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THE PRESENCE OF LEARNING DISABLED YOUTH
IN OUR JUVENILE INSTITUTIONS:
EXCUSABLE OR GROSS NEGLIGENCE?

A Thesis
Presented for the
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I am submitting a thesis written by Angelina InesiaForde entitled "The Presence of Learning Disabled Youth in Our Juvenile Justice Institutions: Excusable or Gross Negligence?" I have examined the final copy of this thesis and recommend that it be accepted in partial fulfillment of the requirements for the degree of Master of Science with a major in Criminal Justice.

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DEDICATION

This is dedicated to Sasha, Harrison, Mom, Dad, and all the children I have had the opportunity to labor *for*.

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I acknowledge the power in His words...*If God be for me, who shall stand against me?* After God, it has been the love and discipline from my parents that have made me who I am today. It has been the strength and tenacity of my daughter, Sasha, and the patience and love from my son, Harrison, which kept me motivated to teach by example. I thank my confidant, Bush. Winston, a million times thank you for teaching me that everyone in life must sacrifice something. In acknowledging the positive impact in my life, I thank The University of Tennessee, Chattanooga for the opportunity to advance my educational career; more specifically, the Criminal Justice Department. Had it not been for Dr. Hogan's advocacy, I would not have been in the criminal justice program. It has been through the encouragement of Dr. Bumphus, my mentor, and Dr. Venters that I ventured this thesis. A special thank you goes to Dr. Rush for stimulating my creative juices with the Neo-Socratic method. Members of the committee: Dr. Thompson, Dr. McGuffee, Dr. Arfken, thank you for your dedication and time. Though at times it may seem as no one has taken notice of your effort, rest assured that we do take notice. It is that a simple "thank you" just doesn't seem enough. I would like to also thank Craig, Chuck, my colleagues at work, family, and friends for reviewing my work for both content and interest.

ABSTRACT

One of the most significant problems in the area of learning disabilities and delinquency is failure in recognizing the characteristics of the LD by the juvenile justice system. Therefore, a number of useful techniques, skills, and strategies are provided to help court officers, educators, mental health professionals, and community service providers divert at-risk youths from the system. This study also answers the question of whether the juvenile justice system continues to work in the best interest of the youth they have been entrusted to serve under the doctrine of *Parens Patriae*. It will be confined to secondary data analysis gathered from the Urban Government Division of Corrections in Lexington, Kentucky, using a survey methodology. The responses of 171 juvenile males and females between the ages of 9 to 18 will be analyzed to measure the LD population in Lexington's correctional institution.

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CHAPTER 1

INTRODUCTION

President Bush signed the new Individual with Disability Education Act (IDEA) into law in December 2004. Yet a growing number of learning disabled (LD) students who are protected under IDEA lack services instrumental in preventing delinquency. Currently there is a great need for more research on how to prevent at-risk youth from entering the juvenile justice system. In almost any randomly selected juvenile correctional institution, one-third to seventy-five percent of the population has at least one identified disability, and one-third percent is comorbid. Nevertheless, service delivery rate is low, and recidivism rates are increasing. This study does not purport to substantiate or disprove any given theory as several can be used to explain a correlation between LD and delinquency. It will concentrate on LD youth at-risk of coming into the juvenile justice system or currently in system. It will be confined to secondary data analysis gathered from Lexington-Fayette Urban Government Division of Corrections in Lexington, Kentucky from July-November 1999, using a survey methodology. The responses of 171 juvenile males and females between the ages of 9 to 18 will be analyzed.

Statement of Problem

There are numerous research studies on learning disabilities, delinquency, and the connection between the two. Few studies, however, provide in-depth information on prevention strategies that can help LD youth facing the juvenile justice system. There is even less research on preventing at-risk youth from entering the juvenile justice system before delinquency. One of the most significant problems in the area of learning disability as a correlate of delinquency is failure in recognizing the characteristics of the LD by the juvenile justice system.

Definitions of Terms

For this research, the LD, Severely/Emotionally Disturbed (S/ED), Emotionally Handicapped (EH), Mentally Retarded (MR), and other disabilities that qualify as a Learning Disability will fall under the term LD, unless referencing a specific diagnosis or disorder.

Delinquency Offenses— Delinquent offenses are behaviors that would be criminal law violations for adults (Sickmund, 2004).

Emotionally Disturbed (ED)— “(i) The term means a condition exhibiting one or more of the following characteristics over a long period of time and to a marked degree that adversely affects a child's educational performance:

- (A) An inability to learn which cannot be explained by intellectual, sensory, or health factors.
- (B) An inability to build or maintain satisfactory interpersonal relationships with peers and teachers.
- (C) Inappropriate types of behavior or feelings under normal circumstances.

- (D) A general pervasive mood of unhappiness or depression.
- (E) A tendency to develop physical symptoms or fears associated with personal or school problems.
- (ii) The term includes schizophrenia. The term does not apply to children who are socially maladjusted, unless it is determined that they have an emotional disturbance” (34 C.F.R. § 300.7 (a) 9).

The American Psychiatric Association’s definition of Emotional Disorder:

- “(ii) Emotional or behavioral disorders can co-exist with other disabilities.
- (iii) The category may include children or youth with schizophrenic disorders, affective disorders, anxiety disorders or other sustained disorders of conduct or adjustment when they adversely affect educational performance in accordance with section (i).

The categorical approach to identifying who is eligible for specialized services from the educational, mental health, social services, and juvenile services systems that are mandated to serve this heterogeneous population of children and youth continues to rely on definitions specific to each service system. However, the population of troubled youth encompasses wide range of emotional and behavioral characteristics. Behavioral characteristics may include aggressive and disruptive acting-out behaviors against family members, peers, or adults in the community, noncompliant behavior, lying, stealing, or extreme social withdrawal or depression, self-injury, or some combination of these. While some children and youth who exhibit serious social adjustment problems may have no categorical labels, others with similar behavioral characteristics may have one or more special education or Diagnostic and Statistical Manual of Mental Disorders (DSM-IV) diagnosis” (Rutherford, Robert B, Bullis, Michael, Anderson, Cindy W, and Griller-Clark, Heather, 2002).

Excusable Neglect— is “[t]he failure to perform a required act, usually procedural in nature, because of unusual circumstances. The party failing to perform the act is usually given the opportunity by the court to cure his neglect” (Gifis, 1996: 181).

Individual with Disabilities Education Act (IDEA)— The IDEA is a federal legislative act protecting the rights of youths who have been diagnosed as Learning Disabled by ensuring learning-disabled youths reach their full educational potential (Burrell and Warboys, 2000).

Learning Disability (LD)— “means a disorder in one or more of the basic psychological processes involved in understanding or using language, spoken or written, which may manifest itself in an imperfect ability to listen, think, speak, read, write, spell, or do mathematical calculations. Such term includes such conditions as perceptual handicaps, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia. The term does not include children who have learning problems which are primarily the result of visual, hearing, or motor disabilities, of mental retardation, of emotional disturbances, or of environmental, cultural, or economic disadvantage” (20 U.S.C. §1401: 59).

Mental Retardation— “This disorder is characterized by significantly subaverage intellectual functioning (an IQ of approximately 70 or below) with an onset before age 18 years and concurrent deficits or impairments in adaptive functioning” (DSM-IV-TR, 2000: 39). “The essential features of Mental Retardation is significantly subaverage general intellectual functioning in at least two of the following skill areas: communication, self care, home living, social/interpersonal skills, use of community resources, self-direction, functional academic skills, work, leisure, health, and safety” (DSM-IV-TR, 2000: 41).

Negligence— “Failure to exercise that degree of care which a person of ordinary prudence (a reasonable man [person]) would exercise under the same circumstances. The term refers to conduct that falls below standard established by law for the protection of others against unreasonable risk of harm. It does not comprehend conduct recklessly disregarding of the interests of others. Restatement (Second), Torts §282; nor does it include intentional infliction of injury on another. Unless the actor is a child, the standard of conduct to which he must conform to avoid being negligent is that of a reasonable man under like circumstances. Negligent conduct may involve either a) an act that the actor as a reasonable man should recognize as involving an unreasonable risk of causing an invasion of an interest of another, or b) a failure to do an act necessary for the protection or assistance of another and which the actor is under a duty to perform” (Gifis, 1996: 333). “Gross “conduct [is] one that is willful and flagrant, out of all measure, beyond allowance, not to be excused” (Gifis, 1996: 223)

In the subsequent review of the literature, the correlation between learning disabilities and delinquency, and general demographic information about the LD population is discussed followed by the characteristics of the LD, which discusses cognitive, academic, social, familial, and educational characteristics of the LD. In characterizing learning disabilities, specific characteristics of emotional and behavioral disorders and mental retardation will be discussed separately. Further, the review of literature discusses the educational institution and LD, learning disability as a mental health problem, community programs, recreation, and LD in the juvenile justice system.

