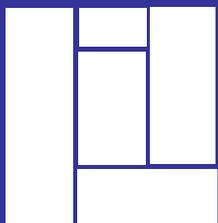


Crime Policy Report

# Delinquents or Criminals: Policy Options for Young Offenders

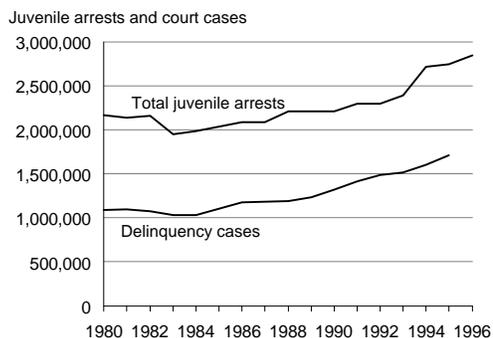
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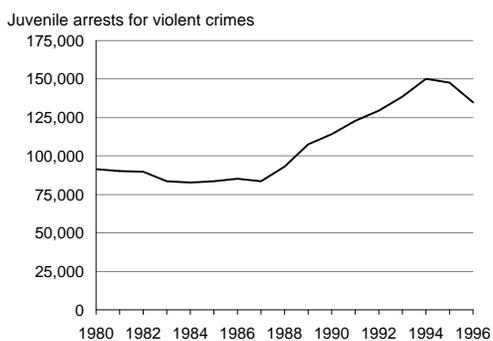
Jeffrey A. Butts  
Adele V. Harrell

# The rate of juvenile violence declined in recent years, but total juvenile crime continued to grow

## The U.S. juvenile population declined slightly since 1980, but juvenile arrests grew 32% and juvenile delinquency cases increased 57%

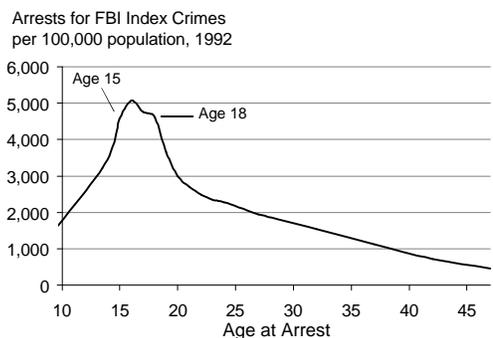


## Juvenile violence peaked in 1994 but remains far higher than a decade ago



Urban Institute analysis of data from the National Center for Juvenile Justice; and *Crime in the United States 1996*, Federal Bureau of Investigation, using national estimation methods developed by Howard Snyder (e.g., Snyder, 1997).

## Adults account for 7 of every 10 arrests for serious crimes, but the likelihood of arrest is highest during the late teen years



Index crimes are murder, rape, robbery, aggravated assault, burglary, larceny-theft, motor vehicle theft, and arson.

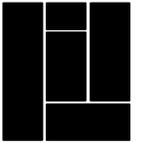
Source: *Age-Specific Arrest Rates and Race-Specific Arrest Rates for Selected Offenses 1965-1992*. Washington, DC: FBI, U.S. Department of Justice (1993).

According to recent data from the Federal Bureau of Investigation, juvenile arrests for violent crime fell 6% between 1995 and 1996, but juvenile arrests for all offenses increased 3% over the same period. Arrests for property crimes, drug offenses, and misdemeanors increased, and these offenses account for the vast majority of juvenile crime. Violent Index crimes (murder, rape, aggravated assault, and robbery) accounted for fewer than 5% of all juvenile arrests in 1996.

As juvenile arrests increase, juvenile court workloads swell. According to the *Juvenile Court Statistics* series sponsored by the U.S. Department of Justice, the number of law violations referred to juvenile courts (i.e., delinquency cases) increased 57% between 1980 and 1995. The number of delinquency cases doubled nationwide between 1970 and 1995.

Growth in juvenile court caseloads is largely due to the growth in juvenile arrests (up 32% since 1980), but police are also increasingly likely to send arrested juveniles to court rather than making use of alternatives such as informal probation. According to the Office of Juvenile Justice and Delinquency Prevention, the proportion of arrested youth sent forward for juvenile court sanctioning increased from 58% to 69% between 1980 and 1996 (Snyder, 1997).

Reducing juvenile crime is likely to remain a policy priority for state and federal officials. Clearly, adults are responsible for most crime but juvenile crime attracts special attention from policy makers and the media. Perhaps this is because the crime rate peaks during the late teen years, or maybe it is because the behavior of young people is a portent of future social problems. Whatever the reasons, officials often respond to public concerns about crime in general with new measures to reduce crime by juveniles.



# Delinquents or Criminals: Policy Options for Young Offenders



# Delinquents or Criminals: Policy Options for Young Offenders

## Summary

America's juvenile courts have changed considerably in the past 30 years. The purposes and procedures of juvenile courts have become very similar to adult criminal courts. No state retains an inviolable, legal distinction between the status of "juvenile" and "adult," and the age threshold for trial in adult court seems to fall every time a new incident of juvenile violence captures the nation's attention. When four Arkansas students and their teacher died in a schoolyard shooting in March 1998, many people demanded that the alleged perpetrators be tried as adults. One boy was 13 years old; the other was 11.

Such extreme violence by very young juveniles is rare, but the reaction to it reflects public opinion about the juvenile justice system. Youth who violate the law are no longer guaranteed special treatment simply because they are young. As yet, no state has formally abolished the juvenile court's exclusive jurisdiction over young offenders, but every state in the country has taken significant steps in that direction. It appears increasingly likely that the states will ultimately abolish the concept of delinquency and that all law violations by young people will one day be handled in criminal court. In other words, the day may come when *a crime is a crime is a crime*, regardless of the offender's age.

Of course, even if states abolish the practice of sending young offenders to a separate court, children and adolescents will continue to be cognitively, emotionally, and socially different from adults. Criminal court judges and prosecutors will undoubtedly want to use different procedures for handling very young defendants. Eventually, it will be necessary to design a new justice process for young offenders within the existing criminal courts system.

This *Crime Policy Report* suggests that the work to design a new youth justice system should start before states actually begin to abolish the legal concept of delinquency. A good starting point would be to identify the best practices of the many specialty courts now emerging throughout the country, and to begin blending them more thoroughly with the juvenile court process. Innovative, specialty courts such as drug courts, gun courts, and community-based courts are bringing new ideas and effective new programs to the justice system. Some specialty courts actually resemble the traditional juvenile court in their use of pre-trial diversion, individualized assessments and proactive case management.

Meaningful reforms in juvenile crime policy have been difficult to achieve. Lawmakers are torn between the views of youth advocates who defend a traditional juvenile court that no longer exists, and hardliners who want to send even more youths to an adult court system that is still not prepared to deal with them properly. Focusing the attention of policy makers on the need to build a new youth justice system with a diverse menu of options for young offenders might help calm the acrimonious debates about transferring young offenders to adult court. Public officials could return to the serious business of ensuring that the court system as a whole balances the interests of justice, public safety, and the individual rights of all defendants regardless of age.

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The Urban Institute is a nonprofit policy research and educational organization established in Washington, D.C. in 1968. Its staff investigates the social and economic problems confronting the nation and government policies and programs designed to alleviate such problems. The Institute disseminates significant research findings through the publications program of its Press. The Institute has two goals for work in each of its research areas: to help shape thinking about societal problems and efforts to solve them, and to improve government decisions and performance by providing better information and analytic tools.

