This book excerpt was created as part of a longer investigation into the history and current status of the juvenile justice system in the United States. The longer work was ghostwritten for a prominent lawyer and published by a reputable academic publisher.

Origins of America's Juvenile Justice System

To understand the evolution and current status of our juvenile justice system, it is essential to consider where the foundation of our structure of juvenile jurisprudence originated. Laws regarding children in the early years of the nation were heavily influenced by the common law of England. Therefore, some of the earliest laws relating to children in the United States can be found in English Poor Laws (Quigley, 1996). These laws, first passed by Parliament in 1535, coincided with the rise of the apprenticeship movement and the chancery courts, each of which had a significant impact on the developing system of justice pertaining to juveniles.

The Poor Laws created a system of overseers empowered to identify, regulate, and manage children who were neglected, truant, impoverished, or had no permanent place of residence. They focused on children who belonged to what was considered an inferior class within the broader community. The legal rights and protection of children was virtually non-existent. Children over the age of five were considered small adults with the same responsibilities and work obligations as their adult counterparts. The Elizabethan Poor Laws of 1601 expanded this system adding church wardens who, with the overseers, exercised considerable influence on the developing system of juvenile justice. They had the authority of the king to place poor or orphaned children in involuntary apprenticeships, workhouses, or almshouses (Rendleman, 1971). Conditions in these institutions were often harsh and abusive. Children were unable to learn trades and were simultaneously in close proximity to adults of questionable character, often with criminal histories.

Guided by the principle of *parens patriae*, meaning "parent of the nation", chancery courts in England and Wales exercised their jurisdiction over issues involving property, inheritance rights, and the welfare of orphans. Thus, the courts also had the right to place children in involuntary apprenticeships. Apprenticeships were already a well-established practice in England (Rendleman, 1971). Once placed, children were to be trained by a tradesman or "master" in a specific profession until they came of age (usually twenty-one). In exchange for their labor, children were to receive food, shelter, and clothing. However, there was no regulatory oversight or supervision (National Voice of Foster Parents, 2016). Often subjected to harsh and physically demanding conditions, children were viewed as a form of property or chattel with no legal protection or personal rights. These attitudes prevailed whether the children were orphans or natural born children of the home. Stubborn Child laws were passed in the Massachusetts Bay Colony in 1646 requiring children to obey their parents and moral discipline was rigidly enforced (Sutton, 1988). A 7-year-old child in Massachusetts in 1648 could be legally put to death for cursing at his parents (Bueche, 1999). Thus, these were ideas also held by the colonists.

Significant changes regarding the legal status of children finally began to emerge during the 1700s. Sir William Blackstone, one of England's most prominent lawyers, was among the first to legally define children's rights. Defying the concept of children as chattel, he outlined three duties parents owed to their children: maintenance, protection, and education (Blackstone, 1893).

In his *Commentaries on the Laws of England* published in the 1760s, he also identified two things required to hold a person accountable for a crime. These were first, a vicious will, and second, the committing of an unlawful act. The first of these requirements made it possible to define 'infants' as exempt from conviction because they were incapable of holding a vicious will. "Under seven years of age indeed an infant cannot be guilty of felony; for then a felonious discretion is almost an impossibility in nature; but at eight years old he may be guilty of felony" (Blackstone, 1893, 4:2). A felony refers to any kind of serious crime such as burglary, assault, kidnapping, or murder. Within his explanatory text, Blackstone makes the case that children 14 and older are generally capable of having a vicious will, but children between the ages of 7 and 14 would need to be decided on a case-by-case basis as this was when the capacity for vicious will developed. One child might be quite cunning at age 9 while another child doesn't reach the same level of thought until age 13. A child could be tried for a major crime if it could be proven he had the capacity to discern right from wrong. For example, a 10-year-old boy was convicted of murder and sentenced to death when it was proved he tried to hide the body, indicating he recognized guilt (Blackstone, 1893). Building from this work, Thomas Spence published *Rights of Infants* in 1796, one of the earliest assertions of the rights of children in English law.

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