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Separate Justice: Philosophical and Historical Roots of the Juvenile Justice System

Children are our most valuable natural resource.
—Herbert C. Hoover

Do You Know?

- What parens patriae is and why it is important in juvenile justice?
- What institutions were developed for juveniles in the early nineteenth century?
- When and where the first house of refuge was opened in the United States?
- Who the child savers were and what their philosophy was?
- When and where the first juvenile court was established?
- How the first juvenile courts functioned?
- What functions probation was to serve within the juvenile court system?
- How Progressive Era proponents viewed crime? What model they refined?
- What resulted from the 1909 White House Conference on Youth?
- What act funded federal programs to aid children and families?
- What the Four Ds of juvenile justice refer to?
- What effect isolating offenders from their normal environment might have?
- What the Uniform Juvenile Court Act provided?
- What the major impact of the 1970 White House Conference on Youth was?
- What the two main goals of the JJDP Act of 1974 were?
- What juvenile delinquency liability should be limited to according to the American Bar Association?

Can You Define?

Bridewell  
deterrence  
diversion  
double jeopardy  
due process  
guardianship  
just deserts  
justice  
justice model 
lex talionis 
medical model 
minors 
net widening 
parens patriae 
PINS 
poor laws 
preventive detention 
retaliation 
status offenders 
status offense 
youthful offender 
youth service bureau

child  
child savers  
common law  
corporal punishment  
custodian  
custody  
decriminalization  
delinquent act  
delinquent child  
dependent  
deprived child  
deserts
INTRODUCTION

Juvenile justice. It is a system that provides a legal setting in which youths can account for their wrongs or receive official protection. It is also a term that necessarily implies distinct and separate treatment between youths and adults in the dispensing of justice. If justice is fairness in treatment by the law, why is this separation needed? Is justice not “one size fits all”? And how did this separation arise?

A separate justice system for youthful offenders (usually under age 18) is, historically speaking, relatively recent. An understanding of how this system evolved is central to understanding the system as it currently exists and the challenges it faces. It has been said that the historian is a prophet looking backward. History reveals patterns and changes in attitudes toward youths and how they are treated. The emphasis has changed from punishment to protection and back. As one philosophy achieves prominence, problems persist and critics clamor for change. History also reveals mistakes that can be avoided in the future as well as hopes and promises that remain unfulfilled.

This chapter begins with a brief review of social control in early societies and the development of a juvenile justice system in England. This is followed by a look at several distinct periods in the evolution of U.S. juvenile justice, beginning with the Puritan Period and how early colonists built upon the English foundation of juvenile justice to create a system unique to American circumstances. Next the Refuge Period, Juvenile Court Period and Juvenile Rights Period are explored. The fifth stage in the progression of American juvenile justice, the Crime Control Period, brings the discussion current and examines the prevailing philosophies that drive juvenile justice policy and practices today. The timeline in Figure 1.1 provides a guide and illustrates the overlapping influences on juvenile justice at different times in history. The chapter concludes with a discussion of the evolution of child, parent and state relationships and how the juvenile justice system is still evolving.

Social Control in Early Societies

Anthropologists tell us that people have banded together for companionship and protection since the earliest times. As early societies developed, they established rules to maintain social order and protect the safety of their members. Everyone, including its youths, was to conform to society’s expectations. Those who broke the rules were severely punished. Most early societies treated all wrongdoings and criminal offenses alike. Children and adults were subject to the same rules and laws. They were tried under the same legal process and, when convicted, suffered the same penalties.

In primitive tribes, the accepted way to deal with members of the tribe who broke the rules was through retaliation. Such personal revenge was accepted when victims made their victimizers pay them back. As tribal leaders emerged, they began to help victims by imposing fines and punishments on wrongdoers. If the wrongdoer refused to pay the fine or accept the punishment, that person was declared an outlaw, outside the law, and was banished, probably to be eaten by wild animals or killed by the elements. Such social vengeance is the forerunner of our criminal law, taking public action against those who do not obey the rules.
Figure 1.1
Timeline of Significant Dates in Juvenile Justice
Ancient societies also confined wrongdoers, including children, in dungeons, castle towers and even animal cages.

As societies developed writing skills, they began recording their laws. Around 1752 B.C. the Babylonian king Hammurabi set forth rules for his kingdom establishing offenses and punishments. Hammurabi, like all kings in his day, was the supreme lawmaker, enforcer and judge. The Code of Hammurabi is viewed by historians as the first comprehensive description of a system to regulate behavior and at the same time take vengeance on those failing to comply. The Code of Hammurabi’s main principle was that the strong shall not injure the weak. It established a social order based on individual rights and is the origin of the legal principle *lex talionis*, that is, an eye for an eye.

In early societies men were the heads of their families, charged with many responsibilities to their wives and children. In such patriarchal societies rebellion against a father, even by adult sons, was not tolerated. Punishment was swift and severe. For example, Item 195 of the Code of Hammurabi states: “If a son strikes his father, one shall cut off his hands” (Kocourek and Wigmore, 1951, p.427).

The father in ancient Roman culture also exercised unlimited authority over his family, being allowed to administer *corporal punishment* (inflict bodily pain) and even sell his children into slavery. One important concept from the Roman civilization that influenced the development of juvenile justice was *patria postestas*—referring to the absolute control fathers had over their children and the children’s absolute responsibility to obey. This concept evolved into the doctrine of *parens patriae*, a basic tenet in our juvenile justice system.

Developments in England had a great influence on the juvenile justice system that would later develop in the United States.

**Developments in England**

**The Middle Ages**  
(A.D. 500–1500)

The earliest legal document written in English contained the laws of King Aethelbert (around A.D. 600). These laws made no special allowance for an offender’s age. In fact several cases document children as young as 6 being hanged or burned at the stake.

Early in English history, the Church of Rome greatly influenced how children were viewed. Church doctrine stated that children younger than 7 had not yet reached the age of reason and, thus, could not be held liable for sins. English law adopted the same perspective. Under 7 years of age, children were not considered legally able to have the required intent to commit a crime. From ages 7 to 14, it was presumed they did not have such intent, but if evidence proved differently, children could be found guilty of committing crimes. After age 14, individuals were considered adults.

The Feudal Period falls near the end of the Middle Ages, covering roughly the ninth to the fifteenth centuries. In thirteenth-century England, *common law* (law of custom and usage) gave kings power of being the “father of his country.” The king was perceived as guardian over the person and property of *minors*, who were considered wards of the state and, as such, received special protection.
The Latin phrase meaning “father of the country” is *parens patriae*, a doctrine critical to the evolution of juvenile justice.

*Parens patriae* gave a king, through the courts, the right and responsibility to care for children.

*Parens patriae* was used to justify the state’s intervention in the lives of its feudal lords and their children, and it placed juveniles between the civil and the criminal systems. The chancery courts allowed kings to control the wealthier class, and they also enabled the state to act in the best interests of its children. These courts heard issues involving guardianship, for example. The chancery courts did not have jurisdiction over children who committed crimes. Such youths were handled within the criminal court system.

The Middle Ages are generally conceded to have ended with Columbus’s discovery of America in 1492. The next two centuries in Europe, the Renaissance, marked the transition from medieval to modern times. The Renaissance was characterized by an emphasis on art and the humanities, as well as a more humanistic approach to criminal justice.

In 1555, London’s Bridewell Prison became the first institution of its kind to control youthful beggars and vagrants. Based on an underlying theme of achieving discipline, deterrence and rehabilitation through work and severe punishment, Bridewell’s goals were “to make [wayward youths] earn their keep, to reform them by compulsory work and discipline, and to deter others from vagrancy and idleness” (Grunhut, 1948, p.15).

The success of Bridewell led Parliament, in 1576, to pass a law calling for Bridewell-type institutions in every county. Modeled after the first prison, the
Bridewells combined the principles of the workhouse and the poorhouse, as well as the penal institutions’ formalities. These Bridewells confined both children and adults who were considered idle and disorderly. Some parents placed their children into these Bridewells believing the emphasis on hard work would benefit the children.

During Elizabeth I’s reign, the English passed poor laws, which established the appointment of overseers to indenture poor and neglected children into servitude. Such children were forced to work for wealthy families who, in turn, trained them in a trade, domestic service or farming. Such involuntary apprenticeships were served until the youths were 21 or older. These Elizabethan poor laws were the model for dealing with poor children for the next 200 years.

In England in 1563, the Statutes of Artificers inaugurated a system of indenturing and apprenticeship for children over 10 years of age. While the primary aim of the legislation was to ensure an adequate labor supply, the statutes also served to provide and promote an approved method of child care (Zietz, 1969, p.6).

In 1601 England proposed establishing large workhouses for children who could not be supported by their parents. The children would be placed there and “bred up to labor, principles of virtue implanted in them at an early age, and laziness be discouraged . . . and, settled in a way serviceable to the public’s good and not bred up in all manners of vice” (Webb and Webb, 1927, p.52). This proposal was finally implemented with the passage of the Gilbert Act of 1782. The act decreed that all poor, aged, sick and those too infirm to work were to be placed in poorhouses (almshouses). Under the act, poor infants and children who could not go with their mothers were not placed in the poorhouse but with a “proper person,” presumably in a family setting (de Scheveinitz, 1943, pp.20–21).

Historians have labeled the eighteenth and nineteenth centuries the Age of Enlightenment. One important milestone in the development of juvenile justice during this time was the founding of the London Philanthropic Society in 1817, one purpose of which was the reformation of juvenile offenders. The Society opened the first English house of refuge for children, a major shift from family-oriented discipline to institutional treatment.

An important reformer was John Howard (1726–1790), sheriff of Bedfordshire and often considered the father of prison reform. Howard undertook a study of England’s prisons and traveled to other countries to study their prisons. One institution that greatly impressed Howard was the Hospice (hospital) of San Michele in Rome, commonly referred to as St. Michael.

Built in 1704 by Pope Clement XI, the Hospice was one of the first institutions designed exclusively for youthful offenders. Incorrigible youths under age 20 ate and worked in silence in a large central hall but slept in separate cells. The emphasis was on reading the Bible and hard work. An inscription placed over the door by the pope is still there: “It is insufficient to restrain the wicked by punishment unless you render them virtuous by corrective discipline.” The pope said that the facility’s purpose was “for the correction and instruction of profligate youth, that they who when idle were injurious, may when taught become useful to the state” (Griffin and Griffin, 1978, p.7).
While the English justice system served as the basis for juvenile justice in America, a distinctively American system evolved in response to conditions unique to this country. Juvenile justice in the United States is generally recognized as having progressed through five distinct stages, beginning with the first European settlers to land in the New World, whose philosophies defined and shaped what is now referred to as the Puritan Period.

The American colonists brought with them much of the English criminal justice system, including poor laws and the forced apprenticeship system for poor and neglected children. They also continued the centuries-old philosophy of patria postestas, whereby the father was given absolute authority over all family matters and harsh consequences befall children who misbehaved. In fact, early laws prescribed the death penalty for children who disobeyed their parents. The colonial Puritan philosophy regarding juvenile behavior was enacted into law in 1646 when Massachusetts passed the Stubborn Child Law, creating the first status offense, which is an act considered illegal for minors only. The law stood unrevised for more than 300 years.

Before 1800, under common law, age was a consideration in juvenile justice. Blackstone (1776, p.23) summarized the law on the responsibility of youths in these words: “Under seven years of age indeed an infant cannot be guilty of a felony; for then a felonious discretion is almost an impossibility in nature; but at eight years old he may be guilty of a felony.” He went on to say that under age 14, although by law a youth may be adjudged incapable of discerning right from wrong (doli incapax), it appeared to the court and the jury that he could discern between good and evil (doli capax) (italics in original).

Colonial America handled juveniles much like petty thieves. After a warning, shaming or corporal punishment, the offender would return to the community. If accused of a major criminal act, the juvenile would proceed through the justice system as an adult. Trials and punishment were based on age, and anyone older than 7 was subject to the courts. Jails, the only form of incarceration, were primarily used for detention pending trial.

During this period, the fundamental mode of juvenile control was the family, with the church and other social institutions also expected to handle juvenile delinquents. Until the end of the eighteenth century, the family was also the main economic unit, with family members working together farming or in home-based trades. Children were important contributors to these family-based industries. The privileged classes found apprenticeships for their children so that they could learn marketable skills. The children of the poor, in contrast, often were bound out as indentured servants.

Then came the Industrial Revolution, which began at the end of the eighteenth century and forever changed the face of America. Families left the fields and farms and flocked to the cities to work in the factories. Child labor in these factories, which was used increasingly for the next 20 years, replaced the apprenticeship system. In fact, during this period, children comprised 47 to 55 percent of the cotton mill workforce (Krisberg and Austin, 1993, p.15).
Increasing industrialization, urbanization and immigration had created severe problems for families and their children. The social control once exerted by the family weakened—children in the workforce had to obey the demands of their bosses, often in conflict with the demands of their parents. In addition, poverty was increasing for many families. This combination of poverty and diminished family control set an “ominous stage,” with some Americans fearing a growing “dangerous class” and seeking ways to “control the wayward youth who epitomized this threat to social stability” (Krisberg and Austin, p.15).

To counteract the continued breakdown of traditional forms of social control, communities created institutions for children where they could learn good work and study habits, live in a disciplined and healthy environment, and develop “character.” During this time, and continuing into the early twentieth century, juveniles were handled by various civil courts and public institutions such as welfare agencies.

Five distinct, yet interrelated, institutions evolved to handle poor, abused, neglected, dependent and delinquent children brought before a court: (1) indenture and apprenticeship, (2) mixed almshouses (poorhouses), (3) private orphanages, (4) public facilities for dependent children and (5) jails.

A dependent child is one who needs special care and treatment because the parent, guardian or custodian is unable to provide for his or her physical or mental needs.

The rising concern and social reform that marked the turn of the nineteenth century saw reformers seeking to change laws and public policy as they affected children. During the early 1800s, reform efforts helped lead New York, Pennsylvania and Massachusetts to establish the first halfway houses in America (Keller and Alper, 1970, p.7). Another significant development during this period was an 1818 committee report that identified juvenile delinquency as a major cause of pauperism—the first public recognition of the term juvenile delinquency. This link between pauperism, or poverty, and delinquency remained an object of focus in juvenile justice throughout the 1800s and 1900s, receiving increased attention particularly among those who espoused various sociological causes of crime, such as social disorganization theorists and anomie/strain theorists. Indeed, the impact and influence of poverty on delinquency remains a pivotal issue in the field of juvenile justice today.

During 1820 and 1821, a philanthropic entity in New York called the Society for the Prevention of Pauperism conducted an extensive survey of U.S. prisons, the returns of which indicated a prevailing spirit of revenge in the treatment of prisoners. The resulting report criticized the imprisonment of individuals regardless of age or the severity of crime. In 1824, following adoption of the report, the Society reorganized to become the Society for the Reformation of Juvenile Delinquents in the City of New York, the purpose of which was to establish a reformatory. This development signaled a fundamental shift in the underlying philosophy concerning youths and the justice system and moved American juvenile justice into its next evolutionary stage—the Refuge Period.
During the Refuge Period reformers were instrumental in creating separate institutions for youths such as houses of refuge, reform schools and foster homes. However, as Krisberg and Austin (p.17) note: “From the onset, the special institutions for juveniles housed together delinquent, dependent and neglected children—a practice still observed in most juvenile detention facilities today.”

In 1824 the New York House of Refuge, the first U.S. reformatory, opened to house juvenile delinquents, defined in its charter as “youths convicted of criminal offenses or found in vagrancy.”

The House of Refuge was the predecessor of today’s training schools. Children were placed there by court order and usually stayed until they reached the age of maturity. The managers of the House believed children’s behavior would change through vigilant instruction. Children who misbehaved were punished by losing certain rewarded positions or by whippings. The managers took the position that the public was responsible for disciplining children whose natural parents and guardians refused to do so. The labor of the House was contracted out for a fee to local businesses. Youths were given apprenticeships and training in practical occupations.

A typical day at the house began at sunrise and followed a highly disciplined, regimented routine. Morning prayers were followed by 1½ hours of school and...
then by work routines until the noon meal. After eating, youths returned to work until 5:00 P.M., at which time they ate, had 1 ½ hours of school followed by prayers, and then returned to their cells and the rule of silence (Pickett, 1969, p.49). Confinements were lengthy, and escapes were frequent.

Houses of refuge were operated by private philanthropic societies in many of the largest cities of the northeastern states. The authority of the state to send children to such houses of refuge under the doctrine of parens patriae was upheld in 1838 in Pennsylvania in *Ex parte Crouse*. In this case a mother claimed that her daughter was incorrigible and had her committed to the Philadelphia House of Refuge. The girl’s father sought her release but was denied by the court, which stated:

The object of the charity is reformation, by training its inhabitants to industry; by imbuing their minds with principles of morality and religion; by furnishing them with means to earn a living; and above all, by separating them from the corrupting influence of improper associates. To this end, may not the natural parents, when unequal to the task of education, or unworthy of it, be superseded by the parens patriae, or common guardian of the community?

However, many houses of refuge were prisons with harsh discipline, including severe whippings and solitary confinement. Despite public disapproval of the harsh disciplinary treatment and health hazards, 20 such institutions had opened in the United States by 1860.

Krisberg and Austin (p.16) suggest: “Although early 19th-century philanthropists relied on religion to justify their good works, their primary motivation was protection of their class privileges. Fear of social unrest and chaos dominated
their thinking. The rapid growth of a visible impoverished class, coupled with apparent increases in crime, disease and immorality, worried those in power."

From 1859 to 1890 many houses of refuge were replaced by reform schools. In many respects, however, reform schools were indistinguishable from the houses of refuge.

**Reform Schools**

By the middle of the nineteenth century, the more progressive states began to develop new institutions—*reform schools*—intended to provide discipline in a “homelike” atmosphere where education was emphasized. Although reform schools emphasized formal schooling, they also retained large workshops and the contract system of labor.

**Foster Homes**

While many states were building reform schools, New York in 1853 emphasized placing neglected and delinquent children in private *foster homes*, frequently located in rural areas. At the time, the city was viewed as a place of crime and bad influences, in contrast with the clean, healthy, crime-free country.

The foster home was to be the family surrogate used in all stages of the *juvenile justice process*. For a variety of reasons this concept faltered. Personality conflicts between foster parents and juvenile clients often caused disruption. Some foster parents were convicted of various abuses and neglect. In addition, the accreditation and monitoring of foster home licenses was inadequate and sometimes was ignored completely.

**The Child Savers**

Many reforms swept through the United States during the nineteenth century, including the child-saving movement, which began around the middle of the 1800s. The *child savers* believed that children’s environments could make them “bad.” These wealthy, civic-minded citizens tried to “save” unfortunate children by placing them in houses of refuge and reform schools.

These reformers were shocked that children could be tried in a criminal court like adults and be sentenced to jail with hardened criminals. The reformers believed that society owed more to its children than the guarantee of justice.

The *child savers* were reformers whose philosophy was that the child was basically good and was to be treated by the state as a young person with a problem.

The reformers thought that children’s contact with the justice system should not be a process of arrest and trial, but should seek answers to what the children are, how they have become what they are, and what society should do in the children’s, as well as society’s, best interests to save them from wasted lives. The child savers’ motivating principles were (Task Force Report, 1976, p.6):

- Children should not be held as accountable as adult transgressors.
- The objective of juvenile justice is to help youngsters, to treat and rehabilitate them rather than punish.
Dispositions should be predicated on an analysis of the youth’s special circumstances and needs.

The system should avoid the punitive adversary role and formalized trappings of the adult criminal process.

The child savers were not entirely humanitarian, however; they viewed poor children as a threat to society. These children needed to be reformed to conform, to value hard work and to become contributing members of society. Anthony Platt’s (1968, p. 176) extensive research on this period led him to write:

The child savers should in no sense be considered libertarians or humanists:

1. Their reforms did not herald a new system of justice but rather expedited traditional policies which had been informally developing during the nineteenth century.

2. They implicitly assumed the “natural” dependence of adolescents and created a special court to impose sanctions on premature independence and behavior unbecoming youth.

3. Their attitudes toward “delinquent” youth were largely paternalistic and romantic, but their commands were backed up by force.

4. They promoted correctional programs requiring longer terms of imprisonment, long hours of labor and militaristic discipline, and the inculcation of middle-class values and lower-class skills.

Other Developments During the Refuge Period

Organizations such as the Young Men’s Christian Association (YMCA, 1851) and the Young Women’s Christian Association (YWCA, 1861) provided recreation and counseling services to youths to “keep normals normal,” thereby preventing delinquency.
The Civil War (1861–1865) was followed by reconstruction and massive industrialization. Many children were left fatherless by the war, and many families moved to urban areas seeking work. Often children were exploited in sweatshops or roamed the streets in gangs while their parents worked in factories.

In 1866 the first specialized institution for male juveniles was authorized in Washington, DC. This House of Corrections consisted of several cottages containing some 60 or more beds. In 1869 Massachusetts appointed a State Board of Charities to investigate cases involving children who were tried before the courts.
At this time state reformatories also came into existence, including the New York State Reformatory at Elmira, which opened in 1877.

By the end of the 1800s, reform schools introduced vocational education, military drill and calisthenics into the institutions’ regimens. At the same time, some reform schools changed their names to “industrial schools” and later to “training schools,” to emphasize the “treatment” aspect of corrections. For example, the Ohio Reform Farm School opened in 1857, later became the Boy’s Industrial School, and was renamed again to the Fairfield School for Boys.

Several other significant events occurred during the 1800s that altered the administration of juvenile justice (Griffin and Griffin, p.20):

1870—First use of separate trials for juveniles (Massachusetts)
1877—Separate dockets and records established for juveniles (Massachusetts)
1880—First probation system applicable to juveniles instituted
1898—Segregation of children under 16 awaiting trial (Rhode Island)
1899—First juvenile court established (Illinois)

A juvenile court movement began during the 1890s which provided citizen participation in community-based corrections. This citizen participation through the Parent Teacher Association (PTA), founded in 1897, induced the Cook County (Illinois) Bar Association to write the law establishing a juvenile court in Chicago (Hunt, 1973), the first of its kind in the nation, propelling U.S. juvenile justice into its third evolutionary phase—the Juvenile Court Period.

The Juvenile Court Period (1899–1960)

The Juvenile Court Period was born at the beginning of what is often referred to as the Progressive Era or the Age of Reform—the first quarter of the twentieth century. According to reformers, children were not inherently bad but were made so by society and their environment. Progressives believed that the family was especially influential and that parents were responsible for bringing their children up to be obedient and to work hard. When parents were unable to fulfill such responsibilities, reformers believed in state intervention. Their vision materialized in the shape of the 1899 Juvenile Court Act, which was titled an “Act to Regulate the Treatment and Control of Dependent, Neglected and Delinquent Children.”

The 1899 Juvenile Court Act

Passed in Illinois, this act represented the U.S. criminal justice system’s first formal recognition that it owed a different duty to children than to adults and that impressionable, presumably salvageable youths should not be mixed in prisons with hardened criminals. The law created a public policy based on the medical model—that is, a treatment model—to retard the social and moral decay of the environment, family and youths. An underlying philosophy of the medical model was that delinquency was a preventable condition, and in cases where prevention failed and delinquent behavior occurred, the condition could be treated and cured.
The act created the first juvenile court in the United States and provided social reform and a structured way to restore and control children in trouble. It also provided a way to care for children who needed official protection. According to Breen (2001, p.50):

“The core belief of the progressive movement of the early 20th century—that government could solve social problems through the application [of] social sciences—drove changes in the treatment of juvenile offenders. . . . The parenting-not-punishing philosophy of the Juvenile Court Period was firmly established in the comprehensive Illinois Juvenile Court Act of 1899. It soon became a model imitated nationwide.”

In 1899 the Illinois legislature passed a law establishing a juvenile court that became the cornerstone for juvenile justice throughout the United States.

Key features of this act included:
- Defining a delinquent as any detainee younger than 16.
- Separating children from adults in institutions.
- Setting special, informal procedural rules for juvenile court.
- Providing for the use of probation officers.
- Prohibiting the detention of children younger than 12 in a jail or police station.

The Juvenile Court Act gave “original jurisdiction in all cases coming within the terms of this act,” removing those younger than 16 from the jurisdiction of the criminal court and placing them in a paternalistic system that viewed juvenile delinquents as victims of their environments not responsible for their offenses. Rehabilitation and the child’s welfare were to be of prime concern. The adjudicative process within the juvenile court was to be special; it was not to function as an adult criminal court but more like a social welfare agency. Accordingly, as Schwartz (1989, p.151) notes: “Children who were brought to the attention of the juvenile court were to be helped rather than punished.”

The first juvenile courts were administrative agencies of circuit or district courts. They served a social welfare function, embracing the rehabilitative ideal of reforming children rather than punishing them.

The passage of the Illinois Juvenile Court Act marked the first time that probation and probation officers were formally made specifically applicable to juveniles. The act stipulated:

The court shall have authority to appoint or designate one or more discreet persons of good character to serve as probation officers during the pleasure of the court . . . . it shall be the duty of the said probation officer to make such investigation as may be required by the court; to be present in court in order to represent the interests of the child when the case is heard; to furnish to the court
Probation, according to the 1899 Illinois Juvenile Court Act, was to have both an investigative and a rehabilitative function.

