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Frances Hickey Scholow

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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

Assistant Professor, University of Denver College of Law

With the suggested minimum fee for divorce at \$125.00,¹ 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.² And the home broken by death, divorce, or separation has long been believed to be an important reason for juvenile delinquency.³ There is no doubt that broken homes are a social factor favoring unorthodox behavior,⁴ 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 40.⁵ 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.⁶ 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.⁷ 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.⁸ But even in this survey, it was observed that broken families where children get along well far outnumber those in which there is delinquency.⁹

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

² SUTHERLAND, *PRINCIPLES OF CRIMINOLOGY* 158 (1947).

³ *Ibid.*

⁴ BARNES and TEETERS, *NEW HORIZONS IN CRIMINOLOGY* 216 (1946).

⁵ SUTHERLAND, *op. cit. supra* note 2.

⁶ *Ibid.*

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

⁸ *Ibid.*

⁹ *Ibid.*

In 1949, there were 473 cases handled by the Boys' Probation Department of the Juvenile Court in Denver.¹⁰ The parents of 223 were living together, the parents of 97 were separated, and the parents of 65 divorced. Of the last group, 8 of the fathers were remarried, as were 57 of the mothers. In 4 cases, both parents were remarried. The father was deceased in 48 cases, the mother in 30, and in one the father was living with another woman. In 5 cases, the status of the parents was unknown. In the same year, there were 218 cases handled by the Girls' Probation Department. The parents of 92 were living together, the parents of 27 were separated, and the parents of 49 were divorced. In 17 cases, the father was remarried, in 44 the mother was remarried, and in 2 both parents were remarried. In 21 cases, the father was deceased, in 17 the mother was deceased, and in 3, both were deceased.¹¹ The percentage of delinquents from broken homes counseled by the Juvenile Court in Denver, appears, then, to be higher than the nationwide "30 to 40 per cent"—more than 50 per cent of the boys and about 60 per cent of the girls. But care must be taken in attempting to interpret figures on children brought into juvenile courts.¹² Perhaps a single parent feels less likely to cope with a delinquent child than he would had he a spouse to share the burden, and thus he determines to seek outside help. And there are, no doubt, other reasons why more delinquents from broken, rather than *normal*, homes reach the courts.

In comparing delinquency rates of boys and girls, it is interesting to note that the findings of Margaret Hodgkiss indicate a break in the home has a greater influence on girls than on boys.¹³ However, H. Ashley Weeks found that the broken home has essentially the same significance for boys as for girls when the comparison is restricted to similar delinquencies.¹⁴ It is also significant that the ratio between the broken home and delinquency decreases as the age of the child increases.¹⁵ Furthermore, delinquency is less likely to result where the break is due to death than where it results from desertion, divorce, or separation.¹⁶

LESS IMPORTANT THAN FORMERLY THOUGHT

Whatever the findings, figures, and percentages, the consensus among sociologists is that a break in the home is less important in creating the delinquent than previously believed.¹⁷

So far, the discussion has concerned the home *broken* in the sense that one (or both) of the parents is not present in the family.

¹⁰ *Report of the Juvenile and Family Court of the City and County of Denver, State of Colorado for the Year 1949.*

¹¹ *Ibid.*

¹² BARNES and TEETERS, *op. cit. supra* note 4 at 219.

¹³ SUTHERLAND, *op. cit. supra* note 5 at 160.

¹⁴ *Ibid.*

¹⁵ CAVAN, *CRIMINOLOGY* 95 (1948).

¹⁶ SUTHERLAND, *op. cit. supra* note 5.

¹⁷ *Id.* at 159.

But what of the "psychologically" broken home, with its discord and upheaval? May not constant bickering between husband and wife impair the emotions of all the members of the family, causing the children to become delinquent because they seek outside companionship or a feeling of security? There is no doubt the answer is in the affirmative.¹⁸ Delinquency may very well be caused by "conflicting situations, emotional tensions, failure to provide proper control and protection, and the like, as well as by an actual break in the home."¹⁹ A study by Clifford Shaw and Henry McKay indicated that the broken home is not an important factor in delinquency, and that the actual separation may not be so important as the tensions and emotional conflicts which result in the breakdown of family relationships.²⁰ In the broad sense, a home is *broken* when there is a break-down of *consensus and loyalty*.

