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ABSTRACT

THIS CONSULTANTS' PAPER EXPLORES THE PROBLEMS AND PROSPECTS OF THE JUVENILE COURT. SECTIONS COVER: (1) "THE CHANGING JUVENILE COURT," THE HISTORY OF THE JUVENILE COURT AND THE COURT IN THEORY AND IN PRACTICE, (2) "CHANGES IN THE JURISDICTION OF JUVENILE COURTS" INCLULING SUBJECT MATTER JURISDICTION AND AGE LIMITATIONS, (3) "LEGAL SERVICES IN THE JUVENILE COURT," (4) "DETENTION AND SHELTER," CRITERIA FOR USE AND RECOMMENDATIONS FOR THE FUTURE, (5) "INTAKE PROCESS IN THE JUVENILE COURT" DISCUSSING DISCRETIONARY INTAKE, LEGAL DIAGNOSIS, DIAGNOSTIC CLASSIFICATION FOR CASE HANDLING, INFORMAL ADJUSTMENT, AND REFERRAL FOR COURT ACTION, (6) "DISPOSITIONAL ALTERNATIVES," THE COURT'S ROLE IN ADMINISTERING PROGRAMS AND VARIOUS KINDS OF PROGRAMS AND SERVICES, (7) "THE PROBATION TEAM," (8) "MENTAL HEALTH SERVICES IN JUVENILE COURTS" A MODEL ORGANIZATION FOR A MENTAL HEALTH TEAM AND DISCUSSES TRAINING PERSONNEL, (9) "ADMINISTRATION OF THE JUVENILE COURT," THE ROLES OF THE CHIEF PROBATION OFFICER AND THE CHIEF CLERK AS WELL AS THAT OF A STATE ADMINISTRATOR OF JUVENILE COURTS, AND (10) "EVALUATION AND PLANNING," RECOMMENDING STUDY OF THE COURT AS A SYSTEM AND MORE ADVANCED RESEARCH PROGRAMS. (JK)

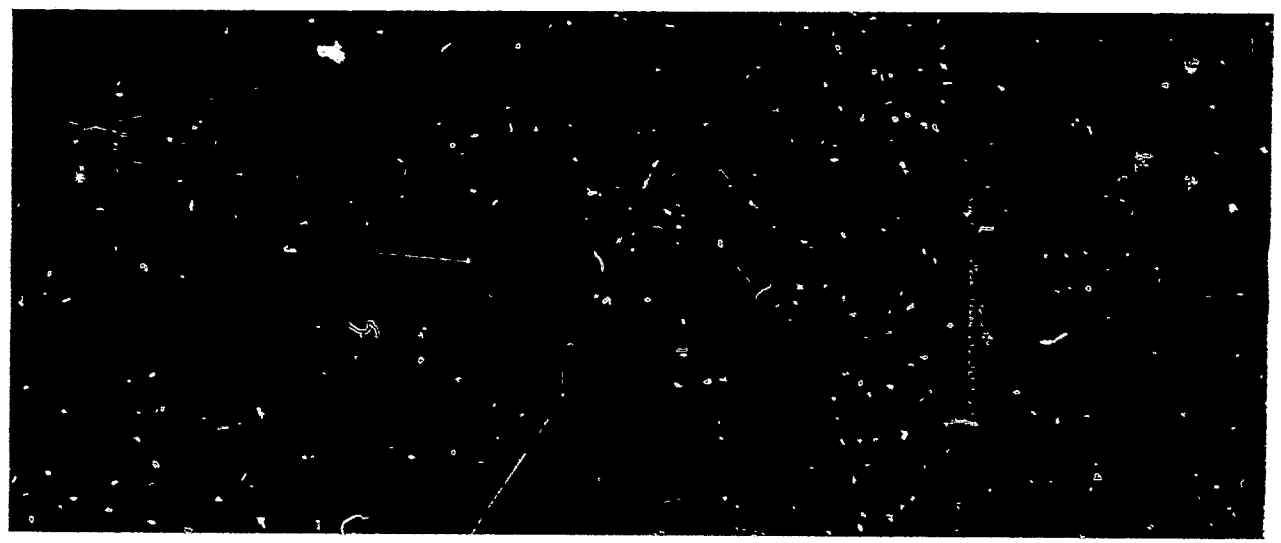
A JOINT COMMISSION ON CORRECTIONAL MANPOWER AND TRAINING CONSULTANTS' PAPER — JUNE 1968





# THE FUTURE OF THE JUVENILE COURT.

## IMPLICATIONS FOR CORRECTIONAL MANPOWER AND TRAINING



The Joint Commission on Correctional Manpower and Training, incorporated in the District of Columbia, consists of nearly a hundred national, international, and regional organizations and public agencies which have joined together to attack one of the serious social problems of our day: How to secure enough trained men and women to bring about the rehabilitation of offenders through our correctional systems and thus prevent further delinquency and crime.

Recognizing the importance of this problem, the Congress in 1965 passed the Correctional Rehabilitation Study Act, which authorizes the Vocational Rehabilitation Administration to make grants for a broad study of correctional manpower and training. The Joint Commission is funded under this Act and through grants from private foundations, organizations, and individuals.

Commission publications available:

*Differences That Make the Difference,* papers of a seminar on implications of cultural differences for corrections. August 1967, 64 pp. Second printing November 1967.

*Targets for In-Service Training,* papers of a seminar on in-service training. October 1967, 68 pp. Second printing November 1967.

*Research in Correctional Rehabilitation,* report of a seminar on research in correctional rehabilitation. December 1967. Second printing March 1968. 70 pp.

*The Public Looks at Crime and Corrections,* report of a public opinion survey. February 1968. Second printing March 1968. 28 pp.

*The Future of the Juvenile Court: Implications for Correctional Manpower and Training,* consultants' paper. June 1968, 67 pp.

# THE FUTURE OF THE JUVENILE COURT

## IMPLICATIONS FOR CORRECTIONAL MANPOWER AND TRAINING

Ted Rubin, Judge

and

Jack F. Smith, Referee

Juvenile Court of the
City and County of Denver



A consultants' paper prepared for the

**Joint Commission on Correctional Manpower and Training,**

1522 K Street, N.W. Washington, D. C. 20005

June 1968

# FOREWORD

The juvenile court in the United States has never been fully understood by most Americans. Difficulty stems in part from the fact that the juvenile court has correctional as well as judicial functions. In addition to ruling on offenses which juveniles are alleged to have committed, it provides services designed to rehabilitate the children brought before it.

Moreover, the juvenile court is undergoing profound changes which will have important implications for the education and training of its staff, of judges, and of lawyers who participate in the work of the court. For these reasons, the Joint Commission on Correctional Manpower and Training decided that a paper exploring the problems and prospects of the juvenile court would be useful to the courts, to corrections, and to the general public.

This is the first in a series of consultants' papers prepared at the request of the Joint Commission by persons outside its staff who have special expertise in certain areas. The positions taken represent the views of the authors and are not necessarily those of the Joint Commission.

The authors of this paper are Ted Rubin and Jack F. Smith, who are respectively judge and referee of the Denver Juvenile Court. Their training and experience has enabled them to chart the development of the court, to analyze the changes now taking place, and to outline the manpower and training implications of these changes.

The preface has been prepared by Judge William S. Fort, president of the National Council of Juvenile Court Judges. The manuscript was edited by Roma K. McNickle. Staff members of the Commission who worked with the authors in preparing this paper were Rudy Sanfilippo, Jo Wallach, and Edward T. Magoffin, Jr.

The Commission takes pleasure in presenting this consultants' paper, which should stimulate thinking about the court as well as inform those who are unfamiliar with its functions and operations. The Commission will welcome comments on the contents of the paper to assist it in formulating recommendations concerning manpower and training for corrections.

WILLIAM T. ADAMS
Associate Director
Joint Commission on Correctional
Manpower and Training

# PREFACE

This volume is the first consultants' paper to be published by the Joint Commission on Correctional Manpower and Training. It is entirely fitting that the Joint Commission should select the area of the Juvenile Court for its first publication in this series. There is no area of corrections today in which the shortage of trained staff is so clearly apparent across the nation as in the handling of juveniles, whether they be classified as delinquents, as persons in need of supervision, or as neglected or dependent children.

An important service therefore is performed by this paper in calling attention to the many areas of work with juveniles in which there is both great need and opportunity for adequately trained and dedicated personnel.

The American juvenile court is undergoing more significant changes today than at any previous period in its 70-year history. While some of these changes are procedural, all of them stem from the need pointed out by higher courts for a careful examination of the way in which the juvenile court has applied the principles on which it is based.

One basic principle is that the court should provide services to rehabilitate juveniles or see that such services are provided by some other agency. To do either, the court must have more and better-trained staff who can deal effectively with youngsters and the communities from which they come.

The National Council of Juvenile Court Judges has recognized the special training needs of new juvenile court judges, and it seeks to make such training more widely available. But no court can function well without good staff.

Therefore the Joint Commission on Correctional Manpower and Training has performed a real service in exploring the ways in which probation personnel and other court staff can be educated and trained so that they may assist the judge in making good decisions and take responsibility for carrying out those decisions. The authors of this paper have examined also ways in which trained staff can relieve the judge of administrative burdens and help evaluate the total work of the court.

The authors and the Joint Commission are to be congratulated upon their careful effort to focus attention on the many areas of this need and to offer practical guidelines as to directions in which juvenile courts may move in order to serve better the juveniles who come before them and the society of which they are a part.

WILLIAM S. FORT
Circuit Judge, Lane County, Oregon
President, National Council
of Juvenile Court Judges

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# I. THE CHANGING JUVENILE COURT

The juvenile court is an experiment that grew out of a long series of efforts to mitigate the harshness of the common law toward children. Reform efforts sought to modify the application of criminal court procedures and penalties to children, and to avoid mixing children with adult offenders in jails and prisons. Separation of children from adults was carried into the court process in limited form as early as 1861 in Chicago, and by the 1890's a handful of states had authorized special handling of children by the courts.

The first court especially for children was authorized by the Illinois legislature in 1899. Within 25 years, every state but two had authorized juvenile courts.

The rapid spread of the juvenile court was in effect a response of society to widespread conditions which created special difficulties for children. Mass immigration and rapid urbanization which followed industrialization produced slums where families were crowded into unsavory housing. On the streets children were exposed to vice and crime. The strong paternalism that had marked American and European family life gave way to disruption and loss of control over children. The juvenile court came to be seen as an effort to produce social justice by offsetting some of these conditions.

## The Juvenile Court in Theory

The basic philosophy of the juvenile court was that "erring children should be protected and rehabilitated rather than subjected to the harshness of the criminal system." [1] A noted juvenile court judge wrote in 1909:

> The problem for determination by the judge is not, Has this boy or girl committed a specific wrong, but What is he, how has he become what he is, and what had best be done in his interest and in the interest of the state to save him from a downward career? [2]

The judge was to be a "wise parent" rather than a stern arbiter of justice. The adversary system of criminal law, with its harsh confrontation of accuser and accused, was replaced by informal proceedings which usually did not include counsel. Hearings were not to be open to the public, and records were to be confidential.

Before the initial hearing took place, the juvenile's background was to be investigated. The methods of behavioral science were to be used to develop a social history and diagnosis of the child's problems and to form the basis for treatment that would result in his rehabilitation. Rehabilitation, not punishment, was to be the goal of the court. There-

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[1] President's Commission on Law Enforcement and Administration of Justice, *Task Force Report: Juvenile Delinquency and Youth Crime* (Washington: U.S. Government Printing Office, 1967), p. 1. Referred to hereinafter by subtitle.

[2] Julian Mack, "The Juvenile Court," *Harvard Law Review,* XXIII (1909), 104.

fore it had the responsibility to provide rehabilitative services or see that such services were provided.

Juvenile courts were – and are – concerned with children and adolescents up to the age of 16, 17, or 18, with exceptions as noted in the following chapter. They were to have jurisdiction over juveniles charged with offenses which would be misdemeanors or felonies if committed by an adult and also over those charged with offenses such as incorrigibility, truancy, and other matters which pertain only to children. In addition, the juvenile court in most jurisdictions handled cases of neglect and dependency.

## The Court in Practice

While only the most punitive-minded citizen could quarrel with the basic theory of the juvenile court, it has gradually become apparent that the court has not lived up to its promise. All too often, not enough trained staff have been available to make useful investigations. Children have been subjected to hurried and arbitrary hearings. Cursory supervision on probation has been an inadequate device for competition with pathological families and pathological environments. Welfare agencies have tended to shy away from giving services to delinquents. To counter this reluctance, many courts have set up their own programs, which have often been underfunded, inadequately supervised, short-lived, and consequently ineffective.

Because of inadequate court services and the lack of placement possibilities for troubled children, many juvenile court judges have taken the easy way out and committed increasing numbers of children to even more inadequate state "reform schools." As they have been poured into these schools, a revolving-door policy of parole has developed. Children have been released to the community no better prepared for the future than when they were removed from the community. They have received little or no supervision after release.

Students of the juvenile court have become extremely critical of its operation. It was recently observed, for example, that "any close look at the facilities and alternative dispositions actually available to the juvenile court makes it clear that the promise of the court has gone largely unfulfilled." In most jurisdictions, "these facilities are so underdeveloped and understaffed that one cannot speak of them as in any sense the equivalent of parental care and protection." Hence, these authors maintain, "there is serious question today whether intervention by a juvenile court is of substantial benefit to the future of a juvenile (as contrasted to protecting the public interest)." [3]

Further criticism stems from the fact that many juvenile court statutes give judges extremely broad powers over children's lives. Many

[3] Stanton Wheeler, Leonard S. Cottrell, Jr., and Anne Romasco, "Juvenile Delinquency – Its Prevention and Control" in *Juvenile Delinquency and Youth Crime*, pp. 420-421.

courts have had no set procedures. On those occasions when lawyers represented children, the paternalistic power of the judge and the lack of procedures often left counsel with no power to defend the client or to challenge a ruling of the bench.

In recent years social scientists and lawyers alike have been concerned over the effect of the juvenile court's informal procedures. The President's Commission on Law Enforcement and Administration of Justice in 1967, pointed out that there is

> . . . increasing evidence that the informal procedures, contrary to the original expectation, may themselves constitute a further obstacle to effective treatment of the delinquent to the extent that they engender in the child a sense of injustice provoked by seemingly all-powerful and challengeless exercise of authority by judges and probation officers.[4]

Individuals and organizations interested in civil liberties – notably the American Civil Liberties Union – have begun to press for procedural safeguards to assure fairness in children's cases. These efforts have resulted in two landmark decisions by the U. S. Supreme Court. In a 1966 case, the Court thus summarized trends in juvenile courts across the country:

> While there can be no doubt of the original laudable purpose of juvenile courts, studies and critiques in recent years raise serious questions as to whether actual performance measures well enough against theoretical purpose to make tolerable the immunity of the process from the reach of constitutional guaranties applicable to adults. There is much evidence that some juvenile courts . . . lack the personnel, facilities and techniques to perform adequately as representatives of the State in a *parens patriae* capacity, at least with respect to children charged with law violations. *There is evidence, in fact, that there may be grounds for concern that the child receives the worst of both worlds: that he gets neither the protections accorded to adults nor the solicitous care and regenerative treatment postulated for children.*[5]

In 1967, the Court held that the juvenile code of the State of Arizona deprived allegedly delinquent children of the procedural safeguards guaranteed by the due process clause of the Fourteenth Amendment. The Court held that due process guaranties apply to all children alleged to be delinquent: the right to adequate notice of charges; the right to representation by a lawyer, either retained or appointed by the court; the right to confrontation and cross-examination of witnesses; and the right

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[4] President's Commission on Law Enforcement and Administration of Justice, *The Challenge of Crime in a Free Society* (Washington: U.S. Government Printing Office, 1967), p. 85.

[5] *Kent v. United States,* 383 U.S. 541 (1966) at 555-556. Emphasis supplied in last sentence.

to be advised of the privilege against self-incrimination.[6] Thus the Supreme Court has set certain minimum standards which apply to procedure in *all* juvenile courts in the United States and has indicated a willingness to review further cases.

## The Future of the Juvenile Court

It seems clear that marked changes will take place in American juvenile courts in the years immediately ahead. This paper is an attempt to indicate the dimensions of those changes and their implications for manpower and training of juvenile court judges and staff and the lawyers who will represent an increasing number of clients in juvenile courts.

Chapters II and III deal with jurisdictional changes and the probable increase in legal services in juvenile courts. Chapters IV, V, and VI deal with detention of juveniles, the intake process, and dispositional alternatives. Chapter VII presents several new concepts of probation operations in the juvenile court. The need for mental health services and a plan for providing them to juveniles are discussed in Chapter VIII. Chapter IX describes administrative mechanisms of the juvenile court. In Chapter X are discussed the potentials and essentials of systems analysis and court-based research for evaluation and planning of programs in the juvenile courts of the future.

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[6] *In re Gault*, 387 U.S. 1 (1967). Gault, a 15-year-old boy charged with making an obscene telephone call, had been committed to a state juvenile institution, where he might have been kept until he became 21. If he had been 18 at the time of the offense, the maximum punishment would have been a fine of $5 to $50 or imprisonment in jail for not more than two months.

