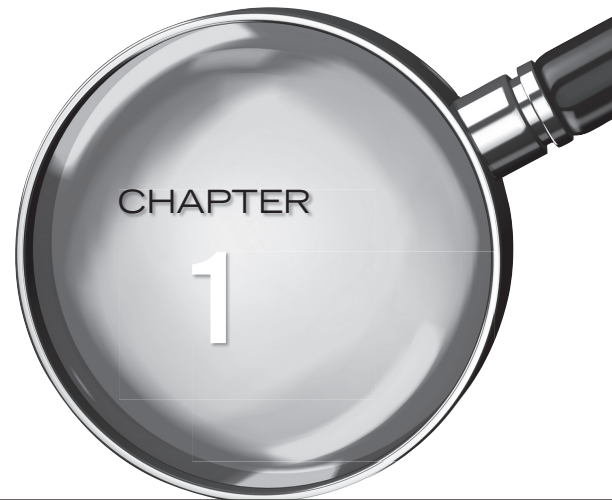


The Context of Juvenile Justice: Defining Basic Concepts and Examining Public Perceptions of Juvenile Crime



▶ ▶ CHAPTER OBJECTIVES

After studying this chapter, you should be able to

- Define basic concepts necessary for understanding the juvenile justice process
- Present a legal definition of delinquency
- Describe the shortcomings of legal definitions of delinquency
- Explain why it is important to understand diversity within the population of juvenile offenders
- Explain why age is the primary criterion for defining a juvenile from a legal perspective
- Describe the problems associated with using age to define the clients of the juvenile justice process
- Describe those factors that contribute to variability and conflict in juvenile justice practice
- Explain why “juvenile justice system” may be a misleading term
- Describe the role that public perception plays in responding to the “delinquency problem”

▶ ▶ CHAPTER OUTLINE

- Introduction
- Defining Delinquency
- Defining Juveniles: The Legal Perspective
- The Juvenile Justice System
- Public Perceptions of Delinquency and the Politics of Juvenile Justice
- Chapter Summary
- Key Concepts
- Review Questions
- Additional Readings
- Notes

■ Introduction

The creation of separate institutions for the treatment of youths who engage in illegal or immoral behavior is a recent historical development. From the beginning of the colonial period to the early 1800s, youths were subject to the same criminal justice process as adults. Consequently, children who were apprehended for crimes were tried in the same courts and, when found guilty, were often given the same punishments as adults.¹

Today, most Americans are aware that a separate justice process exists for juveniles. However, many people lack an understanding of how this process works or how effective juvenile justice programs are, and others hold views that are based more on myth than reality. Moreover, most lack an understanding of the social, political, and economic contexts that shape juvenile crime and juvenile justice practice.

Although many citizens lack an understanding of the operation and effectiveness of juvenile justice programs, they often express strong opinions about the causes of delinquent behavior and how such behaviors should be handled. Such opinions are found in letters to local newspapers, in radio talk show programs, in television commentaries, and in the everyday discussions that people have about current events. Some members of the public call for increased efforts to prevent delinquency and rehabilitate young offenders. Others call for harsher punishments for young “thugs” and demand that youths who commit “adult” crimes be treated like adults. Similar sentiments are found among political leaders as well. Although rhetoric designed to capture the public’s attention may be seen by some as “good politics,” it is problematic for several reasons. First, it contributes little to the public’s understanding of juvenile crime and the development of effective methods of responding to juvenile offenders. Second, **labeling** youths as “thugs” dehumanizes them and makes it easier to respond to them in ways that protect neither their interests nor the interests of the community. Third, inflammatory rhetoric about juvenile crime often results in poorly conceived and ineffective policies that squander precious resources and lead to increased public cynicism about our ability to deal with juvenile crime.

Young people do commit serious offenses, although most juvenile crime does not result in serious injury or property loss. The question is, what is the best response to the illegal behavior of youths? Which responses are more likely to help youths learn from their mistakes and make more socially productive decisions in the future? Which responses are more likely to represent a sound investment of public funds and protect community safety? These are not easy questions to answer, but any viable response to juvenile crime must be predicated on sound knowledge of the causes of delinquency as well as a clear understanding of past and present responses to the juvenile crime problem, including the effectiveness of those responses. A primary purpose of this text is to help readers gain such an understanding.

labeling Defining and responding to a youth as a delinquent. Labeling can lead to stigmatization, lost opportunities, and additional delinquent behavior.

FYI

For Your Information

Throughout this text, important points of information that help you understand juvenile justice practice are highlighted. In addition, myths about the operation of juvenile justice are explored in sidebars separated from the main text.

FYI**Juvenile Justice Practice**

Ultimately, juvenile justice involves many people making decisions, sometimes very difficult decisions that are often made under arduous conditions. Moreover, it is important to remember that these decisions can have a profound influence on the lives of others.

