



# OhioVOTER

The newsletter of the League of Women Voters of Ohio

Winter 2003

## Juvenile Courts in Ohio: A Closer Look at Where We've Been, Where We Are, League of Women Voters of Ohio's Agenda

At the 2001 state convention of the League of Women Voters of Ohio, delegates voted to update the League's positions on Juvenile Justice. Since then, a study committee of League members from across the state has been working to develop study materials and consensus questions. This edition of the Ohio Voter contains a portion of the study committee's fascinating and thought-provoking research. We hope you will find it compelling. We strongly encourage you to attend the study and consensus meeting(s) soon to be held on this topic in your local League. The League's updated juvenile justice positions will be powerful statements because of their foundation on study and consensus reached during meetings held in every corner of the state. Consensus is one of the hallmarks of the League of Women Voters, and your voice is needed. The complete study materials are available on the League's Web site: [www.lwvohio.org](http://www.lwvohio.org).

### Background

Throughout the late 18th century, "infants" below the age of reason (traditionally, age seven) were presumed to be incapable of criminal intent and were, therefore, exempt from prosecution and punishment. Children as young as seven, however, could stand trial in criminal court for offenses committed and, if found guilty, could be sentenced to prison



or even to death. By 1825, the Society for the Prevention of Juvenile Delinquency was advocating the separation of children from adult offenders. As early as 1869, the Ohio Supreme Court recognized the state's authority to commit children to reform schools. According to the Court, the "authority of the state, as *parens patriae*, to assume the guardianship and education of neglected homeless children, as well as neglected orphans, is unquestioned" (*Cope vs. Campbell*).

In 1882, John Altgeld, a Chicago lawyer who would later become governor of Illinois, toured the House of Corrections in Chicago and discovered that hundreds of children, some as young as eight, were jailed with adults. Jane Addams and other Chicago reformers advocated for a separate justice system for children, leading to the creation of the first juvenile court in 1899.

In Cleveland, urban children often worked in the street hustling for a few pennies in any way they could—selling papers, shining shoes, stealing. The "child savers" of that time were concerned about how poor urban children were treated by the judicial system. They found that very young boys were confined in jails with adults, and girls were jailed

with prostitutes. This environment led to the movement for courts for juveniles and, in 1902, the Cuyahoga County Juvenile Court was established.

The first case, a 14-year-old boy charged with stealing a pair of shoes, was settled when Newton D. Baker, who would later serve as mayor of Cleveland, took the boy under his supervision.

By 1906, the Legislature had extended the juvenile system statewide.

In 1937, Ohio adopted the Standard Juvenile Court Act. The right to counsel, to the privilege against self-incrimination, to trial by jury and to bail were all held inapplicable to juvenile proceedings. The doctrine of *parens patriae*, which justifies those procedures that seem to conflict with the constitutional liberties of the person, requires that the court act as a wise and kindly parent toward those children who are brought before it.

The juvenile justice system is founded on the concept that youth are different from adults. Juvenile courts were established to provide youth with a chance to make a better choice than delinquency. More than simply providing another chance, juvenile justice professionals work to enable youth to make the kinds of decisions that will ensure a better future for themselves and their communities (U.S. Department of Justice, OJJDP, "Second Chances: Giving Kids a Chance to Make a Better Choice," May 2000).

The Gault decision in 1967 changed the nature of juvenile court delinquency proceedings by requiring certain rights for children: the right to be notified of the charges, to be represented by counsel, to confront witnesses and to not incriminate

oneself. In 1970 in the *Winship* decision, the U.S. Supreme Court held that the "beyond a reasonable doubt" standard was applicable in delinquency cases when a child's liberty was at issue. There remains a fine balance between the need for criminal due-process safeguards and maintaining the beneficial aspects of the juvenile system.

### LWVO Takes Early Role

The League of Women Voters of Ohio was one of the first groups to study children and their rights in the juvenile justice system. The position it adopted in 1973 supported the philosophy of the 1969 revision of Section 2151.01 of the Ohio Revised Code:

- To provide for the care, protection, and mental and physical development of children . . . .
- To protect the public interest in removing the consequences of criminal behavior and the taint of criminality from children committing delinquent acts and to substitute therefore a program of supervision, care, and rehabilitation
- To achieve the foregoing purposes, whenever possible, in a family environment, separating the child from its parents only when necessary for his welfare or in the interests of public safety
- To provide judicial procedures through which Chapter 2151 . . . is enforced, and in which the parties are assured of a fair hearing, and their constitutional and other legal rights are recognized and enforced

The League supported local treatment as a desirable alternative to large, centralized institutions and the development and use of local social service programs to provide appropriate treatment for unruly and delinquent children and their families.