## II. CHANGES IN THE JURISDICTION OF JUVENILE COURTS

In order to act in any given case, a court must have power, or jurisdiction, over both the person and the subject matter involved. That is, the jurisdiction must cover both *who* may be brought before the court and *why* he is brought. The laws which created the juvenile courts now operating in the United States vary in regard to both the persons and the subject matter over which these courts have been given jurisdiction. Thus it is far from uniform. This chapter, however, is designed not to compare jurisdiction state by state but to indicate the broad areas in which change has recently taken place and those where change appears likely.

### Subject-Matter Jurisdiction

As noted in Chapter I, juvenile courts generally have jurisdiction over delinquency (including both violations of criminal law by children and violations of laws which pertain only to children), dependency, and neglect by parents or other legally responsible persons. Some juvenile courts are authorized to deal with other types of actions involving children, such as adoption, appointment of guardian, non-support, and contributing to the delinquency or neglect of a minor.[1]

It will be seen that the juvenile court has extremely broad subject-matter jurisdiction. Indeed, this is one of the basic criticisms now leveled against it. Several states have revised their laws to restrict significantly the court's jurisdictional base. The President's Commission on Law Enforcement and Administration of Justice (often referred to as the President's Crime Commission) recommended that this "movement for narrowing the juvenile court's jurisdiction should be continued." [2] The Commission's task force on juvenile delinquency made the recommendation more specific:

> The range of conduct for which court intervention is authorized should be *narrowed,* with greater emphasis upon *consentual and informal means* of meeting the problems of difficult children.[3]

If this proposal is implemented in future juvenile court legislation — as seems probable — then each of the major areas of subject-matter jurisdiction will be affected.

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[1] In states where family courts handle juvenile matters, they may have jurisdiction over divorce and its many ramifications, assaults within the family, and other acts growing out of familial strife.

[2] President's Commission on Law Enforcement and Administration of Justice, *The Challenge of Crime in a Free Society* (Washington: U.S. Government Printing Office, 1967), p. 85. Publication referred to hereinafter by title only.

[3] President's Commission on Law Enforcement and Administration of Justice, *Task Force Report: Juvenile Delinquency and Youth Crime* (Washington: U.S. Government Printing Office, 1967), p. 2. (Emphasis supplied.) Publication referred to hereinafter by subtitle only.

### Conduct in Violation of the Criminal Code

It is not very likely that the number of sections in criminal codes will diminish. In fact, there seems to be a tendency for most legislatures to increase the number of acts subject to criminal sanction.

Yet a beginning has been made by legislatures to allow juvenile courts to exercise discretion in intake. Effective use of discretionary intake procedures like those authorized by recent statutes of Colorado and Illinois (to be discussed in Chapter V) will have the effect of reducing significantly the number of cases of minor misdeeds now appearing every year before the juvenile courts. By exercising a prerogative to refer many cases to non-court agencies which can handle them effectively, the juvenile court of the future may be seeing mainly cases of children alleged to have committed serious offenses, those who have continually repeated minor misbehavior, or those for whom past attempts at informal dispositions have failed. In other words, the child who appears before the juvenile court may well be a repeating offender under the criminal code, for whom numerous referrals to non-court agencies have apparently been unsuccessful.

If this prediction proves true, it will have important manpower implications. Children formally adjudicated and placed on probation will present greater problems of control and rehabilitation to the court's probation counselors. If, as seems likely, such cases make up the greater proportion of active cases, intensive probation programming will be the rule rather than the exception.

Such programming will be the more difficult because the number of group residential facilities provided by private organizations is diminishing. If this trend continues, two alternatives appear to be open to the juvenile court. One would be to accept the fact that fewer outside facilities will be available and to develop techniques for probation counselors to work with children in quite undesirable environments. The other alternative would be for the court or other public authority to develop various types of treatment-oriented residential programs of both long and short duration. This might be accomplished by subsidizing private organizations or by developing publicly administered institutions. Trends in the latter areas will be discussed in Chapter VI on dispositional alternatives.

Another ramification of discretionary intake will be the need for more pre-judicial counseling by the probation staff. This would require changes in the attitudes and techniques of traditionally oriented counselors because in the pre-judicial area they would be unable to rely on the usual sanctions against probation violation. Increased emphasis on pre-judicial counseling will place the probation counselor in the role of broker of the community resources available for diagnosis, treatment, counseling, placement, and other rehabilitative services.

A final area of possible change in the juvenile court's jurisdiction over criminal violations relates to the handling of traffic cases. Most juvenile courts do not have jurisdiction over traffic violations. Some

states, however, have provided that traffic courts may transfer to juvenile courts cases of youthful offenders which may involve vehicular homicide, driving under the influence of alcohol or narcotics, or habitual violation of the traffic code. It would appear that most juvenile traffic cases should remain in a specialized traffic court. But some procedure could be devised to allow the two courts to determine jointly those cases over which the juvenile court should take jurisdiction. Standards for transferring a case would depend upon the statutes under which the two courts operate, but a viable transfer procedure could be worked out without difficulty.

#### Waiver of Jurisdiction to Adult Courts

While laws creating juvenile courts invariably specify the age of children who come under their jurisdiction, some laws exclude capital crimes from juvenile court jurisdiction and others provide for concurrent jurisdiction of juvenile courts and adult courts in serious offenses. Forty statutes allow the juvenile court judge at his discretion to waive to adult courts jurisdiction in offenses by children of certain ages.

The Crime Commission noted great variations among waiver laws:

> Nearly half attach no conditions to the judge's exercise of discretion. In about a third of the states, waiver is authorized for any offense but only of a youth above certain age, the lowest being 13. In a fifth of the states, waiver is permitted without regard to age but only for specified offenses, or with both age and offense limitations; the lowest age is 14 and the offense must usually amount to a felony.[4]

Few laws specify criteria which the juvenile judge should use in exercising his discretion to waive or not to waive jurisdiction, and written criteria are apt to be very general. Critics of the juvenile court assert that judges generally have exercised virtually uncontrolled discretion, and that the major factor appears in specific cases to have been the public's desire that the child be tried as an adult.

Many laws, furthermore, have required no hearings or findings on the issue of waiver. In a District of Columbia case in 1966, the Supreme Court ruled that, in order to protect his constitutional rights, a juvenile is entitled to (1) a full hearing on the issue of transfer, (2) the assistance of counsel at such a hearing, (3) full access to social records used to determine whether transfer should be made, and (4) a statement of the reasons why the juvenile judge decides to waive to adult court.[5] While the *Kent* decision applied only to the District of Columbia, it calls into question waiver procedures in juvenile courts elsewhere. It should also be noted that the decision applies to procedure only and not to the validity of transfer laws.

Some observers, including the authors, believe that we should eliminate the need for transfer, that the juvenile court should have exclusive and original jurisdiction in all offenses (except traffic viola-

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[4] *Juvenile Delinquency and Youth Crime*, p. 4.

[5] *Kent v. United States*, 383 U.S. 541 (1966).

tions) which are alleged to be committed by children under a specified age, and that rehabilitation programs could and should be developed to serve all youth of juvenile court age. It seems highly unlikely, however, that state legislatures will be willing to alter the concurrent jurisdiction of adult and juvenile courts in felony cases, since society seems still to feel the need to "set examples" by trying certain children as criminals. If waiver proceedings are carefully circumscribed by the criteria set forth in *Kent,* juveniles will be protected as well as can reasonably be expected.

The major manpower implication of *Kent* is the requirement that a juvenile must be represented by counsel at waiver hearings. Such representation would involve more lawyers in juvenile court proceedings. It would seem that a type of independent "law guardian" program, whereby children are represented in juvenile court as a matter of course, would ensure the best representation.

#### Conduct Illegal Only for Children

An area of jurisdiction unique to juvenile courts is that of conduct illegal only for children. Often included in such offenses are truancy, violation of curfew laws, use of alcohol and tobacco, incorrigibility, "beyond control of parents," and running away from home. The last three of these offenses obviously have much to do with inadequacies of parents. Truancy may reflect inadequacies of schools. Yet children brought before the courts by their parents, police, or truant officer on these charges are often adjudicated as delinquent and so are stigmatized for the indefinite future.

Such situations can pose a real dilemma for a judge. The New York Joint Legislative Committee on Court Reorganization, pointing out that "juvenile delinquent" is a term of disapproval, said:

> The judges of the Children's Court and the Domestic Relations Court of course are aware of this and also aware that government officials and private employers often learn of an adjudication of delinquency. Some judges are therefore reluctant to make such an adjudication in the absence of conduct violating the Penal Law. In some cases, however, they feel compelled to do so when they conclude that supervision is necessary for the proper development of the child.[6]

It is perhaps not surprising, therefore, that the most significant movement to alter the jurisdiction of the juvenile court should be the movement away from stigmatizing youngsters as delinquents because they have committed an offense that is illegal only for children. New York, California, Colorado, and Illinois have taken the lead in creating a new category for children who may be brought before the juvenile court. It is variously called "person in need of supervision," "child in

[6] New York Joint Legislative Committee on Court Reorganization, *The Family Court Act,* (1962), pt. 2, p. 7.

need of supervision," and "minor otherwise in need of supervision." Thus these states have sought to allow adjudications without affixing the stigma of delinquency.

Once a child is adjudicated as in need of supervision, the dispositional alternatives available to the court are essentially the same as those available in behalf of an adjudicated delinquent. A significant difference, however, is that the child adjudicated as in need of supervision generally is not to be committed initially to an institution for delinquents.

It seems likely that discretionary intake will permit children in need of supervision to be dealt with through non-judicial means more easily than children accused of violating the criminal code. Therefore, although the new category appears to broaden the jurisdiction of the juvenile court, proper management of intake could result in diminishing the number of children brought formally before the court. For example, as more schools use the services of psychologists and develop special programs for difficult children, truancy and incorrigibility at school may be arrested before they are serious enough to be brought before the court.

It should be noted, however, that creation of a new category will not necessarily result in destigmatization or narrow the jurisdiction of the juvenile court. For one thing, the public (including employers and prospective employers) may unwarrantedly equate being "in need of supervision" with delinquency. Public education seems to be called for.

Another problem likely to be encountered in the new category is that of legal representation. Carried to its logical conclusion, the *Gault* decision would require that a child have legal representation in a case filed by his parents alleging that he is in need of supervision. The constitutional validity of this position is unquestioned, but the rehabilitative value of a child's witnessing a legal battle between his lawyer and his parents' lawyer calls for careful scrutiny.

Perhaps the most fundamental difficulty to be encountered following creation of the "in need of supervision" category is the danger that, while it avoids stigmatization of non-criminal delinquents and in the long run will probably reduce the number of formal adjudications, it is extremely broad in nature. Therefore, it seems indisputable that juvenile courts must apply the statute restrictively, so as to bring children before the courts only in extreme circumstances. The problem, of course, permeates the entire conduct of juvenile courts and thus requires discussion in depth in the subsequent chapter on intake.

The manpower implications of changes in this area of jurisdiction are not quite so clear as in the area of violation of the criminal code. As all probation counselors know, the non-criminal child in many ways presents a more difficult problem of treatment and rehabilitation. Certainly all available treatment-oriented services should be available for the child in need of supervision.

#### Neglect and Dependency

The other major branch of juvenile court jurisdiction deals with children alleged to be neglected or dependent. Neglect cases usually

involve children who have been abandoned or whose parents are failing or refusing to provide proper care or proper environment.

Since the passage of the Social Security Act, the term "dependent child" has come to imply a child in need of economic assistance. Handling of such cases has increasingly been delegated by juvenile courts to public welfare departments, though the court remains available to ensure protective supervision for the child.

The Children's Bureau *Standards for Juvenile and Family Courts* states that "economic assistance should be provided by a social agency. Unless there is an element of neglect involved, the court's jurisdiction should not be exercised in situations of dependency." [7] While this position is not generally that of many state juvenile court statutes, court interpretations of dependency statutes have generally held that economic dependence alone, if not willful, will not constitute dependency.

Since social welfare agencies have developed expertise in handling both neglect and dependency cases, questions must be raised as to the role of the juvenile court in this area. Perhaps the best plan would be for welfare agencies to continue to manage cases involving neglect and dependency while the courts supervise the legal aspects of each case. Here again, discretionary intake should point the way toward an increased number of informal adjustments where the neglect has not caused serious physical or emotional injury and the dependency can be relieved without formal court sanction. This is not to say that the juvenile court should act as a mere conduit for the referral of cases to child welfare agencies, but rather that a viable procedure should be worked out whereby the agencies will bring to the court for legal proceedings only cases of serious trauma to the child and/or non-cooperation on the part of parents. Our social institutions have become sufficiently sophisticated to provide basic welfare services, and juvenile courts should avail themselves of this opportunity to diminish their workload.

### Age Limitations on Jurisdiction

Since proper handling of children was the major impetus to the establishment of the juvenile court, all legislation specifies the maximum age of those over whom the court has jurisdiction. Two-thirds of the states set the maximum age as 18, which is the upper limit recommended by the Children's Bureau. The Crime Commission summed up the age limits in the other state laws thus:

> In the remaining one-third, the age is 16, 17, or 21 — different, in some, for boys and girls. In the one or two states in which it is 21, jurisdiction above 18 is concurrent with the criminal court, and in practice youths over 18 are almost invariably referred to the criminal court.[8]

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[7] William H. Sheridan, *Standards for Juvenile and Family Courts,* Children's Bureau, U.S. Department of Health, Education, and Welfare (Washington: U.S. Government Printing Office, 1966), p. 34. Referred to hereinafter by title only.

[8] *Juvenile Delinquency and Youth Crime,* p. 4.

Colorado has placed a lower limit of 10 years on the age of children who can be adjudicated for delinquency. The state's new category—child in need of supervision—has no lower limit as to age.

No significant change seems apt to occur in the near future to alter the present age limitations on jurisdiction. Some states, however, have lowered the age at which the juvenile court has concurrent jurisdiction with the criminal court in felony cases. This will undoubtedly result in more transfers of children to criminal court.

On the other hand, as procedures in juvenile courts increasingly reflect the *Kent* decision's requirements for full hearings and a statement of the reasons why a judge has decided to transfer a case to the criminal court, judges may be more reluctant to consider transfer hearings. Hence the juvenile courts would be dealing with more recidivists and hardened young offenders and heavier burdens would be placed on the courts' already overtaxed resources.

### Youth Above Juvenile Court Age

The concept of the juvenile court, like many other enlightened ideas, has developed several types of spin-off. One of these is the movement to set up special courts for certain youthful offenders who are above the age limit set by the state law for juvenile court jurisdiction but are still minors or have not reached their twenty-second birthday.

Chicago in 1914 initiated the Boys' Court for processing male youth aged 17 to 21 who were charged with misdemeanors or "quasi-criminal" offenses. In the following year the Philadelphia Municipal Court set up a Misdemeanants' Division for male and female offenders between the ages of 16 and 21.

In New York State, the Wayward Minors Act of 1923 provided for specialized treatment for offenders between the ages of 16 and 21 who were charged with addiction to liquor or drugs, habitual association with undesirable persons, being found in a house of prostitution, being wilfully disobedient to parent or guardian, being "morally depraved" or in danger of becoming so, and similar offenses. A "wayward minor" charge was substituted for the criminal charge.

Under this act, an Adolescents' Court was established in Brooklyn in 1935 and in Queens in 1936. Modeled after juvenile courts, the adolescents' courts utilized court and community services in the rehabilitation of the offender.

A 1943 act of the New York legislature provided a trial court for youth 16 to 19 years of age who are indicted for felonies. This act sets up a "youthful offender" category with a maximum probation span of three years and maximum commitment of three years. Procedural protections resembling those of the juvenile court are built into the act. Hearings may be private; records of adjudication, fingerprints, and photographs shall not be open to public inspection; adjudication shall not operate as a disqualification to hold public office or public employment; no youth shall be denominated a criminal; nor shall adjudication be deemed a conviction.

In recent years there has been little evidence of efforts to promote specialized youth courts in American cities. Nor has there been wide extension of New York's Youthful Offender Act, although some authorities have recommended that it be adopted in all jurisdictions for all minors above juvenile court age.[9]

It can be urged that the period of dependency is becoming longer in American society and many youth do not become adults by the time they reach the maximum age set forth by juvenile court statutes. In many states youth of 16, 17, or 18 are treated as adults. Moreover, since great numbers of offenses committed by youth of this age fall into the misdemeanor or petty-offense category, they are processed through the lower courts, which so shocked the Crime Commission.[10] The Commission pointed out that, among their other shortcomings, the lower courts of most jurisdictions do not have probation services. In the typical one- to three-month sentence, the convicted offender is incarcerated in a jail, not long enough and not aided enough to achieve rehabilitation but long enough to feel the harmful effects of being locked up with miscellaneous adult offenders in institutions which as a class are the worst of our correctional institutions.

Thus it seems that two improvements could be made in dealing with minors. First, strong efforts could be made to achieve a juvenile court age that would be uniform throughout the nation, say 10 through 17 years. For the remaining years of their minority, older youth should have the benefit of a youthful offenders act like that of New York.

The fact that the second of these improvements has been very little extended in the 25 years since the New York act was passed, gives room for skepticism that sufficient support can be developed to create youthful offenders' courts in other states, in order to eliminate the criminal label and provide a wide spectrum of court and community services for youth above juvenile court age. The establishment of such courts would require sharply expanded manpower and service. The youthful offender needs vastly more counseling and programs in vocational education, job training, and placement. Halfway houses would be desirable. Volunteer workers – VISTAs, for example – indigenous aides and ex-offenders might be drawn in to work with youthful offenders. Such efforts, if successful, would help to prevent youthful offenders from "graduating" into adult criminals.

