

THINKING ABOUT THE CHILDREN:  
JUVENILE JUSTICE REFORM AND RACIAL DISPARITIES IN CHARLOTTE, NC, 1990-  
2021

by

DJ Gates

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Approved by: \_\_\_\_\_

Dr. Kristina Shull \_\_\_\_\_

Dr. Mark Wilson \_\_\_\_\_

Dr. Michael Turner \_\_\_\_\_

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## ABSTRACT

DJ GATES. Thinking About the Children: Juvenile Justice Reform and Racial Disparities in Charlotte, NC, 1990-2021. (Under the direction of DR. KRISTINA SHULL)

This thesis explores the relationship between elected officials, juvenile justice advocates, non-profit organizations, and major juvenile justice reform laws. This thesis utilizes a combination of top-down and history-from-below historical approaches to examine the major changes in juvenile justice reform efforts. The research includes data from the department of juvenile justice and delinquency prevention, annual reports from Charlotte-based non-profit organizations, and oral history interviews with those affected by the North Carolina juvenile justice system. Through these methods this thesis shows a narrative of juvenile justice reform efforts that attempted to address many issues present in the North Carolina juvenile justice system like recidivism, youth development center populations, and disproportionate minority contact. Through this narrative this thesis shows that these efforts can be associated with the successful reduction in recidivism rates and YDC or youth development center populations between 1990-2021, however, racial disparities remain present within the North Carolina juvenile justice system. One specific contribution of this thesis is the inclusion of oral history interviews involving non-profit leaders and those affected by the North Carolina juvenile justice system, enabling a new viewpoint through which scholars can observe how the juvenile justice system impacts others. This research can be used to increase awareness of the racial disparities within the North Carolina juvenile justice system and can be used to highlight potential avenues of further research, like the impact of trauma on the minds of adolescents contained within carceral infrastructure.

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## DEDICATION

I dedicate this thesis to my family and to the Lads. Without their patience, understanding, and support the completion of this work would not have been possible.

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## Introduction

In 1974, 21-year-old Glenn Smith was living and working in a group home in Appalachia which received youth getting out of lock-up facilities. He had gotten interested in these youth through a course he had taken in college, and when asked why he had taken an interest in incarcerated minors he replied, “I was enamored by this idea that these kids shouldn’t be locked up, that they needed opportunities more than punishment.”<sup>1</sup> Smith continued working with kids in private practice psychology to help keep them out of residential centers as well as mental health centers. In 1998 Smith began working in the Mecklenburg County jail which had been overcrowded and overburdened because of Mecklenburg County’s population growth and Get-Tough era crime policies. “I just had the opportunity to go in and teach some life skills courses to adults who were re-entering back in the community. But they brought me full circle because they kept telling me again and again if they had had this information, or people mentoring them like they were through our program, they wouldn’t be there.”<sup>2</sup> To address the issues of a large incarcerated population and high recidivism rates in Mecklenburg County, Smith met with elected officials like the Sheriff and the Juvenile Crime Prevention Council which had members appointed by the Mecklenburg board of county commissioners. In 2004, Smith started a court diversion program where his organization got referrals through juvenile court councilors, a program which later became the largest Charlotte-based non-profit organization with a goal of reducing recidivism rates within Mecklenburg County’s juvenile justice system: Life Connections of the Carolinas.

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<sup>1</sup> Glenn Smith, interview by author, Virtual, 1/27/2023.

<sup>2</sup> Smith, Interview.



How did elected officials and other non-profit organizations like Glenn Smith's attempt to address the issues of recidivism, large populations of incarcerated children, and disproportionate minority contact within carceral infrastructure? This thesis endeavors to answer this question through a top-down examination of major juvenile justice reform laws at the state and national level, the efforts of non-profit organizations and social movements like the children's rights movement to combat and reduce recidivism and disproportionate minority representation, and the impact mass media had on these efforts. While there is prior scholarship regarding juvenile justice laws in North Carolina and Charlotte, this thesis is the first to combine both a top-down and bottom-up approach to the changes and impact of juvenile justice reform laws at the state and local level from 1990-2021. I accomplish this through an examination of the major juvenile justice reform laws from 1990-2021, sentencing and placement data from the DJJDP or department of juvenile justice and delinquency prevention, the language used by state and local legislators and juvenile justice advocates, and oral histories from those impacted by these changes to show a more complete picture of NC juvenile justice reform efforts and the impact they had. Ultimately, this thesis shows that despite officials claiming these reforms to be progressive, many laws continue to disproportionately impact racial minorities and those of low-socioeconomic status. This thesis will show that over the course of thirty years many people like elected officials and advocates attempted to address issues regarding recidivism rates and incarcerated populations, as well as disproportionate minority representation within the juvenile justice system over time.

Given the nationwide recidivism average among juvenile offenders stands at 50 percent, North Carolina stands out with its significantly lower rate of 29 percent as of 2021.<sup>34</sup> I argue that the substantially lower rates of juvenile recidivism and delinquency in Charlotte can be associated with the efforts of elected officials and juvenile justice advocates and with an increased focus on children's rights and juvenile justice reform legislation. These efforts coincided with important pieces of legislation at the national level like the Crime Control Act of 1990 and the 1994 Crime Bill as well as the state level reforms including the NC Safe Schools Act of 1993 and the Juvenile Justice Reform Act of 1998. Ironically, however, these same pieces of legislation also allowed for the juvenile justice system to be used by both legislators and the police as a tool for the social control of disenfranchised groups like Black, Hispanic, and low-income youths through sentences that are disproportionate compared to White upper-to-middle class youths. To assess the multi-layered impact of these laws, I will utilize qualitative data from both the state and local juvenile justice reform policies from 1990-2021. I will evaluate the vague language used by legislators within formal legislative documents. Additionally, I will utilize oral history interviews to provide a viewpoint into the juvenile justice system not often seen through prior scholarship or mass media. Through this I will demonstrate that even as major juvenile justice reform laws significantly improved the rights of children, vaguely defined legislation also allowed local and state legislators to control which demographic groups the laws applied to. These efforts can be associated with increased sentencing time and systemic discrimination targeting racialized minority groups and those of low socioeconomic status.

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<sup>3</sup> Michelle Hall, "Juvenile Recidivism Study: FY 2018 Juvenile Exit Sample," *North Carolina Sentencing and Policy Advisory Commission*, (2021): 74. [https://www.nccourts.gov/assets/documents/publications/SPAC-2021-Juvenile-Recidivism-Study\\_0.pdf?VersionId=kfrqtT00Hg9ep9YJYq\\_0kSYQyr5IkfPD](https://www.nccourts.gov/assets/documents/publications/SPAC-2021-Juvenile-Recidivism-Study_0.pdf?VersionId=kfrqtT00Hg9ep9YJYq_0kSYQyr5IkfPD).

<sup>4</sup> James C. Howell, "Caught in the Act: States Doing Some Things Right in Juvenile Justice." *Juvenile and Family Court Journal* 68, no. 4 (December 2017): 4. <https://onlinelibrary.wiley.com/doi/10.1111/jfcj.12101>.

While this thesis will focus on Juvenile Justice Reform law and its impact on the Charlotte-Mecklenburg area, it is important to note that many major reform laws originated at either the state or national level. To this end, while I predominantly focus on Charlotte-Mecklenburg, I will be analyzing major laws crafted in the North Carolina legislature, and major national reform laws that reflected a push for tough on crime “colorblind” legislation in the post-civil rights era like the 1990 Crime Bill and its influence on both state and local policymaking. I analyze these laws because state-level politicians and reforms held the most power over how the juvenile justice system operates. Additionally, I will be analyzing the impact of children’s rights advocacy within Charlotte on policymaking. This analysis will show differences between how state and local legislators view the goals of the juvenile justice system, as well as highlight how the intent of reform legislation and the practical application of reform legislation can contrast, producing results that conflict with what legislators tout to be a fair and just system.

This thesis will utilize oral history interviews that I have conducted with several prominent members of non-profits in Charlotte, as well as an interview with a Charlotte native mother and her firsthand experience interacting with the juvenile justice system. These oral histories are significant as they offer firsthand accounts of Charlotte’s non-profits attempting to address the issues of recidivism and incarcerated populations. These oral histories highlight the underlying issues that cause these problems, such as disproportionate minority contact and the impact of trauma on the minds of children. Additionally, because children’s experiences in this broken system varied so much from child to child and across time through reform eras these oral history interviews give insight into how these systems operate. The stories that these interviews tell also aren’t found in newspapers or government documents as they are not easily sanitized for the public to view. The founders of these non-profits started on their quest to address children’s

rights and DMC or disproportionate minority contact as a result of bleak circumstances and traumatic experiences like the loss of a child, the arrest of a child, or from experiences viewing the juvenile justice system from within. As such, oral histories offer a unique opportunity to understand why so many have dedicated their lives to thinking about the children. Oral histories also offer an opportunity to understand how the juvenile justice system impacted the lives of many, from the perspective of those who have been personally affected by these complex issues.

The impact of children's rights advocacy in Charlotte can be seen in many of the major historical events related to juvenile justice reform, such as the Raise the Age Campaign and Race Matters for Juvenile Justice Awareness Campaign from RMJJ or race matters for juvenile justice, a Charlotte-based non-profit founded in 2010 which focused on sentencing disparities and disproportionate populations within carceral infrastructure. While there were many groups focusing on the issues of juvenile justice reform in both Charlotte and the state, this thesis will focus primarily on the efforts of advocates, elected officials, and lawmakers at both the local and state level as these groups provided the most substantial and identifiable changes in reform policies and the mentality behind them. The perspective of oral histories from juvenile justice advocates also highlights the disconnect between what lawmakers designate as effective solutions and the reality of the ground-level injustices that both juveniles and their families experience within the juvenile justice system. These perspectives are necessary as there is still a lack of other primary sources around these issues due to these complex systems not gaining as much attention from mass media compared to the sentences given for sensationalized crimes like that of Gregory Gibson, a thirteen-year-old who had murdered his grandmother and was ineligible to be tried as an adult due to his age, prompting legislators to reform juvenile transfer laws prior to his sentence.

Despite the significant difference in recidivism rates between the national average and North Carolina, it remains to be answered how, on the one hand, it seems that Charlotte is handling the juvenile delinquency problem, yet on the other hand Charlotte families still see the state as being ineffective at addressing racial disparities regarding sentences for those adjudicated delinquent.<sup>5</sup> While Mecklenburg County officials have tried to move past their initial “tough on kids” policies, there are also plans to expand North Prison in 2022 to allow for an additional juvenile rehabilitation center. This will be built by the convicted individuals housed within it and will contain 216 new beds to accommodate an influx of juvenile offenders expected to arrive as a result of an impending change in the definition of juvenile delinquency within North Carolina.<sup>6</sup> This anticipated influx will be driven by North Carolina’s August of 2021 decision to raise the minimum age of juvenile delinquency while also raising the age of those within the jurisdiction of juvenile courts to 17 up from 16, allowing juvenile courts to send more children to youth development centers as a dispositional option. North Carolina’s Congress voted to raise the minimum age within the definition of juvenile delinquent from six to ten years of age, reducing the number of children within North Carolina’s juvenile court system. This allowed juvenile court counselors to finally do away with coloring books and crayons as techniques for prepping their clients before their court procedures.<sup>7</sup>

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<sup>5</sup> Heather Hunt and Gene Nichol, “The Price of Poverty in North Carolina’s Juvenile Justice System,” *North Carolina Poverty Research Fund* (Spring 2021): 5. <https://law.unc.edu/wp-content/uploads/2021/04/juvenilejustice-povertyreport2021.pdf>.

<sup>6</sup> Trevor Boyer, “North Carolina Plows Ahead with Youth Facility Construction Using Adult Prison Labor,” *Juvenile Justice Information Exchange*, May 30, 2020, 1. <https://jjiie.org/2020/05/30/north-carolina-plows-ahead-with-youth-facility-construction-using-adult-prison-labor/#:~:text=By%20Trevor%20Boyer%20%7C%20May%2030%2C%202020&text=In%20North%20Carolina%2C%20adult%20prisoners,youth%20who%20have%20been%20adjudicated>.

<sup>7</sup> G.A. Bill. 207, Sess. Of 2021 (NC. 2021), <https://www.ncleg.gov/Sessions/2021/Bills/Senate/PDF/S207v6.pdf>.

Through an examination of both the legal and social historical events surrounding juvenile justice reform, one can observe that many changes in juvenile justice reform policy can be associated with social movements to sway legislators, followed by the passing of sweeping legislation to appease voters and juvenile justice advocates and activists, and ultimately being put into common practice through court cases. One example of this can be seen in the Raise the Age campaign, which began as a social movement following an increased understanding on adolescent development that in part led to the creation of the NC Minimum Age law, which in turn reduced the age range in which juvenile courts could adjudicate a youth as delinquent. Put simply, juvenile justice reform movements both occur and gain support through scholarly research, public interest, mass media, and various levels of government far more quickly than either juvenile courts or legislators can act upon them. This led to a recurring cycle of social movements attempting to update an old and broken juvenile justice system that still utilize archaic laws put in place for goals that are no longer needed or desired. The Supreme Court decisions in *Roper v. Simmons* (2005), *Graham v. Florida* (2010), and *Miller v. Alabama* (2012) all limited the harshest sentences that could be applied to youths and relied on developmental psychology and research in neuroscience to support these decisions, as well as emphasized the youth's diminished responsibility.<sup>8</sup> However, despite these cases emboldening the rights of children, in practice youths experienced only limited relief, and offered limited guidance for states to implement the rationale of the national level. Despite a push for both children's rights and less harsh punishments at the national level as early as the 1990s, North Carolina's judicial and legislative responses failed to acknowledge that children are unique within the justice system, and failed to create a strategy that recognized the impact of youthfulness within the

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<sup>8</sup> Barry C. Feld, *Bad Kids: Race and the Transformation of the Juvenile Court* (New York: Oxford University Press, 1999), 1.

juvenile court system.<sup>9</sup> The juvenile courts failure to provide justice for children was not addressed until the children's rights movement made its way to North Carolina in 2005, the driving force of which was due to the sharp rise in children's rights advocacy within the city of Charlotte.

The city of Charlotte provided a suitable battleground for the fight between advocates and an outdated and harsh juvenile justice system. This was because Charlotte's rapid population growth in the 1990s and 2000s was coupled with the infamous Charlotte-Mecklenburg school-to-prison pipeline, which was the process of issuing formal complaints on youths in order to punish them. This ultimately led them to be removed from the school system and exposed to harsher punishment within the juvenile court system, and extremely low rate of socioeconomic mobility when compared to any other city in America.<sup>10</sup> This in turn created a unique location in which any changes to the juvenile court system resulted in data collected by advocates that could be applied to any other city in North Carolina with similar effectiveness. Therefore, Charlotte became the initial location for a large amount of juvenile justice activism and advocacy movements in the hopes that legislators would create effective programs and techniques at the state level with similar results, like how the Raise the Age campaign in Charlotte led to the creation of the NC Minimum Age law. Thus, Charlotte became a city known for children's rights advocacy in part due to efforts from the Council for Children's Rights, which in this context refers to advocates who pushed for juvenile justice reform policies using their position and experience in many of the struggles that the youth of Charlotte faced. Charlotte advocates like Camille Stephens and many others have led the charge for juvenile justice reform in Charlotte

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<sup>9</sup> Feld, *Evolution of Juvenile Court*, 2.

<sup>10</sup> Joseph Graham, "Race, Resegregation and the School to Prison Pipeline in Mecklenburg County" (PhD diss., University of North Carolina at Charlotte, North Carolina, 2016), 3, ProQuest Dissertations Publishing. <https://www.proquest.com/docview/1864760225?accountid=14605&pq-origsite=primo>.

through nonprofit advocacy-centric organizations. These organizations included the Mecklenburg Council of Elders which specializes in the rights of children in Mecklenburg County and Locked Out Love which specializes in the re-entry and rehabilitative efforts for both youths and adults looking to escape the current system and become productive members of society.

Charlotte is unique in that it is a “New South” city like Atlanta, one that upholds more progressive values but is comparatively studied far less within academic discussion compared to Atlanta or Miami, making it a good choice for further research into North Carolinian juvenile justice reform legislation. Charlotte is also unique compared to other cities in North Carolina as it is home to a plethora of nonprofit organizations addressing juvenile justice issues, children’s rights, and equal sentencing across races. Additionally, Charlotte provides value as a case study due to its large population compared to surrounding areas as well as its lack of economic mobility. These organizations are often founded by people who have been personally impacted by the juvenile justice system. Camille Stephens saw the lack of support structures put in place for mothers with children in the juvenile court system and as a mother herself founded and directed Locked Out Love. This group is one of the non-profit organizations based in Charlotte dedicated to raising awareness and improving access to exercising rights and options for minors within the criminal justice system. Other organizations include the Council for Children’s Rights, Race Matters for Juvenile Justice, Life Connections of the Carolinas, and the Youth Justice Project of the Campaign for Youth Justice. Despite Charlotte being a progressive-leaning city, these groups point out the harms perpetuated by a juvenile justice system that has been established and shaped by a slow-to-act state leadership rather than one reflecting local leadership advocating for community-based solutions.



