CHAPTER 7

"Look Out, Kid, It's Something You Did"

The Criminalization of Children

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A seismic change has taken place. Youngsters are to be feared. Our worst enemy is among us. Children must be punished, held accountable, expelled. We have developed zero-tolerance for children.

The tragedy at Columbine further escalated the decade-long process of criminalizing the behavior of children, recasting an additional icon to accompany the fearful, racially coded language describing *some* youth in trouble with the law as "superpredators" (Canada, 1995; DiIulio, 1995). The newly sensationalized school shootings of 1997–1999 involved suburban or small-town religious White boys with guns, killing their fellow students, spawning a White, upper-middle-class discourse of violent youth based on alienation and isolation (Schiraldi, 1998). School shootings have become a trope—an inspiration for politicians, funding streams, educational pandemonium, and law enforcement expansion. Yet perhaps more significantly, beneath the rarely occurring but dominant focus on youth homicides, normal youth behavior and misbehavior became further criminalized, all in the name of safety. Children bore the brunt of the national soul-searching into the conditions of childhood in America at the end of the twentieth century.

No one can ignore the shocking fact that in the decade of 1985–1994, 25,000 children were murdered in the United States (Sickmund, Snyder, & Poe-Yamagata, 1997). In fact, there is the equivalent of a Columbine virtually every day in America. The proliferation of lethal handguns in the possession of children that resulted in children killing children (83% of victims aged 12–18 were killed by handguns) (Zimring, 1998; Sickmund et al.,

1997); the syndication of youth gangs into illegal-drug cartels (Blumstein, 1995); the flourishing of youth violence reported on local TV news stations (Schiraldi, Donahue, & Ziedenberg, 1998; Zimring, 1998); the resulting public fear and pandering of politicians and law enforcement officials (Males, 1996); and the popularization of youth demonization by noted academics (Steinberg, 1999; Zimring, 1996)—these are the tangled elements that reinforce and strengthen one another, spiraling into an overlapping system of causes and consequences and qualitative changes in how society perceives, and even thinks about, its adolescents.

Today, behaviors that were once punished or sanctioned by the school vice-principal, family members, a neighbor, or a coach are more likely to lead to an adolescent being arrested, referred to juvenile or criminal court, formally adjudicated, incarcerated in a detention center, waived or transferred to adult criminal court for trial, sentenced under mandatory sentencing guidelines, and incarcerated with adults (Sickmund et al., 1997). The increase in discretion ceded to prosecutors and police has transformed the decision of what to charge for a given offense: Yesterday's battery may be inflated into assault, simple assault into aggravated assault, a schoolyard fight into multiple felony charges. The arrest of multiple juvenile defendants for each incident further escalates youth crime statistics.

This massive shift toward criminalizing youngsters is evident in the increasing numbers of court cases, detained and incarcerated youth in overcrowded facilities, and legislative crackdowns on juvenile crime (Lubow, 1999; Puritz & Scali, 1998). In the past decade, the number of formally processed delinquency cases increased 78% (Office of Juvenile Justice and Delinquency Prevention [OJJDP] Fact Sheet #104; Sickmund et al., 1997; Stahl, 1999).

Within this climate, a less visible, less sensational shift has quietly been executed. This change profoundly impacts millions of children, their classmates and families, and our common future.

This decade of relentless reconditioning of how citizens think about children—on the part of law enforcement, legislators, professionals, academics, the media, and frightened neighborhood residents—has shifted the paradigm. Through the catalyst of changes in criminal and juvenile law, much of adolescent behavior has been criminalized and youngsters themselves demonized. Casting children as frightening makes full use of racial, ethnic, and gender stereotyping, resulting in both disproportionate impact (Bell, 1998; Chesney-Lind, 1999; Sickmund et al., 1997) as well as generalizations impacting all youth (Drizin, 1999b). This transformation in how we think about ourselves thinking about children has taken an incalculable toll on adults and children alike. The daily discourse about children has shifted from innocence to guilt, from possibility to punishment, from protection to fear (Ayers, 1997). This sinister criminalization of childhood now permeates basic life: the schools, the parks and neighborhoods, child protection, and health care.

In the 1990s, fiscal priorities shifted from education, child protection, and scholarships to prison construction, law enforcement growth, and expanded mechanisms for the social control and exile of sectors of youth. Correctional spending nationally now exceeds $40 billion per year, to pay for a 500% rise in the prison population since 1972 (Mauer, 1999). In two short decades, budgets for prisons grew twice as fast as for education; prison spending increased 823% between 1988 and 1995, while education expenditures grew only 374%. More sobering, the vast majority of the states now spend at least one and a half times as much on prisons as they do on education (Phinney, 1999; see also Ambosia & Schiraldi, 1997).

In the past decade, New York State spent more than $700 million on prisons, while slashing the state and city college budgets by $600 million, with one result being that the number of people of color enrolled in New York's state colleges and universities is substantially lower than the number currently incarcerated there (Gangi, Schiraldi, & Ziedenberg, 1998; see also Macallair, Taqi-Eddin, & Schiraldi, 1998). Not only are more children currently seeing the inside of prison walls rather than classrooms, there is a new movement to place more, and younger, children into the adult criminal system.

One hundred years ago in Chicago, the world's first juvenile court for children was premised on the removal of children from adult jails and adult poorhouses (Rosenheim, 1976; Tanenhaus, 1998/1999). At the centennial of the juvenile court, children are being reincarcerated with adults, tried as adults in adult criminal court (Coalition for Juvenile Justice, 1998; Sickmund, Snyder, & Poe-Yamagata, 1997), and subject to imputation of adult *mens rea* with mandatory-sentencing statutes that reject rehabilitation as a goal (Coalition for Juvenile Justice, 1998; Geraghty, 1999; Sickmund et al., 1997).

THE CONFLICTING NATURE OF CHILDHOOD AND LEGAL ANARCHY

The age of legal childhood is a state of anarchy; it confounds reason. The 50 states have made hundreds of different determinations for the appropriate age of responsibility, reason, and judgment for drinking, driving, voting, marrying, consenting to medical treatment, serving in the military, withdrawing from public education, watching rated movies, eligibility for child protective services, juvenile court jurisdiction, trial as criminal adults, capital punishment, and entering into enforceable contracts. In fact, the only age on which all 50 states agree is the commercial determination that children under 18 cannot enter into binding contracts.

This legal chaos and popular confusion about childhood are consequences of centuries during which children were treated, like women, as the property of adult men, subject to the exclusive economic, patriarchal, and legal authority of fathers and state power. Their inferior status, despite the recent recognition that children have constitutional (*In re Gault,* 1967) and human rights (Convention on the Rights of the Child, 1989) persists in many forms today. Childhood itself is, in part, a socially and historically defined entity, not a timeless essence above culture, class, and religion (Polakow, 1992, 1993). Many accounts of childhood point to the frequent loss of life during birth and infancy as an explanation for the apparent devaluing of children's pain and vulnerability throughout history. The commonplace nature of infanticide, deformity and abandonment, child prostitution, and child labor historically and today, among a wide array of different cultures, suggests that childhood has not generally been seen as a distinct and sympathetic phase of human development (Ariès, 1962; Oberman, 1994). Frequently, children and women occupied the same adult world without privacy, subject to force and domination (Polakow, 1993).

