

The background of the entire cover is a repeating pattern of small, dark gray triangles pointing in various directions, creating a textured, geometric effect.

JUVENILE DELINQUENCY

HISTORICAL, THEORETICAL,
AND SOCIETAL
REACTIONS TO YOUTH

PAUL M. SHARP / BARRY W. HANCOCK

JUVENILE DELINQUENCY

Historical, Theoretical, and Societal Reactions to Youth

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Preface

*I*n assembling this collection of readings in juvenile delinquency, we tried to satisfy professors and students in both undergraduate and graduate programs in courses on the subject of delinquency. We are especially proud that there is no particular ideological agenda followed in this collection. We have tried to create a comprehensive work that includes both classics in the field and contemporary research articles. We incorporated some much-needed historical materials yet wanted the text to be nonencyclopediaic in presentation.

We approached the collection with several goals in mind. First, we wanted a book of readings that was more comprehensive and in-depth and yet more readable than any currently available. We have produced an anthology that may be used alone or to supplement a text in courses on juvenile delinquency and other crime-related courses. The combination of historical pieces with classic and contemporary theoretical articles, and the inclusion of more materials concerning females, gangs, violence among teens, and societal reactions to youth, are brought together in one work for the first time.

Second, we wanted to create pedagogical materials to facilitate the student's understanding of the articles, to aid the professor in the presentation of the subject, and to serve as an avenue toward further discussions and applications of the key concepts and ideas. We achieved this by creating three sections at the end of each article that draw materials, ideas, and terms from the article as well as from the larger body of delinquency literature. The questions for discussion, applications, and key terms make the book easy to use as a primary text, and these exercises are a unique feature of this anthology.

Third, we wanted more articles and information concerning female delinquency, legal issues in delinquency, and public policy information. The addition of this type of information challenges traditional old-school approaches to the study of delinquency. Omission of these materials in many texts is indicative of, as we see it, an ideological myopia balanced in favor of the author and not the reader.

Fourth, the measurement and magnitude of delinquency in this collection is not covered in the traditional sense of the official sources for offenses, court statistics, or huge national studies or data banks. Many of these issues are covered directly or indirectly in several of the articles. We feel most professors can teach the source materials for official and unofficial delinquency much better in lec-

tures than we could by providing articles which typically argue strengths or weaknesses of collection techniques. The methodological issues of measurement, estimates, and trends in delinquency-related behaviors are complex and create some of the most highly debated issues in the field. A base for understanding data sources must come, we feel, from the instructor, with strengths, weaknesses, and possible solutions being part of the discussion concerning the collection as well as the uses of these data.

Juvenile Delinquency: Historical, Theoretical, and Societal Reactions to Youth is organized into five parts. The first, History of the Legal and Social Definitions of Juvenile Delinquency, presents five articles that set a solid foundation for understanding historical definitions of youth statuses and behavioral expectations in light of today's juvenile justice system. We selected these articles to serve as a backdrop to understanding the dynamics of the historical definitions and subsequent legal and societal reactions to youth and youth behavior. This historical treatment is a unique feature, not found in many anthologies of this kind, and rarely presented except in encyclopedic formats.

Part II, Theories of Juvenile Delinquency, presents classic as well as contemporary theoretical ideas of delinquency. Certainly, one could create a book dedicated exclusively to theory and nothing more. Our goal, however, has been to present articles that represent some of the most outstanding theoretical genre dealing with crime and delinquency. These readings, combined with the articles concerning history, challenge the reader to broaden the concept of delinquency and vividly expose the confusion in dealing with youth statuses, behavioral expectations, self-concept, youth culture, and theoretical attempts at explanation.

Part III, The Social Context of Delinquency, presents some of the livelier readings in the collection. Families, schools, subcultural groups, youth culture, the idea of "crime as play," and drug use are addressed in articles squarely in the social-problems area of the delinquency field. This collection ranges from traditional to contemporary approaches to understanding youth and delinquency issues.

In Part IV, Institutional Responses to Juvenile Delinquency, we traverse to some of the most important concepts and issues in delinquency research: the legal and formal institutional actions and reactions toward youth and delinquency. The legal processes of restricting rights and then extending rights, along with the differential treatment of youths and adults, makes this section vitally important. The differential responses of formal organizations based on status rather than behavior is central to understanding delinquency as well as the broader societal reactions to youth.

