The Nature of the Court Today

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Abstract

This article surveys the current landscape of the juvenile court. The original concept of this court, when implemented by state legislatures, took different organizational forms. The length of judges’ assignments to this court varies as does the extent of their specialization. These courts differ from one another in numerous ways such as the minimum and maximum ages of their delinquency jurisdictions, the types of cases they are authorized to hear in addition to delinquency and child abuse and neglect, the extent to which referees or quasi-judicial hearing officers hear cases, whether or not the juvenile probation department is administered by the court, and the individual practices that constitute particular court cultures. Today change in one form or another is common to all juvenile courts as this institution adapts to contend with the delinquent behavior of young people and with the failures of adults responsible for the well-being of their children.

The juvenile court has long been more than a court. Its judges have always known that the involvement of probation officers, social workers, educators, mental health professionals, parents, extended families, and foster parents was necessary to the accomplishment of the court’s mission. For children who stumble on the road to maturity and for those who are poorly nurtured or injured by their caregivers, a society must provide interventions and protections. American society has placed the juvenile court in the center of this rehabilitative and protective mission. While recognizing the juvenile court’s imperfections, its advocates contend that it is the best entity for protecting the community’s interest in its children and the community’s safety from offenses committed by those children.

Most commonly known as juvenile court, this court takes on different names in some states. For example, in Michigan, this court has been known as the juvenile division of the probate court. In Illinois, it is the juvenile division of the circuit court. In Colorado, it is the juvenile division of the district court, though in the city and county of Denver the statutory title is juvenile court. New Mexico law names it the children’s court division of the district court. In Delaware, it is the family court.

Juvenile courts have two primary workloads: (1) juvenile delinquency
Shaping the Juvenile Court

Juvenile courts are generally created by state statute. Some juvenile courts (Denver) or family courts (New Jersey) are mandated by state constitutions, but these are exceptions. A state supreme court or judicial council can provide by official rule for the organization of a juvenile or family division within a trial court.

State law determines the types of cases that can be brought to this court, the age of juveniles whose cases are handled by the court and exceptions to that age, the procedures to be used with case processing, and the authority of judicial hearing officers at each processing stage. In a number of states, supreme court, judicial council, or local rules of juvenile procedure have been promulgated to supplement the broader statutory provisions. State legislatures fund certain court costs. Local governmental entities also fund variable, but sometimes very substantial, percentages of juvenile court costs. Local governments enact curfew ordinances and traffic ordinances whose violations may be heard in some juvenile courts. Nonetheless, state law dictates the court’s primary subject matter.

The federal government has not been a major factor in state juvenile delinquency proceedings. One federal statute does curb the court’s ability to use a secure pretrial or postdisposition facility for status offenders and prohibits placement of delinquent juveniles in adult jail settings except under very specialized conditions. Federal statutes, however, have very substantial impact on abuse and neglect proceedings. These laws mandate a court-appointed guardian for every child, require judicial oversight hearings, impose monitoring responsibilities, and require the court to enter particularized findings. (See the article by Hardin in this journal issue.)

State and federal appellate court decisions have substantially impacted the juvenile justice system. These decisions, particularly since 1966, have tested juvenile justice procedures and practices against state and federal law and constitutional requirements.

Finally, juvenile court judges have been major influences in shaping and reshaping juvenile courts. They have actively sought legislation, increased funding for the court and related programs and services, and gathered public support. Their influence extends to their oversight of the probation agency and detention facilities in many communities and is bolstered by the milieu they create and the values they promulgate.
These judges often shape not just their court but their juvenile justice system. In the delinquency sphere, they can influence the number and types of juveniles who are locked up following their arrest or are handled formally or informally by the court. They impact the regularity and vigor of defense counsel representation, the extent to which serious or chronic offenders are transferred to a criminal court for handling, and the proportionate reliance on dispositions to community interventions versus state institutional care. The priorities, procedures, and judicial styles in these courts vary widely.4

There are communities where law enforcement agents refer virtually every arrested juvenile onto the next processing stage, although police elsewhere “warn and release” 30% of those arrested. Some pretrial detention centers accept every juvenile referred by law enforcement, while others screen away 35% or more of referrals. The percentage of referred offenders handled informally varies from as few as 15% in some courts to 80% in others. Different courts show low, medium, or high commitment rates to the state youth agency.5

Abuse and neglect cases are also handled differently from jurisdiction to jurisdiction, courtroom to courtroom.6 In some communities, courts adhere to all requirements of the law, monitor carefully the service plans they have approved for all children, and insist on the accomplishment of timely plans to ensure permanent placements of abused and neglected children. In other communities, judges contribute little more than a rubber stamp for whatever action the child welfare agency takes on behalf of abused and neglected children.

