The History and Development of Juvenile Justice

CHAPTER OUTLINE

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CHAPTER OBJECTIVES

After reading this chapter you should:

1. Understand the major social changes leading to creation of the first modern juvenile court in Chicago in 1899.
2. Be familiar with some of the landmark Supreme Court decisions that have influenced present-day juvenile justice procedures.
3. Be able to comment on the nature of delinquency cases being processed in juvenile court.
4. Know how children are processed by the juvenile justice system, beginning with investigation and arrest and concluding with reentry into society.
5. Understand the conflicting values in contemporary juvenile justice.
6. Recognize key similarities and differences between the adult and juvenile justice systems.
7. Be able to argue the pros and cons of the juvenile justice system’s goal to treat rather than punish and assess if this goal is being met today.
8. Understand the need for and be aware of the key elements of a comprehensive juvenile justice strategy to deal with juvenile delinquency.
9. See the difference between prevention and intervention efforts to reduce juvenile delinquency.
10. Be able to identify and comment on pressing issues in the future of juvenile justice.
From the development of the first juvenile court in 1899 to the introduction of graduated sanctions, the history of the juvenile justice system is rife with innovations. One of the more recent innovations is the teen court, also called the youth court. Developed to relieve overcrowding and provide an alternative to traditional forms of juvenile courts, hundreds of jurisdictions across the country have set up these special courts. Teen courts differ from other juvenile justice programs because youths rather than adults determine the disposition in a case. In the South Bronx, New York, one teen court for first-time juvenile offenders includes a sixteen-year-old judge and a prosecutor, defense attorney, and jury who are all teenagers. In addition to being well received by youths, the program claims success in reducing rearrests.

CNN. VIEW THE CNN VIDEO CLIP OF THIS STORY AND ANSWER RELATED CRITICAL THINKING QUESTIONS ON YOUR JUVENILE DELINQUENCY: THE CORE 2E CD.

JUVENILE JUSTICE IN THE NINETEENTH CENTURY

At the beginning of the nineteenth century, delinquent, neglected, and runaway children in the United States were treated in the same way as adult criminal offenders. Like children in England, when convicted of crimes they received harsh sentences similar to those imposed on adults. The adult criminal code applied to children, and no juvenile court existed.

During the early nineteenth century, various pieces of legislation were introduced to humanize criminal procedures for children. The concept of probation, introduced in Massachusetts in 1841, was geared toward helping young people avoid imprisonment. Many books and reports written during this time heightened public interest in juvenile care.

Despite this interest, no special facilities existed for the care of youths in trouble with the law, nor were there separate laws or courts to control their behavior. Youths who committed petty crimes, such as stealing or vandalism, were viewed as wayward children or victims of neglect and were placed in community asylums or homes. Youths who were involved in more serious crimes were subject to the same punishments as adults—imprisonment, whipping, or death.

Several events led to reforms and nourished the eventual development of the juvenile justice system: urbanization, the child-saving movement and growing interest in the concept of parens patriae, and development of institutions for the care of delinquent and neglected children.

Urbanization

Especially during the first half of the nineteenth century, the United States experienced rapid population growth, primarily due to an increased birthrate and expanding immigration. The rural poor and immigrant groups were attracted to urban commercial centers that promised jobs in manufacturing. In 1790, 5 percent of the population lived in cities. By 1850, the share of the urban population had increased to 15 percent; it jumped to 40 percent in 1900, and 51 percent in 1920. New York more than quadrupled its population in the thirty-year stretch between 1825 and 1855—from 166,000 in 1825 to 630,000 in 1855.
Urbanization gave rise to increased numbers of young people at risk, who overwhelmed the existing system of work and training. To accommodate destitute youths, local jurisdictions developed poorhouses (almshouses) and workhouses. The poor, the insane, the diseased, and vagrant and destitute children were all housed there in crowded and unhealthy conditions.

By the late eighteenth century, many began to question the family's ability to exert control over children. Villages developed into urban commercial centers and work began to center around factories, not the home. Children of destitute families left home or were cast loose to make out as best they could; wealthy families could no longer absorb vagrant youth as apprentices or servants. Chronic poverty became an American dilemma. The affluent began to voice concern over the increase in the number of people in what they considered the “dangerous classes”—the poor, single, criminal, mentally ill, and unemployed.

Urbanization and industrialization also generated the belief that certain segments of the population (youths in urban areas, immigrants) were susceptible to the influences of their decaying environment. The children of these classes were considered a group that might be “saved” by a combination of state and community intervention. Intervention in the lives of these so-called dangerous classes became acceptable for wealthy, civic-minded citizens. Such efforts included settlement houses, a term used around the turn of the twentieth century to describe shelters, and non-secure residential facilities for vagrant children.

The Child-Saving Movement

The problems generated by urban growth sparked interest in the welfare of the “new” Americans, whose arrival fueled this expansion. In 1817, prominent New Yorkers formed the Society for the Prevention of Pauperism. Although they concerned themselves with attacking taverns, brothels, and gambling parlors, they also were concerned that the moral training of children of the dangerous classes was inadequate. Soon other groups concerned with the plight of poor children began to form. Their focus was on extending government control over youthful activities (drinking, vagrancy, and delinquency) that had previously been left to private or family control.

These activists became known as child savers. Prominent among them were penologist Enoch Wines; Judge Richard Tuthill; Lucy Flowers, of the Chicago Women’s Association; Sara Cooper, of the National Conference of Charities and Corrections; and Sophia Minton, of the New York Committee on Children. Poor children could become a financial burden, and the child savers believed these children presented a threat to the moral fabric of society. Child-saving organizations influenced state legislatures to enact laws giving courts the power to commit children who were runaways or criminal offenders to specialized institutions.

The most prominent of the care facilities developed by child savers was the House of Refuge, which opened in New York in 1825. It was founded on the concept of protecting potential criminal youths by taking them off the streets and re-forming them in a family-like environment. When the House of Refuge opened, the majority of children admitted were status offenders placed there because of vagrancy or neglect. Children were placed in the institution by court order, sometimes over their parents’ objections. Their length of stay depended on need, age, and skill. Once there, youths were required to do piecework provided by local manufacturers or to work part of the day in the community. The institution was run like a prison, with strict discipline and absolute separation of the sexes. Such a harsh program drove many children to run away, and the House of Refuge was forced to take a more lenient approach.

Despite criticism, the concept enjoyed expanding popularity. In 1826, the Boston City Council founded the House of Reformation for juvenile offenders. Similar institutions were opened elsewhere in Massachusetts and in New York in 1847. The
courts committed children found guilty of criminal violations, or found to be beyond the control of their parents, to these schools. Because the child savers considered parents of delinquent children to be as guilty as convicted offenders, they sought to have the reform schools establish control over the children. Refuge managers believed they were preventing poverty and crime by separating destitute and delinquent children from their parents and placing them in an institution.9

The philosophy of *parens patriae*—that is, the duty of the state to act on behalf of the child and provide care and protection equivalent to that of a parent—was extended to refuge programs, which were given parental control over a committed child. Scholar Robert Mennel summarizes this attitude: “The doctrine of *parens patriae* gave refuge managers the best of two worlds, familial and legal: it separated delinquent children from their natural parents and it circumvented the rigor of criminal law by allowing courts to commit children, under loosely worded statutes, to specially created schools instead of jails.”10

**Were They Really Child Savers?**

Debate continues over the true objectives of the early child savers. Some historians conclude that they were what they seemed—concerned citizens motivated by humanitarian ideals.11 Modern scholars, however, have reappraised the child-saving movement. In *The Child Savers*, Anthony Platt paints a picture of representatives of the ruling class who were galvanized by immigrants and the urban poor to take action to preserve their own way of life.12

Other critical thinkers followed Platt in finding that child saving was motivated more by self-interest than by benevolence. For example, Randall Shelden and Lynn Osborne traced the child-saving movement in Memphis, Tennessee, and found that its leaders were a small group of upper-class citizens who desired to control the behavior and lifestyles of lower-class youth. The outcome was ominous. Most cases petitioned to the juvenile court (which opened in 1910) were for petty crimes and
status offenses, yet 25 percent of the youths were committed to some form of incarceration; more than 96 percent of the actions with which females were charged were status offenses.\(^\text{13}\)

In summary, these scholars believe that the reformers applied the concept of *parens patriae* for their own purposes, including the continuance of middle- and upper-class values and the furtherance of a child labor system consisting of marginal and lower-class skilled workers.

