

The Juvenile In- Justice System

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Imagine being sixteen years old, imagine that you are locked up in a cage. Imagine when you are not in your small cage you are in a bigger cage. But you are not there alone instead you are surrounded by people who are all mostly older than you. They take advantage of you because you are younger, you are subject to their physical, sexual and verbal abuse every day. Imagine that you went in on a drug offense but are learning about crime and criminal activity every day. Children do not belong with adults in prison.

Now imagine that you are in solitary confinement for defending yourself to one of the other inmates, Christopher Bickel, PhD and Professor at California Polytechnic University recalls a quote from a child in the prison system whom Dr. Bickel had worked with, The child said: "They come in the morning and they take all your blankets away, at 6 o'clock in the morning, after that you're in that room all day, it's cold. In just your boxers and your socks, all day until ten o'clock at night". No one will listen to you, your individuality is taken away. No one will protect you, the guards are often the abusers, no one cares about you, you have lost control over your life from every angle from when to go to sleep, to when you brush your teeth, to when you go to the bathroom. The violence which occurs inside of these walls often makes it easy to commit offenses in juvenile hall, which adds to your time, making it nearly impossible to imagine life after this. Children do not belong in prison the way it is set up today.

Our prison systems in the United States today have employed extremely draconian policies. One of them is the amount of abuse which occurs within prison. Another is the amount of injustices which occur such as allowing people to commit offenses while in the system, or, giving out different punishments for the same crime, lack of education within the system, lack of re-entry programs for the inmates, and the amount of sexism, racism and age-ism occurring within the system, the list goes on. One draconian policy which needs to be changed is the trying

of children as adults. Putting children behind bars with adults subjects the child to molestation rape and all sexual abuse, physical assault and violence, the forcing of that child to enter a gang as need for protection, lack of education, and the learning of how to commit much harsher crimes and more.

The juvenile justice system is extremely classist and racist; institutionalization always creates more problems than solutions. The prison system is about controlling minorities and the working class. The way the prison system is today is absolutely not in the best interest of the child. This needs to change now. At the turn of the 20th century we recognized that children needed to be imprisoned separate from adults, however, since then we have moved back to a system which is imprisoning children with adults. What happened? To understand this, I must first take a look at the history of the juvenile justice system.

History of Juvenile Injustice

The Journalist and photographer Steve Liss, went behind bars of the juvenile justice system and presented his findings in Time Magazine. Liss states: “The past three decades have seen an accelerating movement away from the assumptions that shaped crime control and criminal justice for most of the twentieth century” (Liss, 2005). At the turn of the twentieth century, there was an enormous influx of immigration into Chicago and other major industrialized cities, with overpopulation, came: crime and with crime came the atrocity of children being locked up with adults. There were few people that organized and rallied for change, realizing that children should not be locked up behind bars with adults. Such groups included the Child Savers, they realized that a prison housing adults was unfit for children (Elrod & Ryder, 2011). The United States prison system began reform to create other places for

children to be punished or housed which was away from adults. This reform began and spread for the next sixty years.

However, in the past three decades since the late 1970's there has been a retraction of the previous ideas that children should not be housed with adults. Views on children who commit crimes have been impacted by legislation and political propaganda such as the "get tough on crime" movement and "zero tolerance" policies. Along with this movement the entire idea about these children has changed. The viewpoint of children as criminals is reflected in almost all aspects of media, politics and common vernacular. United States citizens tend to use terminology which is learned from media, politics etc. Words such as criminal, offender and delinquent are used to describe children. There are also more specific terms for their committed crime such as murderer, robber, burglar and rapist depending on the crime they committed. In this way we give them a label and strip them down to nothing else but the label that has been put on them. By doing this, these individuals are no longer seen as sisters, father and cousins but rather as their one the person who committed an act (Bickel, 2011).

In the same way that we apply terminology to these children we are charging children as adults whenever we see it best fit to do so. Many of the laws on how to persecute children are actually at the judges own discretion (Bickel, 2011). This is one of the ways that racism and sexism comes into play. Let's go back and discover the reasons behind recidivating back into locking children in the same cages house adults, and why we went away from these policies in the first place.

1800's the beginning of the juvenile justice system

In the mid 1800's, during the progressive era, industrialization and urbanization began to occur, along with this came immigration, huge numbers of people began to immigrate into big

cities in America in search of wealth and prosperity (Elrod & Ryder, 2011). However, the dreams of a better life became increasingly difficult, as wealth made its way to the hands of the elite, masses of German and Italian immigrants become impoverished and remained in the city working under horrific conditions at little pay trying to survive (Elrod & Ryder, 2011).

