



2004 ILLINOIS YOUTH SUMMIT TEENS, JUSTICE, AND THE LAW

Resource Guide for Students and Teachers

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Introduction

What is the 2004 Illinois Youth Summit?

Youth have the power to bring about change. Giving students a voice in decisions that affect them is what the Illinois Youth Summit is all about. Since 1995, the Summit has focused on current issues affecting youth. Student representatives from participating schools select issues for study and action throughout the spring semester.

On December 4, 2003, representatives from 25 different high schools across Illinois met and selected three issues that they felt were important to learn about and act on here in Illinois and in the United States as a whole. These issues are:

- Whether Congress should enable undocumented high school students who wish to attend college an opportunity to gain legal permanent resident status
- Whether Illinois should divert state prison funds to develop local alternative programming for youthful offenders who otherwise would be held in confinement
- Whether Congress should enact a national ban on executing persons for crimes they committed when they were under 18 years of age.

The 2004 Illinois Youth Summit is designed to help you understand and discuss these issues as participants in our democratic society. During the spring semester you and your classmates will:

- study and assess these issues;
- survey other students about the issues;
- write a position paper on one or more of the focus issues; and
- plan and conduct a service project to teach one or more of these issues to other students.

On April 30, 2004, student delegates from each school will meet with state and federal policymakers to share their thoughts and experiences on these issues. Following the Summit, delegates will report back to their classes, and interested classes will present portions of the Summit to students at other schools.

Objectives

The purpose of the 2004 Illinois Youth Summit is to help you and other participating students:

- Analyze the facts and discuss different viewpoints relating to the focus issues;
- Design and conduct educational service projects in schools and communities on one of the issues;
- Develop with other students a short position paper on one or more of the focus issues;
- Become actively involved in the culminating Youth Summit on April 30, either as a delegate or in helping to prepare a class delegation; and
- Share what you have learned from the Summit with other students.

What This Curriculum Does

The 2004 Illinois Youth Summit *Resource Guide* is designed to help students understand, analyze, discuss, and take a position on the selected focus issues. It introduces **public policy** – how government responds to problems and gets things done. It also offers ways for you to assess the effect and the effectiveness of policies.

The *Resource Guide* is organized into the following units:

Unit 1 provides an introduction to juvenile justice and compares it to the adult criminal justice system. It also includes the **2004 Illinois Youth Summit Survey** that every class will conduct, compile, and report to CRFC.

Units 2, 3, and 4 are devoted to the **focus issues**. Each issue is presented in its own unit with student readings, learning strategies, classroom activities, and additional resources. Each unit will help you develop the skills necessary to share your position and the perspectives of your classmates with policymakers. Participating classes will prepare a written **position paper** on one of the Summit issues and submit it to CRFC.

Unit 5 suggests opportunities to teach about these focus issues through **service projects**. Every participating school will plan, conduct, and assess a **teach-in** as part of the Summit and report on their work to CRFC. You can conduct your teach-in with other students at your school, in other schools, or in your community. Each school that completes their project will be recognized on April 30.

Finally, **Unit 6** provides information for the culminating Summit and beyond.

Preparing for the Culminating Summit

Your class will send a delegation to the Youth Summit on April 30 at the Dirksen Federal Building in Chicago. CRFC will notify your school regarding the final number of delegates who will represent your school in the weeks before the Summit.

The delegates selected will be responsible both for speaking for themselves and representing the ideas of everyone in the class. Which policies seemed most promising? The least? How did issues look in light of your service project and after reviewing the results from the Summit survey? If you disagree with one or more of the policies, what suggestions for alternatives do you have? Remember that the delegation also needs to be able to explain the class service project.

This Guide also features an activity for students who remain in school the day of the Summit.

Beyond the Summit

After the Summit, each delegation is encouraged to prepare a presentation to share their experience with their classmates; the Guide also includes information on how to conduct a post-Summit exchange with students at another school.

Unit 1: Teen Offenders and the Law

Overview

All of the issues at the 2004 Illinois Youth Summit are based on the fundamental – and controversial – question at the heart of juvenile justice: When should the law treat a teenager like a child and when like an adult?

This unit serves as the introduction to the 2004 Illinois Youth Summit. It presents an introduction to the juvenile justice system – how and when it began, who it involves, what it does, and why. It also includes the 2004 Illinois Youth Summit Survey. Completion and submission of the survey is a requirement for each participating class in the Summit.

Objectives

- Introduce the 2004 Illinois Youth Summit
- Present basic information about the origins, purposes, and workings of the juvenile justice system
- Highlight some leading decisions of the Supreme Court of the United States on the rights of juveniles under the U.S. Constitution
- Conduct, tabulate, and submit the results from the 2004 Illinois Youth Summit Survey

Materials

1A: Reading: Juveniles and the Law

1B: Activity: Same or Different?

1C: Source: Defining Juveniles in Illinois and Federal Law

1D: Source: Comparing Illinois Criminal and Juvenile Justice

1E: Instructions: Conducting the 2004 Illinois Youth Summit Survey

1F: Tool: 2004 Illinois Youth Summit Survey

1A: Reading: Juveniles and the Law

Nineteenth and early 20th century reforms produced two separate systems of justice in America, based on almost opposite philosophies. The **adult criminal justice system** applies to supposedly mature, responsible persons who have lived, depending on the state, at least 16 or 18 years. All those younger than the specified age fall under the jurisdiction of the **juvenile justice system**. This is the story of how the American juvenile justice system began.

Children and the Law in England

In Europe in the Middle Ages, children took part in adult activities as soon as they could walk and talk. They were working by the age of 5 or 6. Most families needed every available pair of hands to grow enough food or weave enough cloth to survive. Shorter life expectancy also forced people into early adulthood. The average life span was only 40 years. There was no time for a leisurely childhood, much less an adolescence.

Children not only were expected to work hard, they were also expected to obey adult laws. Anyone old enough to commit a crime was thought old enough to be punished for it. Painful forms of trial, like ordeal and combat, and harsh punishments, like being hanged or burned at the stake, were the fate of all criminals, no matter what their ages.

In the 16th and 17th centuries, medieval attitudes began to soften. Though children were still thrust into adulthood at the age of 4 or 5, most of Europe began to think of them as needing adult protection and guidance. In England, the common law reflected this change in attitude. The king or queen became the *parens patriae*—the parent of the country. Representing the monarch, English courts acted as *parens patriae* to manage orphans' estates, protect children's property from wasteful parents, and provide for abandoned young people.

About this same time, another important concept worked its way into English common law: the idea of **intent**. To commit a crime, a person not only had to perform a forbidden action, the person also had to intend to commit that act.

The concept of intent changed how children were treated under English common law. Society now believed that children were naive and innocent. Though they might accidentally cause harm, children did not know enough about right and wrong, or about the effects of their actions, to form criminal intent. Since they couldn't form intent, children couldn't commit crimes.

At what age could they form the intent necessary for committing crimes? The 18th century's answer to this question was based on traditional Christian beliefs which held that 7 was the "age of reason." After age 7, according to the church, children knew the difference between right and wrong and became responsible for their actions and moral decisions.

By the late 18th century, English common law had taken this rationale one step further. English judges usually dismissed cases against defendants under age 7. In recognition of society's changing view about the length of childhood, they also dismissed cases against persons aged 7 to 14 unless the prosecution could prove that the child was capable of forming criminal intent.

The English criminal justice system treated everyone over 14 years old—and everyone between 7 and 14 proven capable of forming criminal intent—exactly alike. Officially, all were tried in the same courts by the same rules. If convicted, all were locked up in the same jails and subject to the same harsh penalties. In actual practice, however, the system showed children and

adolescents some leniency. For example, although English courts sentenced 103 persons age 8 and under to death between 1801 and 1836, not one of these executions actually took place. Even so, the law allowed people of a very young age to be executed or imprisoned.

Colonists transplanted the English common law, complete with the concepts of *parens patriae*, criminal intent, and the age of reason, to North American soil. The religious beliefs of many of these settlers emphasized training children for obedient, religious, and productive adult lives.

Children and the Law in the United States

By the 19th century, America was rapidly changing. Factories sprang up across the Northeast, and the nation's urban population was growing faster than its rural population. In 1820, 7 percent of America's people lived in cities. That proportion had risen to 15 percent by 1850 and 35 percent by 1890.

Many of the new city residents were immigrants. Others were country people looking for greater opportunity and a path out of the exhausting routines of rural life. Survival in the city, however, was a full-time occupation. Crowded into small rooms with their struggling family, urban children could find life to be very unpleasant. Understandably, they often escaped to the streets. Other children were abandoned by their parents and turned to picking pockets, shoplifting, begging, and looting for survival. Young people often banded together. During the 19th century, gangs turned from pranks to serious crime, such as arson and mob violence.

Though citizens' groups in every American city expressed concern about these wayward youngsters, people were unsure of what to do about them. If caught in a crime, children over 7 and under 14 faced prosecution in the adult criminal justice system and often ended up in adult prisons. Many people questioned the wisdom of this result. Through contact with older criminals, children learned to perfect their skills at robbery, mayhem, and murder. Also, then as now, adults in prison regularly abused younger and weaker inmates.

House of Refuge

Early in the 19th century, American cities began to provide alternatives to adult prisons for children. In 1824, using *parens patriae* as its rationale, the New York City government established the New York House of Refuge for abandoned, deprived, and criminal children. Other state and local governments soon followed suit. These institutions, which came to be known as reform schools, opened in almost every large urban center.

The reform schools tried to break youngsters' bad habits by a combination of religion, education, and hard work. Run by private organizations, many schools, however, began to operate not for reform, but for profit. They glossed over moral and practical education. As headmasters pressed for greater productivity, children spent more time in workshops and less in classrooms.

As living conditions deteriorated, many young people rebelled. In 1859, 15-year-old Dan Crean set fire to the Massachusetts Reform School. Two years later, in another part of the state, angry girls burned their school to the ground. Reform schools, like prisons before them, came to be known as "universities of crime."

Once in these schools, students could not easily get out. In 1838, for example, a court committed Mary Ann Crouse to the Philadelphia House of Refuge because her mother complained about her behavior. By the time her father found out, Mary Ann was already locked

up. When the House of Refuge refused to release her to his custody, Mr. Crouse began a legal battle to get his daughter back.

His battle eventually took him to the Supreme Court of Pennsylvania. He argued that the House of Refuge had violated his daughter's constitutional rights. Mary Ann had been locked up without a jury trial, a right guaranteed to all Americans.

After lengthy deliberation, the court ruled in favor of the House of Refuge. The court stated that the right to a trial by jury did not apply to juveniles taken to the House of Refuge. It only applied to people accused of crimes. Since Mary Ann was not accused of any crime, she had no right to a jury trial.

According to the court, Mary Ann was institutionalized not because of criminal guilt, but because her mother no longer wanted to take responsibility for her upbringing. Citing the doctrine of *parens patriae*, the court declared that the state, in this instance represented by the House of Refuge, had every right to assume the parental role. As the court concluded, Mary Ann "had been snatched from a course which must have ended in confirmed depravity, and not only is the restraint of her person lawful, but it would be an act of cruelty to release her from it" (*Ex Parte Crouse*, 1838).

From the Criminal to Delinquent: A Time for Reform

American cities didn't rely entirely on reform schools to cope with young people in trouble. During the latter half of the 19th century, other innovative ideas developed as well. Since contact between juveniles and adult criminals was seen as a major problem, many states began setting aside special times for juvenile trials, keeping juvenile records separate from adults, and sentencing juveniles to age-segregated prisons.

Massachusetts began experimenting with probation as an alternative to imprisonment. But probation presented problems when applied to young urban criminals. Sending them back to their communities usually meant returning them to an environment which was the root of their problems. If a juvenile's family couldn't provide a good home, the courts sometimes tried to identify a relative or family friend to take responsibility for the child's probation.

This led to the development of another innovation: the **foster family**. Recognizing that reform schools or problem families could cause more harm than good, government officials compiled lists of trustworthy families and individuals who could provide temporary care for children in trouble. Abandoned or neglected children were also placed in foster homes.

Though each of the experiments in juvenile reform was successful to some degree, by the 1890s, it became obvious that more inventive methods were needed.

