

A CENTURY OF REVOLUTIONARY CHANGES IN THE UNITED STATES JUVENILE COURT SYSTEM

ABD Çocuk Mahkemeleri Sisteminde
Bir Asırlık Devrim Kabilinden Değişiklikler

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Abstract

The first juvenile court in the United States was created in the City of Chicago in 1899. It was revolutionary in the sense that it removed juveniles from the jurisdiction of the adult criminal court and established a court exclusively for children. Originally, the philosophy underlying the early juvenile court was the doctrine of parens patriae, manifested in "the best interests of the child." Accordingly, unlike the adult criminal court, treatment and protection of the child was accorded greater importance than punishment. In order to promote these goals, all due process rights of juveniles were waived, for at least in theory, the juvenile would be protected by a benign and benevolent judge.

In the 1960's and 1970's, a number of United States Supreme Court rulings essentially reshaped the court process. Known as the due process model, juveniles were given rights essentially comparable to those providing legal protection to adults in the criminal court. Nevertheless, the concept of treatment and protection of the juvenile remained a major concern of the court.

The controlling model of the juvenile court shifted again in the mid-1980s. Consistent with the nationwide movement towards more punitive sentencing and due to increases in youngsters' crimes rates, the juvenile courts of the United States similarly shifted to increased sanctions. Similar to the "just deserts model" of the adult courts, the philosophy of the juvenile courts were not only concerned with the "best interests of the child," but now also gave consideration to the "protection of the community". This article will review the creation of juvenile courts, the revolutionary changes which have reshaped the court system, and current practices.

Key Words: Parens Patriae, Due Process Rights, Juvenile Delinquents, Reform Schools, Probation.

Özet

ABD'de ilk çocuk mahkemesi Chicago (Şikago) şehrinde 1899'da ihdas edildi. Sadece çocuklar için bir mahkeme kurulması ve çocukların normal ceza mahkemeleri yargılama alanının dışına çıkarılması bakımlarından bu gelişme devrim niteliğindedir. Bu makale çocuk mahkemelerinin ihdas edilmesini, mahkeme sistemini tekrar yapılandıran devrim niteliğindeki değişiklikleri ve günümüzdeki uygulamaları yeniden gözden geçirecektir.

Anahtar Kelimeler: Parens Patriae Doktrini, Usule Dair Cari Haklar, Çocuk Suçları, Reform Okulları, Gözaltı

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Living Conditions of Children in Large Cities in the 1800s

In the 1800s, life was brutal for children of impoverished families, and especially those living in large cities. Families lived in overcrowded tenement apartments, without such amenities as indoor toilets, bathtubs or showers. It was not unusual for a single apartment to house several families, each having a single room and the use of a shared kitchen. In the absence of government-funded welfare programs, some had to turn to the paltry handouts of private charitable agencies.

Life was especially difficult for the children of the poor. Many were encouraged to leave home and live on the street, as the families often neither had support nor room for their children. Many children under the age of 10 left school to earn money by selling newspapers, running errands, rag-picking, or from petty thefts. Some went “junking” which was to find discarded wood, metal, rags, and other materials and objects and sell them to junk dealers for pennies. Many were encouraged by their family and friends to raise money through minor criminal acts, such as stealing coal to be used for heating or shoplifting. For impoverished young women, prostitution was sometimes made necessary to support the family and to survive.

Conditions were especially harsh for immigrant families. Not only did most arrive without funds or resources, but their lives were made more difficult because of language difficulties, inadequate educations, a lack of relevant job skills, and culturally endorsed practices of having large numbers of children. Robert Ernst (1965:52-3) provided a vivid portrait of conditions in New York City during the mid-1800s:

Life in the slums was a continual struggle against illness and death. The high incidence of disease in New York was directly related to the sanitary condition of tenement dwellers, of whom a large number were the foreign born or their children. In the crowded immigrant quarters quarantine was an impossibility, and communicable diseases erupted into epidemic proportions.

Jacob A. Riis (1890:150-1), writing contemporaneously, found an army of homeless boys all over the city of New York. In answer to the question of where they came from, he stated:

Some are orphans, actually or in effect ... Sickness in the house, too many mouths to feed. ... There is very little to hold the boy who has never known anything but a house in a tenement. Very soon the wild life in the streets holds him fast, and thenceforward by his own effort there is no escape.

Over the years, reform groups sought to ameliorate the conditions of the poor, often by progressive legislation. This included a number of private charitable

organizations, many of which were religiously oriented. However, in the absence of governmental welfare programs, there were simply too many poor and too few dollars.

