Juvenile Justice

TENTH EDITION

A Guide to Theory, Policy, and Practice

Steven M. **COX**   Jennifer M. **ALLEN**   Robert D. **HANSER**   John J. **CONRAD**

Juvenile Justice

10th Edition

We dedicate this book to all future teachers for the many lives you will touch and change, making our country and our world a better place.
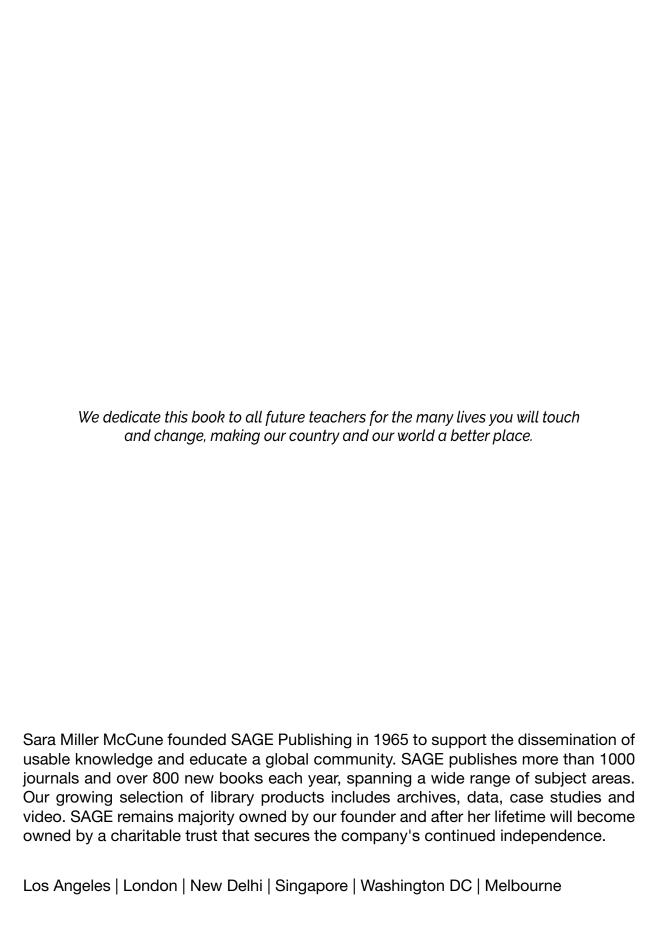
Juvenile Justice

A Guide to Theory, Policy, and Practice

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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. For the first time in the history of the book, we have expanded this edition to discuss school programming and treatment programming, including trauma-informed care, used to divert and prevent delinquency and formal juvenile court involvement. 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 trauma-related care, 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. As we revised the text for this new edition, these concerns remain. We have expanded discussions, added one chapter on schools and delinquency and another on treatment programming and trauma-informed care, 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 clear 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. We begin each chapter with a What Would You Do? scenario to assist students in getting in the mindset of the practitioner and end each chapter with Critical Thinking Questions so students can review the chapter content and apply it in analytical ways to practice, policy, and the law.

The 10th Edition

In this edition you will find numerous substantive changes:

- Revised What Would You Do? scenarios that help students get into the mindset of a practitioner

- Revised Questions to Consider in chapter boxed features to help students make the connection between the material presented and the chapter content

- Revised Critical Thinking Questions at the end of each chapter so students can critically consider the material presented and its application to policy, practice, and the law

- Almost all 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 and Career Opportunity extracts

- Additional chapter on Schools and Delinquency that focuses on protective and risk factors within schools and how each can contribute to or prevent delinquency. The chapter includes discussions on school programming

- Additional chapter on Treatment Programming and Trauma-Informed Care With Juvenile Offenders

- 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, specialty courts, restorative justice programs, emerging adults, trauma-informed care, positive youth development, truancy, and LGBTQ+ youth

- 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:

- Updated What Would You Do? scenarios that serve as an introduction at the beginning of each chapter

- Updated In Practice boxes that include questions to help students see the practical applications of what they are reading

- Updated Career Opportunity boxes

- Lists of key terms and end-of-chapter summaries to help students prepare for exams

- Updated 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

ACKNOWLEDGMENTS

Over the years, contributions to the book have come from many people. We provide continued thanks to the myriad of individuals who contributed over the years. Additionally, with this edition, Jennifer Allen and Robert Hanser would like to acknowledge and express our sincerest thanks to the late John J. Conrad, who will forever be remembered as a founding author for the book, and Steven M. Cox, who decided to no longer participate in the revisions but who remained a major contributor over the past 30 years. He has been a mentor and friend. Without the two of them the book would not have been possible. Jennifer and Rob are forever grateful.

We also thank the following reviewers of the manuscript for their many helpful suggestions:

1 | JUVENILE JUSTICE IN HISTORICAL PERSPECTIVE

LEARNING OBJECTIVES

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

1. Describe the history of juvenile justice in the United States

2. Analyze the controversy between due process and informality in juvenile justice

3. Discuss contemporary challenges to the juvenile justice system

4. Evaluate discrepancies between the ideal and real juvenile justice systems

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WHAT WOULD YOU DO?

Marco is a 10-year-old boy from a family of eight siblings. He is the youngest child in the family. His older siblings have been associated with known gang members and have been arrested for drug possession and distribution. They also have a number of weapons charges against them. Marco has been arrested several times for law violations in the past but, last night, was brought to detention by the police for a firearms charge. He discharged a firearm in his front yard after threatening a neighborhood boy. It appears that the two boys had been arguing earlier in the day over a hoverboard. Marco claimed the hoverboard was his while the other youth also claimed ownership. Marco went to his house, retrieved a gun, and went outside. He yelled at the other boy and then fired a shot into the air. The neighbor boy ran home without the hoverboard and his mother called the police. When the police arrived, Marco had both the hoverboard and the gun. You are a probation officer in Missouri and the on-call officer this week. You are familiar with this family but according to the Missouri Juvenile Court Act, only youth aged 12 and over fall within the guidelines of the juvenile court. What to do with this juvenile rests on your shoulders and within the Missouri Juvenile Court Act.

What Would You Do?

1. Knowing that the Missouri Juvenile Court Act does not allow for youth younger than age 12 to be prosecuted, what options do you have for handling Marco's case? What social, familial, psychological, or biological factors may be influencing Marco's behaviors?

2. If you were the prosecutor in this case, how would you handle the case?

3. Is Marco's ability to easily access guns an issue? If so, how should this be handled? If not, why not?

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. These questions continue even though such violence has actually declined significantly. Arrest statistics from 2018 as compared to 2008 showed a 60% decline in police arrests of persons under the age of 18 (OJJDP Statistical Briefing Book, 2019). Yet the public continues to ask if a court designed to protect and care for juveniles can 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 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.

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.