According to Preston Elrod and R. Scott Ryder, authors of *Juvenile Justice: a Social historical and Legal Perspective*, “thousands of indigent children roamed the streets in larger cities, and many of these children engaged in immoral and illegal behavior that threatened the tranquility of city life” (Elrod and Ryder, 2011, 115-116). Criminal laws could be set against these youth, however, often times these offenses were minor, therefore, police were reluctant to give children any more than a stern lecture (Elrod and Ryder, 2011). However, most of the “indigent children” were of German and Italian decent, which at the time were recent immigrants and were “stealing” from store owners who had been there for a long time. From this there developed an us-verses-them, racist beginning of who went to jail and who did not.

Many white, affluent women saw these occurrences in the cities and took it upon themselves to cause reform, these women are now referred to as the “child savers” (Elrod and Ryder, 2011). Most of these women were extremely conservative in their thinking and took for granted their power and prestige. They brought the idea to the public that government agencies, police and courts as well as charitable organizations should be responsible for caring for these youth (Elrod and Ryder, 2011). Julia Lathrop was one of the women who was part of the child savers, she stated “If the child is the material out of which men and women are made, the neglected child is the material out of which paupers and criminals are made” (Elrod & Ryder, 2011, 118).

The child savers sought to discover the conditions in which the children who went to jail would find and started to look into other options. In these years people were shocked by the amount of children in adult prisons. Some of the numbers are as follows: “A study of the county jail system in Illinois in 1869, discovered 98 children younger than 16 years in 40 different jails.” (Elrod and Ryder, 2011, 118) In 1873, in Michigan 377 boys and over 100 girls under the age of 18 were found in adult jails, In Ohio in 1871, 182 boys and 29 girls were found in jail, In Massachusetts in 1870 more than 2,000 youth, 231 of whom were younger than 15 were found in adult jails (Elrod and Ryder, 2011). Therefore, it is obvious that the jailing of youth was widely common among multiple states at the time of the mid to late 1800’s. Of all of these children, most were imprisoned due to being indigent and having to steal for food or clothes. This is a perfect example of how poor populations have been treated from the beginning. Prison systems were set up to control immigrants and poverty stricken populations this, the prison systems of today are still used as a form of control for our poor and people of color. I will expand on this later in the paper.

Mid 1880’s and questioning the system

The conditions of these jails at this time were reported by the Board of State Charities to be “filthy and full of vermin”, “moral plague spots” and a place where children were turned into “great criminals” (Elrod and Ryder, 2011, 118). The child savers point of view was that children should not be locked up in these cages where they become worse criminals, however, they also believed that most of the time police officers would allow children to go without any kind of punishment in which case they were being too lenient, in these ways, the child savers believed that children were either being treated as too harshly or treated too nicely, in both cases the children were not being controlled or helped. The child savers worked hard with other social

entities and by the late 1880's there were restrictions on the age at which a child would be thrown in jail, there were also legal mechanisms for treating children separately from adults.

In 1838 Marianne Crouse was committed to the House of Refuge by her mother, however, it was against her father's wishes, when the father complained that she was being kept there against her will, the state argued that because the House of Refuge was a place in which children were housed to be helped, not punished, that they could legally keep her there. From this came the doctrine of *Parens Patriae*. *Parens Patriae* meant that when the child was being neglected or otherwise abused, or not taken care of, the state could legally be appointed as the legal guardian of the child and do with what they would (Elrod and Ryder, 2011). A similar case known as *People vs. Turner* was the case of a young boy named Daniel O'Connell, he was placed in the House of Refuge in Chicago against both of his parents wished merely because he was suspected of becoming a pauper or criminal, In court the people found that in Daniel's case being in the house of Refuge was doing him more harm than good and seen as more of a punishment than a benefit. Because of *people vs. Turner* the court ruled that each youth should have due process before they can be locked away against their will. This case is important because it led us to developing our first juvenile court. The juvenile court was developed in 1899 in Cook County, Chicago, Illinois (Elrod & Ryder, 2011). In the 1980's certain politicians began saying children could be "scared straight" following similar ideology to the house of refuge, in that children who commit offenses can learn their lesson by going through a punishment and they will come out better for it. However, most children who go into the system come out worse off than they were when they went in, many factors play a role in the reasoning behind this, however a few stand out more than others, such as lack of education, and lack of re-entry programs.

