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Should We Eliminate the Special System of Juvenile Justice?

The Distinct Juvenile Justice System Should Be Eliminated

Advocate: Jeffrey A. Butts, Research Fellow at Chapin Hall, Center for Children at the University of Chicago; formerly senior research associate in the Program on Law & Behavior at the Urban Institute, Washington, DC.

Source: "Can We Do Without Juvenile Justice?" *Criminal Justice Magazine*, Volume 15, Number 1 (Spring 2000).

The Juvenile Justice System Must Be Improved and Preserved

Advocate: Hon. Arthur L. Burnett, Sr., Senior Justice of the Court of the District of Columbia; also serves as "judge-in-residence" with the Black Community Crusade for Children of the Children's Defense Fund.

Source: "What of the Future? Envisioning an Effective Juvenile Court," *Criminal Justice Magazine*, Volume 15, Number 1 (Spring 2000).

In the United States has moved toward a more punitive and retributive model of criminal justice, with less emphasis on rehabilitation and more on severe punishment, the treatment of juvenile offenders has undergone a similar change. More and more juveniles are transferred to regular adult criminal court, and more juveniles are sentenced to adult prisons. The minimum age for transfer in most states is 14, and in some states even younger children can be transferred from juvenile to criminal court; and several states have made 15 the maximum age to be tried in juvenile court. In some juvenile systems the emphasis has moved more toward blame and punishment rather than rehabilitation.

This "get tough" approach to juvenile justice was in large part motivated by media accounts of extremely violent youthful "superpredators," young people

who were supposedly much more brutal and violent and dangerous than in early years. This “urban myth” of a wave of terrifying superpredator youth was debunked by a report by the U.S. Surgeon General, whose research revealed “no evidence that the young people involved in violence during the peak years of the early 1990s were more frequent or more vicious offenders than in early years.” But the false perception proved more influential than the sensational facts.

The move away from juvenile systems, and toward greater (or even excessive) use of the adult criminal system for juvenile offenders, has two distinct motivations. On the one hand, there are those who push a “get tough” policy on juveniles in the belief that meting out the severe punishments of the adult criminal system will deter juveniles from committing crimes. On the other hand, there are also those who believe that the rights of accused juveniles are inadequately protected by the looser procedures of juvenile justice, and that, therefore, transferring them into the criminal court system will better protect their basic rights.

Points to Ponder

- Under the current juvenile court system, a juvenile charged with a felony is tried before a juvenile court judge, and cannot choose a jury trial. Should juveniles accused of a serious crime have the right to a jury trial, just as adult defendants have the right to a trial by jury? If the basic right to a trial by jury is a right to be tried by a “jury of one’s peers,” should the jury trial of a juvenile defendant include other juveniles on the jury?
- Thirteen-year-old children are generally a year away from entering high school; but if a 13-year-old child borrows a readily available gun from his dad’s car and robs a pizza stand, then in Georgia that 13-year-old is automatically tried in criminal court for armed robbery, and is likely to receive a long mandatory sentence in a harsh adult prison environment. Is such a policy consistent with the American concept of justice? Does it matter that such a policy violates international policy standards for the treatment of juveniles?
- The juvenile court system is *supposed* to be distinctly different from the criminal court system. What are some of the differences that are *supposed* to characterize the different systems? Are those differences still there? Are the differences still worth promoting?
- Jeffrey Butts suggests that new specialized criminal courts might replace the juvenile court system; if you favor that alternative, what are some of the features that you would want such a specialized youth court to have? Should *all* youthful offenders—including those who are 10 or 11—be tried in such courts?
- Justice Burnett notes that “much delinquent behavior can be traced to [dysfunctional] family dynamics,” and he contends that “Judges should

authorized to order family members into counseling and treatment along with the juvenile." This is a somewhat radical suggestion: that when a youthful family member gets into trouble, a judge should have the power to order other family members (who have not been charged with any crime) to undergo specific treatment programs. Is this a good idea?

- Though Butts and Burnett are arguing for very different conclusions, on what key points would they agree?

Can We Do Without Juvenile Justice?