Chicago History Museum/Getty Images

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 third edition of its *National Prosecution Standards* that the transfer of cases to criminal court should be reserved for the most serious, violent, and chronic offenders. It also found that states are responding to Supreme Court rulings on life imprisonment, the death penalty, and other issues.

The questions remain: 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 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 aged 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 being 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-, 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 opposition to the magistrates becoming "judges, juries, and executioners" and 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 generally had been subjected to the same penalties as adults, with little or no attempt being 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).

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

World History Archive/Alamy Stock Photo

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 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 14th 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 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*).

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

Library of Congress/Corbis Historical/Getty Images

DUE PROCESS AND THE JUVENILE JUSTICE SYSTEM

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 14th Amendment (due process) violations. The free rein 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 14th Amendment did not require jury trials in juvenile court. Nonetheless, some states have extended this right to juveniles through state law. In 2011, in the case of **J. D. B. v. North Carolina**, a special education student was questioned in school by an administrator, an assistant principal, and a police investigator, not in the presence of his parents. He was not provided his Miranda rights, nor told he was free to leave, until after he had incriminated himself. The Court decided age matters with regard to custody and Miranda rights. Justice Sonia Sotomayor stated that children are less mature and responsible than adults. Thus, they may not recognize or avoid choices that may be detrimental to them. In situations such as police interrogations, children may be overwhelmed, so age should be considered a factor in determining whether an individual is in custody. This case referenced *Roper v. Simmons (2005)* and reaffirmed the Court's assertions that children as a class will act differently than adults and are more susceptible to outside pressures than adults (*J. D. B. v. North Carolina, 2011*).

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 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 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 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 school shootings, 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 age and 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).

Fifth, is the issue of girls and crime. Statistics from 2015 show that female crime is declining (Ehrmann, Hyland, & Puzzanchera, 2019). However, this wasn't always the case. Females accounted for nearly 28% of the delinquency caseload in 2010, and female delinquency was rising at an average rate of 2% per year between 1985–2010. Juvenile court quickly worked to manage cases involving girls (Puzzanchera & Hockenberry, 2013) and to identify why female youth commit crimes. Richie et al. (2000) argued that females enter the juvenile justice network because of distinctly different circumstances than males. Thus, the network cannot "promote unalloyed equity" (p. iii) in the handling of cases involving males and females. Instead, the juvenile justice network ought to tailor to the specific characteristics and circumstances of individual offenders and acknowledge the link between the victimization of girls and their offending behavior (p. iv). How to individualize justice without allowing bias into the network, however, is a challenge, and one that is not easily overcome.

Finally, there is the issue of technology and juvenile crime. The first juvenile computer crime was prosecuted in 1998 in Massachusetts (Bowker, 1999). Since then, the growth of computer usage for personal and schoolwork has exploded, with almost all American students currently completing schoolwork fully online as a result of the COVID-19 global pandemic. Additionally, children carry around mobile computers in their cell phones and, often, have 24/7 access to the Internet and other social media outlets. In many cases, juveniles are much more savvy with technology than their parents or juvenile justice practitioners. With this expanded freedom, however, has also come a decreased understanding of computer dangers and an ethical deficit with regard to the appropriate use of the Internet, cell phone, and computer (Bowker, 1999). More than ever in history, children have experienced expanded anonymity and social networks that may include people outside of their schools, families, and neighborhoods—sometimes communicating with individuals from around the globe. The direct consequences of technology have created challenges that include computer crimes and victimization; exposure to social plagues such as pedophilia, cyberbullying, sexual predators, and drugs; and hate and racist group websites, among others. While indirect consequences have included the costs of increased security for companies to avoid juvenile computer crime, increased victimization from both known and unknown computer perpetrators, addictions to the computer or social media, and a decreased respect for others, their property, ownership, and the right to privacy, to mention a few (Bowker, 1999), preventing youth from using technology is not a viable response, since so much of society depends on technological skills. Yet the network has to create legislative and judicial responses to those who decide to use technology for crime.

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 past years. Both of these approaches lead observers to believe that if the juvenile court survives as a separate court system, major changes in its underlying philosophy are likely to occur (Cohn, 2004; Ellis & Sowers, 2001; Schwartz, Weiner, & Enosh, 1998). Treatment and rehabilitation may become a stronghold in juvenile court reactions to crime as well as handling issues and providing services to **emerging adults**. Emerging adults are those persons between the ages of 18–25 who still face issues from adolescence while trying to find their way into independence and adulthood. Some states, as discussed in In Practice 1.1, are exploring the possibility of retaining jurisdiction of individuals aged 18, 19, and 20 within the juvenile justice system to potentially manage issues that arise from the negative outcomes associated with emerging adulthood (i.e., failing to acquire financial, emotional, or work-related skills; also risky behaviors, suicide attempts, mental health issues, poor relationships with peers and parents, etc.).

IN PRACTICE 1.1
SHOULD JUVENILE COURTS RETAIN JURISDICTION OF "EMERGING ADULTS"?

Researchers have suggested the path individuals take between adolescence and adult independence is longer and more complicated than ever in history. A stagnation of wages for low-skilled workers, a lack of opportunities for work, and increased cost of education and housing have resulted in greater numbers of young adults seeking post–high school education and delaying entry into the workforce, marriage, and housing markets.

Emerging adulthood is the term used to describe individuals in the stage between adolescence and adulthood. "At the beginning of this stage, 17–18 years of age, emerging adults are generally dependent, living with their parents or caretakers, beginning to engage in romantic relationships, and attending high school. At the end of this stage, mid-to late 20s, most emerging adults live independently, are in long-term relationships, and have clear career paths ahead of them" (Wood et al., 2017, p. 123). How they traverse through this stage is strongly dependent on their personal, family, and social resources when they enter the stage and the supports they receive during this stage (Wood et al., 2017).

Emerging adulthood is often referred to as the volitional years when individuals experience dynamic and complex changes all while undergoing emotional, neurodevelopmental, and social development (Wood et al., 2017). They may engage in risky behaviors such as drug use and criminal activity. "These experiences can have a lasting, if not, lifetime, detrimental impact on the development and mental health trajectory of the emerging adult (Wood et al., 2017, p. 134).

With current service and treatment models focused on either children aged 0–18 or adults, the unique biobehavioral and sociocultural factors experienced by emerging adults may be overlooked. "For example, an adult-centered medical doctor may regularly treat patients with fixed habits and lifestyles, who may already suffer from a variety of chronic health conditions" (Wood et al., 2017, p. 136). But these conditions, which may develop over an individual's adult experiences, may not yet be present in an emerging adult. Therefore, treatment measurements that would be successful with the adult population may not work with the emerging adult population.

