

Chapter 5. Purpose and Scope of the Texas Juvenile Justice System

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Introduction

The start of the juvenile justice system in the United States dates back to 1899 in Cook County Illinois. Throughout Chapter 5. Cox, Conrad, Allen and Hanser (2008) provide the laws and process used throughout the country. A conclusion easily reached by the reader is that every state is different as long as their laws and practices do not violate Supreme Court rulings such as *Kent v. United States* 1966; *In re Gault* 1967; *In re Winship* 1970. This chapter identifies the purpose for and scope of the juvenile justice system in Texas. Specifically it discusses one of the most significant cases in juvenile justice *Morales v. Turman* 1971 through 1984.

The history of Texas juvenile justice is as rugged as its territory in the 19th century. (see Box 5.1). As a Republic Texas establishes the age of 8 as the age of responsibility for crimes. In 1856 this age is raised to nine. It was not until 1853 was the age raised to 13 for criminal responsibility. In 1918 the age for criminal responsibility was raised to seventeen. Texas was one of the last states to establish a juvenile justice system as often referred to today. It was in 1943 that the Texas Legislature replaces criminal charges against youth with special civil procedures. Even today a scandal has the Texas Youth Commission in receivership.

Box 5.1

Texas Youth Commission - Highlights of agency's history

1836: Republic of Texas establishes 8 as the age of responsibility for crimes. The age is changed to 9 in 1856.

1853: Legislature raises age of criminal responsibility to 13 and authorizes construction of a vocational training school for 'wayward' youths.

1889: First reform school, Gatesville School for Boys, opens.

1916: Gainesville State School opens for wayward girls.

1918: Age of criminal responsibility is raised to 17.

1943: Legislature replaces criminal charges against youths with special civil procedures.

1949: After a scandal over punishment and a lack of programs for incarcerated youths, Texas Youth Development Council is formed to take over state schools and youth training programs.

1950: Crockett State School opens for delinquent African American girls.

1957: After a scandal over issues including crimes by former incarcerated youths, Texas Youth Council is created to run training schools and homes for dependent and neglected children. Name changes to Texas Youth Commission in 1983.

1966: U.S. Supreme Court mandates that incarcerated juveniles have a right to due process, a right to counsel and other legal processes.

1971: Federal lawsuit *Morales v. Turman* challenges constitutionality of Texas correctional programs for youths, beginning a 17-year odyssey that leads to changes.

1973: In response to the *Morales* case, the legislature enacts reforms with emphasis on community programs and other alternatives to confinement.

1974: Citing a brutal culture not likely to be changed, federal judge shuts down state schools for boys at Gatesville and Mountain View.

1981: Texas Juvenile Probation Commission is created to oversee community-based programs.

1984: *Morales v. Turman* settlement is reached.

1987: Facing a spike in violent youth crimes, Texas adopts 'blended sentencing,' where a period of confinement is combined with rehabilitation.

1988: Court oversight of youth system under *Morales v. Turman* ends.

1995: Reflecting a national trend, the Legislature enacts Juvenile Justice Code cracking down on violent offenders.

2000: The number of youths sentenced to Youth Commission lockups peaks at 5,559, a record. Violence in youth lockups is on the upswing.

2005: Sexual assault allegations involving staff members at the West Texas State School prompt an investigation by Texas Rangers.

2007: Scandal erupts over failure to prosecute the assault case and allegations of an official cover-up. The agency is placed in receivership.

Source: Austin AmericanStatesman.com “Highlights of Agency’s History.” May, 06, 2007

<http://www.statesman.com/news/content/region/legislature/stories/05/06/6timeline.html>

Comparison of Juvenile Justice System and the Criminal Justice System

The original Title III of the Texas Family Code was written in 1973 and has been amended numerous times over the years. The single most significant revision to juvenile law and procedure came in 1995 during the 74th Texas Legislature where juvenile justice reform was a major issue. Voluminous changes in the juvenile justice system resulted, most of those dealing specifically with violent and habitual juvenile offenders.

