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Juvenile Justice: What Should We Do With Children Who Break the Law?

When adults commit a crime, they are tried and, if convicted, punished according to law. But what if a lawbreaker is 15-years-old? 11-years-old? 6-years-old? What should we do with children who break the law? Should they be treated the same as adults? These questions have always troubled society.

Throughout most of history, the delinquent child was left to the family to handle. Under [English common law](#), children under 7 were thought to be incapable of knowingly committing criminal acts. Juries in England and colonial America often acquitted youths up to age 14 rather than subject them to adult punishments. But sometimes youths didn't get off. This meant that they suffered the same punishments as adults—whippings, imprisonment with adult criminals, and occasionally execution.

In the 1820s, juvenile crime grew rapidly in the United States. Immigrants were flocking to the cities. Living in crowded [tenements](#), immigrant children often took to the streets. Gangs of young thieves and vandals roamed the streets of New York, Boston, and other cities. Reform-minded individuals concluded that many poor city-dwelling immigrant families could neither care for nor control their children. This sentiment set into motion a "[child saving](#)" [reform movement](#) that lasted throughout the rest of the century.

The Institutional Solution

Beginning in 1825, charitable groups, like the Society for the Reformation of Juvenile Delinquents, founded "houses of refuge" in most of the nation's large cities. These institutions took in poor and orphaned children as well as young felons convicted in the criminal courts. In most cases, these early juvenile facilities operated on a daily schedule of schooling, work, prayers, and lockup at night. By 1850, however, houses of refuge had become little more than children's jails where beatings, escape attempts, and riots were common.

In the decade before the [Civil War](#), some states opened tax-supported reform schools. Like houses of refuge, these schools mixed delinquent youths with neglected and impoverished children. Although the [reformatories](#) placed more emphasis on education than the old houses of refuge, work continued to be part of the daily routine.

Following the Civil War, most states set up reformatories to house dependent and delinquent juveniles. But by the 1890s, reformatories came under increasing public criticism. They were seen as depressing and sometimes brutal places that exploited children for their labor.

The Juvenile Court Movement

The turn of the century was a time of great political and social reform known as the [Progressive Era](#). Among their many ideas, the Progressives believed that families, even poor immigrant ones, could help their delinquent children better than the large, impersonal reformatories. Progressives pushed for separate juvenile courts, which could give individual treatment to youngsters in trouble.

The first [juvenile courts](#) were established in Chicago and Denver in 1899. These courts brought together two experiments in juvenile justice. In New York, a few judges had been holding separate hearings for juvenile offenders, while in Massachusetts delinquent juveniles had been placed in a probation program. The new juvenile courts adopted both practices. These courts also assumed the responsibility of protecting neglected and abandoned children.

As special civil courts, juvenile courts did not decide guilt or innocence and determine punishment. Unlike criminal courts, juvenile courts were set up to discover the needs of the child and the underlying causes of his or her misbehavior. Juvenile delinquents were to be treated and rehabilitated, not punished.

So a judge could get to know the young person, the juvenile court system eliminated lawyers, strict rules of evidence, juries, and public hearings. Instead, a juvenile court judge would simply talk with the child, his or her parents, and a probation officer. Typical cases of delinquency involved stealing, assault and battery, sexual promiscuity (almost always just girls), truancy, cursing, cigarette smoking, or having "bad associations."

Although Progressive juvenile court judges still sent some delinquents to the state reformatory, they preferred to place most young offenders on probation with their family or a foster family. Thus, after nearly 100 years of institutionalization, delinquent children once again became largely a family responsibility.

The first juvenile probation workers were volunteers from charities and "child saving" societies. But by 1910, most states with juvenile courts had begun to hire full-time probation officers. These new professionals investigated the social and family background of troubled youths, resolved family problems, prepared reports for juvenile court judges, and supervised children (and sometimes their parents) on probation. For the most part, probation succeeded and led to a decline in commitments to the state reformatories.

The Progressive's idea of a separate juvenile court system spread rapidly. By 1925, all but two states had created juvenile courts. The special juvenile courts, which gave judges great powers to decide the treatment for juveniles, proved popular.

But the new juvenile court system had its critics. With no lawyers or [due-process rights](#) to protect juveniles, critics felt judges had too much power. In juvenile court, young people were at the mercy of the judge. Many judges acted wisely. But others acted on whim and prejudice. Critics decried the lack of legal protection for juveniles.

But young people remained without basic rights in many juvenile courts until 1967. In that year, the U.S. [Supreme Court](#) decided [In Re Gault](#) (387 U.S. 1). An Arizona juvenile court judge had placed Gerry Gault, 15, in a reform school for allegedly making an obscene telephone call. Gault was to be held until he reached age 21. In other words, he received a six-year sentence. The maximum adult sentence for this crime was a \$50 fine and two months in jail. Because Gault had been denied a lawyer, had not been allowed to cross-examine his accuser, and had not been informed of his [right to remain silent](#), the Supreme Court reversed the decision to confine him. The court recognized the right of juveniles to have a lawyer and certain other due-process rights during juvenile court hearings.

Since the *Gault* decision, however, the Supreme Court has not extended all due-process rights to juvenile proceedings. The court has ruled, for example, that juveniles are not entitled to public trials or trial by jury.

Today, juvenile courts are changing once again. With juvenile violent crime rising, many states are trying violent offenders as adults. Some states have changed the purpose of juvenile court to include punishment as well as rehabilitation. Some critics demand harsher sentences for juvenile offenders. As juvenile courts grow more punitive, other critics are demanding that juvenile courts grant juveniles the same due-process rights as adult courts.

At the same time, juvenile courts are trying out new ideas like "teen court" to reach youngsters just starting to get into trouble. Originated in Odessa, Texas, in 1983, teen courts allow first-time juvenile offenders in minor cases to be sentenced by peer juries. Juvenile offenders who have admitted breaking the law are screened by the probation department and referred to teen court. The teen court holds a short hearing with students acting in the roles of lawyers, jurors, and other court officers. The presiding judge is a juvenile court judge or other adult, such as a school board member. The teen jurors only decide on what the penalty (called the disposition) should be.

Although teen court procedures differ from place to place, most follow a similar pattern. The student prosecutor questions the juvenile offender about what happened and argues for a maximum penalty. The student defense attorney uses questions to bring out mitigating facts like the offender's good school record and then argues for a minimum sentence. The juvenile offender himself is then given a chance to speak to the jury. The peer jurors decide on a suitable penalty, or disposition.

Offenders who satisfactorily complete their teen court sentence have their record expunged. Those who fail to comply are referred to the regular juvenile court. So far, the results of teen courts indicate that peer jurors are frequently tougher than juvenile court judges. Moreover, repeat offenders have been relatively few.

For Discussion and Writing

1. Before the invention of juvenile court in 1899, how did society deal with children who committed crimes?
2. In what ways did the Progressive juvenile court change the way juvenile delinquents were handled in the United States?
3. Do you think juvenile courts today should be changed or even abolished? Explain.

For Further Information

[The Juvenile System](#): This web page from the official New York City web site gives a detailed history of juvenile detention in New York City.

[The Juvenile Court at 100 Years: A Look Back](#): This web page presents an extensive history of the development of the juvenile court system in the U.S.