

CHAPTER 3

3.1 Self Check page 80

Do you understand what an assumption is and what role assumptions play in the development of juvenile justice?

An assumption is an idea or belief that serves as the foundation for theories, programs, and policies. The three main assumptions in juvenile justice are the traditional model, the due process model, and the punitive model, all of which are covered in detail in Figure 3-2 on page 100.

3.2 Self Check page 83

1. How were children treated prior to the development of separate institutions for wayward children?

Prior to that time, children were tried, sentenced, and punished in ways similar to the treatment of adult criminals. If incarcerated, they were imprisoned with adult men and women; if banished, they received sentences comparable to those of adults.

2. What programs and facilities were initiated under English Common Law for juveniles?

A large system of public and private **orphanages, work houses, training schools, and apprenticeship programs**, as well as **involuntary servitude** when the child entered adulthood, were the means by which England managed its orphaned and abandoned children. These systems were largely exploitative, as children often worked long hours for no pay and lived in miserable conditions.

3. What issues in the treatment of children were problematic during the Industrial Revolution?

Many people were concerned about excessive child labor, since factories would employ children for long hours with little pay. Reform groups began pressing for early child labor laws and other programs that would cure the negative effects that urban life and industrialization would have on children. This approach foreshadowed the creation of a juvenile justice system.

3.3 Self Check page 86

1. What religious group's values were used in the development of juvenile justice in the United States?

The values used to develop juvenile justice in the United States, particularly the belief that hard work and intense prayer brought a person closer to God, were rooted in the Puritan faith.

2. What are houses of refuge and what role did they play in the early juvenile justice system?

Houses of refuge were first created by reformers seeking to house and reeducate orphaned or wayward juveniles into a productive way of life. They were designed to take in all children who were deemed by the state as being in

need of greater supervision than their parents would or could provide. Sometimes, therefore, they housed children against the will of one or both parents.

3. What two legal concepts serve as the foundation for the juvenile justice system?

The two concepts are *parens patriae*, which gives the state the right to intervene in the lives of people for their best interests, and *in loco parentis*, which means that the state can “act in place of the parents.” *In loco parentis* serves as the legal right of the state to take away parental custody of children when it is in the best interest of the child.

3.4 Self Check page 89

1. Who were the child savers and what role did they play in the development of the juvenile justice system?

The **child savers** were prominent women who were social activists on behalf of better treatment for children. People such as Jane Addams and Julia Lathrop, as well as the National Council of Mothers, lobbied successfully for a separate juvenile justice system.

2. What are the differing opinions given as to why the juvenile justice system was created in the United States?

Some believed that it was out of the benevolent efforts of the child savers, and others believed that it was a reaction to the increased delinquency and desolation caused by the Industrial Revolution. Still others conclude that the system never intended to “save” children, but rather exploited them and molded them into submissive workers.

3.5 Self Check page 91

1. What was the Illinois Juvenile Court Act of 1889? Why was this act so important?

This act established the first official and separate juvenile court in the United States, thus setting a precedent for other states to do the same. By the 1920s, several states had passed similar statutes.

2. What is Platt’s alternative view of the juvenile court and the child savers?

In 1969, Platt summarized three themes: (1) The child savers were not benevolent, because they imprisoned children for long periods of time under the pretext of protecting them from corrupting influences, (2) the ideal home setting was gauged by idealized middle- or upper-class standards that would be difficult for anyone to maintain, and (3) the child savers blurred the line between dependent and delinquent children, so any criminal child lost the right to due process and anybody who argued this point was treated as unformed.

3.6 Self Check page 93

1. What changes to the juvenile justice system happened during the due process era?

The key change was that juveniles were recognized as individuals in their own right, and no longer as chattel that belonged to either parents or the state. This meant the following things: (1) Juvenile courts now focused only on serious crime, with status offenses becoming deinstitutionalized, (2) the juvenile justice system was found to not need the broad discretion that was originally assumed to be necessary, and (3) due process was found to help, rather than hinder, the treatment of juveniles.

