

Trying Juveniles as Adults

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Abstract

The current study examined the controversial concern of trying juveniles as an adult. The focus of this research centers on the perceived social phenomenon of violent juvenile offenders and discusses the problematic issue of punishment and accountability. Historical and recent cases along with expert opinions were examined with emphasis on the juvenile's age and penalties imposed. The research concluded that controversy and debate continues to follow this area of concern. It appears that the consensus of the experts in this study suggests an alternative solution to this problem may be with "blended sentencing". Although there seems to be no clear or simple answers to the problem, it is obviously of great interest to society and may bear further empirical research.

Introduction

Trying juveniles as adults is a highly debated and controversial area of concern among law enforcement experts, the criminal justice system, and juvenile advocates. As these entities continue to perceive an increase in violent crimes committed by juveniles, a concern arises as to whether or not the traditional methods of sentencing used by the juvenile justice system are effective. As with many issues concerning the criminal justice system, there is no simple solution to the problem. Changes to the system take a number of legislative measures as well as social acceptance.

An examination of historical cases relating to juvenile violence may change our perceptions. According to author Harold Schechter, historical information supports that in the United States, "violent child offenders have been a psychiatric and criminological concern for decades" (Schechter, 2000). A perusal at one historical case involving juvenile violence provides clarity to the fact that violent juvenile offenders have always been a part of our society. One such example is the Jesse Harding Pomeroy case. Author Harold Schechter (2000), gave the following account of this historical case: Pomeroy, an eleven-year-old, abducted and brutally tortured eight small children beginning in December 1871 through September 1872 (Schechter, 2000). In September 1872, Pomeroy was arrested for these abductions, convicted and remanded to a "House of Reformation" for a term of six years (Schechter, 2000). In February 1874, Pomeroy was released after he was deemed reformed (Schechter, 2000). In March 1874, six weeks after Pomeroy's release, he brutally tortured and murdered two young children (Schechter, 2000). In December 1874, Pomeroy was convicted of first-degree murder and sentenced to death by hanging (Schechter, 2000). Due to the public outcry over Pomeroy's death sentence, the sentence was commuted to life without parole to be spent in solitary confinement

(Schechter, 2000). Pomeroy spent forty-one years in solitary confinement, which was the second longest in U.S. penal history; but was later commuted to straight life (Schechter, 2000).

In today's world, this area of concern is highly debated and controversial, just as it was in this case. The Pomeroy case, as with violent crimes committed by today's juveniles, causes many, to blame society's decay of "family values" (Schechter, 2000). One editorial of the time portrayed Jesse Pomeroy as a "juvenile felon whose crimes were directly attributed to his broken home, lack of parental supervision, and overexposure to violent entertainment (Schechter, 2000)". The editorialist admitted that the Pomeroy case was extreme, but believed it was not unique and was confirmation of a frightening social trend (Schechter, 2000).

The American justice system has been based traditionally on the idea that juveniles do not have the same thought process as adults; therefore, they should be punished under a separate system. Even though that system is based on the same general principles of the adult justice system, it performs under very different guidelines. These procedures allow the courts to provide extra protection for the accused minor and in many cases allow more discretion in the sentencing. These guidelines are based on the idea that the offending juveniles will be rehabilitated (Grabowski, 1999).

"However, when a juvenile commits a crime as heinous as murder, the courts are increasingly faced with a choice. That choice concerns whether the accused still deserves the special considerations usually granted juveniles or whether that juvenile should face trial and sentencing as an adult" (Grabowski, 1999, p.34).

The nation and the courts continue to face the dilemma of how to handle murder cases involving juveniles. The issue also remains with regards to whether a juvenile should be sentenced to death in cases that would normally require it if the accused were an adult (Grabowski, 1999).

