

**How 'Nothing Works' Was Won: The End of Treatment and Fracturing of the
Asylum**

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Introduction

Erving Goffman defined an asylum as “a place of residence and work where a large number of like-situated individuals, cut off from the wider society for an appreciable period of time, together lead an enclosed, formally administered round of life” (Goffman 1961). In the last half century, we have witnessed remarkable transformations in the prevalence of these types of organizations for different populations (see figure 1). Between 1950 and 1995, the rate of institutionalization in State and County Mental Hospitals in the United States dropped by over eighty percent. During the same period, the rate of institutionalization in State Prisons increased by almost three hundred percent (National Institute of Mental Health; Bureau of Justice Statistics). During the same period of time, the rate of juvenile detention in the United States first dropped and then spiked (Department of Health, Education and Welfare; Bureau of Justice Statistics).

Several scholars have analyzed transformations in the role of the asylum in the United States as manifested in mental health, criminal justice and juvenile justice over the course of the last half century (Rothman 1971; Foucault 1977; Sutton 1988; Young 1999; Feld 1999; Garland 2001; Wacquant forthcoming; Rafael forthcoming). Some scholars argue that these three institutions change in tandem, reflections of broader cultural norms (Rothman 1971; Foucault 1977), while others argue that these institutions have an inverse relationship to one another, meaning that as the number of residents in one type decreases, the number of residents in another type increases (Penrose 1939; Rafael forthcoming). A third body of scholarship investigates the changes in one organizational form without reference to the others (Hirschi and Gottfredson 1984; Isaac and Armat

1990; Johnson 1990; Krisberg and Austin, 1993; Western 2006; Wacquant forthcoming). While all previous analyses contain grains of truth, their contradictory conclusions leave behind no coherent story about how these three organizational forms developed over time, nor about what relationships they have to one another.

By interrogating changes in the use of mental hospitals, prisons, and juvenile detention facilities by state in the last half-century, this paper uses a meso-analytic lens to provide that missing coherence. What explains at least part of the confusion, I argue, is that different processes were at work during different time period. This leaves us in need of a theory which can explain the relationships between these three organizational systems in each time period, for which no existing theory is adequate, as well as a theory of the *changes* that take place in the relationships between these organizational systems over time, which no existing theory has even attempted to address.

Prior to 1955, this paper argues, the asylum was a coherent organizational field that encompassed the mental hospital, the juvenile detention facility, and the prison. In other words, while mental patients, juvenile offenders, and criminals were incarcerated in different types of organizations, the purposes of these organizations were similar, in that they were thought to simultaneously incapacitate and treat those in their custody. Moreover, these organizations changed in tandem, in that changes in the rates of institutionalization in one type of organization were correlated with changes in the rates of institutionalization in the others.

The next thirty years, however, would bring about what I term a “double disregard.” In the mid-1950s, a combination of ideological and economic factors helped challenge the idea that residents could successfully be treated in the asylum. This

criticism was leveraged most powerfully against state and county mental hospitals, which started releasing massive numbers of patients, yet had policy impacts for juvenile delinquents and adult offenders as well. By the mid-1970s, scholars were predicting the complete deinstitutionalization of all three types of organizations. Yet the riots of the 1960s and crime scare of the early 1970s made the deinstitutionalization of criminals less appealing. No longer tethered to the notion of treatment as a goal of incarceration, the prison system would redefine its goal as the management and incapacitation of criminals, and expand dramatically. The failure of the rehabilitative consensus led to the fracturing of the asylum. Former mental hospital patients would roam the streets, while prison would become a modal life experience for young black men in the United States (Western 2006).

We can see this “double disregard” play out most clearly in the rates of juvenile incarceration and organization of the juvenile prison, an organization that has always existed somewhere in between the mental hospital and the prison. Throughout the 1970s we see a positive correlation between decreases in state mental hospitalization rates and decreases in juvenile detention rates, and witness the end of those aspects of the juvenile justice system that most resembled mental health care. By the 1980s, however, with the juvenile justice system looking more like adult corrections, changes in state juvenile detention rates are no longer correlated with changes in mental hospitalization rates. Instead, changes in state juvenile detention rates are now positively correlated with changes in adult incarceration rates.

The end of “penal welfarism,” (Garland 2001) then, was a process analytically and practically distinct from, if an antecedent of and precondition for, the emergence of

the penal state (Wacquant forthcoming). Using and expanding on insights garnered from institutional theory (Meyer and Rowan 1977; DiMaggio and Powell 1983), this study suggests how institutional rules and understandings diffused within the organizational field of the asylum as they simultaneously contributed to *fractures* within this field. Situating juvenile corrections in between the emergent fields of mental health and adult corrections, we see field-specific interpretations of the “failure” of penal welfarism take hold in different ways in the practices of juvenile corrections, as “stubborn children” (Sutton 1988) became either neglected, like the mentally ill, or warehoused, like adult offenders.

Review of the Literature and Corresponding Hypotheses

In his own review of thinking on the asylum, Michael Ignatieff (1981) writes

The real challenge is to find a model of historical explanation which accounts for institutional change without imputing conspiratorial rationality to a ruling class, without reducing institutional development to a formless ad hoc adjustment to contingent crisis, and without assuming a hyper-idealist, all triumphant humanitarian crusade. (157)

Twenty-five years later, we find that the same critique remains valid today, absent only, perhaps, the illusion of the “humanitarian crusade.” Writing on the asylum tends to oscillate between grand theories of social control and micro-analyses of bureaucratic change, with little appreciation of the messy and uneven way in which ideas and practices emerge and spread.

The Asylum as a Unified Field

Recent examinations of the ways in which the asylum is related to broader society leave much to be desired. We will briefly review these theories, critique them, and then generate some hypotheses with which to test them. Rothman (1971) is perhaps the best

known more recent scholar of the asylum, connecting its emergence and spread to elite fears of industrialization and Progressive Era optimism about the possibility of government intervention. Other scholars in the 1970s also discussed the mental hospital, the prison, and the juvenile detention facility under the common rubric of the asylum (e.g. Scull 1977). Even Foucault's (1977) classic analysis of the relationship between changing technologies of control in and outside of prison could be generalized, based on his arguments, to institutions such as mental hospitals and juvenile detention facilities.

The implications of these authors' arguments are that changes in the use of one type of asylum are connected to changes in the use of other types of asylums, in that all three rely on similar cultural assumptions, and all three depend on public funding. In terms of my analysis, we would expect the following hypothesis to hold:

Hypothesis I Rates of institutionalization in all three types of organizations will co-vary, since all three will be guided by similar broad cultural constructs, political alignments, and economic structures. Since different states have different cultural constructs, political alignments, and economic structures, we will expect to see statistically significant positive correlations between changes in the rates of institutionalization in all three types of the asylum.