Charlotte-based non-profit organizations regularly provide detailed information regarding the state of juvenile justice efforts, with many providing an annual report supported by sentencing and placement data from the Office of Juvenile Justice and Delinquency Prevention. One of the most recent reports on juvenile justice within Mecklenburg County published by the organization Race Matters for Juvenile Justice in 2018 utilizes data taken from 2007-2017 to show how the field of juvenile justice in Mecklenburg County has changed over time. It argues that while efforts like the Raise the Age Campaign to reduce recidivism and admission rates have proven successful there are several issues that have either persisted or have worsened since 2007. These include disproportionality along three fronts: representation by race within the juvenile justice system, the number of complaints made by parents and those within the school directed towards boys and especially boys of color, and sentence severity and length of sentences within detention admissions in Mecklenburg County. In order to understand the racial disparities present within the North Carolina juvenile justice system, one must first understand how such a system was shaped and implemented.

### **Background and A Brief Overview of Juvenile Justice Issues Prior to the 1990s**

The juvenile justice system in America has changed drastically since its creation. These changes have been grouped into four distinct eras of youth and juvenile justice policy goals by Barry Feld.<sup>11</sup> The first era was the Progressive Era, which lasted from 1899-1960s and included the formation of the many juvenile justice court systems still utilized today. The second era was the Due Process Era, which lasted from the 1960-1970s and included juvenile justice reform policies that championed the rights of adults as being applicable to juveniles accused of

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<sup>11</sup> Barry Feld, *Evolution of the Juvenile Court: Race, Politics, and the Criminalizing of Juvenile Justice* (New York: New York University Press, 2017), 3.

delinquency. The third era was the Get-Tough Era or “tough on kids era”, which lasted from the 1980s-1990s and included reform efforts to push the juvenile justice system away from its rehabilitative roots, and more towards a system of punitive punishments and criminalization. Lastly, the fourth era was the Kids Are Different Era, which began in 2005 and is still present today. This Era included juvenile justice reform policies which reflected the goals of the Children’s rights movement which began in part due to the *Roper V. Simmons* Supreme Court case in 2005 which ruled that executing minors under the penalty of death was unconstitutional. Each of these periods were marked by juvenile justice policies that reflected public interests and views about how to best address the misconduct of youths at the national level and since Charlotte also faced these issues these eras are applicable at both the state and local level as well. Juvenile justice on the local level was shaped by national law and public policy trends and therefore, these eras also apply to the local context of Charlotte, local conditions, state, and city governments also shaped the local Charlotte context.

While these eras are each significant to the evolution and history of juvenile justice reform at the national level, this thesis will focus primarily on both the Get-Tough Era and the Kids Are Different Era, as these eras contain many juvenile justice reform efforts put forth by both legislators and children’s rights activists. It is important to note that while the Get-Tough Era has been over for more than thirty years now, many current juvenile justice policies still reflect the goals and methods of the Reagan administration. Most notably, the extensive pretrial detention process, an increase in punitive punishment for delinquency, an increase in transfers to criminal courts, and severe sentences for adults as well.<sup>12</sup> The harsh sentencing mentality of the Reagan administration may have been replaced with the Kids Are Different Era policies, but

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<sup>12</sup> Feld, *Bad Kids*, 5.

these issues are still prevalent in both the United States and Charlotte, NC, especially when viewing certain racial and socioeconomic backgrounds.

Due to the content examined within this thesis it is important to understand both how the governments involved in the juvenile justice processes are structured, as well as understand how the juvenile justice system within North Carolina is structured. The government at the state level is divided into three branches. The Legislative Branch contains both the Senate and the House of Representatives, and oversees many commissions, most notably the Legislative Research Commission. The Executive Branch contains many members who oversee government actions, like the Governor, the Attorney General, and cabinet departments like the Department of Public Safety. Lastly the Judicial Branch contains the supreme court, Court of Appeals, Superior Courts, district courts, and Judicial Department Boards and Commissions, of which this thesis focuses primarily on the NC Sentencing and Policy Advisory Commission. At the local level, Mecklenburg County is governed by the Mecklenburg Board of County Commissioners or BOCC. The BOCC is a nine-member board made up of representatives from each of the six county districts and three at-large representatives elected by the entire county. This structure favors candidates in the at-large positions due to these positions having a majority of the board, and all seats are for two-year terms. The Charlotte City Council is the legislative body of the City of Charlotte and is made up of eleven members and the mayor, all elected to two-year terms. Four Council members are elected at-large with the other seven representing districts.

The North Carolina juvenile justice process begins with a formal complaint, either from a citizen, a school, or law enforcement. Following a formal complaint, a law enforcement investigation is launched and may result in diversion, when the individual is released or referred to resources outside the juvenile justice system. If a diversion is not granted, intake occurs. This

intake may lead to either a diversion involving court counselors and a referral to resources like Life Connections of the Carolinas. If the juvenile complies, then they are removed from the system; if not, then a petition is filed. Following a petition, a juvenile may be placed in secure custody and appear in court for a secure custody hearing, a probable cause hearing, or an adjudication hearing. These hearings may result in either dismissal, a transfer to Superior Court, or a dispositional hearing where a judge decides a plan of action based on options from the General Statutes and the Dispositional Chart. From this point, the case is either dismissed, held open for up to six months, or assigned one of the following: Protective Supervision, Probation, or commitment to a Youth Development Center or YDC. If the juvenile completes their obligations and does not violate any further laws this results in Court Termination, and they are removed from the system. If the juvenile does not comply, or violates any further laws, the juvenile returns to court for additional action.<sup>13</sup>

It is also important to understand how many of these policy changes occur and are implemented. While there are many frameworks through which one can examine changes in policy, I argue that the advocacy coalition framework is most effective in this circumstance. The advocacy coalition framework or ACF is a theory of change that specifies that there are sets of core ideas about causation and value in public policy, and that coalitions form because certain interests are linked to them.<sup>14</sup> Through this framework it is possible to map a network of actors within a policy sector like juvenile justice. Thus, policy change occurs through interactions between wide external changes to the political system and the success of the ideas in the

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<sup>13</sup> Jacquelyn Greene, “North Carolina Juvenile Delinquency Process,” NCDPS, accessed April 21, 2023, <https://www.ncdps.gov/2022-03-25-20210311jjra-process2019-editionpdf/open>.

<sup>14</sup> Lucie Cerna, “The Nature of Policy Change and Implementation: A Review of Different Theoretical Approaches” (Paris: The Organization for Economic Co-operation and Development, 2014), 5. <https://www.oecd.org/education/cei/The%20Nature%20of%20Policy%20Change%20and%20Implementation.pdf>.

coalitions, which may cause actors to shift their beliefs resulting in policy change. Actors from public and private organizations who are concerned with juvenile justice policy issues are necessary for understanding policy-oriented learning and the effect of such learning on changes in governmental programs. These people from positions like elected officials, interest group leaders, advocates, and researchers shape the belief system and exemplify significant coordinated activity over time. While the ACF is effective at bringing together the literatures on top-down and bottom-up approaches to understand policy change over a long period of time, it also faces several challenges. Most notably, it is difficult to determine the beliefs of specific individuals, map the advocacy coalitions, and establish all external and internal factors that can affect the policies within the juvenile justice system. Despite these flaws, ACF remains the best way to examine the impact of advocates and elected officials while simultaneously accounting for other frameworks like policy learning and its ability to link policy changes between the national, state, and local level.

The juvenile court system has evolved constantly since its creation with many eras of reform that came about as a result of both new goals from lawmakers and a wave of public interest regarding the methods of addressing juvenile delinquency. The transition between the Get-Tough Era and Kids Are Different Era also included a wave of scholarship from developmental psychologists, and data regarding the link between psychology and punishments.<sup>15</sup> Both developmental psychologists and juvenile justice policy analysts argued that adolescents had a compromised ability to exercise rights, such as Miranda rights, as well as reduced competence to stand trial. Therefore the juvenile court system needed to evolve to require greater procedural safeguards to account for such limitations and to avoid risks of

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<sup>15</sup> Feld, *Evolution of the Juvenile Court*, 1.

wrongful convictions.<sup>16</sup> However, many of the practices utilized in the Get-Tough Era to create harsher and greater punishments, such as the transferal of juvenile cases to criminal courts regardless of the young age of the offender, were incompatible with this new line of research as this line of research highlighted the need to adjust sentences based on the age and development of the child's brain. Despite the new wave of developmental psychology scholarship, it was ultimately a large wave of public outcry from Charlotte-based non-profit advocacy organizations like RMJJ and Locked Out Love and reform laws like the Young Offenders Rehabilitation Act that can be associated with the shift from the Get-Tough Era to the Kids Are Different Era.

Prior to the 1980s the Nixon administration had attempted to reduce the rates of juvenile delinquency and recidivism through landmark acts of legislation like the 1974 Juvenile Justice and Delinquency Prevention Act. This law aided in reforming the juvenile justice system at the time with a substantial increase in federal funding for programs aimed at reducing delinquency rates across America.<sup>17</sup> However, the impact of this law can be seen in disproportionate sentencing across racial lines despite this piece of legislation being formed in a post-civil-rights-movement America. To understand exactly how a piece of legislation can disproportionately impact one group over another one must examine the major juvenile justice reform laws as well as how certain terms are defined within the law. For example, under the terms of the 1974 act a "juvenile delinquency program" was any activity related to "the development of neglected, abandoned, or dependent youth and other youth who are potential criminals."<sup>18</sup> The language of this law allowed for the linking of common markers of poverty with perspective criminality. Thus, this law classified nearly all youth living in low-income neighborhoods and households as

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<sup>16</sup> Feld, *Evolution of the Juvenile Court*, 1.

<sup>17</sup> Elizabeth Hinton, *From the War on Poverty to the War on Crime: The Making of Mass Incarceration in America* (Cambridge, MA: Harvard University Press, 2016), 221.

<sup>18</sup> Hinton, *War on Poverty*, 222.

“potentially delinquent,” and granted law enforcement officials and criminal justice systems greater over those who received welfare benefits. By defining the term delinquency within vague language regarding economic status, juvenile justice policymakers like North Carolina governor Jim Hunt developed strategies to address delinquency through surveillance in segregated urban communities “based on anticipation of future actions.”<sup>19</sup>

By classifying low-income Black youth as delinquent before they had committed any legal violation the juvenile justice system of the 1970s increased supervision in urban schools and public housing. This legislation also increased contact between police and segregated urban communities, resulting in more youth with criminal justice records and disproportionate sentencing of black youths as adults. The result of the Nixon Era of juvenile justice reform policy was an overall disinterest by federal policymakers in supporting programs available to potential delinquents, and a rise of the carceral state through a funneling of black youth into increasingly lengthy incarcerations.<sup>20</sup>

The 1980s marked a major shift in US juvenile justice reform in which policies no longer upheld the goals of the juvenile justice system as an offender-oriented rehabilitative system, instead ushering in a wave of legislation for an offense-oriented system of social control.<sup>21</sup> Many of these new policies took a harsher stance on the actions of juvenile delinquents, and many lawmakers argued that children had greater control and agency over their actions than previously believed. This new stance on the agency of juveniles led to an increase in juvenile court transfers, in which a child under certain circumstances may be tried as an adult in the criminal court system, and sentenced to a much harsher disposition than what was offered at the juvenile

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<sup>19</sup> Hinton, *War on Poverty*, 222.

<sup>20</sup> Hinton, *War on Poverty*, 223.

<sup>21</sup> Feld, *Bad Kids*, 5.

court level. The harsher sentences of the 1980s also remain in some forms in the Kids Are Different Era and have had a disproportionate impact on minority populations and those of low socioeconomic status.<sup>22</sup> Additionally these laws remain in place despite a two-decade-long drop in serious crime and youth violence since its peak in 1993.<sup>23</sup> Another issue that was prevalent in the Get Tough Era as well as the Kids Are Different Era was the use of mass media to influence changes in juvenile justice policy. Public perception of juvenile delinquency rates continues to play an increasingly large role in the type of legislation passed by both national and NC lawmakers. The use of mass media to sway voters to support a particular side of the juvenile justice reform debate is a technique that has been used by legislators since the 1980s.

The most famous example of this technique was the proliferation of the superpredator myth that emerged in the late 1980s and early 1990s, which was often discussed in local media and newspapers to convince the public that stricter juvenile justice laws were not only necessary, but also to show that increased spending for the current juvenile court system was not viable. The superpredator myth was a line of discourse which operated under the idea that a certain subset of the juvenile population was entirely unable to be rehabilitated, and that these youths were incapable of changing their behavior with the current juvenile justice system. Therefore, lawmakers often cited this supposed population as reasoning for removing or reducing funds available for rehabilitative juvenile justice solutions. These lawmakers also argued that increasing the severity of punishments was justified, and that such punishments aided in the removal of a dangerous youth population under the emerging policy goal of public safety and wellbeing that began in the 1980s and spread rapidly through NC in the 1990s. While the use of

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<sup>22</sup> Feld, *Bad Kids*, 6.

<sup>23</sup> Feld, *Bad Kids*, 6.



the superpredator myth has dwindled since the Kids Are Different Era began, the use of mass media and its impact on Charlotte voters remains a high priority within the juvenile justice policy creation and implementation process. The prevailing specter of the superpredator myth has since taken a new form, where lawmakers argue that instead of a naturally violent youth population, it is a minority and low socioeconomic status population that is blamed for the lack of substantial juvenile court reform efforts, effectively recycling an old technique for the current era.<sup>24</sup>

Between 1990-2021 Charlotte experienced a period of great growth and change as its population more than doubled, and new laws regarding juvenile courts and sentencing procedure altered the legal landscape. Charlotte families were impacted by changes at the national level following an initial wave of laws including the 1990 crime control act and 1994 crime bill as well as an additional wave of legislation around 2013-2020 including the Juvenile Justice and Delinquency Prevention Act Reauthorization of 2018 due to children's rights advocacy including the Raise the Age Campaign. These 1990s to early 2000s laws were far harsher and stricter than laws implemented after 2005 and the start of the Kids Are Different Era and fall under the "Get-Tough" mentality that was brewing since its formation during the late 1970s and 1980s.

In 1991 concerns regarding the rights and sentencing of children had grown alongside legislators proposing drastic policies to combat a public perception of rising crime rates. Therefore, examining the impact of major crime policies and laws in conjunction with rates of juvenile delinquency in North Carolina from 1991-2020 will help explain the connection between the impact of delinquent acts, NC legislation and the rise of children's rights movements. Analyzing the major juvenile justice reform laws also helps one understand the tone

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<sup>24</sup> Feld, *Bad Kids*, 18.

of local politics and the direction of community-level responses that advocated for children in response to the “Get-Tough” era. To better understand the current state of juvenile justice reform efforts in North Carolina, we must first examine how historians have previously examined these complex issues.

### **Historiography**

In the last thirty years, a substantial body of scholarship has emerged from historians of crime, especially analyses of rising crime rates and incarceration in America. These scholars have identified the American penal system as one of social control, often fulfilling the tasks it was created to handle like the sentencing and placement of juveniles, while simultaneously applying such power in disproportionate ways. This includes the increased incarceration of African American and Latino communities as discussed by Elizabeth Hinton in *From the War on Poverty to the War on Crime* and Michelle Alexander in *The New Jim Crow*.<sup>25</sup> These recent scholarly works remain critically important to ongoing political debates and discussions of policy change, and the central focus on disenfranchised groups has allowed for greater depth in historical analysis. However, the focus on racial distinctions has to some extent blurred the lines of other categories of analysis. Scholars in the subfield of juvenile justice within American crime history have proposed a viewpoint capable of providing new insight into the nature and effectiveness of the American carceral system at the national level. This is especially important to juvenile justice reform efforts in North Carolina, as state legislators often waited to enact changes to the system until being forced to do so by national reform efforts or outside factors like advocacy efforts and sensationalized crimes.

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<sup>25</sup> Hinton, *War on Poverty*, 13; Michelle Alexander, *The New Jim Crow: Mass Incarceration in the Age of Colorblindness* (New York: The New Press, 2010).