Background

Violent juvenile crime is a problematic issue that carries many considerations with regard to appropriate punishment and accountability. In an effort to gain further insight, three cases, within the State of Florida, that have gained national attention were examined. Each of these cases garnered a great deal of controversy and debate from the public, Law Enforcement experts and juvenile advocates, because of the defendants' ages, the question of their mental capacity and the brutality of their crimes. Such was the case involving twelve-year-old Lionel Tate, who was indicted and convicted of the first-degree murder of six-year-old Tiffany Eunick (Chandler, 2004). Ultimately, Tate was sentenced to life in prison without the possibility of parole. Upon delivering the sentence, Broward County Judge Joel T. Lazarus stated, "The acts of Lionel Tate were not acts of immaturity. The acts of Lionel Tate were cold, callous and indescribably cruel" (Chandler, 2004). According to court documents,

“the victim suffered thirty-five injuries, which included a fractured skull, brain contusions, twenty plus bruises, a rib fracture, injuries to her kidneys and pancreas, and a portion of her liver was detached. During the trial, these injuries were undisputed and acknowledged that it would take tremendous force to inflict these types of injuries. All of the experts involved with the trial believed that these injuries were not consistent with play fighting or could have been accidentally inflicted” (FINDLAW, 2003).

The Fourth District Court of Appeals later overturned Tate’s conviction, ruling that his mental competency had not been evaluated prior to his trial (Chandler, 2004). After serving three years in prison, Lionel Tate was released on bond and later pled guilty to second-degree murder, under a plea agreement. According to the plea agreement, “Tate is to be sentenced to the three years he has already served, another year of house arrest and 10 years of probation—the same deal he was offered before his trial nearly three years ago” (CNN, 2004).

Another case examined was 13-year-old Nathaniel Brazill, who murdered his teacher outside of his classroom. Thirteen-year-old Nathaniel Brazill, after being suspended for disruptive behavior, returned to school with a firearm. When Brazill arrived, he had a confrontation with his teacher Barry Grunow. During the course of their disagreement, Brazill shot Grunow in the head and then fled the scene. The facts of how Barry Grunow was killed are not disputed. Brazill admitted he shot Grunow, but claimed it was an accident. The incident was witnessed by several students and captured by school security cameras. The State Attorney Barry Krischer opted to try Brazill as an adult for first-degree murder. Krischer stated “Ethically, it’s my duty to charge the highest level of crime provable” (Handlin, 2001). Consequently, Nathaniel Brazill was sentenced to 28 years in prison. In addition, the judge “ordered Brazill to spend his first two years out of prison under house arrest, with five more years of probation, along with no contact with the Grunow or James family” (Burstein, 2001).

State Attorney Barry Krischer said, “His office will continue to prosecute violent young teens as adults despite the national scrutiny of his office and the state’s juvenile justice system that accompanied Brazill’s case. I’m a firm believer that there needs to be a meaningful response to violent juvenile behavior, failure to do so only encourages the juvenile and other juveniles to take advantage of the situation” (Burstein, 2001).

The third case examined in this study centers on 12-year-old Alex King, his 13-year-old brother Derek King and 40-year-old friend Ricky Marvin Chavis. Terry King, the father of the two teens, was brutally beaten to death. Alex and Derek King confessed to beating their father to death with a baseball bat and setting the house on fire in order to conceal the crime. Alex stated that he and Chavis were having a sexual affair and he believed that if his father were gone, he and his brother would be able to live with Chavis (Steinhaus, 2002). The prosecutor opted to hold two separate trials with opposing theories of the crime. This decision caused a tremendous amount of controversy. Although the two boys gave a detailed confession admitting to the murder, they later recanted their story and blamed Chavis. They stated that Chavis had murdered their father because he was afraid he would discover the sexual affair between himself and

