

An area of the law that deals with the actions and well-being of persons who are not yet adults.

In the law a juvenile is defined as a person who is not old enough to be held responsible for criminal acts. In most states and on the federal level, this age threshold is set at 18 years. In Wyoming a juvenile is a person under the age of 19. In some states a juvenile is a person under the age of 17, and in Connecticut, New York, and North Carolina, a juvenile is a person under the age of 16. These age definitions are significant because they determine whether a young person accused of criminal conduct will be charged with a crime in adult court or will be required to appear in juvenile court.

Juvenile courts generally have authority over three categories of children: juveniles accused of criminal conduct; juveniles neglected or abused by their parents or in need of assistance from the state; and juveniles accused of a status offense. This last category refers to conduct that is prohibited only to children, such as absence from school (truancy), flight from home, disobedience of reasonable parental controls, and purchase of alcohol, tobacco, or Pornography.

Originally the term juvenile delinquent referred to any child found to be within the jurisdiction of a juvenile court. It included children accused of status offenses and children in need of state assistance. The term delinquent was not intended to be derogatory: its literal meaning suggested a failure of parents and society to raise the child, not a failure of the child.

The modern trend is to separate and label juveniles based on the reason for their juvenile court appearance and the facts of their case. Many states have created three categories for juveniles: delinquents, abused or neglected children, and children in need of services. Delinquents are juveniles who have committed acts that would result in criminal prosecution if committed by an adult. Abused or neglected children are those who are suffering from physical or emotional abuse or who have committed status offenses or petty criminal offenses. Children in need of services are ones who are not abused or neglected but are needy in some other way. These children are usually from impoverished homes and require improved nutrition and basic health care.

Generally, the procedures for dealing with abused, neglected, and needy children are less formal than the procedures for dealing with alleged delinquents. The subsequent treatment of nondelinquent juveniles by the courts is also markedly different from the treatment of delinquents. Separation of noncriminal cases from criminal cases removes some of the stigma attached to appearance in juvenile court.

The mission of juvenile courts differs from that of adult courts. Juvenile courts do not have the authority to order punishment. Instead, they respond to juvenile misconduct and misfortune by ordering rehabilitative measures or assistance from government agencies. The juvenile court response to misconduct generally is more lenient than the adult court response.

Juvenile court proceedings are conducted in private, whereas adult proceedings are public. Also, whereas adult criminal courts focus on the offense committed and appropriate punishment, juvenile courts focus on the child and seek to meet the child's needs through rehabilitation, supervision, and treatment. Adult courts may deprive adults of their liberty only for the violation of criminal laws. Juvenile courts, by contrast, are empowered to control and confine juveniles based on a broad range of behavior and circumstances.

History

Before the nineteenth century, children were generally considered to be young adults, and they were expected to behave accordingly. Children over the age of seven years who were accused of crimes were prosecuted in adult court. If convicted they could be confined in an adult prison. By the nineteenth century, most states had created separate work farms and reform schools for convicted children, but some states still sent children to adult prisons. Juveniles were not always rehabilitated in prison. After interacting with adult criminals, they often emerged from prison with increased criminal knowledge and an increased resolve to commit crimes.

In the late nineteenth century, progressive social discourse caused a shift in the general

Trying Juveniles as Adults

In 1899 the U.S. made legal history when the world's first juvenile court opened in Chicago. The court was founded on two basic principles. First, juveniles lacked the maturity to take responsibility for their actions the way adults could. Second, because their character was not yet fully developed, they could be rehabilitated more successfully than adult criminals. More than a century later, these principles remain the benchmarks of juvenile justice in the United States.

In recent years, however, a growing number of juvenile criminals are being tried as adults—much the way they might have been before the advent of juvenile courts. In part this stems from public outrage against children who, in increasing numbers, are committing violent crimes.

Interestingly, the overall rate of juvenile crime has been decreasing since 1995. When people see gruesome images on television, such as the Columbine High School shootings in Littleton, Colorado, or the Springfield, Oregon, rampage of 15-year-old Kip Kinkel (who shot both his parents and two classmates), their impression is that juvenile crime is out of control.

Since the early 1990s many states have adopted a "get tough" approach to juvenile justice as a response to the increasingly violent crimes committed by children. As of 2003 many states had adopted legislation that permits more children to be tried as adults. All states have a provision allowing prosecutors to try juveniles as young as 14 as adults under certain circumstances. In some states, such as Indiana, South Dakota, and Vermont, children as young as 10 can be tried as adults.