To address some of the unique characteristics presented by emerging adults, legislatures in some states, like Vermont and California, have considered expanding the juvenile court's jurisdiction to include those aged 18 and 19. Vermont was the first state to raise the age of juveniles in criminal court to over 18 (phasing the change in over a 2-year period), except for those charged with a serious violent felony (Vermont S.234 [Act 201], 2018). As a result, Vermont's adult system will handle primarily individuals 21 years of age or older. A new bill proposed in California, spearheaded by Senator Nancy Skinner, would reclassify 18- and 19-year-old Californians as juveniles or "emerging adults" in the state's criminal justice system. This approach would allow them to receive support from more appropriate youth-focused services. It appears that the bill has support from the California Probation Officer's Association, which proposed raising the adult prosecution age to 20 back in November of 2019 (Skinner, 2020).

Questions to Consider

1. What intended and unintended consequences may result from inclusion of emerging adults in the juvenile justice network?

2. True or False: At no other time in development besides infancy are individuals experiencing as many dynamic changes as during emerging adulthood.

3. Which of the following is not an issue facing emerging adults?
   a. Living independently
   b. Exercising more freedom in decision making
   c. Having a high-paying job
   d. Completing post–high school education

Sources: Adapted from Skinner, N. (2020). *Sen. Nancy Skinner Announces Bill to Raise the Age to Be Tried as an Adult*. Available from https://sd09.senate.ca.gov/news/20200128-sen-nancy-skinner-announces-bill-raise-age-be-tried-adult; Wood, D., Crapnell, T., Lau, L., Bennett, A., Lotstein, D., Ferris, M., & Kuo, A. (2017). Emerging Adulthood as a Critical Stage in the Life Course. In N. Halfon, C. B. Forrest, R. M. Lerner, & E. Faustman (Eds.), *Handbook of Life Course Health-Development* (pp. 123–143). New York: Springer; Vermont; Act No. 201 (S.234). Judiciary; human services; juvenile delinquency; youthful offending. Available at legislature.vermont.gov/documents/2018/docs/acts/act201/act201%20act%20summary.pdf

RETHINKING JUVENILE JUSTICE

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. But the U.S. Supreme Court has made clear in landmark cases that expectations for youth should include commonsense conclusions that children will act differently and perceive situations in another way than their adult

counterparts (*Roper v. Simmons,* 2005; *J. D. B. v. North Carolina*, 2011). Additionally, neuroscientists have concluded that brain development—particularly the prefrontal cortex, which manages rational thinking—is ongoing during early adulthood. Thus, there is a "continuous unfolding and acquisition of specific neurodevelopmental capacities" (Wood et al., 2017, p. 128) during adolescence and early adulthood that guides a person's cognitions, emotions, actions, and control. As this development emerges, the individual is better able to "influence their environment and internal states, regulate their emotions, and use problem-solving skills effectively" (Wood et al., 2017, p. 129). Considering all of this, the juvenile court is left with the same question that has plagued the court for years: When is a person responsible for delinquent acts?

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 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. Furthermore, 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. Two decades 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 planned 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. The juvenile justice network has traditionally exercised two accountability models—rehabilitation and system accountability. The system's traditional rehabilitative ideals were displaced by system accountability emphasizing punishment and victim interests under get-tough approaches (Ward & Kupchik, 2009). But as discussed throughout this chapter, the pendulum seems to be swaying the other way again. Which of the two accountability models will emerge as the network continues to grow and evolve is anyone's guess.

CAREER OPPORTUNITIES IN JUVENILE JUSTICE

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). It also remains apparent that youth deserve consideration that relies on different expectations than adults. What role the juvenile court should play in servicing children from birth to early adulthood remains controversial. As noted by Ward and Kupchik (2009), a coherent accountability orientation is nonexistent in the juvenile justice network, even though the implementation of performance measures is increasingly being demanded by observers of the network (Mears & Butts, 2008).

KEY TERMS

age of responsibility

Breed v. Jones

chancery courts

child-savers movement

common law

emerging adults

era of socialized juvenile justice

Gault case

Graham v. Florida

Holmes case

house of refuge

in loco parentis

Jackson v. Hobbs

J. D. B. v. North Carolina

Kent case

legalistic approach

McKeiver v. Pennsylvania

mens rea

Miller v. Alabama

Montgomery v. Louisiana

parens patriae

Progressive Era

reform schools

Roper v. Simmons

therapeutic approach

Winship case

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?

2. What is the significance of each of the following Court decisions?
   a. *Kent*
   b. *Gault*
   c. *Winship*
   d. *Roper v. Simmons*
   e. *Jackson v. Hobbs* and *Miller v. Alabama*
   f. *Graham v. Florida*
   g. *J. D. B. v. North Carolina*

3. Should the juvenile court be therapeutic or punitive? Explain your answer.

4. Consider the In Practice 1.1 information. Should juvenile court jurisdiction include emerging adults aged 18, 19, or 20? Why or why not?

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2 CHARACTERISTICS, DEFINITIONS, AND MEASUREMENT OF JUVENILE OFFENDERS AND OFFENSES

LEARNING OBJECTIVES

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

1. Recognize differences between delinquency profiles based on behavioral profiles and official statistics

2. Discuss the impact of social factors (e.g., family, schools, social class) on delinquency

3. Discuss the effects of physical factors (e.g., gender, age, race) on delinquency

4. Recognize and discuss the intersectional nature of multiple factors and identities related to delinquency

5. Discuss legal and behavioral definitions of delinquency

6. Understand and discuss the importance of accurately defining and measuring delinquency

7. Discuss official and unofficial sources of data on delinquency, abuse, and neglect, as well as the problems associated with each

WHAT WOULD YOU DO?

Tommy can hear his mom sobbing through the thin wooden door in the mobile home. He looks up at his older brother, Robbie, and asks him, "When do you think he'll stop?"

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

But this time it is different. Both Tommy and Robbie hear a loud yelp that makes their blood run cold. Tommy looks under the crack of the door and can see his father's boots moving, apparently kicking his mother in the ribs as she struggles to get away on all fours.

"He's kicking her really bad, Robbie…. I'm afraid he might kill Momma this time." Robbie listens to the shrieks and groans of his mother in misery and looks 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 tries to argue, but Robbie quickly puts 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 shakes his head no.

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

"Okay," says Tommy.

"Promise!" demands Robbie.

"I promise," says Tommy.

In a flash, Robbie goes to the back of the room and reaches 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 motions for his little brother to get on the bed against the wall.

"But Robbie..." says Tommy.

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

Robbie opens the door, holds the rifle up against his shoulder, and with it pointed forward, walks down the cheaply paneled hall of the mobile home, arriving in the living room in five quick, long gaits. He stands there, gun pointed at his father, who, for a moment, is surprised but then starts grinning.

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

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

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

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

Frank turns back and faces Robbie. Robbie's hands are sweating and he is shaking a little. He only has this .22, not exactly a powerful gun, and no hollow points at that. Robbie is terrified. If he does not shoot, he knows Frank will likely put him in the hospital, might kill his mom, and might even hurt Tommy as well. If he does shoot, he would need to do so more than once because one shot would not be enough to stop him.

