



Broken Promises: The Challenge of Juvenile Justice

40 Years Later, Supreme Court's Promise of Juvenile Justice Not Always Fulfilled

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Forty years ago this week in a landmark ruling, the U.S. Supreme Court declared that all children accused of crimes had the right to due process and a lawyer, and if they could not afford an attorney, the government must provide one.

For Grace Bauer, that promise rang hollow six years ago when she visited her then 14-year-old son, Corey Bauer, in a maximum security prison and found boot prints on his rib cage, broken teeth and scars from being dragged across concrete. With no experience to guide her son through the courts, and no lawyer, Bauer said her son's life devolved into a nightmare.

Juvenile advocates say the Bauers are not alone. In some jurisdictions around the nation, as many as 80 percent to 90 percent of youth offenders "waive" their right to counsel, according to the National Juvenile Defender Center, even though "most children do not understand the tragic consequences" of doing so, Jacqueline Baillargeon from the Open Society Institute told ABC News.

And many of the lawyers representing children lack the skills, resources or time required to meet the special needs of their clients in criminal proceedings, said Robert Listenbee, chief of the juvenile division of the Defender Association of Philadelphia.

Sentenced to 'Lite Program'

Corey's nightmare began when he was caught shoplifting a pack of cigarettes from a grocery store at age 11.

"He was going through a hard time" after his grandmother died, according to his mother.

He did not fight the charge and was placed on unsupervised probation. Then, she said, he violated his probation by breaking school rules, such as smoking, skipping classes and inadvertently carrying scissors through a metal detector. These troubles landed him in juvenile court in Louisiana, where they live, and his mother said they were not told they had a right to a lawyer.

Actually, she told ABC News, the police and court personnel convinced her that they would help Corey "get back on track" and provide counseling services that she could not afford, and that a defense lawyer would just "slow things down."

"I felt like these folks were doing everything they could to help Corey, that they are professionals, and I did something wrong in parenting," Bauer said.

But after spending time in juvenile detention, she said, Corey seemed worse, not better. One night, Corey and his friends were arrested for breaking into a car and attempting to steal the radio, Bauer said.

Corey was carrying illicit drugs, including the prescription drug Xanax, which he swallowed to avoid getting caught with them, she said. While in a drug-induced stupor, he was interrogated for hours without an attorney, and according to Bauer, he "told the cops everything."

In court, Corey's probation officer, who Bauer believed was "looking out for his best interest," recommended that Corey be put in "state secure care," in a so-called "lite program," Bauer said. She said she was told that Corey would receive mental health and substance abuse treatment and education to put him back on track. With no attorney or advocate, Corey accepted a plea bargain and agreed to enter this program, said Bauer.

Bauer never imagined that at 14 years old, without ever having seen a lawyer, Corey would be sent to a maximum security prison.

'Stunned and Speechless' That Her Son Was in Prison

When Bauer arrived to visit her son at the Tallulah Correctional Center for Youth, located five hours from her home in Northwest Louisiana, she expected to find a "treatment facility." Instead, she said she arrived at "a prison," a compound of brick buildings with razor-wire fences, security checkpoints and boys in orange jump suits.

"I was stunned and speechless," she said -- until she saw Corey. Then, "I just broke down and cried," she said.

Her teenage son had a boot print on his rib cage, a black eye and a knot on his forehead. His mother said he had been locked up, beaten by guards, placed in solitary confinement and sexually assaulted. Her shock turned to fear.

"I was just scared," she said. "He's hurt. He's injured. Is somebody helping him? Has somebody taken him to a hospital?" She did not want to leave him, fearing that "he wouldn't even make it out of there," she said.

When Bauer finally got a lawyer, he told her that by that point there was nothing he could do because Corey had already been "adjudicated delinquent," a term she had never heard before. Corey had been transferred from the "lite program" to the regular juvenile prison for reasons she did not know. He spent the next six years, until he was 20 years old, in and out of adult and juvenile prisons.

The Supreme Court's Promise

This week marks the 40th anniversary of the landmark decision that promised to change the course of juvenile justice by giving children adequate legal protections, including the right to counsel. But many experts say this promise has not been realized, because cases like Corey's are not unique.

In fact, studies conducted over the last four decades "have shown that many children go through the justice system without the benefit of counsel -- and that access to counsel and the quality of representation children receive are, at best, uneven," according to a statement from the National Juvenile Defender Center.

This was echoed in a resolution recently passed by the U.S. Senate that celebrated the anniversary of the ruling but acknowledged that many children did not have "well-resourced and well-trained legal counsel, and too many [have] no counsel at all."

Children need lawyers to "understand the consequences of a plea or admission, which can be dire," Listenbee told ABC News.

Many parents and children mistakenly believe that juvenile records disappear when the child turns 18, Listenbee said. But these records can cost children employment opportunities, public housing, military jobs and access to student loans, and can even be used to enhance adult convictions, according to Listenbee.

And children in criminal proceedings require highly specialized and skilled attorneys and advocates, according to Listenbee, which many states and local jurisdictions do not adequately provide.

Kids Face Harsher Penalties

Some advocates say legal protections for children are needed more now than ever.

"Thanks to harsher realities for kids, like zero tolerance, transfer of kids to adult prisons, increased sanctions like life without parole, youth fare far worse now than they have in the past," said Baillargeon. "The need for well-resourced and well-trained defense counsel has never been more important."

As for Bauer, she is now dedicated to providing the help and advocacy she says her son was denied. Working with the Families & Friends of Louisiana's Incarcerated Children, Bauer tries to "make sure no parent ever allows their kid to be taken away from them and committed to secure care without knowing what it means, and the horrors that await them there," she said.

Corey, now 20 and finally out of prison, is "trying to build a life for himself," Bauer said. She said she "doesn't know how you go through something like that and still have a heart to care. & But he does."

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