

Chapter 2: Defining and Measuring Offenses by and Against Juveniles

Jill Joline Myers

This chapter discusses some of the problems researchers' face when studying juvenile justice. For the most part, researchers examining Missouri will find similar difficulties as encountered by all criminal justice practitioners. This chapter briefly highlights the definitional differences concerning juvenile terminology across the United States and specifically, this section will address the aberrations and anomalies unique to the juvenile system of Missouri. Links referencing other articles pertinent to Missouri and describing the most recent accounts of juveniles coming under the watch of the juvenile justice system will be included. Finally, this chapter will underscore some of the new theories promoted by juvenile justice professionals and discuss them in terms of their applicability to Missouri's juvenile system.

Definitions have consistently caused problems for researchers studying juvenile justice. The definition of a juvenile may mean a 15-year-old in one state but an 18-year-old in another. This chapter discusses the basic definitions used by the juvenile justice system in Missouri as well as offers highlights or insights regarding juvenile delinquency and juvenile abuse/neglect/custody within the Missouri system.

In Missouri a "child" is considered for delinquency purposes, to be someone under 17 years of age and an "adult" includes everyone 17 years of age or older. However, the definitions change somewhat when referring to abused and neglected children or when discussing termination of parental rights. In those cases a "child" or a "minor" is someone under 18-years old. Further, the language "juvenile court" has two meanings. It can refer to judges handling cases and to the division of the circuit court that handles juvenile concerns.

As terminology differs depending on the jurisdiction, the procedures followed and practiced also vary from state to state and in some instances from city to city or from rural to urban areas. Thus, it is often difficult to make fair comparisons and sociological sense from collected statistical data and quantitative information. Program changes, shifts in populations, fiscal issues, perceptions of events, and technological innovations like detection devices and Missouri's new DSS data storage system which was implemented in mid 2005, also affect the juvenile system in ways that are often difficult to objectively measure.

All that being said, Missouri by mandate (219.036.4 RSMo.), still attempts to capture and record juvenile data so that the dimensions of delinquency, status offenses, and the abuse/neglect/custody problems can be analyzed and critiqued and the various traits common to these categories can be studied. With accurate, complete and up-to-date information it is hoped that early detection will be possible and will, in turn, minimize or stave-off problems.

Today there are five categories of referrals in Missouri: law violations, status offenses, abuse/neglect/custody matters, court order violations, and municipal/juvenile violations. Law violations include any act in violation of the Missouri Criminal Code. Status offenses are acts that are violations only due to a juvenile's age such as truancy. In 1994 status offenses included curfew violations; but now curfew violations are tracked in the municipal, juvenile category. Thus, adding further confusion when using, comparing, or analyzing long-term topics. Abuse, neglect, and custody referrals include cases involving termination of parental rights and the abuse or neglect of children. Court order violations are self-explanatory. Municipal/juvenile offenses include a collective category of activities such as curfew violations and smoking in a public places. Prior to 2001, referrals for curfew and smoking violations were reported in the status and administrative categories (Missouri Department of Social Services, 2006). The

following chart, taken from the Missouri Juvenile Court 2005 Annual Report, page 2, shows the breakdown for all referrals to juvenile court under their respective category by year.

Chart One

Juvenile Court Referral Statistics: 1996 – 2005						
Year	Law Violation	Abuse Neglect Custody	Court Order Violation	Municipal Juvenile	Status Offense	Total
1996	46,229	13,104	929		23,799	84,131
1997	49,402	13,344	819		22,553	86,118
1998	48,382	13,416	900		23,749	86,447
1999	49,323	13,696	835		24,570	88,424
2000	46,291	14,843	1,048		22,728	84,910
2001	45,942	17,483	1,124	2,814	19,977	87,340
2002	42,793	15,949	1,147	2,189	18,303	80,381
2003	40,922	15,261	940	2,132	17,672	76,927
2004	41,249	14,523	855	1,878	16,903	75,408
2005	38,937	13,598	1,043	2,232	16,223	72,033