Texas juvenile law is governed primarily by Title III of the Texas Family Code entitled the "Juvenile Justice Code". The main goals of the juvenile justice system in Texas, as mandated by TEX. FAM. CODE ANN. § 51.01, are to provide for the safety and protection of the public,

promote the concept of punishment and accountability, and provide treatment and rehabilitation of the juvenile offender in the community.

For purposes of juvenile law, there are several unique terms and definitions that are important to understand. There are basic similarities and differences between juvenile and adult justice systems as outlined in the *Texas Family Code* and the *Texas Penal Code*. The similarities include the following: discretion in decision making by police officers, district attorneys, judges, and corrections officers in dealing with both juveniles and adults; the right to receive Miranda warnings applies to juveniles as well as adults; juveniles and adults have the right to an attorney at the critical stages of the court process; plea bargaining exists for both juveniles and adults; the state is required to prove its case beyond a reasonable doubt as the standard of evidence; juveniles and adults can be held in pretrial detention facilities; and juveniles and adults can both be put on probation and ordered to complete community service hours. If the case involves a financial loss suffered by a victim, juveniles and adults can be ordered to pay restitution.

Differences primarily revolve around the fact that the primary purpose of juvenile justice procedures is protection and rehabilitation and for adults the goal is to punish the guilty. The juvenile respondent, not defendant, is alleged to have committed a delinquent act not a crime. A social history not a pre-sentence report is mandatory before disposition of a juvenile's case. Other differences include the following: juveniles are detained and adjudicated and adults are arrested and convicted; age determines the jurisdiction of the juvenile court and the nature of the offense determines the jurisdiction of the adult court; juveniles can be apprehended for acts that would not be criminal if they were committed by an adult, such as smoking; juvenile court procedures are generally informal and may be private but adult court procedures are more formal and are open to the public. Identifying information about juveniles generally cannot be released to the media but information about adults is released to the media; parents/ guardians are highly involved in the juvenile process but not in the adult process; juveniles may be released into the custody of a parent/guardian and adults generally have the right to bail; a juvenile's record generally may be sealed but the record of an adult is permanent; and there is no death penalty in the juvenile justice system. A juvenile who is certified as an adult cannot be sentenced to death of the crime occurred before the youth was 18 years of age (*Simmons v. Roper*, 2005).

Classification of Juveniles Subject to the Juvenile Justice System

The scope of individuals subject to the Texas juvenile justice system is not limited to those juveniles who have committed or have been accused of committing a crime. Both non-offenders and "status" offenders fall under the jurisdiction of the Texas juvenile justice system. A criticism of the system is that the classifications make too little distinction among the individuals it exercises control over. Presently no consideration is given to any psychological or developmental differences between juveniles of different ages; rather they are only classified by what means they have come into the system. Currently there are three ways a juvenile 10-17 can enter the juvenile justice system; non-offenders, status offenders and juvenile delinquent offenders (*Dawson*, 2004).

Non-Offenders

Non-offenders are those individuals who have come into the juvenile justice system through the independent actions of third parties, usually parents or guardians. These cases often include juveniles who have been neglected or abused. This group is the traditional rationale for *parens patriae* jurisdiction in that they come to be in the custody of the state because of the way

that they have been treated. However as the system moves increasingly toward a punitive nature, this rationale for jurisdiction over this group is gradually compromised.

“Status” Offenders

The second group of juveniles subject to the jurisdiction of the Texas juvenile justice system is the status offenders. Status offenders are those juveniles who have committed an act of non-criminal misbehavior, which is considered unacceptable solely because of their age. The activities in which status offenders have engaged would not subject them to punishment if an adult committed the same acts. Status offenders are those juveniles who have been deemed delinquent based on a nebulous pronouncement of their status as incorrigible or habitually disobedient. These cases are generally handled by the Justice of the Peace courts. These justices can and do exercise a tremendous amount of judicial discretion.