Although this text is intended to help students understand the social, historical, and legal context of juvenile crime and juvenile justice, and to understand present juvenile justice responses to juvenile crime, bear in mind that juvenile justice is ultimately a human endeavor in which a variety of individuals, from police officers to correctional personnel, have responsibility for making decisions about how to respond to youths' behavior. Indeed, what makes juvenile justice an interesting, challenging, and potentially very rewarding career is that many youths and their families are helped by the many committed, highly trained, and caring individuals who work in juvenile justice. However, other youths are not helped, despite the best efforts of juvenile justice professionals. In other instances, youths and their families are harmed by those who are ostensibly charged with protecting their well-being. Unfortunately, in some instances, those who work in juvenile justice lack the knowledge, training, support, and commitment necessary for effective practice. Our goal in this text is to point out the many positive things that occur in juvenile justice, but also to balance our presentation by critically examining many of the problems that have historically plagued juvenile justice operations in the United States. We also provide descriptions of juvenile justice practices in other countries in sections that focus on **comparative juvenile justice** throughout the text in order to give readers insights on juvenile justice practices in other countries. Globalization can already be seen in juvenile justice practice, and we can expect the sharing of ideas about juvenile justice to expand in the future. While people in other countries have learned from our experiences in juvenile justice, both good and bad, we can learn important lessons from others.

comparative juvenile justice

The examination of juvenile justice history and practice in one country or culture by comparing it to the history and practice of juvenile justice in another country or culture.

COMPARATIVE JUVENILE JUSTICE FOCUS

According to Dammer and Fairchild in their book, *Comparative Criminal Justice Systems*, there are three practical reasons for studying criminal justice in other countries or cultures: "(1) to benefit from the experience of others, (2) to broaden our understanding of different cultures and approaches to problems, and (3) to help us deal with the many transnational crime problems that plague our world today."²

This chapter is intended to introduce the basic concepts necessary for understanding present juvenile justice practice. It begins by defining delinquency. Next, it provides a profile of juvenile offenders, examines public perceptions of delinquency (which form an important part of the contemporary context of juvenile justice), and explores the concept of a juvenile justice system.

■ Defining Delinquency

From a legal standpoint, **delinquency** consists of those behaviors that are prohibited by the family or juvenile code of the state and that subject minors (i.e., persons not legally adults) to the jurisdiction of the juvenile court. Behaviors prohibited by

delinquency Behaviors that fall within the jurisdiction of the juvenile court and result in processing by official juvenile justice agents.

status offenses Acts that are considered illegal when committed by a child but not when committed by an adult (e.g., running away, school truancy, and failure to obey parents' directions).

juvenile codes can be grouped into two general categories: (1) behaviors that would be defined as criminal offenses if committed by adults (malicious destruction of property, larceny, robbery, motor vehicle theft, etc.), and (2) behaviors that are prohibited only for minors, which are called **status offenses** (school truancy, running away from home, incorrigibility, etc.).

Although the preceding definition of delinquency is technically accurate, like all legal definitions, it fails to completely capture the complex human dimension of delinquency and juvenile justice responses to youths' illegal behaviors. For example, police respond to only some of the actions that are legally defined as delinquent. Police often ignore some (typically minor) illegal behaviors that are prohibited by legal codes. Also, as noted in Chapter 6, how police respond to youths alleged to be engaged in illegal behavior can vary considerably from one community to another. Police in one community may arrest youths who do not go to school, whereas, in another community, failure to attend school receives little attention by the authorities. Moreover, the delinquent activities of some youths tend to be more visible than the activities of others, thus increasing the likelihood that certain youths will come to the attention of the police and be labeled delinquents. Defining delinquency as behavior that violates the legal code ignores these nuances in juvenile justice practice. In recognition of these realities, some have suggested that a more useful definition of delinquency would focus on those acts that official agents select for enforcement rather than on all legally prohibited behaviors.³ From this perspective, delinquency actually represents a sample of those behaviors prohibited by state law and delinquents are, for all practical purposes, youths who are "caught" and subject to formal processing by the authorities.

Another problem with using a legal definition is that such definitions cover an extremely broad range of behaviors, from incorrigibility (i.e., not obeying one's parents) to serious criminal actions (e.g., homicide). From a legal standpoint, almost all minors could be considered delinquents because most youths engage in at least one illegal behavior at some time during their juvenile years. For example, research conducted by the U.S. Centers for Disease Control and Prevention revealed that approximately 82% of high school seniors reported using alcohol during their lifetime and approximately 48% reported using marijuana.⁴ The percentage of youths who fail to obey their parents, also illegal in many **jurisdictions**, is likely to be even higher. According to a strict legal definition, most youths would be considered delinquents, even though most people would not consider many of these youths to be delinquents, nor would they consider their actions to be illegal.

jurisdiction A geographic area subject to a particular law or court.

