

CHAPTER 2

THE HISTORY OF JUVENILE JUSTICE AND TODAY'S JUVENILE COURTS



▲ The history of the juvenile justice system has many changing approaches to working with delinquent young people. Why do you think this is the case?

GRANGER/GRANGER—All rights reserved

LEARNING OBJECTIVES

INTRODUCTION

The juvenile justice system has a long history of shifting paradigms from rehabilitating to punishing those considered wayward, troubled, or delinquent children. In the early days, most juvenile justice efforts were punitive as evidenced by the use of dangerous and ineffective warehouse types of institutions: almshouses, houses of refuge, and similar alternatives. The first shift away from punishment and toward a rehabilitative paradigm was during the later 18th and early 19th centuries, a progressive era across parts of the nation, leading to the establishment of the juvenile courts as they are recognized today. These efforts at formalizing a juvenile court system, though, often ended up expanding the juvenile justice system and imprisoning more children and adolescents for noncriminal activities. Since the 1950s, and in response to the large numbers of institutional placements, due process rights were established for youthful offenders. The reach of the juvenile courts, however, expanded significantly once again during the 1980s and 1990s “tough-on-crime” approach to juvenile justice and the schools implemented similar zero tolerance discipline and school exclusion

- 1 Identify how the history of juvenile justice in the United States has been a series of distinct stages, some emphasizing reform and others focusing on punishment of young people
- 2 Discuss how the distinct historical shifts set the stage for the more recent “tough-on-crime” approach to juvenile justice and today’s reform-focused efforts
- 3 Identify the major state-level reforms occurring across the juvenile justice system today, and describe how and why today’s juvenile courts are at distinct and different stages of reform across the country
- 4 Explain how recent juvenile justice system changes have been impacted by federal policies

policies, forming what many have called the “school-to-prison pipeline.” Looking back, the early approaches to juvenile justice were far different from today’s juvenile court structure.

JUVENILE JUSTICE: CYCLES OF REHABILITATION AND PUNISHMENT

1750–1850: From Almshouses to Houses of Refuge

Prior to the establishment of today’s juvenile justice system, troubled children were offered intervention efforts focused on family control, in addition to use of the **almshouses**—locked, one-room buildings that housed many types of people with many different problems. During the later 1700s, the family was responsible for control of children, with the most common response by the community being to remove children and place them with other families (a philosophy and legal doctrine that came to be known as *in loco parentis*); typically, this happened because of poverty. Many times, these children were “bound out,” becoming indentured servants for the new family as a form of social control of troubled children. If there was no suitable placement with a family, however, an almshouse was one of the few community alternatives (Bremner, Barnard, Hareven, & Menell, 1970; Grob, 1994; Rothman, 1971).

“The almshouse in Boston,” observed a committee in 1790, “is, perhaps, the only instance known where persons of every description and disease are lodged under the same roof and in some instances in the same contagious apartments, by which means the sick are disturbed by the noises of the healthy, and the infirm rendered liable to the vices and diseases of the diseased, and profligate.” (Grob, 2008, p. 14)

By the 1800s, with the impact of increased poverty across many regions of the country, urban growth particularly in the Northeast, economic downturns, and immigrant influxes

Almshouses: Colonial-era, locked, one-room buildings that housed many types of people with many different problems, including troubled or orphaned children.



Liszt Collection/Newscom

▲ Almshouses existed in most Colonial communities and were a place of last resort for many troubled adults and orphaned children. Do we have any institutions like this today?

(in particular, from Ireland), new facilities were established in major cities to help control troubled, wayward, or orphaned children—the **houses of refuge**. There was a movement to discontinue the use of adult jails or almshouses for these children and to establish separate facilities. Many reformers supporting the establishment and expansion of these houses during this time period were wealthy conservatives, concerned about the impact of a growing poverty class and fear of social unrest, as well as about its influence and impact on children. This effort was not

as noble as it may sound, for there were worries by these reformers that efforts would not solve the pauperism problem, threatening the social order of the time and the wealthier class positions in society (Cohen & Ratner, 1970; Krisberg, 2005; Menzel, 1973).

The philosophical doctrine of *parens patriae* (“parent of the country”) was established through numerous legal decisions and supported the houses of refuge’s efforts in the belief that the state should act as a benevolent legal parent when the family was no longer willing or able to serve the best interests of the child; this included parental inability to control or discipline their child. Houses of refuge were the first institutions to provide separate facilities for children, apart from adult criminals and workhouses, and incorporated education along with reform efforts. Some of the earliest houses were established in New York in 1825, Boston in 1826, and Philadelphia in 1828; later houses also were established in larger urban areas (Chicago, Rochester [NY], Pittsburgh, Providence, St. Louis, and Cincinnati). These individual facilities housed a many young people (as many as 1,000) including those who were delinquent, orphaned, neglected, or dependent. The structure was often fortress-like and used punitive environments, corporal punishments, and solitary confinement, with many reports of neglect and abuse. The early facilities either excluded black children and adolescents or housed them separately. For example, the city of Philadelphia established the separate House of Refuge for Colored Juvenile Delinquents in 1849, alongside its original house or refuge for whites only, with significantly longer lengths of stay for black children compared with white children (Menzel, 1973; Platt, 1969, 2009; Ward, 2012). The following is a description of the early days of the New York House of Refuge.

The *parens patriae* philosophy continued to guide the reformers from the houses of refuge to the Child-Saving Movement and the eventual establishment of the juvenile courts. The juvenile courts would represent the first time a separate criminal code would be written in the United States that would not be universally applied to all citizens (Krisberg, 2005; Lawrence & Hemmens, 2008).

1850–1890: The Child-Saving Movement

The beginning of a new era (1850 to 1890), called the **Child-Saving Movement**, was focused on the urban poor, trying to keep children sheltered, fed, and when possible and old enough, employed. Early organizations included the Children’s Aid Society (1853) and the New York Juvenile Asylum (1851). In addition to these specific organizational efforts, reformers consisted of a diverse collection of public and private community programs and institutions. These organizations helped to provide some unique programs for young people, including probation supervision for status offenders and minor delinquents. One of the newer approaches started by the Children’s Aid Society was a “**placing out**” system for impoverished and troubled children whereby more than 50,000 were rounded up from mostly urban East Coast cities, boarded on trains, and sent to western states. The train stopped along the way for families to inspect the

.....

Houses of Refuge:

Facilities built in the 1800s and established in major cities to help control troubled, wayward, or orphaned children.

Child-Saving Movement:

A 19th century movement that influenced the development of the juvenile courts and focused on the prevention of delinquency through education and training of young people.

Placing Out:

Failed 19th century practice for impoverished, troubled, or orphaned children whereby more than 50,000 children from mostly urban East Coast cities boarded trains and were sent to western states to be adopted by farm families.