Juvenile Delinquent Offenders

Juvenile delinquent offenders are those juveniles who have committed some criminal act that would result in criminal prosecution if committed by an adult. This group of juveniles often raises fewer concerns regarding their treatment because they are considered as culpable as their adult counterparts. However, even among this group, little distinction is made for psychological and physiological differences, particularly between relatively young and relatively older offenders. A classification solely on the basis of actions ignores physical and developmental differences between juveniles of different ages. As such the juvenile justice system itself ignores the differences between older and younger juveniles in the same way that the preceding system ignored the differences between adults and juveniles. The result is that a very young offender and a relatively older offender may be housed together. This situation may ultimately jeopardize the well being of the younger offender in the same way that the well being of a juvenile was jeopardized when formally housed with adults.

Delinquent Conduct

Dawson (2004) defined delinquent conduct as:

- conduct, other than a traffic offense, that violates a penal law of this state or of the United States and is punishable by imprisonment or confinement in jail;
- conduct that violates a lawful order of a court under circumstances that would constitute contempt of court in a justice or municipal court or a county court for conduct punishable only by fine;
- conduct that constitutes driving while intoxicated, flying while intoxicated, boating while intoxicated, intoxication assault, or intoxication manslaughter; or
- conduct that constitutes the offense of driving under the influence of alcohol by a minor (third or subsequent offense).

Conduct Indicating a Need for Supervision

Conduct indicating a need for supervision (CINS) covers less serious violations of the law and includes certain non-criminal acts that are commonly known as status offenses. CINS includes:

- conduct, other than a traffic offense, that violates the penal laws of this state and that is

- punishable by a fine only;
- conduct, other than a traffic offense, that violates a penal ordinance of any political subdivision of this state;
- the absence of a child, for 10 or more days or parts of days within a six-month period in the same school year or on three or more days or parts of days within a four-week period from school;
- the voluntary absence of a child from the child's home without the consent of a parent or guardian for a substantial length of time without intent to return;
- conduct prohibited by a city ordinance or state law involving the inhalation of the fumes or vapors of paint and other protective coatings, glue and other adhesives, or volatile chemicals;
- an act that violates a school district's previously communicated written standards of student conduct for which the child has been expelled; or
- conduct that violates a reasonable and lawful order of a court entered under Section 264.305 of the Family Code (relating to at-risk youth) (Dawson, 2004).

Serious Offenses and Texas Response

In response to the crime spike during the late 80's and early 1990s the 74th Texas Legislature (1995) passed the most expansive juvenile reform legislation since 1973. This legislation that took effect in January 1996 has been described as a "get tough, balanced approach" that reflects the public attitude that we want to punish youth in some meaningful way, and yet not abandon rehabilitation as a principal aim for our children.

The get-tough theme of the reform legislation was unmistakable:

- Promotion of the concept of punishment for criminal acts was added as a purpose of the newly named "Juvenile Justice Code."
- The certification age was lowered from 15 to 14 for capital and first degree felonies; and once a youth is certified, transfer to criminal court is automatic for all subsequent felonies.
- Determinate sentencing was expanded by adding 11 offenses to the original five (all violent offenses against persons, including attempts, criminal solicitation, serious drug offenses, and three-time felons).
- The range of possible sentences was increased to a maximum of 40 years for first degree felonies. Minimum confinement periods were established for sentenced youth from three years to one year. The minimum confinement period for capital murder is ten years.
- TYC was authorized to request the juvenile court to transfer a sentenced youth after age 16 to adult prison to complete his sentence. All sentenced youth were required to complete their sentences after age 21 (or age 19 in some cases) on adult parole.
- All referrals to the juvenile court for felony offenses and misdemeanors involving violence or use of a weapon were required to be reviewed by the prosecuting attorney for possible prosecution. For a second felony referral after adjudication for a felony, the prosecutor must consent in writing to any deferred prosecution.

