

Criminal Justice *in* America

EIGHTH EDITION



GEORGE F. COLE

CHRISTOPHER E. SMITH

CHRISTINA DeJONG

15

Juvenile Justice

JUVENILES CHARGED AS ADULTS

- In August, 2012, after a high school football game, students attended several parties where there was alcohol. Two days later, the parents of a teenage girl contacted the police reporting that their daughter had been sexually assaulted. Two members of the team were charged and convicted of sexual assault. They were sentenced to a juvenile detention facility and were required to register as sex offenders.
- Should the two 16 year old offenders have been charged as adults rather than juvenile offenders?

LEARNING OBJECTIVES

- LO1 – describe the extent of youth crime in the United States.
- LO2 – explain how the juvenile justice system developed, and the assumptions on which it was based.
- LO3 – Identify what determines the jurisdiction of the juvenile justice system.
- LO4 – Describe how the juvenile justice system operates.
- Name some of the issues facing the American system of juvenile justice.

HOW COMMON IS YOUTH CRIME?

- Of 74 million people under age 18, about 1 million arrests of juveniles occur each year
- Of these arrests, 47,000, (4.5%), are for violent crimes
 - Murders committed by juveniles has decreased since 1993 (16%) and 2010 (9%)
 - Most juvenile crimes are committed by young men
 - Between 1985 and 2009, percentage of women increased from 19% to 28% of all cases heard
 - Drug cases have increased 341% from 1984 to 2004

