

Florida State University Libraries

Electronic Theses, Treatises and Dissertations

The Graduate School

2012

Court Intervention and Institutional Reform: The Bobby M. Case and Its Impact on Juvenile Justice Education in Florida

George Pesta



THE FLORIDA STATE UNIVERSITY
COLLEGE OF EDUCATION

COURT INTERVENTION AND INSTITUTIONAL REFORM: THE BOBBY M. CASE AND
ITS IMPACT ON JUVENILE JUSTICE EDUCATION IN FLORIDA

By
GEORGE PESTA

A Dissertation submitted to the
Department of Educational Leadership and Policy Studies
in partial fulfillment of the
requirements for the degree of
Doctor of Philosophy

Degree Awarded:
Summer Semester, 2012

George Pesta defended this dissertation on June 5, 2012.

The members of the supervisory committee were:

Sande Milton
Professor Directing Dissertation

Thomas Blomberg
University Representative

Patrice Iatarola
Committee Member

William Bales
Committee Member

The Graduate School has verified and approved the above-named committee members and certifies that the dissertation has been approved in accordance with university requirements.

ACKNOWLEDGEMENTS

I would like to thank my major professor, Dr. Sande Milton, for sticking with me and for his support and guidance throughout my studies. I would also like to thank Dr. Bales and Dr. Iatarola. They were always insightful, helpful, and collegial. I would also like to thank my wife, Dr. Sherrie Pesta, and my daughters, Mia and Eva, for being patient and for supporting me through this process. I owe them all for the time they sacrificed. Lastly, I would like to thank Dr. Thomas Blomberg. For more than 12 years, Dr. Blomberg served as my boss, mentor, and colleague while I worked at the Center for Criminology and Public Policy at Florida State University. He encouraged me to pursue my Ph.D., and he provided me with opportunities to conduct hands-on research, publish, present at conferences throughout the country, and teach. Thank you, all!

TABLE OF CONTENTS

| | |
|--|-----|
| LIST OF FIGURES..... | v |
| LIST OF TABLES..... | vi |
| ABSTRACT..... | vii |
| CHAPTER 1: INTRODUCTION AND PROBLEM FORMULATION..... | 1 |
| CHAPTER 2: PRIOR RESEARCH..... | 14 |
| CHAPTER 3: METHODS..... | 31 |
| CHAPTER 4: THE <i>BOBBY M.</i> COURT RULINGS AND FLORIDA’S LEGISLATIVE AND POLICY RESPONSE..... | 40 |
| CHAPTER 5: THE STATE OF JUVENILE JUSTICE EDUCATION IN FLORIDA POST LITIGATION..... | 56 |
| CHAPTER 6: THE JUVENILE JUSTICE EDUCATIONAL ENHANCEMENT PROGRAM AND THE ROAD TO INSTITUTIONAL REFORM..... | 66 |
| CHAPTER 7: SUMMARY CONCLUSION – SUSTAINING REFORM..... | 88 |
| EPILOGUE: THE FUTURE OF JUVENILE JUSTICE EDUCATION IN FLORIDA..... | 98 |
| REFERENCES..... | 101 |
| BIOGRAPHICAL SKETCH..... | 109 |

LIST OF FIGURES

| | |
|---|----|
| 1.4-1 Cases by Type of Legal Violation..... | 9 |
| 1.4-2 The Number of Class-Action Lawsuits in Juvenile Justice Education by Year..... | 10 |
| 3.3-1 Violations Cited in Class-Action Juvenile Justice Education Lawsuits..... | 34 |
| 3.3-2 Type of Penal Institutions Cited for Violations Regarding Juvenile Justice Education Services..... | 35 |
| 4.1-1 “The White House” Building; Located at the Center of Dozier’s Campus..... | 40 |
| 4.2-1 The Administration and School Buildings at the Dozier Campus..... | 42 |
| 4.2-2 The Administration and School Buildings at the Okeechobee Campus..... | 43 |
| 6.4-1 Overall QA Score Trend..... | 78 |
| 6.4-2 Percentage of Identified Special Education Students | 79 |
| 6.4-3 Teacher Qualification Trends from 2000, 2001, and 2010..... | 81 |
| 6.4-4 Percentage of Academic Courses Taught by Infield Teachers, 2001 to 2010..... | 82 |
| 6.4-5 Average Credits Earned per 90-Day Period..... | 84 |
| 6.4-6 Percentage School Districts Spent Above the State Generated FEFP..... | 85 |
| 7.5-1 Institutional Reform Process | 96 |

LIST OF TABLES

| | |
|--|----|
| 3.4-1 Data Sources..... | 37 |
| 4.2-1 Bobby M. Timetable | 44 |
| 5.2-1 Number of Juvenile Justice Education Programs by Security Level..... | 57 |
| 6.3-1 Evolving Education QA Standards | 73 |

ABSTRACT

For more than 50 years, federal courts have intervened in both the correctional and educational fields on such issues as prison conditions, due process, school integration, and free and appropriate rights to education. However, researchers have debated the effectiveness of courts to produce institutional reform in corrections and education. Further, few studies have been conducted that identify the specific conditions necessary to produce institutional reform.

This dissertation is a policy and historical study of court intervention and successful institutional reform. Specifically, the dissertation is concerned with juvenile justice education reform, court intervention, and policy implementation. The education of incarcerated youth has historically been a neglected area, both in terms of its perceived value as a social service or rehabilitative factor and because it has largely been ignored by the scientific community. And unlike other special populations, juvenile justice youth have few advocates, having largely been viewed as a disposable population.

This dissertation describes a class-action lawsuit referred to as *Bobby M. v Florida* and the court's efforts to intervene and reform the field of juvenile justice education. To that extent, this study aims to describe the conditions and major activities that led to successful policy implementation and institutional reform throughout Florida's juvenile justice education system. The study treats court intervention as a triggering event or catalyst in institutional reform, but also considers other post-litigation factors such as legislative response, accountability mechanisms, and the sustainability of the reform movement when determining the conditions and factors that led to successful and significant institutional reform. The paper concludes with theoretical and policy implications, contributing to court intervention and policy implementation literature by describing the conditions, impediments, and outcomes of successful institutional reform through court intervention.

CHAPTER 1

INTRODUCTION AND PROBLEM FORMULATION

Section 1.1 - Introduction

For the last several decades, there has been much debate over the appointment of federal judges to the Supreme Court and the lower federal courts. At the core of this debate lie separate and distinct interpretations and values regarding how Americans should be governed. Alexander Hamilton wrote in the Federalist Papers that

"The judiciary has no influence over either the sword or the purse; no direction either of the strength or of the wealth of the society; and can take no active resolution whatever. It may truly be said to have neither force nor will, but merely judgment; and must ultimately depend upon the aid of the executive arm even for the efficacy of its judgments," (Hamilton, 1788).

From the "Founding Fathers" to today's bipartisan and gridlocked government, issues of separation of powers, federalism, judicial activism, and strict interpretation of the law are regularly and heatedly debated in Washington.

For example, in 2011, the GOP filibustered President Obama's nomination of Goodwin Liu to the Ninth Circuit Court of Appeals. To conservatives, Liu was viewed as having a fluid interpretation of the Constitution and the law, seeing them in his own words as "living documents." In order to make the judicial appointment process easier and less divisive between the executive and legislative branches, President Obama argued, unsuccessfully, to change the rules on how judicial nominees are approved by the Legislature. However, five years earlier in 2006, Senator Obama voted to filibuster President Bush's Supreme Court nomination Samuel Alito on the grounds that Alito was too much of a strict interpretationist who would not support or champion the underrepresented classes (Harris, 2009; Mears, 2011).

Despite the debates that take place in Washington, the federal court system has, to some extent, been involved in public policymaking since the founding of America (Feely & Rubin, 2000). And during the post WWII era, the federal courts sought to address social problems that were traditionally the role of the Legislative and executive branches of government (Bosworth, 2001). Since the Warren Court's activism of the 1950s and 1960s, the courts have intervened in almost every realm of public institutions, including schools, prisons, mental health institutions,

and the welfare system. During this period, the courts “challenged long established societal practices, such as racial segregation, school prayer, and often harsh treatment of criminal suspects,” (Bosworth, 2001, p. 7). “Beginning in the 1960s, federal courts started to become deeply immersed in institutional reform litigation involving schools, prisons, mental hospitals, and other institutions” (Jacobs, 1995, p. 63).

As courts assumed this new role as social policy engineers, political groups, as well as social scientists, began debating what role, if any, the courts should and could play regarding institutional reform. Generally, people have taken one of two views regarding the role of the courts in producing institutional reform. “Judicial restraintists” view the role of the courts as limited to interpreting the constitution and other federal laws, but not acting upon their interpretations, the former being the sole job of the legislative branch of government. Assuming a more progressive view of the courts, “judicial activists” see the courts as a dynamic government institution whose role is to support those groups in society whose political power is limited (Bosworth, 2001; Rebell & Block, 1982).

Historically, most school reform cases involving the courts have been based on class-action litigation representing particular segments or subgroups within the larger student population. These subgroups are often members of a politically powerless class such as students with disabilities, racial minorities and students from lower socioeconomic classes. However, prison litigation more often involves the rights of individual prisoners rather than a specific class of individuals. Although the difference between class-action litigation and cases representing the rights of individuals may alter the manner in which courts act, those seeking court intervention in schools and prisons also seek to reform the public institutions being challenged.

Section 1.2 - Purpose

This dissertation is a case study of court intervention and successful institutional reform. For the purposes of this dissertation, I define institutional reform as measurable and readily observable change in an institution’s policy and practice resulting from a definable event. To be considered successful, the change in the institution’s policy and practice must clearly address and remedy the originating grievances cited over a significant period of time to ensure sustained change. Specifically, the study is concerned with juvenile justice education reform, court intervention, and policy implementation. The education of incarcerated youth has historically

been a neglected area, both in terms of its perceived value as a social service or rehabilitative factor, and because it has largely been ignored by the scientific community. And unlike other special populations, juvenile justice youth have few advocates, having largely been viewed as a disposable population.

This dissertation attempts to describe the courts' efforts to intervene in and reform the field of juvenile justice education as well as to describe the conditions necessary for successful institutional reform. As such, the implementation of public policy and the reform of public institutions are not necessarily limited to court intervention. Indeed, legislative, executive, and administrative policy implementation and institutional reform face similar implementation impediments. To that extent, this study aims to describe the conditions and major activities that led to successful policy implementation and institutional reform through court intervention, as well as institutional reform that may occur as a result of intervention from other branches of government.

Because courts have regularly chosen to hear cases that have the intent to reform public institutions, such as schools and prisons, the first theoretical argument of whether or not they *should* intervene is not relevant to an empirical study. Further, since court intervention into juvenile justice education has not been formally studied, and research findings regarding court intervention into public schools and prisons have found mixed results, it is important to understand not only whether or not the courts can produce significant institutional reform within the juvenile justice education system, but also what factors contribute to successful institutional reform.

This dissertation treats court intervention as a triggering event or catalyst in institutional reform, but also considers other post-litigation factors such as legislative response, accountability mechanisms, and the sustainability of the reform movement when determining the conditions and factors that led to successful and significant institutional reform. Using case study methods to explore the events of litigation, court intervention, and its resulting implications, the study identifies the specific conditions that were necessary for courts to produce institutional reform in Florida's juvenile justice education system. Using descriptive methods will also help identify the barriers courts face when intervening in public-policy issues traditionally handled by the executive and legislative branches of government. The dissertation concludes with broader theoretical and policy implications regarding court intervention and institutional reform.

Specifically, this dissertation is designed to answer the following research questions:

1. Did court intervention in the case of *Bobby M. v. Florida* produce institutional reform in Florida's juvenile justice education system?
2. What were the intended and unintended consequences of the court's intervention?
3. What conditions and processes led the court to successfully produce institutional reform?

The *Bobby M.* class-action litigation was one of the first of its kind in the nation, and at the time, was the largest lawsuit of this type. In 1983, after many years of investigation and public interest in Florida's juvenile justice programs, the Florida juvenile justice system finally came under the scrutiny of the federal court system when a class-action lawsuit was filed on behalf of a 14-year-old boy known as Bobby M. and three other children. The original complaint alleged abusive and cruel punishment practices, unsafe and unsanitary conditions, lack of due process, inappropriate placement, overcrowding, lack of treatment services, and lack of educational services. As a result, the *Bobby M.* case and courts' involvement in the Florida juvenile justice system lasted for more than 13 years, from 1983 to 1996.

During this period, the state of Florida closed one state training school, significantly reduced the population of two other training schools, abolished a state agency, created two new state agencies, mandated a continuum of care and treatment throughout the juvenile justice system, and created a comprehensive QA system to monitor programing across the state.

Section 1.3 - The Problem

Although the courts have intervened with the intent to reform juvenile justice education dozens of times, with the exception of a few legal briefs, there have not been any significant academic studies of the federal court's intervention into the education of confined youth. Furthermore, the academic literature on court intervention and institutional reform in the prison and public school systems found mixed results at best. Finally, given the history of benign neglect and the lack of advocates with significant political capital when it comes to the education of confined youth, the question of the court's effectiveness to produce significant institutional reform becomes an important question for academics, policymakers, and practitioners alike.

For more than half a century, federal courts have intervened in both the educational and correctional fields on such issues as constitutional rights, prison conditions, due process, racial integration, free and appropriate rights to education, and the provision of equitable services. However, researchers have debated over the effectiveness and ability of the courts to actually produce significant institutional reform in education and corrections (Horowitz, 1977; Rosenberg, 1992; Rebell & Block, 1982; Bosworth, 2001). One side of the argument, most notably established by Horowitz (1977), Rosenberg (1992), and Graglia (1976), maintain that courts are not capable of producing effective public policy or implementing significant institutional reform.

Others have countered that the courts can and do create institutional reform when other aspects of government fail to address specific social problems (Bosworth, 2001; Feely & Rubin, 2000; Rebell & Block, 1982). Still others cite the problems associated with policy implementation, arguing that courts have played a limited role in producing social or institutional reforms, citing gaps between court decisions and implementation (Bosworth, 2001; Feely & Rubin, 2000). Furthermore, with few exceptions, most studies have focused on the failure of the courts to successfully implement reforms. Feeley and Hanson point out that although the "purpose of litigation is to bring conditions up to constitutional standards, there are few studies that document how prisoners have benefited from these court-ordered services," (1990, p. 41).

More specifically, few studies have been conducted that identify the specific conditions necessary to produce institutional reform (Jacobs, 1995). Using a case study of court intervention in juvenile justice education, this dissertation chronicles the stages and conditions that led to successful institutional reform in one of the country's most populated states. To understand the significance of this reform and the conditions that led to the court's decisions to intervene, a brief history of juvenile justice education should be discussed.

Section 1.4 - A History of Neglect

The quality of juvenile justice education programs throughout the country has historically been substandard. In 1899, the first juvenile court was established in Cook County, IL. Within a few decades, most other states had established their own juvenile court systems. The progressives espoused individual diagnosis and treatment, however, this model was never effectively implemented in the education of incarcerated youth. In addition, differing

implementation practices at the state and local levels resulted in fragmented and disparate juvenile justice systems throughout the country (JJEP, 2008).

In *Conscience and Convenience*, David Rothman chronicles the history of residential institutions during America's Progressive Era. In his chapters aptly titled "The Invention of the Juvenile Court" and "When is a School Not a School?" he clearly articulates the failure of the progressives to reform the treatment and education of juveniles. Although the progressives sought to provide a more scientific and individualized approach to the education and treatment of juvenile offenders, the implementation of their ideals fell far short of their rhetoric (Blomberg & Luken, 2000; Rothman, 2002). The rhetorical emphasis was evident as "houses of refuge" and "reformatories" became known as "training schools." Education was intended to be based upon each youth's abilities and interests. However, in reality, most state juvenile institutions remained punitive, and the vocational training that was offered was often related to institutional maintenance and/or menial labor.

One state training school superintendent of the time asked the question, "When is a school not a school?" He went on to answer, "When it is a school for delinquents. Because the child has shown by her anti-social attitudes how much she is in need of more education, she is put in a training school where she will get less" (Rothman, 2002, p. 261).

Despite the inability of training schools to provide an adequate academic and/or vocational curriculum that addressed the needs of the students they were designed to serve, training schools remained the predominant juvenile residential institution throughout the 20th century. Therefore, it is not surprising that more recent national studies conducted near the end of the 20th century also found education in juvenile institutions to be inadequate and substandard compared to the education provided in regular public schools.

The studies include three federally funded research projects that conducted national studies on the education of youth in confinement.

1. A 1991 longitudinal study conducted by Westat (1991), that tracked youth post-release from their residential juvenile programs;
2. A 1999 the Research Triangle Institute (1999) study that conducted case studies in nine states; and

3. A 2005-2008 study conducted by the Center for Criminology and Public Policy Research at Florida State University (2008). The study included national surveys, administrative interviews, and state site visits.

In sum, all three studies found serious deficiencies regarding oversight and accountability in juvenile justice education systems as well as a lack of consistency across states and localities regarding the delivery of education and transition services for incarcerated youth. Not surprisingly, juvenile justice educational programs lacked performance measures such as educational attainment, academic gains, and rates of return-to-school and post-release employment of incarcerated youth.

In their longitudinal study of residential commitment programs in nine states, Westat found that 43% of youth released from state residential delinquent institutions did not return to school within five months of their release (1991). A high percentage of youth (76%) reported having obtained employment after release. However, more than half of those who obtained employment reported earning very low wages, and many maintained jobs for only a short period of time (Westat, Inc., 1991).

Westat also found that instruction was most commonly accomplished by providing youth with packets of materials and worksheets, which limited group, student, and teacher interactions. Most material was based on repetitive and routinized instructional methods of drill and practice. In addition, the study found that transition services aimed at assisting youth with returning-to-school and post-release employment varied widely across institutions and were non-existent in many places.

Westat concluded that state juvenile justice education systems and programs should improve their services by;

1. Separating their correctional and educational administrations;
2. Providing strong administrative leadership;
3. Using a variety of teaching methods and materials that focus on competence;
4. Promoting more advanced skills and motivate student interest; and
5. Providing a variety of non-educational support services designed to foster the transition of students to the community upon release (Westat, Inc., 1991, p. XV).

The Research Triangle Institute study consisted of multiple site visits to residential programs in nine states. The study found that the goals and purposes of the educational

programs within juvenile justice institutions varied widely across the nine sites they examined. In addition, there was a consistent lack of transition services and formal follow-up of students. All of the districts included in the study collected some level of student achievement data while in the institution, but the researchers found that this data were often incomplete and not used in evaluating the effectiveness of the educational programs (Research Triangle Institute, 1999).

From 2005 to 2008, the Center for Criminology and Public Policy Research at Florida State University received funding from Congress to assist states in their implementation of No Child Left Behind¹ (NCLB) in their respective juvenile justice education programs. Over a three-year period, the project known as the Juvenile Justice NCLB Collaboration Project, hosted three national conferences of state juvenile justice education directors, conducted national telephone interviews, completed two national surveys, conducted focus groups, and completed case studies in five states (2008).

The project's findings included evidence that NCLB had emphasized the importance of education for incarcerated youth and had provided most states with some measure of accountability. Areas of measured improvement included teacher qualifications and professional development for teachers working in juvenile institutions. However, many other results revealed that states still needed significant reform in areas such as identifying and capturing student performance data, providing effective transition services, tracking youth post-release, and documenting the provision of high-quality educational services that are at least equivalent to those services offered in states' public school systems.

From its beginning during the Progressive Era and as evidenced by several federally funded studies near the end of the 20th century, the education of incarcerated youth has remained an ineffective institution in need of reform. The results of this incompetence have surfaced during recent decades, as evidenced by the number of class-action lawsuits regarding the provision of educational services in juvenile justice systems. The education of delinquent youth, who are most in need of quality educational experiences, is neglected in juvenile justice school systems.

Figure 1.4-1 describes 51 cases relating to juvenile justice education that were decided from 1977 to 2005. The first case of its kind was filed in 1977 in the U.S. District Court for the

¹ The No Child Left Behind Act of 2001. Formerly referred to as the Elementary and Secondary Education Act, the act is the largest federal law governing public education and includes provisions for the education of neglected and delinquent youth.

District of Oregon and referenced the Individuals with Disabilities Education Act (IDEA) and Section 504 of the Rehabilitation Act of 1973 involving both detention centers and training schools. Only 1 of the 51 cases was filed in a state Supreme Court, while three were filed in Superior Courts and the remaining 47 cases were filed and heard in U.S. District Courts throughout the country. In many ways, the Oregon case is typical. Like the other juvenile justice education cases, it was a class-action lawsuit, it was argued in a U.S. District Court, and it was found to be in violation of IDEA and Section 504 of the Rehabilitation Act.

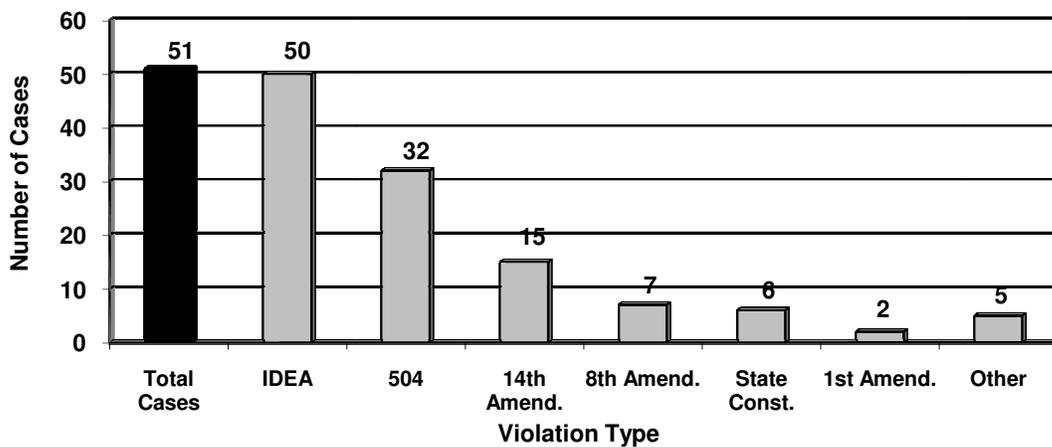


Figure 1.4-1: Cases by Type of Legal Violation²

IDEA and Section 504 are the most commonly cited federal laws in juvenile justice education litigation. IDEA requires that eligible children and youth with disabilities receive a free and appropriate public education including special education and related services. Section 504 of the Rehabilitation Act of 1973 is a federal civil rights statute that prohibits discrimination against persons with handicaps by any program or activity that receives federal funds, including public school systems and correctional facilities. Youth with disabilities, who do not meet eligibility requirements for special education and related services under IDEA, may qualify under 504 guidelines (Nelson, Rutherford, & Wolford, 1987).

² Data was compiled from Lexus Nexus case law searches, a report from the Youth Law Center in San Francisco and the EDJJ project at the University of Maryland

During the late 1970s, and continuing today, the U.S. district courts began deciding cases regarding the treatment and education of juveniles in confinement. Plaintiffs filed complaints citing violations of the 14th and Eighth Amendments, Section 504 of the Rehabilitation Act of 1978 (504), and the Individuals with Disabilities Education Act (IDEA). While numerous class-action lawsuits have occurred in the area of juvenile justice education, to date, no substantial academic studies have been conducted that examine their effectiveness or determine their outcomes.

The earliest class-action lawsuit involving lack of education services for youth in confinement was filed in 1977. From 1977 to 2007, at least 51 class-action lawsuits encompassing 27 states, Puerto Rico and Washington D.C. have been filed (Warboys, 1999; Leone, 2005).

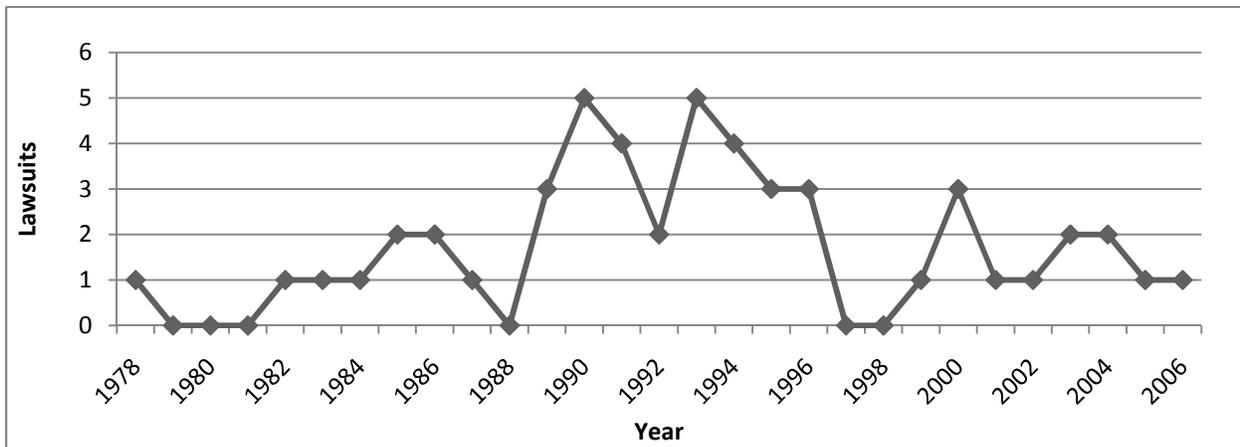


Figure 1.4-2: The Number of Class-Action Lawsuits in Juvenile Justice Education by Year

As Figure 1.4-2 demonstrates, the number of lawsuits brought on behalf of incarcerated youth not receiving appropriate educational services while incarcerated peaked slightly in the 1990s. Overall however, the number of cases has remained relatively constant since 1977, ranging between zero and five and averaging approximately two per year.

Juvenile advocates such as the Southern Poverty Law Center and the Youth Law Center in San Francisco have chosen the courts to bring about reform, rather than congressional and state legislative lobbying. Many of the cases cited in Figure 1.4-2 were brought to the courts by the Youth Law Center. The Youth Law Center is a not-for-profit law firm that provides services

for incarcerated youth throughout the country. “One of the Youth Law Center’s goals is to ensure that children held in correctional settings are provided with the rehabilitative treatment and education necessary to remedy the problems that led to their incarceration,” (Nelson, Rutherford, & Wolford, 1987, p. 100).

