
Status Offenses

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Abstract

Public policy is unsettled with regard to juvenile status offenders—children who are subject to juvenile court jurisdiction for noncriminal behavior such as running away from home, incorrigibility, truancy, and curfew violation. In 1974, the federal Juvenile Justice and Delinquency Prevention Act initiated a national policy of status offender “deinstitutionalization,” supporting the development of community-based treatment programs and prohibiting incarceration of these youths. In the following years, most states embraced this policy, sharply reducing status offender detention levels.

This article describes factors that have recently worked to erode the federal and state commitment to a policy of status offender deinstitutionalization. These factors include widespread failure to develop adequate services for youths and families; the tragic deaths of runaway youths; rising fear of juvenile crime; and new statehouse majorities promoting agendas of youth discipline and accountability. The article references recent surveys and press reports on the number of runaways, truants, and curfew violators in the United States. In the author’s view, policymakers today are torn between their desire to provide services to at-risk youths and families and public pressure to respond to all forms of youth misbehavior with tough new sanctions, including the incarceration of status offenders.

A status offense is behavior that is unlawful for children, even though the same behavior is legal for adults. What transforms the conduct into a public offense is the age of the actor. The most common status offenses are truancy, running away from home, incorrigibility (disobeying parents), truancy, curfew violations, and alcohol possession by minors.

There is wide public and professional disagreement about the proper role of the juvenile courts in status offense cases. On one side of the debate are children’s advocates and youth service providers who argue that status offenders should receive treatment for family problems and that criminal justice sanctions, particularly incarceration, are not appropriate. On the other side are frustrated parents who want the juvenile court to discipline defiant children, law enforcement officers who want to be able to detain truants and runaways, and juvenile court judges who want incarceration as a sanction to enforce their court orders.

Several factors complicate the task of forming sound public policy on

status offenses. Some of these factors are as follows:

- Many types of conduct are clustered into the status offense category; each type of conduct may call for a different response from public and private agencies.

- Jurisdictions vary greatly in the ways they handle status offenses; some rely heavily on juvenile court intervention while others divert most status offenses to youth service organizations.

- There are significant geographic differences in levels of service for status offenders and their families; a void or shortage of these services may limit the policy choices available to judges and policymakers.

In the 1970s, this nation embarked upon a policy of “deinstitutionalization” of status offenses, meaning that noncriminal minors could no longer be locked in institutions and that they would instead be referred to an array of community services.¹ Today, this policy is being challenged. The challenge arises from claims that deinstitutionalization has not worked and that runaway and truant youths need to be more tightly controlled for their own protection. The challenge is also prompted by public concern about violent juvenile crime and the perceived need for tough responses to all forms of youthful misbehavior.²

This article discusses the rise and threatened decline of the national policy of deinstitutionalization of status offenses. It describes legislative efforts in the state of Washington (and a few other states) to reassert control over these noncriminal youths. It explores the degree to which states have faltered in efforts to build status offender service networks needed to sustain the federal policy of deinstitutionalization. Finally, it discusses the challenge facing policymakers and judges as they deal in future years with a growing population of high-risk youths and their families.

National Measures of Status Offenses

It is difficult to obtain a coordinated and accurate national picture of the status offender population. A few national research organizations provide selected data each year on petitioned juvenile court cases, detention of status offenders, and status offender arrests. Below are some highlights from the available national data on petitioned court cases, custody, and arrests of status offenders.

Petitioned Court Cases

The National Center for Juvenile Justice (NCJJ) in Pittsburgh, Pennsylvania, publishes national estimates of status offenders processed by juvenile courts, based on data from jurisdictions representing about two-thirds of the national juvenile population. This court-reported information covers only *petitioned* status offenses. A petitioned status offense is one that has been filed in juvenile court after arrest or citation of the minor. According to NCJJ, approximately 80% of status offenders are diverted from

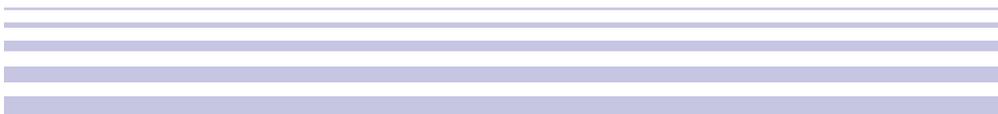


Table 1

Status Offense Cases Petitioned to Juvenile Courts in the United States, by Type of Offense, 1989 and 1993				
Offense	1989	1993	Percentage Change in Number	Percentage Change in Rate*
All status offenses	81,000	111,200	37 %	28 %
Runaway	13,700	20,100	47	36
Truancy	22,800	33,900	49	38
Ungovernable	12,600	15,700	24	16
Liquor law	23,900	26,100	9	2
Miscellaneous offenses, including curfew violation	8,000	15,400	93	79

* Rate per 1,000 youths in the at-risk youth population.

Source: National Center for Juvenile Justice. *Juvenile Court Statistics*. Washington, DC: U.S. Department of Justice, Office of Juvenile Justice and Delinquency Prevention, 1995.

formal prosecution without the filing of a court petition; thus, the NCJJ statistics on petitioned cases provide only a partial view of the total national status offender picture.

For 1993, NCJJ estimates that 111,200 status offense cases were petitioned to juvenile courts nationally, a 37% increase over the number of status offender petitions filed in juvenile courts in 1989.³ A breakdown of these petitioned cases by type of offense is shown in Table 1.

