

SOCIAL POLICY: Juvenile Justice

Positions: Juvenile Justice

The LWVO supports the following principles and policies: (Adopted May 2003)

1. The LWV of Ohio supports the principle that children under the age of 18 are not adults and that their treatment within the juvenile justice system should relate to their stage of development. (Amended May 2005)
 - a. Children should not be held in adult prisons or detention facilities.
 - b. Unruly children should not be placed in secure facilities (defined as those with architectural barriers).
2. The LWV of Ohio supports rehabilitation as the purpose of the juvenile justice system.
 - a. Development and use of local diagnostic and treatment/resources are desirable alternatives to large centralized institutions.
 - b. Development and use of local social service programs to provide appropriate treatment for unruly and delinquent children and their families are preferred.
 - c. Development and use of a variety of alternatives to secure facilities within a child's own community are preferred. Alternatives could include group homes, foster homes, drop-in shelters, and other non-secure programs.
 - d. County Juvenile Courts and the Ohio Department of Youth Services are responsible for providing positive, individualized, humane treatment for children.
 - e. Each case should receive individual evaluation before the court. Judges should use their discretion to find the best resolution of each case.
 - f. The "least restrictive" option should determine placement of children awaiting court action as well as after adjudication. A child should not be detained in, or committed to, any facility or program that would physically restrict him/her beyond the degree of restriction needed to assure the child's safety, the safety of others, or the child's appearance at a scheduled court hearing.
3. The LWV of Ohio supports the protection of children's legal rights.
 - a. If adjudicated not guilty, children have the right of expungement of all juvenile records pertaining to that case and the right of state-mandated written notification of eligibility for expungement review.
 - b. There should be statewide uniform standards for maintaining, disseminating, and/or inspecting juvenile records. These standards should be designed to protect the offender, as child and as adult, from unnecessary consequences of criminal behavior and the taint of criminality. Expungement procedures should be easy for a youth and his/her family to access.
 - c. Children have the right to bodily safety and integrity; freedom from physical and mental abuse; mental and physical care; drug and alcohol treatment; an education appropriate to the child's intellectual, emotional, and physical capacities; access to the courts for enforcement of rights; and periodic review of placement and treatment.
4. The LWV of Ohio supports the development, establishment, and enforcement of state standards for detention and treatment facilities. These standards should be continually reviewed for improvement. Standards for facilities used for detention or disposition should meet the following minimum requirements:
 - a. Protection of the rights of youth to personal possessions, privacy, freedom of and from religion, personal communications, limitations and procedural requirements for discipline, grievance and appeal mechanisms, bodily safety, and periodic review of placement.
 - b. Program requirements should include: initial physical, mental, and psychological evaluation; medical and dental care; recreation and exercise; education designed to meet individual needs; vocational training; psychiatric and psychological services; and aftercare.

- c. Facilities should be required to maintain a minimum ratio of staff to youth; staff should have appropriate qualifications for working with youth; and standards for staff supervision and accountability should be maintained.
5. The LWV of Ohio supports the development within each county or multi-county region of a comprehensive system of children's services for the prevention and treatment of children at risk, as well as juvenile offenders; and a system that utilizes the resources of the extended community to give each individual child a *continuum of care*. A comprehensive system would require the intentional collaboration of the court, families, schools, and community agencies and organizations to create a holistic system for the benefit of the children.
6. The LWV of Ohio supports the provision of public innovative *alternative educational services*, K through 12, to address the specific and individual needs of children who do not perform successfully in, or face expulsion from, the traditional public school setting.
7. The LWV of Ohio supports the philosophy of a *restorative system of justice* for children as a dispositional option for juvenile court judges. A restorative justice approach to delinquency requires the voluntary participation of three essential groups: the offender, the victim, and the community. Key components are restitution to the victim and the community, offender self-improvement, and possible mediation with the victim. If successful, the offender would assume responsibility and take action to repair the damage caused. If the offender recidivates, traditional rehabilitation alternatives would be available at the discretion of the judge.
8. The LWV of Ohio supports the development and utilization of *gender-specific treatment* programs.
 - a. Treatment programs should meet the specific needs of each individual.
 - b. Research-based gender-specific services should be available for both boys and girls.
 - c. Research on effective services and treatment for girls is needed. It should be encouraged and funded.
9. The LWV of Ohio supports the right of juveniles to *unbiased treatment* regardless of race or ethnicity.

Background: Juvenile Justice

The LWVO was one of the first groups to study unruly children and to consider the rights of children in the juvenile justice system. Positions adopted in 1973 affirm the development of local programs, as alternatives to centralized institutions, for unruly and delinquent children. In 1974 the LWVO adopted support for 1) statutory responsibility of the courts and Department of Youth Services (DYS) to provide positive, individualized and humane treatment, and the protection of the legal rights of juvenile offenders, 2) development of uniform standards for maintaining, disseminating, and inspecting juvenile records (standards designed to protect the offender, as child and adult, from unnecessary consequences of criminal behavior and the taint of criminality), and 3) the expungement of all juvenile records, and mandated written notification of eligibility for expungement review.

The 1977 Convention decided to study and develop standards for all juvenile facilities and for determining who should be placed in secure facilities. The 1979 positions reflect member interest in limiting use of secure facilities and developing community services and non-secure facilities as alternatives. Also adopted were: 1) individual evaluation of each case; 2) "least restrictive" concept in determining placement while awaiting court action and after adjudication; 3) development of alternatives to secure facilities within the child's community; 4) establishment of minimum standards for secure facilities, including protection of the rights of youth; staff qualifications and ratio of staff to youth, and 5) services designed to meet the physical, mental, and psychological needs of youth. The 1979 positions opposed holding any children in adult jails and holding unruly children in secure facilities. The 1987 Convention amended the position to clarify that it does support drug and alcohol treatment for addicted youth. A 1993 update did not result in any new positions.

