

Chapter 2

DEVELOPMENT OF JUVENILE COURTS

Juvenile Court System

- Result of years of development
- first juvenile court was established in Chicago by Progressive Era reformers in 1899
- Prior to the establishment of the juvenile courts, children were generally prosecuted under the same statutes and guidelines which were used with adult offenders.

CHILDHOOD

- notion of childhood is a relatively new phenomenon
- considered as a concept in the late 18th century and early 19th century
- Developed by merchants because children represented a new market for a number of services, such as schools, playgrounds, toys and clothing

Childhood continued

- 19th century, children ceased to be considered as "little adults," and expected to perform child labor, and instead they became the recipients of parental love.
- The first historical studies of childhood and the changing perception of parents and children were not published until the 1970s.

PARENS PATRIAE

- initially used by the King's Bench in the sixteenth century
- Parens patriae is a Latin phrase meaning "parent of the nation".
- Refers to the police power of the state to intervene against an abusive or negligent parent, legal guardian or informal caretaker, and to act as the parent of a child who is in need of protection.

Code of Hammurabi

- One of the first major set of laws
- The family portion of the code was based on the patriarchal system whereby the father was the head of the family unit. Rebellion against the father by the children, even adult children, was not tolerated.

Early English Law

- The minimum age limit for apprenticeship was generally considered to be 12 years of age.
- An apprentice was expected to be obedient, industrious, orderly and not wasteful of his or her master's goods.
- By 17th century, if an apprentice was delinquent, he or she could be sued in the English courts.

Sixteenth to eighteenth centuries in England

- churches played an important role in controlling the behavior of delinquent children
- Frequent use of harsh punishments of children during this period.
- In the 18th century, the English began to express concern regarding the growing population of vagrant, destitute, and delinquent children.

Group Homes

- In 1758, Sir John Fielding, a British magistrate, established a group home to rescue vagrant girls
- The group home was known as the House of Refuge for Orphan Girls. Later in the 1780s, public asylums for destitute and neglected children were founded by the Philanthropic Society in London.

Youth Prisons

- Transportation to Australia used to remove delinquent children from London
- The first private prison for young offenders was probably established in England in 1788 by Robert Young.
- In 1818, the English established the Warwick County Asylum

Discipline of Youth

- It was common practice in England for the head of the house to discipline all youths living in the house.
- Punishment for juvenile delinquents was generally carried out within the family.
- It was not unusual for children brought before a magistrate to be sent home for a court-observed whipping.

American Juvenile Criminal Cases Prior to 1890s

- English system of criminal justice was imported to the Colonies
- Punishment was the central criminal law philosophy
- Children between the ages of seven and fourteen were presumed incompetent to form the requisite criminal intent
- No special courts for children

Development Of Juvenile Courts In The United States

- attempted to use apprenticeships to control delinquent youths
- the phrase "juvenile delinquency" ceased to mean misbehavior common to all children and started to be used to describe poor children who were involved in criminal behavior.

Reform Schools and Houses of Refuge

- 1850s-- state and local governments started funding reform schools
- movement to establish separate institutions for juvenile criminals started in New York City in 1819 by the Society for the Prevention of Pauperism

Houses of Refuge

- In 1825, in New York, the first juvenile prison was opened under the name of the House of Refuge.
- Similar institutions opened in Boston and Philadelphia by 1830. By 1854, many other cities opened similar houses of refuge for juvenile offenders.
- The first houses of refuge were built by child-saving organizations primarily concerned with the poverty, vice, and neglectful families which were considered breeding grounds for crime.

Chicago Reform School Act

- Enacted in 1855
- Establishment of industrial schools
- In 1870, the Illinois Supreme Court ruled the Act unconstitutional in that it placed a restraint on the natural liberty of children who had not been convicted of a crime

First Juvenile Court

- By 1880, several states had passed statutes providing for the separate trials of juveniles
- first juvenile court did not appear until 1899
- established in Cook County, Illinois, as a family court to handle juvenile concerns

Establishment of juvenile courts

- 1899, Colorado Judge Ben Lindsey operated an unofficial juvenile court
- After first court in Cook County, other states followed quickly.
- By 1920, only three states did not have juvenile courts.
- By 1932, there were over 600 in US.

Basic Philosophy Of First Courts

- the right of the state to act in loco parentis
- were to act in the best interests of the children
- The period between 1899, when the first juvenile court was established, and 1967 when the U.S. Supreme Court placed certain due process requirements on the courts, has been referred to as the era of "socialized juvenile justice."

Kent v. United States

Justice Fortas stated:

There is evidence, in fact, that there may be grounds for concern that the child receives the worst of both worlds: that he gets neither the protection accorded to adults nor the solicitous care and regenerative treatment postulated for children.

PUNISH OR REFORM?

- Should delinquent juveniles be punished or reformed?
- Martinson's Article- Nothing Works
- Juvenile Justice Delinquency Prevention Act of 1976
- Act: one of the primary purposes of the juvenile courts was to protect public safety

QUESTIONS IN REVIEW

- How important is the concept of *parens patriae* to the juvenile justice system?
- When should juvenile be tried as an adult rather than as a juvenile?
- Explain the meaning of the term *in loco parentis*.
- What role did the concept of apprenticeship play in establishing the juvenile justice systems?
- How did the houses of refuge contribute to the development of juvenile justice?