GUIDES FOR JUVENILE COURT JUDGES

Advisory Council of Judges
of the
National Council on Crime and Delinquency
in cooperation with the
National Council of Juvenile Court Judges

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Foreword

Delinquency among children and youths is troublesome, complicated and potentially dangerous for any community. The greatest danger lies not so much in the delinquent acts themselves as in the warped lives that may result from short-sighted attitudes and actions taken by parents and authorities at an unquestionably critical time.

We have long since learned that neither extreme, getting tough or "mollycoddling," provides an answer. Full knowledge of the individual youngster in trouble and an intelligent awareness of the turbulence of adolescence must guide both our attitudes and our actions. Without these, parents and authorities pursue a course destined for eventual if not immediate failure.

Certainly then, the juvenile court which is at the vortex of the community's delinquency problem must be able to act with knowledge and understanding. This means the modern juvenile court must have a wise judge, a sufficient number of qualified probation officers, diagnostic and treatment facilities, and effective practices and procedures. If we are going to reverse the mounting trend of delinquency we must find ways to provide these essential services for all communities, large and small, urban and rural, state by state throughout the nation.

This guide or manual was written by juvenile court judges themselves. It brings together varying views and the practical experience of judges from all sections of the country. Ham-

mering out differences and clarifying central issues were time-consuming, sometimes exhausting, but always stimulating tasks for the judges and our staff. The result is not just another book, but a document produced in the crucible of judicial experience, and focused on a major social problem of our times.

We are deeply indebted to Charles H. Babcock and to the Mary Reynolds Babcock Foundation, whose confidence and support make the leadership and action program of the Advisory Council of Judges possible. Through the work of the Council as evidenced in this publication they are making a real contribution to the processes of justice in America, and to the welfare of children everywhere.

We are grateful to former Judge William B. McKesson of the Los Angeles Superior Court, now district attorney of Los Angeles County, for his devoted leadership as chairman of the Juvenile and Domestic Relations Courts Section of the Council during the preparation of this book.

In the dynamic program of the Council there are special places of honor for the late United States Supreme Court Justice Owen J. Roberts; for Roscoe Pound, Dean Emeritus of the Harvard Law School and Honorary President of NPPA; and for William Dean Embree, distinguished lawyer. All were instrumental in organizing and launching the Advisory Council of Judges.

The National Probation and Parole Association, a private, nonprofit citizen and professional organization, and its staff stand ready to assist judges, communities, and states in our common task.

WILL C. TURNBLADH
Director, National Probation and Parole Association

Foreword to Second Printing

The need to reprint this book a few years after it was published is welcome evidence of its acceptance by judges and others working in or having a concern for the juvenile courts.

In 1960 the name of the National Probation and Parole Association was changed to National Council on Crime and Delinquency. In the text of this reprinting, references to the National Probation and Parole Association have not been changed. However, the new name is used elsewhere, and the lists of members of the Board of Trustees and the Advisory Council of Judges are the current ones. The Selected Reading List, beginning at page 131, has been revised and expanded.

Under Judge Alfred P. Murrah, who has been chairman of the Advisory Council of Judges since the death of Judge Laws, the ACJ has continued and amplified the work of which *Guides for Juvenile Court Judges* was an early part. We commend to readers the ACJ's latest publication, *Procedure and Evidence in the Juvenile Court — a Guidebook for Judges.*

MILTON G. RECTOR
Director, National Council on Crime and Delinquency

February 1963

Preface

The long procession of children coming every year into the juvenile courts of our country has now passed the half million mark. These are the children for whom the court, representing the authority of the state, must assume a responsibility which is weighty and far-reaching.

The judges (some 3,000 of them) before whom these troubled and troublesome young delinquents appear need the wisdom of Solomon to decide, at this turning point in the life of the child, what measures which the court can prescribe will guide him into new channels of interest and strengthen him to stand on his own.

Rare is the judge—and fortunate—who comes to the juvenile bench with special education and experience to equip him to handle children's cases. In law schools a course on juvenile delinquency is almost unheard of; in practice the lawyer who has ever appeared in children's cases, or at most has appeared a few times, is equally rare.

Small wonder, then, that the neophyte juvenile court judge grasps eagerly at any source of information and education that might help him. Available aids have heretofore been piecemeal and sporadic. And they have mostly emanated from the ivory towers of those who have never had juvenile court experience—at least as a judge.

This book is unique in that it presents a guide or manual for juvenile court judges which is the product, not of the

thinking or experience of any one man, but that of literally scores of men from the front line trenches in the never-ending battle against delinquency—the judges of America's courts for children, all of whom have had to learn the hard way.

Surely the accumulated experience of these seasoned judges must be of value to all judges of these courts, whether tyros or veterans. The book embodies developments in the work of the juvenile court since its beginning in 1899. The need for a guide or manual of this kind was discussed by the Advisory Council of Judges of the National Probation and Parole Association shortly after the Council was organized in 1953. The judges were agreed that in many parts of the country approaches to problems of children appearing in our courts are not effective, and that through conferences and individual study by those who have devoted many years to juvenile work, a manual might be produced which would be helpful as a statement of principles and philosophy and as a guidebook for the day-by-day work of the court.

This idea became fact when in October of 1954 a grant of funds from the Mary Reynolds Babcock Foundation was received by the National Probation and Parole Association for development of the work of the Advisory Council of Judges. The National Council of Juvenile Court Judges was invited to cooperate on the project as they had long been aware of the need for just such a book as this. At its annual meeting in May of 1955 the Council accepted the invitation, and a working committee was appointed with Judge Clayton W. Rose of the Juvenile and Domestic Relations Court of Columbus, Ohio, as chairman. Through him the successive drafts of the book were later submitted to the executive committee of the National Council of Juvenile Court Judges.

The judges were assisted by the staff of the Association particularly by John A. Wallace, executive assistant, and Tully McCrea, consultant in the southern office.

The outline was approved by the Juvenile and Domestic Relations Courts Section of the Advisory Council of Judges and later by Judge Rose's committee. An editorial committee was appointed consisting of Paul Alexander, Judge of the Division of Domestic Relations and Juvenile Court of Toledo as chairman; John J. Connelly, Judge of the Boston Juvenile Court; Thomas D. Gill, Judge of the Juvenile Court of the State of Connecticut at Hartford; and Judge Rose, representing the National Council of Juvenile Court Judges.

Drafts of each chapter as they were completed were mailed to the Juvenile and Domestic Relations Courts Section and to Judge Rose's committee for comment. Suggestions received were reviewed by the editorial committee. Redrafts of the chapters were studied and discussed at three working meetings of the entire Section. These meetings lasted two or three days and allowed opportunity for critical analysis of the material and full exchange of ideas. Working sessions of similar length were held by the editorial committee where the chapters were further refined and enriched. The final draft was approved by the Advisory Council of Judges as a whole and the executive and working committees of the National Council of Juvenile Court Judges.

Preparation of this book was a prodigious undertaking and its achievement in outlining realistic and effective approaches to many difficult problems facing our courts is notable. If this manual is widely used and meets the needs of judges dealing with serious situations involving children, those who worked to produce it will be deeply gratified. I predict that its value will be recognized in juvenile jurisdictions everywhere.

BOLITHA J. LAWS
Chief Judge, U.S. District Court,
Washington, D.C.
Chairman, Advisory Council of Judges,
National Probation and Parole Association

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I

HISTORY AND PHILOSOPHY

THE MODERN JUVENILE COURT

The modern juvenile court is geared to the philosophy of protecting a child's right to full physical, mental, and moral development. Basic to this philosophy is the concept of "parens patriae"—the power of the state through the court to act in behalf of the child as a wise parent would. To carry out this philosophy and concept, the modern juvenile court looks upon each child as a distinct individual entitled to help and treatment from the community, not retribution. How this treatment is to be effected and under what conditions, must be correlated with the court's primary responsibility of protecting the public from the delinquent acts of its children. Because of its declared objectives, the procedure in a juvenile court necessarily differs to a considerable extent from that of the criminal court.

THE BACKGROUND TO TODAY'S JUVENILE COURT

Today's juvenile court, although first organized as such in America in 1899, traces its antecedents back to the earliest roots of law. The legal foundation for its philosophy is not new, but evolved from old and established bodies of law. The development of the juvenile court has been slow, but

through the years there have been evidences of concern about the handling of children in trouble and a demand that children not be dealt with by harsh punitive measures.

The early history of England revealed that children stood in a dual role in the eyes of the law. A child, as far as property rights were concerned, was an infant until he reached twenty-one; yet most children were subject to the same criminal laws as adults. The youngster over fourteen was considered solely responsible for his actions and thus subject to criminal law. Children between seven and fourteen were considered incapable of criminal intent, but if evidence showed that the child had sufficient intelligence to distinguish between right and wrong and to recognize the nature and consequences of his misconduct, he stood before the criminal court as an adult. Only a child under seven could not be found guilty of a crime because he was held to be incapable of the necessary "guilty mind" (mens rea).

The criminal laws and the penalties, applying to children as well as adults, were oppressive. The judge, after a finding against a child, had no discretion except to impose the penalty required by law, and at that time over 300 offenses were punishable by death. To escape imposition of the penalty, some friend in court, even the judge, would call the chancellor who was the Keeper of the King's Conscience, for he and he alone could exempt the child from the extreme sentence.

The early colonists coming to America brought this concept of law with them. For a time the law changed little. The age below which there could be no criminal responsibility was sometimes raised. Slowly came changes; convicted children were separated from convicted adults and placed in reformatories and training schools. Separate hearings for children were developed. A probation system was instituted.

A major change came in 1899 with the establishment by

law of the first juvenile court, that for Cook County, Illinois. This meant the elimination of arrest by warrant, indictment, trial by jury, and the features of the ordinary criminal proceeding. The law introduced the juvenile court judge, the juvenile courtroom, separate records, and a distinct way of handling children in trouble, utilizing the principle of "parens patriae".

TODAY

Good juvenile courts function on a socio-legal basis where the constitutional rights of children and parents are not abridged, and where the purpose of the court is therapeutic and preventive, rather than retributive and punitive, a viewpoint designed to preserve the child's self-respect and spare him the permanent handicap of a criminal record. In so doing, the court provides or institutes aids or measures that will effectively deter delinquent behavior, promote rehabilitation for good citizenship, alleviate dependency and neglect. The court recognizes that the home, the environment, inherited and acquired traits and other factors all influence a child's actions, that all behavior is symptomatic of underlying causes, and that only an examination of the causes of a delinquent act or the breakdown of a home in a neglect situation will point the way to a sound readjustment.

SUGGESTED CONCEPTS

With reference to the principles set forth in Chapters IX and X, the following are a few of the suggested concepts to which a good juvenile court should adhere. It is understood that such concepts need constant revaluation.

1. Where the social interest of the community in delinquent behavior or in neglect situations clashes with the fundamental rights of a parent to the companionship, custody, and control of his child, it is essential that a thorough preliminary investigation be made. Adequate time should be

allowed for diagnosis, hearing and planning, and equally important, competent personnel should carry out the treatment processes.

2. The delinquency statutes have a dual purpose: to protect the community from the child, and to protect the child from himself. Many actions labeled delinquent by statute represent a threat not to the community but to the child's own personality.

3. In the great majority of instances these ends are not basically antithetical because the delinquent acts of most children do not pose a serious threat to the community and consequently permit careful and realistic consideration and treatment of their needs without sacrificing the wellbeing of others.

4. The child is referred to the court on the basis of the offense which necessarily must be considered since it colors the thinking of the child himself, of his family, his school and his neighbors, but consideration of the offense must not preclude recognition of the postulate that the overt act may or may not be indicative of the total problem. Accordingly, the disposition should be geared to the total problem—personal, family, community or otherwise. No child can be treated in a vacuum. His home, his family, his neighborhood, his school, his church, and all other influences on his well-being must be considered.

5. Handling the case generally entails two obligations: first, dealing with the immediate pressures created by the child's behavior, as for example, the detention of the child who is caught up in a cycle of stealing, or the return to the classroom of the persistent truant; second, evolving a long-range plan, suited to the needs of the child as they become established, and aimed at the ultimate solution.

6. The casework function is basic in carrying out the work of the court. Casework involves investigation, diagnosis,

planning and treatment. It means recognizing the real as well as the apparent problems, helping the child and his family to understand his difficulties and aiding both to do something constructive about them.

7. Probation is casework done within the frame of authority. Authority is one of the tools used in probation. Although the child comes to the court in conflict with the law this does not mean that the only tool at hand is its authority. A knowledge of many other techniques and resources used by any good caseworker is essential.

Probation is careful, constant, consistent contact and supervision by intelligent, trained, tactful and resourceful workers. The probation officer must know the child well to understand what influences in his life have contributed to his present predicament; to help him change his point of view, develop his personality, and learn to like and want things which will bring more real satisfaction than he has gotten by misbehaving.

Probation is the strong arm that supplements but never should attempt to serve as a substitute for home care and training. It is the guiding force that holds the child in correct channels until he is strong enough to stand alone.

8. When probation is not the answer, treatment in a group situation or an institution may be called for. Private placement or placement in a state training school is used when the court feels that for therapeutic (not punitive) reasons, the child needs the in-patient care that a good private institution or state school can give. Some youngsters, before they can be treated as individuals in a community, need the stabilizing effects of group living and training.

9. The court recognizes that while it has a responsibility to do everything possible for a child, there may be some children so mature that the facilities of the juvenile court

cannot aid them and their cases must be transferred to the criminal courts.

10. The court must not try to function in a state of self-sufficient isolation. It needs the help and cooperation of the many allied public and private agencies that work with children. The judge and the probation officers must know and use the resources available. It is part of their job to develop resources, to serve as consultants, and to cooperate with agencies that provide service to the court.

INDIVIDUALIZED JUSTICE

The juvenile court is a court of socialized justice, and it has also been defined as "individualized" or "personalized" justice. It operates on the philosophy already discussed, and utilizes such procedural methods as are necessary to the full implementation of this philosophy. The late Justice Cardozo once wrote that a judge in a court of social justice "has to decide human questions which cannot be settled merely by citing old precedents. You cannot chart the future of a boy or girl or family by repeating what a learned judge said in a celebrated case."

The techniques and procedures necessary to a court of socialized justice are discussed in succeeding sections.

II

JURISDICTION

The term "juvenile court" immediately brings to mind the thought "a court that deals with children". The jurisdiction of a juvenile court does concern children but the words mean different things to different people, because the laws governing the jurisdiction of the court vary from state to state and sometimes within a state.

It is because of the variations in jurisdiction that a judge of one juvenile court may read of some action or decision by another court in another state and wonder why he can't do that. It is entirely possible that the first judge does not have the necessary jurisdiction to do what the other court has done.

The basic subjects of jurisdiction for a juvenile court are "delinquent", "neglected" and "dependent" children. More recent laws include jurisdiction only over the legal aspects of dependency. It is believed that cases without an element of neglect or where no legal change of custody is involved, should be dealt with by administrative agencies such as welfare departments.

Delinquency, neglect and dependency like any other area of jurisdiction must be defined by the statutes. But the definition of dependency should not be confused with definitions found in statutes governing aid to dependent children, relief, or social security.

The most common delinquency jurisdiction is that derived from a violation of federal or state laws or city ordinances. Definitions of delinquency vary from state to state. They may be quite lengthy but the tendency today is for short but quite comprehensive definitions such as are found in the statement "a child whose occupation, behavior, condition, environment or associations are such as to injure or endanger his welfare or that of others; who is beyond the control of his parents or other custodian."

The states have differed in defining "children" under the juvenile court statutes and this difference is one of the outstanding variations encountered in juvenile court jurisdiction. The common pattern includes children under eighteen years of age, but some states have set the upper limit at under seventeen, and other states at under sixteen. In a few instances the age of jurisdiction may vary from one county to another within the same state, or it may depend on whether a boy or a girl is involved, or whether the problem is delinquency or neglect.

A juvenile court may have to consider such questions as age, type of act, and even the sex of the child before it can determine that it has and can retain jurisdiction in the case of a child, who, for example, has reportedly stolen $200. It is not as simple as in the adult court where it can be readily determined if the offense is a misdemeanor or a felony and which criminal court accordingly has jurisdiction.

Other variables have reference to exclusive, original, and concurrent jurisdiction, exceptions to jurisdiction, and waiver of jurisdiction in transferring cases. The juvenile court should have original and exclusive jurisdiction and the discretion to transfer the matter to another court, including a criminal court. Such a decision should be based on a hearing and examination of the facts, the child's background and the penalty that may be imposed under the adult criminal law.

For example, in some states bank robbery carries with it a mandatory life sentence. The judge should be aware of the consequences of his decision to transfer. This discretion was given to the juvenile court so that the decision could be individual rather than by "rule of thumb."

All juvenile courts have a common feature regarding jurisdiction and this feature is not found in the criminal court. The criminal court may sentence a defendant on the basis of each charge or indictment, and if the disposition is probation, the court retains jurisdiction for a specified time. The juvenile court, however, enters its findings with respect to the child, regardless of whether a single incident or a series of incidents has occurred involving neglect or delinquency. Having once obtained jurisdiction of a child, the juvenile court ordinarily retains it until he reaches a specified age, usually twenty-one; although practically, the court's effectiveness is limited after the child passes the age fixed for juvenile jurisdiction. This jurisdiction terminates in most states when he is committed to a public institution or agency maintained by the state.[1]

There are usually a few provisions outside the juvenile court law of the state that extend the jurisdiction exercised by the court. For example, statutes governing marriage may provide that juvenile courts approve marriage licenses for individuals under certain ages; the juvenile court may have responsibility in compulsory school attendance; commitment of a mentally retarded or mentally ill child may be a function of the court. Other functions may be adoption, termination of parental rights, support, guardianship, determination of paternity. Ordinarily the judge does not have jurisdiction of writs in habeas corpus except where he has a more extensive

[1] It should be noted that juvenile courts in a few states retain jurisdiction even when the child is committed to a state training school.

jurisdiction by law, e.g. where the juvenile court is a division of a court of general jurisdiction.

The juvenile court may also try adults charged with violations of certain laws. This jurisdiction may cover such charges as "contributing to the delinquency of a child" or "failure to support." These cases may necessitate trial by jury.

Some courts have additional jurisdiction in domestic relations matters. Some states provide that the divorce court may transfer to the juvenile court the jurisdiction pertaining to care, custody, and support of children.

Geography may affect jurisdiction. When a child resides in one county and the act occurs in another county of the same state, the complaint or petition may usually be heard in either county unless the particular statutes provide otherwise. Most judges prefer to have the case handled by the court of the child's residence.

Another reason why "juvenile court" means different things to different people is the variety of courts having juvenile jurisdiction. Separate juvenile courts have been established with city, county, and in three instances, statewide jurisdiction; some courts of general jurisdiction and some probate courts include juvenile jurisdiction; other courts of lesser jurisdiction such as magistrates, justice of the peace, or city courts have the jurisdiction in some states. Ideally, the juvenile court should have status at least equal to that of courts of general jurisdiction in the state.

JURISDICTION AND SERVICES FOR THE JUVENILE COURT

The kind or extent of jurisdiction directly affects the services and staff needed by the court to carry out its functions effectively. The judge will therefore find time well spent in a careful study of the statutes to ascertain all areas of jurisdiction for his court and what provision the law makes for services to the court. He will also want to check as to whether

he has these services and how effective they are. The services may be part of the court or may be found in other community resources.