Finally, Part V, Juvenile Delinquency and Public Policy, presents four problemsolution arguments, which range from social science research to justice system overhaul. Hopefully, these selections add fuel to the debates about future directions in delinquency research and social-problem solutions. The selections here point out the difficulties experienced in solution-directed research. Public policy debate, after all, is often balanced on a fine line between the rights of individuals and the rights of society.

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We would like to extend our appreciation to several people who assisted us in preparing *Juvenile Delinquency: Historical, Theoretical, and Societal Reactions to Youth*. Nancy Roberts, editor-in-chief at Prentice Hall, and her staff and production team were invaluable in assisting with the development and production of this text-reader. It is simply a pleasure to have this sort of professional working relationship. We extend our thanks to the following reviewers for helpful critiques of the manuscript: Jim Embree, Sacramento City College; Lawrence Travis, III, University of Cincinnati; Lin Huff-Corzine, Kansas State University; and Jerry Bayer, McCook Community College. In addition, we would like to extend a big thank you to Lynn Sharp, Jamie Barter, and Michelle Chen for their time, advice, and patience; and to some special friends, Fluffy, Lamby Pie, Rockie and Oozie, Ali, Tippy, Smokie Joe Man, and Sir Hogie.

Our sincere thanks go out to all of those individuals concerned with the welfare of our young people, regardless of the scope and depth of their caring and involvement. Finally, to our many students who voiced their opinions that studying original sources added greatly to their learning experiences, we extend our gratitude.

Paul M. Sharp
Barry W. Hancock

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PART

I

HISTORY OF THE LEGAL AND SOCIAL DEFINITIONS OF JUVENILE DELINQUENCY

*I*t would be impossible to understand the topic of juvenile delinquency without first becoming familiar with the historical underpinnings which gave rise to the terms *juvenile delinquency*. Statuses and the behavioral expectations related to age are powerful social forces in every society and have created many ideals of childhood and young adulthood that are in constant conflict with the dynamic changes from the rapid modernization of the last two centuries. The age at which one acquires the status of adult and what constitutes delinquency are two of the most poignant issues that have shaped the definitions, research, and societal reactions to youth in the modern world. In many ways, the societal reactions to youth have had more bearing on the current definitions, attitudes, and responses to the delinquency issue than any other source. Almost universally, children are considered to be different from adults and to require special kinds of care and treatment. In fact, our current concept of childhood grew out of the fertile philosophical debates in Europe during the Enlightenment. A new concern for the moral and social welfare of children was forged in lieu of the exploitation and manipulation considered acceptable practice prior to that time.

The reform that began in Europe gave momentum to the formalization process of the justice system and eventually to the creation of a separate system for youth. We have selected five articles for Part I in hopes that today's students of delinquency will more clearly understand the antecedents of contemporary societal reactions to youth.

We begin with Paul Lerman's "Delinquency and Social Policy: A Historical Perspective," which strikes at the heart of justice in a democracy. Lerman contends the ideal of justice for all has not been subsequently realized in practice, and especially not in the juvenile justice system, where social control is more determinative than justice or correction.

In our second selection, "The Child-Saving Movement and the Origins of the Juvenile Justice System," Anthony Platt traces the development of the juvenile justice system to the ideology of the movement and its fundamental preoccupation with the control of youth. The emergence of the juvenile court, the state as "superparent," and the reformatory movement are superbly handled. Platt argues, as do others, that the movement achieved success in rationalizing the dependent status of youth.

The first two articles blend well with the third article by Robert M. Mennel, "Attitudes and Policies toward Juvenile Delinquency in the United States: A Historical Review," which is critical of the policy-making process and the historical accounts of juvenile delinquency. With some of the most famous works in the history of delinquency studies cited, this article provides excellent references for further study.

"The Crime of Precocious Sexuality: Female Juvenile Delinquency in the Progressive Era," is a historical essay by Steven Schlossman and Stephanie Wallach. It implicitly draws relevant parallels to our contemporary juvenile justice system, which mirrors the Progressive era practices of discrimination and unequal treatment. Again, the societal reactions to the person's status rather than behavior should serve to remind us that the ideology that shaped the past has influenced today's juvenile justice system.