## About the Authors

Dr. Jeffrey A. Butts is a senior research associate with the Urban Institute's Program on Law & Behavior, where he is involved in research and evaluation projects on policies and programs for youthful offenders, including a federally-funded evaluation of teen courts. His prior research includes a randomized evaluation of intensive supervision programs for young offenders in Detroit, a national study of processing delays in juvenile courts, and an investigation of inpatient psychiatric hospitalization among adolescents. His publications include several book chapters as well as a series of statistical monographs for the U.S. Department of Justice, and research articles in the *American Journal of Criminal Law, Crime and Delinquency, Criminal Justice Policy Review, the Journal of Health and Social Policy, the Notre Dame Journal of Law, Ethics & Public Policy, and the Juvenile & Family Court Journal*. He is currently co-authoring a book on juvenile justice for the Oxford University Press with Dr. Thomas Bernard of Pennsylvania State University (forthcoming, 1999).

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Designed by David Williams

# Delinquents or Criminals: Policy Options for Young Offenders

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## Introduction

Much of the public and a growing number of elected officials have concluded that the juvenile court is incapable of responding effectively to juvenile crime and violence. In their view, America's continuing problems with juvenile crime are largely due to the ineffectual programs and policies of the juvenile justice system. In particular, critics of the juvenile court argue that much tougher measures are required. Scores of legislators have lamented the juvenile court's treatment orientation that supposedly amounts to a mere "slap on the wrist" for young offenders.

According to a recent *NBC News–Wall Street Journal* poll, two-thirds of Americans think juveniles under age 13 who commit murder should be tried as adults (Associated Press, 1998). In a 1995 survey conducted by Sam Houston State University, a majority of the public favored sentencing many young offenders in adult court rather than in juvenile court. Nearly all of the respondents (87%) favored adult sentences for juveniles charged with serious violent crimes, and large majorities favored adult court sentences for drug sellers (69%) and even serious property offenders (63%) (Maguire et al., 1997, p. 155).

Resources for juvenile court programs have begun to lag behind the growing caseload of young offenders. Juvenile court judges have relatively few program options for handling delinquent youth. Probation caseloads are too large for close and frequent supervision of young offenders.<sup>1</sup> Growing caseloads require juvenile courts to engage in a form of triage, reserving whatever services and sanctions they have for their most critical cases.

In 1995, U.S. juvenile courts handled more than 1.7 million cases involving delinquency charges (Sickmund, 1997). Nearly half (45%) were handled without formal

<sup>1</sup> One survey found that an average juvenile probation officer must supervise the activities of 41 youths at a time; some officers are responsible for overseeing more than 200 youths at a time (Torbet, 1996).

### Public officials express serious doubts about the future of the juvenile justice system

"Today we are living with a juvenile justice system that was created around the time of the silent film."  
Senator John Ashcroft, 1997  
(*Congressional Record*, S146)

"In many jurisdictions, [teenagers] commit as many as 10 to 15 serious crimes before anything is done to them. It is amazing how ancient, archaic, and broken down the juvenile justice system is."  
Senator Peter Domenici, 1997  
(*Congressional Record*, S5897)

"It is not hard to see why State legislatures around this country are proposing bills to get rid of the juvenile justice system altogether."  
Senator Ron Wyden, 1997  
(*Congressional Record*, S2341)

court action. In cases involving youth under age 13, 73% of all delinquency referrals ended with the youth receiving no formal services or sanctions (Snyder et al., 1997).

Growing delays in the juvenile court process may be an indication of the imbalance between court workloads and resources. A recent study of nearly 300 juvenile courts found that the median time needed to move delinquency cases through the court process climbed 26% between 1985 and 1994 (Butts and Halemba, 1996). In the largest cities, half of all formally charged delinquents wait more than 90 days for a final court disposition—yet 90 days is the *maximum* time frame suggested by even the most lenient juvenile court standards. In some cities, juveniles may wait four to six months after arrest for an official court reaction to their criminal behavior.

Frustrations with the juvenile court have been running high for more than a decade. Elected officials appear more willing than ever to consider fundamental changes in juvenile justice policy. Satisfactory answers are not likely to be found in radical proposals to simply abolish the juvenile court and process all young offenders in regular adult court. Yet, no alternatives have emerged with the potential to attract a majority of policy makers.

This *Crime Policy Report* proposes that lawmakers consider building a new youth justice system by drawing upon the many court alternatives already in place across the country. New courts have been developed to handle special types of criminal cases (drug cases, weapon offenders, misdemeanants, etc.). These new courts often combine high levels of accountability with flexible procedures, individualized sentences, a range of intermediate sanctions, and rehabilitative services, the very characteristics for which the juvenile court has long been valued.

The following discussion reviews the historical context of juvenile courts in the U.S., analyzes recent trends in the search for more effective juvenile justice policies, and presents a number of alternative court models that could provide a foundation for a new system of youth justice.

## The Battle Over the Juvenile Court

Two opposing groups have polarized recent policy debates about juvenile courts, those that wish to preserve the traditional juvenile court as envisioned by its 19<sup>th</sup> Century founders, and those who want to abolish it. State and federal policy makers have spent the last three decades trying to hold the middle ground. Unfortunately, the moderate approach to juvenile justice reform has produced a system that critics contend protects neither the public safety nor the rights of youth (Feld, 1998).

Juvenile court preservationists want to maintain the juvenile court as a non-criminal, quasi-civil court with exclusive jurisdiction over young offenders. They see the juvenile court as an essential component of the justice system, not simply because adolescents are different from adults but because the juvenile court's diminished due process requirements give it wider latitude to intervene. Abolitionists argue that placing jurisdiction over young offenders in a non-criminal court was a dubious experiment from the start. They believe the juvenile court will never live up to its rehabilitative promise and that the lower standard of due process in juvenile court is no longer acceptable given its new emphasis on just deserts.

### What is the debate?

Policy makers must decide what type of court should have responsibility for young people who violate the law. Currently, youthful offenders are charged and tried under the juvenile court's "delinquency" jurisdiction. The debate centers on whether to continue defining law violations by young people as "delinquent" acts, or to classify them as "crimes" and refer all law violations to criminal (or adult) court.

- Abolishing the concept of delinquency is not the same thing as abolishing the entire juvenile court. Even if lawmakers ended the juvenile court's jurisdiction over law violations, the juvenile court could continue to handle other types of cases (e.g., abused and neglected children, truants, curfew violators, runaways).
- Some states have created "family courts" to handle all family matters, including abuse and neglect, divorce and custody disputes. Abolition of the delinquency jurisdiction would have no impact on the viability of family courts. They would simply no longer handle criminal law violations by minors.

The debate is about choosing the best court process for adjudicating and sentencing young offenders, not the services and sanctions that follow the court process.

- Abolition of the delinquency jurisdiction would not require that all young offenders be sent to adult prison. Many states already operate separate correctional facilities for young adults (under age 21, under 23, etc.). The decision to handle all young offenders in the criminal court would not prevent such correctional specialization. States would still be free to separate offenders by age when incarcerating or otherwise supervising convicted offenders, and the Federal government would still be free to require such separation as a condition of financial support for state corrections agencies.
- The relative effectiveness of the current system of juvenile probation and juvenile corrections has no inherent relevance to the debate over abolishing the juvenile court's delinquency jurisdiction. Existing youth offender programs could operate just as they do now, but a different court would be the source of their client referrals.

