

to life in prison for burglary. He challenged his punishment under the Eighth Amendment, and the U.S. Supreme Court agreed that it was cruel and unusual. 12. *Miller v. Alabama*.⁴³ Evan Miller was convicted of capital murder after he and a friend beat and robbed a neighbor, then set his house on fire. He was 14 when he committed the offense. Under Alabama law at the time, offenses of this sort demanded life in prison without regard to the circumstances, including the age of the offender. In a 5–4 vote, the U.S. Supreme Court decided that “the Eighth Amendment forbids a sentencing scheme that mandates life in prison without the possibility of parole for juvenile offenders.”

These Supreme Court cases (see Figure 5–1 for a summary) defined the legal rights of juveniles, but they are not the only cases that did so. The Supreme Court has decided well in excess of a hundred cases addressing all aspects of juvenile justice, ranging from rights during police confrontations and in the preadjudication phase to conditions of confinement and release decisions.⁴⁴

Federal Legislation In 1968, Congress passed the **Juvenile Delinquency Prevention and Control Act (JDPCA)**.⁴⁵ The legislation encouraged states to develop community-level plans to prevent juvenile delinquency, and approved programs received federal funding to support their implementation. The act was later replaced by the **Juvenile Justice and Delinquency Prevention Act (JJDP)**,⁴⁶ which was passed in 1974. This legislation created three new entities:

1. Office of Juvenile Justice and Delinquency Prevention (OJJDP)
 2. Runaway Youth Program
 3. National Institute for Juvenile Justice and Delinquency Prevention
- The JJDP Act legislation was also responsible for some key reforms that affected juvenile justice in general and juvenile courts in particular:

- *Institutionalization of status offenders*. Subject to certain exceptions, status offenders cannot be held in secure detention or confinement, and such offenders should receive treatment and services.
- *Prohibition of juveniles’ detention in adult jails*. Except for limited periods before and after their court hearings, juveniles cannot be placed in adult lockups; however, children who are tried and convicted in adult court are exempt from this.
- *“Sight and sound” separation*. If a juvenile is placed in an adult lockup, contact with adults is prohibited, a provision designed to protect children from physical and psychological abuse inflicted on them by adult inmates.
- *Disproportionate minority confinement*. States are required to do something about the disproportionate confinement of minorities in juvenile facilities.⁴⁷

See Box 5–2 for more details.

JUVENILE COURTS TODAY: PRIORITIES, ORGANIZATION, AND PROCESS

Today, juvenile court priorities vary from state to state, and the same is true of the juvenile court organization and the juvenile court process. We begin with a look at juvenile court priorities.

Priorities

Variation in the way juvenile courts are set up owes in part to the legislative priorities of the juvenile justice system. Some states attempt to follow a “balanced and restorative justice”

Web Extra
5–2 Changing Perspectives on Juvenile Justice

Juvenile Delinquency Prevention and Control Act (JDPCA)

The U.S. federal legislation that encouraged states to develop community-level plans to prevent juvenile delinquency.^{viii}

Juvenile Justice and Delinquency Prevention Act (JJDP)

The U.S. federal legislation that replaced the JDPCA of 1968, created several new entities, and enacted key reforms that affected juvenile justice in general and juvenile courts in particular.^{viii}

Learning Objective 2

Explain the purpose, organization, and process of juvenile courts.

Web Extra

5–3 National Council of Juvenile and Family Court Judges

BOX 5-2 Core Elements of the Juvenile Justice and Delinquency Prevention Act

The Juvenile Justice and Delinquency Prevention Act of 2002 (the Act) establishes four custody-related requirements.

The *deinstitutionalization of status offenders and nonoffenders requirement* (1974) specifies that juveniles not charged with acts that would be crimes for adults “shall not be placed in secure detention facilities or secure correctional facilities.” This requirement does not apply to juveniles charged with violating a valid court order or possessing a handgun, or those held under interstate compacts.

The *“sight and sound separation” requirement* (1974) specifies that “juveniles alleged to be or found to be delinquent and [status offenders and nonoffenders] shall not be detained or confined in any institution in which they have contact with adult inmates” in custody because they are awaiting trial on criminal charges or have been convicted of a crime. This requires that juvenile and adult inmates cannot see each other and no conversation between them is possible.

The *“jail and lockup removal” requirement* (1980) states that juveniles shall not be detained or confined in adult jails or lockups. There are, however, several exceptions. There is a 6-hour grace period that allows adult jails and lockups to hold delinquents temporarily while awaiting transfer to a juvenile facility or making court appearances. (This exception applies only if the facility can maintain sight and sound separation.) Under certain conditions, jails and lockups in rural areas may hold delinquents awaiting initial court appearance up to 48 hours. Some jurisdictions have obtained approval for separate juvenile detention centers that are colocated with an adult facility; in addition, staff who work with both juveniles and adult inmates must be trained and certified to work with juveniles.