Most of these minors (60%) were 15 or younger when the petition was filed. For all status offenses in 1993, girls and boys were petitioned at roughly equal rates per 1,000 in the population until ages 16 and 17, when male liquor law violations accounted for an increase in the petitioning rate for males. Overall, black youths were more likely to be petitioned to court for a status offense than whites or other youths in 1993 (5.5 per 1,000 for blacks versus 3.8 per 1,000 for whites or others).

Many petitioned cases were settled without formal adjudication by the juvenile court (46%). Among those who received formal adjudication, girls and boys were equally likely to be placed out of the home. However, black status offenders were more

likely than whites to be sent to an out-of-home placement.

Underlying the NCJJ national data on status offender petitions shown in Table 1 are some significant differences in state practice. Some states are more likely than others to prosecute status offenses formally in the juvenile court; and within states, some counties or courts may be more aggressive than others in the prosecution of status offenders. These differences, though well known to local and state youth service providers and other practitioners, are difficult to document because of a shortage or an absence of accurate case data. The most comprehensive interstate and intercounty comparisons are published annually as supplemental data by NCJJ. For 1993, NCJJ reported that California, Florida, and Illinois had status offender petition rates from 0.23 to 0.54 youths per 1,000 youths in the state population. Far higher petition rates per 1,000 youths were reported for Kentucky (36.2), Hawaii (20.2), Ohio (16.4), and Arkansas (11.8).⁴

Custody of Status Offenders

Detentions are of particular interest in view of the 1974 mandate of the federal Juvenile Justice and Delinquency Prevention Act prohibiting the secure detention of status offenders. The National Council on Crime and Delinquency (NCCD) reports that, in 1993,

Table 2

Status Offenders in Public and Private Juvenile Facilities in the United States, One-Day Count, by Type of Offense, 1993			
Offense	In Public Facilities	In Private Facilities	Total
All status offenses	1,531	5,091	6,622
Runaway	522	1,225	1,747
Truancy	223	876	1,099
Ungovernable	301	2,071	2,372
Liquor law	44	196	240
Valid court order viol.	345	269	614
Curfew/other	96	454	550

Source: National Council on Crime and Delinquency, Preliminary Report, Juveniles Taken Into Custody, 1993.

some 1,531 status offenders were confined nationally in public juvenile facilities on a one-day count of confinements.⁵ This is a 33% decline from the same measurement taken in 1985. Most of the children in these public juvenile facilities (96%) were delinquent offenders, with status offenders constituting only 3% of this population. Courts place more status offenders in private facilities than in public facilities. In 1993, there were 5,091 status offenders in private juvenile facilities (one-day count). This figure was significantly lower than in 1985 (a decline of 24%). Table 2 shows the number of minors in public and private facilities for status offenses on a one-day count in 1993 by type of offense.

Arrests of Status Offenders

Each year the Federal Bureau of Investigation (FBI) publishes national arrest data collected from law enforcement agencies throughout the United States. Included in the FBI reports are data on juvenile arrests for runaway, curfew and loitering, and liquor law violations. Arrests for truancy and other status offenses, or for status offenses as a whole, are not separately tracked by the FBI.

For 1994, the FBI reported arrests of 200,863 runaways, 105,781 curfew violators, and 93,846 liquor law violators. Taken together, these arrests constituted 18% of juvenile arrests for all crimes and violations tracked by the FBI for 1994. Males accounted for 43% of the runaway arrests, 72% of the curfew and loitering arrests, and 72% of the liquor law arrests.⁶

These 1994 arrest levels are significantly higher than the 1990 levels for runaways and curfew violators. Runaway arrests increased by 48% in this five-year period. Curfew arrests increased by nearly two-thirds (up 65%), largely because of the proliferation of municipal curfew ordinances discussed later in this article. Arrests in 1994 for liquor law violations actually declined by 22% from 1990 levels.⁷

Status Offender Jurisdiction and Policy: From Origins to Deinstitutionalization

The Origins of Juvenile Court Jurisdiction over Status Offenses

The idea that government should respond to youthful misbehavior with rehabilitative efforts rather than punishment has its roots in nineteenth-century America. Early in the 1800s, states began to modify harsh laws that exposed children to the same punishments as adult criminals. New child protection legislation stressed remedial intervention and favored a strategy of removing children from the families and circumstances that caused their deviant behavior. By midcentury, a “child saving” movement was under way, and houses of refuge and other institutions were established for the care of problem children.

When separate juvenile courts were created by the states, beginning with the Illinois court in 1899, they were viewed as the central

component of a system having a noble reformatory vision. States granted these courts broad power to intervene, not just in the lives of children accused of crimes but also over all children who were considered wayward, neglected, or endangered. Differences between criminal and noncriminal behavior were largely overlooked as courts focused on the task of salvaging young lives from ruin.

