Chapter 14
Juvenile Justice and Corrections

Chapter Objectives

- Discuss the limitations of the legal definition of delinquency.
- Describe the major patterns of delinquency.
- Discuss the potential causes of delinquency.
- Use the risk-protection framework to discuss a youth’s likelihood of delinquency.
- Describe the major juvenile justice reforms designed to control delinquency throughout history.
- Understand the principle of *parens patriae*.
- Identify two key differences between early juvenile courts and adult courts.
- Explain three ways in which contemporary juvenile courts differ from the earlier model.
- Understand the major stages through which a delinquency case proceeds.
- Describe correctional options available to juvenile courts.
- List the characteristics of effective correctional intervention.
- Discuss potential causes and solutions to disproportionate minority contact.
- Discuss the rationale for maintaining a separate juvenile court.

Introduction
Defining Delinquency

- The legal definition is those behaviors that are prohibited by the family or juvenile code of the state and that subject minors to the jurisdiction of the juvenile court.
  - two types of prohibited behavior
    - criminal offenses
      - activities against the law
      - regardless of age of offender
    - status offenses
      - violations that apply only to children
        - curfew violation
        - truancy
        - running away
  - problems with legal definition of delinquency
    - does not distinguish between those who engage in delinquency and those who are officially charged
    - covers an overly broad range of behavior
    - status offenses
    - age to determine whether an individual is classified as juvenile or adult
    - limitations vary across states
      - most use upper age limit of 17 years
      - most use lower age limit between 6 and 10
      - most based on concept of *mens rea*
        - criminal intent
      - most have mechanism by which some may be tried in adult courts
shortcomings of age limitations
- no agreed upon age at which a youth becomes adult
- individual youth mature at different rates
- treated as adults when they commit crimes though denied adult rights
  - vote
  - serve in military
  - engage in contracts
  - quit school
  - possess alcohol

The Nature and Extent of Juvenile Crime and Victimization

Measuring Delinquency
- The U.S. has two common methods of measuring crime trends.
  - Uniform Crime Reports (UCR)
  - National Crime Victimization Surveys (NCVS)
- There are three other data sources relevant for measuring the nature and extent of juvenile crime.
  - self-report surveys
    - youth reported behaviors
    - range from status offenses to serious crimes
    - examine a broader range of delinquent behavior
    - uncover unreported delinquent behavior
    - reveal different patterns of delinquency
  - panel studies
    - self-report study
    - uses representative sample of youth
    - repeated self-report measures through adulthood
    - determine both the onset and course of individual’s delinquent career
    - identify factors that influence delinquency
    - unravel the causal time order of delinquency
  - cohort studies
    - follow groups who have something in common over a period of time
    - study patterns of behavior over the life course
    - limited in number because of expense associated with their methods
      - Wolfgang, Figlio, and Sellin (1972)
- The Monitoring the Future Study (MTF)
  - studies changes in young people in U.S.
    - attitudes
    - beliefs
    - behaviors
  - monitors trends among adolescents and young adults in U.S.
    - abuse
    - substance abuse
- Youth Risk Behavior Surveillance System (YRBSS)
  - examines behavior that contributes to leading causes of death in U.S.
- tobacco use
- alcohol/drug use
- sexual behaviors
- dietary behaviors
- behaviors leading to unintentional injuries and violence
- physical inactivity

Patterns of Delinquency

- Until 1994, juvenile property crime rates remained relatively stable, but have declined steadily since.
  - breakdown of the family
  - declining morals
  - violence in the media
  - crack epidemic
- After 1994, juvenile violent crime began a steady decline.
- In 2003, the juvenile arrest rate for violent crime was lower than any time since 1980.
- In 2003, males between the ages of 10 and 17 accounted for 71% of juvenile arrests.
- In 2004, youth ages 10-17 accounted for 11.4% of the general population.
  - 15.8% of all arrests
  - 15.5% for violent crime
  - 27.5% for property crime
- In 2005, the arrest rate for violent crime increased to 283 per 100,000 juveniles, an increase of five percent since 2004.
- In 2005, the juvenile arrest rate for property crime reached an all time low at 1,246 per 100,000 juveniles.
- The nature and extent of delinquency varies across race and gender.
  - majority of juveniles arrested are white
  - African-American youths disproportionately represented in arrest data
  - males disproportionately represented in arrest data
    - property offenses
    - violent offenses
  - female delinquency rose 35% from 1980-2000
- The available methods of measuring delinquency show the following facts.
  - levels of juvenile crime relatively stable over past 25 years
    - exception of a peak in violent crime between 1988 and 1994
  - juveniles represent 16% of all arrests
  - is widespread
    - most involve minor offenses unknown to authorities
  - small percent of youth responsible for over 1/2 of juvenile crime
    - approximately 6%
  - black youth disproportionately involved in serious crime
  - primarily a male domain