Many reforms were specifically focused on children. A major attempt to rehabilitate troubled juveniles was the reform school movement. Juvenile correctional facilities were initially opened in the first half of the nineteenth century throughout the United States. Subsequently, state and municipal governments administered these institutions for juvenile delinquents “and by 1890, almost every state outside the South had a reform school, and many jurisdictions had separate facilities for male and female delinquents” (Krisberg and Austin, 1978:21).

There were a number of precursors to the creation of a juvenile court, all of which were intended to improve the living conditions of youths from troubled families. The Houses of Refuge, the first of which was established in New York City in 1825, (Folks, 1902) were residential facilities intended to be benevolent and protective of the wayward children, many of whom were living in the street. In actuality, life in the Houses of Refuge was not easy and discipline was quite harsh:

Placing offenders on a diet of bread and water or depriving them of meals altogether were milder forms of discipline, but were coupled with solitary confinement if a severe punishment was deemed necessary. Corporal punishments, used alone or in combination with other corrections, consisted of whipping with cat-o'-nine tails or menacing with a ball and chain. The worst offenders were shipped off to sea (Bartollas and Miller, 2001:241-243).

The philosophy of the Houses of Refuge was to prevent juveniles from becoming delinquent because of the influences of the street, and “reforming them in a family-like environment” (Siegel and Senna, 2000:438). Although, most of the children were status offenders, and had not committed a criminal act, Houses of Refuge often utilized a jail model, with strict rules and harsh punishments, including corporal punishment. Within a short time, a number of cities built similar Houses of Refuge. Unfortunately, although originally a reformist move, the Houses of Refuge turned conservative and were no longer considered in the forefront of reform. They instead incorporated the system of contract labor, the cell system, and the use of corporal punishment (Folks, 1902). Another experiment, beginning in the 2nd half of the 19th century and continuing for about 75 years was the “placing out movement” or the “orphan train movement.” The plan of Charles Loring Brace, head of the Children’s Aid Society, was to send orphans, and also dependent and neglected children to the midwest, so as to escape the poverty, crime, and pollution of New York City. Juveniles were transported by train, in groups of 20 to 40, to cities in the western states, where arrangements had been made for a large public meeting in the local school or town hall, so that the residents of the area could choose which children, if any,

would be given shelter in their homes. In some cases, this might include several siblings of the same family (Holt, 1992; Folks, 1902; Brace, 1880). There was great interest by the farmers in taking children into their homes for extra laborers are always desirable in agriculture. Others housed the children out of a sense of charity, while some simply wanted the love and companionship that only a child could offer. The program was ended in 1929, after about 100,000 children had been shipped to the West (Folks, 1902). Many of the children benefited greatly, for instead of living on the street, in a public facility, or in a reform school, they were given the opportunity to live with a family. Some were adopted by the families with whom they lived. Many enjoyed stable homes, obtained an education, learned the discipline of work, and went on to successful careers. But some children worked unrelentingly at difficult tasks and some children ran away from the homes in which they were placed.

Reformers were also active in establishing juvenile detention homes. Even prior to the creation of a juvenile court, reformers struggled to develop detention homes for juveniles as a substitute for co-mingling juveniles and adults in jails or police lockups. This lessened the likelihood of their being victimized by adult inmates. In addition, the reduced contact of juveniles and adult offenders diminished the opportunity for juveniles to learn criminal attitudes or skills (Flexner, 1910).

Despite the humane concept inherent in the removal of juveniles from adult jails, there was critical resistance to the construction and maintenance of detention homes. The concept of a separation of juveniles from adults was new and its potential benefits were not fully understood. Some critics viewed the practice as excessively lenient and unnecessarily expensive. For example, in Chicago, the original law creating a juvenile court provided that juveniles could not be confined with adults pending their hearings, but funds were not allocated to pay for detention costs. As a result, the costs of detention were originally borne by contributions from private persons (Platt, 1977; Bowen, 1925).

For a number of years after the turn of the century, detention homes were maintained in different ways. In New York City, homes were run by the Society for the Prevention of Cruelty to Children. In some cities, the detention center was maintained by the municipality, in others by private organizations, while other cities had no detention homes at all. Eventually, detention centers were recognized as essential to the protection of juveniles, and established in all large cities.

The Early Relationship of Probation and The Juvenile Court

One of the dominant forces supporting the creation and growth of the juvenile court was the development of a probation system. The probation system was especially important to the first juvenile court as probation officers supervised the youngsters, and provided other services to the court. As other juvenile courts were developed nationwide, they too relied on probation for administration.