Child savers and reform in the 1880's

The juvenile court was set up to serve the best interests of the children, the goal of the court was to control the child's behavior and to assist them, the goal was to help the children rather than to punish them (Elrod and Ryder, 2011). Elrod and Ryder discuss the role of the court during the 1800's on page 119 of their book, "The juvenile court allowed reformers to achieve their goals of assisting and controlling children's behavior without undue interference from the adult courts and without undue concern for the due process protection afforded adults" (Elrod and Ryder, 2011, 119). This was accomplished by setting up the courts as a civil or chancery court intended to serve the best interests of the children (as opposed to a criminal court, which focuses on the punishment of the "offender" (An idea that we have again began to struggle with currently in California) (Elrod and Ryder, 119). The Juvenile Court Act of 1899 became a way of dealing with the crimes of children in a very different way than adult crimes were dealt with. Some of these differences included: neglected, "delinquent" and dependent children would allow the court to have broad jurisdictional powers over them, hearings dealing with children would have to be heard by a "special" judge, in a separate court room, and that separate records be kept for juvenile hearings. The juvenile courts had a large probation way of punishing. The informality of these courts set it up so that anyone in the whole community could come to complain about these children. I would argue that this made it so that the people of the community who had felt annoyed or wronged by these children in particular could have a feeling of justice, as they could speak their own minds to a court and then see the child being punished. I would guess that this allowed people in the community to feel a sense of justice. However, this justice did not have to come at a huge cost to the child, they would be punished according to their crime. Whereas, in today's juvenile justice system, the punishment often times does not quite fit the crime. Another thing that I really like about this system is that, the strict procedure

that was developed would be one which most juveniles would have to go through, all the same. Whereas, now there is much discretion involved in how the individual child gets tried, and punished. Now there is a lot more discretion allotted to the jury and the judge allowing for racism to occur, which follows the same idea that the system is about control, not helping the children, but the belief that we are helping society in keeping “criminals” off the streets. However, in reality locking children and adults up in our systems today, in the way that happens today, actually harms society. I will discuss this at length later on.

This Juvenile court system was challenged numerous times as the court enacted the *Parens Patria* powers. On multiple occasions the court ruled that the state should have the power to control the child, should their parent be unable or unwilling to do so. While most things of this new court system seemed to truly be in the best interests of the child, there were some things that did not happen for their best interest. It's easy to think that this old system was without flaw because it is better than what we have currently however, even during the reform era there were still in-justices occurring within the system at the very basic level. Such as the previous mentioned errors and questions of whether the court or the parent is in charge of the child, as well as a system completely set up based on classism and racism.

1905 case and parens patriea

Because of *parens patriea*, children were often times, sentenced to larger punishments for smaller crimes if the state saw that it was so. In essence this stripped the parent of the legal right to fight back. One example, of this is the case of *Commonwealth vs. Fisher* which took place in 1905. In this case, Frank Fisher, at age 14 was convicted of larceny; he was sentenced to the House of Refuge until his 21st birthday, a seven year sentence. Fisher's father fought back, however the state ruled that the parent was unwilling to punish his son and that they could

legally have the final say of what happens to the boy due to *parens patriae*. In this case, the court further ruled that any cases under the *Parens Patriae* act, would not have the right to due process protections (Elrod and Ryder, 2011). This is another example of how the state took the control in order to continue to control minorities and the working class, as well as the courts acting in the best interest of themselves, not the child. Isn't this the case for many politicians today, especially those whom state that they will get tough on crime. What does that really mean?

At the beginning of the 20th century there was an overtake of power by the state and court system. It's interesting that we even see the state overruling the actual parents of the children being accused/convicted.

1900's to 1960's

It did not take long for the juvenile court system that was developed in Chicago in 1899, to spread nationwide. By 1910, twenty two states had created juvenile courts (McGarrell, 1988). In 1925 all but 2 states had created juvenile court systems and by 1945 every single state had a juvenile court system (McGarrell, 1988). During this time in history, we see most states begin to duplicate the Chicago model for the juvenile court system. However, there is not a lot of reform or change in policy.

In the 1960's -1970's there was another massive move to reform the juvenile justice institution (McGarell, 1988). However, historical analyses portray these reformists as elite oppressors of the dominant class, rather than humanitarians. It is more important to look at the change that takes place rather than the people who form this change (McGarrell, 1988).

1960's summary and examples of corruption in the system

In the 1960' many reformists began to understand that while the courts were set up to serve the best interests of the children, in some cases they could actually end up harming the

children. Furthermore, the state was often times not as good of a guardian as the child's parents in the way that it did not have the best interest of the child at heart. Elrod and Ryder talk about the court system in the 1960's and describe some of the ideas behind the reform, about the courts they say "Their use of coercive powers to deal with a wide range of behaviors, many of which were not criminal in nature, in an informal setting without due process protections created the potential for abuse" (Elrod and Ryder, 121, 2011). Even the fact that the child's parent's and the court are fighting over who gets the voice over what happens to the child should be a clue that children and adults are very different and need to be treated very differently.

In 1967 the case of Morris Kent went all the way to the Supreme Court and brought a lot of attention and scrutiny to the juvenile justice system. Kent was accused of multiple robberies and one rape, he was not given due process and was denied the right to see his own social file and reports, he was also denied the right to be evaluated by a psychiatrist, he was sentenced to 30-90 years in prison. The Kent case was the first time the public began to question *parens patriae* in huge ways. This case also brought forth the need for due process protections for juveniles who were to transferred to adult courts (Elrod and Ryder, 122, 2011). Kent's case also brought forth the idea that because of informal policy there was huge discrepancy for abuse in the juvenile justice system. The amount of sentencing which the courts have at their discretion today, is another case of informal policy when it comes to juveniles, one that needs to be formalized.

