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MENTAL ATTITUDES OF ADULTS IN A JUVENILE COURT

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There is a tendency in our thinking to invest a movement or an institution with an inherent value that is independent of its actual operation. We like to do this about such institutions as the school and the home and the church. In the last few years there has been a marked tendency to do this about child guidance clinics and there has certainly been this tendency in regard to the Juvenile Court.

There is some justification for this tendency to ascribe to an institution an inherent value. They all carry with them policies and traditions and experiences which act as guides to a succession of adults whose attitudes are more or less predetermined and set, not entirely by their own experience, but very largely by the accumulative experience of the court that has been translated into tradition and policy.

The Juvenile Court was started largely as a humanitarian venture. It was a recognition that the formal and inelastic procedure of the traditional court room was poorly suited to the handling of the delinquent child. Children were to be protected from associating with adult criminals; and this was conceived as one way to bring this about. It was an important step toward the handling of children as individuals and considering more than just the delinquent acts that brought them to court. The court was to be regarded as the protector rather than the punisher of childhood and was to give this protection when other sources had broken down or had become inadequate. Gradually there evolved as a part of the court the opportunity for case work on the individual through the medium of probation.

Here there has been theory and experience helpful in giving an inherent value to the concept of a children's court and it has been influential in shaping the mental attitudes of those who administer the theory and add to the court's experience and tradition. But there has been a tendency to fall back on his inherent value as a justification of all that went on in the court. This has been accentuated by the vast hopes that centered around it in its earlier days when it was looked upon as a panacea for dealing with the problem child and there was the desire to turn over to them all matters dealing with those children, when intervention was necessary.

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The theory behind the movement, however, is but a small part of the story, important as it may be. The larger consideration must deal with the attitudes and points of view that are carried into the administration of the theory and a study of those determinants, both past and present, which affect the shaping of these attitudes.

We cannot properly evaluate the basic attitude and philosophy of the Court until we are more aware of the common factors which help to shape the attitudes of that army of adults who carry it on. That it is important to do a great deal of objective thinking about such attitudes is evidenced by the fact that more and more people are asking what is wrong with the Juvenile Court, which is tantamount to asking what is wrong with the basic attitudes that adults carry into this court. They are asking what has hindered the Juvenile Court from keeping pace with other phases of child welfare, and why is it that, with a few outstanding exceptions, there has been very little added to our knowledge about human behavior from the experience of the court where, in the past twenty-five years, there has been unparalleled opportunity to deal with a vast army of delinquent and dependent children and disturbed family relationships.

These questions and observations demand a careful consideration, and satisfactory answers are not obtained by merely referring to such things as inadequately trained staffs, large case loads, political interference, etc. Important as these things are in limiting the value of the court, they do not seem to get at the real root, which seems to rest more in the basic attitude and philosophy of the court approach to the whole field of behavior and human relationships. We must evaluate the court not only at its worst but also at its best, if we are to be clear regarding its future development and the contributions that are expected to emerge from its work. To sort out individual attitudes and relate them to a court would be a matter of no importance because of their individual nature. Every human institution has individuals of all types, from the very best to the very worst, and it is neither fair nor enlightening to praise or condemn on such evaluations. In Juvenile Courts, as in all other forms of social and health work, we have men and women imbued with a fine attitude of objectivity doing valuable work. Along side of them we see the bully and the sentimentalist. These are individual attitudes, helping or retarding, but having little significance to the broader problem concerning any common factors which might influence and mould the mental attitudes of those delegated by the state to deal with the problem of juvenile delinquency.

It is with these more general factors, which play a role in shaping attitudes, that this paper will be concerned.

There is a peculiarly distinctive tradition that attaches itself to our thinking about a court. It represents the authority of the state to enforce obedience to law, and depends upon legal force to see that its decisions are carried out. The children's court is a more informal body, theoretically and sometimes actually, but nevertheless it is a court and is invested with a vast amount of power and depends to a considerable extent on its authority to carry out a program of dealing with its delinquent children. The basic philosophy of the court is essentially a punitive one, and part of this is naturally explained by the way the court enters a case. A child is usually brought in charged with an overt act and this directs the attention of everyone—court, parents and child—to the act itself. Attention is very liable to stay on the act and efforts directed toward its elimination. With such emphasis, the traditional and easiest approach is the punitive one, using the Court's authority to curtail liberty and to back up its demand for a change of behavior.

