

Winter 1933

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Recommended Citation

Charles L. Chute, Juvenile Probation, 24 *Am. Inst. Crim. L. & Criminology* 748 (1933-1934)

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JUVENILE PROBATION

CHARLES L. CHUTE¹

There is no present day problem more acute or more compelling than that of juvenile delinquency. Here is a problem upon which your ancient, established profession of the law and my newer profession of social work, social engineering, may and should unite. You seek, through laws and their orderly administration, to do justice to the individual and to establish the security and welfare of all citizens of the State. We seek to give relief and personal service to those in trouble and at the same time to develop a better social order where welfare and happiness may be the common lot of all.

The Extent of Juvenile Delinquency.

The youthful delinquent and what to do with him is of compelling importance, not only to those directly dealing with him but to every citizen. Although the delinquent children who become court problems are less than 1% of all children in the country, there is not a single child or one of our homes which may not be affected directly or indirectly by the way we treat them.

Strange to say although the government compiles statistics on many less important matters we have no complete statistics of the number of children brought before our courts. From the incomplete returns from juvenile courts compiled by the U. S. Children's Bureau we may roughly estimate the number of delinquent children annually dealt with by juvenile courts throughout the country at 200,000. The last census report showed 25,233 juvenile delinquents confined in institutions. The problem is a large one and every community shares it. Besides this, it has an intimate bearing on the problem of adult crime. Whether we shall ever reduce the excessive burden and expense of crime in America will depend in large measure on how we treat these beginners in delinquency.

Crime a Youth Problem.

Crime today is largely a youth problem and its beginnings are to be found in misdirected childhood. "All the vagabondage of Eng-

¹Executive Director, National Probation Association, Address before American Bar Association, Oct. 11, 1932. Section of Criminal Law and Criminology, Washington, D. C.

land," said Disraeli, "begins in neglected childhood." Every careful case study of adult offenders has shown that a majority were known as juvenile delinquents. The histories of many gangsters which I have read are strikingly similar. They come from bad homes, often broken by death or desertion, usually homes of poverty in crowded slum districts. Poverty does not in itself cause crime but it causes children to be neglected, to run wild and fall in with evil gangs. Many of our finished criminals have broken away early from the control of foreign parents, but they are American products in every sense of the word. The parents have tried, often with old world severity, but have been handicapped by grinding poverty which may take both parents away from the home. They are not able to offset the education of the streets, the urge for liberty, for getting ahead fast. The school fails to meet individual needs, the church is forgotten, there is no moral training and the boy drifts. I believe that nearly all crime has its origin early in life and begins in small delinquencies—malicious mischief, petty thefts, bad habits, sex irregularities. Then come more and more serious crimes, following the gang leader, to get the money which cannot be secured in honest ways.

The Place of the Juvenile Court.

We must work in many ways to prevent this progression in crime, but the most direct attack and that in which the law is most concerned is through the juvenile court and the probation system—the first line of defense set up by the State when the home, the school and the normal social agencies fail.

In the year 1845, before juvenile courts, probation, or the many children's agencies we have today were even thought of, Horace Mann, the great educator, wrote:

"Governments do not see the future criminal or pauper in the neglected child, and therefore they sit calmly by, until roused from their stupor by the cry of hunger or the spectacle of crime. They erect the almshouse, the prison, and the gibbet, to arrest or mitigate the evils which timely caution might have prevented. The courts and the ministers of justice sit by until the petty delinquencies of youth glare out in the enormities of adult crime; and then they doom to prison or the gallows those enemies of society, who, under wise and well-applied influences, might have been supports and ornaments of the social fabric."

We have gone far in changing this situation today. In recent years our government and many citizens are at least "sold" to the

importance of agencies which save and protect children. We have established the frame-work of efficient public child care by the passage of a multitude of laws. We have some well manned agencies, including a few juvenile courts with adequate personnel to guide and adjust every child that comes before them. But such courts are still exceptional and many a child and beginner in crime gets by, as in the past, without thorough, understanding treatment.

