



The juvenile courts have been around since the turn of the 20th Century. Do you know what juvenile courts are for and what type of issues they address?

©iStockphoto.com/gesrey

1

THE FUNCTIONING OF THE JUVENILE JUSTICE SYSTEM

LEARNING OBJECTIVES

- 1.1 Define key operational terms and concepts of the juvenile justice courts and juvenile justice process.
- 1.2 Compare and contrast the purpose of the juvenile justice system and the criminal justice system.
- 1.3 Understand the jurisdictional boundaries of the juvenile courts and juvenile justice system.
- 1.4 Name the basic process and stages of the juvenile justice system and agencies that are involved in each stage.
- 1.5 Examine the unique role and policies of the child welfare system and how it interacts with the justice system.

INTRODUCTION

The juvenile justice system handles legal matters involving a juvenile. A separate legal system for juveniles was established in the United States at the turn of the 20th Century based on the belief that children are different than adults, and thus, they should be treated differently. The juvenile justice system in the United States is not a cohesive framework, and although there are similarities across state laws, policies, and procedures, states differ in approaches and the courts are administered and funded at the county level. Even though it is common to focus on the court, the juvenile justice system encompasses several subsystems, such as the police, probation, and corrections (detention and incarceration facilities), all of which work together to bring about the process that is referred to as *juvenile justice*. Ancillary systems also exist that are unique to the child and adolescent population, including child welfare, schools, and behavioral health (mental health and substance abuse). These ancillary systems are intricately involved with the juvenile justice system because of the myriad difficulties and troubles that young people and their families face before and during involvement with the juvenile justice system. Although not considered to be part of the juvenile justice system, ancillary systems have a significant impact on the juvenile court process and often the outcomes of those involved because the experiences and backgrounds of the young people and families are typically quite complicated.

JUVENILE COURTS

A **juvenile** is defined for jurisdictional purposes in most states as a person who is younger than 18 years of age, although there are exceptions. Juvenile courts are controlled by local jurisdictions (at the county level) and exist in every state throughout the country as part of 50 different and separate state court systems. Federal courts may also have those under the age of 18 involved, though the annual number is typically small, as well as tribal courts on Native American territories. In some states, courts with juvenile jurisdiction are referred to as district, superior, circuit, county, family, or probate courts. Regardless of the name used, each state has a court that has specific jurisdiction to hear cases involving a juvenile. In addition, many courts with jurisdiction over juveniles also hear other family-related cases, including child support parentage and custody issues between unmarried individuals, adoption, and guardianship, as well as some criminal cases involving a child victim (Puzzanchera, Hockenberry, & Sickmund, 2022).

Juvenile courts were established based on the doctrine of “parent of the nation” (**parens patrie**); as such, it acts “in the place of a parent” (**in loco parentis**) for the best interest of children who are in need of help and guidance. Juvenile court, therefore, differs from adult court with a focus on individual, rather than on offense, and an emphasis on treatment and rehabilitation rather than on punishment. Juvenile court is considered civil, not criminal, and the juvenile is charged with engaging in a delinquent act, rather than in a crime. **Civil courts** handle most matters that do not involve criminal

acts; **criminal courts** handle personal and property crimes (Platt, 2009; Puzzanchera, Hockenberry, & Sickmund, 2022).

When a jurist (judge or magistrate) determines that a juvenile has committed a delinquent act, they do not find the juvenile guilty of a crime because the word “guilt” implies criminal intent; rather, they **adjudge** the juvenile to be delinquent. Once adjudicated as delinquent, the jurist does not impose the juvenile a sentence because a “sentence” implies punishment for a crime; rather, they render a **disposition**. This distinction in most instances means that a juvenile who is found delinquent has not been “convicted” of a crime, which relieves the jurist of any duty to report their delinquency finding. When a young person who has been found delinquent seeks education, employment, or housing, and is asked whether they have a criminal conviction, in most cases, as long as the case was handled in juvenile court, the young person can truthfully answer “no” to that question. Not having to report a finding of delinquency as a crime helps reduce some of the stigma and supports the rehabilitative philosophy that was the foundation of the juvenile court (Puzzanchera, Hockenberry, & Sickmund, 2022).

The rehabilitative framework in juvenile justice, however, has shifted numerous times over the past few generations. A rehabilitative philosophy has been expanding across the states and jurisdictions since around 2010 (though quite unevenly, as will be expanded on later in the chapter). Though this approach was recently preceded with a more controlling framework related to delinquency, many states increasingly passed more punitive laws that were focused on punishing juveniles who committed offenses. Different states today allow for findings of delinquency to extend into adulthood, though this practice is less common than earlier decades, and “collateral consequences” vary between states, but some can be severe and include enhancements to adult sentences based on findings of delinquency (Burrell & Stacy, 2011; Griffin, 2008; Puzzanchera, Hockenberry, & Sickmund, 2022). The consequences a youth who has offended and their family might be subjected to include: lifelong registration on a public offender list if convicted of a sexual offending crime; significant hurdles to attaining education if detained or incarcerated for extended periods of time; barriers to employment, professional licensing, subsidized housing, military service, and college entrance; assessment of fines, penalties, and restitution; risk to immigration status; termination of the right to vote or to serve on a jury after age 18; loss of driving privileges; and possible future prosecution.



Juvenile court proceedings include a judge (magistrate), prosecuting attorney, defense attorney, the young person, and depending on the situation, family members. How would you have handled a situation like this as a teenager?

Marmaduke St. John/Alamy Stock Photo

JUVENILE COURT PURPOSE

Each state's juvenile code begins with a purpose statement that provides a framework for decision-making in cases involving juveniles charged with delinquent acts and provides an understanding of the state's philosophy on juvenile justice (Table 1.1). State juvenile code purpose statements fall into five distinct groups, with numerous states incorporating more than one of these philosophies of purpose. First, the purpose clauses in 28 states and the District of Columbia are modeled after the Balanced and Restorative Justice (BARI) philosophy that provides for a balance between public safety, individual accountability to the victim and community, and the development of skills to help juveniles who have offended become law-abiding and productive citizens. Second, eight states model their purpose clauses after the **Standard Juvenile Court Act** (originally issued in 1925 and revised in 1959), which provides that, “[E]ach child coming within the jurisdiction of the court, shall receive ... the care,

TABLE 1.1 ■ Purpose Clauses for Juvenile Courts, 2023

Statistical Briefing Book > Juvenile Justice System Structure & Process

Organization & Administration of Delinquency Services

Q: How do states define the purpose of their juvenile courts?

A: There is considerable variation in the way states define the purposes of their juvenile courts. Some declare their goals and objectives in exhaustive detail; others mention only the broadest of aims. Often more than one philosophy influences a single state's purpose clause.

Purpose Clauses for Juvenile Courts, 2023

State	Balanced and Restorative Justice	Parens Patriae	Developmental Approach	Due Process	No Clause
Number of states	28	8	7	6	2
Alabama	X				
Alaska	X				
Arizona					X
Arkansas				X	
California	X				
Colorado	X				
Connecticut			X		
Delaware		X			
District of Columbia	X				
Florida			X		
Georgia	X				
Hawaii			X		
Idaho			X		
Illinois	X				
Indiana	X				
Iowa		X			
Kansas	X				
Kentucky			X		
Louisiana				X	
Maine	X				
Maryland	X				
Massachusetts		X			
Michigan		X			
Minnesota	X				
Mississippi	X				
Missouri		X			
Montana	X				
Nebraska	X				
Nevada		X			

New Hampshire				X	
New Jersey	X				
New Mexico			X		
New York				X	
North Carolina	X				
North Dakota					X
Ohio	X				
Oklahoma	X				
Oregon	X				
Pennsylvania	X				
Rhode Island		X			
South Carolina	X				
South Dakota		X			
Tennessee			X		
Texas				X	
Utah	X				
Vermont	X				
Virginia	X				
Washington	X				
West Virginia			X		
Wisconsin	X				
Wyoming	X				

Source: OJJDP Statistical Briefing Book, 2023a.

guidance and control that will conduce to his welfare and the best interest of the state, and that when he is removed from the control of his parents the court shall secure for him as nearly as possible equivalent to that which they should have given him” (Office of Juvenile Justice and Delinquency Prevention, 2019). Third, seven states model their purpose clauses after the *Legislative Guide for Drafting Family and Juvenile Court Acts* (Sheridan, 1969) that is concerned with the care and protection of children’s mental and physical development, incorporating supervision and rehabilitation, removing a child from their home only when necessary to the child or public safety, and guaranteeing constitutional rights. Fourth, the purpose clauses in six states have a due process focus, looking primarily at these constitutional rights as the role of the juvenile justice system. And fifth, two states have no stated purpose clause (Office of Juvenile Justice and Delinquency Prevention, 2019).

RESEARCH: WHAT WORKS

ADOLESCENTS ARE NOT YOUNG ADULTS

The recent development in brain science, through different imaging technologies, allows professionals to see the differences in adult and adolescent brains and has confirmed the long-held view that children are different than adults. Today, there is an increased understanding that children are

developmentally immature compared to adults neurologically, cognitively, intellectually, and psychosocially. This affects how adolescents think and behave, which is different from the way adults think and behave. The brain section that controls “executive functioning” does not stop developing until well into early-to-mid 20s. This brain area, called the *prefrontal cortex*, is associated with numerous important cognitive functions, such as long-term thinking, weighing consequences of one’s decisions and behaviors, and delaying impulsive reactions, all of which are found to be significantly associated with the engagement in risky behaviors, including delinquency and crime (Cavanaugh, 2022; Larson & Grisso, 2012).

1. Why do you think that the threat of long-term imprisonment and other harsh sentences are often an ineffective deterrent for young people?
2. How should juvenile court judges approach teenagers, knowing they are so different from adults?

JUVENILE COURT JURISDICTION

In most states, the juvenile court has the original jurisdiction over cases that involve delinquency committed by those who were younger than age 18 at the time of an offense, arrest for an offense, or referral to the juvenile court for an offense. There are exceptions to this general rule and significant variations

by state in terms of the definition of delinquency and status offense, the age of jurisdiction, and waiver to other court jurisdictions.

