Juvenile Justice and Delinquency Prevention

BACKGROUND

Juvenile justice is a relatively recent and ever-evolving system for dealing with young people who violate social standards of behavior and laws, ranging from school truancy to murder. The current juvenile justice system has evolved from several important events.

In 1967, the Gault decision by the Supreme Court affirmed the necessity of requiring juvenile courts to respect due process of juveniles during their proceedings. The ruling was the result of an evaluation of Arizona's decision to confine Gerald Francis Gault. Gault, at the age of 15, had been placed in detention for making an obscene call to a neighbor while under probation. The Supreme Court decision emphasized that youths had a right to receive fair treatment under the law and pointed out the following rights of minors:

- The right to receive notice of charges
- The right to obtain legal counsel
- The right to "confrontation and cross-examination"
- The "privilege against self-incrimination"
- The right to receive a "transcript of the proceedings," and
- The right to "appellate review"

In 1968, Congress passed the Juvenile Delinquency Prevention and Control Act (PL 90-445). The act was designed to encourage states to develop plans and programs that would work on a community level to discourage juvenile delinquency. By 1974 the United States had developed a strong momentum toward preventing juvenile delinquency, deinstitutionalizing youths already in the system, and keeping juvenile offenders separate from adult offenders. The Juvenile Justice and Delinquency Prevention Act (JJDPA) (P.L. 93-145) was passed in 1974. It established the "separation requirement of juveniles from adults, the deinstitutionalization of status offenders (DOS) requirement and created the Formula Grants Program," which are noncompetitive grant awards based on a predetermined formula (Office of Juvenile Justice and Delinquency Prevention [OJJDP], 2010). Also included in juvenile policy in the 1970s were community-based programs and diversion from juvenile justice involvement (OJJDP, 2006).

Beginning in the 1980s and continuing into the 1990s, the juvenile crime rate reportedly increased, with the highest rates being between 1989 and 1995. In response, many states passed more punitive laws for juveniles, including transferring juveniles to adult court and lowering the age of responsibility (OJJDP, 2006).

In 2002, the JJDPA was reauthorized. It included "four custody-related requirements: (1) the same deinstitutionalization of status offenders and non-offenders as 1974, (2) sight and sound separation, (3) jail and lockup removal, and (4) disproportionate minority confinement changed to minority disproportionate contact (MDC)" (p. 11).

A steep rise in juvenile crime occurred between the late 1980s and mid-1990s. The increase in crime hit a peak in 1994 and then began to gradually decline. In response to a fear that juvenile crime would continue to rise at the rate seen between 1987 and 1994, legislatures enacted measures designed to "get tough on crime." The 1974 JJDPA was amended to
include provisions that would allow states to try juveniles as adults for some violent crimes and weapons violations. Minimum detention standards were also put into place in some states (OJJDP, 2002). Collectively, this legislative and policy evolution has shaped the current juvenile justice system. Operationally, the juvenile justice system is a federal and state government collaboration. State governments are responsible for moving youths through their continuum of juvenile justice processes. The federal government provides policy guidelines and national standards for how young people are managed once they are arrested and adjudicated (Campaign for Youth and Justice, 2009).

Over recent years, there has been a slowing of the rate of juvenile crime and detention (Sentencing Project, 2011). However, there continues to be a significant number of young people who are arrested in the United States. The data presented next highlights the extent of the problem.

Juveniles accounted for 16 percent of all violent crime arrests and 26 percent of all property crime arrests in 2008. Between 1999 and 2008, juvenile arrests for aggravated assault decreased more for male than for female youths (22 percent compared with 17 percent). During the same time, the number of male arrests for simple assault declined 6 percent and female arrests increased by 12 percent (OJJDP, 2010).

In 2008, although black youths accounted for just 16 percent of the youth population ages 10 to 17, they were involved in 52 percent of juvenile violent crime index arrests and 33 percent of juvenile property crime index arrests. In 2008, female youths accounted for 30 percent of juvenile arrests. During the same year, 629,800 of the juvenile arrests were of girls younger than 18 years of age (see http://www.ojjdp.gov/ojstatbb/default.asp).