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[9] See, for example, Sol Rubin, "Legal Definitions of Offenses by Children," *University of Illinois Law Forum* (Winter 1960), 522.

[10] *The Challenge of Crime in a Free Society*, pp. 128-129.

## III. LEGAL SERVICES IN THE JUVENILE COURT

It is clear that the *Gault* decision will require a substantial expansion of legal services in the juvenile court. *Gault* requires that counsel must be available to a child at every stage of juvenile delinquency proceedings. Not every child must have a lawyer, but every child has the right to counsel and must be notified of that right. Upon request, the court must secure the services of a lawyer for the child whose family cannot afford one.

The Crime Commission, whose report was issued a few months before the *Gault* decision, went farther in its recommendation:

> Counsel should be appointed as a matter of course wherever coercive action is a possibility, without requiring any affirmative choice by child or parent.[1]

Even before *Gault,* family or juvenile court acts, welfare and institutions codes, and children's codes enacted in such states as New York, Illinois, California, and Colorado specifically provided for legal services for children before the court. Similar enactments will undoubtedly ensue as an effect of *Gault.*

A legal renaissance is taking place in juvenile courts which will have many implications for legal manpower and the way in which lawyers are trained. This development will probably be seen first in the urban courts, but it will affect rural courts as well.

### Role of Counsel

The Supreme Court in *Gault* pointed out areas in which the child needs the skilled help of legal counsel.

> The juvenile needs the assistance of counsel to cope with problems of law, to make skilled inquiry into the facts, to insist upon regularity of the proceedings, and to ascertain whether he has a defense and to prepare and submit it. The child "requires the guiding hand of counsel at every step in the proceedings against him." [2] Just as in *Kent v. United States* we indicated that the assistance of counsel is essential for purposes of waiver proceedings,[3] so we hold now that it is equally essential for the determination of delinquency, carrying with it the awesome prospect of incarceration in a state institution until the juvenile reaches the age of 21.[4]

Counsel for the child will need to explore such questions as these in regard to procedures relating to arrest. Did the taking into custody and

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[1] President's Commission on Law Enforcement and Administration of Justice, *The Challenge of Crime in a Free Society* (Washington: U.S. Government Printing Office, 1967), p. 87.

[2] *Powell v. Alabama,* 287 U.S. 45 (1932) at 69.

[3] *Kent v. United States,* 383 U.S. 541 (1966) at 561-562.

[4] *In re Gault,* 387 U.S. 1 (1967) at 36-37.

the methods of questioning by police meet legal and constitutional standards? Was the child advised of his rights? If he made an admission, was it valid? Was a particular search reasonable? In the case of detention, was it warranted? Were parents immediately notified and allowed to visit their child? Did the detention hearing intelligently consider whether the child could be returned to his parents pending court investigation? Could reasonable bond be set?

Before the delinquency hearing, counsel will need to evaluate whether the summons and petition were properly served and whether the petition is in proper form, setting forth the charge with specificity. Should one child's case be severed from his group, and can this matter be considered for informal adjustment? Is the child's problem one that can be dealt with by a social agency or mental health clinic better than by a court? Is the statute so vague that it may be unconstitutional? What plea should be entered? Should a jury trial be requested? Are defense witnesses prepared and complaining witnesses available for cross-examination? What evidence is hearsay and what is otherwise inadmissible? Should the child testify and is the evidence sufficient?

The child found to have committed a delinquent act needs counsel to assist him and the court at disposition. Should the petition be sustained or be continued without adjudication? Is the pre-sentence report carefully prepared and fully documented, and how much is prejudicial matter or hearsay? Is the school report accurate or biased, and is the school representative present for cross-examination? Was the psychiatric report thorough or cursory? Are previous alleged but unproven charges considered? How can parent strengths best be presented, and how can the judge be helped to not stereotype? Is it a real hearing, or does the court do all the talking? How can the child best state his changed attitude, and how can he show he now holds better control? Are the rules of probation clear and sensible and the duration of probation both reasonable and within statutory limits?

The lawyer is very important to the child's and parents' comprehension of legal proceedings, including their understanding of the court's decision and statements. The lawyer shares in the determination as to whether an adverse ruling should be appealed.

If the court holds a hearing to consider transferring the case to the criminal court, answers to many of the questions already noted must be found with the aid of a lawyer. If his client's probation is considered for revocation, counsel must ensure legal safeguards, due process of law, valid findings, and appropriate disposition.

## Legal Manpower Needs for Juvenile Courts

It now seems probable that *Gault's* establishment of the right to counsel for youth brought before juvenile courts will be followed by a "representation explosion" like that resulting from the *Gideon vs. Wainwright* decision which established the right to counsel for all felony de-

fendants.[5] A predictive standard is the experience of New York since the enactment of provision for law guardians for children. The number of trials and hearings on legal issues has increased greatly.[6]

### Judges

Probably increases in the number of trials and hearings will eventually require the services of more judges. And more of a judge's time will be spent in the courtroom and in legal research. This development presages changes in the romantic concept of the juvenile court as the personalization of an individual judge. No longer is a judge likely to have time for hiring and supervising the probation staff or for developing and administering the rehabilitation programs provided by the court. The judge will share his function as the community spokesman on delinquency with ranking members of the probation staff. He will be occupied mainly with legal issues and with the vital dispositional function. Hence his training must include both law and the behavioral sciences.

### Referees and Court Legal Officers

Greater use of referees can put off for a time the appointment of a large number of new judges, but eventually both more judges and more referees will be needed. The referee is a legally trained official who can hold hearings in behalf of the judge and recommend findings and dispositions.[7] In the latter capacity, the referee must be thoroughly familiar with the non-court resources available in the community. Like the judge for whom he acts, he must have training not only in the law but in behavioral sciences.

Court legal officers are also legally trained persons. In the role of law clerk to the judge, the legal officer should undertake research on legal issues before the court. Doubling for the referee when necessary, he may conduct detention hearings or court hearings on behalf of the judge. He should systematize all legal procedures of the court. The legal officer should act as consultant to the intake division and all other staff on the legal aspects of petitions, procedures, and statutory interpretation, and also serve as consultant to attorneys in regard to juvenile court law and procedure. He should draft amendments to the juvenile court rules and to juvenile court statutes.

### Prosecution Attorneys

The prosecution attorney for the juvenile court should be a member of the staff of the district attorney[8] assigned primarily to the juvenile

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[5] *Gideon v. Wainwright,* 372 U.S. 335 (1963). See Daniel L. Skoler, "Juvenile Courts and Young Lawyers," *Student Lawyer Journal* (December 1964), 5ff.

[6] See the 1966 report of the New York Judicial Council.

[7] For example, the Colorado Children's Code of 1967, sec. 22-1-10, authorizes the appointment of law-trained juvenile court referees to conduct hearings except transfer hearings and trials to jury. Prior to the hearings, the referee must advise the parties that they have a right to a hearing before a judge in the first instance. At the conclusion of the hearings, he must inform the parties of his findings and recommendations and of their right to request a further hearing before a judge.

[8] State's attorney in Illinois, county prosecutor in New Jersey.

court to systematize the presentation of cases involving juvenile offenders. Hence he should be a specialist in juvenile court law and procedure and have broad knowledge of the court's philosophy and of rehabilitation facilities available in the community. He should be able to adapt plea-bargaining concepts to juvenile court clients. Too often, the man assigned to the juvenile court has been low man on the district attorney's totem pole or the least capable staff member. To fulfill his mission in the juvenile court, the prosecution attorney must be an extremely competent lawyer, one who knows the difference between juvenile court and criminal courts. Judge Polier of New York City has pointed out the ineffective presentation of some cases and has urged that this be remedied in order to achieve consistent justice.[9]

Some states assign the responsibility for legally processing "in need of supervision" and dependency-neglect cases to another officer than the district attorney, often the person holding the office known as "county attorney." This lawyer needs specialized training in juvenile court law and broad knowledge of rehabilitation services and philosophy.

#### Defense Counsel

Effects of the "representation explosion" will of course be seen first in the area of defense, and a great deal of it must be publicly financed. In 1966, law guardians appointed by the court appeared in the bulk of the lawyer-represented juvenile cases in New York City.[10]

Several models for the provision of defense services are already available.

*The Law Guardian.* As noted above, New York law authorizes representation for all types of juvenile cases by a law guardian, who also has the authority to develop appellate briefs. Since he is not employed by the juvenile court and is therefore independent of it, his representation involves no conflict between the interests of the client and those of the court. However, like other juvenile defense counsel, he will confront an ethical issue between his role as a lawyer and his role as a child-helper in trying to determine what is best for the child. At least in adjudicatory hearings, he will probably resolve this issue in line with the statement of Sol Rubin:

> . . . his function is no different from what it would be if he were representing a defendant in a criminal court; that is, it is his function to interpose every legitimate defense, to cross-examine vigorously, and to object to the introduction of improper testimony.[11]

Although such defense will result in some dismissals of "guilty" children, it will serve the higher value of the legal profession by resulting in improved practice by prosecutors, closer adherence to legal and constitu-

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[9] *In the Matter of Lang,* 255 NYS 2d 987 (1965).

[10] New York Judicial Council, *1966 Report.*

[11] Sol Rubin in *Counsel for the Child,* National Council of Juvenile Court Judges (Chicago: The Council, 1966), p. 25.

tional norms by police, and greater thoroughness in police investigation. Able legal defense may well force institutional change within the court, in detention, and in other official services.

Juvenile defense lawyers may need to arrange for counseling and other helping services to clients to assist them in adjustment. Unless the client is already on probation, court probation staff will abstain from working with the child while he is being represented by an attorney.

*The Public Defender.* Because of his defense orientation gained from service in criminal and misdemeanant courts, the public defender may have less conflict regarding ethical issues than law guardians or other attorneys paid by the state. On the other hand, the enabling legislation may limit the public defender to representation of delinquents, so that he cannot serve children in need of supervision or those in the dependency-neglect category. However, it seems advisable that public defenders should be used to greater extent in juvenile courts.

*Legal Aid Society.* Although the pattern varies considerably among communities, legal aid lawyers most frequently work in the civil field. Thus they may not be available for or particularly effective in representing juvenile delinquents. Another problem stems from the limited budgets of legal aid societies, which are usually funded by private agencies or foundations. Thus substantial budget increases will probably be necessary if legal aid societies are to provide services to many delinquents. Ultimately state or local tax funds may be required to subsidize legal aid societies which are willing to undertake representation of a large new group of clients. The state of New York, for example, has arranged for payments to legal aid societies to provide attorneys acting as law guardians.

*Neighborhood Law Office.* The Neighborhood Law Office funded under the Economic Opportunity Act appears a likely source of counsel for juveniles where there is no other provision. Lawyers working in this program have a deep commitment to the public interest. If they were to act as defense counsel in juvenile courts, they might well bring about improvements in the courts and in other official juvenile delinquency programs. Unfortunately, their caseloads are already often excessive.

*The Private Attorney.* Private attorneys who are appointed by courts or retained by clients able to pay for their services often provide effective legal representation for juveniles. It appears likely that private attorneys may remain the principal source of representation in the juvenile courts of rural areas, although a few states are considering statewide public defender programs. In cities, however, the large numbers of cases and the need to systematize provision of counsel to poor delinquents may require reliance on the public and semi-public agencies already mentioned. There appear to be other advantages in working through these groups. The private attorney who takes an occasional juvenile case will probably not have the time or inclination to acquire knowledge about delinquent youth and their families as a group and their special needs for explanation of the law and legal procedure. He may carry a

case on appeal, but his work with only a few children will not give him the broad base for selection of cases for appeal which is available to publicly employed attorneys.

## Sources of Legal Manpower for Juvenile Courts

The field of law has not experienced an acute manpower shortage, owing to the financial and status inducements of the profession and the availability of night law schools in most large cities. The problem in obtaining legal manpower for the juvenile court is to interest lawyers and law students in juvenile court practice and to train them for it.

Several sources of manpower which are not now tapped to any great extent might bring to the legal profession persons with special interest in juvenile courts. It is well known that youth from minority groups appear in juvenile court in far greater numbers than their proportion in the population would warrant. It would seem useful therefore for law schools to encourage enrollment of students from minority groups. New York University Law School seeks to locate qualified Negro students, for whom it will provide a summer brush-up session and financial assistance through their law school years. The University of Michigan has a similar program, and the University of Denver Law School is developing a special project for Spanish-surnamed students.

Women offer another promising source for recruitment. On the analogy of women medical students who often specialize in pediatrics, efforts could be directed to encouraging women to enter law school with the thought of developing specialties in such public practice areas as the juvenile court.

It is quite possible that men and women already holding non-legal positions in juvenile courts and related social agencies could be interested in becoming lawyers. A demonstration program might be developed to provide law school stipends to probation counselors, social workers, and other practitioners of the helping services.

## Training for Legal Practice in Juvenile Courts

Lawyers who will work in the juvenile courts of tomorrow must come from the law schools of today. And the changes taking place in juvenile courts indicate that many lawyers now in practice will require special training to update their knowledge.

### Law School Training

Very few law schools now offer specialized training in juvenile court practice, but the increased volume of such practice will undoubtedly motivate schools to develop a seminar on juvenile courts. This might be an elective subject, but at least it would help to give a beginning orientation to the juvenile field. Pye remarks that:

> Probably few students would choose to study juvenile court procedure, but only a few choose many of our present courses. . . . A few

well-trained individuals each year would provide the nucleus of a juvenile court bar over a period of years.[12]

Some law schools are expanding practice opportunities for law students. In New York City, they work in the office of the law guardian. In Colorado, law students working in legal aid clinics carry juvenile court cases under supervision.

Still other opportunities to become acquainted with juvenile courts are needed, such as special demonstration projects which involve law students in providing legal services to youthful offenders and train them in preliminary interviewing and counseling techniques. The District of Columbia annually employs a member of a law school graduating class as law clerk to the juvenile court judges. The University of Denver has developed a law student clerkship in the district court which could be adapted to the juvenile court.

### Training for Judges

A considerable number of judges come to the juvenile bench from general legal practice and thus have only slight familiarity with juvenile court philosophy and procedures. They are apt to have little knowledge of social welfare agencies, mental health clinics, and other resources in the community. And most of them have had no experience with children of the lower-income groups who are most likely to be the children in trouble.

To remedy some of these deficiencies, the National Council of Juvenile Court Judges and some state councils have developed training programs for judges. The National Council has provided short-term training for more than 1,000 juvenile court judges. In the summer of 1967, it sponsored a more ambitious training program, the National College for Juvenile Court Judges held at the University of Colorado. The four-week program, funded by a grant from the National Institute of Mental Health, was designed for newer judges from populous jurisdictions. Intensive teaching was provided in juvenile court law, probation administration, and general principles of psychology, sociology, and psychiatry. Training was given in interviewing delinquent boys. Each judge spent half a day informally with a delinquent boy and also visited courts and delinquency facilities in the area. Opportunities were afforded for feedback and evaluation. A three-week college is planned for the summer of 1968.

Less ambitious but effective training programs can be sponsored by state councils of juvenile court judges in cooperation with state court systems or university training centers. The University of North Carolina's Training Center on Delinquency and Youth Crime began to operate a program for North Carolina juvenile judges in 1962.[13]

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[12] A. Kenneth Pye in *Counsel for the Child,* National Council of Juvenile Court Judges (Chicago: The Council 1966), p. 42.

[13] See *Report of Training and Curriculum Development for Juvenile Court Judges in North Carolina,* Office of Juvenile Delinquency and Youth Development, U.S. Department of Health, Education, and Welfare (Washington: The Department, 1965).

### Post-Professional Training

Training programs are also needed for lawyers who are working full time in juvenile courts, in prosecution, and in defense. The content of such programs could be modeled on the college for judges described above. A training program for potential neighborhood law office attorneys like that conducted under the Reginald Heber Smith Community Lawyer Fellowship Program at the University of Pennsylvania offers another model for orienting lawyers who will be employed in the public sphere.

### Dual Emphasis of Training

To meet the needs of lawyers who practice in the juvenile court in various capacities, more and different training and reference materials on the law and procedures of the court will have to be developed. Downs' book on law and practice in the Michigan juvenile court is geared to everyday practice needs.[14] Judge Ketcham and Professor Paulsen have compiled a casebook of juvenile court cases and related materials.[15] Professor George has written a handbook on the effects of *Gault* for use in the continuing education of lawyers.[16] The National Council of Juvenile Court Judges now publishes a digest of important decisions concerning juvenile courts. These publications indicate the range of materials needed by lawyers practicing in juvenile court today and the far greater number who will be practicing there in the not-too-distant future.

But training materials on the law will not be enough. Judges and lawyers practicing in juvenile courts will need to be well-grounded in the principles of behavioral science as well as the law. Training programs must therefore be interdisciplinary in nature if they are to produce the quality of legal manpower without which no juvenile court system can truly be effective.

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[14] William T. Downs, *Michigan Juvenile Court: Law and Practice*, Institute of Continuing Legal Education (Ann Arbor, Mich.: The Institute, 1963).