There was another case in 1967 which brought forth the knowledge that due to informality, and so much discretion given to judges in the juvenile system, children could be given far worse sentences than adults. In the case of Gerard Gault, which later became known as "In re Gault", Gerard was only 15 years old. He had been taken into custody because he was

present at the time that his friend stole a wallet out of a purse. He was later released on probation. While on probation a neighbor complained that she had gotten an “obscene phone call”. At this Gerard was picked up and taken into custody. The judge told him that he would think on it and that Gerard could be in detention for now. A few days later he was released and the Gaults were notified that there would be a second hearing. At this time the judge sentenced Gerard to state industrial school until he reached age 21. If he were an adult, he would have received no more than 2 years in prison and a fine. This is a case in which children, who often times are not fully developed yet, are getting worse punishments than adults who are developed and know exactly what they are doing. Children are completely different than adults and need to be treated differently, as well as fairly. Often times, courts believe that children are of the same mental capacity as adults and are treated, wrongfully as such. Children’s brains are still not completely developed until age 24 (Elrod and Ryder, 2011).

Here are some facts about the juvenile justice system and it’s informality due to Gerard’s case. When Gerard was taken into custody, his mother was not informed and did not know where he was until she searched for him on her own. She was only told that the hearing would be the next day. The police officer’s statement was that Gerard was “delinquent”, however delinquency was not defined. The complainant was not present at the time of either hearing, no record was made of the hearing, no one was sworn into telling the truth, No specific charges were made other than the alleged delinquency of Gerard. None of the rights that Gerard and his mother had were explained to them such as the right to remain silent or the right to represented by council. In this way, informality of the juvenile justice system was failing young people and in the 1960’s and 1970’s groups of people were beginning to take notice and rally for change.

Hybrid the 90’s to present

Juveniles in adult prisons and jails: a national assessment (Austin, Johnson, Gregroieau, 2000). Since 1992, 45 States have passed or amended legislation making it easier to prosecute juveniles as adults. Because of this the number of youth in adult prisons has doubled in the past ten years. However, a century ago as a society, the Unites States decided that children and adults should be confined in different prison settings. Setting out to call attention to this huge national issue and in attempt to change the policies which have recently been changed, the Bureau of Justice Assistance funded a nationwide study of juveniles in adult prisons and jails. This report contains information regarding questions like: “What is the extent of juvenile confinement in federal, state, and local facilities? What types of facilities are used to house juvenile offenders? What happens to juveniles in the adult system? Are juveniles in adult facilities educated, treated for substance abuse, and taught skills that will help them find a job after their incarceration? Are prisons and jails protecting young offenders from physical, sexual, and psychological abuse? What are the alternative strategies for housing offenders sentenced to long terms in adult facilities?”

More importantly, this study not only informs us of the ideas surrounding the issue of adult imprisoned with children, but it also discusses ways in which policy can be changed. One of the things it suggests we do is make sure that “staff in federal facilities take seriously their federal mandate to provide regular and special education services to youth in their care” (Austin et al., 2000) My question then is how exactly can we do this, especially, when we have allowed prison guards to be involved in horrific things involving inmates for years. One thing the system could do is create a system of checks and balances. Too often in the prison system there becomes a guard vs. inmate mentality. The education services need to be provided to the children in prison almost everyone in the US would agree. However, the guards need to be taught to believe that

the children can learn, likewise children need to be encourage by psychologists that they really can learn in prison and that education is important. That being said the education being taught in prison should pertain to inmates in a very real way.

McGarrell cites the relevant social factors that together moved to reform the juvenile justice system. He notes that first of all immigration, urbanization and industrialization played a huge role in the development of the separate juvenile justice system. Second, there was a change in social thought and theory ranging from enlightenment philosophers of the 1800's to social Darwinism of the late 19th century (Mcgarrell, 1988). The fourth element to the reform of the formation of the juvenile justice system were the grassroots interest groups such as women's organizations, (including the child savers) (Elrod and Ryder, 2011), philanthropists, religious activists, and newly emerging child care and social welfare professionals (McGarell,1988). The last component to the formation of the separate juvenile justice system was conflict debate and compromise all played a key factor in this development (McGarrell, 1988). When we look at how it is possible to change policy in the juvenile justice system today we can look at what has worked historically and ask ourselves if similar strategies would work in today's society.