The family is the outstanding primary group, and is, therefore, the most effective agency of social control. It is the first training school, and it may train for behavior or misbehavior. A study by A. M. Carr-Saunders, Herman Mannheim, and E. C. Rhodes disclosed that the chance of a delinquent's coming from a home with an *abnormal* atmosphere was three or four times as great as his chance of coming from a *normal* atmosphere.²¹ The Connecticut survey before mentioned disclosed that in the delinquency cases studied 10 per cent showed divorce, 7 per cent desertion, and 10 per cent separation, but in 18 per cent there was crime, in 30 per cent economic need, in 14 per cent quarreling and abuse, in 16 per cent alcoholism, in 16 per cent extra-marital sex relations, in 32 per cent truancy, and in 18 per cent irregular work.²² These figures can only lead to the conclusion that the undesirable home has a most devastatingly unfavorable effect on the behavior of the child.

BROKEN HOMES WITHOUT PHYSICAL SEPARATION

The physically broken home is an easily observed symptom of poor relationships, and a symptom that is sometimes mistaken for a source of difficulty. In fact, investigators have not always clearly differentiated between the different forms of family disorganization and inadequacies, which means that some of the published statistics are not as accurate as desired. Gordon H. Barker's findings indicated that both the delinquency and divorce rates were determined largely by other factors, such as the culture of the local community.²³ And even stable homes are significant for delinquency because of the contrast between their behavior patterns and those learned outside the home by those members who escape from the family circle.

¹⁸ BARNES and TEETERS, *op. cit. supra* note 4 at 220.

¹⁹ NEWMAYER, *JUVENILE DELINQUENCY IN MODERN SOCIETY* 113 (1949)

²⁰ *Id.* at 119.

²¹ *Id.* at 120.

²² ROBINSON, *op. cit. supra* note 7 at 45.

²³ SUTHERLAND, *op. cit. supra* note 5 at 153.

Broken homes are the result of the emotional disturbances of the family, and delinquency is often a result of the disturbances, rather than of the actual break.²⁴ The severance of the husband-wife relationship is not nearly as important a factor as the child's reaction to it, and to the conflict which has gone before. After all, family disorganization is usually a gradual process. It is often the emotional tension preceding the divorce, or the apparent necessity of siding with one parent which causes damage to the child's personality. Possibly, a quick divorce would save more children from delinquent lives than continual endurance of an impossible marriage relationship with its attendant emotional strain. Often a child's adjustment has been improved by desertion, divorce, or the death of one parent. The physically broken home is important primarily because it offers *fertile soil* for the development of conflict, and because it fails to give needed aid in personal development.²⁵

The same may be said of the broken home as of the other factors which are known to contribute to the causes of delinquency. As one writer has expressed it,

It is now generally agreed that the search for one cause or for many separate causes of problem behavior in children is futile, since behavior in any individual, whether conforming or creative or non-conforming, appears to be one aspect of a continuous, dynamic interplay between individual and environment.²⁶

A PSYCHO-SOCIAL APPROACH

ROBERT B. PARKS

Instructor in Psychology, University of Denver

Two general approaches may be taken to the problem of juvenile delinquency, interrelated and difficult in practice to distinguish: (1) that related to the mores of our culture with primary emphasis on socio-legal aspects, and (2) that related to the individual delinquent himself with primary emphasis upon the adjustmental patterns of his behavior. In this discussion, the first will be indirectly considered with the latter receiving focal attention.¹

Following this division of approach, and in preface to the following discussion, it is necessary to propose, provisionally, functional criteria for the designation of behavior as delinquent. When

²⁴ BARNES and TEETERS, *op. cit. supra* note 4 at 200.

²⁵ CAVAN, *op. cit. supra* note 15 at 110.

²⁶ Nicholson, *Juvenile Behavior Problems*, 1949 *Social Work Year Book* 277.

¹ In the present publication this emphasis may require a note of justification. Let it suffice to say that the legal profession has recognized the need for clarification of psychological issues in the problem of juvenile delinquency. While the present paper merely focuses attention on such clarification, the writer hopes it will reward the non-psychological, law-oriented reader.