

# THE DEINSTITUTIONALIZATION OF STATUS OFFENDERS: LEGAL DEFINITIONS AND LEGISLATIVE STRATEGIES

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## **Defining Status Offenses and Offenders Through State Law/Statutes**

In the years since passage of JJDP, States have formulated differing approaches to defining and handling status offenders. The approaches can be broadly divided into three categories:

- Status offenders as delinquents
- Status offenders as dependents who have been neglected/abused
- Status offenders as a separate legislative category

How a status offender or status offense is defined under law can impact the treatment of and availability of services to a particular youth in the juvenile justice system (Kendall, 2007).

### ***Status Offenders as Delinquents***

States sometimes define status offenses and offenders through different categories (e.g., truancy as a delinquent behavior but runaways as abused/neglected dependents). The classification of offense behaviors largely dictates the kind of treatment and services that status offenders are likely to receive. States that classify status offenses as delinquent behaviors tend to view status offenders as predelinquents spiraling toward more serious offenses; these subjects are less likely to receive treatment and services. Indiana law serves as an example of this approach. Indiana classifies all five status offenses as delinquent behaviors. According to Indiana statutes, a child is defined as delinquent if he or she

- Leaves home 1) without reasonable cause and 2) without permission of the parent, guardian, or custodian who requests the child's return (IC 31-37-2-2)
- Violates IC 20-33-2 concerning compulsory school attendance (IC 31-37-2-3)
- Habitually disobeys the reasonable and lawful commands of his or her parent, guardian, or custodian (IC 31-37-2-4)
- Commits a curfew violation under IC 31-37-3 (IC 31-37-2-5)
- Commits a delinquent act if, before reaching eighteen (18) years of age, he or she violates IC 7.1-5-7 concerning minors and alcoholic beverages (IC 31-37-2-6)

The status offender as a delinquent is subject to the same dispositional decrees used for delinquents.

While relatively few States define status offenses as delinquent behavior under statute, many status offenders end up being treated as *de facto* delinquents. One such way is through the use of probation as a disposition for status offenders (Szymanski, 2006). Probation is more traditionally an option for adjudicated delinquents, but 30 states allow probation as a disposition for status offenders as well. If a youth should violate probation conditions, the consequences can be more severe, especially if the violation of probation is interpreted as the violation of a valid court order which can lead to the youth being "bootstrapped" into the delinquency system. After the passage of JJDP and the deinstitutionalization mandate, many judges felt they were too limited in dispositional options for status offenders, particularly for challenging repeat offenders. If a status offender violated a valid court order, however, he or she could be treated as a delinquent and "bootstrapped" into the delinquency system, where secure detention is a viable

dispositional option (Kendall, 2007). In 1980 this approach was codified in the Valid Court Order amendment to the JJDP. Violators of a valid court order can be institutionalized in juvenile facilities, but only when State law or judicial policy allows it, and only when significant preliminary services have been initiated.

Florida statutes provide an example of this approach. Although Florida recognizes status offenders as a distinct category and has legislated services to meet the needs of this particular group (see below), ultimately a status offender can still be held in secure detention. The statute emphasizes the desire to prevent such detention: “It is the intent of the Legislature that the court restrict and limit the use of contempt powers with respect to commitment of a child to a secure facility.” Nonetheless, “A child who commits direct contempt of court or indirect contempt of a valid court order may be taken into custody and ordered to serve an alternative sanction or placed in a secure facility, as authorized in this section, by order of the court” (FS § 984.09 [1]).

This handling of status offenders can have serious consequences, especially in light of the reconceptualization of juvenile delinquents over the past 3 decades as violent predators in need of harsh punishment and the tendency of the legal system to increasingly treat both violent and nonviolent offenders as adults (DiFonzo, 2000). When status offenders are classified with delinquents or “bootstrapped” into the juvenile delinquency system, they become subject to the criminalization of juvenile delinquency (DiFonzo, 2000). In the 1990s, 47 States and the District of Columbia enacted punitive juvenile justice legislation (Snyder and Sickmund, 1999).<sup>1</sup>

### ***Status Offenders as Abused/Neglected Dependents***

Other States classify status offenses as the behaviors of abused/neglected dependents and are thus likely to channel offenders into a child welfare system. As abused and neglected dependents, status offenders are more likely to be perceived as victims and will be offered services available through the child welfare system (Kendall, 2007).