Juvenile court preservationists ask lawmakers to support an inviolable demarcation between juvenile and adult court, which is hardly realistic in view of the legislative changes already enacted by states that move many juveniles into adult court. Abolitionists recommend simply doing away with the concept of delinquency, but absent significant reforms this could mean sending very young offenders to the same criminal courts officials routinely criticize as ineffective and reluctant to act. The preservationists appear naïve; the abolitionists seem reckless.

In trying to claim the middle ground, elected officials have “criminalized” the juvenile court (Singer, 1996). Particularly since the 1970s, state and federal lawmakers have enacted policies to increase the severity of punishment in juvenile court, reduce the informality and confidentiality of juvenile court proceedings, and transfer large numbers of juvenile offenders to adult court. The similarities of juvenile and adult courts are becoming greater than the differences between them (Dawson, 1990; Feld, 1998). Both courts pursue the goals of deterrence, punishment, and incapacitation. Both courts rely on plea-bargaining for case outcomes. Both courts are forced by growing caseloads to adopt assembly-line tactics and often have difficulty providing individualized dispositions.

Decades of incremental reform neither preserved juvenile courts nor abolished them. Instead, they slowly remade juvenile courts into pseudo-criminal courts. Ironically, in pursuing these reforms, policy makers may have lost sight of the factors that originally led to the creation of juvenile courts, considerations that remain relevant today.

## Why Were Juvenile Courts Invented?

Many people believe juvenile courts were invented to “go easy” on young criminals. The actual reasons are more complicated. The 19<sup>th</sup> Century reformers who advocated the establishment of juvenile courts were just as interested in crime control as they were in social work (Platt, 1977; Rothman, 1980). Admittedly, some reformers were motivated by a desire to save growing numbers of poor and homeless children from the streets of America’s cities. Others, however, were mainly interested in removing the legal obstacles that prevented criminal courts from dealing effectively with young hoodlums.

Before the development of juvenile courts, young thieves and muggers appeared in criminal court alongside adult defendants. Judges and jurors frequently found them innocent or simply released them. Especially if a youth appeared immature, jurors often preferred to acquit rather than risk a conviction that could send a youngster

to prison (Mennel, 1973). After years of such acquittals, police and prosecutors began to press for separate, juvenile courts that would consider the illegal behaviors of young criminals on their own terms (Schlossman, 1977).<sup>2</sup>

The juvenile court movement began when lawmakers in Illinois enacted the Juvenile Court Act of 1899. Although other states had been experimenting with new ways to handle young offenders, the Illinois legislation was the first to establish a truly separate court with original and exclusive jurisdiction over all law violations by youth.<sup>3</sup> The concept proved to be very popular. All but two states had established juvenile courts by 1925 (Mennel, 1973).

## **"To aid the new juvenile courts in their mission, legislators defined their deliberations as quasi-civil, thus avoiding the Constitutional restrictions applied to criminal prosecutions."**

To aid the new juvenile courts in their mission, legislators defined their deliberations as quasi-civil, thus avoiding the Constitutional restrictions applied to criminal prosecutions. Early juvenile courts were not required to contend with defense attorneys, appeals, or even formal procedures. In many states, prosecutors were required to prove juvenile charges based only on a “preponderance of the evidence” rather than the far stricter standard of “beyond a reasonable doubt.”

In recognition of their distinct legal standing, juvenile courts developed a new vocabulary. Youths appearing in juvenile court were “delinquents” rather than defendants. They were “adjudicated” instead of being found guilty. Final decisions were “dispositions” rather than sentences. Youths held overnight by the court were “detained” in a juvenile detention center, not jailed.

<sup>2</sup> It is telling that Illinois established the first juvenile court after its State Supreme Court barred the institutionalization of children for non-criminal behavior (*People v. Turner*, 55 Ill. 280, 1870). By creating a quasi-civil juvenile court dedicated to helping rather than punishing, the State was able to resume institutionalizing children under a different legal authority.

<sup>3</sup> “Original jurisdiction” indicates that all law violations committed by a “juvenile” are under the jurisdiction of the juvenile court unless a specific legal action transfers the matter to another court.

### Juvenile Courts Have Always Handled Some Serious Offenders

Critics of the juvenile court often say it was designed for shoplifters and vandals and is not equipped to handle today's violent offenders. This belief, though widely shared, is inaccurate. Serious and violent youth have always been a small, but significant part of the juvenile court's workload (see Rothman, 1980).

Most policy makers would agree that the "Index" offenses tracked by the Federal Bureau of Investigation are serious crimes. In 1996, the eight Index offenses accounted for 30% of all juvenile arrests reported to the FBI (FBI, 1996). During the late 1980s and early 1990s, as juvenile violence was increasing rapidly, Index offenses represented between 35% and 38% of juvenile arrests. Yet, in 1960, before crack cocaine and drive-by shootings entered the public consciousness, Index offenses accounted for 40% of juvenile arrests (FBI, 1960).\*

\* Index offenses are murder, rape, aggravated assault, robbery, larceny-theft, burglary, motor vehicle theft, and arson. These percentages should not be interpreted as precise figures. Police practices in reporting arrest data to the FBI vary considerably over time. However, the relatively stable percentage of Index offenses among all reported juvenile arrests at least supports the conclusion that "serious" offenses were seen by juvenile courts long before recent increases in juvenile violence.

Lawmakers endorsed the juvenile court's lower standard of due process because the purpose of juvenile courts was to guide young people away from future trouble, not punish them for past wrongdoing. Juvenile courts were to determine what factors caused a youth to go astray, and then order services to prevent further criminality. Occasionally, these services would include time in a locked facility, but the official goal of incarceration was correction rather than deterrence.

Critics often summarize the difference between juvenile and adult courts as "rehabilitation" versus "punishment." In retrospect, the most distinctive feature of the original juvenile court concept may have been the quasi-civil legal authority that gave the court broad discretion to intervene despite the quality of evidence against a youth. This allowed the court to provide individualized supervision and flexible, creative dispositions. Contemporary policy debates frequently omit this aspect of the juvenile court concept, but it is a critical factor in explaining why the juvenile court idea was just as popular with judges and police officers as it was with social reformers.

## Increasing the Formality of the Juvenile Court Process

As juvenile courts began to appear across the country in the early 1900s, states were free to develop the new courts in their own unique style.<sup>4</sup> Thus, the early juvenile courts evolved in idiosyncratic ways. One state might have required its juvenile courts to follow procedures resembling those of the criminal courts, including jury trials, evidentiary motions, or formal sentencing investigations. Another state might have asked only that juvenile court judges follow their conscience in making court dispositions.<sup>5</sup> Since the purpose of the juvenile court process was to help young offenders rather than establish their guilt, juvenile courts were not considered trial courts and there were fewer restrictions on their procedures. Juvenile court judges were free to impose whatever sanctions they thought were appropriate.

This was perhaps the best and worst feature of juvenile courts. For many judges, the quasi-civil juvenile court provided freedom to intervene with troubled youths, even those only at risk of future criminality. For a few judges, however, the informal process was an invitation to impose their private views of morality and decency on young and sometimes relatively innocent youth. When an Arizona judge incarcerated a young man for making a mildly obscene telephone call, the reaction by the U.S. Supreme Court was sharply negative (*In re Gault*, 1967).

