
Conduct disorders in childhood and adolescence



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CAMBRIDGE
UNIVERSITY PRESS

PUBLISHED BY THE PRESS SYNDICATE OF THE UNIVERSITY OF CAMBRIDGE

The Pitt Building, Trumpington Street, Cambridge, United Kingdom

CAMBRIDGE UNIVERSITY PRESS

The Edinburgh Building, Cambridge CB2 2RU, UK

40 West 20th Street, New York, NY 10011-4211, USA

10 Stamford Road, Oakleigh, VIC 3166, Australia

Ruiz de Alarcón 13, 28014 Madrid, Spain

Dock House, The Waterfront, Cape Town 8001, South Africa

<http://www.cambridge.org>

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First published 2001

Printed in the United Kingdom at the University Press, Cambridge

Dante MT 11/14pt [vN]

A catalogue record for this book is available from the British Library

Library of Congress Cataloguing in Publication data

Conduct disorders in childhood and adolescence / edited by Jonathan Hill and Barbara Maughan.

p. cm. – (Cambridge child and adolescent psychiatry)

Includes index.

ISBN 0 521 78639 8 (pb)

1. Conduct disorders in children. 2. Conduct disorders in adolescence. I. Hill, Jonathan, Prof. II. Maughan, Barbara, 1946–. III. Cambridge child and adolescent psychiatry series

[DNLM: 1. Conduct Disorder – Adolescence. 2. Conduct Disorder – Child. WS 350.6 C7468 2000]

RJ499.C615 2000

618.92'89 – dc21 99-057084

ISBN 0 521 78639 8 paperback

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Contents

List of contributors	<i>page</i> vii
Preface	xi
Jonathan Hill and Barbara Maughan	
1 Bad behaviour: an historical perspective on disorders of conduct	1
E. Jane Costello and Adrian Angold	
2 Can the study of ‘normal’ behaviour contribute to an understanding of conduct disorder?	32
Robert A. Hinde	
3 The development of children’s conflict and prosocial behaviour: lessons from research on social understanding and gender	49
Judy Dunn	
4 Neural mechanisms underlying aggressive behaviour	67
Joe Herbert and Manuela Martinez	
5 Biosocial influences on antisocial behaviours in childhood and adolescence	103
Jonathan Hill	
6 The epidemiology of disorders of conduct: nosological issues and comorbidity	126
Adrian Angold and E. Jane Costello	
7 Conduct disorder in context	169
Barbara Maughan	
8 Genetic influences on conduct disorder	202
Emily Simonoff	

9	The role of neuropsychological deficits in conduct disorders Donald R. Lynam and Bill Henry	235
10	A reinforcement model of conduct problems in children and adolescents: advances in theory and intervention Jeff Kiesner, Thomas J. Dishion and François Poulin	264
11	Perceptual and attributional processes in aggression and conduct problems Gregory S. Pettit, Jodi A. Polaha and Jacquelyn Mize	292
12	Attachment and conduct disorder Michelle DeKlyen and Matthew L. Speltz	320
13	Friends, friendships and conduct disorders Frank Vitaro, Richard E. Tremblay and William M. Bukowski	346
14	Continuities and discontinuities of development, with particular empha- sis on emotional and cognitive components of disruptive behaviour Rolf Loeber and John Coie	379
15	Treatment of conduct disorders Alan E. Kazdin	408
16	The prevention of conduct disorder: a review of successful and unsuccessful experiments David LeMarquand, Richard E. Tremblay and Frank Vitaro	449
17	Economic evaluation and conduct disorders Martin Knapp	478
18	Antisocial children grown up Barbara Maughan and Michael Rutter	507
19	Conduct disorder: future directions. An afterword Michael Rutter	553
	Index	573

Bad behaviour: an historical perspective on disorders of conduct

E. Jane Costello and Adrian Angold

Introduction

Conduct disorder is by many centuries the oldest of the diagnostic categories used in contemporary child psychiatry. Long before psychiatry and psychology were born, people agonized over what to do with out-of-control children. We are still agonizing. Furthermore, we are still agonizing about the same questions.

The questions that have troubled people over the centuries about out-of-control children fall into three overlapping groups:

Questions of the relationship between family and state in the control of children

Can the state control how parents treat children?

Can the state hold parents responsible for children's behaviour?

What are the state's responsibilities in the raising of children, including children whose families cannot control them?

Questions of the development of personal responsibility

What makes an action reprehensible? Is it the act itself, or the intention behind the act?

At what age or developmental stage should individuals be held accountable for their reprehensible actions? Is responsibility an all-or-nothing phenomenon, or is it graduated? Does personal responsibility vary with the nature of the act?

Is the same set of behaviours sanctionable at all ages, or are there 'status offences' that should only be punishable if committed by children?

Questions about the appropriate regulatory agencies for out-of-control children

In what circumstances are out-of-control children the responsibility of the family, the legal system, the religious system, the educational system, the social services system or the medical system?

What should be the relative roles of prevention, restitution, deterrence, and reform in the response of these agencies to out-of-control children?

In the first section of this chapter we take a rapid historical tour of how different societies have grappled with these questions. Over 3000 years and countless attempts to regulate human social behaviour, one can see five overlapping approaches to dealing with deviant children: the religious (deviance as sin), the legal (deviance as crime), the medical (deviance as sickness), the social (deviance as response to environment) and the educational (deviance as ignorance). Given limited space, we concentrate here on the first three of these approaches. We discuss how each has been used in attempts to answer the kinds of question listed above. Finally, we suggest another approach within which to consider conduct disorder: that of evolutionary psychology, which looks at the two major components of conduct disorder, deceit and aggression, in the light of the selection pressures operating on our species over the past few million years.