STANDARD JUVENILE COURT ACT

The study of the statutes of his state may bring forth questions by the judge as to the adequacy of the law under which his court functions. For those judges who are interested in what a juvenile court law should contain as to jurisdiction, procedure and functions, attention is invited to the *Standard Juvenile Court Act* published by the National Probation and Parole Association.

The first edition of this act was published in 1925 and conformed in general with the *Juvenile Court Standards*[1] formulated by the United States Children's Bureau and the National Probation Association in 1923. Because of developments in the field of child care and treatment of delinquency that affected juvenile court policies and administration, revised editions of the act were issued in 1927, 1933, 1943, and 1949. At the time of this writing (1957) a large committee is studying and working on a further revision of the act.[2]

The *Standard Juvenile Court Act* is the product of experienced juvenile court judges, lawyers, and probation administrators, supplemented by staff from the National Probation and Parole Association. It has been used extensively by state legislatures as a foundation in the preparation or amendment of juvenile court laws.

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[1] U.S. Children's Bureau Publication No. 121.

[2] The sixth edition of the *Standard Juvenile Court Act* and the first edition of the *Standard Family Court Act* were published in 1959.

III

ADMINISTRATION

VARIETY OF ADMINISTRATIVE PATTERNS

Discussion of the administration of juvenile courts is complicated by the wide variety of administrative structures found in such courts. The variations are almost endless, but it is possible to define certain basic groupings:

1. A separate juvenile or domestic relations court having no organic connection with any other court.

2. A juvenile court established within or as a part of a probate, county, or similar court, so that the judge spends only part of his time with juvenile cases.

3. A juvenile court or so-called juvenile court within a court of general jurisdiction (district, circuit, superior, common pleas, etc.), which may or may not be a distinct section or division of such trial court and in which one or more judges sit full time by assignment or rotation for periods ranging from six months to a few years (possibly indefinitely).

4. A court of general jurisdiction having a division to which one or more judges are specifically elected or appointed so that there may be no rotation, and to which division are assigned all justiciable family matters from divorce through juvenile delinquency, the judge sitting full time on adult family cases and juvenile cases. (This is popularly known as

an integrated family court and the part that handles juvenile matters is referred to as the juvenile court.)

The administrative structures through which probation services are provided are essentially four: 1) those in which a probation department is an integral part of the court; 2) those in which a local probation office serves two or more courts, including the court of juvenile jurisdiction; 3) those in which a state administrative agency provides probation service to courts of juvenile jurisdiction; and 4) those in which probation service is provided to the court as a part-time function of a local welfare or other agency, public or private.

Within these basic patterns many additional variations are found. Children's cases may take the entire time of the judge, or at the other extreme, juvenile cases may constitute only a small percentage of his total court load. The probation setup may vary from a large, highly organized department to the part-time services of a local welfare worker in the very small courts. Direct lines of administrative authority over the probation staff may stem from the director of a state or local administrative agency, the chief of a separate probation department, a board of judges, or a single judge.

Obviously, then, it would not be feasible, in a limited space, to discuss each possible administrative combination specifically. However, it is possible to discuss them from two angles: 1) the administrative responsibilities of judges, and 2) the relationship between the judge and the probation services in each of the major types of administrative structure.

THE JUDGE'S RESPONSIBILITY

Judges of most courts of juvenile jurisdiction have both judicial and administrative powers. They are the judicial officers of the court, charged with the determination of ques-

tions of law and fact. Since the court is an administrative as well as a legal agency, the judge is called upon to answer to the community for its services, whether they are an integral part of the court's administrative structure or are rendered by some separate agency. This does not mean that the judge has to administer these services directly, nor even that he need be an expert in that area; but it does mean that he cannot escape responsibility if these services are inadequate. This ultimate responsibility of the judge falls into three major areas:

1. *Formulation of policy.* Whether or not the child coming within the purview of the court is to be helped and started on the road to rehabilitation, or is simply to be punished for the current offense depends upon court policy. For example, the judge may make extensive use of probation in lieu of commitment; he may determine that a child should be detained only when absolutely necessary for his own or the community's safety; he may insist that disposition be based upon the real needs of the child and the family, not on the nature of the offense, and that he will decide on the disposition only after he has received a full written report on the family's social history; he may rule that a child be brought before the court only if a hearing is essential to the initiation of a treatment program, etc. In short, the fundamental operating philosophy of the court, which will determine whether it is to be a helping, corrective socio-legal agency or just a criminal court for children, will be determined almost entirely by the convictions and the attitudes of the judge. If he is convinced of the first alternative he will require strong, well-organized administrative services to implement this policy.

2. *Maintenance of standards of service.* It is not enough, however, for the judge to require and secure these services for his court; it is also his responsibility to see that they are

quantitatively and qualitatively adequate to achieve the results implied in the policy he has formulated. It is not enough, for example, to say that a state or local agency "will provide probation services to the court" or that "the court will employ probation officers of good character." The judge must also insist that the probation staff supplied by another agency or employed by the court is capable, both quantitatively and qualitatively, of providing the screening, diagnostic, and treatment services essential to a truly corrective court program (see VI, VIII, and X). In a court handling only a few juvenile cases a year, those services may be provided by the part-time activity of one worker from a local welfare department; yet it is still essential that a sufficient portion of that worker's time be available, and that his training and experience be adequate to give these few cases the high-grade service which would be provided by a skilled probation worker in a well-equipped court.

3. *Public Relations.* In order to have the services needed and to maintain them at a high standard, the judge must keep himself informed regarding them and must see that the community is kept aware of the court's needs and the adequacy of its administrative services.

ADMINISTRATIVE SUPERVISION OF SERVICES

In the preceding section it was pointed out that the judge's responsibility in this respect does not mean that he has the duty to administer these services directly. In fact, it is generally held that the judge should be directly involved in administration as little as possible. The nature and extent of his involvement will naturally be affected by the administrative structure found in his court. The following suggestions are offered as guides to the most effective relationships of the judge toward these services within the various structural patterns described earlier.

1. In those courts in which the probation department is an integral part of the court structure, the chief probation officer is the logical person to serve as the administrative officer of the court—in fact, in some of the larger courts he is called "director of court services" or "court administrator". (This does not mean that he relieves the judge of his ultimate responsibility for the proper functioning of administrative services.) A typical decision to be made by this administrative officer (chief probation officer) is the assignment of staff members to their various duties. In fact, in a court with a full-time chief probation officer the judge should not be burdened with purely *administrative* decisions; rather, in consultation with his probation director, he should formulate the administrative policies of the court, as described above, then hold the director responsible for implementing them. These policies should be reduced to writing for the guidance of the entire court staff. If the services do not function properly, the remedy is not for the judge to "take over" but to work with the chief probation officer on the problem. It may finally be necessary to appoint a new chief. While the administrative powers of the judge, vested in him by the community and for which he is answerable to the community, are properly delegated to the chief probation officer, the judge retains ultimate control. Perhaps the happiest results are obtained when the judge and the chief probation officer have the relationship of working partners.

2. When the court of juvenile jurisdiction is served by a combined probation office which also serves one or more courts of criminal jurisdiction, it is somewhat easier to differentiate between the judge's responsibility for seeing that adequate services are provided for his court and the chief probation officer's responsibility for the results produced. As a matter of fact, such probation departments are usually, although not always, responsible to a board of judges of

which the judge of the juvenile court is a member. Even when this is the case, however, it does not lessen the judge's responsibility for formulation of sound policy, maintenance of adequate standards, and creation of good public relations. It does mean that he may find himself in competition with other judges for available services, a situation which increases rather than lessens his responsibility for making the needs of his court known. On the other hand, it is also true that a board of judges will usually have more weight than a single judge in seeking adequate financing of services for the several courts. As regards the relationship between the juvenile court judge and the chief probation officer in the combined services setup, it would differ little from that described previously.

3-4. The judge served by a completely separate agency, either state or local, public or private, has perhaps the most difficult task. He is still held responsible by the community for the effectiveness of his court as a socio-legal agency, yet he rarely has any direct control over the number or quality of the staff assigned or the amount of time they serve. In addition to competing with other judges, he may also be competing with other services offered by the agency. If staff and services are inadequate, the judge cannot change the responsible administrative officer as he could in his own probation department. His obligation under these circumstances would be to press the requirements of his court upon the agency itself, or see that the community is informed of the need for the court's own probation service. This change in some cases may even necessitate a change in the law.

STANDARDIZATION OF SERVICE

Standardization, which is essential in any organization, is achieved in part through an agency manual. The purpose of such a manual is: 1) to describe the agency's function and responsibility; 2) to describe its internal structure; 3) to set

forth its legal basis; 4) to interpret and implement its functions. A manual should contain information needed by all employes, and it should be kept up to date. It should contain the policies, practices, and procedures used by the agency. This ranges in a court manual from such items as personnel practices regarding vacation and sick leave, to the court's policy on detention, etc. Although a court with a very small probation staff may not need a manual, it is a good rule to develop one in any office with five or more employes.

IV

COURT STAFF

Although this chapter is entitled "Court Staff" the personnel discussed here are not always under the direct control or a direct part of the juvenile court. The clerk of the court, for example, may be a deputy of the county clerk's office or a deputy clerk from an office that serves the court in its general jurisdiction. The positions covered in this chapter are vital to the efficient functioning of a juvenile court and are being discussed without reference to whether they are a part of the administrative organization of the court. However, since the judges are inevitably held responsible for the results produced by their respective courts, they should have complete control over the staffs which produce those results. A properly structured court finds all personnel under the judge's administrative direction and accountable to him so that authority may be correlated with the responsibility which at all times rests on him.

Certain positions should be found in every juvenile court, but unfortunately they are sometimes lacking. A probation officer is certainly a "must," but in too many juvenile courts today there is not a single officer. Other staff persons such as referees, are to be found only in larger communities.

For convenience the positions are discussed here under two categories—court hearings and court services. The first

category includes positions customarily found in general courts of record; the second category includes the specialized positions arising out of the court's unique responsibility to and concern for children.

THE JUDGE

The center of any juvenile court is the judge, yet the judge by himself does not constitute the court. His responsibilities are substantially different from those of other judges as evidenced by the material presented in the various chapters of this book.

Where there is more than one judge, a presiding judge should be designated with complete executive and administrative authority. This authority would include power to employ and supervise the personnel; to initiate and carry on the programs; to assign and distribute the work of the court; to establish and implement policies after consultation with the other judge or judges; and the power to assign such duties as may be legally delegated. The designation of the presiding judge and determination of the powers of his office should be fixed by law.

Some communities are confronted with the problem that the judge or judges of the juvenile court are so overburdened that the work cannot be adequately performed. The question of securing additional judicial manpower has been resolved in various communities through the utilization of one of three plans.

The first is creation of additional full-time judgeships. This is most desirable where the needs of the court are such in quantity or nature as to justify it.

The second is creation of a panel of special justices who can be called upon by the presiding judge. These justices are usually paid on a per diem basis at the same rate as the full-time judges. When hearing a case they have the full power of

a judge of the juvenile court. Under this arrangement well-qualified and interested attorneys can be selected and they stand ready to assist the regular judge. This plan, authorized by statute in Massachusetts, has been used in Boston where there are special justices who can be called upon for work in that court only.

The third plan is to have referees, sometimes known as commissioners or masters.

THE REFEREE

In many states the law provides that the judge may appoint referees to whom he may refer cases for hearing. The powers of a referee are usually prescribed by law and in most statutes the referee is not empowered to make a final order. His principal function is to act as a hearing officer, to reduce testimony to findings of fact, and to make a recommendation as to disposition. His report with a recommendation to the judge should be in writing. The recommendation as to disposition may be modified, approved, or disapproved by the judge, but when approved or modified it becomes the order of the court.

It is desirable that the referee, if not an attorney, should have legal training and should be familiar with the philosophy of the juvenile court. In addition he should have the same general type of personal qualifications as the judge (see Chapter XIV, THE JUDGE). Some judges believe that graduate training in social work is a highly desirable qualification for referees.

The use of a referee should never be permitted to relieve the judge of his primary duty to hear juvenile cases, a duty which inevitably requires the personal handling of a large percentage of those coming before the court, notwithstanding the demands of other duties.

CLERK OF COURT

The clerk performs the same functions as the clerk in any other court. His function is basically keeping the legal as distinguished from the social records. The clerk has the responsibility of filing and docketing cases, keeping a variety of records relating to the history of each case as it passes through the court, preparing calendars of cases, and in some courts, attending sessions to record the proceedings. He may be responsible for safeguarding the confidentiality of the records, subject to the order of the court.

COURT REPORTER

The court reporter's function is to make stenographic records of proceedings, to furnish copies for the judge and those legally entitled to them, and to make transcripts for appeals. While in some courts the reporter makes full stenographic records of all proceedings, in others he often makes only a digest or an extract which is then filed with other records.

The reporter may have a second function, to serve as the judge's secretary. In larger courts, experience has demonstrated that the judge requires a full-time private secretary.

BAILIFF OR COURT OFFICER

The bailiff or court officer is the attendant who is responsible for keeping order in and about the court, and is at the service of the judge at all times. These are the functions of the bailiff in any court. In the juvenile court, the attendant may also escort children and families into and out of the court hearing room. Often he will be given charge of a child before or after the hearing, when for instance, the child has been committed to the state training school and is awaiting transportation thereto. In the performance of his duties he may have an opportunity to create positive atitudes in the child,

the family, and other persons who may come in contact with the court. This opportunity also occurs when he serves subpoenas, citations, and notices, which he does in some juvenile courts.

PROBATION STAFF

The functions of a probation staff are to make a social study and evaluation of each case coming before the court and to carry out the prescribed treatment in the community for those children and adults placed under their supervision. Probation is the indispensable tool of the juvenile court.

Effective probation depends upon quantity and quality of staff available. The day has passed when the juvenile court has to rely solely on volunteers or upon unqualified persons. The court sees people with many of the most complex problems in human behavior and the judge's effectiveness in understanding and dealing with them is aided or handicapped by the work of his probation staff. Knowledge of human behavior and problems; skill in effecting relationships with people and inspiring them to make decisions and changes in their attitudes; knowledge and skill in the use of local resources—these are the fundamentals of competency in a probation staff.

Standards of probation service are largely dependent upon the judge and he can often be the most effective person in raising them in his community which looks to him for leadership in setting standards of performance and qualifications for appointment.

The preferred educational qualification for a probation officer[1] is two years of graduate training in an accredited school of social work. At the present time there are not

[1] In some jurisdictions the term "probation counselor" is used. It avoids the surveillance connotation of "officer" and suggests the worker-child relationship better.

sufficient personnel with such training to supply all courts but the minimum academic requirement should not be less than a college degree with specialization in the social sciences. Experience in a social casework agency is an added asset for the college trained person who desires to enter the field.

Besides the academic training, probation personnel should be emotionally mature and stable, capable of learning and of developing their knowledge and skills. They should have integrity, a capacity to like, accept, and be accepted, and a genuine interest in people and their welfare.

It is advisable that every probation office have an in-service training program and that the judge provide opportunity for the workers to attend conferences and institutes and to take further graduate training. This is a field where the best work is done under a continual learning process. Even the best qualified personnel, capable of developing their knowledge and skills in an authoritative setting, should have additional training after they come to the job.

The National Probation and Parole Association recommends that a probation officer should supervise not more than fifty cases at any one time. This figure does not take into account a specialized case load requiring extra time and effort, the maximum figure for which should certainly be lower. When an officer is making investigations, it is recommended that one investigation be considered as equivalent to supervision of three to five cases. If an officer is doing both investigation and supervision, as is generally the case, the work load must be so governed that he has adequate time to supervise the cases for which he is responsible.

The size of a probation staff is dependent upon the work load of the court. Whenever there are two or more officers, one should be designated as chief or director. When there are six or more within a department, it is desirable that, in addition to the chief, there be a casework supervisor for

each six to eight workers. This is not only to set up a sound administrative organization but also to provide training for the staff through the supervisor. Large departments require positions such as assistant chiefs, training officers, district directors, etc.

CLERICAL STAFF

The need for clerical workers as an integral part of the probation office and the court should not be overlooked. The value of a probation office to the court is in considerable part dependent upon the written records provided. Lack of sufficient clerical personnel to prepare these records has handicapped many probation offices in fulfilling their highest potential.

Clerical help to receive money, keep accounts, prepare and mail out checks may also be needed in the offices having that type of responsibility.

DETENTION STAFF

The size of the detention staff is dependent upon the size of the detention home. The staff may range from a "mom and pop" couple in a small institution to a staff of 30, 40, 100 or more. Staffing of such size will include diversified workers ranging from professionally trained personnel such as psychologists, social workers, teachers, through clerical personnel to cooks and maintenance workers.

CLINICAL PERSONNEL

Clinical personnel as a part of the juvenile court are usually found only in large communities. They may be full-time employes or on a retainer basis providing part-time service. Clinical personnel may include psychiatrists, psychologists, pediatricians, general practitioners, nurses and others.

The courts in smaller communities may use already existing facilities, maintained on a state, regional or local

level, such as hospitals, mental hygiene clinics, child guidance clinics, clinics in schools, colleges or universities, and private physicians.

Referral to clinical personnel is usually on a selective basis and is made by the judge or the probation office in accordance with policy developed by the court, the probation officer and the clinical staff. The report from the clinic is usually made to the probation office but should be available to the judge. This obviates clinic representation in a court hearing and saves the workers' time for their professional services to children.

THE COURT STAFF AND THEIR PHILOSOPHY

All personnel of the juvenile court, from the judge to the lowest paid member of the staff, affect its functioning. Many have direct contact with children, families, and others in the community. The way the staff meets these people, the impression they make, the interpretation of the court they express, their general efficiency—all depend upon their understanding and belief in the court in which they work.

All personnel should be selected with this in mind. New employes should be given early and thorough orientation in juvenile court objectives and programs, and their particular contribution to making it effective.

V

POLICE AND CHILDREN

RELATIONSHIP BETWEEN THE COURT AND THE POLICE

The responsibilities of a juvenile court judge are broad and inclusive, and call for closer working relationships with individuals, groups and community agencies than judges of other courts are expected to maintain. Since law enforcement agencies provide the majority of referrals of cases to the court, it is essential that the judge and the probation staff make every effort to develop the maximum teamwork relationship with all the law enforcement agencies in the court's territorial jurisdiction. The judge should take the initiative in establishing the relationship, and should undertake to define, in writing if possible, the roles and mutual responsibilities of the police and the court, and the procedures involved.

The establishment of the proper relationship between police and court, and the defining of steps to be taken in police referrals is particularly important when it is remembered that many police departments do not have officers specifically designated or trained to work with children. In fact the first step for the judge in establishing the desired relationship is to learn who handles children in the police department (city, county or state) or sheriff's office. If there is no separate police juvenile bureau or even a single officer

designated to handle juvenile cases, the judge should help initiate the establishment of such a bureau or the designation of an officer in a smaller department.

There may be differences of opinion between the court, as represented by the judge and the chief probation officer, and the law enforcement officials as a beginning is made to define the relationship. These can be resolved, and a mutual appreciation of the other's problems should follow.

Areas to be defined include:

1. Limitations on interrogation by the police, for the protection of children and their families
2. Use of detention by the police
3. Circumstances under which the police are warranted in working with juveniles rather than referring them to the court or another community agency
4. Criteria to be used by the police in referring children to the court or to other community agencies
5. Information the court must have from the police whenever a child is referred
6. Procedure for filing petitions with the court
7. Policy on fingerprinting and photographing of children
8. Role of the police in court hearings
9. Report of court disposition to be made to the law enforcement agency
10. Police-probation officer cooperation
11. Periodical statistical report to the court of all juveniles handled by the police
12. Release of information about juveniles to the press and other communications media.

