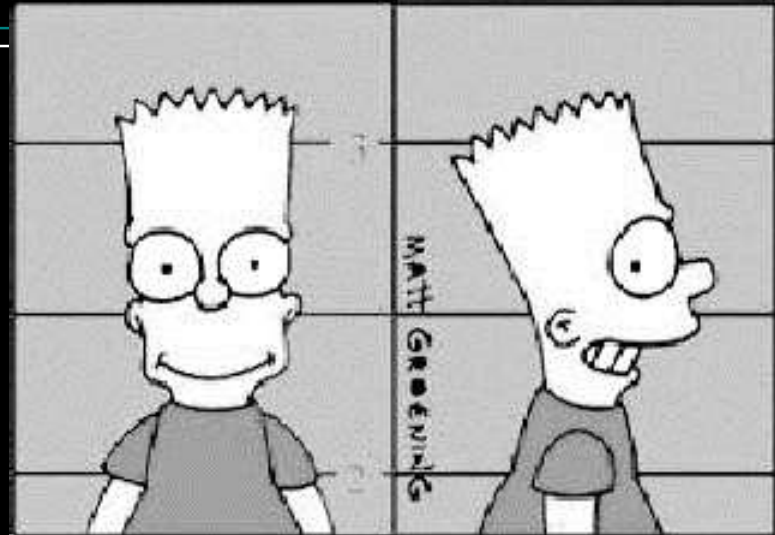


Juvenile Justice



In the United States, juveniles who are in trouble with the law are sometimes treated differently from adults. The trend, however, is toward harsher, more adult-like penalties.

Street Law, Ch. 16

History and Overview

- Old days (1800s): young offenders were thrown into jails with adults
- Long sentences and corporal (physical) punishment were not uncommon
- Old belief: parents' failure led to juvenile delinquency.



Reform

- Since failure was seen as the parents' fault, the government must step in under the philosophy of "parens patriae," (literally, the government as parent of the country)
- Reformers proposed a separate juvenile court system to assume parents' responsibility and discipline juvenile offenders.
- This separate court sought to rehabilitate, or help juveniles make better decisions, rather than punish.

Today

- Juvenile courts generally handle three groups of juveniles—Delinquent offenders, Status offenders, or Neglected or abused children

Delinquent offenders



- Youths who have committed acts that would be crimes if committed by adults

17-year-old sniper suspect Lee Boyd Malvo (AKA John Lee Malvo) is escorted out of the Fairfax county juvenile court in Virginia. He was accused in the October 2-23 2002 killings of 10 people, tried as an adult and sentenced to life w/o parole in Dec. 2003.

Status offenders

- Youths who have committed acts that would NOT be crimes if committed by adults
 - Running away from home
 - Cutting school
 - Curfew violation
 - Underage drinking



Neglected or abused children

- Neglect: parent or guardian fails to provide adequate food, clothing, shelter, or medical care.
- Abuse: when a child has been physically, sexually, or emotionally abused

Child Abuse
and Neglect



Parental responsibility laws

- Popular among those who believe parents know or should know what their children are doing (supervision & control)
- Parents are liable for the willful misconduct of their minor children
 - Parents can be criminally charged or
 - Parents can be sued for damages (\$) their children willfully cause

Parental responsibility laws



- Ex: laws that enable prosecution of parents or guardians who leave loaded firearms where minors can get them

Contributing to the delinquency of a minor

- Actually aiding or encouraging children to break the law



Who is a Juvenile?

- Generally those under 18
- But age isn't the only criterion in all respects
 - In our history, the ability to form the necessary criminal intent has been key

Transfer of waiver hearing

- **Used to be** required to move a youth from the juvenile system to the criminal (adult) system
- Judge usually considers:
 - Age and prior record
 - Seriousness of the crime
 - Likelihood of rehabilitation before reaching 18
- **Now, CA law allows DAs to “direct file” – directly charge juveniles as adults w/o a hearing.**

Juvenile Justice Today

- Concern began to rise during the 1960s that youthful offenders were actually being treated worse than adult offenders without procedural and constitutional protections

Juvenile Court Procedures

- Exact procedures differ from state to state
- From the Sacramento County Juvenile Court:

What happens if a minor is arrested?

1. The arresting officer may release you back to your parent's custody.
2. Minor may be referred to a community agency providing shelter, care, diversion, or counseling.
3. Child may be required to return to the police station rather than to the probation department (this is sometimes referred to as "cited back").

What happens if a minor is arrested?

4. Parent and minor may be given a Notice to Appear, telling you what you must do and when you must do it.

What happens if a minor is arrested?

5. Minor could be detained in Juvenile Hall.
6. Able to make two phone calls no later than one hour after arrest.
7. If the Probation Intake Officer is going to question a minor, the officer must tell the child that he or she has the right to remain silent, that anything that said will be used against him or her, that he or she has a right to be represented by an attorney, and that the court will appoint an attorney if he or she cannot afford one.
8. If a child is detained, the officer must take immediate steps to notify parent.

What happens if a minor is arrested?

1. The decision to **detain** a child is made by Probation Intake and not the arresting officer. The Probation Officer may let the minor go home without asking the district attorney to file a petition.
2. Or, the minor may go home and the probation officer will refer the case to the district attorney who will decide whether or not to file a petition. In this instance, restrictions will be placed on your child as a condition of being allowed to go home.

What happens if a minor is arrested?

1. If a child is not returned home, the law requires that a petition be filed very quickly, usually within 48 hours from the time the child is taken into custody by the arresting officer. There will be a court hearing, called a Detention Hearing, the next day that the court is in session. The courts are closed on Saturdays, Sundays, and holidays.

Taking into custody: arrest

- Can be for same reasons as adults or for status offenses
- Authorities have broad authority to arrest, detain, issue warning, phone parents, etc.

Does a minor need an attorney?

- YES. A child has a right to an attorney. If a parent cannot afford to hire an attorney for their child, the court will appoint an attorney to represent him or her.
- Does a parent need an attorney? No, not usually. But note: the minor's attorney represents the child not the parent.

Initial hearing

- Determines the validity of the arrest and detention
- State must prove:
 - An offense was committed and
 - there is reasonable cause to believe that the accused committed it.
- Note: juveniles DO NOT have a constitutional right to bail (P. 189).

Adjudicatory hearing

- For those charged with a delinquent act
- **Functions the same as an adult trial**
- Purpose is to determine facts
- Closed to the public
- Names are withheld from the press
- Note: juveniles DO NOT have a constitutional right to a jury trial

Dispositional hearing

- Similar to sentencing in the criminal system
- If juvenile is found delinquent, a pre-sentence report is prepared by probation
- Probation is the most common, although increasingly young offenders are being placed in juvenile institutions

Postdisposition

- Right of appeal varies from state to state; US Supreme Court has not ruled that juveniles are entitled to appeals
- Upon release, juveniles DO NOT lose civil rights, like the right to vote
- Records are generally kept confidential
- **But note: a number of public agencies have access to juvenile records; one doesn't necessarily get a "clean slate" at 18**