CHAPTER 2

REVIEW OF LITERATURE

Research since the 1970's confirms a correlation between learning disabilities, mental health, and delinquency (Bilchick, 1998; Bologna, 1986; Briney, and Satcher, 1996; Handwerk and Marshall, 1998; Honaker, 2000; Johnston, 1989; McCauley, 2002; National Council on Disability [NCD], 2003; Pryor-Kowalski, 2003; Ross-Kidder, 2002; Rutherford, Bullis, Anderson, and Griller-Clark, 2002; Sternig-Babcock, 1987). LD and ED youths are overrepresented in correctional facilities (Bilchick, 1998; Briney, and Satcher, 1996; McCauley, 2002; McHale, 2000; NCD, 2003; Rutherford et al, 2002; Teplin, 2001; Wasserman, Ko, McReynolds, 2004). More than fifty percent of incarcerated youth have at least one identified disability; yet service delivery rate is only thirty-four percent (Leone and Garfinkel, 2003; NCD, 2003). Without adequate service, recidivism will increase or continue at 66 percent (Leone and Garfinkel, 2003).

In the United States, there are more than 125,000 incarcerated youths in approximately 3,500 public and private juvenile programs (Florida Department of Education Annual Report [ARFDOE], 2002). An overwhelming number of them possess at least one form of learning disability which would include attention deficit hyperactivity disorder

(ADHD) (Briney, and Satcher, 1996; NCD, 2003; Rutherford et al., 2002; School Violence Alert [SVA], 2001), mental health diagnosis, or both learning disability and mental health diagnosis [co-morbidity] (ARFDOE, 2002; Handwerk and Marshall, 1998; Henley et al., 1996; Leone and Garfinkel, 2003; McHale, 2000; Morrison and Cosden, 1997; National Council on Disability [NCD], 2003; Rutherford, et al., 2002). Learning disabilities are incurable (Benedictis, Jaffe, and Segal, 2004) and increase the risk factors for delinquency. A learning disability also increases the risk of chemical dependence (Chandler, 1999; Leone and Garfinkel, 2003; Morrison and Cosden, 1997; NCD, 2003; Ross-Kidder, 2002). A disproportionate number of LD youth are poor, African American (Malmgren, Abbott, and Hawkins, 1999; McHale, 2000), males (Huizinga, Loeber, Thornberry, and Cothorn, 2000; Snyder and Swahn, 2004; Malmgren et al, 1999; McCauley, 2002; NCD, 2003), from single-parent households or raised by someone other than their natural parents (ARFDOE, 2002; McHale, 2000). The great majority tend to reside in urban areas (McCauley, 2002). Of those who qualify to receive services due to learning disabilities, only one-third actually receive services (Rutherford, et al, 2002).

The demographics of students in the general population reflect those in the juvenile justice detention facilities. As Eitle (1998) notes,

African American students are overrepresented in three areas of Special Education: trainable mentally retarded (TMR), educable mentally retarded (EMR), and LD. Moreover, like their counterparts, they are underserved (Handwerk, and Marshall, 1998; NCD, 2003; SVA, 2001; Special Education Services In Juvenile Justice Education [SESJJE], 2002; Rutherford et al, 2002).

It is imperative that everyone in society has an understanding of the effects of learning disabilities and emotional disturbances as the criminal justice system is impacted by disabled youths exposed to the system (McCauley, 2002). A long-term consequence of having a learning disability is increasing our already high prison population of more than 1.5 million nationwide. In 1998 alone, the annual cost exceeded \$30 billion (Felder, 1998). Many of those diagnosed as LD or ED have their standard of living, employment, and educational opportunities adversely affected (Holub, 1995; McCauley, 2002).

LD students are more likely to face school failure and drop out of school than non-LD students, and are twice as likely to be ignored or punished in school. Although many LD students attend college, they are more likely to enroll in two-year colleges, rather than four-year institutions (Briney and Satcher, 1996; Guillermo, 2003, McCauley, 2002; Ross-Kidder, 2002). The IDEA includes ADHD as a separate disability

category; therefore, students with ADHD may qualify for special education services under Section 504 or IDEA category of Other Health Impaired (Rutherford et al, 2002).

Learning disability characteristics will be discussed in detail noting similarities, if any, between ED, MR, and learning disability. Emotional disturbance falls under a separate category, like ADHD, and may be classified as a learning disability. While discussing learning disability characteristics, it will be characterized independently –as will be mental retardation, in those areas in which they differ from the characteristics of specific learning disability.

Characteristics of the Learning Disabled

Cognitive characteristics of the LD include average to above average intelligence, information processing problems, difficulty with verbal skills, interpreting visual, and, auditory stimuli. They are easily distracted, inattentive, impulsive, and/or hyperactive (Hensley, Ramsey, and Algozzine, 1996; Leone and Garfinkel, 2003; Ross-Kidder, 2004). Evidence suggests that language deficit increases the susceptibility of juvenile delinquency (SESJJE, 2002).

Academic characteristics of LD and ADHD show a discrepancy between performance and ability in the area of reading, writing, arithmetical reasoning and calculations, spelling, language

comprehension, as well as problems with listening and speaking.

Problems with language and communication skills have been responsible for the hardship faced by the LD, MR, and ED students learning a foreign language (Hayes, 1994; Hensley et al., 1996; Schwartz, 1997; Wolinsky and Whelan, 1999). Other characteristics that affect academic performance are lack of generalization skills, working slowly doing tasks, inconsistent performance, lack of self-determination, and poor short and/or long-term memory (Hensley, et al, 1996; Holub, 1995; Jameison, 2003).

Adaptive Behaviors include compensation for deficiencies that may give the perception of being non-disabled by adolescence, and learned helplessness (Hensley, et al, 1996; Malmgren and Hawkins, 1999). Some adaptive behaviors include, dropping out of school, chemical dependence, retreating from society, and delinquent behavior (Morrison and Cosden, 1997). Settle and Milich (1999) find that children with learning disabilities show a learned helplessness response. They are subject to loss of confidence in their intellectual ability due to repeated failure and are more likely to attribute academic difficulties to insufficient ability rather than insufficient effort. Girls, more so than boys, adopt a helplessness response style when facing failure (Settle and Milich, 1999).

Social characteristics possessed by the LD and those with ADHD improve their likelihood of problems at school and contact with the criminal

justice system. It is the feelings of low self-esteem, low self-confidence, inferiority, need for acceptance of others along with the inability to read others' affect, body language, interests, emotions and feelings, and maintaining socially acceptable distance that are potential risk factors that facilitate delinquent behaviors, adjudication, and criminal behavior in adulthood—the reason social skills training is so important (Briney and Satcher, 1996; Dimitrovsky, Spector, Levy-Shiff, and Vakil, 1998; Elksnin and Elksnin, 2000; Henley et al., 1996; Honaker, 2000; Johnston, 1989; Lovett-Fitzsimons, 1997; McHale, 2000; Morrison and Cosden, 1997; Ross-Kidder, 2002).

Emotional difficulties faced by the LD are similar to SED though not as severe (Handwerk and Marshall, 1998). Research indicates that by increasing self-esteem, emotional IQ, and applying emotional first aid, youths will learn alternative methods to de-escalating aggression, increasing adaptability, reducing the possibility of misreading social cues, and reducing delinquency (Briney and Satcher, 1996; Elksnin and Elksnin, 2000; Peniston, 1998; Ross-Kidder, 2000). One third of the LD population is socially and emotionally younger than their chronological age (Leone and Garfinkel, 2003). LDs are more likely to face emotional and interpersonal disturbances (Dimitrovsky, et al, 1998; Kravetz, Lipshitz, and Shalhav, 1999).

Physical challenges such as fine and gross motor skill deficiencies, organizational, and, orientational skills, and poor hand/eye coordination are similar to the challenges faced by the mentally handicapped (Hensley et al, 1996).

Family life of the LD is often stressful. Their family environment tend to be more chaotic, have higher levels of conflict and anxiety, and conducive to internalization of parental perceptions indicating lack of abilities, and the need for parents to have more interaction with school personnel than parents of typical achievers (Elksnin and Elksnin, 2000; Morrison and Cosden, 1997; Pryor-Kowalski, 2003). The homes of LD youths in the juvenile justice system may have accumulated risk factors such as history of abuse, neglect, poverty, substance abuse, and parents who have been or are in the criminal justice system (Leone and Garfinkel, 2003; McCombs and Moore, 2002).

Characteristics of Emotional and Behavioral Disorder as LD

Two of the most common factors that may predispose a youth to emotional and behavioral disorders, learning disabilities, and MR are environmental and genetic factors (Henley, Ramsey, and Algozzine, 1996; Shackford, 1992). Genetic factors influencing emotional and/or behavioral disorders include prenatal drug and/or alcohol exposure, mental health

disorders, and mood disorders, which may especially be genetically inherited by the unborn child (Henley et al., 1996).