The situation in Chicago was especially bad. The Chicago Reform School reeked with vice and crime. Judges preferred to send all but the most hardened juvenile offenders to the adult jail. They felt the jail was a safer environment. The school's reputation was so bad that when it burned in 1871, the government refused to provide money to rebuild it. This left Chicago, one of the nation's largest cities, with no system for handling neglected or criminal young people.

The Chicago Women's Club stepped in to fill the gap. It set up a school for young people serving time in the city's jails. It opened a city police station for women and children arrestees so they wouldn't have to mingle with hardened male criminals.

Working with juveniles made club members come to some radical conclusions. Members felt that treating juveniles in the adult criminal justice system made matters worse. Why not start

over and build a separate justice system, just for juveniles, based on principles related to the needs and problems of children?

In the first place, club members believed that no rational adult could hold children responsible for their actions. Wayward, disobedient, and criminal behaviors, they believed, were diseases caused by poverty and neglect, circumstances over which a child had no control. One might as logically blame children for catching the measles as blame them for running away from troubles at home or following bad examples set by friends.

Secondly, the concept of crime—specific prohibited acts—was too limited to help children. Certainly, young persons must be prevented from robbing, raping, and murdering. But they also must be protected from other, less well-defined actions, like associating with immoral people, staying out too late at night, or disobeying authority. These actions greatly damaged young people by encouraging bad habits and leading to more destructive behavior.

Furthermore, it was unfair to label children as criminals. A new word for wrongdoers was needed. The word “delinquent” seemed much more appropriate. The Women’s Club also decided that children convicted of crimes should not be punished. Instead, young persons who committed delinquent acts should be re-educated and rehabilitated so they would not repeat their offenses.

Moreover, young persons should not necessarily undergo the same rehabilitation programs. Some children would best benefit from the harsh life of reform school. Others would do better in the gentler care of foster parents. Still others could be returned to their families on probation. Each child should have **individualized treatment**.

Finally, since no one was being punished, there was no need for the carefully regulated trial process of the adult courtroom. That process tended to intimidate children and might be more a hindrance than a help, the Women’s Club reasoned. To consider each child’s best interests and deliver the personalized justice demanded by this new system, a judge needed more freedom than adult procedures permitted. Judges hearing juvenile cases should work in informal rooms, more like counseling offices than courtrooms. Questioning and decision making should also be flexible and informal. Only in such a non-adversarial atmosphere could judges determine appropriate ways to help young people in trouble.

When the Women’s Club first raised these ideas in 1892, its own lawyers argued that the system was unconstitutional. Not only did it reverse or suspend the basic principles of American justice, it stripped the accused young persons of their rights. Club members retorted that children needed help, not rights.

In spite of the initial negative response, the Women’s Club proposal was widely discussed. In 1898, the Illinois State Board of Charities asked the Chicago Bar Association to draft legislation based on the club’s plan. After hearings, the Illinois legislature passed the Juvenile Court Act. The nation’s first juvenile court officially opened its doors on July 1, 1899.

Other states responded enthusiastically to this new system. Within 25 years, all but Maine and Wyoming had passed laws based on the Illinois model. Over the years, court decisions and administrative policies have slightly modified the juvenile justice system. But the current juvenile justice systems throughout the United States owe their roots to that first Chicago experiment.

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1B: Activity: Same or Different?

Working in small groups, examine each of the four pairs of cases listed below. In each, after considering each person's intent and responsibility, **decide whether the juvenile and adult should receive the same treatment or punishment.** Be prepared to explain the reasons for your decision. After your group decides all the cases, present your findings to the class and compare your decisions with those made by others groups.

Case 1

- Jerry, 27, lives in an adult apartment complex. One of his neighbors regularly holds loud parties which last long into the night. After a frustrating confrontation late one evening, Jerry picks up a rock and throws it through his neighbor's window.
- A neighbor chases Harold, 14, and his friends from her yard and warns them not to play baseball on her property. In retaliation, Harold throws a rock through her window.

Case 2

- Cynthia, 35, finds out that her husband is leaving her. At the height of an argument, she kills him.
- Mike, 8, is furious with his 4-year-old sister for ruining his favorite toy. He picks up his father's shotgun and kills her.

Case 3

- When the store clerk's back is turned Connie, 23, slides an expensive scarf into her purse and walks out of the store. Apprehended by store detectives on the sidewalk, she complains that she tired of paying exorbitant prices for everything.
- Nancy, 14, steals a digital watch from a department store display. Her only excuse, when she's caught, is that her friends dared her to do it.

Case 4

- Jim, 39, makes obscene phone calls to women in his neighborhood. He enjoys their confused and helpless reaction and likes to give them a good scare.
- Andy, 15, makes an obscene phone call to one of his teachers. He wants to see how she will react.

Followup Questions

- Which cases were the most difficult to decide? Why?
- Do you think the criminal justice system should treat children differently from adults? If so, at what age should they be treated the same as adults?

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1C: Source: Defining Juveniles in Illinois and Federal Law

The following is the definition of juvenile in the United States Code, Title 18, Part IV, Chapter 403, Section 5031 (18 U.S.C. 5031):

For the purposes of this chapter, a "juvenile" is a person who has not attained his eighteenth birthday, or for the purpose of proceedings and disposition under this chapter for an alleged act of juvenile delinquency, a person who has not attained his twenty-first birthday, and "juvenile delinquency" is the violation of a law of the United States committed by a person prior to his eighteenth birthday which would have been a crime if committed by an adult or a violation by such a person of section 922(x).

The following is the definition of Juvenile in the Illinois Public Law:

(705 ILCS 405/5-105 new)

Sec. 5-105. Definitions. As used in this Article:

(3) "Delinquent minor" means any minor who prior to his or her 17th birthday has violated or attempted to violate, regardless of where the act occurred, any federal or State law, county or municipal ordinance.

(10) "Minor" means a person under the age of 21 years subject to this Act.

(705 ILCS 405/5-120 new)

Sec. 5-120. Exclusive jurisdiction. Proceedings may be instituted under the provisions of this Article concerning any minor who prior to the minor's 17th birthday has violated or attempted to violate, regardless of where the act occurred, any federal or State law or municipal or county ordinance. Except as provided in Sections 5-125, 5-130, 5-805, and 5-810 of this Article, no minor who was under 17 years of age at the time of the alleged offense may be prosecuted under the criminal laws of this State.

(705 ILCS 405/5-130 new)

Sec. 5-130. Excluded jurisdiction.

(1)(a) The definition of delinquent minor under Section 5-120 of this Article shall not apply to any minor who at the time of an offense was at least 15 years of age and who is charged with first degree murder, aggravated criminal sexual assault, armed robbery when the armed robbery was committed with a firearm, or aggravated vehicular hijacking when the hijacking was committed with a firearm. These charges and all other charges arising out of the same incident shall be prosecuted under the criminal laws of this State.

(4)(a) The definition of delinquent minor under Section 5-120 of this Article shall not apply to any minor who at the time of an offense was at least 13 years of age and who is charged with first degree murder committed during the course of either aggravated criminal sexual assault, criminal sexual assault, or aggravated kidnaping. However, this subsection (4) does not include a minor charged with first degree murder based exclusively upon the accountability provisions of the Criminal Code of 1961.

1D: Source: Comparing Illinois Criminal and Juvenile Justice

In Illinois, the treatment of juveniles differs greatly from that of adults. The chart below notes many common differences in the juvenile justice and adult criminal justice systems. Some differences represent little more than a change in terminology. Others denote major differences.

Illinois Criminal Adult System	Illinois Juvenile Justice System
Persons can be legally arrested if they are suspected of committing a crime .	Juveniles can be arrested and taken into custody .
The state files formal criminal charges in the form of an indictment or information .	The state files a petition with the juvenile court.
Persons may be released on bail or on their own recognizance or may be held in jail until trial.	Juveniles may be released into custody of their parents ; may be held in custody until an official hearing; or may be placed on supervision without an official hearing.
Decisions are made by judges and juries .	Decisions are made by juvenile court judges almost always without a jury.
A trial determines whether or not an accused person is guilty beyond reasonable doubt of a specific crime.	A trial determines the truth or falsity of the petition beyond a reasonable doubt.
After a verdict of guilty , a sentencing hearing is held to determine the sentence.	After a finding of delinquency , a sentencing hearing determines if the juvenile is in need of supervision or care.
A convicted person may be placed on probation, fined, or sentenced to a specified length of confinement in a jail or prison.	Juveniles found guilty are made wards of the court . They may be placed on probation , removed from their family committed and given an unspecified length of confinement to a state institution .
Before the end of a prison term, a prisoner may be released and put on parole .	After release from confinement, juveniles may be supervised in a program of aftercare or parole .
Proceedings and records are public .	Proceedings are for the most part confidential and records may be expunged .
The main goal is punishment .	The process is governed by principals of rehabilitation and restorative justice .

1E: Instructions for the 2004 Illinois Youth Summit Survey

Pull out Handout 1H, "2004 Illinois Youth Summit Survey." The Survey provides critical information necessary for the Summit itself. It is designed to reveal what you and other Illinois high school students think about the three focus issues in this curriculum. If there is not enough time at the end of the day, the survey should be completed as homework. If possible, distribute the survey to other classes. Students can also complete the survey on-line at <http://www.crfc.org/summit2004.html>.

When you have completed the survey, please tabulate the results. If you administer the survey to other classes, please tabulate and keep their results separate from your class's results. Send the results to the Constitutional Rights Foundation Chicago.

The deadline for reporting the results from your Survey is March 25. CRFC will combine your results with those from all the other schools participating in the Youth Summit. Contact CRFC at 312/663-9057 if you have any questions.

Please remember that conducting and reporting the survey is a **required** portion of the program.

This survey is anonymous. Please answer as honestly as you can. Your opinion matters.

Describe your community:	Rural _____	Suburban _____	Urban _____
Your Gender:	Female _____	Male _____	Your Age: _____

I. LEGAL STATUS FOR UNAUTHORIZED ALIEN HIGH SCHOOL STUDENTS

An estimated 600,000 unauthorized (undocumented) non-citizens aged 12 to 20 are enrolled in pre-college U.S. schools; over 400,000 of them are estimated to have been in the U.S. for at least five years. The "Development, Relief and Education for Alien Minors Act" (DREAM Act) has been proposed in Congress to provide certain alien high school students who wish to attend college an opportunity to become legal permanent residents in pursuing this goal. Qualifying students must not have a criminal record, entered the U.S. before they were 16, lived here at least five years, and graduated from high school or its equivalent.

1. Should Congress provide unauthorized alien high school students who wish to attend college with an opportunity to gain legal permanent resident status?

Yes _____ No _____ Don't Know _____

II. LOCAL ALTERNATIVE PROGRAMMING FOR YOUTHFUL OFFENDERS

"Redeploy Illinois" enables Illinois counties to redirect juvenile offenders who are not guilty of a Class X forcible felony from state-run confined facilities to community-based treatment and counseling programs. The program allows counties to get money for placing their juvenile offenders in these community-based programs rather than into state incarceration. Funds to run the program would come from the money saved by the Department of Corrections, which would otherwise need to house the offending youth.

2. Should Illinois divert state prison funds to develop local alternative programming for youthful offenders who otherwise would be held in confinement?

Yes _____ No _____ Don't Know _____

III. DEATH PENALTY FOR JUVENILES

In the fall of 2002, a series of sniper killings left ten people dead in Virginia, Maryland, and Washington, DC. When deciding where to try one of the suspects, 17-year-old Lee Malvo, U.S. Attorney General John Ashcroft chose Virginia, where four persons were murdered. The federal government does not execute people for crimes they committed as juveniles, and Virginia is one of 22 states that permit the execution of those who committed crimes when they were 16 or older. In 1988, the U.S. Supreme Court ruled that no one could be executed for a crime they committed when they were under 16 years of age.

3. Under current Illinois law, persons cannot be sentenced to death for crimes committed when they were younger than eighteen years of age. This includes capital crimes, that is, crimes for which adults can be sentenced to death. What statement best describes your opinion about Illinois law?

