



eighth edition

Juvenile Justice in America

Clemens Bartollas
Stuart J. Miller

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EIGHTH EDITION

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- University of Northern Iowa

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To Irie Sky Bell
A Beautiful Granddaughter

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Preface

Juvenile justice is part of a broader human rights movement that is concerned with far more than society's response to juvenile lawbreaking. Indeed, as globalization, urbanization, industrialization, and communications quickly spread across the globe, the world's attention increasingly is directed to the plight of all children, regardless of circumstances. This concern is extremely late in coming. Approximately **twenty-five percent** of the world's population today is age 15 or younger, and the magnitude of the problems these youths face is staggering. Poverty, racism, sexism, ethnocentrism, and religious differences all influence how children are treated. The reality is that in many societies, children are considered to be economic hindrances and expendable. Local, municipal, state, provincial, territorial, and national governments often lump together the needy, the dependent and neglected, the status offender, those who are mentally ill or violent, and the victims of abuse. These children are discriminated against, victimized, persecuted, and sometimes executed by citizens, police, and paramilitary forces. The problems youths face go to the core of cultural thinking, far beyond the needs of societies simply to fine-tune agencies and the rules already in place for the handling of youths in need.

English-speaking countries such as the United States provide many of the ideals that are behind current worldwide efforts to reform the world's approach to juvenile justice. Unfortunately, even world leaders often fall far short of their own ideals. In this regard, the United States is an excellent case study of what is and what could be in juvenile justice in the world today.

Goals and Objectives

Our primary purposes in writing this edition are as follows:

1. To give students an intimate look at the lives of juveniles, their experiences in society, and the consequences of those experiences
2. To present the structures, procedures, and philosophies of juvenile justice agencies in the United States
3. To explore and define the important components of and debates over juvenile justice in the United States
4. To examine the issues and challenges facing juvenile justice agencies today
5. To maintain a balance between theory, evidence-based findings, law, and practice in our examination of juvenile justice
6. To provide the most up-to-date materials possible and, at the same time, to make this text interesting for the student.

Although no author is totally value-free, every attempt has been made to be fair and provide a balanced presentation of the juvenile justice system. Before juvenile justice can develop more just systems and a more humane present and future for juveniles, its characteristics, procedures, policies, and problems must be carefully examined. That is the task of this text.

What's New in This Edition

- New chapter openers are provided for a number of chapters.
- Chapter 1 has a new section on the juvenile court today.
- Chapter 1 has a new table on the minimum age of juvenile court jurisdiction by state.
- Chapter 1 has a new career box on the judge.
- Chapter 1 has an article on the recent reforms in juvenile justice in a number of states.
- This 2013 article is reflective of using new up-to-date publications through the text.
- Chapter 1 has a new Focus on Offenders describing a youth who ended up on death row.
- Chapter 1 has a new theme of the text, delinquency prevention. Most chapters in this text retains this theme.
- Chapter 1 concludes with another new emphasis—that of the importance of theory—research (usually evidence-based practices)—and policy in generating effective policy in juvenile justice. This emphasis reappears throughout the text.
- Chapter 1 has a new topic in the summary section—Working with Juveniles. This topic is found throughout the remainder of the text.
- Chapter 2 has updated statistics on the measurement of delinquent behavior.
- Chapter 2 has a new career box on the court referee.
- Chapter 2 has a new topic on Thinking Like a Correctional Professional; this topic is found in most chapters of the text.
- Chapter 2 has the section on the victimization of juveniles moved in an expanded form to the final chapter.
- Chapter 3 has a new section on why we punish.
- Chapter 3 has a new section on the goals and philosophy of punishment, divided into general deterrence, specific deterrence, incapacitation, rehabilitation, and restorative justice.
- Chapter 3 has a new career box on the juvenile justice officer.
- Chapter 3 has a new section on social policy in juvenile justice: PHDCN/LAFANS.
- Chapter 4 has a new focus on gender roles and delinquency, including the female delinquent, why adolescent females become involved in offending, and the most important dimensions of female delinquent behavior.
- Chapter 4 has a new career box on the juvenile psychotherapist.
- Chapter 4 has a new section that examines the programs for girls sponsored by the Girls, Inc. (formerly called the Girls Club of America).
- Chapter 4 also has a section on Gender Across the Life Course.
- Chapter 5 has a new section on Police Attitudes Toward Youth Crime.
- Chapter 5 has a new policy section on school police district (Los Angeles) agreed to rethink court citations for students.
- Chapter 5 has a new career box on the juvenile school resource officer (SRO).
- Chapter 5 further discusses the Baltimore Outward Bound Police Insight Program, which brings officers and middle school students together for a unique one day program.
- Chapter 6 has a new career box on the juvenile court defense attorney.
- Chapter 6 has a new section on the dangers of detention, based on the recent report by the Justice Policy Institute.
- Chapter 7 has updated figures on transfer procedures.
- Chapter 7 has a new career box on the juvenile court prosecutor.
- Chapter 7 has a new table on state prisons and age of responsibility.
- Chapter 7 has a new table on juveniles under 18 executed from January 1, 1973 until the *Roper* decision

- Chapter 8 has a new exhibit on Categories Depicting a Probation Officer.
- Chapter 8 has a new exhibit on differences between probation and aftercare.
- Chapter 8 has a new career box on the gang intelligence officer.
- Chapter 9 has new materials on youth courts, drug courts, and mental health courts.
- Chapter 9 discusses a new day treatment program, the Family Centered Treatment program in Maryland.
- Chapter 9 has a new career box on the substance abuse counselor.
- Chapter 10 has updated statistics on juvenile institutionalization.
- Chapter 10 has a new career box on the superintendent of a training school.
- Chapter 10 has a new section on racial differences in juvenile justice processing.
- Chapter 11 has a new section on the Assessment of Those on Aftercare, including a discussion of the Level of Service Inventory-Revised (ISI-R).
- Chapter 11 has a new exhibit on the Powelton Aftercare in Philadelphia.
- Chapter 11 has a new career box on the juvenile aftercare or parole officer.
- Chapter 12 has a new career box on the institutional social worker.
- Chapter 13 has a new exhibit on gang scholars.
- Chapter 13 has a new exhibit on Father Greg Boyle, S. J.—A Man with a Vision
- Chapter 13 has a new career box on residential staff members.
- Chapter 14 is a new chapter on juvenile offender populations. It examines the juvenile drug user, juvenile gang delinquent, violent youthful offender, mentally ill juvenile offender, the crossover youth, and the homeless youth. The backgrounds, types, offenses, and treatment of these offenders are covered.
- Chapter 14 has a new career box on the recreational therapist.
- Chapter 15 begins with a section on the context of juvenile victimization, including the family and the victimization of children, the school and victimization, bullying, brothels and the streets, and mass media and delinquent behavior.
- The next section of chapter 15 includes an expanded section of professionalism in juvenile justice.
- Chapter 15 has an expanded section on careers in juvenile justice.
- Chapter 15 has a new section on internships in juvenile justice and corrections.

Organization of the Text

The eighth edition of *Juvenile Justice in America* has fifteen chapters:

- Chapter 1 presents the history of juvenile justice and several historical themes of juvenile justice, examines juvenile justice agencies and functions, and reviews the most widely held philosophies and strategies on correcting juveniles.
- Chapter 2 examines the measurement of juvenile crime and considers the dimensions of law-violating behavior.
- Chapter 3 provides a broad review of the causes of juvenile crime as they developed over the past century.
- Chapter 4 focuses on gender and delinquency. It examines the causes of female delinquency, behaviors that female offenders become involved in, and racial and class dimensions of female delinquency behaviors.
- Chapter 5 discusses the role of the police in dealing with juveniles. It covers police attitudes, juvenile attitudes towards the police, the legal rights of juveniles in dealing with the police, how police process juveniles, and the role of community-oriented policing.

- Chapter 6 examines the main U.S. Supreme Court cases related to the handling of juveniles who come before the juvenile court, considers how status offenders have been handled, presents information on the judge and other key personnel in the juvenile court, and discusses the pretrial procedures of the juvenile court. This chapter also focuses on the adjudicatory hearing, disposition hearing, and judicial alternatives of the juvenile court and looks at the rights of appeal a juvenile has and the current juvenile sentencing structure. Then it provides a defense of the juvenile court and suggestions concerning what is needed for the juvenile court to achieve excellence.
- Chapter 7 extends the discussion to juveniles who are waived to adult court. The issue of transfer receives major attention, but discussions are also provided on the youthful offender system, life for a juvenile in prison, changes in the death penalty for juveniles, and current evaluation of the situation in which juveniles are sentenced to life without the possibility of parole.
- Chapter 8 considers the administration, functions, and risk control focus of probation today. The job of the probation officer is described, and the rights of probationers, the role of volunteers, and the effectiveness of probation are considered.
- Chapter 9 examines the various aspects of community-based programs, including prevention, diversion, day treatment, and residential programs.
- Chapter 10 evaluates the various aspects of institutionalization, both short-term and long-term, for juveniles.
- Chapter 11 delves into aftercare in juvenile justice. Using current research, it places a major emphasis on reentry programs.
- Chapter 12 considers and evaluates the various types of treatment modalities.
- Chapter 13 extends the discussion to juvenile gangs, revealing their history, the types and background of urban and emerging gangs, and the toxicity of gang involvement. The chapter concludes by considering what communities can do to prevent and control youth gangs.
- Chapter 14 examines six offender populations: drugs user, the sex offender, gang delinquent, violent offender, medically ill youthful offender, the crossover youth, and the homeless offender.
- Chapter 15 opens with a context of juvenile victimization, now, considers what juvenile justice will look like in the future, looks at the new technologies emerging in corrections and security procedures, examines how professionalism impacts juvenile justice, and discusses whether juvenile justice is a good career.

Learning Tools

This text contains a number of features that are designed to help students in the learning process.

For Students

Evidence-Based Practice Boxes. A new box in each chapter (except for Chapter 1) highlights real-life examples of evidence-based practices and programs currently in operation.

Focus Boxes. Each chapter contains one or more boxes relating to aspects of juvenile justice, such as laws, social policy, intervention programs, and insights into offenders' thoughts and motivations.

Nearly all chapters have a Thinking Like a Corrections Professional box. This feature provides an opportunity for the student to think how, as a professional, he or she would handle an issue or challenge in juvenile justice.

Nearly all the chapters include a section on the prevention of delinquency.

Effective programs, theories, and practices are featured in these sections.

Summary. The chapter concepts are summarized and organized according to the chapter's learning objectives to help students learn the material.

Critical Thinking and Review Questions. These are found at the end of some boxes and at the end of each chapter.

Group Exercises. Each chapter includes exercises for small group discussions, writing exercises, and/or suggestions for class debate topics.

All of the chapters have a Section in the Summary Called Working with Juveniles. What is suggested are important ingredients or characteristics of effective workers with juveniles.

Instructor Resources

Voices in the Juvenile Justice System. Victims, delinquents, and professionals contribute thirty-five “stories”; twenty-one are from individuals who talk about their childhoods, the crimes they committed, the contacts they had with the police and juvenile justice system, and a victim of sex slavery. The other statements are from those who either have worked or presently work with youthful offenders, ranging from police officers to a juvenile court judge, a chief of juvenile probation, a deputy director of a detention center, a community mental health coordinator, a forensic psychiatrist, and a practicing clinical psychologist. The founder and director of a residential facility, two staff members in residential facilities, a therapist who has worked with sex offenders, a former juvenile court prosecutor from New York City, and a Deputy Commissioner of Probation in New York City. These are identified in the margins of the text and can be accessed from www.pearsonhighered.com/careers.

Instructor Supplements

Instructor's Manual with Test Bank. Includes content outlines for classroom discussion, teaching suggestions, and answers to selected end-of-chapter questions from the text. This also contains a Word document version of the test bank.

TestGen. This computerized test generation system gives you maximum flexibility in creating and administering tests on paper, electronically, or online. It provides state-of-the-art features for viewing and editing test bank questions, dragging a selected question into a test you are creating, and printing sleek, formatted tests in a variety of layouts. Select test items from test banks included with TestGen for quick test creation, or write your own questions from scratch. TestGen's random generator provides the option to display different text or calculated number values each time questions are used.

PowerPoint Presentations. Our presentations offer clear, straightforward outlines and notes to use for class lectures or study materials. Photos, illustrations, charts, and tables from the book are included in the presentations when applicable.