Organizational Structure
Trial courts in the United States can be classified into three categories. Juvenile courts are found in each.7 Even within a state, a juvenile court may be part of one court structure in one part of a state but located in a different court in another part of the state. The three major types of trial courts are general jurisdiction trial courts, special jurisdiction trial courts, and limited jurisdiction trial courts.

General jurisdiction trial courts are the upper-level courts or the only trial courts in a state. Their jurisdiction is unlimited except as statutes assign certain matters to special or limited jurisdiction trial courts. Their workloads include adult felonies and unlimited dollar civil suits. In many states, they include juvenile jurisdiction as well.

Special jurisdiction trial courts are autonomous courts, separate and distinct from other trial courts. They are granted jurisdiction only over special subject matter or persons by law. Examples include separate juvenile, family, or probate courts.

Limited jurisdiction trial courts are the lower level trial courts whose jurisdiction is defined by law. Typically, their workload includes misdemeanors and ordinance violations, preliminary hearings of felonies, and limited-dollar civil actions. Some states put juvenile jurisdiction in this category.

National Standards
Over the years, a number of national legal organizations have developed standards that address the structure and processes in juvenile court. In each instance, these standards are not laws and serve only as guidelines for lawmakers and practitioners who are addressing various aspects of juvenile court operation. Some standards have provided the basis for state statutory reform of juvenile court.

National standards recommend that the juvenile court be transformed into a family court division of the general jurisdiction trial court. The division would have responsibility for a wide range of juvenile and family-related types of cases.8 These standards reject a separate, stand-alone, special jurisdiction family court or its placement in a lower-level, limited jurisdiction trial court. The standards have resulted in only modest statewide implementation but are spawning locally based family divisions as well as strategies to increase coordination of family
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actions that involve several courts or court divisions.

Only six states and the District of Columbia have family courts on a statewide basis, when one defines a family court as having traditional juvenile court jurisdiction as well as divorce (dissolution) and additional domestic relations cases. Rhode Island first initiated this concept in 1961. Since 1980, only two states, New Jersey in 1984 and Vermont in 1990, have become family court states.

Hawaii (1967), the District of Columbia (1971), and New Jersey adhere to the recommended structure of a family court division of the general jurisdiction trial court. Rhode Island, Delaware (1971), and South Carolina (1976) maintain specialized family courts. Vermont’s hybrid structure is a separate family court that uses judges assigned from other courts rather than having a specialized bench. Michigan, in 1996, authorized another hybrid family court structure for implementation statewide in 1998. Nevada and Missouri have recently legislated family court divisions in more populous circuits but not statewide.

Increasing interest in restructuring a juvenile court into a family court is driven in part by the number of families who have multiple family-related cases. A three-site study found that a minimum of 64% of abuse and neglect cases, 48% of delinquency cases, and 16% of cases of divorcing families who had children had a different family-related matter adjudicated by these courts during the five prior years.9

A second motivation is the ever-expanding court workload of both juvenile and domestic relations cases. Nationally between 1984 and 1994, juvenile court filings increased 59% and domestic relations filings (divorce, support/custody, domestic violence, paternity, interstate child support enforcement, and adoption) increased 66%. During 1994, juvenile court filings totaled nearly 1.9 million while domestic relations cases comprised more than 4.7 million filings, or 25% of all civil case filings.10

Funding
There is a trend toward full state funding of trial court operations, including juvenile or family courts, though local funding remains significant in many jurisdictions. Federal funding of state courts is minuscule.