Despite their laudable goals, juvenile courts were plagued with contradictions in their first 50 years. Critics saw that salvation was not always the outcome of juvenile court intervention and that institutions for children were sometimes punitive or cruel. Around 1960, new state laws began to place limits on classes of children subject to court intervention. California and New York were among the first states to differentiate between status offenders and delinquents. Other states followed with laws that redefined

that required state juvenile courts to honor due process rights for accused minors, such as the right to counsel.⁹ (See the article by Ainsworth in this journal issue.) Interestingly, these rights were required by the Court in delinquency cases where incarceration was a possible outcome. This left unanswered the question of their application to nondelinquency cases, including status offenses. However, these Supreme Court decisions had a powerful influence on the states, and many states responded by redrafting status offender laws to meet the due process standards required for accused delinquents.¹⁰

The second transforming policy event of this period was the adoption of the federal Juvenile Justice and Delinquency Prevention Act (JJDPA) of 1974. Its passage was preceded by months of well-publicized testimony in congressional hearings. In these hearings, a broad coalition of youth service workers, child development specialists, and community groups attacked state methods of handling noncriminal minors. States were criticized for excessive incarceration of disobedient or runaway children, for punishing children when others in the family were also to blame for the behavior, and for abandoning a focus on treatment. The JJDPA that emerged from these hearings contained a strong federal policy against placing noncriminal minors in secure institutions. The JJDPA also encouraged the referral of status offenders to counseling, treatment, and other programs in nonsecure (unlocked) environments. These status offender provisions became known as the “deinstitutionalization” mandate of the JJDPA.¹¹

State Responses to the JJDPA's Status Offender Provisions

The JJDPA set off a tidal wave of status offender reform laws in states eager to sign up for federal program dollars. These state laws took various forms, but most prohibited or strictly limited the secure detention of status offenders. One result of these reforms was a sharp drop in national status offender detention levels. By 1988, according to the U.S. General Accounting Office, the 50 states participating in the JJDPA had reduced national status offender detention levels by 95%.¹²

While detention levels declined swiftly, national progress toward the establishment

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status offenders in various ways, either by reclassifying them as dependent/neglected children or by creating new jurisdictional categories with appellations like MINS, CHINS, and PINS (Minors/Children/Persons in Need of Supervision). These new jurisdictional statutes were at once more specific and more complex than the statutes they replaced. They established new rules of processing and disposition that were largely separate from the rules that applied to delinquents.⁸ (For more discussion of the history of the juvenile court, see the article by Fox in this journal issue.)

Federal Limits on Status Offender Detention and Adjudication

The 10-year period from 1966 to 1976 was a critical one that reshaped the relationship of the juvenile courts to status offenders. During this time, the U.S. Supreme Court and the Congress made a pair of bold moves on juvenile justice policy, imposing new limits on the states.

First, beginning in 1966, the U.S. Supreme Court issued a series of decisions

of alternative-to-detention programs for status offenders was quite slow. Only a handful of states appropriated funds for new programs to meet the needs of the deinstitutionalized status offender population. In most states, policymakers sought to achieve minimum compliance with the JJDP A mandate by reducing nonoffender detention levels without spending state dollars for new programs. However, some states dedicated formula grant funds received under the JJDP A to community-based services for runaways and other status offender youths.

Several studies have found that, as a result of state deinstitutionalization laws, children who could no longer be detained were being recycled or “re-labeled” as delinquent offenders so they could be housed in secure facilities.¹³ A troubling and related finding is that some minors no longer subject to detention as status offenders were being committed involuntarily and inappropriately to in-patient drug treatment facilities and psychiatric hospitals.¹⁴

Timid financial investment in status offender services by the states and the resultant failure to meet the service needs of this population led inexorably to complaints that deinstitutionalization was not working. When juvenile violent crime rates began to rise sharply in the 1980s, creating widespread fear and concern about youth violence, new attention was riveted on runaways, truants, and disobedient children. Policymakers began to hear calls for a reassertion of public control over these non-criminal youths. The federal policy against secure detention of status offenders became increasingly vulnerable.

Judicial Responses to the JJDP A's Status Offender Provisions

Some juvenile court judges viewed the JJDP A status offender provisions as a barrier to their authority to enforce court orders with the sanction of incarceration. The issue came to a head in 1980, when judges successfully lobbied the Congress to amend the JJDP A by creating an exception to the prohibition against secure detention of status offenders. Known as the valid court order (VCO) amendment, this new provision allowed secure detention of adjudicated sta-

tus offenders who violated a valid order of the juvenile court.¹⁵ Federal regulations enumerated specific due process requirements for detentions under the VCO exclusion.¹⁶ Many states followed the federal lead by adopting new legislation, promoted by judicial lobbies, allowing secure detention of adjudicated status offenders. According to a 1991 report of the General Accounting Office, between 1980 and 1988, the VCO exclusion was used in 38 states, and in 1988 alone, 5,345 status offenders were detained under the VCO exclusion.¹⁷

Although judges convinced Congress to amend the JJDP A to permit the incarceration of some adjudicated status offenders, not all judges oppose a policy of deinstitutionalization. In a 1990 report on status offenders, the Metropolitan Court Committee of the National Council of Juvenile and Family Court Judges underscored the need for a continuum of community services for runaway, truant, substance abusing, and beyond-control children. It portrayed these

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children as most often “victims, not offenders” and cited a paramount need for prevention and early intervention. It recommended that court intervention be a last resort used in cases where community services have failed. “Incarceration,” the judges concluded, “does not work for these children and is not an appropriate response to their needs.”¹⁸

Recent State Trends: Growing Tension Between the Concepts of Service and Control

State Challenges to Deinstitutionalization

By 1980, it was clear that states were unable to deliver the full promise of status offender reforms because they were not dedicating

enough resources to meet the needs of runaways, truants, and other youths who were no longer subject to secure detention. Complaints came from angry parents and frustrated law enforcement officers that runaway children, emboldened by knowing they could not be locked up, were living on the streets under dangerous conditions and beyond the reach of the justice system. President Ronald Reagan's appointee to head the Office of Juvenile Justice and Delinquency Prevention asserted in 1984 that the deinstitutionalization movement had emancipated children to live "wherever and however they choose" and had released them from reform schools to "the exploitation of the streets."¹⁹

