



Attendance/ DEV: “Do not remember the sins (*actus reas*) of my youth and my rebellious ways (*mens rea*); according to your love remember me, for you, Lord, are good” (Psalm 25:7, NIV).

READ: Chapter 2: The Juvenile Justice Historical Perspective (JJ)

Please **turn off cell phones**. Use **computers** are for **class work only**.

HW2: READ: <https://www.baltimoresun.com/maryland/bs-md-juvenile-justice-michael-20161218-story.html>

Discuss Michael’s case. Use concepts of AOR, and *mens rea* or *parens patriae*. What other options would you have pursued, and why? (150 words) - due 2/06

- Respond to another post (50 words) – due 2/07

Quiz on LP Plagiarism, CTD, APA – use your phone for Zoom, and your laptop to take the test

Lesson Goal: What are the sources of American law?

What is substantive/statutory law? – declares the substance/definition and severity of a crime.

What is regulatory law? – define/mandates *practices and standards* usually related to public safety.

What is procedural law? – define *the way* justice and fairness is carried out in *procedures*.

The Common Law tradition (Anglo-Saxon, 11-12th Century) – used *inductive reasoning*. The *inductive approach* uses previous/specific decisions to *form a general rule of legal reasoning*. Judges used previous rulings to generate legal principles to decide their cases.

What are the historic Anglo-American origins for protecting youth and vulnerable populations?

Chancery (equity) Courts (England 1400’s) – Courts set up by the King of England to address needy people and the children of needy families. These courts were authorized to take over the care of neglected children. The Kingship was considered “Father (parent) of the country” – *parens patriae*.

This moral obligation translated into government authority, “in place of the parents” – *in loco parentis*. This philosophy of government was passed on to the U.S. philosophy.

DEF: Parens patriae – “Parent of the Country” government’s established parenthood over all citizens (par-ens pa-tree-ee) Latin for "parent of his or her country." The power of the state to act as guardian for those who are unable to care for themselves, such as children or disabled individuals. For example, under this doctrine a judge may change custody, child support, or other rulings affecting a child's well-being, regardless of what the parents may have agreed to. (Legal Information Institute, 2020)

DEF: In loco parentis – “in the place of parents”

A Latin term meaning "in [the] place of a parent" or "instead of a parent." Refers to the legal responsibility of some person or organization to perform some of the functions or responsibilities of a parent. (Legal Information Institute, 2020)

The practice is especially important in cases where parents or guardians are/may be deemed *incompetent* to exercise legal judgment.

In the mid 1800’s **three major social developments** shaped the formation of governments and law.

1. **Immigration** – with the *steamship*, large amounts of immigrants arrive in port cities weekly.
2. **Industrialization** – families were moving off farms seeking a better life in factory work. These workers were untrained and usually poor; there were no labor laws to restrict hours or age.
3. **Urbanization** – young people leaving farms and young people and families arriving from other shores populated the port cities creating congested and unregulated centers for living.

As these social developments increased **law and regulations were put in place to control each**.

What were the first major social changes effecting youth and the American?

1900’s – Intellectualization of Education

The discussion of historical movements during the 1900's must always be seen against the backdrop of major issues the country faced: **1. Industrialization, 2. Immigration, and 3: Urbanization.**

These *three major shifts* in society represented positive change and at the same time brought serious challenges about "how to shape the future of America." It makes sense then, that education goals took the following form:

- Emphasis of "Americanization"
- Emphasis on English language as the sole medium of education
- The debate of testing and "tracking" students for vocational, academic, gender specializations
- Development of high school/adolescent education

How was the development of early education related to "American values?"

Horace Mann: Established education first in Massachusetts and considered by many to be the *father of public education*. The public education system by the 1860's mirrored *Prussia's* values and system.

John Dewey published *The School and Society* (1899), and *Democracy and Education* (1916) - proposing *social/child-centered education* (to be progressive, non-elite, all-encompassing). Education focused on moving the responsibility of training youth for *good moral citizenship* to the government and away from that role for the family and the church.

- Emphasized that lessons resulted in *productive citizens*
- Emphasis on *values, health, work, and play*
- Represented a common "parenting" role for society

Think: How is the development of public education related to the concept of *parens patriae*?

VIDEO: Brief History of Public Education for Children (3 parts)

These videos offer a great overview of the rationale and philosophies behind the system.

<http://www.youtube.com/watch?v=dcyudlHrZsQ> – 9:34 min.

<http://www.youtube.com/watch?v=xlZapeQucY4&NR=1&feature=endscreen> – 9:19 min.

https://www.youtube.com/watch?v=dLpx_qEoU8A – 9:22 min.

Recommended Movie: *Gangs of New York* (Stars: Leonardo DeCaprio, Cameron Diaz, Daniel Day Lewis)

The first legal use of the term *juvenile delinquent* in the United States: **1818**. The intent was to address this problematic group with *an application of due process separate from adult criminal justice*.

"Idle hands are the devil's playground" – Old Saying

What were the earliest U.S. strategies for dealing with growing juvenile delinquency?

New York House of Refuge (established 1825)

- Authorized as homes, which *contract students out as workers* for training (apprentices)

Chicago Reform School Act (passed in 1855)

- Schools are authorized as *industrial training schools* for youth removed from parents

References

Legal Information Institute (2020). *Definition of parens patriae*. New York: Cornell University. Retrieved from https://www.law.cornell.edu/wex/parens_patriae

---- (2020). *Definition of in loco parentis*. New York: Cornell University. Retrieved from https://www.law.cornell.edu/wex/parens_patriae