An example of a "get tough" law is Michigan's Juvenile Waiver Law of 1997. This measure lowered the age that juveniles can automatically be tried as adults. In adopting this law, the state has taken away some of the judge's discretion in deciding whether a minor should be tried as a

child or as an adult. Factors such as criminal history, psychiatric evaluation, and the nature of the offender's actions carry less weight when the judge is forced to enter an automatic adult plea.

Another example is California's Proposition 21, which was passed in 2000. This law permits prosecutors to send many juveniles accused of felonies directly to adult court. In effect, the prosecutors are the ones who decide whether a minor should be tried and sentenced within the adult system; this takes away the judge's discretion. Proposition 21 also prohibits the use of what was known as "informal probation" in felonies. This type of Probation was offered to first-time juvenile offenders who admitted their guilt and attempted to make restitution. Finally, the proposition requires known gang members to register with police agencies and increases the penalties for crimes such as Vandalism.

The U.S. Justice Department shows that prosecutors are actively putting these new tougher laws to use against juvenile offenders. A Justice Department study released in 2000 states that violent juvenile offenders are more likely to serve out their sentences in an adult prison than they would have been in 1985. With two million adults currently incarcerated in prison, the number of juveniles in adult facilities is a minuscule percentage; 7,400 juvenile offenders were serving time in an adult facility as of 1997, according to the Justice Department. That number, however, is more than double the number of juveniles in adult prisons in 1985.

The question of whether trying juveniles as adults is effective has generated considerable interest. Some studies have suggested that instead of solving a problem, trying juveniles in adult settings may be making things worse. Juveniles who serve time with adults have a higher Recidivism rate than those who serve with other juveniles. Moreover, juvenile recidivists from adult facilities were more likely to commit more violent crimes than their counterparts in juvenile centers. Groups such as Human Rights Watch have complained that prison conditions for juveniles in adult prisons are poor and that juveniles in adult facilities are more likely to be assaulted or abused by other prisoners.

Putting aside the debate over whether minors belong in adult prisons, there is no question that the practice had gained support and was in the early 2000s accepted by people who might have balked 20 years earlier. Whether the new "get tough" policy so many states embrace would work remained to be seen, but it was certainly expected to stay.

Further readings

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Cross-references

Courts; Penitentiary.

attitude toward children. Social, psychological, and behavioral experts proposed a new understanding of children based on their youth. The progressive theory declared that children should be considered innocent and vulnerable and as lacking the mental state required for them to be held responsible for a criminal offense because they have not acquired the wisdom that comes with age. It followed that juveniles should not be punished for their criminal behavior. Instead, they should be reformed, rehabilitated, and educated.

Juvenile crime was an important element, but not the driving force, behind the creation of the juvenile courts. Juvenile crime rates were quite low in the nineteenth century. Progressives claimed that the biggest problems facing children were neglect and poverty. The industrial revolution caused an increase in the number of urban poor. As poverty increased, so did the incidence of child abandonment, neglect, and abuse. This situation led to a political push for states to protect those who were in distress.

The perception of the government as a surrogate parent, known as *Parens Patriae*, also led to the formulation of status offenses. These offenses derived from the idea that the government should help shape the habits and morals of juveniles. Status offenses reflected the notion that state control of juveniles should not be limited to enforcement of the criminal laws. Instead, the state would have additional authority to prohibit a wide variety of acts that were considered precursors to criminal behavior.

The progressive theory won widespread support, and legislatures set to the task of conforming the legal system to the new understanding of children. The Illinois legislature was the first to create a separate court for children. The Juvenile Court Act of 1899 (1899 Ill. Laws 131, 131-37) created the first juvenile court and established a judicial framework that would serve as a model for other states.

The Illinois act raised the age of criminal responsibility to 16 years. This action meant that no person under the age of 16 could be prosecuted in adult court for a crime. Children accused of a crime would instead be brought to juvenile court.

The Illinois act gave the juvenile court additional authority to control the fate of a variety of troubled youths. These young people included:

any child who for any reason is destitute or homeless or abandoned; or dependent on the public for support; or has not proper parental care or guardianship; or who habitually begs or receives alms; or who is found living in any house of ill fame or with any vicious or disreputable person ... and any child under the age of 8 years who is found peddling or selling any article or singing or playing any musical instrument upon the street or giving any public entertainment.

