



Missouri Catholic Conference

Messenger Online

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ENTANGLED IN THE AMERICAN PRISON SYSTEM: SPEAKING UP FOR JUVENILE JUSTICE REFORM



By Rita Linhardt, MCC senior staff associate

As a culture, Americans place great value on their children. There are many laws on our books regarding the health and safety of our children. It is not until age 18 that children are given adult privileges like voting, entering into contracts and serving in the military. These laws are put into place to protect youth until they have the maturity to understand the consequences of their actions. Yet there is one area – our criminal justice system - where our children are often treated as adults. In Missouri on any given day, an average of 20 kids ages 12-16 years old are co-mingled in adult jails. In addition, there are several thousand 17 year olds in our adult jails and prison system. According to the Campaign for Youth Justice (CFYJ), these children are often physically or sexually assaulted within the first 48 hours of arrival. They can be put in isolation leading to depression and other mental illnesses. CFYJ estimates that children held in adult jails are 36 times more likely to commit suicide and are more likely

to re-offend if incarcerated with adults. Much of the attitude we now have toward juvenile offenders began in the early 1990s when crime was on the rise across the nation. “Get tough policies,” such as mandatory minimums, became commonplace. States lowered the age of adult certification for serious crimes and incarcerated more youth in adult settings. Punishment, rather than rehabilitation, became the focus of criminal justice policies toward youth. However, the tide seems to be turning as states realize the financial cost and human toll of harsh sentencing policies. With criminal justice reform gathering steam nationwide, states are rolling back harmful statutes and policies for youthful offenders. Among the current trends are: 1) removing youth from adult jails/prisons; 2) raising the age of juvenile court jurisdiction so that older youth who previously would be automatically tried as adults no longer go straight into the adult criminal justice system; 3) changing the transfer system making it more likely that youth will

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stay in the juvenile justice system, and; 4) changing the mandatory minimum sentencing of youth to take into account the developmental differences between youth and adults. This year the Missouri legislature will tackle some of these proposals. Sen. Wayne Wallingford (R-Cape Girardeau) and Rep. Nick Schroer (R-O'Fallon) have introduced legislation that will raise the age of juvenile court jurisdiction in Missouri from 17 to 18 years of age and prohibit the detention of anyone below the age of 18 in an adult jail, unless certified as an adult. The bills would also raise the age that a youth can be certified and transferred to the adult system except for the most serious offenses. These bills would not set juveniles free. Youth make mistakes and they should be held accountable in an age appropriate way for their bad choices. But at the same time, children should be safe, protected, and provided the opportunity for rehabilitative services. To better understand the issues involved in these reform efforts, we have included perspectives of several people who have been affected by the justice system in this *Messenger Online*. The stories come from a prosecutor, a juvenile offender, and the parents of a child incarcerated as a juvenile.

You can [take action by contacting your senator](#) in support of HB 274 and SB 40.

“THE MISSOURI PRACTICE OF AUTOMATICALLY TREATING SEVENTEEN YEAR OLDS AS ADULTS FOR CRIMINAL CHARGING PURPOSES KEEPS TEENS, WHEN THEY NEED THE GUIDANCE AND COUNSEL OF PARENTS AND TRUSTED ADULTS THE MOST, FROM REACHING OUT TO THOSE WHO CAN HELP THEM.”

-Jennifer Atterbury, Contract Prosecuting Attorney

Charging Children: It's time to raise the age in Missouri

By Jennifer Atterbury, Contract Prosecuting Attorney



My experience as an prosecutor has taught me that children under the age of eighteen should not automatically be criminally charged as adults and should not be making life-altering decisions in criminal court without professional or family guidance. Rather, persons under eighteen years of age should answer to and be rehabilitated in Missouri's juvenile courts.

My most recent recollection of an ill-advised teen is that of a girl in municipal court a few months ago. She was wearing studious black glasses and her hair back in a long ponytail when she approached the bench with her backpack over her shoulder. She was adamant that she wanted to pay a fine and plead guilty immediately. The judge looked at me for a recommendation, and I gave the judge an all-too-familiar exasperated look. The girl at the bench was seventeen, a high-school junior, by herself, unrepresented, and every bit as stubborn as I remember being at her age. It was clear she wanted to resolve her case on the spot and not have to come back to court again, presumably to avoid telling her parents that she received a ticket for drug possession.

But what she did not understand was that by paying a fine, she was pleading guilty to possession of marijuana and she would have a drug conviction on her permanent criminal record. Drug convictions impact scholarships, financial aid, military eligibility, college admission and, of course, employment prospects. Yet, we allow seventeen year olds to make adult decisions about criminal guilty pleas in Missouri courts without even consulting their parents or a lawyer, because Missouri is one of only seven states left in the United States that automatically treats these youths as adults for criminal justice purposes.