A note about terminology

In the words of August Aichhorn, the first person to apply psychoanalytic concepts and methods to out-of-control children: ‘A strict definition or delimitation of these groups is difficult because they tend to merge into each other, but you are familiar with these cases from everyday observation, in social work, in the child guidance clinic, in the Juvenile Court, and in similar contacts’ (Aichhorn, 1935, p. 4). In this chapter we have used a wide variety of terms to describe bad children – out-of-control, incorrigible, delinquent, deviant, vagrant, wayward, dissocial – depending on the historical period and context. A history specific to ‘conduct disorder’ would have to be confined to the past few decades, when this term has been adopted by the ICD and DSM taxonomies to cover a subset of out-of-control behaviours.

Relationship between family and state in the control of children

Early written records

Some of the earliest evidence about the control of undesirable behaviour, adult or child, presents a picture of the individual or family unit as the sole responsible agency, with little or no outside interference available or sought. For example, in the *Iliad*, written around 800 BC, when Agamemnon took Achilles’s favourite slave girl, Briseis, it was Achilles’s job to take action (by withdrawing from the battle against the Trojans) and to force Agamemnon to return her; although the elders tried to persuade Agamemnon to return the

3 An historical perspective

booty he took, they did not use force or invoke the law – there was no law governing such behaviour, and no agency to enforce punishment (Mackenzie, 1981). Even when public authority, vested in the ruler and, later, the state, took over responsibility for defining crime and punishing it, as we see happening under the legal codes of Draco and Solon in the seventh and sixth centuries BC, the family, in the person of the father, retained absolute power and responsibility in the raising of children.

However, leaving parents with power of life and death in bringing up their children does not mean that society did not have an interest in the results of that upbringing. From as far back as we have records, humans have been clear that parents who bring their children up badly are putting society at risk. For example, in the sixth century BC in India the Buddha described meeting a group of young men who were ‘quick tempered, rough, greedy’. He commented that their families and friends had given them sweetmeats and always petted them, with the result that they went about ‘plundering and eating; they slapped the women and girls of the clan on the back’ (*Anguttara-Nikaya*, III: 63). It is clear that the Buddha held parents responsible for training their children in right behaviour.

They should restrain a child from vice, train him to a profession, contract a suitable marriage for him, and in due time hand over his inheritance. In return the child is conscious of maintaining the family tradition and thus not becoming a participant in committing crimes which will bring a bad name not only to him but to the entire family. *Sacred Books of the Buddhists*, IV, 181 (quoted in Ratnapala & Ward, 1993)

Within the Hebrew tradition, while the story of Abraham and Isaac reflects absolute parental power of life and death over a child, the book of *Deuteronomy*, written down around the seventh century BC, shows parents turning to the state for help in dealing with a child-rearing problem:

18. If a man have a stubborn and rebellious son, which will not obey the voice of his father, or the voice of his mother, and that, when they have chastened him, will not hearken unto them:
19. Then shall his father and his mother lay hold on him, and bring him out unto the elders of his city, and unto the gate of his place;
20. And they shall say unto the elders of his city, This our son is stubborn and rebellious, he will not obey our voice; he is a glutton, and a drunkard.
21. And all the men of his city shall stone him with stones, that he die: so shalt thou put evil away from you; and all Israel shall hear, and fear. (*Deuteronomy 21*, 18-21)

These texts from several continents, written down over 2000 years ago and probably reflecting much older traditions, exemplify three themes that reappear constantly over following centuries: that families have considerable

(even absolute) power over their children, but at the same time have responsibilities to them; that the rest of the population has expectations of how families should raise their children; and that the state will intervene to punish children if the parents fail in their child-rearing task.

The Anglo-American tradition

A tradition of joint responsibility of a 'kinship' for a crime committed by one person underpinned early English law. For example, a law from a seventh century AD codex states:

If any one steal, so that his wife and his children know it not, let him pay LX shillings as his wite (punishment). But if he steal with the knowledge of all his household, let them all go into slavery. A boy of X years may be privy to a theft. (Thorpe, 1840, p. 103)

Here the child of 10 is treated as an adult in sharing in the family's responsibility for the crime, even when the actual offence was committed by an adult. However, the attitude to the culpability of children appears to have shifted during the latter half of the first millennium AD. The tenth century AD laws of King Aethelstan state that a thief shall be released to his kinsmen so long as they pay *bohr* (security) for him, but that a child under 12 years of age shall not be taken up for theft, and 'no younger person should be slain than XV years, except he should make resistance or flee, and would not surrender himself', when he should be put in prison until redeemed by his kinsmen (Thorpe, 1840).

As the state began to impose punishments directly on the culprit, rather than relying on the kinship system to control behaviour, it was forced to deal with delinquent children directly.

Not all of the legislation applied to conduct disorder or delinquency as we think of it today. For example, a great deal of medieval legislation affecting children's behaviour aimed at enforcing a master's control over his apprentices; most of these cases seem to have been dealt with by arbitration rather than formal court proceedings. We also find reports of children accused of heresy and witchcraft, and in these cases youth appears to have been no defence: for example, as late as 1716 an 11-year-old girl, Elizabeth Hicks, was executed for witchcraft. But many young people were arraigned for out-of-control behaviour as we think of it today, and the courts had to decide how to deal with them. In the process, they had to deal with the problem of whom to hold responsible for a crime.