Based on the identified 51 cases, the most common outcomes regarding juvenile justice education-related lawsuits are settlement agreements followed by consent decrees and court orders. No doubt, some of these cases have been successful in leading to reform while others were not; most likely many of them lead to mixed results.

Although this reform strategy has yet to be tested, their actions have sought to clarify and articulate basic educational requirements for this neglected population. Further, the court’s actions demonstrate a willingness to address a social problem long ignored by the general public, the media, and policymakers.

This dissertation examines one of the earliest and largest cases of court intervention in juvenile justice education, *Bobby M. v. Florida*. The study is intended to identify the specific circumstances and activities that led to the reform of Florida’s education system for incarcerated youth. More importantly this dissertation examines the replicability of these activities to other institutional reform efforts.

Section 1.5 Significance and Limitations

This study is important for three reasons. First, it explores the effect of court intervention and reform on one of America’s most neglected populations, youth in confinement. Since the invention of the juvenile court in 1899, the importance of education for delinquent youth has been secondary to issues of public safety, custody, and treatment.

Secondly, incarcerated youth do not have the same strong advocates as public school youth. These youth often lack parental support and involvement and are not as socially or politically organized as groups in the adult correctional system. Because these youth are mostly at the mercy of local and state juvenile justice administration systems, courts may be the most outspoken and effective institution for ensuring juveniles’ rights and reforming educational services within juvenile justice institutions.

Lastly, it is important for researchers, policymakers, and practitioners to know not only if the courts can be effective in creating institutional reform, but also understand how and under

what conditions institutional reform is successful. In other words, this dissertation, using qualitative and quantitative methods of inquiry, is intended to identify the salient features and processes of a successful case of institutional reform that was triggered by court intervention.

The study is also limited primarily because it analyzes only one instance of court intervention. Although the case is typical of most other cases in juvenile justice education, it is difficult to determine the results' generalizability to other court intervention cases in other areas. Although some of the findings may prove useful in explaining other large institutional reform cases, until a significant number of like studies are conducted, the findings may not be able to predict the outcomes of other institutional reform efforts.

Section 1.6 Dissertation Outline

This dissertation consists of this and seven subsequent chapters. Chapter 2 reviews prior literature and empirical studies that examine the effects of court intervention on penal and educational institutional reform. The results of these studies have created a debate over the effectiveness of courts to reform social institutions such as schools and prisons. Chapter 3 provides an overview of the data and methods used in this dissertation to answer the study's research questions. The dissertation methods include a "Kit of Tools" approach, including a case study, survey data, a review and analysis of state archived documentation and reporting of data from the history of the Juvenile Justice Educational Enhancement Program (JJEED) at Florida State University. Chapter 4 describes the *Bobby M.* case and includes a description of the resulting court orders and consent decrees for the state's juvenile justice system. In addition, it includes Florida's legislative and executive responses to the courts' decisions and consent decrees including the passage of several reform bills, the creation of a new state agency, and development of a quality assurance system that would become responsible for the ensuring high quality services for incarcerated youth throughout the state. Chapter 5 describes the conditions of Florida's juvenile justice education programs after the implementation of the consent decree and Florida's legislative and executive policy reactions, but prior to the implementation of a statewide quality assurance and accountability system. Chapter 6 determines the impact the court, legislative and executive responses had on the juvenile justice education system in Florida. The chapter describes the impact and outcomes from the resulting policies on the state's juvenile justice education system, including the state's training schools. Chapter 7 answers the study's

research questions and discusses the theoretical and policy implications for court intervention and institutional reform, as well as conditions for successful reform implementation. The chapter concludes with recommendations for future research. The dissertation also contains an epilogue that briefly describes the current state of juvenile justice education in Florida in terms of recent policy events.

CHAPTER 2

PRIOR RESEARCH

Section 2.1 – Introduction

This chapter reviews prior studies of court intervention and reform within correctional and educational institutions. Although there have been numerous class-action lawsuits regarding the lack of educational services for youth in juvenile institutions, few studies of these lawsuits and their impact have been conducted. However, scholars have studied and debated the effects of court intervention separately within correctional systems and within public schools. The following studies address court intervention and their attempts to reform different aspects of public schools and prisons.

Despite numerous areas of school reform litigation, most lawsuits have ultimately sought to achieve equity within and across schools regardless of a school's geographic location or the socioeconomic status, ethnic backgrounds, or racial makeup of the students. On the other hand, penal reform cases have generally sought to protect prisoners' rights and change the institutional practices of prisons and jails, most commonly in the areas of disciplinary practices, overcrowding, and treatment.

This chapter is comprised of this and four subsequent sections. Section 2.2 describes the studies that have been conducted regarding court intervention in the penal system. Section 2.3 describes the history of court intervention within the public school system and summarizes major court cases that have been studied since the Warren Court. Section 2.4 summarizes the major theories and findings regarding court intervention in corrections and education. I will show that findings vary, with some studies claiming that courts have had little or no impact on institutional reform while other studies claim reforms occur after court intervention. Many studies have found mixed results, ultimately claiming that court intervention may have an indirect impact on institutional reform. Finally, Section 2.5 addresses gaps in the previous studies and outlines future research needed in the area.

Section 2.2 – Court Intervention and Penal Reform

Early and well-known Warren Court examples of court intervention in the criminal justice system include issues of search and seizure, legal rights of the accused, the rights of juveniles, and the right to counsel.

One of the first major rulings of the Warren Court aimed at reforming the criminal justice system came from *Mapp v. Ohio* (1961), which examined the "unreasonable search and seizure" language of the Fourth Amendment. The case involved the discovery of evidence that was obtained without a warrant and was unrelated to the crime being investigated. Police in Cleveland were searching for a suspect in a bombing case and searched a woman's house without a warrant. They did not find any evidence related to the bombing case, but did discover some pornographic material. Protection from "unreasonable searches and seizures" is contained in the Fourth Amendment; however, prior to *Mapp*, these protections only applied to the federal government. The court determined that the protections from "unreasonable searches and seizures" also applied to states (Pearson Education, Inc., 2005; Horowitz, 1977).

Two years later, in 1963, the Supreme Court made a similar decision in *Gideon v. Wainwright* (Florida) by ruling that the "right to counsel" guaranteed in federal law by the Sixth Amendment was to be applied to states as well (Cornell University Law School, 2000). Following the *Gideon v. Wainwright* decision, the Courts extended the right to counsel not only to state and local courts but also to juvenile courts. Prior to *In re Gault* in 1966, juvenile courts were not concerned with innocence or guilt, but acted more as surrogate parents that applied a corrective action to what they saw as inappropriate delinquent behavior. The case of *In re Gault* involved a 15-year-old boy who was already on probation and accused of making an obscene phone call and was committed to the Arizona State Training School until the age of 21. The court determined that the length of the punishment was not equitable with that of the adult sentencing guidelines for the same crime and that Gault was denied a right to counsel (Pearson Education, Inc., 2005; Horowitz, 1977).

Also in 1966, the Supreme Court ruled on confessions or incriminating evidence obtained during an interrogation in which the suspect had not been informed of their legal rights. In *Miranda v. Arizona* (1966) the court ruled that it was the burden of the police to inform suspects of their legal rights prior to any questioning (Pearson Education, Inc., 2005). During the 1960s,

not only did the Supreme Court rule on several cases involving the rights of the accused, it also began to hear cases involving prisoners' rights.

Although most prison-related litigation would not be heard or decided until the 1970s, the federal courts opened the door to prisoner litigation in the 1960s. Most prison litigation sought to reform the system of control that was dominant in the penal system. In the correctional system, courts have sought to reform prisoner rights, ensure due process, improve conditions of confinement, and improve services in prisons, jails, and juvenile institutions. The cases that opened the courtroom doors to prison reform litigation were *Jone v. Cunningham* (1963) and *Cooper v Pate* (1964). The ruling from *Jone v. Cunningham* allowed state prison inmates to employ a writ of habeas corpus (the right to petition the court for release on grounds the inmate was unlawfully detained) to challenge the legality of their imprisonment and contest their conditions of confinement. A year later, in 1964, the supreme court ruled in *Cooper v Pate* that prisoners could sue under the Civil Rights Act of 1871 in situations in which a state is accused of infringing upon the individual rights of prisoners (Cornell University Law School, 2000). With these two cases paving the way, prison reform litigation began in full stride shortly thereafter.

Federal courts began hearing prison reform cases regarding freedom of religion, legal rights, inmate racial segregation, prison disciplinary proceedings, and inmate punishment. Larger court cases that challenged entire state prison systems may have begun as a means to reform the southern prison systems, which were based on a plantation model. However, prison litigation was not limited to the South. Early state prison systems that fell under the scrutiny of the federal courts, including *Talley v. Stephens*, (1965) Arkansas; *Guthrie v. Evans*, (1972) Georgia; *Ruiz v. Estelle*, (1972) Texas; *Gates v. Collier*, (1972) Mississippi; *Battle v. Anderson*, (1974) Oklahoma; *Chapman v. Rose*, (1977) Ohio; *Ramos v. Lamm*, (1977) Colorado; and *Costello v. Wainwright*, (1977) Florida. These cases often cited problems of overcrowding, inadequate facilities, violations in medical care, poor staffing and training, and limited access to the courts (Pearson Education, Inc., 2005; Cornell University Law School, 2000; Feely & Rubin, 2000; Chilton & Talarico, 1990).

The first series of court cases seeking to reform a state's prison system was heard in Arkansas from 1965 to 1973. In 1965, *Talley v. Stephens* restricted the state's use of corporal punishment. In 1968, *Holt v. Sarver* found portions of the Arkansas prison system to be unconstitutional. And finally in 1970, *Holt II* ruled the entire system to be unconstitutional

alleging that it violated the Eighth Amendment's "cruel and unusual punishment" clause. These series of cases and the conditions of Arkansas state prisons were made infamous by the movie "Brubaker." As portrayed in the movie, real-life events included the investigation of unmarked inmate graves on the prison farm, the use of the "Tucker" telephone to torture inmates with electric shock, and the harsh working conditions that were enforced through a corrupt trustee system (Feely & Rubin, 2000).

Gates v. Collier in 1972 also challenged the Trustee system and that the Parchman Farm in Mississippi violated prisoners' Eighth Amendment rights. Conditions at Mississippi's state penitentiary were often described as brutal, with frequent inmate injuries and deaths at the hands of Trustees. For the first time, the court ruled that certain forms of corporal punishment were deemed 'cruel and unusual' such as handcuffing inmates to fences and cell bars for long periods of time and forcing inmates to stand or sit in awkward positions for extended periods of time. The court also abolished the racial segregation of inmates and the Trustee system (Chilton & Talarico, 1990).

Following the Mississippi ruling, 51 African American inmates filed a complaint with the federal courts over conditions in Georgia's main state prison. The court's ruling in the case of Guthrie v. Evans was the furthest-reaching of its time. The court mandated changes in Georgia's prison system, including inmate classification, racial segregation, overcrowding, grievance and disciplinary procedures, religious freedom, and even rehabilitation programs (Pearson Education, Inc., 2005; Chilton & Talarico, 1990).

One of the more well-studied court interventions in prison reform was Ruiz v. Estelle. In 1974, seven inmates of the Texas prison system joined Ruiz, another inmate, to form a class-action lawsuit that alleged the use of "cruel and unusual punishment." After several years of litigation, the court ruled in favor of the inmates and resulted in numerous court-ordered consent decrees aimed at reforming the entire Texas prison system. As will be discussed later in this chapter, this case received extensive attention from researchers in the fields of criminology, law, and sociology (DiLulio, 1990).

Using a slightly different tactic than most of the lawsuits in Southern state prison systems, Ramos v. Lamm (1977) in Colorado was a class-action lawsuit that focused on "conditions of confinement" rather than "cruel and unusual punishment." The lawsuit attacked "Old Max," the state's maximum secure facility that was originally built in the 1860s. The

lawsuit claimed that overcrowding and numerous blind spots (or areas that were difficult to supervise due to the older prison design and random additions over the years) led to unsafe conditions. Additionally, the complaint alleged that inmates were denied employment opportunities for which they were eligible. After a decade of litigation and investigations, the courts prevailed in ordering the state to build three new high- and maximum-risk prison facilities (Pearson Education, Inc., 2005).

By 1986, 45 states had at least one prison facility involved in litigation. Civil lawsuits filed by prisoners alleging deprivation of constitutional rights “increased from 6,600 in 1975 to more than 39,000 in 1994,” (Del Carmen & Bennett, 1997). This large amount of prison litigation eventually led Congress to pass the *Prison Litigation Reform Act of 1996*. The act was intended to curtail the onslaught of prison reform litigation throughout the nation. The act limited prisoners’ access to the courts and more narrowly defined the areas in which prisoners could file complaints.

Section 2.3 – Court Intervention in Education Reform

Contrary to much political rhetoric regarding the modern courts’ efforts to intervene in public institutions, courts have been hearing reform cases in education since the early 1800s. To help understand the history of court intervention and reform, the evolution of litigation in public school reform can be categorized into early cases regarding the building, governance, and finance of schools and later, modern cases involving equity in schools including desegregation, equitable financing, and adequacy of services.

Beginning in the 1800s, the courts decided cases clarifying jurisdictional and governance matters regarding America’s newly founded public school system. During the 19th century, when America’s school system was essentially being built, much “overlapping authority and ambiguous regulation” arose regarding federal, state, and local responsibilities for education (Tyack, 1985, p. 342). Interested parties often sought the intervention of courts in order to clarify legal responsibilities in public education and issues regarding governance throughout the multiple layers of government. Typical cases during this period included the authority to levy bonds, increase local taxes, or annex or sell public land for school purposes (*Davis v. Indiana, School District v. Insurance Company, Kelly v. Pittsburgh, and Doon Township v. Cummings*). Generally, in the 1800s the majority of cases dealt with governance and finance (Tyack, 1985).

By the end of the 18th century, “as the government became more centralized and schools more bureaucratized,” progressives sought to improve access and the quality of public schools through the federal court system (Tyack, 1985, p. 342). The progressives believed that the country needed a more centralized educational system that was operated by expert administrators as opposed to lay school board members. Much of the litigation during the Progressive Era helped to centralize and bureaucratize schools under state and local education administrations (Tyack, 1985). During this era, the courts also began to provide schools and other public institutions with more authority over children. The progressives sought large reforms in education, both through new legislation and the courts. Most notably, they were successful in creating kindergartens, truancy regulation, playgrounds, and the juvenile court (Rothman, 2002).

Modern Court Intervention and School Reform. The post-WWII era of court intervention and school reform shifted from governance and basic finance to the issues of equality and equity regarding race, socio-economics, disabilities, school finance, and adequacy. It is within this era of school litigation that the courts also began intervening in the education of youth in the juvenile and criminal justice systems.

Perhaps the most famous case of court intervention in the public schools is *Brown v. School Board of Topeka*. This case has been hailed as a great triumph in court intervention and institutional reform and has also been found to have created little direct or significant impact on school desegregation. *Brown* was the first case of its kind, and litigants were successful in overcoming the burden of precedent for change. On May 17, 1954, the U.S. Supreme Court overturned *Plessy v. Ferguson*, and declared that racial segregation in public schools violated the equal protection clause of the 14th Amendment. This landmark verdict reversed the "separate but equal" doctrine. Chief Justice Earl Warren stated in a majority opinion that "separate educational facilities are inherently unequal." In May 1955, the Court urged "a prompt and reasonable start toward full compliance," (Graglia, 1976).

Unlike cases of racial equality within government institutions, which are federal cases, court cases involving equity in school finance are usually heard and decided by state Supreme Courts. By 2003, over 40 states had experienced court intervention regarding their school finance systems (Lukemeyer, 2003). In the 1970s school reformers began seeking equity by litigating school finance issues. Public schools throughout the country traditionally have been

funded through local property taxes, which resulted in higher quality schools in wealthier neighborhoods and schools with staffing and resource deficiencies in poorer neighborhoods.

Court-ordered school finance reform began with the 1971 *Serrano* decision by the California Supreme Court. The court found that the local property tax system in California was an inequitable means of funding California's public schools (Fischel, 2004; Lukemeyer, 2003; Schrag, 2003). The court's intervention and subsequent ruling required California to redistribute school funding on an equal basis per student; however, California's school financing was not fully addressed until the passing of Proposition 13.

However, school finance litigation and reform have not consistently led to better or comparable educational outcomes for traditionally disenfranchised groups (Schrag, 2003). Thus, school finance litigation and reform have more recently led to litigation and reform regarding the adequacy of schools. The adequacy critique focuses on equitable finance, but also seeks to ensure minimum achievement standards for all students, regardless of the school they attend. The adequacy critique argues for more equitable standards and resources for all schools without reducing funding in schools that serve communities with higher costs of living. Ultimately, the strategy of school adequacy addresses the social reform sought by those who want to improve educational resources for disenfranchised students and schools, but unlike school finance litigation, it allows local communities to provide more than the base funding and minimum adequacy standards. School adequacy reformers seek to achieve equity through leveling up the resources of poorly funded schools while also ensuring that states implement minimum achievement standards for students in all schools. Under the term "adequacy" school reformers have argued that equitable financing is not enough to ensure equity across schools and school districts. Ultimately, litigants began to argue that education was constitutionally the responsibility of the state (Schrag, 2003).

Paul Minorini and Stephen Sugarman cited that "in 1989, the Kentucky Supreme Court declared the entire state system of public elementary and secondary education unconstitutional and held that all Kentucky schoolchildren had a constitutional right to an adequate education" (Minorini & Sugarman, 1999, p. 175). This was the first case to define what later would be cited by some as the "adequacy movement" (Minorini & Sugarman, 1999). Since the Kentucky Supreme Court ruling, at least 17 state Supreme Courts have heard similar cases regarding the state constitutional right for every child in the state to receive an adequate education. However,

at least a third of these cases were deemed by the courts to be “inappropriate for judicial resolution,” (Minorini & Sugarman, 1999). The cases that have been decided resulted in court intervention and ultimately developed the legal argument that states were constitutionally responsible for ensuring an adequate education for all youth in their states.

In sum, after the system-building era of the 1800s, court-ordered reform of the schools has essentially been concerned with establishing a more equitable public school system. Beginning in 1954 with *Brown v the Board of Education*, litigants and school reformers sought to create more equitable schools; in the case of *Brown*, it was through desegregation of the races.

Section 2.4 – Prior Research Findings

This section summarizes the major research findings regarding court intervention into the penal and educational systems. It separates the findings into those that argue that the courts have had little to no impact on institutional reform and those who argue that the courts have been successful, although sometimes producing mixed results, in producing institutional reform.

A common component in much of the court intervention and institutional reform research is a description of the process. One of the more helpful descriptions can be found in the research of Wayne Welsh. Welsh borrowed elements of his process-oriented model from the policymaking literature; most notably Kingdon's work on policy windows and triggering events (1992).

In his article “The Dynamics of Jail Reform Litigation: A Comparative Analysis of Litigation in California Counties,” Welsh identifies and tests a process-oriented model of litigation reform. His model of “Social Policy Litigation” involves four phases, including the trigger phase, the liability phase, the remedy phase, and the post-decree phase. Each phase describes common and predictable actions on the part of litigants, jail administrators, and judicial officials (Welsh, 1992).

Ben Crouch and James Marquart explain the court intervention in the Texas prison system as a logical model of change. In their model, the Texas prison system evolved through three phases of administrative structure. The first phase, prior to the *Ruiz* case, they label “Repressive Order.” Phase two, “Legalistic Order,” occurs during the implementation of the court orders to the Texas prison system. Finally, phase three emerges as “Bureaucratic Order,”

in which the Texas prison system emerges from a system of repressive control, through legalistic chaos, into a less repressive bureaucratic control (Crouch & Marquart, 1990).

Although these social policy litigation models are useful for capturing and describing the process of litigation and court-ordered reform across multiple cases, they are limited in their ability to predict the level of reform that may or may not occur as a result of litigation. Most researchers agree that the courts can and do act as a “triggers,” creating a somewhat predictable chain of events that follow (Kingdon, 2003). What scholars have mainly debated is whether or not this leads to significant institutional reform.

Courts Have Little to No Impact on Reform. Perhaps the two scholars who argue most strongly that courts have had little or no impact on reforming social institutions are Horowitz and Rosenberg. In *The Courts and Social Policy*, Horowitz claims that the courts are not only unable to produce social reform, they often make things worse (1977). He outlines three major reasons why courts fail to produce significant social policy or reform. First, he argues that “judges are trained to be generalists, not policy specialists” (Horowitz, 1977, p. 275). Secondly, he demonstrates that courts are designed to gather facts after the case and are not prepared to predict the future actions of the policies they create. Finally, he finds that the courts are not able to control the actions of the defendants in the case. In other words, administrators in charge of the social systems that are the recipients of the lawsuits may not act as the court wishes post litigation, and the courts are limited in their powers to enforce their findings.

Rosenberg also criticizes the courts' efforts to create significant institutional reform in *The Hollow Hope* (1992). He argues that courts are ultimately unable to overcome the constraints that he lists under his Constrained Court view. He identifies three major constraints.

Constraint I: The bounded nature of constitutional rights prevents courts from hearing or effectively acting on many social reform claims, and lessens the chances of popular mobilization (13).

Constraint II: The judiciary lacks the necessary independence from the other branches of the government to produce significant social reform (15).

Constraint III: Courts lack the tools to readily develop appropriate policies and implement decisions ordering significant social reform (Rosenberg G. N., 1992, p. 21).

Rosenberg not only claims that the U.S. Supreme Court was unsuccessful in achieving desegregation through *Brown*, but that there is some evidence that the Court's rulings actually "hardened resistance to civil rights among both elites and the white public," (Rosenberg, 1991, p. 155). Horowitz, Rosenberg and Graglia found that public administrators and elected officials virtually ignored the Court's rulings for 10 years after *Brown*. The only claim that Rosenberg makes regarding a positive influence from the *Brown* decision was merely "reinforcing the belief in a legal strategy for change of those already committed to it" (Rosenberg, 1991, p. 156).

In making the claims that courts were unsuccessful in producing significant institutional reform regarding desegregation and civil rights, Rosenberg outlines several barriers the courts faced and ultimately could not overcome. The courts' powers of implementation for change were severely limited in regard to desegregation and civil rights. Rosenberg points out that after *Brown*, Congress withdrew its support of the courts and introduced over 50 bills limiting the power of the federal courts (1991, p. 74). More visibly, many Southern governors and school administrators blatantly ignored the findings of the high court. Furthermore, the executive branch did not act until 10 years later with the Johnson administration's passage of the Elementary and Secondary Education Act (ESEA), which required desegregation in order to receive federal educational funding (Rosenberg, 1991). During the 10-year period after the Court's ruling and the executive and legislative branch reforms, the Supreme Court did not vigorously pursue its implementation.

Rosenberg also identifies social and cultural constraints to the successful implementation of desegregation. Racially motivated private groups sought to defeat any form of civil rights and desegregation. In addition, full implementations of *Brown* required the cooperation of local politicians, such as school board members and school administrators who, in many areas throughout the country, were not willing to desegregate their schools or were afraid of the potential backlash from the communities they served (1991).

Rosenberg argues that courts failed to produce desegregation because they lacked "specialization, expertise, and political connections," which "are crucial for successful implementation of significant social reform" (1991, p. 86). Essentially, the courts were not able

to provide a solution that was politically palatable and would sufficiently address the problem. Rosenberg's findings support what he terms the Constrained Court View. Under the Constrained Court View, courts lack implementation powers and political and cultural support (1991, pp. 105-106). He further demonstrates that real progress in producing social reform in the area of civil rights and desegregation did not occur until the legislative and executive branches acted 10 years after the *Brown* decision, which eventually created the public support needed for successful implementation (Rosenberg, 1991).

Rosenberg assesses the impact of court intervention on criminal rights in the areas of search and seizure, the rights of prisoners, and the rights of criminal and juvenile defendants. Overall, Rosenberg labels the prisoners' rights movement "The Revolution That Wasn't," (1991, p. 334). He acknowledges that some changes occurred in the American penal system based on court intervention, but he argues that these changes were not implemented consistently throughout the country and that they depended too much on actors outside of the court system. After the publication of *The Hollow Hope*, many social scientists refuted his claims (Jacobs, 1995; Feeley, 1992; McCann, 1992). Rosenberg claims that some reform occurred in some specific cases but that the courts were not successful in nationwide reform because the "courts lack important tools necessary for the successful reform of the prison system" (1991, p. 313). Regarding the *Gault* case and the rights of juveniles to have legal defense and be afforded due process, Rosenberg again finds implementation only in certain areas, attributing the inconsistent and random effect to juvenile judges who were unwilling to change their court practices and the philosophy of the juvenile court (1991, p. 316). What Rosenberg fails to address is why and how some specific cases were successful in producing institutional reform.

School finance is another area that received substantial attention from the courts. The first group of school finance cases argued for equal funding systems that increased money to needy schools but often resulted in decreased money to schools in wealthier neighborhoods (Minorini & Sugarman, 1999). Although funding was usually mandated by the courts to be more equitable across school systems, most scholars agreed that this method was not successful in producing better schools. Equitable school finance is often a complex problem involving local and state tax structures, local housing, and arguments over local and state control of schools. Thus, narrowly defined court remedies often fell short of their intended reforms.

The first school finance case of its kind, *Serrano v. Priest*, in 1997, attempted to make California school finance more equitable across schools and school districts. However, Peter Schrag argues that as a result of the court-ordered redistribution of school funding, “California’s achievement levels are now similar to Mississippi’s,” (2003, p. 97). The court’s decision ultimately led to a disaster for California’s public school system. What the court’s first intervention into school finance did not consider was the different costs associated with operating schools across different communities, municipalities, and geographic areas of the state. For example, teacher salaries, building costs, transportation costs, and nearly all other operating costs are much more expensive in Los Angeles or San Francisco than in more rural California counties. The negative impact and unintended consequences associated with *Serrano v. Priest* and the California example, led school finance reformers to change their litigation tactics and seek a school ‘adequacy’ approach in their court arguments for school reform. California’s school finance reform was not realized until the passing of Proposition 13 regarding California’s tax reform.