For example, Pennsylvania statute defines the dependent child as one “without proper parental care or control, subsistence, education as required by law, or other care or control necessary for his physical, mental, or emotional health, or morals.” The statute specifically includes truancy and incorrigibility in this definition of a dependent child (see 42 Pa. C.S. §6302). In delineating the dispositions available for dependent children, the statute supports a differentiation between dependency and delinquency and limits confinement for those not delinquent: “Unless a child

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<sup>1</sup>Massachusetts provides an example of this trend. The Justice Reform Act of 1996 moves to criminalize serious juvenile delinquency. The Act created a new category of offender, the “youthful offender,” who is between 14 and 17 years of age, has committed a felony offense, and has at least one of the following in his or her record: a previous Department of Youth Services (DYS) commitment, a certain firearms offense, or an offense involving the infliction or threat of serious bodily harm. A youthful offender can receive a commitment to DHS (until age 21), a combination DHS commitment and adult sentence, or an adult sentence. See [http://www.mass.gov/?pageID=eohhs2terminal&L=4&L0=Home&L1=Government&L2=Laws%2C+Regulations+and+Policies&L3=Department+of+Youth+Services++Juvenile+Justice+Legal+Issues+and+Policies&sid=Eeohhs2&b=terminalcontent&f=dys\\_g\\_juv\\_legal\\_issues&csid=Eeohhs2](http://www.mass.gov/?pageID=eohhs2terminal&L=4&L0=Home&L1=Government&L2=Laws%2C+Regulations+and+Policies&L3=Department+of+Youth+Services++Juvenile+Justice+Legal+Issues+and+Policies&sid=Eeohhs2&b=terminalcontent&f=dys_g_juv_legal_issues&csid=Eeohhs2)

found to be dependent is found also to be delinquent he shall not be committed to or confined in an institution or other facility designed or operated for the benefit of delinquent children” (42 Pa. C.S. § 6351). The emphasis in the dispositional decree is on keeping the child in the home, should it not threaten the “welfare, safety or health of the child,” and making “reasonable efforts” to “prevent or eliminate the need for removal of the child from his home.”

Most States do not classify status offenders in the same category as nonoffenders (juveniles subject to the jurisdiction of the juvenile court for reasons other than noncriminal misbehavior or criminal behaviors such as abuse or neglect) and do not channel them into the child welfare agency for handling. However, many status offenders do become the responsibility of the child welfare agency as a result of their behavior. Kendall notes the frequent overlap between runaways and homeless youth such that some of the former inevitably become involved with child welfare agencies (2007, 6–7).

### *Status Offenses as a Distinct Legislative Category*

Forty States have created a separate legal category for status offenses. These systems tend to regard offenders as disadvantaged youth in need of care, and channel them away from the courts and detention, reflecting recognition of the importance of a youth’s family and community environment. Several different terms have been applied to such youth and their families, such as family in need of service (often simply called FINS), child in need of services (CHINS), and child in need of assistance (CINA).

New Mexico serves as an example. Article 3A of the New Mexico Children’s Code embraces the concept of creating an alternative jurisdiction for status offenders and expands the jurisdiction to the overall family. Accordingly, the article is entitled the “Family Services Act” (formerly known as the “Family in Need of Services Act”). Passed in 1993 and amended in 2005, this legislation was enacted to “recognize that many instances of a child’s behavior are symptomatic of a family in need of family services” and to “provide prevention, diversion and intervention services for a child or family.”<sup>2</sup> According to the Family Services Act, the Children, Youth and Families Department (CYFD) “shall, subject to the availability of resources, design and implement a referral process to assist a child or family in accessing appropriate services using community based resources.” A family in need of family services is defined as a “family whose child’s behavior endangers the child’s health, safety, education or well being.”

Enforcement of New Mexico’s Compulsory School Attendance Law may be initiated through written notice to the parent of a child who is habitually truant. If continued unexcused absences occur, the student will be reported to the probation services office for investigation to determine whether the student should be considered a neglected child or a child in a family in need of services and subject to the provisions of the Children’s Code. Currently, New Mexico law defines a habitual truant as a student who has accumulated the equivalent of 10 or more unexcused absences within a school year.

