STATEWIDE RESTORATIVE JUSTICE LEGISLATION AND DECLINING TRENDS IN THE U.S. CRIMINAL JUSTICE SYSTEM: WHAT IMPACT, IF ANY?

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The United States has one of the highest youth incarceration rates and arrest rates in the world.[1] [2] National averages show that the cost to keep a youth locked up, \$88,000 a year, exceeds the cost the U.S. spends per public school student, \$12,296.[3] [4] School districts like Los Angeles Unified School District have aimed to dismantle the school-to-prison pipeline by adopting restorative justice ("RJ") legislation. This article seeks to understand what impact, if any, RJ legislation has on the juvenile justice system. This article explores a quantitative relationship between RJ legislation and three declining trends (juvenile petition counts, juvenile homicide offenders, and juvenile arrest rates) in 50 U.S. states generally across a five-year period (2008-2012). The results of this inquiry are mixed. While the results are not statistically significant for those given years, textual analysis of the bills, qualitative research, and trendlines forecasting the future indicate otherwise. Trendlines indicate that as more states introduce RJ legislation, the more those states will experience declines in each of those trends. The results inspire a need for more states to explore or experiment with RJ legislation so that in-depth studies by criminologists can more accurately measure the statistical significance of these relationships between RJ legislation and declining trends in the U.S. criminal justice system. Finally, other numerical data shows that an impressive percentage of states that introduced at least one RJ bill exceeded the national averages in each of those declining trends.

I. INTRODUCTION: STATEMENT OF THE PROBLEM

While the United States [hereinafter U.S.] experienced a decline in three areas [petitions filed against youths, rates of youth offenders in homicide matters, and juvenile arrest rates]¹, it still has one of the highest youth incarceration

rates and arrest rates in the world.^{2 3} It "leads the industrialized world in the number and percentage of children it locks up in juvenile detention facilities, with over 60,000 children in such facilities in 2011."⁴ "The American rate of juvenile incarceration is seven times that of Great Britain, and 18 times that of France."⁵ (See

Figure 1). Human Rights Watch and the American Civil Liberties Union estimated that the "U.S. also sends an extraordinary number of children to adult jails and prisons—more than 95,000 in 2011...with few opportunities for meaningful education or rehabilitation"

http://dera.ioe.ac.uk/7996/1/Cross_national_final.pdf

[https://perma.cc/Z6YZ-9WHP].

RICHARD A. MENDEL, NO PLACE FOR KIDS (2011),

https://perma.cc/26XE-RHK2.

⁴ Bernstein, Nell. Burning Down the House: the End of Juvenile PRISON (The New Press, 2014); Michael Garcia Bochenek, Children Behind Bars: The Global Overuse of Detention of Children, HUMAN RIGHTS WATCH, https://www.hrw.org/worldreport/2016/children-behind-bars [https://perma.cc/GE8S-VP6C] (last visited Apr. 24, 2017)

visited Apr. 24, 2017).

5 BERNSTEIN, NELL. BURNING DOWN

THE HOUSE: THE END OF JUVENILE PRISON (The New Press, 2014); 'Burning Down the House' Makes the Case Against Juvenile Incarceration, NPR (June 4, 2014, 3:19PM ET), http://www.npr.org/2014/06/04/31880 1651/burning-down-the-housemakes-the-case-against-juvenileincarceration [https://perma.cc/796R -9EYT].

⁶ Michael Garcia Bochenek, Children Behind Bars: The Global Overuse of Detention of Children, HUMAN RIGHTS WATCH, https://www.hrw.org/worldreport/2016/children-behind-bars [https://perma.cc/PF8W-BFJQ] (last visited Apr. 24, 2017).

¹ See Appendix A for graphs of declines.

² NEAL HAZEL, CROSS-NATIONAL COMPARISON OF YOUTH JUSTICE 60 (YJB 2008),



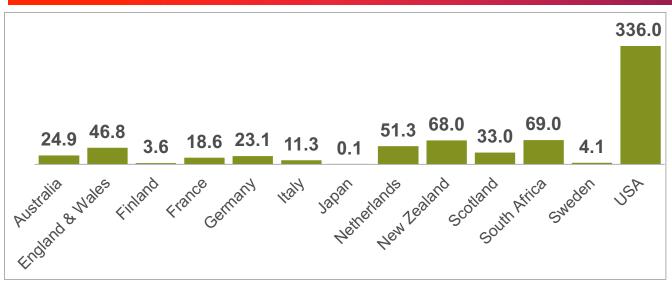


Figure 1

The cost of imprisoning criminals is already exorbitant.⁷ The U.S. spends \$20 billion annually on prison expansion.8 \$20 billion could provide child care to every family that cannot afford it, a college education for every high school graduate, or a living wage to every unemployed youth.9 More specifically, national averages show the cost to keep a youth locked up exceeds the cost the U.S. spends per public school student. "It costs, on average, \$88,000 a year to keep a youth locked up[.]"10 Compare that with \$12,296—the amount the U.S. spends per public school student.¹¹ (See Figure 2).

The same is true at the state level. Education and prison data (collected by the

per student in every state (see Figure 3 below). 12 These costs continue to climb. 13

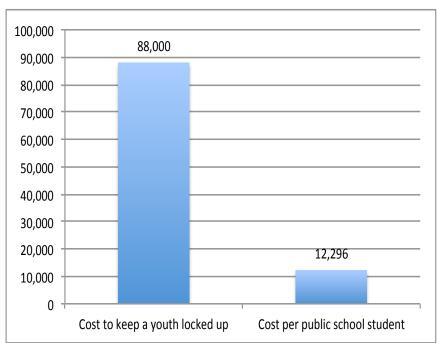


Figure 2

expenditures per pupil in public elementary and secondary schools: Selected years, 1919-20 through 2012-13, tbl.236.55 (2015), https://nces.ed.gov/programs/digest/d 15/tables/dt15_236.55.asp (based on fall enrollment, in constant 2014–15 dollars, and the Consumer Price Index) [https://perma.cc/48TR-8JNZ]. (based on fall enrollment, in

constant 2014–15 dollars, and the Consumer Price Index)

¹² Tal Yellin, CNN Money, *Educ. v. Prison*

costs, http://money.cnn.com/infograp hic/economy/education-vs-prison-costs/ [https://perma.cc/26HE-CQUE] (40 states responded).

¹³ Amelia M. Inman & Millard W. Ramsey, Jr., Comment, Putting Parole

U.S. Census and Vera Institute of Justice) showed how the cost per inmate exceeded the cost

⁷ See William Spelman, The Limited Importance of Prison Expansion, in The Crime Drop in America 97, 97 (Alfred Blumstein & Joel Wallman eds., 2000).

⁸ *Id*.

⁹ *Id*.

¹⁰ BERNSTEIN, supra note 5.

