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CONTEMPORARY STUDIES PROJECT: JUVENILE DELINQUENCY IN IOWA*

> Juvenile courts are the least understood and most misunderstood of the courts of our land. Their unique philosophy, procedures, and approach are features that not all segments of the population, even the legal profession and the bench, have fully perceived as yet. In our traditional courts the emphasis is on "did you or did you not?"; not on "why, under what circumstances, and what can be done to help?"[1]

What is juvenile delinquency in America? Juvenile delinquency in America is children under eighteen years of age committing over fifty percent of the burglary, breaking and entering, larceny, auto theft, arson, and vandalism offenses across the country. It is also children committing forty percent of the robbery offenses, twenty-nine percent of the liquor offenses, and twenty-four percent of the sex offenses other than forcible rape. It is also children committing murder and manslaughter.[2]

What is juvenile delinquency in Iowa?[3] Juvenile delinquency in Iowa is petty stealing, liquor offenses, breaking and entering, auto theft, malicious mischief against property, runaways, rape—and murder.[4] In 1964, five urban Iowa counties reported that forty-seven percent of the offenses committed by boys involved theft, burglary and unlawful entry, and auto theft; three percent of the offenses were crimes against the person. Of offenses committed by girls, sixty percent involved runaways, sex offenses, ungovernability, and other offenses; twenty-six percent involved theft; and two percent involved crimes against persons.[5] The younger a person is when first arrested,

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[1] Judge Schrum, as quoted in FEDERAL PROBATION, March 1967, at 33.

[2] U.S. DEP'T OF JUSTICE, CRIME IN THE UNITED STATES 116 (1966 Uniform Crime Reports) [hereinafter cited as 1966 Uniform Crime Reports].

[3] This study is based on questionnaires sent to district and municipal judges, probation officers, family counselors, social welfare directors, law enforcement officers, school administrators, community leaders, and mayors. The questionnaires were prepared with the assistance of Dr. Terry and Dr. Stratton of the Sociology Department of the University of Iowa, and were processed by the University Computer Center. Selective interviews were made in 33 counties and in state offices to supplement the questionnaires. These interviews were confidential, but the findings are represented in the conclusions. Any further reference to these interviews will be cited as Interviews.

[4] Questionnaire: General Section, chart evaluation 2.

[5] Iowa Dep't of Social Welfare, 1966 Delinquency Cases Reported by Ten Courts by Type of Disposition (Juvenile Court Statistical Card, Form CB-203-S Re-

the more likely he will be to commit subsequent crimes, and such later crimes are ordinarily of a much more serious nature.[6]

Who is the juvenile delinquent? The juvenile delinquent is one out of every six boys in America. In 1966, eighty-three percent of Iowa's delinquency cases involved boys, with the remainder girls; approximately a five-to-one ratio.[7] The nationwide ratio is similar.[8] The average age of children officially processed in 1960 for both boys and girls was fifteen. Unofficial dispositions that year involved children whose ages averaged 14 to 14.5 years.[9] Judges reporting in a survey made for this study indicated that about as many children acted alone as in groups, whereas probation officers determined that most delinquent acts involved two or more children.[10] The consensus of both judges and probation officers was that delinquency could not be directly attributed to any specific class, racial, or cultural group.[11]

Is juvenile delinquency under control? In the United States, arrests of juveniles during the period 1960-1966 increased by fifty-nine percent, yet the 10-17 age population rose by only nineteen percent.[12] From 1960-1965, the Iowa rate of reported delinquency cases per 1,000 children in the 10-17 age group increased from 18.4 to 22.3.[13] Sixty-eight percent of the judges, probation officers, and law enforcement officials who responded in the survey reported increases in one or more criminal offenses by juveniles in their locality—less than six percent reported decreases.[14]

Can it be defined? Delinquent behavior can only be defined in reference to some determinable standard of conduct. A society, to pro-

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vised) (data compiled on delinquency cases reported in Blackhawk, Linn, Polk, Pottawattamie and Scott counties).

[6] PRESIDENT'S COMMISSION ON LAW ENFORCEMENT AND ADMINISTRATION OF JUSTICE, TASK FORCE REPORT: JUVENILE DELINQUENCY AND YOUTH CRIME (1967) (hereinafter cited as TASK FORCE); Luger, *The Youthful Offender*, in TASK FORCE, *supra*, at 122; 1966 Uniform Crime Reports 29.

[7] Iowa Dep't of Social Welfare, Children's Cases Disposed of by the Juvenile Courts During 1966, Adm-4106-D. St. 7260 (1966).

[8] *See* 1966 Uniform Crime Reports 30.

[9] *See* IOWA DEP'T OF SOCIAL WELFARE, IOWA JUVENILE COURTS IN 1960, at 4, table 4 (1960).

[10] Questionnaire: General Section, question 3.

[11] Questionnaire: General Section, questions 9-18.

[12] 1966 Uniform Crime Reports 29.

[13] The 1960 rate is based upon 6,234 reported official and unofficial cases of delinquency. IOWA DEP'T OF SOCIAL WELFARE, IOWA JUVENILE COURT IN 1960, at 1 (1961). The 1960 population figure used was 338,235. U.S. DEP'T OF COMMERCE, 1 BUREAU OF THE CENSUS, pt. 17, table 16, 40 (1961). The 1965 rate is based upon a projected increase of 9.8% in the 10-17 age group. Iowa State University Cooperative Extension Service, Iowa's Population: Recent Trends and Future Prospects (Special Publication No. 47, May 1966). Delinquency cases totaled 8,396. U.S. DEP'T HEALTH, EDUCATION & WELFARE, CHILDREN'S BUREAU 18 (Stat. Series No. 85, 1966) [hereinafter cited as CHILDREN'S BUREAU].

[14] Questionnaire, *supra* note 4. The rate of delinquency, like arrest statistics, may be affected by law enforcement vigor and the availability and reporting effectiveness of probation and law enforcement officers. Conversely, many delinquent acts are never reported.

vide security for its citizens, usually establishes and maintains order through norms manifested in the rules and laws of that society. These norms must be broad and flexible enough both to encourage individual and collective initiative and to avoid stagnation. Conduct which does not conform to the societal norm is often termed deviance. Delinquent behavior, as that term is used in this study, is defined as any conduct which is sufficiently deviant to elicit a societal sanction. Thus, society, and no single individual, is the determiner of deviant behavior.[15]

I. Background

Prior to 1904, children in Iowa over seven years of age who committed crimes were prosecuted as adult criminals if they were determined capable of possessing criminal intent.[16] Before 1868, all children sentenced to security institutions were incarcerated in adult prisons.[17] Because of the recognition of a child's immaturity, critics contended that these practices were too inflexible and harsh, and rendered the child an object of trial and condemnation instead of care and solicitude.[18] Because the separate juvenile courts created by reform legislation[19] greatly modified traditional criminal procedures, it is essential to understand the theory which led to their development.[20]

Every child is entitled to the custody provided by its parents or guardian. This custody includes parental guidance, care, training, education, and protection for the child. When a child commits a criminal offense or engages in prohibited behavior, he is considered to have suffered a default on the part of his parents or guardian in their custodial responsibilities. Therefore, the state, acting as *parens patriae,* may intervene to provide the custody to which the child is entitled.

All children are born with promise for good, and it is believed that they may be guided away from socially undesirable behavior during their formative years. Society's duty to a child, it is reasoned, goes beyond dispensation of criminal justice. A determination of guilt or innocence is less important than an understanding of the child and the reasons for his misbehavior, and a determination of what treatment will most likely save him from later criminality and self-injury. The application of traditional criminal law to children, therefore, would be inappropriate because of its emphasis on punishment and isolation, as opposed to rehabilitation. Consequently, the juvenile court objective is to prescribe and apply the individual treatment which best meets the needs of both the misbehaving child and society. In analyzing the effectiveness of contemporary societal sanctions in achieving rehabilita-

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[15] Terry, *The Screening Of Juvenile Offenders,* 58 J. Crim. L.C. & P.S. 173-175 (1967).

[16] This was the common-law rule. *See* 52 Iowa L. Rev. 139, 140 (1966).

[17] In 1868 a Reform School was established for the reformation of boys and girls under eighteen years of age. Ch. 59, [1868] Iowa Acts 71.

[18] *See In re* Gault, 387 U.S. 1 (1967); Task Force at 2-3; Paulsen, *Fairness to the Juvenile Offender,* 41 Minn. L. Rev. 547, 548 (1957); 52 Iowa L. Rev. 139, 140 (1966).

[19] Iowa Code § 232 (1966), *as amended,* 2 Iowa Leg. Serv. 159 (1967).

[20] *See In re* Gault, 387 U.S. 1, 14 (1967); Kent v. United States, 383 U.S. 541, 555 (1966); Task Force 2.

tion, and more specifically, those utilized in Iowa, three treatment processes will be examined—the informal, the judicial or formal, and the post-judicial.

II. The Informal Process

For purposes of analysis, the informal process concept will include any treatment which does not involve a formal adjudication and disposition by the juvenile court. This definition, which is also used in preparing official Iowa statistical reports,[21] represents a generally recognized practical alternative to the sanctions of the formal judicial process. Because formal sanctions are not employed, much of the implementation or enforcement of informal treatment is dependent upon the consent and cooperation of the child and his parents.[22] The informal process is important because more than one-half of the juveniles identified as deviant are processed informally.[23]

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[21] *See* note 11 *supra*.

[22] *See* R. Cavan, Juvenile Delinquency 279-80 (1962); Task Force 16-17, 21.

[23] Iowa Dep't of Social Welfare, Instructions for the Report on Childrens Cases Disposed of by the Juvenile Court During 1965. Official cases are those placed on the docket by filing a petition, and disposed of by court order, after a hearing by the judge. Unofficial cases are those disposed of by the judge or probation officer without a petition, through an informal interview with the child and/or his parents or guardian.

Using these definitions the following information was made available through the Division of Research and Statistics, State Department of Social Welfare, Des Moines, Iowa:

OFFICIAL DELINQUENCY		UNOFFICIAL DELINQUENCY	
Boys	Girls	Boys	Girls
1737	310	4692	1044

A more detailed breakdown was made available by the Dep't of Social Welfare for Black Hawk, Linn, Polk, Pottawattamie and Scott Counties for 1964, revealing that informal treatment is significant in all areas.

Total Cases		*Official*		*Unofficial*	
		Boys	Girls	Boys	Girls
1964 Total	4189	673	189	2696	631
Auto Theft	312	131	4	174	3
Burglary and Unlawful Entry	336	113	2	221	—
Robbery	26	13	—	12	1
Other Theft	1116	131	21	823	191
Truancy	58	14	14	22	8
Running Away	289	33	43	114	99
Ungovernability	401	81	61	156	103
Sex Offense	166	32	21	82	31
Personal Injury	130	36	4	82	8
Carelessness or Mischief	612	43	3	511	55
Other Delinquency	678	41	14	496	127
Offense Not Given	15	5	2	3	5

For the purposes of this study, these definitions are used:

Robbery includes shoplifting, stealing from autos, passing bad checks, receiving stolen property, stealing bicycles, fraud, forgery, and blackmail.

Ungovernability includes persistently unsatisfactory behavior, beyond parental control, vile and obscene language, stays out nights, incorrigibility, and abusive actions.

Carelessness includes vandalism, malicious mischief, arson, fighting, disturbing

The informal treatment process may be categorized as pre-judicial, extra-judicial, and non-judicial methods of treatment.[24] Each treatment method within the informal process involves the making of discretionary decisions. The initial discretionary decision determines the type of treatment to be imposed upon a deviant child.[25] Subsequent discretionary decisions determine the specific application of that treatment and ultimately affect the success of true rehabilitation. Thus, both the initial or dispository decision and the actual treatment must be analyzed.

A. *Pre-Judicial Informal Treatment*

Because many juvenile offenders are not formally treated, some type of screening process is utilized by court officers to avert adjudication. This screening process is the substance of pre-judicial treatment.

1. Treatment by Police Officials

A face to face confrontation with an arresting officer is often a juvenile delinquent's first contact with the law.[26] A police officer on his local "beat" has perhaps the best opportunity to observe youthful behavior and movement, and to recognize those conditions which are conducive to delinquent behavior. Because of his ideal position to identify potentially delinquent children and report neighborhood conditions which may cultivate deviant behavior, the law enforcement officer plays an initial and significant role in screening the deviant away from the judicial process.[27]

The discretionary alternatives available to law enforcement officers include outright release, release after a parental conference, treatment within the police department, referral to a non-judicial agency for treatment, and referral for judicial disposition. Because initial contact with the law may be important in shaping a juvenile's future attitude toward society and its legal system, such discretionary decisions must be made with care.[28]

There are few non-judicial treatment agencies available in rural Iowa communities. Police officers in such communities are hesitant to refer any child to an agency outside the local community, apparent-

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the peace, discharging firearms, concealed weapons, gambling, cruelty to animals, and indecent exposure.

Other Delinquency includes violation of liquor laws, intoxication, violation of curfew, fish, game or narcotic laws, vagrancy, resisting police, and (occasionally) traffic violations. (Statistics provided by R.C. Ferrier, Statistician, Division of Research and Statistics, Iowa Dep't of Social Welfare.)

[24] TASK FORCE 9.

[25] *See* Barker, *Police Discretion and the Principle of Legality,* 8 CRIM. L.Q. 400 (1966); Breitel, *Controls in Criminal Law Enforcement,* 27 U. CHI. L. REV. 427 (1960); LaFave, *The Police and Nonenforcement of the Law—Part I,* 1962 WIS. L. REV. 104.

[26] R. BRECHER & E. BRECHER, THE DELINQUENT AND THE LAW (Public Affairs Pamphlet No. 337, 1962); *see* J. KENNEY & D. PURSUIT, POLICE WORK WITH JUVENILES 5 (1959).

[27] *See* note 26, *supra.*

[28] *See* R. CAVAN, *supra* note 22, at 233, 239; TASK FORCE 13-14.

ly because of a distrust of agencies located outside the community, coupled with a determination on the part of local officials to solve their own problems. Thus, the typical rural community exclusively controls its own program. Some county and district probation officers indicate that they have had no communication or contact with smaller communities in their area for several years. Because rural communities lack alternatives in treatment methods and resist outside aid, nonjudicial dispositions by the police officer are often confined to release with a stern warning, or release after a parental conference.[29] Thus, many children in need of professional diagnosis and guidance do not receive it.

Local officials approve of release without treatment because a rural officer can usually maintain continual informal observation and supervision of the child, and a greater potential exists for officer-family communication and cooperation. Readjustment of the juvenile is generally sought through pressure to conform to the community standards exerted upon the child by his school, his church, his family, and his contact with a police officer. Thus, because the costs of a behavioral program are too great for any rural community to bear individually, and because cooperative programs are rejected, emphasis is apparently centered upon the correction of overt behavior and not an investigation of the underlying causes of deviancy.

In larger Iowa communities there are two categories of discretionary law enforcement decisions—those made by the police officer making initial contact with the juvenile, and those made by the officer in charge of the police organization. For both categories, more nonjudicial agencies are available as options for treatment than in a rural area.[30] A resident county probation officer is also available for consultation or referral. Close communication is generally maintained between the police officials and the probation office, and records of every juvenile contact may be kept in the police file for future reference by probation authorities. These factors tend to result in a more formal, or standardized process of discretionary decision-making. Consequently, the officer on the beat generally has less freedom to make the dispository decision. Nonetheless, such decisions are often made, and in such cases they are as significant as those of the rural police official.

Referral decisions by law enforcement officers, both rural and urban, are sometimes influenced by factors extraneous to the alleged offense or available treatment methods. The social and economic status of the offender's family may influence an official decision. In other cases the independent spirit of the child himself may be considered relevant. The child's individual needs, however, are usually overlooked. Thus, although more treatment agencies and specialists are generally available in urban areas, the danger still exists even there that arbitrary and inconsistent action, rather than true rehabilitation, will result.[31] To enhance the probability that meaningful rehabilita-

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[29] Barker, *supra* note 25, refers to this as "failure to initiate the process of the criminal law." *See* Suria & Bassiouni, *The Illinois Juvenile Court Act—A Current Perspective*, 5 ILL. CONT. LEGAL ED. 110 (1967); Interviews.

[30] *See* text following note 85, *infra*.

[31] Breitel, *supra* note 25; Tappan, *Unofficial Delinquency*, 29 NEB. L. REV. 544, 554-55 (1950).

tion may result from the discretionary screening decision, police officers must be trained to recognize the behavioral problems which contribute to delinquency. Where a shortage of properly trained personnel exists, some method of supervision by qualified personnel should be initiated to ensure that proper attention is given to all the circumstances involved in the deviant conduct.[32] Additionally, uniform standards should be established to guide all officers in their determination of what type of disposition is proper.[33]

Perhaps the best solution to the problem of improper initial disposition is creation of a separate youth or juvenile division within the police department.[34] Through full time attention to juvenile problems, officers with an aptitude for, and express interest in, such problems will have an opportunity to achieve the desirable degree of specialization.[35] Moreover, juvenile bureau officers should be able to wear street clothes, drive unmarked cars, and work on a flexible schedule, thus allowing them to move more freely through areas of high youth activity.[36] Because of the juvenile officer's special training in observation and understanding of deviant juvenile behavior, the teenagers may be less likely to manifest the undesired "cop-hater" reaction which is prevalent among many delinquents.[37]

A number of Iowa's largest cities presently have a specialized juvenile police bureau.[38] Some of those bureaus, however, are assigned only one or two officers. Other cities, such as Waterloo, have not yet developed a special program, and juvenile bureaus in communities of less than 30,000 are almost non-existent. This situation is not necessarily unavoidable. Studies indicate that a police department with at least fifteen officers should be able to have at least one full time juvenile officer.[39] Consequently, larger communities could and should increase their juvenile staff proportionately. Even a rural Iowa police force of three or four officers could allocate major responsibility for

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[32] Breitel, *supra* note 25, at 433.

[33] A new law-enforcement academy established by the 62nd General Assembly of the Iowa legislature may offer needed assistance in providing law-enforcement officers with specialized training opportunities in the juvenile area. *See generally,* IOWA CODE (1966), *as amended,* 4 Iowa Leg. Serv. 794 (H.F. 260, 1967).

[34] A detailed discussion on this suggestion is found in R. MYREN & L. SWANSON, POLICE WORK WITH CHILDREN 9 (1962). *See also* R. CAVAN, *supra* note 22, at 242; J. KENNEY & D. PURSUIT, *supra* note 26, at 7-9.

[35] R. CAVAN, *supra* note 22, at 244; J. KENNEY & D. PURSUIT, *supra* note 26, at 49-52; R. MYREN & L. SWANSON, *supra* note 34, at 4-6.

[36] *See* R. CAVAN, *supra* note 22, at 245-46; J. KENNEY & D. PURSUIT, *supra* note 26, at 27-28. Discovery of delinquency and conditions inducing delinquency are important for the development of a delinquency control and prevention program. The comunication and inspection necessary for such a program require maximum mobility. A specialized juvenile bureau should be geared to such a program.

