

THE JUVENILE COURT IN BRITISH COLUMBIA

An Evaluation of the Juvenile Courts,  
the Probation Services, and Other Associated  
Facilities in British Columbia, 1960.

by

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## ABSTRACT

The subject of the thesis is an evaluation of the existing juvenile court services in British Columbia. The objective is to assess whether the intent of the founding legislators has been realized, and also whether the court achieves currently-recognized standards in its organization and operation.

The legislative intent underlying the Juvenile Delinquents Act of Canada, and the Juvenile Courts Act of British Columbia is defined, in so far as this is possible. References are cited on standards for the organization of the court, judges, probation officers, diagnostic and treatment facilities, and juvenile court committees. A descriptive account of the juvenile court in British Columbia is built up from interviews with officials of the Provincial Probation Service and the Vancouver Juvenile Court, reports of the activities of various services associated with the juvenile court, and correspondence with the Attorney-General's Department.

The evidence gathered indicates that one of the primary purposes behind the original formation of the juvenile court in Canada, the keeping of children out of adult jails, has not yet been achieved in British Columbia, except in the largest urban centres. It shows too that the courts, which have been legally established in a very large number of communities, lack any well-defined standards for the appointment of judges, and any objective means for ascertaining the suitability of those who are appointed. Probation services, vital to the effective operation of the court, are non-existent in some areas, and carry excessive work loads where they do exist. The diagnostic services available to the courts do not measure up to suggested standards. The study also shows that institutional treatment facilities are limited in scope, restricted in programme, and overcrowded. Except for the probationer, no other non-institutional treatment resources are available on a formally-organized basis.

The evaluation shows a need for broad legislative changes which would make possible the attainment of high standards of performance. One possible way is through the creation of district courts with full-time judges. The study shows the need for defining qualifications for judges and other court personnel, and establishing means of achieving these standards. It shows too the need for periodic post-enactment evaluations of legislation to determine whether statutes are achieving the purposes for which they were enacted.

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CHAPTER I  
DELINQUENCY AND THE LAW

The Juvenile Court--Yesterday and Today

The problem of juvenile crime has long been with the world. The history of special laws to deal with this problem seems to go back many centuries, for Roman law contained special provisions for offenders under the age of twenty-five.<sup>1</sup> During the nineteenth century a growing concern was felt for children which was reflected initially in the United States by the provision of special institutions for child offenders, beginning with the New York City House of Refuge in 1825.<sup>2</sup> Similar reform schools were opened in other states, followed by acts providing for separate hearing for children's cases in the regular courts. The first general probation law, limited to Boston, was passed in 1878.<sup>3</sup>

In Britain during the same period, more than two hundred offences were dealt with by capital punishment.<sup>4</sup> Children over the age of seven years were considered legally responsible and were accorded the same treatment as adults.<sup>5</sup> As in America,

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1 N. K. Teeters, and J. O. Reinemann, The Challenge of Delinquency, New York, Prentice-Hall, 1950, p.42.

2 C. L. Chute, "Fifty Years of the Juvenile Court," Current Approaches to Delinquency, (ed. Marjorie Bell,) New York, National Probation and Parole Association, 1950, p.2.

3 Ibid., p.3.

4 H. E. Barnes, and N. K. Teeters, New Horizons in Criminology, New York, Prentice-Hall, 1953, (Second Edition), p.376.

5 Teeters and Reinemann, op. cit., p.42.

there were signs appearing of concern for the treatment of child offenders.

John Watson, writing on the origins of the juvenile court in Britain notes that the Home Secretary met opposition from Queen Victoria when he sought to reduce the number of children being imprisoned. In 1880 he wrote to the Queen concerning the imprisonment of children for minor offences and said:

'Sir Williams humbly begs leave to represent to Your Majesty, that protracted imprisonment in such cases has an injurious effect upon both the physical and moral nature of children of tender years....'<sup>1</sup>

This concern was finally to result in the formation of what has since been known as the juvenile court in 1899.<sup>2</sup> In an article entitled "Fifty Years of the Juvenile Court," Charles L. Chute describes this occasion:

July 1, 1899 is an important date. On that day a law became effective in the state of Illinois which provided for the establishment in Chicago of the first juvenile court in the world. Probably no single event has contributed more to the welfare of children and their families. It revolutionized the treatment of delinquent and neglected children and led to the passage of similar laws throughout the world. It has been acclaimed by legal experts. Roscoe Pound has called it 'the greatest advance in judicial history since Magna Charta.' Sociologists have regarded it as the embodiment of a new principle; that law violators, the anti-social and maladjusted, especially children, should be treated individually through casework processes for their own protection and that of society, instead of by the punitive and retaliatory methods of the criminal law. The juvenile court was the first legal tribunal in which law and the sciences--especially those which deal with human behaviour--were brought into a close working relationship.<sup>3</sup>

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1 J. A. F. Watson, The Child and the Magistrate, London, Jonathan Cape, 1950, p.34.

2 Although most publications cite the Illinois legislation as the first, Teeters and Reinemann, op. cit., p.285 state that "...in 1890, children's courts were introduced in South Australia by ministerial order and were subsequently legalized under a state act in 1895...."

3 Chute, op. cit., p.1.



Other literature is filled with articles heaping praise upon the juvenile court. When the Chicago court reached its fiftieth anniversary in 1949, a number of periodicals devoted considerable space to such articles. As the author of one of these many articles, Harrison Dobbs says:

The juvenile court has a specific purpose. Up until now, at least, it is largely unparalleled in structure and function. A strong defence of it may be made on the basis of the fundamental usefulness it still has to certain individuals and groups. It has remained a serviceable social institution.<sup>1</sup>

This quotation is a conservative example of the many voices which have been and are being raised in praise of the juvenile court idea, and it should be noted that they belong to professional people in the field of corrections who are concerned with the basic concept upon which the court rests. Not everyone who has viewed the juvenile court in operation holds it in such high esteem however. A recent Canadian Press release from Vernon, British Columbia, quotes a magistrate from that city who has quite opposite views. The release says:

A Vernon magistrate says society has gone too far in its use of child psychology on juvenile offenders.

The result has 'taken the teeth out of the law.'

Magistrate Frank Smith called for immediate revision of the laws so courts can take a more realistic attitude on what is just punishment.

He said corporal punishment in the home, school and courts would help correct way-ward juveniles.

....Adult belief that child psychology is the answer to juvenile problems, and that rehabilitation offers the only solution, 'is meaningless and usually fails,' the magistrate said.

....Some years ago the laws were ruthless to the extent of drawing public protest.

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<sup>1</sup> H. A. Dobbs, "In Defense of Juvenile Courts," Federal Probation, vol. 13 (September 1949), p. 25.

'In its efforts to correct this situation, society has gone to the opposite extreme and taken the teeth out of the law.'<sup>1</sup>

In a critical article, William Fort faces up to the charges which are being levelled at the court and says:

Today the juvenile court is under increasing attack--in cries of "mollycoddling must stop" or "throw the social workers out" or "totally unrealistic" or "back to the woodshed."

Let's face it--much of this criticism is justified! Few juvenile courts are doing the job they were designed to perform. What then is the reason for this failure?<sup>2</sup>

This is indeed a different and considerably more positive stand from that taken by the magistrate. However, it too serves to point up the juvenile court as an ailing, if not anachronistic social institution.

The position of the juvenile court as a social institution might be considered as shaky if viewed on this basis alone then. The avid protagonists point out its many theoretical positives but the reality, at least in the eyes of some critics, is far from favorable. Perhaps it would be fairer to say however, that many of the criticisms are leveled at courts which fall short of the standards adhered to by its supporters.

#### The Problem of Delinquency

Delinquency is of major concern in most North American cities at the present time. Not only is the frequency of delinquent behaviour increasing, but also the crimes committed

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1 Vancouver Sun, November 27, 1959, p.23.

2 W. S. Fort, "The Juvenile Court Examines Itself," NPPA Journal, vol. 5 (October 1959), p.410

are becoming more serious in nature.<sup>1</sup> In Ottawa during 1958, a seventeen year old boy was sentenced to the penitentiary after being found guilty of manslaughter. He was convicted after stabbing another teen-age boy to death in a street fight involving a number of boys, some only fifteen years old. This was not a chance fight, but was carefully prepared for, and the two juvenile gangs prowled the city in their automobiles seeking each other out. The boy convicted of the killing was at the time on probation, the sentence he had received for his involvement in a street fight slaying of another boy in 1956. This occurrence led to the immediate formation of a committee composed of citizens and welfare officials to study the problem of delinquency in the city. Such a study had already been in the planning stages by the Ottawa Welfare Council because of the alarming increases in delinquency in the city.<sup>2</sup>

American cities too have been noting this trend, New York

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1 "Terror Comes to City Streets, "U.S. News and World Report, vol. 67 (September 14, 1959), p.65. This article states that the number of juveniles arrested for serious crimes in the United States increased 8.1 per cent in 1958 over 1957. Statements on the increasing seriousness of juvenile crime must be considered with a great deal of caution however. Even statistical reports can mean many things. Sources of the statistics vary greatly since few, if any, areas have achieved standardization in reporting of court activities. The analysis and interpretation of these statistics may again influence the final result. Increased public concern over the problem as a result of newspaper reporting may be out of all proportion to the actual facts. One particularly heinous offense may create a tremendous stir. As a result, newspapers and other mass media may focus on every juvenile offense which is committed, creating a false illusion that juvenile crime is suddenly running rampant.

2 The writer was working in an after-care agency in Ottawa at the time of this occurrence, and had occasion to attend some of the meetings held by the Welfare Council committee.

particularly having suffered a rash of juvenile homicides during the summer months of 1959.<sup>1</sup> Speaking on the alarming increasing delinquency in the United States, Senator Thomas C. Hennings, Chairman of a United States Senate Committee currently studying the problem of juvenile delinquency, presents this picture:

If we look at what has been called a "delinquency generation," that is, current and recently delinquent children in the ten through seventeen year age group, we find...the total number of different young males in this delinquency generation who have been delinquent one or more times comprises 16 to 20 per cent of our total male population of juvenile court age.

This means that in our population today we actually have 1,700,000 children with delinquency records.... In addition to these court appearances, we are faced with the fact that from 30 to 50 per cent of these children have appeared before the court more than once.

And this figure does not include the large number of hidden delinquents--serious<sup>2</sup> offenders--who have never appeared before the courts.

Basing his remarks on information gathered by the World Health Organization, Dr. Manuel Lopez-Rey says of the delinquency problem:

It would seem that the present approach to juvenile delinquency, especially in the generally called highly developed countries, is in need of serious revision. Never in the history of mankind has so much been done for the well-being of human beings and more particularly for children, juveniles, and young people. Nevertheless, in spite of many efforts, a great deal of money spent, juvenile delinquency, with very few exceptions, is increasing in many

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1 "Terror Comes to City Streets," U.S. News and World Report, vol. 67, (September 14, 1959), p.65. This article describes four killings and a number of stabbings which took place in New York city during an eight day period in the summer of 1959.

2 Senator Thomas Hennings Jr., "Effectiveness of the Juvenile Court System," Federal Probation, vol. 23 (June 1959), p.3.

countries, and more particularly in those considered as economically highly developed.<sup>1</sup>

Certainly the delinquency statistics for British Columbia, would bear out this statement. The following table provides figures for the years 1951 through 1956, (the most recent available), with comparative figures for the total population.

Table 1. Juvenile Court Appearances and Findings of Delinquency for British Columbia, Compared to Total Population, 1951-1956.

Year	Court Appearances (a)	Found Delinquent (b)	Total Population (c)	Number Delinquencies per 1000 pop.
1956	1317	1254	1,399,000	.90
1955	914	844	1,342,000	.63
1954	1037	956	1,295,000	.74
1953	1013	952	1,248,000	.76
1952	1021	877	1,205,000	.73
1951	893	815	1,165,000	.70

Source: (a,b) Canada, Juvenile Delinquents, Queen's Printer, Ottawa, 1951-1956. These statistics are based on juveniles as under age sixteen. Since those under eighteen are considered as juveniles in British Columbia, differences of as much as one hundred per cent have been noted in areas in which comparable figures appear in the Province of British Columbia Annual Report of the Social Welfare Branch of the Department of Health and Welfare.

(c) Canada Year Book, 1957-58, p.119

Articles in the Vancouver newspapers tend to indicate the concern, in some quarters, at least, over the mounting problem of

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1 M. Lopez-Rey, "Present Approaches to the Problem of Juvenile Delinquency," Federal Probation, vol. 23 (June 1959), p.24.

delinquency. A press release from Chilliwack states in part:

Six district residents have been appointed to a newly formed juvenile court committee.... The committee is the result of a petition from the Chilliwack Council of Women asking for a group to study juvenile delinquency in the Chilliwack area.<sup>1</sup>

Another press release from Langley, B. C. indicates a town with a delinquency problem and inadequate facilities to deal with it. The statement says:

A provincial probation officer says community interest in problems of young offenders can reduce the juvenile delinquency rate.

Les Langdale told Langley Board of Trade a vital step in combatting the delinquency problem would be establishment of a juvenile court committee to find employment for youths and plan for installation of a local detention home.

Mayor E. E. Sendall recently stated such a committee is needed to provide "environmental changes" for certain youngsters, either by finding them work or new homes.

He said a major problem has been repeat offenses while youths are awaiting trial on earlier charges.

'Theres no place to put them now when they are remanded unless the magistrate sends them to Oakalla.'

'That's not often the case, so they are released to get into trouble again', the mayor said.<sup>2</sup>

The problem of dealing with juvenile offenders is of concern to some magistrates too. Yale County Court Judge Gordon Lindsay, speaking to a convention of British Columbia Magistrates, had this to say:

.... 'Can we really understand the workings of a child's mind?'

'Are we sure of the right answers when dealing with young people who are all mixed up?'

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1 Vancouver Sun, October 17, 1959, p.21.

2 Vancouver Sun, May 7, 1959, p.6.

Nothing, he said, gives a magistrate more concern than dealing with young offenders.

The magistrate had the idea the juvenile should be punished. Others connected with the court shy away from imposing punishment, he observed.

'Maybe there is room for assistance to the magistrate in modern psychiatry, and we might find some way of breaking juveniles,' Judge Lindsay said.<sup>1</sup>

This statement implies concern by magistrates for the use of appropriate measures to deal with the juvenile. However, the implication is also made that the philosophy of treatment inherent in the operation of juvenile courts has not been universally accepted, since this judge has publicly stated his belief in punishment as the appropriate measure.

#### Canada's Concern with Corrections

Correctional systems are of very great interest in Canada at the present time. Speaking at the Canadian Congress of Corrections in 1957, M. A. J. MacLeod, Q.C., Director of the Remission Service of the Federal Government, made reference to the advances which have taken place since 1947. He cited Royal Commissions which have studied the Criminal Code, the laws relating to insanity as a legal defense, and the laws relating to criminal sexual psychopaths.<sup>2</sup> He mentioned too the Parliamentary Committee which has studied the problem of capital punishment, corporal punishment, and lotteries, and the Senate Committee which has studied the narcotic drugs problem.<sup>3</sup> Since 1957, the

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1 Vancouver Sun, May 6, 1959, p.11

2 A. J. MacLeod, "Corrections in Canada, 1947 and To-day," Proceedings of the Canadian Congress of Corrections, Ottawa, 1957 Canadian Corrections Association, pp. 26, 27.

3 Ibid., p.27.

federal government has taken steps to improve the system of parole, following recommendations contained in the Fauteux Report,<sup>1</sup> and has set up another committee known as the Penal Reform Committee to study the entire federal field of corrections. This committee is expected to report soon,<sup>2</sup> making broad recommendations for the future of Canada's penal system, including a recommendation for research in the entire field of corrections.<sup>3</sup>

In British Columbia too, much has been done in recent years by way of building both a new Boys' Industrial School,<sup>4</sup> and a new Girls' Industrial School.<sup>5</sup> A new prison, claimed to be the finest in the country, was opened at Haney.<sup>6</sup> The provincial probation system has also been much expanded in recent years.<sup>7</sup> Yet the proportion of juveniles placed on probation in the period 1951 through 1956 has remained virtually un-

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1 MacLeod, Proceedings, p. 27

2 As of date of writing, December 1959, the report had not been released.

3 Vancouver Sun, November 2, 1959, p. 8.

4 Brannan Lake School was put into use on March 16, 1955. British Columbia, Annual Report of the Social Welfare Branch of the Department of Health and Welfare, 1955, Victoria, Queen's Printer, 1955, p. 78.

5 The Willingdon School for Girls was officially opened on March 26, 1959, and the building was occupied on April 7, 1959. Miss W. M. Urquhart, Superintendent, Interview with the writer, 22 February, 1960.

6 Haney Correctional Institution began to take in its first inmates in August, 1957. British Columbia, Annual Report of the Director of Corrections, Victoria, Queen's Printer, 1959, p. 9.

7 MacLeod, op. cit., p. 28. According to this statement, British Columbia had two full-time probation officers in 1947, and twenty-one in 1957.



changed.<sup>1</sup> The concern seems to have been mainly with provisions for adult offenders and particularly with institutional facilities.