See *HISTORY*, p. 2.

## Juvenile Court Addresses Crime, Other Matters Related to Youth

Juvenile court has exclusive jurisdiction to hear cases involving children under the age of 18 alleged to be delinquent, unruly, abused, neglected or dependent. This court also determines issues of paternity, custody and child support. Some terms and definitions of the types of children who may come before juvenile court are given below.

Juvenile court cases involve the following types of children:

- **Delinquent Child.** A child who has committed an act which, if committed by an adult, would be considered a crime (for example, murder, rape, assault and theft)
- **Unruly Child.** A child who has committed an act that is illegal for children but which would not be considered illegal if committed by an adult (for example, truancy and incorrigibility)
- **Abused Child.** A child who has been intentionally harmed by a caretaker
- **Neglected Child.** A child who has not received proper care due to a caretaker's neglect
- **Dependent Child.** A child who has been harmed through no fault of the caretaker

Delinquency and unruly cases are started and processed as follows:

- **Initiation.** Information about a possibly delinquent or unruly child is presented to the court. If the information is sufficient and alternatives such as diversion or mediation are not appropriate, then an official complaint is filed.

See *COURT*, p. 3.

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In 1974, the League added to its position support for the following:

- Including in the Ohio Revised Code the responsibility of juvenile courts and the Department of Youth Services to provide positive, individualized, humane treatment, and the right to bodily safety and integrity; freedom from physical and mental abuse; mental and physical health care; drug and alcohol treatment; education appropriate to a child's intellectual, emotional, and physical capacities; access to the courts for enforcement of rights; and periodic review of placement and treatment
- Statewide uniform standards for maintaining, disseminating and/or inspecting juvenile records and that these standards should protect the offender, as child and as adult, from unnecessary consequences of criminal behavior and the taint of criminality
- Expungement (sealing) of all juvenile records and state-mandated written notification of eligibility for expungement review

The 1977 state League convention decided to study and develop standards for all juvenile facilities. The League soon saw a need to determine, first of all, who should be placed in secure facilities. The 1979 positions reflect member interest in limiting use of secure facilities and developing community services and nonsecure facilities as alternatives. Members gave their support for the following:

- Individual evaluation of each case before the court
- The "least restrictive" concept in determining placement of children awaiting court action as well as after adjudication . . .
- Development of . . . alternatives to secure facilities within a child's own community . . .
- Minimum standards for secure facilities that provide for the following:
  - √ The right to personal possessions, privacy, freedom of and from religion, personal communications, limitations and procedural requirements for discipline, grievance and appeal mechanisms, periodic review of placement, and bodily safety
  - √ A program that provides initial physical, mental and

psychological evaluation; medical and dental care; recreation and exercise; education for individual needs; vocational training; psychiatric and psychological services; work-release and school-release programs; follow-up after release

- √ An adequate ratio of staff to youth, qualifications, supervision and accountability

League members also opposed the following:

- Placing unruly children in secure facilities (defined as those with architectural barriers)
- Holding any children in adult jails

### The Superpredator

In the 1980s, juvenile violent crime trends led to the prediction that the nature of juvenile violence had changed and that a new breed of youth—the superpredator—would emerge as a threat. For these youth, violence would be a way of life; the new delinquents were unlike the youth of the past. Fears were heightened in the 1990s by the prediction that the youth population was increasing. As a result, nearly every state, including Ohio, passed laws to handle more youth as adult criminals.

But did a more threatening delinquent youth emerge? These data from the U.S. Department of Justice indicate that superpredators are more myth than reality, but this myth caused a panic that changed the juvenile justice system.

- Curfew violations doubled between 1993 and 1996. Communities believed that curfew enforcement would reduce juvenile violence.
- Drug arrests nearly doubled, but rates from self-report studies (national youth surveys) did not change.
- Assault arrest rates increased in all age groups as a result of new legislation requiring arrests for domestic violence. Family problems previously classified as status offenses now resulted in arrests for assaults.
- Homicide and robbery arrests declined.
- The juvenile population did increase, but crime did not. By 1997, the juvenile violent crime arrest rate dropped to the lowest level of the 1990s. In 1999, the serious violent juvenile crime rate was 26 crimes per 1,000 juveniles aged 12 to 17, totaling

610,000 such crimes involving juveniles. This represents a 50 percent drop from the 1993 high and the lowest level recorded since the National Crime Victimization Survey began in 1973 (U.S. Department of Justice, OJJDP, 1999 *National Report Series, Challenging the Myths*).