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Juvenile Justice

An Overview



THE STOCKS (16TH CENTURY).

19th era/Alamy

Learning Objectives

1. Retrace the journey of juvenile justice in the United States.
2. Summarize the history of juvenile confinement.
3. Summarize the historical themes that guided the development of juvenile justice in the United States.
4. Present the structure and procedures of juvenile justice agencies in this nation.
5. Examine the various philosophies and strategies for correcting juveniles.

In 2010, Mark W. Lipsey and colleagues published Improving the Effectiveness of Juvenile Justice Programs¹:

We now have research on best practices for juvenile justice-involved youth and the policies that support the practices. We find this reflected in the increased use of evidence-based practices and programs, in the growth of the science of risk and protective factors and criminogenetic factors and characteristics, and in the development and use of validated risk and needs assessment instruments. We have learned about the importance of advancing our work on an ecological platform, serving youth closer to home, and better connecting youth to family, school, community, and pro-social peers while utilizing a strength-based approach. The true challenge is not, therefore, a lack of knowledge of what works, but rather is in translating the robust body of knowledge into practice.²

Evidence-based research provides reason to be positive about the future of juvenile justice in the United States. All of the remaining chapters of this text discuss evidence-based practices in juvenile justice. “Gold standard” programs that have recently been developed to benefit youthful lawbreakers are Blueprints for Violence Prevention developed by Dr. Delbert Elliott, the Office of Juvenile Justice and Delinquency Prevention’s Model Programs guide, and the Substance Abuse and Mental Health Services Administration’s National Registry of Evidence-Based Programs and Practices.³

In the midst of these hopeful program innovations in the juvenile justice system, there remains wide criticism of juvenile justice in the United States. Some of the criticism focuses on the juvenile court, as well as on the court’s rehabilitative *parens patriae* (“the state as parent”) philosophy. Indeed, one characteristic of juvenile justice today is the proposal, from both liberals and conservatives, to reduce the scope of the juvenile court’s responsibilities. Conservatives want to refer more law-violating youths to adult court, while many liberals recommend divesting the juvenile court of its jurisdiction over **status offenders** (juveniles who have engaged in behaviors for which adults would not be arrested). Some also believe that the adult court could do a much better job than the juvenile court with youthful offenders. Juvenile offenders, according to this position, would at least receive their constitutionally guaranteed due process rights.

The fact is that the juvenile justice system will experience major changes in the next few years. How it will change and whether the changes will be helpful to the youth of this nation are critical questions to be answered. In the chapters of the current volume, positive changes are recommended to improve the functioning of the juvenile justice system.

The juvenile justice system is responsible for controlling and correcting the behavior of troublesome juveniles. What makes this mission so difficult to accomplish in the twenty-first century are the complex forces that intrude on any attempt either to formulate goals or to develop effective programs. Juvenile violence remains a serious problem, although homicides committed by juveniles began to decline in the mid-1990s. Even though juvenile gangs declined in numbers and membership across the nation in the final four years of the twentieth century, these gangs continue to be a problem in many communities. Juveniles’ increased use of weapons has also become a serious concern, and there are those who believe that “getting the guns out of the hands of juveniles” is the most important mandate that the juvenile justice system currently has. The use of drugs and alcohol among the juvenile population declined in the final decades of the twentieth century, but beginning in the mid-1990s and continuing to the present, there is evidence that the use of alcohol and drugs, especially marijuana and methamphetamine, is rising in the adolescent population. Furthermore, conflicting philosophies and strategies for correcting juvenile offenders have combined with the social, political, and economic problems that American society faces today—this combination presents other formidable challenges to the juvenile justice system.

Yet, let it be clear that while presenting the challenges of juvenile justice and the often disturbing results of working with youth in trouble, the authors are not promoting a “nothing works” thesis. There are stirring accounts of youths who started out in trouble and

Focus on Offenders 1–1

In a biography I am writing on Rico Johnson, or as he is known, Rahim, Minister of Justice, the head of the Vice Lord nation in Chicago, I learned how his childhood was one of becoming involved in one juvenile caper after another. When he was sent to St. Charles Training School in Illinois, he became involved with an emerging group that eventually became the Vice Lords.

Upon his return to Chicago, he attempted to bring money home because he was the oldest child, the only boy with several daughters, and he felt responsible for helping his mother, a nurse, feed her family. This commitment on his part of helping his mother financially required him to become involved with robbery, sometimes with a weapon. It was not long before he appeared again in court and was sent to an institution in Joliet, Illinois, a facility for older juveniles involved in serious forms of offending.

The Vice Lord gang was starting to expand beyond its neighborhood to other parts of Chicago, and with its growth, came increased involvement of “Little Rico,” as he was called. It was not long before he was recognized as one of the gang leaders, and he was sent to an adult facility for a short sentence.

Upon his return, he returned to gang involvement and family “overseer.” One of his sisters had married, and her husband became involved in domestic violence from time to time. Finally, Rico had had enough; he went over to the home and warned the husband that this behavior had to cease or there would be dire consequences. Then, not long after that, his sister called again and informed her brother that her husband had beaten her with a firing pan, and she was really “messed up.” Rico returned to the sister’s house determined to get the situation resolved, whatever it took. The husband was sitting on the sofa in the living room, and in the noisy exchange between the two men, he drew a weapon. Before he had a chance to discharge it, Rico fatally shot him.

On the face of it, it appeared to be self-defense, but in Chicago in those days, gang leaders sometimes got “different justice.” He was convicted of murder and given a long prison sentence. He was sent to Stateville Penitentiary, a maximum-security prison in Joliet, Illinois.

During his stint there, while he was gaining in gang credibility, he became friends with a Muslim prisoner and before too many months he was converted to Islam. Rico’s standing with the gang was such that he was able to persuade the entire Vice Lord Nation to become practicing adherents of Allah.

In 1980, after being in prison for a decade, he was granted parole. He had had a clean record, avoiding disciplinary offenses. It seemed to be apparent that redemption had taken place in his life. However, redemption was not part of his time on parole; he became a terror on the streets. And a few months later, he was arrested for armed robbery and return to the Illinois’ Department of Corrections to finish his sentence.

Rico Johnson was to remain in prison from late 1980 to August 2012, eventually serving forty-one years in confinement. It was during this time that I visited him in prison and even appeared in several of his parole hearings. While it appeared to me that he would not be released, this now second-in-command of the Vice Lord Nation, assumed an extremely positive role in the lives of those who claimed to be Vice Lords. Having interviewed fifteen individuals who were in prison with Rico, they claimed to have returned home and never again resumed criminal behavior, drug using, or drug trafficking. All these individuals claimed that Rico Johnson had changed their lives.

Then, much to my surprise, he was released in August 2012. He had to wear an ankle bracelet from August to December. In the more than three years he has been out, his mission in life has been to impact young people in positive ways. There have been no problems with criminal behavior or conflict with law enforcement; instead, there are continuous programs that he has been involved with, providing positive guidance to young people, in order to help them avoid criminal behavior or drug involvement and use. He is attempting to help young people avoid the mistakes he made as an adolescent.

Source: The story of Rico Johnson’s life will be found in his forthcoming biography. I hope to have this published in 2016.

were able to turn things around. In some cases, it was a program that worked with them; in others, it was an adult who made a difference in their lives; and in still others, it was the youths themselves who made the decision to live a crime-free life. As previously noted, with the current emphasis on evidence-based practices and other model programs, it is hoped that juvenile justice programs will be more effective in the future.

A heartwarming success story is found in Focus on Offenders 1–1. The youth in this case had more than his share of troubles with the law as an adolescent. He ended up in and out of juvenile institutions and became a member of an emerging Vice Lord gang. Incarcerated for forty-one years in Illinois’ prisons, he became a positive force to inmates while incarcerated and during his three years since his parole, he is committed to helping juvenile people in the community stay out of trouble.

This chapter examines four topics: a historical sketch of juvenile justice, several historical themes, the organizational structure of juvenile justice agencies, and the philosophical approaches to treating youthful offenders. What these topics have in common is that they present the contexts (past and present) that have shaped juvenile justice in the United States.

What Are the Roots of Juvenile Justice?

Throughout history, there has rarely been an emphasis on the special needs of juveniles. Adults and juveniles who violated the law were typically processed in the same manner and were subject to the same types of punishments, including whippings, mutilation, banishment, torture, and death.

Early Europe

In the fifth century A.D., the age was fixed at seven for determining whether youths would be exempted from criminal responsibility under certain conditions. With the onset of puberty, at the age of twelve for girls and fourteen for boys, youths were held totally responsible for their socially unacceptable behaviors.

This understanding of children and criminal responsibility continued in medieval Europe. For example, during the entire period between 700 and 1500 A.D., children were not viewed as a distinct group with special needs and behaviors. Although little is known about the peasant families of the Middle Ages, it is clear that children were expected to assume adult roles in the family early in life and apprentice themselves in crafts or trades to wealthier families. The landowners of the country, then, assumed control over children and their welfare and, at the same time, lifted the burden of child care from their parents.

These early medieval traditions eventually influenced the shaping of juvenile justice in England. Both the Chancery court, which eventually became responsible for overseeing the general welfare of the citizenry, and the concept of *parens patriae*, which focused on the sovereign as the one who protected his or her subjects, played a prominent role in the shaping of English juvenile justice.

Because children and other incompetents were under the protective control of the sovereign, it was not difficult for English kings to justify interventions in their lives. With the passage of time, the concept of *parens patriae* was increasingly used to justify interventions in peasants' families.

The common law tradition in England eventually concurred with earlier law that children under seven should not face legal penalties. Children between seven and fourteen were deemed another matter, and their responsibility was determined by other considerations: severity of the crime, maturity, capacity to distinguish between right and wrong, and evidence of blatant malice.

A sad page in the history of English juvenile justice is that some 160 to 200 capital offenses were listed in the statutes for which children could be executed. Although many juveniles sentenced to die were later pardoned or transported to another country, some children were executed. For example, eighteen of the twenty people executed in London in 1785 were under the age of eighteen.⁴ The executions of children continued, but only occasionally, into the 1800s.

The Colonies and Later

Juvenile justice in the United States began in the colonial period and continued English practices. In the colonial period, juvenile justice was shaped principally by the cultural and religious ideas of the Puritans. The family, the cornerstone of the community in colonial times, was the source and primary means of social control of children. The law was uncomplicated; the only law enforcement officials were town fathers, magistrates, sheriffs, and watchmen; and the only penal institutions were jails for prisoners awaiting trial or punishment. Juvenile lawbreakers did not face a battery of police, probation, or **aftercare officers** (the juvenile equivalent of adult parole officers), nor did they have to worry that practitioners of the juvenile justice system would try to rehabilitate or correct them. They only had to concern themselves with being sent back to their families for punishment.⁵

As children got older, however, the likelihood increased that they would be dealt with more harshly by colonial law. The state, even in those early days, clearly was committed to raising its children correctly and making them follow society's rules. If children were still recalcitrant after harsh whippings and other forms of discipline from their families, they could be returned to community officials for more punishment, such as public whippings,

dunkings, or the stocks, or in more serious cases, expulsion from the community or even the use of capital punishment.⁶

The state became even more concerned about the welfare of its children in the 1800s. Increased urbanization, industrialization, and bureaucratization were changing the face of America. In the cities particularly, increasing numbers of youths were seemingly out of control. Reformers searched for ways to teach them traditional values, and the asylum and the training school were developed to help the state maintain its control.

The courts were by now heavily involved with the juvenile problem. The concept of *parens patriae* was formalized by *ex parte Crouse* in 1838 and gave the courts a legal basis for intervening in the lives of children. The Bill of Rights, the court ruled, did not apply to minors, and the state could legitimately confine minors, who, according to the ruling, did not have the right to counsel or trial by jury, and who could be confined even in the absence of criminal behavior.

By the end of the 1800s, much of the U.S. population lived in urban areas and worked in factories. Cities were large and growing, and waves of immigration were inundating the nation's shores with millions of people destined to remain poor. Conditions in the cities were shocking; there was much poverty, crime, disease, mental illness, and dilapidation. The cities' children were viewed as unfortunate victims of the urban scene.

How Did the Juvenile Court Develop?