The development of personal responsibility

Plato, responsibility and culpability

The Platonic tradition that forms one of the threads of western attitudes to morality offers one of the earliest, and still one of the most sophisticated, analyses of the relationship between harmful actions and the development of criminal responsibility. Where English law defines criminal responsibility in terms of culpable intention (*mens rea*), Plato makes a crucial distinction between responsibility and culpability. No-one does wrong willingly (*Laws, Book 9*); nevertheless, we are responsible for our own actions (*Gorgias 467*). Individuals, even small children, are responsible for any harm they do, and restitution is owed to the victim, even if the damage was unintentional or the perpetrator an infant. Culpability, however, is a different matter, and is a matter of disposition. In essence, Plato views the distinction between a good man and a criminal as one of disposition rather than of action. He identifies three sources of criminal disposition: crime as ignorance (e.g. *Republic*); crime as psychic disorder or disorganization (*Laws*), and crime as disease (*Timaeus*). However, he does not imply that the criminal intends or wants to do wrong; rather, the criminal acts in ignorance of his own best interests and therefore against his true desires (Mackenzie, 1981). Rather than demanding retribution, the law's response should therefore have as its focus (1) establishing appropriate restitution for the harm done and (2) changing the criminal's disposition through education and conditioning (*Laws*).

Plato's view of delinquent behaviour is reflected in the history of attempts to deal with childhood conduct disorder, which shows repeated efforts to move away from punishment toward responding to childhood deviance as the manifestation of a faulty disposition that needs to be taught, guided or treated. Attempts to deal with the problem of childhood deviance as 'ignorance' to be ameliorated through education can be found from at least the sixteenth century on. Plato's suggestion that crime is caused by psychic disorder is reflected in attempts through the centuries to use moral codes, especially religious ones, to direct children toward good behaviour. His analogy between disease and deviance is also a theme that runs through the history of conduct disorder, particularly in the past century, as medicine and psychology have tried their hand at treating it. It is interesting that just as Plato leaves unanswered the question of which model or metaphor for deviance he finds most compelling, so we still vacillate among religious, legal, educational and psychiatric models of the origins and treatment of childhood misconduct.

The law and criminal responsibility

Plato's distinction between responsibility and culpability has not taken firm hold in the Anglo-American legal tradition, which still wrestles, as it has for centuries, with the question: At what age or developmental stage are people to be held responsible for their behaviour? We can see people struggling with this problem in a contemporary account of the court of Henry VIII:

This year, the 29th of January (1537/8) was arraigned at Westminster in the afternoon a boy of Mr. Culpepers, Gentleman of the Kings Privie Chamber, which had stolen his masters purse and £11 of money, with a jewel of the Kings which was in the same purse, and there condemned to death; but the morrow after when he was brought to the place of execution . . . and that the hangman was taking the ladder from the gallows, the Kinge sent his pardon for the sayde boy, and so he was saved from death, to the great comfort of all the people there present. (*Charles Wriothesley, Hamilton, 1894, p. 73*)

The interesting point here is that, while no-one protested the justice of punishing the boy, and there is no evidence that he was not held responsible for the theft, yet his pardon was 'to the great comfort of all the people there present'. As we saw, tenth century law exempted children younger than 12 from punishment for theft, and those under 15 from capital punishment, even when it was clear that they had committed an illegal act, so long as they did not compound the crime. Over the centuries we can see a struggle in legal thought to justify this tendency toward mercy for young criminals. It is a struggle that forced writers to grapple with basic philosophical principles of the law as it deals with the nature of human responsibility.

Sir Edward Coke, the attorney general at the end of the sixteenth century, was of the view that until the age of 14 a child should not be punished as an adult, on the grounds that *actus non fecit reum, nisi mens sit rea*: the deed did not make the person culpable, unless the intention were culpable, and a child was *non compos mentis*, and therefore not culpable (Thomas, 1826). In the same period a guide for Justices of the Peace stated that anyone aged 8 or above who committed homicide should be hanged for it 'if it may appeare (by hyding of the person slaine, by excusing it, or by any other act) that he had knowledge of good and eville, and of the perill and danger of that offence . . . But an infant of such tender years, as that he hath no discretion or intelligence, if he kill a man, this is no felony in him' (Brydall, 1635). If, on the other hand, a young person murdered someone to whom they owed 'faith, duties, and obedience', such as a parent or a master or mistress, this crime of 'Petie Treason' was more culpable than ordinary murder 'in respect of the duties of nature violated', and was punishable by being drawn and hanged (boys) or burned alive (girls)

(Brydall, 1635). This theme, that the law treats children sometimes less severely, sometime more severely than adults, will appear again in our review. In general, though, Justices were advised to class children under 14 with ‘natural fools, . . . an Ideot, Lunaticke, dumbe and deafe person . . .’ in being *non compos mentis* unless shown otherwise (Brydall, 1635) Another widely cited reason why children should not be punished like adults was that the purpose of punishment was to deter others from similar offences. But, it was argued, madmen, or children below the age of discretion, cannot be deterred by example, and so such punishments are futile (Brydall, 1635).

Thinking about juvenile responsibility had not changed much by the middle of the nineteenth century, when Sir William Blackstone, in his *Commentaries on the Laws of England*, wrote:

Infants, under the age of discretion, ought not to be punished by any criminal prosecution whatever. What the age of discretion is, in various nations, is a matter of some variety . . . by the law (of England), as it now stands, and has stood ever since the time of Edward the Third, the capacity of doing ill, or contracting guilt, is not so much measured by years and days, as by the strength of the delinquent’s understanding and judgment. For one lad of eleven years old may have as much cunning as another of fourteen; and in these cases our maxim is, that ‘*malitia supplet aetatem*’ (*malice adds years*). Under seven years of age, indeed, an infant cannot be guilty of felony, for then a felonious discretion is almost an impossibility in nature; . . . under fourteen, although an infant shall be *prima facie* adjudged to be *doli incapax* (*incapable of doing harm*), yet if it appear to the court and jury that he was *doli capax*, and could discern between good and evil, he may be convicted and suffer death . . . But in all such cases, the evidence of that malice which is to supply age, ought to be strong and clear beyond all doubt and contradiction. (Blackstone, 1857, Vol IV, p. 19)

How to establish ‘a felonious discretion’ was the problem. It is a complex concept, involving public consensus on what constitutes a felonious act, knowledge of the developmental stages of moral understanding, and a decision in the individual case about the stage of moral understanding reached by the child in question. Blackstone was clear that rough-and-ready guidelines about age as the standard of ‘felonious discretion’ must be adjusted to the individual case.