[37] R. BRECHER & E. BRECHER, *supra* note 26, at 9.

[38] Five police officers responding to the questionnaire indicated that some members of their bureau had some special training in the juvenile area; 43 reported no such specialized officers. Questionnaire: Police, on file at the *Iowa Law Review,* College of Law, Iowa City, Iowa. Sioux City, Iowa, provides an excellent example of a Youth Bureau with specialized officers.

[39] J. KENNEY & D. PURSUIT, *supra* note 26, at 36.

juvenile problems to one officer. Because specialized juvenile officers are highly desirable, if not absolutely vital, to the success of a law enforcement program,[40] Iowa police departments should take whatever action is necessary to ensure that such individuals are available to the community.

Juvenile department officers, like non-specialized officers, should have guidelines or standards for making the proper dispository decision. These standards will vary among communities and depend on the quality and extent of officer training for juvenile work, and the availability of community treatment resources, both public and private.[41] An example of such decision-making guidelines is provided by a special handbook for all Connecticut juvenile officers.[42] This manual recommends that all cases involving such offenses as stealing, fugitiveness, heavy property damage, and serious physical violence should be referred to the juvenile court. On the other hand, offenses involving minor property damage, neighborhood grievances, and trivial infractions of community rules are not to be referred to the juvenile court unless more serious and qualifying factors exist.[43] These recommendations, however, still remain inflexible to a degree and retain a major emphasis upon the seriousness of the alleged offense. While seriousness of offense does provide a partial insight into the child's needs, other indicators should also be considered.[44] As training and specialization of officers increase, the number and the quality of these standards should improve, enhancing the correlation between the child's needs and the disposition selected.

When a decision is made not to refer a child to the juvenile court, an officer often must determine whether other public or private agencies should be utilized. Because treatment referrals should be made to correspond with the individual child's needs, an officer must be aware of the various community programs available for the redirection of deviant behavior[45] and the specific purposes which they serve.[46]

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[40] COUNCIL OF STATE GOVERNMENTS, JUVENILE DELINQUENCY, A REPORT ON STATE ACTION AND RESPONSIBILITIES 16-17 (1962).

[41] *See* Address by R.A. Myren, *Processing and Reporting of Police Referrals to Juvenile Court*, SOUTHWESTERN LAW ENFORCEMENT INSTITUTE OF SOUTHWESTERN LEGAL FOUNDATION 65, 70 (reproduced by U.S. Department of Health, Education, and Welfare, Social Security Administration, Children's Bureau, 1962).

[42] JUVENILE COURT FOR THE STATE OF CONNECTICUT, POLICE PROCEDURES IN JUVENILE CASES 8-9.

[43] *Id.*

[44] Other considerations which might be included in dispositional decisions are family attitude, home environment, prior record, degree of temptation in the alleged offense, and the efficacy of a warning in preventing a reoccurrence of the offense. *See* Barker, *supra* note 25, at 401-02.

[45] *See* J. KENNEY & D. PURSUIT, *supra* note 26, at 13; R. MYREN & L. SWANSON, *supra* note 34, at 31.

[46] Police officers have no special training or competence in the behavioral sciences and, therefore, should not become involved in treatment. Other agencies are prepared to assume this responsibility. *See generally* J. KENNEY & D. PURSUIT, *supra* note 26, at 117-128; R. MYREN & L. SWANSON, *supra* note 34.

2. *The County Attorney*

A significant number of rural Iowa law enforcement officials, especially sheriffs, refer all juvenile cases to the county attorney.[47] The discretionary screening power is thereby transferred to the office of the county attorney.

The responsibility for the discretionary decision-making appears to have shifted to the county attorney either through a non-exercise of that power by the sheriff, or because the probation officer, who is considered responsible for this function, is overworked, unqualified, or not immediately available in the county. In reaching his dispositional decision, the county attorney generally conducts an informal hearing. The child and his parents, the county sheriff, and often the probation officer are usually present.[48] Generally, no provision is made for defense counsel. Because these hearings are very informal and function without procedural due process protections for the juvenile, agreement to treatment is voluntary on the part of both the parents and child, although some "persuasion" may be used by the county attorney in his presentation of alternatives.

The county attorney is usually not trained in the behavioral sciences and lacks the necessary expertise in problem diagnosis and treatment. The individual needs of a juvenile, therefore, are often overlooked or sacrificed to expedient procedures. Hence, assumption of juvenile responsibilities by the county attorney, although praiseworthy on a short term basis, is only a stop-gap measure.

3. *Probation Officers*

The *Iowa Code* defines probation as:

> . . . [A] legal status created by court order following an adjudication of delinquency whereby a minor is permitted to remain in his home subject to supervision by the court or an agency designated by the court and subject to return to the court for violation of probation at any time during the period of probation.[49]

Informal probation may be imposed by the court without a formal adjudication, or by a probation officer without reference to the court. As a treatment form, informal probation is generally identical to formal, and many of the problems and recommendations regarding one are also applicable to the other.

Where the probation officer is well qualified, many dispositional decisions other than probation are referred to him. These decisions are based upon a diagnosis, which usually includes an analysis of the child's behavior, personality, social situation, family, and general environment.[50] Thus, availability of a probation officer qualified to make such a diagnosis provides an opportunity for insight into a child's antisocial behavior and facilitates selection of the proper treatment method.[51] Conversely, if a probation officer is not qualified to make a diag-

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[47] Interviews with eighteen county attorneys.

[48] Interviews.

[49] IOWA CODE § 232.2 (11) (1966).

[50] 13 CRIME & DELINQUENCY 44 (1967).

[51] An excellent example of such a diagnostic system was found in Linn County. Many rural officers are not able to provide diagnostic services.

nosis of deviant behavior, or makes no effort to use his diagnostic skills, the treatment which he selects may not relate to the rehabilitative needs of the child.

Once informal probation is selected as the treatment form, a probation officer is responsible for its imposition. In many Iowa communities, probation is a series of restrictive conditions imposed upon the offender and supplemented by some type of supervision. These conditions are often standardized and presented to the juvenile on a mimeographed form. At times individualized conditions are also imposed. General probation conditions used in Iowa may include a requirement of church attendance, a limitation on personal association, a restriction on movement and hours of activity, a standard of minimum scholastic achievement, and a request for respect of adults.[52]

The probation conditions imposed should meet certain requirements. They should always be stated in positive and purposeful terms understandable to both the child and the probation officer.[53] They should be achievable[54] and enforceable.[55] In addition, they should be reasonably limited in their restriction of normal juvenile activity. Probation officers should also consider the impact which the conditions will have upon the parents and their day-to-day problems of home management. If these practical factors are not considered, the conditions imposed may hinder proper behavioral adjustment.

Where trained probation officers are available, usual restrictions may be supplemented or replaced by counseling. The qualitative nature of an informal probation program, however, is often determined by the extent of the probation officer's training, his workload, and the size of his district. Rural Iowa probation officers, for example, have responsibility for as many as six or seven counties, which limits the time they can devote to any one child.

Because any probation conditions are imposed informally, they must be voluntarily accepted. Certain pressures, however, such as a threat of formal adjudication as an alternative, are often used to attain consent. The United States Supreme Court, in *Bantam Books, Inc. v. Sullivan*,[56] held that thinly veiled threats of invoking legal sanctions

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[52] The following conditions were extracted from probation forms utilized in numerous Iowa counties:

1. The defendant will attend church and religous services regularly. (An alternative—You shall make an honest effort to attend church.)
2. The defendant will not be allowed to drive a car.
3. The defendant will keep good company, dress and look like the average boy.
4. The defendant will not be allowed in cars with questionable people.
5. The defendant will attend school regularly and keep grades average or better.
6. You will show respect to your parents, teachers, and the public.
7. You shall associate only with boys and girls within one year of your own age, none of whom shall have a juvenile or criminal record.

[53] D. DRESSLER, PRACTICE AND THEORY OF PROBATION AND PAROLE 171 (1959).

[54] *See* R. CAVAN, *supra* note 22, at 287.

[55] D. DRESSLER, *supra* note 53, at 173.

[56] 372 U.S. 58 (1963). The Rhode Island legislature created a commission to patrol the book market, *i.e.*, identify and expose the sale of obscene writings. This commission warned distributors that a failure to cooperate in removing these books might result in prosecution. The U.S. Supreme Court found such warnings

or other means of coercion, persuasion, or intimidation to obtain voluntary cooperation or self-imposed restrictions are unconstitutional.[57] Therefore, current practices of coercion, subtle or overt, could be considered improper and should be terminated. In some cases, however, the child may not cooperate under any circumstances, and resort may have to be made to the formal process for treatment.

Some of the present probation conditions which substantially restrict a child's activity are punitive rather than rehabilitative. These more severe restrictions upon the individual may not be imposed without the protection of procedural due process. Thus, such conditions should be imposed only after a formal court adjudication.[58] Furthermore, probation conditions which interfere with a child's first amendment freedoms, such as a requirement of church attendance, have been held unconstitutional.[59] Such conditions, therefore, should not be imposed by either the formal or informal process.

Once probationary restrictions have been imposed, they must be adequately supervised. An unsupervised child on probation may conclude that the probation officer either can be easily fooled or does not care whether the imposed conditions are obeyed.[60] In either case the result is undesirable. The better staffed offices in Iowa, usually those in the larger communities, make weekly contact with each child. Some rural probation officers are overburdened with work and must depend upon monthly correspondence, for their supervision of a child. Because the rehabilitative goal requires that supervision be close and continuing, augmentation of Iowa probation staffs is an immediate necessity.

There generally are underlying environmental factors which precipitate deviant behavior. An adequately staffed and trained probation office, therefore, should not only attempt to redirect a child's overall conduct, but should also seek to rebuild his personality.[61] This may be partially accomplished through a positive casework approach. Weekly or bi-weekly meetings of the parents, child, and probation officer may assist the child in recognizing his problems and developing resources to overcome them. Moreover, the entire family would recognize their involvement and the importance of their positive readjust-

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to be intimidations to achieve voluntary supression of "obscene writings," and held such informal coercive censorship unconstitutional.

[57] *Id.* at 67-68.

[58] The punitive uses of informality are improper and dangerous. Substantial interference with parental judgment and curtailment of the juvenile's activities must be preceded by an adjudication or the intervention is extralegal. The well-known practice of informal probation is vulnerable to attack on this ground; by measuring a juvenile's conduct according to conditions informally laid down by officials of the state, it constitutes an interference with choices of parents and juveniles that is legitimate, under our legal traditions, only when the basis for intervention has been established in accordance with procedural rules. TASK FORCE 17.

See Paulson, *supra* note 18, at 547, 554 (1957).

[59] Jones v. Commonwealth, 185 Va. 335, 344-45, 38 S.E.2d 440, 448 (1946).

[60] 13 CRIME & DELINQUENCY 63 (1967).

[61] *See* R. CAVAN, *supra* note 22, at 288; C. NEWMAN, SOURCEBOOK ON PROBATION, PAROLE AND PARDONS 161-65 (1964).

ment to the child's rehabilitation.[62] Success of the casework approach, however, requires that the probation officer receive training in social casework, and that his caseload be limited to ensure that the necessary time can be devoted to each child.

4. The Judge

The *Iowa Code* provides for an informal judicial disposition of probation.[63] Informal probation is often imposed because the judge hesitates to burden a young child with a delinquency record. Consequently, informal disposition is usually imposed in cases of first and second offenders, many of whom have previously been placed on informal probation by a probation officer in connection with other incidents. Thus, a child may ultimately have many contacts with the informal probation process before being adjudicated a delinquent.

Judges also use informal probation in conjunction with the findings of an informal juvenile hearing. Although no official adjudication is reached, the initial steps may be taken. A social history of the child is generally prepared for the hearing. Counsel is often provided for the child, either by his parents or the court. Because there is no adjudication, though, the informal hearing and disposition is voluntary. In many cases the judge may order a continuance of the hearing to give the child another chance to improve his conduct. If the child's behavior does not improve, the probation officer can then return the child to the court for additional findings.

The judge's statutory power to impose informal probation is qualified by three requirements. Facts which are pleaded must be admitted by the minor, consent must be obtained from the parent or guardian, and efforts to effect an informal adjustment through this procedure must not be continued for more than three months without a judicial review.[64] It would appear, however, that in practice some judges are acting without obtaining full consent or admissions from the child and parent, or that subtle coercive power is used to gain such acknowledgment.[65] Probation is also informally imposed for periods of six months to one year without provision for judicial review. Because these statutory qualifications are founded upon fairness and rehabilitative principles, they should not be circumvented for the sake of expediency or informality.

B. Informal Judicial Treatment Without Jurisdiction

The *Iowa Code* specifically provides that inferior courts have no jurisdiction over juveniles for any public offenses other than traffic violations.[66] Notwithstanding this provision, many juveniles are referred to an inferior court for informal disposition. The majority of

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[62] *See* R. CAVAN, *supra* note 22, at 288; C. VEDDER, JUVENILE OFFENDERS 38-39 (1963).

[63] IOWA CODE § 232.3 (1966), *as amended*, 2 Iowa Leg. Serv. 159 (1967).

[64] *Id.*

[65] *Cf.* Bantam Books, Inc. v. Sullivan, 372 U.S. 58, 67-68 (1963).

[66] IOWA CODE § 232 (1966), *as amended*, 2 Iowa Leg. Serv. 159 (1967). *See also* OP. IOWA ATT'Y GEN., Scalise to Carlos under date of Nov. 2, 1965; OP. IOWA ATT'Y GEN., Scalise to Burris under date of Sept. 9, 1965.

these extralegal cases processed by an inferior court involve liquor and beer violations, although disposition of other offenses, ranging from shoplifting to fighting, also occur.[67]

Several "legal" justifications for these extralegal dispositions have been offered. It has been argued that a juvenile's consent to inferior court jurisdiction constitutes a waiver of his right to a juvenile court disposition. However, because subject matter jurisdiction of informal juvenile disposition has been specifically excluded by the *Code*, jurisdiction by such consent would clearly appear to circumvent legislative purpose.

Because Iowa law considers all drivers as adults for purposes of traffic violations,[68] extralegal jurisdiction may be asserted over a juvenile offender by charging him with such a violation. For example, "camping with a motor vehicle" was used to assert jurisdiction over a juvenile in one county in preference to a charge of auto theft. It would appear that such a guise not only distorts the plain meaning of the traffic statute, but like the consent rationale, clearly frustrates a legislative intent to dispose separately of all other juvenile offenders.

Another justification for extralegal disposition has been founded on an informal agreement between the juvenile judge and the inferior court judge. Instead of complying with the requirements of the *Code*, which would provide for transfer after a hearing in the juvenile court, the child is sent directly to the inferior court without any contact with the juvenile court.[69] This informal transfer without a hearing is in violation of the statute.

In addition to the "legal" justifications, some inferior court judges proffer a justification based upon the practical consideration of expediency. It is contended that a tremendous burden would be imposed upon the juvenile court if it were required to take all juvenile cases, especially the voluminous number of beer and liquor violations.[70] Also, many rural communities are not county seats and do not have a local district court; the only judicial agency is an inferior court. Most parents in these communities, it is argued, are said to prefer a local disposition to that of an outside agency.[71] Thus, another benefit of the inferior court jurisdiction is its proximity to all parties involved and the immediacy of disposition which therefore results.

Finally, because the inferior court does not make a finding of delinquency, or maintain an official record, it is thought that its disposition does not mark a child, or affect his reputation as would a juvenile court appearance. In some ways, therefore, the inferior court is satisfying a need in the rural counties created by abdication of the role by

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[67] Interviews.

[68] IOWA CODE § 321.482 (1966). "Chapter 232 shall have no application in the prosecution of offenses committed in violation of the chapter which are punishable by fine of not more than one hundred dollars or imprisonment for not more than thirty days."

[69] IOWA CODE § 232 (1966), *as amended*, 2 Iowa Leg. Serv. 159 (1967).

[70] Probation officers considered liquor violations to be the most serious problem in their district. Of the officers who responded, 84.6% classified it as a serious problem, and 83.1% said liquor violations were increasing. Questionnaire: Probation Officers. *See generally* TASK FORCE 10.

[71] Interviews.

police and probation officers, and by the apparent limitations present in the formal process.

The inferior court, however, does not have legal jurisdiction. Its dispositions, therefore, must involve informal treatment based upon consent.[72] Yet, regardless of consent, any informal treatment must be positively related to the child's needs.[73] Punitive or overly restrictive treatment should be limited to formal dispositions which provide procedural due process protection.[74]

A mayor or justice of the peace is not given any legal or behavioral training in the juvenile area. Most of them do not have access to the child's social history for making a dispositional decision. Therefore, an inferior court judge often has no objective basis upon which to diagnose the juvenile's problems and needs, and order the proper treatment. In fact, the traditional inferior court disposition, a fine which may vary from twenty-five to one hundred dollars, is usually paid by the parent, and the child does not feel personally affected. Moreover, under such circumstances, the fine discriminates against the poor child whose parents are unable to pay. Thus, the imposition of a fine has been held to be punitive,[75] and because the protections of procedural due process are required when the disposition is punitive rather than rehabilitative, it would seem that the fine cannot be justified as an informal disposition.[76]

In a very few circumstances, other "treatments" may be used in conjunction with the fine. For example, a mayor in northern Iowa provides each juvenile with three alternatives: a twenty-five dollar fine, a five day work assignment, or a six day jail sentence. Generally, no type of counseling supplements any of these dispositions. Thus, regardless of the practical arguments for an inferior court disposition, the inferior court probably should not participate in the informal process because it either does not have access to positive treatment services or does not utilize them. However, until other services are improved and made more readily available in the rural areas, the inferior court will undoubtedly continue to exercise authority in an extra-legal manner. Thus, while the ultimate solution may be an improved juvenile treatment system, an immediate effort should be made to provide inferior court officers with a minimum of training for the de facto involvement.

C. Informal Non-Judicial Treatment

1. School Involvement

Schools have a vested interest in the correction of deviant juvenile behavior because the attainment of educational objectives requires the continual development and socialization of the child.[77] By receiving

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[72] R. CAVAN, *supra* note 22, at 279-80; TASK FORCE 16-22.

[73] TASK FORCE 17-18; Paulsen, *supra* note 18, at 548.

[74] *See* note 73, *supra*.

[75] Robinson v. Wayne, 151 Mich. 315, 326, 115 N.W. 682, 686 (1908).

[76] *See* Antieau, *Constitutional Rights in Juvenile Courts*, 46 CORNELL L.Q. 387, 388 (1961).

[77] *See* R. CAVAN, *supra* note 22, at 181; J. KENNEY & D. PURSUIT, *supra* note 26, at 285; C. VEDDER, *supra* note 62, at 52-53.

children at an early age and observing them for several years, schools are in an ideal position to detect the initial signs of maladjustment and take the necessary preventive and remedial action.[78] Because of its potential to identify the problem child, the school is encouraged to coordinate the services of the school, community, and home in meeting the child's needs.