The juvenile court was the creation of progressive reformers who believed that children were incapable of being fully responsible for antisocial and criminal behavior, that children were malleable and more capable of rehabilitation than adults, and that treatment rather than punishment should be the focus of the juvenile justice system. Social workers served the juvenile court as probation officers and held this same philosophy.

Social workers collected facts about youths’ misbehavior, including the history of their families, school performance, church attendance and neighborhood. They made recommendations for disposition to the judges and provided community supervision and casework services to the vast majority of children who were adjudicated by the juvenile courts.

Besides providing for the use of probation officers, the Juvenile Court Act also stipulated that juvenile courts were to have separate records and informal procedures. The adversary function of the criminal court was deemed incompatible with the procedural safeguards of the juvenile court, reflecting the basic doctrine of parens patriae. Because children were legally wards of the state, they were perceived to be without constitutional rights. The act was construed liberally so that the care, custody and discipline of children would approximate as nearly as possible that given by individual parents. Custody or guardianship is a legal status created by court order giving an adult the right and duty to protect, provide food and shelter, train, and discipline a child. To that end, several important parts of a criminal trial, such as the indictment, pleadings and jury, were eliminated. Despite this, juvenile court was initially regarded as far more humane than criminal court. Schwartz (p.150) describes the newly created juvenile court as:

. . . a special court in which children were denied due process and adversarial proceedings in exchange for informal and confidential hearings and dispositions based on what was felt to be in the “best interests of the child.” It was a court in which the distinctions between dependent, neglected and delinquent children were less important than their common need for state supervision in the manner of a wise and devoted parent.

Rieffel (1983, p.3) clarifies this rationalization: “Since both criminal and non-criminal misbehavior were but symptoms of an unhealthy environment, the distinction between them was of minimal significance.” However, as Flicker (1990, p.32) contends:

It could be argued that the most reprehensible feature of the Illinois contribution to juvenile justice is the continued erosion of distinctions between juveniles who commit criminal acts, thereby demonstrating objectively that they are a present threat to community safety, and those who are themselves victims as abused, neglected or dependent children.
Some scholars assert the system was set up to take advantage of children. Disputing the benevolent motives of the founders of the juvenile court, especially in the adjudication procedure, scholars have suggested that the civil liberties and privacy rights of juveniles diminished in the process. They accuse the middle class of promoting the child-saving movement to support its own interests.

Although reformers of the time were optimistic, college-educated people who believed that individualized treatment based on a juvenile's history was critical, they were also concerned with their own futures, as noted by Krisberg and Austin (p.27): “During the Progressive Era, those in positions of economic power feared that the urban masses would destroy the world they had built. . . . From all sectors came demands that new action be taken to preserve social order, and to protect private property and racial privilege.”

The progressives further developed the medical model, viewing crime as a disease to treat and cure by social intervention.

According to Krisberg and Austin (p.27): “The times demanded reform, and before the Progressive Era ended, much of the modern welfare state and the criminal justice system were constructed.” Further (p.31): “The thrust of Progressive Era reforms was to found a more perfect control system to restore social stability while guaranteeing the continued hegemony [predominance or authority] of those with wealth and privilege.”

Interestingly, an early critique by two prominent progressives of the first juvenile courts in Cook County, Illinois, noted: “Children who do wrong can be found in every social stratum, but those who become wards of the court are the children of the poor” (Breckenridge and Abbott, 1912, pp.42–43). Their findings, which were based on an evaluation of court records dating from 1899 to 1909, confirmed that the juvenile court constituted a powerful means of social control by the dominant class.

Others, however, contend that the development of the juvenile courts and the adjudication function represents neither a great social reform in processing juveniles nor an attempt to diminish juveniles’ civil liberties and control them arbitrarily. Rather, it represents another example of the trend toward bureaucracy and an institutionalized compromise between social welfare and the law.

Commonwealth v. Fisher (1905) defended the juvenile court ideal, reminiscent of the holding of the court in the Crouse case of 1838:

To save a child from becoming a criminal, or continuing in a career of crime, to end in maturer years in public punishment and disgrace, the legislatures surely may provide for the salvation of such a child, if its parents or guardians be unwilling or unable to do so, by bringing it into one of the courts of the state without any process at all, for the purpose of subjecting it to the state’s guardianship and protection.
Diversion is the official halting of formal juvenile proceedings against a youthful offender and, instead, treating or caring for the youth outside the formal juvenile justice system. In 1914 diversion from juvenile court began in the Chicago Boy’s Court, an extralegal form of probation to process and treat young offenders without labeling them as criminals.

The Boy’s Court version of diversion used four community service agencies: the Holy Name Society (a Catholic church agency), the Chicago Church Foundation (predominantly Protestant), the Jewish Social Service Bureau and the Colored Big Brothers. The court released juveniles to the supervision and authority of these agencies. After a sufficient time to evaluate each youth’s behavior, the agencies reported back to the court. The court took the evaluation and, if satisfactory, the judge officially discharged the individual. No record was made.

Toward the end of the Juvenile Court Period, in the early 1950s, developments in youth diversionary programs included New York City’s Youth Counsel Bureau. This bureau was established to handle delinquents who were not deemed sufficiently advanced in their misbehavior to be directed to court and adjudicated. Referrals were made directly to the bureau from police, parents, schools, courts and other agencies. The bureau provided a counseling service and discharged those whose adjustments appeared promising. Again, there was no record to label the youths delinquent.

The earliest federal interest in delinquency was demonstrated by the 1909 White House Conference on Youth. Golden (1997, pp.120–121) notes:

Following the 1909 White House Conference on Dependent Children, in which family preservationists won the debate with the children’s rights defenders of the charitable private agencies, the foster care population, ironically, increased. Child welfare’s policies supported family preservation, but the practice of child removal advanced by the charity workers continued—to the present day.

A direct result of the 1909 White House Conference on Youth was the establishment of the U.S. Children’s Bureau in 1912.

In addition, in 1912 Congress passed the first child labor laws.

The aftermath of World War I, the Great Depression and World War II occupied much of the federal government’s attention during the period from 1920 to 1960 as it sought to help citizens cope with the pressures of the times. However, by 1925 all but two states had juvenile court systems, and the U.S. Children’s Bureau and the National Probation Association issued a recommendation for A Standard Juvenile Court Act in 1925.

In 1937 a group of concerned juvenile court judges founded the National Council of Juvenile and Family Court Judges. According to Schwartz (p.91): “One of the most significant sources of power and influence over the lives of children and the formulation of youth policy in practically every community is the juvenile court.” He notes that over the years, the National Council of Juvenile and Family Court Judges has “established itself as an influential and
respected organization.” He also suggests, however: “In recent years the council’s reputation has slipped . . . because the council has become dependent upon and corrupted by the availability of federal funds and has lost sight of its mission.” Originally, however, its efforts were focused on the best interests of children, as was the passage of the Social Security Act in 1935.

Passage of the Social Security Act in 1935 was the beginning of major federal funding for programs to aid children and families.

The National Youth Administration provided work relief and employment for young people ages 16 to 25. Then, in 1936, the Children’s Bureau began administering the first federal subsidy program, providing child welfare grants to states for the care of dependent, neglected, exploited, abused and delinquent youths.

The federal government passed the Juvenile Court Act in 1938, adopting many features of the original Illinois act. Within 10 years every state had enacted special laws for handling juveniles. Schmalleger (1993, p.514) contends that the juvenile court movement was based on five identifiable philosophical principles:

1. The belief that the state is the “higher or ultimate parent” of all the children within its borders.
2. The belief that children are worth saving, and the concomitant belief in the worth of nonpunitive procedures designed to save the child.
3. The belief that children should be nurtured. While the nurturing process is underway, they should be protected from the stigmatizing impact of formal adjudicatory procedures.
4. The belief that justice, to accomplish the goal of reformation, needs to be individualized.

5. The belief that noncriminal procedures give primary consideration to the needs of the child. The denial of due process could be justified in the face of constitutional challenges because the court acted not to punish, but to help.

In the 1940s a number of conferences on children and youths were held, but most of the energy for public support and public programs was directed toward the war and reconstructing families after the war. In 1951 Congress passed the Federal Youth Corrections Act and created a Juvenile Delinquency Bureau (JDB) in the Department of Health, Education and Welfare. The positioning of the
JDB within the Department of Health, Education and Welfare reflects the prevalence of the medical model at this time as well as the emphasis on prevention.

By the end of the Juvenile Court Period, social work and the juvenile justice system movement were flourishing with their combined focus on youths and their families. The movement gradually became more concerned with professionalism in the intake process and correctional supervision. This went unnoticed by outsiders until the early 1960s.

The end of this period also marked the beginning of radical societal changes in the United States that would last the next two decades and extend throughout the fourth developmental phase of our juvenile justice system—the Juvenile Rights Period.

In the 1960s the American family was undergoing significant changes that directly affected social work and its liaison between the juvenile, the family and the court. Divorces increased, with the result that more children lived in single-parent households. Births to unmarried women increased, and more women entered the labor force. This affected the family structure and prompted a reorganization of social work philosophy and service.

Juvenile crime received increased attention when, in 1960, the United States attorney general reported that delinquency and crime were costing the American public more than $20 million per year. In addition, poor, lower-class delinquents were now joined by youths with middle- and upper-class backgrounds and rural youths.

A significant program, Mobilization for Youth, developed in New York City in 1962 based on the theoretical perspective of Richard Cloward and Lloyd Ohlin, sociologists who believed that delinquency resulted from the disparity that low-income youths perceived between their aspirations and the social, economic and political opportunities available to achieve them. The Mobilization for Youth project encompassed five areas: work training, education, group work and community organizations, services to individuals and families, and training and personnel (Krisberg and Austin, p.43).

President Lyndon Johnson’s Great Society initiative of the 1960s, known for its “War on Poverty,” advanced causes for families and children, providing federal money to attack poverty, crime and delinquency. Further, the 1960s saw racial tensions at an all-time high with leaders such as Malcolm X and groups such as the Black Muslims and the Black Panthers demanding “power to the people.” As noted by Krisberg and Austin (p.44): “The riots of the mid-1960s dramatized the growing gap between people of color in the United States and their more affluent ‘benefactors.’ ”

Civil rights efforts during the 1960s helped broaden concerns for all children, especially those coming under the jurisdiction of juvenile courts. Rieffel (p.3) suggests: “Juvenile law, perhaps more than any other aspect of law, reflects the stumbling and confused nature of our society as its values and goals evolve. So it was in the 1960s, when American society put itself through an extraordinary period of self-examination, that a great many problems were identified in the way we handle juvenile crime.”
To deal with problems identified within the juvenile justice system, new policies were established regarding four key concepts—deinstitutionalization, diversion, due process, and decriminalization. Although it was not until the end of this period when sociologist LaMar Empey (1978) formally described these as the Four Ds of juvenile justice, their implementation in and impact on the juvenile justice system began early in the 1960s.

The Four Ds of juvenile justice are deinstitutionalization, diversion, due process, and decriminalization.

Throughout this period, the major developments in juvenile justice focused on one or a combination of these key concepts.

For example, **decriminalization**—referring to legislation that makes status offenses, such as smoking and violating curfew, noncriminal acts—was first witnessed in 1961, when California became the first state to separate status offenses from the delinquent category. New York followed suit in 1962, when the revised New York Family Court Act created a new classification for noncriminal misconduct—PINS, Person in Need of Supervision. Other states followed suit, adopting such labels as CINS, CHINS (Children in Need of Supervision), MINS (Minors in Need of Supervision), JINS (Juveniles in Need of Supervision) and FINS (Families in Need of Supervision). These new labels were intended to reduce the stigma of being labeled a delinquent. Throughout the juvenile rights period, a broad range of status offenses were decriminalized.

Other policy changes involved the applicability of due process rights to juveniles. Legal challenges to the notion that the juvenile justice system—and the juvenile court in particular—truly was a benign parent, went as far as the U.S. Supreme Court in the 1960s. Society began to demand that children brought before the juvenile court for matters that exposed them to the equivalent of criminal sanctions receive **due process** protection. The due process clause of the U.S. Constitution requires that no person be deprived of life, liberty or property without due process of law. The Supreme Court began protecting juveniles from the court’s paternalism. Due process became a clear concern in *Kent v. United States* (1966).

**The Kent Decision**

Morris Kent, a 16-year-old with a police record, was arrested and charged with housebreaking, robbery and rape. Kent admitted the charges and was held at a juvenile detention facility for almost a week. The judge then transferred jurisdiction of the case to an adult criminal court. Kent received no hearing of any kind.

The procedural requirements for waiver to criminal court were articulated by the Supreme Court in *Kent v. United States*.

In reviewing the case, the Supreme Court decreed: “As a condition to a valid waiver order, petitioner [Kent] was entitled to a hearing, including access by his counsel to the social records and probation or similar reports which are presum-
ably considered by the court, and to a statement of the reasons for the Juvenile Court's decision."

An appendix to the *Kent* decision contained the following criteria established by the Supreme Court for states to use in deciding whether to transfer juveniles to adult criminal court for trial. The juvenile court was to consider:

- The seriousness of the alleged offense and whether the protection of the community requires waiver.
- Whether the alleged offense was committed in an aggressive, violent, premeditated or willful manner.
- Whether the alleged offense was against persons or against property, greater weight being given to offenses against persons, especially if personal injury resulted.
- The prospective merit of the complaint.
- The desirability of trial and disposition of the offense in one court when the juvenile's associates in the alleged offense are adults who will be charged with crimes in the adult court.
- The sophistication and maturity of the juvenile as determined by a consideration of his or her home, environmental situation, emotional attitude and pattern of living.
- The record and previous history of the juvenile.

The *Kent* decision was a warning to the juvenile justice system that the juvenile court's traditional lack of concern for procedural and evidentiary standards would no longer be tolerated.

The *Gault* Decision

The juvenile court process became a national issue in *In re Gault* (1967). Schwartz (p.99) suggests: “The *Gault* decision is, by far, the single most important event in the history of juvenile justice.” This case was instrumental in changing the adjudication process almost completely into a deliberately adversarial process. *In re Gault* concerned a 15-year-old Arizona boy already on probation who was taken into custody at 10:00 A.M. for allegedly making obscene phone calls to a neighbor. No steps were taken to notify his parents. When Mrs. Gault arrived home about 6:00 P.M., she found her son missing. She went to the detention home and was told why he was there and that a hearing would be held the next day. At the hearing, a petition was filed with the juvenile court that made general allegations of “delinquency.” No particular facts were stated.

The hearing took place in the judge's chambers. The complaining neighbor was not present, no one was sworn in, no attorney was present and no record of the proceedings was made. Gault admitted to making part of the phone call in question. At the end of the hearing, the judge said he would consider the matter.

Gault was held in the detention home for 2 more days and then released. Another hearing on his delinquency was held 4 days later. That hearing also had no complaining witnesses, sworn testimony, counsel or transcript. The probation officer's referral report listed the charge as lewd phone calls and was filed with the court. The report was not made available to Gault or his parents. At the end of
the hearing the judge committed him to the state industrial school until age 21. Gault received a 6-year sentence for an action for which an adult would have received a fine or a 2-month imprisonment. The U.S. Supreme Court overruled Gault’s conviction on the grounds that he was deprived of his due process rights.

The Gault decision requires that the due process clause of the Fourteenth Amendment apply to proceedings in state juvenile courts, including the right of notice, the right to counsel, the right against self-incrimination and the right to confront witnesses.

In delivering the Court’s opinion, Justice Fortas stated:

Where a person, infant or adult, can be seized by the State, charged and convicted for violating a state criminal law, and then ordered by the State to be confined for six years, I think the Constitution requires that he be tried in accordance with the guarantees of all provisions of the Bill of Rights made applicable to the States by the Fourteenth Amendment. Undoubtedly this would be true of an adult defendant, and it would be a plain denial of equal protection of the laws—an invidious discrimination—to hold that others subject to heavier punishments could, because they are children, be denied these same constitutional safeguards. I consequently agree with the Court that the Arizona law as applied here denied to the parents and their son the right of notice, right to counsel, right against self-incrimination, and right to confront the witnesses against young Gault. Appellants are entitled to these rights, not because “fairness, impartiality and orderliness—in short the essentials of due process”—require them and not because they are “the procedural rules which have been fashioned from the generality of due process,” but because they are specifically and unequivocally granted by provisions of the Fifth and Sixth Amendments which the Fourteenth Amendment makes applicable to the States.

Thus, the Gault decision provided the standard of due process for juveniles.

The remaining two Ds—deinstitutionalization and diversion—surfaced as focal points for policy change following a harsh examination of the juvenile justice system by the 1967 President’s Commission on Law Enforcement and Administration of Justice.

In 1967, the President’s Commission gave evidence of “disenchantment with the experience of the juvenile court” (President’s Commission, 1967, p.17). It criticized lack of due process, law enforcement’s poor relationship to youths and the handling of juveniles and the corrections process of confining status offenders and children “in need” to locked facilities. A status offender is a juvenile who has committed an act that would not be a crime if committed by an adult, for example, smoking cigarettes.

According to the President’s Commission (p.69): “Institutions tend to isolate offenders from society, both physically and psychologically, cutting them off from schools, jobs, families and other supportive influences and increasing the probability that the label of criminal will be indelibly impressed upon them.” The commission, therefore, recommended that community-based correctional alternatives to institutionalization, or deinstitutionalization, should be considered seriously for juvenile offenders.
At the same time, the U.S. Department of Justice published *The Challenge of Crime in a Free Society* (1967), also questioning the policy of incarceration for nonviolent juvenile offenders. In this document, Harvard professor and criminologist James Q. Wilson expressed his views on two competing philosophies of juvenile crime deterrence (Breen, p.50):

He first considered the belief that harsh policies might deter juvenile criminal behavior; then he considered the equally plausible argument that juvenile arrests, particularly of first offenders, may actually propel youths to a lifetime of delinquent behavior. Wilson expressed the thoughts of many when he reasoned, one, that arrests may actually give juvenile offenders higher status among their peers, and, two, that the typically light sentencing of juvenile offenders may help breed a contempt for the system among the very juveniles it is designed to assist.

Isolating offenders from their normal social environment may encourage the development of a delinquent orientation and, thus, further delinquent behavior.

The issues raised by the President’s Commission, Wilson and others studying juvenile justice policy and practice indicated a need to integrate rather than isolate offenders. The resulting community-based correctional programs, such as probation, foster care and group homes, represented attempts to respond to these issues by normalizing social contacts, reducing the stigma attached to being institutionalized and providing opportunities for jobs and schooling.

In the early 1970s, Massachusetts undertook what some considered a radical experiment in deinstitutionalization. Jerome Miller, state commissioner of youth services and head of the Massachusetts Department of Youth Services, closed every juvenile institution in the state. As noted by Schmalleger (p.535):

Deinstitutionalization was accomplished by placing juveniles in foster care, group homes, mental health facilities and other programs. Many were simply sent home. The problems caused by hard-core offenders among the released juveniles, however, soon convinced authorities that complete deinstitutionalization was not a workable solution to the problem of delinquency. The Massachusetts experiment ended as quickly as it began.

Although total deinstitutionalization ended in Massachusetts, hundreds of juveniles were successfully moved into community-based programs. Further, throughout the 1960s and 1970s, deinstitutionalization of status offenders (DSO) was especially recommended on the theoretical basis that labeling a youth as delinquent could become self-fulfilling. This is discussed in Chapter 2.

The President’s Commission also strongly endorsed diversion for status offenders and minor delinquent offenses. (Recall that diversion made its first formal appearance in 1914 with the Chicago Boy’s Court.) In addition, the commission recommended establishing a national youth service bureau and local or community youth service bureaus to assist the police and courts in diverting youths from the juvenile justice system.

*Youth Service Bureaus*

In 1967 the President’s Commission established a federal youth service bureau to coordinate community-centered referral programs. Local youth service bureaus were to divert minor offenders whose behavior was rooted in problems at home,
in school or in the community. While a broad range of services and certain mandatory functions were suggested for youth service bureaus, individually tailored work with troublemaking youngsters was a primary goal.

As envisioned by the commission, youth service bureaus were not part of the juvenile justice system. The bureaus would provide necessary services to youths as a substitute for putting them through the juvenile justice process, thus avoiding the stigma of formal court involvement. The three main functions of local youth service bureaus were diversion, resource development and system modification.

*Diversion* included accepting referrals from the police, courts, schools, parents and other sources, and working with the youths in a voluntary, noncoercive manner through neighborhood-oriented services. *Resource development* included offering leadership at the neighborhood level to provide and develop a variety of youth assistance programs, as well as seeking funding for new projects. *System modification* included seeking to change attitudes and practices that discriminate against troublesome youths and, thereby, contribute to their antisocial behavior. To meet the unique needs of each community, the organization and programming of local youth service bureaus were to remain flexible.

Many youth service bureaus did not survive the federal funding cuts during the Carter and Reagan administrations. Those bureaus that endured have turned their focus to providing employment activities for employable juveniles, particularly during the summer. They have also concentrated on providing health, recreation or educational referrals or services.

Finally, the President's Commission advocated *prevention* as the most promising and important method of dealing with crime, a philosophy embodied in the Uniform Juvenile Court Act of 1968.

### The Uniform Juvenile Court Act

In 1968 the historic Delinquency Prevention and Control Act was passed. One provision of this act was to reform the juvenile justice system nationally. Although titled a “court” act, the legislation included provisions that affected law enforcement and corrections, illustrating the interconnectedness of the parts of the system.

The act included the following definitions:
- A **child** is “an individual who is under the age of 18 years or under the age of 21 years who committed an act of delinquency before reaching the age of 18 years.”
- A **delinquent act** is “an act designated a crime under the law.” It includes local ordinances, but does not include traffic offenses.
- A **delinquent child** is “a child who has committed a delinquent act and is in need of treatment or rehabilitation.”
- A **deprived child** is one who “is without proper parental care or control, subsistence, education as required by law, or other care or control necessary for his physical, mental or emotional health, or morals, and the deprivation is not due primarily to the lack of financial means of his parents, guardian or other custodian; or who has been placed for care or adoption in violation of the law; or who has been abandoned by his parents, guardian or other custodian; or is without a parent, guardian or legal custodian.”

- A **custodian** is “a person, other than a parent or legal guardian, who stands *in loco parentis* to the child or a person to whom legal custody of the child has been given by order of a court.”

The act described probation services, referees, venue and transfer, custody and detention, petitions and summons, hearings, children’s rights, disposition, court files and records, and procedures for fingerprinting and photographing children. These areas are described in detail in the chapters dealing with law enforcement and the courts.

Despite the best intentions of this act, a growing body of empirical evidence had cast serious doubt upon the ability of social casework, the linchpin of correctional treatment along with probation and parole, to help rehabilitate youths (Hellum, 1979). And although rehabilitation remained the major premise on which the juvenile justice system rested, research had found that correctional “treatment,” especially in institutions, was often unnecessarily punitive and sometimes sadistic. Modern reformers became appalled that noncriminal youths and status offenders could so easily find their way into the same institutions as seriously delinquent youths. This spawned a rapid growth in community-based alternatives to institutionalization, as well as renewed national interest in juvenile justice.

The 1970 White House Conference on Youth warned: “Our families and children are in deep trouble. A society that neglects its children and fears its youth cannot care about its future” (*The White House Conference on Youth*, 1972, p.346). The message from the conference was interpreted as a need for special federal assistance to identify the needs of families.

Beginning in 1971 a series of federal cases tried to specify minimum environmental conditions for juvenile institutions. By 1972 there was a cooperative effort among federal administrations to focus on programs for preventing delinquency and rehabilitating delinquents outside the traditional criminal justice system. According to Breen (p.50): “The need for further research and the need to divert juvenile offenders from the criminal justice system prompted the adoption of the Juvenile Justice and Delinquency Prevention Act of 1974.”
In 1974 Congress created the Office of Juvenile Justice and Delinquency Prevention (OJJDP) and placed it in the Department of Justice. Congress also passed the Juvenile Justice and Delinquency Prevention (JJDP) Act by a vote of 329 to 20 in the House and with only one dissenting vote in the Senate. It was signed by a reluctant President Gerald R. Ford. According to Schwartz (p.124): “The Juvenile Justice and Delinquency Prevention Act of 1974 is the most important piece of federal juvenile justice legislation ever enacted.” The intent of the act was “to provide a unified rational program to deal with juvenile delinquency prevention and control within the context of the total law.”

The landmark JJDP Act required that in order for states to receive federal funds, incarceration and even temporary detention should be used for young people only as a last resort.

The **Juvenile Justice and Delinquency Prevention Act of 1974** had two key goals: deinstitutionalization of status offenders and separation or removal of juveniles from adult facilities.

The JJDP Act made funds available to states that removed status offenders from prisons and jails and created alternative voluntary services to which status offenders could be diverted. The act was amended in 1976, 1977, 1980 and 1992. According to Decker (1984, pp.37–38), amendments to the JJDP Act in 1977:

-Broadened the functions of State Planning Agency Advisory groups to include the private business sector.
-Involved alternate youth programs and people with special experience in school violence and vandalism programs, including social workers.
-Gave states the opportunity to participate in grant programs for deinstitutionalization.
-Required monitoring of all states with state juvenile detention and correctional facilities to determine their suitability for status offenders.

