

## CHAPTER 1

# From “Misguided Children” to “Criminal Youth”: Exploring Historical and Contemporary Trends in Canadian Youth Justice

### Multiple Choice Questions

1. Canada’s pattern of legislative change in the field of youth justice is similar to \_\_\_\_\_.
  - a) the United States
  - b) Britain
  - c) Australia
  - d) All of the above
  - e) Both a and b
2. Developments around legislation and models of juvenile justice have been accompanied in some countries by changes in terminology. Youths who have committed acts of juvenile delinquency are now referred to as \_\_\_\_\_.
  - a) troubled children
  - b) misguided children
  - c) criminal youth
  - d) juvenile delinquents
  - e) None of the above
3. According to Minaker and Hogeveen (2009), \_\_\_\_\_ require intervention and can be rehabilitated.
  - a) punishable young offenders
  - b) reformable young offenders
  - c) first-time young offenders
  - d) repeat young offenders
  - e) None of the above
4. According to Minaker and Hogeveen (2009), \_\_\_\_\_ require punishment in order to make them accountable for their criminal acts.
  - a) punitive young offenders
  - b) reformable young offenders
  - c) repeat young offenders
  - d) punishable young offenders
  - e) juvenile delinquent youths
5. Minaker and Hogeveen (2009) argue that recent decades have witnessed a \_\_\_\_\_ turn in youth justice in Canada that parallels similar trends in both the adult and youth justice systems of other countries.

- a) punitive
  - b) restorative
  - c) positive
  - d) rehabilitative
  - e) legalistic
6. The author of Chapter 1 argues that the nature and direction of historical and contemporary trends in Canadian youth justice cannot be adequately understood without taking into account \_\_\_\_\_.  
a) trends in punishment  
b) the development of the idea of juvenile delinquency  
c) the connected experiences of other countries  
d) who invented our modern juvenile justice systems  
e) All of the above
7. This chapter argues that Canada's current approach to youth justice is \_\_\_\_\_.  
a) the same as other countries  
b) unique in many respects  
c) most similar to that of the United States  
d) not comparable to other countries  
e) based on the British model
8. Philippe Ariès argued that the modern concept of childhood was "discovered" in Western Europe in the \_\_\_\_\_.  
a) fourteenth century  
b) sixteenth century  
c) seventeenth century  
d) nineteenth century  
e) twentieth century
9. According to Ariès, unlike parents today, parents in the Middle Ages \_\_\_\_\_.  
a) were much closer to their children  
b) did not develop strong emotional ties to their children  
c) abused their children  
d) were more likely to sacrifice themselves for their children  
e) did not punish children
10. According to Ariès, the modern concept of childhood was "discovered" in \_\_\_\_\_.  
a) Eastern Europe  
b) Medieval Times  
c) Western Europe  
d) South Asia  
e) the late twentieth century
11. According to Ariès, parents in the Middle Ages were \_\_\_\_\_ preoccupied with raising the young and severely restricting their lives.

- a) very
  - b) not
  - c) usually
  - d) seldom
  - e) always
12. Criminologist \_\_\_\_\_ drew uncritically on Ariès' research to try to explain the reasons for the "invention" of juvenile delinquency and the juvenile court.
- a) Beatrice Gottlieb
  - b) Tulio Caputo
  - c) Lamar Empey
  - d) Linda Pollock
  - e) Anthony Platt
13. Historians of childhood who have been critical of Ariès research have shown instead that—both historically and in more recent times—adults have displayed a great deal of \_\_\_\_\_ in their thinking about the definition and treatment of children and youth.
- a) similarity
  - b) diversity
  - c) ambiguity
  - d) certainty
  - e) indifference
14. When was the term *juvenile delinquency* first used?
- a) Sixteenth century
  - b) Eighteenth century
  - c) Nineteenth century
  - d) Twentieth century
  - e) Twenty-first century
15. In the nineteenth century under English common law, persons below the age of \_\_\_\_\_ years could not be convicted of committing a criminal offence.
- a) seven
  - b) eight
  - c) 10
  - d) 12
  - e) 16
16. The legal doctrine that limits the criminal responsibility of a child between the ages of seven and 14 due to the presumption that they are unable to understand the wrongfulness of criminal acts is referred to as \_\_\_\_\_.
- a) *parens patriae*
  - b) *doli incapax*
  - c) *mens rea*
  - d) incapacity
  - e) *mea culpa*

