

# Executive Summary



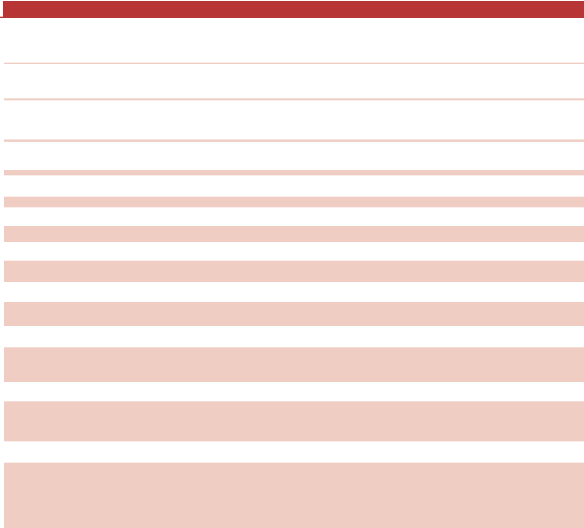
CENTER FOR THE FUTURE OF CHILDREN • THE DAVID and LUCILE PACKARD FOUNDATION

# The Future of Children

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THE  
JUVENILE  
COURT



# The Juvenile Court

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## ANALYSIS

- ◆ The juvenile court was created nearly 100 years ago in recognition of the fact that children are developmentally different from adults and that those differences should be taken into account when addressing legal matters involving children.
- ◆ Today, the juvenile court hears more delinquency and child abuse and neglect cases than ever before. The court also handles status offense cases, including truancy, running away, incorrigible behavior or curfew violations, but its involvement in these issues varies across the country.
- ◆ The juvenile court has great power in each type of case it hears—for example, it can remove children from their homes, terminate parental rights, and place delinquent youths in secure detention.
- ◆ In recent years, the juvenile court's authority and responsibility have undergone a great deal of change:
  - ◆ In delinquency actions, the court has struggled, not always successfully, to provide juveniles with the constitutional due process protections mandated by U.S. Supreme Court decisions of the 1960s and 1970s. Furthermore, political discontent with juvenile court outcomes has resulted in increasing numbers of juvenile offenders being transferred to adult court.
  - ◆ The federal Adoption Assistance and Child Welfare Act of 1980 expanded the court's role in child abuse and neglect cases to include monitoring public child welfare agencies and ensuring that appropriate decisions about safe and permanent homes are carried out in a timely manner.
  - ◆ The role of the court in status offense cases has fluctuated. Despite the mandates of the Juvenile Justice and Delinquency Prevention Act of 1974 and subsequent efforts by states to deinstitutionalize status offenders, recent changes in state laws and the

enactment of municipal curfew ordinances mark a trend toward greater control of this population.

- ◆ The juvenile court was created by and is governed by state law. In many jurisdictions, the court does not have adequate tools and capacity to meet the challenges before it:
  - ◆ The court often suffers from low status and prestige within the state court system.
  - ◆ Judges and attorneys frequently have little specific training for juvenile court work and rotate through the court for brief periods of time.
  - ◆ Information systems are often rudimentary, and aggregate data about case outcomes and the court's handling of cases are in short supply.
- ◆ Promising trends that can help the court remain viable and meet the challenges before it include improved coordination of branches of the court addressing family issues and better use of alternative dispute resolution to reduce the number of formal court proceedings.
- ◆ The 100th anniversary of the court provides an opportunity for a recommitment to the court and a strengthening of its capacity to serve children and families.

## RECOMMENDATIONS

### RECOMMENDATION 1

Juvenile courts should be at the level of the highest trial court of general jurisdiction in each state.

### RECOMMENDATION 2

All judges and other judicial officers serving in a juvenile division or juvenile court should be required to have intensive and ongoing training, not only in the statutory and case law governing delinquency, status offense, and dependency matters, but also in child development, cultural factors, resources for families, the court's relationship with and duties toward social welfare agencies, and research findings regarding rehabilitative interventions.

### RECOMMENDATION 3

Juvenile court judges should serve in the juvenile court division for at least two to three years.

### RECOMMENDATION 4

All courts should work to better coordinate case processing by different branches of the general court that handle family-related matters including the juvenile court.

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### RECOMMENDATION 5

Juvenile courts should encourage the development and use of more alternative dispute resolution techniques.