The juvenile court movement accelerated the growth of probation, serving as an integral part of many juvenile court programs. As a result, probation for adults did not expand as quickly (Dressler, 1969). This phenomenon was also attributable to the public's greater willingness to exculpate juvenile offenders while punishing adult criminals.

During the early years of the Chicago juvenile court, officials in the system were magnanimous in their praise of the probation service. As contemporaneously stated by one of the first juvenile court judges (Mack, 1925:315):

And then, of course, as we have recognized from the very beginning, we need the probation officer. The probation officer is the right arm of the court; it cannot do without him or her.

Reasons for the Creation of A Juvenile Court

As noted, there was significant opposition to the origin of a juvenile court. Some believed that it was unnecessary in that it would duplicate the role of the adult criminal courts, that it would be unnecessarily expensive, and that it would serve to "mollycoddle" juveniles (Whitman, 1916).¹

One of the basic reasons for the creation of a juvenile court was to remove children from the harshness of criminal court sanctions. Punishment is the *raison d'être* for criminal courts in accordance with a retributive theory of justice. In recognition of the malleability of juveniles and their immaturity, it was the belief of reformers that they should not be punished with the same harshness as adults. In the juvenile court, it was presumed that judges would be benign, and that the court would substitute protection and rehabilitation for brutal punishment.

Another reason was to reduce co-mingling between adults and juveniles. This would lessen their exposure to criminal attitudes and skills. In addition, it was believed that the stigmatization of the child would be reduced if he or she was processed behind closed doors in the juvenile court. Unlike the criminal court, the proceedings and records would not be open to the public, so as to reduce the negative labeling of the child.

Finally, reformers were generally dissatisfied with reformatories, many of which were considered to be brutal and harsh in their treatment of juveniles, and most important, failed to achieve the goal of rehabilitation. It was believed that commitments to these facilities would be reduced through a juvenile court which focused on extensive rehabilitative services, and the ability to make non-incarcerative referrals through a network of social services.

The Creation of The Juvenile Court

The first juvenile court was established in the City of Chicago effective July 1, 1899. The enabling legislation was named "An Act to Regulate the Treatment

¹ N.Y.S Probation Commission, 1918

and Control of Neglected, Dependent, and Delinquent Children.” The Illinois Juvenile Court Act of 1899 applied only to children under the age of sixteen who were dependent, neglected and/or delinquent. It also provided for jurisdiction over children under the age of eight years who were found “peddling or selling any article or singing or playing any musical instrument upon the streets or giving any public entertainment”²

The Act further provided for a separate courtroom for juvenile hearings and prohibited the detention of children under 12 years-of-age in jails and police stations. Most importantly, this law also authorized the appointment of probation officers whose duty it would be to:

*make such investigations as may be required by the court: to be present in court in order to represent the interest of the child when the case is heard; to furnish the court such information and assistance as the judge may require, and to take charge of any child before and after trial as may be directed by the court.*³

Although diverted from the punitiveness of the criminal court, the juvenile court system significantly increased court jurisdiction over troubled children. A 1913 study of juvenile arrests in New York City reported that 50 percent of the arrests made in the district were for noncrimes like begging, setting bonfires, fighting, gambling, jumping on streetcars, selling papers, playing with a water pistol, and similar minor non-criminal acts (Collier and Barrows, 1914). Nasaw (1985:23) noted that: There appeared to be little rhyme or reason in the causes for arrest. Some of the children’s crimes involved junking, petty thievery, and playing with or on private property, but there were many more that were victimless. Therein, a great deal of non-criminal juvenile misbehavior which was not controlled by the adult criminal court, was now subject to juvenile court control.

The primary force behind the legislative passage of the Act were a group of female activists who believed that juveniles should neither be confined with adults nor subject to criminal court jurisdiction, but instead should be tried in a special juvenile court which would be guided by a philosophy of the “best interests of the child”. These women were successful in the establishment of a juvenile detention center several years before the creation of the court. Years later, Platt (1977) would sarcastically name these women as the “chidsavers,” believing that their intentions were designed to enrich themselves, and at the same time exercise control over the juveniles, most of whom were poor and the children of immigrants.

The basic philosophy underlying the creation of the court was the doctrine of “*parens patriae*”, carried over from English common law. Under this doctrine the King had the responsibility of protecting children, and others who could not care for themselves. Transported to America, the role of the King was replaced by the

²Illinois Statute 1899, Section 131.