In 1993 in Washington State, these undercurrents of dissatisfaction merged with public reaction to the deaths of three runaway children to produce a revolt against the policy of deinstitutionalization. The most widely publicized incident was the murder of a 13-year-old girl named Rebecca Hedman, a repeat runaway who was beaten to death by a man who had picked her up for a sexual encounter. Urged by Rebecca's parents and with passionate support from

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parent lobbying groups, Tacoma lawmaker Mike Carrell introduced what came to be known as the "Becca Bill." The Becca Bill was a broad crackdown on all types of status offenses. As sent to the governor by the Washington legislature early in 1995, it provided: five days of detention for apprehended runaways in a secure crisis residential center; up to six months of secure detention for youths defined as habitual runaways; suspension of driving privileges for truants and habitual runaways; and a process for committing children without their consent to residential drug treatment and mental health facilities. Governor Mike Lowry signed the Becca Bill in May 1995 but vetoed, among other things, the sections on long-term detention of habitual runaways and suspension of driver's licenses.²⁰ His rationale for the veto of long-term secure

detention was that "this section appears to be punishment-oriented in contrast to the overall focus of the legislation which is more appropriately oriented toward treatment."²¹ The key surviving feature of the Becca Bill is five-day secure lockup for runaways, prior to the hearing of a court petition.²² The Office of Juvenile Justice and Delinquency Prevention has notified the state that this provision is out of compliance with the JJDP's status offender mandate.

Seattle YouthCare Director Victoria Wagner suggests that the stage was set for the Becca Bill by the state's long-standing failure to implement its own comprehensive, statewide plan for a continuum of services to runaways and other status offenders. Washington State youth service providers also note that the impact of the Becca Bill on status offenders thus far has been minimal because funds have not been appropriated for the secure crisis centers where five-day detention is authorized to occur.²³

Other states have bridled at the status offender deinstitutionalization mandate of the JJDP. For example in 1996, the Iowa legislature passed a resolution asking the federal government to repeal the JJDP provisions prohibiting detention of status offenders.²⁴ In the same year, the California legislature considered a bill that would allow six months of secure detention for status offenders beginning upon apprehension.²⁵ In 1996 congressional hearings convened by the Senate Judiciary Subcommittee on Youth Violence, state officials from Iowa, Oklahoma, Virginia, and Wyoming asked Congress to weaken or remove the status offender mandate and allow states broader discretion to spend JJDP funds without federal controls.²⁶ The federal status offender mandate may well be in jeopardy as Congress debates reauthorization of the JJDP in 1996. Removal of the federal mandate would open the door to more restrictive legislation in additional states where pressure has been building to expand secure custody options for status offenders.

Trends for Specific Status Offenses

Runaways

Recently there have been two major efforts to identify the national population of run-

away and homeless youths. In 1990, a research group produced a report on the national incidence of “Missing, Abducted, Runaway and Thrownaway Children in America.” This study (known as “NISMART”) surveyed households, juvenile facilities, youth service providers, and law enforcement agencies across the United States in 1988 and published estimates for youths in several categories.²⁷ The total number of runaways in the United States in 1988 was estimated to be 450,700, with another 127,100 children identified as “thrownaway” youths (that is, forced out of the home) for a total of 577,800 runaway/thrownaway children. The NISMART study examined the characteristics of runaways and throwaways and found that girls outnumbered boys in each group; that most of these young people were more than 16 years of age; and that most stayed within 50 miles of home and returned home within two days.

In 1995, Research Triangle Institute (RTI) published a national analysis of runaway and homeless youth, commissioned by the U.S. Department of Health and Human Services under the Runaway and Homeless Youth Act (RHYA).²⁸ The findings were based on 1992–93 surveys of youths aged 12 to 17 in households and surveys of youths aged 12 to 21 in shelters and on the streets. Based on the household survey, RTI estimated that *2.8 million children, or 15% of the American youth population* between the ages of 12 and 17, had some runaway experience in the 12-month period preceding the study.²⁹

The Research Triangle Institute’s comprehensive study offers the following profile of runaway children in America: “The picture that emerges from the results of our study is one of troubled youths who are exposed to high risk environments before as well as after they leave home. About half of those generally thought of as runaway could easily be classified as being thrownaway by their families. These youths are much more likely than youths in general to engage in a variety of problem behaviors, including substance abuse, suicide attempts, unsafe sexual behavior, and criminal activities. Those whose families use drugs are particularly likely to be involved in almost all the risky behaviors about which we asked.”³⁰



The report recommends a continuum of services fitted to the profile of runaway youths’ risks and needs. These include comprehensive shelter services (for suicide, pregnancy, and sexually transmitted disease prevention, drug abuse treatment, and family reunification and independent living components); outreach services (particularly for street youths); and community-based services. Some of these shelter and collateral services for runaway youths are already in place.³¹ However, they may not be available in some areas, particularly in small cities or rural locations. Even in larger urban centers, the number of shelter beds and outreach services may be well below what is necessary to meet local demand.³²

The Runaway and Homeless Youth Act (RHYA) mandates federal funding through “Basic Center” grants for shelters and high-risk youth programs at nearly 400 agencies throughout the nation.³³ In 1988, Congress added funds for transitional living programs providing housing and survival skills training

to youths up to age 21 who cannot be reunited with their families. The RHYA also funds runaway switchboards and drug abuse prevention programs. Along with the JJDP, RHYA came to the Congress for reauthorization in 1996.