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<sup>2</sup>Statutory Chapters in New Mexico Statutes, Annotated 1978: Chapter 32A, Children’s Code: Article 3A, Families in Need of Services: 32A–3A–1. Purpose, 1993. Amended 2005 from “Families in Need of Services” to Family Services Act.

New Mexico's Children's Code also mandates that no child in a voluntary out-of-home placement can remain in the placement for longer than 180 consecutive days or for more than 180 days in any calendar year, unless the CYFD petitions for an extension and a hearing determines that extended time is in the best interest of the child. In addition, no child can remain in out-of-home placement for more than 365 days in any 2-year period.<sup>3</sup>

Florida also has formally recognized status offenders as a distinct legal category. "In creating this chapter, the Legislature recognizes the need to distinguish the problems of truants, runaways, and children beyond the control of their parents, and the services provided to these children, from the problems and services designed to meet the needs of abandoned, abused, neglected, and delinquent children. In achieving this recognition, it shall be the policy of the State to develop short-term, temporary services and programs utilizing the least restrictive method for families in need of services and children in need of services" (FS, 984.04 [1]).

Florida explicitly distinguishes between a "dependent child," a "delinquent child," and a "child in need of services," the latter defined as a runaway, a truant, or ungovernable (FS, 984.02 [9]). The chapter also specifies a "juvenile justice continuum" that provides a broad array of prevention and treatment programs and services, targeted to meet the differing needs of CHINS, dependents, delinquents, and their families. Section 984.02 (3) of the Florida statutes recognizes the importance of the family and community situations; it states as part of its policy the need to "develop and implement effective methods of preventing and reducing acts of delinquency, with a focus on maintaining and strengthening the family as a whole so that children may remain in their homes or communities." The statute also encodes a commitment to diversion programs and deinstitutionalization, recognizing the need "to develop and implement effective programs to prevent delinquency, to divert children from the traditional juvenile justice system, to intervene at an early stage of delinquency, and to provide critically needed alternatives to institutionalization and deep-end commitment."

## **Limiting Status Offenses and Dealing With Status Offenders**

In the wake of a wave of increasing juvenile crime in the 1980s and 1990s, a number of new legislative strategies meant to control juveniles began to be implemented with increasing frequency across the States. These strategies have been embraced to prevent violations from occurring, and thus may be considered part of a protective "scaffolding." The Surgeon General's Report explains this concept of scaffolding:

In this context, the term "scaffolding" (Gauvain, 2001; Vygotsky, 1978; Wood et al., 1976) is used to represent the structured process through which positive development is facilitated and risk is minimized by providing protection from the natural risk-taking, sensation-seeking tendencies of the adolescent. It is a fitting metaphor for the supports and protections that parents and society provide children and youth to help them

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<sup>3</sup>Statutory chapters in New Mexico Statutes, Annotated 1978: Chapter 32A, Children's Code: Article 3A, Families in Need of Services: 32A-3A-7. Voluntary placement, time limitation, 1993. Amended 2005.

function in a more mature way until they are ready to function without that extra support.  
[Surgeon General's Call to Action, 2007, 29]

From the perspective of status offenses, some of the strategies discussed below—alcohol/liquor laws, social hosting laws, parental accountability laws, and curfews—more easily fall into the protective scaffolding scheme than do others. For instance, alcohol/liquor laws, when properly enacted and enforced, prevent youth possession and consumption of liquor and thus *decrease* the numbers of status offenders. On the other hand, curfews may criminalize youth who are engaged in otherwise normal activities (e.g., a youth on the way home from a movie may be stopped and processed for a curfew violation). In addition, as discussed below, some strategies are more effective in achieving their stated aims than are others.

### ***Alcohol/Liquor Laws***

Experimentation with alcohol before reaching the legal drinking age is common. Alcohol is the drug of choice among children and adolescents. In 2005, statistics showed that by their senior year in high school (ages 17–18), 75 percent of U.S. adolescents had experimented with alcohol, 47 percent reported drinking within the previous month, 30.2 percent reported being intoxicated during the previous month, and 28.1 percent reported heavy episodic drinking (5 or more drinks on one occasion) during the past 2 weeks (Johnston et al., 2006a; Johnston et al., 2006b, Johnston et al., 2005). In addition, the age of initiation is decreasing: in 1965, the average age of first alcohol use was 17.5, compared with the 2003 average of 14 (Newes–Adeyi, Chen, Williams, and Faden, 2005; SAMHSA, 2003).

