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# Holding Juveniles Accountable: Reforming America's "Juvenile Injustice System"

Ralph A. Rossum\*

## I. INTRODUCTION

America's juvenile justice system is failing abysmally. Serious juvenile crime is skyrocketing. Between 1983 and 1992, the number of juveniles arrested for murder rose by 128%, and the number arrested for violent crime rose by 57%.<sup>1</sup> During that same time period, the murder rate for male blacks between the ages of fourteen and seventeen rocketed 320%.<sup>2</sup> During the second half of the 1980s, delinquency cases increased by 16%.<sup>3</sup> The most dramatic increase in delinquency cases involved older juveniles and minority juveniles.<sup>4</sup> Fully half of these delinquency cases involved crimes serious enough to be listed as FBI Index offenses.<sup>5</sup> In contrast, during the decade of the 1980s, the most crime-prone

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1. BUREAU OF JUSTICE STATISTICS, U.S. DEP'T OF JUSTICE, SOURCEBOOK OF CRIMINAL JUSTICE STATISTICS-1993 427 (Kathleen Maguire & Ann L. Pastore eds., 1994) [hereinafter SOURCEBOOK-1993].

2. *Id.* at 386. In 1983 there were 37 male blacks between the ages of 14 and 17 who committed murder or non-negligent manslaughter per 100,000 people. In 1992, the number had risen to 119 per 100,000 people, an increase of 320%. *Id.* Seventy-six percent of these murder victims were also black. *Id.*

3. OFFICE OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION, U.S. DEP'T OF JUSTICE, JUVENILE COURT STATISTICS-1991 5 (1994).

4. *Id.* at 27. Delinquency cases involving juveniles 17 years of age and older increased 26%, involving nonwhite juveniles increased 32%, and involving nonwhite juveniles 17 years of age and older increased by 40%. See generally SOURCEBOOK-1993, *supra* note 1.

5. *Id.* at 5.

age group in the juvenile population, those fifteen to nineteen years of age, fell by twenty-two percent.<sup>6</sup>

Overall, juveniles between the ages of ten and eighteen constitute approximately 14% of the current U.S. population.<sup>7</sup> However, according to FBI statistics released in the fall of 1994, they commit 28.3% of all Index offenses, 17.3% of all violent crime, and 32.2% of all property crime.<sup>8</sup> Specifically, they commit 14.4% of all murders and non-negligent manslaughters, 14.4% of all aggravated assaults, 15.7% of all forcible rapes, 26% of all robberies, 30.2% of all larcenies, 33.3% of all burglaries, and 43% of all arsons.<sup>9</sup> More individuals are arrested for property crimes at age sixteen than at any other age, and more are arrested for violent crimes at age eighteen than at any other age.<sup>10</sup> Furthermore, if demography is destiny, the problem is destined to get worse: the number of juveniles in the most crime-prone age group will increase by over 13% by the end of the decade.<sup>11</sup>

There are many reasons for this increase in serious juvenile crime, including the prevalence of gangs and drug use and the coarsening of American society. Most Americans, however, believe that this increase is caused by the failure of the juvenile justice system.<sup>12</sup> When asked in a 1989 Yankelovich Clancy Shulman Poll to identify those factors chiefly to blame for teenage violence, 70% of the respondents mentioned "lenient treatment of juvenile offenders by the courts."<sup>13</sup> When asked in the same poll what actions they favored to reduce teenage violence, 79% of all respondents said "tougher criminal penalties for juvenile offenders."<sup>14</sup> A 1994 *Los Angeles Times* Poll revealed that 68% of all respondents (and seventy-one percent of black respondents) believed that juveniles who commit violent crimes should "be treated the same as adults."<sup>15</sup> Only 13% believed that juveniles should be "given more lenient treatment."<sup>16</sup>

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6. U.S. BUREAU OF THE CENSUS, STATISTICAL ABSTRACT OF THE UNITED STATES-1994 14 (114th edition) [hereinafter CENSUS-1994].

7. *Id.* at 15.

8. SOURCEBOOK-1993, *supra* note 1, at 436-37.

9. *Id.*

10. BUREAU OF JUSTICE STATISTICS, U.S. DEP'T OF JUSTICE, REPORT TO THE NATION ON CRIME AND JUSTICE: THE DATA 42 (2d. ed., 1988).

11. CENSUS-1994, *supra* note 6, at 16.

12. SOURCEBOOK OF CRIMINAL JUSTICE STATISTICS-1990 157 (Timothy J. Flanagan & Kathleen Maguire eds., 1991) [hereinafter SOURCEBOOK-1990].

13. *Id.*

14. *Id.*

15. SOURCEBOOK-1993, *supra* note 1, at 196.

16. *Id.*

The American public perceives juvenile courts as unable to prevent—in fact, as contributing to—serious juvenile crime. This perception was confirmed for many in September of 1993,<sup>17</sup> when four teenagers were arrested for the murder of a British tourist in Florida.<sup>18</sup> All four had been arrested before; in fact, a thirteen year-old among them had been arrested fifteen times on fifty-six charges and at the time of his first arrest was only eight years old.<sup>19</sup> The juvenile courts, and the treatment model on which they are based, are seen as part of a “juvenile injustice system” badly in need of fundamental reform. That reform, however, has been stymied by the opposition of those who actually operate and have a vested interest in perpetuating the current system. Their interest is considerable: in 1992, juvenile courts in the United States processed an estimated 1,471,200 delinquency cases, an increase of 26% in just five years.<sup>20</sup>

## II. THE TREATMENT MODEL: THE SOURCE OF THE INJUSTICE

Juvenile courts were born in 1899 with the passage of the Illinois Juvenile Court Act and the subsequent establishment of the first juvenile court in Chicago.<sup>21</sup> The leaders of the juvenile court movement understood juvenile delinquency, a term broadly defined to include both criminal acts and non-criminal misbehavior, as a disease peculiar to childhood. They perceived the purpose of juvenile justice as bringing children into juvenile courts where this disease could be diagnosed by experts and where treatment could be prescribed by a judge to meet the child's individual needs.<sup>22</sup> The circumstances underlying an act, rather than the act itself, were the court's primary target.

Julian Mack, a leading figure in the establishment of the Chicago juvenile court, and one of its first judges, summarized these principles on the occasion of the court's tenth anniversary in 1909.<sup>23</sup> The state's

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17. CENSUS-1994, *supra* note 6, at 15.

18. ORLANDO SENTINEL TRIB., Oct. 6, 1993, at A1.

19. *Id.*

20. OFFICE OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION, U.S. DEP'T OF JUSTICE, DELINQUENCY CASES IN JUVENILE COURT-1992 1 (Fact Sheet No. 18, July 1994).