Juvenile Victimization

- Between 1993 and 2003, victimization for all nonfatal crimes declined 54 percent.
- Juveniles aged 12 to 18 were more than twice as likely as adults to be victimized.
Victimization rates were higher for males than females.
Both white and black juveniles were equally likely to be victimized by violent crime.
Urban youth were more likely than suburban and rural youth to be victimized by violent crime.
More than two in three violent crimes against juveniles were committed with a weapon.
School was the most common location for violent victimization.
The proportion of victimizations occurring at school was higher for youth 12 to 14 years of age than for youth aged 15 to 17.

Causes of Delinquency
Theories of Delinquency

There are four prominent criminological theories that have shaped juvenile justice research and practice.

- Social Learning Theories
  - assume that criminal behavior is learned by observing behavior of others
  - Edwin Sutherland - Theory of Differential Association (1947)
    - develop motives and attitudes that support criminal behavior through interaction with intimate personal groups
      - friends
      - family
    - frequent exposure to nonconformist associates
      - more likely to engage in delinquency
  - Burgess and Akers extend Sutherland’s theory (1966, 1996)
    - emphasized the concepts of modeling and operant conditioning
      - youth imitate behaviors of those in their environment
      - repeat that behavior when it is rewarded
      - supported by numerous research efforts

- Strain Theory
  - Merton
    - inability to achieve desired goals through legitimate means
      - motivates people to engage in crime
  - Cohen
    - strain due to status frustration
      - inability to achieve middle class status
  - Agnew’s General Strain Theory
    - extended theory to include two other sources of strain
      - the anticipated or actual removal of positively valued stimuli
        - loss of privileges
        - getting kicked off athletic team
        - breaking up with girl/boy friend
      - the anticipated or actual presentation of negative stimuli
        - sexual or physical abuse
        - family conflict
        - curfew
research
  - weak empirical support for idea that people are pressured to deviate because of unachievable aspirations or desires
  - more support for link between delinquency and types of strain identified by Agnew

Social Bond Theory (Hirschi)
  - youth with higher levels of attachment, commitment, belief, and involvement less likely to engage in delinquency
    - attachment
      - psychological and emotional connection one feels toward other persons or groups
    - commitment
      - degree to which adolescent has developed a stake in conformity by investing in certain activities, particularly school
    - involvement
      - time spent in conventional activities such as studying or athletics
    - belief
      - conventional values and norms

research
  - studies show general support
  - attachment is most important element

Labeling Theory (1960)
  - emphasizes negative consequences of labeling a youth delinquent
  - negative self-image leads to further delinquency
  - certain youth avoid labels because of status
    - caucasian
    - wealthy

research
  - received mixed empirical support

Risk-Protection Framework
  - Risk factors are characteristics that increase youths’ likelihood of engaging in delinquency.
  - This framework includes three important concepts.
    - Risk Factors
      - five major domains
        - individual
        - family
        - school
        - peers
        - community
      - strongest factors
        - lack of supervision and discipline
        - family conflict
        - academic failure
        - lack of commitment to school
        - antisocial attitudes
having antisocial peers

- substance abuse

- Protective Factors
  - characteristics that decrease youths’ likelihood of engaging in delinquency
  - three categories
    - positive personality and social orientation
    - support relationships with family members or other adults
    - prosocial family and community norms

- Resiliency
  - capacity for successful adaptation to certain circumstances
    - disruptive
    - stressful
    - challenging
  - for some youth
    - internal or external factor makes them resilient
    - enables them to overcome adversity

- Programs with the best chance of preventing delinquency need certain characteristics.
  - implement strategies to reduce known risk factors
  - implement strategies designed to enhance protective factors

