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Childhood crimes

States are rethinking treating juvenile offenders like adults

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ASSOCIATED PRESS

This is part of an occasional series of stories by the Associated Press on the nation's juvenile justice system.

A generation after America decided to get tough on kids who commit crimes -- sometimes locking them up for life -- the tide might be turning.

States are rethinking and, in some cases, retooling juvenile sentencing laws. They're responding to new research on the adolescent brain and studies that indicate that teens sent to adult court end up worse off than those who are not: They get in trouble more often, they do it faster and the offenses are more serious.

"It's really the trifecta of bad criminal justice policy," says Shay Bilchik, a former Florida prosecutor who heads the Center for Juvenile Justice Reform at Georgetown University. "People didn't know that at the time the changes were made. Now we do, and we have to learn from it."

Juvenile crime is down, in contrast to the turbulent '90s, when politicians vied to pass laws to get violent kids off the streets. Now, some are championing community programs for young offenders to replace punitive measures they say went too far.

"The net was thrown too broadly," says Howard Snyder, director of systems research at the National Center for Juvenile Justice. "When you make these general laws ... a lot of people believe they made it too easy for kids to go into the adult system, and it's not a good place to be."

Some states are reconsidering life without parole for teens. Some are focusing on raising the age of juvenile court jurisdiction, while others are exploring ways to offer kids a second chance, once they're locked up -- or even before.

"There has been a huge sea change ... it's across the country," says Laurie Garduque, a program director at the MacArthur Foundation, which is heavily involved in juvenile justice reform.

Not everyone, though, thinks there's reason to roll back harsher penalties adopted in the 1990s.

"The laws that were changed were appropriate and necessary," says Minnesota prosecutor James Backstrom. "We need to focus on protecting the public -- that's No. 1. Then we can address the needs of the juvenile offenders."

Each year, about 200,000 defendants under age 18 are sent directly or transferred to the adult system, known as criminal court, according to rough estimates.

Most end up there because of state laws that automatically define them as adults, due to their age or offense. Their ranks rose in the 1990s as juvenile crime soared and 48 states made it easier to transfer kids into criminal court, according to the juvenile justice center.

These changes gave prosecutors greater latitude (they could transfer children without a judge's permission), lowered the age or expanded the crimes that would make it mandatory for a case to be tried there.

Some states also adopted blended sentences in which two sanctions can be imposed simultaneously; if the teen follows the terms of the juvenile sentence, the adult sentence is revoked.

The changes were ushered in to curb the explosion in violence -- the teen arrest rate for murder doubled from 1987 to 1993 -- and to address mounting frustrations with the juvenile justice system.

A series of horrific crimes by children rattled the nation: A sixth-grader shot and killed a stranger. A 12-year-old stomped and beat a younger playmate. Two grade-schoolers dropped a 5-year-old 14 stories to his death.

Some academics warned that a new generation of "superpredators" would soon be committing mayhem.

It never happened. Drug trafficking declined. An improved economy produced more jobs. And the rate of juvenile violent crime arrests plummeted 46 percent from 1994 to 2005, according to federal figures.

"When crime goes down, people have an opportunity to be more reflective than crisis-oriented and ask, 'Was this policy a good policy?'" Bilchik says.

The MacArthur Foundation said in a report to be released this month that about half the states are involved in juvenile justice reform.

And a national poll, commissioned by MacArthur and the Center for Children's Law and Policy and set for release at the same time, also found widespread public support for rehabilitating teens rather than locking them up.

Some states have already begun to make changes.

- In Colorado, Gov. Bill Ritter recently formed a juvenile clemency board to hear cases of children convicted as adults. The head of the panel says it's an acknowledgment that teens are different from adults -- a point made in the 2005 U.S. Supreme Court decision that outlawed the death penalty for crimes committed as juveniles.

In 2006, the state replaced the juvenile life-without-parole sentence with the possibility of parole after 40 years.

- In California and Michigan, juvenile life without parole also is getting another look.

- In Connecticut, lawmakers recently raised the age of juveniles to 18 for most cases; the changes will be phased in by 2010. Prosecutors can still transfer felonies to adult court.

- In Illinois, a proposal to move 17-year-olds charged with misdemeanors to juvenile court passed in the state Senate and is pending in the House.

- In Wyoming, talks are under way to shed a system that routinely charges and jails juveniles as adults even for minor offenses such as underage drinking.

Not all states are easing up.

Last summer, Rhode Island passed a law to send 17-year-old offenders to adult prisons in what was intended as a cost-cutting move. The measure, however, was quickly repealed after critics pointed out the plan would probably be more expensive.

Many say the two systems are dramatically different: Juvenile justice emphasizes rehabilitation, adult courts focus on punishment.