21. Seventy percent of state statutes are still modeled on the 1899 Illinois statute. MARK H. MOORE, FROM CHILDREN TO CITIZENS: THE MANDATE FOR JUVENILE JUSTICE 51 (1987).

22. ELLEN RYERSON, THE BEST-LAID PLANS: AMERICA'S JUVENILE COURT EXPERIMENT 22 (1978).

23. Julian Mack, *The Juvenile Court*, 23 HARV. L. REV. 104 (1909).

duty, he wrote, is to discern the physical, mental, and moral state of the child to determine whether he is in danger of future criminality.<sup>24</sup> The most important consideration, he insisted, "is not, [h]as this boy or girl committed a specific wrong, but [w]hat is he, how has he become what he is, and what had best be done in his interest and in the interest of the state to save him from a downward career."<sup>25</sup> According to Judge Mack, juvenile court judges "must be willing and patient enough to search out the underlying causes of the trouble and to formulate the plan by which . . . the cure may be effected."<sup>26</sup>

The leaders of the juvenile court movement wanted the juvenile justice system to treat delinquents the way pediatric medicine treats children. When children become physically ill, they are not blamed for their misfortune, neither are they stigmatized. Rather, their disease is first diagnosed, and then they are individually treated by medical professionals whose objective is to do what is best for the patient. The children sometimes have to be separated from society if their disease is contagious or to assure the success of their prescribed treatment, but this separation is never punitive in nature. Medical personnel are given maximum discretion to deal with these patients, reliance is placed on their professional training, expertise, ingenuity, and good will, not on lock-step routines or rigid adherence to rules or regulations. Emphasis is placed not only on restoring the child to health but on effecting those necessary societal and environmental changes so that future children will not fall ill. As a result, vaccines are to be developed, swamps are to be drained, insects and parasites are to be eradicated, cures are to be found.

The leaders of the juvenile court movement designed the juvenile courts based on this same treatment model. Some children contract a disease called juvenile delinquency, but they are no more to be blamed or stigmatized for this misfortune than are their physically-stricken counterparts. Instead, juvenile court personnel are to diagnose the nature and cause of the juvenile's disease of delinquency and recommend to the juvenile court judge, who operates as a physician of sorts, a treatment to address the juvenile's needs. This treatment may require institutionalization, not as punishment but to ensure the successful treatment of delinquency and to prevent the spread of the disease to others.

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24. *Id.* at 107.

25. *Id.* at 119-20.

26. *Id.* at 119. According to Mack, the most serious mistake was to deal with children as criminals, a view he shared with other juvenile court judges. *Id.* at 111. See generally CHILDREN'S COURTS IN THE UNITED STATES: THEIR ORIGIN, DEVELOPMENT, AND RESULTS. H.R. DOC. No. 701, 58th Cong., 2d Sess. (1904).

Just as a physician has the discretion to do what is necessary to save his patients, the juvenile court judge is authorized, by the purpose clause of the juvenile court's enabling legislation, to do whatever is "in the best interest of the child."<sup>27</sup> Just as health professionals are interested in eradicating the causes of diseases, juvenile justice professionals must seek to reform society so that the roots of crime and delinquency can be removed. Juveniles are then expected to assume leadership roles in their communities and country and to work actively for fundamental socioeconomic change.

Based on the purposes of the juvenile justice system and the implications of the treatment model, the juvenile court movement leaders designed an institution that departed from the traditional court of law in almost every respect. The juvenile court was intended to be an institution where behavioral specialists could meet to assist children and to publicize and rectify the complex problems underlying juvenile delinquency.<sup>28</sup> The court's principal concerns were the child's character, psychology, and home environment. Its mission was to remove young offenders from criminal courts and to provide them with the care and supervision typical of that found in a stable and loving family. Because the juvenile court reformers assumed that the interests of the state, delinquent children, and their families were identical, they eliminated the adversarial atmosphere of criminal courts and, along with it, the procedural safeguards of due process.<sup>29</sup> They replaced the cold, objective standards of criminal procedure with informal procedures, based on *parens patriae*.

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27. The juvenile court movement leaders justified this informality and discretion on the basis of the equity doctrine of *parens patriae*. See, e.g., BARBARA D. FLICKER, INST. OF JUDICIAL ADMIN. & AM. BAR ASS'N, STRUGGLE FOR JUSTICE 29 (1979) (describing the *parens patriae* doctrine as when the common guardian of the community assumes the role of the natural parent) (citing *Ex parte Crouse*, 4 WHART. 9 (Pa. 1838)). This doctrine originated in the English courts of chancery where the king could act as "father of his country," exercising protective control over the person and property of children.

28. ROBERT M. MENNEL, THORNS AND THISTLES: JUVENILE DELINQUENTS IN THE UNITED STATES, 1825-1940 156 (1973).

29. Anthony Platt and Sanford Fox have questioned whether the abandonment of due process was benevolently motivated. See ANTHONY PLATT, THE CHILD SAVERS: THE INVENTION OF DELINQUENCY (1969); Sanford J. Fox, *Juvenile Justice Reform: An Historical Perspective*, 22 STAN. L. REV. 1187 (1970). But see J. Lawrence Schultz, *The Cycle of Juvenile Court History*, 19 CRIME & DELINQ. 457 (1973) (criticizing Platt's and Fox's interpretations of the Illinois Juvenile Court Act).

The juvenile court movement leaders distinguished juvenile courts from criminal courts in other important respects as well. They developed a specialized vocabulary through which petitions of delinquency replaced criminal complaints, hearings replaced trials, adjudications of delinquency replaced judgments of guilt, and dispositions replaced sentences. The public was excluded from juvenile hearings to protect children from the public stigma of a criminal prosecution. Finally, judges were granted broad discretion to adjudicate delinquency and set dispositions. The principle underlying the juvenile justice system was to combine flexible decision-making with individualized intervention to treat and rehabilitate offenders rather than to punish offenses. Juvenile courts, therefore, were expected to be informal and offender-oriented.

### III. CHALLENGES TO THE TREATMENT MODEL

For the first half-century of their existence, juvenile courts functioned according to these principles with relatively little interference. However, beginning in the 1950s, scholarly commentaries, United States Supreme Court decisions, state legislative reactions, and national reform proposals all combined to challenge these principles and eventually force significant, if piecemeal, changes in both the operation and organization of the juvenile courts. The challenge began when Paul Tappan, Monrad Paulsen, and other juvenile justice scholars expressed concern over the absence of procedural regularity in juvenile courts. These critics did not attack individualized treatment as the ultimate goal of juvenile justice, but they did attack the informality of the juvenile justice system in articles with such provocative titles as "Juvenile Justice: Treatment or Travesty"<sup>30</sup> and "The Juvenile Court—Benevolence in the Star Chamber."<sup>31</sup>

These scholarly critiques of the juvenile justice system received important public support when Chief Justice Earl Warren observed that the procedural informality of the juvenile courts had "given rise to vexing problems in defining its function and establishing appropriate limits upon its authority."<sup>32</sup> He alarmed juvenile court traditionalists by arguing that juveniles should be entitled to procedural rights comparable to

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30. Fred E. Ellrod, Jr. & Don H. Melaney, *Juvenile Justice: Treatment or Travesty*, 11 U. PITT. L. REV. 277 (1950).