Much of the literature on court intervention and prison reform comes from studying the *Ruize v Estelle* case (1980), in which the entire Texas correctional system was placed under court-ordered intervention (DiLulio, 1990; Eckland-Olson & Martin, 1988; Crouch & Marquart, 1990). In their review of the literature on the impact of court intervention on prisons and jails, Feeley and Hanson explain the process of court intervention as undermining the authority and work of correctional administrators (1990). According to this theory, court intervention often undermines the authority of the leaders within the public institution, resulting in a further degradation of the services that the public institution in question is charged with providing. Engel and Rothman provide evidence for this theory by finding that violence in prisons increased as a result of the prisoner rights movement (1990).

In summary, it is a rare reform that performs and persists precisely according to plan. Commonly cited impediments to successful reforms include ill-informed solutions, such as mandatory busing (Graglia, 1976), California school finance reform (Schrag, 2003), lack of institutional capacity, goal displacement, unintended consequences (i.e. urban white flight, school consolidation and alienation, truancy, and dropout), professional resistance and lack of specialization and expertise (Blomberg & Luken, 2000; Tyack & Cuban, 1995; Feely & Rubin, 2000; Horowitz, 1977; Rosenberg, 1991; Jacobs, 1995).

Evidence of Limited and Mixed Reform. Structural reformists “believe that the ultimate aspiration of institutional litigation is to transform institutions, to perform as if it were a type of organizational therapy so that institutions will have a greater appreciation for constitutional values and a greater institutional capacity to pursue them,” (Feeley & Hanson, 1990, p. 26). Structural reform views court intervention as necessary in reforming public bureaucracies that are often resistant and slow to change. According to this theory, the courts can play a crucial role in clarifying and ensuring constitutional rights for people subject to the control of public bureaucracies such as prisons and schools.

After concluding case studies of state Supreme Court rulings involving school finance reform in Kentucky, North Dakota, and Texas, Bosworth developed a theory of the courts’ role in producing institutional reform. His description of the process finds that before, during, and after the courts’ intervention, the courts were only one of several active participants in the policymaking process. His description of the policymaking process demonstrates how the process is influenced by the other branches of government, the public, and oftentimes special interest groups (Bosworth, 2001). He also finds through his case studies that the court’s involvement in policymaking often involves a process of give-and-take between the courts, the state legislatures, and the state executive branches. Through this “action – reaction” process between the three branches of government, which is sometimes friendly and other times adversarial, policies that otherwise may not have been without the court’s intervention are ultimately implemented and produce significant change in state policy (Bosworth, 2001). Although Bosworth’s study of school finance reform clearly demonstrates change in state policy regarding school finance, it fails to measure whether or not institutional reform occurred in schools as a result of the change at the state’s policy level.

In his article, the “Impact of Court-Ordered Reform on State Expenditures for Corrections,” Taggart found that the courts’ intervention produced a modest increase in federal expenditures in five of the states he studied. However, his analysis of state-level expenditures produced findings demonstrating the limited ability of the courts to influence the budgetary powers of state legislatures. Taggart addresses the issue of the courts’ influence over funding for correctional systems. Taggart also reviews court intervention across 10 state prison systems during the 1970s. He asks whether or not the court-ordered reform across the 10 states increased federal and/or state funding for the correctional systems under reform. His study addresses the

theoretical issue regarding the ability of the courts to influence budgetary powers controlled by the legislative and executive branches of government. While controlling for inflation and new prison construction, he found that the courts' intervention produced a modest increase in federal expenditures in five of the states he studied. However, his analysis of state-level expenditures produced findings demonstrating the limited ability of the courts to influence the budgetary powers of state legislatures (1989).

Regarding court intervention and the penal system, Feeley and Hanson cite successful but mixed results. They conclude that the federal courts have had significant effects on the administrative infrastructure in the prison system. However, these effects have been mixed, causing procedural changes in correctional systems while simultaneously altering the relationships between inmates and prison officials. Rather, they argue that the unpredictable behavior and personalities of key actors such as judges, special monitors, and prison officials have the most impact on the process of reform (1990). According to Bosworth, Feeley and Rubin "argued that courts were neither more nor less capable than legislators and executives in remedying the terrible conditions in many prisons across the country" (2001, p. 17).

Gresham Sykes describes this system of control in prisons prior to the court intervention era as "informal," where wide staff discretion was used to discipline inmates, and prison officials often entered into bargains with inmates in order to maintain control (Sykes, 1995). Control of prison populations was often sought through oppressive and physical means. Essentially, prisoner-rights litigation argues that due process rights should be applied to prison practices such as discipline. This in turn, bureaucratizes the prisons' discipline systems by establishing a set of procedures that must be followed, as opposed to the informal system of control, which relied on prison official discretion in disciplining inmates (Sykes, 1995; Crouch & Marquart, 1990; DiLulio, 1990).

Ben Crouch and James Marquart explain the court intervention into the Texas prison system as a logical model of change. In their model, the Texas prison system evolved through three phases of administrative structure. The first phase, prior to the *Ruiz* case, they label "Repressive Order." Phase two, "Legalistic Order," occurs during the implementation of the court orders to the Texas prison system. Finally, phase three emerges as "Bureaucratic Order," in which the Texas prison system emerges from a system of repressive control, through legalistic chaos, into a less repressive bureaucratic control (1990). This model is useful in explaining the

increase in violence often studied in the Texas prison system following the *Ruiz* case, and is also helpful in predicting the direction of prison policies after court intervention.

Section 2.5 – Summary and Conclusions

Although there is not one definitive study of the impact of court intervention on the reform of public institutions, much can be learned from the research. Most notably, the previous studies demonstrate that 1) court intervention involves a highly complex process, 2) that the Supreme Court tends to handle more controversial cases, 3) that the best reformers can hope for are mixed results, and 4) that studies are needed that examine specific government services and describe the circumstances that lead to successful reform.

First, court intervention is a complex process often involving multiple interested parties and actors that can and do influence both the process and any associated results. In his book *Courts as Catalysts: State Supreme Courts and Public School Finance Equity*, Bosworth argues “that the role of the courts in the American system of government cannot be understood without seeing them as actors in a complex and dynamic struggle over public policy,” (2001, p. 1). Often, it is this complex process that scholars blame for mixed results and even the failure of the courts to produce significant institutional reform.

Secondly, the majority of scholars who have argued that courts have failed to produce institutional reform more often chose to study highly controversial cases that were decided by the U.S. Supreme Court. Most studies involving U.S. Supreme Court cases and decisions tended to find that the courts were not able to successfully produce social reform. Cases such as abortion and women's rights, and school segregation and civil rights, addressed complex social problems and were divisive by nature. In some cases, the courts' decisions regarding highly controversial cases even resulted in negative, unintended consequences (Graglia, 1976). These cases have also historically involved other branches of government, numerous interested parties and activists on both sides of the issues. In fact, one could argue that cases heard and decided by the highest court in the land are outliers and not representative of the country's larger process of court intervention and institutional reform. The U.S. Supreme Court has final jurisdiction in cases involving federal law or constitutional rights. However, only rare cases make their way to the Supreme Court; more often it is the lower courts that decide cases regarding constitutional rights. To this end, the U.S. has 90 district courts, 11 circuit courts, and only one Supreme Court.

For example, in his essay, *Judicial Impact on Prison Reform*, Jacobs critiques the flaws of Rosenberg's methods and challenges his findings. Jacobs starts his critique by deconstructing Rosenberg's definition of significant social reform. Rosenberg claims that significant social reform did not occur because the reform did not impact the national prison system, and the reform that did occur was uneven. Jacobs claims that this finding most likely will occur with any large social problem. Further, he argues that Rosenberg fails to adequately operationalize and measure his dependent variable of significant social reform (1995, p. 65). Jacobs illustrates this by demonstrating the complexity of a system as vast and diverse as the American penal system. Essentially, he asks the question, "How does one assess the impact of thousands of lawsuits in thousands of prisons throughout the country over a period of 25 years?" (1995, pp. 65-66). Other methodological problems include not defining a time frame in which social reform must occur after the courts' intervention and "the absence of a database or set of systematic case studies" (Jacobs, 1995, pp. 66-67).

Rosenberg also chooses the most controversial cases in *Brown* and *Roe*. Controversies such as desegregation and abortion rights divided the country, which may have made implementation of any effective remedies even more difficult for the courts to accomplish. At the very least, these cases may not be representative of institutional reform litigation as a whole.

In contrast, researchers who have studied the lower federal courts and state Supreme Courts more often found mixed results in the court's ability to effect institutional reform. Further, these mixed results have ranged from the court's success in creating new state-level policy; to limited change in institutional behavior, to influence both policy and institutional behavior (DiLulio, 1990; Feeley, 1992; Feely & Rubin, 2000; Jacobs, 1995; McCann, 1992; Lukemeyer, 2003; Taggart, 1989; Welsh, 1992).

Overall, Feeley and Hanson conclude that studying the process of court intervention has not led to a logical theory that clearly explains a predictable chain of events. Most notably absent in the prior research of court intervention and institutional reform is the lack of a clear description that identifies the circumstances and steps that lead to successful reform as a result of the court's intervention. Furthermore, within the field of institutional reform of the penal system, some authors, most notably Jacobs and Feeley, have called for studies that examine the courts' intervention in services in corrections, such as treatment, mental health, and education (Feeley,

1992; Jacobs, 1980). Few studies have been conducted that have measured the impact of litigation on prison services such as medical, therapeutic, or educational services.

Essentially, the theories regarding court intervention into public policy and institutional reform address three questions. First, should courts intervene in public policy? The debate over this question centers on political arguments over the role of the courts in a democratic society with branches of government that have three separate and distinct roles. These arguments are often driven by political orientation and opinion and are not tested with empirical evidence. Second, can courts produce reform in public institutions? Social scientists have debated the effectiveness of courts to successfully produce institutional reform in schools and prisons. Some studies claim they have not (Horowitz, 1977; Graglia, 1976; Rosenberg, 1991), while other studies demonstrated some, but limited success by the courts (DiLulio, 1990; Feeley, 1992; Feely & Rubin, 2000; Jacobs, 1995; McCann, 1992; Lukemeyer, 2003; Taggart, 1989; Welsh, 1992). Finally, how and under what conditions can courts produce significant reform in public institutions such as schools and prisons? Explanations that address this question must consider the process of court intervention and the social factors that contribute to that process.

Based on these findings, this dissertation will explore and identify the conditions that were present that allowed the lower federal courts, in the case of *Bobby M.*, to produce institutional reform. In addition, this research will lead to an understanding of the impediments that often limit the abilities of the lower federal courts to successfully implement their reforms and produce change in a public institution such as juvenile justice education.

CHAPTER 3

METHODS

Section 3.1 - Introduction

This chapter describes the data and methods used to conduct the research in this dissertation and is comprised of this and the following four sections. Section 3.2 - *Research Questions* provides a general overview of the research methods and lists the dissertation's research questions. Because this dissertation is a case study of one large and fairly complex historical event, Section 3.3 - *Case Selection* provides justification that the event is representative of other like events and social phenomenon. Section 3.4 - *Research Design* details the data sources that will be used to address the dissertation's research questions. And finally, Section 3.5 - *Research Phases* provides a chronology for the methods and data sources to be used throughout this dissertation in order to describe various phases of the historical event being studied.

Section 3.2 - Research Questions

As discussed in Chapter 2, prior studies on court intervention and institutional reform have produced mixed results at best. Although the preponderance of evidence suggests that courts can stimulate institutional reform under certain conditions, the amount of the courts' influence and the size of the reforms accomplished are still debated within political and academic circles. What the prior studies have not been able to accomplish is a description of a successful institutional reform that was triggered by the courts. Furthermore, the research has not identified general conditions under which successful reforms can occur.

I argue that court intervention can produce institutional reform when the courts act as a “triggering event,” opening a “policy window” (Kingdon, 2003). Additionally, the issue must remain on the policy agenda for a sufficient amount of time for extra-judicial conditions to occur, such as the willingness of the other branches of government and vested parties to act. This sustained focus allows more informed solutions to be proposed and enacted. But most importantly, to ensure successful implementation of the reforms, long-term, fluid accountability

must be provided that can continually guide the reform and is able to adjust to changing conditions, research, resources, and politics.

To test this argument, this dissertation examines the following three research questions;

1. Did court intervention in the case of *Bobby M. v. Florida* produce institutional reform in Florida's juvenile justice education system?
2. What were the intended and unintended consequences of the court's intervention?
3. What conditions and processes led the court to successfully produce institutional reform?

To best answer these questions I conducted a case study using multiple qualitative methods such as historical document review, existing surveys, and data from site visit reports that contain interviews and observations. Most quantitative methods do not readily lend themselves to studying processes or identifying social and political conditions. On the other hand, case study methods are focused upon description and discovery rather than validation of hypotheses and theories. The theoretical interests derived from the use of these methods of inquiry are in providing grounded theory. Namely, allowing the data to determine the theory or theories that are applicable to the study's findings. My focus is on empirical description which, in turn, can inform, validate, and modify existing theory.

This research really began in 1998 with my work at the Florida State University Center for Criminology and Public Policy Research. While at the Center, I served as a Juvenile Justice Education Specialist, Research Coordinator, and Project Manager. Specifically, I was heavily involved in two research projects: the Juvenile Justice Educational Enhancement Program (JJEED) from 1998 to 2010 and the Juvenile Justice No Child Left Behind Collaboration Project from 2005 to 2008. During my tenure at JJEED, I had the opportunity to directly observe juvenile justice education institutions throughout the state of Florida. I regularly reviewed best practice literature on juvenile justice education, facilitated the development of statewide educational standards, and conducted field research. Working on the JJEED project allowed me to conduct over 150 site visits to juvenile justice schools, interview an estimated 500 teachers and administrators and interview over 600 students. Eventually, working on the JJEED project led to the National Juvenile Justice NCLB Collaboration Project. Working on this project allowed me to gain a national perspective of juvenile justice education that included conducting

national surveys and case studies in various states. My years of involvement in the juvenile justice education system, both in Florida and nationally, led to the development of the research questions in this dissertation.

Section 3.3 - Case Selection

Juvenile justice education, and in particular, *Bobby M. v. Florida*, is a good case to test court intervention and institutional reform for two reasons.

1. Outside influences are limited in juvenile justice education because they lack strong advocates, and the general public often knows very little about the topic.

Initiating reform in the juvenile justice education system is different than in public education. For example, juvenile justice education does not have the same strong interest groups or advocates as public schools such as parents, business and industry, and the general tax-paying public. It is precisely this lack of interest group involvement in juvenile justice education that helps to control and limit outside influences on the effects of the court's intervention and reform process. Therefore, juvenile justice education may serve as a better area in which to test the power and effectiveness of the courts to produce institutional reform.

2. *Bobby M. v. Florida* is one of the earliest, far-reaching and most representative cases of its kind.

Based on summary characteristics of 51 juvenile justice education court intervention cases, the *Bobby M.* case is not an outlier within the total population of court intervention and juvenile justice education reform cases. *Bobby M.* has representative characteristics similar to the majority of the cases on record, and it meets the criteria of a case that has the potential to influence institutional reform throughout an entire state system.

First, the lawsuit was not limited to one juvenile justice program, but was brought against Florida's three largest training schools. Figure 3.3-2 illustrates that the most common type of juvenile institution to be sued for violations of juvenile justice educational services are training schools. Like the majority of cases, *Bobby M.* dealt with committed youth in residential institutions and was not limited to pre-adjudication detention facilities as in some court cases.

Secondly, *Bobby M.* cited violations of the Individuals with Disabilities Education Act (IDEA), Section 504 of the Rehabilitation Act of 1978 (504), and the First, Eighth, and 14th Amendments to the Constitution. The complaint found that the state of Florida failed to provide

both special and basic educational services based on both federal and state educational requirements. When compared to the 51 cases in Figure 3.3-1, the *Bobby M.* complaint covers all the federal laws cited in court cases involving juvenile justice education.

Figure 3.3-1 categorizes the 51 class-action lawsuits by the laws that were cited for violations or non-compliance. The categories of federal law presented in Figure 3.3-1 are not mutually exclusive to individual court cases as one case often cites violations of more than one federal law. That is, the cases may be counted more than once (Warboys, 1999; Leone, 2005).

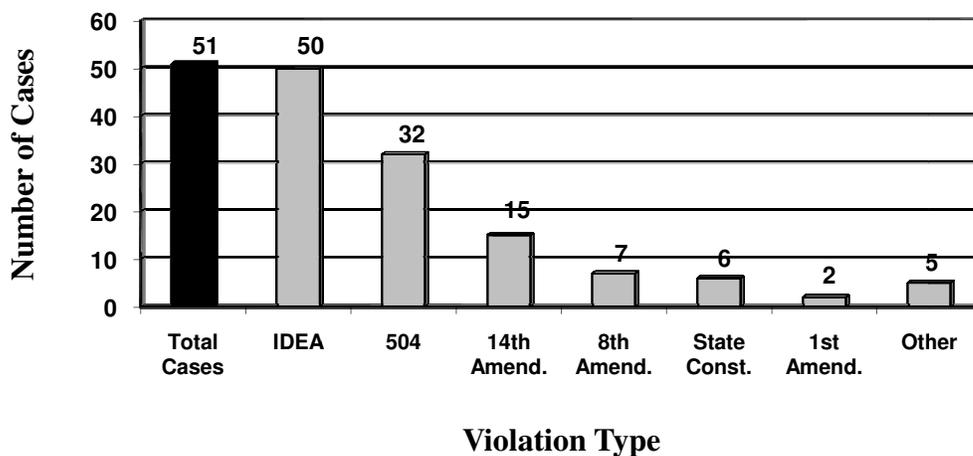


Figure 3.3-1: Violations Cited in Class-Action Juvenile Justice Education Lawsuits³

As shown in Figure 3.3-1, the most common federal law cited with violations regarding educational services for incarcerated youth is IDEA. Fifty of the total 51 class-action cases cited violations of a free and appropriate right to education, guaranteed by the Constitution and enforced for youth with disabilities through IDEA. Thirty-two cases cited violations of Section 504 of the Rehabilitation Act, which requires states comply with all discrimination-related laws in order to receive federal money or financial assistance. Fifteen cases cited clauses of the 14th Amendment to the U.S. Constitution regarding violations of due process and equal protection of the laws. Seven cases cited violations of the Eighth Amendment, relating to cruel and unusual punishment, often cited as excessive use of force. Beyond federal law, six cases also cited

³ The data presented on the 51 class action lawsuits in juvenile justice education were collected from Lexis Nexus case law searches, a special report published by the San Francisco Youth Law Center and a research report published by the Center on Education, Disability, and Juvenile Justice.

violations of their own state's constitution regarding responsibilities of the state to ensure appropriate educational services for all youth who reside in the state. Finally, two cases cited violations of the First Amendment. These cases claimed that youth were denied access to appropriate grievance procedures.

Finally, *Bobby M.* was not limited in its scope. It sought to reform not only procedural requirements and resources, but also the juvenile justice education institutions in the state of Florida. *Bobby M.* focused on the state's largest post-adjudication, residential juvenile facilities and training schools.

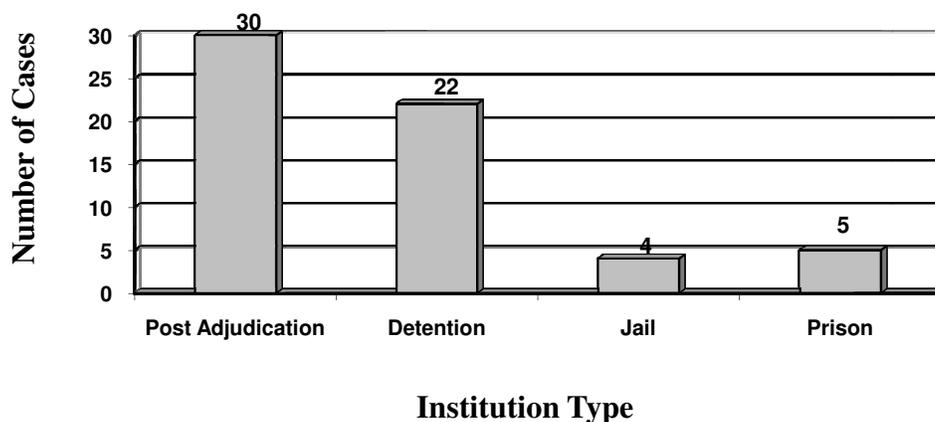


Figure 3.3-2: Type of Penal Institutions Cited for Violations Regarding Juvenile Justice Education Services

As shown in Figure 3.3-2, post adjudication facilities, which includes training schools, are the most frequently cited institutions for violating the educational rights of incarcerated youth. Training schools or post adjudication residential settings are for youth who have been committed to the juvenile justice system by the juvenile courts. Juvenile detention facilities (pre-trial and pre-commitment institutions) are the second most frequently cited type of institution. Jails and prisons represent a much smaller proportion of cases. The most probable reason for this is that jails and prisons serve mainly adult populations. However, it is possible for these institutions to be sued when they are housing juveniles who are tried as adults or youthful offenders. IDEA protects the rights of youth from 3 to 21 years of age.

Section 3.4 - Research Design

This dissertation is a policy study that will use historical, qualitative, and quantitative case study methods when collecting and analyzing data or a “kit of tools” approach (Clark, 1956). The case study method is useful in exploratory research when little is known about a particular event or the particular event has not been studied in the past. The case study method is often employed after a phenomenon has occurred that allegedly produced change (Nachmias & Nachmias, 1996). Unlike more quantitative approaches to social research that produce effect sizes or the likelihood of particular events occurring given the presence of other identified and quantified factors, case studies focus on questions of how and why particular events occur. More specifically, this dissertation will be using a “historical” or “organizational” case study method. Historical and organizational case studies are often used when studying change within an organization (Bogdan & Biklen, 1998).

In order to interpret the historical events that created the *Bobby M.* case and its subsequent impact on state policy and practice in the area of juvenile justice education, data will be collected through four primary methods;

1. A review of official documents, including primary and secondary sources and historical documents;
2. Trend analysis of annual performance data collected by the Juvenile Justice Educational Enhancement Program;
3. Analysis of existing surveys of school administrators working within the juvenile justice educational system; and
4. Analysis of existing site visit reports that are based on observational and interview data collected throughout 13 years through the quality assurance process in Florida's juvenile justice education system.

Table 3.4-1 lists the sources of information and data for this dissertation.

Table 3.4-1: Data Sources

| | |
|--|---|
| <p>Primary and Secondary Documents</p> | <ul style="list-style-type: none"> ▪ Court documents including complaints, court orders, consent decrees, court findings, and program monitoring reports ▪ Florida legislative documents including proposed bills, state legislation, bill analysis, and Office of Public Policy and Government Accountability (OPPGA) reports ▪ JJEEP documents including annual reports, quality assurance reports, the educational quality assurance standards, conference presentations, and special research reports ▪ Juvenile Justice Accountability Board (JJAB) reports ▪ Health and Rehabilitative Services (HRS) policies and reports ▪ Department of Education (DOE) policies and special reports ▪ Department of Juvenile Justice (DJJ) policies, annual reports, and quality assurance documents ▪ Media articles and special interest publications |
| <p>Annual Performance Data</p> | <ul style="list-style-type: none"> ▪ Performance data will primarily be collected through JJEEP's annual reports, presentations, and special research publications ▪ Data elements will include <ul style="list-style-type: none"> • trends regarding increasing quality assurance requirements • quality assurance performance results and trends • teacher qualifications • special education services • school funding and resources |
| <p>Existing Surveys</p> | <ul style="list-style-type: none"> ▪ Telephone surveys of lead educators, principals and school district administrators in juvenile justice education |
| <p>Existing Site Visits</p> | <ul style="list-style-type: none"> ▪ Over 150 quality assurance reviews and site visits to juvenile justice schools in Florida from 1997 to 2010 |

Primary documents were written during the time of the event being studied. Secondary documents were often written about the event being studied, but were one step removed from the event. Content analyses of primary documents will include official judicial records, court

documents, state legislation, and agency policies. Analyses of secondary documents include legislative reports, bill analyses, state agency reports, and news articles.

The analyses of annual school performance data will be used to measure the change in school performance after the court's intervention. The school performance data were collected annually by the Juvenile Justice Educational Enhancement Program from 1998 to 2010. The surveys of juvenile justice school administrators were conducted via telephone in 2010 by myself and Julie Orange (an employee of JJEEP). As mentioned previously, this research is also informed by my 13 years of observations and interviews in the field of juvenile justice education in Florida. As such, the results are interpreted and informed by these experiences.

Throughout this case study, it will be important to describe the relationships between court decisions, legislative responses, executive actions, state policies, and implementation. For example, in order to determine the effects of court intervention on juvenile justice education, it will be necessary to identify the links between the court's mandates, Florida legislation regarding juvenile justice education, state agency policy, the creation of monitoring mechanisms such as the Juvenile Justice Educational Enhancement Program, and actual change in juvenile justice school/institutional behavior.

Overall, the case study approach will start by addressing the court case, why it came about, and what the courts wanted to reform. The next section will focus on state-level legislative and agency responses to the court's mandates. After the state-level policy analysis is complete, the dissertation will focus on the impact or change in educational services provided within the state's juvenile justice education system. This will be accomplished through multiple trend analyses in the quality of educational services that address special education services, teacher quality, school accreditation, and overall program quality.

Taken together, these various data and methods enable a "thick description" of the recent history of juvenile justice education in Florida. Through this detailed chronicling of events, I will be able to identify the salient conditions and processes that successfully influenced juvenile justice education reform in Florida. In addition, these case study methods will help to identify generalizable conditions and strategies that future institutional reform efforts can replicate to ensure their success.

Section 3.5 - Research Phases

The case study method used in this dissertation will follow four (4) sequential phases presented in chronological order and corresponding to the following chapters. Beginning with *Chapter 4 - The Bobby M. Court Rulings and Florida's Legislative and Policy Response*, data and methods will consist mostly of a review and content analysis of court documents from the time of the *Bobby M.* case. This analysis will conclude in a description of the conditions in Florida's juvenile training schools under the state's Department of Health and Rehabilitative Services (HRS) that led up to the federal court's intervention. In addition, the chapter will describe the resulting court orders and consent decrees for the state's juvenile justice system.