In the course of “saving children” by turning them over to houses of refuge, the basic legal rights of children were violated: children were simply not granted the same constitutional protections as adults.

## Development of Juvenile Institutions

State intervention in the lives of children continued well into the twentieth century. The child savers influenced state and local governments to create institutions, called *reform schools*, devoted to the care of vagrant and delinquent youths. State institutions opened in Westboro, Massachusetts, in 1848, and in Rochester, New York, in 1849.\(^\text{14}\) Institutional programs began in Ohio in 1850, and in Maine, Rhode Island, and Michigan in 1906. Children spent their days working in the institution, learning a trade where possible, and receiving some basic education. They were racially and sexually segregated, discipline was harsh, and their physical care was poor. Beverly Smith found that girls admitted to the Western House of Refuge in Rochester, during the 1880s were often labeled criminals, but were in reality abused and neglected. They too were subject to harsh working conditions, strict discipline, and intensive labor.\(^\text{15}\) Most of these institutions received state support, unlike the privately funded houses of refuge and settlement houses.

Although some viewed reform schools as humanitarian answers to poorhouses and prisons, many were opposed to such programs. As an alternative, New York philanthropist Charles Loring Brace helped develop the *Children’s Aid Society* in 1853.\(^\text{16}\) Brace’s formula for dealing with delinquent youths was to rescue them from the harsh environment of the city and provide them with temporary shelter.

Deciding there were simply too many needy children to care for in New York City, and believing the urban environment was injurious to children, Brace devised what he called his *placing-out plan* to send these children to western farms where they could be cared for and find a home. They were placed on what became known as *orphan trains*, which made preannounced stops in western farming communities. Families wishing to take in children would meet the train, be briefly introduced to the passengers, and leave with one of the children. Brace’s plan was activated in 1854 and very soon copied by other child-care organizations. Though the majority of the children benefited from the plan and did find a new life, others were less successful and some were exploited and harmed by the experience. By 1930, political opposition to Brace’s plan, coupled with the negative effects of the Great Depression, spelled the end of the orphan trains, but not before 150,000 children were placed in rural homesteads. Concept Summary 11.1 describes those first juvenile institutions and organizations.

## Society for the Prevention of Cruelty to Children (SPCC)

In 1874, the first *Society for the Prevention of Cruelty to Children (SPCC)* was established in New York; by 1900 there were three hundred such societies in the United States.\(^\text{17}\) Leaders of the SPCCs were concerned that abused boys would become lower-class criminals and that mistreated young girls might become sexually promiscuous women. A growing crime rate and concern about a rapidly changing population served to swell SPCC membership. In addition, these organizations protected children who had been subjected to cruelty and neglect at home and at school.

SPCC groups influenced state legislatures to pass statutes protecting children from parents who did not provide them with adequate food and clothing or made them beg or work in places where liquor was sold.\(^\text{18}\) Criminal penalties were created

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**Children’s Aid Society**
Child-saving organization that took children from the streets of large cities and placed them with farm families on the prairie.

**orphan train**
A practice of the Children’s Aid Society in which urban youths were sent West for adoption with local farm couples.

**Society for the Prevention of Cruelty to Children (SPCC)**
First established in 1874, these organizations protected children subjected to cruelty and neglect at home or at school.
for negligent parents, and provisions were established for removing children from the home. In some states, agents of the SPCC could actually arrest abusive parents; in others, they would inform the police about suspected abuse cases and accompany officers when they made an arrest. See Checkpoints on page 266.

A CENTURY OF JUVENILE JUSTICE

Although reform groups continued to lobby for government control over children, the committing of children under the doctrine of parens patriae without due process of law began to be questioned. Could the state incarcerate children who had not violated the criminal law? Should children be held in facilities that housed adults? Serious problems challenged the effectiveness of the existing system; institutional deficiencies, the absence of due process for poor, ignorant, and noncriminal delinquents, and the treatment of these children by inadequate private organizations all spurred the argument that a juvenile court should be established.

Increasing delinquency rates also hastened the development of a juvenile court. Theodore Ferdinand’s analysis of the Boston juvenile court found that in the 1820s and 1830s very few juveniles were charged with serious offenses. By 1850, juvenile delinquency was the fastest growing component of the local crime problem. Ferdinand concluded that the flow of juvenile cases strengthened the argument that juveniles needed their own court.

The Illinois Juvenile Court Act and Its Legacy

The child-saving movement culminated in passage of the Illinois Juvenile Court Act of 1899. The principles motivating the Illinois reformers were these:

1. Children should not be held as accountable as adult transgressors.
2. The objective of the juvenile justice system is to treat and rehabilitate rather than punish.
3. Disposition should be predicated on analysis of the youth’s special circumstances and needs.
4. The system should avoid the trappings of the adult criminal process with all its confusing rules and procedures.
The Illinois Juvenile Court Act was a major event in the juvenile justice movement. Just what were the ramifications of passage of this act? The traditional interpretation is that the reformers were genuinely motivated to pass legislation that would serve the best interests of the child. U.S. Supreme Court Justice Abe Fortas took this position in the landmark 1967 *in re Gault* case:

*The early reformers were appalled by adult procedures and penalties and by the fact that children could be given long prison sentences and mixed in jails with hardened criminals. They were profoundly convinced that society’s duty to the child could not be confined by the concept of justice alone. . . . The child—essentially good, as they saw it—was to be made to feel that he was the object of the state’s care and solicitude, not that he was under arrest or on trial. . . . The idea of crime and punishment was to be abandoned. The child was to be treated and rehabilitated, and the procedures from apprehension through institutionalization were to be clinical rather than punitive.*

The child savers believed that children were influenced by their environments. Society was to be concerned with what their problems were and how these problems could be handled in the interests of the children and the state.

Interpretations of its intentions differ, but unquestionably the Illinois Juvenile Court Act established juvenile delinquency as a legal concept. For the first time the distinction was made between children who were neglected and those who were delinquent. Delinquent children were those under the age of sixteen who violated the law. Most important, the act established a court and a probation program specifically for children. In addition, the legislation allowed children to be committed to institutions and reform programs under the control of the state. The key provisions of the act were these:

- A separate court was established for delinquent and neglected children.
- Special procedures were developed to govern the adjudication of juvenile matters.
- Children were to be separated from adults in courts and in institutional programs.
- Probation programs were to be developed to assist the court in making decisions in the best interests of the state and the child.

