

Chapter 13 Juvenile Justice

Teaching Outline

I. Introduction (p.385)

- Most chronic juvenile offenders begin their delinquency careers before age 12; some start as early as age 10.
- Juveniles account for 15% of violent crimes and 24% of property crimes.
- Juvenile violent crime is decreasing
- Female delinquency is increasing
- The number of juvenile held in public facilities is increasing
- Minority juveniles are greatly overrepresented in the custody population.

Juvenile: A youth at or below the upper age of juvenile court jurisdiction in a particular state. (p.385)

Juvenile Justice System: The government agencies that function to investigate, supervise, adjudicate, care for, or confine youthful offenders and other children subject to the jurisdiction of the juvenile court. (p.385)

II. Juvenile Justice throughout History (p.386)

A. Earliest Times (p.386)

- Juveniles received no preferential treatment because of their youth.
- Little distinction was made between criminality and delinquency.
- Concern for children increased in the 18th century during the Enlightenment.
- In the U.S., houses of refuge were opened in the early 1800s to shelter young thieves, vagrants and runaways, while children with more serious delinquency problems were placed in adult prisons and jails.
- The American child-savers movement began in the mid-1800s, leading to the development of reform schools: places for delinquent juveniles that embodied the atmosphere of a wholesome family environment.

Delinquency: In the broadest usage, juvenile actions or conduct in violation of criminal law, juvenile status offenses, and other juvenile misbehavior. (p.386)

Parens Patriae: A common law principle that allows the state to assume a parental role and to take custody of a child when he or she becomes delinquent, is abandoned, or is in need of care that the natural parents are unable or unwilling to provide. (p.386)

B. The Juvenile Court Era (p.387)

- Although other laws existed prior to it, the codification of Illinois juvenile law in 1899 became the model for juvenile court statutes throughout the U.S.

- This legislation applied the term delinquent rather than criminal, specified the need to focus on best interests of the child, and emphasized that concerns with guilt took second place to the betterment of the child.
- The 1938 federal Juvenile Court Act was modeled after the Illinois legislation; by 1945, every state had enacted special legislation focusing on the handling of juveniles.
- The key philosophical principles of the juvenile court movement:
 - The state is the “higher or ultimate parent.”
 - Children are worth saving.
 - Children should be nurtured.
 - Justice needs to be individualized.
 - The needs of the child mandate use of noncriminal procedures.

Juvenile Court: Any court that has jurisdiction over matters involving juveniles. (p.387)

1. Categories of Children in the Juvenile Justice System (p.388)

Delinquent Child: A child who has engaged in activity that would be considered a crime if the child were an adult. The term *delinquent* is used to avoid the stigma associated with the term *criminal*. (p.388)

Undisciplined Child: A child who is beyond parental control, as evidenced by his or her refusal to obey legitimate authorities, such as school officials and teachers. (p.388)

Dependent Child: A child who has no parents or whose parents are not available or are unable to care for him or her. (p.388)

Neglected Child: A child who is not receiving the proper level of physical or psychological care from his or her parents or guardians or who has been placed up for adoption in violation of the law. (p.388)

Abused Child: A child who has been physically, emotionally or sexually abused. Most states also consider a child who is forced into delinquent activity by a parent or guardian to be abused. (p.388)

Status Offender: A child who commits an act that is contrary to the law by virtue of the offender’s status as a child. Purchasing cigarettes, buying alcohol, and being truant are examples of such behavior. (p.388)

Status Offense: An act or conduct that is declared by statute to be an offense, but only when committed by or engaged in by a juvenile, and that can be adjudicated only by a juvenile court. (p.388)

III. The Legal Environment (p.389)

Instructional Cue

Review the Fourth, Fifth, and Sixth Amendment cases discussed in the police and court section. Remind students of the protections provided to adults against unreasonable searches and seizures, protections against self-incrimination, and right to counsel. This review will set the stage for the discussion of juvenile case law.