Jeffrey A. Butts

To satisfy constituent demands for stronger crime policies, elected officials throughout the U.S. are gradually dismantling the juvenile justice system and replacing it with a pseudocriminal system, one that emphasizes mandatory sentences and formal, adversarial procedures. Large portions of the juvenile court's original caseload have already been re-assigned to the criminal court. Is the separate, juvenile justice system still feasible? If not, what can replace it? Policymakers need to confront these questions, and they need innovative answers. New policies should aim for more than simply abolishing the juvenile court's delinquency jurisdiction and sending all young offenders to conventional criminal courts.

A compelling argument can be made for abolishing the juvenile justice system, or more specifically, abolishing

delinquency, the idea that young offenders aren't fully responsible for their behavior and should be handled in a separate court system. Abolishing delinquency is not the same thing as abolishing the entire juvenile court. Even if lawmakers ended the juvenile court's jurisdiction over criminal law violations, the juvenile court could continue to handle other types of cases (e.g., abused and neglected children, truants, curfew violations). In fact, youthful offenders could continue to be handled by the same judges in the same courtrooms that handle them now, but the courts would operate as youth divisions of a criminal court using criminal procedures under the criminal code.

Neither would abolishing delinquency require that all young offenders be sent to adult correctional programs or adult probation agencies. Many

Jeffrey A. Butts, "Can We Do Without Juvenile Justice?" *Criminal Justice Magazine*, Volume 15, Number 1 (Spring 2000). Copyright © 2000 by the American Bar Association. Printed with permission.

states already operate separate correctional facilities for young adults. The decision to handle all young offenders in the criminal court would not prevent correctional specialization. States would still be free to separate offenders by age when incarcerating or otherwise supervising convicted offenders, and the federal government would still be free to require such separation as a condition of financial support for state corrections agencies.

Debate over abolition of the juvenile justice system refers only to the court's responsibility for delinquency cases. Policymakers must decide what type of court should have legal jurisdiction over young people who violate the law. The debate centers on whether to continue defining law violations by young people as delinquent acts, or to classify them simply as crimes and refer them to criminal court.

Are Juvenile Courts Still Different?

Juvenile courts today bear only a passing similarity to the original concept of juvenile justice formulated a century ago. State lawmakers built the first juvenile courts around an informal, quasi-civil process. Juvenile court judges had broad discretion with which they could intervene quickly and decisively, even in cases involving hard-to-prove charges. Juvenile offenders received minimal procedural protections in juvenile court, but in return they were promised a court that would focus on their best interests. The mission of the juvenile court was to help young law violators get back on the right track, not simply to punish their illegal behavior.

Long before the first juvenile court reached its 100th birthday in 1999, this original notion of juvenile justice had been largely abandoned in state courts. According to Professor Barry Feld of the University of Minnesota, America's juvenile courts became "scaled-down, second-class criminal courts." In his view and the view of other abolitionists, the court's responsibility for young offenders should be ended. The juvenile court now lives up to its part of the initial bargain. Prosecutors in juvenile court promote dispositions that are proportional retribution. Judicial decisions are based explicitly on the severity of each juvenile's crime rather than the complexity of his or her problem.

The juvenile justice system has strayed too far from its original mission, according to Feld. Policymakers should cancel the nation's juvenile justice experiment. Today's juvenile court retains much of the terminology of juvenile law, but it functions as a pseudocriminal court. Worse, it fails to provide complete due process protections for accused youth. Juvenile courts are still not required to provide bail, jury trials, or the right to a trial for youthful offenders.

Feld recommends that all law violations be handled in criminal court, although he hopes the system will continue to recognize the lessened culpability of the very young by imposing sentences with a "youth discount." A 17-year-old defendant would receive 75 percent of the sentence imposed on an 18-year-old, a 16-year-old would receive 50 percent, etc. Even if Feld's "youth discount" is ultimately rejected by policymakers, the insights and observations on which he bases his proposal

the first juvenile court's 100th birthday in 1909, the abolition of juvenile justice has been largely abandoned by the time of the University of Chicago's juvenile court study. In his view and that of many others, the court's responsibility for offenders should be maintained. The court no longer is the initial bargaining place for the juvenile court operator. Judgments that amount to a sentence of probation. Judicial decisions are explicitly on the severity of the crime rather than on the offender's or her problems. The juvenile justice system is not to be removed from its original purpose. Feld. Policymakers are not to change the nation's juvenile justice system. Today's juvenile court is not to change the terminology of the juvenile court. It functions as a court. Worse, it fails to provide due process protection for the youth. Juvenile courts are required to provide the right to a speedy trial for offenders. Feld argues that all law enforcement agencies in criminal justice will change the system will change the lessened culpability of young by imposing a "youth discount" on the defendant would be the sentence length. A 16-year-old would be sentenced to 10 years. Even if Feld's proposal is ultimately rejected by the courts, his insights and observations suggest his proposal is not to be ignored.

be ignored. Lawmakers will soon have to confront the basic question, "Can we do without the juvenile justice system?"