In a series of cases between 1966 and 1975, the Supreme Court responded to abuses of discretion in the nation's juvenile courts and greatly increased the due process protections guaranteed to minors. The Supreme Court ruled that in any proceeding in which confinement was a possible outcome, juveniles should have the right to proper notice of charges and access to effective counsel, the right to cross-examine prosecution witnesses, and the

<sup>4</sup> For an account of the varying perspectives of early juvenile courts, see Colomy and Kretzmann (1995).

<sup>5</sup> Even as early as the 1920s, some juvenile courts were similar to criminal courts, with carefully structured procedures and formal hearings. Others were highly informal and resembled social service agencies in both philosophy and style. The differences produced by this variation were informative. Both types of courts used incarceration in about 20% of the cases they handled, but the informal courts (those that followed the pure juvenile court model) were more likely to impose probation. Highly formalized juvenile courts dismissed a larger number of cases (Rothman, 1980). Thus, informal courts imposed at least some sanction in a greater proportion of cases than did their formal counterparts.

### Between 1966 and 1975, the Supreme Court greatly expanded juvenile due process rights

**1966** *Kent v. United States* (383 U.S. 541)  
Juvenile courts must provide at least the "essentials of due process" in transferring young offenders to criminal court.

**1967** *In re Gault* (387 U.S. 1)  
In any court proceeding that could result in confinement, juveniles must be provided the assistance of counsel, proper notice of charges, the right to cross-examine witnesses, and the privilege against self-incrimination.

**1970** *In re Winship* (397 U.S. 358)  
Prosecutors must prove delinquency charges "beyond a reasonable doubt" rather than by a "preponderance of the evidence."

**1975** *Breed v. Jones* (421 U.S. 519)  
Adjudication in juvenile court is equivalent to criminal conviction. Thus, transferring a youth to adult court following adjudication in juvenile court constitutes "double jeopardy."

protection against self-incrimination. The Court also increased the standard of evidence required in juvenile court proceedings, and it ruled that a juvenile court adjudication is equivalent to criminal conviction when evaluating issues of double jeopardy.<sup>6</sup>

Of course, the Supreme Court has not been the only source of change in the nation's juvenile courts. Nearly every state legislature has enacted laws to reform their juvenile justice systems (National Criminal Justice Association, 1997; Torbet et al., 1996). Juvenile court procedures have become more complex and more evidence-driven, and prosecutors now pursue juvenile convictions with thoroughness once reserved for criminal cases (Shine and Price, 1992). In many states, juvenile offenders are now more likely to be formally charged by prosecutors and less likely to receive informal sanctions (Snyder et al., 1997).

The "dispositions" imposed by juvenile courts today differ very little from the "sentences" of criminal courts, and are largely a function of offense (Bazemore and Um-

breit, 1995; Feld, 1998). Juvenile court proceedings and juvenile court records are increasingly opened to the public and the media (Torbet et al., 1996). In some states, lawmakers have expanded the use of jury trials in juvenile court (Sanborn, 1993). Others have introduced speedy-trial rights for juveniles (Butts and Halemba, 1996). Defense attorneys defend juvenile clients more vigorously since a delinquency adjudication can lead to very severe sanctions, often in later criminal proceedings where juvenile offenses are increasingly being used to enhance sentence severity (Feld, 1998; Puritz et al., 1995; Sanborn, 1998).

As lawmakers increased the formality of juvenile courts in recent decades, they were obliged also to enhance juvenile due process rights. Consequently, today's juvenile courts are very different from the courts of an earlier era. Today's courts must conform to Constitutional guidelines. Judges must document their actions and be prepared to defend their decisions to the public as well as to higher courts. The entire process moves more deliberately due to the legal maneuvers of opposing counsel. Decades of reform successfully increased the formality and severity of the juvenile court process, but they also reduced the ability of juvenile courts to provide highly individualized dispositions for young offenders.

## Limiting the Jurisdiction of the Juvenile Court

State legislatures are responsible for establishing juvenile courts and for framing their legal responsibilities. Thus, state lawmakers have the power to decide who falls under the jurisdiction of the juvenile court and who remains under the jurisdiction of the criminal court. At one time, the issue was relatively simple. States merely decided at what age an individual was to be fully responsible for his or her criminal behavior. Offenders above that age were tried as adults in criminal court; those below it went to a juvenile court. Most jurisdictions set this age at 18.

Today, in 37 States and the District of Columbia, juvenile courts are initially responsible for all law violations committed by youth under 18. In other words, the juvenile court's "upper age of original jurisdiction" is 17. In ten States, the upper age of original juvenile court jurisdiction is set at 16 years (Georgia, Illinois, Louisiana, Massachusetts, Michigan, Missouri, New Hampshire, South Carolina, Texas, and Wisconsin). In three States (Connecticut, New York, and North Carolina), the upper age of jurisdiction is 15, which means that all youth age 16 or older face criminal prosecution for any arrest.

<sup>6</sup> The Court stopped short of providing juveniles with all the due process protections afforded adult defendants (e.g., trial by jury, bail, or speedy trial).

For most of the past 25 years, state lawmakers generally accepted these definitions. Between 1975 and 1992, only one State changed its upper age of original juvenile court jurisdiction for delinquency cases. Alabama *increased* the age limit twice, from 15 to 16 in 1976 and again to 17 in 1977 (Snyder and Sickmund, 1995: 73).

Since 1992, however, three states have reduced the upper age of original juvenile court jurisdiction. In 1993, Wyoming reduced its upper age from 18 to 17, and in 1996, New Hampshire and Wisconsin lowered their upper ages from 17 years to 16 years. In recent years, other states have considered reducing the upper age of juvenile court jurisdiction (e.g., Texas). If more states follow this trend, large numbers of young offenders will be excluded from juvenile court and automatically handled in adult court (Snyder and Sickmund, 1995).

## Moving Juveniles to Adult Court

Nearly every state in the country has been moving greater numbers of juvenile offenders into the criminal court using a variety of mechanisms known collectively as “transfer.” When juveniles are “transferred” to adult court, they lose their legal status as minor children and become fully culpable for their behavior. Transfer is often used for juveniles charged with violent crimes, but many youth are transferred for lesser charges.

The boundary between juvenile and adult court has always been a penetrable one. Some states have permitted juveniles to be transferred to adult court since before the 1920s (e.g., Arkansas, California, Colorado, Florida, Georgia, Kentucky, North Carolina, Ohio, Oregon, and Tennessee).<sup>7</sup> Other states have permitted transfers since at least the 1940s (e.g., Delaware, Indiana, Maryland, Michigan, Nevada, New Hampshire, New Mexico, Rhode Island, South Carolina, and Utah). By the 1990s, every state had some mechanism for moving young offenders out of the juvenile court and into the adult court.

In recent years, nearly all states have reduced the judge’s role in making such decisions. Beginning in the 1970s, there was a large increase in laws that move entire classes of young offenders into criminal court without the involvement of juvenile court judges. Non-judicial mechanisms now account for the vast majority of juvenile transfers.

There are two popular methods of moving selected juveniles into adult court without judicial action. Many states have laws that automatically place certain types of cases in adult court. Under these laws, any juvenile who commits a specified offense (murder, robbery, etc.) and who meets other criteria (age, prior record, etc.) is automatically an adult. It is not necessary for the juvenile court to waive jurisdiction. Various known as “automatic transfer,” “legislative exclusion” or “mandatory waiver,” these laws are increasingly popular with state officials.

