

# **The Mechanism for Judicial Examination of Juvenile Delinquents as One of the Precautionary Measures in Accordance with the Federal Juvenile Law of the United Arab Emirates: A Comparative Study with the United States of America**

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## **Highlights:**

- The UAE Federal Law of 1976 has never been amended
- It requires changes according to current times
- Use of Electronic Monitoring Device in Juveniles in the UAE
- Incorporation of newer technologies in the UAE Federal Law Framework

## **Abstract**

### **Purpose:**

In the USA, the electronic bracelet is followed in the juvenile judicial examination mechanism, however, in the federal law of UAE, the picture is unclear in terms of a judicial testing mechanism use. The UAE Federal Law of Juvenile Delinquent and Homeless Law No. 9 of 1976 has been quite old and requires revisions to keep up with the current times and newer developments.

### **Method:**

The article presents a comparative study on the Juvenile Delinquent Laws of UAE and the Juvenile Delinquent Laws of the USA. Literature review of selected articles of relevancy was conducted to provide a comparative study.

### **Results:**

The results of the study showed that the difference between the UAE Federal Law of Juvenile Delinquent and Homeless Law No. 9 of 1976 and the Juvenile Federal Law of the USA.

### **Conclusions:**

The use of electronic monitoring equipment is quite prevalent in the USA, saving them millions of dollars every year. It is recommended that the use of Electronic Monitoring be adopted in the Federal Law No. 9 of UAE for increasing the efficiency of the system and keeping in track with the current times.

**Keywords:** juvenile law, UAE federal law, USA and UAE laws, delinquency, judicial examination

## **1. Introduction:**

The juvenile legal matters are handled by the juvenile justice system, it is mostly defined in legal terms as an individual who is younger than the age of 18 years, however, there are exceptions globally. More than 100 years ago, a legal system that was separate for the juveniles was established in the United States of America, the belief behind the establishment was that the children are different than the adults and therefore, should be treated differently as well. There is no cohesive framework regarding the juvenile justice system in the United States of America, and even though there are many similarities in the laws across states, the procedures, and the policies, every state has a unique system that is followed. Even though the court is the prime focus in the juvenile justice system, there are multiple subsystems as well that are present, like the police, correction, and the probation, all working together and bringing on the process known as juvenile justice. There are auxiliary systems also present that are exclusive to the juvenile justice system, this includes the schools, the behavioural health, and the child welfare systems. The auxiliary systems present have an intricate involvement with the juvenile justice due to the numerous troubles and difficulties faced by the families and young people during and before their involvement with the system of juvenile justice. Even though the auxiliary systems are not considered a part of the system of juvenile justice, however, they provide a substantial impact on the process of juvenile justice and the involved individuals' outcomes (Mallett & Tedor, 2018).

Since the past four decades, the United Arab Emirates have gone through multiple cultural, political, social, and economic changes. Most particularly, after the oil discovery, these ever-changing scenarios have turned the UAE from that of a traditional society to an urban society, having multiple dilemmas and complexities. Even though, social change can bring about an improved quality of life, however, at the same time, it might be quite difficult for UAE citizens in coping up with these changes and avoiding the disadvantages and negative impacts of such changes. The changes experienced in the region of UAE have impacted the actions and the behaviours of the young people residing, leading to certain forms of violence, which include the tendency of rebelling against the standards and values of society. These acts ultimately lead to affecting the stability and security of the country. It was emphasized that to control the social problems faced due to the rapid development of a country, it is crucial to concentrate on the issues related to crime prevention. The UAE has gone through fast social changes, which the citizens of the emirates were not used to, these changes had a great impact on the families generally, and particularly the youth of the nation (like, juvenile delinquency). Outcomes like these have called for a need for studies that are primarily focused on the protection of these young children from the negative impacts of the changes (Ali, 2013).