In summary, in response to the problem of personal responsibility, legal codes through the centuries have tried to lay down a satisfactory basis for what appears to be a universal tendency to want to treat children more leniently than adults committing the same action. Indeed, a revisionist explanation for why juvenile courts and reformatories were set up is the increasing use of the judicial power of ‘nullification’: judges were persistently refusing to pass sentence on clearly delinquent children because they shrank from committing

them to the adult penal system. A juvenile system was the only way to enforce consistent punishment (Parsloe, 1978).

The concept of culpable intent (*mens rea*) has been invoked to provide a decision rule, in conjunction with the developmental argument that children below a certain age or stage are not capable of acting with culpable intent. However, the problem of how to tell whether a child is acting culpably has not been solved satisfactorily. Rules of thumb, such as age, are widely applied. That this approach is unsatisfactory is shown every time children commit particularly heinous acts, and arouse a public demand that they be tried 'as adults'. The somewhat contradictory implication is that, while children may not be 'responsible' for committing minor offences, they must be held personally responsible for committing truly horrendous acts. The logic of this very human response is far from clear. Plato ruthlessly cut through the problem by removing intention from the field, and separating responsibility from culpability. We are all responsible for our actions, and should make restitution for harm done to others. However, culpability is a different issue, redefined in terms of ignorance, psychic disorder or disease, and treated through education, training or treatment. Before we address some of these approaches to conduct disorder in the third section of this chapter, we turn to another aspect of personal responsibility that has caused endless problems over the centuries: what to do about children who have not done anything that would bring them under the aegis of the law if they were adults, but who nevertheless create an offence to public order.

Vagrancy and status offences

Alongside legislation to deal with children who commit crimes, we find complaints about, and attempts to deal with, another group of out-of-control children: those who offend adults by their mere existence.

Public attitudes to child vagrants is conveyed in this account, typical of (if more poetic than) many official reports, written in 1849 for the Mayor of New York by the city's Chief of Police:

I deem it to be my duty to call the attention of your Honor to a deplorable and growing evil which exists amid this community . . . for which the laws and ordinances afford no adequate remedy. I allude to the constantly increasing numbers of vagrant, idle, and vicious children of both sexes, who infest our public thoroughfares, hotels, docks, etc. Children who are growing up in profligacy, only destined to a life of misery, shame, and crime, and ultimately to a felon's doom . . . to those whose business and habits do not permit them a searching scrutiny, the degrading and disgusting practices of these almost infants in the schools of vice, prostitution, and rowdyism, would certainly be beyond belief. The offspring of always careless, generally intemperate, and oftentimes im-

moral and dishonest parents, . . . a large proportion of these juvenile vagrants are in the daily practice of pilfering wherever opportunity offers, and begging where they cannot steal. In addition to which, the female portion of the youngest class, those who have only seen some eight to twelve summers, are addicted to immoralities of the most loathsome description . . . from this corrupt and festering fountain flows on a ceaseless stream to our lowest brothels – to the Penitentiary and the State Prison. (Matsell, 1850, p. 14)

The first administrative response to this group of children was to get them off the streets; the second, to dispatch them back to their own parish or to whomever the authorities could persuade to accept responsibility for them. The remainder of the children had then to be dealt with somehow, and created a problem to be struggled with by public and private agencies. The general consensus of the hundreds of plans, proposals and recommendations for dealing with these children published during this period was to treat them as criminals in the making: the literature of the period is full of proposals for reformatories, asylums, refuges, institutional training, penitentiaries, agricultural workhouses, compulsory emigration to the colonies, or transportation for life. In the words of one treatise, published in 1829:

The difficulty of dealing with the destitute children of the Metropolis consists not so much in providing a suitable punishment for the actually delinquent as in disposing of the multitudes against whom no offence can be proved. However much their waywardness and wretchedness may be deplored, and however strongly their incipient guilt may be suspected, still having committed no offence known to the law, they are not within cognizance of the civil power. Now it appears to us that it would be real humanity toward these unfortunate creatures to subject them to compulsory and perpetual exile from England. (Wade, 1829, p. 164)

The conflict between protecting children, and protecting the adult community from children, can be seen in hundreds of legal, sociological, and religious publications over the past 1000 years; the extent of progress that we have made toward resolving the conflict can be measured in the recent debate over Newt Gingrich's suggestion that more orphanages would be one solution to America's current crisis.

Regulatory agencies for out-of-control children: the last two centuries

As the nineteenth century progressed, we see a gradual movement toward making distinctions among the mad and the bad, and developing different institutions to house them: asylums for the profoundly retarded, orphanages for the parentless, workhouses for the destitute, reformatories for the delinquent. As a part of this process, the question of who could or should take

responsibility for the subgroup of delinquent or conduct disordered youth was the subject of intense debate. Accompanying the debate has come a plethora of professional bodies with an interest in explaining and treating childhood deviance from their own point of view. Until the middle of the nineteenth century almost no-one made a living out of delinquent youth; 150 years later they provide a livelihood for thousands of professionals. Different groups position themselves to 'own' different types of delinquents – girls, boys, substance abusing, violent, comorbid, sexually abusive, sexually abused – and to pass other varieties on to someone else. There is not space in this chapter to consider the different ideas of all the educators, social workers, psychologists, physicians, lawyers, clergy and other professionals who have their own views about the causes and treatment of deviance. Here we concentrate on two traditions that currently hold powerful sway over the way we dispose of out-of-control children: the law and psychiatry.