The other increasingly popular method of transfer relies on the prosecutor. In a dozen states (e.g., Florida, Louisiana, Michigan), prosecutors may charge certain cases in either juvenile or criminal court. Sometimes called “direct file” or “concurrent jurisdiction” laws, this approach to criminal court transfer has attracted much attention in recent years. State appellate courts have taken the view that a prosecutor’s discretion to select jurisdiction is equivalent to routine charging decisions, which are an “executive function” (Leeper, 1991). Thus, prosecutor transfers of juvenile offenders are not subject to judicial review, nor are they required to meet the procedural standards established by the Supreme Court for other transfer cases.<sup>8</sup> Although prosecutor discretion is not as popular as other methods of transfer, its impact in states that use it can be profound. Florida prosecutors, for example, make heavy use of their state’s “direct file” provision for sending young offenders to adult court. In 1995, the number of transfers in Florida (7,000) nearly equaled the number of cases waived by judges nationwide (9,700).<sup>9</sup>

### Juvenile offenders generally follow one of three paths to adult court

**Judicial Waiver:** A juvenile court judge waives jurisdiction over the case after considering the merits of transfer for the individual youth.

**Legislative Exclusion:** A state legislature determines that an entire class of juvenile crimes should be sent to adult court automatically, usually serious and violent offenses.

**Prosecutorial Discretion:** A state or local prosecutor has the authority to file charges against some juveniles directly in adult court, usually youth charged with serious offenses or those with lengthy arrest records.

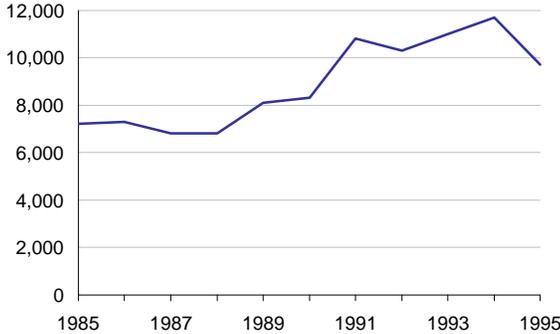
<sup>7</sup> For a historical review of criminal court transfer legislation, see Feld (1987).

<sup>8</sup> *Kent v. United States* (383 U.S. 541).

<sup>9</sup> Bureau of Research and Data, Florida Department of Juvenile Justice; and Snyder et al. (1997).

**Juvenile court judges sent nearly 10,000 delinquency cases to criminal court in 1995**

Delinquency cases waived to criminal court jurisdiction by U.S. juvenile courts



- In each year from 1985 to 1995, juvenile court judges waived between 1% and 2% of all formally charged delinquency cases.

Source: Urban Institute analysis of data from the National Juvenile Court Data Archive; Snyder, H., T. Finnegan, A. Stahl, and R. Poole (1997). *Easy Access to Juvenile Court Statistics: 1986-1995* [machine readable data file]. Pittsburgh, PA: National Center for Juvenile Justice.

Many policy makers believe that serious and violent juvenile offenders should be tried in criminal court in order to achieve more certain and more severe punishment. Does this, in fact, happen? Does the public get more punishment for its money when juveniles are tried as adults? Researchers who examine this question tend to find that the use of transfer does increase the *certainty* and *severity* of legal sanctions, but only for the most serious cases, perhaps 30% of transferred juveniles.<sup>10</sup>

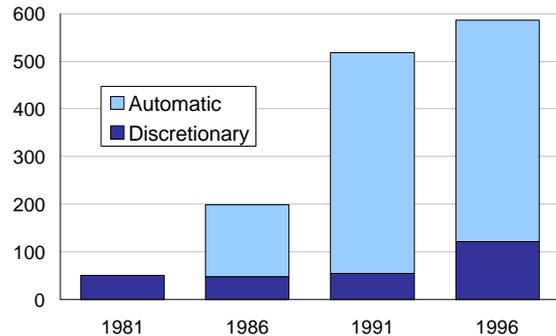
In about half of all transfers, the offenders receive sentences comparable to what they might have received from the juvenile court. Some (about one-fifth) actually receive more lenient treatment in criminal court. Some may be convicted of lesser offenses or the charges against them may be dismissed due to the greater evidentiary scrutiny in criminal court. The bottom line is that criminal court transfer does not ensure incarceration, and it does not always increase sentence lengths even in cases that do result in incarceration.

Despite inconsistent results, criminal court transfer remains very popular. The politics of the issue are somewhat reminiscent of the death penalty, even including a popular political slogan (e.g., “do an adult crime, do adult time”). As with capital punishment, criminal court

<sup>10</sup> For a recent review of this research, see Howell (1997).

**Automatic transfer laws have dramatically increased the number of young offenders sent to adult courts in some states**

Juvenile cases transferred to adult court in the State of Illinois



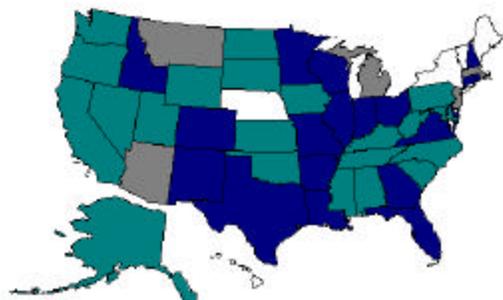
A series of state laws expanded the use of automatic transfer in Illinois

- 1982** First automatic transfer statute in Illinois; applied to juveniles age 15+ charged with murder, rape, robbery with a firearm, or certain sexual assaults
- 1985** Automatic transfer expanded to juveniles age 15+ charged with committing drug or weapons violations within 1,000 feet of a school
- 1990** Expanded to juveniles charged with felonies “in furtherance of gang activity”
- 1990** Expanded to juveniles age 15+ charged with committing drug violations within 1,000 feet of public housing
- 1995** “Presumptive waiver” provisions added, reducing prosecutors’ discretion to not transfer

Sources: Urban Institute analysis of data from the Administrative Office of the Illinois Courts. *Probation and Court Services Statistical Report*. Springfield, IL: Administrative Office of the Illinois Courts; and Clarke, Elizabeth E. (1996). “A case for reinventing juvenile transfer: The record of transfer of juvenile offenders to criminal court in Cook County, Illinois.” *Juvenile and Family Court Journal*, 47 (4): 3-21.

transfer offers a drastic and permanent solution for an offender thought to be beyond redemption. It is the court’s way of saying, “there are no more second chances for you.” Permanent and drastic punishments are very appealing to a public confronted with high rates of violent crime. Unlike the death penalty, however, criminal court transfer is not permanent. It is merely a change of venue that exposes a young offender to more severe court outcomes but does not guarantee any particular outcome.

**In recent years, nearly every state has enacted statutes to move more juveniles into adult court, increase the severity of sanctions for those remaining in juvenile court, or both**



**Statutory changes enacted from 1992 to 1995**

- |   |  |
|---|--|
| ○ No statutory changes                    | ● More young offenders tried in criminal court                     |
| ● More severe sanctions in juvenile court | ● More criminal trials and more severe sanctions in juvenile court |

Source: Torbet, P. et al. (1996). *State Responses to Serious and Violent Juvenile Crime*. Washington, DC: U.S. Department of Justice, Office of Juvenile Justice and Delinquency Prevention.

