

"The text is written from a practical standpoint that students are likely to understand and appreciate."

—Lindsey Livingston Runell, J.D., Ph.D.,
Kutztown University

Focused and up-to-date, **Juvenile Justice: A Guide to Theory, Policy, and Practice, Ninth Edition**, is a must-have text that takes students on a journey through the practical realities of the juvenile justice system and the most current topics in the field. Students not only learn about the history, process, and theories of the juvenile justice system, but they also gain access to the latest crime measurements and

explore important issues such as community-based sanctions, treatment and rehabilitation, gangs, and international youth crime. Emphasizing evidence-based practices, the authors guide readers through the methods and problems of the system and offer realistic insights for students interested in a career in juvenile justice. Real-life examples, excellent pedagogical features, and a complete online ancillary package are provided to help instructors effectively teach the course and help students learn interactively.

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- **New "What Would You Do?" scenarios** introduce students to the chapter content by getting them into the mindset of a practitioner.
- **New examples featured within the "In Practice" boxes** demonstrate what it's like to work in today's juvenile justice system.
- **Critical thinking "Questions to Consider"** appear at the end of boxed features to help students make the connection between the material presented and the issues they might encounter as a practitioner.



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Cox / Allen
Hanser / Conrad

Juvenile Justice

9 EDITION

Steven M. Cox
Jennifer M. Allen
Robert D. Hanser
John J. Conrad

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Juvenile Justice

A Guide to Theory, Policy, and Practice



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Ninth Edition

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Juvenile Justice

A Guide to Theory, Policy, and Practice

Ninth Edition

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Preface

Since we wrote the first version of this text almost 40 years ago, the juvenile justice system has undergone dramatic and nearly constant change. The pace of this change has been rapid, and the changes have sometimes been confusing. For some time, those who believed that the system “coddled” juveniles were successful in convincing legislators in a variety of jurisdictions that juveniles who committed serious offenses should be treated as adults. More recently, those who believe that treatment and education are better alternatives for most juveniles with problems have established restorative justice programs and other intermediate sanctions as alternatives, or additions, to official processing. Use of the death penalty for juveniles under the age of 18 has been eliminated, although violent crime committed by juveniles, which had declined for a decade beginning in the mid-1990s, remains an issue, and concern with juvenile gangs persists. In addition, increased concerns in the development of school-based programs, victimization on school property, bullying, cyberbullying, and police bias have been pushed to the forefront of issues facing juveniles. New programs promising to be more effective and efficient have been initiated, and older programs have largely disappeared. There has been an increased reliance on evidence-based practices, and demands for accountability for juvenile justice programs have increased with a focus on performance evaluation measures. Globalization has emerged as an issue in juvenile justice in the past several years with the focus on gang activity and child protection (e.g., illegal immigration and sex trafficking) along and across international borders. What sense, if any, can we make of these changes, and what are their implications for policy and practice in juvenile justice?

As both practitioners in the juvenile justice network and instructors in criminology, criminal justice, and sociology courses, we have time and again heard, “That’s great in theory, but what about in practice?” We remain convinced that a basic understanding of the interrelationships among notions of causation, procedural requirements, and professional practices is a must if one is to understand, let alone practice in, the juvenile justice system.

With these concerns in mind, we have attempted to write a text that is reader-friendly and comprehensive yet concise. As we revised the text for this new edition, these concerns remain. We have expanded discussions, added contemporary material and examples, and updated reference and legal materials throughout the text. In addition, we have continued to make use of materials and resources available through the Internet.

Approach

In this text, we integrate juvenile law, theories of causation, and procedural requirements while examining their interrelationships. We have attempted to make our treatment of these issues both relevant and comprehensible to those who are actively employed in the juvenile justice network, to those who desire to become so employed, and to those whose interest in juvenile justice is more or less academic. We address the juvenile justice system as a composite of interacting individuals whose everyday decisions have very real consequences for others involved in the network. The day-to-day practical aspects of the system are discussed in terms of theoretical considerations and procedural requirements.

- This approach allows us to examine the interrelationships among practitioners, offenders, victims, witnesses, and others involved with delinquency, abuse, neglect, and other varieties of behavior under the jurisdiction of the juvenile court.
- The roles of practitioners in the system are discussed in relationship to one another and with respect to discretion, politics, and societal concerns. Thus, the police, juvenile probation officers, and social service agents all have roles to play in providing services for juveniles with problems. Unless each contributes, the system is likely to be ineffective in dealing with these problems.
- The law, of course, plays a key role in juvenile justice, and we have attempted to present the most recent and important changes in juvenile law based on an overview of a number of states.
- What we know about theories of behavior should dictate the procedures and treatments employed in dealing with juveniles. To ignore theory is to ignore possible explanations for behavior, and treatment is likely to be ineffective if explanations of behavior are lacking. Thus, we spend time discussing theories of behavior and their importance in juvenile justice.

In the following pages, we define technical terms clearly where they are presented, and we have included numerous practical examples—which we call In Practice boxes—in an attempt to present readers with a basic understanding of both the theoretical and practical aspects of the juvenile justice system. These real-world In Practice boxes are designed to help students connect theory and practice and to focus on a number of critical issues.

The Ninth Edition

In this edition you will find numerous substantive changes:

- New chapter opening “What Would You Do?” scenarios that help students get into the mindset of a practitioner
- “Questions to Consider” in chapter boxed features to help students make the connection between the material presented and the chapter content
- New legislation and court rulings related to juveniles
- Expanded coverage of critical topics in juvenile justice such as the school-to-prison pipeline, drug use, firearm homicide, social media usage, solitary confinement, bullying, cyberbullying, day reporting centers, specialty courts, restorative justice programs, and LGBTQ youth
- Nearly half of the In Practice features have been updated with new examples to demonstrate what it’s like to work in juvenile justice today
- Updated references
- Coverage of current concerns and recent trends in juvenile justice
- Expanded discussion of theory, including biosocial and neurological theories, sometimes referred to as neurocriminology
- Discussion of recent changes in juvenile codes from a variety of states
- Expanded discussion of gangs, including females in gangs

- Discussion of juvenile justice from an international perspective
- An updated view of the future of juvenile justice

Pedagogical Aids

To enhance learning, we have included the following:

- New What Would You Do scenarios that serve as an introduction at the beginning of each chapter
- In Practice boxes to help students see the practical applications of what they are reading
- Career Opportunity boxes
- Lists of key terms and end-of-chapter summaries to help students prepare for exams
- End-of-chapter Critical Thinking Questions to encourage students to go beyond memorization of terms and concepts in their learning
- Suggested Readings lists for students who are interested in reading more information on the topics discussed in the respective chapters
- A glossary of terms commonly used in juvenile justice, as well as in this textbook, to assist students in learning the “language” of the system

Digital Resources

Additional ancillary materials further support and enhance the learning goals of *Juvenile Justice*.

SAGE edge offers a robust online environment featuring an impressive array of tools and resources for review, study, and further exploration, keeping both instructors and students on the cutting edge of teaching and learning. Learn more at edge.sagepub.com/coxjj9e.

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Over the years, contributions to the book have come from many people. We provide continued thanks to William P. McCamey, Giri Raj Gupta, Dennis C. Bliss, Terry Campbell, Robert J. Fischer, and Courtney Cox for their encouragement and assistance. Additionally, with this edition, Jennifer Allen and Robert Hanser would like to acknowledge and express our sincerest thanks to John J. Conrad, who will be forever remembered as a founding author for the book, and Steven M. Cox, who decided not to write in this edition but has been a mentor and friend for many years. Without the two of them the book would not have been possible. Jennifer and Rob are forever grateful.

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Juvenile Justice in Historical Perspective

1

CHAPTER LEARNING OBJECTIVES

On completion of this chapter, students should be able to do the following:

- Understand the history of juvenile justice in the United States
- Understand contemporary challenges to the juvenile justice system
- Discuss the controversy between due process and informality in juvenile justice
- Recognize discrepancies between the ideal and real juvenile justice systems
- Recount some of the reforms occurring in the juvenile justice system

WHAT WOULD YOU DO?

On a warm summer night at approximately 8:30 p.m., Matt, a 12-year-old, and Bo, an 11-year-old, entered a mobile home on an overgrown lot that they thought was abandoned. Once inside, the two boys rummaged through the drawers and closets in the home, working their way from the kitchen to the back bedroom. In the back bedroom, they were shocked to find a disabled man lying on the bed. He was missing the bottom half of both legs and was asleep. Before the boys could turn and leave the room he woke up and began shouting at them. He said he was going to shoot them and call the police. He produced a gun and aimed it at Matt. Matt lunged at the man and started wrestling the gun from his hands. Bo also jumped on top of the man and started hitting and kicking him.

After several minutes of punching and kicking, the boys stopped to find the man bloody and nonresponsive. Matt and Bo panicked and left the trailer. The man, who had become disabled during a military tour in Afghanistan, was found the next day by his daughter and was transported to a medical center. He is not expected to live. The police took Matt and Bo into custody a week after the incident based on eyewitness testimony that they were seen in the area at the time of the assault. Both are claiming the assault was self-defense, although they admit to breaking into and entering the home. Nothing was missing from the home as a result of the break-in, and only a few minor damages were recorded to the home (e.g., broken door lock, broken items in a closet).

(Continued)

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Was the assault the result of self-defense?
Should the boys be held accountable for
their actions in the assault?

Put yourself in the role of the prosecutor.
Because no items were taken and the
boys thought the house was abandoned,

should they be charged with assault
and/or burglary?

If you were the judge in this case, what
sanction would you think is appropriate
for Matt? What about Bo? Why?

What would your reaction to this incident
be if you were the parent of either child?

The juvenile justice network in the United States grew out of, and remains embroiled in, controversy. More than a century after the creation of the first family court in Illinois (1899), the debate continues as to the goals to be pursued and the procedures to be employed within the network, and a considerable gap between theory and practice remains. During the early part of the 21st century, concern over delinquency in general, and violent delinquents in particular, grew while confidence in the juvenile justice system was eroding as indicated by increasing demands for accountability on the part of system participants. In fact, as the 21st century began, Bilchik (1999a) indicated, “The reduction of juvenile crime, violence, and victimization constitutes one of the most crucial challenges of the new millennium” (p. 1). As the public continues to challenge the system and to question practices, such as confidentiality, it appears that numerous jurisdictions in the United States are reviewing the basic operations of juvenile justice and the effectiveness of system reforms.

The juvenile court is supposed to provide due process protections along with care, treatment, and rehabilitation for juveniles while protecting society. Violence committed by juveniles, which some suggest occurs in cycles (Johnson, 2006), has attracted nationwide attention and raised a host of questions concerning the juvenile court, even though such violence has actually declined significantly during the past decade. Can a court designed to protect and care for juveniles deal successfully with those who, seemingly without reason, kill their peers and parents? Is the juvenile justice network too “soft” in its dealings with such juveniles? Is the “get-tough” approach adopted over the past two decades what is needed to deal with violent adolescents? Was the juvenile court really designed to deal with the types of offenders we see today?

Although due process for juveniles (discussed in detail later but consisting of things such as the right to counsel and the right to remain silent), protection of society, and rehabilitation of youthful offenders remain elusive goals, frustration and dissatisfaction among those who work in the juvenile justice system, as well as among those who assess its effectiveness, remain the reality. Some observers have called for an end to juvenile justice as a separate system in the United States. Others maintain that the juvenile court and associated agencies and programs have a good deal to offer juveniles in trouble. Here are two examples of the latter position:

How times have changed for the Texas juvenile justice system. Five years ago the number of youths locked up in state-run detention centers was about 4,700. Since then, the number has dropped steadily. Now, it's less than 1,500. “We’ve come a long way,” said Benet Magnuson, policy attorney at the advocacy group Texas Criminal Justice Coalition. “Thanks to a series of reforms, we’ve taken many

kids out of state-run facilities and keep them closer to their homes where they are helped or rehabilitated.” (Rangel, 2012, p. 1)

Juvenile justice is transforming throughout America. Though there is a long road ahead to reform these systems into effective, rehabilitative programs that no longer make children worse, there is great promise in jurisdictions across the country, that are changing how they work with youth. (Muhammad, 2012, p. 1)

During the 1990s, fear of juvenile crime led the public to demand that legislators enact increasingly severe penalties for young offenders. Fanton (2006), in discussing the juvenile justice network in Illinois, concluded that “by the end of the 20th century the line between the Illinois juvenile justice and criminal justice systems was hopelessly blurred, reflecting a national trend” (p. A5). As Snyder and Sickmund (2006) pointed out, however, America’s youth face a constantly changing set of problems and barriers to successful lives. As a result, juvenile justice practitioners are constantly challenged to develop enlightened policies and programs based on facts, not fears. With this in mind, Brown (2012) noted that over the past decade, juvenile crime rates have actually declined, and she found that state legislatures are reexamining and frequently revising juvenile justice policies and approaches. Sickmund and Puzzanchera (2014) noted similar findings with juvenile arrest rates falling proportionately more than adult arrest rates from 2001 to 2010, across most offenses. As a result of falling crime rates, the National District Attorneys Association (2016) stated in the 3rd edition of their *National Prosecution Standards* that the transfer of cases to criminal court should be reserved for the most serious, violent, and chronic offenders. They also found that states are responding to Supreme Court rulings on life imprisonment, the death penalty, and other issues.

The question remains: Can what actually occurs and what ideally should occur in the juvenile justice system be made more consistent? What can be done to bring about such consistency? What are the consequences of a lack of consistency? A brief look at the history of juvenile justice and a detailed look at the system as it currently operates should help us answer these questions.

Juvenile Justice Historically

The distinction between youthful and adult offenders coincides with the beginning of recorded history. Some 4,000 years ago, the Code of Hammurabi (2270 BC) discussed runaways, children who disowned their parents, and sons who cursed their fathers. Approximately 2,000 years ago, both Roman civil law and later canon (church) law made distinctions between juveniles and adults based on the notion of **age of responsibility**. In ancient Jewish law, the Talmud specified conditions under which immaturity was to be considered in imposing punishment. There was no corporal punishment prior to puberty, which was considered to be the age of 12 years for females and 13 years for males. No capital punishment was to



The Juvenile Court Building, at Ewing and Halsted in Chicago in 1907, is shown. As noted in this chapter, the first family court in the United States was in Cook County, Illinois.

be imposed for those under 20 years of age. Similar leniency was found among Muslims, where children under the age of 17 years were typically exempt from the death penalty (Bernard, 1992).

