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JUVENILE JUSTICE

CHAPTER 8

UTAH STATE BOARD OF EDUCATION
CAREER AND TECHNICAL EDUCATION

CHAPTER EIGHT: JUVENILE JUSTICE

THE JUVENILE JUSTICE SYSTEM

The juvenile justice system is designed to deal with the problems of *delinquency*. In Utah, as in most states, acts are delinquent if they are committed by persons under the age of eighteen. Delinquent acts are of two distinct types. The first type involves an action that, if committed by an adult, would be a criminal offense. This involves the range of crimes from murder to vandalism. The second type of delinquent act involves a *status offense*, behavior that is prohibited for minors but not for those over a certain age. These include curfew violations, alcohol and tobacco consumption, running away, truancy, and being ungovernable. These violations are handled by the juvenile justice system because of a traditional viewpoint that such activities are behaviors that indicate anti-social tendencies that may later manifest themselves in criminal behaviors. It is believed that such juveniles must be protected from their own weaknesses by the government.

As former Los Angeles Police Chief Edward M. Davis has pointed out, traditionally “The system was devoted almost exclusively to the rehabilitation of children who had in some way failed to maintain a standard of development that permitted proper maturation into productive adulthood.” We can see that major changes have taken place over time in society’s ideas about how to deal with juveniles. As far back as the Roman Justinian Code, it has been held that children below a certain age are not able to distinguish between right and wrong and thus are not responsible for any criminal act they may commit. However, when a child reached a specified age—often eight or nine years old—he/she was automatically judged as an adult for any wrongdoing. Little consideration was given to the individual’s level of moral development.

The assumption was made that physical maturity meant moral maturity, and that some form of punishment, usually retribution, was the suitable response to a criminal act. In the 1700s, in countries such as England, it was not unheard of for juveniles to be executed for stealing food. In fact, the laws of that time included over 170 offenses punishable by the death penalty. In addition, many other punishments were extremely cruel and harsh, such as whipping, branding, and mutilation. The severity of these punishments, and their frequent use on children, finally led to a change in the philosophy of how juveniles should be treated within a humane justice system.

In the 1880s, social reformers were able to gain support for a new philosophy that rejected such severe punishments for juveniles. Instead, supporters advanced a new philosophy of corrective justice, under which the acts of juveniles were viewed as delinquent, rather than criminal. Punishment was to be replaced with the rehabilitation of the child. In order to accommodate this significant change in the philosophy of juvenile justice, a separate court for juveniles was created.

The first juvenile court in the United States was created in Cook County, Illinois, in 1899. By 1910, twenty states had separate juvenile court laws, and by 1945, all the states had incorporated a juvenile court system. In keeping with the philosophy of corrective justice, these courts attempted to treat rather than punish offenders, using a wider variety of discretionary procedures than the more limited adult courts. Because of this change in philosophy, the main focus was placed on why a crime had been committed, rather than on proving the criminal act.

The old English philosophy of *parens patrie* (“parents for the state”) was adopted by the juvenile court system in order to justify court involvement in non-criminal juvenile matters. In the United States, the Juvenile Court works under the philosophy of *in loco parentis* (“in the place of

parents”) to protect the juvenile. Proceeding under this philosophy, juveniles are not seen as having their freedom taken away; rather, the court exercises its right to act as a good parent in correcting the unacceptable behavior of a child.

Because of this philosophy of the Juvenile Court judge acting in the role of a parent, juveniles were not viewed as needing any constitutional rights. Since the judge was fulfilling the role of an all-knowing, all-wise parent, it was assumed that he/she would always act in the best interests of the child, and that constitutional safeguards would not be needed. Rather than using the adult adversary system, Juvenile Court hearings were seen as civil matters, even though a criminal act was involved. In order to emphasize the differences between adult and juvenile courts, the juvenile courts created new terms to represent criminal trial equivalents. An arrest became a “referral,” a conviction became an “adjudication,” and the juvenile jail became a “detention center.”

The emphasis of the system was placed on rehabilitation rather than on issues of guilt. This is not to say that large numbers of innocent juveniles were improperly dealt with by the courts; however, with increasing concerns for due process in adult criminal courts, the Supreme Court in 1966 acted to change the philosophy of the juvenile justice system.

