

Chapter 4

The Juvenile Court (JC): The Original Design – The Philadelphia Version

ABSTRACT

Chapter 4 details the nature of the original juvenile court (JC) via data from Philadelphia. Although all the data are from Philadelphia, the elements corroborate the declarations from national JC proponents, covered in Chapter 2. In other words, Philadelphia's JC likely operated very similarly to urban JCs across the country. The JC from the first few decades of the twentieth century bears little, if any, comparison to the JC of today. The chapter reveals a very young offender population committing obnoxious "offenses" rather than serious crimes. The original JC was committed to a morality crusade to maintain the chastity of girls, treating similarly behaving boys differently, and to informally resolving as many disputes as possible in the community, without direct JC involvement. JC was portrayed as the ultimate parent, denying defendants rights, while committing very few "offenders," and only to benign facilities/clinics. JCs were engaged in cleaning up families and communities.

INTRODUCTION

The ATC has relied substantially on an assertion that JC was founded to remove juvenile offenders from exposure to the harsh results of CC prosecution (see Sabo, 1995, p. 2431; Zimring, 1998a, p. 193; Zimring, 2019, p. 31); that original design, in turn, supposedly repudiates transfer. If the JC was founded to accomplish this task, returning juvenile offenders to CC is not only wrong, but also illogical, counterintuitive, disloyal, and unfaithful.

Assuming JC was meant to remove juvenile offenders from CC, why is that position so sacred and unadjustable? Numerous aspects of the original JC have been found to be problematic or simply inadvisable and are no longer part of its operation. The now discarded, fundamental original aspects include:

- "criminalizing" behaviors that were not crimes or even illegal actions;
- "criminalizing" behaviors that were mere ordinance violations;

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- “criminalizing” conditions/status that did not require behavior;
- exercising jurisdiction/control over incredibly young “offenders;”
- divesting JCs of the responsibility to deal with older teenagers;
- detaining thousands of young people without accusation of crime;
- imposing judgmental labels of immorality against girls;
- fostering a religious crusade as part of JC’s reason for intervention;
- investing probation officers (POs) and judges with unlimited powers;
- operationalizing complete informality and flexibility;
- forgoing trials in “proving” misbehavior, denying basically all rights;
- adopting a clinic-like approach to all juvenile misbehavior;
- preventing a record of juvenile misbehavior from trailing youths into CC;
- directing JC’s reform/rehabilitative efforts at society at large;
- engaging in gender discrimination (probable class/religious/ethnic, too);
- removing from home and institutionalizing thousands of poor kids; and,
- incarcerating for long periods kids who committed no/minor crimes.¹

JC has evolved to be virtually a clone of CC, unrecognizable in early 20th Century JC terms, but it certainly did not start out that way.

First, it helps to consider the major aspects of Philadelphia’s version of the original JC.²

MAJOR JC FEATURES DURING ITS ORIGINAL, FORMATIVE YEARS³

Back in the day, JC bore little resemblance to CC; ATC acknowledgment of this is rare:

At a broad level, extreme delinquents do not fit neatly within traditional juvenile justice processes originally designed to handle relatively nonserious delinquents and status offenders (Trulson, Caudell, Belshaw, & DeLisi, 2011, p. 264).

It is possible that the ATC sees a benefit in pretending that the original and contemporary JCs are essentially the same. Comparability might assist the anti-transfer argument: since JCs today are designed to be similar to the original version (which is inaccurate), the fact that the original JC survived without transfer to CC means the current JC can persist without having transfer (which is also inaccurate). Illinois, the birthplace of JC implemented judicial transfer in 1907, before JC was a decade old. Even prior to that date, prosecutors exercised transfer power over serious offenders (see Bonnie, 1989, p. 187; Geraghty, 1997, p. 215; Tanenhaus, 2000). The ATC’s reasoning shows that a specious premise leads to a specious conclusion.

A. Very Young “Offenders” Separated from Adults and Even Older Juveniles

To be convicted of a crime, two elements are required: *mens rea* (i.e., intent) and *actus reus* (i.e., an act). These two elements are necessary to be *responsible* for one’s behavior, which is required before one can be *punished* for committing a crime. Under common law, offenders younger than the age of seven *could not be prosecuted* for criminal behavior. The so-called *infancy defense* prevented these prosecutions

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