Delinquency and Status Offenses

Though **delinquency** is an act committed by a juvenile that would be considered a crime if committed by an adult, a **status offense** is a violation only when it is committed by a person younger than age 18 because of their status as a juvenile (Development Services Group, Inc., 2015). The definition of both delinquency and status offense varies depending on each state’s definition, much like the definition of crime (e.g., the recreational use of marijuana is legal in a near majority of states but illegal in others). Delinquency offenses include murder, rape, assault, burglary, robbery, larceny-theft, motor vehicle theft, drug sales, illegal possession of firearms, and arson, among others. Status offenses include alcohol law violation, running away from home, curfew violation, disobeying parents, and truancy, among others. The term used to classify a status offender varies by state and includes

“a child in need of supervision,” “a child in need of services,” “a child in need of aid, assistance or care,” and “unruly child” (Office of Juvenile Justice and Delinquency Prevention, 2023a).

In most states, the same court handles both delinquency and status offense cases. The process of handling juveniles charged with status offenses in the juvenile justice system, however, differs from the process of handling juveniles charged with delinquency. The **Juvenile Justice and Delinquency Prevention Act**, for instance, mandates that the state does not incarcerate juveniles who are involved in status offenses or abuse and neglect cases. In particular, the Act cites neglect as one of the areas over which juvenile courts also have jurisdiction, and child welfare cases where a child’s needs are not being met (Office of Juvenile Justice and Delinquency Prevention, 2023a).

- The juvenile court purpose clause in 28 states and the District of Columbia incorporates the language of the Balanced and Restorative Justice movement, which advocates that juvenile courts give balanced attention to three primary interests: public safety, individual accountability to victims and the community, and the development in juveniles who have offended of those skills necessary to live law-abiding and productive lives.



Young people who are formally involved with the juvenile courts experience hearings and procedures that are similar in many ways to adult criminal courts. Do you think this is the best practice?

ZUMA Press Inc./Alamy Stock Photo

- The purpose clauses in 14 states (*parens patriae* and due process) appear to be influenced by the Standard Juvenile Court Act. The purpose of this Act, originally issued in 1925 and subsequently revised numerous times, was that “each child coming within the jurisdiction of the court shall receive ... the care, guidance, and control of his parents the court shall secure for him care as nearly as possible equivalent to that which they should have given him.”
- Some states rely on a more elaborate, multi-part purpose clause contained in the Legislative Guide for Drafting Family and Juvenile Courts Acts, a publication issued by the Children’s Bureau in the late 1960s. The Legislative Guide’s opening section declares four purposes: (a) to provide for the care, protection, and wholesome mental and physical development of children involved with the juvenile court; (b) to remove from children committing delinquent acts the consequences of criminal behavior, and to substitute therefore a program of supervision, care, and rehabilitation; (c) to remove a child from the home only when necessary for his welfare or in the interests of public safety; (d) to assure all parties their constitutional and other legal rights.

The U.S. Congress passed the Juvenile Justice and Delinquency Prevention Act in 1974 (revised in 1980, 1992, 1996, 2002, and 2018), the first comprehensive federal law for the prevention of delinquency. The Act is overseen by the **Office of Juvenile Justice and Delinquency Prevention** (OJJDP), part of the U.S. Department of Justice (DOJ). The Act provides funding to states that comply with four “core requirements” (Table 1.2). In 2018, all states, except Wyoming, and the U.S. territories participated in the program, and almost all of them met the first three requirements, but many are trying to address the disproportionately higher involvements of juveniles from marginalized populations committing offenses at every stage of the juvenile justice system, also known as **racial and ethnic disparities** and/or **disproportionate minority contact**. The most recent legislative revision (2018) has highlighted the following areas that could be addressed by the states: improved legal representation for juveniles; informing and assisting juveniles of the opportunity for records expungement and sealing; addressing the differential needs of girls in or at risk of entering the juvenile justice system; and monitoring and training on compliance with the core requirements (Office of Juvenile Justice and Delinquency Prevention, 2019).

TABLE 1.2 ■ OJJDP Act Core Requirements

Deinstitutionalization of those committing status offenses and those who are not offending	This requirement mandates that the liberty of youths committing offenses not be taken away through detention or placement in a secured facility if they did not commit a “crime,” unless it is for a violation of a court order.
Sight and sound separation	This requirement mandates juveniles who have committed offenses be separated from adults who have committed offenses when they are being detained, such that juveniles who are detained should not be able to see, hear, or have any interactions with adult who are convicted of crimes.
Jail and lockup removal	This requirement mandates that juveniles not be detained in adult jails. Exceptions can be allowed as long as the “sight and sound separation” requirement can be met, such as in rural areas where there may be only one jail.
Disproportionate minority confinement	This mandates an effort to identify and reduce the disproportionately higher involvement of youths from marginalized populations, relative to their proportion in the population, at every stage of the juvenile justice system.

Source: OJJDP Statistical Briefing Book, 2023a.

Age of Jurisdiction

State laws vary concerning who falls under the jurisdiction of the juvenile court and the minimum ages at which juvenile committing offenses can be transferred to the adult court (Table 1.3). Five states have the upper age for original juvenile court jurisdiction over delinquency cases younger than 17 (age 16

TABLE 1.3 ■ Upper and Lower Age of Juvenile Court Delinquency and Status Offense Jurisdiction, 2023

Statistical Briefing Book > Juvenile Justice System Structure & Process

Jurisdictional Boundaries

Q: What are the upper and lower ages of delinquency and status offense jurisdiction?

A: In the majority of states, the upper age is 17 and the lower age is not specified for delinquency and status jurisdiction.

Upper and Lower Age of Juvenile Court Delinquency and Status Offense Jurisdiction, 2023

State	Delinquency Lower Age	Delinquency Upper Age	Status Lower Age	Status Upper Age
Alabama	NS	17	NS	18
Alaska	NS	17	NS	17
Arizona	8	17	8	17
Arkansas	10	17	NS	17
California	12	17	NS	17
Colorado	10	17	NS	17
Connecticut	7	17	7	17
Delaware	NS	17	NS	17
District of Columbia	NS	17	NS	17
Florida	NS	17	NS	17
Georgia	NS	16	NS	17
Hawaii	NS	17	NS	17
Idaho	NS	17	NS	17
Illinois	NS	17	NS	17
Indiana	NS	17	NS	17
Iowa	NS	17	NS	17
Kansas	10	17	NS	17
Kentucky	NS	17	NS	17
Louisiana	10	17	NS	17
Maine	NS	17	NS	17
Maryland	7	17	NS	17
Massachusetts	12	17	6	17
Michigan	NS	16	NS	17
Minnesota	10	17	NS	17
Mississippi	10	17	7	17
Missouri	NS	16	NS	17
Montana	NS	17	NS	17
Nebraska	11	17	NS	17
Nevada	NS	17	NS	17
New Hampshire	NS	17	NS	17
New Jersey	NS	17	NS	17

New Mexico	NS	17	NS	17
New York	7	17	NS	17
North Carolina	6	17	6	17
North Dakota	10	17	NS	17
Ohio	NS	17	NS	17
Oklahoma	NS	17	NS	17
Oregon	NS	17	NS	17
Pennsylvania	10	17	NS	17
Rhode Island	NS	17	NS	17
South Carolina	NS	17	NS	17
South Dakota	10	17	NS	17
Tennessee	NS	17	NS	17
Texas	10	16	NS	17
Utah	NS	17	NS	17
Vermont	10	17	NS	17
Virginia	NS	17	NS	17
Washington	NS	17	NS	17
West Virginia	NS	17	NS	17
Wisconsin	10	16	NS	17
Wyoming	NS	17	NS	17

Source: OJJDP Statistical Briefing Book, 2023a.

in GA, MI, MS, TX, and WI). In most states, there are statutory exceptions to the age of juvenile court jurisdiction, depending on the juvenile's age at the time of the offense, the offense, and the prior juvenile court record of the juvenile who was charged with offending, which may place some cases involving juveniles charged with offending under the jurisdiction of criminal (adult) court or under the jurisdiction of both juvenile court and criminal court. All but two states have the upper age of juvenile court jurisdiction over status offense cases at age 17 (age 16 in SC and TX; Office of Juvenile Justice and Delinquency Prevention, 2023a).

Most states do not specify the lower age for juvenile court jurisdiction for delinquency cases. This means that these states can formally prosecute children at any age, except for 18 states that have the lower age of original juvenile court jurisdiction over delinquency matters (age 6 in NC; age 7 in CT, MD, MA, NY, and ND; age 8 in AZ; and age 10 in AR, CO, KS, LA, MN, MS, PA, SD, TX, VT, and WI). In these states, children who are younger than the specified age cannot be adjudicated delinquent and, thus, are not subjected to the formal prosecution. Additionally, five states have the lower age of original juvenile court jurisdiction for status offense matters (age 6 in MA and NC; age 7 in CT and MS; and age 10 in TX) (Office of Juvenile Justice and Delinquency Prevention, 2023a).

- The upper age of jurisdiction is the oldest age at which a juvenile court has original jurisdiction over an individual for law violating behavior. An upper age of 16 means that the juvenile court loses jurisdiction over a child when they turn 17; and an upper age of 17 means that a juvenile court loses jurisdiction over a child when they turn 18.

- State statutes define which youth are under the original jurisdiction of the juvenile court. These definitions are based primarily on age criteria. In most states, the juvenile court has original jurisdiction over all youth charged with a criminal law violation who were below the age of 18 at the time of the offense, arrest, or referral to court. Some states have higher upper ages of juvenile court jurisdiction in status offense, abuse, neglect, or dependency matters—often through age 20.
- Many states have statutory exceptions to basic age criteria. The exceptions, related to the youth's age, alleged offense, and/or prior court history, place certain youth under the original jurisdiction of the criminal court. This is known as *statutory exclusion*.
- In some states, a combination of the youth's age, offense, and prior record places the youth under the original jurisdiction of both the juvenile and criminal courts. In these situations where the courts have concurrent jurisdiction, the prosecutor is given the authority to decide which court will initially handle the case. This is known as *concurrent jurisdiction*, *prosecutor discretion*, or *direct filing*.

