

JUVENILE DELINQUENCY

*Historical, Theoretical,
and Societal
Reactions to Youth*

SECOND EDITION

Paul M. Sharp

Barry W. Hancock

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Historical, Theoretical,
and Societal Reactions to Youth

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Preface

This collection of readings in juvenile delinquency is aimed at satisfying professors and students in both undergraduate and graduate programs that include courses which focus on the subject of delinquency. We are especially proud that there is no particular ideological agenda followed in this collection. Quite simply, we have created a comprehensive work which contains classics in the field, contemporary research articles, some much-needed historical materials, yet remains nonencyclopediaic in presentation.

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

Second, we wanted to create pedagogical materials which would facilitate the student in understanding the articles, aid the professor in the presentation of the subject, and serve as an avenue towards further discussions and applications of the key concepts and ideas. This was achieved by creating three sections at the end of each article which draw materials, ideas, and terms from each article as well as from the larger body of delinquency literature. The questions for discussion, applications, and key terms combine to make the book easy to use as a primary text. Further, 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. Deletion 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 by using the official sources for offenses: court statistics, huge national studies, or data banks. Many of these issues are covered directly or indirectly in several of the articles, and we feel most professors can teach the source materials for official and unofficial delinquency much better in lecture 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. We feel that a base for understanding data sources must come from the instructor, with strengths, weaknesses, and possible solutions being parts 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 Constructions of Juvenile Delinquency," presents four articles that form, as a whole, a solid foundation upon which an understanding of historical definitions of youth statuses and behavioral expectations becomes possible 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, was to present articles which 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 Juvenile 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 that are 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 address some of the most important concepts and issues in delinquency research: the legal and formal institutional actions and reactions towards 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 five problem-solving arguments which range from social science research to justice system overhaul. Hopefully, these selections will add fuel to the debates as to 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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I

HISTORY OF THE LEGAL AND SOCIAL CONSTRUCTIONS OF JUVENILE DELINQUENCY

Understanding juvenile delinquency requires a familiarity with the historical treatments of the legal and social constructions of children and youth. Statuses, and the behavioral expectations related to age, have historically been and are powerful social forces in every society. These expectations have created many ideals of childhood and young adulthood that are in constant conflict with the dynamic changes brought on by the rapidity of modernization over the past two centuries. The age at which an individual 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 most respects, societal reactions to youth have had more influence on the current definitions, attitudes, and responses to delinquency than any other single variable. Throughout the world, with few exceptions, children are considered different from adults and thus require special kinds of care and treatment. In fact, our current conceptions of childhood grew out of the fertile philosophical debates in Europe during the enlightenment that forged a new concern for the moral and social welfare of children instead of the exploitation and manipulation considered acceptable practices in previous times.

The reforms that began in Europe gave tremendous momentum to the formalization of a separate system for children and youth. We have selected four articles for Part I of the anthology that represent a superb collection dealing with the many historical and social constructions of youth. The antecedents to the current system of juvenile justice are to be found in the historical developments and ideological issues addressed so eloquently by these authors.

The cornerstone of the historical constructions of juvenile delinquency, in our anthology, begins with Anthony Platt's superb article "The Child-Saving Movement and the Origins of the Juvenile Justice System." Platt argues, as do many others, that the system of juvenile justice achieved success by rationalizing the dependent status of youth. The preoccupation with the control of youth was the prevailing ideological foundation upon which much of the system has evolved. The state as superparent, the emergence of the juvenile court, and the reformatory movement are examples of this powerful rationalizing force regarding youth as a dependent status.

Our second selection, "Attitudes and Policies toward Juvenile Delinquency in the United States: A Historiographical Review" by Robert M. Mennel, is critical of the policy-making processes and historical accounts of juvenile delinquency. Mennel cov-

ers a wide array of subject matter from the beginnings of definitions of youthful misbehavior to the development of the juvenile court. This article provides an excellent set of references for further study with some of the most important and famous works in the history of delinquency cited.

“The Crime of Precocious Sexuality: Female Juvenile Delinquency in the Progressive Era” is a historical essay by Steven Schlossman and Stephenie Wallach that implicitly draws relevant parallels to our contemporary juvenile justice system. These parallels mirror the progressive era practices of discrimination and unequal treatment. Most important, it is the societal reactions to the status of youth rather than the behavior that should remind us of the ideology of the past that has, largely, shaped the juvenile justice system of today. The combination of statuses such as gender, delinquency, and race as they relate to discriminatory practices provides a remarkable foundation for further understanding the history of a separate system for juveniles in the United States.