Environmental factors may be in the form of sexual or physical abuse, neglect, family life crisis [see Miller's Lower-Class Focal Concerns theory], social strain [see Merton's Social Strain theory], lack of, or poor adult role models and social attachment [see Hirschi's Social Bond theory], punitive discipline, nutritional deficiency (magnesium, zinc, B6, folic acid, ascorbic acid, thiamine), a high level of manganese, and/or toxic lead level, (Correctional Educational Bulletin (CEB), 2000; NCD, 2003, Settle and Milich, 1999).

Externalized behaviors of the LD include: aggression, oppositional defiant behaviors, impulsivity, hyperactivity, and acting out. These behaviors make themselves manifest by recurring patterns of aggression towards objects or persons, physical or verbal force of submission of others, persistent pattern of temper tantrums, lack of self-control, non-compliance with reasonable requests, and frequent lying and/or stealing. These behaviors, among other specific behaviors, make it difficult for the youth to foster satisfactory interpersonal relationships with peers, self, teachers, family members, and others. Often, this population has one or more encounters with the justice system (Bologna, 1986; Hayes, 1994;

Henley, et al, 1996; Leone and Garfinkel, 2003; McHale, 2000; Ross-Kidder, 2004; Shackford, 1994).

Internalized behaviors include social withdrawal, depression, obsessions, and compulsions. Internalized characteristics are recognizable by external cues; however, other characteristics such as psychosis, obsessions, suicidal ideation, preoccupation with death, avoidance of social interactions, and feelings of low self-worth may appear to be non-existent to the casual observer. External cues of youths who internalize their behaviors is a sad countenance, indulging in repetitive, often useless actions, attention deficit, crying frequently or suddenly, talks of suicide, displaying atypical affect, complaining of somatic symptoms such as aches and pains, nausea, as well as dizziness due to fear or anxiety. Students with emotional disturbance and behavior disorders who internalize behaviors are often teased, bullied, avoided by peers, and show signs of physical abuse and/or neglect. For both types of behaviors, externalized and internalized, behavioral earthquakes can be intensity high, low-frequency behaviors (Leone and Garfinkel, 2003; Henley et al., 1996; Huizinga et al, 2000; Settle and Milich, 1999). Those with internal symptoms are more likely to stay longer in the juvenile justice system than those with externalized behaviors, due to lack of appropriate placement and/or treatment (NCD, 2003).

Academic characteristics of emotional and behavioral disorders may be able to be recognized by the frequency of which the youth is off task, possesses poor academically related skills, underachievement, poor language skills, lack of class participation, difficulty completing homework, and splinter skills in basic academic areas. Between thirty to forty percent of those with emotional or behavioral disorders are co-morbid, LD (Handwerk et al, 1998; McHale, 2000; Henley et al., 1996; Morrison and Cosden, 1997; Rutherford et al, 2002).

Characteristics of Mentally Retardation as LD

Cognitive characteristics of the mildly to moderately mentally retarded are sub-average intelligence with a low attention span and limited general knowledge and information. They are poor abstract thinkers; therefore, they have difficulty transferring new skills and applying them to different situations (Hensley, et al, 1996).

Academic characteristics stem from cognitive difficulties. MR students learn most academic content, in general, at a slower rate, often expressing expectancy of failure. They face hardship when they attempt new tasks, and tend to repeat unsuccessful approaches (Hensley, et al, 1996; Leone and Garfinkel, 2003, Ross-Kidder, 2002; Settle and Milich, 1999).

Adaptive Behaviors among MR students are limited. Like the learning disabled, those afflicted with mental retardation have limited coping skills, immature social and adaptive skills, and possess a low tolerance for frustration, which lead to behavior problems (Rojas, 2004). Other important but lacking adaptive behaviors are care for self, independent of others, and poor moral judgment. MRs have also been characterized as being hyperactive and emotionally dissonant (Hensley, et al, 1996).

Social characteristics of the MR are similar to those of the LD, ADHD, and ED. MR students are emotionally immature; possess low self-esteem, and self-concept. However, unlike ADHD youths, others easily influence MR youths (Briney and Satcher, 1996; Hensley, et al, 1996, Ross-Kidder, 2002).

Physical characteristics of youths with mental retardation are shared with the LD. These characteristics include possible fine, and, gross motor deficiencies. Deficiency in gross motor skills (running, jumping, skipping, etc...) makes it difficult for the child to participate in group activities, and accepted among competitive non-MR peers (Dimitrovsky et al, 1998; Hayes, 1994; Hensley, et al, 1996).

The Educational Institutions and LD

School officials are hesitant to recommend a student for evaluation for fear of the stigma associated with the label, "Special Ed." Others are apprehensive concerning the protections guaranteed by state and federal legislation. Some are reticent to recommending an Exceptional Education evaluation or making parents aware of the law under IDEA due to perceived leniency in sanctioning students coded as exceptional (Rutherford et al, 2002). Other school personnel simply lack information regarding the protective status of the LD (Ross-Kidder, 2002). Conversely, some educators' goal is not the success of the students they are responsible to educate and guide in the right direction (Leone and Garfinkel, 2003; NCD, 2003; Rojas, 2004; Rutherford et al, 2002; Teplin, 2001). Perhaps lack of federal funding for services and the ambiguousness of the federal definition for learning disabilities and emotional disturbances are responsible for the ambivalence in the educational setting in regards to providing services for LD youths. Despite evidence of comorbidity, federal reimbursement to state and local agencies are based on the number of students identified, not the total number of diagnosis (Handwerk and Marshall, 1998).

Primary sources of contact, teachers, guidance counselors, resource officers, school psychologists, and social workers all play a very

important role in a student's life. Being the focal point of contact when a child displays frustrations, inappropriate attitudes, disruptive behavior, breaks school rules, or commits delinquency on school premises, the primary sources of contact facilitate the understanding of a student's frustration level in the academic setting. As initial encounters, they should be equipped to de-escalate crises that often lead to court involvement (Chandler, 1996; Rojas, 2004; Teplin, 2001).

Though research supports the multidisciplinary approach (Dimitrovsky et al, 1998; FLDOE, 2002; Simpson, Koroloff, Friesen, and Gac, 1999; Honaker, 2000; Ordoover, 2001), positive and absolute communication among professionals concerning the problems the youth is facing with his/her disability is lacking. As a child succeeds academically, the likelihood of delinquency diminishes. This is often due to active communication among professionals involved in the youth's life (Bilchick, 1998; CEB, 2001; Honaker, 2000; Ordoover, 2001; SESJJE, 2002; SVA, 2001; Simpson, Koroloff, Friesen, and Gac, 1999).

There are several explanations for lack of communication among professionals. These explanations vary from professionals being preoccupied with other daily activities, a dislike for the youth due to repeated problematic encounters with that youth, and lack of available information and training on managing students diagnosed LD or ED.

Alternatively, parents fail to appreciate the importance of keeping those involved in the youth's life informed of important events that affect the youth. Whatever the reason(s) may be, meaningful communication and services are simply not there (Inclusive Education Program, 2003; NCD, 2003; Negron, 1984; Pryor-Kowalski, 2003). An article in SVA (2001) cites law professor and clinical director, Joe Tulman, in reference to schools providing more services that are comprehensive to the exceptional education population. Professor Tulman states that had that been the case, fewer juveniles would have encounters with the juvenile justice system. Pragmatic solutions to the LDs problem behavior do exist. Teachers, however, fail to either use these strategies or are not aware of strategies to use, resulting in the need to refer the youth to the juvenile court system without providing for an alternative (SVA, 2001).

Effective Solutions

Two cost-effective techniques that can be implemented by teachers with a youth displaying behavior problems are the Life Space Crisis Intervention (LSCI) and Life Space Interview (LSI) [see Redl and Wineman]. The Clinical Exploitation of Life Events is a category of responses that is more involved and used with children experiencing severe emotional or behavioral flare-ups. LSI is "Emotional-first-aid-on-the-spot." It is used when the teacher wishes to "cool off" the student,

resolve the matter quickly, and return the student to an activity (McIntyre, 2002; Ross-Kidder, 2002). Both interviews address “here and now” reactions to an event. They are to be used by (1) intervening, (2) listening to the parties involved non-judgmentally, (3) analyzing the situation to determine if it is isolated or recurring, (4) choosing a specific LSI approach, (5) implementing the selected approach while remaining polite, attentive, and concerned, and finally, (6) combining or changing approaches as necessary [see appendix: 71, 72] (McIntyre, 2002).