I agree with the law in Illinois.
 I disagree. The death sentence should be an option in Illinois for punishing juveniles who commit a capital crime.
 I don't know.

4. Should Congress enact a national ban on executing persons for crimes they committed when they were under 18 years of age?

Yes _____ No _____ Don't Know _____

Please fax your completed survey or a tally of your results to CRFC at 312/663-4321 no later than March 25. This survey is also available on-line at <http://crfc.org/summit2004.html>.

Unit 2: Legal Status for Unauthorized Alien High School Students

Overview

An estimated 600,000 unauthorized (sometimes called undocumented) non-citizens aged 12 to 20 are enrolled in pre-college U.S. schools; over 400,000 of these students are estimated to have been in the United States for at least five years. Most were brought to this country by their parents. Over 50,000 of these students graduate from high school each year.

The “Development, Relief and Education for Alien Minors Act” or the DREAM Act has been proposed in Congress to provide undocumented high school students who wish to attend college an opportunity to gain legal permanent residence in order to pursue these goals. Qualifying students must not have a criminal record, have entered the U.S. before they were 16, lived here at least five years, and graduated from high school or its equivalent.

This unit will present how the United States currently treats unauthorized alien students and explore different options for their future. It also will introduce arguments in favor and opposition to the Act and provide a model for presenting student ideas to Congress.

Focus Questions

- Should Congress enable unauthorized alien high school students who wish to attend college with an opportunity to gain permanent resident status?

Objectives

- Provide information about the scope and purpose of the DREAM Act
- Present arguments from supporters and critics of the DREAM Act
- Develop and support a reasoned position on the DREAM Act

Materials

2A: Reading: Education and Unauthorized Alien Children in America

2B: Activity: Sorting Out Positions on Unauthorized Alien High School Students

2C: Unauthorized Alien High School Students: Questions for Review

2D: Taking a Stand: Position Paper on the DREAM Act

Legal Status for Unauthorized Alien High School Students: Selected Community, Print and Internet Resources

2A: Reading: Education and Unauthorized Alien Children in America

The United States is commonly described as a nation of immigrants. Today, America is home to as many as 10,000,000 or more unauthorized or undocumented aliens. Many of these adult aliens brought their children with them to this country. An estimated 600,000 unauthorized aliens aged 12 to 20 are enrolled in pre-college U.S. schools; over 400,000 of these students are estimated to have been in the United States for at least five years. Most were brought to this country by their parents. Over 50,000 graduate from high school each year.

These children have connections primarily, if not exclusively, to the United States. Their friends, their culture, and their self-identity is American. Yet they do not enjoy legal status, nor can they access the financial assistance often necessary for benefits of college education. American laws reflect this ambivalent attitude toward these youth.

Rights of Unauthorized Children in Public Schools: *Plyler v. Doe* (1982)

In 1982, the Supreme Court heard a case of *Plyler v. Doe* on appeal from the State of Texas, where a state statute withheld from local school districts any state funds for the education of children who were not "legally admitted" into the United States, and which authorized local school districts to deny enrollment to such children. The case was brought by illegal aliens who claimed that the Equal Protection Clause of the Fourteenth Amendment provides that no State shall "deny to any person within its jurisdiction the equal protection of the laws."

In a 5-to-4 decision, the Court held that the Fourteenth Amendment's protection extends to anyone, citizen or stranger, who is subject to the laws of a State, and reaches into every corner of a State's territory. Writing for the Court, Justice Brennan noted that "[w]hatever his status under the immigration laws, an alien is surely a 'person' in any ordinary sense of that term." The Court also held that the Texas statute did not meet the "rational basis" for discriminating against a class of persons and that, in fact, it would impose a lifetime hardship on a discrete class of children not accountable for their disabling status. The undocumented status of these children does not establish a sufficient rational basis for denying them benefits that the State affords other residents.

While *Plyler* did not establish education as a fundamental right, it did ensure that every child in a state was entitled to a free public education through high school.

Moving to Close Illegal Immigration

Illegal immigration has been a significant issue in the United States since the 1980s. In 1986 Congress and President Reagan granted a one-time amnesty to the millions of illegal immigrants then living in the country. Part of the goal of the amnesty was to stem the stream of illegal immigration. By the 1990s, however, political leaders determined that the stream of illegal immigration had continued to flow.

In 1996, Congress passed and President Clinton signed the Illegal Immigration Reform and Immigrant Responsibility Act. A key part of this legislation, section 505, "placed additional restrictions on state provision of educational benefits to unauthorized aliens" ("Unauthorized Alien Students Issues and Legislation," Congressional Research Service, December 17, 2003). This provision was generally interpreted to mean that unauthorized aliens were not eligible for in-state tuition at public colleges and universities; unauthorized aliens already are ineligible for federal financial assistance. The resulting lack of funding left most of these students without a chance to attend college.

The DREAM Act

The "Development, Relief and Education for Alien Minors Act" or the DREAM Act has been proposed in Congress by Senator Orrin Hatch of Utah, Senator Richard Durbin of Illinois, and other sponsors to provide undocumented high school students who wish to attend college or serve in the armed forces an opportunity to gain permanent residence in order to pursue these goals. Qualifying students must not have a criminal record, have entered the U.S. before they were 16, lived here at least five years, and graduated from high school or its equivalent. The decision as to whether an alien is eligible for relief under the DREAM Act rests "exclusively with the Secretary of Homeland Security, except where the alien has been placed into deportation, exclusion, or removal proceedings," when the Attorney General will have jurisdiction (Section 7(a)).

Supporters of the DREAM Act believe that it would encourage highly motivated young people with a legitimate way to become responsible and legal members of society. "I believe it is in the national interest to provide talented students who have clearly embraced the American Dream the incentive to take the path towards being a responsible, contributing, law-abiding member in our civic society," said Senator Dianne Feinstein, a co-sponsor of the bill ("Senate Judiciary Committee Approves 'The DREAM Act,'" <http://feinstein.senate.gov>, October 23, 2003). Supporters also believe that it would dramatically reduce dropout rates, give these students the same opportunity to excel as their classmates, and would sharply increase the amount of taxes paid by those who qualify.

Rewarding Lawbreakers?

Opponents of DREAM argue that it sends the wrong message. They oppose DREAM and other amnesty programs for unauthorized aliens as a reward for illegal behavior. "The officials of some state universities and colleges, and even some state legislators, seem to think they can get by with openly disobeying federal law," argued Phyllis Schlafly, the founder of Eagle Forum, in criticizing state efforts in California and Texas to provide in-state tuition for these students. "There was no misunderstanding about what this law means, either when Congress passed it or when President Clinton signed it in 1996. Conference Report 104-828 stated, 'this section provides that illegal aliens are not eligible for in-state tuition rates at public institutions of higher education'" ("In-State College Tuition for Illegal Aliens?" March 19, 2003).

Opponents also argue that the cost of providing a college education to unauthorized aliens will come at the expense of citizens. "[DREAM] will place American citizens in direct competition with illegal aliens for scarce slots in freshmen classes at state colleges and universities. This is a massive giveaway of higher education while awarding the illegal alien students with an amnesty," according to the Federation for American Immigration Reform (FAIR). "This massive giveaway of higher education to illegal aliens comes at a time when every state university system is raising tuition and cutting education benefits.... [Senator Hatch] and his colleagues are literally taking opportunities and tuition assistance away from the children of citizens and giving them to illegal aliens" ("The DREAM Act: Hatch-ing Expensive New amnesty for Illegal Aliens," www.fairus.org, October 23, 2003).

The DREAM Act has been approved by the Senate Judiciary Committee.

2B: Activity: Sorting Out Positions on Unauthorized Alien High School Students

Below are statements about the proposed DREAM Act in Congress that addresses the circumstances of unauthorized alien students. Read each statement and think about it carefully.

(1) With a partner, review the list of statements and decide together whether each statement is an argument **for** or **against** the DREAM Act. Indicate your decision using “**F**” [argument for passing the legislation] or “**A**” [argument against passing the legislation].

	Children who came to the United States with their parents at a very young age should not be held responsible for the decision to enter this country illegally.
	People should not be rewarded for breaking the law. The United States does not owe unauthorized alien children any more than what they have already received.
	Offering permanent resident status to law-abiding, unauthorized alien students is fair and in the national interest of the United States.
	Providing opportunities for permanent residency to unauthorized alien students is counter-productive. It will only encourage more families to enter this country illegally so that their children can get around immigration laws.
	Amnesty – a legal pardon from the government for doing something illegal – for unauthorized aliens is unfair to those persons who legally enter this country.
	Allowing unauthorized alien students to gain legal permanent residency will encourage them to become full participants in American society.
	Granting financial assistance to unauthorized alien students at public colleges and universities comes at the expense of citizens who will have fewer admission spaces.
	This legislation does not provide unauthorized alien students with any special privileges. It merely removes barriers that currently prevent them from reaching their full potential.
	Granting financial assistance to unauthorized alien students at public colleges and universities forces taxpaying citizens to subsidize the education of people who broke the law.
	It is unrealistic to believe that every unauthorized alien can be deported from the United States. If these persons are forced to go underground, they will not pay taxes or become productive citizens.

(2) Still working as a pair, select the three statements which you find most compelling. These statements may be in favor, in opposition, or a combination.

(3) Share your choices with the rest of the class. Be ready to explain and defend them.

2C: Unauthorized Alien High School Students: Questions for Review [may be discussed with a partner]

- Opponents of the DREAM Act believe if passed it will reward people who entered the country illegally. Do you agree or disagree? Why or why not?
- Proponents of the DREAM Act believe if passed it will help unauthorized alien students become responsible, contributing, law-abiding members of American society. Do you agree or disagree? Why or why not?
- Do you think that the DREAM Act is fair to persons who entered the country illegally? Why or why not?

2D: Taking a Stand: Position Paper on the DREAM Act

Policy

Should Congress enable unauthorized alien high school students who wish to attend college with an opportunity to gain permanent resident status?

Steps for Writing Your Position Paper

1. Choose a position **for**, **against**, or as an **alternative** to the policy above.
2. Then team up with classmates who take the same position and as a group, write a persuasive paper arguing the benefits associated with your position on this policy.
3. In your essay, be sure to call on the most **convincing arguments** and **specific evidence and examples** from:
 - the curriculum
 - discussion and other classroom activities
 - the Summit survey results
 - your service project experience
 - people in your community
 - any other sources available to you
4. Include in your paper the most convincing arguments from the **opposing side**. List what you think are the best arguments your policy rivals would make. Acknowledge these points, and do your best to refute the importance of these details.

Specifications for Your Paper

Length. Your paper should be between 300 and 500 words.

Format. Each paper must have the name of the school in the heading and the policy being addressed in the title. No student names will appear on the position papers.

Deadline. All position papers must be received by the Constitutional Rights Foundation Chicago (CRFC) by **April 20, 2004**. Turn in your completed paper to your teacher before that date.

Assessment. For a suggested scoring guide to use with position papers, see Handout 6C, "Tool: Final Position Paper Scoring Guide."

Select copies of your position papers will be distributed to policymakers and to students from other schools at the Summit.

Unauthorized Alien High School Students: Selected Community, Print, and Internet Resources

Resources

American Civil Liberties Union
Immigrant Rights Project
<http://www.aclu.org/ImmigrantsRights/ImmigrantsRightsMain.cfm>

Eagle Forum
Border Security and Immigration
<http://www.eagleforum.org/topics/immigration/index.shtml>

Federation for American Immigration Reform (FAIR)
<http://www.fairus.org/>

National Immigration Law Center
Immigration Law and Policy
<http://www.nilc.org/immlawpolicy/index.htm>

Documents

Plyler v. Doe, 457 U.S. 202 (1982)

S. 1545, The "Development, Relief, and Education for Alien Minors Act of 2003" or "DREAM Act," 108th Congress, 1st Session

Information and Analysis

Bruno, Andorra and Jeffrey J. Kuenzi. "Unauthorized Alien Students: Issues and Legislation." *CRS Report for Congress*. December 17, 2003.

Federation for American Immigration Reform. "The 'DREAM Act': Hatch-ing Expensive New Amnesty for Illegal Aliens." October 23, 2003. <http://www.fairus.org>.