31. Mathew J. Beemsterboer, *The Juvenile Court—Benevolence in the Star Chamber*, 50 J. CRIM. L. CRIMINOLOGY & POLICE SCI. 226 (1959). See also Monrad Paulsen, *Fairness to the Juvenile Offender*, 41 MINN. L. REV. 547 (1957); PAUL TAPPAN, *JUVENILE DELINQUENCY* 208, 219-23 (1949).

32. Earl Warren, *Equal Justice for Juveniles*, 15 JUV. CT. JUDGES J. 1, 14-15 (Fall 1964) (quoting from a 1964 speech to the National Council of Juvenile Court Judges).

those enjoyed by adults.<sup>33</sup> While the Chief Justice stopped short of identifying which elements of criminal due process he believed juveniles were to enjoy, he predicted that those elements would be specified when "proper cases come before the Court."<sup>34</sup>

*In re Gault*<sup>35</sup> was the first in a series of such "proper cases." In *Gault*, the Court proclaimed that "[u]nder our Constitution, the condition of being a boy does not justify a kangaroo court"<sup>36</sup> and held that juveniles are constitutionally entitled to due process protections enjoyed by adults such as notice of charges,<sup>37</sup> representation by counsel,<sup>38</sup> confrontation and cross-examination of witnesses,<sup>39</sup> and the privilege against self-incrimination.<sup>40</sup> Writing for the majority, Justice Abe Fortas argued that "[t]he absence of substantive standards has not necessarily meant that children receive careful, compassionate, individualized treatment."<sup>41</sup>

The Court, however, did not go as far as many critics had hoped. It refused to grant juveniles the right to appeal or the right to verbatim transcripts.<sup>42</sup> In addition, the Court's decision applied only to the adjudicative phase of delinquency proceedings, where a criminal violation is alleged and confinement might result, and did not address dependency or neglect proceedings, nor apply to intake or disposition proceedings.<sup>43</sup>

Moreover, the Court did not resolve the most controversial issue in *Gault*: whether dispositions should be related to specific criminal acts.<sup>44</sup> A central tenet of the juvenile court movement—articulated so well by Chicago's Judge Mack—is that the juvenile courts are to focus on the offender, not the offense.<sup>45</sup> The seriousness of the offense is not to be linked to the subsequent treatment prescribed.

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33. *Id.* at 14-16.

34. *Id.* at 15.

35. 387 U.S. 1 (1967).

36. *Id.* at 28.

37. *Id.* at 33.

38. *Id.* at 36-37.

39. *Id.* at 57.

40. *Id.* at 55.

41. *Id.* at 18.

42. *Id.* at 57-58.

43. *Id.* at 13.

44. *See id.* at 13.

45. *See generally* Mack, *supra* note 23.



For example, a juvenile who commits murder is not to be charged with, found guilty of, or punished for murder; rather, he is simply to be adjudicated delinquent and treated in such a way as to cure his disease of delinquency. His murderous conduct is a symptom of his disease of delinquency and of his need for individually-tailored treatment to cure him of that disease. The same view applies to a juvenile who shoplifts; his misdeed establishes him as a delinquent—no more and no less than the murderer—and shows him to be equally in need of individualized treatment to cure his disease. Consequently, the length of treatment and coerciveness of intervention are determined not by what the juveniles have done, but by what the juvenile court deems necessary to cure them of their disease of delinquency.

Critics charged that the juvenile courts' emphasis on the offender rather than on the offense was unjust.<sup>46</sup> Focusing only on the offender was unjust, for it violated the principles of equality (like cases should be treated alike) and proportionality (the severity of the sanction should be proportionate to the seriousness of the offense) and produced disparate results based on such irrelevant offender characteristics as race and sex. Scholars noted that a juvenile who committed a serious crime of violence could receive a disposition of community-based counseling if he were from an intact, middle-class family living in a good neighborhood, while another juvenile who committed a minor property offense could be sent to a secure detention facility for years if he were diagnosed as incorrigible or was from a broken home or impoverished neighborhood.

The *Gault* majority, however, was unwilling to question the justice of the treatment model's offender-orientation. It was content to balance the "constitutional domestication" of juvenile court procedures with the juvenile justice system's traditional social welfare concerns.<sup>47</sup> Indeed, the Court expressed confidence that its ruling would "not compel the States to abandon or displace any of [what it characterized as] the substantive benefits of the juvenile process."<sup>48</sup> The court expected that its decision would produce immediate benefits for juveniles in the form of constitutional protection against unfair procedures without having any long-term negative impact on the special nature of juvenile courts.<sup>49</sup>

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46. See, e.g., Francis E. McCarthy, *Should Juvenile Delinquency Be Abolished?* 23 CRIME & DELINQ. 196 (1977). These criticisms are summarized in H. Ted Rubin, *Retain the Juvenile Court? Legislative Developments, Reform Directions, and the Call for Abolition*, 25 CRIME & DELINQ. 281 (1979).

47. *Gault*, 387 U.S. at 22.

48. *Id.* at 21.

49. See *id.* at 21-27 (explaining the potential effect of procedural requirements on the juvenile courts).

The Court in *Gault* sought to formalize juvenile court procedures while keeping them offender-oriented. Its objective was to legalize the adjudicative phase of delinquency proceedings without affecting, and certainly without questioning, the justice of the juvenile court's emphasis on individualized rehabilitation in other areas and proceedings. This objective continued to guide the Court in subsequent "proper cases." Thus, in *In re Winship*,<sup>50</sup> the Court required that delinquency be proven beyond a reasonable doubt,<sup>51</sup> and in *Breed v. Jones*,<sup>52</sup> it required that waiver hearings precede adjudication hearings.<sup>53</sup> On the other hand, it found, in *McKeiver v. Pennsylvania*,<sup>54</sup> that juveniles do not possess the right to jury trials,<sup>55</sup> and in *Fare v. Michael C.*,<sup>56</sup> that a juvenile's request to speak to a probation officer does not invoke Fifth Amendment protections under *Miranda v. Arizona*.<sup>57</sup>

In each of these cases, the Court sought to preserve the delicate balance between what it called "the 'informality' and 'flexibility'"<sup>58</sup> that it believed was necessary for rehabilitation and "the 'fundamental fairness' demanded by the Due Process Clause."<sup>59</sup> Demonstrating the judiciary's institutional incapacity to resolve complex policy questions,<sup>60</sup> the Court was unaware that the higher procedural standards it mandated would impair the rehabilitative mission of the juvenile courts.