Learning Disability as Mental Health Problem

Learning disabilities and delinquency as a mental health concern involves advocacy. In advocating for the child, a successful case manager must, with parental consent or legal decree, provide truthful, accurate, and complete historical information (behavioral, educational, medical, social, and familial); inform the court of behavioral manifestations due to diagnosis; share with the court strategies used to resolve problems; and on-the-spot training of court officers in regard to the youth’s individual mental health, emotional, and educational needs (Felder, 1998).

In other words, in actively advocating on behalf of clients, mental health providers should not rely on only providing a copy of the youth's chart to the court system and expect court officials to understand the youth’s disabilities. Advocacy entails more than chart availability. It

includes continuous support in court in an effort to benefit the youth of total equilibrium in services provided (Felder, 1998). These professionals understand the youth's mental health status, emotional, behavioral, and educational needs. Contact with court officials must take place the first instance they become aware of court involvement as it serves the best interest of the child. Successful case managers acting as advocates are knowledgeable about the laws that protect the LD. They make regular contacts with the family, child, teachers, school psychologists, guidance counselors, probation officers, therapists, psychiatrists, and resource officers in an effort to get a total understanding of the youth's problems in all areas of his/her life. Mental health personnel can provide the court with a clear and concise picture of all those involved. They can also locate community resources such as mentoring programs and recreational programs to help the youth foster social skills (Felder, 1998).

Community Programs and Recreation

Mentoring Programs –Felder (1998), in his study on changing how we teach juvenile delinquents, finds that children could succeed when a caring adult is in their life [see Hirschi's Social Bond Theory]. He also found that youth are resilient, and enjoy having fun. Several programs in the community provide LD youth the opportunity to learn social skills as well as increase self-esteem. Mentoring programs whose mentors are LD

are successful. Community mentoring programs are collaborating with businesses, which in return encourage employees to participate in mentoring initiatives (Correctional Educational Bulletin, 2001; Inclusive Education Program, 2003). However, the most effective programs are long-term mentoring programs like Foster Grandparents and Big Brother and Big Sister. They can prevent at-risk behaviors such as dropping out of school, delinquency, antisocial behaviors, teenage pregnancy, and substance abuse, while simultaneously improving academic performance (Inclusive Education Program, 2003).

Recreational activities – Although specific types of learning disabilities affect performance in recreational activities, the law requires private, public, and non profit agencies to provide accommodations and/or modifications to participants with disabilities as requested; however, many agencies lack knowledge of the Americans with Disabilities Act of 1990. Recreational activities provide physiological and psychological benefits. Running, jogging, weight lifting, exercising, swimming, etc... serve as outlets to relieve stress, develop skills, promote good health, facilitate social interactions, and enjoyment. Less known are the psychological benefits leisure activities provide (Peniston, 1998).

The psychological benefits of recreational activities are the following: promotion of a better sense of humor, perception of high quality

of life, and enhancement of self-esteem, greater adaptability and resiliency, positive outlook on life, competitiveness, increase in creative abilities, better socialization skills including greater tolerance and understanding, and sense of freedom and independence. The benefits of leisure activities enhance social integration of children with learning disabilities by providing opportunities for enhanced relationships between family members and peers as the youth learns through experience by imitating and modeling non-LD adults and peers [see Bandura's Social Learning Theory] (Peniston, 1998).

The U.S. Department of Education indicates that 29% of adolescents with disabilities require social skills beyond high school and 75% of students with disabilities exhibit social skills deficits. Successful community programs and mentors help LD and ED children learn social skills necessary to succeed in life. Social skill competence is associated with peer acceptance, academic achievement, and employment success. Social skills strategies such as teaching incidentally, performing social skills autopsies, coaching, and assigning homework, along with ensuring that culturally and linguistically diverse backgrounds are addressed can be learned using essential generalization strategies that ensures use of social skills in natural settings [see appendix: 73] (Elksnin and Elksnin, 2000).

LD in the Juvenile Justice System

Petersilia (2000) finds that 75% of the MR arrested were not identified at arrest. More than 10% were not identified as MR until imprisoned. Once incarcerated, these individuals are subject to cruel abuse. During pretrial, the MR offender is unlikely to be released on recognizance. When identified, the case proceeds without special consideration as it may mean court delays resulting in longer time in custody as the defendant awaits evaluation, medical care, special placement, etc... (Petersilia, 2000).

In most prison systems, inmates must score above the 6th grade level to enroll in vocational programs. MR inmates fail to earn maximum good-time/work-time credits; participate in early release programs, or become eligible for parole because they have not finished the required programs. Once released on parole, they are seldom placed on specialized supervision caseloads or given extra needed assistance. In research cited by Petersilia (2000), there are well-documented cases of false confessions by the MR. Of those who go to trial, 73% of the time the offender received a conviction by the jury. Likewise, 48% of the cases resulted in false confessions. And the defendants were wrongfully incarcerated, or executed (Petersilia, 2000). Petersilia (2000), despite the injustices cited, suggests there is evidence that justice system officials are

not acting out of malice; therefore, concludes the criminal justice system is guilty of excusable negligence (Petersilia, 2000). Perhaps the following research is the source of Petersilia's optimism. Ross-Kidder (2002) cites research presented at the Learning Disabilities Association in 2002 indicating that training of judicial staff translated into a college transition success rate of 80% among students with special education needs (Ross-Kidder, 2002).

The Court

Given the short timeframe for juvenile justice professionals to gather information for juvenile court proceedings, they must be diligent in obtaining educational information from parents, youth, and schools. Amendments to the 1997 IDEA states that "whenever a school reports a crime allegedly committed by a youth with disability, school officials must provide copies of the youth's special education and disciplinary records to the appropriate authorities to whom the school reports the crime" (Burrell and Warboys, 2000: 7) to the extent the Family Educational Rights and Privacy Act permits transmission. However, parental consent is still required (Burrell and Warboys, 2000). This requirement makes it necessary to restrict privacy rights in the best interest of the child (Rutherford et al, 2002). In restricting privacy rights, educational institutions, mental health professionals, and community programs can

inform the court of special needs that may interfere with the youth's adequate progress and habilitation before adjudication proceedings take place. The power to decide in which direction a juvenile's life will go lies in the hands of juvenile justice professionals, with the ultimate power in the hands of the judge (Burrell and Warboys, 2000).

Even so, many juvenile justice professionals are unaware of generalized cognitive characteristics of the LD (Kwietniewski, 1998), though they can learn to recognize disabilities by reading legal definitions of disability (Burrell and Warboys, 2000). Youths with disabilities give the impression of having an "attitude," and being "belligerent," "disrespectful," or "untaught" (Briney and Satcher, 1996; Dimitrovsky, Spector, Levy-Shiff and Vakil, 1998). Albeit court liaisons and case managers are more familiar with the child and the child's disabilities, they have no voice to make a significant difference. They are seen as unlearned, new to the field, and lacking experience with delinquent children. With the system taxed by the amount of juveniles "processed" through the system and adjudicated daily, it is not difficult to appreciate how and why youth in the juvenile justice system are disregarded and misunderstood. Lack of training and information regarding learning disabilities makes it an urgent priority to take measures to alleviate the encumbrances and gross injustices perpetrated by the criminal justice system (Ross-Kidder, 2002).

By providing professionals who encounter LD delinquents with the essential tools for assessment (National Center for Juvenile Justice [NCJJ], 2002), skills for guidance, and reliable community referral sources, recidivism and detention rates will be reduced (Ross-Kidder, 2002). All professionals and parents in a delinquent's life should communicate as to provide the best possible service for the youth (Negron, 1984). It is important for those who work in the juvenile justice system to understand the limitations imposed on the LD. For example, youth with auditory deficits give the perception of being oppositional defiant with judges, attorneys, and probation officers. They give the perception of purposefully providing dishonest testimony, and becoming uncooperative during police investigations. They can even self-incriminate. Much of the self-incrimination is caused by physiological problems of the LD. The following is a compilation of specific problems affecting the LD throughout the juvenile justice process. The first four problems (auditory acuity difficulty, auditory-vocal association problems, auditory memory deficit, and auditory sequencing problem) are auditory specific.

Auditory Acuity Difficulty –non-responsive to verbal directions

Auditory-Vocal Association Problems –oral instructions are given, acknowledged by the youth in a correct manner, yet the LD proceeds to perform an incorrect or inappropriate action.

Auditory Memory Deficit –difficulty remembering directions or instructions previously explained.

Auditory Sequencing Problem is the inability to recall a series of auditory instructions.

Dyscalculia can lead to an incorrect sum or product, which may lead to late arrival for court, appointments with probation officers, and providing incriminating information that places the youth in a crime scene based on poor calculation skills.

Dyslexia is the inability to understand written language, which can result in not being able to understand written court documents or record, rules of probation, plea agreements, etc.

Cognitive Disorganization is similar to auditory sequencing problem. With cognitive disorganization, the person misses the actual steps in sequencing. This may pose a problem to the juvenile on probation who has been asked to take certain steps or make a number of contacts with outside agencies before returning to next appointment, or problems with the youth's testimony.