Policies in these areas must be established on the basis of local problems, concerns and needs. However, some guides can be suggested, although the material in this section does not attempt to cover all areas. Two additional sources that might be used as guides in clarifying and defining these areas

are: *Standards for Specialized Courts Dealing with Children* and *Police Services for Juveniles*. Both these publications from the United States Children's Bureau include sections that are particularly pertinent. It may be decided to adopt some of the policies suggested but there should also be room for flexible adaptation according to the needs of any county or other jurisdictional area.

It is highly desirable that policies established in these and any other areas be issued in written form to all concerned. Any subsequent changes should also be made in writing so that a statement of current practice will always be available to an incoming judge, a newly assigned police officer or probation officer. There will also be need to evaluate the written agreements periodically as circumstances change.

The judge is also in a position to initiate a joint committee. Representing the court should be the judge and his chief probation officer. All law enforcement agencies in the court's territorial jurisdiction should be represented on the committee, except that where there are many such agencies, a representative group may be designated by the agencies themselves.

The judge must carefully think through the values and purposes of such a committee before he takes any steps to initiate it. He must remember that its effectiveness is partially dependent upon the task it is given and upon the leadership that he exercises within the group.

Such a committee could be helpful in clarifying and defining the areas mentioned before. Other subjects of mutual concern might be discussed by the committee, such as the philosophy of the juvenile court, pertinent statutes, protection of minors' rights, investigations by police, investigations by probation officers, opportunities for police-probation teamwork and provision of in-service training for police officers and probation officers.

The early meetings of such a committee might be on a monthly basis until objectives are clearly established. Subsequent meetings can be held as often as the members believe desirable.

In order to obtain maximum values there must exist a true democratic spirit of cooperation. Although the judge is in the key position of leadership, he can win the solid support of the law enforcement executives only if each member of the committee feels that he has an important share in improving services for children.

Some of the listed areas to be considered in establishing and defining the relationship between the police and the court call for fuller statement:

USE OF DETENTION BY THE POLICE

As the experience of many communities has shown that numerous children are unnecessarily detained, a basic question arises: "How is detention to be controlled?" This in turn raises another question; "What limitations should be placed on the police in the use of detention?"

There are two possible approaches. One is to control all detention through the court, possibly by delegation of authority to the probation office, so that the police cannot place a child in detention without bringing him to the court or its delegated representative who would make the final decision. The alternative is to allow the police to place a child in detention but to require the filing of a statement with the court within a specified time as to why the child was not taken home and should be held. In no instance should the time of detention by the police exceed twenty-four hours, exclusive of weekends or legal holidays, without authorization by the court. The police should immediately notify parents or guardians whenever they place a child in detention.

Another question to be resolved is: "Under what circumstances and procedures may the police or law enforcement officials interview the child who is in detention pursuant to a court order?" Police may desire to remove a juvenile from detention for questioning or to point out the location of stolen property or to identify premises or persons. It is important that there be a complete understanding between the police and the court as to how, why and when such juveniles may be interrogated after a court has made an order for detention.

CRITERIA FOR POLICE REFERRAL OF CASES TO COURTS

The following criteria should be considered as a basis for police referrals to the court in delinquency cases:

1. The alleged act committed by the child is of a serious nature.

2. The overt act is not intrinsically serious, but the total circumstances surrounding the child point to the need for protective action.

3. The child has a record of repeated delinquency extending over a considerable period, even though past delinquency has not resulted in a previous referral.

4. The child and his parents have shown themselves unable or unwilling to cooperate with agencies of a non-authoritative character.

5. Casework with the child by a non-authoritative or voluntary agency has failed in the past.

6. Protective services needed by the child can be best obtained through the court and its probation department.

7. The child denies the offenses and the police believe judicial determination is called for, and there is sufficient evidence to warrant referral.

8. Any case where a child is placed in detention by the police.

The judge should have a clear understanding with the

police about referrals to the court or other community agencies. This is partly because some police want to do unofficial work with a child and its parents, and there is disagreement as to how much work the police should do before referral. The so-called "voluntary or unofficial probation" by the police is not one of their basic functions and should be discouraged. If it is carried on because of the lack of court staff, the judge has a responsibility to secure enough probation officers for that service.

INFORMATION THE POLICE SHOULD PROVIDE TO THE COURT

1. The alleged facts which give the court jurisdiction over the case, and identifying and other pertinent personal data about the child

2. Information about any co-delinquent

3. Information about the complainant or victim, including a statement regarding injuries or damages

4. Any explanation of the request for juvenile court action other than the immediate offense (such as previous police contacts which did not culminate in court referral)

5. A brief summary of any significant factors revealed in the investigation such as court records of parents or other circumstances that point to the need for protective action.

FINGERPRINTING AND PHOTOGRAPHING OF JUVENILES

Some juvenile court laws include regulation of police fingerprinting and photographing of children. In the absence of statutory provision, fingerprinting and photographing by law enforcement agencies should take place only upon the specific consent of the court in each instance. The court may wish to take cognizance of the following guides where fingerprinting and photographing might seem appropriate:

1. The child has been taken into custody for a serious

offense such as robbery, rape, homicide, manslaughter or burglary.

2. The child is a runaway and refuses to reveal his identity.

After the fingerprints and photographs have served their immediate purpose, they should be destroyed.

VI

INTAKE

Every juvenile court will have brought to its attention matters ranging from the extremely serious to the very minor. Such courts, in accordance with their mandate to individualize justice, have accordingly attempted to develop means of determining whether these matters should receive judicial attention and action or whether they should and can be handled without formal action by the judge. Certain terms have come to be commonly used in juvenile court procedure. These include: intake, complaint, petition, judicial cases and non-judicial cases, the latter sometimes incorrectly called unofficial or informal.

DEFINITION OF INTAKE

Intake in the court of juvenile jurisdiction is a process of examining and evaluating the circumstances of every case referred to the court. It is directed initially at ascertaining which cases require no action, which require referral to other agencies, which can be benefited and adjusted by treatment without judicial action, and which need judicial action.

COMPLAINTS AND PETITIONS

A complaint is a report to the court made by anyone who has a grievance or problem involving one or more children or who is aware of a situation involving children which, in

the opinion of the complainant, warrants the attention of the court.

A petition[1] is a signed formal request to the court to take action in a given situation over which it has jurisdiction, particularly the alleged delinquency or neglect (or in some states the dependency) of one or more children. A case should be docketed when the petition is accepted and filed by the court for future judicial action.

Who may file a petition in a court of juvenile jurisdiction is usually determined by statute, and may vary from any person having knowledge of a given situation to only certain specified officials. Many statutes now provide that no petition may be filed until the court has made a preliminary inquiry to determine whether the filing is in the best interests of the child or the state. The purpose of statutory restrictions, both regarding persons who may file petitions and the necessity of preliminary inquiry, is not to deprive any person of his right to seek redress through court action but to avoid unwarranted involvement of a child because of malice, neighborhood quarrels, etc.

THE INTAKE UNIT

In a very small court, intake is handled as a part-time function by the probation officer, the clerk, or in a few jurisdictions, by the prosecuting attorney. In the larger courts intake is usually handled by a unit of the probation department or, where the probation department is not an integrated part of the court, by a special division thereof. Practices in other courts fall somewhere within these variations. It is generally recognized that because children's cases are not handled as criminal matters, intake of such cases

[1] In some states, the words "complaint" or "affidavit" have the same meaning as petition, herein defined.

should not be brought into the prosecuting attorney's office unless the court has no probation officer.

Because of the need in intake for skilled interviewing, a broad knowledge of community resources, ability to gain a client's confidence quickly and to make sound decisions on the basis of short contacts, it is advantageous to use probation officers in intake, rather than clerks. For the same reason, the more able members of the staff should be used. Because intake is such a vital process in the court, the judge should designate someone as intake worker and delegate the necessary powers to that individual.

FUNCTIONS OF INTAKE

There are three basic responsibilities the court may assign to the intake unit, all of which are aimed at providing better service to the community through: 1) screening and referral of cases; 2) control of detention; and 3) expediting court action. Intake is a part of the court process and the execution of any or all of these responsibilities by the unit must be in accord with policies established by the judge.

All cases referred to or coming voluntarily to the court should be screened by the intake worker or intake unit to determine whether or not the presented problem or matter comes within the jurisdiction and scope of the court's duties and capacities. To this end criteria for acceptance, rejection, or referral should be established and periodically reviewed by the judge, but it is poor administrative practice for him to do the screening himself.

If the intake worker determines that a case does not come within the court's purview in accordance with such established criteria, the matter may be settled or adjusted during the intake interview, then closed without further action, or it may be referred to another, more appropriate agency or service in the community. When referral to another agency

is made, the worker should arrange the initial interview with the other agency to expedite service for the client.

If the worker determines that the case is within the court's purview, he will accept it for further investigation and action. At this time, and in accordance with established criteria, he should determine whether or not a petition should be filed immediately. If at this point it appears that the case should be handled non-judicially (see page 39) no petition is needed. However, further study may indicate the need for judicial handling and a petition. Wherever the intake worker is uncertain as to what action to take, he should go to the judge for advice.

If the complainant wishes to appeal from the decision of the intake worker, the judge should review the matter. Frequently an interview with the judge satisfies the complainant.

The second responsibility that may be assigned to the intake worker or unit is detention control. In order to protect the best interests of both the child and the community, and to prevent unwarranted detention the use of the detention facility should conform to intake policies established by the judge. (See V POLICE and VII DETENTION.)

The following procedures should be considered:

1. Children apprehended by law enforcement agencies during working hours of the probation department should be brought, when possible, to the intake unit, not directly to the detention facility.

2. Special arrangements should be made to have an intake worker on duty or on call to authorize the detention of children when the intake office is closed. Where this is impracticable, the court should enter into a written agreement with the law enforcement agencies regarding the proper use of detention facilities after office hours.

3. No child should be detained at all unless it is necessary for his own or the community's welfare.

4. Though juvenile courts are generally held to have the inherent power to authorize release under bond, because they are not criminal courts appearance bonds are seldom required for the release of a child from detention.

The third responsibility that may be assigned to the intake unit is a natural outgrowth of the other two. When screening and detention control are centered there, the unit, either by itself or in conjunction with the clerk or chief probation officer, can see that cases are docketed, notices sent out, etc., so the handling of those cases requiring court hearing is orderly and expeditious. For example, an early hearing should be set for those cases in which the offense is denied and on which no social study will be made until after a finding of delinquency. Those cases in which the offense is readily admitted can be assigned for investigation and set for hearing, allowing enough time for an adequate social study. Priority should be given to cases in which detention is necessary. Since many judges do not require the attendance of witnesses unless the offense is denied, the intake unit is guided accordingly in the matter of mailing or serving notices on witnesses.

CRITERIA FOR THE SCREENING PROCESS

In general, the court should accept for either judicial or non-judicial handling only cases coming within the purview of the juvenile court law. All others should either be refused at intake or referred to an appropriate agency. Since most persons who come or are referred to the court have problems which are serious, at least to them, it is important to have skilled, alert, and well-informed workers in the intake unit to provide maximum service to those whose cases cannot be accepted.

Judicial cases are those in which a petition has been filed and which, therefore, require a final determination by the judge. Non-judicial cases are those in which no petition has been filed but in which the casework services of the court, requested by or offered to the child and the family, are accepted on a voluntary basis. The non-judicial handling of problems should be done with discrimination, and only where such services are not prohibited by law. No authoritarian or judicial action may be taken under the guise thereof.

As noted earlier, non-judicial cases taken under supervision are sometimes called "unofficial" or "informal," but the use of these terms should be discouraged as the granting of probation is a judicial function to be exercised by a court only after adjudication in accordance with the law. Probation is not to be confused with the non-judicial service of limited duration that may be rendered to a child by the same court.

Criteria for determining how a case should be handled depend both on legal requirements and on sound discretion. The following criteria are suggested as guides in selecting cases which should be handled judicially:

1. Cases in which it is necessary to make a factual determination on the question of delinquency or neglect, (or dependency).

2. Cases likely to involve commitment or change of custody.

3. Cases in which either a parent or child indicates a desire to appear before the judge.

4. Cases which have a serious impact on the community.

5. Cases in which the child or parent refuses normal cooperation.

6. Cases in which the court must determine whether a child in custody or detention should remain so.

7. Cases in which two or more children are involved in the same delinquent act and it has already been determined that one or more of them are to be handled judicially.

The following criteria are suggested as guides in determining which cases should be handled non-judicially:

1. Cases in which the offense has not had a serious impact on the community.

2. Cases in which the child and the parents cooperate in a disposition not involving commitment or change of custody.

3. Cases in which the problem indicates need for a relatively short period of service.

The jurisdictional foundation for non-judicial cases rests upon the voluntary acceptance of this disposition by the family and the child concerned. This means that, in all cases handled non-judicially, the intake worker must first make certain that the fact of delinquency or neglect is not disputed and the parents and child must be aware of the fact that they have the right to judicial hearing if they so desire.

Although the judge may not be directly involved or may not even see children or parents in non-judicial cases, he has the same responsibility for them as for those who come before him in person. Accordingly, in non-judicial cases the court must establish controls in addition to criteria for selection. These controls include type of record needed, maximum period of time for these cases to be held open, and machinery to close them.

Records are necessary, not only to show the amount of non-judicial service but also the scope. The kind of record must depend upon the service rendered, and in some instances substantially the same record as in a judicial case being supervised by a probation officer might be needed. A referral to another agency such as Traveler's Aid for the return of a runaway boy to his home in another state would not require as full a record as the case of a family seeking help from the court because of their son's belligerent and defiant attitude in his home.

Non-judicial cases should be closed when the basic question or issue has been resolved. The decision to close a case should be vested in the chief probation officer or a staff member designated by the court. However, the court should be informed from time to time of the amount of such service being given. No non-judicial case should be allowed to extend beyond three months without review by the court. Moreover, the opportunity should be available at all times for the chief or director of probation to discuss particular cases with the judge.

VII

DETENTION AND SHELTER CARE

DEFINITIONS

Detention is the temporary care of children in a physically restricting facility pending juvenile court disposition, or pending transfer to another jurisdiction. It should be clearly distinguished from commitment. Any temporary care facility for children with locked outer doors, a high fence or wall, screens, bars, detention sash, or other window obstruction designed to prevent escape, is a detention facility. Proper detention care requires a specially designed and constructed building. These facilities should be for delinquent children only.

Shelter is the temporary care of children (placed either voluntarily or authoritatively) in a physically unrestricting facility pending return to their own homes or placement for longer term care. In large communities shelter may be provided in small open-type institutions; in smaller places it is usually provided in subsidized boarding homes or receiving homes. Juvenile courts should use this type of care for neglected (and dependent) children.

ADMINISTRATIVE RESPONSIBILITY FOR OPERATION

Shelter should be a community child welfare service, available to the court, but used also by other public and private

children's agencies without referral to the court. The child in the shelter home may be awaiting action by the court; but, on the other hand, he may be entirely unknown to the court, now or later. Thus it is logical that the shelter home should be an administrative responsibility of the public agency serving children.

Detention is essentially a part of the processes of protection (both for the child and for the community) and treatment for the juvenile offenders for whom the juvenile court is answerable. Thus the court is responsible for every child placed or held in detention. Detention facilities nationally are administered under a variety of agencies, but even if the court does not operate the detention facility, it should have control of admission and release.

When a facility serves a given community (or county) the court may have administrative responsibility for its operation, and in these instances the court usually makes the detention home administrator responsible to the judge or to the chief probation officer.

Despite the fact that the detention of children in jail is universally condemned, in all too many communities of this country, tragically, there are no special detention facilities, and the juvenile offenders who require secure custody are held in jail. Under these circumstances it is obvious that the court is unable to assume administrative responsibility for operation of the detention facility; yet such a situation does impose three other responsibilities on the judge besides controlling admission and release from jail: 1) that he makes every effort to secure special detention facilities; 2) that, in the meantime, he require separate quarters and non-punitive treatment of children detained in jail; and 3) that he make use of the jail only in extreme circumstances and keep the length of stay there at an absolute minimum.

Since there are over 2,500 counties in the United States

too small to provide detention facilities separate from the jail, judges with juvenile jurisdiction in these counties should seek action at the state level for the provision of regional facilities to serve small counties. A good facility, properly staffed, provides protection to the community, essential information about the child to the court, and a constructive experience to the child who needs detention. Jail detention, on the other hand, provides nothing except very brief protection to the community. Moreover, it often increases the child's antisocial attitudes and so serves to increase the potential danger to the community after release.

When regional or local detention homes are operated by a state agency, it is obvious that the local courts can no more be administratively responsible for their operation than they can be responsible for operation of the shelter home. Nevertheless, the court does retain certain fundamental judicial responsibilities regarding detention and shelter, and again one of the most important of these is controlling admission and release.

Regardless of who actually administers them the two kinds of care should never be combined in the same building. The physical facilities, staff, and program needed for the older, more openly aggressive delinquent child are not suitable for the shelter care of the neglected (or dependent) child, and vice versa. Communities which do try to combine these services are finding that they must use jail-like lockups within the facility or resort to using the jail for many delinquent youngsters who simply cannot be kept in the same quarters as the children requiring only shelter care.

THE JUDGE AND DETENTION CONTROL

Since detention (and shelter care for court children) affect the rights of children to live in their own homes and the rights of parents to the care, custody, and control of their children.

the judge has an initial responsibility to see that those rights are protected. For that reason, each court should set forth in writing the basic principles to be used in deciding on detention and shelter care respectively. These should be reviewed periodically by the judge in consultation with the detention administrator, the probation director, law enforcement officials, and others who might use the facilities. This requirement applies equally to the court that has no facility but uses a jail for detaining children.

REVIEW OF CONTINUED DETENTION

The judge has a continuing responsibility to those who are detained (or placed in shelter care by the court) as it is equally important that no child be held longer than is necessary for his own, his parents', or the community's best interests.

For example, the judge should never postpone or continue a case for the purpose of keeping a child in detention in the hope that the experience will "teach him a lesson." In the first place, punishment is not one of the purposes of detention. And secondly, it is not proper to deprive the child of his liberty before his case has been heard in court except for the minimum time necessary to complete the social study and other preliminaries to disposition.

Where the delinquent act is denied, necessitating a hearing on the determination of delinquency but obviating the need for a prior social study, the hearing should be held at the earliest possible date. The child conceivably may be innocent, and therefore improperly deprived of his freedom.

While authority for the administrative control of admissions to detention and shelter may be delegated to an intake unit or probation officer, as outlined in VI INTAKE, the judge should see that specific controls are devised to prevent unnecessarily long stays in these facilities. For example, even

in a good facility, detention should not exceed a week to ten days, and jail detention should be even shorter. Therefore, if it becomes necessary to detain a child beyond that normal period in order to have special clinical studies made, or for some other valid reason, the judge should be informed of the situation and should determine whether or not the legal rights of the child or of his parents are being improperly infringed upon. Such a review by the court will be insured if a judge makes a practice of signing no detention order which is legally operative beyond seven days. The necessity of renewing such an order will bring the child to the judge's attention and permit a careful examination of the reasons necessitating continuance.

For shelter homes and for detention facilities operated by an agency other than the court, the judge should still insist upon controls, such as periodic reports, which will enable him to protect the rights of the children and parents involved. The determining factor should always be whether or not detention or shelter, as the case may be, is really necessary either for the protection of the child or of the community.