The 1980 amendment called for the removal of juveniles from adult jails. In 1992, Congress added a disproportionate minority confinement (DMC) mandate requiring that states receiving JJDP Act formula grants provide assurances that they will develop and implement plans to reduce overrepresentation of minorities in the juvenile justice system.

While the JJDP Act promoted the development of diversionary tactics for juvenile offenders through monetary incentives, claiming such practices would benefit both the system and the youths it handled, the policy of diversion soon revealed its drawbacks and was met with some criticism.

**Diversion and Net Widening**

The juvenile due process requirements from *Kent* and *Gault*, combined with the rising costs of courts and correctional facilities at the end of the 1960s and throughout the 70s, resulted in wider use of community-based alternatives to treat youths before and after adjudication. Young offenders were diverted into
remedial education, drug abuse programs, foster homes and out-patient health care and counseling facilities.

However, diversion does not necessarily mean less state social control over juveniles. It has had the negative effect of transferring state power from juvenile courts to police and probation departments. Many youngsters who earlier would have been simply released were instead referred to the new diversionary programs. This phenomenon was called net widening, and it was the opposite of diversion's original purpose, which was to lessen the states' power to exercise control over juveniles.

Although efforts to implement diversion programs were encouraged and rewarded, and the use of diversion, in fact, greatly expanded during the past several decades, the number of young people committed to institutions has not decreased appreciably. Instead of weakening state control, the correctional structure has become stronger. One reason: the diversion apparatus has, in many cases, become a prevention apparatus, receiving the bulk of its referrals from parents, schools and welfare agencies, as opposed to the police, intake or the courts. The referrals are, by and large, younger juveniles with minor offenses and without prior records, girls and status offenders.

Not only does diversion widen the net, it also increases the risk of violating rights of due process and fundamental fairness because referrals usually occur before adjudication. Thus, it is often never established that referred youngsters are actually guilty of any offense that might make them properly the subjects of conditional placement.

Because diversion is personalized, treatment may be inconsistent from one youth to the next. Diversion is also problematic because it may reflect individual class or social prejudices. It removes juveniles from any penalties with no exposure to the judicial process of the juvenile court. Further, informal diversion is usually unsystematic.

The justifications for diversion lay with labeling theory and differential association theory. While the philosophical, legal, theoretical and practical strengths and weaknesses of diversion have been debated, little research has been done to examine the effectiveness of limiting official intervention in the lives of diverted and nondverted youths. However, one fact exists: diverted youths tend to remain in the justice system longer than nondverted youths.

As in the first half of the Juvenile Rights Period, the 1970s saw a continuation in the flow of cases addressing juveniles' rights and the juvenile court becoming more like the adult court in several important ways. Three landmark cases during the 70s addressed juvenile rights regarding the standard of proof, jury trials and double jeopardy. Whether dealing with status offenders, youths who had committed violent crimes or protecting abused or neglected children, the court no longer had free reign.

**The Winship Decision: Standard of Proof in Juvenile Proceedings**

*In re Winship* (1970) concerned a 12-year-old New York boy charged with taking $112 from a woman's purse. He was adjudicated a delinquent based on a
preponderance of the evidence submitted at the juvenile hearing. He was committed to a training school for 18 months, with extension possible until he was 18 years old, a total possible sentence of 6 years. The question raised was whether New York's statute allowing juvenile cases to be decided on the basis of a preponderance of evidence was constitutional.

*Gault* had already established that due process required fair treatment for juveniles. The Court held that: “The Due Process Clause protects the accused against conviction except upon *proof beyond a reasonable doubt* of every fact necessary to constitute the crime with which he is charged” (italics in original). New York argued that its juvenile proceedings were civil, not criminal; but the Supreme Court said the standard of proof beyond a reasonable doubt not only played a vital role in the criminal justice system, it also ensured a greater degree of safety for the presumption of innocence of those accused of crimes.

*In re Winship* established proof beyond a reasonable doubt as the standard for juvenile adjudication proceedings, eliminating lesser standards such as a preponderance of the evidence, clear and convincing proof and reasonable proof.

**The McKeiver Decision: No Right to a Jury Trial**

The move toward expanding juveniles' civil rights was slowed by the ruling in *McKeiver v. Pennsylvania* (1971), in which the Court ruled that juveniles do not have the right to a jury trial. This case involved a 16-year-old Pennsylvania boy charged with robbery, larceny and receiving stolen goods, all felonies in Pennsylvania. He was adjudicated a delinquent. The question for the Court to decide was whether the due process clause of the Fourteenth Amendment guaranteeing the right to a jury trial applied to the adjudication of a juvenile court case.

In *McKeiver* the Court held that *Gault* and *Winship* demonstrated concern for the fundamental principle of fairness in justice, with the fact-finding elements of due process necessary and present for this fairness. The Court emphasized in *McKeiver*: “One cannot say that in our legal system the jury is a necessary component of accurate fact finding. There is much to be said for it, to be sure, but we have been content to pursue other ways for determining facts.”

*McKeiver* established that a jury trial is not a required part of due process in the adjudication of a youth as delinquent by a juvenile court.

The Court realized that juvenile courts had not been successful, but it also concluded that juvenile court should not become fully adversarial like the criminal court. Requiring a jury might put an end to “what has been the idealistic prospect of an intimate informal protective proceeding.” Requiring jury trials for juvenile courts could also result in delays, as well as in the possibility of public trials.
The Breed Decision: Double Jeopardy

Double jeopardy was the issue in Breed v. Jones (1975). The Supreme Court ruled that defendants may not be tried twice for the same offense. Breed was 17 when apprehended for committing acts with a deadly weapon. He was adjudicated in a California juvenile court, which found the allegation true. A dispositional hearing determined there were not sufficient facilities “amenable to the care, treatment and training programs available through the facilities of the juvenile court,” as required by the statute. Breed was transferred to the criminal court where he was again found guilty. Breed argued that he had been tried twice for the same offense, constituting double jeopardy. The Supreme Court agreed and reversed the conviction.

A juvenile cannot be adjudicated in juvenile court and then tried for the same offense in an adult criminal court (Breed v. Jones, 1975).

Beginning in 1976 the majority of states enacted legislation that made it easier to transfer youths to adult courts, signaling a change in philosophy that would eventually lead juvenile justice into its next (and current) phase—the Crime Control Period—to be discussed shortly.

The Issue of Right to Treatment

Also in the 1970s, two conflicting types of cases emerged: one type tried to establish a “right to treatment,” the other to establish the “least restrictive alternative.” Martarella v. Kelley (1972) established that if juveniles who are judged to be in need of supervision are not provided with adequate treatment, they are deprived of their rights under the Eighth and Fourteenth Amendments. Morales v. Turman (1973) ruled that juveniles in a Texas training school have a statutory right to treatment. And, in Nelson v. Heyne (1974), the Seventh U.S. Court of Appeals also confirmed juveniles’ right to treatment:

- When a state assumes the place of a juvenile’s parents, it assumes as well the parental duties, and its treatment of its juveniles should, so far as can be reasonably required, be what proper parental care would provide. . . . Without a program of individual treatment, the result may be that the juvenile will not be rehabilitated, but warehoused.

Although many state courts have established a right to treatment, including minimum standards, the U.S. Supreme Court has not yet declared that juveniles have a constitutional right to treatment.

Decriminalization of Status Offenses

In line with efforts to deinstitutionalize status offenders, the American Bar Association (ABA) Joint Commission on Juvenile Justice Standards voted in 1977 for the elimination of uniquely juvenile offenses, that is, status offenses, such as cigarette smoking or consuming alcohol.

According to the American Bar Association, juvenile delinquency liability should include only such conduct as would be designated a crime if committed by an adult.
The referral of status offenses to juvenile court has been viewed by many as a waste of court resources. These critics believe that court resources are best used for serious recidivist delinquents.

In 1977 a tentative draft of the Institute of Judicial Administration/American Bar Association Juvenile Justice Standards was published in 23 volumes. In 1978 the state of Washington began extensive legislative revision of its juvenile justice system based, in part, on these standards. Following implementation of the new legislation it was found that:

- Sentences were considerably more uniform, consistent and proportionate to the seriousness of the offense and the prior criminal record of the youth.
- While the overall severity level of sanctions was reduced during the first two years, there was an increase in the certainty that a sanction of some kind would be imposed.
- There was a marked increase in the use of incarcerative sanctions for the violent and serious/chronic offender, but nonviolent offenders and chronic minor property offenders were less likely to be incarcerated and more apt to be required to pay restitution, do community service or be on probation.
- Compliance with the sentencing guidelines was extremely high; nevertheless, differential handling of minorities and females still existed.
- There was a better record of holding juveniles accountable for their offenses.
- While the new legislation completely eliminated the referral of status offenses, it did not eliminate the referral of status offenders. Runaways were more likely to be contacted for delinquent acts, for example (Rieffel, pp.36–37, italics in original).

From 1979 to 1980, 20 volumes of these standards received American Bar Association approval. The standards related to the following: adjudication; appeals and collateral review; architecture of facilities; corrections administration; counsel for private parties; court organization and administration; dispositional procedures; dispositions; interim status; the release, control and detention of accused juvenile offenders between arrest and disposition; juvenile delinquency and sanctions; juvenile probation function; intake and predisposition investigative services; juvenile records and information systems; monitoring; planning for juvenile justice; police handling of juvenile problems; pretrial court proceedings; prosecution; rights of minors; transfer between courts; and youth service agencies. A summary and analysis of the project and the standards were released in 1990, reviewing the progress of the application of the standards (Flicker).

In the 1970s the rising fear of youth crime and rebelliousness coincided with a growing disillusionment with the effectiveness of the juvenile justice system. Citizens and lawmakers, amid mounting skepticism of the principles of rehabilitation established by the JJDP Act, began calling for more punitive measures against juvenile offenders, especially those who committed serious or violent
felonies. The result was a much harsher attitude toward youth crime and a call to “get tough” with youthful lawbreakers, philosophies characteristic of the current crime control period.

The combination of serious, stigmatizing results achieved without due process safeguards led the U.S. Supreme Court in the 1960s to impose new requirements in determining when a juvenile could be made a ward of the state.

Since its inception, the juvenile court was guided by a welfare concept. When the U.S. Supreme Court took issue with its procedures, the juvenile court environment moved from a simple family atmosphere to a more adversarial system. The treatment of juveniles changed to a criminal approach, dispensing punishment and placing youths in locked facilities.

Philosophies
Dissent arose among professional child-welfare workers and policymakers about the causes of and treatment for juvenile delinquency. Consensus arose among the public and policymakers that the traditional agents of control—family, police, schools and courts—could not curb the rise of delinquency.

Treatment
The juvenile court system was revised to include due process, deinstitutionalization, decriminalization and diversion programs. Community-based therapy, rather than institutionalization, became the preferred method of treatment.

Policies
The federal executive branch expressed its concern about crime and delinquency by appointing the President’s Commission on Law Enforcement and Administration of Justice. Large-scale federal financial and programmatic grants-in-aid were made available to states and localities for delinquency prevention and control programs.

While the Supreme Court questioned the juvenile court on due process procedures, the juvenile court also came under severe criticism because its philosophy of helping all juveniles rather than punishing delinquents led to an indiscriminate mixing of neglected or abused children, status offenders and violent offenders. Public policy has since been developed to separate neglected and abused juveniles from the delinquents, but status offenders have continued to be in contact with violent criminal delinquents.

As mainstream attitudes about the response to and treatment of juvenile offenders swung to more punitive measures, the formerly prevailing medical model of viewing unlawful behavior began to shift to what is often called a justice model. The issues involved and how they are viewed in each model are summarized in Table 1.1.

According to Schwartz (pp.83–84), the Carter administration (presidential term 1977–1981) was deeply committed to removing juveniles from adult jails, and the Department of Justice recommended a 34 percent increase in fiscal 1981–82 for the OJJDP to be targeted at juvenile jail removal. However, when Ronald Reagan took office in 1981, his administration significantly reduced this funding level, claiming that the goal of removing children from adult jails had been largely accomplished and that even if not, it was a state and local problem.
By the 1980s the “best interests” of society had gained ascendency over those of youths. In the 1980s the OJJDP became increasingly conservative. Emphasis shifted to dealing with hard-core, chronic offenders. Also in the 1980s, state and federal concerns tended to center on the problems created by procedural informality and the juvenile court’s broad discretion. The adversary system of legal process replaced the sedate environment and process of the “family” court that was directed to consider the “best” interest of the child’s health, safety and welfare. The courts returned to a focus on what was right according to the law.

According to Krisberg (1990), the conservative swing added two more Ds to our juvenile justice system: deterrence and just deserts. Deterrence involves the use of punishment to prevent future lawbreaking. It does so in several ways, the most obvious being locking offenders up so that they can do no further harm to society. Incarceration may result in further deterrence by (1) serving as a lesson to the incarcerated person that crime does not pay and (2) sending the same message to the law-abiding public.

<table>
<thead>
<tr>
<th></th>
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</tr>
</thead>
<tbody>
<tr>
<td>Cause of crime</td>
<td>Disease of society or of the individual.</td>
<td>Form of rational adaptation to societal conditions.</td>
</tr>
<tr>
<td>Image of offender</td>
<td>Sick; product of socioeconomic or psychological forces beyond control.</td>
<td>Capable of exercising free will; of surviving without resorting to crime.</td>
</tr>
<tr>
<td>Object of correction</td>
<td>To cure offender and society; to return both to health; rehabilitation.</td>
<td>Humanely control offender under terms of sentence; offer voluntary treatment.</td>
</tr>
<tr>
<td>Agency/institution responsibility</td>
<td>Change offender; reintegrate back into society.</td>
<td>Legally and humanely control offender; adequate care and custody; voluntary treatment; protect society.</td>
</tr>
<tr>
<td>Role of treatment and punishment</td>
<td>Voluntary or involuntary treatment as means to change offender.</td>
<td>Voluntary treatment only; punishment and treatment not the same thing; Punishment is for society’s good, treatment is for offender’s good.</td>
</tr>
<tr>
<td>Object of legal sanctions (sentence)</td>
<td>Determine conditions that are most conducive to rehabilitation of offender.</td>
<td>Determine conditions that are just considering wrong done, best protection for society and deter offender from future crime.</td>
</tr>
<tr>
<td>Type of sentence</td>
<td>Indeterminate, flexible; adjust as offender changes.</td>
<td>Fixed sentence (less good time).</td>
</tr>
<tr>
<td>Who determines release time?</td>
<td>“Experts” (parole board for adults, institutional staff for juveniles).</td>
<td>Conditions of sentence as interpreted by Presumptive Release Date (PRD) formula.</td>
</tr>
</tbody>
</table>

Deserts, or just deserts as it is often called, is a concept of punishment as a kind of justified revenge—the offending individual gets what is coming. This is the concept of lex talionis, or an eye for an eye, expressed in the Code of Hammurabi centuries ago.

In 1982, 214 long-term public institutions in the United States were designated either “strict” or “medium” custody training schools. This number included some original training schools, as well as smaller, high-security institutions built to either replace or augment them. Most schools involved agricultural training, which was thought to be reformatory. This training focus required the schools to be located in rural areas. An unanticipated effect of this location policy was to remove the corrections problem from community awareness.

Throughout the 1980s and 1990s, public support increased for tougher policies directed at juvenile offenders, signaling a reversal of the juvenile due process trend of the previous two decades. Breen (p.50) observes:

This policy shift is evidenced by 49 states that now allow juvenile court prosecutors to waive jurisdiction and transfer cases to adult court. In the opinion of some experts, this authority was given to prosecutors because they traditionally did not have the “soft on crime” attitudes of juvenile court judges. In 26 states, the jurisdictions of juvenile courts now exclude certain violent crimes such as murder, rape and armed robbery. A retreat from the due process revolution of the 1960s is also apparent in Schall v. Martin. . . . Here the U.S. Supreme Court, citing the doctrine of parens patriae, upheld the constitutionality of New York’s law allowing the preventive detention of juveniles.

Schall v. Martin (1984) and Preventive Detention

At 11:30 P.M. on December 13, 1977, juvenile Gregory Martin was arrested on charges of robbery, assault and criminal possession of a weapon. Because of the late hour and because he lied about his address, Martin was kept in detention overnight. The next day he was brought before the family court accompanied by his grandmother. The family court judge noted that he had lied to the police about his address, that he was in possession of a loaded weapon and that he appeared to lack supervision at night. In view of these circumstances, the judge ordered Martin detained until trial. New York law authorized such pretrial or preventive detention of accused juvenile delinquents if “there is a substantial probability that they will not appear in court on the return date or there is a serious risk that they may before the return date commit an act which if committed by an adult would constitute a crime.”

While Martin was in preventive detention, his attorneys filed a habeas corpus petition demanding his release. The petition charged that his detention denied him due process rights under the Fifth and Fourteenth Amendments. The suit was a class action suit on behalf of all youths held in preventive detention in New York. The New York appellate courts upheld Martin’s claim, stating that most delinquents are released or placed on probation; therefore, it was unfair to confine them before trial. Indeed, later at trial, Martin was adjudicated a delinquent and sentenced to 2 years of probation.

The prosecution appealed the decision disallowing pretrial detention to the Supreme Court for final judgment. The Supreme Court reversed the decision,
establishing the right of juvenile court judges to deny youths pretrial release if they perceived them to be dangerous.

In Schall v. Martin (1984) the Supreme Court upheld the state's right to place juveniles in preventive detention, fulfilling a legitimate state interest of protecting society and juveniles by detaining those who might be dangerous to society or to themselves.

Pretrial detention need not be considered punishment merely because the juvenile is eventually released or put on probation. In Schall the Court reiterated its belief in the fundamental fairness doctrine and the doctrine of parens patriae, trying to strike a balance between the juvenile's right to freedom pending trial and the right of society to be protected. All 50 states have similar language allowing preventive detention in their juvenile codes.

Schall also established a due process standard for detention hearings. This standard included procedural safeguards, such as a notice, a hearing and a statement of facts given to juveniles before they are placed in detention. The Court further stated that detention based on prediction of future behavior did not violate due process. Many decisions made in the justice system, such as the decision to sentence or grant parole, are based partly on predicting future behavior. These decisions have all been accepted by the Court as legitimate exercises of state power.

Some Effects of Preventive Detention
The effects of preventive detention can be tragic. A 15-year-old California girl arrested for assaulting a police officer hanged herself after 4 days of isolation in a local jail. A 17-year-old boy was taken into custody and detained for owing $73 in unpaid traffic tickets, only to be tortured and beaten to death by his cellmates. In a West Virginia jail a truant was murdered by an adult inmate; in an Ohio jail a teenage girl was raped by a guard. A 15-year-old boy hanged himself in a Kentucky jail where he had been held for only 30 minutes. His offense: arguing with his mother.

The Evolution of Child, Parent and State Relationships
Developments with the evolving juvenile justice system in the United States had a direct effect on the relationships between children and their parents, children and the state and parents and the state. The major developments and influences on these relationships are summarized in Table 1.2. Bear in mind, however, the developments described and neatly categorized in the table are actually fluid, overlapping and ongoing.

Still Evolving
In looking over the development of juvenile justice, it is clear that the system today is considerably different in philosophy and form than that which existed several centuries ago. Be mindful that this history is what paved the way for current “innovations” in policy and practice, such as Balanced and Restorative Jus-
## Table 1.2
### Juvenile Justice Developments and Their Impact

<table>
<thead>
<tr>
<th>Periods</th>
<th>Major Developments</th>
<th>Precipitating Influences</th>
<th>Child/State</th>
<th>Parent/State</th>
<th>Parent/Child</th>
</tr>
</thead>
<tbody>
<tr>
<td>Puritan</td>
<td>Massachusetts (1646)</td>
<td>A. Christian view of child as evil</td>
<td>Law provides: A. Symbolic standard of maturity</td>
<td>Parents considered responsible and capable of controlling child</td>
<td>Child considered both property and spiritual responsibility of parents</td>
</tr>
<tr>
<td>1646–1824</td>
<td>Stubborn Child Law (1646)</td>
<td>B. Economically marginal agrarian society</td>
<td>B. Support for family as economic unit</td>
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<tr>
<td></td>
<td>(1646)</td>
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<tr>
<td></td>
<td>(1646)</td>
<td>A. Enlightenment</td>
<td>Child seen as helpless, in need of state intervention</td>
<td>Parents supplanted as state assumes responsibility for correcting deviant socialization</td>
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<tr>
<td></td>
<td>B. Immigration and industrialization</td>
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<td></td>
<td>(1646)</td>
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<tr>
<td>Refuge</td>
<td>Institutionalization of deviants; New York House of Refuge established (1824) for delinquent and dependent children</td>
<td>A. Enlightenment</td>
<td>Child seen as helpless, in need of state intervention</td>
<td>Parents supplanted as state assumes responsibility for correcting deviant socialization</td>
<td>Family considered to be a major cause of juvenile deviancy</td>
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<td>1824–1899</td>
<td>(1824)</td>
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<td></td>
<td>Establishment of Institutionalization of deviants; New York House of Refuge established (1824) for delinquent and dependent children</td>
<td>B. Support for family as economic unit</td>
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<tr>
<td>Juvenile Court</td>
<td>Establishment of separate legal system for juveniles—Illinois Juvenile Court Act (1899)</td>
<td>A. Reformism and rehabilitative ideology</td>
<td>Juvenile court institutionalizes legal irresponsibility of child</td>
<td>Parents patrie doctrine gives legal foundation for state intervention in family</td>
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<td>1899–1960</td>
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<td></td>
<td>(1899)</td>
<td>A. Reformism and rehabilitative ideology</td>
<td>Juvenile court institutionalizes legal irresponsibility of child</td>
<td>Parents patrie doctrine gives legal foundation for state intervention in family</td>
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<td></td>
<td>(1899)</td>
<td>B. Increased immigration, urbanization and large-scale industrialization</td>
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<td>(1899)</td>
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<td>Juvenile Rights</td>
<td>Increased “legalization” of juvenile law–Gault decision, (1966); Juvenile Justice and Delinquency Prevention Act (1974) calls for denaturalization of status offenders</td>
<td>A. Criticism of juvenile justice system on humane grounds</td>
<td>Movement to define and protect rights as well as provide services to children</td>
<td>Reassertion of responsibility of parents and community for welfare and behavior of children</td>
<td>Attention given to children's claims against parents; earlier emancipation of children</td>
</tr>
<tr>
<td></td>
<td>(1966)</td>
<td>A. Criticism of juvenile justice system on humane grounds</td>
<td>Movement to define and protect rights as well as provide services to children</td>
<td>Reassertion of responsibility of parents and community for welfare and behavior of children</td>
<td>Attention given to children's claims against parents; earlier emancipation of children</td>
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<td></td>
<td>(1966)</td>
<td>B. Civil rights movements by disadvantaged groups</td>
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<td></td>
<td>(1966)</td>
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<td>(1966)</td>
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<tr>
<td>Crime Control</td>
<td>Shift from medical (treatment) model to justice model and “get tough” attitude; “best interests” of society gained ascendency over those of youths; Supreme Court approves of preventive detention for youths—Schall decision (1984); emphasis on deterrence and just deserts</td>
<td>A. Increase in violent juvenile crime</td>
<td>Adversary system of legal process replaces sedate “family” court process; courts return to a focus on what is right according to the law</td>
<td>Parents in some states are held liable for their child's criminal conduct</td>
<td>Unknown</td>
</tr>
</tbody>
</table>


Updated by author.

Also keep in mind that the philosophies, policies, practices and programs that dominate the field today and are the focus of the remainder of this text, will likely pass, at some point, into the history chapters for future juvenile justice practitioners as the juvenile justice system continues to evolve. Krisberg
(p.157) observes: “Although the conservative revolution in juvenile justice was motivated by the concepts of deterrence and deserts, the emergence of a ‘get tough’ philosophy also produced another ‘D’ in the world of juvenile justice—disarray.” Which direction the system will take in this new century is unclear.

**Summary**

A separate justice system for youthful offenders (usually under age 18) is, historically speaking, relatively recent. A significant influence on the development of juvenile justice was the English concept of *parens patriae*, which gave kings, through the courts, the right and responsibility to take care of minors. The American colonists brought with them much of the English criminal justice system and its ways to deal with wayward youth. During the Puritan Period (1646–1824), five distinct yet interrelated institutions evolved to handle poor, abused, neglected, dependent and delinquent children brought before a court: (1) indenture and apprenticeship, (2) mixed almshouses (poorhouses), (3) private orphanages, (4) public facilities for dependent children and (5) jails.

The period from 1824 to 1899 is generally referred to as the Refuge Period. In 1824 the New York House of Refuge, the first U.S. reformatory, opened to house juvenile delinquents, defined in its charter as “youths convicted of criminal offenses or found in vagrancy.” By the middle of the nineteenth century many states either built reform schools or converted their houses of refuge to reform schools. The middle of the nineteenth century also included the child-saving movement. The child savers were reformers whose philosophy was that the child was basically good and was to be treated by the state as a young person with a problem. They persuaded the 1899 Illinois legislature to pass a law establishing a juvenile court that became the cornerstone for juvenile justice throughout the United States and moved juvenile justice into an era known as the Juvenile Court Period (1899–1960).