17. A number of common features came to characterize the operation of juvenile courts after they were first invented. Which of the following was *not* included among these common features?
- a) The concept of diminished criminal responsibility
  - b) The concept of *mens rea*
  - c) The principle of *parens patriae*
  - d) The idea that juvenile delinquents should be treated with friendly helpfulness
  - e) All of the above
18. In the first juvenile courts, \_\_\_\_\_.
- a) the procedure was modelled on that in adult criminal courts
  - b) the focus was on corporal punishment
  - c) the chief concern was less with the juvenile's guilt or innocence than with the state's need to assume guardianship
  - d) probation officers were usually excluded
  - e) All of the above
19. Prior to the establishment of the New York House of Refuge by the Society for the Reformation of Juvenile Delinquents, juries would \_\_\_\_\_ when they thought penalties were too harsh.
- a) acquit the youth
  - b) ask the judge for a less severe penalty
  - c) request the youth be housed in the adult penitentiary
  - d) do nothing at all
  - e) None of the above
20. The \_\_\_\_\_ undeniably served as the model that was later followed in a number of other countries.
- a) Colorado Juvenile Court
  - b) Australian Juvenile Court
  - c) French-Canadian Juvenile Court
  - d) New York House of Refuge by the Society for the Reformation of Juvenile Delinquents
  - e) Chicago Juvenile Court
21. Historians commonly recognize that it was \_\_\_\_\_ who drafted the JDA.
- a) W. L. Scott
  - b) J.J. Kelso
  - c) G. Stanley Hall
  - d) R. Rothman
  - e) E. Durkheim
22. Status offences are those offences that a youth \_\_\_\_\_.
- a) has been charged with that are Indictable offences
  - b) has been charged with that are summary offences
  - c) has been charged with that are hybrid offences

- d) can be found guilty of by simply being under age
  - e) cannot be found guilty of because of his/her age
23. Intermediate sentences are sentences to incarceration that \_\_\_\_\_.
- a) have no fixed expiration date
  - b) are served in adult facilities
  - c) are served periodically (e.g. on weekends only)
  - d) are longer than two years in length
  - e) All of the above are true
24. The Young Offenders Act \_\_\_\_\_.
- a) replaced the YCJA
  - b) replaced the JDA
  - c) was Canada's first piece of youth legislation
  - d) was in force in the mid 1800's
  - e) None of the above are true
25. Adulteration refers to \_\_\_\_\_.
- a) the dismantling of the youth system and the merging of it with the adult system
  - b) the complete elimination of the youth system with no replacement
  - c) the creation of tough legislation such as mandatory minimum sentences
  - d) the combination of the child welfare system with the youth criminal system
  - e) None of the above are true

## True or False Questions

1. According to Ariès, conditions for children were the worst prior to the seventeenth century.
2. Prior to the development of juvenile courts, young offenders were dealt with in exactly the same way as adult offenders.
3. Treating juvenile offenders differently from their adult counterparts began with the Juvenile Delinquents Act (JDA).
4. Criminologists do not agree on the extent to which the Canadian youth justice system has taken a punitive turn.
5. Specialized courts meant to apply juvenile justice laws in the care of dependent and delinquent children were first created in the late nineteenth century.
6. According to Bryan Hogeveen, punishable young offenders require intervention in the hope they can be rehabilitated.
7. The punitive turn thesis has not been applied to Canada.
8. Canada's approach to youth justice is in many respects unique.

