Assignment 4

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The American Juvenile Justice system is used to rehabilitate youth who are convicted of criminal offenses. The Juvenile system in America is stretched to each state, including the federal and many local territories which have sovereign police powers. They all work under the common authority of the Constitution of the United States. This system looks after the delinquent behavior through various state organs, which involve law enforcement, state and district courts, and correctional systems. It operates on a vision that early involvement in delinquent behavior prevents adolescents from adopting criminal behaviors.

# Wavier to the adult courts

It is one of the most talked-about subjects in the criminal justice system. The criminologists are divided on this subject. Some believe that the juvenile transfer to the adult court is a feasible option; whereas some believe otherwise. However, there are some mechanisms or waivers through which a juvenile case is transferred or waived to adult court. Some of them are as follows:

The offense of judicial waiver: In 45 states of the U.S, any judge can transfer the case from Juvenile court to the adult court, if he considers denying the juvenile protections (“Juvenile ‘Waiver’ (Transfer to Adult Court),” n.d.).

Exclusion by statue: Statuary exclusion is practiced by nearly half of the states in the U.S. These are the provisions in the law, which exclude certain offenses, for example, first-degree murder or felony from the jurisdiction of the juvenile court.

Controlled transfer through judiciary: Controlled transfer through judiciary states that each case which is filed in juvenile court must be transferred to adult, upon completion of a certain term. At least ten states in the U.S use such a combination of statues.

Transfer through prosecutorial discretion: Transfer through prosecutorial discretion is used in few states. By this wavier, both Courts (juvenile and adult court) have jurisdiction over certain offenses.

Concurrent jurisdiction: This waiver allows the prosecutor to file case both in the juvenile court and in adult court considering the age of the offender and the nature of the crime.

# Criteria for making waiver decision in Juvenile courts

Around forty-five states in the U.S give discretion to juvenile court judges to allow the prosecution of juvenile cases in the adult courts. From state to state, this terminology varies. Some states call this transfer a ‘bind- over', ‘remand' or ‘certification'. The interesting aspect to note is that each transfer effects over the authority of the juvenile courts but not requires from the juvenile courts to designate cases for prosecution in adult courts. Some of the discretionary waivers specify the criteria as outlined in Kent v. United States (383 U.S. 541, 566-67 (1966)) (“Trying Juveniles as Adults in Criminal Court: An Analysis of State Transfer Provisions,” n.d.). This criterion must be met, which includes meeting the requirement of minimum age, the type of offense, or the record of previous delinquency. Different from the above-mentioned case, some states specify the discretionary waiver by a process called filing a motion. The rest states allow either party to start this process.

# Three broad types of restitution

Restitution is generally defined as "payment by the offender to victim for the reasonable harm." It can include payment either in monetary form or in-kind of services to the victim. The Black law dictionary defines restitution as "an act of making good equivalent to the loss (“Restitution,” n.d.)". Straight financial restitution is a form of pre-determined financial payment which is paid to the victim by the offender. Compared to it, community service restitution is administered by VolunteerNow. In this court-mandated individuals are positioned to fulfill the community service time as a condition of their probation period. Lastly, the direct services to victims are done by the offenders either partially or completely for the victim. In this kind of restitution, the offender is fully responsible for the financial loss suffered by the victim. Restitution is generally offered in both the juvenile and adult courts.

# Effects of cases on probation and revocation

The two cases i.e. Mempa v. Rhay and Gagnon v. Scarpelli can be considered to be landmark cases in probation revocation. The cases give precedence in terms of the appellant's right to an attorney when probation is being revoked, and he is being sentenced to prison. In the first case, the appellant evoked the writ of habeas corpus and claimed that he was denied his 6th Amendment right i.e. the right of legal representation. However, the court denied his petition and stated that counsel would not be provided to the defendant during a post-trial revocation of probation. On the other hand, in Gagnon v. Scarpelli, the courts upheld that since the probation hearing can cause the defendant to be provided proper representation, they also decided that appointment of an attorney should be carried out on a case-by-case basis. Thus, the defendant did not need an attorney in this case.

# Programs for helping offenders

There are many programs which help offender by providing hem the skills they require to earn a respectable living. I think the best program which allows the offenders to be a healthy part of the society is Louisiana's state re-entry court program. In such a program, the young inmates are taught some skills like plumbing, welding culinary arts. In addition to this, they provide classes for anger management and for making better communications. In addition to this, Louisiana has launched a regional re-entry program which allows similar services to the inmates in adult courts. Smith (et. al) mentions that programs for helping offender remain crucial since they provide the training which otherwise they won't have acquired (Smith, Mueller, & Labrecque, 2017).

# Why some people resist the programs?

Community-based correctional programs are a great source to rehabilitate offenders who have (for any reason) committed any offense in their early ages. Despite, their success, some offenders resist these programs because they normally had developed the understanding that they have lost the right to be a good citizen. Wilson argues that offenders in such mental stage normally refuse to be part of such correctional programs (Wilson, 2016). If I ever get an opportunity of being a director of a community-based program, I will design the correctional programs which will be participatory in nature as Smith argues that social participation ensures quick rehabilitation of the offenders. In the case of minors, they are even more useful.

# References:

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