Juvenile justice is fundamentally an interdisciplinary field. Discussions about how best to research children's rights includes insights from scholars in a range of fields: history, sociology, criminal justice, and psychology. However, this thesis utilizes a primarily historical approach in trying to understand the evolution of the juvenile justice process in Charlotte, North Carolina between 1990 and 2021, and the central role played by elected officials, advocates, activists, and legislators in shaping community responses. Other approaches have discussed questions like the effectiveness of the juvenile court system, the impact of major legal cases, and the current state of children's rights. In contrast, this thesis asks how these issues arose, how and why juvenile justice reform policy has changed over time, and how local communities and state legislators have responded to state and national-level changes.

Much of the early research into juvenile delinquency has been conducted from a national perspective. James Gilbert's *A Cycle of Outrage: America's Reaction to the Juvenile Delinquent in the 1950s* offered an initial analysis of public attitudes about juvenile delinquents.<sup>26</sup> Gilbert's book was published in 1986, when the "superpredator" myth was almost peaking. He argued that much of the fear around juvenile delinquents revolved around a post-WWII crisis in national identity, as fears about a loss in moral values carried over from the 1950's to the 1980s as postwar American culture changed rapidly. Gilbert associated the reaction from policymakers to the superpredator idea with the effects of mass culture, as well as a rise in fear due to mass media's influence on the public perception of juvenile delinquency rates, reflecting the problems historians had been facing during the early 1990s at the height of the "Get-Tough" era. While Gilbert's research provided a cultural perspective on juvenile delinquency, it would not be until

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<sup>26</sup> James Gilbert, *A Cycle of Outrage: America's Reaction to the Juvenile Delinquent in the 1950s* (New York: Oxford University Press 1986), 6.

Thomas Bernard's *The Cycle of Juvenile Justice* was published in 1992 that scholars adopted the court evolution model as the cyclical nature of juvenile justice reform policy. Gilbert's research is significant to this thesis as his approach to the social effects of mass media mirrored early studies on the effects of the superpredator myth, which included racially disproportionate harsher punishments and longer sentences as well as other Get-Tough Era policies. This book also provided a historical framework for linking the influence of mass media on the public to American politics and reform policy.

Other scholars like Bernard also examined the nature and effects of juvenile justice reform around the early 1990s. Bernard's book remains one of the most influential monographs on juvenile justice to date. Bernard's scholarly background was in criminology rather than history, but his work fundamentally shifted the historiographical discussion around juvenile justice as scholars quickly adopted his cyclical model of juvenile justice reform policy to best show change and significance over time. Bernard accurately identified that the process of juvenile justice reform is almost entirely cyclical, with high crime rates leading to stricter punishments, which then call for more lenient reform laws, which are then replaced by new stricter laws due to an increased perception of delinquency.<sup>27</sup> Prior to this analysis of the cyclical nature of juvenile justice reform, scholars studied the juvenile courts through comparative analysis, drawing upon previous attempts to reform and reduce crime in America as well as outside case studies from other countries like Ireland, England, and France. Bernard argued that such reform efforts are wasted and would be better spent on programs outside the reach of the courts. Bernard ultimately concluded that the future of juvenile justice reform looked bleak as his solution was to limit the power of the juvenile courts in favor of privatization of community-

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<sup>27</sup> Thomas J. Bernard, *The Cycle of Juvenile Justice* (New York: Oxford University Press, 1992), 4.

based support programs and counseling for young offenders, which many lawmakers would not endorse due to financial concerns. Bernard's research on how sensationalized crime affect juvenile justice reform policy is important for understanding how some of the major reform laws in North Carolina were formed, as several legislators also cited highly sensationalized crimes like that of Gregory Gibson as justification for stricter juvenile court transfer laws.

Bernard likely favored the privatization of solutions because of the current and rising neoliberal political climate surrounding juvenile justice in the early 1990s. Mass media reporting of crime rates had led to a reduction in public trust of the government handling issues like the superpredator and delinquency. His research bolstered the historical discussion around juvenile justice but remained too broad due to a national perspective. His research also highlighted the new direction juvenile justice research took. This direction included sources and studies from many fields of expertise, rather than remaining purely historical and focusing on the refinement and improvement of current carceral systems. Bernard's work highlighted the many issues that scholars face when attempting to diagnose and offer solutions to the cyclical nature of carceral systems. Bernard also showed that many end up with a tough choice of promoting either enhancing the power of the courts or abolishing the system entirely as a means of enabling change.

Bernard's work split historians' efforts into two camps, researching reform and refinement of the current system through the lens of an American legal perspective, and researching the expansion of the current system. This debate was also studied within alternate fields of expertise such as criminal justice, sociology, and social history.

It was only two years until 1994 when Betty Gene Alley and John Thomas Wilson took initial steps towards a legal perspective of North Carolina juvenile justice reform laws instead of

the previous national perspective.<sup>28</sup> Alley and Wilson focused on accurately cataloguing major reform laws and influential case decisions to better aid policymakers in understanding the natural progression of juvenile justice reform law. Rather than being argumentative, their work instead focused on the evolution of the rights of children through the past hundred years of US carceral law policy. This analysis is necessary for this thesis as it highlighted the need for the analysis of legal documents and not just a social historical approach. While Alley and Wilson's work provided legal historians ample information from which to expand historical discussion, it was social historians who offered insight into the origins and potential solutions to the "Get Tough" Era policies.

David Tanenhaus remains one of the most influential legal historians of juvenile delinquency history, and much of that influence can be associated with the impact of his 2004 book *Juvenile Justice in the Making*. Like Alley and Wilson, Tanenhaus' research echoed earlier works on the cyclical nature of juvenile justice reform and highlighted how juvenile courts have evolved over the past century. However, unlike previous historians like James Gilbert and criminologists like Barry Feld he argued that within the creation of juvenile justice policy social welfare considerations "often outweighed" penal concerns, pointing to a better balance between welfare and crime control.<sup>29</sup> Tanenhaus argued that prior historical scholarship on juvenile justice was lacking due to an absence of court statistics and cases. Prior scholarship also failed to thoroughly examine the day-to-day trial and error operations of the juvenile justice system and ignored the question of whether it is better to address "individuals for adjustment or communities for reorganization." Tanenhaus' arguments on the current state of historical scholarship on

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<sup>28</sup> Betty Gene Alley and John Thomas Wilson, *North Carolina Juvenile Justice System: A History 1868-1993* (Raleigh, NC: Administrative Office of the Courts, 1994), 110.

<sup>29</sup> David Tanenhaus, *Juvenile Justice in the Making* (Oxford: Oxford University Press, 2004), 27.

juvenile justice are central to the historiographical positioning of this thesis, as I aim to answer Tanenhaus' call for scholarship that connects both the legal and social historical perspectives from a North Carolina centric viewpoint as many lawmakers targeted specific groups with "colorblind" reform policies, such as the push to combat crime in public housing. Following Tanenhaus' push for additional legal scholarship historians would expand on other categories of analysis, such as the role of race and racial discrimination within the juvenile justice system.

Tamar Birckhead provided insight into the many challenges that have plagued previous juvenile justice reform efforts in North Carolina. Her article on the history of legislators' resistance to reform highlighted many prominent historical events that have impacted reform efforts and identified some of the main causes why North Carolina reform efforts have been slow to implement into law.<sup>30</sup> Birckhead also highlighted the connection between sensationalized crimes and stricter juvenile justice laws within North Carolina. Birckhead's research also shows the impact that adolescent psychology and scholarship in teenage brain development had on reform efforts. For these reasons Birckhead's scholarship is significant to this thesis, as this thesis also covers similar areas of research and attempts to expand on her findings through more recent legislation and reform efforts.

Recent scholarship on juvenile justice has focused on the nature of carceral systems as a method of social control. To this end, historians like William Bush and Peter Baldwin have researched the disproportionate sentences given to juveniles according to their race and socioeconomic status.<sup>31</sup> Both Bush and Baldwin highlight the evolution of a multi-tiered system

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<sup>30</sup> Tamar Birckhead, "North Carolina Juvenile Court Jurisdiction, and the Resistance to Reform," *North Carolina Law Review* 86, no. 6 (September 2008), 2.

<sup>31</sup> William Bush, *Who Gets a Childhood?: Race and Juvenile Justice in Twentieth-Century Texas* (Athens, Georgia: University of Georgia Press, 2010), 8.

of justice and suggest that the disparity between sentences could mark the juvenile justice system as a tool for social control.<sup>32</sup> These recent concepts are significant to this thesis, as harsher sentencing has impacted Charlotte families of low socioeconomic status and caused pushback in the form of awareness campaigns like Race Matters for Juvenile Justice, a Charlotte-based non-profit founded in 2010 which focused on sentencing disparities and disproportionate populations within carceral infrastructure.

To understand the major historical trends in juvenile justice reform laws as well as understand the pushback to these laws from state and local legislators, it is necessary to analyze major juvenile justice reform laws. Major reform laws in North Carolina oftentimes started out stricter than what both policymakers and juvenile justice advocates later deemed necessary. An analysis of these strict laws, the history of pushback against juvenile justice reform, the impact of advocacy groups and sensationalized crimes, and major reform laws following the Raise the Age Campaign in 2006 will show that while children's rights often improved over time, archaic mandatory sentencing laws still show that disproportionate minority contact remains a significant issue within the current state of the juvenile justice system in North Carolina. Chapter 1 focuses on the Get-Tough era of juvenile justice reform, as well as the impact national trends and mass media had on local and state level legislation. Chapter two focuses on the rise of Children's rights and the impact Charlotte's non-profits had on juvenile justice reform efforts. Chapter three focuses on current trends within the local juvenile justice system in addition to current attempts at reducing recidivism through new research on adolescent behavioral development and the impact of trauma on the minds of children. To that end, let us now highlight these major changes

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<sup>32</sup> Peter Baldwin, *Command and Persuade: Crime, Law, and the State across History* (Cambridge, MA: The MIT Press, 2021), 6.



in chronological order, starting with the Crime Control Act of 1990, and ending with the N.C. Minimum Age law in 2021.

## **Chapter 1: The Get-Tough Era in Charlotte and the Proliferation of Carceral Infrastructure 1990-2003**

Despite Charlotte officials claiming the city to be progressive, much of the early reform efforts for the juvenile justice system were a continuation and expansion of Get-Tough era policies. The 1990s in Charlotte predominantly contained laws and reform efforts which expanded the control of the juvenile court system, stricter sentencing tendencies, and expanded observation on disenfranchised groups. In addition to promoting Get-Tough legislation, Charlotte elected officials also greatly expanded carceral infrastructure through laws like the Crime Control Act of 1990 and the Juvenile Justice Reform Act of 1998. Local governing bodies like the Mecklenburg Board of County Commissioners also sought to silence African American residents of Charlotte who opposed Get-Tough legislation through unbalanced political representation.

### **The Crime Control Act of 1990 and Initial Push for Community-based Solutions in Mecklenburg County**

Community-based solutions to juvenile justice issues were often pushed aside in favor of strict punishment laws prior to the 2005 children's rights movement. However, this was not always the case for local governing bodies like the Charlotte City Council and Sue Myrick, mayor of Charlotte, who discussed the use and viability of community-based solutions as early as January of 1990.<sup>33</sup> In January of 1990 shortly after winning re-election Sue Myrick received a report on the efficiency and impact of the Mecklenburg criminal justice system. This report outlined several notable issues such as the overpopulation in both courts and jails which caused a backlog of cases, the lack of a centralized system which shared information across departments,

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<sup>33</sup> Charlotte City Council, *Charlotte City Council Meeting Minutes*, (January 8, 1990), 1. <https://codelibrary.amlegal.com/codes/CharlotteNC/latest/m/1990/1/8>.

and a list of costly changes required to address these issues. Myrick acted swiftly holding several meetings on crime in March of 1990, showing that crime was both her and the Charlotte City Council' top priority.<sup>34</sup> During these meetings Myrick requested that police utilize citations over sentences to reduce overpopulation of jails, called for the removal of frivolous laws involving worthless checks, and the removal of several misdemeanor offences.<sup>35</sup> Myrick stated that "crime reduction is a shared responsibility of governmental agencies with community involvement," and called upon the community for ideas on how to reduce the incarcerated population.<sup>36</sup>

This call was answered by many community leaders, including UNCC assistant professor Richard Lumb and other professors from the criminal justice department like professors Dean and Neuberger in October of 1990. Following a criminal justice symposium that combined the efforts of the city council and UNCC professors, addressing the criminal justice system had become a top priority of Mecklenburg county's elected officials.<sup>37</sup> However, some citizens did not approve of Myrick's plan to reduce incarcerated populations. In March of 1991, Myrick received a letter from Dr. J. Dixon Free, a pastor at the Pritchard Memorial Baptist Church who claimed that the more relaxed approach to crime was ineffective as one of the members of his congregation had been killed by a 15-year-old who had been released on bond within a weeks' time. Dr. Free asked "Are we involved in a war against drugs and violence, or aren't we?" to which Myrick responded, "As you no doubt know, the criminal justice system is overburdened at

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<sup>34</sup> Personal Correspondence by Sue Myrick, March 29, 1990, 151.1 Box 2, folder 19, Sue Myrick Papers, 1987-1991, MS0204, Special Collections & University Archives, J. Murrey Atkins Library, The University of North Carolina at Charlotte, Charlotte, NC.

<sup>35</sup> Personal Correspondence, Sue Myrick Papers.

<sup>36</sup> Personal Correspondence by Sue Myrick, October, 1990, 151.1 Box 2, folder 19, Sue Myrick Papers, 1987-1991, MS0204, Special Collections & University Archives, J. Murrey Atkins Library, The University of North Carolina at Charlotte, Charlotte, NC.

<sup>37</sup> Personal Correspondence, Sue Myrick Papers.

all levels...The bottom line is: until everyone gets up in arms about this problem, it's not going to change."<sup>38</sup>

When examining the language used by the city council within the Charlotte-Mecklenburg police budget proposals the city council preferred a less-aggressive approach centered around community interactions with local neighborhood and public housing officers. To this end, the Charlotte City Council voted in May of 1990 to create a position for a criminal justice system coordinator as part of the city councils' plan to continue improvements in the justice system as many Mecklenburg neighborhoods trusted the words and ideas of their community leaders more than the Charlotte-Mecklenburg Police Department.<sup>39</sup> This position would address concerns that community involvement in the criminal justice system had decreased since 1981 as of the 1989 follow-up report from the Mecklenburg County Criminal Justice Strategic Planning Committee. In addition to creating new community-based solutions for juvenile offenders within the local school system, this coordinator would also provide crime statistics and metrics to better justify the need for additional funding to the Charlotte-Mecklenburg Police Department. However, the duties of this position would change drastically in November of 1990 when the city council swiftly changed their stance on community-based solutions in favor of bolstering the current carceral systems.

City council members adopted this new strategy to address the sweeping changes made to the juvenile justice system by the Crime Control Act, signed into law by George H. W. Bush on November 29, 1990. Building upon tough-on-crime reforms of the Reagan era and the War on

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<sup>38</sup> Personal Correspondence from Pastor Free to Sue Myrick, March 27, 1991, 151.1 Box 2, folder 19, Sue Myrick Papers, 1987-1991, MS0204, Special Collections & University Archives, J. Murrey Atkins Library, The University of North Carolina at Charlotte, Charlotte, NC.

<sup>39</sup> Charlotte City Council, *Charlotte City Council Meeting Minutes*, (May 22, 1990), 1.  
<https://codelibrary.amlegal.com/codes/CharlotteNC/latest/m/1990/5/22>

Drugs, this bill acted as a comprehensive answer to many alleged failing facets of the criminal justice system. This included mandatory detention for offenders convicted of serious crimes, the expansion of the death penalty, gun-free school zones, and increased the rights of victims of child abuse. Also, this bill served to bolster efforts to enforce and create drug laws for both illegal substances and anabolic steroids. The Charlotte City Council responded to these changes swiftly, with a special meeting held on December 10, 1990, and a plan that was far harsher than from earlier that same year.

“CRIME AND DRUGS” sits bolded at the top of the Charlotte City Council agenda, followed shortly thereafter by the mission goals of the city of Charlotte. Among these goals were that the city of Charlotte would be “an active force in mobilizing all segments of the community toward a zero-tolerance attitude toward violent crime and drug use”<sup>40</sup> Additionally, the city council stated that the first priority of the criminal justice system was the public safety and protection of the community, not the rehabilitation and re-integration of those convicted. While the city council continued to hold the belief that a successful effort to eradicate crime and drugs required the assistance and support of the community, the stance had shifted from one where ideas proposed by the community would be supported in favor of supporting crime plans from higher offices.<sup>41</sup> The role of the criminal justice system coordinator which was inspired by a need to understand the ground-level issues plaguing the juvenile justice system, shifted from one which gathered community feedback for criminal justice reform plans to one which created community outreach programs to gather support for stricter “top-down approach” laws from the

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<sup>40</sup> Charlotte City Council, *Charlotte City Council Meeting Minutes*, (December 10, 1990), 104.  
<https://codelibrary.amlegal.com/codes/CharlotteNC/latest/m/1990/12/10>

<sup>41</sup> Charlotte City Council, *Charlotte City Council Meeting Minutes*, (December 10, 1990), 106.  
<https://codelibrary.amlegal.com/codes/CharlotteNC/latest/m/1990/12/10>

national and state levels. Thus, the role of community leaders shifted from a consultant of the community to an additional enforcer of strict laws to prevent unrest. As a result of these actions, Mecklenburg neighborhoods trusted the words and ideas of their community leaders more than the Charlotte-Mecklenburg Police Department.