Juvenile Justice Politics

The juvenile justice system provokes strong opinions, and not all of them fit into neat categories like "liberal" or "conservative." It would be wrong to assume that all critics of the juvenile court are heartless, law-and-order types who feel little compassion for the poor, disproportionately minority youth who comprise the bulk of the juvenile court's clients. The critics most in favor of abolishing the juvenile justice system (Professor Feld, for example) are often motivated by a concern for youth. In their view, the juvenile court has never lived up to its rehabilitative promise and it never will. More importantly, the juvenile court's lower standards of due process are no longer tolerable given its modern emphasis on just deserts and retribution. Courts were meant to handle law violations, the abolitionists say, not social welfare problems.

It would also be wrong to characterize all defenders of the juvenile court as "soft on crime" or unconcerned with victim rights. Some of those who defend the juvenile justice system do so because they believe despite its flaws, the juvenile court offers a unique opportunity for broad, early intervention and effective crime prevention. In fact, the juvenile court was originally conceived as an informal, quasi-civil court precisely in order to free it of the procedural complexities that prevent the criminal court from acting too aggressively. The juvenile court was deliberately designed to be flexible and quick to intervene.

Both extremes in the battle over juvenile justice can go too far in pursuing their agenda. The traditionalists support a strict demarcation between juvenile and adult court and would like to save the original concept of an informal, nonstigmatizing, juvenile justice system. This position is completely unrealistic, however, given the legislative changes already implemented across the country. Contemporary juvenile courts operate much like criminal courts with strict rules of evidence, adversarial procedures, and official goals that include incapacitation and retribution. Moreover, nearly every state has enacted laws to send greater numbers of youth to adult court. It is too late to save the traditional system because the traditional system is already gone.

Abolitionists, however, can be just as impractical. Many would simply eliminate the juvenile court's responsibility for young offenders. If juveniles are going to be punished according to the severity of their crimes, the abolitionists argue, they should be tried in real courts with full due process rights. The abolitionists contend it is no longer possible to maintain the fiction that juvenile courts are fundamentally different. Yet, without significant reform of the criminal courts, the abolition of juvenile justice would require sending all youth—even the youngest and most vulnerable—to the same general trial courts criticized by policymakers as ineffective and overwhelmed. If the traditionalists appear naïve, the abolitionists seem reckless.

Policymakers have tried to find middle ground in this conflict. Unfortunately, their compromise solution was to slowly criminalize the juvenile court. Especially since the U.S.

Supreme Court's *Gault* decision in 1967, lawmakers across the country have encouraged juvenile courts to embrace the goals and operational style of criminal courts. Juvenile courts today pursue many of the objectives once unique to criminal courts, including incapacitation and retribution. Both juvenile courts and criminal courts rely on plea bargaining for case outcomes. Both are forced by growing caseloads to adopt assembly-line tactics and they often have difficulty providing individualized dispositions. The day-to-day atmosphere in modern juvenile courts (especially in urban areas) is increasingly indistinguishable from that of criminal courts.

Although these reforms may have been enacted for good reason, they raise serious questions about the continuing need for a separate, juvenile court system. As lawmakers continue to increase the similarity of juvenile and criminal court sanctions, it becomes harder to rationalize the separation of the process that imposes them. As judicial discretion is restricted, the juvenile court's once sweeping authority becomes diluted, making the court more bureaucratic and inflexible. Decades of reform increased the severity of the juvenile court process, but they also curtailed the court's ability to provide individualized and comprehensive interventions for young offenders.

Sacrificing Some to Save Others

Do we still need a separate, juvenile justice system? Throughout most of the juvenile court's 100-year history, there was little doubt that we did. Juvenile courts allowed society to

intervene early in the lives of youth and they prevented a variety of horrors that occurred whenever defendants were thrown in with criminals. Defending the juvenile was instinctive among youth advocates, social workers, family therapists, clergy, educators, defense attorneys, judges, and even many prosecutors.