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Ferguson, Angela. "Educating Immigrants Benefits All." *The Kansas City Star*. December 16, 2003. <http://kansascity.com>.

Hopkins, Jennifer. "Dream Act of 2003 Moves to Senate with Amended Provisions." *U.S. Visa News*. October 29, 2003. <http://www.usvisanews.com/memo2168html>.

Rethinking Schools. "Standing Up for Immigrant Students." Winter, 2003, pp.4-5.

Schlafly, Phyllis. "In-State College Tuition for Illegal Aliens?" *Eagle Forum*. March 19, 2003. <http://www.eagleforum.org/column/2003/mar03/03-03-19.shtml>.

Schlafly, Phyllis, "Will Americans Support Another Amnesty?" *Human Events Online*. January 6, 2004. <http://www.humaneventsonline.com/article.php?print=yes&id=2748>.

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Unit Three: Placing Juvenile Offenders

Overview

Juvenile offenders have often been diverted to a variety of programs in order to help rehabilitate them and return them to productive lives in their communities. In Illinois, “Redeploy Illinois” is an example of one kind of diversion program. Redeploy Illinois enables Illinois counties to redirect juvenile offenders who are not guilty of a Class X forcible felony from the Illinois Department state-run confined facilities to community-based treatment and counseling programs. The program allows counties to get money for placing their juvenile offenders in these community-based programs rather than into state incarceration. Funds to run the program would come from the money saved by the Department of Corrections, which would otherwise need to house the offending youth.

This unit will provide background on diversion programs in juvenile justice. It will explore how these programs work and the choices they require of adults and youth. It also will look at the costs and benefits of these kinds of programs, and help students consider whether their county should participate in the program.

Focus Questions

- Should Illinois divert state prison funds to develop local alternative programming for youthful offenders who otherwise would be held in confinement?

Objectives

- Provide a historical and public policy context for juvenile confinement and diversion programs
- Generate a working definition of public policy, supply tools for analyzing policy in order to form an educated decision, and promote recognition of the impact of public policy and how to affect policy decisions

Materials

3A: Placing Juvenile Offenders: Confinement or Diversion?

3B: Activity: Placing Juvenile Offenders: Two Models

3C: Handout: Two Models for Juvenile Offenders

3D: Strategy: Looking at Public Policy: G R A D E

3E: Source: Redeploy Illinois, Public Act 93-0641 (Excerpts)

3F: Activity: Town Hall Meeting on Redeploy Illinois

3G: Placing Juvenile Offenders: Questions for Review

3H: Taking a Stand: Position Paper on Placing Juvenile Offenders

Placing Juvenile Offenders: Selected Community, Print and Internet Resources

3A: Placing Juvenile Offenders: Confinement or Diversion?

Problems with Locking Up Juveniles

In May 1982, Christopher Peterman, 17, found himself in the juvenile section of the Ada County Jail in Boise, Idaho. He had been picked up because he had failed to pay \$73 in traffic tickets. Instead of sending him to the juvenile detention center, authorities sent him to the jail to teach him a lesson. Housed with him were other juveniles sent over from the center because they were too violent or difficult to handle. Five of these juveniles attacked Christopher in his cell. For four-and-one-half hours, they took turns burning, gouging, and kicking him. Christopher died from his injuries.

Christopher's case is a horror story about what can happen when violent and non-violent juveniles are locked up together. Not surprisingly, the results of incarcerating non-violent juveniles with violent adults can be equally as tragic. Rape is a common occurrence. The suicide rate of young people in adult jail is *seven times* greater than those incarcerated with other juveniles. In adult institutions, young people can receive the same rough treatment meted out to adult inmates. Even if the juveniles survive physically, they are likely to carry psychological scars.

In the mid-1970s, almost 500,000 juveniles were locked up in adult jails. In 1974, Congress passed the Juvenile Justice and Delinquency Prevention Act. This law stated that no state could receive federal grants unless it separated adults from juveniles in jails. Congress amended the act in 1980 mandating that adults and juveniles be kept in completely separate facilities. The act also ordered states not to hold status offenders in locked facilities.

Almost all states have removed status offenders from secure facilities. By 1986 the number of juveniles in adult jails had dropped to 60,000. But as many as 20 states had not fully complied with the law. By 1989, the number of states out of compliance had dropped to 15. Because of the law, some federal courts have let juveniles stuck in adult jails sue for damages. These lawsuits will probably force greater compliance by states.

Options for Placing Juvenile Offenders

After finding juveniles delinquent, juvenile court judges must decide what to do with the young offenders. This is called making a **disposition**. As with adult court judges, they have a number of options. Judges try to choose the option that has the best chance of rehabilitating the particular delinquent youth. Depending on the jurisdiction, judges must choose among:

- **Juvenile detention centers.** These are facilities where juveniles are first brought. Many await their hearing here. Others await placement following disposition. But juveniles may also be confined in these centers, usually for short terms, following a finding of delinquency.
- **Training schools.** Often located in rural settings, these large, state-run institutions typically hold from 100 to 1,000 juveniles. They are meant for the most serious offenders.
- **Small, secure residential facilities.** Holding only 10 to 15 juveniles and an equal number of staff, these facilities confine serious, violent offenders. They may be run by the state, but often small non-profit groups operate them.
- **Camps and ranches.** Located in rural areas, these secure facilities normally accommodate about 100 juveniles. They emphasize discipline and school work. Most offer counseling.
- **Boot camps.** Run like Army basic training, these camps subject juveniles to shaven heads, physical training, and strict discipline. Known as shock incarceration, boot camps take juveniles for short terms and try to shock them into changing their behavior.

- **Wilderness programs.** In rigorous outdoor settings, these programs try to build self-esteem and teamwork in troubled youth.
- **Group homes.** Often called halfway houses, these facilities typically house about 20 young people. Juveniles living in these homes often attend school, hold jobs, and move about the community. But they must obey house rules. Most group homes also provide counseling.
- **Substance-abuse treatment centers.** These residences focus on treating drug and alcohol abuse. Like halfway houses, they normally hold about 20 juveniles. But these facilities often limit residents' contact with the community during treatment.
- **Foster homes.** Screened by the state, families take juveniles into their homes. States set standards about food, clothing, and other treatment, and they limit the number of children a foster family may care for. In return, foster families receive a certain amount of money for each child's upkeep.
- **In-home placement.** Under this disposition, juveniles return to their homes.

When judges choose in-home placement or foster homes, they then may have several more options to choose from:

- **Diversion to day treatment programs.** These programs differ greatly. Some are all day, every day. Others meet after school or on weekends. Some replace school. Others teach about the legal system or the effects of substance abuse. Others provide supervised recreational activities. Juveniles diverted to these programs must attend for a specific length of time.
- **Intensive or highly intensive probation.** Working with few juveniles, probation officers meet often with them. In intensive probation, they meet every day. In highly intensive probation, they meet several times a day.
- **Probation.** Juveniles are released under fairly strict conditions. They may, for example, be required to
 - report regularly to a probation officer;
 - stop associating with certain friends;
 - submit to home or body searches on request; and
 - take a weekly urine test (if they have been detained on a drug charge).
 Juveniles who break the terms of their probation can be returned to court for an alternative disposition.
- **Summary probation.** After assuring the authorities that they will not misbehave, juveniles are released under parental or adult supervision. If they break their promise, the juveniles return to court for stricter treatment and supervision.

Which Options Do Judges Choose?

In most jurisdictions, judges do not have this vast array of choices. Thus they frequently either place juveniles on probation or send them to secure facilities, usually juvenile detention centers or training schools. Community placements and intensive probation are often not available.

Their unavailability is ironic. The juvenile justice system has always encouraged community-based treatments for young people in trouble. Such programs can often more easily adapt to the needs of individual juveniles than institutional programs. But in the late 1970s, a public backlash against community programs arose after juvenile court judges began assigning violent offenders to programs designed for non-violent offenders. Today, many communities have mixed attitudes about both the safety and the effectiveness of rehabilitating delinquents in non-institutional settings.

from: "Juvenile Corrections," in *Criminal Justice in America*, © 2000, 1998, 1993, 1991, 1983, Constitutional Rights Foundation. Third edition. All rights reserved. Used with permission.

3B: Activity: Placing Juvenile Offenders: Two Models

States have reacted with different programs to treat juvenile offenders. The urge to get tough on young lawbreakers has taken control in many states. Responding to public demand, legislators have written statutes curbing judges' discretion in sentencing and mandating long periods of detention. They have turned away from the traditional model of rehabilitation to one of punishment. Other states, keeping rehabilitation as a model, have tried to institute more community programs. The states of California and Massachusetts offer two diametrically opposed approaches.

This activity is designed to review and assess the advantages and disadvantages of each model.

Instructions

Divide students into two groups.

Group A will assess policy Model A (California), and Group B will assess policy Model B (Massachusetts). Both policy models are on Handout 3C, "Two Models for Juvenile Offenders."

Each group will review their model using Handout 3D, "3D: Looking at Public Policy: G R A D E." Briefly review the GRADE instrument and how it works.

Give each group 15-20 minutes to assess their model. Have each group select one or more reporters who will present their assessment to the other group.

Bring together the two groups. Have each report on their plan. When both groups have reported, ask the class as a whole to vote on which model they prefer.

Followup Questions

- What part of GRADE – Goals, Rivals, Advantages, Disadvantages, Evaluation – was most useful?
- Did your position change during the group reports? If so, what did you find most persuasive?
- Did you vote for a model different from the one you assessed? If so, did working with your group help you make this decision?

3C: Handout: Two Models for Juvenile Offenders

Model A: Locking Them Up in California

California has 10 percent of the juvenile population in the United States. Yet it houses 35 percent of all the juveniles in custody in the United States. This high percentage reflects California's get-tough-on-crime policy of the 1980s. The state built more prisons, sentenced prisoners to longer sentences, and limited criminal defendants' rights. This policy also resulted in more juveniles in secure facilities for longer periods.

The California Youth Authority takes charge of the most serious youth offenders in California. It runs 11 large institutions, which average 600 beds each, but which are alarmingly overcrowded. These institutions serve as the places of last resort for serious juvenile offenders. Once locked up by the Youth Authority, offenders serve far more time than adults convicted of similar offenses in California.

The Youth Authority's institutions share the problems of all large training schools. Violence threatens juveniles and officials alike. Gang culture predominates. Drugs somehow make their way in. Suicides occur. The most that can be said of them is that they keep offenders off the streets. Although almost all training schools make efforts at rehabilitation, these efforts usually fail in such an atmosphere. In fact, 70 percent of the juveniles released from the California Youth Authority are rearrested within one year; 85 percent are rearrested within five years.

Model B: Putting Them in the Community in Massachusetts

Jerome Miller became director of Massachusetts' Department of Youth Services in 1970. At first, he tried to reform the large training schools that held most of Massachusetts' juvenile detainees. He wanted the schools to become centers of rehabilitation. He soon gave up. In 1972, he instituted one of the most radical reforms in the history of juvenile corrections: He closed down all the training schools in the state.

Taking the money saved from closing the expensive-to-run training schools, he invested it in small, secure units for the most dangerous offenders. These sites sheltered no more than 15 juveniles each. While costing even more to run per juvenile than the training schools, they cost less overall because they housed fewer individuals. The remaining juveniles, he sent into community-based programs, run by non-profit agencies.

Today, long after Miller's departure, his department still operates without training schools. It assigns a caseworker for each juvenile put in its care. The caseworker develops a treatment plan for each juvenile and oversees its implementation. Massachusetts' out-of-home placements consist of: small secure units (for the most serious offenders); small detention centers (for juveniles awaiting hearings); group homes; a forestry camp; and foster care agencies.

The remaining juveniles under the department's supervision are at home. They either attend day treatment centers or are supervised by probation officers. Only the most serious offenders, about 10 percent of the juveniles, remain in the system for long. Placed in secure units for about a year, they move to group homes, and then to highly supervised probation. If they fail at any step, they return to secure units.

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3D: Strategy: Looking at Public Policy: G R A D E

“Public Policy is a plan of action, adopted by government, to solve a problem or reach a goal.”