By the 5th century BC, codification of Roman law resulted in the Twelve Tables, which made it clear that children were criminally responsible for violations of law and were to be dealt with by the criminal justice system (Nyquist, 1960). Punishment for some offenses, however, was less severe for children than for adults. For example, theft of crops by night was a capital offense for adults, but offenders under the age of puberty were only to be flogged. Adults caught in the act of theft were subject to flogging and enslavement to the victims, but children received only corporal punishment at the discretion of a magistrate and were required to make restitution (Ludwig, 1955). Originally, only those children who were incapable of speech were spared under Roman law, but eventually immunity was afforded to all children under the age of 7 as the law came to reflect an increasing recognition of the stages of life. Children came to be classified as *infans*, *proximus infantia*, and *proximus pubertati*. In general, infants were not held criminally responsible, but those approaching puberty who knew the difference between right and wrong were held accountable. In the 5th century AD, the age of *infantia* was fixed at 7 years, and children under that age were exempt from criminal liability. The legal age of puberty was fixed at 14 years for boys and 12 years for girls, and older children were held criminally liable. For children age 7 through puberty, liability was based on the capacity to understand the difference between right and wrong (Bernard, 1992).

Roman and canon law undoubtedly influenced early Anglo-Saxon **common law** (law based on custom or use), which emerged in England during the 11th and 12th centuries. For our purposes, the distinctions made between adult and juvenile offenders in England at this time are most significant. Under common law, children under the age of 7 were presumed to be incapable of forming criminal intent and, therefore, were not subject to criminal sanctions. Children ages 7 to 14 years were not subject to criminal sanctions unless it could be demonstrated that they had formed criminal intent, understood the consequences of their actions, and could distinguish right from wrong (Blackstone, 1803, pp. 22–24). Children over the age of 14 were treated much the same as adults.

The question of when and under what circumstances children are capable of forming criminal intent (***mens rea***, or “guilty mind”) remains a point of contention in juvenile justice proceedings today. For an adult to commit criminal homicide, for instance, it must be shown not only that the adult took the life of another human without justification but also that he or she *intended* to take the life of that individual. One may take the life of another accidentally (without intending to do so), and such an act is not regarded as criminal homicide. In other words, it takes more than the commission of an illegal act to produce a crime. Intent is also required (and, in fact, in some cases it is assumed as a result of the seriousness of the act, e.g., felony murder statutes).

But at what age is a child capable of understanding the differences between right and wrong or of comprehending the consequences of his or her acts before they occur? For example, most of us would not regard a 4-year-old who pocketed some money found at a neighbor’s house as a criminal because we are confident that the child cannot understand the consequences of this act. But what about an 8- or 9- or 12-year-old?

Another important step in the history of juvenile justice occurred during the 15th century when chancery, or equity, courts were created by the king of England. **Chancery courts**, under the guidance of the king’s chancellor, were created to consider petitions of those who were in need of special aid or intervention, such as women and children left in need of protection and aid by reason of divorce, death of a spouse, or

abandonment, and to grant relief to such persons. Through the chancery courts, the king exercised the right of *parens patriae* (“parent of the country”) by enabling these courts to act *in loco parentis* (“in the place of parents”) to provide necessary services for the benefit of women and children (Bynum & Thompson, 1992). In other words, the king, as ruler of his country, was to assume responsibility for all of those under his rule, to provide parental care for children who had no parents, and to assist women who required aid for any of the reasons just mentioned. Although chancery courts did not normally deal with youthful offenders, they did deal with dependent or neglected children, as do juvenile courts in the United States today. The principle of *parens patriae* later became central to the development of the juvenile court in America and today generally refers to the fact that the state (government) has ultimate parental authority over juveniles in need of protection or guidance. In certain cases, then, the state may act in *loco parentis* and make decisions concerning the best interests of children. This includes removing children from the home of their parents when circumstances warrant.

In 1562, Parliament passed the Statute of Artificers, which stated that children of paupers could be involuntarily separated from their parents and apprenticed to others (Rendleman, 1974, p. 77). Similarly, the Poor Relief Act of 1601 provided for involuntary separation of children from impoverished parents, and these children were then placed in bondage to local residents as apprentices. Both statutes were based on the belief that the state has a primary interest in the welfare of children and the right to ensure such welfare. At the same time, a system known as the City Custom of Apprentices operated in London. The system was established to settle disputes involving apprentices who were unruly or abused by their masters in an attempt to punish the appropriate parties. When an apprentice was found to be at fault and required confinement, he or she was segregated from adult offenders. Those in charge of the City Custom of Apprentices attempted to settle disputes in a confidential fashion so that the juveniles involved were not subjected to public shame or stigma (Sanders, 1974, pp. 46–47).

Throughout the 1600s and most of the 1700s, juvenile offenders in England were sent to adult prisons—although they were at times kept separate from adult offenders. The Hospital of St. Michael’s, the first institution for the treatment of juvenile offenders, was established in Rome in 1704 by Pope Clement XI. The stated purpose of the hospital was to correct and instruct unruly juveniles so that they might become useful citizens (Griffin & Griffin, 1978, p. 7).

The first private separate institution for youthful offenders in England was established by Robert Young in 1788. The goal of this institution was “to educate and instruct in some useful trade or occupation the children of convicts or such other infant poor as [were] engaged in a vagrant and criminal course of life” (Sanders, 1974, p. 48).

During the early 1800s, changes in the criminal code that would have allowed English magistrates to hear cases of youthful offenders without the necessity of long delays were recommended. In addition, dependent or neglected children were to be appointed legal guardians who were to aid the children through care and education (Sanders, 1974, p. 49). These changes were rejected by the House of Lords due to the opposition to the magistrates becoming “judges, juries, and executioners” and due to suspicion concerning the recommended confidentiality of the proceedings, which would have excluded the public and the press (pp. 50–51).

Meanwhile in the United States, dissatisfaction with the way young offenders were being handled was increasing. As early as 1825, the Society for the Prevention of Juvenile Delinquency advocated separating juvenile and adult offenders (Snyder & Sickmund, 1999). Up to this point, youthful offenders had been generally subjected to the same penalties as adults, and little or no attempt was made to separate juveniles

from adults in jails or prisons. This caused a good deal of concern among reformers who feared that criminal attitudes and knowledge would be passed from the adults to the juveniles. Another concern centered on the possibility of brutality directed by the adults toward juveniles. Although many juveniles were being imprisoned, few appeared to benefit from the experience. Others simply appealed to the sympathy of jurors to escape the consequences of their acts entirely. With no alternative to imprisonment, juries and juvenile justice officials were inclined to respond emotionally and sympathetically to the plight of children, often causing them to overlook juvenile misdeeds or render lenient verdicts (Dorne & Gewerth, 1998, p. 4).

In 1818, a New York City committee on pauperism gave the term *juvenile delinquency* its first public recognition by referring to it as a major cause of pauperism (Drowns & Hess, 1990, p. 9). As a result of this increasing recognition of the problem of delinquency, several institutions for juveniles were established from 1824 to 1828. These institutions were oriented toward education and treatment rather than punishment, although whippings, long periods of silence, and loss of rewards were used to punish the uncooperative. In addition, strict regimentation and a strong work ethic philosophy were common.

Under the concept of *in loco parentis*, institutional custodians acted as parental substitutes with far-reaching powers over their charges. In doing so, the **house of refuge** became common, as a charitable effort to provide shelter and safety to destitute youth. For example, the staff members of the New York House of Refuge, established in 1825, were able to bind out wards as apprentices, although the consent of the child involved was required. Whether such consent was voluntary is questionable given that the alternatives were likely unpleasant. The New York House of Refuge was soon followed by others in Boston and Philadelphia (Abadinsky & Winfree, 1992).

“By the mid-1800s, houses of refuge were enthusiastically declared a great success. Managers even advertised their houses in magazines for youth. Managers took great pride in seemingly turning total misfits into productive, hard-working members of society” (Simonsen & Gordon, 1982, p. 23). However, these claims of success were not undisputed, and by 1850 it was widely recognized that houses of refuge were largely failures when it came to rehabilitating delinquents and had become much like prisons. Simonsen and Gordon (1982) stated, “In 1849 the New York City police chief publicly warned that the numbers of vicious and

vagrant youth were increasing and that something must be done. And done it was. America moved from a time of houses of refuge into a time of preventive agencies and reform schools” (p. 23).

In Illinois, the Chicago Reform School Act was passed in 1855, followed in 1879 by the establishment of industrial schools for dependent children. These schools were not unanimously approved, as indicated by the fact that in 1870 the Illinois Supreme Court declared unconstitutional the commitment of a child to the Chicago Reform School as a restraint

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Founded in 1843 in Hampstead Road, Birmingham, and known as the Brook-Street Ragged and Industrial School, this was an early reform school.

on liberty without proof of crime and without conviction for an offense (*People ex rel. O'Connell v. Turner*, 1870). In 1888, the provisions of the Illinois Industrial School Act were also held to be unconstitutional, although the courts had ruled previously (1882) that the state had the right, under *parens patriae*, to “divest a child of liberty” by sending him or her to an industrial school if no other “lawful protector” could be found (*Petition of Ferrier*, 1882). In spite of good intentions, the new **reform schools**, existing in both England and the United States by the 1850s, were not effective in reducing the incidence of delinquency. Despite early enthusiasm among reformers, there was little evidence that rehabilitation was being accomplished. Piscotta's (1982) investigation of the effects of the 19th-century *parens patriae* doctrine led him to conclude that, although inmates sometimes benefited from their incarceration and reformatories were not complete failures in achieving their objectives (whatever those were), the available evidence showed that the state was not a benevolent parent. In short, there was significant disparity between the promise and practice of *parens patriae*.

Discipline was seldom “parental” in nature; inmate workers were exploited under the contract labor system, religious instruction was often disguised proselytization, and the indenture system generally failed to provide inmates with a home in the country. The frequency of escapes, assaults, incendiary incidents, and homosexual relations suggests that the children were not separated from the corrupting influence of improper associates. (Piscotta, 1982, pp. 424–425)

The failures of reform schools increased interest in the legality of the proceedings that allowed juveniles to be placed in such institutions. During the last half of the 19th century, there were a number of court challenges concerning the legality of failure to provide due process for youthful offenders. Some indicated that due process was required before incarceration (imprisonment) could occur, and others argued that due process was unnecessary because the intent of the proceedings was not punishment but rather treatment. In other words, juveniles were presumably being processed by the courts in their own “best interests.”

During the post–Civil War period, an era of humanitarian concern emerged, focusing on children laboring in sweatshops, coal mines, and factories. These children, and others who were abandoned, orphaned, or viewed as criminally responsible, were a cause of alarm to reformist “child savers.” The **child-savers movement**, which emerged in the United States in the 19th century, included philanthropists, middle-class reformers, and professionals who exhibited a genuine concern for the welfare of children and who stressed the value of rehabilitation and prevention through education and training. In the 20th century, these reformers continued to seek ways to mitigate the roots of delinquency and were largely responsible for the creation of the first juvenile court in the United States. During the late 1800s, several states (Massachusetts in 1874 and New York in 1892) passed laws providing for separate trials for juveniles, but the first juvenile or family court did not appear until 1899 in Cook County, Illinois. “The delinquent child had ceased to be a criminal and had the status of a child in need of care, protection, and discipline directed toward rehabilitation” (Cavan, 1969, p. 362).

The **Progressive Era** in the United States from 1900 to 1918 was a time of extensive social reform. Reforms included the growth of the women's suffrage movement, the campaign against child labor, and the fight for the 8-hour workday, among others. Concurrent with this era and extending was the **era of socialized juvenile justice** in the United States (Faust & Brantingham, 1974). During this era, children were considered not as miniature adults but rather as persons with less than fully developed morality and cognition (Snyder & Sickmund, 1999). Emphasis on the legal rights of the juvenile declined, and emphasis on determining how and why the juvenile came to the attention of the authorities and how best to treat and rehabilitate the juvenile became primary. The focus was clearly on offenders rather than the offenses they committed. Prevention and removal of the juvenile from undesirable social situations were the major concerns of the court. Faust and Brantingham (1974) noted the following:

The blindfold was, therefore, purposefully removed from the eyes of “justice” so that the total picture of the child’s past experiences and existing circumstances could be judicially perceived and weighed against the projected outcomes of alternative courses of legal intervention. (p. 145)

By incorporating the doctrine of *parens patriae*, the juvenile court was to act in the best interests of children through the use of noncriminal proceedings. The basic philosophy contained in the first juvenile court act reinforced the right of the state to act in *loco parentis* in cases involving children who had violated the law or were neglected, dependent, or otherwise in need of intervention or supervision. This philosophy changed the nature of the relationship between juveniles and the state by recognizing that juveniles were not simply miniature adults but rather children who could perhaps be served best through education and treatment. By 1917, juvenile court legislation had been passed in all but three states, and by 1932, there were more than 600 independent juvenile courts in the United States. By 1945, all states had passed legislation creating separate juvenile courts.

It seems likely that the developers of the juvenile justice network in the United States intended legal intervention to be provided under the rules of civil law rather than criminal law. Clearly, they intended legal proceedings to be as informal as possible given that only through suspending the prohibition against hearsay and relying on the preponderance of evidence could the “total picture” of the juvenile be developed. The juvenile court exercised considerable discretion in dealing with the problems of youth and moved further and further from the ideas of legality, corrections, and punishment and toward the ideas of prevention, treatment, and rehabilitation. This movement was, however, not unopposed. There were those who felt that the notion of informality was greatly abused and that any semblance of legality had been lost. The trial-and-error methods often employed during this era made guinea pigs out of juveniles who were placed in rehabilitation programs, which were often based on inadequately tested sociological and psychological theories (Faust & Brantingham, 1974, p. 149).