There are additional problems with legal definitions. Legal definitions do not make a distinction between those who are caught and those who engage in delinquent behavior. Yet, this distinction may be important because those who are caught may be subject to the loss or the restriction of their freedom. Moreover, we should not assume that our reactions to juvenile offenders will necessarily lead to a cessation of their illegal behavior. As Harold Garfinkel notes, the process of labeling a youth a delinquent may be seen as a status degradation ceremony through which the youth's identity is (possibly) transformed into a lesser form of humanity.⁵ Not only may labeling cause the individual to see him- or herself differently (e.g., as a troublemaker, thief, or delinquent), but it also may cause others to respond differently or avoid the person, leading to rejection and the restriction of law-abiding opportunities. This, in turn, can increase the likelihood of further delinquency.⁶

FYI**The Saints and the Roughnecks**

In a classic study of delinquency, “The Saints and the Roughnecks,” William Chambliss pointed out that lower-class youths, who tend to be visible to the community, nonmobile, and not very adept at meeting the social expectations of authorities, are more likely to be selected for punishment than affluent youths, who are generally less visible and more mobile. By observing the Saints, eight white males from solid middle-class families, and the Roughnecks, six lower-class white males, Chambliss discovered that the Saints actually engaged in more frequent delinquent behaviors than the Roughnecks, who engaged in somewhat more serious behaviors, such as fighting and property offenses. The Roughnecks, however, were more likely to be seen as delinquents destined for lives of trouble than the Saints, who were seen as upstanding students with bright futures.

In explaining the difference in the reaction to these two groups, Chambliss stated that the Roughnecks’ activities took place within the purview of the community because the Roughnecks did not have access to cars. In contrast, the Saints, who had access to cars, were able to travel to the periphery of town or to other towns. Thus, their delinquent behaviors were less visible. Furthermore, Chambliss noted that, during contact with the authorities, the demeanor of the Saints allowed them to avoid difficulty. The Saints generally responded in ways that were felt to be more acceptable by authority figures. As a result, the authorities possessed a perceptual bias that led them to see lower-class youths as more problematic—a bias reinforced by the visibility of the Roughnecks and their lack of social skills.⁷

A number of studies have uncovered the problems faced by persons on whom certain negative labels have been placed, such as mental patients, youths identified as delinquents, and those convicted of crimes. For example, Charles Frazier documented the problems experienced by “Ken,” a young man who lived in a small town and was labeled a “criminal” at a public trial. Subsequent to his official labeling, people began to see previous events in Ken’s life as indications of deviance. In addition, former friends and associates began to reject Ken, and their rejection led Ken to see himself as a criminal.⁸ Research by Christine Bodwitch that examined school disciplinary practices revealed that students who were seen as delinquents by school administrators were more likely to receive more severe disciplinary responses such as suspension, transfer to another school, or even expulsion.⁹ Moreover, studies in the United States and in the Netherlands have highlighted the problems faced by “offenders” in their efforts to seek employment.¹⁰ In these studies, prospective employers were given job applications of fictitious persons that contained varying amounts of information regarding criminal involvement. Not surprisingly, both studies found that employers were more likely to consider a prospective candidate with no criminal history than a candidate with a criminal history.

The labeling perspective predicts that system involvement may lead to negative outcomes because it can limit youths’ education, social, and employment opportunities. Support for this argument was found in research conducted in Rochester, New York, that examined a representative sample of males over a nine-year period from the time that the subjects were approximately age 13 years until they were approximately age 22 years. The researchers found that involvement in the juvenile justice process decreases the odds that youths will graduate from high school and educational success is related to future employment prospects. In addition, involvement in the juvenile justice process was found to increase the odds that those youths will engage in crime in their young adult years.

MYTH VS REALITY

Punishment is Not Always an Effective Response to Youths' Behavior

Myth—Youths should always be punished when they violate the law.

Reality—Sometimes our responses to youths can increase the likelihood of further deviant behavior, which sociologist Edwin Lemert called “secondary deviance.” Lemert claimed that persons may engage in initial acts of deviance, such as delinquency, for a variety of reasons. Lemert termed such deviance “primary deviance.” However, through repeated interaction between someone identified as deviant and authority figures, a process that may involve labeling and stigmatization, the individual may reorganize his or her identity around a more deviant role, thus increasing the likelihood of further acts of deviance. This secondary deviance is not a product of the original factors that produced the initial acts of deviance, but an adjustment to or a means of defense against societal reactions to the primary deviance.¹²

Moreover, the negative effects of system involvement were particularly strong for economically disadvantaged and African American youths.¹¹

Although the preceding studies do not address possible positive effects of labeling, such as the avoidance of negative behaviors out of fear of receiving a negative label or the potential deterrent effects of shame and embarrassment associated with criminal justice involvement, they do challenge the notion that a formal response to a juvenile offender is always beneficial. While some youths are helped by their involvement in juvenile justice, there are other instances in which youths are placed in correctional programs where they are exposed to more hardened offenders and are victimized by other youths and/or staff. Moreover, juvenile justice responses may set some youths on paths that increases their odds of future criminality.