Advocating criminal court transfer has become the very definition of toughness for elected officials. Once state officials begin to enact transfer provisions, they are tempted to revisit the criteria repeatedly and slowly expand the use of transfer to more types of offenses. The State of Illinois, for example, began the use of automatic transfer in 1982, initially only for juveniles charged with violent crimes. By 1995, automatic transfer had been expanded to include drug violations committed within 1,000 feet of a school, felonies committed in “furtherance of gang activity,” and drug offenses committed within 1,000 feet of public housing property (Clarke, 1996).

Even defenders of the juvenile court have become largely silent on the issue of transfer. They may hope that removing the worst cases from juvenile court will reduce the political heat on the juvenile justice system and demonstrate its credibility as a crime-fighting institution (Bortner, 1986). Instead, the widespread use of transfer has further exposed the fragility of the public's support for the juvenile court. Once limited to theoretical discussions among a few legal academics, juvenile court abolition is now debated by state and federal policy makers.

**In 1996, Arizona voters gave state lawmakers permission to abolish the juvenile court**

PROPOSITION 102 amended the Arizona Constitution so that juvenile courts no longer have “exclusive” and “original” jurisdiction for offenders under 18 years of age.

THE “STOP JUVENILE CRIME INITIATIVE” WAS ENDORSED BY 63% OF ARIZONA VOTERS. THE MEASURE ALLOWS STATE LAWMAKERS TO END THE USE OF JUVENILE COURTS IN ARIZONA.

- After the passage Proposition of 102, Arizona's Governor formed an advisory committee to recommend a new system for handling young offenders.
- The presiding judge of the Phoenix juvenile court said the Governor's plan reflected a philosophy that “punishment is the only thing that changes human behavior.”

Sources: Ingley, Kathleen and Dennis Wagner (1996). “Voters support drug measure, casinos, justice.” *The Arizona Republic*, 11/6/96, page A1; and Valdez, Linda (1996). “Governor uses Prop 102 to prop up his big prisons agenda.” *The Arizona Republic*, 12/27/96, page B6.

## The Next Step

Recent policy trends in juvenile justice have been going in one direction—toward abolition of the juvenile court's delinquency jurisdiction and complete convergence of the juvenile and criminal justice systems. Moving young offenders into the adult system, however, will merely place them in a different set of crowded courtrooms that are even less capable than the juvenile court of providing close offender monitoring, intensive rehabilitation, and creative, individualized sanctions.

The juvenile court was invented to combat juvenile crime in a way that was more flexible and pro-active than the simple just-deserts approach of the adult court. As policy makers sought to reduce discretion and be more punitive with serious and violent juvenile offenders, they stripped the juvenile court of the very qualities that made it more flexible. The juvenile court is no longer able to provide the individualized attention envisioned by its founders and can no longer easily intervene when youths are merely at risk of future offending.

Lawmakers cannot put the genie back in the bottle. The informal, social welfare approach of the original juvenile court has been lost. In its place, the nation has inherited a network of junior criminal courts, with preliminary hearings, motions for the appointment of counsel, subpoenas to appear, speedy trial rules, and sentencing guidelines.

**Some states have already started to blend juvenile and criminal court sentences**

Young offenders in some states can be tried in either juvenile or criminal court, and upon conviction they can be sentenced either to juvenile or adult corrections, depending on the preferences of administrators, prosecutors, and judges.

- In states such as Idaho, Michigan and Virginia, the criminal courts have responsibility for serious juvenile offenders, but they may sentence juveniles to an initial period of confinement in a juvenile facility rather than sending them immediately to adult prison.
- In other states (e.g., Massachusetts, South Carolina, Texas), juvenile court judges have authority to impose very long sentences and offenders are relocated in adult correctional facilities at the appropriate age.
- Minnesota handles most serious juvenile offenders in the criminal courts but places them in juvenile corrections programs after first suspending their adult prison sentence. Offenders then have an opportunity to “earn” their release before the adult portion of the sentence is invoked.

Source: Torbet, P. et al. (1996). *State responses to serious and violent juvenile crime*. Washington, DC: Office of Juvenile Justice and Delinquency Prevention.

In the words of the most influential critic of the delinquency jurisdiction, the American juvenile court has been turned into a “scaled-down, second-class, criminal court” (Feld, 1993: 403). As juvenile and adult courts become more similar, it is harder to justify retaining the juvenile court. Those in favor of abolishing the concept of delinquency appear increasingly likely to prevail.

Of course, the end of one debate begins another. Policy makers must decide what type of court process should be used to respond to youthful offenders. Can the same process be used for 13-year-old shoplifters and 17-year-old drug dealers? Can a conviction at age 12 be considered the first “strike” for a three-time offender being sentenced to life in prison? Can judges specialize in cases involving young offenders—can prosecutors and defense attorneys?

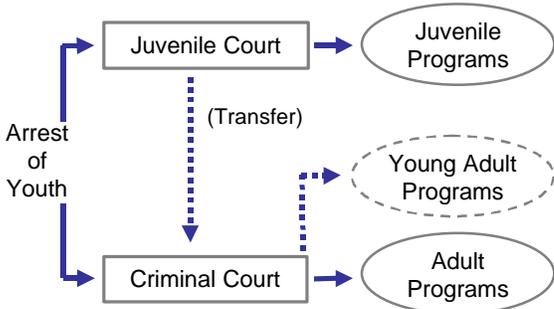
In the current “all-or-nothing” system, most complex issues are resolved with a simple question, “should the case be tried in juvenile court or adult court?” The answer has often been too simple. The “all-or-nothing” nature of juvenile crime policy has been the undoing of the juvenile court. Policy

**Policy trends suggest an eventual merger of juvenile and criminal justice**

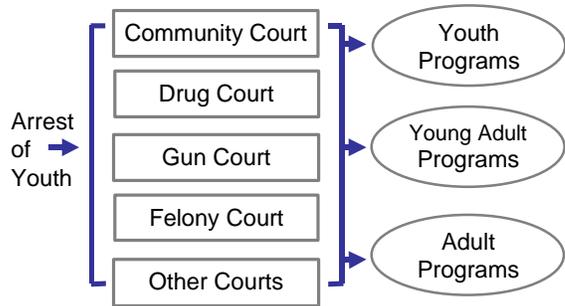
**The Past**



**The Present**



**The Future?**



makers expect more choices. They want the flexibility to choose different ways of responding to different offenders; they want a system that offers a full range of responses from very lenient to very harsh.

Fortunately, the justice system has already demonstrated an ability to develop innovative court models. In recent years, while the juvenile court has been adopting the criminal court’s emphasis on punishment and due process, the rest of the justice system has been experimenting with new, alternative court models. Drug courts, gun courts, community-based courts, and other new forums have been emerging throughout the country. These new courts offer a good starting point for developing a new system of courts for youthful offenders.

## Key Components for a New Youth Justice System May Already Exist

### Drug Courts

Drug courts offer legal incentives such as deferred prosecution for drug defendants willing to participate in drug treatment. The court then monitors their compliance with the treatment plan. Drug courts emerged during the 1980s and spread rapidly. As of 1997, nearly 250 drug courts existed in the U.S., with at least 25 dedicated to juvenile cases.

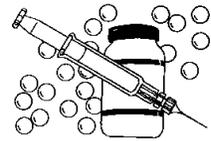
In the leading drug court models (e.g., Miami, Florida), judges, prosecutors, defenders, and drug treatment specialists work as a team to ensure offender outcomes. The Federal Crime Act of 1994 provided substantial support for demonstration and evaluation of drug courts, stimulating even further development of drug court programs.