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

The gun goes off. The magazine that Robbie had loaded the day before lets him fire rounds as fast as he can repetitively pull the trigger. The first shot goes right through Frank's right eye; the second goes into the front of his neck at an angle, as does the third. The fourth goes into his heart. The others miss, for the most part, but Frank is on the ground, heaving.

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

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

What Would You Do?

1. 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.

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

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

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

The factors that cause 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 et al., 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 2.1). Furthermore, 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).

DELINQUENCY PROFILES

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, 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.

Regardless of these limitations it is, perhaps, important that we clearly distinguish between behavioral and statistical profiling methods to eliminate confusion, if nothing else. When we say **behavioral profiling**, we are referring to the process of determining an offender's motivation to commit a crime using a process of deductive analysis. This deductive approach is focused on the case itself and seeks to infer personal characteristics of the offender from examining evidence that has been gathered at a singular crime scene or from multiple crime scenes. This process of profiling is what is widely viewed as the clinical or psychological approach to profiling delinquent or criminal behavior (Bartol & Bartol, 2012). On the other hand, **statistical profiling** uses an inductive analysis approach that incorporates statistical averages of characteristics that are possessed by offenders, in general, or by averages from known offenders who have committed a

specific crime or set of crimes, in particular (Bartol & Bartol, 2012). This approach is, more or less, an actuarial approach that is obtained through multiple iterations of statistical calculations.

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.

IN PRACTICE 2.1
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 racial disparity 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 issues 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 the 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-Latinx 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-Latinx 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 Latinx 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.

Questions to Consider

1. True or False: Latinx 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-Latinx 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 2.1?

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

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 2.1 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 2.1 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

Single parent 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

Suspension

Dropping out of school

Inadequate school climate, poorly organized and functioning schools, and/or negative labeling by teachers

Identified as learning disabled

Frequent school transitions

Peer

Gang involvement and/or gang membership

Peer alcohol, tobacco, and other drug (ATOD) use

Association with delinquent or aggressive peers

Peer rejection

Community

Availability or use of ATOD in neighborhood

Availability of firearms

High-crime neighborhood

Community instability

Low community attachment

Economic deprivation, poverty, and/or residence in a disadvantaged neighborhood

Neighborhood youth in trouble

Feeling unsafe in the neighborhood

Social and physical disorder or disorganized neighborhood

Source: Adapted from youth.gov

Family

One of the most important factors influencing delinquent behavior is the family setting. It is within the family that the child internalizes those basic beliefs, values, attitudes, and general patterns of behavior that give direction to subsequent behaviors. Because the family is the initial transmitter of the culture (through the **socialization process**) and greatly shapes the personality characteristics of the child, considerable emphasis has been given to family structure, functions, and processes in delinquency research. Although it is not possible to review all such research here, we concentrate on several areas that have been the focus of attention.

A great deal of research focuses on the crucial influence of the family in the formation of behavioral patterns and personality. Contemporary theories attach great importance to the parental role in determining the personality characteristics of children. More than half a century ago, Glueck and Glueck (1950) focused attention on the relationship between family and delinquency, a relationship that has remained in the spotlight ever since.

To young children, home and family are the basic sources of information about life. Thus, many researchers and theorists have focused on the types of values, attitudes, and beliefs maintained and passed on by the family over generations. Interest has focused on the types of behavior and attitudes transmitted to children through the socialization process resulting in a predisposition toward delinquent behavior.

Further support for this argument comes from Worthen (2012), who found that both parent–child bonding and friend relationships affect delinquency and that these relationships differ by both gender and stage of adolescence. And, using data from a sample of 18,512 students in Grades 6, 8, 10, and 12, Fagan, Van Horn, Antaramian, and Hawkins (2011, p. 150) found the following:

Across grades, parents treated girls and boys differently, but neither sex received preferential treatment for all practices assessed, and younger children reported more positive parenting than older students. Family factors were significantly related to delinquency and drug use for both sexes and for all grades. Their findings suggest that "complexities in parent/child interactions that must be taken into account when investigating the causes of adolescent offending and when planning strategies to prevent the development of problem behaviors" (p. 150).

Considerable research indicates a relationship between delinquency and the marital happiness of the children's parents. Official delinquency seems to occur disproportionately among juveniles in unhappy homes marked by marital discord, lack of family communication, unaffectionate parents, high stress and tension, and a general lack of parental cohesiveness and solidarity (Davidson, 1990; Fleener, 1999; Gorman-Smith, Tolan, & Loeber, 1998; Wright & Cullen, 2001). In unhappy familial environments, it is not unusual to find that parents derive little sense of satisfaction from their child-rearing experiences. Genuine concern and interest are seldom expressed except on an erratic and convenient basis at the whim of the parents. Also typical of this familial climate are inconsistent guidance and discipline marked by laxity and a tendency to use children against the other parent (Simons, Simons, Burt, Brody, & Cutrona, 2005). It is not surprising to find poor self-images, personality problems, and conduct problems in children of such families. Families are primary venues for identity disruption, loss, and inner turmoil. The effects of troublesome family circumstances such as separation or divorce, illness, and death are well known and might be summarized by the concept of *family trouble* (Francis, 2012). If there is any validity to the adage "chip off the old block," it should

not be surprising to find children in unpleasant family circumstances internalizing the types of attitudes, values, beliefs, and modes of behavior demonstrated by their parents.

It seems that in contemporary society, the family home has in many cases been replaced by a house where a related group of individuals reside, change clothes, and occasionally eat. It is somewhat ironic that we often continue to focus on **single parent homes** (homes disrupted through divorce, separation, or desertion, or homes where the father remains absent) as a major cause of delinquency rather than on dual parent homes where relationships are marked by familial disharmony and disorganization. There is no doubt that the stability and continuity of a family may be shaken when the home suffers the loss of a parent through death, desertion, long separation, or divorce. At a minimum, one-half of the potential socializing and control team is separated from the family. The belief that one-parent families produce more delinquents is supported both by official statistics and by numerous studies.

There is also, however, some evidence that there may be more social organization and cohesion, guidance, and control in happy one-parent families than in two-parent families marked by discord. It may be that the single parent family is not as important a determinant of delinquency as are the events leading to the disruption of the family. Disorganization, and tension, which may lead to a family dissolution or may prevail in a family staying intact "for the children's sake," may be more important causative factors of delinquency than the actual breakup (Browning & Loeber, 1999; Emery, 1982; Stern, 1964; Texas Youth Commission, 2004). Single parent homes, which Rebellon (2002) referred to as broken homes, are those where at least one biological parent is missing. According to Rebellon (2002), homes with divorce are strongly associated with a range of delinquent behaviors, including minor status offenses and more severe property or violent offenses. According to Brown (2004), adolescents in single parent families are significantly more delinquent than their counterparts residing with two biological, married parents. Furthermore, "Seven of the eight studies that used nationally representative data, for example, found that children in single-parent or other nonintact family structures were at greater risk of committing criminal or delinquent acts" (Americans for Divorce Reform, 2005). However, as just noted, several factors, including divorce or separation, recent remarriage, gender of parent, and the long-term presence of a stepparent, appear to be related to different types of delinquency.