Serious in-school misbehavior, involving such things as petty theft, property damage, and fighting, is generally treated within the school. In addition, private citizens in many communities, especially rural communities, report out-of-school delinquent actions to the school for treatment. Iowa schools, therefore, usually play a prominent role in the correction and treatment of socially deviant juvenile behavior.[79]

The traditional punitive actions in the schools—corporal punishment, parental conferences, suspension of extra-curricular activities, assignment of extra work, and suspension from school—are still used. However, there seems to be an increasing availability and utilization of individual counseling.[80] In addition to a counselor, several school districts now employ a social worker who works with the problems of entire families. Because of their training in the behavioral sciences, such counselors and social workers offer a positive alternative to the more standard punitive measures.

An individual's proper societal adjustment often requires an experience of successful achievement in that society.[81] An unsatisfactory curriculum, poor teaching methods, or an unhappy classroom experience may contribute to a child's academic failure, which may in turn create resentment toward society.[82] To enhance the educational

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[78] *See* J. KENNEY & D. PURSUIT, *supra* note 26, at 284.

[79] In response to the question, "How often do you handle within the school, without referral to legal authorities, the following types of juvenile misbehavior for which there could be criminal prosecution?," the following percentages were given:

	Always handled within the school	Usually handled	Sometimes handled	Never handled	No response
a. Sex offenses	(1) 1.4%	(3) 4.2%	(14) 19.7%	(51) 71.8%	(2) 2.8%
b. Assault	(1) 1.4%	(17) 23.9%	(27) 38.0%	(25) 35.2%	(1) 1.4%
c. Serious Property Damage	(0) 0.0%	(12) 16.9%	(30) 42.3%	(29) 40.8%	(0) 0.0%
d. Minor Property Damage	(22) 31.0%	(24) 33.8%	(22) 31.0%	(2) 2.8%	(1) 1.4%
e. Serious Theft (over $20)	(1) 1.4%	(9) 12.7%	(21) 29.6%	(38) 53.5%	(2) 2.8%
f. Minor Theft	(19) 26.8%	(22) 31.0%	(25) 35.2%	(5) 7.0%	(0) 0.0%
g. Breaking and Entering	(1) 1.4%	(6) 8.5%	(14) 19.7%	(49) 69.0%	(1) 1.4%
h. Arson	(0) 0.0%	(0) 0.0%	(4) 5.6%	(64) 90.1%	(3) 4.2%

Questionnaire: Schools.

[80] *See generally* R. CAVAN, *supra* note 22, at 190.

[81] *See* J. KENNEY & D. PURSUIT, *supra* note 26, at 284-85. *See also* TASK FORCE 49.

[82] *See* note 81, *supra*.

potential of its students many Iowa schools use a tracking system, separating students into ability groupings. Lower ability groups are often given the same courses, or some diluted form of these courses, rather than courses related to the skills which they possess and consider important.[83] Placement in a lower ability group may also create a social stigma for the child involved. Such a placement may reinforce a child's negative self-image and become a self-fulfilling prophecy.[84] In some schools, these unintended contributions toward a child's failure are multiplied when the lower ability group is assigned to an inflexible *C*, *D*, or *F* grading scale. It would seem most important for these students to experience some reward or success, and yet they have been relegated at the outset to the lower end of the grading scale.

A school's contribution to a student's academic failure, although unintentional, may create or complicate juvenile maladjustment.[85] Many juveniles who experience continual failure become "drop-outs,"[86] a category of individuals which constitutes the majority of juvenile offenders.[87] If a plan for detection and correction of the reasons for students becoming drop-outs can be instituted in our school systems, a greater measure of social readjustment may be achieved. Thus, a flexible curriculum, suitable materials, and teachers trained to recognize the needs of lower ability students would provide these students with the opportunity for successful and meaningful experiences.[88]

Educational developments to assist the juvenile are not limited to the community school. Some programs are presently being initiated in multiple-county units for coordinated work study programs. These programs provide release time for work and are supplemented by instruction which corresponds to that work. Program participants are encouraged to engage in all school activities, and remain a part of the school system. Although admission to these programs is presently limited to the mentally or physically handicapped student, potential does exist in this program for motivating those average and poor students dissatisfied with the standard curriculum.

To promote the goal of juvenile readjustment, the Iowa Department

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[83] TASK FORCE 246.

[84] *Id.* at 236.

[85] TASK FORCE 49.

[86] *See* Des Moines Enrichment Program, Proposal for a Major Demonstration Project Under Provisions of Public Law, (1962). This proposal reports that the percentage of all children in Des Moines aged 16-17 enrolled in Des Moines public schools had dropped from 67.5 percent in 1950 to 54.7 percent in 1960. The report also stated that 48 percent of the delinquents aged 16-17 were school drop-outs. It indicated that 95 percent of the children having contact with the juvenile court were from one to seven years retarded, and only one-half of one percent scored above their grade level on tests administered.

[87] Although there is no direct cause and effect relationship, there is some evidence that delinquency is much greater among drop-outs than among high school graduates. The United States Secretary of Health, Education, and Welfare recently estimated that 95 percent of the 17-year-old delinquents are school drop-outs, 85 percent of the 16-year-olds, and 50 percent of the 15-year-olds. COUNCIL OF STATE GOVERNMENTS, *supra* note 40, at 60.

[88] *See* R. CAVAN, *supra* note 22, at 192; H. SHULMAN, JUVENILE DELINQUENCY IN AMERICAN SOCIETY 692 (1961); COUNCIL OF STATE GOVERNMENTS, *supra* note 40, at 64.

of Public Instruction has recommended that more special programs be provided for emotionally and socially maladjusted pupils.[89] Many such programs for counseling, social work, and special education are now being implemented in Iowa. Success in these programs will depend in part upon the communication and coordination of school programs with the programs of other treatment agencies, such as probation and social welfare. Because this type of communication is often lacking, a local orientation and planning conference should be held before the opening of each school year and should be attended by all community treatment agencies. Hopefully, such a conference would encourage continuing inter-agency communication and coordination throughout the school year.

2. Community Involvement

Juvenile delinquency adversely affects the entire community. Therefore, the members of a community should provide the leadership and support necessary for a successful preventive and remedial program. Without the interest and involvement of the entire community, however, such a program is not possible.[90]

One aspect of community involvement is the provision of adequate recreational facilities.[91] Although there is no clear and identifiable relationship between recreation and rehabilitation, recreation may be a positive factor in developing a child's personality and occupying his leisure time.[92] This need can be best met by small group activities, supervised by trained leaders, although other forms of recreation are also valuable in providing an outlet for a juvenile's free time.[93] Several service organizations in Iowa, including the Lions, Optimists, and Rotary, provide recreational activities for young people such as baseball leagues, camps, educational trips, and the sponsorship of youth organizations.[94] Recreation of this nature—needed in both rural and urban areas—is noticeably absent in many small and middle-sized Iowa communities.[95] These communities should feel a responsibility

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[89] IOWA DEP'T OF PUBLIC INSTRUCTION, SPECIAL EDUCATIONAL PROGRAMS FOR EMOTIONALLY MALADJUSTED PUPILS 666P-132 SE. See also IOWA DEP'T OF PUBLIC INSTRUCTION, PROGRAMS FOR PUPILS WITH SOCIAL AND PERSONAL ADJUSTMENT PROBLEMS 666D-134 SE.

[90] *See* C. VEDDER, *supra* note 62, at 223.

[91] *See* R. CAVAN, *supra* note 22, at 11, 205-07; H. SHULMAN, *supra* note 88, at 262-63; C. VEDDER, *supra* note 62, at 67-70.

[92] *See* note 91, *supra.*

[93] *See* R. CAVAN, *supra* note 22, at 11.

[94] *See generally* J. KENNEY & D. PURSUIT, *supra* note 26, at 323. However, these facilities may not be available to, or utilized by, all juveniles in the community. *See* H. SHULMAN, *supra* note 88, at 657.

[95] An indication of the local evaluation of recreation facilities is demonstrated by the answers given by two groups to the question: "Which best describes the adequacy of the following facilities in your locality as they are used for juveniles?"

	good	*adequate*	*inadequate*	*bad*	*don't know*	*no answer*
Teachers/Administrators	11.8%	33.8%	46.5%	4.2%	1.4%	2.8%
Community Leaders	23.8%	11.7%	38.1%	4.8%	14.3%	7.1%

to examine their present facilities and make any improvements necessary for a viable youth recreational program.

Children need to experience acceptance, guidance, love, praise, and recognition if they are to be well-adjusted. This support comes most often from parents.[96] However, because the young delinquent often lacks an adequate family relationship, is unwanted at home, or has no home,[97] it is essential to find someone who can provide him with the necessary companionship and support. While this individual companionship may be essential to the child's rehabilitation, professional staffs normally do not have time to provide it. Thus, most Iowa communities need lay volunteers who are willing to spend time with a neglected child. The present absence of this type of community assistance was emphasized by one Iowa probation officer who reported that individuals in his community of 30,000 were usually willing to give five dollars to send two boys to a ball game, but none offered to accompany these same boys to the game. It is conceded that not all citizens, for varied reasons, may be suited for this companionship role with the neglected child. However, an effort by the community to locate and recruit such volunteers will do much to assist in the successful adjustment and development of many of these children.

3. Church Involvement

A church can reinforce the family in its role of developing a child's sense of values, moral and ethical standards, and basic outlook on life. Such reinforcement is most beneficial when a minister has been trained to counsel his parishioners in meeting the problems of daily living.[98] In some Iowa communities, however, churches are used as a vehicle to pressure a deviant child into conformity.[99] This pressure may take the form of a requirement of religious participation, or visits from the local church elders. Church attendance and knowledge of moral precepts, however, are generally not enough, acting alone, to insure a child's proper character growth.[100] These pressures may in fact have an adverse effect upon a child's adjustment.[101] Consequently, Iowa church leaders should attempt to counsel young people regarding all aspects of their lives. Such a program would enhance the probability of sincere reformation of behavior and reduce the probability of child resentment toward participation in religious activities.[102]

4. County Social Welfare Department

Every Iowa county has a social welfare department staffed with caseworkers and child welfare workers who may provide counseling and investigative services for the prevention and remedying of problems which might otherwise result in parental neglect, physical abuse,

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[96] *See* C. VEDDER, *supra* note 62, at 34-41.

[97] *See* R. CAVAN, *supra* note 22, at 117, 125; C. VEDDER, *supra* note 62, at 39.

[98] *See* J. KENNEY & D. PURSUIT, *supra* note 26, at 295.

[99] Interviews. Use of church pressure by juvenile officials is most prevalent in homogeneous communities, especially where there are only one or two churches.

[100] C. VEDDER, *supra* note 62, at 63.

[101] *See* Doyle, *Conditions of Probation: Their Imposition and Application*, 17 FEDERAL PROBATION, Sept. 1953, at 20.

[102] *See generally* C. VEDDER, *supra* note 62, at 64.

child exploitation, or juvenile delinquency.[103] This agency, after a study of the child, his family, and the school, may counsel with the delinquent, his parents, relatives, and local authorities, in an attempt to affect his behavior.[104] Most county welfare directors have indicated that the court and its probation staff make little use of these available services, even when no other agency is providing them. In some counties, local welfare directors report that friction exists between their agency and court officers, the latter being somewhat skeptical of all the "behaviorists" and "do-gooders." Courts in other counties may simply be unaware that these services are available. In some cases, however, the child welfare worker does prepare a written social history of the child for the court and is then often requested to work with that child and his family. Yet, when social welfare department services are utilized, referrals to their offices are often delayed until the deviant behavior has become so serious that improvement is difficult. Hence, optimum use of social welfare services would appear to depend upon improved inter-agency communication and cooperation which is timely in relation to the needs of the child.[105]

5. *Other Agencies*

Most urban areas of Iowa have access to private agencies which provide services helpful in combating delinquency and rehabilitating the deviant child. Such agencies include church-sponsored family service programs, community family service programs, mental health centers, and youth organization counseling and recreation programs. Some of these agencies operate home-type institutions, such as the Waverly Children's Home, Quakerdale, and Boy's Ranch, in addition to providing counseling for both the individual and the family. However, because most private agencies operate with limited staffs, immediate assistance is often difficult to obtain, hence limiting placement alternatives available to the court.

D. Evaluation of Informal Treatment Methods

Crowded juvenile court dockets demand relative expediency. Consequently, meaningful individualized formal treatment by the courts is often difficult to accomplish.[106] If the informal process can reduce the burden upon the formal procedure and still offer individualized treatment for minor offenders, its status as a bona fide treatment process is clearly justifiable.[107] In addition, serious concern has been expressed regarding the effect that a formal adjudication of delinquency may have upon a child's reputation;[108] treatment through the informal

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[103] *See* IOWA DEP'T OF SOCIAL WELFARE, CHILD WELFARE SERVICES IN IOWA 3 (1966).

[104] *Id.* at 5.

[105] *See* J. KENNEY & D. PURSUIT, *supra* note 26, at 331.

[106] TASK FORCE 10; Suria & Bassiouni, *supra* note 29, at 90.

[107] *See* Heyns, *The "Treat-'em Rough" Boys are Here Again,* FEDERAL PROBATION, June 1967, at 8.

[108] *See* TASK FORCE 10. *See also* Tappan, *supra* note 31, at 547-48.

> The judgment against a youth that he is a delinquent is a serious reflection upon his character and habits. The stain against him is not removed merely because the statute says no judgment in this particular proceeding

process, therefore, may often be preferable. Furthermore, the great number of different agencies and individuals participating in the informal treatment process offer needed flexibility in the juvenile rehabilitation program.

On the other hand, there is a question of how much flexibility is desirable. Unmanaged flexibility can result in arbitrary, indiscriminate, and inconsistent actions.[109] Thus, proper controls over all informal treatment facilities are necessary. Moreover, all too often in the informal process the nature of the child's problems are not determinative in the selection of a treatment method.[110] Thus, while the informal process can be offered as a viable treatment option, its success is dependent upon the consistent application of behavioral treatment measures in accordance with the child's identified individual needs. Ultimate responsibility for the informal treatment program, therefore, should rest with a well-prepared probation staff. Such a program, in combination with a court which is protective of a juvenile's rights, will provide a basis for an improved juvenile treatment program.

Implicit in the analysis of the informal process is the recognition that the entire responsibility for current delinquency problems cannot be placed upon the juvenile court. Our entire society breeds deviance: through inattention to the needs, problems, and desires of the individual juvenile; through an overemphasis on materialistic values coupled with an unwillingness to provide everyone with an opportunity to achieve them; and through vast divergence between practices and preachments.[111] Therefore, it must be the entire society that seeks the solution. Provision should be made for an integrated system of formal and informal treatment. The ultimate treatment success, after once establishing structural interaction, will depend upon creative imagination and flexible independent thought by the men and women who are involved daily with young people in both official and unofficial capacities.[112] This would ensure that children more properly the subjects

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> shall be deemed a conviction for crime or so considered. The stigma of conviction will reflect upon him for life. It hurts his self respect. It may, at some inopportune, unfortunate moment, rear its ugly head to destroy his opportunity for advancement and blast his ambitions to build up a character and reputation entitling him to the esteem and respect of his fellow men . . . .
>
> There is nothing in the record to suggest that the accused were inherently vicious or incorrigible. To classify an infant as delinquent because of a youthful prank, or for a mere single violation of a misdemeanor statute or municipal ordinance, not immoral per se, in this day of numberless laws and ordinances is offensive to our sense of justice and to the intendment of the law. We cannot reconcile ourselves to the thought that the incautious violation of a motor-vehicle law, a single act of truancy, or a departure from an established rule of similar slight gravity is sufficient to justify the classification of the offender as a "delinquent," and require the supervision of a probation officer. We can best reflect that if this were so, there would be an inclusion of so many in the classification that the word would lose its accepted meaning. Jones v. Commonwealth, 185 Va. 335, 341, 38 S.E.2d 444, 447 (1947).

[109] *See* TASK FORCE 10; Breitel, *supra* note 25, at 427.

[110] Tappan, *supra* note 31, at 555.

[111] *See* Sheridan, *Juveniles Who Commit Noncriminal Acts*, FEDERAL PROBATION, March 1967, at 26. *See also* Heyns, *supra* note 107, at 7.

[112] *See* Kawin, *Swinging of the Pendulum*, FEDERAL PROBATION, March 1967, at 31.

of informal treatment will not be forced, through circumstance, into the formal adjudicatory process.

III. The Formal Process

A. Introduction

The necessity for separate treatment of juveniles involved in the judicial process led to an abandonment of criminal court practices in most juvenile cases. This procedural separation resulted in the development of unique juvenile court vocabulary and procedures. Children below a specified age who committed acts defined as crimes if committed by older persons, or who behaved in other manners prohibited to them, were adjudged delinquent, rather than convicted as criminals. Facilities for the incarceration of children were labeled with various euphemisms, such as juvenile hall,[113] youth study center,[114] and training school. Grand jury indictments and informations were replaced by petitions which could often be presented to the court by any person. Arraignment and trial by judge or jury were replaced by non-adversary hearings before a juvenile judge, in which confidentiality and informality in procedure excluded the use of standard criminal and civil rules of evidence, procedural protections, and records. Presence of legal counsel was often considered unnecessary, appeal was limited or denied, and usually the rights to confrontation, cross-examination, notice, and silence were also denied. Criminal sentences were replaced by juvenile court dispositions which were to be flexibly adjusted to meet the child's treatment needs and not the seriousness of the offense. Dispositional decisions were to be aided by diagnostic social studies and recommendations made by juvenile court social workers who would also provide counseling, supervision, and other case services. Finally, dispositions to security institutions were to be limited to cases in which protection of the child or the community actually required incarceration, and to institutions which could provide rehabilitative treatment in addition to custodial care.

Much criticism of juvenile courts indicates that practice does not conform to theory. First, the casework method of diagnosis of a juvenile problem requires that sufficient resources be provided to employ skilled juvenile court personnel. If adequate funds are not available, either unqualified personnel will be employed, or capable court officers will have a workload too large to provide the needed casework services. Thus, rehabilitation efforts may be limited or expediently de-emphasized and supplanted by poor social studies, mistaken dispositions, inflexible probation rules, and poor supervision.

Moreover, the distinction between criminal court objectives and juvenile court goals is not clear in practice. Isolation and punishment solely for deterrent purposes, instead of regenerative treatment, are often guides in making juvenile court dispositions. When rehabilitative treatment is de-emphasized and criminal court objectives dominate, the informal, non-adversary procedure of the juvenile hearing

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[113] Polk County, Iowa.

[114] Philadelphia, Pa. *See* Coxe, *Lawyers in Juvenile Court*, 13 Crime & Delinquency 488, 492 (1967).

appears to be unjustified. As a recent United States Supreme Court decision illustrates,[115] the final effect of inadequately financed, poorly administered, punitively oriented, and procedurally undisputed juvenile court discretion is an unconstitutional denial of due process rights.