Another difficulty with legal definitions of delinquency is that they obscure potentially important differences between youths involved in illegal behavior. Some youths become involved in the juvenile justice process because of their involvement in status offenses; others become involved because of criminal offending. However, making distinctions between status and criminal offenders still does not take into account the many ways in which youths differ from one another. Indeed, youths who engage in illegal behavior constitute a diverse population. They vary considerably in terms of their psychological and biological characteristics and the social context within which they live. Moreover, these variations in psychological and biological characteristics, as well as social context, need to be considered when making decisions about their treatment.

Finally, legal definitions of delinquency present it as an either/or phenomenon and ignore both the frequency and the seriousness of delinquent conduct. In reality, most youths engage in infrequent and minor types of delinquent behavior; only a small

PINS Persons in need of supervision; children who engage in status offenses.

CHINS Children in need of supervision; see PINS.

FYI

Distinguishing Between Status Offenders and Delinquents

Most states make a distinction between youths who engage in criminal behaviors by designating them “delinquent offenders” or “public offenders” and those who engage in status offenses, who are called **PINS** (persons in need of supervision), **CHINS** (children in need of supervision), or “undisciplined children.”

percentage of the juvenile population engages in repetitive and serious delinquent actions. Consequently, it would arguably be more accurate to view delinquency as a form of behavior that falls on a behavioral continuum ranging from extreme conformity to extreme nonconformity.¹³

In fact, juvenile justice practitioners spend a considerable amount of time attempting to determine how they should respond to youths who engage in minor to very serious forms of delinquency. How many resources should we devote to minor offenders? If we fail to devote resources to minor offenders, will they become serious offenders? How many resources should we devote to serious offenders? Which juvenile offenders represent a threat to the public and which are “good kids” who have made a mistake? These are questions that juvenile justice practitioners wrestle with daily. Moreover, how juvenile justice practitioners answer these questions can have profound effects, not only on youths who come to the attention of the authorities, but also on their families and the wider community. Consider the actual case of Marcus (see Box 1-1). How has the court responded to this case? From Marcus’s point of view, what have been the pros and cons of court involvement? Do you think the court responded appropriately?

BOX 1-1 Interview: Marcus, a Delinquent Offender

Q: How old were you when you first became involved in the juvenile court system, and how old are you now?

A: I was 15 when I was first arrested, and I am 16 years old now.

Q: What was your presenting delinquent offense? Were you alone or with someone?

A: A friend and I robbed a convenience store, and we had a pistol; the charge was armed robbery.

Q: What was your sentence or disposition?

A: I was sentenced in July of 1997 to probation and put into the day treatment program. They monitor me 24 hours a day, including before and after school; but I get to live at home.

Q: Since being sentenced, have you committed any new delinquent crimes or violated your probation?

A: I violated my probation by trying to buy some marijuana after a few months on probation. I got 24 hours in detention and in-home detention for Valentine’s weekend, so I couldn’t spend Valentine’s Day with my girlfriend. I learned my lesson and have not violated since!

Q: What are the benefits that you believe you are receiving from your involvement with the juvenile court?

A: My involvement with the court has really helped turn my life around. The referee who sentenced me made me attend football workouts all summer as part of my probation. I ended up playing on my high school’s freshmen football team and was elected captain and selected as most valuable player. These good things that have happened to me have helped my confidence. I feel good about them. My day treatment worker, teachers, and football coaches have been very positive persons in my life. The structure and the pressure of having rules that I must follow helps keep me out of trouble. In addition to football, the day treatment program gives good rewards for obeying the rules, like traveling to amusement parks. We also do stuff in the community.

Q: What don’t you like about your involvement with the court?

A: It’s not too bad so long as you obey the rules, so long as you don’t mess up. I don’t like the tracking and monitoring part of day treatment because it really takes away my freedom; but I know if I violate the rules, I’ll only get deeper into trouble and deeper into the system.

Q: How do you feel about committing a crime that hurt someone?

A: I feel bad about it. I know it was wrong; I know I shouldn’t have done it. I got the idea from a bunch of guys.

(continued)

- Q:** How are you doing in school?
A: My grades are improving because I know I have to be eligible to play football next fall.
Q: When do you think you will be off court supervision?
A: I am not sure of a date, but I must complete my community service hours. I have about 3 1/2 hours left. Probably not until the school year is finished, maybe longer.
Q: What goals for your future do you have now?
A: I want to graduate from high school with a 3.0 grade point average. I want to play football in college at the University of Michigan or North Carolina. I want to major in athletic administration and be a coach.
Q: What have you learned from your court involvement?
A: Even though you make a real big mistake, there's always someone out there to give you another chance. You need to take advantage of that chance or you'll get locked back up.
Q: Has your experience with the court been enough to keep you from committing another delinquent offense?
A: Yes!

Source: Marcus (personal communication, April 28, 1998)

Which definition of delinquency is best? Should we use a legal definition and include all youths who violate juvenile laws, or should we employ a definition based on the system's identification and response to particular youths?