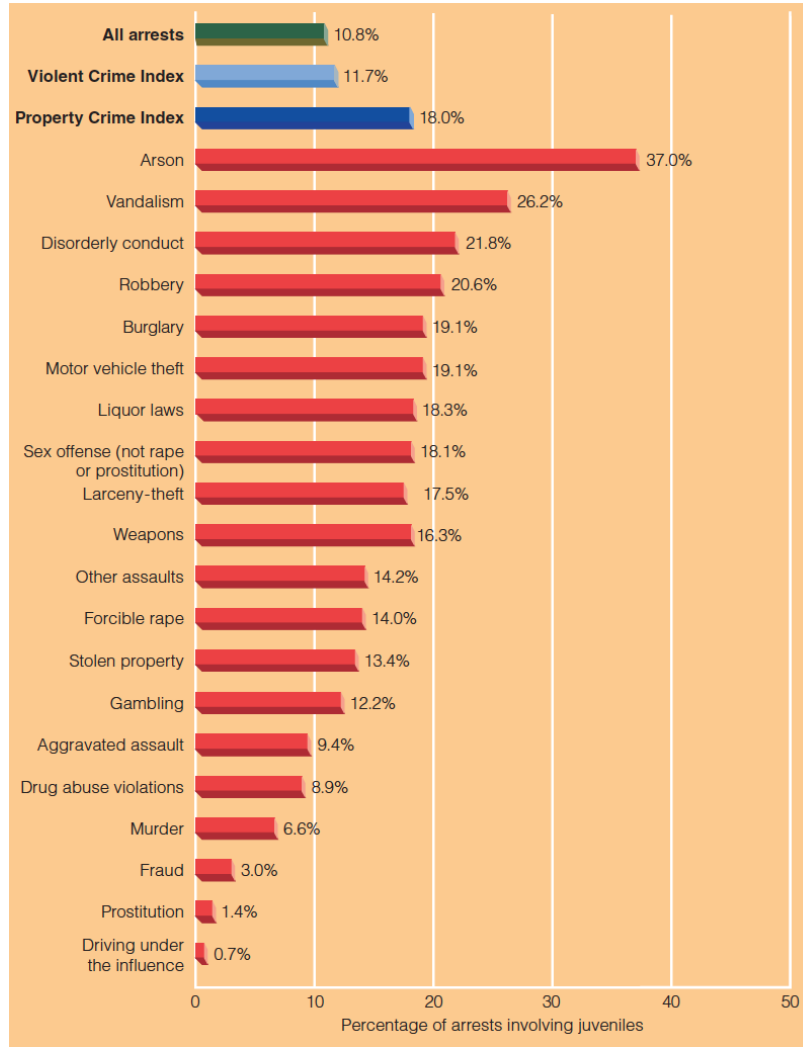


FIGURE 15.1
Percentage of Arrests of
People under 18 Years Old
(rounded) Juveniles are arrested for a wide range of offenses. For some offenses—such as arson, vandalism, motor-vehicle theft, and burglary—juveniles account for a larger proportion of arrests than the percentage of juveniles in the general population would suggest.

Source: Federal Bureau of Investigation, *Crime in the United States, 2012* (Washington, DC: U.S. Government Printing Office, 2013), Table 41.

YOUTH CRIME

- Youth crimes range from UCR Index Crimes to “youthful crimes”
 - For example:
 - UCR Index crimes, such as murder, rape, robbery, assault
 - “Youthful crimes,” such as curfew violations, loitering, and being a runaway

EXPLANATIONS FOR THE SHARP RISE IN JUVENILE CRIME IN THE '80S AND '90S:

- Increase in the prevalence of exceptionally violent individuals –so-called “super predators”
- Environmental factors such as:
 - Appearance of crack cocaine
 - Gun carrying by juveniles
- Rise in youth gangs
- Increased drug use

DEVELOPMENT OF JUVENILE JUSTICE

- The idea that children should be treated differently from adults originated in the common law and in the chancery courts of England
 - The common law had long prescribed that children under 7 years of age were incapable of felonious intent and were therefore not criminally responsible
 - Children aged 7 to 14 could be held accountable only if it could be shown that they understood the consequences of their actions

PARENS PATRIAE

- The state as parent, guardian and protector of all citizens (such as juveniles) who cannot protect themselves
 - Laid the groundwork for the development of juvenile justice

PURITAN PERIOD (1646-1824)

- Puritans of the Massachusetts Bay Colony imposed the view that the child was evil
 - Emphasized the need of the family to discipline and raise youths
 - Those who would not obey their parents were dealt with by the law

THE REFUGE PERIOD (1824-1899)

- Reformers focused their efforts primarily on the urban immigrant poor
 - Parents were declared “unfit” if their children roamed the streets and were apparently “out of control”
- House of Refuge of New York opened in 1825
 - This half-prison, half-school housed destitute and orphaned children as well as those convicted of crime
- Still, the criminal justice process for children was the same as that for adults

THE JUVENILE COURT PERIOD (1899-1960)

- Progressive reformers called “child savers” pushed for the state to provide individualized care and treatment to juvenile delinquents
 - These upper-middle-class reformers sought to use the power of the state to “save” children from a life of crime
 - Reformers wanted a separate juvenile court system that could address the problems of individual youths by using flexible procedures

JUVENILE COURT ACT BY ILLINOIS IN 1899

- Established the first comprehensive system of juvenile justice for children under 16
- The act had four major elements:
 - Separate court for delinquent, dependent, and neglected children
 - Special legal procedures that were less adversarial than those in the adult system
 - Separation of children from adults in all portions of the justice system
 - Programs of probation to assist the courts in deciding what the best interest of the state and the child entails

THE JUVENILE RIGHTS PERIOD (1960-1980)

- **Kent v. United States (1966)**

- The Supreme Court ruled that juveniles had the right to counsel at a hearing at which a juvenile judge may waive jurisdiction and pass the case to the adult court

- **In re Gault (1967)**

- Extended due process rights to juveniles, including the right to counsel, to confront and examine accusers, and to have adequate notice of charges when confinement is a possible punishment

- **In re Winship (1970)**

- The standard of proof beyond a reasonable doubt applies to juvenile delinquency proceedings

ADDITIONAL COURT RULINGS

- **McKeiver v. Pennsylvania (1971)**
 - Juveniles do not have a constitutional right to a trial by jury
- **Breed v. Jones (1975)**
 - Juveniles cannot be found delinquent in juvenile court and then transferred to adult court without a hearing on the transfer