Anthony Platt, in *The Child Savers*, adds greatly to our understanding of the origins of the first juvenile court in Chicago. The Chicago court was created, he argues, partly because the middle and upper classes wanted to control the increasing numbers of immigrants and the poor. Platt claims that the juvenile court was established in Chicago and later elsewhere because it satisfied several middle-class interest groups. He sees the juvenile court as an expression of middle-class values and of the philosophy of conservative political groups.⁷

There is a somewhat different interpretation of the development of the juvenile court. The conditions of the Cook County Jail and the Chicago House of Correction, in which children were placed with adults, were deplorable. Increased numbers of youths were being confined with hardened adult felons who corrupted and exposed them to debauchery, crime, and sin. A group of middle- and upper-class women who had achieved a certain amount of power and freedom wanted to relieve children from confinement with adults in deplorable conditions. Women such as Jane Addams, Louise Bowen, and Julia Lathrop were committed to rescuing the urban American family and its youth by restoring rural values to them. They wanted to reaffirm parental authority, restore the role of the woman in the home, ensure the proper training of youths, and, most important, save youths from the sins they were exposed to on the streets.⁸ Focus on the Law 1–2 reveals the prohibited behaviors that the early juvenile courts attempted to correct in the youth brought before them.

The reformers were aided in their quest by a new emerging philosophy. In the past, the classical school of criminology had argued that laws were violated because people willfully chose to violate them. People were presumed to operate on the basis of free will, having total control over their actions; punishment was required to get them to follow the law. The emerging **positivist** school, in contrast, contended that people were pushed into crime by forces beyond their control. It argued that the causes of crime could be discovered through the use of the scientific method and that the biological, psychological, social, economic, political, and other environmental causes of crime could be discovered through rigorous and precise measurement. Once the causes of crime were discovered, this school argued, experts could then step in and cure the offender of his or her problem. Proponents of this philosophy believed that the juvenile court should use these assumptions in attacking the problems of youth.

Everything was in place. The *parens patriae* doctrine had been accepted by the courts for more than a half century. Social conditions had generated an underclass of people who appeared unable to help themselves. Conservative, humanitarian, and religious philosophies had justified the need and had provided the power necessary for change. Jails and prisons clearly were no places for children. And finally, the positivist philosophy held out the promise that if the right mechanism could be developed, wayward children could be saved.



▲ Beheadings and the amputations of limbs of adults and children were undertaken in public squares to act as deterrents to crime in the Middle Ages—and even today in some countries.

Focus on the Law 1–2

Prohibited Behaviors in Early Juvenile Codes

- Violating any law or ordinance
- Being habitually truant from school
- Associating with vicious or immoral persons
- Being incorrigible
- Demonstrating behavior that is beyond parental control
- Leaving home without consent of parents
- Growing up in idleness or crime
- Participating in behavior that injures or endangers the health, morals, or safety of self or others
- Using vile, obscene, or vulgar language in public
- Entering or visiting a house of ill repute
- Patronizing a place where liquor is sold
- Patronizing a gaming place
- Wandering in the streets at night while not at lawful business (curfew violations)
- Engaging in immoral conduct at school or in other public places
- Smoking cigarettes or using tobacco in any form
- Loitering
- Sleeping in alleys
- Using intoxicating liquor
- Begging
- Running away from a state or charitable institution
- Attempting to marry without consent, in violation of law
- Indulging in sexual irregularities
- Patronizing public pool rooms
- Wandering about railroad yards or tracks
- Jumping a train or entering a train without authority
- Refusing to obey a parent or guardian

CRITICAL THINKING QUESTIONS

Which of these offenses do you believe should be defined as delinquent behavior today? How many of these behaviors did you engage in when you were a teenager? How should you have been punished?

The Cook County Juvenile Court was founded in 1899. Its premises were that the *parens patriae* doctrine permitted it to take charge of children in need, that the causes of the children's problems could be discovered and treated, and that the court had to develop a different set of procedures and terminology from those of the adult courts to achieve these goals.

Accordingly, the Illinois court was set up to operate on an *informal* basis. First, this meant that traditional courtrooms were not used; all that was actually required were a table and chairs where the judge, the child, and his or her parents and probation officers could sit together and discuss the case. Second, children could be brought before the court on the basis of complaints of citizens, parents, police, school officials, or others. Third, the children's hearings were not public, and their records were kept confidential because children coming before the court were not considered criminal. Fourth, proof of the child's criminality was not required for the child to be considered in need of the court's services. Fifth, the court had great discretion in determining what kinds of services the child required and had wide latitude in determining a disposition. Sixth, lawyers were not required because the hearings were not adversarial. Finally, the standards and procedures long in use in adult courts were missing in the juvenile courts; the standard of proof beyond a reasonable doubt was not required, and hearsay evidence was permitted.

The attractiveness of the juvenile court philosophy resulted in almost all states setting up juvenile courts. In fact, by 1928, only two of thirty-one states had not passed a juvenile court statute.⁹ Those that did closely followed the wording and intent of the Chicago statute and its amendments. These were civil courts, usually a family court, and their purpose was rehabilitation, not punishment. The neglected, the dependent, the misbehaving youngster, the status offender, and the delinquent were all subject to the courts' dictates. But the public was assured that programs would be developed to solve the problems of wayward youth so that they would be released to the community as respectable citizens.

Juvenile courts attempted to live up to their mandate for the next sixty years. For about the first twenty years, the court was aided by religiously motivated volunteers who brought strong moral commitments to their work with juveniles. Confidence in the juvenile court began to erode in 1911 and 1912, with exposés detailing the court's deplorable conditions and practices.¹⁰ Another negative influence on the juvenile court following World War I was the general disenchantment with the idea that society was improving.

Immediately following World War I, volunteers were replaced with paid social work professionals called "social adjusters." The social work orientation of these professionals enabled them to help redefine the juvenile court as a social agency and to lobby successfully

for more paid social workers. In the 1920s, the field of social work adopted Freudian psychoanalysis, which focused on the client's emotional feelings. Thus, instead of attempting to deal with social environmental problems as the cause of delinquency, as the earlier reformers did, social workers began to focus on the inner mental workings of the child.

The Juvenile Court Today

Juvenile court codes, which exist in every state, define what constitutes delinquency and specify the conditions under which states can legitimately interfere in a juvenile's life. The juvenile court usually specifies that the court has jurisdiction in relationship to the three categories of delinquency, dependency, and neglect. First, the court may intervene when the youth has been accused of committing an act that would be a misdemeanor or felony if committed by an adult. Second, the court may intervene when the juvenile commits certain status offenses. Third, the court may intervene in cases involving dependency and neglect; for example, if the court determines that a child is being deprived of needed support and supervision, it may decide to remove the child from the home for his or her own protection.

Some controversy has surrounded the issue of how long a juvenile should remain under the jurisdiction of the juvenile court. The age at which a juvenile offender is no longer treated as a juvenile ranges from fifteen to eighteen years. In 37 states and the District of Columbia, persons under eighteen years of age charged with a law violation are considered juvenile. In ten states, the upper limit of juvenile court jurisdiction is sixteen years, and in three states, the upper limit is fifteen years. See Table 1–1 for the minimum age of juvenile court jurisdiction by state.

A status offense, as previously noted, is behavior that is an offense only because a person involved is a juvenile. In various jurisdictions, status offenses are known as minors in need of supervision (MINS), children in need of supervision (CHINS), juveniles in need of supervision (JINS), children in need of assistance (CHINS), persons in need of supervision (PINS), children in need of protection and services (HIPS), or members of family in need of supervision (FINS). They may also be called predelinquent, incorrigible, beyond control, and ungovernable, or wayward. What these terms and acronyms have in common is that they view the status offender as in need of supervision or assistance. For a list of status offenses, see Table 1–2.

What Is the History of Juvenile Confinement?

At the time of the American Revolution, the penal system in the colonies was modeled after the one in England. The larger urban jails, county jails, and prisons contained men, women, and juveniles, whether they were felons or misdemeanants, insane or sane—sometimes all mixed together. Smaller rural counties, however, had less need for large jails and prisons and temporarily housed their wayward citizens in small rural jails.

TABLE 1–1
Minimum Age of Juvenile Court Jurisdiction by State

Age	States
15	New York, North Carolina
16	Georgia, Louisiana, Massachusetts, Michigan, Missouri, New Hampshire, South Dakota, Texas, and Wisconsin
17	Alabama, Alaska, Arizona, Arkansas, California, Colorado Connecticut, Delaware, District of Columbia, Florida, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Maine, Maryland, Minnesota, Mississippi, Montana, Nebraska, Nevada, New Jersey, New Mexico, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Dakota, Tennessee, Utah, Vermont, Virginia, Washington, West Virginia, and Wyoming

Source: OJJDP Statistical Briefing Book. Online, accessed January 5, 2015.

TABLE 1-2
Status Offenses

Drinking alcohol
Incorrigibility at home
Ungovernable at school
Running away from home
Truancy
Smoking cigarettes and using smokeless tobacco

In neither city nor county, however, were youths expected to get into trouble. If they did, they were subject to the same punishments as were adults. Beyond that, normal community processes were thought to be sufficient to keep them in line. Community norms were enforced through gossip, ridicule, and other informal social pressures, and little formal social control was needed. Local enforcers consisted of watchmen, magistrates, and sheriffs. All those who were caught, including youths, received fines, beatings, and floggings; were put in stocks; were driven through town in carts to be ridiculed by the citizenry; and in extreme cases were hanged, burned, mutilated, or banished from the community. After punishment, some youths were apprenticed to local craftsmen; until the mid-1800s, others were sent on extended whaling voyages; and still others were placed with relatives or farm families.¹¹

In the late 1700s and early 1800s, the United States was in a period of transition. The rural way of life was threatened, and the changes were having an irreversible effect on the structure of society. Concern about what to do with the growing number of juveniles who were abandoned, were runaways, or had run afoul of community norms increased and placed the young nation in a dilemma. On the one hand, thinkers reasoned that the natural depravity of humans made attempts at rehabilitation useless and that banishing the guilty was simpler than either punishment or rehabilitation. On the other hand, some hoped to find specific causes for deviancy, and the family was believed to be the primary source of the problem. Common sense and the examination of case histories indicated that older offenders usually had been problem children. The idea emerged that if institutions could be used for the poor, perhaps similar institutions could be set up for children using the well-adjusted family as the model.¹²

Juvenile Judge

PREPARATION FOR THE JOB

This person almost always starts out as a licensed lawyer who has practiced law for a period of time. Juvenile court judges have an enormously important and difficult job. The most traditional role of the juvenile court judge is to decide the legal issues that appear before the court.

QUALIFICATION AND EDUCATIONAL REQUIREMENTS

The judge must first be selected, and juvenile judges are chosen by a variety of methods. In some states, the governor appoints candidates chosen by a screening board. In other states, judges are chosen through partisan elections, and in still other states, judges run for office without party affiliation. The legislature appoints judges in a few states.

DUTIES AND RESPONSIBILITIES

The judge must determine, whether certain facts are true, whether a child should be removed from a parent, what types of

services should be offered to the family and whether the child should be returned to the family and the community or placed permanently in another setting. The judge must also be an advocate for the youth making certain they receive all their constitutional safeguards.

JOB OUTLOOK

There is high demand for the highly prestigious job, but there is little turnover because the available jobs are already filled and are not being replaced until a person steps down, retires, or is not reappointed.

SALARY

In the United States, the average juvenile judge's salary on June 5, 2015 was \$78,000.

Source: Pay.state.com.

Regardless of the source of the problem, the situation demanded a solution. The growing number of delinquents and other children running in the streets of larger cities, the increasing population, and the changing character of U.S. society were all putting greater pressure on existing facilities. Conditions in the jails and prisons were deplorable. Youths were sentenced for fixed periods of time and were confined with the worst criminals society had to offer. Some youths died of disease, and morals were corrupted as children ten to eighteen years old were confined with adult felons.

The House of Refuge

When citizens and reformers first became concerned about these inhumane conditions, their solution was the **house of refuge**. This facility was for all children, not just delinquents. Benevolence and compassion, along with concern over the degrading conditions in the jails and prisons, motivated the reformers to establish the houses of refuge.