Conduct disorder as crime: the role of the law

The law affects the lives of deviant children in two ways: in a personal way, when the child is accused of contravening specific laws and faces the consequences, and in a general way, as legislation is passed that affects the treatment of children as a group, or more specifically the treatment of deviant youth.

As the agency of last resort, the law continues to play a central role in the definition and disposition of deviant children. While the current (DSM-IV) definition of conduct disorder refers to 'violations of social norms' or 'rules', in fact all the symptoms listed are or under some circumstances can be violations of law, when perpetrated by children (Table 1.1). Thus, stealing with or without confrontation, forced sex, use of a weapon, breaking in, vandalism, fire setting and cruelty to animals are all illegal for both children and adults, while cruelty to people, fighting and lying may be, depending on severity and circumstances. Running away and truancy fall into the category of status offences: behaviours that are not illegal for adults but can in many parts of the United States be grounds for arrest and court proceedings. In some States, girls can come to the attention of the law by behaviour deemed sexually promiscuous (not counted toward DSM Conduct Disorder), while there is a range of behaviours that are legal for adults but not for children, notably alcohol and tobacco use, and driving motor vehicles. Thus, the law defines as deviant not only children who break the laws set for adults, but also those who break any of a separate set of rules for the behaviour of children.

In the past two centuries the courts have moved backward and forward between treating children like adults and treating them differently, in the

Table 1.1. Behaviours included in DSM-IV Conduct Disorder

<i>Aggression to people and animals</i>	<i>Deceitfulness or theft</i>
Bullies, threatens, intimidates	Breaking in
Initiates physical fights	Conning
Use of a weapon	Stealing without confrontation
Physically cruel to people	<i>Serious violation of rules</i>
Physically cruel to animals	Staying out at night
Stealing with confrontation	Running away from home
Forced sexual activity	Truancy from school
<i>Destruction of property</i>	
Deliberate fire-setting	
Deliberate destruction of property	

attempt to prevent them from becoming ‘career criminals’. The law has been concerned with two main aspects of the treatment of deviant youth: how to treat them at the trial stage, and how to deal with those found guilty. Around the turn of the century, there were major efforts around the English-speaking world to get children out of the regular courts and into courts run specifically to deal with minors. A separate juvenile court was set up in Adelaide, Australia, in 1890, and at about the same time in England (in Birmingham). A juvenile court system was formally mandated in England and Wales through an Act of Parliament passed in 1908. In the United States, Massachusetts required separate hearings for children’s cases in the 1870s, but the court in other respects resembled the adult court system. Illinois opened a juvenile court in 1899, and by 1925 every State but Maine and Wyoming had juvenile courts, and every State except Wyoming had a system for juvenile probation (Schlossman, 1977).

More important than the creation of separate physical and organizational entities was the decision to implement a different system of legal proceedings in many of these courts; a system that was more sensitive to children’s developmental stage, and more focused on prevention and rehabilitation than on punishment. All of the American States except for New York adopted this ‘socialized’ model; juvenile courts dealt with youth under the civil rather than the criminal code. England and Wales dealt with juveniles at special sittings of magistrates’ courts, with both criminal and civil (but not chancery) jurisdiction. These courts dealt with all offences committed by 7–16-year-olds except murder. In criminal cases either the child or the court could opt for trial by jury, when the case would move to the regular criminal court. The magistrates’ courts also dealt with destitute and neglected, out-of-control children.

The differences between the juvenile courts and the adult model are interesting for the light they throw on the legal system's view of young deviants. In some ways children are less protected than adults: rules of search and seizure are less stringent; children may not have the right to trial by jury; rules of evidence are often more casual, and sentencing can be out of proportion to the sentence for the same offence committed by an adult, as in the case of 15-year-old Gerald Gault of Arizona, who in the 1960s was sentenced to six years in a State reformatory for making an obscene telephone call. On the other hand, children's identities are more stringently protected, and in most jurisdictions the record is sealed when the age of majority is reached. Children do not need to find bail, but can be released into the custody of their parents. Probation officers or other court officials play a big role in juvenile cases, devoting considerable efforts to diverting or adjudicating a case so that it never comes to trial.

Parens patriae

The treatment of out-of-control children in England and the United States has been heavily influenced by the common law concept of *parens patriae*, the interest that the state has in the welfare of the individual. *Parens patriae* is a doctrine with its origins in civil law dealing with issues of equity, and is, in the words of the historian Steven Schlossman, 'a doctrine of nebulous origin and meaning . . . (which) sanctioned the right of the Crown to intervene or supplant natural family relations whenever the child's welfare was threatened. Applied at first only where the property of well-to-do minors was at issue, a broader construction of the doctrine gradually became common. During the nineteenth century every American state affirmed its right to stand as guardian or superparent of all minors as part of its legal inheritance from Great Britain' (Schlossman, 1983, p. 962). Under this principle the State has a responsibility both to individual children, who must be protected even, if necessary, from their own parents, and to the community, which must be protected from the damage caused by individuals. An important corollary of this history is that the juvenile courts opened in the United States took their inspiration from civil, rather than criminal law; in Schlossman's words 'The juvenile court, as described by its founders, was to be as much a school as a court – a new branch of public education for errant children and negligent parents' (Schlossman, 1983, p. 962).

Critics throughout the history of the juvenile court movement, in both Britain and the United States, have argued about the 'social' versus 'legal' approach to delinquent youth. One side rejects the notion that juvenile offen-

ders should be treated differently from others who have committed a similar offence: it is the offence that should be punished, not the person. The other side objects to the role of the state, under *parens patriae*, as an intermediary between the child and the family. They see it as a threat to parental rights, while often doubting the competence of the state either to judge when it should intervene or to provide an effective alternative to family management of childhood problems. A more extreme group sees the exercise of *parens patriae* as a plot to impose social control over all the nation's children (*New American*, 1996, Does the State own your child? American Opinion Publishing, Incorporated).