Not all authorities agree that single parent homes have a major influence on delinquency. Rebellon (2002) found that single parenthood, per se, does not appear to be associated with delinquency; rather, certain types of changes in family composition appear to be related to delinquency. Schroeder, Osgood, and Oghia (2010), using data from the National Youth Study, determined that the process of family dissolution is not associated with concurrent increases in delinquency.

Demuth and Brown (2004), using data from the 1995 National Longitudinal Survey of Adolescent Health, extended prior research investigating the effects of growing up in two-parent versus single-mother families by also examining delinquency in single-father families. The results indicate that juveniles in single parent families are significantly more delinquent than their counterparts residing with two biological married parents. However, the authors found that family processes fully account for the higher levels of delinquency exhibited by adolescents from single-father versus single-mother families.

In 2011, 69 percent of children ages 0–17 lived with two parents (65 percent with 2 married parents), 27 percent with one parent, and 4 percent with no parents. Among children living with neither parent, more than half lived with a grandparent. Seven percent of all children ages 0–17 lived with a parent who was in a cohabiting union. A cohabiting union could involve one parent and their cohabiting partner or two cohabiting parents.... The percentage of children with at least one parent working year round, full time fell to 71 percent in 2010, down from 72 percent in 2009 and the lowest since 1993.... Only 41 percent of children in

families maintained by a single mother had a parent who worked year round, full time in 2010, down from 44 percent in 2009. Black, non-Hispanic children and Hispanic children were less likely than White, non-Hispanic children to have a parent working year round, full time. About 61 percent of Hispanic children and 53 percent of Black, non-Hispanic children lived in families with secure parental employment in 2010, compared with 79 percent of White, non-Hispanic children. (Forum on Child and Family Statistics, 2012, pp. 4, 7)

The American family unit has changed considerably during the past 50 years. Large and extended families, composed of various relatives living close together, at one time provided mutual aid, comfort, and protection. Today, the family is smaller and has relinquished many of its socialization functions to specialized organizations and agencies that exert a great amount of influence in the education, training, care, guidance, and protection of children. This often results in normative conflict for children who find their attitudes differing from the views and standards of their parents. These changes may bring more economic wealth to the family, but they may make it more difficult for parents to give constructive guidance and protection to their children. In addition, the rise of "mixed families," in which each parent brings children of his or her own into the family setting, may result in conflicts among the children or between one parent and the children of the other parent.

Over the years, there has been considerable interest in children with working parents who have come to be known as **latchkey children**. This term generally describes school-age children who return home from school to an empty house. Estimates indicate that there are 5 to 16 million children left unsupervised after school (Alston, 2013). These children are often left to fend for themselves before going to school in the morning, after school in the afternoon, and on school holidays when parents are working or otherwise occupied. This has resulted in older (but still rather young) children being required to care for younger siblings during these periods and is also a factor in the increasing number of children found in video arcades, in shopping malls, on the Internet, and in other areas without adult supervision at a relatively young age. Although the majority of latchkey children appear to survive relatively unscathed, some become involved in illegal or marginally legal activity without their parents' knowledge (Alston, 2013; Coohey, 1998; Flannery, Williams, & Vazsonyi, 1999; Vander Ven, Cullen, Carrozza, & Wright, 2001; Vandivere, Tout, Capizzano, & Zaslow, 2003).

Problems with children occur in families of all races and social classes.

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There is little doubt that family structure is related to delinquency in a variety of ways. However, relying on official statistics to assess the extent of that relationship may be misleading. It may be that the police, probation officers, and judges are more likely to deal officially with juveniles from single parent homes than to deal officially with juveniles from more "ideal" family backgrounds. Several authorities, including Fenwick (1982) and Simonsen (1991), have concluded that the decision to drop charges against a juvenile depends, first, on the seriousness of the offense and the juvenile's prior record and, second, on the juvenile's family ties. "Youths are likely to be released if they are affiliated with a conventional domestic network" (Fenwick, 1982, p. 450). When parents can be easily contacted by the police and are willing to cooperate with the police, the likelihood is much greater (especially when the offense is minor) that a juvenile will be warned and released to his or her parents (Bynum & Thompson, 1999, p. 364; FindLaw, 2008; Kirk, 2009). Fader, Harris, Jones, and Poulin (2001) concluded that, in Philadelphia at least, juvenile court decision makers appear to give extra weight to child and family functioning factors in deciding on dispositions for first-time offenders.

It often appears that the difference between placing juveniles in institutions and allowing them to remain in the family setting depends more on whether the family is intact than on the quality of life within the family. Concentrating on the single parent family as the major or only cause of delinquency fails to take into account the vast number of juveniles from single parent homes who do not become delinquent as well as the vast number of juveniles from intact families who do become delinquent (Krisberg, 2005, p. 73).

Education

Schools, education, and families are very much interdependent and play a major role in shaping the future of children. In our society, education is recognized as one of the most important paths to success. The educational system occupies an important position and has taken over many functions formerly performed by the family. The total social well-being of children, including health, recreation, morality, and academic advancement, is a concern of educators. Some of the lofty objectives espoused by various educational commissions were summarized by Schafer and Polk (1967) more than a half-century ago:

> All children and youth must be given those skills, attitudes, and values that will enable them to perform adult activities and meet adult obligations. Public education must ensure the maximum development of general knowledge, intellectual competence, psychological stability, social skills, and social awareness so that each new generation will be enlightened, individually strong, yet socially and civically responsible. (p. 224)

The child is expected by his or her parents, and by society, to succeed in life, but the child from a poor family, where values and opportunities differ from those of white middle-class America, encounters many difficulties early in school. Studies indicate that students from middle-class family backgrounds are more likely to have internalized the values of competitiveness, politeness, and deferred gratification that are likely to lead to success in the public schools (Braun, 1976). Braun (1976) also found that teachers' expectations were influenced by physical attractiveness, **socioeconomic status**, race, gender, name, and older siblings. Lower expectations existed for children who came from lower socioeconomic backgrounds, belonged to minority groups, and had older siblings who had been unsuccessful in school. Alwin and Thornton (1984) found that the socioeconomic status of the family was related to academic success both during early childhood and during adolescence. Blair, Blair, and Madamba (1999) found that social class–based characteristics were the best predictors of educational performance among minority students. Hayes

(2008) and Kreager, Rulison, and Moody (2011) noted that a number of factors can affect a teacher's expectations of students and student behavior, including race, gender, class, and personality.

Numerous studies show that although some difficulties may be partially attributable to early experience in the family and neighborhood, others are created by the educational system itself. The label of *low achiever, slow learner, or* **learning disabled** may be attached shortly after, and sometimes even before, entering the first grade based on the performance of other family members who preceded the child in school. Teachers may expect little academic success as a result. Identification as a slow learner often sets into motion a series of reactions by the student, his or her peers, and the school itself that may lead to negative attitudes, frustrations, and eventually a climate where school becomes a highly unsatisfactory and bitter experience.