The primary data sources for Florida's Response to *Bobby M.* include legislative bills, bill analyses and resulting legislation that was in response to the *Bobby M.* Consent Decrees and state agency policies related to HRS, DJJ, and DOE. These legislative responses and new agency policies include the abolishment of the Department of HRS, the creation of DJJ, the creation of the JJAB, and the creation of a quality assurance system for both custody and care and education services.

The data and methods for *Chapters 5 - The State of Juvenile Justice Education in Florida* include descriptions of programs' educational services from site visit reports and observational data from site visits in interviews. The resulting description will provide a baseline in which to determine the impact that quality assurance had on juvenile justice education services from 1998 to 2010.

The data and methods for *Chapter 6 - The Road to Institutional Reform* include trend analyses of school performance data collected by the JJEEP, observational data from site visits in interviews and survey responses from juvenile justice school administrators. The analyses of this data will determine the impact the court, legislative and executive responses had on the juvenile justice education system in Florida. Specifically, the data, analyses, and the survey results will be used to determine the impact of the court's intervention on the state's juvenile justice education system including the state's training schools.

Chapter 7 - Sustaining Reform will use the data collected throughout the dissertation to answer the research questions and discuss the theoretical and policy implications for court intervention and institutional reform. In addition, the data will be used to propose a list of necessary conditions for successful reform implementation.

CHAPTER 4

THE *BOBBY M.* COURT RULINGS AND FLORIDA'S LEGISLATIVE AND POLICY RESPONSE

Section 4.1 – Introduction

On October 21, 2008, Roger Kiser and several other former students of the Arthur G. Dozier School for Boys stood in Marianna, Florida, and watched as the Florida Department of Juvenile Justice (DJJ) officially sealed a building known to the men as “The White House.” Kiser and others had been students at Dozier in the 1950s and 1960s, and like many youth who were committed to the state training school from that era, they suffered horrific treatment including sexual abuse, floggings, and beatings. Many of these documented cases occurred in what the “boys” called “The White House,” a small two-room building that was used for solitary confinement and other forms of physical punishment. In 2008, the DJJ sealed the building and finally acknowledged the history of abuse that had occurred there for decades (Kiser, 2009).



Figure 4.1-1: “The White House” Building at the Center of Dozier’s Campus

In 1983, after many years of investigation and public interest in Florida’s training schools, Florida’s juvenile justice system came under the scrutiny of the federal court system when a class-action lawsuit was filed on behalf of a 14-year-old boy (known as Bobby M.) and three other children. The original complaint alleged abusive and cruel punishment practices,

unsafe and unsanitary conditions, lack of due process, inappropriate placement, overcrowding, lack of treatment services and lack of educational services. The *Bobby M.* class-action litigation was one of the first of its kind in the nation and was the largest lawsuit of this type. As a result, the courts' involvement in the Florida juvenile justice system lasted for more than 13 years, from 1983 to 1996 (*Bobby M. v. Graham*; Complaint, 1983).

This chapter describes the conditions in Florida's juvenile training schools under the state's Department of Health and Rehabilitative Services (HRS) that led up to the federal court's intervention. The chapter also includes a description of the resulting *Bobby M.* complaint, court orders and consent decrees for the state's juvenile justice system. In addition, the *Bobby M.* case lasted more than a decade and resulted in state legislative and executive responses to the court's decisions and consent decrees, including the passage of several reform bills, the creation of a new state agency, and the development of a quality assurance (QA) system that would become responsible for ensuring high-quality services for incarcerated youth throughout the state.

This chapter is comprised of this and four subsequent sections. Section 4.2 provides a timeline of events from the filing of the *Bobby M.* complaint to the end of the state's consent decrees. Section 4.3 describes the *Bobby M.* complaint, resulting court orders, general consent decrees and the education consent decree. Section 4.4 describes Florida's legislative reaction to the *Bobby M.* case. And finally, Section 4.5 provides a summary of the major *Bobby M.* events and the creation of a new state operated QA system.

Section 4.2 – Florida's Early Juvenile Justice History and *Bobby M.* Timeline

In 1899, as part of the Progressive Movement, Cook County, IL., created the nation's first juvenile court with the purpose of treating juveniles as delinquents instead of adult criminals. Many states followed Chicago's lead and developed their own version of a juvenile court system that was intended to "treat" rather than "punish" juvenile delinquents. In 1911, the Florida Legislature authorized county courts to operate as juvenile courts (Coggins, 2004). Another aspect of the shift in juvenile justice involved the creation of state training schools. State training schools were first developed to replace "houses of refuge" which, by the end of the 19th century, had come to be seen as inhospitable environments for youth. Training schools, on the contrary, were supposed to embody the principles of the Progressive Movement, including individualized educational services and employment training. (Rothman, 2002).

On January 1, 1900, Florida opened its first state training school located in Marianna, which would eventually come to be known as the Arthur G. Dozier School for Boys, or simply Dozier. The Al McPherson School for Girls opened in Ocala in 1913, and the Okeechobee School for Boys opened in Okeechobee in 1959. Unlike the more self-contained houses of refuge, the training schools were designed to be larger, independent campuses with cottage-style living and separate buildings for school, medical, administration, etc. Up until 1968, these training schools were operated independently in the state's system, having their own state budgets and little oversight from any state agency. In the early decades, the state training schools received every kind of youth, including delinquent, youth with felony convictions, misdemeanants, truants, and incorrigibles. Specific treatment services were not established, and activities for the youth primarily consisted of rural training and work such as farming, taking care of livestock, and general facility maintenance and upkeep (Coggins, 2004; Seigel, 1991-1992).



Figure 4.2-1: The Administration and School Buildings at the Dozier Campus



Figure 4.2-2: The Administration and School Buildings at the Okeechobee Campus

In 1968, the Florida Legislature created the Department of Health and Rehabilitative Services (HRS). HRS was a state agency responsible for numerous social services including delinquent care, dependent care, mental health, substance abuse treatment, and family care, among other services. In addition, the Legislature placed the agency in charge of the state training schools as well as 20 other residential programs for youth throughout the state. HRS became responsible for Florida's juvenile justice system including placement of youth, residential services, custody and care, and educational services. By the late 1970s and early 1980s the state's training schools, then operated by HRS, began to receive attention from the Florida Legislature and other outside advocates and concerned citizens (Seigel, 1991-1992).

In 1975, the Florida Legislature reorganized the state and HRS jurisdiction into 11 districts and ordered that the training schools within those districts report directly to district administration. In addition, based on reports received from HRS administrators, the Legislature directed that runaways, truants, and ungovernable youth be considered dependent rather than delinquent children and that these youth no longer be housed in the state's training schools. In 1981, the Florida House of Representatives, hearing of the growing complaints from child advocacy organizations, asked for a report on Florida's training schools. When the report was published, according to the then head of HRS, representatives were "alarmed" at the results. The report provided details of overcrowding at all three training schools, a general lack of safety and security, understaffing, a top-heavy HRS administration, lack of aftercare, and a lack of

academic and vocational programming (Streit, 1988). Simultaneous to this report, legal inquiries led to the Bobby M. v. Graham class-action lawsuit and complaint, which was filed in January 1983. Table 4.2-1 outlines the major events that resulted from the *Bobby M.* case from the original filing of the case in federal court to the vacating of the consent decrees 13 year later.

Table 4.2-1: Bobby M. Timetable

| Year | <i>Bobby M.</i> Event |
|-------------|---|
| 1983 | <i>Bobby M.</i> v. Martinez class-action lawsuit and complaint filed in the United States District Court, Northern District of Florida. |
| 1984 | The federal court issues Court Orders mandating the closing of Al McPherson Training School for Girls in Ocala as well as other mandates for Dozier, Okeechobee and the larger juvenile justice system. |
| 1986 | The Florida Legislature creates the “Dropout Prevention Act,” which established broad guidelines for school districts to follow regarding truant and academically or behaviorally deficient youth. Juvenile justice schools are placed under the authority of local school district dropout prevention departments. |
| 1987 | The Florida Department of HRS and the Florida Department of Education (DOE) enter into three separate consent decrees with the federal courts. |
| 1990 | The Florida Legislature creates “The Juvenile Justice Act of 1990” completely restructuring Florida’s juvenile justice system by establishing prevention, screening, placement, and rehabilitative services based on the needs of individual youth. |
| 1994 | The Florida Legislature creates “The Juvenile Justice Reform Act of 1994” abolishing the Department of HRS and established two new state agencies, the Department of Children and Families (DCF) and the Department of Juvenile Justice (DJJ). |

Table 4.2-1: Bobby M. Timetable - continued

| Year | <i>Bobby M.</i> Event |
|-------------|---|
| 1994-1996 | Based on court and legislative mandates, the DJJ develops and pilots Quality Assurance (QA) standards and site reviews for all of Florida’s juvenile justice programs and schools. |
| 1996 | The Florida Legislature enacts Florida Statute, Section 1003.52; Educational Services in Department of Juvenile Justice Programs. This legislation names the DOE as the state’s lead agency for juvenile justice education and requires the DOE to conduct annual QA reviews in all juvenile justice schools. |
| 1996 | The federal courts officially vacate the <i>Bobby M.</i> consent decrees. |

The events listed in Table 4.2-1 are described in more detail in the next two sections.

Section 4.3 – The *Bobby M.* Complaint, Court Orders, and Consent Decrees

The *Bobby M.* class-action lawsuit against the state of Florida was filed in 1983 in the United States District Court of the Northern District of Florida. The case was brought to the courts by civil rights and child/legal advocacy organizations including the Southern Legal Counsel, the San Francisco Youth Law Center, and the National Prison Project. The lawsuit was filed on behalf of four youth; Bobby M., Susan S., Salvadore S., and Charles. W. who attended the state training schools of Dozier, Okeechobee School for Boys and the Al McPherson School for Girls (Warboys, 1999).

The representative complainants were deposed in 1983 and again in 1986. There statements included 1) accusations of poor food quality including bugs in the food; 2) lengthy confinements in isolation units; 3) lack of treatment services, recreation, and counseling; 4) unsanitary and unhealthy conditions; 5) extreme discipline practices including the use of youth on youth discipline, shackling, and hogtying; 6) overcrowded conditions; and 7) a detailed lack of educational services. In addition, incident reports from the time period illustrate an abusive and inhumane environment including sexual abuse, physical abuse, and attempted suicides

(Seigel, 1991-1992). At the time of the lawsuit, the training schools housed approximately 1,000 youth.

The Complaint. The official complaint was filed as a civil rights class action on behalf of youth housed at the three state training schools. The complaint alleged violations of the First, Fourth, Sixth, Eighth, and 14th Amendments to the U.S. Constitution. In addition, the complaint alleged violations of several federal statutes and the Florida Constitution. For education, this meant violations of the Individuals with Disabilities Education Act (IDEA), Section 504 of the Rehabilitation Act of 1978, and the Florida Constitution, which guarantees citizens of Florida basic educational rights.

The lawsuit contained 102 specific claims, complaints, and allegations. The following summarizes these claims and highlights some of the more serious allegations. Legal claims included:

- Youth were deprived of their due process rights guaranteed by the 14th Amendment.
- Use of cruel and unusual punishment on youth violating the Eighth and 14th Amendments.
- Youth were denied freedom of speech and association guaranteed by the First and 14th Amendments.
- Youth were denied access to courts guaranteed by the First and Sixth Amendments.
- Youth were deprived of their right to treatment services guaranteed by the Eighth and 14th Amendments.
- The state failed to place youth in their least restrictive setting guaranteed by the First and 14th Amendments.
- The state failed to identify and serve disabled youth under Section 504 of the Rehabilitation Act of 1978.

- The state failed to provide an adequate education to youth with disabilities under Section 504 of the Rehabilitation Act of 1978, and IDEA.
- Youth were denied their right to education, treatment services and rehabilitation under the Florida Constitution and applicable Florida statutes (*Bobby M. v. Graham*; Complaint, 1983).

In addition to these legal claims, the complaint detailed dozens of other violations in the areas of living conditions, food and clothing, safety and security, medical care, psychological counseling, isolation and shackling, due process, communication, access to the courts, and education. Some of the more abhorrent claims had to do with the common use of isolation in unsanitary conditions, hogtying youth and shackling them to bed frames, and unchallenged abuse of the youth from staff and other youth.

Overall, the complaint demonstrated that the juvenile justice system in Florida was broken. The state had no system for classifying youth or placing them in appropriate facilities and programs based on their rehabilitative needs. In addition, living conditions in the training schools were overcrowded, with over 1,000 youth housed at the three facilities and each facility being at more than double its intended capacity. This, coupled with a lack of staff training and supervision and understaffed facilities led the way to open and rampant abuses including beatings and rape (*Bobby M. v. Graham*; Complaint, 1983).

Education and other rehabilitative programming were also lacking. Youth spent much of the day either working or being stagnant. Students with special needs were not identified and were not served according to their federal rights. In his disposition, Bobby M. stated that when he was originally committed to the training school at age 9, and although he was in special education classes prior to his commitment, when he arrived at the training school he was placed in regular classes with 16- and 17-year-old boys, and everyone received the same work. In addition, the state failed to provide youth with an adequate regular education as compared to the education they might have received in their local community schools. And finally, the state failed to provide youth with vocational education, bilingual education or other constructive forms of programming (*Bobby M. v. Graham*; Complaint, 1983).

Although the *Bobby M.* litigation would last for more than 13 years, the courts did act swiftly on some concerns when they issued court orders for the state of Florida in 1984 and 1985.

The Court Orders. As a result of the *Bobby M.* complaint, in 1984 and 1985, the United States District Court of the Northern District of Florida ordered HRS to comply with the following requirements.

1. The Alyce D. McPherson School in Ocala would be closed.
2. Status offenders would no longer be placed in the state's remaining training schools.
3. Youth under the age of 13 would no longer be placed in state training schools.
4. The population in the remaining training schools would be reduced to less than 100 youth each (this was later changed to 195 at Dozier and 180 at Okeechobee).
5. A variety of programs would be developed throughout Florida to serve youth closer to their home communities and better meet the varying rehabilitative needs of individual youth in the juvenile justice system.
6. Assessment, classification, and placement systems would be developed based on youth's criminogenic and rehabilitative needs.
7. Educational programs would be improved, including regular academic programming, special education and related services and vocational programming (*Bobby M. v. Graham*; Order, 1984).

Although the court issued orders to the state and its responsible state agencies, the case itself continued to be litigated in the courts and was eventually scheduled for trial in 1987. However, on the eve of the trial, the state of Florida settled and accepted three separate consent decrees from the courts. The first decree addressed the youths' right to counsel and access to the courts. The second decree involved claims against the Commissioner of Education including inadequate special education and related services, vocational education, and general academic education. The third decree addressed overcrowding, unsanitary and inhumane living conditions, cruel and unusual punishment, classification and placement issues, and required HRS to develop a continuum of services throughout the state and its juvenile justice system (Warboys, 1999; Seigel, 1991-1992; Coggins, 2004).

The Juvenile Justice Consent Decrees. Two consent decrees (the first and third) focused on the juvenile justice system, and custody and care-related issues. The second consent decree, which will be addressed later, was concerned with education. The first decree, which addressed deficient legal support for youth in the system, also attempted to address the lack of

transition services and aftercare that was provided to youth in the juvenile justice schools. The third decree addressed living conditions, safety and security issues as well as rehabilitation throughout the juvenile justice system. What follows is a summary of the issues that all parties involved agreed to address under the two juvenile justice decrees.

HRS agreed to develop and operate a wide range of juvenile delinquency programs to meet youth's individual needs throughout the juvenile justice system. Specifically, HRS agreed to focus programs on the goal of successfully reintegrating youth with their families and home communities. To accomplish this, HRS would develop a "continuum of care" which would treat the individual needs of youth. To best provide individualized services throughout the system, HRS would also agree to develop a sophisticated "assessment, classification, and placement" system. This system would identify the individual rehabilitation and treatment needs of youth, assign a risk factor to each youth, and place each youth, through a centralized placement authority, in the most appropriate program or setting that would address the youth's identified needs and risk factors (Bobby M. v. Martinez; Consent Decree, 1987).

In addition, many of the consent decrees required Florida and HRS to comply with the American Correctional (ACA) Standards. The ACA standards were developed by state administrators and practitioners in the field of corrections and juvenile justice and are typically used as a correctional accreditation process for programs and facilities. ACA standards cited in the decrees included multiple indicators under the areas of;

- living conditions and sanitation;
- medical and dental services;
- psychological and substance abuse treatment services;
- staff Training; and
- juvenile rights and discipline (American Correctional Association, 1987).

As a follow-up to the court orders issued three years earlier, HRS was also required in the consent decrees to place only serious and chronic delinquents in the state training schools and continue to reduce the population at the training schools. In addition, HRS was required to provide youth with access to legal counsel and prohibit practices of cruel and unusual punishment such as hogtying and shackling.

As part of the consent decrees, the state and its agencies also agreed to the receipt of technical assistance and monitoring through court-appointed personnel, who would conduct site

visits to the state agencies, training schools and other programs throughout the state from 1988 to 1995. They would report to the federal district court in Tallahassee which then would make recommendations for the state to implement (*Bobby M. v. Martinez*; Consent Decree, 1987).

The Education Consent Decree. At the time of the consent decree, Betty Castor was the Commissioner of Education and therefore the “Defendant” named in the *Bobby M.* education consent decree in 1987. The educational consent decree detailed stipulations and services under general education provisions, special education and related services, assessment and monitoring, and the development of an implementation plan.

Under the general education provisions, the DOE was required to provide special, vocational, and alternative educational services at least equivalent in quality and quantity to what youth would receive in a traditional public school. In addition, educational programs in juvenile justice facilities would have to consider the educational needs of the youth in the facility and their projected lengths of stay. All students who had not graduated from high school or received their GED would be required to receive educational services. In order to determine a youth’s educational needs, DOE would ensure that educational records were requested and received when each youth entered juvenile justice schools, and records would be transferred to the next educational placement upon a youth’s release. Because of the allegations of physical abuse, corporal punishment was also to be prohibited by the schools (*Bobby M. v. Martinez*; Settlement Agreement, 1987).

Under special education requirements, the DOE was required to ensure that all youth were provided with a free and appropriate public education including special education and related services in the least restricted environment. To accomplish this, the DOE would be required to ensure that youth with educational disabilities be identified as they enter the system and that schools provided proper screening upon entry. Screening would include a review of each student’s prior educational records, testing results and interviews with students. Once identified, youth in need of special education and related services would be required to receive evaluations including testing and psychological evaluations as needed and the development of an Individual Education Program (IEP) for each student. The provision of educational services would include individualized instruction, instruction in life skills, and vocational training. Special education materials, supplies, and teacher training were also required by the consent

decree. In addition, special education students were required to be provided with transition services upon their release from a juvenile justice school. At a minimum, transition services would include assistance with placement in the youth's next educational setting, transmission of records to the next school, and consultation with personnel from the receiving school (Bobby M. v. Martinez; Settlement Agreement, 1987).

Finally, the DOE agreed to develop an implementation plan for reforming the juvenile justice education system and to comply with outside monitoring an assessment. Through the courts' monitoring efforts and reports to the U.S. District Court, the requirements regarding transition and vocational services for special education students were expanded to include regular education students (Coggins, 2004).

Section 4.4 – Florida's Reaction to the *Bobby M.* Case

Though the court case, orders and consent decrees moved forward throughout the 1980s, the Florida Legislature finally decided to act in 1990. Fueled by reports generated by state agencies and the courts, the Legislature enacted several bills from 1990 to 1996 that would fundamentally change the way juvenile justice and juvenile justice education would operate in Florida. With large sweeping policy reforms, the Legislature abolished one state agency, created two new agencies, created a State Advisory Board, mandated a system of Quality Assurance (QA) and created the state's first statute specific to juvenile justice education.

The Juvenile Justice Act of 1990, the Juvenile Justice Reform Act of 1994, and the Juvenile Justice Education Act of 1996 were all in response to the *Bobby M.* case. By conducting a content analysis of the consent decrees and the reform acts, I was able to determine that much of the language and remedies mandated by the courts were used to frame and write the legislative acts. In fact, court requirements such as the development of an assessment and placement system and the provision of a continuum of care for youth throughout the juvenile justice system were a direct response to the *Bobby M.* case. In addition, the Florida Legislature created the Juvenile Justice Accountability Board and a Quality Assurance (QA) system, in no small part, to prevent future litigation. According to both the Department of Juvenile Justice and Department of Education QA managers, *Bobby M.* was a driving force behind the early QA standards (Coggins, 2004; JJEEP, 1999).

The Juvenile Justice Act of 1990. The 1990 Florida Legislature passed the Juvenile Justice Act, which recognized and validated several of the concerns and remedies outlined by the federal courts within the *Bobby M.* court orders and consent decrees. Primarily, the act sought to ensure that each juvenile was treated as unique in terms of their needs, and that the state's juvenile justice system would respond to each child based on those individual needs (1990).

As required by the consent decree, but not yet acted upon, the Act required HRS to develop a continuum of juvenile justice services, including the creation of a risk-assessment instrument that would classify each youth upon their contact with the system. In addition, HRS was required to develop an array of programs including prevention, early intervention, alternatives to secure detention, aftercare services, and residential programming that met the treatment needs of youth based on their identified criminogenic, mental health, and treatment needs (Juvenile Justice Act, 1990).

The act was also aimed at reducing deep-end placements within the juvenile system, including youth sent to the training schools. Its intent was clear in developing a community-oriented juvenile justice system that treated juveniles in the least restrictive manner while ensuring public safety. The Legislature intended for the system to provide for the individual needs of youth including medical, psychiatric, psychological, substance abuse, educational and treatment. This included the development of an intake process, case management system and a multidisciplinary assessment, classification, and placement process. This detailed assessment system would lead to the creation of individual treatment plans (Juvenile Justice Act, 1990).

In addition, the Act required HRS to develop and identify restrictiveness levels for programs. When committing a youth to the system, the juvenile judge would determine the restrictiveness level of the program the juvenile would be committed to, but HRS would decide which commitment program within that restrictiveness level best met the youth's treatment needs. The act also intended for these newly required commitment hearings to be designed to meet the due process rights of juveniles in the juvenile court (Juvenile Justice Act, 1990).

The Juvenile Justice Reform Act of 1994. Four years after the Florida Legislature enacted the Juvenile Justice Act that would restructure the way Florida processed and treated juvenile delinquents, the Legislature enacted The Juvenile Justice Reform Act of 1994, which

created a new state agency to implement the mandated reforms. The act was one of the largest bills in Florida's legislative history.

First, the act abolished the Department of Health and Rehabilitative Services (HRS), which was a large state welfare agency responsible for dependency, delinquency, elder care, mental health services, and substance abuse treatment programs. The Legislature then divided these various responsibilities across different state agencies. The act created the Department of Children and Families (DCF), which would be responsible for child care, dependent children, and families in need of public assistance. This would remove dependent children from programs that also housed or served delinquent youth. The act also created the Department of Juvenile Justice (DJJ), which would have the sole responsibility for the prevention, detention and care of the state's delinquent population. Services such as substance abuse treatment and mental health were divided across several agencies including the Department of Health, DCF, and DJJ.

In addition to creating a new state agency for delinquency, the Act also created the Juvenile Justice Advisory Board (JJAB). The Board was to be made up of seven appointees from the Governor and two from the Legislature. The purpose of the board was to serve as a quasi-watchdog organization over the newly formed DJJ. In addition, the board would help oversee the transfer of responsibility, resources, and funding from HRS to DJJ (JJAB, 1998; Juvenile Justice Reform Act, 1994).

The newly created DJJ would have divisions coinciding with several mandates from *Bobby M.* and the Juvenile Justice Reform Act of 1990. The divisions within the department included prevention, detention, non-residential, residential, probation and aftercare, and administration. Within these divisions, the Secretary of DJJ would be responsible for implementing an appropriate mix and continuum of delinquency programming including prevention, diversion, non-residential, residential commitment programs, training schools, and reentry and aftercare services. These various program models would include appropriate educational, vocational, alcohol, drug abuse, and mental health services. In addition, the act required DJJ to establish an automated information system, later known as the Juvenile Justice Information System (JJIS), for the purpose of administering programs and tracking youth.

The intent of the Legislature in creating the DJJ was to "employ a comprehensive strategy to address the problem of juvenile crime." In addition, the Legislature recognized that such a strategy would require comprehensive legislation and executive implementation "to avoid

the fragmentation and poor planning that had comprised efforts in the past.” The Legislature then proceeded to enact a bill that would address Florida’s new philosophy, administrative structure, and specific programming for juvenile justice. Their intent included providing DJJ with the mechanisms to test new program models, enhance programing, and eliminate ineffective programs (Juvenile Justice Reform Act, 1994).

The Establishment of Quality Assurance. As a means to monitor the Department’s progress and the quality of programs throughout the state, the Juvenile Justice Reform Act of 1994 also required DJJ to establish a comprehensive “Quality Assurance (QA)” system. Although the Legislature required DJJ to use this system for annual monitoring of program performance throughout the Department, it did not specify areas that needed to be monitored. From 1994 to 1996, the newly formed DJJ began developing and writing QA standards for varying program types such as detention, boot camps, secure residential, wilderness camps, prevention programs, etc. Over this three-year period, the Bureau of Quality Assurance at DJJ held focus groups with programs and providers and conducted research at Florida State University to assist the Department in identifying key indicators in which programs would be held accountable (Florida Department of Juvenile Justice, 1998).

Although education was prominently mentioned throughout the reform acts of the early 1990s there was not specific statutory language mandating QA for education. Hence, DJJ approached the Department of Education (DOE) for assistance in developing QA standards for education. Again, from 1994 to 1996 DOE drafted, piloted, and wrote standards for educational services in DJJ programs. However, educational QA was not formalized until 1996, and most juvenile justice educational programs were not reviewed regularly until 1997. The first drafts of the Educational QA Standards focused primarily on special education services, testing, and educational program philosophy (JJEPP, 1999).