- Through the first half of the 20th century, the Supreme Court followed a hands-off approach to juvenile justice – it was not until the 1960s that the Court began to examine the principles underlying the juvenile justice system
- *Kent v. U.S.* (1966) ended the hands-off era in juvenile justice and recognized that at least minimal due process must be provided in juvenile court hearings.
- In the case of *In re Gault* (1967), the Court decided that juveniles have a right to notice of charges, a right to counsel, a right to confront and to cross-examine witnesses, and constitutional protections against self-incrimination.
- In the case of *In re Winship* (1970), the Court held that allegations of delinquency must be established beyond a reasonable doubt, although status offenses can be established with the preponderance of the evidence standard.
- *McKeiver v. Pennsylvania* (1971) held that juveniles do not have the constitutional right to a jury trial.
- *Breed v. Jones* (1975) severely restricted the conditions under which transfers from juvenile to adult court may occur, holding that such transfers must occur prior to an adjudicatory hearing in juvenile court.
- *Schall v. Martin* (1984) upheld the practice of preventive detention but stated that it cannot be imposed without prior notice, an equitable detention hearing, and a statement by the judge setting the reasons for the detention.
- In *Thompson v. Oklahoma* (1988), the Court prohibited the execution of any offender under the age of 16 at the time of the crime and in *Roper v. Simmons* (2005) this was extended to offenders committing capital crimes under the age of 18.
- *Graham v. Florida* (2010) The Court held that the 8th Amendment ban on cruel and unusual punishment extends to the sentencing of juveniles to life in prison for a crime not involving homicide.
- In *Miller v. Alabama* (2012), the Court ruled that state laws requiring the sentencing of juveniles convicted of murder to a term of life in prison without parole are unconstitutional.

A. Legislation Concerning Juvenile Justice (p.391)

- The Omnibus Crime Control and Safe Streets Act of 1968 was passed in response to increasing crime rates in the late 1960s.
- The Juvenile Justice and Delinquency Prevention Act of 1974 recognized the special needs of juveniles.
- More recent changes are moving away from the emphasis on treatment of juvenile offenders.
- The PROTECT Act of 2003 (also known as the Amber Alert Law) provides federal funding to states to ensure the creation of a national AMBER network.

B. The Legal Rights of Juveniles (p.392)

- Most states have statutes extending *Miranda* provisions to juveniles but it is unclear whether juveniles can legally waive their *Miranda* rights.
- In *New Jersey v. T.L.O.* (1985), the Supreme Court ruled that schoolchildren have a reasonable expectation of privacy in personal property.
- In *J.D.B. v. North Carolina* (2011), the Court held that the age of suspects must be considered when determining whether they would feel free not to respond to police questioning.

IV. The Juvenile Justice Process Today (p.392)

- Juvenile court jurisdiction rests on the offender's age and conduct.
- Exclusive jurisdiction applies when the juvenile court is the only court with statutory authority to deal with children (e.g., status offenses).
- Original jurisdiction means that a particular offense must originate with juvenile court authorities.
- Concurrent jurisdiction exists where other courts have equal statutory authority to originate proceedings.
- Some states specify that juvenile courts have no jurisdiction over certain specified offenses (e.g., first-degree murder).

A. Adult and Juvenile Justice Compared (p.394)

- Juveniles do not have the right to all the due process protections afforded adult defendants.
- Juvenile court philosophy creates differences from the adult system, including a reduced concern with guilt, an emphasis on treatment over punishment, privacy and protection from public scrutiny, use of techniques of social science, no long-term confinement, separate facilities, and broad discretionary alternatives.

B. How the System Works (p.394)

1. Intake and Detention Hearings (p.395)

- a. Detention Hearing: Intake officers have substantial discretion from full detention to dismissal.
- b. Preliminary Hearing: The purpose is to determine if there is probable cause to believe the juvenile committed the alleged act.
- c. Transfer Hearing: For transferring serious offenses to adult court.

Juvenile Petition: A document filed in juvenile court alleging that a juvenile is a delinquent, a status offender, or a dependent and asking that the court assume jurisdiction over the juvenile or that an alleged delinquent be transferred to a criminal court for prosecution as an adult. (p.394)

Intake: The first step in decision making regarding a juvenile whose behavior or alleged behavior is in violation of the law or could otherwise cause a juvenile court to assume jurisdiction. (p.397)

2. Adjudication (p.397)

- Similar to adult trials but some notable exceptions.

- Key differences between adjudicatory hearings and adult trials include an emphasis on privacy, informality, speed, evidentiary standard, court philosophy, and the lack of a right to trial by jury.