The Texas Youth Commission implemented a "back to basics" philosophy that continues to guide policy and program development today. Public safety and punishment for criminal acts are now balanced with the need for rehabilitation. While juvenile crime rates remain much higher than a decade ago, it appears that these rates may be leveling. Commitments - both for violent and non-violent offenses - appear to be on a gradual decline. Violent crime commitments also appear to be on the decline. More about violent offenders is covered in Chapter 12.

Juvenile Blended Sentencing

The petition must have been referred to and approved by a grand jury. If the petition is approved, the juvenile is entitled to have his or her sentence determined by a jury. A violent or habitual felony offender may be committed for a period of up to 40 years for a capital felony, first degree felony, or aggravated controlled substance felony; up to 20 years for a second degree felony; or up to 10 years for a third degree felony. Initial commitments are to the Texas Youth Commission; however, at any time between the juvenile's 16th and 19th birthday, if the sentence has not been completed and the juvenile's conduct "indicates that the welfare of the community requires" it, the Texas Youth Commission may refer the juvenile for transfer to the Texas Department of Criminal Justice. The committing court must hold a hearing to approve such a transfer. After considering "the experiences and character of the person before and after commitment" as well as the nature of the offense and a number of other enumerated factors, the court may order the juvenile returned to the Texas Youth Commission or transferred to the Texas Department of Criminal Justice for the completion of the original sentence.

<u>Offense Category</u>	<u>Minimum Age</u>	<u>Offense Detail</u>
Certain felonies	None specified	Any felony committed by a juvenile with two previous felony adjudications, the second of which was for conduct that occurred after the first felony adjudication became final.
Murder	None specified	Capital murder, murder, manslaughter, intoxication manslaughter, and the attempt to commit capital murder or murder.
Person	None specified	Aggravated kidnapping, aggravated robbery, aggravated sexual assault, sexual assault, indecency with a child, or the attempt to commit any of these crimes; aggravated assault, felonious injury of a child or an elderly or disabled victim, felonious deadly conduct involving the discharge of a firearm, criminal solicitation, criminal solicitation of a minor, and arson causing bodily injury or death.
Drug	None specified	First degree or aggravated controlled substance felony; attempt to commit certain controlled substance offenses involving use of a child or violation of a drug-free zone.

Beginning in the mid-1980's there was an explosion in the rate of juvenile crime. From 1988 to 1993 in Texas there was a 69% increase in all referrals to juvenile probation for delinquent activity and a 161 % increase in referrals for violent offenses. The Texas rate for homicides by

juveniles was almost twice the national rate (12.8 per 100,000 vs. 6.6) and there was a 285% increase in youth committed to TYC for violent offenses.

In 1987, in response to what was already seen as a shocking increase in violent juvenile crime, Texas became one of the first states to adopt "blended sentencing" where a criminal sentence is blended in some fashion with a more traditional juvenile court disposition. This allows youth who receive a determinate sentence to serve the first portion of the sentence in TYC with the possibility of being transferred to the adult system to complete the sentence.

The alarming rise in juvenile crime continued. In Texas, from 1990 to 1998:

- The juvenile proportion of total arrests increased from 23% to 35%.
- Juvenile violent crime arrests also increased. The arrest rate peaked in 1994 at 18%, up from 13% in 1990.

Commitments to the Texas Youth Commission during this time reflect these trends:

- As the decade began, commitments were relatively stable, hitting a decade low of 1,564 new commitments in fiscal year (FY) 1993.
- Beginning in FY 1994 commitments began a radical climb, peaking at 3,188 in FY 1998, an increase of 104% in five years.

Certification of a Juvenile as an Adult

Criminal courts that handle adult cases generally may not prosecute and convict a juvenile who commits an offense before turning 17. The Family Code, however, provides that the juvenile court may waive, or give up, its exclusive original jurisdiction and transfer a child to stand trial in an adult criminal district court. (§54.02, F.C.) This process is sometimes referred to as a certification or transfer hearing. Certification hearings in Texas are rare and typically involve only the most serious types of felony offenses.

