

OHIO STATE LAW JOURNAL

Volume 39, Number 2, 1978

Symposium

Juvenile Justice Reform: A Critical Perspective

Foreword

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The value of a legal education is measured by its relevance to society and its success in preparing students for the legal profession. In producing this law review, the students have gained an opportunity to bring together the divergent thoughts and contributions in a particular field of the law—juvenile justice. It is with much enthusiasm that I congratulate the staff of The Ohio State Law Journal on the publication of this Juvenile Symposium.

As a parent, legislator and former Chairman of the United States Senate Subcommittee to Investigate Juvenile Delinquency the problems of the youth of our nation are very close to my heart. I think that raising a young person is one of the most difficult and important challenges that any person can ever face. Our collective success or failure in raising young people actually determines the future of the country. Happy, secure and well-educated youth will be effective, productive and useful citizens. Young people who have been beaten, starved or deprived of love account for the major portion of the population of our juvenile and adult institutions.

When the average citizen hears the words “juvenile justice system,” he or she believes that it means we have a system of justice for young people who break the laws of our society. But, in fact, when young people first confront the American system of juvenile justice, the net result is often more injustice than equity. Our present system of juvenile justice is failing miserably. The time for accepting responsibility, and re-ordering our approach to juvenile justice is now. While theoreticians, practitioners, correctional authorities, law enforcement officials, rehabilitation specialists, politicians, and others argue about solutions, the intensity of the problems grow, in some communities to epidemic proportions. As the arguments continue, the lives and potential of millions of young Americans fall between the cracks of our justice system.

Five years of hearings in Washington and throughout the country by my Subcommittee on Juvenile Delinquency have led me to two important conclusions. First, our present system of juvenile justice is geared

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primarily to react to youthful offenders rather than to prevent the offense. Second, the evidence is overwhelming that the system fails at the crucial point when a youngster first gets into trouble. The juvenile who takes a car for a joy ride, vandalizes school property, or views shoplifting as a lark, is frequently confronted by a system of justice that is completely incapable of responding in a constructive manner.

Nearly forty percent of all children involved in the juvenile justice system have committed no criminal act in adult terms. Yet these children, nearly one-half million each year, often end up in institutions with hardened juvenile offenders and adult criminals. Instead of receiving counseling and rehabilitation outside the depersonalizing environment of a jail, these youngsters are commingled with youthful and adult criminals. There should be little wonder that three of every four youthful offenders commit subsequent crimes.

There are few alternatives available to juvenile judges who must decide what to do with a juvenile involved in an initial, relatively minor offense. In many instances the judge has but two choices—send the juvenile back to the environment that created these problems in the first place with nothing more than a stern lecture, or incarcerate the juvenile in a system structured for serious offenders, from which the youth will almost invariably emerge prepared to escalate his level of law violations into more serious criminal behavior. Each year an excessive number of juveniles are unnecessarily incarcerated in crowded juvenile or adult institutions simply because a workable alternative is lacking. The need is evident for alternatives to essentially ignoring a youth's problems or adopting a course which can only make them worse.

To assist state and local governments as well as individual and private organizations in their effort to provide the alternative, the Congress in 1974 overwhelmingly approved and the President signed into law my Juvenile Justice and Delinquency Prevention Act. This legislation is designed to prevent young people from entering our failing juvenile justice system, and to assist communities in developing more sensible and economical approaches for youngsters already in the juvenile justice system. In 1977, President Carter signed into law a three-year extension of the Juvenile Justice Act which announced to the youth of our nation that they have an advocate in the federal government for their constitutional, legal and human rights.

Federal efforts in the past have been inadequate. We have not recognized that the best way to combat juvenile delinquency is to prevent it. The Act represents a significant federal commitment to provide leadership, resources, and financial assistance to state and local governments in order to confront all aspects of the delinquency problem.

I will not assert to you that the Juvenile Justice Act, even if it is fully funded, will be a magical cure. It does, however, mark a creative beginning.

We can do better for our young generation of Americans than setting them adrift in communities staggering under soaring crime rates and a juvenile justice system that often lacks that most important ingredient—justice. Congress has taken an initial step forward. Furthermore, Congress has called upon all levels of government to reassess the child-saver rationale that has led officials to prefer institutionalization, especially of the female delinquent, for children who are merely abandoned and homeless, as well as those who seriously threaten public safety.

That children should be protected by the Bill of Rights is a new area of social, philosophical and legal thought. The children's rights movement is aimed at establishing clearcut constitutional rights for America's children. The aim of its leaders is not to let children determine their own destiny; adults must ultimately be responsible for children. We hope, however, to establish that a child has a right to a safe, stable home, to a reasonable education, to due process of law and to freedom from abuse and neglect. Adults and institutions have obligations to the young as well as powers over them.

It is often said, with much validity, that the young people of this country are our future. How we cope with youth in trouble, whether we are vindictive or considerate, will measure our success and it will measure the depth of our conscience. It will determine the type of society we convey to future generations.

We in the federal government know all too well that, to paraphrase Abraham Lincoln, we cannot escape the responsibility of tomorrow by evading it today. We acknowledge our part in seeking to improve our nation's juvenile justice system today. Not everything that is faced can be changed, but nothing can be changed until it is faced.

This Juvenile Justice Symposium can greatly assist those of us who are striving to correct the injustices leveled against our young people. Together we acknowledge our collective duty to protect the right of our young people to develop physically, mentally, and spiritually to their maximum potential.