The Court's decisions were felt not only through the specific procedural reforms mandated but also through the new understanding of the mental capacity of juveniles that was implicitly communicated.<sup>61</sup> In

50. 397 U.S. 358 (1970).

51. *Id.* at 368.

52. 421 U.S. 519 (1975).

53. *Id.* at 537-38.

54. 403 U.S. 528 (1971).

55. *Id.* at 545.

56. 422 U.S. 707 (1979).

57. *Id.* at 724; see *Miranda v. Arizona*, 384 U.S. 436 (1966).

58. Schall v. Martin, 467 U.S. 253, 263 (1984) (quoting *In re Winship*, 397 U.S. 358, 366 (1970)).

59. *Id.* (quoting *Breed v. Jones*, 421 U.S. 519, 531 (1975)).

60. See generally DONALD L. HOROWITZ, *THE COURTS AND SOCIAL POLICY* (1977); GERALD N. ROSENBERG, *THE HOLLOW HOPE: CAN COURTS BRING ABOUT SOCIAL CHANGE?* (1991); THOMAS SOWELL, *KNOWLEDGE AND DECISIONS* (1980); Ralph A. Rossum, Weber and the Limits of Judicial Policy-Making, 4 L. & POL'Y Q. 95 (1982). For a contrasting point of view, see Ralph Cavanagh and Austin Sarat, *Thinking About Courts: Towards and Beyond a Jurisprudence of Judicial Competence*, 14 L. & SOC. REV. 371 (1980) and Stephen Wasby, *Arrogation of Power or Accountability: Judicial Imperialism Revisited*, 65 JUDICATURE 208 (1981).

61. See Gary B. Melton, *Litigation in the Interest of Children: Does Anybody*

*Gault*, for example, Justice Fortas argued that one purpose of the privilege against self-incrimination is to promote equality between individuals and the state.<sup>62</sup> By extending the privilege to juveniles as well, he placed them in virtually the same relationship as adults with regard to the state. While this granted juveniles access to previously unavailable procedural rights, it also imputed to them a greater presumption of responsible behavior. Additionally, this extension opened the way to a reconceptualization of juvenile justice in which juveniles could be held more explicitly accountable for their acts.

State legislatures responded to the Court's explicit demand for more formal juvenile court procedures and its implicit message that juveniles must likewise be held responsible for their actions by revising their juvenile codes. Several redrafted their purpose clauses to reflect the concerns of both public safety and juvenile accountability.<sup>63</sup> For example, an important objective introduced into Minnesota's code is "to promote the public safety and reduce juvenile delinquency by maintaining the integrity of the substantive law by prohibiting certain behavior and by developing individual responsibility for lawful behavior."<sup>64</sup> Similarly, California's delinquency provisions now charge the juvenile courts with "protect[ing] the public from criminal conduct by minors" and "impos[ing] on the minor a sense of responsibility for his or her own acts."<sup>65</sup> Other states have left unchanged the purpose clauses of their juvenile codes but have expanded juvenile due process rights beyond what the Supreme Court has mandated. Twenty-eight states now explicitly grant juveniles the right to verbatim transcripts of proceedings,<sup>66</sup> twelve provide for jury trials in juvenile courts,<sup>67</sup> and seventeen permit

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*Win?* 10 L. & HUMAN BEHAV. 337, 345 (1986).

62. *Gault*, 387 U.S. at 42-57.

63. See, e.g., CAL. WELF. & INST. CODE § 202 (West 1983); DEL. CODE ANN. tit. 10, § 902 (1974); FLA. STAT. ANN. § 39.001 (West 1983); ME. REV. STAT. ANN. tit. 15, § 3002 (West 1982-83); MINN. STAT. ANN. § 260.001 (West 1982); NEB. REV. STAT. § 43-246 (Supp. 1982); WASH. REV. CODE ANN. § 13.40.010 (West 1983-84).

64. MINN. STAT. ANN. § 39.011 (West 1982).

65. CAL. WELF. & INST. CODE § 202 (West Supp. 1983).

66. See RALPH A. ROSSUM, ET AL., JUVENILE JUSTICE REFORM: A MODEL FOR THE STATES 113 (1987) (comparing the juvenile codes of all 50 states on 251 separate practices and procedures from court structure to admissibility of physical characteristics). The states are: Arizona, California, Colorado, Georgia, Hawaii, Idaho, Iowa, Kansas, Louisiana, Maine, Michigan, Minnesota, Mississippi, Missouri, Montana, New Jersey, New Mexico, North Carolina, North Dakota, Ohio, Pennsylvania, Rhode Island, South Dakota, Texas, Utah, Washington, West Virginia, and Wyoming. *Id.*; see also BUREAU OF JUSTICE STATISTICS, U.S. DEP'T OF JUSTICE, SOURCEBOOK OF CRIMINAL JUSTICE STATISTICS-1988 154-56 (Katherine M. Jamieson & Timothy J. Flanagan eds., 1989) [hereinafter SOURCEBOOK-1988].

67. SOURCEBOOK-1988, *supra* note 65, at 112. These states are: Alaska, Colorado, Kansas, Massachusetts, Michigan, Minnesota, New Mexico, Oklahoma, Texas, West Vir-

bail in some circumstances.<sup>68</sup> Only four states continue categorically to prohibit public trials.<sup>69</sup>

In addition to these procedural changes, state legislatures have also restricted the definition of delinquency to include only conduct that would be a crime if committed by an adult. They have also narrowed the juvenile courts' jurisdiction, principally by lowering the age and revising the procedures by which juvenile courts can waive jurisdiction and transfer juveniles to criminal courts. Twenty-seven states now permit waiver of juveniles to criminal courts at age fourteen or lower.<sup>70</sup> Legislatures have also excluded certain offenses or offense histories from juvenile court jurisdiction altogether (legislative waiver) and have created concurrent jurisdictions, permitting prosecutors to choose whether to proceed in juvenile or criminal court (prosecutorial waiver). These waiver provision amendments reflect the wish of legislatures to incorporate accountability into juvenile justice, although a study of New York State's revised waiver provisions serve as a firm reminder that a wish is not a fact.<sup>71</sup> This study found that there is a tendency for adult courts to treat defendants who are transferred from juvenile courts as first-time offenders, regardless of the length or seriousness of the juvenile record.<sup>72</sup> As a consequence, most serious juvenile offenders tried in criminal courts received sanctions less severe than they could have received in the juvenile courts.<sup>73</sup> In fact, only four percent received more severe sanctions than they otherwise could have received.<sup>74</sup>

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ginia, Wisconsin, and Wyoming. *Id.*

68. *Id.* at 109. These states are: Arkansas, Colorado, Connecticut, Delaware, Georgia, Kansas, Louisiana, Massachusetts, Michigan, Missouri, Nebraska, South Dakota, Tennessee, Vermont, Virginia, Washington, and West Virginia. *Id.*

69. *Id.* at 112. These states are: Illinois, Minnesota, Rhode Island, and Utah.