GUIDES FOR USING DETENTION AND SHELTER CARE

The following suggestions are offered as a guide for determining the need for detention or shelter care:

A. Detention should be limited to:

1. Children who are likely to run away pending study, court disposition, return to another court or to the place of residence.

2. Children whose problems are so serious or whose family relationships are so strained that they are likely to become involved in further trouble, even if intensive casework service were provided by a probation officer before court disposition while the child remained in the custody of his parents.

3. Children who need protection from threatening community or personal situations which can only be afforded by secure custody.

4. Children who have such a history of serious offenses that they constitute a threat to the safety of the community.

5. Children who need to be held as parole violators or who are awaiting transfer to another jurisdiction, agency or institution. (These are children for whom the court will not make disposition. In these situations particular care is needed to keep the detention period as short as possible.)

6. Children for whom psychological and other studies are being made and for whom secure residential care is needed to effect this study.

B. Detention is *not* needed for:

1. Children whose offenses and problems are of such a nature that special supervision by a probation officer pending court disposition would probably help the parents maintain custody and control, and prevent repeated offenses.

2. Children whose offenses and problems are of such minor nature, that even without special supervision by a probation officer, they would be unlikely to run away or commit further offenses pending court disposition.

3. Children who are material witnesses unless it is necessary to protect the child or guard against tampering with him as a witness. If such a child must be held, use of a shelter facility is preferable unless secure custody is needed.

C. Shelter Care is needed for:

1. Children who require temporary care because of physical or moral danger in the home.

2. Children in homes where relationships between child and parents are strained to the point of damage to the child.

When the number of children being detained by the court exceeds 20 per cent of those referred to the court for delinquency, the judge should closely examine the court's policies on the use of detention.

THE JUDGE'S RESPONSIBILITY FOR DETENTION CARE

Although a judge does not directly operate the program in a detention home or a jail, he should familiarize himself with the daily activities and the care that the child is receiving in any facility. It is his responsibility to make sure that the child receives something more than custodial care. Idleness or aimless activity is destructive; therefore, it is not enough that the child receive good physical care and custody. He should have a well-balanced program of recreation activities, school work, meaningful discussion, and appropriate religious services. In addition, casework or clinical guidance should be available to help him to understand and handle his problems as they are revealed in the detention setting. In this way the detention experience can reinterpret authority to the child and prepare him to make the most effective use of the court's help. Detention homes need professionally trained staff to carry out these program essentials.

For courts which lack detention facilities and still continue to use the jail, the judge must likewise know what is the daily program for the child and must take steps to insure some kind of program and activity that will break the monotony of jail life.

(For further discussion of detention control, see V POLICE AND CHILDREN, and VI INTAKE. Guide materials on detention standards and programs are listed in the bibliography.)

VIII

THE SOCIAL STUDY

THE SOCIAL STUDY DEFINED

The social study is a unique contribution of probation to the courts in cases involving delinquency, neglect or dependency. It is usually made by the probation officer, and is an investigation and evaluation of the person before the court, culminating in a report containing the history of the individual as well as the problems and influences that affect him. It is the judge's most valuable guide in making a disposition. To serve this end it is vital that the study contain full information upon which to base a plan of treatment. The second requirement for a useful report is that the information be analyzed and presented objectively and meaningfully to show the extent and nature of the emotional and behavior patterns present, the psychological strengths and weaknesses of the individual, and the attitudes and standards of the child and his family.

WHEN THE STUDY IS TO BE MADE

The making of a social study for the use of the court in disposing of a case will of necessity occur at varying points in the processing of cases. When a petition has been filed, it can be emphatically stated that the study should be made as

promptly as possible. The sooner the court has the report, the more quickly can disposition be made and individualized treatment begun. However, if the probation officer learns at the outset that the offense alleged in the petition is denied, the completion of the social study should be held in abeyance until there has been an adjudication by the court as to the delinquency. When the action alleges neglect, the investigation should be made prior to the hearing. The chief reason for this distinction lies in the fact that the social study in a delinquent action has no bearing on whether a delinquent act has been committed, but in a neglect action the study by its very nature plays an important role in the determination of whether neglect exists.

PURPOSE, FORM AND ORGANIZATION

The first purpose of the social study is to give the court all available information that would be helpful in understanding the child, to the end that the court can arrive at a disposition which will have maximum effectiveness in correcting the child and protecting the community. To best serve the court in this respect the report must be so devised as to yield a maximum of useful information in a minimum of reading time. The accomplishment of this depends upon two things—pertinent content in the report, and efficient organization of the material.

The probation officer has the responsibility to secure information from various sources and the judge should be aware of the sources used. In general these should be indicated in the report. The judge usually discusses the topic of social studies with his probation staff and in doing so learns whom they contact. The usefulness of the information is directly related to the sources from which it was derived.

During the course of any social study, the probation officer will discover many facts about the child and his family

which, in his considered opinion, are not pertinent to the situation or important in planning any treatment program. The judge should expect his probation officer to be thorough in culling the information and reporting all that is pertinent. A report that is cluttered with minutiae and details of the family's history may hinder rather than aid him in understanding the child, his family, his relationships within the family, and his standards.

Attention should be focused on picturing the child as a person. This will generally mean that detailed events in the history of the child and his family should not be presented as detached names, dates, and places but in terms of their relationship to each other. For instance, instead of saying that John was born in 1940 and then saying elsewhere in the report that John's father died in 1951, it will be more instantly helpful to say that John's father died when the boy was eleven. It is this type of emphasis, consistently applied throughout a report that makes the difference between a blurred accumulation of details and a clearly focused and child-centered picture of an individual personality.

To be most helpful to the court the report must show how the child gets along with his family and with any larger group in which he must learn to live. This means giving some evaluation of cultural, religious, racial, nationality or other such factors that may materially affect the child's development and the plans to be made for him.

Of greatest importance is a manner of writing that is objective, non-judgmental and yet analytical. It is not the probation officer's privilege to impose on the child or the court his own personal standards or prejudices. It is rather his responsibility to present information with impersonal thoroughness. The judge may properly question the validity of a report and the quality of a probation officer's work generally

when he receives reports employing language that can only be attributed to emotion or prejudice.

In general then, the judge should ask for a report which gives him pertinent data but only those data which contribute to the understanding of the child in his total setting; a report which is written in such a way as to have the significant information immediately apparent. These are the considerations which are basic to the first purpose of the report.

After these conditions are met, there are two other purposes for the report which the court may regard as secondary but nonetheless important. If the child is committed to a state agency, copies of the social study report will have to be furnished to that agency. The agency is entitled to a complete report, otherwise their workers receive the child without knowing anything about him or the setting in which his delinquency occurred. It is only when they have this report promptly that they can be expected to carry out an intelligent plan for the child that will meet the hopes of the committing judge.

Finally, there is the use of the report in the court or probation office. A report which is sufficient only because the case is current and everyone has the details in mind may not be adequate later when there is occasion to use the written report.

There is no "right" format with respect to the structure of the report. However, there are some principles of organization that can be considered of fairly universal value. This first is classification of material under certain headings, with the headings typed in caps or placed in the margin so they can be easily spotted. Once the headings and the order in which they appear are determined, this arrangement should be adhered to with consistency. The judge becomes accustomed to the arrangement and can locate more quickly any specific information he seeks.

Experience has shown the usefulness of beginning the report with certain minimal but essential factual information such as name, address, sex, age, offense, docket number, name of probation officer, etc. The rest of the report should be narrative in form, arranged under such headings as have been determined.

The headings that follow are those most commonly found. Two general patterns are used. One presents the problem first, i.e., what brought the individual to the court, and then presents the individual. The other presents the individual first, i.e., the history of the child and his family, and then the problem. Selection of the pattern is a matter of preference. The headings used here give the presenting problem first.

1 *Offense (or Present Problem or Nature of Petition)* In addition to presenting the essential facts of the current delinquency or neglect this section should include the complainant's statement and viewpoint and the child's own statement, reaction and attitudes.

2 *Previous Record (or Previous Problem or Prior Delinquencies)* This includes chronology of previous delinquencies plus more generalized data, as previous delinquent tendencies, previous probation adjustment, etc.

3 *Family History* Information is needed here about the family composition, the parents, brothers, sisters, where they live, what they do, how they are getting along. This section will best serve the court if it gives a full and sensitive picture of the family as a unit, the personal relationships, the emotional climate, and all the family strengths and weaknesses that have their effect on the child. It is here usually that the most significant indications will be given as to the probable suitability or unsuitability of probation as a plan.

4 *Child's History* This gives pertinent overall data about

the child as an individual as well as information about his place within the family. (Some areas are of such importance that they are usually treated separately, such as education.)

5 *Home and Neighborhood*

6 *Church*

7 *School*

8 *Work Record*

9 *Interest and Activities*

10 *Health and Personality* This should cover health in the broadest sense with data on physical health, mental trends, and psychological test results.

11 *Attitude* This may be treated separately or it may be developed all through the report under the various headings as it is pertinent. If the latter method is used, a discussion of education, for example, would include attitude toward education.

12 *Community Agencies Acquainted with the Family* Many children and families coming into juvenile court are known to other agencies. How the agency has come to know the family, for how long, what the agency's present relationship to the family is, may all have an effect on the treatment plan considered by the court.

13 *Assets and Liabilities (or Strengths and Weaknesses* This heading is not used universally. It serves, when used properly, to have the probation officer thoughtfully appraise the potentials of the individual and his family.

14 *Summary* This heading should be optional. It is not a catchall heading for items that did not seem to fit elsewhere but should only be a brief recapitulation of the important information in the report for the benefit of the judge who is too busy to read the entire report. It is probably better if this section is omitted.

15 *Plan* The word "plan" is better here than "recommendation." Many judges and probation officers are reluctant to have the report show a clearly stated recommendation. This is a matter to be determined entirely by the judge. However, a plan by any name is very important; it should be realistically based on existing factors and facilities, for an unrealistic plan does not afford a solution.

The report may point out serious problems that impede the proper development of the child, such as poor living conditions, physical handicaps, degenerate family relationships or other such factors. The judge nevertheless may wish to use probation. In reaching his decision it is essential for him to have the advantage of detailed suggestions as to measures to be taken if probation is granted, or as to steps which should be taken with the family or others in case the child is committed to an institution.

USE OF THE SOCIAL STUDY

The value of the social study to the court depends not only on its quality, but on the judge's conscientious reading of it. It is important that, if possible, the report be completed and delivered to the judge at least the day before the hearing.

A judge may wish, after carefully reading the social study, to confer with the probation officer. This offers an opportunity to explore any further points on which he has a question, to test out possible dispositions he may be contemplating after reading the report, and to prevent misinterpretation of its contents.

In making his evaluation of the child from the social study and from his own observation and insight, the judge should anticipate that negative or unfavorable as well as positive or favorable attributes will be present. Negative attributes, however, must be subjected to two tests. The first is relevancy in

point of time. A history of poor school adjustment four years earlier is not pertinent when the record of school adjustment since then has been favorable. The second is, "Can this problem be worked on?" For example, a child's record of poor school adjustment may also indicate that he has responded favorably to certain teachers or subjects. This would have definite implications in laying out any treatment plan.

The probation officer can be expected to work constructively in dealing with negative as well as positive factors. Moreover, negative attributes in one area may be compensated by positive attributes in other areas. The evaluation made by the judge will be the product of careful study and consideration of all factors in light of their relationship to the total picture of the individual and his environment.

IX

COURT HEARINGS

THE SETTING

The arrangement of the juvenile courtroom should create a conference atmosphere, with the dignity which inspires respect for the court. Three basic principles are suggested in the design of a courtroom.

1. The bench or desk should not be elevated, the judge's chair should be at the same level as other chairs in the room.

2. The courtroom itself should be simple in design with no emphasis on formality.

3. Accommodations should be provided to seat the child and his parents as well as others present. If children and parents are grouped informally directly in front of and relatively close to the judge the arrangement may reduce tension and emphasize the conference atmosphere of the hearing.

The room should have a friendly appearance, yet certain appropriate symbols such as a properly mounted (and clean) flag may be effectively used. A typical room can frequently be softened by draperies and carpeting. It should not be cluttered with distracting office paraphernalia; a crowded, makeshift, inadequate hearing room impresses children and parents with the community's indifference to the court.

Where specialized courtrooms as described above are not

available, the hearings should be held in a separate room (not the regular adult courtroom) or in the judge's chambers.

Hearings conducted in such an informal setting are more conducive to successful results. It in no wise reduces the respect which people have for the court. In many cases it increases their respect, for it means that the problem is being approached on the basis of the child's welfare and not as a criminal problem.

CONDUCTING THE HEARING

The hearings should be private with only interested parties present. They should be scheduled as conveniently as practicable for the parents or guardian, witnesses, lawyers, law enforcement officers and professional workers. After arranging a reasonable schedule the court should insist that the child be accompanied by a parent, a relative with whom he is living, a custodian or legal guardian. In most cases it will be desirable to have both parents, and in some cases it is imperative, especially where the parents are living apart.

As a judge enters into a hearing, it is advisable for him to remember that a parent even after prior interpretation by the probation officer generally approaches the hearing with these thoughts uppermost: "My child has broken the law. They are going to blame me for all this. They are going to take him away from me but I won't let them no matter what happens." Earnest efforts must be made by the judge to straighten out such thinking and to convey to the parents his respect for their feelings and their rights, his firm intention to be fair and impartial, his true concern for their child, and his responsibility to do what is best for the child. Otherwise, the attitude of the parents is apt later to affect the results the court is attempting to achieve. For example, the parents may be so defensive that they cannot clearly visualize and accept their

role, the child's problems, or the aims of the court. While it is true that the court has adequate authority to impose its order even against the wishes of the parent, it is also true that the order of the court will be more effective and is more likely to be carried out if the parents understand and accept it, and encourage the child to do likewise. Non-cooperative parents can do many things to cause the child to resist the order.

The judge should conduct hearings with the dignity necessary to impress children and parents with the seriousness of the matter, and at the same time with a full consciousness that the true purpose of the court must be served. It is only by a sincere, patient interest in the child and his family and a sympathetic approach to their conflicting emotions that the hearing will accomplish its purpose. The judge must not hurry the hearing. No verbal assurance of the court's concern for the child as an individual will be as convincing as willingness to devote adequate time to consider the child's case.

In the juvenile court a judge meets a variety of people who see him in different lights. To some he is stern and relentless, to some he is like an understanding parent, to some he is kindly, to some he is wise, fair, etc. The judge must meet and react to these people within the limits of his own personality. The more he is aware of the kind of person he himself is, the more skilfully can he meet and react to the people before him in court.

LEGAL ASPECTS OF THE HEARING

There are three aspects to a juvenile court hearing, two of which are purely legal and the third socio-legal. They are: 1) the determination of jurisdiction to hear the case; 2) the adjudication of the issue of delinquency, neglect (or dependency); and 3) the determination of disposition.

It is necessary first to determine the jurisdictional facts, i.e., that the alleged act falls within the purview of the

statutes fixing the court's jurisdiction of the subject matter, and that all necessary parties have been given due notice so that the requirements of due process have been met.

Having determined that the court has jurisdiction of both subject matter and person, the court should then proceed to determine the facts of the alleged delinquency, e.g., did the child steal the car as alleged? If it is found that the child did commit the act, the court should enter a finding of delinquency or its equivalent. This establishes the court's power to act, that is, the legal authority of the court to plan for the best interests of the child. This need not be done at the first hearing but generally is, because children so readily admit their offenses. In the majority of cases jurisdictional facts, adjudication and disposition can be decided the first time the matter is before the court. As many working parents are paid by the hour, they suffer financially when they must attend two hearings, and this in turn may affect their attitude toward the child or the court.

As mentioned before, the child in the vast majority of cases involving delinquency will admit the allegations in the petition. The judge's responsibility here is to determine that the child and his parents understand the nature of these admissions. This issue can be disposed of with a minimum of legal procedures through a few simple questions addressed by the judge to the parties. When the offense is admitted, witnesses may not be necessary; when denied, they are usually required.

Even though the proceedings are universally held to be civil in nature, the legal rights of all parties should be strictly protected. This is especially important in the instances where the alleged delinquency is denied. In such cases the judge should explain that the child and the parents have a right to counsel if they so desire; that the child will not be required to be a witness against himself; that at the hearing confronting

witnesses may be cross-examined; and that he is entitled to have his own witnesses.

If all parties involved in a case of denial are prepared for a hearing, it should be held immediately if possible, or at as early a time as will be convenient. Where there is a dispute about the basic facts, adult witnesses should be sworn. Placing of children under oath should be in the sound discretion of the court, subject to statutory provisions, if any. It is good policy to permit parents, the child, and witnesses to give testimony in narrative form with as few technical objections as possible. It should be remembered, however, that the juvenile court hearing is not a criminal, but essentially and legally a civil proceeding of a chancery nature, and the rules of equity procedure and evidence should be followed. Unimportant technicalities need not be emphasized. In addition, the judge should eliminate hearsay and accept the testimony of competent witnesses only. Guaranteeing the basic rights of the individual is a responsibility of the judge even though the child or his parents may not be aware of or claim them at the time. The extent of the discussion of the alleged wrongdoing varies from case to case, even when the allegations are admitted, but it is harmful to prolong it unduly.

If the allegations in the petition have not been sustained, the case of course should be dismissed and the parties released. If there is a finding of delinquency, neglect (or dependency) the socio-legal phase of the hearing is reached.

SOCIO-LEGAL ASPECT OF THE HEARING

The emphasis now shifts from preoccupation with the offense to concern for the child, and the understanding, dignified but friendly atmosphere may become more pronounced. But the judge should not become identified exclusively as a friend, at the risk of disappointing the child in the event of later unpleasant court action.

Through the hearing and the social study, the judge should seek to better understand the causative factors behind the problem. The social case history in most cases should be ready for the judge prior to the hearing and available to him during the hearing. A knowledge of the theories and opinions of experts in the field, plus his own capacity for observation, will give him insight into the child's behavior and the reasons for the delinquency.

The judge should remember that during this part of the proceedings the interviews have a dual purpose: to determine the basic attitudes of the child and his parents concerning the problems presented, and to make known the court's disposition with a careful explanation and interpretation of the reasons underlying it. To this end the judge must be calm, unhurried, dispassionate, dependable, fair and respectful to all parties involved. He should not, in a hearing, fix blame upon community conditions. He should not resort to blanket denunciation of children or parents. It will avail nothing to shake his finger at them and "bawl them out." He should learn to take each child as a distinct individual who does not conform to a set pattern. He is concerned with why the child offended, what the court can do to prevent a recurrence of the offense, and with the protection of the child from the unfavorable influence of his home and community. He has no simple answer or easy solution. He must remember that there is no magic inherent in a child's court appearance. He must use language understandable to the child. A judge should develop interviewing skills that will prove helpful in putting the child at ease and will stimulate a candid discussion of his problem. The judge should also learn to be a good listener, letting the child and the parents be heard fully.

On many occasions the child and members of the family should be seen separately to encourage a freedom of discussion that would hardly be possible in each other's presence. Some courts have made provision for a private conference room adjoining the regular courtroom where the judge may talk alone with the child or the parents. Even if this cannot be done, children should be excused from the hearing if any derogatory material is to be introduced about the parents.