Nonetheless, in 1955, the U.S. Supreme Court reaffirmed the desirability of the informal procedures employed in juvenile courts. In deciding not to hear the *Holmes case*, the Court stated that because juvenile courts are not criminal courts, the constitutional rights guaranteed to accused adults do not apply to juveniles (*In re Holmes*, 1955).

Then, in the *Kent case* of 1961, 16-year-old Morris Kent Jr. was charged with rape and robbery. Kent confessed, and the judge waived his case to criminal court based on what he verbally described as a “full investigation.” Kent was found guilty and sentenced to 30 to 90 years in prison. His lawyer argued that the waiver was invalid, but appellate courts rejected the argument. He then appealed to the U.S. Supreme Court, arguing that the judge had not made a complete investigation and that Kent was denied his constitutional rights because he was a juvenile. The Court ruled that the waiver was invalid and that Kent was entitled to a hearing that included the essentials of due process or fair treatment required by the Fourteenth Amendment. In other words, Kent or his counsel should have had access to all records involved in making the decision to waive the case, and



Life in the reform schools of the 19th century was not easy.

the judge should have provided written reasons for the waiver. Although the decision involved only District of Columbia courts, its implications were far-reaching by referring to the fact that juveniles might be receiving the worst of both worlds—less legal protection than adults and less treatment and rehabilitation than that promised by the juvenile courts (*Kent v. United States*, 1966).

In 1967, forces opposing the extreme informality of the juvenile court won a major victory when the U.S. Supreme Court handed down a decision in the case of Gerald Gault, a juvenile from Arizona. The extreme license taken by members of the juvenile justice network became abundantly clear in the **Gault case**. Gault, while a 15-year-old in 1964, was accused of making an obscene phone call to a neighbor who identified him. The neighbor did not appear at the adjudicatory hearing, and it was never demonstrated that Gault had, in fact, made the obscene comments. Still, Gault was sentenced to spend the remainder of his minority in a training school. Neither Gault nor his parents were notified properly of the charges against the juvenile. They were not made aware of their right to counsel, their right to confront and cross-examine witnesses, their right to remain silent, their right to a transcript of the proceedings, or their right to appeal. The Court ruled that in hearings that may result in institutional commitment, juveniles have all of these rights (*In re Gault*, 1967). The Supreme Court's decision in this case left little doubt that juvenile offenders are as entitled to the protection of constitutional guarantees as their adult counterparts, with the exception of participation in a public jury trial. In this case and in the *Kent* case, the Court raised serious questions about the concept of *parens patriae*, or the right of the state to informally determine the best interests of juveniles. In addition, the Court noted that the handling of both Gault and Kent raised serious issues of Fourteenth Amendment (due process) violations. The free reign of socialized juvenile justice had come to an end, at least in theory.

During the years that followed, the U.S. Supreme Court continued the trend toward requiring due process rights for juveniles. In 1970, in the **Winship case**, the Court decided that in juvenile court proceedings involving delinquency, the standard of proof for conviction should be the same as that for adults in criminal court—proof beyond a reasonable doubt (*In re Winship*, 1970). In the case of **Breed v. Jones** (1975), the Court decided that trying a juvenile who had previously been adjudicated delinquent in juvenile court for the same crime as an adult in criminal court violates the double jeopardy clause of the Fifth Amendment when the adjudication involves violation of a criminal statute. The Court did not, however, go so far as to guarantee juveniles all of the same rights as adults. In 1971, in the case of **McKeiver v. Pennsylvania**, the Court held that the due process clause of the Fourteenth Amendment did not require jury trials in juvenile court. Nonetheless, some states have extended this right to juveniles through state law.

In March 2005, in the case of **Roper v. Simmons**, the U.S. Supreme Court reversed a 1989 precedent and struck down the death penalty for crimes committed by people under the age of 18. Christopher Simmons started talking about wanting to murder someone when he was 17 years old. On more than one occasion, he discussed with friends a plan to commit a burglary, tie up the victim, and push him or her from a bridge. Based on the specified plan, he and a younger friend broke into the home of Shirley Crook. They bound and blindfolded her and then drove her to a state park, where they tied her hands and feet with electrical wire, covered her whole face with duct tape, walked her to a railroad trestle, and threw her into the river. Crook drowned as a result of the juveniles' actions. Simmons later bragged about the murder, and the crime was not difficult to solve. On being taken into custody, he confessed, and the guilt phase of the trial in Missouri state court was uncontested (Bradley, 2006). The U.S. Supreme Court held that “evolving standards of decency” govern the prohibition of cruel and unusual punishment and found that “capital punishment must be limited to those offenders who commit a narrow category of the most serious crimes and whose extreme culpability makes them the most deserving of execution” (Death Penalty Information Center, n.d.). The Court further found that there is a scientific consensus that teenagers have “an underdeveloped sense of responsibility” and that, therefore, it is unreasonable to classify them among the most culpable offenders: “From a moral standpoint,

it would be misguided to equate the failings of a minor with those of an adult, for a greater possibility exists that a minor's character deficiencies will be reformed" (Death Penalty Information Center, n.d.). In addition, the Court concluded that it would be extremely difficult for jurors to distinguish between juveniles whose crimes reflect immaturity and those whose crimes reflect "irreparable corruption" (Bradley, 2006). Finally, the Court pointed out that only seven countries in the world have executed juveniles since 1990, and even those countries now disallow the juvenile death penalty. Thus, the United States was the only country to still permit it. The pros and cons of this decision are discussed in Chapter 10.

The U.S. Supreme Court also determined in *Graham v. Florida* (2010) that it is unconstitutionally cruel and unusual punishment to lock up teenagers for life without any chance of parole for nonhomicidal crimes. The Supreme Court went on to strike down mandatory life sentences without the possibility of parole for juvenile offenders in *Jackson v. Hobbs* (2011) and reaffirmed this decision in *Miller v. Alabama* (2012). Most recently, in *Montgomery v. Louisiana* (2016) the Supreme Court held that its previous ruling in *Miller v. Alabama* should be applied retroactively. This decision potentially affected up to 2,300 cases nationwide. States have responded to these rulings by allowing individuals who were sentenced as juveniles to life without parole new sentencing hearings based on certain criteria (California Senate Bill 9, 2012); by commuting sentences (Iowa); and by providing for a presentencing hearing discussing aggravating and mitigating circumstances in front of a judge before a life sentence without parole can be determined (South Dakota Senate Bill 39, 2013), among other actions in other states (Sickmund & Puzzanchera, 2014). Suffice it to say that these rulings have furthered the considerable controversy that has characterized the juvenile justice network since its inception.

Continuing Dilemmas in Juvenile Justice

Several important points need to be made concerning the contemporary juvenile justice network. First, most of the issues that led to the debates over juvenile justice were evident by the 1850s, although the violent nature of some juvenile crimes, like the one discussed in the What Would You Do? box, over the past quarter century has raised serious questions about the juvenile court's ability to handle such cases. The issue of protection and treatment rather than punishment had been clearly raised under the 15th-century chancery court system in England. The issues of criminal responsibility and separate facilities for youthful offenders were apparent in the City Custom of Apprentices in 17th-century England and again in the development of reform schools in England and the United States during the 19th century.

Second, attempts were made to develop and reform the juvenile justice network along with other changes that occurred during the 18th, 19th, and early 20th centuries. Immigration, industrialization, and urbanization had changed the face of American society. Parents working long hours left children with little supervision, child labor was an important part of economic life, and child labor laws were routinely disregarded. At the same time, however, treatment of the mentally ill was undergoing humanitarian reforms as the result of efforts by Phillipe Pinel in France and Dorothea Dix and others in the United States. The Poor Law Amendment Act had been passed in England in 1834, providing relief and medical services for the poor and needy. Later in the same century, Jane Addams sought reform for the poor in the United States. Thus, the latter part of the 18th century and all of the 19th century may be viewed as a period of transition toward humanitarianism in many areas of social life, including the reform of the juvenile justice network. It is important to note that during the second decade of the 21st century the issue of juvenile justice reform has once again become a focal point. Recent legislative trends attempt once again to distinguish juveniles from adult offenders, restore the jurisdiction of the juvenile court, and seek to adopt scientific screening and assessment tools to aid in decision making and identifying the needs of juvenile offenders. Current legislative actions attempt to increase due process protections

for juveniles, reform detention policies, and address racial disparities. The U.S. Supreme Court has also played a role in recent reforms in *Roper v. Simmons* (2005), *Graham v. Florida* (2010), *Jackson v. Hobbs* (2011), *Miller v. Alabama* (2012), and *Montgomery v. Louisiana* (2016), as previously mentioned.

Third, the bases for most of the accepted attempts at explaining causes of delinquency and treating delinquents were apparent by the end of the 19th century. We discuss these attempts at explanation and treatment later in the book. At this point, it is important to note that those concerned with juvenile offenders had, by the early part of the 20th century, clearly indicated the potentially harmful effects of public exposure and were aware that association with adult offenders in prisons and jails could lead to careers in crime.

Fourth, the *Gault* decision obviated the existence of two major, and more or less competing, groups of juvenile justice practitioners and scholars. One group favors the informal, unofficial, treatment-oriented approach, referred to as a casework or **therapeutic approach**; the other group favors a more formal, more official, more constitutional approach, referred to as a formalistic or **legalistic approach**. The *Gault* decision made it clear that the legalists were on firm ground, but it did not deny the legitimacy of the casework approach. Rather, it indicated that the casework approach may be employed but only within a constitutional framework. For example, a child might be adjudicated delinquent (by proving his or her guilt beyond a reasonable doubt) but ordered to participate in psychological counseling (as a result of a presentence investigation that disclosed psychological problems).

All of these issues are very much alive today. Caseworkers continue to argue that more formal proceedings result in greater stigmatization of juveniles, possibly resulting in more negative self-concepts and eventually in careers as adult offenders. Legalists contend that innocent juveniles may be found delinquent if formal procedures are not followed and that ensuring constitutional rights does not necessarily result in greater stigmatization, even if juveniles are found to be delinquent.

Similarly, the debate over treatment versus punishment continues. On the one hand, status offenders (those committing acts that would not be violations if they were committed by adults) have been removed from the category of delinquency, in part as a result of the passage of the Juvenile Justice and Delinquency Prevention Act of 1974 (Snyder & Sickmund, 1999). Whereas severe punishments for certain violent offenses were enacted in the 1980s and 1990s and waivers to adult court for such offenses were made easier, the U.S. Supreme Court's decisions in *Roper v. Simmons*, *Graham v. Florida*, *Jackson v. Hobbs*, *Miller v. Alabama*, and *Montgomery v. Louisiana* have denied the possibility of the ultimate punishment—death—and lifetime incarceration terms for those who do not commit homicide. The perceived increase in the number of violent offenses perpetrated by juveniles led many to ponder whether the juvenile court, originally established to protect and treat juveniles, is adequate to the task of dealing with modern-day offenders. Simultaneously, the concepts of restorative justice, which involves an attempt to make victims whole through interaction with and restitution by their offenders, and juvenile detention alternatives, which reduce reliance on secure confinements, have become popular in juvenile justice (see Chapter 10). These approaches emphasize treatment philosophies as opposed to the “get-tough” philosophy so popular during recent years. Both of these approaches lead observers to believe that if the juvenile court survives, major changes in its underlying philosophy are likely to occur (Cohn, 2004; Ellis & Sowers, 2001; Schwartz, Weiner, & Enosh, 1998). As noted in In Practice 1.1, youth cannot be treated in the same vein as adults. Treatment and rehabilitation have to be considered when youth are involved.

Rethinking Juvenile Justice

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Finally, the issue of responsibility for delinquent acts continues to surface. For a number of years, the trend was to hold younger and younger juveniles accountable for their offenses, to exclude certain offenses from

the jurisdiction of the juvenile court, and to establish mandatory or automatic waiver provisions for certain offenses. That this trend is currently in question is evident from the article contained in In Practice 1.1.

There are a number of practical implications of the various dilemmas that characterize the juvenile justice system. Juvenile codes in many states were changed during the 1990s to reflect expanded eligibility

IN PRACTICE 1.1

10-YEAR-OLD MURDER DEFENDANT SHOWS FAILURE OF U.S. JUVENILE JUSTICE SYSTEM. WHILE HIS ALLEGED CRIME IS THE BRUTAL MURDER OF A 90-YEAR-OLD WOMAN, SHOULD A 10-YEAR-OLD SPEND THE REST OF [HIS] LIFE IN PRISON FOR IT?

If Pennsylvania had set out to intentionally highlight the glaring defects in the U.S. juvenile justice system, it couldn't have picked a better case than one initiated this week in rural Wayne County.

On Monday, prosecutors there charged a ten-year-old boy as an adult for the murder of an elderly woman under the care of his grandfather—making him one of the youngest Americans ever to face a criminal homicide conviction.

According to an affidavit provided by the Wayne County District Attorney's office, Tristen Kurilla, a fifth-grader who celebrated his tenth birthday in July, confessed to beating 90-year-old Helen Novak with his fists and choking her with a cane after she yelled at him to leave her room. Novak died shortly after the assault. On Monday, Kurilla was arraigned on charges of criminal homicide and aggravated assault. He is currently being held without bail in a segregated area of Wayne County Correctional Facility away from other inmates.

By mid-week the story had made the rounds of the national media—with headlines in a number of major outlets focusing on the age of the defendant and the callous brutality of his crime. But youth advocates tell *The Daily Beast* that the details of the case are secondary to what it says about the lengths the U.S. still has to go in its treatment of juvenile offenders.

"There is no other country in the world that would treat a child as an adult," said Robert Schwartz, co-founder and executive director of the Juvenile Law Center (JLC) in Philadelphia. "Social science has taught us that kids who are this young are not criminals in the same way that adults are. He has to be held accountable, yes, but in a developmentally appropriate way."