The electronic tracking devices have a history of as far as 1919 for tracking the cargo that was being transported overseas or to the other states, however, their use in tracking human came much later. In 1964, the idea was given by Ralph Schitzwzgel, by using the electronic monitoring for tracking humans, particularly the offenders. The initial implementation of the electronic monitoring device was achieved in the 1980s by the Department of Corrections. In 1984, Radio

Frequency (RF) was used in the monitoring of offenders in house arrest by a federal prison in Palm Beach County. After the RF, the Global Positioning System (GPS) was used for the monitoring of offenders. An ankle bracelet is worn by the offenders, containing the GPS. The monitoring of offenders has increased intensely since the 1980s, with the method of electronic tracking saving millions of dollars each year of the states. Till 1998, the radio frequency monitoring system was used, however, from 1999 onwards GPS has been the primary system for the monitoring of offenders (Reagan, 2017).

## **2. Methodology:**

The selected methodology for this article is the comparative analysis of the current literature on the Juvenile Delinquents Laws of the UAE and the USA. The study explores the present literature on the laws and compares the framework of the Juvenile Delinquent Law of the UAE, identifying the gaps present in accordance to the law of the USA.

### **Inclusion and Exclusion Criteria:**

The inclusion criteria for the research are based on factors that are relevant to the topic of the research;

- Complete relevance to the topic such as the ones that discuss the Juvenile Delinquent Laws in USA and UAE.
- Literature reviews, doctoral dissertations, and reports which contain rigorous research.

The exclusion criteria for the research encompasses researches that do not address the current topic.

## **3. Literature Review:**

### **UAE Federal Law No. 9 of 1976:**

Before the mid-seventies, no specific laws, special institutions, or policies were present in the UAE for caring of juvenile offenders. The issues of juvenile were handled by the police without any assistance from the specialists or the social workers. That is why, the police either gave the juvenile offenders guidance and advice, corporal punishment, or delivered them to one of the parents or guardians, as it was unusual for them to be incarcerated. In 1976, enactment of the Federal Juvenile Act No. 9 took place, this act was applicable all over the UAE. Article 1 provides the definition of a juvenile in criminal law. According to the act, any person under the age of 18 will be considered a juvenile. According to the law:

“A juvenile in the application of the provisions of this law shall be deemed to be under eighteen years of age at the time of committing the act subject to accountability or being in a state of homelessness.”

According to this Act, the Article 6 states that the criminal responsibility age is over seven years old. Any individual who is younger than seven years will not be criminally responsible, this age is over ten years old in England and Wales, and in Scotland the age is eight years older. The juveniles were divided into three categories according to the Federal legislator:

- Juveniles between ages of 1 to 6: Not subject to proceedings criminally, however effective educational and remedial measure can be taken by the court. (Article 6)
- Juveniles between ages seven to fifteen: When they commit a crime, be it an offence, felony, or a misdemeanour the sanctions are not applicable to them; however, the measures in Article 15 might be applied by the state. (Article 7)
- Juveniles between ages sixteen and seventeen: When they commit a crime, be it an offence, felony, or a misdemeanour; there are two options in front of the judge:
  - Applying the measures in Article 15
  - Handing down a reduced sentence (Article 8)

Article 15 of the Act of 1976 concerning the juvenile delinquents and vagrants stipulates the measures that include:

#### **Reprimand:**

Article 16 defines reprimanding as:

“Reprimanding is blame and reproaches the juvenile in the trial session and exhorts him or her to engage in corrective behaviour.”

#### **Delivery into Care:**

Article 17 of the 1976 Act states that:

“The juvenile is to be delivered to one of his parents or his guardian. If none of these people meet the criteria required to take care of him or her, the juvenile shall be delivered to one of his or her relatives who meets these criteria.”

#### **Judicial Probation:**

It is stipulated by the 1976 Act's Article 18:

“In case the sentence of detention has taken effect, the judge is empowered to order a pronouncement of the condemnation sentence for a period of not less than one year and not more than three years. In this case, the juvenile is to be put under supervision and required to abide by the terms of his or her judicial probation. If the juvenile successfully passes his or her probation period, the action taken against him or her is dismissed; otherwise he or she is to be sentenced again according to the provisions of this Act.”

**Preventing from Visiting Certain Places:**

The Article 19 of 1976 Act states that,

“The court may prohibit the juvenile from frequenting certain places which have been proven to have an influence upon his or her delinquency or vagrancy.”

This measure is regarded as one of the preventive measures for juvenile delinquency.

**Prohibiting Certain Practices:**

It is stated in the Article 20 of the 1976 Act that:

“The court may prohibit a juvenile from undertaking certain practices when it becomes clear that his or her delinquency or vagrancy is the result of these practices.”