The histories of adult criminals today often show that they have had juvenile court and probation treatment. They are in fact often the failures of the system as they are also the failures of other forms of social control. Does this condemn the juvenile court program? I think not, because we know that when properly manned, it succeeds in a great many cases and the principle back of it—that of giving to every delinquent understanding, thorough treatment to meet his particular need, cannot be assailed.

The probation plan for the child delinquent and the first offender, with thorough case-work, extended over a long enough period of time; seeing to it that the home is helped to function properly, or removing the child to some other home; attention given to environment, companions, leisure time, and school or work adjustment cannot be anything but the best method to deal with youngsters who are not developed in crime, or who are not so abnormal that intensive institutional care is required.

The Institution vs. Probation.

The institution for delinquents is being more and more considered a last resort because of its expense, and the inevitable risk of throwing together in close association many types of delinquents. For these reasons and because of the difficulties of adjustment when they are released, it is the rare child that should be sent to such an institution. Too often we have sent up, as these children call it, neglected, problem children, and they have come out real delinquents.

Probation care under an officer of the requisite ability, personality and character, is far safer and more effective than institutionalization, and incidentally it costs the state less than one-tenth as much per child. However, it is harder to develop. Legislatures and county boards still prefer to maintain institutions, with bricks and mortar, with regiments of children under good discipline and physical care, but not learning how to live in society. Investments for skilled service to the child in his home and community, where he must learn to live eventually, are harder to maintain.

The Place of the Juvenile Court.

I hardly need to argue here today for the soundness of the principles back of the juvenile court and probation system. These principles have been upheld by the opinions of the highest courts in most states. They have been acclaimed by leading students and lawyers here and abroad as America's best contributions to practical penology. It has been said repeatedly by lawyers and others that the simple, direct, but withal scientific individual treatment given not only to children, but also in many courts, to adults, may in time be adopted, in modified form in the treatment of all criminals.

The principles that the child or the adolescent is not wholly responsible for his acts, that it is the State's duty, both for the protection of the child and the State, to use methods that will adjust and if necessary reclaim him—these principles and the methods employed in properly functioning juvenile courts accord with our growing knowledge of the nature and needs of these children and youths.

The Results of Juvenile Probation

I would like to bring you the figures to show whether the results of juvenile probation, even as imperfectly developed today, have been successful. I believe they have where the personnel has been at all up to standard. Each year the complete probation statistics collected in the States of New York and Massachusetts have shown between 75% and 85% of children placed on probation finishing their probation terms successfully.

Courts in other states report like results but these records give no indication of the permanent results of this form of treatment. All we have today are the accounts of many individual instances of successful adjustments, often largely due to the personal work of a well equipped probation officer. But, on the other hand, many recent case studies of delinquent careers, like those of Thomas in "The Child in America," of Shaw in the Wickersham Commission "Report on the Causes of Crime," or his remarkable study of one case in "The Jack Roller," show the failure of inadequate probation work and even more the failure of inadequate and unsuccessful institutional treatment.

What Juvenile Courts Need.

We need today more research studies of methods and controlled experiments in probation service under well trained staffs. Above all we need to remove the shackles from our juvenile

courts and probation departments and to give them a chance to function as our best knowledge, embodied in the better juvenile court laws and procedures, dictates. I am sure that they will then develop as a real first line of defense against crime.

Our juvenile court laws are unstandardized and often limited or defective. We have the traditional 57 varieties, because in some states there are two or more types of courts operating. Without doubt the time has come for more uniform laws, following the higher standards found—to mention a few of the best state-wide laws—in California, Ohio, Virginia, and, except for its lower age limit, in New York State. We are calling to the attention of lawyers and judges in various states the provisions of the Standard Juvenile Court Law of the National Probation Association, sponsored by a committee of eminent juvenile court judges and lawyers, which seeks to embody the best provisions in all states.

This proposal calls for exclusive, original jurisdiction in all cases of youths under 18, except that the juvenile court in its discretion may turn over for disposition to the criminal court those between 16 and 18 whose offenses amount to felonies.

The hodge-podge with respect to juvenile court age limits throughout the country is indicated by the following tabulation:

Age Limits for Delinquency in the Juvenile Court.