### RECOMMENDATION 6

Every youth who is referred to juvenile court for formal processing in delinquency matters should be represented by trained counsel from the time of the detention hearing throughout the court process.

### RECOMMENDATION 7

The determination as to whether a minor charged with a serious crime should be transferred to the criminal court for trial as an adult is best made by judicial hearing.

### RECOMMENDATION 8

Communities should ensure that a range of dispositional alternatives, providing a continuum of sanctions from community service and supervised probation to incarceration of juvenile offenders, is available to respond to juvenile crime; particular attention should be given to those models that have shown, through evaluation, success in reducing recidivism.

### RECOMMENDATION 9

The first line of response to status offenders should be community and public services designed to help children and their families, with court intervention only after services have been offered but have not been successful, or if the child's behavior continues to pose a threat to his or her own safety or well-being.

### RECOMMENDATION 10

In each state and locale, every effort should be made to assess the data system needs of juvenile courts and child welfare agencies and to address these needs in a coordinated and complementary manner.

### RECOMMENDATION 11

Every juvenile court in the country should work with local child welfare agencies to improve their effectiveness in providing abused and neglected children safe and permanent homes in a timely manner as specified by law.

### RECOMMENDATION 12

Juvenile court judges should be educators and spokespersons in their communities on behalf of abused and neglected children. Judges should advocate for adequate court resources and community systems to respond promptly and appropriately to child abuse and neglect.

## ARTICLE SUMMARIES

### **The Early History of the Court**

*Sanford J. Fox, LL.B.*

This article traces key trends in the early history of the court, beginning with the founding of separate penal institutions for children in the 1820s and ending with the development of critical analyses of court practice in the 1930s. The author reports that, though early nineteenth-century interventions did not distinguish between delinquent and dependent children, by the second half of the nineteenth century, efforts were made to treat these groups differently. Reformers advocating for the passage of the Illinois Juvenile Court Act of 1899 focused on improving the institutions that intervened but showed little concern for the procedures used in these interventions. The author describes the early twentieth-century model for ideal juvenile court practice, epitomized by Judge Ben Lindsey of the Denver, Colorado court, as calling for a personal rapport between judge and child, again de-emphasizing the child's due process rights. The author concludes that these procedural inadequacies were not directly addressed until the due process cases of the 1960s and 1970s.

### **The Nature of the Court Today**

*H. Ted Rubin, J.D., M.S.S.A.*

This article surveys the current landscape of the juvenile court. The author describes the numerous ways in which courts differ from one another, including the minimum and maximum ages of their delinquency jurisdictions, the types of cases they are authorized to hear in addition to delinquency and child abuse and neglect, the extent to which referees or quasi-judicial hearing officers hear cases, whether or not the juvenile probation department is administered by the court, and the individual practices that constitute particular court cultures. The author also notes that today change is common to all courts as they contend with the delinquent behavior of young people and the failures of adults responsible for the well-being of their children.

### **The Juvenile Court and Delinquency Cases**

*Howard N. Snyder, Ph.D.*

The juvenile court delinquency caseload rose 23% between 1989 and 1993. Though cases involving person offenses increased by 52%, the majority of cases in juvenile court involve property offenses. Less than 10% of the caseload consists of violent offenses. The author traces the possible pathways taken through the juvenile justice system by the youths who are arrested. Approximately one quarter of the cases referred to the juvenile court are dismissed or diverted for handling outside the court process. Another 25% are handled through informal court processes while the remaining 51% are formally processed through the juvenile court. The author reports that, at all stages of this process, there is an overrepresentation of black youths in relation to their representation in the population at large. He notes that juvenile offenders with four or more arrests are responsible for nearly two-thirds of all violent crimes and half of all property crimes, and concludes that early intervention into the lives of these youths is necessary to address the increase in juvenile crime.

### **The Court's Effectiveness in Protecting the Rights of Juveniles in Delinquency Cases**

*Janet E. Ainsworth, J.D.*

This article assesses the impact on juvenile court practices of the Supreme Court decisions of the 1960s and 1970s guaranteeing certain procedural rights to juveniles. Studies show that, by and large, these procedural mandates have not been met.

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The author also explores the potential disadvantages to juveniles of waivers into the adult criminal court system, diversion programs, and no constitutional right to a jury trial in juvenile court. She concludes with arguments in favor of and against abolishing the juvenile court's jurisdiction over delinquency cases.