Even though RHYA funding has helped, states have generally provided only modest funding for runaway youth services.³⁴ Widespread failure of states to fund services for deinstitutionalized runaway youths has several consequences. First, it means that juvenile court intervention may be rendered meaningless because the court lacks access to remedial programs for displaced children. Second, these service gaps sometimes

parents and children may then be referred to a counseling or service agency.

■ *Parent fines and prosecutions.* Some jurisdictions target parents by citing them to appear at truancy hearings and by fining them for failing to make their children attend school.

■ *Driving privilege penalties.* A few states provide a penalty of driver's license revocation or delayed license eligibility for truant minors.³⁶

These enforcement strategies are credited by many local law enforcement agencies with having reduced daytime juvenile crimes and by school authorities with having increased school attendance. However, some critics suggest that the crime reduction benefits of daytime roundup programs may be overstated and that averted daytime crimes may have been pushed into nighttime hours. Others suggest that truancy enforcement efforts produce short-term controls over children whose deeper problems—in the family and in school—are not being addressed in a remedial fashion.³⁵

Schools may be partly to blame for truancy problems. Schools have been criticized for labeling children as troublemakers when they have learning disabilities or developmental problems and for pushing these children out of the educational mainstream.³⁷ Furthermore, increasing violence and firearm possession among school students have been cited as a reason some children stay away from school.³⁸

The juvenile courts are directly involved in some creative community truancy management strategies. One example is the truancy court, which is a cooperative venture of the school district and the juvenile court. A model put forward by the National Council of Juvenile and Family Court Judges is the truancy court in Hamilton County (Cincinnati), Ohio. In Hamilton County, school attendance cases are heard by a judicial officer at a special session in a school or community site. A school representative files the complaint and must attend the hearing along with the minor and the minor's parents. The purpose of the hearing is to explore

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force the court to utilize a surrogate placement such as commitment to long-term foster care or to a mental health facility. The confinement of status offenders in psychiatric hospitals is particularly troubling as an outcome in these cases. Third, failure to serve leads to evaporation of support for the policy of deinstitutionalization.

Truants

Juvenile court jurisdiction in truancy cases has been justified, on the one hand, as a way to enforce compulsory school attendance laws and, on the other hand, as a deterrent to juvenile crime. Crime deterrence has become the prime justification for reinvigorated truancy enforcement in many locations. Some of the more popular enforcement strategies are

■ *Truancy roundups and truancy centers.* Philadelphia, with the fourth-highest truancy rate in the nation, started a daytime apprehension program in which children were arrested, searched, and handcuffed before being taken to a truancy center for evaluation.³⁵ Similar programs have been established in Atlanta, Georgia; Milwaukee, Wisconsin; New York City; San Jose, California; and St. Louis, Missouri. After a truant is taken to one of the centers, parents are called to pick up the child, and

and resolve the problems underlying truancy. Dispositions include a plan or contract signed by the minor and the parents, which may include participation in counseling as well as an agreement to attend school regularly.

Another creative alternative to formal jurisdiction in truancy cases is the teen court or teen jury. In this approach, status and some delinquent offenses are tried by a jury of teenagers. These teen jury programs are often sponsored by the local juvenile court in cooperation with a community-based agency, and the juvenile court judge may sit on the bench to supervise the proceedings. Sentencing is limited to orders of community service and school attendance. Teen courts are generally seen as positive experiences for the teen jurors (often consisting of former defendants) and for the young defendants who must face the judgment of their peers.

Curfew Violators

Most curfew violations are status offenses because curfew laws impose restrictions based solely on age. A typical curfew law is a municipal ordinance that forbids persons under the age of 16 or 17 from being in a public place during late evening or nighttime hours. These ordinances vary greatly from location to location. Some are complex with separate rules for different age groups. Most contain exceptions or defenses for children who are accompanied by an adult or are traveling to or from some acceptable activity.

Curfew laws are increasingly popular in American cities. A 1995 survey of 387 cities by the United States Conference of Mayors disclosed that 7 of 10 cities have curfew laws and that nearly half of the cities surveyed had modified their curfew law or adopted a new one within the past year.³⁹

Curfew ordinances are almost universally justified by a need to control youth gangs and deter juvenile crime. Recent media reports suggest that these laws have been successful in reducing juvenile crime. For example, the Dallas Police Department reported an 18% decline in crimes against juveniles and a 15% decline in arrests of juveniles between 1993 and 1994.⁴⁰

Despite their popularity, curfew laws are challenged by critics who question their

crime-reducing impact and the fairness with which they are enforced. There is some evidence that curfews displace juvenile crime into noncurfew hours and that crime data produced by police departments may not be scientifically reliable as a demonstration of the link between curfew enforcement and the incidence of juvenile crime.⁴¹ Moreover, local curfews have been condemned as discriminatory because of selective enforcement against minority youths. In San Jose, California, nearly 60% of juveniles detained under the city's curfew ordinance were Latino (about double their rate of representation in the local youth population), giving rise to complaints of uneven racial enforcement.⁴²

Curfew laws also face legal challenges based on infringement of minors' rights to freedom of assembly and equal protection of the laws under the U.S. Constitution. Robyn Blunner, executive director of the American Civil Liberties Union of Florida,

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describes the impact of curfews as "placing those of a certain age under virtual house arrest every night with no charges levied, no counsel and no trial."⁴³ Despite this viewpoint, the recent trend of appellate courts deciding lawsuits on the constitutionality of curfew laws has been to support carefully drawn local ordinances.⁴⁴

Juvenile curfew laws are enforced by municipalities in different ways. The simplest model of enforcement is arrest and return to parents. However, this approach may be less effective than enforcement models that require parents to pick up their children at a processing center where minors, parents, and youth counselors must discuss the issue of parental control.⁴⁵ Curfew arrests may also lead to secure detention and to formal processing through the juvenile court.