Overall, parents and other adults underestimate how many adolescents use alcohol, how early youth begin drinking, and how much they use (Surgeon General's Call to Action, 2007):

- Approximately 10 percent of 9- or 10-year-olds have started drinking (Donovan et al. 2004).
- Nearly one third of youth begin drinking before age 13 (Grunbaum et al., 2004).
- More than one tenth of 12- or 13-year-olds and more than one third of 14- or 15-year-olds reported alcohol use (a whole drink) in the past year (SAMHSA, 2006).
- The peak years of alcohol initiation are 7th and 8th grades (Faden, 2006).
- Thirty percent of status offense cases were liquor law violations (Snyder and Sickmund, 2006).

The costs of underage drinking are high: about 5,000 youth die annually as a result of underage drinking from motor vehicle accidents, homicides, suicides, and unintentional injuries (Centers for Disease Control and Prevention [CDC], 2004; Hingson and Kenkel, 2004; Levy et al., 1999; National Highway Traffic Safety Administration [NHTSA], 2003; Smith et al., 1999). Underage drinking is also associated with delinquent behaviors, such as increasing the risk of physical and sexual assault (Hingson et al., 2005) and use of illicit drugs (Grunbaum et al., 2004).

While possession and underage drinking rates remain unacceptably high, there has been only a modest increase in juvenile liquor law violations during the period 1994–2003. Arrests for liquor law violations increased among this population by 4 percent, but arrests for drunkenness decreased by 11 percent (Snyder and Sickmund, 2006). The number of arrests in 2006 was up 9

percent over 2005 arrests, reversing a trend toward decreasing rates from 2000 to 2005 (Statistical Briefing Book, 2006).

Most intervention strategies that address violations of alcohol and liquor laws are legal, regulatory, policy, or enforcement interventions geared toward controlling the problem of underage drinking and reducing sales of alcoholic beverages to minors. These strategies typically have a public education component. Examples include the following:

- Environmental interventions (e.g., policy, legal/regulatory changes, enforcement)
- National initiatives (e.g., uniform drinking age)
- Regional initiatives (e.g., State zero-tolerance or graduated driver licensing laws)
- Local initiatives (e.g., zoning to reduce the density of alcohol outlets)
- Institutional reforms (e.g., policies of bars, stores, schools)
- Individual and environmental actions (e.g., implementing responsible beverage service, training, and policy initiatives designed to change the drinking environment; promoting responsible attitudes toward drinking; restricting public advertising of alcohol)
- Comprehensive approaches (e.g., school-based education combined with community environmental interventions)

The National Crime Prevention Council and other groups suggest approaches communities can take to help their goods and services industries establish stronger boundaries for the sale of alcohol and promote responsible attitudes toward drinking. Examples include the following (Grube and Nygaard, 2001; National Crime Prevention Council, 1995; Wagenaar and Farrell, 1989; National Highway Traffic Safety Administration, 2004; Surgeon General's Call to Action, 2007):

- Restrict hours of sale and location, number, and types of commercial outlets selling alcohol
- Enforce the minimum drinking age
- Implement zero-tolerance policies and graduated drivers' licensing
- Implement taxation/price controls
- Conduct random breath testing/sobriety checkpoints on roadways
- Restrict advertising of alcohol
- Implement keg registration requirements
- Implement school anti-alcohol policies
- Introduce/enforce liability for servers of alcohol
- Encourage responsible beverage service
- Conduct routine enforcement to ensure compliance with laws prohibiting sales of alcohol to minors
- Prohibit or restrict availability of alcohol in public settings
- Prohibit outdoor advertising and billboards promoting alcohol in areas where children congregate
- Prohibit alcohol industry sponsorship of any event sponsored or cosponsored by local government or any event that appeals to children or families (including sports and music concerts)
- Prohibit distribution or sale of any alcohol industry promotional materials to minors (e.g., prizes at local fairs)

- Establish frequent sobriety checkpoints and multi-agency DWI patrol activity, as well as strong community awareness programs (e.g., Grad/Prom Night, Friday Night Live, Prom Promise, Students Against Destructive Decisions [SADD])
- Provide training for judges and prosecutors on DWI law and related issues
- Encourage community organizations to implement alcohol-safe environmental policies

Numerous strategies seek to increase the price of alcohol to make it less accessible for juveniles. These include raising beer/wine taxes to match taxes on distilled spirits, annually adjusting tax rates to reflect inflation, increasing tax levels in States with low taxes to be on par with taxes in bordering States, prohibiting or restricting happy hours and discount drink promotions, and raising alcohol retail license fees to fund enforcement, education, and surveillance activities.