The state funds 100% of Rhode Island and Vermont and 82% of Delaware family court costs. When the juvenile court is part of a larger trial court, data are available only on the extent of state funding of the larger court. For example, the state provides 100% of the costs of the overall court in Hawaii, Iowa, New Mexico, and North Carolina but just 32% in Wisconsin and 30% in Arizona.11

Typically, the salaries of general jurisdiction and special jurisdiction juvenile and family court judges are paid by the state. The construction and maintenance of local courthouses are generally a local expenditure, though these costs are provided by the state in 15 states and Puerto Rico.12

Facilities
Juvenile courthouses are usually one of two types. Often juvenile courtrooms are in the central downtown courthouse where other courts are located. The other common format is a freestanding juvenile court center, usually away from a downtown area, where the court is often combined with probation offices and a juvenile detention center.

Judicial courtrooms vary in size and formality. In some, the judge’s bench is elevated one step, rather than the two or three steps of general trial court judge benches, thus enabling juvenile court judges to be less intimidating and to better engage court clients in possible solutions to problems. Often the hearing rooms used by quasi-judicial hearing officers are much smaller and more modestly furnished than judicial courtrooms. In the 12 states that authorize juvenile court jury trials, the juvenile courtroom has a jury box.

A survey of 83 juvenile and family court facilities that had been built or renovated

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between 1982 and 1992 yielded mixed results. There was continuing dissatisfaction with such design features as security, courtroom size, waiting room space, work spaces for ancillary officials, and parking.13

Administration
Since the 1970s, as caseloads have grown and the work of the court has increased in complexity, efficient court administration has become a necessity. Adequate court management requires skills in case flow management; computerization and information systems; records, personnel, and facilities management; budget preparation and fiscal oversight; and strategic planning. Court administration includes contracting for services, undertaking court research, developing and maintaining systems to appoint and compensate lawyers, and collaborating with state and other trial court administrators and justice systems.14 Oversight of such primary services as probation and detention is also a critical administrative function.

Typically, the juvenile court administrator executes the policies and directives of the chief juvenile court judge. Juvenile court administrators often have backgrounds in probation, public administration, or management. Even where the juvenile court is a unit of a large general trial court, in practice the juvenile court’s administration may function quite independently.15

Case flow management is emerging as a priority task as case filings and required hearings increase. Ongoing data that show how long it takes for different types of cases to reach disposition and how long they remain in the system provide a base from which court and agency personnel can examine causes for delay and improve case flow efficiency.

Caseload Jurisdiction
Nationally, during 1994, the caseload of state juvenile courts was divided among the following types of cases: juvenile delinquency petitions, 64%; child abuse and neglect petitions, 16%; status offense petitions, 15%; and other petitions, 5%.16

In California, a 1993 fiscal year bimodal analysis determined that delinquency filings totaled 71%, while child abuse and neglect filings represented 29% of the state’s juvenile court workload.17

Juvenile Delinquency
Juvenile delinquency is a violation of state or federal law or municipal ordinance by a minor which, if committed by an adult, would constitute a crime. National standards call for a maximum age of 17 for jurisdiction with delinquency matters.18 Currently, this is the most common age and applies to all states except Connecticut, New York, and North Carolina, which call for a maximum age of 15, and Georgia, Illinois, Louisiana, Massachusetts, Michigan, Missouri, New Hampshire, South Carolina, Texas, and Wisconsin, which call for a maximum age of 16.

The fundamental jurisdictional policy for delinquency, as well as for adult crimes, is a state matter that is not subject to a federal uniformity. Therefore, 16- and 17-year-olds in Connecticut are not considered juveniles while their peers in Pennsylvania are. Within a state, however, the maximum ages for boys and girls must be the same.19

A limited number of states provide minimum ages for delinquency case processing. For example, that age is 7 years in New York, 10 years in Kansas, and 12 years in Wisconsin.