[15] Orman W. Ketcham and Monrad G. Paulsen, *Cases and Materials Relating to Juvenile Courts* (Brooklyn, N.Y.: Foundation Press, 1967).

[16] B. James George, Jr., *Gault and the Juvenile Court Revolution*, Institute of Continuing Legal Education (Ann Arbor, Mich.: The Institute, 1968).

## IV. DETENTION AND SHELTER

All juvenile courts have access to a place where children alleged to be within their jurisdiction may be confined prior to their first appearance before the court. Some cities have well-conceived facilities for detention and shelter of children and excellent programs for children in these facilities. At the opposite end of the spectrum is the widespread use of common jails and lockups for detention of children, not always segregated from adult offenders. Although this practice is prohibited by statute in most states, surveys by the National Council on Crime and Delinquency show that over 100,000 children and youth of juvenile court age are held in jails or jail-like places of detention every year. Comments the Council:

> The significance of this situation is not merely the large number so held, or the fact that most of the jails in which they are detained are rated unfit for adult offenders by the Federal Bureau of Prisons Inspection Service, but rather that many of these youngsters did not need to be detained in a secure facility in the first place.[1]

Such over-use of detention indicates that neither the courts, which are ultimately responsible for detention, nor the general public understand what detention is and the criteria which govern its use. Moreover, there is no clear distinction between detention and shelter.

Detention for the juvenile court is defined as "temporary confinement of children in a physically restricting facility pending court disposition or transfer to another jurisdiction or agency." Detention should be used only for children who have committed delinquent acts and must be confined for their own protection and that of the community.[2]

Children who do not need such restriction but do require placement outside their homes pending court action or transfer should be placed in a non-restrictive shelter facility, such as a foster home or group home.

### Criteria for the Use of Detention and Shelter

The National Council on Crime and Delinquency states that "detention should not be used unless failure to do so would be likely to place the child or the community in danger." [3] Children who should be detained include: (1) those who are almost certain to run away before their appearance in court; (2) those who are almost certain to commit an offense that would endanger themselves or the community prior to court appearance; and (3) those who must be held for another jurisdiction, such as parole violators, runaways from institutions, and certain material witnesses.

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[1] National Council on Crime and Delinquency, *Standards and Guides for the Detention of Children and Youth* (2d ed., New York: The Council, 1965), p. xxi. Referred to hereinafter as *Standards and Guides*.

[2] *Standards and Guides*, p. 1.

[3] *Standards and Guides*, p. 15.

Children should not be detained if they are almost certain not to run away or to commit further offenses before their appearance in court. Allegedly delinquent, neglected, and dependent children and those in need of supervision who do not require secure custody should be considered for sheltered care or release to parents, depending upon the circumstances of the case. Such children should not be placed in restrictive detention facilities. Children who do not otherwise require secure custody should not be detained merely for police investigation or social study; in other words, detention should not be used for the convenience of police or court probation counselors. Children charged only with truancy should not be placed in detention.

Characteristics and circumstances which require detention of a child and those which do not can be detected rather quickly by a trained intake worker located at the detention facility used by a juvenile court. Unnecessary and overly extended detention can be avoided. The common practice of detaining children who are not subsequently charged can also be averted.

## Legislative Restrictions on Detention

The President's Commission on Law Enforcement and Administration of Justice recommended that "legislation should be enacted restricting both authority to detain and the circumstances under which detention is permitted."[4] The Commission states that such legislation should authorize only the probation officer to detain, except in the time between the beginning of police custody and the arrival of the probation officer. Detention pending a detention hearing should be permissible only when it is obviously necessary to protect the child or to keep him in the jurisdiction. Legislation should specifically require a detention hearing within 48 hours after initial detention.

Sections of the Children's Code enacted by the Colorado legislature in 1967 which deal with detention lay down many of the restrictions recommended by the Commission.

> *Section 22-2-2* (1) When a child is taken into temporary custody, the officer shall notify the parents, guardian, or legal custodian without unnecessary delay and inform them that, if the child is placed in detention, he has the right to a prompt hearing to determine whether he is to be detained further. Such notification may be made by a juvenile police or law enforcement officer, if the child is so referred by the officer taking him into temporary custody.
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> (2) The child shall then be released to the care of his parents or other responsible adult, unless his immediate welfare or the protection of the community requires that he be detained. The parent or other person to whom the child is released may be required to

[4] President's Commission on Law Enforcement and Administration of Justice, *The Challenge of Crime in a Free Society* (Washington: U.S. Government Printing Office, 1967), p. 87.

sign a written promise, on forms supplied by the court, to bring the child to the court at a time set or to be set by the court.

*Section 22-2-3* (1) A child who must be taken from his home, but who does not require physical restriction, shall be given temporary care in a shelter facility designated by the court or the county department of public welfare and shall not be placed in detention. . . .

(3) No child shall be held in a detention or shelter facility longer than forty-eight hours, excluding Sundays and court holidays, unless a petition has been filed, or the court so orders following a hearing to determine further detention or release. . . .

(6) (a) No child under the age of fourteen and, upon order of the court, no child fourteen years of age or older and under sixteen years of age shall be detained in a jail, lockup, or other place used for the confinement of adult offenders or persons charged with crime.

(b) Children fourteen years of age or older shall be detained separately from adult offenders or persons charged with crime . . .[5]

Since the ultimate responsibility for detention rests with the court, it is incumbent upon that court to make known the rules and regulations regarding detention or non-detention which will be followed in its particular jurisdiction. Consistent enforcement of these rules and policies will result in a better application of such rules by the court staff and those agencies most frequently making referrals to the court. As all agencies within the community become accustomed to the fact that the majority of cases will not be detained, agencies will cease to use the detention facility as a convenient shelf on which to store their more troublesome clients pending court action.

## The Future of Detention

Application of these policies should keep the need of cities for juvenile detention facilities within manageable bounds. It has been noted by the National Council on Crime and Delinquency that the community which feels the need to expand its detention facilities might first examine its detention system. "What sometimes looks like a glaring need for expanded detention facilities may obscure the need for an adequate probation staff to help the courts limit the use of detention and control the length of stay." [6]

Current expenditures for detention were estimated at $53 million in the year 1965. This was more than two-thirds of the entire cost of probation services for juveniles in that year.[7] These figures suggest that some thought should be given to the relative benefits resulting from such expenditures.

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[5] Session Laws of Colorado, 1967.

[6] *Standards and Guides,* p. 13.

[7] President's Commission on Law Enforcement and Administration of Justice, *Task Force Report: Corrections* (Washington: U.S. Government Printing Office, 1967), p. 23.

Yet tax funds seem to be more readily available for expanding detention facilities and building new ones than for employing personnel for rehabilitation. As Dr. William Menninger said some years ago with regard to constructing hospitals, brains must come before bricks but the public is apparently more willing to pay for bricks.

To build a new detention facility costs more than $12,000 per bed, and good detention care costs $10 to $20 a day per child. Thus there is a substantial difference between the cost of constructing and operating a 20-bed detention facility and a 40-bed one. The National Council on Crime and Delinquency points out that, if a large jurisdiction were to reduce its detention population by 20 children, it would save about $100,000 a year. This sum would pay the salaries of 15 probation counselors with casework training and experience, while reducing the need for capital expenditures.[8]

## Directions for Change

What then should the enlightened juvenile court do to serve the best interests of the children who come before it? One answer seems to lie in a carefully planned and well-supervised intake program, whose influence will be felt throughout the court system. Too often in large cities the detention facility has an intake staff and the court has another. With this separation, the necessary dialogue between all parts of the court system is lost, and control of detention homes becomes increasingly difficult.

To secure the close working relationship that must exist between the court's probation staff and the detention center staff, the authors believe that the intake department of the court should have a division specifically designated to handle referrals to the detention facility. As noted above, the acceptance by community agencies of the policy of non-detention in most cases will reduce the number of children whom they seek to place in detention. Educating these agencies must be an ongoing process.

The court could also seek to develop shelter facilities for delinquency cases which do not require security detention. The authors suggest that grants be sought to demonstrate new kinds of shelter arrangements. Residents of an area where children need such shelter care could be subsidized to provide temporary shelter in their homes. Other residents of the community could be enlisted and given special training to supervise subsidized homes.

If such a demonstration project were coordinated with an anti-poverty program in the area, multiple goals might be achieved. Children would benefit from care given by people and in an area with which they were already familiar. Indigenous employees would receive income and the satisfaction of helping others as well as themselves.

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[8] *Standards and Guides,* p. 11.

Pre-adjudicatory detention will undoubtedly continue to play an important role in any juvenile court. However, since the Joint Commission on Correctional Manpower and Training is making a special study of detention programs, no further discussion of their manpower and training problems is called for here.

## V. INTAKE PROCESS IN THE JUVENILE COURT

Selective intake, or screening, is one process of the juvenile court which distinguishes it from other American courts. Intake in the juvenile court has been described as "essentially a screening process to determine whether the court should take action in a given case or whether the matter should be referred elsewhere." [1]

Juvenile court intake differs from the screening process usual in adult criminal courts in that selection of juvenile cases for processing is court-sanctioned and pre-adjudicatory. In criminal courts, screening is usually a function of the prosecutor's office. Furthermore, such screening is an end in itself, and follow-up of cases screened out of the system is rare. In juvenile courts, some of the most intensive casework may result in a decision not to take action. In cases diverted at intake, the court may still maintain a counseling function.

Intake reflects the background relationship between the juvenile court movement and the social service field, where limited resources and the stated purposes of a social agency necessitate selective screening. As noted above, juvenile court statutes generally give the court broad latitude in dealing with problem children and families. This breadth of jurisdiction, as well as the court's mandate to see that the child has the service he needs, requires some selectivity in deciding which cases will be processed through the court and which will be diverted to other agencies in the community.

According to the most recent Children's Bureau statistics available, more than half of all delinquency cases are disposed of without formal petition.[2] Such court action may range from a decision not to file because of the minor nature of the offense to an agreement that filing be delayed pending the outcome of referral to another social agency or unofficial counseling from a court staff member. Semi-urban courts seem to rely more heavily than others on non-judicial handling, with 58 percent of their cases so handled in contrast with 51 percent in urban courts and 40 percent in rural courts.

### Discretionary Intake

It can thus be seen that pre-judicial dispositions have a significant role in the juvenile court process. The importance is increased by the fact that they are made largely without established or formalized guidelines.[3] As the concept of *parens patriae* recedes in importance, pre-

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[1] William H. Sheridan, *Standards for Juvenile and Family Courts,* Publication No. 437-1966, Children's Bureau, U.S. Department of Health, Education, and Welfare (Washington: U.S. Government Printing Office, 1966), p. 46.

[2] Children's Bureau, U.S. Department of Health, Education, and Welfare, *Juvenile Court Statistics — 1966,* Statistical Series No. 90 (Washington: The Department, 1967), p. 8.

[3] See President's Commission on Law Enforcement and Administration of Justice, *Task Force Report: Juvenile Delinquency and Youth Crime* (Washington: U.S. Government Printing Office, 1967), pp. 15-16. Publication referred to hereinafter by subtitle.

judicial dispositions will have to become more formalized if they are not to result in deprivation of due process of law for many children.

There is some evidence that the importance of formal guidelines for pre-judicial dispositions is being more widely recognized by lawmakers. Typical of recent innovative statutes is the Children's Code passed by the Colorado legislature in 1967, which states (sec. 22-3-1) the alternatives open to juvenile court on the basis of preliminary investigation: to decide that no further action is required; to authorize a petition to be filed; or to make whatever informal adjustment is practicable without a petition *if*:

> (d) (ii) The child, his parents, guardian, or other legal custodian were informed of their constitutional and legal rights, including being represented by counsel at every stage of the proceedings.
>
> (iii) The facts are admitted and establish prima facie jurisdiction, except that such admission shall not be used in evidence if a petition is filed; and
>
> (iv) Written consent is obtained from the parents, guardian, or other legal custodian, and also from the child, if of sufficient age and understanding.

The law sets a limit of three months on efforts to effect informal adjustment. In such efforts, the court may not compel any person to appear at any place or produce any papers. Thus the alternative of informal adjustment is hedged about with limitations designed to protect the child and his parents and give the court specific guidelines. Widespread efforts of this kind would help to ensure that juvenile cases will not be dispatched by mere whim.

A basic reason for vesting authority to informally adjust cases in the court staff is the concept that the police function in juvenile justice should extend only to evidentiary screening of cases for referral to the court. Attempts by police to informally supervise cases without statutory authority may result in unconstitutional deprivations of due process of law. Such activity on the part of police may well result in civil suits and disciplinary measures.

## Legal Diagnosis

Before proceeding with informal adjustment, it must be firmly established that the court has jurisdiction. In most cases the initial question will be the legal basis of the alleged jurisdiction. This is a question that can be answered only by someone sufficiently versed in the law to render a clear interpretation of the applicable juvenile statutes.

It is at this initial point of legal diagnosis that the services of a legal officer or prosecution deputy must be available. No case should be allowed to go beyond the initial intake interview unless there is sufficient legal basis for the court to exercise jurisdiction. The officer must know clearly the difference between giving friendly advice, which is quite per-

missible and advisable, and seeking to exercise supervision over the child, even informal supervision. Says the Crime Commission:

> The line should be clearly drawn . . . between facts potentially establishing jurisdiction and those that do not, no matter how urgent the underlying human needs. Juvenile courts that are alert to the signal importance of this distinction provide all probation officers, through ready access to the judge or to a legal assistant, with consultation on interpretation of the law.[4]

In most cases, particularly those referred by police, there will be sufficient grounds for court intervention. The intake worker then faces the question of whether the court should intervene and, if so, how and in what way.

## Diagnostic Classification for Case Handling

Once the intake worker is sure that the court has sufficient basis for intervention and that further action should be initiated, some kind of diagnosis must be made as to which type of program will be most successful for the child. The science of prediction has not progressed far enough to say with certainty exactly which treatment works best with which children, but obviously the rudimentary diagnostic and predictive tools now available should be used by the court. Whether these studies are made by court staff or by another diagnostic agency depends largely upon the resources of the particular court and community. Diagnostic facilities administered by the court offer the advantage of ready communication between the diagnostician (usually a psychologist or psychiatrist) and the intake worker. More detailed diagnosis can always be referred into the community.

## Informal Adjustment

If the intake worker does not feel that the child's rehabilitation can be satisfactorily achieved within the period allowed for informal adjustment, it would be wise to file a formal petition. But if it seems reasonably possible to rehabilitate him within this period, the informal adjustment should be tried first, since its use does not preclude filing a petition later.

If the child and his parents are willing to try to effect an informal adjustment, the court must then decide who is to supervise the child during this period. There are two basic alternatives. The first is to utilize the existing field probation staff. Under this arrangement, each probation counselor would carry cases in which there had been a formal adjudication as well as cases in which an informal adjustment is being attempted. The other alternative would be to use court intake workers, augmented by social-worker and probation-counselor trainees, VISTA

[4] *Juvenile Delinquency and Youth Crime*, p. 15.

volunteers, and adult indigenous community aides, to counsel children during informal adjustments.

The latter arrangement seems to offer a number of advantages.

1. It would free the professionally trained probation staff for the more difficult long-term cases.
2. Since the informal adjustment requires much less paper work than formal probation and extends over a relatively short period, it would offer an excellent training device for students entering the field of corrections to work under close supervision.
3. The community-based approach to supervision, which is essential in informal adjustments, would permit effective use of VISTA volunteers and other community-based workers.

Under any arrangement, informal adjustment offers an excellent vehicle for experimentation with various treatment strategies and different types of personnel. The worker administering the informal adjustment should be well aware of the various treatment and rehabilitation-oriented agencies available and should make copious use of referral to these community resources. Informal adjustment should include vocational counseling, tutoring, and general career-oriented programs for the child.

## Referral for Court Action

Once the intake staff have determined that a case should be brought before the court on a formal petition, either because the child or his parents deny the allegation or because informal adjustment seems infeasible, the case will be docketed for adjudicative hearing. In many courts, one probation officer handles a case from its first referral to the court, through the hearings, and on into probation and termination. A more desirable procedure would be to utilize a non-professional trainee or possibly a clerk, who is attached to the intake department, to act as a hearing officer and present the case to the court. Upon adjudication, the case would be referred to a probation counselor for a case study to be presented at the dispositional hearing.

Such a procedure would provide a more economic use of the probation counselor's time. He would not have to prepare the papers incident to the filing of the petition, serve notice upon the parties, or wait his turn to come before the court.

An even greater advantage would be in the relationship of the child and the probation counselor. Since the counselor would not see the child and his family until the case had been adjudicated, there would be no question of jurisdictional grounds, and some of the anxiety attendant on the adjudicatory hearings would have vanished. Thus the probation counselor could probably get a much more accurate picture of the family unit than he would have prior to the adjudicatory hearing, and the child would not identify him as a prosecuting agent.

After the adjudicatory hearing has been held and the case has been transferred to the probation counselor, the case is set down for a dispositional hearing. It is possible that the probation counselor's study would lead him to recommend to the court that no further action be taken or that the child be placed under cursory supervision for a limited period. It is much more likely, however, that an extended probationary period will be recommended, using one or more of the dispositional alternatives to be discussed in the following chapter.