- The 2001 National Crime Victimization Survey continues to show declines, including a 10 percent decrease in violent crime for whites and an 11.6 percent decrease for African-Americans between 2000 and 2001. Teenagers seemed less likely to be victims of violent crime; the rate against those between 16 and 19 years of age fell 13.2 percent (*The [Cleveland, Ohio] Plain Dealer*, September 9, 2002).

### Ohio's Response to the Superpredator

The General Assembly responded recently with the passage of a series of laws relating to juvenile offenders, including the following:

- S.B. 179, effective January 1, 2002, that changed the purpose clause of the Ohio Revised Code from rehabilitation to a focus on offender accountability and protection of public safety. The legislation also permits the commitment of 10- and 11-year-olds to the Department of Youth Services, blended youth and adult sentences, and jury trials.
- Am. Sub. S.B. 181, effective June 2000, which defines truancy as delinquency in some cases and permits criminal charges to be brought against a truant's parent or guardian.
- S.B. 3, effective January 1, 2002, which defines "sexual predator," "habitual sexual offender" and "juvenile sex offender." The legislation requires that sexual predators and habitual sexual offenders be officially registered and the community notified.

### LWVO's Current Positions

The League's position over the years has referred to principles enumerated in the purpose clause (Section 2151.01) of Ohio Revised Code. Because this section has been changed and no longer conforms with the League's current positions, it is important to look at the principles of the League's current positions on juvenile justice and reaffirm them. These positions are discussed below.

See HISTORY, p. 3.

The League of Women Voters, a non-partisan political organization, encourages the informed and active participation of citizens in government, works to increase understanding of major public policy issues, and influences public policy through education and advocacy.

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## From the President's Desk: An Inside Look at Advocacy

Here's a look at two recent bills that will give you a behind-the-scenes picture of the League's advocacy. As you know, LWVO never works on legislation unless there is a state or national position to back us up.

While it's not likely the General Assembly will ever adopt our positions, we thought we had an easy victory when we initiated H.B. 445.



The bill required the Ballot Board to supply pro and/or con arguments on state ballot measures if either side declines to do so. Three times in the past 20 years, the explanation of a state ballot issue included pro arguments but not cons. One of the League's principles is that "democratic government depends on the informed and active participation of its citizens." Obviously, it's hard to be informed if you've only heard one side of an issue.

Rep. Merle Grace Kearns (R-Springfield) agreed with us and sponsored this simple bill. But as so often happens, a simple bill became very complicated. The Senate added an amendment that reversed a campaign-finance victory won several years ago that required statewide and legislative candidates to file their campaign reports electronically. The amendment rolled back that requirement, jeopardizing timely, accurate reporting, and so LWVO found itself opposing a bill we had instigated. Despite our vocal opposition, a form of the bill passed, significantly delaying electronic filing.

Bills are often much more complex than H.B. 445, with no clear black and white. Testimony from LWVO frequently includes variations of, "We support the concept, but we do have a concern." Such a bill is H.B. 364, which addresses community (or charter) schools. LWVO supported some provisions in the bill because they increased accountability, based on our education finance position calling for "a funding system . . . accountable and responsive to taxpayers."

Nevertheless, we opposed a number of other provisions because they severely reduced accountability. Our testimony was clear: "The League supports the concept of community schools as a way . . . to meet the educational needs of students through innovative, community-sponsored education programs. However, the League believes that all tax-supported schools should comply with the same rules . . . and be accountable to citizens through locally elected officials." The bill passed without addressing all of our concerns and awaits Gov. Bob Taft's signature.

If you read LWVO testimony, you will sense the care that our lobbyists take to be true to the positions arrived at by the membership. We work hard at the state level to carry out your will.

— Terry McCoy

### HISTORY

Continued from p. 2

#### Children Are Not Adults and Should Not Be Held in Adult Jails.

Scientists researching the brain have found that major changes occur there during the teen years. The changes in brain tissue have been found to be in the frontal lobe areas that control impulses, risk-taking and self-control. These areas of the brain that inhibit violent passions, rash actions and regulate emotions are vastly immature and restructure themselves throughout the teen years. The efforts of the child-savers of a century ago, who advocated the basic concept that children are children whether they are good or bad and thus, by definition, cannot be held accountable to adult standards for their actions, may be vindicated by science.