Speaking at the Canadian Congress of Corrections in May, 1959, British Columbia's Attorney-General, Robert Bonner, was quoted as saying:

.... B. C. has established a trend towards treatment and rehabilitation of prisoners rather than the old emphasis on retribution and punishment!<sup>2</sup>

Once again the emphasis is on the adult already in the prison, and this seems to be the situation at both the provincial and federal levels. A study of Scott's publication describing the legislative foundation of the juvenile court in Canada points up the fact that no substantial changes have been made in our present juvenile delinquent legislation since it was introduced in 1929.<sup>3</sup> The juvenile court seems to have been taken very much for granted with little but technical changes being made in the legislation. Judging by the paucity of material available, very little has been done to determine the effectiveness of its functioning either, despite the rising tide of interest in the rehabilitation of the offender.

In view of the fact that delinquency is commonly con-

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1 Canada, Dominion Bureau of Statistics, Juvenile Delinquents, Ottawa, Queen's Printer, 1951-1956. Figures drawn from this statistical publication indicate that approximately one-half of those children found to be delinquent in British Columbia were placed on probation in each of these years. See the comment on page 7 regarding the accuracy of these statistics however.

2 Vancouver Sun, May 25, 1959, p.6.

3 W. L. Scott, The Juvenile Court in Law, Ottawa, Canadian Welfare Council, 1952 (Revision by J.R. Shiff, et al).

sidered to be a social problem--indeed a very serious problem--and also in view of the rehabilitative purpose which animated the establishment of the juvenile court system<sup>1</sup> an evaluation of its functioning seems to be an appropriate task for social work research. Certainly, if British Columbia and Canada are to have the first class correctional systems which their governments have spoken of, such an evaluation is essential.

#### A Social Innovation

The juvenile court idea was conceived in the United States by individuals who felt that the child of tender years should not be treated in the courts of law as an adult. It was introduced in Canada a few years later in response to public concern over the mounting problem of delinquency. If some interpretation can be placed upon the comments of participants in the Senate debates, it was apparently seen as a panacea which would solve the problem, for a Mr. Lougheed said, in addressing the Senate:

...let me point out some statistics--alarming statistics--I might say--as to juvenile crime within the Dominion of Canada. Hon. gentlemen will keep in view that indictable offenses are the more serious offenses. In 1901, the convictions of children under sixteen years of age numbered 1,017. Fancy, hon. gentlemen, about one-fifth of our criminal population under sixteen years of age in 1901, and there were 882 between the ages of sixteen and twenty-one. These statistics, it seems to me, should impress upon the government the absolute necessity of taking some steps towards making inquiry into the necessity of adopting the most progressive legislation which can be put on our statute-books with reference to juvenile delinquents.<sup>2</sup>

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1 Teeters and Reinemann, op. cit., pp.285-6.

2 Canada, Parliament, Senate, Debates of the Senate, Ottawa, King's Printer, 1908, p. 980.

The juvenile court was a bold venture, the philosophy of which was to change the focus of courts dealing with children from the offense to the offender, and from punishment to treatment. In commenting upon this change, Dobbs states that:

The state had long acted in loco parentis for destitute and needy children. However, still further to extend the concept of the State serving in the place of a child's parents was a far-reaching step. It excluded a great number of boys and girls from perquisites of criminal law. It included them courageously in chancery planning. This was a momentous measure to introduce and extend. Then to have this innovation well authenticated by critical legal judgement, makes the juvenile court movement rank unusually high in soundness and acceptability; that is, compared with certain other attempts at social change.<sup>1</sup>

The children's court idea rushed ahead on this tide of opinion which seemed mainly to consist of the belief that adoption of suitable legislation was sufficient to achieve the desired ends. Within ten years, twenty states in the United States, and the District of Columbia had some kind of a juvenile court. By 1920, all but three states had enacted juvenile court laws,<sup>2</sup> and the Canadian and British Parliaments had adopted similar legislation.<sup>3</sup> Mention has already been made of the attitude of the Canadian Parliamentarian in speaking on this legislation. Rather than as a new method of treating the delinquent, the court was seen by many as a cure for the problem of delinquency.

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1 H. A. Dobbs, "In Defence of Juvenile Courts," Federal Probation, vol. 13 (September 1949), pp.25-6.

2 Teeters and Reinemann, op. cit., p. 289.

3 Canada, Juvenile Delinquents Act, 1908, Britain, Children Act, 1908.

### The Experiment

Through the years since its inception then, the juvenile court had undergone many changes. That it has been a rapidly changing institution can be measured by the publication of a Standard Juvenile Court Act by the National Probation and Parole Association in 1925, which was revised in 1927, 1933, 1943, and 1949. Another revision is also currently being prepared.<sup>1</sup>

Commenting upon the many conflicting concepts of the juvenile court which exist, some of which hold that it is basically a legal device, and some that it is a welfare agency, Rubin says:

Is it surprising that the juvenile court idea should be so malleable? It was an experiment sixty years ago, and the basic idea survives that of removing children accused of crime from the criminal courts, to a specialized court geared to their needs. Conflicting views, revised views of court structure and function--are welcome signs of experimentation and growth. Our concept of the juvenile court has become, not more confused through all this history, but clearer.<sup>2</sup>

The implications of this statement seem to be that the juvenile court is still to be considered as an experimental device and as such, should be the subject of regular periodic evaluation which would determine in as sound and scientific a manner as possible the effectiveness of various methods tried. The dearth of literature bears mute testimony to the failure in most cases to attempt such evaluation. At least one such

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1 Sol Rubin, Crime and Juvenile Delinquency, New York, National Probation and Parole Association, 1958, p. 75.

2 Ibid., p. 76.

study has recently been undertaken however, and Dr. Alfred Kahn says in his report on the New York Juvenile Court:

Although the juvenile court is generally regarded as one of the great social inventions of the century, many thoughtful leaders of the movement have begun to express disappointment at the limited expansion of the court idea beyond large counties and at the inability of many of the larger and more important courts to attain levels of service implicit in the juvenile court concept. The critics point out that while today there is wide agreement about objectives, the vast majority of these courts are still not equipped for effective service.<sup>1</sup>

Continuing to discuss the original concept in light of present day experience, Kahn states:

The children's court pioneers saw clearly that children should not be punished for their problems. They urged that young offenders be aided to become well-adjusted citizens. However, they could not, in the early days, foresee in any detail what it would take to realize the full possibilities of their dream.<sup>2</sup>

Judge Jerome Frank of the United States Court of Appeals has made a comment which seems to state the situation as succinctly as is perhaps possible. He describes the juvenile court idea as a revolution and says of it:

'Because it let loose on the world a stirring ideal which can never be wholly actualized, this revolution has not ended and will never end.'<sup>3</sup>

He does not take the position that this is justification for simply maintaining the status quo however, but goes on to

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1 A. J. Kahn, A Court for Children, New York, Columbia University Press, 1953, p. 24

2 Loc. cit.

3 J. Frank, in Kahn, op. cit., p. xi

say that:

...if the ideal is not dead, then, in its light, the institution should recurrently be examined. Such an examination usually will yield some adverse criticisms of the institutions performance. If not--if the performance fully matches the ideal--then that ideal is of a rather low order.<sup>1</sup>

### Social Accountancy

It is a form of social accountancy to examine legislation and its functioning periodically. As can readily be seen by perusal of Scott's book, the courts do not always interpret legislation in the way in which the legislators meant it to be interpreted.<sup>2</sup> For this reason alone periodic evaluation of legislation is essential. In discussing law in a general way, Rubin says:

...law is an experiment. It is not sacred because it is law, but only if it is good. And if law is bad, we have to be independent enough to say so, and to labor for its repeal.<sup>3</sup>

The effective operation of the juvenile court necessitates a special type of structure and organization. Because of its orientation to the individual and his treatment, it requires specialized organization and staff with attitudes sympathetic to the philosophy of the court. Because all of these factors rest upon the legal structure upon which the court is founded, constant evaluation is necessary to be certain that the desired goals are being achieved. Rubin says of the effects of law upon the organization:

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1 J. Frank, in Kahn, A Court for Children, p.xii.

2 Scott, The Juvenile Court in Law, pp. 4-34. This section of this document is devoted to a study of ammendments that have been made to the Juvenile Delinquents Act, 1929. Clearly, many of these ammendments were made to clarify the intention of the Act following an adverse court decision.

3 Rubin, op. cit., p. 17.

...the law has profound effect on administration. There is no doubt that many communities lag behind in their treatment of people accused or convicted of crime or delinquency because of archaic or inadequate laws. Law determines the forms of organizational structure; it may encourage or prevent selection of highly qualified personnel; and it greatly influences the procedures of agencies.<sup>1</sup>

m A second factor in the idea of social accountancy is that the people have a right to know what is happening. It may be that they will not be satisfied with a particular system as it is functioning and will demand a change. Such is the basis of our democratic system of government. Judge Gustav Schramm expresses himself on this subject as it relates to the juvenile court when he says:

It is the right of the public to expect us to make an accounting. They should know our effectiveness in dealing with children, our methods, and our objectives. Likewise, it is the right of the public to demand that we be willing to learn; that we constantly improve ourselves to the end that every child shall gain by it.<sup>2</sup>

While this might be the ideal, correctional systems seldom become election issues and seldom receive objective evaluation. In fact, correctional systems seldom seem to receive any evaluation until they have achieved a considerable degree of notoriety in some way. Because of the confidential nature of juvenile court proceedings, the functioning of the court itself is seldom the subject of publicity, and very little seems to be known about the way in which it is fulfilling its

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1 Loc. cit.,

2 Gustav L. Schramm, "Philosophy of the Juvenile Court," The Annals of the American Academy of Political and Social Science, vol. 261 (January 1949), pp. 107-8.

purpose. Hence, an evaluation such as is proposed here is particularly timely and appropriate.

### The Nature of the Evaluation

The evaluation will be confined to the Juvenile Court system of British Columbia, including the federal enabling legislation, namely the Juvenile Delinquents Act, 1929, and the British Columbia Juvenile Courts Act, which makes the federal legislation operative in British Columbia. The evaluation will take into consideration the organization of the courts and their ancillary services such as probation and detention homes, and through the establishment of certain criteria will attempt to answer two basic research questions.

The questions to which answers will be sought are:

1. Is the court, with its associated services, achieving what it was intended to achieve?
2. Is it functioning in accordance with recognized juvenile court standards?

Obviously then, the scope of this study is limited, and will not involve consideration of such aspects as case disposition. This is necessary both from the point of view of what constitutes a feasible project, and from the need to establish the nature of the Court facilities before undertaking a statistical study of their effectiveness.

An attempt will be made to establish the intent of the legislation which makes the court operative in British Columbia. Through reference to authoritative writings on the subject, some criteria of what constitutes a good juvenile court will be established. Through interviews with various people involved



with the court's operation throughout the province, a description of the court and its operation will be developed. This will be analysed on the basis of the criteria established.

## CHAPTER II

### ORIGINS AND INTENTIONS

#### 1. The Approach

An evaluation of the juvenile court system in British Columbia could take a number of approaches, and in reaching valid judgements, all of these should perhaps be considered. In order to shed some light upon the research questions posed in the preceding chapter, it is proposed in this study to establish a number of evaluative criteria. Some of these criteria will be based on "legislative intent" or what was apparently the intention of those who passed the legislation upon which the juvenile court is based. Among other sources, the debates of various legislative bodies, regulations governing the operation of the legislation, and the various pieces of legislation themselves will be looked to for clues to this "legislative intent".

Authoritative literature in the juvenile court field will also be considered as a source of evaluative criteria. Authoritative literature is meant to describe those writings on various aspects of the juvenile court produced by individuals who by virtue of their years of experience are considered to be authoritative on the subject. This description is also used to include written works which gain their authority through their acceptance by authoritative bodies in the juvenile court field, such as the National Probation and Parole Association. A final source of evaluative criteria will be "model legislation" which is available. This is really only a variant of authoritative literature described above.

## 2. Legislative Intent

### a. The Senate

The first Juvenile Delinquents Act to become law in Canada was introduced in the Senate in 1908 and, after debate in that house, was subsequently passed by the House of Commons, receiving Royal Assent on July 20, 1908.

Although the speeches in the Senate appear to have been lengthy, very little of a conclusive nature regarding the intent of the proposed legislation can be gleaned from the reports of the debates. However, reference is made by one speaker indicating that the intent is summed up in the preamble to the bill as it was presented to the Senate. This preamble states:

Whereas it is expedient that youthful offenders should be classed or dealt with as ordinary criminals, the welfare of the community demanding that they should on the contrary be guarded against association with crime and criminals, and should be subjected to such wise care, treatment and control as will tend to check their evil tendencies and to strengthen their better instincts;....<sup>1</sup>

The preamble seems to indicate that the intent is to guard juveniles from contact with adult criminals, and to provide care, treatment, and control.

Reference has already been made in Chapter 1<sup>2</sup> to the speech made in the Senate by Mr. Lougheed during this same debate which seems to view the juvenile court as a panacea to solve the problem of juvenile crime.<sup>3</sup>

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1 Canada, Parliament, Senate, Debates of the Senate, Ottawa, King's Printer, 1908, p. 975.

2 Chapter 1, p. 12.

3 Canada, Debates of the Senate, 1908, p. 980.

Three items drawn from the speech of the Hon. Mr. Coffey in the Senate debate seem also to illustrate the intent of the juvenile court as he saw it developing. In speaking of the organization structure of the court, Mr. Coffey had this to say:

"There is one feature connected with the children's court movement which strikes me as of paramount importance, that is, the connection which may exist between the ordinary police courts, and the tribunal before which cases of youthful delinquency...may be adjudicated upon.... Wherever it would be so arranged the two courts should be entirely distinct, even to the extent of not having both in the same building.<sup>1</sup>

On the subject of using the adult magistrate in the juvenile court, Mr. Coffey had some very discerning remarks to make:

"Nor is it advisable that the police magistrate should in all cases be empowered to adjudicate upon the crimes charged to the young. While some of these men are by nature and acquirements well equipped for work of this character, it is nevertheless a fact that many are quite unfit for the handling of cases of criminality amongst the young. They have pinned their faith to methods of the harsh order. To them, kindness is almost an unknown quantity.<sup>2</sup>

Continuing in his speech in support of the court, Mr Coffey went on to describe his concept of how the court might be efficiently organized in a country such as Canada. His remarks on this subject have not been heeded to any great extent. The same concept however, is contained in one of the major recommendations made by the National Probation and Parole Association for a state system of courts, which will be dealt with later in the chapter. In his speech, Mr. Coffey said:

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1 Canada, Debates of the Senate, 1908, p. 976.

2 Loc. cit.

The argument may be advanced that Canada's population is not yet large enough, and that in its cities there do not exist those conditions which would justify a new departure of this kind. I quite recognize the inadvisability of establishing juvenile courts in small places, but a number of such localities could be grouped.<sup>1</sup>

Mr. Coffey too was interested in separating juveniles from adults, but he saw also the basic need for a good judge and was quick to realize that this could be achieved in spite of a scattered rural population.

b. The House of Commons - 1908

The official report of the House of Commons Debates on the Juvenile Delinquents Act - 1908, indicates a gross ignorance of the subject among the men who passed the bill. Since the Bill came from the Senate where it had already been debated at some length, and since it appeared to be a harmless piece of legislation, the inclination apparently was to pass it without comment. But for the insistence of one member of the House it appears likely that this would have happened.

When called upon for an explanation of the Bill, the Hon. A. B. Aylesworth, Minister of Justice, said:

The general effect of this Bill I think I may summarize by saying that it is intended to obviate the necessity for children, when accused of crime, being tried before the ordinary tribunals....

Under no circumstances is it (the child) to be sent to jail.... I want to prevent the possibility of children who might be reclaimed if treated otherwise than as criminals, being sent to the ordinary prisons of the country with the older and possibly hardened offenders.<sup>2</sup>

As the debate on second reading of the Bill continued, a Mr.

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1 Canada, Debates of the Senate, 1908, p. 978.

2 Canada, Parliament, House of Commons, Official Report of Debates, vol. 7, 1907-8, pp. 12, 399, 400.

Alcorn asked Mr. Aylesworth:

Is this Bill modelled on some other law as to which there has been experience? I presume that a Bill of this kind consisting of a mass of detail is not put upon the statute book simply as an experiment.<sup>1</sup>

In reply, Mr. Aylesworth further confirmed his lack of knowledge of the subject, although it was he who had introduced the Bill to the House. He answered by saying:

I can only answer in a very general way as I have not prepared the Bill myself.... The whole subject is one to which those interested have given a great deal of attention.... I understand this measure has received very careful consideration from the Senate and has been passed with a view to filling a need.... This statute will confer upon the court a much wider discretion so as to avoid going the length of imprisonment where it is a young offender.<sup>2</sup>

The one basic intent that can be found in all these references is that of concern with keeping the child out of jails and separate from the adult offender. The concept of treatment seems almost to have been an after-thought.

c. Commons Debates - 1929

On October 24, 1928, a conference attended by fifty persons interested in juvenile corrections work met in Ottawa following a request from the Canadian Council on Child Welfare to the Minister of Justice to call such a meeting. The result was the drafting of a revised Juvenile Delinquents Act which was later debated and passed by the House of Commons. The Debates in the Commons on this Bill again are not particularly illuminating in so far as learning the intent is concerned.