Like many other ill-conceived criminal justice policies, the push to begin trying juveniles in adult court began in the 1990s, as state legislatures enacted a series of "get-tough" laws in response to a perceived epidemic of youth crime. Congress got into the act in 1998, passing a series of measures that tied federal grant money to the passage of state laws requiring defendants over the age of 14 charged with serious offenses be adjudicated as adults, according to the Sentencing Project.

"Pretty much every legislature changed their juvenile laws to push more kids into the adult system," said Marsha Levick, JLC's deputy director and chief counsel.

Source: Moraff, C. (2014, October 18). 10-year-old murder defendant shows failure of U.S. juvenile justice system. Used with permission of *The Daily Beast* Copyright © 2017. All rights reserved.

Questions to Consider

1. True or False: The *Roper v. Simmons* ruling allowed youth to be sentenced to the death penalty in adult court but not in juvenile court.
2. Multiple Choice: The push to try juveniles who committed serious offenses in adult court began in the
 - a. 1970s
 - b. 1980s
 - c. 1990s
 - d. Early 2000s
3. If waivers are used in juvenile court, are we, as a society, giving up on youth?

for criminal court processing and adult correctional sanctions. All states now allow juveniles to be tried as adults under certain circumstances. According to Benekos and Merlo (2008), Brown (2012), and others, the impact of policies from the 1990s resulting in the adultification of juveniles through the use of punitive and exclusionary sanctions continues in spite of declining juvenile crime rates. At the same time, however, there are signs of more enlightened approaches on the horizon as attempts to reduce criminalization of juveniles are occurring in an increasing number of jurisdictions. These two conflicting approaches illustrate the continuing ambiguity in the juvenile justice system.

Because the juvenile justice system does not exist in a vacuum, laws dealing with juveniles change with changing political climates—whether or not such changes are logical or supported by evidence. Further, new and modified theories emerge as we attempt to better understand and deal with juveniles in the justice system. Thus, the cycle of juvenile justice is constantly in motion. Disputes between those who represent competing camps are common and difficult to resolve. Finally, the discrepancy between the ideal (theory) and practice (reality) remains considerable. What should be done to, with, and for juveniles and what is possible based on the available resources and political climate may be quite different things. Just over a decade ago, Bilchik (1999b) asked the following:

As a society that strives to raise productive, healthy, and safe children, how can we be certain that our responses to juvenile crime are effective? Do we know if our efforts at delinquency prevention and intervention are really making a difference in the lives of youth and their families and in their communities? How can we strengthen and better target our delinquency and crime prevention strategies? Can we modify these strategies as needed to respond to the ever-changing needs of our nation's youth? (p. iii)

At the beginning of the second decade of the 21st century, the Coordinating Council on Juvenile Justice and Delinquency Prevention approved a 2010 work plan that identified priority issues for interagency collaboration in the coming year. The four issues the council plans to focus on—(1) education and at-risk youth, (2) tribal youth and juvenile justice, (3) juvenile reentry, and (4) racial and/or ethnic disparities in the juvenile justice system and related systems—suggest that many of the questions raised at the end of the 20th century have yet to be answered (OJJDP News at a Glance, 2010). A further attempt to answer such questions is the movement toward accountability of the juvenile justice system. Mears and Butts (2008) indicated the following:

The juvenile justice system has been transformed in recent years with a range of policies designed to hold youth accountable, but how does society hold this system accountable? Calls for governmental accountability are common, yet few jurisdictions can provide comprehensive information about the basic operations of juvenile justice and the effectiveness of system reforms. Most elements of the juvenile justice system operate on faith—managers and policy makers have to assume that their programs are based on sound evidence and that reform efforts are fully implemented with fidelity to their designs. (p. 264)

Mears and Butts (2008) concluded the following:

Policy makers and the public increasingly expect government accountability, yet the gap between ideals and actual practice remains large. The situation is especially pronounced in juvenile justice, where little is known about the system's everyday activities and the implementation of numerous reforms enacted over the past 25 years. Given the growing demands for accountability, the substantial costs of juvenile justice, the potential for harm to victims and communities, and, not least, the risk of failing to improve the life outcomes of young offenders, systematic implementation of performance monitoring in juvenile justice is essential. (p. 280)

In the following chapters, look for the Career Opportunity box, which provides you with information concerning specific occupations, typical duties, and job requirements within or related to the juvenile justice network. Keep in mind that different jurisdictions have different requirements, so we are presenting you with information that is typical of the occupations discussed. We encourage you to discuss career options with faculty and advisers and to contact the placement office at your university or college for further information. You might also seek out individuals currently practicing in the juvenile justice field to discuss your interest and concerns. Good hunting!

Summary

Although the belief that juveniles should be dealt with in a justice system different from that of adults is not new, serious questions are now being raised about the ability of the juvenile justice system to deal successfully with contemporary offenders. The debate continues concerning whether to get increasingly tough on youthful offenders or to retain the more treatment- or rehabilitation-centered approach of the traditional juvenile court. The belief that the state has both the right and responsibility to act on behalf of juveniles was the key element of juvenile justice in 12th-century England and remains central to the juvenile justice system in the United States today.

Age of responsibility and the ability to form criminal intent have also been, and remain, important issues in juvenile justice. The concepts of *parens patriae* and *in loco parentis* remain cornerstones of contemporary juvenile justice, although not without challenge. Those who favor a more formal approach to juvenile justice continue to debate those who are oriented toward more informal procedures, although decisions in the *Kent*, *Gault*, and *Winship* cases made it clear, in theory at least, that juveniles charged with delinquency have most of the same rights as adults.

Although some (e.g., Hirschi & Gottfredson, 1993) have argued that the juvenile court rests on faulty assumptions, it appears that the goals of the original juvenile court (1899) are still being pursued (OJJDP News at a Glance, 2010). It remains apparent that the political climate of the time is extremely influential in dictating changing, and sometimes contradictory, responses to juvenile delinquency, as indicated by Benekos and Merlo (2008). Further, accountability for policies, programs, and results in the juvenile justice system through implementation of performance measures is increasingly being demanded by observers of the network (Mears & Butts, 2008).

KEY TERMS

| | | |
|--------------------------------------|-----------------------------------|-----------------------------------|
| age of responsibility 3 | <i>Holmes case</i> 8 | <i>Miller v. Alabama</i> 10 |
| <i>Breed v. Jones</i> 9 | house of refuge 6 | <i>Montgomery v. Louisiana</i> 10 |
| chancery courts 4 | <i>in loco parentis</i> 5 | <i>parens patriae</i> 5 |
| child-savers movement 7 | <i>Jackson v. Hobbs</i> 10 | Progressive Era 7 |
| common law 4 | <i>Kent case</i> 8 | reform schools 7 |
| era of socialized juvenile justice 7 | legalistic approach 11 | <i>Roper v. Simmons</i> 9 |
| <i>Gault case</i> 9 | <i>McKeiver v. Pennsylvania</i> 9 | therapeutic approach 11 |
| <i>Graham v. Florida</i> 10 | <i>mens rea</i> 4 | <i>Winship case</i> 9 |

Critical Thinking Questions

1. What do the terms *parens patriae* and *in loco parentis* mean? Why are these terms important in understanding the current juvenile justice network?
 - a. *Kent*
 - b. *Gault*
 - c. *Winship*
 - d. *Roper v. Simmons*
 - e. *Jackson v. Hobbs* and *Miller v. Alabama*
 - f. *Graham v. Florida*
2. Discuss your approach to juvenile offenders and juvenile sentencing. Is it therapeutic or legalistic? Why?
3. What is the significance of each of the following Court decisions?
 - a. *Kent*
 - b. *Gault*
4. Discuss when waivers to adult court are most appropriate (if at all). What do you think the long-term effects of waivers are on youth, juvenile court, and the adult correctional system?

Suggested Readings

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Defining and Measuring Offenses by and Against Juveniles 2

CHAPTER LEARNING OBJECTIVES

On completion of this chapter, students should be able to do the following:

- Understand and discuss the importance of accurately defining and measuring delinquency
- Understand the impact of differences in definitions of delinquency
- Discuss legal and behavioral definitions of delinquency
- Discuss official and unofficial sources of data on delinquency and abuse and the problems associated with each

WHAT WOULD YOU DO?

Tommy could hear his mom sobbing and crying through the thin wooden door in the mobile home. He looked up at his older brother, Robbie, and asked him, "When do you think he will stop?"

Robbie said in a low voice, "Shhh . . . she will apologize and then he will eventually calm down and they will go to the bedroom. After that, it will be okay."

But this time it was different. Both Tommy and Robbie heard a loud yelp that made their blood run cold. Tommy looked under the crack of the door and could see his father's boots moving, apparently kicking his mother in the ribs as she struggled to get away on all fours.

"He's kicking her really bad, Robbie. . . . I'm afraid he might kill Momma this time." Robbie listened to the shrieks and groans of his mother in misery and looked down at his 5-year-old brother.

"Tommy, you gotta stay in here, okay? Don't come out after me, and don't get between me and Dad. I don't wanna hurt you by accident, okay?"

"But . . ." Tommy tried to argue, but Robbie quickly put a hand over the child's mouth.

"We can't argue about this. There's no time. . . . You don't want Momma to die, do you?"

Tommy shook his head no.

"Then you do as I tell you, until the coast is clear, okay?"

"Okay," said Tommy.

"Promise!" demanded Robbie.

"I promise," said Tommy.

In a flash, Robbie went to the back of the room and reached up high in the closet to pull out a .22 Winchester rifle that his grandfather had given

him for squirrel hunting a few years back. The 15-year-old motioned for his little brother to get on the bed against the wall.

"But Robbie . . ." said Tommy.

"Shhh! Be quiet, dammit! Don't go getting scared on me. Just hide behind the bed," said Robbie, heart pounding, sweat already building on his forehead.

Robbie opened the door, held the rifle up against his shoulder, and, with it pointed forward, walked down the cheaply paneled hall of the mobile home, arriving in the living room in five quick long gaits. He stood there, gun pointed at his father, who, for a moment, was surprised but then started grinning.

Robbie's mother, still on the ground in the corner of the living room, said faintly, "Robbie, no."

His father then said, "Yeah, Robbie, why don't you stud up? It's about that time now, huh?" as he moved slowly toward Robbie.

"You stay there or I'll shoot!" said Robbie.

His mother said, "Frank, please leave him alone; he's just worried about me," at which point Frank quickly turned, pointed a finger at her, and said, "You both should be worried. I'm gonna kill both of your asses!"

Frank turned back and faced Robbie. Robbie's hands were sweating and he was shaking a little. He only had this .22, not exactly a powerful gun, and no hollow points at that. Robbie was terrified. If he did not shoot, he knew Frank would likely put him in the hospital, might kill his mom, and

might even hurt Tommy as well. If he did shoot, he would need to do so more than once because one shot would not be enough to stop him.

Frank took another step, saying, "You ain't got it in ya! Yer yella, just like your mommaaaa. . . ."

The gun went off. The clip that Robbie had loaded the day before let him fire rounds as fast as he could repetitively pull the trigger. The first shot went right through Frank's right eye; the second went into the front of his neck at an angle, as did the third. The fourth went into his heart. The others missed, for the most part, but Frank was on the ground, heaving.

A few minutes later, the police arrived on the scene of a homicide.

While they took down the information from all parties at the house as well as others who lived in the trailer park, they were compelled to put Robbie in cuffs and take him into booking.

Judging by the circumstances, would you define this crime as one committed by a juvenile, or should Robbie be waived to adult court? Explain your answer.

How would you identify and measure the various crimes committed at this scene?

How could victim blaming become a problem in a case such as this?

What would you have done if you were in Robbie's position?

One of the major problems confronting those interested in learning more about offenses by and against juveniles involves defining the phenomena. Without specific definitions, accurate measurement is impossible, making development of programs to prevent and control delinquency and offenses against juveniles extremely difficult.

There are two major types of definitions associated with delinquency. Strict **legal definitions** hold that only those who have been officially labeled by the courts are offenders. **Behavioral definitions** hold that those whose behavior violates statutes applicable to them are offenders whether or not they are officially labeled. Each of these definitions has its own problems and implications for practitioners and leads to different conclusions about the nature and extent of offenses. For example, using the legal definition, a juvenile who

committed a relatively serious offense but was not apprehended would not be classified as delinquent, whereas another juvenile who committed a less serious offense and was caught would be so classified.

Legal Definitions

Changing Definitions

A basic difficulty with legal definitions is that they differ from time to time and from place to place. An act that is delinquent at one time and in one place might not be delinquent at another time or in another place. For example, wearing gang colors or using gang signs may be a violation of city ordinances in some places but not in others. Or the law may change so that an act that was considered delinquent yesterday is not considered delinquent today. For instance, the Illinois Juvenile Court Act of 1899 defined as delinquent any juvenile under the age of 16 who violated a state law or city or village ordinance. By 1907, the definition of delinquency had changed considerably to include incorrigibility, knowingly associating with vicious or immoral companions, absenting oneself from the home without just cause, patronizing poolrooms, wandering about the streets at night, wandering in railroad yards, and engaging in indecent conduct. Definitions of delinquency have changed and expanded over the years. Alabama's current Juvenile Court Act defines a delinquent act as "an act committed by a child that is designated a violation, misdemeanor, or felony offense pursuant to the law of the municipality, county, or state in which the act was committed or pursuant to federal law" (Alabama Code, 208, Title 12, Chapter 15, Section 12:15:102, 2013). The definition continues to exclude 16- and 17-year-olds who violate nonfelony traffic or water safety laws, commit a capital offense, commit crimes classified as Class A felonies in Alabama or that involve using a deadly weapon or cause death or serious physical injury, engage in drug trafficking, and commit serious felonies involving certain authority figures such as teachers and court or law enforcement personnel. As Alabama demonstrates, legal definitions are limited in their applicability to a given time and place because of inconsistencies throughout the states. You will note as we proceed through this text that examples provided are from the Illinois Juvenile Court Act (Illinois Compiled Statutes [ILCS], ch. 705, 2013). Illinois has been a national leader in the field of juvenile justice (Fantom, 2006), and other states such as Missouri and Georgia are providing leadership as well. Although it is impossible to cite all of the statutes from the 50 states in the confines of the text, we have included examples of statutes from other states throughout and strongly encourage you to access online recent court cases and the statutes of the state in which you reside to compare and contrast them with the sample statutes cited in the text. This is important because statutes and court decisions relating to the juvenile justice system are in a constant state of change.

