tified cases in particular. Afterwards black youths were involved only half the time, the report concluded, "but that still is disproportionately high and should serve as evidence that work remains to be done . . . regardless of whether minority overrepresentation is due to racial differences in offending or in arresting."

Missouri's prisons once held many convicted children under seventeen, but today only a handful of children remain in the adult correctional system. Of the relatively few Missouri youths convicted in criminal court, most are treated by the Division of Youth Services.[99]

Dual Sentencing

The 1995 juvenile justice act authorizes criminal courts to impose a "dual sentence" on transferred juveniles who are convicted or plead guilty. The juvenile is given an adult sentence whose execution is suspended pending successful completion of the juvenile disposition. The criminal court may remand the juvenile to the Division of Youth Services if the agency accepts him as being amenable to treatment. An accepted juvenile remains in DYS custody until his seventeenth birthday, when the court holds a hearing and may order that he be placed on probation, be taken into department of corrections custody, or be retained in DYS custody. The agency can then hold the juvenile until the twenty-first birthday, and petition the court for release on probation at that time.

Lauren Stoetzer, the first juvenile sentenced under the 1995 dual-jurisdiction provision, turned twenty-one in 2002 and had a court hearing to determine whether she would be released on probation or sent to adult prison to serve the rest of her 24-year sentence for conspiracy to commit murder and robbery. After pleading guilty at fourteen in 1996 to helping her boyfriend kill his father and steal a few dollars, she spent six years in DYS custody. She completed her general equivalency degree, earned an associate degree and enrolled in classes at Southwest Missouri State University. At the 2002 court hearing, the *St. Louis Post-Dispatch* said she "looked more like an attorney than a murder defendant." The judge released her because transfer to an adult prison would "serve no useful purpose" in light of her accomplishments with DYS.[100]

Fingerprints and Photographs

The juvenile court's traditional rehabilitative focus led states to prohibit police or juvenile authorities from taking fingerprints or photographs ("mug shots") of juvenile suspects, unless taking them was necessary to the investigation or was otherwise approved by the court. Juvenile codes typically required law enforcement to turn over this evidence to the juvenile court, which would

treat it in accordance with general confidentiality statutes and statutes providing for sealing or expunging the record.

The 1995 juvenile justice act requires law enforcement officers to fingerprint and photograph juveniles taken into custody for felonies. Children taken into custody as abuse or neglect victims, misdemeanants or status offenders may be fingerprinted or photographed only with the juvenile judge's consent. Records of the child are closed records. Where a juvenile is transferred to criminal court for trial and sentencing, the juvenile may be fingerprinted and photographed in accordance with the statutes and rules governing criminal procedure.[101]

Closed Proceedings

To foster rehabilitation of families and youths, juvenile court hearings have traditionally been closed to the public. Missouri's 1957 juvenile court act specified that "[t]he general public shall be excluded and only such persons admitted as have a direct interest in the case or in the work of the court." This blanket mandate contrasts sharply with practice in general criminal and civil courts, whose proceedings and records (with rare exceptions) remain open to the public by constitutional and statutory mandate. The 1995 juvenile justice act provided for open delinquency proceedings where the child is charged with a class A or B felony, or with a class C felony where the child had previously been formally adjudicated for a class A, B or C felony.[102]

Closed Records

In the nation's juvenile courts, records traditionally were sealed at the conclusion of the proceedings. The records could be released only on court order, and were expunged after a specified period of time. In the 1990s, most states modified or removed juvenile court confidentiality provisions and made records more available to the public. By the end of 1997, forty-seven states had provided for release of information contained in juvenile court records to at least one of the following: the prosecutor, law enforcement, social agencies, schools, the victim and the public.[103]

The 1995 juvenile justice bill reiterated that records would remain closed in abuse, neglect and status offense proceedings unless ordered opened by the juvenile court. (The adoption act continues to mandate closure of adoption records.) The bill specified circumstances in which records are open to inspection without court order in delinquency proceedings. At any time, the juvenile officer may provide information to the victim, witnesses, officials at the child's school, law enforcement officials, prosecuting attorneys or a treatment provider. Where the child is adjudicated delinquent for a felony, records of the

dispositional hearing and related proceedings are open to the public to the same extent as records of criminal proceedings, but presentence materials remain generally confidential, subject to public inspection only by juvenile court order on a showing of just cause.[104]