The first juvenile courts were administrative agencies of circuit or district courts and served a social service function with the rehabilitative ideal of reforming children rather than punishing them. The passage of the 1899 Illinois Juvenile Court Act marked the first time that probation was formally made specifically applicable to juveniles. Probation, according to the act, was to have both an investigative and a rehabilitative function.

The juvenile court was the creation of progressive reformers who believed that treatment rather than punishment should be the focus of the juvenile justice system. During the first quarter of the twentieth century, the progressives further developed the medical model established by the Illinois Juvenile Court Act, approaching crime as a disease that could be treated and cured by social intervention. Federal government concern and involvement also began during this period. A direct result of the 1909 White House Conference on Youth was the establishment of the U.S. Children’s Bureau in 1912. Passage of the Social Security Act in 1935 was the beginning of major federal funding for programs to aid children and families.

Radical societal changes began to occur at the beginning of the Juvenile Rights Period (1960–1980). In the 1960s the American family underwent signif-
icant changes that directly affected social work and its liaison between the juvenile, the family and the court. To deal with problems identified within the juvenile justice system, new policies were established regarding four key concepts, known as the Four Ds of juvenile justice—deinstitutionalization, diversion, due process and decriminalization.

During the 1960s the concern about the due process rights of youths in juvenile proceedings resulted in several landmark cases. The procedural requirements for waiver to criminal court were articulated by the Supreme Court in Kent v. United States. The Gault decision required that the due process clause of the Fourteenth Amendment be applied to proceedings in state juvenile courts, including the right of notice, the right to counsel, the right against self-incrimination and the right to confront witnesses.

Deinstitutionalization became a focal point when the 1967 President’s Commission on Law Enforcement and Administration of Justice asserted that isolating offenders from their normal social environment may encourage the development of a delinquent orientation and, thus, further delinquent behavior. The resulting community-based correctional programs, such as probation, foster care and group homes, represented attempts to respond to these issues by normalizing social contacts and reducing the stigma attached to being institutionalized. The Uniform Juvenile Court Act (1968) provided for the care, protection and development of youths, without the stigma of a criminal label, by a program of treatment, training and rehabilitation in a family environment when possible. It also provided simple judicial and interstate procedures.

In the 1970s the major impact of the White House Conference on Youth was that it hit hard at the foundation of our system for handling youths, including unnecessarily punitive institutions. The Juvenile Justice and Delinquency Prevention (JJDP) Act of 1974 made federal delinquency prevention funds available to states that removed status offenders from prisons and jails and created alternative voluntary services to which status offenders could be diverted. This act had two key goals: deinstitutionalization of status offenders and separation/removal of juveniles from adult facilities.

The 1970s also saw juveniles’ rights being addressed. In re Winship established proof beyond a reasonable doubt as the standard for juvenile adjudication proceedings, eliminating lesser standards such as a preponderance of the evidence, clear and convincing proof and reasonable proof. McKeiver v. Pennsylvania established that a jury trial is not a required part of due process in the adjudication of a youth as a delinquent by a juvenile court. Breed v. Jones established that a juvenile cannot be adjudicated in juvenile court and then tried for the same offense in an adult criminal court (double jeopardy).

By 1977 the American Bar Association endorsed the decriminalization of status offenses, urging that juvenile delinquency liability should include only such conduct as would be designated a crime if committed by an adult.

During the 1980s in Schall v. Martin (1984), the Supreme Court upheld the state’s right to place juveniles in preventive detention. Preventive detention was perceived as fulfilling a legitimate state interest of protecting society and juveniles by detaining those who might be dangerous to society or to themselves.
Discussion Questions

1. The juvenile justice system has been defined as “justice that applies to children and adolescents with concern for their health, safety and welfare under sociolegal standards and procedures.” Is this definition adequate? Why or why not?
2. Under the principle of parens patriae, how does the state (or the court) accept the role of “parent”? Are all households administered and managed alike?
3. Who are the present “child savers”? What states, associations and individuals have contributed to the present child-saver philosophy?
4. What do you consider to be the major milestones in the evolution of juvenile justice?
5. Is it possible for one system to effectively and fairly serve both children who need correction and those who need protection?
6. How may diversion result in “widening the net” of juvenile justice processing?
7. What are the rationales on which police diversion of juveniles is based in your community and state?
8. What are the major types of police diversion programs in your area and state?
9. What evidence suggests that diversion programs are effective in reducing juvenile recidivism? What findings, if any, contradict this evidence? Do you know of a diversion program that is working or one that has failed? Why?
10. What are the advantages and disadvantages of diversion?

InfoTrac College Edition Assignments

- Use InfoTrac College Edition to answer the Discussion Questions as appropriate.
- Use the term parens patriae as an InfoTrac subject guide to find and review the article, “Remnants of Parens Patriae in the Adjudicatory Hearing: Is a Fair Trial Possible in Juvenile Court?” by Joseph B. Sanborn, Jr. What is Sanborn’s answer to his own question?
- Use In re Gault as an InfoTrac subject guide to find and review “The Common Thread: Diversion in Juvenile Justice,” by Franklin E. Zimring. What is Zimring’s assessment of today’s diversionary juvenile court? Be prepared to share your thoughts with the class.

Internet Assignments

- Go to the OJJDP’s Web site (http://ojjdp.ncjrs.org/). Locate the page for the 2002 reauthorization and note when the amended JJDP Act became public law and when it took effect.
- Select either the term parens patriae or lex talionis as your keywords and conduct an online search for more information about that principle. Be prepared to share your findings with the class.
- Go to www.ncjrs.org to find, read and outline any of the end-of-chapter references with an NCJ number in parenthesis or go to any reference having an online address to find, read and outline an entire article.

References

American Bar Association Joint Commission on Juvenile Justice Standards. Juvenile Justice Section. Washington, DC, no date.

Cases Cited

Ex parte Crouse, 4 Whart. 9 (Pa. 1838)
In re Gauld, 387 U.S. 1 (1967)
Kent v. United States, 383 U.S. 541 (1966)
McKee v. Pennsylvania, 403 U.S. 528 (1971)
Nelson v. Heyne, 491 F.2d 352 (7th Cir. 1974)
In re Winship, 397 U.S. 358 (1970)
The way in which a society treats its children—its young people—says something about the future of that society, its beliefs, and the viability of those beliefs. The way in which a society treats those of its children who break its laws says something about its humanity, its morality, its resilience, and its capacity for self-correction.

—National Center for Juvenile Justice

There are two great injustices that can befall a child. One is to punish him for something he didn’t do. The other is to let him get away with doing something he knows is wrong.

—Robert Gardner

Do You Know?

- What types of justice exist?
- How crimes were originally differentiated?
- What two theories exist to explain the purpose of the law?
- What function is served by punishment according to the Durkheimian perspective? The Marxist perspective?
- How the contemporary conservative and liberal approaches to juvenile justice differ?
- What two competing world views have existed over the centuries and the concepts important to each view?
- What proponents of the classical view and those of the positivist view advocate for offenders?
- What theories have been developed to explain the cause of crime and delinquency and the major premises of each?
- Whether any single theory provides a complete explanation?
- What the terminology of the contemporary juvenile justice system emphasizes?
- What the three components of the juvenile justice system are?
- What primary lesson is learned from the funnel effect?

Can You Define?

<table>
<thead>
<tr>
<th>American Dream</th>
<th>biotic balance</th>
<th>classical world view</th>
</tr>
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<tbody>
<tr>
<td>anomie</td>
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<td>concordance</td>
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<td>folkways</td>
<td>positivist view of criminality</td>
<td>symbiosis</td>
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<td>functionalism theory</td>
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**INTRODUCTION**

Philosophy, theory and history are intertwined—they simultaneously affect and, in turn, are affected by each other. The separation of discussions involving these elements into two chapters is artificial. Therefore, be mindful of information already presented in Chapter 1 while proceeding through this chapter, as these concepts wrap around and support those already covered. It may, at times, appear as if this chapter is backtracking. Indeed, in many cases, the theories discussed in Chapter 2 will have coincided with particular historical events or philosophical eras that prevailed at various times during the evolution of juvenile justice. In other instances, no such specific correlation exists. In either case, the material presented is intended to fill in some of the “why” and “how” gaps left from the first chapter.

As seen in Chapter 1, the juvenile justice system has evolved slowly, influenced by many circumstances. In addition to its historical evolution, the system has deep roots in theories about justice, delinquency, crime and punishment. While the previous chapter focused on historical events with specific relevance to juveniles, this chapter takes a step back to look at broader issues that apply to both youths and adults, such as justice, law and theories of criminality, in an effort to better understand why the paths of juvenile and adult justice diverged.

This chapter begins with a discussion of how justice has been viewed through the ages, the types of laws instituted to achieve justice and contemporary perspectives on punishment. This is followed by an explanation of two competing world views that have influenced the entire criminal justice system, including the juvenile justice system. Next, various theories about the causation of crime and delinquency are explored. These discussions, combined with those from Chapter 1, set the foundation for a look at the juvenile justice system structure and process itself, including a comparison of the contemporary juvenile and criminal justice systems and how cases may enter and flow throughout and between the two systems.
Centuries ago Aristotle warned that no government could stand that is not founded on justice. As a nation, America is firmly committed to “liberty and justice for all.” But is this the reality? And just what is justice?

Aristotle wrote that the *just* is that which is lawful (universal justice) and that which is fair and equal (particular justice):

> Of particular justice and that which is just in the corresponding sense, one kind is that which is manifested in distributions of honour or money or the other things that fall to be divided among those who have a share in the constitution. . . .

> This, then, is what the just is—the proportional; the unjust is what violates the proportion. Hence one term becomes too great, the other too small, as indeed happens in practice; for the man who acts unjustly has too much, and the man who is unjustly treated too little, of what is good (Ross, 1952, pp.378–379).

**Distributive** or **social justice** provides an equal share of what is valued in a society to each member of that society. This includes power, prestige and possessions. **Retributive justice** seeks revenge for unlawful behavior.

Distributive justice or social justice is frequently ignored but certainly must be considered in any discussion of justice. Usually, however, the focus is on retributive justice, harkening back to the ancient concept of an eye for an eye (*lex talionis*). When distributive and retributive justice are not differentiated, critics may claim that retributive justice has failed when, in effect, it has no power over the failure.

Merton (1957) views *crime* as being caused by the frustration of people in the lower socio-economic levels within an affluent society that denies them legal access to social status and material goods. He views this denial as not only unjust but also as a root of many social ills, including crime. Merton further suggests that this is especially true of our “underprivileged youth” who need not only groceries in the literal sense, but also “groceries for growing.” In discussing justice for juveniles, Springer (1986, p.76) suggests:

> It is beyond the scope of this paper to discuss social justice, what Aristotle called “distributive justice,” but it is within its scope to make mention of the sad consequences of our inability to provide a decent social environment for what would appear to be a growing segment of our youthful society.

> This is not the place to engage in discourse on the dire ends of poverty, class divisions, urbanization, industrialization, urban blight, unemployment, breakdown of religion, breakdown of the family, and all of the other established criminogenic factors. It is the place, however, to recognize, at least, that the criminal justice system is the least effective means of crime prevention and social control. If we are interested in a relatively crime-free society, we must look elsewhere than the courts.

Krisberg and Austin (1993, p.51), in the conclusion of their discussion of historical approaches to juvenile delinquency, likewise suggest:

> Not surprisingly, juvenile justice reforms have inexorably increased state control over the lives of the poor and their children. The central implication of this historical analysis is that the future of delinquency prevention and control will be determined largely by ways in which the social structure evolves. It is possible that
this future belongs to those who wish to advance social justice on behalf of young people rather than to accommodate the class interests that have dominated this history.

This explanation for the existence of crime is discussed in detail later in this chapter. Another type of justice, restorative justice, has gained momentum and support throughout the juvenile justice field in recent years.

**Restorative justice** focuses on repairing the harm done to victims and to the community and stresses that offenders must contribute to the repair.

As Karp (2001, p.729) explains: “Fundamentally, restorative approaches are distinguished from retributive and traditional rehabilitation approaches by their focus on sanctions that address the harm caused to victims and communities.” Although the concept is actually quite old, it was long overlooked and neglected throughout most of the history of the American justice process. Bazemore and Umbreit (2001, p.1) contend: “Restorative justice suggests that the response to youth crime must strike a balance among the needs of victims, offenders and communities and that each should be actively involved in the justice process to the greatest extent possible.” According to Wilson (2001, p.1): “Reconciling the needs of victims and offenders with the needs of the community is the underlying goal of restorative justice. Unlike retributive justice, which is primarily concerned with punishing crime, restorative justice focuses on repairing the injury that crime inflicts.” The renewed interest in and focus on restorative justice and using restorative conferencing as a correctional alternative is discussed in Chapter 9.

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**Justice and the Law**

Every society has norms, that is, rules or laws governing the actions and interactions of its people. These are usually of two types: folkways and mores. Folkways describe how people are expected to dress, eat and show respect for one another. They encourage certain behaviors. Mores, in contrast, are the critical norms vital to a society’s safety and survival. Mores are often referred to as natural law—the rules of conduct that are the same everywhere because they are basic to human behavior.

Some behaviors, such as murder and rape, are deemed by any reasonable person to be inherently bad. Natural law states that certain acts are wrong by their very nature, and behavior that disregards the common decency one human owes to another is morally and legally wrong. Each society has a general idea of what constitutes natural law. Our founding fathers identified such principles when they wrote of the “inalienable rights to life, liberty and the pursuit of happiness” and of “truths held to be self-evident.”

Acts considered immoral or wrong in themselves, such as murder and rape, are called mala in se. Those acts prohibited because they infringe on others’ rights, not because they are necessarily considered evil by nature, such as having more than one wife, are called mala prohibita.
Crimes were originally differentiated as:

\[
\begin{align*}
\text{\textit{mala in se}} & & \text{\textit{mala prohibita}} \\
\text{wrong in and of itself} & & \text{a prohibited wrong} \\
\text{origin in mores} & & \text{origin in folkways} \\
\text{natural law} & & \text{man-made law} \\
\text{common law} & & \text{statutory law} \\
\text{stable over time} & & \text{changes over time}
\end{align*}
\]

Natural laws may be declared to be criminal acts by man-made laws. Natural laws have remained relatively unchanged over the years, while man-made laws are altered nearly every legislative session.

**Purposes of Law**

According to sociologist Max Weber, the primary purpose of law is to regulate human interactions—that is, to support social order. Throughout history, law has served many other purposes, including to protect the interests of society, govern behavior, deter antisocial behavior, enforce moral beliefs, support those in power, regulate human interactions, uphold individual rights, identify lawbreakers, punish lawbreakers and seek retribution for wrongdoing.

Two prominent theories about the underlying purpose of law are consensus theory and conflict theory.

**Consensus Theory**

**Consensus theory** holds that individuals within a society agree on basic values—on what is inherently right and wrong. Laws express these values.

This theory dates back at least as far as Plato and Aristotle. Deviant acts are deviant because society, in general, feels they are abnormal and unacceptable behavior. Consensus theory was expanded upon by the French historian and philosopher Charles de Montesquieu (1689–1755), a founder of political science. Montesquieu's philosophy centered around the social contract theory developed by the 17th century English philosopher Thomas Hobbes, whereby free, independent individuals agree to form a community and give up a portion of their individual freedom to benefit the security of the group.

As discussed in Chapter 1, this social contract applied to minors as well as adults. Youths were expected to obey the rules established by society and to suffer the consequences if they did not. A century later the concept of the social contract was expanded upon by Emile Durkheim.

**Punishment and Social Solidarity—The Durkheimian Perspective**

Emile Durkheim (1858–1917), a pioneer in sociology, argued that punishment is a moral process to preserve the shared values of a society, that is, its collective
conscience. When individuals deviate from this collective conscience, society is outraged and seeks revenge to restore the moral order. Garland (1991, p.123) notes: “Punishment thus transforms a threat to social order into a triumph of social solidarity.” Garland (p.127) also notes: “As Durkheim makes clear, an act of punishment is also a sign that authorities are in control, that crime is an aberration, and that the conventions that govern social life retain their force and vitality.”

The Durkheimian perspective sees punishment as revenge and as a way to restore and solidify the social order.

Two key elements of Durkheim’s perspective are (1) that the general population is involved in the act of punishing, giving it legitimacy, and (2) it is marked by deeply emotional, passionate reactions to crime. Durkheim (1933, pp.73–80) believed:

- Crime is conduct “universally disapproved of by members of each society.”
- “An act is criminal when it offends strong and defined states of the collective conscience.”

According to Durkheim, criminal law synthesizes society’s essential morality and establishes boundaries that cannot be crossed without threatening the society’s very existence. Durkheim (1951 [1897], p.252) developed a concept known as anomie, meaning normlessness. Anomie refers to the breakdown of societal norms as a result of society’s failure to distinguish between right and wrong.

Although laws usually reflect the majority values of a society, which is important in a democracy, they rarely represent the views of everyone. This may result in conflict.
Conflict theory suggests that laws are established to keep the dominant class in power.

The roots of this theory can be found in the writings of Marx and Engels who wrote in the *Manifesto of the Communist Party* (1848):

The history of all hitherto existing society is the history of class struggles. Freeman and slave, patrician and plebeian, lord and serf, guild-master and journeyman, in a word, oppressor and oppressed stood in constant opposition to one another, carried on an interrupted, now hidden, now open fight, a fight that each time ended in either a revolutionary reconstruction of society at large, or in the common ruin of the contending classes.

Conflict theory shifts the focus from lawbreaking to lawmaking and law enforcing and how they protect the interests and values of the dominant groups within a society. Walker et al. (2000, p.19) suggest:

Conflict theory explains racial disparities in the administration of justice as products of broader patterns of social, economic, and political inequality in U.S. society. These inequalities are the result of prejudicial attitudes on the part of the white majority and discrimination against minorities in employment, education, housing, and other aspects of society. . . . Conflict theory explains the overrepresentation of racial and ethnic minorities in arrest, prosecution, imprisonment, and capital punishment as both the product of these inequalities and an expression of prejudice against minorities.

**Punishment and Class Power—The Marxist Perspective**

Rather than viewing punishment as a means of providing social solidarity, Marx (1818–1883) saw punishment as a way to enhance the power of the upper class and an inevitable result of capitalism. Marx referred to the lower class as a “slum proletariat” made up of vagrants, prostitutes and criminals. “In effect, penal policy is taken to be one element within a wider strategy of controlling the poor; punishment should be understood not as a social response to the criminality of individuals but as a mechanism operating in the struggle between social classes” (Garland, p.128).

The Marxist perspective sees punishment as a way to control the lower class and preserve the power of the upper class.

This rationale was doubtless operating throughout the Middle Ages, the Renaissance, the Reformation and into the nineteenth century. Society was divided into a small ruling class, a somewhat larger class of artisans and a vastly larger class of peasants. Intimidation through brutal criminal law was an important form of social control. Flicker (1990, p.38) sees this rationale operating in the development of our juvenile justice system:

The unfortunate historical fact is that the juvenile justice system . . . began with the right observation and the wrong conclusion. Manifestly, poor people are more likely to beg, steal, and commit certain other crimes related to their social and economic status than affluent people. Although socially unacceptable, crime could
be seen as a response to poverty. It was a way to get money. The preferred solutions—jobs, vocational training, financial assistance for the unemployable—required a constructive community attitude toward the disadvantaged. But a combination of Calvinism, prejudice, and social Darwinism confused cause and effect—idleness, inferiority, and criminality were seen as causing poverty, rather than the reverse. Therefore progressive elements in the community, the social reformers, felt justified in saving impoverished children from the inexorable path of crime by investigating their homes and families, attempting to imbue them with principles of Christian morality, and, if unsuccessful, removing them to a better environment.

Today’s justice professionals and, in fact, society as a whole have differing attitudes and opinions regarding how the juvenile justice system should address the issues of delinquency and punishment. These philosophies are often categorized as either conservative or liberal. The conservative attitude is to “get tough,” “stop babying these kids” and “get them off the streets.” This is reminiscent of the child savers’ efforts to “contain” certain children.

The conservative approach to juvenile justice is “get tough on juveniles”—to punish and imprison them.

The conservative philosophy accepts retribution as a purpose of punishment. The conservative view also supports the use of imprisonment to control crime and antisocial behavior. Rehabilitative programs may be provided during incarceration, but it is imprisonment itself, with its attendant deprivations, that must be primarily relied on to prevent crime, delinquency and recidivism. Correctional treatment is not necessary.

In contrast, the liberal attitude toward juvenile justice is “treatment, not punishment” for youths who are antisocial and wayward.

The liberal approach to juvenile justice stresses treatment and rehabilitation, including community-based programs.

The theoretical roots of these two perspectives can be found in the centuries-old competing world views of who or what is responsible for crime.

Two distinct and opposing views exist as to who or what is responsible for crime—the classical view and the positivist view.

In the eighteenth century, criminologists began to apply the scientific method to explore the causes of crime. A leader of the classical school was Cesare Beccaria (1738–1794), whose *On Crimes and Punishment* was published in 1764.

The classical world view holds that humans have free will and are responsible for their own actions.
Other important principles of the classical theory, also called the classical view of criminality, include the following:

- Individuals have free will. Some choose to commit crime.
- Laws should bring the greatest measure of happiness to the largest number of people.
- Those who break the law should be punished according to penalties established in the law.
- The focus is on crime.

Like Durkheim, Beccaria believed that society functions under a social contract, with individuals giving up certain freedoms to live peacefully together. Classical theorists believed that delinquency was the result of free will. Consequently, they advocated harsh and immediate punishment so offenders would be “unwilling” to commit future crimes.

Proponents of the classical view advocate punishment for offenders.

Several aspects of the classical view are found in the juvenile justice system. Classical theory suggests that the threat of punishment will lower youths’ tendency toward delinquency. If the punishment is severe enough, youths will avoid delinquent activity, a process known as deterrence. However, the effectiveness of deterrence is uncertain. Many law violators believe they will never be caught, and if they are, they believe they can “beat the rap.” Those who violate the law under the influence of drugs may think they are invincible. Punishment is no threat to them. Juveniles may also resist the threat of punishment because of peer pressure. Being rejected by the gang would be worse than getting caught by the police. Indeed, being arrested and serving time are often seen as rites of passage, endowing a sort of higher status on those who make the journey. Also, many juveniles know the differences between juvenile and adult court and believe they will receive less severe punishment because of their age.

Classical theory also advocates incapacitation as a consequence for criminal activity. Institutionalization is intended not to rehabilitate offenders, but to keep them away from law-abiding society. Classical theory holds that criminal offenders should be sanctioned merely because they deserve punishment, and that punishment should be founded on what the offender deserves. Critics say this “just deserts” approach is actually a desire for revenge. Since the first juvenile court in 1899, the juvenile justice system has opposed deserts-based punishment. Incarcerated juveniles were usually given short sentences (1 to 3 years at most) and sent to a nonpunitive, rehabilitation-oriented institution.

Classical view theorists suggest that deterrence, incapacitation and, in some cases, just deserts punishment is the way to deal with delinquency.
Classical theorists’ views conflict with those adhering to the *parens patriae*-philosophy, which advocates reform as a more appropriate way to deal with delinquency. During the nineteenth century another view of criminality was developed in reaction to the classical theory.

**The Positivist World View**

A leader of the positivist world view was Cesare Lombroso (1835–1909), an Italian physician who studied the brains of criminals. Lombroso maintained that criminals were born with a predisposition to crime and needed exceptionally favorable conditions in life to avoid criminal behavior. As the originator of the positivist view of criminality—that is, transferring emphasis from the crime itself to the criminal behavior—Lombroso has been called the father of modern criminology. He firmly believed that criminals were literally born, not made—that the primary cause of crime was biological. He was writing at the same time that Charles Darwin’s theory of evolution was becoming widely circulated, and he was probably greatly influenced by Darwin’s ideas. Although some of Lombroso’s work was later found to be flawed, he started people thinking about causes for criminal behavior other than free will.

The *positivist world view* holds that humans are shaped by their society and are the product of environmental and cultural influences.

Other important principles of the positivist theory, also called the *positivist view of criminality*, include:

- Individuals’ actions are determined not by free will but by biological and cultural factors.
- The purpose of law is to avert revolution and convince the masses to accept the social order.
- The focus is on the criminal.

The positivist-view theorists, who believe delinquent behavior is the result of a youth’s biological makeup and life experiences, think treatment should include altering one or more of the factors that contributed to the unlawful behavior.

Proponents of the positivist view advocate rehabilitation for offenders.

Positivist theorists stress community treatment and rehabilitation rather than incapacitation. For years the *parens patriae* attitude prevailed, with youths shielded from being labeled and punished as criminals.

Building on Lombroso’s idea that environmental influences affected criminal behavior, some scholars developed the positivist view of criminality based on the concept of determinism. Determinism views human behavior as the product of multiple environmental and cultural influences rather than a single factor.
Throughout the ages societies have embraced one view or the other, with many people taking a middle position but tending toward one view. And these two world views have profoundly affected the various theories about the causes of crime and delinquency that have been set forth over the years.

Over time, many theories have been developed to explain why people fail to obey society’s laws—why do they become criminals? Other theories take the opposite approach and try to explain why people obey the laws—why do they not become criminals? As you explore the theories that follow, keep these two questions in mind.