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1 Canada, House of Commons, 1907-8, p. 12403.

2 Loc. cit.

However, the tenor of the debates seems to have been one in which the government was called upon to uphold the principles of separate treatment for juveniles in the face of demands for harsher treatment for the more serious young offender.<sup>1</sup> In the main, however, the Juvenile Delinquents Act, 1929, was not seen as a major change in any way and the Honorable Mr. Lapointe, Minister of Justice said of it:

The bill arises entirely out of recommendations made at a conference of the Canadian Council on Child Welfare.... The conclusions of the conference were the subject of a report to the Department, and this bill embodies the suggestions made by the conference.... It is the old act, with certain changes and improvements, all made with a view to facilitating the working of the Juvenile Delinquents Act.

d. Intent as expressed in Regulations

The original Juvenile Delinquents Act of 1908 and the revised Act of 1929 both contain a section permitting the Federal Government to put the Act in force in any city or town within a province when the province itself has not done so. The Act simply states that the Governor-General in Council must be satisfied that

proper facilities for the due carrying out of the provisions of this Act have been provided...<sup>3</sup>

By order of the Governor-General in Council published in the Canada Gazette of September 26, 1908, those facilities considered to be necessary were defined quite explicitly, and in order

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1 Canada, Parliament, House of Commons, Official Report of Debates, vol. 3, 1929, pp. 2572-73.

2 Ibid., pp. 2568-69.

3 Juvenile Delinquents Act, 1929, R.S. of Canada 1952, c. 160, s. 43, s.s. 1.

to further clarify the apparent intent of the Juvenile Delinquents Act, it seems advisable to quote them in part:

1. That a proper detention home has been established and will be maintained for the temporary confinement of juvenile delinquents, or of children charged with delinquency. The institution should be conducted more like a family home than like a penal institution, and must not be under the same roof as, or in the immediate vicinity of any police station, jail, lock-up or other place in which adults are or may be imprisoned.
2. That an industrial school, as defined by a clause of section 2 of the Act exists, to which juvenile delinquents may be committed.
- 3...
4. That remuneration for an adequate staff of probation officers has been provided by municipal grant, public subscription or otherwise.
5. That some society or committee is ready and willing to act as the juvenile court committee.<sup>1</sup>

Section 3 of these regulations has been omitted because it is lengthy and deals only with the technical aspect of the federal government appointing a judge, which is of course, a provincial responsibility. Nonetheless, from these regulations it can be seen that the federal government of that day envisaged the juvenile court as a separate establishment with its own facilities adequate to do the job entrusted to it. Once again the emphasis upon separation from adult offenders is seen, but interest in the treatment idea seems to be implied.

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1. W. L. Scott, The Juvenile Court in Law, Ottawa, Canadian Welfare Council, 1952, (Revision by J. R. Shiff et al), pp. 31-32.



e. Royal Commission - 1938

The Royal Commission to Investigate the Penal System of Canada, (popularly known as the Archambault Report) which published its report in 1938, devoted some space to comments on the juvenile court system of Canada.<sup>1</sup> Although this study was made thirty years after the original passing of the Juvenile Delinquents Act, the Commission set down in its report a number of principles which seem to reflect the intent of the Juvenile Delinquents Act as the Commission interpreted it. Their report states:

The underlying principles on which the Juvenile Delinquents Act is based may be stated as follows:

1. A child ought not to be treated as an adult even though it breaks the law. Although a child over the age of seven years is regarded as capable of committing crime, it ought not to be held as strictly accountable for its actions as an adult;
2. Incarceration of children awaiting trial ought only to be permitted in detention homes properly arranged for the purpose;
3. Probation is a more effective method of dealing with juvenile offenders than imprisonment;
4. Where probation fails, children ought to be detained in industrial or reform schools for education, training, and reformation, and not sentenced to prison for punishment;
5. Children put on probation ought to be under the supervision of specially trained probation officers. Where probation officers are not appointed, a voluntary committee of citizens should be available to assist and

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<sup>1</sup> Canada, Royal Commission, Report, The Penal System of Canada, Ottawa, King's Printer, 1938, pp. 182-190.

advise the court.<sup>1</sup>

A further statement by the Commission on the apparent functioning of the juvenile court in large, urban centers again reflects what the Commission sees as the ideal functioning of the court. Their report states:

In the more thickly populated centers of Canada, where juvenile courts have been established, probation officers have been appointed and the services of psychiatrists to advise the court have been obtained. In these better organized courts, the probation officers, together with the psychiatrist, make an exhaustive study of the physical and mental condition of the child, its social background, and all causes that may have contributed to its delinquency. They report to the judge of the juvenile court, and assist him in determining the proper treatment for the child.<sup>2</sup>

Three basic principles emerge from these statements by the Royal Commission:

Three basic principles emerge from these statements by the Royal Commission:

1. the need for separation of adults and children in the correctional system;
2. the need for treatment instead of punishment;
3. the use of professional staff for treatment;

f. Provincial Legislation

The Juvenile Courts Act<sup>3</sup> is the implementing legislation which puts the Juvenile Delinquents Act, 1929, into force in the Province of British Columbia. Section 2 of the Act provides for the establishment of courts throughout the province.

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1 Royal Commission, The Penal System of Canada, pp. 185-6.

2 Loc. cit.

3 Juvenile Courts Act, R.S.B.C. 1948, c. 77.

Section 4 provides for the appointment of either men or women as juvenile court judges. Section 5 limits the juvenile court to the meaning and purposes of the Juvenile Delinquents Act, 1929, and in addition gives it the responsibility for cases arising under the Protection of Children Act.<sup>1</sup> The Industrial School for Girls Act,<sup>2</sup> and the Industrial School for Boys Act.<sup>3</sup>

The legislation indicates the recognition of the need for ancillary services to the court in the form of probation officers and detention homes. In sections 8, 9, and 10, provision is made for appointment of probation officers by the court. No provision is made for organization of these probation officers into a stable, professional service with good personnel practices, and the tenure of their employment is left to the discretion of the individual judges.

Section 11, subsection 4 of the Act states that a detention home satisfactory to the Attorney-General shall be provided in every municipality in which a juvenile court is established. Subsection 1 of section 11 provides that every temporary home or shelter provided under the Protection of Children Act and every children's home or institution, whose trustees give their consent, shall be considered to be a detention home. Subsection 2 states that the Attorney-General

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1 Protection of Children Act, R.S.B.C. 1948, c. 47.

2 Industrial School for Girls Act, R.S.B.C. 1948, c. 158.

3 Industrial School for Boys Act, R.S.B.C. 1948, c. 157.

may declare any place, house, home or institution a detention home.

Section 13 provides for rules and regulations to be made to ensure the full and proper carrying out of the Act, but the Deputy Attorney-General states that no such rules and regulations are in existence.

In essence, the Juvenile Courts Act provides for the establishment of juvenile courts within the meaning of the Juvenile Delinquents Act, it provides for judges to manage these courts, and it provides for probation and detention facilities for the court. It sets out no standards for the court or the associated services, indicating that this is a function of regulations to be created as needed. Since none have been formulated, it is impossible to make any generalizations about the intent of this legislation beyond these vague statements.

### 3. Authoritative Literature

An attempt has been made to draw upon the writings of those considered to be authorities in the juvenile court field in order to establish some criteria upon which the juvenile court in British Columbia may be evaluated in terms of its attainment of recognized standards of operation.

#### a. The Philosophy

One of the prime requisites of a court which most writers on the subject mention is the idea or philosophy on which the court is founded. The writings on this are voluminous and only a few will be referred to in order to establish the tenor of thinking generally held. Roscoe Pound, one of the great proponents of the juvenile court idea in the United States, quotes

the report of the Committee of the Chicago Bar Association in 1899 which says:

The fundamental idea of the (juvenile court) law is that the state must step in and exercise guardianship over a child found under such adverse social or individual conditions as develop crime.... It proposes a plan whereby he may be treated, not as a criminal, or legally charged with crime, but as a ward of the state, to receive practically the care, custody, and discipline that are accorded the neglected and dependent child, and which, as the act states, "shall approximate as nearly as may be that which should be given by its parents"<sup>1</sup>

Certainly this statement is as fundamental today as it was when the first juvenile court law was passed in 1899. If anything, the more recent tendency has been to place an even greater emphasis upon the individual. Pauline Young has commented quite forcefully on this matter by saying:

It cannot be reiterated too often that juvenile courts are courts of equity, which lay major emphasis not on the offense but on the offender; not on the rigid legal technicalities but on the social facts, the child's physical and mental make-up, and his social world; not on punishment, but on education, training, and protection from further mishaps.<sup>2</sup>

In this same vein, a book published by the National Probation and Parole Association states that:

The modern juvenile court is geared to the philosophy of protecting a child's right to full physical, mental, and moral development.<sup>3</sup>

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1 Roscoe Pound, "The Juvenile Court and the Law," Cooperation in Crime and Control, Marjorie Bell, ed., New York, National Probation Association, 1945, pp. 13, 14.

2 Pauline V. Young, Social Treatment in Probation and Delinquency, New York, McGraw-Hill, 1952, pp. 210, 211.

3 National Probation and Parole Association, Guides for Juvenile Court Judges, New York, National Probation and Parole Association, 1957, p. 1.

Getting almost into the area of method, Herbert Lou describes the court as:

...a legal tribunal where law and science, especially the science of medicine and those sciences which deal with human behaviour, such as biology, sociology, and psychology, work side by side....<sup>1</sup>

b. The Court's Function

Closely related to the court's philosophy is its method of functioning, for it is through its functioning that the philosophy is put into practice. Watson in describing the British juvenile court says that its legal foundation is that of a criminal court, unlike the chancery courts of America whose prime function is guardianship of the child. Nevertheless statutory provision has made the British court's function very similar he says,<sup>2</sup> and he outlines it in this way:

...the functions of the juvenile court involve three stages. The first is the finding of the facts--whether the child or young person is guilty of the alleged offense, or beyond control, or in need of care or protection, or is a truant for whom some treatment is necessary to make him go to school. The second, and highly important stage, is the inquiry into what lies behind the facts--and investigation of the environmental and, if necessary, the psychological conditions of which the child's troubles may be symptomatic. The third and last stage is the prescribing of treatment.<sup>3</sup>

Implicit in the various references that have been made on the philosophy and function of the court is the idea of treating

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1 Herbert Lou, Juvenile Courts in the United States, University of North Carolina Press, 1927, p. 2, cited in United States Department of Health, Education, and Welfare, Standards for Specialized Courts Dealing with Children, Bulletin No. 346, 1954, p. 1.

2 John A. F. Watson, The Child and the Magistrate, London, Jonathan Cape, 1950, pp. 35, 36.

3 Ibid., pp. 37, 38.

the offender rather than focusing on punishment for the offense.

A bulletin published by the United States Children's Bureau comments in its opening pages that:

Individualized justice is not however, easy to achieve. In order for a court to become a fully effective and fair tribunal operating for the general welfare, there must be:

1. A judge and staff identified with and capable of carrying out a non-punitive and individualized service.
2. Sufficient facilities available in the court and the community to insure:
  - (a) that the dispositions of the court are based on the best available knowledge of the needs of the child.
  - (b) that the child, if he needs care and treatment, receives these through facilities adapted to his needs and from persons properly qualified and empowered to give them.
  - (c) that the community receives adequate protection.
3. Procedures that are designed to insure that two objectives are kept constantly in mind, these being:
  - (a) the individualization of the child and his situation, and
  - (b) the protection of the legal and constitutional rights of both parents and child.<sup>1</sup>

Another writer, H. A. Dobbs sums up the problem of the court's needs in a somewhat blunter way by saying:

No social institution can do what it is supposed to do if it is denied the personnel and material apparatus required for carrying on its particular activities.<sup>2</sup>

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1 United States, Department of Health, Education and Welfare, Children's Bureau, Standards for Specialized Courts Dealing With Children, Bulletin No. 346, 1954, pp. 1, 2.

2 H. A. Dobbs, "In Defense of Juvenile Courts," Federal Probation, vol. 13, (September 1949), p. 28.

In the remainder of this chapter, an attempt will be made to describe and define, according to recognized standards and practices, certain machinery considered necessary to the functioning of the juvenile court. These items will then be used as criteria for evaluating the court as it exists in British Columbia.

c. The Juvenile Court Judge

The Judge, as the chief presiding officer in the court, is unquestionably the most important individual to be considered if an effective system is to operate. To him falls the responsibility for both the welfare of the individual appearing in court and the protection of the community which he represents. As Eileen Younghusband has said:

.... Here is power, enforceable coercion over people's lives: the power to order their lives, to make devastating mistakes sometimes,....<sup>1</sup>

Because of its very nature as a device for treatment rather than punishment, the juvenile court has tended to be given the broad discretionary powers<sup>2</sup> to which Younghusband makes reference. This being the case, it is essential that the selection of the judge be made very carefully. In discussing the necessity for a good juvenile court judge, the National Probation and Parole Association makes the point that the quality of judge will determine the quality of the court. They comment that:

...no court can be expected to rise above its judge.<sup>3</sup>

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1 Eileen L. Younghusband, "The Dilemma of the Juvenile Court," Social Service Review, vol. 33, (March 1959) p. 12.

2 Roscoe Pound, in "Young," Op. cit., p. xiv.

3 Guides for Juvenile Court Judges, p. 124



The Archambault Report commented simply that:

We believe that the presiding officer of a juvenile court can best perform his duties if he is trained in the law.<sup>1</sup>

No reasons are given for such a view, nor is any further amplification of desirable qualities made. Other opinions by American writers in the field seem to bear out this thinking however, and Chute attempts a definition which includes most of the ideas expressed by others on the subject.<sup>2</sup> Chute's definition says:

It has never been easy to define what ought to be the qualifications of the good juvenile court judge; but since he must decide controversial cases, deal with attorneys, and adjust legal problems, he should have legal training. Also, since he is the head of a social agency dealing with social problems, he

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1 Royal Commission, The Penal System of Canada, p. 188.

2 The Standard Juvenile Court Act cites the opinion of several eminent juvenile court judges on this question. Their statement says in part: "Judge Alexander states, '...Start with a good lawyer. He should possess the highest degree of integrity, intelligence, industry, independence, patience, hard common sense.... These are fundamental prerequisites of any judge in any Court. But running a juvenile court is the job of a specialist. It demands special qualifications above and beyond those required of others.

"'That first prerequisite of a juvenile court judge...should ...be eagerness to learn....'

"...Judge Schramm says, 'He must first of all recognize that each child is a distinct human being.... He must, in countenance, in speech--yes, even in tone of voice--as well as in action convey to the troubled child and to the troubled parent a composite impression of humbleness, of capacity to understand the personal stake, of wisdom to reach a fair decision. There is no place for ridicule or abuse or arbitrary display of power by the judge.

"'...Broad education in the law, profound understanding of human nature, judicial temperament, infinite patience, sensitivity, kindness, firmness--these, well blended with common sense constitute additional desirable prerequisites.'" pp. 12, 13.

should be well informed on casework and related social services. Above all, like the probation officer, the judge should be a man or woman with the character, personality, tact, sympathy and understanding to work with children.<sup>1</sup>

British thinking on the problem of selecting judges has differed materially from that presented above. In her book, Cavenagh makes mention of the Committee on Young Offenders which reported in 1927. In their report, Cavenagh says:

They rejected the idea that an age limit, or selection by professional qualifications, educational or otherwise, would secure inevitably the right choice of magistrates for this work, but thought that experience of social work among youth would be a valuable asset. The qualities which are needed in every magistrate who sits in a juvenile court are a love of young people, sympathy with their interests, and an imaginative insight into their difficulties. The rest is largely common sense.<sup>2</sup>

The bench of the juvenile court in Britain is constituted differently too what what is commonly the case in Canada or the United States. As a result of recommendations made by the committee cited above, provision was made under the Children and Young Persons Act, 1933, for the constitution of the court. Cavenagh says that:

There must now be at least two justices, if they are lay justices (the Stipendiary can sit alone as he can in his other courts), but not more than three. One of the justices should, if possible, be a woman and in an emergency two women may sit alone.<sup>3</sup>

In referring to the current qualifications for juvenile court justices, Cavenagh makes it clear that the British system has re-

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1 Charles L. Chute, "Fifty Years of the Juvenile Court," Current Approaches to Delinquency, Marjorie Bell, ed., New York, National Probation and Parole Association, 1950, p. 9.