The General Assembly's action was consistent with recommendations made by the National Council of Juvenile and Family Court Judges: "[W]hen a child is involved in a serious crime, the public, the victims and the police have a right to know how the juvenile court manages the trial where guilt or innocence is determined unless, in a rare case, the publicity will demonstrably cause more harm than good. Public safety overrides the reasons for confidentiality. Except in a rare case, however, public safety does not require the public to be present at the disposition hearing where all of the intimate details of the family will be discussed in order to determine the best means of helping the child and protecting the public."[105]

Gender in Delinquency Cases

From the earliest years of the nation's juvenile courts, most delinquents were boys and most treatment programs were developed with them in mind. A 1914 study of the St. Louis city juvenile court, for example, found that 88% of the court's delinquents were boys and only 12% girls. The study concluded that the girls were "known to be immoral and are generally brought into the court only as a last resort, and after a prolonged and serious delinquency."[106]

The pattern prevailed for much of the twentieth century. By the mid-1990s, however, girls were the fastest growing segment of the nation's juvenile justice population. As juvenile crime rates were falling nationwide, the number and percentage of girls arrested, detained and adjudicated as delinquent increased. In 1996, males were involved in 77% of delinquency cases handled by juvenile courts. The male delinquency case rate was more than three times greater than the female rate, but the male rate had been four times greater in 1987. Most girls in the juvenile justice system are non-violent offenders charged with status, property or drug offenses, but girls are detained for less serious misconduct than boys.[107]

According to one veteran observer, state juvenile justice systems did not anticipate the growing numbers of girls, and are "still trying to cope with the influx by developing program specializations and modifying staffing patterns to be more responsive to female offenders." A 2001 national report called on juvenile justice programmers to recognize that "the nature and causes of girls' delinquency is often different from that of boys. Research demonstrates that girls in the delinquency system have histories of physical, emotional and sexual abuse, have family problems, suffer from physical and mental disorders, have

experienced academic failure and succumb more easily to the pressures of domination by older males. Girls also are developmentally different from boys and girls' involvement in delinquency is often connected to conflicts in familial and social relationships."[108]

A 2000 study found that Missouri courts were generally gender-neutral in processing juvenile cases, but also found major gaps in opportunities for treatment. The study found that formal interventions (pre-hearing detention and out-of-home placement) were applied more often for girls whose behavior involved less serious offending than boys, status offenses, and victimization through abuse and neglect. Some circuits are responding positively to calls for greater attention to the particular needs of girls in the juvenile justice system. In 2002, for example, the St. Louis City family court began a girls program, with an advisory board that continues studying the needs of delinquent girls from police intervention to court disposition.[109]

Developments in Adoption Law

Juvenile court judges frequently report that uncontested adoptions are a refreshing aspect of dockets otherwise laden with family breakdown and personal tragedy. Chief Justice Stephen N. Limbaugh, Jr., a former juvenile court judge, observes that "[u]nlike other cases where all too often we see people at their worst and the conflicts presented seem irreconcilable and the solutions we have to offer are less than satisfactory, in adoption cases we see people at their best, and the only complications are those in tying up the legal loose ends to ensure that the adoptive child will have the blessing of a safe home and loving family." St. Louis city circuit judge Evelyn M. Baker tells a story to adoptive parents who appear in her court. "When I was very small," she says, "my mother told me 'Babies come from Baby Heaven.' When I got older, I didn't believe her. Then I started doing adoptions in the juvenile court. I learned that babies do come from Baby Heaven, and that sometimes the angels make a mistake and leave the babies in the wrong places. Adoptions place the babies with the families they belong with."[110]

Maintaining the integrity of the adoption process requires vigilance from all three branches of government. Watchfulness continued in the post-*Gault* years.

Child Importation Redux

Child importation became a crime in Missouri in 1901. The rarely invoked provision initially sought to regulate operation of the orphan trains that had brought so many dependent children to the state from New York and other

eastern cities since the 1850s. Orphan trains were a distant memory for most Missourians by the 1940s, but the statute came to hold such child protective potential that adoption advocates urged the legislature to strengthen it.