Statutory Requirements for Juvenile Justice Education. Finally in 1996, the same year that the *Bobby M.* consent decrees were vacated by the federal courts, the Florida Legislature enacted Section 230.23161 F.S. “Educational Services in Department of Juvenile Justice Programs.” Although the statute contained only minimum requirements, it was the

beginning of a more policy-driven and bureaucratic approach to education for Florida’s juvenile justice involved youth.

First, the statute designated the DOE as the lead agency for juvenile justice education and clarified that local school districts were responsible for providing basic, vocational, and special educational services to youth in juvenile programs that operated within their school district. It also required that educational services be equivalent to those provided in public schools within the district and authorized districts to contract with private providers for educational services. Most importantly, the statute for Educational Services in Department of Juvenile Justice Programs mandated that the DOE “establish standards and a comprehensive quality assurance review process and schedule for the evaluation of the educational component in juvenile justice programs” (Section 230.23161, F.S., 1996).

Section 4.5 – Summary

In 1996, after the passage of the statute for Educational Services in Department of Juvenile Justice Programs and the creation of the QA system for DJJ and DOE, the federal courts finally decided to vacate all three consent decrees. The *Bobby M.* litigation officially lasted for 13 years, from 1983 to 1996. Although this may seem like an extensive amount of time, during this period, the state of Florida closed one state training school, significantly reduced the population of two other training schools, abolished a state agency, created two new state agencies, mandated a continuum of care and treatment throughout the juvenile justice system and created a comprehensive QA system to monitor programing across the state.

As discussed in the next chapter, although the state was successful in creating comprehensive policy that was aimed at alleviating the failures highlighted by the *Bobby M.* case and consent decrees, actual program practices still had a long way to go. In addition, fueled by the school “zero tolerance” legislation and “tough on crime” policies of the 1990s, the number of youth and programs under the purview of the newly created DJJ would explode.

CHAPTER 5

THE STATE OF JUVENILE JUSTICE EDUCATION IN FLORIDA POST LITIGATION

Section 5.1 – Introduction

Despite the efforts of the courts and the federal monitors, several educational deficiencies and inadequacies remained throughout the juvenile justice educational system after the consent decree was lifted in 1996. The consent decrees and the federal monitors were partly successful in reforming the day-to-day practice of the two remaining training schools. However, the consent decree also transformed and expanded the state’s juvenile justice system. In addition, the Zero Tolerance policies of the 1990s and the political embrace of privatization led to a much larger system that, at its peak in 1999, included 210 juvenile justice educational programs that enrolled over 10,000 students on any given day throughout the state (JJEEP, 2001).

This chapter is comprised of this and the following four sections. Section 5.2 will discuss the expansion of juvenile justice and the rise of privatization and Zero Tolerance. Section 5.3 will discuss findings from reports regarding the state of juvenile justice education statewide. And, in order to identify existing deficiencies in the juvenile justice education system, Section 5.4 will discuss the results of the first two years of educational QA findings. Section 5.5 will provide a summary discussion for this chapter.

Section 5.2 – The Growth of Juvenile Justice

When the *Bobby M.* case began, Florida operated three state training schools and 20 other residential treatment programs throughout the state under the Department of Health and Rehabilitative Services (HRS). In addition, these facilities often served neglected and abandoned children mixed with delinquents. Under the newly created DJJ, the state began developing programs of various security levels and treatment modalities to meet the requirements of a continuum of services that addressed the treatment needs of the youth assigned to the department by the courts. During this process of program development, the state experienced an increase in the number of youth referred and committed to the juvenile justice system, as well as an increase in privately operated programs.

At the end of 1996, the year the *Bobby M.* consent decrees were vacated, DJJ contracted with the Corrections Corporation of America, the largest adult prison provider in the world, to build and operate DJJ's first maximum risk program, Okeechobee Juvenile Offender Corrections Center. Unlike the model of the old training schools, this facility was secured with electronically locking doors and razor wire fences. Rather than the open campus and cottage living environments of past programs, housing, administration, treatment, and education were all housed in one building. This same year, DJJ also leased two 350-bed adult prisons from the Department of Corrections in Bartow and Pahokee, Florida. These programs immediately became the state's largest, and both were privately operated by Correctional Services Corporation. This model of large, hardware-secure, privately operated facilities were to become in many ways the new face of juvenile justice in Florida (JJEOP, 1999).

By 1999, there were 210 juvenile justice educational programs throughout the state. While facility and treatment program providers contracted with DJJ for the operation of custody and care services, local school districts could contract for the educational services provided within the programs. In 1999, the 210 DJJ programs were located in 45 different school districts. Table 5.2-1 lists the number of DJJ programs that had educational components by security level.

Table 5.2-1 Number of Juvenile Justice Educational Programs by Security Level

| Security Level | Program Type | Programs |
|-----------------------|---|-----------------|
| Detention | Secure and Non-Secure | 21 |
| Day Treatment | Prevention, Intensive Probation and Aftercare | 61 |
| Residential | | |
| Low Risk | Wilderness Camps, Short-Term Work Camps and Group Treatment Homes | 18 |
| Moderate Risk | Wilderness Camps, Halfway Houses, Staff-Secure Residential, Hardware Secure, Dual Diagnosis | 77 |
| High Risk | Serious Habitual Offender Programs, Intensive Halfway Houses and Sex Offender Programs | 30 |
| Maximum Risk | Juvenile Prisons | 3 |
| Total | | 210 |

Along with the rapid growth of the department, privatization also grew to meet the needs of the varying treatment modalities throughout the continuum. Providers often specialized in particular types of programs such as prevention, sex offender treatment, substance abuse, mental health, and high security. Although the state's 21 detention centers were publically operated directly by DJJ and the local school districts, 156 of the 210 facilities (74%) were privately operated, and 93 of the 210 (44%) of the educational programs were privately operated. This rapid growth was not only fueled by an expansion of services and privatization, but also by new Zero Tolerance and tough on crime policies (JJEEP, 2001).

At the same time the Florida Legislature was reforming state policy in juvenile justice education and creating a new state agency solely devoted to the problem of juvenile justice and delinquency, the federal government (followed by Florida) began enacting zero tolerance legislation and policies. In 1994, in response to a perceived fear of rising school violence, the United States Congress enacted the Gun-Free Schools Act of 1994. The act made federal school funding through the Elementary and Secondary Education Act (ESEA) contingent upon states enacting their own zero tolerance laws and policies. The next year, the Florida State Board of Education created State Board Rule 6A-1.0404, FAC Zero Tolerance for School Related Violent Crime (1995). Two years later, in 1997, the Florida Legislature enacted the first of a series of zero-tolerance laws entitled *Policy of Zero Tolerance for Crime* (Chapter 97-234, Florida Laws). Under the new law, school districts were required to adopt a policy of zero tolerance for crime and substance abuse. Additionally, schools were required to report violations of the policy to local-law enforcement agencies.

Although the primary focus of the *Bobby M.* case had been on the state's training schools, the case and consent decrees also mandated the expansion and continuum of services discussed above. The creation of a new state agency, new mandates to ensure various services throughout the state, and new zero tolerance policies all resulted in the rapid expansion of facilities, programs, and schools. As a result, many of the problems highlighted in the *Bobby M.* case were unfortunately transferred to new programs scattered throughout the state and operated either directly or indirectly through the new DJJ.

Section 5.3 – Program Conditions under the Newly Formed DJJ

In 1998, Amnesty International published an investigative report concerning the treatment of youth in the American justice system. Florida and its Department of Juvenile Justice was one of a handful of states highlighted throughout the report. Although other facilities were mentioned, the report focused on two facilities in particular, Pahokee Youth Development Center and Polk Youth Development Center.

Polk and Pahokee were both 350-bed facilities leased through the Department of Corrections and operated by Correctional Services Corporation, a for-profit provider. The programs and provider were both new to Florida and were part of DJJ's new hardware-secure environment. Despite Pahokee being designated as a moderate-risk program, it was located in the middle of the sugar cane fields on the edge of the Everglades National Park surrounded by razor wire and secured through numerous layers of electronically locking doors. Polk, although designated as high-risk, was located on the other side of Lake Okeechobee in another rural area and was identical in its hardware, security, and layout.

For four years, these programs remained under the scrutiny of the media, the state's quality assurance (QA) system, and a juvenile court judge in Miami. The programs had numerous problems including youth-on-youth violence, staff abuse, solitary confinement, and lack of educational services. In 1997, a Miami court heard evidence from youth housed at the Pahokee facility that staff verbally and physically abused youth. Rumors emerged that youth were also used at night to physically discipline other youth. One youth was beaten so badly that his spleen ruptured and he was evacuated by a medical helicopter. Fights involving multiple students and staff even broke out in classrooms during QA reviews. A 14-year-old claimed to be shackled to his bed for hours and youth complained that they were left in solitary confinement for weeks at a time (Amnesty International, 1998; Pahokee QA Report, 1997 & 1998).

Both Polk and Pahokee failed their educational quality assurance reviews in 1997, 1998, and 1999. Special education violations occurred when youth with disabilities were sent to solitary confinement for weeks without being provided educational services. The school house and classrooms were over-crowded, fights often erupted in the school, and the school experienced a high rate of teacher turnover. In addition, at Pahokee, all youth were given a generic ninth-grade course schedule regardless of which grade they were supposed to be enrolled. The program did not offer upper level high school courses or a middle school

curriculum. Prior school records were often non-existent in student files, and youth did not earn the credits they needed to graduate from school (Pahokee QA Report, 1997 & 1998). The list of educational requirements that were found to be out-of-compliance mirrored the complaint allegations from *Bobby M.* a decade earlier.

In addition to the problems at Polk and Pahokee, DJJ fell under the scrutiny of the Juvenile Justice Accountability Board (JJAB). In 1998, the JJAB conducted a statewide educational study that included school district surveys, a few site visits, and regional public hearings. Among their findings was that administrative support from school districts varied widely across the state. Some districts provided school registration, record keeping, and special education support to the DJJ programs within their district while others were treated as if they were independent schools with little oversight or assistance. In addition, JJAB found that vocational education was extremely limited and that special education students appeared to be under-identified. One out of every three school districts surveyed indicated that they did not provide state and local testing in their juvenile justice schools. Despite year-round facility and program operations, the length of the school year varied, ranging from 180 days (a traditional school year) to 230 days. The curriculum also was not standardized; some reported following the public schools' curriculum while others reporting using provider developed curriculum and remedial materials that had not been reviewed or approved by any outside educational authority.

Difficulties reported by school districts and educational providers included:

- inadequate space provided within facilities for classrooms, instructional settings and labs;
- teachers not being trained to work with at-risk and delinquent youth;
- missing and incomplete educational records and information on youth;
- almost no coordination of services for youth transitioning back to school after their release;
- lack of curriculum coordination, grades and credits transferring between schools;
- special educational services not being provided in a timely manner;
- lack of vocational offerings;
- high staff and teacher turnover; and
- lack of communication between educational, behavioral, and treatment staff (JJAB, 1998).

Again, the list of educational deficiencies identified by JJAB was strikingly similar to the educational grievances listed in the *Bobby M.* compliant and resulting educational settlement agreement. In addition to the JJAB, the state had also begun conducting regular educational quality assurance (QA) reviews by 1997 and 1998. This was done to get a better understanding of the level of educational services throughout Florida's juvenile justice system after the *Bobby M.* consent decree was vacated, but after the enactment of the state's reform policies.

The next section describes the educational quality assurance results from 1997 and 1998.

Section 5.4 – Juvenile Justice Education after *Bobby M.*

The most accurate and comprehensive information regarding the quality of juvenile justice education after the *Bobby M.* consent decree was vacated comes from the 1997 and 1998 educational QA reports and the 1998 and 1999 Annual Report to the Department of Education from the Juvenile Justice Educational Enhancement Program (JJEED).

To capture educational deficiencies found statewide, JJEED's 1998 Annual Report categorized and counted areas of concern and needed technical assistance. The top five most frequently generated concerns from QA reviews in 1998 were;

1. curricula not meeting the needs of the students based on their functional needs or grade levels;
2. students not being properly enrolled based on prior education records and graduation requirements;
3. a general lack of basic textbooks and educational supplies to meet the needs of the students;
4. a lack of special education services; and
5. a lack of support and oversight from the local school district (JJEED, 1999).

As an illustration of these problems, it was not uncommon to find students improperly enrolled in the school district's local Management Information System (MIS). For example, a review of Alachua County's juvenile justice education system for day treatment students found that youth were being encouraged to drop out of school and attend adult education. Students in Alachua who were committed to a day treatment program were withdrawn from the public school and sent to the day treatment program. Students often spent at least two semesters at the program, but were never enrolled through the school district for course credit. Upon program

completion, students in Alachua would attempt to re-enter the public school they came from, at which time they would find out that they had fallen a year behind their peers and were often encouraged to pursue a GED through the county's adult education program. It was later determined that no students sent to the day treatment program were enrolled in the school district's MIS and that they were not afforded the opportunity to earn credits toward high school graduation (GOMI QA Report, 1997).

Cited as the number one concern and area of technical assistance by JJEEP in 1998 was that programs would create generic course schedules for students regardless of their prior school performance or records. Hence, students often repeated classes they had taken in previous schools. Even when students were enrolled in the local school district MIS, many juvenile justice schools enrolled students in ninth grade course schedules regardless of a student's proper grade level. During a QA review at Brevard Group Treatment Home, a student was disciplined for throwing a math book at the front of the classroom. Upon review of the student's educational records, it was discovered that the student had repeated the same math class three times. She had not repeated the class because she had failed, but rather she, like many other girls at the time, had been moved from program to program with no one consolidating her educational records (Brevard Group Treatment Home QA Report, 1998).

Another commonly identified deficiency was teacher qualifications. One administrative model used by several providers was to employ a certified teacher as the lead teacher for the program and list that teacher as the "teacher of record" for all courses being taught. In actuality, the first QA reviews revealed that oftentimes, the person in the classroom on a day-to-day basis was not a Florida certified teacher. In some instances, this person did not even have a college degree. And in one documented instance, the bus driver for the program, who possessed only a GED, was teaching all of the program's high school math classes.

Lack of curricula and instruction that addressed students' ability levels, grade levels, and individual needs was also a common finding during the first two years of QA. According to QA reports from 1997 and 1998, core curricular materials often consisted of GED preparation materials such as Steck-Vaughn, PASS workbooks (supplemental workbooks designed for special education students) and teacher generated ditto sheets. Numerous programs seemed to be teaching a general ninth grade curriculum regardless of each student's actual grade or ability

level. Common recommendations for juvenile justice educational programs during this period included;

1. acquiring school district approved curricula and textbooks based on the courses that students were assigned;
2. developing a middle school curriculum for student's enrolled in middle school;
3. offering junior and senior level classes to prepare upper classmen for graduation; and
4. offering courses in science and social studies so that students could earn the credits they needed to advance toward a high school diploma.

A final area highlighted as a major concern during the first years of QA involved identifying students with educational disabilities and providing appropriate services. The research literature at the time estimated that youth with disabilities comprised 40% to 60% of the juvenile justice residential population (Nelson, Rutherford, & Wolford, 1987). However, in 1997, according to a report from the Florida Department of Education, Florida's juvenile justice schools were identifying only 23% of the students as needing special education services based on diagnosed educational disabilities (Florida Department of Education, 1997). Special education related corrective actions and technical assistance provided juvenile justice schools in 1998 and 1999 consisted of;

1. requesting and reviewing student's prior educational records;
2. identifying youth who were receiving services and requesting prior Individual Educational Plans (IEPs);
3. developing new IEPs based on each student's disabilities, needs, and available services; and
4. providing educational services in a timely manner.

These early QA reviews and concerns that were generated in 1997 and 1998 highlighted the need for improvement throughout the juvenile justice educational system. By 1999, this led JJEEP to develop a corrective action system and priority indicators within the educational QA standards. Based on legal requirements, critical educational services and program performance in 1997 and 1998, six priority indicators were chosen. Indicators included 1) student enrollment based on prior educational records; 2) individualized student planning for both regular and special education students; 3) curriculum that meets the student progression needs and ability

levels of the students; 4) teacher certification; 5) state assessment testing and the provision of a minimum of 300 minutes per day of instruction; and 6) funding and support.

During the 1999 QA review cycle, juvenile justice educational programs were required to develop and implement a corrective action plan when they failed to meet minimum requirements on priority indicators. In 1999, programs received 148 corrective actions for failing to meet minimum requirements in the priority indicators listed above. As a result, 73 of the 210 juvenile justice educational programs were required to develop and implement corrective action plans (JJEEP, 2000).

Section 5.5 – Summary Discussion

As discussed in Chapter 4, Florida's legislative and policy responses to the *Bobby M.* case were substantial. The state abolished one state agency, created two new state agencies, mandated a continuum of care that needed to recognize the individual needs of the youth, designated the DOE as the lead agency for juvenile justice education, and created a QA system.

However, during this period of policy reform and partially fueled by new zero-tolerance policies on delinquency, the state system for juvenile justice also grew rapidly. Once, locally operated programs such as prevention, day treatment, and detention moved under the DJJ. New hardware-secure high- and maximum-risk programs were opened throughout the state. And various moderate-risk program such as wilderness camps, halfway houses, and dual diagnosis programs expanded to serve student's in smaller program settings. By 1998, there were 180 documented juvenile justice education programs throughout the state, and at its peak in 1999, there were 210. However, as evidenced by numerous sources at the time, the educational deficiencies highlighted by the *Bobby M.* case still plagued the juvenile justice educational system.

Though the state may have been successful in changing the way juvenile justice and juvenile justice education were administered throughout Florida, the quality of educational services remained substandard when compared to traditional public schools. Reports from Amnesty International, the JJAB and the new QA system reported deficient educational services. These systemic deficiencies included 1) low teacher qualifications; 2) under-identification of special education students and provision of services; 3) lack of proper educational records, enrollment and student progression toward a high school diploma; and 4) lack of a substantial

curriculum and educational resources. The next chapter will identify the impact that JJEEP and educational QA had on these deficient areas over a 13-year period from 1998 to 2010.

CHAPTER 6

THE JUVENILE JUSTICE EDUCATIONAL ENHANCEMENT PROGRAM AND THE ROAD TO INSTITUTIONAL REFORM

Section 6.1 – Introduction

There is strong evidence that even after the vacating of the *Bobby M.* educational settlement agreement in 1996, the juvenile justice educational system in Florida was still inadequate compared to educational services in traditional public schools. In fact, many of the specific deficiencies highlighted by *Bobby M.* were still evident throughout the system. However, as discussed in this chapter, the state now had a new accountability mechanism that would drive juvenile justice educational services throughout the state for the next 13 years. The Juvenile Justice Educational Enhancement Program (JJEED) would become not only the driving reform force in Florida, but also a nationally recognized leader in the field of juvenile justice education.

This chapter will document the policies and practices of JJEED and measure the impact the program had on juvenile justice education programs in Florida from 1998 to 2009. This chapter is comprised of this and four subsequent sections. Section 6.2 will describe the contracting of QA by the Department of Education (DOE) in 1997 and 1998 and the creation of JJEED. The section will also describe the various functions and major activities of the program. Section 6.3 will describe the evolution of the QA standards in relation to emerging federal and state policies from 1998 to 2009. Section 6.4 will provide juvenile justice educational program performance trends in the areas of 1) overall QA performance; 2) teacher qualifications; 3) identification of students in need of special education services; 4) curriculum, instruction, and student progression; 5) program educational spending; and 6) educational administrator survey responses. And finally, Section 6.5 will provide a summary conclusion regarding educational program performance trends and a summary of the performance of the state's remaining training schools.

Section 6.2 – The Contracting of QA and the Creation of JJEEP

As discussed earlier, in 1994 and 1995 DOE assisted DJJ with piloting some educational standards for various juvenile justice programs and then conducted limited reviews. In August of 1996, directly after the Florida Legislature created the statute for “Educational Services in Department of Juvenile Justice Programs,” DOE contracted with the University of North Florida (UNF) to conduct educational QA reviews. After hiring, training, and preparing the QA standards, UNF began conducting reviews in January of 1997. This was the first time the state had full-time QA reviewers. In addition, DOE staff remained directly involved in day-to-day management of the project. Due to some questionable grant management practices and a lack of consistency from educational reviewers, the DOE placed the project out for bid again at the end of 1997.

The Florida State University College of Criminology and Criminal Justice won the bid and began operations in 1998. The new project was greatly expanded from the original scope of services outlined in the UNF project, which primarily consisted of conducting QA reviews. The project was now known as the Juvenile Justice Educational Enhancement Program (JJEEP), and FSU outlined four major components of the new project. JJEEP’s mission was –

“to ensure that each student who is assigned to a DJJ program receives high-quality and comprehensive educational services that increases that student’s potential for future success,” (JJEEP, 2000).

JJEEP’s four main functions were to –

1. Conduct annual QA reviews of the educational programs in Florida’s juvenile justice facilities;
2. Provide technical assistance to improve the various educational programs;
3. Conduct research that identifies and validates promising educational practices; and
4. Provide annual recommendations to DOE and the Legislature to guide state policy relating to juvenile justice education (College of Criminology and Criminal Justice, 2000).

JJEEP’s mission and four main functions guided not only the program’s activities, but the educational practices of hundreds of juvenile justice schools throughout Florida for 13 years.

Quality Assurance. The function of QA consisted of developing and annually revising QA standards, developing and maintaining QA review methods and protocols, and conducting annual onsite reviews of all juvenile justice schools throughout the state. QA standards were based on state and federal educational requirements, best practice research, and practitioner input. QA review methods involved verifying educational services by triangulating a review of student educational files, teacher files, and administrative documentation, conducting interviews with teachers and students, and conducting classroom observations. Reviewers would then use a preponderance of the evidence to determine each indicator and standard's ratings, which consisted of below satisfactory, satisfactory and superior categories. Depending on the size of the program, QA reviews would take one to three reviewers two to four days to complete.

One of JJEEP's primary school improvement strategies was to annually enhance the requirements of the QA standards, requirements, and processes. This was accomplished by ensuring that the QA standards remained relevant to new state and federal educational requirements, embodied best-practice research, and addressed the concerns of practitioners. The evolution of the QA standards and the annual process of raising the bar process will be discussed in more detail in the next section.

Technical Assistance. Beyond reviews and ratings of educational programs, JJEEP also implemented a quality improvement model supported by technical assistance. When JJEEP began operations, juvenile justice education could hardly be considered a field of study. There were no state affiliations or organizations that addressed the concerns of educators working in juvenile justice facilities. There was no training available that would prepare teachers for working within a juvenile facility. In addition, juvenile facilities were often located in rural locations and employed only a handful of educational personnel, leaving principals and teachers feeling isolated from their peers and colleagues who encountered similar problems and issues on a daily basis.

JJEEP immediately saw the need for training and professional collaboration for educational administrators and teachers in juvenile justice facilities. In 1998, JJEEP hosted the first statewide conference in juvenile justice education at the Breakers Hotel in Palm Beach, FL. This first conference included a strand of practitioner and researcher workshops that were part of the Southern Conference on Corrections, hosted by FSU. JJEEP and FSU would go on to host

13 annual conferences known as the Juvenile Justice Education Institute (JJEI) and Southern Conference on Corrections. The conferences would typically draw 300 to 350 juvenile justice educators and would have keynote speakers such as Lt. Governor Frank Brogan, state legislators, and numerous Secretaries of the DJJ. Workshops typically involved themes such as best practice research, vocational education, transition services, special education, and educational policy updates.

In addition to the annual JJEI conference, JJEPP also hosted three to five regional meetings each year throughout the state that focused on principal training, QA standards revisions and training, and educational policy updates. Most importantly, JJEI and the regional meetings provided a forum for educational administrators and teachers to share their concerns and seek solutions to their problems through peer collaboration. Conference and regional feedback surveys consistently reported that the opportunity to network with other juvenile justice educators was an invaluable tool for improving their programs.

Other methods of technical assistance included training peer-reviewers, providing programs with written recommendations, and issuing corrective action plans. The use of peer-reviewers not only provided JJEPP with a method of including practitioners in the review process, but also allowed educational administrators to visit other juvenile justice schools, converse with colleagues, and exchange ideas. Unlike the DJJ QA process, each QA review also provided programs with written recommendations based upon the QA findings. Low-performing programs were required to develop and submit to JJEPP corrective action plans that identified methods for correcting deficiencies found through the QA process. Program recommendations were often based on practices and services being provided by higher performing programs.

Although much of the technical assistance provided by JJEPP was aimed directly at improving program performance, another, perhaps more important strategy, was the elevating and professionalizing of the field of juvenile justice education. Providing forums such as annual conferences, regional meetings, and peer-review opportunities helped to elevate the status of the field. In addition to these strategies, in 2000, JJEPP instituted the Juvenile Justice Teacher of the Year Award. Each year from 2000 to 2010, there have been between three and five regional winners and an overall state winner. The teacher of the year was recognized in front of their peers at the annual JJEI.

Research. In 1998, JJEEP created a research agenda that was intended to influence policy and practice in juvenile justice education. Primary research methods included continuous literature reviews, case studies of high-performing programs, correlates research on program performance, and longitudinal studies of students in the juvenile justice system.

Wanting the QA standards to be guided by research, in 1998 JJEEP conducted its first literature review on best-practices in the area of juvenile justice education. At the time, there were few empirical studies specific to the education of juvenile delinquents. Although the research was limited, it would grow over the next few years. JJEEP would continue to periodically conduct extensive literature reviews on topics such as juvenile justice education, alternative education, special education, teacher quality, and program and class size. Based on these periodic literature reviews, some best-practices emerged including;

- teachers teaching in their area of certification
- conducting initial and continual assessments
- student educational planning
- individualized instruction
- providing multi-faceted curricula
- transition planning and services
- aftercare services

These best practices, which were periodically used to guide case studies of high- and low-performing programs, were correlated with QA report findings and used to identify demonstration sites throughout the state (JJEEP, 2005).

Ultimately, longitudinal research was conducted by JJEEP and FSU to better understand the relationship between education, post-release outcomes and recidivism for delinquent youth. Researchers at FSU examined the relationship between academic achievement while incarcerated, returning to school upon release, and recidivism. When most youth enter a residential commitment program, they are far behind their peers in terms of grade level and test performance. Furthermore, DJJ serves younger youth who are often not able to graduate from high school during the time they are committed to a residential program. Therefore, the research examined the extent to which educational achievement, as measured by credits earned and grade advancement, predicted if that youth would return to school upon release. In addition, the research examined how attending school after release predicted the likelihood that youth would

recidivate. The findings concluded that educational achievement did predict return to school post-release and that higher attendance in school after release meant a lower likelihood that a youth would recidivate (Blomberg, Bales, & Piquero, 2012; Blomberg, Bales, Mann, & Piquero, 2011).