Law, if not practice, has recently settled that children are persons. It has been 30 years since Supreme Court Justice Fortas acknowledged the maltreatment of children within the juvenile justice system and the need to safeguard children's rights by appointed counsel (*In re Gault,* 1967; Puritz, 1995). In reality children are a special kind of person, dependent on caretaking adults for their development, education, and socialization. Simultaneously, childhood is a time of being and becoming, a developmental stage of personhood on the way to adult rights and responsibilities (Dohrn, 1999). Children's voices are rarely heard about fundamental issues affecting their lives. Except in their ubiquitous role as consumers, children are socially invisible. Their human yearnings and basic needs for survival, for caring relationships, for growth and intellectual challenge, and for productive, meaningful futures are a major part of the human drive for fulfillment.

The contradictory, unsettled, and contending notions of children as small adults, as fully human, as needing protection, or as requiring discipline continues in the debates over children, violence and crime, innocence and evil, development and punishment. These underlying paradoxes feed the public and private conflict over how to respond to child misbehavior, malfeasance, and illegal actions, as well as how to respond to child victimization, abuse, abandonment, and need.

CRIMINALIZING YOUTH BEHAVIORS

A major consequence of the tidal wave of fear, violence, and terror associated with children has been adult legislative and policy decisions to criminalize vast sectors of youth behavior. In part, this tendency is fueled by an organized drive on the part of certain political forces to "get tough on youth violence"; in part the changes have resulted from an accumulation of legislative reactions to a particular sensationalized case, the hackneyed mantra to "do something."

The sum total of a decade's *legal* responses is the transformation of the social landscape that children inhabit. Schools have become military fortresses. Hanging out becomes illegal. Fewer systems want to work with adolescents in need. Youngsters who have themselves been neglected or abused by adults pose too many challenges and have too many problems to be addressed. Health care and mental health services are rarely organized for adolescents. Schools want to get rid of the troublemakers and the kids who bring down the test scores. Minor offenses are no longer dealt with by retail stores, school disciplinarians, parents, or youth workers, but rather the police are called, arrests are made, petitions are filed.

Six of seven juvenile arrests are for a nonviolent offense. Of the 2.7 million arrests of young people under 18 years of age, property offenses (particularly larceny/theft), drug offenses, disorderly conduct, runaways, curfew and loitering, and liquor law violations account for the vast majority of the arrests (Sickmund et al., 1997). Ironically, if all male children aged 10–18 were incarcerated until their 25th birthday, eliminating youth crime tomorrow, there would still be 90% of violent crime: the adult offenders (Snyder & Sickmund, 1995). The intense focus on a youth crime epidemic thus is a social choice rather than a strategic response to the facts about crime and public safety.

The criminalizing of adolescent behavior takes place in multiple ways. Major social institutions for youth have constricted eligibility and eased methods for expulsion. Schools, child welfare systems, probation, and health services have all made it easier to violate, terminate, exclude, and expel youngsters. Where these youth go for survival, help, socialization development, care, and attention is unclear. One door that always remains open is the gateway to juvenile and criminal justice. Overcrowded juvenile correctional institutions, deficient youth facilities, and disproportionate minority confinement are among the consequences (Puritz & Scali, 1998).

Policing the Schools

> I would there were no age between ten and three- and twenty, or that youth would sleep out the rest; for there is nothing in the between but getting wenches with child, wronging the ancientry, stealing, fighting.
>
> —Shakespeare, *The Winter's Tale,* act III, scene III, ll. 61–66

Schools have become a major feeder of children into juvenile and adult criminal courts; simultaneously, schools themselves are becoming more prisonlike. Closed campuses, locker searches, contraband, interrogations and informers, heavily armed tactical police patrols, uniforms (M. M. Harrigan, personal communication, 1998)—these are elements of public and even private high school life today. It is paradoxical but fundamental that a handful of high-profile school shootings masks a broader and deeper criminalization of school life, accompanied by the policing of schools, which has transformed public schools across America into a principal referral source for juvenile-justice prosecution.

Two policies contribute to this dramatic new role for schools: first, the increased policing of schools, leading to a significant increase in school-based arrests and the simultaneous abdication of educators; and second, the substantial increase in school exclusions, including suspensions/expulsions of students, propelled initially by the legislative green light that mandated "zero-tolerance" policies for gun possession as a condition of federal funding. That limited definition of zero-tolerance rapidly exploded, in practice, to include misdeeds of all sorts, both in school and outside of school. Rather than insisting on the teaching potential in adolescent misbehavior for both the miscreant and the other students, rather than seizing the "teachable moment," rather than keeping an educational perspective on sanctioning and social accountability, principals and teachers—admittedly under pressure from frightened parents—have ceded their authority to law enforcement personnel, particularly to police and prosecutors, and willingly participated in excluding troublemakers, difficult kids, disabled youth, and children in trouble from the very education that is their primary hope. These so-called zero-tolerance and security policies were escalating before the high-profile school shootings of 1997–98 and the 1999 Columbine High School tragedy. Since then, the policies, the dollars, and the hardware for policing and militarizing schools have mushroomed, and the trend is likely to continue into the next decade.

School-Based Arrests. How grave is the school crime problem? In 1997, there were more than 180,000 school fights leading to arrests, almost 120,000 thefts in schools leading to arrests, nearly 110,000 incidents of school vandalism leading to arrests, and fewer than 20,000 violent crimes (National Center for Education Statistics, 1998). Serious violent crime is extremely rare within schools and constitutes a small percentage of the total amount of school offending (U.S. Department of Education, 1998). Ninety percent of principals surveyed reported no major serious, violent crime in their schools (National Center for Education Statistics, 1998). In fact, victim self-reports indicate that actual school crime numbers have not changed significantly during the past 20 years (U.S. Department of Education, 1998).

The first three categories (some 400,000 arrests) are noteworthy. Most school crime is theft, some 62% (U.S. Department of Education, 1998). School-based incidents such as fighting, theft, and vandalism have traditionally been handled within a school disciplinary system. Forty years ago, an offender would be sent to the office of the vice-principal, a parent might be called, detention hall (remaining for an hour after school) might be mandated, a letter of apology might be required. It would have been difficult to imagine police being called, arrests and handcuffs employed, court filings and incarceration being options.

