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PROBLEMS OF AREA¹ JURISDICTION IN JUVENILE COURTS

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Since the birth of the first juvenile court in Cook County, Illinois,² the county as a political sub-division has continued to lead the field in fathering this youngest judicial offspring. Nevertheless, the past fifty years have witnessed offshoots on the family tree, some juvenile courts branching out to be encompassed by entire states, others whittled down to city districts. Legal and social scientist, pulling sometimes together and as often apart, maintain the struggle to determine the area unit best suited to harbor this vital structure, which is still undergoing its growing pains in this country.

Frederick B. Sussman's "Law of Juvenile Delinquency"³ contains a state by state breakdown of juvenile courts⁴ which illustrates the complete lack of uniformity, not only among states but within the same state, with respect to the area jurisdiction problem. Boston⁵ has a separate juvenile court for its populous in-town area, with delinquencies occurring elsewhere in the city presided over by the city's district court judges in juvenile sessions. Baltimore offers a court which handles the entire city's delinquency.⁶ A county juvenile court is maintained in Cleveland. Florida provides by state law that counties may combine to deal with the problem. Three states—Connecticut, Rhode Island and Utah—have organized juvenile courts on a state-wide basis. Except for the state-wide courts, variations in political areas are frequent, as, for example, Pennsylvania, where the Municipal Court of Philadelphia houses a juvenile court while a county juvenile court prevails in Alleghany County (Pittsburgh).

¹ For purposes of this article "area" and "political" are interchangeable terms as regards jurisdiction. This discussion gravitates around the state, the county and the city as the unit of operation for a juvenile court. Each of these units constitutes an area, though actual size or bigness is immaterial. Each of these units is also political; the city having a certain identifiable structure and having problems similar to other cities—as does the county and state.

² For a description of this "birth" see *The Child, The Clinic and The Court*, NEW REPUBLIC, INC., New York, 1925, a group of selected papers, pp. 267-330. See also ABBOTT, GRACE, *THE CHILD AND THE STATE*, Volume II, University of Chicago Press, 1938, pp. 330-331.

³ Oceana Publications, New York, 1950.

⁴ *Ibid.*, pp. 67-79.

⁵ For further information as to particular juvenile courts mentioned in this article see their respective Annual Reports.

⁶ See the YEARBOOK, National Probation Association (hereafter referred to as N.P.A.), 1945, p. 257.

What reasons are there for Boston, Baltimore and Cleveland, cities of similar population, to require a different area set-up? What could have been the factors leading to Connecticut legislating a state-wide court, Ohio a county court system and Massachusetts contenting itself with smaller area units? One purpose of this article is to appraise the areas utilized for juvenile courts. Another is to determine how much of a factor and what consideration has been given to area in determining the effectiveness of a juvenile court.

That area should be a factor is indicated by the concern the legal and social authorities have accorded it. Roscoe Pound's reasoning, very likely guided by his conception of judicial organization, has expressed a wariness of those who feel that the remedy for every social ill is a new court.⁷ This eminent legal authority, a past president of the National Probation and Parole Association, was convinced that the juvenile court should be a branch of the court of general jurisdiction of first instance.⁸ "Specialist judges rather than specialized courts,"⁹ he has insisted, is the most practical and efficient approach. This implies a reliance on the county area,¹⁰ upon which basis most states are judicially organized.¹¹

Those whose thinking is more aligned with social work theory veer not only away from the county as a unit, but conventional court systems as a whole. While Mr. Pound regards the Juvenile Court as a natural growth of the prevalent court systems, not a departure from them, others see in it such a sweeping change in emphasis¹² that not only a separate court but a state boundary is their goal. Charles L. Chute, late honorary vice-president of the N.P.P.A., concluded in advocating a state court; "separation from control by any other court is the best system."¹³

Two other solutions to the area problem have notable backing. The multi-county proponents suggest an apparent compromise, that counties band together to organize regional juvenile courts. Another group, seeming to believe that the juvenile court should serve a limited function, recommends no further alteration in the already existing courts than that they have separate sessions for juveniles, and permit other agencies, public and private, to perform all other duties.