Law violations were the most frequent referrals at 54% in 2005. Additionally, there were 125 law violation referrals that were dismissed from the juvenile system and processed in the general adult court under Missouri’s certification process. (The certification process is comparable to waiver or transfer processes utilized in other jurisdictions. Certification allows juveniles who commit certain violent offenses to be transferred from juvenile court to adult court despite their youthful age if it is determined or assessed that they are not amenable to treatment within the juvenile system.) Approximately 19% of the referrals dealt with abuse and neglect issues, less than 2% dealt with court order violations, about 3% concerned municipal violations, and almost 23% of the referrals involved status offenses. Most significant is the continuation of the downward trend in law violations by youth in Missouri and the overall downward trend in total referrals to the juvenile court. The overall referral rate has decreased approximately 14% between 1996 and 2005 and the law violation referral rate decreased approximately 16% during that same time period.

Most of the 2005 law violation referrals were initiated by law enforcement (62%) and most of the child abuse and neglect referrals were made by the Department of Social Services’ Children’s Division (14%). School referrals comprised 11%, parent referrals accounted for only about 4%, and self referrals amounted to less than one percent of the total referrals in 2005.

In 1994 researchers from the National Center for Disease Control and Prevention and the University of Missouri found that the lack of standards for collecting and reviewing data posed problems for researchers in evaluating and applying statistical data to study the causation or factors involved in juvenile matters. Specifically, they were concerned that the numbers of reported instances of fatal abuse

and neglect would be grossly inaccurate due to the paucity of jurisdictions that had adequate comprehensive systems in place to investigate children's deaths. Their study found that officials had only reported 850 deaths due to neglect and abuse for children four years and younger; however, by calculating the number of fatalities based upon states and cities that used standardized systems for reviewing child deaths, the figure should have indicated a number greater than 1800, a 211% increase in child fatalities. The study concluded that without standardized reviewing of child deaths, the actual cause of death might be inaccurately attributed to accidents as opposed to maltreatment. Because of the variations in reviewing child deaths and the resultant potentially misleading totals, the previous sociological studies addressing the factors that contribute to child abuse and their conclusions may be misleading as the numbers may have been diluted.

Missouri, Oregon and South Carolina were ahead of the curve as they had already implemented a Child Fatality Review Program by 1986 (210.192 RSMo.). Today these death review teams exist in all fifty states. Missouri law requires that any child under age 18 who dies from any cause must be reported to the medical examiner and the death reviewed for unnatural, unclear, unexplained, or suspicious cause indicators. By 1991 Missouri's child fatality review system was acclaimed to be one of the most comprehensive systems in the nation providing an accurate account of each child's death as well as providing a standardized database to assist in identifying the causes and strategies necessary to prevent or reduce these tragedies. The sum of the data is used to identify trends to establish best practices within the state and elsewhere. The results of all of their findings may be viewed in the Preventing Child Deaths in Missouri, the Missouri Child Fatality Review Program Annual Report for 2005.

The Child Fatality Review Program certainly assists in obtaining more accurate statistics on deaths due to abuse and neglect; however, non-fatal incidents still remain difficult to accurately quantify. National statistics are confusing as different states define abuse and neglect differently. Some states include only substantiated cases, while others include substantiated and indicated cases of abuse. Missouri adds to the confusion by dividing its cases into three categories: (1) substantiated, meaning that evidence exists to support the abuse/neglect referral; (2) unsubstantiated-preventive services indicated, meaning that insufficient evidence exists to support the referral claim, however, the reviewing social worker believes that certain indicators of potential abuse do exist indicating intervention services are needed; and (3) unsubstantiated, meaning that insufficient evidence existed to support the referral and that no identifiable threats existed that would indicate a need for social service intervention.

Nationally, it is estimated that there are approximately 15 cases of substantiated abuse and neglect per 1000 minor children. Per a report disseminated in 2005 (Pike, L) Missouri mirrors the national figure. In 2005, in Missouri's Child Abuse/Neglect Annual Report, 10.1% or 8,158 children are the victims of substantiated abuse/neglect. Furthermore, an additional 4% or 3,571 children are deemed to be at risk for abuse/neglect even though the referral is insufficiently substantiated to confirm actual abuse. According to the total number of referrals for child abuse/neglect in 2005, 68,848 referrals were unsubstantiated without a need for any further state agency intervention. If a better method of investigation were employed, would more abuse/neglect be detected? Although the current system requires an investigation as to each referral, would further investigation or follow up investigations reveal more evidence to substantiate the abuse? Currently, only certain individuals and professionals are required to report abuse. If all suspected abuse/neglect were mandated reportable, would the figures increase as to referrals and substantiated claims?