The Juvenile Justice System comprises a number of key stakeholders with a vested interest in preventing delinquent and criminal behaviors among young people and improving the correctional system once a juvenile is adjudicated. The major stakeholders include federal and state juvenile justice policymakers, including

- juvenile court
- probation agencies
- child welfare agencies
- public school systems
- national youth advocacy groups and service provider groups, and
- law enforcement agencies.

Under certain vague definitions with the family court act, the social services, and the penal law, children who are denominated by the state as “incorrigible,” “ungovernable,” “habitually disobedient,” or “beyond the control of parents” are deemed “persons in need of supervision” and are subject to the jurisdiction of the court system, even though they have committed no crime. There is now ample evidence that coercive court intervention and detention of children who have committed no crimes increases the likelihood of subsequent crime behavior (American Civil Liberties Union [ACLU], n.d.). The reality is that Persons in Need of Supervision proceedings are not rehabilitative. If anything, the process has shown to have a deleterious effect (ACLU, n.d.). The social work profession has a significant stake in advocating for an effective system for dealing with problem juvenile behaviors and makes up a significant part of the workforce that provides services to at-risk youths.

Recent research has produced results that indicate a relationship between childhood trauma and the onset of antisocial or criminal behavior during adolescence. Of particular interest is the research on the long-term impact of childhood abuse and neglect and witnessing acts of violence such as in-family domestic violence or “street” violence on their social development. It is widely known that children experiencing such physical and emotional trauma tend to exhibit behaviors associated with posttraumatic stress disorders during childhood and into adolescence (Giardino, n.d.). It has been further documented that exposure to domestic violence during preadolescence can have significantly negative consequences (Volpe, 1996).

Social workers who work with juveniles are positioned to recognize the signs of posttrau-
motic stress and predelinquent behaviors. As a result, the profession plays a role in preventing children’s progression in the juvenile justice system during adolescence.

ISSUE STATEMENT

Nationally, the OJJDP is addressing a range of concerns, including gang involvement, serious crimes, commercial sexual exploitation, underage drinking, bullying, school dropout, and other issues. There remain many critical issues facing all professionals who deal with children, youths, and their families, including prevention, rehabilitation, confinement, alternatives to incarceration, and aftercare or reentry into society. Social workers, in particular, must be knowledgeable and resourceful to effectively work with children, youths, and families.

Youths in the child welfare system often end up in the juvenile justice system, and many jurisdictions lack the resources to adequately address the history of abuse and neglect that may have led these youths to juvenile delinquency. A study from the National Institute of Justice found that abused and neglected children were 11 times more likely to be arrested for criminal behavior as juveniles and 2.7 times more likely to be arrested for violent and criminal behaviors as adults (Federal Advisory Committee on Juvenile Justice [FACJJ], 2010). These youths often have negative outcomes in education, substance abuse, mental health, and employment (Wiig & Tuell, 2004). Youth-serving agencies must better coordinate and integrate their services to reduce maltreatment and delinquency when dealing with dual adjudicated or “crossover” youths (youths known to both child welfare and juvenile justice systems).

A disproportionate number of crossover youths, and youths arrested in the United States, are minorities, which often begins a cycle of disproportionality throughout the juvenile justice system (FACJJ, 2010). As communities and jurisdictions create multiple disproportionate minority contact (DMC) reduction interventions and enhance existing services for minority youths, a broad base of culturally diverse stakeholders, including social workers, have focused on these issues. Diversion programs, which offer juveniles alternative programs to juvenile court, including teen courts, victim restitution, and mediation, are cost-effective for handling first-time offenders, increase youth and parent communication, and produce positive behavior and relationship changes among participants (FACJJ, 2010).

The DMC requirement of the JJDPA requires states to assess and address the disproportionate contact of youths of color at key decision points in the juvenile justice system. In 2002, the DMC requirement was broadened from disproportionate confinement of minority youths to disproportionate contact, such as disproportionate representation throughout the juvenile justice system. The work on this issue should be driven by informed and data-driven strategies (W. Haywood Burns Institute for Juvenile Justice and Fairness and Equality, n.d.). As an example, Latino youths are incarcerated in local detention and state correctional facilities nearly two times more frequently than white youths (Sickmund, Sladky, & Kang, 2008). Also, African American youths represent 16 percent of the adolescents in this country (Puzzanchera, Finnegan, & Kang, 2007) but are 40 percent of the youths incarcerated in local detention and state correctional facilities (Sickmund et al., 2008). These youths would greatly benefit from cross-system collaboration. Coordination of these systems is noted to be slow as a result of policy obstacles, volume of data that needs to be shared, funding challenges, and privacy concerns (Siegel & Lord, 2004).