Curfew violations represent what is probably the fastest growing subclass of status offenders in the United States.⁴⁶ While most

of these cases never reach the juvenile courts, they are important from a policy perspective because they represent the casting of a wide new net of public control over youth, justified by the desire to reduce juvenile crime. Little in the way of scientific research has been conducted to test the crime-reducing impact of curfew laws. Policymakers and juvenile court judges are well advised to ensure that curfew laws are carefully drafted to meet case law requirements.⁴⁷ Moreover, some effort must be made to assure even enforcement of curfew ordinances to avoid disproportionate effects on minority youth.

Conclusion

Several economic, social, and political factors have conspired to challenge the nation's 20-year commitment to a policy of status offender deinstitutionalization. Among these factors are

- Public concern over juvenile crime and related loss of public confidence in the juvenile court's ability to control youth behavior;

- Resource problems and widespread failure to invest in services for status offenders;

- A growing teenage youth population in America⁴⁸ with increasing indices of poverty, abuse, family breakdown, and other risk factors that are correlated with status offense behavior;

- Political shifts resulting in new state-house majorities committed to tough anti-crime and youth control agendas;

- Dissipation of the broad, mainstream advocacy coalition that supported status offender reforms in the mid-1970s.

Some critics have argued that the juvenile court is essentially unable to take effective action in status offender cases and that it should be stripped of jurisdiction over these noncriminal youths.⁴⁹ Most judges would probably prefer to retain jurisdiction so that they can help children and families resolve problems that cause runaway, truant, and other status offense behaviors. The challenge for the judge is to provide help without adequate service options and in a policy environment that seems to favor incarceration as a tool for the control of youthful misconduct.

The juvenile court can take an active role in helping communities develop adequate service options. As Leonard Edwards, supervising judge of the Santa Clara County, California, Superior Court, states, "The judge must . . . take action to ensure that the necessary community resources are available so that the children and families which come before the court can be well-served. This may be the most untraditional role for the juvenile court judge, but it may be the most important."⁵⁰

Of course, the juvenile court cannot alone be responsible for a continuum of services needed to help status offenders and their families. Support must also come from citizens and thoughtful policymakers who understand the complexity of the status offender problem and are willing to dedicate resources to youth and family services.

1. Confusion sometimes arises between the concepts of "deinstitutionalization" and "decriminalization" as applied to status offenders. Deinstitutionalization describes a policy of removing noncriminal juveniles from locked institutions. Decriminalization refers to a policy of removing jurisdiction over status offenders from the juvenile court.
2. There is little research to support the theory that status offenders are highly likely to become more serious criminal offenders or violent offenders. A 1989 study of 863 juveniles referred to the Clark County (Las Vegas), Nevada, Juvenile Court, found that two-thirds of children referred for a status offense did not later commit more serious offenses as juveniles or as adults. Shelden, R.G., Horvath, J.A., and Tracy, S. Do status offenders get worse? Some clarifications on the question of escalation. *Crime & Delinquency* (April 1989) 35,2:202-16.
3. Butts, J.A., Snyder, H.N., Finnegan, T.A., et al. *Juvenile court statistics 1993*. Pittsburgh, PA: National Center for Juvenile Justice, 1996, pp. 33-51.
4. See note no. 3, Butts, Snyder, Finnegan, et al. Appendix entitled "Reported juvenile court cases disposed in 1993 by county." The National Center for Juvenile Justice (NCJJ) warns readers to interpret these data with caution because of differences in state definitions of status

offenses, differences in the number of counties reporting per state, and state variations in the upper age of juvenile court jurisdiction (used to calculate petition rates).