Under current law, the juvenile court may waive its jurisdiction and transfer a juvenile who is 14 years of age or older at the time of the offense, if there is probable cause to believe the offender committed a capital felony, an aggravated controlled substance felony, or a first degree felony. The juvenile court may also certify and transfer a juvenile who is 15 or older at the time of the offense, if there is probable cause to believe the offender committed a second or third degree felony or a state jail felony. (§54.02(a)(2), F.C.)

Texas law also provides for the certification of a person 18 years of age or older, who is alleged to have committed murder or capital murder as a juvenile between the ages of ten and 17. Similarly, a person 18 or older, who is alleged to have committed an eligible felony offense between the ages of 14 and 17, may also be transferred to adult criminal court. (§54.02(j)(2), F.C.) Once a juvenile is certified to be tried as an adult, all subsequent felonies committed by the certified youth, regardless of the offender's age, must also be prosecuted in adult criminal court rather than juvenile court. (§54.02(m), F.C.)

A juvenile offender is treated as an adult from the moment the juvenile court judge signs the certification and transfer order. Upon conviction in the criminal district court, a judge or jury may impose the same punishment, excluding the death penalty, as can be imposed on any adult defendant for commission of the same offense.

A prosecuting attorney seeks certification by filing a petition with the juvenile court to transfer the case to criminal district court. The juvenile court then holds a transfer hearing, without a jury, to decide whether to approve the transfer. (§54.02(c), F.C.) Before the hearing, the juvenile court must order and obtain a complete diagnostic study, social evaluation and full investigation of the child, the child's circumstances and the circumstances of the offense. (§54.02(d), F.C.)

There are a number of factors the juvenile court must consider before deciding whether to certify a juvenile for trial in the adult criminal system. For instance, the court must consider whether the offense was against a person or against property. (§54.02(f)(1), F.C.) The law favors certification when the offense is against a person.

The juvenile court must also consider the following factors:

- the sophistication and maturity of the child;
- the previous record of the child;
- the continuing danger the child poses to the public; and
- the likelihood of the child's rehabilitation with the resources available to the juvenile court. (§54.02(f)(2)-(4), F.C.)

When considering certification, the juvenile court must first determine that there was probable cause to believe the youth committed the offense. In addition, it must determine whether, because of the nature of the offense or because of the youth's background, the safety and protection of the community require that the child be tried as an adult. (§54.02(a)(3), F.C.)

If the juvenile court transfers the case to the adult criminal court, the prosecuting attorney must still seek an indictment against the offender from a grand jury. If the grand jury does not return an indictment, the case must be dismissed and the case may not be remanded, or returned, to the juvenile court. (§54.02(i), F.C.)

Once an Adult, Always an Adult

If a child has previously been transferred to adult court, the juvenile court must waive jurisdiction over any subsequent felony offense, without the elaborate investigation required in connection with discretionary waivers, unless the child was acquitted or not indicted, won a dismissal with prejudice, or had his conviction reversed on a final appeal in the previous case.

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Juveniles who are adjudicated delinquent as violent or habitual felony offenders may receive lengthy commitments to the Texas Youth Commission with the possibility of transfer to the Texas Department of Criminal Justice. A violent offender is one who commits any of a long list of specified violent felonies. A habitual felony offender is one who commits a felony following two previous felony adjudications, the second of which was for conduct that occurred after the first adjudication became final. A petition alleging violent or habitual felony conduct.

The idea that motivated the nineteenth century reformers was to rescue children who were in danger of maturing into adult criminals. This could be done, not by imposing on them the disabilities that result from criminal conviction, but by placing them in protective environments and teaching them about discipline, morality, values and productive work. This fundamental idea that adjudication for delinquent conduct is not conviction of a crime is preserved today in our current Juvenile Justice Code. It is an idea that has produced tension throughout the history of juvenile justice about our goals - between the interests of individual welfare and public protection; between nurturing care and just punishment. A case that encompasses this conflict is *Morales v. Turman*, explained below.

