

10.5: Juvenile Justice Process

Did you know that there is no uniform juvenile justice system in the United States? It is quite surprising! Matters concerning minors and children who break the law are left to the discretion of individual states and their legislative bodies. States have different priorities, and legislators enact new laws and revise legislation according to their own needs at the time. Although every state operates independently, they manifest common trends and respond to certain issues in a similar manner. For example, the increasing fear of youth violence in the 1990s precipitated more specific and punitive legislation in almost every state. ^[1] Some states with very specific and real gang problems devised targeted gang suppression laws and legislation, while other states did not. The fear of youth crime led states to create mandatory minimum legislation (like Measure 11 laws in Oregon), waiver and transfer laws, and zero tolerance policies.

The juvenile justice system has two main responsibilities: to oversee cases involving (1) juvenile delinquency (criminal law violations and status offenses) and (2) dependency, neglect, and child abuse. ^[2] Due to the loose definitions of *parens patrea* and the court's attempt to act in the best interest of the child, after World War II, the juvenile court was criticized for disregarding due process.

Due process refers to the procedural rights established in the Constitution, especially the Bill of Rights. It includes rights such as the right to legal counsel, right to call witnesses, and right to be notified of charges (which will be revisited in *In re Gault*). The original juvenile court did not implement due process rights because it was intervening in the lives of youth for their own good, not in such a formalized adult way where they would need constitutional protections. However, because of the abuse of power, this changed in later decades.

Beginning in the 1960s, four areas drastically changed in the juvenile court:

1. the juvenile due process revolution from 1966 to 1975
2. the Juvenile Justice and Delinquency Prevention Act of 1974
3. a growing emphasis on punishment and accountability in the 1980s and 1990s
4. contemporary juvenile justice reform that is driven by evidence-based practices and empirical research on adolescent development, which in turn leads us back to rehabilitation

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1. Feld, B.C. (2003). *The Politics of Race and Juvenile Justice: The 'Due Process Revolution' and the Conservative Reaction*. Justice Quarterly 20:765-800. ↩
 2. Rubin 1985 ↩
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