The Illinois act also created a new system for the disposition of juveniles. The act specified that all children found to be within the jurisdiction of the court should be given a level of care and discipline similar to "that which should be given by its parents" (§ 3 [1899 Ill. Laws 131, 132]). In all cases the court would attempt to place the child with a foster family or a court-approved family responsible for the custody of the child. If foster placement was not accomplished, the child would be placed in a reform school, where he or she would work and study. Juveniles found to be within the jurisdiction of the court remained under the court's control until the age of 21.

The terminology created for juvenile court was based on the terminology used in civil rather than criminal court. This language helped establish a nonthreatening environment. Juveniles were not charged by an indictment, as they would have been charged in adult court; rather, they were brought before the juvenile court by way of a petition. Juveniles were not arraigned by the court at their first appearance; instead, they were held to appear for an intake hearing. The process was not called a trial but an adjudication or a hearing. A juvenile found by the court to have committed a crime was not found guilty but was adjudged delinquent. Finally, instead of fashioning a sentence proportionate to the offense, the juvenile court disposed of the case by focusing on the best interests of the child. This terminology was used in every case, whether the petition concerned a juvenile charged with a crime or a juvenile in need of services or protection.

The Illinois act spawned similar acts in other states, and soon the progressive theory was put into practice across the United States. Juveniles were rehabilitated instead of punished; placed under the control of a juvenile court for a wide range of circumstances, some beyond their own control; and diverted from adult courts and prisons into an informal, relaxed system.

Modern Juvenile Law

The basic framework created by the first juvenile court act is largely intact. Rehabilitation, not punishment, remains the aim of the juvenile justice system, and juvenile courts still retain jurisdiction over a wide range of juveniles. The most notable difference between the original model and current juvenile law is that juveniles now have more procedural rights in court. These rights include the right to an attorney and the right to be free from Self-Incrimination.

All states now maintain a juvenile code, or set of laws relating specifically to juveniles. The state codes regulate a variety of concerns, including the acts and circumstances that bring juveniles within the jurisdiction of the juvenile court, the procedures for juvenile courts, the rights of juveniles, and the range of judicial responses to misconduct or to the need for services.

Should the Juvenile Justice System Be Abolished?

The juvenile justice system seeks to rehabilitate children, rather than punish them for their juvenile criminal behavior. Since the late 1970s, critics of the juvenile courts have sought to abolish this system, arguing that it has failed in its rehabilitation efforts and in not punishing serious criminal behavior by young people. At the same time, defenders of the juvenile justice system contend that for the vast majority of children, the system is a worthwhile means of addressing problems. They maintain that a handful of violent juveniles who have committed

serious crimes should not lead the public to believe that the system does not provide ways of changing behavior.

Critics note that the social and cultural landscape has changed considerably since the early 1900s when the juvenile justice system was established. Drugs, Gangs, and the availability of guns have led to juveniles committing many serious crimes, including murder. Critics insist that juvenile courts are no longer adequate to address problems caused by violent, amoral young people. Some argue that the perceived leniency of the juvenile justice system compounds its failure to rehabilitate by communicating to young people that they can avoid serious consequences for their criminal actions. The system engenders a revolving-door process that sends the message that young offenders are not accountable for their behavior. It is not until these repeat offenders land in adult criminal courts that they face real punishment for the first time. Thus, it may be better to punish a juvenile in the first instance, in order to deter future criminal activity.

Critics also claim it is wrong for juvenile offenders who have committed violent crimes to be released from the jurisdiction of the juvenile court at age eighteen or twenty-one. Serving a few years in a juvenile correction facility for a crime that if committed by an adult would result in a ten-year sentence is unjust. The punishment for a crime, argue critics, should be the same, regardless of the age of the perpetrator.

Because of these deficiencies, critics contend, the system should be dismantled. Juveniles should be given full due process rights, including the right to trial by jury, just like adults. Freed from the juvenile justice system's rehabilitative ideology and restrictions on criminal due process rights, juveniles should stand accountable for their criminal actions. Once a juvenile is convicted, a trial court can determine the appropriate sentence.

Defenders of juvenile justice respond that a small minority of violent youths have created the misperception that the system is a failure. Though not every child can be rehabilitated, it is unwise to abandon the effort. In every other sphere of society, children are treated differently from adults. For the few juveniles who commit serious crimes and have poor prospects for rehabilitation, current laws provide that they be transferred to adult criminal courts. Allowing this alternative is a wiser course, defenders insist, than dismantling the system.

