



An Introduction: The Juvenile Justice System

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The Roots of Our Juvenile Justice System Today:

The current juvenile justice system in the United States arose from a long history of carceral punishment against youth, particularly youth of color. According to Mallet and Tedor (2018), the American juvenile justice system has relied on punitive behavior tactics, corporal punishment, indentured servitude, and solitary confinement as behavior reform interventions since at least the mid-1700s. Poor children and children of color were disproportionately placed into these fortress-like settings. Children of color were often placed in adult carceral settings, and black children in particular were excluded from participating in education and training programs compared to their white counterparts.

In addition, Mallet and Tedor note that the American juvenile court system, which was established in the 1920s, played a major part in the pattern of incarcerating youth. As the courts heard more cases related to minor offenses, truancy, child welfare, and criminal activity, the courts stopped providing reformatory and supervision plans for children and their families. Instead, the courts increased criminal sentencing and instituted harsher punishments, which primarily targeted poor, marginalized groups and immigrants. Many black children, who already had limited access to reform schools and other rehabilitative alternatives, were prosecuted in adult courts and placed into adult prisons. The convict-lease system assured that these children received longer periods in detention and faced higher rates of corporal punishment and execution. This practice is still common today.

Mallet and Tedor find that rehabilitation in the juvenile justice system remains low, both for those youth inside the facilities and for those who have left. Alternatives to incarceration, such as community-based corrections (i.e., group homes, partial release supervision, and halfway houses), have existed throughout history. However, these options were not widely implemented or accessible to most youth. Mallet and Tedor also find that while the United States government and individual states across the country began working towards deinstitutionalizing youth and establishing alternatives to incarceration for youth in the 1960s, the tough-on-crime era of the 1980s and 1990s refocused efforts on punitive reforms.



These included increasing juvenile detainment and the number of carceral institutions. An increase in crime among youth during this era was due to a combination of factors: an increase in handgun access, the crack cocaine epidemic, and an increase in gang membership. Youth often turned to gang association with the conception that gang membership was a source of security and protection. The public, media coverage, and politicians quickly sensationalized gang culture and violence. The idea of “superpredators” exaggerated rates of youth violence in the media and academic research, and suggested that youth with a criminal record needed punishment rather than support. These responses were grossly inaccurate and disproportionate to what was happening in these communities.

Many states passed “Tough on Crime” policies which increased transfers of youth to criminal courts, expanded juvenile court mandatory minimum sentencing options, chose harsher prosecutions/conviction sentences, allowed more access to juvenile records and court proceedings, and promoted punishment over community support and rehabilitation. The Violent Crime Control and Law Enforcement Act of 1994 and the Gun-Free Schools Act of 1994 lowered the age for adult prosecution from 15 to 13 for some federal offenses; funded military-style boot camps; increased the penalties for drug distribution near schools, playgrounds, and youth centers; and established the trend known as the school-to-prison pipeline.

Today, policy makers and academics recognize that the tough-on-crime era was based on myths and caused considerable harm to many communities around the nation.

There has also been a recognition that youth with a criminal record respond better to preventative and diversionary interventions rather than punitive ones. Since 2000, there have been major advances in developing effective treatments and protocols, and significant decreases in harsh punishments of youth with a criminal record and youth crime.

However, systemic racism and overcriminalization of youth still continues to be the backbone of many juvenile justice policies and programming.

Youth and Juvenile Justice Today:

According to the Children's Defense Fund's State of America's Children 2020 report, "children in poverty, children of color, children with disabilities; children with mental health and substance abuse challenges; children subjected to neglect, abuse and/or other violence; children in foster care and LGBTQ children—are pushed out of their schools and homes into the juvenile justice or adult criminal justice systems." Additionally, "children of color, particularly black children... continue to be over-criminalized and overrepresented at every point—from arrests to post-adjudication placements." The report, *Reforming Juvenile Justice: A Developmental Approach* (2013), finds that adolescents, by fault of having brains that are still developing, struggle with self-regulating their behavior, with standing peer pressure and other external social influences, and making decisions that require longer-term perspectives. Youth involvement in criminal activity is often an impulse borne from biological immaturity.

The "school-to-prison pipeline" increases youth involvement with the juvenile justice system as a consequence of criminalizing school-related conduct (ACLU). But the current juvenile justice system, which focuses primarily on confinement, deprives adolescents of conditions crucial to youth development, such as the presence of parental figures, peer groups, and activities promoting critical thinking skills (youth.gov). The use of secure detention in the juvenile justice system exposes youth to a system almost indistinguishable from adult prisons and jails, which fails to meet the developmental and behavioral needs of incarcerated youth (Holman and Ziedenberg, 2013; Lambie and Randell, 2013).

Many incarcerated youth suffer from mental health disorders, learning disabilities, substance abuse, trauma, deprivation, and other difficulties, which juvenile corrections facilities are ill-equipped to treat and instead, exacerbate. There are significant gaps in mental health and substance abuse treatments in youth correctional facilities. The quality of education for incarcerated youth is often deficient. Educational programs in many juvenile justice programs are lacking and plagued with overcrowding, constant switching, lack of qualified teachers, lack of ability to fill gaps in schooling, and lack of cooperation with other educational institutions. Juvenile corrections facilities are notorious for high levels of violence, abuse, and the excessive use of isolation and restraints, many cases documented across 39 states since the 1970s and remaining widespread today (Mendel, 2011).

Conclusion and Policy Implications:

The USYF recommends reducing or ending juvenile confinement and redistributing its funding towards programs better-suited for youth who committed crimes. Incarcerating youth is an inappropriate measure that increases the odds of recidivism and negatively impacts the well-being and future success of youth. Jurisdictions that have moved away from youth confinement have not suffered from increases in youth crime. There are a number of interventions and treatment strategies identified by scholars that consistently and cost-effectively reduce recidivism among incarcerated youth.



These alternatives include counseling programs, mental health and substance abuse treatment programs, family-intervention models, youth mentoring programs, skill-building and vocational programs, and cognitive behavioral therapies. It is important to protect our youth in the juvenile justice system by working to end excessive sentences and extreme punishments like prolonged solitary confinement, and advocating for investments in community-based services and community alternatives for incarcerated youth and other at-risk youth.

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