Thornberry, Moore, and Christenson (1985) noted that dropping out of school was related to delinquency and later crime over both the long and short terms. Rodney and Mupier (1999) found that being suspended from school, being expelled from school, and being held back in school increased the likelihood of being in juvenile detention among adolescent African American males. Lotz and Lee (1999) found that negative school experiences are significant predictors of delinquent behavior among white teenagers. Jarjoura (1996) found that dropping out of school is more likely to be associated with greater involvement in delinquency for middle-class youth than for lower-class youth.

Further highlighting the potential link between learning disabilities and increased likelihood of contact with the juvenile justice system, Harris, Baltodano, Bal, Jolivette, and Malcahy (2009) found evidence that juveniles with disabilities are overrepresented in correctional facilities.

Hume (2010) has asked us to do the following:

Imagine what it must be like for a young person with learning disabilities to be apprehended and questioned by the police. Your fear and nervousness make your impairment more acute, and you do a poor job in answering the questions. Looking guilty (maybe because of your disability, not actual guilt) you end up in front of a judge. Even more anxious and scared, you continue to have difficulty in processing verbal questions, sequencing events, mustering demand language and controlling your impulses. Odds are that no one will ask you if you have a disability, or understand what a learning disability is, even if you tell them. (p. 1)

Perhaps the best summation of the relationship between learning disabilities and delinquency is that provided by the National Center on Education, Disability, and Juvenile Justice (2007)):

Educational disability does not cause delinquency, but learning and behavioral disorders place youth at greater risk for involvement with the juvenile courts and for incarceration. School failure, poorly developed social skills, and inadequate school and community supports are associated with the over-representation of youth with disabilities at all stages of the juvenile justice system. (p. 1)

The alienation that some students feel toward school and education demands our attention. Rebellion, retreatism, and delinquency may be responses to the false promises of education or simply responses to being "turned off" again in an environment where this has occurred too frequently. Without question, curriculum and caliber of instruction need to be relevant for all children. Social and academic skill remediation may be one means of preventing learning-disabled children from becoming involved in delinquency (Raskind, 2010; Winters, 1997). Beyond these primary educational concerns, the school may currently be the

only institution where humanism and concern for the individual are expressed in an otherwise bleak environment. The impact of school **bullying** also deserves our attention. Whether through the use of the Internet or through the use of physical threats or attacks, bullying has become a major focal point in recent years. "Defined as a repeated behavior intended to cause harm to another with one party having more power... bullying has increased among students and adults over recent years" (Arnold & Rockinson-Szapkiw, 2012, p. 68). As Moon, Hwang, and McCluskey (2011) indicated, "A growing number of studies indicate the ubiquity of school bullying: It is a global concern, regardless of cultural differences" (p. 849). And there appear to be gender differences related to bullying, with boys being more likely to practice or experience physical aggression and violence and girls being more likely to cyberbully and employ forms of bullying designed to destroy peer relationships or lower self-esteem (Arnold & Rockinson-Szapkiw, 2012, p. 68). Some such acts of bullying have allegedly led to suicides of bullying victims.

Research by Brown, Aalsma, and Ott (2013) indicates that protecting youth from bullying at school is not easy. Based on a small sample of parents, the researchers identified three parent stages in attempting to deal with bullying: (1) discovering, (2) reporting, and (3) living with the aftermath.

> In the discovery stage, parents reported giving advice in hopes of protecting their youth. As parents noticed negative psychosocial symptoms in their youth escalate, they shifted their focus to reporting the bullying to school officials. All but one parent experienced ongoing resistance from school officials in fully engaging the bullying problem. In the aftermath, 10 of the 11 parents were left with two choices: remove their youth from the school or let the victimization continue. (p. 494)

Although school officials have attempted to address bullying using a number of approaches, little is known about what specific intervention strategies are most successful in the school setting. Ayers, Wagaman, Geiger, Bermudez-Parsai, & Hedberg (2012) examined school-based disciplinary interventions using data from a sample of 1,221 students in Grades K through 12 who received an office disciplinary referral for bullying. They concluded that only parent–teacher conferences and loss of privileges were significant in reducing the rate of the reoccurrence of bullying and aggressive behaviors. More than 45 states have also enacted legislation that addresses bullying behaviors in the school and in cyberspace (U.S. Department of Education, 2010). The state of Georgia, for example, requires all schools to provide character education curriculums that include the following:

> Focus on the students' development of the following character traits: courage, patriotism, citizenship, honesty, fairness, respect for others, kindness, cooperation, self-respect, self-control, courtesy, compassion, tolerance, diligence, generosity, punctuality, cleanliness, cheerfulness, school pride, respect for the environment, respect for the creator, patience, creativity, sportsmanship, loyalty, perseverance, and virtue. Such program shall also address, by the start of the 1999–2000 school year, methods of discouraging bullying and violent acts against fellow students. Local boards shall implement such a program in all grade levels at the beginning of the 2000–2001 school year and shall provide opportunities for parental involvement in establishing expected outcomes of the character education program. (O.C.G.A. § 20-2-145 [2012])

The authors suggest that school personnel and legislators might develop strategies that deter the reoccurrence of bullying by identifying key factors that impact students, similar to what Georgia is attempting to accomplish (Ayers et al., 2012, p. 539).

Social Class

During the 1950s and 1960s, a number of studies emerged focusing on the relationship between social class and delinquency (Cloward & Ohlin, 1960; Cohen, 1955; Merton, 1955; Miller, 1958). These studies indicated that socioeconomic status was a major contributing factor in delinquency. According to further research, the actual relationship between social class and delinquency may be that social class is important in determining whether a particular juvenile becomes part of the official statistics, not in determining whether a juvenile will actually commit a delinquent act (Dentler & Monroe, 1961; Short & Nye, 1958; Tittle, Villemez, & Smith, 1978). Most studies of self-reported delinquency have shown little or no difference by social class in the actual commission of delinquent acts. Morash and Chesney-Lind (1991), however, did find evidence that lower-class youth report more delinquency, and Elliott and Ageton (1980) found that lower-class juveniles may be more likely to commit serious offenses. Ackerman (1998) also concluded that crime is a function of poverty, at least in smaller communities, and Onifade, Petersen, Bynum, and Davidson (2011) suggested that the risk of delinquency and its relationship to recidivism is moderated by neighborhood socioeconomic ecology.