Defenders also contend that many of the alleged defects of the juvenile courts can be traced to inadequate funding and to the environment in which many juveniles are forced to live. They point out that violent subcultures and early childhood traumas caused by abuse, neglect, and exposure to violence make it more difficult to address individual problems. If the system were adequately funded, Probation officers and court support personnel could more closely supervise children and rehabilitation efforts. If more energy were put into changing the socioeconomic situation of communities, rehabilitation efforts would improve and crime would decrease.

According to system supporters, placing juveniles in prison will not end the cycle of criminal behavior. The opposite result is more likely, for a teenager may feel stigmatized by a criminal conviction and may believe he is a lost cause, resulting in a return to crime. In addition, the huge

amounts expended on incarceration could be better spent on counseling, education, and job training.

Defenders of the juvenile justice system argue that a criminal conviction can engender difficulties in obtaining employment and in negotiating other aspects of life. It is wrong, they contend, to label a person so early in life, for an action that may have been impulsive or motivated by peer pressure. Preserving the juvenile justice system allows many teenagers to learn from their mistakes without prejudicing their adulthood.

Finally, defenders note that many states have changed their laws to deal more severely with violent juvenile offenders. As long as there are ways of diverting these offenders into the adult system, defenders insist, the current juvenile justice system should be maintained.

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Juvenile law is largely a matter of state law. On the federal level, Congress maintains in the U.S. Code a chapter on juvenile delinquency (18 U.S.C.A. §§ 5031 et seq.). The federal juvenile laws are similar to the state juvenile laws, but they deal solely with persons under the age of 18 who are accused of committing a federal crime, a relatively minor part of the juvenile justice system. Juvenile courts exist in all states. They may be held in a building or room separate from adult courtrooms. The proceedings are private, and the identity of the juveniles and the records of the proceedings are also private.

Many juveniles come to juvenile court after being arrested by the police for a criminal act. Juveniles accused of crimes may be confined in a secure facility prior to the disposition of their case. Although they should be separated from adults prior to trial, many juveniles accused of crimes find themselves in adult jail populations.

Juveniles charged with a crime do not have the right to a jury trial in juvenile court. All juvenile cases are heard by a juvenile court judge. At trial a prosecutor representing the state presents evidence against the juvenile, and the juvenile has an opportunity to respond to the evidence. The juvenile has the right to receive notice of the charges against him or her, to confront and question witnesses, to be free from self-incrimination, and to be represented by an attorney. If the juvenile cannot afford an attorney, the juvenile court will appoint one, at no cost. The juvenile may not be adjudged delinquent unless the prosecution has proved its case Beyond a Reasonable Doubt. This is the same high standard of proof required in adult criminal trials.

The harshest disposition of a juvenile case is commitment to a secure reformatory for rehabilitation. A secure reformatory is usually called a youth development center or something similar suggesting rehabilitation. Secure reformatories resemble adult prisons in that the inmates

are locked inside. The professed goal of reformatories is rehabilitation, but the unspoken goal is often confinement of the juvenile for the protection of the community.

Not all findings of delinquency result in commitment to a secure facility. Juvenile courts usually have the discretion to order any combination of Probation, community service, medical treatment, fines, and restitution. Probation releases the juvenile into the community under the supervision of a youth services officer. As a part of probation, juveniles often must fulfill certain conditions identified by the juvenile court and the youth services officer. These conditions can range from attending school and meeting certain performance requirements, to abstaining from drugs or alcohol. If the juvenile does not fulfill the conditions or commits another offense, she or he may be committed to a secure facility.

For repeated status offenses, a juvenile may be removed from home and placed in a state-approved foster home or some other state facility. Such facilities are usually not secure. However, juveniles ordered to such facilities are required to remain there for the period specified by the juvenile court judge. If they do not, they may be committed to a secure facility. Juveniles do not have the right to a court-appointed attorney unless they face commitment to a secure facility that is operated by the state or federal government.

Status offenses do not always result in an appearance before juvenile court. Police officers often take intermediate measures before detaining a juvenile and beginning the petition process. These measures range from a simple reprimand to notification of the juvenile's parents. If a juvenile continues to commit status offenses after being excused by the police, he may be detained and eventually declared delinquent.

Abused and neglected juveniles usually come to the attention of juvenile courts through the petitions of state agencies or concerned private parties. In some cases the juvenile may be suffering physical or emotional abuse. In other cases the juvenile may be petitioned because he has committed a number of status offenses or petty offenses. A petition by the state usually seeks to remove the juvenile from the home for placement in foster care or a state facility.

