

1912

Responsibility of Children in the Juvenile Court

Henry H. Goddard

Follow this and additional works at: <https://scholarlycommons.law.northwestern.edu/jclc>

 Part of the [Criminal Law Commons](#), [Criminology Commons](#), and the [Criminology and Criminal Justice Commons](#)

Recommended Citation

Henry H. Goddard, Responsibility of Children in the Juvenile Court, 3 J. Am. Inst. Crim. L. & Criminology 365 (May 1912 to March 1913)

This Article is brought to you for free and open access by Northwestern University School of Law Scholarly Commons. It has been accepted for inclusion in Journal of Criminal Law and Criminology by an authorized editor of Northwestern University School of Law Scholarly Commons.

THE RESPONSIBILITY OF CHILDREN IN THE JUVENILE COURT.

HENRY H. GODDARD.

Director Department of Research, Training School, Vineland, N. J.

A great step forward in dealing with some of our most troublesome social problems was taken when it was realized that children are not responsible to the same extent as adults and that the very atmosphere of the room in which adult offenders are tried is inimical to childhood and that a separate room and a separate time should be set aside for the juvenile offender, and it is desirable also to have a special judge for juvenile cases. It was no surprise to anyone who had followed the movement when the recent International Prison Congress highly endorsed the Juvenile Court. Thoughtful people now recognize that the movement has only begun and that we must take many more steps in order to make this work thoroughly efficient.

For more than a quarter of a century we have been realizing increasingly that child study is of great assistance to pedagogy. But the teacher's need of a knowledge of the child is no greater, indeed one might say, never so great, as the need of the judge, because the teacher deals with all children and the majority of children are fairly easily handled because they are fairly alike and much like the teacher herself when she was a child. But the judge in the Juvenile Court deals with those extremes of childhood which do not come under the rule of the average and especially with those children, the like of which he himself never was and perhaps has never even seen outside the court room. One cannot sit in the Juvenile Court a half day either as judge or visitor without realizing the tremendous responsibility upon him who has to decide the cases, has to deal with each according to the responsibility of the offender; who must, if the child is thoroughly developed and normal for his age, treat him with that kind severity which shall show him the error of his ways and give him the inspiration to better conduct. If, on the other hand, it is evident that the child is not responsible even to the extent of his physical age, but is dull or stupid or what we call feeble-minded, then he must not be treated as his normal brother is treated but rather, being irresponsible, and more, being in a mental condition which can never be wholly repaired, it is not sufficient simply to reprimand him. It is not sufficient simply to mete out to him some penalty for his offence,

assuming that he will understand the penalty and, acting accordingly, avoid such offence in the future. It must be recognized that this type of child can never connect cause and effect, can never see the relation between the punishment that he received and the misdemeanor that he committed and consequently is not to be reformed by the same method that is applied to the normal boy; but rather it is well known that such children will always be children and must be cared for throughout their lives. Consequently if such a child is sent to the reformatory or the prison for a few days or a term of weeks, it is by no means a solution of the difficulty, but, as is known, is very often a radically wrong procedure. This, we say, is well known. It has become commonplace and no judge who sits on the bench would deny it.

Now then, we are driven to this further question. How shall the judge decide these cases? And here we come to a point that needs careful study. In the past, the decision has been largely made on the basis of the appearance of the child as he stands before the bar of justice and the majority of legal men to-day consider that they can recognize a mentally defective child by his appearance and that if he appears normal, they are safe in treating him as such. But this view is being seriously questioned by careful students of defective children and it is worth while to look into the matter a little and see first what are the probabilities in the case. Let us see where an a priori argument will lead us in this matter.

Although it is hard for many people to accept it, nevertheless it is surely a conservative estimate that 2% of school children are mentally defective or feeble-minded. This is not the place to go into the psychology of feeble-mindedness or to discuss extensively the characteristics of such an individual. But a few general principles may be stated in order to have them clearly in mind in the course of our argument.

First, the feeble-minded child is incurable. He may be trained if in wise care, but he will never be anything but feeble-minded. A feeble-minded person has been defined as one who is incapable of managing his own affairs with ordinary prudence.

