

# Denver Law Review

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Volume 27  
Issue 7 *Symposium - Juvenile Delinquency*

Article 3

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January 1950

## Children in Court

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### Recommended Citation

Phillip B. Gillian, *Children in Court*, 27 *Dicta* 235 (1950).

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## Children in Court

## A SYMPOSIUM ON JUVENILE DELINQUENCY

### FOREWORD

In recognition of the widespread realization by lawyers that they have an obligation to society above and beyond the services which they render for their clients, the editors of *DICTA* feel that it would be appropriate to present from time to time articles upon matters of a social, economic, or governmental nature which call for more attention by members of the profession. With this thought in mind, this issue presents a symposium on the subject of juvenile delinquency.

Such a symposium, of course, is a deviation from the established practice of dealing only with topics of a legal nature. However, a satisfactory solution to juvenile delinquency, as well as many other social and economic problems, may well be awaiting an enlightened leadership by members of the legal profession, either in an official capacity or as private citizens.

The first four articles presented herein point-up the fact that different approaches to the problem of juvenile delinquency may be expected from a judge, a law school professor, a psychologist, and a director of a social agency. Nevertheless, the reader will observe considerable area of common agreement among these contributors that could serve as the working basis for real progress in this field. The fifth article outlines the efforts that one state has taken in an attempt to prevent delinquents from becoming criminals. Also of interest should be the review of two recent publications of the U. S. Children's Bureau summarizing the laws and suggesting improvements in guardianship and adoption.

## CHILDREN IN COURT

HON. PHILIP B. GILLIAM

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In these days of widespread tensions arising out of the troubled times at home and abroad, it is not surprising to find the problems of juvenile delinquency occupying a prominent place in the thinking of our people. Radio stations and newspapers throughout the country have played up the increase in juvenile crime and delinquency. Magazines and other publications have made feature articles out of it.

Reports from throughout the country indicate a slight increase in juvenile delinquency, but not nearly so much as one would be led to believe from reading the news articles. Press sensationalism is an old and well-worn device for increasing circulation, and there is an avid, if not morbid and revealing, hunger on the part of many people for such news.

Alarmed by the rising tide of violence accompanying some of the juvenile crimes, there has come into being a regressive change in the perspective of many otherwise objective people, accompanied by a significant and disturbing demand for harsher measures in dealing with the juvenile offender. They would abandon the humanitarian gains of the decades and return to the repressive and brutal measures of an older day.

The gradual disappearance of home supervision partially explains the increase in complaints filed in the courts. This is verified by the great increase in complaints filed by the parents themselves regarding their unmanageable children, runaways, and sex delin-

quents. The broken home presents one of the greatest difficulties in dealing with the problem of youth delinquency. What escapes many students of this problem is that a broken home may exist despite the physical presence of both parents. No satisfactory substitute has ever been found to take the place of a good home. It is still the center of our present social order. There is, therefore, still much to be done in the field of training young people to be worthwhile parents. Parenthood should be looked upon as the greatest of professions and not as the accidental result of a biological urge.

The lack of proper supervision is the greatest single factor contributing to juvenile maladjustment. It has been the experience of the Denver Juvenile and Family Court that better than 90 per cent of delinquency could have been prevented by greater parental supervision.

Unfortunately, the parents themselves are often anti-social. They feel they cannot make a decent living for their children, or they can't obtain a suitable dwelling, or they never "get a break." Obviously, if the parents are dissatisfied and disgruntled, there can be no goal and no striving. Moreover, where the home conditions are sordid, the children, with their inborn instinct and longing for normal family relationship, will rebel.

So long as parental supervision of children is inadequate, our greatest immediate need is to provide the proper supervision and planning for the child, either through the schools and related agencies, or through the Court, as overparent, and its related agencies.

#### INFLUENCE OF ECONOMIC CONDITIONS

The boredom, monotony, and wants in the homes of economically underprivileged parents are a prolific source of much delinquency. Resentment toward the meager circumstances of his home is translated into resentment toward children who have things he doesn't have or can't have. Definite patterns of hostility and aggression are formed, and delinquent behavior results. Interestingly enough, despite the aggression and hostility, there is often an accompanying shyness and timidity which reveal the basically inadequate character of the delinquent. When he steals money, for example, he is seeking material substitutes for the love, affection, and social acceptance denied him. In this one way, too, he finds satisfaction in living and fulfillment of his strivings to be masculine. It is another way of displaying deep-seated feelings of difference. However that may be, it remains true that there are many parents who fail entirely to train their children, and when they get into trouble, they have a pathetic lack of understanding as to why it should have happened.

Economic underprivilege, with its concomitants of dire poverty, squalor, filth, and disease, is increased by the still serious hous-

ing problem. The war time and post-war influx of newcomers has gravely affected the housing problem, and this has further been aggravated by the annual inpouring of migrant laborers. Of some 40,000 new people acquired annually for harvesting the crops, some 5,000 to 10,000 remain each year, many of them drifting to Denver and nearby communities. At first, they are fairly well-supplied with funds, but because of drinking, gambling, and other vices, they soon lose what money they have and families begin to double up. A large number of these people are of low mental and moral development, and their children contribute a disproportionate share of the city's delinquents.

The social and economic environment in which such children are forced to live seriously affects their lives. Fundamentally, they are not hoodlums or dangerous characters, but normal kids reacting normally to a vicious and abnormal situation. Robbed of that basic sense of security and belonging, it is not surprising that they become embittered or join a gang or engage in destructive activities to gain recognition otherwise denied them.

Denver has achieved the unenviable distinction of being one of six large U. S. cities singled out by the Surgeon General of the Public Health Service for having slum conditions "that cause real indignation." He adds that in the poor housing areas juvenile delinquency is more than twice as high as in the better districts.