Morales v. Turman

TYC (2007) provides an account of the leading case in the nation for the reform of the juvenile justice system began in 1971, and originated in Texas. A class-action lawsuit, filed against the Texas Youth Council on behalf of juvenile offenders, marked the beginning of sweeping changes in the Texas juvenile justice system. The case involved Alicia Morales who was the oldest of eight children. At the age of 15 she was forced to work and submit all of her earnings to her father. She disagreed with this practice and her father responded by having her committed to the Texas Youth Commission for disobedience (today this practice no longer exists). Through the El Paso juvenile court Ms. Morales was given no notice of charges, no court appearance, and no representation. Her due process was violated several years after *Gault* (1967) established these practices in juvenile court. Ms Morales later gained legal representation and her case was filed a federal court lawsuit, *Morales v. Turman*, in 1971.

Dr. James Turman was the Executive Director of the Texas Youth Council (TYC) at the time. Judge William Wayne Justice presided over the case. In an attempt to gain facts about the practices of the Texas Youth Council Judge Justice sent a letter to all 2,500 TYC youth asking them whether they had a court hearing and an attorney before being sent to TYC. Most said they had had a hearing, but over a third had not been represented by counsel. The state agreed to a declaratory judgment that gave the Texas Legislature time during its session in 1973 to reconsider the bill it had defeated the previous session that had incorporated the due process rights the Supreme Court had mandated in 1967. The bill was enacted as the current Title 3 of the Texas Family Code.

The plaintiff submitted a motion to Judge Justice, requesting an opportunity to interview all youth in TYC at the time. In 1972 the motion was granted and with assistance of law students from the University of Texas and Southern Methodist University these interviews were conducted. The interviews revealed constitutional rights violations were rampant in TYC. Later the two original plaintiff's attorneys were joined by five from the civil rights division of the U.S. Justice Department and two from the Mental Health Law Project, a public interest law firm that specializes in the rights of institutionalized persons.

The testimony at the six-week trial in the summer of 1973 revealed that 60% of the boys were there for stealing, 19% for disobedience and immoral conduct, and only 9% for violent crimes. Of the large number of girls in TYC then (housed at the training schools in Brownwood, Gainesville and Crockett), 68% were committed for disobedience and immoral conduct and only 4% for crimes of violence.

In a monumental decision the judge ruled that a number of practices at Texas Youth Council facilities constituted cruel and unusual punishment that violated the Eighth Amendment to the United States Constitution. Examples of these practices include staff members routinely and unnecessarily punishing youth through beatings, solitary confinement, the use of chemical crowd-control devices, and the utilization of drugs instead of psychotherapy as a means for controlling behavior. Judge Justice also concluded that the school's staff failed to protect the inmates from violence and personal injury and that most employees lacked proper qualifications and training for supervising troubled youths.

Judge Justice ordered the state to close the Gatesville and Mountain View schools and to develop community alternatives to large juvenile penal institutions. During 1979, the Gatesville State School for Boys closed and the Texas Youth Council placed juvenile offenders in smaller schools at Brownwood, Crockett, Gainesville, Giddings, and Pyote, as well as at a number of foster and group homes, halfway houses, and residential treatment centers. The Riverside, Valley, and Terrace schools became the Gatesville Unit for female inmates of the Texas Department of Corrections in 1980. The Hilltop and Hackberry schools composed the Hilltop Unit for male felons of the Texas Department of Corrections beginning in 1981.

After years of negotiations and various court proceedings, including a trip to the U.S. Supreme Court, a Settlement Agreement was reached in 1984 and a monitoring committee finished its work in 1988. This put an end to the seventeen year history of the Morales case. Today the terms of the agreement are still in effect since the plaintiffs in the class were not just youth in TYC at the time, but all youth who would be committed to TYC in future.