A ticket for marijuana in city court is a small-scale concern compared to what many minors face when entangled in the adult criminal justice system. Yet, even pleas to minor offenses can be serious and financially impactful. Criminal proceedings can range from city tickets to serious felony charges. Felony pleas can result in prison sentences, felony criminal records and lifetime burdens such as sex offender registration, loss of voting rights and permanent status as a felon. Missouri's rule is startling, incongruous and unjust when we consider the implication for seventeen year olds, and too often the law comes as a surprise to those impacted.

In almost no other area of life are these teens treated entirely as adults. We do not allow seventeen-year-old persons to vote, enter into most types of contracts and enjoy privileges of adulthood. Yet police can arrest, question, and ticket these youths, applying the

same investigative tactics used on experienced adult criminals. What is most disturbing, in my experience, is that many teens and their parents are not familiar with the age of adulthood for criminal purposes in Missouri. Many well-informed people do not realize that a seventeen year old can be arrested, interrogated, detained and charged as an adult in Missouri, while across neighboring state lines, the rules are different.

Occasionally, after a teen has entered a guilty plea and subsequently understands the negative implications of their conviction, the teen (or more likely, his or her parent) will hire a lawyer to “clean up their record.” This option is expensive and therefore less accessible to lower-income and disadvantaged teens, and is yet another example of how the Missouri law burdens those who need protection the most. The Missouri practice of automatically treating seventeen year olds as adults for criminal charging purposes keeps teens, when they need the guidance and counsel of parents and trusted adults the most, from reaching out to those who can help them. Decisions in criminal court are not decisions kids should face alone, and our misguided Missouri law is saddling minors with permanent criminal records and a lifetime of unfortunate educational and employment obstacles.

Criminal Justice through the eyes of a teen offender

By Michael Dammerich



Encounters with the law impact people in various ways. For instance, my first ever law enforcement contact resulted in a ten year prison sentence when I was only sixteen. Unfortunately for our young people across the state, that is not an uncommon encounter. The practice of certifying a minor to stand trial in the court of law as an adult is

a practice that was initially for the “worst of the worst” offenders. Now, it has mutated into an option for judges to indiscriminately charge young people with adult crimes for infractions that are hardly heinous.

Regardless of whether the crime committed is heinous or trivial, there lies an inherent flaw in the practice: our

young people do not belong in prisons when they aren't even old enough to graduate high school. When I was arrested, I sat in a holding cell for nearly six hours...alone. When the investigating officers finally finished searching my bedroom and were prepared for the interrogation, I met with them and my mother in the interview room. After completing the proper legal procedures, they proceeded to advise me I could ask my mother to leave. This was the first time I was arrested or was face to face with a police officer. I was ashamed and scared. There was no way I was going to have my mother present during my interview. I asked her to leave. Armed with literature confiscated from my bedroom, the two city police officers and one county sheriff began. I was in tears while they transported me to a behavioral evaluation center four hours from my home. After three weeks of overmedication within a shell of a treatment program, I was transported to the juvenile detention facility nearest my hometown, in the neighboring county. I had several court dates, only a few of which I was permitted to attend. When I pleaded guilty to the juvenile charges, the judge denied the plea and instead set a hearing for my certification.

The day of my certification hearing was a normal day in detention for me. After three months of the routine, I became accustomed to what I should expect daily. Wake up, shower, breakfast, lunch, dinner, snack, hygiene, lights out. The only time I was allowed to leave my cell was to take my daily shower and for my 15-minute visits with my mother on Tuesdays and Thursdays. Aside from that, I stayed in my cell, either reading or sleeping. On the day of my certification hearing, I was reading a novel. A staff member came to the door and told me my mother was there to see me. Odd, it was a Monday, not a visitation day. Besides, I had court today, not a visit.

I met my mom at the window. Her eyes were red and swollen. I picked up the phone so I could hear what had her distressed. I had been certified. I was going to jail. Sure enough, shortly after my mom left, I was transported to the county jail. I sat in the holding cell holding my warrant: Class B Felony Assault First Degree, Class C Felony Unlawful Possession of a Weapon. Bond: \$500,000 cash only. I wasn't going home any time soon. Instead, I was placed with the trustees originally, so as to not be in general population. However, when my term was up as a trustee I was then placed in general population for the last three months of my six-month jail stay.

Finally, I was whisked away from my jail cell at around 2:30 a.m. and was transported to a Division of Youth Services treatment facility to participate in the Dual-Jurisdiction program in lieu of executing the ten-year sentence. I was very fortunate that this option was available for me. The sentence was still binding, always looming over my head should I not behave accordingly. However, the rehabilitation program helped me in many ways. I learned how to manage my anger, find

alternatives to substance abuse, develop healthy relationships, and a few other things most other people learn as they mature and grow in their life.