The feeble-minded person then cannot take care of himself. He is full of instincts and impulses. He is lacking in control. This combination makes it absolutely certain that he will do a great many things which are annoying and troublesome to the rest of society, or, in other words, those things which are called offences for which he must be punished, or at least from the doing of which, he must somehow be restrained.

RESPONSIBILITY IN THE JUVENILE COURT

Now of this 2% of children who are bound by their very nature to do things for which they must be called to an account, a certain percentage, as yet undetermined, will be restrained by their own family. The parents will watch over these children and guard them, will protect them, will train them and bring them up as well as they can in the way they should go. At least, they will keep their own children from coming into the hands of the law. But it is safe to conclude that all of these children who have not the parental care will necessarily be taken care of by those who guard the welfare of the public at large. We have said that all of this 2% are liable to do those things that make them obnoxious to those about them and for which they must therefore be restrained. While this is true (that they are liable to do those things) the matter of temperament comes in to a very large extent and were it not for the fact that many of these children are of a temperament which leads them rather to quietness and indolence, the record of juvenile crime would be enormously greater than it is. But it does happen that many of these children are thus saved from entering into crime because their mental defect leads them rather to indolence. One wishes that we could have the exact figures on these matters in order that the argument might approximate more closely to mathematical precision. But since we have them not, we must make as shrewd and reasonable guesses as we can and the argument will be the same.

The whole point of this part of my paper is to show that we have every reason to expect that a relatively large percentage of these defective children will fall into crime or into offences which will bring them before the Juvenile Courts. There are 404,546 children in the public schools of Manhattan and the Bronx. (Report of Supt. of Schools, 1911, p. 29.) Two per cent of this number would give us 8090 feeble-minded children.

There were in round numbers 10,000 children in the Juvenile Courts of Manhattan and the Bronx last year. If this includes every feeble-minded child in these boroughs, we have the fact before us that 80% of the children in the Juvenile Courts are feeble-minded. This is, of course, a truly gratuitous assumption and contrary to reason, for one knows, as already indicated in this paper, that not all feeble-minded children get into the court for the reasons mentioned. On the other hand, not all children that commit offences get into the court whether normal or feeble-minded. To what extent these would offset each other no one of course knows. We have, however, a bit of exact data which is interesting in this connection.

Through the kind offices of a philanthropic woman in the city of

HENRY H. GODDARD

Newark, the children that come before the Juvenile Court have been tested in this particular. One hundred cases chosen entirely at random with no possible selection except that their cases were sufficiently serious to warrant their detention in the detention home have been examined as to their mentality. The results are startling. These children had been brought in for the various misdemeanors common in Juvenile Courts, most commonly of course, stealing, immoral acts, incorrigibility, etc. The most surprising is that the ninety-seventh child tested was normal and the only one in the whole group. The following shows the result in tabular form:

TABLE I—BACKWARD CHILDREN.

Chron. age.	Number cases.	Years back.	Av. mental age.
10	1	0	10
10	1	1 year	9 ¹
9½ Av.	4	1½ "	8
11 "	9	2 "	9
11 5/6 "	6	2½ "	9 ²
12 2/3 "	7	3 "	9 ³
13½ "	6	3½ "	10
Total	34 cases =	34%	9 1/3

This makes thirty-four that are less than four years backward. This would be the extreme limit for possible responsibility and normality. These children three and a half years backward may possibly still be normal and able to make up their backwardness and become useful citizens, although this is very doubtful, and certainly some of them will not do this. Beyond this four-year point, however, there is no possibility that these children can ever be normal, nor can they be considered entirely responsible. From similar tests of feeble-minded children we find results as indicated in Table II:

*Exponent means that of the five questions necessary to advance the child another year he is credited with the number indicated.

RESPONSIBILITY IN THE JUVENILE COURT

TABLE II—FEEBLE-MINDED CHILDREN.

Chron. age.	Number cases.	Years back.	Av. mental age.
14 1/12	26	4 yrs.	10
14	6	4 1/2 "	9 ² *
14.9	10	5 "	9 ⁴
14 1/2	4	5 1/2 "	9
16 1/20	11	6 "	10
15 5/7	7	6 1/2 "	9 ²
15 1/2	1	7 1/2 "	7 ⁴
17	1	8 "	8 ²
Total	66=66%		9.2

Average age of the 100 children, 13 3/4 years.