Waiver to Adult Court

Waiver to an adult court occurs when the jurisdiction of a case involving a juvenile convicted of offending is transferred from the juvenile justice system to the criminal justice system (also called a certification, transfer, or remand). Waiver is also used in federal cases involving juveniles who are at least 15 years of age and have violated federal criminal law, though these transfer numbers are much lower than state-level transfer numbers. The waiver can occur at any stage of the juvenile justice system and, although jurisdictions vary in specific procedures, usually occurs in one of three ways (Hockenberry, 2023).

First, in 12 states, a serious violent offense, such as capital crime or murder, is automatically in the jurisdiction of the criminal justice system by statutory law and results in the automatic waiver or transfer of the youth charged with offending to the adult court (also known as legislative waiver, mandatory waiver, or statutory exclusion). Second, also in 12 states, certain offenses are in the jurisdiction of both the juvenile justice system and the criminal justice system (concurrent jurisdiction), and prosecutors have the discretion to decide whether to transfer such cases to the criminal justice system (also known as prosecutorial waiver or direct file). One issue considered by the prosecutor is the amenability of the juvenile charged with offending to the intervention offered through juvenile court, which may be determined based on the juvenile's history of involvement in delinquency and offending behaviors. Third, the most common waiver is judicial waiver (available in 46 states), which gives the discretion to the judge to determine whether to transfer a case to the criminal justice system. During the 1980s, many states reformed laws to make it easier to try juveniles as adults in the criminal court by lowering the minimum age when juveniles can be transferred and expanding the eligible offense and prosecutorial discretion (Redding, 2010), though this approach has turned around with numerous states minimizing the number of juvenile transfers since 2000 (Hockenberry, 2023).

Some states have a “once an adult, always an adult” provision that requires a juvenile be tried as an adult for all subsequent offenses once they have been tried as an adult for an offense. Although many states have reverse waiver laws, which provide the criminal court judge the discretion to transfer a juvenile charged with offending back to the juvenile court or to treat a defendant as a juvenile during sentencing (Sickmund, 2003); from 1999 to 2019, four states had added this provision, increasing the total number of states to 28. In addition, juvenile court blended sentencing laws have expanded since 1999 from 16 to 23 states that allow more juvenile courts to render a criminal sentence or both a juvenile disposition and a criminal sentence on certain offenses, usually serious offenses. In effect, blended sentencing laws allow for juvenile courts to render the same punishment to juveniles that adults receive on certain offenses, but the young person remains in the juvenile court's jurisdiction. Both criminal court blended sentencing and reverse waiver are “fail-safe mechanisms” against mandatory statutory waivers, allowing the criminal court judge to reverse the decision and move the youth charged with offending back to juvenile court jurisdiction. Nevertheless, of the 44 states with some type of mandatory waiver

laws moving youths charged with offending to criminal court jurisdiction, 37 of these states now have a way to transfer the young person back to juvenile court jurisdiction (Hockenberry, 2023).

Federal Courts and Jurisdiction

The **Federal Juvenile Delinquency Act** (implemented in 1938 and amended in 1948, 1974, and 1984) defines delinquency as “the violation of a law of the United States committed by a person prior to his eighteenth birthday which would have been a crime if committed by an adult” (Scalia, 1997, p. 1). Although small in number (less than 500 arrests per year), some juveniles who are apprehended by federal law enforcement agencies may be prosecuted in federal courts, (known as U.S. District Courts) and placed in the federal prisons, through the Federal Bureau of Prisons (Office of Juvenile Justice and Delinquency Prevention, 2023a).

Juveniles charged with offending are most likely to encounter the following federal law enforcement agencies: Border Patrol, Drug Enforcement Agency, U.S. Marshals Service, and Federal Bureau of Investigation. In most cases, juveniles who are determined to have broken a federal criminal law are turned over to state or other local agencies if they are willing to accept the jurisdiction over the cases. A small number of delinquency cases, however, may be certified by the **United States Attorney General** for prosecution in U.S. District Courts, especially those involving a serious offense, such as a violent felony, an offense involving a firearm, or drug trafficking, and cases that are of interest to federal agencies (Sickmund, Sladky, & Wang, 2014).

THE PROCESS OF THE JUVENILE JUSTICE SYSTEM

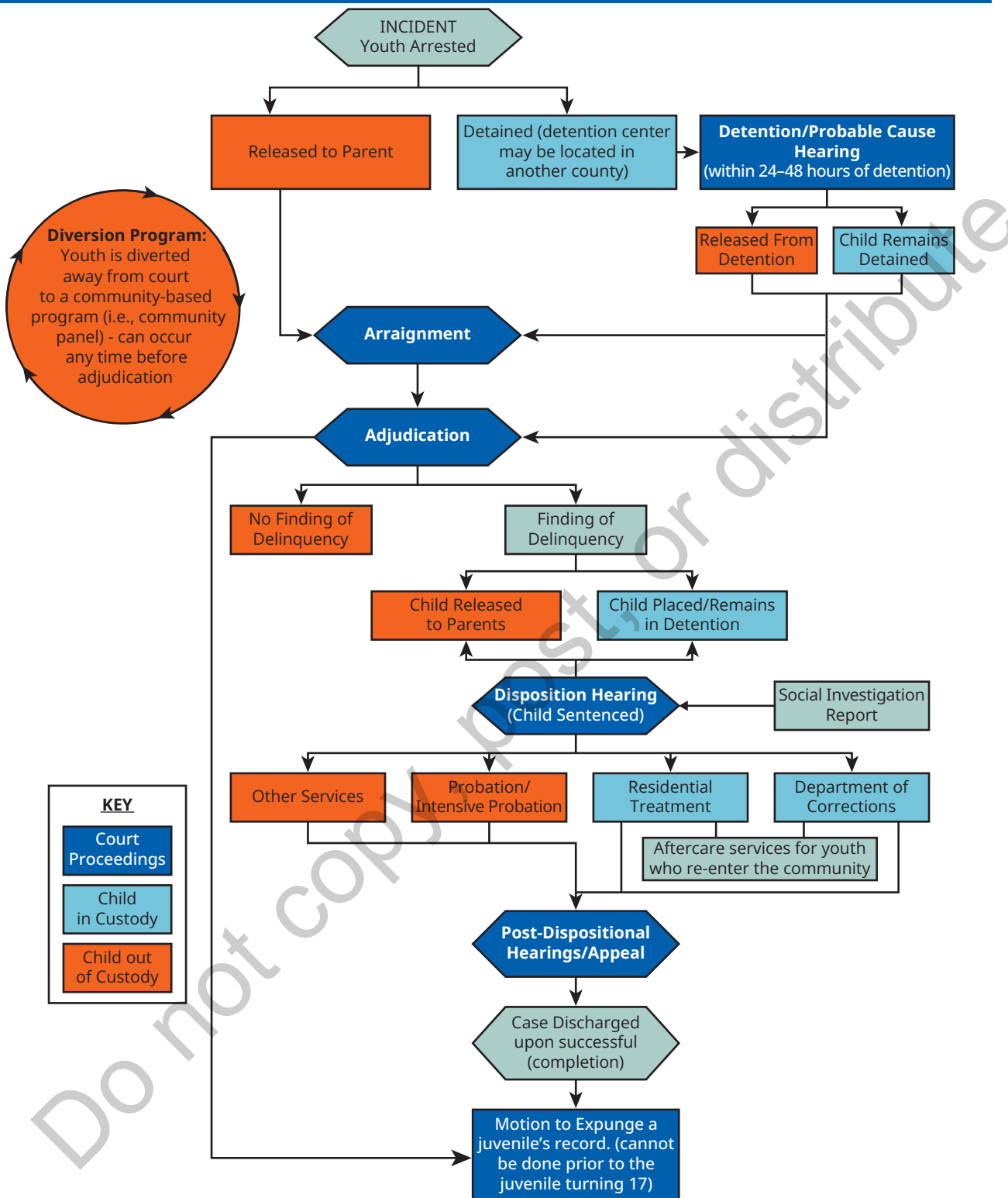
With 50 state laws and the District of Columbia, having both philosophical and, in some areas, fiscal and regulatory impact on their local juvenile court jurisdictions, differences do exist across the juvenile justice system even within states. Although some procedures differ across juvenile court jurisdictions, most follow similar stages across case and delinquency processing (Figure 1.1).

Law Enforcement

Even though most juveniles in the United States admit to breaking the law at some point, only a small number of juveniles end up being processed through the juvenile justice system. For these youths charged with offending, the first contact with the juvenile justice system most likely occurs when they are apprehended by a law enforcement officer. The remaining cases are referred to the juvenile court by others, including parents, victims, school personnel, and probation officers. A much smaller percentage of cases involving status offenses is referred to the juvenile court by law enforcement agencies because status offense cases are more likely to be referred by a child welfare agency or different service provider (Hockenberry, 2023).

The law enforcement agencies have a unique and important role within the juvenile justice system because of their involvement with non-crime matters, such as missing children, curfew violation, run-aways, truancy, and neglect and abuse. One of the important functions of the law enforcement officer is the protection of children and the prevention of delinquency (Sanborn & Salerno, 2005). Most (90%) local police departments have special units dedicated to cases involving juveniles and family issues, and many (50%) employ sworn officers at schools, often known as **school resource officers** (Fulks, Garcia, & Harper, 2020; Office of Juvenile Justice and Delinquency Prevention, 2023a).

After an apprehension, the law enforcement officer talks to the juvenile accused of offending, the victim, and parents/guardians; reviews the juvenile’s court record; and determines whether the juvenile should be referred to a juvenile court or diverted to alternative programs. Of the cases where the juvenile justice system is the original jurisdiction, more than two thirds of cases are referred to juvenile court, whereas the remaining cases are either referred to criminal court or handled within law enforcement agencies. Alternatives to apprehension or referral to a juvenile court include questioning and warning, issuing a citation, or referral to a diversion program or service (Hockenberry, 2023; Office of Juvenile Justice and Delinquency Prevention, 2023a).

FIGURE 1.1 ■ Flowchart of the Juvenile Justice Process

Source: Reprinted with permission from the National Juvenile Defender Center.

In case the temporary detention of a juvenile is required while contacting parents/guardian or arranging the transportation to a juvenile detention facility, law enforcement agency personnel are required by federal regulations to detain the juvenile in a secure environment for no more than six hours. In addition, the Juvenile Justice and Delinquency Prevention Act mandates separation of juveniles accused of offending from adults accused of offending when they are being detained (Office of Juvenile Justice and Delinquency Prevention, 2019).