As a result of this city council meeting, the criminal justice system coordinator was given the power and resources to place a greater emphasis on youth programs. Specifically, the coordinator was given the power to select target neighborhoods for at-risk youth, lobby the general assembly to change laws to obtain stricter penalties for drug sales involving juveniles on school grounds and increase “communication between the police and housing authority regarding juvenile privacy laws.”<sup>42</sup> The original plan by the Charlotte City Council which involved community based and community proposed solutions had been quickly scrapped, cannibalizing the positions created for the purpose of adopting strict legislation from above instead. Unfortunately, this would not be the last time that outside influence would cause the city council to waiver in their initial ideals in favor of a more popular, far stricter attitude towards juvenile justice. This trend continued throughout the legal history of Mecklenburg County during the 1990s.

In addition to the targeting of specific communities within Mecklenburg County through legislation, many Black residents also suffered from a lack of political representation in the early 1990s as well. For policy reform to occur, a discourse must occur between the lawmakers and the afflicted party. While Charlotte officials claimed that Charlotte was a progressive city as early as 1990, this could not be further from the truth. One example of how the voices of African

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<sup>42</sup> Charlotte City Council, *Charlotte City Council Meeting Minutes*, (December 10, 1990), 108.  
<https://codelibrary.amlegal.com/codes/CharlotteNC/latest/m/1990/12/10>

Americans living in Charlotte has been intentionally repressed or silenced can be seen in the representation of districts under the control of the Mecklenburg Board of County Commissioners, or BOCC. Despite having district representation since 1984, the district map has been disputed and redrawn many times since then.<sup>43</sup> The district representation plan in the early 1990s was a “4-3 system” with four district representatives and three at-large. This plan was met with brutal opposition from Black precincts as district representatives would still be elected at-large instead of by specific districts prior to the system being changed in 1986. This plan severely limited Black representation in the local government. The only Black commissioner at the time, Bob Walton called the system “a whitewash and a sham.”<sup>44</sup>

The map of the districts between 1984-2011 contained four major districts. District 1 contained the six towns of Mecklenburg County, District 2 was the Black neighborhoods in northwest Charlotte, District’s 3 and 4 were the county’s southeast white, upper-middle class sections.<sup>45</sup> This divided Charlotte into a rural district, a black district, and two middle-to-upper class white districts. By drawing the district maps in such a way, and by having candidates be elected by the residents of the county instead of only counting the votes from the specific district that a commissioner presided over, the Mecklenburg BOCC forced a gridlock situation in which the African-American neighborhoods around Charlotte both lacked representation within the

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<sup>43</sup> Kathy Doherty, “Mecklenburg OKs County Government with District System,” *Charlotte Observer*. May 10, 1984, 2. <https://infoweb.newsbank.com/apps/news/document-view?p=AMNEWS&docref=image/v2%3A11260DC9BB798E30%40EANX-NB-17367461D6788F16%402445831-173672157897F91E%4027-173672157897F91E%40&f=basic>.

<sup>44</sup> Mae Israel, “District System Supporters Assail ‘4-3’ Recommendation,” *Charlotte Observer*. March 23, 1982, 1. <https://infoweb.newsbank.com/apps/news/document-view?p=AMNEWS&docref=image/v2%3A11260DC9BB798E30%40EANX-NB-15E3F12649C7317C%402445052-15E347FAB6018AD3%4084-15E347FAB6018AD3%40&hlterms=&f=basic>.

<sup>45</sup> Kathleen Galligher, “Commissioners Comment on Plan: Disfavor Greets County Districts,” *Charlotte Observer*. September 2, 1982, 3. <https://infoweb.newsbank.com/apps/news/document-view?p=AMNEWS&docref=image/v2%3A11260DC9BB798E30%40EANX-15E3F17C0C1B3666%402445215-15E348328ADCDD72%4059&hlterms=&f=basic>.

local government, and were affected by plans and proposals of commissioners who did not always reflect the needs or interests of their specific district. The gridlock situation within the Mecklenburg County government, coupled with the rapid proliferation of Get-Tough era laws led to an increase in observation and incarceration of youth in predominantly Black neighborhoods and districts of low socio-economic status that could not be addressed until a new plan to expand the BOCC occurred in 1992 alongside a wave of sensationalized crimes in the mainstream media outlets of Charlotte.

### **At the Intersection of Sensationalized Crimes and Juvenile Transfer Laws: The Brutal Legacy of Gregory Gibson (1992)**

While children's rights within juvenile justice reform efforts had expanded because of laws like the 1990 Crime Control Act, there have also been several instances within North Carolina where these rights were subsequently limited due to the influence of reform efforts at the national level. One such example can be seen in the response from legislators following a major news story involving thirteen-year-old Gregory Gibson. Gregory Gibson had been arrested in Durham county for the murder of ninety-year-old Mary Haddon in June of 1992. Media outlets like *News and Observer* had scrambled to push the story to frontline news and within days of the murder the public learned the maximum punishment Gibson could receive.<sup>46</sup> Due to Gibson's age being thirteen and not fourteen, he was ineligible for transfer to the adult criminal court for the trial, and therefore the most serious punishment he could receive was training school where he could be held until the maximum age of eighteen.<sup>47</sup>

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<sup>46</sup> Jane Stancill, "Brash Teen Bragged of Getting Car, Cash Before Brutal Slaying," *News & Observer*, June 18, 1992, 14.

<sup>47</sup> Thomas Healy, "Death Fuels Anger Over Laws Protecting Young Criminals," *News & Observer*, June 18, 1992, 1.



This information, alongside an autopsy report revealing the particularly brutal nature of this crime prompted legislators in the General Assembly of North Carolina to lower the minimum age of transfer from fourteen to thirteen in 1994. The impact of this legislation was both immediate and long-lasting. Gregory Gibson was promptly transferred to adult criminal court where Gibson was sentenced to life in prison. Gibson did not serve much of this sentence as he committed suicide in his jail cell after the ruling.<sup>48</sup> North Carolina was now one of only three states to prosecute thirteen-year-olds in adult court. The case of Gregory Gibson was later cited as part of the need for the creation of the North Carolina Commission on Juvenile Crime and Justice in 1997.

The commission was created by Jim Hunt, a governor with a platform that included reducing the crime rates of juvenile delinquents.<sup>49</sup> While this commission accomplished many of its goals, one of the most ambitious was the task of rewriting and enforcing the Juvenile Code. This changed the objective of juvenile delinquency dispositions. No longer did the juvenile justice system strive for the least restrictive disposition. Instead, the Commission restructured the state's juvenile justice system to favor the "most effective" disposition.<sup>50</sup> Thus, sensationalized crimes like that of Gregory Gibson's were not only used by legislators to enact strict juvenile justice reform policies for current issues, but also used to maintain harsh, long-lasting legislation regarding juvenile delinquency dispositions. This trend of legislators pointing to public concerns to enact strict legislation returned one year after the murder with the NC Safe Schools Act of 1993.

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<sup>48</sup> John Sullivan, "Prisoner Who Had Killed at 13 Hangs Self in Jail," *News & Observer*, November 14, 1998, 1.

<sup>49</sup> Joseph Neff, "Hunt Wants Action on Juvenile Crime," *News & Observer*, November 8, 1997, 3.

<sup>50</sup> Joseph Neff, "Juvenile Justice Reforms Drafted," *News & Observer*, March 10, 1998, 1.

In addition to an increase in transfer laws, citizens of Charlotte in 1992 also attempted to address the issue of poor political representation within the Mecklenburg BOCC.<sup>51</sup> Specifically, votes aimed to break up “the doughnut” which was the name given to District 1 and its six towns which formed a ring around Charlotte. By breaking up “the doughnut”, voters aimed to increase Black representation within the local government by ensuring minority representation from at least two districts. A plan to expand the BOCC from seven members to nine was introduced in 1992, and voters approved the increase with six members elected from districts in 1993.<sup>52</sup> While the push for additional commissioners was effective at increasing Black representation in both local politics and law reform efforts, “the doughnut” was not officially revised until 2011, after roughly one hundred years of at-large elections that disadvantaged Black candidates and voters.<sup>53</sup> However, attempts to reform juvenile justice laws through political avenues proved to be too slow to counter the rate at which harsher laws were being implemented, leading many Charlotte advocates to address disproportionate minority contact and increased surveillance of targeted communities through official complaints towards both CMS school administrators and the emerging primary police force of Charlotte, the CMPD.

### **The CMS School-to-Prison Pipeline and the NC Safe Schools Act of 1993**

Race Matters for Juvenile Justice, which is a non-profit organization based in Charlotte dedicated to highlighting the disproportionate representation of disenfranchised populations

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<sup>51</sup> Ricki Morrell, "Voters Say No to Board-Expansion Plan, OK Longer Terms," *Charlotte Observer*. November 4, 1992, 1. <https://charlotteobserver.newspapers.com/image/626524715/?terms=>.

<sup>52</sup> "Mecklenburg County Adopted Budget Fiscal Year 2020." Charlotte: Mecklenburg County Manager's Office, 2019, 2. <https://www.mecknc.gov/CountyManagersOffice/OMB/Pages/FY20-Budget.aspx>.

<sup>53</sup> April Bethea, "Panel Considers Redistricting Criteria Mecklenburg Commissioners Want to Ensure that Racial Minorities are in the Majority in at Least 2 Districts," *Charlotte Observer*. March 23, 2011, 1. <https://infoweb.newsbank.com/apps/news/document-view?p=AMNEWS&docref=news/1362EB7325826AC0&f=basic>.

within carceral infrastructure and led by advocates who have been impacted by the current juvenile justice system argued that the disproportionate representation of disenfranchised populations like Asian, Black, and Hispanic youths can be associated with the growing issue of the Mecklenburg County School-to-Prison Pipeline.<sup>54</sup> The School-to-Prison Pipeline within this context refers to the national trend of shifting students out of the protection and support structures of public school into the juvenile and criminal legal systems, and is largely perpetuated by tools of social control such as zero-tolerance policies, high stakes testing, exclusionary discipline and CMS suspensions which have been meted out disproportionately to target non-white youths.

For a more modern example, during the 2017-2018 academic year Black youth constituted 39.6 percent of the 1,524,595 NC K-12 school enrollment, yet Black youths were subjected to each method of exclusionary discipline at disproportionate rates such as short-term suspensions at 55.2 percent, long-term suspensions at 48.3 percent, and 62.5 percent of all expulsions.<sup>55</sup> Yet despite these reports there was no evidence to suggest that this population violated the Charlotte-Mecklenburg student code of conduct at higher rates than their peers. Additionally, there has been difficulty in getting the public to understand behaviors that result in exclusionary discipline at Charlotte-Mecklenburg Schools as 97 percent of these behaviors are documented as “unacceptable behavior” and are reported as discretionary.<sup>56</sup> The term discretionary within this context refers to offenses like aggressive/disruptive behavior, fighting,

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<sup>54</sup> Race Matters for Juvenile Justice, “2019 Juvenile Justice Awareness Month Final Report,” *Council for Children’s Rights*, 2019, 4. <https://rmjj.org/wp-content/uploads/2019/11/2019JuvenileJusticeAwarenessMonth-FINALREPORT.pdf>.

<sup>55</sup> RMJJ, “2019 Final Report,” 4.

<sup>56</sup> RMJJ, “2019 Final Report,” 4.

inappropriate language, and insubordination. It is important to note that the collection of such data was made possible through the NC Safe Schools Act which passed in 1993.

The NC Safe Schools Act required local education agencies or LEAs to report sixteen different specified acts committed by students or staff within school facilities and campuses to the State Board of Education.<sup>57</sup> While the NC Safe Schools Act applies to the collection of information regarding specific offenses such as assault involving the use of a weapon, bomb threats, possession of controlled substances, and underage sales and consumption of alcoholic beverages this act has in practice been used to document many other school-related infractions and incidents as a catch-all surveillance law. The expansion of the NC Safe Schools Act and similar Charlotte-Mecklenburg County legislation allowed for greater control than what was outlined in the laws themselves and is a growing issue within the efforts of juvenile justice reform as these laws are often left intentionally vague to allow for social control and heightened surveillance of specific populations.<sup>58</sup> In keeping with the growing pattern of social control regarding at risk youth, the Charlotte City Council developed a plan targeting a high-crime area in Charlotte.

In 1993, the two largest police forces in Charlotte merged. The Charlotte City Police Department and the Mecklenburg County Rural Police Department now formed the Charlotte-Mecklenburg Police Department or CMPD. Concerns regarding disproportionate minority contact arose immediately, however advocates of Charlotte's Black youth had no formal channel of communication through which to voice these concerns, and as previously stated these citizens

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<sup>57</sup> RMJJ, "2019 Final Report," 3.

<sup>58</sup> Race Matters for Juvenile Justice, "2018 Juvenile Justice Awareness Month Final Report," *Council for Children's Rights*, 2018, 11. <https://www.rmjj.org/wp-content/uploads/2018/12/Juvenile-Justice-Awareness-Month-Final-Report-2018.pdf>.

also lacked a proper voice within the local government due to unfair district divisions and voting methods. Following several years of pressure, Charlotte officials formed a Civilian Review Board for the CMPD in 1997 following the shooting of an unarmed Black motorist by a CMPD officer.<sup>59</sup> While this board continues to hear a multitude of allegations of both disproportionate minority contact and police brutality, reports indicate that the vast majority of complaints heard by the Civilian Review Board against CMPD officers have been dismissed.<sup>60</sup> In effect, while juvenile justice reform efforts were attempted by Black Charlotte residents improper political representation and an insufficient complaint system delayed any major reform efforts until much later into the 1990s. Despite an increase in backlash from targeted communities, Get-Tough laws were rapidly implemented under the guise of an increased focus on public safety.

### **The 1994 Crime Bill and the Battlefield of Public Housing**

The Violent Crime Control and Law Enforcement Act of 1994 or 1994 Crime Bill was the single largest crime bill in the history of United States legislation. The document itself was 356 pages long and included sweeping changes to juvenile justice, violent crime sentencing, and provided for over one hundred thousand new police officers. The bill was signed into law by President Bill Clinton on September 13, 1994. In addition to the federal assault weapons ban, this act also greatly expanded the federal death penalty and required states to establish registries for sexual offenders, an expansion on previous legislation regarding the rights of child victims from the Crime Control Act of 1990. Many historians of the carceral state and mass incarceration

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<sup>59</sup> John Vaughan, "Segregation: The Legacy Endures." *Charlotte Observer*. September 14, 1997, 1. <https://infoweb.newsbank.com/apps/news/document-view?p=AMNEWS&docref=news/0EB6D4A825190394&f=basic>.

<sup>60</sup> Fred Clasen-Kelly, "Woman 'felt dismissed' after filing complaint against CMPD." *Charlotte Observer*. February 16, 2013, 1. <https://infoweb.newsbank.com/apps/news/document-view?p=AMNEWS&docref=news/15859BF4E7B44E80&f=basic>.

also site this law as a major turning point for the creation and expansion of prison systems in America, as this bill included \$9.7 billion in funding for prisons. Additionally, this bill provided incentive grants to states that enforced mandatory sentencing laws for 85 percent of a person's sentence, thus offering financial incentive for legislators to pass "Get-Tough" laws and to enact much harsher punishments for crimes regarding juveniles.

