

REMARKS OF JUDGE JOHN S. LANGFORD, JR.*
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I have been invited to speak on the topic, "The Juvenile Court in Retrospect." Having always been a better quarterback on Monday morning than I was on the field on Saturday afternoon, I am receptive to talking about my Juvenile Court adventure in retrospect. For the past five years I have served as Presiding Judge, that is "chief proprietor," of the Fulton County (Georgia) Juvenile Court, that Court having jurisdiction over children under seventeen years of age, residing in a large urban county which has as its county seat the City of Atlanta. My remarks might be more appropriately called "The Lamentations of Langford."

I went to the Juvenile Court at a time of great change. The United States Supreme Court only six months earlier had issued its decision in the Gault case, requiring the application of "due process of law" in juvenile cases. The Court staff was in agony over becoming a "Court of Law" rather than a court of social concern. There were those who felt that the new intervention of "legalese" into the Juvenile Court system would kill the system or would render it so ineffective as to be worthless to the community. I have seen a great deal of change in this particular Juvenile Court, the system at large, and the community's attitude toward the Juvenile Court, as well as witnessing from

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a unique vantage point the great changes which have been going on in our society and nation.

Juvenile Courts as we now know them came into existence formally in 1899 with the establishment of the Cook County Juvenile Court in Chicago. The acknowledged purpose of a separate court to deal with children was to prevent children from being incarcerated in adult jails with hardened criminals. The theory was advanced that children were entitled to an enlightened treatment, training and rehabilitation, and an opportunity to grow up to be responsible citizens. Separate courts, often in separate facilities, and separate treatment institutions became commonplace during the first half of this century. Medical, psychiatric and psychological treatment were to be utilized in dealing with wayward children. People working in juvenile corrections were encouraged to be skilled in behavioral sciences. Probation was advanced as the first choice of treatment or disposition, purportedly to show or teach the youngster how to "get along" in the world and environment in which he must live and function.

The juvenile court judge was viewed as a person to serve as a "friendly counselor" to children, dealing with each child as a wise parent would do. The term "parens patriae" was advanced, meaning that the state ostensibly stood in a position of "parent" to a child when the parents of the child had not fulfilled their responsibilities. Proceedings were designated as "civil" and not "criminal" and the juvenile court was permitted a wider latitude in dealing with a child than had been allowed previously in any other setting in Anglo-American jurisprudence.

There was a juvenile court "philosophy" -- defended vigorously and righteously. It was beautiful on paper and in discussion, and there can be no doubt that a great amount of good has been done over the years and many wayward youngsters have been rehabilitated to go on to become worthy citizens. We know, however, after critical examination that the Juvenile Court in reality has not lived up to the Juvenile Court theory.

Judges happen to be human beings with human foibles and failings. Juvenile probation officers happen also to be human beings with perhaps the best of intentions and some understanding, but no divine powers -- rarely fully trained, and almost universally working under unrealistically high caseloads. The resources of every community happen to be limited and too often not open at all to the really "bad" or "delinquent" or "disturbed" child. Courts, particularly in the urban setting, attempting to analyze, treat and rehabilitate youngsters have been inundated by sheer volume and have been compelled, of necessity, to dispense juvenile justice on a mass production basis. Time allotted for a hearing, if it were recorded and calculated, would probably measure out to less than thirty minutes total per case.

Most often no psychologist would be accessible within miles of the juvenile, and the juvenile would typically be assigned to a probation officer who has fifty, seventy-five or one hundred other such young people to work with. A child is lucky if he gets to spend fifteen minutes with a probation officer every two weeks. And we expect them to change a child?

Typically the juvenile court may act only in direct relation to the child. We know, however, that children do not live in a vacuum. Their problems are related to problems within the family, the community and the society. Children's acts are most often related to their family circumstances or environment. The problems of the child are multiple, complex and rarely isolated. The most basic agency for child rearing and rule enforcement is the family. In truth if anyone should be brought before the Court it is the family, not just the troubled or troubling juvenile.

As stated in a report of the President's Commission on Law Enforcement and Administration of Justice, published in 1967, "The family is the first and most basic institution in our society for developing the child's potential, in all its many aspects: emotional, intellectual, moral, and spiritual, as well as physical and social. Other influences do not even enter the child's life until after the first few highly formative years. It is within the family that the child must learn to curb his desires and to accept the rules that define the time, place and circumstances under which highly personal needs may be satisfied in socially acceptable ways. This early training -- management of emotions, confrontation with rules and authority, development of responsiveness to others -- has been repeatedly related to the presence or absence of delinquency in the later years."*

*"The Challenge of Crime in a Free Society." U.S. President's Commission on Law Enforcement and Administration of Justice. U.S. Government Printing Office (1967) p.63.

While strong argument can be made that a parent has the right to deal with his own child as he sees fit, our present civilization is apparently committed to the position that when the relationship between parent and child adversely affects society at large, then the government has the right and the obligation to impose a minimum standard of conformity, to protect the other citizens of the community and to "protect the child." The law generally imposes upon parents the obligations or duties of maintenance, protection, education, and supervision of children. Transgression of any of these responsibilities may involve the family with a court, but the juvenile court, the only court in the legal system oriented toward casework can usually only deal with the victim of the problem situation, that is, the child -- and generally, lacks jurisdiction to deal with the perpetrator or misfeasor parent.