¹¹ See Inst. of Educ. Sciences, Nat'l Ctr. for Educ. Stat., *Total and current*

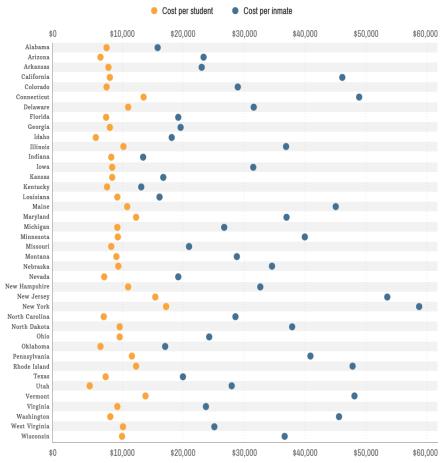


Figure 3

According to author and journalist Nell Berstein¹⁴, the most troubling issue is that "[t]he greatest predictor of adult incarceration and adult criminality wasn't gang involvement, wasn't family issues, wasn't delinquency itself ... [t]he greatest predictor that a

kid would grow up to be a criminal was being incarcerated in a juvenile facility."¹⁵ Incarceration "deprives the offender of the reassurance and confidence that he [or she] is capable of reform."¹⁶ This decreases the individual's "self-esteem and motivation to

Back on the Table: An Efficiency Approach to Georgia's Aging Prison Population, 1 J. MARSHALL L.J. 239, 242 (2008). 16 Christopher D. Lee, COMMENT: THEY ALL LAUGHED AT CHRISTOPHER COLUMBUS WHEN HE SAID THE WORLD WAS ROUND: THE NOT-SO-RADICAL AND REASONABLE NEED FOR A RESTORATIVE JUSTICE MODEL STATUTE, 30 St. Louis U. Pub. L. Rev. 533.

¹⁷ Id. at 533.

rehabilitate themselves and increases the probability that the offender will become a recidivist." To quote John Braithwaite, "individuals would not be repeat offenders if we did not force them into 'daily interaction' with other criminals through incarceration." 18

Fortunately, this is a problem to which there is a solution and that solution is restorative justice [hereinafter RJ]. 19

II. WHAT IS RESTORATIVE JUSTICE?

Defining RJ. The Model Code on Education and Dignity—approved by the American Bar Association—defines RJ as "a theory of justice that emphasizes repairing the harm caused or revealed by misconduct rather than punishment by:

- a. Identifying the misconduct and attempting to repair the damage;
- b. Including all people impacted in the process

learn new skills in the illegitimate labor market").

19 Judy C. Tsui, COMMENT: BREAKING FREE OF THE PRISON PARADIGM: INTEGRATING RESTORATIVE JUSTICE TECHNIQUES INTO CHICAGO'S JUVENILE JUSTICE SYSTEM, 104 J. CRIM. L. & CRIMINOLOGY 635 (high costs associated with juvenile detention centers may be circumvented through RJ techniques) 229.

¹⁴ Nell Berstein, http://www.nellbernstein.com/ [https://perma.cc/W8CU-HLNY] (last visited Apr. 24, 2017) (Nell Berstein is a former Soros Justice Media Fellow in New York, and winner of a White House Champion of Change) award.

¹⁵ BERNSTEIN, supra note 5.

¹⁸ John Braithwaite, *Restorative Justice: Assessing Optimistic and Pessimistic Accounts*, 25 CRIME &
JUST. 1, 65 (1999) ("Prisoners in jail

- of responding to conflict; and
- c. Creating a process that promotes healing, reconciliation and the rebuilding of relationships."²⁰

Put simply, RJ focuses on: repairing the harm, involving stakeholders, and transforming the community relationship.²¹

RJ is not a new notion.²² It was around when humans first began developing civilizations.²³ For example, the Navajo people in the U.S. and Maori tribe in New Zealand²⁴ used it as one of their primary forms of justice. ²⁵ Understanding RJ requires a philosophical shift away from punitive/retributive justice. ²⁶ Punitive justice, "the MPC, and our traditional justice system are concerned more with a combination of 'righting a wrong' and punishing the wicked."27 The goal of RJ is not punishing the offender but

the restoration of the offender and victim.²⁸ While punitive justice focuses on punishing the wrongs of the past, RJ focuses on how to change future behavior.²⁹ This idea of integrating an offender back into the community through appropriate discipline while still providing "peace-of-mind and comfort to victims"³⁰ makes RJ similar to "therapeutic justice." ³¹ Like therapeutic justice, RJ focuses on "the law's healing potential."32 Thus, "one can view restorative justice as a balancing of different considerations: 'a balance between the therapeutic and retributive models of justice[,] a balance between the rights of offenders and the needs of victims[, and] a balance between the need to rehabilitate offenders and the duty to protect the public."³³

The benefits of RJ. Common examples of RJ

include: victim-offender mediation, community and family group conferencing. circle sentencing, and victim impact panels and surrogate groups.³⁴ These practices have benefitted many stakeholders. In fact, stakeholders have "repeatedly expressed significantly higher satisfaction with the capacity of [RJ] to truly repair the harm caused by crime, as compared with traditional criminal justice procedures."35 Because RJ can "go deeper and address human aspects of reparation, healing, and relational connection, there is greater potential for a more profound and lasting positive impact" for stakeholders.36 First, RJ benefits victims. "Victims emerge from a restorative justice setting feeling 'less upset about the crime, less apprehensive, and less afraid of re-

²⁰ Model Code on Education and Dignity §3.1.B. (Dignity in Schools Campaign and Am. Bar Ass'n 2013).

²¹ Thalia Gonzales, *ARTICLE: Keeping Kids in Schools: Restorative Justice, Punitive Discipline, and the School to Prison Pipeline*, 41 J.L. &
EDUC. 281; *see also* Marilyn Peterson
Armour et al., *Bridges to Life: Evaluation of an In-Prison Restorative Justice Intervention*, 24
MED. & L. 831, 832 (2005)
(describing the three prongs of RJ as offender accountability victim
empowerment, and the active role of the community).

²² Lee. supra note 17.

²³ Id.

²⁴ Robert P. Mosteller, *New Dimensions in Sentencing Reform in*

the Twenty-First Century, 82 Or. L. REV. 1, 20-21 (2003).

²⁵ Lee, supra note 17.

²⁶ Gonzales, supra note 22.

²⁷ Jean Hampton, *Correcting Harms Versus Righting Wrongs: The Goal of Retribution*, 39 UCLA L. REV. 1659, 1663 (1992).

²⁸ Lee, supra note 17; but see Michael Wenzel et al., Retributive and Restorative Justice, 32 Law & Hum. Behav. 375, 376 (2008) (explaining that punishment can play a part in RJ techniques despite it not being the central focus).

²⁹ Lee, supra note 17.

³⁰ Katherine Beaty Chiste, *The Justice of the Peace in History: Community and Restorative Justice*, 68 SASK. L. REV. 153, 153 (2005).

³¹ Teresa W. Carns et al., *Therapeutic Justice in Alaska's Courts*, 19 ALASKA L. REV. 1, 2 (2002).

³² *Id*.

³³ Marian Liebmann, Restorative Justice: How It Works 33 (2007).

³⁴ Lee, supra note 17.

³⁵ Mosteller, *supra* note 26, at 22; *see also* Mark S. Umbreit, Restorative Justice Through Victim-Offender Mediation: A Multi-site Assessment, 1 W. Criminology Rev. 1 (1998), available at

http://goo.gl/85ftRJ [https://perma.cc/YMM7-UTSK] (where a study showed victims are far more likely to benefit from mediation than a normal court process).

³⁶ HOWARD ZEHR, THE LITTLE BOOK OF RESTORATIVE JUSTICE 22-24 (2002).

victimization."37 RJ environments are also "far more likely to produce sincere apologies"38 and full restitution payments from offenders (than if ordered by a court)³⁹—a significant aspect to the victim's recovery. 40 RJ also benefits communities. Violent crimes like murder or hate crimes can damage communities in a long-lasting way.41 Peacemaking committees that integrate restorative practices not only restore the status quo and produce "tranquility and harmony within a community," but also can address povertyridden conflicts such as unemployment or lack of basic necessities. 42 Finally, RJ practices benefit recidivism rates. 43 "While recidivism

reduction is not the overarching goal of restorative justice, researchers have found that one 'happy side-effect' of a [well-structured] restorative justice program is a decrease in recidivism." The idea is that because RJ emphasizes both offender accountability and empowerment, "a returning offender is more likely to 'buy-in' to his or her reentry plan, vielding better outcomes." 15

III. WHY EMPIRICAL RESEARCH ON RESTORATIVE JUSTICE LEGISLATION?

Lack of RJ Legislation.