New York City started the first school for males in 1825, followed by Boston in 1826 and Philadelphia in 1828. Other cities, including Bangor, Richmond, Mobile, Cincinnati, and Chicago, followed suit over the years. Twenty-three houses of refuge were built in the 1830s and thirty more in the 1840s. Of these, the vast majority were for males, with an occasional institution reserved for females. Their capacity ranged from ninety at Lancaster, Massachusetts, to 1,000 at the New York House of Refuge, with a median number of 210. The promise of these institutions seemed so great that youths with every type of problem were placed in them. The New York House of Refuge accepted children adjudicated guilty of committing crimes as well as those who simply were in danger of getting into trouble. The poor, the destitute, the incorrigible, and the orphaned were all confined. Admission policies were obviously quite flexible, and little concern was shown for due process; some youths simply were kidnaped off the streets. Not until later did these institutions begin to limit their rosters to those who had committed crimes.

The children generally were confined for periods ranging from less than six weeks to about twenty-four months, although some stayed longer. In some institutions the youths were taught trades, such as manufacturing shoes, brushes, and chairs, or were readied for apprenticeships to local craftsmen. Sentences were indeterminate, and superintendents of the institutions decided whether the apprenticed youths would be released or returned to the institution.

These juvenile institutions accepted the family model wholeheartedly, for reformers desired to implant the order, discipline, and care of the family in institutional life. The institution, in effect, would become the home, peers would become the family, and staff would become the parents. Orphanages and houses of refuge substituted a rigorous system of control and discipline for the disordered life of the community.

Discipline was severe when the rules were disobeyed, but the reformers believed that once the authority of the superintendents was established, they would be looked on admiringly and as friends. Belief in these principles was so great that parents for the first time had to surrender their authority to superintendents and could not participate in the upbringing of their unruly children.

Treatment of the youths paralleled the routine nature of the facility's physical plant. When the youths entered, they were dressed in institutional clothing and given identical haircuts. Troublemakers were punished; placing offenders on a diet of bread and water or depriving them of meals altogether were milder forms of discipline, but they were coupled with solitary confinement if a severe punishment was deemed necessary. Corporal punishments, used alone or in combination with other corrections, consisted of whipping with a cat-o'-nine-tails or manacling with a ball and chain. The worst offenders were shipped off to sea.

The specific order of daily events varied from institution to institution, but all followed the same basic schedule and routine. In some, youths were counted frequently to make sure that none had escaped, and in many facilities silence was maintained at all times, even during the recreation and exercise periods. Eating at times other than regularly scheduled mealtimes was forbidden, and youths who wanted extra food had to raise their hands. In school, everyone recited in unison.

Reformers were enthusiastic about the houses of refuge, but the residents apparently did not share their positive feelings. Hutchins Hapgood, sent to the New York House of Refuge in the nineteenth century, viewed this setting as a "school for crime," because "unspeakably bad habits were contracted there. The older boys wrecked the younger ones," and children

who were orphans had an especially hard time. The residents, he added, were overworked while making overalls and were beaten frequently. He bluntly concluded, “I say without hesitation that lads sent to an institution like the House of Refuge, the Catholic Protectory, or the Juvenile Asylum might better be taken out and shot.”¹³

The Reformatory or Training School

Reformatories, also called *training schools* or *industrial schools*, developed in the mid-nineteenth century. The new reformatories were essentially a continuation of the houses of refuge, although they did stress a longer period of schooling, usually half a day. Another change was that the contracting of inmates’ labor became more exploitative, as manufacturers often inflicted cruelty and violence on juveniles during working hours. The cat-o’-nine-tails, for example, was used on youths who slacked off on their work in the reformatory shops.

In spite of the questionable nature of these institutions, states continued to build reformatories or training schools. In 1847, Massachusetts opened the first state-operated training school, the Lyman School for Boys, and in 1856, established the State Industrial School for Girls at Lancaster. New York built an industrial school in 1849, and by 1870, Connecticut, Indiana, Maryland, Nevada, New Hampshire, New Jersey, Ohio, and Vermont had opened training schools for delinquents. By 1890, nearly every state outside of the South had established a training school.¹⁴

The Cottage System

Introduced in 1854, the **cottage system** spread throughout the country. Reformers had succeeded in placing the industrial schools outside cities, their rationale being that youths on farms would be reformed when exposed to the rural virtues, the simple way of life, and the bounty of Mother Nature. With the new cottage system, the process of individual reform could be furthered, as residents were housed in separate buildings, usually no more than twenty to forty per cottage. The training schools were no longer supposed to be fortress-like either in physical design or in the relationships among residents and staff. The first cottages were log cabins; later ones were made of brick or stone. This form of organization was widely accepted and is the basic design for many juvenile facilities even today.

Three major changes began to affect juvenile institutions in the closing decades of the nineteenth century: the increasing size of institutional populations, a decrease in funding from state legislatures, and the admission of more dangerous offenders. As a result, the industrial school became custodial, and superintendents had to accept custodianship as an adequate goal.¹⁵ Yet faith in the industrial school continued into the twentieth century.

How Did Probation Develop?

John Augustus, a Boston cobbler, is considered to be the father of probation in this country. He spent considerable time in the courtroom, and in 1841, accepted his first probation client, whose offense was “yielding to his appetite for strong drink.”¹⁶ Beginning with this “common drunkard,” he was able to devote himself to the cause of probation as he became convinced that many lawbreakers needed only the interest and concern of another to be able to stop drinking, straighten out their lives, and become model citizens. Augustus worked with women and children as well as with male offenders; in fact, he was willing to work with all types of offenders—drunkards, petty thieves, prostitutes, and felons—as long as he met a contrite heart. Augustus instigated such services as investigation and screening, supervision of probationers, interviewing, and arranging for relief, employment, and education—all of which are still provided today.

The state of Massachusetts, very much impressed with Augustus’s work, established a visiting-probation-agent system in 1869. The philosophy of this system, which was set up to assist both youths and adults, was that first offenders who showed definite promise should be released on probation. Youths would be allowed to return to their parents and to live at home as long as they obeyed the injunction, “Go and sin no more.”¹⁷

Probation was regulated by statute for the first time in 1878, when the mayor of Boston was authorized to appoint a paid probation officer to the police force, to serve under the

police chief. In 1880, the authority to appoint probation officers was extended to all cities and towns in Massachusetts. By 1890, probation had become statewide, with the authority to appoint officers resting with the courts rather than with municipal authorities. Soon thereafter, Vermont, Missouri, Illinois, Minnesota, Rhode Island, and New Jersey enacted probation statutes.

Although probation was radically extended in the wake of the juvenile court movement, probation systems varied from one jurisdiction to another. Probation officers generally considered themselves servants of the juvenile court judge rather than defenders of the rights of children. Thus, they would gather relevant facts and opinions on each case to help the judge make his decision, sometimes blatantly disregarding the due process safeguards of the law. Judges, in turn, saw nothing objectionable about returning children to the care of the probation officer who had placed them at the court's mercy in the first place. Most juvenile courts relied at first on volunteer juvenile probation officers. One observer said that their work "is the chord upon which all the pearls of the Juvenile Court are strung. It is the keynote of a beautiful harmony; without it the Juvenile Court could not exist."¹⁸ Probation volunteers, however, largely disappeared by the second decade of the twentieth century, not to return until the late 1950s.

The spread of probation was marked by the founding in 1907 of the National Association of Probation Officers (renamed the National Probation Association in 1911). Homer Folks, one of the early advocates of probation, summarized the perception of probation in the early twentieth century: "Probation provides a new kind of reformatory, without walls and without much coercion."¹⁹ Nevertheless, the idea of coercion lurked close to the surface, and force was used without hesitation if the delinquent continued to disobey the law. "When sterner treatment was demanded," said one officer, "the friendly advisor became the official representative of the court with the demand that certain conditions be observed or that the probationer be returned to the court."²⁰

After World War I, there was an ever-increasing demand for trained social workers to serve as probation officers. In addition to a greater concern for treating children's problems, twentieth-century probation theory also includes the idea of more responsibility for the delivery of services to probationers, a greater consciousness of standards, and a desire to upgrade the probation officer and restore the volunteer to probation services.

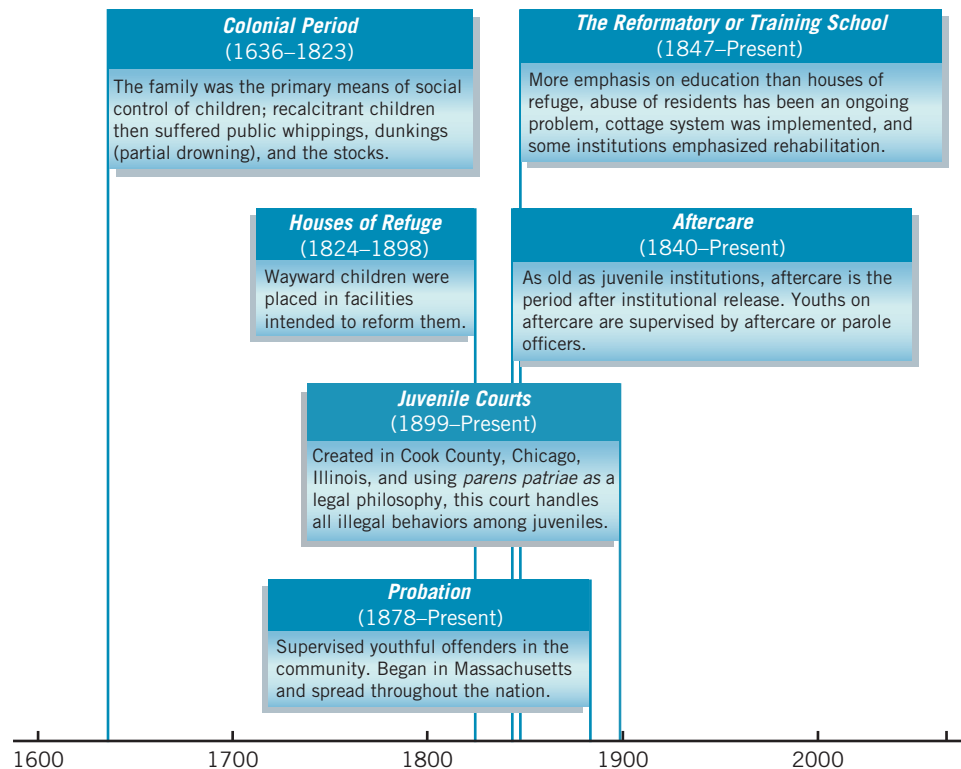
What Is the History of Aftercare?

Juvenile aftercare is as old as the juvenile institution. Superintendents of the early houses of refuge had the authority to release youths when they saw fit. Some youths were returned directly to their families; others were placed in the community as indentured servants and apprentices. After such service, they were released from their obligations and reentered the community as free citizens. For some, placement amounted to little more than slavery. They were sent to stores, factories, or farms that needed cheap labor. For others, the situation was more favorable, and some youths in trouble benefited from placement with caring and responsible families. Nevertheless, the system was not at all formalized; only in the 1840s did states begin to set up inspection procedures to keep watch on those with whom youths were placed.²¹

Parole, the period of time after institutional release when offenders are still under the control of the courts or state, continued to be used throughout the 1800s and into the 1900s. With the formation of the juvenile court, parole generally was called *aftercare*. In the early 1900s, professionally trained individuals were added to the juvenile court to deal with released juveniles. In addition, aftercare officers generally mirrored probation officers in trying to utilize current popular treatment modalities. Aftercare officers' caseloads were generally extremely high, and few resources were available to them. Even today, aftercare officers in many jurisdictions have the task of monitoring extremely large caseloads.

The development of aftercare programs was far from rapid, and the system remains underdeveloped even today. Citizens and professionals perhaps thought that institutionalization was sufficient for youth, or they might have been more concerned about adults,

FIGURE 1-1
Historical Stages in the Development
of Juvenile Justice



whom they feared and mistrusted more. Whatever the reason, not until fairly recently have innovative efforts been undertaken to improve juvenile aftercare systems. See Figure 1-1 for the historical stages in the development of juvenile justice.

What Are the Historical Themes of Juvenile Justice?

The roots of today's juvenile justice extend back through the European experience and the norms and values of agricultural societies. As societies change socially, technologically, and economically, from nomadic communities to agricultural societies, from villages to cities, from feudal systems to industrialized societies and into the "postindustrial" world, their structures change as do their citizens' assumptions and perceptions about youths, their roles, and motivations. Of concern in all societies is what causes misbehavior on the part of youths and what should be done to solve the problem. Some of the major themes that run through this history include discovering the child, the rising power of the state, reform and retrenchment, the get-tough and go-slow approaches, the threat of the dangerous poor, and the unsolvable nature of youth crime.

