

Juvenile Restorative Justice
A Fifty-State Analysis of Legislative Support

By Ella Miles-Urda

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First Chapter

Introduction

Over the past two decades, restorative justice has emerged as a method of addressing the harm caused to communities by juvenile offenders. Restorative justice is defined by the United States Department of Justice as “...a nonadversarial process to encourage accountability and to... [repair] the damage that resulted from the crime” (Department of Justice, 2021). This practice is markedly different from traditional punitive measures in many important ways. A juvenile who causes harm to their community and is then incarcerated finds themselves isolated from that community and removed from any support system they may have in terms of friends, family, teachers, or counselors. A young person that successfully participates in restorative justice is able to come to an understanding with those who they have harmed about the ramifications of their actions, satisfying both the offender and their victim.

Restorative justice is a relevant alternative to punitive justice to consider given the changing perspectives on incarceration and the prison industrial complex in the United States. These changes are largely due to the large number of individuals in U.S prisons. The American prison population has skyrocketed by 500 percent over the past 40 years: an increase that is entirely divorced from crime rates over the same time period (The Sentencing Project, 2022). This statistic covers the 2.2 million people who were physically incarcerated as of 2019, which is less than the 2008 peak of over 2.3 million incarcerated individuals (Gramlich, 2021). Yet this 500% increase does not include the 4.5 million people living on probation or parole, or the 70 million additional individuals with criminal records (Alexander, 2019). Although juvenile incarceration rates have generally decreased over the past decade, 36,479 young people were still detained in 2019 (OJJDP, 2022). These large numbers are the result of the U.S.’s extensive

history of employing incarceration as a panacea for societal issues and as a systematic tool to reinforce the ostracization of racial and ethnic minorities, immigrants, and people experiencing mental illness and homelessness (Alexander, 2019).

Restorative justice is part of a broader migration away from traditional punitive responses to juvenile crime, such as incarceration. This evolution is driven by related social movements, as well as by an updated psychosocial understanding of juvenile development (Liles & Moak, 2015). Changing notions of both juvenile and adult justice procedures are reflected in the resurgence of the Black Lives Matter and Defund the Police movements that erupted after the publicized deaths of George Floyd, Ahmaud Arbery, and Breonna Taylor in the spring of 2020. Advances in understanding of the psychological development of juveniles, and their relative culpability as young people with underdeveloped impulse control, have been considered up to the Supreme Court level over the last two decades (*Roper v. Simmons*, 2005). Social and psychological explanations of how juvenile offenders should be addressed within the criminal justice system have increased interest in alternatives to juvenile detention, including restorative justice. Alternative practices such as restorative justice have been implemented in communities by non-profits and school systems, and have been supported by statutory legislation and regulations at the state level in a majority of states. As of 2020, 32 of the 50 states had statutes providing for juvenile restorative justice programs (Gonzalez, 2021).

The ways in which juvenile offenders are processed within the justice system has significant implications for offenders' future outcomes. Research finds significant positive effects for youth who have participated in restorative justice programs rather than being placed on house arrest or serving time in a juvenile detention facility (Aizer & Doyle, 2015). The subsequent difference in outcomes, for both juvenile offenders and their victims who participate

in restorative justice programs, far outlast the event of mediation or adversary litigation itself (Aizer & Doyle, 2015).

Take for example a juvenile who stole a car from their neighbor and was sentenced to sixteen months in a juvenile facility. Following this period of detention, the juvenile is statistically less likely to complete high school and more likely to recidivate as an adult (Aizer & Doyle, 2015). Juvenile offenders are also more likely to commit future misdemeanor and felony offenses after being detained even for a short period of time pretrial (Walker & Herting, 2020). However, if that same juvenile successfully participated in restorative justice mediation with their victim, both parties have been found to gain an understanding of the causes and ramifications of the crime and report higher satisfaction with this process (Walker & Herting, 2020). After completing a restorative justice process, this young person would be less likely to recidivate compared to juveniles who undergo traditional court procedure. This is true across all types of restorative justice programming. Studies have shown that this difference remains even after controlling for initial variation in juvenile offenders across age, sex, race, urban residency, offense severity, and number of prior contacts with the justice system (Bouffard et al., 2017).

Given the overwhelming evidence of the positive impacts of restorative justice processes on both juvenile offenders and their victims, the fact that states in the U.S. have unevenly adopted state-level statutes in this area presents a puzzle. What explains why some states have adopted restorative justices for juveniles, yet others have not? According to the United States Department of Justice, "...youths who participate in restorative justice programs are less likely to reoffend, compared with youths who are processed traditionally in the juvenile justice system" (Department of Justice, 2021). These juvenile offenders are also more likely to take responsibility for their actions and feel satisfied with how their cases were handled (Department

of Justice, 2021). Therefore, it is expected that more states would enact restorative justice statutes for juvenile offenders.

This recent publication from the Department of Justice is based on strong evidence that restorative justice decreases recidivism rates and promotes the reintegration of juvenile offenders into their communities. Yet many states still submit juvenile offenders to traditional court proceedings and carceral punishment. This paradox leads me to my research question: What explains why some states in the United States have more robust restorative justice statutes for juveniles than others, given the consensus by experts in this area that restorative justice is more effective at reducing recidivism than traditional juvenile court procedure?

Historical Background

The literature is divided on the origins of restorative justice practices. Scholars offer two main explanations for the history of restorative justice: that the practice developed in ancient and indigenous societies, and that it is a modern North American movement. The theory that restorative justice has ancient roots is offered by scholars such as Elmar G.M. Weitekamp (1999), and Daniel Van Ness and Karen Heetderks Strong (1997). This group of researchers cite ancient Middle Eastern codes and literature to claim that early forms of punishment focused on “restitution and restoring community peace” (Mulligan, 2010, p.144). Pre-state societies were thought to use negotiations with the purpose of restitution, rather than retribution, to resolve conflicts between individuals and across clans (Mulligan, 2010).

The pre-state explanation for the roots of restorative justice is contested due to its speculative nature. Limited evidence of routine responses to crime or disagreement in communities has discouraged many scholars and proponents of restorative justice from fully

accepting the idea that these practices have evolved from ancient societies. Although the majority of scholars agree that restorative justice reflects indigenous methods and ideals, the evidence in support of this theory is not conclusive and does not show that restorative practices were the sole method of ancient conflict-resolution, or even the most widespread (Mulligan, 2010). The legitimacy of the pre-state theory was further degraded by Weitekamp, who selectively described the legal traditions of Eskimo culture to support his claims in his 1999 book *The History of Restorative Justice* (Mulligan, 2010). Therefore, the pre-state theory is not used exclusively by most scholars to explain the history of restorative justice. An alternative to this ancient theory comes from a separate explanation of modern restorative justice as a process that has been developed by contemporary understandings of punishment and justice.

This alternative theory recognizes the ancient roots of aspects of restorative methods of responding to crime, but views the current restorative justice movement in Western countries as a separate practice, motivated by unique 20th century concerns. Scholars such as Douglas J. Sylvester (2003), Mark S. Umbreit (2005), and John Braithwaite (1999) recount restorative justice entering mainstream consciousness in the 1970s in North America, and becoming more prominent and dispersed around the world in the 1990s. In the 1970s, restorative practices were limited to victim-offender mediation, in which a victim and offender engage in dialogue mediated by a third party (Watson, 2018). Restorative justice was first introduced in U.S. courts in 1977, "... in the format of a victim-offender reconciliation program" (Sliva, 2018).

Carolyn Boyes Watson offers an overview of "four independent arenas of activism" that she identifies as the driving force that pushed restorative justice into the United States mainstream in the 1990s (Watson, 2018). The first and most important explanation is the movement to reform the American justice system. Three related movements - the alternatives to

incarceration movement, the alternative dispute movement, and the victims' rights movement - overlapped in their efforts to prioritize victim needs and reform the legal system (Watson, 2018). These three movements coalesced to address concerns about American court procedure that emerged across the political spectrum.

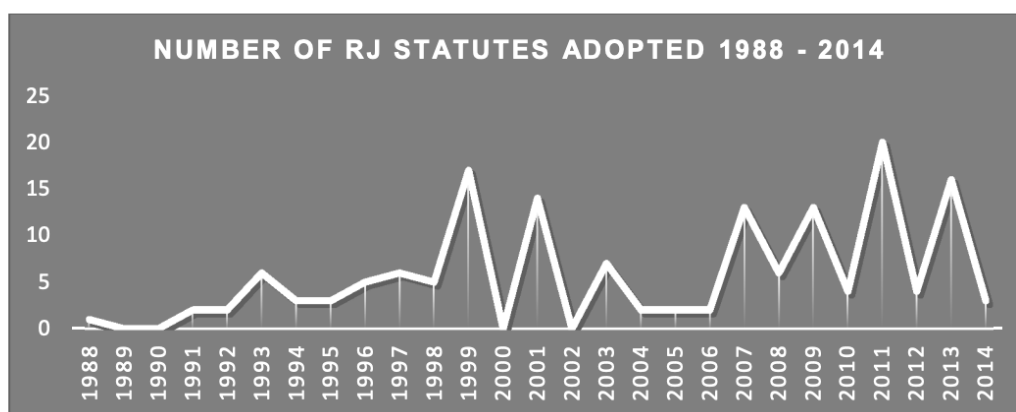
The second relevant area of activism, according to Watson, is the response to youth and family problems. This movement started in New Zealand, with the "... goal of developing more effective strategies for disciplining, morally educating and rehabilitating delinquent youth" (Watson, 2018, p.5). This movement arrived in the United States in the 1990s, and was crucial in the implementation of restorative justice in juvenile settings, such as the juvenile justice system and schools. Restorative justice and opening dialogue between offenders, their victims, and their support systems "... coincided with the spread of family meetings within child welfare" (Watson, 2018, p.7). Eventually, these ideas expanded past the scope of specialized institutions with the development of "restorative cities" beginning in 2010 (Watson, 2018). These cities employed restorative practices in schools, police departments, residential communities, city social services, and community centers.

Peacebuilding efforts also promoted the use of restorative practices in criminal justice. In the 1970s, "... truth commissions emerged as [an] alternative process for holding state authorities accountable for atrocities and violent acts by requiring a public record and admission of these violations..." (Watson, 2018, p.9). Restorative bodies such as the South African Truth and Reconciliation Commission placed the focus of restoration on the needs of victims and revealed the healing power of victim-offender mediation (Watson, 2018). Over a similar time period, indigenous justice movements across North America sought to reclaim traditional justice practices and re-establish connections between past American atrocities and "... ongoing current

economic and social inequality” (Watson, 2018, p.10). These two movements, based on related goals, led to the introduction of peacemaking circles in urban schools and social service forums starting in the mid-1990s.

These four arenas of social change — justice system reform, management of youth and families, peacebuilding, and indigenous regeneration — catalyzed the use of restorative justice in existing American institutions. The graph below demonstrates the number of restorative justice statutes for both adults and juveniles adopted by state legislatures between 1988 and 2014 (Sliva, 2015). Although the four areas of activism have varied relevance to restorative justice for juvenile offenders, they each played an important role in instituting restorative practices as a serious alternative to traditional court procedure and incarceration. In the criminal reform context, restorative justice emerged in the 1990s as an accepted restitutive form of conflict-resolution. The American Bar Association legitimated these practices as part of U.S. legal institutions by endorsing victim-offender mediation in 1994 (Watson, 2018). In the ensuing decades, use of restorative justice for youth offenders has changed alongside the evolving juvenile justice system.

Figure 1: Number of State Restorative Justice Statutes Adopted Between 1988 and 2014
(Sliva, 2015)



Restorative justice has often been used in the contemporary United States in response to juvenile offenses. As early as 1998, "... twelve states had implemented... systematic changes in their juvenile justice systems to incorporate restorative justice practices" (Mulligan, 2010, p.140). Theories of restorative justice reflect the original intentions of the American juvenile justice system. This system was established in 1899 and has seen constant evolution over the past century. The first juvenile court was set up in Cook County, Illinois at the tail-end of the 19th century amid the crystalizing belief that children could, and should, be rehabilitated differently than adults. Early juvenile courts were paternalistic, not adversarial, and operated more informally than adult courts (Liles & Moak, 2015). This view of juvenile offenders as mischievous or neglected children, rather than rising criminals, kept youthful defendants out of custody and encouraged them to correct their life paths rather than siphon them off from society. Judges took a paternalistic approach to addressing juvenile offenders and offered them guidance, rather than disdain, dismissal, or punishment. By 1915, nearly every state had a juvenile court system in operation (Liles & Moak, 2015).

Prior to the implementation of a separate juvenile court system, at-risk or delinquent youth were typically sent to reformatory facilities. These homes, typically referred to as "Houses of Refuge," were reserved for juveniles and offered a reset for youth that appeared to be headed down a "delinquent" or "incorrigible" path (Rice & Smith, 2019). The first House of Refuge opened in New York City in 1824, and inspired the creation of over 25 similar houses across the country (Rice & Smith, 2019). These facilities focused on education and reform, rather than punishment (Madison, 2012). However, many children in the custody of these homes had not been convicted of any criminal action, and sentences were often disproportionate to the alleged

misbehavior of the confined youth (Rice & Smith, 2019). Issues with the Houses of Refuge inspired the development of a more regulated juvenile court system.

The new juvenile court model quickly gained critics. Shortly after the widespread establishment of juvenile courts in the early 1900s, public opinion on juvenile offenders began to include a fear that courts for youth were too lenient (Liles & Moak, 2015). Beginning in the 1960s, the United States Supreme Court handed down a series of decisions that reflected this uncertainty and had the practical effect of remodeling juvenile court procedure to increasingly reflect adult criminal court.

In 1966, the U.S. Supreme Court reviewed a case called *Kent v. United States*, in which the juvenile court in the District of Columbia waived their jurisdiction over youthful offender Morris A. Kent's case and passed it to the corresponding adult court. The juvenile court made this decision without conducting a complete investigation of the allegations against Kent. The Supreme Court decided that juveniles were entitled to hearings with "full investigations," as well as representation by counsel (United States Supreme Court, 1966). This case marked a significant change in the juvenile justice system and was the symbolic beginning of a shift in juvenile courts toward mimicry of the adult criminal system.