Age Ambiguity

Another problem with legal definitions has been the ambiguity reflected with respect to age (**age ambiguity**) (as noted in In Practice 2.1). What is the lower age limit for a juvenile to be considered delinquent? At what age are children entitled to the protection of the juvenile court? Although custom has established a lower limit for petitions of delinquency at roughly 7 years of age, some states set the limit higher and a few set it lower. For example, some states have statutes that set the minimum age of juvenile court delinquency jurisdiction. In other states, the minimum age is not specified in statute but is governed by case law or common law. One state sets the minimum age at 6 years, three states set the minimum age at 7 years, one state sets the minimum age at 8 years, and 11 states set the minimum age at 10 years (Sappenfield, 2008).

Thinking with respect to the minimum age at which children should be afforded court protection changed with the emergence of crack cocaine and methamphetamines, both of which may have serious

prenatal effects (Wells, 2006). According to Illinois statutes, for example, any infant whose blood, urine, or meconium contains any amount of a controlled substance is defined as neglected (ILCS, ch. 705, art. 2, sec. 405, 2013).

IN PRACTICE 2.1

JUVENILE PROSTITUTION, AGE AMBIGUITY, AND DISTINGUISHING VICTIMS FROM OFFENDERS: NEW DEVELOPMENTS IN ASSOCIATED DEFINITIONS AND RESPONSE

During the early months of 2016, police in the state of Wisconsin apprehended a victim of sex trafficking who was 16 years old; she had been trafficked since the age of 13. At the time of her abduction, she was sexually assaulted and, shortly thereafter, manipulated through coercion, threat, and intimidation into prostitution. Through brainwashing, threats followed by make-up periods, and other techniques both overt and subtle, an emotional attachment was developed between the girl and her pimp. He became, in essence, her boyfriend.

Unexpected amid this victimization was that this girl, according to Wisconsin law, was considered a criminal for her acts of prostitution.

As a result of this and other similar cases, lawmakers and various advocacy groups pushed for these laws to change so that individuals in these circumstances would be seen solely as victims and in the future would be shielded from criminal charges.

Social movements like the one in Wisconsin have emerged in a number of states throughout the nation. In fact, this push for social change in how prostitution in general, and underage prostitution in particular, is viewed is so widespread that a term has emerged to describe the proposed legal changes among state legislatures: *safe harbor*. These so-called safe-harbor proposals call for legislation that would prohibit charging any person under 18 years of age with prostitution. Whereas this is the most common form of safe-harbor law, other states have implemented versions that decriminalize minors who are 16 or younger, holding those 17

and older culpable and therefore chargeable for prostitution.

Whereas it would seem, on the face of it, that these laws would get automatic support, this has not been the case. Indeed, many states have encountered opposition to such blanket laws to decriminalize prostitution among underage youth because this would undermine the ability of police to intervene and exert their authority over the youth. In other words, law enforcement needs to have the legal ability to detain the underage prostitute for a period as a means of separating her from her pimp, stepping up efforts to charge the pimp, and to arrange for services for the underage individual in their custody. With no criminal violation from which to operate, the power of the police is much more limited.

Currently, there are about a dozen or so states that have decriminalization statutes in place for minors involved in prostitution (Aslanian, 2016). However, this has proven to be no panacea for this issue because many of these youth involved in prostitution do not see themselves as in need of help. Many come from horrible backgrounds and see their pimps as boyfriends and the other women with whom they work as part of their family. There are a multitude of social, emotional, and economic challenges that keep these youth working in prostitution.

Further, though most states do not yet have safe-harbor laws, this does not necessarily mean that these states simply turn a blind eye to this issue. Rather, many of these states have diversion programs or other forms of alternative assistance available. The line of thought is that whereas

(Continued)

(Continued)

youth may still be charged with prostitution, they will be able to benefit from more solid law enforcement intervention and follow-up assistance that will, at least in theory, be more successful in permanently removing youth from prostitution.

This In Practice brings to light how age ambiguity affects public views of at least one type of crime. Many states provide no distinction between prostitutes under the age of 18 and those over the age of majority. In other states, the bar is set at 16, holding girls 17 and older as guilty of their activity in prostitution.

Further, this In Practice also aligns with what is discussed in the next subsection of this chapter dealing with inaccurate images of offenders and victims. As has been shown, states have typically had a difficult time delineating between those who are victims and those who are offenders with underage prostitution. In some cases, states may view these individuals as one or the other, but in other cases they may view them as both.

The fact that many of these victims will outright lie to law enforcement and/or courthouse officials to protect their pimp and/or defend their lifestyle makes these determinations even more difficult. Simply put, some of these youth do not see themselves as victims and do not want assistance from law enforcement or otherwise. For those youth who come from abusive or neglectful families, the unwillingness to disclose

this prior abuse means that individuals may not be recognized as in need of services. In addition, official statistics related to child abuse and neglect will continue to have inaccuracies in the data that could have been otherwise remedied. Finally, the willingness of both youth and the justice system to reframe the view of this activity can contribute to various potential sources of error in official statistical counts. In addition, justice might also be served in a manner that is more appropriate for each actor involved.

Sources: Aslanian (2016); Speckhard (2016).

Questions to Consider

1. True or False: Some youth drawn into prostitution view their pimp as their friend or family member.
2. Multiple Choice: Proposed legal changes among state legislatures regarding underage prostitution have been referred to as what kind of proposals?
 - a. Antivictimization
 - b. Sexual racketeering reformation
 - c. Anti-sexual trafficking
 - d. Safe harbor
3. Explain the advantages and disadvantages to the decriminalization of juvenile prostitution statutes.

There is also considerable diversity with respect to the upper age limit in delinquency cases. Three states set the maximum age at 15 years, 10 states set the maximum age at 16 years, and 37 states (and the District of Columbia) set the maximum age at 17 years (Office of Juvenile Justice and Delinquency Prevention [OJJDP], 2013). Some states set higher upper age limits for juveniles who are abused, neglected, dependent, or in need of intervention than for delinquents in an attempt to provide protection for juveniles who are still minors even though they are no longer subject to findings of delinquency. Illinois recently changed its maximum age limit depending on whether the offense committed by the juvenile would be a felony (17 years of age) or a misdemeanor (18 years of age) (ILCS, ch. 705, 405/5 [3], 2013). And in most states, juvenile court authority over a juvenile may extend beyond the upper age of original jurisdiction (frequently to the age of 21).

An example of the confusion resulting from all of these considerations is the Illinois Juvenile Court Act (ILCS, ch. 705, 2013). This act establishes no lower age limit; establishes the 17th birthday as the upper limit at which an adjudication of delinquency for serious offenses may be made while setting the limit at the 18th birthday for misdemeanors; makes it possible to automatically transfer juveniles over the age of 15 years to adult court for certain types of violent offenses; and sets the 18th birthday as the upper age limit for findings of abuse, dependency, neglect, and minors requiring intervention. Adding to the confusion is the distinction made in the Illinois Juvenile Court Act between minors (those under 21 years of age) and adults (those 21 years of age and over). This raises questions about the status of persons over the age of 18 but under 21 years. For example, a 19-year-old in Illinois is still a minor (although he or she may vote) but cannot be found delinquent, dependent, neglected, abused, or in need of intervention. Such ambiguities with respect to age make comparisons across jurisdictions difficult.



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Are race and ethnicity really major factors in delinquency? Official statistics point to higher crime rates among minorities; however, self-report studies claim otherwise.

Inaccurate Images of Offenders and Victims

Yet another difficulty with legal definitions is that they may lead to a highly unrealistic picture of the nature and extent of delinquency, abuse, neglect, and dependency. Because these definitions depend on official adjudication, they lead us to concentrate on only a small portion of those actually involved as offenders and victims. This means that a substantial amount of illegal behavior committed by youth is not detected.

Similar problems arise when considering abuse and neglect because only a small portion of such cases are reported and result in official adjudication. In short, most juvenile offenders and victims never come to the attention of the juvenile court, and a strict legal definition is of little value if we are interested in the actual size of offender and victim populations. It may well be, for example, that females are more involved in delinquent activities than official statistics would lead us to believe. It may be that they are not as likely to be arrested by the police as their male counterparts. Not infrequently, we have seen police officers search male gang members for drugs and/or weapons while failing to search females who are with the gang members. It does not take long for the males involved to decide who should carry drugs and weapons. Similarly, blacks and other minority group members may be overrepresented in official statistics simply because they live in high-crime areas that are heavily policed and, therefore, are more likely to be arrested than those living in less heavily policed areas. For example, of all juveniles (individuals under the age of 18) arrested in 2011 in the nation, 65.7% were white, 32.0% were black, and 2.3% were of other races. Juveniles who were black accounted for 51.4% of juvenile arrests for violent crimes, although black youth accounted for about 16% of the youth population ages 10 to 17. Table 2.1 shows the proportion of arrests for black juveniles in 2011.

Table 2.1 Proportion of Black Juvenile Arrests in 2011

| Most Serious Offense | Proportion of Black Juvenile Arrests in 2011 |
|----------------------------------|--|
| Murder/nonnegligent manslaughter | 54.3% |
| Rape | 34.3 |
| Robbery | 71.4 |
| Aggravated assault | 43.4 |
| Burglary | 40.2 |
| Larceny-theft | 36.4 |
| Motor vehicle theft | 43.6 |
| Weapons carrying/possession | 38.1 |
| Drug abuse violation | 24.4 |
| Curfew and loitering | 44.8 |

Source: Federal Bureau of Investigation (FBI) (2015). Adapted from Table 43B.

Note: Whether these official statistics accurately reflect levels of black juvenile participation in the crimes listed depends on factors such as disproportionate impact discussed throughout this chapter (see especially the forthcoming section on official statistics) and in Chapters 3 and 8.

A final difficulty with legal definitions also characterizes behavioral definitions and results from the broad scope of behaviors potentially included. Does striking a child on the buttocks with an open hand constitute child abuse? What does *beyond the control of parents* mean? How is *incorrigible* to be defined? What does a “minor requiring authoritative intervention” (MRAI) look like? Although all of these questions may be answered by referring to definitions contained in state statutes, in practice they are certainly open to interpretation by parents, practitioners, and juveniles themselves. It should be noted that the broader the interpretation, the greater the number of victims and offenders.

Behavioral Definitions

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In contrast to legal definitions, behavioral definitions focus on juveniles who offend or are victimized even if they are not officially adjudicated. Using a behavioral definition, a juvenile who shoplifts but is not apprehended is still considered delinquent, whereas that juvenile would not be considered delinquent using a legal definition. The same is true of a child who is abused but not officially labeled as abused. If we concentrate on juveniles who are officially labeled, we get a far different picture from that if we include all of those who offend or are victimized. Estimates of the extent of delinquency and abuse based on a legal definition are far lower than those based on a behavioral definition. In addition, the nature of delinquency and abuse appears to be different depending on the definition employed.

We might assume, for example, that the more serious the case, the greater the likelihood of official labeling. If this assumption is correct, relying on official statistics would lead us to believe that the proportion of serious offenses by and against juveniles is much higher than it actually is (using the behavioral definition). Finally, relying on legal definitions (and the official statistics based on such definitions) would lead us to overestimate

the proportion of lower-social-class children involved in delinquency and abuse. The reasons for this overestimation are discussed later in this chapter.

In general, we prefer a behavioral definition because it provides a more realistic picture of the extent and nature of offenders and victims. It may be applied across time and jurisdictions because it is broad enough to encompass the age and behavioral categories of different jurisdictions and statutes. In addition, the broader perspective provided may help in the development of more realistic programs for preventing or controlling delinquency.

In spite of its advantages, however, there is one major difficulty with the behavioral definition. Because it includes many juveniles who do not become part of official statistics, we need to rely on unofficial, and sometimes questionable, methods of assessing the extent and nature of unofficial or “hidden” delinquency and abuse.



Doug Menez/Photodisc/Getty Images

Police prepare to search juveniles for drugs or weapons.

Official Statistics: Sources and Problems

Official Delinquency Statistics

What do current official statistics on delinquency and abuse indicate? Despite growth in the juvenile population over the past decade, crime and violence by juveniles have declined. As per the most recent data available, arrests for juvenile offenses decreased 9.4% from the 8,730,665 youth arrested in 2014 to the 8,248,709 juveniles arrested in 2015 (FBI, 2016a). Similar trends are evidenced across most offense categories for both male and female and white and minority youth. In fact, children are at a much greater risk of being the victims of violent crime than of being the perpetrators of violent crime. According to the Administration for Children and Families (2014),

1. The national estimates of children who received an investigation or alternative response increased 7.4% from 2010 (3,023,000) to 2014 (3,248,000).
2. The number and rate of victims of maltreatment have fluctuated during the past 5 years. Comparing the national estimate of victims from 2010 (698,000) to 2014 (702,000) shows an increase of around 1%.
3. Three-quarters (75%) of victims were neglected, 17% were physically abused, and 8.3% were sexually abused.
4. For 2014, an estimated 1,580 children died of abuse and neglect at a rate of 2.13 per 100,000 children in the national population.

Numbers of children suffering from abuse and neglect remain high in the United States, with a slight increase that was noted by the Administration for Children and Families (2014) in recent years. Regardless of fluctuation in the rates of child abuse and/or neglect, what is important to understand is that these are underlying antecedents to future aberrant behavior and adjustment problems among youth who experience the abuse. Thus, early interventions have substantial opportunity to lower future delinquency.