#### Resources:

*Drug Courts: Overview of Growth, Characteristics, and Results.* Washington, DC: General Accounting Office (Report GAO/GGD-97-106), 1997.

Deschenes, Elizabeth, Susan Turner and Peter Greenwood (1994). "Drug court or probation?: An experimental evaluation of Maricopa County's drug court." *Justice System Journal*, 18(1): 55.

Drug Courts Program Office, U.S. Department of Justice [ <http://www.ojp.usdoj.gov/dcpo/> ].



### Gun Courts

Similar to the idea of drug courts, special court dockets for weapons offenders are growing in popularity and several programs have been developed to deal with juvenile weapons offenders.

Programs such as the Handgun Intervention Program (HIP) in Detroit and Project LIFE in Indianapolis offer intensive behavioral and attitudinal interventions designed to affect youths' orientation to weapons and increase their awareness of the reality of weapon injuries.



When employed in conjunction with specialized court dockets, such programs may provide a more focused disposition than a traditional court.

In 1997, the New York City Family Court began an experimental Juvenile Weapons Court for youths arrested for weapons offenses in Brooklyn and released pending disposition. The Juvenile Weapons Court is being evaluated by New York's Vera Institute of Justice.

#### Resource:

Trone, Jennifer and Darlene Jorif (1997). *Teaching brain power, not gun power: Low-intensity, low-cost programs for juvenile weapons offenders.* New York, NY: Vera Institute of Justice.

### Teen Courts

Teen courts (also known as youth courts or peer juries) are spreading rapidly across the United States. Nearly 400 teen court programs are already in operation; more are expected.



Teen courts provide a voluntary, non-judicial alternative for youths charged with minor law violations. Rather than going before a judge in a traditional court, young people referred to teen courts have their fate decided by other young people.

Teens serve as lawyers, jurors, court clerks and bailiffs. In some teen court programs, youths or panels of youths may determine whether the facts have been proven (similar to a finding of guilt) and may even impose a disposition (or sentence). Teen courts are often sponsored by schools, juvenile courts, probation offices, or law enforcement agencies. Although evaluation studies are scarce, preliminary research on teen courts has been encouraging.

#### Resources:

Godwin, T., D. Steinhart, and B. Fulton (1996a). *Peer justice and youth empowerment: An implementation guide for teen court programs.* Washington, DC: National Highway Traffic Safety Administration, with the Office of Juvenile Justice and Delinquency Prevention, U.S. Department of Justice [ <http://www.ncjrs.org/peerhome.htm> ].

Williamson, Deborah, Michelle Chalk and Paul Knepper (1993). "Teen court: Juvenile justice for the 21<sup>st</sup> Century?" *Federal Probation*, 57(2): 54-58.

## Community Courts

Community courts, or community justice courts, have been described as M.A.S.H. units for neighborhood crime problems. Drawing upon local resources and local knowledge of offenders and their families, community courts offer a less bureaucratic and more timely response to offenses committed against the community.



Typically, an offender in community court will be required to complete a restorative contract, including restitution payments, counseling, neighborhood clean-up service, etc. The goal is to empower community residents to teach offenders that their behavior has consequences.

### Midtown Community Court (New York City)

One of the most widely known community court programs is the Midtown Community Court in Manhattan. As of 1996, the Midtown court was handling 65 cases per day, making it one of the busiest arraignment courts in New York City.

Offenders sentenced by Midtown perform the equivalent of \$175,000 worth of community service work per year. The court emphasizes immediacy and requires offenders to report to a community service or social service center immediately after sentencing. Nearly 75% of all offenders complete their community service sentences as mandated.

### Resources:

"Juvenile justice: Community courts." *NPRI Issue Brief* (January 1997). Nevada Policy Research Institute [[http://www.npri.org/issues/juve\\_justice.htm](http://www.npri.org/issues/juve_justice.htm)].

"Community Courts: A Manual of Principles," Center for Court Innovation, and the Bureau of Justice Assistance [<http://www.communitycourts.org/>].

## Alternative Dispute Resolution

Several types of alternative dispute resolution are becoming popular for relatively minor, usually non-violent offenders. The programs with the most promise for youthful offenders may be "family group conferences" and "restorative justice conferences." Both approaches involve carefully structured meetings between offenders, victims, their families, and other members of the community. Family group conferences and restorative justice conferences are already widely used in some countries (e.g., Australia, New Zealand).

Participants in these programs discuss and confront the harm resulting from an offender's behavior. The goal is to teach young people how their behavior affects others and to devise a way for them to repair whatever damage or harm they may have caused. This process empowers the families and parents of young offenders, encouraging them to exert their natural influence over the behavior and judgment of youth. Findings from evaluation research have been encouraging. Young offenders who meet their victims directly in the company of other family members seem less likely to re-offend.



### Resources:

Bazemore, Gordon et al. (1997). *Balanced and Restorative Justice for Juveniles: A Framework for Juvenile Justice in the 21<sup>st</sup> Century*. Washington, DC: U.S. Department of Justice, Office of Juvenile Justice and Delinquency Prevention [<http://www.ncjrs.org/pdffiles/framwork.pdf>].

Braithwaite, John (1989). *Crime, shame and reintegration*. Cambridge, England: Cambridge University Press.

Hudson, Joe, Allison Morris, Gabrielle Maxwell, and Burt Galaway (Editors), (1996). *Family Group Conferences: Perspectives on Policy & Practice*. Monsey, NY: Willow Tree Press, Inc.

## Building New Courts for Youth

Juvenile justice policy has been highly contentious for state and federal lawmakers. Those who try to enact reforms must strike a precarious balance between youth development and public safety, between treatment and punishment, between social welfare and law enforcement. Policy makers need more choices and they need a way to get beyond the current impasse between juvenile court advocates and the hardliners who promote adult court trials for younger and younger juveniles.

The emergence of new court alternatives may present an opportunity to break the stalemate over the future of juvenile justice. Policy makers can draw upon these alternative courts to construct a new, more diverse youth justice system that does not require the continuation of the ailing delinquency jurisdiction. If properly implemented, a newly configured, multi-court, youth justice system might be a welcome development even for advocates of the traditional juvenile justice system.

Many of the new alternative court models share important values and case-handling procedures that make them especially suitable for dealing with young offenders:

- Treatment and rehabilitation programs are individually matched to offender characteristics.
- Judges personally negotiate written treatment agreements with offenders and monitor their compliance.
- The court process involves a combination of immediate penalties and rewards that are contingent on offender behavior.
- The court relies heavily on community-based programs for delivering both services and sanctions.

Whatever court may handle young offenders in the future, it will need to be sensitive to the social and intellectual characteristics of adolescents. It will need to involve special trial procedures, speedier case movement, and a broad menu of services and sanctions beyond those used for adult defendants. Essentially, policy makers will need to invent something similar to the old juvenile court under the auspices of the new adult court.