Exceptions to State Juvenile Court Jurisdiction
Waivers/Transfers
Not all offenders of juvenile court age are processed in a juvenile court. Juvenile court judges hold transfer or waiver hearings to determine whether to certify certain older youths to a criminal court for handling as adults. This judicial waiver process had been the basic mechanism for transfer of juveniles to adult court. In recent years, numerous state legislatures have mandated that cases charging certain older and more serious
juvenile offenders be filed directly in adult criminal court. In some states, prosecutors have been granted discretion to file designated cases either in criminal court or juvenile court. In some jurisdictions, a juvenile in criminal court may petition to have the charge(s) “reverse transferred” to a juvenile court, a discretionary decision vested in the criminal court judge. (See the articles by Ainsworth, by Snyder, and by Greenwood in this journal issue.)

Native American Juveniles
Reservation-based Native American juveniles caught offending on a reservation are handled in tribal courts for misdemeanors but in federal courts for what U.S. law terms “major crimes.”20 If their offense occurs off-reservation, they are processed in state juvenile courts. Native American youths who live off-reservation are also handled in state juvenile courts.

Federal Law Violations
Federal crimes committed by juveniles may be handled by U.S. district courts. Examples include mail theft, interstate transporting of a stolen automobile, and certain drug offenses. Recent federal legislation has made offenses such as juvenile handgun possession federal crimes. However, state juvenile courts still carry the fundamental workload for cases of this type.21

Child Abuse and Neglect and Termination of Parental Rights
All children under 18 who may need the court’s protection come under the juvenile court’s jurisdiction over child abuse and neglect. Characteristically, court jurisdiction over a dependent child will terminate no later than the 18th birthday. When additional time is needed to complete an education or if the youth has a mental or physical handicap, the court may retain jurisdiction until the 21st birthday.

Abuse and neglect cases may lead to court consideration of a petition to terminate a parent’s rights to a child and the child’s adoption. A number of states give juvenile or family court jurisdiction over termination proceedings. Doing so has the advantage of allowing a judge familiar with the case to hold this hearing. In locales where termination hearings are held in a different court, the judgment will not be influenced by prior case familiarity. (See the article by Hardin in this journal issue.)

The codes of numerous American Indian tribes provide for jurisdiction over abuse and neglect that occur on a reservation. The Indian Child Welfare Act, passed by Congress in 1978,22 requires notification to a tribe when an identifiable Indian child with
reservation ties or enrollment eligibility is brought into state court in an abuse or neglect proceeding. The tribe then has the option of either requesting transfer of jurisdiction to the tribal court or intervening in state court. There have been numerous appellate court decisions in this area. Perceived state trial court noncompliance with this act is a major concern.

Status Offenses
Status offenses can be defined as conduct illegal only for children, or noncriminal misbehavior. Unlike a delinquent, a status offender has not committed an act that, if committed by an adult, would constitute a crime. The distinction between a status offense and a delinquent offense did not enter into juvenile justice policy consciousness until the early 1960s. Before that time, state definitions of delinquency also encompassed what are now called status offenses. Status offenders were handled as delinquent offenders.

The three most common status offenses—truancy, running away from home, and incorrigibility—constituted major court workloads through much of the 1970s. But juvenile court engagement with these youths has been reduced very substantially, especially in urban courts where more serious delinquent offenses are prioritized. Rural courts and some suburban courts are more hospitable to formal petitions for these juveniles. (See the article by Steinhart in this journal issue.)

Adoption
Many juvenile courts grant adoption decrees. Exceptions include the adoption authority of the separate nonjuvenile probate courts in Alabama, Connecticut, Maine, New Hampshire, and Vermont. Adoptions arise from several primary sources: (1) the voluntary relinquishment or surrender of permanent custody by both parents or the sole parent; (2) court-ordered termination of parental rights; (3) sole parent consent to a stepparent or relative adoption; and (4) privately arranged adoptions, some of which involve children from other countries.

Additional Types of Cases
Some juvenile courts may handle such additional matters as juvenile traffic offenses, guardianships, commitment procedures for juveniles with mental illness or developmental disabilities, contributing to the delinquency of a minor, consent to an abortion or marriage, and paternity and child support proceedings.

Judges and Other Hearing Officers
All juvenile courts have judges, but there are sharp differences in how judges get to this bench, the duration of the assignment, the percentage of time allocated to the court’s workload, and the types of cases a judge will hear.

There appears to be a growing judicial interest in the assignment of juvenile division judges for two- or three-year, or longer, indefinite terms.