Despite its age, benefits, and popularity, there is currently no federal RJ statute.⁴⁶ A search

multivariate analysis shows that after 24 months of successfully completing diversion, juveniles in the restorative justice program had slightly lower rates of recidivism."). Note, however, that effectiveness may vary depending on a multitude of factors,

criminal record.

40 Sherman, *supra* note 39.

including gender and a previous

for a federal RJ statute on Westlaw yields only five results. In one statute, RJ operates as a buzzword. For example, the statute defines "school resource officer" as an individual who trains students in RJ.⁴⁷ Nowhere in the neighboring statutes, however, is RJ defined.⁴⁸ In a federal statute that uses the term more substantively, the substantive portion only applies to Alaska.49 While another statute authorizes the Attorney General to give states grants for RJ programs, RJ is merely one out of a laundry list of programs for it to get any meaningful attention.⁵⁰ Other statutes cited to a case that had RJ in the case name.⁵¹ That case, however, dealt with the right to intervene rather than a

a corresponding widespread decline in reoffending.")

⁴¹ See Declan Roche, Restorative Justice and the Regulatory State in South African Townships, 42 BRIT. J. CRIMINOLOGY 514, 515 (2002).
⁴² Id.

⁴³ Lee, supra note 17.

⁴⁴ Gwen Robinson & Joanna Shapland, *Reducing Recidivism: A Task for Restorative Justice?*, 48 BRIT. J. CRIMINOLOGY 337, 339-40 (2008); see also Wenzel, *supra* note 41 (noting that despite reduced recidivism being an important argument for RJ, "complicating factors make it nearly impossible to accurately predict whether widespread implementation of RJ techniques would necessarily result in

⁴⁵ Faye S. Taxman, *The Offender and Reentry: Supporting Active Participation in Reintegration*, 68-SEP FED. PROB 31,33 (2004).

⁴⁶ Sandra Pavelka, *Restorative Juvenile Justice Legislation and Policy: A National Assessment*, 4 INT'L J. RESTORATIVE JUST. 100, 100-01 (2008).

⁴⁷ 42 U.S.C.A. § 3796dd-8 (West).

⁴⁸ *Id*.

 ⁴⁹ CONSOLIDATED
 APPROPRIATIONS ACT, 2004, 108
 P.L. 199, 118 Stat. 3 *, 108 P.L. 199,
 2004 Enacted H.R. 2673, 108 Enacted
 H.R. 2673

⁵⁰ 42 U.S.C.A. § 3796ee (West).

⁵¹18 U.S.C.A. § 3771 (West); U.S. Const. amend. VIII.

³⁷ Lucy Clark Sanders, *Restorative Justice: The Attempt To Rehabilitate Criminal Offenders and Victims*, 2 CHARLESTON L. REV. 923, 929 (2008).

 $^{^{38}}$ Id.

³⁹ Umbreit, *supra* note 36, at 97; see also Christa Pelikan & Thomas TRENCZEK, VICTIM OFFENDER MEDIATION AND RESTORATIVE JUSTICE: THE EUROPEAN LANDSCAPE, IN HANDBOOK OF RESTORATIVE JUSTICE 63, 78 (Dennis Sullivan & Larry Tifft eds. 2006); see also Michael Wenzel et al., Retributive and Restorative Justice, 32 LAW & HUM. BEHAV. 375, 377 (2008) (explaining that RJ techniques tend to decrease instances of reoffending at a higher rate than court processes); see also Nancy Rodriguez, Restorative Justice at Work: Examining the Impact of Restorative Justice Resolutions on Juvenile Recidivism, 53 CRIME & DELINQ. 355, 371 (2007) ("When comparing juveniles in a restorative justice program with juveniles in a comparison group,

discussion on whether RJ programs should be mandated.⁵²

On the state side, the impression is misleading. If someone looks for statutes or codes that merely incorporate the term RJ or terms associated with restorative practices (e.g., victim-offender mediation, community conferencing, circles, neighborhood accountability boards and reparative boards), then one will find that a majority of states have incorporated RJ in their statutes or codes.⁵³ If someone looks for statutes or codes that encompasses all approaches to RJ, such as the balanced and restorative justice approach, then one will find that 20 states articulate this approach in their statutes or codes. If an individual is only interested in the RJ approach, however, then one will find that even now, in 2017, only 11 states "emulate restorative justice principles in statute or code reference."54 Thus, while many statutes are identified by terms often associated with restorative practices, many do not convey authentic 'restorativeness.'" 55 To make matters complicated, expanding

RJ legislation in many ways reminds one of the vicious cycle of poverty. To expand RJ legislation, more empirical research is needed; but to conduct empirical research. more RJ legislation is needed. "Without a more systemic implementation of restorative justice programs, there is not enough data to support" further empirical research.⁵⁶ Hence, it is no surprise that a major barrier to expanding RJ legislation is "the lack of empirical research to prove its objective outcomes."57

Why Study RJ **Legislation.** So why should researchers care to conduct further empirical research on RJ legislation? Because RJ is a "growing international movement within the fields of iuvenile and criminal iustice."58 RJ is accepted and practiced throughout the United States. New York, Vermont, and Ohio establish it as their underlying philosophy, guiding principle, or cornerstone for their justice systems.⁵⁹ Minnesota maintains an office to develop RJ programs throughout their state. 60 It is a common topic of discussion at professional conferences and the federal

Justice Department sponsors conferences, seminars, and teleconferences on the topic. 61 Thus, RJ is not an abstract concept. While RJ has its critics, "world-wide acceptance of ... [RJ programs] . . . suggest that these criticisms are more likely to influence *how* restorative justice is incorporated into conventional criminal justice responses rather than *whether* they are incorporated." 62

While RJ programs do not require legislation, legislation can be a preferable option. First, legislation can positively promote RJ as a priority and imperative.⁶³ Section 1170 of California's Penal Code is living proof of this idea. In 2010. California Senator Leeland Yee introduced a bill authorizing prisoners—who committed an offense as a juvenile—to ask courts to reexamine their sentences after serving 15 years for that specific offense.⁶⁴ The first sentence of the bill's text incorporates the term "restorative justice" as a means through which public safety is accomplished.65 The binding power of this law forces California courts to re-assess

⁵²18 U.S.C.A. § 3771 (West).

REGENT U.L. REV. 53, 53 (1998).

⁵³ Sandra Pavelka, Restorative Justice in the States: An Analysis of Statutory Legislation and Policy (Center on Juvenile and Criminal Justice 2016), http://www.cjcj.org/uploads/cjcj/documents/jpj_restorative_justice_in_the_states.pdf [https://perma.cc/9XQX-AXER]

⁵⁴ *Id*. at 7.

⁵⁵ *Id.* at 12.

⁵⁶ Vi D. Gabbay, *Justifying* Restorative Justice: A Theoretical Justification for the Use of Restorative Justice Practices, 2005 J. DISP. RESOL. 349, 369 (2005).

⁵⁷ Peterson, *supra* note 22, at 849;
Mosteller, *supra* note 26, at 22.
⁵⁸ Daniel W. Van Ness, *Article: Legislation for Restorative Justice*, 10

⁵⁹ Id. at 91.

⁶⁰ *Id*.

⁶¹ *Id.* at 91.

⁶² *Id.* at 55.

⁶³ Lee, supra note 17, at 537.

⁶⁴ CAL. PENAL CODE § 1170 (Deering 2017).