During the last 10 years, the population of offenders in residential placement dropped by nearly 44%. However, this decline did not affect all racial/ethnic groups similarly. Indeed, according to the OJJDP (2013),

In 2013, the population of youth held in residential placement for delinquency or status offenses was 40% black, 32% white, and 23% Hispanic. Youth of other races, including those of two or more races, accounted for 5% of youth in residential placement. The race/ethnicity profile of offenders in residential placement shifted substantially from a decade earlier. In 2003, 39% of juvenile offenders in residential placement were white, 38% were black, and 19% were Hispanic. (p. 12)

Where do such varied statistics come from, and how accurate are they likely to be?

Official statistics on delinquency are available at the national level in *Crime in the United States*, published annually by the FBI based on **Uniform Crime Reports (UCRs)**. Since 1964, these reports have contained information on arrests of persons under 18 years of age. In addition, since 1974, the reports have included information on police dispositions of juvenile offenders taken into custody as well as urban, suburban, and rural arrest rates. For the year 2014, the FBI claimed that UCRs covered 12,656 law enforcement jurisdictions around the nation, with the most complete reporting from urban areas and the least complete reporting from rural areas (FBI, 2014, p. 1). Although the FBI statistics are the most comprehensive official statistics available, they are not totally accurate for several reasons.

First, because UCRs are based on reports from law enforcement agencies throughout the nation, errors in reporting made by each separate agency become part of national statistics. Sources of error include mistakes in calculating percentages and in placing offenders in appropriate categories. Statistics reported to the FBI are based on “offenses cleared by arrest” and, therefore, say nothing about whether the offenders were actually adjudicated delinquent for the offenses in question.

Assuming that more serious offenses are more likely to lead to arrests (however defined) than are less serious and more typically juvenile offenses, arrest statistics would show a disproportionate number of serious juvenile offenses. These types of cases actually account for only a very small proportion of all delinquent acts. Black and Reiss (1970) found that in urban areas only about 5% of police encounters with juveniles involved alleged felonies. Lundman, Sykes, and Clark (1978) replicated the Black and Reiss study and also found a 5% felony rate, noting that only approximately 15% of all police–juvenile encounters result in arrests, leaving 85% of these encounters that cannot become a part of official police statistics. Empey, Stafford, and Hay (1999) concluded the following:

We have seen that the police traditionally have been inclined to avoid arresting juveniles. Because they have been granted considerable discretion, however, the police continue to counsel and release many of those whom they have arrested, albeit less frequently than in the past. (p. 331)

Myers (2004) noted this:

While official statistics tell the story about the number of juveniles arrested and processed into the system, they only capture a fraction of the contacts that police have with juveniles and only a fraction of the information. Little is known about the rest of the story, about the nature of police juvenile encounters, the factors that shape police responses to juveniles in these encounters, and about those juveniles who have contact with the police and are subsequently released with a reprimand that is something other than a formal police response. (p. 2)

Myers observed that of 654 juvenile suspects involved in police encounters, 84, or 13%, were arrested.

There are a variety of other difficulties with UCR data. If one wants to know the number of juveniles arrested for specific serious offenses during a given period in specific types of locations, UCR data are useful. But if one wants to know something about the actual extent and distribution of delinquency, or about police handling of juveniles involved in less serious offenses, UCR data are of little value because, as just noted, “many juveniles who commit crimes (even serious crimes) never enter the juvenile justice system. Consequently, developing a portrait of juvenile law-violating behavior from official records gives only a partial picture” (OJJDP, 2006). Puzzanchera (2009) noted the following:

While juvenile arrest rates in part reflect juvenile behavior, many other factors can affect the size of these rates. For example, jurisdictions that arrest a relatively large number of nonresident juveniles would have higher arrest rates than jurisdictions where resident youth behave in an identical manner. Therefore, jurisdictions that are vacation destinations or regional centers for economic activity may have arrest rates that reflect more than the behavior of their resident youth. Other factors that influence the magnitude of arrest rates in a given area include the attitudes of its citizens toward crime, the policies of the jurisdiction’s law enforcement agencies, and the policies of other components of the justice system. (p. 11)

In an attempt to combat some of the reporting problems found in UCR data since 1987, the FBI has implemented an incident-based reporting system, a modification of the original UCR reporting system, throughout the United States. In 2014, there were 18,498 law enforcement agencies that contributed data to the **National Incident-Based Reporting System (NIBRS)**.

Based on 2014 data submissions, 16 states (Arkansas, Colorado, Delaware, Idaho, Iowa, Michigan, Montana, New Hampshire, North Dakota, Rhode Island, South Carolina, South Dakota, Tennessee, Vermont, Virginia, and West Virginia) submit all their data via the NIBRS. Thirty-three state UCR Programs are certified for NIBRS participation. (FBI, 2014)

NIBRS was developed to collect information on each crime occurrence. Under this reporting system, policing agencies report data on **offenses known to the police** (offenses reported to or observed by the police) instead of only those offenses cleared by arrest, as was done in the original UCR crime reporting process. Of all official statistics, offenses known to the police probably provide the most complete picture of the extent and nature of illegal activity, although there is considerable evidence from **victim survey research** (discussed later in this chapter) that even these statistics include information on fewer than 50% of the offenses actually committed (Hart & Rennison, 2003, p. 1). According to Langton, Berzofsky, Krebs, and Smiley-McDonald (2012, p. 1), from 2006 to 2010, approximately 52% of violent crime victimizations were not reported to the police.

Criminal justice agencies are allowed to customize the NIBRS to meet agency statistical needs while still meeting the requirements of the UCRs without biasing the data. In addition, crimes that were not discussed in UCRs originally are included in the new reporting system, including terrorism, white-collar crime, children missing due to criminal behaviors, hate crimes, juvenile gang crimes, parental kidnapping, child and adult pornography, driving under the influence, and alcohol-related offenses.

Data at the national level are also available from the **National Center for Juvenile Justice**, which collects and publishes information on the number of delinquency, neglect, and dependency cases processed by juvenile

courts nationwide. In addition, the **Office of Juvenile Justice and Delinquency Prevention (OJJDP)** in the U.S. Department of Justice maintains and publishes statistics on juveniles. Unfortunately, much of the information available from these two agencies is out of date by the time it is published (2- to 4-year time lags are not uncommon).

There are a variety of sources of official statistics available at local, county, and state levels as well. Many service agencies, such as police departments, children and family services departments, and juvenile and adult court systems, maintain statistics on cases in which they are involved. These statistics are often focused on agency needs and are used to secure funding from local or private sources, the county, the state, and/or the federal government. The statistics may also be used to justify to the community or the media certain dispositions employed by the agencies and to alert the community to specific needs of the agencies.

Official Statistics on Abuse and Neglect

Child abuse and neglect may be defined as “any recent act or failure to act on the part of a parent or caretaker which results in death, serious physical or emotional harm, sexual abuse or exploitation; or an act or failure to act, which presents an imminent risk of serious harm” (Child Abuse Prevention and Treatment Act [CAPTA], 42 U.S.C. §5101, 2010). Official statistics on abused and neglected children are available from a number of sources but are probably even more inaccurate than other crime statistics because of underreporting, as In Practice 2.2 indicates. Part II of the UCR contains data on “offenses against family and children.” The **National Center on Child Abuse and Neglect**, the **National Children’s Advocacy Center**, and the National Resource Center on Child Sexual Abuse (under the auspices of the U.S. Department of Health and Human Services, the American Humane Association, and the National Committee for the Prevention of Cruelty to Children, respectively), as well as the OJJDP, publish data on abuse and neglect of children. Data are also kept and periodically published by departments of children and family services of each state. Throughout the nation in 2014, social service agencies received an estimated 3.6 million referrals that involved the alleged maltreatment of approximately 6.6 million children (Administration for Children and Families, 2014). Among these referrals, 60.7% resulted in investigations or assessments that were substantiated. Thus, in 2014, 2.2 million child protection investigations found at least one child to be a victim of abuse or neglect (Administration for Children and Families, 2014). This does not mean that all cases of maltreatment are reported; in fact, according to the U.S. Department of Health and Human Services (2005), because parents are the perpetrators of maltreatment in approximately 80% of substantiated cases, and because most substantiated maltreatment occurs in private settings, it is likely that the majority of such cases are not reported.

National Crime Victimization Survey

The U.S. Department of Justice (Bureau of Justice Statistics) and the U.S. Bureau of the Census semiannually provide us with official data on crime from the perspective of victims. The **National Crime Victimization Survey (NCVS)** has been collecting data on personal and household victimization since 1973. Based on a survey of a nationally representative sample of residential addresses, the NCVS is the primary source of information on the characteristics of criminal victimization and on the number and types of crimes not reported to law enforcement authorities. Twice each year, data are obtained from a sample of roughly 49,000 households comprising about 100,000 persons on the frequency, characteristics, and consequences of criminal victimization in the United States (National Crime Victimization Survey Resource Guide, n.d.). When NCVS data are compared with the data from the UCRs, we can make some rough estimates of the extent to which certain types of crime occur but are not reported. For example, for the year 2006, Rand and

Catalano (2007) concluded that about 43% of robberies, 41% of aggravated assaults, 50% of burglaries, and 59% of sex offenses experienced were not reported to the police. According to Baumer and Lauritsen (2009), “In most cases, more than half of the crimes experienced by Americans are not conveyed to law enforcement officials” (p. 33).

The reasons for not reporting crime are diverse (see, for example, In Practice 2.2) and include the following:

Private or personal matters

Nonbelief that the police can do anything about the crime

Fear of reprisal

Too inconvenient

Lack of proof (Baumer & Lauritsen, 2009; Bureau of Justice Statistics, 2005; Kruttschnitt & Carbone-Lopez, 2009)

In addition to the NCVS, the Bureau of Justice Statistics has worked with the Office of Community Oriented Policing Services (COPS) to develop a statistical software program measuring victimization and citizen attitudes on crime. Local policing municipalities participating in community policing programs use the software program in conjunction with telephone surveys of local residents to collect data on crime victimization, attitudes toward the police, and other community issues. The results are used to identify which community programs are needed and where those programs should be located in the community.

IN PRACTICE 2.2

WHY DON'T SOME PEOPLE REPORT CHILD ABUSE AND NEGLECT?

Among the most frequently identified reasons for not reporting are lack of knowledge about child abuse and neglect and lack of familiarity with state reporting laws. Other reasons people don't report include the following:

- Choosing instead to effectively intervene independent of the formal system
- Fearing or being unwilling to get involved
- Fearing that a report will make matters worse
- Being reluctant to risk angering the family
- Being concerned that making a report will negatively impact an existing relationship with the child or others

- Believing that someone else will speak up and do something

Although these feelings are understandable and it can be frightening to respond to suspected child abuse and neglect, the consequences of *not* reporting your worries to child welfare professionals could be seriously detrimental to a child's safety. In some cases, they might even be life threatening. So don't be afraid to call and ask for help. Your call will help child welfare professionals determine the most appropriate response, including whether an assessment or investigation of the situation is needed and what further supports may be beneficial or necessary. A trained set of eyes on the situation may be the best response when other efforts have

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failed or the seriousness of a situation requires it. It is not your responsibility to investigate; it is your responsibility to be involved and contact appropriate professionals when you have heightened concerns. The safety of a child is at stake.

Source: American Humane (2008).

Questions to Consider

1. True or False: Persons are expected to wait until they are certain of child abuse before making a report.
2. Multiple Choice: Which of the following is not a reason people give for not reporting abuse or neglect?
 - a. Believing that someone else will report the incident
 - b. Being afraid to create friction or a negative relationship with the reported family
 - c. Wanting to get involved and stop the violence
 - d. Believing that reporting will make the situation worse for the child
3. Given the concerns that people note about reporting suspected child abuse, how do you think that authorities can increase reporting of likely child abuse?

Although victimization surveys would appear to be a better overall indicator of the extent and nature of crime, delinquency, and abuse, they also have their limitations. As is the case with all self-report measures (see the following section), there are serious questions about the accuracy and specificity of reports by victims. In addition, the surveys do not include interviews with children under the age of 12 and do not include questions about all types of crime (the NCVS focuses primarily on violent offenses). Because of this, incidents of family violence like we encountered in our What Would You Do? exercise at the beginning of this chapter may go undetected until after the circumstance ends in a homicide.

Sources of Error in Official Statistics

Official statistics are collected at several different levels in the juvenile justice network, and each level includes possible sources of error. Table 2.2 indicates some sources of error that may affect official statistics collected at various levels. Each official source has its uses, but generally the sources of error increase as we move up each level in the network.

There are two additional sources of error that may affect all official statistics. First, those who are least able to afford the luxury of private counsel and middle-class standards of living are probably overrepresented throughout all levels. Thus, official statistics might not represent actual differences in delinquency and abuse by social class but rather might represent the ability of middle- and upper-class members to avoid being labeled (for a more thorough discussion, see Elliot & Huizinga, 2006, pp. 149–177; Empey & Stafford, 1991, pp. 315–317; Garrett & Short, 1975; Knudsen, 1992, p. 31). Second, it is important to remember that agencies collect and publish statistics for a variety of administrative purposes (e.g., to justify more personnel and more money). This does not mean that all or even most agencies deliberately manipulate statistics for their own purposes. All statistics are open to interpretation and may be presented in a variety of ways, depending on the intent of the presenters.

Table 2.2 Sources of Error at Specified Levels in the Juvenile Justice System

| Data Collected | Sources of Error in Official Statistics |
|---|---|
| Offenses known to the police | All offenses not detected All offenses not reported to or recorded by the police |
| Offenses cleared by arrests | Errors from Level 1 All offenses that do not lead to arrests |
| Offenses leading to prosecution | Errors from Levels 1 and 2 All offenses that result in arrests but do not lead to prosecution |
| Offenses leading to adjudication of delinquency | Errors from Levels 1, 2, and 3 All offenses prosecuted that do not lead to adjudication of delinquency |
| Offenses leading to incarceration | Errors from Levels 1, 2, 3, and 4 All offenses leading to adjudication of delinquency but not to incarceration |

Unofficial Sources of Data

It is clear that relying on official statistics on delinquency and abuse is like looking at the tip of an iceberg; that is, a substantial proportion of these offenses remain hidden beneath the surface. Although it is certain that much delinquency and maltreatment is not reported to, or recorded by, officials (**unofficial sources of data**), there is no perfect method for determining just how many of these behaviors remain hidden.

