



A juvenile breaks into a motor vehicle. Why are juvenile courts separate from adult criminal courts?

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INTRODUCTION

Juvenile courts are responsible for dealing with underage minors who commit criminal acts and also status offenses, acts that are forbidden to minors, such as running away, being truant from school, or acting disobediently toward one's parents.

The first juvenile courts were created at the tail end of the nineteenth century by reformers called child savers, who were concerned for the welfare of wayward and criminal youth. The first courts were viewed as social welfare agencies that would serve as a surrogate parent acting in the interests of the child. Today, while some juvenile courts still maintain a social welfare orientation, dispensing personalized, individual justice to needy children, others take a more law enforcement-oriented approach to juvenile crime.

Regardless of philosophy or approach, the American juvenile court system is a very busy institution; it processes approximately 1.5 million delinquency cases each year. In the past 15 years, the number of delinquency cases has climbed steadily and juvenile courts across the nation today handle 30 percent more cases than they did 20 years ago.

This chapter reviews the development of the juvenile court system. In doing so, it covers the most important legal cases that shape its process and highlights some of the most important issues facing juvenile courts in contemporary society.

DEVELOPMENT OF CARE FOR CHILDREN

A **juvenile** is a young person who has not yet attained the age at which he or she is treated as an adult for purposes of the law. More formally, a juvenile is “a person subject to juvenile court proceedings because a statutorily defined event or condition caused by or affecting that person was alleged to have occurred while his or her age was below the statutorily specified age limit of original jurisdiction of a juvenile court.”ⁱ Under federal law, a juvenile is a person who has not yet turned 18 years of age.² Most states have followed the federal lead, but several treat 17-, 16-, and even 15-year-olds as adults.³

Juveniles come into contact with the courts for a number of reasons. Some are exposed to violence in the home and come before the courts in abuse cases, and some need assistance

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Web Extra

5-1 Office of Juvenile Justice and Delinquency Prevention

status offense

An act or conduct that is declared by statute to be an offense only if it is committed by or engaged in by a juvenile.

poor law

Several laws introduced by the English parliament throughout the 1500s (culminating in 1601)^v that reflected an increasingly compassionate attitude toward the poor, as people came to realize that there were legitimate reasons why some people found themselves destitute (e.g., weak harvests); also called *Poor Law Act* or *Elizabethan Poor Laws*.

chancery courts

English courts created in the fifteenth century by the lord high chancellor to address cases that could not be decided in other common law courts^v; also known as *equity courts*.

parens patriae

A medieval doctrine that allowed the Crown to replace natural family relations whenever a child's welfare was at risk.^{vi}

due to their life circumstances, such as when they are raised in conditions of extreme poverty. Some commit a **status offense**, conduct that is declared by statute to be an offense only if committed by or engaged in by a juvenile. Examples of status offenses include underage drinking, curfew violations, incorrigibility, smoking, truancy, and running away from home.

Juveniles enjoy distinct legal protections due to their age, but by the same token, there are certain protections afforded to adult offenders that juveniles do not benefit from. As a result, the juvenile justice system emerged in response to the concern by many that treating children as adults may do more harm than good; however, that view may be changing in response to highly publicized violent crimes committed by juvenile offenders.

Even before the emergence of the formal juvenile justice system and certainly before much attention was even given to juvenile delinquency, there were some important historical developments that signaled state involvement in the lives of wayward youth.⁴

Poor Laws

A 1601 **poor law**, also known as the Poor Law Act or the Elizabethan Poor Law (in reference to Queen Elizabeth), was one of several laws introduced by the English parliament throughout the 1500s that reflected an increasingly compassionate attitude toward the poor as people came to realize that there were legitimate reasons why some people found themselves destitute (e.g., weak harvests).⁵ Children were sometimes victims of these unfortunate circumstances.