2 W. E. Cavenagh, The Child and the Court, Victor Gollancz, London, 1959, p. 66.

3 Ibid., p. 67. Interview with the author, 23 January 1960.

tained its previously described criteria for selecting judges for she mentions a Home Office letter of 1949 on the selection of new juvenile court panels which:

...reminded justice's clerks that the rules required the appointment of people "who are specially qualified for dealing with juvenile cases"...that the need in the juvenile courts was for 'men and women who have not merely a love for children, but real appreciation for the surroundings and way of life of the type of child who most frequently finds his way into the juvenile courts'<sup>1</sup>

It should be noted that these criteria have resulted in the appointment of some eminent social scientists to the bench<sup>2</sup> thus suggesting an alternative to the legal profession as a source of juvenile court judges.

Both Watson<sup>3</sup> and Cavenagh<sup>4</sup> however, make reference to courses of study which are available to new lay magistrates and emphasize that they should not undertake their duties until they are familiarized with them in this way. The content of these courses and other training is not to teach the law, so much as to instill an understanding of what is meant by "acting judicially." It should be noted too, that in Britain, with the exception of stipendiary magistrates in the large urban centers, the panels of justices from which the juvenile court is selected are unpaid.<sup>5</sup>

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1 Cavenagh, The Child and the Court, pp. 67, 68.

2 A. Marriage, Interview with the writer, 26 February 1960.

3 Watson, op. cit., pp. 315-18.

4 Cavenagh, op. cit., p. 27.

5 Watson, op. cit., p. 305.

d. Selection of the Judge

It seems obvious from the discussion of the desirable qualities of the judge that the method of his selection is important. It should not be made in an arbitrary fashion but should be done through some formula devised to ensure that the best possible individual or individuals are selected. Various methods are used but in the United States the most common method is to elect them by popular vote.<sup>1</sup> Such a system has obvious drawbacks, and the National Probation and Parole Association's Standard Juvenile Court Act makes provision for a system of selection and defines the minimum qualifications necessary for the position. In brief, the method outlined calls for selection of the required judges by the governor of the state from a list of candidates prepared by a panel composed of representatives of the supreme court, the bar association, the public welfare department, the education department, and the department of health.<sup>2</sup> The composition of such a panel would vary slightly depending upon whether or not a local or state system of courts was involved, but the practical result would be the same.<sup>3</sup>

The Standard Act further suggests these minimum qualifications as a guide to the panel:

The persons whose names are submitted by said panel shall have been admitted to the practice of law in this state, and shall be selected with reference to their experience in and understanding of problems

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1 Standard Juvenile Court Act, pp. 8-10.

2 Ibid., pp. 8-10.

3 Variations of such a plan have actually been tried in a few states, notably Missouri, and such a plan has been endorsed by the American Judicature Society and the American Bar Association. Standard Juvenile Court Act, p. 11.

of family and child welfare, juvenile delinquency and community organization.<sup>1</sup>

The present method in Britain of selecting juvenile court judges, or justices as they are called, is for the whole body of magistrates for the petty sessional division to elect from their number those who are to sit in the juvenile court.<sup>2</sup> The group of magistrates is first selected by local advisory committees appointed by the Lord Chancellor.<sup>3</sup> This varies slightly in London where the juvenile panels are selected from the whole body of magistrates by the Home Secretary.<sup>4</sup> There have from time to time been complaints raised that the selection of magistrates by this method tends to abuse<sup>as</sup> a system of political rewards, and the current policy of the Lord Chancellor is to impress upon the advisory committees that suitability rather than political affiliation must be the primary consideration.<sup>5</sup>

It is obvious that any number of variations on the two methods described above for the selection of judges might be tried. Also many other unique methods might be adopted. While the two methods described above seem initially to be quite different, they both have some things in common, namely, they try to establish a method for impartial selection of men or woman suitable to be juvenile court judges, and they base this selec-

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1 Standard Juvenile Court Act, p. 10.

2 Watson, op. cit., p. 308.

3 Ibid., p. 306.

4 Ibid., p. 308.

5 Ibid., pp. 307, 308.

tion on pre-determined criteria which state the qualities desired in the judge.

e. Probation

In discussing the work of the juvenile court, Kahn says that:

It is widely agreed that without a competent probation department there cannot be a successful juvenile court. Achievement of the court's basic objectives requires individualized appraisal of, and planful work with and for, children, rather than routine processing--and the effective operations of the probation department are a necessary condition of such service.<sup>1</sup>

The Standard Juvenile Court Act published by the National Probation and Parole Association makes provision for a probation staff but simply refers to it as part of the court personnel, stating that the term "probation officer" is inadequate to describe the social casework function involved. Section 5 of the model act makes provision for appointment of such staff but specifies that all such employees shall fall within the civil service system and their appointment, salary, tenure, and all other conditions of employment shall be governed by existing civil service laws and regulations.<sup>2</sup> Section 6 of the model act states in part that:

The professional employees shall have charge of cases assigned to them for investigation or treatment and shall perform such other duties as may be assigned to them by the director or the judge.<sup>3</sup>

f. The Probation Staff

The Archambault Report makes strongly worded representation

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1 Alfred J. Kahn, A Court for Children, New York, Columbia University Press, 1953, p. 136

2 Standard Juvenile Court Act, p. 14.

3 Ibid., p. 15.

for an adequately trained staff for the juvenile court. The Report states that:

...it is of the utmost importance that the probation officers attached to the juvenile courts should be men and women selected with the greatest of care and regard for their qualifications, and that they should be only such as have been specially trained in social service work.<sup>1</sup>

In one of its publications, The National Probation and Parole Association also comments on the need for competent and well trained probation staff. Their book says:

The court sees people with many of the most complex problems in human behaviour and the judge's effectiveness in understanding and dealing with them is aided or handicapped by the work of his probation staff....

The preferred educational qualification for a probation officer is two years of graduate training in an accredited school of social work....

Besides the academic training, probation personnel should be emotionally mature and stable, capable of learning and of developing their knowledge and skills. They should have integrity, a capacity to like, accept, and be accepted, and a genuine interest in people and their welfare.<sup>2</sup>

The British system of probation provides for training of officers by two means, both provided by the Home Office. The first is a long course requiring a two years' social science diploma course at a University. The second is a short course offered for older candidates who might have difficulty undertaking purely academic training.<sup>3</sup>

In all of these references then, the basic concept of well trained probation staff is present. In each case too the desired

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1 The Penal System of Canada, p. 190.

2 Guides for Juvenile Court Judges, pp. 23, 24.

3 Watson, op. cit., p. 168.

standard seems to be that of post-graduate university training with recognition of the reality that it may be necessary to accept a lesser amount of training because of the short supply of fully trained personnel.

g. Probation Caseloads

Finally, the caseloads of probation officers need to be carefully considered if the desired goals of a probation system are to be achieved. On this subject, the National Probation and Parole Association make the following recommendation:

The National Probation and Parole Association recommends that a probation officer should supervise not more than fifty cases at any one time.... When an officer is making investigations, it is recommended that one investigation be considered as equivalent to supervision of three to five cases.<sup>1</sup>

With caseloads of this order it is expected that the probation officer would have time to devote to the probationers assigned to him. Probation might then fulfill the treatment goal inherent in the concept and would become more than the lip service which it is in so many jurisdictions today.

h. Detention Facilities

Deeply imbedded in the juvenile court's early history is the concept that children must be kept out of the jails which house adult offenders. In the comments which accompany the 1949 Revision of the Standard Juvenile Court Act, the National Probation and Parole Association states:

The evil practice persists of detaining children in jails. Jailing of any child under sixteen should not be tolerated anywhere, and the law should be framed to prevent unwarranted detention.<sup>2</sup>

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1 Guides for Juvenile Court Judges, p. 24.

2 Standard Juvenile Court Act, p. 23.



The Standard Act makes provision for release of children to their parents with no detention in as many cases as is considered feasible,<sup>1</sup> and provides for proper juvenile detention facilities for those that it is felt must be detained.<sup>2</sup> In commenting upon the need for these facilities, the National Probation and Parole Association says:

Detention facilities are as essential a part of the court's resources for dealing with children as is the probation service. The use of family homes for detention has been successful for most types of children in some jurisdiction.<sup>3</sup>

Authorities writing on the subject of juvenile detention are firm in their declaration that these facilities should not be used any more than is absolutely necessary however. A publication of the United States Children's Bureau states that:

Detention should not be used for the convenience of personnel making a social study or a clinical examination. Detention should not be used as a disposition by the court,...nor should a probation officer place a child in detention without the intention of bringing the child before the court. Neither should detention be used as an interim placement facility by social agencies in the community.<sup>4</sup>

In a recent article, Harold Fields outlines very specifically the proper uses for detention facilities. He says that:

The detention home should provide:

- (1) Assurance of continued presence without being a security institution;
- (2) Services to assure the physical well being of the

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1 Standard Juvenile Court Act, pp. 21, 22.

2 Ibid., p. 23.

3 Ibid., p. 24.

4 United States, Children's Bureau, op. cit., p. 46.

child;

(3) Reports to the court of any information available on behaviour and adjustment within the institution which would have a bearing on the projected disposition by the court;

(4) Provision for continuance of school training;

(5) Provision for recreational and interest activities;

(6) Provision for religious observance and education;

(7) An overall program consistent with the purposes of the court;

(8) Segregation of individuals by sex and, within sexes, by age grouping, depth of delinquency pattern, emotional pattern, and mental stability.<sup>1</sup>

In Britain, the remand home serves roughly the same purpose but also takes in certain categories of children who are awaiting transfer to an approved school or who have escaped and are awaiting a court appearance. Others may also be committed to the remand home for short periods of punishment, although this is not used often.<sup>2</sup> Watson states that he believes these latter groups should not be included at all.<sup>3</sup> If they were to be removed, the remand home would even more closely parallel that described above. Watson is of the opinion too that the remand home should either contain or have access to the facilities of a child guidance clinic so that the court may be provided with an adequate assessment of the child.<sup>4</sup>

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1 Harold N. Fields, "Guideposts for Juvenile Court Operation," Federal Probation, vol. 22, (December 1958), pp. 14, 15.

2 Watson, op. cit., p. 287.

3 Ibid., p. 290.

4 Ibid., pp. 300-1.

i. Diagnostic Facilities

Mention has already been made of the necessity to have a probation staff. One function of the probation staff will of course be the preparation of a pre-sentence report which contains an assessment of the boy and his social situation, and usually makes a recommendation. Another facility, the psychiatric clinic, has been mentioned above, and it is suggested that it could well form a part of the remand home in the British system. In whatever way it is organized, whether as part of the court, or as outside services which the court makes use of, the psychiatric clinic is considered essential. The United States Children's Bureau states that:

In order that the probation officer may make a complete study of a child brought before a court, the court should have available to it the services of a physician, a psychiatrist, and a psychologist.

These services may be integrated in a clinical service administratively part of the court's structure, or may be attached to or provided by another agency .... However, if this plan is followed, arrangements should be made that will give the courts priority, particularly where children are being held in detention.<sup>1</sup>

j Treatment Facilities

While discussing the operation of the juvenile court, Harold Fields outlines the necessary treatment facilities which should be available to the court as including (1) adequate probation staff with limited caseloads, (2) adequate foster homes, (3) available private institutional facilities, (4) residential facilities for serious emotionally disturbed children, (5) facilities

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1 United States, Children's Bureau, op. cit., p. 87.

for the feeble-minded, (6) adequate state training schools for those who must be committed.<sup>1</sup> Obviously if the court is to function as the treatment system it has been conceived to be, and if it is to make proper use of the diagnostic advice it should receive, it must have available a variety of treatment resources to meet the needs of various children. This is the point Fields is making in outlining six different resources that are needed.

Senator Hennings, Chairman of a United States Senate Committee currently studying juvenile delinquency in the United States, had this to say in a speech made in Washington, D. C., in which he cited examples of the failure of the court's treatment facilities:

I could give many more examples, but I think the point has been made. The court is, after all, only a part of any treatment system. If the other parts do not work, neither does the court, and vice versa.<sup>2</sup>

Under the British system, provision is made for a number of alternative treatment facilities, including boarding out in foster homes, use of hostels, and for homes in which the individual lives and works. Various combinations of probation as required, may be used with these plans.<sup>3</sup> Should none of these milder forms of treatment seem appropriate, provision can be made for detention in remand homes, detention centres, and approved schools. For those offenders over sixteen, yet still under the juvenile

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1 Fields, op. cit., p. 15.

2 Senator Thomas C. Hennings, "Effectiveness of the Juvenile Court System," Federal Probation, vol. 23 (June 1959), p. 5.

3 Watson, op. cit., pp. 176-200.

court age of seventeen, recommendations to a higher court for committal to a borstal is a possibility.<sup>1</sup> Hence, it can be seen that the need for a range of treatment facilities has been recognized and provided for to a far greater extent in Britain than in Canada or the United States where probation, or training schools are the usual modes of treatment, with occasional use of some more imaginative technique.

k. The Juvenile Court Committee

No mention is made of provision for such a citizen's committee in the present revision of the Standard Juvenile Court Act. However, the Juvenile Delinquents Act, 1929, makes provision for such a committee.<sup>2</sup> The Children's Aid Society is to provide it if such a society exists, and if not, it is to be created of citizens if desired by the community. The National Probation and Parole Association mentions such a committee in one publication, and suggests its usefulness to the court:

An active citizens advisory committee has proved invaluable to many a court. While it should not be too large (probably not over fifteen members) the committee should be as broadly representative of the community as possible so that it can bring to the judge and his staff a true picture of local attitudes and expectations regarding the court. In like manner, its members should be able in turn to carry the story of the court's philosophy, methods, and needs back to the community.<sup>3</sup>

Judge Williams S. Fort comments too on the value of such a committee but he evidently views it largely as a medium for build-

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1 Watson, The Child and the Magistrate, pp. 201-229.

2 Juvenile Delinquents Act, 1929, s. 27.

3 Guides for Juvenile Court Judges, p. 121.

ing good public relations<sup>1</sup> and not as an advisory committee to the court as seems to be implied in the Canadian legislation.<sup>2</sup>

1. Organization to Raise Standards

Lowell Carr points out the dilemma of the juvenile court as it exists in many parts of the country. He says:

The small town juvenile court simply cannot come up to big city standards; and so long as it remains merely a small town court, it never will.... Rural counties cannot possibly raise the money to pay for such standards. If they could, it would be an outright waste of public money.<sup>3</sup>

He goes on to pose a possible answer to the dilemma by saying:

Why not combine counties to provide enough work for one well-equipped, technically competent court in place of half a dozen or dozen of the imitations that we have now?<sup>4</sup>

In the comments to the Standard Juvenile Court Act, a resolution to the same effect passed by the National Probation and Parole Association at its Annual Meeting in 1948 is quoted. The resolution says:

Whereas, although the law of every state in the Union provides for juvenile courts, large areas of most states are still without effective juvenile courts, and even when the need for an adequate separate court is recognized and the desire for its establishment prevails, it is impracticable to set up such courts in rural or less densely populated areas on a county basis because there is not sufficient volume of work to justify a full time qualified juvenile court judge, probation staff, clerical employees and detention facilities with the attendant financial cost; and

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1 W. S. Fort, "The Juvenile Court Examines Itself", NPPA Journal, vol. 5, (October 1959), p. 404.

2 Juvenile Delinquents Act, 1929, s. 28.

3 L. J. Carr, "Most Courts Have to be Substandard," Federal Probation, vol. 13, (September 1949), p. 30.

4 Ibid., p. 31.

Whereas certain states, notably Utah, Connecticut, and Rhode Island, have established and found effective the system of area or district courts to serve a combination of counties, towns and smaller cities within the borders of such area or district having a sufficient population and volume of work to justify an adequately staffed court and its attendant expense;

Be It Resolved: That the plan of such area or district courts is commended and recommended.<sup>1</sup>

In keeping with this resolution, the current Standard Juvenile Court Act contains alternative provisions for such a state court system.<sup>2</sup>

A similar provincial court system might very well recommend itself to British Columbia as a means of achieving high standards in spite of the rural nature of much of its area. Utah appears to have made very valuable use of such a system which was first adopted in 1908.<sup>3</sup> A recent article states:

The present state-wide juvenile court plan is the end result of many years of juvenile court administration. The problems which have been faced by Utah have not been different from those faced by many other states. Utah is a state of wide open spaces, a state of scattered population, a state low in income.<sup>4</sup>

That courts should be combined in order to provide better service is not a purely North American idea either for Watson remarks that the same device, for which legislative power evidently exists, might be used to good advantage in Britain.<sup>5</sup>

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1 Standard Juvenile Court Act, p. 7.