Thus we have 66% of these children who are distinctly feeble-minded. The older children are the most backward, the average for each group being as follows:

TABLE III.

	Chron. age.		Chron. age.
Normal	10	4 1/2 years back	14
1 year back	10	5 " "	14 9/10
1 1/2 " "	9 1/2	5 1/2 " "	14 1/2
2 " "	11	6 " "	16 1/11
2 1/2 " "	11 5/6	6 1/2 " "	15 5/7
3 " "	12 2/3	7 1/2 " "	15 1/2
3 1/2 " "	13 1/2	8 " "	17
4 " "	14 1/12		

Table III shows that even the younger children who are perhaps two or three years backward, may be already arrested in their development and when they are two or three years older physically, will be not much if any, older mentally, so that whereas they are recorded as three years backward now, they may be five years backward later on; in other words, they are no more responsible than the 14 9/10-year-old who is mentally five years behind his chronological age.

The following are some of the cases:

IMMORAL.

Mabel B.

16 years old physically.

10 years old mentally.

Taken by her mother from a laundry where she and another girl had been spending the night with two Chinamen.

*For the significance of the exponent see the preceding foot note.

Mother living with a man to whom she is not married.

Nina N.

15½ years old physically.

9^s years old mentally.

History—Father an alcoholic, degenerate; mother a prostitute; eldest sister a prostitute; sister and brother had gonorrhoea.

This girl absolutely incorrigible, steals, associates with commonest type of men, even yelling to them from House of Detention, absolutely immoral. Cannot associate her acts with punishment. Is a well developed girl, of unusual beauty.

Marjory J.

15 years of age physically.

11² years of age mentally.

Taken by her brother from house of ill fame in New York, where she and another girl of the same age had been spending two weeks. Was in the public schools until she ran away. She is an accomplished prostitute.

STEALING.

Louis M.

14 years old physically.

9 years old mentally.

Placed on probation for stealing at 12 years of age. Two weeks later stole \$14 from his sister—ran away. Was finally brought home—sent to the State Home for Boys. Three months after his release, he was charged with the crime of burglary and has been sent back.

Isabelle K.

15 years old physically.

10² years old mentally.

Answered an advertisement as a nurse girl. The woman who employed her was a widow with a child of four to be looked after during the day, as the woman was obliged to work for her living.

The girl reported to her older sister and a friend of the same age (where they lived away from their home in a furnished room) that she was alone with the boy all day. So the following morning, the three girls came to the house and with three suit cases carried away all the jewelry, underwear, clothes, etc., that the woman had and "what do you think," the girl said in the House of Detention, "we got to give them things back."

MENTALLY SLOW IN CRISES.

James P.

11 years old physically.

RESPONSIBILITY IN THE JUVENILE COURT

8 years old mentally.

With crowd of boys who set fire to hay stack. All the boys escaped being caught but James. Said he was only watching the fire and did not know why the other boys ran.

Tony A.

15 years old physically.

9² years old mentally.

Playing craps with six other boys; only boy caught—said “didn’t know why the other fellows ran—thought they were running to a fire.” Boy was arrested by officer on beat.

Frank C.

16 years old physically.

9³ years old mentally.

Never taught to obey. Incurable—constantly breaking probation. Cannot hold position long—is lazy. After failing to report for six weeks at Probation Office, Probation Officer saw the boy driving a horse and carriage. The Officer called to the boy. Upon seeing the Officer, the boy jumped from the wagon and ran down the street, the chase creates a commotion and the boy was caught. Had the boy stayed in the wagon and driven away, he would not have been caught.

It is safe to say that these children have been in the past entirely misunderstood both by their parents and their teachers and the criminal authorities. This is the material out of which we make our adult criminals, since there is no other course open to them. Unless conditions in this city are vastly different from those elsewhere, we may reasonably take this as a sample of what is to be expected in other cities, the conclusion from which is that one of the first things that we ought to do is to make a careful study of the children that come before the Juvenile Court, sorting them according to their mental capacity and consequent responsibility and treating them in accordance with their mental condition rather than their physical age or size.