Discovering the Child

The background of juvenile justice illustrates well the difficulties societies faced in defining children and their place in society. For most of history, the special needs of juveniles were never considered, with the possible exception of children ages two and under in the earliest eras and under the age of seven later in history. Subsistence living in the earliest societies required children to take on whatever productive roles necessary to help their families and themselves survive. In some societies, children were looked upon as adults in miniature and were subject to the same punishments as were adults. Eventually, children were classified by whether they were under the age of seven, between seven and fourteen years of age, or fourteen and older. Members of society began to debate children's "age of responsibility" in considering the seriousness and extent of their undesirable behavior.

Increased Authority of the State

Ever since the colonial period, society has gradually *taken authority away from the family* and given it to the state for correcting the behavior of children. There is little reason to

believe that the three-hundred-year-old legacy of taking authority away from the family is likely to change in the near future. Even if the state were receptive to relinquishing some of its power (all indicators point to the fact that the state wants to increase rather than decrease its power over citizens), the American family is under greater pressure now than ever before. Its mounting problems include high rates of divorce and single-parent families, alarming rates of abuse and neglect of children, problems with drug and alcohol abuse among both parents and children, and large numbers of adolescent and out-of-wedlock births.

Reform and Retrenchment

It is sometimes claimed that the history of juvenile justice has been a steady march toward more humane and enlightened conceptions of childhood and democracy, but a more reliable reading of history shows that a period of reform has inevitably led to a period of retrenchment.²² To express this another way, the history of juvenile justice appears to go through cycles of reform and retrenchment. Thomas J. Bernard's *The Cycle of Juvenile Justice* is a perceptive analysis of what drives these cycles of reform and retrenchment. According to Bernard, a cycle begins when both juvenile officials and the general public believe that youth crime is at an exceptionally high level and that many harsh punishments are used but few lenient treatments exist for youthful offenders. In this context, many minor offenders avoid punishment because justice officials believe that harsh punishment will make them worse. A period of reform arrives when the solution is seen as introducing lenient treatments for youthful offenders.²³

The period from the 1960s to the mid-1970s was characterized by a liberal agenda. This reform agenda emphasized the reduced use of training schools, the diversion of status offenders and minor offenders from the juvenile justice system, and the reform of the juvenile justice system.

The liberal agenda ended in the 1990s and was followed by a get-tough approach. One of the contributing causes of this shift from reform to repression was the failure of the reform agenda of the 1970s to address violent youth crime and repeat offenders. Thus, the inability of the reformers to provide meaningful programs and policies aimed at persistent and serious youth crime proved to be the Achilles heel of the reform process.²⁴ The get-tough approach continued into the 1980s. The main thrusts of the Reagan administration's crime control policy for juveniles were preventive detention, transfer of violent and repeat juvenile offenders to the adult court, mandatory and determinate sentences for serious and repeat juvenile offenders, increased long-term confinement for juveniles, and enforcement of the death penalty for juveniles who commit "brutal and senseless" murders.

The get-tough attitude toward youth crime led to a number of federal juvenile justice initiatives in the 1990s that went beyond those implemented in the 1980s. These initiatives consisted of (1) establishing curfews, (2) passing parental responsibility laws, (3) increasing efforts to combat street gangs, (4) moving toward graduated sanctions, (5) creating juvenile boot camps, (6) maintaining and strengthening current laws restricting juveniles' use of guns, (7) opening juvenile proceedings and records, (8) transferring juveniles to criminal or adult courts, and (9) expanding sentencing authority over juveniles. The popularity of the get-tough approach was reflected in the fact that in the 1990s nearly every state enacted legislation incorporating these federal initiatives into the social policy for handling juveniles.²⁵

In a 2013 article, The Justice Policy Institute examines recent reforms including reducing the use of incarceration in the juvenile justice system across the nation, improving the conditions of juvenile facilities, and expanding community-based corrections that can be used instead of confinement. The top performers are Connecticut, Tennessee, Louisiana, Minnesota, and Arizona. In fact, juvenile correctional populations have dropped by about a third across the nation since 1999, when they peaked at over one hundred thousand youths.²⁶ Commonalities among these top performers include the following:

- the state was a target of class action litigation concerning conditions of confinement or other legal or administrators scrutinies;
- juvenile corrections split from the adult system and/or partnered with child welfare;
- there was improved interagency collaboration and communication, often through the formulation of a high-level task force or commission; and

- state leaders recommitted their system to a holistic juvenile justice ideal that acknowledged that youthful behavior is inherently different from adult behavior and that it requires different intervention and services.²⁷

In sum, the cyclical relationship between reform and retrenchment in juvenile justice seems to hinge upon society's dissatisfaction with the ill-fated promises of reform, followed, a generation or two later, by rejection of retrenchment's lack of benevolence. Perhaps the key to this shift is that society and its policy makers want social order, but, at the same time, they want special treatment for children.

Get-Tough and Go-Soft Approaches

Although reform and retrenchment alternate as official policies for juvenile justice in this nation, the get-tough approach for serious juvenile offenders and the go-soft strategy for minor offenders have characterized the sentencing practices of juvenile courts in recent decades. The **least-restrictive** (or go-soft) **approach** first became popular in the 1960s. When professionals and students became aware of the extent of youth crime, the negative impact of delinquency labels, and the criminogenic and violent nature of juvenile institutions, many of them began to reappraise what should be done with juvenile lawbreakers. Studies on hidden delinquency and middle-class lawbreaking also taught a valuable lesson—nearly all juveniles break the law, but only a few are caught.²⁸

For these reasons, supporters of this approach urge a least-restrictive philosophy—do not do any more than necessary with youthful offenders. If possible, leave them alone.²⁹ If their offense is too serious to permit this course of action, use every available resource before placing them in detention or in institutions. Keeping status offenders (juveniles who run away, violate a curfew, are ungovernable at home, or are truant from school) out of the juvenile justice system is one of the predominant concerns of proponents of this philosophy. Providing juveniles with all the procedural safeguards given to adults is also a vital concern. Adherents, of course, urge the use of community resources in working with juvenile offenders, an approach believed by many to be the best for juvenile justice.

On the other end of the spectrum, however, juveniles who commit serious crimes or continue to break the law are presumed to deserve punishment rather than treatment because they possess free will and know what they are doing. Their delinquencies are viewed as purposeful activity resulting from rational decisions in which the pros and cons are weighed and the acts that promise the greatest potential gains are performed. See Figure 1–2 for three approaches to delinquency control.

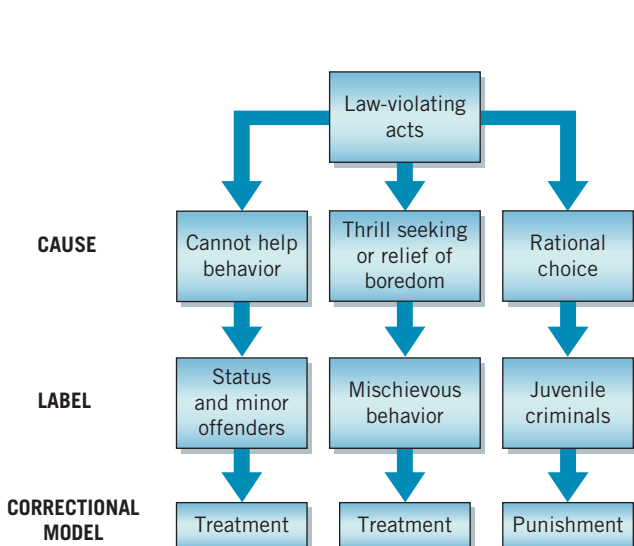


FIGURE 1–2
Three Approaches to Delinquency Control

Threat of the Dangerous Poor

Early in the history of this nation, crime was blamed on the poor, especially on those who were newcomers to America. The fact that these individuals came from different cultural, ethnic, and religious backgrounds also made them appear dangerous. It was reasoned that institutions were needed to protect society against the behavior of these so-called **dangerous poor**.

Significantly, until the late nineteenth century, each succeeding wave of immigration that brought impoverished newcomers was perceived as threatening a new crime wave. Anthony Platt's classic work, *The Child Savers*, makes the point that the behaviors the child savers selected to be penalized—sexual license, roaming the streets, drinking, begging, fighting, frequenting dance halls and movies, and staying out late at night—were found primarily among lower-class children. From the very beginning, according to this interpretation, juvenile justice engaged in class favoritism that resulted in poor children being processed through the system while middle-class children were more likely to be excused.³⁰ The association of poverty with dangerousness has continued to the

present day. It is expressed, especially, with the fear of violence and gang behaviors from African American and Hispanic underclass children.

Thinking like a Correctional Professional

The governor has appointed you chairperson of a task force to bring reform to the juvenile justice system. She is particularly concerned with the brutality and corruption that the institutions of that state have experienced. She also wants you to reduce the population of the training schools, without compromising public safety. Whom will you appoint to your committee? What is your strategy for developing this plan of reform? Where do you plan to disseminate the results of your report?

The Unsolvable Nature of Youth Crime

The get-tough and go-soft policies illustrate that the United States has a history of seeking cure-alls to solve the crime problem. Unfortunately, no simple solution to this age-old problem exists. The search for a panacea began in the early nineteenth century—the Jacksonian period—when the young American nation was thought to have an unlimited capacity to solve its social problems.³¹ The institutions that emerged to create better environments for deviants represented an attempt to promote the stability of society at a time when traditional ideas and practices seemed to be outmoded, constricted, and ineffective.

Legislators, philanthropists, and local officials were all convinced that the nation faced both unprecedented dangers and unprecedented opportunities. It was hoped that the penitentiary for adults and the house of refuge for juveniles, as well as the almshouse for the poor, the orphan asylum, and the insane asylum, would restore a necessary balance to the new republic and, at the same time, eliminate long-standing problems. The fact that these institutions eventually came to be viewed as failures did not prevent another generation of reformers from seeking new ways to cure the crime problem.³² Table 1–3 summarizes the historical themes of juvenile justice.

TABLE 1–3
Historical Themes of Juvenile Justice

Theme	What Has Taken Place in Society	Effects on Juvenile Justice
Discovering the Child	Society began the process of defining children and their place in society	Enabled the development of the juvenile system, where juveniles would be treated differently than adults
Increased Authority of the state	Society took authority away from the family and gave it to the state	With the development of the juvenile court and its <i>parens patriae</i> philosophy, the state assumed authority over juveniles
Reform and Retrenchment	Society changed its mind about the juvenile justice system depending upon which cycle of reform and retrenchment currently seemed effective	Juvenile justice appears to go through cycles of reform and retrenchment
Get-Tough and Go-Soft Approaches	Society is apt to excuse the behavior of minor forms of delinquency and to desire punishment for serious forms	The juvenile justice system likewise excuses or punishes depending on the seriousness of delinquent acts
Threat of the Dangerous Poor	Beginning with immigration, certain groups are perceived as the dangerous class	African Americans and Hispanic children are more likely to be given this label
Unsolvable Nature of Youth Crime	Society has long pursued solutions to both juvenile and adult crime	No panacea has been found

What Are the Juvenile Justice Agencies and Functions?

The Constitution of the United States gives both the federal government and the states the authority to draw up laws and the mechanisms for enforcing those laws. The primary laws with which this book is concerned are laws governing delinquent and criminal behaviors and the three subsystems—the police, the courts, and correction departments—that carry out the mandates of the laws.

These three subsystems have between 10,000 and 20,000 public and private agencies, with annual budgets totaling hundreds of millions of dollars. Many of the 40,000 police departments have juvenile divisions, and more than 3,000 juvenile courts and about 1,000 juvenile correctional facilities exist across the nation. More than 30,000 of the 50,000 employees in the juvenile justice system are employed in juvenile correctional facilities; 6,500 are juvenile probation officers, and the remainder are aftercare officers and residential staff in community-based programs. Several thousand more employees work in diversion programs and privately administered juvenile justice programs.³³

The Police

The functions of the three subsystems are somewhat different. The basic responsibilities of the police consist of enforcing the law and maintaining order. The law enforcement function requires that the police deter crime, make arrests, obtain confessions, collect evidence for strong cases that can result in convictions, and increase crime clearance rates. The maintenance of order function involves such tasks as settling family disputes, directing traffic, furnishing information to citizens, providing emergency ambulance service, preventing suicides, giving shelter to homeless persons and alcoholics, and checking the homes of families on vacation. Police–juvenile relations require the police to deal with juvenile lawbreaking and to provide services needed by juveniles.