OJJDP, in partnership with the National Institute on Alcohol Abuse and Alcoholism (NIAAA), supports a number of collaborative approaches that target alcohol use among youth. OJJDP's Enforcing the Underage Drinking Laws (EUDL) Program, funded by an annual appropriation of \$25 million during fiscal years 1998–2007, awards block and discretionary grants to States to support and enhance efforts by States and local jurisdictions to prohibit the sale of alcoholic beverages to, or the consumption of alcoholic beverages by, minors (persons younger than 21). The EUDL Program also includes training/technical assistance and evaluation components. In an effort to rally community support and raise public awareness of the problem of underage drinking, EUDL supports activities in the areas of enforcement, public education, and innovative programs.

For more information on EUDL, visit the OJJDP Web site (<http://www.ojp.usdoj.gov/ojjdp>, search for EUDL under “Programs” in the main menu).

### ***Social Hosting Laws***

Underage and binge drinking is clearly a huge problem. One strategy for tackling the problem is to address where youth are drinking. Research suggests that exposure to heavy drinking behaviors frequently occurs at house parties. According to a 2005 telephone survey in Ventura County, Calif., “Nearly three in ten (28.6 percent) of those 25 and younger that binge drink report last doing so in their own homes, and 45.2 percent report last binge drinking at someone else’s home.” (Robinson, 2005 as qtd. CSLEP, 2005, 2). Mayer, Forster, Murray, and Wagenaar (1998) reported that 12th grade students were more likely to use alcohol in someone else’s home and in large groups of underage youth. In 2007, the *National Surveys on Drug Use and Health* found that the majority of current underage drinkers—those who used alcohol in the past month—reported their last use either in their own home (29.4 percent) or in someone else’s home (56.3 percent) [SAMHSA, 2008]. Binge drinking was also correlated with drinking in larger groups. Research also suggests that such parties often introduce very young drinkers to heavy drinking behaviors (National Research Council Institute of Medicine, 2003).

The primary intent of social hosting laws (SHLs) is to discourage underage drinking parties, thus contributing to the environmental scaffolding of protective factors. While these laws are related to laws holding liable individuals who provide alcohol to minors, SHLs are generally not tied to

the social host providing the alcohol but rather the property (whether leased or owned) for the party. For example, the language in the Fairfax City, Minn., code makes these intentions clear:

**§ 71–13. Purpose and findings.**

The Fairfax City Council *intends to discourage underage possession and consumption of alcohol*, even if done within the confines of a private residence, and intends to hold persons criminally responsible who host events or gatherings where persons less than 21 years of age possess or consume alcohol *regardless of whether the person hosting the event or gathering supplied the alcohol*. [Chapter 71, Article V, §71–13; emphasis added]

OJJDP has profiled several States that have succeeded in passing social hosting laws, such as Hawaii in 2003 and Connecticut in 2006 (OJJDP, 2003; OJJDP, 2006). These profiles make clear the amount of community work and activism that contributes to this type of environmental approach to underage drinking. For instance, efforts to change the law in Connecticut began in 2001 and depended on the hard work of community coalitions, State agencies, law enforcement, and the legislature to achieve success.

These laws have been formulated to hold criminally and/or civilly responsible those holding underage drinking parties. Criminal liability is written into statute and can lead to criminal sanctions, such as imprisonment or fines. For instance, if a social host serves alcohol to a minor who subsequently is involved in a motor vehicle accident, the social host can be prosecuted through criminal proceedings and faces fines or imprisonment imposed under law. As of January 1, 2005, 19 States and numerous local communities have enacted social host criminal liability statutes (CSLEP, 2005). For instance, the Hawaii law specifies criminal sanctions for social hosts of fines up to \$1,000 or imprisonment for up to 1 year, or both. Civil liability is the potential responsibility for payment of damages or other court-enforced penalties in a lawsuit. If a social host allows a minor to drink, who subsequently is involved in a motor vehicle accident, the injured party from the crash has the right to sue the social host for monetary damages. Hawaii also established the right of injured third parties to recoup financial damages from the social host (OJJDP, 2006). Michelle Blackstone of the Underage Drinking Enforcement Training Center stated that “Research suggests that going after the purse strings is much more effective” (Deane, 2007).