While we cannot dismiss this argument outright, we have reason to be skeptical of it given these authors' predictions about the future of these three types of organizations.

Writing in the midst of the deinstitutionalization of mental health, these writers anticipated the obsolescence of all three types of organizations. Scull makes a radical Marxist critique of the abolition of the prison (152), and even Rothman's classic analysis of the birth of the asylum concludes, "...[S]ince the Progressive era, we have been gradually escaping from institutional responses, and one can foresee the period when incarceration will be used still more rarely than it is today" (Rothman 1971, 295). Given

the sharp increases in adult corrections since the time of these authors' analyses, their conclusions were quite obviously premature.

A different though similarly totalizing hypothesis, popular with theorists of social control, is that changes in the use and ideology surrounding particular types of asylums mask an underlying consistency in the institutionalization of the poor and marginalized. The deinstitutionalization of one type of facility, by this hypothesis, more likely represents a trans-institutionalization, as the patients formerly institutionalized in one type of facility are merely labeled differently and institutionalized within a different type of facility. In terms of my analysis, this hypothesis would be supported if rates of institutionalization in one type of organization were inversely correlated with rates of institutionalization in another type of organization.

Penrose (1939) was the earliest scholar to suggest the criminal justice system's inverse relationship to the mental health system, arguing that increases in one system would lead to decreases in another, as the same individuals were transferred from one system to another. This assertion finds some support in studies of incarceration and mental hospitalization rates at single moments in time (Biles and Mulligan 1973). More recently, using time-series techniques, Raphael (forthcoming) also finds strong evidence that decreases in mental institutionalization are correlated with increases in adult incarceration at the state level during the period 1971 to 1996. Finally, this analysis is supported in the juvenile corrections literature by scholars who find, beginning in the 1970s, increasing numbers of young delinquents being tried as adults (Feld 1999). In terms of my analysis, we would expect the following hypothesis to hold:

Hypothesis II Since the criminal justice system and mental health system have inverse relationships to one another, we would expect declines in the population of one

organization to be correlated with increases in the other. Moreover, we would expect the same people formerly incarcerated in one to be incarcerated in the other.

Other scholarship, however, calls this model of trans-institutionalization into question. A detailed study of mental institutionalization and adult incarceration in six states between 1968 and 1978 by Steadman et al (1984) finds evidence that mental deinstitutionalization is correlated with increases in adult incarceration, yet also finds that “the percentage of former [mental hospital] patients among the ranks of prison admittees decreased in as many states as it increased” (Steadman et al, 1984, 483). This finding suggests that those being released from mental hospitals were not the same people as those being arrested, a strong refutation of simplistic trans-institutionalization theories. My argument does not conflict with this finding, but rather extends it.

Moreover, other analyses do not find these negative correlations at all. Grabosky (1980) actually reports a *positive* correlation between the U.S. state prison rates and state mental hospitalization rates between 1930 and 1970. In perhaps the most comprehensive analysis of the relationship between these two systems, this time between 1978 and 1988, Liska et al (1999) test two hypotheses: a “functional-alternative” hypothesis, which is essentially equivalent to Hypothesis II—as one type of organization increasingly serves the function of social control, the other is used less; and a “conduit” hypothesis—that the growth of one type of organization actually leads to the expansion of the other, since an increase in the population of one type of organization leads to increases in the number of referrals from that organization to others. Observing data from 100 cities across the United States between 1978 and 1988, they find no support for the functional-alternative hypothesis, but do find support for the conduit hypothesis between jails and mental

hospitals, as increases in incarceration were found to lead to *more* people being referred to mental hospitals. Something more seems to be going on.

Lerman (1982), moreover, finds evidence of a different sort of trans-institutionalization, in that the declining use of “traditional” institutions has been matched by an increasing use of “nontraditional alternatives” such as group homes, shelters, and nursing homes. In many ways, he suggests, these new sorts of placements were just as restrictive as the old (pp. 205 ff). This is in keeping with a line of scholarship (e.g. Tonry, 1998) asserting that declines in traditional forms of control tend to be coupled with forms of “net-widening” that actually increase the degree to which populations are kept under surveillance. This last hypothesis cannot be tested comparing rates of institutionalization across organizational type as suggested above. Still, we are able to test this hypothesis with data on juvenile corrections, which provides residential counts of facilities of different types. This hypothesis would be supported if we found that institutionalization rates of secure facilities like training schools are uncorrelated or negatively correlated with the gross number of young people institutionalized in any facility (from group homes to training schools).

Field-Specific Theory

More recent writing on the asylum tends not to be about the asylum as a coherent field at all. This scholarship focuses instead on developments within mental hospitals, prisons, or juvenile detention facilities without reference to the other two types of organizations.

Scholars of mental hospitals and prisons emphasize exogenous variables specific to these respective organizational forms that they believe are responsible for changes in

these organizational forms over time. On the deinstitutionalization of mental hospitals, scholars have highlighted the role of muckraking journalists who exposed the horrors of institutionalization, state governors and administrators who faced fiscal crises in the 1950s, the efforts of psychiatrists to professionalize their occupational field, the successful short-term treatment of mentally-ill soldiers during World War II, and the introduction of psychotropic drugs in the early 1950s (Johnson 1990; Foley and Sharfstein 1983; Morrissey and Goldman 1986; Gronfein 1985).

On rapid increases in the institutionalization of adult offenders, scholars have discussed the importance of social unrest and increasing crime in the 1960s, combined with economic shifts in the 1970s. Structural changes in the economy rendered the underclass less important to industry, while making the middle class more insecure and thus susceptible to a politics of fear (Garland 2001; Young 1999). Moreover, the social welfare state embodied by the “rehabilitative consensus” was inconsistent with an economy now dependent on an insecure (and thereby “flexible”) labor force (Wacquant, forthcoming). In terms of my analysis, we would expect the following hypothesis to hold:

Hypothesis III Since we can find exogenous state-level variables that explain changes in each organizational form independent of the others, changes in one type of organization are independent of changes in the others.