During the first half of the twentieth century, several interpretations of the cause of delinquency gained prominence. The earliest theories explored biological and psychological factors. In fact, physical and psychological examinations of children who were brought before the court were standard orders in the juvenile court process. Judicial disposition often included individual counseling and psychological therapy. In the 1950s, under the influence of therapists such as Carl Rogers, group counseling became common in most juvenile institutions.

Slowly, this approach was replaced with social milieu and environmental explanations for delinquency. Delinquency prevention attempts focused on reorganizing the social environment—both physically, through housing renewal, and socioeconomically, through social welfare. There was a significant philosophical shift of the blame for delinquency from personal to social factors. Consequently, the federal government was increasingly drawn into the process of juvenile delinquency prevention.

Early efforts to explain crime and delinquency were set forth in the classical theory and the positivist theory. Later theories focused on biological, psychological or sociological causes of crime and delinquency. Most recently, critical theories of the causes of crime and delinquency have been developed.

Biological Theories

Some researchers propose biological explanations for crime. They find that some biological characteristics appear more frequently in criminals than in noncriminals. In other words, they believe there are such things as criminal genes.

Biological theories include physiognomy, phrenology, body type and heredity studies, including studies of twins and adoptees.

Physiognomy Studies

Physiognomy assigns character traits to physical features, especially facial features. Curran and Renzetti (1994, p.39) note that in the Middle Ages the law specified that if “two people were suspected of having committed the same crime, the uglier one should be regarded as more likely the guilty party.” Indeed, people tend to have a mental picture of criminals. Some researchers have pointed out that criminals tend toward large, prominent or crooked noses, abnormal ears, lantern jaws, high cheek bones, higher sex drives, lower intelligence, larger body
types, longer arms, larger lips or abnormal amounts of body hair. Researchers search for predominant factors among criminals and compare these factors with their presence or absence in the general population.

**Phrenology**

Phrenology studies the shape of the skull to predict intelligence and character. This was the approach used by Cesare Lombroso, who believed that at birth criminals are recognizable by certain anomalies. Such anomalies do not cause crime, but they indicate a predisposition to criminal behavior. Techniques used in phrenology are sometimes demonstrated at fairs or shopping malls.

**Body Type Theories**

Going beyond the study of the skull to predict predisposition to criminality, William Sheldon (1898–1977) theorized that humans can be divided into three distinct body types, or somatotypes, corresponding to three distinct personalities: (1) the endomorphic—soft, fat, easygoing; (2) the mesomorphic—athletic, muscular, aggressive; and (3) the ectomorphic—thin, delicate, shy, introverted.

**Heredity Studies**

Bohm (1997, pp.39–40) describes studies of twins and of adopted boys that tend to support a biological basis for predisposition to crime. More than a half-century of using this methodology reveals that identical twins are more likely to demonstrate concordance (where both twins have criminal records) than are fraternal twins. This supports the heredity link. A problem with the twin studies, however, is the potential confounding of genetic and environmental influences.

The findings from adoption studies reveal that the percentage of adoptees who are criminal is greater when the biological father has a criminal record than when the adoptive father has one. Thus, like the twin studies, the adoption studies presumably demonstrate the influence of heredity but cannot adequately separate it from the influences of the environment.

**Other Approaches Supporting Biological Causation Theories**

Some biological studies have indicated that chromosomal factors may be responsible for criminal behavior. If this is true, certain people are victims of their own heritage. For example, high testosterone has been associated with aggressive physical and sexual behavior. Testosterone injected into female rats causes them to adopt the male characteristics of aggressive physical and sexual behavior.

Other studies have indicated that high levels of specific chemicals or elements in the body, as well as allergic reactors, contribute to aggression and perhaps criminality. For example, abnormal levels of manganese, zinc, copper or chromium may cause antisocial behavior. Furthermore, some researchers believe that nutritional factors are related to abnormal behavior. Abnormal EEG patterns have also been recorded in some prisoners.

As noted by Donohue (1995, p.1): “The genetics and crime issue is one very hot potato” and results in “a crime-causation hornet’s nest.”
He notes (p.12): “Many scientists doubt the existence of a so-called ‘crime gene,’ adding fuel to the age-old ‘nature vs. nurture’ debate with respect to crime causation.” He concludes:

Scientists say that low levels of serotonin, a neurotransmitter that helps regulate emotions, may cause people to become violent. Since serotonin deficits have been tied to both genetic defects and environmental factors, serotonin studies may help sociologists and scientists find a common ground in the debate on how to reduce violent crime.

Exploring psychological causes of crime has produced a number of explanations, including the following:

- Criminals are morally insane; what they do criminally they do not perceive as wrong.
- Personality is developed in early childhood. Future behavior is determined in early childhood. Subsequent sociological and environmental associations do not change this early behavior development.
- Certain people have personalities so deviant that they have little or no control over their impulses.
- There are criminal families in which succeeding generations gravitate toward criminality.
- Mental and moral degeneration cause crime.
Psychological theories about crime focus on intelligence and psychoanalysis.

Intelligence and Crime
H. H. Goddard (1866–1957) was one of the earliest psychologists to link intelligence and criminality. Goddard believed that criminals are not necessarily biologically inferior, although they might be intellectually inferior. This correlation was again brought to public attention by Herrnstein and Murray (1994), who used the bell-shaped normal curve from statistical studies to promote the idea that individuals’ intelligence falls within this curve and may also account for criminality.

Psychoanalysis
The psychoanalytic theory of Sigmund Freud (1859–1939) was a popular explanation for human behavior. It stated that personality imbalances had their roots in abnormal emotional and mental development. A person might become fixed at a certain developmental stage or regress to an earlier stage.

Of most importance to the study of criminality is Freud’s explanation of problems that arise from fixation at or regression to the phallic stage (3 to 6 years of age). Fixation or regression to this stage may result in sexual assault, rape or prostitution. It may also result in unresolved oedipal or electra conflicts. According to Bohm (p. 56):

Individuals who do not successfully resolve the oedipal or electra complex, and thus do not develop a strong superego capable of controlling the id, were called psychopaths by Freud. (Sociologists call them sociopaths.) Many criminal offenders are presumed to be psychopaths, sociopaths, or antisocial personalities and are characterized by no sense of guilt, no subjective conscience and no sense of right and wrong.

Sociological Theories
Sociology is the study of human social structures and human relationships. People start life as members of families and later learn to live with other work and social groups. Some sociologists believe that criminals are molded by social conditions and the environment in which they develop. Not everyone has the same goals or ways to achieve them. Some people choose to reach goals of financial success and power through illegal acts. To what extent social conditions cause criminal behavior is a subject of much debate.

There are several opinions about the relationship of sociological theories and crime occurrence, including the following:

- Lack of education, poverty-level income, poor housing, slum conditions and conflict within home and family probably increase crime commission. Achievement expectations are low. If all these conditions disappeared, crime would decrease.
- Continual lawbreaking causes an individual to become part of a subculture that advocates crime and violence as a way to achieve goals or solve...
problems. It operates outside society’s rules. Crimes committed within the subculture are rarely reported to police.

- Behavior is learned. There is good and bad, right and wrong behavior. Identical pressures affect criminals and noncriminals alike.

Sociological theories include ecological models, social disorganization, functionalism, anomie or strain theory, learning theories and social control theories.

The Ecological Model

Ecology is the study of the relationships between organisms and their environment. Findings from ecology were the basis for the ecological model, first described by sociologist Robert Park, University of Chicago (1964–1966). Park et al. (1928) compared the growth of a city and its attendant crime problems with growth in nature. They found that cities were environments like those found in nature, governed by the same forces that affect natural ecosystems.

Ecologists explain that the plant life in an area of land goes through several stages of growth. First is an invasion period when a new species of plant attempts to gain a foothold. Next the new plant may take over the area or dominate it. Finally the environment stabilizes, accepting the presence of its new dominant organism. A biotic balance occurs when the relations between the different species of plants and their necessary conditions for survival maintain an equilibrium. All the organisms are then able to survive and prosper. Ecologists also describe how two different organisms can live together in a mutually beneficial relationship known as symbiosis.

Park encouraged his colleagues and students to study the dynamics of urban life using this ecological model to explain many of the conditions that existed and the problems that plagued cities. Communities could be studied in part by analyzing the invasion, domination and succession of different ethnic and racial groups. Problems within the community could perhaps be alleviated by studying the presence or absence of a biotic balance and symbiosis in a neighborhood.

In addition, according to Parks, researchers can demarcate a city based on its outwardly moving growth pattern of concentric zones, with each zone representing a particular form of development and community life. The ecological model stressed that any explanation of criminal behavior cannot be taken out of its social context.

Social Disorganization Theory

Two other Chicago sociologists, Shaw and McKay (1942), applied the ecological model to a study of delinquency. Their area studies involved 25,000 delinquents from the Juvenile Court of Cook County from 1900 to 1933. They, too, found concentric zones within an area, with transitional inner-city zones having the highest crime rates. Their social ecology theory suggested that ecological conditions predicted delinquency and that gang membership is a normal response to social conditions.
Shaw and McKay’s social disorganization theory contended that urban areas produced delinquency directly by weakening community controls and generating a subculture of delinquency passed from one generation to the next. Their social disorganization theory was built upon by other sociologists, including Sampson and Groves (1989), who developed the social disorganization model shown in Figure 2.1.

### Functionalism

Harvard sociologist Parsons (1902–1979) developed a theory explaining criminal behavior as an integral part of our society. Borrowing from Durkheim, Parsons’ functionalism theory viewed crime as a necessary part of society. Without crime who would need laws, lawyers, police officers, courts, judges, jails and jailers?

### Anomie or Strain Theory

Building on Parsons’s theory of functionalism, Robert Merton (1910–2003) saw a basic conflict between cultural goals in the United States and our social structure. Merton (1938) adopted Durkheim’s concept of anomie—the breakdown of social norms, individuals dissociating themselves from the collective conscience of the group—as the basis for his theory.

Because most people believe in the American Dream (that is, through hard work anyone can become rich), strive for it and fall short, they experience a strain (Merton, 1938). Anomie or strain theory is explored by Messner and Rosenfeld (1977) in *Crime and the American Dream*. They (p.11) note:

> Our analysis is grounded in the variant of anomie theory associated with the work of the American sociologist Robert K. Merton. Merton combines strategic ideas from Durkheim with insights borrowed from Karl Marx, another founding figure in the social sciences, to produce a provocative and compelling account of the social forces underlying deviant behavior in American society. . . .

> Most importantly, we accept Merton’s underlying premise that motivations for crime do not result simply from the flaws, failures, or free choices of individuals. A complete explanation of crime ultimately must consider the sociocultural environments in which people are located.
The views of Messner and Rosenfeld are presented in the preface of their text (p.xi):

The essence of our argument is that the distinctive patterns and levels of crime in the United States are produced by the cultural and structural organizations of American society. American culture is characterized by a strong emphasis on the goal of monetary success and a weak emphasis on the importance of the legitimate means for the pursuit of success. This combination of strong pressures to succeed monetarily and weak restraints on the selection of means is intrinsic to the dominant cultural ethos: the American Dream. The American Dream contributes to crime directly by encouraging people to employ illegal means to achieve goals that are culturally approved. It also exerts an indirect effect on crime through its interconnections with the institutional balance of power in society.

The American Dream promotes and sustains an institutional structure in which one institution—the economy—assumes dominance over all others. The resulting imbalance in the institutional structure diminishes the capacity of other institutions, such as the family, education, and the political system, to curb criminogenic cultural pressures and to impose controls over the behavior of members of society. In these ways, the distinctive cultural commitments of the American Dream and its companion institutional arrangements contribute to high levels of crime.

Cohen (1955) also built upon Merton’s work, adapting his anomie/strain theory in an attempt to explain gang delinquency. Cohen replaced Merton’s social goals of wealth with acceptance and status. Youths abandoned the middle-class values for their own values—attaining status among their peers. Cohen’s study of delinquent subculture, set forth in *Delinquent Boys* (1955), found that delinquency was caused by social and economic limitations, inadequate family support, developmental handicaps and status frustration. The result: short-run hedonism and group autonomy.

Closely related to strain theorists are those who look at the correlation between unemployment and crime. For example, Carlson and Michalowski (1997, pp.210–211) note:

The proposition that increases in unemployment will generate increases in crime has long been accepted as a basic tenet of the macro sociology of crime and delinquency. A number of otherwise competing models of crime causation such as conflict theory, Marxian theories, social disorganization theories, and strain theory share the assumption that economic distress generated by rises in unemployment will increase crimes against both persons and property.

Another strain theorist is Agnew (1992) who identified three sources of strain: (1) failure to achieve positively valued goals, (2) the removal of positively valued stimuli and (3) the presentation of negative stimuli.

**Learning Theories**

In the 1930s and 1940s, Sutherland (1883–1950) set forth the proposition that criminal behavior is learned through imitation or modeling. In *Principles of Criminology* (1939) with Cressey, he set forth the principles of differential association. Among their propositions are the following (Sutherland and Cressey, 1974, pp.75–77):

- Criminal behavior is learned in interaction with other persons in a process of communication.
The principal part of the learning of criminal behavior occurs within intimate personal groups.

The process of learning criminal behavior by association with criminal and anticriminal patterns involves all the mechanisms involved in any other type of learning.

A person becomes delinquent because of an excess of definitions favorable to the violation of law over definitions unfavorable to the violation of law. This is the principle of differential association.

Sutherland’s differential association theory is still an important theory of crime causation. As noted by Bohm (p.99): “Learning theory explains criminal behavior and its prevention with the concepts of positive reinforcement, negative reinforcement, extinction, punishment, and modeling or imitation.” Many of these factors were explored thoroughly during the 1960s and 1970s based on the behavior modification studies initiated by B. F. Skinner.

Social Control Theories

An influential contemporary social control theorist is Travis Hirschi, whose text Causes of Delinquency (1969) greatly influenced current thinking. Hirschi’s social control theory traces delinquency to the bond that individuals maintain with society. Social controls rather than moral values are what maintain law and order. A lack of attachment to parents and school can result in delinquency. Hirschi believed that delinquency resulted from a lack of proper socialization and particularly ineffective child-rearing practices. As Bohm (p.104) suggests: “For Hirschi, proper socialization involves the establishment of a strong moral bond between the juvenile and society. This bond to society consists of (1) attachment to others, (2) commitment to conventional lines of action, (3) involvement in conventional activities, and (4) belief in the moral order and law.”

Critical Theories

As the name suggests, some theorists became disenchanted with the failure of existing theories to satisfactorily explain the causes of crime. Critical theory combines the classical free-will and positivist determinism views of crime, suggesting that humans are both self-determined and society-determined. As noted by Bohm (p.110): “Critical theories assume that human beings are the creators of the institutions and structures that ultimately dominate and constrain them.”

Critical theories include labeling theory, conflict theory and radical theory.

Labeling Theory

According to Bohm (p.112), labeling theory has its roots in the work of George Herbert Mead (1863–1931), whose ideas can be summarized in three propositions:

- Humans act toward things on the basis of the meanings the things have for them.
- The meaning of things arises out of social interaction.
These meanings are handled in, and modified through, an interpretative process people use to deal with things they encounter.

A belief in labeling theory can greatly influence how juveniles are treated by the juvenile justice system.

In labeling theory, it is important to differentiate between primary deviance and secondary deviance. **Primary deviance** is the initial criminal act. **Secondary deviance** is accepting the criminal label and consequently committing other crimes. If a person commits a delinquent act and is labeled a delinquent, this may affect the person’s chance to make friends or get a good job. It may also become a self-fulfilling prophecy—that is, the person may accept the label and act accordingly.

Messner and Rosenfeld (p.45) suggest: “The principal contribution of labeling theory is to call attention to the interplay between social control and personal identity.”

**Conflict Theory**
Conflict theory has been discussed. To briefly review, as Messner and Rosenfeld (p.45) summarize: “Conflict theories emphasize the political nature of crime production, posing the question of how the norms of particular groups are encoded into law and how, in turn, law is used as a means of domination of certain groups by others.” More specifically: “For conflict theorists, the amount of crime in a society is a function of the extent of conflict generated by stratification, hierarchical relationships, power differentials, or the ability of some groups to dominate other groups in that society. Crime, in short, is caused by relative powerlessness” (Bohm, p.119).

**Radical Theory**
Bohm (pp.124–125) also describes radical theory as a way to explain crime:

Radical criminologists focus their attention on the social arrangements of society, especially on political and economic structures and institutions (the “political economy”) of capitalism. . . .

Crime is a product of the political economy that, in capitalist societies, encourages an individualistic competition among wealthy people and among poor people and between rich and poor people (the intra- and interclass struggle) and the practice of taking advantage of other people (exploitation).

**Conclusion**
Appendix A (Found on the book companion Web site at cj.wadsworth.com/hess_drowns_jj4e) provides a comprehensive summary of the most prominent theories on the causation of crime and delinquency. As noted by Ohlin (1998, p.143):

One of the most striking developments in juvenile justice over the past 20 years has been the increasing rapidity and the widening scope of change in theories, goals, and knowledge about delinquency and its prevention or control. Many competing biological, psychological, social, and cultural theories of delinquency have emerged in the past two decades, yet none is sufficient to account for the rate and forms of delinquency today.

No single theory is sufficient to explain why delinquency exists. A reasonable combination of theories must be considered.

Having examined the primary theories and philosophies that have prevailed throughout the evolution of the juvenile justice system, you should better under-
understand the ideologies that led juvenile justice to diverge from the path of adult criminal justice. To conclude, this chapter will look at the structure and process of the contemporary juvenile justice system and its relationship to the criminal justice system. You will then have a framework to see how each of the components within the juvenile justice system relates to each other and how what happens in one component influences what happens in the others.

The contemporary juvenile justice system parallels the criminal justice system in many ways, but it has important differences that have evolved as the juvenile system changed and adapted to meet the expectations of society and the needs of children and youths.

As the juvenile justice system evolved into one separate from the adult system, the terms used were tailored to fit the juvenile system.

The terminology of the juvenile justice system underscores its emphasis on protecting youths from harmful labels and their stigmatizing effects.

Youths are not arrested; they are taken into custody. If the allegations against the youth are true, the youth is called a delinquent rather than a criminal. Youths sentenced to custodial care upon release receive aftercare rather than parole. Table 2.1 shows other differences in terminology used between the juvenile and adult justice systems.

Although the juvenile justice system is intended to protect youths, even those who commit crimes, provisions have been made to transfer youths into the criminal justice system. According to Griffin (2000):

- All states allow adult criminal prosecution of juveniles under some circumstances. The most common mechanism for transferring juveniles to adult criminal court is the judicial waiver: as of the end of the 1999 legislative sessions, there are 47 states that authorize or require juvenile court judges to waive jurisdiction over individual cases involving minors, so as to allow prosecution in adult criminal courts. Statutes in 15 states give prosecutors discretion to file certain kinds of cases in juvenile or criminal court. And 29 states have laws that exclude certain kinds of cases from the jurisdiction of the juvenile court and require that they be tried in criminal court.

Consider next how cases flow through the juvenile justice system—and sometimes out of it into the criminal justice system.

Like the criminal justice system, the juvenile justice system has three components: law enforcement, the courts and corrections.

Figure 2.2 presents a simplified view of caseflow through the juvenile justice system and illustrates how the juvenile system relates to the criminal justice system.

The flow from law enforcement through the courts to corrections has many places along the way during which diversion, the official halting of formal juvenile proceedings and referral of the juvenile to a treatment or care program, may
Table 2.1
The Language of Juvenile and Adult Courts

<table>
<thead>
<tr>
<th>Juvenile Court Term</th>
<th>Adult Court Term</th>
</tr>
</thead>
<tbody>
<tr>
<td>Adjudication: decision by the judge that a child has committed delinquent acts.</td>
<td>Conviction of guilt</td>
</tr>
<tr>
<td>Adjudicatory hearing: a hearing to determine whether the allegations of a petition are supported by the evidence beyond a reasonable doubt.</td>
<td>Trial</td>
</tr>
<tr>
<td>Adjustment: the settling of a matter so that parties agree without official intervention by the court.</td>
<td>Plea bargaining</td>
</tr>
<tr>
<td>Aftercare: the supervision given to a child for a limited period of time after he or she is released from training school but while he or she is still under the control of the juvenile court.</td>
<td>Parole</td>
</tr>
<tr>
<td>Commitment: a decision by the judge to send a child to training school.</td>
<td>Sentence to imprisonment</td>
</tr>
<tr>
<td>Delinquent act: an act that if committed by an adult would be called a crime. The term does not include such ambiguities and noncrimes as being ungovernable, truancy, incorrigibility and disobedience.</td>
<td>Crime</td>
</tr>
<tr>
<td>Delinquent child: a child who is found to have committed an act that would be considered a crime if committed by an adult.</td>
<td>Criminal</td>
</tr>
<tr>
<td>Detention: temporary care of an allegedly delinquent child who requires secure custody in physically restricting facilities pending court disposition or execution of a court order.</td>
<td>Holding in jail</td>
</tr>
<tr>
<td>Dispositional hearing: a hearing held subsequent to the adjudicatory hearing to determine what order of disposition should be made for a child adjudicated as delinquent.</td>
<td>Sentencing hearing</td>
</tr>
<tr>
<td>Hearing: the presentation of evidence to the juvenile court judge, his or her consideration of it, and his or her decision on disposition of the case.</td>
<td>Trial</td>
</tr>
<tr>
<td>Juvenile court: the court that has jurisdiction over children who are alleged to be or found to be delinquent. Juvenile delinquency procedures should not be used for neglected children or for those who need supervision.</td>
<td>Court of record</td>
</tr>
<tr>
<td>Petition: an application for a court order or some other judicial action. Hence, a delinquency petition is an application for the court to act in a matter involving a juvenile apprehended for a delinquent act.</td>
<td>Accusation or indictment</td>
</tr>
<tr>
<td>Probation: the supervision of a delinquent child after the court hearing but without commitment to training school.</td>
<td>Probation (with the same meaning as the juvenile court term)</td>
</tr>
<tr>
<td>Residential child care facility: a dwelling other than a detention or shelter care facility that is licensed to provide living accommodations, care, treatment, and maintenance for children and youths. Such facilities include foster homes, group homes, and halfway houses.</td>
<td>Halfway house</td>
</tr>
<tr>
<td>Shelter: temporary care of a child in physically unrestricting facilities pending court disposition or execution of a court order for placement. Shelter care is used for dependent and neglected children and minors in need of supervision. Separate shelter care facilities are also used for children apprehended for delinquency who need temporary shelter but not secure detention.</td>
<td>Jail</td>
</tr>
<tr>
<td>Take into custody: the act of the police in securing the physical custody of a child engaged in delinquency. The term is used to avoid the stigma of the word &quot;arrest.&quot;</td>
<td>Arrest</td>
</tr>
</tbody>
</table>


Part Three looks at the three components of the juvenile justice system in detail and discusses when and how diversion occurs throughout the process. Notice also the points at which youths may be transferred to the criminal justice system and vice versa.

To Divert or Not?
No problem is more troublesome than the delicate balance between protecting children in a free society and protecting society from criminal behavior. Concern over this issue was evident during the conception and birth of juvenile justice
Criminal justice system
- Detention
- Aftercare
- Probation or other non-residential disposition

Law enforcement
- Non-law enforcement sources
- Law enforcement

Diversion
- Statutory exclusion
- Prosecutorial discretion
- Transfer to juvenile court
- Judicial review
- Revocation
- Probation or other non-residential disposition

Prosecution
- Juvenile court intake
- Formal processing
- Adjudication
- Dismissal
- Informal processing/diversion

Detention
- Diversion

Note: This chart gives a simplified view of caseflow through the juvenile justice system. Procedures vary among jurisdictions. The weights of the lines are not intended to show the actual size of caseloads.

Source: On the Internet: http://ojd.ncjrs.org/facts/casehog.html
centuries ago. Indeed, throughout the evolution of the juvenile justice system, society’s values and attitudes toward crime and those who commit it have swung back and forth, constantly adjusting to suit how society perceives delinquency.

When viewed against the backdrop of prevailing social sentiment and philosophy regarding crime and punishment, citizens’ current attitudes remain pivotal in defining the structure and process of the juvenile justice system. According to the *Sourcebook of Criminal Justice Statistics 2001* (p.139) public sentiment supports the “get tough” trend for youths who commit violent crimes. Fewer than one-fourth (24 percent) thought youths between the ages of 14 and 17 who commit violent crimes should be given more lenient treatment. Sixty-five percent felt they should be treated the same as adults; 1 percent felt they should be treated “tougher.” Nine percent responded that it “depends.” One percent did not know or refused to answer.

Nonethless, according to Griffin and Torbet (2002, p.23): “Adolescents really are different from adults, in their bodies and in their minds. It is relatively easy for them to get into trouble. And when they do, it is harder to hold them fully at fault. That’s why we have a court that specializes in second chances—for young people who are still learning from their mistakes.” In fact, according to Griffin and Torbet (p.33) the second chance may be given before a youth faces the formal juvenile justice process: “Nationally, about a third of all juveniles arrested by police are handled informally within the police department and then released.”

The decision to divert youths from the juvenile justice process at numerous points along the way results in what is often called the funnel effect.