2 Ibid., p. 6.

3 Charles L. Chute, "The Juvenile Court in Retrospect", Federal Probation, vol. 13, (September 1949), p. 5.

4 J. F. Larson, "Utah's State-Wide Juvenile Court Plan," Federal Probation, vol. 13, (June 1949), p. 15.

5 Watson, op. cit., p. 41.

### CHAPTER III

#### THE JUVENILE COURT: PRESENT FACILITIES

##### Legal Establishment of the Court

The juvenile court, as a legal entity, exists throughout British Columbia. In order to clarify this matter, the following question was directed to the Deputy Attorney-General:

Section 2 of the Juvenile Courts Act indicates that there shall be a juvenile court in every city or portion of the province in which the Juvenile Delinquents Act, 1929, is in force. In how many cities or portions of the province is this act currently in force?<sup>1</sup>

In answer, he stated:

...the Juvenile Delinquents Act of Canada is in force in all parts of British Columbia. That statute now appears as Chapter 160 of the Revised Statutes of Canada, 1952. Provision is made in the statutes of the Province for juvenile courts under the Juvenile Courts Act, chapter 77 of the Revised Statutes of British Columbia for 1948. Under the latter statute, the Lieutenant Governor-in Council may establish a court, that is a juvenile court, for such parts of the Province and at such places as he deems proper. Juvenile courts have been established at most of the settled places in the Province. In the past the jurisdiction territorially of the courts has been largely based upon the provincial electoral districts or parts of those districts contained within certain municipalities. More recently we have been proceeding up county boundary lines, which are more stable than the boundaries of electoral districts. There are juvenile courts outside Vancouver in practically all centres and, if need arises, a court is created in any centre where none exists under the powers given to the Lieutenant-Governor in Council under the Juvenile Courts Act.<sup>2</sup>

It was made clear in the standards formulated in Chapter II however, that effective operation of a juvenile court requires more than its legal establishment. The effectiveness of the op-

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<sup>1</sup> Letter to the Deputy Attorney-General from the writer, 25 February 1960.

<sup>2</sup> G. D. Kennedy, Deputy Attorney-General, Province of British Columbia, Letter to the writer, 2 March 1960.



eration of the court depends entirely on the quality of judge and other personnel and facilities. An attempt will now be made to describe these personnel and facilities as they exist in British Columbia.

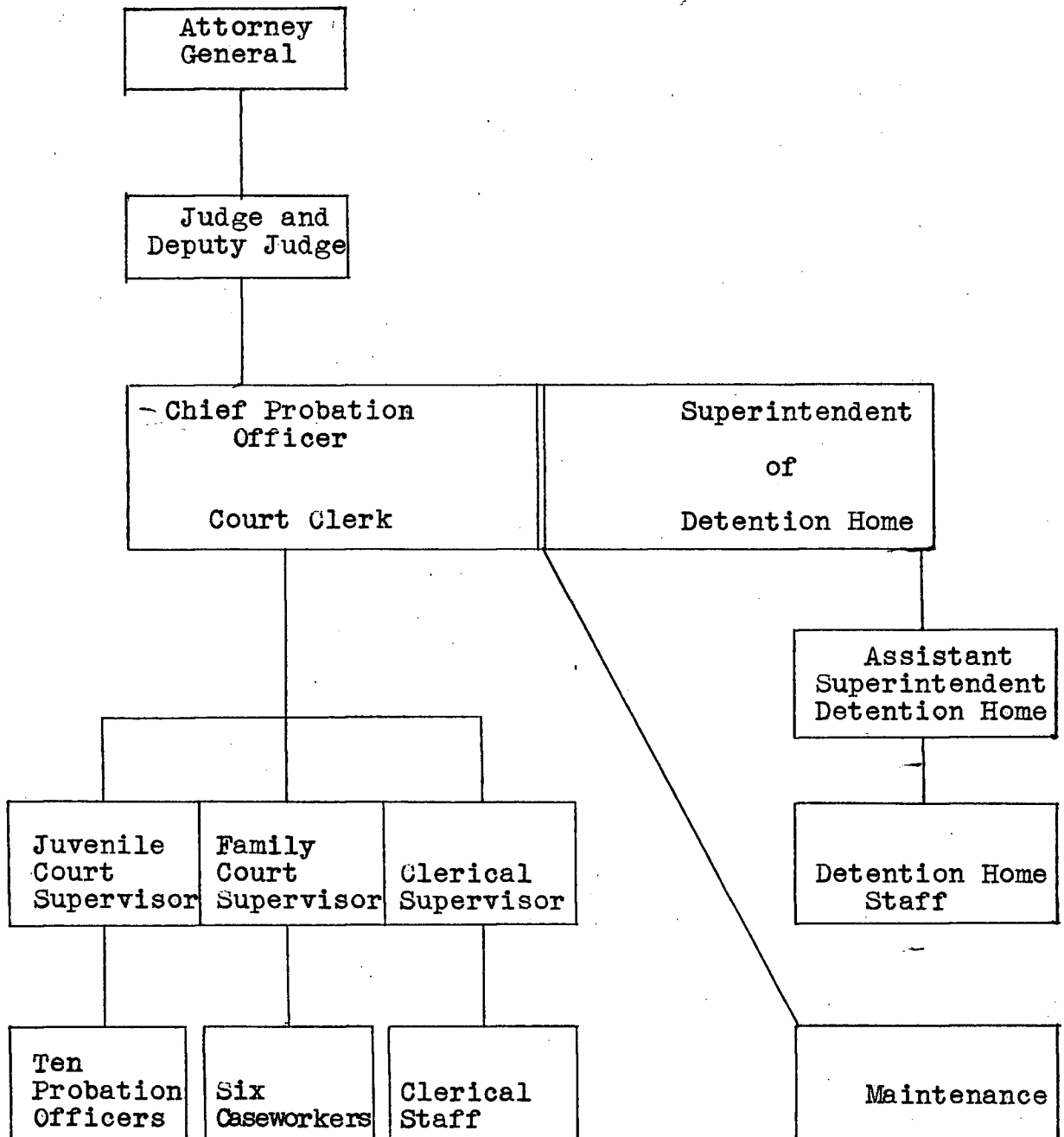
#### Vancouver Juvenile and Family Court

The Vancouver Juvenile and Family Court is organized under section 3 of the Juvenile Courts Act which makes provision for such organization when both courts have come into existence in the community. Figure 1 on page 52 illustrates administrative structure, indicating the way in which three major functions, those of Chief Probation Officer, Court Clerk, and Superintendent of the Detention Home, are all filled by one person. Apparently there is no particular reasoning behind such a system except that it was set up that way in 1910, when the court was first organized, and still seems to work well. One rationale made by the present incumbent, Gordon Stevens, is that it provides good coordination between probation and detention services and prevents the development of a philosophical gulf between these two.

As can be seen in the structural chart, the judges are appointed by the Attorney-General, and the senior judge in turn appoints the Chief Probation Officer and other court staff. The Superintendent of the Detention home is appointed by the city however. Because of the dual role involved, the individual filling this position is responsible to two separate authorities for the policy which he must put into effect.

The probation supervisor in the present organization is also

Figure 1. Structural Chart, Vancouver Juvenile and Family Court



The present Juvenile Court Supervisor is also Assistant to the Chief Probation Officer, although he does not fall in the line of authority. The City of Vancouver is responsible for financing the total operation, including the court and detention home. Policy for the detention home originates with the City, while the Judge is responsible for policy of the court.

Source: Chief Probation Officer, Mr. G. Stevens.

assistant to the Chief Probation Officer although he is not in line of authority. This was admitted by the Chief Probation Officer to be a poor administrative set-up, but was seen to have advantages in terms of possible expansion of the court.

The City of Vancouver is responsible for finances for the entire organization, although it is only responsible for policy in the Detention Home area. This has implications for personnel which will be discussed later, under the section dealing with probation staff.

Although the city is financially responsible for the operation of this court, it has apparently not been anxious to receive reports of its activities. For this reason, no report has been published since 1945, and such statistics as are used in this study were obtained in a piecemeal fashion through interviews with the Chief Probation Officer and the Assistant Chief Probation Officer.

#### Surrey Juvenile and Family Court<sup>1</sup>

During 1959 a Juvenile and Family Court was officially organized in Surrey Municipality. This court has a judge who is a member of the legal profession and receives a salary for the the two days a week which he devotes to the activities of the court. Because no provision has been made for staff or physical facilities apart from the judge and the probation officer, who is a member of the Provincial Probation Branch, it is reported that the operation of the court is virtually at a stand-still in

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1 K. Holt, Probation Officer, Provincial Probation Branch, Interview with the writer, 14 March 1960.

terms of any improvement over what existed prior to this new organization.

### The Court in Other Areas of the Province

As noted at the beginning of this Chapter, the court exists as a legal entity throughout the province. Except in the areas already described however, there are no full time courts<sup>1</sup> and the part-time courts which exist seem in the main to lack the rudiments of a juvenile court as described in Chapter II. They do not have separate physical facilities, full time judges, or other services usually associated with a well operated court.<sup>2</sup>

### The Juvenile Court Judges

The Juvenile Courts Act makes provision for the appointment of Juvenile Court Judges by the Lieutenant-Governor in Council. In order to clarify the way in which selection is made, the following question was directed to the Deputy Attorney-General:

Are there any criteria, either in the form of regulations, or established through practice, which guide the Lieutenant-Governor in Council in the appointment of judges as provided for in Section 4 of the Juvenile Courts Act?<sup>3</sup>

In answer, the Deputy-Attorney General said:

There are no formal regulations setting out the qualifications for the office. I think it is sufficient to say, in short, that suitability for dealing with juvenile type work is the main criteria.<sup>4</sup>

In answer to another question asking about the current jud-

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1 G. D. Kennedy, Deputy Attorney-General, Letter to the writer, 2 March 1960.

2 E. G. B. Stevens, Director of Corrections, Telephone interview with the writer, 18 February 1960.

3 Letter to the Deputy Attorney-General from the writer, 25 February 1960.

4 Kennedy, op. cit.

ges and the occupation, training, and experience which is considered to qualify each of these individuals for the position, the Deputy Attorney-General stated that:

A number of them are members of the Bar who have shown a particular interest in this type of work. The occupation of others range over a very wide field...for example, in Vancouver...they are both members of the Bar, one takes very active interest in club and church work, the other is a mother of two teen-age children. In Surrey the judge is also a member of the Bar, recommended by an interested group of citizens in Surrey for the position because of his interest in the problems of juveniles.<sup>1</sup>

The occupations, training and experience of the many other judges remains unknown. This may be looked upon as unimportant, since the total number of cases dealt with by this largely rural group of magistrates may be relatively small, as the Deputy Attorney-General indicates when he says:

...outside the larger centres such as Vancouver, Surrey and Greater Victoria, there is not usually sufficient work for full-time judges of the Juvenile Court and...therefore the Juvenile Court judge in the small communities, some of whom may not hear more than one or two juvenile cases a year, will hold very often other posts as well.<sup>2</sup>

While the total number of cases with which they deal may be relatively small however, this same group of juvenile court judges is responsible for a very large percentage of the committals to the Brannan Lake School for Boys. The report of the School's Superintendent shows that in 1956, 72 per cent of the 167 boys committed came from courts outside Vancouver, Victoria and Surrey.<sup>3</sup> The same general trend has continued, with 64 per cent of 262 com-

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1 Kennedy, op. cit.

2 Loc. cit.

3 British Columbia, "Report of the Boy's Industrial School," Annual Report of the Social Welfare Branch of the Department of Health and Welfare, 1956, pp. 88-90.

mittals in 1957,<sup>1</sup> and 69 per cent of 285 committals in 1958, coming from outside Vancouver, Victoria and Surrey.<sup>2</sup> Recent newspaper articles on the Brannan Lake School hint that the sentencing by juvenile courts throughout the province is less than perfect. The reporter writing the story says that the superintendent of the school:

...stressed that he can't interfere with the courts, but it is obvious that almost one-third of the boys sent to the school by the 80-odd juvenile court judges in the province shouldn't have been sentenced in the first place.

He said such boys fall into three categories: Those of the tender age group (10, 11, and 12); those committed for minor offenses (one boy is in for stealing money from milk bottles); and those not given a chance at probation (committed for a first offense).<sup>3</sup>

Sentencing is ultimately the responsibility of the judge, although he may be influenced to a greater or lesser degree by the report of his probation officer. Another newspaper report indicates that the government is aware that some of its juvenile court judges are failing in this respect. The statement notes that meetings are being arranged between officials of the Attorney-General's Department and the Welfare Department to work out solutions to sentencing problems. The solutions arrived at will be presented to the next conference of provincial magistrates.<sup>4</sup>

In order to complete this general description of the juven-

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1 British Columbia, Annual Report of the Social Welfare Branch of the Department of Health and Welfare, 1957, pp. 70, 71.

2 British Columbia, Annual Report of the Social Welfare Branch of the Department of Health and Welfare, 1958, pp. 82, 83.

3 Vancouver Sun, March 3, 1960, pp. 1, 2.

4 Vancouver Sun, March 4, 1960, pp. 1, 2.

ile court judge and his duties in British Columbia, it should be noted that outside the Vancouver Juvenile Court this position carries no remuneration.<sup>1</sup>

#### The Judge--Vancouver Juvenile Court

The senior judge of the Vancouver Juvenile and Family Court is paid as a full time judge and hears all juvenile court trials and other delinquency cases not involving a trial. He also hears a part of the family cases. The deputy judge hears the remaining family cases and all traffic cases not involving a trial. The deputy judge is paid on a per diem basis.

In an interview,<sup>2</sup> the senior judge emphasized his belief that ideally the juvenile court judge should have legal training, and cited cases to illustrate the complex legal problems which arise. These examples were all family cases involving support orders however, and when questioned on whether complex legal problems arose in delinquency cases, he indicated that in the main they did not. The judge was also of the opinion that in delinquency cases the probation officer shares the responsibility for suggesting an appropriate course of action, thus further eliminating the need for a judge trained in anything but the law.

In an attempt to determine the extent to which he keeps up with current thinking in the juvenile court field, the judge was asked about his reading preferences. He stated that his own current reading is mainly confined to the legal area, but said that publications dealing more specifically with the juvenile

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1 E. G. B. Stevens, Director of Corrections, Telephone interview with the writer, 18 February, 1960.

2 W. H. S. Dixon, Interview with the writer, 26 March, 1960.

court are received by the court and are available to any of the staff who are interested. He seemed to be unaware of specific publications of the National Probation and Parole Association such as Guides for Juvenile Court Judges.<sup>1</sup>

### Probation Services

There is no overall system of probation which covers the entire province. Instead, three systems are actually in effect, offering service to a large majority of the population. Quite large but relatively unpopulated areas of the province remain without any form of probation service however.

### Probation in Vancouver<sup>2</sup>

The Vancouver Juvenile Court has a field staff of eight male and two female probation officers, as well as a Chief Probation Officer and a Supervisor. All of these personnel are appointed by the juvenile court judge as provided for in the Juvenile court legislation. The field staff appointments have been made on the recommendation of the Chief Probation Officer and the Assistant Chief Probation Officer, after study of applications received through the city's personnel department. Establishment of salary scales and other personnel matters are left within the framework of the city personnel department.

Because the appointments are made by the judge, the staff do not have security of tenure. While this has not proved to be a problem, it is theoretically possible that any, or all, of

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1 M. Bell, ed., Guides for Juvenile Court Judges, New York, National Probation and Parole Association, 1957.

2 G. Stevens, Chief Probation Officer, Vancouver Juvenile Court, Interview with the writer, 18 February 1960; and H. Robson, Assistant Chief Probation Officer, Vancouver Juvenile Court, Interview with the writer, 26 February 1960.



these employees could be removed from their positions by the judge, and they would have no right of protest.

The Chief Probation Officer has established university graduation as his minimum standard of training for probation staff. This could be with a degree in the social sciences, preferably in criminology or psychology, or if possible, one or two years of social work. An individual with any of these qualifications would be designated as a probation Officer II, and would have a salary ranging from \$428.00 to \$513.00 monthly, in five yearly increments. All of the present staff are in this Grade II category, although not all have social work training.

A position of Probation Officer I has also been established. Into this category would fall those with in-service training, and experience (or some equivalent). The salary range for this position would be from \$391.00 to \$470.00 in five yearly increments also. There is no provision made for promotion from this position, but it is hoped eventually to establish promotion to Grade II status upon completion of additional training.

To attempt to describe the work of a probation officer in the Vancouver Juvenile Court in terms of the size of caseload seems totally inadequate. Instead it is first necessary to consider the multitude of functions which are his responsibility and then attempt to evaluate the work involved in each function. One important and time-consuming duty involves attendance at court sittings. Before the court the probation officer may be required to:

- (a) submit oral and written pre-sentence reports.

- (b) submit reports on active probation cases.
- (c) give evidence on unsatisfactory probationers.
- (d) represent the child as required by section 31 of the Juvenile Delinquents Act.
- (e) assist the judge in Traffic Court.

When juveniles are committed to the Brannan Lake School, the probation officer is required to escort the individual there, a trip involving a full day.

Each time a juvenile is given a psychiatric examination, the probation officer is responsible for preparation of a written social history, plus attendance at the clinical conference.

When adults are convicted in the Vancouver Magistrate's Courts, and are remanded for a pre-sentence report, the juvenile probation officer is very often called into consultation because the adult offender has frequently had a juvenile record. A similar service is offered to courts outside Vancouver on a reciprocal basis.