In today's Chicago public schools, and increasingly in suburban and rural school districts, police are routinely employed by schools. Some schools employ police officers in their teacher salary lines, and encourage police in uniforms, armed, tactical-unit police, and plainclothes police to patrol their schools. Police officers may make half again their salary by moonlighting with the public schools outside their regular duty hours. School-assigned police may be evaluated based on their numbers of arrests. Police may be under no obligation to consult with the school principal about how to respond to a particular youth's misbehavior or to a particular incident. In certain locations, police fail to inform principals or school officials that a student has been arrested during school hours, on school grounds. One authority has replaced another.

At Paul Robeson High School in Chicago, for example, local police precinct data indicate that 158 students were arrested at Robeson in 1996–97. The breakdown of those arrest charges, from a major urban high school, is revealing: 61 arrests for pager possession, 21 for disorderly conduct, 14 for mob action, 16 for (nonfirearms) weapon possession. In 1998, after the school adopted a strategy of small-school reform—breaking the massive high school into smaller units where no youth slips through the cracks—arrests plummeted to 28, 22 of those for pager violations! (Chicago Police Department Statistics, 1996–1997/1998; Klonsky, 1998).

Massive locker searches began in 1994–95 in Chicago schools, resulting in numerous student arrests during a single day's lockdown: 40 students at Westinghouse High School, 46 at Kenwood High School, 50 at Roosevelt High School, and 57 at Lincoln High School. In each case, the substantial majority of teens were charged with possession of beepers ("Fifty Teens," 1994; "Kenwood Reaps," 1994; "Lincoln Park," 1999; "Search Ends," 1995). Possession of pagers appears to be an offense that is both a status offense (for which adults would not be arrested) and an expansion of drug laws by labeling pagers as "drug paraphernalia" or contraband: transforming a technological convenience into a crime. School-based arrests for possession of pagers is a classic example of the criminalization of youth.

Additional school-based arrests include offense charges such as disorderly conduct or mob action, discretionary decisions that could be based

on incidents involving significant disruptions or merely minor occurrences. Decisions to call a shouting match, a no-harm tussle, or locker graffiti a crime, to arrest rather than see a teachable moment, to prosecute rather than resolve disputes—these practices are turning schools into policed territory. Researchers suggest that the expectation of school crime in fact creates it (Devine, 1996).

This pattern of accelerating school incidents into delinquency offenses or criminal acts further heightens disproportionate minority arrests and confinement in juvenile justice. To date, it is the large, public, urban high schools that have become sites of substantial police presence, that are under pressure to control youth misbehavior, and that are without influential parents with resources to buffer their children from the juvenile justice system. Since Jonesboro and Littleton, suburban and rural high schools are also becoming fortresses, and arrests and mandatory expulsions are escalating. This bleeding of urban responses into middle-class life has its own dynamic and momentum, focusing more, perhaps, on drugs, tobacco, dress, and behavior toward authority, with more private institutionalization of youth as a consequence (Chesney-Lind, 1999).

The increasing regimentation of school time results in few breaks, little time for lunch, less physical education, an attrition of music, art, and humanities classes, and closed campuses in high schools. Closed campuses result from neighborhood residents' and parents' complaints about the mobile presence of children during the school day. Teachers monitor student lunch periods and move their own lunch time to the end of the day, shortening the school day. In fact, schools are increasingly simulating prisons, as if preparing their students for a likely future: locked in, regimented, searched, uniformed, pressured to become informers, and observed with suspicion (Pardo, 1999).

Search and seizure of student lockers, backpacks, and persons is legitimized (Wylie, Scheft, & Abramson, 1993). A culture of informing on fellow students is encouraged and mandated by school officials, without exploration of ethical considerations and conflicting values involved. The blurring of school discipline and delinquency accelerates (Pressman, 1995).

When school sanctioning is handed over to law enforcement *in the first instance* for the vast majority of minor school infractions, not only do the offender and the victim fail to learn from the incident, and not only is the consequence more likely to be crushing rather than illuminating, but the entire community fails to take hold of the problem as a school-community matter.

The failure to place serious reliance on peer juries, teen courts, or community-justice alternatives and to rely instead on armed police for school safety has startling and profound consequences. It is an abdication of adult responsibility and engagement with youngsters (Hart, 1998). It creates a juvenile delinquency record for vast numbers of youth who might otherwise not be in trouble with the law. Having any delinquency or criminal record has increasing consequences for scholarships, higher education, job eligibility, and escalated sanctions if there is a subsequent police investigation or arrest.

School Exclusion: Suspensions and Expulsions. Suspensions and expulsions from schools have simultaneously exploded as a new national trend, exemplified by the struggle over the expulsion of six Decatur, Illinois, high school students and their subsequent arrests (Ayers & Dohrn, 1999; see also chapter 5, this volume). Fueled by federal legislation in 1994 mandating a one-year "exclusion" for possession of a firearm on school property (Gun Free Schools Act, 1994), new legislation was passed in every state within a 5-month period to maintain federal-funding eligibility. One year later, the Safe School Act (1994) revised and expanded the prohibition to "dangerous weapon" rather than "firearm"; and "dangerous weapon" was defined, in the amended language, as "a weapon, device, instrument, material, or substance, animate or inanimate, that is used for, *or is readily capable of,* causing death or serious bodily injury." This opened the door for a stampede—and for wide discretionary expansion of the new exclusion policy by school personnel that is applied disproportionately to African American and Latino students. In Decatur, for example, 82% of all expulsions of students for over 3 years involved African American youth, although they constitute only 46% of school enrollment ("Judge Upholds," 1999). These youth are frequently left with dubious alternative education, leading to dropping out or incarceration, or with no educational resources or supports (see chapter 5, this volume).

In Massachusetts, for example, the number of school expulsions or exclusions under state law rose to more than 1,500 in 1996–97, with a disproportionate racial impact. Statewide, although African American students made up 8.4% of the school population, in 1996–97 they suffered 23% of the expulsions; Latinos, who were 10% of the school population, constituted 33.8% of the expelled students (Massachusetts Department of Education, 1996–97). This pattern is doubly troubling in states such as Massachusetts where there is no mandatory alternative education (Mulligan, 1997; see also Chapter 5, this volume). Further, it is rare to find students with legal representation at the administrative expulsion hearings (Children's Law Center of Massachusetts, 1998). In Chicago, approximately 20 hearings per day are scheduled on expulsion of Chicago public school students. All but a handful of students are expelled, according to the law students who sit as administrative hearing officers.

This synergistic relationship of police and principals goes further in Chicago, where law permits schools to suspend or expel students who have been charged or convicted of violating the law, even when the alleged delinquent or criminal behavior did not occur on school property or during school hours (Chicago Public Schools, 1998–1999; Ferkenhoff, 1997). These laws and regulations presume that principals will find out about non-school-based felony arrests and convictions of students from their closer relationship with police and prosecutors. This embrace is codified in a series of laws recently passed by the Illinois legislature that facilitate even greater exchange of information between law enforcement personnel, schools, and child welfare personnel.