It is perfectly true that some courts have been able to submerge this punitive foundation both in the attitude of the Judge and in the case work they carry on through probation. The degree to which they have been able to do this, however, seems to depend upon the ability of the adults to deal with behavior on a more constructive basis than that which largely depends upon the use of authority.

When the basis of an attitude rests on authority to carry out a procedure, it is liable to mean that reliance is also placed on this same authority to obtain the desired results. This sets up a definite barrier to the development of a type of probation and court work that seeks to understand behavior as a starting point to correcting it. In sound case work reliance has to be placed on the relationship that must be built up, and not on the fact that there rests in the power of one the authority to coerce. This creates a very fundamental difference in attitude both on the part of the worker and on the part of those worked with. Probation officers and judges cannot help but be conscious of the fact that they are officers of the law with a responsibility to see that others either obey this law or be punished for their failure. Those being dealt with are even more conscious of the punitive role represented, and their relation to the court rests fundamentally on a level of fear. Even with the very best of our probation people, this hurdle is a difficult one to get over and may block from the outset the establishment of a relationship which will lead to an understanding

and modification of those human problems which have contributed to the formation of a delinquent child.

As a factor complicating and accentuating this attitude there is the emotional pressure coming from the community for law enforcement. A public agency like the court feels this pressure most keenly and is made conscious of the demand that a critical public makes for quick change and for punishment. This pressure is brought right into the court room by irate neighbors, against whom overt acts have been committed, demanding that something be done. The opportunity for a calm evaluation of a total situation is so frequently denied a court with excellent intentions by this type of community pressure.

This would seem to indicate that a community will get the type of court and the type of attitude toward delinquent behavior that crystallizes much of its prevalent point of view. Much of the delinquent behavior in home and school is handled on this authoritative basis and it is usually our habit to turn to the court when other forms of coercion have failed to effect a change.

With this type of pressure coming from the community, which fears any efforts to deal with delinquent behavior except on this authoritative and punitive level, it seems but natural that a court, being essentially a punitive institution, should represent very accurately this type of attitude, and it usually does. A material change can hardly be expected, therefore, until there is created a more intelligent attitude toward behavior in the community.

Another important factor contributing to a faith in a punitive approach is that we have developed the Juvenile Court along legal lines, and a legal institution, based as it is on precedent, has not exerted a leading influence in changing our mode of thought. The legal attitude toward behavior is based on a rather rigid concept of right and wrong. People are guilty or not guilty of overt acts, and reliance is placed upon the laws of evidence to determine this. The court, being much more a legal than a social and health institution, naturally is placed under the control of the judge whose training must be essentially legal. The training does not lay emphasis on the study of individual behavior and its motivation, which would be gained if more of the humanistic sciences were a part of their training. The emphasis is directed toward the overt act and it is but natural when he is given the responsibility of administering a court dealing with problem children that he should be guided by his training and point of view. Many judges have had the vision to grow into a more understanding attitude toward behavior, and such individuals play an important role

in shaping the attitudes of those who carry on the active investigation and treatment.

But too frequently the community expects an impossible task of the judge in a children's court. They invest him with the power of final disposition. He is the one to determine whether a child should be fined, dismissed, committed or placed on probation. The community expects a judge to be a psychiatrist, a psychologist, a social worker and a lawyer, and in so doing places him in a difficult position and forces most of the judges to fall back on the one approach with which they are best acquainted—the use of authority and attempting to create a realization of the wrongness of an act and anticipating that the realization will be the most important step toward reformation.