Short-term Memory Problem, like cognitive disorganization and auditory sequencing problem affects the youth's ability to remember sequence of events. For example, a youth questioned immediately after an incident may have difficulty recollecting actual events that happened merely minutes ago, but may be able to produce detailed account of the event much later (Peniston, 1998).

Adjudicating a youth delinquent due to poor training on how to recognize symptoms of learning disability and emotional disturbance exacerbates the already overcrowded and underfunded criminal justice system, not to mention the fact that it is unjust. LD and ED youths who have not committed serious crimes should be placed in diversion

programs that provide treatment, prevention, and intervention (Petersilia, 2000).

Prevention and Intervention

Multisystemic models of prevention and intervention have been successful in reducing recidivism rates, decreasing mental health problems, and are more cost-effective than incarceration. In a report from NCD (2003), coordinated efforts among social and community agencies are critical for success in addressing the needs of youth with disabilities. Research cites eight key features of high-quality youth-serving programs, with an emphasis on culturally responsive programs that address the specific needs of children from various racial and ethnic groups, including those with special needs. Programs must include (1) Physical and psychological safety, (2) Appropriate structure (e.g., limit-setting, clear rules, and predictable expectations about program functioning), (3) Supportive relationships, (4) Opportunities to belong, including meaningful inclusion in social activities, (5) Positive social norms, (6) Supportive for efficacy, (7) Opportunities for skill-building, and (8) Integration with family, school, and community efforts (NCD, 2003). In evaluating prevention programs, the report cites the review of Achievement and Learning for All Students (ALAS) as best practice. Individualized intervention strategies and collaboration between school-based counselors with community

agencies is central to ALAS. Various effective school-based practices for children with behavioral disorders and/or antisocial behavior are identified (NCD, 2003). Like other research, the ARFDOE (2002) validated the multisystemic model and cites best practices as: low student to teacher ratio, highly structured classrooms employing behavioral management techniques [see Reavis' BEST Practices], positive approach to behavior management, adult mentors, individualized behavioral interventions based on functional behavioral assessments, social skills instruction, academic instruction, and parental involvement (NCD, 2003).

Multisystemic Approaches

Multisystemic therapy (MST) is a popular, well-examined intervention program. It is successful because it is both more cost-effective than long-term custodial facilities, and relies on many of the previously mentioned principles of high-quality youth-serving programs (NCD, 2003; DeAngelis, 2003). MST is an intensive four to six months family-based program that diverts youth from confinement and utilizes good community-based services as a treatment option. MST has been successful in reduction of 25 to 70 percent in long-term rates of recidivism, 47 to 64 percent reduction in out-of-home placement, extensive improvements in family functioning, and reduction in mental illness problems (DeAngelis, 2003).

Similar in service structure to MST is Alexander's Functional Family Therapy (FFT). FFT is a three-month service, but no more than 26 hours of direct service time. It is based on individualized cognitive, behavioral and family therapy techniques, and prosocial peer influence. Benefits of FFT are the concept of risk and protective factors to help determine interventions, thus, reducing recidivism by 30 percent, and effectively treating a wide range of mental health and conduct-related disorders, while preventing teens from entering the adult criminal justice system (DeAngelis, 2003).

Another program that implements the multisystemic approach is Chamberlain's Multidimensional Treatment Foster Care Treatment (MTFC). MTFC differs from MST and FFT in that it is short-termed (six to nine months) custodial placement in a foster home. Program success has been based on youth spending 60 percent fewer days incarcerated, fewer subsequent arrests, and significantly less hard drug use than youth in standard placement (DeAngelis, 2003). A final example of the importance of collaborative and well-coordinated networks of services are Wraparound programs and Juvenile Assessment Centers, also known by the acronym JACs (NCD, 2003).

Probation Officers

The NCJJ (2002) published *Desktop Guide to Good Juvenile Probation Practice* to help probation officers with special populations. LD and mentally ill juveniles are included in the special population category. In screening for mental illnesses, the option to utilize the Massachusetts Youth Screening Instrument-Second Version (MAYSI-2) as a screening instrument “is up to the juvenile probation officers” (NCJJ, 2002: 114). The probation officer *may* opt “to refer them for more detailed assessments by mental health professionals” should the youth have a high score on the scale of “Caution” range, and divert the youth to community-based treatment (NCJJ, 2002; 114). It is not a requirement to conduct screenings of youth that seem to be at-risk or show characteristics of mental illness, regardless of the fact that “mental disorders occurring in delinquent populations go as high as 80%” (NCJJ, 2002; 114). The MAYSI-2 is a “widely used, simple, reliable, 52-item [mental disorder] screening instrument, that takes only ten minutes or so to administer, and very little in the way of special training for staff” (NCJJ, 2002; 114).

However, the NCJJ (2002) is more proactive with its recommendations for the specific LD. In order for probation officers to make better disposition recommendations or supervision plans, s/he

should collect information on a number of schools attended, and inquire whether or not an educational assessment has ever been conducted. The NCJJ (2002) requires probation officers to be activists and “advocate for appropriate educational or vocational services, and actively monitor the student’s progress” (NCJJ, 2002: 127).

The guide also includes practical methods for probation officers supervising LD youth. Among the methods are: avoiding abstract or insight-oriented counseling, keeping instructions basic and simple, providing visual reminders, using positive reinforcements, modeling appropriate behaviors, rehearsing new tasks, seeking frequent feedback, practicing frequent repetition, setting realistic goals, and recognizing that setbacks and limitations are not failures on part of the probation officer or probationer (NCJJ, 2002).

Juvenile justice professionals have an obligation under IDEA to engage in Child Find and request a special education evaluation if they believe the youth may have a disability. They are advised IDEA procedural requirements do not end once a youth with a disability enters the juvenile justice system. Probation officers are to obtain a copy of the youth’s Individualized Education Program (IEP) and review it before adjudication. Finally, juvenile justice professionals should assist parents in guaranteeing the disabled youth ‘Free and Appropriate Public

Education' (Burrell and Warboys, 2000). Educational assessments, as expressed by NCJJ (2002), "will help probation officers advocate for needed services and predict how well the youth will manage the requirements of probation supervision or a rehabilitation program" (NCJJ, 2002: 127). In the role of advocate, juvenile justice officers must help the judge understand, by providing information and recommendations, the impact of educational failures or disabilities on the youth's delinquent behavior, the prospect for successful treatment and supervision, and what educational skills need to be addressed (NCJJ, 2002).

Law Enforcement

Youth with ADHD have higher rates of arrest and incarceration than non-ADHD (Rutherford et al, 2002). The disabled population that suffers the most with encounters with law enforcement is the developmentally disabled (DD). Law enforcement officers deny that people with cognitive disabilities are being arrested with any frequency. Yet research shows mildly retarded suspects are arrested, booked, and sentenced without being identified. At the same time, a recent survey shows 91% of officers had not received training in working with special population. Most justice personnel are unable to recognize offenders with a mental retardation. Interviews with officers reflect they nearly always talked about the mentally ill and the mentally retarded synonymously (Petersilia, 2000).

Studies show that suspects with cognitive impairments tend to be more susceptible to suggestion and vulnerable to the pressures of interrogation. People with disabilities come to rely on others for guidance and direction. Authority figures, such as teachers and police officers, are seen as “good” or “helpful.” Therefore, when someone with authority tells a MR person s/he is here to help, s/he is believed. Consequently, when police officers stop the DD person, the individual provides information based on perception of the truth rather than the truth. “They listen to words, look into faces, and even copy moods in their tries for ‘correct’ answers” (Petersilia, 2000: 7). Because of the tendency to self-incriminate, advocates believe MR and DD should have an appropriate adult or attorney when being questioned (Petersilia, 2000).

Training officers on how to identify and better handle encounters with the disabled population will reduce the number of arrests for such offenses as disorderly conduct (Petersilia, 2000). The California Task Force for Persons with Developmental Disabilities states, as cited by Petersilia (2000), “Persons with mental retardation can be their own worst enemies when being questioned by the police” (Petersilia, 2000: 13). Although the Miranda warnings have been evaluated to be on a 7th grade level of reading and listening difficulty, many with cognitive disabilities do not understand the meaning (Petersilia, 2000). ARC of New Mexico

suggested a modified Miranda warning and communication technique to use with victim, witness or suspect with mental retardation and developmental delays in an effort to divert them from corrections before judicial encounter [see appendix: 70] (Petersilia, 2000).

Corrections

Youth in corrections are more likely to have undiscovered disabilities than those in the general population. An estimated 50% of incarcerated youth have identified special education needs (NCD, 2003). As the number of incarcerated youth with learning disabilities rise, we can expect to see an increase in recidivism, as a youth with a learning disability recidivates at a much higher rate than an adjudicated youth without a learning disability (Ross-Kidder, 2002). According to ARFDOE (2002), juvenile justice programs have not appropriately addressed the IDEA requirements to mitigate problematic behaviors of incarcerated youth with emotional, behavioral, and learning disabilities. They lack awareness of case law and their obligations under federal law (Ross-Kidder, 2002).