One’s attention cannot but be arrested by the fact that the number of feeble-minded children in Manhattan and Bronx is 80% of the number of children passing through the Juvenile Courts in one year and that by actual test, 66% of the children in the Juvenile Courts of Newark are feeble-minded. We do not mean, of course, that this later finding corroborates the estimate or confirms the suggestion that 80% of the Juvenile Court children are feeble-minded. But it must at least make us stop and think and ask ourselves the question—is it possible that a much larger percentage of the children in Juvenile Courts than we have ever believed are feeble-minded? Let us for the sake of argu-

ment admit the possibility. The next question that comes before us is, how could such a thing be true without our recognizing the condition? That leads to another story.

It is a well-known psychological truth that one's apperception, one's expectation determines to a very high degree what he will see, and we all know that sometimes startling things pass in front of our very eyes and we do not see them because we were looking for something else. Now, we would suggest in this connection that we have all been oblivious to certain things in childhood because we have been taught to look for something else. In other words, is it not true that in our dealing with childhood we are bound by an unfortunate dogma, viz.: that the child is naturally bad? We have had this preached to us many times and backed up by the interpretations of Holy Writ, so that it is impossible for a child to do anything that displeases us without our thinking almost inevitably that he does it out of pure wickedness. He *could* have done it differently and had he not been inherently wicked, he would have done differently, but since he did the bad thing, it was because he intended to. The father or mother usually knows that their child did not intend to be bad, but all other children come under the rule.

Whether we subscribe to this doctrine when it is thus formally put up to us or not, is it true that we are very largely victims of this delusion and that we are inclined perhaps almost thoughtlessly to ascribe the wrong things to that same inherent wickedness? If such is the case, then we may readily conclude that we have not seen any mental defect in these children simply because we have been accounting for their actions in another way. We have not only not been looking for mental defect, but we have not been having our eyes open to see it when it was before us, because we have been looking for wickedness.

But this is not all. We are the victims of a mistaken notion in another direction. Feeble-mindedness has meant to us almost invariably a condition of mind which is so marked and manifests itself so vigorously that it shows in the countenance, it shows in the physical makeup and indeed is so very apparent that no one can possibly escape it. It is the idiot, the imbecile, the poor, unfortunate malformed, driveling, drooling object which we all look upon with horror. Consequently, whenever we look upon a child who has a fair countenance and regular features, a well-developed body, who is more or less alert, who can talk fairly well, we at once rule out the possibilities of mental defect and say that he surely is normal and responsible for his deeds. Now this is a fatal fallacy. It can be proved by statistics that a very large percentage of the children in our institutions for the feeble-minded, children whom

RESPONSIBILITY IN THE JUVENILE COURT

the experience of months and years has demonstrated are hopelessly feeble-minded are nevertheless fair to look upon, fair of face, well developed physically, having every outward appearance of a normal mind. In other words, a very large percentage of feeble-mindedness does not show itself by any physical marks. This complicates our problem in another way. Not having recognized these children as feeble-minded, but rather considering them normal, placing them in the normal group, we have thereby lowered our standard of that group, and we have come to make the normal group include a great many children who do those things that are troublesome and annoying, who cannot do the things that we really know they ought to do and so we are the victims of a vicious circle. These children are normal. They do these undesirable things, therefore, normal children do these things. Therefore, children that do these things shall be normal. So much for the a priori argument.

We are thus able to see that it is to be expected that we have underestimated the number of defectives. It is entirely possible that our courts might be full of defective children and almost nothing else and yet we have missed the whole point because we are the victims of this unfortunate dogma and this unfortunate point of view.

Now let us turn, as well as we may, to the facts of the case as they have been determined by students of the problem. Unfortunately here we are largely lacking again in those statistics which would demonstrate to us the actual conditions existing among the children of these classes. But there are many straws which point the way the tide is going. We are coming to recognize that a large percentage of adult criminals, probably at least as high as 25%, are feeble-minded and have become criminals because they were feeble-minded and unable to do right.

We are coming to discover that the children whom we have placed in the Reformatories and afterwards let out on probation, even under the most favorable conditions of environment of home or friendly people who look after them, are unable to reform; are "unable to manage their own affairs with ordinary prudence."