The pity of this is two-fold: first, that we should continue to expect our judges to do the impossible, and second, that so many should continue to feel capable of dealing with the complexities of human behavior in a wise and constructive manner. They are placed in an impossible position, in the first place, and like most other human beings faced with a difficult situation they frequently get defensive when there is a questioning of the wisdom of a system which allows them such power. Too many judges in our Juvenile Courts become jealous of their position and resent what is sometimes thought of as interference when there are carefully prepared reports presented to them. Too many such reports are brushed aside and decisions made on impressions rather than on facts. There are many judges who have been farsighted enough to recognize the difficulty of the position they have been placed in, and have developed a more dynamic point of view and have publicly proclaimed the need of deciding the disposition of cases in a different way.

While the judge has played and still plays a most important role in shaping attitudes in our Juvenile Courts, yet the heart of the movement has rested in the hands of the probation officer. How far has this authoritative and punitive attitude been carried over into this more social aspect of court work where, theoretically and many times actually, there is a desire to know a great deal about a child before disposition is decided? Here there should be, and frequently is, an interest in the individual and a desire to know about causes.

There is nothing magical about probation and it is good or bad, valuable or meaningless, according to the attitude of those who carry it out, and the implications that are translated to those who are being worked with on a probation basis. Good probation can be similar to good social work, depending upon the attitude taken toward it by the

adult. If there is an attitude that sees probation as an opportunity for understanding the operation of those social and individual forces that lead to overt delinquent behavior and modifying those that lend themselves to change—then probation can be on the same constructive level as the best social case work.

However, there is an attitude common in the very best of courts and basic in the philosophy of some of our best probation people, that probation must rest on a punitive foundation. There is a tendency to justify it on that basis rather than on its more constructive aspects. Possibly it is the emotionalism of a critical public that causes this type of rationalization. Any other justification, when pushed into the foreground, is apt to bring down the dreaded accusation of coddling or being sentimental.

This basic attitude has been expressed by Cooley in his book,* when he says in his evaluation and justification of probation that "it often causes the probationer humiliation and leads to sincere remorse," and again says "in some cases probation is more of a punishment than would be imprisonment."

The valuable things taught us by modern psychiatry about the basis of behavior deviation and factors necessary in a treatment approach have shown the futility of this essentially punitive attitude—that it concerns itself mainly with symptoms and not causes and is therefore an unscientific approach. Probation, developing as it has an integral part of court procedure, frequently has taken on the basic attitude of the court, which is a punitive one. Where this is true a barrier is often set up which hinders the application of the more constructive sides of probation theory, which gets translated in practice too infrequently because of what seems to be an essential incongruity between the theory and present trends of social case work and the punitive and judgmental attitude which so easily attaches itself to probation.

With this basic attitude kept so much in the foreground, with the tendency to view delinquent behavior from this judgmental and subjective point of view, then it is not surprising that the adult personnel of many of our Juvenile Courts should take on this authoritative and threatening attitude and deal with behavior on that level. It has not been possible to supply the court with a trained personnel, which means that a great many people enter court service with very little knowledge about the mechanisms of human behavior. And it seems a safe generalization to state that the less the training the greater will

*Cooley, *Probation and Delinquency*, p. 23.

be dependence on the fact that they are officers of the law, and the greater will be the faith in lecturing and threatening, and the less will be the efforts to work out the problem on a cause and effect basis.

Adults who have the responsibility of dealing with delinquent behavior are prone to identify themselves on an emotional plane with the individual involved. Sometimes it is with the child and against the parents, and then again this is reversed. The attitude which the child takes in court frequently determines this. Those who are "a little hard" and rather sullen or defiant are apt to be looked upon as "bad actors," and those who are penitent and who seem to listen win sympathetic interest. These attitudes are formed quickly, frequently without other evidence, and play an important role in determining disposition. I have seen the balance turned in favor or against commitment by the attitude of the child in court. There is an attitude among adults that places great value on being penitent, regardless of what it may mean and to what factors it may be related.

If we are going to approach behavior on this level, then it is essential that the dignity and authority of our position be upheld. We must make the culprit feel humble and become penitent. Only in that way is it clear that a reaction has been obtained. Hence the great desire for this attitude and the intolerance of anything suggesting defiance or talking back. This is only further evidence of rebellion and must be curbed. Results can be obtained only through fear of the consequences, and these must be made sufficiently realistic if this fear is to be developed. The chief probation officer of a court once remarked to me: "The only way to stop delinquency is to make all these kids fear this court so much that they will not run any chances of being brought before it." This same person acted as referee and uniformly each case that was brought in was brutally called down and told of all the things that would happen if he ever came back. Parents were told what abject failures they were and to go home and take proper care of their children. His whole approach was that of the bully.