A year later, the U.S. Supreme Court responded to the question of whether juveniles have a right to procedural due process protections under the Fourteenth Amendment. This case, *In re Gault* (1967), held that juvenile court proceedings have to comply with the Fourteenth Amendment, including adequate notice of charges, notification of both parents and children of right to counsel, confrontation and cross-examination, and safeguards against self-incrimination (United States Supreme Court, 1967). The similarities between adult and juvenile court procedure became even more pronounced following the Supreme Court's decision in *In re*

Winship. In this case, decided in 1970, the Court held that the standard of “strict reasonable doubt” must be applied to both adult and juvenile defendants under the Due Process Clause of the Fourteenth Amendment. The majority explained that variations in age of defendants are not sufficient to warrant different burdens of proof (United States Supreme Court, 1970). This line of reasoning invalidated many other variations between the adult and juvenile criminal systems of the 1970s, in which the only major difference between the defendants in each system was age.

The similarities between adult and juvenile criminal court procedure lasted throughout the War on Drugs of the 1980s and 1990s, as “tough on crime” and “lock ‘em up” attitudes gained prominence in American public opinion. However, in the early 2000s, public interest increased in reverting back to the original paternalistic model of differential treatment for juvenile offenders. Changing opinions on juvenile offenders mirrored the expansion of restorative justice programs within state juvenile justice systems. Restorative justice gained popularity throughout the early 2000s, and “between 2010 and 2015, fifteen states passed laws supporting...” the practice (Lanni, 2021, p.638). By 2020, 32 U.S. states and the District of Columbia had active restorative justice statutes specifically for juveniles (Gonzalez, 2021). In 2016 the Alliance for Safety and Justice found, via a national poll of crime survivors, that a majority of those polled “...said they ‘believe that time in prison makes people more likely to commit another crime rather than less likely’” (Alexander, 2019).

The acceleration of state level support for restorative justice occurred at the same time as the U.S. Supreme Court began to actively alter the way juveniles were processed into the criminal justice system. This changing attitude was first expressed on a national level in the Supreme Court’s decision in *Roper v. Simmons* in 2005. In this case, the Court held that executing minors was an unconstitutional violation of the Eighth Amendment’s ban on cruel and

unusual punishment, applied to the states via the Fourteenth Amendment (United States Supreme Court, 2005). The majority's explanation was three-pronged; the decision was based on the consensus of related statutes against juvenile execution passed by state legislatures, international opinion against using the death penalty on juveniles, and the determination that the death penalty is a disproportionate punishment for minors due to their potential for decades of future life (United States Supreme Court, 2005). *Roper v. Simmons* represented a major shift in the Supreme Court's jurisprudence on juvenile offenders and punishment.

The Supreme Court expanded its reasoning in *Roper* to include prohibitions on the mandatory sentencing of juveniles to life without the possibility of parole for non-homicide offenses. In *Graham v. Florida* (2010), the Court noted international consensus about punishment for juvenile delinquents to decide that mandatory life sentences without parole were unconstitutional violations of the Eighth Amendment when applied to juvenile offenders. The use of the term "mandatory" is important in this decision, because *Graham* did not go so far as to preclude the possibility of youth being sentenced to life without the possibility of parole. This decision only overturned mandates that judges sentence youth defendants to life without the possibility of parole for non-homicides, although it allowed judges to still hand down this sentence on a case-by-case basis. The *Graham* decision was expanded once again in *Miller v. Alabama* (2012), when the Supreme Court prohibited the mandatory sentencing of juveniles to life without the possibility of parole for homicides or attempted homicides.

The Supreme Court's jurisprudence on juvenile court procedure is indicative of the cyclical nature of the juvenile justice system. Authors Alesa Liles and Stacy C. Moak reference this pattern in their 2015 article, "Changing Juvenile Justice Policy in Response to the US Supreme Court." This article explains the history of the juvenile justice system as an oscillation

between the conflicting priorities of rehabilitation and punishment. Following the Supreme Court's early 2000s juvenile justice decisions, Liles and Moak situate the American juvenile justice system on the end of this cycle, "... moving forward toward full participation with other countries in protecting the rights of the child" (Liles & Moak, 2015, p.90).

Reverting back to the differential treatment of juvenile offenders includes increased interest in alternatives to punitive sentencing. This stage of the juvenile justice cycle comes at a unique time in American criminal history, as public opinion grows in opposition to mass incarceration. Popular publications critiquing the American criminal justice system, such as Michelle Alexander's *New Jim Crow* (2010) "... and the Black Lives Matter movement has brought more activists of colour with Afro-Centric ideas to the restorative justice movement along with leadership from First Nations activists and incarcerated and formerly incarcerated men and women" (Watson, 2018, p.14).

Restorative justice use has historically increased as the punitive nature of the juvenile justice system declines. This is reflected in trends in juvenile incarceration since the early 2000s, when the Supreme Court began to limit prosecutorial discretion over the sentencing of youth. According to the Office of Juvenile Justice and Delinquency Prevention's 2020 Juvenile Residential Facility Census, "the number of youth in placement fell 77% between 2000 and 2020" (OJJDP, 2021). Overall interactions with the juvenile justice system have decreased as well, with the numbers of youth arrested or detained falling by half in the early 2000s (Rosenthal, 2019). This decrease has resulted in youth incarceration in 2015 being at "... the lowest numbers the country has seen since the 1980s" (Rosenthal, 2019, p.125).

Trends in restorative justice practice, the American juvenile justice system, and juvenile incarceration rates are informed by each other. The focal year of my thesis is 2020, a time when

juvenile court proceedings are decreasing in frequency and punitiveness, juvenile incarceration rates are decreasing, and restorative justice use is on the rise. The impetus behind the changing juvenile justice landscape is clear from the Supreme Court record. That is, the consensus against aggressive juvenile punishment apparent in state legislation, international opinion against the death penalty and long-term incarceration for juveniles, and the determination that death or life imprisonment is a disproportionate punishment for minors due to their potential for decades of future life has led to policies supporting decarceration of juvenile offenders. The reasons for the disparate state-level adoption of statutes supporting juvenile restorative justice programming across the 50 states is less clear.

Thesis Overview

The goal of this thesis is to explain variation in state-level support for restorative justice statutes for juveniles in the hope of better understanding the barriers to implementing this legislation at the state level. Following a review of the current related literature and an explanation of my research design, Chapter 3 presents quantitative analysis on all 50 states to test for correlations between variables associated with statutory support for adult restorative justice programs and the adoption of those programs in the juvenile justice system. Based on the results of this analysis, I provide a comparative analysis of three southeast U.S. states: Alabama, Florida, and Georgia. Controlling for the influential variables determined by the data analysis, the comparative case study analysis is designed to provide additional insights into the differences in state level statutory support for juvenile restorative justice. The final chapter discusses the study's findings and limitations, and concludes with contributions and recommendations for future research.

Chapter 2

Literature Review

This thesis builds on the literature explaining statutory support at the state level for restorative justice programs for adults and juveniles and the variables that impact support for these programs. The existing research on state-level support for restorative justice is limited, compelling me to heavily rely on a small set of sources. Related scholarship, to date, has focused primarily on what explains the presence or absence of restorative justice statutes for adults, or for both adults and juveniles. Thus, one contribution of this thesis is to test whether these same variables explain the implementation of state restorative justice programs specifically for juveniles, and possible explanations for any differences between restorative justice implementation in the two criminal systems.

Restorative justice is an umbrella term for alternatives to the traditional punitive methods of prosecuting and punishing juvenile offenders, and has varied definitions in the literature. Many scholars working in this field conceptualize restorative justice as a process or set of practices that promotes offender accountability and the repair of damage, caused by the criminal act, at the community level (Gonzalez, 2020; Sliva, 2017). The U.S. Department of Justice Office of Juvenile Justice and Delinquency Prevention states that “...restorative justice programs for juveniles bring together those most affected by the criminal offense... in a nonadversarial process to encourage accountability and to... [repair] the harm caused by criminal behavior” (OJJDP, 2021).

Support for restorative justice at the state level is measured by the number of statutes passed by the state legislature. This method of operationalization comes from the Restorative Justice Legislative Directory database, which was created in 2014 to “...catalogue and categorize

the ways in which states have codified the use of restorative justice practices” (Sliva, 2019). This database does not look exclusively at restorative justice statutes for juveniles, but rather at any active statute or state administrative code, for both adult and juvenile offenders, that uses the term “restorative justice” by name (Sliva, 2019). State level support for restorative programs is a significant indicator of the legitimacy of those programs in the state, because funding for these programs in jurisdictions within a state is often determined at the state level. Restorative justice programs that are operated statewide also benefit from an additional level of oversight to ensure the programs are offered and completed successfully.

Shannon Sliva (2017) uses a maximum variation case study to analyze potential explanations for the difference in statutory support for restorative justice programs in Colorado and Texas between 2007 and 2013. Colorado had 35 statutes related to restorative justice in 2013, more than any other state in the nation, while Texas only passed two restorative justice statutes over the seven years reviewed. Sliva explores the correlations between the dependent variable of state statutory support for restorative justice and five independent variables: 1) a state’s fiscal capacity, 2) the presence of key figures in legislative decision-making, 3) the partisan split of a state’s legislature, 4) the influence of interest groups on a state’s legislature, and 5) the way in which restorative justice was introduced as a policy option within a state. This case study is constructed via analyzing the text of state restorative justice legislation and supporting documentation related to restorative justice between 2007 and 2013.

The first independent variable explored in Sliva’s 2017 article is state fiscal capacity. This variable is measured by analyzing funding notes attached to proposed and passed restorative justice bills. Comparisons of the economic benefits of restorative justice in each of these states

revealed that economic motivations play a limited role in lawmakers' decision to adopt restorative justice bills (Sliva, 2017).

Sliva then reviews the presence of key figures in legislative decision-making and their impact on state level adoption of restorative justice policy. She finds that Colorado, a state with extensive statutory support for restorative justice, benefitted from the charisma and visibility of Representative Pete Lee, who made himself the face of restorative justice in the state legislature (Sliva, 2017). Texas' legislature did not have a comparable leader in the area of restorative justice legislation, and only two restorative justice statutes were passed in the state between the years of 2007 and 2013. Thus, Silva finds that a visible and charismatic representative championing restorative justice in the state legislature may be an important determinant of whether state level statutes are adopted (Sliva, 2017).

Next, Sliva reviews the role of partisanship in debates about restorative justice as a policy solution. She finds that although Democratic legislators introduced the vast majority of restorative justice legislation in both Colorado and Texas, these bills received nearly unanimous support from Republicans and Democrats alike. Bipartisan support existed for restorative justice statutes in both Colorado and Texas, but legislators from different political parties typically have different motivations. Disagreements arise between Democrats and Republicans regarding implementation and funding sources for restorative justice programs (Sliva, 2017).

Additionally, Sliva's 2017 study reviewed the role of interest groups in promoting restorative justice policy adoption. Different interest groups place varied emphasis on engaging with the legislature, depending on their policy preferences and view of restorative justice. She finds that interest groups had an inconsistent influence on Colorado and Texas state legislatures adoption of restorative justice programs (Sliva, 2017). Specifically, she finds that organized

interest groups, such as district attorneys associations, police unions, and victims' rights lobbyists, have the potential to influence state restorative justice outcomes.

The final variable that Sliva reviews in her 2017 article is how restorative justice was initially introduced in the state legislature as a policy option. Sliva hypothesizes that restorative justice legislative outcomes may be determined by the environment in which bills are introduced and considered. Sliva found in her comparison of two states that Colorado, a state with a significant number of restorative justice statutes, held "... committee hearings which regularly exceeded one to two hours of testimony and reflected a legislative culture which – like the bills being considered – emphasized collaboration over adversarialism," compared to sub-20 minute considerations in Texas (Sliva, 2017, p.270). Of the five independent variables that Sliva explores, she finds evidence in support of the presence of key figures in the state legislative process as a predictor of restorative justice statute adoption. Partisanship and economic strain are not found to be associated with the adoption of restorative justice statutes, and causal claims are not made about the role of interest groups or how restorative justice is introduced as a policy option. These variables are loosely defined but are solidified in her subsequent 49 state quantitative analysis from 2018, discussed below.

Sliva's 2018 follow-up article is the definitive study to date that examines the central drivers of state-level restorative justice statutes. In her operationalization of this dependent variable, Sliva combines both adult and juvenile statutes at the state level. This study spans from 1988, when the first state restorative justice policy was passed, to 2014. It includes 49 U.S. states, excluding Nebraska due to its nonpartisan legislative elections, and analyzes the most supportive policy passed in each state within the identified time period. The two-state sample size of Sliva's previous case study poses a considerable limitation for her 2017 findings, so the

large-scale analysis of this 2018 article is a significant contribution to the scholarship on statutory support for restorative justice.

Sliva specifically examines the content of the most supportive policy in each state and codes the level of support for restorative justice on a scale from zero to two (2018). In her coding, states without restorative justice statutes passed between 1988 and 2014 are assigned a zero. Statutes that refer to restorative justice but do not provide additional “administrative or fiscal support” are assigned a one. Statutes that provide administrative or fiscal support for “... restorative justice in a specific criminal context or mandate its use...” are assigned a two (Sliva, 2018, p.522). Policy support is determined through a text analysis of restorative justice statutes that identifies legislation as providing ideological support (listing restorative justice as an acceptable method of justice), active support (providing some structure for implementation), or structured support for restorative justice programs (Sliva & Lambert, 2015). Statutes with structured support “... strongly encourage or mandate the use of restorative justice practices and provide significant support for implementation...” (Sliva & Lambert, 2015, p.83).

In this study, Sliva (2018) identifies eight independent variables that she hypothesizes may explain variation in the level of support for restorative justice statutes at the state level. These are: 1) the percentage of a state population that identifies as Black, 2) the “tribal population,” or the percentage of a state’s population that identifies as Native American, 3) the percentage of state legislators who are female, (4) state revenue per capita, (5) state incarceration rate, (6) whether the state has enacted a constitutional amendment for victims’ rights, (7) the partisan split of a state’s legislature, and (8) crime rates in a state. Each of these variables are measured for 49 states, excluding Nebraska, using data from one year between 1988 and 2014. The year used varies by each state depending on the date of that state’s “most supportive

restorative justice policy adoption” (Sliva, 2018, p.527). For states without restorative justice policy, or without a policy that can be identified as the “most supportive” in that state, data for the independent variables “... were collected at three points over the 26-year time period for this study — 1990, 2000, and 2010 — and averaged to create a composite score” (Sliva, 2018, p.527).