⁶⁵ *Id*.

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whether an inmate is fit for a reduced sentence.

Second, programs are restorative to the extent they reflect RJ principles and values. 66 Legislation can help to articulate guiding principles for operating and evaluating RJ programs.⁶⁷ For example, family group conferences can be conducted from a perspective concerned with the offender or the victim or the community.⁶⁸ Often this is a result of state funding programs attaching restrictions when issuing funds for those programs.⁶⁹ Guiding principles and monitoring mechanisms increase the likelihood that programs identified as restorative will truly be restorative. 70 In Minnesota, the Community Justice Services Act guides state officials by requiring them to "develop outcome measurements that would enable assessment of whether the goals of the act ... were actually being accomplished."71 Guiding principles such as this one can create opportunities through which compliance can be enforced.⁷² Guiding principles can also help provide uniformity. Finally, monitoring mechanisms allow for extensive data to be collected:

thereby, serving as an impetus for further in-depth quantitative and qualitative research. The data can also serve as criterion for stakeholders to consider when evaluating the merits of future RJ policy.

Third, legislation helps to remove legal or systemic barriers to RJ programs. Prior to the Minnesota Community Correctional Services Act, Minnesota did not have pretrial diversionary alternatives.⁷³ The act required every county prosecutor to establish a pretrial diversion program for offenders to address this void. Hence, further research on RJ legislation can also help to cure market failures like the one that that used to exist in Minnesota.

Fourth, legislation can ensure a smooth or at least similar transition. Traditionally, RJ programs have developed independent of legislative mandate while our conventional criminal justice system has been governed by legislation.⁷⁴ If RJ is looking to replace, or at the very least supplement, the criminal justice system, then the hope is that utilizing a similar approach will allow for a more normal transition.

Fifth, legislation clarifies roles and subsequently creates

incentives for members of the community to use RJ programs. "Authorizing legislation would ensure that police, prosecutors, judges and correctional workers interested in using restorative programs could do so without fear of subsequent rulings that they lacked authority."⁷⁵ In Indiana, judges were unsure whether they could mandate victim-offender mediation in sentencing orders and were thus reluctant to do so.⁷⁶ To resolve this qualm, legislators introduced a bill that explicitly included victimoffender mediation in the definition of "community correction programs." One of the bills discovered in this research also had a similar effect. In Colorado, officers, judges, and schools had the discretion to divert cases from the criminal system and refer offenders to RJ programs. Beverly Title (a member of the statewide restorative justice council) said "[b]efore, people were doing RJ, but sometimes felt like they were operating on the fringe of legitimacy. The new law establishes RJ as part of the Children's Code. It legitimizes this as a diversion." Title believes bills like CO H 1117 are the reason courts will

⁶⁶ Van Ness, *supra* note 60, at 65.

⁶⁸ Martin Wright, The Development of Restorative Justice, Paper Presented to International Conference on Restorative Justice for Juveniles, conducted at Leuven, Belgium (May 12-14, 1997).

⁶⁹ Marty Price, *Personalizing Crime*, 7 DISP. RESOL. MAG. 8, 9 (2000).

⁷⁰ Van Ness, *supra* note 60, at 65.

⁷¹ MINN. STAT. § 388.24(2) (1997).

⁷² Van Ness, *supra* note 60, at 66.

⁷³ MINN. STAT. § 388.24(2) (1997).

⁷⁴ Van Ness, *supra* note 60, at 56. ⁷⁵ Id. at 58.

⁷⁶ IND. CODE ANN. § 11-12-8-1(5) (Michie 1992).

likely make more referrals to RJ programs.⁷⁷

Finally, RJ legislation can reduce high costs and backlogged court dockets.⁷⁸ "There is a general consensus that RJ practices are 'less costly and require less time,' overall." 79 "The implementation of restorative justice has resulted in significant and real changes: fewer young offenders now appear in courts, fewer young offenders are now placed in [welfare shelters] [,]and fewer young offenders are now sentenced to custody. This all, of course, had to result in considerable cost [and time] savings."80

Why Study RJ
Legislation Specific to
Juveniles. Why should
researchers care about studying
RJ legislation *specific to juveniles*? Recent Supreme
Court jurisprudence calls on us
to recognize the distinction
between adult and juvenile
offenders. 81 In *Roper v. Simmons*, the Court held capital
punishment of minors was

unconstitutional.82 Given that their immaturity diminishes their culpability and given their heightened capacity for reform, the Court found the death penalty as a disproportionate sentence for juveniles.83 Justice Kennedy specifically reasoned "juveniles are not trusted with the privileges and responsibilities of an adult ... their irresponsible conduct is not as morally reprehensible as that of an adult."84 Having barred the use of capital punishment for juveniles, the Roper Court left the sentence of life without parole as the harshest sentence available for iuveniles.

In *Graham v. Florida*, the Supreme Court banned the use of life without parole for nonhomicide juvenile offenders. ⁸⁵ In arriving at this holding, the Court relied on an amicus briefs that argued "medical science confirms both the need for categorical distinctions in the treatment of juvenile vs. adult offenders." ⁸⁶ "Studies conclusively establish that the brain of an adolescent is not

fully developed[;] particularly in the area of the prefrontal cortex, which is critical to higher order cognitive functioning and impulse control. When a juvenile is confined either to the juvenile or adult corrections system, regardless of sentence, the institution is responsible for addressing those neurobiological-based deficiencies."87 The amicus brief heightens John Braithwaite's words that "individuals would not be repeat offenders if we did not force them into 'daily interaction' with other criminals through incarceration" for juveniles.88 Having barred the use of life without parole for nonhomicide juvenile offenders, the Graham Court left life without parole as the harshest sentence available for juvenile homicide offenders. In Miller v. Alabama, the Court then held that mandatory life without parole sentences for juvenile homicide offenders violated the

EMORY L. J. 341, 381 (1991).

⁷⁹ Zvi D. Gabbay, *Justifying Restorative Justice: A Theoretical Justificaiton for the Use of Restorative Justice Practices*, 2005 J. DISP. RESOL. 349, 369 (2005) (study showed that the cost of a case through a RJ program was \$80 versus \$2649.50 through the court system); T. Bennett Burkemper et al., *Restorative Justice in Missouri's Juvenile System*, 63 J. Mo. B. 128, 129 (2007) (noting that Genesse County in New York estimates that it saved more than \$4 million using a restorative system).

⁸⁰ Allison Morris, Critiquing the Critics: A Brief Response to Critics of Restorative Justice, 42 Brit. J. Criminology 596, 605 (2002).

⁷⁷ Joshua Wachtel, New Colorado Law Authorizes Restorative Justice Conferences for Adjudicated Youth, INT'L INST. FOR RESTORATIVE JUSTICE (May 21, 2008), http://www.iirp.edu/eforumarchive/4398-new-colorado-lawauthorizes-restorative-justiceconferences-for-adjudicated-youth [http://perma.cc/MJ6K-LEZ5]. ⁷⁸ Edward J. Imwinkelried, *The Right* to "Plead Out" Issues and Block the Admission of Prejudicial Evidence: The Differential Treatment of Civil Litigants and the Criminal Accused as a Denial of Equal Protection, 40

⁸¹ Tsui, *supra* note 20, at 644.

⁸² Roper v. Simmons, 543 U.S. 551, 578-79 (2005).

⁸³ *Id.* at 571.

⁸⁴ Id. at 561.

⁸⁵ Graham v. Florida, 560 U.S. 48, 74 (2010).

⁸⁶ See Brief of Council of Juvenile Correctional Administrators et al. as Amici Curiae in Support of Petitioners at 4, Graham v. Florida, 130 S. Ct. 2011 (2010) (No. 08-7412).