Other statistics that may be subject to further scrutiny involve the reporting of referrals by month and the worker findings associated with neglected children. The 2005 annual report indicates that most substantiated incidents were reported in August with 804 children and the highest incidence of abuse/neglect also occurred in August involving 398 children. The lowest month reporting substantiated incidents and lowest month for occurrences was December. On first blush, it appears that the month itself

may be a factor in abuse/neglect incidents; however, no data is available to extract the potential variable that in December Missourians may tend to migrate inside behind closed doors with windows tightly shut. With persons and activities moving indoors, there is less chance for people to see, hear or report the incidents, particularly those who are mandated by law to report the incidents.

Another area of concern creating potential confusion involves the criteria used by each investigating/assessing social worker to conclude that the most frequent findings associated with neglect includes, 56% - lack of supervision, 26% - unsanitary living conditions, 26% - unsafe/inadequate shelter and 14%- failure to protect, to name a few. How does one definitively define lack of supervision, unsanitary or unsafe conditions? Are toxic levels necessary to merit the finding, or are high levels acceptable, and if so, for how long do these conditions need to exist to become sufficient for the finding?

Many children are the victims of more than one type of abuse and each category of abuse reportedly is associated with slightly different causation factors. Physical abuse may or may not include sexual abuse. Emotional abuse may exist independently or may coexist with neglect and/or physical abuse. Many who are physically abused are reluctant to report sexual abuse as well. The categories of maltreatment are not equally favored in reporting and the procurement or establishment of evidence is not as easily obtained in all categories. Physical abuse in certain situations may be much easier to document than emotional abuse or sexual abuse.

Society's acceptance of certain categories of maltreatment of youths also plays a role in reporting incidents. Often, people overlook inappropriate activities under the guise that it may be just bad parenting or overzealous discipline. Thus, the category of abuse that gets top billing may not adequately reflect the actual situation and the factors listed as attributable to the behavior may not correspond correctly to the appropriate category. In other words, the causes attributed to the abuse may in fact belong to a different category. For example, physical abusers are described as lonely, anxious, angry, and distant. Neglectful individuals are described as immature individuals who are unable to make important life decisions concerning, work marriage and children (Pike, I. 2005). If neglect were to more accurately describe the maltreatment, but physical abuse were more easily documented, the causation factors listed would incorrectly taint the statistical conclusions.

Missouri, through its reporting system, has attempted to offset this research quagmire. The state allows a child abuse/neglect referral to be substantiated for up to six categories. For example, in 2005 thirty-two Missouri youth fatalities were substantiated which represents a considerable reduction from the 56 reported in 2001. Nevertheless, the 32 fatalities were listed as caused by physical abuse (84.4%), neglect (62.5%), medical neglect (21.9%), emotional maltreatment (12.5%) and sexual abuse (3.1%). The sum of the causes for the fatalities equals 184.4%. Perhaps because of the inability to accurately reflect the best category of maltreatment, Missouri's report does not attempt to separate the different demographics for either the perpetrator or the child by offense category. Rather their report lumps all categories together and simply concludes, that the highest incidence of child deaths (6) occurred in June with February, April and December each reporting 5 deaths. Most of the victims (91.3%) were age five or under and 16 were male and 16 were female. The perpetrator demographics were also lumped together by category of maltreatment. The majority of the perpetrators were between 20 and 39 years of age with 8.7% of them being the natural parent, 11.3% being the parent's paramour, 11% being the stepparent and 48.4% being relatives, grandparents, siblings and other relations. Fifty-five percent (55%) of the perpetrators were male and forty-three percent (43%) were female. No analysis was done or reported as to the unique characteristics attributed to either the victims or perpetrators of each category.