NEW YORK HOUSE OF REFUGE

The reformatory opened January 1, 1825, with six boys and three girls. Within a decade, 1,678 inmates were admitted. Two features distinguished the New York institution from its British antecedents. First, children were committed for vagrancy in addition to petty crimes. Second, children were sentenced or committed indefinitely; the New York House of Refuge exercised authority over inmates throughout their minority years. During the 19th century, most inmates were committed for vagrancy or petty theft. Originally, the institution accepted inmates from across the state, but after the establishment of the Western House of Refuge in 1849, inmates came only from the first, second, and third judicial districts (Ch. 24, Laws of 1850).

A large part of an inmate's daily schedule was devoted to supervised labor, which was regarded as beneficial to education and discipline. Inmate labor also supported operating expenses for the reformatory. Typically, male inmates produced brushes, cane chairs, brass nails, and shoes. The female inmates made uniforms, worked in the

laundry, and performed other domestic work. A badge system was used to segregate inmates according to their behavior. Students were instructed in basic literacy skills. There was also great emphasis on evangelical religious instruction, although non-Protestant clergy were excluded. The reformatory had the authority to bind out inmates through indenture agreements by which employers agreed to supervise them during their employment. Although initially several inmates were sent to sea, most male and female inmates were sent to work as farm and domestic laborers, respectively (New York State Archives, 1989, p. 4–5).

1. Do you think these institutions were helpful for the young people?
2. How do they compare with today's youth-caring institutions?

children and decide whether to accept them. Preference was given to farm families, with the philosophy that these families offered the best hope for rescuing these children from city streets and neglectful or deceased parents. This program often did not find placements for many of the children (Mennel, 1973).

Although these efforts tried to improve conditions for wayward children, all legal matters for children continued to be handled by adult civil courts, achieving haphazard outcomes in decreasing delinquency or offending behaviors across communities. This was because civil courts handled primarily adult issues—divorce, torts, and contracts—and had no specialization or training to handle children's issues. Because of these civil court failings and an ineffective approach across other public and private community provider programs, including the failed “placing out” of children from the cities to Midwest farms, reform schools were established (Hawes, 1971; Lawrence & Hemmens, 2008).

In contrast to the large and controlling houses of refuge, **reform schools** were designed as small, rural, cottage-like homes run by parental figures who worked to educate and care for the children and adolescents. These were first established in Massachusetts in 1886 (Lyman School for Boys) with 51 schools established nationwide by 1896. They were less common in southern and western states, however. Most facilities were operated by state or local governments, which was a significant shift in policy from charity and philanthropic support in earlier eras, and they offered separate facilities for boys and girls. These homes, though, rarely included adolescents convicted of serious crimes, who were still imprisoned with adults. Reform schools were criticized for lacking proactive efforts to change the behavior of troubled children and adolescents, the long-term housing of this population (typically 18 years of age for girls and 21 for boys), and the exploitation of those housed in the facilities under indentured or contract labor systems, similar to the houses of refuge.

Reform Schools: 19th century movement and reaction to ineffective houses of refuge consisting of homes designed as small, rural, cottage-like facilities run by parental figures who educated and cared for the children and adolescents.



HOUSE OF REFUGE, RANDALL'S ISLAND, NEW YORK.

© CORBIS/Corbis via Getty Images

▲ A house of refuge was a large institution, often overcrowded, that housed many different types of people with troubles. How have these type of institutions changed over time?

the country) were considered unamenable to rehabilitation; they typically remained in adult jails and prisons. When blacks were infrequently placed in reform schools, they were segregated from whites and rarely participated in the education or training components, but they were required to work and help maintain the school campus (Lawrence & Hemmens, 2008; Nellis, 2016).

1899–1920: Establishment of the Juvenile Courts

As the Child-Saving Movement's influence expanded, it included philanthropists (leaders included Julia Lathrop, a social reformer for education and child welfare; Jane Addams, established the profession of social work; and Lucy Flower, children's advocate and major contributor to establishment of the juvenile courts), middle-class citizens, and professionals focused on motivating state legislatures to extend government interventions to save troubled children and adolescents. The movement was formally recognized through the establishment of the nation's first juvenile court in Cook County (Chicago), Illinois, in 1899, an institution that was to act *in loco parentis* (in place of the parents).

In addition to the establishment of the juvenile courts, this era represented other advancements across social services, schools, and how children were viewed, including the recognition of adolescence as a distinct life stage; establishment of child labor laws that limited work and promoted mandatory school attendance; emergence of the social work and related professions; epidemiological tracking of poverty and delinquency, allowing for the first time an ability to identify and track social problems; and the legal recognition of delinquency that allowed the states to take a proactive and protective role in children's lives. Thus, the establishment of juvenile courts and having distinct juvenile (children's) judges began proliferating. By 1920, 30 states, and by 1925, 46 of the existing 48 states had established juvenile or specialized courts for children and adolescents (Coalition for Juvenile Justice, 1998; Feld, 1999; Krisberg, 2005; Platt, 2009).

The juvenile courts were different from any prior court that handled children's issues. The guiding principles included optimism that the young person could be reformed, a focus on how to best accomplish this, and a separation and distinction from the adult court system that did not keep hearings and information confidential. Most juvenile courts also handled minor offenses and status offenses. Court proceedings were held in private and did not include jury trials, indictments, or other adult system formalities, treating these cases as civil, not as criminal. In addition, the juvenile courts took on child supervision roles in determining what came to be known as "the best interests of the child's welfare" (Platt, 2009; Redding, 1997). For the first time, state laws began to define delinquency. For example, in Oregon, it was identified by state law that truant, idle, and disorderly children would be considered in need of state supervision:

The words “a delinquent child” shall include any child under the age of 16 . . . years who violates any law of this State or any city or village ordinance, or is incorrigible, or who is a persistent truant from school, or who associates with criminals or reputed criminals, or vicious or immoral persons, or who is growing up in idleness or crime, or who frequents, visits or is found in any disorderly house, bawdy house or house of ill-fame, or any house or place where fornication is enacted or in any saloon, bar-room, or drinking shop or place . . . or in any place where any gaming device is or shall be operated. (Nellis, 2016, p. 13)

Juvenile courts handled most matters as civil cases, viewing the child as in need of rehabilitation and supervision and treating delinquency as a social problem instead of as a crime. The courts often employed **probation officers**, social workers, and psychologists to work with the child and family, as well as to guide the decision-making of juvenile courts. These professionals were to act in the best interests of the child, which was a significant change from earlier benevolent or controlling philosophies. Over subsequent decades, however, the juvenile courts moved away from these initial reformatory and informal supervision plans. This happened because of the significantly large numbers of young people who became involved with the juvenile courts requiring an expansion of rules and processes to hear many types of child and adolescent cases. Many of these situations could have been handled without state intervention or supervision, but nonetheless they came to the juvenile courts’ jurisdiction.