#### NEED FOR BETTER UNDERSTANDING

Delinquency can no longer be looked upon as a wrongdoing that must be stopped because of its effect upon society. The delinquent must be understood as a personality. We need to understand the motives at the base of his behavior, his desire for security in the home, his sense of achievement, his social contacts, and the recognition and acceptance of himself as a personality. All these normal desires cry for satisfaction in the delinquent just as they do in the non-delinquent. When these natural desires fail to find a satisfactory outlet, they lead to the dissatisfaction and delinquent behavior already pointed out. If our society can find no activities to offset these frustrations, the child is then left to find his own solutions to the problem. Too often he does not have inhibitions strong enough to restrain his delinquent impulses. Yet we know that everyone has the capacity to build a conscience. In delinquents, goals and ideals are not well-defined objects, and that is part of the picture invariably encountered in economically underprivileged groups.

In this period of stress and strain many communities also have failed to maintain their educational and recreational activities at a high enough level to satisfy the increased desires of young people. They have failed to supply wholesome outlets for the natural desires and urges of youngsters so that these children have been forced to turn to delinquent behavior in an endeavor to fulfill their

needs. To work with delinquents requires limitless patience, and at times it seems almost an endurance test to those so engaged.

#### THE INSTITUTIONS THAT CAN HELP

In combating delinquency, new agencies are not necessary. The greatest help will not come from the purely recreational agencies. It will come from those firmly established and already functioning centers such as the home, school, court, and church. It is usually during his school days that the child's most serious delinquencies develop. The school is therefore most deeply involved in the whole question. The fact that nearly all juvenile delinquents are of school age does not mean that the school is responsible for their delinquency. But a child's revolt against school authority and discipline may be an indication of some difficulty that is deeply rooted in his past or home environment. Truancy, called the kindergarten of crime, is often an early indication of some maladjustment in school or in the home.

The cost of crime in the United States is so large that it staggers the imagination. It is estimated that the average boy, lost to society through lack of adequate probation services, costs the taxpayers \$25,000 to \$40,000 if he ultimately winds up in the penitentiary.

The probation and parole officers in this country are performing a magnificent service for the people, not only from a humanitarian standpoint, but also economically in the savings of untold dollars. Certainly there should be more public recognition of the valuable professional services contributed by these earnest and sincere men and women. They have dignified their profession by lofty concepts of duty and daily demonstrate the truth of the saying: "Every calling is great if greatly pursued." When these probation and parole officers are accorded compatible monetary rewards, the community will profit not only from the higher standards thus established, but from the still greater savings hence made possible.

In conclusion, I should like to reiterate the well-known fact that there is no such thing as a child that is intentionally bad. Those rare instances of a boy or girl who is apparently intentionally bad involve, almost without exception, pathological cases.

If the world is full of confused, unhappy and maladjusted boys and girls, is it not because their parents are confused, and because the world itself seems to have lost its sense of direction? We adults have failed to provide our children with a society that meets their needs. How then can we halt juvenile delinquency unless a more adequate society is provided for the children? Parents could well set a better example along religious lines too, and see that their children receive more religious training.

Finally, society itself must raise its thinking and feeling to a higher level. At present, society appears to enjoy first, its own

suffering, and secondly, punishing its members who have become unsocial because of its own negligence and stupidity. This is something like a man burning his finger, then cutting off the injured member because it pains. Only progressive changes in our perspective will provide the gradual amelioration and ultimate solution of the problem.

## THE BROKEN HOME AND JUVENILE DELINQUENCY

FRANCES HICKEY SCHOLOW

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With the suggested minimum fee for divorce at \$125.00,<sup>1</sup> perhaps the practicing attorney will tend to overlook a dissertation which might prove that by helping in the breaking of the home, he is helping in the making of the juvenile delinquent. But let the modern Cicero be of good cheer. Things are not always as they seem.

"If the old bird dies, the eggs are addled." So goes a proverb of the Bantu Tribe of Southern Africa.<sup>2</sup> And the home broken by death, divorce, or separation has long been believed to be an important reason for juvenile delinquency.<sup>3</sup> There is no doubt that broken homes are a social factor favoring unorthodox behavior,<sup>4</sup> but the evidence may indicate the *observable* break is not the real cause of the delinquency.

The range of broken homes among delinquents is now believed to be from 30 to 40 per cent, with the percentages tending to cluster around 40.<sup>5</sup> These figures are not so significant, however, when one notes that it is estimated that about 25 per cent of all children in the United States are reared in broken homes.<sup>6</sup> Data from a recent Connecticut survey of juvenile delinquents, including 4,035 cases, indicated that a larger percentage of delinquent children came from broken homes than did members of the general population.<sup>7</sup> In 1940, only 11.4 per cent of the families with children had been broken by death, divorce, or separation, while 30 per cent of the families in the survey were so broken.<sup>8</sup> But even in this survey, it was observed that broken families where children get along well far outnumber those in which there is delinquency.<sup>9</sup>

<sup>1</sup> Recommendations of the Committee on Minimum Fee Standards adopted by the Colorado Bar Association in 1948.

<sup>2</sup> SUTHERLAND, *PRINCIPLES OF CRIMINOLOGY* 158 (1947).

<sup>3</sup> *Ibid.*

<sup>4</sup> BARNES and TEETERS, *NEW HORIZONS IN CRIMINOLOGY* 216 (1946).

<sup>5</sup> SUTHERLAND, *op. cit. supra* note 2.

<sup>6</sup> *Ibid.*

<sup>7</sup> Robinson, *Beneath the Surface of Juvenile Delinquency and Child Neglect*, 83 *SURVEY MID-MONTHLY* 44 (1947)

<sup>8</sup> *Ibid.*

<sup>9</sup> *Ibid.*