Following the passing of this bill Charlotte City Council members convened for a special meeting on December 5, 1994, to workshop solutions to crime that incorporated this new, harsher stance on violent crime. One such solution was a joint effort by the Charlotte Housing Authority and the Charlotte-Mecklenburg Police Department titled "Coordination to Combat Crime in Public Housing."<sup>61</sup> The solution was presented by Dennis Nowicki, Chief of Police for the Charlotte-Mecklenburg Police Department and Harrison Shannon Jr., President, and CEO of the Housing Authority of the City of Charlotte. The presentation began with a comparison of crime rates to Charleston, SC, and the statistic that despite public housing representing just 3 percent of the population, these areas accounted for 5 percent of the calls for service and an equal percentage of the violent crime in 1993.<sup>62</sup>

It is important to note the language used to describe those affected by the issue of crime in Charlotte. The proposed solution adopted the same tone used by legislators following the 1990 crime bill, to the extent that Dennis Nowicki addressed the affected areas as "A battlefield that changes constantly, as do the tactics" and that the police must "be prepared to change with

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<sup>61</sup> Charlotte City Council, *Charlotte City Council Meeting Minutes*, (December 5, 1994), 15.  
<https://www.charlottenc.gov/CityClerk/Agendas/December%205.%201994%20Workshop.pdf>

<sup>62</sup> Charlotte City Council, *Charlotte City Council Meeting Minutes* (December 5, 1994), 20.  
<https://www.charlottenc.gov/CityClerk/Agendas/December%205.%201994%20Workshop.pdf>

them.”<sup>63</sup> Previously, areas under the influence of the CMPD were addressed by either a major street name like Independence Blvd., or by the neighborhood name itself. Within this proposal however, areas have been divided according to crime rates, and given militarized names like Bravo 2 or Charlie 1, thus blurring the lines of CMPD’s area of control and dehumanizing those who live within the targeted areas. While this proposed solution detailed a multi-faceted approach to addressing public housing areas that had the highest crime rates, one commonality between proposals was a significant increase in community observation by officers. Both the CMPD and the CHA planned a series of “knock and talk” sweeps through the highest crime neighborhoods, as such sweeps had previously resulted in several arrests for criminal activities, particularly those involving drugs.<sup>64</sup>

The CMPD and CHA also collaborated to establish youth programs to reduce the rates of juvenile delinquency within Charlotte public housing. These programs included the Police Athletic League, Right Moves for Youth which was operated by an independent non-profit organization but was backed and supported by the CMPD and the CHA, and the CHA’s After-School Program and Youth Councils Community.<sup>65</sup> While these programs were effective at reducing juvenile delinquency through preventative measures, this presentation painted juveniles as the primary reason for waging a battle against the public housing communities.

The CHA’s involvement in this proposition can be associated with a response to a report by the Charlotte Observer in 1994<sup>66</sup> on the most violent communities in Charlotte. Harrison

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<sup>63</sup> Charlotte City Council, *Charlotte City Council Meeting Minutes*, (December 5, 1994), 21. <https://www.charlottenc.gov/CityClerk/Agendas/December%205.%201994%20Workshop.pdf>

<sup>64</sup> Charlotte City Council, *Charlotte City Council Meeting Minutes*, (December 5, 1994), 21. <https://www.charlottenc.gov/CityClerk/Agendas/December%205.%201994%20Workshop.pdf>

<sup>65</sup> Charlotte City Council, *Charlotte City Council Meeting Minutes*, (December 5, 1994), 21. <https://www.charlottenc.gov/CityClerk/Agendas/December%205.%201994%20Workshop.pdf>

<sup>66</sup> Charlotte City Council, *Charlotte City Council Meeting Minutes*, (December 5, 1994), 21. <https://www.charlottenc.gov/CityClerk/Agendas/December%205.%201994%20Workshop.pdf>

Shannon Jr. explained that thirteen of Charlotte's twenty-five public housing neighborhoods ranked among the city's most violent neighborhoods.<sup>67</sup> Among these, Piedmont Courts, Southside Homes, and Earle Village ranked among the top eight in violence. Dennis Nowicki elaborated that there were 4,994 children under seventeen living within these economically depressed neighborhoods, and that of the 2,912 petitions filed in Juvenile Court between 1993 and 1994, CMPD estimated that 600 of those petitions involved public housing youths.<sup>68</sup> Thus the push for greater surveillance of public housing, which predominantly housed low-income families and children of color, was framed as a push for a reduction in juvenile delinquency. Mecklenburg County legislators had now developed a pattern of expanding the influence and budget of the police to account for an inadequate juvenile justice system. That same pattern would not extend to an increase in spending on community-based juvenile justice reform efforts in following years. In fact, legislators often perpetuated the claim that the state had already lacked the proper resources to expand an already underfunded system.<sup>69</sup>

Both the 1990 Crime Control Act and the Violent Crime Control and Law Enforcement Act of 1994 had a profound effect on the number of cases handled by juvenile courts at the state level. According to the Office of Juvenile Justice and Delinquency Prevention the number of juvenile court cases increased by 29.4 percent between 1990-1994. This was far higher than the previous four-year period in which juvenile court cases rose 8.9 percent between 1986-1990.<sup>70</sup> Additionally these laws also increased the percentage of racial minorities within the juvenile

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<sup>67</sup> Charlotte City Council, *Charlotte City Council Meeting Minutes*, (December 5, 1994), 45. <https://www.charlottenc.gov/CityClerk/Agendas/December%205,%201994%20Workshop.pdf>

<sup>68</sup> Charlotte City Council, *Charlotte City Council Meeting Minutes*, (December 5, 1994), 46. <https://www.charlottenc.gov/CityClerk/Agendas/December%205,%201994%20Workshop.pdf>

<sup>69</sup> Birkhead, "Resistance to Reform," 1494.

<sup>70</sup> M. Sickmund, "Demographic Characteristics of Cases Handled by Juvenile Courts 1985-2019," *Office of Juvenile Justice and Delinquency Prevention*, (2021): 1. <https://www.ojjdp.gov/ojstatbb/njcda/pdf/jcs2019.pdf>.



court system, from 32 percent of all cases in 1990 to 33 percent in 1994. This trend would also continue for the following ten years as minorities accounted for 34.8 percent of all juvenile court cases in 2004 as additional surveillance laws were passed from national and state legislators. While these laws had contributed to the severity of juvenile dispositions, they did not have as profound an effect on North Carolina's carceral infrastructure as the Juvenile Justice Reform Act of 1998.

### **The Juvenile Justice Reform Act of 1998 and Sweeping Changes to Carceral Infrastructure**

In September of 1997 Governor Jim Hunt and his administration created the Governor's Commission on Juvenile Crime and Justice for the purpose of conducting a review of North Carolina's juvenile justice system to address concerns regarding juvenile delinquency over the past two decades.<sup>71</sup> The commission's final report issued in March of 1998 noted that between 1979 to 1996, the violent arrest rate regarding juveniles had increased by 172 percent, with drug related arrests at twice the previous rate, and also noted that offenses involving weapons increased seven-fold. It became increasingly clear that the current juvenile justice system, in its overburdened and outdated state was ill-equipped to address challenges regarding the state's more violent offenders. The final report also contained 61 recommendations intended to both prevent rising rates of juvenile delinquency as well as contain and reduce the rise of youth violence and victimization.

The central concern raised by the commission was that under the current juvenile code judges were required to impose the least restrictive disposition, in other words, the Commission

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<sup>71</sup> North Carolina Sentencing and Policy Advisory Commission, *Juvenile to Adult Comprehensive Criminal History Study*, (June, 2004), 4.  
[https://www.nccourts.gov/assets/documents/publications/JuveniletoAdult\\_062004.pdf?VersionId=CWQxLhxO0I0Pq24k3FmhozCtnFdNXBy4](https://www.nccourts.gov/assets/documents/publications/JuveniletoAdult_062004.pdf?VersionId=CWQxLhxO0I0Pq24k3FmhozCtnFdNXBy4).

took issue with the offender-based system as it did not account for public safety as a factor in setting dispositions.<sup>72</sup> Governor Jim Hunt had won re-election to his fourth term with a platform that included much stricter, tougher action towards reducing juvenile delinquency and was successful in accomplishing the ambitious task of rewriting the objectives of juvenile delinquency dispositions from the “least restrictive disposition” to the “most effective” one.<sup>73</sup> However, the issue of extending the age of juvenile court jurisdiction was absent from the agenda of Hunt’s Commission.<sup>74</sup> While the Commission later acknowledged this issue the argument provided was like previous attempts to reform the juvenile justice system in that they stated that “raising the original jurisdictional age would have a detrimental impact on the already overburdened system,” echoing arguments from previous elected officials like the Mecklenburg Board of County Commissioners.<sup>75</sup>

The Juvenile Justice Reform Act of 1998 incorporated many of the recommendations raised by the Governor’s Commission. The purpose of the legislation was to provide protection to the public, a deterrence to crime and delinquency, an effective intake system for the screening and evaluation of complaints as well as referrals of juveniles, and a set of uniform procedures ensuring “fairness, equity, and procedural speed for juveniles.”<sup>76</sup> Additionally the Juvenile Justice Reform Act of 1998 increased protection of the constitutional rights of juveniles, parents, and victims by extending the rights of adults in the event that a juvenile’s case is transferred to the superior court. After the N.C. General Assembly passed the legislation what followed was

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<sup>72</sup> Advisory Commission, *Juvenile to Adult*, 4.

<sup>73</sup> Birkhead, “Resistance to Reform,” 1491.

<sup>74</sup> Birkhead, “Resistance to Reform,” 1492.

<sup>75</sup> Birkhead, “Resistance to Reform,” 1492.

<sup>76</sup> Advisory Commission, *Juvenile to Adult*, 5.

the single largest overhaul of the North Carolina juvenile justice system since the Juvenile Justice and Delinquency Prevention Act of 1974.

The Juvenile Justice Reform Act of 1998 ushered in sweeping changes in North Carolina's carceral infrastructure. Juvenile justice functions had been carried out by two divisions in separate departments and branches of NC state government prior to the new legislation. The Divisions of Youth Services of the Department of Health and Human Services had been responsible for juvenile detention facilities, youth development centers, and community-based alternatives. The Juvenile Services Division of the Administrative Office of the Courts in the Judicial Department had been responsible for screening, intake, probation, and aftercare services for juveniles. The new legislation allowed for the creation of a new department, the Department of Juvenile Justice and Delinquency Prevention (DJJDP) and transferred to that department the powers, duties, and responsibilities of the previous two divisions. The DJJDP became effective July 1, 1999, alongside the new Juvenile Code that took effect at that time. Secretary of the Department of Juvenile Justice and Delinquency prevention George Sweat later referred to the Juvenile Justice Reform Act of 1998 as "one of the most important developments in our justice system in modern history," and believed that North Carolina had greatly benefited from the creation of the department.<sup>77</sup> While the new department may be worthy of praise by some, the fact remains that 61.3 percent of the YDC or youth

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<sup>77</sup> DJJDP Research and Planning Team, *North Carolina Department of Juvenile Justice and Delinquency Prevention Year 2000 Annual Report*, (2000), 6, <https://www.ncdps.gov/documents/files/divisions/jj/2000-djjdp-annual-report/download?attachment>.

development center population was African American, a shocking percentage given that African Americans made up just 21.5 percent of North Carolina's population at the time of the report.<sup>78</sup>

The DJJDP with Governor Jim Hunt at its helm had most of the powers of the consolidated departments, alongside many new powers and duties including the ability to plan, develop, and coordinate statewide multidisciplinary services and programs for delinquency prevention, early intervention, and the rehabilitation of juveniles. The DJJDP was also tasked with establishing procedures for substance abuse testing for juveniles adjudicated delinquent for substance abuse offenses, as well as given the responsibility of developing a statewide plan for training and professional development for juvenile justice personnel to create strategies to ensure fair and equal treatment in the juvenile justice system. However, the DJJDP remained ineffective at creating a racially unbiased sentencing system despite being given this responsibility since its inception.

In addition to changes in infrastructure, the Juvenile Justice Reform Act of 1998 also made sweeping changes to the dispositional sentencing of juveniles through the creation of the Dispositional Chart. Prior to the 1998 reform, judges were required to consider the needs of the juvenile primarily, and dispositional alternatives such as detention could not be imposed unless other “less restrictive dispositional alternatives had been explored and exhausted.”<sup>79</sup> The Reform Act instead disposed of the least restrictive standard in favor of the Dispositional Chart, which suggested dispositional alternatives based on the juvenile’s current offense and delinquency history.<sup>80</sup> While in theory the Dispositional Chart would apply the same severity of punishments

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<sup>78</sup> Census Bureau, “Racial Makeup of North Carolina Year 2000,” USAFacts, Accessed April 19, 2023, <https://usafacts.org/data/topics/people-society/population-and-demographics/our-changing-population/state/north-carolina/?endDate=2021-01-01&startDate=2000-01-01>.

<sup>79</sup> Advisory Commission, *Juvenile to Adult*, 6.

<sup>80</sup> Advisory Commission, *Juvenile to Adult Comprehensive*, 6.

as the previous system, in practice the Dispositional Chart increased sentencing times for all juveniles, and decreased the use of less restrictive community based solutions for juveniles of color and low-socioeconomic status. This result was precisely what Governor Jim Hunt had promised the public in his re-election campaign, a tough on crime attitude with public safety as the priority of juvenile dispositions.<sup>81</sup>

Lastly, the Juvenile Justice Reform Act of 1998 required the board of commissioners of each county to appoint a Juvenile Crime Prevention Council (JCPC) to act as a planning body for local juvenile justice issues.<sup>82</sup> These JCPC's are required to annually review the needs of juveniles in the county who present a risk of delinquency, or who have been adjudicated undisciplined or delinquent. The JCPC's are also tasked with ensuring that appropriate dispositional options are available and to prioritize community-level dispositions alongside increasing public awareness of strategies to reduce delinquency rates through annual recidivism rates reports.<sup>83</sup> In summary, the North Carolina Juvenile Justice Reform Act of 1998 overhauled the previous juvenile justice system into one with focused, efficient infrastructure, increased the severity of juvenile dispositional sentences as well as the speed at which those dispositions could be administered, and placed the safety of the public over the needs of juveniles like previous "Get-Tough" legislation before it. These laws remained largely unchallenged until a high-profile case involving a drug operation using children to sell drugs on school grounds pressured lawmakers to reconsider the state of the juvenile justice system.

Alongside sweeping changes in carceral infrastructure, Charlotte natives also experienced large changes regarding diversity and inclusion in the CMS school system. Following a large

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<sup>81</sup> Birkhead, "Resistance to Reform," 1492.

<sup>82</sup> Advisory Commission, *Juvenile to Adult*, 6.

<sup>83</sup> Advisory Commission, *Juvenile to Adult*, 8.

influx of white, upper-middle class residents from outside of North Carolina during the 1980s and 1990s, new CMS parents grew concerned about busing and desegregation efforts in a post-civil-rights Mecklenburg county. These concerns were answered by a post-1991 school board administration under superintendent John Murphy, who implemented an extensive public-school reform program focused on academic excellence and reflected the earlier “school choice” plans of the 1950s and 1960s.<sup>84</sup> CMS was effectively resegregated following the emergence of magnet schools as an alternative to busing. These magnet schools were located in inner-city neighborhoods originally to quell concerns from parents regarding CMS’ desegregation practices, however they became the target of white, wealthy anti-busing activists who sought the return of the neighborhood school structure despite Charlotte housing remaining visibly segregated. Thus, a new wave of resistance to busing began under the guise of building a new “color-blind” school system, one which anti-busing activists claimed would be an indicator of a progressive city and county.

Resistance to busing reached its peak in 1997 when William Capacchione filed suit against CMS claiming that his six-year-old daughter had been denied admission to a magnet school because the school could only accept a limited number of white students.<sup>85</sup> The judge for this case was Robert Potter, a former Mecklenburg county commissioner and well-known anti-busing advocate in the 1960s. Judge Potter ruled that CMS had achieved “unitary status” or full desegregation in CMS and that busing was no longer needed. Potter argued that the little segregation of schools in the 1990s was caused by factors outside of CMS’ control, like

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<sup>84</sup> Stephen Samuel Smith and Roslyn Arlin Mickelson, “All That Glitters Is Not Gold: School Reform in Charlotte-Mecklenburg,” *Educational Evaluation and Policy Analysis* 22, no. 2 (June 1, 2000), 101. <https://journals.sagepub.com/doi/10.3102/01623737022002101>.

<sup>85</sup> Stephen Samuel Smith, *Boom for Whom? Education, Desegregation, and Development in Charlotte* (Albany, NY: State University of New York Press, 2004), 159.

residential demographics and a shortage of teachers.<sup>86</sup> This ruling overturned the main policy preventing resegregation in the CMS school system, that of mandatory busing. The lawsuit coupled with increasing pressure from CMS parents resulted in the abandonment of CMS school desegregation efforts, often considered one of the most successful in the country.