In *Kent v. U.S.*, the Supreme Court emphasized that Juvenile Courts must meet certain standards. The doctrine of *parens patrie* was abandoned, because “while there can be no doubt of the laudable purpose of Juvenile Courts, studies and critiques in recent years raise serious questions as to whether actual performance measures well enough against theoretical purposes to make tolerable the immunity of the process from the reach of constitutional guaranties applicable to adults. There is much evidence that some Juvenile Courts... lack the personnel, facilities, and techniques to perform adequately as representatives of the state in a *parens patrie* capacity...”

In 1967, the case of *In re Gault* changed the philosophy of juvenile justice forever. The Supreme Court stated that the Juvenile Courts could no longer ignore the constitutional rights of juveniles. In the future, juveniles appearing in court were to have the following constitutional rights:

- Access to a lawyer
- Adequate notice of charges
- Privileges against self-incrimination
- Opportunities to confront and cross-examine witnesses

In 1970, the case of *In re Winship* further abandoned the civil nature of juvenile justice by replacing the civil court standard of preponderance of the evidence with the adult court standard of “beyond a reasonable doubt” in determining the guilt of a juvenile. Juveniles had now gained all of constitutional rights afforded to adults, with one notable exception: juveniles are not allowed a trial by jury, as specified in the case of *McKeiver v. Pennsylvania*.

The current operation of the juvenile justice system is two-fold, a combination of criminal prosecution under due process and corrective justice involving rehabilitation and treatment. In other words, a juvenile is entitled to have the case against him/her proven legally before the court attempts to treat or rehabilitate him/her.

In Utah, although the rules of evidence are criminal, all convictions except for traffic offenses are considered to be civil proceedings and need not be reported as arrests and convictions. In any case, a record can be sealed after a juvenile turns eighteen, a process which is known as *expungement*.

EXPUNGEMENT

The process of expungement (or the sealing of court records) is available to all citizens, including juveniles, although it is dependent upon factors such as the severity of the Juvenile Court record. In order to get a juvenile record expunged, the following minimum requirements must be met:

- Be 18 years or older
- Petition the court for an expungement hearing
- Pay a processing fee
- Have no convictions for a specified period of time

JURISDICTION

The Juvenile Court's jurisdiction embraces criminal law violations by juveniles, including status offenses such as truancy, curfew violations, and ungovernability. It also addresses the issues of the dependency of children, determination of their custody, permanent termination of the parent-child relationship, judicial consent for marriage or employment when required by law, support obligations by parents, and resolution of custody disputes involving children under the continuing jurisdiction of the court. In addition, the Juvenile Court shares concurrent jurisdiction with other courts over traffic offenses committed by juveniles and over adults who have committed specific offenses against children, such as neglect, abuse, or parents contributing to juvenile delinquency.

COMMISSIONERS

The Juvenile Court Act provides that the judges may appoint qualified persons to serve as commissioners to assist with the legal processing of Juvenile Court cases. Commissioners must be graduates of an accredited law school. Two commissioners serve in the more populated areas of the State of Utah; they hear all traffic cases and minor delinquency matters.

INTERSTATE COMPACT

In 1954, the Council of State Governments, with the assistance of many other national and state social services organizations, designed and implemented a compact of procedures that would facilitate and permit the return of runaway children and youth to the state of their residence. Two years later, in 1956, the state of Utah joined with other states in the compact when the Utah State Legislature voted to adopt the Interstate Compact Agreement for the return of runaway juveniles. Following this action, the governor of the state of Utah appointed the administrator of the Utah Juvenile Court to serve concurrently as administrator of the Interstate Compact Agreement.

As a member of the Interstate Compact on Juveniles, the court also accepts supervision of juveniles who move to Utah from another state, but who were under court supervision prior to moving. In turn, the court often requests supervision for juveniles residing in Utah under court supervision, but who are contemplating a move to another state. Compact supervision has proven to be a valuable service on behalf of juveniles.

THE SERIOUS HABITUAL OFFENDER COMPREHENSIVE ACTION PROGRAM (SHOCAP)

SHOCAP is a comprehensive information and case management process for prosecutors, law enforcement officers, schools, probation, judicial, corrections, social service, and community after-care services. It enables the juvenile justice system to focus additional attention on juveniles who repeatedly commit serious crimes, with particular attention given to providing relevant and complete case information for more appropriate intervention, supervision, and sentencing decisions.