For every juvenile charged with a delinquency, the intake process involves interviews with the child, parents, school principal, and interested social agencies, and the gathering of such other material as may contribute to an understanding of the case. This material will form the basis of the written pre-sentence report for the court.

The probation officer is also responsible for continuing work with the family of an individual committed to either of the Industrial Schools. This involves planning for the eventual release from the school, a step which can only be finally taken

when the court is satisfied that community plans are ready.

One last major task of the probation officer working under this court is the actual supervi\_sion of those placed on probation. Assignment of the cases for this purpose, as for all the other functions mentioned, is made on a geographical basis, the city being divided into ten areas according to the density of problems arising.

The following table shows the number of delinquency cases handled by the court, complaints handled by probation officers without a court appearance, and traffic cases. In the latter category, probation officers would be active in only a selected few cases. In the other two categories however, a complete assessment of each case by the probation officer would normally be necessary.

Table 2. Cases Dealt With by the Vancouver Juvenile Court, and Those Handled Out-of-Court by Probation Officers for the years 1954, 1958, and 1959.

Year	Juvenile Court		Handled Out-of-Court	Total
	Delinquency	Traffic Offenses		
1954	858	343	354	1955
1958	1308	757	656	2721
1959	1149	1072	1006	3227

Source: Interview with H. Robson, Assistant Chief Probation Officer, Vancouver Juvenile Court, 26 February, 1960.

It can be seen from this table that to make a complete assessment of these cases for 1959 on the basis indicated above would require a minimum total of 2155 social studies by the pro-

bation staff of ten officers. This is only part of the work load however, as has been indicated in the description of the probation officer's functions. Table 3 which follows gives a picture of the disposition of a part of these cases for the same years and also compares the increase in cases with the increase in staff.

Table 3. Total Number Committed to Industrial Schools and Placed on Probation by the Vancouver Juvenile Court During 1954, 1958, and 1959, with Comparative Figures for the Size of Probation Staff.

Year	Probation Cases	Committals		Number of Probation Officers
		Boys	Girls	
1954	315	55	27	7
1958	691	47	27	10
1959	663	80	26	10

Source: Interview with H. Robson, Assistant Chief Probation Officer, Vancouver Juvenile Court.

While it was not possible to obtain a figure representing an average caseload of probationers,<sup>1</sup> two things of importance can be determined from Table 3. The first is that during the year 1959 663 new probationers were added to caseloads. The second point is that a total of eighty man days must have been lost escorting boys to the Brannan Lake School. The number of probationers cases

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1 It was suggested by the Assistant Chief Probation Officer that an average monthly caseload could be determined simply by dividing the total number of probationers by the number of probation officers. This would only be accurate however, if each probation case handled by the court was carried for exactly one year, or the average length of probation for all cases was for one year.

terminated during the year was not determined but a regular review is apparently made to ensure that probation is terminated when it has served its purpose.

No statistics are kept to indicate the number of interviews held by individual probation officers. As professional people, the staff are felt by their supervisor to be competent to make necessary judgements on how much time an individual probationer needs. Recording statistics on interviews and other work is seen as an infringement on professional responsibility. Making an apparently subjective appraisal however, the Assistant Chief Probation Officer stated that intensive casework is given to those cases which require it.

No assessment was obtained of how much time might be consumed by the other functions of the probation officer that were outlined above. However, it can safely be assumed that as the number of cases increases the time spent with court hearings, psychiatric conferences and other tasks will increase.

#### Probation in New Westminster and Victoria

There is no independently organized juvenile probation service in either of these communities. Any probation work required is done by the police department through an arrangement with the court.<sup>1</sup>

#### Provincial Probation Service <sup>2</sup>

The Provincial Probation Branch is organized as a part of

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1 C. D. Davidson, Assistant Chief Probation Officer, Provincial Probation Branch, Interview with the writer, 16 February 1960.

2 Davidson, Interview with the writer, 16 February 1960, and Clark, Interview with the writer, 24 February 1960.

the Provincial government. It currently employs thirty-three field officers who carry on the task of adult and juvenile probation in most of the more heavily populated areas not covered by the probation services already described.

Because of the geography of British Columbia, many of these officers are covering rather large territories. For example, the man located in Vernon is responsible for the territory from Kelowna to Salmon Arm and Revelstoke, a total of eight courts. This would mean that he covers an area almost one hundred miles in length. Similarly, the officer situated in Penticton serves eight courts over a territory extending about eighty miles west from his office.

Even though services have been spread thinly in this way, no service is being offered to many communities in the north, in parts of the Cariboo region, along the west coast from Squamish to Prince Rupert, with the exception of Kitimat, and on the west coast of Vancouver Island. Despite these gaps however, it appears likely that the major portion of the province's population is receiving some sort of probation service.

The major functions of the Probation Officer are described as preparing pre-sentence reports for the courts, and supervising probationers. However a certain number of "follow-up" or parole cases are also offered supervisory services. Table 4 shows comparative statistics for these various functions for the years 1951 through 1957. These figures include adults and juveniles together without differentiation, but the Assistant Chief Probation Officer states that about seventy-five per cent of the work is with juveniles. While these figures give some idea of

the volume of work handled, their value is limited even in this respect because it is not known how long probation or parole cases lasted, and hence how many would be carried over from year to year.

Table 4. Comparative Work Load Statistics  
for the Provincial Probation Branch  
for the years 1951/52 to 1957/58.

Year	New Probation Cases	New Follow-Up Cases	Pre-Sentence Reports
1951/52	591	33	472
1952/53	598	46	638
1953/54	688	92	736
1954/55	831	151	892
1955/56	962	186	965
1956/57	1306	313	1250
1957/58	1431	395	1602

Source: Province of British Columbia, Annual Report of the Director of Corrections for the year ended March 31, 1958, p.92.

As a rough guide to the average caseload of probationers, the Assistant Chief Probation Officer stated that they would usually range from forty-five to one hundred. A sample month, <sup>December</sup> 1959, showed a high probation caseload of one hundred and ten, and a low of thirty-five. The former was carried by the Probation Officer in Vernon, already mentioned as one of the relatively large geographical areas to be covered by one man. These caseload figures would include both juvenile and adult figures. By considering the unpublished statistics for the period April 1, 1958,

to March 31, 1959, it is possible to get a more accurate idea of the proportion of this work that deals with juveniles. During this period, 1249 individuals were placed on probation, and 877, or 70.2 per cent, were juveniles.

As Table 4 indicates however, the probation caseload is only a part of the work load of each probation officer. Supervision of parolees and preparation of pre-sentence reports must also be included. The time devoted to court appearances must also be a significant factor as noted in the discussion of the probation officer for the Vancouver Juvenile Court. In theory too, the probation officer maintains a contact with the family of the boy or girl committed to the Industrial School and must prepare satisfactory plans prior to release.

While no statistics are available which indicate the number of interviews with each probationer, the Probation Branch feels that it is offering a range of service varying from intensive casework to routine reporting, as required by the individual.

In order to provide the best possible service under these conditions, the Probation Branch has tried to establish a Master's Degree in Social Work as its standard of training. A large proportion of the staff have this training, but some with only a Bachelor's degree in Social Work plus some experience, or others with equivalent qualifications are accepted and would be classified as Probation Officer, Grade I. The salary range currently being paid is \$367.00 to \$430.00 monthly for Grade I Probation Officers, and \$400.00 to \$470.00 monthly for Grade II.

Since the Probation Officers forming this service are prov-



vincial employees, their tenure is not subject to the whims of any particular judge. In most cases the judges have simply accepted them and a practical working relationship has developed. In a few cases the judges have appointed individual officers as probation officer for their particular court under the terms of the legislation. However, this has not been very common.

### Detention Facilities

In order to determine the present policy regarding the provision of detention facilities, the following question was directed to the Deputy Attorney-General.

What are the current regulations covering the provision of detention facilities as required under Section II, subsection 4 of the (Juvenile Courts) Act? (Recent news releases would seem to indicate that courts exist in municipalities which do not have the required detention facilities.)<sup>1</sup>

In answer to this question, he stated:

...I assume you refer to section 13 (4) dealing with juveniles apparently over the age of fourteen and their detention pending trials. So far as possible, juveniles are held in detention homes. Occasionally they have to be held elsewhere because of the absence of suitable detention home facilities, for example at such places as Fort Nelson and other spots on the Alaska Highway and some other areas of the Province. In all cases they are kept separate from adult offenders.<sup>2</sup>

While the question as phrased to the Deputy Attorney-General did not specify the Juvenile Courts Act, it was indicated at the top of the questionnaire that all questions dealt with this Act, section II (4) of which requires detention facilities satisfactory to the Attorney-General in any community having a juvenile

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<sup>1</sup> Letter to the Deputy Attorney-General from the writer, 25 February 1960.

<sup>2</sup> Kennedy, op. cit.

court. However, the question was apparently misinterpreted as referring to section 13 (4) of the Juvenile Delinquents Act which deals with another aspect of detention. In spite of this, the answer as quoted above seems to cover the policies for provision of detention in the province generally.

The answer given by the Deputy Attorney-General would seem to indicate that detention facilities exist in all but the most remote areas of the province. However, consultation with the Supervisor of the Provincial Probation Branch, whose staff is very intimately involved with this problem, reveals that no proper detention facilities exist outside Vancouver and Victoria.<sup>1</sup> Attempts to make use of foster homes have also proved fruitless because of the impossibility of finding homes willing to take children involved with the juvenile court.<sup>2</sup>

Reference was made in Chapter I to a statement by the Mayor of Langley to the effect that lack of detention facilities is creating a problem in that community.

The Vancouver and Victoria Detention Homes seem to be the only real detention facilities in the province. The superintendent of the Vancouver Detention Home stated that the present facilities are quite adequate. The present policy of the Vancouver Juvenile Court is to hold only those who cannot safely stay in their own homes while awaiting a court appearance, and also a few

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1 Clarke, op. cit.

2 Loc. cit.

3 Chapter I, p. 8.

who are remanded by the court. The building is built to house thirty-four boys, and sixteen girls, and the population has never reached this capacity.<sup>1</sup>

The situation does not seem to be as good in Victoria however. A press release of a few months ago states that:

Victoria juvenile detention home closed today.

Long-time superintendent Colonel William Dingley snapped the lock, blasting civic officials for "rank incompetence" and "official bungling" as he drove away.

The move means there'll be no official place to keep young offenders while awaiting juvenile court, but they are expected to be put in city jail.<sup>2</sup>

Since that time the detention home has been reopened with a new superintendent.<sup>3</sup>

North Vancouver and Burnaby solve the problem of detention by using the Vancouver Detention Home, paying a per diem rate for this service. The remaining communities in the province apparently use the existing adult jail facilities to hold juveniles when required. In a few cases a cell is set aside for this purpose.<sup>4</sup> A recent editorial in an interior British Columbia newspaper pointed up this problem, noting that in some cases it is necessary to hold juveniles for at least nine days while the necessary notices of a hearing are sent.<sup>5</sup>

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1 G. Stevens, Interview with the writer, 16 February 1960.

2 "Juvenile Home Locked by Fed-Up Supervisor," Vancouver Sun, May 30, 1959. p. 1.

3 Clarke, op. cit.

4 Clarke, op. cit.

5 "Flaw in the Theory," Williams Lake Tribune, 10 February 1960.

### Diagnostic Facilities

The Vancouver Juvenile Court does not have any psychiatrists or psychologists on its staff, and it does not retain them as consultants. The Chief Probation Officer says that he feels his staff of probation officers should themselves be competent to recognize those individuals severely enough disturbed to need these services. One weekly appointment is available on a permanent basis at the Children's Clinic of the Mental Health Centre for a diagnostic examination of those individuals whom the probation officers feel they need help with. After a complete examination of the child, the probation officer is advised on how to proceed with the case. About forty such examinations are made each year. The Child Psychiatry Services at the Vancouver General Hospital are also available to the court, and on individual cases probation officers cooperate with the psychiatric services provided by the Metropolitan Health Unit.

For any individuals who might need continuing psychiatric treatment, apparently nothing is available except through Vancouver General Hospital's facilities, or through private psychiatrists if the parents can afford the cost.<sup>1</sup>

The Provincial Probation Branch is able to make use of the Travelling Clinic operated by the Provincial Mental Health Clinic. For obvious reasons, this does not provide the availability of service found in an urban center, but in an emergency situation help has been forthcoming with a delay of only two weeks. This clinic offers only a diagnostic service, and any treatment which is considered necessary must be carried on as a function of the

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1 G. Stevens, op. cit.

the probation officer.<sup>1</sup>

### Treatment Facilities

Probation services, including their treatment function have already been dealt with in a separate section. There appear to be no other formal treatment facilities in British Columbia for children found to be delinquent, by the juvenile courts except the Brannan Lake School for Boys, and the Willingdon School for Girls.

### Brannan Lake School

This is a relatively new institution for the care of delinquent boys, having been put into use on March 16, 1955. The school program involves work, including community projects as well as the care and maintenance of the institution. It offers academic classes for all boys, regardless of age, with class-room instruction for Grades I to VIII, and correspondence courses for high school students. After 3:00 p. m. the recreational programme begins, which runs until bedtime. This programme consists of all types of sports, many hobbies, and straight leisure time for reading and letter writing.<sup>2</sup>

This school was originally planned to house 120 boys. It includes cottages for the very young, and dormitories for those who are older. The age of boys upon admission to the school has varied from nine years to eighteen years. The average age has remained quite constant however, and in 1957-58 was 14.8 years.<sup>3</sup>

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1 Clarke, op. cit.

2 British Columbia, "Report of the Boy's Industrial School," Annual Report, 1956, p. 91.

3 British Columbia, "Report of the Boy's Industrial School," Annual Report, 1958, p. 70.

The average daily population of the school has continued to climb beyond the capacity for which the school was originally built. In the most recent annual report of the school the superintendent comments on this trend and its implications. He says in part:

It will be noted that the average daily population of the School was 152 boys. Since the School has no control over admissions, there was no alternative but to reduce the average stay of a boy in the School. This resulted in many boys being released before the School authorities felt the boys were actually ready to return to the community. This in turn, we believe, is to some degree responsible for the increased rate of recidivism which occurred during the year.<sup>1</sup>

No official statistics are yet available for the school's operation since March 31, 1958. Recent publicity would indicate that the trend noted above has continued however, and that the present population is in excess of 180 boys.<sup>2</sup>

### Willingdon School for Girls<sup>3</sup>

The Willingdon School for Girls is a new institution which was officially opened on March 26, 1959, making it about one year old at the present time. The physical plant is made up of a large administration building which contains office space, training class rooms, a combination gymnasium--swimming pool, an admission unit for fifteen girls, a sick bay for ten girls, and security quarters for ten girls. The remainder of the institution is composed of three cottages containing twenty single rooms

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1 British Columbia, "Report of the Boy's Industrial School," Annual Report, 1958, p. 86.

2 Vancouver Sun, March 3, 1960, p. 2.

3 Urquhart, Miss W.M., Interview with the writer, 4 April 1960.

each. These cottages have independent eating and living room facilities but meals are prepared in a central kitchen.

The school offers regular school instruction to those under school leaving age and to any others who wish to participate. Instruction in sewing is offered which would ready a girl for some commercial work after release. A beauty parlor offers a complete vocational school course, and those over eighteen years of age can write the government examination for their license. Some inmates do not participate in a full training course however, but do housework and take partial courses. In the area of recreation, the school has modelling classes, self-improvement classes, films, sports, and swimming instruction.

Since its opening the school has been filled at least to its capacity of seventy-five girls (sixty in cottages and fifteen in the admission unit). In more recent months the population has generally been in the eighties, and on the date of the interview with the superintendent, ninety girls were in the institution. Despite this situation however, the superintendent states that girls have not been discharged prematurely as they apparently have from the Brannan Lake School for Boys.

#### Juvenile Court Committees

The legislation upon which the court is based calls for a Juvenile Court Committee to be formed from the Board of the Children's Aid Society if one exists. Evidently such a committee did exist many years ago and functioned as a form of case committee, advising the judge on how to deal with individual cases. With the coming of the probation officer, this function became outmo-

ded and the committee went out of existence.

The Chief Probation Officer of the Vancouver court feels that it is an outdated idea if organized on the basis of a Children's Aid Society Committee. He is of the opinion that it could only be a useful device if it was a committee appointed by the judge and consisting of representative citizens who could offer useful advice to him.<sup>1</sup>

There are a total of eight other Juvenile Court Committees in existence in the province. These are located at Trail, Nelson, Cranbrook, Kimberley, Prince George, Vernon, Chilliwack, and Langley. From what can be learned of their operations, it would seem that these committees in the main are functioning as some form of case committee, attempting to coordinate the service available in the community to assist with particular cases.<sup>2</sup>

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1 G. Stevens, op. cit.