By placing magnet schools in areas of low-socioeconomic status, and then removing the need for mandatory busing, the Mecklenburg BOCC was successful in resegregating many Charlotte-Mecklenburg schools through “color-blind” education reform policies. This is because without the need for mandatory busing, students of CMS were forced to attend the schools closest to their place of living, effectively resegregating schools using Charlotte’s largely segregated housing patterns. It is important to note that these anti-busing campaigns were often framed as a concern for the quality of education offered to children of Charlotte. Anti-busing activists argued that children shouldn’t have to travel so far away from their families for a good education, and that Charlotte would be a more progressive city by “thinking about the children” and returning to the “school choice” plans of prior decades.<sup>87</sup> The campaign to remove mandatory busing was just one of many examples of Charlotte elected officials attempting to reform a system using “color-blind” legislation under the guise of children’s rights, and its impact can still be seen today as the Charlotte-Mecklenburg school system remains the most segregated district in North Carolina as of 2019.<sup>88</sup>

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<sup>86</sup> Jennifer Wing Rothacker and Celeste Smith. “Busing As We Know It Today Will End.” *The Charlotte Observer*, August 24, 1999, 1. <https://infoweb.newsbank.com/apps/news/document-view?p=AMNEWS&docref=news/0EB6D7540EFF1849&f=basic>.

<sup>87</sup> Smith, *Boom for Whom*, 159.

<sup>88</sup> Emma Way, “Together. Separate. Together Again.” *Charlotte Magazine*, September 16, 2019, 1. <https://www.charlottemagazine.com/together-separate-together-again/>.

The evidence suggests that juvenile justice reform efforts in Charlotte predominantly perpetuated Get-Tough ideals adopted at the national level. Legislators that called for Get-Tough reform efforts often did so under the guise of public safety as the primary concern, rather than rehabilitation efforts for Charlotte's youth. These calls for public safety often occurred following sensationalized crimes, like with the changing of transfer laws following the publicity of the Gregory Gibson case. While many of these laws were framed as "colorblind" legislation, the impact of these laws disproportionately and negatively affected Black youth and Black neighborhoods in Charlotte. Anti-busing movements in 1997 also disproportionately impacted these neighborhoods and kept CMS segregated. Public resistance towards these laws grew following the introduction of the Kids Are Different era of juvenile reform efforts, but outcry from African American residents of Charlotte was often silenced due to improper political representation at the district level due to gerrymandering and district-level election system that allowed at-large voting for each district representative prior to the system being changed in 1986, rather than allowing only the district to be represented to vote for their respective district representative. Disproportionate minority contact rose in part due to legislation like the Safe Schools Act of 1993, which increased surveillance of Black youths. The Get-Tough ideology was ineffective at reducing recidivism rates within Charlotte and increased incarcerated population and the impact of these laws can still be felt today, particularly by those of low-socioeconomic status or disenfranchised racial groups.



## **Chapter 2: The Kids Are Different Era and the Rise of Children's Rights Through Charlotte's Non-Profits 2004-2017**

While the Kids Are Different era started in 2005 for much of the nation, one can argue that it began slightly earlier in 2004 in Charlotte due to state representative Alice Bordsen's proposals. 2004 also marked the beginning of a wave of children's rights advocacy campaigns, as well as the formation of many Charlotte-based non-profits dedicated to juvenile justice reform efforts. These included the Raise the Age campaign as well as the founding of Life Connections of the Carolinas. Charlotte residents also witnessed the rise and fall of Youth Development Centers or YDC's during this time as well. Through an examination of the major juvenile justice laws passed as well as several Charlotte-based nonprofits this chapter will show that the newfound focus on children's rights and reform efforts centered around treating kids as kids was effective at both reducing the population of incarcerated youths and highlighted new areas in need of improvement within the juvenile court system.

### **The Four Dozen Students of the Alamance-Burlington School System and Treating Kids as Kids (2004)**

Just six years after the Juvenile Justice Reform Act of 1998 was passed, local newspapers in Charlotte picked up a story involving a nearby school system and its students. Four dozen students had been arrested in the Alamance-Burlington School System for felony drug distribution.<sup>89</sup> The students had been arrested under suspicion of operating an undercover drug operation within the school grounds. This large crackdown on juveniles, and the heavy-handed sentences given the age of the offenders, sparked a renewed interest in juvenile court jurisdiction

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<sup>89</sup> Birkhead, "Resistance to Reform," 1492.

sentencing reform. Among those arrested was JamesOn Curry, a high school basketball player who had been offered a full athletic scholarship by the University of North Carolina. That offer was later rescinded following a guilty plea to six felony drug counts, and JamesOn Curry was placed on probation. James was not the only student learning the far-reaching consequences of the current state of the juvenile court system, as many other teens learned that the charges could affect future employment, as well as the right to vote or use a firearm for entertainment and recreational purposes.<sup>90</sup> The public was quick to pick up on the severity of the charges compared to the crime committed, which in turn pressured county legislators to act in the best interest of the juveniles. Among those legislators was State Representative Alice Bordsen who had initiated a proposal to allow “nonviolent youthful offenders to either have their felony convictions reduced to misdemeanors or have them expunged.”<sup>91</sup> However, Bordsen’s proposal failed to advance. After its failure, Alice Bordsen focused her efforts on raising the age.

2004 also marked a shift towards the Children Are Different era in Charlotte following the proliferation of several children’s rights and juvenile justice non-profit organizations. Among these non-profits was one of the first and largest juvenile justice advocacy organizations, Life Connections of the Carolinas. Life Connections was founded in 2004 by current CEO Glenn Smith who approached the JCPC for funding to start a court diversion program where they got referrals through the juvenile court councilors to keep youths from returning to the court systems and provide an intervention to allow them to get back on track.<sup>92</sup> One of the defining traits of the Children Are Different era was a shift away from punitive sentencing dispositions towards a focus on solutions that do not involve the juvenile justice system, preventing recidivism that may

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<sup>90</sup> Birkhead, “Resistance to Reform,” 1493.

<sup>91</sup> Birkhead, “Resistance to Reform,” 1493.

<sup>92</sup> Smith, Interview.

have occurred if the delinquent was placed in a more restrictive option such as a youth development center. To that end, Smith's organization focuses on restorative justice efforts among its many other programs. Smith described the process of restorative justice through a technique called restorative circles and stated:

We also have a restorative justice program which the goal is to use restorative practices. all of our programs use restorative practices, but this one in particular use something called restorative circles where if a child has harmed someone or someone has been violated in some way, anything from stealing a car to some type of vandalism or if it's in school, it could be bullying, it could be anything. I've had several kids that have stolen their parents' vehicles. So they're the harmed party, especially when they wreck the car. So what we do is we bring both peers, you know, kids in the same age as the kid, community members and if all possible, the harmed party into a series of interventions where we're hoping that there's connection more than separation. When talking about the juvenile justice system, any type of justice system separates. They take the person who has committed the offense and the offended and they keep them apart. And this brings people together to hopefully restore the relationship, to reconstitute the relationship. And the teenager, the kid, normally does come out of that with what we call a restorative plan and that's anything from making it right with the person they harmed to getting some things positive in their life. To get them started on doing some things that are more positive.<sup>93</sup>

Alongside Smith's restorative circles program, Life Connections also offered several other programs to reduce recidivism rates in Mecklenburg County over the past twenty years. These programs include the Strengthening Families program, which offers classes for both parents and their children to practice concepts that allow a child to move past their experiences within the juvenile justice system, the DASH Mentoring program which is based on a "youth initiated mentoring" model in which the youth learns how to seek out natural supports and positive guidance from the adults already in their lives, and the Re-Entry Program which was created by Smith in 1998 and implemented in the Mecklenburg County Jail with support from the Mecklenburg County Sheriff's Office and provided instruction to reduce recidivism and increase the personal development of individuals who were previously and presently incarcerated.

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<sup>93</sup> Smith, Interview.

Life Connections focus on restorative justice and mental health programs have proven effective at reducing recidivism with Smith stating that of the youth who graduated his programs, roughly 75 percent of them did not return to the juvenile justice system within one year of completion.<sup>94</sup> Smith's programs reflected the mentality of similar children's rights advocates in that the unique position of children and their developing brains required additional consideration compared to those involved in the adult criminal justice systems of that period. It is important to note that the emergence of Life Connections and similar programs funded by the JCPC marked a transition from the previous Get-Tough policies which prioritized harsh punishments, public safety, and a reliance on carceral infrastructure, to the Children Are Different policies which prioritized children's rights, sentences backed by psychological studies, and restorative justice efforts that did not involve the juvenile justice system. Governor Michael Easley noted "through the work of the state's JCPCs programs were being developed to help at-risk youth achieve success," and stated that an examination of the data within the 2004 annual report from the NCDJJD revealed "these youth still present many needs and challenges."<sup>95</sup> However, while the number of juveniles held within YDC's had dropped from 1360 in 1998 to just 473 in 2004, the percentage of that population that remained was 70 percent African American, a much larger percentage compared to when the department was first created.<sup>96</sup> This means that the African American YDC population increased 8.7 percentage points, while the African American population of North Carolina decreased by 0.5 percentage points since 1998.<sup>97</sup> These statistics show that the Kids Are Different era reform efforts were effective at reducing the number of

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<sup>94</sup> Smith, Interview.

<sup>95</sup> DJJD Research and Planning Team, *North Carolina Department of Juvenile Justice and Delinquency Prevention Year 2004 Annual Report*, (2004), 4.

<sup>96</sup> DJJD, 2004 Annual Report, 13.

<sup>97</sup> Census Bureau, "Racial Makeup of North Carolina Year 2004," USAFacts, Accessed April 19, 2023, <https://usafacts.org/data/topics/people-society/population-and-demographics/our-changing-population/state/north-carolina/?endDate=2004-01-01&startDate=1998-01-01>.

incarcerated individuals, but not for all races. This shift led to the creation of the Raise the Age campaign in Charlotte, which championed the idea that youth below a certain age should not be processed by the juvenile justice system due to their limited capacity to understand what they had done wrong, and why they were being punished so severely.

### **Origins of the Raise the Age Campaign and the Historic Pushback to Juvenile Justice Reform (2006)**

Alice Bordsen was not alone in her efforts to raise the age of juveniles whose cases could be handled and adjudicated by juvenile courts. In this context, an expansion of the age range was a positive reform effort for children's rights, as previously juveniles who did not fall within the age range of juvenile courts were transferred to adult criminal courts, where juveniles often faced much harsher sentences that did not account for the growth and wellbeing of the child. Since 2006, raise-the-age advocates in North Carolina had become more vocal, with the movement receiving attention from local Charlotte news outlets like the *News & Observer*.<sup>98</sup> However, familiar patterns of juvenile justice reform pushback arose to counter progressive calls of the movement.

When asked why the number of teens under sixteen charged with violent crimes dropped by nearly 37 percent and why arrests amongst teens under sixteen involving property crime had dropped by 40 percent since 2002, William Lassiter, deputy secretary of the Division of Juvenile Justice and Delinquency prevention argued that this drop was the result of the "Juvenile Justice Reform Act in 1998 and efforts for additional reforms in 2006."<sup>99</sup> Juvenile delinquency rates

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<sup>98</sup> Birkhead, "Resistance to Reform," 1493.

<sup>99</sup> NC Child, "Reforms Credited for Driving Juvenile Crime Down in North Carolina," *News and Observer*, October, 2012, 1. <https://ncchild.org/reforms-credited-driving-juvenile-crime-north-carolina-news-observer/>.

have continued to trend downward since 2002, but in North Carolina this trend is nearly double the national average. Lassiter attributes this success to an early adoption of the Kids Are Different belief system and to the actions of Governor Jim Hunt and his Commission on Juvenile Delinquency, whose early legislative efforts between 1998 and 2006 were presented as a balanced approach to the Get-Tough Movement in the early 1990s. To put this impact in perspective, in 1998 North Carolina was locking up 1400 children each year in YDC's, in 2012 that number is around 300.<sup>100</sup>

The Sentencing and Policy Advisory Committee issued a report advising legislators to extend juvenile court jurisdiction to age eighteen, with an exception for traffic offenses committed by those who were sixteen and older in 2006.<sup>101</sup> However this report and new legislative proposals like it stalled due to the N.C. Conference of District Attorneys and the N.C. Sheriff's Association raising concerns over the cost involved in expanding the juvenile court's jurisdiction. Additionally, the Governor's Crime Commission in 2007 was granted permission to study this issue further, however recommendations are once again still pending. It is crucial to understand why these pushes for juvenile justice reform kept failing during this time, and researchers of juvenile justice laws like Tamar Birkhead have identified three main causes of reform pushback.

While it is impossible to know the precise reason why each proposal failed to advance, there are several patterns that have emerged over the many years of juvenile justice reform efforts in North Carolina. The first possible pattern that emerged from juvenile justice reform efforts was the self-perpetuating claim by opponents that the state lacks the necessary resources

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<sup>100</sup> Child, "Reforms," 5.

<sup>101</sup> Birkhead, "Resistance to Reform," 1493.

to expand an already underfunded and lackluster system.<sup>102</sup> This reasoning is like the ones given by the Charlotte City Council regarding community-based sentencing solutions from the early 1990s. Within the context of the Raise-the-age campaign, opposing legislators argued that an expansion of the juvenile court's jurisdiction would be expensive and overburden the criminal justice system.

Second, the questions of how much the state should invest in the juvenile justice system, and whether or not to expand the system to provide for sixteen and seventeen-year-olds within the juvenile court system has often been linked. In effect, the issue of the significant costs for expansion alongside the failing condition of the current systems had been repeatedly used to justify opposition to proposals for juvenile justice reform.<sup>103</sup> Also during this time, legislators have been unwilling to fully fund the current system. Birckhead argued that while it is correct in that the juvenile court system had frequently struggled to provide for children under their jurisdiction, it is also true that legislators have long been hesitant to fully support a system that has long been lacking.<sup>104</sup>

Lastly, there is evidence that various sensationalized crimes have served to drive the policy of the juvenile justice system in recent decades.<sup>105</sup> One such example being the expansion of juvenile transfer laws following the publicity surrounding the trial of Gregory Gibson. Additionally, there has been a growing trend of the marginalization of juvenile court practice in North Carolina. Following the Juvenile Justice Reform Act of 1998 many courts increasingly transferred cases from juvenile to adult courts for disposition and sentencing. New judges often

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<sup>102</sup> Birckhead, "Resistance to Reform," 1494.

<sup>103</sup> Birckhead, "Resistance to Reform," 1495.

<sup>104</sup> Birckhead, "Resistance to Reform," 1495.

<sup>105</sup> Birckhead, "Resistance to Reform," 1497.

began their tenure in juvenile courts before moving to superior courts. This led to many in the legal community viewing judges and lawyers within delinquency court to be engaged in “glorified social work or trivial law practice,” which in turn perpetuated the claims that the juvenile justice system was not worth the state’s time and resources.<sup>106</sup> These issues of juvenile justice reform pushback, coupled with growing concerns regarding sensationalized crimes and the adolescent superpredator led to the rise of Youth Development Centers as a solution that avoided the perceived spending costs of community-based solutions, while allegedly prioritizing the safety and wellbeing of the public.

### **The 2009 Governor’s Crime Commission and the Height of Youth Development Centers**

Youth Development Centers, or YDC’s, are facilities operated by the Department of Juvenile Justice and Delinquency Prevention. These facilities hold youths who are adjudicated and committed for offenses prior to turning eighteen and are the most restrictive and intensive dispositional option available to North Carolina’s juvenile courts. The commitment period ranges from at least six months, up to an indefinite period until the youth turns eighteen. however, these commitments can be extended past youths’ nineteenth or twenty-first birthday for more violent offenses.<sup>107</sup> 2008 marked the height of Youth Development Centers in North Carolina as this was the year in which many YDC’s were constructed and became fully operational. The Chatham YDC opened in 2008 as the only YDC in North Carolina that serves females and is located in Siler City. The Edgecombe YDC was a forty-four-bed facility that opened in 2008 and was later reopened in April of 2016 following modifications to allow for additional housing and is a self-contained complex that serves males. The Lenoir YDC was originally built in 2008, and later

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<sup>106</sup> Birckhead, “Resistance to Reform,” 1498.

<sup>107</sup> NCDPS, “Juvenile Facility Operations,” *North Carolina Department of Public Safety* (November 2022): 1. <https://www.ncdps.gov/our-organization/juvenile-justice/juvenile-facility-operations>.



reopened in May of 2017 due to modifications for additional housing as well.<sup>108</sup> Following the use of YDC's in 2008, two things became readily apparent to NC legislators. First, the public supported the use of YDC's as a method which heavily prioritized public safety over the wellbeing of the adjudicated youths. Second, that the upkeep and substantial costs associated with maintaining large facilities like YDC's was far greater than previously anticipated. 2009 also marked a year of budget cuts for many government programs across North Carolina, including the DJJDP. Linda Hayes, Secretary of the DJJDP stated that the department "experienced substantial cuts in programs and services... including the loss of Support Our Students, the Center for the Prevention of School Violence, Governor's One-On-One Program, and reductions in Multipurpose Juvenile Homes."<sup>109</sup> These issues led to a series of investigations from both the Governor's Crime Commission and the Youth Accountability Task Force.