70. ROSSUM, *supra* note 66, at 106. These states are: Alabama, Alaska, Colorado, Connecticut, Florida, Georgia, Idaho, Illinois, Indiana, Iowa, Illinois, Massachusetts, Minnesota, Mississippi, Missouri, New Hampshire, New Jersey, North Carolina, North Dakota, Oklahoma, Pennsylvania, South Carolina, South Dakota, Tennessee, Utah, Vermont, and Wyoming. *Id.*

71. CITIZENS' COMMITTEE FOR CHILDREN OF NEW YORK, THE EXPERIMENT THAT FAILED: THE NEW YORK JUVENILE OFFENDER LAW—A STUDY REPORT (1984) [hereinafter CITIZENS' STUDY]. See also Barry C. Feld, *Delinquent Careers and Criminal Policy: Just Deserts and the Waiver Decision*, 21 CRIMINOLOGY 195, 206 (1983); Joan Petersilia, *Juvenile Record Use in Adult Court Proceedings: A Survey of Prosecutors*, 72 J. CRIM. L. & CRIMINOLOGY 1746-71 (1981).

72. See generally, CITIZENS' STUDY, *supra* note 71.

73. *Id.*

74. *Id.*

#### IV. CALLS FOR FUNDAMENTAL REFORM

For the most part, post-*Gault* legislation has been piecemeal and reactive. Legislatures have transformed juvenile courts so that they now function more like criminal courts rather than social welfare agencies.<sup>75</sup> Basically, however, the juvenile courts remain what they have always been, an institution based on the medical or treatment model. Therefore, they continue to focus on the offender rather than the offense. Juvenile courts still seek to individualize sanctions and thereby continue to obscure any relationship between an act and its consequences. They still characterize dispositions as treatment rather than punishment, and they still prevent the threat of punishment from being communicated to other potential offenders through closed proceedings. The result is a continuing erosion of the general deterrent value of their sanctions. As a result, juvenile courts still violate principles of equality and proportionality, and therefore act as instruments of injustice.<sup>76</sup>

These criticisms, together with the growing realization that the juvenile justice system is an early twentieth century institution hopelessly ill-equipped to deal with late twentieth century violent juvenile offenders, have led thoughtful critics to call for fundamental juvenile justice reform based on Andrew von Hirsch's "justice model."<sup>77</sup> Organizations

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75. See Barry Feld, *Criminalizing Juvenile Justice: Rules of Procedure for the New Juvenile Court*, 69 MINN. L. REV. 141 (1984); Andrew Walkover, *The Infancy Defense in the New Juvenile Court*, 31 UCLA L. REV. 503, 517-33 (1984).

76. See *supra* notes 1-20 and accompanying text (discussing the inequality of juvenile courts).

77. See ANDREW VON HIRSCH, *DOING JUSTICE: THE CHOICE OF PUNISHMENTS* 45-46 (1976) (arguing that "desert," rather than the three classic aims of deterrence, incapacitation, or rehabilitation, should serve as the primary justification for punishment). Von Hirsch argues that specific punishments should be imposed on offenders according to the principle of commensurate deserts. *Id.* (using the term "deserts" to conceptualize the idea that people should get what they deserve). Sentences should be determined by the seriousness of an offense and the number and seriousness of prior convictions rather than by the potential utility of sentences in crime prevention. *Id.* at 69-71, 84-87.

Von Hirsch also proposes that a sentencing policy based on commensurate deserts should contain five components: (1) presumptive sentences should replace indeterminate sentences; (2) sentencing guidelines should be adopted in which the relative seriousness of various offenses and their corresponding sentences are specified; (3) the number and seriousness of prior offenses should be more directly related to increases in the severity of the presumptive sentence for each offense; (4) judges should have the option to order sentences above or below the presumptive sentence, but only within a prescribed range and under specified circumstances; and (5) sentencing guidelines should include general principles of aggravation and mitigation. *Id.* at 99-100.

See also ANDREW VON HIRSCH, *CENSURE AND SANCTIONS* (1993); ANDREW VON HIRSCH, *PAST OR FUTURE CRIMES* (1985); AMERICAN FRIENDS SERVICE COMMITTEE,

such as the Institute of Judicial Administration (IJA) and the American Bar Association (ABA)<sup>78</sup> and the Twentieth Century Fund, through its Task Force on Sentencing Policy Toward Young Offenders,<sup>79</sup> argue that the informal, offender-oriented treatment model must be replaced with a formal, offense-oriented model based on the principles of equality and proportionality. Such a justice model seeks to achieve the twin goals of holding juveniles individually responsible for their criminal misdeeds and holding the juvenile justice system accountable for its treatment of these juveniles.

The justice model pursues individual responsibility by closely linking dispositions to delinquent acts and by utilizing dispositions, such as restitution, that encourage juveniles to recognize their obligations to the community and to the victims of their criminal acts.<sup>80</sup> It pursues system accountability through its insistence that dispositions must be limited, deserved, uniform, and justified. To ensure that similarly-situated offenders are treated similarly and that the most serious offenders receive

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STRUGGLE FOR JUSTICE (1971).

78. See FLICKER, *supra* note 27. The IJA and the ABA jointly drafted 23 volumes of juvenile justice standards. *Id.* at 15. These volumes rejected any *parens patriae* justification for intervention into juveniles' lives, advocated procedural formality in juvenile court proceedings, and recommended determinate dispositions regulated by the requirements of equality and proportionality. *Id.* at 22-23. The IJA-ABA standards also called for reductions in judicial discretion and larger roles for both prosecutors and defense attorneys. *Id.* at 39-40.