The Juvenile Courts

The juvenile courts must dispose of cases referred to them by intake divisions of probation departments, make detention decisions, deal with child neglect and dependency cases, and monitor the performance of juveniles who have been adjudicated delinquent or status offenders. The *parens patriae* philosophy, which has undergirded the juvenile court since its founding at the end of the nineteenth century, charges that juvenile judges treat rather than punish juveniles appearing before them. This treatment arm of the juvenile court generally does not extend to those committing serious crimes or persisting in juvenile offenses, however; such hard-core juveniles may be sent to training schools or transferred to the adult court.

Correction Departments

The agency responsible for the care of juvenile offenders sentenced by the courts is called a variety of names—one of the more popular ones is the Department of Youth Services. Juvenile probation departments supervise offenders released on probation by the courts, ensuring that they comply with the courts' imposed conditions of probation and refrain from unlawful behavior in the community. Day treatment and residential programs have the responsibility of preparing juveniles for their return to the community.

Training schools have similar responsibilities, but the administrators of these programs are generally also charged with deciding when each juvenile is ready for institutional release and with ensuring that residents receive their constitutionally guaranteed due process rights. Aftercare officers are delegated the responsibility of supervising juveniles who have been released from training schools to ensure that they comply with the terms of their

Subsystem	Function
Police	Maintaining order and enforcing the law
Juvenile Court	Disposing of cases referred to them by intake divisions of probation departments, supervising juvenile probationers, making detention decisions, dealing with cases of child neglect and dependency, monitoring the performance of youths who have been adjudicated delinquent or status offenders
Corrections	Caring for youthful offenders sentenced by the courts, supervising offenders released to probation by the courts, and using day-treatment and residential programs, as well as short- and long-term juvenile facilities, to prepare youths for release to the community

FIGURE 1-3
Basic Subsystem of the Juvenile Justice System

aftercare agreements and avoid unlawful behavior. See Figure 1-3 for the basic subsystem of the juvenile justice system.

Juvenile justice agencies, because they have been developed by more than fifty state and federal government legislative bodies, do differ rather significantly across the nation. The structure of the juvenile court, as well as its administrative responsibilities, varies widely from one state to the next. Most juvenile probation departments emphasize restitution and community service programs as conditions of probation, but some provide intensive supervision programs and may even have house arrest and electronic monitoring programs. Some states hire private agencies to implement community-based programs, and most states are increasingly using private institutional placements for status offenders. Finally, a number of organizational structures are in use to administer juvenile correctional institutions and aftercare services.

Much similarity exists between the juvenile and adult justice systems. Both consist of three basic subsystems and interrelated agencies. The flow of justice in both is supposed to be from law violation to police apprehension, judicial process, judicial disposition, and rehabilitation in correctional agencies. The basic vocabulary is the same in the juvenile and adult systems, and even when the vocabulary differs, the intent remains the same.

The following terms refer to both the juvenile and adult systems:

An **adjudicatory hearing** is a trial that can result in a conviction.

Aftercare is parole.

A **commitment** is a sentence to confinement.

Detention is holding in jail.

A **dispositional hearing** is a sentencing hearing.

Juvenile court officer is a probation officer.

A **minor** is a defendant.

A **petition** is an indictment.

A **petitioner** is a prosecutor.

A **respondent** is a defense attorney.

Taking into custody is the act of **arresting** a suspect.

Both the juvenile and adult systems are under fire to get tough on crime, especially on offenders who commit violent crimes. Both must deal with excessive caseloads and institutional overcrowding, must operate on fiscal shoestrings, and face the ongoing problems of staff recruitment, training, and burnout. Focus on Practice 1-3 further describes the common ground and differences between the juvenile and adult justice systems.

Focus on Practice 1–3**Similarities and Differences Between the Juvenile and Adult Justice Systems****SIMILARITIES**

- Police officers use discretion with both juvenile and adult offenders.
- Juvenile and adult offenders receive Miranda and other constitutional rights at time of arrest.
- Juveniles and adults can be placed in pretrial facilities.
- The juvenile court the adult court's use proof beyond a reasonable doubt as a standard for evidence, except when a juvenile court hearing matters such as status offenses, beyond a reasonable doubt is not required.
- Plea-bargaining may be used with both juveniles and adult offenders.
- Convicted juvenile and adult offenders may be sentenced to probation services, residential programs, or institutional facilities.
- Boot camps are used with juvenile and about adult offenders.
- Released institutional juvenile and adult offenders may be assigned to supervision in the community.

DIFFERENCES

- Juveniles can be arrested for acts that would not be criminal if they were adults (status offenses).
- Age does not affect the jurisdiction of the adult court.
- Parents are deeply involved in the juvenile process but not in the adult process.
- Juvenile court proceedings are informal, whereas adult court proceedings are informal and open to the public.
- Juvenile court proceedings, unlike adult proceedings, are not considered criminal.
- Juvenile records are generally sealed once the age of majority is reached.
- Juvenile courts cannot sentence juveniles to jail or prisons, only adult courts issue such sentences.

CRITICAL THINKING QUESTIONS

How much harm would it do to juveniles if juvenile proceedings were abolished and juveniles were handled in adult court? What would the advantages be to juvenile offenders if they were handled with adult proceedings and procedures?

How Are Juvenile Offenders Processed?

The means by which juvenile offenders are processed by juvenile justice agencies are examined throughout this text. The variations in the juvenile justice systems across the nation make describing this process difficult. The process begins when the youth is referred to the juvenile court; some jurisdictions permit a variety of agents to refer the juvenile, whereas others charge the police with this responsibility. The more common procedure is that the youth whose alleged offense has already been investigated is taken into custody by the police officer who has made the decision to refer the juvenile to the juvenile court. After adjudication, a youth is placed in juvenile detention or moved out of detention and into probation, residential placement, or the adult system, and then released (see Figure 1–4).

The intake officer, usually a probation officer, must decide whether the juvenile should remain in the community or be placed in a shelter or detention facility. A variety of options exist for determining what to do with the youth, but in more serious cases, the juvenile generally receives a petition to appear before the juvenile court.

The juvenile court judge, or the referee in many jurisdictions, hears the cases of those juveniles referred to the court. The transfer of a juvenile to the adult court must be done before any juvenile proceedings take place. Otherwise, an adjudicatory hearing, the primary purpose of which is to determine whether the juvenile is guilty of the delinquent acts alleged in the petition, takes place. The court hears evidence on these allegations. The *In re Gault* case (see Chapter 6) usually guarantees to juveniles the right to representation by counsel, freedom from self-incrimination, the right to confront witnesses, and the right to cross-examine witnesses. Some states also give juveniles the right to a jury trial.

A disposition hearing takes place when a juvenile has been found delinquent in the adjudicatory stage. Most juvenile court codes now require that the adjudicatory and disposition hearings be held at different times. The number of dispositions juvenile judges have available to them varies from one jurisdiction to the next. In addition to the standard dispositions of warning and release, placement on juvenile probation, or adjudication to the department of youth services or corrections, some judges can place juveniles in a publicly or privately administered day treatment or residential program. Some jurisdictions even grant juvenile judges the authority to send a juvenile to a particular correctional facility.

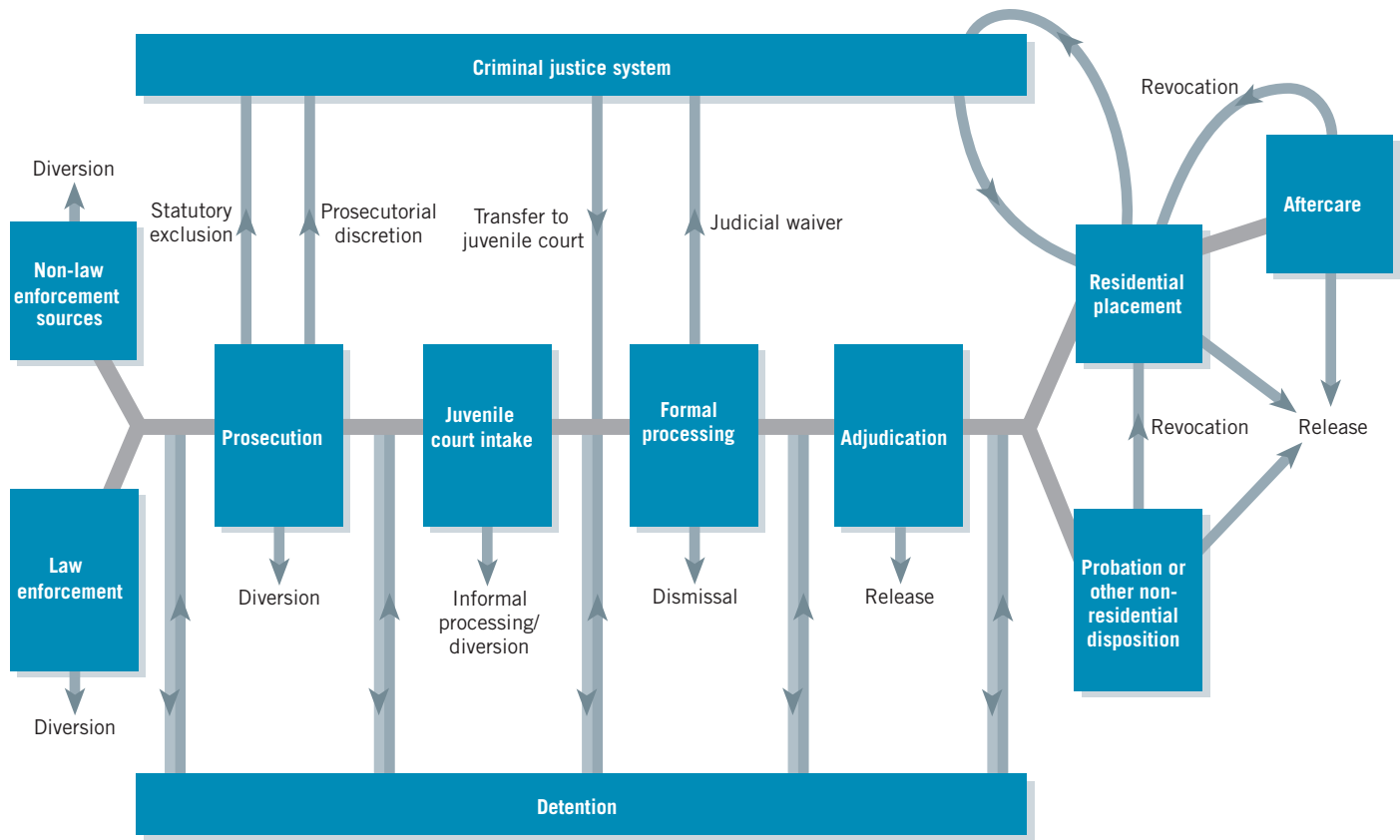


FIGURE 1-4
The Stages of Delinquency Case Processing in the Juvenile Justice System

Note: This chart gives a simplified view of case flow through the juvenile justice system. Procedures vary among jurisdictions.

Source: Howard N. Snyder and Melissa Sickmund, *Juvenile Offenders and Victims: 2006 National Report* (Washington, DC: Office of Juvenile Justice and Delinquency Prevention, 2006), 105.

A juvenile adjudicated to a training school is generally treated somewhat differently in small and large states. In small states with one training school for males and usually one for females, a youth adjudicated to a training school is usually sent directly to the appropriate school. But large states that have several facilities for males and perhaps more than one for females may send the youth to a classification, or diagnostic, center to determine the proper institutional placement. Training school residents currently are not confined for as long a period as they were in the past and are often released within a year. Institutional release takes place in a variety of ways, but a juvenile released from a training school is generally placed on aftercare status. To be released from this supervision, the juvenile must obey the rules of aftercare and must avoid unlawful behavior.

What Are the Most Widely Held Philosophies and Strategies on Correcting Juveniles?

Four basic correctional models exist in juvenile justice: the treatment model, the justice model, the crime control model, and the balanced and restorative justice model. These conflicting strategies handicap juvenile justice and are a major reason why no single policy or set of policies presently guide the handling of offenders. Indeed, nearly everyone has an opinion on what can be done to correct the behavior of law-violating youths; pet theories and folk remedies abound throughout society. In Focus on Offenders 1-4 there is the sad story of an individual who has been through the juvenile system and who is now waiting to be executed.