The Illinois School Records Act (105 ILCS 10/6, 1999) permits state's attorneys and police officers unrestricted access to student records and further requires the school to make law enforcement requests part of the child's permanent record; other provisions (705 ILCS 405/5-325) require school officials to provide to the State's Attorney, upon request, information or a written report relating to the alleged commission of an offense; and Illinois Public Aid Code (305 ILCS 5/11-9, 1999) permits law enforcement access to certain public aid records without subpoena or notice requirements. The U.S. House of Representatives seeks to offer incentives to states to accommodate even greater exchange of information between schools and law enforcement by including in a proposed juvenile justice bill a provision that gives states additional funds if they make juvenile records available to schools (Juvenile Justice and Delinquency Prevention Act, 1999).

This wholesale relaxation of confidentiality protections for youth, protections that were a fundamental principle of the original Juvenile Court Act founders in Chicago in 1899, has further increased the incidence of suspensions/expulsions and of school-based arrests. Schools are routinely notified of a student's non-school-site arrests, probation, or detention. The knowledge that a student is in trouble or is a troublemaker may be a factor in a student's being more intensely scrutinized or being seen as a "bad kid".

It is worth noting that the school front door, as well as the exit door, has been transformed. School principals and administrators have wider discretion to refuse to enroll a student, even a public school student who resides in the appropriate district. This constricted eligibility for school registration is evident to those working with special education students, youth being released from juvenile detention or corrections, or youngsters in crisis who may manifest behavior problems. School enrollment and registration, once assumed to be a right, has become an arena of vast discretion and terrain for further educational exclusion.

Jane Addams and the other Hull House women, a century ago, were proponents of compulsory education, the abolition of child labor, and the creation of a separate court for children (Dohrn, 1999). These innovations were interrelated, for the primary goal was education and opportunity for children, not the exploitation of hazardous labor or incarceration with adults in prisons or adult poorhouses. Grace Abbott (1938) and her colleagues continued to document school attendance for decades as a bellwether for the well-being of children. What irony that 100 years after the establishment of the world's first juvenile court, schools and courts have again partnered, but this time to exclude, arrest, expel, and suspend children *from* school and to punish, prosecute, and imprison them in the criminal justice system.

Escalating Risks for Foster Children

Child welfare systems may have contributed to the entry of large numbers of adolescents into the juvenile justice system during the past decade. One aspect of increased risk, for example, is the triage of older adolescent foster kids out of the jurisdiction of state child welfare agencies. States have been lowering the age at which foster children, whom the state removed from parental custody because of abuse or neglect, can be "terminated" from the child welfare system and left on their own. In Illinois, for example, the age of termination was dropped from 21 years old in 1988 to 19 in 1991 (Illinois Juvenile Court Act, 1987, as amended). While wardship can continue past 19 upon a showing of "good cause," there is a significant disagreement among child welfare agencies and advocates as to what is meant by "good cause," and in practice, few cases challenge the automatic termination of foster children from the child welfare system. This extraordinary triage of tens of thousands of youth who are, by definition, victims of adult violence creates a pool of youngsters with slender preparation for higher education, living wage employment, or stable family life.

Each year nationwide, more than 20,000 youth are terminated from the foster care system—youth who have not been adopted or reunited with their biological family (Fagnoni, 1999). These are youngsters whom child welfare describes as "independent," prepared to be self-sufficient. Few have the life skills to complete basic education, become employed, or create stable families.

These youngsters are struggling to overcome educational deficits, multiple home placements, and past trauma. Teens in foster care are likely to have been in state custody for 7–8 years, to have endured an average of 10 placements each to different families and institutions, to have attended different schools, and to be at high risk for dangerous activities (Leathers &

Testam, 1999; Mech & Che-Man Fung, 1999). In the Chicago public schools, there are 18,000 foster children who are wards of the state; 16% of those kids have been kicked out or have dropped out of school (Illinois Department of Children and Family Services, 1999). With this profile, being terminated from foster care while still a teen bodes ill for genuine independence and adult citizenship.

The little research available indicates that nationwide, 2.5 to 4 years after exiting child welfare, 46% had not finished high school, 51% were unemployed, and 62% had not maintained a job for at least a year. In addition, 42% had birthed or fathered a child and 25% were homeless at least one night since their exit from foster care (Westat, 1991). A Wisconsin study of 113 former foster care youth, 12 to 18 months after their leaving the child welfare system, found a similar pattern (Courtney & Piliavin, 1998), and a California study also reports discouraging consequences (Barth, 1990).

Prior to termination, younger foster children, still within child welfare state custody but lacking stable foster families, are placed in institutions, group homes, independent living, or long-term foster care as young as 12 to 15. Some proportion of these children run from their placements, become subject to a warrant or "pick-up orders," and may land in detention. Both this group of foster children and the youngsters who are aging out of the foster care system, the forgotten children who have been designated with so-called Permanency Options such as "independent living" and "long-term foster care," are highly vulnerable to arrest and criminal prosecution.

Children who have been in foster care are more likely to be petitioned as delinquents than children who have not (Armstrong, 1998). There is limited data about the extent to which youth being petitioned as delinquents into juvenile courts have had experience in the child protection system, but researchers agree that child abuse and neglect increases a child's odds of future delinquency and adult criminality (Snyder & Sickmund, 1995). Recent studies indicate that maltreated children are at greater risk of involvement in the delinquency system (Carter, Sterk, & Hutson, 1999).

In New York City, the Vera Institute for Justice discovered that no one was tracking the arrest of foster kids and undertook a small study of youth admitted to two New York City juvenile detention centers. Vera found that 15% of the youth in detention were enrolled in the foster care system at the time of entering detention—eight times the rate of foster children in the 12- to 16-year-old age group in New York City. (Youth 12–16 in the child welfare system are 1.9% of all youth in that age group; Armstrong, 1998.) Vera gathered evidence indicating that foster care adolescents who are arrested and charged with a delinquency offense are more likely to remain in detention (because, in part, no parent arrives either at the precinct station or at the juvenile court hearing), more likely to be arrested from the site where they live, and therefore more likely to have no viable discharge site from detention (Armstrong, 1998).

In addition, the Vera studies demonstrated that certain child welfare agencies were more likely to call the police on adolescent wards in their custody than others. These youngsters, once arrested, charged, and released, recycle into the child welfare entry shelter, where they will be reassigned to a different placement at another agency group home or institution (Vera Institute of Justice, 1998). In other words, some agencies use arrest to rid themselves of difficult foster children, causing youth, who themselves have been victims, additional placements and the trauma of the juvenile justice experience. Vera has obtained the cooperation of the New York City child protection agency, the police, and the courts to design a project to interrupt this destructive system cycle that places foster children in the door of juvenile justice and detention.

