

Children's Section on Youth in the Delinquency System

In this issue the Children's Section explores the experience of youth in the juvenile justice system. Journal staff interviewed two former wards of the delinquency system and an attorney working in the juvenile justice field about their perspectives on how to effectively rehabilitate youth in the system. An overriding theme in the interviews is that the juvenile justice system must be extensively reformed if we are to significantly reduce youth crime and the cycle of recidivism.

The juvenile court system originated a little over 100 years ago in Cook County, Illinois.¹ When Chicago reformers, Jane Addams, Lucy Flower, and Julia Lathrop learned that hundreds of children were being jailed with adults in Chicago's prisons, including children as young as eight, they urged state lawmakers to create a separate justice system for children.² The juvenile court movement was influenced by the belief that because children are both physically and mentally different from adults, they are more amenable to change and transformation into law-abiding citizens.³ The British doctrine of *parens patrie* (the state as parent) was the rationale for the right of the State to intervene in the lives of children in a manner different from the way it intervenes in the lives of adults.⁴ In response to the reformers' concerns, the

¹ See Marygold S. Melli, *Juvenile Justice Reform in Context*, 1996 WIS. L. REV. 375, 376.

² See *Second Chances*, in THE JUSTICE POLICY INSTITUTE AND CHILDREN AND FAMILY JUSTICE CENTER, THE CHILDREN'S COURT CENTENNIAL COMMUNICATIONS PROJECT 2 (1999).

³ See Melli, *supra* note 1, at 2.

⁴ OFFICE OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION, JUVENILE OFFENDERS AND VICTIMS: 1999 NATIONAL REPORT (1999).

juvenile justice system was designed to rehabilitate youth through institutionalized treatment rather than punitive measures.

Although many former juvenile delinquents have left the system and successfully re-entered society, the juvenile justice system has fallen short of the reformers' rehabilitative ideal in several areas. Some of the juvenile justice system's rehabilitative gaps include insufficient resources, inadequate schooling, inapt provision of access to sufficient physical and mental health care services, failure to effectively monitor juvenile's performance and quality of staff, and allowance of a disproportionate number of economically disadvantaged and minority youth to receive harsher sentences. The advancement of the super-predator theory⁵, political agendas, media sensationalism, and the fostering of a public fear of youth violence and crime have altered the treatment of young offenders from rehabilitation to what one commentator has characterized as a punitive "War on Juveniles."⁶

On any given day in the United States, there are more than 100,000 young people in juvenile detention facilities.⁷ Many observers predict that number will increase if our nation's approach to juvenile justice does not change.⁸ The growing tendency in the United States to prosecute and punish children as if they were adults is inconsistent with the standards adopted by almost every other country in the world that governments should establish laws, procedures, authorities and institutions specifically for children.⁹

The former juvenile delinquents and the juvenile justice attorney interviewed for this section provided our staff with keen insight into the juvenile justice system. These

⁵ See JOHN DIULIO, MANHATTAN INSTITUTE, HOW TO STOP THE COMING CRIME WAVE (1996).

⁶ See Children Prosecuted in the General Criminal Justice System, at <http://www.nospank.net/ai-rpt4.htm> (last visited Dec. 30, 2002) [hereinafter Children Prosecuted].

⁷ KQED, State of Juvenile Justice 2002, at www.kqed.org/w/juvenilejustice/kqedorg/state.html (last visited Jan. 15, 2003).

⁸ *Id.*

⁹ Children Prosecuted, *supra* note 6.

individuals' experiences and desire to promote change within the system enhanced our understanding of juvenile delinquency and the impact that the system has on youth. The interviews illustrate the need for society to focus more on rehabilitating youth so that they can effectively re-enter society and become productive citizens. These accounts prove that young people who may commit criminal offenses at one time in their life can mature into productive, law-abiding citizens. In fact, research has proven that the majority of people commit crimes when they are youth and then cease criminal activity as they age.¹⁰ Finally, these perspectives and accounts attest to the fact that most youth deserve a chance necessary to change their lives, grow up, and make something of themselves. Following are their accounts and perspectives.

¹⁰ See *Second Chances*, *supra* note 2, at 3.