We conclude Part I with "The Watershed of Juvenile Justice Reform," by Barry Krisberg, Ira M. Schwartz, Paul Litsky, and James Austin. They argue that the watershed period we are currently experiencing may well reform the juvenile justice system to be more fair, humane, and cost-effective. Their conclusion that building more juvenile correctional facilities will not solve the system's problems is shared by many in juvenile justice. Alternatives to incarceration, especially the creative experimental alternatives, hold the promise of real reform. Most reformers realize that selective incapacitation is a reality when dealing with extreme forms of violence among young people. However, it is also true that most know the majority of our young people are in need of a helping hand and guidance.

1

Delinquency and Social Policy: A Historical Perspective

Paul Lerman

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The American belief system has traditionally emphasized the ideals of liberty, justice for all, and freedom from arbitrary authority. An examination of our response to delinquent youth, from a historical perspective, reveals a profound discrepancy between these ideals and our societal practices. The issue of liberty is related to the traditional overreach of the American definition of delinquency. The issue of justice is related to the American failure to specify a correspondence between degrees of delinquency and degrees of correctional response. Restraint from arbitrary authority is related to the broad discretion that permits more youth to be detained than to be adjudicated in a court of law. An examination of recent data and trends indicates that the American system can be characterized more accurately as a juvenile social control system than as a justice or correctional system.

Last year, during the Bicentennial celebration, we heard a great deal about the ideals of liberty, justice for all, and freedom from arbitrary authority. One useful way of testing our adherence to these ideals is to assess America's response to its delinquent youth, from a historical perspective.

Delinquency Definition and the Ideal of Liberty

Many Americans, when they think about delinquency, probably conjure up an image of criminal behaviors. However, the actual American definition of delinquency, as revealed by our correctional practices and statutes, ever since the founding of the Plymouth Bay Colony, has always included other reasons for legally punishing or incarcerating youth.

As might be expected, the colonists used the law of their native land as a basis for forming an American response to wayward youth. According to English law, juveniles above the age of seven were subject to criminal statutes and sanctions; however, both in England and in the colonies, youth under fifteen were usually treated less severely than adults. Beginning about 1660, the laws of the Massachusetts colony began to invoke the criminal process to support adult authority. A preamble to one of the 1660 laws stated:

It appeareth, by too much experience, that diverse children and servants doe behave themselves disobediently and disorderly, towards their parents, masters, and Governors. . . .¹

The law gave a magistrate the power to summon before him "any such offender, and upon conviction of such misdemeanors, . . . sentence him to endure such corporal pun-

"Delinquency and Social Policy: A Historical Perspective," *Crime and Delinquency* (October 1977), pp. 383-393. Reprinted by permission of the publisher, Sage Publications, Inc.

ishment, by whipping or otherwise, as in his judgment the merit of the fact shall deserve, not exceeding ten stripes for one offense."²

The laws of 1660 also made lying by children and failure to observe the Sabbath punishable offenses. Besides these laws, Massachusetts and other colonies had special laws regarding indentured servants and apprentices, so that masters could apply to the courts for measures to control youth who fornicated, contracted to marry, or gambled at cards or dice. In addition to these special restrictions on youth, juveniles were also subject to the Poor Laws which condemned idleness, begging, and vagrancy and used criminal penalties to enforce obedience.

These kinds of behaviors were included in the first attempt at a correctional definition of "delinquency" by the House of Refuge founded in 1825, the first institution specifically designed for juvenile offenders. In a memorial to the public appealing for funds, the Society for the Reformation of Juvenile Delinquents, the founding organization, stated:

The design of the proposed institution is, to furnish, in the *first place*, an asylum, in which boys under a certain age, who become subject to the notice of our Police, either as vagrants, or houseless, or charged with petty crimes, may be received . . . [and] subjected to a course of treatment, that will afford a prompt and energetic corrective of their vicious propensities. . . .³

New York legislation granted the institution of a state charter and gave the self-perpetuating managers the right to "receive and take into the House of Refuge . . . all such children as shall be taken up or committed as vagrants or convicted of criminal offenses. . . . "Committing bodies could include judges, police magistrates, and the commissioner of the Almshouse and the Bridewell, providing the youth were "proper objects."⁴ The New York legislature thereby concurred in the broad correctional definition set forth by the reformers in their public appeal.