Further compounding the problems for youth in foster care are recent policies permitting the child welfare system to reject or abandon children once they are arrested or appear in delinquency or adult criminal court. In Illinois, for example, the Department of Children and Family Services (DCFS) does not have to, and indeed may not be permitted to, provide services to any child aged 13 and older who has been adjudicated delinquent (20 ILCS 405/5(1)(1-1). The Seventh Circuit Court of Appeals and the Illinois Supreme Court recently held that DCFS is not required to provide to these children "specialized services" such as mental health, child welfare, and education (*David B. v. McDonald,* 1998; *In re A.A.,* 1998). Thus the assistance offered to children is dependent not on what the child needs, but instead on how he or she first comes to the attention of the child welfare system. Once the youngster's entry point is juvenile justice, the prospects are not for help, but for deeper penetration into juvenile and criminal incarceration, or homelessness and profound poverty. Thus child welfare systems join schools as accelerated feeder systems for juvenile and criminal prosecution and punishment.

Reviving Status Offenses

Offenses committed by youth that would not be crimes were they perpetrated by an adult are known as status offenses. They include truancy, runaway, liquor law violations, and incorrigible or ungovernable offenses (Rosenheim, 1976; Steinhart, 1996; see also curfew laws and girls, discussed separately below). Girls, historically and continuing today, constitute a sub-

stantial proportion of status offenders. In 1995, status offenses constituted 23.4% of girls' arrests; in 1996, more than half of those arrested for running away from home (a single-status offense) were girls (Chesney-Lind, 1999).

With the passage of the Juvenile Justice and Delinquency Prevention (JJDP) Act in 1974, there was a national commitment in the form of a mandate to remove status offenders from the definition of delinquency, as a result of persistent efforts to get troubled youth or minor offenders out of youth prisons because of the harmful effects of incarceration. Removal or deinstitutionalization of status offenders from juvenile correctional facilities became one of four mandates under the Act (Snyder & Sickmund, 1995; Coalition for Juvenile Justice, 1998). Illinois, for example, abolished status offender categories in 1975 (Illinois Trends and Issues, 1998). By the early 1990s, large numbers of status offenders had been successfully deinstitutionalized. What happened to them is another matter for inquiry, but at least they were no longer incarcerated with delinquent and criminal offenders.

In jurisdictions that continued to adjudicate status offenders in juvenile court, such as Massachusetts, categories or charges such as "stubborn children" or "unruly" are frequently used for children who are truants or have special needs. Although there is a reasonable-doubt standard for adjudication of these children, they most frequently plead guilty to the status offense; advocates and caseworkers see it as a tool to obtain services (Catherine Krebs, personal communication, June 1999).

Many children identical to those once considered status offenders are currently being relabeled and reenter the juvenile justice system under new categories. Beginning in the decade 1987–1996, the expansion of drug offenses resulted in an increased likelihood of formal handling (arrests and court filings), rising from 54% to 62%."Public order" offenses, including disorderly conduct, liquor law violations, and weapons offenses, increased from 46% to 60%. The single largest increase in likelihood of formal handling was in the generic category called "other public order offenses," where the likelihood of formal processing increased from 29% to 54%! (Stahl, 1999).

Pending federal legislation would permit the incarceration of runaways and encourage the uses of contempt violations against status offenders as a path to detention and delinquency. This backlash against the once successful effort to abolish the incarceration of status offenders is an example of the continual pressure to unravel the progress of the JJDP mandates.

While the public and political focus has been fixed on youth homicides and violent offenses, there has been a substantial regrowth of revised versions of status offenses. This new wave of legal adjudications of frequent youth misbehaviors is largely invisible but impacts hundreds of thousands of youth, and their families, each year. In part, the attrition of informal, community, and civic methods of responding to the needs of youth—school attendance, youth centers, job apprenticeships—has created a vacuum. The abolition of truancy as a status offense in many jurisdictions, for example, was not accompanied by constructive programs for truants—in general, there were no additional resources for adolescents in crisis. Into that space, law enforcement, legal adjudication, and punishment stepped forward, in the name of "accountability" and "services." But the consequences for youth are dire.

Loitering, Curfew, and Association Offenses. Local municipalities, frequently authorized by state legislatures, have rushed to enact new curfew ordinances, some 1,000 since 1990 (Coalition for Juvenile Justice, 1998). Curfew laws, directed at youth to prevent youth crime in the late evening, fail to address the peak juvenile crime times, between 2 p.m. and 5 p.m. during the school year. Gang offending is similarly concentrated in mid to late afternoon (Sickmund et al., 1997).

In 1992, the Chicago City Council enacted the Gang Congregation Ordinance, which prohibits criminal street gang members from loitering with one another or with others in any public place (*City of Chicago v. Morales,* 1999). The ordinance created a criminal offense punishable by a fine of up to $500, imprisonment for not more than 6 months, and a requirement to perform up to 120 hours of community service. During the 3 years of its enforcement, police made more than 42,000 arrests and issued more than 89,000 dispersal orders. The ordinance was overturned by an appellate court, the Illinois Supreme Court, and the U.S. Supreme Court as unconstitutionally vague and failing to provide notice to the public about what conduct was illegal.

Curfew ordinances are notorious for being subject to racial and ethnic disparities in enforcement (Macallair & Males, 1998). Furthermore, arrests of girls for curfew violations increased by 155.2% between 1987 and 1996 (U.S. Department of Justice, 1997). Curfew violations have vastly widened the net of criminal involvement for youth, particularly youth of color and young women.

Young Women in Juvenile Justice

Each year, girls account for one in four arrests of youth in America, yet their presence in the juvenile justice system remains largely invisible. Young women have traditionally been arrested and incarcerated in large numbers for status offenses: arrests and prosecutions of young women declined after the JJDP of 1974 mandate to deinstitutionalize and divert youth charged with

status offenses into programs providing alternatives to legal adjudication. But the past decade of criminalizing youth has resulted in increasing arrests of girls, once again, for status offenses or other minor violations of law.

Fully one quarter of all female delinquency arrests are for status offenses (as compared with less than 10% for boys), while another quarter of girls arrested are charged with larceny theft (basically, shoplifting)! Girls arrested for running away from home increased by 20.7%, and as noted above, curfew arrests of girls mushroomed an astonishing 155.2% (Chesney-Lind, 1999). Although media reports suggest that girls, as well as male delinquents, have become violent predators, the facts again belie this characterization of violence.

Arrests of girls for violent crime index offenses during the decade 1987–1996 did skyrocket, up 118.1%. Female delinquency charges for "other assault" increased 142.6% in the same period. Assault charges can range from conduct involving simple verbal aggression and threats, to minor school conflicts, nonserious disputes, and harmless fights; increasingly girls have been arrested for simple assault (Steffensmeier & Steffensmeier, 1980). Analysis suggests that much of the "tyranny of small numbers" (this phrase is attributed to Barry Krisberg, 1994) results from relabeling or bootstrapping—the practice by police, prosecutors, or judges that transforms a nondelinquency, noncriminal offense into an offense subject to incarceration (Chesney-Lind, 1997). Girls, for example, are more likely to be arrested for noninjury assaults (Currie, 1998) or as bystanders or companions to males involved in fighting. Virtually every person-to-person offense among girls in the Maryland juvenile justice system (97.9%) involved assault, and half of those were a fight with a family member, generally a parent (Mayer, 1994, cited in Chesney-Lind, 1999). This form of escalated charging is most pronounced against African American girls (Chesney-Lind, 1997).