If there were no costs to maintaining a separate juvenile court, there would be no debate its existence now. All conscious and well-intentioned people would support the juvenile court without question. In recent years, however, it has become clear that even if we retain the separate, juvenile system, it will entail significant costs, for the system and for youth.

Juvenile justice as currently practiced imposes two significant costs on American youth. First, the juvenile court itself no longer delivers on its promise (rehabilitation at a cost of stigma in exchange for the juvenile process). Second, the continued existence of the juvenile justice system (even if in name only) allows corrections, and other youth-serving agencies to ignore the inherent harmfulness of many offenders now treated as adults. Thousands of 14- and 15-year-old "adults" are sent to criminal courts every year and treated just like any other adult. They are no longer a concern to youth-serving professionals. Of course, there are the many more thousands of youths ages 18 and 19 who are sent through the same either—or system, either juvenile or adult.

The growing use of criminal court transfer (or waiver) has been a major factor in aging to the institutional integri-

the lives of troubled youth. It prevented a variety of problems that occurred whenever young people were thrown in with adults. By keeping the juvenile court separate from the adult court, among youth advocates, family therapists, defense attorneys, and many prosecutors, there were no costs to be paid for having a separate juvenile court. There would be no need to pay for it now. All conscious and unintended people who were in the juvenile court were in the juvenile court. In recent years, however, it is clear that efforts to separate, juvenile court costs, for the justice system, youth.

Justice as currently practiced has no significant costs to the justice system. First, the juvenile court no longer delivers on its promise of rehabilitation and change for less than the cost of the continuing care of the juvenile justice system (the only) allows costs to be saved and other youth services are the inherent costs of the juvenile justice system. Offenders now defined as adults are removed from the juvenile system every year. This is any other adult. There is a concern to youth advocates. Of course, there are many more thousands of youth and 19 who are victims of crime either—or are victims of crime or adult.

The use of criminal court (never) has been very successful in maintaining the integrity of the

juvenile court. Public safety proponents are unduly focused on increasing the use of transfer, despite research casting doubt on its effectiveness. At the same time, youth advocates have painted themselves into a corner. They are compelled to relinquish large portions of the juvenile court's original caseload in exchange for whatever remnants of the juvenile system policymakers might agree to preserve. In recent years, there have been few voices of opposition willing to challenge state lawmakers each time they designate another group of juveniles for transfer to adult court. Few complained when New Hampshire and Wisconsin lowered the age of criminal court jurisdiction in 1996, effectively transferring all 17-year-olds in those states to the adult court system.

Growing numbers of youth as young as age 13 are tried and sentenced in criminal courts that are often not prepared to create specialized procedures and programs for developing adolescents. The juvenile justice professionals who would be most qualified to design such programs are not interested in (or welcomed by) the adult system. In effect, the juvenile justice system sacrifices one group of youth (legally defined as adults) in an effort to save its programs for a second group (legal juveniles).

Undoing Traditional Juvenile Justice

Today's juvenile system is vulnerable to abolition because it attracts intense criticism from the public. Some of this criticism stems from ignorance of juvenile law and its purpose, but not all of it comes from lack of information. Many people simply no longer

accept the concept of delinquency, or diminished legal responsibility due to age. To them, a juvenile drug dealer is still a drug dealer. When a 13-year-old Oklahoma boy fired a gun at his school striking several classmates in December 1999, the local prosecutor was asked on national television why he was seeking to handle the case in adult court. "This type of crime," he replied, "requires a serious response." He elaborated that according to Oklahoma law, a juvenile offender cannot be held in secure confinement beyond age 19.

Equating seriousness with the length of confinement conflicts with the traditional concept of juvenile justice, but support for traditional juvenile justice is wearing thin. Federal and state lawmakers have enacted sweeping changes in the nation's juvenile justice systems and the pace of change continued even when juvenile violence began to plummet in the mid-1990s. Nearly all states have passed laws to send far more juveniles to criminal court and some jurisdictions have introduced formal sentencing guidelines that limit the discretion of juvenile court judges. Together, these efforts have begun to unravel the juvenile court's reason for being.

