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# JUVENILE JUSTICE

## Policies, Practices, and Programs

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By  
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# Introduction

The juvenile court was born in what historians term the Progressive Era, roughly the first two decades of the 20th Century. This was a time of reform when visionaries sought to reinvent government and make it work honestly, responsibly, and well. They provided strong support for clean elections, women's suffrage, public health protections, expanded welfare programs, more and better schools, controls on business, constraints on the labor of women and children, workplace safety and compensation for worker injuries, and juvenile courts. Adult courts and penal systems destroyed children, the visionaries proclaimed, and they were right. Children needed their own specialized consideration, they contended, and they were right.

## EVOLUTION OF THE JUVENILE COURT

The founding of the first juvenile court, in Chicago in 1899, sent a revolutionary message that children were different and their needs, rather than what they had done, would become the spotlight of judicial attention. This event resounded across the United States. Within a little more than two decades, every state had legislated some form of a juvenile court and juvenile code. Other nations embraced this format.

However, there was a questioning of the efficacy of this enterprise, initiated in the 1920s by social workers and psychiatrists who contended juvenile courts failed to understand and treat the needs of the individual child. This was followed in the 1950s by law enforcement officials who used strongly deriding references to what they perceived as a court that was overly solicitous in understanding and treating children, and overly gentle with the sanctions it used. Attorneys, rarely welcomed in this setting, also questioned the juvenile court, because they found when they did participate that the court's informality and absence of legal regimen were disturbing, if not confounding.

Another development was the constitutionalization of this court, pronounced by the U.S. Supreme Court in 1967 **Gault (In re, 387 U.S. 1 (1967))**, which ushered legal safeguards, legal procedures, and lawyers into these halls, and forever changed the nature of juvenile court proceedings. The Court ruling responded to the earlier concerns of attorneys.

This was later followed by the exponentially increased removal of more serious or chronic juvenile offenders from juvenile to criminal courts that preceded, accompanied, and followed the grave juvenile violence wave that had rough bookends of 1987-1994. The expanded criminalization of juveniles was a response to the earlier concerns of law enforcement officials.

A recent trend, now transcending into a movement, combines juvenile cases with other family-related case types such as divorce and domestic violence, into some form of a "family court." The formats are varied, the technologies of case coordination are experimental, and the numbers of families and family members who might benefit from one family/one judge consistent case handling are now small, but definitely growing. Juvenile delinquency proceedings will be handled as before except more juveniles will be heard in tandem with other cases that involve family members, There will be greater continuity of ongoing hearings with the same judge, and judges will be

informed of other proceedings that involve this family and, accordingly, make better informed dispositions. An improved judicial understanding and treatment of the needs of the child and family members is one form of response to the earlier concerns expressed by social workers and psychiatrists.

## **BENEFITS OF THE JUVENILE COURT**

Early judges trumpeted the benefits of the new juvenile court: that the issue was not guilt or innocence but how the child had become this way and what might be done in his interest—which is in the state’s interest—to enable a constructive and law abiding future. This court was not without sanctions, but its heavier duty, indeed its spirit, was to treat and rehabilitate. Successful cases were highlighted. Children were not only being helped, they were being “saved.”

The juvenile court was born in optimism. There is strong reason to retain this optimism. There are very legitimate criticisms that can and should be leveled at deficiencies in juvenile court efficacy. Yet, most of its progressions should be seen as its pathway toward better meeting the needs of young people and of communities as times have changed and new eras have evolved.

Here are reasons that justify feelings of confidence about today’s juvenile courts and the juvenile justice system of which the court is the centerpiece:

- There are very well trained professionals in this field—judges, probation officers and detention officials, prosecutors and defense counsel, court administrators and clerks, and those who work in community corrections and residential institutions. Training is ongoing.
- Alternatives to detention, substitutes for the pretrial lock-up of offending juveniles, are much more commonplace, and objective risk assessment instruments now lead to more skilled determinations of who must be locked up prior to court hearings.
- There is greater awareness that it is better to reserve costly residential programs for more serious and chronic offenders, and that working with juveniles in the community, and within their communities, is supportive of the ongoing expansion of community correctional dispositions and programming.
- Evaluation of the effectiveness of intervention programs is now much more common, and research findings increasingly find their way into policies, practices, and programs. Research-based risk screening instruments determine levels of supervision intensity so that resources can be differentially applied to meet the different risk levels of offenders.
- The principles of balanced and restorative justice—victim restoration, victim participation in the justice system, public safety protection, juvenile restoration of victims and the communities they injured, community participation in justice, and juvenile competency development—are in day-to-day use in countless juvenile courts and are embodied as objectives in numerous juvenile codes.

- There are barriers to juvenile court assertion of jurisdiction and significant limitations on judicial use of secure custody for status offenders (those who are truant, beyond the control of parents, run away, and demonstrate other conduct that is illegal only for children). These constraints allow the juvenile justice system to better allocate its resources to its two primary workloads: (1) juvenile delinquency and (2) child abuse and neglect.
- State juvenile correctional departments better classify and treat deeper-end juveniles. They have expanded their partnerships with local juvenile correctional entities to enable more juveniles to be held accountable and assisted at a pre-institutional, community level. Further, investment in more and better-targeted programming for those who reenter the community following institutional life is now evident.
- More states and communities are grappling with the problem of minority overrepresentation in the juvenile justice system.

## CURRENT JUVENILE COURT ISSUES AND TRENDS

The juvenile court originated as a confidential entity. Enabling legislation protected those who came to court from public scrutiny. Their names and identities were kept secret, as disclosure was thought to negatively affect their welfare. Only very recently has this begun to change. It is changing because some offense or abuse situations are very serious and the public has, or particular members of the public have, an interest in knowing what is transpiring there. It is changing because, in not knowing what is happening, there is a certain distrust of private proceedings that take place in this courtroom.