## VI. DISPOSITIONAL ALTERNATIVES

The authors believe that greater numbers of delinquent youth can be assisted to develop better inner controls and more constructive lives without commitment to state delinquency institutions. A discussion of the latter facilities is not within the scope of this paper. Such institutions, however, need assistance from court and community so that they can deal more personally and more effectively with smaller numbers of committed youth.

Any consideration of the dispositional alternatives open to a juvenile court judge requires discussion of services which should be available for treating the child who need not be committed to a state delinquency institution and of what agency should provide these services. There is general agreement among authorities on the concept of diversion and judicious non-intervention – that large numbers of children should be separated out of the court stream prior to formal adjudication. But there is wide disagreement about the basic functions of the court and whether it has the responsibility or capability to administer varied service programs. In the following discussion, the term "court-administered" refers to programs which (a) are directly administered by a juvenile court where the staff is appointed by the judge or (b) are administered by a court-related staff which is independent of the judge. The term "community-administered" refers to programs administered by public agencies in the community, such as the welfare department, or other public or private agencies which are primarily non-correctional in nature.

### Who Should Administer Programs?

There are two schools of expert opinion about the administration of programs.

1. The more legalistic and restricted view is that the juvenile court is primarily a court, whose main function is the legal processing of juvenile offenders and other types of cases within its jurisdiction. In its most extreme form, this view would dictate that the court should not administer even detention homes or probation services.

2. The wider view, stemming from *parens patriae* thinking, is that the court is first of all a court but that it also has responsibility to perform extensive rehabilitation functions. Thus the court should provide and administer an extensive array of services, which might include detention, probation, a multi-function children's home, foster family and group homes, and halfway houses, among others.

The prevailing philosophy in most American juvenile courts appears to lie between these two poles. Most courts do perform some service functions. But it seems likely that careful thought will have to be given to the direction in which the courts move as regards services.

Those who support the first view maintain that courts have prob-

lems enough in administering legal procedures, a strong argument in view of the development of extended legal representation. They also question whether treatment-oriented services can achieve necessary flexibility and maximum effectiveness when, under court administration, staff and community hold a high expectation of conformity and control. Thus they oppose extensive court services, administered either directly or by an independent probation administration. This view is most widely held in the larger cities and more populous states, where the huge number of cases is overwhelming court administration.

The second view is argued on the basis that there are not now enough public and private programs to meet the needs of delinquent children; that the existing public and private agencies are frequently ineffective with court-acquainted children or resist working with juvenile offenders; that much time and energy are wasted in referrals. With pride, these courts assert that over the years they have energetically developed fair to excellent expertise in programs which have a reasonable chance for success.

In support of the more restricted view, one of the consultants to the President's Crime Commission, Robert D. Vinter, has challenged the entire concept of court-connected services.[1] Among other arguments for curtailing court-administered services, Vinter suggests that court clients are handicapped in adjusting to the normal community because they do not utilize community-administered services which would give them opportunities for interaction with non-delinquent persons. This is arguable in the light of the trend toward locating court services in neighborhood and community agency buildings.

Vinter recommends placing much of the program responsibility in the Youth Services Bureaus proposed by the Crime Commission. These bureaus would be neighborhood youth-serving agencies, located whenever possible in neighborhood community centers. They would receive both delinquent and non-delinquent juveniles referred by the police, the juvenile court, parents, schools, and other sources. They would "act as central coordinators of all community services for young people and would also provide services lacking in the community or neighborhood, especially ones designed for less seriously delinquent juveniles." [2]

However stimulating is the concept of the Youth Services Bureau, it must be observed that such bureaus would take years to develop and not enough manpower is likely to be available to operate them for a long time to come. They will have problems of bigness, serving, as they will, great numbers of children and families. Difficulties might rise from the labeling process, so that the bureaus might see children referred by the

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[1] President's Commission on Law Enforcement and Administration of Justice, *Task Force Report: Juvenile Delinquency and Youth Crime* (Washington: U.S. Government Printing Office, 1967), p. 89.

[2] President's Commission on Law Enforcement and Administration of Justice, *The Challenge of Crime in a Free Society* (Washington: U.S. Government Printing Office, 1967), p. 83.

police or the court as less desirable than – or at least different from – voluntary referrals.

From the viewpoint of manpower and training, who administers service programs is not so important as the obvious need for more staff and more diversified programs to meet the needs of anti-social and troubled youth.

Widespread use of diversion and informal adjustment, together with a narrowing of the juvenile court's jurisdiction, will only help the courts to stave off collapse from too many cases. It will not automatically bring quality, though it could be the catalyst for quality.

For the foreseeable future, most courts will continue to serve all ranges of juvenile offenders, including the runaways, the truants, and the incorrigibles. Although the latter groups have not committed acts which constitute crimes when committed by adults, these children are often difficult to assist and pose greater management programs than certain juveniles who have repeatedly broken the criminal law.

As for seriously delinquent youth, will courts be willing to provide services they need? Will judges and court staffs be willing to take on these higher risks? Will they be willing to reject techniques which have failed and devote much time to salvaging 10 to 20 percent more youth without committing them to an institution? They must, if we are to achieve a more effective and better-balanced correctional system.

## Basic Staff Services

Unless radical methodological changes take place in court-administered services, such as the probation team discussed in the following chapter, it seems likely that juvenile courts in the future will provide improved, expanded, intensified, and more varied forms of the present types of service. If this is the case, the probation counselor will remain the basic court worker. But extensive group services will be offered in some courts in addition to the one-to-one casework approach.

### Casework

It is unnecessary to cite once again the statistics on the overwhelming caseloads of probation counselors and how little time a probationer receives from his counselor in most juvenile courts. But perhaps today's probation counselors would not know how to operate with 15 cases instead of 75. At any rate, future court budgets will probably allow for some reduction in the number of children each counselor handles.

The objective should be to develop court staff with sufficient training and sophistication to permit the court to provide differential services to meet the varying needs of children at the different levels of intensity required. The Community Treatment Project of the California Youth Authority and the Federal Probation and Parole Study in San Francisco offer some directions for casework in the juvenile court.

The San Francisco study has found that no significant difference in recidivism results from different sizes of caseloads when there is random

assignment of offenders to various intensities of supervision. But logic still holds higher hopes for the small intensive caseload. The study is now using a different system of assignment, based on criteria for assessing the degree of risk involved in the various kinds of cases. The best risks are assigned to minimum supervision; increasingly higher-risk cases are assigned to "normal" and "ideal" supervision; while those cases which suggest the highest risk are assigned to the intensive counselor.[3]

The Community Treatment Project uses a more elaborate typology in determining the amount and kind of supervision for each case.[4]

Both demonstrations represent an advancing effort to develop new and more effective methods for decision-making. Obviously, although far more experimentation is needed, the future of differential treatment is at least partially suggested by these studies.

### Group Services

Beyond traditional casework, the future should see greater use of the group method to work with delinquent youths and their families. In working with delinquent groups, it appears advisable to use both counseling and group activities. The "talk sessions" may be helpful, but they are not enough. Nor are such group activities as camping and fishing, counselor-led sports, or work activities enough. But when combined and used sensitively as the needs of the group require different focus, the group method can yield great benefits to the individual youth. It goes without saying that much individual counseling will still be necessary.

Probably very few probation counselors offer intensive family counseling. But training and supervision by professionals in family therapy will enable the probation counselor to sit down with parents and children together to help the family do a better job.

It is to be expected that substantially more group services will be provided by juvenile courts and probation departments. It is not clear whether the dominant model will be that of staff members who work primarily with groups or those who work primarily with individual cases but also lead a group or two.

The Hennepin County Department of Court Services (Minneapolis) uses the former model. Its division of group services has developed Mississippi River raft trips, a weekend ranch program, a flying program, and other innovative group projects. Few courts now use this model of employing staff members whose exclusive function is to work with probationers through the group method, though many courts have some group activity.

The Denver Juvenile Court has used several group methods. In its demonstration project with glue-sniffing boys, two groups were formed.

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[3] Joseph D. Lohman and others, *Classification Criteria for Establishing Caseload Models,* Research Report No. 12, San Francisco Project; A Study of Federal Probation and Parole, University of California School of Criminology (Berkeley: The University, 1967).

[4] See Marguerite Q. Warren, *After Five Years: Report of the Community Treatment Project* (Sacramento, Calif.: Department of the Youth Authority, 1967).

One was a peer group of glue-sniffers who lived in the same neighborhood, each of whom had been before the court. To this group a probation counselor was assigned full time. A second group was formed by a staff member not designated as a probation counselor, who went out with a basketball into the street to find boys who were reported to be glue-sniffers. Only one or two of these boys had court records. They were not a neighborhood peer group but were formed into a group by the leader.[5]

In another Denver project, the probation counselor formed a group made up exclusively of delinquent youth on probation who came from a wide geographical area and were previously unacquainted with each other. The group met twice weekly at a community center, once for a required group counseling session and once for voluntary activities.

It is difficult to work with groups on an intensive basis over a very long period. The counselor needs ongoing training, supervision, or consultation. Administratively, effective utilization of a counselor with group skills may call for him to see several groups a few times each week rather than to work full time with a single group.

To make the most of both the group method and counselors' skills, the courts must of course determine which youth will benefit more from group experience. On the basis of these determinations, the court can refine and expand group services.

### Extended Group Services

Some juvenile courts have gone beyond the model of services provided solely by their own probation counselors.

For more than 30 years, the Boston Juvenile Court's citizenship training program has demonstrated a "medium impact" influence on delinquent youth who are retained in the community rather than being institutionalized. This project, which is headquartered in the YMCA and administered by the court through private funds, provides a two-hour afternoon program five days a week for 12 weeks. It combines recreational activities, arts and crafts, educational assistance, character training, and counseling.

A somewhat similar program, initiated in Washington, D. C. through its juvenile court and later terminated, also sought to influence the delinquent youth retained in the community by pre-empting a substantial amount of his daily free time and interposing constructive leader models and healthful group and individual activities, including remedial education.

Even more ambitious was the Provo experiment in delinquency rehabilitation sponsored by the Third District Juvenile Court of Utah and the Ford Foundation. Research-based, this program provided daily guided group interaction complemented with a Saturday work program.

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[5] See *Presentations of a Conference on Inhalation of Glue Fumes and Other Substance Abuse Practices among Adolescents* (Denver, Colo.: Denver Juvenile Court, 1967), pp. 99-103.

Time spent by individual boys in the program averaged three to six months and included a careful phasing-out process. The peer group of boys in the project was a major focus. In time it provided the primary source of rewards for non-delinquent behavior and penalties for unwanted and delinquent behavior. The peer group, with staff help, developed into a more unified system devoted to overcoming law-breaking.

The new joint project of the Denver Juvenile Court and the Colorado Outward Bound School is another example of more massive intervention with delinquent boys. Following four weeks of rugged adventure and survival training in the mountains, 12 "hard-core" older boys return to the city for three months of group and individual programs. This urban phase includes group counseling, work, and recreation activities, physical endurance experiences, remedial education, job finding, and job counseling, as well as weekend forays to the mountains. The basic staff is made up of a court probation counselor and an Outward Bound instructor, with primary leadership responsibility changing as the setting shifts between the city and the mountains.

These programs symbolize efforts to use more than the basic court probation staff in order to intervene more significantly into the environment of the delinquent youth, to reshape his self-image and redirect his norms and goals. Whether under court or community administration, daily programmed experience for delinquent youth should be expanded in the future. Such experience offers a constructive alternative to commitment to state institutions.

## County Homes and Ranches

A juvenile court which has residential facilities for the care of delinquent children has the opportunity to provide treatment especially designed for this group without the problems which often arise in referrals to private institutions. Minneapolis, under juvenile court administration, and St. Paul, under an independent administration, operate county home facilities exclusively for children brought before the courts, including chronic truants. Programs in these residential facilities provide enriched group living experience for youngsters who badly need it. In these facilities, as in any correctionally administered program, care must be taken to ensure that the orientation to control and conformity does not impair the effectiveness of treatment. Value conflicts can arise in which even reasonable self-expression is hindered by strong institutional controls. On the other hand, a constructive use of authority may be an invaluable tool for working with anti-social and troubled children.

The county youth ranches operated in California provide local programs like those which some other states have developed for a statewide clientele. Such ranches may combine school, work, and counseling experiences to achieve rehabilitation. The reintegration concept is realized through a continuous process of relating a child's institutional life with his former (and future) life in the community.

## Work Programs

A variation of the ranch facility is the mountain parks work program of the Denver Juvenile Court. A year-round program, the camp provides group living experience for boys 15 to 17 years old, with half the day spent in school and half the day in work. In line with the reintegration concept, the boys return to their homes each weekend. Since this program is court-administered, a probation counselor continues to work with each boy during and after the work program experience, thus providing a continuum of care. In the case of older delinquent boys, this program is important as an alternative to commitment to the state training school. It represents an additional stage in the court system of graded dispositional alternatives.

Denver also has a more limited work program in the city, in which children remain in their homes. The daily program includes a half-day of school and a half-day of work in the city parks or the zoo. Children remain in the program about 30 days on the average.

Less ambitious work assignments are utilized by some courts as a meaningful sanction for a delinquent act. The juvenile court in Minneapolis has developed a program in which delinquent youth work off a restitution order by doing clean-up work, painting, or other jobs at community health and welfare centers. The same court, with foundation financing, initiated a paid work program in which delinquent girls performed such tasks as reading to the elderly in nursing homes. Supervised work programs for girls should be devised by other courts, and similar programs could be expanded for boys. Work programs are salable to the taxpayers and popular with the sanction-seeking public. Such programs must involve real work, but they must include significant treatment if rehabilitation is to be accomplished.

## Foster Care

Juvenile courts in Oregon, Michigan, and other states administer their own foster home programs by paying adult couples to act as foster parents for youngsters adjudicated as neglected, dependent, or delinquent. In many communities public welfare departments, often augmented by private children's agencies, perform this function. It seems likely that courts will increasingly transfer the responsibility for providing foster care to welfare departments but will retain the responsibility to determine and review the legal status and social adjustment of the children.[6]

Juvenile courts would thus get out of the business of providing foster homes for neglected and dependent children. But, since welfare departments often have difficulty in finding foster families for delinquent children, particularly teenagers, it may be necessary to set up small group

[6] This would be more in line with the suggestion of Edwin M. Lemert that juvenile courts should not have jurisdiction over neglected and dependent children. See "Juvenile Justice — Quest and Reality," *Trans-Action,* IV (1967), 30-40.

foster homes. Courts and welfare departments would need to coordinate their efforts to develop such homes.

For the usual small group home, foster parents provide the physical facility and 24-hour supervision of four to six teenagers. They may be guaranteed a specified sum whether or not all the youths are living in the home at all times. An alternative is to lease or purchase a residence and move the foster parents in. In either case, the foster parents in effect become employees of the court or other sponsoring agency, so that a group setting may be provided for children.

## Halfway Houses

Through a grant from the Rehabilitation Service Administration, the Denver Juvenile Court has developed two halfway houses. Unlike other so-called halfway houses, which are usually designed for persons who have been institutionalized, the Denver houses serve as group facilities for children 12 to 14½ years old who otherwise would require commitment to state institutions. Two houses have been leased in the inner city area of Denver, three blocks apart. One is for boys and the other for girls. Up to 15 children live in each house, staying about six months. An early evaluation of this project is that 15 youngsters are too many for one house, and that staff energies are excessively absorbed in the control features of residential living.

The program includes individualized counseling and guided group interaction with the children, remedial education, pre-vocational training with diversified paid and unpaid work experience, cultural enrichment, and recreation. There is extensive individual and group counseling for parents. The orientation is that of the therapeutic community. A unique feature is a range of joint boy-girl experiences, from heterosexual counseling groups to shared work programs. Special full-time family workers and vocational counselors are utilized in addition to house parents and probation counselors. Following release from the program, children relate back for continuing counseling, group work, paid work experience, and recreational activities. Extensive involvement of parents continues throughout the aftercare period.

This type of project incorporates the concept of rehabilitation in the community along with the recognition that not enough small group residential services are available from other public and private agencies. Such programs should be developed more extensively. One obstacle will be the acute shortage of skilled manpower to operate these difficult but promising programs. Another obstacle is that of community acceptance of acting-out behavior by delinquent youth living as a group within the community.

## Other Health and Welfare Services

Courts will need to rely on other agencies, both public and private, to secure needed services.

Family counseling is greatly needed by the families of delinquent youth, and both private and public sources should be utilized maximally. As noted above, however, it would be possible for skilled probation counselors to learn how to provide such services.

Group placements under private auspices could undoubtedly be used for court-referred children if subsidy were available.

For seriously disturbed youngsters, courts need to secure residential treatment which is now completely unavailable in some jurisdictions under either public or private auspices. For less disturbed children, the courts may use community mental health facilities or provide their own. This service area is so important to the juvenile court that a subsequent chapter is devoted to the subject.

## Manpower for Services to Delinquent Youth

For many years it has been the theory that the graduate schools, particularly the graduate schools of social work, should be the major source of manpower for probation and other court services for delinquent youth. In practice, however, courts have had to look elsewhere for the manpower they need. It is thus necessary to consider all educational sources from which service manpower for the courts may be drawn, and what can be done to augment recruitment from these sources.