In 1826 Boston established a House of Reformation for Juvenile Offenders. The incorporation act gave the House directors the power,

. . . at their discretion, to receive and take into said house all such children who shall be convicted of criminal offenses or taken up and committed under and by virtue of an act of this Commonwealth "for suppressing and punishing of rogues, vagabonds, common beggars, and other idle, disorderly and lewd persons," and who may . . . be proper objects therefore. . . .⁵

Both the Boston and the New York statutes authorized the use of jails and prisons for youth who were not deemed "proper objects." However, by 1857, when the first national convention of refuge superintendents (from New York, Boston, Rochester, Cincinnati, Philadelphia, New Orleans, Baltimore, Pittsburgh, Chicago, and St. Louis) met in New York, there were seventeen juvenile reformatories, housing about 20,000 children admitted under policies and statutes that comprehended virtually every childhood misfortune.⁶

By the onset of the Civil War, a juvenile classified as a "proper object" of reformation could be covered by statutes that stemmed from three sources: (1) *American adaptation of Elizabethan poor laws that covered idleness, begging, vagrancy, and destitution*; (2) *Puritan-inspired definitions of offenses peculiar to childhood and the apprentice status—in modern sociological language, juvenile status offenses*; and (3) *state adaptations of common-law criminal offenses*. These three sources contributed, in actual correctional practice, to the lack of clear distinction between the problems of poverty, child welfare, and crime. In general, young America used the coercive power and punitive sanctions of the criminal law to handle many problems that were clearly non-criminal. In the nineteenth century, the reformatory performed the social functions of a juvenile almshouse, a workhouse, and a house of correction.

Sympathy for the plight of children whose fathers had been killed in the Civil War fostered a movement to build special asylums for poor and homeless youth, thereby diverting some youth from a reformatory experience. In addition, the "placing out" system, particularly in rural areas, was used to rescue children from "corrupting" living conditions.

The spread of the free common schools also served to occupy some idle youth during the day. While these efforts may have diverted many idle and dependent youth from reformatories, the earlier statutes remained on the books in the older states, and the new Midwest and Western states, early in their statehood, enacted a broad correctional conception of delinquency through a variety of statutes that legitimated institutionalization in specific facilities.⁷

With the creation of the first juvenile court in Chicago, at the turn of the twentieth century, there was an attempt to codify existing Illinois statutes by adding a dependency and neglect category distinct from a criminal delinquency classification. In actual practice, however, distinctions among dependents, neglected children, status youth, and criminal offenders were often blurred: all categories could be—and actually were—detained in the same institution, even though the legislation and some judges gave a new emphasis to reforming “worthy” children in their own homes. The 1899 law, for example, made it possible for a youth to be held in detention or sent to a state training school if he was destitute; or if he was homeless, abandoned, or dependent; or if he had improper parental care; or if he was begging or receiving alms; or if he was living in a house of ill fame or with any vicious or disreputable person; or if he was in an unfit place.⁸

Following the lead of Illinois, other states also made certain that the jurisdiction of the court was sufficiently broad to encompass, as a “proper object” for detention or reformation in a training school, a broad array of poor law, juvenile status, and criminal characteristics. These broad terms were justified in 1901 by a Chicago child-saving committee, which urged that the legal definition of “condition of delinquency” be amended to include items that were implicit in the original dependency and neglect category or had been used in practice—“incorrigible”; “growing up in idleness and crime”; or “knowingly associating with thieves or vicious or immoral persons.” The committee argued that “the amendment is intended to include all children that are in the need of government and

care.”⁹ Since the use of local jails and prisons was forbidden, any separate juvenile correctional facility was deemed to be a place of government and care of the incorrigible and idle as well as a place of custody for the criminal offender. The reformers were successful in enacting a statutory definition of delinquency that had been implicit in practice for about 250 years.

The reformers believed that by deliberately equating the delinquent with any child “in need of government and care” they could use the police powers of the state to save children who might escape a narrow legal construction of dependency and neglect. To provide this control and care, they pushed through the legislature the creation of the first all-juvenile detention facilities, establishment of a truancy and parental school, provisions for paid probation officers, and state subsidies to existing religious institutions. They also initiated, before World War I, the creation of small pensions for worthy widows to allow them to keep their children at home. The court, with its broad jurisdictional boundaries, was primarily designed to serve the intake functions of a coercive welfare agency within the context of a modern juvenile quasi-criminal court.