The pages of this book reveal much of what is transpiring inside as well as next door to the court. They describe varied developments and diverse efforts to hone or at least improve the instruments of intervention with juvenile justice clients. They provide numerous profiles of how youths are handled and might better be handled in your town and mine, in your state and mine.

This book consists of 44 chapters, most originally published as articles in *Juvenile Justice Update* and *Community Corrections Report*, written by the author over a 10-year time span. They represent both focused observations on a facet of this world as well as descriptive commentaries of happenings in a state where the author was otherwise engaged in study and research. The chapters are complemented by commentaries that expand on their content and prescriptions. Numerous chapters have been updated by or with the assistance of professionals from the settings that have been profiled, or otherwise brought forward by the author. Chapters and commentaries concentrate on the juvenile delinquency workload of juvenile courts, though the other major workload, abused and neglected children, does receive consideration.

I have lived in the juvenile court world for most of the past four decades. I continue to state my positions on what is good, bad, or indifferent. My perspectives and standards derive from my work as a Colorado state legislator, as a Denver juvenile court judge, from research and consulting with countless juvenile and family courts and justice systems, as a participant in national juvenile justice reform endeavors, and through service on youth agency boards.

The positions I take have been impacted by graduate school insights in both social work and law, and my affection for the U.S. Bill of Rights, for the movements that have furthered civil rights and liberties for all, and with efforts to eliminate poverty and equalize justice and citizenship.

We do not now live in as progressive an era as a century ago, and punishment of juvenile offenders has greater currency. But there remains prominent today a rather vast interest in assisting young people. The world they experience is far more complex than that of a century ago, and juvenile courts must contend with the effects of what our young people are contending with and with what they do that is not positive. The juvenile court workload was never an easy one.

There should be a pervasive feeling of hopefulness about this creation, this complex entity that is constantly being more finely tuned. There are many positive indicators, certain forward momentum, and extensive public confirmation of the vital need for it to succeed with its mission. Rehabilitation of young people is preferred; it is better to redirect offenders while they are young.

In 1909 the English author G. K. Chesterton described a court scene through the eyes of a layman:

And the horrible thing about all legal officials, even the best, about all judges, magistrates, barristers, detectives, and policemen, is not that they are wicked (some of them are good), not that they are stupid (some of them are quite intelligent); it is simply that they have gotten used to it. Strictly they do not see the prisoner in the dock; all they see is the usual man in the usual place. They do not see the awful court of judgement; they see only their own workshop.<sup>1</sup>

This remains one of my concerns as to juvenile courts and the juvenile justice system today. We have ever better trained judges and lawyers and probation officers and juvenile agency personnel who want to do a good job. But yes, even good people are subject to seeing only the usual person in their own workshop.

Let us not let them get too used to it.

—H. Ted Rubin

## ***Endnotes***

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<sup>1</sup> Chesterton, G. K. (1909). *Tremendous trifles*. London: Methuen, p. 68.



# About the Author

**H. Ted Rubin** became a private consultant to juvenile/family court and justice agencies in August 1992. As a consultant, he is employed by governmental and private associations to conduct research studies, provide direction on policy issues, help implement organizational or programmatic changes, assist with demonstration projects, and make presentations to conferences. His clients include state and local court systems, national and state juvenile delinquency agencies, legal organizations seeking to improve court handling of child abuse and neglect proceedings, foundations, and national court and Native American organizations.

From January 1971 until August 1992, Mr. Rubin served as Director for Juvenile/Criminal Justice and then Senior Staff Attorney for the Institute for Court Management (ICM) of the National Center for State Courts, Denver. There, he directed ICM's juvenile justice training program (89 national workshops) and participated in a wide variety of court and justice agency studies (more than 150). He served as director for the Civil Jurisdiction of Tribal Courts and State Courts: The Prevention and Resolution of Jurisdictional Disputes Project, 1989-1992, and as Co-Director for the Integration of Child and Family Legal Proceedings Project, 1990-1992. He was a principal in the national Restitution Education, Specialized Training, and Technical Assistance Project (RESTTA) (1984-1992), and a member of the Board of Directors of the Colorado Children's Trust Fund (1990-1997, and chair, 1995-1997). Mr. Rubin was honored in 1990 with the National Center for State Courts' Award of Excellence. He served as reporter for the volume on Court Organization and Administration, IJA-ABA Joint Commission on Juvenile Justice Standards.

Mr. Rubin was Judge of the Denver Juvenile Court (1965-1971), a Colorado state legislator (1961-1965), a lawyer in private practice in Denver (1957-1965), and earlier held social service positions in Denver and Chicago. He obtained his law degree from DePaul University, a master's degree in social work from Case Western Reserve University, and an A.B. degree (Phi Beta Kappa) from Pennsylvania State University. He served as Visiting Professor, School of Criminal Justice, State University of New York at Albany (1978), and primary American instructor for the American University Institute on Juvenile Justice in Great Britain and the United States, London (1982).

Mr. Rubin has written more than 250 articles and research reports concerned with juvenile justice and corrections, along with three books: *The Courts: Fulcrum of the Justice System* (Second Edition, Random House, 1984), *Juvenile Justice: Policy, Practice, and Law* (Second Edition, Random House, 1985), and *Behind the Black Robes: Juvenile Court Judges and the Court* (Sage, 1985). He was editor of *Juveniles in Justice: A Book of Readings* (Goodyear, 1980). Currently, he is an editorial board member and columnist for *Juvenile Justice Update*, and has served for 26 years as a board member of the Denver Area Youth Services. He served, recently, as a member of the Boulder County Jail Use Commission.