Transfer to the adult justice system increases criminality. Youth offenders transferred to criminal court reoffend more often and with more serious offenses than do those youths retained under juvenile jurisdiction, according to studies in Florida, Minnesota, New York and Pennsylvania. Confining youths with adults is dangerous. Youths in adult institutions are more likely to commit suicide, be sexually assaulted, be attacked with a weapon, and are in excellent places to learn the tricks of the crime trade from veteran criminals. (Richard Mendel, *Less Hype, More Help: Reducing Juvenile Crime, What Works—and What Doesn't*, American Youth Policy Forum, June 2000).

#### The Purpose of the Juvenile System Is Rehabilitation.

Rehabilitation means providing the treatment and services youth need to become productive, law-abiding adults. A study by the American Youth Policy Forum titled "Less Hype, More Help" makes the following recommendations for successful rehabilitation programs:

- *End reliance on out-of-home placements.* Local juvenile courts have strong financial incentives to commit youth to state institutions instead of treating them locally. In Ohio, RECLAIM Ohio is a state financial-incentive program to counties to reverse that trend and provide community-based programs.
- *Invest in research-driven interventions for juvenile offenders.* Programs should be evaluated and those that are effective replicated.

- *Measure results, and cut funds for programs shown not to work.*
- *Engage community partners.* Delinquent youth often lack attachment to caring adults and involvement in positive activities. Juvenile courts should partner with residents and community-based organizations.
- *Communities should undertake comprehensive planning and action to address juvenile crime.*

The governor's 2002 *Ohio Juvenile Justice Needs Assessment* recommends implementing broad-based delinquency prevention programs in Ohio communities.

#### Children's Legal Rights, Including Expungement of Records, Should Be Enforced.

From its inception, the juvenile court was considered a civil, not a criminal, court. Thus children remained free of the stigma of a criminal conviction. Juvenile records were considered confidential, and the court's proceedings were closed to the public. Procedural safeguards, such as due process, right to legal representation, reasonable doubt, etc., were not recognized.

In *Kent vs. United States* in 1966, Ohio Supreme Court Justice Abe Fortas wrote: ". . . there is evidence that there may be grounds for concern that the child receives the worst of both worlds: He gets neither the protections accorded to adults nor the solicitous care and regenerative treatment postulated for children." (Paul C. Giannelli, *Ohio Juvenile Law*, Baldwin's Ohio Handbook Series, 2001).

Children now have the right to have their juvenile records sealed or expunged, with some exceptions: homicide and certain types of sexual offenses.

#### State Standards for Detention Facilities Should Be Enforced.

According to the Cuyahoga Detention Services mission statement, "Detention Services shall provide for the temporary care and safety of juveniles in our custody, while protecting their rights and attending to their cultural and developmental needs." Local detention facilities should conform to the standards in the Ohio Department of Youth Service for detention centers and to the American Correctional Association standards for juvenile detention facilities. The governor's 2002 *Ohio Juvenile Justice Needs Assessment* recommends hiring and retaining qualified and

See HISTORY, p. 4.

### COURT

Continued from p. 1

- **Arrestment.** After an official complaint is filed, a hearing is held to explain the proceedings and inform the child of his or her rights. If the child is indigent, then the child is referred to a public defender. The child could be transferred to criminal court for prosecution as an adult.
  - **Adjudication.** The court holds a hearing to determine if the child is delinquent or unruly.
  - **Disposition.** After adjudication, the court decides what action will be taken. If there is insufficient evidence of delinquent or unruly behavior, then the case is dismissed.
  - **Sealing/Expungement.** Court records must be destroyed if the complaint against the child is dismissed. If the complaint is not dismissed, then two years after the end of the proceedings the child may petition to have certain court records sealed.
- Abuse, neglect and dependency cases are started and processed as follows:
- **Initiation.** After information about a possible abuse, neglect and dependency case is presented to the court and an official complaint is filed, the court may order the Department of Children and Family Services to care for the child.
  - **Preliminary Hearing.** A preliminary hearing is held to explain the rights of the parents and appoint a guardian ad litem to represent the child's interests. Parents who cannot afford an attorney may be referred to a public defender.
  - **Adjudication.** The court holds a hearing to determine abuse, neglect or dependency.
  - **Disposition.** The court decides what action will be taken with the child. If there is insufficient evidence of abuse, neglect or dependency, then the court will dismiss the case.
- Source: Excerpted from Cuyahoga County Court User's Guide. Cleveland State University, June 2002.

well-trained staff as a key to program success.

## New Ideas for Consideration

The following sections describe some new ideas to consider for incorporation into the League's positions on juvenile justice.