Transfers to Criminal Court

No issue in juvenile justice captures the attention of the public or of policymakers like criminal court transfers. Many policymakers believe that serious juvenile offenders should be in criminal court in order to receive more certain and more severe punishment. Does this, in fact, happen?

the public get more punishment for its money when juveniles are tried as adults? Researchers who examine this question tend to find that the use of transfer does increase the certainty and severity of legal sanctions, but only for the most serious cases, perhaps 30 percent of transferred juveniles.

In about half of all transfers, the offenders receive sentences comparable to what they might have received in juvenile court. Some (about one-fifth) actually receive more lenient treatment in criminal court. Some may be convicted of lesser offenses or the charges against them may be dismissed due to the greater evidentiary scrutiny in criminal court. The bottom line is that criminal court transfer does not ensure incarceration, and it does not always increase sentence lengths even in cases that do result in incarceration. Yet, few policies are as popular with the public or with elected officials.

During the 1980s and 1990s, lawmakers enacted new transfer laws on an almost annual basis. Moreover, there was an increase in laws that moved entire classes of young offenders into criminal court without the involvement of juvenile court judges. Judicial authority in transfer decisions was diminished while the role of prosecutors and legislatures increased. Non-judicial mechanisms now account for the vast majority of juvenile transfers.

For instance, many states enacted policies that made judicial waiver presumptive, shifting the burden of proof from the prosecution to the defense. Presumptive waiver provisions typically require a defense attorney to show proof that a youth is amenable to juvenile court handling. Otherwise, the juvenile is transferred to criminal court. . . .

Another increasingly popular strategy for moving juveniles to criminal courts is mandatory transfer. While presumptive waiver allows juveniles to rebut the presumption of nonamenability, mandatory transfer provides no such escape. If a juvenile meets the criteria for mandatory transfer, a juvenile court judge has with no choice but to transfer jurisdiction. Mandatory transfers became common during the 1990s after being quite rare as recently as the 1970s.

Other mechanisms have been attributed even more to the deconstruction of the juvenile justice system. One mechanism that became widespread during the 1980s and 1990s was statutory exclusion, known in some states as automatic transfer. Statutory exclusion laws mandate that some young offenders are transferred automatically to criminal court as soon as they are charged with certain offenses. Juvenile consent is unnecessary. If a youth is at least a certain age and charged with a certain offense, state law places the case directly in criminal court. Georgia, for example, excludes juveniles age 13 and older from juvenile court if they are charged with one of several violent offenses such as murder, voluntary manslaughter, or armed robbery with a firearm. Statutory exclusion automatically excludes juveniles charged with any felony if the youth was adjudicated for two or more felony offenses. As of 1997, 28 states had legislation to exclude at least some juveniles from the juvenile court.

Direct file, also known as concurrent jurisdiction or prosecutive transfer, is another increasingly popular form of criminal court transfer. Direct file laws give prosecutors the dis-

to prosecute juveniles either in juvenile or adult court. . . .

Blended Sentencing

Transferring juveniles to the adult court system is the most widely recognized method of increasing the severity of sanctions for young offenders, but it is not the only method. During the 1990s, some states gave judges the power to blend criminal court sentences with juvenile court dispositions. Instead of choosing between sentencing a youth in juvenile or adult court, judges can draw upon both systems. A youth might begin a period of confinement in a juvenile facility before being sent to an adult prison at age 18.

Blended sentencing policies were devised primarily to provide longer terms of incarceration for juveniles, but they also helped to blur the distinction between juvenile justice and adult justice. Increasing the variety of sentencing options may reduce the resistance of courts to handle very young offenders in the adult system since juveniles may not be subject to immediate confinement with adults. Blended sentencing policies may also allow judges to draw upon the traditionally richer treatment and supervision resources available in the juvenile justice system without having to sacrifice the lengthy periods of incarceration once available only in the criminal court system. . . .

Mandatory Minimums and Sentencing Guidelines

Sentencing guidelines and mandatory minimum policies for juveniles also began to proliferate during the 1980s

and 1990s. As of 1997, 17 states and the District of Columbia had enacted some type of mandatory minimum sentencing provisions for at least some juvenile offenders. Some jurisdictions applied sentencing guidelines to juveniles by first requiring that they be tried in criminal court, but others (e.g., Arizona, Utah, and Wyoming) enacted formal sentencing guidelines that applied to juvenile delinquency cases handled by juvenile court judges. These laws required juvenile court dispositions to be consistent with a pre-defined sentencing menu based upon the youth's most recent offense and prior record.