At the turn of the 20th century there was a huge movement to get children out of the prisons which housed adults. It is interesting to think that over one hundred years ago people saw things that we are failing to see today. One of these things is that they saw that when a child goes into prison they will often time become a "great criminal." They will be surrounded by people who committed crimes, which are often times much worse than the ones that they themselves committed. They also saw that jails are disgusting places filled with vermin, places which children should not be, children's immune systems are not as strong as adults and children's brains are not fully developed yet. They knew that these prisons and jails were no place for

children, and furthermore that they will actually harming the child be more than they were benefitting the child. How can a society existing over a hundred years ago recognize something that we do not; that children do not belong in prisons? Children needed to be treated differently than adults. Institutionalization always creates more problems. This is because the system of institutionalization was set up to control populations, not help the unfortunate. Even though this system was created to control, the juvenile justice system in the early 1900's was a better system for children.

One of the reasons that the juvenile court system which was set up in the early 1900's was a better system for children was because it served a variety of interests. They served interests of reforms because the children were being benefitted, they served interests of those who wanted the lower class urban youth to be dealt with and punished, they served the interests of those who wanted children removed from the criminal courts because that's what it did, this feed up the time in the court system for adult offenders, they also served the interests of the politically and economically powerful because they did not require that any alterations be made to the existing system (Elrod and Ryder, 2011). Were the juvenile courts of the early 1900's perfect? No. They were still a very new idea, however, they were in the best interests of the children and the community at the time and therefore, continued to exist in this way for quite some time. Where are we at today?

Now, children who go to prison will often times come out a completely different individual, for example Dr. Bickel, professor at Cal Poly University spoke about a child in prison which he volunteered with, the child stated "I'm not really Duc Anymore, I look in the mirror an wonder if I will look like me again when I get out" (Bickel, 2011). They are turning into the very thing that we are trying to prevent them from turning into. In the 2004film *Blow*, Johnny Depp

plays a drug dealer who goes to prison, he states “I went in with a bachelors in dealing weed and I came out with a PhD in dealing cocaine” these words speak volumes to what happens when children are locked away with far worse criminals than themselves (*Blow*, 2004) This is what happens to children, they go in for something minor and when they come out they have become someone who is hardened by the inside, who has little to no skill set, who does not know how to be an adult outside of prison, not only that but also they are no labeled as convict, someone who should not be trusted for a job etc. They enter the prison system and a place that was originally set up to punish as well as provide help to these children, now they are punished and get worse. They go into the system having done something wrong and the idea is that they will come out and have learned their lesson, however, they usually come out worse than they went in. Because, if we put them into prison with adults at such a young age their view of how the word works will largely be shaped by what they are taught and what they see on a daily basis. They now have no idea of how the real world functions and so don’t know how to do those things we learn like pick out a toothbrush, drive a car, get a job and take care of themselves (*Sociology 412, Bickel*). In short the system is a hostile environment where the children are changed into being individuals who are worse off in society than when they went in. Develop this paragraph a bit more.

Section 2: What is happening now with the juvenile In- Justice System?

Race, sex and poverty in crime

Media plays a huge role in how we view rich vs. poverty stricken people, as well as how we view men vs. women and how we view white people versus people of color and of course the difference of how we view children vs. adults. Do crimes occur up and down the poverty, class and race system? Yes they do, however, often times whites and people of the middle and upper

class have the resources to fight back. This as well as racism and classism affects the numbers of minorities we see in prison immensely. However, in the United States today, we see a huge discrepancy in who goes to prison for their crime and who stays out of prison for the same crime. In 2004, the film *System Failure* enlightens us about the amount of different races in the California Youth Authority. As the video *System Failure* continues we see a pie chart of the various races in the California Youth Authority. It informs us that 49% of them are Latino, 29 % are African American, 16% are white, 4% are Asian and 3 % are unaccounted for. How can the majority of crimes being committed be done by whites, yet this is not represented by the numbers in the prison systems?

In the United States, it is no secret that we have a largely racist history, yet many Americans have chosen to forget this, and now are focused on black people and Latino people as targets for criminals, this is a form of scape-goating. We have enacted policies which are directly racist, for example in *The Failure of Race Neutral Policies: How Mandatory Terms and Sentencing Enhancements Contribute to Mass Racialized Incarceration*, Traci Schlesinger informs us that “State and federal governments disproportionately enacted mandatory terms for crimes that blacks are more likely to commit or be arrested for...If there are more mandatory terms for crimes that Blacks disproportionately commit or are arrested for, then Blacks will be disproportionately sentenced under mandatory terms” (Schlesinger, T., 2011, 61), She also tells us that “Whites are least likely to have mandatory terms or sentencing enhancements applied and are most likely to benefit from downward departures. For example, in Florida, Black offenders are more likely to be given habitual offender sentencing enhancements than White offenders with similar legal characteristics among both men” (Schlesinger, T., 2011, 60). Nice use of research.