In a democracy, you have a say on government policies and proposed policies. It’s important that you take a critical look at them. Use the following GRADE test to analyze the “Redeploy Illinois” project.

<p>Goal</p>	<p>What is the policy and what is its goal? If you don’t know what it’s supposed to do, you can’t measure its success or failure. Policies are designed to address problems. What problem or problems is this policy supposed to address?</p>
<p>Rivals</p>	<p>Who supports this policy? Who opposes it? Knowing the rivals can help you understand who the policy might affect and whether the policy favors special interest. Also, rivals are terrific sources for information. Be sure to check their facts though.</p>
<p>Advantages</p>	<p>What are the policy’s benefits? What is good about the policy? Will it achieve (or has it achieved) its goal? Will it achieve the goal efficiently? Is it inexpensive? Does it protect people from harm? Does it ensure people’s liberties?</p>
<p>Disadvantages</p>	<p>What are the policy’s costs? What is bad about the policy? Is it inefficient? Is it expensive? Does it cause harm? Does it intrude on people’s liberties? Are there any potential consequences that may cause damage?</p>
<p>Evaluate the alternatives</p>	<p>One alternative is to do nothing. Most serious problems have various policy proposals. Evaluate them. Look at their goals, advantages, and disadvantages.</p>

Adapted from: *The Challenge of Information*, © 1998, Constitutional Rights Foundation (Los Angeles)

3E: Source: Redeploy Illinois, Public Act 93-0641 (Excerpts)

AN ACT in relation to juvenile offenders, which may be referred to as the Redeploy Illinois Program amendments.

Be it enacted by the People of the State of Illinois, represented in the General Assembly:

Section 5. The Probation and Probation Officers Act is amended by adding Section 16.1 as follows: (730 ILCS 110/16.1 new)

Sec. 16.1. Redeploy Illinois Program.

(a) The purpose of this Section is to encourage the deinstitutionalization of juvenile offenders establishing pilot projects in counties or groups of counties that reallocate State funds from juvenile correctional confinement to local jurisdictions, which will establish a continuum of local, community-based sanctions and treatment alternatives for juvenile offenders who would be incarcerated if those local services and sanctions did not exist. The allotment of funds will be based on a formula that rewards local jurisdictions for the establishment or expansion of local alternatives to incarceration, and requires them to pay for utilization of incarceration as a sanction. This redeployment of funds shall be made in a manner consistent with the Juvenile Court Act of 1987.... and the following purposes and policies:

(b) Each county or circuit participating in the pilot program must create a local plan demonstrating how it will reduce the county or circuit's utilization of secure confinement of juvenile offenders in the Illinois Department of Corrections or county detention centers by the creation or expansion of individualized services or programs....

(c) A county or group of counties may develop an agreement with the Department of Human Services to reduce their number of commitments of juvenile offenders, excluding minors sentenced based upon a finding of guilt of first degree murder or an offense which is a Class X forcible felony as defined in the Criminal Code of 1961, to the Department of Corrections, and then use the savings to develop local programming for youth who would otherwise have been committed to the Department of Corrections. The county or group of counties shall agree to limit their commitments to 75% of the level of commitments from the average number of juvenile commitments for the past 3 years, and will receive the savings to redeploy for local programming for juveniles who would otherwise be held in confinement....

Source: Illinois General Assembly, <http://www.legis.state.il.us/legislation/publicacts/>

3F: Activity: Town Hall Meeting on Redeploy Illinois

A town meeting provides members of a community an opportunity to participate in the decision-making process. A community forum usually considers matters of local concern, but the format has also been used on television to conduct "national town hall meetings" on specific issues. A town meeting can serve as a local governing and decision-making body by performing functions similar to those of a representative city council. It can also be advisory in nature, providing elected representatives with the view of citizens.

Section Sec. 16.1. (c) of the Redeploy Illinois statute states

"A county or group of counties may develop an agreement with the Department of Human Services to reduce their number of commitments of juvenile offenders, excluding minors sentenced based upon a finding of guilt of first degree murder or an offense which is a Class X forcible felony as defined in the Criminal Code of 1961, to the Department of Corrections, and then use the savings to develop local programming for youth who would otherwise have been committed to the Department of Corrections."

Although counties are *permitted* to conduct this program, they are *not required* to do so.

This town hall meeting will focus students on whether to request funding through the Redeploy Illinois initiative for a juvenile diversion program in their county.

Procedures

Organize the town meeting by assigning individuals the following roles:

- chairperson
- representative of a group in favor of implementing Redeploy Illinois
- representative of a group in opposition to the Redeploy Illinois
- community members at large
- elected officials who represent the entire community in the town or city council, state legislature, or other legislative body.

Explain to students the purpose of the town meeting and the procedures to be followed.

Allow time for students to prepare for the town meeting in accordance with their assigned roles.

If possible, arrange for the use of a larger room than the typical classroom.

If possible, arrange for local legislators and representatives from local civic improvement associations to serve as resource persons or observers.

Conduct the town meeting using the following procedures.

Student Instructions for a Town Meeting

1. Prior to the meeting, have students assess Redeploy Illinois using Handout 3D, "GRADE." They can also contact community resource persons to get their background information and to discuss their positions on the proposition.
2. Time limits for each side's presentation should be agreed upon ahead of time. The chairperson is empowered to cut off debate and discussion when the time limit has been exceeded.
3. The chairperson calls the meeting to order, explains the purpose of the meeting, and describes the rules to be followed during the meeting:
 - a. A person may not speak until he/she is recognized by the chairperson.

- b. No one may interrupt when a person is speaking.
 - c. All remarks must relate to the proposition being discussed.
 - d. If the speaker wanders from the point, abuses other people, or in any way defeats the purpose of the meeting, the chairperson declares him or her out of order.
4. A representative of the group in favor of the proposition is asked to stand and describe the group's position. After the representative has finished speaking, he/she may ask people brought as witnesses to stand and speak.
 5. The chairperson announces that any person in favor of the proposition may stand and speak. They will be recognized in the order in which they stand.
 6. A representative of the group opposed to the proposition is asked to stand and describe the group's position. After the representative has finished speaking, he/she may ask people brought as witnesses to stand and speak.
 7. The chairperson announces that those people opposed to the proposition will be recognized in the order in which they stand and given an opportunity to speak.
 8. After all people on both sides of the proposition have had an opportunity to speak, the chairperson opens the question for additional discussion or debate. During this time any person may stand, be recognized, and present his/her point of view or argue against the point of view of someone else.
 9. At the end of this discussion or debate the chairperson calls for a vote on the proposition. The vote is decided by a majority.

Followup Questions

- In what ways is speaking in a town hall meeting an effective way for citizens to share their views? In what ways is it limited?
- Did the vote after the meeting affect how you thought of the process? Were you in the majority or minority?
- What was the most compelling thing you learned about the "Redeploy Illinois" during your preparation? From another participant?
- What would help you to understand better this issue?

Sharing Your Views on Redeploy Illinois

Governor Blagojevich is appointing an oversight panel on how to implement and fund Redeploy Illinois. You can contribute your views on this policy by writing to:

Governor Rod R. Blagojevich
Office of the Governor
207 State House
Springfield, IL 62706
IN RE Oversight Panel on Redeploy Illinois

You can also send an email to Governor Blagojevich at governor@state.il.us.

(NOTE: Should a response be required it will be mailed to you via the United States Postal Service, so it is important that you include your name and complete mailing address.)

Instructions for conducting a town hall meeting adapted from: "Town Meeting," *Law-Related Education in Juvenile Justice Settings*. 1993, 1999, 2003: Youth for Justice.

3G: Placing Juvenile Offenders: Questions for Review [may be discussed with a partner]

- Compare and contrast the California and Massachusetts models for handling juvenile offenders. Which approach do you think will be more effective in the long run?
- Supporters of Redeploy Illinois argue that if the bill is enacted it will ultimately reduce the cost of running the Corrections Departments. Do you agree or disagree with this? Why or why not?
- Critics of Redeploy Illinois argue that if the bill is enacted it will end up costing counties too much money to implement. Do you think this program should be adopted by your county? Explain your answer.

3H: Taking a Stand: Position Paper on Placing Juvenile Offenders

Policy

Should Illinois divert state prison funds to develop local alternative programming for youthful offenders who otherwise would be held in confinement?

Steps for writing your Position Paper

1. Choose a position **for**, **against**, or as an **alternative** to the policy above.
2. Then team up with classmates who take the same position and as a group, write a persuasive paper arguing the benefits associated with your position on this policy.
3. In your essay, be sure to call on the most **convincing arguments** and **specific evidence and examples** from:
 - the curriculum
 - discussion and other classroom activities
 - the Summit survey results
 - your service project experience
 - people in your community
 - any other sources available to you
4. Include in your paper the most convincing arguments from the **opposing side**. List what you think are the best arguments your policy rivals would make. Acknowledge these points, and do your best to refute the importance of these details.

Specifications for Your Paper

Length. Your paper should be between 300 and 500 words.

Format. Each paper must have the name of the school in the heading and the policy being addressed in the title. No student names will appear on the position papers.

Deadline. All position papers must be received by the Constitutional Rights Foundation Chicago (CRFC) **April 20, 2004**. Turn in your completed paper to your teacher before that date.

Assessment. For a suggested scoring guide to use with position papers, see Handout 6C, "Tool: Final Position Paper Scoring Guide."

Select copies of your position papers will be distributed to policymakers and to students from other schools at the Summit.

Placing Juvenile Offenders: Selected Community, Print, and Internet Resources

Resources

Cook County State's Attorney's Office
Juvenile Justice

<http://www.statesattorney.org/aweb/juvenile.htm>

Illinois Juvenile County Profiles

Illinois Criminal Justice Information Authority

<http://www.icjia.org/public/index.cfm?metasection=forms&metapage=JuvenileProfiles>

Office of the Illinois Attorney General

<http://www.ag.state.il.us/>

Office of Juvenile Justice and Delinquency Prevention

United States Department of Justice

www.ojjdp.usdoj.gov/ojjdp

Documents

Illinois 93rd General Assembly – Bill Status for HB2545. "Redeploy Illinois Program."

<http://www.legis.state.il.us/legislation/billstatus.asp?DocNum=2545&GAID=3&DocTypeID=HB&LegID=4510&SessionID=3>.

Coordinating Council on Juvenile Justice and Delinquency Prevention. "Juveniles, Capital Punishment, and Sentencing." *Office of Juvenile Justice and Delinquency Prevention*. March, 1999. <http://ojjdp.ncjrs.org/council/march1999/juveniles.html>

Information and Analysis

Annie E. Casey Foundation. "Juvenile Detention Alternatives Initiative,"

<http://www.aecf.org/initiatives/jdai/>

DeRossett, Dennis, Minton, Meta, and Jeff Smyth. "Voice of the Southern: Moving Youth From Prison Must be Financially Sound." *The Southern*. September 21, 2003.

<http://www.southernillinoisan.com/rednews/2003/09/21/build/opinions/OPI001.html>

Mastis, Lindsey J., "Bill Could Place Juvenile Offenders in Community Programs." *Daily Egyptian*. Fall, 2003. [http://newshound.de.siu.edu/fall03/stories/storyReader\\$689](http://newshound.de.siu.edu/fall03/stories/storyReader$689).

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Stevenson, Phillip. "Implementing a New Juvenile Justice Philosophy in Illinois." *The Compiler*. Illinois Criminal Justice Information Authority, Fall 2003, pp. 1-6.

Unit Four: Juveniles and the Death Penalty

Overview

In the fall of 2002, a series of sniper killings left ten people dead in Virginia, Maryland, and Washington, DC, and terrorized the Capitol area. One of the persons arrested and subsequently convicted for participating in these killings was Lee Malvo, who was seventeen at the time he committed these crimes.

In 1988, the U.S. Supreme Court ruled that no one could be executed for a crime they committed when they were under 16 years or age, but in 1989 it upheld the constitutionality of executing persons who were 16 or 17. The federal government does not execute people for crimes they committed as juveniles. Prosecutors decided to try Malvo in Virginia, where four of the murders were committed and where he was eligible for the death penalty. Although the jury convicted Malvo, they sentenced him to life in prison. Malvo's case and the verdict in his trial has renewed a nationwide discussion about juveniles and the death penalty.

