

USA

Betraying the Young -- Children in the US Justice System

"Each Sunday I visit my son, but it is not only his pain and helplessness I see. I overhear horrible stories of the past week's violence as the children try to explain fresh cuts and bruises to their parents." (Mother of a boy at a juvenile correctional facility in Maine, USA. 1998)

Thousands of children in the USA accused or convicted of criminal offenses are subjected to human rights abuses ranging from brutal physical force, lengthy periods in solitary confinement and long periods in jail before trial, to imprisonment with adults, a new Amnesty International report states.

According to the report (*Betraying the young: Children in the US justice system* [Notes://802568E800714432/80BE68E941CBFA84C1256424006ABC70/C0AD56AFCE63822C125668E0047978B](https://www.amnesty.org/en/documents/AMR51/004/98/) AI Index AMR 51/60/98) , many children are incarcerated for very minor offenses when other action could or should have been taken.

- a 10 year-old-boy handcuffed, arrested and locked up for allegedly kicking his mother;
- a 13 year-old-girl detained on suspicion of possessing marijuana, which turned out to be oregano,
- a 16 year-old-girl detained for transgressing her father's rules (throwing objects in her room and not attending school);
- an 12 year-old-boy detained for making a harassing telephone call.

In some jurisdictions, incarceration is regarded as an appropriate punishment for even minor infringements of the law by very young children, such as fighting in school.

Excessive use of incarceration is a matter of grave concern because of its inherent risks to the physical and mental integrity of children, and its potential for negative influence rather than rehabilitation. The harm that children suffer as a consequence of incarceration may be permanent.

From the end of the last century, the USA was a world leader in the development of a legal system specifically for children, with a mandate to promote their welfare. Today, however, even within the juvenile justice system children's well-being is often placed at risk rather than being protected.

Many custodial facilities for children in the USA are overcrowded and unable to provide adequate mental health and other important services. In recent years, there have been many reports that staff in juvenile facilities have punched, kicked, shackled, sprayed with chemicals and even used electro-shock devices against children in their care.

An increasing number of children are being prosecuted as adults, often for non-violent offenses. Once in the adult criminal justice system they may be held for months in jail before they are tried, and they are often denied access to education, exercise and other programs. Over four thousand children are in adult prisons where they are notoriously at risk of physical and sexual abuse, as well as the corrupting influence of people with long criminal histories.

And at every stage of the justice system, racial and ethnic minority children are present in numbers greatly out of proportion to their numbers in the community. "The evidence strongly indicates that one reason for this is discrimination on the part of law enforcement and justice system personnel," Amnesty International said.

The most disturbing aspect is that a number of the violations are actually sanctioned by US laws. In particular, the US executes people for crimes they committed when they were children, in flagrant violation of international

standards.

Three such prisoners - all of them borderline mentally retarded - have been executed in the USA in 1998. Amnesty International knows of no other such executions anywhere else in the world during the year.

The USA has executed nine juvenile offenders since 1990, half the known world total in the same period. The other nine executions were carried out in five countries -- Iran, Nigeria, Pakistan, Saudi Arabia and Yemen. Over 70 prisoners remain on death row in the USA for crimes committed when they were 16 or 17 years old.

The USA has consistently refused to implement fully the protection of the human rights of children provided by international law.

"Children in the USA should be no less entitled to this protection than children of countries around the world," Amnesty International stressed. "We urge the US federal government to ratify without reservations all international standards for the protection of children."

"We also call on all US authorities to ensure that their laws, policies and practices are fully consistent with these standards," Amnesty International said.

Definition of who is a "child"

Under international and national laws, 18 is the most common age below which special protection is deemed to be necessary and desirable for people accused or convicted of violating criminal laws. All international standards related to the death penalty define a child as someone under 18 years of age.