STATUS OFFENSE

- Any act committed by a juvenile that is considered unacceptable for a child, such as truancy or running away from home, but that would not be a crime if it were committed by an adult
 - Juvenile Justice and Delinquency Prevention Act of 1974
 - Included provisions for taking status offenders out of correctional institutions

THE CRIME CONTROL PERIOD: 1980-2005

- Public demands to “crackdown on crime” began in 1980
 - Legislators responded in part by changing the juvenile system
 - Greater attention began to be focused on repeat offenders
 - Policy makers called for harsher punishment for juveniles who commit crimes
 - Delinquency cases waived to adult criminal court increased from 1985 to 1994
 - Schall v. Martin (1984)
 - Allowed preventive detention of juveniles if reasonable fear they would commit future crimes

KIDS ARE DIFFERENT – A NEW ERA?

- Judicial waiver – procedure by which juvenile court waives its jurisdiction and transfers a juvenile case to the adult criminal court
 - Declined dramatically between 1994 – 2001
 - Remained stable through 2008
 - Decreased 27% between 2008 – 2010
 - Several states are contemplating abolishing juvenile waiver

KIDS ARE DIFFERENT – A NEW ERA?

- Starting with **Roper** some believe the courts are taking a new approach
 - Roper v. Simmons (2005)
 - Can't execute those who committed murder when they were under 18
- Focus on culpability factors which juveniles lack
 - Graham v. Florida (2010)
 - No life without parole for juveniles in non-homicide cases

KIDS ARE DIFFERENT – A NEW ERA?

- **Miller v. Alabama (2012)**
 - Juveniles cannot be subject to a mandatory life without possibility of parole (LWOP) sentence for homicide offenses



JUVENILE JUSTICE SYSTEM

- System focuses on two factors
 - Age of the 'client'
 - Type of crime they committed
- Age
 - Upper age limit is 18 (39 states and District of Columbia)
 - Ten states it is 17
 - Two states set it as low as 16
 - In 45 states, judges can waive the age requirement

