

Differences between juvenile and adult justice system

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Differences between Juvenile and Adult Systems Criminal Justice Systems, CJA302, Module IV - Case Assignment Dr. Gregory Herbert March 8, 2009
History of Criminal Justice System: Differences between Juvenile and Adult Systems
When we talk about a juvenile being considered an adult for the purpose of administering justice, there are a multitude of factors that need and should be taken into consideration. First, is the age of the juvenile. Secondly, it depends on the type of crime or crimes that the juvenile has committed.

Next, is the extent to which the juvenile will benefit from services through the juvenile court system versus the adult court system. Then, the system will examine the degree of criminal sophistication exhibited by the minor. Also, in some instances, a fitness hearing must be held to determine if the minor is "a fit and proper subject to be dealt with under the juvenile court system". The District Attorney's office has 48 hours to decide whether or not to request a fitness hearing. After a fitness hearing is requested, the juvenile (defendant) will usually waive their rights to a speedy trial so both counsels can prepare their arguments for the fitness hearing. All entities will refer to California Welfare and Institutions Code 707 and use the following criteria to determine the juvenile's fitness. Beginning with the juvenile's degree of criminal sophistication, whether the juvenile can be rehabilitated prior to the expiration of the juvenile court's jurisdiction, previous delinquent history, success of previous attempts by the juvenile court to rehabilitate the juvenile, along with the circumstances and gravity of the offense alleged in the petition to have been committed by the juvenile.

There are waiver laws that provide a waiver of juvenile court jurisdiction under certain circumstances, allowing for the transfer of a juvenile's case from the juvenile system to the criminal court system. There are three types of waivers used in determining whether a juvenile will be tried as an adult. First there is a Legislative Waiver which states; by law, the juvenile's case must be held in the adult criminal court, based on the offense committed under WIC 602(b)(A) through (G) and the minimum age to be tried as an adult is fourteen years. Some of the offenses that fall under WIC 60(b)(A)-(G) include: murder, rape, forcible sex offenses, forcible lewd and lascivious acts on a child under the age of fourteen, and forcible penetration with an object. The second type of waiver is the Direct File Waiver (formerly known as a Prosecutorial Waiver). The Direct File Waiver allows for the prosecutor to file a criminal claim against a juvenile ' directly' in adult criminal court, eliminating the need for a fitness hearing. But, judges may transfer a juvenile to an appropriate juvenile court if the judge deems it to be fair and just.

The third type of waiver is the Judicial Waiver. The Judicial Waiver states that in order for a juvenile to be transferred to the adult criminal court, it requires the juvenile to be found " unfit" for the juvenile system in a fitness hearing. The minimum age of the minor is fourteen years of age. In an effort to fight against juveniles from committing serious crimes, the voters of California in March of 2000 passed Proposition 21 (Gang Violence and the Juvenile Crime Prevention Act). Proposition 21 increased a variety of criminal penalties for crimes committed by juveniles and incorporated many juvenile offenses into the adult criminal system. There is increased punishment for gang related

felonies, death penalty for gang-related murder, indeterminate life sentences for home-invasion robbery, carjacking, drive-by shootings, and many other crimes. This Proposition also requires adult trial for juveniles fourteen or older charged with murder or specified sex offenses.

Informal probation for juveniles committing felonies was also eliminated and registration was required for gang related offenses. Legislation like that of Proposition 21 shifts the focus of juvenile justice from rehabilitation to punishment as the number of waivers continues to increase nationwide. The juvenile justice system traditionally individualized its decisions due to its rehabilitative nature and perception that juveniles do not have fully developed concepts of what is right and wrong. Also, Proposition 21 shifts the discretionary power from judges to prosecutors. As with most problems in our society, juvenile justice could be more effective as a whole.

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