2 Davidson, op. cit.



## CHAPTER IV

### POLICY AND STANDARDS

#### The Legislative Intent

An attempt was made in Chapter II to establish some concept of the intent of the juvenile court legislation, both federal and provincial, as it presently exists. Drawing upon speeches made by members of the Senate of Canada, and the House of Commons, it was noted that the Juvenile court idea meant different things to various individuals. To some it meant simply the removal of juveniles from contact with adult offenders, and to others it meant a panacea for the problem of juvenile crime. One Senator, the Hon. Mr. Coffey, had some very discerning remarks to make however.<sup>1</sup> He visualized a completely separate court with separate judges carefully selected for their ability to deal in a kindly manner with children, and he advised against using magistrates from the adult court for this position. He foresaw, too the possibility of creating district courts so that provision of these services would be economically feasible.

The description in Chapter III of juvenile court services in British Columbia clearly indicates that more than fifty years later this province has made very little progress toward the attainment of such standards. Although the juvenile court may be established as a legal entity throughout the province in accordance with the provisions of the Juvenile Courts Act of British Columbia, it remains a primitive device in most areas, un-

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1 Chapter II, p.

disciplined by any regulations which might establish standards of any sort. An evaluation of the present system of juvenile courts on the basis of the apparent hopes of those who spoke out for its establishment in the beginning brings the inescapable conclusion that those hopes have not yet been realized. An evaluation on the basis of the vague and unqualified terms of the enacted legislation upon which the court is based however, indicates that the minimum legal requirements have been fulfilled, with some possible exceptions which will be dealt with in discussing various aspects of the court in detail.

#### The Judges

No specific information was obtained on the qualifications of juvenile court judges in British Columbia except for those holding positions in Vancouver and Surrey. However, the information cited on the proportion of industrial school committals that are made by this group, and the comments of responsible government ministers on the situation would seem to indicate that at best many of these judges are not familiar with the philosophies of the juvenile court as these were outlined in Chapter II.

Looking at the problem in terms of the criteria established in Chapter II, it would seem that the basic fault lies in the method of selection of these judges. No specific standards are laid down for judges, either in the legislation or through regulations. While the Deputy Attorney-General suggests that suitability for the job is the main criterion, there is no formal machinery for determining this suitability, whatever it may be conceived to be. Neither does there appear to be any informal means of selection which is universally applied. Even assuming

that a conscientious attempt is made to apply the criterion of suitability, it can readily be seen that this is a purely subjective standard, open to different interpretation by every individual who attempts to apply it.

In discussing the juvenile court in Britain in Chapter II, mention was made of the need for new judges to learn something of their role before assuming the bench themselves. This was described as learning to "act judicially." It seems likely that many judges in British Columbia do not have the opportunity to learn this lesson, even through experience in their own court, if they actually only hear a case or two a year as the Deputy Attorney-General has said. It seems reasonable to assume that lack of experience, plus little or no understanding of the basic philosophies and methods of the juvenile court could result in a very low level of functioning in many rural courts. Evidence such as the high rate of committals to Brannan Lake School indicates that this quite possibly is the result.

While the Vancouver court does not send a particularly large percentage of its cases to the industrial schools compared to the other courts in the province, the presiding judge seems to be steeped in legal thinking, and to have little ability to look critically at the court in other than legal terms. He seems to see the court within its legal context and to be concerned with this alone, rather than the broader issue of whether it is actually achieving anything worthwhile in terms of helping young offenders. The interview which was held with the judge seemed to indicate

that this legalistic trend has its root in the inclusion of various family matters within the jurisdiction of a juvenile and family court. Obviously such cases lead to legal contests which are far removed from the original spirit of individualized treatment found in the juvenile court. This tone seems to carry over into the other duties of the judge, although he seems to feel that this is not a matter for concern since the probation officer will be a mitigating influence upon the court.<sup>1</sup>

### Probation Services

Juvenile probation services, in so far as they exist in British Columbia, seem to be an attempt to achieve the standards suggested as desirable in Chapter II. Looking at the total province however, it is obvious that gaps exist. In some areas there are no services, and in other areas the probation officers appear to be carrying excessive caseloads. In two of the larger urban centres, New Westminster and Victoria, no provision has been made for probation service except through an officer of the police department. In this evaluation, consideration will not be given to these latter provisions since they cannot be considered as legitimate probation services.

Considering more specifically the evaluative criteria estab-

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1 W. E. Cavenagh, The Child and the Court, London, Victor Gollancz, 1959; and John Watson, The Child and the Magistrate, London, Jonathan Cape, 1950, are both books written by British juvenile court judges who have a clear perception of the desirable philosophy of the juvenile court judge.

criteria established in Chapter II, it appears that both the Vancouver Juvenile Court and the Provincial Probation Branch have attempted to establish quite high minimum educational qualifications for staff. Since each of these organizations claims to have no one in their lowest, or Grade I category, it would appear that they have been reasonably successful in maintaining these standards, although not all the present officers have social work training. This is an area which could bear more intensive study, however, considering the importance of adequate probation staff to the court's operation.

The use of university graduates with only a major in psychology or sociology, as is done by the Vancouver Juvenile Court, would seem to be a questionable practice. The description of the probation officer's functions clearly indicates that his most important tasks involve the formation of a relationship with the individual on the basis of which diagnosis and treatment can be offered. Psychology and sociology, particularly at the undergraduate level, are generally academic courses, and do not offer this training and experience in using a relationship to help the individual. At the present time only graduate training in social work or some other training which focuses on the use of a therapeutic relationship can meet this requirement.

In terms of personnel practices the Provincial Probation Branch reasonably satisfies the evaluative criteria, falling within the provincial civil service, and enjoying such benefits as may result therefrom. The Vancouver Juvenile Court probation staff are not in as happy a position however. While they fall within

the Personnel Department of the city in some respects, this is at best only a semi-official provision which enables them to enjoy the regular city employee benefits. They are appointed by the court however, and no provision is made to give them any security of tenure such as actual civic employees would have. In theory, the judge of the court could dismiss his entire staff and create a patronage system out of his new appointments. This is the only logical conclusion which can be arrived at when, in a public organization such as this, no formal provision is made for controlling the system of staff selection or for providing tenure following selection. This has not proved to be a problem in the Vancouver Court, but the Chief Probation Officer cited examples of other courts in which it had been a problem.

In terms of work loads, neither of these probation departments seems adequately staffed. While statistics available are very meagre and fail to give an adequate picture of individual work loads, the sheer numbers of cases, plus other tasks indicated in over-all tabulations of each year's services give a crude indication that adequate performance cannot be possible under such conditions.

Some indication of how far the Vancouver Juvenile Court is below the standards suggested for probation by the National Probation and Parole Association can be gained by considering the 2155 court and out of court cases<sup>1</sup> (excluding traffic offenses)

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1 Table 2, p. 61.

which were investigated by the probation officers. The National Probation and Parole Association suggests a maximum probation caseload of fifty, and recommends that investigations be counted as equivalent to three to five cases. Using the ~~minimum~~ figure of three, each officer would be carrying in investigations the equivalent monthly average of 53.9 cases. Using the maximum figure of five, each would have the equivalent of 89.8 cases per month. These work load figures include none of the other duties of the probation officers, excluding even the major function of supervising those individuals actually placed on probation.

While it would be desirable to evaluate work loads in terms of the quality of work being done, no objective means of achieving this was available. Since no statistical material is kept which would indicate the quality of work even in such crude terms as how frequently individuals are seen, it would be necessary to conduct a case survey to obtain the data for any sort of qualitative evaluation. This would be a large study in itself and is not considered to be within the scope of the present undertaking. Suffice ~~it~~ to say that the Probation Department of the Vancouver Juvenile Court seems, on the basis of the crude indices available, to be seriously understaffed.

An additional factor of geography enters into any assessment of caseloads carried by members of the Provincial Probation Branch. Obviously the travelling involved in covering some of the areas described in Chapter III will very seriously affect the working time available for direct service to individuals. Where the probation officer is located some distance from the individual pro-

bationer, it will also limit his ability adequately to meet problem situations as they arise.

Sufficient statistics are not available to indicate accurately the caseloads carried. However, a rough idea of these loads can be gained by considering the sample month high and low caseloads which were given in Chapter III,<sup>1</sup> and adding to this the average number of pre-sentence reports which each officer would complete monthly (using the 1958 total of 1602 pre-sentence reports). This would mean that each officer would complete an average of 46 pre-sentence reports per month. Using the National Probation and Parole Association equivalent figures of three and five again, each officer would carry the equivalent of 12 or 20 cases respectively, depending on whether the minimum or maximum equivalent figure is used, in addition to his supervision caseload. For the Vernon officer, who carried 110 cases in December, 1959, this would mean a total caseload of 122, or 130, scattered over an area roughly one hundred miles in length. Even the officer with the smallest caseload would then have an equivalent of 47, or 55 cases, again a number close to or slightly in excess of suggested National Probation and Parole Association standards. It can be expected too that the officer with the heaviest caseload would also have more than the average number of pre-sentence reports to complete, thus increasing his equivalent caseload even more.

#### Detention Facilities

One of the basic principles underlying the founding of the

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1 Chapter III, p. 65.



juvenile court was the recognition of the need to separate juvenile and adult offenders. This was associated particularly with the holding of children in adult jails, a practice which had long existed. This principle was paramount in the thinking of many who were involved in the passing of the original Juvenile Delinquents Act in 1908, as well documented in Chapter II. It has also been embodied in the present Juvenile Delinquents Act 1929, and the Juvenile Courts Act upon which the juvenile court in British Columbia is based. The Deputy Attorney-General further verified that the intention in British Columbia is to detain juveniles only in proper detention facilities, which by law are required to exist in every community having a juvenile court. He categorically stated that juveniles are always detained separately from adults.<sup>1</sup>

Both the federal and provincial statutes appear to contain certain weaknesses however, which make possible the flaunting of the apparent intention of the legislation. Section 13 (1) of the Juvenile Delinquents Act forbids the holding of any child in an adult jail, but section 13 (4) makes it possible to hold in an adult jail any child apparently over the age of fourteen years if the authorities feel it is necessary.

Section 11 (4) of the Juvenile Courts Act makes it obligatory for every community having a juvenile court to have detention facilities. However, section 11 (1, and 4) defines every

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1 Kennedy, op. cit.

temporary home or shelter operating under the Protection of Children Act, or any other place designated by the Attorney-General as a detention home within the meaning of the Juvenile Courts Act.

The evidence offered in Chapter III indicates that there are no proper detention facilities outside Vancouver and Victoria, and that no foster homes are available which might be substituted. It indicates too that in some cases at least, juveniles are being held in adult jail facilities, not because the individuals necessarily are dangerous enough to require this type of security, but simply because no other facilities exist.

British Columbia has not yet managed to fulfill the intent of the legislators of fifty years ago in respect to detention of children. Nor is it achieving what appears to be the intent of the present legislation. Most important, it is not fulfilling the government's policies on detention as these are described by the Deputy Attorney-General. The "other areas of the Province" which he describes as lacking detention facilities are apparently not simply remote and unpopulated regions, but include all of those areas not served by the Vancouver or Victoria detention homes.

#### Diagnostic Facilities

The description of diagnostic clinics in Chapter III would seem to indicate that these facilities are reasonably accessible to the juvenile courts of the province. Since these services are not a part of any court but are only available through other community agencies, their accessibility is obviously quite

strictly limited however. From the limited evidence available, the estimate of "reasonable accessibility" given above must be based on the fact that the probation staff are not at present using all of the appointments available to them at the Children's Clinic.

Since the decision to have a diagnostic assessment made lies with the probation officer or judge, this obviously might reflect nothing more than their inability to determine which children need a complete psychiatric diagnosis and which do not. It might reflect too, the heavy caseloads and limited time available to the probation officer to attend diagnostic conferences. Referrals to the Diagnostic Clinic of the New York Juvenile Court are made in much the same way as in British Columbia, the child being referred by the judge on the basis of his own assessment, the recommendation of the probation officer or both. In describing the results, Kahn says:

The Clinic's own studies have revealed that, over the years, a sizable group of critically disturbed individuals appear in court without referral for psychiatric evaluation, whereas a sizable proportion of the judges' referrals of diagnostic study are questionable.<sup>1</sup>

The implications of the decision to request or not request a psychiatric evaluation are far reaching. Upon this decision may rest the final disposition of the case and ultimately the success or failure of the child. Very obviously the initial diagnosis of the probation officer weighs heavily in the making of this decision, at least in the Vancouver Juvenile Court, and the

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<sup>1</sup> Alfred J. Kahn, A Court for Children, New York, Columbia University Press, 1953, p. 231.

comments which have already been made regarding adequate probation staff again become applicable.

### Treatment Facilities

The description in Chapter III of formally organized facilities for the treatment of juvenile offenders in British Columbia presents a rather gloomy picture. The discussion of probation services, which should be the backbone of juvenile treatment services, indicates that the present probation services are too understaffed to be doing the treatment job which is required of them. Apparently no psychiatric treatment is available except as provided by parents through private psychiatrists.

Only the institutions remain as possibilities for treatment, and it appears that each of these, although relatively new facilities, are already crowded beyond the limits under which a favorable treatment program could be expected to operate. The boy's school is admittedly releasing boys simply because they do not have the room to keep them. The girl's school, while apparently not yet reduced to this, is certainly handicapped in that it must use both its admission unit and its security quarters as regular accommodation, thus greatly reducing the effectiveness of its operation.

In the description of the program of each of these institutions no mention was made of any attempt at therapy except as this might be a side effect of vocational or other training. The major goal seems to be to instill self-discipline in the boy or girl. This might in fact be a valid treatment technique for certain individuals who enter these institutions, but it is ques-

tionable whether is is the answer in every case. Judge W. H. S. Dixon of the Vancouver Juvenile Court in an interview cited the case of an eleven year old boy whom he sent to Brannan Lake. This boy was apparently examined by the Children's Clinic and was felt by the psychiatrist and his staff to be an extremely disturbed individual. The probation officer recommended another treatment plan, but the Judge felt that because of the gravity of the boy's offenses, he must be committed to the boy's school in order to protect the community. The fallacy of such a plan lies of course in the fact that the school is not equipped or able to give such a boy the treatment he evidently needs, and he will eventually return to the community, probably no better, and possibly a worse menace than when committed.

#### Juvenile Court Committees

The need for a juvenile court committee seems to be open to question, judging from the opinions presented in Chapter II. Even the drafters of the Juvenile Delinquents Act must certainly have been confused about its use, since they make its provision obligatory for some areas and discretionary for others. Under the terms of the Act, Vancouver and Victoria should be obliged to have such a committee drawn from their Children's Aid Societies. The Vancouver court has functioned without such a committee for many years however, apparently believing that the role of the committee has been taken over by the probation staff, and that a case committee such as the legislation envisages is an anachronism.

This point of view may in fact have some validity, yet for a court of law simply to ignore those legislative provisions with

which it does not agree seems to border on the ridiculous. It seems unlikely that the judge would treat this device sympathetically if it were to be raised as a defense by those law breakers who appear in his court.

In any case, it appears likely that the legislators did not see the court committee as being a substitute for the probation officer. In the duties of the committee which are outlined in the legislation, consultation with probation officers regarding cases is specifically mentioned.<sup>1</sup> In a number of the courts cited in Chapter III as having a court committee, this advisory role seems to be the dominant one and is perhaps more valid in the small community not served by a full time probation officer. In a smaller community certain of the populace, such as the doctor, could very easily have a great contribution to make in advising on appropriate treatment for the individual delinquent, often having known the individual and his family intimately for many years.

On the other hand, it is difficult to see how the court committee, formed from the directors of the Children's Aid Society in an urban area like Vancouver, could make a contribution of any significance if they functioned as a case committee. More logical, and more valid in terms of the standards established in Chapter II, would be a committee named by the judge to advise him on broad general principles of treatment of the delinquent and the attitude of the community in this respect. This is the

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1 Juvenile Delinquents Act, s. 28.

sort of committee which the Chief Probation Officer of the Vancouver Juvenile Court saw as being useful.

From this point of view of present legislative requirements however, it would seem that this is one area in which the Vancouver Juvenile Court has failed. A small minority of interior communities have demonstrated however, that the court committee might serve some useful purpose, depending upon its focus and organization.

## CHAPTER V

### JUDGEMENTS AND RECOMMENDATIONS

#### The Strategic Role of the Juvenile Court

The juvenile court is a court of law. Yet because of its focus on treatment of the juvenile who has broken the law, it has come to occupy a strategic place in our armament of social services. Kahn has eloquently described this intended double function of the court. He says:

The juvenile court movement provided society with a dream and a challenge; a social institution was to be created which would protect and help, rather than punish and embitter, children in trouble. A court was to be developed which would guard legal rights and represent the community's interests, but at the same time yield the idea of a fixed penalty for each offense and avoid losing the individual in a maze of technicalities.<sup>1</sup>

Delinquent behaviour may be the first overt symptom, or at least the first recognized symptom, of otherwise undetected family stresses or individual personality problems in the delinquent or other family members. The probation officer investigating the child's social history prior to making his report to the court may be the only person in a position to discover, and help the family understand the underlying problems. Treatment may result, not only for the child whose behaviour has brought the attention of the court to bear, but for other members of the family who may be helped by referral to one or another of the social services available.