The judge and the probation officer should work as a team to determine the nature of the delinquency, whether it has become an established pattern or is a sporadic act of mischief. Though some of the judge's inquiries may be repetitious of material covered in the social study, experience has shown that facts and feelings are often revealed more accurately in the courtroom than outside it, and a judge should not feel that the social study obviates inquiries into areas already covered. The groundwork for future cooperation by the child and the family with the court and the probation officer is set at the hearing. Accordingly, there is sometimes an advantage in having the probation officer make an oral statement to dispel the belief that he is giving the court information which has been withheld from the family.

The plan presented by the probation officer in the social study should be considered. Some judges discuss the plan with their probation officers before the hearing. Some call upon the probation officer in court to set forth a plan and even a recommendation. The success of any treatment plan in the community is dependent upon the probation officer's relationship with the child and his family. This can be materially affected by the part the probation officer plays in the hearing room. While practice varies, a judge must always remember that ultimate responsibility for the decision rests with the court. Where the disposition is likely to be unpleasant to the parties before the court, the judge should take full responsibility without asking for oral recommendation from the probation officer.

The judge should not use the threat of institutional place-

ment as a means of obtaining compliance with a plan of probation, but it is only fair as well as helpful to let all concerned know the alternatives that must confront the court if work with the child in his home is not successful. It does not detract from the concern of the court with the child as an individual to remind him that the court is an agency of society and has an obligation to protect society from those who would violate the rights of other citizens.

When the facts of the social history are in dispute and are germane to the disposition, as, for example, data which appear to bear upon the fitness of the parents to maintain custody of their children, the parties have a right to call witnesses. When the facts are established, the parties, particularly the child and the parents, should be encouraged to comment on a plan and make suggestions as to disposition. A sense of participation may thus be developed in reaching decision as to treatment.

If the adjudication and the disposition are to be determined at the same hearing, the judge may diplomatically excuse witnesses whose *sole concern* with the case is to present evidence on the issue of delinquency or neglect. It is frequently desirable for the judge to give a word or two of explanation to the complaining parties (who may be expecting restitution or demanding punishment) that will enable these witnesses to understand better the function of the court and the reason for their exclusion from the hearing room.

When more than one child is involved in a single delinquent act, the court may conduct the adjudication of the jurisdictional facts with all parties jointly before it. The disposition, however, would ordinarily be conducted individually with each child, although occasionally it may be in the best interest of all parties to pronounce disposition collectively. Where more than one child is involved, and it has been determined that treatment will vary for each of

them, it is wise to discuss with the children and their parents the reasons for the difference in treatment. If any of the facts in the case are contested, it is incumbent upon the court to avoid secret conferences or private questioning of witnesses, thereby eliminating any appearance of favoritism or prejudice. Particularly is this true if some of the children are to be institutionalized and others are to remain in their homes. The door will hardly have closed on the hearing before the disposition in each case is known by all the participants, however undesirable this may be. A child receiving the more unpleasant disposition often accepts such treatment more gracefully with a word or two of logical explanation.

Because of overwhelming anxieties that may prevent the parties involved from comprehending fully what has transpired at the hearing, it is advisable that the probation officer meet with the child and the family immediately afterwards, usually in the probation office. This offers an opportunity to make sure that all parties fully understand the orders of the court and the proposed plan of treatment, and to answer questions, which, if left unasked, might undo what the court is seeking to achieve.

ROLE OF ATTORNEYS

While the presence of attorneys in juvenile court hearings is not common, and the principles and philosophy of the court are intended to protect the rights of the child, parents sometimes, as is their right, employ a lawyer for the hearing.

In any situation where one of the parties has an attorney and the others are not represented, the court will do well to advise all parties of their right to be so represented. Many bar associations have legal aid clinics for those financially unable to retain an attorney. If the unrepresented parties are unsuccessful, frequently they will leave the court dissatisfied with the decision and intending to obtain an attorney and

have another hearing. The court saves time and often an appeal by continuing the hearing until all parties are properly represented by attorneys in such cases.

Where the child or other parties before the court are represented by an attorney who may not be familiar with the procedure of the juvenile court, the judge or a member of the staff should take the opportunity to consult with him concerning the objectives of the court as they apply to the pending case. The judge should welcome the attorney and attempt to make constructive use of his presence, for very often he may help the family in understanding and accepting the court's plan. Ordinarily, the hearing should not become more formal because of his appearance.

RECORDING THE HEARING

It is not necessary to make a verbatim recording of hearings in most jurisdictions. Verbatim testimony may be taken in contested cases or cases that will possibly be appealed. Modern recording machines are economical to use and can be so arranged as not to distract the witnesses.

REFEREES, COMMISSIONERS, OR MASTERS

In some juvenile courts, provision may be made for appointment of referees, commissioners, or masters whose function is to hear cases for the judge, report the findings, and recommend disposition. The referee does not make a decision as to disposition; he makes only a recommendation (in writing). It is the judge's responsibility to examine the findings and recommendation, and to approve, modify or disapprove.

A hearing by the referee should be held in the same kind of setting and conducted with the same approach as a regular court hearing, insofar as it is practicable. Thus the material in this chapter applies equally, with some additional points,

to the referee. The referee should explain to all parties at the hearing his function in the court. He should give prompt if not immediate notice of the findings and recommendations to the child's parents or guardian. They should be instructed in their right to review by the judge. Such review should be granted if a request for it is filed within a specified time after notification of the recommendation.

Unless the law requires otherwise, no litigant or lawyer should be required against his will to appear for hearing before a referee, but once the hearing begins, he ordinarily is not allowed to withdraw and seek a new hearing officer.

X

DISPOSITION AND TREATMENT

MEANING OF DISPOSITION

In a broad sense, the term "disposition" may refer to any decision made by the court (including its administrative arm, the probation department) respecting the action the court takes in regard to a specific case. The court "disposes of" a case when the intake worker finds that it does not fall within the range of the court's services and so notifies the interested parties; it disposes of a case when the intake worker refers that case to some other agency better suited to handle that particular problem; it disposes of a case when the probation department makes a non-judicial adjustment of the matter without filing a petition; and it disposes of a case when the judge, after a hearing, determines what action shall be taken.

In a narrower sense, however, the term "disposition" is used to refer only to those decisions supported by the full power and authority of the court and made after an adjudication of the issues. When the term is used in this sense, a disposition can be made only by a judge and only after the judge has already found the case to be within the jurisdiction of the court (the exception would be a case disposed of by the court with a finding of "no jurisdiction"). In this chapter, "disposition" will be used in the second, more restricted sense unless it is modified by some such term as "non-judicial."

PURPOSE OR GOAL OF DISPOSITION

The basic goals of the juvenile court are the protection of the community, the rehabilitation of the delinquent child and the protection of the neglected (or dependent) child. These goals are not antithetical. The commitment of a child to a training school does not constitute ultimate protection for the community unless treatment is provided for that child in the school preparing him for return. The threat to the peace and security of the community remains unless the underlying causes of the problem are treated and eliminated.

Once the judge has assumed jurisdiction in a given case, his purpose should be, not to set a penalty as in a criminal case, nor to settle a specific dispute between contending parties as in a civil case, but to order the available treatment which seems most likely to result in the eventual removal of the causes of this particular case of delinquency, neglect, etc. It is for this reason that juvenile court statutes give the judge unusual latitude. Unlike the criminal court judge, he is not limited by law to certain dispositions for particular offenses, but is allowed to base his disposition on what he judges to be the treatment needs of the particular offender, consistent with the protection of the public.

THE JUDGE'S RESPONSIBILITY

This latitude in choice of disposition imposes a tremendous responsibility upon the judge. It presupposes at least two conditions: first, that he will endeavor to ascertain the real causative factors of each case before him; and second, that his knowledge of available treatment facilities, both within and outside the court will enable him to select the disposition most likely to succeed. Well-trained probation officers can be of great help to him but it is the judge who must make the actual decision.

In the following discussion of dispositions, no attempt

will be made to list or to discuss all of those available to the thousands of juvenile courts throughout the country. Rather, this discussion is geared to the jurisdiction of most courts and is intended to offer the judge guides to his thinking as he faces his day-to-day task of disposing equitably and constructively of each case coming before him.

DISPOSITION IN DELINQUENCY CASES

Under present conditions, the number of possible dispositions in delinquency cases will vary enormously from state to state and from community to community.

In many of the smaller communities the judge is often faced with the hard fact that he really has only two main choices; to commit the youngster to a state training school or to release him on a suspended commitment. The judge may call the suspended commitment "probation," but it is not really probation unless the child receives consistent and skilled help with his problems from a trained probation officer. These limitations will continue to prevail in the smaller communities until the judges themselves insist that they be furnished well-staffed probation services, preferably within the court itself or through a local or state agency equipped to administer such a program.

In the large communities the judge may be faced with an apparent embarrassment of riches: a well-staffed probation department, public and private casework agencies, psychiatric and psychological facilities for diagnosis and treatment, specialized social services in the school system, public and private vocational training facilities, public and private group work agencies, camping opportunities, well-selected foster homes, private character-training schools and so forth.

Regardless of the number of resources available, however, the judge's basic problem in deciding upon a disposition remains the same: how to insure that the disposition is

realistically related to the causes of this youngster's behavior and not merely to the specific offense for which he is appearing in court.

Five mandates basic to the disposition of delinquency cases are:

1. *Individualize the Child.*

This is basic to all dispositions in the juvenile court, but particularly so for the delinquent child.

The judge must not lose sight of the basic principle that the juvenile, with rare exceptions, is answerable for the reasonable and natural consequences of his actions. However, it would be an obvious mistake to assume, for example, that every boy who "steals" a car needs the same treatment simply because the act of delinquency is the same in each case. A thorough social study might reveal, for instance, that one boy was a relatively normal youngster with a good record in school, an average family background and normally healthy associations, who had yielded to an urge to show off before his friends and had "borrowed" a car without the owner's permission but with no real idea of stealing it. It might reveal that a second boy, driven by the need to escape from an intolerable situation at home, had taken a car as a means of making his escape, but with no thought of the car as a thing of value in itself. It might also reveal that to a third youngster an automobile represented all the things he felt were lacking in his own life—prestige, economic security, power, etc.,—and that he had taken a car as a kind of unconscious revenge on the society that denied these needs of his. In the public mind and to the owners of the cars involved, these three offenses might seem the same; but the discerning judge would recognize that he was dealing with three very different situations and that his disposition in each case must be determined by the problem underlying the act, and not by

the act itself. He would also see that commitment to a training school would not alter the second boy's intolerable home conditions nor the third boy's feeling that the world was against him, and that suspended commitment without real probation would likewise do nothing to help either youngster. He might decide that warning the boy and his parents would be sufficient in the first case, but he would know that the second and third youngsters would require a great deal of skilled help with their emotional and social problems before they would be capable of making a normal adjustment in the community.

It is the judge's responsibility to know enough about each child appearing before him to fit the disposition to that particular youngster's problems, whether they be social, emotional, mental or other. But it is also the judge's moral if not legal responsibility to see that when he orders probation the child will receive the skilled help necessary to change faulty, antisocial attitudes and concepts, to improve weak or hostile family relationships, and to utilize the full resources of the community in the child's behalf. This is a kind of help that can best be obtained from trained, professional personnel.

The principle of "individualizing the child" as a prelude to the selection of the proper disposition is as basic for the judge as it is for the doctor to examine each individual patient before prescribing medical treatment.

2. *Have an awareness of how the child views himself.*

The youngster who appears before the judge in a delinquency case may be a chronic failure—in the eyes of the community, as a member of his family, and more especially in his own thoughts and feelings. He is the child who makes poor grades in his school work and a poor impression on his teachers; he is a problem on the playground because his need

for attention makes him obnoxiously aggressive and loud; at home he is disobedient, rude and prone to make unreasonable demands; he fights with his brothers and sisters in a never-ending contest for precedence and dominance, and bullies those who are smaller and weaker than he. In the privacy of his own thoughts he admits that he is even worse than all the bad things that have been said of him by his parents, his teachers and associates of his own age. With no self-esteem to direct his choice between right and wrong and with an unfavorable reputation to live up to, he follows the only course he sees open and tries to force recognition through becoming the toughest kid on the block or the most skilful stealer of cars; or he tries to buy recognition by stealing money or goods and distributing the loot among his associates; and so on. He does gain a deal of recognition and attention through such behavior. His sense of failure is not relieved, however, when he is condemned, berated, and even beaten for his misconduct, but his conviction of his own worthlessness is further reinforced.

Faced with such a child, the judge's natural human reaction would be, except for one thing, to feel the same disgust and condemnation aroused by this youngster in everyone who has known him and to fall into the trap that has so often caught the general public—the belief that such cases can be handled only by a "get tough" policy. But the exception is that the judge has information and knowledge not available to the public. He knows how this youngster has suffered defeat time and time again. He also knows that the most belligerent child may be the most frightened and desperate one. He knows that this child who lacks faith in himself cannot change his behavior through his own efforts alone. Knowing these things, the judge would recognize the futility, even the cruelty, of returning him to the community with nothing more than a threat of dire consequences to follow further misbehavior,

or a lecture on the error of his ways. He knows that commitment to a training school may appear to the child as final proof of his failure. Moreover, he would recognize that this youngster needs help from someone capable of gradually giving him recognition of his own worth, someone who could help him gain some understanding of how he constantly defeats himself, someone who could help him learn how to achieve recognition and acceptance in ways that are approved by society. Finally, the judge knows that it took years to make this child what he is today, and he would not expect miracles overnight. The judge anticipates relapses and would be prepared to deal patiently with such failures, recognizing them for what they are and not seeing them as defiance of the court's authority.

3. *Weigh the past in terms of the future*

While there is often a tendency, especially in criminal law to deal with offenses on a cumulative basis, i.e., get tougher for each subsequent offense, this approach is not valid in any juvenile court.

This does not mean that the total past behavior of the youngster is not of tremendous importance in assessing the present situation. It does mean, however, that the number of times he has appeared before the court does not in itself supply a reliable yardstick for measuring the depth and extent of his problems at this time, and therefore that the number of these appearances cannot be used as a reliable basis for determining the present disposition. It does mean that time is needed to effect any changes in behavior and attitude, and that the longer the history of these problems, the more time may be needed to solve them. Arbitrary time limits cannot be set down as gauges for achieving certain changes in behavior. Thus a year on probation may not be sufficient in one case while it may be longer than necessary in another.

As said before, it takes time—often a great deal of time—for a treatment process to undo the damage that has been wrought over a number of years. During that period of time the child may relapse into his old pattern of behavior and commit additional delinquent acts. However, a child coming before the court for the third or fourth time may actually be a better risk and a more hopeful person than at the time of the first appearance. To commit such a child to a training school only because it is his third or fourth appearance without examining the present and previous patterns of behavior and attitude would defeat the whole purpose of the juvenile court. Each disposition should be determined not primarily by the record of past failure, but the prospect for future success.

4. *Do not tie your own hands with cliches like "probation is for first offenders only," or "only one chance on probation."*

In considering a particular child before him, the judge should bear in mind that many delinquents coming to court are the victims of inconsistent or contradictory authority and their tendency is often to challenge the court's authority even as they have already challenged and defeated the alleged authority of the home or the school. Such a child is not helped if authority, as exemplified by the court, seems to waver and contradict itself.

Yet everyone becomes more secure when he knows what standards of conduct are expected of him, when he knows who has established those standards, and what positive disciplinary action will be taken if he fails to meet them. The court can give the delinquent child that security by telling him just what is expected of him. One of the judge's problems, if he is to provide that security, is to avoid a situation where the court later contradicts itself or does not enforce

its decisions or orders. To that end, decision as to disposition for some children might be reserved for a considerable period to leave the situation in an equivocal state and thus permit the court subsequently to render a disposition which is not too sharply at odds with what has gone before. To avoid inconsistency suspended commitment should not be used if the judge does not intend to put such a commitment in force in case of a new violation. This does not mean, however, that the court may never alter a decision once made.

Seeing every child as an *individual* to be understood and guided means that consistency is also called for in the entire period of the court-child relationship. This relationship is impaired when consistency is only the application of a general rule of thumb. True justice in the juvenile court is not to "treat 'em all alike," but to treat each child differently according to his needs. Consistency then implies change and modification of treatment as those needs arise.

5. *Determine the type and quality of treatment services available and select what is needed.*

In general, and regardless of community resources, the dispositions available to the juvenile court in delinquency cases fall into four major classes or categories (exclusive of dismissals) : a) probation, involving some kind of treatment program while the child remains in his own home or in a foster home (in some instances in a community other than the one in which he lives) ; b) commitment to an agency or institution for treatment under controlled living conditions; c) so-called "shock" dispositions, the goal of which is an immediate impact on the child and his family, which is not necessarily correlated with a continuing program of treatment; and d) restitution.

a. For the vast majority of delinquency cases requiring judicial handling, a treatment program in the community is

the wisest. The kind of treatment ordered may vary widely from case to case, depending upon the needs of the child and the resources available to the court. It may range from an intensive course of treatment in a psychiatric clinic, through a program of intensive casework with the child and his family, to relatively slight supervision in mild cases. Whether the child is in his own home (which should be the case whenever it is at all possible) , in a relative's home, or in a foster home, and whatever the intensity of the treatment program, the great advantage in using this disposition is that the youngster receives help with his problems while living in the very community in which he must learn to get along. It tends to be less destructive to the child's self-respect, does not require the difficult adjustment to the abnormal living conditions of an institution or a camp, nor the readjustment to the community upon release, and does not further weaken already poor family relationships. To be fully effective, however, leaving a youngster in the community assumes that there is available to the court a probation officer or staff capable of giving or of procuring the kind of treatment that will enable the child to work through his problems and achieve a satisfactory adjustment.

When probation is used, the cooperation of the parents has an important place. As assessment of the family's strengths and their willingness to accept responsibility and to help their child will indicate the type of service the probation office must give them. The court, at the time of making the disposition, has an opportunity to emphasize the family role and to lay the background for close harmony between the family and the probation office.

b. Commitment to an agency or institution for treatment under controlled living conditions should imply that the judge is convinced that the youngster does not possess the resources to cope with the demands of community living, or

that his aggressive impulses are so out of control that he constitutes a real and constant threat to the safety of the community. As a rule, a good social study will reveal the presence of either of these conditions.

The child for whom there is little hope of rehabilitation in the community is not easy to identify, but is usually characterized by the total deterioration of the relationships between himself and his parents or parent substitutes, often also of his teachers. Such a child frequently needs to be removed from his old, established associations and to have a chance to start all over again, as it were, to learn how to live with people. He often profits very considerably from a period of institutional life.

The child whose impulses are completely out of control is usually easy to identify by the violence and frequency of his acts of aggression. The impulse-ridden child may not profit too much from institutional life; but he is placed there in the first instance as a matter of protection to the community and while under the external controls of the institution may develop sufficient self-control to make possible return to the community under close supervision.

Commitment is not made in either case because these children are necessarily "worse" than those placed on probation; the choice is made because they need a kind of care that would not be possible if they were left at home or placed in a foster home. In fact, commitment is not a disposition of last resort, but should be deliberately chosen by the judge for those who need it. Some children may need this disposition at their first appearance in court.

A vital key in the use of commitment is the selection of the institution to be used. There are private institutions and schools as well as those operated by the county or state; moreover the institutions and schools vary both as to program and treatment offered and the type of delinquent who will be

accepted there. Care is needed to select the proper institution or school. Thus it is axiomatic that a judge should know the various facilities that are available for commitment from his court. And the judge, in making his decision to commit a delinquent child, will have more assurance if he has visited each of those institutions, not only to see the building, but to acquaint himself with the program, equipment and personnel.