In terms of IDEA, correctional institutions failing to comply with the Act may be challenged through administrative proceedings, individual, or class-action civil rights litigation. Correctional institutions, like educational institutions, are required to implement and determine if eligible youths are

receiving needed special education services. They must identify, locate, and evaluate (Child Find) youths that may be disabled, implement existing IEP, and safeguard the youth's due process protections (Burrell and Warboys, 2000). The three major categories of learning disability in juvenile detention centers are specific learning disability, emotional disturbances, and mental retardation. Attention Deficit Disorder with or without Hyperactivity can also co-exist as a dual diagnosis with other learning disabilities, as can other DSM-IV categories, co-exist with learning disabilities (ARFDOE, 2002; Rutherford et al, 2002).

Early assessment is essential in correctional facilities because suicidal ideation is a serious concern among youth with mental health problems in corrections; minority youths of low socioeconomic status are less likely to use mental health services; and juveniles with mental illness are less likely to receive outpatient mental health treatment while incarcerated. Early diagnosis and a well-trained staff are essential to provide proper care for youths in special populations. A tool that has been identified and evaluated for early assessment has been the Diagnostic Interview Schedule for Children (DISC). DISC can inquire about 20 DSM-IV diagnoses in less than 60 minutes (Wasserman, Ko, McReynolds, 2004).

Cross training mental health and juvenile justice staff to deal with juvenile offenders with substance abuse problems is a highly recommended option. Comprehensive statewide behavioral training for school district contract managers, juvenile justice providers, faculty members and staff will also be a beneficial service. Training, “should include the development and implementation of functional behavioral assessments, behavioral intervention plans, wrap-around therapeutic and psychosocial services, and positive classroom management strategies” (ARFDOE, 2002: 79). As suggested by Rutherford et al, (2002), multifaceted assessments and evaluations should take place in correctional institutions.

The 2002 ARFDOE lists the following as successful delivery of educational services to incarcerated youths with disabilities:

- Individualizations of programs with reading and literacy a priority, and emphasis on vocational, employability, social skills, life skills, and GED programs to those who do not plan to complete high school.
- Variety of instructional strategies
- Program assortment and extensive menu of vocational/technical courses for credit
- Entrepreneurship opportunities
- Exceptional Student Education (ESE) is provided daily
- Small class sizes with low student-to-teacher ratio, 15:1

- Teachers are ESE certified to provide direct or indirect services.
- Adequate educational and support staff available
- Collaborative efforts between programs and school districts are strengths
- Display of program-wide dedicated staff, teachers, and those in the community

CHAPTER 3

METHODS AND PROCEDURES

This study makes use of secondary data analysis utilizing data collected using a survey methodology. Data for this study was gathered from Lexington-Fayette Urban Government Division of Corrections in Lexington, Kentucky from July-November 1999. All subjects in the sampling frame were adults and juveniles incarcerated for that period. Of this total sample, 90 percent (adults and juveniles) were interviewed; however, only data pertaining to juveniles will be included in this analysis. In the original research, 715 juveniles and adult males and females are interviewed. For this research, the responses of 171 juvenile males and females between the ages of 9 to 18 will be analyzed. The objective of the research is to assess the prevalence of learning disabilities among arrestee population; therefore, various demographic factors that have a relationship with learning disabilities, delinquency, and crime have been isolated.

Instrumentation and Procedure

The survey used was a free-form instrument addressing demographic, social variables, as well as variables specific to learning disability. While some items were gathered from previous research in the

area of study, other items were unique to specific research objectives. For sixteen weeks, as part of intake, juveniles and adults who were detained were interviewed. The majority of interviews were conducted before the subjects were remanded to their temporary residences within the facilities. The procedure for the research was combined with normal educational assessment. Certified teachers or designated aides conducted the interviews; therefore, the research also served as a special needs assessment for educational strategic planning. To accommodate after-hour admission, some interviews were employed on an on-call basis. On average, the interviews were conducted in approximately 15 minutes. In keeping with right to privacy, all information obtained was held in confidential files utilized by teachers and researchers for the purpose described earlier.

Limitations of this research includes a sample population composed of youth males and females from only one corrections facility located in Lexington, KY. Other limitations are those normally encountered using a survey methodology, unsolicited information regarding procedures before arrest and post adjudication, socio-economic status, and parental marital status. Recidivism rate for youth in this study will not be explored, as data does not permit extrapolation in this area.

Research Questions

The purpose of this research is to examine the characteristics of the LD in the juvenile justice system. As such, the research examines the prevalence and attempts to correlate social and environmental factors with LD problems. The research is guided by the following descriptive and associational research questions:

1. What are the most prevalent learning disabilities in juvenile detention?
2. What are the prevalent characteristics/limitations?
3. How many delinquents identified as comorbid?
4. How many offenders identified as emotionally disturbed?
5. How many offenders had school related problems?
6. How does single-parent household relate to LD characteristics?
7. How does LD characteristics relate to delinquency problems?

CHAPTER 4

RESULTS

As illustrated, Table 1 shows the demographic characteristics of the 171 participants analyzed in this study. The sample population ranged between the ages of 9 and 18 years of age. The racial composition of the sample population included African American, Caucasian, Hispanic, Native American, and a category for other and not sure. Race was dichotomized; 49.4% were Caucasian; 50.6% were non-Caucasian. The average participant in this study was a non-Caucasian, male, high school freshman, 15 years of age, who comes from a broken home (83.6%).

Table 1
Demographic Characteristics of Sample

		<u>Frequency</u>	<u>Percentage</u>
Age:	9	1	.6%
	11	2	1.2%
	12	11	6.4%
	13	11	6.4%
	14	19	11.1%
	15	47	27.5%
	16	37	21.6%
	17	31	18.1%
	18	12	7.0%
Race:	Caucasian	82	50.6%
	Non-Caucasian	84	49.4%
Gender:	Male	116	74.8%
	Female	39	25.2%
Family Composition	Intact	28	16.4%
	Broken	143	83.6%

Table 2 lists the selected learning disabilities: oppositional defiant, attention deficit, developmental delay, emotional behavior disorder, and mild mental impairment.

Table 2
Learning Disabilities Represented in the Sample

Disability:	<u>Frequency</u>	<u>Percentage</u>
<i>Oppositional Defiant</i>		
yes	2	1.5%
no	134	97.8%
<i>Attention Deficit</i>		
yes	21	15.4%
no	115	84.6%
<i>Developmental Delay</i>		
yes	3	1.8%
no	134	78.4%
<i>Emotional/Behavior Disorder</i>		
yes	24	17.5%
no	113	82.5%
<i>Mild Mental Impairment</i>		
yes	10	5.8%
no	127	92.7%

The number of diagnosis by any one child with a learning disability is expressed in Table 3. Almost one-third (27.9%) of the sample population has at least one learning disability. Moreover, close to one-half (44.7%) have one or a comorbid diagnosis, and 16.8% comorbidity. Attention deficit (17.5%) and emotional behavior disorder (15.4%) were most prevalent disorders among the five studied.

Table 3
Co-morbidity among Juvenile Delinquents

No. of Diagnosis	<u>Frequency</u>	<u>Percentage</u>
0	75	55.1%
1	38	27.9%
2	15	11.0%
3	4	2.9%
4	3	2.2%
5	1	.7%

In evaluating prevalent school related characteristics, the following areas, as seen in Table 4, were examined: trouble following the teachers' directions, trouble with following written directions, trouble learning math, difficulty staying focused on a task, poor grades, truancy, suspension, and thought about dropping out of school. A large percentage of youth had trouble following the teacher's direction (62.1%), staying on task (62.6%), and poor grades (66.9%). More than half had trouble with written instructions (51.5%), truancy (52.1%), suspension (69.8%), and thought about dropping out of school (48.8%). The average participant had trouble following the teachers' directions. A significant number of youth indicated having trouble learning math (44.8%). The number of times referred to the principal's office and number of classes failed were not considered because the open-ended questions provided inaccurate information due to exaggerations.