Appointment or election to a court is normally for a four- or six-year term. Most often, judges are elected or appointed to the general or limited jurisdiction trial court and then assigned to the juvenile court. The duration of assignment varies but is often for one year. The enthusiasm and motivation of the judge for this assignment differ as well.

There appears to be a growing judicial interest in the assignment of juvenile division judges for two- or three-year, or longer, indefinite terms. The rationale for longer-term assignments is supported by the time required to develop the necessary and specialized knowledge and skills demanded in this work, the lengthy duration of juvenile court cases (especially abuse and neglect cases), the amount of administrative work
required by this forum, and the importance of a juvenile court judge’s being recognized as a spokesperson for improving services for children and families.27

Judges of general trial courts with substantial assignments to juvenile divisions have reported their perceptions about rotation on and off the juvenile court bench. Strengths included the experience derived from judging other types of cases, as well as reduced judicial burnout. Shortcomings included a lack of consistent juvenile court leadership, overdependence on probation and court-related officials with longer tenure, and the impossibility of instituting a one-judge, one-family calendaring approach.28

There are subspecialties in some juvenile courts. The judges in Chicago, Honolulu, Los Angeles, and San Jose hear either delinquency or abuse and neglect cases. However, most juvenile court judges hear both types of cases. Some judges estimate that at least 50% of their court time is allocated to the abuse and neglect calendar, which constitutes less than one-third of the total number of annual case filings.

In rural America, the judge who hears juvenile cases usually hears all types of cases: criminal, domestic relations, civil, and probate. Inherently, a single judge of a rural court is also a “family judge.”

Referees and Other Quasi-Judicial Hearing Officers
Called referees in Michigan, masters in Delaware, commissioners in Missouri, and magistrates in the Hamilton County (Cincinnati) Juvenile Court, these quasi-judicial officials are attorneys who hear certain types of cases or stages of proceedings on behalf of a juvenile court judge. Usually they are appointed by the juvenile or family court’s chief judge or the court’s full bench.

Typically, these judicial officers have limited authority and are prohibited by statute from conducting waiver hearings or jury trials. Employing a judicial officer should expedite a court’s case flow, but these officials lack the status, authority, and full hearing capability of a judge.29 Some courts prohibit their conduct of felony trials, of hearings that may result in the commitment of a youth to the state, or of terminations of parental rights.

Currently, the juvenile court for Baltimore City uses two judges and seven masters, while the Denver Juvenile Court employs three judges and three magistrates. For Los Angeles County, there are 6 judges and 13 judicial officers in the abuse and neglect section, and 6 judges and 22 judicial officers in the delinquency section.30

Lawyers and Guardians in the Court
This section describes the legal representation of the various parties to a juvenile court action. It includes a discussion of nonlawyer guardians, often termed court-appointed special advocates (CASAs), whose charge is to protect the best interests of abused and neglected children.

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Delinquency Proceedings
Prosecutors
According to national prosecution standards, “The primary duty of the prosecutor is to seek justice. . . . While the safety and welfare of the community, including the victim, is their primary concern, prosecutors should consider the special interests and needs of the juvenile to the extent they can do so without compromising that concern.”31

The standard adds that prosecutors should have the sole right to determine whether a referred offense is legally sufficient for filing and should be the sole decision maker as to whether a legally sufficient offense should result in a formal petition. While prosecutors have become increasingly powerful actors in juvenile court,32 in numerous courts today probation department intake officers still determine legal sufficiency and whether a petition should be filed.
In the aftermath of the In re Gault decision, which gave juveniles constitutional due process protections, prosecutors entered juvenile court at the trial stage. Through statutory changes over time, prosecutors have increased their control of front-end decision making using various approaches. In Washington State, police refer offenses directly to prosecutors. In Florida, law enforcement refers offenses to intake officials of the Department of Juvenile Justice. They send all cases on to the prosecutor with recommendations for or against filing, which the prosecutor may accept or reject. New Mexico intake probation officers may choose not to file up to three misdemeanors per juvenile, but a fourth, as well as all felony offenses, must be forwarded with recommendations to the prosecutor for the filing decision. In addition to their importance at the front end of the juvenile court process, prosecutors today are also influential advocates at judicial dispositional hearings.