**The Funnel Effect**

The funnel effect describes how at each point in the system fewer and fewer youths pass through. In the entire justice system, this phenomenon is described by Sickman (2002): “For every 1,000 violent crimes committed, 604 are reported to the police, 286 arrests are made of which 46 involve suspects younger than 18. Twenty-three juvenile court adjudications results. Of these 8 residential placements are ordered and 14 other sanctions imposed, for example, probation, community service, fines and the like.”

This same funnel effect in delinquency case processing is illustrated in Figure 2.3. As you study this figure, recall that police officers informally handled one-third of arrested youths, so the funnel actually starts with slightly more than 1,500 arrests. It ends with fewer than one-tenth funneled into corrections.

According to Crowe’s classic work in the Serious Habitual Offender Comprehensive Action Program (SHOCAP) (1991, pp.36–37), the funnel effect teaches a number of crucial lessons:

- Schools and police are fundamental to the community control of delinquency.
- School and police officials have more contact with our children than does anyone else, except parents.
- The juvenile justice system is irrelevant to the prevention and diversion of delinquency because the schools and the police are not a significant part of the system. They are at the opening of the “funnel” and have been
mistakenly excluded from the concept of the community’s responsibility for controlling delinquency.

- The contact and information that could be shared between parents, schools and police are key to the effective functioning of the juvenile justice system. They are the filter to the end of the funnel that feeds the legal system that has only one purpose—effective control of individuals whom the community is unable to control.

The funnel effect illustrates the crucial role of law enforcement, schools and parents in the juvenile justice system and process.

**The Justice System and Community Policing**

In addition to parents, schools and the police, community policing suggests that collaboration is also needed among the many government agencies and myriad civic organizations involved directly and indirectly with juveniles.
Most government agencies are under the U.S. Department of Justice through its Office of Justice Programs. The Office of Justice Programs coordinates the activities of these program offices and bureaus: the Bureau of Justice Statistics (BJS), the National Institute of Justice (NIJ), the Bureau of Justice Assistance (BJA), the Office of Juvenile Justice and Delinquency Prevention (OJJDP) and the Office for Victims of Crime (OVC) (see Figure 2.4). These offices often conduct joint efforts and programs.

Restorative justice fits well with the community policing philosophy. As Bazemore and Umbreit (p.1) suggest: “Restorative justice is a framework for juvenile justice reform that seeks to engage victims, offenders and their families, other citizens and community groups both as clients of juvenile justice services and as resources in an effective response to youth crime.”

The Complexity of the Juvenile Justice System

As the NCJJ (2002, p.4) notes: “There are not 1, but 51 juvenile justice systems in this country, each with its own history, its own set of laws and policies, and its own unique organizational, administrative and fiscal structures. Even within a
single state, the mandates conceived in the capitol building must be interpreted and implemented by a multitude of local officials, under widely varying conditions, and with widely varying effects. Without a thorough understanding of this background complexity, no broad question of juvenile justice practice or policy can be adequately answered, no legal generalization can be meaningful, and no descriptive statistic can be useful."

In addition to having their own juvenile justice systems, states have begun to de-emphasize traditional confidentiality concerns while emphasizing information sharing. During the early 1990s, states made significant changes in how the juvenile justice system treats information about juvenile offenders, particularly violent juvenile offenders. As juvenile crime became more serious, community protection, the public’s right to know and service providers’ need to share information displaced the desire to protect minors from the stigma of youthful indiscretions. Legislatures throughout the country have increasingly called for a presumption of open hearings and records, at least for a subset of juvenile offenders.

In addition, pressure has increased to publish the names of young offenders, to lower the minimum age at which youths are under the jurisdiction of the juvenile justice system and to broaden the scope of cases transferable to adult court. As a result, the treatment of youths is becoming more similar to that of adults.

Summary

Distributive or social justice provides an equal share of what is valued in a society to each member of that society. This includes power, prestige and possessions. Retributive justice seeks revenge for unlawful behavior. Restorative justice focuses on repairing the harm done to victims and to the community and stresses that offenders must contribute to the repair. The harm refers to unlawful behaviors or crimes. Unlawful behaviors or crimes were originally differentiated in the
following two ways: (1) mala in se, an act considered wrong in and of itself based on mores, natural law and common law, and stable over time, or (2) mala prohibita, a prohibited wrong, originating in folkways and man-made statutory law and changeable over time.

Two prominent theories as to the underlying purpose of law are consensus theory and conflict theory. Consensus theory contends that individuals within a society agree on basic values, on what is inherently right and wrong. Laws express these values. It includes the Durkheimian perspective, which sees punishment as revenge and a way to restore and solidify the social order.

Conflict theory suggests that laws are established to keep the dominant class in power. It includes the Marxist perspective, which sees punishment as a way to control the lower class and preserve the power of the upper class.

Contemporary views on the treatment of juveniles include the conservative approach—to “get tough on juveniles,” to punish and imprison them—and the liberal approach, which stresses treatment and rehabilitation, including community-based programs. These approaches have their roots in two competing world views: the classical view and the positivist view.

The classical world view holds that humans have free will and are responsible for their own actions. Proponents of the classical view advocate punishment for offenders. They suggest that deterrence, incapacitation and, in some cases, “just deserts” punishment is the way to deal with delinquency. The positivist world view holds that humans are shaped by their societies and are the products of environmental and cultural influences. Proponents of the positivist view advocate rehabilitation for offenders.

Early efforts to explain crime and delinquency according to these theories were expanded upon and refined. Later theories focused on biological, psychological or sociological causes of crime and delinquency. Most recently, critical theories of the causes of crime and delinquency have been developed.

Biological theories include physiognomy, phrenology, body type and heredity studies, including studies of twins and adoptees. Psychological theories explaining crime focus on intelligence and psychoanalysis. Sociological theories include ecological models, social disorganization, functionalism, anomie or strain theory, learning theories and social control theories. Critical theories include labeling theory, conflict theory and radical theory. No single theory is sufficient to explain why delinquency exists. A reasonable combination of theories must be considered.

Also of importance are the differences between the adult and the juvenile systems of justice. The terminology of the juvenile justice system underscores its emphasis on protecting youths from harmful labels and their stigmatizing effects. Like the criminal justice system, the juvenile justice system has three components: law enforcement, the courts and corrections. As cases flow through the juvenile justice system, the funnel effect occurs, with diversion reducing the number of youths involved in the formal system at each point in the process. The funnel effect illustrates the crucial role of law enforcement, schools and parents in the juvenile justice system and process.
Discussion Questions
1. Do you take the position of those who hold a classical view or those who hold a positivist view? Do you hold the same view for children as you do for adults?
2. Do you feel that distributive justice is required for the United States to truly provide "liberty and justice for all"?
3. What instances of the Durkheimian or Marxist perspective of punishment can you cite from the historical overview of juvenile justice?
4. Do you support the conservative or liberal approach toward delinquent youths? Which approach is more prevalent in your community? In the United States?
5. Which of the theories of the causation of crime and delinquency seem most logical?
6. Diagram the ecological model as it might look for a major city.
7. How is the labeling theory of importance to parents? Teachers? You?
8. Do you believe you can make the American Dream a reality for yourself? Why or why not?
9. Do you support a separate justice system for juveniles? Why or why not?
10. What are the major differences between the criminal justice system and the juvenile justice system?

InfoTrac College Edition Assignments
- Use InfoTrac College Edition to answer the Discussion Questions as appropriate.
- Select one of the following assignments to complete and share with the class.
  - Use the term labeling theory as the subject guide to find "Labeling and Delinquency" by Mike S. Adams et al.
  - Use the term restorative justice as the subject guide to find one of the following articles:
    - "Restorative Justice as Strength-Based Accountability" by Robert Ball.
  - "Community-Based Mediation Programs: A Case Study and Comparison" by Russell S. Harrison.
  - "Restorative Justice for Young Offenders and Their Victims" by Anna Seymour and Trudy Gregorie.
  - "Restorative Justice for Offenders: A Return to American Tradition" by Emilio C. Viano.

Internet Assignments
- Go to http://distributive-justice.com/mainpage and click on the icon representing "theory." Enter the "theory" page and familiarize yourself with the seven general theories of distributive justice summarized there. Then find the "games" icon and determine your distributive profile: On the login screen, enter your gender, country and age (red fields); all other information is unnecessary. Share your results with the class and discuss whether one or more profiles predominate the members in your class.
- Using key words adoption study and crime, select a site of interest to you and review the material presented. Does the literature support a biological cause of criminality? Be prepared to share your findings with the class.
- Go to www.ncjrs.org to find, read and outline any of the end-of-chapter references with an NCJ number in parentheses or go to any reference having an online address to find, read and outline an entire article.

References


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**Helpful Resource**

Do You Know?

- At what age most individuals legally become adults?
- What ages are most critical in child development?
- What childhood risk factors for child delinquency and later violent juvenile offending are?
- What danger occurs by labeling a child as deviant?
- What two of the most serious consequences for children who live in poverty are?
- What types of children with special needs may be involved in the juvenile justice system?
- What two major peer influences can lead adolescents to delinquency?
- Whether substance abuse correlates with delinquency?
- What characteristics of a healthy family are?
- What common values might be passed on to children by their parents?
- What family-related risk factors might lead to delinquency?
- What the likely result of succeeding in school is?
- Whose approval is often most important during adolescence?
- How students might respond to failure in school?
- What a school-related early-warning sign of potential delinquency is?
- Whether failure in school and delinquency are linked?
- What have been identified as the biggest problems facing local public schools?
- What rights students have within the school?
- What standard the Supreme Court has set for cases involving students’ rights?
- What effect community associations have on child development?
- What community-related risk factors are?

Can You Define?

- adolescence
- adult supremacy
- attention deficit hyperactivity disorder (ADHD)
- behavioral activation
- behavioral inhibition
- collective efficacy
- crack children
- EBD
- fetal alcohol syndrome (FAS)
in loco parentis
- labeling
- learning disability
- Norman Rockwell family
- one-pot approach
- parental efficacy
- radial concept
- self-fulfilling prophecy
- SRO
- thrownaways
- zero-tolerance policies
Before examining our contemporary juvenile justice system, it is important to understand those served by this system—our youths. According to *America’s Children* (2002, p.iii): “In 2000, there were 70.4 million children under age 18 in the United States, or 26 percent of the population. . . . The racial and ethnic diversity of America’s children continues to increase. In 2000, 64 percent of U.S. children were white, non-Hispanic; 15 percent were black, non-Hispanic; 4 percent were Asian/Pacific Islander; and 1 percent were American Indian/Alaska Native. The number of Hispanic children has increased faster than that of any other racial and ethnic group, growing from 9 percent of the child population in 1980 to 16 percent in 2000.”

An extreme challenge facing the juvenile justice system is the one-pot approach to youths evident throughout history. The **one-pot approach** lumps children and youths who are abused and neglected, those who commit minor offenses and those who commit vicious, violent crimes into the same judicial “pot.”

But their needs and the approaches required to meet those needs are drastically different. The next three chapters discuss the needs of each of these groups. The National Center for Juvenile Justice (*Annual Report 2001*) stresses: “No aspect of national interest is more significant than what happens to young people when they are troubled, particularly those we label as ‘abused children,’ ‘dependent children,’ ‘neglected children,’ ‘status offenders’ and ‘juvenile delinquents.’” Preventing our children and youths from becoming “problems” of the justice system is a logical first step. This chapter focuses on normal patterns of growth and development and special challenges to anticipate.

Growth and development do not occur in isolation. They involve a complex interaction of family, school and community, with the family being the first and most vital influence. As children grow, the school becomes an important influence, be it preschool, kindergarten, public or private school. As youths approach adolescence, the influence of parents and teachers wanes and that of peers becomes stronger. All of this occurs within the broader community within which children live. This **radial concept** of the influences on growth and development is illustrated in Figure 3.1.

This chapter begins with a brief discussion of youths, *parens patarie* and the age at which juvenile courts have jurisdiction as well as the rights our youths ideally enjoy. This is followed by an explanation of how they normally grow and develop. Next the effect of poverty on growth and development is described, followed by a look at children with special needs and those at risk of not developing normally. The chapter then discusses adolescence and the unique challenges and stresses of this developmental stage, including the problems of substance abuse and teenage pregnancy.

The chapter next examines the critical role played by family, school and community in youths’ growth and development. It begins with an in-depth look at the importance of the family and at practices such as spanking, at values that might be instilled in our youths, at family-related risk factors and at how the disintegration of the family is affecting the juvenile justice system. The second major influence, the school, has also undergone significant changes and faces
recurring challenges, including crime and violence and increasing numbers of children entering school not ready to learn. Next the chapter examines common educational practices that might promote failure, how students might react to that failure and what link these have with delinquent behavior. Then steps schools have taken and what more might be done to enhance learning and success are discussed. This is followed by a brief discussion of students’ constitutional rights within the school setting. The chapter concludes with a discussion of the third major influence in child development, the community, including the development of full-service community schools in some localities.
Under the principle of *parens patriae*, the state is to protect its youths. The age at which a child becomes an adult is legally established by each state. The oldest age for original juvenile court jurisdiction in delinquency matters as of the end of the 2002 legislative session is summarized in Table 3.1.

Note the range from 15 to 17 years of age. In previous editions of this text the range was from 16 to 19 with the most common age being 18. This lowering of the oldest age reflects the current tendency to “get tough” on youths in trouble with the law.

Seventeen is the age most commonly recognized as the beginning of legal adulthood.

Until they “come of age,” it is generally understood that youths need special assistance. In fact, more than 30 years ago the Joint Commission on Mental Health of Children (1970, pp.3–4) listed the following children’s rights—the right to be wanted, to be born healthy, to live in a healthy environment, to satisfaction of basic needs, to continuous loving care, to acquire the intellectual and emotional skills necessary to achieve individual aspirations and to cope effectively, and to receive care and treatment through facilities appropriate to their needs.

### Table 3.1
**Oldest Age for Original Juvenile Court Jurisdiction in Delinquency Matters**

<table>
<thead>
<tr>
<th>Age 15 (3 states)</th>
<th>Age 16 (10 states)</th>
<th>Age 17 (38 states)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Connecticut</td>
<td>Georgia</td>
<td>Alabama</td>
</tr>
<tr>
<td>New York</td>
<td>Illinois</td>
<td>Alaska</td>
</tr>
<tr>
<td>North Carolina</td>
<td>Louisiana</td>
<td>Arizona</td>
</tr>
<tr>
<td></td>
<td>Massachusetts</td>
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<td>Mississippi</td>
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needs that keep them as closely as possible within their normal social settings. Such rights continue to be essential for youths’ growth and development.

Child Development—A Brief Overview

The study of child development usually deals with children from birth to adolescence and concerns their physical, intellectual, emotional and social growth as they adjust to the demands of society.

Child development experts state that the first three years of life lay the foundation for all that follows.

The period from birth to age three is the most formative time of a child’s life.

During this time, with attentive parents or older brothers or sisters, children learn the concept of consequences—rewards and punishments. They also begin to distinguish right from wrong and to develop what is commonly called a conscience. Table 3.2 summarizes some of children’s basic needs if they are to grow and thrive.

Unfortunately, for many of our nation’s children, this is not the reality. Their healthy development is hindered by inadequate medical care, poverty, violence and disintegrating families.

Research in molecular biology and neurology shows that what children experience during their first few years affects how many brain cells develop and how many connections are formed between them. Early environmental stimulation increases the number of cells and interconnections. Research also shows that stress early in life may activate hormones that impair learning and memory.

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Table 3.2 What Children Need for Healthy Growth and Development

<table>
<thead>
<tr>
<th>Need</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>Choices and challenges</td>
<td>Children need the chance to explore and learn, to stretch to their limits.</td>
</tr>
<tr>
<td>Healthy and safe surroundings</td>
<td>Children need to feel secure and protected from harm, supported when confronted with strange or frightening experiences.</td>
</tr>
<tr>
<td>Independence</td>
<td>Children need to develop their own personality and self-confidence, to know that others have faith in their ability to do things for themselves.</td>
</tr>
<tr>
<td>Love</td>
<td>Children need to be loved—physically and emotionally. They need to feel wanted, appreciated, a part of a family unit. They need hugs.</td>
</tr>
<tr>
<td>Direction</td>
<td>Children need to know the rules, their boundaries and what will happen if they overstep these boundaries. They need to know how to interact with others and to get along.</td>
</tr>
<tr>
<td>Respect and recognition</td>
<td>Children need to be accepted for who they are and to be praised for their accomplishments.</td>
</tr>
<tr>
<td>Encouragement</td>
<td>Children need to be supported and helped to grow and develop.</td>
</tr>
<tr>
<td>Nurturing</td>
<td>Children need not only nutritious food, but attention to their mental and emotional growth and development as well.</td>
</tr>
</tbody>
</table>
Wasserman et al. (2003, p.2) contend: “Early antisocial behavior may be the best predictor of later delinquency. . . . In fact, early aggression appears to be the most significant social behavior characteristic to predict delinquent behavior before age 13.”

Between the ages of 1 and 3, normal conflicts arise between parents and their children: toilet training, eating certain vegetables, going to bed at a set time, staying within prescribed boundaries and the like. How these conflicts are resolved will establish the pattern for how the child will deal with conflict later in life. Research suggests that the most aggressive age in humans is 2 years old. Unfortunately, many parents, relatives and friends attribute hitting, biting and throwing tantrums to the “terrible twos.” But ignoring such behavior or reacting in kind with violence such as spanking or otherwise striking a child can have dire consequences.

Building on the foundation of the first three critical years, children continue to grow and develop physically, mentally and emotionally. During this time they are continuously learning. One of the most critical factors is whether parents allow their children to watch television program containing violence.

The Next 10 Years

**Violence on Television and in Video Games**

The American Psychological Association (“Violence on Television..., ” 2003) contends: “Violent programs on television lead to aggressive behavior by children and teenagers who watch those programs.” They cite three major effects of seeing violence on television:

1. Children may become less sensitive to the pain and suffering of others.
2. Children may be more fearful of the world around them.
3. Children may be more likely to behave in aggressive or harmful ways toward others.

In addition: “Children who watch the violent shows, even ‘just funny’ cartoons, were more likely to hit out at their playmates, argue, disobey class rules, leave tasks unfinished and were less willing to wait for things.”

The American Academy of Child & Adolescent Psychiatry (“Children and TV Violence,” 2003) echoes these findings: “Hundreds of studies of the effects of TV violence on children and teenagers have found that children may become ‘immune’ to the horror of violence; gradually accept violence as a way to solve problems; imitate the violence they observe on television; and identify with certain characters, victims and/or victimizers.”

In addition, as Wright (2003, p.28) notes: “The average seventh-grader spends at least four hours a week playing video games, and about half of those games have violent themes. . . . Psychologists point to decades of research and more than a thousand studies that demonstrate a link between media violence and real aggression.” As youths grow and develop, they face other risk factors.
Individual Risk Factors

Wasserman et al. (p.3) identified several individual risk factors for child delinquency and later violent juvenile offending.

Individual childhood risk factors for child delinquency and later violent juvenile offending include early antisocial behavior; emotional factors such as high behavioral activation and low behavioral inhibition, poor cognitive development, low intelligence and hyperactivity.

Behavioral activation refers to novelty and sensation seeking, impulsivity, hyperactivity and predatory aggression. Behavioral inhibition refers to fearfulness, anxiety, timidity and shyness in response to new stimulus or punishment. High levels of behavioral activation and low levels of behavioral inhibition are risk factors for antisocial behavior.

Another consideration is the role that labeling can play in an individual’s growth and development.

Labeling and Self-Fulfilling Prophecies

It is human nature to apply labels to things, to name them. But when dealing with people, it is important to restrict the labeling (naming) to specific behaviors rather than to those who exhibit these behaviors. For example, “Hitting is a bad thing” in contrast to “You are a bad child for hitting.”

Much has been made of the power of positive thinking. Negative thinking can be just as powerful. People can be talked into believing what or who they are. If children are constantly called stupid, this could retard their intellectual growth.

In a frequently cited research study, psychology majors were given three groups of laboratory rats. They were told in advance how smart each group was. The first set consisted of super-smart rats that would be able to master a maze with no difficulty; therefore, they should have ample rewards along the way and a huge piece of cheese at the end. The second set consisted of rats of average ability that would not be able to make use of the clues along the way; they should have an average amount of cheese at the end. The third group consisted of rats of below-average intelligence that had little hope of finding their way through the maze; a simple picture of some cheese at the end would do.

In a few hours, all the super-smart rats were munching away at the cheese at the end of the maze, some of those with average intelligence had found their way to the end, and the below-average rats were aimlessly milling around in the maze, with none of them yet at the end. Imagine the students’ surprise when the professor told them the rats were all of the same intelligence. It was how they were treated, based on how they were labeled, that made the difference.

A similar experiment that used three classes of second-graders has often been cited to illustrate the effects of labeling. The teachers were told that one group was brilliant, one group was of average intelligence, and one group was below average. The “brilliant” group made tremendous gains in learning
during a 6-week period; the “average” group made some gains; and the “below-average” group actually lost ground. In reality, all three groups were of the same intelligence, but the teachers treated them differently, expecting large gains from the brilliant group and paying little attention to the below-average group. What they expected is exactly what they got. **Self-fulfilling prophecy** occurs when people live up to the labels they are given.

**Consequences of Labeling**

Before formalized law enforcement, neighbors watched over neighbors, and if an incident occurred that needed public service, a “hue and cry” was raised. For example, if a neighbor saw a stranger removing a cow, he would pursue the thief yelling, “Stop, thief!” and arouse all the other neighbors to join the chase. If the thief abandoned the animal out of sight of the crowd, and an innocent person stopped to hold the cow and was mistakenly labeled as the thief by the pursuers, he was probably hanged.

The same thing can happen to youths who commit even minor offenses. They may be labeled delinquent and subject to the discipline of the juvenile court. If the court decides to teach such youths a lesson, they can be placed in a locked facility for something as minor as a curfew violation. The youths are not hanged as was the innocent man with the cow, but the consequences can be almost as devastating.

Regardless of social class or environment, children have a strong natural inclination to believe those they respect. What is said to them makes a difference. A 16-year-old boy who appeared in juvenile court was admonished by the judge who called the youth a menace to society. The judge further stated that the boy was the kind of kid who gave good kids a bad name. This insensitive judge did not know that there was a computer error, and the youth was not the ruthless figure he was labeled. The event, however, was so traumatic for the 16-year-old that he wrote in a note, “The judge is right; I am no good.” He signed it and then shot himself. It was the third suicide of a youth who appeared before the same judge.

The harmful consequences of negative labeling are stressed here because at some point nearly every child gets into trouble, regardless of social status. It is not just inner-city youths or youths living in poverty who break the rules of society. It is almost *all* youths who do so.

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**Labeling theorists** state that when a deviant label is attached to people, they become stigmatized and have little chance to be rewarded for conformist behavior. The label becomes a self-fulfilling prophecy.

Fortunately, it is also a fact that most children grow up to be law-abiding, sociable and productive citizens, having developed responsible behavior through the maturation process.
According to Child Health USA 2002, in 2000 about 11 million children younger than 18 lived in families with income below the federal poverty threshold ($17,603 for a family of four). This is a substantial decrease from previous years. Of these children, 55.5 percent lived in homes headed by a single mother. Very young children and black and Hispanic children were particularly vulnerable. Home conditions of economic deprivation or uncertainty can expose children to ills ranging from malnutrition to extreme psychopathology. This country has pockets of squalor found on tenant farms, in migrant camps and in the tenements of large cities. Two possible reasons for this situation are that children do not vote and they do not contribute to political campaigns.

It takes more than economic relief to lift families from a pattern of irresponsibility or depravity. Social agencies in every community know certain families that can be counted on to produce more than their share of school failures, truancy, sexual deviation, alcoholism, disorderliness and disease. They are also all too familiar with the inadequate personalities who become parents of other inadequate personalities in a recurring sequence that led early geneticists to talk about heredity and social incompetence.

It must be remembered, however, that poverty alone cannot be blamed for delinquency. Many children raised in extreme poverty grow up just fine.

Two of the most serious consequences of poverty for children are homelessness and increased risk of lead poisoning.
According to the 2000 U.S. Census, 170,706 people were homeless. Of this sample, about one-fourth were under age 18 (Smith and Smith, 2001). Holloway (2002/2003, p.89) reports: “Families with children constitute about 40 percent of people who become homeless. . . . Children are the fastest growing segment of the homeless population.”

Being homeless places great stress on families and may result in child neglect or abuse. Cauce (2000) reports that in many cases parents physically or sexually abused their children and that more than two-thirds of the children in her sample had mental health problems. In addition, according to Kelly et al. (2000), homeless women with young children were likely to show a high level of depression and disruptive patterns of mother-child interaction. One-half of the homeless children they studied were developmentally delayed, compared with 16 percent of poor but housed children. These findings are confirmed by Koblinsky et al. (2000) who found that homeless students had significantly more behavioral problems in school than did their housed peers. Finally, according to the Institute for Children and Poverty (2001), more than one-fourth of the parents of school-age children reported having problems enrolling their children in school.

Homeless children also experience stress and are likely to exhibit some of the following: restlessness, aggressive behavior, depression, inattentiveness, persistent tiredness and anxiety. In addition to these general tendencies, homeless children often experience constant moving, frequent change of schools and lack of basic resources such as food and clothing. Some homeless youths are entirely on their own, including runaways and throwaways (their family has kicked them out). Difficulties facing such youths are discussed in the next chapter.