Regulations implementing the Act exempt a juvenile held in secure adult facilities if the juvenile is being tried as a criminal for a felony or has been convicted as a criminal felon. Regulations also allow adjudicated delinquents to be transferred to adult institutions once they have reached the state’s age of full criminal responsibility, where such transfer is expressly authorized by state law.

In the past, the *“disproportionate minority confinement” (DMC) requirement* (1988) focused on the extent to which minority youth were confined in proportions greater than their representation in the population. The 2002 Act broadened the DMC concept to encompass all stages of the juvenile justice process; thus, DMC has come to mean *disproportionate minority contact*.

States must agree to comply with each requirement to receive Formula Grants funds under the Act’s provisions. States must submit plans outlining their strategy for meeting these and other statutory requirements. Noncompliance with core requirements results in the loss of at least 20% of the state’s annual Formula Grants Program allocation per requirement.

As of 2005, 56 of 57 eligible states and territories were participating in the Formula Grants Program. Annual state monitoring reports show that the vast majority were in compliance with the requirements, either reporting no violations or meeting *de minimis* or other compliance criteria. ■

Source: H. N. Snyder and M. Sickmund, *Juvenile Offenders and Victims: 2006 National Report* (Washington, DC: U.S. Department of Justice, Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention, 2006), chap. 4, p. 97. Copyright © 2006 National Center for Juvenile Justice. Reprinted by permission.

approach, emphasizing public safety, individual accountability, and offender services.⁴⁸ Others follow the Standard Juvenile Court Act, which states,

[E]ach child coming within the jurisdiction of the court shall receive . . . the care, guidance, and control that will conduce to his welfare and the best interest of the state, and that when he is removed from the control of his parents the court shall secure for him care as nearly as possible equivalent to that which they should have given him.⁴⁹

Still other states follow the *Legislative Guide for Drafting Family and Juvenile Courts*, which lists four purposes of juvenile courts:

1. To provide for the care, protection, and wholesome mental and physical development of children involved with the juvenile court
2. To remove from children committing delinquent acts the consequences of criminal behavior, and to substitute therefore a program of supervision, care, and rehabilitation

Organization

A few states have stand-alone juvenile courts, and others adjudicate juvenile cases in family courts. The most common approach is to have juvenile court as part of the state's trial court system. Following is a discussion of three common methods of juvenile court organization.

Web Extra
5-5 National Youth Court
Center

Stand-Alone Courts Stand-alone juvenile courts are found in relatively few states, including Colorado (in the city of Denver), Georgia, Massachusetts, Nebraska, and Utah.⁵¹ These courts have their own administration, staff, judges, and other personnel. Utah, the state with perhaps the most developed juvenile court system, has 27 juvenile court judges in the state's eight judicial districts.

Some states have a mix of stand-alone juvenile courts and juvenile courts that are part of general jurisdiction courts. In Tennessee, juvenile court jurisdiction is vested with what are called general sessions courts, which are county-level limited jurisdiction courts charged with adjudication of a range of case types. But some counties have created their own stand-alone courts, which are separate from the general sessions courts.

Family Courts Another approach is to adjudicate juvenile cases in dedicated family courts. These family courts have jurisdiction over cases of several types: divorce, child custody, child support, alimony, adoption, and property settlement, to name a few. States with dedicated family courts include Delaware, New York, Rhode Island, South Carolina, Vermont, and West Virginia.⁵² Some are independent from general jurisdiction courts; others are separate divisions of general jurisdiction trial courts.

General Jurisdiction Courts The majority of states have opted to process juvenile cases in their general jurisdiction courts.⁵³ For example, in California, there are three types of juvenile cases adjudicated in superior court: delinquency cases, status offense cases, and dependency cases.⁵⁴ In the District of Columbia, juvenile cases are adjudicated in the family court division of the superior court, but note that family court is a *division* rather than a dedicated court. In light of the variability from one state to the next—and continual changes to the jurisdiction of juvenile courts—readers are advised to read up on their own state's legal arrangement.⁵⁵

To further complicate matters, states continue to pass laws and enact new courts that adjudicate juvenile cases. These are stand-alone courts at times, are sometimes tied to family courts, and are often connected to general jurisdiction courts. To muddy the waters even further, some states have juvenile courts dedicated to specific types of juvenile offenses, such as drug abuse and cyberbullying. For more information on specialized courts, see Chapter 6.