The first independent variable that Sliva examines is the Black population in a state. This variable is operationalized as a continuous percentage of the state population that is Black using data from the U.S. Census Bureau. Sliva uses racial threat theory, which predicts that governments respond to high minority populations and portrayals of minority crime with punitive sentencing, to hypothesize that there will be more support for restorative justice in states with smaller Black populations (2018). However, the results of Sliva’s ordinal logit multiple regression analysis reveal the opposite to be true. Specifically, she finds that “more supportive adoptions are associated with higher percentages of Black residents in a state” (2018, p.529).

A second independent variable identified by Sliva is a state’s “tribal population.” This variable is operationalized as a continuous percentage of residents with Native American affiliation, also as recorded by the U.S. Census Bureau. The causal relationship hypothesized here is that because restorative justice methods developed out of indigenous practices, higher Native American populations will result in higher levels of statutory support for restorative justice. Regression analysis did not support this hypothesis and it was ultimately rejected.

Next, Sliva analyzes the impact of the percentage of female legislators in a state on the likelihood of that state adopting restorative justice statutes. Sliva cites prior research finding that female legislators display more “compassion, cooperation, and honesty” in their lawmaking compared to their male counterparts. This results in more support for policies related to

education and healthcare, and less support for punitive policies related to crime and defense (Smith, 2016; Allen, 2019). Therefore, Sliva hypothesizes that higher proportions of females in state legislatures will lead to higher legislative support for restorative justice programs (Sliva, 2018). The data analysis supports this hypothesis and shows that the “...gender of legislators exerts an influence on policy preferences that is independent of constituency preferences, party, and ideology” (Sliva, 2018, p.524).

The next category that Sliva investigates is “state fiscal and structural capacity” (2018). She operationalizes this measurement through two separate independent variables: state revenue per capita and incarceration rates per capita. State revenue and incarceration rates are both measured as a continuous numerical ratio per capita. Sliva hypothesizes that higher levels of fiscal strain — lower state revenue per capita and higher state incarceration rates — will lead to more statutory support for restorative justice as states seek to adopt cost-reducing criminal policies (Sliva, 2018). Her state revenue hypothesis is not supported by the regression analysis and is rejected. Sliva finds that state incarceration rates do predict statutory support for restorative justice, and that higher incarceration rates correlate with more supportive restorative justice legislation (2018).

The sixth independent variable that Sliva identifies is whether the state has enacted a constitutional amendment for victims’ rights. This is the only dichotomous variable that Sliva presents, and is measured by the adoption, or lack of adoption, of a state constitutional amendment for victims’ rights. The related hypothesis is that states with a demonstrated interest in victims’ rights, as measured by the presence or absence of a constitutional amendment enshrining victims’ rights, will have stronger statutory support for restorative justice. The underlying assumption of this hypothesis is that restorative justice is a more valuable mechanism

of addressing harm for victims of crime than traditional court procedures, which is supported in the related literature (Aizer & Doyle, 2015). However, Sliva does not find support for this hypothesis through her regression analysis.

The seventh independent variable that Sliva identifies is the partisan split of state legislatures. Partisanship of state legislatures is operationalized as the percentage of legislators that are Democrats. Sliva hypothesizes that a higher number of Democrats in a state legislature will lead to stronger statutory support for restorative justice, because the Democratic Party has historically adopted less punitive criminal justice policies (Brown, 2013). Through regression analysis, Sliva finds that partisanship is not associated with statutory support for restorative justice programs (2018). In alignment with her 2017 study, she finds that both Republicans and Democrats demonstrate support for principles of restorative justice, but the former tend to oppose legislation with specified and structured restorative justice program plans (Sliva, 2018).

The final independent variable identified in Sliva's 2018 study is crime rates. This variable is defined as crime rates in a state per capita. This variable is constructed as a continuous ratio, using data from the Uniform Crime Report (2014). Sliva hypothesizes that states with higher crime will be more likely to adopt restorative justice policies, because these states will be more focused on alternative crime policies. Regression analysis revealed the opposite to be true. Higher crime rates are associated with a slight decrease in support for restorative justice at the state level (Sliva, 2018).

To summarize, Sliva (2018) finds that the following independent variables are statistically significant predictors of state-level juvenile restorative justice policy adoption and demonstrate the following relationships:

1. The percentage of Black residents in the state is higher.

2. The state incarceration rate per capita is higher.
3. The number of female legislators is higher.
4. The state crime rate per capita is lower.

The partisan split of state legislatures, state revenue per capita, and the influence of interest groups are shown to be less indicative of state level restorative justice support.

The only significant updates in the scholarship following Sliva's 2018 article are two law review articles on restorative justice by Thalia Gonzalez published in 2020 and 2021. In her 2020 article "The Legalization of Restorative Justice: A Fifty-State Empirical Analysis," Gonzalez creates an original fifty-state database to provide an overview of state statutes related to restorative justice for both adults and juveniles. Gonzalez's operationalization of state-level support for restorative justice differs from Sliva's. Whereas Sliva codes the level of support for restorative justice based on the content of state statutes, Gonzalez adds up the number of restorative justice statutes in a state to determine the level of statutory support and includes any statutes that mention "restorative justice" or related terms. Gonzalez defines the level of support for restorative justice in a state by the number of related statutes that state passes, rather than by the content of a state's strongest restorative justice statute (2020). She also divides states into categories by tens of restorative justice statutes for additional comparison across groups (Gonzalez, 2020).

Because Gonzalez examines the state of restorative justice in the U.S. at a particular point in time, this method of measuring statutory support better serves her 2020 study. Her original dataset is closed after May 31, 2019, and the corresponding article exclusively reviews active restorative justice legislation at this time (2020). Sliva, conversely, does not look at a certain year in isolation, but identifies the year between 1988 and 2014 in which the restorative justice statute

with the most supportive content was passed for each state and examines potentially predictive variables from this year (2018). These different research questions benefit from different operational definitions of statutory support for restorative justice. Sliva's content analysis provides a more thorough understanding of the level of support for restorative justice in a state over an extended time period, while Gonzalez's operationalization of the dependent variables provides a more comprehensive picture of the state of restorative justice legislation at a certain point in time.

Gonzalez acknowledges that other scholars, predominantly Sliva, find evidence that a range of independent variables may explain variation in the number of restorative justice statutes that a state adopts. These variables include racial demographics, state revenue, incarceration rates, and crime rates (Gonzalez, 2020). However, Gonzalez's own purpose is simply to document evidence that the practice of restorative justice has emerged as a new legal norm. She defines "legal norm" as "an authoritative legal text" and posits that restorative justice is adopted by state legislatures where this practice has integrated into society as a legal norm. She comes to this conclusion by reviewing restorative justice statutes across all 50 states, at the macro-level across multiple jurisdictions, and at the micro-level of discrete areas of law within one jurisdiction. Gonzalez identifies "... a clear positive trajectory of the legitimacy of restorative justice within the law" (2020, p.1066). Gonzales argues that states show varying levels of statutory support for restorative justice programs by passing a single statute, or by passing dozens of statutes. Gonzalez thus advocates for a continuous, rather than a binary, operationalization of legal norm integration (2020).

Gonzalez's 2021 article, "The State of Restorative Justice in American Criminal Law," builds on the findings she lays out in her 2020 scholarship. She uses the same operationalization

of the dependent variable of state-level statutory support for restorative justice by tallying the number of statutes in each state that include the term “restorative justice” or related terms such as “restorative circles” and “victim-offender mediation” (Gonzalez, 2021). She then uses textual content analysis to explore differences in these statutes and their respective start dates, type of law, system and point in criminal proceedings in which they are applied, victim and offender roles, and associated fees (Gonzalez, 2021).

Through her 2020 and 2021 articles, Gonzalez argues that restorative justice has become integrated into the criminal system as a new legal norm. However, this integration is not uniform across all states with restorative justice statutes. The use of restorative justice varies widely across jurisdictions (Gonzalez, 2021). Gonzalez’s research contributes to the literature on restorative justice by updating Sliva’s 2014 dataset of restorative justice legislation and carefully documenting the emergence of restorative justice as a norm in the American legal system. However, she does not ultimately offer an explanation as to why such variation in restorative justice statutes by state exists.

Research Design

Dependent variable

The dependent variable of this study is statutory support at the state level for restorative justice specifically for juvenile offenders. Sliva (2017, 2018) and Gonzalez (2020, 2021) include both adult and juvenile restorative justice statutes in their operationalization of the dependent variable of state-level statutory support for restorative justice. Limited research focuses on state-level restorative justice statutes exclusively for juvenile offenders, despite important differences between the adult and juvenile criminal systems (Liles & Moak, 2015). These

differences are increasing with advances in social science that offer compelling explanations for the cognitive behavioral differences and relative culpability between youthful offenders and their adult counterparts (Liles & Moak, 2015). As the two systems become increasingly disparate, research on both criminal systems is not sufficient to explain the adoption of restorative justice statutes specifically for juveniles. This thesis builds on existing literature that has explored the predictors of state-level restorative justice statutes for adult and juvenile offenders and test whether these same findings might explain variation in restorative justice statutes exclusively for juveniles. It further contributes to research in this area by updating Sliva's analysis, which concludes in 2014, with data through 2020.

I primarily adopt Gonzalez's operationalization of the dependent variable as the number of juvenile-specific restorative justice statutes and regulations adopted in each state. Statutes are included if they use the term "restorative justice" or related terminology employed by Gonzalez (2021). Gonzalez's summation method of measurement provides a clearer picture of the adoption of restorative justice for juveniles at the state level, rather than placing excessive emphasis on a single policy that may have expired or been repealed since 2014, as Sliva does.

Gonzalez also groups states into five different categories of restorative justice statutory support, dividing states by tens of statutes from 0-50 to compare across groups of states in addition to analyzing the number of statutes in each individual state (Gonzalez, 2020). However, Gonzalez's work focuses on all statutes related to restorative justice. By limiting my review to only those restorative justice statutes that apply to juvenile offenders, my thesis requires fewer categories because there are fewer statutes of interest. For the purpose of cross-group analysis, I only use three groups of states: states with zero restorative justice statutes for juveniles, those with one related statute, and those with two or more juvenile restorative justice statutes. This

three-category variable is used to compare across groups on a number of factors in the “Supplemental Analysis” section of Chapter 3.

The number of juvenile restorative justice statutes in each state come from Gonzalez’s database of state statutes for juveniles that were active as of 2020 (Gonzalez, 2021). Many of these statutes were renewed or introduced in 2020, but others have been active for years prior. This database offers a snapshot of the state of restorative justice for juveniles across all 50 states in 2020. This year was selected as the focus for this thesis to test the continued relevance of the predictive insights generated by Sliva using data up until 2014 (Sliva, 2018). Gonzalez’s database, which includes data on juvenile restorative justice statutes through 2020, is also the most recent data available on restorative justice statutes for juveniles (Gonzalez, 2021). Working with data on state legislatures from the 2019-2020 election cycle allows for sufficient lag time for the compilation and publication of relevant data for each independent variable.

Independent Variables

Building on Sliva’s (2017, 2018) work, this study reviews the following independent variables to examine whether these variables similarly predict restorative justice legislation specifically for juveniles:

1. Percentage of Black residents in a state

Black state population is operationalized as a continuous percentage of residents that identify as Black. This data is drawn from the 2020 U.S. Census. I hypothesize that the larger the percentage of Black residents in a state, the greater the number of juvenile restorative justice statutes. Sliva has found that “more supportive adoptions are associated with higher percentages of Black residents in a state” (2018, p.529). Sliva speculates that this is an effect of the

disproportionately high amount of contact between Black Americans and the criminal justice system. Therefore, the presence and voting power of Black residents could lead to “increased concern for issues of correctional system disparity” (Sliva, 2018, p.532). This disparate contact exists in the juvenile justice system as well, and could result in a legislative emphasis on alternative methods of justice for youth offenders in states with larger Black populations.

It is also possible that the opposite hypothesis may hold. Smaller Black populations within a state could make legislatures more likely to pass restorative justice statutes for juveniles. This counter hypothesis is supported by research that finds that white juvenile offenders are more likely to be referred to restorative justice programs compared to Black juvenile offenders, who are more likely to undergo formal court processing (Phillippi, 2012). This may encourage majority white legislators and stakeholders to codify the option for restorative justice for white juvenile offenders, but not Black juvenile offenders. States with highly concentrated white juvenile populations may be more likely to implement state-wide restorative justice practices for youthful offenders. The impact of racial diversity in jurisdictions within a state on that state’s restorative justice policy could also be that legislators are not interested in creating programs in majority non-white districts, because they do not prioritize the juvenile processing outcomes of non-white children. This would mean that lower racial diversity within a state’s jurisdictions makes that state more likely to adopt restorative justice policies.

One caveat to this hypothesis is that states with high racial diversity may have subsequent minority influence in state politics. Higher percentages of minority state representatives can influence statutory outcomes which would increase the likelihood of a state passing restorative justice statutes (Preuhs, 2006). State legislatures that are more representative of the Black population in a state may be more likely to enact restorative justice statutes. Legislatures that are

not representative of the race of a state's residents may be less likely to support restorative justice statutes that they would otherwise be expected to pass, because the interests of unrepresentative lawmakers may be more divorced from the interests of state residents. Based on this assumption, these legislators would be less likely to be beholden to constituent interests and more susceptible to the influence of their own political and ideological preferences

2. Percentage of female state legislators

This continuous variable is operationalized as the percentage of female legislators in a state legislature. Data from 2020 comes from the Center for American Women and Politics (CAWP) in the Eagleton Institute of Politics at Rutgers University. Following Sliva's 2018 findings, I hypothesize that states with higher proportions of female legislators will be more likely to pass restorative justice statutes exclusively for juveniles. State legislatures with higher percentages of female lawmakers have been associated with more statutory support for restorative justice programs. This association is apparent regardless of partisanship or ideology of the legislators (Sliva, 2018). I expect this finding to hold for juvenile offenders and juvenile restorative justice statutes.