Table 4
Prevalent School Characteristics

Characteristic:	Frequency	Percentage
Staying on task		
Sum/often	107	62.6%
never	58	33.9%
Dropping out of school		
Sum/often	83	48.5%
never	70	40.9%
Trouble, directions	105	62.1%
Sum/often	56	32.7%
never		
Trouble, written instructions		
Sum/often	81	47.4%%
never	83	48.5%
Trouble, math		
yes	64	44.8%
no	79	55.2%
Poor grades		
yes	113	66.9%
no	56	33.1%
Truancy		
yes	88	52.1%
no	81	47.9%
Suspension		
yes	118	69.8%
no	51	29.8%

A Pearson correlation coefficient [see Table 5: 67] was calculated for the relationship between emotional behavior disorder and poor grades. A positive correlation that was found ($r = .223, p > .01$), an indication of a linear relationship between the two variables. Emotional behavior disorder contributes to poor grades. Developmental delay and emotional behavior disorder also share a significant positive relationship ($r = .193, p > .05$), as

does emotional behavior disorder with mild mental impairment ($r = .314, p > .01$). It can be said that developmentally delayed youths and those with mild mental impairment suffer from emotional behavior disorders. A strong, positive correlation was found among those who have been arrested tend to go to jail ($r = .808, p > .01$).

Of the learning disabilities examined in Table 3, the only variable that produced a significant relationship with “going to jail” was ADD, ($r = .207, p > .05$). The other variables oppositional defiant ($r = .135, p > .05$), emotional behavior disorder ($r = -.034, p > .05$), mild mental impairment ($r = -.089, p > .05$), and developmental delay ($r = .135, p > .05$) show a weak correlation. In this study, the above-mentioned learning disabilities had no bearing on the whether the youth was going to jail [see Table 5: 67].

CHAPTER 5

DISCUSSION

Phrases such as “best interest of the child,” “compulsory education,” “psychological parenthood,” and “The moment a child is born, it owes allegiance to the government of the country of its birth and is entitled to the protection of that government,” are derived from the doctrine of *Parens Patriae*. However, it is not that difficult to conceive our justice system engaging in wanton misconduct and oppressing the disenfranchised. Our history is replete with examples of both *de jour* and *de facto* discrimination that condemns our criminal justice system. It is not difficult evidencing legislation in the criminal justice system favoring the powerful, and consequently systemically affecting a race of people. Nor is it not difficult to make a strong argument about the failure of our government to reform juvenile delinquents through education.

According to Gifis’ (1996) legal definition of negligence and current legislation, the juvenile justice system is guilty of negligence, specifically gross negligence. As with any case, there must be supporting evidence to denounce the juvenile justice system as having acted willfully and with flagrant disregard of laws and procedures instituted to protect the LD. Consider the following evidence:

- 1) There are numerous studies in the area of criminal justice, psychology, education, and other social science fields showing a link between the LD and delinquency since the late 1970's.
- 2) The Office of Juvenile Justice and Delinquency Prevention [OJJDP] itself has commissioned researchers to conduct further studies for the department on delinquent youths with LD, and have made reports about the findings to Congress.
- 3) The National Center for Juvenile Justice has failed disabled youths by inadequately training professionals in the juvenile justice system working with LD delinquents [see BEST].
- 4) The courts and the juvenile justice system have failed to conserve the delinquent youth's due process rights by neglecting to take actions in the best interest of the child by either neglecting to obtain the youth's educational information, or by neglecting to assess youths with LD characteristics (Child Find) before adjudicating the youth as delinquent [see IDEA and ADA].
- 5) The court is familiar with the LD population, as it has heard cases involving students with learning disabilities [see *Guckenberger v. Boston University*; *In re Beau II*; *In re K.G., D.G., D.C.B., and J.J.S*] and has upheld that the IDEA and ADA extends to prison inmates [see *Pennsylvania v. Yeskey*].
- 6) Compulsory schooling legislation that dates as far back as the 1850's also attest to the educational neglect perpetrated by the juvenile justice system. Parents as "physical custodians" of the state's children are held responsible for their child's education; hence, the government should be held as accountable.

Educational neglect, in our society, has become a *malum in se*.

With the increase of technological advances, no longer can the youth of today make a living without proper skills or education. The judicial system, under the criminal justice system, has allowed the power vested in the Department of Education, acting under the executive branch, to go

unchecked. President Bush has brought back accountability with his *No Child Left Behind Act*, perhaps due to his own personal battle with learning disability. However, if the government continues to neglect those it has been entrusted to protect under *Parens Patriae* by not legitimizing those laws already in place, then who will save the disabled youth against tyranny? How can our future be secured should we fail to hold the government accountable for its inaction on behalf of those who need help the most? The pinnacle of altering behavior is conscious awareness of the problem. If we are to contribute to the improvement of the lives of LD youth at-risk of delinquency, then significant changes must take place.

CHAPTER 6

CONCLUSION

The contribution of this research to the criminal justice field is not an attempt to criticize and deride the government in its attempt to protect the disenfranchised. It is a humble attempt to add to the body of knowledge in the area of learning disabilities and delinquency by creating awareness and providing the juvenile justice system with alternative solutions on how to narrow the link between learning limitations and delinquency.

As “the voice of one crying in the wilderness,” this study is an effort to create awareness through characterization of problems faced by those diagnosed as LD. It is a call to motivate professionals in criminal justice system and those who work with LD youth to effectuate change by being receptive to the information and strategies that have been available in the field since the 1970’s.

Through actual employment of strategies, enforcement of laws, protection of due process rights, at-risk youths can be led away from the juvenile justice system, instead of towards it. Law enforcement must learn how to communicate with special populations to protect and serve everyone in the community. Often, good use of discretion along with the

required training can defer a youth from entering the system and getting the community support the child needs.

Specific to the juvenile justice system, primarily the court system, is the responsibility to protect the delinquent youth's due process rights by supporting early assessment of the LD and requiring court officials to conduct inquiries into the youth's education abilities and mental health before adjudication for successful habilitation.

Corrections, like the educational system, must provide services in accordance with IDEA for the LD. Safeguarding LD youths' right to free and appropriate education as guaranteed by IDEA will increase the probability of successful integration as a productive citizen back in the community. School officials must enforce all federal and state laws protecting the LD. They share the responsibility of protecting the LDs right to sound and appropriate education.

Finally, mental health and community service providers, as partners with the same goal, should advocate for the youth they serve. It is vital to have a symbiotic relationship between mental health, community service providers, educational institutions, and the juvenile justice system in order to provide on-going training, decreasing entry into the juvenile justice system and reducing recidivism rates. If we continue to allow the criminal

justice system to remain unaccountable for neglecting our youth, our complacency will add 'fuel to the fire' and place youths at greater risk.

The information gathered in this research suggests that policy implications in regards to mandatory administrative intake processes, such as screening for learning disability and requiring court officers to obtain school records from all the schools the youth has attended is needed to provide proper habilitative services to the LD. In absence of these records, a screening to detect education and/or emotional problems should take place prior to formal adjudication. Another policy implication is the need to legitimize, through enforcement, current laws that protect the LD delinquent in detention facilities.

Unlike similar research studies, there was no correlation between EBD and the response, "going to jail." Less than one fifth suffer from a dual diagnosis. However, data in this study confirms that the LD is more likely to go to jail once arrested; dose to one-third of the sample population possessing at least one learning disability; and almost half the juvenile delinquent population has one or more LD. Upon examining prevalent school characteristics, a red flag to the perceptive juvenile justice personnel, it is easy to appreciate why the most prevalent learning disability in this study was ADD and emotional behavior disorder. Those with ADD are slightly more likely to receive jail time than those with other

learning disabilities, a trend that will hopefully change in upcoming years with adequate training on how to recognize the characteristics of LD.

Future research studies should concentrate on evaluating intake processes in order to obtain information on the youth's education and mental health status. This information will help the court plan for a successful treatment modality. In replicating this study, researchers are advised not to use the technical terms such as those used in this research instrument. Although the results of the study resemble that of other studies in the field, this study begs the question, "how many juveniles in this detention facility have gone through their educational career undiagnosed?"

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APPENDICES

Table 5
Learning Disability and Delinquency Correlation

		Times arrested	Times in jail	DD	ADD	EBD	MMI
Times been arrested	Pearson	1	0.808**	0.094	0.122	-0.098	0.080
	Correlation						
	Sig. (2-tailed)		0.000	0.288	0.168	0.270	0.367
	N	159	158	130	129	130	130
Times been in jail	Pearson	0.808**	1	0.135	0.207*	-0.052	-0.089
	Correlation						
	Sig. (2-tailed)	0.000		0.125	0.019	0.556	0.313
	N	158	159	130	129	130	130
DD	Pearson	0.094	0.135	1	-0.064	0.193*	-0.042
	Correlation						
	Sig. (2-tailed)	0.288	0.125		0.458	0.024	0.626
	N	130	130	137	136	137	137
ADD	Pearson	0.122	0.207*	-0.064	1	0.016	0.036
	Correlation						
	Sig. (2-tailed)	0.168	0.019	0.458		0.856	0.681
	N	129	129	136	136	136	136
EBD	Pearson	-0.098	-0.052	0.193*	0.016	1	0.314**
	Correlation						
	Sig. (2-tailed)	0.270	0.556	0.024	0.856		0.000
	N	130	130	137	136	137	137
MMI	Pearson	0.080	-0.089	-0.042	0.036	0.314**	1
	Correlation						
	Sig. (2-tailed)	0.367	0.313	0.626	0.681	0.000	
	N	130	130	137	136	137	137

**Correlation is significant at the 0.01 level (2-tailed).

*Correlation is significant at the 0.05 level (2-tailed).