Many critics of the legal system's response to deviant children would argue that the similarities between its treatment of adults and children are still much too great, while the differences are the wrong ones. Thus, they find fault with extending the adversarial approach typical of Anglo-American law to cases involving children (King & Piper, 1995), arguing that a different style of proceedings, modelled more on the European fact-finding than the English adversarial approach, makes more sense for children. Others argue that the battle over *parens patriae* is being fought over the wrong issue; the critical issue is not whether the parents or the State have the greater right to control the child's behaviour, but rather the relative weight of the two purposes of *parens patriae*: help for the individual child versus social defence for the public. Historically, the second has taken precedence (Faust & Brantingham, 1974). However, in the past 30 years efforts have been made to enforce the supremacy of the first, under the general principle of there being a legal right to treatment. Pressure to enforce the right to treatment principle implicit in *parens patriae* is increasingly bringing the legal and medical approaches to child deviance into contact, and in the process raising questions about the validity and legal status of both the 'treatment' model and current legal practice. For example, if imprisonment is shown to increase the likelihood of recidivism, does the State have a responsibility to force sentencing reforms that run counter to the prevailing code of law, on the grounds that they would be better for children? On the other hand, does a court have the right to require a course of treatment for which there is no scientifically established benefit? (King & Piper, 1995).

Rehabilitation versus punishment

As the nineteenth century progressed, juvenile law reformers were influenced not only by rudimentary research on the later careers of convicted children, but also by the contagion theories that were having such a dramatic effect upon public health (Gerry, 1892). One response was to segregate children from adults, both before and after conviction. In the first decades of the century,

when convicted criminals often spent months or years in the 'hulks' (old warships used as floating prisons) awaiting transportation, a separate hulk, the *Euryalus*, was set aside for boys. This 'simply created a floating gaol even more verminous and vice-ridden than its adult counterparts' (Harris & Webb, 1987, p. 11). In 1837 a separate 'training prison' for boys aged 9 to 19 was opened at Parkhurst, on the Isle of Wight; the aim was not to provide a substitute for imprisonment but to 'train' boys before transporting them to the colonies. The experiment ended 26 years later amid a public outcry against its brutality and corruption. England passed the Reformatory School Act in 1854, which encouraged (but did not require) the establishment of separate institutions for criminal children, but the Act mandated a 10–21 day prison sentence in a regular prison before removal to a Reformatory School, and a 2–6 year committal. It was not until 1899 that a child could be sent straight to a Reformatory School. Here again, we find children treated in some ways more generously than adults, with requirements for their education and health care carefully specified, while in other ways they forfeited some basic rights of the adult criminal, such as the right to a fixed term of sentencing or clear-cut rights of probation and appeal. In some cases, as in the provisions made in New York and other large cities to apprentice criminal children to farmers in the mid-West, a child could be 'sentenced' until the age of 18 (girls) or 21 (boys). Schemes that sent English delinquents to the colonies could be seen as a form of life sentence.

Conduct disorder as sickness: the role of medicine and psychiatry

At the same time that legal and social reformers were arguing over whether deviant children needed punishment or treatment, the medical professions were developing distinctions among children with different kinds of behavioural problems. The first distinction that emerged was between 'imbeciles' and 'lunatics'; between children showing developmental delays and those whose cognitive development was normal but who showed serious emotional or behavioural problems. James Prichard (1786–1848), a physician, wrote that 'idiotism and imbecility are observed in childhood, but insanity, properly so termed, is rare before the age of puberty' (Prichard, 1837, p. 127). Following Pinel, the French psychiatrist who had first described 'madness without delirium', Prichard distinguished moral insanity from, on the one hand, 'mania, or raving madness . . . in which the mind is totally deranged' (p. 16), and which he attributed to physical causes such as convulsions, and, on the other hand, imbecility or mental retardation. Prichard used the word 'moral' in its eighteenth-century sense of pertaining to personality or character. Henry Maudsley, writing 30 years later, used the term in its nineteenth-century sense, referring to

ethics and norms. He distinguished between instinctive insanity, which was ‘an aberration and exaggeration of instincts and passions’, moral insanity, which was a defect of the moral qualities along a dimension of ‘viciousness to those extreme manifestations which pass far beyond what anyone would call wickedness’ (p. 289), and moral imbecility, diagnosed by the ‘total defect of moral faculties from birth and always associated with violent, mischievous and criminal acts’ (von Gontard, 1988). Drawing on the new knowledge about evolution, Maudsley argued that the moral qualities are the most vulnerable to disease of all human mental capabilities, because they are located in the cerebral cortex, evolutionarily the most recently developed part of the brain; ‘the finest flowers of evolution, the finest function of mind to be affected at the beginning of mental derangement of the individual’ (Maudsley, 1883, p. 244).

The dominant causal theory of psychopathology in the second half of the nineteenth century was genetic: heredity and degeneration caused disease, which started with scarcely perceptible signs in early childhood, but took a progressive and irreversible course and would probably be transmitted to future generations if the affected individual were permitted to breed. Even when the proximal cause of insanity was a moral one, ‘. . . the different forms of insanity that occur in young children . . . are almost always traceable to nervous disease in the preceding generation’ (Maudsley, 1879, p. 68).

Typical of the views held by the medical profession in the mid-nineteenth century is a volume entitled *The Hereditary Nature of Crime*, published in 1870 by the Resident Surgeon of the General Prison for Scotland, J. B. Thomson (Thomson, 1870). His conclusion was that crime is so nearly allied to insanity as to be chiefly a psychological study, and that its hereditary and intractable nature offered little hope for curing young criminals, even with extensive early treatment; transportation was probably the best remedy, for the sake of society (the contagion model again).