As noted earlier, strictly legal definitions of delinquency ignore much of its complexity. Moreover, delinquency can be defined in more than one way. Because this text focuses on the processing of youths by official agencies that make up the juvenile justice process, a legal and justice agency response definition will be used. According to this definition, delinquency consists of behaviors that fall within the jurisdiction of the juvenile court and result in processing by official agents of juvenile justice. Keep in mind that this definition does not take into account the differences that exist among youths who engage in delinquency, nor does it take into account the differences that exist among the types of delinquency that youths commit. These differences are important, however, because they help determine how youths are processed by juvenile justice agencies.

■ Defining Juveniles: The Legal Perspective

Implicit in the definition of juvenile delinquency is an assumption about which youths are considered juveniles. As noted earlier, persons who are subject to the jurisdiction of the juvenile court are considered minors; however, the legal definition of a minor varies from state to state.

In the majority of states, in the District of Columbia, and in the federal system, the upper age limit for juvenile court jurisdiction is age 17 years. This means that after youths turn age 18 years, they are subject to the jurisdiction of adult courts. In a number of other states (Georgia, Illinois, Louisiana, Massachusetts, Michigan, Missouri, New Hampshire, South Carolina, Texas, and Wisconsin), youths become adults in the eyes of the criminal justice system when they become age 17 years. In three states (Connecticut, New York, and North Carolina), adult court jurisdiction begins at age 16 years.¹⁴

In addition to an upper age limit, some states have a lower age limit for juvenile court jurisdiction, which varies from age 6 years to age 10 years. Where a lower age limit exists, minors younger than the statutorily specified age cannot engage in delinquent behavior.

These youths are felt to be too young to have criminal intent, or *mens rea*. The idea that children cannot commit crimes is based on the legal principle of *doli incapax*, which holds that young children do not know right from wrong. As a result, they cannot be held liable for actions that would be considered illegal if committed by an adult.

Although each state sets age limits that determine which youths are subject to juvenile court jurisdiction, some state juvenile codes allow juvenile justice agencies to continue jurisdiction over a youth for a specified period after he or she passes the maximum age for juvenile court jurisdiction. In most states, after the juvenile court takes jurisdiction over a case, it can retain that jurisdiction until the youth turns age 21 years; in four states (California, Montana, Oregon, and Wisconsin) juvenile court jurisdiction can extend until age 25 years.¹⁵ However, after a youth who is under juvenile court jurisdiction achieves the age at which persons are considered adults, subsequent offenses fall under the jurisdiction of the adult court.

Although state juvenile codes establish the general parameters for juvenile court jurisdiction, state laws also make it possible to transfer some juveniles to criminal courts for trial. The process by which some juveniles are processed as adults is typically called **waiver**, **remand**, **transfer**, or **certification** to adult court. An in-depth examination of waiver is found in Chapter 9.

Using age as a basis for waiver satisfies legal criteria that require clear-cut definitions for those juveniles who are eligible for trial in adult court; however, it suffers from at least two shortcomings. First, it flies in the face of existing knowledge about human psychological, social, and physical development. An adult is commonly defined as a person who has reached maturity, whereas a **juvenile** is commonly defined as a person who is no longer a child but not yet an adult. At what stage of life, however, does one become an adult, and what exactly is maturity? Psychologists who take a developmental approach suggest that a mature person is one who possesses certain skills that are the product of both cognitive development and the nature of the person's interactions with his or her environment. Moreover, they maintain that these skills are acquired in a developmental sequence. According to this perspective, the ability of individuals to understand their world, including how they relate to others and how their behavior affects and is affected by others, depends on their level of cognitive development and the quality of the interactions they have had with their environment. Accordingly, their

mens rea Criminal intent.

doli incapax Not capable of criminal intention or malice; unable to formulate criminal intent (*mens rea*); not able, due to lack of maturity, to know right from wrong; not criminally responsible.

waiver, remand, transfer, or certification A legal process whereby a juvenile is sent to adult court for trial; see waiver.

juvenile A youth who falls within an age range specified by state law. The age range varies from state to state.

FYI

Human Development

Jean Piaget argued that the ability of the individual to understand and interpret his or her world proceeds in a series of stages, beginning with the sensorimotor period, which lasts roughly from birth until age 2, and ending with the formal operations period, which lasts from roughly age 11 through adulthood. During the sensorimotor period, the cognitive abilities of the child are quite different than those of an adult. During this period, the young child learns to make sense out of visual, tactile, auditory, and other sensations and focuses on how the world responds to the child's actions. However, during the middle school years, the child enters the formal operations stage, at which point the child's cognitive abilities change greatly. During this period, the child is able to understand and interpret the world differently because of his or her ability to engage in more abstract thought. In addition, the development of the child's cognitive abilities is, to some extent, influenced by the child's environment.¹⁷

ability to understand the effects of their actions on others and themselves is not static, but changes over time.¹⁶