### Continuum of care

For the individual child, this would mean a continuum of care so that the child has the best opportunity possible for positive growth and development and rehabilitation. The system would focus on preventing youth from becoming delinquent by focusing prevention programs on at-risk youth and improving the response of the juvenile justice system to delinquent offenders through a system of graduated sanctions and a continuum of treatment alternatives that includes immediate intervention, sanctions and community-based corrections sanctions. Risk factors may include family, school, peer group, community and characteristics of juveniles themselves. The more risk factors present, the greater the likelihood of problems as the child is exposed to those factors.

The system would also support the strengthening of families and the core social institutions of the community—schools and other community organizations—in their roles of developing capable, mature and responsible youth. Each of these societal institutions works to ensure that children have the opportunity and support to mature into productive, law-abiding citizens. A nurturing community environment requires that these core institutions be actively and collectively involved in the lives of youth. Community organizations include public and private youth-serving organizations, neighborhood groups, and business organizations providing employment and training for youth.

When the family and community fail children, they find themselves in the juvenile or family courts. Juvenile courts play a key role in responding to the needs of troubled youth and their families by protecting children and families when other institutions are unable to do so or fail to meet their obligations. Juvenile courts are society's official means of holding itself accountable for the well-being of its children by providing treatment services that will rehabilitate the juvenile. These services will be more effective if there is

a continuum of services available in the community.

### Innovative, alternative public education services

According to the Chicago Board of Education in 1898, "We should rightfully have the power to arrest all these little beggars, loafers, and vagabonds that infest our city, take them from the streets and place them in schools where they are compelled to receive education and learn moral principles."

Today a new priority has emerged for schools. Schools are being asked to shoulder the dual responsibility of preventing juvenile crime and developing a responsible citizenry. The public believes that school is the right place for young people to be if they are to stay away from trouble and focus on learning and personal development. Communities must improve their ability to identify and address the risk factors that cause troubled youth and their families to drift away from mainstream education. (U.S. Department of Justice, OJJDP, February 2000). Young people who do poorly in school or who drop out are likely to find themselves in juvenile court or in an adult jail. Findings show that one-third of the children in the juvenile justice system read at a fourth-grade level; between 70 percent and 87 percent of incarcerated youth suffer from learning or emotional disabilities; and 82 percent of adult prison inmates are high school dropouts. School failure is one of the earliest and best predictors for future delinquent and crimi-

nal behavior. (American Bar Association Coalition for Juvenile Justice, "Abandoned in the Back Row: New Lessons in Education and Delinquency Prevention," 2001).

The governor's 2002 *Ohio Juvenile Justice Needs Assessment* recommends the development of better methods of identifying at-risk youth at earlier ages. The school is one of, if not the primary core social institution in the community. It has the ability to identify learning problems early in a child's life. The National Institutes of Health reports that approximately 15 percent of the U.S. population is affected by a learning disability and that these differences impede the ability to thrive in traditional classroom settings. Even with the special education programs offered in public schools, success is limited: The dropout rate for students with learning disabilities is 35 percent; and even though many of these students are above average in intelligence, only two percent who graduate from high school attend a four-year college. Studies, including a national longitudinal transition study, show that learning-disabled teens account for more than half of the adolescents in treatment for substance abuse. However, while the state requires (through H.B. 282) that all Ohio school districts identify students who have met the state-established criteria in areas of gifted potential, the state conducts only a "campaign for identifying, locating, and evaluating children with disabilities," including

learning disabilities. The definition of criteria for identification and assessment of children with disabilities is important because it is these children whom the traditional education system fails.

Current law permits children to be expelled without referral to another school. Alternative education in alternative settings is not now widely available for youth who are disruptive and unsuccessful learners in the traditional setting. Data show that these youth, without an opportunity to experience a different learning approach based on their individual needs and in which they can progress at their own pace, often find their way to the juvenile or adult correctional system. Ohio's Department of Education has not funded a system of education that meets the needs of all learners. School districts in Massachusetts, Minnesota, New Jersey, Arizona and Kentucky provide these educational services.

The country's economy can no longer afford an uneducated population. Dropping out of school as a youth is a factor closely related to being a prisoner as an adult. States spend roughly \$22,000 annually on each adult in prison. In contrast, the average cost to educate one student for one year is about \$7,000 (Harold Hodgkinson, "A Demographer's View"). It makes economic sense for communities to emphasize education over incarceration.

See HISTORY, p. 5.