One question is vital to any consideration of the geographic unit to be adopted: Does the juvenile court differ radically in approach and function from the regular court system? Legally, the answer is "No." In theory, the juvenile court is but an extension of our common law inheritance¹⁴—its foundation in the equitable principle

⁷ POUND, ROSCOE, *The Juvenile Court and the Law*, YEARBOOK, National Probation and Parole Association (N. P. P. A., hereafter), 1944, pp. 1-22 at p. 10.

⁸ *Ibid.*, pp. 10-11.

⁹ POUND, ROSCOE, *The Juvenile Court in the Service State*, YEARBOOK, N. P. P. A., 1949, pp. 21-43 at p. 37.

¹⁰ POUND, ROSCOE, ORGANIZATION OF COURTS, Little, Brown and Co., Boston, 1940, p. 283-284.

¹¹ TEETERS, NEGLEY K. AND REINEMANN, JOHN OTTO, THE CHALLENGE OF DELINQUENCY, Prentice-Hall, Inc., New York, 1950, p. 292. See also LOU, HERBERT H., JUVENILE COURTS IN THE UNITED STATES, University of North Carolina Press, 1927, p. 36.

¹² RUBIN, SOL, *State Juvenile Court: A New Standard*, FOCUS, July 1951, pp. 103-107.

¹³ CHUTE, CHARLES L., *Fifty Years of the Juvenile Court*, YEARBOOK, N. P. P. A., 1949, pp. 1-20, at p. 7.

¹⁴ FLEXNER, BERNARD AND OPPENHEIMER, REUBEN, *The Legal Aspect of the Juvenile Court*, CHILDREN'S BUREAU PUBLICATION No. 99, Government Printing Office, Washington, D. C., 1922,

of *parens patriae* is secure, and many of its procedures have been adopted by other courts.¹⁵ Fundamentally, it is organized as are all courts, to maintain the general security.¹⁶

Socially, however, the answer to the question posed above might well be "Yes." The juvenile court diverges widely in practice from any other court. It concentrates more and more on rehabilitation, and places less emphasis upon formal court room proceedings.¹⁷ No juvenile court receives a favorable evaluation today unless it has ready access to facilities for psychological testing, psychiatric and medical examinations, probation officers with master's degrees in social work, and a professionally supervised detention home. One judge goes so far as to analogize the court's work to that of a hospital.¹⁸ The issue, in part, is whether the answers to the above question should in fact affect the choice of a geographic or political area for a juvenile court, as is so frequently the case. An examination of the geographic settings in which the juvenile court functions today may do much to clarify this area problem.

THE COUNTY COURT

As Lou points out, "The coincidence of the area of jurisdiction with the taxing and governing unit is a great financial benefit;" moreover, other agencies, social and private, are generally organized on a county basis.¹⁹ Many advocate family or domestic relations courts which would include a juvenile court.²⁰ It would be a much simpler matter for the juvenile court to join in the area of jurisdiction which handles divorce, guardianship, non-support, paternity etc. cases, than to persuade these courts to join the juvenile court on a different geographic basis.²¹ Before recommending any alteration in the existing judicial pattern the juvenile court should be soundly tested upon the level where most courts do operate.²²

p. 1. See also WAYBRIGHT, ROGER J., *A Proposed Juvenile Court Act for Florida*, UNIVERSITY OF FLORIDA LAW REVIEW, Spring 1950 (reprint of article). And also PIGEON, HELEN D., PROBATION AND PAROLE IN THEORY AND PRACTICE, N. P. A., New York, 1942, pp. 54-55.

¹⁵ TEETERS AND REINEMANN, op. cit., see Chapter X.

¹⁶ For a general discussion of the Juvenile Court, in this regard, see LOU, op. cit., p. 32 and following.