Building on the work of Piaget, Lawrence Kohlberg argued that an individual's ability to engage in moral reasoning develops over time and is affected by his or her cognitive development, education, and social experience.¹⁸ At the earliest level of moral reasoning, the individual is more egocentric, focusing attention on how actions affect him or her. At higher stages of moral development, the individual considers how his or her actions affect everyone.¹⁹ Importantly, a number of studies that have examined the relationship between levels of moral reasoning and delinquency have found that low levels of moral reasoning are related to delinquency and criminal behavior. Although these studies do not prove that low moral reasoning causes delinquency, they do suggest that low moral development, along with other psychological and social factors, appears to play an important role.²⁰

A second shortcoming of relying on age as the major determinant of adulthood is that it fails to consider variations in the social and psychological development of youths. Although developmental psychologists indicate that cognitive and moral development occur in stages that typically begin and end around specific ages, they recognize that youths vary considerably in their rates of development. Also, some research indicates that boys may develop "other-oriented" reasoning, the ability to be empathic, later than girls.²¹ Consequently, the fact that a youth has turned age 17 or age 18 and become subject to the jurisdiction of an adult criminal court does not mean that he or she is a mature adult capable of making adult decisions.

Given the lack of consensus about when youths become adults, it is not surprising that state laws often reflect considerable confusion over this very issue. Although a state law may mandate that youths who are age 16 or age 17 fall under the jurisdiction of adult criminal courts, other laws within that state may deny those youths full participation in adult social and political life by denying them the right to vote, possess alcohol, and enter into legal contracts until they reach age 18 or age 21. From a developmental perspective, this type of inconsistency highlights the problems associated with using age as a criterion for determining when one becomes an adult. Moreover, it is important to consider psychological and moral development issues because doing so reveals the variation that exists among youths who become the clients of both the juvenile and adult justice process. Also, knowledge of child development is needed in order to develop more effective responses to juvenile offenders.

■ The Juvenile Justice System

In referring to juvenile justice practices, it is common to use the phrase "the juvenile justice system." However, the extent to which juvenile justice constitutes a system is a matter of debate. Although state juvenile codes usually specify two main purposes of the juvenile court—to protect the best interests of children and to protect the community—daily juvenile justice operations typically result in considerable variability in practices as well as conflict between juvenile justice agencies and practitioners. In this section, we examine factors that are responsible for variability in juvenile justice practice and for conflict between agencies and practitioners.

Variability in the law is one factor that leads to variability in juvenile justice practices. Each state has its own juvenile laws, which vary regarding the age ranges that fall under the jurisdiction of the juvenile court. Consequently, a youth who is age 16 in South

MYTH VS REALITY

Juvenile Justice Goals Often Vary by Agency and Individual Practitioner

Myth—The juvenile justice system comprises police agencies, courts, and correctional institutions that work together to achieve the same common goals.

Reality—Although the various components of the juvenile justice process (i.e., police agencies, courts, and correctional institutions) and individuals who work within these different components are charged with protecting the public and serving the best interests of children, they often work at cross-purposes. Importantly, those who work in different areas of juvenile justice, such as police officers, district attorneys, defense attorneys, judges, and probation officers, have different roles and responsibilities. Moreover, those who work in juvenile justice perceive their roles differently and they are influenced by a variety of factors that result in a considerable amount of conflict over how particular cases or types of cases should be handled.

Carolina is considered a juvenile, whereas a youth who is age 16 in North Carolina falls under the jurisdiction of adult courts. Moreover, the expressed purposes of juvenile codes also vary from state to state. Some juvenile codes emphasize child welfare (e.g., the District of Columbia, Kentucky, Massachusetts, and West Virginia), while others emphasize accountability and protection of the public (e.g., Connecticut, Hawaii, North Carolina, Texas, Utah, and Wyoming).²² Differences in the law exist within states as well, because states contain smaller jurisdictional units, such as cities, townships, and counties, that can develop local ordinances prohibiting certain juvenile behaviors. For example, the city of Charlotte, North Carolina, has a curfew ordinance that prohibits youths younger than 16 years from being out between 11:00 p.m. and 6:00 a.m. unless they are supervised by an adult. However, this ordinance does not affect youths younger than 16 years who live outside the city limits.

Differences in the social, political, and economic environments found in different communities also influence variability in juvenile justice practices. The level of juvenile crime, the range of economic opportunities for youths, the quality of the public schools, the existence of activist community groups that demand certain responses to juvenile crime, and a host of other social, political, and economic factors can influence juvenile justice practices. As a result, the response to a youth who violates the law (e.g., by shoplifting or failing to obey his or her parents) in one county may be quite different than the response to those who commit the same offense in an adjacent county in the same state.