The child and his parents may consider commitment to be "cruel and unusual" punishment, but the judge must be guided by his conviction of what will ultimately be best for the child. Care should be taken not to indicate that the judge has "thrown his hands up" in disgust, or is "sending" the boy to a training school because he is convinced that the child "will never amount to anything." It is necessary to have both the child and his parents feel he is going to a treatment and training facility rather than to a place where all hope is abandoned.

Work with the family while the child is away is essential if there is to be any improvement in the home to which he will return, but all too often this is not done. Although not a specific responsibility for most courts, the judge can give the support of his office to the efforts of institutions and agencies who are attempting to develop this phase of their program.

c. In making dispositions some judges will use some device that will "shock" the child (and his family) and bring him up sharply to face the conditions and demands of community living. It cannot be overemphasized that this technique must be used with discrimination and always with people who are basically normal in personality and capable of meeting the normal demands of society.

A warning or lecture, for example, will serve to remind such a youngster of his obligations and responsibilities to

society, but it assumes that he already recognizes and accepts such obligations and responsibilities in principle. A warning or lecture, on the other hand, will not change an individual character structure nor alter his personality. Thus, if the child's behavior is a symptom or result of serious emotional or social problems, or if it is an expression of a character warped by years of inadequate or faulty parental guidance, the warning or lecture will have no permanent effect on the child's behavior. Unfortunately, the temporary, even though completely sincere, contrition of a child in court is often confused with a true recognition of error and acceptance of responsibility and the judge is tempted to "let the child off with a warning." Such errors in judgment, although perfectly natural, can be very costly both to the child and to the community. They can be avoided when the judge has the benefit of a full social study and conference with his probation officer prior to making his decision.

The use of fines, in those states where they are permitted in juvenile cases, would have essentially the same limitations as warning lectures. Some feel that fines can be used constructively, if they are not too heavy and if the court allows the child to pay on the installment plan, thus giving him a periodic reminder over a period of several weeks that it does not pay to break the law. On the other hand, the child may feel he has "paid his debt" as soon as he pays his fine, and thus may develop a rather irresponsible attitude toward minor infractions of the law—an attitude which may eventually spread to more serious matters.

Probably the most effective of the shock dispositions is the removal of certain privileges, such as a driver's license, but even this method is effective only when used with the relatively normal youngster. It has, however, the advantages of a direct cause and effect relationship when the car was a

factor in the delinquency, and it requires the boy to earn the restoration of the privilege.

Whether used as a separate disposition or as a condition of probation, restitution should always be part of but not in lieu of treatment. The court's chief concern is the change in behavior of the child and this can never be conclusively demonstrated by requiring payment of any sum of money. The change in behavior as well as the concern of the public, may call for restitution. (It should be noted that some judges believe restitution should not be required by the juvenile court but should be handled as a separate civil action by the party seeking restitution.)

Properly used, restitution emphasizes accountability for the natural and reasonable consequences of one's acts, and that one cannot have "fun" at the other fellow's expense. The court must make clear to the parents that restitution does not automatically guarantee the correction of any weakness in the child but that it does help the court in its understanding of the child in two ways. First, it gives a clearer indication of the sincerity of the child's regrets for what has taken place, and second, it helps clarify the degree of responsibility which the parents have concerning their child as they encourage him in his efforts to earn money for restitution. A delinquent child making restitution is forced to meet certain demands which may be therapeutic, but restitution by parents is not therapeutic treatment for a child.

Careful judgment must be used by the court in requiring restitution, particularly where it is made a condition of probation with a threat of commitment in case of failure to pay, for the commitment then becomes a matter of punishment because of such failure and not a judicial choice of treatment based on the child's current needs. Capacity and ability to pay varies and even the payment of five dollars a month may not be possible. Restitution, when used, must

therefore be realistic and within the capacity and ability of the individual.

DISPOSITION IN NEGLECT (AND DEPENDENCY) CASES

The chief objective of the juvenile court in neglect cases is to protect the children concerned from physical, emotional, or moral harm. Since it is always emotionally damaging to a child to be removed from his own parents no matter how unsatisfactory the natural home may be or how excellent the substitute home may be, the initial thought of the judge should always be to provide such protection to the child in his own home whenever possible. If it is not possible to leave the child in the home under existing conditions, the goal of the court's action should be the rehabilitation of the home while providing adequate substitute care for the child, and the earliest possible return of the child to his parents.

In the average neglect case, the facts brought to the attention of the court are usually ugly ones; but in order to arrive at a sound disposition, it is necessary for the judge to look behind the facts. Experience has shown that the vast majority of parents who neglect their children do so through ignorance or inadequacy, rarely through viciousness. These parents are usually weak, immature people who have been unable to cope with the day to day problems and responsibilities of marital adjustment, parenthood and employment. One minor defeat after another adds up to a situation so overwhelming, that when measured against their capacity to deal with it, they finally give up the struggle and seek escape in drink, sexual promiscuity, running away, or one of the many other methods used by human beings to avoid facing an intolerable situation. Then, in order to preserve some shreds of the self-respect so essential to the human being, they will seek and find ways of justifying their behavior. Indeed, it is this ability to find self-justification that often

gives the impression that they are behaving as they do because they want to whereas they are actually unable to do otherwise.

Obviously, pointing out the duties and responsibilities of parenthood to such a person and ordering him or her to fulfil them will be as useless as ordering a three-year-old to climb Mt. Everest—they simply do not have the strength. Parents need help, and a great deal of it, but they will probably resist such help at first because accepting it means acknowledging their own inadequacy. This is the very reason why such cases must be handled by a court rather than a non-authoritative social agency; the parents who have the moral strength to seek voluntarily the help of a social agency rarely reach this stage of complete deterioration.

As in delinquency cases, it is almost impossible for the judge to select the best disposition in neglect cases unless he has the benefit of a thorough, penetrating social study on which to base his thinking. Whether to leave the children in the home under supervision (which means that guidance must be given to the parents with their multiple problems), to remove them temporarily while an attempt is made to rehabilitate the home, or in very extreme cases where the governing statutes permit, to terminate parental rights permanently, will depend on a great deal more than the gravity of the present situation. The judge will need to know how great have been the stresses which resulted in this breakdown, what strengths are still present in this home, how deep is the present sense of defeat and hopelessness, what is the basic capacity of these parents to face responsibility and to love their children, and many other things pertinent to the future of the family. Without this kind of information the judge will be limited to an assessment of the parents' current behavior, which means he knows only *how* these people are behaving but not *why*.

Since the goal of the juvenile court in neglect cases is to

protect the children from harm, the disposition chosen by the judge should be determined entirely by the future welfare of the children, and this can be done only when the decision is based upon a thorough knowledge of the family and its history.

DISPOSITIONS IN OTHER MATTERS INVOLVING CHILDREN

Obviously, the guiding principle in disposing of cases concerned with the treatment or commitment of mentally defective or disordered children, as well as adoption and guardianship, is the ultimate welfare of each child. The following discussions, therefore, assume this fact and deal only with certain more specific aspects of these functions.

ADOPTION

The adoption laws of most states now provide numerous safeguards in the adoption process, including such requirements as pre-adoption study by an accredited child welfare agency, a waiting period between the initial and the final decree, and so on. Unfortunately, many of these statutes still do not provide adequate safeguards around the original placement of a child for possible adoption; yet this step is probably the most crucial in the entire process. When faced with the knowledge that a particular home leaves much to be desired, both the child welfare worker (or probation officer) studying the adoption and the judge may hesitate to recommend against adoption and to deny a petition to adopt in the case of a child who has already lived in that home for several years. On the other hand, if the judge knows that a careful pre-placement study has been made by a competent, licensed placement agency, followed by a thorough pre-adoption study he will feel that granting the adoption is based on far sounder grounds.

In adoption jurisdiction one way in which judges can

strive for sounder dispositions is to work for a tightening up of their state adoption laws to provide greater safeguards around the placement of adoptable children. The emotional needs of the human being are very complex and the motives behind the desire to adopt a child should always be studied. For example, it would not be proper to place a child in a home where the motivation lay in the hope of reuniting an estranged couple.

GUARDIANSHIP

Guardianship of a child is usually not removed from the parents in neglect cases, even when legal custody is removed. However, when a child is found without guardianship, or when it becomes necessary to terminate either temporarily or permanently, the parents' guardianship, the court should appoint a guardian at the earliest possible moment. It is usually preferable to appoint an older brother or sister, uncle or aunt, or other close relative as the guardian, but not as a rule the person or agency having legal custody. In particular, the court itself should not assume such guardianship, nor should it be placed with an officer of the court. The court should retain a supervisory function and be ready to change the guardian if such an action seems necessary for the welfare of the child.

MENTALLY DEFECTIVE AND DISORDERED CHILDREN

In cases involving the treatment or commitment of mentally defective or disordered children, as in other cases of juvenile jurisdiction, the judge has the dual responsibility of protecting the community and of helping the child. There is a slight difference, however, in the role he plays. In a delinquency case it is the judge himself who is the "expert" in determining whether or not delinquency as legally defined, actually exists; in cases involving alleged mental retardation

or disorder, the judge must utilize the findings of other experts since his own professional competence does not lie in these areas. For this very reason he should be even more cautious than usual in accepting the findings or recommendations of others. It is known that serious emotional disorders in children can be, and often have been, mistaken for mental deficiency or psychosis. No child should be declared mentally defective or psychotic by the court unless he has been tested by a psychologist with an advanced degree in his field and by one or more doctors with specialized training in psychiatry. If such services are not available in the local community, the judge should order a study by a clinic approved or operated by the state's health department. If even this service is not available, the judge should make a conditional or provisional commitment to the appropriate institution, with an order that such a study be made and that a report be returned to the court within a specified period, not to exceed ninety days.

The judge's final disposition should then be based upon the findings regarding the treatment needs of the child and his potential danger to the community, not the need of the parents to be rid of a troublesome child, the need of the school authorities to be rid of a difficult pupil, or any other such consideration.

DISPOSITION IN ADULT CASES

Adult cases included in the jurisdiction of juvenile courts vary considerably from state to state, and sometimes even from court to court within one state. Almost all juvenile courts have jurisdiction over adults charged with contributing to the delinquency of a child and those charged with failure to support their children. Other juvenile courts may have jurisdiction in such matters as marital discord, determination of paternity, criminal neglect or abandonment, failure to support or provide for a spouse, and so on. In this section no

attempt is being made to cover all the possible dispositions in adult jurisdiction found in juvenile courts throughout the country; the discussion will be concerned with suggested guides for selecting appropriate dispositions in general in adult cases.

When dealing with an adult offender there is often a tendency for the judge to think along the classic lines of criminal justice instead of pursuing the goal of protection through treatment and rehabilitation that is characteristic of the juvenile court. Such an inclination would defeat the purpose for which those adults come under the court's jurisdiction. This purpose is not to "coddle" the adults concerned but to protect the children from parental irresponsibility, from being victimized by adults with warped personalities, and from the emotional damage of living in a home torn by continuous marital discord. To achieve such a purpose requires more than simply fining or imprisoning the adult; it requires action by the court aimed at relieving situations which cause behavior dangerous or damaging to the child.

The judge should be even more concerned with the "why" of the adult offender's behavior than with the simple fact of the behavior itself. He should seek a disposition that is most likely to eliminate the causes of the offending behavior, even when this disposition does not seem to coincide with society's natural desire to see mistreatment of children adequately "punished." Whenever possible, the disposition should be probation, with casework or psychiatric treatment aimed at the problem.

AFTER DISPOSITION — WHAT?

To a far greater extent than is now true of judges of criminal or civil courts, the juvenile court judge's responsibility continues even after he has made his disposition of a case. The philosophy of the court has its roots in the belief

that human behavior can be changed for the better through understanding and skilled help; this change takes time. The judge's responsibility continues actually until the case is "cured" or has passed completely out of his jurisdiction. Accordingly, he must periodically review the cases under his jurisdiction to determine what changes have taken place, whether different treatment is needed, what treatment resources need reinforcing or are totally lacking. Above all, this review provides knowledge for meeting tomorrow's problems in the court more skilfully.

XI

PROBATION

Probation is the most frequent disposition that the juvenile court uses. However, placing an individual on probation does not mean that the matter is ended for the judge. There are additional points that a judge must consider at the time of disposition and later. These include such considerations as: 1) should conditions of probation be imposed, and if so, of what type? 2) what constitutes a violation of probation and what should be done about a violation? 3) how long should a child be on probation and what should be the basis for discharging him from supervision?

CONDITIONS OF PROBATION

General conditions of probation are those basic rules drawn up by the court, with the assistance of the probation staff, for all cases. General conditions are designed to strengthen the child's responsibility for his behavior and aid his adjustment to his community. Special conditions are those believed by the court to be necessary in an individual case in addition to the general ones. But there is a tendency many times to establish only those applying to all cases.

All conditions imposed must be realistic in that the probationer can reasonably be expected to meet them; they must be tailored to fit the individual on probation, and they

must be changed as the situation may require. When there is an attempt to reform the individual by setting down a complete code of behavior, it may be too restrictive and may thereby handicap the child's right and responsibility to make decisions of his own. Moreover, when conditions are set down that would be difficult for even a non-delinquent to meet, they serve to defeat the helpful purpose for which they were established.

A nine o'clock curfew as a condition of probation may be justified when an individual needs that curb on his behavior. But applying that curfew to every delinquent on probation is not realistic. It would be very difficult for the probationer in high school to achieve the court's ultimate goal—to learn how to live satisfactorily and get along with his fellowmen in society—if that curfew were applied because he would be unable to compete with the non-delinquent high school student. Yet if the probationer does not meet the curfew, he breaks the rule. If the probation officer and the court know that he is breaking it and they ignore it, they are not helping the probationer to learn to respect rules and laws. Likewise, the question may be asked: "If there is a nine o'clock curfew for every probationer, what court would revoke probation for every delinquent who did not meet that condition?"

Every person, child or adult, needs guides (rules, written or unwritten) for his behavior. When well-defined and consistent, the rules give assurance to the individual, for they mark certain limits to tell him whether he is doing "right." Many youngsters coming before the juvenile court are confused because of contradictory or widely fluctuating limits at home. The court has an opportunity to provide a sense of security to each delinquent child through wise and sound design of the conditions it establishes on an individual basis. Good conditions of probation strengthen, rather than replace or undermine, family authority and responsibility. It is therefore important that the court have its probation staff make sure, after the hearing, that the family and the child clearly understand the intent and meaning of the conditions of probation, including the responsibility of the parents to assist in the treatment program.

Conditions which were desirable and necessary at the time a youngster was placed on probation may become unnecessarily restrictive at a later date. If they were imposed by the court, the matter must be returned to the court for revision by the judge. The conditions established by the court should not therefore be rigid. This can be illustrated in the matter of reporting to the probation office. If probation is to be a real treatment plan, the judge should avoid a practice of stating, as a condition of probation, how frequently or precisely when the probationer is to report. Many probationers need to be seen very frequently after they have been placed on probation, but later it may be advisable to space the interviews out to every two weeks, one month or even two months. However, when the court makes a statement like this, "You are placed on probation and are to report to your probation officer every other Saturday," the child will resent the action of the probation officer who tries to impose more frequent contacts. On the other hand, he may feel that he is violating the court's order if the probation officer allows less frequent contacts during the later stages of probation. It is therefore advisable to establish a condition of probation like this: "You are placed on probation and are to report to your probation officer at such times as he says."

Some courts allow the probation office to establish conditions that may be needed from time to time. It is essential for the court and the probation department to have established a policy and set limitations on the conditions the staff may impose. If this is not done, the judge may suddenly discover that a probation officer has set down conditions that the judge

would call unrealistic. If a child is brought to court for violation of such a condition, the judge faces a delicate question. If the probation officer is not upheld, the child's respect for authority may be undermined. But if the judge stands with the probation officer on an unrealistic condition and holds the child as a violator, he may not be fulfilling his responsibility to the child. Because of these factors, policies as to conditions imposed by the staff should be reviewed periodically.

VIOLATIONS

Although it is hoped that every individual will succeed on probation, violations will occur and the court must be ready to handle them. Violations are usually classified as: 1) commission of a new offense, and 2) technical.

Commission of a new act of delinquency is a violation of the statutes covering delinquency, whereas the second type (technical) usually consists of a violation of the general or special conditions of probation that have been laid down for the individual. It is the latter type that is most difficult to assess partially because so much hinges on what the conditions of probation are. Some conditions may be simple measuring sticks for behavior and conformity, such as "attending school regularly." Other conditions may express a general concept, such as "obey your parents." Failure to attend school is easily observed but there are different degrees of obedience to parents.

When the court must consider a violation, it should require a written report from the probation officer just as it expects a social study at the time it is considering the initial disposition. This report should contain the facts of the violation and an evaluation of the individual's adjustment up to that point.

The child has a right to be heard and to give his explanation of the alleged violation. Consequently, no final determination should be made by the court unless the probationer is present. Sometimes violations are due to lack of understanding by the probationer of what was expected. This is one more reason why the court should give the individual the opportunity to tell his side of the story. Although a delinquent has no legal right to demand probation status, still, once awarded it, he has acquired the right to remain on probation until it can be shown at a hearing that the conditions of probation have been violated to such an extent as to justify revocation.

There are not and cannot be any hard and fast rules for determining what the decision should be on a violation. The decision is dependent upon a number of variables all of which may be weighed, considered, and related to each other. These include: 1) an evaluation of the violation; 2) an evaluation of the adjustment made to date by the probationer; and 3) the implications of the court's decision to the community and to the individual.

Violations necessarily vary in degree of seriousness and must be viewed with respect to the individual's total adjustment. This is true whether a new act of delinquency has been committed or the violation is a technical one.

Some violations may indicate a continued disrespect for authority, whereas others may represent a temporary relapse by the individual whose total pattern of adjustment has shown real improvement since he first came to court.

The court's decision to continue or to revoke probation must always take into account what the decision may mean to the probationer as well as to the community. While there may be no visible danger to the community at the time probation is continued, the probationer may feel that nothing happens if he flaunts authority, or conversely, the very fact that he has been brought back before the court to account

for his actions may be sufficient to show him that he must accept responsibility for his behavior.

Likewise, the violation report does not mean that the court must continue probation or revoke outright. Intermediate steps are available such as: 1) warning the child as to the implications of his behavior and calling for his early reappearance before the court for a re-evaluation of his situation; 2) imposing a commitment to a training school and suspending this while continuing probation. In any decision a judge must be careful, as has been previously noted, not to tie his hands by committing himself to a specific course of action. This is also true at the time the individual is initially placed on probation. Statements like this from a judge are pitfalls to avoid: "I am going to give you a chance and place you on probation but I want to warn you that if you are ever brought back before the court again it means that you are going to the state training school." A warning can be conveyed to the individual and the judge still has various courses of action available to him if he says, "I may have to send you to a training school," or "I can send you to a training school, if necessary."

LENGTH OF PROBATION

Three practices are commonly used by juvenile court judges in regard to length of probation because the court can retain jurisdiction over the child until he reaches the statutory age limit. This is unlike the criminal court where jurisdiction is retained for a fixed time for each separate offense.