As with earlier eras in juvenile justice, most children and adolescents involved with the juvenile courts were from poor families and many immigrant neighborhoods, and segregation across racial lines was common in the court staff who supervised the young people (Liazos, 1974; Ward, 2012). This differential treatment of black children and adolescents, however, extended beyond limited access to the earlier era reform schools (or other possible rehabilitative alternatives) and the newly established juvenile courts. Although many black youthful offenders were simply prosecuted in adult courts and placed into adult prisons, they were also involved in the convict-lease system (the southern states’ provision of prisoner labor to private parties, such as plantations and corporations), longer periods in detention, and higher rates of corporal punishment and execution (Ward, 2012).

An early assessment of the juvenile courts was skeptical of the impact. “It was the evident purpose of the founders of the first juvenile courts to save, to redeem, and to protect every delinquent child . . . After two decades this exalted conception . . . has not been realized in its fullness. . . . Children . . . are but little different from those of the last century” (U.S. Department of Labor, Children’s Bureau, 1922, pp. 14–15). Criticism grew after World War II with many finding that the expansion of rules, processes, and supervision within the courts had eliminated constitutional and due process protections for the youthful offenders. The early goals of the juvenile courts were difficult to achieve, and the *parens patriae* doctrine and expanded supervision of many young people led to harsher discipline and punishment for low-level delinquency and status offenders (Allen, 1964; Caldwell, 1961).

1920–1960: Institutionalization of Youthful Offenders

The significant expansion and commitment of many youthful offenders to juvenile court detention and **incarceration facilities** was far from the juvenile court’s original rehabilitative philosophy. Like the houses of refuge and reform school eras, institutionalization became

Jacob A. Riis/Museum of the City of New York/Getty Images



▲ The Child-saving Movement focused on orphaned and delinquent children, offering housing and education. How did these efforts shape some of today’s juvenile justice system?

Probation Officers:

Juvenile court employees that supervise youthful offenders who have been adjudicated delinquent.

Incarceration Facilities:

State-run correctional facilities that house youthful offenders, typically for longer periods of time.



Chicago History Museum/Archive Photos/Getty Images

▲ Chicago, Cook County, established the country's first juvenile court in 1899. How did this change the treatment of youthful offenders?

the primary determination and outcome for those involved with the juvenile courts. Most young people who were brought before the juvenile courts were adjudicated delinquent and placed within a locked facility. Correctional facility placement of delinquent youthful offenders across the country expanded from 100,000 in the 1940s to 400,000 in the 1960s.

Most of these facilities were substandard and overcrowded, did not include rehabilitative services or medical care, and employed a controlling and punitive environment. Although varying interventions were tried within the institutions—therapy, group treatment, and environmental management techniques, among others—outcomes remained poor, both inside the facilities and for those who left (Lerman, 2002; President's Commission on Law Enforcement and Administration of Justice, 1967; Roberts, 2004). The juvenile courts continued to predominantly involve low-income and “other people's children,” although some alternatives to incarceration of youthful offenders were introduced as community-based corrections. These included group homes, partial release supervision, and halfway houses, but these types of programming were not widely implemented across the country (Krisberg, 2005; Nellis, 2016). The next phase of the juvenile justice system brought a short-lived shift away from institutionalized placement of youthful offenders toward more community-based alternatives, as well as the expansion of due process rights for young people formally involved with the juvenile courts.

1960–1980: Juvenile Justice and Individual Rights

Although juvenile courts were established as part of a reform effort to more humanely provide for the best interest of neglected, abused, and delinquent children, their reformation and delinquency prevention impact continued to be limited. Even though local city and county juvenile courts processed youthful offender cases and referred many to probation supervision and residential placement, juvenile court dockets expanded to include more minor offenses, **truancy** issues, and child welfare concerns, along with criminal activity. Beginning in the 1960s through the 1970s, significant changes were made within the juvenile justice system, driven by three primary forces: (a) a stronger federal government role, (b) state reformation and depopulating the overcrowded juvenile incarceration facilities, and (c) **U.S. Supreme Court** decisions establishing youthful offender rights in juvenile proceedings (Binder, Geis, & Bruce, 1988; Krisberg, 2005; Nellis, 2016).

The 1950s were a time of increasing youthful offender crime and delinquency, causing stakeholders to begin to address the problems beyond just local and state efforts in the 1960s. An early federal initiative emanated from a 1961 juvenile delinquency committee was appointed during the Kennedy Administration. Recommendations from this committee, many that were pursued, included a preventative focus for those children and adolescents most at risk; identification that delinquency was linked to urban decay, poverty, school failure, and family instability; and establishing diversion alternatives away from delinquency adjudication for adolescents (President's Commission on Law Enforcement and Administration of Justice, 1967). Although federal funding was made available during the 1960s for delinquency prevention and diversion programs, the first established federal grant-making law was the Juvenile Justice and Delinquency Prevention Act of 1974. This law did fund certain programs for juvenile courts, but it also required youthful offenders to be separated from

Truancy: Act of staying away from school without good cause.

U.S. Supreme Court: Highest federal court in the United States that decides cases on Constitutional issues and has jurisdiction over all other courts.

adults in local jails, that status offenders be removed from juvenile institutions (youthful offenders locked up often in training schools or prisons where their only “crime” was disobeying parents, school truancy, or running away), and the removal of adolescents from the adult criminal justice system unless they are charged and transferred as adults (Public Law No. 93–415, 1974).

Some states also pursued shifting their large-scale and often poorly maintained correctional facilities toward smaller, community, home-type environments. This movement was influenced by the broader deinstitutionalization of state psychiatric facilities, driven by federal court decisions that focused on due process protections. These state efforts were led by Massachusetts, Missouri, Vermont, and Utah, decreasing their youthful offender incarceration populations in some cases by 90%. Such progress was difficult for many states to achieve, however, and most continued to house large numbers of youthful offenders throughout the 1970s and 1980s as they had for decades (Mechanic, 2008; Nellis, 2016).

The continued poor treatment of many juvenile justice system-involved youthful offenders, particularly those in confinement, and the perception that a social welfare approach was doing little to curb expanding juvenile crime, resulted in an increased focus on due process protection rights. Critics at the time argued that the juvenile courts could no longer justify their broad disposition powers and invasion of personal rights on humanitarian grounds. Delinquent offenders were often treated like adult criminals, yet they had none of the legal protections granted to adults (Scott & Grisso, 1997). Eventually, due process concerns came to the forefront of juvenile justice in the Supreme Court’s *Gault* decision (*In re Gault*, 387 U.S. 1, 1967).

