

Keeping Kids out of Prison

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History of Juvenile Justice in America

Throughout the 1700-1800s, courts typically punished children by imprisoning them in jails and penitentiaries. Few formal penal institutions existed at that time, and youth of all ages and genders were often indiscriminately imprisoned in overcrowded and decrepit penal facilities alongside adult criminals and the mentally ill. American cities of that time faced rising rates of child poverty and neglect, and many of these abandoned or homeless children were housed in prisons for noncriminal behavior.

Eventually, pioneering penal reformers would organize the Society for the Prevention of Pauperism. That organization opposed housing homeless-youth in adult jails and prisons, and also lobbied for the creation of new institutions. Their work would eventually culminate in the establishment of the New York House of Refuge in 1825, the first institution in the nation designed to house the poor. Houses of Refuge were built within many American urban centers and served to house abandoned, delinquent, or incorrigible youth. The average House of Refuge served approximately 200 children; but some larger institutions, such as the New York House of Refuge, housed more than 1,000 youth.

Houses of Refuge were the primary institutions confining the ever-increasing number of homeless and delinquent youth in America for nearly a century. These institutions confronted many of the same issues that plague modern prisons and jails—namely: overcrowding, deteriorating facilities, and rampant staff abuse. Additionally, the emerging public and compulsory school movement influenced reformation within the houses of refuge that lead to an increased emphasis on education.

It was not until the late 19th century that criminal courts began to try adults and children separately. Newly emerging perspectives in the United States on juvenile justice were influenced by British reform efforts that reconceptualized children as cognitively and morally different from adults; and a collection of new institutional mechanisms emerged to accommodate and rehabilitate youth defendants. In 1899, the hodgepodge of penal and corrective institutions and procedures finally culminated in the creation of the first Juvenile Justice Court in Cook County, Illinois. Shortly thereafter, juvenile justice courts proliferated across all the United States and territories.

The Individual and Social Impact of Imprisoning Children

Tens of thousands of children are imprisoned in the United States every day—and many of these youth are locked up in adult prisons and jails. Some of them are locked away alone in a room for days, weeks, or even months—causing profound psychological damage that takes years of therapy to undo. Moreover, while many youth penal facilities are often called “schools,” these facilities rarely provide quality education and almost never provide access to the mental health services that these children often need to heal emotionally and psychologically.

Youth may be subject to solitary confinement, strip searches, shackles, and chemical sprays. These penal procedures cause physical injury, emotional harm, psychological trauma, and otherwise interrupt the healthy development of the child’s mind and body. Additionally, youth in prison face rates of physical and sexual violence on par with their adult counterparts, compounding the trauma already imposed by isolation from family, friends, and normal society writ large. While the juvenile justice system was originally established to rehabilitate children and provide them with the resources to make the transition to adulthood, the modern juvenile penal system causes more harm than good. Research has repeatedly confirmed that locking up children—especially under the harsh conditions that predominate the American justice system—causes tremendous harm to a child’s mental and physical well-being.

Research shows that juvenile incarceration significantly reduces the probability of completing high school, and also greatly increases the probability of incarceration later in life. Those who are incarcerated as youth are 39% less likely to graduate high school and are 41% more likely to be imprisoned as adults. Incarcerating youth serves to reduce their educational attainment and increases the probability of future deviance as an adult. Many states are responding to the research, and juvenile incarceration rates have dropped 32% since 2002. This drop has been driven by states reducing spending on juvenile incarceration by substituting less costly community-based alternatives. While it is unknown whether the current trend of reducing juvenile incarceration rates will be sustainable, Wasatch Defense Lawyers is hopeful that youth justice reform will continue to erode the draconian practice of putting children behind bars!

Juvenile Criminal Defense

Juvenile justice is an area of criminal law that is applicable only to persons considered minors under the law. The Federal Juvenile Delinquency Act of 1974 defines juvenile delinquency as any act that is otherwise criminal, but is committed by someone under the age of 18. Moreover, illegal and legal non-citizens are also subject to juvenile law.

Generally, juvenile courts regard children differently than adults, and as such, the courts are more focused on rehabilitation and less concerned with punishment. Juvenile court proceedings are more informal than adult proceedings. Judges and probation officers have greater discretion when handling juvenile cases, and many issues are resolved without formal charges ever being filed against the child. However, formal charges may be filed when the offense is serious, the child is near the age of majority, the child has a history of problematic behavior, or if the parents or guardians are not able to control the child. Statistics show that boys and poor, minority children are significantly more likely to be charged and convicted of juvenile offenses.

Children do not have the same constitutional rights as adults. For example, children attending school have a diminished expectation of privacy which allows school officials to search the minor's belongings without the probable cause that would otherwise be required to search an adult. However, juveniles do have the right to legal counsel in all delinquency proceedings (and the state must provide a lawyer to children who cannot afford an attorney). Additionally, children have the right to cross-examine any witnesses that testify against them, and minors cannot be compelled to incriminate themselves. Any child facing criminal charges should NOT talk to the police and immediately call their parents and request an attorney.

Wasatch Defense Lawyers has experienced attorneys who know how to navigate the delicate and complex world of juvenile justice. Call today!