



OVERVIEW OF THE YOUTH JUSTICE SYSTEM

The founding concept for the U.S. youth justice system was to combine rehabilitation and treatment with accountability measures, working to change delinquent behavior into productive citizenship.¹

Beginning in 1825, the Society for the Prevention of Juvenile Delinquency established facilities in most major American cities for the purpose of housing, educating, and rehabilitating youth who had committed crimes.² These facilities paved the way for the first youth justice court to be established in 1899 in Cook County, Illinois.³ Relying on the British doctrine of *parens patriae*, a legal fiction identifying the state as the parent of a child in need, separate court systems were created for young people. These systems had the underlying premise that the state has the right and obligation to intervene in the lives of its young citizens, with a focus on children's welfare.⁴

By 1910, 32 states had established separate courts or probation services for youth. Two years later, New Jersey took the lead in enacting legislation to create a court that handled young people's cases and disputes between family members.⁵ Over time, all 50 states followed Illinois' lead and established separate court systems for young adults. As this separate structure gained traction nationwide, policymakers and judicial officials began to take a closer look at the rehabilitative potential of juvenile court practices.⁶

During the 1960s, the Supreme Court decided several cases that had a significant impact on procedures within the youth justice system.⁷ In one case, the Court ruled that if the possibility of confinement could result from an adjudication, young people have the right to notice and counsel, the right to question witnesses, and the right of protection against self-incrimination.⁸ In a later case, the Court raised the burden of proof from "a preponderance of evidence" to "beyond a reasonable doubt" in cases involving young people.

By the 1980s, the tough-on-crime agenda moved the country toward a system allowing certain classes of youth who committed delinquent acts to be tried in adult court, or treated as adults in juvenile court.⁹ Between 1985 and 1994, in part due to the War on Drugs, the number of youth cases transferred to adult courts rose 71 percent to reach an average of 12,300 cases annually.¹⁰ During this period, drug-related juvenile cases were more likely than any other category to be transferred to adult court.¹¹ Youth arrest rates reached their peak in 1996, with 8,476 out of every 100,000 young adults arrested.¹²

In 2002, the United States incarcerated nearly five times as many young people as the country with the second-highest total.¹³ High arrest and incarceration rates were matched by elevated rates of re-arrest for released young people, reaching up to 80 percent in New York and South Carolina.¹⁴ Because of this dramatic increase in youth arrest and incarceration, foundations and think tanks began conducting research, ultimately revealing that, for most youth, confinement is more harmful than beneficial.¹⁵

Now, based on data and research into best practices, states are returning to the founding principle of the youth justice system: a focus on accountability methods that prioritize rehabilitation. This renewed focus has led to increased

diversion from arrests, decreased reliance on incarceration as a primary form of punishment, and the development of an array of community-based accountability and treatment options. In Missouri, the youth justice system has shifted from a model of large youth prisons to smaller, regional locked facilities that focus on personal responsibility and character development.¹⁶ A 2005 study showed that six out of 10 of those released from Missouri's new youth justice were successful in avoiding further criminal justice involvement.¹⁷

Over a nine year period, Kansas was able to achieve a 50 percent decline in youth arrests, but the number of youth held in residential facilities had not declined as steadily.¹⁸ Kansas passed legislation in 2016 shifting toward more treatment-based sentences that allow young adults to stay at, or closer to, home, rather than being confined in large youth prisons.¹⁹ Similarly, as of December 2016, Georgia has closed two detention centers and redirected 7,200 youth through diversionary programs.²⁰

Today, in a majority of states, the juvenile court system has jurisdiction over youth under the age of 18. There are five states, however, where the age of jurisdiction only reaches 16 or 17 years of age.²¹ Many young adults receive combined sentences including both youth and adult sanctions.²² The most common blended sentence involves adult sanctions being suspended on the condition that the youth court sanction is successfully completed.²³ Of the 1.3 million young-adult arrests in 2012, 22 percent results in diversions or releases. Sixty-eight percent of those arrests were referred to the juvenile court system, and eight percent were referred to criminal court.²⁴ Youth arrests have continued to decline for the past two decades, with only an estimated 2,553 per every 100,000 young people arrested in 2016.²⁵

-
1. National Center for Juvenile Justice, *Juvenile Offenders and Victims: 2014 National Report*, Office of Juvenile Justice and Delinquency Prevention (December 2014), <https://www.ojjdp.gov/ojstatbb/nr2014/downloads/NR2014.pdf>.
 2. National Center for Juvenile Justice, *supra* note 1.
 3. Bureau of Justice Statistics, *Juvenile Records and Recordkeeping Systems* (November 1988), <https://www.bjs.gov/content/pub/pdf/jrrks.pdf>.
 4. National Center for Juvenile Justice, *supra* note 1.
 5. Gregory J. Halemba, et al., *Ohio Family Court Feasibility Study*, National Center for Juvenile Justice (April 1997), <http://www.ncjj.org/pdf/OhioFCFeasibilitySummary.pdf>.
 6. *Id.*
 7. *Id.*
 8. *Id.*
 9. *Id.*
 10. Jeffrey A. Butts, *Delinquency Cases Waived to Criminal Court, 1985-1994*, Office of Juvenile Justice and Delinquency Prevention (February 1997), <https://www.ncjrs.gov/pdffiles/fs-9752.pdf>.
 11. *Id.*
 12. Office of Juvenile Justice and Delinquency, *Statistical Briefing Book: Juvenile Arrest Rate Trends*, Office of Juvenile Justice and Delinquency Prevention (September 2017), https://www.ojjdp.gov/ojstatbb/crime/JAR_Display.asp?ID=qa05200.
 13. Richard A. Mendal, *No Place for Kids: The Case for Reducing Juvenile Incarceration*, The Annie E. Casey Foundation (2011), <http://www.aecf.org/resources/no-place-for-kids-full-report/>.
 14. *Id.*
 15. *Id.*
 16. Richard A. Mendal, *The Missouri Model: Reinventing the Practice of Rehabilitating Youthful Offenders*, The Annie E. Casey Foundation (2010), <http://www.aecf.org/resources/the-missouri-model/>.
 17. *Id.*
 18. Pew Charitable Trust, *Kansas' 2016 Juvenile Justice Reform*, Per Charitable Trust (June 2017), <http://www.pewtrusts.org/en/research-and-analysis/issue-briefs/2017/06/kansas-2016-juvenile-justice-reform>.
 19. *Id.*
 20. Crime and Justice Institute, *Georgia's Fiscal Incentive Program Implementation Successes*, Crime and Justice Institute (2017), http://www.crj.org/assets/2017/08/GA-HB242-Infographic_FINAL.pdf. (Sponsored by Office of Juvenile Justice and Delinquency Prevention).
 21. Juvenile Justice Geography, Policy, Practice, & Statistics, *Jurisdictional boundaries: Delinquency age boundaries, Juvenile Justice Geography, Policy, Practice, & Statistics* (2016), <http://www.jjgps.org/jurisdictional-boundaries>.
 22. National Center for Juvenile Justice, *supra* note 1.
 23. *Id.*
 24. Charles Puzzanchera, *Juvenile Arrests 2012*, Office of Juvenile Justice and Delinquency Prevention (December 2014), <https://www.ojjdp.gov/pubs/248513.pdf>.
 25. Office of Juvenile Justice and Delinquency Prevention, *supra* note 12.