Alex (Parkinson, 2002). Ultimately, Alex and Derek were convicted of second-degree murder and Ricky Chavis was acquitted (Steinhaus, 2002). Calling the case “unusual and bizarre” the judge overturned the conviction, ruling that the two boy’s rights had been violated when the prosecutors presented two different theories of the crime in two separate trials (PENSACOLA, Fla. (AP), 2002). The prosecutor and defense were ordered to try to resolve the case through court ordered mediation (PENSACOLA, Fla. (AP). The mediation ended with an agreement between both sides, Alex and Derek would plead guilty to arson and third-degree murder. Derek King, 14, was sentenced to eight years in state prison with credit for one year already served. Alex King, 13, received seven years in state prison and will receive credit for one year served. As part of the deal, Derek and Alex gave written detailed statements of their guilt in the murder of their father and the involvement of Ricky Chavis (CNN, 2002). Later, Alex and Derek King were transferred from adult prison to a juvenile detention center, although Judge Frank Bell and prosecutor David Rimmer strenuously objected. A spokesman for the Department of Juvenile Justice stated, “the decision was at the request of state prison officials and was based on Alex and Derek’s age, the fact that they would be the youngest inmates in adult prison, along with the education and treatment appropriate to their age, which would be available in the juvenile system” (AP, 2002).

This study examines the perceived social phenomenon of violent child offenders in the State of Florida and discusses such issues as punishment and accountability. Three Florida cases involving juveniles, tried as adults, the ages of the juveniles, and the penalties imposed, were examined. In an effort to gain, further knowledge these cases along with expert opinions were analyzed. The purpose of this research is to identify salient issues, trends or patterns concerning this controversial subject. It also provides a focus for future empirical research.

Methods

Numerous articles, papers and books have been written on the subject. A thorough literature review was conducted which revealed extensive information.

In addition to a review of the available literature, several cases were examined and two interviews were conducted. The interviewees were asked to comment on these three basic questions: One: Do you believe there are cases in which a violent juvenile offender should be tried as an adult? Two: Do you believe there are alternatives for these cases? Three: What are some possible solutions for these high-risk juveniles? Their responses were recorded, transcribed and analyzed.

Prosecutor Maria Schneider, who is the supervisor of the felony juvenile division in the State attorney’s office in Broward County, Florida, was interviewed regarding her experiences and opinions on this area of concern. Ms. Schneider worked as a public defender for seven years, and has worked as a prosecutor for the last thirteen years. During her tenure as a prosecutor she has worked in the following divisions within the state attorneys office: felony, sex crimes, organized

crime, career criminal and the last five years as the supervisor in the felony juvenile division. She bases her opinions and comments on her expertise and experiences within the area of concern.

Also interviewed regarding her experiences and opinion on the subject was Dr. Trudy Block-Garfield, who has a PhD in psychology and has worked in the court system since 1982 as a forensic psychologist. Dr. Block-Garfield based her opinions and comments on her expertise and experiences within this field.

Results

As previously stated, there is a great deal of literature written on the validity of trying juveniles as adults and what age and what penalties are appropriate. The data collected from the literature review, interviews and statistical data supports that a great deal of controversy and debate continues to follow this issue. In his article "Adult Time for Adult Crime", Bryan Robinson examines the debate over trying juveniles as adults. Robinson focuses on the perceptions of society that juveniles are committing more violent and heinous crimes. Robinson suggests that this perception is what has driven the nation to change juvenile laws, which requires more juveniles be tried as adults. Some experts contend juveniles prosecuted under adult law may serve harsher sentences for nonviolent offenses. One possible solution, as put forth by Robinson, could be the adoption of "blended" sentencing options that addresses the age of the offender and the seriousness of the crime (Robinson, 2004).

Many experts feel that in today's society children are exposed to too much of the adult world, thus causing adult behavior. In his book, "The Disappearance of Childhood", Neil Postman (1994) examines the abrupt decline of childhood in America today and the resultant danger to the concept of adulthood. The author suggests that "everywhere one looks, it may be seen that the behavior, language, attitudes, and desires---even the physical appearance---of adults and children are becoming increasingly indistinguishable" (Postman, 1994). The author focuses on the fact that "our children live in a society who's psychological and social contexts do not stress the differences between adults and children. As the adult world opens itself in every conceivable way to children, they will inevitably emulate adult criminal activity" (Postman, 1994). The author suggests the possible solution may ultimately lie with vigilant parents and the school system (Postman, 1994).