Focus on Offenders 1–4

It Just Did Not Work Out for Tony

Tony came from a background where there was an alcoholic father who physically abused all his children, especially Tony. The mother was passive and Tony experienced considerable neglect from her. However, Tony was not an easy child. He set his parents' bed on fire when he was five, with his father taking a nap. He then hid under the bed and had to be dragged out from under the bed by his father who woke up. He also stabbed his sister in the eye with scissors when he was also five.

Tony was referred to the welfare system at an early age. Nothing seemed to work with him, and he eventually was referred to the juvenile justice system. When programs in the community did not seem to control his behavior, he began his commitments to juvenile institutions. The major problem with juvenile institutional placements is that he did not stay at a facility long enough to accomplish any positive outcomes. He was what you called a "runner," and this began a process of sending him to more secure facilities. Finally, at sixteen-years-of-age, he ended up in the maximum-security facility of an urban state. The problem he faced was that this facility typically housed youths aged seventeen to twenty-one, and he found himself forced to deal with youths who were older and more aggressive than he was.

He did not have a positive experience, and it was decided to grant him an early release. Within a couple years, Tony was in a bar, and apparently intoxicated, was asked to leave by the bartender. He refused to leave; the bartender pulled out a gun, but before he could discharge it, Tony shot him first. He was convicted of murder and sent to prison for twenty years.

Prison has not been a good experience. He has been involved in a variety of behaviors, including assault, suicide attempts, and drug abuse. And he has been extremely unstable. As an example of the latter, he persuaded another inmate to take their anger out toward what they defined as unfair treatment by the state by sending the governor one of their fingers, which each inmate had cut off.

Then, because he did not have a cellmate, he was informed that a particular inmate would be moving in the following weekend. Knowing this inmate's reputation as one of the largest sexual victims in the prison (he apparently traded sex for drugs), Tony reacted. He said that he would kill this inmate if he was placed in his cell. He also sent a kite (letter) to the warden informing him what would happen if this inmate was placed in his cell.

When he was placed in his cell that Friday, Tony was true to his word. He stabbed him sixty-three times with a shank (small knife) he had made. Before prison staff could extract the inmate from his cell, he was dead.

Tony experienced physical abuse and neglect at home. His school experience was unsuccessful. The public welfare system failed him, as did the juvenile justice system. His years as an adult prisoner have been a disaster, leading to his current charge.

CRITICAL THINKING QUESTIONS

What could have been done to turn this young man around? With his early abusive background, do you believe the state should have given him a death sentence for a prison homicide?

Source: Experiences and knowledge that one of the authors has had with this individual over the span of his life course.

The Treatment Model

Parens patriae, the philosophical basis of the **treatment model**, emerged with the founding of the juvenile court. The state, represented by the juvenile court, was to deal with children differently than it did with adults by substituting a more informal and flexible procedure. In the juvenile court, a fatherly and benevolent juvenile judge would gently, and in a friendly manner, probe the roots of the child's difficulties. The court, acting in lieu of a child's parents, was to engage in individualized justice; delinquency was viewed as a symptom of some underlying personality problem.

The juvenile court, then, was to serve as a social clinic. Its task was to call up the scientific expert to provide the necessary treatment for the child. *Child-saving reformers*, a term used by Anthony Platt, were confident that the combination of *parens patriae* philosophy and the treatment provided by the scientific expert would lead to the salvation of wayward children.³⁴

The treatment model, or rehabilitation model, is based on the belief that the basic mission of juvenile justice is to rehabilitate youthful offenders. The treatment model also proposes that the legal definition of delinquency should be broad and that victimless crimes and status offenses, as well as crimes against victims, should remain on the books. Proponents of this model do not believe in the frequent use of detention facilities; these facilities should be reserved for children who need special care and custody.

How Does the Treatment Model Work?

The mental, physical, and social needs of the child are the focus of the treatment model, and many rehabilitation efforts are implemented before the juvenile is processed into the system. Police officers may recommend community programs to youths and their parents

that help youths in need with their specific problems. Intake officers, probation officers, prosecutors, judges, and aftercare officers also may either informally or formally request that juveniles—status as well as delinquent offenders—attend drug and alcohol, tutoring, anger management, and other after-school programs; youths who are institutionalized also often receive drug and alcohol, sexual offending, and other treatment modalities. The treatment model encountered considerable criticism in the late twentieth century, but it is experiencing a resurgence of research and interest in the early twenty-first century.

The Justice Model

The *parens patriae* philosophy has been challenged by due process philosophy since the very founding of the juvenile court. Those promoting the due process approach wanted to give juveniles better protection through due process provisions and procedural safeguards. In the 1970s, proponents of due process were troubled by the contradictions of juvenile justice philosophy and by the inequities and inadequacies of juvenile justice law, policy, and practice.³⁵ These reformers turned to David Fogel's **justice model** and its concept of **just deserts**. Fogel believes that both juvenile and adult offenders are volitional and responsible human beings and, consequently, deserve to be punished if they violate the law. The punishment they receive, however, must be proportionate to the seriousness of the offense. Fogel also proposed the end of the indeterminate sentence and parole, the initiation of uniform sentencing, and the establishment of correctional programming based solely on the compliance of inmates.³⁶ Fogel reasons, "If we cannot coercively treat with reliability, we can at least be fair, reasonable, humane, and constitutional in practice."³⁷

How Does the Justice Model Work?

Proponents of the justice model are now advocating a number of changes to bring more fairness to juvenile justice:

- Limit the enormous discretion granted to juvenile justice practitioners.
- Divert increasing numbers of youthful offenders from the justice system to voluntary services.
- Remedy common deficiencies in due process to ensure greater fairness in the transactions among the justice system, the family, and the juvenile offender.
- Curb indeterminate sentencing practices of juvenile courts and give juveniles a fixed sentence by the court at the time of disposition.
- Decriminalize status offenses.
- Change the governing principle of sentencing to one of *proportionality*, which means that there must be a relationship between the seriousness of the offense committed and the severity of the sanction imposed.
- Make training schools safer and more humane.
- Allow programs offered in training schools to be voluntary in nature and to have nothing to do with the release of a youth.
- Require restitution and community service sanctions of more juvenile lawbreakers; these sanctions have the potential for fairness because they give youthful offenders opportunities to atone or make amends for the damage or harm they have inflicted on others.³⁸

The mandatory sentencing law for violent juvenile offenders in the state of New York, the determinate sentencing law for juveniles in the state of Washington, and the institutional release policy adopted in the state of Minnesota are other indicators of the national acceptance of the justice model.

The Crime Control Model

The **crime control model** emphasizes punishment as the remedy for juvenile misbehavior. Punishment philosophy actually originated well before the eighteenth century, but it gained popularity in the 1970s because of the assumed rise of youth crime. Although this approach

has had different connotations at various times, supporters today maintain that punishment is beneficial because it is educative and moral. Offenders are taught not to commit further crimes, whereas noncriminal citizenry receive a demonstration of what happens to a person who breaks the law; punishment, proponents believe, deters crime.

The supporters of punishment philosophy claim that the juvenile court has abandoned punishment in favor of individual rehabilitation. They argue for severity and certainty of punishment and advocate a greater use of incarceration. Other fundamental assumptions of punishment philosophy propose that those who become involved in unlawful behavior are abnormal and few in number; that this unlawful behavior reflects a character defect that punishment can correct; that punishment can be helpful in teaching a youth to be responsible, diligent, and honest; and that the deterrence of youth crime depends on the juvenile justice system apprehending and punishing youthful offenders with greater speed, efficiency, and certainty.

How Does the Crime Control Model Work?

The crime control model holds that the first priority of justice should be to protect the life and property of the innocent. Accordingly, proponents of this model support the police and are quick to isolate juvenile offenders, especially those who have committed serious crimes, in detention homes, jails, and training schools. The increased use of transfers to adult court and the adoption of mandatory sentencing laws specifying extended confinements for serious crimes are recent crime control policies. Many states are now using a combination of the crime control and justice models to deal with violent and hard-core juvenile offenders.

The Balanced and Restorative Justice Model

A traditional New Zealand approach to juvenile offending, the **balanced and restorative justice model**, is rapidly expanding throughout the United States and, indeed, throughout the world. “Balanced” refers to system-level decision making by administrators to “ensure that resources are allocated equally among efforts to ensure accountability to crime victims, to increase competency in offenders, and to enhance community safety.” These three goals are summarized in the terms *accountability*, *competency*, and *community protection*.³⁹

Accountability refers to a sanctioning process in which offenders must accept responsibility for their offenses and the harm caused to victims, and make restitution to the victims, assuming that community members are satisfied with the outcome. *Competency* refers to the rehabilitation of offenders, that is, when offenders improve their educational, vocational, emotional, social, and other capabilities and can perform as responsible adults in the community. *Community protection* refers to the ability of citizens to prevent crime, resolve conflict, and feel safe because offenders have matured into responsible citizens. Subsequently, the overall mission of the balanced and restorative justice model is to develop a community-oriented approach to the control of offenders rather than rely solely either on punishment by confinement or on individual rehabilitation through counseling. The juvenile justice system, in implementing this model, meets the needs of the community, the victim, and the offender in the most cost-effective manner possible. See Focus on Practice 1–5 for the objective, practice, and location of the balanced and restorative justice model.

How Does the Balanced and Restorative Justice Model Work?

This approach is an alternative to processing youths through the juvenile justice systems of their communities. Once a juvenile is identified as being a perpetrator of a delinquent act, a police officer, probation officer, community volunteer, or other designated person initiates the restorative process. The victim, the offender, the offender’s family, a law enforcement representative, or a volunteer brings all the parties together to begin discussing the problem at hand.

This model, in other words, calls for a new framework of community organization and a restructuring of practitioner roles throughout the juvenile justice system. It calls for a new set of values that emphasize a commitment to all—the offender, the victim, and the community. Importantly, offenders are viewed as clients whose crime is a symptom of family breakdown, community disorganization, and community conflict, and these problems must be addressed if juvenile crime is to be reduced.

Focus on Practice 1–5

Balanced and Restorative Justice Model

Restorative justice intervention includes a wide variety of programs and practices that may be applied at virtually any point in the juvenile justice process, or in the community.

Objective/Focus	Practice	Location
Conflict resolution; prevention; peacemaking	Community mediation; alternative dispute resolution; school and neighborhood conferencing; victim awareness education; youth development	Schools; neighborhoods; churches; civic groups
Provide decision-making alternatives to formal court or other adversarial process for determining obligations for repairing harm	Victim offender dialog; family group conferencing circles; reparation boards; other restorative conferencing	Police and community diversion; court diversion; dispositional/sentencing alternatives; postdispositional planning; residential alternative discipline; conflict resolution; postresidential reentry
Victim and community input to court or formal decision making	Written or oral impact statement to court or other entity	Court; probation; residential
Provide reparative sanctions or obligation in response to crime or harmful behavior	Restitution; community service to victims; and payment to victims service funds	Diversion; court sanction; probation condition; residential program; postincarceration
Offender treatment; rehabilitation; education	Victim impact panels; victim awareness education; Mothers Against Drunk Driving panels; community service learning project designed to build offender competency and strengthen relationships with law-abiding citizens	Probation; residential facilities; diversion program; jails
Victim services and support groups	Counseling; volunteer support groups; faith community groups	Multiple settings
Community building	Family support and discussion groups	Neighborhood and community

Source: Gordon Bazemore, Jay S. Zaslau, and Danielle Riester, "Behind the Walls and Beyond: Restorative Justice, Instrumental Communities, and Effective Residential Treatment," *Juvenile and Family Court* (Winter 2005), 58.

Comparison of the Four Models

The treatment model, or rehabilitation model, is most concerned that juvenile offenders receive therapy rather than institutionalization. The crime control model emphasizes punishment because it argues that juveniles must pay for their crimes. Proponents of this model support long-term, rather than short-term, confinements for juvenile offenders. The justice model strongly supports the granting of procedural safeguards and fairness to juveniles who have broken the law. Yet proponents of this model also believe that the punishment of juveniles should be proportionate to the gravity of their crimes. The balanced and restorative justice model also contends that juveniles have free will and know what they are doing and, therefore, should receive punishment for their antisocial behavior. The advantages of this model, according to its proponents, are that it includes the punishment approach of the crime control and justice models, supports the due process emphasis of the justice model, and places consequences on behavior to encourage juveniles to become more receptive to treatment.

