FIND & CONNECT

Juvenile Justice

1860s –

Details

Juvenile justice is the system of dealing with crimes committed by children and minors through courts, probation and detention programmes. As early as the 1840s it was recognised that young offenders should receive different treatment to adults. The first colonial laws to tackle children's criminal behaviour were passed in the 1860s. Since this time, the distinction between laws and agencies to 'protect' children at risk and to deal with juvenile offenders has often been blurred. Often, juvenile justice was the responsibility of the the same government department that dealt with child welfare. From the late nineteenth century, children's courts were established around Australia to hear matters separately from adult courts. Over time, the institutions to accommodate juvenile offenders in the 'care' of the state have been called reformatories, juvenile lock-up, training centres, juvenile justice facilities/institutions, treatment institutions, and treatment centres.

Before the middle of the nineteenth century, there was little distinction between juvenile offending and that of adults. Children were widely regarded as being able to take responsibility for their own criminal behaviour. This view began to change in the mid to late nineteenth centuries when specific laws and policies for juvenile justice came into being.

In New South Wales, the Juvenile Offenders Act 1850 was an act for the 'more speedy trial and punishment' of young people. In 1866, the Colony passed legislation to create reformatories and industrial schools. Until then, criminal children had been placed in adult jails. Similar laws were passed in other Australian colonies during the nineteenth century.

Swain writes that juvenile offenders were "always understood more as a danger than a victim, they nevertheless were seen as being capable of reform if dealt with apart from 'hardened' criminals" (Swain, 2014, p.19). To separate children from adult offenders in gaols, institutions such as reformatories and training schools were established from the mid nineteenth century for juvenile offenders. It was considered important to separate 'criminal' and 'neglected' children from each other in institutions. Farm schools were another form of institution for juvenile offenders.

Laws such as the 1887 Juvenile Offenders Act in Victoria had provisions about acceptable forms of corporal punishment for young offenders. Under this Act, a judge could order a boy to be 'privately whipped with a cane or a birch rod', as long as the punishment did not exceed corporal punishment which could be legally inflicted by schoolmasters.

The next major development in juvenile justice in Australia was the establishment of separate children's courts. Swain writes that children's courts were designed "to spare children the shame of appearing in a public court, and deal with them in a more therapeutic manner" (Swain, 2014, p.20). The first Children's Court was established in South Australia in 1895, under the provisions of the State Children Act. This Act formalised an arrangement which had been in place in the colony since the early 1890s, to separate hearings of juveniles from those of adults.

Other legal mechanisms to separate juvenile from adult justice include the abolition of the death penalty for children, which happened in Tasmania in 1918 with the Children of the State Act.

Historically in different states and territories, juvenile justice was often dealt with by the same departments responsible for child welfare. In practice, the lines between “neglected” and “criminal” children were blurred, and many children and young people transferred between institutions in both systems.

From around the mid 1940s and into the 1950s, there was widespread public concern about “juvenile delinquency” and a number of inquiries were held in Australian jurisdictions.

Over time, juvenile justice was understood to be more about treatment than punishment and there was a greater emphasis on rehabilitation of young people who had committed criminal offences. In the last quarter of the twentieth century and into the twenty-first century, the issue of young people being both victims and offenders has continued to influence policies about youth offending.

The disproportionate number of Aboriginal children and young people in custody has been noted by a number of high-profile inquiries. In Western Australia in 1983, the death of a 16 year-old boy, John Pat, at the police lock-up in Roebourne helped spark the Royal Commission into Aboriginal Deaths in Custody. In July 2016, the Prime Minister announced a Royal Commission to inquire into the mistreatment of children and young people in juvenile detention at Don Dale and other facilities in the Northern Territory.

Swain wrote in 2014 that “the tension between the desire to reform and the need to contain and deter remains” in juvenile justice in Australia, and the same remains true in 2022.

More info

Related Entries

Related Events

- Royal Commission appointed to Inquire into the Care and Reform of Youthful Delinquents, State of Western Australia (1943)

Related Glossary Terms

- Juvenile Delinquency (1850s - 1990s)
- Reformatory (1830s - 1960s)

Related Organisations

- Children's Court of Victoria (1906 - current)
- Children's Court of New South Wales (October 1905 - current)
- Children's Court of South Australia (1895 - 1993)
- Children's Court, Northern Territory
- Children's Court of Queensland (1907 - current)
- Children's Court of Western Australia (1907 - current)
- Children's Court of Tasmania (1905 - current)

Resources

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