Juvenile Confusion

System-specific accounts of juvenile corrections provide no coherent story. Much of the literature on changes in juvenile corrections discusses the legal changes of the 1960s and 1970s, which made juvenile court more like adult court, and the increasing extent to which young offenders, like adult offenders, have been criminalized since the

1970s, meaning longer sentences and higher detention rates (Feld 1999; Garland 2001). This literature is complicated by analyses that discuss the movement towards *deinstitutionalization* in juvenile justice in the 1970s (Scull 1977; Krisberg and Austin 1993; Miller 1993; Sutton 1988). Moreover, the literature provides little to no account of *why* the legal changes and criminalization of young offenders occurred.

Descending to the state level, scholars have remarked on the dramatic variation in the extent to which young people are incarcerated by state (Sarri 1974; Poulin et al. 1980; Vinter et al. 1976; Krisberg, Litsky, and Schwartz 1984; Smith 1998), and the trends in this incarceration over time. The gradual net rise of juveniles in custody since 1950 belies substantial differences in the ways that juvenile detention has evolved by state over the course of the same 20-year period. This variation seems to have had little to do with differences in crime rates among states (Krisberg, Litsky, and Schwartz 1984), yet scholars have yet to articulate an argument explaining these differences.

Sutton (1988) is the one scholar, to my knowledge, who has attempted a systematic explanation of the variation in changes in juvenile justice policy by state between 1960 and the early 1980s. Sutton uses a bivariate dependent variable representing whether a state has passed a law minimizing the institutionalization of status-offenders (those juveniles whose offenses would not be prosecutable in adult court). Sutton finds no relationship between the adoption of what he calls “deinstitutionalization statutes” and state characteristics such as the percentage of young people living in cities, the percentage of school drop-outs, the vitality of the state economy, or educational spending. What Sutton does report is that the time at which deinstitutionalization statutes are adopted varies by region (with Pacific states adopting

measures most quickly and Northeastern states adopting measures most slowly). Sutton also observes the importance of federal intervention (both legislative and judicial) in leading to the adoption of statutes.

Of course, the relationship between the laws governing sentencing and actual rates of juvenile detention is ambiguous and contested, given the degree to which judicial discretion, administrative discretion for maintaining young people at a facility, limitations of physical infrastructure, and available sentencing alternatives also affect sentencing (Sutton 1988; Miller 1991; Liska, Markowitz, Whaley, Bellair 1999). In their in-depth study of Louisiana deinstitutionalization efforts, Sheley and Nock (in Handler et al 1982) write, “Legislation and law enforcement are rarely in harmony when the legislation is designed to constrain rather than to broaden the powers of the criminal justice system” (301), as deinstitutionalization statutes were designed to do.

An Institutional Turn

In order to make sense of these disparate theories, I argue, we must turn to institutional theory, and understand the last fifty years as the story of the fracturing of the field of the asylum (see figure 3). Institutional theory is especially relevant to the asylum given that the technologies used by the asylum are ambiguous, and their results are difficult to measure. Their survival, then, depends almost entirely on how they are perceived as complying with unstated norms or rules (Meyer and Rowan, 1977).

In the early 20th century, I argue, the asylum was a coherent institutional field that embodied the norms of Progressive Era elites, their optimism about both the effectiveness of rational bureaucracy and the ability of the state to mold or “cure” many sorts of “deviant” individuals. The capacity of and desire for state asylums to rehabilitate those

in their care remained relatively unquestioned throughout the first half of the 20th century. Mental hospitals, adult prisons, and juvenile prisons, it was assumed, could and should treat the insane, the criminal, and the deviant, reincorporating them into the social and economic structure of United States society.

This does not mean that there were not important differences between conceptions of and practices regarding the “mad” and the “bad” even during this time (see figure 2). Patients were usually sent to mental hospitals at the discretion of family members, while inmates could not be sentenced to prison without trials. Mental patients were seen as violating cultural norms, while prisoners were seen as breaking the law. And while the primary purpose of the mental hospital was understood as treatment, the primary purpose of the prison understood as public protection. Juvenile correctional facilities, meanwhile, existed in between these two poles. Young delinquents were somewhere in between those in need of treatment and those from whom the public needed protection. Juvenile courts acted explicitly *parens patriae*, or as guardian—somewhere in between the due process protections of adult courts and the discretion used in the assignment of patients to mental hospitals.

Nevertheless, the asylum—it was thought—could adequately deal with all three sorts of populations. This common understanding of the three types of organizations would suggest positive correlations between prisons and mental hospitals by state prior to 1970. It would also explain why, as the movement towards deinstitutionalization of the mentally ill began, similar questions began being asked about the juvenile and adult prison, and we can observe small decreases in prison populations throughout the 1960s.

As scholars began to leverage critiques of the asylum, it is significant that they did not differentiate between mental hospital and prison. The asylum as an organizational form was seen as little more than a way for an oppressive state to discipline those elements of the population most threatening to it (Goffman 1961; Becker 1963). The idea that all three organizations were considered within one field also explains the erroneous predictions of scholars like Rothman and Scull, mentioned above, who anticipated the obsolescence of the prison altogether.

This field was fractured, however, between 1950 and 1980, as social, political, and cultural transformations challenged the existing logic of treatment and put different sorts of pressure on organizations for those conceived of as “mad” (in mental hospitals) and those conceived of as “bad” (in prisons). The mad became harmless, fit to walk freely among us (without draining our coffers!), while the bad could not be rehabilitated, and so had to be locked away or at least managed by the penal wing of the state. Delinquent young people were effectively divided into these two new fields—neglected if considered harmless, while warehoused if considered dangerous. This “double disregard,” however, took part in two stages, letting us observe each stage separately.

The End of Treatment (1955-1980)

Deinstitutionalization started earliest and most obviously as a response to the plight of the mentally ill, sparked by a combination of cultural, political, and economic factors. Around mid-century, the quality of treatment provided for the mentally ill in large state institutions came under intense scrutiny. In 1945 Mary Jane Ward, a former ward at a facility in New York, published *The Snake Pit*, an autobiographical account of the horrors of mental institutionalization. In 1948, journalist Albert Deutsch published

The Shame of the States, in which he described “scenes that rivaled the horrors of the Nazi concentration camps” (Deutsch 1948). These were just two of many studies, biographies, novels and movies to highlight the plight of those in state mental institutions around this time (Johnson 1990).

This public interest was matched by the interest of state governors and administrators, who faced unprecedented fiscal crises, and met in February 1954 to brainstorm less expensive alternatives to mental institutionalization; and by the interest of emerging associations of mental health professionals like the American Psychiatric Association, which were both concerned about the brutal conditions of state institutions, and had an interest in increasing their share of care for the mentally ill (Johnson 1990; Foley and Sharfstein 1983). The relatively successful short-term treatment of mentally-ill soldiers during World War II (Morrissey and Goldman 1986) and the introduction of psychotropic drugs in the early 1950s also seem to have facilitated the movement of patients out of mental hospitals, although the widespread use of psychotropic drugs seems to have been as much a consequence of the movement towards deinstitutionalization as a cause (Gronfein 1985).