3. State poverty levels

State poverty levels are defined as as the percentage of state residents living in poverty. This variable is operationalized as a continuous variable using data from the 2020 U.S. Census. I hypothesize that states with higher poverty levels are less likely to introduce restorative justice legislation for juveniles. Although Sliva did not find evidence linking a similar variable, state revenue per capita, to restorative justice statutes for adults and juveniles, research specifically

focused on juvenile success in restorative justice programs finds that higher levels of poverty result in less successful restorative justice program completion (de Beus & Rodriguez, 2007). Extrapolating from this finding, it is conceivable that state legislators in states with high poverty rates would not be incentivized to enact state level restorative justice statutes, due to concerns that these programs would fail for juveniles in high poverty areas. I expect that higher poverty rates will result in fewer restorative justice statutes for juveniles.

4. Juvenile incarceration rate

Juvenile incarceration rates are defined as the number of juveniles detained per 100,000 juveniles living in a state. Data on juvenile incarceration rates from 2019 come from the Annie E. Casey Foundation's Kids Count Data Center, and this variable is also operationalized as a continuous variable. Following Sliva's (2018) finding for adults and juveniles, I hypothesize that states with higher incarceration rates for juveniles will be more likely to adopt restorative justice programs explicitly for juveniles as a method for decreasing their incarceration rates.

5. Partisanship of state legislatures

Partisanship of the state legislature is operationalized as the percent of Democratic legislators in a state. Based on Sliva's 2017 and 2018 findings, I hypothesize that the partisanship of state legislatures will have no impact on support for juvenile restorative justice policy programs. Potential impacts of the partisanship of state legislators on restorative justice outcomes were dismissed by Sliva's 2017 and 2018 scholarship. However, I am including this variable to determine if partisanship might have a different impact for restorative justice statutes exclusively focused on juveniles.

6. Percentage of status offenders compared to percentage of juvenile delinquents in a state

My next hypothesis is specific to the juvenile justice system and therefore does not come directly from previous literature. Juvenile offenses are categorized into two groups: status offenders and juvenile delinquents. Status offenders are those who commit noncriminal acts that are regulated solely because of the offender's status as a juvenile (de Beus & Rodriguez, 2007). Examples of status offenses are truancy and running away. The term delinquent refers to juveniles who commit acts that would also be considered criminal if they were committed by an adult (de Beus & Rodriguez, 2007). Delinquent acts include all misdemeanors and felonies that are illegal for adults to commit. This study operationalizes juvenile delinquents as a percentage of offenders by dividing the number of juvenile delinquents in a state by the total number of juvenile offenders. The majority of this data comes from 2019 state reports to the U.S. Department of Justice's Office of Juvenile Justice Delinquency and Prevention (OJJDP, 2020). Some states only publish this information on their own state pages and do not submit this data nationally, and others do not report this data for confidentiality reasons.

I hypothesize that a state with a higher proportion of status offenders compared to juvenile delinquents would be more likely to pass juvenile restorative justice statutes, because I anticipate that legislators will be more likely to favor alternatives such as restorative justice for less severe crimes. This hypothesis builds on Sliva's (2018) finding that increased crime rates are negatively correlated with restorative justice statutes for adult and juvenile offenders. However, since criminal acts are defined and reported differently for juveniles than for adults, comparing percentages of juvenile status offenders to percentages of juvenile delinquents aims to capture this difference. This hypothesis is also supported by a 2007 study of Arizona's juvenile

defendants that found that status offenders are more likely to complete restorative justice programming than delinquents and are also less likely to reoffend in the future (de Beus & Rodriguez, 2007). Therefore, states with more status offenders would be more likely to see success in early restorative justice programs, which could incentivise state legislatures to adopt state-wide statutes.

7. Percentage of Black legislators

An additional variable that I add to this thesis is the presence of Black representatives in the state legislature. This variable is operationalized as the percentage of Black representatives in the state legislature (Smith, 2021). I hypothesize that a larger percentage of Black legislators will lead to stronger statutory support for juvenile restorative justice at the state level. Research on the legislative impact of minority representation in legislatures is limited. A 2006 study titled “The Conditional Effects of Minority Descriptive Representation: Black Legislators and Policy Influence in the American States” looks at various representation theories and researches their actual impact (Preuhs, 2006). Using the dependent variable of the monthly cash-benefit for a three-person family under the Aid to Families with Dependent Children (AFDC) program from the years 1984 to 1993, as well as survey data from Black legislators, Preuhs found that “... minority representation, formal institutional positions held by minority lawmakers, and coalition membership all operate as mechanisms for influence, yet these mechanisms are conditioned by the racialization of the political context” (Preuhs, 2006, p.585). The presence and political power of minority legislators in state governments influence statutory outcomes to varying degrees depending on the racial context of the legislature (Preuhs, 2006). Specifically, this research finds that in states with lesser racial animosity within the legislature, or “... outside of highly racialized

contexts, policy and influence are positively associated with increasing levels of black representation” (Preuhs, 2006, p.594).

8. Key figures in the legislative process

Sliva exclusively reviews the variable of the presence of key figures in the legislative process in her case-study comparison of the restorative justice statutes in two states, which I will replicate in the case study section of my research design. The presence of key figures in the legislative process is measured by analyzing the sponsorship and activity of juvenile restorative justice legislation in a state. I hypothesize that states with a consistent and visible champion of restorative justice statutes will have more statutory support for this legislation. Data on state bill sponsors comes from Thomson Reuters Westlaw. However, this variable is difficult to examine across all fifty states because of the lack of transparency and access to information on state bill sponsorship and legislative history. In-depth research into the content and sponsors of bills is only feasible, for the purpose of this thesis, on a smaller scale.

Sliva analyzes a number of independent variables that are not discussed in this thesis. These include the presence of victims’ rights interest groups and the “tribal population” in a state. The interest group variable is introduced in Sliva’s 2017 article, and does not lead to conclusive results. Sliva later defines this variable more clearly, as a dichotomous variable in which states either adopted or did not adopt a victims’ rights amendment to their constitution, and again does not reach conclusive results (2018). The “tribal population” variable is excluded from this thesis for multiple reasons, primarily because of the extensive history of systematic Native American disenfranchisement in the United States. This pattern of excluding Native people from America’s democratic process dates back to the nation’s founding, starting with the denial of U.S. citizenship to Native Americans and continuing into the present day with

restrictive and disparately impactful voter ID laws (Stambaugh, 2019). Because of this history, it seems overly tenuous to make a claim about legislative outcomes based on the voting power of Native Americans. Second, restorative justice in the criminal justice space exists across western Democratic countries, and is more widely accepted and used in many of these countries than in the United States despite the absence of Native American residents in these countries (Galaway & Hudson, 1996) Finally, this variable has been removed from subsequent related studies by other scholars, such as Thalia Gonzalez. In her 2020 article, she cited each of Sliva’s 2018 independent variables as potential predictors of restorative justice support but excluded “tribal population.”

Table 1: Variables in the Regression Analysis

Dependent Variable	Measurement	Source
Statutory support for juvenile restorative justice	Juvenile restorative justice statutes passed at the state level (sum)	Thalia Gonzalez, “The State of Restorative Justice in American Criminal Law” (2021)
Independent Variables		
Black population	Percent Black population (ratio)	U.S. Census Bureau
Female legislators	Percent female legislators (ratio)	Center for American Women and Politics
Poverty level	Percent population living in poverty (ratio)	U.S. Census Bureau
Juvenile incarceration	Juvenile detained per 100,000 (proportion)	Annie E. Casey Foundation Kids Count Data Center
Partisanship of legislature	Percent democratic legislators (ratio)	Ballotpedia
Juvenile delinquency	Percent juvenile delinquents of full juvenile offender population (ratio)	U.S. Office of Juvenile Justice and Delinquency Prevention

Black legislators	Percent Black legislators (ratio)	Governing
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Methods

This thesis examines the independent variables described above to understand their predictive power on statutory support for juvenile restorative justice programs at the state level. To do so, I conduct a fifty-state regression analysis using STATA 17.0 software. I analyze data on each of the previously described independent variables (excluding key figures in the legislative process) using multiple regression analysis to determine the relationship between these variables and the dependent variable. This methodological approach follows the work of researchers interested in the impacts of extralegal factors on juvenile justice program outcomes, who use regression analysis to explore combinations of characteristics and their predictive value on juvenile justice system processing (Phillippi, 2012). Regression analysis also allows me to identify relationships between my independent and dependent variables to gain insight into systemic barriers to juvenile restorative justice programming at the state level. Fifty states is the largest number of cases that can be reviewed in a study on U.S. states, but this is a relatively small sample size for regression analysis. Therefore, this study also provides a supplemental analysis with grouping models to test for commonalities across states with similar levels of statutory support for restorative justice, using the grouping operationalization adapted from Gonzalez's 2020 research.

To further investigate relationships highlighted in the regression analysis of all 50 states, I also follow Sliva's 2017 work and conduct a comparative case study analysis of three states: Alabama, Florida, and Georgia. The purpose of this comparison is to "discover empirical relationships among variables" and more closely examine the variables that have the most impact

on restorative justice statutory outcomes for juveniles in comparable states, while controlling for key variables (Lijphart, 1971, p.683). These three states are comparable across the variables of percentage of the state population that is Black and state poverty level, two variables that were found to be important predictors of restorative justice program adoption and success (Sliva, 2018; de Beus & Rodriguez, 2007). In order to produce useful results from an analysis of limited cases, comparisons must be focused on comparable cases (Lijphart, 1971). This idea drove the selection of states for my comparative analysis. This analysis also includes a critical review of bill sponsors, a key variable identified by Sliva, as well as content analysis of juvenile restorative justice statutes in each comparison state. Taking a closer look at a small sample of states allows for the review of these variables that are not easily regressed.

For both Black and female state legislators, I compiled data for percentages in the lower and upper chambers of each legislature for all 50 states, with the exception of Nebraska which is the only U.S. state without a bicameral legislature. After finding negligible differences between the statistical significance of racial or gender representation in the lower and upper chambers of the state legislatures, I completely relied on the combined representation in both houses of each state legislature as a single measure.

One variable that presents a challenge for quantitative analysis is the proportion of juvenile delinquents in a state. Juvenile delinquency data is not reported with the same consistency across all 50 states as the other independent variables. The majority of states report juvenile offender information to the Department of Justice's Office of Juvenile Justice and Delinquency Prevention (2020). Non-reporting states, including Arizona, Georgia, Nevada, and North Dakota, have released data on juvenile delinquents in reports or other state-specific materials. I included data points for these states if they reported both juvenile delinquent numbers and status offender numbers. Table 3 shows a reprint of a table from the Arizona report on juvenile offenses for 2020. Other states, including California and Colorado, do not report data regarding their juvenile offenders due to stringent privacy laws surrounding youth data (Division of Juvenile Justice Research and Data Analytics, 2023). These states could not be included in analysis of the juvenile delinquency variable.

Table 2: Arizona Juvenile Delinquency Data (Arizona Supreme Court, 2021)

Table 1.7. Juveniles Referred by Severity of Most Serious Offense, FY20		
OFFENSE	COUNT	PERCENT
Felonies Against Persons	1,219	7.42%
Felonies Against Property	1,064	6.47%
Obstruction of Justice, Felony & Misdemeanor	1,473	8.96%
Misdemeanors Against Persons	2,496	15.18%
Drugs, Felony & Misdemeanor	2,804	17.06%
Public Peace, Felony & Misdemeanor	3,273	19.91%
Misdemeanors Against Property	2,217	13.49%
Status Offense	1,833	11.15%
Administrative	59	0.36%
TOTAL	16,438	100.00%

Regression Results

After compiling a dataset with data on the dependent and independent variables for all 50 states, I conducted multiple regression analyses using STATA 17.0 software. I used regression as the method for testing my hypotheses to replicate previous analyses of these independent variables concerning state-level restorative justice statutes for adults and juveniles (Sliva, 2018). Replicating Sliva's (2018) methods allowed me to produce a comparable analysis of the impact of the same variables on the probability that a state will adopt restorative justice policy specifically for juveniles.

Yet while Sliva found quantitative support for several of her hypotheses related to these independent variables, I found no statistically significant effects for any of my predictor variables. Sliva used regression analysis to determine that higher percentages of female

legislators and Black residents in a state are positively correlated with the adoption of restorative justice statutes (2018). As expressed by the high p -values for each independent variable in Tables 3 and 4, this set of predictor variables fails to explain a significant percentage of the variation in state-level adoption of restorative justice statutes for juveniles. A significant p -value would be less than 0.05. In both regression tables, the p -values for each variable are all greater than 0.225, with some as high as 0.951.

Due to the missing values for juvenile delinquency for those states that do not make their juvenile data public, I conducted two regressions. Table 3 includes incomplete data on juvenile delinquency, which dropped the number of observations to thirty-eight. Table 4 excludes the juvenile delinquency variable in order to review all 50 states. The negative adjusted r -squared values in both regression tables reinforces the not-significant finding. These findings are unexpected given the results of prior research on these variables in the context of combined adult and juvenile restorative justice legislation.