In 2009 the Governor's Crime Commission launched a study on juvenile age for the purpose of examining the fiscal impact of raising the maximum juvenile court age from fifteen to seventeen. This study, which took approximately one year to conduct, concluded that raising the age would not just cost far less than previously expected, but instead result in a net benefit of \$7.1 million. The Commission argued that these savings would come from reduced recidivism rates and victim costs, in turn lowering upkeep costs for YDC's. Additionally, raising the maximum juvenile court age would also increase earning potential for offenders without criminal records.<sup>110</sup> The Youth Accountability Task Force launched a similar study in 2011 which focused on the fiscal impact of raising the juvenile delinquency age to include sixteen- and seventeen-

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<sup>108</sup> NCDPS, "Juvenile Facility Operations," 2.

<sup>109</sup> DJJDP Research and Planning Team, *North Carolina Department of Juvenile Justice and Delinquency Prevention Year 2009 Annual Report*, (2009), 4, <https://www.ncdps.gov/documents/files/divisions/jj/2009-djjdp-annual-report/download?attachment>.

<sup>110</sup> Latoya Powell, "Juvenile Justice in NC: A Historical Perspective," *UNC Press* (December 2015): 16.

year-olds.<sup>111</sup> The YATF recommended raising the age to seventeen for misdemeanors and low-level felonies, and estimated cost savings of \$52.3 million. These investigations were successful in getting legislators to address the growing issue of expensive YDC's and caused a wave of "Raise the Age Bills" to be passed, starting with H 725, or the Young Offenders Rehabilitation Act in 2013.<sup>112</sup>

### **The Young Offenders Rehabilitation Act of 2013 and Race Matters for Juvenile Justice**

The Young Offenders Rehabilitation Act or H725 was proposed to the N.C. House legislators by advocates of the Raise the Age Campaign in 2013. This bill aimed to increase the range of control for juvenile courts and allowed for juvenile courts to prosecute sixteen and seventeen-year-olds for misdemeanors only. This bill also aimed to establish the Juvenile Jurisdiction Advisory Committee, which would oversee the creation of a civil citation process for juveniles. This bill and others like it, like H399 in 2015 were not well received by many legislators when first introduced due to their more progressive stance on adjudicated sentences, but instead gained gradual support over the two years it took to pass. The Raise the Age bills faced similar pushback to previous juvenile justice reform efforts, with opponents citing initial expenditures and a concern for supporting an already failing system as justifications for why these bills should not be made into law. However, the Young Offenders Rehabilitation Act was passed on July 1, 2016, with a 77-39 bipartisan vote and was implemented in 2019.<sup>113</sup> The effect of this law was that the juvenile court system had been given the power to handle many cases that had previously been transferred to the adult criminal system due to the age of the offenders being outside the jurisdiction of the juvenile court system. This in turn resulted in less serious

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<sup>111</sup> Powell, "Juvenile Justice in NC," 17.

<sup>112</sup> Powell, "Juvenile Justice in NC," 21.

<sup>113</sup> Powell, "Juvenile Justice in NC," 21.

charges for juvenile delinquents, a greater focus on community-based solutions, a rise in restorative justice, which in this context refers to the act of punishing a youth for an offense by working with the harmed party to come to an agreeable solution outside the influence of the juvenile court system, and a large reduction in YDC populations. However, as overall offenses decreased the issue of disproportionate minority sentencing grew more apparent, leading to a rise in children's rights advocacy groups in the Charlotte area like Race Matters for Juvenile Justice.

Race Matters for Juvenile Justice, or RMJJ is an advocacy group based in Charlotte, which has fought against the issue of disproportionate minority sentencing and systemic racism in Mecklenburg County. Originally founded in January of 2010 RMJJ's mission is to create "a Charlotte-Mecklenburg Community where the composition and outcomes of juvenile courts cannot be predicted by race and/or ethnicity."<sup>114</sup> Disproportionate minority sentencing within this context refers to the racial disparity seen within juvenile justice dispositions, with minorities and those of low-socioeconomic status receiving more sentences and harsher punishments than those of other demographics. RMJJ has had a profound effect on the push for fair juvenile justice reform laws within both the Mecklenburg area and North Carolina due to its focus on making data on disproportionate sentencing available to the public. It is important to note however, that RMJJ has long held the belief that statistical data remains imperative to juvenile justice reform.<sup>115</sup> Annual reports from RMJJ have been used by many legislators at both the state and local level to enact changes within the juvenile justice system. Annual reports from the DJJDP also utilized statistical data, and some argue that this data provided a more accurate

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<sup>114</sup> Susan McCarter, "Bringing Racial Justice to the Courtroom and Community: Race Matters for Juvenile Justice and the Charlotte Model," *Washington and Lee Law Review* 73, No. 2 (2017): 652.

<sup>115</sup> McCarter, "Bringing Racial Justice to the Courtroom," 657.

representation of the juvenile justice process. For example, William Lassiter, Deputy Commissioner of the DJJDP argued,

When learning about incidents of juvenile delinquency on your television screen or in your newspaper, it is often hard to put the full picture of juvenile justice into view. The full story-as described in this report- is that much progress has been made on improving the juvenile justice system in our state, including: a decline for nine straight years in the juvenile delinquency rate; a 48 percent reduction in the use of juvenile detention; limiting the use of the youth development centers to only 1 percent of juveniles entering the system, and to those juveniles who commit the worst crimes and who present the greatest risk to their communities; and saving the state and local counties millions through the implementation of the juvenile justice strategic plan, which closes outdated and unsafe facilities and invests in more community-based alternatives. This is the full picture of a juvenile justice system that is improving and will continue to evolve in our state.<sup>116</sup>

In effect, these reports were used to justify ending the use of YDC's as a default choice for juvenile court dispositions, as well as highlight the growing racial disparity of the few youths that remained tied to a still largely underfunded system of justice. Thus, RMJJ was responsible in some part for many of the Raise the Age laws as well as the reauthorization of the Juvenile Justice and Delinquency Prevention Act in 2018.

Annual reports from RMJJ were not the only way in which African American voices in Charlotte were able to enact changes within the juvenile justice system. Unlike previous attempts to utilize mass media to create a unified public opinion in the 1990s and early 2000s, both RMJJ and the Black Lives Matter Movement were successful in raising enough public interest to sway policymakers. The Black Lives Matter Movement was created by Alicia Garza, Patrisse Cullors, and Opal Tometi to organize and promote a Black-centered political will and movement building project in 2013. One of the reasons why BLM was so successful when previous policy reform efforts failed was the prolific use of mass media to convey powerful messages about the racial

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<sup>116</sup> DJJDP Research and Planning Team, *North Carolina Department of Juvenile Justice and Delinquency Prevention Year 2015 Annual Report*, (2015), 5, <https://www.ncdps.gov/documents/files/juvenile-justice-section-2015-annual-report/open>.

disparity in treatment from police officers. Of this media focus, BLM utilized highly sensationalized crime news stories to bolster reform efforts. Examples of this include the organized protests following the brutal murder of Jonathan Ferrell by police officers in 2013, as well as the reckless and unnecessary murder of Keith Lamont Scott by police officers in 2016.<sup>117</sup> By utilizing the same tactic of pointing towards sensationalized crimes to enact justice reform as elected officials did throughout the 1990s, the Black Lives Matter Movement and RMJJ were effective at creating a strong, unified voice for a disenfranchised demographic within Charlotte.

The evidence suggests that juvenile justice reform efforts such as the Raise the Age campaign championed by Alice Bordsen and the Young Offenders Rehabilitation Act of 2013 were effective in reducing YDC and incarcerated populations and promoting restorative justice efforts in Charlotte. Additionally, Charlotte advocacy groups like Life Connections and RMJJ highlighted the issue of disproportionate minority contact within the juvenile court system and showed that despite transitioning to the Kids are Different era, many Get-tough laws continue to impact children of racial minorities and low-socioeconomic status. Life Connections was also successful in reducing recidivism rates among those who graduate their program since its creation in 2004. The use of studies from the Youth Accountability Task Force and the Governor's Crime Commission showed that legislators could be swayed to reform previous laws if these reforms led to saving money and alleviating budget concerns. The Black Lives Matter Movement showed the brutal treatment of minorities by the CMPD through mass media, enabling African American voices to be heard in a way that circumvented previous setbacks regarding political representation. This period of Charlotte's history also marked a new focus on

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<sup>117</sup> Christopher J. Lebron, *The Making of Black Lives Matter: A Brief History of an Idea*. (New York, NY: Oxford University Press, 2017), 34.

the connections between juvenile justice and mental health due to the understanding that the brain of a child is fundamentally different than that of an adult, which came about because of the Kids are Different era reform mentality.

### **Chapter 3: Mental Health and the Current State of Juvenile Justice 2018-2021**

The proliferation of Kids are Different reform policies led to wave of research on adolescent behavioral development. The research was backed by legislators and supported by reform laws like the Juvenile Justice and Delinquency Prevention Act of 2018. Following the implementation of that law and others like the NC Minimum Age Law, the population of incarcerated youths in Charlotte's YDC was lowered significantly. However, this period of Charlotte's history was not without setbacks, most notable the halting of many juvenile court processes due to COVID-19, and an increasing racial disparity within remaining YDC populations. Adolescent behavioral development research also highlighted the issue of adverse childhood experiences, and how trauma affects the brains of children, leading to an increase in power for juvenile court councilors to address these new issues under the umbrella of delinquency prevention.

#### **Juvenile Delinquency Reaches All-Time Low and Juvenile Justice and Delinquency Prevention Act Reauthorized (2018)**

In 2018 the juvenile delinquency rate in North Carolina fell to its lowest point since the state began recording juvenile delinquency data. Complaints had been reduced to just 16.18 per every 1000 kids. Between 2010 and 2018, the juvenile delinquency rate decreased by 41 percent. Also, detention center admissions fell by 62 percent reflecting a push for community-based solutions in juvenile court dispositions. Lastly, YDC admissions decreased by 46 percent.<sup>118</sup> William Lassiter attributed much of this success to “the largest change in the juvenile justice

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<sup>118</sup> NCDPS, “Juvenile Facility Operations,” 7.

system in a generation: Raise the Age.”<sup>119</sup> While this success can be associated with a rise in children’s rights campaigns such as the Raise the Age campaign and RMJJ, as well as numerous changes at the state level for juvenile court jurisdiction, these crime rates also fell due to influence on the juvenile justice system at the national level. One can argue that the data from 2018 was affected by a change in how we as a country approached juvenile justice reform policy, and this can be seen clearly in the Juvenile Justice and Delinquency Prevention Act Reauthorization of 2018.

The Juvenile Justice and Delinquency Prevention Act Reauthorization of 2018, also known as the Juvenile Justice Reform Act of 2018 or JJRA, can best be described as an evolution of old juvenile justice law which included all the lessons learned over the past several decades. First, I must clarify that despite sounding similar to previous state level legislation, the JJRA is in fact addressing the Juvenile Justice and Delinquency Prevention Act of 1974. In other words, the JJRA is a national law meant to address the previous national law, not the Juvenile Justice and Delinquency Prevention Act of 1998, which was a North Carolina juvenile justice law.

The JJRA expanded the power of the juvenile justice court system and included the latest research on adolescent behavioral development. While there were many changes made to the Juvenile Justice and Delinquency Prevention Act of 1974, there were two that were of particular concern to NC legislators. First, the JJRA called for a deincarceration of status offenses for youths.<sup>120</sup> In effect, this reduced the amount of time youths could be held in detention, and reduced sentence length for those in YDC’s. Additionally, the JJRA extended the reach and

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<sup>119</sup> DJJDP Research and Planning Team, *North Carolina Department of Juvenile Justice and Delinquency Prevention Year 2018 Annual Report*, (2018), 3, <https://www.ncdps.gov/documents/files/juvenile-justice-section-2018-annual-report/open>.

<sup>120</sup> OJJDP, “Juvenile Justice and Delinquency Prevention Act Reauthorization 2018,” U.S. Department of Justice (March 1, 2019): 2. <https://ojjdp.ojp.gov/publications/JJRA-2018>.



power of juvenile court councilors. Councilors who met with both the youth and their family were now able to provide input on the type and severity of the sentence given by juvenile court judges. This led to an increase in both community-based solutions and restorative justice-based sentences, as well as a decrease in the use of carceral infrastructure like detention centers and YDC's. Second, the JJRA required states to address the issue of disproportionate minority contact.<sup>121</sup> For North Carolina legislators, this meant adding a new focus on Racial and Ethnic Disparities, or RED within juvenile justice legislative efforts. Luckily for North Carolina legislators, substantial data regarding disproportionate minority contact had already been created over the past decade through both recidivism rates from the Department of Juvenile Justice and Delinquency Prevention, and data collected by Charlotte-based advocacy groups like Race Matters for Juvenile Justice. The impact of the JJRA is still being studied, as the law is still new as of the time of this writing, however a recent increase in public support for RED centric legislation does show promise that North Carolina legislators will focus on these disparities more than previously.

### **COVID-19 and Mental Health (2020)**

There has been no event more catastrophic to the juvenile justice system in Charlotte than that of COVID-19. It is difficult to overstate the far-reaching effects that COVID has had on many aspects of the juvenile justice system both direct and indirect. In March of 2020 a centennial plague swept across the world, and within Charlotte, devastated an already overburdened and underfunded juvenile justice system. Due to Covid being a recent event, research from a top-down perspective is limited. To best examine how Covid has impacted

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<sup>121</sup> OJJDP, "Juvenile Justice," 3.

Charlotte, one must speak to families who are in contact with the juvenile justice system. These oral history interviews were conducted by myself through an online video-calling software. I used a series of questions across all interviews to connect them through common themes and issues. These questions were more generalized at the start of the interview, with questions regarding specific events or issues occurring in the latter half of the interview. I found this interviewing method to be effective for those who had prior interviewing experience, as well as for those with not experience being interviewed as it helped establish a rapport with my interviewees. One Charlotte native mother elaborated on how Covid impacted their adopted son's journey through this complex system:

When it comes to COVID, I mean everything stopped. The courts are not seeing cases. So my son has cases like six different arrest records into where he's no longer juvenile. So now he's in the adult court system. This is going back to 2020 and these cases still have not been processed. So that makes it really difficult for him to move on with his life when he has that hanging over his head and he doesn't know if he's going to go to prison or if he's going to have a felony charge and it's harder to get work if you have a felony. So yeah, that's where you get people that they're not seeing immediate consequences to their crimes, so that they're piling up. And then that just creates more of a backlog, and then there are times when you make arrangements, you get off work, you get to court, and they say, "oh, we had a case of COVID, we're not having court today." So I mean, that's very impactful, especially for people that are supposed to be at work, don't work from home and can't take off and go. I mean, just recently we were in Iredell County, and we went to the court, you know, you get up, I went and picked up my son because he doesn't drive, doesn't have a driver's license, and took him to where the county courthouse is by Ireland County. There were a lot of us standing there. One of the court workers came out and said, your court cases have been taken to Mooresville. So everybody has to jump into a car, drive to Mooresville, and then stand there and wait, waited for almost two hours outside in December because I don't know because of COVID or whatever. And then we went to our car, my son called his attorney, you know, to see how long it was going to be and whatever, and they said, oh, your case has been continued to January. So these things, I mean, how impactful is that? You spend your day driving around and standing outside just to be told, come and do this again next month.<sup>122</sup>

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<sup>122</sup> Charlotte Mother, interview by author, Virtual, 1/25/2023.

The halting of the juvenile court system due to COVID has negatively and directly impacted many Charlotte families who simply want this chapter in their lives to end so that the next may begin. The juvenile court system in Charlotte has not processed a case in almost three years due to health issues and a substantial backlog of cases, and as a result many Charlotte families are left in limbo and growing increasingly distrustful of the juvenile justice system's ability to provide justice. Also, COVID

COVID has also indirectly impacted many of the juveniles within these systems, particularly the socialization and recidivism efforts put forth by Charlotte-based nonprofits like Life Connections. Glenn Smith outlined how COVID has impacted his work:

Yeah, COVID really has affected our work. Well, one thing of course, we are meeting virtual right now. I had never done that before COVID. We even set up programs during, you know, 2021 into 2022 where a lot of our programs are done virtually. You know, we would have our group meetings that way. The other way it's impacted on a negative side is our families, we are working with already very marginalized situations. They got worse. I mean, you know, families that were already stretched financially were stretched more because the people lost their jobs, etc. Kids were out of school. They started getting in more trouble. I mean, if anything school does, which I wish it did more, it provides a structure for kids during the day and teachers know when kids aren't coming, so a lot more gets reported. There was a lot of kids out there on the streets that nobody knew were out on the streets because nobody was reporting. For a lot of our population we serve, there was a lot more gun violence than I've ever experienced. We lost five kids during COVID to gun violence. I had never had that happen before and I've been in this since the 1970s, about 50 years now. I attribute that gun violence back to COVID. It's not a coincidence that all of a sudden, you know, for some 50 years, I got kids that were actually doing pretty well in our programs and graduating, all of a sudden I'm going to their funeral.<sup>123</sup>

For people like Smith, whose work involved rehabilitating and strengthening the social networks and development of disenfranchised youth, the shift to a virtual world has proven to be a

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<sup>123</sup> Smith, Interview.

negative one. Without proper human contact, many delinquents were far more likely to return to the juvenile justice system or become involved in more serious crimes.