Reginald Dwayne Betts, just 16 when he was charged with carjacking in Virginia, was locked up more than eight years, mostly in adult prisons.

"Of course it makes a difference if you're 15, 16 or 17," he says. "You're not prepared to deal with it physically or emotionally. You're trying to deal with being away from home. You're trying to deal with the stress that comes with being in prison."

Violence was a constant. "I got used to stuff most people I see today would never have to get used to -- like somebody getting their head split open," Betts says.

Betts had problems at first but gradually retreated into books, taught himself Spanish, wrote and published poetry.

When he was released two years ago at age 24, he won a college scholarship. Now engaged and planning to write a book, he knows he's an exception: "People don't come out of prison and make good," he says.

In New York, Judge Michael Corriero is aware of those odds.

He presides over a special court in the adult system -- it's called the Manhattan Youth Part and is responsible for resolving the cases of 13- to 15-year-olds accused of serious crimes.

Corriero tries to steer as many youths as possible away from criminal court, a philosophy detailed in his book, *Judging Children as Children*.

"You take a 14-year-old and give him an adult sentence ... you're taking him out of the community at his most vulnerable time," he says. "If you put them in an institution, what is that kid going to look like in 10 years?"

Though juvenile crime tends to evoke images of gangs and murder, violent teens are the exception.

Studies show they account for about 5 percent of all juvenile arrests. Drugs, burglary, theft and other property crimes are among the more common reasons teens are prosecuted in adult courts.

Most of these children, though, don't end up in adult prison, according to the Campaign for Youth Justice.

But crossing into the adult world is damaging in itself, argues Liz Ryan, head of the group. About 7,500 juveniles are held in adult jails on any given day, she says, and that number probably reaches tens of thousands a year because of turnover.

Being in an adult jail, Ryan says, increases a youth's risk of sexual abuse and assault. Educational opportunities are limited. And for those convicted of serious crimes, the damage can be irreparable.

"A lot of people say, 'So what? They get a slap on the wrist,'" Ryan says. "Well, there is a consequence. ... You have a felony record that follows you the rest of your life."

Sheila Montgomery worries about her son, Zack. He was recently released after serving 27 months for being an accomplice in the robbery of an Oregon convenience store. He had originally received a 7 1/2-year term after falsely confessing to being the robber; he was resentenced after evidence revealed he wasn't.

Montgomery says her son, now 17, will "forever be a felon. He can't put the past behind him. It was hard for him to find work. A lot of people didn't want to see him."

Montgomery says she has no problem with "a little bit of jail time" for her son but thinks probation and counseling would have served him better.

But prosecutors say some kids are just too dangerous to be prosecuted as juveniles and then be released by age 21.

If a criminal is likely to be free in a few years and do more harm, "then I come down on the side of risking the damage that is done by sending someone to prison," says Gary Walker, a Michigan prosecutor.

"When they tell me placing a younger person in an adult setting is not necessarily for the betterment of the individual," Walker says, "my answer is: 'Who thinks it is?'"

Minnesota prosecutor Backstrom didn't hesitate in prosecuting Matthew Nedere and Clayton Keister, then 17, as adults in the murder of Nedere's parents. He says he had to "make a very difficult decision whether to put these young men away for their natural lives, or give them a chance."

He weighed several factors, including their lack of criminal record and research that shows the part of the brain that regulates impulses and aggression is still developing in the 20s.

Backstrom allowed the teens to plead guilty to murder involving an armed robbery -- providing for the possibility of parole in 30 years.

More than a decade ago, Backstrom had pressed Minnesota lawmakers to make it easier for prosecutors to take serious cases into adult court.

He was frustrated when he couldn't try as an adult a 16-year-old who killed an acquaintance in a drug dispute and served less than 1 1/2 years in juvenile detention.

"That's not justice," Backstrom says. "He should have gone to prison 15 or 20 years. That's what would have happened today."

State Attorney Harry Shorstein of Jacksonville, Fla., has his own approach.

"I think I've created my own juvenile justice system," he says. "The secret is not choosing punishment versus prevention, but using both."

In 16 years, Shorstein's office has transferred more than 2,600 juvenile cases to adult court. Almost all those who've broken the law go to jail for about a year, where they live separately from adults, attend school and receive social services.

If they stay out of trouble while locked up, and for two years of probation, they don't get a record.

"I believe crime is like gymnastics," he says. "It really is a young person's sport. If you incapacitate a 15- or 16-year-old for a year, you can prevent more crime than if you imprison a 22-year-old for life." Lexington herald-leader | kentucky.com **Close-up: youth on trial sunday, december 16, 2007 A3**

AP video: See more about juvenile offenders in the adult justice system at Kentucky.com.

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