³Illinois Statute 1899, Section 131.

judiciary. Framed by the doctrine of “*parens patriae*”, the role of the juvenile court was to act in the “best interests of the child”. Unlike the criminal court, whose role was to punish the transgressor, the theory underlying the juvenile court was to protect the juvenile offender through the provision of treatment and rehabilitation. Even in those serious cases where the juvenile was remanded to a reform school, it was perceived as rehabilitative in that the experience should result in improved behavior.

Innovative Practices of The Early Juvenile Court

A number of modifications of criminal court practices and procedures were put into place in the early juvenile court to accomplish the stated goals of treatment and rehabilitation of the juvenile. The major changes included:

1. A change from a punishment ideology to a treatment oriented philosophy. No longer were juveniles to be subjected to trial and incarceration with adults, nor to the harsh punishments of a criminal court. Juveniles because of their immaturity should not be held accountable for their acts in the same way as adults.
2. The concept of *parens patriae* as manifested by the “best interests of the child” would prevail. At least in theory, and in contrast to the criminal court, these concepts held the court responsible for the welfare and protection of the child, while at the same time, giving the court virtual control of the child, through the elimination of nearly all due process rights conferred to juveniles when under criminal court jurisdiction. Among other due process rights, juveniles were denied the right to appointed counsel, to an appeal, to a jury trial, and to the confrontation and cross examination of witnesses. Similarly, court decisions were based on the preponderance of the evidence rather than the higher standard of proof of beyond a reasonable doubt as used in the adult criminal court. It was believed that due process protections were not necessary as the court was a *quasi-civil* court rather than a criminal court. In addition, legal protections were not considered necessary as the welfare of the child would be safeguarded by a kindly and benevolent judge, who was more interested in the rehabilitation of the child, than in punishment.
3. In the absence of prosecutors and defense attorneys, the juvenile court carried on it’s work with great informality, flexibility, and acted as a social service function rather than in a legal manner. The two principal actors in the process were the judge and probation officer, and they exercised total control over the court process.
4. To further disassociate the juvenile court from the criminal court, a euphemistic nomenclature was adopted which was less criminally oriented. This terminology continues today. The following chart, is illustrative of the alternative language:

Chart.1

Adult Criminal Court Terminology	Juvenile Court Terminology
<i>Criminal</i>	<i>Delinquent Child</i>
Crime	Delinquent Act
Arrest	Take Into Custody
Arraignment	Preliminary Hearing
Trial	Hearing
Conviction	Adjudication or Finding of Fact
Sentencing	Dispositional Hearing

5. A tenet of the early juvenile court was that they were more interested in the “needs of the child, than the deeds of the child”. The original court, therefore, considered the act as a symptom of the underlying causal factors.

The First Sixty Years of The Juvenile Court

The concept of a juvenile justice system spread throughout the nation, “and by 1925 juvenile courts existed in virtually every jurisdiction in every state” (Siegel and Senna, 2000:445). Then as now, there was great diversity between the juvenile courts in different states, as noted by Siegel and Senna (2000:445):

Some jurisdictions established elaborate juvenile court systems, whereas others passed legislation but provided no services. Some courts had trained juvenile court judges; others had nonlawyers sitting in juvenile cases. Some courts had extensive probation departments; others had untrained probation personnel.

Because children lacked due process protections, including the important right to appointed counsel, justice was often overlooked. Despite the rhetoric, fairness was often ignored in many juvenile court proceedings, and children were sometimes adjudicated delinquent on the whim or caprice of a judge. Without counsel, juveniles were often unable to express themselves, were intimidated by the judge, and were entirely subject to the domination of the court. In a court without due process, each judge acted with the absolute power of a king.

Often court decisions were solely at the discretion of the judge. It was not unusual to have a child who committed a social wrong, receive a longer period of incarceration than a child whose act would have been criminal were he an adult. In many instances, juveniles received harsh sentences rationalized by the court’s duty to protect, treat, and rehabilitate the child. For example, a child might be committed to a training or reform school, not to punish the child, but to change his behavior. Unfortunately, a disposition allegedly in the “best interests of the child” was hardly different from the harsh punishments imposed by the reform school administrators, as Siegel and Senna (2000:445) observed:

Great diversity also marked juvenile institutions. Some maintained a lenient treatment orientation, but others relied on

harsh physical punishments, including beatings, straightjacket restraints, immersion in cold water, and solitary confinement in a dark cell with a diet of bread and water.

