One-size-fits-all justice simply isn't fair
Commentary
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A recent Amnesty International USA report describes juvenile detention practices in many areas of the United States as abuses of human rights. On record are lengthy stays in solitary confinement, inappropriate use of force, sexual and physical assaults, and the use of chemical restraints and stun guns.

Behind the physical and psychological traumas publicized by Amnesty International is a juvenile justice system that took a wrong turn when high rates of violent crime during the late 1980s and early 1990s prompted state lawmakers throughout the country to adopt a one-size-fits-all approach. Rather than searching for innovative solutions, legislators simply looked to the adult system for answers.

As the rate of juvenile violence reached a peak in 1994, the public demanded action, and lawmakers escalated efforts to remake the juvenile justice system in the image of the adult counterpart. In this drive, many states passed laws to transfer larger numbers of young offenders to the criminal courts where they could be tried as adults.

A new Department of Justice report shows statehouses continue to issue transfer laws. In 1996 and 1997 alone, more than half the states passed new laws or expanded existing laws to get tough on juveniles by treating them as adults. Seventeen states have even started to tear down the legal wall separating the juvenile and adult justice systems, allowing judges to "blend" sentences for young offenders so that a stint in a juvenile corrections facility can be followed by a longer prison term in an adult facility.

What's wrong with handling youthful law violators in the same way as adult criminals?

First, many juveniles aren't yet set in their ways, and they may respond to less expensive sanctions that preserve their chances of becoming law-abiding citizens someday. Researchers have found repeatedly that aggressive, community-based interventions can reduce juvenile recidivism as much as prison for as little as one-third the cost. What's more, there is no evidence that simply locking up more juveniles reduces the overall level of crime in our communities. Justice Department statistics show that the rate of criminal victimization was falling long before recent get-tough efforts.

Just as important, a one-size-fits-all approach doesn't fit the punishment to who the offender is or might become. Every teacher knows that kids develop at different speeds and that not all 14-year-olds are alike. Yet, automatic transfer policies assume that all 14-year-old car thieves are.

If the juvenile crime bills narrowly defeated on Capitol Hill this past year are any indication, many in Congress believe that Americans don't trust judges to listen to the facts, talk with each accused juvenile, and hand down an appropriate sentence. Similar legislation is likely to come before the 106th Congress. If passed, the juvenile court's response to individual offenders will be increasingly dictated by legislators, not judges, and confinement or transfer to adult court will become even more common.

Kids - even wayward kids - deserve better. Specialized courts for juvenile offenders deserve serious consideration as an alternative to the current trend of treating youth as miniature adults. Drug courts, gun courts, community-based treatment courts, domestic violence courts, and other alternatives to prison are proving effective for adult offenders. In these specialized courts, treatment and rehabilitation programs are individually matched to offender characteristics, and judges personally negotiate written treatment
agreements with offenders and monitor their compliance. Immediate penalties and rewards are contingent on offender behavior, and the court relies heavily on such community-based services as drug treatment, treatment for domestic violence offenders, or gun education programs.

In specialized courts, the premium is on increased supervision and flexibility - both essential to dealing with a wide range of offenders. Active monitoring by judges who can deliver certain, swift, and potentially severe consequences for failure to reform can offset the perceived risks of extending opportunities for rehabilitation. At the same time, the courts retain enough flexibility to tailor treatment and services and help youthful offenders avert a lifetime of criminal activity. This way, public safety and offender accountability are increased without forfeiting a chance at rehabilitation.

While Amnesty International and other watchdog organizations ask Americans to look at what happens to minors once they land in jail, let's not forget to look at the judicial system that puts them there.

It is time to reexamine the simplistic substitution of adult criminal processing for the traditional juvenile justice system.

Other Publications by the Authors

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