Web Extra
5-6 National Crime Prevention
Council: Antibullying Resources

Process

The juvenile court process proceeds through four main steps: intake, detention, judicial decision, and judicial disposition. To see how a hypothetical 1,000 cases are disposed of from one of these steps to the next, see Figure 5-3.

Some states have adopted their own procedures that differ from what we present here, so it is best to consider our description of the juvenile court process as a generic one. As the OJJDP has remarked,

From state to state, case processing of juvenile law violators varies. Even within states, case processing may vary from community to community, reflecting local practice and tradition. Any description of juvenile justice processing in the U.S. must, therefore, be general, outlining a common series of decision points.⁵⁶

Web Extra
5-7 Children's Defense Fund

COURTS IN THE NEWS

Cyberbullying

While in the past bullies were found in the school yard, they can now use the Internet to harass their victims through e-mails or instant messages. Obscene, insulting, and slanderous messages can be posted to social media sites or sent directly to the victim via cell phones; bullying has now morphed from the physical to the virtual. While it is difficult to get an accurate count of the number of teens who have experienced cyberbullying, a recent study by Justin Patchin and Sameer Hinduja found that more than 20 percent of the youth surveyed reported being the target of cyberbullying. Adolescent girls are significantly more likely to have experienced cyberbullying in their lifetimes (26 percent versus 16 percent) than boys. Girls are also more likely to report cyberbullying others during their lifetime (21 percent versus 18 percent). The type of cyberbullying tends to differ by gender; girls are more likely to spread rumors, while boys are more likely to post hurtful pictures. There have been a number of cases in which victims of cyberbullying have committed suicide as a result of prolonged abuse, most notoriously Phoebe Prince in Massachusetts and Jessica Laney, a 16-year-old Florida girl who took her own life in 2012 after being tormented on the Internet.

The first prosecution in American history of a cyberbullying case has led to the conviction of a Missouri woman on three of seven charges brought by federal prosecutors. Lori Drew, a 49-year-old mother of three, was convicted of three relatively minor misdemeanor charges relating to unauthorized computer access. She was acquitted of three additional felony charges of deliberately harassing a neighbor girl who ultimately committed suicide. The jury was unable to reach a decision on an additional conspiracy charge. Prosecutors had contended that Ms. Drew created the fake identity of a 16-year-old boy and used it to establish an online relationship with the 13-year-old girl, Megan Meier, and then led the relationship into abuse by mercilessly teasing and humiliating the girl until she was driven to suicide. Included in Ms. Drew's communications with Ms. Meier was a statement by Ms. Drew, in her role as the fictitious "Josh Evans," that "the world would be a better place" without Ms. Meier in it. Prior to its use in the cyberbullying case, the federal computer crime statute had been used only in computer hacking cases.

The case has put a spotlight on the terms of service that users must agree to in order to use a cyber site's services.



AP Photo/Nick Ut

Associate law professor Greg Lastowka of Rutgers School of Law contends that the terms are typically "written to protect the companies you are dealing with." Ms. Drew was ultimately convicted under the 1986 Computer Fraud and Abuse Act of violating the MySpace terms and conditions agreement rather than more serious felony charges, including a conspiracy count.

In a thought-provoking article, one *New York Times* journalist asked this chilling question: "Is lying about one's identity on the Internet now a crime?" At least one other journalist has questioned whether the verdict in this case should be overturned.

It is a reality that laws must evolve to cope with changing technology, but this case raises significant questions. Ms. Drew was convicted of misrepresenting herself online (the conviction was later vacated). What's next? Will an unattractive dweeb be able to sue the beautiful redhead he approached in a bar on Saturday night because she gave him a fake phone number? Imagine the number of such "law violations" that occur in an ordinary bar on an ordinary Saturday night. In the final analysis, it seems that the federal prosecutors fell back on the Computer Fraud and Abuse Act because they could not find a law that fit Ms. Drew's deplorable actions.

Bullying has become a serious problem in society today, and it is a problem on which much media attention is focused. This case is rather unusual, however, in that it does not involve peer-to-peer bullying, as might occur on a school playground between two children. It involves, instead, repeated cyberbullying of a teenager by another girl's mother. The interaction between the parties did not occur face-to-face but occurred online through the medium of the Internet. ■

DISCUSSION QUESTIONS

1. Is cyberspace sufficiently like other aspects of our everyday social world that it should be subject to the criminal laws of wider society?
2. What role should the criminal courts play in the regulation of cyberspace?

(continued)