**Making Vocational Training Compulsory:**

The measure in Article 21 states that:

“Concerning the compulsion of vocational training, the court shall entrust a juvenile to governmental vocational training centres, manufactories, department stores, or farms which accept rehabilitating him or her for a period not exceeding three years.”

**Placement:**

The placement measure is divided further in two categories:

First is placement of the juvenile for mental disorder treatment purposes, according to the Article 22 of the Act states that:

“If the court recognises that a juvenile’s delinquency or vagrancy is attributable to a mental illness, it can order him or her to be placed in a treatment centre or designated health institution until he or she is cured. Thereafter, the court decides whether such a person should be released on the basis of reports submitted by the doctors responsible for his treatment.”

Second is the placement of juvenile for the purpose of rehabilitation and reformation, in the Article 23 of the 1976 Act:

“The court may order to place a juvenile in a suitable rehabilitation centre or State-owned or State-approved educational and reform centre specifically established for the welfare and rehabilitation of juveniles. The court issues release orders for those juveniles on the basis of the reports it receives from these same institutions in accordance with the provisions of Article 34 of this Act. A juvenile is not permitted to remain in these places after he or she reaches the age of 18.”

**Deportation (for non-citizens):**

Article 24 of the Act of 1976 states that:

“The court may order to banish a juvenile from the State [if he or she is not a citizen]. The banishment order becomes obligatory if a juvenile relapse to a state of delinquency or vagrancy. The banishment order should be put into effect within two weeks after it has been issued.”

In Article 30 of the 1976 Act a significant role is played in the prevention of juvenile delinquency by stating that:

“Certain factors must be considered and actions taken before a judgment is to be made: an evaluation of physical and social conditions, the degree of cognition, the environment in which the youth was raised, and the reasons which led to the commission of the crime, all determine measures of successful treatment. If the court finds that the physical or mental health, and the psychological or social state of the juvenile needed to be assessed (before deciding the case), the court can put him or her into an observation centre in order to observe him or her further, or in any other place designated by the court for any period deemed necessary to hold the case until the observation and study has finished.” (Ali, 2013)

Till date, no amendments or changes have been made in the 1976 Act according to the times and the technology. Al-Wahedi (2019), conducted a research on the implementation of Electronic Monitoring Devices and their impact in UAE. The findings of the study showed that the precursor for the need to implement Electronic Monitoring was the political policy to reduce the overcrowding in prisons. Another challenge identified was the integration of the technology into the current police system and training them for its usage. The findings of the study concluded that electronic monitoring is the way to rehabilitation and control the overcrowding prisons as well as reducing the government cost in the maintenance of those federal prisons.

### **Juvenile Justice and Delinquency Prevention (JJDP) Act of 1974 in the United States of America:**

The Juvenile Justice and Delinquency Prevention (JJDP) Act of 1974 in the United States of America was founded based on a partnership between the states and the federal government to build a safe environment for the youth in terms of juvenile crimes. One of the reasons for developing such laws is to protect the large number of young individuals held in custody. It is also essential to develop such laws to control and regulate the risk of delinquent behavior in society (Pasko, 2019).

Such systems demand that states that take federal delinquency-prevention money (also known as the Formula Grants program) abide by “sight and sound” identification of youthful and adult convicts and offenders. It is also required to divert and deinstitutionalize all the status offenders (DSO) (Holden & Kapler, 1994). In the primary stages of the Law, in early America, it was believed that a child, up to the age of 7, could not be held responsible for a crime due to lack of maturity (Pasko, 2019). Hence, the Law rebuttable assumed the child to be incapable of

committing the crime until 14 years of age. Hence such were the conditions for considering a child mature and developed enough to willingly murder or other crimes (Pasko, 2019).

In 1974, the Act was revised to establish basic procedural rights for juveniles who are considered to come under federal jurisdiction and upgrade federal procedures to the standards developed through multiple model acts (Pasko, 2019). Many of the state codes and court decisions were also incorporated for federal laws. Crimes eligible to be punished by life imprisonment and/or death were made subject to the federal juvenile treatment for the first time. In the year 2004, the US Office of Juvenile Justice and Delinquency Prevention emphasized the juvenile jurisdiction system for girls remaining. A \$2.6 million grant was dedicated to the Research Triangle Institute to work on developing the girl study group (Huizinga et al., 2007).