There are, of course, all gradations of this type of attitude from the above to the rather mild and sentimental type of lecturer who tells boys "to be good and you will be happy." But there is a similarity in the philosophy of both extremes. The goal is the eradication of the delinquent act and the means to do this is by superimposing a code of behavior by the attitude of authority. Where there is this approach, whether in home, school, industry or court, we can see the dramatic happenings when authority is pushed to the wall and the behavior toward which it is directed becomes intensified. It is then that

the adult ceases to be the lecturer and becomes the bully, and we see the intensification of an emotional approach. This is bound to happen when any individual or institution depends upon such an ineffective attitude to control the behavior of others. At the moment, it is a national phenomena and on every side we see authority pushed to the wall and pleading for the use of more force to stem the violation of law.

Miriam Van Waters in a paper written in 1924* refers to the futility of this attitude when she says: "The disciplinary approach to behavior problems in home and school—(I would also add the court)—has failed to bring about any lasting contribution to their solution. Exhortation, moralizing opinion, or any other hostile approach, have as little effect in combating delinquency as they have in a case of pneumonia. They succeed only in building up a defense reaction and in increasing the distance between the child and his human group."

All through this authoritative drive the attention focuses almost entirely on the symptom—the act of the child. If the delinquent behavior stops then a success is noted, even though nothing has happened to understand and treat causes, and other forms of behavior difficulty may have replaced the stealing. This attitude is comparable to the old type of medicine when fever was treated by antipyretics and infection by blood letting. The symptom was the thing to be attacked and little attention was given to causes.

Here rests the fundamental difference between the approach of modern psychiatry and the approach which rests on the use of authority. One seeks to change behavior through treating and understanding basic things—the other seeks merely to change the behavior.

There is an essential incongruity between this more common sense and scientific approach which regards behavior as emerging from a variety of factors, and that approach which is judgmental and seeks to change behavior by imposing an external pressure. It is very questionable whether the two can ever mix. When a child or family is approached on a judgmental or authoritative plane, it is rare that you ever discover or place yourself in a position to deal constructively with the real causes. The case worker or the psychiatrist depends on building up an understanding bond to gain a position to learn and to modify. The other approach depends upon its authority and position to accomplish this goal, which usually causes the individual to get on the defensive and to shield or to shift the responsibility.

The authoritative attitude is a blind one. It sets up a code of

*The Delinquent Attitude—Van Waters—Family, July 24.

behavior and seeks to exact conformity by punishing deviations. The fact that it is not successful is indicated by the small factor that most of our Juvenile Courts play in the constructive work of a community, and where there are exceptions it has been due to there having been carried into the court a point of view and an attitude about behavior which has not been guided by this authoritative and punitive point of view. The more common attitude is to use the court and probation as a weapon rather than a social instrument to effect a more wholesome solution of factors leading to delinquency.

That there have been individual misuses of this power and authority is certain, but that is not the important question. There will always be people who will lose their perspective when they are given a little authority over someone. There are daily instances of this in homes where we find the rigid, autocratic parent, in schools where we see the blustering and stern principal and teacher, and in courts where judges and probation officers apply similar attitudes. The home, school and court, or any other human institution, cannot be judged by the individual misuses of power.

The more important and fundamental question involves the basic philosophy upon which so much of the community's effort to control delinquent behavior rests. And the only reason for discussing this attitude in relation to the Court is that this institution represents the most important community effort to deal with delinquent youth, and where so much of this effort has depended on the use of obvious authority. It is an attitude that runs all through our human relationships and is proving just as ineffective in industry and schools and colleges and social case work as it is in our courts, where it is peculiarly brought into the foreground.