SPOTLIGHT

DUE PROCESS RIGHTS

A due process clause is included in the Fifth and Fourteenth Amendments to the U.S. Constitution, which protects against unfair treatment and arbitrary administration of justice by the government. A series of landmark Supreme Court rulings in the 1960s have extended the following due process rights to youths charged with offenses in the juvenile courts, which traditionally were not subject to providing these rights because of their fundamental differences in philosophy with the criminal court:

- The Fourth Amendment guarantees against search and seizure.
- The Fifth Amendment guarantees against double jeopardy and self-incrimination.
- The Sixth Amendment guarantees for a speedy trial, knowing the charge, confronting and cross-examining the witness, calling witnesses at trial, and attorney representation.
- The Eighth Amendment guarantees against cruel and unusual punishment.
- The Fourteenth Amendment guarantees for equal protection (regardless of “race, creed, color, or status”).

1. Do you think that providing these due process protections for youths charged with offenses was the right decision for the juvenile courts? What implications may come from these rights?
2. Do you think youths charged with offenses and adults charged with offenses should be afforded the same due process protections?

Advisement of Rights

Before questioning an individual in a criminal case, law enforcement officers are required to give a **Miranda warning** to inform the individual in custody of the right to remain silent and protection against self-incrimination and the right to an attorney. An individual is considered “in custody” if they do not reasonably feel free to leave in the presence of law enforcement. This is a complicated issue with juveniles because they may not understand Miranda rights as well nor feel as free to leave in the presence of law enforcement as adults do (Kinscherff, 2022; Rogers, Blackwood, Fiduccia, Steadham, & Drogin, 2012). In addition, because the juvenile court is expected to act in the best interest of the children, it originally was not subject to the procedural due process protections afforded to adults suspected of committing a crime, whose liberties were at stake. This began to change in the 1960s with a series of U.S. Supreme Court rulings that amended the procedures of the juvenile justice system, which today resembles the criminal justice system, and has increasingly afforded the same due process rights (and expectations) to juveniles charged with offenses.

One issue that the U.S. Supreme Court has ruled on numerous times is the use of interrogation and the confession of juveniles suspected of a crime, which is a leading cause of wrongful conviction among youths charged with offenses, who are much



Police officers are at the front lines of community policing and are responsible for a majority of youth referrals to the juvenile courts. What have been your experiences with police officers, and how has this shaped your perceptions of police officers?

©iStockphoto.com/kali9

more likely than adults to falsely confess (Malloy, Shulman, & Cauffman, 2013). The Court ruled more than 60 years ago for the first time on this issue arguing for law enforcement to interrogate juveniles with special care due to their immature age. The Court's position on this issue changed during the nation's "get tough on crime" period. In *J.D.B. v. North Carolina* (2011), however, the Court returned to its original position arguing that the youthful age of a person suspected of criminal activity should be taken into account when a law enforcement officer is determining whether the youth is entitled to a Miranda warning.

Because students who are questioned by a law enforcement officer at school often do not feel free to leave, they should be given a proper Miranda warning before being questioned. In addition, in *N.C. v. Commonwealth* (2013), the Kentucky Supreme Court ruled that a Miranda warning is required before students are questioned by school officials who are working in conjunction with law enforcement on a delinquency matter. Adolescents, like adults, can waive Miranda rights, but the prosecution must establish, before the evidence from the police questioning is admitted to the court, that the adolescent understood their rights and freely waived them before being questioned—the same standard used with an adult Miranda waiver (Feld, 2013).

Contrary to the depiction on TV police dramas, only a few states require a presence of a parent or a guardian during the questioning of an adolescent by law enforcement. Many states, however, require that a parent or a guardian be notified (or at least attempted to be notified) before an adolescent is being questioned. The presence of a parent/guardian during questioning by law enforcement can, however, be detrimental to an adolescent who is suspected of a delinquency because parents often pressure their child into a confession. Unfortunately, even with the high false confession and wrongful conviction rates, most law enforcement officers are not trained to interrogate youths accused of offenses (International Association of Chiefs of Police, 2012).

PRACTICE: WHAT CAN I DO?

MIRANDA RIGHTS, PROTECTION OF THE CONSTITUTION'S FIFTH AMENDMENT

The well-known Miranda warning (see first quote) requires a tenth-grade level of comprehension (Rogers, Hazelwood, Sewell, Harrison, & Shuman, 2008), which researchers have found (Grisso, 1980) many juveniles may lack. When a law enforcement officer is dealing with an adolescent, the International Association of Chiefs of Police (2012, p. 7) in conjunction with the OJJDP, therefore, recommends a simplified version of Miranda warning (see second quote) that requires a third-grade level of comprehension. In addition, the American Bar Association also called for (in 2010) the simplified Miranda warning to be used with adolescents (Rogers et al., 2012). Along with the simplified Miranda warning, the Association recommends that law enforcement also inform adolescents before questioning that speaking may result in being tried as an adult.

"You have the right to remain silent. Anything you say can and will be used against you in a court of law. You have the right to an attorney. If you cannot afford an attorney, one will be provided for you. Do you understand the rights I have just read to you? With these rights in mind, do you wish to speak to me?" (Tenth Grade Reading Level)

"You have the right to remain silent. That means you do not have to say anything. Anything you say can be used against you in court. You have the right to get help from a lawyer right now. If you cannot pay a lawyer, we will get you one here for free. You have the right to stop this interview at any time. Do you want to talk to me? Do you want to have a lawyer with you while you talk to me?" (Third Grade Reading Level)

1. Why do you think the revised Miranda warning version may be beneficial to youths suspected of committing an offense?
2. Do you have other suggestions or changes that you think would help young people understand these rights?

Diversion

Diversion occurs when a case is handled informally outside of juvenile courts and can occur at any stage of the juvenile justice system, from apprehension to post-adjudication. Diversion to an alternative program and service (could be mental health, mentoring, substance abuse treatment, among many others) minimizes the negative consequences associated with being formally processed through the juvenile court (e.g., stigma, missing school, having a juvenile court record, and the school being notified). Diversion is also less costly and reduces the burden on the juvenile court that can then focus its limited resources on individuals charged with more serious and chronic offenses.

An admission to the engagement in an alleged offense is required in most jurisdictions for a case to be processed informally. In what is considered formal diversion (differs from immediate diversion by law enforcement and is more fully explained later in the text), the juvenile must also agree to specific conditions for a specified time period, spelled out in a written agreement, called a **consent decree**, and a probation officer is usually assigned to monitor the juvenile's compliance with the consent decree. If the juvenile successfully complies to all conditions, the case may be dismissed, although the case may be returned to the juvenile court and the formal processing of the case may resume if the juvenile fails to comply with the conditions (Hockenberry, 2023). Diversion conditions may include victim restitution, fine, community service, school attendance, attendance in a drug and alcohol treatment program, and probation supervision, to name a few. Various community, school, and private services and programs are offered through diversion, such as drug court, mental health court, teen court, victim–offender medication programs, mentoring programs, treatment programs, intervention programs, and parent training programs (Development Services Group, Inc., 2010).



The United States Supreme Court has become increasingly involved in decisions on youthful offending sentencing, including the death penalty and life sentences without the possibility of parole. What do you think should be the most extreme sentence available for a youth who commits a homicide? Does age make a difference? How about mitigating circumstances of the crime? What if the serious crime was not a homicide, but a rape or aggravated theft?

©iStockphoto.com/Douglas Rissing

The Prosecutor's Office

Once referred to the juvenile court, a juvenile accused of offenses goes through an intake screening, which is usually handled by probation departments or the prosecutor's office. After reviewing the case, including the age of juvenile, the seriousness of the offense, the juvenile court record, school record, and family information, an intake officer assigned to the case decides to request a formal intervention by juvenile court, proceed to informally handle the case, or dismiss the case altogether. Only half of all cases referred to juvenile court result in a formal intervention by juvenile court, whereas the other half are handled informally, and many informally handled cases are eventually dismissed often due to lack of evidence. For some serious offenses, the intake officer has no choice but to request a formal intervention by juvenile court, as dictated by law (Office of Juvenile Justice and Delinquency Prevention, 2023a).

Once the intake officer decides to formally process a case in juvenile court, one of two petitions must be filed: a delinquency petition requesting an adjudicatory hearing or a waiver petition requesting a waiver hearing. The delinquency petition explains the allegations of the offense and requests that the juvenile be adjudicated a delinquent and made a ward of juvenile court. The waiver petition requests transferring of a case from juvenile court to criminal (adult) court.

Shelter Care Hearing and Pretrial Detention

After an apprehension by law enforcement, many juveniles are immediately released to a parent or guardian. After the case is reviewed by an intake officer, some juveniles are held in a secure juvenile

detention facility, pending a hearing before the judge or magistrate. The decision for this detainment is made by an intake officer based on seriousness of the alleged offense, the risk for flight or the likelihood of the juvenile appearing for the hearing, and the safety of the adolescent and the community. This is known as pre-adjudication detention, whereby youths accused of offenses are detained before adjudicated delinquent, which was held by the U.S. Supreme Court to be constitutional in *Schall v. Martin* (1984) to protect the adolescent and the community.

Young people may be placed in a secure detention facility at any stage of the juvenile justice system. Some may go in and out of a detention facility throughout the process until a dispositional hearing, and detention may sometimes extend beyond adjudicatory and dispositional hearings until a residential placement option (e.g., shelter home, foster home, or residential treatment facility) becomes available. In most states, juveniles charged with offenses do not have the **right to bail** while awaiting the hearing, unlike adults charged with offenses. In all states, a detention hearing in front of a judge must be held within a few days, usually within 24 hours, to determine whether the pre-adjudication detention of a juvenile is in the best interest of the community and the juvenile. If a young person is held in pre-adjudication detention, most states also require that an adjudication hearing take place within a specified time period, usually between 10 and 180 days (Hockenberry, 2023).

Plea Bargaining

A **plea bargain** occurs when an individual admits to committing an offense in exchange for a lesser charge and a possibility of lesser sentence/disposition. Plea bargains are common; of all convictions in state and federal cases in both adult and juvenile courts, more than 95% are the result of plea bargaining (Redlick, 2010). Plea bargaining may occur at any stage of the juvenile justice system, but most likely it will occur prior to the adjudication hearing. States vary in terms of the use of plea bargain; some states with a heavy caseload of juveniles charged with offenses may more frequently resort to plea bargains to free up the judicial load to focus on a smaller number of serious cases (Office of Juvenile Justice and Delinquency Prevention, 2023a).