⁸⁷ Id.

⁸⁸ Braithwaite, *supra* note 19.

Eighth Amendment.⁸⁹ It is decisions like these that add more fuel to the growing RJ movement and decisions like these that lead senators like California Senator Leeland Yee to introduce the bill he did.

Acknowledgement of Researcher's Personal

Bias. Aside from the fact this topic is non-existent in the current and available literature, pursuing this topic was also motivated by personal bias. My time as an educator in Los Angeles around 2013 was an exciting year. After months of community organizing, the Brothers, Sons, Selves Coalition made civil rights history when its efforts successfully led the Los Angeles Unified School District [hereinafter LAUSD] to adopt the School Climate Bill of Rights⁹⁰—a bill aimed at dismantling the school-toprison pipeline by outlawing suspensions or expulsions for a willful defiance (48900(k)) offense. 9192 As an alternative to these suspensions or expulsions, the bill mandated all schools develop and implement RJ by 2020.93 As a former K-12 public school teacher in Los Angeles, I witnessed firsthand the successful implementation of this initiative. I participated in numerous RJ learning

communities, RJ professional developments, and meetings with RJ coordinators to implement RJ practices in my classroom. Not one student was suspended or expelled for willful defiance during my tenure because of this initiative. My observations of the initiative's success, however, are limited to the educational realm. After transitioning to the legal field, I sought to understand whether initiatives like LAUSD's School Climate Bill of Rights are actually successful at dismantling the school-to-prison pipeline. I also wonder whether more community organizing campaigns should center around pushing state-wide restorative justice legislation forward, given that is why I pursued law—to see the impact of my efforts reach beyond the four walls of my classroom and reach students across the state. The answer to this question depends on what impact, if any, state-wide RJ legislation has on the juvenile justice system.

IV. INTRODUCTION TO THE RESEARCH

This article seeks to explore a mere quantitative relationship between RJ legislation and three declining trends that exist within the "school-to-prison" pipeline. It is important to clarify that the purpose of this article is not to analyze the costs, feasibility, and availability of such legislation. This research is targeted to answer the following research question(s):

- 1. What relationship, if any, did states that introduced RJ legislation have with states that experienced a decline in juvenile petitions in the United States from 2008 to 2013?
- 2. What relationship, if any, did states that introduced RJ legislation have with states that experienced a decline in juvenile homicide offenders in the United States from 2008 to 2014?
- 3. What relationship, if any, did states that introduced RJ legislation have with states that experienced a decline in juvenile arrest rates in the United States from 2008 to 2012?
- 4. How did states that introduced RJ legislation compare with states that did not introduce RJ legislation when examining the national average decline for each of these trends?
- 5. What do future trendlines forecast about the impact RJ legislation will have on

lt/files/2013%20SD%20Policy%20an d%20SCBR%20Resolution%20FINA L.pdf [https://perma.cc/4VXL-E882].

39

⁸⁹ Miller v. Alabama, 567 U.S. 460, 463 (2012).

⁹⁰ Monica Garcia, *2013 School* Discipline Policy and School Climate Bill of Rights, DIGNITY IN SCHOOLS (2013).

www.dignityinschools.org/sites/defau

⁹¹ Manuel Criollo, *Equal Protection Plan Timeline*, THE LAB./COMMUNITY STRATEGY CTR.

⁽Aug. 19, 2014), http://www.thestrategycenter.org/blog/2014/08/19/equal-protection-plan-timeline [https://perma.cc/V7V8-N847].

⁹² DIGNITY, *supra* NOTE 90, at 3.

⁹³ *Id*.

the three aforementioned trends?

Methodology. This article surveys RJ legislation, juvenile petition counts, juvenile homicide offenders, and juvenile arrest rates in 50 U.S. states generally across a fivevear period (2008-2012). This article relies on five national databases to collect data. The first two databases track restorative justices bills from the criminal, civil, and education contexts while the third, fourth and fifth databases track juvenile petition, juvenile homicide offender, and juvenile arrest. Any states with bills, petitions, homicide incidences, and arrests that are either (1) outside of the respective year ranges; or (2) simply do not have sufficient or available data are intentionally excluded from this inquiry for the sake of consistency. The databases, the declining trends, and the time frames are selected based on the sake of consistency and to collect a large volume of data efficiently in a relatively short time frame (approximately three months).⁹⁴

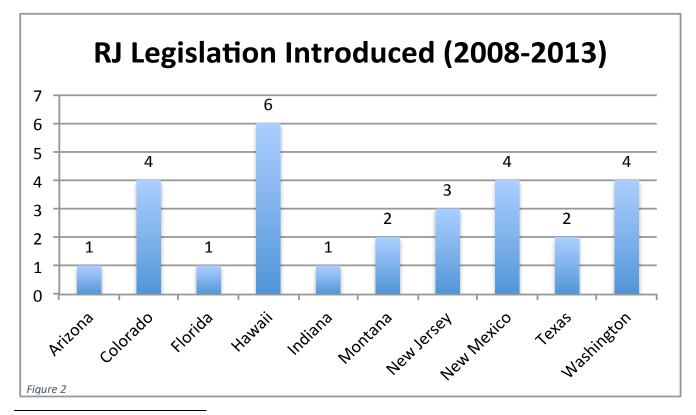
V. FINDINGS AND DISCUSSION

RJ Legislation and Juveniles in Court Results.

Between 2008 and 2013, the following 10 states introduced at least one, if not more, restorative justice bills: Arizona, Colorado, Florida, Hawaii, Indiana, Montana, New Jersey, New Mexico,

Texas, and Washington. (See figure 4)

While statistical analysis revealed that the relationship was of moderate strength with an overall result of being nonsignificant, textual analysis of the RJ bills explains a more common-sense link between these bills and the decline in petition counts. For example, in 2011, Colorado enacted a bill which among other things encourages "each school district in the state and the state charter school institute to implement restorative justice practices for use in disciplinary programs."95 North High School is an example of a school in Denver, Colorado that implemented RJ practices for use in disciplinary programs.⁹⁶ North High School



⁹⁴ See Appendix B for more on methodology.

⁹⁵ 2011 Bill Text CO H.B. 1032(2)(6).

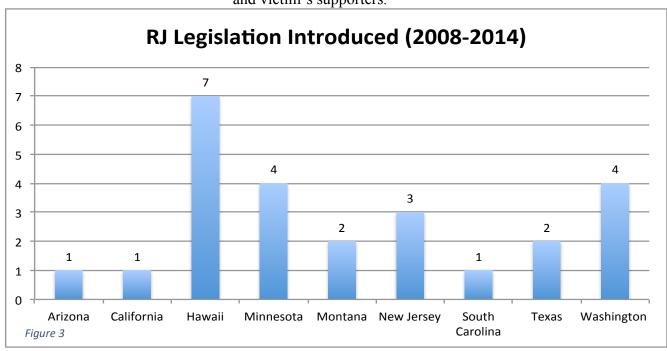
⁹⁶ Gonzales, *supra* note 22, at 321.

had been identified as "highneed, with some of the district's largest numbers of suspensions, tickets, and arrests."97 Since the program's development and implementation, the school conducted over 830 formal and 100 informal restorative interventions. The result? Referrals to law enforcement decreased by 70%.98 One can then understand the decrease in petition counts. In 2012, Washington enacted WA H 1775. The bill required prosecutors to divert the case rather than file a complaint if any juvenile committed a misdemeanor or gross misdemeanor, and it was his or her first violation. Again, one can see how bills like this can yield reductions in petition counts.