Until the early 1960’s, no statute in any state explicitly acknowledged the legal or correctional difference between status offenders and criminal offenders. About fifteen years ago a new legal category, Person In Need of Supervision, known as PINS, was created in New York and California as a noncriminal basis of juvenile court jurisdiction, distinct from a narrower definition of dependency and child neglect. By 1974 thirty-four states distinguished between criminal-type delinquency and at least some of the status offenses, but only eleven states explicitly prohibited institutionalizing status offenders in state training schools that housed criminal offenders.

The movement to remove the vestiges of Poor Law and juvenile status characteristics from the correctional definition of “delinquency” recently received added support from the federal Juvenile Justice and Delinquency Prevention Act of 1974. A state receiving block grants under the Act must

give assurance that, within a specified time, no status offender will be detained in or committed to an institution set up explicitly for criminal delinquents. While this movement to narrow the boundaries of delinquency definitions and practices is laudable, whether youth will actually fare better under the new labels is still uncertain. Recent evidence indicates that PINS youth are more likely than delinquent youth to be detained in a facility as part of their court processing, are detained longer, and, if institutionalized, stay for longer periods. Whether America can learn to treat all arrested truant, idle, incorrigible, promiscuous, and runaway youth less harshly than their truly delinquent brothers and sisters is still uncertain at this time.¹⁰ In a country that prizes the ideal of liberty, it is ironic that youth can still lose their freedom so easily, and for such lengthy periods, for behaviors that are clearly not criminal and that would not even be admitted before an adult criminal court.

Delinquency and Justice for All

The evidence that noncriminal delinquents can be, have been, and are dealt with harshly is related to another American theme, "justice for all." Since 1824, when the House of Refuge was empowered to institutionalize a variety of youth—without distinction between the criminal and the noncriminal—for indeterminate periods, American juvenile laws and practices have flouted two basic components of a reasonable conception of justice: (1) Any deprivation of liberty, or other state-imposed penalty, should be graded proportionately to the degree of social harm a person has done or clearly threatens to do to members of a community. (2) Offenses or harms that are comparable should be dealt with by punishments that are equal.¹¹

Before the Revolution of 1776, juveniles were treated like adults. In the reform legislation that swept the former colonies immediately after the War of Independence, imprisonment and fines replaced the pillory, the stocks, and other forms of corporal punishment. Borrowing ideas from European classical criminology (associated with Beccaria) and the general environment of the

Enlightenment, Americans reformed their criminal codes with the aim of securing equality of judicial handling. Children benefited from these reforms, even though they were also thrust into the same local jails and prisons as adults.¹²

About 1820, when the House of Refuge was under discussion, administrators of the local Bridewell were trying to separate youth from adults during the day, furnish some in-jail instruction in reading and writing, and care differently for their younger charges.¹³ According to the keeper of the Bridewell, the period of confinement ranged from a few days to a year or more, with many remaining several months. Though the charges were mainly for "trifling offenses," many remained longer than customary "because of a want of residence."¹⁴

Instead of seeking residences for the vagrant, apprenticeships for the unemployed, and schools for the ignorant, the Society for the Reformation of Juvenile Delinquents decided to attack the problems of child welfare, poverty, and delinquency with a new social invention—an all-purpose workhouse and reformatory designed to reshape moral character coercively and render children obedient to their superiors. Only after a child had met the strict reform standards of the Refuge superintendent—during a stay ranging from a year to three years—would he be bound out as a laboring apprentice or sent out on a whaling ship. The reformers argued that agents of government should be the "fathers of the people," should "stand towards the community in the moral light of guardians of virtue."¹⁵ In carrying out their guardianship inside the Refuge, they were not reluctant to use the stripes, solitary confinement, bread and water, and other correctional penalties.

In exchange for receiving a new and quite punitive "father," juveniles gave up their traditional rights under criminal law. Commitment to the Refuge meant that vagrancy and "trifling offenses" could be dealt with the same as more serious offenses since they could be viewed as signs of "vicious propensities." Many resolutions were proposed at the first national convention of House of Refuge superintendents in 1857 but