The Court of Appeals rejected the plaintiff's assertion of a constitutional right to treatment for incarcerated juveniles. The *Morales* case established the first national standards for the treatment of youth. juvenile justice and corrections. In Texas, it prompted a number of changes:

- A separate category for juvenile court dispositions called "conduct indicating a need for supervision" was established that includes status offenses and conduct that would be punishable only by a fine if committed by an adult. The law prohibits a youth from being committed to TYC for a CINS offense.
- Due process rights began to be afforded youth in juvenile court hearings and in TYC administrative hearings.
- Corporal punishment and all forms of inhumane treatment were prohibited.
- Make-work and extended periods of isolation and idleness in the name of treatment were prohibited.
- An effective youth grievance and mistreatment investigation system was established.
- Staff-to-youth ratios and minimum staff qualification and training requirements were established.
- Individualized, specialized and community-based treatment programs were developed.
- TYC-operated Halfway House programs were established.

- Gatesville State School for Boys and Mountain View School were transferred to the Texas Department of Criminal Justice.
- Dependent and neglected youth were moved out of institutions to foster care. The former State Homes for orphans and dependent and neglected youth-Corsicana State Home, Waco other uses.
- A county assistance program was established to help reduce commitments to TYC by providing some state funds for probation services to youth in their local communities. This activity was transferred to the newly created Texas Juvenile Probation Commission in 1981.
- The TYC Board was increased from three to six members.
- The legislature in 1983 changed the name of the Texas Youth Council to the Texas Youth Commission.

Nationally, the Morales case established 13 criteria which provide the basis for juvenile treatment in secure facilities today. They are:

1. Safe and sanitary conditions be restored and maintained;
 2. Architectural and design changes be implemented to facilitate rehabilitation;
 3. Youth receive medical, dental, and mental health services as needed and on a proactive basis;
 4. Violators of serious offenses and violators of less serious offenses should not be grouped together.
 5. An individual treatment plan be developed with the participation of psychiatrists, psychologists, counselors, and other professionals, after which the plan would be fully implemented;
 6. Adequate educational, vocational, and work programs be established;
 7. Staff be recruited, selected, trained and employed so as to ensure that staff members in sufficient numbers and with adequate education and experience be available;
 8. Confinement in isolation cells be eliminated;
 9. Visiting regulations be established that ensure decency, comfort, privacy, reasonable and frequent visiting periods, and place no restrictions on the identification of visitors;
 10. Adequate, unmonitored telephone access be provided;
 11. Corporal punishment be prohibited; and
 12. Extensive procedural protections be provided to a custodial juvenile before any disciplinary measures could be taken against him; and lastly,
 13. Inmates are permitted to speak, write and receive letters in language other than English.
- (Morales v. Turman, 1971; Penn, 2000).

The Morales case set the standard for juvenile facility treatment but today with the Texas Youth Commission scandal many of the same protections and safe guards clearly identified by this case and others are in violation.

Summary

The differences between the criminal justice system and the juvenile justice system center around the idea that a juvenile deserves protections not afforded to adults. What this amounts to in Texas is following the Family Code and providing proper care and treatment for youth in fact because of their age. Some youth who commit serious offenses are waived to being tried as an adult. Because of these serious offenses recent changes now allow youth to be under the control of the juvenile and then criminal justice system of Texas for up to 40 years; but when a juvenile all in the custody of the Texas Youth Commission have a constitutional right to fair treatment. In the early 70's it was found that this was not the case in spite of Supreme Court rulings. Thus, laws, procedures and policies had to be changed as a result of the Morales case.

Critical Review Questions

1. Why is due process so important for juvenile, especially in Texas?
2. Should juveniles be certified as adults? What changes would you make to Texas laws regarding the issue?
3. Why do you think it took so long to settle the Morales case?

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