¹⁷ LADY, JOSEPH E., *Some Aspects of the Juvenile Court Hearing, Youth Morality A Public Concern*, National Council of Juvenile Court Judges, May 1952, pp. 54-57. See also SCHRAMM, GUSTAV L., *The Court Hearing As Part of the Treatment Process*, YEARBOOK, N. P. P. A., 1949, pp. 44-56. As to evidence in the Juvenile Court, see GOLDSMITH, IRVING I., Legal Evidence in the New York Children's Courts, BROOKLYN LAW REVIEW, October 1933 (reprint of article).

¹⁸ ALEXANDER, PAUL, *Of Juvenile Court Justice and Judges*, YEARBOOK, N.P.P.A., 1947, pp. 187-205. But see PERKINS, JOHN F., COMMON SENSE AND BAD BOYS, published and copywrited by the Citizenship Training Group, Inc. of the Boston Juvenile Court, 1946, particularly p. 78 and following.

¹⁹ LOU, op. cit., p. 36.

²⁰ ALEXANDER, PAUL W., *The Family Court of the Future*, JOURNAL OF THE AMER. JUDICATURE SOC., August, 1952, pp. 38-46. Also in FEDERAL PROBATION, Dec. 1952, pp. 24-31.

²¹ The problem whether a juvenile court should be part of a family court or operated exclusively for juveniles is not pertinent here. However, I do feel it important that the reader be made aware, at this point, that such a problem does exist.

²² The Glueck study of 1934 had the effect of casting shadows on the value of the Juvenile Court *per se* let alone its extension. See ABBOTT, op. cit., p. 334 and following, particularly p. 338. But see

From a social point of view, delinquency is first a family problem, then a community responsibility and so on in ever increasing ripples. The farther away the authority, the less its influence upon the delinquent. The county, particularly in urban areas, is sufficiently local to comprehend the nature of its youth problem, and sufficiently populated and financed to provide the means of rehabilitation. Such reasoning does not prohibit the state from establishing minimum standards for juvenile courts as many states do; it does imply that a county willing to provide as well as possible for its youth, would not be leveled down to what a state legislature will compromise to for all its counties.

The criticism that a delinquent does not receive the same attention and treatment which an adjoining county would accord him, making the county unit an inequitable one, could as well be directed against adjoining state-wide systems, and no one yet has advocated a Federal Juvenile Court.

The county court recognizes that it should render unto Caesar that which is Caesar's. When it is economically unsound for a county to provide certain desirable services, it is not unusual for the state to organize a program to meet the need. Ohio has recently expanded its Bureau of Juvenile Research, which provides for examination, observation and classification of delinquents from counties where the population is less than 40,000.²³ Ohio also has statistical data organized on intensive local and comprehensive state levels.²⁴ New Jersey has developed a state agency program which seeks, in part, to raise the standards of its juvenile courts.²⁵ The Youth Conservation Commission in Minnesota and Wisconsin's Youth Service Commission are organized on state-wide levels, providing probationary, and other services, to the local courts.²⁶ In this manner home rule is preserved, no extensive changes in judicial structure are necessitated, and where services for children vary within states the more enlightened can establish a pattern for others to imitate.

THE STATE COURT

The N.P.P.A. has recently included in its Standard Juvenile Court Act an alternate section dealing with the creation of state courts.²⁷ The Association is aware that most counties do not have specially appointed judges and trained juvenile court personnel²⁸

the original study, GLUECK, SHELDON AND GLUECK, ELEANOR, *ONE THOUSAND JUVENILE DELINQUENTS*, Harvard University Press, 1934, particularly pp. 232-233. And see also the GLUECK-EASTMAN debate on this subject, *YEARBOOK, N. P. A.*, 1934, pp. 63-103. Also PERKINS, *op. cit.*, p. 11 and following.

²³ See *Bureau of Juvenile Research Reception Center, Public Welfare in Ohio Today*, Sept. 1953, p. 16.

²⁴ See the ANNUAL REPORTS of the Cuyahoga County Juvenile Court and also the Ohio State reports.

²⁵ MACNEIL, DOUGLAS H., *Two and One-Half Years of State-Local Collaboration in Delinquency Prevention*, *YEARBOOK, N. P. P. A.*, 1948, pp. 252-262 at p. 257.