Both types of liability above are imposed by State statutes. Another type of SHL is established by local governments in the form of municipal (city or county) ordinances. These are called “response costs recovery” ordinances and generally hold hosts (including tenants, landowners, and landlords) liable for dealing with the costs of underage drinking parties (e.g., costs for law enforcement, fire personnel, and/or emergency response services) [CSLEP, 2005].

Currently, there is a patchwork of ordinances/statutes across the country that means social hosts can be treated quite differently. Several cases have made national news as parents have been arrested and sentenced to jail for hosting parties for their teen(s) and teen’s friends. Social hosts in the Washington, D.C., metropolitan area, for instance, witness very different outcomes for violations: In Montgomery County, Md., parents received civil citations, which carried fines of

up to \$1,500, for hosting an underage drinking party. For an almost identical incident in Charlottesville, Va., however, parents were sentenced to a 27-month jail sentence (Deane, 2007).

Some debate the utility of these laws. One argument presented is that teens are going to drink, so it is better to provide a safe space for them to do so and to monitor them so that no one drives. Research shows that many parents readily tolerate teen drinking, seeing it as a “rite of passage.” “This tolerance apparently stems from three misconceptions or beliefs: 1) alcohol, particularly beer, is a relatively harmless drug compared to illegal drugs, and its consumption is part of the passage to adulthood; 2) permitting consumption in a residential setting is safer than having it occur in open areas, where there is a higher risk of problems; and 3) teen drinking is inevitable, and it is safer if it occurs in a controlled, residential setting” (PIRE, 1999, 27).

## **Controlling Juvenile Delinquency**

Strategies have been adopted for controlling juvenile delinquency that often affect status offenders and their families. The two strategies discussed here are parental accountability and responsibility laws and curfew laws.

### ***Parental Accountability and Responsibility Laws***

The primary goal of parental accountability laws—sometimes referred to as parental responsibility laws—is to control juvenile delinquency and protect the public by punishing, or threatening to punish, the parents of the juvenile offender (Graham, 2000). Because most parental accountability laws are based on a public interest perspective—and as such attempt to protect the public interest—they generally leave the offender’s behavior unaddressed (Graham, 2000; Di Fonzo, 2000).

While empirical studies are lacking that support the effectiveness of parental accountability laws in decreasing juvenile crime, these laws have found broad support across the Nation, particularly in the 1990s (Graham, 2000). By the end of the 20th century, all States had some sort of parental accountability law on the books (Gratz, 2002; John Howard Society of Alberta, 1997; National Criminal Justice Association, 1997). These laws date back to 1846, when Hawaii (then a sovereign nation) passed a statute recognizing parents’ civil liability for their children’s actions. Louisiana, almost a century later, passed a civil liability law in 1930.

Like social hosting laws, parental accountability laws can hold parents criminally or civilly liable. Parental accountability laws in all 50 States also hold parents civilly liable for property damage caused by their children. Some laws permit financial recovery for property and personal injury damages, and some limit liability to damages for property (Gratz, 2002). The State statutes governing parental responsibility vary widely in terms of financial penalties, ranging from \$250 in Vermont to as much as \$25,000 in Texas. Although these laws are meant to offer victims the chance to recover compensation, the average maximum recovery amount in 1991 was \$2,500 or less (Graham, 2000), which suggests that victim compensation is a symbolic component of these laws.

Most parental accountability laws that specify criminal sanctions are versions or descendants of “contributing to the delinquency of a minor” (CDM) laws. In 1903 Colorado was the first State to enact a law making it a crime to contribute to the delinquency of a minor. As an example of a CDM giving rise to a parental accountability law, California amended its CDM statute in 1988 to include misdemeanor sanctions for parents who fail “... to exercise reasonable care, supervision, protection and control over their children” (National Criminal Justice Association, 1997). Parental accountability laws can even impose criminal liability on parents for the noncriminal misbehavior of their child. For instance, as of 1995 Oregon imposes criminal liability of parents for “improper supervision” if a child “commits an act that brings the child within the jurisdiction of the juvenile court,” “violates a curfew,” or “fails to attend school.” (Ore. Rev. Stat. 163.577). Anti-truancy laws often include criminal sanctions for the parents. For example, the Hazel Park, Mich., statute specifies a possible \$500 fine and up to 90 days in jail (Pardo, 1999).