79. TWENTIETH CENTURY FUND TASK FORCE, *CONFRONTING YOUTH CRIME* (1978). The Task Force concluded that the principles of culpability and proportionality, along with traditional concepts of diminished responsibility according to age, should guide sentencing decisions. *Id.*

80. Anne L. Schneider & Peter R. Schneider, *A Comparison of Programmatic and Ad Hoc Restitution in Juvenile Courts*, 1 JUST. Q. 529 (1984). Restitution was not extensively used in juvenile courts until the late 1970s when individual judges began to include it in disposition orders. *Id.* By the mid-1980s, however, a large number of jurisdictions had established formal restitution programs. *Id.* Restitution attracts attention because of its potential for holding juveniles responsible, responding to victims' rights concerns, and avoiding incarceration. *Id.* It attracts support because of favorable research findings on the way restitution orders impact recidivism. *Id.* Where restitution is implemented through formal programs, rather than through *ad hoc* orders with little support structure, completion rates are high and recidivism rates are reduced. *Id.* Completion rates are also higher, and recidivism lower, when restitution is used as a sole sanction rather than in association with other conditions of probation. Anne L. Schneider & Peter R. Schneider, *The Impact of Restitution on Recidivism of Juvenile Offenders: An Experiment in Clayton County, Georgia*, 10 CRIM. JUST. REV. 1, 9 (1985); see also Peter R. Schneider et al., *Juvenile Restitution as a Sole Sanction or Condition of Probation*, 19 J. RES. CRIME & DELINQ. 47 (1982).

the most punitive sanctions, it relies on the use of presumptive and determinate dispositions. Thus, the disposition in any case depends upon the nature and gravity of the criminal offense, the age of the offender, and the number, recency, and seriousness of any prior offenses.<sup>81</sup> Also, consistent with accountability, the justice model provides the public with the opportunity to scrutinize the performance of juvenile courts through its requirements that all hearings and all records (other than the juvenile's social file) be open to the public.

The State of Washington was the first state to embrace the justice model.<sup>82</sup> Its 1977 Juvenile Justice Act and subsequent amendments comprehensively reformed its juvenile justice system along the lines of individual responsibility and system accountability.<sup>83</sup> The intent of the Washington Act is to hold juveniles "accountable for their offenses" and to establish a juvenile justice system that is "capable of having primary responsibility for, being accountable for, and responding to the needs of youthful offenders . . . ."<sup>84</sup> Sanctions against juveniles must be limited, deserved, and proportionate.

To implement these policy goals, the Washington Act shifted the responsibility for intake from probation officers to prosecutors and established legal criteria to guide intake decisions.<sup>85</sup> It also formalized pre-trial diversion, specifying that diversion must be offered to certain categories of offenders, and made payment of restitution, either directly to the victim or by service to the community, the preferred diversion alternative (as opposed to counseling, recreation, or educational assistance).<sup>86</sup> Finally, it established juvenile sentencing standards, mandating presumptive and determinate sentences proportionate to the seriousness of the offense and the offender's age and prior offense history.<sup>87</sup> The standards included a list of offenses by degree of seriousness; established a point system in which points are assigned by age

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81. JAMES Q. WILSON, THINKING ABOUT CRIME 256 (1985). The justice model rejects the treatment model without rejecting the importance of treatment. *Id.* The justice model views rehabilitation as a benefit of the treatment service rendered, not as a factor in determining the length of a sentence. *Id.* Under the justice model, juveniles who might require a program of treatment beyond the duration of their presumptive and determinate dispositions could not be held in secure confinement or assigned to probation for a period of time longer than justified by their present offense, age, and offense history. *Id.* They would, however, be encouraged to continue in treatment programs voluntarily after they had completed the conditions and requirements of their dispositions. *Id.*

82. *See* WASH. REV. CODE ANN. § 13.40.010(2) (West 1984).

83. *Id.*

84. *Id.*

85. *Id.* § 13.40.025.

86. *Id.* § 13.40.080.

87. *Id.* § 13.40.150.

and offense severity, and in which offense history serves as a multiplier of the base point level for each offense; and mandated that a juvenile's resulting point total determine the appropriate disposition. The juvenile court judge may depart from this determination only upon a written finding that the disposition would be manifestly unjust—either to the juvenile by being too severe, or to the community by being too lenient.<sup>88</sup>

In the mid-1980s, two social scientists, Anne Schneider and Donna Schramm, completed an extensive evaluation of the implementation and impact of the Washington Act.<sup>89</sup> They found that the new legislation produced significant changes in organizational responsibilities throughout the juvenile justice system.<sup>90</sup> Informal adjustment at juvenile court intake, for example, was eliminated as a result of the participation of prosecutors and the use of legal variables to determine intake decisions.<sup>91</sup> Formal court diversion programs replaced informal adjustment.<sup>92</sup> Additionally, the use of presumptive and determinate sentencing standards resulted in greater equality, proportionality, and predictability of dispositions.<sup>93</sup> The sentencing standards contributed to an increase in the certainty that juvenile offenders would be held accountable by some type of sanction—Schneider and Schramm observed a fifty percent increase in the proportion of juveniles held accountable in the period immediately following 1977.<sup>94</sup> The standards also led, however, to a decrease in the overall severity of sanctions.<sup>95</sup> While violent and serious/chronic offenders were more likely to be institutionalized under the new Act, nonviolent first offenders and chronic minor property offenders were less likely to be institutionalized than before.<sup>96</sup> Moreover, because the 1977 reforms rely more heavily on restitution, community service, and less-secure local detention than on commitment to state institutions, the average daily population at state juvenile institutions was approximately the same in 1985 as in 1976.<sup>97</sup> Therefore,

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88. *Id.* § 13.40.0357.

89. Anne Schneider & Donna Schramm, *The Washington State Juvenile Justice System Reform: A Review of Findings*, 1 CRIM. JUST. POLY REV. 211 (1986).

90. *Id.* at 221.

91. *Id.* at 221-22.

92. *Id.* at 222.

93. *Id.* at 222-23.

94. *Id.* at 225.

95. *Id.*

96. *Id.* at 227-28.

97. *Id.* at 229-32.



only the kind, not the number, of juveniles held in state institutions changed. Schneider and Schramm also found high compliance with the sentencing standards: ninety-five percent of all cases were sentenced within the presumptive range.<sup>98</sup>

#### V. JUVENILE JUSTICE PROFESSIONALS: OPPONENTS OF REFORM

Despite the promising results of the State of Washington's formal, offense-oriented juvenile code and despite the obvious failures of treatment-based "juvenile injustice" systems, states have failed to follow Washington's lead by engaging in fundamental and systematic juvenile court reform based on the principles of individual responsibility and system accountability. Survey research explains why: juvenile justice professionals, many of whom are influential in state politics, oppose any efforts to limit their discretion or to increase their accountability for their actions.

As part of a research project funded by the U.S. Department of Justice for which I was the principal investigator, Christopher Manfredi of McGill University and I conducted a national survey of juvenile justice professionals to gauge their attitudes toward juvenile justice reform.<sup>99</sup> The survey's 8355 respondents were nationally distributed, with each state's proportion of the sample closely approximating its proportion of the U.S. population. The respondents included 792 legal professionals (*i.e.*, judges and attorneys), 679 probation or parole officers, 594 social service employees, 3331 law enforcement officers, and 2922 other professionals (*e.g.*, criminal justice professors and researchers, correctional officers).