Some research indicates that middle-class youth are involved in delinquency to a far greater extent than was suspected previously. Scott and Vaz (1963), for example, found that middle-class delinquents adhere to specific patterns of activities, standards of conduct, and values different from their parents. Young people a generation ago had more in common with their parents, including attitudes and outlook on life. However, today's middle-class youth are securely entrenched in a **youth culture** that is often apart from, or in conflict with, the dominant adult culture. Within the youth culture, juveniles are open to the influence of their peers and generally conform to whatever behavior patterns prevail. Scott and Vaz identified partying, joyriding, drinking, gambling, and various types of sexual behavior as dominant forms of conduct within the middle-class youth culture. By participating in and conforming to the youth culture, status and social success are achieved through peer approval. Scott and Vaz argued that the bulk of middle-class delinquency occurs in the course of customary nondelinquent activities but moves to the realm of delinquency as the result of a need to "be different" or "start something new." Wooden and Blazak (2001) noted that these trends continue at the present time: "In the 1990s research began revealing what those who had survived the 1980s already knew: The safe cocoon of middle-class youth was eroding" (pp. 4–5).

Although more males than females are arrested for delinquency, the number of female delinquents has increased significantly during recent years.

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Accessibility to social objects for participating in the youth culture is an important part of delinquent behavior. Social objects, such as cars, the latest styles, alcoholic beverages, and drugs, are frequently part of middle-class delinquency. Peer recognition for male middle-class youth may be a reason for senseless acts of destruction of property. Acts of vandalism in which one's bravery can be displayed for peer approval are somewhat different from the violent behavior often seen in lower-class youth, who may demonstrate their bravery by gang fights or shootings, muggings, robbery, and other crimes against people. Wooden and Blazak (2001) indicated that suburban youth are often told to act like adults but are not given the privileges of adulthood, forcing them into a subculture characterized by delinquency-producing focal concerns (p. 19). Some end up in trouble-oriented male groups, and they sometimes get involved in violent crime to conform to group norms. More typically, those in middle-class coed groups get involved in petty theft and drug use.

Although most evidence indicates that juveniles from all social classes may become delinquent (Elrod & Ryder, 2005, p. 61), the subculture theorists maintain that many delinquents grow up in lower-class slum areas. According to Cloward and Ohlin (1960), the type of delinquency exhibited depends in part on the type of slum in which juveniles grow up. The slum that produces professional criminals is characterized by the close-knit lives and activities of the people in the community. Constant exposure to delinquent and criminal processes, coupled with an admiration of criminals, provides the model and impetus for future delinquency and criminality. Cloward and Ohlin described this as a **criminal subculture** in which juveniles are encouraged and supported by well-established conventional and criminal institutions. Going one step further, Miller (1958), in his study of lower- and middle-class norms, values, and behavioral expectations, concluded that a delinquent subculture is inherent in lower-class standards and goals. The desirability of the achievement of status through toughness and smartness, as well as the concepts of trouble, excitement, fate, and autonomy, is interpreted differently depending on one's socioeconomic status. Miller concluded that by adhering to lower-class norms, pressure toward delinquency is inevitable and is rewarded and respected in the lower-class value system. Lawbreaking is not in and of itself a deliberate rejection of middle-class values, but it automatically violates certain moral and legal standards of the middle class. Miller believed that lower-class youth who become delinquent are primarily conforming to traditions and values held by their families, peers, and neighbors. As indicated earlier, Wooden and Blazak (2001) used this same approach to describe middle-class delinquency during the 21st century, and most recently, Siegel (2011) suggested that the maturation process is combined with opportunities to build social networks. These social networks are nurtured along by parents, teachers, family members, and other adults, and allow children to forge relationships that provide opportunities for educational and employment success. Children in lower socioeconomic classes are not able to build the same social networks; thus, they "simply do not have the means that bestow advantages on peers whose families are better off financially. They are disadvantaged educationally because of the schools they attend and the activities in which they can participate. Not surprisingly, then, poor children are less likely to graduate from high school and are more likely to become poor adults" (Siegel, 2011, p. 73).

In summarizing the findings with respect to the relationship between social class and delinquency, Johnson (1980) concluded that some conceptualizations of social class may have been inappropriate and that a more appropriate distinction is the one between the **underclass** and the earning class. His results suggest, however, that even given this distinction, there is no reason to expect that social class will emerge as a "major correlate of delinquent behavior, no matter how it is measured" (p. 86). Current evidence presented by Wooden and Blazak (2001) seems to indicate that this may well be the case, as does the paucity of current research in this area.

Still, the concept of the underclass (the extremely poor population that has been abandoned in the inner city as a result of the exodus of the middle class) seems to attract continuing attention (Bursik & Grasmick, 1995; Jarjoura, Triplett, & Brinker, 2002). As the more affluent withdraw from inner-city communities, they also tend to withdraw political support for public spending designed to benefit those communities. They do not want to pay taxes for schools they do not use, and they are not likely to use them because they find those left behind too frightening to be around (Ehrenreich, 1990). Those left behind are largely excluded, on a permanent basis, from the primary labor market and mainstream occupations. Economically motivated delinquency is one way of coping with this disenfranchisement to maintain a short-term cash flow. Because many children growing up in these circumstances see no relationship between attaining an education and future employment, they tend to drop out of school prior to graduation. Some then become involved in theft as a way of meeting economic needs, often as members of gangs that may become institutionalized in underclass neighborhoods (Bursik & Grasmick, 1995, p. 122).

Drugs and the Opioid Epidemic

Although drugs clearly have physical effects on those who use them, drug use is also a social act. We'll have more to say about drug use later in the book, but for now a brief discussion of the topic is in order.

Watson (2004) indicated that research over the past 20 years has established the correlation of substance abuse to juvenile delinquency. There has, of course, been a good deal written about the relationship between illegal drug use and crime. This has been particularly true since the mid-1980s when **crack**, a cocaine-based stimulant drug, first appeared. As Inciardi, Horowitz, and Pottieger (1993) noted, "Cocaine is the drug of primary concern in examining drug/crime relationships among adolescents today. It is a powerful drug widely available at a cheap price per dose, but its extreme addictiveness can rapidly increase the need for more money" (p. 48). Today, this concern has been replaced in many areas by a focus on the abuse of prescription narcotics and **methamphetamines**, which, like cocaine, produce a feeling of euphoria. A meth high can last more than 12 hours, and heavy use can lead to psychotic behavior (paranoia and hallucinations) as well as to serious physical ailments. Some evidence suggests that chronic meth users tend to be more violent than heavy cocaine users (Parsons, 1998, p. 4). Abuse of prescription stimulants, opioids, and depressants can result in similar affects to methamphetamines, with increased risks of poor judgment and physiological issues (National Institute on Drug Abuse, 2013).