We conclude Part I with a more recent historical piece by Theodore N. Ferdinand, “History Overtakes the Juvenile Justice System.” Ferdinand eloquently argues that many of the juvenile courts’ problems today stem from the ambivalence created by trying to fulfill the *pavens patriae* doctrine within the bounds of civil court processes. These processes are difficult, if not impossible, given the custodial or punitive design of the system. The historical shift to a due process/just deserts orientation by which juveniles are treated more like adults in a retributive justice system may have dire consequences for future crime rates and the entire system of criminal justice. Of significance in much of your reading in the area of delinquency is the continuing debate raised over the issue of treatment as opposed to punishment. Treatment programs for youthful offenders, because of the ideological swing toward retributive justice, are under attack from many sides. While most reformers and scholars realize that selective incapacitation is a reality when dealing with extreme forms of violence among youth, they also realize that most young people are in need of guidance and minor intervention.

1

The Child-Saving Movement and the Origins of the Juvenile Justice System

Anthony Platt

TRADITIONAL PERSPECTIVES ON JUVENILE JUSTICE

The modern system of crime control in the United States has many roots in penal and judicial reforms at the end of the nineteenth century. Contemporary programs which we commonly associate with the “war on poverty” and the “great society” [of the 1960s] can be traced in numerous instances to the programs and ideas of nineteenth century reformers who helped to create and develop probation and parole, the juvenile court, strategies of crime prevention, the need for education and rehabilitative programs in institutions, the indeterminate sentence, the concept of “half-way” houses, and “cottage” systems of penal organization.

The creation of the juvenile court and its accompanying services is generally regarded by scholars as one of the most innovative and idealistic products of the age of reform. It typified the “spirit of social justice,” and, according to the National Crime Commission, represented a progressive effort by concerned reformers to alleviate the miseries of urban life and to solve social problems by rational, enlightened and scientific methods.¹ The juvenile justice system was widely heralded as “one of the greatest

advances in child welfare that has ever occurred” and “an integral part of total welfare planning.”² Charles Chute, an enthusiastic supporter of the child-saving movement, claimed that “no single event has contributed more to the welfare of children and their families. It revolutionized the treatment of delinquent and neglected children and led to the passage of similar laws throughout the world.”³ Scholars from a variety of disciplines, such as the American sociologist George Herbert Mead and the German psychiatrist August Aichhorn, agreed that the juvenile court system represented a triumph of progressive liberalism over the forces of reaction and ignorance.⁴ More recently, the juvenile court and related reforms have been characterized as a “reflection of the humanitarianism that flowered in the last decades of the 19th century”⁵ and an indication of “America’s great sense of philanthropy and private concern about the common weal.”⁶

Histories and accounts of the child-saving movement tend either to represent an “official” perspective or to imply a gradualist view of social progress.⁷ This latter view is typified in Robert Pickett’s study of the House of Refuge movement in New York in the middle of the last century:

In the earlier era, it had taken a band of largely religiously motivated humanitarians to see a need and move to meet that need. Although much of their vision eventually would be sup-

¹“The Child-Saving Movement and the Origins of the Juvenile Justice System,” in Richard Quinney (Ed.), *Criminal Justice in America* (Boston: Little Brown, 1974), pp. 362–383. © 1974 by Anthony Platt.

planted by more enlightened policies and techniques and far more elaborate support mechanisms, the main outlines of their program, which included mild discipline, academic and moral education, vocational training, the utilization of surrogate parents, and probationary surveillance, have stood the test of time. The survival of many of the notions of the founders of the House of Refuge testifies, at least in part, to their creative genius in meeting human needs. Their motivations may have been mixed and their oversights many, but their efforts contributed to a considerable advance in the care and treatment of wayward youth.⁸

This view of the nineteenth century reform movement as fundamentally benevolent, humanitarian and gradualist is shared by most historians and criminologists who have written about the Progressive era. They argue that this reform impulse has its roots in the earliest ideals of modern liberalism and that it is part of a continuing struggle to overcome injustice and fulfill the promise of American life.⁹ At the same time, these writers recognize that reform movements often degenerate into crusades and suffer from excessive idealism and moral absolutism.¹⁰ The faults and limitations of the child-saving movement, for example, are generally explained in terms of the psychological tendency of its leaders to adopt attitudes of rigidity and moral righteousness. But this form of criticism is misleading because it overlooks larger political issues and depends too much on a subjective critique.

Although the Progressive era was a period of considerable change and reform in all areas of social, legal, political and economic life, its history has been garnished with various myths. Conventional historical analysis, typified by the work of American historians in the 1940s and 1950s, promoted the view that American history consisted of regular confrontations between vested economic interests and various popular reform movements.¹¹ For Arthur Schlesinger, Jr., "liberalism in America has been ordinarily the movement of the other sections of society to restrain the power of the business community."¹²

. . . Conventional histories of progressivism argue that the reformers, who were for

the most part drawn from the urban middle classes, were opposed to big business and felt victimized by the rapid changes in the economy, especially the emergence of the corporation as the dominant form of financial enterprise.¹³ Their reform efforts were aimed at curbing the power of big business, eliminating corruption from the urban political machines, and extending the powers of the state through federal regulation of the economy and the development of a vision of "social responsibility" in local government. They were joined in this mission by sectors of the working class who shared their alienation and many of their grievances.