### **Responding to Juvenile Crime: Lessons Learned**

*Peter W. Greenwood, Ph.D.*

Although the dispositional options for delinquent youths have diversified over the past 20 years, the debate about the most effective treatment of young offenders continues. This article reviews the existing evaluations of various juvenile corrections alternatives. In contrast to the conclusions of scholars in the late 1970s that "nothing worked" in juvenile corrections, Mark Lipsey's 1992 meta-analysis of more than 400 evaluations of juvenile programs reported an average 10% improvement in recidivism rates for all the programs evaluated. Lipsey's meta-analysis found a significant advantage in community-based programs run by private providers compared with large custodial institutions. The most effective privately run community programs have high levels of intensity and duration, multiple modes of intervention, and a great deal of structure.

The author concludes that juvenile courts need an array of dispositional options, the ability to monitor program effectiveness, and the flexibility to find the appropriate placement for each juvenile offender.

### **Status Offenses**

*David J. Steinhart, J.D.*

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. This article describes factors that have recently worked to erode the federal and state commitment to a policy of status offender deinstitutionalization. The author references recent surveys and press reports on the number of runaways, truants, and curfew violators in the United States. He argues that 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.

### **The Juvenile Court and Dependency Cases**

*Richard P. Barth, Ph.D.*

Most child abuse and neglect reports do not reach the juvenile court. However, those that do constitute a significant and demanding portion of the court's workload. These cases are often the most serious and require intense efforts at preserving the family and/or a temporary or permanent change in custody for the child. The author reviews the limited available data about the effectiveness of the court and child welfare system's response to these cases and argues that improvement is needed in protecting children and ensuring safe and stable placements for them.

### **Responsibilities and Effectiveness of the Juvenile Court in Handling Dependency Cases**

*Mark Hardin, J.D.*

The juvenile court's role in handling child abuse and neglect cases changed and expanded greatly after the passage of the federal Adoption Assistance and Child Welfare Act in 1980 and following the enactment of many similar state laws. The effectiveness of juvenile courts in fulfilling the laws' mandates has been uneven due to variations in judicial workload, court management, and relationships between the courts and child welfare agencies. Courts vary in their capabilities to monitor agencies' permanency planning efforts and in their power to order specific placements and services. The proper role of the court and the agency in this regard is a matter of continuing debate. The author concludes that efforts currently under way in the states to reform the juvenile court's handling of abuse and neglect cases are cause for optimism.

### **The Juvenile Court: A View from the Bench**

*Hon. David B. Mitchell, J.D.*

This article describes the changing role of the juvenile court from the perspective of an urban juvenile court judge. The author's experiences as the administrative judge for Baltimore City's juvenile court address typical current juvenile court dilemmas such as lack of funding, physical space that is inadequate for the needs of the court and those it serves, and limited dispositional options for juvenile offenders. The author presents examples of effective judicial advocacy and suggestions for positive court reform.

### **The Future of the Juvenile Court: Promising New Directions**

*Hon. Leonard P. Edwards, J.D.*

This article examines three current trends in juvenile court which will continue to impact the court in the future: better court coordination, wider use of alternative dispute resolution methods, and the utilization of private and voluntary efforts to assist the court in providing services to children. The author suggests that the juvenile court of the future should place itself squarely in the community and work with others concerned about the well-being of children and families to provide an appropriate and meaningful response to each child who comes within the court's purview.

### **The Future of the Juvenile Court: A Theoretical Framework that Fits**

*Mark H. Moore, M.P.P., Ph.D.*

The juvenile court has been subject to increasing criticism over the years, particularly with regard to its handling of delinquency cases. This is due in part to an inaccurate view of the court as primarily a criminal court that adjudicates crimes committed by children. This article proposes an alternative model for the court, one that encompasses its jurisdiction over dependency and status offense cases, as well as delinquency cases. In describing this new conception of the court, the author makes an analogy to a bankruptcy court, but one that intervenes when family members violate the laws regulating their relationships to one another. The author concludes with a discussion of the advantages and potential disadvantages of this new vision of the juvenile court.

## ***IN EVERY ISSUE***

### **CHILD INDICATORS: Children as Victims of Violence**

*Eugene M. Lewit, Ph.D., and Linda Schuurmann Baker, M.P.H.*

### **REVISITING THE ISSUES: The Family Preservation and Support Services Program**

*Nilofer Ahsan, M.P.P.*

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