The use of structured sentencing fundamentally contradicts the basic premise of juvenile justice by making sentence length proportional to the severity of an offense rather than basing court outcomes on the characteristics and life problems of offenders. As the popularity of these policies increases, it becomes very difficult to justify the continuation of a juvenile justice system that fails to provide complete due process protections for the youth it handles.

Reduced Confidentiality

Almost all juvenile court proceedings and records were confidential as recently as the 1960s. Confidentiality was an integral part of the traditional juvenile justice model, based upon the theory that publicly designating a juvenile as a law violator would stigmatize a young person. This stigma would then encourage the juvenile to adopt a deviant self-image and reduce the potential for rehabilitation.

As juvenile justice policy became more contentious during the 1980s and

1990s, support for confidentiality protections began to erode. Practical issues such as jurisdictional information sharing and greater media interest in juvenile court proceedings began to win out over confidentiality. Most states opened their juvenile court proceedings or records to the public and to the media. By 1997, 30 states had enacted provisions to allow open hearings in at least some juvenile cases. Forty-two states had enacted legislation authorizing the release and publication of the names and addresses of alleged juvenile offenders in some cases. States also began to allow more juveniles to be fingerprinted and photographed. Nearly all states now allow juvenile fingerprints to be included in criminal history records, and nearly all states authorize juveniles to be photographed for later identification.

In addition, many states enacted laws that required juvenile records to remain open longer or prevented the sealing or destruction of juvenile records altogether, typically those involving violent or serious offenses. Florida, for example, requires records about juveniles considered habitual offenders to be retained until the offender reaches age 26. North Carolina prevents authorities from expunging records altogether for certain serious offenses. By 1997, half the states had enacted laws restricting the sealing and/or expunging of juvenile records.

Using Juvenile Records in Criminal Court

Finally, some states have even passed laws enabling juvenile court records to affect criminal court sentences. Enhancing criminal court sentences

with juvenile court adjudications gates the agreement that allow juvenile court to exist in the first. Adjudication in juvenile court to involve potentially serious judgments for youth.

As of 1997, according to research by Joseph Sanborn, all 50 states and the District of Columbia had enacted statutes or court rules allowing practice or they had case law that mentioned it. For example, Illinois and Indiana allow juvenile offenses to serve as sufficient grounds for increasing sentence length or for consecutive sentences. Three states (California, Louisiana, and Texas) allow juvenile adjudications to count as the first and second "strikes" against an adult offender. Thus, an offender with two prior juvenile court adjudications could face life in prison for appearance in criminal court.

Chronic Frustration

These changes were implemented in response to public demands for tougher juvenile crime policies. But the public still views the juvenile court as a weak and inadequate response to juvenile crime. As a result, the most popular response to juvenile crime is to send more juveniles to criminal court. Not because juvenile courts have been found to be more effective than juvenile courts, but because the adult system is a more potent symbol of crime control than does the juvenile system. Professor Franklin Zimring of the University of California at Berkeley points out that the public's demand to enact new crime legislation is nearly always its symbolic demand rather than its operational demand.

adjudications abroad that allowed the system to exist in the first place. The juvenile court began to lose its seriously serious jeopardy.

According to research, all 50 states and Columbia had enacted rules allowing the case law that set the juvenile offense history grounds for length or imposing sentences. Three states, Louisiana, and Texas, had "strikes" against juveniles. Thus, an offender in juvenile court adjudicated in prison for a first criminal court.

Conclusion

When implemented in public demands for crime policies. Yet, the juvenile court is weak and inadequate in response to this problem. More juveniles are found to be in juvenile courts, but the adult system offers a weak and lenient. The juvenile court is the juvenile justice system can be considered by juvenile law and procedure. This author recently participated in a workshop for administrators and judges representing every juvenile court jurisdiction in one western state.

This is why one wave of reform is inevitably followed by another.

Perhaps the public's frustration with the juvenile justice system is perpetuated by the fact that juvenile courts are a distinct and highly visible component of the criminal justice system. Individual, criminal acts by 25-year-olds, or divorced people, or computer programmers do not often provoke calls for sweeping reforms of the criminal law. There is no system set aside for these groups. Every shocking crime by a young person, on the other hand, calls attention to possible problems in the court system especially designed to deal with juveniles. The juvenile justice system acts like a magnet, attracting the public's frustrations about the crime problem, even if juveniles are only a small part of the problem.