Legislative erosion and organized opposition to the JJDP mandate against incarcerating children charged with status offenses has taken multiple forms, resulting in greater reincarceration of young women. In 1980, the definition of status offender in the federal law was amended to exclude children "who violated a court order" (Chesney-Lind, 1999; Public Law 96-509). Girls in foster care placements or group homes, for example, who run away, can be classified as delinquents and incarcerated, rather than characterized as status offenders who could be diverted away from court adjudication into specified programs for youth. This subversion of the original intent and purpose of JJDP falls most heavily on female delinquents, where the gender double standard results in judges sentencing girls to detention for contempt citations (violations of court orders) in far greater numbers than boys—apparently attempting to control and contain young women to protect them from themselves, in a manner that would not occur with young men. The 4.3% likelihood of incarceration for girls in juvenile justice accelerates to 29.9% when they are held in contempt (Bishop & Frazier, 1992; Chesney-Lind, 1999).

One consequence of the combination of traditional and contemporary juvenile justice pressures on young women is a racial, two-track system of justice, where White girls are institutionalized in private facilities and young women of color are detained in public facilities (Moone, 1997).

The numbers of girls held in private institutions has dramatically increased; 62% of incarcerated girls are being held in private facilities, and 85% of those are detained for "nondelinquent" offenses (such as violations of court orders, or status offenses) (Chesney-Lind, 1999).The number of young women detained in public detention facilities has remained steady (Krisberg, DeComo, Herrera, Steketee, & Roberts, 1991; Moone, 1997). Translated bluntly, this means that White girls are recommended for "treatment" whereas African American and Latina girls are detained (Chesney-Lind, 1999; Miller, 1995).

Pending federal legislation would encourage the uses of contempt violations as a path to detention and once again would permit the holding of children in adult jails. It is girls, frequently held in rural and small-town jails for minor infractions, who become most subject to violent abuse and suicide in such confinement (Chesney-Lind, 1998; Ziedenberg & Schiraldi, 1997).

Women have become the fastest growing sector of people in prison in the past decade; similarly, detentions of girls increased 23% between 1989 and 1993 (Poe-Yamagata & Butts, 1995). Girls remain in detention longer awaiting placement in private facilities or correctional institutions and are generally disliked by those working in the overwhelmingly male system of juvenile justice (Chesney-Lind, 1999). The failure to take into account past or current physical or sexual abuse and the lack of appropriate gender and cultural programming to address the needs of young women delinquents is pervasive.

Transgressions by girls have historically been treated differently from male misbehavior. It is profoundly disturbing that the combined invisibility and double standard paternalism/harshness against young females result in increasing loss of freedom for young women and inequality of response in programming. The women of Hull House would be dismayed and enraged by this backtracking on fundamental justice for children.

Probation/Supervision Violations

Youth who are on probation from a formal adjudication increased 24% between 1988 and 1992, drastically increasing the numbers of youth likely to

violate the conditions of probation (Snyder & Sickmund, 1995). Probation violation leads to detention, absence from school, and greater risk of falling through the cracks. The gradual professional transformation of juvenile probation officers from allies and mentors of child defendants to law enforcement personnel has accompanied the increasingly punitive nature of juvenile justice in the past decade (Miller, 1995). Probation officers, often personally committed to youth development and success, nonetheless increasingly play prosecutorial roles in an expanded net of social control, scrutiny, and violations.

In Illinois, for example, the Juvenile Justice Reform Act of 1998 places probation officers in police stations to supervise youngsters who are not referred for a delinquency petition but receive instead "station adjustments." A station adjustment is an informal referral of the youngster to a youth or social service agency, instead of a referral to the state's attorney for a juvenile court petition of delinquency. No additional resources or funding streams accompany the station adjustment referral; in Illinois, there is no incentive for the agency to work with these youths and their families, and there is generally no follow-up by the police to see if the youngsters are attending a program. Yet the police keep a record of each youth's station adjustments, and a lengthy record may result in escalated charges if a delinquency petition is finally filed, in detention rather than return home pending trial, and in a more severe sentence after adjudication (the court decision of guilt or innocence).

Traditionally, probation officers became involved with a youth only after adjudication, during the period before disposition (the judicial determination whether the youth will be sent to a correctional facility, a specific placement, or return home on probation). Thus, involvement of probation officers at the earliest stage of youth trouble, even before the filing of a delinquency petition, is a new phenomenon.

As part of the new legislative revision of station adjustments in Illinois, the police officer is permitted to impose formal conditions on a minor if the officer has probable cause and an admission of involvement by the minor, with sanctions for failure to comply (Juvenile Justice Reform Act of 1998). The act further limits the number of station adjustments that precede referral to juvenile court, without prior approval of the state's attorney (Stevenson, 1999).

Again, the mechanisms of social control have tightened and the discretion and authority of police and prosecutors have expanded to make it an easier and more common practice to place youth under the mechanisms of law enforcement.

EXPANSION OF JUVENILE AND CRIMINAL JURISDICTION

As youth service systems (schools, foster care, probation, mental health) are scaling back, shutting down, or transforming their purpose, one system has been expanding its outreach to youth at an accelerated rate: the adult criminal justice system. All across the nation, states have been expanding the jurisdiction of adult criminal court to include younger children by lowering the minimum age of criminal jurisdiction and expanding the types of offenses and mechanisms for transfer or waiver of juveniles into adult criminal court. Barriers between adult criminals and children are being removed in police stations, courthouses, holding cells, and correctional institutions. Simultaneously, juvenile jurisdiction has expanded to include both younger children and delinquency sentencing beyond the age of childhood, giving law enforcement multiple options for convicting and incarcerating youngsters.

These multifaceted expansions of juvenile and criminal jurisdiction are another method by which the criminalization of children is proceeding. The age when a child is legally still considered a child (and when a child becomes culpable as an adult) has become a major element in the expansion of criminal court jurisdiction and the simultaneous constriction and extension of juvenile court jurisdiction. More youth are exposed to delinquency and criminal court for more types of behaviors at earlier ages. This expansion has occurred in a variety of ways.

Age Revisions

Age has become contested turf. Lowering the age at which children are considered to be criminally responsible has become pandemic. Common law provided that children under 7 could raise an infancy defense, which made them conclusively immune from criminal prosecution. Between 7 and 14, it was presumed that children were criminally irresponsible, a legal presumption that could be overcome by the prosecutor (Coalition for Juvenile Justice, 1998).