Another factor that leads to variability in juvenile justice practice is the **discretion** that juvenile justice decision makers (police officers, district attorneys, probation officers, etc.) have when determining how to respond to youths who violate the law. Discretion is the ability to make judgments on one's own authority. However, it is important to recognize that the use of discretion itself is influenced by a number of political, social, economic, legal, and other factors. For example, juvenile justice decision makers work within a legal context that places statutory limits on their decision-making ability. Moreover, their decisions may be constrained by monetary resources and by their awareness of what the community will tolerate or support. In addition, juvenile justice decision makers have different **juvenile justice ideologies**, which is to say that they have different ideas about the causes of juvenile crime and what should be done about it.

discretion The authority to exercise judgment.

juvenile justice ideology
A set of ideas about the causes of juvenile crime and what should be done about it.

The individualized nature of juvenile justice also contributes to variability in juvenile justice practice. Since their inception, juvenile courts, like other courts, have taken an individualized approach to dealing with offenders. This individualized approach has been reflected in efforts by juvenile justice decision makers to consider the characteristics of each offender (e.g., his or her age, maturity, mental capacity, and home environment) and the circumstances surrounding the offense (e.g., whether there was provocation) in determining the appropriate response. Finally, different juvenile justice practitioners have different roles and responsibilities in the juvenile justice process. These different roles and responsibilities inevitably lead to some degree of conflict between agencies and individuals as they strive to carry out what they feel their positions require of them.

The fact that youths are often dealt with differently, even within the same juvenile justice agency, should not be surprising because (1) the local social, economic, political, and legal context of juvenile justice practice places limits on juvenile justice decision making (2) local decision makers within juvenile justice have discretion; (3) decision makers have different views about what constitutes an appropriate response to various types of delinquent behavior; (4) the history of individualized justice given to youths, and (5) the different roles and responsibilities assumed by those who work in juvenile justice. Nor should it be surprising that there can be considerable conflict between the agencies and individuals responsible for responding to delinquent youths. In some instances, of course, juvenile justice practice involves relatively coordinated responses to juvenile offenders and relatively low levels of conflict. What makes the idea of a juvenile justice “system” open to question are the many instances of low levels of coordination and high levels of conflict between juvenile justice agencies and/or practitioners.

■ Public Perceptions of Delinquency and the Politics of Juvenile Justice

The preceding sections have addressed some important issues related to basic concepts employed in juvenile justice. In this section, we turn our attention to understanding public perceptions of delinquency. These perceptions are important because they color much of what we think about the so-called “delinquency problem” and how we should respond to it.

Interestingly, public concern over delinquency is not new. Indeed, each generation of Americans seems to believe that the country is experiencing a juvenile crime wave.²³ Concern about youth crime and waywardness in Eastern cities led reformers in the early 1800s to develop the first specialized juvenile institutions. In the late 1800s, other reformers, called the “child savers,” had similar concerns and developed the first juvenile courts. During the 1950s, many members of the public were alarmed at what they perceived to be the negative influences of youth culture on adolescents. Movies about young rebels, played so well by actors such as James Dean and Marlon Brando, caused many Americans to question the influence of the media on middle-class youths, who, it was felt, were being seduced by lower-class values that spawned delinquency. As a result, various efforts were undertaken to censor movies, comic books, and other media believed to spread the wrong values.²⁴

Although public concern about delinquency is hardly new, each wave of concern produces its own set of solutions to the delinquency problem. Changes in the juvenile justice response to offenders have not always coincided with actual increases in the level of delinquency nor are responses to delinquency always in line with our knowledge of

effective responses to juvenile offenders. Since the late 1970s, concerns about serious, violent, and chronic juvenile offenders, sometimes referred to as juvenile “superpredators,” have led to a variety of “get tough” efforts, including legislation in a number of states intended to ensure that serious juvenile offenders receive maximum terms of confinement, often by making it easier to process juveniles in adult courts.²⁵ Unfortunately, these policies have been driven more by the politics of juvenile justice than by our knowledge of juvenile crime or juvenile offenders. As we demonstrate in Chapter 2 and Chapter 14, various data sources on delinquency provide no evidence of a juvenile crime wave nor do they indicate that there is a growing population of violent juvenile offenders. This highlights three important facts about juvenile justice.

1. How we respond to juvenile offenders is, to a large extent, a reflection of our perception of juvenile crime.
2. Changes in our *perception* of the nature and extent of juvenile offending, irrespective of the actual level of juvenile crime, can produce changes in juvenile justice policies.
3. Responses to juvenile crime are the result of a political process in which particular sets of ideas about what constitutes a reasonable response to the delinquency problem win out over others.

Unfortunately, this process is often driven by public perceptions based on sensational and distorted media accounts of juvenile crime that influence public beliefs about the level of juvenile crime, the **etiology** of delinquency, the characteristics of juvenile offenders, and the most appropriate response to the juvenile crime problem. One result is that existing policies frequently are at odds with our current knowledge about delinquency and about the best way to deal with juvenile offenders. In fact, many of these policies are harmful to youths, their families, and the communities in which we live because they are ineffective and, in some cases, counterproductive. Such policies also have a negative impact on those who work in juvenile justice because they limit the ability of these individuals to facilitate successful client outcomes.