Concern about statistical validity and relevance is not restricted to abuse and neglect matters. A 1993 study assessing violent deviant behavior in serious juvenile offenders discussed the disadvantages of using the two most frequent methods of assessment concerning delinquency; that is, arrests and self

reports (Henggeler, Scott W. 1994). The results of Henggeler's study failed to support either method as a way to index violent criminal behavior accurately. He claimed that the low probability of being arrested for a criminal act and the inherent biases within the juvenile system eschew the results. Furthermore, self-reporting studies are limited by ethnic biases such as the reluctance of immigrants to contact the government and the underreporting by minorities. The study also asserts that self-reporters tended to underreport certain serious crimes like sex offenses and violent crimes because of the legal sanctions and serious interpersonal sanctions associated with them. Thus, the variables that have traditionally been linked to delinquency like family relations, problem behavior, and peer relations must now be questioned as well.

As shown previously, there are a number of resources to find statistics on juveniles in Missouri. In fact, in 1982, the Missouri General Assembly mandated that juvenile court referral statistics be maintained not only for all youths committed to the Missouri Department of Social Services, Division of Youth Services, but also for all youths referred to any juvenile agency. Other statistical sources exist as well. The sources include official statistics compiled by the courts, social service agencies, the OJJDP, and a number of other research providers. The definitions used in these sources are generally outlined for the reader so there will be less confusion and fewer discrepancies. As the reader moves from state statistics to federal statistics, the differences in definitions will often be identified or at least obvious.

In a different vein, there is a tendency on the part of practitioners to label and classify youths. To a certain extent these labels are necessary as different standards of proof and procedures apply depending on the category of referral. Furthermore, a number of different agencies are forced into using these labels as definitions in order to classify and measure crime by and against youth. While labels as a means of classification are acceptable, it is unfair to use them as a means to stigmatize youth. There may seem to be a typical youth that has characteristics of being at-risk; however, there are just as many youths with problems who do not fall within the typical profile of an at-risk child. Labeling often prevents clear vision. It reduces differences into simplistic categorizations that may influence outcomes, transform assumptions into realities or be used to justify or perpetuate prejudice and inequality. Labeling stigmatizes youth, and unless it is used as a means to classify for research it should not be done on juveniles.

For example many law enforcement departments have created gang units to study and collect data so that gang suppression efforts will be more effective. The data used to identify gang members comes from a number of sources, including parents, eyewitness accounts, "snitch" information, documentation and evidence gathered from gang members and gang related seizures. With the wide variety of sources identifying "gang membership" it is likely and inevitable that some youths will be identified and included within the ranks who are not gang members. These youths may associate with gang members, but they do not commit crimes nor identify themselves as part of "the gang." These youths may hang around with the gang members due to family relationships, neighborhood associations or school functions. The identification of these youths as gang members may result in stereotyping their behavior and their needs. Michael Carlie, a Ph. D. from Missouri State who studies gang-related issues found that among the greatest needs of most gang-member-clientele are help with anger management, counseling for their prior abuse, substance abuse intervention, education, job training, job placement, and housing assistance. He also recommends that both male and female gang members receive sex education, family planning, and parenting classes." A mistaken identification as a gang member may influence the child to further associate with the gang or receive intervention when none or a different type was indicated. Children's futures are at stake due to errors in judgment or incorrect labeling (Carlie, M., 2002; Part 4). Although early intervention is encouraged, over intervention or unnecessary intervention is not. The system must be careful to prevent commitment programs from becoming colleges for criminals. The system should not assist youth in learning bad behaviors by placing non-criminals in programs and treatment centers with delinquents.

In Missouri, as is the case everywhere, the jurisdiction of the juvenile courts is reserved for children falling below a legislatively prescribed age. Although juveniles as young as twelve may be transferred or certified to criminal court for felony offenses, no youth over the age limit may be tried in juvenile court. If a child of any age commits a serious offense such as murder, first degree assault, forcible rape, forcible sodomy, first degree robbery, distribution of drugs, or has committed two or more prior unrelated felony offenses, he/she may be transferred to the adult system (Section 211.071 RSMo. Supp.1995). In essence ten year olds or even eight year olds could be considered “adults within the Missouri system. In reality though, in 2005 there were 125 referrals dismissed from juvenile courts and certified to adult court. Of those 125 children certified to adult court, two were only 13 years old, three were 14 years old, and twenty were 15 years old. The thirteen and 14 year olds were all African Americans and ten of the twenty 15 year olds were African - Americans.