This unit will introduce the history of the death penalty and juveniles in America. It will focus on the decisions of the Supreme Court of the United States and how the justices have understood this punishment in finding a balance between constitutional rights and the balance of power between states and the federal government. It also will provide an opportunity to discuss some of the facts, the arguments, and the alternatives surrounding these issues.

Focus Question

- Should Congress enact a national ban on executing persons for crimes they committed when they were under 18 years of age?

Objectives

- Enhance understanding of the decisions of the U.S. Supreme Court relating to juveniles and the death penalty
- Assess the debate surrounding juveniles and the death penalty within the larger context of federalism
- Identify the arguments – scientific, criminological, and political – in favor and in opposition to the execution of persons for crimes committed before they were 18 years of age
- Promote discussion on a national standard for the execution of juveniles

Materials

4A: Reading: Juveniles, the Death Penalty, and the Supreme Court of the United States

4B: Activity: Juveniles and the Death Penalty: A Human Graph

4C: Handout: Juveniles and the Death Penalty: A Human Graph

4D: Activity: Juveniles and the Death Penalty: Who Should Decide?

4E: Handout: Juveniles and the Death Penalty: Who Should Decide?

4F: Juveniles and the Death Penalty: Questions for Review

4G: Taking a Stand: Position Paper on Juveniles and the Death Penalty

Juveniles and the Death Penalty: Selected Community, Print and Internet Resources

4A: Reading: Juveniles, the Death Penalty, and the Supreme Court of the United States

Capital Punishment and “Cruel and Unusual Punishment” in the U.S. Constitution

Capital punishment – that is, the power of the state to put someone to death as punishment for being convicted of a particular crime – has existed in America since the beginning of the colonies. At the time of the ratification of the U.S. Constitution, all the colonies had the death penalty, and a federal death penalty was enacted by the First Congress of the United States.

The Constitution itself acknowledges the death penalty. The Fifth Amendment states that “No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury...; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; ... nor be deprived of life, liberty, or property, without due process of law....” Similarly, the Fourteenth Amendment, adopted in 1866, says that no State shall deprive any person of “life, liberty, or property” without due process of law.

While the Eighth Amendment forbids “cruel and unusual punishment,” the fact that both the Fifth and Eighth Amendments were ratified at the same time by the same session of Congress suggests that the Framers did not understand capital punishment as “cruel and unusual.” Rather, the U.S. Supreme Court has generally interpreted this provision as prohibiting inhumane punishments – such as gutting or crucifying a prisoner while they are alive – or punishments which are considered out of proportion to the crime. *Weems v. United States* (1910).

Capital Punishment and the U.S. Supreme Court

Public opinion in America has varied on the death penalty. In the middle part of the 20th century, support fell to less than 50% of the population. The number of executions in the United States diminished year by year, and the scope of crimes for which the death penalty could be a punishment also was reduced by the Supreme Court. Finally, in the 1972 *per curiam* decision of *Furman v. Georgia*, the Court said that “imposition and carrying out of the death penalty in these cases constitute cruel and unusual punishment in violation of the Eighth and Fourteenth Amendments.” Because there was no consistency in who was sentenced to die, and there was a strong concern that the race of the defendant determined the sentence, the Court effectively banned the death penalty as it was then applied in the United States.

Within four years of *Furman*, 35 states wrote new capital punishment laws in response to the Supreme Court’s decision. In 1976, the Court heard the case of *Gregg v. Georgia*. Writing for the majority, Justice Stewart said that “the death penalty is not a form of punishment that may never be imposed, regardless of the circumstances of the offense, regardless of the character of the offender, and regardless of the procedure followed in reaching the decision to impose it.” Instead, “the concerns expressed in *Furman* that the penalty of death not be imposed in an arbitrary or capricious manner can be met by a carefully drafted statute that ensures that the sentencing authority is given adequate information and guidance.” Today 38 states, along with the federal government, retain this ultimate punishment.

Since 1976, 887 people have been executed in the United States. Of these, 23 men were executed for crimes they committed before they were eighteen years old. The fate of these persons and other juveniles has also come before the U.S. Supreme Court.

Juveniles and the Death Penalty: The Case of Wayne Thompson

The sixth of eight children, Wayne Thompson grew up in Chickasha, Oklahoma, a small town about 30 miles southwest of Oklahoma City. He also grew up in the shadow of his brother-in-

law Charles Keene's violent rages. He saw his sister Vicky beaten by Keene. Sniffing paint, Keene often grew violent and spared no one. He beat Wayne repeatedly. He struck Wayne's mother, other sisters, and even his older brothers. Keene once even carried his infant son on top of his trailer and threatened to drop him off.

When Vicky finally divorced Keene, the family thought their long nightmare was over. But Keene kept returning, threatening and abusing Vicky. Finally, Wayne decided to put a stop to Keene's abuse once and for all. Together with his adult, older brother Tony and two of Tony's adult friends, 15-year-old Wayne Thompson set out to kill Keene. Before dawn on January 23, 1983, they found Keene at his home in Amber, Oklahoma. They kidnapped him, beat him, cut open his stomach, chest, and throat, and shot him twice. Before heaving his body in a river, they chained it to a cement block.

Twenty-six days later, it surfaced. At the fitness hearing shortly after his arrest, Wayne was certified to stand trial as an adult. Charged with first-degree murder, he was found guilty. During the trial, the prosecution had introduced three color pictures of Keene's body. The prosecution introduced the same pictures at the sentencing hearing. The jury found the murder to have the aggravating circumstance of being "especially heinous, atrocious, or cruel." So it returned a sentence of death for Wayne.

On appeal, Wayne's attorney argued that the pictures should not have been allowed into evidence at trial or at the sentencing hearing. Further, he argued that sentencing a 15-year-old boy to death violated the Eighth Amendment's ban against cruel and unusual punishment. The Oklahoma Court of Criminal Appeals upheld the conviction. It did agree with the defense on one point: The pictures should not have been allowed in evidence at the trial. But the court said this error was not sufficient to overturn Wayne's conviction because of the overwhelming evidence of his guilt.

Otherwise the court sided with the prosecution. The sentencing judge did not err in admitting the pictures because they helped prove the aggravating circumstance of the murder. The sentence did not violate the Eighth Amendment. Wayne had been certified to be tried as an adult, so he should be sentenced as an adult. Wayne's lawyer appealed to the Supreme Court.

Wayne waited on death row in a cell next to his brother. In separate trials, all three adults had also been found guilty of first-degree murder and sentenced to death. One of the men was killed in a jail-yard fight shortly after his trial. Another's conviction was reversed on appeal because of trial court error, and at his second trial, he was found not guilty.

The U.S. Supreme Court and Death Sentences for Juveniles

In *Thompson v. Oklahoma* (1988), the Supreme Court voted 5-to-3 to throw out Wayne's death sentence. Four justices in the majority thought that executing juveniles under 16 violated the Eighth Amendment. But the fifth justice in the majority, Sandra Day O'Connor, did not agree. She stated in a concurring opinion that there probably was a national consensus against executing juveniles under 16. But she voted with the majority only because Oklahoma's death penalty statute had no minimum age. Because Oklahoma may have enacted its death penalty without considering whether juveniles under 16 should be executed, she sided with the majority.

The following year, the Supreme Court considered whether juveniles under 18 could be executed. Two similar cases presented themselves to the court. One involved a 17 year old (*Stanford v. Kentucky*) and the other a 16 year old (*Wilkins v. Missouri*). Both had brutally murdered victims of their crimes because they wanted to leave no witnesses.

This time the Supreme Court upheld both convictions in 5-to-4 votes. The majority, including Justice O'Connor, argued that the nation had not reached a consensus against executing 16 or 17 year olds. So executing them did not constitute cruel and unusual punishment. In a separate concurring opinion, O'Connor stated this lack of a national consensus made irrelevant the fact that Missouri did not have a minimum age for executions.

The four dissenting justices in an opinion by Justice Brennan made two basic arguments. First, a majority of states and the federal government banned executions of those under 18 and most juries refuse to sentence those under 18 to death. This should add up to a national consensus against executing those under 18. Second, the death penalty is too severe for juveniles—it serves neither retribution nor deterrence.

“Cruel and Unusual Punishment”: An Evolving Standard

Part of how the Court understands “cruel and unusual punishment” stems from a statement in the decision *Trop v. Dulles*, 356 U.S. 86 (1958). In this case about an army deserter faced with losing his citizenship, Chief Justice Earl Warren wrote that the Eighth Amendment “must draw its meaning from the evolving standards of decency that mark the progress of a maturing society.” The U.S. Supreme Court recently revisited the meaning of “cruel and unusual punishment” as it pertains to the death penalty and the mentally retarded.

Around midnight on August 16, 1996, Daryl Atkins and William Jones, armed with a semiautomatic handgun, abducted Eric Nesbitt, robbed him, drove him to an automated teller machine in his pickup truck where cameras recorded their withdrawal of additional cash, then took him to an isolated location where he was shot eight times and killed. Atkins was convicted of capital murder and associated crimes by a Virginia jury and sentenced to death.

The Virginia Supreme Court followed a 1989 U.S. Supreme Court decision, *Penry v. Lynaugh*, in rejecting Atkins' contention that he could not be sentenced to death because he is mentally retarded. Yet in *Atkins v. Virginia* (2002), the U.S. Supreme Court ruled that the Court held that executions of mentally retarded persons now are considered “cruel and unusual punishments” and therefore are prohibited by the Eighth Amendment. What had changed?

Writing for the Court, Justice Stevens said that punishments that are not graduated and proportioned to the offense are unconstitutional, and that the measure of excessiveness is judged by currently prevailing standards of decency. In trying to determine these standards, the Court looks to “objective factors” to the maximum possible extent, the clearest and most reliable of which is the legislation enacted by the country's legislatures. Stevens noted that 30 states had directly banned or significantly limited these executions. The Court also noted that the “direction of change” was toward banning this punishment. Coupled with expert testimony, public opinion survey data, international standards, and the Court's judgment, the majority believed that the current prevailing standard of decency now considered capital punishment as excessive for the mentally retarded.

The dissenting justices in *Atkins* argued that this standard did not consider jury decisions, which have traditionally been a significant measure of how citizens feel about punishment. They also noted that international standards had no place in considering what the U.S. Constitution permitted and that public opinion survey data was notoriously subjective and unreliable. Finally, they accused the majority of substituting its own opinions for what the Constitution said.

Recent Research on Adolescent Development

The *Atkins* standard for meeting “cruel and unusual punishment” is important for juveniles sentenced to death in several ways. Significantly, the action of state legislatures regarding juvenile sentencing was addressed directly by the majority in *Atkins*, which noted that “although

we decided *Stanford* on the same day as *Penry*, apparently only two state legislatures have raised the threshold age for imposition of the death penalty." For many, this note suggests that a change in the standard is unlikely without action by a significant number of state legislatures.

On the other hand, supporters of a ban on the juvenile death penalty point to the importance the Court placed on expert opinion. A growing body of research suggests that the difference between adolescents and adults may be greater than the law now recognizes. Laurence Steinberg, an psychologist at Temple University, heads a national research initiative funded by the MacArthur Foundation called the Research Network on Adolescent Development and Juvenile Justice. Steinberg argues that adolescents are socially and biologically less mature than adults and therefore should be treated differently.

According to Steinberg, psychological research reveals that adolescents are less able to foresee the consequences of their actions, less able to control their impulses, and less able to resist peer pressure than adults. "We argue that the reasonable adult standard is not the same as the reasonable adolescent standard." ("Young Killer: Bad Seed or Work in Progress?" *New York Times*, December 25, 2003).

Steinberg also notes the significance of what biologists are learning about the brain. "The new brain research indicated that brain maturation is going on much later in development than people had thought, so there is some reason, perhaps, to say that 17-year-olds are not the same as adults. There is evidence of structural change in the prefrontal cortex... What we don't know, and where I think we need to be cautious, is how these structural changes actually play in behavior."