RJ Legislation and Juvenile Homicide Offender Results. Between 2008 and 2014, the following nine states introduced at least one, if not more, restorative justice bills: Arizona, California, Hawaii, Minnesota, Montana, New Jersey, South Carolina, Texas, and Washington. (See figure 5)

While statistical analysis revealed that the relationship was of moderate strength with an overall result of being nonsignificant, textual analysis of the RJ bills explains a more common-sense link between these bills and the decline in juvenile homicide offender rates. Hawaii is particularly illustrative. In 2013, Hawaii introduced a bill allowing juvenile offenders and their family to meet with the victim and victim's supporters.⁹⁹

Hawaii also introduced a bill allowing courts to dispose of a juvenile's case by referring them to a RJ program where the juvenile admits guilt. 100 Finally, Hawaii introduced a bill requiring family courts to order the adjudicated minor (or his parents) to pay restitution to the victim. 101 While bills like these use restorative justice as a means to discipline offenders once they've entered the juvenile justice system, these bills allow for powerful, emotional human dialogue to occur and provide the offender a second chance all while still holding the juvenile and the juvenile's parents accountable. Bills like these make it easy to see why a reduction in recidivism rates is a happy "side effect" of RJ legislation and why there would be a



⁹⁷ Id. at 324.

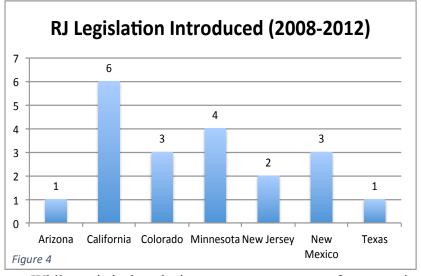
2010. Executive Summary, Denver Pub. Sch., 1, 334 (2010).
99 2013 Bill Tracking HI S.B. 61.

⁹⁸ Myriam L. Baker, *DPS Restorative Justice Project: Year Four 2009-*

 ¹⁰⁰ 2013 Bill Tracking HI H.B. 182.
 ¹⁰¹ 2013 Bill Tracking HI H.B. 239.

decline in juveniles committing homicide.

RJ Legislation and Juvenile Arrest Rate Results. Between 2008 and 2012, the following seven states introduced at least one, if not more, restorative justice bills: Arizona, California, Colorado, Minnesota, New Jersey, New Mexico, and Texas. 102 (See Figure 6) introduced a bill that would "\$270,000 is appropriated from the general fund to the sixth judicial district court for expenditure in fiscal year 2009 to provide juvenile and adult offender restorative justice services in the sixth judicial district, including mediation, community conferencing and justice circles." A fiscal impact report stated the



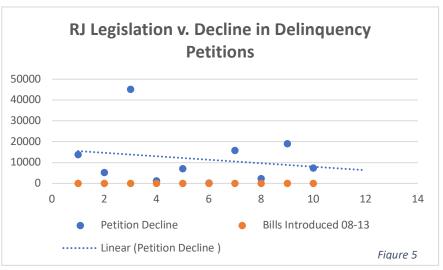
While statistical analysis revealed that the relationship was weak with an overall result of being non-significant, textual analysis of the RJ bills explains a more common-sense link between these bills and the decline in juvenile arrest rates. Colorado's bill not only explains why one would see a decline in petition counts but arrest rates as well. And of all states that introduced bills. Colorado saw the largest decline in arrest rates. Interestingly enough, studying the converse also allows us to see the impact of RJ legislation. In 2008 and 2009, New Mexico

consequences of not enacting the bill would mean the 6th Judicial District will not be able to provide restorative justice services. 104 This bill

failed both times. And of all states that introduced RJ legislation. New Mexico saw the second to lowest decline in arrest rates. New Mexico's example lends credibility to the idea that RJ legislation appropriating funds would allow for implementation of RJ initiatives that would result in a vital and genuine difference such as fewer young offenders being arrested and appearing in court; thereby reducing the high costs and backlogged court dockets that plague our system.

Overall Interpretation of the Results. Textual analysis aside, there is even more hope for RJ legislation activists. Trendlines forecasting the future indicate that as more RJ legislation is introduced, the count in delinquency petitions will decline. (See Figure 7)

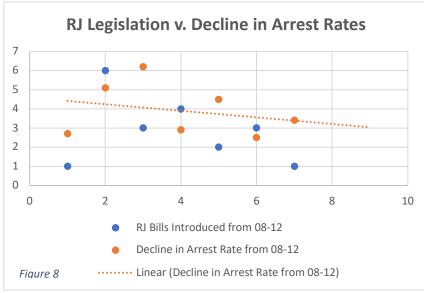
Another trendline shows how as more RJ legislation is introduced, the count of juvenile homicide offenders will decline. (See Figure 8)



¹⁰² Data on file with author.

¹⁰³ 2008 Bill Tracking NM S.B. 254.

¹⁰⁴ *Id*.

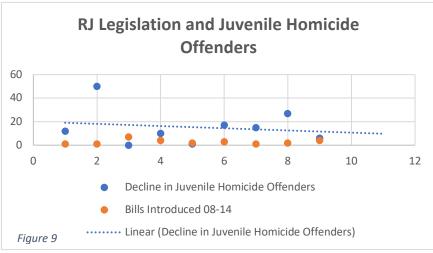


The same result for decline in arrest rates. (See Figure 9)

RJ legislation activists can have more confidence in these trendlines, than in the statistical analyses *supra* given how sensitive the P-Values were to the sample size. The largest sample in this research contains ten states. Hence, these trendlines and logic demonstrate how even one more restorative justice bill can make a statistical relationship more significant.

There are additional observations from this data for RJ legislation activists to be

proud of and for stakeholders to consider. Not only does the data show that states that introduce RJ legislation saw a reduction in their delinquency petitions, juvenile homicide offenders, and arrest rates but also shows how each of these states exceeded the U.S. averages with impressive figures. 78% of states that introduced at least one RJ bill exceeded the U.S. average of decline in iuvenile homicide offenders. 50% of the states that exceeded the U.S. average rate of decline in delinquency petitions were states that



introduced at least one RJ bill. 43% of states that introduced at least one RJ bill also exceeded the U.S. average decline in juvenile arrest rates. If there is any lesson to take away from these results, it is that introducing more statewide RJ legislation can only help the current state.

VI. CONCLUSIONS AND RECOMMENDATIONS

Summary. The results of this inquiry are mixed. While the results are not statistically significant for those given years, textual analysis of the bills, qualitative research, and trendlines forecasting the future indicate otherwise. Trendlines indicate that as more states introduce RJ legislation, the more those states will experience declines in each of those trends. The results inspire a need for more states to explore or experiment with RJ legislation so that in-depth studies by criminologists can more accurately measure the statistical significance of these relationships between RJ legislation and declining trends in the U.S. criminal justice system. Finally, other numerical data shows that an impressive percentage of states that introduced at least one RJ bill exceeded the national averages in each of those declining trends.

Limitations. These results are a byproduct of certain limitations and biases that are necessary to account for. The first limitation is this study did

not contain a simple random sample but rather convenience sampling. This inquiry only explores those states that record and report sufficient data to the national databases. While there are practical purposes for choosing convenience sampling, such as my limited time frame of three months, it still acts as a bias because it excludes states that could alter the results for the better. An implication of convenience sampling is voluntary response bias. Here, only data from those law enforcement agencies, states, or jurisdictions that volunteer to report data are included. Not only does convenience sampling and voluntary response bias restrict sample size, but the data may not be reflective of states for which data is either not recorded or reported for that year range. For example, in the inquiries that exclude either California, Colorado, or Minnesota, the data from other states could not possibly reflect the much success states like California, Colorado, or Minnesota experience with the RJ movement. Another form of sampling bias present in this study is nonresponse bias. Because timing of data collection is limited to less than three months, it severely limits the number of states that may eventually report data threemonths, six-months, or even a year from now.