In the documentary *System Failure* the viewer can see just how un Just The California Youth Authority is. Sue Burell Attorney of Youth law who has been involved with the California Youth Authority System stated: “The vast majority of them are from very disadvantaged areas, poor families, there are close to 84% youth of color in the youth authority”. In regards to how economic inequality shapes the perception of crime, we tend to view poor populations committing the same crime to be worse. Poverty stricken areas are more likely to be targeted and invaded by police, however upper middle class populations are not investigated for the same crimes. A good example of this is in the article *Dorm Room Dealers*, we find out that white middle class people are the population that does the most drugs in the United States however, they are almost never caught. If they are caught, they will usually have the means to fight back. Usually, low-income people are more likely to get caught because their areas of living are targeted and also they will have to rely on a public defender in order to defend them and public offenders often times don’t have time to defend all of their cases in a good way (Bickel, 2011).

In addition to creating crimes based on racism the U.S. society in general tends to also view people of color as being more likely to commit a crime than a white person, even though we know that white people actually commit more crimes. Our extremely racist history has lead many to develop strict scape-goating practices. Media tends to portray minorities in stereotyped images as such: black people as funny, good at basketball, someone who would rob or kill, Also media will tend to portray Hispanic people as people who are lazy, yet hardworking and gang bangers or other people of criminal background (Isom, D., 2009). Media tends to portray white people as good, people who do not commit crimes. Where do these ideas come from? These images have come from America’s history of racism as well as people in power keeping these

images alive through sources such as media and constructing laws against people of color. They can be dates further back than even the Jim Crow laws in the days of slavery. Scape-goating plays a huge role in American Society today and increases the number of racism, sexism and classism throughout our nation. Racism, sexism and classism play a huge role in the juvenile justice system today.

There is too much discrepancy as to how a person is punished for the same crime. Two different people could have committed the same exact crimes and receive extremely different sentences, also, once they are in the system, people of different race, and sex will be treated very differently and once they get out of the system people of different race and sex will be treated extremely differently when it comes to finding a job and getting hired. Our juvenile justice system will treat people differently based on these ideas. We also know that children in these systems will be treated differently than adults.

Children in Prison

Children in the system usually know the injustices in which they are living, therefore, they become sad, lonely and angry. Christopher Bickel in 2010 spoke of one juvenile hall inmate in particular, named Angel, he confessed his fears: "I'm afraid that I'll commit another offence and do some time in the pen. I'm afraid to leave this place because of the many chances I'll have to commit another felony. I don't know what side will win. It's fucked up, my time in juvenile hasn't prepared me for the outside, it's only prepared me for the pen" (Angel, Juvenile Hall inmate as cited by Bickel, 2010, 48). Steve Liss quotes another young individual's story in Time magazine: "I've been in juvenile so many times, I lost count, I look back and I have nothing to be proud of, what would help me? I don't even know that myself, if I knew I probably would have changed by now (Ivan sixteen, put back in Juvenile because of violating probation) (Liss,

2005). This is an example of how the system is not helping children to get out and move on with their lives, instead the recidivism rates are nearly proportional to the incarceration rates.

Indeed, both Angel and Ivan are examples of people who continue to return to the juvenile justice system because the system has such high recidivism rates. This is further disproving the idea that juvenile hall will “scare kids straight”, or will punish them so that they don’t want to go back. More often than not children will end up worse off when they get out of the system than they were when they went in. The revolving door known as the court system needs to morph into a two way door to be entered and exited, one time only. If incarceration worked, the numbers would not be so high. So we need to ask ourselves if it is not working for children, working class and minorities who is it working for, and why has it continued for so long?

The system does not teach them how to be citizens, it does not help them back into reentry, it does not tell them their opportunities, it hardens them, makes them “worse criminals” and schools them only on how to act while in prison, so that when they get out this is what they have learned. There is a 91% recidivism rate within three years in the California Youth Authority (System Failure: Violence, Abuse and Neglect in the California Youth Authority, 2004). Another example of this is a young girl named Darlene, who was in California Youth Authority System, she informs us that she was afraid to leave the CYA “Being in CYA, entering as like a juvenile and then coming out as an adult, was like completely scary for me, I didn’t know whether I was gunna come out and just mess up again and end up going to jail for life” (System Failure, 2004). This is because the children go in and then learn how life is on the inside. They learn that the world is violent, where you are not treated fairly; they learn that you have to watch your back and violence is the way to handle things, they learn that, in order to have any kind of security,

they need to join a gang and more. They do not learn how to act or behave once they get out of prison.