The intent of *Gault*, and these other due process decisions, was to balance the broad powers of the juvenile court by providing legal protections to youthful offenders. The *Gault* decision also focused attention on similarities between the juvenile and adult courts and on the differences in intent underlying the two systems. Although, in theory, still oriented toward rehabilitation, the new focus on due process resulted in the juvenile system orienting toward retribution as a means to address delinquency—the hallmark of the adult criminal justice system. This shift toward treating adolescents as adults in prosecution was combined with the influential but misunderstood message of “nothing works” in rehabilitating youthful offenders that impacted stakeholders throughout the 1970s (Martinson, 1974; Schwartz, 2001). This belief that nothing works to help rehabilitate youthful offenders involved with the juvenile courts was simply not correct, for various prevention programming—from probation supervision to community-based case management to therapeutic programs—showed significant decreases in adolescent crime and recidivism (Scarpitti & Stephenson, 1968). The lack of acknowledgment and dissemination of these programs’ effectiveness and shifts in other policy areas set the stage for the tsunami movement toward punishment and retribution within juvenile justice.

The 1990s: “Tough on Crime”

As federal initiatives and Supreme Court decisions drove changes in the juvenile justice system and to juvenile court proceedings, the pendulum started to swing toward a law-and-order approach to dealing with youthful offenders. The 1980s and early 1990s marked an aggressive shift toward public safety and accountability as the primary goal in developing responses to crime, in both the juvenile and adult courts. Punitive legal reforms increased juvenile detainment and incarceration as well as the wholesale transfer of many youthful offenders into the adult criminal justice system. The dismantling of the *parens patriae* approach within the juvenile courts accelerated, and in some areas expanded, the extensive use of institutional control. At its peak, between 1992 and 1997, 47 of the 50 states moved toward “get tough” and “adult crime, adult time” type policies and passed laws accordingly;



PRACTICE: WHAT CAN I DO?

JERRY GAULT AND DUE PROCESS PROTECTIONS

Gerald (Jerry) Gault was 15 years old when he was arrested in Arizona for making a prank phone call. He was detained, his parents were never notified, the prosecution included no witnesses or transcripts, and he was sentenced to six years in a secured state facility. Upon appeal and consideration, the U.S. Supreme Court stated that if the defendant had been 18 years of age, procedural rights would have been afforded automatically because of existing Constitutional protections. But because of Jerry Gault's age, no Constitutional rights were available. In reversing the lower court's decision, the Supreme Court found that youthful offenders facing delinquency adjudication and incarceration are entitled to certain procedural safeguards under due process protections of the Fourteenth Amendment. What was missing in this case included the following: a notice of charges, a detention hearing, a complaint at the hearing, sworn testimony, records of proceedings, and a right to appeal the judicial decision (387, U.S. 1, S.Ct. 1428, 1967). The Supreme Court

followed up over the next decade in three more decisions, expanding and guaranteeing additional due process rights to youthful delinquent offenders: the need for proof beyond a reasonable doubt standard for conviction, whereby lower evidentiary thresholds like a preponderance of the evidence was no longer Constitutional (*In re Winshop*, 397 U.S. 358, 1970); the right to a jury trial (*McKeiver v. U.S.*, 403 U.S. 528, 1971); and no prosecution in adult criminal court on the same offense a youthful offender had already been prosecuted for in a juvenile court (this is known as the double jeopardy protection; *Breed v. Jones*, 421 U.S. 529, 1975).

1. Why do you think the U.S. Supreme Court decided at this time and in this way on the Gault case?
2. What would have happened if these youthful offender due process rights were delayed another few decades?

45 state legislatures increased transfers of youthful offenders to the criminal courts; 31 state legislatures expanded juvenile court mandatory minimum sentencing options; 47 state legislatures made juvenile records and court proceedings less confidential; 26 states changed their juvenile justice state codes to endorse the use of punishment, accountability, and protection of public safety; and 22 state legislatures increased the role victims had in juvenile court proceedings, expanding prosecutions and lengthening conviction sentences (Bishop, Lanza-Kaduce, & Frazier, 1998; Griffin, 2008; Scott & Grisso, 1997; Scott & Steinberg, 2008a, 2008b; Snyder & Sickmund, 2006).

Numerous reasons are often cited to explain this change from rehabilitative to a retributive philosophy during this time: opinions across both liberal and conservative stakeholders and policy makers, along with the general public, that believed juvenile offender crime was out of control; concern about a largely fictional new class of juvenile super-predators; and a growing belief that juvenile courts were soft on crime and ineffective, and that preventative or intervention programs do not work with delinquent adolescents, particularly those considered serious and chronic offenders (Butts, 2000; Howell, 2009; Shepherd, 1999; Sherman, 1994). The explanations for this punitive paradigm shift, however, were both more nuanced and complicated.

Beginning in 1985, there was a growing crime problem in the youthful offender population across many states, although it was short lived. The number of adolescents arrested for robbery, forcible rape, aggravated assault, and murder rose 64% over an eight-year time period (1985–1993). In particular, juvenile homicide arrests increased by more than 200%, with urban, inner-city neighborhoods experiencing the greatest increases in violent crime. From 1986 to 1993, arrests for homicide increased 40% for white youthful offenders but 278% for black youthful offenders. Most violent crime was perpetrated by black adolescents using handguns, with victims being primarily other black males living in urban neighborhoods (Blumstein, 1995; Fagan & Wilkinson,

Gerald (Jerry) Gault:

Fifteen-year-old from Arizona who was prosecuted and incarcerated for six years for prank phone calls. Upon consideration, this landmark U.S. Supreme Court established Constitutional due process rights for youthful offenders in 1967 including notice of charges, a detention hearing, a complaint at the hearing, sworn testimony, records of proceedings, and a right to appeal the judicial decision.

1998; Nellis, 2016). The combination of an increase in handgun access and usage alongside an expanding drug trade, due primarily to the crack cocaine epidemic, in many of the nation's cities fueled much of this increase in youthful offender crime. Significant amounts of this crime activity took place in communities that were already impoverished and provided few opportunities to those who lived there, in particular, to male adolescents and young adults. Many young people lived in fear of the increase in violence, and a growing number joined gangs for security and a sense of protection (Baumer, Lauritsen, Rosenfeld, & Wright, 1998; Ousey & Augustine, 2001).

The public reaction, media coverage, and many policy makers' responses to these violent offenders were disproportionate to what was happening in these communities. The portrayals of youthful offenders shifted from one in need of interventions and supports toward retribution and harsh accountability. The recommendations coming from stakeholders were to apply severe punishments and sanctions on youthful offenders, both for deterrence and to incarcerate many adolescents. These public perceptions about juvenile crime, its causes, and victimization risk were often wrong—many believed that crime would continue to expand and not abate, when in fact this short-lived increase in violent adolescent offenses had already peaked by 1993 (Zimring, 1998).

From this crescendo of reactions to youthful offender crime rates, the story of an emerging **superpredator** class of adolescents was portrayed by the media and a limited number of academics. These stories often exaggerated the violence, focusing only on serious crimes that accounted for a minority of adolescent crimes, and disproportionately portrayed minority youthful offenders as the culprits (Bennett, DiIulio, & Walters, 1996; Nellis, 2016). This prediction of a growing class (some estimates in the hundreds of thousands) of impulsive, brutal, and remorseless adolescents who committed serious violent crimes never materialized, but it was used by many legislatures to justify a move toward punishment and away from rehabilitation in juvenile justice. In fact, after 1993, violent youthful offender crime decreased by 67% in the subsequent decade (Butts & Travis, 2002; Fox, 1996; Zimring, 2005).