Interestingly, we see two related developments occurring in the juvenile justice system during this time. First, we see a clear distinction being drawn between the criminal and non-criminal juvenile offenders; and second, we see the deinstitutionalization of this non-criminal juvenile offender. A well-known antecedent to the deinstitutionalization of juvenile detention facilities was the 1967 Supreme Court case *In re Gault*, a case involving the adjudication and confinement of a youth who allegedly had made an indecent telephone call to a female neighbor. This case gave young delinquents due process rights, and limited the extent to which young people could be

held without explanation. Indeed, in their decision, the Warren Court took issue explicitly with the doctrine of *parens patriae*, which had been used to justify state care of both juveniles and the mentally ill, writing,

The Latin phrase proved to be a great help to those who sought to rationalize the exclusion of juveniles from the constitutional scheme; but its meaning is murky and its historic credentials are of dubious relevance.... [T]here is no trace of the doctrine in the history of criminal jurisprudence. (*In re Gault* 1967)

Moreover, many of the precedents cited in the case were cases occurring in the previous decade involving the care of the mentally ill. George Thomas (1974)—a professor at the Regional Institute of Social Welfare Research at the University of Georgia—wrote amidst the reforms of the 1970s,

It is probably fair to say that a goodly share of the momentum in the current children's rights movement derives from the 'trickle down' of implications in court judgments on suits involving adults. A major question facing states today, for example, is to what extent do court decisions on adult cases involving institutionalization apply to the institutionalization of children? (3)

National court decisions regarding the institutionalization of the mentally ill had important implications for the rights of juveniles.

Similarly, the Juvenile Justice and Delinquency Prevention Act of 1974 put pressure on states to pass statutes that would prevent the detention of status offenders, young people whose actions would not be considered crimes if committed by adults. This type of statute again separated the "mad" from the "bad." Only those young people whose actions posed a danger to society were fit to be incarcerated in juvenile detention facilities. More generally, the Social Services Amendments of 1974, signed into law by Gerald Ford, tied federal funding of social services to a commitment to reducing inappropriate institutional care—affecting both juvenile detention and mental health (Steadman et al 1977).

The Birth of the Warehouse (1980-1993)

The social unrest and increasing crime rates of the 1960s, combined with economic shifts of the 1970s, put different pressures on institutions for the “bad.” Structural changes in the economy rendered the underclass economically insignificant, while making the middle class more insecure and thus susceptible to a politics of fear (Garland, 2001; Young, 1999). That is, as the states and citizens were less and less comfortable holding mental patients in Mental Hospitals, they increasingly came to consider mental patients as different from the criminals putting them at risk. Moreover, the social welfare state embodied by the “rehabilitative consensus” was inconsistent with an economy now dependent on an insecure (and thereby “flexible”) labor force (Wacquant, forthcoming).

We can observe a new spin on the failure of the “rehabilitative consensus” emerge in the early 1970s. The prison’s rehabilitative aims came to be seen as naïve and ineffective attempts to shape deeply ingrained individual pathologies, a view which found support in Robert Martinson’s oft-cited article in *The Public Interest*, “What works?—Questions and answers about prison reform” (Martinson 1974). The leftist critique of the asylum was co-opted and altered by the right, helping to bring about the massive expansion of the criminal justice system since 1975.

Institutional Hypotheses

According to the institutional perspective, we will expect to see positive correlations between organizational populations to the extent that the populations in the custody of those organizations are seen as comparable. This institutional perspective,

then, suggests a different and *time-sensitive* series of hypotheses that can be tested against the first three hypotheses outlined above:

Hypothesis IV The relationships between these organizational forms will themselves vary over time. Prior to 1970, when the asylum was still a unified field, changes in these different types of organizations will be positively correlated. After 1970, however, we will see new configurations.

The institutional perspective can be tested most precisely given juvenile detention's position as an organizational form in between the mental hospital and the prison. Given the analysis above, we expect the following:

Hypothesis V Between 1970 and 1982, during the deinstitutionalization of the non-criminal juvenile offender, we will expect positive correlations between declines in mental hospital populations and declines in juvenile detention facility populations.

Hypothesis VI Between 1983 and 1993, when those remaining in juvenile detention facilities most resemble adult offenders, and the fear of crime is most widespread, we will expect to see positive correlations between increases in prison populations and increases in juvenile detention facility populations.

This last hypothesis is, in some ways, consistent with other accounts of changes in juvenile corrections (e.g. Garland 2001) that point out the degree to which both young people and adults have been criminalized in the last twenty years. What I would add to the standard account is that the deinstitutionalization of juvenile corrections in the 1970s was a necessary prerequisite to the young people being understood as adult offenders. That is, those young people who were remaining in juvenile detention facilities at the end of the 1970s, during the nadir of juvenile detention rates, were those young people for whom the public would have the least sympathy.

Methods

This study uses standard methods in time-series panel analysis to explore the relationships between rates of mental institutionalization, juvenile detention, and adult incarceration within the forty-eight continental states and the District of Columbia since

1950. Rates of institutionalization are indirect measures of, but effective proxies for, the way that those who operate mental hospitals, juvenile detention facilities, and prisons both define which populations constitute their clienteles and understand how they should relate to these clienteles. Correlations in changes of these rates among organizational forms by state suggest philosophical (as well as juridical and legislative) similarities by state in the way that these organizations, or those who make them up, conceive of their roles.

This analysis uses inter-state variation in the rates of change in the utilization of these three types of facilities (see Raphael, forthcoming) to make claims about the relationships between these facilities in three discrete periods: 1950-1969, 1970-1982, and 1983-1993. Dramatic reductions in juvenile detention populations began as early as 1970, with Massachusetts famously deinstitutionalizing all juvenile offenders between 1970 and 1972. Through the Mandatory Sentencing Act of 1983, on the other hand, mandatory minimum sentencing laws became the norm for adult offenders, as the public and politicians responded to fears of crime and urban decay.

These milestones serve as the signposts of the discrete time intervals I am interested in examining. The data has thus been periodized into these three broad intervals to distinguish the different political and cultural climates of these different time periods (see figure 1).