Following passage of the Illinois Juvenile Court Act, similar legislation was enacted throughout the nation; by 1917, juvenile courts had been established in all but three states. The special courts these laws created maintained jurisdiction over pre-delinquent (neglected and dependent) and delinquent children. Juvenile court jurisdiction was based primarily on a child’s noncriminal actions and status, not strictly on a violation of criminal law. The *parens patriae* philosophy predominated, ushering in a form of personalized justice that still did not provide juvenile offenders with...
the full array of constitutional protections available to adult criminal offenders. The court's process was paternalistic rather than adversarial. Attorneys were not required, and hearsay evidence, inadmissible in criminal trials, was admissible in the adjudication of juvenile offenders. Verdicts were based on a *preponderance of the evidence* instead of the stricter standard used by criminal courts, *beyond a reasonable doubt*, and children were often not granted any right to appeal their convictions.

The major functions of the juvenile justice system were to prevent juvenile crime and to rehabilitate juvenile offenders. The roles of the judge and the probation staff were to diagnose the child's condition and prescribe programs to alleviate it. Until 1967, judgments about children's actions and consideration for their constitutional rights were secondary.

By the 1920s, noncriminal behavior, in the form of incorrigibility and truancy from school, was added to the jurisdiction of many juvenile court systems. Of particular interest was the sexual behavior of young girls, and the juvenile court enforced a strict moral code on working-class girls, not hesitating to incarcerate those who were sexually active. Programs of all kinds, including individualized counseling and institutional care, were used to *cure* juvenile criminality.

By 1925, juvenile courts existed in virtually every jurisdiction in every state. Although the juvenile court concept expanded rapidly, it cannot be said that each state implemented it thoroughly. Some jurisdictions established elaborate juvenile court systems, whereas others passed legislation but provided no services. Some courts had trained juvenile court judges; others had nonlawyers sitting in juvenile cases. Some courts had extensive probation departments; others had untrained probation personnel.

Great diversity also marked juvenile institutions. Some maintained a lenient orientation, but others relied on harsh punishments, including beatings, straitjacket restraints, immersion in cold water, and solitary confinement with a diet of bread and water.

These conditions were exacerbated by the rapid growth in the juvenile institutional population. Between 1890 and 1920, the number of institutionalized youths jumped 112 percent, a rise that far exceeded the increase in the total number of adolescents in the United States. Although social workers and court personnel deplored the increased institutionalization of youth, the growth was due in part to the successful efforts by reformers to close poorhouses, thereby creating a need for institutions to house their displaced populations. In addition, the lack of a coherent national policy on needy children allowed private entrepreneurs to fill the void. Although the increase in institutionalization seemed contrary to the goal of rehabilitation, such an approach was preferable to the poorhouse and the streets.

**Reforming the System**

Reform of this system was slow in coming. In 1912, the U.S. Children's Bureau was formed as the first federal child welfare agency. By the 1930s, the bureau began to investigate the state of juvenile institutions and tried to expose some of their more repressive aspects. After World War II, critics such as Paul Tappan and Francis Allen began to identify problems in the juvenile justice system, among which were the neglect of procedural rights and the warehousing of youth in ineffective institutions. Status offenders commonly were housed with delinquents and given sentences that were more punitive than those given to delinquents.

From its origin, the juvenile court system denied children procedural rights normally available to adult offenders. Due process rights, such as representation by counsel, a jury trial, freedom from self-incrimination, and freedom from unreasonable search and seizure, were not considered essential for the juvenile court system because its primary purpose was not punishment but rehabilitation. However, the dream of trying to rehabilitate children was not achieved. Individual treatment approaches failed, and delinquency rates soared.
Reform efforts, begun in earnest in the 1960s, changed the face of the juvenile justice system. In 1962, New York passed legislation creating a family court system. The new court assumed responsibility for all matters involving family life, with emphasis on delinquent and neglected children. In addition, the legislation established the PINS classification (person in need of supervision). This category included individuals involved in such actions as truancy and incorrigibility. By using labels like PINS and CHINS (children in need of supervision) to establish jurisdiction over children, juvenile courts expanded their role as social agencies. Because noncriminal children were now involved in the juvenile court system to a greater degree, many juvenile courts had to improve their social services. Efforts were made to personalize the system of justice for children. These reforms were soon followed by a due-process revolution, which ushered in an era of procedural rights for court-adjudicated youth. The next section discusses some key cases that transformed the practice of juvenile justice.

In the 1960s and 1970s, the U.S. Supreme Court radically altered the juvenile justice system when it issued a series of decisions that established the right of juveniles to receive due process of law. The Court established that juveniles had the same rights as adults in important areas of trial process, including the right to confront witnesses, notice of charges, and the right to counsel. Exhibit 11.1 illustrates some of the most important legal cases bringing procedural due process to the juvenile justice process.

**Federal Commissions** In addition to the legal revolution brought about by the Supreme Court, a series of national commissions sponsored by the federal government helped change the shape of juvenile justice. In 1967, the President's Commission on Law Enforcement and the Administration of Justice, organized by President Lyndon Johnson, suggested that the juvenile justice system must provide underprivileged youths with opportunities for success, including jobs and education. The commission also recognized the need to develop effective law enforcement procedures to control hard-core offenders, while at the same time granting them due process. The commission's report acted as a catalyst for passage of the federal Juvenile Delinquency Prevention and Control (JDP) Act of 1968. This law created a Youth Development and Delinquency Prevention Administration, which concentrated on helping states develop new juvenile justice programs, particularly programs involving diversion of youth, decriminalization, and decarceration. In 1968, Congress also passed the Omnibus Safe Streets and Crime Control Act. Title I of this law established the Law Enforcement Assistance Administration (LEAA) to provide federal funds for improving the adult and juvenile justice systems. In 1972, Congress amended the JDP to allow the LEAA to focus its funding on juvenile justice and delinquency-prevention programs. State and local governments were required to develop and adopt comprehensive plans to obtain federal assistance.

Because crime continued to receive much publicity, a second effort called the National Advisory Commission on Criminal Justice Standards and Goals was established in 1973 by the Nixon administration. Its report identified such strategies as preventing delinquent behavior, developing diversion activities, establishing dispositional alternatives, providing due process for all juveniles, and controlling violent and chronic delinquents. This commission’s recommendations formed the basis for the Juvenile Justice and Delinquency Prevention Act of 1974. This act eliminated the Youth Development and Delinquency Prevention Administration and replaced it with the Office of Juvenile Justice and Delinquency Prevention (OJJDP) within the LEAA. In 1980, the LEAA was phased out, and the OJJDP became an independent agency in the Department of Justice. Throughout the 1970s, its two most important goals were removing juveniles from detention in adult jails, and eliminating the incarceration together of delinquents and status offenders. During this period, the OJJDP stressed the creation of formal diversion and restitution programs.

The latest effort has been the Violent Crime Control and Law Enforcement Act of 1994. The largest piece of crime legislation in the history of the United States,
it provided for a hundred thousand new police officers and billions of dollars for
prisons and prevention programs for both adult and juvenile offenders. A revitalized
juvenile justice system would need both a comprehensive strategy to prevent and
control delinquency and a consistent program of federal funding.\(^{33}\)
Today the juvenile justice system exercises jurisdiction over two distinct categories of offenders—delinquents and status offenders.\(^34\) Delinquent children are those who fall under a jurisdictional age limit, which varies from state to state, and who commit an act in violation of the penal code. Status offenders are commonly characterized in state statutes as persons or children in need of supervision (PINS or CHINS). Most states distinguish such behavior from delinquent conduct to lessen the effect of any stigma on children as a result of their involvement with the juvenile court. In addition, juvenile courts generally have jurisdiction over situations involving conduct directed at (rather than committed by) juveniles, such as parental neglect, deprivation, abandonment, and abuse.