By the post-World War II years, children were still frequently moved from state to state for adoption or foster care. Interstate movement sometimes resulted from efforts to evade meaningful adoption regulation, or to secure advantage in states with lax provisions. Supervision remained often inadequate at the sending and receiving ends, and courts applying the best-interests-of the-child standard in adoption cases often remained in the dark about the adults' scheming. Territorial limits on state court jurisdiction left individual states unable to mandate interstate cooperation, supervision and enforcement.

Missouri's importation statute reached only children placed by voluntary agencies incorporated by other states, the intended target in 1901. Without explicit statutory command, many Missouri juvenile courts carefully scrutinized interstate adoption cases involving placements by others beyond the statute. In 1951, a committee appointed by Governor Forrest Smith recommended amending the 1901 statute to regulate activities by individuals and by other state agencies, institutions and organizations.[111]

Amendment became unnecessary when all fifty states enacted the Interstate Compact on the Placement of Children, which seeks to protect children transported interstate for foster care or possible adoption, and to maximize their opportunity for a suitable placement. The Compact was proposed in 1960, and enacted by Missouri in 1975. (Under the federal Constitution, an interstate compact is an agreement between two or more states which is both a binding contract between the states and a statute in each state. A compact takes precedence over the state's other statutory law.)[112]

The Compact prohibits individuals and entities, except specified close relatives of the child, from bringing or sending a child into another state for foster or adoptive placement unless the sender complies with its terms and the receiving state's child placement laws. Before placing a child, senders must notify the receiving state's compact administrator, who must investigate and, if satisfied, notify the sending state that the proposed placement does not appear contrary to the child's interests. Missouri's compact administrator is the Interstate Compact Office of the Division of Family Services. The child may not be sent or brought into the receiving state until the administrator gives notice. The sending agency retains jurisdiction over the child in matters relating to custody, supervision, care and disposition until the child is adopted, reaches majority, becomes self-supporting or is discharged with the receiving state's concurrence. The sending agency also continues to have financial responsibility for support and maintenance of the child during the period of the place-

ment. The Supreme Court of Missouri has held that the Compact applies to both private and agency adoptions.[113]

The Growth of International Adoption

The post-World War II years saw growing numbers of Missourians adopt children from other nations. Largely unknown in the United States before the war, international adoption began in earnest with returning soldiers and with media coverage of the plight of refugee children during and immediately after the conflict. Missouri's State Division of Welfare soon approved several private agencies to participate in the Federal Foreign Adoption Program. In 1959, the General Assembly authorized the state registrar, presented with an adoption decree, to issue a birth certificate in the adoptee's name regardless of the place of birth.[114]

The Korean and Vietnam wars increased Americans' interest in international adoption, but international adoption was no longer a product solely of war by the 1980s. In fiscal year 1999, United States citizens adopted 16,396 children from abroad, a number that exceeded the number of international adoptions completed by citizens of all other nations combined. Russia was the greatest source for intercountry adoptions, followed in descending order by China, South Korea, Guatemala and Romania. International adoption accounted for only about 5% to 6% of United States adoptions that year, but the numbers were increasing rapidly in Missouri and other states.[115]

Child advocates have argued persuasively that international adoption offers a future to abandoned, homeless and sometimes starving children in many corners of the world while also serving the needs of loving parents in the United States who face a shortage of adoptable American children without special needs. On the other hand, many poorer nations remain wary of "child snatching" by citizens of the United States and other industrialized nations. The international community, and federal and state authorities in the United States, have taken measures to reduce red tape that would otherwise thwart international adoption while insuring the integrity of the process.