One practice is for the court to place a child upon probation for a definite period, being careful to reserve the right to review and extend it at any time. Under this procedure the probation officer is required to give the court an appraisal, preferably written, of the adjustment made and the

recommendation that supervision be continued or that the child be discharged from probation. Under this procedure the individual has a set goal and a specified time in which to make good. However, he may erroneously believe that he is to be discharged at the end of that period without further order of the court. This misconception may operate negatively if the child or his family are unable to understand why he is not automatically discharged. It is believed by many judges that this practice is the least preferable, as it is apt to create in the minds of both parents and children the assumption that the child is being asked to give so many weeks or months in expiation of his mistakes.

The second practice is to place the child on probation for an indefinite period of time. No date is set for the court to review the case, but the court anticipates that the probation office will keep a careful watch on the progress made and will bring the matter to the court's attention when the child is believed ready for discharge. This practice is based on the fact that no one can possibly know in advance how long it will take the child and his family, working in conjunction with the court and its probation staff, to correct the weaknesses or difficulties which have resulted in referral to the court.

There are advantages and disadvantages to this procedure. It may be said that the child has no set goal in time and thus responsibility for any progress is placed more squarely on his shoulders and his family's. On the other hand, such procedure presupposes that the probation office will systematically review each case periodically to determine progress. Without such review, a case may be "lost" and remain on probation much longer than is necessary. One means of preventing the "forgotten" case is for the judge to require monthly reports on the case loads of each officer which will show how many cases have been on probation more than six months, more

than twelve months, etc., and why in all cases of over twelve months duration adjustment has not yet been effected.

A third procedure is in essence a combination of the other two. Under this, the child is placed on probation for an indefinite period but a definite date for review of the case by the court is also set in the order. The court must make it clear to the child and his parents that the date of review is just that, because very often both child and family will believe that the date of review represents the expiration date of probation.

The court should make it clear to the parties and the probation office that the matter may be placed on the court's calendar at a date earlier than the one specified if the probation office believes the events warrant such consideration. This may be done for the purpose of earlier discharge of the child from probation if his conduct justifies it, or, if he has not done well, for further consideration by the court even though his conduct has not actually amounted to a violation of probation.

DISCHARGE FROM PROBATION

Discharge from probation should be based on the fact that the child's adjustment is so improved that it is not necessary to continue supervision. This rests upon an evaluation by the probation officer of the problems present and how they have been met by the probationer and his family. Again the court will want a written report because it more fully assures a thoughtful appraisal.

Length of time on probation is not by itself an adequate criterion for discharge. What the period of time has shown in changes in behavior, in attitude, in environment, and the use of probation is significant.

The court will bear in mind that there is a minimum and a maximum goal of achievement for children on probation

although the maximum goal may not be reached by every child. The minimum of progress is evident in conformity, in willingness to accept (without appreciation of the reasons for such acceptance) the rules of behavior as they operate at home, in the school, or in the community. The maximum goal is achieved through realization of the reasons why it is important to him as a person to live cooperatively with others. This means for the child the development of motivation, the acceptance of responsibility for his behavior, an inner power more persuasive and lasting than fear. Discharge from supervision should be predicated on a finding that at least the minimum goal has been reached.

An examination of the various facets of a child's life to determine whether he has performed at least outwardly in a satisfactory way will reveal whether the minimum goal has been reached in each such area. The maximum goal requires probation service with every frequent face-to-face contact between probationer and probation officer and intensive treatment if there is to be any development of insight and self-analysis on the part of the probationer. Consequently, complete and thorough records must be maintained by the probation office if the changes that have occurred are to be shown to the court so that it will know if the maximum goal has been approached.

In some courts the probation office makes a closing evaluation of every case and from these evaluations classifies the cases at termination as to reasons for discharge from supervision. These data serve both for critical analysis of the work of the court and for statistical use.

The two major classifications are of course: 1) those discharged with improvement, and 2) those discharged without improvement. "Success" and "failure" are too extreme as categories, too black and white, allowing for no shades in between. Cases of excellent adjustment or outstanding

achievement present no problem. Cases ending in violation of probation by commission of a serious act of delinquency or by persistent disregard of the conditions imposed by the court clearly belong in the second category. It is those in between which are hard to evaluate, especially in terms of what may be reasonably expected from the particular child in his situation. Classifying the children in this middle group is difficult because judgment in individual cases must be more or less subjective. Guideposts to judgment can be set up by citing the problems recognized at the beginning of the probation period, noting progress toward meeting those problems, and giving the status of the case in regard to them at the time of closing.

Discharge from supervision is in some cases a routine procedure for legal or extraneous reasons. This group would include children who have reached the age limit of the juvenile court; those who have been transferred to the jurisdiction of another juvenile court for personal reasons such as removal of the family to another city; those older adolescents who have been referred to the jurisdiction of a criminal court; those who are in custody of another court or have been committed to an institution by another court; those who are no longer responding to probation treatment but have committed no further offense. It is clear that in this miscellaneous group some children may be regarded as unimproved and others as improved so far as the original court is concerned.

When a child is to be discharged from probation, it is always extremely helpful to give him proper credit for making good. This can best be done by having the child come to the court with one of his parents, so that he can be informed by the judge that he has done well and the matter is now closed. It can also be done through a printed form made out by the probation office stating the action recommended and the

reason therefor, a copy signed by the judge going to the discharged probationer. Notice can also be given by a friendly personal letter, preferably from the judge. The least desirable practice is that of oral word from the probation officer to the child that the case has been closed.

XII

RECORDS

LEGAL RECORDS

Many courts of juvenile jurisdiction are courts of record, and some description of the legal records required and the form of those records is provided by statute. These legal records include such items as petitions in juvenile cases, affidavits on adult cases, docket books, minute books or sheets, summonses, notices, warrants, commitment orders, etc.

Criminal terminology is avoided in legal records applying to juvenile cases, sometimes by statutory prohibition and sometimes as a matter of court policy. For example, a juvenile "hearing" is held "in the interest of" the child rather than a "trial" of "the State *versus*" the child; or the juvenile is "found to be within the court's jurisdiction" or "found to be delinquent" instead of "found guilty of larceny" (or some other charge.) Nevertheless, since these are the records which define the legal status of the child, they must always show with complete clarity the exact allegations regarding the child, the findings of the court and the grounds on which those findings are based, and a precise statement of the court's orders and dispositions. Any failure to maintain complete and accurate legal records may endanger the legal and constitutional rights of individuals coming within the court's purview.

In general, the legal records should be prepared and maintained by the clerk of court, not by anyone in the probation department. Even in courts where the same person serves as both probation officer and clerk, the legal and social records should be kept separately for reasons that will be made clear in the last section of this chapter.

SOCIAL RECORDS

While legal records are necessary to define the legal status of the child at all times, social records are needed by all who have contact with the case to understand the child and to carry out a treatment program aimed at his rehabilitation. The court cannot fulfil its purpose if either type of record is lacking. The court's social records should be prepared and maintained by the probation officer or department. They should be kept separate; in many states they are held confidential by statute.

The basic components of the social record, or case record as it is often called, are four: 1) the face sheet, containing complete identifying information; 2) the social study (see VII); 3) the chronological record; 4) correspondence and pertinent documents.

The first two of these items should give a complete picture of child and family history up to the time of contact with the court insofar as this history is pertinent to the matter at hand. The last two items should contain a complete picture of what transpires in the life of the child and the family during the time they are known to the court insofar as the information is pertinent to the court's interest in the matter. The social study and the chronological record, in particular, are of vital importance to both the judge and the probation officer, since the court is just as concerned with understanding and correcting the behavior of the child as it is with rendering sound legal decisions regarding that behavior, and these

records are the framework within which the treatment program is prescribed and carried out.

ADMINISTRATIVE RECORDS

The court's administrative records serve two general purposes: as internal administrative controls to increase the efficiency of the court's operation, and as a source of periodic reports to fiscal authorities and the general public. These administrative records consist of such items as fiscal data; statistical data covering number of petitions filed, number of hearings, workers' daily and monthly activities; requisition files, personnel records, etc.

Considerable discretion should be used in deciding what administrative records are needed in any given court. It is sometimes rather difficult to achieve a happy balance between keeping inadequate administrative records and overburdening the staff with records excessively detailed. The larger the court, the greater is the need for more administrative controls to insure an orderly handling of court business. Even the smallest court, however, must have records sufficiently full to insure an orderly flow of work, to avoid duplication of effort, and to maintain accurate accountability in regard to the court's activity.

Business firms have developed basic record systems adaptable to various fields. These firms will often provide, as a free service, consultation about what type or types of records should be installed or how a system now in operation can be modified or revised.

Administrative records concern the work of the court and of the probation staff serving the court. The records are usually maintained therefore by the clerk of the court and the probation officer, (who may be one and the same person), or there may be a special statistical or administrative record section in a large court.

PROTECTION OF RECORDS

Since one of the reasons for having separate laws and jurisdiction for the handling of juvenile matters is to avoid branding these young people as criminals, most states have provided statutory safeguards for the protection of juvenile court records. One principle that is common to almost all such statutes is that the juvenile record may never be used *against* the juvenile offender in any adult court, either during his minority or after he has reached his majority, except after adjudication of his guilt in such adult court.

The judge must use extreme caution and discretion in disclosing the record of any juvenile and then only to inquirers having a legitimate interest therein, e.g., authorized representatives of the armed services for recruiting purposes, authorized representatives of a civil service commission for employment purposes, etc.

In some states the legal records of the court are privileged and can be opened only upon approval of the judge. In other states the legal records may be seen by certain specified persons, such as the child and his parents or guardian, attorneys, etc.; and a few provide still less protection. In any case, it is the judge who bears the major responsibility of determining that the legal records of a child's case are never used in a manner detrimental to his welfare, even as an adult.

It is even more important that the court's social records be carefully protected, since they often contain material of a very confidential nature, regarding both the child and his family, which, if revealed, could result in irreparable harm to all concerned. Much of the effectiveness of the probation officer's work with the child and the family would be lost if the confidentiality of revelations made to him were violated. The social record, if properly utilized, does not affect the findings of the court regarding the matters alleged in the petition; rather, it is a tool used by the judge and his profes-

sional staff to gain understanding of the child and his physical, social, and emotional environment so as to be most helpful to him. Statutes establishing courts of juvenile jurisdiction give the judge full discretionary powers to determine the disposition of each case within certain broad limitations, and the social record serves as an aid to him in exercising that discretion. It also serves the probation officer as a tool in the treatment process. But, unlike the legal records of the court, it has no direct effect on the legal status of the child, and should not, therefore, be subject to inspection by anyone except the judge, his staff, and such individuals and agencies as the judge may decide can use the record for the benefit and rehabilitation of the child. As a rule, such exceptions should include only those with professional interest in the matter, and should not include anyone with a personal or antagonistic interest.

Statistical and fiscal administrative records should be available to the general public. However, personnel records of the staff and administrative records that contain any information identifying clients by name should not be available to the general public.

XIII

COMMUNITY RESOURCES

Community resources supplement the program of a juvenile court. No one worker in a treatment program can be all things to all men. The facilities and skills of others must be drawn on from time to time as needed in appropriate cases. The juvenile court makes use of the resources of the community mainly through its probation staff. The judge must therefore have or acquire a good working knowledge of actual and potential local resources. He must know too whether they are being used by the staff and how they are being used.

AVAILABILITY OF COMMUNITY RESOURCES

The term "community resources" is often used in a narrow sense to mean only those social, psychological and psychiatric agencies in the community which are available to the court for specific diagnostic or treatment services to families or children in trouble. When the term is used in this sense, the judge in a community of less than 50,000 persons (and most judges serve such communities) is likely to be faced with a serious shortage of such resources.

Yet, in a broader sense, even the smallest community has many resources which may be brought to bear on the problems of everyday living—problems which are met and solved

as a matter of course by most people, but which contribute to and even cause the breakdown of those not strong enough to handle them alone or as a family. In the following paragraphs therefore, most of the emphasis will be placed on the kinds of resources that may be located in even the smaller communities throughout the nation.

1. *Social Agencies*

In large communities the public and private social agencies are frequently so numerous and so highly specialized that the court's chief problem may be keeping up with who does what and under what circumstances. Nevertheless, keeping up will be worth the effort. The court can be of tremendous help in community planning by pointing up serious gaps in services needed in our highly complex urban societies. In communities where there are councils of social agencies or community chests, these organizations offer the judge and members of his staff a splendid opportunity for leadership in community planning and action to develop facilities for the welfare of children and families.

As a rule even the smallest community has at least one agency—the welfare department. This may be either a local office or a service extended from some office outside the county. As opposed to the highly specialized social services of the urban community, the rural welfare department worker is a "generalist." She usually has a broad knowledge of resources, both local and state, available for the relief of many kinds of economic and social distress. She may not be trained to provide casework treatment for a serious emotional disorder, but can often find ways of relieving the external stresses and strains which are aggravating the disorder. And if the community is large enough to have one or more private social agencies, the welfare department can often be of help to the judge in developing such agencies as court resources.

It has been the pattern in many of our smaller communities to develop first, among the private organizations, the social group work agencies such as the YMCA, YWCA, Scouts, 4-H clubs, church groups. While such agencies are not designed to provide individualized services, they are often a valuable resource to the judge in at least two ways: they help to meet many of the social and emotional needs of both adults and children in a wholesome and controlled setting; and they give the judge additional insight into the personalities and problems of those known to both the court and the agency.

2. *Medical Resources*

It is a fact well known to judges that many of the social and emotional problems which bring families and children to the court's attention have their roots in some form of illness, physical or mental—frequently both. For this reason, many of the juvenile courts in large urban communities have psychiatrists and pediatricians on their staffs; and those which have none make frequent use of the psychiatric and medical clinics available.

The smaller courts, of course, cannot afford to employ these specialists but should be far more aggressive in seeking and demanding such services than most of them are now. Good starting places for small courts in their search for medical resources are state and local public health services and the local medical society. Many states now have pediatric and psychiatric clinics administered by the state health department, either at strategic points throughout the state or on a roving basis.

Such clinics can provide the court with invaluable information about the problems and treatment needs of its clients; and the more demands for such services are made by judges throughout the state, particularly in the smaller rural areas, the more likely is the legislature to appropriate funds for the expansion and improvement of these clinics.

The public health nurse, too, is a resource of tremendous potential value to the court. Not only is she an expert in her primary field of nursing, but she has usually had considerable training in what is known as "education for family living." Her concern and her training are not limited to the physical ills which beset the people of her community but extend to the care and rearing of children, helping the mother create and maintain a better home for her family, and so on. Not only is she in a position to detect many cases of potential family breakdown at a very early stage, but she can cooperate with the court in bringing to such families the kind of help and guidance needed to strengthen family ties and avoid a collapse of the family unit.

The great majority of doctors in private practice, whether they are general practitioners, pediatricians, psychiatrists, or specialists in some other field of medicine, are "service-minded" men and women. Most of them would gladly volunteer to help a child or a family in trouble if the opportunity were offered to them by the court. Since so many of the problems seen by the judge are related in one way or another to medical problems, there will be many occasions when the judge can and should call on the skills of the medical profession.

3. *Educational Resources*

The school is often the first place in which signs of neglect or of behavior problems become apparent to the community. It is also the place in which the child usually gets the first glimpse of what he may expect from the people outside his own home in the way of acceptance or rejection, help or hostility, understanding or intolerance. As such it is the place where, with the exception of his own home, there will usually be the greatest impact on his developing character and personality. Because of the vital role it plays in the life of every child, the school can become either a stumbling block

or a potent aid to the juvenile court. The judge should face the fact that the school will be a help to the court when it recognizes that a child has become a problem to the school only because he has problems of his own. The school should be encouraged to aid those children who need the authority of the court by making timely referrals. Unfortunately, in too many instances judges find that schools may delay this referral beyond the point where the court's services can be of effective help.

The most successful point of attack for the school is likely to be helping the child with his personal problem. For that reason more and more school systems are now employing social workers or visiting teachers instead of truant officers because they recognize that non-attendance is only one of many ways in which a child shows he is having trouble in his relationships at home as well as at school. These visiting teachers, of course, constitute a major resource to the court in its work with delinquency and neglect cases. Not only can they provide much additional insight into the causes of a child's problems, but can also do much in the processes of readjustment and rehabilitation. An effort should be made to have all school cases on referral to the court channeled through the supervisor of visiting teachers or a designated school official.

School systems also increasingly recognize the need for special vocational courses—in mechanics, agriculture, etc. for those children with little aptitude in the academic courses. Many a child brought before a juvenile court for chronic truancy has blossomed like the proverbial rose when allowed to develop his mechanical aptitudes instead of continuing a hopeless struggle with academic subjects he is unable to comprehend.

The ways in which the school system may serve as a resource are almost numberless, but there is one other specific

facility in many school systems which must be mentioned here: that is, a unit for psychological testing. While it is true that many systems have not yet developed this service, it often appears in the school before it is available anywhere else in the community. This resource is of tremendous value because modern techniques can both evaluate the intellectual capacity of the child and provide vital clues to his personality structure and problems, clues which can help the judge and his staff determine the kind of treatment needed. However, both judge and staff should be aware of the type of psychological tests given in order to interpret them effectively. For example, group tests (the kind commonly used because of the large number of children to be tested) may not show what a child's I.Q. or aptitudes are as adequately as an individual test.

The importance of two-way communication between the juvenile court and the school, in both large and small communities, is so great and the opportunities to benefit children are so endless that in some states there are well-organized court-school workshops. These workshops furnish ready and constant opportunities for judges and school people to bring their problems and complaints out in the open, find solutions that are mutually satisfactory, reduce procedures to writing and promulgate them for the benefit of all concerned.

4. *Civic and Religious Organizations*

Civic and religious organizations can be very helpful. Unfortunately, their proper role in relation to the court has often been misunderstood and judges have made the mistake of trying to use them in lieu of professional staff by placing individual children under the supervision of civic or religious leaders. The fact that these are men of good character and good will with a sincere desire to help children does not, however, make them any better qualified to provide casework treatment for emotionally and socially maladjusted people than to provide medical treatment for physically sick people.

In fact, these interested people are most effective when they carry out functions which cannot be performed by the court's professional personnel.

For example, one of the greatest needs of the adolescent youngster is to be an accepted member of a group, to feel that he is like others of his own age in his neighborhood and community. The lack of this feeling of belonging is often a major contributing cause in delinquent behavior. The judge and the probation officer may be able to give a youngster a feeling of individual acceptance, or they may, in desperation, "order" him to attend Sunday school and church and thus become, superficially at least, a member of a group. (Incidentally this is not the best way to stimulate his interest in Sunday school or church.) The child will never *feel* that he belongs to the group unless the minister, priest or rabbi and the congregation really want him among them and are able to convey this feeling to him. It will not be easy, for such youngsters are suspicious of kindness and doubting of sincerity, but it can be done if the will is really there.

Most civic and service organizations recognize that no community can be better than the people who form its population and that human beings are the most valuable product of any town or county. These groups are ready to contribute a considerable amount of time, energy and financial support to projects aimed at improving the human resources of their community, and thus they become a potential resource to the juvenile court if given opportunity and direction. They often have done much through such activities as helping "forgotten" youngsters to attend summer camps; helping to establish adequate community recreational facilities; underwriting scholarships for young trainees in mechanical specialties such as auto mechanics or radio service and repair; finding part-time jobs; financing care in small special private institutions; paying for remedial help for children

with such disabilities as bad eyesight, some of whom may have been truanting because they felt stupid and inadequate when in reality they simply could not see the blackboard. The impact of such organizations is more likely to be on whole groups of youngsters than on individuals, but the result of their efforts may be reflected in the reduction of delinquency and neglect figures.