A plea bargain likely results in a lesser disposition for an individual charged with an offense, but they then relinquish the right to a trial. The American Bar Association (ABA) warns juveniles against pleading guilty because of the extralegal “collateral consequences” discussed earlier in the chapter that are associated with this outcome. Like the use of interrogation and the higher risk for false confession, and thus, wrongful conviction among juveniles who offend, there is also a higher risk among young people than adults for falsely pleading guilty to a “crime” they did not commit (Redlick, 2010).

Trial

Most juvenile courts have bifurcated hearings (trials) with a separate **adjudicatory hearing** and a **disposition hearing**. At the adjudicatory hearing, the facts of the case are presented in front of a judge (or magistrate) who determines whether a juvenile is responsible for an alleged offense and, thus, should be adjudicated a delinquent. In two thirds of cases presented before a judge in juvenile court, juveniles charged with offending are adjudicated delinquent for the alleged offense. Only in some states do juveniles have the right to a **jury trial**. Juveniles today are afforded many other due process rights and the same rules as adults at the hearings (Hockenberry, 2023).

Once a juvenile charged with an offense is adjudicated delinquent, a probation officer prepares a disposition plan based on their assessment of the young person, support systems, and available programs and services. The juvenile court may order psychological evaluations and diagnostic tests so the probation officer can provide appropriate recommendations to a judge at the dispositional hearing. In addition to the probation officer, a prosecutor may provide dispositional recommendations. After considering all the dispositional recommendations, the judge renders a disposition in the case (Hockenberry, 2023).

Competency

To have a fair trial, a defendant must be competent to stand trial to be prosecuted for their alleged offense. Legal **competency** requires that a defendant understand the charges brought against them and their seriousness and possible penalties. Additionally, a defendant must be able to follow proceedings and defend themselves during the trial. At any point during the proceedings in the criminal court, if the competence of the defendant is questioned, the court may order an evaluation. Anyone who is deemed mentally incompetent due to mental health problems or disabilities cannot be convicted of a crime in juvenile or criminal court (Larson & Grisso, 2012).

Because of developmental immaturity, which varies widely among adolescents, the question of competency is even more relevant when dealing with youths charged with offenses, but it was not an issue in the juvenile courts until the 1990s. Prior to this time period, the juvenile courts simply used the competency standards used by the adult criminal courts to determine if the young person should stand trial or be prosecuted. Research finding significant differences between adolescents and young adults across a wide variety of developmental concerns, decision-making, and cognitive abilities has changed the judicial landscape (Casey, Simmons, Somerville, & Baskin-Sommers, 2022; Kazemian, 2021; Kinscherff, 2022). Today, most states do have separate guidelines for the use of competency in juvenile courts and do not as often have to apply the criminal court guidelines. Nevertheless, the criminal court still has in certain transfer cases the difficult task of determining the competency of juveniles to stand trial (Larson & Grisso, 2012).

POLICY: WHAT'S BEING DONE?

U.S. SUPREME COURT DECISIONS ON MIRANDA AND RELATED RIGHTS

In *J.D.B. v. North Carolina* (2011), a police officer, who interrogated a 13-year-old suspect of two burglaries, did not give a Miranda warning prior to the interrogation because the officer believed that since the juvenile was interrogated at school, they were not “in police custody” and was, therefore, free to stop the interrogation at any time. Citing findings from brain science studies showing that juveniles are less likely than adults to feel free to leave in the presence of a police officer, more vulnerable to the fear and stress during interrogation, and therefore more at risk of confessing to a “crime” they did not commit (Kinscherff, 2022), the Court ruled that when a law enforcement officer is determining whether an individual is in police custody, and therefore, entitled to a Miranda warning, the suspect’s age should be taken into account.

1. What is your reaction to interacting with police officers? What has influenced your perspective?
2. What do you think it means to be “in police custody”?

Decision-Making in Juvenile Court

Although the criminal and juvenile justice systems have become more similar in recent years based on the expansion of due process rights and other system alignments, one major difference between the two courts is focus. To serve the best interest of the young person, the juvenile court has traditionally focused on the *individual* committing an offense to determine an individualized intervention program that emphasizes *rehabilitation* and *treatment*. This is in contrast to the criminal courts that have traditionally focused on the *offense* to determine an appropriate *punishment*, especially since the “get tough on crime” period of the 1980s and 1990s with an increased application of the mandatory sentences throughout the nation that has significantly decreased judicial discretion. In summary, mandatory sentences make sure that the same offense results in the same punishment, no matter who committed the offense or any circumstantial differences.

On the other hand, throughout the juvenile justice system, from the apprehension to the disposition, all those who are involved, including the law enforcement officer, the intake officer, the probation personnel, the prosecutor, and the judge or magistrate, are expected to take into account both extralegal and legal factors in deciding what is best for the young person. Extralegal factors are factors that are not directly related to the legal issues at hand, including family information, school records, available support system, the history of drug and alcohol use, mental health services, and work record. On the other hand, legal factors include the history of delinquency, juvenile justice system involvement, and the type and seriousness of an alleged offense (Keenan & Rush, 2019).

Case Study

A Six-Year-Old Murderer in the Tough on Crime Era

In the year 2000, a six-year-old girl, Kayla Rolland, was shot by her six-year-old friend, Dedrick Darnell Owens, at Buell Elementary School in Mount Morris, Michigan. At that time, Kayla was the youngest victim of a school shooting in the United States until the Sandy Hook Elementary School shooting in Connecticut in 2012. Dedrick, however, is still considered the youngest perpetrator of a school shooting in U.S. history. Dedrick, a first grader, had been living in a “crack house” with a drug-addict mother and his eight-year-old brother when he found a loaded .32-caliber handgun in the house, brought it along with a knife to school, and shot his friend in front of a teacher and 22 other students. Prior to that, Dedrick had been in trouble at school numerous times because of behavioral problems, including stabbing another girl with a pencil. Because of his age, Dedrick was not legally charged with murder.

1. Should this boy have been prosecuted for murder?
2. What would you do as the prosecutor or judge in a case like this?
3. How do you think this might be decided today, any different approach or outcome?

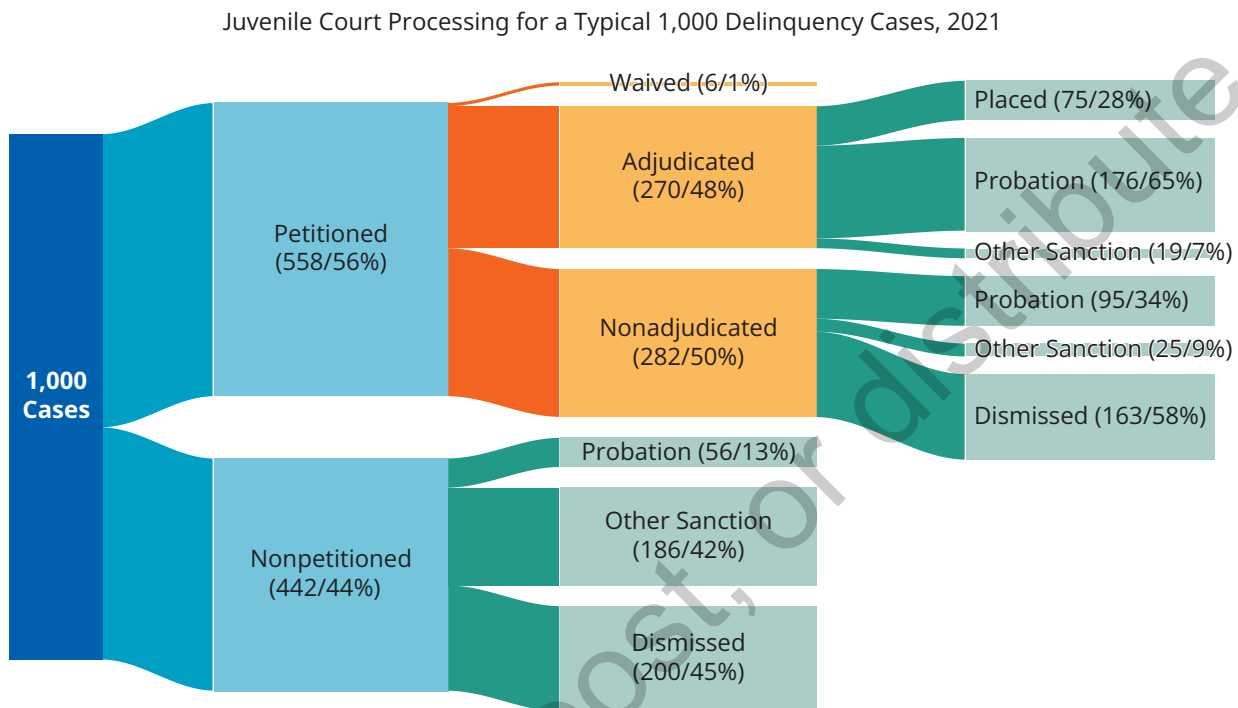
Disposition

Several disposition options are available for the judge or magistrate in the juvenile justice system, including a warning, restitution to the victim, community service, attendance in counseling service or program, probation, and confinement in a secured residential facility, among others. Most dispositions rendered in juvenile court include some supervised probation but also other requirements, such as restitution to the victim, included as a part of probation order. The probation term may be open-ended or a specific duration of time, and during that time, review hearings monitor the progress of the youth convicted of an offense. Once a young person successfully completes the term of probation, the judge or magistrate terminates the case.

Less than one quarter of adjudicated youths convicted of offenses are ever ordered to be placed in a residential facility, which include numerous options, from detention to large public facilities that resemble adult prison to small private shelter homes, varying in the level of security. In many states, it is the responsibility of the state department of juvenile corrections to decide which facility the convicted juvenile is placed in and when they will be released. In other states, the judge determines the length of placement through review hearings that assess the progress of each convicted juvenile. In 2020, 27 states required parents to pay at least part of the costs of the juvenile residential placement. After release from a residential facility, the convicted juvenile is often ordered to be under supervision of the court or the juvenile correction department, much like adult parole. If the juvenile fails to follow the conditions of the supervision, the judge may order the juvenile to be recommitted to the same or

a different facility (Office of Juvenile Justice and Delinquency Prevention, 2023b). The disposition options available to federal judges are similar to ones listed already for the judges/magistrates in the state juvenile courts (Figure 1.2).