**Substance Abuse**

- Although no direct causal relationship has been established between substance abuse and delinquency, there is a strong correlation between the two behaviors.
- Studies suggest that, compared to the general population, substance abuse is more prevalent among youth involved in the juvenile justice system.
- The 2004 National Survey on Drug Use and Health conducted a study on youths ages 12 to 17.
  - 30% reported having used an illicit drug at least once during their lifetime
  - 21% reported drug use during the past year
  - 10.6% reported having used an illicit drug during the past month
  - 17.6% reported using alcohol during the past month
  - 11.1% reported being binge drinkers
- There are known consequences of substance abuse among youth.
  - poor school performance
  - absenteeism from school
  - cognitive problems
  - injury and disease
  - developmental lags
  - alienation from peers
  - family crises and dysfunction
  - high costs of medical and other treatment services
  - increased rates of delinquency

- Substance abuse reduction programs have been implemented in schools and other community-based settings.
  - Drug Abuse Resistance Education (DARE)
    - a school-based program delivered by police officers
    - highlights the negative aspects of drug use
    - largely ineffective in reducing drug use
Youth Drug Courts
- specialized courts for youth adjudicated delinquent for drug problems
- highly individualized
- appear to be somewhat effective

Youth Gangs
- There is no agreed upon definition of a gang.
  - most popular definition (Klein)
    - perceived by others as a distinct aggregation in their neighborhood
    - recognize themselves, group name, as a denotable group
    - been involved in sufficient numbers of delinquent incidents calling attention to themselves
- Studies have shown that gang membership intensifies delinquent behavior.
- There are recognizable characteristics of a gang.
  - some type of organizational structure of leadership
  - a name
  - some type of colors to identify membership
  - a special turf or area where the gang meets and wants to control
  - involvement in some type of illegal or undesirable behavior frowned upon by larger society
- Every city with a population over 250,000 residents reports gang activity.
- According to the 2000 National Youth Gang Survey, there are 21,600 youth gangs consisting of 731,500 gang members nationwide.
  - 47% Hispanic
  - 31% African American
  - 3% Caucasian
  - 7% Asian
  - 2% “other”
- Several factors have been found to increase a youth’s likelihood of joining a gang.
  - history of physical aggression
  - early involvement in delinquency and drug use
  - mental health problems
  - high prevalence of stressful life events
- There are known family factors that contribute to gang membership.
  - broken home
  - family poverty
  - poor family management
  - child abuse/neglect
  - gang involvement of family members
- There are also community factors that contribute to gang involvement.
  - poverty
  - availability of drugs
  - presence of many troubled youth
  - feeling unsafe in the neighborhood
  - low neighborhood attachment
  - low level of neighborhood integration
  - neighborhood disorganization
• There are many reasons why youth join gangs.
  o identity or recognition
  o family background
  o fellowship
  o placebo family
  o protection
  o intimidation

**Controlling Delinquency Throughout History**
Model of Family Government
• Originally, both in the U.S. and Europe, the family was responsible for controlling delinquency.
• The primary type of discipline was corporal punishment.
• One early Massachusetts law prescribed the death penalty for children who disobeyed their parents.
• This ended in the U.S. with the Industrial Revolution at the end of the 18th century.
• Youth were then incarcerated in jails and prisons with adults.
• Increased child labor and long hours at the factories weakened family ties.

**Houses of Refuge**
• The first house of refuge was in New York City in 1825.
• Houses of refuge were to be schools of instruction with certain characteristics.
  o education
  o labor
  o discipline
  o moral regimen
• The focus was on prevention rather than punishment.
• They were authorized to house not only delinquent children but dependent and neglected children.
• Many of the youth were released to apprenticeship.
• Some youths stayed until legal age of majority.
• *Ex Parte Crouse* (1838)
  o challenged the unfettered power to intervene in the lives of children

**Placing Out**
• In the mid-1800s, concerns about institutions caught the attention of some reformers.
  o Child Savers
    ▪ reformers preventing delinquency through community-based programs
    ▪ distributed food and clothing
    ▪ provided temporary shelters
    ▪ established playground programs in an attempt reach children of the streets
  o Charles Loring Brace and the Children’s Aid Society
    ▪ transported children to the West to be placed in warm, family environment
      □ many children exploited
      □ rarely accepted as a part of the family
Probation
- It was developed in the latter half of the 18th century.
  - community based initiative
  - alternative to incarceration
  - John Augustus, 1841
  - official probation officers appointed in Massachusetts, 1869