Even so, the story or concern held true in the halls of Congress where U.S. House Representative Bill McCollum testified before the House Subcommittee on Early Childhood, Youthful, and Families:

In recent years, overall crime rates have seen a modest decline—nevertheless, this general decline masks an unprecedented surge of youthful violence that has only begun to gather momentum. Today's drop in crime is only the calm before the coming storm. . . . It is important to keep in mind that [the current] dramatic increase in youthful crime over the past decade occurred while the youthful population was declining. Now here is the really bad news: This nation will soon have more teenagers than it has had in decades. . . . This is ominous news, given that most [sic] violent crime is committed by older juveniles (those fifteen to nineteen years of age) than by any other age group. More of these youthfults will come from fatherless homes than ever before, at the same time that youthful drug use is taking a sharp turn for the worse. Put these demographic facts together and brace yourself for the coming generation of "super-predators." (Zimring, 2005, pp. 1–3)

ALAN R. KAMUDA/KRT/News.com



▲ The use of incarceration facilities exponentially expanded during the 1980s and 1990s "tough-on-crime" approach to youthful offending. What do you think was the impact of incarceration on the adolescents?

Superpredator: 1990s phrase used to describe a fictional class of impulsive, brutal, and remorseless adolescents who committed serious violent crimes.



YOUTHFUL OFFENDER MYTHS

Throughout the history of the juvenile justice system, from the early institutions to the Child-Savers Movement, and during the establishment of today's juvenile court systems, myths concerning child and adolescent crime have often driven policy. Early myths about juvenile crime were really proxies for fear about this population, racial bias, anxiety about immigrants, and dislike of the poor. Although more recent public opinion, particularly during the later 1980s and 1990s "tough-on-crime" era, was simply wrong about juvenile crime, with most Americans believing that youthful offenders commit much more violent crime than they actually do and that school-based violence is much more common than it really ever has been. During this time of punitive and retributive responses by stakeholders across the country, these misperceptions and myths created additional support to transfer increasing numbers of adolescents to adult courts and to incarcerate them with adult offenders (Krisberg, 2005; Wolfgang, Thornberry, & Figlio, 1987).

A related myth, also exaggerated, was that juvenile courts could not handle nor respond to a growing class of violent youthful offenders labeled super-predators or serious and

chronic offenders and, in tandem, that preventative programming and interventions were ineffective. The juvenile courts were viewed as too lenient and their rehabilitative focus useless for serious offenders who were often portrayed as impulsive, remorseless, and irredeemable (Jones & Krisberg, 1994; Redding, 1997). In response, the incarceration of youthful offenders in juvenile facilities expanded significantly with the belief that longer mandatory sentences would reduce crime because serious juvenile crime was being committed by this group. As it turned out, no class of super-predators ever emerged and incarceration for longer periods of time did nothing but increase the risk of offender recidivism—a retributive policy that made the problems worse (Howell, 2009; Loughran et al., 2009; Winokur, Smith, Bontrager, & Blankenship, 2008).

1. Why do you think some of these myths formed and are still believed by some today?
2. How would you address or fix this problem in others believing these types of myths?

In 1994, one of the most sweeping crime bills—the **Violent Crime Control and Law Enforcement Act**—was passed by Congress and signed into law by President Bill Clinton. A second crime-related bill—the **Gun-Free Schools Act**—was also enacted in 1994, and its impact, both intended and unintended, will be discussed in the upcoming school discipline sections. The Violent Crime Control and Law Enforcement law had several important consequences for youthful offenders: It lowered the age for adult prosecution from 15 to 13 for certain federal offenses; funded military-style boot camps (although there was no evidence that they were effective); made the penalties for drug distribution near schools, playgrounds, and youthful centers (covering almost all areas in most urban communities) three times more harsh; and made firearm possession a federal offense (P.L. 103–322, 1994).

Violent Crime Control and Law Enforcement Act:

Passed in 1994, the largest crime bill in federal history that focused on punishment for crimes and a "tough on crime" approach to adult and juvenile justice.

Gun-Free Schools Act:

Passed in 1994, a federal law that encouraged states to take a tough on crime approach to their schools by introducing "zero tolerance policies."

TODAY'S JUVENILE COURT REFORM

The punitively focused fortress built within the juvenile justice system began to be dismantled for several reasons in some parts of the country toward the end of the 1990s. Although this change and reformation has been intermittent and local and state government driven, a tide has turned in recognition that the myths that took hold during the tough-on-crime era were by and large not true and that the responses taken by policy makers were causing more harm than good across communities. With large expenses for punitive juvenile justice discipline straining many state budgets, an increased recognition that most juvenile offenders are not serious or chronic and

that they do respond to preventative and diversionary interventions, and significant advances in the development of effective and evidence-based treatments and protocols, harsh punishments of youthful offenders have decreased and correspondingly improved public safety (Bonnie, Johnson, Chemers, & Schuck, 2013; Howell et al., 2013; Scott & Steinberg, 2008a, 2008b). In fact, from 2000 to 2012, nationwide arrests of juvenile offenders decreased 31%, offender cases decreased 34%, delinquency adjudications dropped 38%, commitments to juvenile court facilities decreased by 44%, and judicially waived cases to the adult courts decreased 34% (Sickmund, Sladky, & Wang, 2014).

State Trends

Correspondingly, several reformatory trends have been happening across various states and, consequently, local juvenile courts. The first trend is for states to recognize some of these problems and to complete reviews of their juvenile justice system effectiveness, leading often to legislative reform. These broader reforms have focused on improving public safety, diverting first-time and low-level youthful offenders away from the courts, and investing in the use of effective prevention and treatment alternatives. Key states that have more fully pursued these reforms include Arkansas, Georgia, Hawaii, Indiana, Kansas, Kentucky, Nebraska, New Hampshire, South Dakota, Utah, and West Virginia (National Conference of State Legislatures, 2015).

A second state trend is the reformation of some laws returning or maintaining more adolescents within the juvenile court jurisdiction. Between 2011 and 2013, several states limited their **transfer and waiver criteria laws** for transfers of juvenile offenders to the adult criminal courts—Arizona, Indiana, Nevada, Missouri, Ohio, Vermont, and Wisconsin. In addition, some states raised their minimum age of juvenile court jurisdiction. By 2015, 41 states had set the maximum age at 17 years and 9 states set had this age at 16 and 15 (New York and North Carolina at age 15). Recently, the trend has been to increase the minimum age and keep these adolescents under the jurisdiction of the juvenile courts: Since 2011, Connecticut, Massachusetts, and New Hampshire moved their age of jurisdiction from 16 to 17, and numerous other states have been moving in this direction (National Conference of State Legislatures, 2015).

