of only a few databases and a limited set of key words. This review also did not use a systematic method of data collection and analysis and did not attempt to assess the quality of reports and reviews, which leaves room for potential bias in results. This study also only looked at state-level legislation from Michigan, which limits the generalizability of the results to other states, especially given the large variation in legislation on status offenses, and applicability of findings at local levels within Michigan. Additionally, there were limits on the data available, as Michigan state legislative records only went back to the 1989-1990 legislative session. Finally, this study did not dive into intersectionality within juvenile populations impacted by status offense laws, but it is an important component of the impacts of status offense law on health.

Concluding Thoughts

Ultimately, historical ideologies and social context surrounding juvenile justice and the behavior of juveniles have strong influences on laws surrounding status offenses, including what juvenile behavior is deemed unacceptable and in need of correction (i.e. language on “superpredator” youth and control of girls sexuality), what power and responsibility the state has to protect and manage juveniles, and whether to focus on accountability vs. rehabilitation to address behavior deemed unacceptable and/or delinquent. Through a narrative review of U.S. congressional reports, U.S. and Michigan based law reviews, and Michigan state legislature, this study highlights important themes that related to legislation on juvenile justice, the JJDPA, and status offenses, makes a case for the importance of PHLR research, and provides frameworks for future research proposals on how juvenile status offense law impacts public health. As laws on status offenses are prime targets for reform, this research is critical for moving toward eliminating racial and gender inequities in health, decreasing reliance on the JJS, and advancing abolition of the JJS.

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