Criticism is also made that the juvenile court process may even foster continued delinquency and crime. The stigma of being adjudged delinquent may often exclude a child from job opportunities[116] and legitimate school and community activities.[117] Combined with this ostracism are restrictive probation rules which, when incomprehensible to the child or poorly conceived to meet his needs, may encourage him to further misconduct.[118] Moreover, sociologists note that the delinquent label is a status symbol among certain groups of children,[119] and that for some of them, the label serves as a self-fulfilling prophecy.[120] Finally, commitments which unnecessarily expose young offenders to experienced young criminals in training schools clearly contradicts the rehabilitative ideal of juvenile treatment.

Other criticisms reveal partial deficiencies of the juvenile court theory itself. The custody and solicitous care rationale justifying *parens patriae* action by the state incorrectly assumes that all juvenile misbehavior is related to parental default or failure. Because of the complex nature of behavior problems, both adult and juvenile, it seems likely that there can be no single causative factor. Moreover, where juvenile misconduct may be traced to parental fault, it seems ironic that the child is commited to an institution while the parents continue their undesirable way of life.

Additionally, parents possess rights over their child and are entitled to custody and guardianship absent extraordinary circumstances. Therefore, if the state assumes the parent's role during a delinquency adjudication, it would appear that the parents are presumed incompetent or unwilling to assert their rights and duties in the child's behalf. Furthermore, it seems that initial assumption of the parental role by the juvenile presumes some form of guilt by the child, or a suspicion of guilt sufficient to suspend parental rights.

Juvenile delinquency and juvenile court practice in Iowa will be examined in light of the rehabilitative theory of correction of juvenile behavioral problems. The procedures followed and personnel participating in the juvenile court system will be evaluated, and recommendations will be suggested which may bring the system into line with constitutional principles and current standards of individualized treatment for children.

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[115] *In re* Gault, 387 U.S. 1, 18-19 (1967).

[116] Many community leaders responded that delinquents are regarded with suspicion by employers in their communities. Questionnaire: Community Special Section, question 4.

[117] Iowa high school athletic programs are sometimes closed to students adjudged delinquent. Interviews with school administrators.

[118] *See* note 52 *supra* and accompanying text.

[119] *See* Werthman, *The Function of Social Definitions in the Development of Delinquent Careers*, in TASK FORCE 155.

[120] *See* TASK FORCE 119; McKay, *Report on the Criminal Careers of Male Delinquents in Chicago*, in TASK FORCE 107.

B. *Juvenile Cases in Iowa*

Juvenile courts in Iowa process several types of cases involving children under eighteen years of age. Approximately eighty percent are delinquent cases which involve crime and behavior deemed unlawful for children.[121] The remaining twenty percent are dependency cases, which involve economic welfare and support services for children; neglect cases, which deal with parental failure to provide adequate care, education and protection for children; and other cases which involve termination of parent-child relationships and removal of guardians.[122] Although delinquency cases are the primary concern of this section, it should be noted that minor cases of crime or misbehavior are sometimes classified as neglect or dependency cases.[123] This misnaming may be an indication that economic factors and parental neglect are sometimes related to misbehavior. An additional factor may also be that courts wish to avoid labeling a child delinquent when he is a first offender or very young.

Juvenile courts also deal with adults as often as with children. Parents or guardians, if reasonably available, are required to be present for delinquency cases.[124] Moreover, they are in effect the defendents in dependency and neglect cases where the children are principally wards of the case.

Delinquency, dependency, and neglect cases are classified as official if a petition is filed in court, and unofficial if no petition is filed. In 1966, approximately seventy-four percent of delinquency cases were handled unofficially,[125] an increase from sixty-six percent in 1960.[126] Not all official cases result in a formal hearing, because some cases in which a petition is filed are adjusted informally by the court staff. Data from ten counties reveals that over seven percent of the official cases in 1966 were dismissed, disposed of with only a warning, or held open, although several of these cases may have involved formal hearings.[127]

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[121] *See* IOWA DEP'T OF SOCIAL WELFARE, IOWA JUVENILE COURTS IN 1957 (1958); IOWA DEP'T OF SOCIAL WELFARE, IOWA JUVENILE COURTS IN 1959 (1960); IOWA DEP'T OF SOCIAL WELFARE, IOWA JUVENILE COURTS IN 1960 (1961); IOWA DEP'T OF SOCIAL WELFARE, IOWA JUVENILE COURTS IN 1961 (1962).

[122] IOWA CODE §§ 232.14 (dependent child), 232.15 (neglected child), 232.48 termination of parent-child relationship), 232.50 (removal of guardian) (1966).

[123] *See* IOWA DEP'T OF SOCIAL WELFARE, *supra* note 9, at 8.

[124] IOWA CODE § 232.11 (1966).

[125] *See* Werthman, *supra* note 119.

[126] IOWA DEP'T OF SOCIAL WELFARE, *supra* note 9, at 1.

[127] Iowa Dep't of Social Welfare, *supra* note 5. Nonetheless, 8,396 official and unofficial delinquency allegations were processed by Iowa juvenile courts in 1965. CHILDREN'S BUREAU 18. Of the 2,328 official cases, 486 resulted in commitment to training schools and approximately 1,200 children were placed on formal probation. Slightly more than two children out of each one hundred in the 10-17 age group were subject to delinquency processing. 1966 IOWA BOARD OF CONTROL OF STATE INSTITUTIONS, THIRTY-FIFTH BIENNIAL REPORT, pt. 1, § 2, at 25. *See also* text accompanying note 13, *supra*.

C. Iowa Juvenile Court Procedure

One hundred and one Iowa district courts sit in ninety-nine Iowa counties. In most urban counties, responsibility for disposition of juvenile cases has been delegated to municipal court judges.[128] In Polk County, however, one district court judge has sole responsibility for all juvenile cases within the district. In all other counties, responsibility for juvenile cases is divided among the judges in the district.

In 1965 a total of 3,646 formal hearings were held to consider the allegations of 2,790 delinquency, dependency, and neglect petitions involving 3,747 children.[129] Additionally, at least 6,068 delinquency allegations and 837 dependency or neglect cases were handled informally.[130]

1. Intake

Intake is "essentially a screening process to determine whether the court should take action and if so what action, or whether the matter should be referred elsewhere."[131] The *Iowa Code* provides that "whenever the court or any of its officers are informed by any competent person that a minor is within the purview of this chapter, an inquiry shall be made of the facts presented which bring the minor under this chapter to determine whether the interests of the public or of the minor require that further action be taken."[132]

Screening may result in the exclusion of a juvenile case from the formal judicial process for various reasons and at varying stages of disposition. Any petition filed must allege jurisdiction and probable cause, and failure to substantiate either criteria will result in dismissal of the case.[133] The lack of jurisdiction and/or probable cause may be apparent on the face of the petition, or become apparent at a subsequent fact-finding hearing conducted by a referee.[134] Also, the required factual inquiry into the case may result in a determination that the case should be dismissed, continued subject to adjustment, or adjusted informally.[135]

a. Social Investigation Report

Facts which may indicate a need for non-formal disposition may also be obtained from the social investigation report which is required in all uncontested juvenile cases resulting in decrees other than discharge.[136] Important considerations in the social report should include the age of the child, seriousness of the offense, possibility of restitution, parental cooperation, and the child's attitude and history of misbehav-

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[128] The cities include: Clinton, Davenport, Cedar Falls, Waterloo, Ames, Council Bluffs, Marshalltown, and Cedar Rapids. C. KADING, 1965 ANNUAL REPORT RELATING TO THE TRIAL COURTS OF THE STATE OF IOWA 44 (1966).

[129] *Id.* at 33, 40.

[130] CHILDREN'S BUREAU 18.

[131] W. SHERIDAN, STANDARDS FOR JUVENILE AND FAMILY COURTS 46 (Children's Bureau Pub. No. 437-1966, 1966).

[132] IOWA CODE § 232.3 (1966), *as amended,* 2 Iowa Leg. Serv. 159 (1967).

[133] *Id.*

[134] IOWA CODE § 231.3 (1966), *as amended,* 2 Iowa Leg. Serv. 159 (1967).

[135] IOWA CODE §§ 232.34(1), (7) (1966).

[136] IOWA CODE §§ 232.14,-.34(7) (1966).

ior. The *Code*, however, does not articulate any such guidelines for preparation of the social report. To ensure that all data relevant to a proper disposition is contained in the report, it is recommended that criteria and guidelines for preparation of the report be specified by those specially trained in juvenile behavior and social welfare. Once a uniform method of reporting is established, it would be preferable in the larger districts for one probation officer to specialize in analysis of the social report.

The *Code* clearly prohibits preparation of the social report in contested cases, but does require a factual inquiry into the allegations of all petitions.[137] In practice, one report often serves both functions, and many probation officers reported that they prepare the same kind of "social report" for all cases—official and unofficial, contested and uncontested.[138] It would appear that the two reports can and should be distinguished in practice. Inquiry into the allegations of the petition should be limited to a determination of whether or not the juvenile had conducted himself in a manner prohibited by law. Alternatively, the social report serves the distinct function of examining the environmental aspects of the juvenile's everyday life so that the ultimate disposition of the case will best meet the rehabilitative needs of the child and the protective needs of the community. Not only should the distinct functions of the two reports be observed, but preparation of a social report in a contested case under the guise of factual inquiry clearly appears to contravene legislative intent.

b. Informal Adjustment

As noted earlier, more than seventy-four percent of the delinquency allegations in 1966 were handled non-judicially.[139] Informal adjustments by probation officers are preferable in some cases because they permit more flexibility and minimize harmful records.[140] Yet, discretion given to the court in a formal hearing also allows for desirable flexibility. Moreover, records of unofficial cases are kept as in official cases. Informal adjustment of an official case, however, may avoid the social stigma of a delinquency adjudication and relieve busy court dockets. The greatest criticism of informal adjustment is that abuse may result from untrammeled discretion.[141] The *Code* provides conditions for informal adjustment which attempt to limit abuse: the child must admit the facts alleged, the parents must consent to the informal adjustment, and informal adjustment may not be continued longer than three months without formal review by a judge.[142] The third provision may be less meaningful because nothing would prevent a series of continuances of the case. One solution would be to allow a sixty day informal adjustment period, and a thirty day continuation only, after review by the judge.

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[137] Iowa Code § 232.14 (1966).

[138] Interviews.

[139] *See* text accompanying note 125 *supra.*

[140] *See* text accompanying notes 63-65 *supra.*

[141] W. Sheridan, *supra* note 131, at 58-60.

[142] Iowa Code § 232.3 (1966), *as amended,* 2 Iowa Leg. Serv. 159 (1967).

2. Constitutional Principles

a. Notice of Charges

In *In re Gault*,[143] the United States Supreme Court held that in respect to juvenile delinquency proceedings, the child and his parents or guardian must be notified in writing of the specific charge, or factual allegations to be considered, sufficiently in advance of the hearing to permit preparation. This notice must be such as to "be deemed constitutionally adequate in a civil or criminal proceeding."[144] Iowa law provides that notice of a pending juvenile hearing, or summons in the case of involuntary appearance, ". . . shall recite briefly the substance of the petition or shall have attached a copy of the petition . . . ."[145] In light of the *Gault* holding, the notice or summons served should be timely and set out the fact allegations with some degree of particularity.

Fact finding hearings before a referee are also subject to the notice requirement if the fact conclusions serve as a basis for adjudication.[146] It may be argued that postponing notice of the facts involved in a juvenile case protects the child from adverse publicity. Section 232.54 of the *Code*, however, provides that petitions, notices, and orders of the juvenile court shall be public records. Consequently, the public, in any event, will ultimately be informed of the child's conduct and some publicity will be unavoidable. Thus, as the *Gault* court reasoned, notice without specificity of relevant facts merely defers the time of disclosure "to the point where it is of limited use to the child or his parents in preparing his defense or explanation."[147]

In addition to guaranteeing that an adequate rebuttal will be possible against inaccurate or exaggerated allegations, notice serves to impress upon the child and his parents the seriousness and solemnity of the hearing, and helps assure that the child and his parents will understand the legitimacy of subsequent proceedings or orders, including probation or other restrictive dispositions. Although constitutionally adequate notice does not impose formality or inflexibility in the hearing, it may help establish a healthy attitude of formality in the overall juvenile procedure.

b. Right to Counsel

The *Gault* holding, in respect to counsel, was limited to a situation in which the result may be commitment to an institution in which the juvenile's freedom is curtailed.[148] It should be noted, however, that in *Gault*, although the child's mother knew that she could have retained counsel, her failure to do so did not constitute a waiver. The Court stated that Gault's parents should have been expressly advised at the hearing of their right to counsel, and to be "confronted with

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[143] 387 U.S. 33 (1967).

[144] *Id.*; *see, e.g.*, Mullane v. Central Hanover Bank and Trust Co., 339 U.S. 306 (1950) (notice in civil proceedings); *In re* Oliver, 333 U.S. 257 (1948) (notice in criminal proceedings).

[145] IOWA CODE §§ 232.4, -.5 (1966).

[146] IOWA CODE § 231.3 (1966), *as amended*, 2 Iowa Leg. Serv. 159 (1967).

[147] 387 U.S. at 25.

[148] 387 U.S. at 41.

the need for specific consideration of whether they did or did not choose to waive the right."[149] Since the juvenile court omitted the advisement, the delinquency adjudication and commitment were held to be constitutionally defective. *Iowa Code* provisions appear to be substantially consistent with the constitutional requirements concerning counsel.[150]

At the beginning of any contested hearing where the child and his parents or guardian appear unrepresented, the juvenile court should advise them of their right to counsel. This advisement and any subsequent waiver of the right or appointment of counsel should be recorded. This same procedure should be followed when a guardian ad litem is appointed to protect the child's interests when neither a parent nor guardian of the child appears at the hearing on the merits of the petition.[151]

A more difficult situation arises in respect to the right to counsel when the child's parents are the complainants, or fail to contest the petition. If the parents are adverse to the child's interests, but are present at the hearing on the merits of the petition, section 232.11 does not require appointment of a guardian ad litem, although discretion is vested in the juvenile court to do so. In this instance, even if other considerations would not compel appointment of a guardian ad litem, the *Gault* holding would make such appointment advisable because the child alone may not be capable of effective waiver of the right to counsel.[152] Such appointment would therefore appear to be both constitutionally and practically desirable. The presence of counsel would appear to provide more than legal benefits to the child. Because of his counselling experience and exposure to the often impersonal legal process, the attorney may be a stabilizing influence on the child and his family throughout the adjudication. Moreover, only an attorney is fully qualified to ensure that all avenues to a proper resolution of the case have been explored, and that all proper considerations are extended to the family.

c. Privilege Against Self-Incrimination

The Supreme Court in *Gault* held that the privilege against self-incrimination is applicable in the case of juveniles subject to delinquency proceedings and possible commitment.[153] Thus, an admission by a juvenile may be used against him only when supported by clear and unequivocal evidence that the admission was made with knowledge that he was not obliged to speak and would not be penalized for remaining silent.

The reason for adopting this rule concerning delinquency commitments is that training school incarceration is usually similar to im-

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[149] 387 U.S. at 42.

[150] IOWA CODE § 232.28 (1966), *as amended,* 2 Iowa Leg. Serv. 159 (1967). *See also* IOWA CODE §§ 232.4, -.5 (1966).

[151] IOWA CODE § 232.11 (1966).

[152] A child is incompetent to waive the right to stenographic notes or mechanical recordings of his hearing, and that such waiver may only be made by a parent, guardian, legal counsel, or guardian ad litem. IOWA CODE § 232.32 (1966), *as amended,* 2. Iowa Leg. Serv. 159 (1967).

[153] 387 U.S. at 55.

prisonment and that children, more than adults, are subject to intimidation or coercion. A child's "confession" also may be highly unreliable, and compulsory testimony may disrupt the relation between the child and the court. Moreover, when a child confesses in response to "paternal" urgings and is subsequently disciplined, his reaction may be hostile and adverse, making rehabilitation more difficult. The Supreme Court has yet to announce guidelines concerning waiver of the privilege against self-incrimination by a juvenile. Until later clarification, however, the following dicta in *Gault* may deserve attention:

> We appreciate that special problems may arise with respect to waiver of the privilege by or on behalf of children, and that there may well be some differences in technique—but not in principle—depending upon the age of the child and the presence and competence of parents. The counsel will, of course, assist the police, juvenile courts and appellate tribunals in administering the privilege. If counsel is not present for some permissible reason when an admission is obtained, the greatest care must be taken to assure that the admission was voluntary, in the sense not only that it has been coerced or suggested, but also that it is not the product of ignorance of rights or of adolescent fantasy, fright or despair.[154]

Thus, it would appear to be desirable for officials involved in the juvenile system to encourage the presence of counsel during the early stages of investigation to ensure that any waiver obtained is effective.

In delinquency proceedings where commitment is unwarranted, the approach to admissions by the child might vary according to the extent of the child's defiance and the court's belief that an admission would constitute a constructive beginning of the rehabilitative process. However, subsequent commitment to a training school could not be made if the delinquency adjudication was based upon an inadmissible confession.

d. Right to Cross-Examination

The rehabilitative emphasis on juvenile cases has been considered a justification for informality in the juvenile process.[155] This informality has often resulted in a denial to the juvenile of certain procedural rights.[156] Concerning cross-examination and admissible evidence, however, the *Gault* decision held that ". . . absent a valid confession, a determination of delinquency and an order of commitment to a state institution cannot be sustained in the absence of a sworn testimony subjected to the opportunity for cross-examination in accordance with our law and constitutional requirements."[157] This rule in its narrowest interpretation would seem to require that the rules of evidence and cross-examination applicable in civil cases be followed in adjudicating a finding of delinquency, followed by commitment to a state institution. Under such interpretation, arguably, therefore, less exacting standards are permissible in all juvenile court adjudications other than delinquency, delinquency adjudications which are not a basis for institutional commitment, and all proceedings subsequent to a proper adjudication of delinquency.

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[154] *Id.*

[155] *See* text accompanying notes 16-24, *supra.*

[156] *See In re* Gault, 387 U.S. 1 (1967).

[157] *Id.* at 57.

e. Hearsay Evidence

In theory, the formal juvenile process is separable into two distinct phases or hearings. The first is the adjudicatory phase, in which it is determined whether the child's conduct was such to invoke public sanction. The second phase is that which determines the disposition or treatment to be imposed. In practice, however, these two phases often merge into one, resulting in uncertainty as to the admissibility of certain evidence regarding either the child's conduct or other matter, such as the child's family background. Therefore, a sincere effort should be made to clearly separate these two phases, hence ensuring that only matters relevant to each stage of the process are admitted.