FIGURE 1.2 ■ Case Processing Overview: Juvenile Court Processing for a Typical 1,000 Delinquency Cases, 2021



Note: Detail may not sum to total due to rounding. Percents are based on unrounded values.

Source: OJJDP Statistical Briefing Book, 2023a

Confidentiality

The juvenile courts have shifted their view on the **confidentiality** of court proceedings and juvenile court records over the years. In general, making the court proceedings open to the public allows scrutiny and increases government accountability, and it is in accordance with the First and Fourteenth Amendments to the U.S. Constitution, which guarantee the presumption of innocence and freedom of the press. After adoption of the Standard Juvenile Court Act in 1952, however, many states instituted laws that prohibited the public, and often the press, from attending juvenile court proceedings to protect the privacy of the youths involved. This was especially pertinent to the “family court” matters that involve sensitive private matters of family. This has been recently reinforced with the most recent 2018 legislative revision to the Juvenile Justice and Delinquency Prevention Act, which reinforces the need to allow for cases to be permanently sealed, thus protecting the young person’s record from any future scrutiny (Office of Juvenile Justice and Delinquency Prevention, 2019).

In 1977, the U.S. Supreme Court ruled in *Oklahoma Publishing Company v. District Court in and for Oklahoma City* that the court order prohibiting the publication of a legally obtained name or photograph of a juvenile involved in the juvenile court proceeding to be unconstitutional because of its infringement on the freedom of the press. Similarly in *Smith v. Daily Mail* (1979), the Court ruled that

the state cannot punish the press from publishing a legally obtained alleged juvenile's name. Beginning in the 1980s, most states modified or removed confidentiality provisions and made the juvenile justice proceedings more open. By 2011, only 13 states had statutes making delinquency hearings closed to the public, except for compelling reasons, for example, public safety (Office of Juvenile Justice and Delinquency Prevention, 2023a).

All states, except for Rhode Island, now have procedures in place for the sealing or expungement of juvenile court records. States vary in terms of how they expunge or seal the juvenile record, from physically destroying the record to storing away the record that may be accessed only in limited circumstances. Most states, moreover, have procedures for unsealing the juvenile court records under certain circumstances, such as following a subsequent offense or a court order (Office of Juvenile Justice and Delinquency Prevention, 2023a).

THE CHILD WELFARE SYSTEM

Although the juvenile court and other subsystems play formal roles within the juvenile justice system, there is significant involvement of ancillary systems that are unique to children, including child protective services, schools, and behavioral health (mental health and/or substance abuse) providers. Most ancillary systems are not considered formal parts of the juvenile justice system, but they are

intertwined because convicted juveniles are often involved in these youth-caring systems prior or concurrently to their involvement in the courts. These ancillary systems also play critical roles in supporting juveniles who have offended and their families while they are being processed through the juvenile justice system. An exception across the states is the child protective services system. Once a family is formally involved in a maltreatment investigation with a finding of child abuse or neglect, the case is then referred to the local juvenile (family, probate, et al., depending on location) court for judicial handling, determination, and supervision of the case along with the child protective service agency.



The child welfare system protects young people from abuse and neglect by investigating cases and providing family supervision. Do you know of anyone who has had experiences with their local child welfare system? What was that like?

©iStockphoto.com/sturti

Federal Policy

The child welfare system (child protective services) focuses on ensuring the safety of children from maltreatment, protecting and promoting stable and permanent

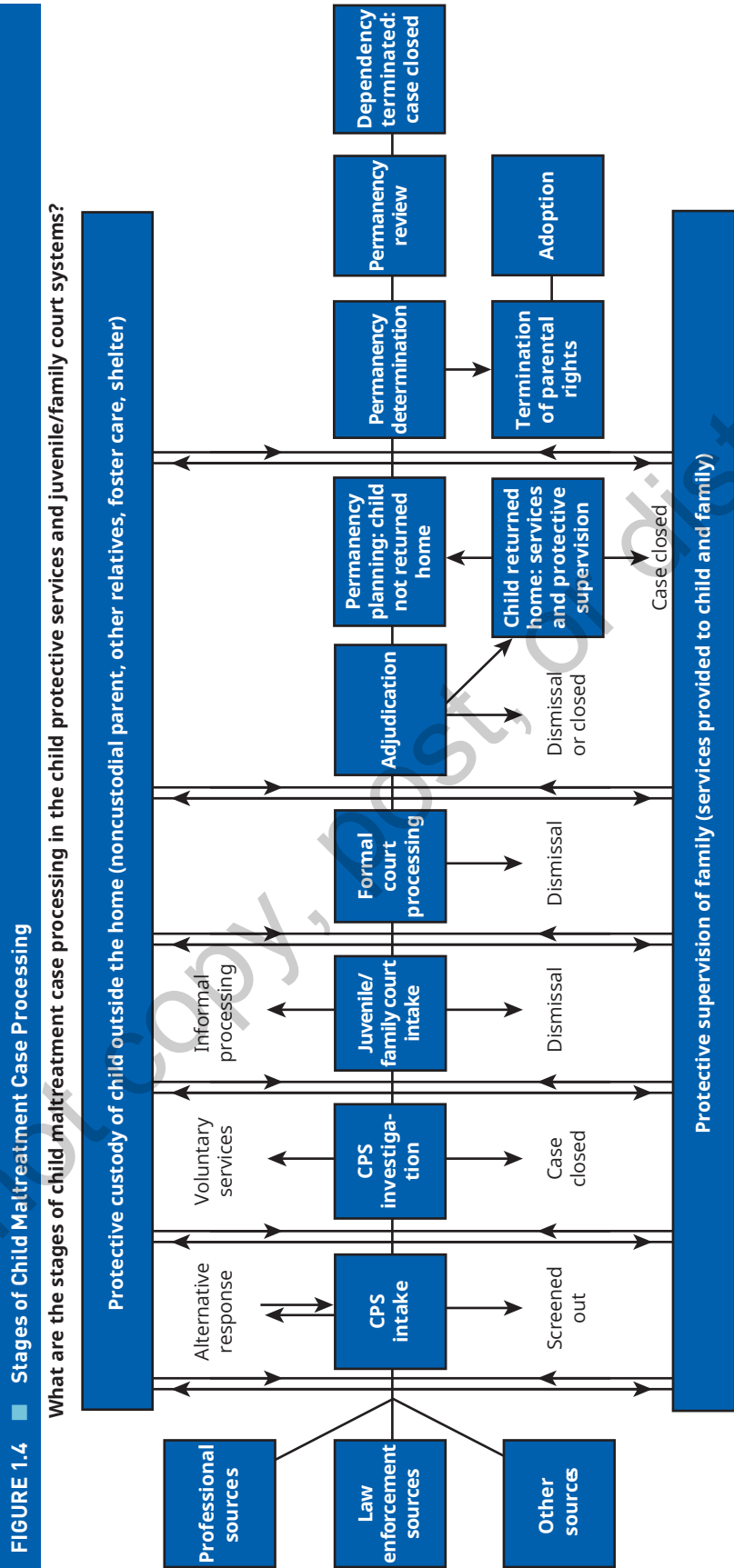
family relationships and caring for the well-being of children who experienced maltreatment. The Child Abuse and Prevention Act (CAPTA) of 1974 defines child maltreatment as serious harm to children caused by parents or primary caregivers, including babysitters and extended family members. Harm includes all types of abuse, such as physical, sexual, and emotional, as well as neglect. As will be discussed in later chapters, because many young people who get into trouble with the law often are victims of abuse and neglect and because the two systems are intertwined, it is important to understand how the child welfare system operates (Child Welfare Information Gateway, 2015).

Although specific child welfare policies vary by state, the federal government plays an important role in providing support through funding and legislative initiatives, which are implemented by the Children's Bureau, U.S. Department of Health and Human Services (HHS). The Children's Bureau is also responsible for the publication of *Child Maltreatment*, an annual count of national child and abuse reports. Figure 1.3 highlights important federal child welfare laws that have a significant impact on how child welfare services and programs are delivered at the state and local levels (Child Welfare Information Gateway, 2013).

FIGURE 1.3 ■ Timeline of Federal Child Welfare Acts

State Policy

Like the juvenile justice system, each state manages its own child welfare system. These child protective systems, therefore, vary from state to state and include both public and private services and programs. Although the child welfare system is complex and specific procedures vary across states, most child welfare cases go through a similar investigatory and supervision process (Child Welfare Information Gateway, 2015; see Figure 1.4).



Source: Sickmund, M., & Puzzanchera, C. (2014). *Juvenile offenders and victims: 2014 national report*. National Center for Juvenile Justice.

Most families become involved with the child welfare system because of a report of suspected child maltreatment by parents or primary caregivers; cases involving harm to a child caused by acquaintances or strangers are referred directly to law enforcement instead of to a child welfare agency. Any concerned person can report suspected child abuse or neglect to a local child welfare agency's anonymous hotline; most reports, however, are made by those who are required to report a suspicion of child abuse and neglect, including social workers, teachers, healthcare workers, mental health professionals, childcare providers, law enforcement officers, and medical examiners. Fewer than 20 states require all persons, regardless of profession, to report a suspected child abuse and neglect (Child Welfare Information Gateway, 2015; Puzzanchera, Hockenberry, & Sickmund, 2022).

Child protective service (CPS) agencies receive reports of suspected abuse and neglect and screen them for further investigation. If CPS determines that there is not enough information to warrant a further investigation or the case does not meet the state's definition of maltreatment, it may refer the person who reported the incident to other services or to law enforcement. Once a case is determined to warrant a further investigation (approximately 40% of cases), CPS caseworkers speak with the parents, the child involved in the case, and other people who are in contact with the child, such as healthcare workers, teachers, and childcare providers, within a time period required by state law (typically one to three days). If CPS caseworkers determine that the child is in immediate danger, the child may be removed from the home during the investigation pending the proceedings in some states. A court order is required in other states before removing a child from their home, and in the case of emergency removal of a child, a preliminary protective hearing (or shelter care hearing) is required in these states (Puzzanchera, Hockenberry, & Sickmund, 2022). Families are often directed to local services and resources during this time after caseworkers assess the specific family needs and difficulties (Child Welfare Information Gateway, 2015).