### The Graduate Schools

Juvenile courts draw professional manpower from graduate programs in social work, sociology, psychology, guidance and counseling, correctional administration, and possibly other subjects. Colleges and universities are initiating and expanding master's programs in these fields, but job opportunities continue to outstrip the numbers of graduates. Work with delinquent youth is an exciting vocation and needs to be presented as such to young people at all educational levels, beginning with high school. Graduate schools and departments could improve the course content in delinquency and corrections.

Ways must be found for the juvenile court to help finance the graduate training of the future probation counselor. Stipends must be provided which might require a commitment to work in this field at least for several years.

More opportunities for field work in delinquency agencies, together with curriculum enrichment, could make it possible for master's-trained psychologists and sociologists, for example, to integrate quickly and become effective staff members of courts and related agencies.

To attract such young men and women, judges and court administrators must commit themselves to a professional atmosphere of inquiry and experimentation, to reasonable workloads, and to professional standards which are not inconsistent with those which are "trained into" the professional.

### Baccalaureate Programs

The typical probation counselor in a juvenile court today has a

bachelor's degree, with limited academic course work in psychology, sociology, or social welfare. His work experience may have included a summer as a recreation leader at a playground or as a camp counselor.

Far more attention must be given to making majors in these fields more widely available to undergraduates, majors which provide supervised field experience in both the third and fourth years of undergraduate training.[7] Moreover, certain training which has been reserved for master's-level programs could and should be presented to undergraduates in the helping services.

Admittedly, maturity is needed to work effectively with delinquents, and the graduate with a master's degree has had more time to acquire it than most new bachelors of arts. But the courts, like many other human-service institutions, are finding that the basic source of manpower in the future is the pool of people whose training has not exceeded the baccalaureate level.

### Two-Year College Programs

The rapid increase in the number of community and j. or colleges should produce a growing source of manpower for the juvenile courts from the ranks of persons who hold associate in arts and similar degrees. This is already taking place in other service fields. For example, the Fort Logan Mental Health Center at Denver, which had previously trained its own psychiatric technicians in a six-month program, has now integrated this program with a nearby junior college. The two institutions have mutually developed an academic and field program which will produce mental health workers with associate in arts degrees, better-rounded and better-trained for this important task.

The model could well be adapted to training detention staffs of juvenile halls, counselors for group care facilities, street workers with youth, indigenous counselors and group leaders, and even probation counselors for courts which could not recruit persons with a bachelor's degree. State institutions for delinquents would also benefit if their staff members had such combined academic and field training.

### The Public Schools

Thousands of persons who never went to college can relate meaningfully to young people and be vital agents for rehabilitation. The maintenance man may reach youngsters better than the trained caseworker.

Successful use of indigenous workers in anti-poverty programs has brought this fact home. When such workers were first used, enthusiasts held inflated views about what they could accomplish. Many professionals were skeptical. Others recognized the contribution which such

[7] See *Proceedings of the Conference on Education at the Undergraduate Level for the Helping Services* (Winchester, Mass.: New England Board of Higher Education, 1967).

workers could make but stressed the need for occupational career lines, for specialized training and supervision, and for careful delineation of roles.[8] Experience in anti-poverty projects and elsewhere has now shown that indigenous workers can make real contributions to service programs. Courts of the future should reassess their personnel standards so as to permit the employment of indigenous workers in varied roles.

### In-Service Training

Courts and related agencies need to commit themselves to training all staff members, from the graduate social worker to the detention home cook. To the maximum extent feasible, training should be geared to the level of the worker. Graduate social workers, for example, do not need to receive basic training that is essential for the counselor who has just graduated from college. All levels of workers need training to heighten their awareness and advance their skills.

## Emphasis on Services to Low-Income Youth

It has been repeatedly shown that most of the children and youth brought before the juvenile court come from city slums (low-income urban neighborhoods). And with these children juvenile courts have not on the whole been very successful. These facts suggest that urban courts must consciously set about gearing their services to the needs of poor children.

These needs stem in large part from the environment in which the slum child grows up. Single-parent families are common, and many of them exist on public welfare. Adults offer poor models for children. Jobs for youth are scarce. Chronic truancy and dropout status are endemic. Delinquent sub-cultures abound. Early sexual and drinking experiences are commonplace. These facts must be brought home to everyone who works with children brought before the juvenile court.

Court workers need to know that slum sub-cultures differ and that they produce different life styles. Engel's conceptualization of sub-cultural life styles – strivers, consistent copers, inconsistent copers, reliefers, and holdovers – deserves careful study by court staffs.[9]

Knowledge of the different needs of the various sub-cultures will make it possible for court workers to evaluate their present methods and determine the reasons for their failures with so many children. The case-work method seems particularly ineffective with the "inconsistent copers," the "reliefers," and the "holdovers," many of whom are non-verbal in an individual counseling session. Group counseling and group activities are appropriate. But the road to rehabilitation is apt to be long and the cost high. New methodologies must be developed. It is with these young-

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[8] See Arthur Pearl and Frank Riessman, *New Careers for the Poor* (New York: Free Press, 1965).

[9] Madeline Helena Engel, *A Reconceptualization of Urban Lower Class Sub-Cultures,* New York Juvenile Correction Project, Department of Sociology and Anthropology, Fordham University (New York: The University, January 1966).

sters that the probation counselor must work on the "conflict model."[10]

For these youngsters especially, the probation counselor must work with school officials to facilitate changes in the educational system which will attract and excite such boys and girls. He should place the burden on the school to force it to discover whether its failures have resulted in the child's refusal to attend.

The probation counselor must educate the community center to reach out and serve this child. The detached worker method will frequently be needed, since many of these youngsters fail to enroll in, drop out of, or are banished from, the programs of community centers. This approach will also be necessary to the community mental health clinic where the child or his family, when referred, is all too frequently discouraged. If he is accepted, he often gains little benefit from a traditional psychiatric approach. The community mental health clinic will need to dispatch and detach staff members to work with these youngsters on the street corners or in neighborhood storefronts and to work with the families in their own homes rather than in the traditional clinic.

The probation counselor may have to help the families of the youngsters as they encounter the red tape and the restrictions of welfare programs.

The court must be willing to support this approach. For community agencies will complain to the judge or probation administrator that a particular probation counselor has become a "trouble maker."

The probation counselor must help educate the court to allow him greater time to work with these children and to be more tolerant of their minor delinquencies so that he can have a greater opportunity to succeed in his efforts with them. He will also need to convince the court administration that he will need assistance in accomplishing this job. He may need supervision by a more experienced and better-trained consultant. He may need the assistance of a probation aide, a VISTA, an indigenous worker, or an ex-offender.

It is compellingly clear that the piecemeal efforts of the many agencies which have worked with these youngsters have failed to "turn them on." The child who is on the caseload of five or six agencies would be vastly better served if the representative of one agency accepted primary responsibility for him. This person must be a multi-purpose, multi-function worker who uses a group approach augmented by individual assistance. With the help of an aide and the coordinated assistance of other agencies, he can reach these youngsters and show them that boredom and depression and hopelessness and delinquency can yield to daylight.

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[10] See John M. Martin, *Lower Class Delinquency and Work Programs*, Center for the Study of Unemployed Youth, Graduate School of Social Work, New York University (New York: The University, February 1966). See also John M. Martin and Gerald M. Shattuck, *Community Intervention and the Correctional Mandate*, prepared for The President's Commission on Law Enforcement and Administration of Justice (New York: Fordham University, July 1966).

## VII. THE PROBATION TEAM

In most juvenile courts, the basic model for services today is casework. A delinquent youth is assigned to a probation counselor who will have responsibility for surveillance and rehabilitation of the youngster. Assignments are made by a supervisory officer, possibly without intake screening, on the basis of such factors as: the child's residence and the district being served by the probation counselor; the sex of the child and of the counselor; and the relative weight of the various counselors' caseloads. In some courts, special attention is given to the ability of a probation counselor to deal with the type of child or the level of the counselor's skill in relation to the severity of the problems which the child appears to present.

Once given the assignment, the probation counselor tries to secure and coordinate whatever services the child needs (or has been receiving) from outside agencies. The counselor may seek guidance from a court consultant on how to handle the case. He may refer the child or his parents or the entire family for family counseling or mental health services. He may try to interest the school in modifying the child's academic program. He himself may advise the child as to where he can find a school for dropouts or special vocational training, or where to look for a job. He may refer the child to a recreational agency or community center.

Despite any efforts a counselor may make to involve other agencies, the typical method used in probation services today is based on the casework concept, under which the responsibility for a child is assigned to one counselor. Even the limited amount of group counseling used in juvenile court probation today is in effect an extension of casework.

The group services division of the Hennepin County (Minneapolis) Juvenile Court, the citizenship training program affiliated with the Boston Juvenile Court, and the new programs described in the previous chapter represent efforts to develop additional methods for dealing with delinquent youth under court auspices. Although these projects are valuable as offering diversified alternatives to standard counseling, they have limited flexibility. Moreover, they are essentially casework, with the primary responsibility for each child vested in the group counselor.

As noted previously, the casework method is effective for many children. But, if this method remains as the basis for juvenile court probation, only limited inroads can be made on the problem of delinquency. Even if more probation counselors were hired, so as to reduce caseloads, the caseloads would continue to be made up primarily of individual cases. Therefore it is essential for juvenile courts to develop methods which will provide more flexibility and greater diversification of approach.

## The Team Approach to Services

A new approach to services for delinquent youth could be made if responsibility were vested in a "probation team," whose members would jointly make decisions about the services needed by individual youths and jointly provide or secure these services.[1]

The efficacy of team responsibility has already been demonstrated in mental health settings. At the Fort Logan Mental Health Center, Denver, a multidisciplinary team has responsibility for all patients within its unit of the mental hospital, which is made up of patients coming from a given geographical area. The unit includes day hospital patients, evening hospital patients, 24-hour patients, and those on aftercare following release. A team leader directs members in utilizing their specialized training in a team-planned effort to provide maximum assistance to patients. Team members usually include a psychiatrist, a psychologist, a caseworker, a group worker, a recreation therapist, an occupational therapist, psychiatric nurses, and psychiatric technicians. A team diagnosis is the basis for services to be provided a particular patient by the different disciplines involved. There is continuing feedback for the purpose of assessing whether the team's treatment plan is working or should be redesigned.

Roles are flexible. For example, the team leader is usually a psychiatrist, but he may be a psychologist, a social worker, or a skilled nurse. The entire team shares the responsibility for rehabilitation of the patients in the unit.

Development of juvenile court probation teams would offer the double advantage of decentralizing probation services into clearly defined geographical areas and of altering the basic casework method. It would be based on the concept that the different services required by different children should be provided by different kinds of personnel, and that this concept can best be realized through coordinated diagnosis and treatment. It would facilitate the application of our present knowledge about delinquent typology, so that a child could be serviced by the staff member or members whose skills are most effective with a given type of delinquent. Moreover, team skills could be used for prevention of delinquency as well as treatment of adjudicated delinquents.

## Organization of the Team

A large urban juvenile court which has a probation staff of 30 or more persons could establish four to ten teams. Each team would have the responsibility for (a) services to all children living in its geographical area who have come before the court and (b) a preventive function exercised within the area by the use of community organization or com-

[1] The authors are grateful to John Wallace, chief probation officer of the Courts of the City of New York, for his advice and assistance in developing the concept of the probation team, large and small.

munity development methods. The team would use a neighborhood center as headquarters.

Team members might include: a team leader, several probation counselors, recreation personnel, a remedial education teacher, an employment specialist, a vocational rehabilitation specialist, juvenile delinquency prevention officers, and indigenous workers. Additional members might include a nurse and volunteer workers.

### Team Leader

Under the leader's guidance, individual children assigned to the team would be evaluated and a team plan developed by which the services most appropriate to each child could be provided. The team leader should be an experienced person with at least a master's degree in a discipline such as psychology, sociology, counseling and guidance, or correctional administration. His function would be to direct and coordinate all court-provided services to clients of the team and to make sure that appropriate services were obtained from community agencies. He would be responsible for providing or obtaining in-service training for all team members, as well as directing and evaluating their performance.

### Probation Counselors

The team should include six or more probation counselors, both men and women. The minimum educational level should be a bachelor's degree. Experience as a probation counselor would be desirable but not essential; if the counselor were qualified in other ways, training could make up for lack of experience.

Ability to use both casework and group work methods would be important qualifications, so that individual probationers would be shifted from one-to-one counseling to group counseling and back again, as needed. Well-trained probation counselors could work with the probationer and his entire family, including brothers and sisters (family treatment) or with the probationer and one or both of his parents (partial family treatment). In some cases he might work with the parents alone. He could hold regular group meetings including the parents of several delinquents.

The probation counselor could be given the responsibility for bringing the child before the court when this is needed. He could also perform intake screening.

The rigid sex line followed by most courts – assigning boys to male workers and girls to female workers – could easily be relaxed. Assignment could then be made in line with the needs of the individual child.

### Recreation Personnel

Recreation leaders, with college education or community training, could help the team effort by developing healthful and self-enhancing recreational activities for children and their families. The program should be diversified and include sports, arts and crafts, and camping

and fishing trips. Such activities would be scheduled after school and on weekends in such a way as to fit into the overall team effort.

Like the group workers on the team, the recreation leader would spend a good deal of time with the delinquent and his peer group. Working with the peer group to change its standards would help to reinforce the probationer's ability to conform to acceptable norms.

#### Delinquency Prevention Officers

Juvenile delinquency prevention officers, with college or high school education, would function in the role of community organizers but would focus on delinquency prevention. Working with delinquents and pre-delinquents and their families, the juvenile delinquency prevention officer would try to develop ways of effecting social change. In meeting with youngsters and their families, he could provide an opportunity for them to express their ideas of what the schools, recreation centers, and other community institutions should be doing. He would also seek to reduce the hostility of these institutions to his clients and to their values and life styles. Working at the grass roots, he would acquire considerable knowledge about the neighborhood power structure and be able to facilitate needed institutional and social change.

#### Remedial Education Teacher

A certified teacher, skilled in remedial teaching methods, could help meet the needs of a great many delinquents and pre-delinquents and their families or refer them to services in the community. He would also serve as educational consultant to the team. Since work on the team would be less structured than teaching in a public school, the teacher would need to have self-starting ability. He would be a link between the school and the child or family, interpreting their needs to the school and the school's needs to them.

#### Specialists in the Employment Field

An employment specialist, with a bachelor's degree or the equivalent together with specialized training in the employment service field, would acquire first-hand knowledge of job conditions and problems in the team's district. He would offer direct services, such as pre-employment testing, to youth and their families and would arrange for services which he himself could not provide. He would develop jobs for district clientele. Possibly this would be done through training and employment programs of the public employment service. He might also develop subsidized work programs for the youth of the district and their parents. Functioning as a consultant on job training and placement, he could make an important contribution to the team effort.

A vocational rehabilitation counselor, with a bachelor's degree and specialized training, would function in much the same manner as with other clients, except that he would be based in the team's district and work out of its neighborhood office. He would be the link between potential clients and rehabilitation services, whose nature and avail-

ability are frequently unknown to those most in need of help in this field. Together with the employment specialist, he would develop action projects for pre-work orientation, for subsidized work experience, and for job training.

### Indigenous Workers

The neighborhood probation team, as professionals and semi-professionals, badly need communication with the residents of the neighborhood. Essential to the successful team, therefore, are workers who live in the neighborhood. These workers can be men or women who have had a problem-ridden past but have developed adequate coping abilities. They must be well known in the neighborhood and have good ability in communication. They need not have much formal education, but they must be capable of accepting training and supervision and of working on a team which recognizes the value of all team members. They should not over- or under-identify with the youth and families to be served. They should be capable of mobilizing community support for probationers but sufficiently mature to temper their own concern for social change in line with the responsibilities of the court.

Indigenous workers can provide useful neighborhood information for other members of the team and reach in and reach out to youth as friend, counselor, parent, advocate, or control agent. They can be very helpful in persuading children and their families to use legal, medical, mental health, and other public services, accompanying them to the proper agency when necessary. Their role must not be limited to that of an aide. They can make a unique contribution which more highly educated staff cannot make.

### Potential Members of the Team

A *registered nurse,* with specialization in public health or psychiatric nursing, could provide both direct services to children and families and consultation to the team in her specialty. In most communities the public health nurse has a positive image. The specialized training which increasing numbers of nurses are receiving in preparation for public health work enables them to be effective in mental health as well as general public health. As a member of a probation team, the nurse could serve as a link between the client group and existing health and mental health services. She could move into prevention to develop programs for family life education, mental health prophylaxis, and early referral.

*Volunteers* have great potential as added resources for a probation team. VISTA volunteers have already proved to be very useful to authoritarian agencies such as courts and correctional institutions because they are related to, but not official employees of, the agency. As a survey conducted for the Joint Commission on Correctional Manpower and Training showed, many citizens outside the VISTA group are interested in serving as volunteers.[2] Working without badges but with friendly

[2] See *The Public Looks at Crime and Corrections* (Washington: Joint Commission on Correctional Manpower and Training, 1968), p. 18.

interest, volunteers can be very helpful to delinquent and pre-delinquent youngsters and their families. They can function in a big-brother or big-sister capacity or as a friendly counselor to a family. Working with the probation team, they can assist the group worker, the recreation leader, or the juvenile delinquency prevention officer. They can also play an important role as liaison between the team and neighborhood organizations.