SHO youth criteria are as follows:

- Three felony episodes (two must be first or second degree, or third degree against persons), or
- Four felony episodes, or
- One felony episode using a firearm, or
- Two felony episodes against persons, or
- Multiple adjudicated probation violations

SERIOUS YOUTH OFFENDER LAW

In response to rising violent crime committed by juveniles, the Utah State Legislature passed the Serious Youth Offender Act in 1995. The Serious Youth Offender Act creates a procedure that automatically transfers certain juvenile offenders to the adult justice system. The offender must be at least 16 years old and must meet one of the following criteria:

1. Charged with aggravated murder or murder
2. Charged with a felony offense after placement in a Youth Corrections secure facility
3. Charged with one of the following offenses:
 - Aggravated arson
 - Aggravated assault
 - Aggravated kidnapping
 - Aggravated burglary
 - Aggravated robbery
 - Aggravated sexual assault
 - Discharge of a firearm from a vehicle
 - Attempted murder
 - A felony offense involving the use of a dangerous weapon, where the juvenile had previously been convicted of a felony offense involving the use of a dangerous weapon

If the juvenile meets the above-listed criteria, he/she will automatically be transferred into the adult court system unless he/she can show that he/she would be better served in the juvenile court system.

The other method for transferring a juvenile to adult District Court is known as *certification*. The prosecution has to prove that the juvenile cannot be appropriately served within the Juvenile Court system and has to request that the juvenile be transferred to the adult system. After the petition is received, the court will conduct a hearing, listening to arguments. If the judge concurs, the juvenile can be transferred to adult court system.

DIVISION OF YOUTH SERVICES

The Division of Youth Services is a government agency responsible for providing services for runaway juveniles, homeless and ungovernable youth, and children who have been abused, abandoned, or neglected. The division is responsible for numerous programs, two of which are of major concern for youth: the Juvenile Receiving Center (JRC) and the Truancy Prevention Program.

The division provides 24-hour reception; crisis intervention and counseling; a time-out facility to prevent the escalation of personal or family crisis; protective services and safe shelter for children who are victims of abuse or neglect; diversion for status offenders; and specialized treatment services for troubled youth.

JUVENILE RECEIVING CENTER

The Juvenile Receiving Center provides a 24-hour reception center for the screening, evaluation, and referral of juvenile offenders who do not qualify for a secure detention facility. The center greatly improves the timeliness of needed services to troubled or delinquent youth. It can be used for detaining individuals such as runaways, ungovernable juveniles, and children who have committed a crime and are to be referred to Juvenile Court, but whose parent or guardian the officer cannot locate.

TRUANCY PREVENTION PROGRAM

The program is based on research that has found that truancy can be curtailed by immediate intervention, parent involvement, firm sanctions with consistent consequences, law enforcement involvement, and meaningful incentives for responsibility, counseling, and truancy education. The program is linked to the education system and coordinated with the various school districts.

DETENTION CENTER

A detention center is a secure facility able to hold juveniles who are deemed to be a risk to society in some manner. A juvenile can be placed in a detention facility if he/she commits certain offense(s) and is considered to be a danger to himself/herself, others, or property. Specific guidelines list the types of offenses that will be considered sufficient reason for a juvenile to be placed in a detention center.

If probable cause exists, the admissions staff of the detention center will review the charges and verify that the juvenile can be admitted under the Statewide Detention Admission Guidelines. This set of guidelines is promulgated by state statute and Juvenile Court Rules of Practice and Procedure and is strictly adhered to with regard to admission.

When a juvenile is placed into a detention center, the juvenile can only be held for a 48-hour period (not including weekends and holidays) before he/she must appear before a Juvenile Court judge. If the juvenile has not been seen by a judge within the specified time period, the juvenile must be released. When a juvenile is placed into the detention center, the staff will advise him/her of the following:

- Charges that he/she is alleged to have committed
- His/her right to make two approved telephone calls
- His/her current status with Juvenile Court

- The date, time, and reason for a detention/probable cause hearing
- His/her right to medical services

Once the juvenile has been advised of his/her individual rights, he/she will receive an orientation at which the staff will explain the rules of the confinement facility. This will include information on the following:

- The daily facility schedule
- Quiet time
- Allowable personal items
- Visitation rights
- Searches
- Telephone calls
- Clergy representatives
- The right to legal counsel
- Medical services available
- The grievance procedure
- Mail call
- School requirements

High School Seniors and Drugs

Report-2015 – Lifetime use

31% drank alcohol

23% smoked marijuana

7.5% used stimulants

3.5% used cocaine

4.7% used hallucinogens

4.5% used inhalants

0.9% used heroin