At the completion of an investigation, the CPS caseworkers determine whether the findings of abuse or neglect are substantiated (founded) or unsubstantiated (unfounded). When findings are determined unsubstantiated, and for other "low risk" child maltreatment cases, CPS may offer services to children and families to help reduce the risk of future potential problems. The range of possible actions available when findings are substantiated varies from state to state and depends on the severity of maltreatment, the history of the CPS involvement, the immediate danger to child safety, and the available services and programs for the family. If additional findings are substantiated and CPS determines that the juvenile court needs to be involved through a child protection or dependency proceeding to keep the child safe, a juvenile court action is filed.

Once a court action is filed, the juvenile court may order the child to be temporarily removed from the home and placed in a safe alternative (e.g., shelter, respite home, or in "kinship care" with a related family member), provide or direct services for the child and family, or restrict certain individuals who are suspected in the abuse or neglect to have no contact with the child. At the adjudicatory hearing, the juvenile court hears the evidence provided by the CPS and determines whether child maltreatment occurred and if the child should be removed from the home and remain in the custody of the court. At the dispositional hearing (some states combine the two hearings into one), the juvenile court may order parents to comply with services and programs and determine the provisions on visitation between parents and the child. In most child maltreatment cases, the juvenile court assumes jurisdiction over the cases to monitor the child welfare agencies' effort to reunite the family, as stipulated by the Federal Adoption Assistance and Child Welfare Act. In cases involving severe child maltreatment or death, law enforcement may be notified, and a charge may be filed in criminal court against those who are responsible for the child maltreatment. In many states, certain types of abuse, such as sexual abuse and serious physical abuse, are automatically reported to law enforcement (Child Welfare Information Gateway, 2015; Puzzanchera, Hockenberry, & Sickmund, 2022).

Most families of children who are removed receive services to reduce the risk of maltreatment in the future and to reunite with the child, which is often part of the permanency plan for child maltreatment cases. The juvenile court is required by federal law to hold a permanency hearing within 12 months after the child is removed from home and placed in foster care. The juvenile court reviews each case every 12 months thereafter, or more frequently, to ensure that the child welfare system is protecting and promoting stable and permanent family relationships for each child who enters the system. Unlike

the juvenile justice system whose age of jurisdiction typically ends at age 18 or younger, many allow for supervision of young people who are in CPS custody up to ages 20 or 21. These young people receive support in forming permanent family relationships and in developing independent living skills until they leave care or age out (Child Welfare Information Gateway, 2015).

CHAPTER SUMMARY

This chapter provided an overview of the juvenile justice system, its jurisdiction, purposes, and functions, as well as a framework of important concepts and concerns that are developed and discussed in later chapters. Specifically, the issues addressed included the purpose and jurisdiction of the juvenile court; the case processing of how young people become involved in the juvenile justice system (from police contact to delinquency adjudication to lock up); unique juvenile court concerns, including delinquency and status offenses; issues related to confidentiality; and how the child welfare system operates and intersects with the juvenile courts. Adolescents are different from adults, and the juvenile courts were established for this and other related reasons. Hence, juvenile courts have certain discretions in deciding when to involve young people formally, adjudicate delinquent, and/or to prosecute.

KEY TERMS

Adjudge	Jury Trial
Adjudicatory Hearing	Juvenile
Civil Courts	Juvenile Justice and Delinquency Prevention Act
Competency	Miranda Warning
Confidentiality	Office of Juvenile Justice and Delinquency Prevention (OJJDP)
Consent Decree	Parens Patriae
Criminal Courts	Plea Bargain
Delinquency	Racial and Ethnic Disparities
Disposition	Right to Bail
Disposition Hearing	School Resource Officers
Disproportionate Minority Confinement	Standard Juvenile Court Act
Diversion	Status Offense
Federal Juvenile Delinquency Act	United States Attorney General
In Loco Parentis	

DISCUSSION QUESTIONS

1. Do you think a separate justice system is necessary for young people? Explain.
2. Discern and highlight the steps from informal involvement to delinquency adjudication in the juvenile justice system. In other words, how does a young person go from committing an offense to juvenile court supervision or lockup?
3. What role does the federal government or federal law have in the operation of local juvenile courts? Identify the impact and policies.
4. Do you think that juveniles are different than adults and, thus, should be treated differently when they commit the same offense as adults? Explain.
5. Should we punish a young person who commits homicide the same as adults, no matter the age of the person? What if the person was 17 with a history of violence? What if the person was 15 with a history of violence and also a sexual abuse victim?
6. Explain how a youth who committed an offense could avoid formal juvenile court involvement. Where are possible diversion points?

7. What are some of the potential consequences for young people who are adjudicated delinquent and supervised by the juvenile court? What are potential outcomes for convicted juveniles who continue to commit delinquent acts?
8. How does the child welfare system typically interact with the juvenile court process and structure? In other words, what cases are handled by the juvenile courts and what cases remain part of the child welfare system?
9. What are the possible outcomes of a child welfare agency investigation? How do federal laws impact child protective service decision-making for maltreatment children and adolescents?
10. Argue the pros and cons of keeping juvenile delinquency proceedings confidential. What is your opinion about whether this is important and if it should remain private?

Do not copy, post, or distribute

Do not copy, post, or distribute



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

American National Red Cross photograph collection (Library of Congress)

2

THE HISTORY OF JUVENILE JUSTICE AND TODAY'S JUVENILE COURTS

LEARNING OBJECTIVES

- 2.1** 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.
- 2.2** 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.

INTRODUCTION

The juvenile justice system has a long history of shifting paradigms from rehabilitating children considered wayward, troubled, or delinquent. 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 (from 1899 to 1925) 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. During the 1960s, and in response to the large numbers of institutional placements of young people by the juvenile courts, due process rights were established for youth committing offenses. After a short movement toward rehabilitative and community-based efforts, the reach of the juvenile courts expanded significantly once again during the 1980s and 1990s “tough-on-crime” approach to juvenile justice. This coincided with the schools implementing similar zero tolerance discipline and school exclusion policies, forming what many have called the “school-to-prison pipeline.” These disparaging outcomes have led to today’s shift again toward youthful rehabilitative efforts. Looking back, the early approaches to juvenile justice were far different from today’s juvenile court structure.

JUVENILE JUSTICE: CYCLES OF REHABILITATION AND PUNISHMENT

There are distinct cycles in the history of the juvenile justice system, with efforts beginning even before the establishment of the United States. In the early approaches, there was little recognition of differences between youth and adults.

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, & Mennel, 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)



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?

Liszt Collection/Newscom

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 (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; Mennel, 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 many young people (upwards of 1,000 in some instances), 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 (Mennel, 1973; Platt, 1969, 2009; Ward, 2012). See Spotlight On: New York House of Refuge for a description of the early days of these establishments.

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).

SPOTLIGHT

NEW YORK HOUSE OF REFUGE

The reformatory opened January 1, 1825, with six boys and three girls. Within a decade, 1,678 incarcerated children 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 incarcerated children throughout their minority years. Originally, the institution accepted incarcerated children from across the state, but after the establishment of the Western House of Refuge in 1849, incarcerated children came only from the first, second, and third judicial districts (Ch. 24, Laws of 1850).

A large part of an incarcerated child's daily schedule was devoted to supervised labor, which was regarded as beneficial to education and discipline. This labor also supported operating expenses for the reformatory. Typically, male incarcerated children produced brushes, cane chairs, brass nails, and shoes. The female incarcerated children made uniforms, worked in the laundry, and performed other domestic work. A badge system was used to segregate incarcerated children 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 incarcerated children through indenture agreements by which employers agreed to supervise them during their employment. Although initially several incarcerated children were sent to sea, most were sent to work as farm and domestic laborers, respectively (New York State Archives, 1989, pp. 4–5).

1. Do you think these institutions were helpful for the young people living there?
2. How do they compare with today's youth-caring institutions—group homes, residential facilities, detention centers?



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

Library of Congress Prints and Photographs Division Washington, D.C. 20540 USA <http://hdl.loc.gov/loc.pnp/pp.print>

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 delinquent

acts. 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 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 the children, with most returning back to their East Coast communities (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.

The reform schools proved to be of little improvement over earlier attempts to manage or rehabilitate this population; both the houses of refuge and reform schools ended up being punitive in design and oppressive for those sheltered (Hawes, 1971; Liazos, 1974). Consistent with the racial biases of the era, these facilities were used primarily by White children and adolescents. Black children and adolescents (along with other marginalized groups—Native Americans and Mexican Americans, depending on location across 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, early leader in 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 (see Table 2.1). 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)

TABLE 2.1 ■ Differences Between the Juvenile Court and Adult Court Approaches		
	Juvenile Court	Adult (Criminal) Court
Basis	Civil (due process)	Criminal (due process)
Goal(s)	Rehabilitation	Punishment/Accountability
Approach	Non-adversarial	Adversarial
Terminology	Developmental	Legal/Constitutional
Role of Family	Very significant/involved	Little involvement
Functioning	Private, confidential	Public record, open
Process	Adjudication (delinquency)	Trial/guilty or innocent
Sentencing	Indeterminate based	Determinate focused



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?

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

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 reformative 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 primarily 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 youths accused of offending 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), experienced longer periods in detention than their White peers, as well as 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 children who offended. 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).



Chicago, Cook County, established the country's first juvenile court in 1899. How did this change the treatment of youthful offenders and how they were viewed by the juvenile court judges?

Detroit Publishing Company photograph collection (Library of Congress)

1920–1960: Institutionalization of Convicted Youths

The significant expansion and commitment of many youths committing offenses 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 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 youths convicted of offending across the country expanded from 100,000 in the 1940s to 400,000 in the 1960s (President's Commission on Law Enforcement and Administration of Justice, 1967).

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; Roberts, 2004). The juvenile courts continued to predominantly involve low-income and “other people's children,” although some alternatives to incarceration of youths convicted of offending 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 youths convicted of offending toward more community-based alternatives, as well as the expansion of due process rights for young people formally involved with the juvenile courts, rights that still exist today.