Thus, I list one of my lamentations as being involved in a system unable to confront the problem on a realistic basis -- that is a system which limits its jurisdictional approach to the child alone rather than undertaking to deal with the child, his family and his environment.

There is no ideal solution. Creation of a family court, giving it resources with which to work and jurisdiction within which to work, would be a great step forward based on our present knowledge.

Let me move to another lamentable area -- resources. So we do identify problems with a child and he is found delinquent or

or perhaps deprived or unruly. What are the alternatives open to the Juvenile Court for dealing with such child?

1. Probation or supervision in the child's own home setting.
2. Removal from the home temporarily for special treatment or institutionalization, or
3. Removal from the home for long-term care or correction, such as reform institutions or foster homes.

Removal from the home is a severe step, which should be used only as a last resort. It is a popularly proposed solution from the citizenry, but not worthy of its verbal popularity. When we remove a child from his home, where do we put that child? We remove a child from what to what? Do we seriously contend that the government provides better child care than parents? I have generally found that when we remove a child from his parents' home and care, we often substitute governmental neglect for parental neglect.

The institutions I have dealt with and been to are usually operating at more than full capacity. There are waiting lists for almost every child care or confining institution in this state. The pressures to get children admitted reduce the effectiveness of the institutions themselves, because in order to admit a new patient or inmate, another youngster must be released at the earliest possible moment, rather than at the optimum time for release. As a society we have overdone the institution bit for years. It is a cop-out. We know that many children can live and conduct themselves well in institutions who cannot easily

live outside of them. Yet, merely building more institutions will not solve the problem of teaching children to become responsible citizens in a free society.

What about foster homes? A romanticized word and concept -- where are such homes and who operates them? Foster homes are becoming increasingly difficult to find, more expensive to maintain and operate, and less effective in preparing children for living in the complex world of the late twentieth century. The people who would make the best foster parents -- the well-adjusted, active, alert, mentally and emotionally resilient and durable couples or single persons -- usually are not the ones we see willing to become foster parents. Foster parents are more likely to be people who need to accept children for the money it produces or perhaps who have some other need of their own to fill. We are short quantitatively and qualitatively in regard to foster homes.

Speaking of resources, what about the educational system? If a child is "bad" or disturbed or retarded, what kind of treatment is he likely to receive in the public educational system, which is perhaps our biggest commitment of public resources? The disadvantaged youngster, having never had much intellectual stimulation as a toddler often is behind by several years at the time he starts first grade. He never catches up, he merely gets further behind, and the educational process is very early a frustrating and hopeless avenue for him. Or look at the retarded child, whether he be mentally retarded or

educationally retarded. We put him into the same process with the normal and high intellect students and grade him on the same basis. It is not mere coincidence that the youngster with the low IQ is also the eternal "F" student. He never knows success, only failure after failure. He does not have to develop a low self-esteem, that is all he has ever had a chance to have, and then we wonder why he fades out of the school process at the age of twelve, thirteen or fourteen. He did not drop out of school -- he has never been "in"!

What of our educational treatment of the pregnant girl? We still react as a society like the hurt parent in that situation. We react in a punitive way toward the unwed mother, who has disappointed us. We boot her out of school and in most situations do not let her come back. This, in an effort to "teach her a lesson." Back off a few steps and look at the situation realistically. Who needs education more than a fourteen-year-old girl about to bear or has just borne a child? Who needs encouragement toward self-respect and a chance to achieve success and a chance to acquire some hard-nosed information on child care, readjustment in life and management of personal and family problems more than does this girl?

Or, look at the misbehaving child in school, the kid who smokes behind the gym (whether it be pot or tobacco) or writes vulgar words on the chalkboard, sasses the teacher or is truant. Our enlightened society typically reacts with a suspension or expulsion from the school process. Certainly not much effort

at solving the problem presented, but an approach of doing away with sight of the problem so we will not have to confront it. Our educational system has been allowed too long to conveniently "do away" with problem children.

Ah, but such a wonderful miracle resource as educational television; is it not great? Yes, it is great, but it is not available to the youngster who needs educational television the most. We put educational television on a channel that no one can get unless they have a late model, expensive television set or an untrahigh antenna. We are so smart we make educational television inaccessible to the slum child, the disadvantaged child, the guy who needs it most.

Look at our mental health system; within the past two decades tremendous strides have been made in the development of not only more adequate mental health institutions, but also progressive community-based mental health programs. But in the development process in your business, what takes last priority? What is the last ward built in a hospital? What is the last cottage built at the institute? What is the last unit adequately staffed? Generally, the children's or adolescents' program or ward or unit. Shame! What is the ratio of psychiatrists going into child psychiatry, particularly in the public sector, when a third of our population is children? It simply is not very popular, most of the really troubling or troubled children cannot afford to pay. They also have a high failure rate - all factors which tend to discourage bright young doctors from going into child psychiatry.