The juvenile court is often seen as a training ground for new prosecutors. Rotation of prosecutors through this court with assignments of from 4 to 12 months is common. But there are numerous juvenile prosecutors who do stay on, and some, particularly supervising prosecutors, serve 10 or more years. Similar rotation schemes are employed by their counterparts, the public defenders.

**Defense Attorneys**

Public defenders provide the basic defense representation in many juvenile courts. Where they do not, the fundamental representation is usually by private attorneys appointed and paid by the court. Infrequently, families will retain attorneys privately. In public defender systems, private attorneys are appointed when there is a “conflict of interest,” for example, when the defender cannot represent codefendants with conflicting defenses or interests. Overwhelming caseloads for many juvenile defenders impede both access to counsel and quality of representation. (See the article by Ainsworth in this journal issue.)

The defense lawyer’s professional ethic is to represent a client with zeal. Zealous representation is not appreciated in some juvenile courts that prefer pleas, want juveniles to show remorse, and seek to minimize the adversarial nature of the proceeding. A series of studies has shown that juveniles who are represented tend to receive more severe sanctions than those who are unrepresented. This finding may be explained, at least in part, by court policies to ensure representation for cases involving more serious and chronic felony offenders and those in which the judge expects to commit the juvenile.

Some states and local courts require all delinquent youths to have an attorney, but the majority of states allow juveniles to waive their right to counsel. In Minnesota, representation ranged from 5% to 100% in different counties, averaging from 41% to 47%, depending on the year studied. The standards of the Institute of Judicial Administration and the American Bar Association would prohibit waiver of counsel. The standards of the National Advisory Committee would require a juvenile to consult with an attorney before being allowed to waive his right to representation. (For more information on waiving legal representation, see the article by Ainsworth in this journal issue.)

A New York State study of the legal representation of children found “seriously inadequate or marginally adequate” representation significantly more common than “acceptable or effective representation.” In 47% of the study’s observations, it appeared that the lawyer had done “no or minimal preparation.” (See the article by Ainsworth in this journal issue.)

**Child Abuse and Neglect Proceedings**

Usually it is either (1) the local prosecutor, (2) a county attorney’s office that represents county government in civil matters, or (3) the state attorney general who initiates a child abuse and neglect proceeding on behalf of the public child welfare agency. The intent of the initial proceeding is to gain protective custody of the child, and/or to obtain protective orders to assist the child.

Some states require all delinquent youths to have an attorney, but the majority of states allow juveniles to waive their right to counsel.
A 1974 federal statute, Public Law 93-247, mandates that each child have a guardian ad litem whose job is to advocate for the child’s best interests. This role differs from that of an attorney for the child, whose duty is to advocate for what the child wants. In some states, such as Colorado, the guardian ad litem must be an attorney. In others, it is a citizen volunteer, often referred to as a CASA. Another approach is to provide a lawyer for a child and have the CASA serve as the guardian ad litem. Both the attorney and guardian ad litem seek to ensure that court-approved service plans for children are implemented and that the best interests of children are fulfilled. Nonlawyer guardians more often conduct field investigations using extensive interviews and observations to determine the child’s well-being. A child’s interests may conflict with both the state’s interests and the parents’ interests. Therefore, independent counsel for each party is the best way to ensure that each party is fairly represented.

Often, the attorney for a child is a private attorney appointed by the court. Some courts provide or otherwise require specialized training for these attorneys. This attorney may be employed by a public or private nonprofit organization, or may be one whose firm holds a contract to represent children.

Parents in abuse and neglect cases need representation and may employ their own counsel. Some courts ensure that there is counsel for all parents, and public defenders, legal services lawyers, or private attorneys may be appointed to represent them. Some states have ruled that parents have a constitutional right to counsel and that free counsel must be provided for those who are indigent. However, the U.S. Supreme Court has held that a parent has no general right to free counsel; rather, counsel may be constitutionally required only following a case-by-case determination.