This extremely gloomy view of the prospects for delinquent children set medicine and psychiatry apart from religion (except, perhaps, for the extremes of Calvinism), education, social work and the law, which had in common an incurable optimism about the possibilities of reform, by one means or another. This gap began to shrink toward the end of the century, with a new view introduced, paradoxically, by that most gloomy of psychiatric models: psychoanalysis.

Psychoanalysis and conduct disorder

Although Sigmund Freud himself accepted that individuals had innate or constitutional characteristics, he developed what his daughter, Anna Freud,

described as an 'etiologial formula of a sliding scale of internal and external influences: that there are people whose sexual constitution would not have led them into a neurosis if they had not had certain experiences, and these experiences would not have had a traumatic effect on them if their libido had been otherwise disposed' (S. Freud, 1916–17, p. 347, in A. Freud, 1965, p. 520). 'Hereditary factors depend for their pathogenic impact on the accidental influences with which they interact' (A. Freud, 1965, p. 138). Children whose libido 'disposed' them to pathology could be saved by the right environment, or therapy, or both. Thus, although even mild symptoms could be ominous, the course was not inevitable. In the words of Anna Freud:

This endeavor (psychoanalysis) also disposes effectively of the conception of dissociality as a nosological entity which is based on one specific cause, whether this is thought to be internal (such as 'mental deficiency' or 'moral insanity') or external (such as broken homes, parental discord, parental neglect, separations, etc.). As we abandon thinking in terms of specific causes of dissociality, we become able to think increasingly in terms of successful or unsuccessful transformations of the self-indulgent and asocial trends and attitudes which normally are part of the original nature of the child. This helps to construct developmental lines which lead to pathological results, although these are more complex, less well defined, and contain a wider range of possibilities than the lines of normal development. (A. Freud, 1965, pp. 166–167)

The application of psychoanalytic developmental principles to children with primarily behavioural problems can be seen in its clearest form in the work of August Aichhorn, a student of Sigmund Freud's and the author of 'Wayward Youth' (Aichhorn, 1935), a book based on a series of case histories of delinquent children collected in the first two decades of this century. Aichhorn, the son of a banker turned baker, grew up in Austria surrounded by his father's apprentices, and became first a teacher, then the director of an institution for delinquent youth, adviser to Vienna's Child Welfare Department, and then director of a child guidance clinic. The psychoanalytic view of delinquency held that, in Aichhorn's words, 'Every child is at first an asocial being in that he demands direct primitive instinctual satisfaction without regard for the world around him. This behaviour, normal for the young child, is considered asocial or dissocial in the adult' (Aichhorn, 1935, p. 4). Children were seen as inherently 'dissocial' and in need of training to help them to adjust to the demands of society. Training is only complete when 'suppression of instinctual wishes is transformed into an actual renunciation of these wishes' (Aichhorn, 1935, p. 5).

Thus in the psychoanalytic approach to deviant children that dominated the child guidance clinics of the United States for several decades, we see an integration of educational, religious and medical approaches to delinquency.

Aichhorn referred to the therapist's role as one of a 'remedial educator', taking over when standard educational methods have failed, working together with educators on the task of making the child 'fit for his place in society'. 'When symptoms of delinquency are not predominantly neurotically determined, pedagogical skill is important because of the necessity to regulate the child's environment . . . (but) in every case, the educator should consult a psychoanalytically trained physician so that disease will not be overlooked' (Aichhorn, 1935, p. 9). Neuroses demanding psychoanalytic therapy were present in some, but not all, cases, and where present needed treatment as part of what would nowadays be called 'multi-system therapy'.

Modern medicine and conduct disorder

In this section we discuss modern medicine's taxonomy, rather than its treatment of conduct disorder, which is dealt with elsewhere in this volume. Medicine has only recently included 'conduct disorder' as a disease category. The International Classification of Diseases first included disorders of the nervous system and sense organs in its fifth revision, published in 1938, and then only under a single three-digit code with four categories. The sixth revision (1948) was the first to contain a section on mental disorders, and the eighth revision, adopted in 1965, was the first to contain any categories referring specifically to disorders of conduct (see Table 1.2). ICD-9, published in both research (1977) and clinical (1978) formats (World Health Organization, 1978), greatly expanded the ICD-8 format for conduct disorder to include ten categories and one V-code (Table 1.2). ICD-10 (World Health Organization, 1992) reorganized the classification to bring it into closer alignment with the American Diagnostic and Statistical Manual (American Psychiatric Association, 1994), although it bears more relation to the 1987 edition (DSM-III-R) (American Psychiatric Association, 1987) than to the current, 1994, version (DSM-IV), which has many fewer categories.

In the United States, the first version of the Diagnostic and Statistical Manual to mention conduct disorder was the second edition (American Psychiatric Association, 1968), which created four categories. The next edition (American Psychiatric Association, 1980) split antisocial behaviour under two diagnostic labels: Oppositional and Conduct Disorders. Oppositional Disorder was re-labelled Oppositional Defiant Disorder in DSM-III-R and DSM-IV, and adopted by ICD-10. The main justification for doing this was evidence that age distinguished youth who had different clusters of symptoms. The symptoms that define Oppositional Defiant Disorder are those of 'negative, hostile, or defiant behaviour', while the symptoms specified for Conduct Disorder