The questionnaire itself consisted of seventy-four substantive questions, thirty-nine of which concerned attitudes and policy preferences. Three questions asked respondents to indicate their perception of juvenile crime as a problem and to evaluate how well it has been dealt with compared to other problems. The questionnaire also asked respondents to evaluate the performance of seven organizations and institutions involved in juvenile issues, including juvenile courts, state legislatures, and the police.<sup>100</sup> The survey data revealed that while these respondents believe that juvenile crime is a serious problem, is becoming more serious, and is handled poorly, they resist change and insist on

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98. *Id.* at 215.

99. ROSSUM, *supra* note 66, at 124-62. The survey instrument was mailed to all professionals whose names appear on the National Criminal Justice Reference Service (NCJRS). *Id.* at 124. The returned questionnaires yielded a sample of 8355 responses—a response rate of 22.2 percent. *Id.*

100. *Id.* at 157-60.

keeping intact the juvenile court's informal, discretionary decision-making.<sup>101</sup>

The respondents' orientation toward traditional and accountability approaches to juvenile justice was measured by using SPSSX reliability analysis to construct two scales. The first is an "Offense Orientation Scale," measuring the extent to which they believed that juvenile courts should focus on the nature of the offense rather than on the offender's needs (See Table 1). The six items from the survey used to construct the "Offense Orientation Scale" (alpha = .7326) involve statements on the function of juvenile courts and the juvenile justice system, as well as appropriate responses to juvenile crime.<sup>102</sup> The second is a "Procedural Formality Scale,"<sup>103</sup> measuring the extent to which they believed that juvenile courts should be formal and rule-driven as opposed to informal and discretionary (See Table 2). The six items from the survey used to construct the "Procedural Formality Scale" (alpha = .6665) involve statements related to procedural issues, such as the right of juveniles to request trials by juries. The mean responses to all twelve scale items reveal considerable variation among the various professional groups represented in the sample (See Table 3). Nevertheless, one generalization is possible: The respondents as a group favor reforms fundamentally at odds with those sought by the Supreme Court in *Gault* and subsequent cases, in that they are more strongly offense-oriented than favorably disposed toward procedural formality. Out of a possible score of 36.00, they have a mean score of 25.67 on the orientation scale but only a mean score of 22.00 on the formality scale (See Table 4).

Unlike the justices who sought to create a juvenile justice system that is formal and offender-oriented, the respondents are willing to accept juvenile courts that are more offense-oriented, so long as their own discretion is preserved. Put in the least-flattering light, they are more willing to hold juveniles responsible for their acts than they are to hold themselves accountable for what they do to these juveniles. Among the various professional groups represented in the sample, law enforcement

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101. *Id.*

102. Collectively, these items measure the respondent's offense orientation. The higher the score, the more the respondent believes that juvenile courts should focus on the nature of the offense rather than on the offender's needs.

103. The higher the score on the formality scale, the more likely the respondent is to believe that juvenile courts should rely on formal, rule-driven decision-making rather than continue the traditional reliance on informal, discretionary decision-making.

personnel, who would benefit from the more predictable decision-making process that a formal rules-driven system would foster, scored the highest on the formality scale. They also tended to view juvenile crime as a more serious problem than did the other professional groups, and saw it as handled poorly by the juvenile courts and by state legislatures (see Table 5). Not surprisingly, judges, attorneys, and probation/parole personnel scored the lowest on the formality scale, as they have the most to lose if juvenile courts become more formalized and their discretion is reduced. They also tended to believe that the problem of juvenile crime is less serious and is already effectively addressed.

These findings are consistent with what other scholars have learned from research into the attitudes of juvenile justice professionals conducted in such diverse jurisdictions as San Diego County, Kansas, Illinois, and Minnesota.<sup>104</sup> They are also confirmed by the experience of Washington State.<sup>105</sup> When Schneider and Schramm surveyed juvenile justice professionals in twenty of Washington State's counties concerning attitudes toward the enactment and implementation of Washington's juvenile reform law, they found that the judges were the least supportive of the Act.<sup>106</sup> In fact, it was only because of the rare political skills of King County's prosecutor that the law was adopted, in the face of opposition from the state's juvenile court judges. In most states, however, the judges have prevailed, and fundamental reform based on the principles of individual responsibility and system accountability has been stymied. The few reforms achieved thus far have been endorsed by juvenile court judges and other juvenile justice professionals—but only because these measures have preserved high levels of discretion. They have, as a consequence, done little to remove the injustice of the current system.

Serious juvenile offender statutes, passed by eight states including California, New York, Illinois, and Colorado,<sup>107</sup> illustrate the point. On one level, these laws are offense-oriented and therefore promote indi-

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104. See Richard Ariessohn, *Offense v. Offender in Juvenile Court*, 23 JUV. JUST. 17 (1972); William Arnold, *Grass Roots Justice in Middle America: The County Courts in Kansas*, 11 KAN. J. SOC. 16 (1975); Randall E. Schumacker & Dennis R. Anderson, *An Attitude Factor in Juvenile Court Decisionmaking*, 31 JUV. & FAM. CT. J. 31 (1979); Norman G. Kittel, *Juvenile Justice Philosophy in Minnesota*, 34 JUV. & FAM. CT. J. 93 (1983). Kittel found, in his study of juvenile court judges in Minnesota, that when asked to decide a hypothetical case, only one judge in five chose an accountability-oriented disposition. *Id.* at 101.

105. See William C. Smith, *Contemporary Child Saving: A Study of Juvenile Justice Decision-Making*, 34 JUV. & FAM. CT. J. 63, 72 (1983). A survey of both professional and lay public juvenile justice policymakers reported similar findings. *Id.*

106. ANNE SCHNEIDER & DONNA SCHRAMM, AN ASSESSMENT OF JUVENILE JUSTICE REFORM IN WASHINGTON STATE: EXECUTIVE SUMMARY 30-31 (1983).