As noted earlier, public perception that a serious juvenile crime problem existed during the last two decades resulted in a variety of policies intended to “get tough” with juvenile offenders, despite a lack of evidence that the juvenile crime problem was actually getting worse. The cumulative effect of these policies was to increase reliance on incarceration as a response to delinquency, a policy that continues today in many jurisdictions, even though there is no sound evidence that incarceration has any significant effect on levels of violent juvenile crime. Nevertheless, the “get tough” approach continues to have considerable appeal because it fits well with the perception that many people have about what should be done. An important question to ask, however, is the following: What is

etiology The study of causation.

FYI

Public Opinion

Although increasingly more punitive responses to juvenile offenders have been developed around the country,²⁶ there is considerable evidence that the public still favors the traditional rehabilitative focus of the juvenile court when it comes to treating juvenile offenders.²⁷ Thus, efforts to treat youths more punitively may not necessarily reflect public sentiment.

the most appropriate response to juvenile crime? The information provided throughout this text is intended to assist you in formulating your own answer to this question (as well as answers to many other questions you will have).

■ Chapter Summary

This chapter was designed to introduce some of the basic concepts necessary for developing a clear understanding of the juvenile justice process. It began by defining two important concepts, delinquency and juvenile, and exploring a number of shortcomings of these definitions. Clearly, there are several ways to think about what constitutes delinquency and who is considered to be a delinquent (and consequently subject to the jurisdiction of juvenile justice agencies). The chapter also pointed out the broad range of behaviors that are treated as juvenile offenses and the tremendous variability in the psychological, biological, and social characteristics of the youths who engage in illegal behavior.

In addition, the chapter suggested that talk about the juvenile justice system may be best viewed as rhetorical. It examined a variety of factors that produce variability and conflict in juvenile justice practice and that make systemic responses to juvenile offenders difficult. Some commonalities in juvenile justice operations across the United States exist. Nevertheless, it is important to recognize that there is often considerable conflict between the agencies and individuals responsible for responding to juvenile offenders—conflict that sometimes impedes systemic responses to juvenile crime.

Finally, the chapter discussed the important role of public perceptions and politics in the development of juvenile justice policy. As noted, public opinion about juvenile justice is not always based on accurate knowledge of the juvenile justice process or juvenile offenders. Nevertheless, public perceptions and beliefs about the causes of delinquency and the best way to respond play critical roles in the politics of juvenile justice. Unfortunately, the politics of policy development do not always produce responses to delinquency that help youths or their families, nor do they always lead to safer communities and high success rates among juvenile justice practitioners.

■ Key Concepts

certification: A legal process whereby a juvenile is remanded to adult court for trial; see waiver.

CHINS: Children in need of supervision; see PINS.

comparative juvenile justice: The examination of juvenile justice history and practice in one country or culture by comparing it to the history and practice of juvenile justice in another country or culture.

delinquency: Behaviors that fall within the jurisdiction of the juvenile court and result in processing by official juvenile justice agents.

discretion: The authority to exercise judgment.

doli incapax: Not capable of criminal intention or malice; unable to formulate criminal intent (*mens rea*); not able, due to lack of maturity, to know right from wrong; not criminally responsible.

etiology: The study of causation.

jurisdiction: A geographic area subject to a particular law or court.

juvenile: A youth who falls within an age range specified by state law. The age range varies from state to state.

juvenile justice ideology: A set of ideas about the causes of juvenile crime and what should be done about it.

labeling: Defining and responding to a youth as a delinquent. Labeling can lead to stigmatization, lost opportunities, and additional delinquent behavior.

mens rea: Criminal intent.

PINS: Persons in need of supervision; children who engage in status offenses.

remand: A legal process whereby a juvenile is sent to adult court for trial; see waiver.

status offenses: Acts that are considered illegal when committed by a minor but not when committed by an adult (e.g., running away, school truancy, and failure to obey parents' directions).

transfer: A legal process whereby a juvenile is sent to adult court for trial; see waiver.

waiver: A legal process that enables a juvenile to be tried as an adult.

■ Review Questions

1. What are the potential benefits of comparing juvenile justice history and practice in the United States to the history and practice of juvenile justice in other countries or cultures?
2. What are the two broad categories of behaviors that fall within legal definitions of delinquency?
3. What are the shortcomings of legal definitions of delinquency?
4. How common is delinquent behavior in the United States?
5. How could labeling a youth as a delinquent affect his or her future behavior?
6. Are all juvenile offenders alike? Cite evidence to support your view.
7. What is the definition of a juvenile from a legal perspective?
8. What are the problems associated with using an age criterion to define a juvenile?
9. Define waiver, which is also known as transfer, remand, and certification.
10. Is there a juvenile justice “system?” Provide support for your view.
11. According to state statutes, what are the two primary functions of the juvenile courts?
12. Identify the factors that lead to variability and conflict in juvenile justice practices.
13. How do public perceptions of the delinquency problem affect responses to juvenile crime?
14. What role does politics play in juvenile justice?

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