Table 1.2. Diagnoses of behavioural disorders in DSM and ICD

DSM-II (1968)	307.1, 307.2 Transient situational disturbance of childhood or adolescence 308.4 Unsocialized aggressive reaction of childhood (or adolescence) 308.5 Group delinquent reaction of childhood (or adolescence) 316.3 Dyssocial behaviour
DSM-III (1980)	309.30 Adjustment reactions of childhood or adolescence with disturbance of conduct 309.40 Adjustment reactions of childhood or adolescence with disturbance of emotions and conduct 312.00 Conduct disorder, undersocialized, aggressive 312.10 Conduct disorder, undersocialized, nonaggressive 312.21 Conduct disorder, socialized, nonaggressive 312.23 Conduct disorder, socialized, aggressive 313.81 Oppositional disorder V71.02 Childhood or adolescent antisocial behaviour
DSM-III-R (1987)	309.30 Adjustment disorder with disturbance of conduct 309.40 Adjustment disorder with mixed disturbance of emotions and conduct 312 Conduct disorder: 312.00 Conduct disorder, solitary aggressive type 312.20 Conduct disorder, group type 312.90 Conduct disorder, undifferentiated type 313.81 Oppositional defiant disorder V71.02 Child or adolescent antisocial behaviour
DSM-IV (1994)	309.3 Adjustment disorder with disturbance of conduct 309.4 Adjustment disorder with mixed disturbance of emotions and conduct 312.8 Conduct disorder, childhood- or adolescent-onset type 313.81 Oppositional defiant disorder 312.9 Disruptive behaviour disorder NOS V71.02 Child or adolescent antisocial behaviour
ICD-8 (1969)	308 Behaviour disorders of childhood
ICD-9 (1977)	301.3 Aggressive personality reaction 301.7 Amoral personality, asocial personality, antisocial personality 309.3 Adjustment reaction with predominant disturbance of conduct 309.4 Adjustment reaction with mixed disturbance of emotions and conduct

Table 1.2. (cont.)

	312 Disturbance of conduct without specifiable personality disorder, Disturbance of conduct NOS
	312.0 Unsocialized disturbance of conduct
	312.1 Socialized disturbance of conduct
	312.2 Compulsive conduct disorder
	312.3 Mixed disturbance of conduct and emotions, neurotic delinquency
	314.2 Hyperkinetic conduct disorder
	V71.0 Dyssocial behaviour without manifest psychiatric disorder
ICD-10 (1992)	F90.1 Hyperkinetic conduct disorder
	F91 Conduct disorders:
	F91.0 Conduct disorder confined to the family context
	F91.9 Unsocialized conduct disorder
	F91.2 Socialized conduct disorder
	F91.3 Oppositional defiant disorder
	F91.8 Other conduct disorders
	F91.1 Conduct disorder, unspecified
	F92 Mixed disorders of conduct and emotion:
	F92.0 Depressive conduct disorder
	F92.8 Other mixed disorders of conduct and emotion
	F92.9 Mixed disorder of conduct and emotions, unspecified

concentrate on behaviours that violate ‘the basic rights of others or major age-appropriate societal norms or rules’.

Over the past 20 years the power and impact of this medical taxonomy has grown enormously, helped by, among other things, the availability of glossaries and volumes of casebooks, quick reference books, and other clinical aids, which have helped to standardize the use of descriptive terms; a multiaxial classification system collecting information on intellectual functioning and etiological factors; separate versions for clinical and research use; and in the United States by the growing influence of managed care, which increasingly limits those whom clinicians can treat to subcategories defined by the currently accepted taxonomy. In another chapter in this volume we discuss the effects of the current taxonomy on which children and adolescents are defined as conduct disordered. Here we would simply draw attention to one or two effects. First, by concentrating on rule-breaking as the defining characteristic of conduct disorder, the current taxonomy effectively excludes from consideration many girls who would have been identified as status offenders, vagrants,

wayward youth, morally diseased or any of the earlier classifications discussed here. Second, the definition concentrates on behaviours rather than the mental state or motivation driving the behaviour. Thus, the DSM–IV symptom list (Table 1.1) is divided into four classes of behaviour: aggression to people and animals, (deliberate) destruction of property, deceitfulness or theft, and serious violations of rules. The definitions and examples provided play down the problem of *mens rea*, or culpable intent, the concept that, in the early English legal system, was the criterion for punishing a child who had done something that would be punishable in an adult. Even more interestingly, the section on ‘associated features’ of DSM–IV Conduct Disorder contains the following:

Individuals with Conduct Disorder may have little empathy and little concern for the feelings, wishes, and well-being of others . . . They may be callous and lack appropriate feelings of guilt or remorse. It can be difficult to evaluate whether displayed remorse is genuine because the individuals learn that expressing guilt may reduce or prevent punishment. (American Psychiatric Association, 1994, p. 87)

Thus, in DSM–IV terminology a conduct-disordered child may be both guilty in the sense of having *mens rea*, culpable intent (as in, e.g. ‘deliberate destruction of others’ property’) and pathologically guiltless, in the sense of lacking remorse. In general, however, the current taxonomy comes down on the side of the law in defining the act as the focus of concern, rather than on the side of religion and psychoanalysis, which have focused on the state of mind in which the act was performed more than on the act itself. This is not to say that psychiatry is not concerned to change children’s attitudes and beliefs: clearly many forms of therapy are directed at this. We simply make the point that a newly arrived Martian reading DSM–IV on conduct disorder could be forgiven for wondering whether it was a codex for doctors or for lawyers.

Another approach looks at the distribution of human characteristics from a statistical or actuarial viewpoint. Relatively few aspects of biology, particularly of personality characteristics or traits, are categorical, and some people have to be at the extremes of any distribution. Extremes of aggression and cooperation, trust and deceit are likely to place individuals at higher risk of not fitting into social organizations in which most people can more easily select their behaviour from either end of the distribution. Even more risky is being at an extreme on more than one distribution: aggressive and deceitful (or unrealistically trusting and cooperative). However, such combinations are going to occur in the population with a certain probability, and there may not be much that society can do about it. The empirical question is whether these characteristics co-occur at a higher level than expected by chance, in which case one could