Self-Report Studies

Recognizing that official statistics provide a false dichotomy between those who are officially labeled and those who are not, a number of researchers have focused on comparing the extent and nature of delinquency among institutionalized (labeled) delinquents and noninstitutionalized (nonlabeled) juveniles. Short and Nye (1958) used self-reports of delinquent behavior obtained by distributing questionnaires to both labeled and nonlabeled juveniles. These questionnaires called on respondents to indicate what types of delinquent acts they had committed and the frequency with which such acts had been committed. Short and Nye concluded that delinquency among noninstitutionalized juveniles is extensive and that there is little difference between the extent and nature of delinquent acts committed by noninstitutionalized juveniles and those committed by institutionalized juveniles. In addition, the researchers indicated that official statistics lead us to misbelieve that delinquency is largely a lower-class phenomenon given that few significant differences exist in the incidence of delinquency among upper-, middle-, and lower-class juveniles. Conclusions reached in similar **self-report studies** by Porterfield (1946), Akers (1964), Voss (1966), and Bynum and Thompson (1992, pp. 78–79) generally agreed with those of Short and Nye (1958). Based on these self-report studies, it is apparent that the vast majority of delinquent acts never become part of official statistics (Conklin, 1998, p. 67). This, of course, parallels information from victim survey research at the adult level.

Additional studies of self-reported delinquency have been conducted by Taylor, McGue, and Iacono (2000); Pagani, Boulerice, and Vitaro (1999); Williams and Dunlop (1999); Farrington and colleagues (2003); and Gover, Jennings, and Tewksbury (2009), indicating that the technique is still in use. Self-report studies,

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Two teenagers pass drugs in the street. How much impact do drugs have on delinquent activities?

however, are subject to criticism on the basis that respondents may underreport or overreport delinquency or abuse as a result of either poor recall or deliberate deception. To some extent, this criticism applies to victimization surveys as well even though victims are not asked to incriminate themselves. Mistakes in recalling the date of an incident, the exact nature of the incident, or the characteristics of the parties involved may occur. Or for reasons of their own, victims may choose not to report particular incidents. NCVS interviewers attempt to minimize these problems by asking only about crimes during the prior 6 months

and by avoiding questions requiring personal admissions of offenses, but there are still no guarantees of accuracy, and this is certainly the case when asking juveniles to report their own crimes or abuse. Hindelang, Hirschi, and Weis (1981, p. 22), for example, contended that illegal behaviors of seriously delinquent juveniles are underestimated in self-report studies because such juveniles are less likely to answer questions truthfully. Farrington and colleagues (2003), Costanza and Kilburn (2004), and Rennison and Melde (2009) concluded that research based on self-reports sometimes yields different conclusions compared with research based on official records or other research techniques.

Some researchers have included trap questions to detect these deceptions. In 1966, Clark and Tifft used follow-up interviews and a polygraph to assess the accuracy of self-report inventories. They administered a 35-item self-report questionnaire to a group of 45 male college students. The respondents were to report the frequency of each delinquent behavior they had engaged in since entering high school. At a later date, each respondent was asked to reexamine his questionnaire and to correct any mistakes after being told he would be asked to take a polygraph test to determine the accuracy of his responses. Clark and Tifft (1966) found that all respondents made corrections on their original questionnaires (58% at the first opportunity and 42% during the polygraph examination). Three-fourths of all changes increased the frequency of admitted deviancy, all respondents underreported the frequency of their misconduct on at least one item, and 50% overreported on at least one item. With respect to self-reported delinquency, Clark and Tifft (1966) concluded that “those items most frequently used on delinquency scales were found to be rather inaccurate” (p. 523).

There are ways of attempting to improve the accuracy of self-reports. In a study of convicted child molesters, official records concerning the sexually abusive activity of the inmates could be compared with their self-reports of behavior. In some cases, it was also possible to confirm through official records the inmates' claims that they themselves had been abused as children (Rinehart, 1991). Without some corroboration, however, the use of self-reports to determine the extent and nature of either delinquency or child abuse is, at best, risky. Empey and colleagues (1999) concluded, “In short, self-report surveys, like other ways of estimating delinquent behavior, have their limitations. Nonetheless, they are probably the single most accurate source of information on the actual illegal acts of young people” (p. 87). As noted earlier, self-reports of delinquency are more comprehensive than official reports because the former include behaviors not reported, or not otherwise known, to the authorities. At least some research indicates

that juveniles are willing to report accurate information about their delinquent acts (Farrington, Loeber, Stouthamer-Loeber, Van Kammen, & Schmidt, 1996). Based on a review of self-reported delinquency studies, Espiritu, Huizinga, Crawford, and Loeber (2001) found that the vast majority of juveniles 12 years or under reported involvement in some form of aggression or violence, but only roughly 5% reported being involved in violence serious enough to be considered a delinquent or criminal offense. Furthermore, the authors noted that self-report rates for major forms of delinquency were nearly the same in 1976 and 1998. Still, van Batenburg-Eddes et al. (2012) assessed the differential validity of self-reported delinquency in adolescents as related to self-reported police contacts and concluded that using only self-reported data to measure delinquency in an ethnically diverse population results in substantial bias. They advise the use of multiple sources to measure the prevalence of delinquency.

Finally, self-report studies of juvenile delinquency have been conducted to examine the relationship between prior victimization of youth and future delinquent behavior. Indeed, this has been examined not only in the United States but in 30 other countries around the globe (Enzmann et al., 2015). In studies such as the one conducted by Enzmann et al. (2015), victimization data are gathered through the use of the International Crime Victim Survey (ICVS), which is the international version of the previously discussed National Crime Victimization Survey (NCVS) that is used in the United States. As can be seen, the basic components of studying juvenile delinquency go beyond the borders of the United States and extend to juvenile issues around the world.

Police Observational Studies

Another method for determining the extent and nature of offenses by and against juveniles is observation of police encounters related to juveniles (**police observational studies**). Several studies over the years have found that most delinquent acts, even when they become known to the police, do not lead to official action and, thus, do not become a part of official statistics (Black & Reiss, 1970; Piliavin & Briar, 1964; Terry, 1967; Werthman & Piliavin, 1967). These studies indicated that 70% to 85% of encounters between police and juveniles do not lead to arrests and inclusion in official delinquency statistics.

In the summers of 1996 and 1997, trained observers rode with patrol and community officers during their assigned shifts and recorded information on 443 police–juvenile encounters where at least one juvenile was treated by the observed officer as a suspect (Myers, 2004, p. 91). The conclusions from this observational study largely confirm what previous studies on police–juvenile interactions have reported with respect to police use of authority. The police used their authority to formally take juveniles into custody infrequently. Only 13% of suspects were taken into custody for the purpose of charging. Police officers were more likely to arrest juvenile suspects when the problem is of a more serious nature and when juvenile suspects are verbally or behaviorally disrespectful toward police, though being disrespectful increases the probability by only a modest amount. The author concluded (p. 200) that “in resolving issues with juvenile suspects, police are clearly using their discretion and acting both as a social control agent and as a public service provider” (Myers, 2004, pp. 180–200).

The reasons given by the police for dealing informally with juvenile offenders are both numerous and critical to a complete understanding of the juvenile justice network. These reasons are discussed in some detail in Chapter 8. The point is that the number of juveniles who commit delinquent acts but do not become part of official statistics seems to be considerably larger than the number of juveniles who do become part of official statistics. Relying only on official statistics to estimate the extent and nature of delinquency, thus, can be very misleading. Some time ago, Morash (1984) came to the following conclusion:

Youths of certain racial groups and in gang-like peer groups were more often investigated and arrested than other youths. Evidence of the independent influence of subject's race and gang-likeness of peers was not provided by the multivariate analysis, however. Thus, there is some question about whether race and gang qualities have an independent influence on police actions, or whether they are related to police actions because they are correlated with other explanatory variables. The multivariate analysis did provide evidence that the police are prone to arrest males who break the law with peers and who have delinquent peers. Alternatively, they are prone not to investigate females in all-female groups. These tendencies cannot be attributed to the delinquency of the youths or to correlations with other independent variables. There is, then, a convincing demonstration of regular tendencies of the police to investigate and arrest males who have delinquent peers regardless of these youths' involvement in delinquency. (pp. 108–109)

Furthermore, Frazier, Bishop, and Henretta (1992) found that black juveniles were more likely to receive harsher dispositions in areas where the proportion of whites was high, thereby introducing another possible source of bias (relative proportion of whites and blacks in the community) in police statistics. Engel, Sobol, and Worden (2000) found that police action was affected by a state of intoxication when combined with displays of disrespect on the part of the suspect. Overall, however, they concluded, "It appears that police officers expect their authority to be observed equally by all suspects, and do not make distinctions based on race, sex, location, and the seriousness of the situation" (pp. 255–256). Using observational and interview data from two medium-sized cities, Rossler and Terrill (2012) "examined how officers respond to noncoercive citizen requests for service during encounters, and the impact that situational and officer characteristics have on their willingness to comply with requests" (p. 3). The researchers concluded that officers complied with a majority of citizen requests involving respectful citizens, wealthier citizens, and white officers, whereas officers were less likely to comply with requests from younger and older citizens. Rydberg and Terrill (2010, p. 92), based on observations of the police in two medium-sized cities, determined that although higher education showed no influence on the probability of an arrest or search occurring in a police–suspect encounter, college education does appear to significantly reduce the likelihood of force occurring. Clearly, a variety of factors influence the extent to which police officers take official action in encounters and the extent to which they report such encounters.

Bell and Bell (1991) also found that the police often fail to take official action, preferring instead to handle incidents of domestic violence (involving child as well as adult victims) by referring the parties to another agency. Finally, Halter (2010), based on case files from six police agencies in major U.S. cities of youth (almost entirely girls) allegedly involved in prostitution, found that a number of factors determined whether the police considered youth to be victims or offenders. When youth were cooperative, when there were identified exploiters, when the youth had no prior records, and when the youth were reported by a third party as victims, the police more often considered them to be victims. Interestingly, it appeared that the police sometimes used criminal charges as a protective response to detain some of the youth, even though they considered these youth victims. Such youth would then be counted as offenders rather than as victims.

The influence of theories of causation cannot be overlooked when it comes to defining and measuring delinquency and child abuse. Such theories provide guidelines as to where to look for victims and offenders and how to define both categories, thus affecting statistics concerning abuse and delinquency. A fairly recent study by Goodrich, Anderson, and LaMotte (2014) examined both youth and police officer views of one another, citing attribution theory as the underlying perspective to their research. The idea was that prior experience from each group would significantly impact the attributions that they made in the future toward one another. What is interesting about this study is that the number of years that police were on

duty did not affect their attitude toward youth. Nor was their sense of feeling confident in working with youth necessarily linked to time in the profession. However, this study did show that officers were keenly aware of the potential impact that they could have on a young person's life and adjusted their reactions accordingly (Goodrich, Anderson, & LaMotte, 2014). Thus, it would appear that attributions toward youth, made by police, are neither seasoned nor jaded by years of service. Rather, most police who work with youth understand the juncture among age, adolescent development, decision making, risk factors, and protective factors that can coalesce into a juvenile–police encounter.

Job description: Supervise juvenile probation officers as they supervise probationers, conduct presentence investigations, and hold preliminary conferences. Coordinate with police, judges, and other juvenile justice practitioners. Supervise probationers if dictated by caseloads.

Employment requirements: A master's degree in social work, criminal justice, corrections, or a related field. Ten years of experience in juvenile justice, with at least 5 years of direct service and casework experience.

Beginning salary: \$30,000 to \$50,000. Typically good retirement and benefits packages.

Summary

Clearly, there are several potential problems arising from definitional difficulties. First, we need to keep in mind the fact that defining a juvenile as a delinquent is often interpreted as meaning a young criminal. Although some juveniles who commit serious offenses are certainly young criminals, it is important to note that others who commit acts that are illegal solely because of their age, or who are one-time offenders, may also be labeled as young criminals. Yet these offenses (e.g., underage drinking, illegal possession of alcohol, curfew violations) would not have been considered criminal if the juveniles had been adults.

Second, rehabilitation and treatment programs are almost certainly doomed to failure if they are based solely on information obtained from officially labeled abused children and delinquents. Recognition of the wide variety of motives and behaviors that may be involved is essential if such programs are to be successful, particularly with respect to prevention.

Third, labels (e.g., *delinquent*, *abused child*, *MRAI*) tell practitioners very little about any particular juvenile. All parties involved would benefit far more from focusing on the specific behaviors that led to the labels.

There is no doubt that a good deal more delinquency and abuse occur than are reported, although the exact amount is very difficult to determine. There are scores of delinquent acts and abused children that are never reported. Although it is tempting to divide the world into those who have committed delinquent acts and those who have not—or those who have been abuse victims and those who have not—this polarizes the categories and overlooks the fact that there are many in the official nondelinquent, nonabused category who actually are delinquent or abused.

It is easy to perceive those who are delinquent or abused as abnormal when, in fact, the only abnormal characteristic of many of these juveniles may be that they were detected and labeled. In most other respects, except for extreme cases, these juveniles may differ little from their cohorts. With respect to delinquency at least, there are reasons to be both optimistic and pessimistic based on this view. If most juveniles engage in behavior similar to that which causes some to be labeled as delinquent, there is reason to believe there is no serious underlying pathology in most delinquents. Some types of delinquency occur as a “normal” part of adolescence. Activities such as underage drinking, curfew violation, and experimentation with sex and marijuana seem to be widespread among adolescents. Although these activities may be undesirable when engaged in by juveniles, they are not abnormal or atypical. Thus, reintegration or maintenance within the community should be facilitated.

Those viewing activities that are widespread among juveniles as atypical or abnormal are faced with essentially two choices. Either they can define the majority of juveniles as delinquent, thereby increasing official delinquency rates, or they can reevaluate the legal codes that make these activities violations and remove such behaviors from the category of delinquent. Clearly, many prefer to ignore the latter option and instead continue to polarize “good” and “bad” juveniles.