These laws are based not on the parent’s responsibility for the minor’s act itself, but rather on the presumption that parents can be held responsible for affirmative parental misconduct or for being *negligent* (Gratz, 2002; DiFonzo, 2000). These laws seem to stem from a societal need to hold parents responsible for the conduct of their children (Gratz, 2002). Recent research, though, brings into question the depth of public support for such laws. Contrary to expectation, Brank and Weisz (2004) found that support was rather low for blaming and punishing parents. These laws also build on the presumption that parents can control the behavior of their children and that delinquent acts of youth result solely from parenting, assumptions that are debatable in light of behavioral research on youth and delinquency (DiFonzo, 2000).

Given these laws’ foundation in parental negligence, then, it is perhaps not surprising that most of the laws tend to be deficit based (tend to address and try to correct weaknesses), lacking emphasis on parental empowerment, although some parental accountability initiatives require increased parental involvement in juvenile proceedings (National Criminal Justice Association, 1997). For example, initiatives in Kansas, Michigan, and Texas specify that parents who fail to attend court proceedings of children adjudicated as delinquent will face contempt charges.

Some of these laws give the court jurisdiction over the parents of a status offender with the apparent intent of drawing the parent into the rehabilitation of the youth. For instance, in the District of Columbia, the court can order the parents of the child to take parenting classes or participate in family counseling (Szymanski, 2006). In an effort to draw attention to a strengths-based approach to parental accountability, the American Bar Association Center on Children and the Law examined how courts positively promote parental involvement in juvenile delinquency and status offense proceedings. Regrettably the study found that special efforts to encourage parental involvement appear rare. The report does note that Indiana courts positively involve parents in predispositional decisions by offering services that are close to the parent’s home, interfere least with family autonomy, impose the least restraint on child and parent, and provide reasonable opportunity for participation by the child’s parent, guardian, or custodian. In addition, North Carolina and Nevada offer job protection for parents who must miss work to comply with the court, and Florida and South Carolina provide economic assistance to families in need of services and parents of juvenile offenders (Davies and Davidson, 2002).

Debate exists on the utility of these laws. Some argue for the need for such laws (Gratz, 2002; Abramovsky, 1993). Others argue against them, citing the unintended consequences that can ensue and the questionable legal basis of such laws, as well as the lack of empirical evidence that they impact juvenile delinquency rates at all (DiFonzo, 2000; Graham, 2000; Harris, 2006).

The question of their utility/efficacy aside, it appears that prosecutions under these parental accountability laws are relatively rare. Davies and Davidson (2002, 7) noted that their national study, though not representative, confirmed the rare use of parental sanctions. They concluded that many States “lack clear legal authority for courts to order sanctions against parents who willfully refuse to attend juvenile court proceedings and abide by the terms and conditions established for the family by the juvenile probation department.” Many of the judges surveyed or interviewed were reluctant to impose sanctions on parents due to potential hardships or alienation. A limitation of this study is that it appears juvenile court judges were primarily surveyed, but the criminal courts that handle violations of parental accountability laws are not the courts adjudicating juvenile delinquency (DiFonzo, 2000).

A similar paucity of prosecutions under parental accountability laws was noted in Oregon. Harris (2006) found in her survey that these laws are rarely enforced in most places, and that many do not expect them to be enforced. The findings from this 2005 survey of police chiefs and prosecutors led Harris to suggest the symbolic nature of the laws.

### *Curfew Laws*

Another strategy used by numerous municipalities to try to curb juvenile delinquency is the use of curfew laws. In communities with age-based curfews, a violation constitutes a status offense. National figures, including President Bill Clinton, have embraced curfews as a viable way of tackling the problem of juvenile crime.