1960–1980: Juvenile Justice and Individual Rights

Although juvenile courts were established as part of a reform effort to provide for the best interest of neglected, abused, and delinquent children more humanely, 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 crime and delinquency committed by youths, 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 that 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 youths committing offenses to be separated from adults in local jails, that status offenders be removed from juvenile institutions (youths convicted of offenses 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 incarceration populations of youths convicted of offenses in some cases by 90%. Such progress was difficult for many states to achieve, however, and most continued to house large numbers of incarcerated youths throughout the 1970s and 1980s as they had for decades (Mechanic, 2008; Nellis, 2016).

The continued poor treatment of many youths experiencing the juvenile justice system, 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. Youths convicted of offending 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 youths convicted of offenses. 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 convicted youths that impacted stakeholders throughout the 1970s (Martinson, 1974; Schwartz, 2001). This belief that nothing works to help rehabilitate youth committing offenses 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.

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 youths 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 youths convicted of offending: 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 Winship*, 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 youth committing an offense had already been prosecuted for in a juvenile court (this is known as 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 due process rights for youths convicted of offending were delayed another few decades?

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 young people. 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 youths convicted of offending 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; 45 state legislatures increased transfers of youths convicted of offending 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 and understanding of this punitive paradigm shift, however, were both more nuanced and complicated.

Beginning in 1985, there was a growing crime problem in the population of youths committing offenses 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 youths convicted of offenses but 278% for Black youths committing offenses. 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, 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 crime committed by youths. 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 offenses were disproportionate to what was happening in these communities. The portrayals of youths committing offenses shifted from one in need of interventions and support toward retribution and harsh accountability. The recommendations coming from stakeholders were to apply severe punishments and sanctions on youths convicted of offending, 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 crime rates by youths committing offenses, 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 marginalized youths 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 crime committed by youths 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 15 to 19 years of age) than by any other age group. More of these youth 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)

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 youths convicted of offenses: 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).

RESEARCH: WHAT WORKS?

MYTHS ABOUT ADOLESCENT CRIME

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 young people commit much more violent crime than they actually do, and that school-based violence is much more common than it 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 youths labeled super-predators or youths convicted of serious and chronic offenses and, in tandem, that preventative programming and interventions were ineffective. The juvenile courts were viewed as too lenient and their rehabilitative focus useless for youths convicted of serious offenses who were often portrayed as impulsive, remorseless, and irredeemable (Jones & Krisberg, 1994; Redding, 1997). In response, the incarceration of youths convicted of offending 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 superpredators ever emerged and incarceration for longer periods of time did nothing but increase the risk of 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?

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 juveniles convicted of offenses 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 youths committing offenses have decreased and correspondingly improved public safety (Howell et al., 2009). In fact, from 2006 to 2021, nationwide arrests of juveniles committing offenses decreased 66%, delinquency adjudications dropped 69%, commitments to juvenile court facilities decreased by 52%, and judicially waived cases to the adult courts decreased 39% (Hockenberry, 2023; Office of Juvenile Justice and Delinquency Prevention, 2023b).

State Trends

Correspondingly, several reformative 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 youth convicted of offenses 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, Connecticut, Delaware, Georgia, Hawaii, Indiana, Kansas, Kentucky, Louisiana, Nebraska, New Hampshire, North Dakota, Oregon, South Dakota, Utah, and West Virginia (National Conference of State Legislatures, 2023a).

A second state trend is the reformation of some laws returning or maintaining more adolescents within the juvenile court jurisdiction. Between 2011 and 2019, several states limited their **transfer and waiver criteria laws** for transfers of juveniles convicted of offenses 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 2019, 48 states had set the maximum age at

17 years and only two states had this age at 16 (South Carolina and Texas). This is a rehabilitative trend to increase the minimum age and keep these adolescents under the jurisdiction of the juvenile courts (National Conference of State Legislatures, 2023a; Office of Juvenile Justice and Delinquency Prevention, 2023a).

Case Study: William Florentino

William Florentino was sentenced to LWOP in Massachusetts at 20-years-old following his participation in a robbery in 1977 in which his accomplice committed murder. Mr. Florentino was convicted of first-degree murder and armed robbery because of his presence at the time of the murder, though he was not the triggerman, a lawful conviction in most states often referred to as felony murder, and punishable by LWOP in many states.

He has been in prison for 46 years and is now an elderly man. Over his decades of incarceration, Mr. Florentino has held steady employment, earned a college degree from Boston University, and devoted his life to self-reflection and spiritual growth. He is a trusted resident of the prison, permitted to work in areas of the facility restricted to those who have earned the highest level of independence. Though his life sentence forbids the accumulation of earned “good time,” he would have shaved many years off of his sentence if good time was allowed in his case.

Source: Nellis, A., & Monazzam, N. (2023). *Left to die in prison: Emerging adults 25 and younger sentenced to life without parole*. The Sentencing Project.

A third state trend is detention and incarceration reform and a corresponding focus on prevention, diversion of juveniles committing offenses 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, 2023a). Specifically, by 2019, 20 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 (National Conference on State Legislatures, 2023a; 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, 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/substance abuse, 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 very positive in the more than 300 jurisdictions in 40 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 (The Annie E. Casey Foundation, 2023).

A fourth state trend is the expansion in due process protections for juveniles committing offenses, with many states limiting the ability to waive counsel, improving the provision of quality attorney

representation, recording custodial interrogations, simplifying Miranda warnings and making it clear parents/guardians can be present, and increasing attention to whether the adolescent is competent—having the cognitive ability to comprehend and participate in legal proceedings. By 2022, 27 states had expanded definitions of competence for juveniles committing offenses to include the review of mental health problems, intellectual disabilities, and/or developmental immaturity, with 17 states having done so since 2010—Arkansas, California, Delaware, Idaho, Illinois, Louisiana, Maine, Maryland, Michigan, New Hampshire, Nevada, North Dakota, Ohio, Oklahoma, Oregon, South Dakota, and Utah (National Conference of State Legislatures, 2023a).

POLICY: WHAT'S BEING DONE?

U.S. SUPREME COURT JUVENILE SENTENCING DECISIONS: 2002–2021

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 person committing the offense. 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, a juvenile and adult experiencing the justice system who were developmentally delayed (although in earlier years the descriptive term used was "mental retardation") 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 individuals experiencing the justice system 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 convicted individual's act nor deterrence. This decision was important in providing juvenile and adult individuals convicted of serious offenses 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 youth found 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 convicted juveniles 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 individuals convicted within the justice system. 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 resentenced to life without the possibility of parole (LWOP; Mallett, 2011b).

Once the death penalty was found unconstitutional for convicted juveniles younger than the age of 18, 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 offenses committed by youths to this life term was unconstitutional. In so holding, the Court reinforced and relied on its *Roper* decision in reiterating that convicted youths are different from convicted adults, 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 convicted juveniles 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 juveniles convicted of murder; and under some state 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 in the 2016 *Montgomery* decision, the Supreme Court found that the decision in *Miller* must be retroactively applied to all convicted juveniles so sentenced (approximately 3,000 at the time), allowing a resentencing hearing or for immediate parole eligibility (*Montgomery v. Louisiana*, 577 U.S. 190). While advocates have been 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, today’s more conservative Supreme Court decided in 2021 (*Jones v. Mississippi*, 593 U.S. ___, 2021) that judges need not determine that convicted juveniles are beyond hope of rehabilitation before sentencing them to LWOP, though still upholding the *Miller v. Alabama* decision.

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

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 identify and decrease their disproportionate contact and confinement of marginalized youths engaging in the juvenile justice system, highlights the difficulties and challenges of having convicted juveniles in adult jail and prison facilities, encourages better legal representation for youths committing offenses, improving the expungement and sealing of juvenile records, and addressing the differential needs of girls in or at risk

of entering the juvenile justice system. The Office of Juvenile Justice and Delinquency Prevention continues to support the rehabilitation of most youths engaging in the juvenile justice system and to have them remain in the juvenile justice system, with attention on mental health collaboration across juvenile courts, the impact of trauma on the young people, and funding evidence-based programs (Lawrence & Hemmens, 2008; Office of Juvenile Justice Delinquency and Prevention, 2019). Although funding for this federal law has not been a priority for Congress, with its grant dollars having been decreased by 80% from 2007 to 2015, with this funding level maintained since this time (Congressional Research Office, 2023). A more recent development occurred in 2016 when the Obama Administration banned the use of solitary confinement for convicted juveniles being held in adult federal prisons (Shear, 2016), a practice that has lasting harmful impacts on most incarcerated persons and is a topic explored more fully later in the text.

These initiatives and priorities, along with supportive adolescent developmental and brain science research, have increasingly recognized that youths committing offenses are different from adults committing offenses. Of significant impact, the Supreme Court has established a new paradigm on sentencing of convicted youths since 2002, relying on the developmental and brain science evidence that adolescents are not young adults who offend and have capacities to change, as well as on social and behavioral science evidence that distinguishes youthful from young adults who offend. 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 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 youths committing offenses greatly increased; from 1960 to 1980 and the introduction of individual rights for youths committing offenses and community-based rehabilitative programming; the 1990s "tough-on-crime" approach; and today's reform efforts and movement toward rehabilitative justice. Reform today includes legislative changes that require many states to use evidence-based efforts, keep more youths committing offenses 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 ongoing disproportionate marginalized group 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	Placing Out
Child-Saving Movement	Probation Officers
Evidence-Based Interventions	Reform Schools
Evidence-Based Practices	Superpredator
Gerald (Jerry) Gault	The Annie E. Casey Foundation
Gun-Free Schools Act	Transfer and Waiver Criteria Laws
Houses of Refuge	Truancy
Incarceration Facilities	U.S. Supreme Court
MacArthur Foundation (Models for Change Initiative)	Violent Crime Control and Law Enforcement Act

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 most important changes that juvenile justice reformers have accomplished over the past 15 years?
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, trends, or concerns 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 today?
9. What are the themes of the most recent Supreme Court sentencing decisions for convicted youths? Do you agree or disagree with these Court decisions?
10. If you could predict the future, what will the juvenile justice system be like in 10, 20, or 30 years? Justify your prognostication.
11. What are the most pressing problems facing today's juvenile courts? Justify your answers.