²⁶ See TEETERS AND REINEMANN, *op. cit.*, p. 395. Also REED, GEORGE, J., *Minnesota's Youth Conservation Commission Program*, *FOCUS*, March 1953, pp. 49-51; and SMITH, RICHARD T., *Statewide Organization of Probation Services*, *YEARBOOK, N. P. P. A.*, 1950, pp. 130-138.

²⁷ See *A Standard Juvenile Court Act*, N. P. P. A., revised edition, 1949.

²⁸ But see NILAN, MARTIN F., *Its Different in the Country*, *FOCUS*, March 1951, pp. 40-42. Also, JAMESON, SAMUEL HAIG, *Experiment in Developing a Small County Juvenile Delinquency Program*, *FEDERAL PROBATION*, Jan-March 1943, pp. 38-40.

and many could not afford them. Where a state court is provided, the state can be divided into districts according to area, population and other determining factors, with a view to maintaining adequate services and eliminating such duplication and waste as arises from 134 municipal court judges, 115 probate court judges, and 500 Justices of the Peace handling delinquency cases—a situation which existed in Connecticut prior to the founding of a state juvenile court.²⁹

In a state court, probation services, detention and clinical facilities, and research activities could be established on an efficient, effective and adequately financed level. Civil service standards could be set up to help eliminate political appointments (the danger here to youth's rehabilitation cannot be over-estimated!), and salaries commensurate with the vital duties performed could be, and are,³⁰ paid.

County courts are predominantly big city courts, many rural areas having only the form without the substance of the juvenile court function. As a Children's Bureau pamphlet points out, delinquency is not essentially a big city problem:³¹ the significance of a state court's radii into hitherto unreached areas is manifest. The greater finances of a state court are believed to be an assurance that new resources can be more quickly developed and assimilated. Moreover, children's agencies would have one court to deal with rather than a maze of courts, each with a different personality and policy.

THE MULTI-COUNTY COURT

The Multi-County Court has at least two eminent supporters, though they limit their support to rural areas where only a combination of counties could afford the facilities necessary for an effective court. Judge Schramm has suggested³² that if a single county cannot afford a full-time judge it should consider a regional juvenile court in collaboration with neighboring counties; he also discusses the advantages of good local administration. L. J. Carr asks,³³ "Why not combine counties to provide enough work for one well-equipped, technically competent court in place of half a dozen or a dozen of the imitations that we now have."³⁴ This type of court is somewhat of a compromise between the two already discussed, but its advocacy, we should re-iterate, is restricted to rural areas.

THE LESS THAN COUNTY COURT

Such a court may be seen in operation in the city courts of Baltimore and Philadelphia, the in-town court of Boston, and the many areas where local and/or inferior courts receive the delinquency case assignment. Where state probation services are

²⁹ MACKEY, WILLIAM N., *The Juvenile Court as a State Responsibility*, YEARBOOK, N. P. P. A., 1951, pp. 114-128.

³⁰ While Wisconsin does not have a state court, its state run probation department is an indication of the efforts a state can put forth in acquiring a competent staff. See OSWALD, RUSSELL G., *Professionalizing Services*, YEARBOOK, N. P. P. A., 1950, pp. 139-145.

³¹ *Some Facts About Juvenile Delinquency*, Children's Bureau Publication, U. S. Department of Health, Education and Welfare. 1953.

³² SCHRAMM, GUSTAV L., *The Juvenile Court Idea*, FEDERAL PROBATION, Sept. 1949, pp. 19-23.

³³ *Most Courts Have to be Substandard*, *ibid.*, pp. 29-33.

