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A DILEMMA FOR THE JUVENILE JUSTICE SYSTEM

by

JUDITH L. HUNTER¹

Hugh B. Price, president of the National Urban League, recently identified a phenomenon that is unique to our society. While speaking to the Akron Round Table on May 30, 1996, Mr. Price noted that the current generation of adults is the first that is “afraid for and of our children.” Being afraid *for* our children is nothing new. Parents naturally worry about their children and naturally exert great effort to protect them from harm. What is unique to the current generation is being afraid *of* our children.

What has happened in recent years to create such a diabolical situation? A dramatic rise in violent youth crime has been documented by government officials and others, and has been reported on by the media.

The alarming rise in violent youth crime has been documented, most recently, in the *Kids Count* report issued by the Annie E. Casey Foundation. This private foundation reports that the arrest rate for violent youth crime rose dramatically from 1985 to 1993. Particularly, arrest rates for juveniles charged with murder, rape, robbery and assault rose in every state except Vermont, and doubled in eighteen states, including Ohio. The *Casey Report* relays similar data for 1994 and 1995 from the U.S. Dept. of Justice’s Office of Juvenile Justice and Delinquency Prevention and the F.B.I. This data reveals an increase in violent youth crime, while the national adult crime rate has declined during the past several years.

The topic of escalating violent youth crime has received widespread media attention. Typical is the cover story of the March 25, 1996, issue of *U.S. News & World Report*, ominously entitled “Teen-Age Time Bombs.” The article depicts youth crime as outpacing adult crime, involving younger kids, increasing illegal drug use, and doubling weapons violations. Most alarming is that the number of juvenile homicide offenders nearly tripled from 1984 to 1994.

A poll published in the June/July, 1996, issue of *The National Voter* demonstrates the escalating concerns with youth crime. In the poll, which was conducted jointly by the League of Women Voters and the *Ladies Home Journal*, women were asked what issues they worried about all the time. More than half — 54 percent — identified “rising juvenile crime rates” (afraid of children) and “guns in schools threatening our children” (afraid for children) as key concerns, outranking 18 other issues. Only two economic issues

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slightly outpaced women's concerns about youth crime and guns.

A public frustrated by this new dilemma has demanded solutions — with a strong outcry for a crackdown on youth who commit violent crimes. Implicit in the public's demands is the notion that the juvenile justice system has traditionally been soft on youth crime. In response, states across the country have passed laws allowing juveniles to be prosecuted more easily as adults. The states' reform legislation also generally limits the juvenile courts' historically broad discretion to fashion individual remedies for the more serious youth offenders.

Ohio's recently enacted Juvenile Crime Bill is typical for requiring the mandatory transfer of certain juvenile offenders to adult court, and for imposing longer minimum sentences for offenders who are retained in the juvenile justice system. According to a pamphlet distributed by the Ohio Department of Youth Services, the new law was crafted to "send a clear and powerful message to youth across Ohio that heinous and repeat violent offenses will not be tolerated," and to "seek justice for victims of juvenile crime and their families." The law became effective on January 1, 1996.

These drastic new state laws will have a major impact on each state's juvenile justice system. The new laws also raise many questions. Will society be safer? Does forcing juveniles into the adult system really provide more effective punishment? At what cost? Is the public's image of the juvenile justice system consistent with reality? The articles in this symposium will address these and other issues.

As a backdrop for his analysis of Ohio's new "get-tough" law, Judge W. Don Reader provides a rich history of our country's juvenile justice system and details its changing philosophical focus. In "The Laws of Unintended Results," Judge Reader addresses Ohio's recent reform legislation and its mandate to transfer certain youth directly to the adult system. He discusses some of the law's problematic provisions and suggests that the new law may have unintended results. Judge Reader analyzes the ramifications of sacrificing the individualized treatment offered by the juvenile system in favor of mandatory transfers to the adult system, where there is little hope of rehabilitation. For a more effective solution to youth crime problems, Judge Reader recommends cooperation between legislatures and the judiciary, along with a commitment of additional resources to the system.

In the second symposium article, "Treatment and Rehabilitation or Hard Time – Is the Focus of Juvenile Justice Changing?," Judge John Leete scrutinizes Pennsylvania's recent comprehensive reform of its juvenile justice system. Recognizing real increases in violent youth crime and noting the shift in the purpose of juvenile laws to include "protection of the community" and "imposition of accountability," Judge Leete analyzes the major changes cre-

ated by Pennsylvania's legislative solution. In particular, Judge Leete addresses the removal of young juvenile offenders from the juvenile justice system. His careful comparison of what has happened to juveniles transferred to the adult system with what has happened to those juveniles retained in the juvenile system is instructional. The comparison will likely be surprising to those who advocate "do adult crime, do adult time."

Insights derived from extensive service in Pennsylvania's juvenile justice system highlight "In Search of Juvenile Justice: From Star Chamber to Criminal Court," by Judge Patrick R. Tamilia. By anecdotal review, Judge Tamilia demonstrates the evolution of the juvenile court system from a benevolent *parens patriae* philosophy devoid of due process, to an adult court-like, adversarial system, where constitutional guarantees are extended to juveniles. His thorough history includes a discussion of various trends and movements influencing the entire system from the 1960s through the 1980s. It also chronicles the contributions of leaders in Pennsylvania's juvenile law field and the role of judicial organizations in developing the state's current juvenile justice system. Judge Tamilia's observations provide valuable perspective with respect to the juvenile justice system's past flux and current status. His specific recommendations for improving the juvenile justice system, particularly his description of three successful institutional placement programs, provide guidance for improving juvenile justice in all states.

The final symposium article, "The Impact of the Uniform Child Custody Jurisdiction Act on Juvenile Court Jurisdiction: A Survey of Indiana Law" provides a useful guide for understanding jurisdictional concepts and disputes. The article, by Judge Viola J. Taliaferro, highlights jurisdiction issues made increasingly more complex by our mobile society. Through the examination of Indiana statutes and case law, Judge Taliaferro reviews the process of determining whether a particular court can exercise authority that will go unchallenged in other jurisdictions.

Will the recent legislative reforms reduce the instances of violence and produce a next generation less afraid of its children? The message from the symposium authors suggests that the answer depends, in large part, on the juvenile justice system's own response to the legislatures' mandates. If juvenile court judges take cover in the new violent offender legislation, settle for the status quo, and abdicate critical analysis when deciding individual cases and evaluating current court systems, then a reprieve for the coming generation is not likely. However, if mandated reforms prompt juvenile court judges to carefully examine the system's strengths and weaknesses and to undertake leadership in establishing programs which both deter and treat, then we may, once again, not live in fear of our children.

