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The Grandparent

A NEWSLETTER FOR AND BY GRANDPARENTS

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Juvenile justice system should morph into surrogate grandparent, not Parent

Sarah Cusworth Walker - July 27, 2016

The creation of the juvenile court was a spectacular triumph of the progressive movement in the late 19th century. Advocating for a separate legal process was a bold statement about the developmental differences between adult and adolescents and, consequently, the mitigated culpability of youth who commit crimes



To sell this iconoclastic idea at the time, progressive reformers leaned heavily on the message that inadequate parenting was to blame for youthful indiscretion. While acknowledging the impact that crowded urban conditions, poverty and strained social cohesion had on juvenile crime, reformers laid most of the responsibility for adolescent

behaviour on the shoulders of their, often poor, immigrant, cultural minority families. Juvenile courts thus began under the legal precedent of *parens patriae* (parent of the nation); the same precedent that allows the state to remove abused and neglected children from their homes.

The legal underpinnings of the juvenile justice system have since shifted and now almost completely mimic adult criminal proceedings. However, the early marketing of the juvenile court idea as a “child saving” endeavour has persisted in a process that provides no clear path for parental and community participation or input. The impact of this is felt by thousands of parents, millions over the years, who are routinely stigmatized, terrified and ill-served by a system purporting to rehabilitate youth.

Fortunately, this seems to be slowly changing. The recent confluence of research on adolescent development and brain science, the consumer movement in mental health and the crisis of mass incarceration have all contributed to an epoch in which the philosophies of juvenile justice practice are being closely questioned. As this new wave of progressive reformers searches for guiding principles, perhaps shifting the original metaphor of the court as a surrogate parent to one of a supportive grandparent (as often played in traditional Western culture) could provide this map:

1: Grandparents offer a safety net and support, but parents have primary responsibility.

In the justice system, the most well-supported programs and interventions for improving youth well-being involve parents and families. New research is demonstrating the benefits of informing, involving and ensuring parent contact through all phases of the justice process.

Despite this, most justice courts operate as adversarial systems with youth as the only identified defendant. It is common, if not routine, for parents to leave a court hearing with little idea of what happened while getting a bill for services rendered. Juvenile courts need to reorient themselves to the family, and the broader community, as the client. In the absence of willing or able participating guardians, every effort ought to be made to identify natural supports who can stand and support youth in developing intervention plans.

2: Grandparents know that a treat can go a long way. The traditional court model operates off threat of incarceration as its primary behavioral motivator.

This is the basis of the probation system and why completing probation is often time-based rather than performance-based. Historically and traditionally, probation is technically an alternative to the “real” court sanction of incarceration.

This under examined assumption about how justice is served is, in practice, very inefficient and ineffective behaviour management. Adolescent brains, in particular, are much more attuned to reward than punishment. To align with science on adolescent development and behaviour modification, courts need to move to reward-based systems with the primary “punishment” being the suspension of rewards and a completion of probation based on performance, not time.

3: Grandparents provide parents needed breaks.

While possibly a controversial idea during this important and exciting era of drastically reducing incarceration, research and practical wisdom suggest that short- and long-term placement will remain a need for a subset of youth who come into contact with the justice system. Wealthier families already pay large

sums to have their children stay in private group homes and hospitals when these youth have significant behaviour issues.

For poor kids with significant behaviour problems, the justice system ends up being a de facto treatment facility. In instances where youth do not have safe or stable homes or have gotten beyond parental control, the justice system can provide or collaborate with other systems to provide developmentally appropriate, therapeutic settings to work toward longer-term placement goals. At the same time, the entry criteria for placements should be specific and based on need rather than crime alone, and every effort to first work with the youth within the family setting should be exhausted.

4: Grandparents know that it is important to say you're sorry, shake hands and then move on. Current innovations are wrestling with the balance of offender treatment and victim rights. One of the guiding principles of the present system is the recognition that juvenile offenders are the most vulnerable youth in our society. Justice-involved youth are significantly more likely to have experienced or witnessed violence and abuse and are more likely to have diagnosable mental health needs.

As a corrective to past policies that ignored the holistic needs of youthful offenders, current practices increasingly focus on providing treatment and development opportunities. This is exciting and needed. At the same time, the justice system risks going too far in either direction, either through extended legal jurisdiction to "make" youth comply with treatment over months or years, or by not requiring any restorative act in cases where there is an injured party.

The system can continue to meet treatment needs while instilling civic responsibility (when relevant) by legally requiring only a restoration of the harm to the victim and then offering treatment services outside of court orders. Compliance with voluntarily referred services would then be encouraged through rewards, youth development activities and family supports rather than detention time for violating orders.

Each era of public policy since the origins of juvenile justice has added its own corrective to perceived omissions and sins of the past. We are in a position today, with access to decades of research on youth development, to continue and improve on the original progressive ideal of a humane, effective and developmentally appropriate juvenile justice system. Just like Grandma would want.

Sarah Cusworth Walker, Ph.D., is a research associate professor in the Department of Psychiatry, University of Washington School of Medicine. She has more than a decade of research and policy work in juvenile justice and is the co-director of a newly formed university-community collaborative with the Administrative Office of the Courts in Washington State.



14 Youlden Street,
Kensington, Vic. 3031
(03) 9372 2422

E/mail: director@grandparents.com.au