I am interested in measuring the extent to which changes in the population of an organization between time $t-1$ and time t can be explained by the populations of other organizations at time $t-1$. All independent variables, therefore, have been lagged in this

analysis. The equation that serves as the cornerstone of this analysis, and on which other equations are derived, is:

$$Detention_{it} = \alpha_i + \gamma_t + \varepsilon * Detention_{i(t-1)} + \beta * Mental_{i(t-1)} + \delta * Adult_{i(t-1)} + \theta' X_{i(t-1)} + \varepsilon_{it}$$

where $Detention_{it}$ is the number of young people age 15-19 detained per 10,000 in state i in year t , $Detention_{i(t-1)}$ is the number of young people age 15-19 detained per 10,000 in state i in the previous year for which data is available ($t-1$), $Mental_{it}$ is the number of mental hospital patients per 10,000 in state i during year ($t-1$), $Adult_{it}$ is the number of prisoners per 10,000 in state i during year ($t-1$), $X_{i(t-1)}$ is a vector of control variables in year $t-1$, α_i represents time-invariant state-effects, γ_t represents state-invariant time effects, ε is the estimate of the effect of the previous year's juvenile detention rate on the current year's rate, β is the estimate of the effect of the previous year's mental hospitalization rates on juvenile detention rates, δ is the estimate of the effect of the previous year's adult prison rates on juvenile detention rates, θ is a vector of coefficients corresponding to the state-level control variables, and ε_{it} is a normally-distributed, mean-zero error term. The panel is an unbalanced panel, since juvenile detention data is not available annually.

It was determined, after running Hausman tests, that a fixed-effects model was necessary, or—in other words—that the control variables in the regression equation could not, at a statistically significant level, explain the between-state variation in rates of institutionalization. The coefficients on the independent variables of interest, then, explain the variation left over after controlling for each state's average variation from the national average, and controlling for average changes among all states between one time-

period and another. Said differently, the model estimates the relationship between juvenile detention rates, mental institutionalization rates, and adult incarceration rates after purging the data of state and time fixed-effects.

Each state institution rate represents the number of people institutionalized, per 10,000 of the population, on a particular day in the year measured. For the juvenile detention rate, a more specific estimate of the population of *juveniles* was based on a census estimate of the number of young people between the ages of fifteen and nineteen in that state during the year. As criminologists have acknowledged, while the upper age of juvenile court jurisdiction is seventeen in most states, some states have lower upper limits, raising problems with comparisons of custody rates between states (Smith, 1998). Nevertheless, a time-series regression analysis of juvenile detention rates and dummy variables representing upper limit of juvenile jurisdiction does not reveal statistically significant results

Data on one-day counts of juveniles detained by state are obtained from the “Juvenile Detention and Correctional Facility Census,” conducted biennially by the Children’s Bureau of the Department of Health, Education, and Welfare, between 1971 and 1993, and available through the Inter-University Consortium for Political and Social Research (ICPSR) at the University of Michigan. Data on the percentage of “treatment” staff in facilities are also derived from this juvenile correctional census. Earlier data are available through the “Statistics on Public Institutions for Delinquent Children” reports, conducted by the Department of Health, Education and Welfare in 1952, 1953, 1957, 1958, 1962, and 1964. These were not included in the analysis, since collection methods were different in these earlier years.

I examine only *public* juvenile corrections facilities. For one, there are much more extensive data available on these facilities. More importantly, *private* juvenile facilities tend to be community-based, non-custodial organizations, and have only become prevalent as secure facilities since 1993. Data on juveniles in custody include those young people residing in “Training Schools,” “Detention Facilities,” “Reception or Diagnostic Centers,” or “Ranch or Forestry Camps,” “Group Homes,” and “Shelters.” My analysis uses those young people detained in Training Schools and Detention Facilities as the basis for the juvenile detention rate, since many of the other types of institutions are less custodial. Running regressions including the other facility types does not alter the results substantially.

There are certainly arguments against using juvenile detention rates as an indicator on which to base comparisons of incarceration practices across states. Some states, for example, may more easily send juveniles to adult court for certain crimes (Smith, 1998). However, scholars have observed that differences in sentencing juveniles to adult court do not significantly explain variation in juvenile detention by state (Krisberg, Litsky, and Schwartz, 1984). Moreover, to the extent that I am interested in *changes* in the rates of incarceration, differences in the upper age of court jurisdiction are irrelevant unless this age changes. Given that this incarceration rate variable is, however flawed, a reflection of actual practices as opposed to legislated practices, I believe it is ultimately more useful for my analysis than indicators used by others such as legislative change (e.g. Sutton 1988).

The way institutional populations are measured changes alongside changes in these institutions themselves, making data collection difficult in some cases. For

example, data on juvenile detention by state is available starting only in 1964, around when states were beginning to rethink juvenile corrections policies. The Children in Custody census, on which much of the research is based, was not begun until 1970, after the *Gault* Supreme Court decision. Data on the populations of state adult prisons (on one day) since 1950, by state, are available through the Bureau of Justice Statistics. These statistics do not include those sentenced to jails (for which data is available starting only in 1978), or those sentenced in federal prisons. Nevertheless, there is no reason to believe that differences in the use of jails or federal prisons explain variation in the use of state prisons.

One limitation of the use of “day count” data is that they fail to distinguish between a high volume of admissions and long lengths of stay as factors explaining high rates of institutionalization. There is no indication, then, of how long those individuals counted have stayed or will stay in the facility, or how many of the individuals counted in one year are the same individuals counted in the next. For the purposes of my analysis, however, this issue is not important, in that the total number of people institutionalized at any one time is—for me—an indicator of the state’s propensity to institutionalize, regardless of the lengths of stay of individuals in these institutions.

Along with these independent variables, I have controlled for several variables that have been used by other scholars to explain the variation in rates of juvenile and adult incarceration. These include, for each year of analysis, the civil labor force of a state (divided by 10,000,000 for this analysis), the rate of unemployment in that state, the percentage of people employed in a manufacturing industry in that state, a variety of crime rates in that state, and the percent of the population that is black in that state.

Results and Discussion

Table 1, which displays the relationship between adult prison rates and mental hospital rates between 1950 and 1993, seems to support Hypothesis IV. In the first time interval, we see small but significant positive correlations between changes in mental institutionalization rates and state prison rates. Those states that institutionalized an increasing rate of the mentally ill during this time period also incarcerated an increasing rate of adult offenders. This suggests that there was something about a state's culture or political structure that led to similar changes, at the state level, in both systems. Indeed, between the early 1960s and 1970, we actually see a slight net decrease in the number of adults incarcerated in prisons correlated with decreases in mental institutionalization.