Adjudicatory Hearing: The fact-finding process wherein the juvenile court determines whether there is sufficient evidence to sustain the allegations in a petition. (p.397)

Teen Court: An alternative approach to juvenile justice in which alleged offenders are judged and or sentenced by a jury of their peers. (p.398)

3. Disposition (p.398)

- Two main classes of juvenile disposition: to confine or not to confine.
 - Most judges decide not to confine juveniles.
- a. Secure Institutions for Juveniles: For juveniles who demonstrate the potential for serious new offenses.
 - b. Characteristics of Juveniles in Confinement: A Bureau of Justice report on institutionalized youth indicate that 85.5% were male; 38.9% were black, 39.4% were white, and 17.3% were Hispanic; 42.4% were in residential facilities; and 1% were charged with murder.
 - c. Overcrowding in Juvenile Facilities: Over 30% of juvenile facilities operate at or over capacity

Dispositional Hearing: The final stage in the processing of adjudicated juveniles in which a decision is made on the form of treatment or penalty that should be imposed on the child. (p.398)

Juvenile Disposition: The decision of a juvenile court that concludes a disposition hearing. The adjudicated juvenile be committed to a juvenile correctional facility; be placed in a juvenile residence, shelter, or care or treatment program; be required to meet certain standards of conduct; or be released. (p.399)

4. Postadjudicatory Review (p.401)

- Federal court precedents have not established a clear right to appeal from juvenile court, although most states have statutory provisions making such appeals possible.

V. The Post–Juvenile Court Era (p.401)

- Key developments that occurred in many states during the past 15 years include transfer provisions, expanded sentencing authority, confidentiality changes, increased victims' rights, and new correctional programming.
- Juvenile courts are becoming more similar to adult courts.
- Key trends in American juvenile justice include a renewed focus on the developmental needs of juveniles, more recognition that juveniles lack culpability, increased maximum age of juvenile jurisdiction, changes in transfer laws, new laws and standards for

determining mental competency, increased representation by counsel, increased transparency, detention reform laws, changes in aftercare laws and programs, and the use of evidence-based programs.

- Recent models for reform include:
 - Resolution strategies
 - Reinvestment strategies
 - Realignment strategies

Blended Sentence: A juvenile court disposition that imposes both a juvenile sanction and an adult criminal sentence on an adjudicated delinquent. The adult sentence is suspended on the condition that the juvenile offender successfully completes the term of the juvenile disposition and refrains from committing any new offense. (p. 403)

Learning Activities Utilizing the World Wide Web

The following are presented as instructor led activities, to be used in a classroom with online access.

Visit the Cybrary at <http://mycrimekit.pearsoncmg.com>. Click on the topic “Juvenile Justice,” and review the sites that appear. Choose a few of the sites to display in class. Highlight any sites identified as being one of the “Top 100” sites. Ask the students if there are other juvenile justice sites that you think should be among the “Top 100” identified by the Cybrary. If so, use the feedback link at the bottom of the Cybrary’s home page to tell the Cybrary staff what your students think.

Visit the American Bar Association’s Center on Children and the Law website at http://www.americanbar.org/groups/child_law.html. Select one of the “hot topics” appropriate to this chapter, such as juvenile status offenses, and select one or more of the fact sheets and resources to discuss with the class.

Other websites for organizations and agencies related to the material in Chapter 13 include:

Center on Juvenile and Criminal Justice (CJCJ) <http://www.cjcj.org/>

NCJRS section on juvenile justice <https://ncjrs.gov/App/Topics/Topic.aspx?TopicID=122>

Time Magazine articles on juvenile justice <http://topics.time.com/juvenile-justice/articles/>

National Council on Crime and Delinquency <http://www.nccdglobal.org/>

Office of Juvenile Justice and Delinquency Prevention (OJJDP) <http://www.ojjdp.gov/>

Journal of Juvenile Justice <http://www.journalofjuvjustice.org/>

An Urban Ethnography of Latino Street Gangs <http://www.csun.edu/~hcchs006/gang.html>

National Gang Center (NYGC) http://www.iir.com/home/WhatWeDo/Gang_Initiatives/NGC

AMBER Alert <http://www.amberalert.gov/>

Code Amber – The Web’s Amber Alert System <http://www.codeamber.org/>

National Center for Juvenile Justice <http://www.ncjj.org/>