Every time juvenile crime appears in the headlines, Americans wonder why the police refer to the youth involved as a delinquent and not simply as a criminal. Why does the juvenile court have its own, unique process and vocabulary? Why do officials avoid using words like "verdict" and "conviction" and instead describe the juvenile court as "establishing facts" and "reaching adjudication"? If a long prison term is warranted, why can't it be imposed by a juvenile court? Why do prosecutors first have to transfer the case to adult court? Juvenile court begins to sound like a synonym for weak and lenient.

Even professionals who work in the juvenile justice system can be confused by juvenile law and procedure. This author recently participated in a workshop for administrators and judges representing every juvenile court jurisdiction in one western state.

During the workshop, an experienced juvenile court clerk observed that juvenile court terminology seems mainly intended to obscure the court process and to keep the public from understanding it completely. Of those attending the workshop, only half seemed to fully support the continued use of the juvenile court's unique terminology.

The words used in the juvenile court, of course, are intended to symbolize the unique mission and philosophy of the juvenile justice system. Youths adjudicated in juvenile court are technically not guilty of criminal offenses. Instead, they are "found to be delinquent" which authorizes the juvenile court to intervene in their lives, even if the court's intervention includes locked confinement. This legal distinction supposedly spares youth the stigma of a "guilty" verdict and preserves the chances that one day they can again be productive citizens without the taint of a criminal conviction.

A century of juvenile court jurisprudence has established that the juvenile justice system is supposed to be different from the criminal justice system. Increasingly, however, it is not different in the ways that once counted the most. The juvenile court's reputation inflames political rhetoric but it fails to deliver quality justice for all youth.

Beyond Dichotomy: A New "Youth Justice" System

Youth advocates may need to reconsider their position on the juvenile court. Instead of concerning themselves only with youth who still happen to be legal juveniles, they may want to shift their focus and work to ensure fair and

timely justice for all youth—even those processed in the criminal court system. This work could be done from either side of the juvenile-criminal border, by making youth-oriented improvements from within the criminal justice system, or by helping juvenile justice professionals to get involved in programs for young adult offenders. It may be even more effective, however, if the border no longer existed.

Criminal courts are not as evil and juvenile courts are not as virtuous as some might suggest. The justice system as a whole might benefit if lawmakers, judges, and practitioners were able to stop fighting over the politically hobbled delinquency jurisdiction of the juvenile court. If delinquency laws were abolished and all offenders young and old were handled in an integrated criminal court system, youth advocates could begin to focus on ensuring the quality of the process used for all youth.

The question is how to get from here to there. How can we build a new justice system that protects the public safety and the rights of youth while ensuring that youthful offenders get every chance they deserve to mend their ways and rejoin society? One way to begin may be to take advantage of the growing diversity of specialized courts.

The public generally assumes there are only two types of courts—criminal or juvenile. Consequently, any effort to increase the symbolic strength of juvenile crime policy necessarily favors making greater use of criminal courts. American courts, however, are far more diverse than this. Innovative, specialized courts such as drug courts, gun courts, and community-based courts are bringing new ideas and a wider range of choices to the criminal justice

system. Some of these new courts already resemble the traditional juvenile court in their philosophy, behavior, their approach to cases, and their efforts to ensure offender compliance with court orders by close, judicial supervision.

For the past two decades, federal officials have been dismantling the juvenile justice system without much thought as to how to replace it. The emergence of alternative, specialized courts within the system presents an unprecedented opportunity to create a new justice system. Ideally, this new system would retain the best features of the juvenile court while gradually incorporating new ideas and procedures developed by the specialized courts spreading across the country.

Eventually, every state will have to implement a wide array of court models and establish standardized intake procedures for young offenders to the appropriate forum. Once such a system is in place, the old dichotomy of juvenile court versus adult court will no longer seem as important. Lawmakers will be able to consider abolishing the juvenile court's delinquency jurisdiction and improve the coherence of justice policy for all youth. Ultimately, the juvenile court will no longer be such an easy target, and politicians will stop looking for easy solutions over crime.

After all, the central question is whether young offenders are delinquents. The real issue is when young people offend and when they appear in court, what process is used to determine culpability? Who chooses