The states have also set different maximum ages below which children fall under the jurisdiction of the juvenile court. Most states (and the District of Columbia) include all children under eighteen, others set the upper limit at seventeen, and still others include children under sixteen (Table 11.1).

Today’s juvenile justice system exists in all states by statute. Each jurisdiction has a juvenile code and a special court structure to accommodate children in trouble. Nationwide, the juvenile justice system consists of thousands of public and private agencies, with a total budget amounting to hundreds of millions of dollars. Most of the nation’s police agencies have juvenile components, and there are more than three thousand juvenile courts and about an equal number of juvenile correctional facilities.

Figure 11.1 depicts the numbers of juvenile offenders removed at various stages of the juvenile justice process. These figures do not take into account the large number of children who are referred to community diversion and mental health programs. There are thousands of these programs throughout the nation. This multitude of agencies and people dealing with juvenile delinquency has led to the development of what professionals view as an incredibly expansive and complex system.

### The Juvenile Justice Process

How are children processed by the juvenile justice system?\(^35\) Most children come into the justice system as a result of contact with a police officer. When a juvenile commits a serious crime, the police are empowered to make an arrest. Less serious offenses may also require police action, but in these instances, instead of being arrested, the child may be warned or a referral may be made to a social service program. A little more than 70 percent of all children arrested are referred to the juvenile court. Figure 11.2

### Table 11.1

**Oldest Age for Juvenile Court Jurisdiction in Delinquency Cases**

<table>
<thead>
<tr>
<th>Age</th>
<th>State (Total Number)</th>
</tr>
</thead>
<tbody>
<tr>
<td>15</td>
<td>Connecticut, New York, North Carolina (3)</td>
</tr>
<tr>
<td>16</td>
<td>Georgia, Illinois, Louisiana, Massachusetts, Michigan, Missouri, New Hampshire, South Carolina, Texas, Wisconsin (10)</td>
</tr>
</tbody>
</table>

In the 1982 case *Eddings v. Oklahoma*, the U.S. Supreme Court ruled that a defendant’s age should be a mitigating factor in deciding whether to apply the death penalty. Should very young killers be eligible for capital punishment, or are juveniles too immature to appreciate the seriousness of their misdeeds? Here, twelve-year-old Tyler King is led into an Allegheny County Coroner’s inquest by his Attorney David Shrager. King was ordered held for trial in the shooting death of his best friend, Nick Polowsky, and tried as an adult.

**Figure 11.1** Case Processing of Typical Violent Crimes in the Juvenile Justice System

Of every 1,000 cases referred

- Petitioned 774
  - Waived 20
  - Adjudicated 513
    - Probation 285
    - Other sanction 37
    - Released 20
    - Placed 171
  - Nonadjudicated 241
    - Probation 28
    - Other sanction 36
    - Released 7
    - Placed 169
- Nonpetitioned 226
  - Probation 49
  - Other sanction 60
  - Dismissed 117

Note: Cases are categorized by their most severe or restrictive sanction. Detail may not add to totals because of rounding.

outlines the juvenile justice process, and a detailed analysis of this process is presented in the next sections.

Police Investigation When youths commit a crime, police have the authority to investigate the incident and decide whether to release the youths or commit them to the juvenile court. This is often a discretionary decision, based not only on the nature of the offense but also on conditions existing at the time of the arrest. Such factors as the seriousness of the offense, the child’s past contacts with the police, and whether the child denies committing the crime determine whether a petition is filed. As you may recall, juveniles in custody today have constitutional rights similar to those of adult offenders. They are protected against unreasonable search and seizure under the Fourth and Fourteenth Amendments of the Constitution. The Fifth Amendment places limitations on police interrogation procedures.

Detention If the police decide to file a petition, the child is referred to juvenile court. The primary decision at this point is whether the child should remain in the community or be placed in a detention facility or in shelter care (temporary foster homes, detention boarding homes, programs of neighborhood supervision). In the past, children were routinely held in detention facilities to await court appearances. Normally, a detention hearing is held to determine whether to remand the child to a shelter. At this point, the child has a right to counsel and other procedural safeguards. A child who is not detained is usually released to a parent or guardian. Most state juvenile court acts provide for a child to return home to await further court action, except when it is necessary to protect the child, when the child presents a serious danger to the public, or when it is not certain that the child will return to court. In many cases the police will refer the child to a community service program instead of filing a formal charge.

Pretrial Procedures In most jurisdictions, the adjudication process begins with some sort of hearing. At this hearing, juvenile court rules normally require that juveniles be informed of their right to a trial, that the plea or admission be voluntary, and that they understand the charges and consequences of the plea. The case will often not be further adjudicated if a child admits to the crime at the initial hearing.
In some cases, youths may be detained at this stage pending a trial. Juveniles who are detained are eligible for bail in a handful of jurisdictions. Plea bargaining may also occur at any stage of the proceedings. A plea bargain is an agreement between the prosecution and the defense by which the juvenile agrees to plead guilty for certain considerations, such as a lenient sentence. This issue is explored more thoroughly in chapter 13, which discusses pretrial procedures.

If the child denies the allegation of delinquency, an adjudicatory hearing or trial is scheduled. Under extraordinary circumstances, a juvenile who commits a serious crime may be waived to adult court. Today, most jurisdictions have laws providing for such transfers. Whether such a transfer occurs depends on the type of offense, the youth’s prior record, the availability of treatment services, and the likelihood that the youth will be rehabilitated in the juvenile court system.

**Adjudication**  
Adjudication is the trial stage of the juvenile court process. If the child does not admit guilt at the initial hearing and is not waived to an adult court, the adjudication hearing is held to determine the facts of the case. The court hears evidence on the allegations in the delinquency petition. This is a trial on the merits (dealing with issues of law and facts), and rules of evidence similar to those of criminal proceedings generally apply. At this stage, the juvenile offender is entitled to many of the procedural guarantees given adult offenders. These include the right to counsel, freedom from self-incrimination, the right to confront and cross-examine witnesses, and in certain instances, the right to a jury trial. In addition, many states have their own procedures concerning rules of evidence, competence of witnesses, pleadings, and pretrial motions. At the end of the adjudicatory hearing, the court enters a judgment against the juvenile.

**Disposition**  
If the adjudication process finds the child delinquent, the court must decide what should be done to treat the child. Most juvenile court acts require a dispositional hearing separate from the adjudication. This two-stage decision is often referred to as a bifurcated process. The dispositional hearing is less formal than adjudication. Here, the judge imposes a disposition on the offender in light of the offense, the youth’s prior record, and his or her family background. The judge can prescribe a wide range of dispositions, ranging from a reprimand to probation to institutional commitment. In theory, the judge’s decision serves the best interests of the child, the family, and the community.