Transfer and Waiver Criteria Laws: State laws that allow the transfer of youthful offenders to adult criminal courts based on certain age and offense criteria.

CASE STUDY

PETER A.

At the time of his crime, Peter A. was a 15-year-old sophomore in high school, living at home in Chicago, Illinois, with his mother, her fiancé, and his younger brother. He was seven years old when his parents divorced, and he was then raised by his mother, who supported the family through welfare and other public assistance. According to Peter, he was not particularly interested in school, although he enjoyed and did well in his earth science class, which involved a lot of “lab work with my hands.” His probation officer reported him to be an “average student.”

Peter spent much of his time with his older brother, who had his own apartment. Peter said: “[My brother] tried to keep me out of trouble . . . my sophomore year—homecoming—he said, ‘there’s gonna be trouble, they’re gonna be shooting at the school. You can’t go.’ . . . and

they were shooting at the school, he was right. He wouldn’t let me go to house parties or nothing. He was trying to keep me out of trouble, but at the same time, he had me along.” Peter’s older brother was involved in drug dealing, mostly cocaine. Peter said he would sometimes act as a courier for his brother, delivering drugs to customers. He also learned how to steal cars at an early age and had a juvenile adjudication for possession of a stolen vehicle when he was 13. He was placed on one year of probation and completed it to the satisfaction of his probation officer. He had no record of violent crime and no felony convictions. He experimented with both alcohol and marijuana, but he says he stopped using any drugs or alcohol when he was placed on probation.

After a theft of “drugs and money” from his brother’s apartment, Peter said that he went with an 18-year-old to

steal a van to help get the stolen goods back. Peter says he acted on his brother's instructions, and he has always admitted his involvement in stealing the van. Peter says he sat in the back seat of the stolen van with another young man, age 21, and the 18-year-old driver, both of whom had guns. They drove to the home of the men they were told had robbed Peter's brother. No one sat in the front passenger's seat because "there was glass on the seat" from the window Peter had broken during the theft.

According to Peter, when the three arrived at the victims' home, Peter stayed in the stolen van while the other two went inside. Peter heard shots, and a few seconds later, one of the co-defendants came running out of the house, without having recovered the drugs or the money. The two sped away from the home, leaving the other young man behind. Peter said that he learned on return to his brother's apartment that two people had been shot to death in the botched robbery. A few days later, he found out that one victim was a close high school friend of his, a young man who had no involvement in the original robbery of Peter's brother. This friend, as Peter put it, was "completely innocent . . . just in the wrong place at the wrong time." Peter was arrested approximately one week after the crime, after his two co-defendants were already in custody.

Peter was questioned for a total of eight hours at the police station, without his mother or an attorney present. During this time, he readily admitted to his role in stealing the van. His admission, "which the assistant State's Attorney wrote down, did not state whether defendant intended to kill the victims." Peter explained, "Although I was present at the scene, I never shot or killed anyone." There was no physical evidence indicating that Peter had entered the victims' home, and one of his co-defendants was proven at trial to have been the triggerman in the crime, for which he was convicted. Peter

was convicted of felony murder (two counts), which carries a mandatory sentence of life without parole. He was held accountable for the double murder because it was proved he had stolen the van used to drive to the victims' house.

The judge in Peter's case found that Peter, without a father at home, had fallen under the influence of his older brother. The judge called Peter "a bright lad" with "rehabilitative potential" and stated that he had qualms about sentencing Peter to life without parole. In his decision, he wrote: "[T]hat is the sentence that I am mandated by law to impose. If I had my discretion, I would impose another sentence, but that is mandated by law." Peter's defense attorney told a researcher for this report that one of the other perpetrators of the crime "was subsequently acquitted. So, now you have a fifteen-year-old who was waiting outside with a stolen car doing life without parole and a murderer on the streets." Peter, who has already spent nearly half his life behind bars, was 29 years old when he was interviewed for this report in 2005. In prison, he obtained his G.E.D. and completed a correspondence paralegal course, from which he graduated with very good grades. He works as a law clerk in the prison law library and has received one disciplinary ticket in the past six years of his incarceration for possessing an extra pillow and extra cereal in his cell (Human Rights Watch, 2005, p. 12).

1. If you were the judge, and had no sentencing guidelines or restrictions, what would you have decided?
2. Can Peter ever be released from prison? If so, how; if not, is it the right outcome?

Source: Human Rights Watch (2005). *The rest of their lives: Life without parole for child offenders in the United States*. New York, NY: Human Rights Watch.

Evidence-Based

Interventions: Research-based (empirical) programs that have been found effective at their stated goals (for example, delinquency prevention and truancy reduction).

Evidence-Based

Practices: Research-based (empirical) programs that have been found effective at their stated goals (for example, delinquency prevention and truancy reduction).

MacArthur Foundation (Models for Change Initiative):

Leading national organization that has led juvenile justice reform from punishment toward a rehabilitative approach.

A third state trend is detention and incarceration reform and a corresponding focus on prevention, diversion of juvenile offenders from ongoing juvenile court involvement, and the use of **evidence-based interventions** within juvenile courts. Ohio and Texas have shifted dollars from institutional commitments to community-based alternatives, whereas Arkansas, Idaho, Mississippi, South Dakota, and West Virginia have increased state dollars to improve existing programs and expand community-based alternatives. **Evidence-based practices**, requiring rigorous evaluation methods, have been employed by these state stakeholders, as well as many other local and county jurisdictions (National Conference of State Legislatures, 2015; Soler, Schoenberg, & Schindler, 2009). Specifically, by 2016, 18 state statutes committed to the use of research-based practices in their juvenile justice system, with some states (Florida, North Carolina, Pennsylvania, and Washington) requiring thorough program evaluations to determine effectiveness. Washington state leads the way in evaluative research and evidence-based prevention and intervention programming for juvenile-justice-involved adolescents, as well as for those needing mental health and/or children's services supports (Nellis, 2016).

These reform efforts are also led by independent foundations, with the two most involved being the **MacArthur Foundation (Models for Change Initiative)** and **The Annie E. Casey Foundation** (Juvenile Detention Alternatives Initiative, JDAI). Later,



U.S. SUPREME COURT JUVENILE SENTENCING DECISIONS: 2002–2016

The Constitution's Eighth Amendment requires punishment to be proportioned to the offense (*Roper v. Simmons*, 543 U.S. 551 at 560, 2005). A key factor in this proportionality determination is the culpability of the offender. Since 2002, the Court in *Atkins v. Virginia*, *Roper v. Simmons*, *Graham v. Florida*, *Miller v. Alabama*, and *Montgomery v. Louisiana* narrowed the available use of the most severe criminal punishments for four categories of youthful offenders, finding these sentences violated the Amendment's Cruel and Unusual Punishment Clause.