## DYS Offers Programs, Services to Help Ensure Public Safety

The mission of the Ohio Department of Youth Services (DYS), a department of the state government, is "to ensure public safety by providing and supporting a range of effective and cost-effective services that hold youthful offenders accountable for their actions and gives them the skills and competencies they need to live crime free."

In 2001, 1,933 juveniles were committed to DHS. The average daily population was 2,177 with an average per diem cost to house, care for and treat a juvenile at \$140. The largest numbers of admissions are youths who are 15-17 years old. African-American youth comprise 46.7 percent of commitments. Major types of offenses were property (44.8 percent), person (24.8 percent), sex (11.5 percent) and drugs (10.6 percent).

The DHS' RECLAIM Ohio program is a nationally recognized funding alternative that

encourages courts to develop or purchase a range of community-based options to meet the needs of juvenile offenders.

RECLAIM allocates funds to counties and allows them to choose whether youths should be treated locally or sent to state institutions. A county must pay the state for the youth it sends to DHS from the allocation it receives.

DYS operates the following institutions at various locations around the state:

- **Circleville Correctional Facility.** Maximum-security facility; serves males; treats sex offenders
- **Cuyahoga Hills Juvenile Correctional Facility.** Medium-security facility; serves males
- **Freedom Center.** Drug and alcohol treatment and transitional living center for older youth

- **Indian River Juvenile Correctional Facility.** Maximum-security facility
- **Marion Juvenile Correctional Facility.** Maximum-security facility with a super-max unit; serves males
- **Mohican Juvenile Correctional Facility.** Medium-security facility; serves males needing substance abuse treatment
- **Ohio River Valley Correctional Facility.** High-security facility; serves males from southern Ohio
- **Opportunity Center.** Serves males with mental retardation or developmental disabilities and medical conditions
- **Riverview Juvenile Correctional Facility.** Maximum-security facility; serves females
- **Scioto Juvenile Correctional Facility.** Assessment center; serves males

**Restorative rather than retributive juvenile justice**

Retributive justice defines crime as an offense in need of punishment; success is determined by what happens to the offender. Restorative justice defines crime as an injury in need of repair; both the victim and the offender actively participate in a restorative mediation process, and success is determined by what happens to both victim and offender.

Traditionally the underpinning of the juvenile justice system has been a philosophy of rehabilitation by treatment. In recent years, the trend has been toward a retributive model that gives priority to punishment. Proponents of restorative justice maintain that both the punitive approach and the traditional treatment approach to juvenile rehabilitation fail to meet the basic needs of victims, the community and the offenders themselves.

Restorative justice requires the voluntary participation of the three stakeholders: offender, victim and community. Key components include the following: restitution to the victim, restitution to the community through voluntary service, self-improvement on the part of the offender and face-to-face mediation with the victim.

Both the traditional treatment and the retributive models place the offender in a passive role as the object of treatment services designed by others and/or the object of punishment controlled by the state. In the restorative model, the juvenile offender becomes an active participant. The model offers offenders a chance to hear their victims' stories, an opportunity to become productive in rather than dependent on the community and a way to step out of the cycle of delinquency. Proceedings in a retributive system are always adversarial, while mediation is the norm in a restorative system. Accountability in retributive justice is achieved by ensuring that offenders take their punishment as opposed to their assuming responsibility for and taking action to repair the damage caused by the crime.

The Center for Restorative Justice, used by the courts in Holmes and Wayne counties, is seen to be particularly effective with juveniles. Acceptance of the model will require community support, redirection of resources and retraining of juvenile justice professionals. The center offers

juvenile judges a meaningful alternative to incarceration for appropriate cases, and it promotes a positive attitude toward the justice system by the victim, the offender and the community. Juvenile offender studies in Texas, California and Minnesota found that victims were less fearful of being revictimized, offenders were more likely to successfully complete their restitution obligation, and considerably fewer and less serious crimes were committed by offenders who participated in victim-offender mediation than those who did not meet with their victims. These findings are consistent with other studies in Canada and England (Center for Restorative Justice, University of Minnesota, 1997). Although relatively new in Ohio, restorative justice practices appear to have promising potential.

**Gender specific services**

A 1999 FBI report found that girls are the fastest growing population in the juvenile justice system. Both a 2001 meta-analysis by Meda Chesney-Lind and Scott K. Okamoto and a report by the National and American bar associations address the reasons for this societal change. The primary reason is that female aggression was largely ignored in the past because the violent behavior took place in the home, was family centered and was not considered to be or treated as a cause for detention. Today that attitude has changed. Any type of aggression is considered an assault, and police make arrests.