Table 3: Linear Regression Output, $n = 38$ (including Juvenile Delinquency)

```
. regress rjstatutes black povertylevel juveniledelinquents womenstateleg blackstateleg
```

Source	SS	df	MS	Number of obs	=	38
Model	29.1956097	5	5.83912193	F(5, 32)	=	0.74
Residual	253.646496	32	7.92645299	Prob > F	=	0.6015
				R-squared	=	0.1032
				Adj R-squared	=	-0.0369
Total	282.842105	37	7.64438122	Root MSE	=	2.8154

rjstatutes	Coefficient	Std. err.	t	P> t	[95% conf. interval]
black	-13.44283	15.73685	-0.85	0.399	-45.49773 18.61208
povertylevel	-17.70357	21.03229	-0.84	0.406	-60.54495 25.13781
juveniledel~s	3.551257	2.872158	1.24	0.225	-2.299137 9.401651
womenstateleg	-4.986735	5.381621	-0.93	0.361	-15.94874 5.975267
blackstateleg	8.673333	18.16695	0.48	0.636	-28.33154 45.6782
_cons	3.558507	3.793211	0.94	0.355	-4.168011 11.28503

Table 4: Linear Regression Output, $n = 50$ (excluding Juvenile Delinquency)

```
. regress rjstatutes black povertylevel womenstateleg blackstateleg
```

Source	SS	df	MS	Number of obs	=	50
				F(4, 45)	=	0.66
Model	27.6223131	4	6.90557828	Prob > F	=	0.6230
Residual	470.877687	45	10.4639486	R-squared	=	0.0554
				Adj R-squared	=	-0.0286
Total	498.5	49	10.1734694	Root MSE	=	3.2348

rjstatutes	Coefficient	Std. err.	t	P> t	[95% conf. interval]
black	-16.68814	17.32509	-0.96	0.341	-51.58266 18.20637
povertylevel	-12.5545	20.77528	-0.60	0.549	-54.39806 29.28906
womenstateleg	-.3554566	5.75037	-0.06	0.951	-11.9373 11.22638
blackstateleg	16.11773	20.26585	0.80	0.431	-24.69978 56.93524
_cons	4.064179	3.477036	1.17	0.249	-2.938932 11.06729

I also created regression models that included data on the partisanship of state legislatures. I did not hypothesize that this variable would predict juvenile restorative justice adoption, because prior studies have shown that the partisan split of state legislatures does not support predictions regarding whether states pass restorative justice legislation (Sliva, 2018). Republican and Democratic legislators typically have different rationales for their support of restorative justice, but bipartisan support exists for restorative justice legislation nonetheless. However, regressing partisanship as an independent variable and showing that it also is not significant for juvenile-specific restorative justice legislation could support my hypotheses by providing confirmatory evidence for my research design. The results of this analysis were also not statistically significant, with a high p -value of 0.881, as demonstrated in Table 5.

Table 5: Linear Regression Output (Partisanship of Legislature)

Source	SS	df	MS	Number of obs	=	50
				F(5, 44)	=	0.52
Model	27.8667878	5	5.57335755	Prob > F	=	0.7590
Residual	470.633212	44	10.6962094	R-squared	=	0.0559
				Adj R-squared	=	-0.0514
Total	498.5	49	10.1734694	Root MSE	=	3.2705

rjstatutes	Coefficient	Std. err.	t	P> t	[95% conf. interval]	
black	-16.3003	17.70317	-0.92	0.362	-51.97869	19.37808
povertylevel	-12.82488	21.08058	-0.61	0.546	-55.31	29.66024
womenstateleg	.4013292	7.671927	0.05	0.959	-15.06042	15.86308
blackstateleg	15.88199	20.54877	0.77	0.444	-25.53133	57.29532
partisanship	-.5145113	3.403243	-0.15	0.881	-7.373296	6.344274
_cons	4.076556	3.516366	1.16	0.253	-3.010215	11.16333

Supplemental Analysis

After finding no statistical significance by repeating the methods of analysis used in the relevant literature, I moved on to grouping states by number of juvenile restorative justice statutes and comparing across groups. The first group was of states with zero juvenile restorative justice statutes ($n=17$), the next group was of states with one statute ($n=15$), and the final group was states with two or more statutes ($n=18$). I suspected that these states with zero juvenile restorative justice statutes may have common, notable differences on key variables from states with one or no statutes. Similarly, I expected that states with legislators who took the initiative to expand past a single statute would have notable differences from states with one or no statutes on key variables. Dividing the states this way also created comparably sized groups.

I conducted Kruskal-Wallis tests comparing these groups on the set of independent variables used in the regression analysis. Given the relatively small sample sizes of the groups,

Kruskal-Wallis was appropriate for analyzing across three groups because it is a nonparametric method of analysis. Parametric tests assume that the data forms a normal distribution in each group. With smaller sample sizes for each of the three groups — less than thirty per group — I could not assume that the values for the dependent variable were normally distributed. Therefore, nonparametric statistics were more appropriate for the data when placed into three groups.

Each of the variables that were compared across the three groups again produced no statistically significant effect on the number of state-level restorative justice statutes adopted for juveniles. Examples of the Kruskal-Wallis outputs are presented in Tables 6 and 7, and the high probability of differences between the three groups being random shows that each variable did not differ significantly whether states had zero, one, or two-plus restorative justice statutes for juveniles.² In order to show statistical significance, the probability should be less than or equal to 0.05. For some of the independent variables, such as the percentage of women in a state's legislature, the probability was over 0.9. The Black population in a state had the lowest probability of being random, but this probability was still over 0.5, which is not statistically significant.

² Kruskal-Wallis outputs for additional tested variables (state poverty level, juvenile delinquents, and Black state legislators) are located in Appendix 1.

Table 6: Kruskal-Wallis Output (Female Legislators)

```
. kwallis womenstateleg, by(newrj)
Kruskal-Wallis equality-of-populations rank test
```

newrj	Obs	Rank sum
0	18	449.50
1	15	390.00
2	18	486.50

```

chi2(2) = 0.172
  Prob = 0.9176

chi2(2) with ties = 0.172
  Prob = 0.9175

```

Table 7: Kruskal-Wallis Output (Black Population)

```
. kwallis black, by(newrj)
Kruskal-Wallis equality-of-populations rank test
```

newrj	Obs	Rank sum
0	18	525.50
1	15	363.00
2	18	437.50

```

chi2(2) = 1.285
  Prob = 0.5260

chi2(2) with ties = 1.285
  Prob = 0.5259

```

Following the nonsignificant results of the Kruskal-Wallis tests, I compared states with zero restorative justice statutes for juveniles to states with one or more statutes. Using independent t tests for the two groups of states, I compared states with zero juvenile restorative

justice statutes ($n=18$) to states with one or more ($n=33$) to eliminate the possibility of a major difference between states that have no statutes to those that have implemented at least one. I conducted two t tests for each independent variable, one with equal and the other with unequal variances between the groups.

It is logical to assume that the difference between states with zero statutes and states with one statute is larger than the conceptual difference between states with one statute and states with two. The tests conducted via the Kruskal-Wallis method of comparing across three groups of states reflects this idea. However, the results of the t tests for each variable are also not statistically significant. A significant t value would be at least 2.00. As is evident in Table 8, a t value of 1.0533 is not statistically significant. This low value was about the largest t value for any of the tested variables. Some of the t tests, such as the test for the impact of the percentage of women in a state legislature on the number of juvenile restorative justice statutes in a state, had negative t values. Regardless of the number of groups or the type of statistical test, no association exists between the variable of state-level support for juvenile restorative justice programs and the other variables in the analyses.³

³ T test outputs for additional tested variables (state poverty level, juvenile delinquents, and Black state legislators) are located in Appendix 2.

Juvenile Incarceration Rates

The final statistical analysis that I conducted was on juvenile incarceration rates in states with different levels of state statutory support for juvenile restorative justice programs. It is logical to assume that there would be a connection between juvenile incarceration and alternative sentencing options, such as restorative justice programs. A state without youthful offenders that could be eligible for diversion to restorative justice programs would not be incentivized to adopt juvenile restorative justice legislation. This idea could create circular, confounding issues, where states with high rates of juvenile incarceration could view these numbers either as indicative of an issue with traditional methods of youth punishment, or as evidence that juvenile crime is a serious state concern that must be addressed with punitive measures. The directionality of the impact of juvenile incarceration rates cannot be assumed; however, I hypothesize that states with lower rates of juvenile incarceration would have higher levels of statutory support for juvenile restorative justice programs.

To model this hypothesis over multiple years, I used Excel to create three graphs showing the youth incarceration rates in states with zero, one, and two or more juvenile restorative justice statutes. Data on juvenile incarceration in all 50 states in 2015, 2017, and 2019 came from the Annie E. Casey Foundation's Kids Count Data Center. It is operationalized as the number of youth detained per 100,000 youth in the state. This data is presented in Figures 3, 4, and 5. These figures show that there is significant variation in the incarceration rates of juveniles in states with comparable levels of statutory support for juvenile restorative justice. In nearly all fifty states, juvenile incarceration has decreased from 2015 to 2019, consistent with national trends (OJJDP, 2021). On average, incarceration rates for youth appear to be higher in states with zero or two-plus restorative justice statutes than in states with one statute. This could be because states

with higher juvenile incarceration rates may be compelled to either seek alternative methods of responding to youth crime, or remain committed to incarceration to prove a “tough on crime” response.

Figure 3: Juvenile Incarceration Rates per 100,000 for States with 0 Restorative Justice Statutes

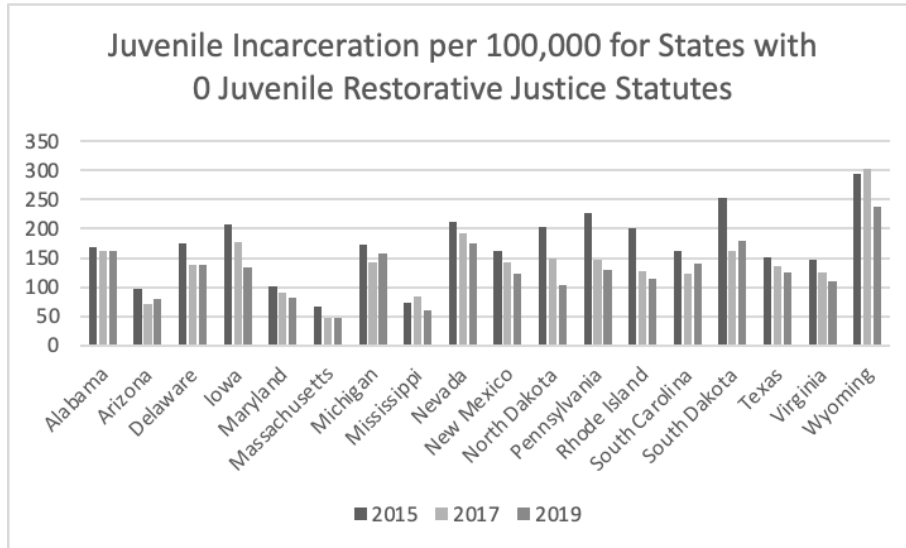


Figure 4: Juvenile Incarceration Rates per 100,000 for States with 1 Restorative Justice Statute

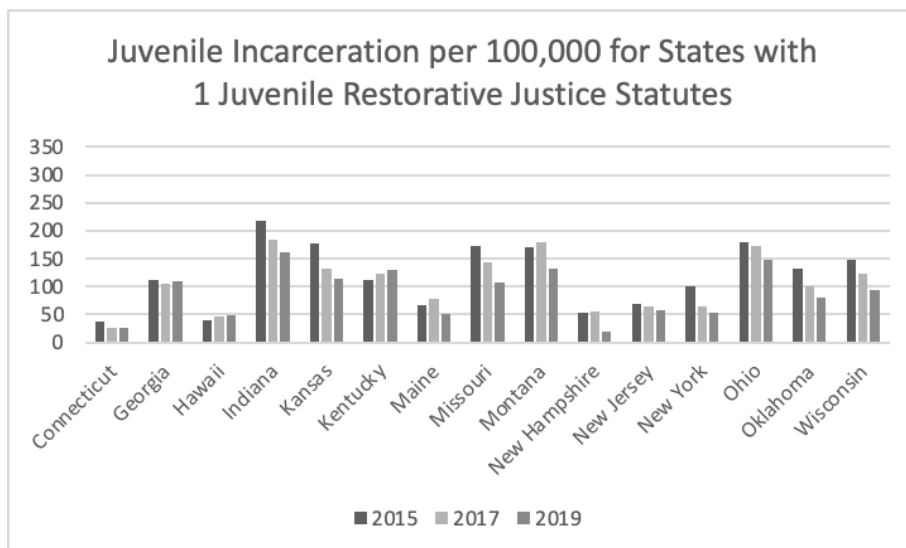
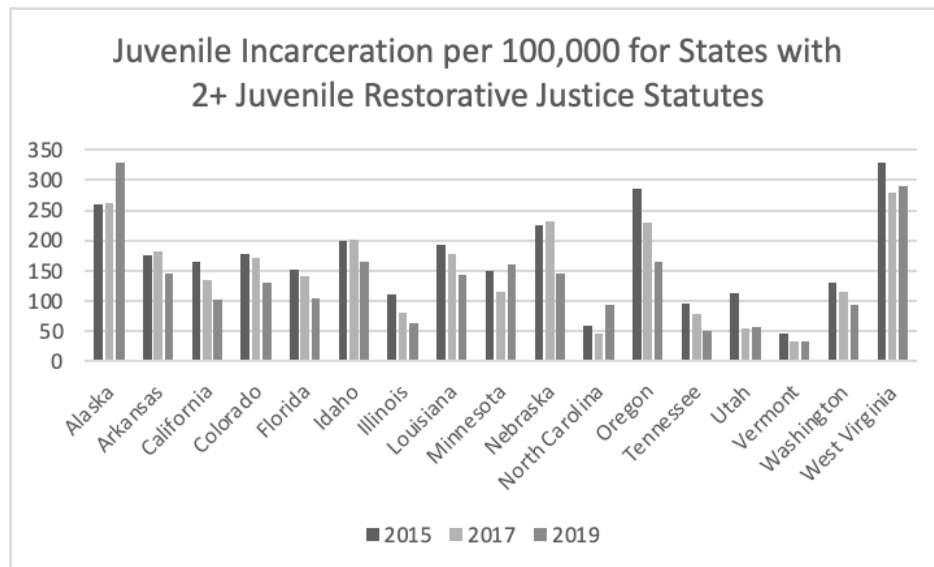


Figure 5: Juvenile Incarceration Rates per 100,000 for States with 2 Restorative Justice Statutes



I also included the variable of state juvenile incarceration rates in a regression model. Once again, this variable was ultimately not statistically significant. This is made clear by the high p -value of 0.788. The results of this regression are displayed in Table 10.