As amended in 1981, Missouri's adoption act provided for recognition of foreign adoptions when the child came to the United States with the approval of federal authorities, provided the foreign adoption did not "contravene the public policy" of Missouri. The statute was designed to facilitate international adoptions by Missourians, but it soon produced uncertainty. Some juvenile courts took the position that the public policy question could be resolved only after a "readoption" proceeding. These proceedings presented new roadblocks because proving parental consent and termination of parental rights was often

difficult or impossible where, for example, the child had been abandoned to an orphanage or the streets overseas. Questions were sometimes raised whether the child was stolen, even when the adoptive parents presented a certificate of abandonment from the foreign country. Knowing these barriers in advance, some Missourians shunned international adoption.[116]

In 1997, the General Assembly amended the adoption act to remove these roadblocks. The act now provides unequivocally that "[w]hen an adoption occurs in a foreign country and the adopted child has migrated to the United States with the permission of the United States Department of Justice and the United States Department of Immigration and Naturalization Services, this state shall recognize the adoption."[117]

Federal action also paved the way for Missouri parents seeking to adopt foreign children. In 2000, the Senate ratified the Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption, which recognizes adoption as a positive alternative for children unable to remain with their birth families but unlikely to be adopted in their own countries. The Convention sets minimum international adoption standards and procedures to safeguard the interests of children, birth parents and adoptive parents. In 2000, Congress enacted the Intercountry Adoption Act, which enables the United States to participate in the Convention and secures its benefits for American adoptive parents and adoptees in international adoptions. The Child Citizenship Act of 2000 confers United States citizenship automatically on thousands of foreign-born children who do not acquire citizenship at birth, including certain children adopted by United States citizens.[118]

Developments In Abuse, Neglect and Termination of Parental Rights

In 1990, the U.S. Advisory Board on Child Abuse and Neglect declared a "national emergency." The number of child abuse and neglect reports nationwide had steadily increased from about 60,000 cases in 1974 to 1.1 million in 1980, before doubling to about 2.4 million during the 1980s. Between 1990 and 1994, the number of children who were the subject of abuse and neglect reports rose about 14%, to more than 2.9 million. The U.S. General Accounting Office found that the dramatic increases likely stemmed largely from increased child maltreatment by drug-dependent caretakers during and after the 1980s cocaine epidemic, enactment of the reporting acts, and the stresses of poverty on families.[119]

Sexual abuse of children was a particularly troublesome problem. At least 250,000 new cases of child sexual abuse were reported each year. Experts esti-

mated that between 1 in 10 and 1 in 3 children would experience at least one episode of sexual abuse before age eighteen.[120]

Missouri's outlook was also grim. Abuse and neglect reports increased dramatically throughout the 1970s, though experts could not determine whether the increases reflected more incidents or merely greater public awareness and more convenient ways to notify authorities with the reporting laws. In either event, Governor Christopher S. Bond reported in 1976 that Missouri's new hot line had received more than 15,000 reports of suspected abuse in its first ten months of operation, almost nine times the number of reports authorities received during a comparable period the prior year. Reports in Missouri increased 200% between 1976 and 1984. In 1995, the number of Missouri children reported as abused and neglected swelled to 85,927, a 12% increase from 1986. In 1995, the number of Missouri children with substantiated or indicated reports of abuse and neglect rose to 17,764.[121]

In 1992, the Missouri Task Force on Child Abuse/Neglect System Safeguards, appointed by the director of the Department of Social Services, concluded that abuse and neglect often stemmed from "major stresses and pressures" similar to those the General Accounting Office identified two years later. The task force cited "unemployment and underemployment, drug and alcohol misuse, limited access to preventive health care [and] needed medical care, unplanned pregnancies, discrimination, poor housing and lack of community resources to effectively assist the family."[122]

The national and state figures are particularly disturbing because the volume of child maltreatment is almost certainly higher than the number of reported cases. Maltreatment frequently goes unreported when families remain secretive, embarrassed or frightened. A 1993 state study found that "[c]hild maltreatment fatalities are drastically underreported as such in Missouri because of inadequate investigations, lack of information-sharing between investigators and agencies, and reporting systems that fail to capture the contribution of maltreatment as a cause of death." To address the problems the study documented, Missouri shortly afterwards created a statewide system of child fatality review panels and a child fatality surveillance system. Missouri became a leader in the investigation of child fatalities. The system began collecting data that was used to implement a coordinated strategy to reduce injuries and preventable deaths, including parental education and identification of at-risk families.[123]

Child Protective Doctrines

As policymakers confronted abuse and neglect, Missouri courts and the General Assembly crafted a number of child-protective abuse and neglect doctrines, notably these.