The majority of states have no set minimum jurisdictional age for delinquency court; the average age for those states that have established a minimum is 10 years of age (Griffin, Torbet, & Szymanski, 1998). Some states have gone even lower. Arizona allows delinquency petitions to be filed against children as young as 8 years old, Maryland's minimum age is 7, and North Carolina considers children culpable at the tender age of 6. The minimum jurisdictional age for juvenile court proceedings has been lowered by three states for the first time in 2 decades (Sickmund et al., 1997; Torbet et al., 1996).

At the same time that states are lowering the age of eligibility for juvenile court jurisdiction, they are also extending the maximum jurisdictional age for sentencing purposes. Some states have extended juvenile sentencing jurisdiction beyond the age of 21 and in a few cases provide for indefinite jurisdiction (National Criminal Justice Association, 1997). The retention of children for sentencing serves as a tool for making the delinquency system more punitive while avoiding the procedural protections required in adult court. Thus a child who is not eligible for adult sanctions at the time he or she is adjudicated delinquent may still be subject to the juvenile court's continued jurisdiction well beyond the date when he or she has reached the age of majority.

At the same time as they are lowering the age at which a child can be held accountable in juvenile court, states are simultaneously lowering the age at which children are excluded from juvenile court jurisdiction—and therefore subject to adult criminal court jurisdiction, irrespective of the alleged offense. Six states lowered the age of juvenile court exclusion between 1992 and 1995 (Sickmund et al., 1997). Although a majority of states continue to define a juvenile for delinquency (juvenile court) adjudication purposes as a person under 18, a growing number of states define a juvenile as under 17, and a handful define a juvenile as under 16 (Snyder & Sickmund, 1995). Despite the fact that children are not considered an adult for a variety of other purposes (i.e., drinking, driving, marrying, voting), children are being deemed adults at much earlier ages, not in recognition of their maturity, but for the purpose of imposing stiffer sanctions. The system responds to an immature and antisocial act by suddenly declaring a teen an adult.

Furthermore, federal law has promoted the state trend to try more children as adult criminals both by lowering the age for juvenile jurisdiction in the small number of federal juvenile cases and by encouraging state legislative policies that extend criminal court jurisdiction, providing fiscal incentives to states that comply. For example, in 1997 Congress appropriated $250 million for distribution among eligible states under the Juvenile Accountability Incentive Block Grants Program (JAIBG). In order to qualify for funds, a state was required to certify that it had adopted or was considering adopting laws, policies, and procedures designed to expand criminal court jurisdiction and enhance penalties for children. Laws were promoted that subjected children 15 years and older who were charged with violent offenses to adult criminal court jurisdiction, either by prosecutorial discretion or by operation of law, including violation of probation (Office of Juvenile Justice and Delinquency Prevention Fact Sheet #76, 1998).

In addition, bills in both the Senate and the House would give the U.S. Attorney, rather than a judge, sole discretion to determine whether a child 14 or older is to be tried as an adult (Violent and Repeat Juvenile Offender Accountability and Rehabilitation Act, 1999; Juvenile Justice Bill, 1999). The House bill goes furthest, allowing the prosecution of 13-year-olds as adults, with the approval of the Attorney General but with no judicial review. States have responded by expanding transfer laws to subject more children to adult criminal court jurisdiction.

Since 1992, the vast majority of states have amended their juvenile codes to encourage and increase the number of child delinquency cases going to adult criminal court through a variety of measures in addition to age. Most have added additional offenses to those eligible for waiver or transfer to adult criminal court, as well as to those automatically excluded from juvenile court jurisdiction (Torbet et al., 1996).

Waiver/Transfer to Adult Criminal Court

By 1995, at least 17 states had further expanded their statutes to mandate or permit waiver or transfer of children to adult criminal court (Lyons, 1995). Today, a child can find him- or herself in adult criminal court through a number of mechanisms. Four types of transfer or waiver are direct file, mandatory or automatic transfer, presumptive transfer, and discretionary transfer.

Direct file transfer permits the prosecutor to use his or her sole discretion in determining whether a child is to be charged in juvenile or adult court. So long as the child meets the minimum eligibility requirements for direct file (generally age and type of offense), there is no judicial oversight of the prosecutor's decision. As of 1998, 15 states had direct file provisions (Griffin et al., 1998). Such discretion by prosecutors is more invisible than exercises of judicial discretion that take place in open court, and prosecutorial discretion is not subject to review or appeal.

Mandatory or automatic transfers are just as common as direct file provisions, and they too are essentially dependent upon the discretion of prosecutors. While the name suggests legislative control or objective criteria, the reality is that transfers are, in large measure, governed by the prosecutors' charging decisions (McLean, 1998). Under mandatory transfer laws, a child meeting specified statutory requirements will be automatically transferred to adult criminal court on the state's motion. Typically, mandatory transfers apply to children of a certain age who are alleged to have committed certain crimes. Sometimes, there is an additional condition that the child has been adjudicated delinquent in the past. The judge has no discretionary authority to refuse the transfer, as long as the conditions have been met. While the prosecutor has no influence over a child's age or previous delinquency, his or her decision to charge attempted murder rather than aggravated battery,

or to add that an offense was committed "in furtherance of gang activity," may govern whether the child goes to adult rather than juvenile court. These unreviewable prosecutorial determinations are susceptible to race and class bias and to other traditionally impermissible considerations under the law. Such discretion can result in disparate or inconsistent treatment of teens (Torbet et al., 1996).

Moreover, in making a charging decision, a prosecutor often does not have before him or her relevant information about a child's maturity level, social background, or history. Nor does the prosecutor generally have investigative evidence about the offense and the youth's alleged role. The child's social background and history, level of maturity, and psychological history are precisely the factors a judge considers when given the discretion to determine whether a child will be transferred to adult criminal court. It is troubling that prosecutors are permitted or expected to make this critical decision without consideration of the elements previously weighed by judges. Both mandatory transfer and direct file fail to consider a child's culpability or potential for rehabilitation (Drizin, 1999a).

As of 1998, 15 states had presumptive transfer statutes, and 46 had discretionary transfer provisions. Both allow for judicial oversight. In presumptive transfers, there is a rebuttable presumption that a child who meets statutory requirements must be transferred to adult criminal court. The state needs only to prove that the child meets that criteria. The child then bears the burden of demonstrating that waiver is not justified. In 4 of the 15 states, the child bears the burden of proving this by clear and convincing evidence (Torbet et al., 1996). Discretionary transfers allow for the greatest amount of judicial oversight, although the criteria established for judicial consideration are vulnerable to being legislatively restricted or changed.