MALCOLM PENTON'S ACCOUNT

Malcolm Penton, now twenty years old, grew up in Richmond, California and entered the juvenile justice system at the age of twelve for fighting with another youth. Malcolm recalled that he was taken to Contra Costa County Juvenile Hall for fighting over “something stupid.” Malcolm noted that during his stay at juvenile hall, “nobody said anything [to him].” The detention seemed to be “more of a routine” procedure than anything else. After being detained in a holding cell for a day, Malcolm was placed on probation and then released to his parents without receiving any counseling. His mother did not receive any counseling or “real advice” either.

Out of Malcolm’s approximately sixteen probation officers, he can only recall one probation officer “who really helped and put forth the effort to understand what [he] was going through.” While other probation officers were too “lenient” and allowed Malcolm and other youth offenders to evade certain probation criteria, this particular probation officer taught Malcolm that “hustling [was] not [his] only option” and that “there is always an alternative.” Malcolm indicated that this probation officer also told him, “*You can always win.*”

Although Malcolm only encountered about a handful of people in the delinquency and dependency systems who really strove to make a positive impact on his life, he realized through “real powerful people . . . that he could do more.” Once Malcolm truly became convinced of his abilities and potential, he began to turn his life around. Malcolm’s desire to change his life’s direction and concentrate on school came from “within [himself],” with the support of the probation officer who particularly cared, and from a few staff members who worked in the system. Malcolm’s transition from a juvenile in trouble with the law to a young man inspired to make a difference in other youths’ lives began gradually as he made his journey “one step at a time.”

Malcolm discussed how difficult the journey could be at times because once he left the system, sometime before turning eighteen, he "had to return back to those same shoes; nothing had changed at home" or in his community. Malcolm said, "When you come home, that is the real challenge." He believes that the system is ultimately not responsible for controlling how a youth responds to being detained in the juvenile justice system, but the system should "try to guide [youth] to the right places." Similar to the experience of many other former juvenile delinquents, Malcolm discovered that "support services" provided to youth when they leave the system are insufficient if not non-existent.

Looking back, Malcolm says that although the "after-care services" were inadequate, "I am not blaming anybody but myself. I do not want to blame anybody. . . . Juvenile Hall is a place where they put you so you can think." Malcolm believes that his experience in the system and his encounter with a few people who truly cared "opened [his] eyes to other stuff, other alternatives." However, the "system does not give youth the confidence that they need." Malcolm believes that the system needs to provide youth with more effective "one on one counseling." He claims that when you are a troubled youth in the system, you want to speak with "someone who has been through a similar experience." Furthermore, families need to be more involved in the juvenile delinquency process so that when youth return home, they return to a supportive environment. Malcolm also notes that "probation officers play a big role" in youth's progress and should be more involved in working with the families and more committed "to working toward community negotiations."

Today, Malcolm attends junior college, volunteers in his community, and works as a youth advocate. Malcolm speaks to youth and practitioners about "whatever flows from the heart" about the fact that the "juvenile years count. [These years] make up who you are" Malcolm believes that when he was a youth in trouble with the law his "mind was not open to other things." He, therefore, reminds youth that "life is more important than they think." Malcolm strives to inspire

youth to recognize that there is “more to life than the run-ins” and to “expand their horizons.” Through his experiences, Malcolm also realized that too often youth do not look very far into the future. His message emphasizes that the “skills and energies that they use to be bad” could be channeled toward doing “a million other things.” Malcolm tells them that even for those who are “real interested in hustling . . . this is not [their] only option. There’s always an alternative. *You can always win.*”

Malcolm believes the reason youth enter the juvenile justice system stems from deficiencies in parenting, communities and schools. Malcolm indicates that “a gap exists in our communities” between youth, community programs, and individuals responsible for caring for youth. Prevention, risk assessment, and educating members of our community about our responsibility to youth are some of the best methods of reducing juvenile crime and recidivism.

Finally, Malcolm insists that juvenile hall needs to be provided with more resources and a better educational system. There are too many youth in the system and not enough teachers to meet the various developmental needs of the juveniles. All too often staff members neglect their responsibilities to these youth by allowing them to fight instead of educating them on how to deal with their problems and disputes more effectively. Malcolm also claims that more after-school programs and better rehabilitative services need to be provided to youth who become involved in the juvenile justice system in order to prevent them from continuing in a cycle of delinquency. Malcolm encourages individuals working in the system or on behalf of the system to set aside their own agendas and “[f]or the sake of the young people, treat youth in the juvenile justice system with the same level of respect as foster youth.”