The religious, civic and social organizations want to help and this is one more place where the judge can act as a leader and point out to the community where services and help are lacking.

5. *Legal Resources*

Not infrequently, one of the problems contributing to the gradual defeat of a family requires legal counsel which they cannot afford. In such instances the juvenile court can usually find legal assistance either through referral to the Legal Aid Bureau, if one exists in the community, or to a local or district bar association. This referral may not directly affect the matter that has brought the family to the attention of the court; but it may relieve some of the total pressure on them and thus make the rehabilitative task somewhat easier and more likely to achieve success. In fact, it cannot be emphasized too strongly that individuals as well as family units function as a whole, and that whatever is done to relieve pressure at one point will make the person or the family that much more capable of facing and overcoming other problems, whether they be external or internal ones.

6. *Other Resources*

Many other resources in communities both large and small will occur to the judge as he ponders ways of helping his clients with their problems. In the typically rural community, however, there are two more aids which should be mentioned: the County Farm Agent and the Home Demonstration Agent. Both are concerned with relatively self-sufficient and socially healthy families; nevertheless, their interest includes all families in the area they serve, and their knowledge of the community and its people is often astonishing to the city-bred observer. This knowledge, added to their skills in the most vital processes of rural living, makes them an important resource to the judge, who is concerned with families that are breaking down and coming apart. Furthermore, the child whose interest becomes really engaged in animal husbandry, cooking and canning, and the social and service activities promoted by these agents will have little time and less need to seek satisfaction in unhealthy activities which lead to delinquency.

THE COURT'S USE OF COMMUNITY RESOURCES

Full use of the available community resources by the juvenile court requires careful examination of its role as a referring and as a receiving agency.

1. *As a Referring Agency*

As a referring agency, the court should, first of all, acquire a thorough knowledge of every agency it may call upon for help, and should at all times have at hand a complete and current list of all local resources. It should know the functions and the limitations of each agency, organization or person, so as to utilize to the fullest extent those services which are available and to avoid making demands for help not within the scope of the agency's function. If a small child must be moved from his home, a child placing agency may be asked to find him a foster home, but it should not be asked or expected to supervise an older youngster on probation in his own home.

Secondly, the court should be aware of the quality of service that can be given by other agencies. Merely because an agency has a designated function does not mean the

objectives sought by the court in making a referral will always be achieved. Quality of service is dependent upon the agency's staff in terms of availability and training. The court must therefore be realistic in anticipating the results of its referrals.

In the third place, the court should be sure there is a clear-cut understanding at all times as to the respective roles of the court itself and the agency to which it makes referral. For example, when it refers a child to a social agency for foster home care, the court may retain only a stand-by role, taking no direct action in the matter until there is a need for further authoritative action. On the other hand, if it arranges for a youngster on probation to be enrolled in certain group activities at the YMCA, the court would hardly expect that agency's worker to assume full supervision of the case. To avoid conflict and to secure the fullest benefit from the referral of cases or special aspects of cases, the court should take the initiative in working out clearly defined agreements as to the exchange of reports and like matters. "Too many cooks spoil the broth," if all are trying to do the same thing at the same time; but if one stokes the fire, another chops the ingredients, and a third stirs the pot, the broth will be cooked the sooner and be nonetheless tasty.

2. *As an Agency Receiving Referrals*

The juvenile court itself is a resource in the community to which other agencies make referrals. The court must accordingly be equipped to perform the functions for which it was established and must be able to interpret these functions to others.

It has been stated, in one form or another, throughout this volume that the basic function of the juvenile court is a protective one and that its primary method of providing protection is through the treatment and rehabilitation of the

individual whose behavior threatens the community or some member of the community, provided of course that this behavior brings him within the jurisdiction of the court as established by law. The court which tries to be all things to all men, which lacks the facilities or the philosophy to provide protection through treatment, is failing to fill its proper place among the resources of the community.

On the other hand, even the court which is properly equipped and oriented often fails to render its best service because it cannot, or will not, interpret its true role. Many social agencies and other organizations and individuals, even including the police, "protect" children *from* the juvenile court because they do not understand the true philosophy of the court nor its methods and procedures. The judge knows it is no kindness to a child to keep him from the court but this knowledge is sterile unless it is shared with, and explained to the rest of the community. The juvenile court is one of the most important and constructive of modern civic forces, and the judge as its head has a grave responsibility to see that the facts about this vital agency are known and truly understood by the other agencies as well as by the community generally.

XIV

THE JUDGE

There are many and varied aspects to the job of a juvenile court judge as an examination of the preceding chapters will confirm. For a well-balanced view of what the judge does, two additional aspects remain to be examined. These are: 1) the judge's position in the total community; and 2) the judge as a person who comes to be the juvenile court judge.

THE JUDGE AND THE COMMUNITY

The juvenile court not only serves a community, but is also a part of that community, and the quality of its service reflects the support and understanding given it by the community. Consequently, the judge should constantly endeavor to promote and maintain a program of good two-way communication between his court and the local citizens. This section deals with some of the reasons why such a program is important and with some of the methods of fostering it.

1. *The Need for Good Community-Court Relations*

An important role of the judge is to provide informed leadership to the community on the most effective methods of dealing with problems of delinquency, dependency, and neglect. The philosophy and the methods of the court are relatively recent developments, and the general public neither understands nor accepts them completely at this time. When

an offense against society has been committed, most people still tend to think in terms of retribution rather than of rehabilitation. Even when the offender is a youngster, it is pretty generally felt that "getting tough" with him is both the best method of correcting his behavior and of deterring others who might be inclined toward similar activities. These concepts are of long standing and the educational process of correcting them will be long and tedious. But the juvenile court judge is in a peculiarly advantageous position to provide such education. His very title commands respect, and his day by day experiences with the problems of delinquency, dependency and neglect keep adding to his status as an authority on this subject. Yet his potentially great influence on community thinking will be largely unrealized if his thoughts and feelings are heard only by the children and parents who appear before him, and by the members of the probation and law enforcement departments who attend his hearings.

In addition to the need for a broader understanding of juvenile court philosophy and methods, there is in most communities, need for more specific understanding of the court's proper role in the community. Anyone who has served in a juvenile court knows that the misconceptions about what it does, or should do, are amazing and are countless—in fact, are almost as numerous and as varied as are the people who voice them. Unfortunately, these misconceptions can be damaging to the purposes for which the court exists, when for instance parents, teachers, or others use the court as a bugaboo to frighten unhappy children into conformity, or when citizens and law enforcement officers "protect" a youngster *from* the court until his pattern of delinquency has become so firmly established as to be almost or entirely beyond the court's ability to remedy. And again, it is the judge, who by the very nature of his office, is in the best

position to teach the community that this court is not a dumping ground for every conceivable problem involving children, nor a last resort to be called on only when a child must be committed to a training school or removed from the custody of his parents. Of course, the judge is in such a position only if he has established ways of communicating with the public.

Finally, good community-court relations are essential to adequate financial support of the court. If people know little and perhaps care less, about their juvenile court, politically it becomes unpopular for the local fiscal authorities to provide funds, hence almost impossible for the court to obtain funds necessary to maintain services. People will not pay for what they do not want, nor will they want what they do not comprehend. It is only when the court is fully aware of community needs and can interpret its own vital role in meeting those needs that it will receive the community-wide support necessary for maintenance of a high level of service. And such awareness and interpretation are possible only when there are open avenues of two-way communication between the court and the community of which it is a part.

2. *Methods of Achieving Good Communication*

The methods of achieving good communication suggested in the following pages are by no means exhaustive but as in other sections of this volume, are intended merely as guides.

a. *Personal Contacts*

Perhaps the most effective method of communication between human beings is through personal contact. It is slower than the mass media such as the radio, press or TV, but has a more lasting impact. A college boy or girl, for example, will learn less basically from reading a book than he will from association with an inspired teacher. And the

citizen will learn less from reading an article or a book on juvenile delinquency than he will from talking with a judge or a probation officer who is a strong believer in the philosophy of the modern juvenile court. Most juvenile court judges, as well as the professional members of the court's staff, are given many opportunities to appear before groups of citizens, such as civic and service clubs, PTA's, the League of Women Voters, and so on. Since such groups usually include the more active and civic-minded citizens, contacts with them provide an excellent medium of communication with the people of the community most likely to affect the court for good or ill. In making such contacts, however, the judge and his staff should bear in mind that it is very easy to either overestimate or underestimate the group's current understanding and acceptance of the court, its philosophy, its methods, and its role. It is usually wise, therefore, when given such opportunities, to keep the formal speechmaking to a minimum and to foster a free exchange of ideas through open discussion sessions, question-and-answer periods, and so on. In this way, the judge (or a member of his staff) learns what misconceptions concerning the court are current and has an opportunity to direct his remarks to a clarification of these false ideas.

Another way in which the judge can establish personal contacts with key people is by serving on the boards of social, educational, and medical agencies, particularly those concerned with children. While some feel that this would lessen his value as an objective critic of these agencies, this objection seems less valid than the arguments in favor of such activity. By serving on such boards, the judge creates new, direct paths to the individuals responsible for the policies of agencies whose services complement and support those of the court. Board membership also demonstrates to these key persons that the judge is interested in total services to children, not merely

those within a legal framework. And since board members are frequently the top local, civic, business, and professional leaders, the judge's interpretation of the court's function will influence community thinking far beyond the specific agency on whose board he serves.

The daily contacts of the judge and his staff, both professional and clerical, with the clients of the court, law enforcement officers, attorneys, teachers, social workers and others open up another avenue of communication between the court and the community. If each person who crosses the threshold of the court, is consistently treated with the courtesy and dignity to which his status as a human being entitles him, the cumulative effect on community attitudes toward the court will be tremendous.

There are wider areas where the judge must have opportunity for contacts, exchange of experience, and enrichment of outlook. His knowledge must not be circumscribed by the boundaries of his own community. State and national conferences of judges, probation officers, and social workers provide such occasions. It is of vital importance for the judge to attend as many of these meetings as possible for the wider—and deeper—awareness of his own job which inevitably grows out of them. Memberships in his state association if there is one and in the National Council of Juvenile Court Judges and the National Probation and Parole Association provide a medium for such participation.

The juvenile court judge has one advantage vouchsafed to no other judge: he may belong to a nation-wide organization of his very own kind, the National Council of Juvenile Court Judges. This is not true of the probate, trial, or any other branch of the judiciary. It is amazing how the personal friendships that result from membership in the National Council lead to cooperation between judges in distant states that is the envy of judges in other courts.

b. *A Citizens Advisory Committee*

An active citizens advisory committee has proved invaluable to many a court. While it should not be too large (probably not over fifteen members) the committee should be as broadly representative of the community as possible so that it can bring to the judge and his staff a true picture of local attitudes and expectations regarding the court. In like manner, its members should be able in turn to carry the story of the court's philosophy, methods, and needs back to the community. In addition to its function as a two-way channel of communication, such a committee can be a potent force in behalf of the court's requests for sufficient funds to maintain a high level of service. Both as individual taxpayers and as spokesmen for business groups, professional groups, householders, etc., their voices often carry more weight with the fiscal authorities than do those of the judge and his staff, who have the disadvantage of being both professionally, and in some instances, personally concerned with the outcome of the budgetary requests.

Through rotation of committee members, interest in the court and its goals and methods is spread increasingly. Those who have served on such a committee usually remain strong advocates of adequate support for the court and its related services. Thus the public relations benefits to the court of a citizens advisory committee extend beyond the period of active service of individual members and merge in a constantly growing pool of information and sympathetic local opinion.

c. *Annual Reports*

The possibilities of the annual report are frequently overlooked by the judge and his chief probation officer. Many juvenile courts publish no annual report at all, and many others publish only a compilation of statistics which few will

read except those already interested in the court and its activities. Yet the situations with which the court works almost daily contain subject matter with tremendous human interest appeal. Naturally the court should not publish actual case histories, unless the names and situations have been changed beyond possible identification; otherwise the damage to the children and families concerned could be great. However, the *kinds* of situations known to the court can be used very effectively to catch the interest of the public and to illustrate its work. While statistical facts should be included to inform the public of the nature and extent of juvenile delinquency and neglect problems in the community, these statistics should be dressed up and interpreted in as appetizing a form as possible and relegated to a position subordinate to the story of the court and its works.

d. *Mass Media of Communication*

The mass media of communication—the press, radio and TV—are considerably less effective than personal contacts in changing deeply rooted attitudes, but they are far more efficient in reaching large numbers of people in a relatively short time. They can, therefore, be of great value in a public relations program when used in conjunction with other methods, and after editors, reporters, speakers, broadcasters, and program directors have themselves acquired some understanding of the court and its methods of dealing with antisocial behavior. Unfortunately, it is often overlooked that a newspaper reporter, or a radio or TV newscaster, is not necessarily any better informed on these matters than the average citizen. Actually, it should be no more surprising to a juvenile court judge to read an editorial accusing him of "star chamber proceedings" than it is to have an angry mother accuse him of gross injustice when he commits her delinquent son to a state training school. Both accusations indicate that the person making them is angry over a decision

he cannot accept because he does not understand it, and both require the same remedy, a sincere and patient interpretation of reasons, whether for a commitment or for exclusion of the press from juvenile hearings. And, since the editorial writer or the reporter is less emotionally involved than the angry mother, it is usually easier to convince him than her that the decision was based on good and sufficient reasons. The time spent in making such interpretations is usually a small investment when compared with the dividends returned in the form of press support of good juvenile court services.

More than one court has gained by inviting members of the press to sit in occasionally at court hearings and to explore the entire operation of the court as a prelude to writing a feature story or a series of articles. These invitations have been extended on the assumption that the identity of the children is to be protected and this information has been held confidential. The results have enabled the press and the public to know, understand, and trust their juvenile court.

THE JUDGE AS A PERSON

The basic qualification for a judge of the juvenile court is that he shall be trained in law. The law provides the boundaries within which the judge must operate, and knowledge of these limits is fundamental. But beyond training in law, what should a judge know? What type of person should he strive to be?

Profound legal scholars and high court judges have been heard to observe that if there is one judicial position which more than others demands a paragon, that one is in the juvenile court. The judge of that court must deal not only with law and facts to a far greater extent than judges of other courts, but also with people—often unappealing, unhappy, disturbed, disobedient, wilful people, who have committed

every wickedness under the sun. It is primarily for this reason that the judge's capacities and his character must be outstanding.

To start with he must be not simply a lawyer, but more specifically a lawyer who has had a good practice, who inspires confidence, who has demonstrated capacity to solve legal problems and to persuade others to his way of thinking. The successful judge must influence not only the people who come before him in court, but also his staff and all persons and agencies in the community who are interested in the welfare of children.

He must have more than ordinary capacity for work; to his customary judicial responsibilities must be added demanding administrative duties. But these are not all. There are additional characteristics vital to his role as a leader in the community: 1) vision—the ability to discern the needs, material and non-material, of his court organization and of the people coming before the court; 2) the ability to persuade the fiscal authorities to allot funds adequate for staff and services to meet those needs.

But exacting as may appear the capacities required of the juvenile court judge, they are modest compared with the essential attributes of character. Since so much of his time will be spent, not running down elusive questions of law, but endeavoring to weigh true imponderables, his sense of fairness must amount to a positive passion for justice. But fairness alone will not suffice. He will be dealing with children and families and they must not be left with cold, stark justice. They need sympathy, patience, constant kindness, and above all else, understanding. The clients of the juvenile court need compassion in the truest sense of the word. If they do not find it in the character of the judge, they will find it nowhere; no court can be expected to rise above its judge.

In such a judge's heart there is no room for the punitive-

vindictive attitude, the desire for retaliation and retribution, the craving to even the score with the child or parent who has offended against society and the law. This primitive, uncivilized instinct is of necessity replaced by a passion to help, correct, cure, heal. But at the same time he must be realistic in his dealing with the child or the parent who comes into his court, for at no time dare he lose sight of the fact that in helping them, he must remember the neighborhood or the community. To endanger the community would be to deny the right of protection to all other children and all other citizens.

The spirit of helping, correcting, curing and healing is nonetheless the quintessence of juvenile court philosophy and to administer it demands of the judge working knowledge of social casework, child psychology, the elements of psychiatry and other behavioral sciences. The judge must thus have a mentality flexible enough to grasp new ideas and disciplines. These social sciences are not taught in law school; nor are they picked up in the practice of law. The judge will have to learn them. Where? He will have to educate himself. The judge must have not only a mentality capable of comprehending new disciplines as suggested, but above all, he must have an earnest eagerness to learn them, a fine fervor to educate himself without ceasing. Only with such an impulsion will he become a truly worthy juvenile court judge. And he will be most effective as he utilizes the guidance and help of persons specifically trained in these various fields.

The judge who pretends to be what he isn't and to know what he doesn't, who tries to persuade himself and others that he knows all the answers, not only lacks that fundamental characteristic essential to all judges, humility, but he is also guilty of intellectual dishonesty, as grave an evil as stealing from a litigant's pocket.

Altogether the juvenile court judge is bound to look upon

his judicial position not as a mere stepping stone to a highly-salaried job, but as a high calling much as the clergy regard their profession. He must see it as something more than a livelihood, more than honor and prestige, more than professional attainment and preferment. He should regard it as a life career devoted to helping and healing his fellow humans—the children and families who come before him.

Many experienced judges comment that they have to be continually on guard against developing a conviction of their own omnipotence and omniscience, a feeling that may result from their position of authority and respect in the courtroom and the community. They believe that a judge has to be particularly self-critical and aware of his own intellectual and emotional weaknesses and biases. This is not easy for anyone. When a judge can maintain this objectivity toward himself and his job through the years he is on the bench, he deserves commendation. Moreover, he is then on the way to making the best possible use of the training and skills of authorities and experts in disciplines related to his work.

At a meeting of the juvenile court judges recently, one judge remarked that he had jurisdiction in civil, criminal and juvenile matters. He added that in determining civil suits involving many thousands of dollars he knew a higher court could always overrule him, if he made an error. But of all his work, the juvenile court cases concerned him most deeply because his manner of handling the court hearing, his choice of decisions and of treatment, affected, for better or for worse, the lives of children and parents. He knew that few, if any, cases would be appealed to a higher court, so always he was confronted with the question "Am I doing this right?" The reaction of his fellow judges was that he probably did the best job of all of the judges present because he asked himself, "Am I doing this right?"

In summary, these are the qualifications of a judge of the juvenile court:

1. The experiences of an attorney who has been successful in practice and who is conversant with the rules of law and the ways of the courtroom.

2. Intellectual flexibility and the capacity to absorb the elements of new disciplines, particularly in the behavioral sciences, and to utilize the guidance and skill of professionally trained people in these various disciplines.

3. An emotional capacity for understanding, sympathy, and dedication to his task of helping people, coupled with a strong sense of fairness.

4. The will to work hard and the physical stamina to put in long hours.

5. The ability to see community needs and the capacity to act as a leader in helping the community develop or create services and facilities for the welfare of children and families.

6. The willingness and capacity to work with all interested people and agencies who want to help children and families.

7. Humility toward his responsibilities—humility that is derived from a critical self-awareness of his intellectual and emotional weaknesses and biases.

These qualifications provide a background against which every judge may wish to examine himself toward doing a better job. He can affect for the better the lives of countless individuals, and the effects of his approach and his decisions will carry over long after he has left the bench. The breadth of this influence is seen in the words of Dean Roscoe Pound:

"The establishment of the juvenile court is one of the most significant advances in the administration of justice since the Magna Charta."

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