The 1601 poor law helped provide work or apprenticeships for orphaned children and children whose parents could not support them, “setting to work the children of all such whose parents shall not by the said church wardens and overseers, or the greater part of them, be thought able to keep and maintain their children.”⁶ Many such children came under the control of church wardens and other guardians, with consent of the justices of the peace. While poor laws gave the outward appearance of helping the poor, many children were essentially forced into indentured working conditions until they became adults, which set a precedent for state control over those youth who were deemed unable to take care of themselves.

Poor laws were enacted for more than just the care of children. They also set up tax collection schemes, such that monies collected were used to help people in need; they were, to some extent, precursors to modern welfare systems.⁷ Families bore the initial responsibility of caring for their poor relatives, with the government stepping in only when it became clear families could not do so. The strong colonial work ethic was reflected in all poor laws, and those who received assistance were expected to contribute to the community by working.

Chancery Courts

English **chancery courts** were created in the fifteenth century by the lord high chancellor to address cases that could not be decided in other common law courts.⁸ Chancery courts were also called “equity courts,” as they applied principles of equity rather than law, meaning that they issued decisions based on fairness rather than on strictly formulated rules of law.

The cases of minor children frequently came before chancery courts. For example, as early as the fifteenth century, chancery courts were exercising jurisdiction over infant heirs who lost their parents, and the courts would sometimes compel the infants’ guardians to account for the management of the infants’ property.

One of the original guiding principles of the chancery courts was ***parens patriae***, a medieval doctrine that allowed the Crown to replace natural family relations whenever a child’s

welfare was at risk.⁹ This meant that the chancery courts effectively took over when parents could not control their children's behavior.

The *parens patriae* principle was influential in a number of respects. It provided precedent for state involvement in juvenile affairs by suggesting that government can—and perhaps should—intervene in family affairs when the need arises: “[It] represented one aspect of a broad progressive movement to accommodate urban institutions to an increasingly industrial-immigrant population, and to incorporate recent discoveries in the behavioral, social, and medical sciences into the rearing of children.”¹⁰

Parens patriae still serves as the core principle of the juvenile justice system and continues to guide juvenile courts in their decisions concerning the treatment of many people—not just juvenile—who cannot fend for or take care of themselves. A recent example of *parens patriae* is a judge's decision to grant custody of Britney Spears's children to her ex-husband, Kevin Federline; Spears's bizarre behavior and drug use were partly responsible for the decision. Another example is Kim Delaney, of *All My Children*, NYPD Blue, and Army Wives fame, who lost custody of her teenage son because of her alcohol problems when a court felt she was not fit to care for the boy.

CREATION OF AMERICAN JUVENILE JUSTICE

The foundations of juvenile justice laid by poor laws and chancery courts were transported to colonial America. Poor laws were enacted throughout the colonies, beginning in 1642 in Plymouth and followed by others in Virginia (1646), Connecticut (1673), and Massachusetts (1693). One historian stated that “early American poor laws served a vital function in the settlements by providing public assistance to the colonists, many of whom had been paupers, vagrants, and indentured servants in England and who, therefore, lacked financial resources.”¹¹ It was not always enough to find work for the poor, especially poor children. People came to realize that more needed to be done in the case of children who found themselves in unfortunate circumstances.

Learning Objective 1
Outline the history and development of juvenile courts.

Library Extra
5-1 A Century of Juvenile Justice

Child Savers

From about 1850 to 1890, a group of reform-minded individuals sought to improve the living conditions of poor urban children. Known today as **child savers**, these people developed groups and organizations whose function was to care for youth, provide shelter for them, and fulfill their educational and other social needs. Among the most prominent were Lucy Flowers, Jane Addams, Elizabeth Clapp, Lewis Pease, Samuel Gridley Howe, and Charles Loring Brace. Among the many fruits of their labors were the Five Points Mission (1850), the Children's Aid Society (1853), and the New York Juvenile Asylum (1851).¹² Brace and his Children's Aid Society felt that poor and vagrant children should be gathered up and placed with farm families who could supposedly provide the warmth and compassion of a stable family environment—as well as teach these youth morality and work skills. Contrary to the idealized image that children in need quickly found loving homes as part of this placement process, there is evidence that some of the children basically became laborers rather than real members of their host families.¹³ On the other hand, there were some success stories of children who later grew up to have extremely productive lives.

child savers
A group of reform-minded individuals in the United States that sought to improve the living conditions of poor urban children from about 1850 to 1890.