Table 10: Linear Regression Output (Juvenile Incarceration Rate)

```
. regress rjstatutes black povertylevel womenstateleg blackstateleg juvincarce
```

Source	SS	df	MS	Number of obs	=	50
Model	28.4055001	5	5.68110002	F(5, 44)	=	0.53
Residual	470.0945	44	10.6839659	Prob > F	=	0.7510
Total	498.5	49	10.1734694	R-squared	=	0.0570
				Adj R-squared	=	-0.0502
				Root MSE	=	3.2686

rjstatutes	Coefficient	Std. err.	t	P> t	[95% conf. interval]	
black	-15.72511	17.86397	-0.88	0.383	-51.72758	20.27737
povertylevel	-14.01265	21.67239	-0.65	0.521	-57.69048	29.66517
womenstateleg	-.0061065	5.952052	-0.00	0.999	-12.00168	11.98947
blackstateleg	15.47357	20.61554	0.75	0.457	-26.07432	57.02146
juvincarce	.0022541	.0083255	0.27	0.788	-.0145249	.0190332
_cons	3.817856	3.629283	1.05	0.299	-3.496484	11.1322

Possible Explanations for Null Results

These results are unexpected considering the relevance of the tested variables in previous literature related to state-level support for restorative justice for adult and juvenile offenders. Inconsistencies across variables for adult and juvenile-specific restorative justice programs could be explained by differences that I may have overlooked in my research design. This is easier to imagine for variables that are specific to youthful offenders, and more complicated for variables that would seem to apply to all attitudes toward offenders, regardless of their age. For example, it could be that states may have extremely different definitions of juvenile delinquency. Perhaps these definitions vary so much by state that cross-state analysis is not feasible. Even though the vast majority of the data on juvenile delinquency came from one U.S. Department of Justice source, if states are defining juvenile delinquency and status offenses differently, that data may not be comparable.

The variables related to the demographics of state actors are not associated with support for juvenile restorative justice programs, despite being predictive of support for adult programs. For women legislators, this could be because other aspects about them may have a stronger impact than their gender on this particular issue. A similar logic could be applied to Black state legislators and Republican versus Democratic legislators. Other aspects of legislators' identities, such as their socioeconomic status or their age, could have a stronger influence or even be the determining factor regarding their support for statewide juvenile restorative justice programs.

Explanations for the null hypotheses related to Black population and poverty level in a state are more difficult to piece together. I expected these variables to be the two most important indicators of state-level juvenile restorative justice support. This expectation was so strong and sufficiently supported by previous literature that these two variables were the basis for the case

study comparison described in the following chapter. Other demographic aspects of a state could be more predictive of statutory support for restorative justice than Black population and poverty level.

Evidently, previous findings on the variables that influence state-level adoption of restorative justice programming for adults cannot be extrapolated to explain juvenile restorative justice statutes. Explanations for these null hypotheses are conjectures based on the findings of this data analysis and have yet to be confirmed by previous literature. Future research could potentially answer these questions with more certainty than this discussion section is able to do.

Chapter 4

Comparison States

This chapter presents a comparative case study analysis of three U.S. states (Alabama, Florida, and Georgia) in an effort to address the research puzzles generated by the previous statistical analyses. Specifically this chapter provides an in-depth analysis of restorative justice statutes for juveniles that were active in these three states in 2020. Unlike the large scale data analysis in the previous chapter, which examines only the number of statutes on the books, this comparative case study analysis also reviews the specific content of each statute to understand the depth of support for juvenile restorative justice in each state. Given the non-significant results of the quantitative analysis, it is conceivable that the operationalization of statutory support for restorative justice as the sum of all active statutes in a state in 2020 was insufficient to capture a correlation with any of the tested variables. Rather than simply counting juvenile restorative justice statutes, this smaller comparative analysis provides an in-depth examination of the content of these statutes and their origins.

I begin by describing how I selected the three comparison states and reviewing their measures for each independent variable analyzed in the previous chapter. Next, I compare additional variables across the three states that have been examined in prior case study research on state-level statutory support for restorative justice statutes. I then consider variables related to state election proceedings that have not yet been explored in the literature, but may logically help explain the differences in the numbers of restorative justice statutes across the three states. The purpose of this aspect of my research is to explore the factors that I expect will contribute to whether a state adopts juvenile restorative justice statutes. Additionally, examining three states allows for a closer analysis of additional variables that require extensive research and are not

feasible for all 50 states. Qualitative research on a small subset of states reveals specificities of individual state procedure that could be lost in a larger analysis of all 50 states.

This case study comparison focuses on Alabama, Florida, and Georgia. I selected these states because of their geographic proximity, shared southern history, and variation in restorative justice statutes for juveniles. In her case-study article, Sliva conducted a comparison with maximum variation on the dependent variable of state-level statutory support for restorative justice (Sliva, 2017). Following her example, I compare three states with different levels of statutory support for juvenile restorative justice: Alabama has zero statutes, Georgia has one statute, and Florida has eight statutes (Gonzalez, 2020). Although these states are different in terms of statutory support for juvenile restorative justice programs, they are comparable on two independent variables that I anticipated would affect legislative outcomes: percentage of Black population and poverty levels. Building on Sliva's (2018) and de Beus and Rodriguez's (2007) research, I hypothesized that these two variables might be particularly important in explaining differences in state-level adoption of restorative justice statutes. I sought to compare three states that were similar on these two variables, with the intention of revealing factors that may explain the difference in state restorative justice support.

Regarding the percentage of the population that is Black in these three states, there is some variation. However, the percentage is relatively similar, especially when compared to the average Black population across all 50 states. Census data from 2020 shows that 13.6 percent of Americans identified as Black or African American only (U.S. Census, 2020). In Alabama, Black residents make up 26.8 percent of the population (U.S. Census, 2020). This percentage is higher in Georgia, at 33 percent, and lower in Florida, at 17 percent.

These three states also have similar rates of poverty among their populations. Based on prior research (Sliva, 2018; de Beus & Rodriguez, 2007), I hypothesized that higher poverty rates within a state would predict less willingness from the state legislature to adopt restorative justice statutes for juveniles. As de Beus and Rodriguez (2007) report, young people living in areas with higher rates of poverty have a more difficult time completing restorative justice programming. This lack of success could disincentivize state legislatures from either developing or expanding pilot programs statewide. In 2020, Alabama's poverty level was 14.6 percent (U.S. Census, 2020). This is similar to Georgia's 2020 poverty rate of 13.1 percent and Florida's rate of 12.5 percent (U.S. Census, 2020). All three states have higher poverty rates than the national average, which was 11.6 percent in 2020 (U.S. Census, 2020).

Florida has far more restorative justice statutes for juveniles than either Alabama or Georgia. It is reasonable to expect greater differences in the independent variables tested in the previous chapter, and additional variables explored in this comparison, between Florida and the other two states than between Georgia and Alabama. This is certainly the case between Florida and Alabama in terms of the proportion of their juvenile offenders who are delinquents. Juvenile delinquents are young people who commit acts that would also be considered criminal if they were committed by an adult (de Beus and Rodriguez, 2007). Ninety-nine percent of Florida's juvenile offenders are considered delinquents, whereas 61.4 percent of Alabama's juvenile offenders are delinquent. Georgia's percentage of juvenile delinquents is similar to Florida's, at 90.6 percent (OJJDP, 2019). Similar differences exist across these states regarding their juvenile incarceration rates. In 2019, 104 of every 100,000 youth in Florida were incarcerated, and 110 out of every 100,000 in Georgia (Annie E. Casey Foundation, 2021). This number is significantly higher in Alabama, at 161 per 100,000 youth (Annie E. Casey Foundation, 2021).

Variation also exists across the three states in the representativeness of their legislatures. Democratic representatives make up about 40 percent of the state legislature in both Florida and Georgia, while only 25.7 percent of Alabama's state legislators are women. In Alabama's legislature, 16.4 percent of the seats are held by women (CAWP, 2023). In Florida and Georgia, this number is much higher, at 35 percent and 33.9 percent, respectively (CAWP, 2023). Similar inconsistencies exist regarding the numbers of Black representatives in the state legislatures. Only ten percent of Florida's legislative seats are held by Black representatives. In Alabama, 18.5 percent of the state legislators are Black. This number is higher in Georgia, where 25.4 percent of the legislature is Black (Smith, 2021). These percentages are all lower than the percentage of the population that is Black in each state (U.S. Census, 2020). For the majority of these independent variables, data for Georgia is more similar to Florida than to Alabama. This reveals potentially larger differences between states with zero statutes and states with one statute than between states with different numbers of active juvenile restorative justice statutes. In the next section of this chapter, I discuss how several variables that may influence the adoption of restorative justice statutes for juveniles are similar or different across the three comparison states.

Table 11: Independent Variables - Alabama, Florida, Georgia

State	Black Pop.	Poverty Level	Juvenile Delinquency	Female Legis.	Black Legis.	Democratic Legislators	Juvenile Incar. Rate
Alabama	0.268	0.146	0.614	0.164	0.185	0.257	161
Florida	0.17	0.125	0.995	0.35	0.1	0.4	104
Georgia	0.33	0.131	0.906	0.339	0.254	0.407	110

Bill Content

The content of bills related to juvenile restorative justice may better indicate the level of support a state has for restorative justice practices than the number of active statutes. Statutes and regulations that relate to restorative justice may do so at a surface level, or could provide in-depth explanations of program offerings, qualifications, and funding sources. As noted in Chapter 2, Sliva differentiated between statutes based on their content in her 2018 study. Specifically, she placed restorative justice statutes on a three point scale, assigning a value of zero in the absence of a statute, a value of one for statutes that simply referenced restorative justice, and a value of two for “statutes that provide administrative or fiscal support for the use of restorative justice in a specific criminal context or mandate its use” (Sliva, 2018, p.522). This method of coding statutes acknowledges the difference in legislative support between a statute with detailed language and measures for implementation of restorative justice programs and statutes that simply mention restorative justice as one option in an extensive list of potential

diversion programs. Redefining and operationalizing my dependent variable in this way may shed light on some of the empirical puzzles that emerge from the previous data analysis results, and reveal a more detailed picture of the conditions of restorative justice in each state.

Alabama has zero juvenile restorative justice statutes for juveniles, so would be coded as “zero”. Georgia has one statute that references juvenile restorative justice programming, and allows “Juvenile Accountability Block Grants” to be applied to the establishment of restorative justice programs, among fifteen other program types (Juvenile Accountability Block Grants, 2023). Therefore, Georgia would be coded as “one”. Florida has five regulations coded as “one” and three coded as “two”. The majority of Florida’s restorative justice codes simply mention the term as one of many diversion programs to be offered to low-level juvenile offenders, or one of many areas that juvenile residential staff must be trained in. The regulations that are coded as “two” contain administrative support. These regulations provide an overview for how restorative justice should be implemented and the intended impacts of these programs.

Scores for Florida and Georgia can be compared with the content of statutes in Colorado and Nebraska, which are national leaders in legislative support for restorative justice for juveniles. In 2020, both Colorado and Nebraska had fifteen juvenile restorative justice statutes (Gonzalez, 2021). A close reading of these fifteen respective statutes demonstrates that their content is much more detailed than the statutes in either Florida or Georgia. However, this content is not equally supportive simply because they have the same number of restorative justice statutes for juveniles.

Two of Colorado’s fifteen statutes are coded as one. These both mention “restorative justice,” but do not elaborate on this term or explain program implementation or funding sources. The remaining thirteen statutes are coded as two. Eight of these statutes contain administrative

support, such as petition processes, qualifications for program participation, and parental notification requirements. One statute has solely fiscal support for restorative justice programs, and outlines the use of grants for these programs. Four of these statutes have both fiscal and administrative components, and reference both processing and funding sources for juvenile restorative justice.

Nebraska has fewer statutes coded as two than Colorado. Six of Nebraska's statutes are coded as one and eight statutes are coded as two. The two states both have one statute that is coded as two that focuses exclusively on fiscal support for restorative justice programs.

Nebraska's statute allocates "... four hundred fifty thousand dollars in General Funds from the Department of Health and Human Services'..." for restorative justice program implementation (Legislative intent, 2019). Seven of Nebraska's statutes contain administrative support, such as guidelines for attorneys referring juveniles to restorative justice programming and follow up procedures for successful or unsuccessful program completion.

The content of bills in states with extensive statutory support for juvenile restorative justice programs is considerably stronger than the content of bills passed by state legislatures with less demonstrated commitment to restorative justice. However, reviewing bill content in Colorado and Nebraska reveals that state-level support for restorative justice is not equal across states with the same number of related statutes. Florida has eight restorative justice statutes, but the vast majority would be coded as one, meaning they only briefly refer to the term "restorative justice." Georgia's single restorative justice statute includes the term in a list of many alternative program types, and would also be coded as one. Close analysis of juvenile restorative justice statutes in these states demonstrates the importance of statute content in understanding the level of support for restorative justice programs in a state.

It appears that states with more statutory support for restorative justice also have statutes with stronger content. However, an analysis of the content of restorative justice legislation suggests that the number of statutes is not the only characteristic of state-level statutes on this issue that matters. Examining the content of restorative justice statutes across Florida, Alabama, and Georgia in depth reveals a more similar commitment to restorative justice across these three states than their number of related statutes initially suggests. The level of statutory support for juvenile restorative justice in these states is not adequately represented by the number of active statutes in each state, because the content of those statutes indicates minimal differences in the actual level of commitment to restorative justice practices across these three states.

Bill Sponsors

Bills cannot be passed without an advocate who introduces them and facilitates their adoption. Typically in a legislative setting, this is a sponsor who helps author the bill and guides it through the legislative process. I hypothesize that states with a consistent and visible champion of restorative justice statutes will have more statutory support for this legislation. Previous literature on state-level adoption of restorative justice statutes identifies bill sponsorship as an important variable in determining whether those statutes are adopted (Sliva, 2017). In a case study comparison of restorative justice legislation in Colorado and Texas between 2007 and 2013, Sliva (2017) finds that the charisma, passion, and influence of individual bill sponsors is critical in the adoption of legislation with specific goals such as establishing restorative justice programming for offenders. Colorado had more legislation related to restorative justice than any other U.S. state at the time (2013), and all restorative justice bills passed in the state between 2007 and 2013 included the involvement of the “...passionate, likeable, collaborative, creative,

and utterly influential...” Representative Pete Lee (Sliva, 2017, p.261). Conversely, restorative justice bills in Texas did not have a consistent or influential voice behind them (Sliva, 2017). Without this throughline of charisma and passion, Sliva finds that nearly all of the initiatives to implement restorative justice in Texas’ state legislature failed (2017).