Girls are more likely than boys to be victims of child sexual abuse, according to a report on gender and justice. At the same time, a Florida study found that "girls' problem behavior commonly relates to an abusive and traumatizing home life, whereas boys' law-violating behavior reflects their involvement in a delinquent life style." Girls' reactions include low self-esteem, depression, school failure and a tendency to drop out of school. Girls' "offense of choice," the study found, is running away, which often leads to substance abuse, petty theft and prostitution.

The two studies state that sexism and gender bias pervade the juvenile justice system and account for the manner in which girls are treated. Courts historically have used detention as a means of social control over behavior that is considered dangerous and self-destructive to the girls themselves and to society in general. Such behaviors include substance abuse, pros-

titution and having children out of wedlock. Further, statistics support the conclusion that in order to "protect young women from themselves," girls are consistently found by the court to have violated parole and returned to detention without having committed a new crime. It is interesting to note that neither the feminist movement nor the legal mandate to deinstitutionalize status offenders has brought about equality under the law for young men and women.

Just as girls' offenses and the reasons for them are different from those of boys, so too are girls' reactions to their treatment by the juvenile justice system—a system designed from the beginning by men for male delinquents. According to one study, youth workers routinely stress the "difficulty" of working with girls. Girls are seen as "hysterical, manipulative, verbally aggressive and untrusting"; boys are described as "honest, open and less complex." Girls' aggression is often relational. And while boys need structure and discipline, girls need to learn to develop open, effective relationships.

Programs that treat the psychological and physical characteristics of females in a continuum of care approach should start with access to quality legal representation and progress through programs that cross systems and are integrated, collaborative and involve the family. Multisystemic therapy fits this description. The Ophelia and Empower projects are promising and innovative programs that help girls confront relational aggression (Rachel Simmons, *Odd Girl Out: The Hidden Culture of Aggression in Girls*, 2002).

**Equal and unbiased treatment regardless of race or ethnicity**

Two prerequisites of an effective juvenile justice system are that every offender is treated as an individual, and the services needed are provided without bias. Indications are that the current system is not meeting this standard. The percentage of minority juveniles in confinement is more than double their representation in the general population, both nationally and in Ohio.

In Ohio, minority juveniles are more likely to be detained than white juveniles even though their offenses are no more serious than the offenses of white juveniles. Minority youth are more likely to be sent to the Ohio Department of Youth Services, while white youth are committed to local facilities. Data suggest that differ-

ences in delinquent behavior are insufficient to account for disparities in detention and confinement. A study by Bowling Green State University found that in proportion to prevalence in the population:

- Minority youth are referred to court twice as often as white youth.
- Minority youth are more likely to be detained than white youth.
- Minority youth who are detained are three times more likely than white youth to be incarcerated.
- Minority youths' offenses are no more serious than those of white youths.
- Delinquent behavior differences are insufficient to account for the disparities in confinement.
- Minority youth are more likely to be sent to state facilities, while white youth are sent to local facilities.

**To Learn More . . .**

*Female Delinquency Cases*, Meghan C. Scahill, U.S. Department of Justice, Office of Juvenile Justice and Delinquency Prevention, 1997.

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"Restorative Justice for Juvenile Delinquency," Marty Price, Holmes County Victim Offender Reconciliation Program Inc., *River Review*, Vol. 5, Issue 9, Spring 2002.

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"New Statistics Puncture Myth of Violent Kids," *Philadelphia Inquirer*, December 2000.

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*The Transformation of the Juvenile Court, Part II: Race and the "Crack Down" on Youth Crime*, Barry C. Feld, 1999.



**LWVO Phonathon 2003**  
**Members Calling Members**  
**to Support State & Local League Activities**  
**February 22 & 23, March 1 & 2**

Throughout the year, League helps us open our minds while we open the doors to the political process. As Phonathon approaches, you will be asked to open your pocketbook as well.

For this year's Phonathon fund-raiser, League is taking a different approach. In the last 12 months, we have hired new staff and improved our credibility, particularly through our work on the issue of judicial independence. During this time, we also continued to listen to the recommendations of our members. We responded with area meetings in November that helped prioritize plans around members' expressed needs. Our state board is committed to capitalizing on this new energy and living up to local Leagues' expectations. Member support—in the form of donations—is key to this growth.