The Future of Capital Punishment for Juveniles

How the states and the federal government treat juvenile offenders will be under review in the Fall 2004 term of the U.S. Supreme Court, when the case of *Roper v. Simmons* will be argued. The case, on appeal from the Missouri Supreme Court, centers on Christopher Simmons, who at 17 robbed a woman, wrapped her head in duct tape, and threw her off a railroad bridge in 1993.

As the cases of *Simmons* and *Lee Malvo* suggest, the fate of young killers, remains an open question.

"The Case of Wayne Thompson" and "The Supreme Court Reviews Death Sentences for Juveniles" from: *Criminal Justice in America*, © 2000, 1998, 1993, 1991, 1983, Constitutional Rights Foundation. Third edition. All rights reserved. Used with permission.

4B: Activity: Juveniles and the Death Penalty: A Human Graph

The death penalty is a very controversial and emotional issue. This activity is designed to introduce participants to the different issues raised by the question of whether to execute persons for crimes they committed when they were juveniles. It is also designed to help participants realize how they feel and where they stand on this issue.

Procedures

- Explain the purpose of this activity. Then create a line – either by pointing from one end of the room to the other or by drawing one on the board. One end of the line is “Agree Very Much,” the mid-point is “Not Sure/Undecided,” and the other end of the line is “Disagree Very Much.”
- Ask for five volunteers from the group. Tell them that they will serve as a “human graph.” Explain that you will ask them a series of statements and that they will react to each statement by standing in front of the part of the graph that corresponds to their opinion.
- Instruct the class that the members of the human graph are not allowed to speak; therefore, the class will have to interpret their thoughts for them.
- Select a few statements on Handout 4C, “Statements for a Human Graph: Juveniles and the Death Penalty.” After each statement, allow time for the “human graph” to understand the statement and react by physically moving to a position on the line. Then ask the rest of the group to explain why they think the participants in the human graph are standing where they are. You may choose to let the human graph students explain their position after all of the students have commented.
- The human graph students should feel free to move about on the line, changing their opinion if an argument seems persuasive to them. Continue with this process until all statements have been evaluated and discussed. Select additional groups of five for other questions.
- *Note:* This activity can also be done with the entire group along the line. When the whole class is the graph, ask questions of different members about why they chose to stand where they stood.

Followup Questions

After the graph has finished representing the questions, students get into pairs. One student from each pair will identify the three strongest statements **in favor of** executing people for crimes they committed as juveniles. The other student in each pair will identify the three strongest statements **against** executing people for crimes they committed as juveniles. Allow three minutes for each side to share their ideas.

Debrief as a large group using the following questions:

- In your pair, what were the three strongest statements in favor of executing people for crimes they committed as juveniles? The three strongest statements against?
- What surprised you about the human graph? How did the participants in the graph shape your thinking about the juveniles and the death penalty?

4C: Handout: Juveniles and the Death Penalty: A Human Graph

Statements for a Human Graph

- Under the law, teenagers of high school age should be treated more like adults than like children.
- Teenagers should be punished in proportion to their crimes.
- Teenagers should be punished the same way for first degree murder in every state.
- Teenagers should not be punished for things that are beyond their control.
- When a teenager commits first degree murder, the death penalty is a reasonable way for society to punish them and to discourage other teenagers from doing it.
- Teenagers who commit first degree murder are more likely to change and become productive citizens than adults who commit first degree murder.
- The death penalty is too final a solution for juveniles in an imperfect justice system.

4D: Activity: Juveniles and the Death Penalty: Who Should Decide?

An important but sometimes unnoticed factor in discussions about the death penalty for juveniles and other controversial issues is how political power is shared in the United States.

The United States operates under a system of limited government. Some limits come from checks and balances between the legislative, the executive, and the judicial branches. Some come from the distribution of power between the individual states and the federal government. And some of these limits come from the people themselves, through popular opinion, voting, and jury service.

This balance of power is one of the key protections of individual rights, but it also leads to inconsistencies in the rights that different people enjoy at different times or in different places. The great majority of adults and juveniles sentenced to death were tried and convicted in state courts for state crimes, and the standards and punishments for capital crimes are set by each state. This means that a juvenile age 16 or older who is convicted of murder can face a lengthy jail sentence, life in prison, or the death penalty, depending on how old they were and in what state the crime was committed.

This activity presents students with three different ways to resolve the question, "Who should decide?"

Procedures

- Divide the class into three groups. Assign each group one of the positions on handout 4E, "Juveniles and the Death Penalty: Who Should Decide?"
- Ask each group to review the strengths and limitations of their assigned position, then prepare how each of them will present to people from other groups.
- Form triads composed of one student from each group. Give each person two minutes to present their **group's** assigned position by allowing only persons from Group 1, then Group 2, then Group 3 to speak. While one student speaks, the other students take notes and think of any clarifying questions they may want to ask.
- After the timed triad presentations, instruct students in each triad to ask each other clarifying questions and to discuss all three positions. Then ask each triad to come to **their own consensus** decision as to which position they prefer.
- Have each group report out their preference, citing the **most important reason** for their decision.

Followup Questions

- In what ways did this discussion help you understand the controversy surrounding the death penalty?
- What was the most compelling thing you learned about our system of government during your preparation? From another participant?
- What would help you to understand better this issue?

4E: Handout: Juveniles and the Death Penalty: Who Should Decide?

Position 1: Congress Should Decide

Congress should decide whether people can be executed for crimes they commit before they are eighteen. Congress speaks for the entire nation. Americans live under the same Constitution and should expect the same rights everywhere. Regional differences are too often a smokescreen for prejudice, and Congress has the position to rise above such differences and enable everyone to enjoy the same rights. A national standard is not an unfunded mandate: a congressional standard will cost no more, and perhaps will cost much less, than the current hodgepodge of state standards. Congress can create a common “floor” of rights; states are free to raise the “ceiling” as much as they wish.

Position 2: Each State Should Decide

Each state should decide whether to execute people for crimes they commit before they are eighteen. State legislatures traditionally make the laws on basic issues like education, health, and especially the criminal justice system. Most persons are sentenced to death for breaking state laws, not federal ones. State legislatures best reflect the will of the people – they are closer to the people than Congress. Laws that might be good for one part of the country may not be good for another part. Certainly, letting judges decide the law is undemocratic. And if the people don’t like the laws in their state, they can more directly change them. Finally, states will have to administer whatever criminal justice decisions are made, so they should have a say in what they are asked to pay for.

Position 3: U.S. Supreme Court Should Decide

The U.S. Supreme Court should decide whether people can be executed for crimes they commit before they are eighteen. The role of the Supreme Court is to decide what the Constitution says. The death penalty is fundamentally a constitutional issue, and the Court has ruled on it many times. The Court has and will continue to review laws passed by Congress and the states to ensure that they are in accord with the Constitution. While the Court does not reach out to make a new standard on this issue, it does avoid deciding the constitutionality of issues brought before it. Because it is not subject to political pressure, only the Court can rise above the majority and special interests to decide the constitutionality of this issue.

4F: Juveniles and the Death Penalty: Questions for Review [may be discussed with a partner]

- Should there be a national standard for using the death sentence to punish juveniles? Or should the decision about using the death sentence to punish juveniles be made by citizens in each state?
- What importance should judges give to psychologists and other experts when deciding constitutional issues? What importance should be given to public opinion surveys?
- What importance should Congress give to psychologists and other experts when creating law? What importance should be given to public opinion surveys?
- According to Amnesty International, Iran is the only other government in the world besides the United States which sanctions the execution of persons for crimes they committed when they were younger than eighteen. To what extent should the United States consider what other nations do when deciding whether to execute people for crimes they committed as juveniles?
- Should Congress enact a national ban on executing persons for crimes they committed when they were under 18 years of age?

4G: Taking a Stand: Position Paper on Juveniles and the Death Penalty

Should Congress enact a national ban on executing persons for crimes they committed when they were under 18 years of age?

Steps for Writing Your Position Paper

1. Choose a position **for**, **against**, or as an **alternative** to the policy above.
2. Then team up with classmates who take the same position and as a group, write a persuasive paper arguing the benefits associated with your position on this policy.
3. In your essay, be sure to call on the most **convincing arguments** and **specific evidence and examples** from:
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 - the Summit survey results
 - your service project experience
 - people in your community
 - any other sources available to you
4. Include in your paper the most convincing arguments from the **opposing side**. List what you think are the best arguments your policy rivals would make. Acknowledge these points, and do your best to refute the importance of these details.

Specifications for Your Paper

Length. Your paper should be between 300 and 500 words.

Format. Each paper must have the name of the school in the heading and the policy being addressed in the title. No student names will appear on the position papers.

Deadline. All position papers must be received by the Constitutional Rights Foundation Chicago (CRFC) by **April 20, 2004**. Turn in your completed paper to your teacher before that date.

Assessment. For a suggested scoring guide to use with position papers, see Handout 6C, "Tool: Final Position Paper Scoring Guide."

Select copies of your position papers will be distributed to policymakers and to students from other schools at the Summit.

Juveniles and the Death Penalty: Selected Community, Print and Internet Resources

Community

American Bar Association: Juvenile Death Penalty Information and Resources
<http://www.abanet.org/crimjust/juvjus/resources.html>

American Civil Liberties Union: Death Penalty
<http://www.aclu.org/DeathPenalty/DeathPenaltyMain.cfm>

Amnesty International: Death Penalty Campaign
<http://web.amnesty.org/pages/deathpenalty-index-eng>

Criminal Justice Legal Foundation: Death Penalty Information
<http://www.cjlf.org/deathpenalty/DPinformation.htm>

Death Penalty Information Center: Juveniles and the Death Penalty
<http://www.deathpenaltyinfo.org/article.php?did=205&scid=27>

Death Penalty Education Project
<http://www.law.northwestern.edu/depts/clinic/wrongful/deathpenalty.htm>

Illinois Coalition Against the Death Penalty
<http://www.icadp.org/>

Justice Center Web Site: Focus on the Death Penalty (pro and con)
University of Alaska Anchorage
<http://www.uaa.alaska.edu/just/death/procon.html>

Pro-Death Penalty.Com
<http://www.prodeathpenalty.com/>

Supreme Court of the United States
<http://www.supremecourtus.gov/>

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www.usdoj.gov

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Unit 5: Conducting a Service Learning Project

Overview

Service learning is a process in which students learn and develop important skills by participating in a service experience that meets the actual needs of others.

One important way to do a service for another is to provide him or her with valuable knowledge and information. The topics that you have chosen for the 2004 Illinois Youth Summit are ones that affect the lives of many young Americans, and through your study of these issues you are gaining essential knowledge. There is a need in your community for people to have knowledge and an understanding of these issues. The tools in this unit will help you to select, plan, and implement a service project in which you educate members of your community on one, two, or all three of the 2004 Summit issues.

Objectives

- Introduce service learning
- Provide suggestions for service learning project activities
- Provide tools for planning and implementing a service learning project

Materials

5A: Selecting a Service Learning Project

5B: Tool: Action Planning for Service Learning

5C: Tool: Service Learning Project Planning Form

5D: Evaluation: Service Learning Project Reflection Log

5A: Selecting a Service Learning Project

The issues that you have selected and are studying for the 2004 Illinois Youth Summit are important and affect the lives of many young Americans. For your service project, you will select one, two, or all three issues, and then teach others about them.

There are a variety of effective strategies you may use to teach others. When choosing which method to use, consider the age group you are working with, the amount of time you have, the number of people you will be presenting to, your own talents and skills, the type of information you are relating, and what exactly you want to accomplish.

Listed below are some suggested methods for teaching others about any of the Summit issues. You may use one of these, a combination of more than one, or develop a strategy of your own.