If the rules of evidence applicable to civil cases are binding on the juvenile court, these rules would be applicable only to an adjudicatory hearing to which the *Gault* holding was restricted. Therefore, the use of social reports, which usually contain hearsay evidence, would be substantially limited to the dispositional portion of the court hearing. To protect the child from the possible prejudicial effect of hearsay evidence, the United States Supreme Court, in *Kent v. United States,*[158] held that the child's counsel must have access to social reports which are to be considered by the juvenile court in deciding whether to waive jurisdiction over the child. By implication, social reports which will be considered in making the disposition decision should also be made available to the child's counsel prior to their introduction into evidence. Protecting the child's interests at this stage of the hearing would appear to be equally as important as protecting his interests when jurisdiction might be waived. The social report in a contested Iowa juvenile case is not to be prepared before the allegations of the petition have been established at a hearing.[159] Once the allegations have been established, however, the judge must consider the social report if any disposition other than discharge is contemplated.[160] This procedure, therefore, would appear to be valid only where the child's counsel has free access to these reports prior to their consideration.

f. Waiver or Transfer to Criminal Proceedings

A recent amendment to the *Code*[161] provides that a child formally charged with a criminal offense after his fourteenth birthday may be waived over to criminal prosecution by the juvenile court after a hearing.[162] Considering the *Gault* application of constitutional principles to hearings which may result in commitment of a child, the interpretation by the Supreme Court in *Kent v. United States* becomes particularly relevant.[163] In *Kent,* the Court held that a statute requiring full investigation prior to waiver of jurisdiction by a juvenile court, when examined under the constitutional principles of due process and the right to counsel, must also provide for a hearing, a statement of reasons for waiver, and access by counsel to the juvenile court records and

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[158] 383 U.S. 541, 557 (1966).

[159] IOWA CODE § 232.14 (1966).

[160] *Id.*

[161] IOWA CODE, ch. 232 (1966), *as amended,* 2 Iowa Leg. Serv. 162 (§ 23, S.F. 200) (1967).

[162] *Id.*

[163] 383 U.S. 541 (1966).

social reports which would be considered by the court in deciding the waiver question.[164] Under Iowa law, proper waiver to criminal proceedings would seem to require application of the *Gault* principles to the hearing because, in the words of the *Kent* opinion, waiver "is a 'critically important' action determining vitally important statutory rights of the juvenile. . . . [P]otentially as important to petitioner as the difference between five years confinement and a death sentence . . . ."[165] This reasoning, however, would appear to be less valid where criminal conviction for the offense does not portend a potentially longer period of incarceration than commitment as a juvenile delinquent.

More difficult problems arise when emerging constitutional principles in juvenile proceedings are placed beside a recent amendment to Chapter 232 of the *Iowa Code*.[166] This provision establishes a means for transfer to criminal court of any child originally arraigned in any court other than a juvenile court, by the filing of a county attorney's information or grand jury indictment charging the child with an indictable offense, provided, however, that no such transfer may be effected ". . . after there has been an adjudication of delinquency in juvenile court."[167] When concurrent jurisdiction with criminal proceedings results from compelling societal goals of deterrence, isolation, and retribution in regard to serious offenders of any age, the relevant consideration is to interpret the procedures established to decide which child offender will be transferred, and how. From the viewpoint of traditional juvenile court theory, the decision ought to be made by the juvenile judge—one who is mature, sophisticated and specialized, wise and well-versed in the law and in the science of human behavior, who has specialists in child behavior and psychology at his service. This ideal, however, is seldom approached. A President's Task Force Report concludes:

> If the juvenile court has the choice whether to transfer, it can be expected that at least minimally informed consideration will have to be given such matters as the alleged offender's performance as a juvenile and the disposition alternatives available. It is undesirable for the decision to be made by the prosecutor or adult court judge, who is less likely to be familiar with institutions and other treatment resources and less accustomed to concentrating on the individual aspects of a given case.[168]

Thus, the Iowa provision, while not patently unconstitutional, constitutes a threat that an unenlightened decision to transfer may reduce the rehabilitative potential of the juvenile involved and, hence, should be considered for future revision.

3. Dispositional Decision

The final disposition of juvenile cases in rural Iowa counties generally results in dismissal, informal adjustment involving restitution and some informal supervision, formal probation, commitment to a training school or occasionally to a private institution, or waiver to criminal

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[164] *Id.* at 557; *see* 52 IOWA L. REV. 139 (1966).

[165] 383 U.S. at 556-57.

[166] IOWA CODE, ch. 232 (1966), *as amended*, 2 Iowa Leg. Serv. 162 (§ 24, S.F. 200) (1967).

[167] *Id.*

[168] TASK FORCE, *supra* note 6, at 24.

proceedings.[169] Dispositional studies of four rural Iowa counties during 1965 and 1966[170] indicate a fairly consistent pattern: sixty percent of all delinquency cases were dismissed or occasionally referred to other agencies; thirty-seven percent resulted in official or unofficial probation; and approximately three percent resulted in commitment to a training school. Dispositions in the more populous counties result in a wider variety of treatment programs, including greater use of mental health centers, private agencies and programs, and professional counseling and guidance. Because of the rehabilitative and regenerative ideal which pervades the juvenile process, the dispositional decision should be that which enhances the probability of redirecting juvenile misbehavior. Hence, the finding of guilt or innocence should not overshadow the essential need for individual and tailored treatment plans. Indeed, the determination of what will ultimately be done to, and with, the delinquent is perhaps the most crucial of all. Consequently, any factors which contribute to a disposition contrary to the goal of rehabilitation reduce the effectiveness of the entire juvenile program.

a. Economic Limitations

Commitments to state training schools and routine dispositions to probation result in no cost to Iowa counties. Therefore, persuasive monetary incentives for counties exist which may discourage commitment to facilities requiring county expenditures, such as private agencies and foster homes, and utilization of comprehensive diagnostic services at county expense. That this problem does exist is illustrated by the following conversation recorded in a rural county preliminary hearing:

> Judge: "What will the supervisors say if I put these kids in foster homes?"
>
> County Attorney: "They won't like it; I can't even get an electric typewriter for my office."[171]

Thus, the legislative mandate "that each child . . . shall receive . . . the care, guidance, and control that will conduce to his welfare," and that the child removed from parental control should have "secured for him [by the court] care as nearly as possible equivalent to that which he should have been given,"[172] becomes a hollow mockery. Legislative amendments, therefore, should be adopted to equalize the cost to the county of all dispositions other than probation, so that training schools will no longer be overcrowded and children will more likely be given the individualized treatment which best meets their needs. Cost differentials could be paid out of the state general fund.

b. Training and Inter-Agency Cooperation

The fact that Iowa dispositions pattern easily into five definite groups also indicates that individualized treatment has often given way to a routine, inflexible approach to dispositions. This situation may be partially remedied by providing those involved in the juvenile process

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[169] Interviews.

[170] Iowa Dep't of Social Welfare, *supra* note 5 (Audubon, Shelby, Harrison and Cass counties).

[171] Hearing attended, summer of 1967.

[172] IOWA CODE § 232.1 (1966).

with more contemporary information concerning juvenile behavior and larger and better-trained staffs. At present, no meaningful statewide study has been made concerning disposition, recidivism, and costs, nor has any state agency provided juvenile court staffs with adequate information or training.

Perhaps most important, however, is the need for a truly cooperative effort between all agencies dealing with juveniles and their problems. Survey results indicate a lack of professional confidence and understanding between welfare agency personnel and the juvenile court.[173] In addition, many law enforcement officials in the survey expressed candid skepticism about the competence of probation officers and judges on juvenile matters.[174] Success in combating juvenile delinquency would seem to require that all agencies work together in a united effort. To further this objective, immediate steps should be taken to effectuate continuous inter-agency communication. In addition to exchanges through memoranda or newsletters, personal exchanges of ideas through seminars and group discussion would be quite beneficial. Such a program would assist in the resolution of existing conflicts and help establish unity within the juvenile system.

c. Timeliness of Disposition

Some Iowa courts issue serial continuances in juvenile cases which result in incarceration of the child in juvenile detention facilities or jails.[175] If the purpose of this procedure is punishment, it is reprehensible. If the procedure is adopted because no other place for the child could be found, it is an indictment of the state's program for treating juvenile problems. An injunction or court order against this practice is difficult because each individual habeas corpus action can be easily mooted by the judges involved. Consequently, a legislative limit on the period during which a case may be continued should be enacted. A period of 30 days maximum would be adequate in most cases, and provision could be made for a hearing on the issue beyond that time upon a showing of good cause.

4. Juvenile Court Personnel

a. Judge

With two exceptions,[176] all Iowa district court judges serve more or less regularly as part-time juvenile judges. Iowa is fortunate in several respects regarding judges who handle juvenile cases. All such men possess legal training and are members of the bar, in contrast to national statistics which show that half have no undergraduate degree and one-fifth are not members of the bar.[177] Iowa juvenile courts at the district court level are staffed by judges who are lifetime appointees, and from all indications most judges come to the juvenile court with a concern for the welfare of the child in trouble.

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[173] Questionnaire: Judges, Probation Officers, Welfare Workers, and Family Counselors, General Section, questions 7-9.

[174] Interviews.

[175] Interviews.

[176] *See* text accompanying note 9 *supra.*

[177] PRESIDENT'S COMM'N ON LAW ENFORCEMENT AND ADMINISTRATION OF JUSTICE, THE CHALLENGE OF CRIME IN A FREE SOCIETY 80 (1967).

At present, Iowa's municipal judges who serve as juvenile judges appear to be competent in dealing with juvenile problems. They are, however, elective officials subject to political pressures, and they may not develop the desired skills and knowledge normally acquired through long tenure. Establishment of tenure for municipal judges would appear to resolve this problem. However, since most juvenile judges are district court judges, few of whom specialize in juvenile work, the ultimate and long-range solution, difficult as it might be, would seem to be to eliminate municipal judges from juvenile positions and appoint additional district court judges. This would permit designation of one district judge to handle all juvenile cases arising in each judicial district. Probation services should then be reorganized where necessary to correspond with the juvenile jurisdiction.

b. Probation Officer

The quality and effectiveness of juvenile court work is largely a result of the probation officer's abilities. Therefore, individuals occupying the position should be well-trained and have a background in juvenile work. In some areas of Iowa, however, probation officers are retired farmers, law enforcement officials, invalids, and relatives of other public officials.[178] Juvenile judges should not have to compensate for the weaknesses of a probation staff, as they now must do, but rather should be able to rely upon the staff's strength. Hence, a great need exists for comprehensive in-service training programs and a higher selection criterion for personnel. A bachelor's degree in one of the behavioral sciences, or its clear equivalent in other training and experience, ought to be mandatory for all probation officers. Moreover, chief probation officers should have master's degrees in social work or extensive experience with behavioral work supplemented by some legal training. Resolution of this problem, however, will not be easy. Funds to hire such personnel are generally wanting, and it may be difficult to convince local people of the necessity for such qualified people. Also, as is the case presently with other professionals, it may be difficult to attract them away from the cities and into Iowa's rural areas.

c. County Attorney

By statutory requirement, the county attorney or his office must present the evidence in all cases except adoptions.[179] In some counties the investigation is made and the case prepared by the probation staff, and the county attorney merely presents the material. His recommendation, if any, in those counties is that suggested by the probation officer. This procedure is advantageous because it does not place the probation officer in a public position adverse to the disposition, which could hinder subsequent rehabilitative efforts. In many counties, however, the role of the county attorney is much broader. He may conduct most of the investigation, prepare the evidence and basic treatment plan, and also represent the financial interests of the county treasury. Because most county attorneys are burdened by other, seemingly more important, legal matters, and are not trained in juvenile problems, such a broad responsibility in juvenile cases would appear to be undesirable. Moreover, his stance as a political figure may affect his dispositional

[178] Interviews.

[179] IOWA CODE § 232.29 (1966).

recommendation at the expense of the child's best interests in any particular case of high community feeling. Thus, the county attorney's role should be limited to presentation of evidence and recommendation of the treatment plan devised principally by the probation staff.

D. Summary

The basic objective of the juvenile court system is to apply individual treatment to the misbehaving child, preferably while he remains in his own home or community, in an effort to guide him toward lawful citizenship and to serve his best interests, while simultaneously protecting the community from further unlawful acts. The process and disposition of individual cases require a balancing of a number of interests: parental rights over the child; the child's welfare, rights and liberties; the security and good order of the community; and the societal cost of providing treatment for the child. The complexity of the juvenile delinquency problem demands that those involved in its resolution be educated and experienced in the fields of juvenile behavior and contemporary social problems. If personnel in the juvenile court process do not possess these qualifications, no plan for the proper adjudication of juveniles can be meaningful in practice. Once properly staffed, the juvenile adjudicatory system must ensure that lines of communication between the various agencies and the disciplines which they represent are open for a continuous exchange of ideas and problem-subjects. Such a cooperative effort between competent agencies will do much to resolve the existing problems in the Iowa juvenile court system.

IV. Post-Judicial Treatment Facilities

> In the public mind, the training school is an institution which is expected to produce miracles. It is supposed to take a boy or a girl with whom the community has failed and . . . effect a transformation which will guarantee success in the same environment which originally helped to produce the failure. We should define for the benefit of the Public what a training school can properly be expected to do.[180]

The impact of the *parens patriae* philosophy on the penology field has led to the development of a state institutional system for children which is separate and distinct from the adult penal system. While elements of retribution and deterrence pervade the adult correctional philosophy, juvenile institutional theory is unique in its strict adherence to solely rehabilitative goals. However, institutionalization is only one of a variety of rehabilitative methods utilized by juvenile courts in treating the myriad of child problems with which they are confronted. Prescription of the appropriate remedy for a particular problem necessitates judicial cognizance of the unique treatment capabilities of institutions and adequate diagnostic practices which identify those problems amenable to institutional treatment. The initial effort, therefore, must be a determination of the role of institutions in juvenile treatment theory. This section will define the state's duty regarding institutional treatment of its children, discuss

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[180] Shaw, *The Future of Corrections*, 51 The Proceedings—National Association of Training Schools and Juvenile Agencies 13, 15-16 (1955).

the operational difficulties confronted by juvenile institutions which may undermine successful treatment practices, and propose recommendations which, if implemented, should enhance state efforts to fulfill its child treatment obligations.

A. The State's Role in Institutional Care

In Iowa, a juvenile court commitment order directing the State Board of Control to place a child in a state institution[181] terminates the court's jurisdiction over the child and vests his guardianship in the state.[182] Assumption of this guardianship role authorizes and requires the state " . . . to make important decisions in matters having a permanent effect on the life and development of the minor and to be concerned about the general welfare of the minor."[183] Through exercise of its guardianship authority, the state may make decisions which intimately affect the future life of the child. Since the state is the ultimate judge of the child's readiness for parole[184] or placement,[185] it determines the period of confinement.[186] Furthermore, the nature of the child's confinement may subsequently be altered by a state decision to transfer him to an adult reformatory.[187]

The state, however does not have absolute discretion in exercising its decisional power as guardian, but must act in accordance with due process of law and its role as *parens patriae* to the child. The state has a duty to insure that its children receive proper care and treatment.[188] The propriety of state decisions concerning child treatment is dependent upon the nature of the problem to be treated, the quality and availability of treatment facilities, and the rehabilitative practices utilized by these facilities.

B. Iowa Juvenile Institutions

Inherent within any large institutional setting is an atmosphere of artificiality.[189] Institutional programs are designed to accommodate large numbers of children; consequently, these children are given less

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[181] Entrance of such order is mandatory subsequent to any finding of dependency, neglect, or delinquency. IOWA CODE §§ 232.33(4), .34(4) (1966).

[182] *Id.* § 232.35.

[183] *Id.* § 232.2(8).

[184] This power is exercised by the Board of Control. *Id.* § 242.12.

[185] *Id.* § 244.7, -.10.

[186] In Iowa, commitment orders may remain in effect until the child reaches twenty-one years of age. IOWA CODE § 232.36 (1966). Accordingly, children may be confined in Iowa training schools until they reach majority. *Id.* § 242.13. However, children confined in either the Iowa Annie Wittenmyer Home or the Iowa Juvenile Home must be released upon attaining the age of eighteen. *Id.* § 244.7.

[187] IOWA CODE §§ 218.91 (transfer procedure for boys), 245.10 (transfer procedure for girls) (1966).

[188] *See, e.g., In re* Yardley, 149 N.W.2d 162, 167-68 (Iowa 1967); *In re* Morrison, 144 N.W.2d 97, 103 (Iowa 1966); Stubbs v. Hammond, 257 Iowa 1071, 1075, 135 N.W.2d 540, 543 (1965).

[189] *See* CHILD WELFARE LEAGUE OF AMERICA, STANDARDS FOR SERVICES OF CHILD WELFARE INSTITUTIONS 7 (1966).

individualized care, have fewer opportunities to assume responsibility, have fewer contacts with normal family experiences and peer group activities, and in general lead a much more regimented life than do children cared for in smaller capacity facilities.[190] Because of the necessity for institutional treatment of certain juveniles, such limitations may never be completely remedied. However, certain practices in Iowa's institutions which deter successful rehabilitation appear to be correctable and deserve legislative attention.

1. Iowa Training Schools

Institutionalization is a major juvenile treatment method utilized in Iowa. Two training schools are presently in operation: the Iowa Training School for Boys at Eldora, and the Iowa Training School for Girls at Mitchellville. In 1961, based upon percentages of official cases before the juvenile court which were resolved by training school commitment, Iowa committed at least eight times more boys and thirty times more girls to training schools than California during the same period.[191] Furthermore, in recent years, the number of delinquency cases in Iowa has increased, with a concomitant increase in commitments to Iowa training schools.[192]

a. Admission Standards

Training school rehabilitation programs are theoretically designed to focus on children adjudged delinquent by the juvenile court,[193] whose mental or behavioral problems pose a potential threat to their own welfare or the welfare of others.[194] Eligibility for admission to the Iowa Training School for Boys at Eldora and the Iowa Training School for Girls at Mitchellville is limited to the child who has been adjudged delinquent by a juvenile court.[195] The *Iowa Code* defines a delinquent as a child:

> a. Who has violated any state law or habitually violated local laws or ordinances except any offense which is exempted from this chapter by law.
> b. Who has violated a federal law or a law of another state and whose case has been referred to the juvenile court.
> c. Who is uncontrolled by his parents, guardian, or legal custodian by reason of being wayward or habitually disobedient.
> d. Who habitually deports himself in a manner that is injurious to himself or others.[196]

These alternative definitions of delinquent acts are essentially an enumeration of overt symptoms which may be a manifestation of

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[190] *Id.*

[191] W. LUNDEN, STATISTICS ON DELINQUENTS AND DELINQUENCY 230-32 (1964).

[192] W. LUNDEN, JUVENILE DELINQUENCY IN IOWA 45-46 (1967).

[193] IOWA CODE §§ 242.5, 232.34(4) (1966).

[194] Interviews; Iowa Citizens Council on Crime and Delinquency, Summary: Institute on Alternatives to Institutional Care for Delinquent Children, Cedar Rapids, Iowa, May 24-26, 1967, at 6 (unpublished presentation by Anthony Travisono, Superintendent of the Iowa Training School for Boys) [hereinafter cited as ICCCD Summary].

[195] IOWA CODE §§ 242.5, 232.34(4) (1966).