#### Consultants

A *psychiatrist* can be most useful to the probation team as a trainer and consultant. Diagnosis can be done effectively, as a rule, by a well-trained psychologist. Psychiatrists frequently need a specialized orientation to work with delinquent youth, and they are not always "tuned in" by pragmatically minded staff members. With these qualifications in mind, it should be recognized that a qualified and adaptable psychiatrist can be extremely useful to the team in teaching and demonstrating techniques of working with individuals and groups and in helping staff to a better comprehension of the inner dynamics of an individual, a family, or a larger group.

A *psychologist* with at least a master's degree could serve very effectively as either a consultant or a full-time member of the team. He could be useful in diagnostic workups, as a consultant on treatment, and as a trainer in methods and techniques. Trained in research methods, he could be very helpful in the overall evaluation of the group's work and in determining the relative effectiveness of different methods of service. As a team member, he could serve as group leader or provide counseling and treatment for the more disturbed child or family. He should be the basic liaison with mental health services.

A professional *social worker* could also serve either as a consultant or a full-time member of the group. To him could be delegated some of the team leader's responsibility for the guidance and training of staff members. His orientation to the family and the community would make him useful as a trainer of team members. He could, of course, function as a probation counselor and provide primary liaison with social welfare agencies.

A *sociologist* with at least a master's degree could serve as a consultant to several probation teams. His training would help him enhance team members' understanding of socio-cultural factors in delinquency in general and in the team's own district. He could perform research or serve as a research consultant to ensure that information collected was fed back to staff members and integrated into the ongoing program.

A *physician* should be available to the team to ensure that medical examinations and treatment needed by youth and their families are provided. He could be extremely useful in educating team members about the medical problems experienced by their clientele. If necessary, he could occasionally make medical diagnoses and provide direct treatment.

## Problems and Promise of the Team Concept

Questions may be raised as to how the team concept differs from that of the staff of a small court which is undistricted and serves delinquents in all parts of the community. The difference lies, of course, in the fact that team members share the responsibility for determining the needs of the team's clientele, for providing services or seeing that services are provided, and for preventing further delinquency.

The team concept offers an approach that is flexible as well as comprehensive. The team would undoubtedly take various forms to meet the special needs of a community, and organization might well differ from district to district. Some communities or districts might have non-court services of such variety and strength that the team would not have to include members of the disciplines involved in these agencies. In other areas, additional functions might have to be given to the team to meet deficiencies in non-court services.

Where the number of children and families to be served is too large to be manageable by a single team, sub-teams might be organized. The entire team could carry training, planning, and coordinating functions, while the sub-team would develop diagnostic and treatment programs for individuals, families, and groups. Experimentation should be encouraged.

The team concept offers another type of flexibility in allowing two or more staff members to lead a group or to counsel a family. A trained staff member might join with an indigenous worker in such an undertaking. The latter plan offers the double advantage of enriching services and providing a useful training device.

Needless to say, the team concept poses substantial problems of coordination, both within the team and between the team and the community's health and welfare services. No probation team can offer the entire gamut of services that may be needed by its clientele. Recognizing its own limitations, the team must develop effective liaison with other community agencies.

Despite problems of coordination, the team approach appears to offer a very promising method of serving probationers and preventing other youngsters from joining their ranks. Rooted firmly in its district, the team can acquire the knowledge of its clientele and gain the respect and cooperation of the neighborhood more easily and effectively than an equal number of staff members working as individuals. In this aspect of the team approach, indigenous workers play a highly important role.

## The Small Probation Team

Somewhere in this paper, a difficult question must be asked. Under present and projected staffing patterns, there is a need for additional thousands of probation counselors. It is not possible to fill all probation counselor positions from graduates of master's degree programs. The baccalaureate degree probation counselor is the usual worker in this field and will probably continue to be so. Without derogating the many

excellent graduate schools throughout the nation and the increasing breadth (and hopeful depth) of course offerings at the undergraduate level, there is need to evaluate the jobs done by probation counselors and determine which phases of their work might be done equally well – or perhaps even better – by subprofessional personnel.

At meetings discussing manpower needs in this field, the authors have heard informal statements of studies indicating that probation staff spend only 20 to 30 percent of their time in direct service to their client group. In talks with subprofessionals in various settings, from youth opportunity centers to neighborhood action centers, we have recurringly heard the statement that slum delinquents need an indigenous worker and not an aspiring white-collar probation counselor who may have the intellectual knowledge but lacks the "gut knowledge" of the slum delinquent and his ways of surviving. As stated elsewhere in this paper, there are serious limitations to the validity of replacing the regular probation counselor with subprofessionals as the solution to manpower problem. However, anyone in close observation of an average probation counselor recognizes his limitations and failures as well as his strong points. In appreciation, therefore, of the availability of indigenous personnel, of the shortage of the highly trained personnel, and of the need to do more experimentation and evaluation before proliferating the present model for probation casework services, the authors wish to present an idea which they call "the small probation team."

In the concept of the small probation team, the future juvenile court probation counselor would function very differently than in the past. Instead of being a caseworker responsible for cases assigned him, he would instead become the manager and administrator of a group of untrained or partially trained persons working under him. This model would have special merit for work with low-income delinquent youth and their families.

Such a small team might consist of the probation counselor together with four or five indigenous subprofessionals who have special aptitude and orientation for various areas of service. It would include:

1. A street group worker. He would be a daily intervening agent in the individual lives and group experiences of delinquent youth. He would be in intimate contact with them and would work mainly during the after-school and evening hours and on weekends. Several such street group workers could be assigned to one probation counselor.
2. An employment aide. This person would function as a neighborhood job developer, job referral liaison, and vocational counselor. He would be in regular contact with employers and potential employers in the neighborhood and outside, would promote various part-time and full-time jobs and community service tasks which could become part of the rehabilitation plan of the street worker's youth, and would arrange or conduct

various role-playing sessions for job preparation and continuation counseling.

3. An education aide. This person could conduct or arrange basic education for delinquent youth and serve as their referring counselor and support for entry or re-entry into all forms of more formal educational experience.

Additional aides who could service several teams might include:

4. A family group counselor; and
5. A housing specialist who could not only assist families to obtain better housing but could contract for paid or unpaid work experiences for the youth to help families improve their housing.

Basic to such an approach would be the building in of training programs for both the indigenous subprofessionals and the probation counselor. The latter should have consultation available from more highly trained specialists. Released time should be made available for the indigenous subprofessionals to further their formal education.

## Specialized Services for Delinquent Adolescents

The authors wish to propose an additional concept for experimental use by juvenile courts or other community agencies. The concept is the provision of multi-dimensioned youth services aimed at those delinquent youth for whom standard probation services are insufficient.[3] It would seek to bridge the usual gap in court and community services for moderate to hard-core delinquents. The court, for example, would refer to the specialized services unit its more anti-social youth for an action diagnosis. This diagnosis would be achieved by unit personnel interacting with the youth in a variety of settings – such as his home, on the street, in his peer group, and his school – to arrange those additional individual or group activities which allow for the drawing of a diagnostic picture of personal and program needs.

The specialized services unit would then provide to this youngster and/or his family one or more of the following program services, most or all of them under unit auspices: short-term residence; a therapeutically oriented school program; group activities and group counseling; individual counseling which could often be activity-oriented; paid work experiences, as a member of a small group where the group and the counselor created the work opportunities; family group counseling; a therapeutically oriented camp opportunity which might combine different dimensions of individual and group counseling and vocational

[3] This description only cursorily reflects the developing conceptualization of William Freeman, director of the Denver juvenile court's halfway houses project, and of the changing direction of that project from its major focus on residence with aftercare to that of a coordinated multi-dimensioned program in which residence is one among many phases.

experiences; additional recreation opportunities; cultural enrichment experiences. Other dimensions could be included.

The approach would be that, for a given child, a certain combination of these programs would be prescribed and implemented, and the treatment plan would be modified as feedback reflected changing needs. For example, one child could be worked with from his own home and engaged in the special school program during the day and in an after-school paid work program. Another child might need residence for a time while his parents undergo family group counseling and while he continues at his regular school. Another child might need the camp opportunity to prepare for residence. Still another child might need neither residence nor school but only certain group or individual experiences to help him through his problems.

This type of program should remain relatively small if it is to build and retain quality. It offers a viable method for cutting back commitments of anti-social children to state institutions. It projects a flexibility of staff function which requires extensive reaching-out services and a modus operandi radically different from the routine way in which most courts now deal with delinquent youth.



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# VIII. MENTAL HEALTH SERVICES IN JUVENILE COURTS

Since its inception, the juvenile court has had a strong linkage with mental health services. With the help of mental health professionals, staff of the first courts evaluated the child's developmental and family problems and his areas of adjustment and non-adjustment. Within the limits of their time, staff tried to help the child gain insight into his behavior, resolve his conflicts, and adopt an adjustment more in line with community values. Mental health personnel were used as consultants, or occasionally as staff.

The founders of the child guidance movement had a deep interest in juvenile delinquency. The Institute of Juvenile Research in Chicago and the Judge Baker Guidance Center in Boston provided substantial services to delinquent youth and stimulated much psychologically oriented research in delinquency.

Over the years mental health services have come to be provided to juvenile delinquents in four ways.

1. *Mental health services provided within juvenile courts.* Many courts have employed a psychologist on a part- or full-time basis and retained a psychiatrist to provide diagnostic service and a limited amount of treatment to juveniles, as well as consultation to the judge and his staff. Frequently the court's psychologist has less than doctoral training and is somewhat isolated from other practitioners in the field of mental health. He may have insufficient opportunity to interact with professionals whose training is equal to or better than his own. As one of the few professionals on the court staff, he often has to provide training and consultation to probation counselors and accordingly may develop the self-image of an expert though lacking any real quality of expertise. He may have little time for, or commitment to, continuing his own education. The authors believe that many court clinics are understaffed and become bogged down with individual diagnostic studies.

2. *Services in child guidance and university departments with a special interest in delinquents.* Child guidance clinics have been helpful in providing services for delinquent youth and have developed the model of working with the family as well. But there has been too little interest in shifting the target to work with the community dimensions of delinquency, with the peer groups of delinquent individuals, and with delinquent groups or gangs.

Furthermore, not all child guidance clinics have been receptive to court-referred delinquents. At least one comparative study of referrals of problem youth to child guidance clinics and court clinics indicated that lower-class youth formed only a small percentage of the applicants to child guidance clinics but an overwhelming majority of those referred to court clinics. The child guidance agencies studied did not give priority to delinquent youth in selecting their cases nor did they

accept very difficult cases as a rule.[1] Non-court clinics more frequently worked with children under juvenile court age and with children exhibiting symptoms of a more clearly psychological nature.

It must also be noted that the interest of universities in training and research has placed some limitations on intake of delinquents.

3. *Services by private mental health practitioners.* It is difficult to judge how widespread and how effective are the mental health services rendered to delinquents by private practitioners. Undoubtedly, in view of the cost of their services, they have worked mainly with middle-class and upper-class delinquents. Thus they may have served a valuable function in diverting these youth from the juvenile court. As emphasized repeatedly in this paper, most of the children who come before the courts are lower-class children. Large numbers of poor families petition the court to use its authority to control children who are "incorrigible" or "beyond control." Relatively few such petitions are received from parents of higher socio-economic status, possibly because they can afford to—and do—seek private professional help.

4. *Services in community mental health clinics.* The community mental health clinics which have been developed in considerable numbers over the past five years have in effect replaced the child guidance clinics as a source of services to delinquent youth. Thus far, they have provided delinquent youth more in the way of diagnosis than of treatment. Many community clinics appear to be developing middle-class clienteles, but the staff and boards of these public agencies can be reminded by courts of their responsibility to serve all members of the community.

## A Model for Mental Health Services in Juvenile Courts

Even if community mental health centers grow in numbers and in extent of service, juvenile courts should expand and refine the services which they now offer to delinquents. There is "more than enough business to go around." Court clinics are in the best position to develop effective mental health treatment programs for delinquent youth and their families.

For example, the sheer weight of numbers of children coming before the court who are in need of mental health services has forced court clinic personnel to develop shorter methods of providing such services. To some degree, the family diagnostic interview has replaced the elaborate and time-consuming tests which used to be standard procedure. The family interview initiates the treatment process and accelerates short-term treatment of the family by court clinic staff.

Every urban juvenile court should have its own mental health team,

[1] James E. Teele and Sol Levine, "The Acceptance of Emotionally Disturbed Children by Psychiatric Agencies" in *Controlling Delinquents,* Stanton Wheeler, ed. (New York: Wiley, 1967).

with a psychologist or a professional social worker as full-time administrator. The following organization is suggested.

1. A psychologist with a master's degree and additional work toward the doctorate. Such training would give him diagnostic and treatment skills and the ability to design and conduct research. In addition, he needs to have the ability to communicate with the probation staff easily and without arrogance. This ability would be essential to the training role which he will need to undertake.

2. A psychiatrist, preferably a specialist in child psychiatry. He would have skills similar to those of the psychologist to offer the team, except for research.

3. A graduate social worker. The social worker would have skills similar to the other professional members of the team except in testing and research.

4. Aides. With less training, aides would function under the direction of the professionals. They would perform certain "leg work," such as visiting the home and interviewing the family. They could be trained to do testing under the supervision of the psychologist. And they could perform the "activity therapies."

Professional team members would place far greater emphasis than they do today on the roles of consultant and trainer. It will, of course, be necessary for them to make diagnoses and recommend treatment plans for individual children. But strategic use of their time requires that less time be given to diagnosis. They will need to perform crisis therapy and short-term treatment for the more difficult cases. However, their major function should be to act as the central information source and referral aid for all staff. They should have an important role in in-service training and provide ongoing consultation to probation staff.

Long-term treatment and complicated diagnostic study should generally be allocated to other public and private psychiatric services. Cases with mental health disturbance but without serious or repeated delinquency should be diverted to non-court mental health agencies at the point of intake.

Some youthful offenders will have severe disturbances which require treatment in closed facilities. Such treatment, whether short-term or long-term in nature, should be provided by the community away from the court and from detention facilities. All too often, juvenile detention homes hold in custody severely disturbed children who need hospitalization. The potential harm to both these children and the "normal" children detained with them is obvious. The court mental health team should refer seriously disturbed delinquents for intensive residential or day-care treatment in facilities which are primarily devoted to such treatment.

Delinquents and families who can afford it — mainly middle-class and upper-class people — should be referred to private mental health resources. The court mental health team can perform a useful service in

persuading community mental health centers to adapt their methods in order to provide better services for delinquent youth and their families.

Allocation to other agencies of cases which need specialized or long-term treatment or treatment which is available in community mental health centers will leave to the court mental health team major responsibility for diagnosis and short-term treatment of those delinquents and their families whom it is best equipped to handle.

In addition to providing these needed services, the court mental health staff members represent a valuable training adjunct. They can train non-professional staff in interviewing methods, diagnostic observation, family treatment approaches, and group counseling techniques. They are available for ongoing consultation to probation counselors. Moreover, the clinic staff can assist the court in its decisions concerning the best disposition of cases.

Court mental health clinics also offer substantial potentials for research. With more and better-trained personnel, they could contribute valuable information about the mental health problems of delinquent youth. In addition, the psychologist's research expertise could be utilized in conducting demonstration research and in assisting with other demonstration projects.

## Training Manpower for Court Mental Health Clinics

The graduate schools which train for the three major mental health professions — psychology, psychiatry, and social work — need to expand their curricula to include more material needed for work in court mental health clinics. Graduate students need knowledge of the socio-economic factors in delinquency. They require training in the community approach to prevention of delinquency and in strategems for the most effective allocation of their time. In this respect, training for public health work and for community psychiatry offer useful models.

More training should also be given in methods of diagnosis which do not rely extensively on testing. Students need training and experience in counseling individual delinquents, groups of delinquents, and families. Community organization methods are seldom extensively included in graduate curricula in these professions. Training and experience are needed to help the future professional function as a consultant, a trainer, and an administrator.

Field experience in courts is also essential for the prospective mental health professional. Graduate schools of social work, which require two years of field work, should place more students in court settings. Graduate departments of psychology should arrange internships in court clinics. Psychiatric training centers should provide field experience in mental health clinics maintained by courts.

Undergraduates majoring in one of the helping service fields require more practical training in which they receive extensive supervised field experience. It would also be helpful if there were more summer

work-study programs for students interested in mental health careers. Such programs as those stimulated by the Western Interstate Commission for Higher Education seem admirably suited to this purpose.

But progress toward better mental health services in juvenile courts requires something more than improved training of future workers. It requires that the court afford a professional milieu in which these professionals can work. This implies a certain freedom of action. It also implies that carefully developed professional standards are not violated by arbitrary decisions on the part of the judge. Finally, salary scales must be such as to attract capable and well-trained professionals to work in the juvenile court.

# IX. ADMINISTRATION OF THE JUVENILE COURT

It is obvious that the juvenile court programs outlined in the preceding chapters are so complex and varied that good administration is essential. Moreover, they can hardly be administered by a single judge. In the past, court services have usually been sufficiently simple that they could be adequately administered by a competent judge with the assistance of the probation staff. In most cities, the judge was both the titular and the actual head of the court. He laid down policy and saw that it was carried out. But, with the increasing complexity of juvenile court work and departmentalization of court functions, it has become increasingly necessary that someone other than the judge have overall supervision of the day-to-day work of the court.