It is not a question of *criticising* the past; it is far more a problem of *evaluating* the past in terms of our present day understanding of behavior and in planning for the most effective way of constructively handling these social problems that past methods have proved so inadequate to meet. To me it seems necessary to get away from the incongruity that exists in our present day efforts to combine in a Juvenile Court the power to punish and the capacity to treat. It would clarify our thinking in this whole field if we could recognize the incongruity of these two basic attitudes and gradually withdraw from our children's courts the planning and carrying out of treatment, and develop, either in our schools or through the medium of case work and clinics, the facilities for doing the constructive work where probation has a better opportunity of becoming case work, because reliance

will be placed more on the technique and skill of establishing that type of relationship between worker and clinic which leads to an understanding of basic factors, and less reliance will be placed on the punitive aspects of probation and on the authority which is depended upon to carry out a program.

There is no assumption on the part of psychiatry that a formula has been found and that a final solution has been discovered for understanding and preventing human difficulties. The great value of the whole mental hygiene movement must rest on its capacity to grow and to have its whole philosophy sufficiently elastic so that new knowledge can be incorporated into it. It recognizes that coordination of community efforts are necessary to develop and apply a point of view that represents this pooled thinking and experience. Consensus of thought will follow only when we have coordination of effort. And the great end in the whole field of behavior is to have this type of consensus that recognizes and accepts certain basic principles and proceeds from that point.

Conclusion

In conclusion I would like to reemphasize that this question of the adult attitude toward the delinquent child involves much more than the expression of it in our children's courts. This court has had a background and tradition and a type of organization that favors the accentuation of and dependence upon the use of compulsion and authority to control and modify those youths who have become delinquents. But in so emphasizing this approach it has given expression to a common attitude in various phases of the adult-child relationship in home and school and other community activities.

A more objective and less emotional attitude must be developed as a substitute for that approach which has proven so ineffective in controlling and constructively modifying human behavior. It is clearly recognized that every individual as he grows from infancy to adulthood must learn to adapt himself to the authority of reality. It is an essential for balanced and harmonious living. But in the process of developing, many factors play a role in causing some to rebel and to fight their own environment. In the individual cases, the reasons for such reactions are to be found and worked with on an objective and tolerant plane. The establishment of a relationship that makes possible the working out of a problem on such a level seems possible in proportion to our ability to minimize that approach which rests on force and which assumes to blame and condemn.

It is more difficult for the adults in a court to free themselves from an attitude which is strongly colored by these punitive elements. The court stands in the community as an institution to punish and protect society from those who deviate from the established order. The mere bringing of a child into a court is a threat, and too, frequently a barrier is established between officer and family which makes difficult the working out of the underlying causes of the delinquent behavior. The barrier is hard to overcome and it is easy to fall back on the use of the authoritative and threatening attitude to eradicate delinquent behavior, particularly when adults in a court are subjected to an emotional type of pressure from a community to do something drastic to curb what is popularly called the "crime wave."

When we ask whether or not the Court approach to delinquent behavior can ever be an effective way of dealing constructively with the problems causing such difficulties, we are not criticising any individual or group, but we are questioning its efficacy in treatment, because of its tradition, its basic philosophy and its meaning to the bulk of the community. There is no doubt that it will always be a necessary part of a program dealing with delinquent behavior, but playing a role of diminishing prominence in a large bulk of cases now coming before it.

The aim of a community should be, first, the creation in the minds of adults of more of the spirit of objectivity and scientific inquiry which can approach delinquency with a minimum of prejudice, with less of the desire to condemn, and with an ability to discover and work with the facts of life and experience found in a given case that are related to the creation of delinquent behavior. And with the creation of more of this point of view, there can go hand in hand the development of more facilities, either in schools or through clinics, where delinquent behavior can be dealt with constructively and where all the fine attitudes that have been developed in some of our courts and probation systems can be more effectively utilized. Some communities have been able to do this by really creating a court that is a social and health institution. They have done this by the marked reduction of those adult attitudes which were dominated by what has been termed "the heirarchy of the heinousness of all crime." That so few of our Juvenile Courts have been able to lift themselves above this judgmental level is the basis for feeling that an incongruity exists where we attempt to combine the power to punish with the capacity to treat.