Reform Schools
- With a continued rise in delinquency in the late 1800s, government began to take over the administration of juvenile institutions.
- The newer institutions were to emphasize certain factors.
  - formal schooling
  - reformation for certain youth
    - delinquent
    - dependent
    - neglected
- Youth were housed as small groups in cottages to emulate family living.
- The focus on reformation soon gave way to other concerns.
  - custodial issues
  - abuse
  - exploitation through hard labor

The First Juvenile Court
- In the United States, the first court was established in 1899 in Cook County Illinois.
- It came about because of the “Child Savers.”
- Prior to that, children over the age of 7 were treated as adults.
- It was established based on the principle of parens patriae.
  - parent of the country
  - state assumes role of guardian and protector of all people who can’t protect themselves
  - idea was that the court would do whatever was best for the child
- By 1925, all but two states had established separate juvenile courts.
- The court differed from adult courts in two ways.
  - designed to rehabilitate youthful offenders
  - informal courtroom procedures and greater discretion

Contemporary Juvenile Courts
- They differ from the earlier model in three key ways.
  - juveniles accorded many adult due process rights
    - Kent v. United States (1966)
    - In re Gault (1967)
    - In re Winship (1970)
    - McKeiver v. Pennsylvania (1971)
  - congressional acts placed some restrictions on use of incarceration for youth
    - 1968 Juvenile Delinquency Prevention and Control Act
      - status offenders handled outside of the juvenile court system
1974 Act
- sight and sound separation between adults and juveniles
1980 Act
- removal of youth from adult jails and lockups
2002 Act
- deinstitutionalization of status offenders and non-offenders

- Formula Grants Program
  - allocated funds to states for community programs

- many states enacted laws making juvenile systems more punitive
  - 45 states expanded types of crimes or lowered age for which youth could be transferred to adult system
  - 31 states expanded sentencing options available to juvenile courts
  - 47 states removed confidentiality requirements (more open to public)
  - courts shifted from sole focus on “serving best interest of the youth” to a more balanced approach
  - provided more rights to victims of juvenile crime
  - held offenders more accountable for their behaviors

Processing Delinquency Cases in Juvenile Court
Typical Case Proceedings
- Each juvenile case begins with an arrest, usually for a less serious crime.
  - youth taken into custody
  - preliminary screening conducted
    - review of youth’s past record
    - interview youth
    - interview parents
    - interview victim
  - police have several options
    - releasing youth on-the-spot
    - releasing youth to parents with a warning only
    - releasing youth to parents with a referral to other community resources
    - filing formal charges and releasing youth to parents
    - filing formal charges and detaining youth
  - detention hearing
    - if youth is to be detained
    - must be within 24 hours
    - determines if youth poses a threat to themselves or community
  - intake screening
    - usually done by juvenile probation department
    - determine most appropriate way to handle case
      - dismiss
      - handle informally
      - formal intervention
    - factors considered
      - type of offense
      - seriousness of offense
- age
- legal history
- harm to victim
- parental response to offense
- school performance
- youth’s reaction to the incident

- delinquency cases require prosecutorial review
  - establish jurisdictional authority over the case
  - determine if there is probable cause for filing charges
  - may decide to transfer the youth to adult court

- determination is made
  - formal intervention
  - informal probation
  - waive to adult court
  - referred to community service
  - referred to diversion programs
  - dismissed

  o   adjudication
    - petition for formal juvenile court intervention is requested
    - adjudicatory hearing
      - similar to adult courts
      - facts of case reviewed
      - judges hear cases and determine outcomes
      - youths enter pleas

  o   dispositional hearing
    - formal court hearing
    - decision made as to most appropriate course of action
    - decision often based on a pre-dispositional report
    - judge has options ranging from release to residential placement

Juvenile Detention
- The Juvenile Justice and Delinquency Act of 1974 curtailed the practice of booking youths into local adult jails.
- Juvenile detention facilities were built soon after.
- Facilities housed youth prior to and following adjudication for delinquent acts.