For the same reason above, this inquiry is severely limited by the time frame for which data is collected. The highest year range for one of these inquiries is seven years, which is a relatively short time span for a growing movement. It is important to note, however, that states with bills, petitions, homicide incidences, or arrests that are either (1) outside of the respective year ranges; or (2) simply do not have sufficient or available data are intentionally excluded from this inquiry for the sake of consistency as well. Perhaps the most obvious limitation is that this inquiry is conducted by a law student and not a criminologist or statistician. Hence, this study does not adopt truly scientific/sophisticated measurement and analysis protocols because the research had to comply with deadlines within a short time frame making those methods unfeasible. Finally, even a criminologist or statistician who employs truly scientific or sophisticated protocols can still miss data because these databases are ultimately maintained by human beings. Bills that are introduced by a state legislature may not always be accounted for purely due to human error/measurement error on the database end. Overall. the examples of limitations and biases listed above are by no means exhaustive but are mentioned because they are identified as having the most profound impact on the results.

Implications. The textual analysis of the bills, forecasting trendlines, and other numerical data observations present impressive findings that I hope,

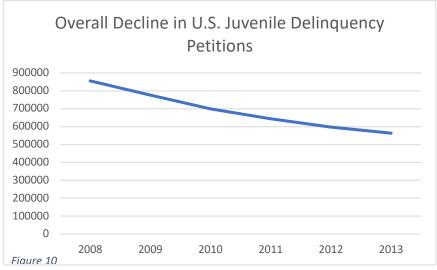
at the very least, will serve as a catalyst for future dialogue on the role of RJ legislation in dismantling the school-toprison pipeline. The data from this research should also serve as a catalyst for future research on RJ legislation. There will be a great need to research how legislation introduced impacts declining trends beyond the time frame (2008-2014) in this article Researchers should also consider studying how RJ policy introduced in the local arena impacts declining trends especially given how many education decisions are made at the local level. Following that reasoning, another interesting area to explore (once more data is available of course) is what impact, if any, school discipline bills have on dismantling the school-to-prison pipeline. Finally, for the more equipped researcher, a natural and inevitable area for study is the impact of RJ legislation on recidivism.

I hope that as a result of reading this paper more students, criminologists, policy analysts, or statisticians are inspired to pursue more indepth quantitative research on whether RJ legislation actually does dismantle the school-toprison pipeline. I also hope state legislatures continue to introduce and experiment with RJ legislation because forecasting trendlines show that introducing RJ legislation can only help to dismantle the school-to-prison pipeline crisis.

VII. APPENDIX A: THE THREE DECLINING TRENDS

Between 2008 and 2013, the estimated count for juvenile delinquency petitions reduced by 292,131.¹⁰⁵ (See Figure 10) methods involved for each survey.

RJ Legislation and Juveniles in Court. This article first surveyed restorative justice legislation and the decline in juvenile delinquency petitions in 50 states across a



Between 2006 and 2014, the estimated number of murders involving a juvenile offender fell 39%. 106 (See six-year period (2008-2013). The restorative justice

Number of homicide victims of k

legislation accounted for restorative justice bills in the criminal, civil, and educational contexts. This article examined the juvenile delinquency petitions for two reasons: (1) the delinquency petition is viewed as the formal entry point for juvenile prosecution¹⁰⁸; and (2) due to the relatively short time frame (approximately three months) of this project. This portion of the article explored the following research question(s):

1. What relationship, if any, did states that introduced RJ legislation have with states that experienced a decline in juvenile petitions in the United States from 2008 to 2013?

Number of homicide victims of known juvenile offenders, 1980-2014

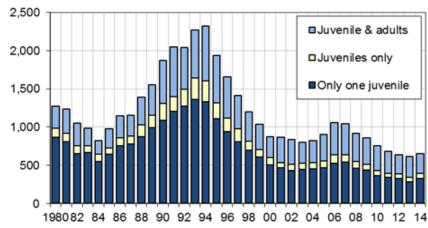


Figure 11

Between 2008 and 2012, the national total for juvenile

arrests reduced by 4.2%. 107

Figure 11)

(See Figure 12)

This section provides context for what each survey was about and data collection

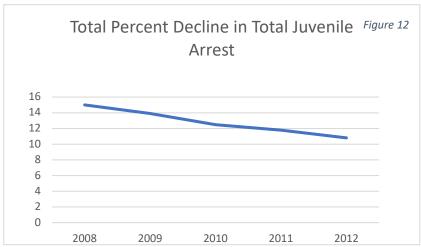
¹⁰⁵ Off. of Juv. Just. and Delinq. Prevention, *Offending by Juveniles*, OFF. OF JUV. JUST. AND DELINQ. PREVENTION (May 25, 2016), http://www.ojjdp.gov/ojstatbb/offend ers/qa03105.asp?qaDate=2014 [https://perma.cc/HP5U-U3LC]. 107 Puzzanchera, C. and Kang, W., Easy Access to FBI Arrest Statistics 1994-2012, Off. Of JUV. JUST. AND DELINQ. PREVENTION (2014), https://www.ojjdp.gov/ojstatbb/ezaucr / [https://perma.cc/JR2Z-DLJH].

¹⁰⁸ Bureau of Just. Stat., *Criminal Justice System Flowchart*, Off. of Just. Programs (Apr. 24, 2017),

https://www.bjs.gov/content/largechar t.cfm [https://perma.cc/2X4H-AY3G]; Bureau of Just. Stat., *The Justice System Flowchart*, OFF. OF JUST. PROGRAMS (last visited Apr. 24, 2017)

https://www.bjs.gov/content/justsys.c fm#juvenile [https://perma.cc/V7V8-N847].

VIII. APPENDIX B: METHODOLOGY



To collect data on RJ legislation, I utilized two Lexis Nexis State Net-powered databases, developed by the National Conference of State Legislatures, to track the status of RJ bills from 2008 to 2013 in each state. 109 The first database, the JUVENILE JUSTICE BILLS TRACKING DATABASE (also developed by the John D. and Catherine T. MacArthur Foundation). tracked the status of RJ bills in the civil and criminal justice context. The second database. Educational Bill Tracking Database, tracked the status of RJ bills in the educational context. 110 To collect data on juvenile delinquency petitions. I utilized the Office of Juvenile

Justice and Delinquency Prevention's Easy Access to State and County Juvenile Court Case Counts database.¹¹¹ The primary reasons for using these databases allowed me to collect a large volume of data efficiently in a short period of time.

Under the first database, a search consisted of filtering by (1) the topic (here restorative justice was already a prepopulated field to be selected); (2) state; (3) status (here I selected "All" to account for even those bills which had failed, been vetoed, or were pending); and (4) year (here again, I selected "All" to account for bills from 2008-2013). Once the database

bills introduced 2014 onwards and then individually recorded. for each state, the number of bills either enacted/adopted, introduced/pending, or not introduced at all in an excel spreadsheet. The search protocol for the second database was mostly the same as the first database except for two filters: (1) the topic (here restorative justice was not a pre-populated topic field and thus, this database required a natural language search); and (2) state (here I selected "All" after a preliminary search revealed very few states had introduced RJ education bills to begin with). A search within the State and County Juvenile Court Case Counts database consisted of filtering by (1) year and (2) state. Once the database returned results, I individually recorded, for each state (and accounting for all counties), the decline in delinquency petitions by subtracting the petition counts in 2013 from the petition counts in 2008 in an excel spreadsheet. 112

returned results, I set aside any

http://www.ncsl.org/research/educatio n/education-bill-tracking-database.aspx [https://perma.cc/5XGD-MRNQ].