MARLENE SANCHEZ'S ACCOUNT

Marlene Sanchez, formerly in the juvenile justice system, works as the Program Director of Girls Detention Advocacy Program ("GDAP").¹¹ Marlene became introduced to the juvenile justice system when she was thirteen years of age. For the next five years, Marlene had fourteen different contacts with the system. Most of Marlene's contacts with the delinquency system resulted from violating probationary terms such as curfew, as opposed to violent crimes. Marlene indicated that staying out of the system and complying with probation terms were real challenges. She noted that youth "do not need to commit a new crime in order to get sent back to detention." During her experience in the juvenile justice system, Marlene was placed into community programs and under house arrest. At sixteen, Marlene became a ward of the court and was sent to live in a group home where she felt restricted from participating in her culture and speaking Spanish. When Marlene turned eighteen, she aged out of the group home and was dropped off at her sister's house. Marlene's family never received any information about community services or support that might have assisted her family in fostering her rehabilitation.

Marlene's circumstances were especially difficult because her relationship with her mother was "rocky." She recalls that her mother truly cared about her, but did not have any control over Marlene because her mother was ill with cancer. Marlene feels that some catalysts to youth engaging in delinquent behavior are difficult circumstances arising either

¹¹ GDAP is a component of the Center for Young Women's Development ("Center") in San Francisco, California, run entirely by young women ages fourteen to twenty-four. The Center's mission is to promote economic self-sufficiency, community safety, and youth advocacy by providing peer-run employment and leadership opportunities to low income young women and girls who are homeless, unemployed and involved in the juvenile justice system. *See* The Center for Young Women's Development, at <http://www.mashmagazine.com/99sep/septsocial.html> (last visited Dec. 30, 2002); *see also* Tech Up Participating Groups, at http://www.techup.org/etc/et_parts.html (last visited Dec. 30, 2002).

from parents' lack of initiative to nurture their children's development, a single parent having to work all the time to put food on the table, or a parent getting a terminal illness and not being able to adequately care for the child. When reflecting on her childhood and partaking of her own child's development, Marlene now recognizes the struggles her mother endured and understands how difficult it is to be a parent without support.

Marlene recalled that throughout her experience with the juvenile justice system, she never had a say in what would happen to her or an opportunity to be a part of the solution by offering her own ideas. Marlene believes that the system should be designed to make "women [and young people] a part of their plan before they are released." Marlene says that a lot of the young women in the system "have been the caretakers" of their families and they turn to criminal activity as a means of producing income. Marlene also indicates that many of the young women are very hopeful and smart, but frustrated because they cannot get the education they need while they are in the system. Therefore, these young women react to their situations and frustrations by acting out in the classroom.

Marlene "does not know if she would recreate" the juvenile justice system. She stated that the system "serves its purpose." However, Marlene believes that placements need to better address the specific needs of young women. These placements should have adequate resources and sufficient services to better promote a youth's rehabilitation. Furthermore, Marlene indicates that more emphasis needs to be placed on "parental support."

Marlene also states that most of the "young women in the system are poor and live in communities of color that are targeted by law enforcement." These women often face struggles with poverty, crime, abuse, and insufficient parental and family support. She stresses that public schools in San Francisco and surrounding Bay area communities do not meet the needs of these youth. Marlene believes that "schools are the avenue to Juvenile Hall." She stated, "[N]ot that it is an

excuse," but there are significant deficiencies within our families, our communities, our schools, and in law enforcement procedures designed to reduce youth crime and violence. Marlene noted that the juvenile justice system and society is moving more towards punishment and further away from rehabilitation.

When Marlene grew "tired of going to juvenile hall," she began her "process" of rehabilitation, "but it did not just happen over a year or two." Through the efforts of young women conducting "street outreach," Marlene learned about the Center for Young Women's Development (CYWD).¹² At fifteen, Marlene became involved in CYWD and has developed into a tenacious youth advocate who strives to make a difference in young people's lives so that they can have "a voice in their community." Marlene emphasizes that one of the most important ways to assist youth in their development and rehabilitation is to provide them with options. It is "important to give youth a say before it gets to a point" where opportunities for rehabilitation are significantly reduced. Therefore, Marlene insists that we as a society have to work together to improve our family lives, our communities, our schools, and law enforcement's response to delinquent activity in order to effectively "meet the specific needs" of our youth.

¹² See The Center for Young Women's Development, *supra* note 11; see also Marlene Sanchez, *How I Fell Into Organizing*, at http://www.techup.org/org/or_start.html (last visited Jan. 5, 2003).