[196] *Id.* §§ 232.2(13)(a)-(d).

serious underlying emotional problems. To assure that the child is amenable to treatment within the training school program, the services of professional clinicians should be utilized to diagnose the nature and source of the child's misbehavior. However, Iowa juvenile courts, due either to a lack of diagnostic facilities or the failure to use fully those facilities available, seem to commit many children solely on the basis of symptomatic behavior.[197]

b. Resident Populations

Inadequate diagnostic screening of children by Iowa's juvenile courts and a general orientation towards institutional treatment has hampered achievement of the training school's rehabilitative goals. Iowa training schools are presently overcrowded[198]—a particularly acute problem at the Boys Training School. During fiscal 1966 that institution, with a maximum resident capacity of 290,[199] admitted 592 children,[200] resulting in a population turnover rate in excess of two hundred percent.[201] In comparison, the turnover rate at the Girls Training School of one hundred thirty percent was relatively low.[202]

Because the training schools cannot refuse to admit these children,[203] a "forced parole" procedure[204] has been adopted at the Boys Training School to lessen the pressure of overcrowding on facilities and staff.[205] Consequently, the school population is nearly always at or above resident capacity, and the arrival of a certain number of children committed by the courts or returned for parole violation results in the forced parole of a similar number of children.[206] Although this procedure allows the training school to adjust to the influx of newly arrived children, forced parole has become a seemingly self-defeating solution to the overcrowding dilemma. Because the primary consideration in granting parole under these circumstances is often the creation of available bed space for new admissions, parole as a proper

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[197] Interviews.

[198] *Id.*

[199] 1966 STATE OF IOWA BOARD OF CONTROL OF STATE INSTITUTIONS, THIRTY-FIFTH BIENNIAL REPORT, pt. 1, § I, at 47 [hereinafter cited as 1966 REPORT].

[200] 1966 STATE OF IOWA BOARD OF CONTROL OF STATE INSTITUTIONS, THIRTY-FIFTH BIENNIAL REPORT, pt. 2, § I, at 25 [hereinafter cited as 1966 REPORT pt. 2].

[201] Yearly turnover rate is equal to the ratio of the number of children admitted during that year to the maximum resident capacity of the institution.

[202] The Iowa Girls Training School has a maximum resident capacity of 120. 1966 REPORT 44. In 1966, 158 girls were admitted. 1966 REPORT, pt. 2, at 25.

[203] In Iowa, once a commitment order is entered, state institutions have no statutory authority to refuse admittance to the committed child. *See* IOWA CODE §§ 242.5, 244.4 (1966).

[204] Interviews.

[205] For the parole procedure at the Iowa training schools see IOWA CODE § 242.12 (1966). Forced parole would apparently be authorized only in "exceptional" cases, and then only for "urgent and sufficient" reasons. *Id.* Admissions in excess of capacity would certainly seem to present an urgent reason to release some inmates. However, because forced parole has become a routine procedure, it is difficult to conclude that its use is limited to exceptional cases.

[206] Interviews.

treatment decision for a particular child is often of only secondary importance.[207]

In addition, emphasis on forced parole has reduced the average length of residence at the training school from nine months in 1961 to only five months in 1966.[208] Officials at the training school consider that a successful treatment program must be based on a more flexible length of residence, allowing them, if necessary, to retain children in the treatment program up to eight months.[209] The lessened possibilities of successful parole adjustment seem to be reflected in the increasing rate of parole violations in recent years.[210] In proportion to the increasing number of paroles due to the forced parole procedure, the number of returnees from parole violation has increased at a higher rate.[211] Therefore, even if the rate of future court commitments remains relatively constant, an increasing number of returnees for parole violation will further complicate the overcrowding problem at the Boys Training School. Potentially, this situation would further decrease the already inadequate length of residence, and the school's treatment program will be even less capable of providing proper care and treatment for committed children.

The lact of adequate local diagnosis has in effect shifted the diagnostic function to the training schools, and necessitated the maintenance of an intake service on the institutional grounds.[212] At the Boys Training School, for example, a residential intake center is maintained and usually filled to its thirty-resident capacity.[213] Valuable staff time is thereby unnecessarily diverted to a diagnosis of the child's problem to determine whether he is a proper subject for institutional treatment, a function more properly the responsibility of the juvenile court officers and procedure.

Training school operations are further complicated by the presence of two distinct groups of children in the institutional population—the situational delinquents and the hyperaggressive delinquents. Situational delinquents do not have severe emotional or behavioral problems which pose a threat to their own welfare or the welfare of others.[214] These children are essentially dependent or neglected, and

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[207] *Id.*

[208] 1966 REPORT pt. 2, at 23.

[209] Interviews.

[210] 1966 REPORT pt. 2, at 25 (717 paroles and 244 parole violations in 1966); 1966 REPORT § II, at 25 (537 paroles and 170 parole violations in 1965); 1964 STATE OF IOWA BOARD OF CONTROL OF STATE INSTITUTIONS, THIRTY-FOURTH BIENNIAL REPORT, pt. 1, § II, at 72 (524 paroles and 135 parole violations in 1964); 1963 STATE OF IOWA BOARD OF CONTROL OF STATE INSTITUTIONS, THIRTY-FOURTH BIENNIAL REPORT, pt. 2, § II, at 23 (411 paroles and 113 parole violations in 1963); 1962 STATE OF IOWA BOARD OF CONTROL OF STATE INSTITUTIONS, THIRTY-THIRD BIENNIAL REPORT, pt. 2, § II, at 60 (337 paroles and 69 parole violations in 1962).

[211] *See* authority cited note 210 *supra*.

[212] Interviews. *See also* R. CAVAN, JUVENILE DELINQUENCY 298-99 (1962). In Washington, courts do not commit children directly to an institution, but to a reception-diagnostic center. On the basis of the diagnosis at this center, the child is committed to the child treatment facility best suited to his needs. *Id.*

[213] Interviews.

[214] ICCCD Summary, *supra* note 194, at 7.

primarily have not received adequate affection, care, and discipline from their parents.[215] Leaving these children with their natural parents or placing them in a responsible family unit, such as a foster home, coupled with supplementary supervision and treatment by the local probation office, mental health clinic, or family counseling service, would seem to be a more satisfactory treatment program than institutionalization.[216] Local treatment of the situational delinquent is also advisable because of the adverse effects of training school confinement upon such children. The following quotation illustrates the negative attitude toward lawful conduct which may result from association with more criminally experienced training school residents:

> Here are assembled hundreds of youngsters from all over the State. They have been involved, willingly or unwillingly, in almost every form of misconduct. They are in constant communication with each other and the need of each student to achieve and impress [his or] her peer group is great. The criminal knowledge of one is quickly conveyed to all. The total criminal "know-how" of the group is a legacy inherited by each newly arrived student, a legacy from which he will draw and to which he will make his own contribution before he leaves.[217]

Forced association with other delinquent children may also result in the formation or reinforcement of a delinquent self-image which may precipitate future unlawful conduct.[218] Moreover, subjecting the situational delinquent to the restrictive confines of a training school because of relatively innocuous behavior, may engender resentful attitudes toward the legal system responsible for his commitment.[219] Until juvenile court diagnostic practices are improved, miscommitment of the situational delinquent is likely to continue. Such improvement will result both in proper treatment of these children and in relief of institutional population pressures.[220]

In recent years, training schools have admitted an increasing number of children who are more maladjusted and emotionally disturbed than the balance of the institutional population.[221] These children, characteristically referred to as "hyperaggressive delinquents," have long histories of delinquency, antisocial attitudes, poor self-control,

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[215] *Id.*

[216] Situational delinquents incapable of adjusting to a family unit might be proper subjects for transfer to an institutional home such as the Iowa Annie Wittenmyer Home or the Iowa Juvenile Home. The Iowa Code provides for such a transfer. IOWA CODE § 244.5 (1966).

[217] Witherspoon, *Foster Home Placements for Juvenile Delinquents*, 30 FED. PROBATION, Dec. 1966, at 50. *See also* S. WHEELER & L. COTTRELL, JUVENILE DELINQUENCY: ITS PREVENTION AND CONTROL 37 (1966) [hereinafter cited as S. WHEELER & L. COTTRELL].

[218] S. WHEELER & L. COTTRELL at 22-23.

[219] *See In re* Kroll, 43 A.2 706 (D.C. Mun. Ct. App. 1945) (dictum) (potential bitterness engendered in child because of commitment to training school for truancy).

[220] ICCCD Summary, *supra* note 194, at 7; Interviews.

[221] Interviews; G. WEBER & R. MANELLA, THE INSTITUTIONAL CARE AND TREATMENT OF OLDER HYPERAGGRESSIVE DELINQUENT CHILDREN 1 (U.S. Dep't of Health, Educ., and Welfare Pub. No. 19, 1965) [hereinafter cited as G. WEBER & R. MANELLA].

and feelings of alienation.[222] Although they comprise only approximately ten percent of the training school population, the hyperaggressive delinquents have special problems which require very intensive care and treatment.[223] At the Boys Training School these children are confined in a medium security unit where facilities and staff members are available to provide treatment and control violent outbursts.[224] Because of these factors, treatment of the hyperaggressive delinquent consumes a disproportionate amount of staff time and limits the treatment and diagnostic services for the remaining ninety percent of the children.[225] One apparent remedy for this situation is an increase in institutional staff and additional, perhaps separate, facilities for treatment of the hyperaggressive delinquents. Another possible solution would be to transfer the hyperaggressive delinquent to a mental hospital or adult penal institution.

c. Administrative Transfer

To cope with the problems of the hyperaggressive delinquent in the institution, many jurisdictions, including Iowa, utilize a procedural device termed an administrative transfer. The power to invoke this procedure, whether derived from statutory or administrative authority, allows the transfer of a child from the training school to an adult correctional institution.[226] The transfer procedure is usually initiated by a transfer recommendation from a training school staff committee.[227] Final approval of the transfer order, however, is generally vested in the central administrative agency which operates the training school.[228]

The administrative transfer procedure has been attacked on statutory grounds in both federal and state courts.[229] The Federal Juvenile Delinquency Act provides that a juvenile may be committed to the custody of the Attorney General who may designate any agency for the custody, care, education, and training of the juvenile.[230] Federal law also allows the Attorney General to transfer prisoners, including

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[222] G. WEBER & R. MANALLA at 3-4.

[223] Interviews.

[224] *Id.*

[225] *Id.* The presence of situational and hyperaggressive delinquents within the institution may also cause a higher rate of parole violation. ICCCD Summary, *supra* note 194, at 1 (presentation by Robert Weber, Director, Juvenile Institutions Project, National Council on Crime and Delinquency).

[226] CHILDREN'S BUREAU, U.S. DEP'T OF HEALTH, EDUC., AND WELFARE, PUB. NO. 415, DELINQUENT CHILDREN IN PENAL INSTITUTIONS 3-5 (1964). A questionnaire survey conducted by the Children's Bureau indicated that 47 institutions in 22 jurisdictions were authorized by statute to effect this transfer, while two training schools in two jurisdictions invoked the transfer by authority of administrative regulation. *Id.*

[227] *Id.* at 7.

[228] *Id.* at 8.

[229] For a review of recent cases in this area see Note, *District of Columbia Juvenile Delinquency Proceedings: Apprehension to Disposition*, 49 GEO. L.J. 322, 353-56 (1960); Note, *Transfer of Juveniles to Adult Correctional Institutions*, 1966 WIS. L. REV. 866 (special emphasis on transfer procedure in Wisconsin).

[230] 18 U.S.C. § 5034 (1964).

juveniles, from one institution to another.[231] The authority to transfer an adult inmate from one adult penal institution to another seems clear. It is not clear, however, that a juvenile, generally treated as a child for all other purposes in the adjudicatory process, can properly be transferred to an adult institution. Some federal courts have upheld such transfers upon a plain reading of the statute, hence allowing the administrator almost unlimited discretion in determining the nature of the child's confinement.[232] Other courts, including state courts examining a transfer statute, uphold the statutory interpretation, but also require that the transfer be invoked only on the basis of the child's improper institutional conduct.[233] For example, continued misconduct coupled with failure to respond to available treatment at the training school,[234] or serious misconduct which endangers the child's own welfare or the welfare of other training school residents[235] usually provides a sufficient ground for transfer. In resolving the transfer issue, these courts have failed to examine the adverse effects which criminal association may have on the child. By reason of penal confinement children are often confronted with perverse sexual conduct[236] and constantly exposed to the criminal ideas and teachings of the adult inmates.[237] Furthermore, the transferred child may be subjected to the stringent rules and regulations of the penal institution.[238] Some of these rules appear to have negligible rehabilitative value and are punitive in nature.[239] Therefore, it would appear that conduct jurisdictions would invalidate an administrative transfer of a juvenile on the basis of a failure to show the requisite

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[231] 18 U.S.C. § 4082 (1964), *as amended,* (Supp. II, 1965-66).

[232] *See* Sonnenberg v. Markley, 289 F.2d 126, 127-29 (7th Cir. 1961); Arkadiele v. Markley, 186 F. Supp. 586, 587 (S.D. Ind. 1960); Clay v. Reid, 173 F. Supp. 667, 668-69 (D.D.C. 1959).

[233] *See* United States v. McCoy, 150 F. Supp. 237, 239 (M.D. Penn. 1957); Suarez v. Wilkinson, 133 F. Supp. 38 (M.D. Penn. 1955); Wilson v. Coughlin, 147 N.W.2d 175, 180 (Iowa 1966); Long v. Langlois, 93 R.I. 23, 28, 170 A.2d 618, 620 (1961).

[234] *See* Wilson v. Coughlin, 147 N.W.2d 175, 180 (Iowa 1966).

[235] *See id;* Long v. Langlois, 93 R.I. 23, 28, 170 A.2d 618, 620 (1961).

[236] *See* Note, *The Problems of Modern Penology: Prison Life and Prisoner's Rights,* 53 IOWA L. REV. 671, 697-98 (1967) (homosexuality generally a major problem in adult penal institutions); *Hearings on Iowa Children's Code Before the Children's Code Study Committee,* 59th Iowa G.A., June 28, 1960, at 8 (former chaplain at Men's Reformatory at Anamosa reports problems of homosexuality when children mixed with adults at this institution). Separation of children from adults in Iowa penal institutions is encouraged but not mandatory. IOWA CODE § 246.36 (1966).

[237] A former juvenile inmate of an adult penal institution relates his experiences in Scolari, *The Importance of Climate in Institutions Treating Juvenile Delinquents,* 53 THE PROCEEDINGS—NATIONAL ASSOCIATION OF TRAINING SCHOOLS AND JUVENILE AGENCIES 43, 45-47 (1957).

[238] In Iowa, both boys and girls transferred from training schools to adult reformatories are subject to all the regulations of such institutions applicable to adult inmates. IOWA CODE §§ 218.91, 245.11 (1966).

[239] *See* Note, *The Problems of Modern Penology: Prison Life and Prisoner's Rights,* 53 IOWA L. REV. 671 (1967).

misconduct, and not upon an invalidation of the statute on grounds of treatment theory and public policy.

The administrative transfer procedure has been challenged as a violation of due process. A few "conduct theory" courts have resolved this issue in favor of the administrative transfer, primarily on the basis that the rehabilitative purpose of juvenile legislation is thereby preserved.[240] The rationale is that if the child's behavior is such that he cannot be reasonably controlled in the training school, he is not receiving treatment most suitable for himself, and an environment conducive to the treatment of others cannot be maintained.[241] This reasoning seems to assume that confinement at a training school is in the nature of a privilege and revocable by administrative fiat.

However, the justification for providing fewer procedural safeguards in juvenile court than in criminal court is the civil nature of juvenile court proceedings.[242] Consequently, other jurisdictions reason that confinement resulting from an administrative transfer must also be civil in character. Thus, if the nature of the confinement is essentially criminal, the transfer is a violation of due process of law.[243] Therefore, the transfer in these jurisdictions may be invalid if it results either in confinement in a penal institution without treatment facilities substantially similar to those found in the training school, or in the commingling of the child with adult criminals.[244]

In addition, statutes authorizing the administrative transfer generally do not provide for notice to the child or his parents of the impending transfer decision and the grounds on which it will be founded.[245] To obtain an opportunity to contest the transfer, the child must rely on a habeas corpus petition filed subsequent to his confinement in the penal institution. Moreover, most jurisdictions permit training school confinement for acts which are not criminally actionable if committed by an adult.[246] The transfer in most states

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[240] *See* Wilson v. Coughlin, 147 N.W.2d 175, 180 (Iowa 1966); Long v. Langlois, 93 R.I. 23, 28, 170 A.2d 618, 620 (1961).

[241] *See* authorities cited note 240 *supra*.

[242] *See* Kautter v. Reid, 183 F. Supp. 352, 353-55 (D.D.C. 1960); Cogdell v. Reid, 183 F. Supp. 102, 103 (D.D.C. 1959); United States *ex rel.* Stinnett v. Hegstrom, 178 F. Supp. 17, 19-21 (D. Conn. 1959); White v. Reid, 126 F. Supp. 867, 871 (D.D.C. 1954); White v. Reid, 125 F. Supp. 647, 649-51 (D.D.C. 1954); *In re* Rich, 125 Vt. 373, 378, 216 A.2d 266, 269-70 (1966).

Incarceration of adults not convicted of crimes has also been invalidated. *See, e.g.*, Benton v. Reid, 231 F.2d 780 (D.C. Cir. 1956) (jail confinement of chronic sufferer of communicable tuberculosis); Commonwealth v. Page, 339 Mass. 313, 159 N.E.2d 82 (1959) (confinement under authority of the civil Sexually Dangerous Persons Law); *In re* Maddox, 351 Mich. 358, 370, 88 N.W.2d 470, 476 (1958) (transfer of civilly committed sexual psychopath from mental hospital to prison).

[243] *See* cases cited note 242 *supra*.

[244] *See* cases cited note 242 *supra*.

[245] *See, e.g.*, 18 U.S.C. § 4082 (1964), *as amended*, (Supp. II, 1965); IOWA CODE §§ 218.91, 245.10 (1966); R.I. GEN. LAWS ANN. § 13-4-12 (1956).

[246] *See, e.g.*, FLA. STAT. ANN. § 39.01(11) (1961); IOWA CODE §§ 232.2(13)(c)-(d) (1966); N.Y. CHILD. CT. ACT § 2(2)(b) (1958). Concerning admission standards to Iowa training schools see notes 195-196 *supra* and accompanying text.

can also be invoked without the commission of an indictable offense.[247] Therefore, a child committed to the training school for relatively minor misbehavior, such as truancy, may be ultimately transferred to an adult reformatory because of behavior equally as innocuous. Although the basic unfairness of this procedure seems apparent, courts have limited their decisions to the individual cases before them without considering the constitutionality of the statute.[248] However, because of the possibility of arbitrary transfer decisions, the statute should be invalidated as contrary to the principles of due process. Thereafter, prison confinement should only result from a criminal adjudication with its attendant constitutional safeguards.[249]

2. *Institutions for Dependent and Neglected Children*

a. Admission Standards

Eligibility for admission to Iowa's institutional homes, the Iowa Annie Wittenmyer Home at Davenport and the Iowa Juvenile Home at Toledo, is essentially limited to children adjudged by a juvenile court to be dependent or neglected.[250] The *Iowa Code* defines the dependent child as one:

> a. Who is without a parent, guardian, or other custodian.
> b. Who is in need of special care and treatment required by his physical or mental condition which the parents, guardian, or other custodian is unable to provide.
> c. Whose parents, guardian, or other custodian for good cause desires to be relieved of his care and custody.[251]

The *Code* defines the neglected child as one:

> a. Who is abandoned by his parents, guardian, or other custodian.
> b. Who is without proper parental care because of the emotional, mental, or physical disability, or state of immaturity of his parents, guardian, or other custodian.