Furthermore, children who end up in the system are often times just getting the attention of the law, when really action should have been taken on their parents in some way. This is to say many children learn about injustice from their families. Steve Liss refers to a young girl named Linda, who is just fourteen to prove this point: "I am here because I hit my mom and I broke a window from her car" Linda was molested by her father and has attempted suicide twice "When I was small, like thirteen, I put a rope around my neck and I was trying to jump from the fourth floor from the hospital" Probation office Adam Rodriguez states that Linda is an inmate simply because there are no psychological services being made available to her (Liss, 2005). Furthermore Adam states: "Does she have mental health issues? Absolutely. Is she a danger to herself or to others? Absolutely. Is the Judicial system failing her? Absolutely. Unfortunately, we don't have the services so what else do we do?" (Liss, 2005).

Another form of corruption occurring in the system is when people are weaning off of drugs, they often times go into the prison, before given enough time to recover. Drug Abuse counselor Jessie Hernandez states "when you're withdrawing from drugs you're going through a lot of physical and emotional pain that is the primary reason you want to put them into some type of de-tox, a medical unit where that type of physical and emotional pain could be eased they are not dogs, they are human beings and by the grace of God that could be any bodies child" (Liss, 2005). The worst part of this is, even when they wean them off of a street drug they are often put on to a anti psychotic or other form of anti depressant or other medication that gets them addicted to an entirely new kind of drug, this is to control them, not help them. In most cases it ends up harming the child.

These are examples of how the prison system has become a place to lock away people who should not be there. This relates directly to how much money we are pouring into a system which is not giving us returns. It is only making the children worse (Bickel, 2011). In Linda's case we can see that in the opinion of a professional, she should not be in the juvenile hall system, she should be in a mental health care facility. We also see that children are going through de-tox in confinement. This is also an area where children need to be put in a hospital or another place until they are healthy and can come into the system. So we are seeing children who are in the system for reasons which should never be happening.

Drug abuse, sexual abuse and neglect are often times occurring to these children at young ages. Then, when they grow up they repeat what they have been taught and it becomes a cycle. We don't treat the children with any kinds of services until they are the perpetrators and then we punish them (Bickel, 2011). More programs need to be implemented for children who are likely to be in situations of abuse, neglect, drug homes etc. Then once, they get into the system they are often times abused physically and sexually again. Most often these cases are children who are of working class families or people of color. Usually if there is a case of abuse going on at the upper class level it goes unreported. There are many reasons for this, one is that people with larger homes live further away from their neighbors who cannot hear the abuse. People in projects don't have this luxury.

Children who enter these systems are often times sexually abused as well as physically, mentally and verbally abused by other inmates and guards. In the film *System Failure*, we hear from Richard Ulmer an attorney working with The California Youth Authority he states: "two hundred and seventy wards were mase-d in the course of just one month in 2003" (*System Failure*, 2004). In this case the guards did not allow the children wash their faces afterward and

some ended up suffering severe scaring and chemical burns. We also hear from Darlene, a former CYA inmate about the abuse which occurs at the California Youth Authority. “At CYA the sexual harassment is like an everyday thing, I remember guards hitting on me, and when we do room checks, in the nighttime, you know, ‘can you show this to me’, it happened a lot” (*System Failure*, 2004). The California Youth Authority fired people found committing sexual abuse however, hired them back almost right away (*System Failure*, 2004). Many times when the guards are found to be committing sexual or other abuse, nothing happens to them.

The children may be kept in different cells of isolation for days at a time maybe even weeks or even months. They will sometimes be refused proper places to toilet, they will sometimes have their blankets taken away, their clothes taken away, their dignity taken away. They will often times learn coping mechanisms for these harsh conditions and will develop strategies for dealing like “going crazy”, becoming violent, joining a gang or other methods of protection which one learns to develop in harsh circumstances. As mentioned earlier, one child explained solitary confinement: “They come in the morning and they take all your blankets away, at 6 o clock in the morning, after that you’re in that room all day, it’s cold. In just your boxers and your socks, all day until ten o’ clock at night” voice of inmate in lock down with 23 and one conditions describes what it’s like in a cage all day. Because they are treated so badly, they will become someone else, not themselves. There is also much corruption between guards and inmates. Smuggling drugs sexual abuse etc. There are often times psychologists who will prescribe meds for inmates who do not need the, they will become addicted to them and then this will harm them when they get out. The schooling within the prison system is not good. These are some of the ways that the recidivism rates have become so high.

Solutions

What children really need is someone who will really listen to them and see what their true problem is, they really need real therapy. These kids also need programs such as re-entry programs, to be caught up in school and get their diploma, to be taught life skills and a whole lot more about the world on the outside.

In *System Failure* we hear from David Muhammed, director of The Mentoring Center, he states “It is much more cost effective to have re-entry programs, to have rehabilitation, to have after care, to make sure that 9 out of ten people don’t go back to CYA, so that they continue to be a drain on the state’s budget”. California is one state in which is lacking severely in terms of reentry programs as well as being an overall good environment. California houses more inmates in their prison system and has higher recidivism rates.