Juvenile Diversion
- There are many common forms of juvenile diversion.
  - Community-Based Case Management and Counseling
    - referred to social service or mental health agency
  - Teen Court
    - local youths assume roles in the court process
  - Drug Court
    - only hear cases of drug-involved youth
  - Victim-Offender Mediation
    - bring the youth and victim together for resolution
  - Alternatives to Detention
    - house arrest / electronic monitoring
Transfer to Criminal Court

- Three mechanisms are used to transfer youths to adult courts.
  - judicial waivers
    - juvenile court judge transfers case to criminal court
      - consider merits of case
      - determine youth no longer amenable to rehabilitation
  - prosecutors waivers
    - prosecutor decides to file case in criminal court
      - based on gravity of offense
  - legislative exclusions
    - state statutes exclude certain classes of crimes from juvenile jurisdiction
      - serious and violent offenses
    - statutes specify age at which youth can be transferred to adult court
- Blended sentencing is a fourth option that has been introduced in 20 states.
  - receive both juvenile and adult sentences
  - adult sentence enacted only if youth fails to meet conditions of juvenile sentence

Juvenile Corrections

- The dispositional options available to juvenile courts are many and varied.
  - probation
  - restitution
  - community service
  - mental health, substance abuse, and sex offender evaluation and treatment
  - services in both community-based and residential settings
  - educational interventions including alternative educational environments
  - day and evening treatment centers
  - wrap-around and coordinated case management services for multiple youth needs
  - placement resources (e.g., foster care, group homes, secure facilities)

Probation

- This is the conditional release of youth into the community.
  - provided with supervision and treatment
  - most common form of disposition
  - around 55 percent of adjudicated youth nationwide
  - vary from youth to youth
- Probation officers develop individualized treatment plans.
- Research suggests it is as effective as institutional treatment of youth.

Day Treatment Centers

- These centers have emerged as alternatives to incarceration for high risk youth.
- They are often used in conjunction with probation.
- They are designed to provide treatment and supervision within one common setting.

Foster Care

- This is a form of out-of-home placement.
- They are designed to keep youth in a family-like setting within the community.
- They are used in cases where there is documented evidence of abuse or neglect.
- Therapeutic foster care is an alternative for youths with extensive treatment needs.
Group Homes

- These homes are similar to adult halfway houses.
- They are small, non-secure, community-based settings.
- They are used as an alternative to incarceration or as a step-down program after a period of incarceration.
- Youth are required to attend school or work.
- They offer a variety of services.
  - individual and group counseling
  - life skills training
  - educational support
- There are long-standing problems associated with these homes.
  - inadequate pay for staff
  - inadequate benefits for staff
  - lack of staff training
  - lack of staff support

Boot Camps

- Following the lead of the adult system, juvenile boot camps have developed nationwide.
  - first-time offenders
  - nonviolent offenders
  - strict regimes
  - military drills
  - hard labor

Secure Care Facilities

- These facilities are the most restrictive correctional options for juveniles.
- They are commonly called “training schools.”
- The emphasis is on education and other types of rehabilitation.
- Types and levels of security vary across facilities.
- More secure facilities are reserved for the most serious and chronic juvenile offender.
- Most share many common features.
  - high level of structure throughout the day
  - participation in a variety of planned activities from 6:00 am until 9:00 pm
  - about one hour of free time per day
  - most of day is spent in classroom setting
  - range of interventions provided to youth
  - address individual risks and needs
  - established treatment programs
    - mental health
    - substance abuse
    - sex offender
  - phase systems and token economies

Aftercare

- It helps youth navigate transition by providing a range of services and supervision.
- This actually begins as the youth enters the institution.
- It involves formal and informal networks of social control.
• It promotes interagency collaboration among all of agencies.
• One of the most prominent models is the Intensive Aftercare Program.
  o pre-release and preparatory planning during incarceration
  o structured transition that requires the participation of institutional and aftercare
    staff prior to and following community reentry
  o long-term, reintegrative activities that ensure adequate service delivery and the
    necessary level of social control

Effective Correctional Interventions for Youth
• Effective programs include many characteristics.
  o matching offenders to programs based on level of risk
  o matching offenders to programs to accommodate personal characteristics and
    learning styles
  o addressing offenders’ criminogenic needs
  o providing multiple types of services
  o using a cognitive-behavioral approach
  o involving family members in the treatment process
  o providing aftercare or follow-up services in the community