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[247] *See* authority cited note 245 *supra*.

[248] *See* cases cited note 242 *supra*.

[249] *See* KAN. STAT. ANN. § 21-2001 (1964); NATIONAL COUNCIL ON CRIME AND DELINQUENCY, STANDARD JUV. CT. ACT §§ 13, 24(4) & Comment (6th ed. 1959). Although the child is protected by the basic principles of due process in juvenile court by adjudication hearings, he has no right to trial by jury in juvenile proceedings. *In re* Gault, 387 U.S. 1 (1967). However, in Nieves v. United States, 36 U.S.L.W. 2580 (S.D.N.Y. Mar. 5, 1968), *Gault* was interpreted to guarantee the right to jury trial to juveniles charged with a non-petty federal offense; that part of the Federal Juvenile Delinquency Act providing for automatic waiver of jury trial for juveniles who submit to the jurisdiction of federal juvenile courts was held unconstitutional.

[250] IOWA CODE §§ 244.3(1)-(3), 232.33(4) (1966). There is a conflict between § 244.3(3), which provides for the admission of "delinquent" children committed to these homes by the juvenile courts, and § 232.34, which does not authorize the court to commit a delinquent to these homes. The argument could be made that the juvenile courts should be able to commit to these homes children who evidence delinquent tendencies but are not adjudged "delinquent." However, this practice should be limited to the situational, as opposed to hyperaggressive, delinquent. *See* note 216 *supra*.

[251] IOWA CODE § 232.2(14) (1966).

> c. Who is without proper parental care because of faults or habits of his parents, guardian, or other custodian.
> d. Who is living under conditions injurious to his mental or physical health or welfare.[252]

The status of dependency and neglect is defined by the *Code* according to the manner in which parents, guardians, or custodians act towards their children without defining the effect of this parental behavior upon the child. Therefore, even though a child is subjected to family conditions falling within the legal definition of dependency or neglect, he may be stable both mentally and behaviorally. Juvenile courts which fail to recognize this possibility because of inadequate diagnostic practices may institutionalize dependent and neglected children who would receive more satisfactory care in the local community.[253] To remedy this problem, therefore, commitment orders should be accompanied by evidence indicating that the child is either incapable of functioning adequately in a normal family unit or unable to relate satisfactorily to adults or other children.[254]

Specific admission standards for each institution could also be established according to the types of child problems which the institution is best equipped to treat. For example, the staff members of the Annie Wittenmyer Home have developed a tentative program which emphasizes treatment of the "undomesticated slow learner."[255] In the context of this program, the "undomesticated" child is one who is unable to function in a normal family situation.[256] The "slow learner" is the child with an intelligence quotient between sixty and eighty.[257] Further criteria for participation in this program involve factors of rejection and maladjustment.[258] Characteristically, this type of child feels, in varying degrees, that he has been rejected by his family, the local school, and his peer group. Relevant maladjustment factors include cruelty, defiance of authority, distractibility, and impulsiveness. Implicit within this program is the recognition that the educatable slow learner exhibits special problems of adjustment which are often incapable of being treated in the local community. If this tentative program is successful, other programs designed for treatment of specific juvenile types may be instituted. The ultimate result may be a more individualized and workable treatment program, and a de-emphasis on parental behavior as a basis for child treatment.

b. Resident Populations

Based on the maximum capacities of the Annie Wittenmyer Home and the Iowa Juvenile Home, admission rates to these institutions

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[252] *Id.* § 232.2(15) (1966).

[253] Interviews.

[254] *See* CHILD WELFARE LEAGUE OF AMERICA, STANDARDS FOR SERVICES OF CHILD WELFARE INSTITUTIONS 15-16 (1966). For types of children for whom institutional care is considered inappropriate see *id.* at 16-17.

[255] Annie Wittenmyer Home Institutional Staff, *Program Development and Admission Requirements to the Iowa Annie Wittenmyer Home*, June 1, 1967 (unpublished).

[256] *Id.*

[257] *Id.*

[258] *Id.*

have not presented an overcrowding problem. Unlike the situation at the Boys Training School, these institutions have a very low population turnover rate.[259] Consequently, because bed space is readily available, children may be retained in the institutional program for an adequate period of treatment.

The resident population at these institutions is composed of three groups of children—children with problems amenable to institutional treatment, those with minor problems not amenable to institutional treatment, and children whose problems have been successfully treated.[260] Those children comprising the latter two groups are proper subjects for placement outside of the institution. However, because these children are unable to support themselves independently and community placement facilities are limited, particularly for children in the ten to sixteen year old age range, continued confinement is the only feasible alternative.[261] Unnecessary retention of these children in the institution increases the operating costs and diverts the staff members from their treatment duties.[262] More importantly, these children are deprived of their freedom because of factors extrinsic to rehabilitation. To deny a child participation in normal childhood activities because of a failure to provide adequate placement facilities would appear to be at least a dereliction of the state's duty to provide its resident children with proper care and treatment[263] and, arguably, a violation of due process.

Continued confinement of the well-adjusted child may also cause children to become dependent on the institutional way of life, characteristically referred to as "institutionalization."[264] As a result, these children possess an inordinate fear of leaving the institution and, because of this anxiety, are frequently unable to adjust in the local community.[265] Unsuccessful placements result either in the child's return to the institution or serial replacements in different facilities.[266] Thus, continued confinement of well-adjusted children risks the reversal of prior treatment successes, and renders them incapable of satisfactory extra-institutional adjustment.

3. *Foster Homes*

Foster homes are residential treatment facilities, either public or private, which serve as placement alternatives for those delinquent, dependent, or neglected children capable of adequate adjustment within a family unit.[267]

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[259] In 1966, there were 187 admissions to the 315 resident capacity Iowa Annie Wittenmyer Home and 156 to the 200 resident capacity Iowa Juvenile Home. *See* 1966 REPORT 21, 24; 1966 REPORT pt. 2, at 5.

[260] Interviews.

[261] *Id.*

[262] *Id.*

[263] *See* cases cited note 188 *supra.*

[264] Interviews.

[265] For a case history concerning the effects of "institutionalization," *see* C. MCGOVERN, SERVICES TO CHILDREN IN INSTITUTIONS 19-20 (1948).

[266] *Id.*

[267] CHILD WELFARE LEAGUE OF AMERICA, STANDARDS FOR FOSTER FAMILY CARE SERVICE 7 (1965) [hereinafter cited as FOSTER CARE STANDARDS]. As of July 1, 1967,

a. Potential Advantages of Foster Care

Family-centered foster care provides treatment which more closely approximates normal parental care than any other alternative treatment method.[268] Therefore, the environment for child treatment is more conducive to readjustment than the artificial environment which pervades the typical institution.[269] Moreover, the small capacity of these homes allows the foster parents time to render highly individualized care and offer the child opportunities for assuming responsibility.[270] The less restrictive nature of a foster home also permits participation in normal childhood activities, including public school attendance and peer group association.[271] In addition, well-designed foster home programs are functionally very flexible and allow the treatment of a wide range of child problems. Foster homes constitute both an alternative to institutional care and a facility for placement subsequent to institutional care.

Because foster home treatment centers around a residence owned or rented and maintained by the foster parents, no capital outlay is necessary to establish a foster home program. Furthermore, since professional training is usually not a prerequisite to foster parenthood, salary scales are lower than those of professional staff personnel and recruitment of foster parents can be directed to a large segment of the public. Hence, the economic costs of a foster home program are far below those necessary for institutional treatment.[272] This economic flexibility should allow tailoring of foster home participation to actual and current treatment needs.

b. Organizational Problems

i. Supervisory Personnel

Iowa's foster home program lacks the child welfare personnel necessary to provide proper supervision and counseling for the child, his foster parents, and his natural parents while the child is in the foster

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there were 1296 foster homes in 85 counties supervised by county social welfare agencies, and 303 foster homes in 41 counties supervised by private agencies. Letter from Iowa Department of Social Welfare to Iowa Law Review, Sept. 21, 1967.

[268] Iowa law requires that when a child ". . . is removed from the control of his parents, the court shall secure for him care as nearly as possible equivalent to that which he should have been given." IOWA CODE § 232.1 (1966).

[269] *See* FOSTER CARE STANDARDS 3, 5.

[270] *Id.* at 5.

[271] *Id.*

[272] Average cost of foster care per child per month in Iowa counties is $60-$80. Interviews. One county sets a maximum of $110 per month per child for basic costs with total costs up to $150 per month if the child has special needs. Child Welfare Unit of the Polk County Dep't of Social Welfare, Manual for Foster Parents, 118(e) (rev. July 1, 1966) [hereinafter cited as Polk County Manual]. Treatment costs are $303 per month per child at the Iowa Annie Wittenmyer Home and $312 per month per child at the Iowa Juvenile Home. 1966 REPORT, *supra* note 199, at 21, 24. Treatment costs are $430 per month per child at the Iowa Training School for Boys and $399 per month per child at the Iowa Training School for Girls. W. LUNDEN, JUVENILE DELINQUENCY IN IOWA 88 (1967).

home.[273] In addition, because of general staff shortages in county social welfare offices, the few available child welfare workers are often required to assume responsibilities in other areas, such as aid to the aged and blind, which further detracts them from their foster care duties.[274] Consequently, supervision is often limited to crisis situations which arise in the foster homes, and seemingly minor problems which may develop into serious difficulties are left unresolved.[275] Inadequate time for treatment also defers the successful adjustment of the child and leads to lengthy foster home placements, which eliminates these homes as viable placement possibilities for court and institutional use. Furthermore, long-term child placement becomes pseudo-adoptive in nature, a complete contravention of the goal of reintegrating the child into his natural family.[276]

Because of these improper treatment practices, the child may often fail to adjust, and seriatum releases and replacements in various foster homes may result.[277] One child placement authority has concluded that after a number of replacements:

> [T]he child will cease to care, being too tired emotionally and too embittered from repeated rebuffs of his possibly distorted attempts to invest dependency longings in adults. He then avoids relationships which call for investment of himself, and learns instead to manage by manipulating and exploiting people, which sometimes leads to delinquency patterns.[278]

Timely resolution of behavioral problems arising in foster homes would be facilitated by legislative appropriation of funds sufficient to employ more child welfare personnel. Ideally, a full complement of welfare workers would staff a special unit in each county, whose main purpose would be the counseling of both parents and their children. Effective counseling could assist in reintegrating the child into the natural family and potentially may resolve family discord before removal of the child from his natural parents becomes necessary.

ii. Foster Parent Compensation

The rate of compensation for child care in some Iowa counties is only sixty dollars per month per foster child, while in other counties the compensation varies from seventy to one hundred fifty dollars per month depending on the age and needs of the child.[279] Because of these disparate payments for similar child care services, the advisability of county determination of compensation rates is questionable.

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[273] *See* Letter from Iowa Department of Social Welfare to Iowa Law Review, Sept. 21, 1967. Ninety-three full-time child welfare casework positions are approved, but not always filled. Hence, at maximum capacity there would not be one full-time caseworker for each county. *Id.*

[274] Interviews.

[275] *See* Interviews; Thomas, *Delinquency and Juvenile Courts: Confusion and Diversity*, 25 FED. PROBATION, Dec. 1961, at 50.

[276] ICCCD Summary, *supra* note 194, at 7.

[277] *Hearings on Iowa Children's Code Before the Children's Code Study Committee*, 59th G.A., Dec. 9, 1960, at 2 (testimony and recommendations of the Iowa State Department of Social Welfare).

[278] E. GLICKMAN, CHILD PLACEMENT THROUGH CLINICALLY ORIENTED CASEWORK 65-66 (1957); *accord*, J. CHARNLEY, THE ART OF CHILD PLACEMENT 10-11 (1955).

[279] Interviews; Polk County Manual, *supra* note 272, at 118(e).

A monthly payment of sixty dollars seems inadequate for recoupment of even the basic child-care costs of meals, clothing, and medical expenses. Such compensation rates also fail to consider the value of the foster parent services and the possibility that emergencies may produce unexpected expenses. Consequently, this limited compensation nearly assures participating foster parents a financial loss and hinders their effective recruitment. Furthermore, if some foster homes are unable to support the basic needs of the child, rehabilitation efforts may be significantly hampered.

It is recommended that the legislature, with the cooperation of the State Department of Social Welfare, establish fair and consistent compensation rates for foster care services. Because various degrees of effort and skill are required of foster parents, uniform rate differentials should be articulated, based on the number of children in the home, the seriousness and extent of the child's problems and needs, the age of the child, and the estimated cost of meals, clothing, and other necessities.[280] In addition, foster parents should receive a specified basic monthly payment for those quarters unoccupied but available for placement. This combination of compensation revision and subsidy would appear to upgrade present child treatment practices by facilitating the recruitment of foster parents and encouraging engaged foster parents to continue their services.[281]

iii. Licensing Foster Homes

To provide more adequate care for the child, the *Iowa Code* requires that foster homes be licensed by the State Department of Social Welfare.[282] Accordingly, this department has established certain standards with which foster homes must comply to receive a license. The foster home must be in a location conducive to the welfare and development of the child[283] and must fulfill minimum health and sanitation requirements.[284] The foster family must also be of good character and in good health, have a sound financial status, and be willing to provide the child with normal family experiences.[285] Once granted, the license

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[280] For an example of a uniform rate differential scale see Polk County Manual, *supra* note 272, at 118(e).

[281] Concerning the advisability of compensating foster parents for services rendered, the Child Welfare League of America has stated:

> Such payment is believed to be consistent with the most desirable motivation and qualifications for undertaking foster family care. This payment provides a realistic and valid means by which foster parents may get additional satisfaction from performing service for children, and it reflects the agency's recognition of the value of the service to the welfare of the community. It is therefore reasonable to assume that such payment will contribute to the recruitment and retention of qualified foster homes. FOSTER CARE STANDARDS 53.

[282] IOWA CODE § 237.8 (1966) referred to as "boarding" homes). For Iowa licensing procedures, *see* IOWA DEPARTMENTAL RULES 656-64 (1966). *See generally* L. COSTIN & J. GRUENER, LICENSING OF FAMILY HOMES IN CHILD WELFARE (1965); M. WOLINS, SELECTING FOSTER PARENTS (1963).

[283] IOWA DEPARTMENTAL RULES 663 (1966).

[284] *Id.*; IOWA CODE § 237.4 (1966).

[285] IOWA DEPARTMENTAL RULES 663 (1966).

is reviewed annually and subject to revocation for breach of any applicable rule or regulation.[286]

Although licensing of foster homes is a positive step toward the goal of insuring proper child care, the placement of children in unlicensed homes has been a practice of certain Iowa juvenile courts.[287] The basic reason for this practice seems to be the inadequate number of foster homes available to these courts. The apparent legal justification for this placement practice is a 1960 Iowa Attorney General's Opinion which interpreted the scope of the then existing licensing requirements[288] as not applying to homes in which the child's guardian was present. The effect of a juvenile court placement in a "suitable family home" was to vest the guardianship of the child in a family member. Thus, the opinion concluded that these homes need not acquire a license.[289] However, in 1965, the legislature amended the *Code* to provide that the legal effect of court placements in foster homes is a transfer of custody rather than guardianship of the child to the foster parents.[290] Therefore, the 1960 Attorney General's Opinion is no longer applicable. Hence, this practice is clearly a contravention of both the statutory mandate and legislative purpose, and juvenile courts should refrain from the placement of children in unlicensed homes.

iv. Group Homes

Iowa's foster home program was designed for the treatment of younger dependent and neglected children. Therefore, few homes have been developed as placement facilities for either the older dependent and neglected child or the delinquent child.[291] One type of child care facility, the group home, would seem to be an appropriate treatment medium for these children.[292] Because group homes have capacities varying from six to twelve children, "small family" unity and close parent-child relationships are not as evident.[293] Although positive and substantial parent-child relationships are necessary to the successful operation of a group home, the group of children itself fulfills a meaningful rehabilitative role.[294] The group offers the child an opportunity for security and acts as a forum in which his per-

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[286] *Id.* at 662-63; IOWA CODE §§ 237.13 (power to revoke), 238.10 (conditions justifying revocation) (1966).

[287] Interviews.

[288] [1959-1960] IOWA ATT'Y GEN. BIENNIAL REP. 285-88 (interpreting IOWA CODE §§232.22, 237.2, 237.8 (1958)).

[289] *Id.*

[290] IOWA CODE §§ 232.33(3), -.34(3) (1966).

[291] Interviews.

[292] *See* F. FISHER, THE GROUP HOME (1952); Witherspoon, *Foster Home Placements for Juvenile Delinquents*, 30 FED. PROBATION, Dec. 1966, at 48; H. Dudley, Report on Group Home Program for Delinquent Girls, submitted to Ramsey County Minnesota Welfare Department, Mar. 21, 1967 (unpublished).

[293] Letter from the Iowa Department of Social Welfare to Iowa Law Review, Nov. 29, 1967. The foster home maximum capacity is four, unless permission to expand is granted by the director of the Division of Child Welfare. IOWA DEPARTMENTAL RULES 662 (1966).

[294] *See* F. FISHER, THE GROUP HOME 21-22 (1952).

sonal problems may be freely discussed.[295] This peer group support greatly facilitates resolution of the child's initial adjustment problems in the home.

Of particular importance is the group's ability to accept and control, through self-imposed rules and sanctions, aggressive behavior or other disruptive actions commonly manifested by the delinquent child and the more independent older child.[296] In this manner, group home parents, unlike foster parents, are somewhat shielded from the actions of this type of child. The group home is thereby better able to handle children with problems of a more serious nature. Consequently, because of the group home's large capacity and its unique treatment capabilities, the availability of these facilities could reduce the commitment rate of children to institutional homes and training schools.

v. Halfway Houses

One type of group home, termed the halfway house, has been effectively employed as an intermediate step between institutional confinement and placement in the local community.[297] The primary purposes of this facility are to provide the child with more intensive supervision and treatment than he would receive from a parole officer, and allow the child a sufficient period of time for gradual readjustment to normal community life.[298] Preliminary results of the federal halfway house project indicate that participating children violated parole at a rate less than one-half of the average violation rate for the entire federal institutional system.[299] Because effective operation of this program requires employment of a professional staff, the operating costs of these facilities are higher than the costs of non-professionalized group homes, but less costly than institutional treatment.[300] Therefore, because of the increasing rate of parole violations and subsequent recommitments to the Boys Training School, the Iowa Legislature should consider appropriating the funds necessary for implementation of a halfway house system as a possible solution to this dilemma.

vi. Financing the Foster Home Program

Reimbursement to counties for costs incurred in providing foster home care is generally limited to two sources—the federal government and the foster child's natural parents. The federal government partially defrays the costs of operating licensed foster homes which meet certain standards.[301] In addition, the juvenile court, after a hearing on

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[295] *Id.*

[296] *Id.*

[297] *See* Kennedy, *Halfway Houses Pay Off*, 10 CRIME & DELINQUENCY, Jan. 1964, at 1, 5.