Prior to the *Atkins v. Virginia* case, juvenile and adult offenders who were **developmentally delayed** (although in earlier years the descriptive term used was "mental retardation"—a term still commonly used in criminal law) could be sentenced by a jury to death row, in other words, a death sentence. If the individual committing a crime meets state statutory requirements, this sentence was allowed and the developmental and intellectual deficits were not mitigating or an excusable factor. In 1995, 18-year-old Daryl Atkins, along with an older accomplice, robbed a man, drove him to an ATM to withdraw more money, and took him to an isolated location where they shot him eight times. At trial, school records and the results of an intelligence quotient test confirmed that Atkins had an IQ of 59. As a result, the defense proposed that he was mildly mentally retarded; nonetheless, Atkins was sentenced to death. Upon appeal, in the Supreme Court's *Atkins* decision (2002), it was found that juvenile and adult offenders with lower intellectual functioning could not be sentenced to death because their disabilities limited impulse control and judgment abilities. "[T]hey do not act with the level of moral culpability that characterizes the most serious adult criminal conduct" (*Atkins*, 536 U.S., 304, p. 305). The Court further reasoned that the use of this severe punishment neither afforded retribution for the offender's act nor deterrence. This decision was important in providing serious juvenile and adult offenders with significant developmental disabilities respite from the death penalty.

From 1976 to 2005, those younger than 18 years of age could be sentenced to death for certain serious crimes (almost always homicide). If the crime was proven committed and the youthful offender guilty, this sentence was allowed across many states. In 1993, Christopher Simmons, at the age of 17, planned to murder Shirley Crook, bringing along two younger friends. The plan was to commit burglary and murder by breaking and entering, tying up the victim, and tossing the victim off a bridge. The three met in the middle of the night; however, one accomplice dropped out. Nonetheless, Simmons and the remaining accomplice broke into Mrs. Crook's home, bound her hands and covered her eyes, then drove her to a state park, and threw her off a bridge. At trial, Simmons confessed to the murder, performed a videotaped reenactment at the crime scene, and there was testimony that showed premeditation. Simmons was sentenced to death. Upon appeal, in the *Roper* decision (2005), the Supreme Court found juvenile offenders less culpable for

similar impulse control reasons cited in *Atkins*, among others, but went further to find adolescence itself a mitigating factor. The Court found differences between those younger than 18 years of age and adults so consequential as to not classify adolescents among the worst offenders. These differences include an underdeveloped sense of responsibility leading to impetuous actions as well as a lack of maturity, lessened character development, and vulnerability to negative influences and outside peer pressure. For these reasons, "almost every State prohibits those under 18 years of age from voting, serving on juries, or marrying without parental consent" (*Roper*, 543 U.S. 551, p. 557). The **juvenile death penalty** was thus abolished, and these individuals were resented to life without the possibility of parole (LWOP; Mallett, 2009).

Once the death penalty was found unconstitutional for juvenile offenders younger than the age of eighteen, the most severe sentence available was a **life sentence without the possibility of parole (LWOP)**. It was argued that this life sentence to prison was little different from a sentence of death. This sentence, however, was available across many states for crimes that were nonhomicide, for example, rape or armed robbery. In 2003, Terrance Graham, along with two accomplices, attempted to rob a restaurant in Jacksonville, Florida. Aged 16 at the time, Graham was arrested for the robbery attempt and was charged as an adult for armed burglary and attempted armed robbery. After a guilty plea, county jail time, and a community-based probation sentence, Graham was arrested again six months after jail release for home invasion robbery. Although Graham denied involvement, he acknowledged that he was in violation of his plea agreement, and he was charged with probation violation, with the trial court sentencing him to life in prison. Because the Florida legislature had abolished their system of parole, this became a life sentence without parole. Upon appeal, in the *Graham* decision (2010), the Court found that sentencing nonhomicide youthful offenders to this life term was unconstitutional. In so holding, the Court reinforced and relied on its *Roper* decision in reiterating that youthful offenders are different from adult offenders, and that the differences in characteristics mean that "[i]t is difficult even for expert psychologists to differentiate between the juvenile offender whose crime reflects unfortunate yet transient immaturity, and the rare juvenile offender whose crime reflects irreparable corruption" and that "developments in psychology and brain science continue to show fundamental differences between juvenile and adult minds" (*Graham* 560 U.S. 48, p. 122). The Court decision, however, did not extend this constitutional protection to juvenile offenders sentenced to LWOP for homicide crimes. It did so next, although only for those states that had mandatory LWOP sentences for homicide crimes.

Numerous states had allowed life sentences for juvenile offenders convicted of murder; and under some state

(Continued)

(Continued)

laws, this sentence was mandatory. In 2003, Evan Miller, a 14-year-old from Alabama, was convicted in juvenile court, transferred to criminal court, and sentenced after he and another teenager committed robbery, arson, and murder. Miller committed the homicide in the act of robbing his neighbor after all three of them (Miller, accomplice, and neighbor) had spent an afternoon drinking and smoking marijuana. While attempting to rob the neighbor, a fight ensued and the neighbor was beaten unconscious. Miller and the accomplice later returned to destroy the evidence of what they had done by setting fire to the neighbor's trailer, killing him. Once found guilty, Alabama state law mandated an LWOP sentence for Miller. Upon appeal, in the *Miller* decision, the Supreme Court found these LWOP mandatory state laws to be unconstitutional. The Court furthered the reasoning from *Roper* and, more significantly from *Graham*, in finding that these laws "run afoul of our cases' requirement of individualized sentencing for defendants facing the most serious penalties" (Miller, 567 U.S. slip op

at 2). And most recently, in the 2016 *Montgomery* decision, the Supreme Court found that the decision in *Miller* must be retroactively applied to all juvenile offenders so sentenced (approximately 3,000 at the time), allowing a resentencing hearing or for immediate parole eligibility (577 U.S. ___ 2016). Advocates are next pursuing cases to appeal to the Supreme Court that address any LWOP sentence for someone so convicted and younger than 18 years of age at the time of the crime.

1. Why do you think the U.S. Supreme Court has made these decisions, all providing more Constitutional protections for youthful offenders?
2. Where do you think the next logical steps would be for state and local policies based on these court decisions?

The Annie E. Casey

Foundation: Leading national organization that has led juvenile justice reform since the 1980s from punishment toward a rehabilitative approach, including the Juvenile Detention Alternatives Initiative.

Developmentally Delayed (Developmental Disability):

Description of individuals who are cognitively impaired or limited in some related ways; term used in earlier times was "mentally retarded."

Juvenile Death Penalty:

Practice of sentencing to death those who committed their crime (homicide in all cases) when younger than 18 years of age. This was allowed from 1976 until 2005 when the U.S. Supreme Court found in *Roper v. Simmons* the juvenile sentence to violate the Constitution's Eighth Amendment forbidding cruel and unusual punishment.