Support in the literature for the impact of bill sponsors on the adoption of adult restorative justice statutes suggests that similar patterns would exist for juvenile restorative justice legislation. The complexity of state laws and the difficulty of identifying bill sponsors makes this variable more suited for case study comparison, as Sliva demonstrated in her prior research on bill sponsors and restorative justice statutes (2017). But, even in a smaller scale analysis, this information is difficult to find. Juvenile restorative justice legislation is typically introduced as a subsection of larger bills addressing child welfare or community safety, and these bills typically credit a single author or legislative committee rather than the proponents of individual subsections. Alabama’s legislature has not proposed or passed restorative justice statutes for juveniles, so does not have any associated bill sponsors. For Florida and Georgia, authors of bills, particularly subsections of larger bills, are extremely challenging to track down.

Georgia has a single regulation regarding juvenile restorative justice, adopted in 2020. This regulation, “Juvenile Accountability Block Grants,” allocates government funds for establishing restorative justice programs for juveniles, among fifteen other program types that are eligible to receive grant funds (Juvenile Accountability Block Grants, 2023). This regulation is part of Georgia House Bill No. 511 and was authored by Representatives Bert Reeves, Terry England, Shaw Blackmon, Bruce Williamson, Billy Mitchell, and Jan Jones (H.B. 511, 2022). All six representatives are credited as authors of HB 511, but individual authors of the “Juvenile Accountability Block Grants” section are not listed in Georgia records. With the exception of

Billy Mitchell, all representatives are white Republicans. Jan Jones is the only woman credited with authoring HB 511.

Florida has one juvenile restorative justice statute and seven regulations, and reveals more about the impact of individual legislators on the passage of specific statutes. Florida's single restorative justice statute, Statute 985.155, authorizes first-time, non-violent youthful offenders to participate in restorative justice programming and was enacted in 2020 (Neighborhood restorative justice, 2020). These programs are voluntary for juveniles following a referral from a state attorney. Those who choose to participate must do so with a parent or guardian (Neighborhood restorative justice, 2020). This statute is within Florida Senate Bill No. 938, which was authored by Senator John Thrasher.

Three administrative codes regarding restorative justice for juvenile offenders were passed in this bill along with Statute 985.155, so author credit for these three codes is also given to Thrasher. Senator Thrasher is a male Republican who served four terms in the Florida House of Representatives and a term and a half in the Florida State Senate (Florida House of Representatives, 2023). He also served as the Florida House Speaker from 1998 to 2000 (Ballotpedia, 2023). Thrasher's party leadership and tenure in both the House and Senate of the Florida legislature may be indicative of his greater influence on the legislature as a bill sponsor.

Regulation 63G-2.023, which defines and explains activities for detained youth, was authored by the Democratic members of the Children, Families, and Seniors Subcommittee within the Florida House of Representatives' Health and Human Services Committee in 2020. At this time, the members of this committee included David Silvers, Jennifer Webb, James Bush, Fentrice Driskell, Nicholas Duran, Anna Eskamani, Delores Hogan Johnson, Dotie Joseph, Kionne McGhee, Cindy Polo, Emily Slosberg, and Matt Willhite. All of these authors are

Democrats, and the content of the bill is related to program goals and success measurements. It could be that Democratic legislators are more likely to implement the mechanisms for actualizing restorative justice programs rather than simply authorizing their existence. This fits with Sliva's 2017 finding that Democrats are more supportive of restorative justice legislation with explicit support and structuring of restorative justice programs.

The three remaining Florida regulations regarding juvenile restorative justice programs exclusively for juveniles were generated in the Florida Senate Appropriations Committee in 2020. These regulations are cited as being authored by the Senate Appropriations Committee, rather than any individual state senators (State Nonresidential Staff, 2020). The minimal information available to researchers and interested constituents regarding statute and regulation authors and sponsors in state legislatures poses challenges for future investigations into the role of specific bill sponsors on the legislative outcomes of those bills. This challenge also reveals a broader issue with the transparency of state legislatures and the availability of mechanisms for holding state representatives accountable through elections.

Election Laws

In addition to the variables of bill sponsorship and content that were identified in previous studies (Sliva, 2017), it is conceivable that state election laws could impact state-level adoption of restorative justice legislation. This variable is important to consider because election processes determine which candidates can get elected. I hypothesize that stricter campaign finance laws would encourage candidates with less access to financial resources — either personal wealth or connections to wealthy donors — to run for state legislature. Further, I anticipate that these candidates may be most interested in championing restorative justice

legislation, as they are more likely than members of elite economic circles to have had interactions, either personally or through their communities, with the criminal justice system. This hypothesis builds on Sliva's previous findings regarding the demographic information of legislators, namely that a higher percentage of female state legislators will be more supportive of restorative justice statutes.

There is significant variation in campaign finance laws across the three states in this comparison. Florida has the most restrictive finance laws for candidates, who must pay a qualifying fee or gather enough petition signatures to waive their qualifying fee (Zizo, 2022). Once candidates have established their position in the legislative race, they are prohibited from receiving more than \$3,000 in contributions from any person or group (Florida Department of State, 2022). However, this limitation does not apply once a candidate is issued a ballot position by the Florida Secretary of State (Florida Department of State, 2022). Candidates are also permitted to make loans to their own campaigns that are not considered contributions (Florida Department of State, 2022). These donations are not covered by contribution limitations, allowing wealthier candidates virtually unlimited access to campaign funding through personal loans. Contributions from outside groups or individuals are tracked by detailed filing laws for candidates, committees and larger groups that are not affiliated with political parties (Florida Department of State, 2022). These contributions include both in-kind and monetary donations.

Georgia allows legislative candidates to accept larger sums of money from campaign donors. These sums vary depending on the election in question. GA. Code 21-5-41 regulates campaign donations, and states that candidates can accept up to "Five thousand dollars for a primary election; Three thousand dollars for a primary run-off election; Five thousand dollars for a general election; and Three thousand dollars for a general election runoff" (Maximum

allowable contributions, 2023). In-kind contributions are also considered in the aggregate with monetary donations. These contribution limitations do not apply to loans directly from a candidate or their family members, or to “expenditures made by a political party in support of a party ticket or a group of named candidates” (Maximum allowable contributions, 2023).

Alabama has significantly looser campaign finance laws than the other two states in this comparison. Candidates for the Alabama state legislature may begin fundraising twelve months prior to an election, and are obligated to file annual, monthly, weekly, and daily reports at various points in the election cycle (Allen, 2023). Candidates must file additional “major contribution reports” following the receipt of “... a single contribution of \$20,000 or more” (Allen, 2023). A contribution of this size can come from an individual or a group, because Alabama allows for unlimited donations from individual, state party, PAC, corporate, or union donors (National Conference of State Legislatures, 2019). Restrictions on campaign financing increase with the number of restorative justice statutes for juveniles. It is possible that limitations on campaign finance contributions facilitate the election of pro-restorative justice candidates, because candidates with limited personal resources may be more concerned with criminal justice reform policies.

Felon Disenfranchisement

Voting restrictions reach beyond barriers to physically arriving at the polls to cast a ballot. The disenfranchisement of convicted felons and formerly incarcerated people occurs in nearly every state in the country. The impact of laws that strip felons of their voting rights is that 4.6 million Americans, or about two percent of the nation’s voting age population, are ineligible to vote (Uggen et. al., 2022). Nationwide, Maine and Vermont are the only two states that permit

felons to vote even while they are incarcerated (American Civil Liberties Union, 2023). Due to the racial demographics of the United States' incarcerated population, felon disenfranchisement has a disproportionate impact on Black and low-income voters. According to a report from the Sentencing Project, "one in 19 African Americans of voting age is disenfranchised, a rate 3.5 times that of non-African Americans" (Uggen et. al., 2022). Laws disenfranchising felons, although they may be facially non-discriminatory, have the practical impact of reducing the voting power of Black Americans. These laws also limit the political capital of individuals with personal experience in the criminal justice system, who may elect pro-reform candidates if given the opportunity to vote. Therefore, I hypothesize that states with more disenfranchised felons are less likely to adopt restorative justice legislation for juveniles.

However, Florida demonstrates that high rates of felon disenfranchisement do not seem to be a direct barrier to passing restorative justice legislation for juveniles. Florida has a tumultuous recent history with disenfranchising individuals convicted of felonies. In 2018, Florida voters overwhelmingly approved a constitutional amendment that "...restored voting rights to most Floridians with past convictions who had completed... their sentence" (Brennan Center, 2023). Prior to the adoption of this amendment, Florida permanently disenfranchised all people convicted of a felony. In 2019, Florida Governor Ron DeSantis signed a bill, introduced in the State Senate, prohibiting released felons from voting "...unless they pay off certain legal financial obligations imposed by a court pursuant to a felony conviction" (Brennan Center, 2023). As a result of this Senate Bill, "Florida remains the nation's disenfranchisement leader in absolute numbers, with over 1.1 million people currently banned from voting" (Uggen et. al., 2022). Florida simultaneously disenfranchises more released felons than any other state and has passed eight restorative justice statutes for juveniles. It appears that low rates of felon

disenfranchisement are not necessary for higher levels of statutory support for juvenile restorative justice.

Alabama and Georgia also disenfranchise felons at relatively high rates and under similar circumstances. Both states disenfranchise anyone convicted of crimes of “moral turpitude,” though neither state offers a concrete definition of a crime of “moral turpitude” (Ruppensburg, 2019). In Alabama, failure to define the conditions that lead to disenfranchisement resulted in registrars in some counties removing all felons from the voter rolls without looking at the specifics of their conviction. In 2017, forty-seven felony types were enumerated as crimes of moral turpitude to provide guidance for registrars (Alabama Secretary of State, 2022). In Georgia, convicted felons cannot regain their voting rights until they have completed their sentence, parole or probation, and paid any associated court fees (Ruppensburg, 2019). By 2018, Georgia had developed the largest correctional system in any of the 50 states, largely due to a growing probation program (Ruppensburg, 2019). Despite the variation across Florida, Georgia, and Alabama in support for juvenile restorative justice, all three states have expansive criminal systems and felon disenfranchisement laws.

Summary

Due to the small number of states being reviewed in this case study, the findings of this comparison are not conclusive. However, it appears that in Alabama, Florida, and Georgia, campaign finance laws could potentially facilitate or preclude the election of reform-minded legislators with fewer resources and stronger firsthand understanding of the American justice systems, and therefore influence juvenile restorative justice statute adoption. It seems unlikely that felon disenfranchisement laws predict whether a state will adopt juvenile restorative justice

legislation. This three-state comparison reveals the importance of analyzing the content of statutes to determine the level of support for juvenile restorative justice in a state, and supports Sliva's findings regarding the importance of a charismatic and visible legislative sponsor (2017).

Chapter 5

Summary

The intent of this thesis is to explain the disparity in state-level adoption of juvenile restorative justice programs using 2020 data. Despite expert consensus recognizing the benefits of restorative justice compared to traditional punitive measures for young people, statutory support for related programs varies dramatically across the 50 states. Youthful offenders that participate in restorative justice programs are more likely to be satisfied with their experience, retain trust in the justice system, and are less likely to recidivate (Aizer & Doyle, 2015). The victims of youth offenses also report higher satisfaction following restorative justice processes compared to court processes. Conversely, juveniles who are sentenced to detention following a wrongful act are less likely to complete high school and more likely to commit future wrongdoing in their adult years (Aizer & Doyle, 2015). Restorative justice offers invaluable learning opportunities for individual young people and their communities to avoid the trauma and future incarceration that results from juvenile detention and adversarial court proceedings.

Studies examining statutory support for restorative justice found that the percentage of Black population in a state, incarceration rates, crime rates, and female representation in state legislatures were statistically significant predictors of the number of restorative justice statutes adopted by states for adult and juvenile offenders (Sliva, 2018). Additional studies with alternative dependent variables found that the type of juvenile offense committed also factored into restorative justice program eligibility and success (de Beus & Rodriguez, 2007). After thoroughly reviewing the limited literature related to restorative justice for juveniles and state-level determinants of restorative justice program adoption, I tested the following variables to determine whether they explain the variation in restorative justice statutes for juveniles at the

state level: the percentage of the state population that is Black, juvenile incarceration rates, state poverty levels, percentage of female state legislators, juvenile delinquency in a state, and the percentage of Black state legislators.

To determine whether these variables explain variance in the adoption of state-level restorative justice statutes for juveniles, I used a mixed-method approach. First, I conducted multivariate linear regression analysis of all seven variables to test for their relationship to the dependent variable. This analysis did not reveal any statistically significant relationships, so I conducted a comparative case study analysis to more deeply investigate relationships that may have been missed in the regression analysis. Specifically, I held the variables of Black state population and percent of the state population in poverty constant to compare Alabama, Florida, and Georgia. These states are comparable on potentially important independent variables, but vary on the dependent variable of statutory support for juvenile restorative justice. Alabama has zero statutes, Georgia has one statute, and Florida has eight statutes (Gonzalez, 2021). In this comparison, I took a closer look into the potentially relevant variables of campaign finance laws, felon disenfranchisement, and restorative justice bill sponsors.

In a qualitative three-state comparison, I held the variables of Black state population and percent of the state population in poverty constant to compare Alabama, Florida, and Georgia. These states are comparable on potentially important independent variables, but vary on the dependent variable of statutory support for juvenile restorative justice. Alabama has zero statutes, Georgia has one statute, and Florida has eight statutes (Gonzalez, 2021). In this comparison, I took a closer look into the potentially relevant variables of state election laws, felon disenfranchisement, and restorative justice bill sponsors.