Jerry Harper, is a former CYA Director and he states that “In the states that are doing the good job like in Missouri and in Georgia and in Texas and New York, the size of living units is about one half of what it is in California.” (*System Failure*, 2004). “I recently went to the state of Missouri, what they have is about three dozen thirty five bed facilities, around the state. They have real furniture, they have sofas, the kids have music and they wear their own clothes and the kids have bunk beds, it’s really, really different. It’s amazing how different the atmosphere is” (Sue Burrell, *System Failure*, 2004). We may wonder if this really works? People who believe in criminalizing youth who are “acting up” may believe that in those state, they are babying the children or that they are not being punished enough. However, what is enough? Should children be punished by receiving physical and sexual abuse? Should they be punished by learning how to be a ‘worse criminal’? We may instinctively criticize states with a nicer atmosphere, however, research shows that states with programs like Missouri’s are benefiting not only the children, but also the community. The programs are teaching children how to be citizens who can get an

education, have dreams, earn their degrees and get jobs. This is what will really keep them “off the streets” and what will decrease crime in the long run.

The movie system failure also points out: “CYA’s youth are 6 times more likely to be rearrested than youth coming out of Missouri’s DYS system” (*System Failure*, 2004). The annual cost per youth in Missouri is about 45,000 dollars whereas the annual cost per youth in California is 80,000 dollars. Therefore, we are paying so much money to keep children locked up, when we could be putting this money towards programs for them to do something that will benefit our society, not, drain it even further. Lenore Anderson who is the project director for books not bars says “these prison facilities need to be closed, and replaced with regional rehabilitation centers, and community based alternatives at the local level, it’s time to stop allowing young lives to be thrown away” (*Lenore Anderson*, *System Failure*).

A lot of the time we don’t deal with a problem until an individual has done something wrong, we tend to look at the individual as a scapegoat for our problems instead of looking at the system itself. In this way we are failing the individual. We are also failing our taxpayers. So many people would rather have the money which goes to the prison be put towards programs which help individuals reenter society. This is exactly what we need to do. We need to take models such as the juvenile system in Missouri and make California’s as well as other states system like this. In 1899 when the juvenile justice system was set up it was done so in such a way that was intended to help the children who were committing offenses. Back then it was seen as bad that children were going into prison with adults. However, we have reverted back to this. We have been locking up children in prisons with adults and they have been coming out as harder criminals than they went in. They also will more likely than not, end up back in the system only to be made harder and worse, and to keep draining our system.

Conclusion

Prison is no place for children. The prison systems of today have employed draconian policies which are doing more harm to our children than good. Some of the ways that our prison system is hurting children include the recidivism rate. There are many factors which make the recidivism rate so high. One of them is that children are not getting a proper education while they are in the juvenile system; another is that children do not learn about real life situations, such as how to shop for groceries, write checks, apply for jobs and drive cars, while they are incarcerated. While in the system all decisions are made for the child, so that when they get out, they lack decision making skills. Another reason is that the children get heavily medicated during their time in prison, when they get out and do not have a prescription for this, they may try to find the closest street drug. They have harsh probation laws, discrimination when looking for jobs and most of them have psychological issues from dealing with violence, and sexual trauma. The prison system itself is a bad place for children, because they learn criminal activity from other inmates, they must be in a gang to protect themselves, they are repeatedly abused by other inmates and guards, they do not have ample sanitary living conditions and more.

At the turn of the twentieth century we knew that children getting locked up with adults is something that we recognized as a terrible thing, however, we have lost our way. We have reverted to trying children as adults and locking them up with adults which is very dangerous in multiple ways. Children will not have fully developed brains until they reach age twenty four. They should never be tried as adults and should never be locked up with adults, this promotes sexual assault and multiple forms of abuse. It also teaches them a world which is completely unlike the real world in many ways, so that they will always see things differently.

Recognizing that the juvenile justice system and prison system in general has become such an atrocity, we must begin to act. Some of the ways that we can help children who may be at risk of being sucked up into the vacuum known as the system are as follows. We must make sure that education is stressed and more money is allotted to that instead of prisons, build schools, not prisons. Another way is destroying the school to prison pipeline and giving children things to do after school before their parents get home. We must employ harsher punishments for guards who are found abusing children, and make sure that unreasonable treatments such as solitary confinement for extended amounts of time do not occur. We must establish juvenile justice systems like the one's of our counter states, which are less harsh, cost less money and have lower recidivism rates and more. When voting we need to put ourselves in the shoes of the individual who the policy will affect instead of having an-us-versus-them mentality.

The juvenile justice system is extremely classist and racist, institutionalization always creates more problems that it does solve anything. The prison system is about controlling minorities and the working class. The way the prison system is today is absolutely not in the best interest of the child. This needs to change.

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