Policy. The last main function of JJEEP was to inform public policy. This was accomplished through annual recommendations to the DOE, legislative presentations, and presentations at national conferences. Demonstrated in the following section, in the early years of JJEEP, annual recommendations to the Florida Department of Education and the Florida Legislature resulted in a symbiotic relationship. Legislation passed in 1999 and 2000 by the Florida Legislature was influenced by JJEEP's annual report and policy recommendations. Specifically, concepts such as research, technical assistance, and school district contract management, which were part of the legislation, came directly from JJEEP's reports and recommendations. Other reports and recommendations from JJEEP resulted in new policies such as statewide pre- and post-testing, enhanced transition services, and program evaluation criteria. In fact, when the DOE developed the first rule for juvenile justice education, State Board Rule 6A-6.05281, FAC, much of the language from the rule came from the existing educational QA standards developed by JJEEP. In return, state and federal education policy also influenced the QA process. Particularly in the early years of JJEEP, House Bill 349 (1999), Just Read! Florida, and No Child Left Behind significantly contributed to several years of QA standards revisions. These added and enhanced requirements included year-round schooling, teacher qualifications, reading requirements, progress monitoring, and career and technical education.

JJEEP began presenting its research and QA model at national conferences and meetings sponsored by the U.S. Department of Education, the American Society of Criminology (ASC), the American Correctional Association (ACA), the National Juvenile Court Judges Association, the Office of Juvenile Justice and Delinquency Prevention (OJJDP), the Correctional Education Association (CEA), the National Juvenile Partnership and to U.S. Congressional staffers. In 2001, JJEEP was recognized by OJJDP and ACA as a model program for juvenile justice education. In 2005, JJEEP's work led to Congressional funding which created the Juvenile Justice No Child Left Behind Collaboration Project. From 2005 to 2008, this project received

federal funding and support to assist states with implementing the requirements of NCLB throughout their respective juvenile justice education systems.

Section 6.3 – The Evolution of the QA Standards

At the heart of the QA system were the educational QA standards. These standards were used to measure program performance, enforce federal and state educational requirements, and improve the quality of education in all of Florida’s juvenile justice schools. The QA standards were originally developed to address the legal deficiencies highlighted by the *Bobby M.* case, and they were used to protect Florida from future litigation. However, as deficiencies from the *Bobby M.* case were corrected, JJEEP also used the QA standards to implement best practices and ever-evolving federal and state educational requirements.

To maintain standards that were topical, relevant, and focused on continual improvement, JJEEP annually revised the educational QA standards using recent federal and state requirements, best-practice research and practitioner input. As shown in table 6.3-1, federal educational requirements such as No Child Left Behind, and state requirements such as Florida’s A+ Plan and Just Read! Florida were incorporated into the standards to ensure school implementation of state and federal policies. Although best-practice research was limited when JJEEP began operations, continual literature reviews and JJEEP’s own longitudinal and field research also informed the evolving standards. Finally, JJEEP hosted annual standards revision meetings where educational administrators from school districts and private providers could review and comment on draft standards prior to their implementation. Table 6.3-1 provides a description of major standard revisions from 1998 to 2009.

Table 6.3-1: Evolving Educational QA Standards

| Year | Influential Educational Policy | Major QA Revisions |
|------|---|--|
| 1998 | <p>-<i>Bobby M. Findings</i></p> <p>-IDEA</p> <ul style="list-style-type: none"> • Student planning • Individualized instruction • Transition planning | <ul style="list-style-type: none"> • Student records • School enrollment • Basic curriculum and instruction • Special education • Personnel competencies • Educational administration |
| 1999 | <p>-Florida A+ Plan</p> <p>-Florida House Bill 349</p> <ul style="list-style-type: none"> • Required a state board rule for juvenile justice education • Required cooperative agreements between DJJ, school districts and providers • Pre and post testing • Strengthened QA with research and technical assistance mandates • Enhanced transition services | <ul style="list-style-type: none"> • Identification of “priority” indicators and writing concerns for low-performing programs • Increased entry enrollment and assessment requirements • Focus on student progression • State approved academic courses • Student goals and objectives • Basic exit transition procedures • Six priority indicators are identified • Required state assessment testing • 300 minutes per day of instruction |

Table 6.3-1: Evolving Educational QA Standards – continued

| Year | Influential Educational Policy | Major QA Revisions |
|------|--|--|
| 2000 | <p>-Florida Senate Bill 2464 -State Board Rule, 6A-6.05281, F.A.C.</p> <ul style="list-style-type: none"> • Contents of educational records • Transition planning and services • Emphasis on vocational education • Focus on educational facilities • Onsite access to school district MIS • Academic and vocational testing • Individual student planning | <ul style="list-style-type: none"> • Cumulative transcripts • Diagnostic entry testing for reading, writing, math and vocational aptitude • Assessment, student planning and instructional requirements are aligned • Detailed exit transition planning • Access to GED Exit Option • Academic curricula that meets state standards • State certified academic instructors • Annual in-service training • Classroom and behavior management |
| 2001 | <p>-Just Read! Florida</p> <ul style="list-style-type: none"> • Reading assessment, curricula, courses and teacher training | <ul style="list-style-type: none"> • Vocational curricula that meets state standards • School district oversight, monitoring and evaluation of programs |
| 2002 | <p>-No Child Left Behind (NCLB)</p> <ul style="list-style-type: none"> • Highly Qualified Teachers • Transition services • Testing • Evaluation • Testing and accountability | <ul style="list-style-type: none"> • Ensuring the provision of special education services within 11 days of entry • More detailed curriculum and instruction requirements • Year-round schooling |

Table 6.3-1: Evolving Educational QA Standards – Continued

| Year | Influential Educational Policy | Major QA Revisions |
|------|---|---|
| 2003 | No significant juvenile justice education legislation or policy | <ul style="list-style-type: none"> • Required programs to offer English, math, social studies and science courses • FCAT testing • Enhanced vocational curricula requirements • Enhanced qualifications for vocational instructors • Development of exit transition portfolios |
| 2004 | -Florida House Bill 1984 <ul style="list-style-type: none"> • Increased juvenile justice education funding • Required the development of a system to measure learning gains • Creates a juvenile justice education workgroup to develop a NCLB implementation plan | <ul style="list-style-type: none"> • Development of a “corrective action” process involving follow-up with low-performing programs • Emphasis on teacher qualifications and highly qualified requirements • Expanded and clarified special education requirements |
| 2005 | No significant juvenile justice education legislation or policy | <ul style="list-style-type: none"> • Identification of exemplary programs based on high QA scores • Implemented reading and literacy requirements including testing, planning, and research based curricula • Identified school district transition specialist |
| 2006 | -Florida’s A++ Legislation <ul style="list-style-type: none"> • Middle school promotion requirements • Reading progress monitoring | <ul style="list-style-type: none"> • Added program self-report information to the QA process • Began statewide pre- and post- testing with the same assessment instrument • Minimal changes in QA standards |

Table 6.3-1: Evolving Educational QA Standards – Continued

| Year | Influential Educational Policy | Major QA Revisions |
|-------------|---|---|
| 2008 | No significant juvenile justice education legislation or policy | <ul style="list-style-type: none"> • Enhanced requirements regarding school district transition specialists • Minimal changes in QA standards |
| 2009 | No significant juvenile justice education legislation or policy | <ul style="list-style-type: none"> • Minimal changes in QA standards |

From 1998 to 2002, state and federal education legislation continued to have a major influence on JJEEP’s QA process and standards. JJEEP’s own research also identified several best practices that often complemented new policy requirements. In the early years of JJEEP, new policies and best practice research led JJEEP to continually improve such requirements and standards as:

- Teacher qualifications including certification, in-field teaching status, specialized training and retention;
- Transition services including transition planning, student exit portfolios, communication with receiving schools and follow-up services;
- Enhanced curriculum and instruction that addressed the individual needs of students and prepared them for graduation or a return to school; and
- School district oversight, program evaluation and a focus on student outcomes such as academic gains, student progression, and return to school upon release.

On the other hand, as programs successfully implemented policies that addressed basic requirements, indicators such as requesting prior educational records, the development of official transcripts, classroom and behavior management and providing 300 minutes of daily instruction were less and less emphasized in the educational QA standards.

The 2009 educational QA standards contained indicators and requirements for:

Transition Services

- Student progression and guidance
- Testing and assessment
- Student planning

- Community reintegration

Service Delivery

- Academic curriculum and instruction
- Reading curriculum and instruction
- Employability and career curriculum and instruction
- Specially designed instruction and related services

Educational Resources

- Collaboration
- Teacher qualifications
- Professional development and teacher retention
- Learning environment and resources

Contract Management

- School district monitoring, accountability and evaluation

The next section will provide evidence of statewide program improvement trends using several data sources including QA performance.

Section 6.4 – Educational Program Performance Trends

This section will use trend data from JJEEP and DOE's annual reports from 1997 to 2009 to measure increases in educational services throughout the juvenile justice education system. In particular, this section will examine 1) overall QA performance scores; 2) the identification of ESE students in the juvenile justice system; 3) teacher qualifications; 4) curriculum and instructional services including average credits earned; and 5) educational spending in juvenile justice schools. In addition, this section provides results from a statewide survey of juvenile justice educational administrators conducted by telephone in the fall of 2010.

Overall QA Performance Trends. From 1998 to 2009, JJEEP rated each juvenile justice school's performance using a rating scale from zero to nine (0-9). While scores below a four were considered below satisfactory and often resulted in various forms of program follow-up, ratings from four to six were considered satisfactory, and ratings above six were considered

superior. Superior ratings were defined as exceeding the QA standards. Figure 6.4-1 shows the overall QA scores for 10 years from 1999 to 2009.

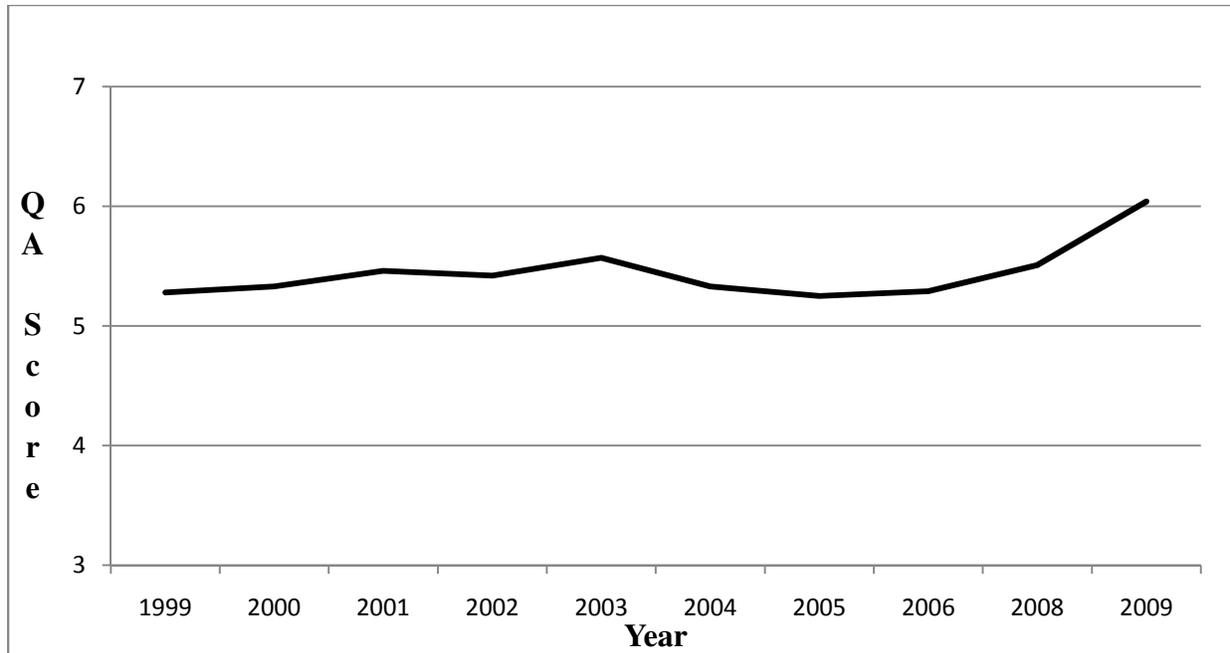


Figure 6.4-1: Overall QA Score Trend

Throughout this QA performance period, programs were increasingly held to higher standards including requirements from HB 349, new State Board of Education rules, No Child Left Behind, Florida’s A+ Plan, and Just Read! Florida. In addition, JJEEP’s research contributed to increasing requirements for testing, individualized instruction, and enhanced transition services. Although QA scores did not rise dramatically over the years, given how much the bar was raised annually and the number of new requirements that were continually added to the QA standards, the results indicate that overall, Florida’s juvenile justice educational programs demonstrated significant progress. However, QA performance is an indirect measure of educational program improvement. In order to determine if JJEEP directly improved the quality of educational services for students and addressed the deficiencies identified in the *Bobby M.* case, specific measures such as special education services, teacher qualifications, student progression, curriculum and instruction, and educational spending need to be analyzed.

Special Education Identification. A large part of the *Bobby M.* educational settlement agreement had to do with identifying students in the juvenile justice system who were eligible for special education services. At the time of JJEEP’s creation, Nelson and Rutherford, two special education professors who conducted research in juvenile justice programs throughout the country, argued that special education students were under-identified and under-served in most juvenile justice systems. Furthermore, they estimated that between 40% and 50% of the students in the juvenile justice system were in need of special education services (1999). Figure 6.4-2 shows the number of students identified as requiring special education services in Florida’s juvenile justice system from 1997 to 2006.

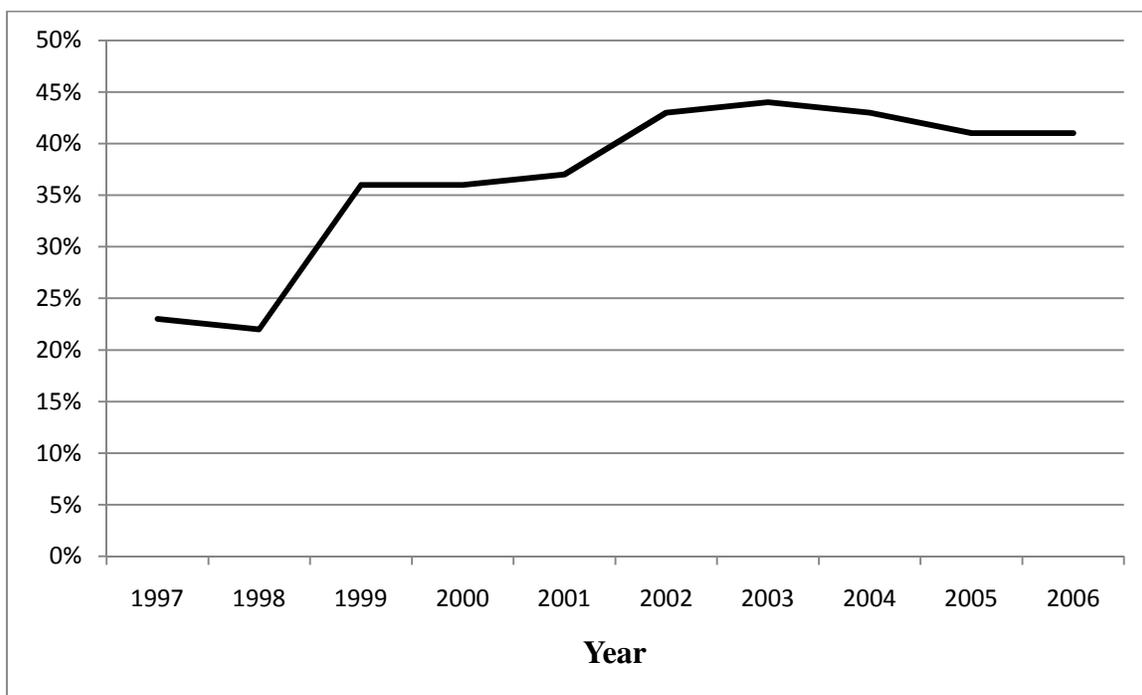


Figure 6.4-2: Percentage of Identified Special Education Students

When JJEEP began in 1998, only 22% of the students in Florida’s juvenile justice system were being identified as eligible for special education services. The identification of and service provision for special education students were priorities of JJEEP from the beginning. From 1998 to 2003, the number of students identified as in need of special education services doubled to

44%. After 2003, the number remained over 40% and in line with the current research estimates of the time that ranged between 40% and 50% (Nelson, Rutherford & Wolford, 1987).

Teacher Qualification Trends. Another area identified as both a best practice and an area in need of improvement in juvenile justice education programs was teacher qualifications. Research has indicated that certified teachers, teaching in their areas of certification, is related to student performance (Compston 1998; Darling-Hammond, 1998; Shanker, 1996). Figure 6.4-3 provides teacher certification levels from 2000, 2001, and 2010. In 2000, temporary certification and statements of eligibility were reported in the same category. Therefore, 2001 data is used for these two categories. In order of quality, levels of certification include:

1. non-certified (includes instructors without any credentials);
2. school district approved (school districts were able to approve non-certified teachers if they could prove they were an expert in the field in which they were teaching);
3. statements of eligibility (a letter from DOE stating that the individual was eligible for a temporary teaching certificate);
4. temporary certification (typically these certifications were good for two years and indicated what the instructor needed to do to obtain a professional certification such as pass a state teacher examination or complete college course work); and
5. professional certification (indicates that the instructor has a bachelor's degree or higher, has taken the required college pedagogy courses and has successfully passed a state teacher examination).

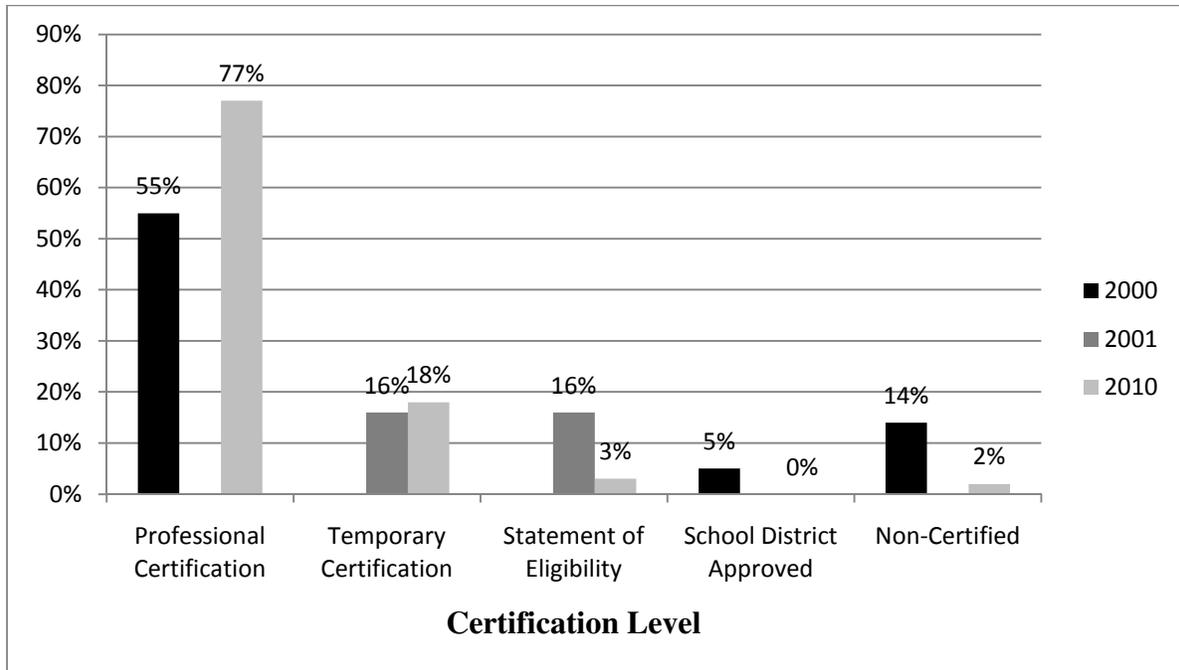


Figure 6.4-3: Teacher Qualification Trends from 2000, 2001, and 2010

In 2000, just over half (55%) of juvenile justice teachers were professionally certified. From 2000 to 2010, the prevalence of professionally certified teachers in juvenile justice educational programs increased to 77%, and temporarily certified teachers increased to 18%, a combined increase of 24%. At the same time, teachers with statements of eligibility, school district approved teachers and non-certified teachers decreased to 3%, 0%, and 2% respectively. This is an overall 30% decrease of the use of under-qualified teachers. This decrease is even more prominent when looking at 1999 data. In 1999, JJEEP categorized the qualifications of teachers as either State of Florida Certified (temporary or professional) or non-certified. This categorization resulted in only 66% of teachers being recorded as certified and 34% as non-certified.

In addition to the importance of professional certification, infield status, particularly for core academic courses, is also an indicator of teacher qualifications. From 2001 to 2010, JJEEP collected infield teaching status for the core academic subjects of math, English, social studies, and science. Figure 6.4-4 shows the increase in the percentage of core academic courses being taught by infield teachers from 2001 to 2010.

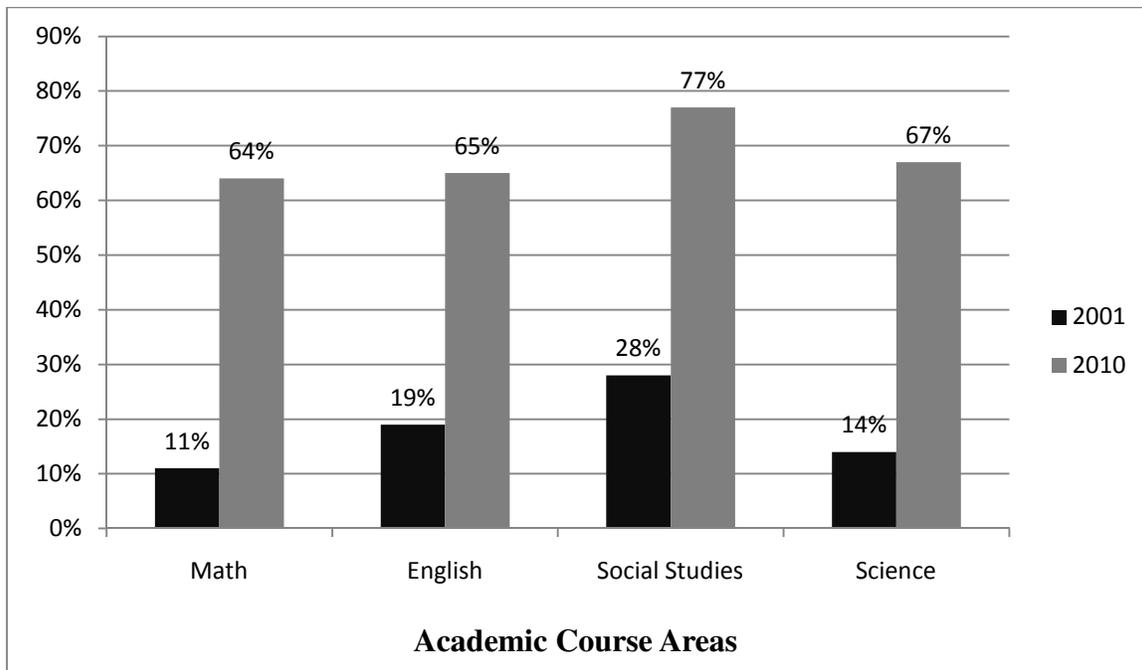


Figure 6.4-4: Percentage of Academic Courses Taught by Infield Teachers 2001 to 2010

From 2001 to 2010, each core academic area experienced significant increases in the number of certified teachers teaching in their area of certification.

Curriculum and Student Progression. Another major deficiency highlighted by the *Bobby M.* case was the lack of ability for students to receive appropriate credits and coursework so they could progress toward a high school diploma. Even after the reform bills of the 1990s the problems of weak curriculum and lack of opportunities for youth to advance was still prevalent throughout the juvenile justice education system.

However, by 2010, programs consistently provided students with opportunities to earn the grades and credits they needed to advance toward a high school diploma. Students were also more likely to be enrolled in varying courses based on their grade levels and functional abilities. A review of all juvenile justice programs' self-report information in 2010 revealed the following curriculum-related services. During the 2009-2010 school year, juvenile justice educational programs provided the following curriculum and instruction opportunities to youth:

- 99% offered English, math, social studies and science courses on a regular basis;
- 98% offered employability skills and/or career awareness courses on a regular basis;

- 85% provided access to GED testing;
- 80% offered access to online learning;
- 77% offered some form of credit recovery;
- 69% offered competency based instruction;
- 60% provided access to the Florida Ready to Work curriculum (a state recognized career readiness credential program); and
- 44% offered hands-on career and technical courses on a regular basis.

In addition, educational programs provided curriculum and instruction services to students who had already earned a high school diploma or its equivalent. While most programs provided access to existing career and technical courses offered at the program,

- 52% provided test preparation for the Scholastic Aptitude Test (SAT) and American College Testing (ACT);
- 60% provided Florida Ready to Work; and
- 42% provided post-secondary educational opportunities.

To demonstrate the change these curriculum services had on students in the juvenile justice system, figure 6.4-5 shows the average number of high school credits students earned in a 90-day period from 2001 to 2008. Ninety days represents a traditional high school semester in which students could potentially earn half-credit increments for the courses in which they are enrolled. Although the students in this analysis were enrolled in high school in a juvenile justice education program for at least 90 days, students enter and exit the programs throughout each semester, often interrupting their ability to earn credits⁴.

⁴ Figure 4.2-5 is has been reproduced from a presentation provided by JEEP staff at the 2010 JJEI conference in Tampa, Florida.