Life Sentence Without the Possibility of Parole

(LWOP): Sentence that requires the offender to serve the rest of his or her life in prison (state or federal) without the chance of being released.

in Part III of the text, significant reviews will be presented about these foundation efforts, for their leadership has been important in showing stakeholders how juvenile courts can move from punitive to rehabilitative paradigms. For example, the JDAI program works to decrease the use of detention through collaboration across adolescent caring systems (including child welfare, mental health, schools, and other social service agencies), builds community-based rehabilitative alternatives, and uses standardized assessment instruments and data collection within juvenile courts to direct decision-making. Results, depending on length of implementation, have been positive in the more than 150 jurisdictions in 35 states in which the Initiative has been involved. These results include the lowering of detention populations and reoffending rates, sometimes by greater than 40%, and state incarceration placements by more than 34%, thus, often freeing up limited juvenile justice system resources to be used for more productive and cost-effective programming (Mendel, 2014).

A fourth state trend is the expansion in due process protections for juvenile offenders, with many states limiting the ability to waive counsel, improving the provision of quality attorney representation, and increasing attention to whether the adolescent is competent—having the cognitive ability to comprehend and participate in legal proceedings. By 2015, 23 states had expanded definitions of competence for juvenile offenders to include the review of mental health problems, intellectual disabilities, and/or developmental immaturity, with 12 states having done so since 2010—Arkansas, California, Idaho, Louisiana, Maine, Maryland, Michigan, New Hampshire, Nevada, Ohio, Oklahoma, and South Dakota (National Conference of State Legislatures, 2015).

Federal Trends

At the federal level, the Juvenile Justice and Delinquency Prevention Act has moved forward on numerous priorities and reforms since the 1990s, thus helping to direct and incentivize states to follow. These initiatives have helped to shift states toward a rehabilitative paradigm as well

as to identify what efforts are significantly problematic at the state and local level. The Act requires states to determine the existence and extent of their disproportionate contact and confinement of minority youthful offenders and highlights the difficulties and challenges of having juvenile offenders in adult jail and prison facilities. The Office of Juvenile Justice and Delinquency Prevention continues to support the rehabilitation of most youthful offenders and to have them remain in the juvenile justice system, with attention on the involvement of girls and delinquency, mental health collaboration across juvenile courts, the impact of trauma on the system, and funding evidence-based programs (Lawrence & Hemmens, 2008; Office of Juvenile Delinquency and Prevention, 2014a, 2014b). Although funding for this federal law has not been a priority for Congress, its grant dollars have been decreased by 80% from 2007 to 2015. On a different federal front, in 2016, the Obama Administration banned the use of solitary confinement for juvenile

offenders being held in adult federal prisons (Shear, 2016), a practice that has lasting harmful impacts on most incarcerated prisoners and is a topic explored more fully later in the text.

These initiatives and priorities, along with supportive developmental and brain science research, have increasingly recognized that youthful offenders are different from adult offenders (Bonnie et al., 2013). Of significant impact, the Supreme Court has established a new paradigm on youthful offender sentencing since 2002, relying on the developmental and brain science evidence that adolescents are not adult offenders and have capacities to change, as well as on social and behavioral science evidence that distinguishes youthful from adult offenders. Some of the findings of this research reveal that adolescent brains do not fully develop until the mid-20s, and this age group is found to be emotional and impulsive and, thus, susceptible to external coercion (Steinberg, 2014a).

CHAPTER REVIEW

CHAPTER SUMMARY

This chapter reviewed the history of the juvenile justice system, its ongoing shifts from a rehabilitative to punitive focus, and today's challenges, along with progress, moving away from a "tough-on-crime" paradigm. The history of juvenile justice has delineated stages: from 1750 to 1850 and the almshouses and houses of refuge; from 1850 to 1890, an era characterized by the Child-Saving Movement; from 1899 to 1920 and the establishment of the juvenile courts; from 1920 to 1960, whereby the institutionalization of youthful offenders greatly increased; from 1960 to 1980 and the introduction of individual rights for youthful offenders; the 1990's "tough-on-crime" approach; and today's reform efforts and movement toward rehabilitative justice.

Reform today includes legislative changes that require numerous states to use evidence-based efforts, keep more youthful offenders out of the adult criminal justice system, minimize the use of detention and incarceration facilities, improve due process and attorney representation for those young people involved with the juvenile courts, and address the disproportionate minority involvement problem across the juvenile justice system. Much of this reform and paradigm shift has been seen in U.S. Supreme Court decisions since 2005, where it has been repeatedly found that adolescents are developmentally different from adults and they should not be held to the same legal standards or consequences.

KEY TERMS

almshouses	27	juvenile death penalty	39	superpredator	35
Child-Saving Movement	28	life sentence without the possibility of parole (LWOP)	39	The Annie E. Casey Foundation	38
developmentally delayed	39	MacArthur Foundation (Models for Change Initiative)	38	transfer and waiver criteria laws	37
evidence-based interventions	38	placing out	28	truancy	32
evidence-based practices	38	probation officers	31	U.S. Supreme Court	32
Gun-Free Schools Act	36	reform schools	29	Violent Crime Control Act and Law Enforcement Act	36
houses of refuge	28				
incarceration facilities	31				

DISCUSSION QUESTIONS

1. How has the juvenile justice system changed over time; are there themes or cycles to these changes?
2. What are the outcomes and implications for the tough-on-crime approach in juvenile justice?
3. What factors are leading to today's juvenile court reformation?
4. What are the more important changes that juvenile justice reformers have accomplished over the past few decades?
5. What does the early history of the juvenile courts tell us about later shifts in juvenile justice philosophy?
6. What policies have been ineffective in the history of the juvenile courts? Why were these policies supported and implemented?
7. What race and gender issues have been identified in the history of juvenile justice?
8. What do you think are the best public policies for the juvenile courts to pursue?
9. What are the themes of the most recent Supreme Court juvenile offender sentencing decisions? Do you agree or disagree with these Court decisions?
10. If you could predict the future, what would the juvenile justice system be like in 10, 20, or 30 years? What do you think it should look like or be, and why?
11. What are the most pressing problems facing today's juvenile courts? Justify your answers

<https://edge.sagepub.com/mallett>

 **Sharpen your skills with SAGE edge!**

SAGE edge for students provides a personalized approach to help you accomplish your coursework in an easy-to-use learning environment. You'll find mobile-friendly eFlashcards and quizzes, as well as videos, web resources, and links to SAGE journal articles to support and expand on the concepts presented in this chapter.

PRACTICE AND APPLY WHAT YOU'VE LEARNED

▶ edge.sagepub.com/mallett



WANT A BETTER GRADE ON YOUR NEXT TEST?

Head to the study site where you'll find:

- **eFlashcards** to strengthen your understanding of key terms
- **Practice quizzes** to test your comprehension of key concepts
- **Videos and multimedia content** to enhance your exploration of key topics