. . . The political and racial crises of the 1960s, however, provoked a reevaluation of this earlier view of the liberal tradition in American politics, a tradition which appeared bankrupt in the face of rising crime rates, ghetto rebellions, and widespread protests against the state and its agencies of criminal justice. In the field of criminology, this reevaluation took place in national commissions such as the Kerner Commission and President Johnson's Commission on Law Enforcement and the Administration of Justice. Johnson's Crime Commission, as it is known, included a lengthy and detailed analysis of the juvenile justice system and its ineffectiveness in dealing with juvenile delinquency.

The Crime Commission's view of the juvenile justice system is cautious and pragmatic, designed to "shore up" institutional deficiencies and modernize the system's efficiency and accountability. Noting the rising rate of juvenile delinquency, increasing disrespect for constituted authority and the failure of reformatories to rehabilitate offenders, the Commission attributes the failures of the juvenile justice system to the "grossly overoptimistic" expectations of nineteenth century reformers and the "community's continuing unwillingness to provide the resources—the people and facilities and concern—necessary to permit [the juvenile courts] to realize their potential. . . ."¹⁴

. . . In the following pages we will argue that the above views and interpretations of juvenile justice are factually inaccurate and suffer from a serious misconception about

the functions of modern liberalism. The prevailing myths about the juvenile justice system can be summarized as follows: (1) The child-saving movement in the late nineteenth century was successful in humanizing the criminal justice system, rescuing children from jails and prisons, developing humanitarian judicial and penal institutions for juveniles, and defending the poor against economic and political exploitation. (2) The child-savers were “disinterested” reformers, representing an enlightened and socially responsible urban middle class, and opposed to big business. (3) The failures of the juvenile justice system are attributable partly to the overoptimism and moral absolutism of earlier reformers and partly to bureaucratic inefficiency and a lack of fiscal resources and trained personnel.

These myths are grounded in a liberal conception of American history which characterizes the child-savers as part of a much larger reform movement directed at restraining the power of political and business elites. In contrast, we will offer evidence that the child-saving movement was a coercive and conservatizing influence, that liberalism in the Progressive era was the conscious product of policies initiated or supported by leaders of major corporations and financial institutions, and that many social reformers wanted to secure existing political and economic arrangements, albeit in an ameliorated and regulated form.

THE CHILD-SAVING MOVEMENT

Although the modern juvenile justice system can be traced in part to the development of various charitable and institutional programs in the early nineteenth century,¹⁵ it was not until the close of the century that the modern system was systematically organized to include juvenile courts, probation, child guidance clinics, truant officers, and reformatories. The child-saving movement—an amalgam of philanthropists, middle-class reformers and professionals—was responsible for the consolidation of these reforms.¹⁶

The 1890s represented for many middle-class intellectuals and professionals a period of discovery of “dim attics and damp cellars

in poverty-stricken sections of populous towns” and “innumerable haunts of misery throughout the land.”¹⁷ The city was suddenly discovered to be a place of scarcity, disease, neglect, ignorance, and “dangerous influences.” Its slums were the “last resorts of the penniless and the criminal”; here humanity reached the lowest level of degradation and despair.¹⁸ These conditions were not new to American urban life and the working class had been suffering such hardships for many years. Since the Haymarket Riot of 1886, the centers of industrial activity had been continually plagued by strikes, violent disruptions, and widespread business failures.

What distinguished the late 1890s from earlier periods was the recognition by some sectors of the privileged classes that far-reaching economic, political and social reforms were desperately needed to restore order and stability. In the economy, these reforms were achieved through the corporation which extended its influence into all aspects of domestic and foreign policies so that by the 1940s some 139 corporations owned 45 percent of all the manufacturing assets in the country. It was the aim of corporate capitalists to limit traditional laissez-faire business competition and to transform the economy into a rational and interrelated system, characterized by extensive long-range planning and bureaucratic routine.¹⁹ In politics, these reforms were achieved nationally by extending the regulatory powers of the federal government and locally by the development of commission and city manager forms of government as an antidote to corrupt machine politics. In social life, economic and political reforms were paralleled by the construction of new social service bureaucracies which regulated crime, education, health, labor and welfare.

The child-saving movement tried to do for the criminal justice system what industrialists and corporate leaders were trying to do for the economy—that is, achieve order, stability and control while preserving the existing class system and distribution of wealth. While the child-saving movement, like most Progressive reforms, drew its most active and visible supporters from the middle class and professions, it would not have been capable