SECONDARY DATA QUESTIONS

- | | |
|----|---|
| 1 | |
| 2 | Status of respondent |
| 3 | I enjoy taking part in after-school activities |
| 4 | I have used illegal drugs |
| 5 | I have trouble following the teachers' directions |
| 6 | I think about attending college someday |
| 7 | My father lives at home with me |
| 8 | My sister(s) have been in trouble with the law |
| 9 | When in school, I feel I don't belong in class |
| 10 | I have used alcohol |
| 11 | My father has not been in trouble with the law |
| 12 | I have thought about dropping out of school |
| 13 | I have difficulty with staying focused on a task |
| 14 | Friends of mine have been in trouble with the law |
| 15 | I think about owning my own business someday |
| 16 | I feel that my peers in school like me |
| 17 | I have trouble following written directions |
| 18 | My brother(s) have been in trouble with the law |
| 19 | I think about attending trade school someday |
| 20 | My mother lives at home with me |
| 21 | I have trouble making friends |
| 22 | I feel secure in social settings |
| 23 | My mother has been in trouble with the law |
| 24 | I enjoy playing sports |
| 25 | Did you attend a preschool of any kind? |
| 26 | Kindergarten? |
| 27 | Private? |
| 28 | Home daycare? |
| 29 | Have you received any residential educational activities? |
| 30 | Hospitalization? |
| 31 | Full-time education classes? |
| 32 | Part-time regular education/part-time special education? |
| 33 | Homebound? |
| 34 | Home-schooled? |
| 35 | Part-time regular education/part-time Title-I? |
| 36 | After school programs |
| 37 | Have you experienced truancy in school? |
| 38 | Suspension? |
| 39 | Poor grades? |
| 40 | Fighting? |
| 41 | Have you been told you were blind? |
| 42 | Dyslexic? |
| 43 | Speech impaired? |
| 44 | Hearing impaired? |
| 45 | Developmentally delayed? |

- L**
- 46 Oppositional deficit disorder?
 - 47 No specific diagnosis but have had problems?
 - 48 Autistic?
 - 49 Attention Deficit?
 - 50 Visually impaired?
 - 51 Mild mental impairment?
 - 52 Emotional behavior disorder?
 - 53 No specific diagnosis
 - 54 Have you experienced any trouble in learning math?
 - 55 Physical education?
 - 56 Written language?
 - 57 Reading (all areas)?
 - 58 Speech?
 - 59 Science/Social studies?
 - 60 Spelling?
 - 61 Comprehension?
 - 62 Communication?
 - 63 All areas?
 - 64 Last grade
 - 65 Number of schools you attended in elementary grades
 - 66 Number of schools you attended in middle grades
 - 67 Number of schools you attended in high school
 - 68 How many times have you been sent to the principals office?
 - 69 Number of times you have failed a course in school
 - 70 If yes
 - 71 What is your age?
 - 72 What is your gender?
 - 73 What is your race?
 - 74 What crime(s) are you charged with?
 - 75 How many times have you been arrested?
 - 76 How many times have you been in jail?

LAW ENFORCEMENT AND SPECIAL POPULATIONS

<i>Communication Technique</i>	<i>Special Population Assessment Questions</i>
Avoid abstract terms and ideas.	Do you have or can you show me an ID card of your wallet or your purse?
Avoid questions that tell the person the answer you expect.	Do you have a Medic Alert Bracelet?
Use open-ended questions.	Have you graduated from high school?
Repeat questions using a slightly different perspective.	Were you ever in special education classes?
When Mirandizing, ask the person to explain to determine if the warnings have been understood.	Are you a client of ...? <ul style="list-style-type: none"> • The regional center • A work training program • United Cerebral Palsy
Proceed slowly and give praise and encouragement.	Have you ever participated in Special Olympics?
Avoid frustrating questions about time, complex sequences, or reason for behavior.	What is the name of your job coach, therapist, and case manager?
Never make fun of the person [,] as they will sense it and become less cooperative.	Ask if the person if s/he lives alone or with others, and for his/her phone number.

Source: Petersilia, 2000

MODIFIED MIRANDA WARNING

<i>Traditional Miranda Warning</i>	<i>Modified Miranda Warning</i>
You have the right to remain silent.	It is OK if you do not want to talk; I will not try to make you.
Should you give up the right to remain silent, what you say can and will be used against you in a court of law.	If you do talk to me about what happened, I will use what you tell me to try to send you to jail.
You have the right to have an attorney present during questioning.	You will do better if there is a lawyer to help you.
If you want an attorney, but cannot afford one, one will be appointed for you.	If you cannot afford to pay for a lawyer, I will get you one for free. You will not have to pay me back.
Do you understand these rights as I have explained them to you?	Do you understand what I am telling you about getting a lawyer?

Source: Petersilia, 2000

LIFE SPACE INTERVIEW: EMOTIONAL FIRST AID

1. Drain off Frustration Acidity— allows the student to vent his/her emotions, but assist the student regain control and calming down. Once the student is calm, the teacher explains why a rule or direction is necessary and must be followed.
2. Support for the Management of Emotions— provide support to the student with pent up feelings or emotions surface. This technique is often used when the student has been victimized or neglected. The teacher helps the student sort through the problem and put the problem in perspective.
3. Communication Maintenance— this technique is used when the student withdraws. This technique requires the teacher to try to keep open communication exchange between student and teacher regardless of the topic of conversation chosen by the student.
4. Regulation of Behavior and Social Traffic— this strategy involves the consistent reinforcement of rules and guidelines by a calm and patient adult.
5. Umpire Services— the teacher reviews all available information and makes a judgment in cases of inter-child or intra-child conflict (McIntyre, 2002).

LIFE SPACE CRISIS INTERVIEW

1. Reality Rub—the teacher helps a student recognize s/he has misinterpreted or refused to recognize certain information pertinent to the incident. The student is made cognizant of his/her perceptions and informed as to the truth of the situation under discussion.
2. Value Repair and Restoration— the teacher attempts to “massage” dormant values such as respect, empathy, trust, etc... and help develop appropriate emotional responses to certain situations.
3. Symptom Estrangement— by bringing the attention of the student to those behaviors seen as bizarre by peers, the teacher helps the student replace those behaviors with appropriate responses.
4. New Tool Salesmanship— this interview helps the student use problem-solving skills by using “tools” from former experiences and applying it to new situations.
5. Manipulation of the Boundaries of the Self— this interview is used with willing victims and victimizers. The student is made aware of his/her behavior pattern in an attempt to make him/her more receptive to interventions (Ross-Kidder, 2002; McIntyre, 2002).

STRATEGIES FOR GENERALIZATION OF SOCIAL SKILLS

1. *Teach students social skills in settings where the skills will be used.*

Role-playing can accomplish the teaching of social skills when it is not possible to do so in the natural setting.

2. *Teach social skills that are valued in the natural setting.* Skills that are valued by peers, parents, and teachers will most likely receive reinforcement.

3. *Teach social skills “loosely.”* Students can be encouraged to generalize by teaching several social skills a day and employing different teaching models.

4. *Use reinforcement sparingly.* Once the skills are acquired, reinforcement occur less frequently, therefore students may need to learn how to self-reinforce to continue to use the skills in environments lacking reinforcement.

5. *Teach students to generalize.* Some methods that aid students generalize are self-talk, self-monitoring, self-recording, self-reinforcement, think aloud, and problem solving strategies [(1) define the problem, (2) identify several potential solutions, (3) evaluate all outcome mentally, (4) select and implement a solution, and (5) evaluate the effectiveness of selected solution] (Elksnin and Elksnin, 2000).

ABOUT THE AUTHOR

The author was born in Curaçao, Netherlands Antilles, June 4, 1967. She was raised in New York where she majored in Pattern-making Production Techniques and graduated from High School of Fashion Industries in Manhattan in 1985. She later moved to the south where she earned her Bachelor of Science in Psychology and Criminal Justice from The University of Tennessee, Chattanooga in 1996.

She conducted research in several areas of interest in the field of criminal justice, economics, and psychology. Topics include: war on drugs; youth courts; cross-cultural analysis and pragmatic solutions to victimless crimes in The Netherlands versus The United States; the relevance of culture in therapy; and philosophical analysis and debates on leadership, Marxism, Capitalism, Affirmative Action, and Jury Nullification.

The author has dedicated many years working with children and adolescents as a Child Protective Services Investigator, Case Manager for the severely emotionally disturbed, and Director of Testing and Technology for urban, underprivileged, at-risk youth.