Relationship with the Probation Department and the Public Child Welfare Agency

The juvenile court in both its delinquency and child abuse and neglect jurisdiction has an ongoing and interdependent relationship with the juvenile probation department and the public child welfare agency. The juvenile probation agency is of foremost importance to the court’s delinquency jurisdiction. The public child welfare agency holds a parallel position for the court’s abuse and neglect jurisdiction. More often than not, probation is administered by the court. The child protective services/child welfare function is a part of a county or state social services agency.

The probation officer function was considered more important than any other single element of the first juvenile court acts. As probation positions were funded, they were often placed under the wing of the juvenile court judge, though in some states they were placed under a county or state executive agency. Many juvenile courts also took on the administration of pretrial detention facilities; some added psychological clinics, drug abuse evaluation, and the management of community work service programs.

To many judges, judicial administration of a probation department is seen as vital. This direct supervision gives them clear control over the performance of the staff who may make intake filing decisions, prepare predisposition or social study reports for judicial hearings, assist and supervise probationers, and return probation violators to the court. Other judges prefer that probation and juvenile-related program resources be externally administered.

Legislatures have moved the administration of juvenile probation from the judicial to the executive branch in a number of states, such as Delaware, Florida, Maine, Maryland, and New Mexico. Its administrative placement is a policy issue, not a constitutional one.

Typically, court relationships with the probation agency have been more positive than with the public child welfare agency. This is due to the court’s direct supervision
of the probation agency or to deference to the court on the part of an executive probation agency. Historically, delinquency has been the primary workload of the court.

However, the vast increase in the abuse and neglect workload and the mandates of Public Law 96-272 are prompting a closer collaboration between the juvenile court and child welfare agencies. These agencies investigate reports of abuse and neglect, arrange for the filing of court petitions, testify at court hearings, prepare service plans aimed at family reunification or an alternative permanent plan, find and administer foster homes, and seek adoptive parents for children whose parental rights have been terminated. The court is required to determine whether the agency’s work constitutes “reasonable efforts” under federal law. (See the article by Hardin in this journal issue.)

There are often tensions between the court and the child welfare agency. Judges complain about delayed and insufficiently individualized reports and poorly prepared testimony. Social workers complain about judges micromanaging their plans for children or families, about long waits for scheduled court hearings, and of difficulties in getting hearings calendared promptly.

Nonetheless, the nexus between court and public child welfare agencies is likely to become the new frontier for spirited and progressive reform as these organizations pursue plans now in motion to improve court and agency handling of these cases.45

Conclusion

The juvenile court’s long period of stabilization ended abruptly in the late 1960s. As law and formal procedure became necessary underpinnings of the court’s activities, a court with a clinic replaced the clinic with a court. While state legislative enactments and federal and state appellate court decisions have had great influence on juvenile court operations, the court’s judges also continue to impact court practices in very significant ways. Further, lawyers have made the rule of law a strong force in this forum. In juvenile court, the law has expansive purposes: to protect the safety of the public and of children, to apply sanctions that are consistent with rehabilitation, to strengthen family ties whenever possible, and to provide care that is consistent with the best interests of the child and the public.46

Though there is significant variation among juvenile courts, there are strong common threads. This court has matured across numerous battlegrounds and has significant influence over individual lives and a community’s fabric. Such an entity continues to be needed to provide a law-directed response to juvenile law violations and to the needs of abused and neglected children.
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11. See note no. 7, Rottman, Flango, and Lockley.

12. See note no. 7, Rottman, Flango, and Lockley, Table 17.


15. See note no. 8, Institute of Judicial Administration, American Bar Association, Standard 2.3.

16. See note no. 10, Ostrom and Kauder, p. 46.


19. See the Oklahoma case of *Lamb v. Brown*, 456 F.2d 18 (10th Cir. 1972); see also *A. v. City of New York*, 286 N.E.2d 432 (N.Y. Ct. App., 1972). A New York statute that allowed status offense jurisdiction for girls to extend two years longer than for boys was overturned.


27. See note no. 3, Edwards, p. 29.


30. Montes, Richard, Chief Judge, Juvenile Division, Los Angeles Superior Court. Personal communication, June 1, 1995.


37. See note no. 4, Feld.