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1 A. J. Kahn, A Court for Children, New York, Columbia University Press, 1953, p. 264.



The quotation from Kahn leaves the impression that he does not feel that this ideal has been achieved. In discussing the failure of the juvenile court, Fort raises some very basic questions. He says:

Is it because the basic premises upon which the juvenile court is based are, in fact, unsound? Should law and sociology be divorced? Should the concept of individualized justice be abandoned? Should we, then, return to the ancient rule, "Let the punishment fit the crime"? Shall our legislatures set aside the doctrine of *parens patriae*?

As soon as we phrase such questions, their answer is obvious. What then is to be done? There is only one answer: the behavioral treatment machine must be equipped with the parts it needs to move forward in an orderly manner.<sup>1</sup>

The evaluation which has been made has shown that the juvenile court system in British Columbia falls far short of having the parts it needs to achieve even the most rudimentary goals stated by the founders of the court in Chicago in 1899. It does not even have detention facilities for the greater part of the province and children are still being held in jails along with adults.

This is in part at least a problem created by the vast rural or semi-rural areas which make up British Columbia. Social services are in the main an urban phenomenon which must be translated to the peculiar needs of small communities and sparsely populated areas if they are to be successful. In past years, British Columbia showed imagination in translating other welfare services into a workable provincial organization, but did

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<sup>1</sup> W. S. Fort, "The Juvenile Court Examines Itself," NPPA Journal, vol. 5, (October 1959), p. 410.

nothing for the juvenile court. In discussing the substandard nature of many juvenile courts in the United States, Carr makes this same point, describing the predominantly urban nature of welfare services. Speaking more specifically, he says:

Even the juvenile courts whose jurisdictions included rural areas amounted to little, as we have seen, unless they were located in sizeable cities. Throughout the nineteenth and the first half of the twentieth century rural America lay outside the social work frontier. It still does.<sup>1</sup>

Not only welfare measures have suffered in most rural areas however. Poor housing conditions are widely looked upon as a feature of urban slum areas. A survey carried out by the United States Department of Agriculture in 1945 showed however, that about one half of the nearly three million farm homes did not meet a standard of decent, safe, and sanitary housing.<sup>2</sup>

Educationally too, the rural area has suffered. Generally the per pupil expenditures have been lower, and one of the main results has been that the rural school has long been the proving ground for the inexperienced teacher. British Columbia has attempted to solve the shortage of rural teachers by providing training grants which carry a period of rural teaching as one obligation, thus furthering the trend to have inexperienced teachers in rural schools.

Another feature of rural education has been the economic impossibility of providing the same assortment and quality of

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1 L. J. Carr, "Most Courts Have To Be Substandard," Federal Probation, vol. 13 (September 1949), p. 32.

2 J. H. Kolb, and E. deS. Brunner, A Study of Rural Society, Boston, Houghton Mifflin Company, 1952 (copyright 1946), p. 302.

courses to a very small group which the urban school can offer. One attempt to solve this was the school consolidation idea adopted extensively throughout British Columbia a few years ago. After considering similar programs in the United States, Kolb and Brunner comment that:

Despite the progress made in rural education in the last decades, however, there is every indication that there is now more inequality in education opportunity between rural and urban America than there was at the close of the Civil War....<sup>1</sup>

Rural medical care has lagged far behind the urban centres too. At one time, rural life was considered to be the most healthy, and mortality rates indicated this to be true. As better medical care and preventive programs were introduced in urban areas, the rural areas lost this advantage and have never recovered it. Rejections of military applicants during World War II consistently showed the farmer to be the least physically fit.<sup>2</sup> Doctors are badly needed in the rural areas and the small towns of America, yet the ratio of doctors to population in these areas continues to drop.<sup>3</sup> While it may be argued that British Columbia is not predominantly rural, it is a fact that there are only a very limited number of urban areas able to support the services available in the large city. Small town areas have in the main lagged behind urban areas in the provision of some of the most basic social requirements. The evaluation of the juvenile court in British Columbia indicates that

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1 Kolb, and Brunner, A Study of Rural Society, p. 318.

2 Ibid., p. 407.

3 Ibid., p. 420

the pattern also holds true for this institution. While the Vancouver Juvenile Court is far from ideal, as will be pointed out later, in comparison to other juvenile courts in the province it has made considerable progress.

### The Court and Its Judges

It was stated in Chapter II that one of the most important features of a juvenile court is its philosophy. It was also suggested that this involved, among other things, the court attempting to act like a good parent to the child in trouble. The judge, as presiding officer and policy maker of the court, is obviously the person who must influence the court in this direction if the notion is to become the guiding force behind the court's operation.

The judge is unquestionably the central figure around which revolves the destiny of any court. If he is not imbued with this real interest in young people as suggested above, he cannot pass on to his court this same interest. He should not be content simply to be the arbiter of legal questions, leaving to the probation staff this vital role either. The court in British Columbia seems to suffer from exactly this problem however, with better than 180 judges,<sup>1</sup> many of whom are also magistrates, and few if any, having any real experience or training which qualifies them for the position. Even the judge of the Vancouver court exhibits a very legalistic interest in his role as was noted in the previous chapter.

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1 W. H. S. Dixon, Interview with the writer, 26 March 1960.

### The Circuit Court Idea

These are very sweeping statements to make. Yet the current organization of the court appears to warrant them. No provision is made for objective means of selecting judges according to pre-determined criteria. The statements by ministers of the government cited in Chapter III make it clear that even the responsible officials are concerned with the actions of some of those who have been appointed. In short, the organization of the court on a local basis such as currently exists falls squarely into the traps suggested in Chapter II as being endemic to the rural court. British Columbia needs to look to a revision of the legislation which would make possible the appointment of full time judges who could operate on a circuit court basis throughout the province. Only in this way can urban standards of operation be made available to the rural areas. Only in this way can the children of rural British Columbia be protected from the vagaries of inexperienced and incompetent courts which are not familiar with the philosophies of the juvenile court idea and continue to place their faith in harsher methods.

### A Method of Selecting Judges

The administrative reorganization of the court is not enough however, for it would still leave the way open to appointment of incompetent judges. This would indeed become a greater problem perhaps, if the juvenile bench were to become a worthwhile paid position. Criteria for the qualifications of the judge must be clearly defined, and a means formulated to object-

ively evaluate potential appointees. Some qualifications for the judge have been suggested in Chapter II, and a means of selecting through use of a representative committee which would make recommendations to the Lieutenant-Governor in Council might be a feasible plan. While many of the authorities continue to insist upon legally trained people for judges, the description in Chapter II of the British system indicates that there are other alternatives. The use of such an alternative person, well equipped with the personal attributes and experience desired, but lacking legal training, might be more feasible with a district court large enough to have a legal person as a clerk.

#### Probation Staff

No juvenile court in British Columbia appears to have an adequate probation staff. The Vancouver court seems to have a philosophy which is consistent with that suggested in Chapter II but the evidence which has been presented suggests that work loads are excessive. While the officials of the court continue to pay lip service to these high ideals, it is questionable to what extent they can be realized with a probation staff deficient in numbers and in training.

Both of these factors must be remedied, and some statistical means instituted to determine objectively the nature of the work being done. The argument that tabulation of interviews would be an infringement of professional responsibility is unsound. It is questionable in the first place whether individuals who have only university graduation in psychology or crim-

inology can rightly be defined as professional. Even if they can, such a system should not bother them, since it is used by almost every other social agency in the community. The value of this device is not limited to acting as a control on the quality of work being done either, but can also be an excellent means of demonstrating the need for additional staff.

In terms of personnel practices, the Vancouver Juvenile Court needs modification, particularly for its probation staff. While salaries are adequate, in fact, above the average for other community social agencies, the civil service commission type of organization outlined in Chapter II is absent. This, however, is a direct fault of the legislation which should be revised to make provision for a court staff which would be appointed on a competition basis and enjoy the advantages of civil service status.

The Provincial Probation Branch more closely adheres to some of the standards outlined in Chapter II for a probation staff. In terms of structure they fall within the Province's civil service organization, and they have attempted to establish two years of social work training as their minimum educational requirement. As noted in Chapter III however, the relationship of the probation officers with the various courts served seems to be a very vague and informal one which needs clarification through legislative revision. In this way, the Probation Branch would assume some official role, rather than simply being used by the juvenile courts to fill a gap.

The major criticism of the Provincial Probation Branch

can be made is its inability to serve effectively the various juvenile courts of the province. As was shown in Chapters III and IV, some parts of the province are not served at all. The probation officers serving most other areas have excessive case-loads plus long distances to travel. Looked at in terms of the standards established in Chapter II, the service as it currently exists is terribly inadequate, and badly needs staff increases as well as the legislative clarification already noted in order to improve it.

It is ridiculous to argue that the juvenile court has proved to be either a success or a failure in British Columbia. It would be more proper to argue that the juvenile court as a social institution dedicated to the treatment of young offenders has never come into being in the province. An adequate probation service, able to carry out the diagnostic, advisory, and treatment roles which belong to it, is an integral part of the juvenile court, and is just as necessary as a good judge if the court is to exist as more than a legal entity. The evidence indicates that British Columbia has failed to provide this necessary probation staff and has thus made a mockery of the concept of the juvenile court. This is glaringly obvious in those courts which simply make use of a police officer to fulfill the necessary lip service to the idea of probation, but it is also true of any court whose probation department is not equal to the task it is charged with.

#### The Lack of Detention Facilities

Despite the statements of the Deputy Attorney-General on



the subject, the evidence indicates that adequate detention facilities do not exist in areas outside Vancouver and Victoria. Children in British Columbia are still being locked in adult jail cells.

If the juvenile court in British Columbia is to operate with any degree of success, detention facilities which achieve at least the minimum of standards outlined in Chapter II must be provided. This will necessitate basic changes in the legislation, both federal and provincial, in order to remove the weaknesses outlined in Chapter IV. The presence of a foster home in the community would presumably meet the requirements of the Juvenile Courts Act. Yet this obviously does not mean that this home is available or suitable for detention purposes. The Juvenile Delinquents Act makes provision for penalties for anyone placing a juvenile in an adult jail. In the succeeding sections however, provision is made to legally place a juvenile over fourteen years old in such jails if it is deemed necessary. Presumably this must be the rationalization behind the use of adult jails to detain juveniles in British Columbia, and it is suggested that this needs revision, either by raising the age levels, or by providing legal guarantees of some sort to prevent abuse.

The actual detention facilities might be provided in a number of ways. Obviously it would not be economically feasible for each community in the province to operate its own establishment. However, several adjacent communities might together operate a joint detention home. A second alternative would be

the use of good private homes. Although these could not provide the security which might sometimes be required, they could handle most cases. If such a plan were to be adopted however, it would be imperative that the homes be available when needed.

The current legislation does not establish any standards for determining what might constitute adequate detention facilities. This is very obviously needed, and provision should also be made for periodic inspection to ensure that these standards are adhered to. This could perhaps be handled by revising the legislation or by appending a schedule of regulations governing its operation.

#### Diagnostic Facilities

Judged on the basis of use of present facilities, the Vancouver Juvenile Court would appear to have adequate diagnostic facilities. However, this is a most inadequate basis for making a judgement since the use of these facilities may actually bear no relationship to the need for their use. Further study on an individual case basis is needed to determine objectively the accuracy of referrals, and also the numbers of cases not referred which should have been referred. Such a study of cases handled by courts outside Vancouver is also necessary to determine accurately the need for psychiatric services throughout the province. Should such a study show that severely disturbed individuals are passing through the juvenile courts without receiving adequate diagnostic assessment, steps should be taken to make more diagnostic facilities available to the courts.

Provision should be made for these facilities in the legislation

and standards of operation and use clearly defined to avoid the present fortuitous manner of referral.

Since the use of available facilities depends almost entirely on the prior diagnosis of the probation officer handling the case, the need for properly qualified probation staff is again emphasized. It is questionable if those not specifically trained in the task of personality assessment have the ability to make the appropriate decisions. Thus, the starting point in improvement of diagnostic services must be with the probation staff. This can be done by raising personnel standards to include only those with social work training, or something as good, and by decreasing caseloads so that the probation officer has adequate time to study and diagnose carefully, and carry out whatever treatment is appropriate.

#### Treatment Facilities

The treatment services available to the juvenile courts of British Columbia are inadequate and lack the diversity and imagination which such countries as Britain<sup>1</sup> and Sweden<sup>2</sup> have displayed in their organization. This inadequacy seems to be particularly glaring in the area of psychiatric treatment which is apparently lacking unless the family is able to provide it themselves. This must seriously handicap the court in dealing with any disturbed delinquent since the alternatives available do not appear likely to meet the need.

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1 J. Watson, The Child and the Magistrate, London, Jonathan Cape, 1950. This book describes the diverse treatment facilities used in Britain.

2 Ola Nyquist, "How Sweden Handles its Juvenile and Youth Offenders", Federal Probation, vol. 20, (March 1956), pp. 36-42.

If the courts are to provide adequately for treatment of delinquent children as they are supposed to do, the necessary facilities must be provided. The need for probation staff, increased in both quantity and quality has already been mentioned and cannot be overemphasized. If adequate probation services were to be provided, it might be feasible to place an increased number on probation and reduce the overcrowding in the present institutions. Even if this were to be achieved however, there is a need for provision of psychiatric treatment through the court for those who it is felt by the court can safely remain free, and through small, specialized institutions for those, like the boy cited in Chapter IV, who seemed too dangerous to leave at liberty.

Obviously much more detailed study is needed to determine the specific treatment facilities which are needed. However, the recommendation here is simply that any new facilities not be a repetition of those which currently exist, but attempt to show a little diversification and imagination in meeting the needs of children in trouble. Sweden is a good example of such a diversified system, where 22 correctional training schools, ranging in size from 19 to 82 boys, serves a total population of about seven million people.<sup>1</sup>

#### Juvenile Court Committee

The problem of the juvenile court committee lies in its legislative foundation rather than in the idea itself. The sec-

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<sup>1</sup> Nyquist, "How Sweden Handles Its Juvenile and Youth Offenders," p. 41.

tions of the Juvenile Delinquents Act which make provision for a juvenile court committee, and specify its duties, need a complete review. The juvenile court committee should be retained as an essential part of the court, but it should be divorced completely from Children's Aid Societies. It should be appointed by the judge as a representative advisory committee, and its duties should be broadened so that in the larger urban areas it would in a sense form an interpretive link between the community and the court. In the smaller communities the committee might very well continue to function as a case committee, fulfilling a task less official but very similar to that of the Child Welfare Council in Sweden.<sup>1</sup>

Another obvious function of the committee, and one which is implied in the above recommendation, is that of educational and public relations work. The present provisions which call for appointment of a committee when a petition of fifty names has been obtained is ridiculous, and the reasoning behind it vague. Obviously it will only be carried out when some individual or group shows enough interest to promote it. It is questionable whether many people understand anything of the juvenile court, and appointment of a committee of citizens by the judge would be an obvious way to promote further knowledge. This might be increased too if provision for rotation of the committee were made.

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<sup>1</sup> Nyquist, "How Sweden Handles Its Juvenile and Youth Offenders," p. 37.

### Some Broader Implications

The evaluation of the juvenile court which has been undertaken has, through limitations of time and facilities, only managed to cover rather superficially what are considered to be some of the most important features of the juvenile court. In some ways it may have served only to raise more questions than it has answered. Many areas such as the calibre of judges and the implications which this has for the operation of the court, and the quality of the present probation supervision need detailed study. Because of the lack of statistical material available, answers to many of the unanswered questions will only be obtained through the conducting of full scale research projects.

It would seem however, that despite these limitations, sufficient evidence has been gathered to suggest negative answers to both the questions which were posed in beginning the study. Specifically, it would seem that British Columbia has not by any means achieved the goals which apparently motivated the founding of the court. Certainly, it has not achieved anything like the standards of operation suggested as desirable in Chapter II, and suggestions have been made in this last chapter for ways to more nearly achieve these standards.

Perhaps the major implications which can be drawn from this study is the need for more post enactment evaluations. This is necessary in order to determine whether or not the intent of the particular legislation has been achieved. It would also help in determining whether the intent of the legislation is still timely and applicable. There seems to be a tendency to work

toward recognition through legislative action of such devices as the juvenile court. Unfortunately this is often the end of interest and no attempt is made to determine the effectiveness of the operation of the institution which has been created. While it is true that amendments have from time to time been made to the legislation in question, Scott's pamphlet makes it clear that these have been piecemeal changes aimed at correcting specific legal weaknesses. Even the Juvenile Delinquents Act of 1929 was viewed by the government as nothing more than a consolidation of legislation already in force, and it did not materially change anything. In short, it would appear that no attempt has been made to take an overall look at the legislation, viewing the juvenile court as a social institution and seeing whether its operation is adequate and desirable.

It was suggested earlier that this same concept of social accountancy could profitably be applied to other legislation too. Certainly the need appears great in the field of social legislation if the provisions made are to keep abreast of the rapid changes taking place in society.

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