## The Chief Probation Officer

The general pattern now existing in juvenile courts is to vest a great many administrative functions in the chief probation officer. He hires, promotes, and fires the probation staff (subject to civil service or judicial authority in the various jurisdictions), plans program, oversees caseload management, provides in-service training and legislative consultation, and carries other duties. This broad range of functions places a tremendous burden on such a person unless he has specialized training and experience in administration.

The dimensions of the chief probation officer's duties will depend in considerable measure on the degree of autonomy from judicial sanction which the probation staff has. For example, jurisdictions follow different practices as regards the power to appoint the probation staff. In some courts, the judge hires and fires the staff. In others, staff members are chosen by a state or local merit system agency. In certain jurisdictions where staff is appointed in line with a merit system, the judges are empowered to appoint the chief probation officer. And there are courts which have combinations of these arrangements.

It seems likely – and certainly advisable – that there be increasing separation of probation staff from judicial appointment. Some measure of judicial control could be retained if the judge could select a probation officer from a list of eligible persons certified by a merit system centralized in a state appellate court. The constitutional doctrine of separation of powers between the executive and judicial branches of government seems to indicate that a merit system for court employees should not be run by a civil service agency which is part of the executive branch.

In line with proposals made earlier in this paper, the authors believe that a chief probation officer should have the following duties.

1. *Intake.* The chief probation officer should have final responsibility for the management of the court's intake processes, for the appli-

cation of criteria governing intake, for the method by which the intake staff channels cases into the court process, and for the maintenance of liaison between the intake staff and the various community agencies to which cases are diverted. The primary responsibility for most of the programs spelled out in Chapter VII should rest with the chief probation officer.

2. *Detention.* The chief probation officer should have control over the detention facility used by the court, though he need not manage it directly. The detention facility should be staffed and operated as a semi-autonomous unit subject to the chief probation officer's supervision. This administrative device would ensure that all efforts of the detention staff would be effectively correlated with those of the court's probation staff.

3. *Coordination.* One of the chief probation officer's most important functions should be the integration of services and coordination of the work of the various disciplines represented by members of the court staff. Interdisciplinary communication is essential. To perform this function, the chief probation officer must have sufficient sophistication in the various "helping skills" to coordinate the work of the probation counselor with that of the psychologist, the psychiatrist, or the physician. He should also be able to coordinate the plans of court staff with those of social welfare and family counseling agencies to which cases may be referred.

4. *Program innovation.* In addition to coordination of the various disciplines working in juvenile rehabilitation, the chief probation officer must keep himself informed about innovative work being done by the various disciplines in other courts and agencies. The research director of his court should assist the chief probation officer in keeping abreast of forward-looking studies, research findings which could be incorporated into his own court's programs, and methods of evaluating the programs now being carried out.

5. *Recruitment and retention.* The chief probation officer should have the primary responsibility for recruiting the probation staff. Interviews could be arranged at nearby colleges and universities whereby the probation officer could speak to both graduate students and undergraduates about career opportunities in his court. He should also provide existing staff with information on opportunities for continuing their education and on stipends available for additional study.

6. *In-service training.* The primary responsibility for in-service training should rest with the chief probation officer. Introduction of staff to new methods and findings in the field of probation and related areas could be integrated into a rather highly structured ongoing program of in-service training. Moreover, the chief probation officer should provide continuing professional and intellectual stimulation to court staff.

The degree to which any chief probation officer can carry out these functions will depend heavily upon the tenure of the judge to whom he is responsible and the system of assigning judges in the jurisdiction. In

a court where the judge has been on the bench a long time, it will probably be necessary for any chief probation officer, no matter how well trained, to secure approval for any changes in program. Where judges are rotated through the district, as in the large California jurisdictions, no single judge could be expected to gain a comprehensive knowledge of the working of any one court. In such areas, a chief probation officer with some length of service would in effect be the policy-maker, since he would be the principal non-judicial official with a long-range view of the court's processes. Job security under a merit system would also give the chief probation officer so protected some degree of autonomy.

The authors believe that the training of graduate students in the helping services should include content and field experience designed to produce the administrative skills needed by chief probation officers. Those already serving in this capacity should be given the opportunity to do graduate study specifically aimed at this field and to attend regional or national workshops or summer training programs similar to those made available for judges through the National Council of Juvenile Judges.

## The Clerk of the Court

Administration of the clerical functions of the juvenile court should be delegated to a chief clerk. He should be responsible for hiring, promoting, and firing the clerical staff, for fiscal management and budget preparation, for maintenance of records, and for procurement of materials and services. Docket management should also be his responsibility.

Persons qualified to carry out these functions could be recruited from state and local merit system registers devised for other courts in the state. If the functions of the clerk and the chief probation officer were clearly delineated, it would not be necessary for the clerk to have behavioral science training, legal knowledge, or any other qualifications than those required for competent office management.

## Statewide Correlation of Courts

Several states — Utah, for example — have attempted to achieve correlation of juvenile court functions through a statewide juvenile court administrator. In some states (Wisconsin, Pennsylvania) this officer is available to all juvenile courts in the state, primarily for consultation on program and procedures.

The authors feel that a state administrator of juvenile courts with a fair degree of power to implement programs is needed to ensure equal justice for juveniles in all parts of the state. This would be in line with the current trend in adult courts, with a state court administrator responsible to the state's highest appelate court. Indeed, the state court administrator's office could include a juvenile court administrator with the staff necessary to formulate adequate programs.

Such an official would need to have some sophistication in the law, a good background in behavioral sciences which are so vital in juvenile

court programming, and a great deal of administrative skill. Ideally, he would have had field experience in coordinating agencies on a state or regional basis. The management training internships of the federal government supply such experience. It might be possible for some states to secure the services of a person so trained to administer their juvenile courts. The more feasible alternative in populous states would be to provide management internships of their own, some directed toward court administration.

# X. EVALUATION AND PLANNING

The increasing complexity of juvenile court programs and the rapidly growing numbers of children who appear before the court make it imperative to take a systematic approach to programs and planning. What is now being done must be evaluated, and more information on what can be anticipated must be compiled if efficient planning is to be done for juvenile courts of the future.

## Study of the Court as a System

The systems analysis technique, first developed for military uses and then used to help modern corporations evaluate their efficiency and plan for the future, appears to have great promise for social agencies as well. An intensive analysis of the system of criminal justice has recently been completed for the state of California.[1]

"The central idea of the systems analysis approach is that functional components are interrelated and that a complex process can best be understood if it is treated as a whole." [2] The systems analyst first defines the boundaries of the system – that is, the point at which its responsibilities end and those of other systems begin. Then he compiles a functional description of the system in terms of its component parts – that is, what each part contributes to the working of the system as a whole. A determination must be made as to what optimal performance is and how it can be measured. Then consideration is given to alternative arrangements of the subsystems that would improve performance, and the alternatives are compared as to feasibility, acceptability, and cost-effectiveness. The analyst presents these alternatives to the decision-makers with supporting evidence, to give them a basis for making a choice.

Several of the preceding chapters and the study of juvenile courts prepared for the President's Crime Commission [3] make it clear that boundaries have not been defined clearly for juvenile courts. The study reveals the wide diversity of programs and procedures used by juvenile courts throughout the country. It is likely that the *Gault* decision, by setting minimum standards for adjudicative procedures, will produce greater uniformity in the courts. Adjudication, of course, is but one component of the court system.

The functional description of all the components and their operational interaction will prove to be one of the most difficult aspects of an

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[1] The study was made by the System Development Corporation, Santa Monica, Calif. The authors acknowledge with gratitude the suggestions received from the corporation as they considered how the systems analysis technique might be applied to the juvenile court.

[2] Thomas C. Rowan, "Systems Analysis in Society," *Industrial Research*, VIII (1966), 63.

[3] President's Commission on Law Enforcement and Administration of Justice, *Task Force Report: Juvenile Delinquency and Youth Crime* (Washington: U.S. Government Printing Office, 1967), chs. 1 and 2. (Referred to hereinafter by subtitle.)

analysis of a court system. In most juvenile courts, functions are not clearly spelled out either by statute or by court rules. Of necessity, the primary work of the probation staff is done pragmatically; methods of treatment vary from case to case and within the same case according to need. A functional description of such a system would have to take into account both formal and informal, conscious and subconscious procedures and goals.

Determination of criteria for optimal performance will be difficult too. Both spoken and unspoken objectives operate in any juvenile court. The stated objectives — to rehabilitate offenders and prevent crime — would have to be considered in conjunction with the unstated objectives — to divert children out of the court system whenever possible and at the same time placate the more punitive-minded citizens.

It might be that no optimal model of performance could be derived from the existing court system. Systems analysis would then call for examination of the subsystems which came closest to optimal performance. This would call for a study of what is desired from the court system and what could be achieved from the available resources.

It must be stressed that systems analysis must be performed by someone from outside the system. The basic premise of a valid study is objectivity, and no agency can be expected to be completely objective about its own activities. A dispassionate outside observer who has, or can acquire, a great deal of information about the agency is essential to objective evaluation.

Partly because the work must be done by outside people, systems analysis is expensive. Therefore it would seem likely that the juvenile court system which could most profitably be analyzed would be that of a whole state. Analysis of a total state system would provide the basis for improvement of all the courts in the state. Where there is a state court administrator, he would be the logical person to initiate a systems analysis and to implement the changes agreed upon.

In the absence of statewide systems analysis, the courts serving a large urban area might be studied. Funding might be secured from private sources.

A modified systems approach was used by Robert D. Vinter and Rosemary Sarri in developing a comprehensive model of juvenile court processing steps in one state. They studied cases from inception to termination. The knowledge acquired formed the basis for replanning of court procedures to bring actual operations in line with general policies. Vinter states that "the use of these data in computer simulation could also provide projections of case flow to be expected if procedures or time schedules are modified and if shifts in case volume are forecasted on seasonal or annual bases." [4]

It is clear from the Vinter study that optimal utilization of court

[4] Robert D. Vinter, "The Juvenile Court as an Institution" in *Juvenile Delinquency and Youth Crime*, p. 88, note 4.

staff and dispositional resources is possible if a careful system analysis points the way to a workable model. If the systems approach can be used to develop programs which will more efficiently utilize the resources presently available to the courts, tax-conscious legislators may be more willing to authorize such studies and more likely to put systems-developed improvements into effect.

Once the decision is made to improve the system, it will of course be necessary to overcome the inertia that must be assumed to exist in any bureaucratic organization such as a court system. Judges, administrators, and court staff will have to be convinced that the model developed through systems analysis will help the courts to function more effectively.

## Current Research in the Juvenile Court

During the many years in which researchers have studied the subject of juvenile delinquency, special efforts have been devoted to the isolation of factors in the life and personality of the child which will be useful in predicting delinquent behavior. It is obvious that a valid prediction method would be exceedingly useful to the juvenile court in determining the treatment to which a given child should be assigned. Thus far, however, there is wide disagreement about the validity of the various prediction methods which have been designed. Gottfredson, in an excellent review of achievements and problems in prediction, concludes that "the most useful role for prediction methods will be found when their development and validation is studied continuously as one component of an agency-wide information system for assessment of the effectiveness of program." [5]

Unfortunately, however, few juvenile courts have anything which could be called an information system. "Research" done by most juvenile courts can most accurately be described as the gathering of statistics. Although there are marked exceptions to this pattern, the typical court has produced little more than annual reports of the number of cases in the various categories which have been filed and adjudicated, the number committed to state institutions, and similar elementary data. This information is often compiled by the clerical staff, and only to a limited degree is it fed back to the service staff for evaluation and programming purposes. Apparently the chief objectives of these reports are to meet statutory requirements, to provide material for budget review, and to give the public a limited amount of interpretation of the court's work.

The juvenile courts in Denver and Boulder, Colorado, have carried out research-based demonstration projects under grants from the Office of Juvenile Delinquency and Youth Development in the U.S. Department of Health, Education, and Welfare.[6] In the Denver projects, objective

[5] Don M. Gottfredson, "Assessment and Prediction Methods in Crime and Delinquency" in *Juvenile Delinquency and Youth Crime*, p. 183.

[6] So far as the authors are aware, these are the only research grants made to juvenile courts by this office.

tests were given to experimental groups and a control group at different points in time. Test results were then compared with hard data on school attendance and achievement, recidivism, and other factors. Evaluation of test differences also considered the process records of day-to-day work with these youth.

On the state level there is a trend toward more data collection, especially where a state appellate court exercises administrative responsibility for all courts in the state or where an executive agency has statewide responsibility for delinquent children. This information is useful for docket control and for statewide planning and evaluation of court and agency programs. Such data represent the beginning of an information system, but it may be questioned whether most states secure enough information or utilize effectively the information they do collect.

The California Youth Authority and several other state youth commissions or youth services divisions have pioneered in developing extensive research mechanisms on the state level. The CYA has made extensive evaluations of its programs and their differential success with different youngsters. For more than five years, under a grant from the National Institute of Mental Health, the Authority has performed experimental work in developing delinquent typologies and has made a comprehensive evaluation of the relative effectiveness of community treatment and institutional treatment for the various types of delinquent youth.[7]

## Research Model for Juvenile Courts

If juvenile courts as a whole are not to continue working in the dark, it is essential for at least those serving large cities to develop research programs. In addition to the simple data now collected, the research programs should develop information on the socio-economic factors in each child's background, such as family income, status of parents, race or ethnicity, and the neighborhood in which he lives. Additional data should include source of referral, use of detention, previous delinquencies, time space between delinquencies, individual or group involvement in delinquencies, types of offenses committed by an individual child, the court's action on the petition, unofficial handling, and correlations of these factors. Special studies could be conducted on the incidence of emotional disturbance and mental retardation among those brought before the court and the relationship of neighborhood to the types and frequencies of offenses by children.

Longitudinal studies would shed light on what happens to children who have received different services from the court. What types of children respond to formal counseling? Do those who receive group services show less recidivism than those who receive casework services?

[7] See Marguerite Q. Warren, *After Five Years; Report of the Community Treatment Project* (Sacramento: California Youth Authority, 1967).

Do middle-class children have fewer repetitive offenses than lower-class children? Does the court's program reduce recidivism? What percentage of children placed on stayed commitments to state institutions are ultimately committed to the institutions? What types of children benefit from a limited sentence to a detention home? How effective is court handling of truancy? What happens to children who have been filed on as incorrigible and beyond parental control? When different methods are utilized with different children, are there differential results?

Longitudinal studies would also provide information on the effectiveness of services provided by agencies to which they are referred by the court. Does the referred child or family ever get there? Do mental health clinics treat, or merely diagnose, children referred to them? How many and what kinds of children are accepted for placement by private children's agencies? What happens to all of these children?

It is imperative that the research suggested should not only be performed but fed back into the program. Courts operate under untested hypotheses as to their own effectiveness. Research should be used to validate or to invalidate these beliefs. If research reveals that the regular probation counseling fails with certain types of children, the court would be shown that it needs to try a new approach. If many children come to the court from certain neighborhoods, the court should increase its work and spur other agencies to work in these areas. If it is shown that recidivism most frequently occurs within six weeks of the initial hearing, the court should intensify its program during that period. If there are continuing violations by a peer group, that group should be the target of more court or community programming.

In addition to the basic research program model outlined above, juvenile courts should seek funding for demonstration research projects to investigate specific aspects of delinquency. Findings communicated widely could be of great assistance to many courts.

An effective court research program would require the services of a research director with at least a master's degree in psychology, sociology, or an allied research-oriented field. In some large courts, research assistants with similar training and clerical staff would be required.

To provide research staff, training opportunities in graduate schools should be expanded and internships developed for research work in courts. University faculty members could be persuaded to act as consultants to court research directors or, where such a director is lacking, to do certain research themselves. In-service training through regional or national workshops would increase court research staff's competence.

Juvenile court research is so important that consideration should be given to allocating federal funds to encourage it. Grants could be made, for example, to a dozen large courts which may wish to initiate research programs.

Each state should review the data-collection activities of its juvenile courts. Where they are inadequate, methods and funding should be developed to improve them rapidly.

## Research and the Future of the Court

It is clear that juvenile courts are going to be scrutinized much more sharply by state and local government as to both program and procedures. Those who make appropriations are going to require better information and clearer justification of budgets by the courts. Both judges and court administrative personnel need to realize that budget agencies will come in to evaluate the court unless the court itself provides satisfactory evaluation of its program. Objective research will provide the basis for such evaluation.

Moreover, an increasingly sophisticated public is coming to ask the courts what they do and why. Facts derived from careful research must replace the unsubstantiated statements which have usually been offered to the taxpayers and other citizens.

The courts are not a primary agency. All children need a family, a school, health care, social and recreational opportunities; but not all children need a juvenile court. Juvenile courts prevent delinquency by preventing recidivism. The prevention of initial delinquency is basically the job of the family and of the primary agencies. But juvenile courts can assist in the prevention of initial delinquency by communicating their research and experimental knowledge to the public in general, to private groups, to governmental institutions, and to social agencies. Juvenile courts must reduce to fact their observations of the interpersonal dynamics and social forces which cause delinquency in the first place, and get this knowledge out to individuals and organizations who can take individual or group action to prevent anti-social acts. The juvenile court should be an information bank whose deposits are carefully evaluated and whose assets are effectively utilized to yield dividends in the form of better programs for fewer delinquents.

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