SUE BURRELL'S PERSPECTIVE

Sue Burrell, a staff attorney at the Youth Law Center, began her pursuit for juvenile justice while working as a certified law clerk for a clinic at Loyola Marymount University School of Law. Ms. Burrell then went on to serve as a Public Defender for six years where she represented hundreds of youth in the delinquency system. In 1987, Ms. Burrell began working at the Youth Law Center where she continues to assist youth in the juvenile justice system. She has represented children in civil rights litigation, written appellate court briefs, presented at conferences and workshops, authored more than a dozen articles and monographs, drafted and testified on legislation, and acted as a consultant on a wide range of juvenile justice, child welfare, health and education issues.¹³ Most recently, she has served as a member of the project team for the Office of Juvenile Justice Delinquency Prevention Project on Training and Technical Support to Reduce Juvenile Detention and Corrections Overcrowding, and as a technical assistant to the Annie E. Casey Foundation Juvenile Detention Alternatives Initiative.¹⁴

Reflecting upon her experiences working in the juvenile justice system, Ms. Burrell stated that one of the "biggest overall deficiencies" is that "dispositions often are not designed to address juveniles' issues." The "system is set up to rely on pigeon-holing youth," which may or may not have anything to do with their specific needs or how to best rehabilitate them. Ms. Burrell indicates that all too often the system focuses on incarceration which "does not do anything but disrupt what is going on in the kid's life." She emphasized that there is "too much reliance on incarceration which is not therapeutic."

¹³ Biography of Sue Burrell, Staff Attorney, Youth Law Center, *at* <http://www.youthlawcenter.com/htm/sburrell.htm> (last visited Dec. 30, 2002).

¹⁴ *Id.*

Another important concern is that "a lot of schools in state institutions are very deficient." This deficiency in the educational system, "adds insult to injury" since many of the youth who come in contact with the juvenile justice system are already experiencing problems in school which are not being dealt with. All too often, youth in the system are treated "as though they are stupid." Ms. Burrell noted that the system always claims that youth are going to receive individualized schooling and treatment, but the system lacks the resources to accomplish this ideal.

Furthermore, the system does not actively use research findings to incorporate "what works" into the juvenile justice proceedings. Ms. Burrell believes that "we should learn from all the evidence" that has been produced. The system should also focus more on promoting the development of strong family relationships and opportunities for youth to find volunteer work or employment. There is "hardly any emphasis on strength and interest building. . . . Nobody listens to the young people, we just talk about them."

There is a conflict in the role of probation officers and counselors. "Probation officers and counselors are supposed to be acting in a parental role." However, their roles become difficult since they often do not have enough time or access to adequate resources to make effective progress in a child's life. According to Ms. Burrell, the media also has a powerful role in promoting negativity about youth. For political reasons or due to the thrill for sensationalism, the media portrays the "image that society is being ruined by violent young criminals." This image of youth, however, is a misperception and is "overblown."

Ms. Burrell has witnessed the focus of the juvenile justice system move farther away from rehabilitation and more towards enforcing punitive measures over the years. Youth need to be provided with support such as "counseling, church, and recreation." She notes that institutional/probationary programs often "see youth as one dimensional." However, these youth are dealing with racial, social, and economic struggles. Ms. Burrell believes that "a lot of crime is

economically related . . . in one way or another." She has encountered many youth who come from harsh circumstances and do not even "really know how to play sports." There also exists a race and class issue in the system which needs to be addressed by providing "more racial and cultural competence."

Since "crime is very much related to circumstances that people find themselves in," we need to "level the playing field" so these youth have opportunities to succeed. A number of youth are "incredibly resilient" even though they have endured "horrible family histories." Ms. Burrell believes that "critical junctures" exist when youth can be rehabilitated if they encounter individuals "who believe in them and can help youth make peace within themselves."

Transferring youth into the adult system is also a problem within the juvenile justice system because it "takes a while for children to grow up . . . it will backfire on us." Youth in the system need special attention because they are usually "young people who have grown up in chaotic families." When young people are held to adult standards this is "inconsistent" with their physical, mental, and social development and "damaging" to their advancement. Ms. Burrell notes that "most adult facilities are inadequate" and that "isolation in adult facilities" is particularly harmful to youth.

Finally, Ms. Burrell suggests that individuals working in the system and society need to strive to "help one person at a time." It is "important to have people working in the field who have good values." Ms. Burrell states that it is "important to have our voice," and to listen to the voices of our youth.