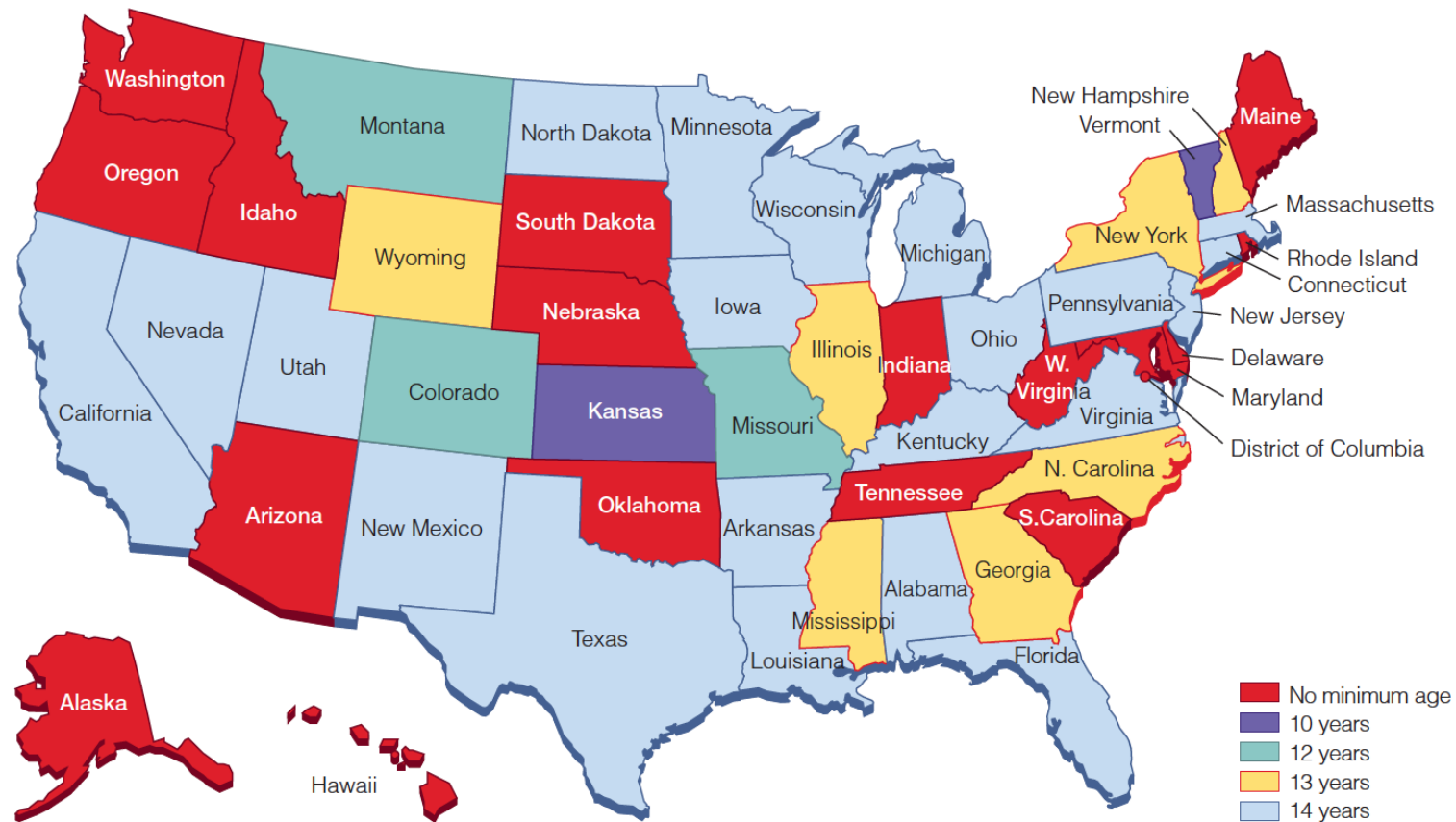


FIGURE 15.3

The Youngest Age at Which Juveniles May Be Transferred to Adult Criminal Court by Discretionary Waiver of Juvenile Jurisdiction

The waiver provisions of states vary greatly, and no clear regional or other factor explains the differences.

Source: Patrick Griffin, "Transfer Provisions," *State Juvenile Justice Profiles* (Pittsburgh: National Center for Juvenile Justice, 2010).

TYPES OF CASES UNDER JURISDICTION OF JUVENILE JUSTICE SYSTEM

- **Delinquency**
 - Child who has committed an act that would be a crime if committed by an adult
- **Status offenses**
 - PINS – Person In Need of Supervision
 - A juvenile lacking support and heading for trouble
- **Neglected Child**
 - Child who is receiving inadequate care because of some action or inaction on part of his parents
- **Dependent Child**
 - Child who has no parent or guardian or whose parents cannot give proper care

JUVENILE JUSTICE PROCESS

- Juvenile justice is a bureaucracy based on an ideology of social work
 - Police, judges, and correctional officials should focus primarily on the interests of the child
 - Juvenile proceedings are to be conducted in a nonadversarial environment
 - Functions within the context of exchange relationships between government officials and private agencies that influence decisions

POLICE INTERFACE

- Most complaints against juveniles are brought by the police
- An injured party, school officials, and even the parents can also initiate them
 - The police must make three major decisions with regard to the processing of juveniles:
 - Whether to take the child into custody
 - Whether to request that the child be detained following apprehension
 - Whether to refer the child to court

KEY FACTORS INFLUENCE HOW THE POLICE DISPOSE OF A CASE OF JUVENILE DELINQUENCY:

- The seriousness of the offense
- The willingness of the parents to cooperate and to discipline the child
- The child's behavioral history as reflected in school and police records
- The extent to which the child and the parents insist on a formal court hearing
- The local political and social norms concerning dispositions in such cases
- The officer's beliefs and attitudes

INTAKE SCREENING AT THE COURT

- **Petition**
 - Used instead of a warrant to bring juvenile under court authority
- **Diversion – process of screening children out of the juvenile justice system without a decision by the court**
 - During initial hearing, 44% of cases are removed from court
 - 42% dismissed
 - 24% diverted to informal probation
 - 33% alternative sanction

TEEN COURTS

- Is this an effective way to deal with youthful offenders?
- Will teen offenders take seriously the sanctions imposed by Teen Courts?



DETENTION HEARING

- Hearing to decide if juvenile will be held or released before their adjudication (trial)
 - Informed of their rights and that if a plea is given it must be voluntary
 - Similar to bail
 - Important because often juvenile facilities are inadequate

TRANSFER (WAIVER) TO ADULT COURT

- Traditionally left up to judge
 - Increasingly, power is given to prosecutor to request waivers
 - 45 states juvenile court judges may waive
 - 29 states, certain violent offenses such as murder, rape, and armed robbery are excluded by law from jurisdiction of juvenile courts
 - 15 states give prosecutors authority to waive
 - Between 1985 and 2000 waivers doubled then leveled off

TRANSFER (WAIVER) TO ADULT COURT

- Critics of the waiver policy claim that waiver subverts the intent of the juvenile justice system and exposes juvenile offenders to harsh conditions of adult prisons.



TRANSFER (WAIVER) TO ADULT COURT

- Arrest of juveniles for violent crimes more than doubled between 1988 and 1994. Since their peak in 1994, juvenile arrests for violent crime have declined, yet cases still come up that are so serious that the public demands severe punishment. On the other hand, youths are also the primary victims of violent crime.
- Is the juvenile corrections system equipped to treat serious juvenile offenders?
- What are the likely consequences for both the individual and the community of trying juveniles as adults?

ADJUDICATION

- The trial stage of the juvenile justice process
 - Juvenile courts deal with almost 1.5 million delinquency cases a year
 - A hearing is held to determine the facts in the case and, if appropriate, label the juvenile “delinquent”

DISPOSITION

- If the court makes a finding of delinquency, the judge will schedule a dispositional hearing to decide what action should be taken
 - Besides dismissal, four other choices are available:
 - Probation
 - Alternative dispositions
 - Custodial care
 - Community treatment

CORRECTIONS

- Predominant aim of juvenile corrections is to avoid unnecessary incarceration
 - Probation
 - 60% of juveniles go on some form of probation
 - Intermediate Sanctions
 - 13% have some level of mixed probation and custody
 - Custodial Care
 - 28% are placed in public or private custody

INSTITUTIONS FOR JUVENILE OFFENDERS

- **Non-secure facilities**

- Include a significant number of non-offenders youths referred for abuse, neglect, or emotional disturbance
 - Examples: foster homes, group homes, camps, ranches, schools

- **Secure facilities**

- Deal with juveniles who have committed serious violations of the law and have serious personal problems.
 - Examples: reform schools and training schools