We see very different relationships emerging, however, in the second and third time intervals. In the second time interval, there does not seem to be a statistically significant relationship between mental hospitals and prisons, while in the third time interval there seems to be evidence of trans-institutionalization, supporting a historically-specific version of Hypothesis II. While my theory does not explicitly address the trans-institutional hypothesis, these results do support an institutional understanding of the changing nature of the relationships between these two systems.

Table 2, which displays the relationship between juvenile detention rates and rates of mental hospitalization and adult incarceration between 1967 and 1993, provides support for Hypothesis V and Hypothesis VI. In the second time interval, juvenile detention rates are positively correlated with mental institutionalization rates, meaning that those states that deinstitutionalized mental health more quickly in the 1970s also deinstitutionalized juvenile corrections more quickly. The interaction effect between

property crime rates and mental hospitalization rates suggests that the deinstitutionalization of mental hospitals had less of an effect on juvenile detention rates when property crime rates were high. This makes intuitive sense, in that high property crime rates would likely make the public and policymakers less willing to consider juveniles as “in need of treatment.” Juvenile detention rates are negatively correlated, however, with adult corrections rates, supporting the trans-institutionalization hypothesis of the social control theorists in this time interval. This strongly suggests that at least some of those mentally ill and young people released from mental hospitals and juvenile detention facilities were merely transferred to adult prisons, again providing support for a historically contingent version of Hypothesis II.

Those states in which deinstitutionalization of mental institutionalization occurred most sharply were also those states in which the most substantial drops in juvenile detention rates occurred. This cannot be explained by state-level factors like the structure of state government (regression on which yield insignificant results), or any variable related to population demographics, state economics, or crime rates entered into the regression equations above. Indeed, as suggested by the title of Thomas’s (1974) paper, “Is Statewide Deinstitutionalization of Children’s Services a Forward or Backward Social Movement,” quite different processes and political alignments enabled deinstitutionalization to take place in different states. This is supported by evaluations of juvenile deinstitutionalization efforts throughout the 1970s. Vitner et al (1975) write,

Our field inquiries and reports from other sources suggest several kinds of changed circumstances and practices among the states that have occasioned this overall decline, but we can find no reasonable grounds for estimating the influence of one or more of these developments in particular states... (14) (see also Handler et al, 1982, 6)

But those same factors that allowed deinstitutionalization to take place in mental health allowed it to take place in juvenile corrections in the 1970s.

In the third time interval, finally, we see yet another pattern emerge. Changes in juvenile detention rates are still positively correlated with changes in mental institutionalization rates, yet changes in juvenile detention rates are now positively correlated with state prison rates, supporting Hypothesis V. Mental hospital populations stayed relatively constant during this interval, having declined most significantly prior to 1983, while adult corrections populations skyrocketed, suggesting that the increases in juvenile detention rates we observe during this interval can be explained by the increases in adult corrections.

Finally, testing Lerman's hypothesis that deinstitutionalization merely represents net-widening, we do not find any statistical support for this argument. This may be, in part, because this analysis is limited to public institutions for delinquents, whereas many of the "alternative" institutions emergent in the 1970s were private facilities.

Conclusion

This research challenges much of the conventional wisdom surrounding theories of deviance and social control, suggesting that the emergence of the penal state was part of what I have termed a "double disregard." The decline of the treatment model was a necessary prerequisite for the emergence of the penal state. More generally, I hope to have shown that we must pay attention to institutional factors in order to appreciate the subtleties of changes in state organizations.

My hope is that this analysis moves the study of these types of organizations away from ethereal notions of the collective unconscious, on the one hand, and crass Marxism,

on the other, and towards an examination of the logics that emerge and spread among the various actors that make up these organizational systems. That being said, I recognize that my institutional hypothesis is hard to prove, and that the above analysis is itself devoid of the organizational actors who make decisions about the fates of others. In this conclusion, then, I would like to suggest some ways that this institutional perspective might be further tested and extended.

Intra-Organizational Evidence of New Logics

At the state level, a look at the staff makeup of juvenile detention facilities supports the hypothesis that the release of those conceived of as needing treatment was responsible for declines in juvenile detention rates throughout the 1970s. Those states that most sharply reduced the ratio between treatment staff and other staff (custodial and maintenance) over the course of the 1970s were also those states that reduced their juvenile detention populations most sharply during this time (see table 3). This provides support for the idea that the deinstitutionalization of juvenile corrections was informed by changes in conceptions of what to do with those in need of treatment—conceptions that arose first in the arena of mental health.

More evidence to this effect might be found by examining juvenile correction's position within state bureaucracies in the 1970s vis-à-vis other organizational forms. Throughout the 1970s, certain states moved jurisdiction of juvenile corrections from departments consistent with social services (Departments of Welfare, Departments of Social Services, etc.) to Departments of Corrections. What inspired these shifts, and how were they understood by the actors on the ground as they were made?

Future research might flesh these arguments out further, showing the specific ways in which new logics are manifested in organizational practice.

Diffusion of Ideas and Administrators within Bureaucracies

In their evaluation of state juvenile corrections practices written in the 1970s, Robert Vintner et al (1975) write, “Juvenile justice is a governmental sector that peculiarly, and perhaps distinctively, lacks the regularized and comprehensive information procedures requisite for either policymaking or public administration” (1). The judges, administrators, and staff responsible for administering juvenile justice and juvenile corrections, then, have little idea of how they are “supposed” to act, and so look to other states and other systems for guidance. These street-level bureaucrats (Lipsky 1980) have quite an influence on the extent to which deinstitutionalization takes place, as suggested in Mack et al’s (in Handler et al 1982) evaluation of juvenile deinstitutionalization:

The most important factors in predicting deinstitutionalization appear to be the interest of the local officials and their commitment to that end.... Only a broad commitment of local decisionmakers appears to result in the coordinated changes in policy, personnel, and available facilities that we have found to be connected with significant reform (288)

The extent of deinstitutionalization in mental health within a particular state, then, likely served as a model for the actors in juvenile corrections in that state who looked to the mental health arena for guidance. In North Carolina, this process seems to have taken place even more explicitly, as the state’s Department of Mental Health sponsored a Child Advocacy Center charged with developing procedures to deinstitutionalize young people (Steadman et al, 170).

In many states, administrators themselves might transfer from one system to another. Jerome Miller, the most famous (or infamous) administrator in juvenile

corrections in this period, was responsible for the closure of all seven Massachusetts reform schools in the early 1970s. Yet he had begun his career as a psychiatrist, influenced by the ideas of radical psychoanalysts (Miller 1993). Many other social workers and therapists likely crossed the boundaries from mental health to juvenile corrections, especially during and after the deinstitutionalization of mental health, which—ironically—limited these professionals’ job options!