For UAE, the Law for juvenile delinquents and homeless states in clearly in Article 1 and Article 2 that for the juvenile jurisdictions to be implied on individuals, they must be younger than eighteen. Otherwise, the crime will be dealt with under the adult law. The Law also states in Article 3 that if the Age of the convicted juvenile is uncertain, medical assistance will be provided to determine the individual's biological age. The Age of the individual, under the Law can only be determined through the Gregorian calendar. Under the Article 6 of the Juvenile Delinquents and homeless Act, the no Criminal lawsuits are to be filed against a delinquent juvenile who has not turned seven years of Age. However, authorities and courts in all cases demand educational or remedial steps in case of this juvenile in scenarios where they are compulsory.

American juvenile court judges have now been ordering youths to wear electronic ankle monitors regularly. These are miniature devices that depend on the Global Positioning System (“GPS”) for locating and tracking people’s movements (Weisburd, 2015). The monitors keep track of the devices’ movements in terms of every single move. Every state in the USA except New Hampshire is not implemented to possess some electronic monitoring for juvenile offenders. For instance, there are an estimated 450–500 under-aged individuals on monitors daily.

Considering the case law authority for electronic monitoring usage for juvenile court, significantly less information is present about the particular way that guides the uses of such probation. In the USA, the Law has incorporated a location monitoring technology for a decided period of time with a set of rules that are to be followed by the person that is being tracked. The said person will not be allowed to interact with certain individuals and be restricted to a certain location.

#### **4. Results:**

The results of the study showed that the difference between the UAE Federal Law of Juvenile Delinquent and Homeless Law No. 9 of 1976 and the Juvenile Federal Law of the USA. It is concluded that the use of electronic monitoring for juveniles is already in place in many states of the USA, whereas, in the UAE the use of electronic monitoring is still being thought upon with the laws not changing according to the times and needs.

## **5. Conclusion:**

The UAE Federal Law of Juvenile Delinquent and Homeless No. 9 came in 1976 and after that it has not been revised according to the ever-changing times. In the current times, where the pandemic is prevalent, the use of electronic monitoring would have saved the state an amazing amount of money as federal prisons take in a lot while giving nothing. The current study was based on a comparison between the federal delinquency laws of the UAE and the USA. The use of electronic monitoring equipment is quite prevalent in the USA, saving them millions of dollars every year. It is recommended that the use of Electronic Monitoring be adopted in the Federal Law No. 9 of UAE for increasing the efficiency of the system and keeping in track with the current times.

## **References:**

1. Al-Wahedi, S. (2019). The Implementation and Potential Impact of Electronic Monitoring (EM) of Offenders in the United Arab Emirates: A Comparative Case-Study. Anglia Ruskin University.
2. Ali, M. (2013). Towards Effective Juvenile Delinquency Prevention Strategies and Policies in Abu Dhabi Police: An Investigation of Critical Factors.
3. Holden, G. A., & Kapler, R. A. (1994). Deinstitutionalizing status offenders: A record of progress. *Juv. Just.*, 2, 3.
4. Huizinga, D., Thornberry, T., Knight, K., Lovegrove, P., Loeber, R., Hill, K., & Farrington, D. P. (2007). Disproportionate minority contact in the juvenile justice system: A study of differential minority arrest/referral to court in three cities: A report to the office of juvenile justice and delinquency prevention. US Department of Justice, NCJRS.
5. Mallett, C. A., & Tedor, M. F. (2018). *Juvenile Delinquency: Pathways and Prevention*. SAGE Publications. <https://books.google.com.pk/books?id=K82ttAEACAAJ>
6. Pasko, L. (2019). Juvenile Justice and Delinquency Prevention Act. *The Encyclopedia of Women and Crime*, 1–5.
7. Reagan, J. R. (2017). The Impact of Electronic Monitoring and Disruptive Innovation on Recidivism Rates in Federal Prisons: A Secondary Data Analysis. *Biometrics & Biostatistics International Journal*, 5(4), 138.
8. Weisburd, K. (2015). Monitoring youth: The collision of rights and rehabilitation. *Iowa L. Rev.*, 101, 297.

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