9. Philippe Ariès is the historian who first argued that the modern concept of childhood was “discovered” in Western Europe in the seventeenth century.
10. In many Western countries prior to the nineteenth century, adulthood did not begin for males until they were married.
11. In many Western countries prior to the nineteenth century, the only grown women who could function as full legal adults were married women.
12. The nineteenth century witnessed a significant transformation in the way that young people were dealt with by the criminal justice system.
13. The first juvenile courts created in the United States were explicitly based on a child-welfare model.
14. The first juvenile court in the United States was established in Philadelphia.
15. According to Anthony Platt, racism and class discrimination were the most important factors that led to the enactment of juvenile delinquency statutes and the establishment of juvenile courts throughout the United States.
16. Unlike Anthony Platt, David Rothman stressed the importance of examining changes in the social structure and economy of American society to explain changes in juvenile justice.
17. J.J. Kelso tried to take credit for the enactment of the Juvenile Delinquents Act of 1908.
18. The Juvenile Delinquents Act was criticized for abolishing status offences.
19. The Young Offenders Act was criticized for representing an unfortunate shift away from the child-welfare-based child-saving approach of the JDA toward a more justice- and crime-control based child-blaming approach.
20. Canada’s criminal justice system under the YCJA is a two-pronged justice system that diverts less serious offenders out of the system and allows for more severe punishments for serious offenders.

## **Short Answer Questions**

1. What are the two competing discourses that have been reflected in discussions engaged over the years on how society should deal with young offenders?
2. What are the three distinct age-graded levels of criminal accountability?
3. How did Anthony Platt attempt to explain the origin and operation of the Chicago Juvenile Court?

4. How did David Rothman account for the invention of the juvenile court in the United States?
5. Who is G. Stanley Hall and what role did he play in the invention of the juvenile court in the United States?
6. Who was Ben Lindsey and what role did he play in the juvenile court movement?
7. On what grounds can David Rothman's account of the invention of the juvenile court in the United States be criticized?
8. How does the account offered by David Tanenhaus (2004) differ from those offered by earlier historians of the juvenile court movement in the United States?
9. Outline the theory of juvenile justice reform proposed by Thomas Bernard and explain how he applied it to explaining the creation of the Chicago Juvenile Court in 1899.
10. What is meant by "the cross-fertilization of ideas on juvenile justice reform" and why is it useful to consider this idea in researching the development of juvenile or youth justice systems?
11. What can historians and criminologists learn from studying the gradual separation of juveniles and adults in court proceedings and institutions of confinement in the nineteenth century?
12. What was most different about the development of early juvenile justice systems in England and Wales compared to France?
13. Who was J.J. Kelso and what role did he play in the juvenile justice reform movement in Canada?
14. Based on what you have read in this chapter, who do you feel played a more important role in the enactment of the Juvenile Delinquents Act of 1908, J.J. Kelso or W.L. Scott?
15. What is a *status offence* and when was this type of offence introduced into the Juvenile Delinquents Act?
16. Why were lawyers discouraged from appearing in juvenile courts to represent young offenders under the Juvenile Delinquents Act?
17. What are *indeterminate sentences* and why were they used to deal with young offenders subject to the Juvenile Delinquents Act?
18. What were the opposing views of early advocates and critics of the Young Offenders Act shortly before and after the new legislation was implemented in 1984?

19. What is meant by the notion of a bifurcated youth justice system, and why can Canada be said to have a youth justice system that fits this description?
20. Why is there concern about the adulteration of policy and practices under the YJCA?
21. Why is it complicated to predict the direction that the administration of juvenile justice in Canada will move in the future?