**Treatment**  
After disposition in juvenile court, delinquent offenders may be placed in some form of correctional treatment. Probation is the most commonly used formal sentence for juvenile offenders, and many states require that a youth fail on probation before being sent to an institution (unless the criminal act is extremely serious). Probation involves placing the child under the supervision of the juvenile probation department for the purpose of community treatment. The most severe of the statutory dispositions available to the juvenile court involves commitment of the child to an institution. The committed child may be sent to a state training school or a private residential treatment facility. These are usually minimum-security facilities with small populations and an emphasis on treatment and education. Some states, however, maintain facilities with populations of over a thousand youths. Currently there are more than one hundred thousand youths in some form of correctional institution in the United States.

Some jurisdictions allow for a program of juvenile aftercare or parole. A youth can be paroled from an institution and placed under the supervision of a parole officer. This means that he or she will complete the period of confinement in the community and receive assistance from the parole officer in the form of counseling, school referral, and vocational training.

Juveniles who are committed to treatment programs or control programs have a legal right to treatment. States are required to provide suitable rehabilitation programs.
that include counseling, education, and vocational services. Appellate courts have ruled that, if such minimum treatment is not provided, individuals must be released from confinement.

Conflicting Values in Juvenile Justice  This overview of the juvenile justice process hints at the often-conflicting values at the heart of the system. Efforts to ensure that juveniles are given appropriate treatment are consistent with the doctrine of parens patriae that predominated in the first half of the twentieth century. (See Table 11.2 for a timeline of ideologies of juvenile justice during the twentieth century.) Over the past century, the juvenile court has struggled to provide treatment for juvenile offenders while guaranteeing them constitutional due process. But the system has been so overwhelmed by the increase in violent juvenile crime and family breakdown that some judges and politicians have suggested abolishing the juvenile system. Even those experts who want to retain an independent juvenile court have called for its restructuring. Crime-control advocates want to reduce the court’s jurisdiction over juveniles charged with serious crimes and liberalize the prosecutor’s ability to try them in adult courts. In contrast, child advocates suggest that the court scale back its judicial role and transfer its functions to community groups and social service agencies.  

Criminal Justice Versus Juvenile Justice  The components of the adult and juvenile criminal processes are similar. However, the juvenile system has a separate organizational structure. In many communities, juvenile justice is administered by people who bring special skills to the task. Also, more kinds of facilities and services are available to juveniles than to adults.

One concern of the juvenile court reform movement was to make certain that the stigma attached to a convicted offender would not be affixed to young people in juvenile proceedings. Thus, even the language used in the juvenile court differs from that used in the adult criminal court (Exhibit 11.2). Juveniles are not indicted for a crime; they have a petition filed against them. Secure pretrial holding facilities are called detention centers rather than jails. Similarly, the criminal trial is called a hearing in the juvenile justice system. The Focus on Delinquency feature on page 276 compares the two systems.

A COMPREHENSIVE JUVENILE JUSTICE STRATEGY  At a time when much attention is focused on serious juvenile offenders, a comprehensive strategy has been called for to deal with all aspects of juvenile crime. This strategy focuses on crime prevention and expanding options for handling juvenile offenders. It addresses the links between crime and poverty, child abuse, drugs, weapons, and school behavior. Programs are based on a continuum of care that begins in early childhood and progresses through late adolescence. The components of this strategy include prevention in early childhood; intervention for at-risk teenage youths; graduated sanctions to hold juvenile offenders accountable for crimes;
proper utilization of detention and confinement; and placement of serious juvenile offenders in adult courts. There are many expected benefits from the use of this comprehensive strategy (Exhibit 11.3).

Prevention

Research has identified certain factors that may suggest future delinquency. For young children, these include abuse and neglect, domestic violence, educational underachieve-

<table>
<thead>
<tr>
<th>Time Line</th>
<th>Activity</th>
</tr>
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<tbody>
<tr>
<td>Prior to 1899</td>
<td>Juveniles treated similarly to adult offenders. No distinction by age or capacity to commit criminal acts.</td>
</tr>
<tr>
<td>1899 to 1950s</td>
<td>Children treated differently, beginning with the Illinois Juvenile Court Act of 1899. By 1925 juvenile court acts are established in virtually every state.</td>
</tr>
<tr>
<td>1950s to 1970s</td>
<td>Recognition by experts that the rehabilitation model and the protective nature of parens patriae have failed to prevent delinquency.</td>
</tr>
<tr>
<td>1960s to 1970s</td>
<td>Constitutional due process is introduced into the juvenile justice system. The concept of punishing children or protecting them under parens patriae is under attack by the courts.</td>
</tr>
<tr>
<td>1970s to 1980s</td>
<td>Failure of rehabilitation and due process protections to control delinquency leads to a shift to a crime-control and punishment philosophy similar to that of the adult criminal justice system.</td>
</tr>
<tr>
<td>Early 1990s</td>
<td>Mixed constitutional protections with some treatment. Uncertain goals and programs; the juvenile justice system relies on punishment and deterrence.</td>
</tr>
<tr>
<td>Mid-1990s to present</td>
<td>Attention given to strategy that focuses on reducing the threat of juvenile crime and expanding options for handling juvenile offenders. Emphasis is placed on “what works” and implementing the best intervention and control programs. Effort is made to utilize the restorative justice model, which involves balancing the needs of the victim, the community, and the juvenile.</td>
</tr>
</tbody>
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<table>
<thead>
<tr>
<th>Checkpoints</th>
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</thead>
<tbody>
<tr>
<td>✔ There has been a movement to toughen the juvenile justice system.</td>
</tr>
<tr>
<td>✔ There are a number of stages in the juvenile justice process, beginning with police investigation.</td>
</tr>
<tr>
<td>✔ One critical decision is whether a child should be detained prior to trial.</td>
</tr>
<tr>
<td>✔ The adjudicatory hearing is the trial stage of the process.</td>
</tr>
<tr>
<td>✔ If a juvenile is found to be delinquent, a proper sentence, or disposition, must be found.</td>
</tr>
</tbody>
</table>

To quiz yourself on this material, go to questions 11.14–11.17 on the Juvenile Delinquency: The Core 2e Web site.
CHAPTER 11

Similarities and Differences Between Juvenile and Adult Justice Systems

Since its creation, the juvenile justice system has sought to maintain its independence from the adult justice system. Yet there are a number of similarities that characterize the institutions, processes, and law of the two systems.

**Similarities**

- Police officers, judges, and correctional personnel use discretion in decision making in both the adult and the juvenile systems.
- The right to receive *Miranda* warnings applies to juveniles as well as to adults.
- Juveniles and adults are protected from prejudicial lineups or other identification procedures.
- Similar procedural safeguards protect juveniles and adults when they make an admission of guilt.
- Prosecutors and defense attorneys play equally critical roles in juvenile and adult advocacy.
- Juveniles and adults have the right to counsel at most key stages of the court process.
- Pretrial motions are available in juvenile and criminal court proceedings.
- Negotiations and plea bargaining exist for juvenile and adult offenders.
- Juveniles and adults have a right to a hearing and an appeal.
- The standard of evidence in juvenile delinquency adjudications, as in adult criminal trials, is proof beyond a reasonable doubt.
- Juveniles and adults can be placed on probation by the court.
- Both juveniles and adults can be placed in pretrial detention facilities.
- Juveniles and adults can be kept in detention without bail if they are considered dangerous.
- After trial, both can be placed in community treatment programs.
- Juveniles and adults can be required to undergo drug testing.

