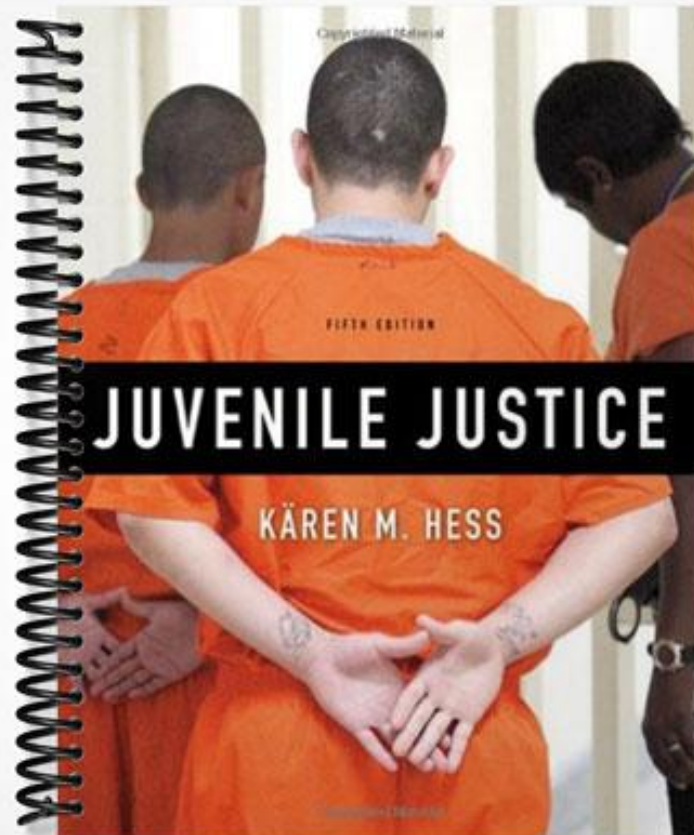


SOLUTIONS MANUAL



Chapter 2

The History and Philosophy behind the Juvenile Justice System

OUTLINE

Introduction

Social Control in Early Societies

Developments in England: A Brief Overview

The Development of Juvenile Justice in the United States

The Puritan Period (1646–1824)

The Refuge Period (1824–1899)

- Houses of Refuge

- Reform Schools

- Foster Homes

- The Child Savers

- Other Developments during the Refuge Period

The Juvenile Court Period (1899–1960)

- The 1899 Juvenile Court Act

- Early Efforts at Diversion: The Chicago Boy's Court and Youth Counsel Bureau

- Federal Government Concern and Involvement

The Juvenile Rights Period (1960–1980)

- The Four Ds of Juvenile Justice

- The *Kent* Decision

- The *Gault* Decision

- The President's Commission on Law Enforcement and Administration of Justice

- Youth Service Bureaus

- The Uniform Juvenile Court Act

- The White House Conference on Youth

- The Office of Juvenile Justice and Delinquency Prevention and the Juvenile Justice and

 - Delinquency Prevention Act

- A Return to Due Process Issues: Other Landmark Cases

- The Issue of Right to Treatment

- Decriminalization of Status Offenses

- Development of Standards for Juvenile Justice

The Crime Control Period (1980–Present)