Suggested Service Projects for the 2004 Youth Summit

- Develop a presentation for one of the elementary and/or a middle school in your community to educate them about one of the focus issues. Involve younger students in role-playing activities from this Guide or interactive games in which you help them learn and understand the issue.
- Create a website devoted to one of the focus issues. Publish articles and information that are relevant, and allow students in your school to submit related facts, poems, stories, and advice.
- Invite professors, experts in the field and representatives from the government for a roundtable discussion on a particular issue. Videotape the discussion for use as a teaching tool in your school and/or other schools.
- Create a newsletter or pamphlet devoted to the issue you have selected. Distribute it in your school and community. Share it with others through workshops at other schools.
- Organize an after school debate on an issue. Invite experts in the field with opposing views to take part. Allow students and others who attend to ask questions to the experts.
- Create a live or videotape presentation where students research and portray important current or historical figures, à la "You Are There" or "Meeting of Minds," and share their views on one of the issues.
- Create and role-play a scene(s) that illustrate and teach others about an issue. Perform the scene for other students at your school. Videotape the performance to be used as a teaching tool in other classrooms

Internet Resources for Service Learning

Corporation for National and Community Service
<http://www.cns.gov>

National Service-Learning Cooperative Clearinghouse
<http://www.nicsl.coled.umn.edu>

National Youth Leadership Council
<http://www.nylc.org>

5B: Action Planning for Service Learning

Keep a planning notebook to help your group stay organized. Use the following questions and the **planning form** to guide your planning and implementation.

Date project must be completed by: _____

1. What issue(s) will you be teaching/informing others about?
2. Who is your audience? Consider the age and size of your audience.
3. How much time will you have to complete the project?
4. At the completion of this project, what do you want your audience to know and understand about the issue(s)?
5. What strategy will you use to teach your audience about the issue(s)? (See worksheet 5a for suggested teaching methods.)
6. What will need to do to complete the project successfully? Consider people you will need to contact, and any skills, transportation, materials and money you will need. Where and how will you get these?
7. What obstacles are you likely to face in implementing your project? How do you plan to overcome them?
8. Using the planning form, put the activities in order of completion, determine what resources you need for each, assign a person to be in charge of each activity, and assign a date by which each activity is to be completed.
9. How will you evaluate the success of the project?

5C: Service Learning Project Planning Form

Task	Date to Be Completed	Resources Needed	How to Get Them	Who Will Work on This Task?

5D: Service Learning Project Reflection Log

Project focus issue(s) _____

Date project was completed _____

Now that you have completed your service learning project, take some time to reflect on your experience.

1. Describe the project you completed:
2. Specifically, what went well?
3. Specifically, what did not go well?
4. What did your audience gain from this experience? How do you know?
5. What would you do differently next time?
6. How did your group work together in the project?
7. What did you learn about yourself from this experience?

Unit Six: Preparing for the Culminating Summit

REQUIREMENTS AND REPORTING DEADLINES

Requirements for each class participating in the Summit

- Conduct the Illinois Youth Summit Survey
- Study the focus issues for the Summit
- Design and Conduct a Service Project
- Prepare to Share Ideas and Experiences With Policymakers

Reporting Information Deadlines

March 25 - Tabulated results from the survey

April 9 - List of Delegates attending the Summit on April 30

April 20 - Written Description of completed service project [preferably with photos and/or art]

April 20 - Position statement [with majority and minority comments] on at least one of the focus issues [See "Handout 6C: Tool: Essay Scoring Guide"]

All materials and information should be submitted to CRFC.

What to Bring to the Summit

- Youth Summit *Resource Guide*
- Research data, articles and information you have that is relevant to the Summit policies and issues
- Documents, results and/or pictures from your school Service Project
- Writing utensil
- Notebook or loose leaf paper

6A: Delegate Activities for the Summit

Assumptions about Discussing Public Policy

- No single solution can fix all of our problems. We need to think about a *range* of responses to problems, not just “one size fits all.”
- People hold diverse viewpoints and have the right to express them. It is important to see other people’s perspectives and to listen to what they have to say, even if we don’t agree with their position.
- Knowing how to make your viewpoint known and to hear what others are saying is critical to being an effective citizen.
- Rarely does everyone agree on what to do or how to do it. It is important to recognize that on most issues there will be a majority and minority viewpoint.
- Everyone has the right – and the responsibility – to participate in the solution, including young people.

Activities on the Day of the Summit Will Look like this

- 8:30-9:00 **Registration:** Dirksen Federal Building 25th floor
SAC members distribute nametags and materials to delegates from your school
- 9:00-9:20 **Opening Ceremony**
- 9:30-10:10 **Concurrent Discussions:** Delegates are divided into groups based on the focus issues. In small groups, students discuss their feelings, thoughts and positions on the proposed policies. Discussions will take into account the survey results, their class work and service projects.
SAC members will act as discussion leaders
- 10:10-10:50 **Prepare for Meetings With Policymakers:** Students will regroup based on the position they wish to present in the panel discussions. In these groups students discuss and finalize their position statements and select representatives to present their positions to the policymakers.
SAC members will act as discussion leaders
- 11:00-1:05 **Panel Discussions with Policymakers/Lunch:** The Panel Discussions and lunches will be held concurrently. Students remain in focus issues group throughout this time.
SAC members will take part in video interviews during their lunch break
- 1:15-2:15 **Town Meeting and Final Public Policy Vote:** Students sit with their school delegations where they vote on the issues individually and then tally the delegation results.
SAC members get school signs from CRFC staff. At the end of the town meeting SAC members collect evaluations from your school’s delegates and give them to CRFC staff members.
- 2:15 Departure

6B: Tool: Weigh The Evidence

At the Summit, delegates will be asked to identify what information you find most useful in thinking about an issue. To prepare for your issue, use this form to identify and catalog at least one piece of evidence from each of the following sources: the *Resource Guide*, survey data, experiences with service projects, or public policymakers.

Survey Results	Service Projects
Curriculum and Other Sources	Policymakers

6C: Tool: Position Paper Scoring Guide

POSITION PAPER	DOES NOT MEET EXPECTATIONS	MEETS EXPECTATIONS	EXCEEDS EXPECTATIONS
Articulation of position statement	<ul style="list-style-type: none"> Position statement is missing or not clearly defined 	<ul style="list-style-type: none"> Presents a position statement 	<ul style="list-style-type: none"> Clear position statement supported through a well-organized essay
Understanding of how position is related to larger issues in society	<ul style="list-style-type: none"> Does not mention goal of the policy statement 	<ul style="list-style-type: none"> Mentions goal of the policy 	<ul style="list-style-type: none"> Mentions both the goal of the policy and implications for social context
Addresses contradictions in evidence	<ul style="list-style-type: none"> Does not discuss contradictions in position statement 	<ul style="list-style-type: none"> Acknowledges positions that contradict position statement 	<ul style="list-style-type: none"> Addresses and responds to positions and evidence that contradict position statement
Thoroughness	<ul style="list-style-type: none"> Uses only one source to formulate position statement Provides limited or no support data Inadequately covers most areas of the topic 	<ul style="list-style-type: none"> Uses two sources to formulate position statement Provides appropriate data May include pertinent information Adequately covers most areas of the topic 	<ul style="list-style-type: none"> Uses more than two sources to formulate position statement Provides relevant and specific data Adds considerable pertinent information including personal experience when appropriate Even coverage of all areas of the topic Analyzes and summarizes various points of views

6D: Activity for Non-Delegates on the Day of the Summit

Write Your Representatives in Springfield and Washington

Now that you have studied the Summit issues, weighed the evidence (Handout 6B), and formed your opinions, **select one issue or policy** and write a letter to your representative expressing your views. Letters are one of the ways elected officials gauge public opinion. Although U.S. representatives may not personally read your letter, he or she has assistants who reads letters and tally opinions. Your letter will be read and answered.

Make sure that you choose the appropriate official to receive the letter. For issues that affect federal policy, write to the U.S. congressperson from your district or to U.S. Senator Durbin and/or U.S. Senator Fitzgerald, who represent the entire state. For policies that affect the state, write to one of your state representatives.

Guidelines for Writing to Your Elected Official

Tell who you are: Give your name, address (home or school) and tell who you are. The people who read your letter want to know why you care and how to reach you.

Focus on one issue: Don't try to fight crime, air pollution and unemployment all in one letter.

Keep it short and simple: State your ideas in the first paragraph. Get the idea across in a page or less. People who read a lot of letters don't have a lot of time.

Be polite: You can disagree, but never threaten or insult in a letter. Let your ideas do the talking.

Include supporting materials: If you have any newspaper articles, letters to the editor, or other written materials supporting your position, include it.

Tips for Formal Letter Writing

- Type or write neatly in blue or black ink
- Include your address (school or home) in the heading – envelopes are often thrown away and you want the person receiving the letter to know where to send a response
- Proofread your letter carefully – errors in grammar, punctuation and spelling will detract from great ideas
- Fold the letter correctly - use a business envelope and 8½ by 11 paper. Fold the paper into three equal parts
- Address the envelope carefully – addresses can be found on your representative's website
- Keep a copy for yourself

6E: Activities: After the Summit

Share the Experience

Delegates who attended the Summit begin by sharing your impressions of the culminating Summit. Delegates may also take questions about the event from members of the class who did not attend the Summit. When sharing about your experience, delegates should consider the following questions:

- Was there a new piece of information, or a clarification about one of the issues that you learned for the first time at the Summit? If so, share what it was and whom you learned it from.
- What happened in your discussions with peers from other schools that you found interesting or surprising?
- Were there any service projects that other schools conducted that you thought were particularly effective or creative?
- What surprised you about the discussions with policymakers?

Class Activity

Working in small groups led by a delegate, re-examine a Summit issue that the class studied. As a group:

- briefly list the strongest arguments for and against the policy in question
- allow each member to vote for or against the policy
- tally and record the group's voting results

Working as a whole class, share your group's voting results with your classmates. After each group has reported out, tally up the entire class's votes. Compute the percentages and compare them with the final results of the town hall meeting at the Summit (your teacher has this information). Is your class's viewpoint similar to the viewpoints of the students who attended the Summit?

Finally, consider whether or not **your views on the issue changed** in any way as you studied and learned more about it. Share your thoughts and reasons with the class.

Post-Summit School Exchange

CRFC has funding to help teams of students from Summit classes participate in student exchanges with other interested Illinois high schools. Entire classes can visit or host students from another school to teach about the Summit and its focus issues. Exchanges will take place in May following the Summit.

If you would like your class to be involved in a Post-Summit exchange, contact Jessica at CRFC as soon as possible.



Supplemental Internet Resources

Law-Related Education

Constitutional Rights Foundation Chicago
www.crfc.org

American Bar Association Division of Public Education
<http://www.abanet.org/publiced/youth.html>

Center for Civic Education
<http://www.civiced.org>

Constitutional Rights Foundation (Los Angeles)
<http://www.crf-usa.org>

Street Law, Inc.
<http://www.streetlaw.org>

United States Government

FirstGov
<http://www.firstgov.gov/>

Office of Senator Durbin
<http://www.senate.gov/~durbin>

Office of Senator Fitzgerald
<http://www.senate.gov/~fitzgerald>

Offices of Illinois US Representatives
[http://www.house.gov/your-representative's last name](http://www.house.gov/your-representative's-last-name)

U.S. Department of Justice
<http://www.usdoj.gov>

Supreme Court of the United States
<http://www.supremecourtus.gov/>

Illinois Government

Governor Blagojevich
<http://www.illinois.gov/gov/>

Attorney General Madigan
<http://www.ag.state.il.us/toc.htm>

General Assembly
<http://www.legis.state.il.us>

For Information on Your State Representative
<http://www.legis.state.il.us/house/>

For Information on Your State Senator
<http://www.legis.state.il.us/senate/>

Participating Schools

Austin High School, Chicago
Best Practices Charter School, Chicago
Chicago Agricultural High School
Clemente Community Academy High School, Chicago
Corliss High School, Chicago
Downers Grove North High School, Downers Grove
Downers Grove South High School, Downers Grove
DuSable High School, Chicago
Eisenhower High School, Decatur
Farragut Career Academy, Chicago
Glenbard East High School
Immaculate Heart of Mary High School, Westchester
Jones College Prep, Chicago
Leyden East High School, Northlake
Lincoln Park High School, Chicago
Mather High School, Chicago
Mundelein High School, Mundelein
Perspectives Charter School, Chicago
Robeson High School, Chicago
Schurz High School, Chicago
Senn High School, Chicago
Steinmetz Academic Centre, Chicago
Stevenson High School, Lincolnshire
Thornton Township High School, Harvey
Wells Community Academy, Chicago
Williamsfield High School, Williamsfield
Young Magnet High School, Chicago

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