[298] *See* P. KEVE, IMAGINATIVE PROGRAMMING IN PROBATION AND PAROLE 227-29 (1967) (discussion of adult halfway houses).

[299] This was so even though children placed in halfway houses were considered "bad" parole risks. Kennedy, *Halfway Houses Pay Off*, 10 CRIME & DELINQUENCY, Jan. 1964, at 5.

[300] *Id.* at 5-6.

[301] 42 U.S.C.A. § 608 (1964). For an enumeration of federal standards for foster homes, *see* IOWA DEPARTMENTAL RULES 664-65 (1966).

the matter, may order the child's parents to pay, in whole or in part, the expenses of their child's foster care treatment.[302]

The state, however, only reimburses the counties in a limited number of cases. Iowa law requires the state to provide full reimbursement for costs of foster care provided to veterans' children who would otherwise have been eligible for admittance to either the Annie Wittenmyer Home or the Iowa Juvenile Home.[303] Although the apparent statutory purpose of reducing commitments to institutions is commendable, eligibility standards for reimbursement based on the child's status rather than his needs may be of questionable treatment validity.

Reimbursement based upon the child's status was the subject of a recent study. This study isolated the effects of an Iowa statute, since amended to correct the defect, which authorized the state to reimburse counties fully for their costs incurred in sending veterans' children to state institutional homes for treatment.[304] The author of this study concluded that more veterans' children were committed than would normally be expected in absence of the cost reimbursement incentive.[305] Furthermore, the study determined that many veterans' children were inappropriately confined, since as a group they were better adjusted and less in need of institutional care than the balance of the institutional population.[306] Therefore, to avoid the use of cost considerations rather than the child's needs as the controlling factor in choosing a child care facility, it is recommended that the state fully reimburse counties for foster care costs which are not reimbursable from other sources, regardless of the status of the child served.

A legislative appropriation would be necessary to finance adequately the foster home program. Approval of such a measure would not, in the long run, burden the state treasury because an increase in foster home treatment facilities will reduce the present population at the institutions and, hence, substantially reduce institutional treatment costs. Because of the great operating cost differential between foster care treatment and institutional treatment,[307] the ultimate effect would be a cost saving to the state and the taxpayer.

C. Related Problems

1. Aftercare Services

Aftercare is a treatment service administered through state parole or placement programs which is provided to the child subsequent to

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[302] IOWA CODE § 232.51 (1966), *as amended,* 2 Iowa Leg. Serv. 163 (1967) (payments ordered by the court operate as a judgment and lien against each of the parents).

[303] IOWA CODE § 232.53 (1966), *as amended,* 2 Iowa Leg. Serv. 151 (1967). Eligible children are those who are ". . . destitute children, and orphans unable to care for themselves, of soldiers, sailors, or marines." IOWA CODE § 244.3(1) (1966).

[304] *See* IOWA CODE § 244.14, *as amended,* 2 Iowa Leg. Serv. 148 (1967); L. Harris, Institutional Placement of Children in Iowa, June 1967 (unpublished thesis in University of Iowa Library) [hereinafter cited as Harris Study]; Interviews.

[305] *See* Harris Study 1.

[306] *See id.* at 32-35.

[307] *See* authority cited note 272 *supra.*

his release from an institution.[308] The objective of aftercare programs is to assure that the child receives proper counseling and supervision in a community environment conducive to successful adjustment. Because these programs assume the ultimate responsibility for reintegrating the child into the community, the continued effectiveness of the institutional treatment received by the child is substantially dependent on the quality of the aftercare services.[309]

The Community Services Unit of the Division of Corrections administers Iowa's aftercare program.[310] Providing aftercare services to children placed in training schools and institutional homes is the responsibility of the Unit's field workers, or family counselors.[311] Soon after entering the institution the child is assigned a family counselor.[312] In collaboration with the institutional staff, the family counselor reviews the history of the child's problems and his progress in the treatment program.[313] In addition, the counselor conducts interviews with the child, his parents, and residents of the local community.[314] On the basis of this analysis, a plan is formulated to guide the future reintegration of the child into the community and efforts are made to identify and resolve problems which may inhibit this reintegration.[315]

The family counselor's function becomes most crucial when the child is released from the institution.[316] Since the ability of the child to adjust satisfactorily is often foreseeable during the initial three months of placement,[317] the counselor must have time to supervise adequately the child's activities and counsel him concerning any

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[308] *See generally* NATIONAL CONFERENCE OF SUPERINTENDENTS OF TRAINING SCHOOLS AND REFORMATORIES, INSTITUTIONAL REHABILITATION OF DELINQUENT YOUTH 178-90 (1962).

[309] A national survey concerning child treatment concluded:

> The survey findings presented . . . the harsh realities of the nation's failure to come to grips with the juvenile aftercare problem. For years the response by many states to the needs of a large group of young people has been made with little boldness and no imagination. As it stands today in many states, juvenile aftercare is a monument to neglect. Each year about 59,000 youngsters leave a correctional setting after having spent a substantial amount of time there. They leave with the hope of restoring themselves to meaningful lives in our society. Their greatest need is assistance through a sound aftercare program. Most of them receive only minimal help during this critical period in their lives. National Council on Crime and Delinquency, *Correction in the United States*, 13 CRIME & DELINQUENCY, Jan. 1967, at 110.

[310] Interviews. Prior to 1966, the Juvenile Parole Service provided aftercare services for children released from the training schools and the Children's Division provided aftercare services for children released from the institutional homes. 1966 REPORT, supra note 199, at 26, 50.

[311] These workers are designated by statute as "parole agents." IOWA CODE § 218.34 (1966). Designation of these agents as "family counselors" was an administrative decision. Interviews.

[312] Interviews.

[313] *Id.*

[314] *Id.*

[315] *Id.*

[316] *Id.*

[317] W. LUNDEN, JUVENILE PAROLE VIOLATIONS 23 (1960) (report prepared for Governor's Committee on Penal Affairs for Iowa).

difficulties which he may have in his contacts with parents, peers, school officials, and other members of the community. After this critical period, the family counselor may diminish his supervisory control and allow the child to assume more responsibility for his conduct.[318] The person with whom the child is placed is encouraged to fill the supervisory and counseling gap created by the less frequent visits of the family counselor.[319] Ideally, as the family counselor diminishes his role, the natural parents or the foster parents will be able to assume full responsibility for the child and the child will be capable of proper behavior.

The Community Services Unit is presently confronted with staff shortages. Therefore, many family counselors must assume heavy caseloads[320] from a wide geographic area;[321] a family counselor may be responsible for as many as seventy cases in six or more counties.[322] Consequently, time for the counseling and supervision allocable to each case is reduced as caseloads and areas of responsibility increase. This often results in inadequate aftercare services,[323] which may be a partial cause of the high rate of parole violation at the Boys Training School. Furthermore, counselors have less time available to investigate placement opportunities for children in institutional homes who are proper subjects for release. Therefore, it is recommended that the legislature appropriate sufficient funds to increase the family counselor staff to the level necessary for accomplishment of their treatment objective.[324]

2. *Parole Revocation*

Parole is the conditional release of a person from an institution on a selective basis.[325] Before release from the training school, the child must sign a community placement agreement which contains a number of rules of conduct to be followed while on parole.[326] These administrative rules are similar to probation conditions[327] and include restrictions on the child's selection of friends and travel outside the

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[318] Interviews.

[319] *Id.*

[320] Questionnaire: Family Counselor, question 1.

[321] Questionnaire: General Section. Responses by family counselors to demographic questions.

[322] *See* authority cited notes 320 & 321 *supra.*

[323] Interviews.

[324] The Special Task Force on Correctional Standards of the President's Commission on Law Enforcement and Administration of Justice suggests a maximum workload of fifty units, computed by assigning one unit to each actively supervised case and three units to each case of pre-aftercare investigation. National Council on Crime and Delinquency, *Correction in the United States,* 13 CRIME & DELINQUENCY, Jan. 1967, at 271.

[325] *See* L. NEWMAN, SOURCEBOOK ON PROBATION, PAROLE, AND PARDONS 3 (2d ed. 1964).

[326] Iowa Board of Control of State Institutions, Corrections Division, Community Placement Agreement, 1967 (unpublished agreement).

[327] For conditions of informal and formal probation see note 52 *supra* and accompanying text.

community.[328] In addition, the *Iowa Code* conditions the child's freedom on conformity to a general standard of good conduct.[329] The *Code* further provides that violation of any applicable rule in the placement agreement or "bad" conduct constitutes grounds for revoking the child's parole.[330]

Procedurally, the decision to invoke the revocation process is initiated by the family counselor by presenting his district supervisor with a written report containing the alleged violation and a recommendation that the child be returned to the institution.[331] Upon approval of the recommendation by the district supervisor, the child is returned to the training school.[332] Since the family counselor makes both the decision to invoke the procedure and establishes the grounds for the revocation he is vested with a wide range of discretion. The standards of conduct are extremely vague; the counselor has few guidelines, aside from his own judgment, in determining the degree of misconduct which justifies invoking the procedure. It is also unlikely that the family counselor will observe the alleged violation. Therefore, the grounds for revocation usually must be established on the basis of reports from other parties. Consequently, there is a strong likelihood that hearsay evidence may influence the initial recommendation. Although it should be assumed that these reports are investigated in good faith, family counselors are nevertheless under the constant pressure of a time-consuming workload which may compel superficial investigations leading to erroneous conclusions.

Perhaps the greatest potential for abuse of discretion arises from the parole revocation statute.[333] This statute contains no provisions for notification to the child or his parents concerning the impending revocation decision and the grounds on which it will be based, denying the parties an opportunity to contest the allegations.[334] In light of the child's substantial interest in continued freedom, the absence of these rights seems patently unfair. Therefore, it is recommended that a hearing be held on each revocation decision which guarantees to the juvenile the rights of fair notice of charges, counsel, confrontation and cross-examination of witnesses, and the privilege against self-incrimination.[335]

D. Summary

For a variety of reasons, Iowa child treatment facilities have engaged in practices which have little treatment propriety. The responsibility for these practices, and the potentially harmful consequences to the welfare of those children subjected to them, must ultimately

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[328] *Id.*

[329] *See* IOWA CODE § 218.36(5) (1966).

[330] *Id.*

[331] Interviews.

[332] *Id.*

[333] IOWA CODE § 218.36(5) (1966).

[334] *See id.*

[335] These rights are guaranteed to children in juvenile court delinquency proceedings. *In re* Gault, 387 U.S. 1 (1967).

revert to the state government. Thus, it seems incumbent upon all branches of state government to reject institutional treatment as a panacea for all child problems, and carefully reevaluate present treatment policies in light of rehabilitative objectives.

V. Conclusion

The *parens patriae* doctrine and the recognition that child misconduct should be treated differently than adult crime led to the development of a less formal and separate legal process for treatment of juvenile deviancy. The recent United States Supreme Court decision of *In re Gault*, however, has emphasized the need for a tightening up of juvenile adjudicatory procedures to ensure that constitutional rights protect all citizens, be they adults or children. Some juvenile experts consider the *Gault* decision to have completed a full circle in juvenile philosophy—that the juvenile process will again become formal, inflexible, and identical to the adult criminal process.[336] Those who reflect this opinion, therefore, forecast the defeat of the ideal of regenerative and individualized treatment for child offenders. It is submitted, however, that full application of constitutional protections to juvenile offenders is clearly appropriate and vital to the child, his parents, and our society. Furthermore, such protection need not undermine the present philosophy of juvenile treatment so long as the child's behavior is diagnosed and treated by trained professionals who appreciate fully the responsibility of their position. Thus, one must recognize the compatibility between the *Gault* principles and the desirable separate treatment of juveniles.

To ensure this compatibility, it is necessary that a greater emphasis be given to the problems of juvenile deviancy by both the state government and its citizens. At the present time, judges consider juvenile cases to be the most distasteful assignment within the judiciary.[337] The basis for their feelings appears to be a lack of prestige attending the position and a general tenor of disorganization which pervades the Iowa juvenile process.[338] The genesis of this disorganization is apparently not singular, but a complexus composed of shortages of qualified personnel, an unworkable structural organization for juvenile treatment, and a lack of communication of information regarding juvenile misbehavior.

The Iowa legislature has apparently recognized the need for reorganization of certain state functions. In 1967, the legislature enacted a bill to establish a State Department of Social Services, which combined the functions of the Board of Social Welfare, Department of Social Welfare, Board of Parole, Board of Control of State Institutions, and other state agencies.[339] This reorganization will place under one major state agency all family institutional agencies and welfare agencies which participate in the juvenile process. It does not, however, encompass the services of probation officers. Because a great need exists for highly qualified probation officers, it is hoped that they

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[336] Interviews.

[337] *Id.*

[338] *Id.*

[339] Iowa Code (1966), *as amended*, 4 Iowa Leg. Serv. 604-52 (S.F. 739) (1967).

may ultimately be included in the Division of Child and Family Services, a sub-agency of the newly created Department of Social Services. Such inclusion would enhance the probability that the employment of probation officers would be primarily based upon education and experience, as opposed to patronage and other subjective factors.

Removal of the judge's appointment power with respect to probation officers is presently a highly controversial subject in Iowa.[340] The judges, perhaps understandably, are reluctant to relinquish this patronage privilege and are opposed to centralized control over "their" probation officers. However, a recent legislative amendment, while retaining the juvenile judge's appointment power, has authorized the Iowa Supreme Court to establish rules, standards, and qualifications for all probation officers so appointed.[341] The court's power is permissive, and to date it has not articulated any guidelines. If meaningful guidelines are established, it will be a first stride towards a more competent probationary staff. Such action may constitute a more acceptable compromise to the juvenile judges; the only limitation upon their appointment power would be that of selecting qualified personnel for a public position of great social importance—arguably a reasonable limitation. If properly instituted and supervised, court-established qualifications may thus provide a viable alternative to inclusion of probationary staff within the Department of Social Services.

In addition to centralization of juvenile services at the state level, it is recommended that consideration be given to reorganizing and centralizing field facilities. At present, the caseloads and areas of responsibility of both family counsellors and probation officers vary widely, and often represent a duplication of juvenile services. There exists an inefficient use of personnel, and disparities exist across the state in the availability of treatment facilities. One possible solution to these problems would be the establishment of similarly equipped and staffed juvenile service centers throughout the state. Geographically, placement of juvenile service centers could be aligned with the major metropolitan and trade areas of the state.[342] Such an orientation

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[340] Interviews.

[341] IOWA CODE, ch. 231 (1966), *as amended*, 2 Iowa Leg. Serv. 162 (§ 25, S.F. 200) (1967).

[342] Regional delineation for organization of state services is a new and developing concept in the State of Iowa. The State Office for Planning and Programming has recently submitted to the Governor a proposed plan for organizing the administration of state services in sixteen planning and administrative regions. These regions are keyed to sixteen service center areas, and have been "designed to meet existing and future needs for:

[a] A common geographic base for the planning, coordination, and administration of state services and programs.

[b] A base for regional planning, programming, and development through the identification of common problems, goals, and opportunities at the regional level, and through the integration of state and local development policies and goals.

[c] A base for the greatest utility of local resources through the identification and use of the most appropriate state and federal programs.

[d] Sub-units of a statewide information system."

STATE OFFICE FOR PLANNING AND PROGRAMMING, A REGIONAL DELINEATION FOR THE

has been the locational basis for the recently developed vocational agricultural and technical schools.

Criticism of such a program can be expected. Rural localities may object to outside control and the concomitant loss of local discretion in the juvenile treatment process. Centralized service centers, however, would allow for economy of personnel, equipment, institutional facilities, and consistency in treatment practices and policy. Supervision of the centers by the Division of Child and Family Services would aid in resolving the present conflicts and lack of cooperation which exists between agencies involved in the juvenile process. Moreover, collection and compilation of statistics so important to analysis of the juvenile problem would be uniform, current, and readily accessible.[343] Thus, recognizing that proper rehabilitation of the juvenile offender is largely dependent upon adequate juvenile treatment facilities and staff, submission to purely local objections would appear to delay attainment of the objective of preventing, controlling, and treating juvenile delinquency.

Assuming that Iowa's treatment resources are properly organized and allocated, a need still exists for educating all juvenile process personnel in the legal and social implications involved in delinquency cases. Many judges complained that they were constantly forced to make "seat of their pants" decisions in both the diagnostic and dispositional phases of delinquency adjudications.[344] Moreover, the *Gault* decision has left many constitutional questions open for the speculation of both judges and attorneys. Indeed, because of the *Gault* decision attorneys may reasonably expect increased participation in juvenile cases, an area in which most feel inexperienced.[345]

Resolution of this educational function could be facilitated through distribution to all juvenile agencies, by the Division of Child and Family Services, of current juvenile treatment literature. The Iowa State Bar Association could also contribute through presentation of continuing legal seminars which focus upon the role of the attorney in representation of the juvenile and his family. Iowa law schools should also provide within their curriculum subjects which will give future lawyers a meaningful understanding of the juvenile's social and legal problems.[346] Closing of this educational gap should not only result in academic understanding, but impress upon the public the significant role played daily by juvenile court personnel.

Notwithstanding the current and future problems which Iowa must

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STATE OF IOWA, at 1 (December 1967).

[343] Although juvenile statistics have been compiled and are available, their collection and publication is not controlled by any single organization. Consequently, the gathering of statistics is often not directed toward any substantive goal, and the statistics of many agencies must often be examined to achieve a composite analysis of particular juvenile problems.

[344] Interviews.

[345] *Id.*

[346] *See generally* Skoler, *Law School Curriculum Coverage of Juvenile and Family Court Subjects*, 5 J. FAMILY L. 74 (1965). The University of Iowa College of Law is considered to have offered at least "substantial coverage" of juvenile and family court subjects. *Id.* at 76-80. Iowa also offers a course in Law and Psychiatry and a seminar concerning law in a changing society.

resolve to maintain a viable rehabilitative juvenile program, its present program has the positive factor of possessing personnel with an interest in, and motivation for, development of a truly professional program. Many of the present treatment practices in Iowa have achieved substantial rehabilitative success. However, until this achievement is characteristic of the entire Iowa juvenile system, the people of Iowa and their public representatives must conscientiously strive to provide meaningful care and custody for their problem children.