

Juvenile Justice and Delinquency Prevention

BACKGROUND

The plight of children and youths has been a major concern to people in social work, from the earliest social reformers to the current professional organization. When the British settled the United States, children were subject to the same rules as adults concerning criminal responsibility. It did not take long for early reformers to realize it was neither humane nor effective to treat children and youths in the same manner as adults.

The treatment of children and adults became separate with the opening of the first juvenile court in Cook County, Illinois, in 1899. The philosophy of differentiating children and adult justice system treatment rapidly spread throughout the country. The first juvenile court judge in Denver, Judge Benjamin Lindsay, described the new role of the courts as follows: "The purpose of this institution . . . was not to punish people, but to save them. If they could only be saved by punishment, it would punish, but not otherwise. . . . Revenge would be no part of the program. Its work would be medicinal, restorative" (National Council of Juvenile and Family Court Judges [NCJFCJ], 1998, p. 6).

Slightly more than 100 years later, the juvenile court function has been challenged, and the juvenile justice system is in complete disarray. Criticism of the juvenile justice system actually began as early as the 1930s and 1940s because of the failure of the courts to rehabilitate youths (NCJFCJ, 1998).

The Juvenile Justice and Delinquency Prevention Act (P.L. 93-415) was passed in 1974, but the legislation did not include a commitment of the resources and protections necessary to support the type of system needed in the United States. By the end of the 1970s, any type of progressive philosophy toward

the treatment of troubled children and youths was no longer evident.

States slowly began reducing the age of criminal responsibility for certain crimes. Diversion and treatment decreased as sentences became lengthier. As crime increased in New York and Florida, these states led the nation into a punitive response to delinquent behavior. New York used legislative exclusion from the jurisdiction of the juvenile court to treat juveniles more harshly, whereas Florida developed the mandatory waiver and prosecutorial discretion to direct file juveniles into adult criminal court.

When juvenile crime reportedly increased from 1982 to 1991, the states responded with increasingly punitive action. The statistical picture played a major role in the punitive response of the nation. Recent studies show, in fact, that

trends in juvenile crime provide no evidence that young people have become more crime prone or dangerous in past years. The juvenile proportion of all arrests for serious, violent crime in 1998 was about average for the preceding 25 years, while the percentage of property crime arrests involving juveniles actually declined. The one category that has diverged significantly is murder. (*The Sentencing Project*, 2001, p. 2)

The result of the changes in the juvenile justice system over the past years has significantly affected the plight of troubled children and youths and the ability of the helping professions to respond in an effective manner. Hurst (as cited in NCJFCJ, 1998) argued that "the death of an individualized justice system for children turns the clock back an entire century" (p. 44).

Now, the United States prosecutes 200,000 youths a year in adult criminal court. Of these youths 180,000 are prosecuted in the 13 states that have established an age of 15 for adult court prosecution. In 1996 more than half of the cases transferred to adult criminal court were nonviolent drug or property offenses (*The Sentencing Project*, 2001).

The effect on the processing of African American youths has been tremendous. The result is that 67 percent of juveniles in adult court are African American. In addition, 77 percent of the juveniles who are sent to adult prison are African American. Despite the fact that African Americans use drugs at a lower rate than other groups, 75 percent of juveniles charged with drug offenses in adult court are African American and 95 percent of the juveniles sentenced to adult prisons for drug offenses are African American (*The Sentencing Project*, 2001). Considering that these youths who are sent to adult prisons are treated as adults, it is no wonder that youths in adult prisons fare much worse than their adult counterparts. Youths are 7.7 times more likely to commit suicide, five times more likely to be sexually assaulted, 50 percent more likely to be physically assaulted by guards, and twice as likely to be attacked with a weapon (*The Sentencing Project*, 2001).

The outcome of the current juvenile justice policies is devastating. The Coalition for Juvenile Justice (2000) reported that 50 percent to 70 percent of the juvenile offenders incarcerated as adults are rearrested one to two years after release. Another outcome is that African American youths are transferred to adult courts at twice the rate as white youths (Office of Juvenile Justice and Delinquency Prevention [OJJDP], 1999). In summary, youths treated as adult criminals are rearrested more often, sooner, and for more serious crimes later on than their youthful counterparts who are treated in a juvenile court setting (National Conference of State Legislatures, 1999).