As previously stated, a great deal of controversy and debate continues with each instance in which a child is treated as an adult. Such was the case during the trials of the King brothers and Ricky Chavis. One individual was so opposed to the treatment of the King brothers he decided to levy a complaint with the Florida bar grievance committee against the prosecutor in this case. In an article written by the associated press (2003), assistant state attorney Rimmer was cleared of any wrong doing in the case of Alex and Derek King. The complaint was submitted to the Florida bar's grievance committee accusing the prosecutor of knowingly presenting false evidence. After their finding, Rimmer

stated “he has been vindicated, validated and exonerated, and he is going to continue prosecuting murders, regardless of their ages, young or old, without fear or favoritism” (AP, 2003)).

Alternatively, an article released by CBS news “Unequal Justice”, argued about the “disparate” sentences issued in the above stated cases. The article focuses on the fact that in all three cases, the defendants’ charges were in essence the same, but all received copiously different punishments. The author believes that these cases should prompt Florida’s legislators to turn their attention to a set of laws that clearly do not equate equal or fair justice (CBS news, 2002).

An article written by the associated press in West Palm Beach, Florida, (2001), criticized “Florida’s get-tough laws aimed at prosecuting violent youths as adults”. According to Jacksonville State Attorney Harry Shorstein, “Florida has overreacted, as many states have, to what was perceived to be a juvenile justice crisis in the early 90’s” (West palm Beach, Florida, AP, 2001). Florida’s Governor Jeb Bush stated he believes “age should be a factor in determining the sentence for a youthful offender”. The prosecutors involved in the Tate and Brazill cases all supported legislation that would change the sentencing guidelines when dealing with juveniles; however, State representative Randy Ball stated, “He believes teen murders have an element of evil that prevents rehabilitation, despite their age. When you deal with a kind of kid like Brazill, who ruefully executes a human being, the risks are too high to justify ever returning him to society” (West Palm Beach, Florida AP, 2001).

In a telephone interview with Dr. Trudy Block-Garfield, PhD. (2005), a forensic psychologist who frequently works within the Florida court system, she stated, “in the case of juveniles, you need to look at their age level and their maturity level. You need to consider the juvenile as a whole rather than just the offense they commit”. She explains there is no way a child of 14 or 15 has the same capacity to think things and plan things in the same way an adult does; therefore, they cannot cognitively form premeditation. Further, Dr. Block-Garfield states, “although children may emulate adult behavior, it does not mean they have the capacity to understand it. They may comprehend it in some ways however, they still cannot understand it the way an adult would”. She explains that violent juvenile offenders have a childish way of thinking about their crimes, i.e., “if I kill my father, I can do this”. Dr. Block-Garfield also explained that just because a child is bright or intelligent it does not mean they are mature. She believes our society is very much lacking in dealing appropriately with violent juvenile offenders, “we either put them in the juvenile system which is a slap on the wrist, or we put them in an adult prison”. Dr. Block-Garfield believes we need more treatment programs for these kids, and should take into consideration that most come from abominable situations, only to be put into a system where they do not get the treatment they need or deserve. Dr. Block-Garfield suggested there should be something in place where there are some long-term consequences, but not where they spend the rest of their life in prison. She believes it should be something in-between the adult sanctions and the current juvenile sanctions, which some states already utilize in the way of “blended

sentencing". Dr. Block-Garfield stated that by utilizing these types of guidelines that some of these violent kids could be salvaged. Dr. Trudy Block-Garfield bases her opinions on her expertise and experiences as a forensic psychologist in this field. She has been a psychologist since 1982, has worked in the court system since 1985 and has worked exclusively in the field of forensic psychology for the past five years (Block-Garfield, 2005).