³⁴ *Ibid.*, p. 31. But see note 28.

provided for the local courts, as in Wisconsin and New Hampshire, there is an apparent belief that the problem of rehabilitation (disposition) is one best left to less authoritative agencies, and that consequently there is no need to radically alter the existing court system.³⁵ Such reasoning is indicative of a visible trend to limit the juvenile court's function to the mere determination of delinquency.³⁶ If the features within various states on this level were combined, they would present this kind of picture: No investigation prior to an adjudication of delinquency;³⁷ if detention home facilities are necessary, the youngster is sent to a regional detention home,³⁸ if the court adjudicates the child a delinquent, he is assigned to a separate bureau which will determine the best plan for him.³⁹ The bureau⁴⁰ may decide upon probation and if so, a state probation officer is assigned,⁴¹ or the youngster may be sent by the bureau to a state institution. Thus, where actual court function is so restricted, there is no need to alter the existing court system in any way, since other independent agencies will do all accommodating beyond delinquency determination.

CONCLUSION

The above area groupings exhaust the possibilities. The favorable aspects of each have been presented; they, in turn, suggest the liabilities of the others. Conclusions as to which system is best immediately incurs the hazard of blacklisting all others by endorsing one, when in fact the county court has proved successful in many areas, the state court has eliminated much waste and duplication, the multi-county court has a limited practicality, and the idea of making the court itself subordinate to rehabilitation has obvious value. The best summation may be Miss Lenroot's opinion that there is really no such thing as a model court, that community interest and initiative are paramount in the success or failure of any court structure.⁴² This does

³⁵ Wisconsin does have a Children's Court in Milwaukee County.

³⁶ SEE LEWIS, WILLIAM DRAPER, *The Treatment of the Adolescent Offender*, YEARBOOK, N. P. P. A., 1940, pp. 79-92 at p. 86. One judge believes that if placement is to be in an institution not under juvenile court control then the court should merely adjudicate delinquency; WINNET, NOCHEM S., *Fifty Years of the Juvenile Court: An Evaluation*, 36 AMER. BAR ASSOC. JOUR. May 1950, pp. 363-366. See also KAHN, ALFRED J., *A COURT FOR CHILDREN*, Columbia University Press, New York, 1953, p. 275. For a general treatment of this subject see TEETERS AND REINEMANN, op. cit., pp. 338-342, particularly p. 341.

³⁷ CONNELLY, JOHN J., *Postadjudication Techniques in the Boston Juvenile Court, Youth Morality A Public Concern*, National Council of Juvenile Court Judges, May 1952, pp. 58-64 at p. 59.

³⁸ See FOCUS, Sept. 1953, p. 151.

³⁹ The stricture of Roscoe Pound against administrative agencies usurping the judicial function may well be pertinent here, though it should be borne in mind that under this procedure only the dispositioning power is taken away from the judge, not the power to adjudicate delinquency. But see POUND, *The Juvenile Court and the Law*, op. cit., at p. 5. See also PERKINS, op. cit., p. 86 and following. And see also KAHN, ALFRED J., op. cit. at p. 305: ". . . well-selected judges, working together with well prepared probation officers and provided with necessary resources and community facilities, can very effectively indeed arrive at an initiate case dispositions." Mr. Kahn discusses this topic at page 135, and read also pp. 301 and following. For a general discussion see TEETERS AND REINEMANN, op. cit., pp. 354 and following.

⁴⁰ See *Bureau of Juvenile Research Reception Center*, op. cit.

⁴¹ SMITH, op. cit.

⁴² *The Child, The Family, and the Court*, YEARBOOK, N. P. A., 1928, pp. 102-123 at p. 116.

suggest that before making a geographical boundary for the juvenile court other than that in effect for the general court system, the advantages of doing so should clearly outweigh not only what can be gained by maintaining the status quo but the disadvantage implicit in organizing a new institution.

In attempting to determine an area most suitable to our growing delinquency problem, one point should be clear. The juvenile court, while it is a vital adjunct to our court system, is neither the most nor by any means the least important structure in any judicial scheme of things. Just as no obese person would wittingly select a diet designed to eliminate excess weight at the risk of bodily health, so one could not intelligently advocate a juvenile court system which no legislature would consider, should it appear injurious or unsound in terms of the overall whole. We should recognize and keep the ideal clearly in mind, but work toward it with practical means.