To 16.....	11 states
To 17.....	12 states and D. C.
To 18.....	18 states
To 20.....	1 state
To 21.....	4 states

The 18-year limit has proved satisfactory in states having large cities like Ohio, Minnesota and California, where the jurisdiction is exclusive, with a concurrent jurisdiction in the latter state to 21. Psychology has taught us today that mental age and development vary greatly. No rigid age limit is satisfactory. Therefore the limit should not be too low.

In many states the juvenile court has been greatly limited in dealing with children whose offenses are, according to the law, more serious, by the assertion of a prior or concurrent jurisdiction in the adult criminal court. In some states it is the court which first gets the child that deals with him. Children who commit the more serious offenses may need more than others the protection and the long continued scientific study and effective treatment which a juvenile court

can best give. The court itself should decide whether it can adequately deal with such cases.

The court should have a broad jurisdiction to deal with parents or other adults involved in children's cases. The combined juvenile and domestic relations court, dealing with non-support and all family matters, except divorce, is working out very satisfactorily in New Jersey, Virginia and in a number of other states. Often it is the parents who need training and discipline, who need to be placed on probation, rather than the child.

What Probation Needs.

The subject of this paper is juvenile probation, but I have dealt also with the organization of the juvenile court because the two are inseparable. The court operates through its probation staff. The greatest need of probation work, as it is of the entire court organization, is for a properly selected, trained, non-political personnel. In the delicate work of diagnosing and supervising social treatment for delinquent children and delinquent homes no ordinary political job holder can possibly succeed—and yet there are many of them trying it.

Today men and women are being trained for this work by our colleges and schools of social work. Experienced people are available at reasonable salaries but there is a lack of appreciation of the importance of training on the part of too many judges and the general public. It has been amply demonstrated that the right sort of examination can discover and give preference to trained and experienced men and women for this work, and can appraise also the even more important qualifications of character, interest, and the kind of personality which succeeds in winning cooperation, loyalty and respect from the probationers.

A competitive examination in the hands of a competent Civil Service Commission or other disinterested board is the only known means we have for avoiding politics. Hence the plan should be extended to all states. At the same time judges must be left free to remove officers who prove incompetent.

We need today to raise the calling of the probation officer to that of a profession. The right kind of workers with young delinquents in every court and enough of them could head off a great amount of delinquency and crime at its source.

The importance of the work is well expressed in these words of I. L. Straus, former Attorney-General of Maryland:

"At the present time there does not appear to be a general public sense of the commanding importance of probation. It is for you to overcome the indifference and lethargy obtaining upon the subject and create a quick and unequivocal public purpose in their place. The public ought particularly to realize the necessity of securing to probation the service of the best intellect and character in the community and of properly compensating those who engage officially in the work. The delicate, difficult and vital nature of the service entitles those who render it to most liberal remuneration. I do not know of any class of officials who, in co-operation with the courts of justice, can contribute so much to the stability of the state and to the welfare of the individual and the home.

"* * * The probation officer's function requires ability of the highest order, that ability which discerns and reaches farthest into human nature, comprehends its capacities, its springs, motives and susceptibilities, and realizes how to bring to bear on them not only the influence of outward circumstances, but of suggestion, reason, persuasion and inspiration to recovery and rehabilitation. In addition to all that, an unflagging patience is necessary—to trace the defects and sufferings to their source, to bear quietly and gently with indifference or resistance or relapse—and to overcome them by a steadfast benevolence, whose sincerity disarms doubt and awakens trust. Human beings go where they are magnetically drawn; they do not resist those whose hearts they sense and feel to beat responsively to their own. The best man and the best woman are the best physicians for the worst."

Much that I have said regarding the qualifications of probation officers applies also to the judge of the juvenile court. He also should be specially selected because of his experience, his sympathy and ability to deal with the intricate fabric of child and family life. The best man in the community is none too good for this task.

I will close with these words of Chief Justice Hughes, which seem to be especially appropriate to the occasion:

"Lawyers cannot escape special responsibility so far as the administration of justice in our courts is concerned. A quickened Bar, alert to its power and responsibility, can secure honest, able and fearless prosecuting officers, magistrates and judges. Our government is one of laws through men, and most of our problems in the administration of the criminal law could be solved by the selection of competent men, free from the corrupting influences of fear and favor."