Youths involved in the juvenile justice system often face significant barriers to academic achievement. Detained or committed youths are displaced from their normal school environment and face difficulties reentering school after they exit the system. Educational experiences across institutions vary significantly, ranging from facilities offering only minimal instruction for a few hours to those providing nearly full-day academic programming. In addition, many children within the juvenile justice system have educational disabilities that either are ignored or go unnoticed. These youths are at a greater risk for
academic failure than their peers. Suspended Education: Urban Middle Schools in Crisis, published by the Southern Poverty Law Center in September 2010, revealed significant racial gaps in suspension rates among middle school students. Education researchers Daniel J. Losen and Russell J. Skiba conducted the study, which found that 28 percent of African Americans male students were suspended at least once during a school year in a national sample of over 9,000 middle schools, which is nearly three times the 10 percent rate for white male students. That disparity was even more significant in a subsample of 18 urban school districts.

Agencies and social workers must take a proactive role to improve educational outcomes for children in the juvenile justice system by fostering communication in the local school districts and among school social workers relative to developing strategies focused on reducing suspensions and improving services to youths with educational disabilities. In collaboration with other parallel systems, the work should focus on helping at-risk youths achieve their educational potential.

POLICY STATEMENT

NASW supports

- continuation of the movement toward assisting children and youths who enter the juvenile justice system in a manner commensurate with their age, developmental level, and ability to differentiate between right and wrong.

- fair and equal treatment of youths regardless of socioeconomic status, race/ethnicity, gender, or sexual preference.

- interdisciplinary collaborations and communication with key stakeholders in the juvenile justice systems to focus on a child’s educational needs and stability.

- evidence-based policies and practices, ongoing research and evaluation, with input from families and stakeholders, to be used by service providers in the juvenile justice system.

- the importance of ethnic and cultural sensitivity.

- encouragement of the child welfare system and the juvenile justice system to develop strategies and policies that will provide for greater levels of collaboration, screening, data sharing, assessment, case management and supervision, and interagency collaboration.

- the hiring of professional social work practitioners who have skills in case management, counseling, intake, interviewing, and cultural competency and expertise in youths to effectively handle individuals and their families who are involved in the juvenile justice system.

- interdisciplinary services that exemplify social work practice and values and provide effective and efficient services to youths and their families; age-appropriate treatment that continues to be delivered with a mind toward age-appropriate handling and management regardless of placement setting; support for the move toward replacement of state correctional systems by local systems of community-based care that is necessary for effective rehabilitation and change; alternate options, such as small correctional and treatment facilities, located around the state to promote person-in-environment treatment, which includes postrelease or discharge planning and aftercare programming.

- overall system improvement that results in periodic screenings of children in various care setting; use of evidence of tools that can identify the mental health/emotional impact of early childhood trauma (such as child abuse and neglect, exposure to domestic violence) and physical trauma (such as traumatic brain injury); use of coordination of service concepts/models to provide oversight to ensure adherence to relevant national standards and guidelines and that services are culturally competent, are data driven, minimize duplication of services, incorporate a continuous quality improvement component, encourage the use of evidence-based and informed interventions.

- elimination of the death penalty for juveniles under the age of 18 years.

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elimination of the imposition of life sentences without the possibility of parole for juveniles convicted of a capital offense in an adult court.

due process and proper representation for all juveniles.

education of the public continuously against executing children younger than 18 years of age.

REFERENCES


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Policy statement approved by the NASW Delegate Assembly, August 2011. This statement supersedes the policy statement on Juvenile Justice and Delinquency Prevention approved by the Delegate Assembly in 2002 and the statement on Juvenile Justice and Adult Crime approved by the Delegate Assembly in 1977, which incorporated portions of the policy statement on Juvenile Delinquency and Adult Crime (approved in 1969) and Prisons and Jails (approved in 1971) and reconfirmed in 1993. For further information, contact the National Association of Social Workers, 750 First Street, NE, Suite 700, Washington, DC 20002-4241. Telephone 202-408-8600; e-mail: press@naswdc.org

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