In Missouri, the term “juvenile” is a function of circumstances as opposed to age. If a person under 17 commits a crime or a status offense, he/she is a juvenile and comes within the jurisdiction of the juvenile court and may be detained in a juvenile facility until he/she is 21 years old. But if a child is previously certified and convicted as an adult concerning a criminal offense, all other new criminal offenses will result in prosecution in the court of general jurisdiction and not the juvenile court regardless of the age at the time of the new offense. If a person is under the age of 18 and is the subject of neglect and abuse, he/she will be treated as a juvenile and the case will be handled within the juvenile court as well.

A person must be 21 in Missouri to possess alcohol and to serve on a jury; however, he/she must be only 18 to vote, to register with the selective service, to sue or be sued in civil court, to sign a binding contract, to consent to his/her own medical treatment including abortions and to get married without parental or court approval. At age 15 ½ a youth can get a special license to drive with a parent or guardian and all traffic offenses will be handled as adult offenses in traffic court. At any age one may be the victim of a crime and consequently he/she is entitled to attend all proceedings concerning the event as well as receive damage payments. Finally, a person may be emancipated when he/she reaches age 18, but un-emancipated children are entitled to support from their parents until at least age 21 (Aulbur, M).

Transfer Provision

Section 211.071. 1. (1995). If a petition alleges that a child between the ages of twelve and seventeen has committed an offense which would be considered a felony if committed by an adult, the court may, upon its own motion or upon motion by the juvenile officer, the child or the child's custodian, order a hearing and may, in its discretion, dismiss the petition and such child may be transferred to the court of general jurisdiction and prosecuted under the general law; except that if a petition alleges that any child has committed an offense which would be considered first degree murder under section 565.020, RSMo, second degree murder under section 565.021, RSMo, first degree assault under section 565.050, RSMo, forcible rape under section 566.030, RSMo, forcible sodomy under section 566.060, RSMo, first degree robbery under section 569.020, RSMo, or distribution of drugs under section 195.211, RSMo, or has committed two or more prior unrelated offenses which would be felonies if committed by an adult, the court shall order a hearing, and may in its discretion, dismiss the petition and transfer the child to a court of general jurisdiction for prosecution under the general law.

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<http://www.ncjrs.org/jhome.htm>
- Justice Research and Statistics Association
<http://www.jrsainfo.org/>
- National Institute of Justice
<http://www.ojp.usgov/nij>
- OJJDP -- Missouri State Demographics (1995-1996) – includes demographics, overview of juvenile justice system, offense patterns, and a variety of statistics.
<http://ojjdp.ncjrs.org/PUBS/gender/state-mo.html>

Sourcebook of Criminal Justice Statistics
<http://www.albany.edu/sourcebook>

U.S. Department of Health and Human Services Division of Children and Youth Policy
<http://aspe.os.dhhs.gov/hsp/cyphome.htm>

U.S. Department of Justice – Office of Justice Programs – information from UCR and victimization survey. Select state by state national trends, choose Missouri, choose type of crime, choose year(s).
<http://www.ojp.usdoj.gov/bjs/cvict.htm>

Your Missouri Courts – a good source of definitions, classification systems, and statistics.
<http://www.courts.mo.gov/page.asp?id=308>

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Review Questions

- 1) Why is labeling a bad idea? When is labeling acceptable?
- 2) Why is terminology important in research studies concerning delinquency and juvenile issues?
- 3) What problems may occur when moving from state level to federal levels when studying delinquency?
- 4) When is a person considered a juvenile or a “child” in Missouri?
- 5) Missouri is one of the minority of states that sets no minimum age requirement for transfer to adult court in certain offenses and allows for transfer at age 12 for felony offenses. Discuss whether this minimum is appropriate.
- 6) What are some of the limitations of Missouri’s reporting on juvenile matters and how can they be corrected?
- 7) Why are the number of referrals concerning youth in Missouri decreasing and will the state be able to sustain this downward trend?