## Essay Questions

1. What arguments concerning the discovery of childhood did Philippe Ariès develop in his famous book entitled *Centuries of Childhood*? What are the key criticisms and contradictory evidence other historians have brought forth to cast doubt on the validity of Ariès arguments?
2. Why was the Canadian Juvenile Delinquents Act (JDA) enacted in 1908? In your discussion, explain the important events and circumstances that led to the enactment of the legislation, key principles underlying the Act, and the major criticisms that were put forth by critics of the JDA that eventually led to the enactment of the Young Offenders Act (YOA).
3. How have historians and criminologists attempted to explain the development of early juvenile delinquency legislation in the United States and Canada? Discuss this question in light of your knowledge of research on the origins of the Chicago juvenile court in 1899 and the Canadian Juvenile Delinquents Act in 1908.
4. Why was a new Youth Criminal Justice Act (YCJA) passed in Canada in 2002? In your discussion, describe events and circumstances that led to the enactment of the legislation, key principles underlying the Act, and the major criticisms that were put forth by critics of the Young Offenders Act (YOA) that eventually led it to be replaced with the YCJA.
5. How have different researchers attempted to explain like the creation of the Chicago Juvenile Court in 1899, and the enactment of the Canadian Juvenile Delinquents Act in 1908? Were the factors that led to the enactment of juvenile justice statutes in each country the same or different? Explain.
6. Discuss the punitive turn debate. What are the views that have been expressed regarding the degree to which Canada has experienced a “punitive turn” since the implementation of the YCJA?



# Answer Key

## Multiple Choice Questions

- |                     |                         |
|---------------------|-------------------------|
| 1. <b>d</b> (p. 5)  | 14. <b>b</b> (p. 9)     |
| 2. <b>c</b> (p. 5)  | 15. <b>a</b> (p. 9)     |
| 3. <b>b</b> (p. 5)  | 16. <b>b</b> (pp. 9-10) |
| 4. <b>d</b> (p. 5)  | 17. <b>b</b> (p. 10)    |
| 5. <b>a</b> (p. 6)  | 18. <b>c</b> (p. 10)    |
| 6. <b>c</b> (p. 6)  | 19. <b>a</b> (p. 15)    |
| 7. <b>b</b> (p. 6)  | 20. <b>e</b> (p. 16)    |
| 8. <b>c</b> (p. 7)  | 21. <b>a</b> (p. 19)    |
| 9. <b>b</b> (p. 7)  | 22. <b>d</b> (p. 20)    |
| 10. <b>c</b> (p. 7) | 23. <b>a</b> (p. 21)    |
| 11. <b>b</b> (p. 7) | 24. <b>b</b> (p. 22)    |
| 12. <b>c</b> (p. 7) | 25. <b>a</b> (p. 25)    |
| 13. <b>c</b> (p. 9) |                         |

## True or False Questions

- |                            |                          |
|----------------------------|--------------------------|
| 1. <b>F</b> (p. 7)         | 11. <b>F</b> (p. 8)      |
| 2. <b>F</b> (p. 9)         | 12. <b>T</b> (pp. 9-15)  |
| 3. <b>F</b> (p. 9)         | 13. <b>T</b> (p. 11)     |
| 4. <b>T</b> (pp. 6, 22-23) | 14. <b>F</b> (p. 11)     |
| 5. <b>T</b> (p. 5)         | 15. <b>T</b> (p. 12)     |
| 6. <b>F</b> (p. 5)         | 16. <b>F</b> (p. 12)     |
| 7. <b>F</b> (pp. 6, 22-23) | 17. <b>T</b> (p. 18)     |
| 8. <b>T</b> (p. 6)         | 18. <b>F</b> (pp. 20-21) |
| 9. <b>T</b> (p. 7)         | 19. <b>T</b> (p. 21)     |
| 10. <b>T</b> (p. 8)        | 20. <b>T</b> (p. 22)     |

## Short Answer Questions

1. Students should outline the concepts of *reformable young offender* and *punishable young offender* and provide examples of how they have been used to frame discussions of how young offenders should be dealt with in the youth justice system.

Pages: 4-5

2.
  - No criminal accountability for youth under a certain legislatively determined age;
  - limited accountability for youth who were subject to the jurisdiction of the legislation because they fell within a certain legislatively determined age range; and
  - full criminal accountability for youth above a certain age.