Over the years, it became clear that the early promises of the juvenile court reformers were not being fulfilled. Forceful criticisms of the injustices of the juvenile court system were expressed by lawyers, academicians, and reformers, in addition to investigative committees of private and governmental child care agencies.

Paul Tappan, a law professor, was illustrative. He was critical of those reformers who believed that all children could be “saved” by the court. He instead warned that it was necessary for the courts to be more realistic in their goals. He was also critical of many of the extra-legal practices of the court, stating that the juvenile court of the time was characterized by an absence of due process protections, resulting in “unofficial treatment in more than half of the cases. Specifically, he criticized the absence of counsel, the secrecy surrounding privacy of hearings and decisions, the denial of a jury trial, the disregard of the rules of evidence, the denial of the right to appeal, the informality of procedures, and a failure to make and preserve adequate records. Tappan (1962:159) concluded his indictment of the juvenile court by noting that:

The state’s purpose may not be punitive, as the courts have tirelessly repeated, but the deprivations to the child and his parents are no less real because they are benignly inspired. The child enjoys no constitutional protection against incarceration or supervision disproportionate to the seriousness of his misconduct.

Others similarly criticized the lack of justice and fair play in the juvenile court, despite its benign and benevolent goals. The court was censured for its permissive, social agency type organization. Dunham (1964:347) wrote that:

When, however, the juvenile court fails directly to advert to the fact that a particular illegal act has been committed by the child and, in its zeal to “treat” the child, completely glosses over this matter, the final disposition of the child’s case is very likely to seem to him confusing and even unjust.

As criticisms grew, the United State Supreme Court began to radically change the juvenile court laws throughout the nation. Using language, even stronger than many other critics of the court, Justice Abe Fortas took issue with the *parens patriae* concept underlying the very foundation of the juvenile court’s practices. In the case of *Kent v. United States*, [383 U.S. 541, at 556 (1966)] Fortas forcefully criticized the lack of legal protections afforded juveniles, stating:

There is evidence, in fact, that there may be grounds for concern that the child receives the worst of both worlds: that he

gets neither the protection accorded to adults nor the solicitous care and regenerative treatment postulated for children.

Moreover, in writing the majority opinion, Justice Fortas argued that the rehabilitative orientation of the juvenile court was “not an invitation to procedural arbitrariness” (383 U.S. 541, at 541). The Supreme Court was warning the juvenile court to either provide adequate treatment or substantial due process protections, if it were to continue its operations.

The Second Revolution of The Juvenile Court System

A second revolution began in the middle of the 1960s that provided juveniles with many of the due process rights enjoyed by adults. *Kent v. United States*, 383 U.S. 541 (1966) initiated the process. In this case the United States Supreme Court held that a formal waiver hearing was required before a case could be transferred from the family to the criminal court. Although not providing many rights for juveniles, it did serve to commence the restoration of due process rights for juveniles.

In the following year, the Supreme Court ruled on the case of *In re Gault*, 387 U.S. 1 (1967), possibly the most important of juvenile cases. Noting the injustices suffered by juveniles without due process protections, Justice Fortas, who had previously written the majority decision in the *Kent* case, wrote that “under our Constitution, the condition of being a boy does not justify a kangaroo court” (387 U.S. 1, at 28, 1967). The importance of *In re Gault* lies in the rights given to juveniles which included: right to the notice of the charges; right to counsel; right to confront and cross-examine witnesses; and the privilege against self incrimination.

In the case of *In re Winship*, 397 U.S. 358 (1970), the Supreme Court continued the expansion of juvenile rights by mandating that the juvenile court follow the highest criminal court standard of “beyond a reasonable doubt” to establish guilt, rather than the civil court standard of the “preponderance of the evidence.”

The trend of providing additional rights to juveniles was temporarily interrupted with the Supreme Court rulings in *McKiever v. Pennsylvania*, 403 U.S. 528 (1971), and *Schall v. Martin*, 104 S. Ct. 2403 (1984). In *McKiever*, the Court ruled that due process protections do not give juveniles a right to a jury trial, although a state can grant this right if it desires. Similarly, it ruled in *Schall*, that juveniles could be held in “preventive detention”, if they present a serious risk to society to commit a new crime. The basis for the Supreme Court’s ruling was the belief that adults have a right to liberty whereas juveniles only have a right to custody. As a result, it is not unreasonable to detain a juvenile for his own protection.