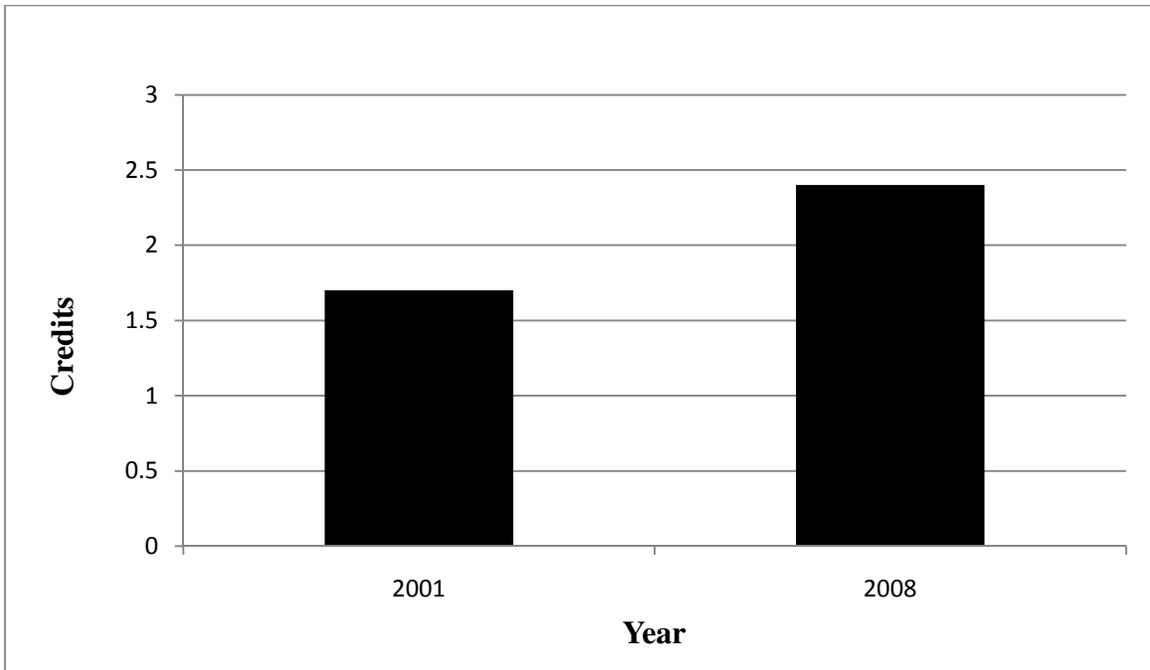


Figure 6.4-5: Average Credits Earned Per 90 Day Period

Average credits earned by students in juvenile justice education programs throughout the Florida system increased by almost one full credit from 2001 to 2008. Students in a traditional high school, taking a full load of classes, could earn three credits in a semester. Despite the transition problems of open-entry and open-exit in a juvenile justice school, this data indicates that by 2008, juvenile justice students were earning almost as many credits per semester as traditional high school students.

Juvenile Justice Education Spending. Florida’s juvenile justice schools generate state educational funding through the Florida Educational Finance Program (FEFP) using the same finance method as other public schools in Florida. The size of juvenile justice schools currently ranges from 20 students to just under 200 students. Under Florida’s FTE-based funding model, small schools, such as juvenile justice schools, are more expensive to operate and do not benefit from an economy of scale as do larger, traditional public schools. Although juvenile justice students generate state educational dollars in the same manner as public school students, school districts have local discretion as to how much they spend on their juvenile justice schools. Figure 6.4-6 shows the percent school districts spent above the total amount of funds they generated through the FEFP.

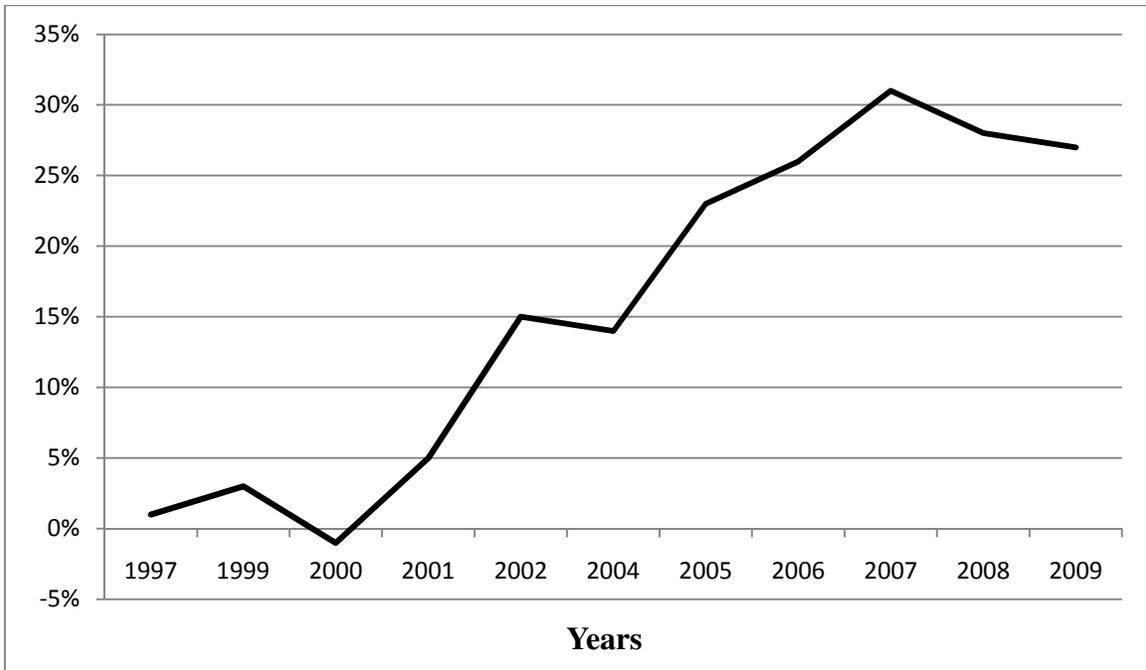


Figure 6.4-6: Percentage School Districts Spent Above the State Generated FEFP

When JJEEP began, school districts were spending near, and even below the base amount they were generating through the FEFP. By 2007, at the peak, school districts were spending 31% above the generated FEFP for juvenile justice schools. This 31% increase represented \$27,972,838 in supplemental, additional dollars for juvenile justice students.

In addition to the data presented in Figure 6.4-6, under JJEEP, funding also became more equitable across juvenile justice schools. In 1997, only 32% of juvenile justice schools spent more than the base FEFP amounts they generated; while 68% spent less than the amount they generated. By 2009, 80% of juvenile justice schools were spending more than the generated amount through the FEFP and only 20% of schools were spending less.

Equitable funding for juvenile justice students had been historically absent from juvenile justice schools. This decade of increased supplemental spending from school districts directly resulted in needed and increased educational resources for students in the juvenile justice system. This spending represents increased numbers of highly qualified teachers, more special education services, the creation of educational transition specialists, and increased access to learning technology, all of which resulted in higher quality services being provided to juvenile justice

students. The dip in supplemental spending beginning in 2008 coincides with the state budget shortfalls caused by the recession and the resulting school district budget cuts.

Educational Administrator Survey Responses. In the fall of 2010, JJEEP conducted a telephone survey of school district educational administrators throughout the state. Among other items, the survey asked district administrators two specific questions regarding their perceptions and opinions of JJEEP. At the time, 42 school districts operated juvenile justice educational programs, and 41 administrators responded to the survey.

- When asked if their school district would provide the same level of support to juvenile justice schools without JJEEP, 27 administrators responded NO and 12 responded YES.
- When asked if juvenile justice education would become less visible without JJEEP, 23 administrators responded YES and 16 responded NO.

School administrators commented that without JJEEP “schools will stop paying attention to all of the standards and requirements,” and that “juvenile justice schools would become an invisible child.” Overall, the survey responses were overwhelmingly supportive of JJEEP, and administrators commented that JJEEP helped to “professionalize” juvenile justice education and provided an “emphasis on best practices.”

Section 6.5 – Summary Discussion

In sum, from 1998 to 2010, JJEEP provided leadership, accountability, and assistance to Florida’s juvenile justice education programs. JJEEP sustained accountability by annually elevating the QA standards based on new educational policies and research. Yet, educational programs were, in most cases, able to keep pace and meet the new requirements despite the significant raising of the bar. JJEEP’s impact can also be measured by the increased services to students in the juvenile justice system.

Although Florida had a significant policy response to the *Bobby M.* case in the 1990s, after the courts vacated the case, program practices still reflected many of the deficiencies highlighted by *Bobby M.* Measurable change in educational program practices did not occur until after JJEEP began providing accountability that focused upon implementation of research-based practices.

Over the next several years, juvenile justice education programs increasingly did a better job of identifying and providing services to students in need of special education services. In addition, during JJEEP's tenure, the practice of using under- and unqualified teachers was virtually eliminated. The quality of curriculum and instruction also increased, resulting in students earning more high school credits per semester during their stay in juvenile justice programs. Finally, most school districts responded to the constant and consistent accountability by expending more money and resources on what was once a neglected public institution.

The *Bobby M.* case also had a direct impact on Florida's state training schools. When *Bobby M.* was filed in 1983, there were three state training schools. A court order in 1984 resulted in the closing of the Alyce D. McPherson Training School for girls in Ocala. During the 1990s the Dozier and Okeechobee Training Schools were eventually operated by Washington County Schools and became their own school district, Washington Special - District 69. Both schools' populations were reduced to fewer than 200 students each. Since 2000, Dozier has consistently received high satisfactory and superior ratings under JJEEP's QA system. In fact, in 2005, Dozier became one of five educational demonstration sites throughout the state. Okeechobee Training School did not fare as well as Dozier. However, Okeechobee's overall QA performance consistently remained near the state average, but the school would never receive above average performance ratings.

CHAPTER 7

SUMMARY CONCLUSION: SUSTAINING REFORM

Section 7.1 – Introduction

This dissertation presented a historical and policy analysis of the *Bobby M.* court intervention, its aftereffects, and how it led to successful institutional reform for Florida's juvenile justice education system. Juvenile justice education is an ideal area to test the courts' ability to create institutional reform, because unlike other special populations, juvenile justice students have few advocates, having largely been viewed as a disposable population. This limits outside influences on the reform process such as the media or the general public. This dissertation described the courts' efforts to intervene in and reform juvenile justice education in Florida. It can be argued that the *Bobby M.* case and its resulting aftereffects lasted for 27 years, from 1983 to 2010.

This chapter is comprised of this and three subsequent sections. Section 7.2 answers research question one regarding the success of *Bobby M.* to create institutional reform. Section 7.3 answers research question two, regarding the intended and unintended consequences of the court's intervention. Section 7.4 answers research question three, describing the conditions for successful reform. And finally, section 7.5 discusses the theoretical and policy implications for court intervention and institutional reform and concludes with recommendations for future research.

Section 7.2 – Research Question One

Did court intervention, in the case of Bobby M. v. Florida, produce institutional reform in Florida's juvenile justice education system?

To answer this question, I will look at two levels of reform, both the policy level and the institutional or practice level. The policy development phase could be considered Phase I, from 1983 to 1996. This period covers the *Bobby M.* court rulings and Florida's legislative and executive reactions. The implementation phase could be considered Phase II, from 1996 to 2010. This period covers the establishment of JJEEP, the creation of quality assurance (QA) and the professionalizing of the field of juvenile justice education.

During Phase I, the courts played a critical role in identifying and articulating the problem. The *Bobby M.* complaint, court rulings, decrees, and monitoring played a critical role in articulating to policymakers and practitioners the nature and extent of the problems in Florida's juvenile justice and juvenile justice education system. In fact, without the court's intervention, the conditions within Florida's juvenile justice system would have likely remained relatively unknown to policymakers, advocates, and the general public.

Like most public institutions, juvenile justice and juvenile justice education are bureaucratic institutions dealing with complex social problems. Therefore, it is not unexpected that problem identification was a large and significant process for the *Bobby M.* case. Complaints were filed in 1983, court orders were issued in 1984 and 1985, and finally consent decrees were issued in 1987. In addition, from 1987 to 1995, court-appointed monitors regularly reviewed agency actions and reported to the courts. During this time, the problems in the juvenile justice system became better understood and were increasingly articulated to Florida's policymakers. Had the courts stopped with the initial rulings, it is unlikely that the extent of the problems would have come to light or that there would have been such a large and comprehensive policy reaction from the Legislature.

Seeing the continuous public reports from the courts, the Florida Legislature responded not just with one policy but with four major reform bills in 1986, 1990, 1994, and 1996. A year prior to the courts' Educational Settlement Agreement in 1987, the Florida Legislature created the state's first "Dropout Prevention Act." The act placed juvenile justice schools under the authority of local school districts. Then, the Juvenile Justice Act of 1990 created state policy that directly addressed many of the treatment and rehabilitation deficiencies highlighted by the *Bobby M.* case. As the problems in the system continued to be articulated, the Legislature came to the conclusion that the problem of juvenile delinquency was sufficiently complex to warrant its own state agency that could focus entirely on the issue. The Juvenile Justice Reform Act of 1994 abolished the Department of HRS and created the Department of Juvenile Justice (DJJ) and the Department of Children and Families (DCF). Finally, in 1996, just prior to the vacating of the *Bobby M.* consent decrees, the Florida Legislature enacted the Juvenile Justice Education Act. Understanding that local school districts lacked incentives for providing high quality educational services to juvenile justice students, the act named the Department of Education (DOE) as the lead agency for juvenile justice education, required DOE to conduct annual QA reviews, and

mandated that local school districts provide basic educational requirements in the juvenile justice schools within their jurisdictions.

It took 13 years through the *Bobby M.* case to articulate the complex problems and deficiencies in Florida's juvenile justice system. And it took the state Legislature to comprehensively and appropriately respond to the highlighted problems. The sustained efforts of the courts to identify needed reforms and the sustained efforts of the Legislature to respond with comprehensive legislation eventually led to the completion of Phase I and successful state policy reform.

Although by 1996, one could argue that significant policy reform had occurred in Florida as a result of the *Bobby M.* case, but actual program practices were still substandard and did not meet the requirements of federal and state law in numerous juvenile justice educational programs throughout the state. It would take several more years and a strong sustained effort by the Juvenile Justice Educational Enhancement Program (JJEED) to have a measurable impact on actual program practices and student services. From 1998 to 2009, JJEED continuously monitoring and provided technical assistance to all of Florida's juvenile justice schools. In addition to the deficiencies highlighted by the *Bobby M.* case, JJEED also ensured that programs implemented new educational policies and reforms such as House Bill 349, No Child Left Behind, Just Read! Florida, and Florida's A+ school reform initiatives.

JJEED's measurable impact on juvenile justice educational program practices includes;

- Steady and even moderately increasing overall QA performance despite a significant annual raising of the bar, new requirements and revisions to the QA standards;
- Better identification of special education students throughout the juvenile justice system and improved special education services;
- Significantly increased numbers of professionally certified teachers, teaching in their area of certification;
- Higher curriculum standards and resources equivalent to those of public schools, and the opportunity for all students to progress toward a high school diploma;
- Enhanced transition services including enrollment, assessment, student planning, transition planning and post-release follow-up that supports students' efforts to return to school; and

- Enhanced spending on juvenile justice education that directly impacted resources and services for students throughout the state.

In the end, the preponderance of evidence strongly suggests that institutional reform has occurred in Florida's juvenile justice education system. Institutional reform was successful, both in terms of significant reform of social policy for the way the state treats delinquent youth, and significant institutional reform in terms of actual program practices and services that directly impact the lives of juvenile justice students.

Section 7.3 – Research Question Two

What were the intended and unintended consequences of the court's intervention?

For the most part, the court was successful in creating its intended consequences. Though the courts would most likely have not been successful without significant policy responses from the legislative branch and significant reform implementation mechanisms from the executive branch, in the end, the *Bobby M.* case achieved most of its goals.

Though largely successful, the *Bobby M.* case may have helped to create some unintended consequences as well. Creating a new state agency solely devoted to the problem of delinquency brought with it a new mission and strategy for dealing with delinquents. HRS was widely viewed as a social services agency. By extension, many of its employees were trained social workers, and the same employees who handled dependent cases often handled delinquent cases. This atmosphere of social work that embodied much of the 1960s and 1970s largely disappeared under the new DJJ. In contrast, the DJJ seemed to embody a more law enforcement-like culture. The agency's logo became a law enforcement badge, and juvenile probation officers and detention workers began wearing badges.

In addition, unlike the halfway houses and cottage-style living quarters under the Department of HRS, many new program models included hardware secure facilities. These new facilities built under DJJ had electronically locking doors, classrooms connected to living quarters to limit student movement, and they were surrounded by razor wire. These new facilities were, in fact, small prisons. Another new program model included boot camps, which were operated by local Sheriff's Offices under contract with DJJ, and they used a paramilitary treatment model that consisted of psychologically breaking youth's past behavior.

This new law enforcement culture also contributed to the political atmosphere of the time, which embraced tough-on-crime and zero-tolerance policies. Having a new state agency devoted to the problem of delinquency may have only encouraged politicians, judges, and public schools to start sending more kids into the system. No sooner did DJJ become an agency than the number of youth in the system and the number of programs exploded. By 2001, there were over 10,000 students being served in 210 juvenile justice education programs on any given day. This did not include prevention, probation, diversion, and reentry.

In Florida's struggle to create a continuum of care and provide varying program models as mandated by *Bobby M.* and the resulting legislation, privatization also took a firm hold throughout the system. Prior to *Bobby M.*, Florida had only a handful of non-profit private providers, including Eckerd Youth Alternatives and Associated Marine Institutes. However, the only way for DJJ to meet the rapidly growing demands of the system and provide programs with varying treatment models was to look to the private sector. Under DJJ, privatization grew exponentially. By 2001, there were 21 different private organizations operating education programs in Florida. In addition to numerous non-profits, for the first time, this list included for-profit companies such as Corrections Corporation of America (the largest prison provider in the world), Correctional Services Corporation, Youth Track, and Youth Services International. Over the years, DJJ would directly operate fewer and fewer programs, leading to a system today that is 95% privatized for custody and care and over 50% privatized in educational services.

Section 7.4 – Research Question Three

What conditions and processes led the court to successfully produce institutional reform?

I contend that several identifiable conditions in the *Bobby M.* case helped to create significant institutional reform throughout Florida's juvenile justice education system.

Necessary conditions that ensured reform included:

1. Sustained pressure from the courts and clearly articulated problem identification;
2. A comprehensive policy reform response that clearly addressed the identified problems; and
3. The creation of a third party, adaptable and sustainable accountability system.

Given the decades of neglect by policymakers, researchers, and practitioners in the field of juvenile justice education, without sustained pressure from the courts over a 13-year period, it

is unlikely that Florida's policy response would have been comprehensive or significant. In addition, the intense involvement and pressure from the courts with allegations, court orders, decrees, settlement agreements, and court monitoring reports, helped to ensure that the complex social and institutional problems plaguing Florida's juvenile justice system were clearly identified and articulated. This sustained pressure and clear articulation of the problem allowed the Florida Legislature to develop an appropriate policy response. In turn, Florida's policy response was comprehensive and directly sought to address the conditions and deficiencies outlined by the courts. Most importantly, the policy reforms created external accountability systems that could ensure that institutional practices were reformed and services were improved.

After the *Bobby M.* case was vacated, it was still likely that institutional reform would not have occurred without a second wave of sustained pressure from an outside force. JJEEP was able to create a unique set of conditions that would ensure its survival for more than a decade. First, because JJEEP was operated by Florida State University (FSU), it was somewhat protected from the politics and bureaucratic trappings of most state agencies. Unlike DJJ, which had a vested interest in agency growth and positive outcomes, FSU was able to provide a more objective, third-party accountability model.

In addition, under larger bureaucratic systems like state agencies, accountability systems often have a tendency to become compliance-oriented and rote; causing them to become irrelevant and ineffective. FSU was able to develop an adaptable accountability system that continuously incorporated new educational policy requirements and best-practice research. This adaptability helped to keep the QA system relevant and meaningful to policymakers and practitioners in juvenile justice education. Continuously reinventing itself as the implementation vehicle for new policies such as House Bill 349 and NCLB helped to sustain QA and JJEEP for more than a decade.

Moreover, to ensure that program practices impacted services for students, JJEEP used several strategies to help overcome common implementation impediments. JJEEP's program improvement model of technical assistance based on best-practice research and peer review helped low-performing programs find solutions to their implementation barriers. JJEEP created buy-in from practitioners through a sense of moral authority. Practitioners' input was used to annually revise the QA standards, and peers were used to review each other's programs throughout the state.

Finally, JJEEP was able to have sustainability and success by focusing on elevating the field of juvenile justice education. School districts and providers that supported JJEEP, did so because they saw how JJEEP's publications, conferences, public presentations, and practices, such as the Teacher of the Year Award, helped to professionalize the field.

Section 7.5 – Summary Conclusion: Implications and Recommendations

Theoretical Implications. Prior research studies on court intervention and institutional reform have varying results. Social scientists have debated the effectiveness of courts to successfully produce institutional reform. Some studies claim they have not (Horowitz, 1977; Graglia, 1976; Rosenberg G. N., 1991), while other studies demonstrated some, but limited, success by the courts (DiLulio, 1990; Feeley, 1992; Feely & Rubin, 2000; Jacobs, 1995; McCann, 1992; Lukemeyer, 2003; Taggart, 1989; Welsh, 1992). Most notably absent in the prior research of court intervention and institutional reform is the lack of a clear description that identifies the circumstances and steps that led to successful reform as a result of the court's intervention.

The preceding chapters have described the process in Florida that was triggered by federal court intervention and eventually resulted in successful institutional reform of Florida's juvenile justice education system. First, these findings acknowledge that had the courts been the only actor in the process and had there not been substantial involvement from the legislative and executive branches of the state government, reform would not have occurred. Secondly, reform of social institutions involves changing the behavior and culture of complex social and bureaucratic systems. To accomplish this takes a focused and sustained effort over several years. The vehicle for reform also needs to be adaptable to new problems if implementation barriers are to be overcome.

The goal of this study was to examine the role of the courts in creating institutional reform. In the case of *Bobby M.*, I found that the courts were successful in producing institutional reform. However, I also identified several conditions that were necessary in producing the reform. In the *Bobby M.* case, the following elements were identified as necessary conditions for successful institutional reform to occur.

Condition I – Problem Identification. The courts needed to provide sustained pressure on the state for a sufficient amount of time in order to clearly highlight and articulate the problem and pressure the state to act. The Bobby M. case lasted for 13 years, from 1983 to 1996.

Condition II – Policy Reform. The state legislative branch responded to the problems highlighted by the courts with comprehensive policy reform by enacting three major acts that fundamentally restructured the way juvenile justice and juvenile justice education would operate in Florida.

Condition III – Policy Implementation. Policy reform did not necessarily result in institutional reform post- *Bobby M.* In fact, many juvenile justice educational programs continued to operate with the same problematic practices highlighted by the *Bobby M.* case. Institutional reform required a sustained mechanism (JJEEP) to ensure that schools and programs implemented new policies and requirements.

Condition IV – Institutional Reform. For JJEEP to ensure proper policy implementation and improve the quality of educational services for juvenile justice students throughout the system, it needed to operate somewhat independently of the state agencies. In addition, to change the practices of juvenile justice educational programs, JJEEP needed to remain relevant and critical to the institutions it was reforming for a sustained and sufficient amount of time. JJEEP operated from 1998 to 2010 and helped juvenile justice programs throughout Florida implement not only the mandates of *Bobby M.*, but also other relevant educational reforms such as House Bill 349 (1999), No Child Left Behind, and Florida's A+ Plan.

Figure 7.5-1 provides an illustration of the institutional reform process described in this section.

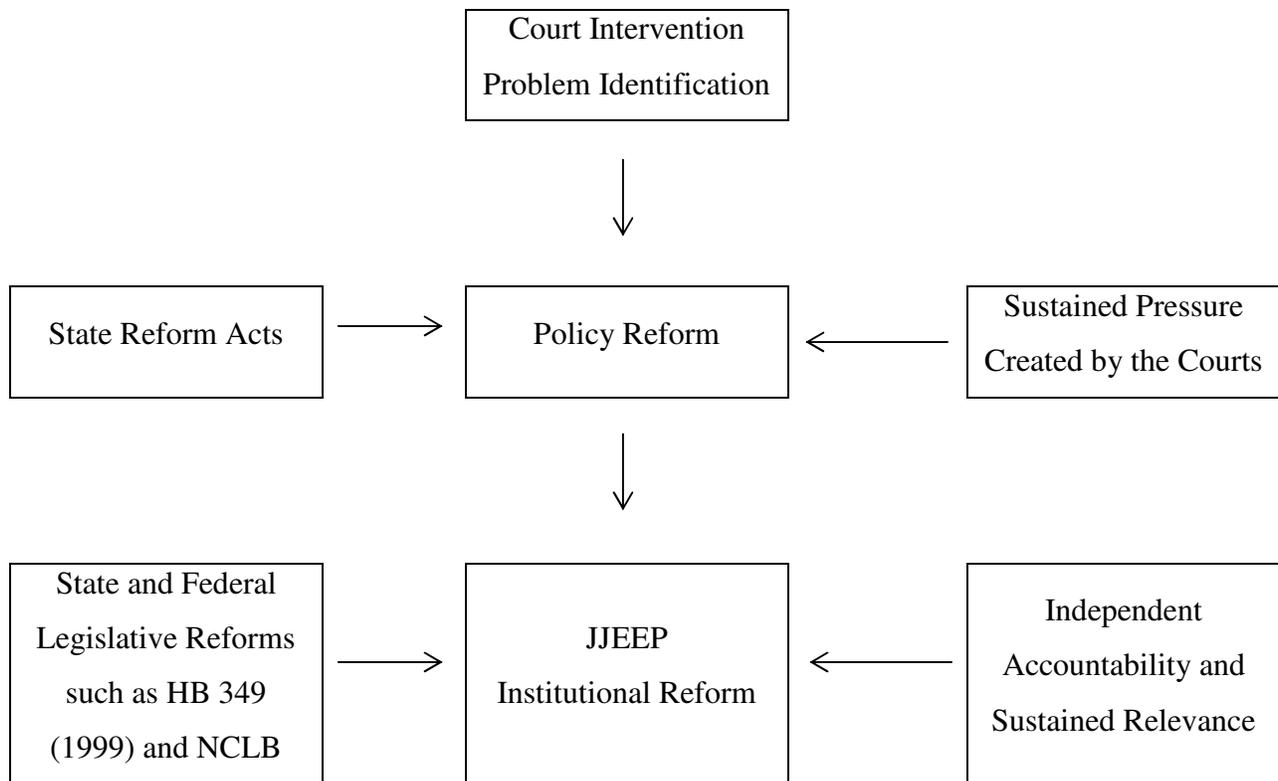


Figure 7.5-1: Institutional Reform Process

Policy Implications. Litigation and court intervention are almost always feared and unwanted intrusions into the other branches of government. However, this separation of the three branches of government is very Newtonian in its thinking. Many in research and politics still wish to view government branches as separate entities that function independently and react violently to collisions with one other. In reality, the three branches of government often overlap, and in many cases need each other to accomplish policymaking. In fact, as is evident over the last few years, without inter-governmental cooperation, gridlock ensues and policies and budgets become frozen.