To some extent, the same argument holds for abused and neglected juveniles. Although those who are labeled are victims instead of perpetrators (as is the case with delinquents), in many cases they are not so terribly different from their peers either. If, as we suspect, the vast majority of abuse and neglect cases go unreported, many juveniles experience a lot of the same behaviors as do those labeled as abused or neglected. Thus, the way we treat those who are labeled may be crucial in determining the extent of psychological damage done. If we recognize them as victims but also recognize that they are not abnormal, our efforts at reintegration and rehabilitation may be more effective.

Practitioners in the juvenile justice network, particularly juvenile court judges and those involved in prevention and corrections, may have an inaccurate image of delinquents and maltreated juveniles. Discussions with numerous practitioners at these levels indicate that many view the lower-social-class black male as the typical delinquent and the lower-social-class female as the typical victim of maltreatment. Some social science research perpetuates these mistaken impressions by focusing on labeled juveniles, but other research indicates that such juveniles are typical only of those who have been detected and labeled. Prevention programs and dispositional decisions based on erroneous beliefs about the nature and extent of delinquency and maltreatment can hardly be expected to produce positive results.

Both legal and behavioral definitions of delinquency and child maltreatment present problems. Legal definitions assess, more or less accurately, numbers and characteristics of juveniles who become officially labeled. However, use of legal definitions can be misleading with respect to the actual extent and nature of offenses by and against juveniles. Behavioral definitions assess the extent and nature of such activities more accurately but raise serious problems in the area of data collection. How do we identify those juveniles who commit delinquent acts or who are mistreated but not officially detected?

Official statistics reflect only the tip of the iceberg with respect to delinquency and mistreatment and are subject to errors in compilation and reporting. The use of self-report techniques, victim survey research, and police observational studies helps us to better assess the extent of unofficial or hidden delinquency, abuse, and neglect—although each of these methods has weaknesses. Success in preventing and correcting offenses by and against juveniles depends on understanding not only the differences but also the similarities between labeled and nonlabeled juveniles. The role of theory in directing us to look in certain places for delinquency while largely ignoring others is also a critical factor.

KEY TERMS

| | | |
|---|--|--|
| age ambiguity 18 | National Crime Victimization Survey (NCVS) 26 | police observational studies 31 |
| behavioral definitions 17 | National Incident-Based Reporting System (NIBRS) 25 | self-report studies 29 |
| legal definitions 17 | offenses known to the police 25 | <i>Uniform Crime Reports</i> (UCRs) 24 |
| National Center for Juvenile Justice 25 | Office of Juvenile Justice and Delinquency Prevention (OJJDP) 26 | unofficial sources of data 29 |
| National Center on Child Abuse and Neglect 26 | | victim survey research 25 |
| National Children's Advocacy Center 26 | | |

Critical Thinking Questions

1. What are the two major types of definitions of *delinquency* and *child maltreatment*? Discuss the strengths and weaknesses of each. How might legal definitions lead to mistaken impressions of delinquents and abused juveniles on behalf of juvenile court personnel?
2. What are the national sources of official statistics on delinquency? On child abuse? Discuss the limitations of these statistics.
3. What is the value of self-report studies? Of victim survey research? What are the weaknesses of these two types of data collection?
4. Compare and contrast the nature and extent of delinquency and child abuse as seen through official statistics on the one hand and self-report, victim survey, and police observational studies on the other.

Suggested Readings

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Characteristics of Juvenile Offenders

3

CHAPTER LEARNING OBJECTIVES

On completion of this chapter, students should be able to do the following:

- Recognize differences between delinquency profiles based on official statistics and behavioral profiles
- Recognize and discuss the multitude of factors related to delinquency
- Discuss the impact of social factors (e.g., family, schools, social class) on delinquency
- Discuss the effects of physical factors (e.g., gender, age, race) on delinquency

WHAT WOULD YOU DO?

You are a juvenile probation officer for youth referred through the court system. Recently, the Mendez family was referred to you at the time of Isabella's third arrest, this time for drug possession. Isabella is a 15-year-old Latina who lives with her mother, Juanita, and younger brother, Gustavo. Juanita is a single parent whose husband is currently locked up in a medium-security prison for a robbery charge. Gustavo is 12 years old and loves his sister but views her as trouble for her mother. Juanita is upset about her daughter's behavior and because she is afraid of losing custody of her daughter to the state.

Recently, the family was referred to the regional office of the Department of Children and Family Services (DCFS). Because Juanita only speaks Spanish, the family was assigned to a Latina bilingual case worker who made a point to call the family. When she called, she noted that

there was screaming and fighting in the house during the call. The caseworker noted that the mother, Juanita, sounded overwhelmed. When the caseworker tried to arrange a session for the family, Juanita explained that she could not ever get Isabella to attend.

You indicate to Juanita that you plan to visit the home but would like to time it so that Isabella would be there when her mother was also there. Juanita works during the day as a domestic worker in a hotel, and Isabella is seldom home unless it is later at night, if at all. You set the time for about 8:30 p.m. the next evening. When you arrive, you find Ms. Mendez at home alone with Gustavo. Juanita explains that Isabella came to the house for a few brief moments and, without warning, left with her friends, giving no explanation. Juanita indicates that she has no idea when her daughter would be home. Young Gustavo also confirms his mother's story and

states that Isabella is always causing problems for his mother. He feels that because she does not want to be with them, she should just go away.

In today's multicultural society, how important is it to have multilingual abilities in juvenile justice agencies?

In your opinion, do you think that because Isabella's father is in prison that this is, perhaps, affecting her current behavior?

How likely do you think it is that Isabella's behavior will affect Gustavo's behavior when he is a teenager?

Do you believe that Juanita is a responsible parent?



Rampart Police Station by Uda90024, https://commons.wikimedia.org/wiki/File:Rampart_Police_Station.jpg. Licensed under CC BY-SA 3.0, <https://creativecommons.org/licenses/by-sa/3.0/deed.en>

The complex shown in this picture processes juvenile offenders, taking into consideration their various characteristics and their circumstances when determining the outcome for these young offenders.

In any discussion of the general characteristics of juvenile offenders, we must be aware of possible errors in the data and must be cautious concerning the impression presented. In general, profiles of juvenile offenders are drawn from official files based on police contacts, arrests, and/or incarceration. Although these profiles may accurately reflect the characteristics of juveniles who are or will be incarcerated or who have a good chance for an encounter with the justice system, as we saw in Chapter 2, they might not accurately reflect the characteristics of all juveniles who commit offenses.

Studies have established that the number of youthful offenders who formally enter the justice system is small in comparison with the total number of violations committed by juveniles (Langton, Berzofsky, Krebs, & Smiley-McDonald, 2012). Hidden-offender surveys, in which juveniles are asked to anonymously indicate the offenses they have committed, have indicated repeatedly that far more offenses are committed than are reported in official agency reports. In addition, even those juveniles who commit offenses resulting in official

encounters are infrequently formally processed through the entire system. The determination of who will officially enter the justice system depends on many variables that are considered by law enforcement and other juvenile justice personnel. It is important to remember that official profiles of youthful offenders might not actually represent those who commit youthful offenses but rather represent only those who enter the system.

It is common practice to use official profiles of juveniles as a basis for development of delinquency prevention programs. Based on the characteristics of known offenders, prevention programs that ignore the characteristics of the hidden and/or unofficial delinquent have been initiated. For example, there is official statistical evidence indicating that the major proportion of delinquents comes from lower socioeconomic families and neighborhoods. The correlates of poverty and low social status include substandard housing, poor sanitation, poor medical care, high unemployment, and exposure to violence (Zahn et al., 2010). It has been suggested that if these conditions were altered, delinquency might be reduced. However, as Harcourt and Ludwig (2006) found out in their study of broken-windows policing, changing the disorder does not necessarily reduce or eliminate criminal behavior. (Recall our comments on middle-class delinquency in Chapter 2.)

The factors causing delinquency seem to be numerous and interwoven in complex ways (Tapia, 2011). Multiple factors must be considered if we are to improve our understanding of delinquency. For example, Mallett (2008), in a study using a random sample of all adjudicated delinquent youths who received probation supervision from the Cuyahoga County (greater Cleveland) Juvenile Court in 2004 and 2005, found that over 57% of delinquent youths on probation supervision had either a mental health disorder or a special education disability. Thornberry, Huizinga, and Loeber (2004) found that drug, school, and mental health problems are strong risk factors for male adolescents' involvement in persistent and serious delinquency, although more than half of persistent serious offenders do not have such problems. Still, more than half of the males studied who did have persistent problems with drugs, school, or mental health were also persistent and serious delinquents. Fewer than half of persistent and serious female delinquents studied had drug, school, or mental health problems, but these problems alone or in combination were not strong risk factors for serious delinquency. However, Zahn and colleagues (2010, p. 11) concluded that "attachment to school has protective effects against delinquency for both genders, although several recent studies find a stronger effect for girls." Mitchell and Shaw (2011) also noted that adolescent offenders have high levels of mental health problems, many of which go undetected and lead to poor outcomes. Most criminologists contend that a number of factors combine to produce delinquency (see In Practice 3.1). Further, at least some research indicates that risk factors for delinquency may be different for boys and girls (Carbone-Lopez, Esbensen, & Brick, 2010; Martin, Golder, Cynthia, & Sawning, 2013; National Girls Institute, 2013; Zahn et al., 2010).

IN PRACTICE 3.1

ENDING RACIAL AND ETHNIC DISPARITIES IN THE JUVENILE JUSTICE SYSTEM

Issues related to racial disparity in the treatment of youth processed through the juvenile justice system are still problematic, despite efforts to eliminate this problem. Evidence that this problem still warrants substantive attention exists when one considers that the Office of Juvenile Justice and Delinquency Prevention (OJJDP) continues

to allocate funds for grant-funded projects to address disparity problems in processing youthful offenders in the juvenile justice system. The Smart on Juvenile Justice: Technical Assistance to End Racial and Ethnic Disparities in the Juvenile Justice System is one such project initiated by the OJJDP to do this. The overall goal of this project is to

establish, operate, and maintain OJJDP's initiative to end racial and ethnic disparities in the juvenile system, serving as a comprehensive clearinghouse on issues related to eliminating racial and ethnic disparities in juvenile justice and to strategically focusing DMC reduction efforts.

This project supports the Juvenile Justice and Delinquency Prevention Act, which requires participating states to address the disproportionate number of minority youth who come into contact with the juvenile justice system. Disproportionate minority contact (DMC) exists if the rate at which a specific minority group comes into contact with the juvenile justice system significantly differs from the rate of contact for non-Latino Caucasians or other minority groups. Research indicates that various contributing factors cause DMC, including but not limited to implicit bias; racial stereotyping; and laws, policies, and procedures that can have a disparate impact. As a result, racial and ethnic disparities throughout the juvenile justice system can occur.

The OJJDP has found that African American youth are arrested more than twice as often as non-Latino Caucasian youth and are diverted from the juvenile justice system less often than Caucasian youth. Going further, Native American youth are diverted less often and are transferred to adult court at more than 1.5 times the rate of Caucasian youth. National estimates from state data through the OJJDP

show that Latino youth are placed in secure detention more than 1.5 times as often as Caucasian youth, with similar rates of transfers to adult court as Native American youth. Data such as these provide clear evidence from valid government sources that there is still work to be done to establish consistency in the justice system's response to our youth who run errant of the law.

Source: Office of Juvenile Justice and Delinquency Prevention (2017).

Questions to Consider

1. True or False: Latino youth, but not Native American youth, are transferred to adult court more frequently than Caucasian youth.
2. Multiple Choice: The OJJDP has found that African American youth are arrested more than _____ as often as non-Latino Caucasian youth:
 - a. twice
 - b. three times
 - c. four times
 - d. None of the above
3. What reasons do you think are likely to explain the disproportionate minority contact noted in In Practice 3.1?

Unfortunately, simplistic explanations are often appealing and sometimes lead to prevention and rehabilitation efforts that prove to be of very little value. With this in mind, let us now turn our attention to some of the factors viewed as important determinants of delinquent behavior. It must be emphasized once again that most of the information we have concerning these factors is based on official statistics. For a more accurate portrait of the characteristics of actual juvenile offenders, we must also concentrate on the vast majority of juveniles who commit delinquent acts but are never officially labeled as delinquent.

Social Factors

As they grow up, children are exposed to a number of **social factors** that may increase their risk for problems such as abusing drugs and engaging in delinquent behavior. Risk factors appear to function in a

cumulative fashion—that is, the greater the number of risk factors, the greater the likelihood that youth will engage in delinquent or other risky behavior. There is also evidence that problem behaviors associated with risk factors tend to cluster. For example, delinquency and violence cluster with other problems, such as drug abuse, mental health issues, teen pregnancy, and school misbehavior.

Shown in Chart 3.1 are a number of factors experienced by juveniles as individuals, as family members, in school, among their peers, and in their communities. For further information concerning the indicators of these risks and data sources associated with such indicators, visit the website from which the chart was adapted.

Chart 3.1 Risk Factors for Health and Behavior Problems

Individual

Antisocial behavior and alienation, delinquent beliefs, general delinquency involvement, and/or drug dealing
Gun possession, illegal gun ownership, and/or carrying
Teen parenthood
Favorable attitudes toward drug use and/or early onset of alcohol and other drug (AOD) use
Early onset of aggression and/or violence
Intellectual and/or developmental disabilities
Victimization and exposure to violence
Poor refusal skills
Life stressors
Early sexual involvement
Mental disorder and/or mental health problem

Family

Family history of problem behavior and/or parent criminality
Family management problems and poor parental supervision and/or monitoring
Poor family attachment or bonding
Child victimization and maltreatment
Pattern of high family conflict
Family violence
Having a young mother
Broken home
Sibling antisocial behavior
Family transitions
Parental use of harsh physical punishment and/or erratic discipline practices
Low parent education level and/or illiteracy
Maternal depression

School

Low academic achievement
Negative attitude toward school, low bonding, low school attachment, and/or low commitment to school
Truancy or frequent absences