A number of other important cases contributed to the due process rights of juveniles. In *Breed v. Jones*, 421 U.S. 519 (1975) the Supreme Court ruled that children in the juvenile court are protected against double jeopardy. In *Thompson v. Oklahoma*, 487 U.S. 815 (1988), the Supreme Court ruled that the execution of a

person who was below the age of 16 when the crime was committed is unconstitutional. In *Stanford v. Kentucky*, 492 U.S. 109 S. Ct. 2969 (1989) the Supreme Court held that the imposition of the death penalty on a juvenile who committed a crime between the ages of sixteen and eighteen was not unconstitutional.

The second revolution of the juvenile justice system ended up granting children in the juvenile court almost all of the same due process rights guaranteed to adults.

The Third Revolution

As the United States Supreme Court extended due process rights to juveniles in the 1960s and 1970s that were almost comparable to the rights of adults in the criminal court, the doctrine of *parens patriae* was seriously undermined, although it was not totally discarded. From a legal standpoint the original mold of the juvenile court was now broken. While the non-punitive, benevolent, and rehabilitative goals of the court remanded in place, the legal process governing the court was now similar to the criminal court.

A third revolution of the juvenile court took place in the 1980s. Replicating the adult criminal court's move towards harsher and more punitive sentences, the juvenile court similarly adopted a "control model." While, the early court primarily focused on treatment and the protection of the child, the "control model" also advocates the protection of society. For example, the Family Court Act of the State of New York, which previously provided that the purpose of the Court was to "consider the needs and best interests of the child" was amended to include "the need for protection of the community" (F.C.A., Sec. 301.1). As noted by Trojanowicz and Morash (1992:181-3), "There is a growing trend to revise juvenile justice statutes that have traditionally emphasized rehabilitation as the primary purpose of court intervention". Examples of this trend include:

1. All states now have waiver provisions by which certain juveniles can be tried in the adult criminal court for very serious crimes. When in the adult court, the juvenile receives all of the due process rights of an adult, but faces more punitive sanctions than in the juvenile court.
2. A number of states now permit juveniles of sixteen or seventeen, who are tried in the adult criminal court, to face the death penalty. In *Stanford v. Kentucky*, 492 U.S. 361 (1989), the Supreme Court ruled that the imposition of capital punishment on a juvenile who committed a murder between the ages of sixteen and eighteen is permissible.
3. Some states have moved to "determinate sentencing" both for adults and juveniles. Unlike earlier sentencing in the juvenile court, which was extremely flexible and usually based on the juvenile's treatment needs, "determinate sentencing provides fixed forms of sentences for offenses. The terms of these sentences are generally set by the legislature rather than determined by judicial discretion (Bartollas, 1999).

4. A significant number of states have increased their sanctions in sentencing juvenile delinquents. As found by Feld (1988:821), "in at least ten states, preambles to the juvenile law have been changed to focus on 'public safety, punishment, and individual accountability' as objectives".

A report issued by the Office of Juvenile Justice and Delinquency Prevention (1999) summarized the sweeping procedural changes as follows:

During the 1980's, the public perceived that serious juvenile crime was increasing and that the system was too lenient with offenders. Although there was substantial misperception regarding increases in juvenile crime, many States responded by passing more punitive laws. Some laws removed certain classes of offenders from the juvenile justice system and handled them as adult criminals in criminal court. Others required the juvenile justice system to be more like the criminal justice system and to treat certain classes of juvenile offenders as criminals but in the juvenile court.

The juvenile court has moved virtually full circle from a rehabilitative and treatment oriented focus to a concentration on accountability and punishment. Albanese (1994:185), commented on the changed philosophy of the juvenile court, remarking that:

... the last hundred years has seen the process of juvenile justice undergo a complete and cyclical change: from the treatment of all juveniles as adults to the invention of the juvenile court and the rehabilitative model to the due process model to where we are now almost back to where we started. It is ironic, but in the 1990s we are closer to treating juveniles as adults than at any time since the turn of the century.

Today's juvenile court is so different from the original court of a century ago, and so similar to the adult criminal court that this turnaround is causing many to ask whether a separate juvenile court is needed any longer. In *McKeiver v. Pennsylvania*, 403 U.S. 528 (1971), Justice Blackmun writing for the majority warned that:

If the formalities of the criminal adjudicative process are to be superimposed upon the juvenile court system, there is little need for its separate existence. Perhaps that ultimate disillusionment will come one day, but for the moment we are disinclined to give impetus to it.

As the juvenile courts increasingly mirror the adult criminal courts, Justice Blackmun's concerns become increasingly important. Whether or not a separate court for juveniles has been made obsolete by these revolutionary changes is a crucial question that must be addressed in the near future.

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