When the state seeks to remove a juvenile from the home, the parents must receive an opportunity to be heard by the juvenile court. The juvenile is also allowed to testify, as are other witnesses. In addition to removing the juvenile from the home, the juvenile court may order that certain parties refrain from contacting the juvenile.

Children in need of services may also be petitioned by third parties. In some cases the juvenile court may simply order counseling for the child or the child's parents. If the parents are financially incapable of supporting the child, the court will usually remove the child from the home until such time as they are financially able to raise the child.

Juveniles have the right to appeal juvenile court decisions to adult courts. The number of available appeals varies from jurisdiction to jurisdiction and can change within a jurisdiction. For example, before 1996 in New Hampshire, juveniles could appeal to the New Hampshire Superior Court and then to the New Hampshire Supreme Court. In 1996 the state legislature changed the

law to allow only one appeal by a juvenile, to the state supreme court (N.H. Rev. Stat. Ann. § 169-B:29).

The period of time spent in a secure reformatory can vary. In most cases a juvenile committed to a reformatory must remain there until reaching the age of 18. However, most states allow juvenile courts to retain jurisdiction over certain juveniles past the age of 18 at the request of a prosecutor or state agency representative. These holdovers are usually juveniles who have been adjudicated delinquent for a violent crime or have been adjudicated delinquent several times in separate proceedings. Some states also allow a juvenile court to order incarceration in adult prison for juveniles who are found to be delinquent past a certain age. In New Hampshire, for example, a juvenile found to be delinquent based on a petition filed after the juvenile's sixteenth birthday may be sent to prison. If prison time is ordered, it cannot extend beyond the maximum term allowed for adults or beyond the juvenile's eighteenth birthday (N.H. Rev. Stat. Ann. § 169-B:19).

Some juveniles may be waived, or transferred, into adult court. In this procedure the juvenile court relinquishes its jurisdiction over the juvenile. Waiver is usually reserved for juveniles over a certain age (varying from 13 to 15) who are accused of violent or other serious crimes. On the federal level, for example, a juvenile accused of committing a violent crime that is a felony may be tried in adult federal court. Waiver in federal court is also authorized for a juvenile accused of violating federal firearms laws or laws prohibiting the sale of controlled substances (18 U.S.C.A. § 5032 [2000]).

The decision of whether to relinquish jurisdiction is usually made by the juvenile court. However, most jurisdictions have statutes that automatically exclude from juvenile court juveniles charged with violent or other serious crimes. In such cases an adult court prosecutor is required to certify to the adult court that the juvenile should, by law, appear in adult court. This certification takes place in a hearing before the adult trial court. Juveniles have the right to an attorney at this hearing and the right to present any evidence that militates against transfer. Waiver into adult court has serious consequences for juveniles. In adult court juveniles face nearly all the punishments that may be inflicted on adults, including long-term imprisonment, life in prison, and in some cases death. However, in 1988 the U.S. Supreme Court ruled that no state may execute a juvenile who was under the age of 16 at the time of the crime (*Thompson v. Oklahoma*, 487 U.S. 815, 108 S. Ct. 2687, 101 L. Ed. 2d 702 [1988]).

The treatment of juveniles who have committed Sex Offenses has stirred a national debate. Each state has passed a law referred to generally as Megan's Law, which requires convicted sex offenders to register with local police and allows communities to be notified that the offender resides in the area. A growing number of states now require juvenile sex offenders to register with law enforcement officers.

Statistics suggest that the number of sex offenses committed by juvenile offenders is on the rise. However, the question of whether these offenders should register with local law enforcement upon their release from juvenile detention facilities remains a highly controversial issue. Those individuals who oppose required registration for juvenile sex offenders argue that such

registration undermines the very principals behind juvenile justice in the United States. These individuals assert that requiring juvenile sex offenders to register necessarily circumvents any attempts they make to live a normal life. As such, they contend that the registration requirement thereby negates the possibility that the juvenile sex offender could ever become rehabilitated. In contrast, other individuals argue that the trend of increasingly violent crimes being committed by juveniles warrants children accused of a crime being treated the same as adults. That is, proponents of extending the registration requirement to juvenile sex offenders argue that the importance of public safety, proper punishment, and individual accountability mandate that these individuals continue to be held responsible for their actions. In addition, some argue that sex offenders, juvenile or otherwise, are untreatable because various well known studies demonstrate a very high Recidivism rate, indicating that individuals who have a propensity to commit such crimes are often not amenable to any type of rehabilitation. States such as Oklahoma and Texas have enacted bills extending their versions of Megan's laws to juvenile sex offenders.

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