JUVENILES IN PUBLIC FACILITIES

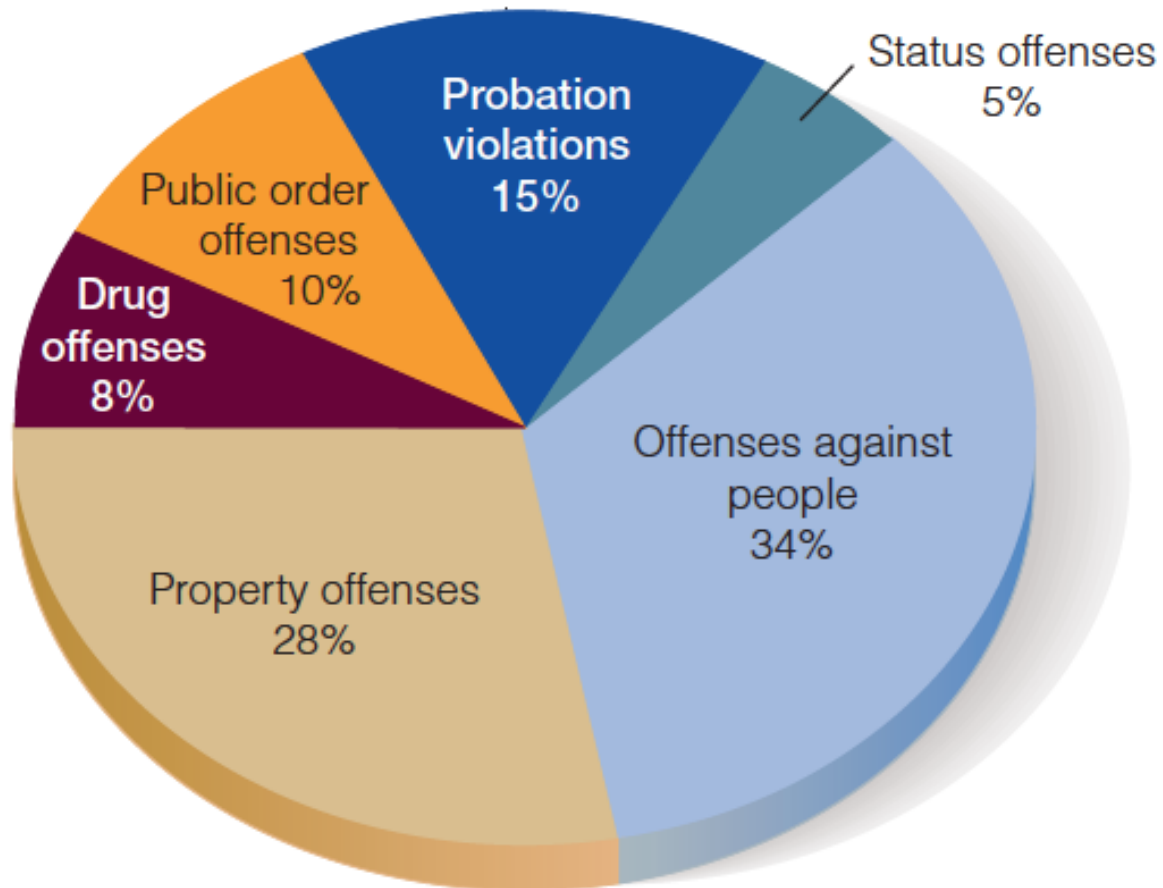


FIGURE 15.6

**Juveniles in Public Facilities:
Types of Offenses and Non-
delinquent Reasons for
Placement**

Source: H. N. Snyder and M. Sickmund, *Juvenile Offenders and Victims: 2006 National Report* (Washington, DC: U.S. Office of Juvenile Justice and Delinquency Prevention, 2006), 198.

INSTITUTIONAL PROGRAMS

- A wide variety of institutional treatment programs have been used:
 - Counseling
 - Education
 - Vocational training
 - An assortment of psychotherapy methods
 - Aftercare
 - Juvenile justice equivalent of parole
 - Delinquent is released but supervised in the community



PROBLEMS AND PERSPECTIVES

- Juvenile justice system does not control juvenile crime
- System must play a range of goals and values that collide
- Little is known about causes and prevention of delinquency
- Unique problems of youth gangs
- Increase in online delinquent behavior
- Conservative crime control policies that still guide juvenile justice

FUTURE DEVELOPMENTS

- *Roper v. Simmons* (2005) was decided on a five-to-four vote of the Supreme Court's justices. Similarly, the decision in *Miller v. Alabama* (2012) forbidding LWOP sentences for juvenile homicide offenders was also decided by a five-to-four vote.
- What would be the implications to juvenile justice if the Supreme Court's composition changed?