Children and youths have been treated in an increasingly shameful manner through the decline of our justice system. The outcomes have been alarming enough to warrant a new emphasis on the needed changes in policy and practice within the juvenile justice system.

ISSUE STATEMENT

A review of juvenile justice literature (see Suggested Readings) demonstrates that there are some prominent issues that stand out as a result of trends over the past 10 years. Unfortunately, there has been no national agenda to address these controversial and costly issues. The underlying problem is that the response to a public demand for "tough on crime" policies has been the undermining of the key concept behind the establishment of the juvenile court system. The concept is that children are developmentally different from adults and therefore more amenable to treatment and rehabilitation. The U.S. public policy response to the perceived or real increase in juvenile crime has been on punishment, as opposed to prevention, treatment, and rehabilitation.

The most critical specific issues facing all professionals that deal with children, youths, and their families are as follows:

- inequitable processing of African American youths through the system, resulting in the overrepresentation of African American youths in the justice system
- the criminalization of children and youths with special needs
- inadequate cross-disciplinary system of services
- the treatment of children and youths in the juvenile justice system as if they were in the adult criminal justice system
- insufficient early intervention services
- the use of the death penalty for juveniles
- inadequate substance abuse and mental health treatment services that are culturally competent.

As social workers, the ability to work effectively with children, youths, families, and communities is seriously affected by these particular issues. Without a system set up to be culturally appropriate and to that effectively assesses and treats youths with disabilities, social workers cannot provide the needed services for troubled children, youths, and fami-



lies. Furthermore, the profession will continue to come into conflict with the justice system as long as the developmental theory that has traditionally differentiated juvenile and adult treatment needs is undermined.

Notwithstanding the issues identified, the fact that U.S. public policy and practice stands alone in the world in the execution of juveniles continues to place a burden on the work of professional social workers because of their historical belief that juveniles are different from adults and should be treated as such. The lack of priority placed on children and youths in this country, as exemplified by the policy of subjecting people under the age of 18 years to capital punishment, places the United States in a particularly bad light internationally. Social workers are in a unique position, given their training, skills, and ethics, to advocate for more humane and developmentally appropriate responses to juveniles who commit serious crimes including murder (Guin & Merrill, 2002). These issues are the most obvious and alarming trends that demonstrate the ineffectiveness of current juvenile justice policy across the nation.

POLICY STATEMENT

NASW recommends that the processing and treatment of children and youths who enter the juvenile justice system be differentiated from the treatment of adults through every phase of contact, including prevention, early intervention, formal diversion, detention, probation, residential care, incarceration, and postrelease care. NASW supports the fact that children and youths are developmentally different from adults and must be treated appropriately. This overall policy can be programmatically supported through the following priority actions:

- *Overall system improvement.* There is support for the theory that the treatment of juveniles as adults has increasingly occurred because there are few viable systems of care or a continuum of care that can address the problems of troubled children, predelinquent youths, and delinquent youths. Without an effective and responsive screening, assessment, treatment, and aftercare protocol, children progressively move through the stages of delin-

quency development and ongoing adult criminality. This type of failure results in the public perception that a separate juvenile system cannot work. A true system of care would provide for local coordination and oversight to ensure that children and youths do not fall through the cracks. An effective system also would ensure accountability in transfer policies and a more equitable system of processing and treating of African American youths.

- *Establishment of accountable oversight measures.* Very early in elementary schools or on initial involvement with the juvenile system, accountable oversight measures should be established to prevent the cumulative effect of inequitable treatment of African American youths. Local systems of care must adjust policies and practices within local communities to address systemic causes of bias that propel African American youths into the justice system. Three related problems in the inequitable treatment of African American youths are (1) inadequate defense for indigent juveniles, (2) lack of culturally competent screening and treatment, and (3) lack of family services.
- *Responsiveness to identified problem.* When a youth enters any phase of the justice system, especially in prevention and diversion programs, assessment, screening, and treatment must be responsive to the problems. Years of research have clearly demonstrated that treatment works, but the treatment has to be appropriate for the diagnosed problem. Program evaluation and accountability are a critical piece to this policy-recommended action.
- *Hiring of social workers.* NASW advocates, supports, and requires the hiring of professional social work practitioners who have skills in case management, counseling, intake, interviewing, and cross-cultural competency to the needs of youths and families engaged in the juvenile justice system.
- *Cross-disciplinary services.* Cross-disciplinary services exemplify social work practice and values and provide effective and efficient services to youths and their families. These services include:



- early sustained prevention efforts
- advocacy
- assessment of the person-in-environment and development stages
 - communication at all levels (youth, family, and systems)
- knowledge of children's developmental issues
 - awareness of the decision-making limitations of children and youths
 - access to resources for children and youths
 - follow-up services with a continuum of care.
- *Release of information.* Juvenile services systems need to supply the public and policymakers with information on racial disparity and other issues of concern (for example, a youth being tried as an adult and the requirements for optimal professional services; Young, 2000).
- *Replacement of state correctional systems by local systems of community-based care.* Juvenile incarceration should always be the very last resort for dealing with juvenile delinquency. When it has been determined that a youth must enter a correctional facility, there must be an accountable way to measure treatment effectiveness, including the involvement of the family in treatment. In addition NASW promotes tailoring work done with youths according to the individual youth's problems or issues (for example, if they are learning disabled; are substance dependent; have a mental illness; or struggle with gay, lesbian, bisexual, and transgender issues). There is no place in the current climate for the large correctional institutions for youths. These institutions must be replaced with small correctional facilities, located around the state so that no youths are ever more than one hour away from their family. There is little doubt that incarceration of juveniles does very little good without an effective postrelease plan and extensive aftercare programming.

Inasmuch as issues related to poverty are likely to prevent communities from developing these protective factors, NASW

encourages the allocation of state and federal funding in partnership with strong community-building efforts to address the housing, living wage employment, and child care issues that have a documented effect on the social organization of disadvantaged neighborhoods. NASW suggests that these community-building bodies be headed and staffed primarily by children, adolescents, parents, citizens, and other lay leaders within those zip codes particularly afflicted by child delinquency (that is, stakeholders, rather than solely administrators). In addition, juvenile system workers need to

- support systematic initiatives in communities across the nation to increase the protective factors that reduce the likelihood of delinquency. Protective factors most closely related to the prevention of juvenile delinquency include strong commitment to school; appropriate levels of parental supervision; association by youths with prosocial peers; and positive bonding with parents, peers, and the community (OJJDP, 2001).
- promote the dissemination of outcomes related to effective juvenile delinquency prevention and diversion initiatives. Promising approaches and best practices that have undergone rigorous evaluation and multiple site replication are published by OJJDP as "Blueprints for Violence Prevention" (Michigan Council on Crime and Delinquency, 2002).
- advocate for fully funded juvenile delinquency prevention, early intervention, and diversion programs throughout the nation.
- include Balanced and Restorative Justice (BARJ) as a critical principle in the application of juvenile justice initiatives. BARJ "promotes increased use of restitution, community service, victim-offender mediation, and other innovative programs designed to hold juvenile offenders accountable and protect the community while, at the same time, developing the competency of juveniles" (OJJDP, 2001, p. 15). When a crime is committed, the parties affected include the victim, the community, and the offender. BARJ requires that offenders take personal responsibility for their actions and then actively work to repair the harm they



have caused the community and the victim. It involves the victim, offender, and community in the search for solutions that promote reparation, reconciliation, reassurance, and restoration. BARJ also uses tools of accountability, restitution, mediation, advocacy, support, penitence, and forgiveness to bind parties together in a justice process that closes the wounds of crime. Other examples of BARJ include educational programs for offenders and community sentencing.

- provide age-appropriate treatment when a juvenile is transferred to the adult system. For the youths who are waived to an adult court system and sent to an adult correctional facility, it is highly recommended that treatment continue to be delivered from the perspective of the child. Juveniles need special care and protection in the adult court and prison system, even if their chronological age is legislated to be adult.

The National Association of Social Workers

- opposes the death penalty for juveniles and the incarceration of all youths younger than age 18 in the adult criminal justice system. The execution of youths under the age of 18 is a violation of many international standards for humane and ethical treatment of children, including the United Nations Convention and Amnesty International. It is important for NASW members to promote the value of children in the United States, even the most troubled children, and to educate the public continuously against executing children younger than 18
- supports due process and proper representation for all juveniles
- supports engaging in research that produces effective evidence-based practices.

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SUGGESTED READINGS

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Policy statement approved by the NASW Delegate Assembly, August 2002. This statement supersedes the policy statement on Juvenile Justice and Adult Crime approved by the Delegate Assembly in 1977, which incorporated portions of the policy statements 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