5. National Council on Crime and Delinquency and Office of Juvenile Justice and Delinquency Prevention. Juveniles taken into custody: 1993. Preliminary report. Available from NCCD, 685 Market Street, Suite 620, San Francisco, CA 94105. The figures are one-day counts based on a census of all juveniles in custody in reporting facilities on a single counting day in 1993. This is not to be confused with total annual admissions of status offenders to juvenile facilities.
6. Federal Bureau of Investigation. *Crime in the United States, 1994*. Washington, DC: FBI, p. 236, Table 43.
7. Federal Bureau of Investigation. *Crime in the United States, 1990*. Washington, DC: FBI, p. 193, Table 38.
8. The National Center for Juvenile Justice maintains a national database of state status offender laws, which can be accessed by contacting Linda Szymanski, NCJJ, 710 Fifth Avenue, Pittsburgh, PA 15219, (412) 227-6950. Another resource for tracking state status offender laws is the National Conference of State Legislatures, which publishes an annual state legislative summary of new laws affecting children, youths, and families. Contact Mary Fairchild, NCSL, 1560 Broadway, Suite 700, Denver, CO 80202-5140, (303) 830-2200.
9. *Kent v. U.S.*, 383 U.S. 541 (1966); *In re Gault*, 387 U.S. 1 (1967); *In re Winship*, 397 U.S. 358 (1970).
10. Some states accorded these rights to juvenile law violators only, leaving status offenders without the right to counsel, cross-examination of witnesses, or avoidance of self-incrimination.
11. The status offender deinstitutionalization mandate of the Juvenile Justice and Delinquency Prevention Act (JJDP) is at Public Law 93-415 § 223(a) 12 (A). The mandate is a condition of compliance for states that wish to receive federal funds under the JJDP. As stated in the JJDP, the mandate prohibits any placement of a juvenile status offender or dependent or neglected child in any secure detention facility or secure correctional facility (covering the period from apprehension through disposition of the case). Some exceptions to this general rule are allowed in regulations adopted by the federal Office of Juvenile Justice and Delinquency Prevention (OJJDP), which administers the JJDP. These exceptions include a “grace period” of 24 hours of detention which states are not required to report to OJJDP and the “valid court order” exception discussed elsewhere in this article. See 28 Code of Federal Regulations 31.303 (f) (3) and (5).
12. U.S. General Accounting Office. *Noncriminal juveniles: Detentions have been reduced but better monitoring is needed*. GAO/GGD-91-65. Washington, DC: GAO, 1991.
13. Klein, M. Deinstitutionalization and diversion of juvenile offenders: A litany of impediments. In *Crime and Justice*. N. Morris and M. Tonry, eds. Chicago: University of Illinois Press, 1979, Vol. I, p. 145; see also Krause, W., and McShane, M.A. Deinstitutionalization retrospective: Relabeling the status offender. *Journal of Crime and Justice* (1994) 17,1:45–67, which found that girls in a California study cohort were more likely than boys to be relabeled, adjudicated, and placed out of the home.
14. Schwartz, I. The hidden system of juvenile control. *Journal of Crime and Delinquency* (1984) 30,3:371–85.
15. Juvenile Justice and Delinquency Prevention Act of 1974, as amended 1980 (Public Law 96-509 § 11 [a] [13]). The JJDP was amended again in 1984 to define a valid court order (Public Law 98-473 § 613 [b]).
16. See 28 Code of Federal Regulations 31.303 (f) (3).
17. See note no. 12, U.S. General Accounting Office, pp. 22–24. This report also notes wide discrepancies in state utilization of the VCO exception; for example, in 1988, the report found that Ohio alone accounted for 51% of all VCO detentions nationally in that year (at pp. 51, 73).
18. Metropolitan Court Judges Committee. *A new approach to runaway, truant, substance abusing and beyond control children*. Reno, NV: National Council of Juvenile and Family Court Judges, Metropolitan Court Judges Committee, 1990.
19. Alfred Regnery, administrator of the Office of Juvenile Justice and Delinquency Prevention. As quoted in Schwartz, I. *Justice for juveniles: Rethinking the best interests of the child*. Lexington, MA: D.C. Heath, 1989, p. 119.
20. The Becca Bill in Washington State is Substitute Senate Bill No. 5439, Chapter 312, Laws of 1995.
21. Lowry, Mike. Letter to the Senate of the State of Washington explaining partial veto of Substitute Senate Bill No. 5439. May 10, 1995, p. 3.

22. In 1996, the Washington legislature modified the Becca Bill with legislation known as “Becca Too.” The governor vetoed certain sections of the bill passed by the legislature but approved provisions for limited custody of status offenders with mental health or chemical dependency problems in staff-secure facilities. E2SHB 2217 (Chapter 133, Laws of 1996).
23. Based on telephone interviews with Victoria Wagner and Phil Sullivan, director and associate director of YouthCare in Seattle, February 21, 1996. YouthCare provides shelter, outreach, and counseling services to runaways and other troubled adolescents.
24. House Concurrent Resolution (HCR) 28 (Connors), May 1, 1996.
25. California Assembly Bill (AB) 2531 (Goldsmith).
26. U.S. Congress, Senate Judiciary Committee, Subcommittee on Youth Violence. *Funding youth violence programs: Should the strings be cut?* 104th Cong., 1st sess. March 12, 1996. Opening statement of Senator Fred Thompson.
27. Finkelhor, D., Hotaling, G., and Sedlak, A. *Missing, abducted, runaway and throwaway children in America. First report: Numbers and characteristics, national incidence studies (NISMART)*. Washington, DC: Office of Juvenile Justice and Delinquency Prevention, May 1990.
28. Greene, J.M., Ringwalt, C.L., Kelly, J.E., et al. *Youth with runaway, throwaway and homeless experience: Prevalence, drug use and other at-risk behaviors, Volume I: Final report*. Washington, DC: U.S. Department of Health and Human Services, Administration on Children, Youth and Families, February 1995.
29. A runaway experience was defined by Research Triangle Institute researchers to include an unauthorized overnight stay away from home. No explanation is offered in the RTI report for the large discrepancy between its estimates of annual runaways in America and the estimates of the NISMART report in 1990. See note no. 27, Finkelhor, Hotaling, and Sedlak, and note no. 28, Greene, Ringwalt, Kelly, et al. The RTI national estimate of runaways is almost five times greater than the NISMART estimate. One possible factor contributing to the discrepancy is that parents interviewed in the NISMART household survey may have underreported the runaway behavior of their children.
30. See note no. 28, Greene, Ringwalt, Kelly, et al., p. E-16.
31. The Research Triangle Institute surveyed the national availability and use of shelter beds for runaway and homeless youths. It found that the national shelter bed capacity for these youths was 7,500 with an average daily occupancy rate of 55% of capacity. The RTI report estimates that 115,000 youths per year are served by this network of shelter beds. See note no. 28, Greene, Ringwalt, Kelly, et al., pp. 14–16.
32. The Little Hoover Commission in California produced a study of runaway and homeless youths in that state and concluded that many of their needs were unmet. According to this report, nearly 6,000 runaways were turned away from Los Angeles youth shelters that were full between October 1986 and July 1988, and another 1,190 were refused shelter in San Diego for the same reason in 1987. See *Runaway/homeless youths: California's efforts to recycle society's throwaways*. Sacramento, CA: Little Hoover Commission, April 1990, pp. 13–18.
33. Public Law 93-415. This law was first adopted as Title III of the JJDP of 1974. The Runaway and Homeless Youth Act (RHYA) is now administered by the Department of Health and Human Services through its Family and Youth Services Bureau.
34. RHYA Basic Center funding level nationwide in FY 1994–95 was \$36 million. These grants supported approximately one-third of the actual operating costs of the centers, according to *A state survey of runaway and homeless youth laws*. Chicago, IL: American Bar Association Center on Children and the Law, 1994, p. 3.
35. Hinds, M. Philadelphia adopts tough truant policy, with handcuffs, too. *New York Times*. February 9, 1994, at B20.
36. See, for example, California Education Code § 13202.7; West Virginia Code § 18-8-11; or Kentucky Revised Statutes Annotated § 159.051.
37. A majority of child welfare workers responding to a survey of their attitudes toward status offenders believed that schools were not effectively meeting the needs of children and adolescents with learning disabilities and attention deficit disorders, and that fewer of these children would be processed through the juvenile justice system if the school did a better job of meeting their educational needs. See Russel, R., and Sedlak, U. Status offenders: Attitudes of child welfare practitioners toward practice and policy issues. *Child Welfare* (January/February 1993) 72,1:13,19.