Victims of Lead Poisoning

Children who live in poverty are also much more likely than others to be exposed to lead from old paint and old plumbing fixtures and from the lead in household dust. Other sources of lead are old water systems, lead crystal and some imported cans and ceramics. According to Law Enforcement News (“Studies Weigh Facets of Juvenile Justice,” 2000, p.8): “Early exposure to lead, in the form of paint chips or old paint dust, may have at least as much to do with criminal behavior in adolescents as other, more traditional predictors of delinquency. . . . Research from around the world has found that lead-exposed children show increased impulsiveness, restlessness and aggression.”

Babies exposed to low doses of lead before birth often are born underweight and underdeveloped. Even if they overcome these handicaps, when they go to school they face more obstacles such as behavioral problems, low IQ and deficiencies in speech and language. Still other obstacles that hinder growth and development are faced by children with special needs.

Children with Special Needs

The majority of children in our country are “normal,” but thousands of children have special needs.

Children with special needs include those who are emotionally/behaviorally disturbed or have learning disabilities, an attention deficit hyperactivity disorder or behavior problems resulting from prenatal exposure to drugs, including alcohol, or to the human immunodeficiency virus (HIV).
Before looking at children with special needs, consider the caution of Armstrong (2001, p.38): “Diagnostic labels for learning differences hinder educators from celebrating the natural diversity of all students’ learning styles.” He calls such youths IKSWALs—interesting kids saddled with alienating labels. Teachers, parents and all who interact with children and youths must be aware of the hazards of labeling as discussed previously.

**Emotionally/Behaviorally Disturbed Children**

One challenging segment of youths are those labeled as emotionally/behaviorally disturbed (EBD). These youths usually have one or more of the following behavior patterns: severely aggressive or impulsive behavior; severely withdrawn or anxious behaviors, pervasive unhappiness, depression or wide mood swings; severely disordered thought processes that show up in unusual behavior patterns, atypical communication styles and distorted interpersonal relationships.

**Youths with Attention Deficit Hyperactivity Disorder**

Attention deficit hyperactivity disorder (ADHD) is a common childhood disruptive behavior disorder. Stern (2001, p.1) reports: “ADHD is the most commonly diagnosed childhood disorder, affecting an estimated 3 to 5 percent of school-age children.” ADHD is characterized by heightened motor activity (fidgeting and squirming), a short attention span, distractibility, impulsiveness and lack of self-control.

According to Tannock and Martinussen (2001, p.24): “Contrary to popular belief, research indicates that ADHD is not usually caused by food allergies, excess sugar, too much TV, poor parenting, poor home life or poor schools.” They (p.23) note: “Research suggests that about 80 percent of the differences in inattention, hyperactivity and impulsivity between students with and without ADHD can be explained by genetic factors.”

Behaviors associated with ADHD can greatly interfere with learning and are usually unnerving for parents, teachers and other adults. Stern notes: “Boys with ADHD are at increased risk for engaging in delinquent and antisocial behavior.” Attention deficit hyperactivity disorder is often accompanied by a learning disability.

**Youths with Learning Disabilities**

Five to 10 million children in the United States experience some form of learning disability. The Association for Children with Learning Disabilities (ACLD) describes a learning disabled child in the following way (p.4): “A learning disabled person is an individual who has one or more significant deficits in the essential learning processes.”

According to the ACLD (p.3): “The most frequently displayed symptoms are short attention span, poor memory, difficulty following directions, inadequate ability to discriminate between and among letters, numerals, or sounds, poor reading ability, eye-hand coordination problems, difficulties with sequencing, disorganization and numerous other problems.” Such children often have discipline problems, are labeled underachievers and are at great risk of becoming dropouts.

Although usually associated with education, the consequences of learning disabilities go well beyond school. Behaviors that may be problematic include responding inappropriately, saying one thing but meaning another, forgetting
easily, acting impulsively, demanding immediate gratification and becoming easily frustrated and then engaging in disruptive behavior. Youths with learning disabilities often have experienced failure after failure and lack self-esteem.

Children exposed to cocaine while in the womb, so-called crack children, may exhibit social, emotional and cognitive problems. A closely related problem is fetal alcohol syndrome (FAS), now the leading known cause of mental retardation in the western world. According to “Alcohol Effects on a Fetus” (2003): “FAS is present in 1 to 2 of every 1,000 babies in the United States.” This source reports that children born with FAS are three times more likely to be born prematurely and that the effects last throughout the child’s life. Children with FAS have abnormal facial features, one or more signs of growth retardation and at least one sign of central nervous system abnormality. In addition, a study funded by the National Institute of Alcohol Abuse and Alcoholism found that a woman’s heavy, episodic drinking during pregnancy tripled the odds that her child would have drinking problems by age 21 (“Pregnant Women’s Alcohol Use Linked to Offsprings’ Problems,” 2003, p. 5).

Another group of children with special needs are those prenatally exposed to HIV. Such children may experience deficits in both gross and fine motor skills; reduced flexibility and muscle strength; cognitive impairment including decreased intellectual levels, specific learning disabilities, mental retardation, visual/spatial deficits, and decreased alertness; and language delays.

Adolescence refers to the period from age 12 to age 18 or 19. In adolescence, children go through puberty, experiencing hormonal changes. During this time adolescents seek independence but can be very much influenced by their peers. Each generation produces a distinct adolescent subculture with a common language, clothing, music and standards. The result is what is often referred to as a generation gap. Figure 3.2 summarizes what occurs as adolescents develop.

Adolescence is often characterized by rapid growth and sexual maturity, self-consciousness, peer pressure and the shift of the primary support system from parents to friends, mood swings, experimentation, re-evaluation of values and a search for identity. Adolescence is no longer typified by the carefree lifestyle of the 1950s, as depicted in the television program Happy Days, and this is underscored by the large percentage of high school seniors who report worrying about social problems, as shown in Table 3.3.

Crime and violence have been the primary concerns of high school seniors for decades. However the percent of seniors having this concern has dropped from its all-time high of 92.7 percent in 1995. Concern about drug abuse, hunger and poverty has also declined, as has concern about the chance of nuclear war.

Adolescence is a difficult time of life, not only for youths, but also for their families, schools, neighborhoods and, increasingly, the police. It brings biological, psychological, emotional and social changes, often resulting in stress.
## ADOLESCENT DEVELOPMENT—A DEVELOPMENTAL TASKS MODEL

<table>
<thead>
<tr>
<th>Early Adolescence (10–12 years)</th>
<th>Middle Adolescence (13–15 years)</th>
<th>Late Adolescence (16+ years)</th>
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<tbody>
<tr>
<td><strong>PHYSICAL DEVELOPMENT</strong></td>
<td><strong>PHYSICAL DEVELOPMENT</strong></td>
<td><strong>PHYSICAL DEVELOPMENT</strong></td>
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<tr>
<td>Puberty starts (period of rapid growth; bodily changes; fidgets, squirms, has trouble sitting; still requires lots of physical activity). Puberty usually starts two years earlier for girls than boys. Begins to show bodily changes (pubic hair; hair thickens and darkens; testes and breasts enlarge).</td>
<td>Puberty continues (boys begin growth spurts and surpass girls in height and weight by age 15). Acne and body odor are prevalent. Habits are developed that affect lifelong levels of physical fitness. Motor skills increase through physical activity. Clumsiness due to rapid physical development. At-risk habits such as smoking, drinking or drugs are started. Poor eating habits develop. Extremely aware and sensitive to own development and that of peers.</td>
<td>Boys’ growth has doubled since age 12. They are taller and heavier than girls. Appropriate physical tasks have been learned and managed. Appetite has increased. Eating disorders may appear (bulimia and anorexia). Life patterns become consistent.</td>
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<td><strong>COGNITIVE DEVELOPMENT</strong></td>
<td><strong>COGNITIVE DEVELOPMENT</strong></td>
<td><strong>COGNITIVE DEVELOPMENT</strong></td>
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<tr>
<td>Inconsistent thoughts as they adjust to an open mind and body. Shifts from immature to mature thinking. Logic and reasoning are discovered. Able to imagine beyond immediate environment. Conversation leads to exchange of ideas. Spends more time talking to parents. It is important to feel that their opinions count. Thoughts lead to feelings of self-consciousness. Girls are more communicative than boys.</td>
<td>Abstract thinking begins. Problem-solving, analytical thinking and writing may be difficult. Learn from doing; expand knowledge; experience through academic activities and performance. Greater separation in school between those who succeed and those who fail. Parents have less influence. Girls may begin failing in school. Decreased evidence of creativity and flexibility. Peer conformity critically important (“belongingness”).</td>
<td>Critical thinking and reasoning skills begin. Want to think out their own decisions. Concerned about the purpose and meaning of life. Can manipulate a number of variables at once. Develop beliefs, values, career choices and an identity. Limited evidence of creativity. Increased peer conformity. New challenges and experiences are required.</td>
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<td><strong>EMOTIONAL DEVELOPMENT</strong></td>
<td><strong>EMOTIONAL DEVELOPMENT</strong></td>
<td><strong>EMOTIONAL DEVELOPMENT</strong></td>
</tr>
<tr>
<td>Seeks independence, establishes individuality. Wants some control in decisions affecting life. Propensity toward awkwardness, self-consciousness and body image begins. Begins developing mature relationships with siblings. Begins to be self-conscious about appearance. Girls often feel less attractive. Need praise and approval from adults to demonstrate concern and care about their welfare.</td>
<td>Seeks independence, establishes individuality. Needs some control in decisions affecting life. Propensity toward awkwardness, self-consciousness and body image begins. Identity formation experienced through exploration and experimentation. Seeks independence from, but still needs structure and limits from, parents and adults. Increased sexual desires and experimentation. Needs praise and approval to show that adults are concerned about their welfare.</td>
<td>Develops a sense of personal identity. Self-esteem continues to develop and improve. Competencies such as decision-making, stress management and coping with problems develop. Thoughts and worries about adult life increase. Friendships are based on mature intimacy and sharing thoughts and feelings—rather than just hanging out and doing things together. Strong sexual feelings are experienced. Generally, strong ties with the family are maintained with increased need for parental love, care and respect.</td>
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<tr>
<td><strong>SOCIAL DEVELOPMENT</strong></td>
<td><strong>SOCIAL DEVELOPMENT</strong></td>
<td><strong>SOCIAL DEVELOPMENT</strong></td>
</tr>
<tr>
<td>Has a desire to “fit in”; to be well-liked is important. Cliques are formed with others. Wants to be with friends without adult supervision. Feels that peer pressure is constantly present. Begins experimenting with smoking, alcohol and sex. Appreciates conversations that lead to an exchange of ideas to better understand other people’s points of view.</td>
<td>Independence developed and demonstrated. Susceptibility to peer pressure declines; parent-teen conflicts decrease. Cooperation and communication increase. Identity formation experienced through exploration and experimentation. Obsessed about appearance. Want to distinguish themselves from the crowd. Begins forming heterosexual groups and pairs up socially. Strong same-sex friendships continue to exist and strengthen. Has large circle of acquaintances and small circle of friends. After-school work; prevalent—usually 15 to 20 hours per week. Is involved with social causes and movements (e.g., local community actions; environmental issues; volunteer work; political awareness).</td>
<td>Independence developed and demonstrated. Susceptibility to peer pressure declines; parent-teen conflicts decrease. Cooperation and communication increase. Identity formation experienced through exploration and experimentation. Obsessed about appearance. Want to distinguish themselves from the crowd. Begins forming heterosexual groups and pairs up socially. Strong same-sex friendships continue to exist and strengthen. Has large circle of acquaintances and small circle of friends. After-school work; prevalent—usually 15 to 20 hours per week. Is involved with social causes and movements (e.g., local community actions; environmental issues; volunteer work; political awareness).</td>
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</tbody>
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**Figure 3.2**

Adolescent Development

Juveniles often pretend to be adults in various ways, but becoming emotionally mature, socially accepted adults requires a struggle. From a social standpoint, many never succeed. Adolescents may try to look like adults, talk like adults or take on what they believe to be adult ways, but in general they remain quite immature. At the same time that they imitate adult behavior, juveniles also strive for individuality, independence and freedom, which they believe they can achieve by disassociating themselves from society and their parents. Such a position between imitation and disassociation can generate a great deal of psychological stress.

During adolescence peers become very important. According to Wasserman et al. (p.6): “Two major mechanisms associated with peer factors or influences are association with deviant peers and peer rejection.” They (p.7) suggest that the highest degree of deviant peer influence on offending occurs with gang membership.

### Table 3.3

<table>
<thead>
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</thead>
<tbody>
<tr>
<td>Crime and violence</td>
<td>86.3%</td>
<td>88.1%</td>
<td>90.8%</td>
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<td>Drug abuse</td>
<td>79.5</td>
<td>79.5</td>
<td>75.5</td>
<td>72.6</td>
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<td>71.1</td>
<td>62.3</td>
<td>61.1</td>
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<td>Chance of nuclear war</td>
<td>52.4</td>
<td>41.5</td>
<td>28.8</td>
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<td>32.1</td>
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<td>55.7</td>
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<td>68.9</td>
<td>64.7</td>
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<td>17.9</td>
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<td>32.9</td>
<td>28.9</td>
<td>32.7</td>
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<td>Population growth</td>
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<td>30.6</td>
<td>38.9</td>
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<td>21.7</td>
<td>25.3</td>
<td>23.0</td>
<td>22.1</td>
<td>17.2</td>
<td>20.3</td>
</tr>
</tbody>
</table>

Note: These data are from a series of nationwide surveys of high school seniors conducted by the Monitoring the Future project at the University of Michigan’s Institute for Social Research from 1975 through 2001. The survey design is a multistage random sample of high school seniors in public and private schools throughout the continental United States. All percentages reported are based on weighted cases; the Ns that are shown in the tables refer to the number of weighted cases.

Response categories were “never,” “seldom,” “sometimes” and “often.” Readers interested in responses to this question for 1975 through 1988 should consult previous editions of SOURCEBOOK. For survey methodology and definitions of terms, see Appendix 6.

A strong case can be made that during adolescence deviant peers or peer rejection can influence nondelinquent juveniles to become delinquent.

Figure 3.3 illustrates the development of early offending behavior and peer influences.

Life for some adolescents is often lonely and depressing. Parents are involved in demanding careers, travel a lot and leave childcare to paid help or the extended family. They seldom do things as a family. When young people become bored with the happenings around them or with life in general, they often turn to antisocial or unlawful activity or to self-destruction.

Staff and Uggen (2003, p.263) note: “Criminologists have long considered the relationship between employment and delinquency.” Their own study (p.283) found support for the proposition that several aspects of adult-like work conditions increase adolescent delinquency: “Precocious development and social control theories were especially well supported. Adolescents in more adult-like work setting, with higher social status, wages and autonomy exhibited higher rates of school deviance, alcohol use and arrest. . . . In contrast, work that was more age appropriate and allowed adolescents to balance their work and school roles reduced alcohol use, even when the number of hours worked intensified. . . . Finally, these results are also consistent with hypotheses drawn from power-control theory, showing that autonomous work increases delinquency by expanding adolescents’ freedoms and diminishing the social controls to which they are subject.” They conclude: “To reduce delinquency, ‘good jobs’ in adolescence must support rather than displace academic roles and offer genuine opportunities to learn something useful. Such jobs should also provide extensive controls, with circumscribed levels of autonomy, wages and status among peers.”
Wu et al. (2003), likewise, found that employment is positively associated with adolescent drug and alcohol use among both males and females. They contend that having a job does not appear to be sufficient; instead, stable employment that reflects a strong commitment or stake in conformity seems to be required. Further evidence of the potential detrimental effect of some jobs is noted by Bellair et al. (2003, p.6): “Our findings suggest that low-wage, service sector employment opportunity directly increases the likelihood of violent delinquency.”

Ericson (2001, p.1) reports: “Juveniles are experimenting with drugs, alcohol and tobacco at young ages... The research suggests that significant changes in drug awareness take place between the ages of 12 and 13. Thirteen-year-olds are three times more likely to know how to obtain marijuana or to know someone who uses illicit drugs than are 12-year-olds.” He also reports: “By the eighth grade, 52 percent of adolescents have consumed alcohol, 41 percent have smoked cigarettes, and 20 percent have used marijuana. By the twelfth grade, about 80 percent have used alcohol, 63 percent have smoked cigarettes, and 49 percent have used marijuana.”

Drug Use Trends (2002, p.3) reports that from 1991 to 2001, use of most major drug types increased among eighth- and tenth-graders. However, after 6 years of increases, eighth-graders’ past month marijuana use began to decrease in 1997 and continued to decline through 2001.

Although no single theory can explain the cause of delinquency, one fact is clear.

There is a direct correlation between substance abuse and other forms of delinquency.

Vander-Waal et al. (2001, p.1) report: “For more than two decades, researchers, clinicians and juvenile justice program administrators have known of the link between drug use (including alcohol) and juvenile crime. In many communities, the majority of juveniles entering the system are drug users. Other research indicates that juvenile drug use is related to recurring chronic and violent delinquency that continues well into adulthood.”

Youths who persistently abuse illegal substances experience an array of problems including academic difficulties, health-related problems, poor peer relationships and involvement with the juvenile justice system.

One important change within our culture has been a more open attitude toward sex and at least a tolerance of sexual intimacy outside of marriage. In many instances, marriage is no longer a requirement to live together. The result is a large increase in teenage pregnancy. The United States has the highest rates of teen pregnancy and birth—by far—of any comparable country (National Campaign to Prevent Teen Pregnancy, 2003, p.1). The National Campaign reports:

Teen pregnancy and birth rates declined steadily during the 1990s. However, despite these declines, four out of ten girls in this country still get pregnant at least once before age 20.
Compared to women who delay childbearing, teen mothers are less likely to complete high school and more likely to end up on welfare. The children of teen mothers are at significantly increased risk of low birth weight and prematurity, mental retardation, poverty, growing up without a father, welfare dependency, poor school performance, insufficient health care, inadequate parenting, and abuse and neglect. U.S. taxpayers shoulder at least $7 billion annually in direct costs and lost tax revenues associated with teen pregnancy and childbearing.

When teenagers become pregnant, not only is their own growth and development affected, the situation into which they bring their newborns often is unsuited for the healthy growth and development of these children. Teenage pregnancy has created an “underclass” of poor young women with small children. These women have no training and limited resources. A large percentage of teen families live in poverty. Even more devastating, however, is strong evidence for the intergenerational transfer of poverty to the children of single-parent families.

For youths who do not turn to crime to achieve monetary success, the American Dream seems impossible. Homes, college education, things formerly taken for granted are now out of reach for millions of Americans. Often the increasing gap in material differences between some youths and their peers becomes intolerable. This may explain why some try to become “somebody” by acting tough, joining a gang, using drugs or running away from home.

A large part of the responsibility for assuring that our youths believe they have a promising future and a stake in our society and avoid offending behaviors rests with the family, the school and the community.

In November 1989, the General Assembly of the United Nations adopted several articles outlining the “rights of the child” (United Nations, 1989). The importance of the family was stressed in the preamble to this declaration of rights. The United Nations recognized that:

- The family, as the fundamental group of society and the natural environment for the growth and well-being of all its members and particularly children, should receive the protection and assistance that it needs to fully assume its responsibilities within the community.
- The child, for the full and harmonious development of his or her personality, should grow up in a family environment, in an atmosphere of happiness, love and understanding.
- The child should be fully prepared to live an individual life in society, and be brought up in the spirit of the ideals proclaimed in the Charter of the United Nations, and in particular in the spirit of peace, dignity, tolerance, freedom, equality and solidarity.

These powerful statements convey not only the importance of the family, but also the values that the family is to instill in children as it nurtures them and teaches them to be individuals as well as contributing members of society.

The efforts of skilled and committed judges, legislators, law enforcement officers, health and child care workers, doctors, teachers, attorneys, volunteers
and others involved in the lives of deprived children can do little without a rekindled national awareness that the family is the foundation for the protection, care and training of our children. The structure and interaction patterns of the home influence whether children learn social or delinquent behavior.

Alvarado and Kumpfer (2000, p.8) stress: “Because families are the first point of a child’s social contact, it is essential that parents understand the critical role they play in their children’s development and that they be equipped with the information and skills necessary to raise healthy and well-adapted children. Improving parenting practices and the family environment is the most effective and enduring strategy for combating juvenile delinquency and associated behavioral, social and emotional problems.”

In general, the family can have a positive impact on insulating children from antisocial and criminal patterns, providing it can control rewards and effectively maintain positive relationships within itself. Delinquency is highest when family interaction and controls are weak.

The family is usually the first teacher and model for behavior and misbehavior. It is the first institution to affect children’s behavior and to provide knowledge of and access to society’s goals and expectations. However, if the integration process between parents and children is deficient, the children may fail to learn appropriate behaviors.

In healthy families, self-esteem is high, communication is direct and honest, rules are flexible and reasonable and members’ attitudes toward the outside world are trusting and optimistic.
Parental efficacy examines how parental support and control are interrelated. According to Wright and Cullen (2001, p. 677): “Children in families with high levels of parental efficacy are at lower risk for delinquency throughout their adolescent years. Effective parenting is an important protective factor which can mitigate the impact of risk factors for delinquency such as having delinquent peers.”

According to Wasserman et al. (p. 5): “Inadequate parenting practices are among the most powerful predictors of early antisocial behavior.” They describe three specific parental practices particularly associated with early conduct problems: (1) a high level of parent-child conflict, (2) poor monitoring and (3) a low level of positive involvement. In addition, how parents discipline their children can be positive or negative.

Physically punishing children is generally supported in the United States. The familiar adage, “Spare the rod, and spoil the child,” attests to the traditional American view that it is parents’ responsibility to teach their children right from wrong. Before children can reason, physical measures may be relied on. The question becomes not so much whether such physical coercion is appropriate, but rather what degree of physical coercion is appropriate. When does punishment become abuse? Is a slap on the hand the same as a slap to the face? Is a “paddling” through clothing with a bare hand the same as a beating with a belt on a bare bottom?

Simons et al. (2000, p. 47) note: “Several studies with older children have reported a positive relationship between parental use of corporal punishment and child conduct problems.” They (p. 48) conclude “Overall, the results [of their research] are consistent with the hypothesis that it is when parents engage in severe forms of corporal punishment, or administer physical discipline in the absence of parental warmth and involvement, that children feel angry and unjustly treated, defy parental authority and engage in antisocial behavior.”

Simons et al. (pp. 68–69) note: “Most studies of small children report that judicious use of spanking, especially when combined with inductive reasoning, fosters high child compliance and low levels of misbehavior.” However, they (p. 74) caution: “Our analyses provided little evidence that corporal punishment serves to deter adolescent conduct problems. This suggests that there are no practical justifications for a parent using corporal punishment with an adolescent child. Further, when a parent uses corporal punishment, there is always the danger that he or she will lose control and injure the child. For these reasons, we believe parents should always be discouraged from using corporal methods to discipline adolescent children.”

**Adult Supremacy**

Force and violence toward children, including physical punishment, has been characterized as adult supremacy. In this relationship, power is sanctioned by legal rules with the effect being to subordinate one person to the arbitrary authority of another. Adult supremacy subordinates children to the absolute and arbitrary authority of parents. The dangers of adult supremacy were noted almost 100 years ago by Ledlie (1907, p. 449):

> The right of control based on family law produces subordination, not a mere obligation. It represents a power over free persons and a power which curtails the freedom of those subject to it, because the person in whom power vests is entitled to exercise it, up to a certain point, in his own interests alone, to exercise it, in a word, as he chooses.
Adults have a legally protected right to bodily integrity, free from assault, but children do not, except in extreme circumstances. Parents are authorized to use force against their children because society believes adults are older and presumably wiser, and because the right to rear one's child as one chooses is held to be fundamental.

Courts give parents wide latitude in disciplining their children so they learn to respect authority. Adult supremacy has its roots in a common law concept of status derived from a feudal order that denied children legal identity and treated them as objects. In the United States until about 1900, the only person in the family who had any legal rights was the father.

**Socialization**

Children should learn in the home that others have rights that they must respect. They should learn about social and moral values; to be considerate of others’ property, possessions and individual selves; to manage their own affairs and to take responsibility for their actions.

It is partly because of the failure of families to teach children basic conformity to social values and standards that children look for alternative groups such as gangs. Children develop their sense of being worthwhile, capable, important and unique from the attention and love given to them by their parents. They can develop a sense of worthlessness, incapability, unimportance and facelessness from a lack of attention and love, or from physical or sexual abuse. The development of social cognition as perceived by psychologists is outlined in Table 3.4.

Note that the development begins during the end of the critical first three years and ends for most children during adolescence. One important aspect of socialization is passing on the values of society.

**Values**

Values are extremely important in any society. Values reflect the nature of the society, indicate what is most important and describe how people are expected to behave. Throughout the ages societies have embraced certain values, taught these values to their children and punished those who did not adhere to them. When youths do not accept the values of society, conflict is inevitable.

Common values that might be passed on to children include fairness, honesty, promise-keeping, respect, responsibility and self-control.

Unfortunately, in many families, no values or negative values, such as the use of violence to resolve disputes, are passed on. This may be partially explained by the disintegration of the traditional family.