Page: 10

3. Students should note how Platt pointed to the key role played by conservative middle-class social reformers and how he showed that the child-saving movement was an ideologically conservative movement influenced by social Darwinism and European criminological positivism.  
Pages: 11-12
4. Students should note how Rothman focused attention on the power of the ideas and rhetoric of “Progressive era” social reformers and the manner in which reforms in juvenile justice were connected to simultaneous reforms in the mental health and adult criminal justice systems.  
Pages: 12-13
5. Students should explain Stanley’s role in developing the concept of adolescence and the influence his ideas had on advocates of the juvenile court.  
Page: 13
6. Students should note Lindsey’s role in taking up the cause of the juvenile court movement across the United States and in Canada.  
Page: 13
7. Students should note that his account can be criticized first, for failing to take into account underlying changes in the social and economic structure of American society, along the lines done by Anthony Platt, and secondly, for ignoring the cross-fertilization of ideas on juvenile justice that occurred between the United States and other countries.  
Page: 13
8. Students should note how Tanenhaus moves beyond the work of Rothman and other American juvenile justice historians by focusing more attention on “the actual working of juvenile courts in the early twentieth century.”  
Pages: 13-14
9. Students should describe the essential elements of his cyclical theory and show how he identified the creation of the Chicago Juvenile Court as another stage in the historical cycle of reform.  
Pages: 14-15
10. Students should explain how taking into account the international dynamic of juvenile justice reform, as shown in the chapter in examining major Western countries in the late nineteenth and early twentieth centuries, helps one develop a more nuanced understanding of historical and contemporary trends in youth justice.  
Pages: 16-17
11. It helps to illustrate the diversity that characterizes the history and evolution of juvenile justice systems, along with important commonalities in the development of juvenile justice systems across different Western countries.  
Pages: 16-18

12. Students should describe the gradual and incremental nature of developments in England and Wales compared with the speedier explicit adoption of the Chicago Juvenile Court model in France.  
Pages: 17-18
13. Students should describe Kelso's background as a newspaper reporter and his role as a key leader in the child-saving movement in Ontario in 1880s. They should also mention the instrumental role he played in the enactment of the Juvenile Delinquents Act of 1908.  
Pages: 18-20
14. There is no right or wrong answer for this question, but it should take into account historical evidence of Kelso's claim to be the creator of the Juvenile Delinquents Act, versus W.L. Scott's later claim that he drafted the legislation.  
Pages: 18-20
15. The change was introduced in 1924. The term was used to refer to offences that a youth could be found guilty of simply because he or she was underage.  
Pages: 20-21
16. Students should describe how lawyers were discouraged because they might undermine the informal and child-welfare oriented nature of juvenile court proceedings.  
Page: 20
17. Students should note how the use of indeterminate sentence was linked to the doctrine of *parens patriae*, which gave judges and corrections officials broad discretion in deciding when offenders should be released from custody.  
Page: 21
18. Students should describe how advocates viewed it as a long-overdue reform that finally introduced needed due process rights and safeguards, while critics viewed it as an unfortunate shift toward a more justice- and crime-control based child-blaming approach.  
Page: 21
19. Students should discuss how the Youth Criminal Justice Act (YCJA) introduced changes that made the Canadian youth justice system potentially more bifurcated.  
Page: 22
20. Adulteration refers to the dismantling of the separate system for youth and re-merging it with systems of justice for adults. This is problematic because this means young people accused of crimes are being treated more like adult offenders when they lack the maturity and full legal culpability for some sentencing principles (e.g. specific deterrence and denunciation).  
Page: 24
21. Students should describe how efforts at this type of prediction are complicated by factors such as the need to take into account comparable juvenile justice developments in other

countries, along with coinciding punishment trends in the adult criminal justice system.  
Page: 24

## Essay Questions

1. See pp. 7-8
2. See pp. 11-21
3. See pp. 11-21
4. See pp. 21-23
5. See pp. 11-21
6. See pp. 22-24