**Differences**

- The primary purpose of juvenile procedures is protection and treatment. With adults, the aim is to punish the guilty.
- Age determines the jurisdiction of the juvenile court. The nature of the offense determines jurisdiction in the adult system. Juveniles can be ordered to the criminal court for trial as adults.
- Juveniles can be apprehended for acts that would not be criminal if they were committed by an adult (status offenses).
- Juvenile proceedings are not considered criminal; adult proceedings are.
- Juvenile court procedures are generally informal and private. Those of adult courts are more formal and are open to the public.
- Courts cannot release identifying information about a juvenile to the press, but they must release information about an adult.
- Parents are highly involved in the juvenile process but not in the adult process.
- The standard of arrest is more stringent for adults than for juveniles.
- Juveniles are released into parental custody. Adults are generally given the opportunity for bail.
- Juveniles have no constitutional right to a jury trial. Adults have this right. Some state statutes provide juveniles with a jury trial.
- Juveniles can be searched in school without probable cause or a warrant.
- A juvenile’s record is generally sealed when the age of majority is reached. The record of an adult is permanent.
- A juvenile court cannot sentence juveniles to county jails or state prisons; these are reserved for adults.
- The U.S. Supreme Court has declared that the Eighth Amendment does not prohibit the death penalty for crimes committed by juveniles ages sixteen and seventeen, but it is not a sentence given to children under age sixteen.

**CRITICAL THINKING**

1. What are some of the key principles of the juvenile justice system that distinguish it from the adult justice system and that have come under increased scrutiny of late?
2. What can be done to ensure that these key principles are protected so that the juvenile justice system remains distinct from the adult system?

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ment, and health problems. Early childhood services may prevent delinquency and make a child less vulnerable to future criminality. The federal Head Start program provides children in poverty with, among other things, an enriched educational environment to develop learning and cognitive skills to be better prepared for the early school years. Low intelligence and school failure are important risk factors for juvenile delinquency. Smart Start is designed to make certain children are healthy before starting school. Home-visiting programs target families at risk for child abuse and neglect.

### Intervention

Intervention programs are focused on teenage youths considered to be at higher risk for engaging in petty delinquent acts, using drugs or alcohol, or associating with antisocial peers. Interventions at this stage are designed to ward off involvement in more serious delinquency. Many jurisdictions are developing intervention programs for teenage youths. An example is the Big Brother/Big Sister program, which matches a volunteer adult with a youngster. Similarly, in the Office of Juvenile Justice and Delinquency Prevention's Juvenile Mentoring Program (JUMP), responsible and caring adults volunteer their time as mentors to youths at risk for delinquency and dropping out of school. The mentors work one-on-one with the children, offering support and guidance. Job training, through the likes of Job Corps and YouthBuild U.S.A., is another important intervention that receives government funding. These programs improve the chances of young people obtaining jobs in the legal economy and thereby may reduce delinquency. Efforts are also being made to deter them from becoming involved with gangs, because gang members ordinarily have higher rates of serious violent behavior.

### Graduated Sanctions

Graduated sanction programs for juveniles are another solution being explored by states across the country. Types of graduated sanctions include immediate sanctions for nonviolent offenders (these consist of community-based diversion and day treatment); intermediate sanctions such as probation and electronic monitoring, which target repeat minor offenders and first-time serious offenders; and secure institutional care, which is reserved for repeat serious offenders and violent offenders. The philosophy behind this approach is to limit the most restrictive sanctions to the most dangerous offenders, while increasing restrictions and intensity of treatment services as offenders move from minor to serious offenses.

### Institutional Programs

Another key to a comprehensive strategy is improving institutional programs. Many experts believe that juvenile incarceration is overused, particularly for nonviolent
Mentoring is one of many types of interventions that have been used with teens considered to be at high risk for engaging in delinquency. These two teens, juniors at North High School in Evansville, Indiana, are part of a mentor program to help incoming freshman.

Checkpoints

✔ There are conflicting values in juvenile justice. Some experts want to get tough with young criminals, while others want to focus on rehabilitation.

✔ There are distinct differences between the juvenile and adult justice system.

✔ The terminology used in juvenile justice is designed to shield kids from stigma.

✔ Some state jurisdictions are creating comprehensive juvenile care mechanisms using a variety of treatment programs.

✔ Some states are experimenting with peer-run teen courts.

To quiz yourself on this material, go to questions 11.18–11.20 on the Juvenile Delinquency: The Core 2e Web site.

**FUTURE OF JUVENILE JUSTICE**

The future of the juvenile court is now being debated. Some experts, including Barry Feld, believe that over the years the juvenile justice system has taken on more of the characteristics of the adult courts, which he refers to as the “criminalizing” of the juvenile court, or in a more stern admonition has said: “Despite juvenile courts’ persisting rehabilitative rhetoric, the reality of treating juveniles closely resembles punishing adult criminals.” Robert Dawson suggests that because the legal differences between the juvenile and criminal systems are narrower than they ever have been, it may be time to abolish the juvenile court.

These concerns reflect the changes that have been ongoing in the juvenile justice system. There has been a nationwide effort to modify the system in response to the public’s perceived fear of predatory juvenile offenders and the reaction to high-profile cases such as the Columbine tragedy. As a result, states have begun to institute policies that critics believe undermine the true purpose of the juvenile court.

**Alternative Courts**

New venues of juvenile justice that provide special services to youth while helping to alleviate the case flow problems that plague overcrowded juvenile courts are being implemented across the United States. For example, as of 2003 there were 285 juvenile drug courts (another 110 are in the planning process), with 12,500 juveniles enrolled. These special courts have jurisdiction over the burgeoning number of cases involving substance abuse and trafficking. Although juvenile drug courts operate under a number of different frameworks, the aim is to place nonviolent first offenders into intensive treatment programs rather than in a custodial institution. The following Preventing and Treating Delinquency feature discusses the alternative of teen courts.

**drug courts**

Courts whose focus is providing treatment for youths accused of drug-related acts.

**teen courts**

Courts that make use of peer juries to decide nonserious delinquency cases.
Some have made it easier to waive children to the adult courts. During the 1990s, at least four states lowered the age limit for transfer to adult court—today there are twenty-three states and the District of Columbia where no minimum age is specified (Table 11.3)—seven added crimes, and four added or modified prior-record provisions. As a result, more juvenile offenders are being sentenced as adults and incarcerated in adult prisons.

Getting tough on juvenile crime is the primary motivation for moving cases to the adult criminal justice system. Some commentators argue that waiving juveniles is a statement that juvenile crime is taken seriously by society; others believe the fear of being waived serves as a deterrent. Some states, such as Arizona, have initiated legislation that significantly restricts eligibility for juvenile justice processing and criminalizing acts that heretofore would have fallen under the jurisdiction of the juvenile court. For example, the Arizona legislation provides for the statutory exclusion for fifteen-, sixteen-, and seventeen-year-olds charged with violent crimes or if they had two prior felony adjudications and were charged with any third felony. It also added the provision, “once an adult, always an adult,” where, if a juvenile was previously tried and convicted in criminal court, any future offenses involving that juvenile will be tried in adult court. Thirty-three other states also have the once an adult, always an adult provision. While there is no mistaking the intention of this provision—to get tough on juvenile crime—some experts point out that inconsistencies that it created between the two justice systems may have inadvertently also produced a number of legal loopholes.

There is other evidence of this get-tough movement. More states are now permitting juvenile court judges to commit a juvenile to the corrections department for a longer period of time than the court’s original jurisdiction, typically to age twenty-one. In recent years, at least five states—Florida, Kansas, Kentucky, Montana, Tennessee—increased the age for extended juvenile court jurisdiction for serious and violent juvenile offenders.