Interesting speculative findings arose from this comparison that could be further explored in future research. Alabama has the most flexible campaign finance laws and zero juvenile restorative justice statutes, while Florida has significantly stricter finance laws for political candidates. Florida simultaneously has eight juvenile restorative statutes and is the national leader in felon disenfranchisement. Therefore, felon disenfranchisement seems to have little predictive value regarding the state-level adoption of restorative justice programming for juveniles. Most importantly, this small-scale analysis revealed the significance of bill sponsors and the content of statutes for measuring their supportiveness of restorative justice programming.

Interpretation of Results

There are multiple potential explanations for the lack of significant findings from my data analysis. One possible explanation could be the limitations of the data used, specifically related to juvenile-specific information. This possibility is described in greater detail in the “Limitations” section below.

The results of my quantitative analysis reveal that whether states pass restorative justice statutes for juveniles cannot be predicted by any of the variables included in my analyses. It could be that other variables are significant that were not included in the quantitative analysis. Support at the state level for juvenile-specific restorative justice statutes could also be somewhat random. This randomness is displayed in the regression analysis, where outputs included a negative adjusted *r*-squared value and large standard errors for the predictor variables. Fewer statutes refer solely to juvenile offender participation in restorative justice compared to adult participation, and existing statutes are not as well articulated for juveniles as they are for adults (Gonzalez, 2021). The juvenile justice system is currently evolving at various rates across the 50

states, and state legislators could lack sufficient knowledge of these systems to enact necessary or successful juvenile sentencing reforms.

In order to gain a sufficient understanding of juvenile justice and the reforms this system requires, state legislators may need prior knowledge of this issue separate from their legislative role. Sliva found this to be true in her 2017 comparison study, when she identified the impact of Colorado Representative Pete Lee's "personal involvement with restorative justice... with a local juvenile restitution program" on his commitment to passing restorative justice legislation (2017, p.261). The presence of charismatic leaders seems to impact whether a state adopts juvenile restorative justice statutes, more so than any other variable tested in this thesis. Whether a state legislature has a visible leader with a commitment to juvenile restorative justice statute adoption is fairly random. The chances of having a champion on this issue in the legislature is less reliable for juveniles than for adults, because the juvenile justice system is less universally defined than the adult criminal system and varies significantly by state and county. As noted in my analysis in Chapter 4, election laws may limit the opportunities for those with knowledge of the juvenile justice system to get elected to public office, furthering the problem of developing restorative justice statutes for juveniles across, or within, states. The differences across state juvenile justice systems adds an element of randomness to attempts to predict which variables impact the state-level adoption of juvenile restorative justice statutes.

Contributions

One major takeaway from my analysis is that researchers cannot assume that those variables that explain and predict variation of state-level restorative justice statutes for adults will also explain variation in statutes exclusively for juveniles. Three of the seven variables tested in

this study — percent Black population in a state, percent of women in the state legislature, and state incarceration rates — were found to be statistically significant predictors of restorative justice legislation at the state level for adult and juvenile offenders in Sliva's 1988 - 2014 dataset (2018). Yet none of these variables were significant in predicting variation in the number of state restorative justice statutes exclusively for juveniles using 2020 data. It is possible that trends in Sliva's earlier results do not hold in 2020 for a reason that my analysis overlooks. This study also examined additional variables such as the poverty level in a state, the partisan split of the state legislature, the percent of juvenile delinquents in a state compared to status offenders, and the percent of Black representatives in the state legislature. These hypotheses were also not supported by the multiple statistical tests I conducted.

Although the results of my quantitative research were not statistically significant, the findings from both my statistical analysis and comparative analysis can contribute to research on statutory support for restorative justice for juveniles. I anticipated that the independent variables of Black state population and state poverty level would be important predictors of juvenile restorative justice statute adoption at the state level. Demographic information about state residents and legislators may not matter as much as the willingness of charismatic leaders to champion restorative justice program implementation. The potential importance of this variable is discussed further as a recommendation for future research. The lack of a statistically significant relationship resulting from the data analysis on restorative justice statutes exclusively for juveniles and the potential randomness of electing candidates with prior interest in juvenile restorative justice legislation are unexpected contributions of this research.

Comparative analysis also revealed the importance of measuring and operationalizing statutory support for juvenile restorative justice by statute content, rather than simply counting

the number of active statutes. The case study of Florida, a state with eight juvenile restorative justice statutes in 2020, shows that a high number of statutes does not necessarily correspond with strong contextual support. Simply mentioning the term “restorative justice” in legislation is not necessarily sufficient for program implementation and funding. This was a problem with the dependent variable measurement for the regression analysis, which was revised in the subsequent comparison case study. How support for restorative justice programs is defined and laid out in legislation makes a difference in the success of these programs.

Limitations

My research was limited in many ways, namely by state restrictions on reporting juvenile justice data. Because juveniles are minors, rules regulating confidentiality are much stricter than for adults. Confidentiality in juvenile justice reporting presented a significant obstacle when creating a fifty-state dataset. The independent variable of juvenile delinquency posed a particular challenge. Twelve states do not publicize data on the number of juveniles that are charged with status offenses versus delinquent offenses. These states include major outliers like Colorado, which in the 2020 dataset had fifteen restorative justice statutes in place specifically for juveniles.

Issues with transparency regarding juvenile justice procedures were revealed by both the qualitative and quantitative aspects of my research. Limited public data on juvenile offense types in various states created complications for a full 50 state analysis of each independent variable. Therefore, I created regression models including and excluding the variable of juvenile delinquency.⁴ This allowed for the presentation of data analysis on all 50 states for the other independent variables with complete data entered.

⁴ These models are displayed in Chapter 3, Tables 3-4.

The problem of transparency was even more evident in the qualitative portion of my research, specifically regarding the authors of state statutes. Previous research has found that the presence of an effective sponsor for restorative justice statutes in the legislature has a significant impact not only on whether restorative justice legislation is ultimately enacted, but also on the strength of this legislation (Sliva, 2017). I struggled to replicate this research specifically for juvenile restorative justice bills in my three-state comparison because of how difficult it is to identify the sponsors of bills passed by state legislatures, and the authors of bill subsections. This creates issues with researching state bill sponsors and poses a concerning accountability issue. Constituents should know who authors state bills so they can apply political pressure or offer political support to certain lawmakers.

Limitations also may have risen from the level of government I reviewed. The presence of restorative justice at the state level is unlikely to adequately represent the existence or effectiveness of restorative justice programming within a state. Lower-level jurisdictions, namely counties, receive state funding in different ways and with various qualifications. Programs that are ultimately implemented at the county level, such as restorative justice for juvenile offenders, will have varied levels of state oversight and legislative relevance across the fifty states.

It is possible that these issues with transparency in reporting and access to related data impeded my ability to adequately capture the relationship between the various predictive factors I tested and restorative justice statute outcomes for juveniles at the state level. The methods of analysis employed may not have adequately captured the causal relationships that I hypothesized. This inadequacy could have come from various elements of my research design. The way I operationalized each independent variable may not have sufficiently represented the issue I hoped to explain. In the data analysis section of my research, the statistical models I

employed may not have been powerful enough to determine a significant relationship. This could have been because of a limited amount of available data, or an imperfect match of statistical models used with the data I tested.

Recommendations

Although my thesis did not uncover a statistically significant relationship between the analyzed variables and the level of statutory support for juvenile restorative justice programs in a state, it did shed light on potential areas for future research. The lack of support for my hypotheses raises new questions in an area with very limited existing scholarship. American juvenile justice is at a pivotal point as many states and jurisdictions take more lenient reformatory stances on addressing youth offenses, rather than adversarial court processes. Juvenile incarceration rates skyrocketed in the 1980s and 1990s, leading to the adoption of state policies to “... reverse or mitigate the harsh sanctions” (Merlo & Benekos, 2010). These changing attitudes are reflected at the national level in the U.S. Supreme Court opinions that differentiate criminal punishment for juveniles from adults.

Restorative justice for juveniles produces better results in recidivism, trust in the justice system, and participant satisfaction than traditional punitive measures, if it is done successfully (Aizer & Doyle, 2015). The success of restorative justice programs authorized by state statutes is not guaranteed, especially considering the variation in support within these statutes for implementing these programs. This issue has been raised in debates regarding the success of the progressive prosecution movement in the U.S., in which prosecutors campaign on “reformist discourse” (Yamahiro & Garzon-Montano, 2022). One major critique of this movement is that the benefits for participants of criminal reforms such as restorative justice can be diminished by

the operation of these programs within the existing criminal system. Restorative justice programs that are “deeply tied to the criminal legal system” fail to maintain the central tenets of restorative justice by removing these programs from their community-led principles (Yama Hiro & Garzon-Montano, 2022). Future research must closely examine the content of statutes, as well as review their practical application, to determine if statutes citing the term “restorative justice” actually respect and adopt the principles of this mediation method.

I examined state-level legislative support for juvenile restorative justice programs to gain insight into the statewide adoption and endorsement of this practice as a legitimate alternative to adversarial court procedures and punitive measures. State legislatures influence outcomes in smaller jurisdictions through the state, and allocate funding for programs to actualize their implementation. However, by reviewing top-down implementation pathways, any pre-existing and successful restorative justice programs in lower jurisdictions are obscured. State-level analysis limits the insights provided by county or city-level juvenile restorative justice programs. Future research could benefit from examining program support from local lawmakers, such as county boards of supervisors and city councils.

School restorative justice programs are another lower-level model that this thesis does not consider. The use of restorative justice for young people in non-criminal settings, such as school systems, has a more extensive history and related scholarship. Adoption of restorative justice programs in a school district could be an indicator of support for restorative justice in settings with traditionally higher stakes and more formalized processes, such as the juvenile criminal system. School districts are run by independent school boards that assert significant control over these districts (Land, 2022). School boards have the authority to make their own decisions about

programs to offer their students. Support for programs in schools could be an important precursor for juvenile restorative justice statutes at the county or state level.

Finally, the presence of key figures in legislative decision-making is a variable that could benefit from additional exploration. These figures may be legislators or community members who are passionate about the use of restorative justice and work closely with their state representatives to adopt restorative justice legislation. The presence of an identifiable and effective champion of the adoption of restorative justice could be an important predictor of support for restorative justice programs.

Conclusion

Future studies are needed to identify the variables that predict state-level statutory support for juvenile restorative justice. Current research on juvenile criminal and restorative justice occurs at a unique point in time, when the juvenile justice system is undergoing substantial changes in terms of how justice is understood and conducted for young offenders and their victims. As the juvenile justice system diverges more drastically from the adult criminal system, it becomes more important to understand the predictors specific to restorative justice programs for youth offenders. The juvenile criminal system is shrinking due to changing opinion on youth justice, as it has over the past few decades. Youth remaining under surveillance and detention are left at risk of being misunderstood and overlooked. State legislators and lower-level lawmakers may struggle to understand the new model of U.S. juvenile justice due to the underdeveloped state of research in this area. Misconceptions about the role and effectiveness of restorative justice practices for juvenile offenders are currently playing out in state legislatures across the country, as the term “restorative justice” is lumped into attacks on “soft on crime”

sentencing strategies and the progressive prosecution movement. In states such as Utah, legislative debate and “tough on crime” pushback led to the repeal of restorative justice programming for juvenile offenders in 2023 (Utah H.B. 304). Identifying the variables that are predictive of greater support for alternatives to punitive juvenile justice procedures are uniquely important now as opposition to these alternatives is sowed at the state legislative level. This thesis reveals both potential predictors of juvenile restorative justice adoption at the state level, and the need for additional research at state, county, and municipal levels of evolving juvenile sentencing practices.

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Appendix A

Table A1: Kruskal-Wallis Output (Poverty Level)

```
. kwallis povertylevel, by(newrj)
```

Kruskal-Wallis equality-of-populations rank test

newrj	Obs	Rank sum
0	18	509.50
1	15	374.00
2	18	442.50

chi2(2) = **0.674**

Prob = **0.7140**

chi2(2) with ties = **0.674**

Prob = **0.7139**

Table A2: Kruskal-Wallis Output (Juvenile Delinquents)

```
. kwallis juveniledelinquents, by(newrj)
```

Kruskal-Wallis equality-of-populations rank test

newrj	Obs	Rank sum
0	15	309.00
1	11	196.00
2	13	275.00

chi2(2) = **0.577**

Prob = **0.7492**

chi2(2) with ties = **0.577**

Prob = **0.7492**

Table A3: Kruskal-Wallis Output (Black Legislators)

```
. kwallis blackstateleg, by(newrj)
```

Kruskal-Wallis equality-of-populations rank test

newrj	Obs	Rank sum
0	18	493.00
1	15	376.50
2	17	405.50

```
chi2(2) = 0.531
```

```
Prob = 0.7670
```

```
chi2(2) with ties = 0.531
```

```
Prob = 0.7669
```

Appendix B

Table B1: T Test Output (Poverty Level)

```
. ttest povertylevel, by(newrj)
```

Two-sample t test with equal variances

Group	Obs	Mean	Std. err.	Std. dev.	[95% conf. interval]	
0	18	.1295	.0061406	.0260525	.1165444	.1424556
1	33	.1234545	.0046617	.0267793	.113959	.1329501
Combined	51	.1255882	.0037002	.0264244	.1181563	.1330202
diff		.0060455	.0077736		-.0095761	.021667

diff = mean(0) - mean(1) t = 0.7777
H0: diff = 0 Degrees of freedom = 49

Ha: diff < 0 Ha: diff != 0 Ha: diff > 0
Pr(T < t) = 0.7798 Pr(|T| > |t|) = 0.4405 Pr(T > t) = 0.2202

Table B2: T Test Output (Juvenile Delinquents)

```
. ttest juveniledelinquents, by(newrj)
```

Two-sample t test with equal variances

Group	Obs	Mean	Std. err.	Std. dev.	[95% conf. interval]	
0	15	.7692	.0396971	.1537462	.6840582	.8543418
1	24	.7439167	.0400775	.1963391	.6610099	.8268234
Combined	39	.753641	.0287323	.1794332	.6954755	.8118066
diff		.0252833	.059707		-.0956945	.1462612

diff = mean(0) - mean(1) t = 0.4235
H0: diff = 0 Degrees of freedom = 37

Ha: diff < 0 Ha: diff != 0 Ha: diff > 0
Pr(T < t) = 0.6628 Pr(|T| > |t|) = 0.6744 Pr(T > t) = 0.3372