Curfew laws can vary depending on the hours specified, the locale affected, and the age group included. In most jurisdictions, minors are required to be at home generally between 11 p.m. and 6 a.m., though the times can vary depending on the day of the week and whether or not school is in session. Some jurisdictions apply curfews to school hours as well. Many curfew laws include exceptions for youth traveling to or from certain events (e.g., a school-, church- or civic-sponsored activity), traveling to or from work, or responding to emergencies.

Curfews have become very popular. The U.S. Conference of Mayors conducted a survey in 1997 that found that 80 percent of cities surveyed had a nighttime curfew. A study done in 2000 found that the rate of increase in cities with curfews was about 3 percent each year and that police have increased enforcement efforts (Bannister et al., 2000, as qtd. in Schwartz and Wang, 2005). Reports in the popular media document continued interest in enacting curfews. For instance, the City of Rochester implemented a curfew in September 2006. As of Winter 2008, the Memphis City Council was debating the need for a daytime curfew. Other communities that have had curfew laws on their books for a considerable time are either rewriting them or stepping up efforts to enforce them.

Curfews have been appealing to liberals and conservatives alike, though for slightly different reasons. For conservatives, curfews fit into an approach of more vigorous enforcement efforts, more punitive sentencing, and increased social controls. For liberals, curfews fit the goal of identifying juveniles in early stages of delinquency who could benefit from intervention strategies (Adams, 2003). Additionally, the costs are perceived as relatively low and the measures as very effective (Adams, 2003). Because little empirical research has been done on the cost-effectiveness of curfew enforcement (Adams, 2003), this remains an area where further research would be useful.

Comments made by those advocating for curfews make it clear that, for some, there is a connection between curfew laws and parental accountability laws. This connection was expressed as early as 1896, when Mrs. John D. Townsend commented that “the curfew ordinance places responsibility where it belongs, on the parents” (Townsend, 1896, 725, as qtd. in Adams, 2003). In 2006, as New Haven, Conn., weighed whether to enact a curfew law, Alderwoman Joyce Chen voiced regret that such measures are “the only way we’re seeing now to get parents involved” (Bass, 2006).

Curfew laws have been challenged on the grounds that they are unconstitutional. Arguments have been based on the curfews’ violations of the following rights: freedom of speech, equal protection and due process, freedom of movement, and the right of parents to rear their children (Schwartz and Wang, 2005). Courts have largely upheld the right of jurisdictions to impose such laws, if they meet certain legal criteria (e.g., the jurisdiction can provide data showing the ordinance is tailored to fulfill a public safety need).

Indiana’s experience with the curfew law serves as an example. In *Hodgkins v. Peterson*, the curfew law was challenged on First Amendment and due process grounds. The district court upheld the law. The defendant then appealed the decision in 2004 to the Seventh Circuit Court of Appeals, which overturned the statute on the grounds that the law interfered with minors’ First Amendment rights and with parents’ rights to raise their children as they see fit (National Coalition for the Homeless, 2006). In response, Indiana amended the law so that First Amendment rights were explicitly protected. Civil rights groups have said they will not challenge the newly amended law in court (“Curfew Ordinance would fine teens and parents for violations,” 2008). Similarly, in *Hutchins v. District of Columbia*, the District of Columbia’s law was challenged on the grounds of due process and vagueness. The U.S. District Court found it unconstitutional, but upon a rehearing affirmed the ordinance.

The rationale offered for curfews is twofold: it will decrease juvenile delinquency and youth victimization (Males and Macallair, 1999; National Criminal Justice Association, 1997). While many perceive the statutes as effective and cite anecdotal evidence to illustrate the efficacy of curfew statutes (OJJDP, 1996), the majority of studies that have looked at the impact of curfew laws on juvenile crime have generally concluded that there is little evidence that curfew laws significantly impact juvenile crime rates (Adams, 2003; Gouvis, 2000; Males and Macallair, 1999). One study, which emphasized the methodological limitations of other studies and used a different methodological approach, suggested that curfews are effective at curbing violent and property crimes by juveniles (Kline, n.d.). Research has also shown, however, that on school days, juvenile violent crime peaks in the hours following school, hours unaffected by curfew

laws. On nonschool days, juvenile violent crime peaks around 8 p.m., falling quickly by 11 p.m. when most curfews take effect (Snyder and Sickmund, 2006). Taking into consideration the number of hours in this after school period compared to all other hours, the rate of crime in the after school period is six times the rate during times covered by most curfews (Snyder and Sickmund, 2006).

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