One avenue of future research, then, might consist of examining organizational records to discern the actors that made them up, the extent to which actors themselves move across organizations, or the ways that actors from different organizations interacted in their daily lives.

Political and Economic Configurations

More generally, states seemed to have had different political configurations that allowed them to undertake deinstitutionalization to different extents. And even those who did undertake extensive deinstitutionalization did so through different arrangements and using different rationales. According to their in-depth look at deinstitutionalization processes in six states, Handler et al (1982) report that Massachusetts had a “wide variety of experienced and active religious and citizen groups, plus a solid private provider industry” (Handler et al, 1982), which contributed to pressure for deinstitutionalization of both mental patients and juveniles. Pennsylvania, similarly, “...had a strong private provider system that was mainly sectarian and constituted a powerful and effective lobby in the state” (98). In states like Wisconsin, however, changes “were the result of intense interest group conflict among reformers, fiscal conservatives, professional organizations, and state and local officials” (96). An economic crunch at the county level, combined

with the precedent set by the deinstitutionalization of mental health, helped enact juvenile deinstitutionalization in this state.

The case studies of these types of organizations seem only to consider one organizational system in their analyses. Future research, then, might consist of in-depth case studies of how organizational changes are related to one another within particular states.

We are left, then, with perhaps more questions than we had when we began. Nevertheless, this paper offers insight into how changes in social and political life since 1950 have manifested themselves in new and divergent conceptions of the possibilities of the asylum. Moreover, as the story of juvenile corrections illustrates, we must sometimes look within and across the organizational and institutional lives of state systems to understand the changes that take place there.

Figures and Tables

Figure 1.

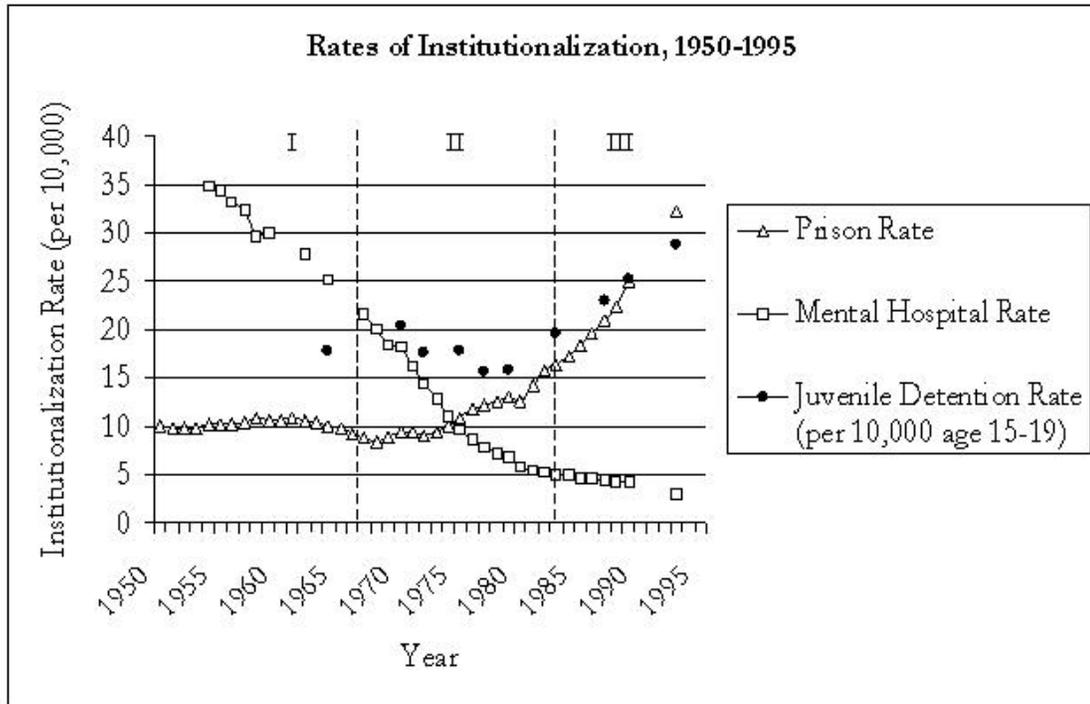


Figure 2.