Refuge Movement

In 1825, the Society for the Prevention of Pauperism created the New York House of Refuge, the first juvenile reformatory in America.¹⁴ The Society for the Prevention of

New York House of Refuge
The first juvenile reformatory in America.

Pauperism condemned the punitive approach common at that time and by 1824 was incorporated by the state of New York through legislation creating “Managers of the Society for the Reformation of Juvenile Delinquents in the City of New York.”¹⁵

The House of Refuge opened on January 1, 1825, with six boys and three girls, a number that grew to more than 1,600 in about ten years. It is doubtful that the House of Refuge resulted in much “reformation,” however. The typical inmate’s day consisted of labor.¹⁶

Despite some critics’ claims that the House of Refuge was more of a prison than a reformatory, the concept caught on, and similar institutions emerged. Boston formed the House of Reformation for juvenile offenders a year later.¹⁷ Other state and local governments soon formed their own correctional facilities to house juveniles: Massachusetts opened a reform school for juveniles in 1848,¹⁸ and Rochester, New York, followed suit in 1849.¹⁹

The children who lived in these facilities worked, learned trades, and received basic education. Conditions were poor and disciplinary measures were harsh, but these institutions, coupled with the child savers movement, were significant milestones in the development of juvenile justice in America.

Juvenile Court

No sooner did juvenile detention facilities emerge than juvenile courts began to appear. The first dedicated juvenile court was founded in Illinois in 1899 when the Illinois Juvenile Court Act of 1899 established a court whose sole purpose was to deal with neglected and delinquent children under the age of 16.²⁰ By 1925, 46 states, three U.S. territories, and the District of Columbia established their own juvenile courts.²¹ See Box 5–1 for an overview of some of the early juvenile court cases.

BOX 5–1 Early Cases in Juvenile Court

After years of development and months of compromise, the Illinois legislature passed on April 14, 1899, a law permitting counties in the state to designate one or more of their circuit court judges to hear all cases involving dependent, neglected, and delinquent children younger than age 16. The legislation stated that these cases were to be heard in a special courtroom that would be designated as “the juvenile court room” and referred to as the “Juvenile Court.” Thus, the first juvenile court opened in Cook County on July 3, 1899, was not a new court but a division of the circuit court with original jurisdiction over juvenile cases.

The judge assigned to this new division was Richard Tuthill, a Civil War veteran who had been a circuit court judge for more than 10 years. The first case heard by Judge Tuthill in juvenile court was that of Henry Campbell, an 11-year-old who had been arrested for larceny. The hearing was a public event. While some tried to make the juvenile proceeding secret, the politics of the day would not permit it. The local papers carried stories about what had come to be known as “child saving” by some and “child slavery” by others.¹

At the hearing, Henry Campbell’s parents told Judge Tuthill that their son was a good boy who had been led into trouble by others, an argument consistent with the underlying philosophy of the court—that individuals (especially juveniles) were not solely responsible for the crimes they commit. The parents did not want young Henry sent to an institution, which was one of the few options available to the judge. Although the enacting legislation granted the new juvenile court the right to appoint probation officers to handle juvenile cases, the officers were not to receive publicly funded compensation. Thus, the judge had no probation staff to provide services to Henry. The parents suggested that Henry be sent to live with his grandmother in Rome, New York. After questioning the parents, the judge agreed to send Henry to his grandmother’s in the hope that he would “escape the surroundings which have caused the mischief.” This first case was handled informally, without a formal adjudication of delinquency on the youth’s record.

Judge Tuthill’s first formal case is not known for certain, but the case of Thomas Majcheski (handled about two weeks after the Campbell case) might serve as an example. Majcheski, a 14-year-old, was arrested for stealing grain from a freight car in a railroad yard, a common offense at the time. The arresting officer told the judge that the boy’s father was dead and his mother (a washerwoman with