- Schall v. Martin* (1984) and Preventive Detention

Still Evolving

SUMMARY

- In 1824 the New York House of Refuge, the first U.S. reformatory, opened to house juvenile delinquents, defined in its charter as “youths convicted of criminal offenses or found in vagrancy.”
- The child savers were reformers whose philosophy was that the child was basically good and was to be treated by the state as a young person with a problem.
- In 1899 the Illinois legislature passed a law establishing a juvenile court that became the cornerstone for juvenile justice throughout the United States.
- The first juvenile courts were administrative agencies of circuit or district courts and served a social service function with the rehabilitative ideal of reforming children rather than punishing them.
- Probation, according to the 1899 Illinois Juvenile Court Act, was to have both an investigative and a rehabilitative function.
- The progressives further developed the medical model, viewing crime as a disease to treat and cure by social intervention.
- The 1909 White House Conference on Youth established the U.S. Children’s Bureau in 1912.
- Passage of the Social Security Act in 1935 was the beginning of major federal funding for programs to aid children and families.
- The Four Ds of juvenile justice are deinstitutionalization, diversion, due process and decriminalization.
- The procedural requirements for waiver to criminal court were articulated by the Supreme Court in *Kent v. United States*.
- The *Gault* decision required that the due process clause of the Fourteenth Amendment be applied to proceedings in state juvenile courts, including the right of notice, the right to counsel, the right against self-incrimination and the right to confront witnesses.
- *In re Winship* established proof beyond a reasonable doubt as the standard for juvenile adjudication proceedings, eliminating lesser standards such as a preponderance of the evidence, clear and convincing proof and reasonable proof.
- *McKeiver v. Pennsylvania* established that a jury trial is not a required part of due process in the adjudication of a youth as a delinquent by a juvenile court.
- *Breed v. Jones* established that a juvenile cannot be adjudicated in juvenile court and then tried for the same offense in an adult criminal court (double jeopardy).

- In *Schall v. Martin* (1984) the Supreme Court upheld the state's right to place juveniles in preventive detention. Preventive detention was perceived as fulfilling a legitimate state interest of protecting society and juveniles by detaining those who might be dangerous to society or to themselves.
- Isolating offenders from their normal social environment may encourage the development of a delinquent orientation and thus further delinquent behavior.
- The Uniform Juvenile Court Act (1968) provided for the care, protection and development of youths, without the stigma of a criminal label, by a program of treatment, training and rehabilitation in a family environment when possible. It also provided simple judicial and interstate procedures.
- The major impact of the White House Conference on Youth was that it hit hard at the foundation of our system for handling youths, including unnecessarily punitive institutions.
- The Juvenile Justice and Delinquency Prevention (JJDP) Act of 1974 had two key goals: deinstitutionalization of status offenders and separation or removal of juveniles from adult facilities.
- According to the American Bar Association, juvenile delinquency liability should include only such conduct as would be designated a crime if committed by an adult.

DO YOU KNOW – LEARNING OBJECTIVES

1. When and where the first house of refuge (reformatory) was opened in the United States?
2. Who the child savers were and what their philosophy was?
3. When and where the first juvenile court was established?
4. How the first juvenile courts functioned?
5. What functions probation was to serve within the juvenile court system?
6. How Progressive Era proponents viewed crime? What model they refined?
7. What resulted from the 1909 White House Conference on Youth?
8. What act funded federal programs to aid children and families?
9. What the Four Ds of juvenile justice refer to?

10. What was established by the following key cases: *Kent v. United States*, *In re Gault*, *In re Winship*, *McKeiver v. Pennsylvania*, *Breed v. Jones*, *Schall v. Martin*?
11. What effect isolating offenders from their normal environment might have?
12. What the Uniform Juvenile Court Act provided?
13. What the major impact of the 1970 White House Conference on Youth was?
14. What the two main goals of the JJDP Act of 1974 were?
15. What juvenile delinquency liability should be limited to according to the American Bar Association?

KEY TERMS

In order of appearance in Chapter 2

youthful offenders: persons adjudicated in a criminal court who may be above the statutory age limit for juveniles but below a specified upper age limit for special correctional commitment.

corporal punishment: to punish by inflicting bodily harm.

Bridewell: the first correctional institution, which confined both children and adults considered to be idle and disorderly.

poor laws: established the appointment of overseers to indenture poor and neglected children into servitude.

child savers: groups who promoted the rights of minors in the late 1800's and helped create a separate juvenile court.

medical model: the view that offenders are victims of their environment and thus are curable.

decriminalization: legislation to make status offenses noncriminal acts.

due process: laws may not contain provisions that result in the unfair or unreasonable treatment of an individual; established course designed to safeguard the legal rights of an individual.

net widening: diverting youths to other programs and agencies rather than away from the system.

double jeopardy: being tried for the same offense twice.

justice model: the judicial process wherein young people who come into conflict with the law are held responsible and accountable for their behavior.

deterrence: punishment as a means to prevent future lawbreaking.

deserts: punishment as a kind of justified revenge; the offending individual gets what is coming.

preventive detention: the confinement of youths who might pose a danger to themselves or to others or who might not appear at their trial.