Constitutional Protections

In the early 1920s, the United States Supreme Court conferred on parents a substantive due process right to control their children's upbringing without unreasonable state interference. In *Prince v. Massachusetts* in 1944, the Court reiterated that "the custody, care and nurture of the child reside first in the parents, whose primary function and freedom include preparation for obligations the state can neither supply nor hinder." But *Prince* also stressed that "the state as *parens patriae* . . . has a wide range of power for limiting parental freedom and authority in things affecting the child's welfare." Building on *Prince's* balancing test in 1972, the Court recognized "[t]he state's right—indeed, duty—to protect minor children through a judicial determination of their interests in a neglect proceeding."[124]

Parents sometimes invoke due process in an effort to thwart state intervention in abuse or neglect proceedings, but children hold a weighty position in the balancing process. The Supreme Court of Missouri has instructed that "[i]n matters involving the possible abuse or neglect of children, the attention of the trial court must be intensely directed to their protection." Missouri decisions are clear that where the juvenile court finds abuse or neglect, "the rule favoring parental custody is superseded by the concern for the child's welfare." Depending on the severity and persistence of abuse or neglect, a finding of maltreatment may even support removing the child temporarily or permanently from the parent's custody.[125]

Determining the Child's Condition

From the core doctrine that abuse and neglect proceedings focus on the child's condition, Missouri courts have developed a number of child protective corollaries. First, the juvenile court may find a child abused or neglected even where the perpetrator's identity is unknown. Typical is the 1975 Kansas City court of appeals decision that found abuse despite the parents' contention that a babysitter, and not they, caused the child's injuries. The court found it unnecessary to prove the abuser's identity because the juvenile court act required a finding only that the child's environment was "injurious to its welfare."[126]

The juvenile court may also find a child abused where the parent, even if he or she did not inflict the injury, knew or should have known of the infliction by someone else and took no action (or insufficient action) to protect the child. In a 1995 case, the Dent County juvenile court made a 10-1/2 month-old child a temporary ward of the court based on evidence that she had been subjected to repeated acts of physical abuse producing scars, bruises and other

injuries in various stages of healing. The parties seemed to agree that no evidence indicated that the mother had inflicted any of the injuries. The mother contended that her part-time live-in boyfriend was the only possible source of the child's injuries, but she did not terminate her relationship with him until after the child was admitted to the hospital. In extreme cases, the court may even terminate the parental rights of a parent who fails, or takes insufficient steps, to protect the child from an abuser.[127]

A third protective doctrine is sometimes called "transferred abuse or neglect." Abuse or neglect of another child may establish imminent danger to the child's sibling, and may support an order to remove the sibling. In 1985, the state Supreme Court said that "[t]he past abuse of another sibling is evidence of a home environment that is currently dangerous to the child." In extreme cases, the juvenile court may even terminate parental rights to a child based entirely on proof of abuse of a sibling, where no evidence concerns injury to the child and where all evidence concerns the sibling.[128]

The Child Victim's Competency To Testify

By the early 1980s, heightened concern about sexual abuse of children led states to enact measures designed to facilitate proof of abuse consistent with constitutional guarantees. Most of the legislation applied in juvenile and criminal court proceedings alike, and to sexual abuse and physical abuse cases alike. By facilitating admission of the victim's statements or testimony in juvenile court, these measures sometimes tested the outer limits of due process.

The immediate driving force behind the measures was the difficulties faced by prosecutors seeking to prove child sexual abuse. Most sex crimes against children leave no physical or medical evidence to corroborate the charge. Many sex crimes are committed in private, leaving the child victim the only eyewitness. The frightened or ashamed child may delay reporting the abuse, inviting suggestion that he fabricated the charge or that the child's memory has dimmed with the passage of time. The child may be an ineffective witness because she is scared, intimidated, less than fully communicative, or perhaps reluctant or unwilling to help convict a family member or other trusted person. The child may be unable to recall key events or may recant. The family may not want the child to suffer further trauma of public testimony.

Testimony begins with competency. In Missouri today, a child under ten is competent to testify unless the child "appears incapable of receiving just impressions of the facts respecting which he is examined, or of relating them truly." The child must demonstrate (1) a present understanding of, or the ability to understand after instruction, the obligation to speak the truth, (2) capacity to observe