Of course, building a new youth justice system would require extensive planning and administrative reorganization by state court agencies. Many details of the court

### The United States is not alone in re-thinking its juvenile justice system

Australia	All 6 Australian states and the 2 territories abandoned the "welfare model" of juvenile justice during the 1970s and 1980s, adopting an alternative "justice model" that emphasizes deterrence and accountability while diverting most non-criminal offenses. Other states are monitoring developments in South Australia which in 1995 shifted to a "restorative justice" model (O'Connor, 1997).
Canada	The national government abolished the concept of delinquency with the "Young Offenders Act" of 1984, inspired by cries for tougher crime control as well as demands for increased protection of juvenile rights. Introduced proportional sentencing for young offenders and extended the youth justice system to include 16- and 17-year-olds once handled in adult court. Failed to stop public criticism; calls for reform resumed immediately (Corrado et al., 1992).
England	Replaced all juvenile courts in 1992 with "youth courts" that focus on offender accountability. Youth court jurisdiction was extended to include 17-year-olds previously tried in adult courts. In 1997, the British Home Office expressed dissatisfaction with inefficiency in the youth court system and called for returning all 17-year-olds (or "near adults") to the jurisdiction of criminal courts (Home Office, 1997).
Japan	Separate family courts have original jurisdiction over all crimes by youth under the age of 20, although family court judges may refer youths ages 16 to 19 to the Public Prosecutor for trial as adults. Pressures for reform erupted in the 1990s after several highly publicized acts of juvenile violence. Critics called for more youths under age 16 to be eligible for trial as adults (Kunii, 1997).
South Africa	The South African Law Commission considered several options for the first national juvenile justice system: <ul style="list-style-type: none"> <li>• Completely separate, district-level juvenile courts with jurisdiction to try all juvenile cases.</li> <li>• Specialized juvenile courts at the district level with the capacity to refer serious cases to regional or high courts.</li> <li>• No separate courts, but special rules and procedures in any court where an accused person under 18 appears.</li> <li>• Special courts that operate chiefly as a mechanism to refer juvenile matters to other community based forums, such as family group conferences or sentencing circles (South African Law Commission, 1997).</li> </ul>

process would need to be redesigned. One virtue of the traditional juvenile court was that it offered a single forum for dealing with all types of youth crime. If a new youth justice system were built around numerous alternative courts, it would require an effective intake and referral process. Such a process would be needed to decide which of several courts had the most appropriate procedures and the most desirable menu of sanctions for each individual youth.

A beginning model for such a process would be the juvenile court "intake" procedures already in place in most jurisdictions. Usually managed by the court but sometimes by other agencies, intake is a sequence of screening and referral decisions designed to ensure that each offender receives the most appropriate response from the court. Intake workers sift a court's caseload into various classifications. Some are diverted or simply dismissed. Some are handled informally if the youth agrees to participate in counseling, job training, etc. Others are formally charged and scheduled for adjudication. Rather than making these decisions based only on the formal charges contained in a police report, the intake process depends on multiple indicators of each youth's individual situation.

A newly designed youth justice system would require a sophisticated intake process to determine the most appropriate court for each matter referred by law enforcement. After the initial intake review, a youth could be referred to a traditional trial court, a treatment-oriented drug court, an expedited weapons court, a peer-operated teen court, a voluntary mediation court, or even a court-sponsored family conferencing agency. This decision could be based upon each offender's situation and prior record, as opposed to the current system that relies first on the simplistic legal definition of who is and who is not a "juvenile."

**"Three decades of reform have largely dissolved the traditional juvenile court, and the system that remains is rapidly losing political viability. Policy makers may soon need to devise an entirely new process for handling young offenders."**

## Conclusion

The public demands better methods of dealing with youth crime, and lawmakers are responding by enacting sweeping changes in the juvenile justice system. State officials are re-writing the statutory mission of the juvenile court to emphasize punishment, and increasing the formality of juvenile court procedures. They are implementing sentencing guidelines for juveniles and making wider use of transfer to adult court. Ironically, the due process protections necessitated by these policies stifle the informality once intended to allow juvenile courts to intervene aggressively and creatively with delinquent, and even pre-delinquent youth. Three decades of reform have largely dissolved the traditional juvenile court, and the system that remains is rapidly losing political viability. Policy makers may soon need to devise an entirely new process for handling young offenders.

Before states actually begin to abolish the legal concept of delinquency, officials should consider expanding the reach of the existing juvenile justice system to include many of the innovative courts now emerging throughout the country. These courts could begin to handle a large portion of the youths once sent to juvenile court, and states could start to devise intake procedures for routing every young offender to the most appropriate court available. Once these new referral networks are in place, abolishing the last remnants of the delinquency jurisdiction may be more acceptable even to youth advocates. In addition, divisive battles over sending juveniles to adult court might cease to occupy so much of the time and attention of lawmakers, researchers, and practitioners.

After all, the central issue in the fight against juvenile crime is not whether young offenders are called delinquents or criminals. The central issue is what happens to young people following arrest. What process is used to determine culpability? Who chooses the most appropriate action in each case? How quickly can the entire process take place, and does it ensure the safety of the public while guarding the rights of the offenders and maximizing their chances of rejoining the law-abiding community? Satisfactory answers to these questions will come from each jurisdiction having a sound intake process, fair and efficient adjudication procedures, and a wide range of services and sanctions that can be matched to all types of youthful offenders. The separate delinquency jurisdiction may have once provided such a system for young people, but its current benefits are far less discernible. Perhaps it is time to consider a completely new approach.

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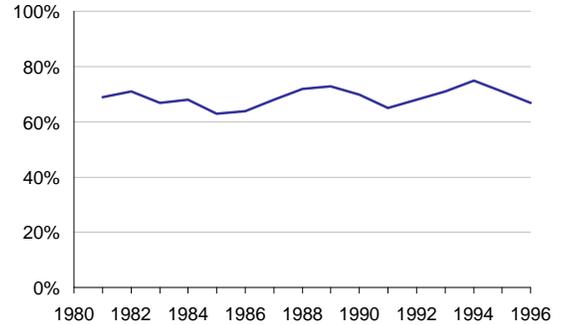
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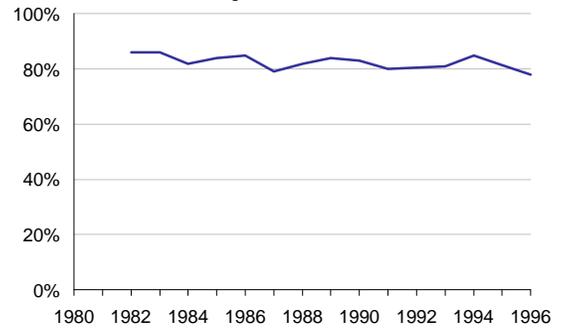
# Despite their concerns about crime, Americans are not ready to abandon the idea of treating young offenders differently

## Americans want effective crime control

Percent of Americans who think the government spends "too little" on reducing the crime rate



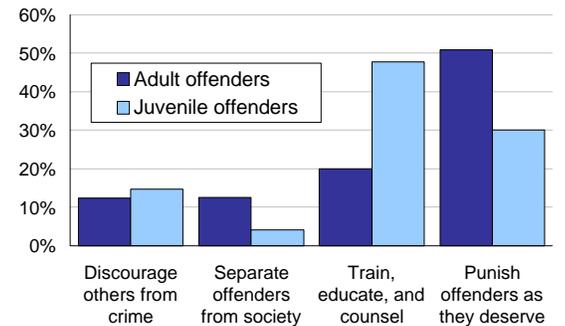
Percent of Americans who think their local courts are "not harsh enough" with criminals



General Social Survey, 1981-1996. National Opinion Research Center.  
Note: Responses for 1992 and 1995 were derived by interpolation.

## But Americans also expect the courts to treat young offenders differently

What should be the court's most important purpose in sentencing juvenile and adult offenders?



Survey Research Program, College of Criminal Justice, Sam Houston State University (1995)

Data Source: Maguire et al. (1997: 113-205).