Aside from soft skills, they also set me up with an online college program and I left the facility April 21st, 2016 debt free and with 29 credit hours, all of which transferred to the college I currently attend. Unfortunately, my record also transferred. That means I have a permanent felony on my record for a charge from when I was sixteen. That originally disqualified me from acceptance into school. However, with the support of many of my fellow advocates in the reform movement, I was able to make a successful appeal and gain admission to school. It would be nice if there were a similar process for employment opportunities as well. However, there is not, and once the potential employer receives the background check on my name, I am routinely informed that my record disqualifies me from the position.

This is all a reality from a few decisions I made when I was sixteen, when I was at a low point in my life, when I was too young to be responsible for life decisions. However, my sixteen-year-old self made binding decisions that will bear impact on the rest of my adult life. I work every day to bring about a world in which other young people won't have such heavy consequences for being young and making mistakes.

Our Nightmare with the Criminal Justice System: Owen Welty's Story

By Lori and Ronny Welty, parents of Owen Welty

In 2006, when he was just 13, Owen Welty was charged with first degree murder in the fatal shooting of his 64 year old neighbor in rural southeastern Missouri. Owen was immediately certified as an adult and housed for months in multiple adult jails across Missouri. In some of these settings he was kept in isolation, in others he was in close proximity to more serious offenders. After his acquittal, Owen was denied entrance back to his former school. His family eventually moved to Arkansas where he finished high school.



The Welty family in their home in 2013. Owen Welty pictured left.

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Our son, Owen Welty, at the age of 13 was arrested and charged with first-degree murder on November 15, 2006. He spent 821 days in an adult facility as we could not afford the bail. Every day we worried about his safety. We would get letters from him on a weekly basis telling us how he had to fight for his safety. Jailors as well as other inmates would try to hurt him. They would either try to rape him or want to fight him. There was one instance where a trustee told him he would poison his food. In another instance he was set up with some pills that did not belong to him. He had to make a homemade weapon just to defend himself. There is extremely too much danger in housing a child under the age of 17 in adult facilities. A child cannot defend themselves like an adult can.

Owen did not do what they were saying he'd done. He was found "Not Guilty" by a 12 member jury panel on February 12, 2009. Owen still suffers flashbacks of the things that happened to him while being housed in these jails. He has depression at times. I would say this has to be the hardest thing we have ever been through. Not being able to touch our son, or talk to him daily was the hardest. Knowing your child is just feet away from you, but not being able to go to him, or hug or touch him is not fair to any of us.

The law states that as parents we cannot place a child in a dangerous situation. If we do, we can be prosecuted for child endangerment along with many other charges. Yet our justice system places them in dangerous situations on a regular basis. They are being placed with offenders such as rapists, murderers, and even serial killers. This should not be allowed to happen.

While Owen was housed in these jails for the first two years, he was not given any kind of education. As his mother I sent his homeschooling books to the jail. There was no one there who could help him, so this was useless. When we asked the judge about why Owen couldn't get any educational services, he said that there was an alternative school that he was supposed to be going to. However; they never let him go to this school. After his acquittal, Owen attended another high school and made a B-average before his graduation. He had come a long way from what he was put through.

While Owen was in jail he had no advocate that he could talk to. When we tried to get help from different agencies we were told that since he was in the legal system there was nothing they could do. When Owen was housed in one of the jails, he went weeks—sometimes months—without a letter from me, even though I wrote him everyday. The jailers would torment him by throwing my letters away unless he would tell where he hid the gun. They also tried to break him by withholding food and family visits unless he admitted to the killing. On one visit Owen's nose was really messed up. The sheriff said Owen rubbed it that way, but Owen said a jailer smashed

it with the cell door. Also, when Owen was being interrogated, no record was made of the conversations. I believe that all interrogations of a child should be recorded.

During one of the hearings a police officer stated that they threw all notes away of Owen's interrogation. We were shocked that it was legal to throw notes away and not record an interrogation of a child of this age with such a heinous charge. The police, prosecutor, and all others involved would never have treated one of their children the way Owen was treated.

Being innocent made the matter even worse for Owen and our family. We know not all children are innocent, but a child is a child no matter how you look at the crime. Things need to change with our future generation. No child ever deserves to be put in a situation where they can be sexually, mentally, physically or emotionally abused. I don't care what they may have done. There should be a better environment for these children in our justice situation. If a child has caused any kind of harm to another person, they need help, not torment. After all, isn't our job as the adult to teach our children the right way? Putting them in a dangerous situation is not the right way.

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For more from the Missouri Catholic Conference, visit mocatholic.org.

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*-Lori and Ronny Welty,
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