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Report # 112

Impact Of Punitive Juvenile Justice Reforms

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Juvenile Justice: Rethinking Punitive Reforms

Tougher, But Ineffective?

Fairness and effectiveness of reforms questioned

Some 20 years after “get tough” juvenile justice policies began shifting record numbers of young offenders to adult criminal courts, concerns are being raised about their fairness and effectiveness. Criminal courts give little consideration to the fact that youth are unlike adults in ways important to determining culpability. And justice officials often make decisions critical to the outcomes of young offenders based more on intuition than evidence-based models.

Perhaps most important, studies suggest the reforms that swelled the number of young offenders sentenced to adult prisons have not lowered juvenile crime rates or reduced recidivism as expected.

The way the American justice system deals with young offenders has shifted away from the rehabilitation-minded approach traditionally embraced by juvenile courts to an approach more focused on punishment. This shift was spurred in large part by a surge in juvenile crime, particularly violent crime, between 1985 and 1995.

A common response to the trend was for states to enact judicial transfer statutes that made it easier or mandatory to send the cases of young offenders to adult criminal courts. All but six states enacted such statutes between 1992 and 1997. Today, all states have some mechanism to try juveniles as adults.

Assessing the precise impact of such statutes is difficult due to complicating factors such as transfer rates that vary by jurisdiction. What is clear is that making transfers easier exposes juveniles to criminal courts where rigid sentencing guidelines and prescribed

mandatory minimum sentences make it more likely they will be sent to prison.

Between 1990 and 1999, the number of youth under the age of 18 years incarcerated in adult prisons rose from an estimated 2,000 to nearly 9,500, before falling to 7,200 in 2004.¹ And juveniles sentenced to life in prison without the chance of parole increased by 216% between 1990 and 2000, despite a nearly 55% decline in the number of juveniles convicted of murder.

Adolescence Not Considered

One concern about trying juveniles in criminal court is that their age, education, maturity and other developmental factors have little, if any, impact on sentencing, despite evidence that such factors are key considerations in assessing the blameworthiness of adolescents.

Adolescents are different than adults in important ways. Adolescence is a tumultuous stage of development marked by profound biological, psycho-

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Evidence suggests there are ways of dealing with young criminal offenders that are more effective and less costly than prosecuting them as adults in criminal court and imposing harsh sentences.

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logical, emotional and social changes. For example, changes in arousal and motivation during adolescence tend to outpace more slowly-developing abilities to regulate behavior. Adolescents are more susceptible to peer influence than adults, and are less mature when it comes to judging risk and managing their emotions and actions. Their character is unformed; their decision-making capacity, undeveloped.

However, studies show that risk taking and poorly regulated behavior tend to lessen with maturity, suggesting that as children age they are amenable to change. In fact, only a small group of adolescents who commit antisocial acts during their childhood continue to do so as adults.

Intuition-Based Decisions

Another concern is the decision-making processes used by juvenile justice professionals in most states when determining important issues, such as whether young offenders are likely to pose a fu-

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ture risk to the community and whether they will benefit from services designed to help them turn their lives around.

Research suggests that juvenile justice professionals continue a long-standing tradition of relying largely on intuition to make such decisions.

In general, making decisions about risk and amenability based on a consistent set of carefully assessed, empirically verified data is rare in today's juvenile court system.

This reliance on intuition rather than data has led to the limited use of several "structured" decision-making tools, including rating scales and decision trees, that are widely used in other fields, such as medicine and adult corrections.

Prevalence Of Mental Disorders

About 50% of juveniles in various types of juvenile justice settings meet criteria for one or more mental disorders.² By comparison, the prevalence of mental illness among youth in the general U.S. population is estimated to be about 15% to 25%.

Several clinical, social, legal and systemic reasons are believed to be related to the high prevalence of mental disorders in the juvenile justice system.

In general, youth with mental disorders are at greater risk of committing crimes than those who do not have mental disorders. Affective disorders are strongly associated with an increased tendency toward anger, irritability and hostility. Such mood disorders – mostly forms of clinical depression – are found in about 10% to 25% of youth in juvenile justice settings.

Punitive juvenile justice reforms have eroded the discretion of authorities when dealing with juveniles charged with certain offenses. As a result, less emphasis is placed on the characteristics

and needs of individual adolescents. And at about the same time tougher juvenile justice reforms were being enacted, most states experienced a reduction in public mental health services for children.

Effectiveness Of Reforms

Most general deterrence studies suggest tougher juvenile justice reforms, such as laws that make it easier to try young offenders as adults, have little impact on juvenile crime rates.

Single-state studies in New York and Washington, for example, found no difference in juvenile arrest rates after tougher juvenile justice laws were enacted. In Idaho, researchers

reported that juvenile crime increased immediately after the state enacted a law that required adult criminal courts to adjudicate the cases of juveniles who were 14 to 17 years olds and charged with violent crimes.³ However, one study did suggest deterrence. It estimated that age-specific crime rates from 1978-1993 were lower in states where 17-year-olds were eligible for criminal court compared to states where offenders were eligible at age 18.⁴

Recent research on transfer also suggests that trying more juvenile offenders in criminal court has largely failed to significantly reduce recidivism.

**references**

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¹ Snyder, H., & Sickmund, M. (September 1999). *Juvenile Offenders and Victims: 1999 National Report*. Rockville, MD: National Center for Juvenile Justice. <http://www.ncjrs.gov/html/ojdp/nationalreport99/toc.html>

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