Litigation may be a long and expensive route for reform. However, is it not the courts' role to ensure justice? When minority groups such as students with disabilities, racial minorities, or juvenile justice youth are being treated unjustly according to the Constitution and federal laws, the courts have an obligation to act. But just because the courts decide to act, does not mean they will be successful in creating reform. Significant institutional reform requires the sustained action of all three branches of government. However, in cases in which other parties

and interest groups fail to act, the courts may be the best entity to publically define the social problem and apply enough pressure to the other branches of government to force them to respond appropriately. If accepted by policymakers, court intervention can be a remedy for social problems.

Recommendations for Future Research

1. In order to create a body of evidence in which to identify more generalizable results, case studies of other successful court intervention and reform movements should be compared to determine if there are common conditions across multiple cases.
2. Given the importance of sustainability to ensure meaningful and long-term reform, future research should identify common characteristics among long-term reform efforts.
3. Institutional reform may take years if not decades. Future studies should examine other successful reform cases to determine if there is a predictable amount of time it takes to create institutional reform. If so, this may help policymakers and practitioners create better reform implementation strategies and plans.
4. Future research should determine what the long-term effects of professional associations and the professionalization of a particular field of study, and how do they impact the growth and success of the field.
5. Finally, given the important role policy development may play in creating successful institutional reform, future studies should identify successful strategies for research and researchers to better inform policy to ensure the most appropriate and effective social policies are being enacted.

EPILOGUE

THE FUTURE OF JUVENILE JUSTICE EDUCATION IN FLORIDA

During the 2010 Florida legislative session, Section 1003.52 F.S. “Educational Services in Department Juvenile Justice Programs” was amended with an addition of one sentence. This statute was created in 1996 at the end of the *Bobby M.* case, and mandates that the Department of Education (DOE) develop and maintain quality assurance (QA) standards and provide a mechanism for research, technical assistance, and an annual quality assurance review of all juvenile justice educational programs. In 2010, directly after the QA mandate section, the sentence “the requirements in paragraphs (a), (b), and (c) shall be implemented to the extent that funds are available,” was added to the statute. In the spring of 2010, the DOE chose to not renew the Florida State University College of Criminology and Criminal Justice’s JJEEP contract. As a result, in December of 2010, JJEEP stopped providing all juvenile justice education research, QA, and technical assistance-related activities for the state of Florida.

With years of demonstrated success and a well-documented measurable impact, one has to ask why a successful state program was eliminated. The answer may have to do with the convergence of financial scarcity and a perceived lack of necessity. By 2008, the national recession had finally caught up with state and local governments, and Florida began making cuts to reduce spending. Significant state and local government budget cuts occurred in 2008 and 2009. And by 2010, the year JJEEP’s funding became optional, Florida experienced its greatest budget shortfall of nearly \$3 billion.

Education and other government areas experienced major cuts in programs and services. In addition, the last few years of JJEEP saw relatively stable statewide program performance with fewer programs under corrective action and higher average QA scores. Unlike the days of *Bobby M.*, House Bill 349, and No Child Left Behind, there were few educational crises or new major educational reforms to implement. Without this constant pressure from new educational reforms or the threat of lawsuits due to inadequate services, it became politically more difficult to justify JJEEP’s necessity. The argument for continued funding is similar to the argument for maintaining a strong military during a prolonged time of peace. In a sense, because JJEEP was successful in measurably improving educational services in the majority of juvenile justice

education programs throughout the state, it made itself more vulnerable to political attacks regarding the program's necessity. In addition, turf battles among DOE, DJJ, and provider organizations often led to ill-informed legislative decisions. At a time of austerity, when agency budgets were being gutted, agencies retreated into a survival management mode and all non-core agency functions were subject to being cut. The lack of urgency and necessity that fueled JJEEP's early years, coupled with the immense fiscal scarcity of 2010 led to the removal of the mandate for DOE to fund such a program.

During the 2012 legislative session, juvenile justice education was again on the agenda. Numerous reform bills were proposed and passed in committees. Organizations such as the DOE, DJJ, the Southern Poverty Law Center, TaxWatch, and the Florida Juvenile Justice Association, provided information and input to policymakers in both the Senate and the House of Representatives regarding juvenile justice education-related issues. Many different bill drafts and versions appeared throughout the 2012 session.

Early bill drafts moved the authority of juvenile justice education out of DOE and placed it with DJJ. In addition, DJJ was to conduct monitoring while DOE reported annual outcome data of students. Later versions restored DOE's authority, but mandated that DJJ conduct educational QA reviews of juvenile justice schools. At one point, a version simply restored DOE's QA mandate by removing the optional funding language that was added to the statute in 2010. Other major themes in the proposed legislation included increasing career and technical education as well as virtual education in juvenile justice schools. In the end, although the Senate passed a juvenile justice reform bill, the House never brought it the floor, allowing it to die just minutes before the closing of the 2012 legislative session.

As of May 2012, juvenile justice education accountability is virtually non-existent in Florida. QA reviews have not been conducted since the early spring of 2010, DOE is no longer requiring pre- and post-testing in juvenile justice schools, and there is very little data and information available to policymakers and practitioners to make informed decisions about the system. There is talk about the DOE developing a "desktop" review of juvenile justice schools. The review would most likely consist of basic school and student data, submitted to the state through the Statewide Automated Student Data System, and reviewing each program's school improvement plan. However, this has yet to occur. In addition, the unique nature and problems

that have historically been associated with the education of juveniles may not be well served by a paper review with no onsite visit or meaningful data.

Recent budget cuts have also been felt throughout the juvenile justice system. In July 2011, after 100 years of continuous operation, the Arthur G. Dozier School for Boys in Mariana, FL, closed its doors. As part of the state and DJJ budget cuts, Dozier, as well as the state-operated Desoto County mental health programs, closed. These two state-owned facilities are now empty. The closing of Dozier and Desoto was part of a trend from 2010 to 2012 to close all of DJJ's state-operated facilities. Again, the fiscal argument was made that as the juvenile justice system contracted, the most expensive programs should be closed first. State-operated programs are often associated with higher costs due to factors such as state employee salaries, benefits, and retirement. In addition, local law enforcement may now contract with DJJ to operate their own detention centers. Currently, there are fewer than 130 juvenile justice education programs, down from 210 programs in 2001, at the height of the agency. On the facility side, only a handful of halfway houses remain that are still state operated; the rest are contracted by DJJ to provider organizations.

Based on recent events and the new political climate of financial scarcity and austerity, the number of juvenile justice education programs has been reduced dramatically, and turf battles among agencies and provider organizations have ensued as these organizations struggle to maintain resources. It is unclear what direction Florida may take regarding its juvenile justice education system. What is clear is that those in the field of juvenile justice education understand much more about the problems, solutions, and best-practices that measurably impact the lives of juvenile justice students than they did in the days of *Bobby M.* Without sustainable accountability, some quality areas may begin to slip, but researchers, policymakers, and practitioners seem to now agree that high quality educational services that are informed by best practices significantly increase students' educational achievement levels. In addition, educational achievement levels predict students' post-release outcomes, such as return to school and employment. And in turn, higher involvement in school and employment reduces a student's odds of recidivating.

REFERENCES

- American Correctional Association. (1987). *ACA Standards on Corrections*. Alexandria, VA: Commission on Standards and Accreditation.
- Amnesty International: Campaign on the United States. (1998). *Betraying the Young: Human Rights Violations Against Children in the U.S. Justice System*. New York: Amnesty International.
- Blomberg, T. G., & Luken, K. (2000). *American Penology*. New York: Aldine De Gruyter.
- Blomberg, T. G., Bales, W. D., & Piquero, A. R. (2012). Is Educational Achievement a Turning Point for Incarcerated Delinquents Across Race and Sex? *Journal of Youth and Adolescence*; Vol. 41, 202-216.
- Blomberg, T. G., Bales, W. D., Mann, K., & Piquero, A. R. (2011). Incarceration, Education and Transition from Delinquency. *Journal of Criminal Justice*; Vol. 39, 355-365.
- Bobby M. v. Graham; Complaint, NO. 83-7003-MMP (United States District Court, Northern District of Florida January 5, 1983).
- Bobby M. v. Graham; Order, NO. 83-7003 (United States District Court, Northern District of Florida, August 8, 1984).
- Bobby M. v. Martinez; Consent Decree, NO. 83-7003 MMP (United States District Court, Northern District of Florida, May 7, 1987).
- Bobby M. v. Martinez; Settlement Agreement Governing Claims Against Defendant Castor, NO. 83-7003 (United States District Court, Northern District of Florida, May 7, 1987).
- Bogdan, R. C., & Biklen, S. K. (1998). *Qualitative Research for Education: An Introduction to Theory and Methods*. Boston: Allyn and Bacon.
- Bosworth, M. H. (2001). *Courts as Catalysts: State Supreme Courts and Public School Finance Reform*. Albany: State University of New York.
- Canon, B. C. (1999). *Judicial Policies: Implementation and Impact*. Washington D.C.: Congressional Quarterly Press.
- Casper, J. D. (1976). The Supreme Court and National Policy Making. *The American Political Science Review*, 50-63.

- Center for Criminology and Public Policy Research; Florida State University. (2008). *The Juvenile Justice No Child Left Behind Collaboration Project: Final Report 2008*. Tallahassee: Center for Criminology and Public Policy Research.
- Chilton, B. S., & Talarico, S. M. (1990). Politics and Constitutional Interpretation in Prison Reform Litigation: The Case of Guthrie v. Evans. In J. J. DiLulio, *Courts, Corrections and the Constitution* (pp. 115-137). New York: Oxford University Press.
- Clark, B. R. (1956). *Adult Education in Transition*. Berkley: University of California Press.
- Coggins, K. S. (2004). *The Significance of the Bobby M. Consent Decree on Florida Correctional Education (Published Dissertation)*. Tampa: Florida State University.
- Educational Services in Department of Juvenile Justice Programs, Florida Statutes § 230.23161. (1996).
- Cornell University Law School. (2000, March 25). *Legal Information Institute*. Retrieved September 2, 2010, from www.law.cornell.edu
- Crosley, C. (2009, January 17). *The Encyclopedia of Arkansas History & Culture*. Retrieved November 3, 2010, from www.encyclopediaofarkansas.net
- Crouch, B. M., & Marquart, J. W. (1990). Ruiz: Intervention and Emergent Order in Texas Prisons. In J. J. DiLulio, *Courts, Corrections and the Constitution* (pp. 94-114). New York: Oxford University Press.
- Del Carmen, R. V., & Bennett, K. (1997). A Review and Analysis of Prison Litigation Reform Act Court Decisions: Solution or Aggravation? *The Prison Journal*, 405-414.
- DiLulio, J. J. (1990). The Old Regime and the Ruiz Revolution: The Impact of Judicial Intervention on Texas Prisons. In J. J. DiLulio, *Courts, Corrections and the Constitution* (pp. 51-72). New York: Oxford University Press.
- Dunn, J. M., & West, M. R. (2009). *From School House to Courthouse: The Judiciary's Role in American Education*. Washington D.C.: The Brookings Institution.
- Eckland-Olson, S., & Martin, S. J. (1988). Organizational Compliance with Court Ordered Reform. *Law & Society Review*, 359-383.
- Feeley, M. M. (1992). Hollow Hopes, Flypaper, and Metaphors. *Law and Social Inquiry*, 745-760.
- Feeley, M. M., & Hanson, R. A. (1990). The Impact of Judicial Intervention on Prisons and Jails: A Framework for Analysis and a Review of the Literature. In J. J. DiLulio, *Courts, Corrections and the Constitution* (pp. 12-46). New York: Oxford University Press.

- Feely, M. M., & Rubin, E. L. (2000). *Judicial Policy Making and the Modern State*. Cambridge: Cambridge University Press.
- Feldman, B. (1980). Judicial Intervention and Organizational Theory: Changing Bureaucratic Behavior and Policy. *The Yale Law Journal*, 513-537.
- Fischel, W. A. (2004, Summer). Equally Mediocre. *Education Next*, pp. 77-79.
- Florida Department of Education. (1997). *1997 Report on the Progress Toward Developing Effective Educational Programs in the Department of Juvenile Justice Programs*. Tallahassee: Clearinghouse Information Center.
- Florida Department of Education. (1998). *1998 Report on the Progress Toward Developing Effective Educational Programs in the Department of Juvenile Justice Programs*. Tallahassee: Clearinghouse Information Center.
- Florida Department of Education. (1999). *Developing Effective Educational Programs in the Department of Juvenile Justice Programs: 1999 Report*. Tallahassee: Clearinghouse Information Center.
- Florida Department of Education. (2000). *Developing Effective Educational Programs in the Department of Juvenile Justice Programs: 2000 Report*. Tallahassee: Clearinghouse Information Center.
- Florida Department of Education. (2001). *Developing Effective Educational Programs in the Department of Juvenile Justice Programs: 2001 Report*. Tallahassee: Clearinghouse Information Center.
- Florida Department of Education. (2002). *Developing Effective Educational Programs in the Department of Juvenile Justice Programs: 2002 Report*. Tallahassee: Clearinghouse Information Center.
- Florida Department of Education. (2003). *Developing Effective Educational Programs in the Department of Juvenile Justice Programs: 2003 Report*. Tallahassee: Clearinghouse Information Center.
- Florida Department of Education. (2004). *Developing Effective Educational Programs in the Department of Juvenile Justice Programs: 2004 Report*. Tallahassee: Clearinghouse Information Center.
- Florida Department of Education. (2006). *Developing Effective Educational Programs in the Department of Juvenile Justice and Other Dropout Prevention Programs: Annual Report 2004-2005*. Tallahassee: Clearinghouse Information Center.

- Florida Department of Education. (2007). *Developing Effective Educational Programs in the Department of Juvenile Justice and Other Dropout Prevention Programs: Annual Report 2005-2006*. Tallahassee: Clearinghouse Information Center.
- Florida Department of Education. (2008). *Developing Effective Educational Programs in the Department of Juvenile Justice and Other Dropout Prevention Programs: Annual Report 2006-2007*. Tallahassee: Clearinghouse Information Center.
- Florida Department of Education. (2009). *Developing Effective Educational Programs in the Department of Juvenile Justice and Other Dropout Prevention Programs: Annual Report 2007-2008*. Tallahassee: Clearinghouse Information Center.
- Florida Department of Education. (2010). *Developing Effective Educational Programs in the Department of Juvenile Justice and Other Dropout Prevention Programs: Annual Report 2008-2009*. Tallahassee: Clearinghouse Information Center.
- Florida Department of Education. (2011). *Developing Effective Educational Programs in the Department of Juvenile Justice and Other Dropout Prevention Programs: Annual Report 2009-2010*. Tallahassee: Clearinghouse Information Center.
- Florida Department of Juvenile Justice. (1998). *1997 Quality Assurance Report*. Tallahassee: Florida Department of Juvenile Justice.
- Florida Education Institute (FEI). (1997). *Quality Assurance Report, Gainesville/Ocala Marine Institute (GOMI)*. Tallahassee, FL: University of North Florida.
- Florida Education Institute (FEI). (1997). *Quality Assurance Report, Pahokee Youth Development Center*. Tallahassee, FL: University of North Florida.
- Florida Education Institute (FEI). (1997). *Quality Assurance Report, Polk Youth Development Center*. Tallahassee, FL: University of North Florida.
- Glick, H. R. (1990). *Courts in American Politics*. New York: McGraw-Hill Publishing Company.
- Graglia, L. A. (1976). *Disaster by Decree: The Supreme Court Decisions on Race and the Schools*. Ithaca: Cornell University Press.
- Hamilton, A. (1788, June 14). The Federalist No. 78: The Judiciary Department. *Independent Journal*, p. 1.
- Harris, E. (2009, May 30). *First President in U.S. History to have Voted to Filibuster a Supreme Court Nominee Now Hopes for Clean Process*. Retrieved November 12, 2011, from ABC News: www.abcnews.go.com

- Horowitz, D. L. (1977). *The Courts and Social Policy*. Washington D. C.: The Brookings Institution.
- Jacobs, J. B. (1980). The Prisoners' Rights Movement and Its Impacts. *Crime and Justice*, 429-470.
- Jacobs, J. B. (1995). Judicial Impact on Prison Reform. In T. G. Blomberg, & S. Cohen, *Punishment and Social Control* (pp. 63-76). New York: Aldine De Gruyter.
- Juvenile Justice Accountability Board. (1998, October 9). Juvenile Justice Accountability Board's Education Policy Task Force Meeting Handouts. Tallahassee, Florida: Juvenile Justice Accountability Board.
- Juvenile Justice Accountability Board. (1998). *Report of Findings on the Education of Juvenile Offenders*. Tallahassee: Florida Legislature.
- Juvenile Justice Act. Florida Statutes § 985. (1990).
- Juvenile Justice Advisory Board. (1998). *1998 Outcome Report Evaluation Report*. Tallahassee: The Florida Legislature.
- Juvenile Justice Educational Enhancement Program. (1998). *Quality Assurance Report, Brevard Group Treatment Home*. Tallahassee, FL: Florida State University.
- Juvenile Justice Educational Enhancement Program. (1998). *Quality Assurance Report, Pahokee Youth Development Center*. Tallahassee, FL: Florida State University.
- Juvenile Justice Educational Enhancement Program. (1998). *Quality Assurance Report, Polk Youth Development Center*. Tallahassee, FL: Florida State University.
- Juvenile Justice Educational Enhancement Program. (1999). *1998 Annual Report to the Department of Education*. Tallahassee, FL: Florida State University.
- Juvenile Justice Educational Enhancement Program. (2000). *1999 Annual Report to the Department of Education*. Tallahassee, FL: Florida State University.
- Juvenile Justice Educational Enhancement Program. (2001). *2000 Annual Report to the Department of Education*. Tallahassee, FL: Florida State University.
- Juvenile Justice Educational Enhancement Program. (2002). *2001 Annual Report to the Department of Education*. Tallahassee, FL: Florida State University.
- Juvenile Justice Educational Enhancement Program. (2003). *2002 Annual Report to the Department of Education*. Tallahassee, FL: Florida State University.

- Juvenile Justice Educational Enhancement Program. (2004). *2003 Annual Report to the Department of Education*. Tallahassee, FL: Florida State University.
- Juvenile Justice Educational Enhancement Program. (2005). *2004 Annual Report to the Florida Department of Education*. Tallahassee, FL: Florida State University.
- Juvenile Justice Educational Enhancement Program. (2006). *2005 Annual Report to the Florida Department of Education*. Tallahassee, FL: Florida State University.
- Juvenile Justice Educational Enhancement Program. (2007). *2006 Annual Report to the Florida Department of Education*. Tallahassee, FL: Florida State University.
- Juvenile Justice Educational Enhancement Program. (2008). *2007-2008 Annual Report to the Florida Department of Education*. Tallahassee, FL: Florida State University.
- Juvenile Justice Educational Enhancement Program. (2009). *2008-2009 Annual Report to the Florida Department of Education*. Tallahassee, FL: Florida State University.
- Juvenile Justice Educational Enhancement Program. (2009). *Quality Assurance Report, Dozier School for Boys*. Tallahassee, FL: Florida State University.
- Juvenile Justice Educational Enhancement Program. (2009). *Quality Assurance Report, Okeechobee Youth Development Center*. Tallahassee, FL: Florida State University.
- Juvenile Justice Educational Enhancement Program. (2010). *2009-2010 Annual Report to the Florida Department of Education*. Tallahassee, FL: Florida State University.
- Juvenile Justice Reform Act. Florida House Bill 2255. (1994).
- Juvenile Justice Education Reform Act. Florida House Bill 349. (1999).
- Kingdon, J. D. (2003). *Agendas, Alternatives, and Public Policies*. New York: Longman.
- Kiser, R. D. (2009). *The White House Boys: An American Tragedy*. Informally Published.
- Leone, P. (2005). *Class Action Litigation Involving Special Education Claims for Youth in Juvenile and Adult Correctional Facilities*. College Park: National Center on Education, Disability, and Juvenile Justice.
- Lukemeyer, A. (2003). *Courts as Policy Makers: School Finance Reform Litigation*. New York: LFB Scholarly Publishing LLC.
- McCann. (1992). Reform Litigation on Trial. *Law & Society Inquiry*, 715-743.
- Mears, B. (2011, May 19). *Senate Democrats Fail to Block Filibuster Over Judicial Nominee*. Retrieved November 12, 2011, from CNN: articles.CNN.com

- Minorini, P. A., & Sugarman, S. D. (1999). Educational Adequacy and the Courts: The Promise and Problems of Moving to a New Paradigm. In H. Ladd, R. Chalk, & J. Hansen, *Equity and Adequacy Issues in Education Finance: Issues and Perspectives* (pp. 175-208). Washington DC: National Academy Press.
- Minorini, P. A., & Sugarman, S. D. (1999). School Finance Litigation in the Name of Educational Equity: Its Evolution, Impact and Future. In H. Ladd, R. Chalk, & J. Hansen, *Equity and Adequacy Issues in Education Finance: Issues and Perspectives* (pp. 34-71). Washington DC: National Academy Press.
- Nachmias, C. F., & Nachmias, D. (1996). *Research Methods in the Social Sciences*. New York: St. Martin's Press.
- Nelson, M., Rutherford, R. B., & Wolford, B. I. (1987). *Special Education in the Criminal Justice System*. Columbus: Merrill Publishing Company.
- Pearson Education, Inc. (2005, February 10). *Info Please*. Retrieved September 2, 2010, from www.infoplease.com
- Rebell, M. A., & Block, A. R. (1982). *Educational Policy Making and the Courts: An Empirical Study of Judicial Activism*. Chicago: The University of Chicago Press.
- Research Triangle Institute. (1999). *Study of Local Agency Activities Under the Title I, Part D, Program*. Washington DC: U.S. Department of Education.
- Rosenberg, G. N. (1991). *The Hollow Hope: Can Courts Bring about Social Change?* Chicago: The University of Chicago Press.
- Rosenberg, G. N. (1992). Hollow Hopes and Other Aspirations: A Reply to Feeley and McCann. *Law and Social Inquiry*, 761-778.
- Rothman, D. J. (2002). *Conscience and Convenience*. Hawthorne: Aldine De Gruyter.
- Scheingold, S. A. (2004). *The Politics of Rights: Lawyers, Public Policy and Political Change*. Ann Arbor: The University of Michigan Press.
- Schrag, P. (2003). *Final Test: The Battle for Adequacy in America's Schools*. New York: The New Press.
- Seigel, J. (1991-1992). Reforming Florida's Juvenile Justice System: A Case Example of Bobby M. V. Chiles. *Florida State University Law Review*, Vol. 19; 693-715.
- Streit, S. M. (1988, February 5). Juvenile Justice Reform in Florida. *Testimony to the Tennessee Legislature*. Nashville, Tennessee: The Tennessee Legislature.

- Sykes, G. M. (1995). The Structural-Functional Perspective on Imprisonment. In T. G. Blomberg, & S. Cohen, *Punishment and Social Control* (pp. 77-86). New York: Aldine De Gruyter.
- Taggart, W. A. (1989). Redefining the Power of the Federal Judiciary: The Impact of Court-Ordered Prison Reform on State Expenditures for Corrections. *Law & Society Review*, 241-272.
- Tyack, D. (1985). Courts and Public Schools: Educational Litigation in Historical Perspective. *Law & Society Review*, 339-380.
- Tyack, D., & Cuban, L. (1995). *Tinkering Toward Utopia: A Century of Public School Reform*. Cambridge: Harvard University Press.
- Warboys, L. (1999). *Court Cases and Agency Rulings on Special Education in Juvenile and Adult Correctional Facilities: A Special Education Clearinghouse*. San Francisco: Youth Law Center.
- Welsh, W. N. (1992). The Dynamics of Jail Reform Litigation: A Comparative Analysis of Litigation in California Counties. *Law & Society Review*, 591-625.
- Welsh, W. N. (1995). *Counties in Court: Jail Overcrowding and Court-ordered Reform*. Philadelphia: Temple University Press.
- Werner, J. (2001-2002). No Knight in Shining Armor: Why Courts Alone, Absent Public Engagement, Could Not Achieve Successful Public School Finance Reform in West Virginia. *Columbia Journal of Law and Social Problems*, 61-82.
- Westat, Inc. (1991). *Unlocking Learning; Chapter 1 in Correctional Facilities. Final Report*. Rockville: U. S. Department of Education.

BIOGRAPHICAL SKETCH

George Pesta is the Director of Education Planning and Development for G4S Youth Services. As Director, George is responsible for developing and maintaining the company's educational policies and procedures, developing new educational programs, and conducting school evaluations. Prior to his current position, George was a research faculty member at the FSU Center for Criminology and Public Policy Research for more than 12 years. At the Center he served as Project Manager of the Juvenile Justice NCLB Collaboration Project and Research Coordinator for the Juvenile Justice Educational Enhancement Program. He has worked in the field of juvenile justice education for the past 15 years. His publications have been focused on the effectiveness and outcomes of juvenile justice education programs. Prior experience includes teaching at Mount Marty College in South Dakota. He received his B. A. from Florida State University and his M. A. from DePaul University.