The event of COVID has also highlighted the significance of mental health awareness within the juvenile justice system. The defining characteristic of the Kids Are Different era is the idea that children's brains are not fully developed, therefore additional consideration needs to be taken in the sentencing process. It is no surprise then, that the mental health of those adjudicated delinquent is now gaining more attention than ever before. When asked if mental health awareness has increased over the course of his work, Smith stated:

Yeah, definitely there's a real awareness now that that this is a mental health issue. I mean, I think people are starting to look at it more through that lens now. I think that are our new sheriff in Mecklenburg County looks through things through that lens. I mean, he's got a lot of mental health programs going on there in the Mecklenburg County jail. The fact that we were one of the first clinical programs started through the JCPC is significant. And now they're saying, all right, we need to get these kids into counseling. We need to get every kid in assessment. You know, we need to get them into drug and alcohol treatment. I'm glad that it is moving in that direction for sure.<sup>124</sup>

This quote from Smith shows that mental health awareness from elected officials like the Mecklenburg County sheriff has increased since Smith's programs began in 2004. While mental health awareness has increased, others view the current progress as being too little and too late. Camille Stephens is the president of Locked Out Love, a Charlotte-based non-profit focusing on rehabilitating those currently in, and recently released from, carceral infrastructure. Stephens, when asked about mental health programs and support structures commented:

I don't think there's enough of it. I think we're still lacking it. But there again, it goes back to the setting of where they come from. Because what we're finding now is when they come out and they come back to the same environment, they're not at the mental capacity that they need to be in. And of course, their brain is not fully developed to make some decisions to say, you know what? This is not the life I want to go. This is not the way; this is not the route that I want to go in. And then just like at the detention center,

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<sup>124</sup> Smith, Interview.

there was not enough therapists there to meet the needs of the client. So, you've got one therapist there and you might have 76 kids that all need therapy. But one therapist can't get to all of those kids effectively.<sup>125</sup>

This highlighted the issue of mental health awareness being increased, but mental health programs within the juvenile justice system lacking resources. When one Charlotte mother addressed the issues the privatization of the juvenile justice system and of finding mental health programs for her adopted son, she explained:

When we adopted him, we were given adoption Medicaid. So, because again, if you want to go to a private treatment center insurances at that point especially in the last 20 years were not covering that. So, you know, people, people that I knew doing the same thing, were mortgaging their homes so that they could get their kids into better treatment centers than the ones that were provided by Medicaid. Same thing with therapists, you know, we were paying out a pocket for a psychiatrist who was really good, but it got to be about \$200 an hour. And if you're doing that once a week for a kid that has multiple diagnoses you just can't do it for that long. So just, yeah, I mean, if maybe insurance would do better at covering mental health, but even then, you know, the facilities aren't there, and the staff isn't there to do the facilities. And the one thing that I heard when I was in NAMI, the National Alliance for Mental Illness, going to the parenting groups, they would say that a lot of the psychiatrists and therapists were from foreign countries because that was the only option they had was to be able to do medical school in America was to go into mental health.<sup>126</sup>

Despite the recent focus on mental health that occurred during the shift to the Kids Are Different era in Charlotte, many facilities and healthcare systems remain ill-equipped to handle these issues.

Among mental health issues prevalent within the juvenile justice system, none have received more attention than that of trauma and its effect on the minds of Charlotte's youth.

When asked about the newfound focus on trauma Stephens explained:

I went to the juvenile justice conference last October and the real concern of what we deal with is what we call the groundwater, the foundation, the trauma, which is known as ACE's or adverse childhood experiences. And for the first time, I heard 26 districts talk

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<sup>125</sup> Camille Stephens, interview by author, Virtual, 1/24/2023.

<sup>126</sup> Charlotte Mother, Interview.

about that they are now looking more at the trauma that's involved in the people that are detained, right? As to why we are having younger and younger people involved in the justice system. And so, I think if we get more conversation around that, and there's more ground work to try to deal with that, then our outcomes are going to be much different. And I have this kind of conversation quite often because I'm always thinking like, what can we do? You know when you're dealing with it at 15, 16, 17, 20, 21 years old. I'm telling our volunteers and the people who work with us and in a lot of other organizations to recognize we need to start working with them at kindergarten, right? So even still, it's the home front. It's where they come from. How do you deal with these parents? How do you deal with these young people who are still making crazy decisions to have kids? And because of their trauma, they're finding themselves entangled with other trauma individuals. And then you got this kid that you create, that's traumatized already before it even hits the air, right? I had another parent call last week and talked about her kid acting out. She's six years old. Six years old. Well, then come to find out through conversation, the kid was traumatized before the kid even hit the world, right? Because it was so much trauma going on during the pregnancy, the father kicked the stomach and just all kind of craziness. And so now the parent is seeing what's going on. The parent is traumatized, and the kid is, and the other two kids are as well.<sup>127</sup>

Stephens also noted that the focus on trauma within the juvenile justice system has led to several proposed solutions to reduce or eliminate the number of traumatized kids within carceral infrastructure. One such solution is to increase the number of trauma-informed people within each step of the court process, specifically trauma-informed police officers, trauma-informed therapists, and trauma-informed court counselors.<sup>128</sup> Doing so will reduce the number of traumatized kids within the juvenile justice system and will promote solutions that do not result in grouping traumatized children together, unlike the current popular solution of utilizing YDC's. By addressing root causes for delinquency instead of punishing symptoms of trauma, recidivism rates could decrease as well as reduce the number of children within an overburdened juvenile justice system. The push for reducing the number of incarcerated children led to the creation of the NC Minimum Age Law in 2021, a law which reduced the age ranges under the control of the juvenile courts.

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<sup>127</sup> Stephens, Interview.

<sup>128</sup> Stephens, Interview.

## **2021 NC Minimum Age Law and Current State of Juvenile Justice in N.C.**

The North Carolina Senate Bill 207, or NC Minimum Age law, was the most recent major juvenile justice reform law to be passed as of the time of this writing. This law raised the lower age of juvenile jurisdiction from six to ten and went into effect December 1, 2021.<sup>129</sup> This meant that for juveniles who were deemed delinquent, those below the age of ten will no longer be seen in juvenile courts. Prior to this change, North Carolina had the lowest minimum age in the world to enter the juvenile justice system. William Lassiter stated “these changes are research-based and cost-beneficial. But, most importantly, it’s the right thing to do.”<sup>130</sup> Lassiter also said, “History was once again made in 2021 when North Carolina “raised the floor” if its minimum age of juvenile jurisdiction,” and argued “This change in law would not have been possible without the hard work, dedication, and collaborative efforts of many stakeholders in the juvenile justice system.”<sup>131</sup> While this law is a significant improvement to the juvenile justice system in North Carolina, many national organizations recommend a minimum age of fourteen for kids to be exposed to the juvenile court system.

In April of 2021 Governor Roy Cooper established the North Carolina Juvenile Sentence Review Board by executive order. The review board will make recommendations to the Governor concerning sentences imposed on individuals who were tried and sentenced in adult criminal court for acts committed before turning eighteen. Governor Cooper explained that this order resulted from new developments in adolescent behavioral development and stated,

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<sup>129</sup> WECT Staff, “New Law goes into effect that raises the lower age at which juveniles are taken to court,” *WECT News*, December 1, 2021, 1. <https://www.wect.com/2021/12/01/new-law-goes-into-effect-that-raises-lower-age-which-juveniles-are-taken-court/>.

<sup>130</sup> WECT Staff, “New Law,” 2.

<sup>131</sup> DJJDP Research and Planning Team, *North Carolina Department of Juvenile Justice and Delinquency Prevention Year 2021 Annual Report*, (2021), 3, <https://www.ncdps.gov/documents/2021-juvenile-justice-annual-report/open>.

“Developments in science continue to show fundamental differences between juvenile and adult minds... for those who have taken significant steps to reform and rehabilitate themselves, this process can provide a meaningful opportunity for release and a life outside of prison.”<sup>132</sup> This executive order shows that not only are elected officials like Roy Cooper acknowledging adolescent behavioral development research as being beneficial to the reform process, but also shows that elected officials are taking steps to address the disproportionate minority representation within the juvenile justice system as this review board was a recommendation of the Governor’s Task Force for Racial Equity in Criminal Justice.

The most recent data available regarding the state of racial disparity within the court system comes from state data that examined the impact of both the Raise the Age campaign and the Minimum Age Law and from the most recent report on juvenile justice from RMJJ. Kimberly Quintus, the director of Juvenile Justice Delinquency Prevention analysis, research, and external affairs presented this data to the Juvenile Jurisdiction Advisory Committee in December of 2022. Since 2019, Raise the Age has affected 13,499 juveniles as of November of 2022, and the three most common changes in the last year were simple assault, breaking or entering a motor vehicle, and possession of a handgun by a minor.<sup>133</sup> Quintus argued,

Those offenses underscore that teenagers’ brains are still developing. They indicate that the kids can’t make decisions like an adult... These offenses reflect a need for additional interventions, additional programming to help with that administrative brain development, so that one can calm down to feel safe and protected enough to make a valid decision, through what we go through in our normal decision-making process.<sup>134</sup>

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<sup>132</sup> Ford Porter, “Governor Cooper Announces Formation of North Carolina Juvenile Sentence Review Board,” *North Carolina Office of the Governor*, April 8, 2021, 1. <https://governor.nc.gov/news/press-releases/2021/04/08/governor-cooper-announces-formation-north-carolina-juvenile-sentence-review-board>.

<sup>133</sup> Kelan Lyons, “Monday Numbers: A Look at Juvenile Justice in North Carolina, Three Years into Raise the Age,” *NCNewsline*, December 19, 2022, <https://ncnewsline.com/2022/12/19/monday-numbers-a-look-at-juvenile-justice-in-north-carolina-three-years-into-raise-the-age/>.

<sup>134</sup> Lyons, “Monday Numbers,” 2.



This state data also provided statistics on how Raise the Age has impacted the juvenile justice system. 70 percent of juveniles impacted by Raise the Age last year were youth of color, and 76 percent of the 14,241 Raise the Age-related delinquent complaints were filed against youth of color.<sup>135</sup> When asked about these statistics Quintus stated “Youth of color remain over-represented in the juvenile justice system. Black youth and youth of two or more races receive more complaints per youth than white youth.”<sup>136</sup> RMJJ found that while juvenile delinquency rates and YDC population levels have decreased over the past decade, racial disparity remains at all levels of the North Carolina juvenile justice system. While misdemeanors decreased by 59 percent between 2009 and 2019, black youth still account for over half of all misdemeanor complaints in North Carolina despite making up only 22 percent of the population.<sup>137</sup> These numbers are even worse for Mecklenburg County, where Black youth represented over 75 percent of all misdemeanor complaints while only making up 32 percent of Mecklenburg’s youth population.<sup>138</sup> The most appalling statistic in RMJJ’s final report involves YDC populations. Despite YDC commitments decreasing by 59 percent between 2009 and 2019 at the state level, Black youth accounted for 75 percent of the YDC population in North Carolina.<sup>139</sup> This was an increase of 14 percent since 2000, and shows that despite overall juvenile delinquency rates decreasing, racial disparity regarding juvenile delinquency sentences has increased, even following a newfound focus regarding RED due to the JJRA. These statistics can be associated with the lack of economic mobility in Charlotte as well as worsening school segregation and continued impact of the school-to-prison pipeline.

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<sup>135</sup> Lyons, “Monday Numbers,” 3.

<sup>136</sup> Lyons, “Monday Numbers,” 3.

<sup>137</sup> Race Matters for Juvenile Justice, “2020 Final Report,” *Council for Children’s Rights*, 2020, 5. [https://rmjj.org/wp-content/uploads/2021/03/2020-Juvenile-Justice-report\\_final.pdf](https://rmjj.org/wp-content/uploads/2021/03/2020-Juvenile-Justice-report_final.pdf).

<sup>138</sup> RMJJ, “2020 Final Report,” 5.

<sup>139</sup> RMJJ, “2020 Final Report,” 6.

The evidence suggests that both the NC Minimum Age Law and JJRA were effective at further reducing the population of incarcerated youths following the reduction of YDC's as well as reducing recidivism through a new focus on the mental health of Charlotte's youth and the impact of trauma on the mind of a child as well as through non-profit programs like Life Connections that were funded by the JCPC. The use of oral history interviews also showed that the current system is overburdened by a backlog of cases, and that the mental health services within the current system are inefficient and ineffective at addressing the issue of trauma, particularly for adopted children who do not have insurance outside of Medicaid. The current state of juvenile justice in NC is by no means a good one. COVID was devastating to many juvenile court processes, and many courts are still unable to process the backlog of cases in a timely manner. Also, racial disparities continue to plague the NC juvenile justice system, particularly within YDC populations and sentencing procedures. These issues, coupled with Charlotte's notoriously low rates of economic mobility paint a bleak picture for those adjudicated delinquent as well as those who suffer from trauma caused by the current system grouping these children together.

### **Conclusion**

North Carolina has a long history of major juvenile justice reform efforts. Additionally, North Carolina legislators saw the rise of both children's rights movements and the rise of public interest regarding disproportionate minority sentencing. However, despite the rise in these movements, minorities and those of low-socioeconomic status continue to be punished more severely and for far longer than other youth demographics. Through an examination of the major juvenile justice reform laws from 1990-2021, sentencing and placement data from the DJJDP, the language used by state and local legislators and juvenile justice advocates, and oral histories

from those impacted by these changes I have shown that despite significant progress in the juvenile justice system, issues regarding disproportionate minority representation and youth of low socioeconomic status continue to plague the system. While Charlotte and North Carolina's narrative is that they are continually improving and addressing the issues of recidivism, disproportionate minority representation, and the number of juveniles within YDCs, the racial disparity continued according to data from the DJJDP and RMJJ annual reports. These disparities are especially noticeable when compared to the population data of North Carolina.

One can argue that many of these issues were exacerbated in part by Get-Tough era legislation in both the state and national legislature through a combination of colorblind legislation like the NC Safe Schools Act of 1993 and the Violent Crime Control and Law Enforcement Act of 1994, and historic pushback to juvenile justice reform efforts through budget concerns and the use of sensationalized crimes like that of Gregory Gibson. I have also examined the language used by legislators and officials like Roy Cooper and William Lassiter as well as oral history interviews that I have conducted with prominent founders of Charlotte-based non-profit organizations and those impacted by the juvenile justice system. Through this language I have shown that advocacy efforts like the Raise the Age campaign and RMJJ and programs like Locked-out-Love and Life Connections of the Carolinas were not only effective at addressing and examining issues like recidivism and YDC populations, but also were credited as being one of the reasons reform policies like Raise the Age and the NC Minimum Age Law of 2021 were created and implemented.

Oral history interviews also revealed several problems within the current juvenile justice system that are not often talked about, like the effects of trauma on juveniles and the impact of COVID-19 on North Carolina's juvenile justice system. This in turn has highlighted further areas

of research for future scholars. Through an examination of quantitative data from the DJJDP and NC census data I have shown that while YDC populations and recidivism rates have declined over time, the percentage of African American juveniles within the remaining YDC populations has increased by 7 percent while the overall percentage of African American juveniles within North Carolina has decreased by 3 percent from 1998-2021. The efforts of juvenile justice reform within both Charlotte and North Carolina have been touted as models for national change. While I agree that some praise is warranted given the integration of advocacy efforts in major juvenile justice legislation, I argue that there is still more work to be done to ensure that every juvenile within North Carolina is given the same treatment these reform laws have aimed to provide, before I recommend utilizing these strategies at the national level.

#### **A Note to the Reader**

This thesis does not contain political affiliations. I withheld this information intentionally, as I believe the issues present in the juvenile justice system are bipartisan. I believe it is important to understand that recidivism and disproportionate representation within the juvenile justice system are issues that affect us all regardless of our political beliefs.

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