CHAPTER DISCUSSION QUESTIONS – Possible Responses

1. The juvenile justice system has been defined as “justice that applies to children and adolescents with concern for their health, safety and welfare under sociolegal standards and procedures.” Is this definition adequate? Why or why not?

Answers will vary upon student’s views. Students should support their answers.

2. Under the principle of *parens patriae*, how does the state (or the court) accept the role of “parent”? Are all households administered and managed alike?

Answers will vary upon student’s views. Students should support their answers.

3. Who are the present “child savers”? What states, associations and individuals have contributed to the present child-saver philosophy?

1) Answers should include historical and current reasoning and justification. 2) Answers should include the Carter administration, the American Bar Association, OJJDP, rulings by the Supreme Court.

4. What do you consider the major milestones in the evolution of juvenile justice?

While answers will vary upon student’s view, answers should include Bridewell Prison, London Philanthropic Society, Society for the Reformation of Juvenile Delinquents in NYC, Child Savers, the 1899 Juvenile Court Act. Students should support their answers.

5. Is it possible for one system to effectively and fairly serve both children who need correction and those who need protection?

Answers will vary upon student’s views. Students should support their answers.

6. How may diversion result in “widening the net” of juvenile justice processing?

Answers should include the current increase in the numbers of juveniles now in the juvenile justice system.

7. What are the rationales on which police diversion of juveniles is based in your community and state?

Answers will vary upon student's locale. Students should support their answers.

8. What are the major types of police diversion programs in your area and state?

Answers will vary upon student's locale. Students should support their answers.

9. What evidence suggests that diversion programs are effective in reducing juvenile recidivism? What findings, if any, contradict this evidence? Do you know of a diversion program that is working or one that has failed? Why?

Answers should include information on the Presidents Commission (1967), researchers' points of view, information from federal/state/local reports. Answers may be more view based. Students should support their answers.

10. What are the advantages and disadvantages of diversion?

Answers should include (advantages) avoidance of stigma, rehabilitation, lessens state control; (disadvantages) youths placed in programs prior to adjudication, increased local law enforcement, courts, and probation power, deficiencies of treatment facilities.

INFOTRAC ASSIGNMENTS

1. Use InfoTrac College Edition to answer the Discussion Questions as appropriate.
2. Enter the terms *juvenile probation* into the InfoTrac keyword search. Find and read the following articles. Summarize the articles and be prepared to share with the class.
 - Probation foster care as an outcome for children exiting child welfare foster care. Jonson-Reid and Barth. *Social Work* July 2003 v48, p348
 - Embodying delinquency: boys' bodies, sexuality, and juvenile justice history in early-twentieth-century Quebec. Tamara Myers. *Journal of the History of Sexuality*, Oct 2005 v14, p383

INTERNET ASSIGNMENTS

1. Research one of the following topics: juvenile court – historical/current, progressive era reformers/delinquency, child savers, juvenile probation. Be prepared to share your findings with the class.
2. The following websites address the court cases of *In re Winship*, *In re Gault*, and *Schall v. Martin*. Choose two of interest and provide the salient points of the information contained on the website. Be prepared to share your findings with the class.

Winship: http://www.law.cornell.edu/supct/html/historics/USSC_CR_0397_0358_ZO.html

Gault: http://www.law.cornell.edu/supct/html/historics/USSC_CR_0387_0001_ZS.html

Schall: http://www.law.cornell.edu/supct/html/historics/USSC_CR_0467_0253_ZS.html