An interview was also conducted with Ms. Maria Schneider, (personal communication, February 8, 2005) Assistant State Attorney in Broward County, Florida. Ms. Schneider is the supervisor in the juvenile felony division. She provided insight into this issue and based her comments on her expertise and experiences within this area of concern. Ms. Schneider explained the criteria used by her office when deciding if a juvenile is to be tried as an adult lies with statutory guidelines and the policies of the Broward County State Attorneys office. The Broward County State Attorney requires all murder in the first-degree cases to be presented to the grand jury. Ms. Schneider advises that most offices in Florida have this policy in place. She states that when making the decision to try a juvenile in the adult court her office tries to be judicious. They try to represent what the community feels is appropriate, in that each case is carefully examined, looking at the issues of the child, mental health issues, possible treatment, can we assure public safety in the juvenile system, the brutality of the crime and the victims family's wishes. Ms. Schneider states that many times juvenile sanctions are offered to the juvenile after an adult indictment has been secured. She explains, that this is done for very specific reasons, i.e., to ensure their confinement for a period in excess of the maximum sentence available in juvenile court, the possible consequence of an adult sentence if the juvenile commits a new offense, violates probation, or fails to respond to rehabilitation. It offers juvenile offenders a chance at rehabilitation and incentive to respond to treatment in order to avoid the consequences of an adult sentence. Ms. Schneider says that in the State of Florida, if you tried the child in juvenile court and they violate, you have no other sanctions or recourse. Ms. Schneider says that many people including her, believe in "blended sentencing", but adds that the State of Florida does not currently offer this option. Therefore, her office utilizes the adult system and then in some instances offers juvenile sanctions. Further Ms. Schneider states that the State of Florida files approximately 14,000 cases a year, however, just a little over 300 cases actually get direct filed. It is important to note that these 300 cases do not represent the number of children tried, but the actual number of cases attached to each child. She states that although statistics show the State of Florida direct files more cases than any other state, she believes these numbers are skewed. Because the State of Florida defines a juvenile as anyone under the age of 18 and other, comparable states such as New York define a juvenile as anyone under the age of 16. Therefore, she believes that the true question when comparing numbers nationwide would be how many juveniles under the age of 18 are tried in adult court.

According to the Florida Department of Juvenile Justice (2005), Florida's serious juvenile crime rate is declining. "There were 56,447 felony referrals involving juveniles in Fiscal Years 1999-2000, down 11 percent from 63,279 juvenile felony referrals in FY 1994-95. Murder/manslaughter referrals involving juveniles are down 25 percent, from 158 in FY 1994-95 to 118 in FY 1999-2000. The number of juveniles in Florida tried as adults is declining from a peak of 5,350 in Fiscal Years 1995-1996 to 3,297 in FY 1999-2000. Florida, the fourth largest state, still tries more juveniles as adults than most states.

Discussion

Numerous articles, papers and books have been written on this problematic area of concern and a careful review was conducted. Interviews were carried out with experts to ascertain their opinion on this subject. This study set out to examine the perceived social phenomenon of violent child offenders in the State of Florida with an emphasis on punishment and accountability. To accomplish this, historical and recent cases were also analyzed in an effort to identify salient issues, trends or patterns concerning this problem. However, upon review of these sources it is apparent many continue to debate the validity of this highly controversial area.

After careful examination, it appears that our juvenile justice system as it exists today is considered by many to be inadequate when dealing with violent juvenile offenders. The research also indicates that in the cases examined sentencing of the juveniles involved varied greatly. Many sources indicated their concern with appropriate punishment and sentencing as well as the lack of rehabilitation. Although it is not currently offered in the State of Florida, the consensus seems to lean toward "blended sentencing". Experts contend that by utilizing "blended sentencing" the criminal justice system would be able to combine adult and juvenile sanctions in order to maintain control in the hopes of rehabilitation and diminish recidivism.

Conclusion

The purpose of this research project was to examine historical background of cases involving violent juvenile offenders and some recent cases, specifically within the State of Florida. In an effort to gain further insight, expert opinions were noted. Having looked at only three cases within the State of Florida, there is a need to study this issue further with the hope of finding alternative solutions.

Although there seems to be no clear or simple answers to the problem, it is obviously of great interest to society and bears further empirical research.

Sergeant Marsha Roaden has worked for the Hallandale Beach Police Department since 1985. She has worked in several different assignments to include patrol, narcotics and community policing. Marsha currently is a supervisor in Patrol and is pursuing her Associates degree.

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