These changes concern juvenile justice advocates such as Hunter Hurst, director of the National Center for Juvenile Justice, who warns:

How could the wholesale criminalization of children possibly be a wise thing? If their vulnerability to predation in jails and prisons does not destroy them, won’t the so-called taint of criminality that they carry with them for the rest of their lives be an impossible social burden for them and us? … Have our standards of decency devoted to the point where protection of children is no longer a compelling state interest? In many ways the answer is yes.

The National Research Council and Institute of Medicine’s Panel on Juvenile Crime also expressed alarm over an increasingly punitive juvenile justice system and called for a number of changes to uphold the importance of treatment for juveniles. One of their recommendations is particularly noteworthy:

The federal government should assist the states through federal funding and incentives to reduce the use of secure detention and secure confinement, by developing community-based alternatives. The effectiveness of such programs both for the protection of the community and the benefit of the youth in their charge should be monitored.

Although calling for reforms to the juvenile justice system was a key element of this national panel’s final report, panel members were equally, and perhaps more, concerned with the need to prevent delinquency before it occurs and intervene with at-risk children and adolescents. Importantly, there is growing public support for prevention and intervention programs designed to reduce delinquency. The panel also called attention to the need for more rigorous experimentation with prevention and intervention programs with demonstrated success in reducing risk factors associated with delinquency. Some states, like Washington, have begun to incorporate a research-based approach to guide juvenile justice programming and policy.
Teen Courts

To relieve overcrowding and provide an alternative to traditional forms of juvenile courts, jurisdictions across the country are now experimenting with teen courts, also called youth courts. These differ from other juvenile justice programs because young people rather than adults determine the disposition in a case. Cases handled in these courts typically involve young juveniles (ages ten to fifteen) with no prior arrest records who are being charged with minor law violations, such as shoplifting, vandalism, and disorderly conduct. Usually, young offenders are asked to volunteer to have their case heard in a teen court instead of the more formal court of the traditional juvenile justice system.

As in a regular juvenile court, teen court defendants may go through an intake process, a preliminary review of charges, a court hearing, and disposition. In a teen court, however, other young people are responsible for much of the process. Charges may be presented to the court by a fifteen-year-old “prosecutor.” Defendants may be represented by a sixteen-year-old “defense attorney.” Other youths may serve as jurors, court clerks, and bailiffs. In some teen courts, a youth “judge” (or panel of youth judges) may choose the best disposition or sanction for each case. In a few teen courts, teens even determine whether the facts in a case have been proven by the prosecutor (similar to a finding of guilt). Offenders are often ordered to pay restitution or perform community service. Some teen courts require offenders to write formal apologies to their victims; others require offenders to serve on a subsequent teen court jury. Many courts use other innovative dispositions, such as requiring offenders to attend classes designed to improve their decision-making skills, enhance their awareness of victims, and deter them from future theft.

Though decisions are made by juveniles, adults are also involved in teen courts. They often administer the programs, and they are usually responsible for essential functions such as budgeting, planning, and personnel. In many programs, adults supervise the courtroom activities, and they often coordinate the community service placements where the young offenders work to fulfill the terms of their dispositions. In some programs, adults act as the judges while teens serve as attorneys and jurors.

Proponents of teen court argue that the process takes advantage of one of the most powerful forces in the life of an adolescent—the desire for peer approval and the reaction to peer pressure. According to this argument, youth respond better to prosocial peers than to adult authority figures. Thus, teen courts are seen as a potentially effective alternative to traditional juvenile courts that are staffed with paid professionals such as lawyers, judges, and probation officers. Teen court advocates also point out that the benefits extend beyond defendants. Teen courts may benefit the volunteer youth attorneys and judges, who probably learn more about the legal system than they ever could in a classroom. The presence of a teen court may also encourage the entire community to take a more active role in responding to juvenile crime. In sum, teen courts offer at least four potential benefits:

- **Accountability.** Teen courts may help ensure that young offenders are held accountable for their illegal behavior, even when their offenses are relatively minor and would not likely result in sanctions from the traditional juvenile justice system.
- **Timeliness.** An effective teen court can move young offenders from arrest to sanctions within a matter of days rather than the months that may pass with traditional juvenile courts. This rapid response may increase the positive impact of court sanctions, regardless of their severity.
- **Cost savings.** Teen courts usually depend heavily on youth and adult volunteers. If managed properly, they...

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<table>
<thead>
<tr>
<th>Age</th>
<th>State (Total Number)</th>
</tr>
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<tbody>
<tr>
<td>None</td>
<td>Alaska, Arizona, Delaware, Florida, Georgia, Hawaii, Idaho, Indiana, Maine, Maryland, Montana, Nebraska, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Washington, West Virginia, Wisconsin (23 and the District of Columbia)</td>
</tr>
<tr>
<td>10</td>
<td>Kansas, Vermont (2)</td>
</tr>
<tr>
<td>12</td>
<td>Colorado, Missouri (2)</td>
</tr>
<tr>
<td>13</td>
<td>Illinois, Mississippi, New Hampshire, New York, North Carolina, Wyoming (6)</td>
</tr>
<tr>
<td>14</td>
<td>Alabama, Arkansas, California, Connecticut, Iowa, Kentucky, Louisiana, Massachusetts, Michigan, Minnesota, Nevada, New Jersey, North Dakota, Ohio, Utah, Virginia (16)</td>
</tr>
<tr>
<td>15</td>
<td>New Mexico (1)</td>
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</tbody>
</table>

may handle a substantial number of offenders at relatively little cost to the community.

- Community cohesion. A well-structured and expansive teen court program may affect the entire community by increasing public appreciation of the legal system, enhancing community-court relationships, encouraging greater respect for the law among youth, and promoting volunteerism among both adults and youths.

The teen court movement is one of the fastest-growing delinquency intervention programs in the country, with more than nine hundred of these courts in operation in forty-six states and the District of Columbia. Recent evaluations of teen courts have found that they did not “widen the net” of justice by handling cases that in the absence of the teen court would have been subject to a lesser level of processing. Also, in the OJJDP Evaluation of Teen Courts Project, which covered four states—Alaska, Arizona, Maryland, and Missouri—and compared five hundred first-time offending youths referred to teen court with five hundred similar youths handled by the regular juvenile justice system, it was found that six-month recidivism rates were lower for those who went through the teen court program in three of the four jurisdictions. Importantly, in these three teen courts, the six-month recidivism rates were under 10 percent. A similar finding was reported in another rigorous evaluation of a teen court in Florida. On the other hand, other recent evaluations of teen courts in Kentucky, New Mexico, and Delaware indicate that short-term recidivism rates range from 25 percent to 30 percent. The conclusions from the OJJDP teen court evaluation may be the best guide for future experimentation with teen courts:

Teen courts and youth courts may be preferable to the normal juvenile justice process in jurisdictions that do not, or cannot, provide meaningful sanctions and services for all young, first-time juvenile offenders. In jurisdictions that do not provide meaningful sanctions and services for these offenders, youth court may still perform just as well as a more traditional, adult-run program.

CRITICAL THINKING

1. Could teen courts be used to try serious criminal acts such as burglary and robbery?
2. Is a conflict of interest created when teens judge the behavior of other teens? Does the fact that they themselves may one day become defendants in a teen court influence their decision making?