3.7 Self Check page 95

1. What fundamental changes to juvenile justice in the United States were made by the Balanced Juvenile Justice and Crime Prevention Act of 1996?

This act stated that the juvenile justice system has still not been able to solve the growing problems of juvenile crime, in particular serious juvenile crime. Therefore, it advocates a new, more punitive model. The concepts of this act have been adopted by several states into their own laws, as they changed the purpose of their juvenile justice system to reflect a more punitive approach.

2. What are the reasons why the juvenile justice system is becoming more punitive?

There are several reasons, four of which are: (1) The public perceives an uncontrollable increase in violent juvenile crime, and this paranoia affects policy; (2) effective deterrence of criminals requires information sharing, record keeping, and increased sentence limits; (3) increased rates of drug use and gang membership have created crises in certain jurisdictions; and (4) a reaction to the due process revolution, which seemed to let juvenile offenders “slip through the cracks” after committing serious crimes.

3.8 Self Check page 103

1. What are the differences between the traditional, due process, and punitive model regarding a juvenile’s culpability and development? Causes of delinquency?

According to the traditional model, juveniles have diminished culpability and are not as mentally or socially developed as adults; the causes for delinquency lie in the broader social environment. According to the due process model, juveniles were recognized by the system as less culpable but were treated as criminally culpable, and are not as mentally or socially developed as adults; the causes for delinquency lie in the broader social environment, but are essentially unimportant as long as juveniles are treated fairly within the system. According to the punitive model, violent or repeat juvenile offenders have full culpability, and their mental or social development is irrelevant; the causes for delinquency lie within the juvenile’s exercise of free will.

2. What are the differences between the traditional, due process, and punitive models regarding the role of the state, the role of due process, and record keeping in juvenile justice?

According to the traditional model, the role of the state is that it can and should act *in loco parentis* for the best interests of the child, due process is unimportant and can hinder treatment, and record keeping should be held to strict confidentiality. According to the due process model, the role of the state is that it can and should act *in loco parentis* for the best interests of the child while providing due process and fairness, due process is highly important to protect juveniles from abuses within the system and can help treatment, and record keeping should be held to strict confidentiality to avoid labeling a juvenile a criminal. According to the punitive model, the role of the state is that it can and should act *in loco parentis* for the best interests of society, due process is necessary to ensure that processing is uniform, and record keeping needs to be thorough and readily available to prevent future crime.

3. What are the differences between the traditional, due process, and punitive models regarding the level of discretion needed in juvenile justice? Ultimate goals of juvenile justice?

According to the traditional model, the role of discretion is broad and widespread to consider the various causes and cures for delinquency; the ultimate goal is the prevention of future delinquency; the ultimate goal is the prevention of future delinquency through treatment and rehabilitation. According to the due process model, the role of discretion is to treat and intervene; the ultimate goal is the prevention of future delinquency, rehabilitation, and protection of a juvenile's rights. According to the punitive model, the role of discretion is limited or eliminated when dealing with serious or violent offenders; the ultimate goal is the prevention of future delinquency through punishment and incapacitation.

3.9 Self Check page 105

1. What changes in juvenile justice have resulted from shifts in assumptions in the last 20 years or so?

As before, the changes resulted from a belief that the old system was not working. New changes include increased juvenile culpability, enhanced sentencing for the serious or violent offender, and an emphasis on protecting society by incapacitating serious or violent offenders.

2. What is meant by the cynical pattern of juvenile justice? Between what philosophies does the juvenile justice cycle?

It means that juvenile justice swings back and forth periodically from a rehabilitative model to a punitive one. An example of a rehabilitative model is the due process model, and an example of a punitive one is the punitive model. One could make the argument that the traditional model was stated to be rehabilitative, but was actually punitive.