I suppose I am saying that even under our existing progressive society's standards and our somewhat refined court system we have been undertaking a gigantic task, but committing a mere pittance of resources to working on that task. And we have devised strategies and programs which, rather than alleviating, have in many instances aggravated the problems, despite our best intentions -- lamentation number two.

I suggest that if we are truly concerned about a new society doing away with huge welfare indebtedness, cleaning up our prisons, working toward a fuller, richer life for every one, we should start essentially with the next generation -- the children of today, rather than trying to remold, redirect and remotivate the present adults. Commitment of resources toward working with and developing children has a higher potential for success than commitment of such resources in any other direction.

Now, compounding an unrealistic system and an inadequate commitment of resources toward the task, we then find ourselves working on a problem which will not hold still, in perhaps the most complex time that has ever existed in the history of mankind. Unlike the surgeon, we cannot anesthetize the patient so we can doctor him or it.

Based upon our statistical research we conclude that we must work with and within the family, but we find in the marketplace a declining loyalty to the family concept. We see a substantial deterioration in traditional family life and erosion of the nuclear family structure. Mobility has increased not only for

the family, but also for the individual members. They move several times a year. Not only is the father absent from the home a good bit, so now is the mother. We witness a changing role for women from dependence to independence, while we cling tenuously to the tradition that the woman is the primary operative in child rearing. We send our aged off to the senior citizens' home, our infirm to the convalescent center, our kids to day care and nurseries, and teach youngsters to warm their own TV dinners and get to the "Y" in a car group, while we go on our own schedules and in our own directions, so that there are not any "dependents" any more except in a financial way.

Should we be so surprised that the family is being challenged? Perhaps we are just reaping the harvest of many years of deception that our society has practiced -- that of romanticizing, sentimentalizing the family -- for we know now that the family while it is a source of comfort and security, is also a place of savage battles, of rivalries, of psychological and even physical mayhem.

The population explosion has been compounding problems much faster than we could grasp them. Increases in the divorce rate and our failure to realize that the divorce of parents is a serious traumatic experience to the child -- where the divorce may terminate the legal marriage, but not the child-parent relationship -- the child continues to interact quite often with both parents in a modified way for the rest of their lives. We operate in a legal system wherein children have been the pawns in the legal divorce process, primarily because the party who gets custody of the children also gains financial advantage of

some sort. A child has right to counsel in some other legal proceedings, but not in our divorce courts where merely the entire fabric of the child's life is involved.

We are trying to operate in a stable way in times of revolution -- sexual revolution, racial revolution, revolution of the young against all forms of authority, consumer revolution, prisoner revolution, the ecology revolution -- you name it, we have it!

We find ourselves in a fast-moving scientific world. We have been to the moon and are on our way to Jupiter and Mars. We have swapped hearts and changed sexes. We travel at the speed of sound. We manipulate minds by bombardment of advertising, enticement and even shame and fright to get people to do a certain thing or buy a certain product. The advent of television brings us into a frightening susceptibility of brain washing. But, of course, we would not pull a "fast sell" on the kids.

If an adult runs away from home, it may give rise to gossip, but no arrests. If a child runs away from home, it becomes an arrestable offense, even though he or she may have good grounds for leaving. We live in a time when leaving home has become popular with troubled teens because running away is now a socially acceptable method of acting-out for so many adults. We should be clever enough to authorize "legal separation" for children just as we do for parents.

All of these things affect not only the generation gap, but also the solution gap. We naively expect our man-created devices,

medications, mechanisms and institutions to provide solutions. Our society has placed a puzzling responsibility upon its Juvenile Courts. We expect the Juvenile Court to make "good" children out of "bad" ones, to make happy, well-adjusted young people out of maladjusted, deprived youngsters, to make highly motivated, intelligent, conforming children out of a group of individuals with varying needs and varying abilities. We merely ask the impossible -- lamentation number three.

One of the things we must do is move toward a more realistic approach and expectation, work toward a greater understanding of what it is we can realistically accomplish and quit promising or expecting a pot of gold at the end of the rainbow, if only the government will do so-and-so.

I could go on for a considerable time longer talking of my concerns, disappointments, frustrations -- my lamentations from my Juvenile Court experience. Time requires that I stop here. However, let me summarize for you the feelings which surface most vividly for me as I move away from a total involvement in the Juvenile Court system. You may analyse them as you see fit.

First, I felt considerable discomfort at being involved in a system unable or unwilling to confront the problems on a reasonable and realistic basis.

Second, I felt continuous agony over the reluctance and refusal of our society and our community to commit adequate resources toward alleviation or solution of the problems identifiable and presented.

Third, I felt a sense of impossibility, witnessing the changes with which we are unable to cope in our civilization and our society, making it difficult to even determine what our mission is or should be with regard to our children, and

Fourth, I have had to feel some guilt that the court and the legal system in many respects plays the role of ally to inadequate parents, inadequate homes, inadequate environments, inadequate education programs and inadequate institutions.

From my experience, after all is said and done, or perhaps more correctly, after all is said and undone, I can only conclude that a juvenile court is a monument to the other failures of a community and a society.