The 2001 Convention again voted to update the position, and the 2003 Convention voted to add to and amend the positions as follows:

During the 1990s, the public focus on violent juvenile crime brought about by gang activity and the shootings in Columbine shifted the pendulum toward punishment and public safety. The prior statutory goal of protecting the child from the “taint of criminality” was removed and the goal of the juvenile system was changed to public safety and accountability.

The philosophy of the position was retained:

1. Children are not adults and treatment should relate to their stage of development;
2. Rehabilitation is the purpose of the juvenile system;
3. Children’s legal rights should be protected; and
4. State standards for detention and treatment facilities should be enforced.

However, the right to expungement of all juvenile records was amended to the expungement of records only for those children adjudicated not guilty.

New positions were added:

1. Support for a comprehensive system of services using the resources of the entire community;
2. Support for the development of alternative educational services, K through 12, for children who are not successful or face expulsion from the traditional school;
3. Support for the development of gender-specific treatment and programming;
4. Support of the right to unbiased treatment regardless of race or ethnicity; and
5. Support of the philosophy of a restorative system of justice as a desirable disposition option.

In 2004 the LWVO invited local Leagues to conduct studies of their county juvenile courts. Recommendations resulting from the fourteen county courts studied are listed in the following section.

At the 2005 Convention, the term "*children*" was defined to mean “under the age of 18.”

Outlook: Juvenile Justice

Public perception of rampant juvenile drug abuse and serious crime will likely continue without regard to the numbers of youths actually involved, and elected officials will likely continue to advocate for more restrictive laws. Serious juvenile offenders clearly need intervention and programs that provide structure and supervision, and develop social and personal controls. Programs of this type may be offered within the juvenile system, but are not found in the adult system. The League’s long-held position requiring individual evaluation of each case would certainly provide a tool to oppose mandatory sentences.

Concerns about drug abuse, violence, sexual offenses, and the availability of firearms have led to some systemic changes in Ohio. Local Leagues should determine what programs are available in their communities and whether they are effective in rehabilitating offenders. Several counties operate drug courts. Sex offenders are now required to register with the county sheriff. Schools are expected to develop programs to stem truancy.

The 2002 Bench-Bar Conference focused on the need for different and appropriate treatment modalities for girls in the juvenile justice systems. Local Leagues should keep abreast of the developing research and follow their local court’s interest and activities in this area.

Restorative justice is a relatively new concept in the juvenile justice area and should be encouraged. The traditional treatment for both children and adults is punishment – the retributive method. The restorative mediation model with the support of the community can result in a positive learning experience for youth. The new purpose clause of the ORC may be interpreted to support the restorative concept. Leagues should keep abreast of model restorative programs and encourage their county courts to use the restorative approach.

To assist local Leagues with these efforts, and to improve its own advocacy at the state level, LWVO designed a juvenile justice project for local Leagues in 2003. Local Leagues were invited to conduct studies of their local county juvenile courts. Fourteen county courts were studied, resulting in the following recommendations:

State level recommendations that would require additional study:

1. Review of the qualifications for juvenile judge;
2. Evaluation of the effectiveness of the new laws on recidivism and rehabilitation;
3. Reassessment of expungement and evaluation of the impact of a juvenile record on the youth's future;
4. Review of how Ohio funds its courts; and
5. Study of the issue of juvenile competency and quality of legal defense.

Recommendations for action at both state and county levels:

1. Support for collaboration among youth-serving agencies;
2. Support for continuing education for all persons who work with juveniles;
3. Support for adequate funding for prevention and early intervention, gender-specific, mental health, drug, and sex offender treatment programs;
4. Support for adequate funding for county juvenile courts; and
5. Encourage local Leagues to monitor their local courts and juvenile facilities and to take action when appropriate under LWVO positions.

During 2004-2005 conditions at Ohio's juvenile correctional institutions were under scrutiny by state and national advocacy groups and the U.S. Department of Justice. Reports of abuse of youth, inadequate legal representation, and lack of adequate medical, mental health and education services were investigated and several former employees of the Department of Youth Services were indicted on charges of abuse and rape. The LWVO through its participation in the Juvenile Justice Coalition of Ohio advocated for legislative oversight resulting in legislation that gives the Ohio Institutional Inspections Commission the responsibility for inspecting youth as well as adult detention facilities. The Coalition is now working to educate the Commission as to the needs of incarcerated youth and the importance of quality staffing and programming.

RECLAIM Ohio was enacted in 1993. It gives local judges more options by providing state subsidies for local programs. It has been successful in reducing the population of the Department of Youth Services (DYS) facilities and in assisting counties in developing community-based programs. Local Leagues with DYS institutions located in their counties are encouraged to learn more about what is happening inside the walls. Local Leagues should also monitor the implementation of RECLAIM Ohio in their counties. If RECLAIM is successful, then the number of youth sent to state institutions will be reduced, and their rehabilitation is more likely to occur.

Most recently, the 2011-2012 session of the General Assembly wrestled with the issue of teen "sexting." Sexting is the taking, sending, receiving, or displaying of nude images by cell phone, email, or other online communication. Sexting may result in felony charges and the Adam Walsh Act may label a teen, who sends, receives, or shares nude photos, as a sex offender. The child pornography laws were not designed for this situation. A lesser offense is needed to show teenagers how serious the situation is without leaving them with a felony record. In the age of digital photography and the internet, teens who sext could end up with lifelong marks on their records. Hopefully, the issue will be resolved soon.