107. The other four states are Delaware, Georgia, Kentucky, and North Carolina.

vidual responsibility; they single out serious and violent offenders for differential, and less rehabilitative treatment, handling them within the juvenile court's own jurisdiction and imposing sanctions based on the seriousness of their offenses.<sup>108</sup> On a more basic level, however, these laws do not advance the interests of either individual responsibility or system accountability, but rather, preserve the discretion of juvenile justice professionals. They limit the application of the principles of responsibility and accountability to serious offenders only, while preserving the traditional informality and discretionary decisionmaking of the treatment model in all other cases. Not surprisingly, the National Council of Juvenile and Family Court Judges (NCJFCJ), the professional association of juvenile court judges, has endorsed such statutes, as they pose no real threat to their judicial discretion. The NCJFCJ viewed these statutes as an acceptable and necessary concession to state legislators, under mounting public pressure to hold serious juvenile offenders responsible for their actions. However, in a special issue of its national journal devoted to serious juvenile offenders, the NCJFCJ made clear its continued opposition to true accountability-based reforms by declaring defiantly that "proposals which would materially and adversely alter traditional individualized rehabilitative models and treatment philosophies of the juvenile justice system are unacceptable. Juvenile justice resources should accordingly primarily continue to be directed toward individualized treatment."<sup>109</sup>

## VI. CONCLUSION

It is the unwillingness of juvenile court judges and other juvenile justice professionals to relinquish their discretion and to account publicly for their actions that stands in the way of fundamental reform. Their steadfast commitment to the treatment model ensures that the juvenile courts will remain instruments of "juvenile injustice" in which the law is applied unequally and disproportionately and neither means what it says nor says what it means. The juvenile courts fail to teach juveniles that they will be held responsible for their criminal acts; that

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108. Martin L. Forst et al., *Indeterminate and Determinate Sentencing of Juvenile Delinquents: A National Survey of Approaches to Commitment and Release Decision-Making*, 36 JUV. & FAM. CT. J. 1 (1985).

109. National Council of Juvenile and Family Court Judges, *The Juvenile Court and Serious Offenders: 38 Recommendations*, 35 JUV. & FAM. CT. J. 1 (Special Issue, Summer, 1984).

the more serious and frequent their acts, the more responsible they will be held; and that the older they are, the more responsible they will be expected to be. As a consequence, serious juvenile crime is soaring while the public's confidence in juvenile justice is plummeting. The adult criminal justice system is groaning under the weight of this failure as well, for juvenile offenders are reaching the age of majority with no graduated instruction in what the law expects of them. As a tragic consequence, they are ill-prepared to face the full force of adult criminal responsibility, for the juvenile courts have led them to believe that they are somehow immune to the law's force and sanctions.

Robert Michels is famous for having remarked: "Who says organization, says oligarchy."<sup>110</sup> He could have been speaking of the juvenile courts. The judges, attorneys, and probation and parole personnel who operate the juvenile courts would rather preserve their discretion than make their institutions more just. Until they are willing to put the public interest ahead of their professional power, fundamental and proven reform that could transform the juvenile courts into true instruments of juvenile justice will continue to be frustrated.

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110. ROBERT MICHELS, *POLITICAL PARTIES: A SOCIOLOGICAL STUDY OF THE OLIGARCHICAL TENDENCIES OF MODERN DEMOCRACY* 401 (1915).

**Table 1**  
**Intervention Orientation Scale Items**

Variable	Scale	Statement
1	1=SDA/6=SA*	The juvenile court puts too much emphasis on rehabilitation.
2	1=SDA/6=SA	Some juvenile offenses should require automatic transfer to adult courts.
3	1=SDA/6=SA	The child's welfare is more important than the nature of his offense.
4	1=SDA/6=SA	Social services and counseling are the best responses to juvenile crime.
5	1=UI/6=CI**	Set mandatory minimum penalties for certain offenses.
6	1=SDA/6=SA	Guidelines focused on accountability and on fitting the severity of the disposition to the severity of the present and past offenses should be adopted to reduce dispositional disparity.

\*SDA=Strongly disagree, SA=Strongly agree

\*\*UI=Unimportant, CI=Critically important

**Table 2**  
**Procedural Formality Scale Items**

<b>Variable</b>	<b>Scale</b>	<b>Statement</b>
<b>7</b>	1=SDA/6=SA*	Juveniles charged with serious offense should have a right to trial by a jury ( adults in the juvenile court.
<b>8</b>	1=UI/6=CI**	Include prosecutor participation in a decisions after initial apprehension.
<b>9</b>	1=UI/6=CI	Eliminate indeterminate sentences.
<b>10</b>	1=UI/6=CI	Limit the discretion exercised by judge in sentencing decisions.
<b>11</b>	1=UI/6=CI	Use explicit criteria to guide all decision after apprehension.
<b>12</b>	1=UI/6=CI	All juveniles to request trial by jury i the juvenile court.

\*SDA=Strongly disagree, SA=Strongly agree

\*\*UI=Unimportant, CI=Critically important

**Table 3**  
**Mean Response to all Scale Items**

<b>Orientation Variables</b>						
<i>Group</i>	<i>1</i>	<i>2</i>	<i>3</i>	<i>4</i>	<i>5</i>	<i>6</i>
<b>Sample</b>	<b>3.23</b>	<b>4.87</b>	<b>2.82</b>	<b>2.92</b>	<b>4.24</b>	<b>5.02</b>
Legal	2.86	4.32	2.85	2.87	3.17	4.57
Probation	3.02	4.62	2.91	3.17	3.85	4.95
Social Services	2.41	4.38	3.21	3.58	3.92	4.82
Law Enforcement	3.75	5.37	2.66	2.59	4.79	5.26

<b>Formality Variables</b>						
<i>Group</i>	<i>7</i>	<i>8</i>	<i>9</i>	<i>10</i>	<i>11</i>	<i>12</i>
<b>Sample</b>	<b>3.68</b>	<b>4.24</b>	<b>3.54</b>	<b>3.44</b>	<b>3.95</b>	<b>3.16</b>
Legal	3.18	4.15	3.05	2.43	3.38	2.74
Probation	3.32	3.76	3.14	3.00	3.66	3.08
Social Services	3.68	3.77	3.53	3.57	3.96	3.52
Law Enforcement	3.71	4.62	3.72	3.69	4.04	3.00



**Table 4**

**Table of Means**

<b>Professional Group</b>	<b>Orientation Scale</b>	<b>Formality Scale</b>
Total Sample	25.67	22.00
Legal	23.04	18.65
Probation/Parole	24.21	19.74
Social Services	22.64	21.56
Law Enforcement	27.82	22.61
Others	24.40	22.10

**Table 5****Mean Response by Profession**

<b>Variable</b>	<b>Legal</b>	<b>Probation/ Parole</b>	<b>Social Services</b>	<b>Law Enforcement</b>	<b>Others</b>
Seriousness*	7.73	8.11	8.07	8.25	8.03
How Well Dealt With*	4.07	4.27	4.02	3.60	3.80
Legislative Perfor- mance**	2.74	2.82	2.90	2.60	2.76
Performance of Juvenile Courts**	3.82	3.96	3.69	3.17	3.49

\*10-point scale

\*\*6-point scale