These dramatic shifts from the original ideals and philosophy of the juvenile court become apparent through examination of recent amendments to the Illinois Juvenile Court Act. The 1998 amendments, reflecting nationwide trends, were promulgated by prosecutors after several highly publicized Chicago murder cases involving young teenage boys. Despite evidence indicating that juvenile crime was declining in Chicago and elsewhere, the Illinois legislature passed the bill, touted as a tough response to escalating juvenile crime (Parsons, 1998a). Unlike the original Juvenile Court Act, which identified the best interests of the child as a primary goal of the court, the new act repealed the best-interest standard and contains no such guiding reference.

For example, the primary focus in the purpose and policy section of the new Juvenile Justice Reform Act of 1998 is on "holding children accountable" and "making them understand that sanctions for serious crimes should be commensurate with the seriousness of the offense and merit strong punishment" (705 ILCS 405/5-101[1]). In transfers requiring judicial approval, the factors to be considered and the weight to be given those factors have changed. The court's focus is to be on the facts and nature of the alleged offense: how serious it is, whether the offense was committed in an "aggressive or premeditated manner," whether the child possessed or used a weapon at the time of the offense, and the child's potential level of culpability. The two factors that are given the greatest weight in considering whether to transfer a child are the seriousness of the offense and the minor's prior record of delinquency (705 ILCS 405/5-805[2][3]).

This shift in focus ignores the qualities of the individual child before the court, his or her potential for rehabilitation with individualized intervention, his or her relative culpability and involvement, and the supportive factors in his or her character and environment. The nationwide expansion in transfer laws guarantees that the adult system will see an increase in children, not because more children are committing crimes (they are not), not because children are less amenable to rehabilitation (they are not), but because the lawmakers, the media, and the public have responded to sensationalism (Zimring, 1998).

Sentencing, Blended Jurisdiction, and Habitual Offenders

There are additional ways in which legislatures and courts are expanding jurisdiction over juveniles, subjecting them to longer and harsher sentences, with lifelong consequences. The Juvenile Justice Reform Act of 1998 is a practical guide to these methods, for it incorporates many of the changes in effect nationwide. The "Habitual Offender" provision commits a minor to the Illinois Department of Corrections, Juvenile Division, until the age of 21 if he or she has been adjudicated delinquent for three offenses that would be deemed felonies in adult criminal court (705 ILCS 405/5-815). A minor who is adjudicated twice for the equivalent of an adult, Class 2 felony that involves the threat of or actual physical force or violence against an individual, or the possession of a weapon, may be committed to the Juvenile Division of the Department of Corrections until the age of 21 (705 ILCS 405/5-820). Minors committed under either of these provisions are ineligible for parole before their 21st birthdays. Many states have "once an adult, always an adult" provisions, which specify that a child who has been prosecuted in an adult criminal court is automatically or presumptively waived to adult court for subsequent offenses (Torbet et al., 1996).

Also included in the new Illinois act is an increasingly popular provision that essentially allows for the exercise of dual jurisdiction over a minor

(705 ILCS 405/5-810). Blended or extended jurisdiction is seen as a way to enhance penalties for youth, or as an alternative to transfer (Zimring, 1998). The schemes of blended sentencing vary among the states, but are consistent in their focus on lengthier sentences. In Illinois, for example, the extended jurisdiction provision permits the judge to impose two sentences on the youthful offender, the first a juvenile sentence, the second, an adult. The adult sentence is tolled (or suspended) while the juvenile serves his or her first sentence. If the minor successfully serves the juvenile sentence, the adult sentence is vacated. Should the minor violate any of the conditions of the first sentence, however, the state's attorney can file a motion to impose the adult sentence. The prosecution then bears the burden of proving beyond a preponderance of the evidence that the conditions have been violated. If the violation involves the commission of any offense, be it something as minor as disorderly conduct, the judge *must* impose the adult sentence, regardless of whether it is appropriate in light of the juvenile's behavior since the time it was originally imposed. The judge is given some discretion when the violation does not involve the commission of an offense (705 ILCS 405/5-810).

Children in Adult Criminal Courts

Crucial questions are going unasked as children are increasingly appearing in adult criminal courts. Criminal courts operate on guilty pleas, and informed, competent decisions to plead guilty may not be possible for many children. Adult courts fail to acknowledge the youth of the child, to take into account the child's age, developmental capacity, or experience when assessing culpability. Adult courts impose adult sentences, which differ from delinquency sentences in two critical ways: they are determinate, and they are significantly longer. Determinate sentences result in extended incarceration of children, beyond a time when they may be rehabilitated. Longer sentences mean that a child will ultimately be incarcerated in an adult prison, where they may be subject to physical abuse, suicide, and an education from adult offenders, rather than rehabilitation for a future productive life. Youth sent to the adult criminal system are essentially cut off from educational and counseling programs, from juvenile probation officers, and from appropriate medical and mental health services (Parsons, 1998b). Sending children to prison encourages more sophisticated criminal behavior (Stansky, 1996). There is ample evidence that children respond better to positive prevention programs than they do to punitive legislative measures (Krisberg, Currie, & Onek, 1995; Zierdt, 1999).

THE EROSION OF CIVIC RESPONSIBILITY FOR CHILDREN

Addressing the needs of both public safety and positive youth development requires an active and participating public. If the only popular cry is for short-term fixes—"get them out of the neighborhood," "lock them up and throw away the key," and "something must be done"—society will continue on its current course of escalating punishment for children and increasing adult abdication of responsibility. If schools are not for learning from mistakes, if child welfare is not for protecting children who have been harmed, if health systems are not geared to healing youth—further reliance on exclusion, punishment, and prison becomes the likely option. Tens of thousands of productive adults who passed through the juvenile justice system in their youth are witness to the healing and redemptive effect of getting a second chance: the program, the judge, the probation officer who made a difference and allowed them to turn their life around (Criminal Justice Institute, 1999; Dohrn & Drizin, 1999).

The real adult problem is masked by our social focus on the "youth problem." In scapegoating kids, we reveal that as a society, we don't like adolescents very much. Youth, being the intelligent people they are, are vividly aware of the angry popular and policy backlash directed against them. They are keenly alert to issues of fairness (which are at the heart of justice); they observe the adult world around them with a laserlike ability to identify hypocrisy. They see that their voices, their opinions, and their interests are largely ignored, as are their rights as future citizens.

The use of the law to enforce a legal-educational-political system that harms the aspirations and best intentions of youth cannot be good for society. Holding children accountable for protracted social failures reeks of expediency and runs counter to developing international human rights standards for children around the world. Adult citizens are engaged in the social neglect and abuse of children, both in public fiscal policy and in the absence of the commitment of our own precious time and imagination.

Criminalizing youth behaviors, policing schools, punishing children by depriving them of an education, constricting social protections for abused and neglected youth, and subjecting youth to law enforcement as a "social service"—these trends smack of social injustice, racial inequity, dehumanization, and fear-filled demonization of youngsters, who are our prospective hope. At stake here is the civic will to invest in our common future by seeing other people's children as our own.

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