Soon you will receive our annual fund appeal. Take a close look, and consider making a generous gift. Your contribution to either the League or the League's Education Fund will help us serve local Leagues and voters across Ohio by doing the following:

- Hiring a staff person to devote time and energy to enhancing the capacity of local Leagues through leadership training, board orientation and member services; increasing the visibility of League in order to increase membership, particularly among young people; and launching a state-wide initiative to "get out the vote" and improve Ohio's turnout at the polls in 2004
- Upgrading office technology, making our Web site more interactive and user-friendly while speeding communication with local Leagues
- Lobbying the General Assembly and other policymakers on League positions and advocating for better government, social justice, and a healthier environment

These plans are the result of an extensive needs-assessment conducted last fall and the board's lengthy strategic planning activities. The board also knew that it takes talented and consistent staffing to meet the organization's goals. Hiring a new executive director was the first step. The hiring of a second staff member also was part of this long-term plan. The board is confident that its thoughtful, "League-like" approach will make a significant difference over the long haul.

This year we are asking you to help us bring Phonathon to 100 percent participation. As you know, 15 percent of your donation directly supports local Leagues, so giving benefits local as well as state efforts. Also new to Phonathon this year are special giving levels for donors: Suffragette Legacy Club for \$1,000 or more, Susan B. Anthony Club for \$500 to \$999, Carrie Chapman Catt Club for \$250 to \$499, Elizabeth Cady Stanton Club for \$100 to \$249 and Ida B. Wells-Barnett Club for \$50 to \$99. Club donors will be recognized (with their permission) in an annual report and at the state convention in May. Donors at higher levels also will receive special League gifts.

Look for the Phonathon 2003 appeal letter coming soon, and listen for your phone call in late February. Then make your contribution, and help sustain the League in making democracy work.

— *Your LWVO Board*

## Visited the LWVO Web Site Lately?

The League of Women Voters of Ohio is working hard to make its Web site as current and useful as possible. You can find the site at [www.lwvohio.org](http://www.lwvohio.org).

Here are a few things you will find: the latest Action Alerts to help you make a difference on issues you care about; lobbyists' reports and

testimony with analysis to help you argue League positions; information about the League's judicial independence project; and member resources, such as post-board mailings, information on state board actions, and tips and tools to use at the local level.

Visit today, and let us know what you think.

## Statehouse Day Planned for Columbus

For hard-core legislative advocates and those interested in learning more about legislative advocacy, be sure to reserve Wednesday, April 2, for the League's annual Statehouse Day in Columbus.

The daylong event includes up-to-the-minute briefings from League volunteer lobbyists on the hot issues of the day, a meeting between participants

and their respective representative or senator (or their legislator's aide), lunch with a special keynote speaker and workshops on the issues facing state lawmakers.

The cost is \$25, which covers lunch, advance materials, workshops and materials provided that day. Let your local League president know if you are interested in attending.

## Retributive vs. Restorative Justice: Two Competing Philosophies

Traditionally the underpinning of the juvenile justice system has been a philosophy of rehabilitation by treatment—the reforming of youthful offenders through individual treatment and education programs available in either the community or at separate juvenile-detention facilities. In recent years, however, observers have noted a growing trend in legislation reflecting a retributive philosophy of juvenile justice that gives priority to punishment rather than reformation. The public's fear of violent crime and frustration with the traditional system's perceived ineffectiveness have increasingly favored the retributive model.

As it relates to juvenile offenses, restorative justice demands the voluntary participation of three essential groups: the offender, the victim and the community. Key components of a restorative program are restitution to the victim and the community, offender self-improvement, and possible face-to-face mediation with the victim. Accountability in the retributive system is achieved by ensuring that the offender serves a punishment as opposed to assuming responsibility and taking action to repair the damage caused by the crime.

The table below highlights the differences between the two philosophies.

Retributive Justice	Restorative Justice
<b>Problem</b>	
Defined narrowly, abstractly; a legal infraction	Defined relationally as a violation of people
Only legal variable relevant	Overall context relevant
State as victim	People as victim
<b>Actors</b>	
State (active) and offender (passive)	Victim and offender primary along with state and community
<b>Process</b>	
Adversarial, authoritarian, technical, impersonal	Participatory, maximizing information, dialogue and mutual agreement
Focus is guilt/blame	Focus is needs and obligations
Neutralizing strategies encountered	Empathy and responsibility encouraged
<b>Outcomes</b>	
Pain, suffering	Making things right by identifying needs and obligations; healing, problem-solving
Harm by offender balanced by harm to offender	Harm by offender balanced by making right
Oriented to past	Oriented to future

Source: Victim Offender Conferencing in Pennsylvania's Juvenile Justice System, Copyright 1998 by Lorraine Stutzman Amstutz and Howard Zehr.

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