Purchase and consumption of some legal drugs, such as alcohol and tobacco, by juveniles are also illegal. Juveniles who violate statutes relating to these offenses may be labeled as delinquent or status offenders. Equally important, however, are other illegal acts often engaged in by drug users to support their drug habits. Such offenses are known to include theft, burglary, robbery, and prostitution, among others. It is also possible that use of certain drugs, such as cocaine and its derivatives and amphetamines, is related to the commission of violent crimes, although the exact nature of the relationship between drug abuse and crime is controversial. Some maintain that delinquents are more likely to use drugs than are nondelinquents—that is, drug use follows rather than precedes delinquency—whereas others argue the opposite (Bjerregaard, 2010; Dawkins, 1997; Thornton, Voight, & Doerner, 1987; Williams, Ayers, & Abbott, 1999). Whatever the nature of the relationship between drug abuse and delinquency, the two are intimately intertwined for some delinquents, whereas drug abuse is not a factor for others. Why some juveniles become drug abusers and others in similar environments avoid such involvement is the subject of a great deal of research. Furthermore, behavior of parents and peers appears to

be more important in drug abuse than do the values and beliefs espoused (Schinke & Gilchrist, 1984; Williams et al., 1999).

During the past few recent years, increasing concern has mounted around the opioid epidemic that has been observed throughout the country. Indeed, prescription drug misuse, which can include opioids, is among the fastest-growing drug problems in the United States. With regard to juveniles, in 2016, 3.6% of youth aged 12–17 reported misusing opioids over the past year (Johnston, Miech, O'Malley, Bachman, Schulenberg, & Patrick, 2019). This percentage is twice as high among older youth and young adults aged 18–25 (Johnston et al., 2019). The vast majority of this misuse is due to prescription opioids, not heroin (Office of Adolescent Health, 2019).

Since 2016, opioid misuse has been decreasing. For example, among high school seniors, past-year misuse of pain medication, excluding heroin, decreased from a peak of 9.5% in 2004 to 3.4% in 2018 (Johnston et al., 2019). The past-year misuse of Vicodin decreased from a peak of 10.5% in 2003 to 1.7% in 2018, and Oxycontin misuse has decreased from the peak rate of 5.5% in 2005 to 2.3% in 2018 (Office of Adolescent Health, 2019). Furthermore, students in the 12th grade believe that opioids are harder to obtain than in the past. in 2010, 54% of students in the 12th grade believed that these drugs were easily accessible, as compared to 32.5% in 2018 (Office of Adolescent Health, 2019).

Death from overdose is the most serious consequence of prescription drug misuse. Indeed, between 1999 and 2016, more than 200,000 people in the United States died from prescription opioid overdoses (Centers for Disease Control and Prevention, 2020a). Over 40% of all opioid overdose deaths in 2016 were due to prescribed opioids. Furthermore, the rate of overdose deaths among adolescents is increasing. In 2015, 4,235 youth aged 15–24 died from a drug-related overdose; over half of these were attributable to opioids (Johnston et al., 2019). The health consequences of opioid misuse affect a much larger number of people. For example, it has been estimated that for every young adult overdose death, there are 119 emergency room visits and 22 treatment admissions (Centers for Disease Control and Prevention, 2020a).

PHYSICAL FACTORS

In addition to social factors, a number of physical factors are often employed to characterize juvenile delinquents. The physical factors most commonly discussed are age, gender, and race.

Age

For purposes of discussing official statistics concerning persons under the age of 18 years, we should note that little official action is taken with respect to delinquency under the age of 10 years. Rather than considering the entire age range from birth to 18 years, we are basically reviewing statistics covering an age range from 10–18 years. Table 2.1 shows the number of juvenile arrests that occurred in 2017 (the most recent data at the time of writing this text). Note that only 28% of all juvenile arrests are associated with youth who are 15 years of age or younger.

Gender

Historically, we have observed three to four arrests of juvenile males for every arrest of a juvenile female. During the period from 2011–2017, this ratio changed considerably, so that juvenile females now account for roughly 29% of arrests of those under 18 years of age (see Table 2.1). in 2017, males accounted for the majority (71%) of juvenile arrests overall but the female share was

relatively high for certain offenses, including larceny-theft (37%), liquor law violations (41%), simple assault (37%), and disorderly conduct (36%). Females accounted for 20% of all juvenile crime arrests and 26% of aggravated assault arrests in 2017. From 2008 through 2017, arrests of juvenile females decreased less than male arrests in most offense categories (e.g., aggravated and simple assault, robbery, vandalism, and drug abuse violations). See Table 2.2, on changes in juvenile arrests, for additional information.

TABLE 2.1 ■ Law Enforcement Arrests of Youth Younger Than 18 Throughout the United States						
The number of arrests of juveniles in 2017 was 59% fewer than the number of arrests in 2008.						
		Percent of total juvenile arrests			Percent change		
Most serious offense	2017 estimated number of juvenile arrests	Female	Younger than 15	White	2008– 2017	2013– 2017	2016– 2017
Total	809,700	29%	28%	62%	–59%	–25%	–5%
Violent Crime*	48,470	20	27	45	–48	–5	1
Murder and nonnegligent manslaughter	910	8	9	38	–27	23	7
Rape*	NA	NA	NA	NA	NA	NA	NA
Robbery	19,330	10	19	32	–45	1	1
Aggravated assault	28,220	26	33	54	–49	–9	1
Property Crime Index	168,050	30	29	56	–61	–31	–9
Burglary	30,850	12	31	56	–63	–28	–4
Larceny-theft	118,660	37	28	57	–63	–36	–12
Motor vehicle theft	16,300	18	24	45	–34	40	4
Arson	2,240	14	57	73	–65	–39	–12
Nonindex							
Other (simple) assault	123,040	37	39	58	–47	–16	–5
Forgery and counterfeiting	1,220	22	14	58	–53	16	1
Fraud	4,760	33	20	46	–34	6	3
Embezzlement	640	43	8	55	–49	60	–6

TABLE 2.1 ■ Law Enforcement Arrests of Youth Younger Than 18 Throughout the United States (Continued)

The number of arrests of juveniles in 2017 was 59% fewer than the number of arrests in 2008.

Most serious offense	2017 estimated number of juvenile arrests	Percent of total juvenile arrests			Percent change		
		Female	Younger than 15	White	2008–2017	2013–2017	2016–2017
Stolen property (buying, receiving, possessing)	10,500	16	21	41	−49	1	−4
Vandalism	36,720	18	40	69	−66	−21	−6
Weapons (carrying, possessing, etc.)	18,370	10	29	54	−54	−10	−5
Prostitution and commercialized vice	28	61	14	45	−81	−63	−44
Sex offense (except rape and prostitution)*	NA	NA	NA	NA	NA	NA	NA
Drug abuse violation	94,830	24	15	74	−47	−19	−4
Gambling	270	18	13	21	−83	−62	7
Offenses against the family and children	3,770	37	34	58	−35	35	9
Driving under the influence	6,080	25	2	89	−62	−20	−6
Liquor law violation	33,560	41	12	87	−74	−43	−9
Drunkenness	4,300	30	13	78	−72	−41	−10
Disorderly conduct	62,530	36	39	54	−67	−34	−5
Vagrancy	730	22	26	53	−82	−16	−6
All other offenses (except traffic)	149,050	28	25	66	−59	−24	−4
Curfew and loitering	30,130	30	29	56	−77	−47	−12