**Family-Related Risk Factors and the Disintegration of the Traditional Family**

The Census Bureau has identified six family-related risk factors: poverty, welfare dependence, absent parents, one-parent families, unwed mothers and parents who have not completed high school.

Unquestionably, the family has undergone great changes over the years. What began as an extended family, with two or three generations of a family living together, gradually became a nuclear family consisting of parents and their chi-
When the children grew up, they moved out and started their own families. Changes that have occurred in contemporary American society have been more problematic, including more single-parent families, blended families, adoptive families and dysfunctional families. The *Norman Rockwell family*—a working father, a housewife mother and two children of school age—is no longer the norm. Wasserman et al. (p.6) state: “The more children in a family, the greater the risk of delinquency. . . . Boys who had four or more siblings by the age of 10 were twice as likely to offend, regardless of the parents’ socioeconomic status.” They also state: “Compared with teens with lower rates of offending, teens with high rates of offending were more likely to have siblings who also committed delinquent acts at a high rate.”

**Children Facing Special Challenges**

Children who may face special challenges as they grow and develop are children of immigrants, those whose parents are divorced and those whose mothers or fathers are incarcerated.

**Immigrants’ Children**

Immigrants’ children face many problems in addition to language barriers. Families are disrupted when some members emigrate while others are left behind.
Role reversal commonly occurs as children more readily learn English and become translators for their parents, in effect, gaining control over them. Further, native customs and values may differ greatly from what is accepted in the United States. For example, a Southeast Asian family might be investigated for child abuse after health professionals note the skin lesions caused by a traditional coin rubbing treatment. Coining, thought to have healing powers, consists of rubbing warm oil and coins across the skin, which sometimes produces long, red bruises. Finally, immigrants may also be subjected to prejudice and discrimination.

Children Whose Parents Are Divorced
A major study of children from one-parent families, conducted by the National Association of Elementary School Principals, found that 30 percent of two-parent elementary school students were ranked as high achievers, compared with only 17 percent of one-parent children. At the other end of the scale, 23 percent of two-parent children were low achievers versus 38 percent of one-parent children. One-parent students had more clinic visits and a higher rate of absence from school. One-parent students were consistently more likely to be late, truant and subject to disciplinary action. One-parent children were found to be more than twice as likely to drop out of school altogether.

Rebello (2002, p.103) studied 1,725 adolescents and found that: “Divorce/separation early in the life course may be more strongly related to delinquency than prior research implies and that remarriage during adolescence may be strongly associated with status offending.” Divorce has a shattering effect on families with young children, particularly if the mother has limited education or job skills.

Children Whose Mothers or Fathers Are Incarcerated
Bilchik et al. (2001, p.108) report: “Nearly 1.5 million children nationwide have at least one parent incarcerated in a state or federal prison. Approximately 600,000 more children have parents who are being held in local jails.” They note: “In addition to the trauma of witnessing an arrest and being separated from a parent, children who experience parental incarceration are more likely to develop emotional and behavioral difficulties, including withdrawal, aggression, anxiety and depression. They are also at greater risk for poor academic performance, alcohol and drug abuse, and low self-esteem.”

The impact of family relationships on children necessarily has a vital influence on whether children thrive in school and are able to learn the skills they need to succeed in society. Unfortunately, for too many students, the level of success they achieve in school is often hampered by the baggage they bring with them from home—the result of improper socialization, inadequate parenting skills, divorce, poor nutrition, domestic violence, child abuse and neglect.

Schools have a responsibility to the students who attend under the principle of in loco parentis. The principle of in loco parentis, meaning “in place of parents,”
gives certain social and legal institutions the authority to act as a parent might in situations requiring discipline or need.

The school is one such institution. A dozen or more years in school has a huge impact on students, not only academically but also socially.

Origins of U.S. Public Schools

After the American Revolution, the leaders of the newly created United States proposed a system of publicly funded schools to educate poor and rich children alike. These early advocates of public schools believed American citizens had a fundamental responsibility to educate all children to become responsible citizens and economically self-sufficient.

The Current Focus of Schools

The United Nations’ Convention on the Rights of the Child said of schools that “education should be directed at developing the child’s personality and talents, preparing the child for active life as an adult, fostering respect for basic human rights and developing respect for the child’s own cultural and national values and those of others” (United Nations, Article 29, p.9). However, many schools tend to stress academic learning over character building, including instilling positive values.

Values and the School

Educators have long felt that the school should be a place where children not only studied academic subjects but were also taught basic values. The values that teachers think are important for children to learn today have changed little over the years. Honesty, responsibility, freedom of speech, courtesy, tolerance and respect for the law are valued. As Kagan (2001, p.51) suggests: “For many students, character and virtues will be acquired in school—or not at all.”

Closely related to imparting positive values is the effort to create a true school community. Schaps (2003, p.31) suggests: “A growing body of research confirms the benefits of building a sense of community in school. Students in...
schools with a strong sense of community are more likely to be academically motivated; to act ethically and altruistically; to develop social and emotional competencies; and to avoid a number of problem behaviors, including drug use and violence.” Students who feel a sense of community in their schools are more likely to be successful than when such a feeling is absent.

The No Child Left Behind (NCLB) legislation of 2002 is a sweeping change to the Elementary and Secondary Education Act of 1965. The law changed the federal government’s role in K–12 education by asking America’s schools to describe their success in terms of what each student accomplishes.

The importance of succeeding in school was emphasized by noted educator William Glasser (1969, p.5) in his classic work *Schools Without Failure*: “I believe that if a child, no matter what his background, can succeed in school, he has an excellent chance for success in life. If he fails at any stage of his educational career—elementary school, junior high, high school, or college—his chances for success in life are greatly diminished.”

Children who succeed in school have a greater probability of succeeding in other areas of their lives.

A serious obstacle to achieving academically is an anti-achievement ethic in many schools. What is perceived as “cool” is skipping school, misbehaving in class, smarting off to teachers and others in authority. What is “uncool” is to get good grades. Teachers describe the “crab bucket syndrome.” When one crab tries to climb from a bucket, the others pull it back down. Students are often torn between wanting to be accepted by their peers and wanting to succeed in school. Academic success in many schools assures social ostracism.

Peer approval and acceptance is often more important to adolescents than the approval of parents or teachers.

In addition, consider how much the media have advanced with all their special effects and what teachers now have to compete against. Also consider that several common school practices actually encourage failure.

Glasser described five practices that produce failure for students. First is A-B-C-D-F grading. Grades are so important they substitute for education itself. Second is objective testing usually based on memorizing facts, many of which students see as irrelevant. Closely related to objective testing is grading on a normal curve. By definition, in this system, 50 percent of the students must be below average. Fourth is closed-book exams, based on the fallacy that knowledge remembered is better than knowledge looked up. In the information age, it is critical that students learn to use references, not to simply memorize often irrelevant facts.
Fifth is tracking, grouping students either by ability level or achievement and often labeling the high achieving group the “college-bound” or “college preparatory” group. Such tracking may have all of the negative consequences associated with labeling: stigma, self-fulfilling prophecy and lack of motivation to succeed. In addition, teachers may not have high expectations for lower-track students or expend as much energy on teaching them as they do on high achievers. They also may tend to give lower grades because they do not assign the low achievers as much work and, further, such students do not need good grades because, unlike the high achievers, they are not expected to be college-bound. As Holbrook (2001, p.781) warns: “If children are marked as ‘failures’ at age 10, again at 14, and again at 16, their motivation will die, and they will spiral downward. They will be robbed of an education and marked forever as failures who have no worth.”

What Glasser condemned 30 years ago continues to be standard practice in many schools. The educational practices discussed are not an indictment of the schools but a partial explanation of why so many students fail in school and how this failure affects not only their school performance but also their behavior in other areas.

When students fail to meet the expectations of teachers or parents, they may become involved in delinquent groups of youths who share similar experiences of failure. The group provides the needed outlet for frustration and anger. Some students skip school or drop out completely. Other youths run away. Some seek escape in alcohol and other drugs or attempt suicide.

Students’ responses to failure include skipping school, joining gangs, dropping out of school, drinking, doing drugs, performing delinquent acts and even suicide.

**Truancy and Dropping Out**

Skipping class is something many students do at some point, usually just for a day or two, here and there. The results are often fairly innocuous—perhaps some late homework or a lecture from a parent. When such absences become habitual, however, it becomes a more serious issue.

Baker et al. (2001, p.1) contend: “Truancy, or unexcused absence from school, has been linked to serious delinquent activity in youth and to significant negative behavior and characteristics in adults. As a risk factor for delinquent behavior in youth, truancy has been found to be related to substance abuse, gang activity and involvement in criminal activities such as burglary, auto theft and vandalism.”

Truancy is an early warning sign that a youth is headed for potential delinquent activity.
Truancy costs students an education. It costs school districts thousands of dollars in lost federal and state funds based on attendance figures. It costs taxpayers, who must pay higher taxes for law enforcement and welfare costs for dropouts who end up unemployed. Baker et al. (p.2) describe four correlates of truancy:

- **Family factors.** Lack of guidance or parental supervision, domestic violence, poverty, drug or alcohol abuse in the home, lack of awareness of attendance laws and differing attitudes toward education.

- **School factors.** School climate issues—such as school size and attitudes of teachers, other students and administrators—and inflexibility in meeting the diverse cultural and learning styles of students.

- **Economic influences.** Employed students, single-parent homes, high mobility rates, parents with multiple jobs, and lack of affordable transportation and childcare.

- **Student variables.** Drug and alcohol abuse, lack of understanding of attendance laws, lack of social competence, mental health difficulties and poor physical health.

The underlying reasons for dropping out are often more complex than simply not liking school or poor grades. Many children come to school affected by divorce, homelessness and learning disabilities and from homes in which they must become self-sufficient at an early age. Some must deal with crime, drugs and gangs in their neighborhoods; suffer abuse and neglect from adults; or become parents while still children themselves.

The link between failure in school and delinquency is strong. Just as the family sometimes fails to provide a nurturing, caring environment or to control children, the school is sometimes nonsupportive and lacking in discipline and control. Wasserman et al. (p.8) report: “A specific school risk factor for delinquency is poor academic performance... Poor academic performance is related to the prevalence, onset, frequency and seriousness of delinquency.” In addition, they contend: “Children with weak bonds (low commitment) to school, low educational aspirations and poor motivation are also at risk for general offending.”

The Gallup organization collaborated with Phi Delta Kappa, a professional education organization, in producing “the 35th Annual Phi Delta Kappa/Gallup Poll of the Public’s Attitudes Toward the Public Schools.” According to the poll (Rose and Gallup, 2003, p.50) the leading problem for the past four years has been lack of financial support (25 percent). Lack of discipline was second at 16 percent; overcrowding was third at 14 percent. In response to why students failed to learn, leading the list was lack of home or parental support (93 percent) followed by lack of student interest (90 percent) and lack of discipline (84 percent) (p.51).
The 35th Gallup Poll of Attitudes toward Public Schools identified lack of discipline as the number two problem in local schools. The leading problem was lack of financial support.

According to past poll results, discipline was the number one problem every year from 1969 to 1985, except 1971. In 1986 the drug problem claimed the number one spot and ranked first among local school problems seven times, tying once with lack of proper financial support. In 1998 drugs dropped to fourth. This poll reflects the public’s concern over the lack of discipline in our nation’s public schools. This is very likely a contributing factor to the problem of drugs, bullying and crime—other problems facing schools.

Serious problems facing our schools include substance use, bullying, and crime and violence.

Substance Use in Schools

Finn et al. (2003, p. 80) report: “Substance use remains firmly entrenched in teen culture, a sphere in which drinking and drug use are often considered badges of belonging. . . . Although it is difficult to obtain accurate estimates of the pervasiveness of in-school substance use, research indicates that anywhere between 6 and 25 percent of U.S. students have been under the influence of alcohol and marijuana at some point during school hours.”

In 1994 Goals 2000 declared that by 2000 every school in the United States would be drugs, alcohol and violence free. However, when the interim report was published in 1995, the use and sales of illicit drugs at school had increased (Duke, 2002). DeVoe et al. (2002) reported that during 2001 5 percent of students grades 9–12 had at least one drink on school property within the past 30 days and that the same percentage had used marijuana on school property in the same time frame. According to the government’s 2001 National Household Survey on Drug Abuse, drug use among adolescents and young adults increased between 2000 and 2001. The survey also found a significant increase in the estimated number of persons age 12 and over needing treatment for drug problems. According to Califano (2001, p.1): “Each year substance use costs our schools at least $41 billion in truancy, special education and disciplinary programs, disruption, teacher turnover and property damage.”

Bullying

Cooper and Snell (2003, p. 22) note: “In the wake of school shootings and lawsuits brought against schools by victims of bullying, 11 state legislatures—California, Colorado, Georgia, Louisiana, Minnesota, Nevada, New Hampshire, Oklahoma, Oregon, Vermont and Washington—have mandated that schools take active steps to reduce bullying.”

According to DeVoe et al., 8 percent of students reported being bullied in 2000. However, research by Olweus (2003, p. 13) using a large-scale survey of
approximately 11,000 Norwegian students from 54 schools with questions identical to a survey conducted in 1983 found disturbing results: “The percentage of victimized students had increased by approximately 50 percent from 1983, and the percentage of students who were involved (as bullies, victims, or bully-victims) in frequent and serious bullying problems—occurring at least once a week—had increased by approximately 65 percent.”

The seriousness of the problem in the United States was supported by a survey conducted for the National Institute of Child Health and Human Development which found that almost one-third of U.S. students in grades 6–10 were directly involved in serious, frequent bullying—10 percent as bullies, 13 percent as victims, and 6 percent as both (Nansel et al., 2001).

Garbarino and deLara (2003, p.21) contend that: “Failing to prevent bullying behavior suggests a lack of understanding of the serious and damaging nature of all forms of bullying for many students. . . . When school personnel do not prevent students from bullying other students, these educators have, in effect, delegated a portion of their authority to the bullies in the system.” Preventing bullying is discussed in Chapter 8.

**Crime and Violence in the Schools**

According to DeVoe et al., important gains have been made in reducing crime and violence in U.S. schools; however the crime problem remains “enormous,” with approximately 1.9 million total crimes of violence or theft at schools during 2000. They report that the high of 59 violent victimizations per 1,000 students in 1993 has declined to a low of 26 in 2000. The problems of crime and violence in schools are discussed in Chapter 6.

**Schools’ Responses**

Measures that schools have taken in response to crime and violence include drive-by shooting drills, fencing the campuses, adding metal detectors, conducting locker searches, banning the wearing of overcoats and backpacks that could conceal weapons and adding uniformed and armed security guards or police officers. However, such measures merely treat symptoms rather than focusing on the causes such as teen hopelessness, family breakdown, media violence, the drug culture, demographics and economics.

Zero-tolerance policies mandate predetermined consequences or punishments for specific choices and have become a popular disciplinary choice (Holloway, 2001/2002, p.84). According to the National School Safety Center (2001), nine of ten principals who participated in a survey said that tough discipline, including zero-tolerance policies, were absolutely essential for keeping schools safe even though they result in an increase in suspensions and expulsions. Holloway cautions: “Policies that rely solely on suspending and expelling students do not remedy student misbehavior.” A more promising approach is the use of school resource officers.

A school resource officer or SRO is “a career law enforcement officer with sworn authority, deployed in community-oriented policing, and assigned by the employing police department or agency to work in collaboration with school and community-based organizations” (Omnibus Crime Control and Safe Streets Act
of 1968). Girouard (2001, p.1) explains that this concept evolved during the 1950s in Flint, Michigan, and flourished during the 1960s and 1970s, languished in the 1980s and then gained momentum nationwide in the mid-1990s. According to Atkinson (2001, p.55): “Demand for school resource officers has increased dramatically with heightened public concern about school safety.” She (p.57) contends: “Experience has taught that the presence of an SRO has a deterrent effect on illegal and disruptive behavior.” In addition, an SRO within a school can also help assure that students’ rights are not violated.

Protecting students’ rights within the school is another area of concern to the juvenile justice system. Until the past decade, the landmark case in student rights was *Tinker v. Des Moines Independent Community School District* (1969), which established that students have constitutional rights that must be protected in school.

Students have full constitutional rights within the school, including freedom of speech as well as the right to be free from illegal search and seizure.

Under *Tinker*, students’ rights could not be removed unless exercising them would “substantially interfere with the work of the school or impinge upon the rights of other students.” This standard changed in 1985. The current standard is based on three cases: *New Jersey v. T.L.O.* (1985), *Bethel School District #403 v. Fraser* (1986) and *Hazelwood School District v. Kuhlmeier* (1988). In all three cases, students claimed their constitutional rights were violated.

In *New Jersey v. T.L.O.*, a teacher observed two girls, one of whom was T.L.O., smoking cigarettes in a girl’s restroom in violation of the school’s rules. The girls were accompanied to the school administrator’s office, where T.L.O. denied smoking at all. The administrator requested T.L.O.’s purse, inspected it, found cigarettes, marijuana and marijuana paraphernalia. Further examination disclosed money and change amounting to $40.98 and a letter from T.L.O. to a friend asking for her help to sell marijuana in school. The administrator contacted the police, who referred the matter to the juvenile court. The court ruled there was a violation of search and seizure. Upon appeal, the Supreme Court overturned the ruling, saying that schools can make rules for the administration of the school and there was no violation of Fourth Amendment protection. As Ehlenberger (2001/2002, p.31) states: “Student search can be a tool for maintaining safe schools, but school administrators must balance students’ individual rights with the school community’s need for a safe learning environment.”

In *Bethel School District #403 v. Fraser*, a student was suspended from school for three days and had his name removed from a list of candidates for graduation speaker because he used sexually explicit language in his campaign speech. The student brought suit, claiming his First Amendment right to free speech had been violated, but the Court said it was constitutional for a school “to prohibit the use of vulgar and offensive terms in public discourse,” and it left the determination of this with the school board.
In *Hazelwood School District v. Kuhlmeier*, a principal prohibited the publication of two pages of a student newspaper because he felt the articles were inappropriate. One article was on student pregnancies written from the point of view of three pregnant students; each gave a positive account of the experience. The other article was on the impact of divorce on students and included comments attributed to specific individuals; the principal considered this to be inappropriate. The Court upheld the prohibition as constitutional.

These three cases set the standard that governs a school’s restriction of students’ constitutional rights.

The Court requires only that schools’ actions in restricting students’ constitutional rights be “reasonably related to legitimate pedagogical concerns.”

This standard puts great responsibility on school administrators; it will probably reduce the likelihood that courts will intervene in school-related matters.

Another area involving students’ rights is random drug testing of student athletes. At the end of its 1995 session, the Supreme Court upheld the constitutionality of random drug testing for student athletes (*Vernonia School District 47j v. Acton*), stating that such screening does not violate Fourth Amendment protections against unreasonable search and seizure.

### The Influence of the Community

The community might be viewed as a series of nested boxes, as shown in Figure 3.4. The community provides the physical environment that shapes its members’ health and sense of well-being. It also provides both formal and informal networks including neighbors, school, businesses and a multitude of other groups and organizations.

The network of community associations is a powerful element of everyday life and a defining factor in childhood development, serving to either help or hinder learning socially acceptable conduct.

Wright and Cullin (p.677) note: “Recently, the concept of ‘collective efficacy’ has been advanced to understand how communities exert control and provide support to reduce crime. **Collective efficacy** parallels parental efficacy, but is on a much larger scale.”

Wasserman et al. (p.8) note: “Numerous risk factors for young children’s offending lie within the community domain. . . . Disorganized neighborhoods with few controls may have weak social control networks that allow criminal activity to go unmonitored and even unnoticed. . . . Certain residential areas may support greater opportunities for antisocial learning.”

Community risk factors include disadvantaged or disorganized neighborhoods, a concentration of delinquent peer groups and access to weapons.
Just as building a sense of community in the schools is seen as important, so is building a sense of community within neighborhoods. One way to do so that is gaining in popularity is through full-service community schools.

**Full-Service Community Schools**

Dryfoos (2002, p.394) explains the features of a full-service community school: “A community school, operating in a public school building, is open to students, families and the community before, during and after school, seven days a week, all year long. It is jointly operated and financed through a partnership between the school system and one or more community agencies. Families, young people, principals, teachers, youth workers, neighborhood residents, college faculty members, college students and businesspeople all work together to design and implement a plan for transforming the school into a child-centered institution.”

Full-service community schools address not only students’ educational needs, but their mental and physical needs as well. Social workers and counselors are
available for students and their families. Health services may be provided, including immunizations and dentistry. Such schools are a natural fit with the community-policing model that has been gaining in popularity within both the juvenile and the criminal justice systems.

Summary

The juvenile justice system exists to serve the children and adolescents of our country. Seventeen is the most common age at which individuals are legally considered adults, no longer under the jurisdiction of the juvenile court. Until that time it is expected that the state will assure the healthy growth and development of its children.

The period from birth to age 3 is the most formative time of a child's life. Individual childhood risk factors for child delinquency and later violent juvenile offending include early antisocial behavior, emotional factors such as high behavioral activation and low behavioral inhibition, poor cognitive development, low intelligence and hyperactivity.

Great care must be taken when using labels with children. Self-fulfilling prophecies occur when people live up to the labels they are given. Children and adolescents in particular incorporate labels as part of their self-images. Labeling theorists state that when a deviant label is attached to individuals, they become stigmatized and have little opportunity to be rewarded for conformist behavior. The label becomes a self-fulfilling prophecy.

Two of the most serious consequences of poverty for children are homelessness and an increased risk of lead poisoning. Children with special needs include those who are emotionally/behaviorally disturbed, who have learning disabilities, who have an attention deficit hyperactivity disorder or who have behavior problems resulting from prenatal exposure to drugs, alcohol or HIV.

A strong case can be made that during adolescence deviant peers or peer rejection can influence nondelinquent juveniles to become delinquent.

The family, the school and the community are powerful influences on children's development. The structure and interaction patterns of the home influence whether children learn socially acceptable or delinquent behavior. In healthy families, self-esteem is high, communication is direct and honest, rules are flexible and reasonable and members' attitudes toward the outside world are trusting and optimistic. Common values that might be passed on to youths include equality, honesty, promise-keeping, respect, responsibility and self-control.

The Census Bureau has identified six family-related risk factors: poverty, welfare dependence, absent parents, one-parent families, unwed mothers and parents who have not completed high school. Children who may face special challenges as they grow and develop are children of immigrants, those whose parents are divorced and those whose mothers or fathers are incarcerated.

The schools also play a vital role in the development of youths. Children who succeed in school have a greater probability of success in other areas of their lives. Peer approval and acceptance often is more important to adolescents than the approval of parents or teachers.
Students’ responses to failure may include skipping school, joining gangs, dropping out of school, drinking, doing drugs, performing delinquent acts and even attempting or actually committing suicide. Truancy is an early warning sign that a youth is headed for potential delinquent activity. The link between failure in school and delinquency is strong. The 35th Gallup Poll of Attitudes toward Public Schools identified lack of discipline as the number two problem in local schools. The leading problem was lack of financial support.

If students are to be taught respect for others, their own constitutional rights should be respected within the school. Students do have full constitutional rights, including freedom of speech as well as the right to be free from illegal search and seizure. However, the Supreme Court requires only that schools’ actions in restricting students’ constitutional rights be “reasonably related to legitimate pedagogical concerns.”

The community also plays a pivotal role in the healthy development of youths. Community associations are a powerful element of everyday life and a defining factor in childhood development, serving to either help or hinder the learning of socially acceptable conduct. Community risk factors include disadvantaged or disorganized neighborhoods, a concentration of delinquent peer groups and access to weapons.

Discussion Questions

1. The adult world stresses material and financial gain, social status and winning at any cost. Can children adjust to or understand this attitude? What values should adults communicate to children about these attitudes?
2. What are some common labels for youths used in local high schools—for example, nerd? How can labels hurt youths? How can they be beneficial?
3. Does your community have any ghettos or areas where poverty exists? What are some of visible signs of such conditions?
4. How does your community handle homeless people, particularly youths? Are there special programs for homeless families with children?
5. At what age do people become adults in your state?
6. Is controlled spanking in certain cases justified? Were you spanked as a child?
7. What values should be passed to the next generation?
8. Did you ever skip school when you were young? If you did, do you remember why? Why do youths become truants? Is truancy the responsibility of the school, parents or youths?
9. Do schools contribute to the problem of youths who are disruptive, antisocial, incorrigible and truant? How?
10. Are there neighborhoods in your community where violence seems more tolerated than in others? If so, what factors contribute to this tolerance?

InfoTrac College Edition Assignments

- Use InfoTrac College Edition to help answer the Discussion Questions as appropriate.
- Complete one of the following assignments and be prepared to share your findings with the class.
  - Research any two of the following conditions: attention deficit hyperactivity disorder, EBD, fetal alcohol syndrome, crack children.
  - Read and outline two articles on the school resource officer.
  - Read and outline two articles on zero-tolerance policies. Be prepared to discuss whether you support such policies or not.
  - Outline the characteristics of collective efficacy and parental efficacy.
Internet Assignments

Complete one of the following assignments and share with the class.

- Go to the No Child Left Behind Web site at http://www.nochildleftbehind.gov/ and outline the four basic reforms called for in the NCLB legislation.

References


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