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Those who support the juvenile justice concept believe that it is too soon to write off the rehabilitative ideal that has always underpinned the separate treatment of juvenile offenders. They note that fears of a juvenile crime wave are misplaced and that the actions of a few violent children should not mask the needs of millions who can benefit from solicitous treatment rather than harsh punishments. Authors Alida Merlo, Peter Benekos, and William Cook note that a child is more likely to be hit by lightning than shot in a school. And while a get-tough approach may be able to reduce the incidence of some crimes, economic analysis indicates that the costs incurred by placing children in more punitive secure facilities outweigh the benefits accrued in crime reduction.

1. Urbanization created a growing number of at-risk youth in the nation’s cities. The juvenile justice system was established at the turn of the twentieth century after decades of efforts by child-saving groups. These reformers sought to create an independent category of delinquent offender and keep their treatment separate from adults.

2. Over the past four decades, the U.S. Supreme Court and lower courts have granted procedural safeguards and the protection of due process in juvenile courts. Major court decisions have laid down the constitutional requirements for juvenile court proceedings. In years past the protections currently afforded to both adults and children were not available to children.

3. For both violent and property offenses, more than half of all formally processed delinquency cases in 1999 resulted in the youth being adjudicated delinquent.

4. The juvenile justice process consists of a series of steps: the police investigation, the intake procedure in the juvenile court, the pretrial procedures used for juvenile offenders, and the adjudication, disposition, and post-dispositional procedures.

5. There are conflicting values in juvenile justice. Some experts want to get tough with young criminals, while others want to focus on rehabilitation.

6. The adult and juvenile justice systems have a number of key similarities and differences. One of the similarities is the right to receive Miranda warnings; this applies to juveniles as well as adults. One of the differences is that juvenile proceedings are not considered criminal, while adult proceedings are.

7. There has been a movement to toughen the juvenile justice system, and because of this many view the importance of treatment as having been greatly diminished. Proponents of treatment argue that it is best suited to the developmental needs of juveniles. Critics contend that treatment simply serves to mollycoddle juveniles and reduces the deterrent value of the juvenile court.

8. A comprehensive juvenile justice strategy has been developed to preserve the need for treatment services for juveniles while at the same time using appropriate sanctions to hold them accountable for their actions. Elements of this strategy include delinquency prevention, intervention programs, graduated sanctions, improvement of institutional programs, and treating juveniles like adults. New courts, such as drug courts and teen courts, are now in place.

9. Prevention efforts are targeted at children and teens in an effort to prevent the onset of delinquency. Intervention efforts are targeted at children and teens considered at higher risk for delinquency and are designed to ward off involvement in more serious delinquent behavior.

10. The future of the juvenile justice system is in doubt. A number of state jurisdictions are now revising their juvenile codes to restrict eligibility in the juvenile justice system and remove the most serious offenders. At the same time there are some promising signs, such as public support for prevention and intervention programs and some states beginning to incorporate research-based initiatives to guide juvenile justice programming and policy.
1. What factors precipitated the development of the Illinois Juvenile Court Act of 1899?

2. One of the most significant reforms in dealing with the juvenile offender was the opening of the New York House of Refuge in 1825. What were the social and judicial consequences of this reform on the juvenile justice system?

3. The child savers have been accused of wanting to control the lives of poor and immigrant children for their own benefit. Are there any parallels to the child-saving movement in modern-day America?

4. Should there be a juvenile justice system, or should juveniles who commit serious crimes be treated as adults while the others are handled by social welfare agencies?

5. The Supreme Court has made a number of major decisions in the area of juvenile justice. What are these decisions? What is their impact on the juvenile justice system?

6. What is the meaning of the term procedural due process of law? Explain why and how procedural due process has had an impact on juvenile justice.

7. The formal components of the criminal justice system are often considered to be the police, the court, and the correctional agency. How do these components relate to the major areas of the juvenile justice system? Is the operation of justice similar in the juvenile and adult systems?

8. How would the rehabilitation model and the restorative justice model consider the use of capital punishment as a criminal sanction for first-degree murder by a juvenile offender?

9. What role has the federal government played in the juvenile justice system over the last twenty-five years?

QUESTIONS FOR DISCUSSION

Fourteen-year-old Daphne A., a product of the city’s best private schools, lives with her wealthy family in a fashionable neighborhood. Her father is an executive at a local financial services conglomerate and earns close to a million dollars per year. Daphne, however, is always in trouble at school, and teachers report she is impulsive and has poor self-control. At times she can be kind and warm, but on other occasions she is obnoxious, unpredictable, insecure, and demanding of attention. She is overly self-conscious about her body and has a drinking problem.

Despite repeated promises to get her life together, Daphne likes to hang out at night in a local park, drinking with neighborhood kids. On more than one occasion she has gone to the park with her friend Chris G., a quiet boy with his own personal problems. His parents have separated and he is prone to severe anxiety attacks. He has been suspended from school and diagnosed with depression, for which he takes two drugs—an antidepressant and a sedative.

One night, the two met up with Michael M., a forty-four-year-old man with a long history of alcoholism. After a night of drinking, a fight broke out and Michael was stabbed, his throat cut, and his body dumped in a pond. Soon after the attack, Daphne called 911, telling police that a friend “jumped in the lake and didn’t come out.” Police searched the area and found the slashed and stabbed body in the water; the body had been disemboweled in an attempt to sink it. When the authorities traced the call, Daphne was arrested, and she confessed to police that she had helped Chris murder the victim.

During an interview with court psychiatrists, Daphne admits she participated in the killing but cannot articulate what caused her to get involved. She had been drinking and remembers little of the events. She said she was flirting with Michael and Chris stabbed him in a jealous rage. She speaks in a flat, hollow voice and shows little remorse for her actions. It was a spur-of-the-moment thing, she claims, and after all it was Chris who had the knife and not she. Later, Chris claims that Daphne instigated the fight, egged him on, taunting him that he was too scared to kill someone. Chris says that Daphne, while drunk, often talked of killing an adult because she hates older people, especially her parents.

If Daphne is tried as a juvenile she can be kept in institutions until she is seventeen; the sentence could be expanded to age twenty-one, but only if she is a behavior problem in custody and demonstrates conclusive need for further secure treatment.

1. Should the case of Daphne A. be dealt with in the juvenile court, even though the maximum possible sentence she can receive is two to six years? If not, over what kind of cases should the juvenile court have jurisdiction?

2. How does the concept of parens patriae apply in cases such as that of Daphne A?

3. If you believe that the juvenile court is not equipped to handle cases of extremely violent youth, then should it be abolished?

4. What reforms must be made in the juvenile justice system to rehabilitate adolescents like Daphne? Or should it even try?
Before you answer these questions, you may want to learn more about this topic by checking out the Web sites of the American Youth Policy Forum, Office of Juvenile Justice and Delinquency Prevention, National Center for Juvenile Justice, National Crime Prevention Council, Fight Crime: Invest in Kids, and Office of the Surgeon General. Click on Web Links under the Chapter Resources at http://cj.wadsworth.com/siegel_jdcore2e.

To research the debate on the most effective strategies to address serious and violent juvenile offending, use “juvenile and violence” in a key word search on InfoTrac College Edition. Pro/Con discussions and Viewpoint Essays on some of the topics in this chapter may be found at the Opposing Viewpoints Resource Center: www.gale.com/OpposingViewpoints.