Contemporary Issues in Juvenile Justice
Disproportionate Minority Contact
• This occurs when minority youth are represented in proportions greater than their
  representation in the general population.
• In 2003, blacks constituted 16% of the population between the ages of 10-17.
  o 27% of delinquency caseload
  o 29% of delinquency cases referred to juvenile court
  o 36% of youth held in detention
  o 38% of youth in residential placement
• The Child Welfare League of America asserts that there are multiple causes.
  o higher rate of black involvement in more serious delinquency
  o differential treatment of youth stemming from racial bias
  o policies
    ▪ expanded waiver laws
    ▪ the war on drugs
    ▪ immigration laws
    ▪ anti-gang laws
  o higher levels of exposure to factors that increase youths’ risk of delinquency
    ▪ poverty
    ▪ substance abuse
    ▪ mental health problems
    ▪ familial incarceration

Death Penalty for Juveniles
• Fervent debates surrounded the application of the death penalty to juvenile offenders.
  o supporters
    ▪ in particularly heinous crimes
      □ offender’s age is irrelevant
opponents
  - constitutes cruel and unusual punishment
  - particularly for juveniles
- **Thompson v. Oklahoma** (1987)
  - court reversed death sentence of 15 year old
  - court upheld death penalty for those who commit murder at 16 or 17 years of age
  - court ruled that death sentence for persons under 18 years of age at time of crime constituted cruel and unusual punishment

**Abolish Juvenile Court?**
- Juvenile court procedures have become more complex as due process rights have been expanded.
- The severity of sanctions has increased for juvenile offenders.
- New laws increasing the public’s access to court proceedings has detracted from the court’s protective role.
- There are arguments for abolition.
  - increases in the rates of juvenile arrests for violent crime
  - courts too lenient
  - “if old enough to do the crime, old enough to do the time”
  - do a disservice to our youth by not holding them accountable
  - victims ignored in juvenile court
  - cite high recidivism rates and equivocal program evaluation results
  - court not effective in rehabilitating youth under its care
  - allows excessive discretion and abuse of due process under guise of rehabilitation
  - are not as protective of due process rights as adult court
- There are arguments against abolition.
  - push for change fueled by distorted information about level of serious crime
  - increases in rates of juvenile violence overblown by media and politicians
  - moral panic about crime
  - grave predictions about a new generation of youth super-predators
  - disagree with contention that court is ineffective at rehabilitation of youth
  - cite programs that have lowered recidivism by 20-30 percent
  - argue that juvenile cases transferred to adult court haven’t had better result

**CASES**

**Kent v. United States (1966)**
- Kent, aged 16, was charged with rape and robbery and confessed.
- Kent’s attorney filed a motion for a hearing on jurisdiction.
- The court waived jurisdiction after a “full investigation.”
- Kent was sentenced 30 to 90 years in prison.
- He appealed to the U.S. Supreme Court.
- Ramifications of Kent v. U.S.
  - juveniles ensured “essentials of due process and fair treatment”
defense have access to all records involved in waiver
provide written statements for reasons for waiver

In re Gault (1967)
- Gault, a 15 year old, made a crank telephone call and was identified by his neighbor.
- Gault was adjudicated with no victim at the hearing and no proof of obscene remarks.
- He was sent to a training school for 3 years.
- Ramifications of In re Gault
  - court ruled that in hearings that could result in institutionalization, juveniles have
    - right to notice and counsel
    - right to question witnesses
    - protection against self-incrimination
    - no necessary right to appeal but Court encouraged states to grant that right
    - court explicitly rejected idea of parens patriae as murky and outdated

In re Winship (1970)
- Winship, aged 12, was charged with stealing $112 from a purse in a store.
- Winship was seen running from the store but no one saw him take the money.
- Winship was adjudicated delinquent and sent to a training school.
- Ramifications of In re Winship
  - prior to Winship
    - preponderance of evidence was standard of evidence for juveniles
  - after Winship
    - beyond a reasonable doubt became standard of proof

Other Important Decisions
- McKeiver v. Pennsylvania
  - jury trials are not constitutional for juveniles
- Schall v. Martin
  - preventive pretrial detention of juveniles is legal
  - abolished death penalty for offenders who committed crimes while under 18