38. According to a 1991 U.S. Department of Justice survey of 758 students at 10 inner-city schools in four states, 45% said they had been threatened by a firearm or shot at on the way to school. See Sheley, J.F., and Wright, J.D. Gun acquisition and possession in selected juvenile samples. In *Research brief*. Washington, DC: National Institute of Justice and the Office of Juvenile Justice and Delinquency Prevention, December 1993.
39. Poinke, J. Conference survey finds cities moving to youth curfews. *U.S. Mayor* (December 11, 1995) 20,62:8-9.
40. Click, B.R., Chief of Police for Dallas, Texas. Statistics in Dallas encouraging. *The Police Chief* (December 1994) 61:33-36.
41. Two researchers reviewing the rapid multiplication of curfew laws in the United States have concluded: "There is so little existing research on the effects of curfews that policymakers have next to nothing to guide them concerning the benefits and costs of a curfew." See Ruefle, W., and Reynolds, K.M. Curfews and delinquency in major American cities. *Journal of Crime and Delinquency* (July 1995) 41:347-63.
42. Gaura, M.A. San Jose report says crime less since curfew. *San Francisco Chronicle*. November 22, 1995, at A23.
43. Brantley, O.H., and Blummer, R.E. Curfews for juveniles. *American Bar Association Journal* (April 1994) 80:40-41.
44. The most authoritative recent case was decided in 1993 by the U.S. Court of Appeals for the Fifth Circuit, in a lawsuit brought against the Dallas, Texas, juvenile curfew law. The Dallas ordinance prohibited persons under the age of 17 from being in public places after 11 P.M. on weekdays and midnight on weekends, with specific exceptions for after-hour youth activities. The court ruled that the city had adopted "the least restrictive means" of implementing a compelling state interest in protecting juveniles from crime. *Qutb v. Strauss*, 11 Fed.3d 488 (5th Circuit 1993).
45. U.S. Conference of Mayors. Survey finds most cities with youth curfews. News. December 11, 1995. This press release states that "many cities report lack of parental intervention as the chief reason for repeat curfew offenses. Those which use approaches combining parents, law enforcement officials and the schools tend to view curfews as more effective. Those taking more conventional approaches involving picking up curfew offenders, taking them to a holding facility, citing them or their parents, and putting them into the court system tend to view curfews as less effective."
46. The FBI has reported a 65% increase in the number of juvenile "curfew and loitering" arrests in the United States between 1990 and 1994, a far greater increase than can possibly be explained by the increase in the national youth population for this period. See note nos. 6 and 7, Federal Bureau of Investigation.
47. For a brief and instructive review of federal policy and case law affecting curfew violators, with examples of local ordinances and programs, see LeBoeuf, D. Curfew: An answer to juvenile delinquency and victimization? *Juvenile Justice Bulletin*. Washington, DC: April 1996.
48. Byerly, E., and Deardorff, K. (U.S. Department of Commerce, Office of Juvenile Justice and Delinquency Prevention, Bureau of the Census). *National and state population estimates: 1990 to 1994*. Current Population Reports, Series P25-1127. Washington, DC: U.S. Government Printing Office, July 1995, p. 16, Table 5.
49. See Terry, F., ed. *Juvenile justice policy statement*. Position 3. San Francisco: National Council on Crime and Delinquency, April 1991, p. 2. See also note no. 19, Schwartz, p. 162. For a judge's view of the court's limitations in status offender cases, see Ketcham, O.W. Jurisdiction over status offenders should be eliminated from juvenile courts. *Boston University Law Review* (1977) 57,4:745.
50. Edwards, L.P. The juvenile court and the role of the juvenile court judge. *Juvenile and Family Court Journal* (1992) 43,2:29.