Each of the models has supporters. The crime control model, or the hard line, is used with violent and repetitive juvenile offenders. The treatment model, or the soft line, is primarily used with status offenders and minor offenders. Some jurisdictions show support for the justice model in juvenile justice, but the balanced and restorative justice model is making the most extensive advances. Nevertheless, on a day-to-day basis, juvenile justice practitioners continue to pick and choose from each of the four models in designing how

TABLE 1–4**Comparison of Key Elements of the Rehabilitation, Justice, Balanced and Restorative, and Crime Control Models**

Elements	Models			
	Rehabilitation	Justice	Crime Control	Balanced and Restorative
Theory of why delinquents offend	Behavior is caused or determined; based on positivism	Free will; based on the classical school	Free will; based on the classical school	Free will; based on the classical school
Purpose of sentencing	Change in behavior or attitude	Justice	Restoration of law and order	Community protection
Type of sentencing advocated	Indeterminate	Determinate	Determinate	Determinate
View of treatment	Goal of correctional process	Voluntary but necessary in a humane system	Ineffective and actually coddles offenders	Voluntary but necessary in a humane system
Crime control strategy	Use therapeutic intervention to eliminate factors causing crime	Provide fairness for victims, for offenders, and for practitioners in the system	Declare war on youth crime by instituting “get-tough” policies	Make juvenile offenders accountable for their behavior

they work with juvenile offenders. These conflicting approaches, as well as the intolerance of those who follow a different course of action, create inefficiency and confusion in juvenile justice. Table 1–4 compares the key elements of the rehabilitation, justice, balanced and restorative, and crime control models.

Themes in the Study of Delinquency

Before concluding this introductory chapter, it is important to discuss the three themes that flow through the text. The first theme is *delinquency prevention*. The second theme is the *use of evidence-based practice and juvenile justice*. The third theme is *juvenile justice and social policy*.

Delinquency Prevention

The prevention of delinquency is something that can be accomplished by effective social programs, or it may involve personal characteristics that shield young people from negative environmental influences. In terms of the individual level, one of the most important concepts in the area of delinquency prevention is **resiliency**. We know that many of today’s youth face a host of negative influences in their lives—substance abuse, gang affiliations, teenage pregnancy, school violence, and many others. Despite these and other hardships, some youth remain resilient, that is they are able to persevere in the face of difficulty and become productive community citizens. Why is it that some youth thrive despite being in auspicious beginnings, while others do not?⁴⁰

Youth are generally considered resilient when they are able to rely on apparently innate characteristics to fend off or recover from life’s misfortunes. Some proponents contend that youth best learn human resiliency when they reside in environments that offer caring and supportive relationships, that hold high expectations for behavior and attitudes for themselves and others, and that provide opportunities for meaningful participation. Others believe that children who survived risky environments benefit in large part from personal qualities such as strong self-confidence, coping skills, and the ability to avoid risky situations. Some experts suggest that we are all born with the innate capacity for resilience through which we are able to develop social competence, problem-related skills, critical consciousness, sense of autonomy, and sense of purpose and accountability.

Evidence-Based Practices and Juvenile Justice

Evidence-based practices, as previously mentioned, are the most effective intervention in juvenile justice and are supported by evidence of achievement. Peter Greenwood's recent study of evidence-based practices or EBP, defines them as practice that "involves the use of scientific principles to access the various evidence on program effectiveness and develop principles for best practices in any particular field."⁴¹ Evidence-based programs and their ways of assessing outcome-related evidence have been growing trends in the field of juvenile justice prevention and intervention for at least the past decade. For example, the OJJP offers 200 evidence-based prevention and intervention programs, encompassing the entire continuum of youth services. The online guide can be used to assist juvenile justice practitioners, administrators, and researchers seeking to enhance accountability, ensure public safety, and reduce recidivism. To stress its importance, nearly every chapter will include an example of an EBP.

Social Policy and Juvenile Justice

Social policy in juvenile justice is our third theme, one that inquires about what can be done to improve the quality of young people's lives, and to provide ideas for effectively treating and controlling youth crime. The Children's Defense Fund publication, titled *State of America's Children 2012*, is quick to remind us of the cost of society letting vast numbers of young people grow up without realizing their full potential.⁴² To stay on the path to successful adulthood, the publication says that it is necessary to champion policy and programs that lift children out of poverty, protect them from abuse and neglect, and ensure their access to health care, quality education, and a solid moral and spiritual foundation. What this type of success requires is healthy communities, constructive peer relationships, and productive aftercare and summer programs, and positive role models. The pressing and exciting challenge for all of us is to design policy recommendations that provide helpful directions for daily work effectively with adolescents in general and with youth crime in particular.

Effective policy will merge when well-thought-out theoretical assumptions are supported by sound research. Another way to say this is that there are two basic tools of social science, research and theory, each helps to guide and direct the other. Research identifies appropriate variables for collecting data, helps to identify variables to be studied, analyzes related variables, and suggests new directions for theory development. Research collects and theory analyzes. Most importantly, policy recommendations will be taken more seriously by policymakers if they are based on sound theory and evidence-based practices. See Figure 1–5, on the relationship between research, theory, and social policy.

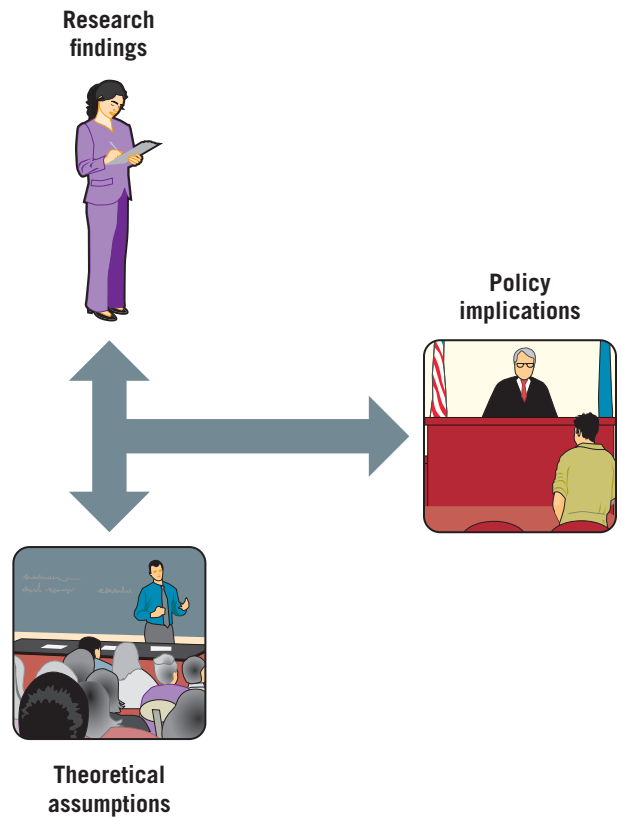


FIGURE 1–5
The Relationship Between Research, Theory, and Social Policy

SUMMARY

LEARNING OBJECTIVE 1: Retrace the journey of juvenile justice in the United States.

- The influences affecting the juvenile justice system can be traced back to the Middle Ages.
- The common law tradition in England eventually concluded that children under age seven should not face legal penalties.
- However, the responsibility of children between ages seven and fourteen was determined by such considerations as the severity of the crime, maturity, capacity to distinguish between right and wrong, and evidence of blatant malice.
- The family was the source and primary means of social control of children in the colonial period.

- The concept of *parens patriae* gave the courts a legal basis for intervening in the lives of children.
- The premises of the *parens patriae* doctrine permitted the juvenile court to take charge of children in need so that the causes of their problems could be discovered and treated.
- The juvenile courts had to develop different procedures and terminology from those of the adult courts to achieve their goals.
- The attractiveness of the juvenile court philosophy resulted in almost all states setting up juvenile courts.
- Juvenile confinement goes back to the nineteenth century, when houses of refuge were established to separate juveniles from adult offenders in jails and prisons.
- The cottage system, in which residents were housed in separate buildings, usually included no more than twenty to forty juveniles per cottage.
- Later nineteenth-century juvenile institutions were called *reformatories* or *industrial schools*.
- Probation and aftercare were also early developments of juvenile justice; their focus was on treating youthful offenders in the community.

LEARNING OBJECTIVE 2: Summarize the history of juvenile confinement.

The history of juvenile confinement began with the house of refuge in the early 19th century, followed by the reformatory or training school. The cottage system, in which residents were housed in separate facility, was a change in juvenile confinement. Another significant change in the final decades of the nineteenth century was the increased size of institutional populations.

LEARNING OBJECTIVE 3: Summarize the historical themes that guided the development of juvenile justice in the United States.

The historical themes of juvenile justice include discovering the child, increased authority of the state, reform and retrenchment, get-tough and go-soft approaches, threat of the dangerous poor, and the unsolvable nature of youth crime.

LEARNING OBJECTIVE 4: Present the structure and procedures of juvenile justice agencies in this nation.

- The juvenile justice system has been given the mandate to correct and control youthful offenders. The U.S. Constitution gives both the federal government and the states the authority to make laws and the mechanisms for enforcing the law. The primary laws with which this book is concerned are laws governing delinquent and criminal behaviors in the three subsystems—the police, the courts, and correction departments—that carry out the mandates of the laws.
- The juvenile is typically referred to the juvenile court, which first decides whether to leave the juvenile in the system or not. The juvenile court decides in what is called an adjudicatory hearing whether the juvenile is guilty of the delinquent acts alleged in the petition. A disposition hearing takes place when a juvenile has been found delinquent in the adjudicatory stage. A delinquent youth might be referred to probation or one of the residential programs in the community or might be referred to a training school.

LEARNING OBJECTIVE 5: Examine the various philosophies and strategies for correcting juvenile offenders.

- The treatment model is most concerned that juvenile offenders receive therapy rather than institutionalization.
- The justice model supports the granting of procedural safeguards and fairness to juveniles who have broken the law.
- The crime control model emphasizes punishment because it argues that juveniles must pay for their crimes. The crime control policies of the past twenty years have proposed a get-tough strategy, especially with violent juveniles.
- The balanced and restorative justice model called for a new framework of community organization and a new set of values that emphasizes a commitment to all—the offender, the victim, and the community.
- The conflicting philosophies and methods of correcting juvenile offenders make it difficult to succeed in correcting juveniles in trouble.

KEY TERMS

adjudicatory hearing, p. 17
 aftercare, p. 17
 aftercare officers, p. 4
 arrest, p. 17
 balanced and restorative justice model, p. 22
 commitment, p. 17
 cottage system, p. 10
 crime control model, p. 21
 dangerous poor, p. 14

detention, p. 17
 dispositional hearing, p. 17
 house of refuge, p. 9
 just deserts, p. 21
 justice model, p. 21
 juvenile court officer, p. 17
 least-restrictive approach, p. 14
 minor, p. 17
parens patriae, p. 2

parole, p. 11
 petition, p. 17
 petitioner, p. 17
 positivist, p. 5
 resiliency, p. 24
 respondent, p. 17
 status offenders, p. 2
 taking into custody, p. 17
 treatment model, p. 20

GROUP EXERCISES

1. Write a single paragraph describing each of the following: the history of the juvenile court, probation, juvenile confinement, and aftercare. Critique and revise.
2. **Group Work:** Describe each of the juvenile justice agencies and their functions.
3. **Class Debate:** Divide the class into four groups. Each group will be assigned one of the four models found in juvenile justice today. Each group should learn its essentials and argue for its model as being the best model for the United States today. Groups may not compromise in the defense of their models.

REVIEW QUESTIONS

1. The juvenile justice system has devised four ways to deal with youth crime: the treatment model, the justice model, the crime control model, and the balanced and restorative justice model. Which do you think works the best? Why?
2. Why is justice so important to the juvenile justice system? How can the juvenile justice system become more just, fair, and effective?
3. What do you believe can be done about reconciling the different approaches to juvenile justice?
4. What do you think would be the result of abolishing the juvenile justice system and having the adult courts deal with all youthful offenders?

THE EFFECTIVE WORKER WITH JUVENILES

Passion is a key ingredient in working with juvenile offenders. For the worker who has passion, it is easier for the juvenile to believe that he or she cares, and that he or she is committed to having positive things happen in the juvenile's life. There is no

question that some staff members are burned out or no longer care. It is simply a job and perhaps in their minds not a very good job. But for staff members who have passion, they will make a difference in the lives of many over the span of their lives.

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