111 Hockenberry, S., Smith, J., and Kang, W., *Easy Access to State and County Juvenile Court Case Counts, 2013*, OFF. OF JUV. JUST. AND DELINQ. PREVENTION (2015), https://www.ojjdp.gov/ojstatbb/ezaco/[https://perma.cc/8XRX-82FM].

112 The following states were not included because either the case counts were not available for a given state or the data available was insufficient to remain consistent with other states: California, Kentucky, Louisiana, Maine, Mississippi, New Hampshire, North Dakota, Virginia, and Minnesota. States that missed a year of data were, however, included because the data from the remaining years was sufficient to remain consistent with other states; Illinois,

¹⁰⁹ Both databases had the capacity to track bills to present (2017) but tracking was constrained to 2012 to align with arrest rate data and due to time considerations; Nat'l Conf. of State Legislatures, *Juvenile Justice Bills Tracking Database*, NAT'L CONF. OF STATE LEGISLATURES (Apr. 24, 2017), [https://perma.cc/G3ZF-NUEB].

¹¹⁰ Nat'l Conf. of State Legislatures, *Education Bill Tracking Database*, NAT'L CONF. OF STATE LEGISLATURES (Apr. 24, 2017),

Once all data was recorded. I sorted the data into two variables. Variable X was a list of every state that introduced at least one RJ bill between 2008 and 2013. Variable Y was a list of the declines in petition counts for each state that introduced at least one RJ bill between 2008 and 2013. To measure the strength and direction between the two variables. I utilized the Pearson Correlation Coefficient. After calculating the R value and value of R², I then calculated the P value for the relationship to assess the statistical significance of the correlation. The results of the data are revealed and analyzed in section four of this article.

RJ Legislation and Juvenile Homicide

Offenders. This article also surveyed restorative justice legislation and the decline in juvenile homicide offenders in 50 states across a seven-year period (2008-2014). The author chose to also examine juvenile homicide offenders for two reasons: (1) homicide is undoubtedly one of the most serious criminal offenses and if restorative justice legislation may be impactful on one of the most severe offenses in our world, then it is certainly an area of great interest; and (2)

due to the relatively short time frame (approximately three months) of this project. This portion of the article explored the following research question(s):

1. What relationship, if any, did states that introduced RJ legislation have with states that saw a decline in juvenile homicide offenders in the United States from 2008 to 2014?

Collecting data on RJ legislation involved the same method mentioned previously, except the filtering process accounted for bills introduced from 2008-2014. To collect data on juvenile homicide offenders. I utilized the Office of Juvenile Justice and Delinquency Prevention's Easy Access to the FBI's Supplementary Homicide Reports: 1980-2014 database. 113 Using this database allowed me to collect a large volume of data efficiently in a short period of time. A search within the FBI's Supplementary Homicide Reports database consisted of filtering by (1) known offenders; (2) year of incident (here I selected 2008-2014); (2) age of offender (here I selected ranges 0-11 and 12-17); (3)

state; (4) sex (here I selected both males and females to account for all sexes provided): (5) race (here I selected White, Black, American Indian/ Alaskan native, and Asian/Nat. Hawaiian/Pacific Island to account for all races provided). Once the database returned results, I individually recorded, for each state, the decline in homicides by juvenile offenders by subtracting the incidences in 2014 from the incidences in 2008 in an excel spreadsheet. 114

Once all data was recorded. I sorted the data into two variables. Variable X was a list of every state that introduced at least one RJ bill between 2008 and 2014. Variable Y was a list of the declines in homicide by juvenile offenders for each state that introduced at least one RJ bill between 2008 and 2014. To measure the relationship and statistical significance of the two variables, I followed the same method mentioned previously. The results of the data are revealed and analyzed in section four of this article.

RJ Legislation and Juvenile Arrest Rates.

Finally, this article surveyed restorative justice legislation and juvenile arrest rates in 50

Michigan, Nevada, New York, and Wyoming.

114 The following states were not included because either the case counts were not available for a given state or the data available was insufficient to remain consistent with other states: Alabama, Florida, and North Dakota. Although the District

of Columbia missed a year of data, it was, nonetheless, included because the data from the remaining years was sufficient to remain consistent with other states.

Homicide Reports: 1980-2014, Off. Off Juv. Just. and Deling. Prevention (May 25, 2016), https://www.ojjdp.gov/ojstatbb/ezashr/[https://perma.cc/EPZ6-L34P].

states across a four-year period (2008-2012). This study included juvenile arrest rates for two reasons: (1) it is viewed as the entry point to the criminal justice system¹¹⁵; and (2) due to the relatively short time frame (approximately three months) of this project. This study explored the following research questions:

1. What relationship, if any, did states that introduced RJ legislation have with states that experienced a decline in juvenile arrest rates in the United States from 2008 to 2012?

Collecting data on RJ legislation involved the same method mentioned previously, except the filtering process accounted for bills introduced from 2008-2012. To collect data on juvenile arrest rates, I utilized the Office of Juvenile Justice and Delinquency Prevention's Easy Access to FBI Arrest Statistics: 1994-2012 database. 116 Using this database as well allowed me to collect a large volume of data efficiently in a short period of time. A search within the FBI Arrest database consisted of filtering by (1) state; (2) county (here I selected "All counties" to account for arrest rates in the entire state); (3) data display option (here, I selected "percentage" for more convenient calculation); (4)

population (here I selected "juvenile" as that is naturally the focus of this study); and (5) time period (here I selected 2006-2012). Once the database returned results, I set aside any arrest rates from 2007 or previous years and then individually recorded, for each state, the reduction in arrest rates by subtracting the arrest rate in 2012 from the arrest rate in 2008 in an excel spreadsheet.

Once all data was recorded. I sorted the data into two variables. Variable X was a list of every state that introduced at least one RJ bill between 2008 and 2012. Variable Y was a list of the declines in juvenile arrests for every state that introduced at least one RJ bill between 2008 and 2012. The same method mentioned previously was utilized to measure the relationship and statistical significance of the two variables. The results of the data are revealed and analyzed in the subsequent section of this article

IX. APPENDIX C:
PEARSON
CORRELATION
COEFFICIENT
CALCULATIONS

RJ Legislation and Juveniles in Court Results.

A Pearson Correlation Coefficient Calculation revealed the following results for the states above:

R Score	-0.5378
Strength	Moderate
Direction	Negative
R ² Value	0.2892
P-Value at	0.108841
0.10	
Significance	
Level	
Overall result	Not
	significant
N	10

RJ Legislation and Juvenile Homicide Offender Results. A Pearson Correlation Coefficient Calculation revealed the following results for the states above:

R Score	-0.5515
Strength	Moderate
Direction	Negative
R ² Value	0.3042
P-Value at	0.123739
0.10	
Significance	
Level	
Overall result	Not
	significant
N	9

RJ Legislation and Juvenile Arrest Rate

Results. A Pearson Correlation Coefficient Calculation revealed the following results for the states above:

Delino. Prevention (2014), https://www.ojjdp.gov/ojstatbb/ezaucr/asp/ucr_display.asp
[https://perma.cc/ZN3K-C2ZT].

¹¹⁵ Bureau, *supra* note 108.

¹¹⁶ Puzzanchera, C. and Kang, W., Easy Access to FBI Arrest Statistics 1994-2012, OFF. OF JUV. JUST. AND

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R Score	0.3629
Strength	Weak
Direction	Positive
R ² Value	0.1317
P-Value at	0.423675
0.10	
Significance	
Level	
Overall result	Not
	significant
N	7