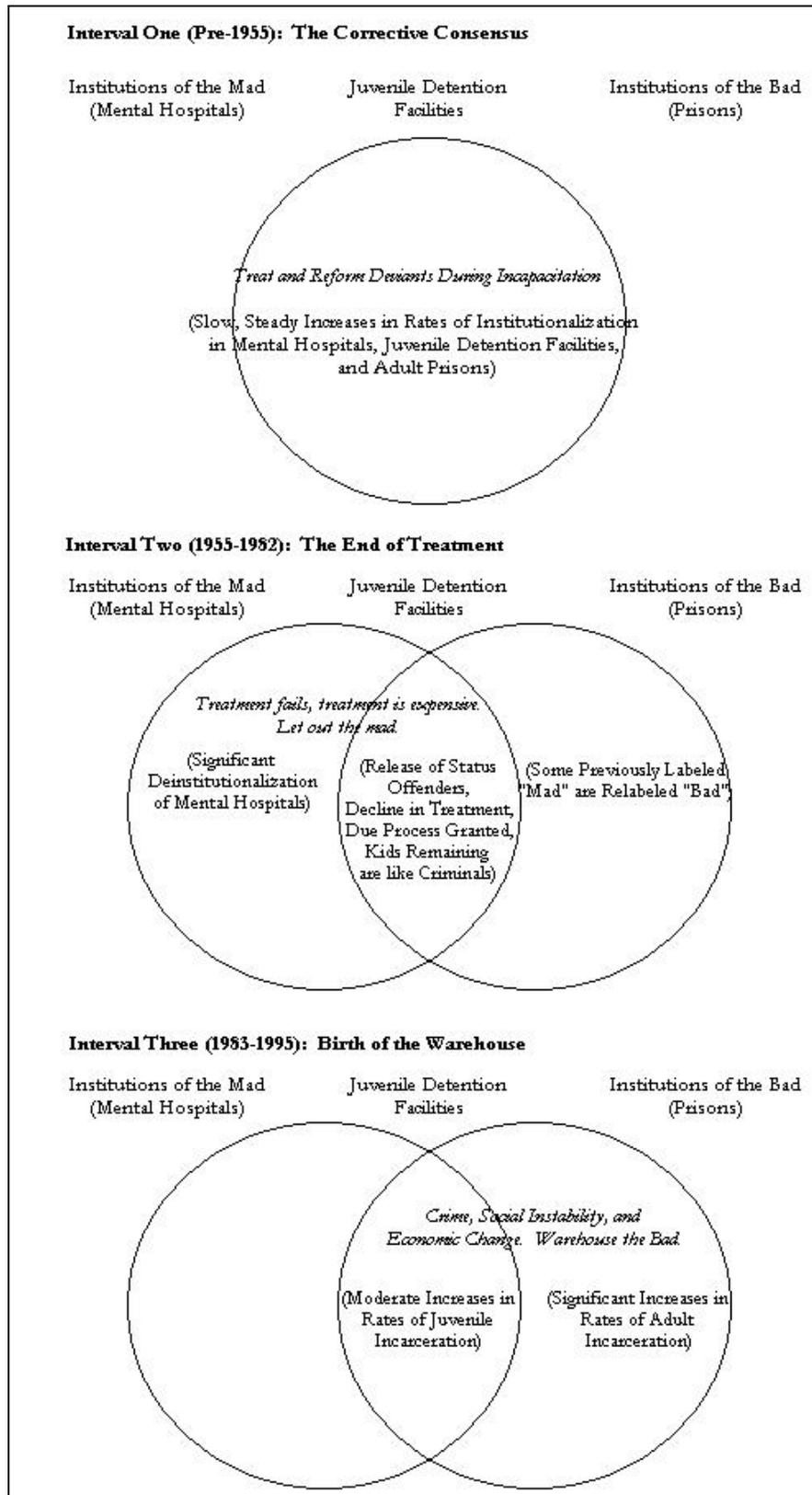


Figure 3.

<i>Organizational Type</i>	Mental Hospital	Prison
<i>Holds</i>	Patients	Inmates
<i>Primary Purpose</i>	Treats	Protects
<i>Type of Deviance</i>	Normative	Legal
<i>Evaluation for Entry</i>	Discretionary	Adjudicative
<i>Implications of Failure of Treatment</i>	Release	Warehouse

Table 1.

	Time Interval I: 1950-1969		Time Interval II: 1970-1982		Time Interval III: 1983-1993	
	(1)	(2)	(1)	(2)	(1)	(2)
	Adult Rate	Adult Rate	Adult Rate	Adult Rate	Adult Rate	Adult Rate
Lag Adult Rate	0.831 (30.54)**	0.825 (28.88)**	0.718 (23.01)**	0.573 (17.10)**	1.029 (60.81)**	0.904 (35.66)**
Lag Mental Rate	0.018 (2.83)**	0.017 (2.18)*	-0.081 (5.33)**	-0.014 (0.55)	-0.307 (3.72)**	-0.409 (4.31)**
Lag Civ Labor		0.079 (0.04)		7.064 (2.15)*		15.569 (3.00)**
Lag Unemployment		0.065 (0.68)		0.289 (2.95)**		-0.065 (0.76)
Lag Manufacturing		-0.027 (1.00)		0.193 (2.53)*		-0.159 (2.04)*
Lag Property Crime				0.001 (5.07)**		0.001 (2.61)**
Lag Robbery				0.006 (3.29)**		-0.014 (5.66)**
Lag Murder				-0.150 (3.29)**		0.226 (3.94)**
Lag Percent Black				0.313 (1.75)		-0.683 (2.51)*
Constant	1.098 (4.24)**	1.473 (1.83)	4.225 (9.62)**	-8.658 (2.95)**	2.378 (3.71)**	8.893 (2.16)*
Observations	477	477	486	439	490	441
Number statevar	49	49	49	49	49	49
R-squared	0.68	0.73	0.68	0.72	0.93	0.93
Rho	0.4970	0.4624	0.7397	0.9262	0.6434	0.9830

Absolute value of t statistics in parentheses
* significant at 5%; ** significant at 1%

Table 2.

	Time Interval II: 1970-1982		Time Interval III: 1983-1993	
	(1)	(2)	(1)	(2)
	Juvenile Rate	Juvenile Rate	Juvenile Rate	Juvenile Rate
Lagged Juvenile Rate	-0.098 (1.40)	-0.087 (1.20)	0.016 (0.20)	-0.031 (0.42)
Lagged Adult Rate	-0.484 (2.86)**	-0.526 (2.86)**	0.316 (4.09)**	0.215 (2.31)*
Lagged Mental Hospitalization Rate	0.299 (4.90)**	0.377 (2.53)*	0.234 (0.61)	0.926 (2.31)*
Lagged Property Crime Rate		-0.364 (0.39)		4.831 (3.78)**
(Lagged Property Crime X Lagged Mental Hospitalization Rate)		-0.087 (2.04)*		
Lagged Civil Labor Force		-11.335 (0.63)		75.675 (3.92)**
Lagged Unemployment Rate		-0.653 (1.21)		-0.044 (0.12)
Lagged Manufacturing Rate		-0.538 (1.60)		-0.631 (1.81)
Lagged Robbery Rate		0.007 (0.53)		-0.076 (4.92)**
Lagged Murder Rate		0.033 (0.11)		-0.076 (0.38)
Lagged Percent Black		-0.484 (0.79)		1.068 (0.99)
Constant	22.612 (8.82)**	47.737 (3.39)**	14.272 (4.56)**	-13.394 (0.82)
Observations	243	242	245	245
Number of statevar	49	49	49	49
R-squared	0.20	0.25	0.12	0.35
Rho	.8953	.9177	.6978	.9259

Absolute value of t statistics in parentheses
* significant at 5%; ** significant at 1%

Table 3.

Panel Analysis, Fixed Effects Regressions of Juvenile Detention Rates on Treatment Staff Rate, 1970-1979		
	(1) Juvenile Rate	(2) Juvenile Rate
Ratio of Treatment Staff to Total Staff	26.708 (3.38)**	26.618 (3.19)**
Percent in Manufacturing		0.530 (1.13)
Civil Labor Force		-21.574 (1.01)
Unemployment Rate		1.384 (2.35)*
Robbery Rate		0.041 (2.31)*
Murder Rate		0.568 (1.45)
Property Crime Rate		-0.002 (2.39)*
Percent Black		1.058 (0.87)
Constant	12.291 (5.68)**	-16.119 (0.83)
Observations	146	146
Number of statevar	49	49
R-squared	0.11	0.28
Rho	.8361	.9473
Absolute value of t statistics in parentheses		
* significant at 5%; ** significant at 1%		

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