And lastly, we are beginning to get certain methods of testing the mentality of children and these methods are showing us beyond a doubt that a large percentage of these children whom we are discussing, are mentally defective. The Binet Test or Measuring Scale of Intelligence may not be the final word on this matter, may not be perfect, and yet it has amply been demonstrated that there is a vast amount of value in this scale, and that it is able to give us a remarkably close estimate of the mentality of the child. Wherever this test has been applied to this class of

children, it has been invariably shown that a very high percentage of them are mentally defective.

The examination of one hundred admissions of boys at the Rahway Reformatory in New Jersey, gives upon the most conservative estimate, after throwing out all that are by any possibility doubtful, 25% of these children as feeble-minded. A similar examination of the girls in the Girls' Reformatory has given similar figures. Examinations made in the Massachusetts Reformatory for boys corroborates this in every particular.

A recent testing of girls on probation after they had come out from the Girls' Reformatory in Massachusetts showed that out of fifty-six thus tested, only four were not feeble-minded. (For a brief review of this examination, the reader is referred to the *Training School* for June 1911). Still more confirmatory perhaps is the account already given of the findings in Newark.

Here we have then a series of studies into this problem, all of which confirm the main proposition and agree with our a priori conclusion, that a very large percentage of the children that get into the Juvenile Courts are mentally deficient. They come before the court because they have impulses which they, because of their defective mind, are unable to control. They do those things, they know not why, but they cannot help it.

We would digress at this point to note a fact which is brought out in the table above given, which, while not important for the present argument, may yet prove interesting to students of this subject. The reader will notice upon looking over the average mental age of the hundred children tested at Newark (see tables I and II), that the average is about 9 years and this is not an average from wide extremes. There are none over eleven and only a few at that age, with two or three possibly of seven. All the rest are eight, nine or ten. We refer to the individual ages, the average for each group as is seen is about nine, while the average mental age for the entire hundred is $9\frac{1}{2}$ years. The writer has reported elsewhere (See the *Bulletin de la Commission Penitentiaire Internationale*, Sixieme XIII, Livraison 1910, p. 37) that of twenty-five children in the Vineland Training School who are reported as having criminal tendencies, fifteen tested nine, five tested ten. This certainly points to the fact that there is a peculiar period in the child's life at about nine years of age. What the explanation of this may be is a question.

We have suggested that the impulses which lead the child into activities that result in misdemeanors ripen at about the age of nine, and that his power of control has not yet developed, so that if his arrest of development occurs at that time, the conditions are most favorable for

RESPONSIBILITY IN THE JUVENILE COURT

his being a criminal. If his arrest in development comes earlier than that, he is not criminally inclined because his impulses thereto have not shown themselves. On the other hand, if his arrest comes later than that, he may not be a criminal because he has enough power of control to restrain himself. It may be that some day we shall know the reason why so many children break down at the age of nine.

To resume our argument. Suppose we take the very lowest figure that any of these studies suggests, namely 25%, and see for a moment where it leads us. Twenty-five per cent of the children who come before the Juvenile Court are feeble-minded. The figures cannot be less than that. Is not the mere suspicion that such is the case, sufficient warranty for us to proceed to a careful examination of this matter? Must we go on assuming as we do that all but a very small percentage of these children are normal and responsible and are fit subjects for reformatories and prisons?

On the other hand, is it not wise and humane and just and the only wise, humane and just thing for us to appoint experts who may make the examinations and determine for every child that comes before the court just what his mental condition is so that the court may dispose of the case wisely and justly? If this is the thing that ought to be done, how negligent are we in those courts where absolutely nothing is done and how far short do we fall from the ideal in those courts where only the second offenders are taken.

Is it not a curious kind of logic which says in substance to a child who has committed an offence, the chances are one in four that you are feeble-minded and couldn't help it but I will let you commit another crime and then I will examine you and find out.

In conclusion then; there seems to be every reason to believe that the matter stands thus: Twenty-five per cent at least of the children who come before our Juvenile Courts are feeble-minded. Therefore, it is incumbent upon every person who is interested in the work of children to insist that every child who comes before the court shall be tested—by the Binet test until something better is evolved—and if he proves to be feeble-minded, he shall be provided for in an institution where he can be made happy and useful and cared for throughout life, rather than be sent to the reformatory for a few years or to a detention school for a few weeks and then be let out to commit misdemeanors again because he has no power of doing otherwise.